

Delegated Decisions by Cabinet Member for Infrastructure & Development Strategy

***Thursday, 14 December 2023 at 2.30 pm
Room 2 - County Hall, New Road, Oxford OX1 1ND***

If you wish to view proceedings, please click on this [Live Stream Link](#).
However, that will not allow you to participate in the meeting.

Items for Decision

The items for decision under individual Cabinet Members' delegated powers are listed overleaf, with indicative timings, and the related reports are attached. Decisions taken will become effective at the end of the working day on 21 December 2023 unless called in by that date for review by the appropriate Scrutiny Committee.

Copies of the reports are circulated (by e-mail) to all members of the County Council.

These proceedings are open to the public



Martin Reeves
Chief Executive

December 2023

Committee Officer: ***committeesdemocraticservices@oxfordshire.gov.uk***

Note: *Date of next meeting: 25 January 2024*

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named on the front page, but please give as much notice as possible before the meeting.

Items for Decision

1. Declarations of Interest

See guidance below.

2. Questions from County Councillors

Any county councillor may, by giving notice to the Proper Officer by 9 am two working days before the meeting, ask a question on any matter in respect of the Cabinet Member's delegated powers.

The number of questions which may be asked by any councillor at any one meeting is limited to two (or one question with notice and a supplementary question at the meeting) and the time for questions will be limited to 30 minutes in total. As with questions at Council, any questions which remain unanswered at the end of this item will receive a written response.

Questions submitted prior to the agenda being despatched are shown below and will be the subject of a response from the appropriate Cabinet Member or such other councillor or officer as is determined by the Cabinet Member, and shall not be the subject of further debate at this meeting. Questions received after the despatch of the agenda, but before the deadline, will be shown on the Schedule of Addenda circulated at the meeting, together with any written response which is available at that time.

3. Petitions and Public Address

Members of the public who wish to speak at this meeting can attend the meeting in person or 'virtually' through an online connection.

Requests to speak must be submitted by no later than 9am four working days before the meeting. Requests to speak should be sent to committeesdemocraticservices@oxfordshire.gov.uk .

If you are speaking 'virtually', you may submit a written statement of your presentation to ensure that if the technology fails, then your views can still be taken into account. A written copy of your statement can be provided no later than 9 am 2 working days before the meeting. Written submissions should be no longer than 1 A4 sheet.

EXEMPT ITEM

In the event that any Member or Officer wishes to discuss the information set out in the Annex to Agenda Item 4, the Cabinet Member will be invited to resolve to exclude the public for the consideration of the Annex by passing a resolution in relation in the following terms:

"that the public be excluded during the consideration of the Annex since it is likely that if they were present during that discussion there would be a disclosure of "exempt" information as described in Part I of Schedule 12A to the Local Government Act, 1972 and specified below the item in the Agenda".

NOTE: The report does not contain exempt information and is available to the public.

THE ANNEX TO THE ITEM NAMED HAS NOT BEEN MADE PUBLIC AND SHOULD BE REGARDED AS 'CONFIDENTIAL' BY MEMBERS AND OFFICERS ENTITLED TO RECEIVE IT.

4. A40 HIF2 (Pages 1 - 6)

Forward Plan Ref: 2023/320

Contact: Jason O'Sullivan, Senior Project Manager, jason.o'sullivan@oxfordshire.gov.uk

Report by Corporate Director Environment & Place.

The information in this case is exempt in that it falls within the following prescribed categories:

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

and since it is considered that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, in that a negotiation is ongoing and would prejudice the position of the authority in the process of that negotiation and the Council's standing generally in relation to such matters in future, to the detriment of the Council's ability properly to discharge its fiduciary and other duties as a public authority.

The annex containing exempt information under the above paragraph is attached.

The Cabinet Member is RECOMMENDED to delegate authority to the Corporate Director of Environment & Place in consultation with the Director of Finance and the Head of Legal Services & Deputy Monitoring Officer to complete the NEC4 Professional Service Contract (for the value given in the Annex A) with Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited to be called off under the SCAPE Civil Engineering Gen3 Framework in relation to the Detailed Design of the A40 HIF2 scheme together with all related ancillary agreements [such as, Parent company guarantee and collateral warranties].

Councillors declaring interests

General duty

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed 'Declarations of Interest' or as soon as it becomes apparent to you.

What is a disclosable pecuniary interest?

Disclosable pecuniary interests relate to your employment; sponsorship (i.e. payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council's area; licenses for land in the Council's area; corporate tenancies; and securities. These declarations must be recorded in each councillor's Register of Interests which is publicly available on the Council's website.

Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those member's spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

Declaring an interest

Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest. If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

Members' Code of Conduct and public perception

Even if you do not have a disclosable pecuniary interest in a matter, the Members' Code of Conduct says that a member 'must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself' and that 'you must not place yourself in situations where your honesty and integrity may be questioned'.

Members Code – Other registrable interests

Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your other registerable interests then you must declare an interest. You must not participate in discussion or voting on the item and you must withdraw from the meeting whilst the matter is discussed.

Wellbeing can be described as a condition of contentedness, healthiness and happiness; anything that could be said to affect a person's quality of life, either positively or negatively, is likely to affect their wellbeing.

Other registrable interests include:

- a) Any unpaid directorships

- b) Any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority.
- c) Any body (i) exercising functions of a public nature (ii) directed to charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

Members Code – Non-registrable interests

Where a matter arises at a meeting which directly relates to your financial interest or wellbeing (and does not fall under disclosable pecuniary interests), or the financial interest or wellbeing of a relative or close associate, you must declare the interest.

Where a matter arises at a meeting which affects your own financial interest or wellbeing, a financial interest or wellbeing of a relative or close associate or a financial interest or wellbeing of a body included under other registrable interests, then you must declare the interest.

In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied:

Where a matter affects the financial interest or well-being:

- a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

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Divisions Affected – Eynsham, Cassington, Witney (North and East)

**CABINET MEMBER FOR
INFRASTRUCTURE & DEVELOPMENT STRATEGY
14 December 2023**

**NEC4 Professional Service Contract in respect of the Planning,
Preliminary & Detailed Design of the A40 HIF2 scheme.
Report by Corporate Director of Environment & Place**

RECOMMENDATION

1. The Cabinet Member is RECOMMENDED to

delegate authority to the Corporate Director of Environment & Place in consultation with the Director of Finance and the Head of Legal Services & Deputy Monitoring Officer to complete the NEC4 Professional Service Contract (for the value given in the Annex A) with Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited to be called off under the SCAPE Civil Engineering Gen3 Framework in relation to the Detailed Design of the A40 HIF2 scheme together with all related ancillary agreements [such as, Parent company guarantee and collateral warranties].

Executive Summary

2. This report seeks to ensure that authority is in place to enter into a contract for professional services (for the value given in the Annex A) and all related ancillary agreements with Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited for the Planning, Preliminary & Detailed Design of the A40 HIF2 scheme.

Background

3. The A40 HIF2 Scheme proposes the following improvements:
- Full bus priority eastbound along the A40 between the new Eynsham Park & Ride and Oxford North
 - Maximised bus priority westbound along the A40 between Oxford North and the new Park and Ride.
 - A high-quality active travel route along the A40 between Eynsham Park & Ride and North Oxford.
 - A junction onto the A40 from the Park & Ride
 - A scheme that can be largely delivered within existing highway boundaries.

4. The purpose of this report is to obtain approval for the Council to enter into a Professional Service Contract and all related ancillary agreements with Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited for the Planning, Preliminary & Detailed Design of the A40 HIF2 scheme.

Key Issues

5. It is essential that this decision is made urgently in respect of entering into a contract with Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited to ensure that the Planning, Preliminary & Detailed Design can progress, and subsequent construction programme is not adversely affected.
6. The key driver for use of the SCAPE Civil Engineering Gen3 Framework between Scape Procure Limited and Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited is time; this route will produce the shortest time to commence Planning, Preliminary & Detailed Design and the subsequent construction programme.
7. Furthermore, Balfour Beatty have been the County's delivery partner on the Science Transit phase 2 (STP2) and A40 HIF2 scheme since 2020, delivering the Design and Build contract STP2 Eynsham Park and Ride scheme, which is nearing construction completion and will directly connect to the works being delivered under the proposed new contract. Helping to drive time and cost (including value for money) efficiencies and, thereby, ensure that the project adheres to the latest programme/timescales.

Exempt Information

8. The Annex to the report contains information that is exempt in that it is information relating to the financial or business affairs of any particular person (including the authority holding that information).

Financial Implications

9. Subject to the funding approval from Homes England, a waiver letter received from Home England 31st October 2023, limited future claims on the scheme to specific items. However, Planning, Preliminary & Detailed Design of the A40 HIF2 scheme Professional Service Contract, was one of the permissible items, on which claims could continue to be made.
10. As identified previously, this report seeks to ensure that authority is in place for entering of a Professional Service contract (for the value given in the Annex A) and related ancillary agreements to be issued to Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited (pursuant to Scape Civil Engineering Gen3 Framework) for the delivery of the Planning, Preliminary & Detailed Design of the A40 HIF2 scheme.

11. The value given in Annex A is the cost for Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited for the Planning, Preliminary & Detailed Design of the A40 HIF2 scheme. on behalf of the County Council which falls within the 'approved budget':
 - (a) Home's England – Housing Infrastructure Fund - £106.756m - Grant Determination Agreement (GDA), Deed of Variation (DoV) signed October 2021

Comments checked by: Rob Finlayson, Finance Business Partner
(rob.finlayson@oxfordshire.gov.uk)

Legal Implications

12. When procuring goods, services or works, the procurement must be conducted in accordance with the Council's Contract Procedure Rules and, where applicable, the Public Contracts Regulations 2015 (PCRs).
13. The value of the proposed contract for Planning, Preliminary & Detailed Design is given in Annex A and therefore is above the PCRs threshold for services which currently stands at £213,477 inc VAT.
14. The SCAPE Civil Engineering Gen3 Framework between Scape Procure Ltd and Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited was entered into on 21st November 2022 following a public procurement exercise under the PCRs and expires on 21st November 2026. The proposed call-off contract between Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited and the Council is a NEC4 Professional Service Contract. This Framework is a single supplier Framework and therefore the Council is making a direct award. Single supplier Frameworks are permitted under the PCRs.
15. The Council will be delivering the A40 HIF2 Scheme in its capacity as the highway authority for Oxfordshire under the Highways Act 1980.

Comments checked by: Anita McEleney, Locum Solicitor (Legal Services) –
Contracts and Conveyancing (Legal Services)
(anita.mceleney@oxfordshire.gov.uk)

Staff Implications

16. There are no staff implications.

Risk Management

17. If the Council does not enter a contract with Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited in respect to the delivery of the Planning, Preliminary & Detailed Design of the Scheme as soon as practicably possible then this could put further pressure on the Council's ability

to spend the Housing Infrastructure Fund within the funding allocated to the Scheme under the Grant Determination Agreement.

18. Furthermore, Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited will not be able to commence the Planning, Preliminary & Detailed Design as per the latest programme until the call-off contract has been entered, which could have financial and time implications.
19. Both of these risks could result in reputational damage if the Council does enter the contract with Balfour Beatty Civil Engineering Ltd acting as agent for Balfour Beatty Group Limited in a time-efficient manner.

Bill Cotton, Corporate Director of Environment & Place

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| Annex: | Annex A – Project Details |
| Background papers: | Nil |
| Contact Officer: | Olu Solola A40 Programme Lead olu.solola@oxfordshire.gov.uk |
| December 2023 | |

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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