

North Somerset Council

Report to the Council

Date of Meeting: 9 November 2021

Subject of Report: Commissioning Plan for the Design & Build Contract of the A38 Major Road Network (MRN) Scheme and associated Professional Services

Town or Parish: Backwell, Barrow Gurney, Burrington, Churchill, Winford, Winscombe, Wrington

Officer/Member Presenting: Councillor Steve Bridger, Executive Member for Assets and Capital Delivery

Key Decision: NO

Reason: Council decision

Recommendations

To approve the Commissioning Plan for the procurement of Design & Build contract for the A38 MRN Scheme and the Professional Services for the Full Business Case and Employer's Agent for the Scheme, as set out in Section 3 of this report.

1. Summary of Report

In December 2018 the Department for Transport (DfT) published Investment Planning Guidance for the Major Road Network and Large Local Majors Programmes and invited local authorities to bid for funding to support the proposed Major Road Network in England.

Five central objectives were set for the Major Road Network, building on the commitments made in the Transport Investment Strategy. These objectives were: reducing congestion, supporting economic growth and rebalancing, supporting housing delivery, supporting all road users and supporting the Strategic Road Network (SRN).

The A38 MRN Scheme is a joint bid for funding to the DfT by North Somerset Council (NSC) and Somerset County Council (SCC), these being the respective highway authorities for their Council areas.

The A38 MRN Scheme extends over 32km (20 miles) of the A38 through North Somerset and Somerset between the A4174 Colliters Way (South Bristol Link) and Edithmead Roundabout (M5 J22). The scheme proposes a series of improvements on the A38 across the North Somerset and Somerset areas. These improvements will contribute towards providing additional capacity, improving journey reliability and enhanced resilience across all modes on the major highway corridor between Bristol and the South West, addressing existing issues and providing capacity for economic growth. Additionally, the A38 forms a key strategic function as a diversion route for the M5 so its improvement would enable wider

network resilience. The scheme should also be seen in the context of post Covid-19 economic regeneration and enabler, removing constraints on the existing network.

To align with both Council priorities and DfT MRN objectives, the various schemes proposed along the A38 have ensured that active travel, public transport, road safety and congestion alleviation with improved capacity would be secured through implementing the scheme proposals. The A38 MRN scheme has a strong base in providing active travel improvements and in improving journey reliability times on the A38 and for each scheme element there are infrastructure improvements for cyclists, pedestrians and other non-motorised road users to better connect local communities. In removing pinch-points at certain locations on the A38, traffic congestion will be reduced benefiting all road users, including public transport, with more reliable journey times, complementing the infrastructure improvements included for public transport, for example bus lane provision and bus stop lay-by accessibility.

NSC and SCC jointly submitted a Strategic Outline Business Case (SOBC) to the DfT in July 2019 for the A38 MRN Scheme, which was successful. The Outline Business Case (OBC) for the scheme was submitted in November 2021 and a decision is expected from the DfT in February 2022.

This report requests authorisation to:

1. Procure a Design & Build contract for the A38 MRN Scheme. The contract will consist of 2 stages; stage 1 will cover the detailed design and stage 2 the construction. The detailed design and construction cost will be worked up in stage 1 and used to submit the Full Business Case (FBC) to the DfT in Spring 2023. Once the DfT has approved the FBC, the land acquisition needed for the A38 improvements near to Bristol Airport can be formalised and stage 2 of the contract will be awarded. SCC will carry out its own procurement for its scheme elements.
2. Procure professional services to assist in the writing of the DfT Full Business Case and act as the Employer's Agent during the design and construction phases.

A Procurement plan (to be authorised by the Executive Member advised by the Director and Head of Strategic Procurement) will be approved prior to publishing the tenders. The tenders will be published subsequent to both the anticipated DfT FBC funding approval and FBC grant acceptance from the Executive Member in Spring 2022.

2. Policy

This proposal supports many Council policies including the North Somerset Active Travel Strategy 2020 – 2030, the North Somerset Climate Emergency Action Plan (2020), The North Somerset Corporate Plan 2020 – 2024, North Somerset Economic Plan (2020), North Somerset Local Plan: Core Strategy (2016 – 2026) and the North Somerset Local Plan 2038 (in preparation).

The scheme will improve active travel infrastructure to enable more bus, cycling and walking journeys which supports making North Somerset a thriving and sustainable place to live, work and visit.

The scheme includes infrastructure to enhance routes for walking and cycling, which are relatively low-cost modes of travel available to many people. Bus accessibility will improve for all users, including disabled travellers, through improvements to bus stops. It will improve

safety and connections to new and proposed employment sites in SCC, such as enhanced access to the M5 from Burnham-on-Sea and Highbridge, thereby supporting North Somerset being a Council which empowers and cares about people.

3. Details

Background

Submission of the OBC to DfT to secure approval and continue into the FBC stage is a key opportunity to provide resilience and much needed improvements to the A38 key strategic route within NSC and SCC as part of the MRN process. The targeted improvements on the A38 will provide part of the step change in infrastructure provision along the A38 corridor identified as critical to resolving existing issues and delivering the benefits resulting from the scheme's objectives as listed below. The scheme will also provide an opportunity for biodiversity enhancement, carbon mitigation, local businesses accessibility and provide social value activities that can be secured with this level of investment ensuring enhanced value and benefit for the local area.

The preferred option for the A38 MRN scheme is comprised of targeted improvements to the following ten locations on the A38 corridor covering NSC and SCC areas from the north heading southwards:

NSC targeted A38 improvements:

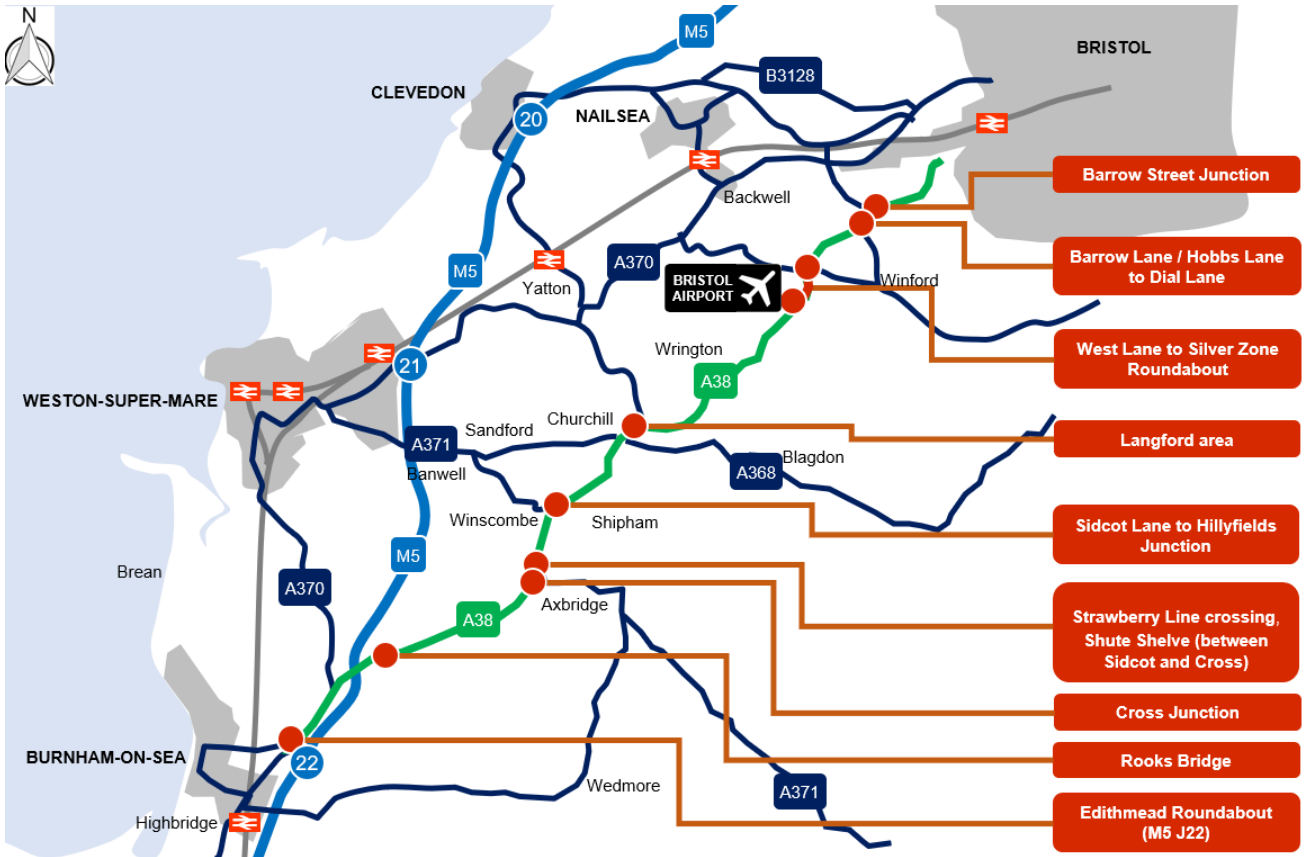
- Barrow Street junction safety scheme including improved bus accessibility to bus layby,
- Barrow Lane/Hobbs Lane to Dial Lane active travel scheme providing cycle lane and improved pedestrian and cycling facilities together with road safety improvements,
- West Lane and Downside Road junction and capacity improvements, providing improved pedestrian and cycling facilities with improvements to traffic congestion, ensuring more reliable journey times for all users including public transport,
- A38 'loop' adjacent to Bristol Airport, providing shared cycle/pedestrian facilities and improvements to public transport through provision of a designated bus lane,
- Langford area active travel scheme providing cycle lane and improved footway and cycle facilities, and
- Sidcot Lane to Hillyfields junction active travel scheme providing cycle lane and improved pedestrian facilities.

SCC targeted A38 improvements:

- Strawberry Line cycle and pedestrian crossing improvements at Shute Shelve (between Sidcot and Cross),
- Cross junction active travel and safety scheme,
- Rooks Bridge safety scheme, and
- Edithmead roundabout (M5 J22) traffic congestion relief supporting housing delivery.

Upgrades to existing bus stops and the installation of new bus stops are also proposed along the A38 route at selected locations.

Plan of the A38 MRN scheme elements:



The scheme Objectives and the Measures for Success are shown in the table below.

Objectives	Measures for Success
<p>Better connect local communities by active travel modes</p>	<ul style="list-style-type: none"> • Completion of scheme elements to address identified active travel issues (Barrow Street Junction, Barrow Lane / Hobbs Lane to Dial Lane Junction, West Lane to Silver Zone Roundabout, Langford Village, Cross Junction) • Increase in cycling and walking trips at locations with enhanced infrastructure relative to baseline levels
<p>Improve road safety for all travel modes</p>	<ul style="list-style-type: none"> • Completion of scheme elements to address identified road safety issues (Barrow Street Junction, Barrow Lane/Hobbs Lane Junction, Redhill area, Cross Junction, Rooksbridge) • Reduce the rate of serious and fatal Personal Injury Collisions at scheme locations relative to baseline levels
<p>Improve journey reliability times on the A38 corridor</p>	<ul style="list-style-type: none"> • Completion of scheme elements to address identified vehicle delays (West Lane to Silver Zone Roundabout and Edithmead Roundabout)

	<ul style="list-style-type: none"> • Reduction in peak hour journey times on A38 between A4174 and Edithmead roundabout (Junction 22 at M5 motorway) relative to baseline levels
Provide environmental enhancements and minimise carbon generation resulting from the scheme	<ul style="list-style-type: none"> • Relative reduction in embodied carbon of standard baseline design compared with final delivered scheme • Net gain in biodiversity • Increase in cycling and walking trips at locations with enhanced infrastructure relative to baseline levels
Support housing delivery and the regional economy with improved transport infrastructure around J22 of the M5 motorway (SCC)	<ul style="list-style-type: none"> • Completion of scheme element to overcome identified transport barriers to housing delivery (Edithmead Roundabout) • No conditions placed on new development at Burnham-on-Sea and Highbridge requiring the completion of further capacity improvement schemes at Edithmead Roundabout (additional to the A38 MRN scheme) prior to the occupation of new dwellings

In addition, this scheme:

- Aligns to [five MRN objectives](#) set by the DfT,
- Aligns with aims and objectives set out by Government in the economic, environment transport, planning and public health strategies,
- Is prioritised for investment by the Western Gateway Sub-National Transport Body, and
- Supports the local strategies and policies of NSC, SCC and Sedgemoor District Council.

The Council is in the process of revising its Local Plan to cover the period to 2038. The emerging local plan intends to make provision for over 20,000 new homes and 13,500 new jobs over the 15-year period. Whilst the spatial distribution of the growth is not yet determined, these homes and businesses will generate additional travel demand, by a range of modes (cycling, walking, private motor vehicle, public transport), some of which will take place on the A38 corridor.

Businesses along and in the vicinity of the A38, including Bristol Airport, have no direct connection to the SRN or the National Rail network. All journeys to and from the airport, including public transport and active travel journeys, are reliant on the use of the A38 corridor, which is subject to congestion and delays.

In early 2020, NSC refused an application from Bristol Airport to expand capacity to 12mppa. Bristol Airport subsequently lodged an appeal, and a public inquiry ran from July to October 2021. Irrespective of the inquiry outcome, the A38 MRN Scheme will be procured by NSC and SCC. Following scrutiny of the options it was considered that the two scheme elements closest to Bristol Airport must be included to secure maximum benefits and ensure value for money, both at this junction and throughout the scheme. Including this scheme element in

the OBC with the necessary consideration and support would make the strongest case for securing funding to not only alleviate the current congestion issues faced at the junction, which are ongoing and pre-exist the recent planning application, but also to ensure wider scheme benefits along the A38 MRN particularly to cyclists, pedestrians and non-motorised road users.

Design & Build Contract Form

It is anticipated that a contractor would be appointed using a 2-stage D&B contract. 2-stage D&B contracts vary and are adaptable to the specifics of the projects they are applied to. For the A38 MRN Scheme it is anticipated the contract would operate as follows:

Stage 1 of the contract scope will be priced on NEC4 Option A, to cover:

- Preparation of detailed design for the scheme elements along the A38 in NSC.
- Production of a formal target price proposal for scheme elements along the A38 in NSC priced on NEC4 Option C.

Stage 1 of the contract would be under an NEC4 Professional Services Contract. Bidders would be required to submit fixed prices for elements of the scope that are clear and well defined (Option A), and rates for hours spent developing those elements that would need to be refined further as the schemes develop (Option E).

Stage 2 of the contract is only progressed if the pricing proposals prepared in Stage 1 are accepted by the Council and funding is confirmed following submission of the FBC. The construction of all works would be undertaken in Stage 2 using an NEC4 ECC contract Option C (Target Price).

As part of the tender, the bidders will be required to complete activity schedules, including profit and overhead fee percentages for Stage 2. The contract would require all elements of Stage 2 works in NSC to be competitively tendered through sub-contractors to achieve market value, with the profit and overhead fees applied to the sub-contract costs.

The tender evaluation assessment would combine the Stage 1 & 2 pricing (via a formula to be agreed) along with a score of the bidder's quality submission.

A 2-stage D&B contract as outlined above has the advantage of a comparatively short tender period as the bidders not being required to price construction works, just fixed elements of design scope and provision of rates and fee percentages for the remaining scope elements.

The pricing of Stage 2 can also be progressed in parallel with the detailed design helping to reduce the overall project programme and can also identify elements with high cost that may be value engineered before the design is completed.

An indicative timeline is given below, showing an estimated total contract length of approximately three years.

Professional Services

The Council needs to procure professional consultancy services to assist in the writing of the FBC and act as the Employer's Agent during the design and construction phases. The Professional Services contract will mirror the D&B contract i.e., consist of two stages with a break point in the event that FBC funding is not forthcoming.

It is envisaged that NSC will procure professional services via a Framework Agreement e.g. Crown Commercial Services. There is a requirement for support to produce the FBC and there is insufficient in-house resource available to act as Employer's Agent.

In addition, an NSC Officer will oversee the D&B and the Employer's Agent contracts, who will be responsible for managing the contract in accordance with the NEC ECC which requires all parties to work in a spirit of mutual trust and co-operation and includes various collaborative procedures which contribute towards effective contract management.

The Capital Delivery Strategic Group will ensure governance is in place and the appropriate approvals are adhered to e.g., the gateway between Stage 1 and 2, as the contractor will have to work up the target construction costs, and these will have to be agreed prior to construction starting. There will be a break point to ensure that if the price is not acceptable or there are other performance issues, NSC can procure an alternative contractor for Stage 2.

Indicative Timeline

Activity	Date
Submit OBC to DfT	Nov 21
Commissioning Plan to Full Council	9 Nov 21
Exec Member approval of Procurement plan	Dec 21/Jan 22
DfT OBC announcement*	Feb 22
Exec Member approval of DfT FBC grant	Feb 22
Publish D&B procurement	Feb 22 – Apr 22
Procure Professional Services (FBC & EA)	Feb 22 – Apr 22
D&B submissions due in	Apr 22
Contract award of Stage 1	May 22
Detailed design takes place	May 22 – Jan 23
Stage 2 pricing developed	Nov 22 – Feb 23
FBC development	Aug 22 – Feb 23
Submission of FBC to DfT	Feb 23
DfT approve FBC*	Apr 23
Full Council approval of DfT grant	Apr 23
CPO Inquiry and SoS decision	Mar 23 – Aug 23
Contract award of Stage 2 by Executive	Sept 23
Mobilisation	Sept 23 – Nov 23
Construction	Nov 23 – May 25

**Indicative timings shown above are based upon an estimated three-month turnaround from DfT.*

Authorisation requirements

The value of these contracts exceeds £10 million. The following approvals are required in taking forward the proposals:

- Approval of Commissioning Plan: Full Council.
- Approval of Procurement Plan: Executive Member, advised by Director and Head of Strategic Procurement.

- Acceptance of DfT grant and approval of NSC Local Contributions - pending decision from DfT: Executive Member, advised by Director and S151 Officer
- Award of D&B Contract Stage 1: Director, advised by S151 Officer and Head of Strategic Procurement.
- Award of Professional Services Contract Stages 1 & 2: Director, advised by S151 Officer and Head of Strategic Procurement.
- Approval to submit FBC : Executive Member, advised by Director and S151 Officer.
- Acceptance of DfT grant - pending decision from DfT: Full Council.
- Award of D&B Contract Stage 2: Executive.

SCC will also be seeking decisions covering their scheme elements.

4. Consultation

An engagement exercise was undertaken as part of the scheme's OBC preparation between April and August 2021 during which time internal and external stakeholders were briefed on the A38 MRN proposed scheme elements.

NSC stakeholders covered in this engagement exercise are listed as follows:

- Place Director and Directorate senior colleagues,
- Executive Member for Assets & Capital Delivery,
- Executive Member for Climate Emergency & Engagement,
- Place Policy & Scrutiny Panel,
- Ward Members captured in scheme areas,
- MPs captured in scheme areas,
- Parish Councils captured in scheme areas,
- Parish Councils' Airport Association,
- Internal Highways & Transport, Streets & Open Spaces and Planning & Heritage teams, and
- Residents and Businesses captured in scheme areas.

Stakeholder briefings have taken place via Microsoft Teams with provided feedback recorded in an engagement log. In order to provide opportunity for the wider group of residents and businesses in the area to comment on scheme proposals, a public engagement website (a38mrn-engagement.com) was launched in July 2021 for a 6-week period. This enabled visitors to this website to comment on specific aspects of the scheme elements and ask general questions. From this website engagement there were around 4,700 unique visits with many stakeholders returning several times over the engagement period; and a total of 266 users provided comment, sentiment reviews or signed up for newsletter updates.

The comments received from this engagement exercise have been considered as part of the scheme's ongoing design and planning in which the A38 Redhill scheme element has now been removed due to opposition to remove the existing northbound overtaking lane, and active travel proposals along the A38 at Langford and between Star and Sidcot have been revised based on comments from residents. The above website will remain live and be updated with a summary of comments received once the analysis of comments has been completed by the scheme designer.

In the event of the scheme's OBC being approved by the DfT then public engagement will continue as part of the scheme's FBC development.

5. Financial Implications

Costs

Estimated NSC costs post-OBC for Stage 1 and Stage 2 of the scheme are shown below. Please note that Somerset scheme element costs will be handled separately by SCC through their own contract awards.

Stage 1 (FY 2022/23)	
Detailed Design Costs	£1,077,300
FBC Preparation	£63,000
Internal Staff Costs	£365,000
Risk	£166,320
Total	£1,671,620

Stage 2 (FY 2023/24 – FY 2024/25)	
Construction Costs	£11,695,810
Internal Staff Costs	£225,000
External PM & QS Support Costs	£355,000
Risk	£1,345,680
Land Acquisition	£900,000
Total	£14,521,490

Funding

All MRN proposals will require a local or third-party contribution towards the final cost of the scheme. As a general guideline, DfT indicates that MRN schemes should aim for the local or third-party contribution to be at least 15% of the total scheme costs. The remaining 85% of scheme funding is supplied by the DfT. A decision note has been approved by the Executive Member to agree to the NSC local contribution costs (see Background Papers).

The estimated total scheme cost, including SOBC and OBC preparation, of £25,331,205 with associated funding sources is profiled in the table immediately below. The estimated total scheme cost post-OBC is estimated to be £24,740,350. It should be noted that these costs are subject to change as the scheme moves into the FBC stage and further detailed design and survey work are carried out.

	2019/20- 2020/21*	2021/22	2022/23	2023/24	2024/25	Total
DfT Contribution	£257,000	-	£1,581,200	£10,839,044	£8,609,054	£21,286,298
SCC Local Contribution	£25,000	£32,855	£288,156	£668,353	£306,690	£1,321,054
NSC - S106 (Bristol Airport XCH113)	£101,000	-	-	-	-	£101,000
NSC – LTP	-	£75,000	-	-	-	£75,000

NSC - D&E Driving Growth Board	£25,000	-	-	-	-	£25,000
NSC Local Contribution – Funding TBA	-	£75,000	£490,644	£1,435,007	£522,201	£2,522,852
Total Scheme Cost	£408,000	£182,855	£2,360,000	£12,942,405	£9,437,945	£25,331,205

**Please note that contributions received have funded OBC work in the 2020/21 and 2021/22 financial years.*

For the NSC Local Contribution funding sought, the following potential sources have been identified:

- DfT City Deal Transport Grant
- Bus Service Improvement Plan (BSIP)
- Local Transport Plan (LTP) Integrated Block
- Local Transport Plan (LTP) Maintenance Block
- Section 106
- Directorate Reserves

Borrowing may be used to bridge the gap in the Local Contribution funding, considered as part of the Capital programme borrowing and built into the Capital Strategy. This will need to be considered by the S151 Officer to understand the overall impact on the Council's resource envelope.

6. Legal Powers and Implications

CPO

The majority of the scheme elements for the A38 MRN Scheme are within the confines of the existing highway. There will be land acquisition sought by both NSC and SCC covering the A38 sections around the Airport and at Cross junction respectively. The authorities are committed to reaching a conclusion with private landowners by agreement wherever possible. Discussions are currently underway with the relevant landowners.

Planning Permission and Statutory Approvals

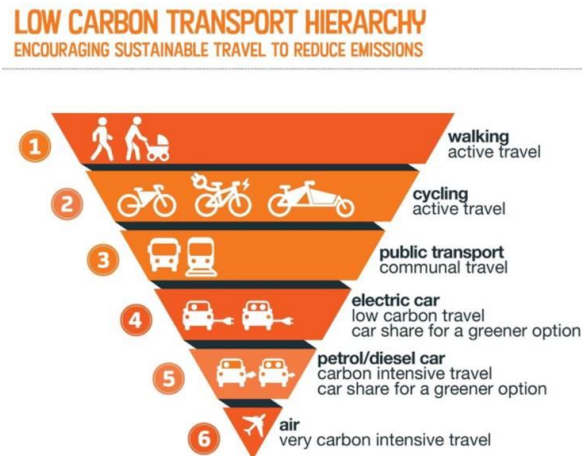
Most of the proposed scheme does not require planning permission. Secondary legislation in the General Permitted Development Order confers permitted development rights on local authorities to carry out works to improve or maintain the road within the boundaries of the road or immediately adjacent (adjoining) to it. This excludes laying out or widening of any access on to the existing highway. The scheme elements that require private land to achieve the preferred design for the road improvement purposes are at West Lane to Airport Terminal Roundabout (NSC) and at Cross junction (SCC).

The procurement process will be compliant with the Public Contract Regulations 2015. The Council will appoint external advisors to advise on the procurement process and to prepare the relevant contract documentation.

The procurement process will be compliant with the Public Services (Social Value Act) 2012 by ensuring it seeks additional social value during the tender process.

7. Climate Change and Environmental Implications

The scheme improvements will focus on active travel provision, reducing traffic congestion, and improving journey reliability times which will contribute towards carbon reduction in the local area, taking into account the travel hierarchy below. There will also be improved bus stop infrastructure enabling better access to bus services and expanding travel choices.



The bid specification includes the requirement for an assessment of climate change resilience where impacts, mitigation and management with opportunities for enhancement and biodiversity net gain are clearly identified. This is detailed in the Preliminary Environmental Assessment Report which has been produced as part of the scheme's OBC.

In order to ensure that the scheme is compatible with NSC environmental priorities and other initiatives currently being undertaken, the Sustainable Transport, Integrated Transport Unit and Bus Service Improvement Plan teams have been consulted throughout scheme development to ensure that interventions along the A38 complement future plans. There has also been regular contact with the WECA Mass Transit project team to ensure MRN scheme elements introduced along the A38 will run in parallel to their workstreams. This liaison and co-ordination work will continue as we develop the design and business case.

During the tender process, bidders will be tested on their environmental considerations and efforts. Procurement will consider the PAS2080:2016 Carbon Management in Infrastructure specification and include this as a quality metric in scoring the submitted tenders to ensure carbon reduction is a key consideration in the design and construction of the scheme. The PAS framework provides guidance for all sectors and value chain members on how to manage whole life carbon when delivering infrastructure assets.

All supply chain partners will play an active and key role in ensuring that the Council's ambition of carbon reduction and biodiversity net gain is secured and achieved through both being an active member of the project team and through necessary application of statutory and non-statutory legislation in the design, development and delivery of the proposed infrastructure. The outcomes that can be secured from all parties working collaboratively towards a common goal of carbon reduction are:

- Reduced carbon and reduced cost of infrastructure,
- Promotion of innovation delivering wider society and community benefits,
- Contribution to tackling climate change,
- More sustainable solutions providing a blueprint for future projects, and

- Identification of carbon offsetting to mitigate capital carbon created.

The proposal is to undertake the design, development and delivery of the programme to align with the principals within the PAS2080 framework. Suppliers may detail their own specific carbon management and measurement systems, including demonstrating how their design proposals will build in Biodiversity Net Gain. Further details of the proposed requirements can be found in the Procurement Plans for the D&B and Professional Services contracts.

8. Risk Management

From a procurement and contractual standpoint, the key risks for the scheme and mitigations are as identified in the table below:

Risk	Mitigation
The procurement timeframes (outlined above) are delayed or unachievable, which impacts the ability to meet the grant funding requirements, including construction start and end dates.	<ul style="list-style-type: none"> • Specialist consultant advice on designing the process to ensure compliance with timescales. • Close monitoring of progress. Any potential for delay will need to be communicated to funders at earliest possible stage.
Insufficient interest from contractors.	<ul style="list-style-type: none"> • Soft market testing to be carried out to assess/stimulate demand
Stage 1 (Detailed Design) will have been carried out prior to the FBC being approved which is a cost to the Council.	<ul style="list-style-type: none"> • Engagement will continue with DfT following their approved business case methodology to ensure that funding grant requirements are met and that the scheme will have every chance of being successful going forwards. • Support for this scheme is also being sought from the Western Gateway Sub-National Transport Board and other key stakeholders. • It should also be noted that any work undertaken currently will feed into future bid opportunities as well as informing and de-risking other workstreams.
Stage 1/Stage 2 costs are higher than anticipated.	<ul style="list-style-type: none"> • Governance and monitoring to be in place. As part of this, a Quantitative Cost Risk Assessment has been carried out and a risk register compiled. Each project risk has been assigned a cost value based on their impact and likelihood ratings, as well as an owner who is responsible for monitoring the risk, alerting the project team to any changes and implementing mitigation measures. This risk register will be reviewed in monthly meetings and will help to control project costs, with any changes being reviewed and dealt with as early as possible.

	<ul style="list-style-type: none"> • Design reviews will also be carried out on an ad hoc basis as scheme element designs become complete, providing potential opportunities for value engineering and cost reduction. • The A38 MRN scheme is scalable as it is made up of discrete elements, which will allow for scope check should costs increase.
Performance of contractor a concern.	<ul style="list-style-type: none"> • Specialist consultant advice will be sought on estimating correct budget for funding application. • Two-stage contract will be procured, enabling NSC to award a contract to the second placed bidder or re-procure stage 2 if performance does not meet KPIs.
Staff resource is inadequate to support process.	<ul style="list-style-type: none"> • Professional services to be procured to support staff. Monitoring /management of staff time and priorities.

9. Equality Implications

Have you undertaken an Equality Impact Assessment? Yes.

An initial screening exercise has been carried out to identify protected characteristics that the Equality Act 2010 requires us to consider in relation to the highway proposals. An Equality Impact Assessment has been undertaken as part of the scheme's OBC.

10. Corporate Implications

The provision of key enabling infrastructure and improvement of the transport network widely supports the Corporate Plan objectives and priorities, most specifically within the priority of a Thriving and Sustainable Place. Such provisions also contribute to strategic recovery post COVID-19 and supports Core Strategy policies including CS10 Transportation and Movement. This proposal also supports NSC in being a Council which empowers and cares about people (see Section 2 above).

The resourcing of the procurement of a contractor and professional services and delivery of Scheme will be led by the Major Projects Team, with support from Procurement.

11. Options Considered

The consequences of not progressing interventions in the A38 corridor are summarised below:

- Active travel journeys: current conditions are likely to deter and suppress potential cycling and walking journeys, with consequential adverse impacts on carbon reduction, mobility for certain social groups and physical activity.
- Collisions: Existing road collision trends are likely to continue, with the resultant social and economic costs which arise from personal injuries.

- Congestion and delays: continued congestion, delays and poor journey time reliability for motor vehicles, including buses, on the A38 (particularly in locations where conflicting movements already result in delays). Disincentives to bus travel due to continued journey unreliability and delays arising from congestion. Potential impacts of bus service viability and mobility for social groups. Increased use of inappropriate minor roads to avoid congestion, with impacts on local communities.
- Housing delivery and economic growth: highway capacity constraints will limit the delivery of new homes within SCC's area at Burnham-on-Sea and Highbridge unless an improvement scheme is agreed and completed. Constraints on economic growth will limit the potential for levelling-up opportunities in relatively deprived communities. Growth across the region as a whole will generate additional demand for travel more generally, with consequential impacts on congestion, delay and suppressed levels of active travel.
- Socio-economic context: without intervention, existing socio-economic disparities will remain, and the government's levelling-up agenda will not be fulfilled.

The following Procurement routes were explored:

Option	Advantages	Disadvantages
<p>Construction only tender</p> <p>Only the construction of the works is tendered with the design completed prior to tendering by the Employer.</p>	<p>Completed design is tendered to the market, and should result in the most competitive tender prices being returned</p> <p>Tenderers are more likely to price risk lower to provide a competitive tender</p> <p>Standard contract forms</p> <p>Employer retains control of all design and decisions</p> <p>Tender period is shorter, in comparison to a design and build (no ECI) tender</p>	<p>Procurement follows design and is therefore likely to be on the project programme's critical path</p> <p>To comply with Procurement Regulations the tender process should not commence until the design and contract documents are completed</p> <p>No contractor involvement in design, limiting value engineering opportunities</p> <p>Limited flexibility to revise scope to optimise value for money or keep within budget if tenders returned are higher than expected</p> <p>Design risk is retained by the Employer</p>
<p>Early Contractor Involvement (ECI) with separate contract for construction</p> <p>Early in the development of the scheme design a contractor is appointed to provide input to the</p>	<p>Simple contract forms for both ECI and construction procurement</p> <p>Contractor input into planning and design</p> <p>More accurate cost estimating and construction durations</p> <p>Completed design is tendered to the market, and</p>	<p>Without any commitment to the construction phase, Contractors may not be fully engaged with the project and provide the best advice</p> <p>One Contractor's preferred design/methodology may not suit others who ultimately tender/construct the scheme</p>

Option	Advantages	Disadvantages
<p>scheme during the planning and design phases. The scope can be wide-ranging and flexible and could include design and/or pricing of key elements to confirm viability.</p> <p>Construction of the works would be tenderer separately, and the contractor who provided the ECI input wouldn't necessarily be one of the tenderers.</p>	<p>should result in the most competitive tender prices being returned</p> <p>Construction stage tenderers are more likely to price risk lower to provide a competitive tender</p> <p>Employer retains control of all design and decisions</p>	<p>Design risk is retained by the Employer</p> <p>Procurement of construction follows design and is therefore likely to be on the project programme's critical path</p> <p>To comply with Procurement Regulation the tender process should not commence until the design and contract documents are completed</p> <p>Limited flexibility to revise scope to optimise value for money or keep within budget if tenders returned are higher than expected</p>
<p>ECI Design and Build tender</p> <p>A single tender process, but one that covers 2 (ECI - Design and Construct) or 3 stages (ECI - Design - Construct) with the option for the Employer to proceed to each subsequent phase or terminate the contract without further cost. As part of each phase the contractor develops a price and programme (correlating to a scope provided by the Employer) for the next phase if the proposal is accepted the contract proceeds to the next stage. Initially only the ECI phase would be fully priced by the tenderers which could be based on a fixed scope or a</p>	<p>The Employer can choose if to proceed to the next stage without incurring contract termination costs. Therefore, leaving the option open to revert to one of the other procurement options</p> <p>Very flexible, the Employer can change the scope simply to reflect changes in programme/budget etc prior to proceeding to the next stage</p> <p>Successful contractor likely to be engaged with the project development as they have a vested interest in progression through the stages</p> <p>Early and short procurement, so not likely to be on the project's critical path</p>	<p>Contractor not incentivised to reduce risk & contingency allowances during construction stage, so will likely price it higher than if competitively tendered</p> <p>Contract form would be more complex work to incorporate stages</p>

Option	Advantages	Disadvantages
<p>schedule of rates. For the subsequent stages key contract terms would be included in the tender such as contract form and options, and the tenderers would be required to submit various fee percentages that would be applicable to those stages.</p>		
<p>Design and build (no ECI)</p> <p>Comprises of a single tender for both the detailed design and construction of the project, which typically is issued after planning consent/orders for the project have been confirmed.</p>	<p>Relatively simple form of contract Procurement not likely to be on the project programme critical path Design risk transferred to Contractor Contractor input into planning and value engineering throughout project stages Contractors can incorporate value engineering within their design Project costs determined earlier than other options</p>	<p>Employer has less control over design and decisions, contract documents need to be carefully compiled to ensure all Employer requirements are included Greater risk to Contractors so tendered prices are likely to be higher by comparison Tender costs are high as some design typically needs to be undertaken at risk, so Contractor interest may be reduced Limited flexibility to revise scope to optimise value for money or keep within budget if tenders returned are higher than expected Requires commitment to both design and construction phases, termination costs would be due to the contractor if works don't proceed</p>

Conclusion

A 2-stage design and build contract permits a contractor to be engaged for an initial stage of project development and design work, which culminates in a price for proceeding to Stage 2 of the contract. Stage 2 would include the construction works and any remaining design. The contract would include a break clause that permits the Council to decline the Stage 2 price but continue to use any design work prepared by the Contractor, so that a separate procurement could be progressed if the client and contractor can't agree the Stage 2 price.

The primary advantages of this procurement method are as follows:

- the tender period can be short as the contractor will only be pricing design in detail,
- the majority of risk is held by the contractor, and

- value for money can still be demonstrated by requiring all works costs to be competitively tendered by the contractor

The primary disadvantage of a 2-stage tender is that pricing of risk allowances in the second stage is not subject to competitive tender, the contractor is essentially paid to prepare the pricing proposals and that if a price can't be agreed and/or there is a poor client/contractor relationship another procurement process might be required rather than progressing to stage 2.

On balance the project team decided the D&B contract with no ECI was the most appropriate procurement route.

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Appendices:

N/A

Background Papers:

- Executive Member Decision: A38 Major Road Network Scheme Outline Business Case Submission and Local Contribution Funding (Reference TBA)
- A38 MRN Strategic Outline Business Case
- 19/20 DE295 MRN OBC Commissioning & Procurement Plan:
<https://www.n-somerset.gov.uk/sites/default/files/2020-05/19-20%20DE%20295.pdf>
- 18/19 DE 410 MRN (A38) Outline Business Case
- BSWEL Report to Executive 25 April 2017