

North Yorkshire County Council

Executive

21 March 2023

A59 Kex Gill – Grant Funding acceptance

Report of the Corporate Director - Business and Environmental Services

1.0 Purpose of Report

- 1.1 To seek approval from Executive to accept the offer of £56.1m of capital grant funding from the Department for Transport (DfT), contributing towards delivery of A59 Kex Gill highway diversion.

2.0 Background

- 2.1 This report is classed as an urgent notice as the required 28 days' notice on the Forward Plan cannot be achieved; the notice period in this case is 14 days. This positioning is in relation to the timing of project full grant funding approval announcement by the DfT in conjunction with programmed timing of works contract award.
- 2.2 The A59 is a key Trans-Pennine route, which runs between Skipton and Harrogate. There is a long history of land instability and slippage above / below the A59 to the west of Blubberhouses at Kex Gill. The project diverts the highway for a length of 4km to the opposite side of valley where ground conditions are stable in a major civil engineering undertaking.
- 2.3 The project is in receipt of Full Business Case (FBC) approval from DfT which confers a £56.1m grant. A General Vesting Declaration has been made and Notices to Treat have been served and entry can be taken from 30 March 2023 and the construction contract is programmed to be entered into 3 April 2023 in accordance with the new constitution for The North Yorkshire Council.
- 2.4 Executive on 19 July 2022 resolved: The award of the procurement to the successful works tenderer be approved, subject to receipt of the DfT funding and statutory processes being completed, including the full financial assessment of the preferred bidder. Subject to those conditions being met, any decisions to proceed to enter into the contract and associated actions to be delegated to the Corporate Director - Business and Environmental Services in consultation with the Corporate Director, Strategic Resources and all relevant Executive Members.
- 2.5 On 24 November 2020 Executive approved the DfT's proposed grant condition for the County Council to fund any additional costs of the Scheme over and above their grant.

3.0 DfT Position

- 3.1 The DfT sent a letter on 2 February 2023 confirming A59 Kex Gill Diversion FBC has been approved which awarded capped grant funding of £56.1m. In return there was a requirement for the Council Section 151 Officer to acknowledge receipt of the correspondence, which was completed on 9 February signed by the Corporate Director Resources / Section 151 Officer.

- 3.2 A further letter was sent on 14 February 2023 by the DfT offering to reimburse full development costs incurred by North Yorkshire County Council up to Q3 22/23 (£5,883,739) as an advance payment to the main grant award, in the current 22/23 financial year. This presented a change to the understood spend profile and was unexpected; also, the offer required prompt acceptance by the DfT with a deadline of 28 February 2023 to enable year end budget payments to be processed. Note the advance payment is not additional funding and would be offset against future payment of the main grant in year 23/24.
- 3.3 On 28 February an urgent BES Executive Member Meeting was convened to consider the advance grant funding award and subsequently the BES Executive Member for Highways and Transportation, after consultation with the Corporate Director – Business and Environmental Services, the Corporate Director – Strategic Resources and the Assistance Chief Executive (Legal and Democratic Services) supported acceptance of the advance grant, which is now confirmed by the DfT to be paid mid-March 23.
- 3.4 An advantage to the Council is receipt of DfT funding in advance of original spend profiling defers the Council project match funding contribution to the latter year of delivery 24/25 while gaining a resilience of project capital funding receipt in the meantime.
- 3.5 DfT announced the Grant Funding award on 23 February 2023 when a prestigious event saw Parliamentary Undersecretary for the DfT, Richard Holden MP and Transport for the North Head of Major Roads, Owen Wilson visit site to make the funding award announcement; this gained significant media exposure.

4.0 Grant Conditions

- 4.1 The Secretary of State for Transport is prepared to award grant under section 31 of the Local Government Act 2003 (s31) for the A59 Kex Gill scheme. The attached grant award is made with the approval of HM Treasury.
- 4.2 The Department will not meet any grant claims that would result in the agreed annual grant allocation being exceeded.
- 4.3 The authority must arrange for the submission of an audit report to the Department from an independent reporting accountant in respect of the grant and the accompanying grant determination and any subsequent amendments to those documents. The accountant's audit report must be produced in accordance with specific assurance instructions to be issued by the Department.
- 4.4 Grant paid to local authorities under this determination may be used only for the purposes for which a capital receipt may be used in accordance with regulations made under section 11 of the Local Government Act 2003.
- 4.5 The Chief Executive and Chief Internal Auditor of recipient authority is required to sign and return to the Section 31 Grant Claims Manager (Local Authority Major Schemes) in the Department for Transport a declaration, to be received no later than six months after the physical completion of the relevant scheme(s), in the following terms:
"To the best of our knowledge and belief, and having carried out appropriate investigations and checks, in our opinion, in all significant respects, the conditions attached to the Local Authority Major Project Grant Determination 2022-23 No: 31/6226 have been complied with."
- 4.6 If an authority fails to comply with any of the conditions and requirements of paragraphs 1 and 2, the Secretary of State may:
- a) reduce, suspend or withhold grant; or

- b) by notification in writing to the authority, require the repayment of the whole or any part of the grant.

4.7 Any sum notified by the Secretary of State under paragraph 3 (b) shall immediately become repayable to the Secretary of State.

5.0 Next Steps

5.1 Acceptance of the grant funding offer from DfT will enable the Kex Gill project to proceed and any further requirements connected with the acceptance of the grant are recommended to be delegated to Corporate Director Strategic Resources.

5.2 The main project grant funding will be availed in years 23/24 and 24/25 once the main works contract has been entered, minus the advance award noted.

5.4 In following Executive approval on 19 July 2022, the main works contract will be awarded to preferred bid contractor J Sisk and Son; the works contract period commences on 3 April in line with programme to deliver full project construction on site over the next two year period.

6.0 Equalities Implications

6.1 Consideration has been given to the potential for any adverse equalities impacts arising from the recommendations of this report. It is the view of officers that the recommendations included in this report do not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010. However, it is worth noting that a full Equalities Impact Assessment will be carried out as part of the scheme development and planning application. A copy of the EIA is attached in **Appendix A**.

7.0 Finance Implications

7.1 Project baseline cost estimate is £68.8m split £56.1m grant funding from DfT and match contribution from NYCC Capital Reserves at £12.7m. The proposals in this report do not change this.

7.2 Once in works contract the DfT will profile main grant funding of £29.010m in 23/24 and £21.206 in 24/25 which added to the initial development cost reimbursement of £5.883m fulfils the whole allocation of £56.100m.

7.3 The Council match funding component of £12.7m approved at Executive on 19 July 2022 will then be profiled into 24/25. The overall amounts funded by DfT Grant, and the Council remain the same, however the reprofiled expenditure realised by advance award now positions DfT grant spend first, before drawing up Council capital reserves towards the latter end of project.

7.4 The grant conditions are set out in section 4 of this report. The financial risks associated with accepting the grant, including the Council liability for any additional cost overrun in relation to the project, remain the same as detailed in the previous report to Executive.

8.0 Legal Implications

8.1 The matter of full project grant approval is to be considered by the Executive as the original bid for funding was a matter referred to Executive. The advance grant funding proposal from DfT was supported by the Executive Member for Highways and Transportation, after consultation with the Corporate Director Business and Environmental Services, Assistant Chief Executive (Legal & Democratic Services) Assistant Director Strategic Resources and the Corporate Director Strategic Resources and forms part of the overall grant funding.

8.2 The grant terms and conditions which the DfT have confirmed are within the grant offer letter of 2 February 2023 have been reviewed by the County Council's Assistant Chief Executive Legal and Democratic Services and are acceptable. There are risks if the conditions of the grant are not complied and these are set out above at paragraphs 4.6 and 4.7.

9.0 Climate Change

9.1 There are no climate change issues arising from this report; however, it should be noted the projects strategic focus of diverting the highway away from climate perpetuated landslides mitigates against future climate impact on this principal highway corridor.

10.0 Recommendations

10.1 It is recommended that the Executive:

- i. Agree to accept the DfT grant funding award of £56.1m
- ii. Delegate to the Corporate Director - Strategic Resources the taking of any steps necessary in respect of the acceptance of the offer of £56.1m of capital grant funding from the Department for Transport in respect of A59 Kex Gill highway diversion.

Karl Battersby
Corporate Director – Business and Environmental Services

Author of Report:
Richard Binks – Head of Major Projects and Infrastructure

Background Documents:
DfT Quarterly returns
DfT grant letters of 2 and 14 February 2023

Appendices:
Appendix A – Equalities Impact Assessment

| Initial equality impact assessment screening form | | | |
|--|--|----|------------------------------|
| This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate. | | | |
| Directorate | BES | | |
| Service area | H&T | | |
| Proposal being screened | A59 Kex Gill – DfT full grant funding approval is requested to enable project delivery. | | |
| Officer(s) carrying out screening | Richard Binks | | |
| What are you proposing to do? | <p>The report seeks approval of A59 Kex Gill, DfT grant funding to enable construction contract award and subsequent build on site.</p> <p>The report seeks approval to accept the DfT grant funding offer following approval of the Full Business Case.</p> | | |
| Why are you proposing this? What are the desired outcomes? | This is required to comply with grant acceptance procedures. | | |
| Does the proposal involve a significant commitment or removal of resources? Please give details. | The overall project baseline cost estimate of £68.8m split £56.1m grant funding from DfT and match contribution from NYCC Capital Reserves at £12.7m is unaltered. | | |
| <p>Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics</p> <p>As part of this assessment, please consider the following questions:</p> <ul style="list-style-type: none"> To what extent is this service used by particular groups of people with protected characteristics? Does the proposal relate to functions that previous consultation has identified as important? Do different groups have different needs or experiences in the area the proposal relates to? <p>If for any characteristic it is considered that there is likely to be an adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your Equality rep for advice if you are in any doubt.</p> | | | |
| Protected characteristic | Potential for adverse impact | | Don't know/No info available |
| | Yes | No | |
| Age | | X | |
| Disability | | X | |
| Sex | | X | |
| Race | | X | |
| Sexual orientation | | X | |
| Gender reassignment | | X | |
| Religion or belief | | X | |
| Pregnancy or maternity | | X | |
| Marriage or civil partnership | | X | |
| NYCC additional characteristics | | | |
| People in rural areas | | X | |
| People on a low income | | X | |
| Carer (unpaid family or friend) | | X | |
| Does the proposal relate to an area where there are known inequalities/probable | No. | | |

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|---|--|-------------------------------------|-----------------------|--|
| impacts (e.g. disabled people's access to public transport)? Please give details. | | | | |
| Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion. | No | | | |
| Decision (Please tick one option) | EIA not relevant or proportionate: | <input checked="" type="checkbox"/> | Continue to full EIA: | |
| Reason for decision | This is a report seeking approval to accept the full grant funding offer from DfT. There are no impacts on people with protected characteristics. It is worth noting that a full Equalities Impact Assessment will be carried out as part of the scheme development and planning application. | | | |
| Signed (Assistant Director or equivalent) | Barrie Mason | | | |
| Date | 03/03/23 | | | |