

Decision maker:	Cabinet member infrastructure
Decision date:	12 November 2018
Title of report:	South Wye Transport Package - southern link road land acquisitions
Report by:	Development manager

Classification

Part Exempt

Appendix 1 Exempt by virtue of paragraph 1; Information related to any individual;

Paragraph 2; Information which is likely to reveal the identity of an individual and

Paragraph 3; Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Decision type

Key

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 concerned. A threshold of £500,000 is regarded as significant.

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, Wormside

Purpose and summary

To approve the purchase of property outside of the South Wye Transport Package – A4194 Southern Link Road Compulsory Purchase Order (“CPO”) as the criteria for discretionary purchase under section 246(2A) of the Highways Act 1980 are met and there is a business case for acquisition as set out in Appendix 1 (exempt) and it will assist the successful delivery of the southern link road (SLR). The report is in response to a specific request to purchase a property

outside of the CPO area.

Recommendation(s)

That:

- (a) The council uses statutory powers under section 246(2A) of the Highways Act 1980, as inserted by section 62(2) of the Planning and Compensation Act 1991 to purchase by agreement property not included in the south wye transport package – A4194 southern link road CPO if there is a justified business case for doing so;**
- (b) The acting director for economy and place be delegated authority, following consultation with the chief finance officer, cabinet member contracts and assets and cabinet member infrastructure, to agree terms and complete the purchase of the property as detailed in Appendix 1 of this report (exempt). and;**
- (c) That the land acquisition budget of £1.8m approved by cabinet on 16 November 2017 be increased to £2m and contained within the overall capital budget for the SWTP of £35m.**

Alternative options

- 1 Not to use the powers available to the council. This is not recommended because it could adversely impact the scheme in a number of ways i.e. delay delivery programme, increase project costs, prevent meeting of external funding conditions. It could also result in individual personal hardship to residential property owners.

Key considerations

- 2 On 20 October 2016 cabinet approved the decision to acquire by negotiation all the necessary land interests required to deliver the southern link road (SLR).
- 3 On 16 November 2017 cabinet approved the making of the CPO and SRO required to deliver the SLR and The County of Herefordshire District Council (South Wye Transport Package – A4194 Southern Link Road) CPO and SRO were made on the 5 March 2018.
- 4 Members and officers have been in discussion for some time with a small number of home owners whose properties are within close proximity to the proposed road, regarding the scheme impact and their personal circumstances. For these particular cases the home owners have no land within the CPO area although in one case there are easement rights affected by the scheme and in that case a statutory objection to the CPO has been made.
- 5 These objector's have requested that the council purchase their entire property. Subject to acceptable terms to the council being negotiated, purchase is considered justified as it would deliver a number of benefits:
 - Enable the delivery of an alternative engineering solution to part of the road drainage system
 - Reduce construction risk and cost
 - Simplify the maintenance regime of the SLR post construction
 - Removal of a statutory objector to the CPO
 - Reduce the likelihood of the CPO public inquiry and its associated costs
 - Secure by agreement the final land interest required to deliver the SLR

- Reduce the risk of slippage to the scheme programme
- Address the specific personal issues affecting the property owners desire to sell and move prior to completion of the SLR

6 If acquired the council could hold the property and manage it in accordance with its corporate property strategy and/or sell the property at an appropriate time.

Community impact

- 7 The objectives of the South Wye Transport Package contribute to the Councils corporate plan. The scheme seeks to contribute to the economic growth of the county as part of the overall economic vision.
- 8 Approval of the recommendations of this report are intended to help mitigate the impact on home owners directly affected as it will result in them being able to sell their property and to move home in advance of works starting on site and thus preventing the worsening of any existing health condition that may arise as a result of construction and use of the SLR.
- 9 It is not intended that the council will seek to acquire land outside of the CPO area except in exceptional circumstances where there is a strong business case to do so. Generally home owners will have to rely on the statutory compensation process to compensate for any financial loss arising as a result of the SLR scheme.

Equality duty

10 Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
11. In using these discretionary powers those property owners outside of the CPO that are eligible will be offered an opportunity to sell their property to the council and move home in circumstances that may be difficult to achieve to any other purchaser due to the uncertainty and impact of the scheme.

Resource implications

12. The estimated cost for the South Wye Transport package set out in the Strategic Outline Business Case for the project is as follows:

Package Element	Capital Cost £
A465 public realm scheme to reduce severance and encourage use of active modes	3,000,000
A465/A49 Southern link (including risk adjustment at 50%)	29,729,000
Cycle and walking schemes in Belmont	1,000,000
Cycle and walking schemes in Bullingham	1,000,000

- 13 These estimated costs were based on a possible package of measures with a new Southern Link Road which formed the SWTP and are based on the level of detail known that time. The estimated cost of £29,729,000 for the SLR comprised professional design and supervision fees, land acquisition and compensation costs, statutory undertaker's equipment diversion costs, road construction costs and an optimism bias allowance. The SOBC costs for a southern link road are based on the costs for an indicative southern corridor (SC2) in the Hereford Relief Road Study of Options 2010 (Table 4.14 of that report is below) report with a 50% uplift to reflect project progress since 2010. Column SC2 refers to the southern corridor element of a relief road – other columns do not relate to the SWTP but are replicated as the table is extracted from the report.

Table 4.14: Total Costs for Inner East and Inner West Combinations

Western Inner	SC2	WL1	WL7	NC1	NC4
Construction Costs	£7,809,236	£19,688,525	£2,226,026	£6,904,802	£9,892,965
Land Costs	£3,161,046	£3,651,606	£1,261,148	£2,700,124	£2,381,260
Land Inflation Allowance	£648,014	£748,579	£258,535	£553,525	£488,158
Works for Statutory Bodies	£780,924	£1,968,853	£222,603	£690,480	£989,297
Preliminaries	£780,924	£1,968,853	£222,603	£690,480	£989,297
Preparation and Supervision	£780,924	£1,968,853	£222,603	£690,480	£989,297
Optimism Bias	£5,857,743	£12,868,543	£1,828,192	£5,137,601	£6,706,530
Sub-Total	£19,818,810	£42,863,811	£6,241,709	£17,367,493	£22,436,803
Part1 Claims	£25,000	£150,000	£75,000	£100,000	£150,000
Total	£19,843,810	£43,013,811	£6,316,709	£17,467,493	£22,586,803
				Total	£109,228,627

- 14 Land costs in the Study of Options report are estimated at £3,181,046 which has been refined as the detail of SLR has progressed and the land required for the scheme has been confirmed. All elements of the scheme costs continue to be reviewed and updated as the southern link road design is developed and the preferred package of measures is approved and further developed and full detail of costs will be set out in the final full business case to be submitted to DfT – the approval of which will be the subject of further governance.

- 15 There is an approved capital budget of £35m for the SWTP project; £27m of growth fund capital money has been secured for the SWTP with a local contribution of £8m from the council's transport budgets or other sources that may become available as the project progresses.
- 16 Spend to end of 2017/2018 on the SWTP project totals £4,977,931.67. Funding of £3,843,609.71 has been received to date from the Marches LEP growth fund. Draw down of the remainder of the £27m grant will commence following the sign-off the full business case by DfT. The council has funded £1,134,321.96 of capital costs to end 2017/2018.
- 17 The remaining capital budget of £30,022,068.33 for the SWTP will be funded by £23,156,390.29 from the Marches LEP Growth Deal fund and £6,865,678.04 from council's budgets or any other successful external grant.
- 18 Spend in 2018/2019 is currently forecast at £1.75m. This will be funded from the Councils Local Transport Plan grant in advance of drawing down Marches LEP grant funding following sign off of the final full business case.
- 19 On 16 November 2017 cabinet confirmed the making of the Compulsory Purchase Order to enable acquisition of land and interests required for the Southern Link Road scheme with an estimated cost of £1.8m. The £1.8m land acquisition cost is built up as follows:
- | | |
|--|------------|
| Compensation to landowners (incl land acquisition) | £1,050,000 |
| Legal fees associated with land acquisition | £45,750 |
| Land Cost Contingency | £581,000 |
| Total | £1,800,000 |
- 20 With an increase in the allocated land acquisition budget to £2m and using all the allocated land contingency the acquisition of this property along with all the other property within the CPO can be accommodated within the currently approved SWTP budget which includes an optimism bias allowance referred to in paragraph 13 above.
- 21 Land acquisitions costs in 2018/2019 are contained within the forecast in paragraph 18 above and will be funded as set out in that paragraph. The remaining land costs will be incurred subject to the confirmation of order and following the sign off of the full business case.
- 22 Agreement has been reached with all landowners and legal agreements are being prepared. The valuation of these acquisitions is in accordance with market value and in accordance with RICS guidance. The total value of agreements reached with these landowners whose land is within the CPO boundary is within the budget of £1.8m referred to above.
- 23 The acquisition of the property referred to in Appendix 1 is considered necessary as the criteria for discretionary purchase under section 246(2A) of the Highways Act 1980 have been met and there is a business case for its purchase as set out in Appendix 1 (exempt) of this report. Based on current estimate of this property the overall budget for land acquisition will increase to £2m and this can be contained within the overall budget of £35m for the scheme. If acquired the council could hold the property and manage it in accordance with its corporate property strategy and/or sell the property at an appropriate time and the receipt utilised to support delivery of other council objectives.

Legal implications

- 24 This is an executive function under the council's Constitution Part 3 Section 3 and it is a key decision being one which is likely to be significant having regard to the strategic nature of the decision and/or whether the outcome will have an impact for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards in Herefordshire) affected.
- 25 The Highways Act 1980 as the primary legislation and the Acquisition of Land Act 1981 afford the council statutory powers to acquire land for the construction and improvement of a highway, to acquire land which is required for (or for use in connection with) the construction of the highway, to acquire land to mitigate the adverse effects of the highway and to create new rights over land.
- 26 The Highways Act 1980 also gives the council discretionary powers under Section 246(2A) to purchase land that does not fall within the confines of the CPO if it is so minded to do so.
- 27 There are no legal problems with doing what is proposed as the relevant criteria of the Acts referred to in recommendation a above have been met.

Risk management

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Risk / opportunity	Mitigation
Unable to agree purchase terms with owner.	Offer price will be based on independent valuation advice
Further request received with a justified reason to purchase property resulting in budget pressure to the project.	As a result of the public consultation on the scheme and review of plans it is not evident that there are other properties that would satisfy the criteria.
There is a fall in property prices which results in a reduced capital receipt from that budgeted at the time of acquisition.	Housing market conditions are outside of council control, although sales could be delayed if prospect of higher net receipt were likely.
Condition of property deteriorates while in council ownership and requires repair and maintenance expenditure	Age and condition of the property will be taken into consideration as part of the purchase terms and reasonable budget provision made. The property will be included on the council's insurance policy and the road construction contract will include provision for any contractor damage.

Consultees

- 29 There has been extensive public consultation on the SLR through the route selection process and the planning application which was submitted in May 2015 and granted in July 2016
- 30 The political group leaders and both local ward members have been consulted and no objections or comments have been received.

Appendices

Appendix 1 Exempt

Background papers

None