

**North Yorkshire County Council**  
**Business and Environmental Services**  
**Executive Members**

**26 March 2021**

**Funding approval as part of a Section 111 agreement relating to off-site landscape works connected to construction of A59 Kex Gill diversion**

**Report of the Assistant Director – Highways and Transportation**

<b>1.0 Purpose Of Report</b>
1.1 To seek funding approval as part of a Section 111 agreement relating to off-site landscape works connected to the construction of A59 Kex Gill diversion.

**2.0 Background**

- 2.1 Members will be aware that recent key stages have been reached in delivery of the A59 Kex Gill diversion scheme. The Department for Transport confirmed conditional approval of funding for the project on 1 February 2021. On 12 and 13 January 2021 the Planning & Regulatory Functions committee gave unanimous support to the scheme.
- 2.2 The planning approval is subject to completion of a Section 111 agreement between the County Council and the Nidderdale Area of Outstanding Natural Beauty (AONB). This agreement relates to provision and management of landscaping in mitigation of the impact of the scheme.
- 2.3 In simple terms an assessment has been undertaken of the landscape and ecological impact of the road project and what mitigation is required to offset this impact. The mitigation can be translated into a series of metrics for example areas of planting of trees. The total mitigation required cannot be accommodated within the boundary of the project and therefore additional off site mitigation is required.
- 2.4 The next stage in the project will involve the advertising of the Compulsory Purchase Order (CPO) and Side Roads Order (SRO) now that conditional approval of funding is in place and once the planning permission is confirmed, the latter of which requires the completion of the Section 111 agreement.

**3.0 Proposal**

- 3.1 Extensive discussions have been undertaken with various environmental bodies during scheme design and development and preparation of the planning application. The discussions concluded that the best mechanism for delivering the offsite mitigation is to engage the Nidderdale AONB to deliver and manage the environmental work.

- 3.2 The Landscape and Ecology Mitigation, Monitoring and Management Plan (LEMMMP) details the type and quantity of work required together with the monitoring regime which will take place over 30 years. An estimate of cost for this is £593,619 and this was agreed with Nidderdale AONB as a realistic figure.
- 3.3 The LEMMMP and the associated cost together form key elements of a proposed agreement that will take effect under Section 111 of the Local Government Act 1972 and Section 1 Localism Act 2011 which will be entered into by NYCC and the Nidderdale AONB.

#### **4.0 Finance**

- 4.1 Ministers have awarded the A59 Kex Gill diversion scheme programme entry status and DfT made an offer of funding up to £56.1m towards the estimated total scheme cost of £61.6m. Executive approved a funding contribution of £4.95m from the Strategic Capacity Reserve in November 2017. This will increase the contribution to £5.5m (+£550.0k) to meet the difference between the DfT funding and the estimated total cost of the scheme, which would be met from the Strategic Capacity Reserve as noted by the Executive at its meeting on 9 March 2021.
- 4.2 The County Council would pay the sum of £593,619 for the Off-Site Measures Fund to the Nidderdale AONB prior to the Commencement of the Development. This amount is included in the total scheme cost.
- 4.3 If the Planning Permission expires prior to the Commencement of Development, the Off-Site Measures Fund will be repaid. The development has to be commenced within five years from the date the Decision Notice is issued. Further to the offer from DfT the programme will be discussed and confirmed. The outline programme without a Public Inquiry (PI) indicates that construction starts autumn 2021 and if a PI is required, this will delay the start of construction by approx. 15 months to winter 2022/23.

#### **5.0 Legal**

- 5.1 The Council has the necessary powers to enter into the S111 Local Government Act 1972 agreement and to make the contribution required for the purposes of the planning permission. As the funding for the agreement is in excess of £500,000 it is considered appropriate for there to be a specific key decision taken on this aspect of the Kex Gill Scheme.

#### **6.0 Equalities**

- 6.1 In line with the Council's public sector equality duty, equality issues are being kept under review and the equalities impact assessment for the Scheme will be updated prior to making the CPO and SRO.

#### **7.0 Climate Change**

- 7.1 A climate change impact assessment form has not been completed as a full and detailed environmental statement has been produced for the project.
- 7.2 The scheme is subject to a full environmental assessment. This will be given due consideration as part of the planning process.

**8.0 Recommendation(S)**

- 8.1 To approve the funding contribution of £593,619 for Off-Site Measures Fund to the Nidderdale AONB for implementing and maintaining landscape works in connection with the A59 Kex Gill Diversion scheme through a Section 111 agreement.

BARRIE MASON  
Assistant Director - Highways and Transportation (BES)

Author of Report:  
Mark Hugill, Highways and Transportation

Background Documents:  
None