

## **Minutes of the meeting of General scrutiny committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Friday 29 March 2019 at 10.15 am**

**Present:** Councillor WLS Bowen (chairperson)  
Councillor BA Baker(vice-chairperson)

**Councillors:** JM Bartlett, AW Johnson, RJ Phillips, A Warmington and SD Williams

**In attendance:** Councillors CR Butler, E Chowns, BA Durkin (Cabinet Member), J Hardwick, EPJ Harvey, JG Lester (Cabinet Member), PP Marsh, PD Price (Cabinet Member), P Rone (Cabinet Member), A Seldon, NE Shaw (Cabinet Member), D Summers and EJ Swinglehurst

**Officers:** Herefordshire Council: R Ball, Acting Director Economy and Place (ADEP), M Lane – Head of Infrastructure Delivery (HOI), A Lovegrove – Chief Finance Officer, C Ward – Monitoring Officer, J Coleman – Democratic Services Manager/Statutory Scrutiny Officer.

Balfour Beatty Living Places: D Neal – Project Director, BBLP (PDBBLP)

WSP Consultants: M Brookes – Project Director, WSP (PDWSP)

### **52. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor SP Anderson, and from Councillor FM Norman one of the signatories to the call-in.

### **53. NAMED SUBSTITUTES**

Councillor RJ Phillips substituted for Councillor SP Anderson.

### **54. DECLARATIONS OF INTEREST**

None.

### **55. QUESTIONS FROM MEMBERS OF THE PUBLIC**

A copy of the public questions, supplementary questions and answers is appended. (To follow)

### **56. QUESTIONS FROM MEMBERS OF THE COUNCIL**

None.

## **57. CALL-IN OF CABINET MEMBER DECISION ON HEREFORD TRANSPORT PACKAGE**

The Committee considered the call-in of the decision of the cabinet member - infrastructure regarding the Hereford Transport Package.

The decision had been called in accordance with the Scrutiny Rules at part 4 section 5 of the constitution by the following 7 Councillors: Councillors EPJ Harvey, JM Bartlett, EE Chowns, FM Norman, AJW Powers, A Seldon and AJ Warmington. The grounds for the call in were: that there was inadequate evidence on which to base a decision and that not all relevant matters had been fully taken into account; and that the decision was disproportionate to the desired outcome.

The Chairman outlined the protocol for the conduct of the meeting a copy of which had been circulated to all members.

### **Cabinet Member - summary of his decision.**

Councillor PD Price – cabinet member – infrastructure provided a brief summary of his decision. He made the following principal points:

He considered the call-in unnecessary.

Public consultation had indicated majority support for the objectives of the Hereford Transport Package.

Cabinet in July 2018 had approved a preferred route for the Hereford Bypass to the west of the City, together with further work to develop the detail of the scheme and the development of a package of complementary active travel measures.

Consultation had been carried out in January on a range of potential transport improvements across the City.

The HTP including the bypass was essential to deliver the transport infrastructure the city needed. It was a key project to drive the economic growth of Hereford and the region. It was identified as a priority in the council's strategic policies as well as in the strategic economic plan for the Marches and the Business Connects Regional Transport Strategy.

The HTP would provide improvements to encourage people to lead more active lifestyles, improve road safety and reduce air and noise pollution in the City.

The allocation of funding for the project was included in the capital programme approved by council. The decision authorised officers to take the project forward.

All political groups had been consulted in drafting the report on which he had based his decision and no objections had been raised. The report set out what was being authorised.

### **Presentation of Reasons for the Call-in**

Councillor Harvey as the lead call in member spoke on the call-in followed by Councillors Seldon, Bartlett, Warmington and Chowns. A short statement was read out on behalf Councillor Norman. The following principal points were made:

- The proposal was to delegate the entire 2019/20 budget for the scheme to officers, with the potential for that entire sum to be committed prior to the council elections in May. The project was not supported by all parties. The decision was premature. Should there be a change in political priorities following the forthcoming elections this project may be affected.

- It would be better to spend the period before the election putting the project into the Council's approved project management system. Time could also be spent on considering the results of the recent consultation on active travel measures.
- The latest report to the Audit and Governance Committee indicated that insufficient assurance had been provided by the council's internal auditors that the council's governance and project management requirements were being followed on this project and on other major capital projects. It was suggested that this was contrary to the council's budget and policy framework that required all projects to be properly managed. The General Scrutiny Committee should require this assurance, in more than words, to satisfy itself that everything was in order.
- The project did not have a business case. The only published plan was dated 2014. That indicated that by now the western relief road should have virtually been completed. The committee should require an up to date plan to be produced scrutinised and published.
- The feasibility business case stated that it was to be submitted to the capital strategy board and if accepted a more detailed outline business case would be developed. If approved the project could continue. The committee should satisfy itself that this detailed business case had been produced and was available for inspection.
- The committee must establish whether there was evidence demonstrating that the entire £3.65m needed to be delegated at this moment and that it was not disproportionate to do so. It was appropriate for officers to continue to work on this approved project. However, it was not necessary or appropriate for the entire sum to be delegated. The committee should establish what sums were needed to fund work in advance of the election.
- There was no detailed information on how the sum of money was to be spent.
- There was no evidence that the council was managing capital projects in line with the recommendations made by internal audit. Until the internal audit of the South Wye transport package was completed there was no evidence that the council was able to manage and govern large projects of this type.
- The decision did not take account of council's decision on 8 March to approve a motion on the climate emergency. The strategic outline business case contained only a very brief reference to greenhouse gasses. There was no strategic assessment of the degree to which the proposed expenditure was compatible with other council decisions.
- The decision should not proceed until after the election and it was demonstrated that the project was compliant with internal audit recommendations on project management and governance, and until an up to date business case had been produced and work undertaken to ensure it was compatible with other aspects of council policy.

*(Councillors Bartlett and Warmington as signatories to the call-in and members of the committee stated that they would consider the matter with an open mind.)*

### **Cabinet Member Response**

The Cabinet member commented the main themes appeared to be: how the £3.65m was to be spent, and why expenditure could not be halted until after the election. He considered that there were good reasons why expenditure needed to be committed, noting that this would be on a monthly basis and that if a decision were to be taken after the election to change the approach to the project that expenditure could be halted.

He then invited officers and the Project Director, WSP (PDWSP) to comment on these aspects.

The Chief Finance Officer commented that the capital programme process was clear and the expenditure of £3.65m had been through that process and approved by council. The delegation of authority to officers to spend approved budgets was part of that process. There was a detailed breakdown available of how the sum of £3.65m had been arrived at and would be spent. A judgment had to be made as to how much detail it was necessary to publish at any given time.

A breakdown of the expenditure of £3.65m on the headings in the feasibility business case was circulated to the meeting. The Head of Infrastructure Delivery (HOI) commented upon it. The programme had been drawn up by the council in conjunction with BBLP and WSP. The cost and scope of the work had been scrutinised by the council's project team and the council's public realm contract management team to ensure that the price for the work was reasonable. The budget would be used to fund the programme of work through the year and if change to the programme was required this could be acted upon.

The Acting Director emphasised that the costed programme was for work throughout the year. The proposed decision gave officers authority to commission that programme. He explained the commissioning process. Expenditure was on a monthly basis and there were mechanisms allowing what was to be delivered during the year to be changed as required.

He went on to explain the commissioning approach. A forward programme of work was identified to enable the council to understand and share with partners what the resource requirements would be over the forthcoming year. This mirrored the development of the annual plan for the public realm contract with BBLP. It was necessary to secure and reserve the required resources so they were available to be delivered when needed in a timely fashion so ensuring value for money. There was otherwise the possibility that specialist resources would not be available at short notice. The document that had been circulated was a summary. Within each heading various specialisms would be required to deliver the various elements of the project.

The Project Director WSP commented on the importance of his business, like other similar businesses, having certainty in terms of forward resource planning, enabling staff to be ring-fenced to particular projects. The business had a range of similar contracts to deliver across the country. New opportunities for the business were turned down if resources were committed elsewhere. However, if there was not a reasonable level of commitment to a project by a client other work must be found for staff with the possibility that they would then be committed to other projects and therefore no longer available to that client.

It was asked whether expenditure could be limited to keep the project "ticking over" until after the election. The AD commented the project was a council commitment and officers were therefore seeking to deliver it as quickly as possible in accordance with the decisions the council had taken.

The cabinet member –finance and corporate services commented that there would be a phased cash flow for the project for the year. It was feasible to halt the project without having to spend the entire £3.65m.

The AD and HOI explained the project management process that was in place. The Chief Finance Officer confirmed that the HTP project was loaded onto the Verto project management system that was being used for all the council's capital programme projects.

*(The meeting adjourned between 11.20 and 11.23 am)*

## Questions from the Committee

The following principal matters arose during questioning:

- Clarification was sought in particular as to why it was considered necessary to delegate the whole year's budget of £3.65m at this stage, in the knowledge that should there be a change in political priorities following the forthcoming elections this project may be affected. There was an acknowledgment that some work needed to continue and there were some other smaller scale activities that could usefully continue. However, it was questioned why a proportion of the sum, say 1-2 months spend, could not be authorised instead.
- The cabinet member – infrastructure commented that the project involved a wide range of partners some of whom, such as Highways England, were engaged in many similar major projects. This required careful timetabling by all involved. The completion of a detailed design of the bypass to a standard for a planning application formed part of the ongoing process. A delay of two months by the council would have a wider knock on effect on the plans and timelines of other partners including those contributing to the funding of the project potentially losing the council's place in their plans. It was important to demonstrate the council's commitment to the project to those partners. Expenditure was on a month by month basis. If there were to be a change in political priorities changes could then be made.
- The Project Manager BBLP explained the project management arrangements in place. He confirmed that the methodology being applied was consistent with that BBLP were using for other schemes across the country for Highways England.
- The HOI confirmed that whilst some activities could be delayed and rescheduled others could not. Activities such as ecological surveys, which were seasonal, had to be undertaken at a specific time of year, otherwise considerable delay to a project could result.
- The AD observed that the government set bidding deadlines. Much of the work in developing the detailed business case was an ongoing process that had to be timed to fit with those externally set deadlines.
- In terms of best practice the AD commented that there was regular liaison with other local authorities through the Midlands Highways Alliance on how they were delivering schemes. There had also been communication with other authorities progressing schemes of a similar scale to the bypass. There were also monthly and quarterly meetings with Highways England who were supporting the project and providing advice and were aware of the processes the council was following.
- The HOI added that the scheme was being delivered in line with national standards. There was regular liaison with the Department of Transport (DoT). She elaborated on the process for the development of the business case for the DoT. The planning application would be developed by experienced consultants.
- The Chief Finance Officer stated that delegating authority to officers to spend approved sums was the usual practice. Monitoring arrangements were in place. The approach being followed with the HTP was in line with that for other projects.
- The AD confirmed that the whole sum would not be spent in the next 2 months. The HOI commented that the £3.65 m would fund a 12 month programme of work. There was a month on month schedule showing a sequence of activities. It was noted that the activities were interdependent.
- The AD explained in terms of changing the programme that whilst the contract did not include penalty clauses stopping particular activities could involve demobilisation costs (for example if a contractor was part way through a survey).

- The CFO commented that if the council were to decide on a different policy the financial implication would be made clear in any report on the matter on which a decision would have to be based.
- The profile of spend was discussed. It was noted that because of the election the council would be unlikely to take any decisions until the end of June as opposed to the end of May. The HOI reported that the profile of spend showed a commitment of £950k by the end of May.

(Councillor Baker (Vice-Chairman) took the chair between 12:33 to 12:35.)

- With reference to public questions that had been submitted, the CFO confirmed that the feasibility case for the £3.65million spend had been approved by the Capital Strategy Board. A copy of the Board's decision could be made available.
- Clarification was also sought on the statement in the report to council in February 2019 on the capital programme and capital strategy in the legal implications section that "before approval of any individual scheme and associated spend it will be necessary to ensure that the need for the scheme arises out of a legal obligation on the council for its provision." The CFO commented that the legal obligation was part of the scoring process for capital projects and the HTP project had been scored accordingly.
- The CFO confirmed the cabinet-member – infrastructure's decision had been made in compliance with the financial procedures of the council.
- The Monitoring Officer confirmed that the cabinet member's decision had been made in compliance with the constitution. The question was whether the Committee considered there was enough information for the decision to be a good one.
- A member asked the Committee to consider whether sufficient assurance had been provided that the project was being managed in line with the recommendations of project management and governance for capital projects made by internal audit; whether it would be better for a decision on the full expenditure to await internal audit of the south wye transport package, and whether adequate assurance had been provided that the decision was compatible with the recent Council resolution on the climate emergency.
- The CFO commented that there were a range of project management tools in place for the project that met the industry standard.

### **Summing up by Cabinet Member**

The Cabinet member – infrastructure commented that projects spanning the lifetime of more than one administration had to be permitted to continue until a change was agreed. The project was wider than the council, involving many partners. Trust had to be placed in professional officers. The management of the project had been reinforced. The final cost of any project could not be assured. The particular issue of his decision had been thoroughly explored.

### **Summing up by Lead call-in member**

Councillor Harvey referred to the grounds for call-in. The information that had been brought forward during the debate indicated that more information could have been provided in the report to the cabinet member to justify his decision.

The decision was contentious and one of the key relevant matters – the onset of the purdah period had not been taken into account.

There was the potential for a waste of public money. One of the reasons for not delegating the entire sum to officers, given the possibility of a change in political priorities, was to protect them. She suggested that expenditure could be limited to the sum the HOI had indicated was to be spent in the project profile. The current proposal to delegate the entire sum was disproportionate.

## **Conclusion**

The cabinet member – infrastructure highlighted in relation to a proposal to limit the sum of money to be delegated to officers to the amount profiled to be spend to the end of May that account needed to be taken of the hiatus in the council's decision making capability as a consequence of the election and that, if the Committee was minded to take that path, limiting spend to the amount profiled to be spent by the end of June should be considered instead. The HOI reported that that projected spend to the end of June was £1.25m. However, the AD cautioned that that was an estimate. Setting a specific figure limiting the delegation to spend was not wholly straightforward. Account also needed to be taken of the lead in time required to make another key decision that would be required to authorise further spend if the current policy to proceed with the project was maintained.

Recorded votes were requested.

*A motion that “this committee is not content that the delegation of the full £3.65m HTP budget for 2019-20 is proportionate and recommends that the decision is returned to the cabinet member and that he is requested to consider delegating only the amount specified by the Head of Infrastructure Development i.e. £1.425m to cover progress on the project to the end of June 2019” was lost.*

For (2) Councillors Bartlett and Warmington.

Against (5) Councillors Baker, Bowen, Johnson, Phillips and Williams.

*A motion that “no funds are committed on new or extended contracts in the next 2 months without there being clear, no penalty break clauses placed in the contracts for the end of May 2019” was lost.*

For (2) Councillors Bartlett and Warmington.

Against (5) Councillors Baker, Bowen, Johnson, Phillips and Williams.

*A motion “that the committee welcomes the spend profile supplied and does not refer the matter back to the cabinet member” was carried.*

For (5) Councillors Baker, Bowen, Johnson, Phillips and Williams.

Against (1) Councillor Bartlett.

Abstain (1) Councillor Warmington

**RESOLVED: That the committee welcomes the spend profile supplied and does not refer the matter back to the cabinet member.**

The meeting ended at 1.10 pm

**Chairperson**

