

## Report to Cabinet

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| <b>Title:</b>                     | <b>South East Aylesbury Link Road - Land Acquisition</b>  |
| <b>Date:</b>                      | Monday 13 November 2017   |
| <b>Date can be implemented:</b>   | Tuesday 21 November 2017  |
| <b>Author:</b>                    | Mark Shaw, Cabinet Member for Transportation  |
| <b>Contact officer:</b>           | Mark Kemp – Director of Growth, Strategy & Highways<br>Email: <a href="mailto:mkemp@buckscc.gov.uk">mkemp@buckscc.gov.uk</a><br>Tel: 01296 387748 |
| <b>Local members affected:</b>    | Aston Clinton & Berton; Aylesbury Southeast; Aylesbury East; Wendover, Halton & Stoke Mandeville;   |
| <b>Portfolios areas affected:</b> | All   |

*For press enquiries concerning this report, please contact the media office on 01296 382444*

### Summary

This report sets out the basis for progressing land acquisition by way of compulsory purchase powers to facilitate the progress and completion of the South East Aylesbury Link Road (SEALR) on the outskirts of Aylesbury in Stoke Mandeville. The red line for this CPO is included in Appendix 1.

This report recommends that Cabinet authorise the making and implementation of a compulsory purchase order in respect of the SEALR link road project to enable the scheme to progress.

The requirement for the SEALR has arisen through the HS2 realignment of the A4010 ('Stoke Mandeville bypass'). Transport modelling has shown that the A4010 realignment causes significant congestion at the Aylesbury gyratory due to traffic reassignment at this junction, which is already operating over capacity. This Link Road is required to relieve this additional congestion and improve connectivity around Aylesbury. The Link Road also forms part of the emerging vision for Aylesbury Garden Town and is a key part of the adopted Aylesbury Transport Strategy.

### Recommendation:

1. That Cabinet authorises the making of a Compulsory Purchase order (“CPO”) under the Highways Act 1980 in respect of the land shown outlined in red on the plan in Appendix 1 for the purpose of securing delivery of the South East Aylesbury Link Road.
2. That Cabinet authorises the Director of Growth, Strategy & Highways (or such other appropriate officer) to:
  - (a) issue the order, notices and certificates in connection with the making, confirmation and implementation of the CPO;
  - (b) issue notices of entry to survey or value land under the Housing and Planning Act 2016 if required and obtain any warrants from the Magistrates Court for the purpose of such entry if considered necessary;
  - (c) make General Vesting Declarations (“GVD”) under the Compulsory Purchase (Vesting Declarations) Act 1981 and/or serve Notices to Treat and Notices of Entry following confirmation of the CPO if required;
  - (d) issue and serve any warrants to obtain possession of any land acquired by the Council following execution of a GVD or service of a notice of entry if it is considered appropriate to do so;
  - (e) undertake a public consultation on the proposed scheme for the SEALR;

**A. Narrative setting out the reasons for the decision**

**i. Background**

Transport modelling studies have convincingly demonstrated that the planned realignment of the A4010 through the HS2 Hybrid Bill has an unacceptable impact on the local highway network around the Aylesbury gyratory. The SEALR has been shown to be the best possible solution to relieving this pressure.

Housing growth and the impact of proposed High Speed 2 construction in Aylesbury has necessitated the construction of additional road infrastructure in and around the town. The SEALR is a crucial part of this infrastructure programme. HS2 has committed to paying for the most significant piece of infrastructure on this route, the crossing of the Aylesbury line. In addition, in Summer 2016, the County Council (in partnership with Buckinghamshire Thames Valley Local Enterprise Partnership) secured £13.5m from the third round of Local Growth Funding to enable delivery of the road.

The construction of the SEALR accords with the Council’s Strategic Plan objective to Keep Buckinghamshire Thriving and Attractive, by mitigating congestion in and around Aylesbury and enhancing north-south connectivity across the county.

**ii. Compulsory Purchase Powers**

Delivery of the SEALR requires acquisition of land which is currently in multiple ownerships, as presented in Confidential Appendix 1. Initial discussions are underway with each of the landowners on the route, through the County Council's appointed land agents Carter Jonas. The County Council will continue to try and secure required land through negotiation. However, where negotiations prove unsuccessful or negotiations have been ongoing for a significant length of time with no likely prospect of an agreement being secured, and where this is threatening timely delivery of the link road as a critical piece of local transport infrastructure, the County Council will need to secure land through use of CPO powers to ensure that delivery timescales continue to be achievable. The major time pressure on this scheme is the opening of the realigned A4010 ('Stoke Mandeville bypass') currently forecast for early 2020.

Buckinghamshire County Council has the powers to make a CPO under the Highways Act (1980) where there is a compelling case in the public interest. There is a demonstrable transport need for the SEALR and a clear ability to deliver the infrastructure required. It is considered that there is a substantial public interest in providing the SEALR as it will greatly relieve the pressure on the local highway network around the Aylesbury gyratory.

This report recommends that authority is given to progress a CPO for the SEALR in Stoke Mandeville, Aylesbury in the event that attempts to acquire all the necessary land required for delivery of the SEALR by agreement are unsuccessful.

## **ii. Scheme of Delegation**

This report recommends that Cabinet authorise the making of a CPO for the SEALR and delegate various functions to the Director of Growth, Strategy & Highways (or such other appropriate chief officer) to enable progress this order.

Any officer decisions made under this delegated authority will be reported to the Cabinet Member for Transportation at regular board meetings to ensure accountable decision making.

Compulsory Purchase Order decisions and land negotiations between the Council and landowners often proceed at pace and allowing officers and agents to respond directly to issues will greatly increase the opportunity to meet strict deadlines and ensure the County Council achieves value for money in the use of public funds. The Cabinet Members will be consulted and kept briefed before any final decisions are made.

## **B. Other options available, and their pros and cons**

The Cabinet Members could resolve not to approve the CPO for the land acquisition necessary to deliver the SEALR. This would mean the Link Road may not be delivered and the forecast transport issues described above would come to fruition, with the associated detrimental impacts to local communities. These implications may include stalling/halting developments around the town, crippling economic growth and increasing congestion experienced by local residents.

Cabinet could also resolve that land acquisition should proceed through negotiation only, without recourse to a CPO. A failure to proceed with a CPO would potentially put

the Council at risk of a ransom situation in acquiring land, limiting the ability to secure a fair price in land negotiations. Moreover, there would be no guarantee that the Council would be able to acquire the land required for the link road. One or more landowner would be able to derail or delay this priority transport scheme by refusing to sell or by demanding an unreasonably high price.

The Cabinet Members could decide not to delegate various functions for progressing the CPO to the Director of Growth, Strategy and Highways. Whilst this would ensure maintained visibility and political accountability, it could also cause significant delay due to the formal Cabinet Member decision making process. The timeframes being worked to are already exceedingly tight and delays could mean that the project is not completed on time and in budget. This process would also limit the County Council's ability to respond proactively to ongoing land negotiations, impacting the value for money achieved in use of public funds.

### **C. Resource implications**

There are legal and administrative costs for the County Council associated with making, confirming and implementing the Compulsory Purchase Order. There are also additional resource implications in the compensation which can be expected to be paid for the land following completion of the CPO.

A detailed breakdown of potential resource implications is included in Confidential Appendix 2. This has been restricted as it contains information on the value of parcels of land required for scheme construction which could compromise ongoing land value negotiations if made public.

### **D. Value for Money (VfM) Self-Assessment**

Having to acquire land via CPO is a last resort when a negotiated outcome cannot be secured. The County Council will be required to pay compensation to those landowners whose interests are compulsorily acquired. The nature and extent of compensation payable is governed by statute and under a framework widely known as the 'compensation code'. Anticipated resource implications are included in Confidential Appendix 2.

The delegation of authority proposed provides optimal value for money by improving the County Council's negotiating position (through the ability to respond quickly whilst avoiding the risk of ransom situations), allowing quick progression of the SEALR project and optimising use of officer time.

## **E. Legal implications**

The County Council has various powers under the Highways Act 1980 to make compulsory purchase orders for the purpose of facilitating construction of a road. These powers include section 247 which provides that a local highway authority shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily land required for highway purposes including (but not limited to): (i) the construction/improvement of highway (section 239); (ii) use in connection with the execution of highway works (section 240); (iii) mitigation of effects related to the use of a highway constructed or improved by the authority (section 246); (iv) the creation of rights over land for highway purposes (section 250).

In using the enabling powers pursuant to the Highways Act 1980, the Council is using the most specific powers available to it for the purposes of delivering the SEALR in accordance with the advice in Government's guidance on the use of compulsory purchase powers.<sup>1</sup>

Compulsory purchase orders should only be made where there is a compelling case in the public interest. Given the significant pressure on the local highway network around the Aylesbury gyratory that will arise when the HS2 realignment of the A4010 takes place, it is considered that there is a compelling case for use of compulsory purchase powers in this instance to deliver the SEALR if private treaty negotiations prove to be unsuccessful.

In resolving to make a CPO, the County Council must strike a fair balance between interfering with the human rights of those whose private interests will be affected by the CPO and the public interest in delivering the SEALR. It is considered that construction of the SEALR will deliver immense public benefit by mitigating congestion in and around Aylesbury and enhancing connectivity across the county. As such, any interference with private property rights in this instance is considered justifiable, necessary and proportionate. The County Council has, in resolving to make the CPO, had full regard to the rights protected under Article 1 of the First Protocol of the European Convention on Human Rights.

Any person whose rights will be affected by the CPO will be entitled to make representations to the Secretary of State when the order is submitted for confirmation and may also be entitled to payment of statutory compensation if applicable.

## **F. Property implications**

Upon successful acquisition, the Council will acquire sufficient property rights to facilitate construction of the SEALR. The County Council will be responsible for the ongoing maintenance of the SEALR and associated infrastructure upon scheme completion.

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<sup>1</sup> Guidance on Compulsory Purchase Process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion" 2015. Additional guidance on the preparation and submission of CPOs for highway orders is provided in Circular 02/97 "Notes on the Preparation, Drafting and Submission of Compulsory Purchase Orders for Highway Scheme."

## **G. Other implications/issues**

The use of Compulsory Purchase Order powers is often controversial and can come with negative reputational impacts for the issuing authority. However, these powers will only be used where a negotiated approach has proved unsuccessful to date and where it is deemed necessary for successful and timely delivery of a scheme with a compelling case in the public interest.

## **H. Feedback from consultation, Local Area Forums and Local Member views**

The Local Members whose divisions are directly affected by this report have been given a draft version of this report for comment. This was circulated on 3<sup>rd</sup> October 2017, with a deadline of 9<sup>th</sup> October 2017 for responses. Only one response has been received to date:

Bill Chapple, Local Member for Aston Clinton & Bierton commented: "I agree with the main thrust of the report and thanks for giving me an early chance to read it".

## **I. Communication issues**

The decision will be communicated to relevant stakeholders and members as soon as it is made. The Cabinet Members will be consulted and kept briefed before any officer decisions are made.

## **J. Progress Monitoring**

Regular updates to the Cabinet Member will be provided, as well as to other appropriate parties and stakeholders, particularly BCC members, as appropriate.

## **K. Review**

The policy forming part of this decision will be reviewed at request of the Cabinet Member for Transportation.

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## **Appendices**

- Appendix 1: Indicative Compulsory Purchase Order Area Plan
- Confidential Appendix 1: Land Ownership Details within the Proposed CPO area.
- Confidential Appendix 2: Resource Implications
- Confidential Appendix 3: Estimated Land Costs Breakdown

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## **Background Papers**

- Joint Cabinet Member Decision T.16.16 (July 2016) - Outer Stoke Mandeville Link Road Land Acquisition (<https://democracy.buckscc.gov.uk/ieDecisionDetails.aspx?ID=5445>)
  - Cabinet Member Decision T.14.17 (July 2017) - Aylesbury South East Link Road - Project Progression (<https://democracy.buckscc.gov.uk/ieDecisionDetails.aspx?ID=6803>)
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## **Your questions and views**

*If you have any questions about the matters contained in this paper please get in touch with the Contact Officer whose telephone number is given at the head of the paper.*

*If you have any views on this paper that you would like the Cabinet Member to consider, or if you wish to object to the proposed decision, please inform the Member Services Team by 5.00pm on Friday 10 November 2017. This can be done by telephone (to 01296 382343), or e-mail to [democracy@buckscc.gov.uk](mailto:democracy@buckscc.gov.uk)*