

# HAMPSHIRE COUNTY COUNCIL

## Decision Report

<b>Decision Maker:</b>	Executive Member for Policy and Resources
<b>Date:</b>	13 December 2018
<b>Title:</b>	Major Highway Scheme: Botley Bypass – Land purchase update
<b>Report From:</b>	Director of Culture, Communities and Business Services Director of Environment, Transport and Economy

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### 1. Recommendations

- 1.1. That approval be given to acquire all third party interests in land, and any necessary rights, required for or to facilitate or enable the delivery of the proposed Botley Bypass (the Scheme), on detailed terms and conditions to be settled by the Director of Culture, Communities and Business Services (Strategic Manager – Assets and Development).
- 1.2. That, in order to ensure the delivery of the major highway scheme in a timely manner, authority be given to the making of a compulsory purchase order as soon as possible to run in parallel with negotiations to preferably acquire all third party interests in land and any necessary rights by agreement.
- 1.3. That delegated authority is given to the Director of Culture, Communities and Business Services (Strategic Manager – Assets and Development) to amend the scope of land required for the delivery of the Scheme, as shown on the appended plans, on the basis that it will not be extended but could be revised or minimised.
- 1.4. That authority be delegated to the Director of Economy, Transport and Environment and the Head of Legal Services to progress any appropriate Orders, Notices and Statutory procedures and obtain any consents, rights or easements that are necessary for the Scheme.
- 1.5. That, at the relevant time, the County Council's existing landholdings required for the Scheme be appropriated from County Farms purposes to Transportation (Highways) purposes.

### 2. Executive Summary

- 2.1. The purpose of this paper is to provide an update on the land requirements for the strategically important major highway scheme known as Botley Bypass

(the Scheme). The matter was previously considered by the Executive Member at his meeting on 22 January 2018 when a number of recommendations were approved relating to the purchase of land for the scheme and the making of a compulsory purchase order.

## 2.2. This further report:

- Reaffirms the significant benefits of the Scheme.
- Sets out consultation arrangements.
- Provides an update on land purchase requirements.
- Confirms the legal context and funding.
- Recommends that the necessary land interests be acquired.
- Recommends that a compulsory purchase order be made in order to ensure timely scheme delivery.

## 3. The Scheme

3.1. As set out in the earlier report, Botley experiences a significant amount of through traffic, moving between the Fareham area to the east and the wider Eastleigh, Winchester and Hedge End areas to the west. The traffic currently runs through the centre of Botley, along the High Street. Traffic congestion particularly during peak periods contributes towards air quality problems, and severance of pedestrians. The High Street has been identified as an Air Quality Management Area. The forecast levels of new development in the wider Botley area over the next 20 years, combined with traffic growth generally, will only compound existing traffic problems in the area.

3.2. To address these issues, a scheme has been developed to provide Botley with a suitable bypass. This is a strategically important scheme for the County Council and has been endorsed by the Executive Member for Environment and Transport through a series of reports. The Scheme objectives are:

- To improve the amenity of Botley village centre by reducing the volume of through traffic and numbers of heavy goods vehicles in the High Street.
- To reduce noise and vibration in the village centre.
- To improve air quality in the village.
- To improve the environment for pedestrians and cyclists, and to reduce severance through Botley village.
- To enhance connectivity across the wider area by providing improved highway linkages for through traffic from existing and planned areas of housing to existing and planned areas of employment, including that at Whiteley and Hedge End.

3.3. The proposed Scheme involves provision of a new single carriageway road passing to the north and east of Botley, including across the River Hamble, and on-line widening of Woodhouse Lane to the west of Botley. There will also be complementary traffic management measures through Botley village.

#### **4. Consultations and Equalities**

- 4.1. Good practice has been followed by consulting early in the design process in relation to the Scheme to enable public comments to influence the design, and by setting out how comments have led to the present design. Public consultation was carried out in June and July 2016, the results of which were reported to the Executive Member for Environment and Transport in a report in November 2016.
- 4.2. An Equalities Impact Assessment has been completed for the proposed bypass and this identifies that there is a neutral impact on groups with protected characteristics.

#### **5. Land Requirements**

- 5.1. The Executive Member for Policy and Resources at his meeting on 22 January 2018 considered a report on the Scheme and gave approval to the acquisition of land then considered to be required to implement the scheme. Approval was also given to the making of a compulsory purchase order in respect of the land. The decisions were made upon recommendation from the Executive Member for Environment and Transport.
- 5.2. Some 70% of the required land is already in County Council ownership. The land forms part of the County Farms Estate and comprises parts of Uplands Farm. Other parts of these landholdings are under active consideration for school and housing development. These land holdings are being made available at the request of Eastleigh Borough Council to support their Housing land supply position. There has been considerable liaison with the tenant farmer of Uplands Farm over the proposals and agreement is already in place to relocate the tenant to another County Farms landholding at Compton, Winchester. It is intended that the parts of Uplands Farm that are required for the bypass Scheme will in due course be appropriated to Highways purposes.
- 5.3. In the vicinity of the River Hamble and to the east of the River, the route crosses predominantly land in third party ownership. In addition, a number of relatively small areas of third party land are required on either side of Woodhouse Lane in order to undertake the proposed road widening and realignment.
- 5.4. Since the decisions in January 2018, considerable progress has been made towards purchasing the required land by agreement. Discussions have been held with the owners and tenants of all plots and agreement has been reached, or is close to agreement, with many of the parties. The compulsory purchase order has, however, not yet been made.
- 5.5. Following detailed design work on the scheme and in light of Counsel advice on the proposed side roads orders, it is considered that some minor additions to the land to be included in the compulsory purchase order are required. The changes are as follows:
  - Plot 1A – A new plot to allow for construction works on adjoining land. New rights are required. The landowner is fully aware and constructive negotiations continue.

- Plots 15, 16 and 17 – New plots, all in relation to land forming part of the adopted highway. These new plots are required to satisfactorily implement the proposed side roads orders and to ensure that the County Council has title to the sub-soil rights.
- 5.6 These additional requirements were considered in a report made to the Executive Member for Environment and Transport on 13 November 2018 and the decision was taken to recommend to Executive Member for Policy and Resources that these areas be added to the previously approved areas to be acquired and included in the compulsory purchase order.
- 5.7 The plans now appended to this report show, for convenience, the whole of the land now proposed to be acquired. The additional plots are referred to as 1A, 15, 16 and 17. Approval is sought to acquire all the land shown on the plans and to make a compulsory purchase order in respect of all the land. It is considered to be necessary to make the compulsory purchase order at this time in order to be able to deliver the scheme in a timely manner.

## **6. Legal Context**

- 6.1. The County Council has the power to make compulsory purchase orders and in relation to this road construction scheme the enabling power is the Highways Act 1980.
- 6.2. The Compulsory Purchase Process Guidance from the Department for Communities and Local Government states that compulsory purchase orders should only be made where: (a) there is a compelling case in the public interest; and (b) the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. Particular attention should be given to these considerations.
- 6.3. The public interest test is met due to the proposed acquisition delivering the necessary infrastructure to improve access to Botley and the wider Eastleigh and Winchester area, and to encourage much needed economic development, as well as to maximise the wellbeing of residents, particularly in Botley village centre, by reducing congestion and delays and improving air quality.
- 6.4. The County Council has also had regard to the provisions of Article 1 of Schedule 1 of Part II of the First Protocol of the Human Rights Act 1998 to the European Convention on Human Rights. This right relates to the protection of property and is a qualified right that needs to be balanced against the public interest. In light of the significant public benefit that would arise from the delivery of the Scheme, it is considered that it would be appropriate to acquire the land through compulsory purchase should that prove necessary, and that to do so would not constitute an unlawful interference with individual property rights.
- 6.5. Article 6 of Schedule 1 Part 1 of the Convention Rights and Freedoms of the Human Rights Act 1998 secures an absolute right to be given a fair hearing by an independent and impartial tribunal when civil rights may be affected by a decision. In this instance, this requirement is satisfied by means of the

compulsory purchase order process, including the holding of an Inquiry in to any objections which may be made and the ability to challenge any compulsory purchase order in the High Court.

## **7. Planning Permission**

- 7.1. A planning application for the Scheme was submitted in July 2017 and was approved by the County Council's Regulatory Committee on 15 November 2017, with a formal notice of planning permission subsequently being issued.

## **8. Funding**

- 8.1 The approach to funding the bypass scheme was set out in the report considered and approved in January 2018. A mix of public funding and private sector contributions is proposed.

**CORPORATE OR LEGAL INFORMATION:****Links to the Strategic Plan**

<b>Hampshire maintains strong and sustainable economic growth and prosperity:</b>	Yes
<b>People in Hampshire live safe, healthy and independent lives:</b>	Yes
<b>People in Hampshire enjoy a rich and diverse environment:</b>	Yes
<b>People in Hampshire enjoy being part of strong, inclusive communities:</b>	Yes

**Section 100 D - Local Government Act 1972 - background documents**

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

## **IMPACT ASSESSMENTS:**

### **1. Equality Duty**

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

**Due regard in this context involves having due regard in particular to:**

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

#### **1.2. Equalities Impact Assessment:**

- (a) An Assessment has been carried out and the Scheme is expected to have a neutral impact on groups with protected characteristics. The Scheme will be accessible to all road users. Pedestrians and cyclists will be catered for as part of the proposals to improve access in the area. Here is a link to the EIA:

[Approved](#) EIA

### **2. Impact on Crime and Disorder:**

2.1. The County Council has a legal obligation in Section 17 of the Crime and Disorder Act 1998 to consider the impact of all the decisions it makes on the prevention of crime. The proposals contained in this report have no impact on the prevention of crime.

### **3. Climate Change:**

- a) The Scheme will deliver tangible benefits by removing traffic from the centre of Botley and improving air quality.