

Overview and Scrutiny Committee Report

Ward(s) affected: Friary & St Nicolas

Report of Strategic Services Director

Author: James Dearling

Tel: 01483 444141

Email: james.dearling@guildford.gov.uk

Date: 4 February 2020

Call-in of Proposed Executive Decision: Walnut Bridge – application for additional funding

Executive Summary

The proposed decision taken by the Executive at its meeting on 7 January 2020 in relation to additional funding for the Walnut Bridge project has been called in by a number of councillors for review by the Overview and Scrutiny Committee (OSC). The purpose of this report is therefore to invite the OSC to consider the call-in.

The call-in procedure and options, the reasons for the call-in, and details of the proposed decision are within this covering report and its appendices.

Recommendation to Committee

That the Committee consider a call-in of the proposed decision taken by the Executive at its meeting on 7 January 2020 in relation to the application for additional funding for Walnut Bridge and decide whether to:

- Refer the decision back to the Executive for reconsideration, with such comment and advice as the Committee deems appropriate; or
- Decide to endorse the decision, or not to refer the matter back to the Executive, in which case the decision shall take effect immediately.

Reason(s) for Recommendation:

To ensure the call-in is considered in accordance with the Council's Constitution.

Is the report (or part of it) exempt from publication?

Yes, Appendices 3 and 4 of the report.

Appendices 3 and 4 are to be treated as exempt from the Access to Information publication rules because it describes matters directly relevant to an ongoing commercial negotiation, and which constitute commercially sensitive information, and therefore should be exempt from publication under Paragraph 3, of Part Schedule 12A to the Local Government Act 1972 (information relating to the financial or business affairs of any particular person (including the authority holding that information)).

1. Purpose of Report

- 1.1 The purpose of this report is to invite the Overview and Scrutiny Committee (OSC) to consider a call-in of the proposed decision taken by the Executive at its meeting on 7 January 2020 in relation to additional funding for the Walnut Bridge project.

2. Strategic Priorities

- 2.1 Principles of good decision-making, such as being open and accountable, underpin the Council's strategic framework for delivery of its vision for the Borough. Use of Overview and Scrutiny's power of call-in can help ensure that the Council adheres to these principles.
- 2.2 More specifically, call-in enables councillors to intervene when they feel that a decision being made by the executive is questionable and needs to be revisited and possibly changed. In addition, call-in can enable further debate on a topic of political contention and provide a forum both for opposition to, and explanation of, a decision.
- 2.3 Providing an opportunity to ask the executive to reconsider decisions before they are implemented can lead to improved decisions – in turn, improving the delivery of quality and value for money services – and help ensure we are more open and accountable to our residents.

3. Introduction – the call-in procedure and options

- 3.1 Call-in is the power of Overview and Scrutiny to scrutinise a decision by the Leader/Executive or an individual Lead Councillor before it is implemented. The call-in provisions can also apply to a decision made by an officer with delegated authority from the Leader/Executive.
- 3.2 The effect of call-in is to prevent implementation of a proposed decision until the OSC has examined the decision. The OSC has the power to refer a decision back to the decision-maker or to refer a matter for further review by the Council.
- 3.3 The following information is set out to assist the Committee in understanding the call-in procedure options:

Overview and Scrutiny Procedure Rule 16

- (f) The OSC may review the decision itself or refer the matter to the Council for review. If the OSC or Council, as the case may be, endorses the proposed decision, it comes into immediate force and effect. If the OSC or the Council do not support the proposed decision, the matter shall be referred back to the next appropriate meeting of the Leader/Executive or to the individual decision-maker for decision with such comment and advice as the OSC or the Council deems appropriate.

- (g) Once a decision has been referred back to the Leader/Executive or individual decision-taker by the OSC or the Council on the basis described above, it shall not be subject to further call-in. The decision shall then be final unless it is contrary to the policy framework or contrary to or not wholly consistent with the budget.

4. The current call-in

- 4.1 In accordance with Overview and Scrutiny Procedure Rule 16, Councillors Deborah Seabrook, John Redpath, Christopher Barrass, Graham Eyre, Dennis Booth, Tony Rooth, Tim Anderson, Chris Blow, Maddy Redpath, Colin Cross, Ann McShee, Catherine Young, and Susan Parker¹ have called-in for review by this Committee the following proposed decision taken by the Executive at its meeting on 7 January 2020:

Walnut Bridge – Application for Additional Funding

The Executive,

RESOLVED:

- (1) That a virement of £450,000 be transferred from the capital contingency fund for the Walnut Bridge Project.
- (2) That the Bedford Plaza Public realm works be incorporated within the Walnut Bridge Project.
- (3) That £350,000 be transferred from the provisional to approved capital budget to fund the public realm work.

Reasons:

1. To address the funding gap to get the project completed.
2. The assimilation of the Bedford Plaza Public Realm works into the Walnut Bridge project would:
 - combine the lighting design for both schemes within the main Bridge Contract; and
 - leverage some of the associated budget for use on the Bridge project through economies of scale and mobilisation costs etc.
3. The budget for the public realm works needed to be transferred to the approved budget to enable the work to proceed.

Alternative options considered and rejected by the Executive:

To not proceed with the project.

Details of any conflict of interest declared by the Leader or Lead Councillors and any dispensation granted:

None

- 4.2 A copy of the report submitted to the 7 January 2020 meeting of the Executive is attached as **Appendix 1** to this report. The relevant draft minute is attached at **Appendix 2**.

¹ Please note, that while thirteen Councillors requested the proposed decision be called-in for consideration, the Council's threshold for a call-in is 'any five members of the Council'.

- 4.3 The Annex to the 7 January 2020 report to the Executive remains exempt from publication (and is at **Appendix 3** to this report). For the same reason, those call-in reasons referencing exempt information are exempt from publication (and are within **Appendix 4** to this report).

5. Reasons for the call-In

- 5.1 In accordance with the criteria within Overview and Scrutiny Procedure Rule 16(c), Councillors Seabrook, J. Redpath, Barrass, Eyre, Booth, Rooth, Anderson, Blow, M. Redpath, Cross, A. McShee, Young, and Parker have referred the above decision to this Committee for the following reasons:

(i) that there was insufficient, misleading, or inaccurate information available to the decision-maker;

The Executive decision was based upon the Report dated 7 January 2020 (the report) which:

- contains insufficient information on the background to the Bridge Project from July 2016 to the date of the Executive meeting on 7 January 2020.
- contains insufficient information and detail concerning the works carried out and the costs incurred to progress the Bridge Project generally to date and in particular since July 2016.
- [refers to exempt information – please see Appendix 4]
- [refers to exempt information – please see Appendix 4]
- states in para 10.1 ‘...however, the carbon cost of constructing a new bridge is currently not measurable.’ We believe that it is possible to estimate such costs. A quick look at google reveals a few different tools.
- [refers to exempt information – please see Appendix 4]
- provides little background or information about the Bedford Plaza Public Realm Project (other than reference to bringing The Public Realm contract back into the Bridge contract - paras 3.14 to 3.17) to explain and justify the transfer of a further £350,000 from the provisional to approved budget.

Report to Executive, dated 28 August 2018² states:

- 3.16 There would remain an important element of landscaping and provision of public art around the bridge structure [. . .]. It is unclear whether this is still the case.

² Report to Executive, ‘Walnut Bridge Design’, 28 August 2018.
<http://www2.guildford.gov.uk/councilmeetings/ieListDocuments.aspx?CId=132&MIId=745&Ver=4>

(ii) that all the relevant facts had not been taken into account and/or properly assessed;

- [refers to exempt information – please see Appendix 4]
- does not take account of the fact that, on 23 July 2019, the Council resolved:
“That the process for bringing forward, within the term of this Council, a sustainable Town Centre Master Plan Development Plan Document be commenced immediately, and the Director of Planning and Regeneration be authorised to engage external master-planning consultancy advice to assist in this process.”³
- only considers two options – to cease the project or agree the additional funding. It does not consider any other options such as request LEP to authorise a delay, or seek a cheaper and/or more flexible solution to avoid impeding the Town Centre Masterplan.
- states in s 9.1, ‘the delivery of the bridge would however improve accessibility for those with mobility challenges.’ In 12.1 it states the bridge part of plans.....‘providing improved travel routes for cyclists and pedestrians.’ However, there is no cycle or disabled access to/from the towpath which provides a key link to other parts of the town.
- States in paragraph 12.2, ‘the projects have been tested and evaluated on numerous occasions.’ However, we do not think that O&S [Overview and Scrutiny] has ever scrutinised the bridge project. The project has featured in several reports but has changed substantially from the original concept and it is now time to look at the whole picture and not just the incremental stage.

(iv) that the decision is not in accordance with the decision-making principles set out in the constitution

- Report dated 7 January 2020 records that in July 2016 the Executive endorsed the Bridge project with a Budget of £3.4 million (para 3.12 of the report). The report concentrates on the virement of £450k....
[refers to exempt information – please see Appendix 4]

6. Key Risks

- 6.1 None relating to this covering report. Key risks relating to the proposed decision are put forward in section 5 of the Annex to the report considered by the Executive on 7 January 2020.

7. Financial Implications

- 7.1 There are no financial implications relating to this covering report.

³ Minute CO29, ‘Notice of Motion – Town Centre Master Planning’, Council, 23 July 2019 refers.

<http://www2.guildford.gov.uk/councilmeetings/ieListDocuments.aspx?CId=159&MIId=863&Ver=4>

- 7.2 Financial implications of the proposed decision are put forward in section 6 of the Annex to the report considered by the Executive on 7 January 2020. In addition, comments relating to the financial consequences of the proposed decision feature in the reasons for the call-in.

8. Legal Implications

- 8.1 Overview and Scrutiny has the power, under section 9F of the Local Government Act 2000, to recommend that the Executive's decision of 7 January be reconsidered.
- 8.2 The Council's Constitution (Overview and Scrutiny Procedure Rule 16) indicates that the Committee's options, if deciding to review the proposed decision itself, include referring the decision back to the Executive for reconsideration, with such comment and advice as the Committee deems appropriate, or supporting the decision.
- 8.3 If the Committee endorses the proposed decision or determines not to refer the matter back to the Executive, the proposed decision shall take effect immediately.
- 8.4 Legal implications of the proposed decision are within section 7 of both the Annex to the report considered by the Executive on 7 January 2020 and the report itself.

9. Human Resource Implications

- 9.1 There are no human resources implications arising directly from this report. However, human resource implications of the proposed decision are put forward in section 8 of the report considered by the Executive on 7 January 2020.

10. Equality and Diversity Implications

- 10.1 The Council has a statutory duty under section 149 of the Equality Act 2010 which provides that a public authority must, in exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 10.2 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report. However, Human resource implications of the proposed decision are put forward in section 9 of the report considered by the Executive on 7 January 2020. In addition, comments relating to improved accessibility are included in the reasons for the call-in.

11. Climate Change/Sustainability Implications

- 11.1 No relevant climate change/sustainability implications apply to this report. The sustainability implications of the proposed decision are addressed within section 10 of the report considered by the Executive on 7 January 2020.
- 11.2 In addition, comments relating to the carbon cost of the bridge feature in the reasons for the call-in.

12. Summary of Options

- 12.1 The Committee is requested to consider the call-in of the proposed decision taken by the Executive at its meeting on 7 January 2020 in relation to the application for additional funding for Walnut Bridge and determine whether to:
- Refer the decision back to the Executive for reconsideration, with such comment and advice as the Committee deems appropriate; or
 - Decide to endorse the decision, or not to refer the matter back to the Executive, in which case the decision shall take effect immediately.

13. Conclusion

- 13.1 In accordance with the Council's Constitution, the Executive's decision of 7 January has been called-in for this Committee to review. Details of the decision are within this covering report and appendices, as are the outline options available to the Committee.

14. Background Papers

Report to Executive, 'Walnut Bridge Replacement Project', 19 July 2016.
<http://www2.guildford.gov.uk/councilmeetings/ieListDocuments.aspx?CId=132&MId=465&Ver=4>

Report to Executive, 'Walnut Bridge Design', 28 August 2018.
<http://www2.guildford.gov.uk/councilmeetings/ieListDocuments.aspx?CId=132&MId=745&Ver=4>

15. Appendices

Appendix 1 – Report to Executive, 'Walnut Bridge – application for additional funding', 7 January 2020.

Appendix 2 – Draft Executive Minute EX78, 'Walnut Bridge – application for additional funding', 7 January 2020.

Appendix 3 – Annex to Report to Executive, 'Walnut Bridge – application for additional funding', 7 January 2020. (EXEMPT FROM PUBLICATION UNDER PART 1 SCHEDULE 12A PARAGRAPH 3 OF THE LOCAL GOVERNMENT ACT 1972)

Appendix 4 – Full text of call-in reasons submitted on 14 January. (EXEMPT FROM PUBLICATION UNDER PART 1 SCHEDULE 12A PARAGRAPH 3 OF THE LOCAL GOVERNMENT ACT 1972)