

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Cabinet
Date:	29 September 2020
Title:	M27 Junction 10 Scheme Update
Report From:	Director of Economy, Transport and Environment

Contact name: Heather Walmsley

Tel: 01962 846089

Email: heather.walmsley@hants.gov.uk

Purpose of this Report

1. This report provides an update on the M27 Junction 10 improvement scheme ("the Scheme") which will facilitate the development of 6,000 new homes and in the region of 5,000 new jobs at Welborne Garden Village. The Scheme is substantial in scale and importance for the sub-region. Detailed planning permission subject to a S106 Agreement was secured for the junction improvement in October 2019, within the broader outline approval for the Welborne development granted at the same time. As Local Planning Authority, in resolving to grant planning permission for the development at Welborne, the Borough Council have specified that development cannot commence without full funding being in place for the junction improvement, making the Scheme critical enabling infrastructure for the whole development.
2. The County Council has been Scheme Promoter, leading on all design, development, and business case work for the Scheme since January 2018 following a request at that time by Chris Grayling, the then Secretary of State for Transport. The Scheme is substantial in scale and complexity, being the highest value single transport scheme ever progressed by the County Council. Progress to date has been significant, but has been complicated by the parallel work of Highways England's Smart Motorways Programme; and ongoing development and delivery funding issues.
3. The current allocation of development funding was anticipated to run out in September 2020. This report provides an update on recent changes in funding circumstances including a formal offer from the Solent LEP Board on 15 September 2020 to provide up to £900,000 to fund the completion of development work up to Stage 3 of the Highways England Project Control Framework process to be completed by the end of March 2021. A full understanding of the conditions associated with this funding is awaited and as such this report seeks a mandate for the suspension and termination of the

County Council's role as Scheme Promoter in the event that the funding cannot be secured with reasonable terms and conditions to enable the continuation of Scheme development. In particular it is considered that the County Council as scheme promoter should not accept additional financial obligations, which would be contrary to its long standing policy in respect of Welborne. Conditions or obligations relating either to the outcomes of the work or elements of the work programme that are beyond the direct control of the County Council are also considered to be unacceptable. The report also sets out next steps, on the assumption that additional development funding is confirmed with reasonable conditions.

Recommendations

4. That the Cabinet authorises the Director of Economy, Transport and Environment to suspend all ongoing development work on the M27 Motorway Junction 10 improvement scheme ("the Scheme") if additional external funding for this work is not made available on reasonable terms and conditions to allow the work to continue beyond September 2020.
5. That the Cabinet agrees that following any suspension of work on development of the Scheme, the County Council will reallocate or stand down project resources and relinquish its current role as Scheme Promoter, if additional external funding for further scheme development is not received within a month following the suspension of activities.
6. That the Cabinet approves a change in the approach of the County Council as Scheme Promoter to formally review its continued role on the Scheme to follow the completion of Stage 3 of Highways England's approval process, rather than following completion of the Full Business Case stage.

Executive Summary

7. This report provides a summary of the sub-regionally significant Welborne Garden Village development and the need for improvements to the M27 Junction 10 to facilitate this development. Junction 10 is a substantial scheme in scale and value and is the largest single major transport scheme the County Council has worked upon. The report provides a short scheme description and progress update for Junction 10, including reference to the recommendations from the report to the Executive Member for Economy, Transport and Environment on 14 January 2020. Key meetings with Ministers have provided a steer throughout the Scheme development work and pertinent feedback and direction is summarised.
8. The report provides an update of the financial position for the Scheme, noting that the current development funding was set to run out in September 2020,

and seeks a mandate for the County Council to suspend ongoing development workstreams should the conditions associated with the additional Solent LEP funding offer be unacceptable and alternative third party funding not be identified to enable development work to continue

9. Should suitable funding be approved, the report outlines a structured approach for the progression of the development work up to an appropriate stage and provides for bringing forward a formal review of the County Council's role in the scheme from the completion of the full Business Case to completion of Stage 3 of the Highways England approval process, reflecting the changed funding position, and the knock on effect this has in further complicating the design approval and business case processes.

Context

10. Welborne Garden Village is a long standing proposal arising initially from the South East Plan and was subsequently incorporated as one of the new communities in the government's Garden Communities programme. It has the advantages that all the necessary land is now under one ownership, and a resolution to grant outline planning permission pending final agreement of the S106 legal agreement, which is anticipated before the end of 2020. The development includes the provision of 6,000 homes and approximately 5,000 new jobs, and is sub-regionally significant. Subject to the Section 106 Agreement, Buckland Development Ltd, the developer of Welborne, has identified £300m of infrastructure investment in the new community to provide the schools, healthcare facilities, community and leisure facilities, new roads, and public transport that the residents will need. Fareham Borough Council have included a condition on their resolution to grant Planning Permission which requires all of the funding for the M27 Junction 10 scheme to be in place before the wider Welborne development can commence..
11. The County Council agreed to take on the role of Scheme Promoter for the M27 Junction 10 in January 2018 following a request from Chris Grayling the former Secretary of State for Transport. Since 2018, significant progress has been made to advance the design, resulting in the submission of over 100 drawings and documents to Fareham Borough Council as Planning Authority, and a resolution by Fareham Borough Council in October 2019 to grant detailed planning permission subject to the S106 Agreement. Alongside the design work, the County Council has been working with the Department for Transport to progress the Strategic and Economic Cases for the Full Business Case, and more recently with Highways England to progress the Scheme through their 144 document approval processes.
12. The Scheme is substantial in scale and the largest transport scheme in value progressed by the County Council to date, with costs in the region of £75m. The Scheme will upgrade the existing "partial-moves" M27 Junction 10 to an

“all-moves” junction located largely to the west of the A32. The Scheme involves the provision of new east and west facing on- and off-slip roads, and a new east facing off-slip, along with a new under-pass under the M27. The Scheme has required an element of re-design to take into account the Highways England Smart Motorways scheme, which provides additional running lanes through the junction. Engagement with Highways England around this has been particularly complex.

13. On 14 January 2020, a report to the Executive Member for Economy, Transport and Environment outlined the progress to date, but advised that an impasse had been reached in Scheme development and business case work, pending early contractor design input, which was primarily linked to the lack of funding for both scheme development and to deliver the Scheme. Without a resolution of the funding issues, the report recommended that preparations should be made to potentially suspend work and terminate the role of the County Council as Scheme Promoter. The report further recommended that clarity should be sought with Highways England around the way forward and approach to delivery, and that the County Council should work with Fareham Borough Council to secure additional funding for the Scheme.
14. Following intervention from the Department for Transport additional development funding was made available to the County Council which allowed design and approval processes to proceed.
15. The County Council is working with appropriately experienced framework partners to progress the design of the underpass solution, and has sought early contractor involvement (ECI) to provide a level of confidence that a potential delivery body would ratify the design as appropriate for delivery without any further adjustments. The County Council has also agreed a mechanism for engagement with Highways England, who have identified a Project Coordinator as a dedicated resource to assist the County Council working through their Product Control Framework (PCF), a complex approval process involving the approval of some 144 documents across several stages, to reach a point whereby the design is completed and fully approved. The original intention was that Highways England would complete the PCF process themselves as well as delivery of the motorway elements of the Scheme as part of their Smart Motorway Project, which opens to traffic in March 2021. However, the Junction 10 programme has slipped beyond the timescales for the completion of the Smart Motorways Scheme and now needs to progress independently through the Highways England Approval process, which has added a minimum of a year onto the delivery programme,.
16. The completion of Stage 3 of the PCF process will be a significant milestone in the development work and is planned to take place prior to March 2021. It is logical that there is a pause at the end of Stage 3 until full funding for the Scheme and the approach to delivery is confirmed, given that progression beyond this stage will not be possible without full funding. In order to complete Stage 3 of the PCF process and for the County Council to continue development work beyond September, additional development funding in the

region of £700-£900k will be required, and this is set out more fully in the financial section of the report.

17. Progression to Stages 4 and 5 of the PCF process, and the completion of the Financial, Commercial, and Management Cases of the Full Business Case, require the completion of the Orders process and procurement processes, which cannot be commenced in advance of a signed S106 Agreement and the confirmation of full funding. The Full Business Case cannot be completed until the end of Stage 5 of the PCF process. The completion of Stages 4 and 5 will unlock the approach to delivery.

Key Recent Developments

18. On 12 February 2020, a meeting took place with the Rt Hon Robert Jenrick, Secretary of State for Housing, Communities and Local Government, which reaffirmed the importance of the Scheme within the context of facilitating Welborne Garden Village, and identified the potential for a further £15million to be allocated to the Scheme from the Housing and Infrastructure Marginal Viability Fund, (HIF MVF) increasing the £10million currently allocated to £25million. The allocation has subsequently been increased to a total allocation of £30million subject to due diligence under a competitive process, with other schemes. The meeting saw discussion of the potential for the outstanding gap funding to be met from increased local contributions, but to date no such increased contribution has been secured.
19. Two key letters were written in May 2020, which are critically important to the funding situation for the Scheme: Firstly, a letter was sent from the Solent LEP to DfT on 1 May seeking the return of the remaining DfT retained funding (£10.65m) to the local area, given that the funding could not be spent on capitalised work prior to the funding deadline of March 2021. This would allow the LEP to reallocate the remaining LGF (£24.4m) to other projects to ensure the funding was retained within the local area. A second key letter was sent from the Leader of the County Council to the Rt Hon Robert Jenrick on 5 May 2020 requesting consideration for extending the spending deadline for the LGF funds beyond March 2021 to enable the LEP's allocated funding to be retained for the Scheme.
20. On 16 July 2020 the County Council withdrew their letter to the Secretary of State at the request of the Solent LEP on the basis that, after further dialogue with government officers, it became apparent that no response would be received before the LEP Board met to determine whether to re-allocate the LGF funds, and in support of the principle that the funding should be retained in the local area. Following the withdrawal of the County Council's letter, the DfT agreed to return the retained LGF funding to the LEP.

21. On 17 July 2020, the LEP Board agreed to reallocate retained LGF upon its return from DfT, allowing that up to £2m could still be made available to the Scheme Promoter to continue the development of the Scheme and work towards the completion of the full business case.
22. On 14 August, the Scheme Promoter advised that the programme for the completion of the full business case had slipped by approximately a year due to delays to key workstreams associated with a lack of full funding, and to allow time for the completion of the Highways England PCF process. It was further advised that, following the funding changes, it would no longer be possible to complete the business case in the timescale or following the process previously envisaged.
23. In light of the rapidly evolving events outlined above, and in order to unlock the stalemate position, full funding for the Scheme is urgently needed. However, Ministers and government officers have consistently advised that they will not invest further funding until there is an increased local contribution. Several options to increase the local contribution have been discussed but no clear way forward has yet been identified. Without agreement for an increased local contribution to be offered, full funding for the Scheme is unlikely to be secured in the foreseeable future. As a result, progression of Scheme development work beyond Stage 3 will almost certainly be stalled at this point.
24. Aligned to the need to increase the level of the local contribution, it is critically important for dialogue to take place at the highest level to understand how the remaining gap funding for the Scheme can be found. Funding matters are more fully outlined below.

Finance

Scheme Development Costs and Funding

25. £4.65 million has been spent on Scheme development to date. It is anticipated that a further £2m will now be the minimum required to complete the remainder of the Scheme development work, and the substantial documentation associated with Highways England's Approval processes, the contribution towards their associated resourcing costs, and redesign associated with Smart Motorways.
26. The £4.65 million spent to date has been advanced from the Solent LEP's £14.9m Local Growth Funding retained by the Department for Transport (DfT) and was paid directly to the County Council from DfT for Scheme development and business case work. This funding has been used to progress the development work since January 2018 and is expected to run out in September 2020.
27. At its meeting on 17 January 2020, the Solent LEP Board agreed to make up to £2million of additional funding available from the remaining £10.25million

Solent Growth Deal funding retained by the Department for Transport to help ensure that sufficient funds are in place to complete the business case and site preparation works, and to ensure that the Scheme remains well placed to secure the funding it needs to proceed.

28. The Solent LEP have always advised that this funding will need to be spent by March 2021 in accordance with their Assurance Framework, and that all expenditure needs to be capitalised. Based upon the current programme of deliverables, it will not now be possible to complete all of the Scheme development and full business case work prior to March 2021, with the current programme showing that only completion up to the end of Stage 3 of the Highways England approval process will be achieved by that date. Completion of Stage 3 work will cost in the region of £700k-£900K.. On 15 September 2020 the Solent LEP Board formally confirmed that they had considered the request from the County Council as Scheme Promoter for up to £900,000 to fund the completion of development work up to Stage 3 (of 5 stages) of the Highways England Project Control Framework process by the end of March 2021. A full understanding of the conditions associated with this funding are awaited.
29. The funding constraints linked to the Assurance Framework mean that it will not be possible to spend the remainder of the £2m prior to March 21, and consequently there will be a shortfall of approximately £1.3million in development funding, which will mean that development work cannot progress beyond Stage 3 of Highways England's Approval process without replacement funding identified. Additional third-party funding in the region of £1.3m will then be required to enable progression to Stages 4 and 5 of the HE approval process and the completion of the Full Business Case.

Scheme Delivery Costs and Funding

30. The progression of a single slide-box design now means the delivery cost has reduced from £85-£100 million to in the region of £75 million. Of this amount, approximately £50 – £55 million is directly associated with main works, and other costs are related to traffic management on the motorway, utility diversions, adjustments to Smart Motorway Project design, risks, and optimism bias. The final Scheme cost will be dependent upon the approach to delivery, as ratified by the contractor, and assumes Highways England will approve the slide box approach to underpass delivery. The ability to reduce risks and potentially substantial costs, which Highways England may apply around commuted sums, VAT, and the impact upon its network, are key to informing the final costs.
31. A range of funding bodies have allocated funding towards the delivery of Junction 10. Given delays to the programme, resulting from engagement with Highways England's Smart Motorways project, and delays throughout the planning process, alongside funding constraints and deadlines for spend,

some of the funding allocations are no longer available. The status of each allocation is set out below.

32. £14.9 million was originally allocated from the Solent LEP Local Growth Funding retained by DfT. Of this amount £4.65 million has already been advanced from DfT directly to the County Council for Scheme development work, and will be completely spent by September 2020. The Solent LEP Board requested the return of the remaining £10.25 million Local Growth Funding retained by DfT to the local area (on the advice that it could no longer all be spent on Junction 10 prior to March 2021) so that it could be reallocated to other projects that could be delivered within the timescales.
33. An additional £14.15 million was originally allocated from the Solent LEP Local Growth Funding, which needed to be spent by March 2021. As Junction 10 cannot spend this funding in advance of March 2021, the Solent LEP Board removed the 'earmarking' for this funding at their Board on 9 March 2020 which means it is no longer available for the Scheme.
34. £10 million was originally allocated from the Housing and Infrastructure Marginal Viability Fund, which can be spent in 2021/22/23 upon the delivery of any part of the Scheme to facilitate housing growth. Discussions with MHCLG over the last month have demonstrated support for the Scheme, providing a critical step forward as outlined earlier in the report, with Government advising that the originally allocated £10 million could potentially be increased to £30 million, subject to due diligence involving further financial scrutiny around the wider Welborne development. The funding would be grant funding, which would have conditions attached requiring Fareham Borough Council (the bidding and receiving authority) to ensure it would be repaid if the development became viable and fully policy compliant. As the conditions of the funding are directly linked to the delivery of homes and have obligations for Fareham Borough Council as Planning Authority and bidding authority, the funding cannot be awarded directly to the delivery body, hence some form of back to back Agreement would be required to enable the funds to become effectively available to the Scheme delivery body. The additional funding, (should all £30 million be secured), would have effectively closed the funding gap for the Scheme if it had been possible to keep the LGF allocation, and would have unlocked the blockage in Scheme development and progress towards delivery for Junction 10 and the wider Welborne development.
35. £20 million has been identified through Fareham Borough Council's Viability work as an appropriate contribution to be secured via Section 106. This level of funding, representing just over 20% of the total cost, is capped at this level in terms of the planning resolution from the Borough Council following negotiation with the developer. The S106 will almost certainly seek to define phased timescales for releasing this funding, which are likely to be linked to when construction on the Scheme and homes start and other agreed development progress related triggers.

36. Based upon the remaining funding allocated above, which totals £50 million (subject to Homes England approval and due diligence processes), plus £5.55m development funding, and the assumption that the Scheme can be delivered for a cost in the region of £75m, the funding gap for Scheme delivery (assuming that a slide box solution is approved) is now in the region of £20M. The potential additional funding allocations from Homes England represent a significant milestone going forward. However, until replacement funding for the reallocated Local Growth Funding has been identified, the Scheme is no closer to being delivered or understanding which party will be the delivery body. It is impossible to complete the Scheme development or delivery without full funding in place, and costs will only increase the longer it takes to resolve.
37. A summary table showing guaranteed funding alongside funding allocated and subject to Agreement, is included below:

SOURCE	GUARANTEED FUNDING (£000)	FUNDING SUBJECT TO AGREEMENT / ACCEPTABLE CONDITIONS/ DUE DILIGENCE (£000)	POTENTIAL TOTAL BUDGET (£000)	SPEND DEADLINES
LGF DfT retained funding	4,650	900	5,550	March 2021
Homes England Housing Infrastructure Fund Marginal Viability Funding		30,000	30,000	Possible to extend beyond March 2021
S106 private sector contribution		20,000	20,000	No spend deadline
TOTALS	4,650	50,900	*55,550	

*Note: Based upon an assumed scheme cost of £75 million which leaves a minimum funding gap of £19.65 million

38. In light of the amount of public funding potentially allocated towards the Scheme, the State Aid implications for the Scheme must continue to be considered. The scheme is primarily intended to mitigate the impact of the planned development whilst it is also recognised that it would bring wider benefits for the surrounding communities of Fareham.

Next Steps

39. Subject to the availability of development funding from the Solent LEP, or other third parties, the Scheme Promoter should continue to progress the single slide-box design and will aim to complete Stage 3 of Highways England's Approval process to be completed by March 2021.

40. Without acceptable conditions aligned to the additional £7-900k of development funding recently formally agreed by the LEP Board, , the County Council will commence a suspension of all workstreams associated with Junction 10, and consequently there will be abortive costs to third parties, current resources will be lost to the Scheme, a significant number of ongoing workstreams will need to be closed down, and the likelihood is that recommencing all of these workstreams with newly allocated resources in the future would result in a substantial amount of additional work as tasks would potentially have to be re-started from the beginning.
41. On the assumption that development work continues to enable the completion of Stage 3 of Highways England's Approval process, a break point will then be required to provide all parties with the opportunity to consider the approach to delivery, and to agree the delivery body and cost underwriter. Progression beyond the break point to complete Stages 4 and 5 leading into delivery will not be possible without full funding, and the longer it takes to secure full funding and progress to these stages, the more costs will inevitably increase, (whilst noting that progression through Stage 3 would be much faster with full funding in place.)
42. In the meantime it is suggested that lobbying should continue at the highest level to seek to unlock funding to close the remaining gap and deliver the Scheme. In this regard it has been agreed to send a further letter to the Prime Minister requesting further financial support for Welborne, signed by the landowner/developer, the Leader of Fareham Borough Council and the Leader of Hampshire County Council.

REQUIRED CORPORATE AND 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:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes

Other Significant Links

Links to previous Member decisions:	
<u>Title</u> EMET – M27 Junction 10 EMETE – M27 Junction 10 Update	<u>Date</u> 15 Jan 2019 14 Jan 2020
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

Fareham Borough Council Planning Decision on Welborne Garden Village October 2019	Planning Portal /Fareham Borough Council website
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EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

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 by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

The impact of this decision has been assessed as neutral as it relates to development work and business case progression rather than delivery. However, as and when the Scheme is delivered, it will benefit all transport users, catering for cars, Bus Rapid Transit links, and including pedestrian and cycle provision. It will provide the key access to Welborne Garden Village and associated 6000 new homes and 5000 new jobs, which will benefit the whole community. More detailed equalities impact assessments will be carried out if and when the County Council moves into the delivery phase of the project.