From:	Peter Osborne, Cabinet Member for Highways and Transport Simon Jones, Corporate Director for Growth, Environment and Transport
To:	Growth, Environment and Transport Cabinet Committee - 7 July
Subject:	Decision Number: 26/00035 Dover Border Access Improvement Project

Key decision: Yes
Classification: Part 1 – Main Report - Unrestricted
Part 2 – Exempt (Appendices C and D) – Section 12A of the Local Government Act paragraphs 3 and 5.

Past Pathway of report: None

Future Pathway of report: Cabinet Member Decision

Electoral Division: Dover Town – James Defriend
Dover Town – Albert Thorp

Is the decision eligible for call-in - Yes

Summary: The Dover Border Access Improvement Project (DBAIP) aims to deliver improved capacity and sequencing of the outbound border controls for traffic headed to Europe through the juxta-posed border. The benefit of the project is the potential reduced requirement for traffic management on the highway network external to the Port. This will help support local journeys, the quality of life for residents and support local businesses and the visitor economy. The project will be funded by a government grant once government makes a final decision, made to Kent County Council from the Levelling Up Fund and provided as a subsidy to Dover Harbour Board who will also contribute their own investment towards total project costs.

Recommendation(s):
The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways and Transport on the proposed decision as set out in Appendix A.

1. Introduction

1.1 Kent County Council (KCC) submitted a successful bid in August 2022 to the Levelling Up Fund round 2 (LUF2), for the purpose of improving Port of Dover border controls to reduce on-highway congestion, queuing and the need for traffic management. Details on the basis for that bid were provided to the Environment and Transport Cabinet Committee (ETCC) in September 2022. The proposal is known as the Dover Border Access Improvement Project

(DBAIP), having previously been reported to ETCC under the name “Dover Access Improvements”.

1.2 The proposal is seeking to utilise a £20m grant from the Levelling Up Fund (LUF) to support delivery of the project that will be constructed by the Port of Dover’s contractors. The remainder of project cost further to the grant will be met by the Dover Harbour Board. The LUF grant funding was originally planned to be provided to KCC at the beginning of the 2025/26 financial year, however this was delayed whilst further project design and development occurred.

1.3 Dover District is classed as a Level 1 (1 being the highest rating for need) Priority Area in the Levelling Up Fund. In January 2023 the government announced that the bid had been successful with funding allocated to the project subject to business case development and due diligence.

1.4 Since January 2023, the Dover Harbour Board developed the detail of the proposed changes within the Port and has worked with KCC to develop the business case for those. Following completion of government departmental assurance processes, it will take a final decision to award the funding to KCC to enable the Port to complete design, procurement and deliver the scheme.

1.5 The decision will be implemented if the DfT takes a final decision at board level to award the grant and enter a funding agreement with KCC and the Dover Harbour Board. This will require DfT to make a final decision at a ministerial level. This will then enable KCC to receive funding from the DfT and manage the release of funds to the Dover Harbour Board based upon the roles, responsibilities and governance processes established in the Grant Funding Agreement.

2. Purpose of the Dover Border Access Improvement Project

2.1 The Dover Border Access Improvement Project (DBAIP) aims to deliver a series of improvements to border infrastructure to fulfil the objectives below.

2.1.1 Increased Port Capacity: Providing more space for vehicles held within the Port will reduce the number of vehicles required to wait on the external road network.

2.1.2 Increased Port Throughput: Speeding up the overall throughput in the Port will allow more vehicles to be processed each hour, this will mean queues take longer to build and can be cleared faster.

2.1.3 Meeting Border Regulations: The outbound control checks at the Port currently do not meet the requirements of the Treaty of Le Touquet and an exceptional arrangement is in place. The project will mean that the Treaty obligations are fully met by the UK.

2.2 The project's impact on traffic throughput at the Port aims to enable a reduced likelihood of traffic management such as the Dover Traffic Access Protocol (TAP) and some incidence of Operation Brock. It should be noted however, that given the volume of traffic that uses the Port and other potential external factors that can affect traffic throughput (such as strikes, adverse weather in the Channel etc), this project may not eradicate the need for traffic management controls. For these more extreme events, the resilience of the network should nonetheless increase due to the project, potentially reducing the duration of TAP and Brock if they do occur and therefore reducing delays for vehicles headed to Europe.

2.3 The business case sets out a clear range of benefits arising from the reduced traffic disruption. Substantial quantified and qualitative evidence has been collected over time that enables conclusions that the DBAIP has a strong potential to improve journeys to essential services, both for private and public transport.

2.4 Harm to the visitor economy from travel disruption could be reduced, helping visitors to have an easier, less disrupted journey to Dover. Local journeys within Dover and the east Kent area would also benefit, helping to reduce delay and ensure that people can get to their jobs, appointments, schools on time. The local economy should therefore be able to benefit from this project, better functioning to serve local customers and trade. Negative environmental impacts associated with congestion should also be reduced and the cost of running Operation Brock could also fall as if it is activated less.

2.5 The benefits of the project mean it can help deliver against the Levelling Up Fund key focus areas of boosting productivity, pay, jobs and living standards; spreading opportunities and improving public services; and restoring a sense of community, local pride and belonging.

3. Delivering the Dover Border Access Improvement Project

3.1 The planned improvement works to border infrastructure and routing pathways for vehicles through the Port can all be undertaken within the Port of Dover estate with no need for planning permission and will be managed and contracted out by the Dover Harbour Board. The Dover Harbour Board anticipates that much of the work can be undertaken offline from the existing operational environment which should minimise disruption during construction. The time frame for delivering the works is estimated to be a three year construction programme.

3.2 KCC's role in the DBAIP is owing to the government's Levelling Up Fund criteria at the time of bidding in 2022 – specifically, those criteria allowed only Local Transport Authorities, such as KCC, to bid for transport proposals up to a value of £50m. As the bidding authority and in keeping with the Levelling Up Fund mechanism, the DfT requires that funding must be awarded to KCC who will take responsibility for commissioning the Dover Harbour Board to fulfil the objectives of the investment.

3.3 This will therefore require KCC to enter into a tripartite agreement with both the DfT and the Dover Harbour Board, with the Dover Harbour Board effectively the supplier to KCC (who will act as client) for the delivery of the project. The DfT are party to the agreement due to the need to establish conditions for the drawdown of funding by KCC, reporting requirements to it by KCC and the Dover Harbour Board, and to retain government oversight and assurance over how its funding is used through governance mechanisms set out in the agreement.

4. Options considered and dismissed

4.1 The possibility for awarding the grant directly to the Dover Harbour Board was considered; however, as set out in paragraph 4.2 above, due to the conditions for Levelling-Up Funding and precedents set with other awards across the country, the DfT requires that the grant be paid to the bidding authority.

4.2 The option not to progress the project following the successful bid was also discarded due to the significant benefits the project will deliver locally and nationally. Additionally, there is no match funding required from KCC as the investment from DfT and the Dover Harbour Board is sufficient to deliver the project.

5. Financial Implications

5.1 KCC will not provide any additional funding to the project aside from the grant received from DfT. The Port takes all risk and financial liability on any increase in cost over the budget of the proposal.

5.2 No spend of the grant funding will be incurred until Dover Harbour Board have completed a series of commencement conditions specified within the Grant Funding Agreement. Once conditions have been met, Dover Harbour Board will be able to claim cost reimbursement, subject to evidence. No more than 90% of the grant will be payable until the project is completed and no more than 48.19% of the total project cost will be covered by the grant where the cost of the project falls below the estimated total cost.

5.3 KCC's role, specified in the Grant Funding Agreement is for administrating and managing the claims process for Dover Harbour Board to receive reimbursement for cost of works. Costs to KCC for providing this role will be claimed from a 'Council Administration Sum', additional to the £20m Grant. The agreement specifies that this sum will be £405,000 and was determined based on an estimate of time and resources KCC would need to spend, building in contingency including for inflation in resource costs and rates.

5.4 KCC will therefore be at risk for costs of administrating the grant exceeding what funding it receives from DfT to undertake that role. This risk is considered to be very low owing to the current forecast of costs, supplier quotes to KCC for supporting it in its role, the additional Levelling Up Fund capacity and capability funding KCC received for 2026/27 and 2027/28 (sums of £78,692 and £62,500 respectively) and the contingency available. Furthermore, DfT have provided written assurances that it would lead activity on particular matters which may further mitigate the costs to KCC.

5.5 In the event that the DfT has reason to recover spend from the Port, KCC will not be obliged to pay any of the £20m funding back to DfT until it is in receipt of it from the Port. This ensures that KCC would not be in financial deficit on the grant award due to its role in the funding of the scheme.

5.6 The current forecast profile of grant to be received by KCC is shown in the table below. The expected spend profile will be established at completion of the pre-commencement conditions as part of the Dover Harbour Board's cost plan.

Year	**2026/27**	**2027/28**	**Total**
Grant fund forecast (£k)	£10m	£10m	£20m

5.7 KCC's previous work has been covered by previous Levelling Up Fund capability and capacity grants.

6. Legal implications

6.1 Owing to the set up of the Levelling Up Fund, which awards funding to local authorities to level up their communities, KCC is required to be the recipient of the grant funding from government. KCC will commission the Dover Harbour Board to implement the project at the Port of Dover. KCC must sign a tripartite Grant Funding Agreement with the DfT and the Dover Harbour Board to secure and defray the grant.

6.2 Given the Levelling Up Fund grant constitutes a subsidy under the Subsidy Control Act 2022, it has been subject to an assessment considering how it is consistent with the subsidy control principles within the Act. A decision by KCC to sign the agreement will therefore be a decision (along with the government who will also be party to the agreement and be providing the subsidy) that the subsidy complies with the Act's subsidy control principles. KCC's summary of the assessment sets out that it has concluded that the proposed subsidy would be compliant with the control principles of the Act. KCC's summary is contained in Appendix C which is exempt from disclosure under LGA 72 Schedule 12A paragraph 3.

6.3 KCC officers have taken legal advice concerning the Grant Funding Agreement and planned subsidy, the detail of which is contained in Appendix D which is exempt from disclosure under LGA 72 Schedule 12A paragraph 5.

6.4 KCC is subject to the Public Sector Equality Duty (PSED) under the Equality Act 2010 and must actively consider how its decisions and services affect people with protected characteristics. The implications are covered in section 7.

7. Equalities implications

7.1 An Equality Impact Assessment (attached as Appendix B) was carried out to assure KCC that its public sector equality duty could be fulfilled. The assessment indicates that 'there are no concerns at this stage which indicate the possibility of inequalities or negative impacts'. No key issues were found in the assessment and therefore no mitigation has been included.

8. Governance

8.1 KCC has agreed with the Department for Transport and Dover Harbour Board a governance structure. KCC will provide audit and assurance of expense claims by the Dover Harbour Board.

8.2 The Dover Harbour Board will project manage the remaining design, procurement and contracting of construction of the project, reporting to a KCC programme board on a regular basis, with the opportunity for escalation to a Project Board which the DfT will sit on. This will enable KCC to monitor progress, evaluate outcomes, and agree with the Dover Harbour Board any necessary change control or issues escalation to the Project Board.

9. Conclusions

9.1 Completion of the Key Decision will secure a large and transformative investment in the Port of Dover to deliver our aim for reduced highways disruption associated with international traffic flows and to support the levelling up of Kent. A more resilient road network that enables less disruption to both local journeys and cross-border traffic. The scale of the benefits, the assurances concerning the immediate financial risks associated with administrating the commission and defrayment of funds to the Dover Harbour Board have been considered. The funding award, which will constitute a subsidy, has been determined as compliant with the Subsidy Control Principles of the Subsidy Control Act 2022.

10. Recommendation(s)
The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways and Transport on the proposed decision as set out in Appendix A.

11. Background Documents

9.2 The following background documents are included as Appendices to this report:
- Appendix A: Record of Decision
- Appendix B: Equalities Impact Assessment
- Appendix C: KCC Summary of Subsidy Assessment - **Exempt**
- Appendix D: Legal advice concerning subsidy award and funding agreement - **Exempt**

12. Contact details

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