

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Policy and Resources
Date:	18 July 2017
Title:	Major Highway Scheme: Stubbington Bypass – Land Purchase
Report From:	Director of Culture, Communities and Business Services

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1. Executive Summary

- 1.1. The purpose of this paper is to set out the background to this major highway scheme, known as the Stubbington Bypass road scheme (“the Scheme”) and to seek approval to the acquisition of all third party interests in land and any necessary rights required for the delivery of the Scheme.
- 1.2. In order to ensure the delivery of the Scheme within the funding timescales agreed with the Department for Transport (DfT) and the Solent Local Enterprise Partnership (SLEP), the report also seeks approval to the making of a Compulsory Purchase Order (CPO) 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.

2. Contextual information

- 2.1. The Scheme will provide a new 3.5km long, 7.3m wide single carriageway road between the B3354 Titchfield Road and the B3354 Gosport Road, passing to the north and east of Stubbington. Three new junctions will be provided to connect the Scheme to the existing highway network, with signal junctions provided at Titchfield Road and Peak Lane, and a roundabout at Gosport Road. A 1.1 kilometre section of Titchfield Road from the Titchfield gyratory southwards will be widened predominantly on the eastern side by 7.3 metres and Gosport Road improved to current alignment standards and generally widened to 7.3 metres along a 750 metre section between the new roundabout at Gosport Road and Peel Common Roundabout.
- 2.2. The vast majority of land traversed by the Scheme is third party land, which comprises predominantly open farmland together with a section of landscape bund associated with the Peel Common Sewage Treatment Works. A single dwelling will need to be acquired and demolished in order to widen Titchfield Road – see Exempt confidential Appendix 2.

- 2.3. The Scheme forms part of the wider strategy to improve access to Fareham and Gosport by reducing congestion on the existing highway network in order to support economic development and regeneration within the sub-region. This Scheme forms the final part of the package of schemes designed to improve access to Fareham and the Gosport Peninsula and aims to contribute towards the overall reduction of journey times and improved journey time reliability across the Peninsula, especially at peak times through the provision of increased road capacity and improved traffic management.
- 2.4. At his meeting on 11 July 2017, the Executive Member for Environment and Transport is expected to confirm the extent of land required to deliver the Scheme as detailed in Appendix 1 and also approve the recommendation that the Executive Member for Policy and Resources gives approval to the acquisition of all necessary third party land interests 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. The outcome of the 11 July meeting will be reported orally.
- 2.5. Preliminary discussions and meetings with affected landowners and tenant farmers in order to inform on the design proposals were carried out between early 2014 and mid 2015 but were subsequently put on hold due to the uncertainty of funding at that time. However, since the confirmation of funding by the DfT in February 2017, which is subject to Full Approval following completion of all appropriate Orders, discussions with affected parties have resumed in earnest with a view to formally opening negotiations to acquire their respective land interests and offering to meet their reasonable professional fees.
- 2.6. To provide certainty of Full Approval and funding confirmation and also delivery within the timescales agreed with the DfT and the SLEP for a commencement of construction of the Scheme, 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 CPO to secure the necessary land. As it can take around two years for a CPO to be confirmed by the Secretary of State should the need for a Public Inquiry arise, it is proposed to commence this process as soon as reasonably possible to run in parallel with negotiations to acquire all third party land interests by agreement.

3. Legal Context

- 3.1. 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.
- 3.2. 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 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.

- 3.3. The public interest test is met due to the proposed acquisition delivering necessary infrastructure to serve improved access to Fareham and Gosport and to encourage much needed economic development, as well as to maximise the wellbeing of residents, particularly in the central area of Stubbington, by reducing congestion and delays to key destinations.
- 3.4. 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 the designated Fareham Borough Council designated Strategic Gap, so as to cause the least disruption to residents and therefore to have the least impact on their human rights.
- 3.5. The County Council has also had regard to the provision of Article 1 of the First Protocol to the European Convention on Human Rights. 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.
- 3.6. Article 6 also requires that those civil rights that may be affected by a decision are given a fair hearing by an independent and impartial tribunal. This is secured by means of the compulsory purchase order process including the holding of an inquiry into any objections which may be made and the ability to challenge any compulsory purchase order in the High Court.

4. Funding

- 4.1. A funding agreement was signed in March 2017 between the County Council and the SLEP for an initial advance of £3.5m up front funding provided for 2017/18 specifically to enable land acquisition, the making of a Compulsory Purchase Order and enabling works to take place this year, if possible. This will help to secure Full Approval which is required before the DfT will release the main funding for the scheme. The £3.5m will not be exceeded before further funding is confirmed.
- 4.2. 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.
- 4.3. Hampshire County Council is responsible for leading on delivery of the Scheme which appears in the Integrated Transport Capital Programme for 2018/19 and will be managed by the Director of Economy, Transport and

Environment. It is currently anticipated that the main construction works will commence in Spring 2019 with completion Spring 2021.

5. Planning

- 5.1. A planning application for the Scheme was approved by the County Council's Regulatory Committee on 21 October 2015 and a formal Notice of Planning Permission with associated conditions was issued on 23 October 2015.

6. Recommendations

- 6.1. 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 proposed Scheme on detailed terms and conditions to be settled by the Director of Culture, Community and Business Services (Strategic Manager – Assets and Development).
- 6.2. That, in order to ensure the delivery of the Scheme within agreed funding timescales, 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.
- 6.3. 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 detailed in Appendix 1 on the basis that it will not be extended, but it could be refined / minimised.
- 6.4. That approval be given to the Recommendation in the Exempt confidential Appendix 2.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	Yes
Maximising well-being:	Yes
Enhancing our quality of place:	Yes

Other Significant Links

Links to previous Member decisions:		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
EMET Report: 'Stubbington Bypass – Enabling Work and Land Approvals'		<u>11.7.17</u>
EMETE Report: 'Stubbington Bypass Update Report'	<u>6718</u>	<u>9.7.15</u>
EMETE Report: 'Improving Access to Fareham and Gosport – Report of Consultation'	<u>6154</u>	<u>4.11.14</u>
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.)

<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:

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

2 Impact on Crime and Disorder:

2.1 None

3 Climate Change:

3.1 How does what is being proposed impact on our carbon footprint / energy consumption? The proposed strategy to improve access to Fareham and Gosport seeks to reduce congestion and journey time delay, particularly in central areas.

3.2 How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? Areas where traffic levels reduce will also experience significant benefit in terms of reduced air pollution.