REPORT OF THE SERVICE DIRECTOR OF HIGHWAYS AND TRANSPORTATION

1. Purpose of Report
1.1 To update Scrutiny Committee on further progress of this Scheme since the last update report of 6 October 2004.

2. Summary
2.1 The Upperton Road Viaduct Major Scheme Bid received provisional approval by the Department for Transport (DfT) in the sum of £19.1m in December 2003. Full approval will be granted when all statutory processes are completed including planning permission and side road order (for the stopping up of Western Road), required land is secured and the necessary agreement for liability for the existing structure is reached with Network Rail.

2.2 The scheme is progressing to programme and budget and Edmund Nuttall Ltd have been appointed as “Early Contractor Involvement” Works Contractor.

2.3 The Development Control Committee granted planning permission for both the temporary road and permanent works applications on 21 June 2005.

2.4 The project has been awarded “Constructing Excellence Demonstration Status”.

2.5 Cabinet approved the declaration and making of Compulsory Purchase Order (CPO), for securing the land and rights necessary to carry out the scheme and Side Roads Order (SRO), for the stopping up of Western Road at it’s meeting on 13 June 2005.
3. **Recommendations**

3.1 It is recommended that:-

1. The project progress and timescales are noted.
2. The Scrutiny Committee continues, at key milestones of the project, to receive further update reports.

4. **Financial and legal Implications**

4.1 **Financial Implications**

4.1.1 The scheme has received a provisional approval of £19.1m in December 2003 with full approval subject to statutory processes being completed. In 2005/06, £575,000 has been allocated to cover the cost of preliminary design, planning applications and associated activities to facilitate application for full approval. 40% of this is to be funded from the Transport Capital Maintenance Programme and 60% from prudential borrowing as approved by Cabinet at its meeting on 7 March 2005.

Paresh Radia, Team Leader, Financial Strategy – 1 August 2005

4.2 **Legal Implications**

4.2.1 The appointment of Edmund Nuttall Ltd as “Early Contractor Involvement” Works Contractor has been made from a select list drawn up in accordance with the Council’s Contract Procurement Rules and European Procurement Rules.

Jean Geary, Principal Contracts Officer – August 2005

5. **Officer to contact:**

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FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Highways and Transportation Scrutiny Committee 7 September 2005

UPPERTON ROAD VIADUCT – SCHEME UPDATE

Report of the Service Director of Highways and Transportation

SUPPORTING INFORMATION

Report

1. Background

1.1 Following approval by Cabinet on 21 July 2003 the Upperton Road Viaduct Major Maintenance Scheme Bid was submitted to the Department for Transport (DfT). The bid identified option C (replacement of the old viaduct with new road on the same line) as the preferred option.

1.2 The bid received provisional approval in December 2003. This was the largest maintenance scheme awarded in England by the DfT for the financial year 2004/2005.

1.3 Full approval will be granted when all statutory processes are completed including planning permission and side road order (for the stopping up of Western Road), required land is secured and the necessary agreement for liability for the existing structure is reached with Network Rail, together with a successful outcome following any public inquiry that may be necessitated as part of the compulsory purchase order (CPO) process. Only at this stage (full approval) will scheme funding be released by the DfT.

1.4 Cabinet approved a sum of £575,000 on 7 March 2005 to enable the preliminary design, planning application and associated activities to facilitate application of full approval. 40% of this is to be funded from the Transport Capital Maintenance Programme and 60% from prudential borrowing. A proportion of the bid preparation costs will be recoverable from the DfT
following full approval, which will be repaid into the Capital Maintenance Programme.

2. Progress

2.1 The following key issues have been achieved since the last progress report to Scrutiny on 6 October 2004:

2.2 Under delegated authority the Service Director, Highways and Transportation has approved the appointment of Edmund Nuttall as the "Early Contractor Involvement" Works Contractor in the target sum of £7,725,585.50. The lead Member for Highways & Transportation endorsed this decision on 11 May 2005.

2.3 An effective partnership approach to delivering this project has been established between the key project participants, i.e. Leicester City Council, Jacobs Babtie (Engineering Design Consultant) and Edmund Nuttall Ltd (Early Contractor Involvement Works Contractor) and the scheme is progressing to programme and budget.

2.4 Following a concerted effort by the project team the following planning applications were submitted at the end of January 2005:

Temporary Scheme: Demolition of workshops on Western Road, construction of a temporary highway, including temporary bridge over Old River Soar and demolition of Upperton Road Viaduct (planning application reference 2005 0106).

Permanent Scheme: Replacement of Upperton Road Viaduct with an at-grade highway including a new bridge over the Old River Soar and a high quality pedestrian/cyclist crossing facility at Great Central Way junction (planning application reference 2005 0107).

A planning exhibition was held at the Leicester Rowing Club during the week commencing 7 February 2005. Details of the planning applications were made available together with large-scale display drawings and small-scale reference drawings. A 3D computer simulation model illustrating the construction sequence was explained for the benefit of the visitors.

A small-scale exhibition with display boards was also provided at the Customer Services Centre B Block during the week commencing 14 February 2005.

The Development Control Committee granted planning permission for both applications on 21 June 2005.

2.5 The creative and innovative approach taken by the project team in delivering the scheme has been recognised by the East Midlands construction industry and other local government peers and has been awarded “Constructing Excellence Demonstration Status” by Constructing Excellence in the themes of
procurement, team working, sustainability, social responsibility and managing value.

Constructing Excellence is a national organisation supported by the Department for Trade and Industry, which aims to achieve a step change in construction productivity by tackling market failures in the sector and selling the business case for continuous improvement. Officers are now involved in sharing and disseminating this best practice with other local government organisations.

2.6 Cabinet approved the acquisition of land and rights by negotiation, prior to the Compulsory Purchase Order (CPO) being confirmed at its meeting of 27 September 2004. Since that meeting the Council has acquired one of the five major interests required.

Negotiations are continuing with affected parties, however, it is unlikely that all will reach a successful conclusion. The only way to ensure certainty in securing all the interests required for this scheme is to undertake a CPO, which can be used as a last resort to acquire outstanding interests. The use of a successful CPO should enable the proposed development to proceed within a definitive timescale. It should also be noted that the confirmation of a CPO can also add impetus to secure negotiated settlements, as it brings certainty to the acquisition process.

Cabinet approved the declaration and making of CPO, for securing the land and rights necessary to carry out the scheme and Side Roads Order (SRO), for the stopping up of Western Road, at its meeting of 13 June 2005.

If the Council has to rely on the CPO to acquire any of the interests required and/or there a significant objections to the SRO, it could delay the proposed start date of May 2006. It is very hard to ascertain how long it takes to obtain a confirmed CPO as the length of time to get a public inquiry and then to receive the final report are in the sole control of central government departments. A delay of 9 months on the anticipated start date can be expected if the Council has to rely on CPO Powers.

2.7 The following table illustrates the remaining key project milestones based upon a public enquiry not being required, i.e. all interests are acquired by negotiation and there is not significant objection to the SRO order.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Latest Completion Date</th>
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<tbody>
<tr>
<td>Planning Permission</td>
<td>July 2005</td>
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<tr>
<td>Design development &amp; documentation</td>
<td>September 2005</td>
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<tr>
<td>Detailed design &amp; documentation</td>
<td>October 2006</td>
</tr>
<tr>
<td>Construction (Start Date 1 May 2006)</td>
<td>December 2007</td>
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</table>
2.8 Negotiations are continuing with Network Rail to seek agreement for the liability of the existing structure, together with work associated with identifying and valuing the land interests.

2.9 Preliminary work associated with diversion of statutory undertakers equipment and ground investigation surveys are also in progress.

3. Conclusion and recommendations

3.1 It is recommended that: -

1. The project progress and timescales are noted.
2. The Scrutiny Committee continues, at key milestones of the project, to receive further update reports.

4. Financial, Legal and Other Implications

4.1 Financial Implications

4.1.1 The scheme has received a provisional approval of £19.1m in December 2003 with full approval subject to statutory processes being completed. In 2005/06, £575,000 has been allocated to cover the cost of preliminary design, planning application and associated activities to facilitate application of full approval. 40% of this is to be funded from the Transport Capital Maintenance Programme and 60% from prudential borrowing as approved by Cabinet at its meeting of 7 March 2005.

Paresh Radia, Team Leader, Financial Strategy – 1 August 2005

4.2 Legal Implications

4.2.1 The appointment of Edmund Nuttall Ltd as Early Contractor Involvement (Works Contractor) has been made from a select list drawn up in accordance with the Council’s Contract Procurement Rules and European Procurement Rules.

Jean Geary, Principal Contracts Officer – August 2005

5. Other Implications

<table>
<thead>
<tr>
<th>OTHER IMPLICATIONS</th>
<th>YES/NO</th>
<th>Paragraph Within Supporting Information</th>
<th>References</th>
</tr>
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<tbody>
<tr>
<td>Equal Opportunities</td>
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<td>Policy</td>
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<td>Sustainable and Environmental</td>
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<td>Crime and Disorder</td>
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<td>Human Rights Act</td>
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<tr>
<td>Elderly/People on Low Income</td>
<td>YES</td>
<td></td>
<td>This major scheme requires all these issues to be addressed as part of the development programme.</td>
</tr>
</tbody>
</table>

6
6. **Background Papers – Local Government Act 1972**

- Report to Cabinet - Upperton Road Viaduct Major Scheme Bid Proposal – July 2003
- Report to Cabinet - Upperton Road Viaduct – Purchase of Land In Advance – September 2004
- Report to Leisure & Environment Scrutiny Committee – Upperton Road Viaduct – Scheme Update – October 2004
- Report to Cabinet - Transport Capital Programme – March 2005
- Briefing Note for Lead Member for Highways & Transportation – Upperton Road Viaduct Construction Contract – May 2005
- Report to Cabinet - Use of Compulsory Purchase Powers – Upperton Road Viaduct – June 2005
- Upperton Road Planning Applications reference 2005 0106 & 2005 0107, Development Control Committee, 21 June 2005

7. **Consultations**

Nick Booth, Principal Accountant – Financial Strategy, RAD
Alan Tomlins, Head of Finance, R&C
Jean Geary, Principal Contracts Officer– Legal Services, RAD
Joanna Bunting, Assistant Head of Legal Services, RAD
Viv Bolland, Corporate Procurement Officer, RAD
Gary Scott, Transport Strategy, R&C
Satish Shah, Highways Strategy, R&C

8. **Risk Assessment Analysis**
None, other than those cited in the above reports.

9. **Officer to contact:**

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