

Special Urgency Decision

Report title	Bilston Road Improvement Scheme Payments	
Decision Maker	Special Urgency Decisions	
Cabinet member with lead responsibility	Councillor Steve Evans – Cabinet member for City Environment	
Wards affected	Bilston North, Bilston East	
Accountable Director	Stuart Everton Black Country Director of Transport	
Originating service		
Accountable employee	Stuart Everton	Black Country Director of Transport
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Recommendation for decision:

That the Leader of the Council, two cabinet members, and the Chair and Vice Chair Scrutiny Board formally authorise the following decision under the special urgency provisions at paragraphs 6.10 and 6.11 of the Council's Constitution:

That the Cabinet Member for City Environment, in consultation with the Black Country Director of Transport

1. Authorises CWC to send letters and Settlement Agreements to affected traders setting out the Full and Final value of compensation due and requesting their signature in return for payment.
2. Approve payments to those traders where settlement agreements have been certified, signed and returned totalling £46,991.41.
3. Approve a virement totalling £200,000 from Corporate Accounts to the Black Country Transport service to support expenditure arising as a result of the Bilston Road Financial Assistance programme.

4. Delegate authority to the Cabinet Member for City Environment, in consultation with the Director of Finance, to approve payments to traders when future settlement agreements have been signed and returned.

This is agreed by the following:

Leader of the Council

Cabinet member for Resources

Cabinet member.....

Chair of Scrutiny Board.....

Vice-Chair of Scrutiny Board.....

Dated – 30 March 2020

1.0 Purpose

- 1.1 The purpose of this report is to seek approval to offer financial assistance to the traders adversely affected by the Bilston Road Track Replacement scheme in 2017.
- 1.2 The report sets out the background rationale on why the scheme was established and quantifies the amount of compensation due based on the claims made to date.

2.0 Background

- 2.1 Bilston Road Track Replacement Scheme commenced in June 2017 and was undertaken by the Midland Metro Alliance on behalf of Transport for West Midlands. The track replacement started at the Royal Hospital running along Bilston Road until Stow Heath Lane.
- 2.2 During the construction period a number of local businesses were adversely affected by the works whereby their frontages were continually blocked. This resulted in traders raising complaints that business had significantly been affected by the works through a loss of income.
- 2.3 In addition, due to the works being essential maintenance the scheme was funded and commenced on site within 3 months. Due to the expedited nature of the works, very little preparation or engagement work was undertaken to ensure the traders could adequately prepare and forewarn their customers.
- 2.4 Over the last 2 years traders and local politicians have long campaigned for local businesses to receive compensation.
- 2.5 The City of Wolverhampton Council has helped secure access to a compensation scheme for businesses affected by the 2017 Bilston Road tram track replacement works.
- 2.6 Local councilors campaigned hard on behalf of the traders and made representation to the West Midlands Combined Authority (WMCA) Overview and Scrutiny Committee, which resulted in a series of recommendations that are now being put into force by Transport for the West Midlands (TfWM).
- 2.7 The scheme is aimed at affected businesses directly fronting Bilston Road between the Royal tram stop and Stow Heath Lane (including Chillington Street and Landport Road), who were trading for more than a year before the tram construction works started in June 2017 and have an annual turnover of less than £500,000.
- 2.8 RSM Accounting were appointed through a TfWM framework to act as the independent assessor on behalf of the City of Wolverhampton Council. A press statement was made in June 2019 along with a letter drop to businesses along the Bilston Road. Appendix A

and B provide a copy of the letter along with the map showing the area within which a business should be located in order to make a valid claim.

- 2.9 RSM have been tasked with assessing and validating the claims and then passing the final valuation onto the Council for payment.
- 2.10 Over the last 9 months, RSM have been the main point of contact for claims to be made by traders who think they have suffered a financial loss due to the construction works.
- 2.11 At the point of writing, RSM have received in the region of 20 claims, some of which have been discounted for a number of reasons including, not trading for more than 12 months prior to the start of the works or falling outside of the £500,000 turnover threshold.
- 2.12 Of the 20 claims received so far, RSM have now valued and certified 9 claims as detailed in the table below:

No.	Trader	Value
1	Bilston News and Booze	£1,631.00
2	Bridal Alterations	£1,091.00
3	Coffee Express Client	£2,077.00
4	DMM West Midlands Limited	£1,394.00
5	Pizza Dimonte	£5,315.80
6	Red Lion Pub	£2,631.00
7	The Army Depot	£15,640.81
8	Tin Centres	£17,047.00
9	News Shops	£163.80
Total		£46,991.41

- 2.13 RSM are still in the process of evaluating further claims. It is anticipated that the total value of the claims will not exceed £100,000. Cabinet approval is therefore sought to delegate authority to the Cabinet Member for City Environment, in consultation with the Director of Finance, to approve payments to traders when settlement agreements have been signed and returned.
- 2.14 Once settlement agreements have been signed and returned to the City of Wolverhampton Council a payment will be made in accordance with the recommended delegation above. This will be a full and final settlement and no further claims or payments will be considered for these works in the future

3.0 Reasons for Special Urgency

- 3.1 In the light of the current situation involving COVID-19 the Council has, as a result of the Government's decision on restriction of movement, taken the decision to cancel all physical meetings until at least **15 June 2020**. In the intervening period it will use the

Council's urgent action powers for any decisions that must be taken. These powers are to be used sparingly and the guiding principles for any decisions are:

- I. Only those decisions that have to be made (ie as a result of COVID-19 or related matters, including support of businesses in this difficult time or as a result of an immovable deadline) will be made
- II. The decisions will be made or endorsed (where the decisions have to be made very urgently) using the Urgent Action powers
- III. The decisions will be made available on a regular basis to Councillors through the daily update to Councillors and in any event through a weekly round up of the decisions made through the relevant pages on the Council's website so that the Public can access them

The relevant powers under the Constitution are:

Council Decision

6.10 Urgent Decisions outside the Budget or Policy Framework

An urgent decision which is contrary to the Policy Framework or budget adopted by the Council may be taken by the Cabinet if the Chair of the Scrutiny Board agrees that the decision is urgent. If no such Chair is available (or willing) then the Mayor or in his/her absence the Deputy Mayor may agree that it is urgent before a decision is taken.

6.11 Cabinet Decision

Where an urgent decision on a matter delegated to the Cabinet is required but it is not feasible to arrange a meeting of the Cabinet, the appropriate Director, in conjunction with the Head of Paid Service is authorised to take the appropriate urgent action provided that the action shall have first been discussed with and approved in writing by the Leader (or in the Leader's absence, the Deputy Leader) and two other Cabinet Members and the Chair and Vice-Chair of the Scrutiny Board or their nominees.

The written authorisation must include details of the proposal and the justification for the course of action. Expenditure must be within existing budgets. Any action taken under this rule must be reported to the next available meeting of the Cabinet for information. Such decisions will not be subject to the usual Call In procedures set out in Part 4, although they may be examined after implementation to determine whether the justification for the course of action was appropriate.

- 3.2 This proposed decision falls into the criteria for urgent decisions set out above. As detailed above the matters covered in this report are ones that do not have authority unless covered by this report and the Council is committed to take any steps that it can take to support businesses in the City.

4.0 Reasons for decision

- 4.1 The Council had agreed to support the traders adversely effected by the Bilston Road Track Replacement Scheme in light of there being no access to a standard compensation scheme.
- 4.2 There has been strong political support for Small or Medium Enterprises to be supported along Bilston Road as the majority of whom are sole traders and be compensated financially.
- 4.3 In light of the businesses not having access to a national compensation scheme, it was agreed to establish a local scheme that mirrors the national Guidelines. These guidelines are set out in the flow chart in Appendix C.

5.0 Evaluation of alternative options

- 5.1 The alternative is to delay payment until a formal meeting can be arranged, however in the current climate it is felt that we should seek to ensure that any payments due to businesses should be made as quickly as possible.

6.0 Financial implications

- 6.1 As detailed in Section 3 above, whilst a number of claims for compensation have been submitted and certified by RSM Accounting, a number are currently in the process of evaluation. It is anticipated that total claims for compensation could be in the region of £100,000. Furthermore, it is projected that professional fees to support this scheme could also be in the region of £100,000. Cabinet approval is therefore sought for a virement totalling £200,000 from Corporate Accounts to the Black Country Transport service to support expenditure arising as a result of the Bilston Road Financial Assistance programme.
- 6.2 Cabinet approval is sought to make payments to those traders where settlement agreements have been certified, signed and returned totalling £46,991.41, as detailed in the table above. In addition to this, Cabinet approval is sought to delegate authority to the Cabinet Member for City Environment, in consultation with the Director of Finance, to approve payments to traders when future settlement agreements have been signed and returned.
- 6.3 [MH/26032020/L]

7.0 Legal implications

- 7.1 To ensure payment is completed in line with the terms set out for compensation a Settlement Agreement has been drafted for each Business Owner. Each owner will be expected to review, sign and return the agreement which confirms all details are correct and any payment will be a full and final settlement of the matter.
- 7.2 Payment will only be made once signed agreements have been returned.

7.3 [DP/27032020/A]

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8.0 Schedule of background papers

8.1 There are no background papers relating to the Bilston Road Track Replacement scheme all associated papers are contained within the Appendices of this report.

9.1 Appendices

Appendix A – Letter to Traders

Appendix B – Bilston Road Track Replacement Map

Appendix C – RSM Compensation Scheme Flow Chart

Appendix D – TfWM Scrutiny and Overview Committee Report.