

# HAMPSHIRE COUNTY COUNCIL

## Decision Report

<b>Decision Maker:</b>	Executive Member for Environment and Transport
<b>Date:</b>	16 January 2018
<b>Title:</b>	Botley Bypass – Way Forward and Land Acquisition
<b>Report From:</b>	Director of Economy, Transport and Environment

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### 1. Recommendations

- 1.1. That authority be delegated to the Director of Economy, Transport and Environment to progress all design and development work for the proposed Botley Bypass (“the Scheme”) and to progress all enabling and environmental works, to ensure that delivery of the Scheme can commence in a timely manner, either in its entirety or as a phased scheme.
- 1.2. That the Executive Member for Environment and Transport confirms the approved alignment of the Scheme, as detailed in **Appendix 1**, which was the subject of a recent grant of Planning Permission.
- 1.3. That authority be delegated to the Director of Economy, Transport and Environment and the Head of Legal Services to progress any appropriate Orders, Notices, or Statutory procedures and obtain any consents, rights or easements that are necessary for the Scheme.
- 1.4. That the Executive Member for Environment and Transport recommends that the Executive Member for Policy and Resources provides authority to acquire all third party interests in any land and any necessary rights required for or to facilitate/enable the delivery of the proposed Scheme by agreement.
- 1.5. That, in order to ensure the delivery of the Scheme in a timely manner, the Executive Member for Environment and Transport recommends to the Executive Member for Policy and Resources that a Compulsory Purchase Order is made for the land required to deliver the Scheme, as detailed in **Appendix 2**, to run in parallel with negotiations to acquire all third party land interests by agreement, on the basis that the areas of land identified in **Appendix 2** will not be extended but may be revised or minimised.

### 2. Executive Summary

- 2.1. The purpose of this paper is to ensure that scheme development and enabling works for the proposed Botley Bypass road scheme (“the Scheme”) can be progressed to a point whereby a Project Appraisal can be submitted and the delivery of the Scheme (either as a single or phased programme of works) can commence in a timely manner. This includes the progression of appropriate

Orders, Notices or Statutory Procedures under the powers of the Highways Act 1980 that are associated with the Scheme.

- 2.2. This paper seeks approval to progress the formal negotiations to seek to acquire the necessary third party interests by agreement to enable the construction of the Scheme.
- 2.3. In order to ensure the delivery of the Scheme in a timely manner, it is proposed that a Compulsory Purchase Order should be made, following approval by the Executive Member for Policy and Resources, to run in parallel with negotiations to acquire all third party land by agreement.

### **3. Contextual Information**

- 3.1. In November 2016 a report to the Executive Member for Environment and Transport regarding 'Botley Bypass Public Consultation and Preferred Route' recommended that the preferred route as outlined in the report be approved and that work should be progressed to finalise details of the scheme and enable the timely submission of a Planning Application. Further to this recommendation, preliminary and early detailed design work was progressed in relation to the layout for the Scheme, developed along the preferred route alignment approved in November 2016.
- 3.2. Botley experiences a significant amount of through traffic using the A334 Botley High Street between the Fareham area and the wider Eastleigh, North Hedge End areas, and Winchester in the north. Traffic congestion, particularly during peak periods, contributes towards air quality problems and severance for pedestrians. The High Street has been identified by Eastleigh Borough Council as an Air Quality Management Area (AQMA).
- 3.3. 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. The completion of Whiteley Way, associated with the build out of the proposed North Whiteley development, is also likely to increase through traffic in the Botley area. For these reasons the justification for a bypass for Botley is now much greater than in previous years. The approved scheme is shown on the drawing included at **Appendix 1**.
- 3.4. 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 and within the identified AQMA;
  - To improve the environment for pedestrians and cyclists, and to reduce severance throughout Botley Village; and
  - 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.

3.5. 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 and a formal notice of Planning Permission was issued thereafter.

#### **4. Outline of the Preferred Scheme**

4.1. The following is a summary of the proposals, which is consistent with that submitted and approved as part of the planning application for the scheme:

- Provision of a new single carriageway 7.3 metre wide road between Woodhouse Lane north of 'Glenfield' and the A334/A3051 junction, passing to the north and east of Botley and crossing the River Hamble, with a 3metre wide shared use footway/cycleway on the southern side;
- On-line widening of Woodhouse Lane to 7.3 metre wide between the Bypass and a point just north of the A334 'Maypole' roundabout;
- New roundabout junctions at either end of the Bypass;
- A new ghost island priority junction at the intersection with Winchester Street with access only possible to/from Winchester Street to the south of the Bypass; and
- Complimentary traffic management measures through Botley village on the A334.

#### **5. Scheme Development and Enabling Works**

5.1. Further design, development and enabling works now need to be progressed to advance the scheme to a point whereby a Project Appraisal can be submitted and main works can be commenced. These works include:

- additional survey work to inform the completion of the next levels of the design process;
- the progression of environmental mitigation work including the creation of new habitat;
- archaeological surveys; and
- work required to satisfy other planning conditions.

5.2. The scheme has been designed so that delivery can take place either in one or two phases. Whilst ideally it would be preferable for the scheme to be progressed as a single phase, dependent upon funding availability, it may be necessary for works to be progressed as two phases. Furthermore in order to facilitate access to a potential new secondary school on land to the west of Woodhouse Lane, it is intended that works will be completed on Woodhouse Lane in advance of the potential school opening date of September 2020. Dependent upon funding availability the remainder of the scheme could then follow on.

5.3. Prior to the Scheme being constructed it will be necessary to have all Orders in place. To this end it will be necessary to establish the need for Orders or Notices where appropriate, and to progress, under the powers of the Highways Act 1980.

## 6. Third Party Land

- 6.1. To the east of the River Hamble the scheme traverses predominantly third party land, while the land immediately adjacent to the Hamble on both sides is also owned by a third party. The Scheme traverses land owned by the County Council for the vast majority of its route to the west of the River Hamble. In relation to the on-line widening of Woodhouse Lane there are a number of relatively small parcels of third party land required on the eastern and western sides. Initial informal discussions with landowners affected by the scheme have taken place. Initial discussions have also taken place with tenant farmers who farm the land crossed by the new road.
- 6.2. To provide certainty of delivery in a timely manner, and in the event that negotiations to acquire all third party land by agreement are unsuccessful, it will be necessary to make and progress a Compulsory Purchase Order (CPO) to secure the necessary land. Given that it can take around two years to complete the CPO process, including confirmation by the Secretary of State, it is proposed to commence this process as soon as is reasonably possible.
- 6.3. Land interest plans for the Scheme are provided in **Appendix 2**, which show land essentially required to deliver the scheme and which will form the basis of the CPO.

## 7. Legal Context

- 7.1. The County Council has the power to progress any appropriate Orders or Notices under the powers of the Highways Act 1980 that are associated with or necessary for the Scheme.
- 7.2. The County Council has the power to make CPOs and in relation to this road construction Scheme, the enabling power is the Highways Act 1980.
- 7.3. The Compulsory Purchase Process Guidance from the Department for Communities and Local Government (CPO Guidance) states that a compulsory purchase order should only be made where a) there is a compelling case in the public interest and b) the purposes for which the CPO 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.
- 7.4. The public interest test is met due to the proposed acquisition delivering 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.
- 7.5. This will help to enhance the prosperity of the area overall as well as the quality of place. It should also be noted that the Scheme would run through an area that is predominantly undeveloped, so as to cause the least disruption to residents and therefore to have the least impact on their human rights.
- 7.6. The County Council has also had regard to the provision of Article 1 of Schedule 1 Part II (the First Protocol) of the Human Rights Act 1998. This right relates to the protection of property and is a qualified right that needs to be balanced against the public interest. In the 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.

- 7.7. Article 6 of Schedule 1 Part I (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 CPO process including the holding of an inquiry should any objections be made which cannot be overcome and the ability to challenge any CPO in the High Court.

## **8. Finance**

- 8.1 An October 2017 Cabinet Report identified a Hampshire County Council local contribution of £6 million towards the delivery of Phase 1 of the Scheme on Woodhouse Lane.
- 8.2 It is currently anticipated that the remaining £20million Scheme costs (total Scheme cost £26 million) will be funded via a mixture of local public and private sector contributions along with funding secured via bids to central government. To this end a bid has recently been submitted to the Housing and Infrastructure Fund (HIF) for £10 million, the outcome of which will be advised prior to Spring 2018.

## **9. Consultation and Equalities**

- 9.1. The County Council has followed good practice by consulting early in the design process to enable public comments to influence the design, and by setting out how comments have led to the present design. Public consultation associated with the Botley Bypass scheme was carried out in June and July 2016, the results of which were reported in the Executive Member for Environment and Transport report of November 2016. Overall 410 (82%) of respondents supported the principle that Botley should have a bypass, of which 62% of respondents supported the preferred bypass route.
- 9.2. The support identified above was distributed across the Botley and Hedge End area, with the main clusters of support located in Botley around the centre of the village. Objection to the scheme included several clusters of objection near to where the proposed bypass route intersected Woodhouse Lane and Winchester Street.
- 9.3. At least 80% of respondents regarding the Bypass were generally satisfied that the main issues of traffic, accessibility, road safety and the environment identified in the questionnaire had been taken into account, notwithstanding additional comments which may have been made seeking clarification or identifying areas of concern. A number of comments were received regarding the locally desired Bishops Waltham Bridle Way route and about general pedestrian and cycling issues in the area.
- 9.4. Public consultation also took place as part of the Planning Application between July and September 2017, with a total of 36 responses from members of the public. Out of the 36 responses, 15 supported the bypass while 14 were against specifying various issues such as the route location.

## **10. Future Direction**

- 10.1. The October 2017 Cabinet report identified £6 million as a local public sector contribution which will ensure that works on a potential Phase 1 can be undertaken as soon as the land acquisition and design and procurement processes have been completed. Dependent upon the availability of additional funding, a decision will need to be taken regarding whether the Scheme will be progressed in one or two phases. The progression of Phase 2 of the Scheme will be subject to securing the additional £20 million, and the recent HIF funding bid, if successful, would provide a major contribution to this sum.
- 10.2. In either delivery scenario it will be necessary to progress the potential Phase 1 on-line widening works along Woodhouse Lane as soon as possible, in order to ensure the completion of the works in advance of the opening of the potential secondary school in September 2020. The need to complete the Woodhouse Lane works in advance of 2020 is a key driver requiring the land acquisition process to start as soon as possible now that Planning Permission has been secured. An approximate two year window is allowed in the programme for the land acquisition and CPO processes to be completed. These need to be completed in advance of works starting, and other design and delivery programme phases are also dependent.
- 10.3. Subject to the approval of an appropriate Project Appraisal, it is currently anticipated that the Phase 1 works on Woodhouse Lane northern section, which do not require any third party land, could commence in summer 2019, and that works on the southern section of Woodhouse Lane could commence in early 2020, subject to the satisfactory completion of the land acquisition process. This timetable would enable completion of Phase 1 in advance of September 2020.
- 10.4. Following approval of this report, and approval by the Executive Member for Policy and Resources, formal negotiations will be entered into with all third party landowners and tenants, in order to seek to acquire by agreement all third party parcels of land necessary to construct the Scheme as approved. If negotiations are unsuccessful then the CPO process will be used to ensure the delivery of the Scheme in a timely manner.

**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>	N/A
<b>People in Hampshire enjoy being part of strong, inclusive communities:</b>	Yes

**Other Significant Links**

<b>Links to previous Member decisions:</b>	
<u>Title</u> Botley Bypass Public Consultation and Preferred Route ref 7832	<u>Date</u> 03/11/2016

**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.)

<u>Document</u>	<u>Location</u>
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:**

The proposals will have no or low impact upon groups with protected characteristics. In the event that a CPO is required, the guidance published by the DCLG (Guidance on CPO process and The Crichel Down Rules for disposal of surplus land acquired by, or under the threat of compulsion) will be followed. The scheme will be accessible to all road users. Pedestrians, cyclists and horse riders will be catered for as part of the proposals to improve access, and mitigation has been identified to add value in terms of accessibility over and above the existing provision.

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

2.1. The decision will not have any direct impact upon crime and disorder.

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

- a) How does what is being proposed impact on our carbon footprint / energy consumption?
- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?



It is not anticipated that this decision will have any impact on climate change, but future decisions will be separately assessed, including in a future Project Appraisal.