

## Law & Governance

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Central Number: 01865 249811

Date: 29 March 2023

Dear Councillor Snowton, Chair of Scrutiny Committee,

I am writing to you on behalf of the Head of Law & Governance to seek your agreement that a key decision to be taken is both urgent and reasonable and the delay caused by the call-in process would not be in the interests of the Council or the public, as required by the Council's Constitution (Part 17.9).

The urgent decision to be taken today, 29 March 2023 concerns the Council entering into a Development Services Agreement (DSA) with Network Rail regarding Cowley Branch Line PACE Phase 2. The decision can be made by the Executive Director (Development) in accordance with authority delegated by Cabinet at its meeting on 14 December 2022.

This will be a key decision due to the value of the DSA, which is estimated at c.£3,261,145. The item has been notified on the Forward Plan for the required 28 days; the officer decision was initially published on 24 March 2023 and the call-in period elapsed at the close of 28 March 2023, with no call-in request having been received from members. However, after the decision notice was published Network Rail alerted the Council that they had made a rounding error in the draft DSA meaning that the £3,260,000 published in the original decision notice was incorrect and Network Rail advised that the DSA could only be signed if the revised estimated cost of £3,261,145 was set out in the contract.

This key decision, with the correct estimated contract value, is required to be taken and implemented urgently as the DSA needs to be executed and entered into within the current 2022-23 financial year, in order for the Network Rail estimated costs contained within the contract to be valid. The draft DSA contains an explicit assumption that the contract must be entered into in March 2023 for its terms to be valid; in particular, the overall cost is made up of hourly rates for Network Rail staff and contractors, which change at the start of the 2023-24 financial year. If the DSA is entered into in the 2023-24 financial year, the total contribution of the Council and landowners would increase and cause all local decision-making to be restarted. Therefore, if the DSA is not entered into in March 2023, the Cowley Branch Line 'Design Phase' is at risk.

The amendment to the estimated value does not incur any financial risk to the Council. The DSA is an emerging costs contract with in-built contingency and all parties are aware that the Council is contractually bound to ensure Network Rail prioritises working within the established (and maximum locally approved) £3.26m budget, including the use of contingency where required, rather than use the Programme Panel to seek approval for any overall budget increase beyond the £3.26m budget.

Key decisions are subject to call-in by the Chair of Scrutiny or any four councillors within 2 clear working days of the notice of decision being published. Urgency rules set out in Part



17.9 of the Council's Constitution enable the waiving of the call-in period where the Chair of the Scrutiny Committee agrees that the decision to be taken is both urgent and reasonable and the delay caused by the call-in process would not be in the interests of the Council or the public.

Due to the timescales required in respect of this decision, in this case the fact that the DSA must be executed and entered into before the end of March 2023, there is insufficient time to allow for the usual two day time period for call-in, therefore I am seeking your permission to waive members' rights to call-in the decision under Part 17.9 of the Constitution. Provided you agree, this would mean that the decision can be taken and implemented immediately.

Please note that a copy of this letter will be attached to the public decision notice of this urgent key decision and the urgent key decision will be reported to a meeting of Council in due course.

With best wishes,

*Alice Courtney*

Alice Courtney  
Committee & Member Services Manager (Interim Acting)