

## **Appendix 1 - Luton Dunstable Busway - Executive of 18 August 2009**

### **Response to concerns expressed by Sustainable Communities Overview and Scrutiny Committee (SCOSC) on 4 August 2009.**

1. *"It was unclear to what extent there would be a saving if it was agreed to advance fund the Busway."*

#### **Background**

2. At a meeting of the LDB Project Board in September last year (when the CC were partnering Luton) a decision was taken to review the procurement strategy for the Busway, this followed advice from a Quantity Surveyor (QS) who had been working on the Cambridge Busway Scheme, along with contractual difficulties and rising costs experienced by both Luton, in the delivery of the East Luton Corridor scheme, and the County Council in the delivery of the Ridgmont Bypass.
3. This review included in depth discussions with the DfT about ways to minimise risk for both the Councils and the eventual Contractor, thus leading to greater certainty of cost at tender stage. This review ultimately confirmed we had adopted the most appropriate strategy to suit our circumstances (risk averse - maximising appropriate risk transfer to contractor). This review took 6 months and delayed the issue of the tender documents which in turn results in a tender return of 23 September and anticipated award of contract in February 2010, which results in difficulties with achieving site clearance before the bird breeding season begins. This also creates issues for dealing with the slow worms (move this year or next?).

#### **Response to SCOSC**

4. There are two issues to consider "Risk mitigation" and "Cost increase"
5. Risk mitigation:

The Region (where Government funding is assigned) have advised that we need to maximise our expenditure on the contract for 2009/10, this is to ensure that funding provisionally allocated to the scheme is used this year. Failure to take advantage of this could result in reduced funding and potentially put the scheme at risk or expose the Councils to greater expense.

Clearing the site of vegetation during the current financial year has a 2 significant advantages:

- 1) it maximises expenditure during the current year, thereby reducing the risk of losing funds

- 2) it allow the contractors to start physical works earlier than would otherwise be the case, a direct programme saving of around 8 months. Should the 3 month site clearance activity not take place until September then a further 4 months could be lost waiting for the start of the next earthworks season in March, making the potential total groundworks programme delay up to 12 months in total. Whilst the Contractor will be able to get on with other work during this time, a great deal of flexibility will be taken out of the programme with associated increased risk

## 6. Costs:

There are two areas related to costs, firstly the cost of advanced funding the site clearance and secondly the cost of the scheme.

- 1) Advanced funding site clearance: While this would improve the cost profile for 2009/10 and reduce risks associated with overall scheme funding it does bring a risk if for some reason the scheme should not go forward. Whilst a decision is required now, when there is less certainty and consequently higher risk, the decision point for the actual assigning of funds would be at a point of much greater certainty in terms of having undertaken assessment of tenders, the scheme having come back to Members for approval to proceed and knowledge of whether or not the scheme is likely to receive Full Approval. All these factors will significantly reduce the Councils' exposure to risk of the funds not being able to be reclaimed. The cost of this work would be recovered within the first claim to DfT, this is likely to be the end of April, with payment expected from DfT the first week in June.
- 2) Cost of the Scheme: Should the contractor not be able to carry out site clearance early in 2009/10, as described above, there will be a substantial delay to the works programme, leading to increased tender submission costs. Whilst it is not possible for Officers to advise the likely quantum of this difference, it is likely to be substantially higher than the £75 - £180k required for site clearance.