

## Minutes of the Meeting of the special meeting of the Communities Overview and Scrutiny Committee held on 15 March 2011

### Present:-

**Members of the Committee** Councillor Sarah Boad  
“ Richard Chattaway  
“ Jeff Clarke  
“ Barry Lobbett  
“ Phillip Morris-Jones  
“ Martin Shaw  
“ Ray Sweet  
“ John Whitehouse (Chair)  
“ Chris Williams

**Other County Councillors** Councillor Alan Cockburn (Portfolio Holder for Environment and Economy)  
Councillor Robin Hazelton  
Councillor John Vereker

**Officers** Dave Clarke, Strategic Director of Resources  
Graeme Fitton, Head of Transport and Highways  
Paul Galland, Strategic Director of Environment and Economy  
Chris Juckes, Head of Projects  
Ian Marriott, Community & Environment Legal Services Manager  
Ann Mawdsley, Principal Committee Administrator  
Michelle McHugh, Overview and Scrutiny Manager  
Roger Newham, County Transport Planner

**Also in Attendance:** Nigel Barr, Stradia Ltd  
Howard Blackmore  
David Draper, Long Lawford Parish Council  
Pete Horton, Rugby Advertiser  
Laura Payne, Rugby Observer  
Mike Whittingham

There were 12 further members of the public in attendance.

### 1. General

The Chair welcomed everyone to the meeting.

#### (1) Apologies for absence

An apology for absence was received on behalf of Councillor Mike Gittus.

#### (2) Members Declarations of Personal and Prejudicial Interests

None.

### (3) Chair's Announcements

The Chair set out the background to this meeting, the documentation that had been provided for Members and the structure the meeting would take. He noted that both Member and public questions received had been integrated under key themes.

## 2. Rugby Western Relief Road (RWRR)

The Committee considered the report of the Strategic Director for Environment and Economy setting out the Rugby Western Relief Road scheme history and outturn costs for the project.

### 2.1 Route Choice for Southern Section

Lead question: Mr David Draper

*"To learn lessons for the future one complete aspect is missing. We are all seeing the benefit of the whole scheme – the northern section from Newbold Road to Lawford Road is excellent but the southern section from Lawford Road to Potsford Dam is a disaster, destroying greenbelt land and unnecessarily costly. I shudder every time I drive down it.*

*The original consultation in 1998 had this section on the disused railway. This was agreed generally by all, including the land owners. There was a suggestion that Rugby Cement might reopen the disused railway. A revised plan was produced routing the road on greenbelt farm land. The land owners objected and this resulted in the first Public Inquiry in 2003. To many people's surprise the Inspector found in favour of the objectors and recommended building the Northern Section first and re-planning the Southern Section on the Railway.*

*In June 2004 a meeting of Rugby Area Committee of both Rugby County and Borough councillors rejected these proposals and pressed for a 2<sup>nd</sup> Public Inquiry, which was bound to cause extra delay and cost. I was present but the public were unable to speak.*

*As a Parish Councillor I represented Long Lawford at both Inquiries and we demonstrated that practically there was no prospect of re-opening the railway and this was accepted by both Inspectors.*

*Now that it is clear that there is no prospect of reopening the disused railway line does Warwickshire County Council regret being misled by Rugby Cement suggesting they might reopen the line and agree they should have investigated this more*

*thoroughly? This would have allowed the southern section to go on the route of the disused railway as agreed in the 1998 public consultation thus avoiding two Public Inquiries, about 6 years delay and traffic disruption and saving about 40 million pounds. Carillion would not have been involved.”*

Roger Newham responded by saying that the scheme referred to above had been in place in the late 1990s and was for a much shorter scheme than currently. The two changes that had brought about the change to the scheme were:

- i. The introduction of the Local Transport Plan by Government in 2000, which enabled Local Authorities to bid for funding, had influenced the County Council’s decision to achieve the full length of road in one go to Potsford Dam to divert traffic away from the Cawston Housing Estate.
- ii. Rugby Cement, under political pressure, had yielded to the idea of reopening the railway line in question to take trucks off the road network, which was a driver for moving the RWRR into the countryside. Rugby Cement had later decided reopening the line would not be economically justifiable for them and decided against this option. At this stage the County Council took the view that in line with their aspirations, they would preserve the possibility of the rail line being reopened at some stage in the future. Since then the ownership of the disused line has transferred to Sustrans, where it is held under a covenant by the Secretary of State limiting any use to rail or cycle routes.

He added that the combination of these events had increased the controversy surrounding the project, resulting in the need to have two public inquiries, causing further delay to the project. It was also noted that had the road been built along the railway line, this would have brought ecological and engineering challenges to the project.

Councillor Alan Cockburn, when asked if there was any political regret about the decision, in principle, not to use the disused railway line, stated that while this was an attractive idea at the time, this choice may not have been a cheaper option.

Follow-up question: Mr David Draper

*“Warwickshire County Council persisted in maintaining that there would be no cost saving in using the railway, but we can now see clearly the extra items of cost and the negative environmental impact of the greenbelt route:*

- 1) *Purchase of land*
- 2) *Extra earth moving and balancing ponds*
- 3) *Complex junction at Bilton Lane involving traffic lights, Pegasus crossing for horses, extensive street lighting (60 tall columns) and sound deflecting fencing. The new road would have gone under Bilton Lane using the existing bridge.*

4) *Special bridleway bridge near Cawston.*

*A rough estimate of these extra costs is £10 million.*

*What would have been the extra factors and cost of using the disused railway?"*

Roger Newham noted that potential differences in cost could only be speculation as the engineering and ecological difficulties on the railway line were unknown, but it was unlikely that there would have been a saving of £10m using the railway line. The cost of acquiring the additional land had not been high, but the impact of the intrusion into the land was understood.

In relation to the junction, Roger Newham noted that the existing highways needed to link to a new road scheme so there would still have been a junction at Bilton Lane to allow traffic from the Housing Estate to use the relief road, so either option would have required a junction.

During the discussion that ensued the following points were raised:

1. RWRR arose from Rugby's Local Plan adopted in the mid 1990s, which planned for major development and associated transport in Rugby. The cost of the original section of road planned was expected to be fully funded from the development, but this amount was insufficient to build the full length.
2. Rugby Area Committee had considered the project in great detail and were involved in the debate about reopening the disused railway. Roger Newham added that there was a considerable uncertainty regarding whether it was viable or not for Rugby Cement Works to reopen the line. Rugby Cement sought grants from Government to assist with costs, but they made a firm decision in July 2002 not to open the line. At that point the County Council had been working for two years on "off line" plans and a decision had to be made whether to start again or as a matter of principle to continue "off line" so that the future viability of the railway could be preserved. The County Council decided that it wished to preserve the route of the railway to allow for potential reopening even though it was known that there was no foreseeable prospect of that.
3. Roger Newham undertook to provide the costs involved in planning for work that was not carried out during the changes between 1998 and 2002.

The Chair thanked Mr Draper for his questions.

## 2.2 Procurement process and contract award

Lead Question: Councillor John Whitehouse

*“What is the evidence that a target price contract with early contractor involvement was industry best practice in 2003?”*

Graeme Fitton set out the background to The *Rethinking Construction* report produced by Sir John Egan in July 1998 aimed at raising standards in the UK construction industry, and a shift from an adversarial to a collaborative partnership approach to contracts. The NEC suite of contracts resulted and these were adopted by a large number of organisations including the Highways Agency and British Airports Authority, and were recommended by the Office of Government Commerce.

*“Were any senior-level meetings held with Carillion when they acquired Mowlem? What investigation of Carillion’s reputation/track record on ECI contracts was made by WCC, or assurances sought on continuity of staff?”*

Most of the project management team continued to work for Carillion for up to 18 months following the takeover of Mowlem, and meetings continued to be held at senior level during this period.

*“When making the decision to award the construction contract to Carillion in 2007 without competitive tendering, were the potential risks identified and balanced against the funding and member pressures mentioned in the report?”*

At the time of Mowlem’s buyout, Carillion was on Warwickshire County Council’s list of approved tenderers, which was produced in line with a robust process, covering areas including financial stability of an organisation and quality of submissions. In 2007 the County Council were already partners with Carillion in relation to a different contract and where the Council had a good working relationship with the company.

Graeme Fitton added that the risks considered at the time were all about price, and the target price submitted by Carillion in 2007 was independently verified by ARUP as a reasonable price. Member pressure at the time was in response to potential loss of Section 106 funding, continuity of contractual involvement, loss of time and high inflation, all of which it were real concerns.

Councillor Alan Cockburn was asked what decision might be made in future under similar circumstances. He stated that he personally did not favour target price contracts, and the risks involved with the RWRR, particularly in terms of the Western Coast Mainline and the Cemex quarries. He outlined the dates when overspends had been reported to the Cabinet and the

actions put in place. Paul Galland added that in circumstances where one company took over another during the build up to letting a contract, this involved risk and how that risk was dealt with was important. He noted that takeovers were a fact of life mentioning that Carillion also took over Alfred McAlpine in 2008. As the County Council moved forward it was important that both senior officers and Members were clear about every risk attached to a project and where there was a takeover involving a big project, there needed to be close scrutiny of the culture of the new company to allow a balanced decision to be made against the costs of a retendering exercise.

A discussion followed and these points were raised:

1. In response to a request for greater clarity about Member pressure, Graeme Fitton stated that a Notice of Motion had been made to Council in November 2006, and in light of the external pressures (loss of s106 funding, continuity of contractual involvement, loss of time and high inflation) and the delays that had occurred, it was clear that Members were keen to see the RWRR project start as soon as possible. Paul Galland stated that there was no evidence to suggest that Members had applied undue pressure on officers.
2. Reference was made to a scrutiny exercise that had been carried out by the former Environment Overview and Scrutiny Committee in 2005 to scrutinise the Highways Maintenance Contract with Carillion. It was agreed that the Chair and Party Spokespersons would look at the outcomes from this review.
3. In hindsight there was a lack of experience in relation to this type of contract, which was not uncommon at the time. The aim of this type of contract was to drive down costs by working in partnership and identifying where improvements could be made, but in order for this to work there needed to be close partnership and collaborative working.
4. The original tender (2003) had been for early contractor involvement with the expectation that if a reasonable price was submitted for the construction element of the contract, it would be awarded to that company. It would not have been possible at the stage of construction (2007) to have gone back to other companies who tendered originally, unsuccessfully as this would have been a fresh tender exercise. There were extensive legal requirements and strict qualifications to the tender process, which could result in penalties if not adhered to.
5. In response to a query regarding the level of expertise within the County Council to deal with contracts of this size, it was noted that there had been no contracts of this scale within the Directorate in recent times, although there had been other large projects, such as the Barford Bypass, which it was pointed out, had been completed on time and within budget.

Follow-up question: Councillor Richard Chattaway

*“What needed to happen to make a target price contract a success?”*

Graeme Fitton responded that while there were differing views in relation to Target Contracts, the key to the success of these contracts was the ability to keep targets ahead of implementation at all times. In the case of RWR, the large number of unvalued compensation claims had made it impossible to do this. He added that his opinion, repetitive contracts such as Highway Maintenance worked well as they involved repeat work year on year, but for one-off spot tenders, target contracts were less appropriate.

Follow-up question: Councillor Richard Chattaway

*“Who allowed the contractor to run the contract in a ‘traditional’ form, rather than the agreed ‘open book’ approach?”*

Graeme Fitton responded that two years after the takeover by Carillion (six months into the contract), the County Council were still working with the same project team and the expectation was that this would continue. When Carillion took over Mowlem, it could have been a positive step with the possibility of synergies due to the maintenance contract which could result in a reduction in costs. This had not materialised, and as soon as it became clear that there had been a change in culture back to an adversarial approach and once the extent of the compensation events began to materialise, CAL and then Stradia were brought in to review the contract and provide commercial support respectively.

In response to a question put forward by Mr Howard Blackmore, it was confirmed that the signed contract between Warwickshire County Council and Carillion defined the scope of work and the completion date for the project.

### 2.3 Contingency

Lead Question: Councillor Richard Chattaway

*“The level of contingency allowed in the estimate for this project was low, and with hindsight should have been much higher. How was the level of contingency decided? What justification was there for such a low contingency? Why were no additional contingencies put aside for the obvious risks relating to Network Rail?”*

Graeme Fitton acknowledged that, in hindsight, the contingency in the order of 2% of the total budget had been too low, but even the 10%

suggested in the CAL report would not have been enough for the RWRR. This was an exercise that was carried out on an evaluation of the risk and there had been an expectation that incentives for the target contract would lead to it being brought in below the independently verified target.

Lead Question: Councillor Richard Chattaway

*“Higher contingencies will reduce the number of projects that can be included in capital programmes. From the lessons of this project, what is an appropriate level of contingency and was the County Council satisfied that the risk and contingency levels were right?”*

Paul Galland noted that there was always tension around the capital programme with Members looking to achieve as much as possible for their communities. He added that there needed to be an evaluation done, setting out a financial cost to all risks identified to a project. This involved a certain amount of estimation in identifying an appropriate sum, and it was agreed that in the future, for larger projects, there needed to be closer working between Members and officers to assess the risk around major capital programmes and to agree an appropriate level of contingency.

During the ensuing discussion the following points were raised:

1. Extensive discussions had taken place with Network Rail around possession of the track and progress, resulting in greater flexibility and opportunity for work to be progressed on the RWRR. However, in January 2008 Network Rail experienced problems with operations and the West Coast Main Line, resulting in a change to shorter possession and in some cases no possession.
2. During the life of major projects, the risk register needed to be constantly reviewed and updated, and where appropriate, contingencies adjusted to an equivalent level, but it was noted that there was no realistic, foolproof way of assessing risks to any major project.
3. The capital programme was flexible and Members could decide to increase the resources available if they chose to. There was no implicit pressure to understate costs, but there was implicit pressure to get costs as close as possible to the final costs.
4. At the time that Carillion took over the contract, some Section 106 funding had already been lost, partly due to delays, and the Council stood to lose a considerable amount if the project did not move forward.
5. At the time the original contract was let, best practice was sourced in terms of the type of contract and the industry generally. It was also confirmed that a risk register had been



produced, quantified and valued, although in hindsight this was lower than it should have been.

## 2.4 Design

Lead Question: Councillor John Whitehouse

*“Why was construction started before design of major project elements had been completed (e.g. Cemex tunnel, street lighting, traffic signs etc)?”*

Graeme Fitton confirmed that the main reason for progressing the scheme without a complete design had been to avoid further delay with the risk of loss of significant Section 106 funding. He confirmed that this was common practice in the industry, and this would happen with an identification of the risks involved and judgement made on a realistic value of the risk.

Follow-up question: Councillor Richard Chattaway

*“Did we prepare well enough in terms of design before letting the contract and what are the lessons to be learnt from our approach towards design work on this contract?”*

The bulk of design was complete before the contract was let. At the start of the contract, for a few elements of the project that were not fully designed (e.g. street lighting) and an estimate of cost was prepared for these. It was acknowledged that in areas such as street lighting, a more complete design would have produced a more realistic cost, but timing was crucial and these savings had to be offset against potential loss of external funding.

Second follow-up question: Mr Howard Blackmore

*“Are specific design elements of the road appropriate?”*

*Street lighting – What criteria was used to identify those roads where street lighting would be installed and those that were deemed rural and did not require street lightening?*

*Fencing - Why is the fencing adjacent to the gates approx 600/900mm higher as each timber post has a metal inward facing cranked arm fixed, with 2 No strands of barbed wire running through these cranks parallel with the fence rails?*

*Notwithstanding that acoustic fencing has been installed at the Bilton Road junction to mitigate the effect of traffic noise on adjacent properties, at the Eastern side between the road and those properties is the line of the old disused railway line, in a cutting, with much dense and overgrown woodland/bushes. Does that not act as a screen against traffic noise? And*

*regarding the acoustic fence on the other side of the road – what research was carried out to ascertain what the effects of traffic noise would be on the very few properties there?*

Footpath – *Why is the footpath just Northwards of the Cawston Island crossing the road by a bridge?*

Roger Newham stated that decisions and investments in the scheme, in terms of areas such as street lighting and footpaths were made in line with design standards, County Council policy and in response to issues that arose from the public inquiry.

During the discussion that followed, these points were noted:

1. In response to a comment regarding the original contract, which must have required the contractor to submit a realistic estimate in order to be awarded the contract, which was subsequently not borne out by the level of compensation events, Graeme Fitton drew Members' attention to 7.5 of the report, stating that an investigation into the design errors was underway. He added that the CAL report referred to the incomplete nature of the traffic sign designs, rather than errors in design. Ideally, and in future contracts, as much design as possible needed to be done before a contract was let.
2. In response to concern raised regarding the Committee making judgments on the CAL report alone, Paul Galland noted that this report had been commissioned at a time when many of the compensation claims had not been costed. Appendix B to the Strategic Director's report contained more up to date information and was therefore more accurate.
3. The fundamental review that was taking place in response to events that had occurred with the RWRR would shape services and design of services in the future.

## 2.5 Project Management

Lead Question: Councillor Richard Chattaway

*“Does WCC have sufficient capacity and skills for managing major projects in the future?”*

Paul Galland noted that while there was a lot of capacity and skills within the organisation, this did not all have to be in-house and external experts could be called upon when appropriate and in relation to RWRR specifically, the input of commercial skills would have been invaluable. He added that all major projects should include a full skills analysis to identify the best people for the project management team and the appropriate resources, and once identified, this project management team should be released from their day job roles in order to manage the project full time or as needed.

Further Question: Councillor Richard Chattaway

“Why were no efforts made to mitigate the rising costs when they were first noticed?”

Councillor Cockburn stated that as soon as the overspend was identified in the summer of 2008 this was brought to the attention of the Strategic Director and the Portfolio Holder and an internal review was carried out. It was noted that much of the overspend at this time was as a result of the problems experienced by Network Rail over the Christmas 2007 and into January 2008. A report was then taken to the Cabinet in the early autumn of 2008 and Internal Audit was brought in late autumn 2008 and a Systems Project Team put together to review the situation.

First Follow-up Question: Councillor John Whitehouse

*“Does WCC accept the CAL view that insufficient staff resources were provided by the Council particularly during the early stage of construction to deal with design issues and compensation events?”*

Paul Galland responded that at this stage the County Council were still operating on the basis that the client and contractor were working together to identify efficiencies and drive down costs and that as soon as they became aware of the issues arising, more resources were put in. So from that point of view, the report reflected an accurate picture.

Second follow up question: Mr Mike Whittingham

*“In Paragraph 6.8 of the main report it states that 'CAL have said that it is impossible, even with the benefit of hindsight, to link conclusively any of the problems ..... to what they consider to be weaknesses in control exercised by the Strategic Management Board (SMB)'*

- *How does the report come to this conclusion as the CAL report does not make that reference? Is it not a more accurate statement, given the majority of the statements in the CAL report are damning to the project management and refer in places specifically to the SMB'?*
- *Would WCC accept that gross mismanagement of the project is a prime cause of the overspend?”*

Paul Galland made reference to the acceptance in the report that there were areas that could have been handled better, but that the majority of the increase in costs had been out of the control of both the County Council and Carillion, as evidenced in the report. He added that every effort had been made to bring costs under control, including bringing in

experts to help and disputing the value of compensation claims where appropriate.

The following points were discussed:

1. When asked if Prince2 Project Management was followed as a rule by WCC, Paul Galland noted that with major projects every effort was made to followed Prince2, but that this was a bureaucratic and time-consuming process and therefore not always suitable, especially for smaller projects, but WCC had a methodology for this. There were currently sufficient officers trained in Prince2, but as these officers left the authority, more people needed to be trained. It was agreed that Members needed to play a more active role on Project Boards and should be trained in Prince2 for that purpose.
2. In response to comments relating to the failures of management, and specifically the SMB, it was noted that during the period from spring 2006 to November 2007 when the SMB were not meeting , meetings of the internal project management board were taking place. In the future there needed to be more emphasis placed on project governance and risk management.
3. Members acknowledged that consultant reports could interpret situations in a specific way and it would be useful to know what areas of the CAL report were deemed not to be accurate and if these areas could be presented in a tabulated form for easy comparison.
4. Councillor Ray Sweet, stated, that in his experience as a mining engineer, the issues that had arisen on site in terms of the retaining wall, tunnel sewerage etc had been extremely difficult engineering conditions that had been unavoidable.

## 2.6 Project Governance

Lead Questions: Councillor Richard Chattaway

*“Was the governance of the project adequate?”*

Paul Galland acknowledged that in hindsight, there was an issue with the project governance and that in the future major projects more senior officers and elected Members should be involved. RWRP did not initially have a Project Governance Board, which would have enabled greater challenge to the Project Management Team and in particular, greater focus on risk.

*“Should elected Members be on Project Boards for all future major schemes?”*

Paul Galland noted that while briefings had been held with the Portfolio Holder, that a formal governance team, including Members, should be in place for all future major schemes. Councillor Alan Cockburn stated

that historically the Cabinet had not been involved in this level of management, but that Paul Galland had encouraged Councillor involvement on governance teams.

*“The report refers to discussions between the Strategic Management Board and the Contractor to resolve the ‘relatively few compensation events that account for 80% of the increased costs’. What were the outcomes of these discussions?”*

Paul Galland stated that the point of bringing Stradia in, with their commercial expertise, was to deal with Carillion on issues that had been identified in the CAL report. Nigel Barr, Stradia Ltd noted that Stradia had become involved in January 2010 to look at the number of unresolved compensations against the costs incurred. Stradia had taken 8-9 months to pull together targets and costs to put the accounts in good order, to be in a position to sort out issues.

During the ensuing discussion the following points were noted:

1. A question was put to officers and the Portfolio Holder, asking who was making decisions during the period that the SMB was dormant. Graeme Fitton noted that during this time feedback was being received from the Project Manager, who also reported into the two monthly meetings of the Warwickshire Engineering Board. This in turn led to Cabinet reports in the spring and winter of 2007. Concern was expressed that once the contract was let, there was a period of one year before the Cabinet were made aware of the financial issues. Paul Galland confirmed that there had been no indication prior to June 2008 that there were major financial problems with the project.
2. There had not been any criticism at any time of the management on site.
3. While the original contract type was a contributing factor to the increasing costs, this had not been the only factor.

## 2.7 Risk Management

Lead Questions: Councillor John Whitehouse

*“Why did work on developing a comprehensive risk register not continue beyond 2006?”*

Paul Galland noted that at the time of the RWRR contract was let there was a structured approach to risk registers and when CAL came in they had taken a very strict and structured view of what the process should have been. He added that whilst there had been a risk assessment process undertaken there was a need for a more dynamic approach to updating and costing risks. How to dynamically value

commercial risks was not well understood across the public sector and was a big issue for Local Authorities.

*“Did some E&E officers not accept the CAL report criticism of the risk management process? Has the Strategic Director now achieved staff “buy-in” for a more structured approach in future?”*

Roger Newham pointed out that during the period of the RWRR contract, 60 meetings took place around the management of risk. The CAL report raised issue with the way these meetings were documented. Paul Galland added that there needed to be an ability to put a financial evaluation on risk to achieve a clear understanding about the way a contract was developing, and that there would always be room for error in this process. Paul Galland added that he did believe there was ‘buy in’ for a more structured approach in future.

First follow-up question: Cllr Chattaway

*“Why was it deemed acceptable to take a retrospective / reactionary approach to risk, as opposed to a proactive/ preventative approach? Has WCC now changed its approach to risk management to prevent future failures?”*

Graeme Fitton noted that the majority of risks referred to had been included, but in hindsight the value of these had been underestimated. An example of this was Network Rail, where dozens of meetings had taken place to agree possessions and it was thought that the risks had been assessed realistically, until the exceptional happened. It was noted that there needed to be a balanced approach to assessing risk, as the contingency costs to cover “the worst scenario” would mean most projects would be considered too expensive.

*“What lessons on risk management need to be learned by WCC corporately as a result of the project?”*

Paul Galland reported that senior management had been kept up to date on the contract and once issues had been identified, and advice had been sought from the Strategic Directors for Resources and Customers, Workforce & Governance. He added that there was no formal mechanism in place for SDLT (Strategic Directors Leadership Team) to formally automatically monitor the progress of major projects as a programme. It was suggested that in the future SDLT should be part of the monitoring and appraisal processes of all major projects.

A discussion followed and it was noted:

1. It was agreed that design work needed to be completed as much as possible before the project started, and where this was not possible, risks needed to be identified and a contingency put in place. It was noted however that the Council had ultimate

control for signing off contracts and there was a limited capital programme for the county. Paul Galland stated that officers would not bring in unrealistic costs to ensure contracts were agreed.

2. The scheme had not been ill-prepared and every effort had been made to identify risks, particularly in relation to Network Rail and the Utility Companies, and in both instances costs had increased substantially.
3. At the Early Contract Involvement Stage, the County Council had worked with the contractor to iron out risk, in line with the principles of early contractor involvement target contracts.

## 2.8 Network Rail and public utilities

Lead question: Mr Howard Blackmore

*“Were any agreed times/ durations/days when access would be given agreed in writing with Network Rail when Carillon would be able to mobilise to carry out specific defined works? Were they adhered to by Network Rail? If not, has a counterclaim been agreed with them for the Breach of Contract?”*

*Notwithstanding the contractual value of the bridge works agreed with Carillon, what additional monies have had to be paid to Carillon within their agreed Final Account to cover the costs they incurred which were not provided for within their contract with the Council to construct the bridge? (uneconomical working etc)*

*By how long was the road works completion extended due to the delays in completing the bridge due the lack of access? And what costs have the Council incurred? (staff/site/accommodation/ etc costs?)”*

Roger Newham responded that the County Council has to negotiate with Network Rail, under the terms of a national agreement negotiated between the Local Government Association and Network Rail. This national agreement requires the County Council to accept all risk associated with the contract, other than negligence. Councillor Alan Cockburn noted that he had lobbied local MPs to have this changed, so that Network Rail could no longer act with impunity.

First Follow-Up Question: Councillor John Whitehouse

*“Should WCC have anticipated the level of inaccurate information from the Public Utilities and the impact on PU diversion costs (+78%, +£2.7m)?”*

Roger Newham stated that the scale of this problem for the County Council was exceptional but that in hindsight, a higher level of contingency should have been allowed for risk. Paul Galland added that until this issue was addressed nationally there was no incentive on the utility companies to “get their house in order”.

Second follow-up question: Cllr Chattaway

*“WCC has incurred substantial costs as a result of acts and omissions by these bodies. We have no comeback on them as the law and national agreements stand. Is this something that WCC should take up at national level?”*

Members agreed that a letter should be sent to the Secretary of State, copied to local MPs lobbying this point, and that, where possible, other Local Authorities should be invited to sign this letter.

## 2.9 Value for money

Lead question: Councillor John Whitehouse

*“Early analysis of the new road points to a cost-benefit ratio of 4.5:1, supporting the claim that it represents good value for money even though costing far more than originally budgeted. However, many other worthwhile and valuable projects across the county have had to be cancelled or deferred to fund the budget overrun. Would the Portfolio Holder still recommend the project today at a total cost of £60.5 million?”*

Councillor Alan Cockburn responded that had the cost to the County Council been known at the time, he would not have recommended the project go ahead, but in terms of the value for money the completed project represented, he would have recommended the project. Roger Newham added that if the project had been ready for submission to the Department for Transport at 4.5:1, there would have a good chance that funding would have been given. In that sense the project represented high value for money and would still stand up to scrutiny. Paul Galland pointed out that these types of projects could not be fully funded by DfT any longer.

A discussion followed and the following points were raised:

1. In response to a query relating to what attention was being given to the rest of the road system in Rugby and in particular road surface and layout of roads linking the RWRR to the town centre, Graeme Fitton noted that priority routes would continue to be maintained. He undertook to provide to the Committee, a copy of the maintenance plan for Rugby roads.



2. Value for money was estimated using the formula used by the DfT. It was thought that while better value for money could have been achieved, feedback from the local community had been extremely positive.
3. The overspend would delay the capital programme, and whilst other projects would be delayed they need not be lost as a result.
4. Councillor Chris Holman (Rugby Borough Council) asked whether there had been an objective assessment of the completed road and whether the expected reduction in motor vehicles and lorries had been achieved. Roger Newham noted that the reduction in traffic flow was broadly in line with predictions, as shown in the following examples:
 

Main Street, Bilton	24% reduction
Bilton Road (near LIDL supermarket)	27.8% reduction
Newbold Road	15.7% reduction.

 He added that these figures were from October 2010 and that usage of the RWRR was expected to have increased significantly since then.

## 2.10 Wider lessons for the Council

Lead question: Councillor John Whitehouse

*“Has WCC accepted the CAL recommendations on risk management and project governance (paras 8.15 to 8.22 of CAL report), and the Stradia outline advice for future contracts (para 8.5 of main report)? How will this good practice be embedded in the policies and procedures of the Council?”*

Paul Galland noted that some of the recommendations in the CAL report had been related to ongoing issues at the time, and therefore that there was expected to be greater value on the findings on contract and commercial issues that would be in the Stradia report, which was expected this week.

Nigel Barr, Stradia Ltd noted that the draft of the report was ready to be shared with the County Council and set out the following headlines from the report on lessons to be learnt:

### Areas that had worked well

- This was an extremely complex project, involving difficulties encountered with Network Rail
- The difficulties anticipated by ARUP and others were overcome faster than planned
- The quality of construction work was good, with only a few defects identified on handover

- The accounts were settled quickly, which was difficult to achieve with more commercial contracts.
- There had been good liaison with local businesses and schools with no antagonism.

#### Areas needing improvement

- There needed to be greater clarity of project objectives and a better understanding of what was meant by value for money in terms of specific projects.
- There was not enough design certainty at the onset of the project.
- Greater involvement with contractual partners was needed.
- There needed to be a clearer strategy for interface with other partners such as Network Rail.
- With target contracts, which were cost reimbursable, cost management needed to be more rigorous with more involvement from the Authority to ensure there was one set of numbers and not two.
- A robust reporting system needed to be in place, to allow for early alarm bells and an opportunity to take out “nice to haves” if necessary.
- There needed to be collaborative risk management from inception of the project, through all stages, including contractually, early warnings and good financial management systems to deal with cost overrun.
- There needed to be a more integrated team in terms of management and decision-making.
- The authority needed greater power with governance in place to drive performance and monitor against KPIs.
- There needed to be more robust budget management.
- There needed to be more rigorous change control to allow for adjustment of the target where there was change.
- In terms of compensation events, costs had to be monitored against targets to enable true measurement in a commercial sense.
- The level of skills and resources was underestimated, which was a problem most Local Authorities struggled with.

During the ensuing discussion the following points were noted:

1. The register of approved contractors needed to be maintained and limited to companies with the following:
  - a high standard of performance
  - a record of completing contracts
  - a record of not overrunning costs
  - an acceptable, reasonable level of contract risks
  - a no previous involvement in any discreditable conduct in preparing tenders.

#### **Recommendations**

The Committee concluded that the delays and overspends of the project were not attributable to a single cause, but were rather the result of multiple factors and systemic failure. The Committee identified a number of lessons that need to be learnt for future projects, recommendations were likely to include:

1. Ensuring that both senior officers and Members were clear about every risk attached to a project and where there was a takeover involving a big project, there needed to be close scrutiny of the culture of the new company to allow a balanced decision to be made against the costs of a retendering exercise.
2. There needed to be closer working between Members and officers to assess the risk around major capital programmes and to agree an appropriate level of contingency.
3. In future contracts, as much design as possible needed to be done before a project was let.
4. Major projects should include a full skills analysis and identify any gaps in the internal skill base, where external experts maybe required. Officers selected to manage projects should be release from their role to work on a project full time.
5. Need to ensure an appropriate level of officers were fully trained and experienced in using Prince2 and that Prince2 training should be available to members to enable member to play a more active role in major projects
6. More emphasis needs to be placed on project governance and risk management, a Project Board should be established and meet regularly throughout the lifetime of a project.
7. Identifying and costing risk needs to be better managed.
8. In the future SDLT should be part of the monitoring and appraisal processes of major projects.
9. A letter should be sent to the Secretary of State, copied in to MPs lobbying for a change to statutes and agreements that allow Network Rail and utilities, to generate costs for local authorities, and that, where possible, other Local Authorities should be invited to sign this letter.

Members agreed that the issues highlighted during the meeting should form the basis of a draft report to be considered by the Chair and Party Spokesperson. A series of recommendations, agreed by the Committee, would then be made to the Cabinet or Council, informed by the final version of the Stradia report. The Chair noted that this would be a public report.

The Chair thanked Members, officers and members of the public for their contributions

.....  
Chair

The Committee rose at 2:55 p.m.