



Title of report: Procurement Strategy for the Hereford Western Bypass -Phase 1

Meeting:	Cabinet
Meeting date:	Thursday 17 July 2025
Cabinet member:	Councillor Price, transport and infrastructure
Report by:	Corporate Director of Economy and Environment
Report Author:	Delivery Director, Infrastructure, Economy and Environment Western Bypass Consultant, Economy and Environment

Classification

Part exempt

This report is open but appendices are exempt by virtue of the paragraph(s) of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A of the Local Government Act 1972, as amended.

- 3) Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Further information on the subject of this report is available from
Steve Smith, Scott Tompkins, , email: steve.smith@herefordshire.gov.uk,
scott.tompkins@herefordshire.gov.uk

Wards affected

(All Wards);

Purpose

This report is seeking approval of the procurement strategy and authority to procure and award a contract, to a contractor through a two-stage procurement process utilising a Pre-Construction Services Agreement for design and enabling works with the option to accept a bid from the contractor for the construction works under NEC4 Engineering and Construction Contract subject to further governance and budget. The report also seeks to inform members of the land acquisition strategy for the land required to construct Hereford Western Bypass Phase 1.

Recommendation(s)

That:

- a) **Cabinet agrees the procurement strategy as detailed in Appendix 1**
- b) **Cabinet agrees the proposed strategy for the acquisition of land associated with the proposal as detailed in Appendix 2**
- c) **Cabinet delegates authority to the Corporate Director Economy and Environment to undertake a two-stage procurement process and award of a Pre-Construction Services Agreement to a contractor through a compliant framework for the design and early contractor involvement on the project within the current approved budget.**
- d) **Cabinet delegates authority to Commercial and Investment Manager Property Services to agree the Heads of Terms and subsequent acquisition of land, within the approved budget.**
- e) **Cabinet delegates authority to the Corporate Director Economy and Environment to procure and enter into contracts with any additional specialist external consultants and advisors required to support the project with the approved budget.**

Alternative options

1. A design and build contractor could be procured under a NEC4 Engineering and Construction contract which allows for early contractor engagement through competitive tender approach through an open tender approach, however this approach would take significantly longer and as such is unlikely to enable a construction start until summer 2027. Given current rates of inflation in the construction industry any delay is likely to result in higher construction costs. The council is also currently continuing discussions with key stakeholders, such as Network Rail and National Highways to finalise approvals; having a construction contractor in place at an earlier date enables approvals of temporary works to be discussed in a timely manner so that all approvals are in place ahead of a decision to proceed to construction.
2. The design could be undertaken under existing arrangements with Aecom or Balfour Beatty Living Places prior to tendering the construction phase only. This approach would take significantly longer to deliver as a result of needing to complete all third party approvals and designs finalised prior to tendering for construction. Any contractor amendments for buildability or value engineering, and third-party approvals of temporary works would have to be done after award of the construction contract resulting in contractual compensation events and increased costs. This approach would result in a delay in tendering for the construction phase which is likely to result in higher construction costs given rates of inflation. The lack of early contractor

engagement in the process would also reduce the cost certainty as a result of increased likelihood of changes required during the construction phase.

Key considerations

3. A Design and Build contract procured through a two-stage procurement process would bring the contractor on board at a far earlier stage and enable those designs to be undertaken in parallel with construction preparations. It is not unusual for some non-critical design work to extend into the construction period with such an approach enabling the programme to be reduced. It is also typical for an element of value engineering design to be undertaken by a contractor during any construction only tender. Bringing the contractor in early (Early Contractor Involvement) is industry best practice and will ensure that buildability issues are considered when finalising the designs. Having the contractor involved in the engagement with National Highways and Network Rail will also reduce the risk of further redesign during construction resulting in increased costs.
4. A design and build approach also enable discussions on temporary works to be undertaken at the same time as permanent works and ensure that sufficient detail is in place in a timely enough manner to seek approvals from third parties, such as utility companies, and submit the required planning and network applications for temporary works.
5. The use of a framework to procure a construction partner enables a partner to be on board considerably quicker than through an open competitive tender route with approximately 9 weeks saving in time helping to avoid high construction inflation impacting on the tender prices.
6. Contractors go through a competitive process to be appointed to a framework giving assurance that the contractors have met all quality and financial standards as well as having demonstrated value for money. Framework providers often monitor works against KPI's and client feedback to ensure that contractors align with the expectations and values of the framework. This further incentivises contractor performance as they desire to remain on the framework and continue to acquire work through the framework.
7. Whilst tender prices would be considered for both the design and construction of the scheme during the initial tender process, the council would only award a Pre-Construction Services Agreement for the early contractor engagement in the first instance and would not commit to award the construction contract until final costs reflecting design changes have been confirmed and are within the available budget. A further report will be brought to Cabinet in 2026 seeking approval to award the construction contract.
8. It is considered therefore that, for the reasons given in this report, and as detailed within the procurement strategy provided in appendix 1, securing the early engagement of a contractor through a two-stage procurement process for a Design and Build contract via a framework provides the best solution for meeting the scheme's delivery objectives and providing best value to the council.
9. The council is also seeking to procure land from landowners along the length of the scheme. Whilst it is very much preferred that this can be achieved through negotiation, where this is not possible use of the council's powers of compulsory purchase (CPO) may be required.
10. Acquisition by negotiation has several benefits that are often mutually beneficial to both the council and landowners. Positive engagement often identifies issues that may impact the scheme that the council may not have been aware of and enables the landowner to work closely with the council to ensure that any impacts on the landowner of acquisition of the land are mitigated as sensitively as possible.

11. The use of a compulsory purchase order is often seen as an adversarial approach and as such often leads to legal challenges resulting in a public inquiry, as happened in the previous iteration of the scheme. A public inquiry is a costly and time-consuming process for both the council and the landowner and doesn't encourage the mutually beneficial discussions that may take place during negotiation. However, negotiation and CPO processes are routinely undertaken in tandem and speeds up the process if the council is unable to obtain the land through negotiation.
12. It is the council's preference therefore to seek to secure land by negotiation wherever possible on the terms outlined within the Procurement Strategy (Land) in Appendix 2. There remains a risk that this may not be achievable, however, and as such the council has initiated the initial stages of the compulsory purchase order process to be utilised in the event negotiations are unsuccessful.
13. A report to Cabinet will be brought later in the year to seek approval of a compulsory purchase order should negotiations not be successful with any landowner.

Community impact

14. The delivery of an improved transport infrastructure is a key part of the Council Plan 2024 to 2028 and the Delivery Plan 2025/26 which states as a key deliverable that: Progress the necessary work to tender for the design and construction of Phase One of the Hereford Western Bypass and to progress delivery of Phase One and Phase Two business cases as well as progress the Design and Construction tender for the Hereford Western Bypass Phase One. The delivery of the Hereford Western Bypass is seen as essential in providing a more resilient road network in and around Hereford to enable residents and businesses to thrive and support economic growth in the area.
15. The delivery of the first phase of the bypass will ensure that progress is made towards the overall ambition of a full bypass of Hereford to the west of the city. The new road will remove traffic travelling between the A465 and A49/ Rotherwas from more central areas making alternative forms of transport more attractive.
16. Procuring a contractor to engage at an early stage, means that the contractor builds a better understanding of the locality and the impacts of the work and is therefore able to implement construction methods and traffic management measures in a more sensitive and informed manner. Therefore, reducing the impact of such works on those residents and road users most directly affected.

Environmental Impact

17. The procurement of a design and build contractor early on in the process will enable the design and construction of the first phase of the Hereford Western Bypass to be aligned to meet the Council's environmental objectives including:
 - a) Improve drainage and increase flooding resilience
 - b) Reduce the council's carbon emissions
 - c) Improve the air quality
 - d) Improve resident access to green space

- e) Increase the number of short distance trips being done by sustainable modes of travel including walking, cycling and the use of public transport
- 18. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
- 19. The environmental impact of this proposal has been considered through the service specification and includes appropriate requirements on the contractor/delivery partner to minimise waste, reduce energy and carbon emissions and to consider opportunities to enhance biodiversity. This will be managed and reported through the contract management processes.
- 20. The tender process will include a requirement to provide social value for the benefit of Herefordshire which will encourage the successful provider to utilise local supply chains wherever possible to reduce the movement of goods and people as far as practicable.

Equality duty

- 21. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation.
- 22. The Public Sector Equality Duty requires the Council to consider how it can positively contribute to the advancement of equality and good relations, and demonstrate that it is paying 'due regard' in our decision making in the design of policies and in the delivery of services.
- 23. The mandatory equality impact screening checklist has been completed for this project and it has been found to have low impact for equality. The selection of a construction partner has no direct or indirect impact on the public above and beyond those that arise from the scheme itself. The approach to land acquisition has a direct impact on 9 landowners but not the wider public and it is not considered that the approach has a detrimental impact on any specific group. Consideration will be given on a case by case basis as any specific concerns may be raised. It is recognised that objections were submitted to the previous compulsory purchase order and as such any further objections will be similarly be considered on a case by case basis.
- 24. Due to the potential impact of this activity being low, a full Equality Impact Assessment is not required. However, the following equality considerations should be taken into account when making a decision about this activity:
 - a) Ensure that traffic management measures take due accord of the impact on those not travelling by private car to their site of work or education to ensure that safety and reasonable access is maintained throughout the works.
 - b) Ensure that equality processes employed by the contractor forms part of the procurement selection process within a value submission.

Resource implications

25. The Council has approved expenditure of up to £10.3 million for the procurement, design and land acquisition to enable the progression of the scheme. A further £30 million budget provision has been approved for the construction of the scheme. It is considered that the approved budget will be sufficient to undertake the required level of design, land acquisition and procurement costs for the scheme.
26. It is considered that the Design phase and any enabling works inclusive of early contractor engagement, will be affordable within the £10.3 million budget already approved for that purpose.
27. The business case for the construction costs indicated that £30 million was an indicative cost required for the construction of the scheme based on general construction inflation. The two-stage tender process will enable early contractor engagement to develop a more precise cost estimate that will allow the council to adjust its financial contribution accordingly through the budget setting process. A business case will be made to seek approval from Cabinet in 2026 as part of the approval process to draw down the available funding and to seek approval to award the construction phase of the contract.
28. The council will require the support of its professional services partner, Aecom, in the preparation of tender documents and tender assessment and this is already within the scope of the contract under which Aecom are engaged. The cost of this specific support within that contract is estimated at £52,000.
29. Further specialist professional services and advice such as support for contract management support, legal advice on contract development, planning and compulsory purchase specialisms etc. may be needed to support the council in developing and managing the delivery of the scheme and contract and it is recommended that delegated authority be provided to enable this to occur in a timely manner as and when the need is identified and is able to be contained within current available budgets.
30. The procurement will also require internal resources from procurement, legal, finance and infrastructure teams to ensure that procurements align with the council's governance requirements and achieves the best value for the council. There are therefore no immediate resource implications for this procurement that have not already been provided for within previous decision papers.
31. Approval of a Compulsory Purchase Order (CPO) could trigger blight notices. Consideration has been given to the potential cost of this and there is sufficient budget within contingency within the approved £10.3 million to accommodate the impact of a blight notice.

Legal implications

32. All contracts pursuant to this project will be procured in accordance with the Procurement Act 2023 and the Council's Contract Procedure Rules.
33. Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 and the Acquisition of Land Act 1981 (to secure the acquisition of the land) grant a highway authority statutory powers to acquire land for the construction and improvement of a highway, to acquire land for the construction and improvement of a highway, to acquire land which is required for (or use in connection with) the construction of the highway, to acquire land to mitigate the adverse effects of the highway and to create new rights over land. A confirmed CPO will need to be registered as a local land charge once a decision is made to specifically identify the land interests and demonstrate the necessity for a CPO in a statement of reasons.

Risk management

34. The key risks associated with the approval of this procurement are set out below

Ref	Risk	Potential Impact	Mitigation
1	Lack of interest in the contract	Lack of competition during the procurement process may result in higher costs and concerns related to value for money.	Officers have been undertaking soft market engagement which suggests that there is interest in the scheme and upon approval of the procurement strategy will engage with all contractors on relevant frameworks to encourage interest.
2	Further design changes during the contract period as a result of ongoing discussions with third parties, mitigation requirements identified by ongoing environmental surveys which may increase the scope of design required.	Increased costs and potential impacts on programme	Any compensation events arising though such changes will be assessed by Aecom, to ensure that costs align with submitted tender rates to ensure that the councils continues to derive good value from the process. Impacts on programme will be assessed and mitigations sought on a case by case basis.
3	Relationship with partner sours over time.	Could delay progress on the delivery of the scheme and hamper the ability of the service to deliver its objectives.	Utilisation of a framework route encourages a more collaborative approach between both client and contractor as the contractor is incentivised to work in a way that will lead to future awards of work through the contract.
4	Procurement delays	Could delay progress on the delivery of the scheme resulting in both programme delays and cost rises.	The service has built an element of contingency within the programme. The use of a framework reduces the requirements of the tender process and therefore is typically quicker and easier to engage as it is

			delivered along the set process of the framework.
5	Third party and planning consents are not able to be agreed, land is not acquired or the cost of the scheme following design changes exceeds the budget available.	The scheme is not able to be delivered to the programme or budget that the council has set.	The contract will include a break clause at the end of the design phase to remove any obligation to proceed to construction.

Assurance Statement:

The strategic risks associated with the Herefordshire Western Bypass – Phase 1 procurement strategy have been reviewed and are being managed in accordance with the Council's Risk Management Strategy. The key risk areas identified, including market interest, design development, third-party consents, land acquisition, and budgetary pressures, are appropriate and proportionate to the scope and stage of the programme. Oversight of risk mitigations will continue through the Council's established governance and assurance frameworks to ensure risks are effectively monitored, escalated, and addressed.

I have reviewed the risks identified within the Herefordshire Western Bypass – Phase 1 procurement strategy and am satisfied that they have been appropriately assessed and are being managed through proportionate and reasonable mitigations. The risk management approach taken is in line with the Council's expectations for a project of this scale and complexity.

Consultees

35. The following consultation has taken place

Consultation	Date	Feedback
Political groups consultation on a key decision	7 th July 2025	Detailed below.
Member Steering Group for Growth Corridor and Hereford Western Bypass.	12 th June 2025	Supportive of approach

Political Groups Consultation 7th July 2025

The consultation was attended by 19 councillors from across the Conservative Party, Green Party, Independents for Herefordshire and Liberal Democrats groups. The following discussion/feedback was noted:

- Questions were raised about the need for a Department for Transport (DfT) Green Book business case in order to proceed to construction contract award. The director responded that an internal

capital business case was completed which was approved at full council in order for the funding for Phase One to be included in the capital budget. A Green Book compliant business case is not required unless DfT are funding the project. However, a compliant business case was completed to Full Business Case stage for the Southern Wye Transport Package in 2018 and although this was not submitted to government it was completed to the standards necessary for DfT assessment and the modelling work showed a positive cost benefit ratio which would have resulted in the scheme being compliant for the Local Enterprise Partnership funding which had been secured for the project. The scheme has changed little since 2018 and there is nothing to indicate that the business case will not be equally compliant. The director also confirmed that a review of the full business case for Phase One (FBC) and a Strategic Outline Business Case (SOBC) for the whole bypass (phase one and phase two) has been commissioned. The FBC review of Phase One should be available in July 2026 and the SOBC will follow in the autumn of 2026. The reviews are time consuming as they require significant updates to traffic modelling and traffic survey work to be completed.

- Clarity was sought over the available budgets for Phase One. The director gave assurance that £10.3m of capital has been made available for the purchase of land and for progressing the review of the design and business cases. This work is underway. Additionally, the director confirmed that £30m had been added into the capital programme for construction.
- A question was raised concerning the approvals required by Network Rail and National Highways of the design. The director confirmed that National Highways needed to approve the design of the roundabout on the A49 where Phase One will join it. Network Rail needs to approve the works to install a bridge over railway line. Both have been engaged and given preliminary approval in principle to the designs, however, it is felt that having a contractor engaged early will enable these approvals to be progressed whilst design is being completed, and construction is being planned.
- Questions were raised about the use of a framework and the award of separate contracts for Early Contractor Engagement/Involvement (ECI) and for the construction. The director stressed the benefits from having early contractor engagement at this point as the scheme has been designed to a RIBA stage 4 level and the remaining design considerations around bridge certifications, embankment works and drainage would all benefit from having a contractor's view on buildability and value engineering. This was the primary reason for wanting to use a design and build contract with built in ECI. This would also get the scheme to market in a timely manner and avoid potential additional inflation in future years.
- The question of the business case was raised again around the need for a business case for the whole bypass and one just for Phase One. The director responded to say that the key to this is about the authority reaching a point next year when we have a compelling case to put forward to government for funding the whole bypass; with Phase One under construction using council's own funding, a compliant FBC for Phase One and a compliant SOBC for Phase Two, plus developers engaging with the council wanting to deliver sections of Phase Two. This will put the council in the best position to apply for future funding. Whilst the business case for Phase One has a strong narrative, it will be further strengthened by consideration of its impact as the first phase in the must wider bypass project. The wider case will also take account of additional housing numbers and employment land growth needed for the future.
- Questions were asked about the frameworks that would be used for the procurement. The director confirmed that a number of national frameworks were being considered but that currently there are two that allow for mini-competitions and have between 5 and 10 contractors on them giving assurance that a good competition would result. Additionally, officers are engaging with the framework managers and the contractors on each framework to provide information about the scheme ahead of the mini competition to ensure enough contractors are interested and will consider bidding.

- Cllr Price gave assurance that the notes from the PGC would be considered by Cabinet on the 17th July meeting and thanked members for their patience given the short notice for the PGC.

Appendices

Appendix 1 – Phase 1 Construction Procurement Strategy

Appendix 2 – Phase 1 Land Procurement Strategy

Background papers

None

Report Reviewers Used for appraising this report:

Governance	John Coleman	Date 02/07/2025
Finance	Karen Morris	Date 27/06/2025
Legal	Emma-Jane Brewerton	Date 28/06/2025
Communications	Luenne Featherstone	Date 23/06/2025
Equality Duty	Harriet Yellin	Date 30/06/2025
Procurement	Carrie Christopher	Date 01/07/2025
Risk	Paige McInerney	Date 01/07/2025
Approved by	Ross Cook	Date 09/07/2025

Please include a glossary of terms, abbreviations and acronyms used in this report.