

Report to the Cabinet

Report reference: C/119/2005-6.
Date of meeting: 6 February 2006.



Portfolio: Planning & Economic Development.

Subject: Loughton Broadway - Town Centre Enhancement Scheme.

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Recommendations:

- (1) To receive a short presentation from Robert West Consulting on the outcome of the design guide review and to agree the outcomes of the Loughton Broadway Town Centre Enhancement Steering and Focus Groups;**
- (2) That, subject to recommendation (1), the existing Loughton Broadway Town Centre Design Guide be revised (including the proposals for parking);**
- (3) That, subject to recommendations (1) and (2), capital provision be increased from £2.5 million to £2.87 million and that a report be made to Council accordingly;**
- (4) That consideration be given to the additional works requested by the Broadway Steering and Focus Groups:**
 - (a) Demolition of garages;**
 - (b) Extended CCTV; and**
 - (c) Traditional public convenience;**
- (5) That the preferred method of scheme procurement be considered;**
- (6) That, subject to recommendation (5), appropriate contract standing orders be set aside relating to the appointment of a contractor and support consultants;**
- (7) That, subject to recommendation (5), a section 278 agreement with the County Council be entered into; and**
- (8) That the Burton Road and Vere Road car parks remain within the Housing Revenue Account and be managed through a management agreement between Housing Services and Environmental Services.**

Background:

1. In June 2005 Cabinet received a report regarding progress on the design of the Broadway Regeneration Scheme. Cabinet resolved, inter alia:
 - (a) to undertake a phase 1 enhancement scheme in accordance with the original 1998 Design Guide; and
 - (b) that the Steering Group should work on the details of the scheme and report

back to Cabinet at the earliest opportunity.

2. The Steering Group completed its work in November 2005. The Steering Group has agreed all the essential elements of the scheme with the exception of material selection, for which a further Focus Group will be arranged early in the new year.

The Scheme:

3. The scheme in essence reflects the original 1998 design and includes:
 - Removal of the central reservation of The Broadway;
 - Creation of a raised paved area in the central area to create a 'public space';
 - Redesign of the Burton Road car parks to provide additional and controlled parking;
 - Redesign of car parking areas in Vere Road;
 - Vere Road and Burton Road becoming 'one-way' streets;
 - Separation of public and private space at the rear of premises in Burton Road;
 - Improved street lighting;
 - Extensive CCTV;
 - Resurfacing of highway and footway surfaces; and
 - Replacement of street furniture as required.

A plan of the proposals has been placed in the members' room and will also be available in the chamber for the Cabinet meeting. A smaller A3 version of the proposals is attached to the agenda. A representative of Robert West Consulting will also be present in order to briefly take Cabinet through the scheme proposals.

4. The Focus and Steering Groups identified some additional works which whilst not included in the final design, they wished Cabinet to consider as part of the decision making process. These are:

(a) Garages in Vere Road

The proposals as set out leave the garages in-situ, in the main because they are either let to tenants and businesses or in some cases included as part of business lease arrangements. However, although in reasonable condition, they may detract from the appearance of the final scheme. They could be demolished but there may be difficulties in re-provision which might lead to local opposition. They could be refurbished, but the costs are estimated to be in the region of £70,000 which have not been previously considered as part of the scheme costs.

(b) Public conveniences

The Broadway is currently served by an automatic facility (APC) located outside the filling station and by a traditional facility reserved for use by those with disabilities (RADAR). The scheme includes a proposal to relocate the APC to within the redesigned Burton Road car park, but there are concerns that this may lead to additional vandalism. The Focus Group remarked that the APC was rarely used, either because of its present location or because of a general reluctance of local people to use an automatic facility. They therefore wished to see the provision of traditional facilities, perhaps using the space which exists adjacent to the walkway on the western side leading from Vere Road to the Broadway. The Focus Group was made aware of the Council's policy on public toilets and that the likelihood was that the Council would not wish to provide and manage a traditional facility. However, the Focus Group has requested a view on whether, as part of the construction of the TCE, the Council might be prepared to incorporate a traditional facility, albeit on the basis that this would be conditional upon the town council managing and maintaining it. The estimated cost of incorporating such a facility is £100,000 and if available the views of the town council will be given at the meeting.

(c) Extended CCTV and lighting

Whilst comprehensive, current CCTV and lighting proposals do not extend to include the alleyway which links Burton Road / Torrington Drive with Debden underground station. This is an area of local concern and the Focus Group is seeking Cabinet's views on its inclusion, given that this area is nominally outside of the presently designated phase 1 enhancement area. The estimated cost of this additional provision is £10,000.

Parking Proposals:

5. It is proposed that the parking in and around The Broadway should be controlled via a pay and display regime. A comprehensive parking survey showed extensive use of the current free parking by commuters, who should be in the nearby LUL station car park. In order to effect control and to ensure that on and off-street parking is available to those who wish to visit The Broadway, the Focus and Steering Groups agreed that pay and display provided the most effective control. When the issue of pay and display was last considered by members as part of the adoption of the existing design guide, it was agreed that whilst pay and display was acceptable in principle it should not be implemented until an enhancement scheme had been undertaken.
6. It will be necessary to make provision, through a permit scheme, for residents and business users of The Broadway. Furthermore, since the removal of free parking will almost certainly result in local displacement into surrounding roads, it will become necessary to undertake a wider parking review of local roads in order to ensure that these roads are not adversely affected. It is suggested that this is included as part of the wider Loughton Review which is scheduled to be undertaken during 2006/07.
7. The Burton and Vere Road car parks are currently part of the Housing Revenue Account property portfolio. If a pay and display regime is to be implemented consideration will need to be given to how the management and financial arrangements are to be dealt with. The options are:
 - (a) The land is appropriated in the general fund from the HRA; or
 - (b) The land remains within the HRA but a management arrangement is entered into between the HRA and general fund to deal with management and enforcement matters.

Option (a) is complex and will involve the valuation of the land and the general fund making a payment to the HRA in order that the land can be appropriated. The money received by the HRA is then caught up in the capital pooling arrangements which would result in the Council having to pay money back to Government and creating the situation where the Council was effectively paying the Government for the car park. Given these complexities it is suggested that the preferred approach should be to retain the car parks within the HRA and the car parks be managed on behalf of the HRA by Environmental Services subject to a fee for management.

Contract procurement:

8. There are a number of ways in which this enhancement scheme could be procured. The Portfolio Holders for Planning & Economic Development and Finance wished officers to explore options, which may enable a speedier commencement on site whilst being able to demonstrate that value for money had remained a key consideration. Those options are numbers (2) and (3) in the option list which follows.
 - (1) The same process as with previous enhancement schemes, namely through the appointment of a consultant to undertake the detailed design, and then a

formal tendering process to appoint a contractor to deliver the works on the ground. The design consultant would ordinarily supervise the construction works;

- (2) To view the scheme as a continuation of the current Loughton TCE scheme and continue with the same contractors and consultants (i.e. Gabriels and Robert West Consulting);
 - (3) To utilise a 'design and build' procurement using either Gabriels or another contractor who will then design, deliver and supervise the scheme; or
 - (4) Directly via the County Council's highways service at Harlow.
9. Option (1) has been the more normal route for procurement of a scheme of this type, and was successfully used to deliver the enhancements schemes at Ongar and Buckhurst Hill. The Buckhurst Hill process was amended slightly through the use of a partnering contract, which enabled closer working with the contractor and a reduced level of claim. Whilst the Loughton TCE scheme was procured via J Sainsbury, the same basic process was followed by them. In terms of Contract Standing Orders (CSOs) and EU procurement rules:
- Design and supervision costs will exceed the EU threshold;
 - Construction costs will not exceed the EU threshold; and
 - Both elements would require competitive tendering or the setting aside of CSOs.
10. Option (2) is the first of the options which the Portfolio Holders referred to in paragraph 8 wanted to explore. It is put forward on the premise that the last two enhancement schemes, following competitive tendering (by EFDC and Sainsbury's), resulted in the appointment of Robert West Consulting and Gabriels. They wish to seek Cabinet's view on undertaking the Broadway scheme as an extension of the Loughton TCE scheme, thereby enabling the contractor and consultant to move from one scheme to the other. However, this is clearly a different project to the Loughton TCE and describing it as extension would be difficult to justify to external scrutiny, particularly given that the Loughton scheme was in fact procured via J Sainsbury.
11. Option (3) is the second of the options which the Portfolio Holders referred to in paragraph 8 wanted to explore, and is a procurement process more commonly used for the construction of buildings rather than what is essentially a highway maintenance/improvement project. A design and construct contract requires a high level of specificity based upon the outcome that the client wants from the contract. The existence of the design guide puts a significant degree of certainty into the project and therefore this approach could well be appropriate. The risk with this approach arises from the nature of the work and the adverse effects of unforeseen events. Such events can generate high levels of claim under this type of contractual arrangement. The Council would need to protect its interests in respect of the detailed design and supervision on the ground. Both of these could be dealt with through the section 278 agreement with the County which will be required. The Council will also require the design guide to be developed into the detailed design brief referred to earlier. In terms of Contract Standing Orders (CSOs) and EU procurement rules:
- Because design and supervision costs will be considered as part of the overall design and construct package, they will not exceed the EU threshold;
 - Construction costs will not exceed the EU threshold; and
 - The appointment of the contractor would require competitive tendering or the setting aside of CSOs if the existing TCE contractor was to be appointed.
12. Option (4) results from the reversion of the highway functions to the County Council.

The County is theoretically in a position to deliver the scheme on behalf of the council including detailed design, works and supervision using its own term contractor and consultants, these having been recently appointed through a competitive tendering process for new contract arrangements due to commence in April 2006. This option has the advantage of this Council not having to enter into a section 278 agreement with the County Council since we would not then be considered as a 'developer'. We would need to enter into a section 278 agreement under all other options. It would also enable early discussions between designers and contractors which may enable a more cost effective approach to the overall process. However, recent discussions with County officers indicates that they would not be in a position to assist with a scheme of this size and nature until the start of the 2007/08 financial year, which effectively precludes it as an option if current time scales are to be adhered to.

13. Irrespective of the method of procurement, the Council is legally required to appoint a Planning Supervisor under the CDM regulations, who has the responsibility to ensure that all health and safety issues are adequately considered and dealt with through the detailed design and then the construction phase. In the past this appointment has not been tendered, the Council having appointed RSK Shears to advise on the Buckhurst Hill and Loughton TCE schemes. Members are requested to consider whether continue in this regard and appoint our existing CDM consultants or whether it would now be appropriate to seek a CDM consultant through competitive tendering.
14. In considering the most appropriate form of procurement Members are required to consider the likely view of the Council's external assessors as to whether the Council can demonstrate that it has sought and achieved best value. The Auditor's view in this regard can impact upon the Council's "Use of Resources" assessment.

Resources:

15. In the report to Cabinet in June 2005 it was reported that, based on the 1998 Design Guide, the basic scheme was estimated to cost around £2.5 million at current prices. Of this, £100,000 was allocated into 2005/06 for initial design and consultation etc, and the remainder allocated into 2006/07 for detailed design and construction.
16. Now that the scheme has been further developed, Robert West Consulting have obtained updated quantity surveyor costs for the scheme. These are set out below but members should recognise that these may not reflect actual costs once the scheme is formally put out for tender:

(i)	Construction works:	£2,440,000
(ii)	Design & supervision:	£ 300,000
(iii)	Contingency:	£ 130,000

Total: £2,870,000

The figure of £2.87 million includes:

- (a) £176,000 of inflation to cover the period from now to August 2006;
- (b) £150,000 of statutory utility diversions; and
- (c) £ 30,000 for public art;

But excludes the additional costs associated with a traditional public toilet facility (£100,000) and the extension to CCTV (£10,000).

17. If members wish to proceed with the design as set out, additional capital provision of £370,000 will need to be provided; this will need to increase further if the further works regarding the provision of a public toilet and extensions to CCTV are included.

Statement in support of recommended action:

18. The Broadway enhancement scheme has been agreed in principle by Cabinet and capital provision of £2.5 million has been made. The scheme has been through several consultation processes and the proposals in their current form reflect the wishes of the Steering Group and the locally based Focus Group. The scheme is the first phase of a potentially larger regeneration of the area.
19. Members and the local community are keen to see works on The Broadway proceed as soon as possible. EU procurement rules and the Council's own contract standing orders place constrictions upon the Council's ability to procure the scheme quickly. The Council is also under external scrutiny to demonstrate value for money and if it chooses to set aside contract standing orders it must clearly establish and set out the reasons for so doing. It cannot choose to ignore EU procurement rules.
20. Given that all the options require a combination of EU procurement and compliance with CSOs, the speediest procurement result can be obtained through option (3), and the appointment of Gabriels to undertake the scheme. However, this would require that CSOs be set aside and the following issues could be considered as part of that justification:
 - (a) That the works are of a specialist nature and there is benefit in extending an existing relationship with a contractor into a new scheme;
 - (b) 'Design and build' enables the selected contractor a high degree of autonomy over scheme design and delivery, which should enable effective cost and time management;
 - (c) Value for money can be demonstrated by virtue of the success of this contractor in winning earlier tendered TCE schemes and their successful delivery of these schemes; and
 - (d) The time delays involved in a full tendering process may result in increased costs through construction cost inflation.

However, it should be noted that, in terms of being able to positively demonstrate that value for money has been obtained from the procurement process, option (3) is less certain in this regard than option (1).

Options for action:

21. The options for action are:
 - (a) To procure the scheme using one of the processes set out in the report;
 - (b) To procure the scheme using one of the processes set out in the report but with additions or deletions to the scheme; or
 - (c) To not procure the scheme at this time.

With respect to the HRA car parking options there are none other than those set out in the report.

Consultation undertaken:

22. Major consultation on original scheme in 1998. Focus Group re-established in 2005 for further examination of original proposals.

Resource implications:

Budget provision: As set out in the report.

Personnel: Nil.

Land: Enhancement of Loughton Broadway.

Community Plan/BVPP reference: To be completed.

Relevant statutory powers: To be completed.

Background papers: Previous report to Cabinet June 2005.

Environmental/Human Rights Act/Crime and Disorder Act Implications: Enhanced local environment in The Broadway and improved local safety through parking and traffic management schemes, enhanced street lighting and CCTV.

Key Decision reference (if required): N/A.