

ANGUS COUNCIL

ANGUS COUNCIL – 30 JUNE 2022

LEVELLING UP FUND APPLICATION FOR BRECHIN CALEDONIAN RAILWAY

JOINT REPORT BY VIVIEN SMITH, DIRECTOR OF STRATEGIC POLICY, TRANSFORMATION & PUBLIC SECTOR REFORM AND IAN LORIMER, DIRECTOR OF FINANCE

ABSTRACT

This report presents a proposal received from Brechin Caledonian Railway for Council's consideration in respect of submitting a Levelling Up Fund application to UK Government and asks members to determine Angus Council's position in relation to the application.

1. RECOMMENDATION(S)

It is recommended that Council

- (i) note the background to the Levelling Up Fund and the specific opportunities and risks which arise from participation in the programmes as set out in the report;
- (ii) note the position on the application covered by this report and the specific benefits and potential risks associated with this;
- (iii) note the letter of support from Mercedes Villalba, Scottish Labour Shadow Minister for Environment and Biodiversity at appendix A to this report;
- (iv) note the commentary in Section 6 regarding the main issues for the Council to consider and in particular the terms and conditions which the Council must accept if it wishes to support the application;
- (v) notes the concerns of officers outlined in Conclusions, Section 9 of this report, that while the Brechin Caledonian Railway presents a good project which shows great ambition, the scale of the project, the lack of detail currently available to assess the risks, the terms and conditions of the funding, the current volatile market conditions for construction projects and the Council's existing financial challenges means regrettably that a Levelling Up Fund application for this project cannot be recommended by officers at this time;
- (vi) determine whether to:
 - (a) support the application and authorise the Director of Finance to accept the terms and conditions, this support being subject to receipt of all of the information required to complete the application from Brechin Caledonian Railway and, in line with the terms and conditions of the funding, the Director of Finance being satisfied "that the scheme cost estimates quoted in this bid are accurate" to the best of his knowledge;

OR

- (b) not support the application at this time, noting that there may be an opportunity to support the project with a future application to the Levelling Up Fund or support some of the planned developments through other external funding opportunities.

2. ALIGNMENT TO THE COUNCIL PLAN

ECONOMY

- An inclusive and sustainable economy
- Attractive employment opportunities

PEOPLE

- An enhanced, protected and enjoyed natural built environment
- A reduced carbon footprint
- Safe, secure, vibrant sustainable communities

3. BACKGROUND

- 3.1 The UK Government announced the launch of the Levelling Up Fund in March 2021. It applies to the whole of the UK and is expected to be available for submissions and spend to 2025. The fund is jointly managed by HM Treasury (HMT), the Department for Levelling Up, Housing and Communities (DLUHC) and the Department for Transport (DfT) to invest £4.8 billion in high value local infrastructure. It focuses on the needs of individual places and the strategic case for investment. A bid was supported and made by Angus Council on behalf of a third-party community group in 2021, however it was not successful in receiving an award of funding. That application sought funding of £2.5m for a project valued at £6m.
- 3.2 While the Fund is open to every local area, it is especially intended to support investment in places where it can make the biggest difference to everyday life, including ex-industrial areas, deprived towns, and coastal communities. It is also designed to help local areas select genuine local priorities for investment by putting local stakeholder support, including the local MP where they want to be involved, at the heart of its mission.
- 3.3 In Scotland, the Fund is delivered through Local Authorities. Capacity Building funding of £125,000 was made available to Angus Council to support the preparation of bids. Angus Council is also engaging with communities in Angus over the summer months and it is anticipated that this will result in further applications for levelling up funding emerging, although it is not clear at this time if further funds will be made available by UK Government.
- 3.4 The number of bids a Local Authority can make has been simplified in round 2 and is now calculated by the number of full or partial constituencies that fall within a local authority's boundary. Scottish Local Authorities also have one "transport only" bid that is separate from the constituency-based allowance. That means there is the potential for Angus to submit three applications that align with the guidance, as well as one transport-based application, over the lifetime of the Fund to 2025.
- <https://www.gov.uk/government/publications/levelling-up-fund-round-2-technical-note/levelling-up-fund-round-2-technical-note>
- 3.5 The Fund focuses investment on projects that require up to £20m of funding. In Scotland local authorities can also bid for larger high value transport projects. Bids above £20m and below £50m will be accepted for transport projects only, such as road schemes.
- 3.6 The Fund focuses on three themes: smaller transport projects that make a genuine difference to local areas; town centre and high street regeneration; and support for maintaining and expanding the UK's world-leading portfolio of cultural and heritage assets, in particular:
- Transport investments including (but not limited to) public transport, active travel, bridge repairs, bus priority lanes, local road improvements and major structural maintenance, and accessibility improvements. UK Government are requesting proposals for high-impact small, medium and by exception larger local transport schemes to reduce carbon emissions, improve air quality, cut congestion, support economic growth and improve the experience of transport users.

- Regeneration and town centre investment, building on the Towns Fund framework to upgrade eyesore buildings and dated infrastructure, acquire and regenerate brownfield sites, invest in secure community infrastructure and crime reduction, and bring public services and safe community spaces into town and city centres.
- Cultural investment maintaining, regenerating, or creatively repurposing museums, galleries, visitor attractions (and associated green spaces) and heritage assets as well as creating new community-owned spaces to support the arts and serve as cultural spaces.

4. CURRENT POSITION

- 4.1 Angus Council must act as lead partner and a request has been made by Brechin Caledonian Railway for us to apply to the second round of the UK Levelling Up Fund on their behalf. The bid value is £15,667,745 so is on a completely different and more significant scale than the Council supported bid submitted last year for Levelling Up funding. The estimated total cost of the project is £18m, with the ask of funds from levelling up representing approximately 90% of the total value.
- 4.2 Brechin Caledonian Railway has in the past and continues to be well supported by Angus Council. The volunteer led committee regularly engage and have strong links with economic development and roads services. The group has been run for over 40 years by volunteers.
- 4.3 The voluntary committee are in the process of developing a long-term strategic plan for the railway and they are keen to link their plan with both the Council and local objectives.
- 4.4 The main aspects of the project plan are well developed, and it has been confirmed by the Caledonian Railway Committee that they believe they can satisfy all the Levelling Up Fund gateway stage one process, including development of a bid to the Green Book framework which is the preferred application format of UK government.
- 4.5 In terms of the Levelling Up Fund themes the project fits across all three of the investment themes, and the split for this project is 33% Regeneration and Town Centre, 23% Cultural and 44% Transport. This type of application is known as a cluster application and is acceptable to UK Government.
- 4.6 While the Brechin Caledonian Railway committee believe they have a strong bid that would result in a 'levelling up' for Angus, it is Angus Council who must submit the bid on their behalf, and be prepared to accept the terms, conditions and risks which go along with that.
- 4.7 Levelling Up applications go through a robust three stage process and are assessed by UK Government on Strategic Fit, Value for Money, and Deliverability. Analysis and feedback provided on the Round 1 proposal that failed, highlighted the need for Angus Council to be more ambitious. From the list of successful projects to date the lowest value bid was £13 million.
- 4.8 Officers of Angus Council continue to support the Brechin Caledonian Railway and have advised that support can be given to help them pursue alternative funding opportunities to deliver their ambitions over time if an application for Levelling Up funds does not progress or is unsuccessful. The Levelling Up Fund does however present a unique opportunity for funding on a significant scale.

5. PROPOSALS

- 5.1 The Brechin Caledonian Railway bid is relevant to the Levelling Up Fund given the contribution heritage railways make to their local region attracting global visitors. The project objectives have major regional and national significance with the potential to unlock substantial economic, social, and environmental benefits for Angus:

- Development of Brechin Station environs
- Extension of the existing railway from Bridge of Dun to Montrose (Network Rails connection) including supporting infrastructure
- Inclusion of an active travel corridor
- Development of House of Dun Environs
- Research into making rail travel greener

5.2 A draft application has been received from the group and while it does not at the time of writing contain sufficient financial and other information to be fully assessed, it could meet the key criteria of:

- Characteristics of the place – each local authority will be sorted into category 1, 2 or 3 based on the UK Government's assessment metrics, with category 1 representing the highest level of identified need. Angus is classed as category 2.
- Deliverability - based on supplementary finance, management, and commercial cases, with bids able to demonstrate investment or which begin delivery on the ground in 2022-23 financial year. This is to the value of 10% of the total bid so will be £1.56m for an investment of circa £15.67m.
- Strategic fit with local and Fund priorities – this should be addressed in the strategic case of submissions and must include support from stakeholders.
- Value for money – an economic case should be submitted to explain the benefits of the bid and how it represents value for money and will deliver economic growth.

5.3 Total project costs are £15,667,745 to be spent over 3 years, including defraying project costs in 2022/23 financial year if successful.

5.4 Deadline for applicants to submit bids is Friday 6th July (12 noon).

6. ISSUES FOR THE COUNCIL TO CONSIDER

6.1 There are 4 key issues for the Council to consider regarding the request from Brechin Caledonian Railway for the Council to support an application on their behalf for Levelling Up funding as follows: -

1. Project Merits/Benefits

6.2 The project contributes to several key ambitions as set out in the levelling up background information. It has a strong cultural and regeneration theme; however, the ambition is principally one of transport and a move toward a key railway connection between Brechin to Montrose where a connection to the mainline is possible, opening both connectedness for people to access employment opportunities in the planned economic growth area of Montrose and opportunities for business alike. The alignment of active travel and innovative Tay Cities work looking to shift fuel types from diesel to hydrogen provide strong climate-based aspects of the proposal. If successful, the project would become one of the three potential projects available to Angus.

2. Acceptability of Funding Terms, Conditions and Risks

6.3 After the merits of the project and the potential benefits it can deliver for the area the next most important consideration for the Council is the acceptability of the terms and conditions which would fall upon the Council were it to support the application and that application be successful. Those terms and conditions contain significant risks for Angus Council and therefore local taxpayers.

6.4 The terms and conditions of the Levelling Up Fund (LUF) require the Council to comply with several terms and conditions which have some similarities to other external capital funding the Council has supported applications for in the past such as the Scottish Government Regeneration Capital Grant Fund (RCGF). The LUF terms and conditions require the Council's Director of Finance to accept the following conditions on behalf of the Council:-

- a. that the Council has allocated sufficient budget to deliver this scheme on the basis of its proposed funding contribution – this doesn't apply in this case as no Council funding is being sought by Brechin Caledonian Railway
 - b. accepts responsibility for meeting any costs over and above the UKG contribution requested, including potential cost overruns and the underwriting of any funding contributions expected from third parties
 - c. accepts responsibility for meeting any ongoing revenue requirements in relation to the scheme
 - d. accepts that no further increase in UKG funding will be considered beyond the maximum contribution requested. Funding provided is to be spent by 31 March 2025 and by 2025-26 on an exceptional basis.
 - e. confirms that the authority commits to ensure successful bids will deliver value for money or best value.
 - f. confirms that the authority has the necessary governance / assurance arrangements in place and that all legal and other statutory obligations and consents will be adhered to.
- 6.5 In addition, the Director of Finance must also declare "that the scheme cost estimates quoted in this bid are accurate to the best of my knowledge". Clearly this is a matter of personal and professional judgement to be exercised by the Director of Finance and cannot therefore be directed by the Council.
- 6.6 The timelines for spending LUF monies should a bid be successful are relatively constrained. The second round of the LUF is open to projects that can demonstrate spend from the Fund in the 2022-23 financial year.
- 6.7 As will be evident from the above Council support for the application were it to be successful in securing LUF monies would expose the Council to a significant level of financial risk on a project which would be delivered by a third party. Members who were part of the last Council will be aware of some of the challenges and risks which arose for the Council on other community projects funded by Scottish Government which had similar terms but were on a much smaller scale than the bid proposed by Brechin Caledonian Railway.
- 6.8 The terms of LUF, which transfers the risk and responsibility of any financial and legal challenges with projects onto the Council as well as the responsibility to ensure the delivery of best value, are of significant concern to officers especially when the Council has to rely on a third party to deliver the project and manage those risks. These types of Government funding streams expose the Council to potentially significant financial risks, but the arms-length nature of the delivery means the Council cannot directly control or manage those risks in the same way as would be possible with the Council's own projects.
- 6.9 The exposure to financial risk which comes with LUF would be a concern at any time but given the current circumstances and the enormous financial challenges facing the Council (see Report 178/22 on the agenda for this meeting of Council) it is a risk exposure which is difficult to accept especially given the scale of the project, the limited information available on the proposals and the time now available to fully assess its detail. Even if there were no risks regarding the Brechin Caledonian Railway's ability to deliver the project in a well-managed way, neither they, nor the Council, can control issues in world markets affecting the cost and supply of materials, especially in construction projects, so there can be no guarantee that the project could be delivered with the funds being bid for. Brechin Caledonian Railway have considered the risks and identified a number of measures to try to mitigate those risks which is very helpful but there will remain risks which are beyond our collective ability to control in the current environment.
- 6.10 It is important for elected members and the public to understand what the consequences could be if the project was successful in securing LUF, but subsequently ran into financial problems such as cost overruns or experienced other challenges in meeting the terms and

conditions of the funding. In those circumstances, unless more funding could be secured from elsewhere or the project scope adjusted, it would be necessary for the Council to provide additional funding and ensure that the terms of the funding agreement were met. This could have adverse implications for the Council including other capital projects having to be cancelled or curtailed or revenue funds having to be used at the expense of other Council service provision.

- 6.11 While there are a number of reasons to be concerned about the terms and conditions of the LUF they are what they are and must be accepted in order to access the funds. While the above paragraphs highlight the risks and concerns members will wish to reflect on the significant potential benefits the project could bring for the area should a successful bid be made.

3. Application Due Diligence

- 6.12 At present Angus Council's strategic funding officer is supporting the group with the application process, but full due diligence on the application would be required before a submission could be signed off. The timeline for submission to the Fund means this is now very constrained.

- 6.13 While we know that the BCR Group are working hard on the application, at the time of writing this report, only a draft partially completed application is available for review and there remains a lack of essential information and detail especially on the financial aspects of the project including the basis of costs, assumptions, etc. This lack of detail and the opportunity to ask questions on it means it is not currently possible to assess the extent of the financial risk the Council could be taking on by agreeing to submit the application. Making a decision to submit the application in the absence of being able to undertake sufficient due diligence on the benefits, opportunities and risks would not be in accordance with best practice. An update on the status of the application and the information required can be given at the Council meeting.

- 6.14 Among the areas where officers require more information are:-

- a. whether BCR have the land needed for all aspects of the project in their ownership or control
- b. whether detailed designs are available and what has been used for costing assumptions
- c. whether any ground condition surveys have been undertaken on the areas to be developed
- d. what price base, contingency allowance, etc. has been used for the costings
- e. whether an up to date business case/plan for the operational aspects (running costs and incomes) is available and what assumptions have been made
- f. what impact will providing the matched funding have on Brechin Caledonian Railway's reserves and financial health
- g. what the project delivery plan is expected to be e.g. the extent of works to be done by the group themselves and the extent of sub-contracting
- h. what the overall project management arrangements are to be
- i. what assumptions have been made about planning applications which would be required and assumed timescales

- 6.15 The above is by no means an exhaustive list and while all of the above are addressable points this may take more time than is available to conclude on especially if there are a number of follow up queries or further information which needs to be obtained.

- 6.16 Members are asked to bear in mind that if this was an internal Council project seeking funding support for a circa £18m project it would be the subject to widespread consultation and detailed assessment by a number of Council services before it would be recommended for approval. While there is understandably a strong desire locally to see the project supported by the Council the level of diligence shouldn't be any less than would apply to any other capital project, indeed because the project would be delivered at arms-length from the Council and is of such significant scale the level of diligence should be even more extensive.

4. Council Resources to Support / Manage Risks

- 6.17 Considerable officer time has been taken up in preparing this report and evaluating the application as it stands for compliance with the extensive LUF guidance and requirements. Further senior officer input will also be required to submit the full application and all associated documentation if members choose this option. This work will include an assessment of compliance with legislation on subsidy control obligations for which a further declaration form requires to be signed by the Director of Finance.
- 6.18 If members wish to support the application it will be necessary, should it ultimately be successful, to commit additional staff resources across several Council services to support the group and try to manage as far as possible the Council's risk exposure.
- 6.19 Members will be aware of the revenue budget challenges faced by Angus Council at this time and the need to continue to meet our basic statutory responsibilities with staffing levels which have already been severely cut and are likely to face further cuts in future. Redirecting resources including those in our finance team to try to manage the Council's risk exposure in this project is not feasible within current resources.
- 6.20 When the applicant is a local authority and they are intending to grant Levelling Up Fund (LUF) monies to a third party/third parties, they must provide evidence that the process they will follow is compliant. This highlights the need for input from our legal service as well as in terms of advising on and completion of the funding agreement. Again, the resource is not currently available in the legal team to work with the project to provide the necessary support and assure Council of compliance.
- 6.21 The Council does have LUF preparation funding available which could be used to provide additional staff time but experience in recruiting for temporary posts has not been positive in recent months, so it may be necessary to adopt a more expensive route of buying in professional services from the private sector. At this stage it has not been possible to assess the scale of additional resources which would be required nor the cost – that would have to be undertaken if the application were to be approved by UK Government.

7. FINANCIAL IMPLICATIONS

- 7.1 The proposed project seeks no direct funding contribution from Angus Council and the Brechin Caledonian Railway are prepared to make a substantial contribution (£1.8m) from their own funds to meet the match funding criteria.
- 7.2 Once Levelling Up Fund awards are decided, local authorities are responsible for their delivery. Further contributions from the fund will not be provided to meet cost overruns after funding has been agreed. Any overrun would therefore fall to Angus Council to meet unless other funding could be secured. Given the inflationary cost pressures being experienced across the Council's current capital programme, and construction projects in general, this is not a small risk.
- 7.3 The scale of the Brechin Caledonian Railway project is also relevant here (£18m). Even a small percentage increase in that cost would create significant financial challenges and as set out in Report 152/22 – Monifieth Learning Campus – Costings Update to the Policy & Resources Committee on 21 June 2022 the Council is already having to curtail other capital projects to manage cost increases on that project. The Council's ability financially to deal with inflationary and other risks on 2 capital projects of such scale simultaneously is highly questionable.

- 7.4 The Council has £119,000 funding remaining from the LUF preparation funding allocation of £150,000 provided. This is expected to be called upon in full should the application prove successful and additional costs over and above this funding may also be incurred but would need further assessment.
- 7.5 Some parts of the proposed project could reduce future maintenance burdens on Council assets but at the time of writing further detail and assessment of this is required.

8. OTHER IMPLICATIONS

- 8.1 A number of additional risks to be considered for the project are summarised below.

Potential Project Risks-

- The project relies on third party funding to meet the 10% match requirement and the balance of funding package is not achieved
- Tendered costs exceed funding package
- Costs exceed tender estimate due to unforeseen issues
- Timescale: Full spend won't be achieved in financial year requiring flexibility on grant payment from UK Government
- Project Failure during construction phase
- Ongoing financial viability issues leading to closure once operational
- Lack of Council oversight/control of project delivery which may increase risk to Council
- Land required is not available to develop

A risk register and risk mitigation plan would help to reduce some of the above risks. A draft risk mitigation plan has been prepared by BCR.

- 8.2 A letter of support has been received from a member of the Scottish Parliament with a request for Angus Council to be aware of the content when making a decision about Brechin Caledonian Railway. The letter is attached at Appendix A.

9. CONCLUSION

- 9.1 There is much to commend in the plans and in the ambition which Brechin Caledonian Railway are seeking to deliver by applying for Levelling Up funding. The potential benefits of the project if it could be delivered are significant. The concern for officers is therefore not about the project nor the group making the application but about the state of readiness of the bid, the limited due diligence which has been possible to date; the issues affecting construction markets and pricing and the scale of financial risk which the Council would be exposing itself to in supporting the bid to go forward.
- 9.2 The risk around underwriting of the project capital costs (£15,667,745) and meeting any future revenue costs for the project is not considered to be a sustainable position for Angus Council to sign up to, given the significant financial challenges in both the Council's capital and revenue budgets and the lack of available detail to undertake due diligence. Market circumstances for construction projects are extremely unpredictable at the moment and seem likely to remain so for the foreseeable future. The level of unpredictability is such that no amount of due diligence and good governance can fully overcome the risks because those risks are not fully within the control of the Council or Brechin Caledonian Railway.
- 9.3 Additionally, the potential risk to Angus Council at a time where resources to deliver the core work of the Council are severely constrained and there are major financial challenges ahead, would make successful delivery of this type of project very difficult.
- 9.4 While the Brechin Caledonian Railway proposal would be a good application for Levelling Up Funding, it is recommended by officers that members do not agree to support the application at this time.

10. EQUALITY IMPACT ASSESSMENT

- 10.1 An Equality Impact Assessment has been carried out and is attached.

11. CONSULTATION

11.1 Consultation with the Council Leadership Team (CLT) has been undertaken.

NOTE: No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

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List of Appendices:

Appendix A – Letter of support from Mercedes Villalba, Scottish Labour Shadow Minister for the Environment and Biodiversity.