

**APPENDIX 1**

# **Internal Audit Report**

## **Ely Bypass**

### **Governance Opinion**

<b>Adequacy of System</b>	<b>Limited</b>
<b>Compliance</b>	<b>Satisfactory</b>
<b>Organisational Impact</b>	<b>Minor</b>

<b>Report Issued</b>	<b>11<sup>th</sup> July 2019</b>
<b>Follow Up Due</b>	<b>N/A</b>
<b>Audit Committee Schedule</b>	<b>29<sup>th</sup> July 2019</b>

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*Conducted in Conformance with the International Standards for the Professional Practice of Internal Auditing.*

## Executive Summary

### 1 Background and Context

- 1.1 As part of the 2018/19 Audit Plan, an audit was included on Capital Variations and Overspends, in line with the materiality of capital projects, with the Council investing £185,816,000 in 2017-18.
- 1.2 The Economy and Environment Committee asked Internal Audit to review Ely Bypass as part of this review in order to understand the cost increases in the contract and to develop a 'lessons learned' report. Given the size of the Ely Bypass project and the scale of the additional payments above the original project specification, this has been the focus of this review.
- 1.3 The Ely Crossing scheme was one which the Council had been promoting for a number of years before the current process began but was unfortunately unable to move forward with it as funding was not available.
- 1.4 The former Executive Director, Place and Economy has advised that;

*"Once the current phase of work began, there was a clear stakeholder imperative to get the scheme delivered as quickly as possible and this need was heightened by other delays, outside of the Council's control that occurred in the process, for example the protracted discussions with English Heritage and the potential for a Secretary of State call in. Therefore, once the procurement commenced, the will of the Project Board was very much to move the scheme on as quickly as possible and the analysis and recommendation in this report need to be seen in that context".*

- 1.5 To assist with the ease of reading the report and to set the context, Appendix 7 to this report gives a detailed background and life cycle of the project.

### 2 Audit Approach / Scope

- 2.1 The Control Objective of this audit was to review the variations or overspends and evaluate the root causes of the variations/overspends, taking a 'lessons learned' approach. The audit aim was to identify any changes or improvements that could be made to project governance arrangements, risk and issue management, and other project management considerations.
- 2.2 The Project was tested across the following areas:
  - Reviewing the original Business Case and approved budget for the scheme.

- Reviewing project governance arrangements.
- Reviewing scheme variations/overspends, including:
  - Evaluating change control processes for key scheme variations;
  - Documenting the timeline of key decisions;
  - Documenting causes for cost variations.

### 3 Key Risks

3.1 This audit links to the following risks in the Corporate Risk Register:

- The Business Plan is not delivered
- The infrastructure and services required to meet the current and future needs of a population is not provided at the right time

### 4 Summary of Key Contract Stages and conclusions.

Based on the completion of our fieldwork we are giving a *limited* assurance over the Control Environment, and a *satisfactory* assurance on Compliance. Despite the additional payments on the project, there is evidence that throughout the course of the project, there was an effective third party process of review and scrutiny of costs and performance which was undertaken to ensure that the Council was getting Value for Money on the delivery of the scheme. However, due to the desire of key stakeholders to get the project completed in the shortest timescales possible, and the consequent design of the Contract, insufficient time was given to the project planning stage which, when combined with the type of Contract used during construction, meant that the true costs of the project were not available to officers nor Members until the project was near completion.

#### 4.1 Key Contract Stage: Procurement

The procurement of the Contract was undertaken on the basis of the Contract being an Early Contractor Involvement Design and Build Contract. In order for the Contractors to give an accurate tender submission which reflects the likely costs and minimises the risk of cost increases, the LGSS Procurement Team advised that tenders on this sort of contract usually go beyond the legal requirements and those set out in ordinary guidance documents such as the Council's Contract Procedure Rules. For example, a longer tender period or more detailed information being provided at the Pre-Qualification Questionnaire would allow for bidders to better understand the project and therefore to give a more accurate cost figure.

The Pre-Quality Questionnaire was issued in January 2016. 11 responses were received by the Council which were then evaluated, with the top 6 contractors then being

invited to tender. The Invitation to Tender was issued in April 2016 and the tender was open for 8 weeks, only slightly longer than the 35 day minimum allowed within the Council's Contract Procedure Rules. A Procurement Strategy was submitted to the Project Board in September 2015 which summarised advice from Consultants, LGSS Procurement and Contractor's Comments. The Consultants advised that a 9 week tender process followed by a six month design period would give the highest degree of cost certainty. The summary of this report confirmed that a 5 week tender period was insufficient for the detail of the scheme. The Project Board took the decision to have an 8 week tender period, with a 16 week design stage, significantly shorter than the officers' recommendation.

The tenders were evaluated on the pre-agreed ratio of 60% quality and 40% price. Each tender contained a costed risk register and an activity schedule for stages one and two of the contract.

The contract was awarded to Volker Fitzpatrick at the Economy and Environment Committee Meeting on the 14<sup>th</sup> July 2016, following the report provided to the committee on the results of the tender evaluation. They were judged to be the '*most economically advantageous tender*', and also proposed a target cost that fell within the budget available for the scheme. Volker Fitzpatrick set their total contractor target price as £24,460,072, with £675,794 allocated for stage 1, and £23,784,278 for stage 2. For context, the cheapest tender bid received was £23,414,496.41, and the most expensive was £37,642,562.90. As part of their tender response they provided a risk register detailing any risks, mitigations and costs they had identified. The allowances for these risks were included in the stage 2 price.

Despite the short timescale of the Tender process for a contract of this size, Internal Audit has concluded that the process undertaken to procure the contractor for the Ely Bypass was in line with the key controls in the Council's Contract Procedure Rules, though LGSS procurement advice was that a longer tender period would have been more effective for a scheme of this scope and value. Full detail of compliance with the Council's Contract Procedure Rules can be found at Appendix 2 of this report.

#### 4.2 Key Contract Stage: Stage 1 – Developed Design

At the commencement of stage one of the Contract, the target cost was in line with the costs detailed in Volker Fitzpatrick's tender bid. Before the contract was let, it was determined that the length of Stage One would be 4 months (16 weeks), in line with the Procurement Strategy document which was compiled by the Team Leader – Highways Projects following discussion at the Project Board. This decision did not go to the Economy and Environment Committee for approval.

At the end of the 16 week Stage One period, the target cost for Stage two had increased to £27,470,909. This represents an increase from the tendered stage two cost of £3,686,631, or a 15.5% increase.

To give context for the increase in costs, the document which recommended that the Contract be moved to Stage 2, Construction, detailed the following information concerning the increases in the price of stage 2 that were identified through stage 1 testing and design:

The development of the target price was “monitored during the design stage”. The original outline design undertaken by Skanska/Atkins had, in some areas significantly under assessed the requirements. This is exemplified by the Piling costs on the Viaduct and Rail Bridge where the costs have increased by £1.314m. Structural steelworks costs have also risen significantly with the majority of the increased cost being attributable to the impact of Brexit on imported steel costs. The increased steelwork cost amounts to £1.223m. The major contributors to the increase were Earthworks (+666,097.11), the Railway Bridge (+836,119.41), and the Viaduct (+2,501,960.81).

When the decision was made to let the Contract to Volker Fitzpatrick, the Committee also decided to delegate the decision to commence the second stage of the Contract to the former Executive Director, Place and Economy, in consultation with the Chair and Vice Chair of the Economy and Environment Committee, in order to prevent any delays in progressing the project. This delegation of power is reflected in the report ‘Ely Southern Bypass – Stage 2 Contract Award’ (attached at Appendix 3), which was compiled by the Team Leader –Highways Projects to the former Executive Director, Place and Economy, which detailed the recommendation to move the contract onto the second stage.

The increase in Stage 2 costs to £27,470,909 took the total costs of the project to £35,999,262, just within the Council’s Business Plan budget of £36m. Therefore, whilst the Construction costs were showing an increase at this stage, if nothing else had changed in the target price moving forward, the project would still have been within the allocated budget.

The decision to delegate the power away from the Committee was with the caveat that should the construction target price be significantly higher than the tendered construction price, then the decision to trigger construction was to be referred back to the committee. This caveat, however, had no figure, nor percentage, detailed alongside it to explain how much “*significant*” was deemed to be. Given the increase in costs, it could be argued that this increase should have been taken back to Committee for review. However, the Council’s Constitution does not place any monetary limit on Members’ decision making powers. Therefore it can be concluded that the appropriate authority was sought and given at this stage of the contract life cycle.

**Conclusion 1:**

By not specifying exactly what was meant by a “*significant*” change the Economy and Environment Committee effectively delegated full decision making power over to the former Executive Director of Place and Economy, in consultation with the Chair and Vice Chair of the Economy and Environment Committee.

Whilst there is nothing in the Constitution which prohibits this, and in this case, Internal Audit has been advised by the former Executive Director Place and Economy, that the decision was taken in full consultation with the Chair and Vice Chair of the Committee as required, better governance and transparency would have been achieved by referring back to full committee in order to seek approval to progress to Stage Two, not only because the Target Cost now represented a cost 15.5% higher than the original tender, but due to the fact that, even at this stage, it was acknowledged that the actual final cost would be much higher.

**Recommendation 1:**

Consideration should be given to whether the Constitution should be adapted to incorporate limits to delegating authority away from Committees, particularly when there are significant financial implications.

In instances where officers are given delegated authority to make significant decisions outside of their ordinary powers as stated in the Scheme of Delegation, even in consultation with some Members, then reports should be provided to relevant Members or Committee which outline the decision that was taken, particularly in high-risk areas or projects.

The report presented to the former Executive Director of Place and Economy by the Team Leader – Highways Projects highlighted that *“as in all construction projects, there are likely to be unforeseen issues that can impact on the outturn cost. The current estimate of cost against budget leaves limited contingency to take account of these unforeseen events. It may be worth considering whether a sum for contingencies should be sought through the Business Planning process”*. This demonstrates the volatility of the costs being presented for approval at this time, and the high level of risk that the costs may further increase as the project cycle moved forward.

The July 2017 Finance and Performance Report, prepared by the Strategic Finance Manager, details that *“the target price, whilst within budget, would use any contingency or risk allowance. It was highlighted that as a high risk scheme in difficult site conditions, it would be likely that additional funding would be required which could fall into the 10-20% category.”* This further demonstrates the uncertainty and potential volatility in the figures that were agreed by the former Executive Director, Place and Economy, and the Chair and Vice Chair of the Economy and Environment

Committee at the end of Stage 1. This could further support an argument that the expected costs were to be much higher than those submitted in the tender costs, and therefore that the approval should have been resubmitted to Committee at this stage, although as already highlighted there was no definition of what constituted a significant change and, the former Executive Director Place and Economy has advised Internal Audit, the underlying requirement from key stakeholders was to move the project on quickly. Internal audit has seen emails to the former Executive Director Place and Economy that supports this view. The July 2017 Finance and Performance report was reviewed by the Committee at the September 2017 meeting, with this being the first reference made to the Committee on the potential additional payments required to deliver the project.

**Conclusion 2:**

Whilst it may not have been possible for officers and the Project Board to quantify the increase in the expected costs compared to the Contracted amount when moving from Stage 1 to Stage 2, a report should still have been presented to Committee which outlined the reasons for the price increases to date, the likelihood of further increases and the expected size of the increases where possible. This report should have given Committee the option on whether regular update reports on the current costs along with most up to date anticipated increase in total cost were wanted.

#### 4.3 Main Conclusions: Timescales

As reflected in sections 4.1 and 4.2, both the timescales for the procurement and the design stage were extremely short, with 8 weeks given for the submission of tender bids, and with Stage 1 of the Contract being completed in just 16 weeks. In September 2015, a draft document was developed by the Team Leader for Highways Projects, which set out a number of options for the Procurement Strategy. This document is attached at Appendix 6 of this report. The options discussed in this document ranged from simply ensuring compliance with any legal requirements and/or Council policies, to longer periods of procurement/design which ensure that the contractor has a better understanding of the scheme, and can produce more accurate targets at the award stage and at the end of the design stage.

This document was compiled with the help of an independent consultant, WYG, in order to help ensure that the Council 'learned lessons' from the Guided Busway Delivery Review. This consultant gave the opinion that best option would be to have a 9 week tender and a 6 month design period.

The document outlines how suggested procurement options were considered at the Project Board, where the board members "*considered the speed of delivery to be of*



*primary importance and risk in cost uncertainty was off-set by the benefit of possible early delivery*". As such, members of the Board proposed a shorter tender period of 5 weeks (the minimum allowed within the Contract Procedure Rules), and a detailed design period of 3 months. See Appendix 5 for the Terms of Reference of the Project Board, which includes the membership of the board. This idea was returned to the Consultant for consideration, who reviewed the proposal and stated that if a 5 week tender period was chosen, then they would "*strongly recommend*" the allowance of a 6 month design period in order to have an accurate detailed design to mitigate risks during construction. Further, the LGSS procurement team suggested that for a contract of this scope and value, a tender period of 8-10 weeks would be considered reasonable and expected. The Team Leader – Highways Projects has advised Internal Audit that the 8 week tender period which was agreed was a compromise between the 12-16 week consultant and procurement advice and the Project Board desire for the legal minimum of 5 weeks.

The Project Board meeting minutes from 13<sup>th</sup> August 2015 show that the Section 151 officer was "content" with the approach put forward by the Project Board, "provided Councillors recognised the associated risks". There is no evidence that this document was fully developed or submitted to the Economy and Environment Committee, or that Members were made aware of the financial risks associated with the proposed timescales.

The final tender included a Stage 1 timescale of 16 weeks, to include review, negotiation and agreement of the proposed target cost, and as such, when the contract was moved into the Construction phase, much of the costing was based on limited design information and therefore still largely unknown by both the Contractor and the Council.

A longer procurement period and/or Stage 1 may have allowed the contractor more opportunity to fully understand the risks associated with design and construction, particularly poor ground conditions, the complex structural elements of the river and rail bridges, along with statutory undertakers and Network Rail requirements. Whilst the Contractor did raise the issue that it was expected that all of the contingency would be used to deliver the project, no certain figures could be reasonably determined at this point.

**Conclusion 3:**

Professional advice and recommendations expressing concern about short timescales were presented to the Project Board, however the subsequent decision made by the Project Board focussed on the speed of completion of the Project, rather than the advice given. Following professional advice would have allowed for a detailed plan and design for the project to be developed, and therefore may have given the Council and all relevant stakeholders a more accurate target cost at the beginning of the project. There is also little evidence that the Economy and Environment Committee were made aware of the Risks associated with the procurement and design processes being followed.

**Recommendation 2:**

Future projects should follow a procurement and design stage which takes full account of advice from key officers, the procurement team, any external consultants and suppliers. This should include a provision for extending certain phases of projects; such as the design stage.

The relevant Committee on any project should be made aware of any risks associated with the procurement/design process being recommended to them, including any impact this might have on the final costs of the Project.

#### 4.4 Key Contract Stage: Stage 2 – Technical Design and Build

As construction progressed on the project, many issues have arisen which caused both an increase in cost and an extended completion date. These issues mainly relate to a combination of the structural design and the site's ground conditions. Additional materials have been needed in order to provide sufficient structural support. For example the v-piers for the river viaduct have required larger quantities of steel and concrete to ensure structural integrity. Another significant issue was the diversion of a 33kv power supply under the railway line. This diversion was delayed by 3 months due to lack of communication from UKPN (UK Power Network), and was finally completed in August 2017. This delay has caused an increase in cost of £1.6m. This was first reported to the E&E Committee in the May 2017 Finance and Performance Report.

The Project Manager and Team Leader were aware of cost increases and further risks to the project in Spring 2017 and have advised Internal Audit that these issues were reported to the Head of service and Service Director who decided not to request extra funding until the total additional payment could be fully quantified. Although the Service Director has now left the organisation, the former Executive Director Place and Economy has advised internal audit that he was aware of this decision and that this was taken after informal discussions with key stakeholders. As detailed in Section 4 of this report, the Project Board was made aware of the increase to target cost in the September 2017 meeting but were not given any figures as, at this point, there was

still a level of uncertainty of what the final figure would be. The Project Board was given details of the additional funding required at their November 2017 meeting, where the estimated final cost of the scheme was stated at £37,294,166, taking the full cost of the project to £46,924,743. The information presented to the Project Board at this meeting is attached at Appendix 4 of this report. It wasn't until the 12<sup>th</sup> April 2018 Economy and Environment Committee Meeting, following further cost reviews to establish a more robust forecast outturn, that the figures were discussed with the Committee and an extra £13m was requested.

**Recommendation 3:**

In instances such as the Ely Bypass project, with numerous spend increases compared the original budgeted and contracted amounts, regular updates should be taken to the relevant Committee. This would both keep the Committee fully informed and ensure that it remains comfortable with any delegations given. These updates should include the current price and the most up-to-date target/expected final price, along with a detailed project risk register, which should give an overview of the key areas where further price increases may occur, as well as the likelihood of these price increases.

**Recommendation 4:**

The Project Board should insist on the most up-to-date figures on cost at all times, even if the final expected figure is not known, and these should then be reported on to Committee. This should be accompanied by a risk assessment that specifically considers, and wherever possible quantifies, known issues that may impact either positively or negatively on the final cost position. Further, rather than being left to individual officers to decide when the Committee is informed on the progress being made on the project or on any price increases, this decision should be challenged and commented on by the Project Board, who should have a view on when any risks on the project, including any overspends, are presented to Committee. In addition, to support officers further, see recommendation 5 below.

**Recommendation 5**

Directors should manage, or if necessary escalate, situations where there is pressure to pursue actions that do not follow normal governance rules. It is recommended that a simple procedure is put in place for instances requiring escalation through a short report to the next available Joint Management Team.

#### 4.5 Main Conclusions: NEC Option D within a Design and Build Contract

Under the NEC Terms, Option D is a Target cost with Bill of Quantities. The Bill of Quantities was determined by the Contractor during Stage 1 and provides project specific measured quantities of the items of work identified by the completed design and specification. As is addressed above, having a shortened procurement period and Stage 1 meant that the full design was not fully determined at the end of Stage 1, and so the Bill of Quantities which set out the new cost of completing Stage 2, £27.5 million, was unlikely to be accurate nor reflect the end cost of completion of the project. This was reflected in the report to the Executive Director Place and Economy, prior to the commencement of Stage 2, and in the July 2017 Finance and Performance Report which was submitted to the Economy and Environment Committee in September 2017.

Under Option D, the Bill of Quantities forms the target cost for completion of the project, with payments then made to the Contractor based on actual costs and then a pain/gain adjustment made for variance from the target cost. The issue that arises from Option D is that, should the bill of quantity change i.e. should more materials/labour be required than in the initial bill of quantities, the target cost is simply increased, meaning that the Council pays for the increase without any financial burden being placed on the contractor. Option D places the risk of the specification/design change on the Council.

The implications of using Option D on the Ely Bypass does not mean that the Contract was being managed inefficiently and that inefficiency increased the costs, but rather that the actual costs were likely to fluctuate throughout the construction phase of the contract. There is evidence that key stakeholders were made aware that costs were increasing, but the decision was taken by officers not to go back to Committee for approval of more funding until there was greater certainty of the value of the increase in costs. This is reflected in the fact that the Committee authorised the commencement of the Contract in 14<sup>th</sup> July 2016, and did not receive a formal report requesting extra funding until 12<sup>th</sup> April 2018.

Option D is appropriate when asking contractors to begin construction work following an incomplete design stage as this style of contract transfers the risk of specification changes to the Council. If this option is not used then the Contractor would want fully completed testing and designs in order to calculate more accurately the full costs associated with the scheme, before beginning work on the construction stage of the project. As reflected in the above section the decided timescales did not allow for this and the Executive Director Place and Economy has confirmed to Internal Audit that these challenging timescales determined that Option D was to be the best viable option to get contractors to bid for the Contract. However, as mentioned above, one risk of using Option D is that any price increases linked to the evolving design would be covered by the Council. This was a significant risk in this particular contract and the design did evolve during the early stages of the contract, after tenders were received, e.g. at the construction stage. A combination of these two factors contributed to a more volatile and complex cost

forecasting environment that in turn reduced the Council's, and particularly Members, oversight of cost. See **Recommendation 4** for how the project could have ensured a greater level of Member oversight of Costs.

**Conclusion 4:**

Whilst neither the 16 week stage one nor the decision to use Option D necessarily led to any overspend on the project, what both these factors determined was that the full costs of the project were not known to the Council until the project was nearer to completion. However, it remains important that, notwithstanding this cost volatility, the appropriate committee is kept fully informed, in a timely way, of significant cost projection variations and associated risks that will potentially impact on the final cost. This did not happen.

#### 4.6 Key Contract Stage: Monitoring

Formal roles required by NEC forms of contract were undertaken by a third party, WYG, throughout Stage 2 of the Contract. These roles include, the monitoring of cost, quality and programme. The project manager has advised Internal Audit that this was because the Council does not have sufficient resource of the necessary skills required to have undertaken effective contract management.

These involved validating the actual costs and scrutinising the performance levels submitted by Volker Fitzpatrick. This review work undertaken and discussed with the County Council staff based largely on the site and was formally fed back to the Council in the form of a monthly Dashboard which was given to the Project Manager, Team Leader, Head of Service and Service Director. These monthly summaries provided updates across a number of different areas including:

- An executive summary detailing the progress made since the last report;
- Key issues/Risks in a RAG style format;
- Overview of costs including the Contract price, the current cost, the cost in the previous report and any variances;
- A summary of cost changes;
- Key client decisions for the next period;
- Information on any quality issues;
- A detailed current assessment of the Final Total of the Prices.

The assessment of the Final Total of the Prices includes in it a detailed overview of the work undertaken by WYG to validate the actual costs incurred by Volker Fitzpatrick on the Contract.

What this demonstrates is that, although not directly responsible for the monitoring of the Contract, key officers were kept informed of the progress being made in key areas against the Contract.

**Conclusion 6:**

The WYG dashboards provided to Internal Audit throughout the course of this audit evidenced that there was an appropriate and informative high-level overview of the costs and performance of the Contractor.

**Recommendation 6:**

Rather than waiting for the Project Board meetings for Members of the board to be told about the Contract, the Project Board should be provided with the Dashboards every month, in order to allow any concerns which the dashboards may raise to be discussed as early as possible.

#### 4.7 Main Conclusions: Third Party Monitoring

The third party contract monitoring which took place throughout the process, which is continuing to completion, gives the Council an assurance that the costs incurred, whilst significantly over the original budget set, represent the actual costs incurred in the delivery of the Contract. This is an important point to note and is an important assurance for stakeholders.

In order to confirm that the costs charged by Volker Fitzpatrick to the Council were based on actual, verified costs throughout the contract, and that the appropriate performance levels were being met, the Council employed WYG to monitor both the Contract on both cost and quality. An NEC project manager administers the contract, a site supervisor checks the quality of the project and reports to the project manager, and a cost consultant verifies actual costs before CCC make a payment.

Internal Audit has undertaken compliance testing of the work carried out by WYG and are satisfied that the work undertaken is in line with best practice and is effective in scrutinising actual costs. It should be noted that substantive work has not been undertaken by internal audit.

Internal Audit also attended one of WYG's spot checks at the Volker Fitzpatrick offices, in order to better understand the work undertaken by WYG to verify costs, and from this is further satisfied that process of cost-verification sufficiently reconciles back to prime records.

Internal Audit has asked that WYG seek positive assurance from Volker Fitzpatrick that they have not received any retrospective rebates from the work undertaken, and a

statement has been requested from Volker Fitzpatrick to reflect this. This should be followed up.

An example of the positive scrutiny undertaken by WYG is reflected in the fact that, through a process of challenge and review, WYG has reduced the amount paid for Compensation Events on the project from £5,374,067.67 to £3,183,381.30, a reduction of £2,190,686.30 from the original claim made by the Contractor. This shows the benefit of an open book style of contract management, when actual costs are verified to prime records.

***Detailed agreed actions are listed within the Management Action Plan (MAP) at pages 15 to 17 of this report.***



## MANAGEMENT ACTION PLAN

The Agreed Actions are categorised on the following basis:

Likelihood	H	S	I	E	<b>Essential</b> - Action is imperative to ensure that the objectives for the area under review are met. <b>Important</b> - Requires action to avoid exposure to significant risks in achieving objectives for the area under review. <b>Standard</b> - Action recommended to enhance control or improve operational efficiency.
	M	S	I	E	
	L	S	I	E	
		L	M	H	
		Impact			

Ref.	Issues & Risks (Precis)	Agreed Action	Management Comments	Manager Responsible & Target Date
1.	<p><b>Delegation of powers away from Committee/Members</b></p> <p>By not specifying exactly what was meant by a “significant” change the Economy and Environment Committee effectively delegated full decision making power over to the Executive Director of Place and Economy, in consultation with the Chair and Vice Chair of the Economy and Environment Committee.</p> <p>Whilst there is nothing in the Constitution which prohibits this, and in this case, Internal Audit has been advised by the Executive Director Place and Economy, that the decision was taken in full consultation with the Chair and Vice Chair of the Committee as required, better governance and transparency would have been achieved by referring back to full committee in order to seek approval to progress to Stage Two, not only because the Target Cost now represented a cost 15.5% higher than the original tender, but due to the fact that, even at this stage, it was acknowledged that the actual final cost would be much higher.</p>	<p><b>Important</b></p> <p><b>Recommendation 1:</b></p> <p>Consideration should be given to whether the Constitution should be adapted to incorporate limits to delegating authority away from Committees, particularly when there are significant financial implications.</p> <p>In instances where officers are given delegated authority to make significant decisions outside of their ordinary powers as stated in the Scheme of Delegation, even in consultation with some Members, then reports should be provided to relevant Members or Committee which outline the decision that was taken, particularly in high-risk areas or projects.</p>	<p>This is fully accepted and will be helpful to give Committee and officers a clear scope of delegation and required actions. This is currently being discussed corporately and will result in a paper with recommendations to Constitution and Ethics Committee and subject to views there, an amendment to the constitution at Full Council. Therefore the agreed action has commenced.</p>	<p><i>Monitoring Officer</i> <i>December 2019</i></p>



Ref.	Issues & Risks (Precis)	Agreed Action	Management Comments	Manager Responsible & Target Date
2.	<p><b>Professional advice was not followed</b></p> <p>Professional advice and recommendations expressing concern about short timescales were presented to the Project Board, however the subsequent decision made by the Project Board focussed on the speed of completion of the Project, rather than the advice given. Following professional advice would have allowed for a detailed plan and design for the project to be developed, and therefore may have given the Council and all relevant stakeholders a more accurate target cost at the beginning of the project. There is also little evidence that the Economy and Environment Committee were made aware of the Risks associated with the procurement and design processes being followed.</p>	<p><b>Important</b></p> <p><b>Recommendation 2:</b></p> <p>Future projects should follow a procurement and design stage which is in line with advice from key officers, the procurement team, any external consultants and suppliers. This should include a provision for extending certain phases of projects; such as the design stage.</p> <p>The relevant Committee on any project should be made aware of any risks associated with the procurement/design process being recommended to them, including any impact this might have on the final costs of the Project.</p>	<p>This is fully accepted and links closely to Recommendation 1 and 2 where a clear reporting process will be agreed with Committee at project inception. It is proposed that Transformation Team will be commissioned to develop a process to address these issues and the applicability of this to projects across the Council will be considered</p>	<p><i>Service Director Highways and Transportation &amp; Executive Director Place and Economy</i></p> <p><i>Immediate</i></p>

Ref.	Issues & Risks (Precis)	Agreed Action	Management Comments	Manager Responsible & Target Date
3.	<p><b>Oversight of Cost Changes</b></p> <p>The Project Manager and Team Leader were aware of cost increases and further risks to the project in Spring 2017 and have advised Internal Audit that these issues were reported to the Head of service and Service Director who decided not to request extra funding until the total additional payment could be fully quantified. Although the Service Director has now left the organisation, the Executive Director Place and Economy has advised internal audit the he was aware of this decision and that this was taken after informal discussions with key stakeholders. As detailed in Section 4 of this report, the Project Board was made aware of the increase to target cost in the September 2017 meeting but were not given any figures as, at this point, there was still a level of uncertainty of what the final figure would be. The Project Board was given details of the additional funding required at their November 2017 meeting, where the estimated final cost of the scheme was stated at £37,294,166, taking the full cost of the project to £46,924,743. The information presented to the Project Board at this meeting is attached at Appendix 4 of this report. It wasn't until the 12<sup>th</sup> April 2018 Economy and Environment Committee Meeting, following further cost reviews to establish a more robust forecast outturn, that the figures were discussed with the Committee and an extra £13m was requested.</p>	<p><b>Important</b></p> <p><b>Recommendation 3:</b></p> <p>In instances such as the Ely Bypass project, with numerous spend increases compared the original budgeted and contracted amounts, regular updates should be taken to the relevant Committee. This would both keep the Committee fully informed and ensure that it remains comfortable with any delegations given. These updates should include the current price and the most up-to-date target/expected final price, along with a detailed project risk register, which should give an overview of the key areas where further price increases may occur, as well as the likelihood of these price increases.</p> <p><b>Recommendation 4:</b></p> <p>The Project Board should insist on the most up-to-date figures on cost at all times, even if the final expected figure is not known, and these should then be reported on to Committee. This should be accompanied by a risk assessment that specifically considers, and wherever possible quantifies, known issues that may impact either positively or negatively on the final cost position. Further, rather than being left to individual officers to decide when the Committee is informed on the progress being made on the project or on any price increases, this decision should be challenged and commented on by the Project Board, who should have a view on when any risks on the project, including any overspends, are presented to Committee. In addition, to support officers further, see recommendation 5 below.</p>	<p>This is fully accepted and it is proposed for future projects, a reporting process and cycle is agreed by Committee and officers ensure that is adhered to. Future projects will include this. It is proposed that Transformation Team will be commissioned to develop a process to address these issues and the applicability of this to projects across the Council will be considered.</p> <p>This is fully accepted and it is proposed that this form part of the reporting process to be agreed by Committee referenced in the management comments to Recommendation 2 above.</p>	<p><i>Executive Director Place and Economy</i></p> <p><i>Immediate</i></p> <p><i>Service Director Highways and Transportation &amp; Executive Director Place and Economy</i></p> <p><i>Immediate</i></p>

Ref.	Issues & Risks (Precis)	Agreed Action	Management Comments	Manager Responsible & Target Date
		<b>Recommendation 5</b> Directors should manage, or if necessary escalate, situations where there is pressure to pursue actions that do not follow normal governance rules. It is recommended that a simple procedure is put in place for instances requiring escalation through a short report to the next available Joint Management Team.	To be discussed and action considered by JMT.	<i>Service Director Highways and Transportation &amp; Executive Director Place and Economy</i>  <i>Immediate</i>
4.	<b>Third Party Monitoring not appropriately communicated to Project Board</b> The WYG dashboards provided to Internal Audit throughout the course of this audit provided an appropriate and informative high-level overview of the costs and performance of the Contractor. There is no evidence, however, that these updates were provided to all members of the Project Board.	<b>Important</b> <b>Recommendation 6:</b> Rather than waiting for the Project Board meetings for Members of the board to be told about the Contract, the Project Board should be provided with the Dashboards every month, in order to allow any concerns which the dashboards may raise to be discussed as early as possible	This is fully accepted. All Project Boards will receive regular information in the form of Dashboards as proposed.	<i>Service Director Highways and Transportation &amp; Executive Director Place and Economy</i>  <i>Immediate</i>

## Appendix 1 – Glossary / Definitions

There are three elements to consider when determining an assurance opinion as set out below.

### 1 Control Environment / System Assurance

The adequacy of the control environment / system is perhaps the most important as this establishes the key controls and frequently systems ‘police/ enforce’ good control operated by individuals.

Assessed Level	Definitions
Substantial	Substantial governance measures are in place that give confidence the control environment operates effectively.
Good	Governance measures are in place with only minor control weaknesses that present low risk to the control environment.
Satisfactory	Systems operate to a moderate level with some control weaknesses that present a medium risk to the control environment.
Limited	There are significant control weaknesses that present a high risk to the control environment.
No Assurance	There are fundamental control weaknesses that present an unacceptable level of risk to the control environment.

### 2 Compliance Assurance

Strong systems of control should enforce compliance whilst ensuring ‘ease of use’. Strong systems can be abused / bypassed and therefore testing ascertains the extent to which the controls are being complied with in practice. Operational reality within testing accepts a level of variation from agreed controls where circumstances require.

Assessed Level	Definitions
Substantial	Testing has identified that the control environment has operated as intended without exception.
Good	Testing has identified good compliance. Although some errors have been detected these were exceptional and acceptable.
Satisfactory	The control environment has mainly operated as intended although errors have been detected that should have been prevented / mitigated.
Limited	The control environment has not operated as intended. Significant errors have been detected and/or compliance levels unacceptable.
No Assurance	The control environment has fundamentally broken down and is open to significant error or abuse. The system of control is essentially absent.

### 3 Organisational Impact

The overall organisational impact of the findings of the audit will be reported as major, moderate or minor. All reports with major organisational impact will be reported to SMT along with the relevant Directorate's agreed action plan.

Organisational Impact	
Level	Definitions
Major	The weaknesses identified during the review have left the Council open to significant risk. If the risk materialises it would have a major impact upon the organisation as a whole.
Moderate	The weaknesses identified during the review have left the Council open to medium risk. If the risk materialises it would have a moderate impact upon the organisation as a whole.
Minor	The weaknesses identified during the review have left the Council open to low risk. This could have a minor impact on the organisation as a whole.

### 4 Findings prioritisation key

When assessing findings, reference is made to the Risk Management matrix which scores the impact and likelihood of identified risks arising from the control weakness found, as set out in the MAP.

For ease of reference, we have used a high/medium/low system to prioritise our recommendations, as follows:

E	Essential	I	Important	S	Standard
	<p>Failure to address the weakness has a high probability of leading to the occurrence or recurrence of an identified high-risk event that would have a serious impact on the achievement of service or organisational objectives, or may lead to significant financial/ reputational loss.</p> <p>The improvement is critical to the system of internal control and action should be implemented as quickly as possible.</p>		<p>Failure to respond to the finding may lead to the occurrence or recurrence of an identified risk event that would have a significant impact on achievement of service or organisational objectives, or may lead to material financial/ reputational loss.</p> <p>The improvement will have a significant effect on the system of internal control and action should be prioritised appropriately.</p>		<p>The finding is important to maintain good control, provide better value for money or improve efficiency. Failure to take action may diminish the ability to achieve service objectives effectively and efficiently.</p> <p>Management should implement promptly or formally agree to accept the risks.</p>

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