

<b>Meeting:</b>	<b>Cabinet</b>
<b>Meeting date:</b>	<b>20 October 2016</b>
<b>Title of report:</b>	<b>South wye transport package - southern link road land acquisition of required rights and easements</b>
<b>Report by:</b>	<b>Head of infrastructure delivery</b>

## **Classification**

Open

## **Key decision**

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function to which the decision relates and because it is likely to be significant in terms of its effect on communities living or working in an area comprising one or more wards in the county.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

## **Wards affected**

Stoney Street and Wormside

## **Purpose**

To seek authority to acquire by negotiation the land, properties, easements and rights of access over land needed for the construction of the southern link road between the A49 Rotherwas access road roundabout and the A465 Abergavenny road and the A465 and B4349 Clehonger road, and for in principle approval for the making of a compulsory purchase order (CPO) and side roads order (SRO) if required, for the same purpose.

## Recommendation(s)

### THAT:

- (a) the director for economy, communities and corporate, be delegated authority to take all operational steps necessary to acquire all the necessary land interests required for the delivery of the southern link road through negotiation with possible affected landowners, and;
- (b) in principle use of the council's statutory powers of compulsory acquisition in making a compulsory purchase order, and the use of the council's statutory powers to make a side roads order be approved, subject to a further decision to more specifically identify the land interests to be acquired and further explain the necessity for a CPO in a statement of reasons
- (c) a further report be prepared to consider the business case for the purchase of properties outside of any proposed CPO boundary.

## Alternative options

- 1 Not to negotiate with landowners and rely on compulsory purchase powers to secure all the necessary land and rights to deliver the road. This would place additional risk on obtaining confirmation of the CPO and SRO as there is a duty on the council to have made reasonable efforts to acquire the land and rights and use CPO powers only if negotiations are unlikely to result in a timely and cost effective outcome.
- 2 To rely solely on acquisition by negotiation could result in considerable delay and possible prevent delivery of the road due to one or more landowner not being prepared to sell or only at a cost significantly in excess of the market value.

## Reasons for recommendations

- 3 Planning permission for the Southern Link Road was granted in June 2016 for the entire line of the road, in addition to all necessary junction works, side roads, drainage and environmental mitigation.
- 4 To enable the construction of the road primarily agricultural land needs to be acquired. The agricultural land is in five different ownerships plus land owned by the council and Highways England. Part of the garden from one residential property is also required. There are no residential dwellings that need to be acquired for the road construction.
- 5 Approval is sought to commence negotiations to acquire required land interests and to approve the use of compulsory purchase orders in principle. If the Council agrees the "in principle" use of its powers of compulsory acquisition and powers of access, this will not preclude the Council from endeavouring to acquire the necessary land and rights by agreement. This report therefore asks for approval in principle to make a CPO and SRO, whilst continuing with efforts to acquire, by agreement, the land, business interests and rights needed to carry out the works.

## Key considerations

- 6 The aim of the South Wye transport package (SWTP) is to promote economic growth in Hereford while tackling specific problems in the South Wye area.

- 7 These problems in the South Wye area have mainly been caused by the level of congestion along the A465 and the A49. This has resulted in poor levels of air quality and noise and has resulted in large numbers of short distance trips being made by car.
- 8 The SWTP will reduce congestion, enable access to the Hereford enterprise zone (HEZ), reduce growth in emissions and traffic noise, reduce accidents and encourage physical activity. The package comprises a new southern link road and a package of complementary active travel measures.
- 9 The southern link road is a priority project for the Marches local enterprise partnership and growth fund funding of £27m has been secured to deliver the entire package. Securing the required land interests will further demonstrate the council's commitment to the project.

## **Community impact**

- 10 There are currently six identified and known property owners affected. One of those affected is a residential property where part of the garden is required the remaining land is agricultural land which forms part of larger farming operations which will continue after the land for the road has been acquired. There is also land currently part of the council's small holdings estate where tenants will be affected.
- 11 It is proposed that terms for the purchase are negotiated in accordance with statutory compensation payable in the event of a compulsory purchase order, which will include the market value of the land plus disturbance and statutory loss payments. Landowners will not be financial disadvantaged by negotiating and agreeing sales early otherwise they will be no incentive to negotiate now.
- 12 There are a number of residential properties that are outside the planning footprint of the Southern Link Road route. Whilst not required for the construction of the road there may be a business case for the purchase of these properties. Any purchase will require a robust business to be developed on an individual basis and if appropriate a further report will be considered alongside any further decision to invoke CPO powers.

## **Equality duty**

- 13 This proposal will support the council in demonstrating its commitments to the Equality duty. Land acquisition will wherever possible be by agreement and if not possible the council will use compulsory powers in accordance with appropriate national guidance and legislation.
- 14 The Council has carefully considered the balance to be struck between individual rights and the wider public interest. For those parties who are prepared to negotiate settlements in advance of a CPO then the terms of that agreement will be as per the relevant statutory powers so as such parties should not be financially penalised in reaching agreement by negotiation

## **Financial implications**

- 15 £27m of growth fund capital money has been secured towards the funding of the South Wye Transport Package of which the southern link road forms part. At this

stage the land acquisition costs are estimated to be in the region of £1million excluding fees, taxes etc and are contained within the overall scheme budget which will be funded from the growth fund and council funding as allocated and approved in the capital programme.

- 16 At this stage the decision authorises officers to negotiate purchases and ascertain where CPOs may be necessary. The decisions to purchase through CPO, if applicable, will be the subject of a future report.
- 17 All purchases which are negotiated and agreed without the need for CPO will be in accordance with statutory compensation guidelines so landowners will not be financially disadvantaged by selling early in advance of a CPO being confirmed.
- 18 To assist with the valuations of sites and appropriate compensation calculations, independent consultants will be procured. This will be funded from the approved capital budget.
- 19 External consultants will be procured in accordance with council's procurement process to verify land values.

## **Legal implications**

- 20 A further resolution will be required authorising the Council to use its powers of compulsory acquisition in order to make the CPO. An SRO in the context of this scheme would, amongst other things, be used to stop up private means of access to premises, of certain affected landowners, and providing such alternatives means of access as are considered necessary.
- 21 The financial basis of negotiations will be in accordance with the statutory CPO terms so landowners will not be either advantaged or disadvantaged by reaching an early agreement and entering into a contract for sale with the council in advance of a CPO.
- 22 The council's legal department will be responsible for preparing and agreeing contract documents relating to the purchase of any property interests.

## **Risk management**

- 23 Should the recommendations not be approved, the risk to the Council is that the land and rights needed for the scheme will not be securable by negotiation within a suitable time frame and/or cost, leading to a potential adverse effect on the timings and implementation of the wider south wye transport package scheme.
- 24 Asking for "in principle" approval of the use of CPO and SRO powers gives a clear indication of the Council's intention. A report to Cabinet asking for a resolution to actually make a CPO and SRO for this scheme will follow this initial report, and will determine the most appropriate powers for the same.
- 25 It is from the point of the Council's resolution to agree to invoke CPO and SRO powers, that the Council is at risk of eligible property owners submitting Blight Notices and approval of this reports recommendations does not.

## **Consultees**

- 26 There were a number of public consultations prior to the submission of the planning

application, including a call in by overview and scrutiny committee regarding the southern link road route selection. As part of this consultation process there was refinement of the road design which subsequently got planning permission. All of the landowners were notified of the consultation and some actively engaged in the process.

## **Appendices**

Appendix 1 – planning application route plan

## **Background papers**

- None identified