

# Executive Decision Report

---

**MANAGEMENT OF FUNDS AS ACCOUNTABLE BODY TO THE  
LEICESTER AND LEICESTERSHIRE ENTERPRISE PARTNERSHIP  
(MIDLAND MAINLINE IMPROVEMENTS AT MARKET HARBOROUGH)**

Decision to be taken by: City Mayor  
Decision to be taken on: 21 February 2017  
Lead director: Phil Coyne

---



**City Mayor**

## Useful information

- Ward(s) affected: All
- Report author: Colin Sharpe, Head of Finance
- Author contact details: 0116 454 4081
- Report version number: 17-01-2017

### 1. Summary

The City Council is the accountable body for the Leicester and Leicestershire Enterprise Partnership (LLEP), and hence is legally responsible for receiving, managing and accounting for LLEP funds. This report seeks Executive approval to act on behalf of the LLEP and other regional Enterprise Partnerships as the lead accountable body for the Midland Mainline Market Harborough improvement scheme.

### 2. Recommendations

- 2.1 That the City Council acts as lead accountable body for the Midland Mainline Market Harborough Improvement Scheme, subject to legally binding funding guarantees from the statutory accountable bodies to the two other participating Local Enterprise Partnerships;
- 2.2 That, subject to the agreement and entering into of the relevant legal agreements, the City Council agrees to underwrite the £3m of Local Growth Fund that the LLEP expects to receive for its own contribution, in the event that agreements with Network Rail have been entered into and the Government does not continue to pay the Local Growth Fund as expected;
- 2.3 That the scheme be added to the capital programme, in the sum of £13m; and
- 2.4 That the City Barrister and Head of Standards be authorised to enter into the necessary legal agreements.

### 3. Supporting information including options considered:

Three Local Enterprise Partnerships (LEPs) expect to receive some £13m of Local Growth Fund (LGF) monies from the Government for improvements to the Midland Mainline at Market Harborough, as part of their multi-year Growth Deals up to 2020. These are the Leicester and Leicestershire Enterprise Partnership (LLEP), the Sheffield City Region LEP and D2N2 LEP (covering Derby, Derbyshire, Nottingham and Nottinghamshire). These cover the geographical areas that will most benefit from the improvements, being North of Market Harborough.

The improvements are intended to deliver shorter journey times through Market Harborough by straightening the track. This realignment will also require new platforms, together with alterations to the car park and the road access. The work will additionally enable improved service frequency and resilience. Network Rail is the project sponsor and will undertake the scheme alongside other planned improvements.

As Market Harborough is in Leicestershire, the LLEP is taking the lead on behalf of the Enterprise Partnerships and hence the City Council as its accountable body has been asked to consent to enter into the necessary legal and funding agreements with Network Rail. The LLEP plans to contribute £3m of LGF, with £5m from each of the other two LEPs, a total of £13m. This is likely to be paid to Network Rail in 2018/19, although the agreements are expected to be required sooner, to provide assurance to Network Rail and to enable the work to be planned.

The City Council via the LLEP will need to secure legally binding agreements from the Sheffield City Region and D2N2 LEPs to secure the underwriting of the funds in the event that the government does not pay the LGF. There will also need to be an agreement between the local authorities/accountable bodies acting as their statutory accountable bodies that will guarantee their respective £5m will be paid to Leicester City Council once received from central government. These will be required before the City Council enters into any binding agreements with Network Rail.

The City Council is also asked to underwrite the LLEP's own £3m contribution to the extent that the agreements with Network Rail are signed in advance of receiving the corresponding LGF through to 2019/20. This is considered to be very low risk, as there is no reason to believe that the multi-year allocations will not be honoured. However, in the event that LGF is not received, the City Council would look to apply other LLEP funds to meet the shortfall, for example retained business rates uplift or unallocated Growing Places Fund monies.

If the Executive does not give the necessary approvals, then the improvements are unlikely to proceed and the benefits would not be realised. In addition, the national and regional standing of the LLEP and the Council with regards to economic growth could be impaired.

#### **4. Details of Scrutiny**

None specifically.

#### **5. Financial, legal and other implications**

##### 5.1 Financial implications

This report is concerned with financial implications throughout, reflecting the Council's role as accountable body to the Leicester and Leicestershire Enterprise Partnership. As accountable body, the Council ultimately bears the financial and legal risks associated with the LLEP. This risk is mitigated through the LLEP being based within the Council, being subject to the Council's governance arrangements and through the LLEP's wider resources and expected future income streams. With regards to the specific proposals in this report, the Council's interests would also be protected by legally binding agreements with other statutory accountable bodies.

Colin Sharpe, Head of Finance, ext. 37 4081.

## 5.2 Legal implications

As the Accountable body, the Council is not required or under a duty to underwrite sums the LLEP commit prior to confirmation of government funding. However, it is acknowledged that there are commercial advantages and public benefits to doing so in order to secure the schemes outlined. The Council has underwritten projects previously, though this is a little more complex given the multiple LEP funding.

It should be noted that the Council will need to enter in to the Grant agreements with Network Rail in two capacities – as Local Authority underwriting the payment and as the Accountable body. Liability on the part of the Council not acting as the Accountable body will only arise in the event the LLEP does not receive the funding from central government.

As outlined in the report there will need to be an agreement entered into, with the relevant local authorities/accountable bodies securing the £10m underwriting from them in the event their LEP's do not get LGF funding. This will ensure the Council's total financial liability is limited to the £3m, with the additional £10m underwritten by us being secured from the other LAs/accountable bodies. It is advised that the £10m is underwritten on the condition we only pay it once received from the other LAs/accountable bodies to prevent the total sum falling to the Council. It is acknowledged this is worst case scenario, however as this is possible it is in the Council's interest to require this. It is also advised that this indemnity is extended to cover where we are not paid by their LEP. Whilst one and the same it will ensure that if, for whatever reason, we do not get their share of the LGF funding, the accountable bodies are required to ensure we are indemnified for the £10m as we will be required to make payment under the grant agreement.

There will also need to be an agreement with the accountable bodies to secure payment to the LLEP of the LGF monies from central government once received.

Any indemnities and restrictions will need to be mirrored in the grant agreement so as to reduce the risk to the authority.

There are potential issues raised with regards to state aid, therefore advice will be required on this from the solicitor acting for the LLEP.

Emma Horton, Head of Law (Commercial, Property & Planning) ext. 37 1426

## 5.3 Other Implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

None.

**6. Background information and other papers:**

None

**7. Summary of appendices:**

None.

**8. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?**

No

**9. Is this a “key decision”?**

Yes.

**10. If a key decision please explain reason**

Capital expenditure of over £1m is proposed on schemes not specifically authorised by Council (specifically the proposal that the Council should underwrite the LLEP’s £3m contribution to the improvement scheme).

It should be noted that LGF schemes themselves are however not classed as key decisions, where they meet the following criteria: *The scheme is not a city council sponsored scheme, is not to take place within the City boundary (unless sponsored wholly by another public body) and constitutes city council expenditure solely by virtue of the council receiving and disbursing external grant (including accountable body arrangements).*

It should also be noted that the Executive can vary and add to the LGF capital programme allocations as they are classed as a service resource (having been granted by the Government for specific purposes), and therefore are not subject to the £10m threshold above which Full Council approval is required for corporate resources.