

ANGUS COUNCIL

10 MARCH 2022

ARBROATH A PLACE FOR EVERYONE – UPDATE AND PROCUREMENT AUTHORITY

REPORT BY DIRECTOR OF INFRASTRUCTURE

ABSTRACT

This report provides an update on the progress of the Arbroath A Place for Everyone project since last reported to committee and seeks procurement authority to progress the design and construction of the project as the maximum value exceeds the Chief Officer's procurement delegated authority limits contained in Section 16.8.1 of the Financial Regulations.

1. RECOMMENDATION(S)

It is recommended that the Council:

- (i) notes the progress of the Arbroath A Place for Everyone project since last reported to committee;
- (ii) authorises the further continued use of the SCAPE Framework for Civil Engineering to inform the design and progress the construction of the Arbroath A Place for Everyone project as detailed in this report;
- (iii) delegates authority to the Director of Infrastructure, following consultation with the Director of Legal and Democratic Services and the Director of Finance or their respective nominees to determine whether to proceed through future phases of the SCAPE framework or revert to a traditional restricted - competitive tender route; and
- (iv) notes that a further report will be brought to the Communities Committee to seek approval to move to the award of a construction contract for the Arbroath A Place for Everyone project.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/COUNCIL PLAN

This report contributes to the following local outcomes contained within the Council Plan 2019-2024 and Community Plan 2017-2030:

- an inclusive and sustainable economy;
- a reduced carbon footprint;
- safe, secure, vibrant and sustainable communities; and
- enhanced, protected and enjoyed natural and built environment.

3. BACKGROUND

- 3.1 Reference is made to Article 3(XVII) of the minute of Angus Council on 27 February 2020, where the Council approved the financial commitment to the Arbroath A Place for Everyone project and the signing of the funding agreement between Angus Council and Sustrans (reference Report No. 86/20).
- 3.2 Reference is also made to Article 8 of the minute of the Special Arrangements Committee on 28 April 2020, where the Committee agreed to authorise the Director of Infrastructure, following consultation with the Director of Legal and Democratic Services, to undertake a procurement exercise and award a contract for professional services to deliver the Arbroath A Place for Everyone project (reference Report No. 135/20).
- 3.3 Reference is also made to Report No. 71/21 and the approval of the council budget for 2021/22 at the Angus Council on 4 March 2021, which included financial commitment and budget

provision for the Arbroath A Place for Everyone project (referred to as Arbroath Active Travel Active Town) as set the previous year.

- 3.4 Final reference is made to Report No. 65/22 and the approval of the council budget for 2022/23 at the Angus Council meeting on 3 March 2022, which included financial commitment and budget provision for the Arbroath A Place for Everyone project (referred to as Arbroath Places for Everyone) as set in previous years.

4. CURRENT POSITION

- 4.1 The funding agreement between Angus Council and Sustrans was signed on 25 June 2021. This was delayed due to both parties needing to finalise details and seek sign off. The project delivery continued unhindered by the late signing of the agreement. The only impact was the delay in initiating the formal Steering Group and Advisory Board meetings, which commenced in September and October 2021 respectively. The start and finish dates* for the project stages shown in Table 1 below were based on the dates proposed at the award of the Places for Everyone funding in the second half of 2019.
- 4.2 The agreement includes details of the financial commitment to match funding from Angus Council towards the project costs. The agreement also details ‘the aim of Places for Everyone is to create safer, more attractive, healthier places by increasing the number of trips made by walking, cycling and wheeling for everyday journeys.’
- 4.3 The contract for professional services was awarded on 10 August 2020 to Arcadis, which is a global design, engineering and management consulting company.
- 4.4 Table 1 below shows the stages of the delivery programme. The delivery to meet the start and finish dates for the project stages shown in Table 1 below were impacted by the later than originally planned appointment of the specialist consultant and restrictions from the COVID-19 pandemic, which severely limited public engagement activities. Revised and forecast completion dates are included, which are known to the Steering Group and Advisory Board and will be subject to formal revision of the agreement between the council and Sustrans before commencement of Stage 4.

Table 1 Arbroath A Place for Everyone Project Stages

PROJECT STAGES	Start*	Finish*	Actual/ Forecast Start	Forecast Completion
Stage 3A - Developed Design**	07/01/2020	08/05/2020		
Stage 3B - Developed Design	30/03/2020	16/04/2021	24/08/2020	29/04/2022
Stage 4 - Technical Design	19/04/2021	15/04/2022	02/05/2022	30/12/2022
Stage 5 - Construction	18/04/2022	13/10/2023	09/01/2023	05/07/2024
Stage 6 - Handover and Close Out	16/10/2023	17/05/2024	08/07/2024	13/01/2025
Stage 7 - In Use	20/05/2024	02/05/2039	14/01/2025	31/12/2039

**Undertaken by previous consultant.

- 4.5 Positive progress has been made with the Developed Design Stage 3B. This has involved a widespread and significant amount of engagement with elected members and the public on the need for the project and the detail of the designs for the road, path and cycle way alignments and landscaped areas. See **Appendix 1** for Project Update from Arcadis, which shows details and images of the current developed design, and **Appendix 2** for our Project Engagement Plan. A visualisation of the proposed design showing the realignment and use of available public space is available at the following link:

https://youtu.be/p_SMAVunhpk

- 4.6 Stage 4 Technical Design will commence immediately on completion of Stage 3B to maintain the progress of the project to the agreed programme. During Stage 4, a revised cost estimate will be prepared, which as noted in section 8 of this report will allow for a reduction in the

optimism bias element of the projected cost and be based on current estimates of construction prices.

- 4.7 Given the nature of the project, early contractor involvement is considered to be a significant benefit to ensure that the developed and technical designs make the fullest allowance for best practice in terms of construction techniques and programming. Such involvement can also be used to establish a ceiling construction cost, which will avoid the risks of open tendering, but which can also be subject to value engineering and best value checks on costs.

5. SOURCING STRATEGY

- 5.1 Due to the value of this project (circa £13million) the sourcing strategy needs to ensure compliance with Procurement legislation This could be through a restricted - competitive tender process as described below or through a compliant call-off from a framework agreement.

Option 1

5.2 Traditional restricted - competitive tender involving the following two-stage process:

- 5.2.1 Stage 1 – Selection Process - Public Advertisement and Assessment to prepare a shortlist of tenderers based on qualification criteria. The evaluation of expressions of interest would be based on minimum qualification criteria, namely: experience, economic and financial standing; insurances, equal opportunities and health & safety.
- 5.2.2 Stage 2 – The tendering procedure whereby shortlisted tenderers are invited to submit a response to the Invitation to Tender with the most economically advantageous price / quality tender being the success criteria for contract award.
- 5.2.3 It is envisaged that Stage 1 would take three months with a further four months for Stage 2. Subject to further council or committee approval, the construction phase would commence within two months of the completion of Stage 2. This option would therefore take approximately 9 months to get to commencement of construction.

Option 2

5.3 Use of a Civil Engineering Framework

- 5.3.1 Another option it to select an appropriate civil engineering framework in order to enter into a call-off contract. This allows a chosen delivery partner to provide early contractor involvement and a process that may lead to contract award and construction.
- 5.3.2 A market assessment has been undertaken on appropriate Civil Engineering Frameworks. The following frameworks have been identified:

SCAPE

For more than a decade, SCAPE has partnered with both nationally recognised and local construction companies to deliver fully compliant framework services across Scotland.

263 projects have been delivered across Scotland including the delivery of more affordable homes and new schools, the restoration of Category A Listed buildings, helping to boost tourism and deliver improved highways, bridges and flood prevention schemes.

Balfour Beatty are the sole supplier on this framework for project values of £50k - £100m+ in Scotland. The current framework is due for renewal in 2023.

Crown Commercial Construction Works and Associated Services

Another framework that could be used is the Crown Commercial Service Construction Works and Associated Services framework which delivers a wide range of major and minor building, and civil engineering projects for central government and the wider public sector.

The framework is arranged in 11 lots of varying levels of complexity and value of work from £0 – £3m up to £80m+ and has a number of contractors.

5.3.3 Comparison

Both frameworks cover civil engineering projects. The Crown Commercial Service framework provides for a wider range of procurement options, however, the stages of the SCAPE framework are most applicable to the early contractor involvement through to pre-construction provision of market tested cost plan and then on to construction that are required for the Arbroath A Place for Everyone project. There is also more regional experience available in using SCAPE, which is being employed on other active travel projects in Scotland with the approval of Sustrans.

- 5.4 Initial discussions have been undertaken with Balfour Beatty, who are the SCAPE delivery partner to allow the free feasibility study – see below. **Appendix 3** includes details of the offering from Balfour Beatty under SCAPE and the benefits to the council for this project. The following stages would apply using SCAPE given the development stage of the project.

Feasibility (February-April 2022)

The delivery partner recommended, Balfour Beatty will work closely with us and our team, holding in depth discussions and workshops to make sure they fully understand the project aspirations, including timescales and budget. The information collected from these discussions will be collated into a free feasibility study.

Preconstruction (May-September 2022)

At this stage, the council would enter into an agreement with Balfour Beatty. This will set out the defined services to complete the pre-construction phase. At the end of this process, the council will receive a 100% market tested cost plan, including a fully identified local supply chain. Recommendation (ii) & (iii) in this report seeks Council's approval for this.

Construction (January 2023)

Subject to further council or committee approval (estimated to be in October to December 2022), when we are ready to move to the construction phase, the council will enter into a Delivery Agreement to formalise our contract with Balfour Beatty. The delivery partner will continue to be on hand to support throughout the delivery of the project, monitoring performance and together ensuring that the project is delivered to the highest possible standard.

- 5.5 With reference to the above options and the risk implications detailed in section 7 below, it is considered that the use of a civil engineering framework should progress at this time given the benefits of early and continued contractor involvement in the development of the technical designs through to construction. There would remain the option to revert to a more traditional restricted - competitive tender should that be considered to provide the better option at the end of the feasibility or pre-construction stage, and prior to entering into a construction contract. It is envisaged that the use of the SCAPE framework from March 2022 would allow for a construction start in January 2023. If the traditional restricted - competitive tender approach was taken from the end of April 2022 (SCAPE Feasibility end/review) or September 2022 (SCAPE Preconstruction end/review), the construction start would be July 2023, six months later. Each option is likely to require an 18-month construction period, however, the use of the delivery partner through SCAPE may allow for earlier consideration of reducing the construction period.

6. PROPOSALS

- 6.1 It is proposed that early contractor involvement discussions continue with Balfour Beatty under the SCAPE Framework with the delivery of a free feasibility study.
- 6.2 It is proposed that authority is delegated to the Director of Infrastructure, following consultation with the Director of Legal and Democratic Services and the Director of Finance or their respective nominees, to determine, subject to satisfaction with the feasibility report, whether it is appropriate to enter into a pre-construction agreement with Balfour Beatty, the SCAPE Delivery Partner, who will provide a 100% market tested cost plan.

- 6.3 It is further proposed at the end of the feasibility and pre-construction stages that the Director of Infrastructure, following consultation with the Director of Legal and Democratic Services and the Director of Finance or their respective nominees, determines whether to proceed with the SCAPE framework or revert to a traditional restricted - competitive tender route.
- 6.4 Update reports will be brought to the relevant committee or council on the progression through the procurement process. A formal approval will be sought prior to entering into a construction contract for the project.

7. RISK IMPLICATIONS

- 7.1 The risk implications to the project were detailed in section 7 of Report No. 86/20. The following table provides an update on the risks and mitigation.

Risk	Approach to Mitigation	Update
Costs exceed current expectations	Current cost estimates are based on the high cost estimates from the concept designs and in addition include a 44% allowance for optimism bias because of the stage of development of the project. This gives a good degree of protection from cost increases. Final designs will be based around an affordable cost envelope taking into account the Sustrans funding available and Council and other match funding secured. This will help ensure the final proposals are affordable to the Council within the budget provisions made.	As stated above, a new cost estimate will be prepared at the end of the design development stage and ahead of the procurement of the construction contract. This will update the construction costs and allow for a potential reduction in the 44% allowance for optimism bias and allow for a revision of the financial commitment & budget provision in the Final Capital Plan 2021/26. The proposed early contractor involvement will provide greater certainty on the forecast construction costs, where risks remain high. The opportunity to receive a 100% market tested cost plan as part of the framework at the end of the pre-construction stage would provide cost certainty that would otherwise be less certain using a traditional tendering route, particularly given the nature of the project.
Proportion of project construction cost that is eligible for 50% or 70% funding	Current cost estimates are based on best estimates of the likely grant funding in accordance with Sustrans guidance because of the stage of development of the project. Final designs will be based around an affordable cost envelope taking into account the percentage of Sustrans funding available and Council. This will help ensure the final proposals are affordable to the Council within the budget provisions made.	Revisions at a national level to the Places for Everyone funding has resulted in a 70/30% funding split for all project construction costs. The existing financial commitment & budget provision is set of the 70/30% split.
External/Match Funding is not secured	It is proposed that the Council agree to commit through its budget setting process for the net cost of £4.014m currently estimated. On this basis external match funding and any reductions in costs as designs are firmed up will reduce the call	Dialogue is ongoing with Sustrans on the application of in-kind match funding. External match funding opportunities have been identified from CWSR and Sustrans NCN Development Fund secured in 2020/21 and 2021/22. The aim of securing the match against the

	on the Council's budget. Some match funding options have already been identified and we will continue to work with Sustrans officers who have experience in maximising match funding from other sources.	Arbroath: A Place for Everyone project is to maximise the amount of funding from Sustrans to this project and reduce the direct funding required from the council.
The project cannot progress for reasons within the Council's control	In signing the Sustrans funding agreement, the council is committing to progressing the project to completion. Whilst there will be opportunities to influence the design, in the circumstances that the council wishes to withdraw from the project for whatever reason, including lack of funding, the council is likely to be liable for the costs of the project up to that time and any legal commitment. This would likely be both the council's funding and Sustrans funding. This risk is no different to other council construction projects.	<p>There would also be financial risk that the funding of costs received from Sustrans would be repayable. The current costs to the end of 2021/22 are in the order of £440k.</p> <p>There would be reputational risk for the council if the project did not proceed as detailed, as the project matches the areas for actions stated in the Council Plan.</p> <p>Lost opportunities from successfully delivering infrastructure projects funded by Scottish Government and their agencies, such as Sustrans and Transport Scotland in the case of Places for Everyone funding. Evidence of successful delivery of projects is often required when making bids for funding. There is a published commitment from Scottish Government to a minimum of £320m of active travel funding by 2024/25, which is more than three times the current funding. Building relationships and having this evidence to hand is considered to put Angus Council in a positive position when accessing other funding streams and competing for future funding, particularly for active travel which could be utilised in other areas of Angus.</p>

8. FINANCIAL IMPLICATIONS

- 8.1 Reference is made to 2021/26 Capital Plan allocation for the Arbroath Places for Everyone (reference Report No. 65/22) presented to Special Angus Council 3 March 2022, which shows the current financial position. This includes a specific allowance in the Council's capital budget of £3.001m for the Council's contribution towards net project costs; and should it ultimately prove necessary a further £1.013m of Council funding to be provided from the Capital Contingency provision in the Council's budget. The £1.013m is made up of the Council's share of the potential cost that results from the 44% Optimism Bias, which is included as part of the project cost estimates. At this time, the council's capital contribution remains as budgeted at £3.001m. The Optimism Bias financial impact may not materialise and the percentage, which represents uncertainty and contingency, will reduce, in particular with the provision of a 100% market tested cost plan should the preconstruction stage of the SCAPE framework proceed. As the cost plan is detailed, the Optimism Bias will reduce, as should the £1.013m risk allowance. There is however the possibility that increases in construction inflation since the original cost estimates were prepared could offset expected reductions in the Optimism Bias element of the projected costs. This will become clear through the preparation of the market tested cost plan. Officers will also continue to seek other external funding opportunities in order to reduce any required use of the Capital Contingency budget provision.
- 8.2 The current cost and funding of the project as contained in the Council's approved capital budget is shown below.

PROJECT / NATURE OF EXPENDITURE	Estimated Total Cost £000	Actual to 31/03/21 £000	Projected Outturn 2021/22 £000	Estimate 2022/23 £000	Estimate 2023/24 £000	Estimate 2024/25 £000	Estimate 2025/26 £000
Arbroath Active Travel Active Town	13,246	111	318	5,343	2,737	13	4,724
Sustrans (Places for Everyone)	-9,232	-102	-318	-3,739	-1,903	-9	-3,161
External Funding / Capital Contingency (if required)	-1,013	0	0	-421	-216	-4	-372
Net Cost	3,001	9	0	1,183	618	0	1,191

- 8.3 As detailed in section 5.4 of this report, the provision of a feasibility study by Balfour Beatty through the SCAPE Framework is free to the council. The percentage fee for Balfour Beatty to undertake the Pre-Construction stage and provide a 100% market tested cost plan is 1.6% of the project value, which would equate currently to £212,000. These costs fall into the Technical Design Stage 4 of the Sustrans agreement, reference Table 1, and are therefore subject to 100% funding by Sustrans. As stated in section 5.3.3, Sustrans have supported projects that use the SCAPE Framework previously.
- 8.4 For the avoidance of doubt the project will not move to Stage 5 – Construction until the full cost of the project has been confirmed and members have approved the moving to that stage of the project.

9. EQUALITY IMPACT ASSESSMENT

- 9.1 An Equality Impact Assessment has been completed for this report – see **Appendix 4**.
- 9.2 The Assessment concludes that there are either neutral or positive impacts on protected characteristic groups for the proposals contained in this report.

NOTE:

The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Report No. 65/22 – Provisional Capital Budget Volume - Special Angus Council, 3 March 2022
- Report No. 135/20 – Procurement Authority Report – Contract for Consultant Services for Arbroath’s Places for Everyone Project – Special Arrangements Committee, 28 April 2020
- Report No. 119/20 – Procurement Authority Report – Contract for Consultant Services for Arbroath’s Places for Everyone Project – Angus Council, 19 March 2020
- Report No. 86/20 – Arbroath Active Travel Active Town – Update & Budget Proposals - Angus Council, 27 February 2020
- Report No. 410/19 – Arbroath Active Travel Active Town – Angus Council, 5 December 2019

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List of Appendices:

- Appendix 1 – Arcadis Project Update
- Appendix 2 – Project Engagement Plan
- Appendix 3 – Balfour Beatty SCAPE Benefits
- Appendix 4 – Equality Impact Assessment