

# HAMPSHIRE COUNTY COUNCIL

## Decision Report

<b>Decision Maker:</b>	Executive Member for Policy and Resources
<b>Date:</b>	22 January 2018
<b>Title:</b>	Major Highway Scheme: Botley Bypass – Land purchase
<b>Report From:</b>	Director of Culture, Communities and Business Services

**Contact name:**

**Tel:** 01962 846617

**Email:** [chris.jelliffe@hants.gov.uk](mailto:chris.jelliffe@hants.gov.uk)

### 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 consider the land requirements for the strategically important major highway scheme known as Botley Bypass (the Scheme).
- 2.2. This paper:

- Explains the significant benefits of the Scheme.
- Sets out consultation arrangements.
- Confirms 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. Botley experiences a significant amount of through traffic, 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. A total of approximately 12.6 ha (31 acres) of land is required for the Scheme. A significant proportion of this (almost 70%) 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. 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.
- 5.2. 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.
- 5.3. Initial discussions have been held with the landowners affected by the Scheme. Discussions have also been held with tenant farmers who farm land crossed by the proposed bypass.
- 5.4. At his meeting on 16 January 2018, the Executive Member for Environment and Transport is being asked to confirm that the extent of land required in order to deliver the Scheme is as shown on the appended plans. The Executive Member is also being asked to approve a recommendation that the Executive Member for Policy and Resources be requested to give approval to the acquisition of all necessary third party land interests required for the delivery of the Scheme and to the making of a compulsory purchase order as necessary to ensure construction of the Scheme within expected timescales. The County Council's landholdings need to be included in the compulsory purchase order in case the land is subject to rights of way or other easements benefitting third parties. The making of a compulsory purchase order is considered necessary in order to be able to deliver the Scheme in a timely manner.
- 5.5. The decisions of the Executive Member for Environment and Transport on 16 January 2018 will be reported orally at the meeting.

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

prior to Spring 2018. Implementation of the remainder of the Scheme will be dependent upon the timing of funding availability.

**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.