

<b>MEETING:</b>	<b>CABINET</b>
<b>DATE:</b>	<b>14 JUNE 2012</b>
<b>TITLE OF REPORT:</b>	<b>EDGAR STREET LINK ROAD IMPLEMENTATION</b>
<b>PORTFOLIO AREA:</b>	<b>EDUCATION AND INFRASTRUCTURE ENTERPRISE AND CULTURE ENVIRONMENT , HOUSING AND PLANNING</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Aylestone Ward, Central Ward and Three Elms Ward.

### **Purpose**

To seek authority to acquire by negotiation the land, properties, easements and rights of access over land needed for the construction of the Link Road between Edgar Street and Commercial Road, Hereford, and for in principle approval for the making of Compulsory Purchase Order (CPO) and Side Roads Order (SRO) if required, for the same purpose.

The Link Road is required to facilitate the implementation of proposals for the regeneration of the area known as the Edgar Street Grid; a plan of the boundary is attached at Appendix 1 ("the ESG Area").

### **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 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.

It was included in the Forward Plan.

### **Recommendation(s)**

**THAT CABINET:**

- (a) **Authorises the Chief Officer Finance & Commercial, in consultation with the Director for Places and Communities, to proceed with acquisitions through negotiations with the possible affected landowners, as regards the acquisition of all necessary land interests, and all other necessary steps in this matter;**
- (b) **Agrees that in order to secure any land and new rights required for the Link Road, the use of the Council's statutory powers of compulsory**

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Further information on the subject of this report is available from  
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**acquisition in making a Compulsory Purchase Order, and the use of the Council's statutory powers to make a Side Roads Order be approved, in principle, subject to a further report to Cabinet to more specifically identify the land interests to be acquired and further explain the necessity for a CPO in a statement of reasons.**

## **Key Points Summary**

- Requirement to provide additional road capacity to facilitate movements around the city and to provide access to development plots within the ESG Area.
- Negotiations with landowners and businesses are ongoing for the necessary land, property, and rights.
- A CPO and SRO may also be required to provide certainty of delivery.
- Approximately 19 businesses will either be directly or indirectly impacted by the CPO, and it is estimated that these businesses employ approximately 190 people.
- It is estimated that up to 800 housing units could be accommodated within the ESG Area.
- A planning application for the preferred scheme has been approved by the Local Planning Authority.
- Herefordshire Council has committed to underwriting the funding required to make the CPO and undertake the construction of the Link Road.

## **Alternative Options**

- 1 That the Council attempts to conclude the acquisition of all the necessary land and interests solely through negotiation.
- 2 Negotiations are currently ongoing between Herefordshire Council and relevant landowners and businesses. It is considered feasible that a negotiated agreement could be reached in respect of some of the land, interests and new rights required, although there may be adverse implications from a cost and timescale perspective.
- 3 The alternative option is therefore to continue to attempt to conclude negotiated agreements without the security of a CPO.

### **Advantages of negotiated agreement**

1. Would negate the need to make a CPO and SRO and the possibility of holding a CPO and SRO Public Inquiry.

### **Disadvantages of negotiated agreement**

1. There would be no certainty over timescales for conclusion of an agreement.
  2. There would be no certainty of reaching an agreement and being able to acquire the required land, property and rights.
  3. There would be an associated risk of cost increases to facilitate a negotiated conclusion.
- 4 This alternative option is not recommended for these reasons, although in line with the guidance set out in ODPM Circular 06/2004, the Council and Hereford Futures on behalf of the Council, will continue to try and negotiate the acquisition of the necessary land and rights by

agreement even if the Order is made.

## **Reasons for Recommendations**

- 5 To deliver the redevelopment of the ESG Area, infrastructure enabling works are required including the construction of the Link Road. Large parts of the ESG Area are currently inaccessible by car or even on foot, with many dead ends, few landmarks and major physical barriers. The Link Road will provide access to land for residential and leisure redevelopment, and deliver a range of other benefits for pedestrians, cyclists, public transport users and motorists within Hereford.
- 6 The Council is currently negotiating the acquisition of land and new rights by agreement to enable the Link Road works to progress. Some of these negotiations have progressed well and the Council are nearing a point where acquisitions could be completed.
- 7 However the negotiations with the majority of businesses have been inconclusive to date and it is necessary for the Council to consider using its powers of Compulsory Purchase to enable the Council to acquire all the land and interests needed to progress the Link Road needed for the ESG scheme.
- 8 It is estimated that up to 800 housing units could be accommodated within the redevelopment of the ESG Area, and that of those 35% (280 out of 800 units) will be classified for affordable use.
- 9 To enable the construction of the Link Road approximately 14 businesses will be required to relocate from within the ESG Area, and approximately a further 5 businesses are directly affected by the construction. The said 19 businesses employ an estimated 190 people.

## **Introduction and Background**

- 10 The implementation of the ESG scheme will require substantial preliminary infrastructure, including the Link Road, needed to open up land for development and to take traffic from a redesigned inner ring road.
- 11 Hereford Futures and Herefordshire Council, in consultation with the Highways Agency and transportation planners have fully appraised the preferred route of the Link Road. The Link Road is an estimated 850m long, single carriageway route. As its name suggests, it serves to make new links within Hereford's road network. The Link Road will offer new or improved connections with Widemarsh Street, Blackfriars Street, Station Approach and Canal Road and this will facilitate the wider regeneration of the ESG Area. The Link Road will also create opportunities for new community facilities to be brought forward, for example by West Mercia Police and the Primary Care Trust (PCT). A map of the Link Road planning submission can be seen at Appendix 2.
- 12 The Council is negotiating with the appropriate landowners and businesses for the necessary land, property and rights needed for the Link Road. However in order to guarantee the acquisition of the land, and rights and to secure timescales it may be necessary to seek a further authorisation to actually make a CPO if it appears that agreement on the acquisition of any of the required land and rights may not be reached within necessary timescales.

## **Key Considerations**

- 13 Together with other on-site measures, the construction of the Link Road will facilitate the redevelopment of land within the ESG Area and take traffic away from a redesigned inner ring road.

- 14 Planning consent for the Link Road was granted in March 2010. This approved the entire line of the Link Road, from Edgar Street to Commercial Road, in addition to all necessary junction works and side roads. In March 2012, Council approved the Capital Programme which included the funding required for the implementation of the Link Road project.
- 15 The Council has been in negotiation with the owners of the land and businesses affected by the line of the Link Road for the acquisition of land, rights and easements needed for the construction of the Link Road. In total there are approximately 19 affected businesses. The negotiations with some of the landowners have been inconclusive and there is the possibility of them becoming protracted. Any delay over the acquisition of the necessary land and rights will subsequently delay the construction of the Link Road, and the wider development of the ESG Area.
- 16 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 for the Edgar Street Link Road, whilst continuing with efforts to acquire, by agreement, the land, business interests and rights needed to carry out the Link Road works.
- 17 Failure to agree the recommendations of this report could have implications for the implementation of the wider ESG redevelopment proposals and the Urban Village development in particular. As noted above, a CPO and SRO may be required to give certainty regarding the timescales for negotiating the acquisition of the land, business interests, and rights necessary to progress the scheme.

## **Community Impact**

- 18 The southern part of the ESG Area is separated from the city centre by the busy dual carriageway inner ring road (Newmarket and Blueschool Streets). The Link Road is designed to take significant volumes of traffic from the heavily trafficked inner ring road – and so enable Newmarket and Blueschool Streets to be upgraded for easier pedestrian movement and reduction in through traffic that would be transferred to the Link Road. By removing existing barriers and improving access, the expansion of the city centre northwards, into the ESG Area, will be enabled.
- 19 The redevelopment of the ESG Area will ultimately open up circa 20 acres of land for residential redevelopment, it is estimated that up to 800 housing units could be accommodated within this allocation. It is expected that Policy H9 of the UDP – Affordable Housing will apply to the ESG residential developments and consequently 35% of units will be classified for affordable use. Consequently it is estimated that up to 280 units will be of an affordable nature.
- 20 The construction of the Link Road will require approximately 14 businesses to relocate from within the ESG Area, a further 5 businesses are directly affected by the construction but will not be required to relocate. Herefordshire Council has estimated that 190 people are employed on a full, or part, time basis within these businesses, employee estimates have not been made for the Royal Mail depot, as this business will remain on site. Each of these businesses are being encouraged to enter into negotiations with Herefordshire Council prior to any acquisition under a CPO and SRO.
- 21 Statutory compensation is being offered to those businesses affected. Details of suitable alternative business units and sites are being sent to all businesses, and a series of meetings between individual businesses and Council Officers is in the process of being planned. There are no residential properties which are being wholly acquired.

- 22 As a part of the statutory planning process, and as part of the wider ESG community engagement process, there has been considerable community consultation over the Link Road and its route.

## **Equality and Human Rights**

- 23 This report and recommendations do pay due regard to the Council's public sector equality duty. Under Section 149 Equalities Act 2010, the "General Duty" on public authorities is:

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

- eliminate discrimination, harassment, victimisation and any other conduct ... prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

- 24 The Equalities and Diversity team have been consulted on this report; it is considered that there is no negative impact on the Protected Characteristics identified in the Equalities Act 2010.

## **Financial Implications**

- 25 In March, Council approved the Capital Programme which included a budget for the delivery of the Link Road project. The Council has set a budget of £27m for underwriting the delivery of the scheme. This is to be funded through a combination of Capital receipts and borrowing repaid over a 25 year period.
- 26 Third party contributions will be sought wherever considered feasible and / or financially viable; in particular consideration will be given to securing Government and European grant funding. At this stage it is impossible to determine whether the Council would be successful in either identifying or bidding for appropriate grant funding, or what amount any grant may contribute.

## **Legal Implications**

- 28 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.
- 29 Specialist CPO and SRO legal advice is being provided by Pinsent Masons LLP in addition to the internal Herefordshire Council Legal Team. Pinsents have provided detailed legal advice on other aspects of the ESG scheme and are fully conversant with the projects aims and aspirations.
- 30 If required once the CPO has been confirmed this will be registered as a local Land Charge and will appear on affected landowner's property titles.
- 31 If a CPO and SRO are made and confirmed, compensation is payable to affected landowners and business owners in accordance with the relevant statutory provisions.

## **Risk Management**

- 32 Should the recommendation of this report be declined, 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 affect on the timings and implementation of the wider ESG proposals, as they currently stand.
- 33 The above risk could be mitigated if the Council were prepared, and able, to extend the timescales for the implementation of the current ESG proposals, and / or were able to meet any increase in costs incurred as a result of a wholly negotiated process.
- 34 Asking for “in principle” approval of the use of CPO and SRO powers gives a clear indication of the Council’s intention. A further 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, refine the actual route and interests to be acquired, and provide the detailed accompanying Statement of Reasons for both a CPO and SRO.
- 35 Cabinet should be aware that, from the point of the Council’s resolution to agree to invoke CPO and SRO powers, the Council is at risk of eligible property owners submitting Blight Notices.
- 36 The above risks will be monitored and managed through the corporate risk management process.

## **Consultees**

- 37 Relevant business and property owners will be consulted as appropriate.

## **Appendices**

- Appendix 1 - ESG Area
- Appendix 2 - Link Road Planning Submission Map

## **Background Papers**

- None identified.