

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Policy & Resources
Date:	24 July 2018
Title:	Major Highway Scheme: M27 Junction 9 and Parkway South Roundabout, Whiteley – Land Purchase
Report From:	Director of Culture, Communities and Business Services

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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 / enable the delivery of the M27 Junction 9 and Parkway South Roundabout Scheme in Whiteley, on detailed terms and conditions to be settled by the Director of Culture, Community and Business Services (Strategic Manager – Assets and Development).
- 1.2 That, in order to ensure the delivery of the M27 Junction 9 and Parkway South Roundabout 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 be given to the Director of Culture, Community and Business Services (Strategic Manager – Assets and Development) to amend the scope of the land to be acquired, as shown on the appended plans, on the basis that it will not be extended, but it could be refined / minimised.
- 1.4 That authority be given to progress any appropriate Orders, Notices, or Statutory procedures and obtain any consents, rights or easements that are necessary for the M27 Junction 9 and Parkway South Roundabout Scheme.

2. Executive Summary

- 2.1. The purpose of this report is to consider changes to this major highway scheme and the consequential impact on land acquisition.
- 2.2. The report:
 - Confirms the decisions already taken

- Explains the reasons for the changes to the scheme
- Confirms the resulting amendments to land purchase requirements
- Recommends that negotiations for the revised land purchase be progressed and that a compulsory purchase order be made if required.

3. Background

3.1. At his Decision Day on 18 October 2017, the Executive Member for Policy & Resources considered a report on this major highway scheme and gave approval to the required land acquisition and the associated making of a compulsory purchase order (CPO). Since then, negotiations have been progressed with affected landowners although no CPO has yet been made. At the same time, it has become clear that it would be beneficial to make certain amendments to the scheme, which will have an impact on land purchase requirements.

4. The Scheme

- 4.1. The Scheme was designed by HCC as Strategic Highway Authority and local deliverer on behalf of Highways England (HE). It comprises carriageway widening around both the M27 Junction 9 and Parkway South roundabouts, Whiteley Lane and some of the slip roads and full signalisation of the Parkway South Roundabout.
- 4.2. The Scheme is essential in order to increase traffic capacity and improve traffic flows and journey times for both residents and business park users alike. Both the M27 Junction 9 and the Parkway South Roundabouts currently experience severe congestion at peak times. It will also improve safety by reducing tailbacks on to the M27.
- 4.3. The congestion is having a detrimental impact on local residents and both business retention and location in two large regionally significant adjacent Business Parks – Solent and Segensworth, located to the north and south of Junction 9 respectively.
- 4.4. The capacity improvements that will be delivered by HCC at M27 Junction 9 are also essential to facilitate the Smart Motorway proposals which are programmed to take place shortly. The Smart Motorway scheme will significantly reduce the length of the westbound off-slip at M27 Junction 9 and therefore capacity improvements are required at the junction to ensure traffic does not queue back onto the motorway. There is close liaison between the project team for this scheme and HE Smart Motorways regarding co-ordination of works to minimise disruption to residents and road users alike.
- 4.5. The amended scheme includes a revised alignment for the carriageway widening on Whiteley Way. The earlier scheme involved providing significant retaining structures which would have been costly and, crucially, would have involved extensive lane closures during construction. To avoid these impacts on traffic flows during construction, widening on the western side of Whiteley Way is now proposed.

4.6. At his meeting on 5 June 2018 the Executive Member for Environment and Transport confirmed approval of the amended alignment and also approved the recommendation that the Executive Member for Policy and Resources gives approval to the acquisition of all necessary third party land interest required for the delivery of the scheme and to the making of a CPO as necessary to ensure construction of the scheme within agreed funding timescales.

5. Land Purchase

- 5.1. The revised proposals involve some relatively minor amendments to land purchase requirements. Plans are appended which show the now proposed requirements and the changes from the earlier scheme. The main change is the additional land which is needed to widen Whiteley Lane on its western side.
- 5.2. Discussions are underway with all landowners and it is anticipated that all required parcels may be purchased by agreement. However, in order to ensure delivery of the scheme in a timely manner, and in the event that negotiations to acquire all third party land by agreement are not successful, it will be necessary to make and progress a CPO to secure the necessary land.

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 provide better access to the Whiteley area and to encourage much needed economic retention and development. The proposed acquisition will also serve to enhance the wellbeing of residents and business park users, particularly in Whiteley and the Solent Business Park, by significantly reducing congestion and delays on the main access routes.
- 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. Funding

- 7.1 Funding has been secured for the scheme from Highways England (£9.9m HE Growth and Housing Fund, & £3m HE Congestion Relief Fund), which is subject to completion of a funding agreement, and s106 receipts (£6m) and the Local Transport Plan fund (£0.7m).

- 7.2. The total land cost estimate will be reported within the scheme costs which will form part of the Project Appraisal Report that will be considered by the Executive Member for Environment and Transport before the tendering stage and the commencement of works.

- 7.3 The funding agreement with HE provides that in the event that the funding is deemed to be insufficient by HCC to deliver the scheme in full, the parties shall work together to find a collective way forward, through the Project Partnership Board, either to secure additional funding or if this cannot be secured to agree and identify amendments to the scheme. This is a stronger position than for a number of recent LEP funded projects where HCC have to underwrite any potential overspend. Conversely if there is an underspend on completion of the works, the parties will agree through the Project Partnership Board the amount to be returned to each organisation in proportion to the contributions made.

8. Conclusions

- 8.1. There is considered to be significant benefit both in terms of construction costs and reduction in travel delays for local business park users and residents from making the proposed amendments to the scheme and associated land acquisition. Subject to approval to the scheme changes by Executive Member for Environment and Transport, it is recommended that the proposals be endorsed and approval given to proceed accordingly.

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

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	no
People in Hampshire enjoy being part of strong, inclusive communities:	no

Other Significant Links

Links to previous Member decisions:	
<u>Title</u>	<u>Date</u>
Executive Member for Environment and Transport Decision Day – M27 Junction 9 and Parkway South Roundabout Scheme http://democracy.hants.gov.uk/documents/s6299/Decision%20Record.pdf	19 September 2017
Executive Member for Policy and Resources Decision Day – Major Highways Scheme M27 junction 9 and Parkway South Roundabout, Whiteley – Land Purchase http://democracy.hants.gov.uk/documents/s7747/DECISION%200RECORD%202017-10-18%20DR%20EMPR%20Major%20Highway%20Scheme%20M27%20Junction%209%20and%20Parkway%20South%20Roundabout%20.pdf	18 October 2017
Direct links to specific legislation or Government Directives	
<u>Title</u>	<u>Date</u>

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:

1.3. The proposals will have no or low impact upon groups with protected characteristics. The proposals are accessible to all road users. Pedestrians and cyclists will be catered for as part of the proposals to improve access to Whiteley and mitigation will be identified to add value in terms of accessibility over and above the existing provision.

<http://documents.hants.gov.uk/equality-impact-assessments/M27Junction9andParkwaySouthRoundaboutschemeWhiteley.pdf>

2. Crime and Disorder:

2.1. The County Council has a legal obligation under section 17 of the Crime & Disorder Act 1998 to consider the impact of all decisions it makes on the prevention of crime. The proposal contained in this report has no impact on the prevention of crime.

3. Climate Change:

3.1 The proposed Scheme will reduce congestion and delay and as a consequence will improve air quality, due to a reduction in the volume of queueing vehicles.

