

EXECUTIVE

12th October 2023

Report Title	Oakley Vale Infrastructure Works
Report Author	Graeme Kane, Executive Director for Place and Economy
Lead Member	Cllr Matthew Binley, Executive Member for Highways, Travel and Assets

Key Decision	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for call-in by Scrutiny?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there public sector equality duty implications?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information (whether in appendices or not)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972	

List of Appendices

Appendix A – Oakley Vale Phase 5 – Highways Plan

1. Purpose of Report

- 1.1. This report provides an update on the obligations on North Northamptonshire Council (NNC) to progress the adoption of roads and infrastructure on Oakley Vale Phase 5, explains the extent of works, how the works are to be funded and highlights any potential risks to the Council.

2. Executive Summary

- 2.1. To support the sustainable urban extension housing development at Oakley Vale in Corby, Corby Borough Council (CBC) entered into an Infrastructure Stakeholder Agreement with developers, landowners, and a contractor. As a result of the contractor going into administration, CBC entered into supplemental agreements to fulfil the contractor's obligations to ensure the development did not stall. The original contractor paid a work deposit which is held by a third-party solicitor to act as a guarantee of works being completed.

- 2.2. The majority of infrastructure works have been completed as the development has progressed over the last decade. Phase 5 is one of the remaining areas where the infrastructure that the Council is responsible for remains to be adopted as public highway.
- 2.3. North Northamptonshire Council, having taken on the obligation from CBC, and following the completion of the majority of the Phase 5 housing development, the Council now needs to complete infrastructure works to the highway to enable the roads to be adopted as public highway.
- 2.4. In accordance with the legal agreements, the Council intends to recover the cost of these works by drawing down against the work deposit account held, the current value held by the third-party solicitor being £971,350.

3. Recommendations

- 3.1 It is recommended that the Executive:
 - a) Note the obligations on NNC to progress the adoption of roads and infrastructure on the Oakley Vale development.
 - b) Approve that the budget of £971,350, as per the value of the external works deposit held, be added to the Capital Programme to allow works to road adoptions at Oakley Vale Phase 5.
 - c) Delegate authority to the Executive Member for Highways, Travel & Assets in consultation with the Executive Director for Place & Economy to procure the necessary remedial works to the road and infrastructure at Oakley Vale Phase 5 and recover these costs from the external works deposit.
- 3.2 Reason for Recommendations
 - To fulfil the obligations entered into by CBC, completing the works and spending the external monies in accordance with the Infrastructure Works Agreement and supplemental agreements to progress the adoption of roads and infrastructure.
 - To procure and undertake the required works in line with the Council's constitution and financial regulations in relation to governance.
- 3.3 Alternative Options Considered: The only other option available is to do nothing, however given the legal obligations on the Council, as the works deposit covers the budget cost of the works and because of the negative public perception if adoption was not progressed, this option is not recommended.

4. Report Background

- 4.1 As a joint landowner to the Oakley Vale development, CBC entered into an Infrastructure Works Agreement in 2007 with the other landowner, contractor and developers to provide infrastructure at Phase 5 of the Oakley Vale development. As part of the Agreement the contractor, Cofton, deposited a works deposit with solicitors which was to be released back to Cofton as elements of work were completed and signed off. The current value of the Works Deposit held by third party solicitor is £971,350.
- 4.2 Cofton, as contractor went into administration in 2009 and CBC, through a deed of variation to the Infrastructure Works Agreement became responsible for fulfilling Cofton's obligations. At the same time as completing the deed of variation, CBC entered into a supplemental agreement which set out the terms under which the works deposit would be paid to CBC as works were completed and signed off.
- 4.3 In addition, Barratt David Wilson (BDW), as developer of other land parcels, and CBC entered into a Memorandum of Understanding (MOU) relating to Phase 5 of the development. This placed obligations on BDW to maintain and repair the road damaged by their construction activities. It also confirmed that CBC and BDW would collaborate to get the roads adopted.
- 4.4 At the completion of construction works on the development and having received several enquiries from residents of the new properties about the completion of the roads, the Asset and Environment team commenced investigations and survey works to progress the road adoption.
- 4.5 Following a Highway inspection visit a list of remedials was prepared and issued to both North Northamptonshire Council (NNC) and BDW identifying the responsibilities for each element. NNC works included conducting a CCTV survey of the highway drains and also commissioning a redesign for the existing roundabout at the junction of Aintree Road and Rochester Road.
- 4.6 The Council has undertaken a CCTV survey of the drainage which confirmed that several repairs are required, and this will involve excavation and needs to be undertaken at the same time as the roundabout redesign is completed. A further inspection will be required to confirm any other outstanding remedial works to be undertaken by NNC or BDW prior to the final resurfacing of the roads.
- 4.7 Based on budget costs from Kier Highways the cost of progressing adoption is less than the Works Deposit. Once works are completed it is proposed that the roads are adopted by the Highways Team via a Certificate of Appropriation which will formally transfer responsibility from Assets & Environment to the Highway Register. As part of the transfer a commuted sum is to be paid for the future maintenance of the streetlighting and verges.

5. Issues and Choices

- 5.1. The Council are under a legal obligation to progress the road adoption at Oakley Vale.
- 5.2. In addition to the obligations contained in the agreements, residents are becoming increasingly frustrated that they are living in houses with unadopted roads and this negative view of NNC will only increase if the recommendations of this report are not implemented. If the roads are left as they are, the condition of the road exposes the Council to a risk for claims for loss and injury.
- 5.3. Residents are complaining about perceived lack of progress in the adoption and as these roads are not adopted other developers whose roads connect to these are unable to get their roads adopted.

6. Next Steps

- 6.1. Following approval of this report, the next steps will be to finalise the remedial works and detailed drawings. Then to work with BDW to consider the best procurement method and if the Council's existing highways contract would be a suitable option to undertake the repairs. Once the work is complete the final stage will be the completion of the adoption of the roads and infrastructure.

7. Implications (including financial implications)

7.1. Resources, Financial and Transformation

- 7.1.1. The proposals in this report have been discussed at the Strategic Capital Board and relate to approval of £971,350 to be included in the Capital Programme and approval to procure a contractor to undertake this work. A formal request for this budget has been included within the Capital Update Report elsewhere on this agenda.
- 7.1.2. Works will be managed by the Capital Projects Team in Asset & Environment and will utilise contractors to complete the work.
- 7.1.3. Kier Highways budget costs confirm that the cost of the remedial works are estimated to be less than the works deposit, and therefore there should be no financial impact on NNC to progress the adoption. Officers are currently waiting on a budget cost from BDW's contractor to provide a comparable cost indication.
- 7.1.4. There is a commuted sum which is also covered by the works deposit which contributes to the maintenance of the street lighting and verges. Ongoing maintenance of the highway once adopted will be by the Highways team from the existing highway maintenance budget.

7.1.5. If any of the £971,350 works deposit is not spent this will be returned to the Council by the third-party solicitor once the obligations of the agreement are met.

7.2. Legal and Governance

7.2.1. The Council must utilise funding and deliver this work in line with the restrictions and requirements set out in the agreement.

7.2.2. The Council will work with BDW to consider the best procurement method and if the Council's existing highways contract would be a suitable option. Procurement of the contractors to undertake these works will be undertaken in accordance with the requirements as set out in the Council's Constitution and the financial regulations.

7.2.3. Once the works are complete the road will then become adopted highway through a Certificate of Appropriation to transfer responsibility from Assets & Environment.

7.3. Relevant Policies and Plans

7.3.1. These works will support the Council's commitment to create safe and thriving places and connected communities by providing residents with a safe and accessible road, whilst freeing up developers to do the same for other communities on Oakley Vale Phase 5.

7.4. Risk

There are no significant risks arising from the proposed recommendations in this report. There is a risk that as works are procured, costs may increase and or additional works are identified. However, having identified a budget cost, undertaken a survey and visited site with the highways team the likelihood of this risk occurring is minimised.

7.5. Consultation

7.5.1. There is no requirement for any formal consultation, however officers have engaged with a number of residents and met Councillors on site and this communication will continue as works proceed.

7.6. Consideration by Executive Advisory Panel

7.6.1. This work has not been considered by an Executive Advisory Panel as this is an obligation on the Council.

7.7. Consideration by Scrutiny

7.7.1. This proposal has not been considered by the Place & Environment Scrutiny Committee.

7.8. Equality Implications

7.8.1. There are no significant equality implications arising from the proposed recommendations in this report.

7.9. Climate and Environment Impact

7.9.1 The works will have limited ability to reduce carbon but as part of the procurement process tenderers will be asked to demonstrate what they can do to reduce carbon during the works.

7.10. Community Impact

7.10.1 There are no significant community impact implications arising from the proposed recommendations in this report. Those communities affected by the works will be notified of the works through contractor signage.

7.11. Crime and Disorder Impact

7.11.1 There are no significant crime and disorder implications arising from the proposed recommendations in this report.

8. Background Papers

8.1 None