

# HAMPSHIRE COUNTY COUNCIL

## Decision Report

<b>Decision Maker:</b>	Executive Member for Environment and Transport
<b>Date:</b>	13 November 2018
<b>Title:</b>	Botley Bypass – Amendment to Land Acquisition Plan
<b>Report From:</b>	Director of Economy, Transport and Environment

**Contact name:** Allen Harris

**Tel:** 01962 826990

**Email:** allen.harris2@hants.gov.uk

### 1. Recommendations

- 1.1. That the Executive Member for Environment and Transport recommends that the Executive Member for Policy and Resources provides authority to vary and extend the previously approved area of land required through a Compulsory Purchase Order to deliver the revised Botley Bypass Scheme, as per the attached plans.
- 1.2. That authority is delegated to the Director of Economy, Transport, and Environment in consultation with the Head of Legal Services to make all necessary arrangements, including the making of statutory orders, agreements, easements, consents, licences, and approvals, and carrying out and completing statutory procedures required to implement the revised Botley Bypass proposals.

### 2. Executive Summary

- 2.1. The purpose of this paper is to ensure that all necessary land to construct Botley Bypass (the Scheme) is acquired in accordance with statutory and regulatory process.
- 2.2. This paper seeks a recommendation to the Executive Member for Policy and Resources for approval to vary and extend the previously approved area of land required by Compulsory Purchase Order (CPO) to deliver the Scheme.

### 3. Contextual information

- 3.1. In January 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.
- 3.2. 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

is necessary to make and progress a CPO to secure the necessary land to deliver the Scheme. Land interest plans for the Scheme were agreed in the Executive Member for Environment and Transport Decision Record dated 16 January 2018, titled Botley Bypass – Way Forward and Land Acquisition, and showed the land required for inclusion in the CPO.

- 3.3. In January 2018, following recommendation from the Executive Member for Environment and Transport, the Executive Member for Policy and Resources approved the area of land required for inclusion in the CPO to deliver the Scheme.
- 3.4. In the development of the detail design, and following Counsel advice on the application of the Side Road Order (SRO), an adjustment is now required to the area of land necessary for inclusion in the CPO to allow the construction of the Scheme. The general alignment of the preferred route for the Scheme remains unchanged
- 3.5. Changes to the currently approved CPO plan are required in response to additional information available through the development of the detailed design as follows;
  - Plot 1A CSG Woodhouse Lane – extension to the area to enable the works to be constructed.
- 3.6. Changes to the currently approved CPO plan are required in response to Counsel advice on the application of the SRO to the following existing highway land which intersects the alignment of the new road:
  - Plot 15 (New plot) Woodhouse Lane adjacent to plot 4 between Pavilion Road to a point approximately 250 metres north just south of Woodhouse stream culvert;
  - Plot 16 and Plot 16a (New plots) B3354 Winchester Street where the road is bisected by the new by-pass; and
  - Plot 17 (New plot) A334 Mill Hill and Station Hill/A3051 Botley Road/Bypass Roundabout.

These new plots are required to enact the relevant Side Road Orders and to ensure the sub-soil rights to the land required for the Scheme are in Hampshire County Council ownership.
- 3.7. Amended land interest plans for the Scheme are provided in **Appendix 1**, which show land essentially required to deliver the scheme and which will form the basis of the CPO.

#### 4. Finance

- 4.1. The amendment to the existing CPO areas is not anticipated to affect an increase in the Scheme costs beyond agreed limits.

## **5. Consultation and Equalities**

- 5.1. Land owners, tenants, and those affected by the acquisition of land for the delivery of the Scheme have been contacted, and negotiations are ongoing to affect an amicable negotiated settlement for the acquisition of land.

## **6. Other Key Issues**

- 6.1. None.

## **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 Revised Botley Bypass Scheme ("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 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.

- 7.8. It will be necessary to progress the on-line widening works along Woodhouse Lane as soon as possible to ensure the completion of the works in advance of the opening of the potential secondary school. The need to complete the Woodhouse Lane works is a key driver requiring the land acquisition process to start as soon as possible now that Planning Permission has been secured. An approximate 18 months window is allowed in the programme to complete the land acquisition and CPO processes. These need to be completed in advance of works starting on the Scheme, and other design and delivery programme phases are also dependent.
- 7.9. Should the necessary approvals be granted, the CPO process will be used to ensure the delivery of the Scheme in a timely manner should negotiated settlement with landowners and affected parties prove to be unsuccessful.

**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

**Other Significant Links**

<b>Links to previous Member decisions:</b>	
<u>Title</u>	<u>Date</u>
EMET - Botley Bypass – Way Forward and Land Acquisition	16/01/2018
EMPR - Major Highway Scheme: Botley Bypass – Land purchase	22/01/2018
<b>Direct links to specific legislation or Government Directives</b>	
<u>Title</u>	<u>Date</u>
Compulsory purchase process and the Crichel Down Rules	29/10/2015

**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.)

DocumentLocation

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.