

CORPORATE OVERVIEW AND SCRUTINY COMMITTEE

13 October 2021

Call-in of Cabinet decision taken on 22 September 2021

Financial Monitoring Report 2021/22.

“support a transfer of £435k developer contribution within the Highways capital budget from Cheltenham to Bishops Cleeve Cycle Track project to the A435 Bishops CI' to Racecourse Capacity project.”

1 Background

1.1 This decision has been called in, in accordance with the Council's constitution. The following information is attached to the report:

Appendix 1 – Call-in notice

Appendix 2 – Report by the Monitoring Officer and Chief Financial Officer

Appendix 3 – The report considered by the Cabinet on 22 September 2021

Appendix 4 – Cabinet Decision Statement 22 September 2021

1.2 The Constitution sets out the call-in procedure rules. Any decision which is the responsibility of the Cabinet, but not yet implemented, can be called-in within a prescribed timescale. Call-in should only be used in exceptional circumstances and be invoked only when there is evidence to suggest one or more of the prescribed grounds have been satisfied.

1.3 On 29 September 2021 the following six members called in the Cabinet decision:

1. Cllr Paul Hodgkinson
2. Cllr David Willingham
3. Cllr Alex Hegenbarth
4. Cllr Ben Evans
5. Cllr Roger Whyborn
6. Cllr Jeremy Hilton

2 Decision by the Corporate Overview and Scrutiny Committee

2.1 Whether the committee agrees, wholly or partially with any of the grounds set out in the call-in notice.

2.2 Which of the options set out in paragraph 3.3 of this report is to be adopted and, what qualifications, comments, modifications and/or alternatives if any, are to accompany that decision.

3 Call-in procedure

3.1 The first stage in the process is for the committee to decide whether it agrees, wholly or partially with the grounds for call-in: These are outlined below:

- The decision would conflict in whole or in part with any existing policy that has been formally approved or adopted by the Council.
- The Cabinet, the Leader of the Council or a Cabinet Member or Officer under delegated powers acted contrary to the Cabinet Procedure Rules, the Access to Information about the County Council's Formal Business and/or the principles of decision making set out in Part 2, Article 7.02 of the Constitution.

The matter contravened is:

7.02.8: They should be properly reasoned and alternatives that are discounted should be identified and the reasons for their rejection explained adequately.

3.2 In the case where a decision is called in on the grounds that it would be contrary to or not wholly in accordance with the Council's Policy Framework or Budget, the Monitoring Officer and Chief Financial Officer are required to prepare a report, which they shall provide to the Cabinet and the relevant Scrutiny Committee that is charged with consideration the call-in, stating whether, in their opinion, the decision does not accord with the Council's Policy Framework and Budget. This report is provided as Appendix 2. The committee should note that this requirement relates only to the first of the two grounds for call-in listed in 3.1 above.

3.3 If the committee does agree with the grounds for call-in then members will need to consider the report presented at the Cabinet meeting on 22 September 2021 (Appendix 3), the Cabinet Decision Statement for that meeting (Appendix 4) and the response from the Cabinet Member for Finance and Change included within this report.

3.4 The following options are available to the committee:

- 3.4.1 Support the decision without qualification or comment (in which case it can be implemented immediately without being considered again by the Cabinet, Leader of the Council or Cabinet Member).
- 3.4.2 Make adverse comments regarding the process when set against the guiding principles for decision-making, but no adverse view on the decision itself (in which case it can be implemented immediately, with the committee's comments being set out in a report and considered by the Cabinet, Leader of the Council or Cabinet Member).
- 3.4.3 Propose modifications to the decision or an alternative to the decision to achieve the same effect (in which case the implementation is delayed until the Cabinet, Leader of the Council or Cabinet Member has received and considered a report of the relevant Scrutiny Committee and decided how to proceed).
- 3.4.4 In exceptional circumstances (which shall be determined by the relevant Scrutiny Committee and recorded in the minutes) arrange for the full Council to review or scrutinise the decision and decide whether or not to recommend the Cabinet, Leader of the Council or Cabinet Member to reconsider the decision and/or consider an alternative decision recommended by full Council. If full Council does not recommend the Cabinet, Leader of the Council or Cabinet Member to reconsider the decision and/or consider an alternative decision, the called in decision may be implemented immediately. If full Council does recommend the Cabinet, Leader of the Council or Cabinet Member to reconsider the decision and/or consider an alternative decision the called in decision shall not be implemented until the Cabinet, Leader of the Council or Cabinet Member has considered the recommendation of full Council and decided how to proceed.
- 3.4.5 In the event the decision is further considered by the Cabinet or Cabinet Member, the Cabinet or Cabinet Member may do any of the following and the reasons for its or their choice will be published and reported to the next meeting of the committee.
- 1 Confirm the called-in decision without modification.
 - 2 Confirm the called-in decision with modification.
 - 3 Rescind the called-in decision, take the alternative decision recommended by full Council or (if considered appropriate) propose a new one.
- 3.4.6 If the Committee does not agree with the grounds for call-in, then the Cabinet decision stands.

Response from the Cabinet Member for Finance and Change

Introduction

The A435 Cheltenham to Bishops Cleeve Cycleway and Capacity Improvements Schemes are two interlinked schemes on the A435 corridor both in part funded by developer contributions. These schemes are interlinked because the works remodel the junction to allow a cycleway to interface with the signalised junction and for statutory utilities to be diverted for future construction. The cycle remodelling interface aspects will include advance stop lines, signal controller upgrades, signal phasing for cycles and increased verge widths to allow for construction in the future. The capacity improvements include enabling works to create the space to provide the future cycleway upgrade. For this reason, they need to be undertaken first.

Both projects are in part funded by the same developer agreements. The conditions of the agreements include that both projects must be delivered or the monies will need to be returned. The Capacity Improvements Scheme already has a large slice of the funding contained within those agreements.

These developer contributions are staggered over time and it is therefore essential that the initial contributions are assigned to the capacity improvements in light of their earlier delivery. The funding transfer relates purely to a programming matter in that the A435 Capacity Improvements scheme has been phased to be delivered first as the revised alignment of the carriageway will dictate the positioning of the revised fully compliant segregated footway/cycleway facilities.

Not all of the funding has yet to be received from the developer agreements and it is anticipated that a significant sum will be contributed by the County Council's capital programme and from further developer contributions. With all these funding sources aligned there remains a significant funding gap, given the County's ambition for the high quality compliance of the route with a total estimated project cost of £10.5 million. The County Council has invested significant resource into submitting an Active Travel bid earlier this year to the Department for Transport in order to help secure this funding gap with a decision expected in late 2021.

A435 Cheltenham to Bishops Cleeve Capacity Improvements

The A435 corridor between Bishops Cleeve and Cheltenham suffers from peak time congestion at the Hyde Lane/Southam Lane signal controlled junction. The need for improvements is documented in the Local Plan and Connecting Places Strategy for the Central Severn Vale. This project has been developed to improve capacity at this

location and to also include essential infrastructure improvements in readiness to implement the proposed A435 Bishops Cleeve to Cheltenham cycleway project.

Key aspects include the following: -

- Widening of the A435 to provide additional stacking lengths with two ahead movement lanes for southbound traffic approaching the junction.
- Widening of the A435 southbound from the junction to provide additional carriageway merge length for the two lanes coming from the north.
- Widening of Southam Lane approaching the A435 junction to provide additional stacking distances

In addition, the following works will also be required to facilitate the proposed cycleway project

- Construction of a new section of footway from the A435 into Southam Lane and linking into the rugby sports grounds.
- Traffic signals upgrade – including rearrangement of the splitter islands, new ducting, kerbing and signal controller apparatus. This is fundamental for the future key crossing of the proposed cycleway/pedestrian route on Southam Lane
- Advance cycle stop lines on Hyde Lane and Southam Lane approaches to the junction
- Relocation of utility apparatus on Southam Lane
- Relocation of street furniture that would otherwise provide obstruction to movement
- Removal of unnecessary street furniture
- Upgraded and relocated signage
- Upgraded street lighting

A435 Cheltenham to Bishops Cleeve Cycleway Improvements

Existing traffic and network conditions on the A435, between Cheltenham and Bishops Cleeve, deter cycling for all. Traffic flow data shows that over 17,000 vehicles use the road daily and it is considered that these traffic conditions present unattractive conditions for cyclists using a carriageway that is restricted by its width and geometry – this assertion is in-line with cycle design guidelines contained in Local Transport Note 1/20. The route will link both conurbations and will provide access to major employment centres along the route, access to services and local communities whilst providing public health benefits.

This scheme will link up Cheltenham via the Cheltenham Racecourse Roundabout and Bishops Cleeve with a new segregated footway and cycleway on the east side of the busy A435 corridor linking Bishops Cleeve to Cheltenham.

The A435 Cheltenham to Bishops Cleeve Cycleway is identified in the Local Transport Plan and remains a priority Active Travel scheme for the County Council. The project will contribute to the creation of a cycle spine once complete providing 26

miles of continuous cycleway facility covering four districts forming the spine of future cycle facilities through the County between Stroud and Bishops Cleeve.

Response to the Call-In Notice

In response to the specific grounds cited for this “call in”, Cabinet’s position is that this decision is fully consistent with this Council’s commitment to carbon reduction, and tackling climate change. It is part of an ambitious scheme that will improve provision for existing cyclists and increase cycling by removing some of the existing deterrents, at the same time as increasing the capacity of the junction to reduce congestion.

To characterise this decision as taking funds from a cycling scheme in order to fund a scheme for motor vehicles massively over-simplifies the programme management required to deliver such schemes.

The table below summarises the funding streams involved in these two schemes.

Development	Received	Expires	Amount
Homelands 2	May-16, Jan-18, May-18	Aug-23	£9,520 Cycling £48,869 Footway/Cycling £974,084 Highways
Wingmoor Farm	Oct-11	Not specified	£60,000 Capacity
Cleavelands	Aug-19	Aug-34 Condition on completing capacity scheme before any occupation can occur	£979,574 Highways £1,854,714 Public transport

The Cleavelands developer contribution alone is specified against a long list of items which GCC is required to deliver, or forfeit the associated funding:

- (i) corridor works along A435
- (ii) Central Severn Vale Transport Strategy
- (iii) signing of a cycle route between the development and Ashchurch
- (iv) footpath facilities between development and Bishops Cleeve centre and Cleeve School
- (v) footpath/cycleway facilities between the development and Cheltenham
- (vi) cycle parking facilities in Bishops Cleeve centre
- (vii) bus waiting facilities in Bishops Cleeve
- (viii) junction improvements on A435 corridor

Schemes like these are funded from contributions from a range of sources, so while some of the associated funding was secured several years ago, the most significant elements were only secured in August 2019. The scheme as a whole can only go ahead when sufficient funding is secured to make it viable.

Furthermore, because of that such schemes involve complex timelines and interdependencies, not only with each other, but with the wider developments that they are intended to serve and through which they are funded. For example, the planning permission associated with the Cleavelands development includes a condition that the Capacity Scheme is completed before the occupation of any building or dwelling. We are obliged to deliver this scheme under agreements we have in place with the developer.

Therefore, although the capital programme reflects the intended programme at a point in time, it is essential that we retain flexibility within the programme in order to ensure that the schemes within it are able to progress and that the funding for those schemes is used most effectively and efficiently.

Delaying this decision disrupts the programme timeline. Reversing it would make delivery of both schemes less viable.

The call-in goes on to argue that that the decision is not consistent with the principle that decisions should be properly reasoned and alternatives that are discounted should be identified and the reasons for their rejection explained adequately. Cabinet's position is that the decision at hand was a routine virement between capital schemes, taken as part of a wider financial monitoring report. The only alternative would be to not vire the funds, and that would mean that the scheme could not proceed. Such things are routine in the management of major schemes such as this and a report of this kind cannot set out the detail behind each and every transaction. This decision was due to be followed up with a further individual Cabinet Member decision report which would allow the procurement process for the scheme to commence. The report accompanying that decision would have clearly set out the rationale for the scheme, but it's publication has been delayed, regrettably, by this call-in.