

**PUBLIC QUESTIONS AND ANSWERS TO  
AUDIT AND GOVERNANCE COMMITTEE  
24 SEPTEMBER 2019**

Question 1

Dr N Geeson, Hereford

For the July meeting of Audit and Governance I asked a Question on the risk that local taxpayers may have to refund money paid by the Department for Education to NMiTE, for which the Council acts as guarantor. The Response assured me “there is no risk”. However, in para 19 of the latest NMiTE Progress Report we read: “Ultimately the DfE could require the council to repay the grant funding that it has received and which has been paid to NMiTE ... The Department for Education is satisfied therefore the risk is currently nil.” Writing that “the risk is currently nil” is clearly not the same as saying “there is no risk” ever. As the two statements contradict one another, please can you confirm which one is correct?

Response

The Council’s role as accountable body is to ensure that funds provided by the Department of Education are spent in accordance with the Department of Education’s instructions. Since the meeting in July officers have received confirmation from the Department of Education that they are content that the monies have been spent in accordance with their wishes and they are not seeking to recover funds. This is confirmation that there is no risk of the council having to repay funds to the Department of Education.

Supplementary Question

Will NMiTE be receiving further funding from the Department for Education for which Herefordshire Council will continue to act as guarantor and incur potential risk?

Response

Yes, the Department for Education are intending to make a further advance of approximately £5m to NMiTE probably in March next year subject to NMiTE meeting various milestones that the DfE will put in place. If that happens, then the arrangement is that this council will continue to be the accountable body for that further money.

Question 2

Mrs E Morawiecka, Breinton

The South Wye Transport Package (SWTP) work to date has incurred costs in excess of the EU public procurement rules for public tendering and the work does not fall ordinarily within the scope of the BBLP Public Realm Service contract 2013.

As defined by the BBLP Public Realm contract (page 8) this transport package appears to meet the criteria of a “Major Scheme” unless the “employer” (using his absolute discretion) decides otherwise.

Given the above, what is the mechanism that determines that the SWTP is a “Major Project” rather than a “Major Scheme”, and so exempt from any competitive, public tender process?”

Response

The SWTP has not been exempted from competitive public tender processes. The Southern Link Road scheme is the subject of an OJEU competitive tender which commenced in 2018 although no decision has been taken to award the contract whilst the scheme is being reviewed.

The SWTP project management and design functions provided by BBLP are services which are within scope of defined services of the Public Realm Service Delivery contract and these services were therefore commissioned using this contract. It should be noted that the public realm contract was awarded to BBLP following an OJEU competitive tendering process in 2012/2013.

Supplementary Question

I am surprised that the reason why no contractor has been appointed is claimed to be due to the scheme being currently reviewed when I understand that the pause and review cannot happen is because the call in has happened . From page 12 of the SWAP report it is apparent that the tender process started in May 2018 but the issue identified in July 2018 was not recorded in the project control group minutes until January 2019 – 6 months later. SWAP say on page 16 there is a risk that the council cannot demonstrate good governance around the decision to continue with the tender process for the Southern Link Road. Has a contractor been identified through the flawed tender process purely on the quality basis or will the tender process be re-run once good governance and the SWAP recommendations have been implemented after 29 November 2019 and in view of the issues identified are Balfour Beatty Living Places the best people to run this process?

Supplementary Answer

There will not be a decision on the procurement or any award of contract until the cabinet member has made a decision on whether there is going to a pause and review but the matters you have raised will be taken into account. The tender process has been on hold since the change of administration.

Question 3

R Palgrave, Hereford

Following a query from a member of the committee, it was confirmed that SWAP would be looking at the Southern Link Road capital programme as part of the review of the Blue School House recommendations which was due to be reported to the March 2019 committee meeting. This would check whether the recommendations from Blue School House were being implemented in other capital projects” When will this committee receive assurance that the Blue School House recommendations have been implemented on the transport capital projects, which to date have cost the local rate payers over £10million?

Response

The recommendations of the Blueschool House review are being followed in relation to all the major transport projects. Major transport projects are managed using the council’s project

management system Verto and overseen by a Major Infrastructure Delivery Board. The SWAP audit programme for 2019/2020 includes an audit of the SWTP scheme.

#### Question 4

Ms K Sharp, Hereford

After the 2017 report on the Blue School House spending fiasco the Chief Executive of Herefordshire Council apologised unreservedly and said he had accepted all the audit recommendations.

In the light of the latest internal audit report, on the poor governance on the South Wye Transport Project, will the Chief Executive be explaining to this committee and the Council why he has failed to ensure that all the recommendations he accepted 2 years ago, have not been implemented?

Response

Finding 3 of the SWAP audit report refers to one operational decision on the SWTP project taken in July 2018 and indicates that the audit team could not find a documented record of that operational decision. They recommend that guidance is provided to officers in relation to documenting / recording of future operational decisions and this recommendation has been accepted with a date of 29 November 2019 to action. It does not state that the recommendations of the Blue School house review have not been implemented. The council is committed to ensuring that improvements are made and appropriate learning is done, where they are needed in operational management, in this case in delivering capital projects.

#### Question 5

Ms J Richards, Hereford

Following a query from a member of the committee, it was confirmed that SWAP would be looking at the Southern Link Road capitol programme as part of the review of the Blue School House recommendations which was due to be reported to the March 2019 committee meeting. This would check weather the recommendations from Blue School House were being implemented in other capitol projects” When will this committee receive assurance that the Blue School House recommendations have been implemented on the transport capitol projects, which to date have cost the taxpayer over £10million

Response

I refer to the response already given to this question (see question 3 above).

#### Question 6

Mrs Wegg-Prosser, Breinton

Re the long-delayed latest audit of SWTP, the Internal Audit Plan Progress 2019/20 Report to today's meeting states (p.16 Finding 3):- 'There is a risk that the Council cannot demonstrate good governance around the decision to continue with the tender process for the SLR', yet the Report fails to provide an internal audit report on spend against budget for this SWTP Major Scheme. Without an internal audit report on spend against budget, how can this Committee be assured that the £4million spent on professional fees against the

budget of £750,000 is not an indication of overspends in other budget lines, rather than an isolated overspend?

#### Response

Finding 3 of the SWAP audit report refers to an operational decision taken in July 2018 and indicates that the audit team could not find a documented record of that operational decision. They recommend that guidance is provided to officers in relation to documenting / recording of future operational decisions and this recommendation has been accepted with a date of 29 November 2019 to action. The audit scope did not include a review of budget management.

Monitoring of budget, spend and forecasts are monitored as part of the project management of the programme as well as being reported to cabinet. The scheme is managed using the councils Verto system and the current forecast project cost remains within the £35m budget set in 2014 SOBC. In addition, each project decision taken and project decision report published contains a summary of scheme budget and cost forecasts.

The £4m figure referred to is not recognised. The Strategic Outline Business Case (SOBC) dated 2014 for the South Wye Transport Package (SWTP) scheme published on the council's website, sets out the estimated cost for the SWTP. I understand that the figure of £781k, to which you refer in your question, is not from the 2014 SOBC document. The figure you mention is contained within an Amey 2010 report and I am advised that it is not correct to suggest that this 2010 figure represents the current approved budget for SWTP fees.