



Report to Cabinet

Date: 25 March 2024

Title: **South East Aylesbury Link Road Phase 1**

Cabinet Member(s): Councillor Martin Tett- Leader of the Council, Councillor Steven Broadbent - Cabinet Member for Transport, Councillor John Chilver – Cabinet Member for Accessible Housing and Resources

Contact officer: Steve Bambrick, Corporate Director for Planning Growth and Sustainability and Richard Barker, Corporate Director for Communities

Ward(s) affected: Halton and Stoke Mandeville, Aylesbury South-East, Aston Clinton & Bierton

Recommendations:

1. To approve the following increases in the SEALR budget, as set out in Confidential Appendix B and Appendix D:
 - a) SEALR Phase 1 from £97,933,819 to £122,715,890
 - b) SEALR Phase 2 from £16,788,869 to £25,225,052
2. To approve the release of the revised budget for SEALR Phase 2 of £25.2m, as set out in Confidential Appendix B and Appendix D.
3. To approve the release of the revised budget for SEALR Phase 1 of £122.7m, as set out in Confidential Appendix B and Appendix D, subject to Homes England approval and HS2 Funding Agreements.
4. To approve the following reductions in the Woodlands/Eastern Link Road South budget, as set out in Confidential Appendix B and subject to Homes England approval:
 - a) the permanent reduction of £11,727,127 of the available HIF funding

- b) the reduction of £13,472,000 of the available HIF funding to forward fund and underwrite SEALR Phase 1, pending the final approval of the business case by the Department for Transport.**
- 5. To ratify the previous decisions to acquire the land, rights, and interests for SEALR Phase 1, noting the increased risks set out in Confidential Appendix A and revised budget in Confidential Appendix B.**
- 6. To delegate to the Corporate Director for Communities and Corporate Director for Planning Growth and Sustainability, in consultation with the Leader:**
 - a) to proceed with the delivery of the main works for SEALR Phase 1, noting the risks set out in the Confidential Appendix B.**
 - b) To take all necessary steps including to enter into any associated agreements, contracts or licenses required associated with the delivery and funding of SEALR Phase 1.**

Reason for recommendation: To enable the phased delivery of the South East Aylesbury Link Road, within required timeframes and funding provisions, to achieve the intended programme and to give effect to the Previous Council Decisions. It should be noted that:

- The approval of 2 continues to give effect to the delegations given by Cabinet on the 4 January 2024.
- Any recoverable funds from 4b will be reallocated to the Woodlands and Eastern Link Road South budget, subject to a formal decision.
- The approval of 4 continues to facilitate the marketing of Woodlands to give effect to the delegations given by Cabinet on the 4 January 2024.

1. Executive summary

- 1.1** The South East Aylesbury Link Road (SEALR) project is the construction of approximately 1.1 miles of dual carriageway that will join the A413 Wendover Road with the B4443 Lower Road and the Stoke Mandeville Relief Road (SMRR). The project is being delivered as one project but in two phases. SEALR is part of the Aylesbury Orbital Link Road, which is a key infrastructure requirement to support the planned growth of Aylesbury and mitigate the impact of HS2.
- 1.2** The project has secured planning permission and external funding from various sources, including the Housing Infrastructure Fund (HIF), HS2, and the Department for Transport (DfT). The project has completed early works and started the construction of the roundabout junctions on Wendover Road (A413) and Lower Road (B4443). The main construction works are expected to commence in July 2024 and complete by Summer 2026.

- 1.3 The project costs for SEALR Phase 1 and Phase 2 have increased significantly due to inflation and other factors. The report proposes to address the funding gap by reallocating savings from the Housing Infrastructure Fund (HIF) Aylesbury Grid Reinforcements project and reducing the available HIF funding for the Woodlands development and the Eastern Link Road South. The report also recommends forward funding and underwriting the Department for Transport (DfT) contribution to mitigate the financial and programme risks of any delay in funding approval.
- 1.4 This report seeks approval from Cabinet to adjust the capital budgets and release funding for SEALR Phase 1 and SEALR Phase 2. In addition, this report seeks the necessary delegations to enable the Corporate Director for Communities and the Corporate Director for Planning Growth and Sustainability, in consultation with the Leader to proceed with the delivery of the main works for SEALR Phase 1.
- 1.5 This will enable the phased delivery of the South East Aylesbury Link Road, within required timeframes to achieve the intended programme and to give effect to the Previous Council Decisions.

2. Background

- 2.1 The South East Aylesbury Link Road (SEALR) project is the construction of approximately 1.1 miles of dual carriageway including 3 new roundabout junctions. The project is being delivered as one project but in two phases. This new road will join the A413 Wendover Road with the B4443 Lower Road (SEALR Phase 1) and the B4443 Lower Road to a new roundabout junction (Phase 2) with both the Stoke Mandeville Relief Road (SMRR) and the South West Aylesbury Link Road (SWALR). This is shown in the plan below (figure.1).



Figure 1: Approximate SEALR route

- 2.2 Both phases of the SEALR form part of the Aylesbury Orbital Link Road as identified in the Aylesbury Transport Strategy and the Vale of Aylesbury Local Plan. The delivery of SEALR in its entirety will complete a significant section of the Aylesbury Orbital Link Road.
- 2.3 Planning permission was granted on 13 July 2021 for SEALR Phase 1 and on the 23 June 2023 for SEALR Phase 2. Early works have taken place and been completed already on SEALR Phase 1 including archaeological investigations, vegetation clearance, construction of site accesses, utilities, and cabling.

3. Previous Council Decisions

- 3.1 There have been several previous decisions pertaining to the delivery of SEALR, which is summarised below:
- 3.2 In **July 2016**, the Cabinet Member for Resources and Cabinet Member for Transportation authorised officers to commence negotiations with landowners to acquire the land for SEALR by mutual agreement and if necessary to exercise the Council's statutory powers as Highway Authority to acquire the same land by means of Compulsory Purchase as appropriate.
- 3.3 In **July 2017**, the Cabinet Member for Transportation approved progression of the South East Aylesbury Link Road project, including further business case work, preliminary design and preparation of a planning application following successful award of £13.5m of Local Growth Funding.
- 3.4 In **November 2017**, Cabinet authorised the making of a CPO for the purpose of assembling and acquiring the land necessary to deliver the SEALR in the event that negotiations to acquire the land and interests by agreement are unsuccessful.
- 3.5 In **July 2019**, the Leader resolved to authorise entering into NEC4 contracts through the Midlands Highway Alliance Framework for the South East Aylesbury Link Road and to approve progression from early contract involvement into full contract, subject to performance of the contractor.
- 3.6 In **December 2019**, Shadow Cabinet resolved to:
- (1) The making of a Side Roads Order(s) ("SRO") under sections 14 and 125 of the Highways Act 1980 and all other necessary powers to:*
- (a) improve, raise, lower, stop up, divert or otherwise alter existing highways which cross or enter the route of the SEALR or will otherwise be affected by the construction of the SEALR or as required to deliver the SEALR;*
- (b) construct new lengths of highways for purposes connected with the alterations referred to in (a) above and delivery of the SEALR; and*

(c) stop up private means of access and provide replacement or new means of access.

(2) The submission of an application to the Secretary of State for a certificate under section 19 of the Acquisition of Land Act 1981.

(3) The Director of Property and Assets (or such other appropriate officer) to:

(a) Make and issue the SRO and the section 19 application including the service and publication of all requisite notices and press notices;

(b) take all necessary steps to settle any objections made to the SRO, the section 19 application and the compulsory purchase order ("CPO) to be made to secure delivery of the SEALR including amendments to the SRO, the section 19 application;

(c) negotiate and enter into agreements or undertakings with persons with any legal interest in the land relating to the SRO and/or the CPO;

(d) make any amendments necessary to the SRO and/or the CPO arising as a result of negotiations with affected persons, further design work, section 19 application or for any connected reasons to enable delivery of the SEALR;

(e) take all necessary steps to secure settlement of compensation arising from implementation of the SRO and/or the CPO including referral to the Upper Tribunal (Lands Chamber); and,

(f) take any further or other action necessary to secure the making, confirmation and implementation of the SRO and/or the CPO, and or/ the section 19 application.

3.7 In **March 2021**, the Leader resolved to delegate authority to proceed with the South East Aylesbury Link Road Phase 2, including preparing and submitting a planning application and progressing land negotiations.

3.8 In **November 2021**, Cabinet resolved to accept the funding and delivery agreement from HS2 Ltd for SEALR Phase 1 project and the SEALR Phase 1 Lower Road Roundabout.

3.9 In **December 2022**, Cabinet resolved to:

1. Note and endorse the approach the Council is taking to negotiate with Homes England, HS2 and the Department for Transport to use external funding to help deliver the Aylesbury link roads. This includes negotiating extra flexibility of the £172m Housing Infrastructure Fund (HIF) to ensure delivery continues.

2. Delegate authority to the Corporate Director, Planning Growth & Sustainability in consultation with the Leader and s151 officer to:

a. finalise the budget for the project (and HIF programme), following further target cost considerations, and subsequently varying HIF financial contributions in conjunction with Homes England.

b. agree the HS2 funding contract for the Bridge Assurance in Phase 1 of works.

c. subject to a and b above, award contracts in 2023 for the phased construction of works, subject to the target cost and all other project related forecast costs being within the budget. This would commence with work on new junctions on Wendover Road and Lower Road. These contracts include detailed design fees, utilities costs, main construction contracts and land acquisition costs.

3. Approve the draft budget and release of funding for the delivery of Phase 1 and Phase 2 of SEALR to a combined value of £112.8m. This is subject to the final budgets (which may increase or decrease as detailed in recommendation 2a.), agreements of request to vary HIF funding, and external funding. Details are set out in confidential Appendix B & C.

3.10 The delegations provided in December 2022 were conditional and time limited, based on predicted triggers being met, however these have been unobtainable.

3.11 In **October 2023**, the Leader resolved to:

To amend the Cabinet delegation in December 2022 and delegate authority jointly to the Corporate Director of Communities and Planning Growth and Sustainability to:

a. Acquire the land required for the Lower Road (B4443) roundabout and SEALR Phase 2

b. Proceed with the delivery of the roundabout junctions on Wendover Road (A413) and Lower Road (B443)

c. To take all necessary steps including to enter into any associated agreements, contracts or licenses required associated with the delivery of the works in relation to a. and b. above.

d. To draw down £9.4m of Housing Infrastructure Fund in accordance with the HIF funding agreement and/or express approval with Homes England and utilise the funding under The Stoke Mandeville Relief Road HS2 Funding Agreement

3.12 This provided authority and flexibility to give effect to the Cabinet decisions of November 2021 and December 2022. Works started on the Wendover Road

roundabout on the 11 December 2023, and works commenced on the Lower Road roundabout on 9 January 2024.

3.13 In **January 2024**, Cabinet resolved:

1. To amend the Cabinet delegation in December 2022 and delegate authority to the Corporate Director of Communities and Planning Growth and Sustainability, in consultation with the Leader of the Council, to:

a) Proceed with the delivery of Phase 2 of the South East Aylesbury Link Road

b) To take all necessary steps including to enter into any associated agreements, contracts or licenses required associated with the delivery and funding of the works in relation to a. above.

2. To approve and release an increase to the budget in the Capital Programme for SEALR 2 as set out in the Confidential Appendix B, funded from reappropriated HIF grant subject to Homes England approval, HS2 Funding Agreement and S106 contributions.

3.14 This provided authority and flexibility to give effect to the Cabinet decisions of November 2021 and December 2022 to enable the phased delivery of SEALR, within required timeframes to achieve the intended programme.

3.15 Since the previous Cabinet decisions of October 2020 and December 2022 the cost and risks associated with the delivery of SEALR Phase 1 has changed. Therefore, to give effect to the intention of the Previous Council's Decisions, a revised delegation is now being sought to proceed with the scheme.

3.16 This report seeks the necessary delegations to deliver SEALR Phase 1, within the intended programme, to allow for the road to be opened by Summer 2026.

4. South East Aylesbury Link Road Phase 1

4.1 The Council is taking a lead role in delivering the link roads in Aylesbury to unlock housing delivery:

a) Co-ordinating and requiring the provision of relevant new roads by developers in its role as local planning authority.

b) Delivering new roads to mitigate HS2 and accommodate increased traffic in the future.



Figure 2: Site Allocations in the Vale of Aylesbury Local Plan

- 4.2 Aylesbury is a key area of growth in the UK with just over 16,000 homes planned and in 2017 Aylesbury obtained Garden Town designation.
- 4.3 The VALP policies set out the strategy for growth at Aylesbury. Policy D-AGT1 (South Aylesbury) allocates the AGT1 site for 1,000 homes and includes safeguarding the land required for the delivery of a dual carriageway distributor road between B4443 Lower Road and A413 Wendover Road to cross the railway line (the SEALR), with sufficient land for associated works including but not limited to earthworks, drainage, and structures.
- 4.4 The SEALR is a key development and land use requirement under policy D-AGT1 required to mitigate the impact of development. The supporting evidence for the VALP, in the form of the Aylesbury Transport Strategy (ATS), sets out a comprehensive strategy to address current and future issues. The SEALR is a fundamental part of this long-term vision to deliver a partial orbital route around Aylesbury to deliver growth as well as removing traffic and congestion from key arterial routes and mitigating the impact of the HS2 Stoke Mandeville Relief Road. This will not only improve connectivity around Aylesbury, but also mitigate the impact associated with the realignment of the A4010 by HS2Ltd under the Hybrid Act. The SEALR link road is a key infrastructure requirement in the AGT1 Supplementary Planning Document (adopted 10 October 2023).
- 4.5 The delivery of AGT1 is essential in terms of the Council's future housing land supply, noting that the Council is required to demonstrate a rolling 5-year housing land supply.

4.6 Figure Two below shows the progress to date in delivering the link roads, and current estimated completion dates. These are subject to a combination of planning consent, securing funding and or developer delivery.

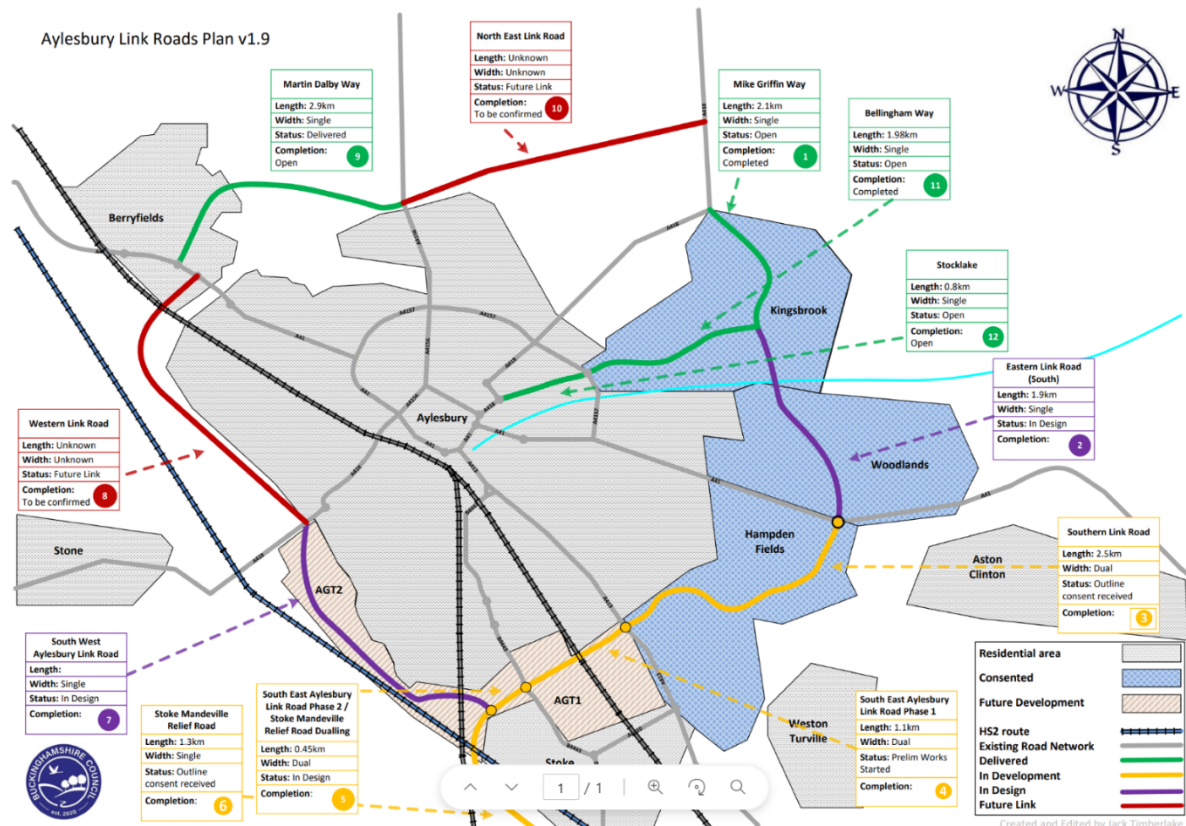


Figure 3: Link Road Delivery Plan

SEALR Phase 1 Construction Programme

- 4.7 SEALR is being delivered in a phased approach, taking into account the funding availability. Early works have taken place and been completed already on SEALR Phase 1 including archaeological investigations, vegetation clearance, construction of site accesses, utilities, and cabling.
- 4.8 Works started on the construction of the Wendover Road roundabout on the 11 December 2023 and Lower Road roundabout on 9 January 2024.
- 4.9 Based on the current construction programme Phase 2 would be delivered by December 2024 and Phase 1 would be delivered in Summer 2026, as set out in Table 1 below.

Activity	SEALR Phase 1
Preliminary design completed	July 2018
Main planning application submission	March 2020
Main planning application approval	July 2021
Detailed design completed	December 2021
CPO/SRO/POS inquiry	November 2021
Full entry onto land	August 2022
Wendover Road Roundabout works commenced	December 2023
Lower Road Roundabout works commenced	January 2024
Full Business Case submission	April 2024
Full Business Case approval	July 2024
Notice to Proceed	5 July 2024
Main construction commencement	5 August 2024
Rail possessions to install bridge structure	September 2025
Main construction completion	Summer 2026

Table 1: Indicative Programme for SEALR Phase 1

- 4.10 The programme for SEALR Phase 1 currently shows the main bridge lift works taking place in September 2025, with a fallback of Christmas 2025. Delays to delivery of the bridge lift will increase preliminary costs and inflationary rises.
- 4.11 There are several significant risks to the construction programme for SEALR including Network Rail embankments, rail possession, Thames Water diversions, ground conditions, land acquisitions and access arrangements. Please refer to Confidential Appendix A and B.

Land

- 4.12 In November 2017 Cabinet delegated authority to the Director of Growth and Development Strategy and Highways to make a Compulsory Purchase Order for the land required for SEALR Phase 1.

- 4.13 In accordance with the delegation granted by Cabinet in November 2017 and subsequent decision by Shadow Cabinet in December 2020, the Council has progressed the acquisition of the land to facilitate the delivery of SEALR Phase 1.
- 4.14 The Council was granted Compulsory Purchase Order, Side Road Orders and s19 public open space powers by the Secretaries of State for the Department for Transport (DfT) and Department for Levelling up Housing and Communities (DLUHC) on 31 March 2022, following a Public Inquiry held in November 2021.
- 4.15 Land for SEALR Phase 1 is being secured through permanent land acquisition, both by negotiation and compulsory powers, as well as temporary access to land parcels via licences/leases, where necessary.
- 4.16 In some cases, land has already been acquired, under the Previous Council Decisions, as set out in Confidential Appendix A.

Funding

SEALR Phase 1 is predominantly funded through external funding from Homes England, HS2, Department for Transport (DfT) and S106 contributions from developments.

Housing Infrastructure Fund (HIF)

- 4.17 The Cabinet decision of the 6 December 2022 endorsed the use of the £172m Housing Infrastructure Fund to provide more flexibility and ensure delivery continues, including the South East Aylesbury Link Road. This recognised that due to cost inflation, energy prices, and unforeseen issues there was insufficient funding to meet all the infrastructure requirements originally forming part of the HIF business case.
- 4.18 The Council has therefore been engaged in negotiations with Homes England regarding reallocation and reprofiling of the HIF funding with Homes England, DfT, DLUHC and the Treasury. Due to the complexities of the negotiations, the determination of these proposals has taken longer than originally expected.
- 4.19 The Council has however received confirmation from Homes England that the draft budget presented to Cabinet on the 6 December 2022 has been agreed. The Council is currently in the process of formally varying the funding agreement with Homes England to reflect this position.
- 4.20 The terms of the HIF agreements set out by Homes England state that the HIF funding is provided to the Council as a recoverable fund to allow the early delivery of necessary new physical infrastructure with the purpose of unlocking high quality housing development. The Council must clearly demonstrate that the funding is not being used for the purposes of subsidising private development. The HIF funds therefore must be recoverable, with the expectation that recovered funds will then

be useable for other capital schemes that support housing growth across the County.

- 4.21 This means that any development which is reliant on the SEALR to facilitate their development must contribute towards the cost of its delivery.

Department for Transport

- 4.22 One of the conditions of funding from the Department for Transport (DfT) is that a Full Business Case (FBC) must be produced and approved by the DfT. Design consultants AECOM are producing the FBC on behalf of the Council. This is expected to be submitted to the DfT for approval at the beginning of April 2024, post Cabinet.
- 4.23 If the approval from the Department for Transport is later than July 2024 this would delay commencement of the main works in August 2024, which will impact on the overall construction programme and will add further inflationary costs to the scheme. This risk of a late approval is high due to the need for sign off by the Secretary of State for Transport and Treasury, with uncertainty over timings of a potential general election.

HS2 Ltd

- 4.24 Buckinghamshire Council has an assurance from HS2 Ltd. to provide the funding for *'the reasonable cost of the tender (as accepted) for the crossing of the Aylesbury to Marylebone railway line, including construction costs, Network Rail fees and possession costs, bridge agreement costs and fees and charges'*.
- 4.25 The assurance, to fund the Council's actual costs in delivering the bridge structure, was secured as part of HS2 Hybrid Act due to the reassignment of traffic on the local highway network arising from the closure and realignment of the A4010 (Stoke Mandeville Relief Road).
- 4.26 The Council is in continuing negotiations with HS2 Ltd in relation to the Funding Agreement, which will allow the Council to claim actual costs associated with bridge structure at set milestones throughout the project.

5. SEALR Project Costs

- 5.1 The Cabinet Decision of 6 December 2022 approved the release of funding for the delivery of Phase 1 and Phase 2 of SEALR to a combined value of £112.8m. It was noted that this would be subject to finalisation of budgets for the project and HIF programme, following further target cost consideration.

SEALR Phase 2

- 5.2 The Cabinet Decision of 4 January 2024 approved the release of funding of Phase 2 of SEALR to a value of £16,788,869. It was noted that this was subject to the receipt and review of the final target costs from the contractor and if the final target cost

exceeds the updated budget envelope for SEALR Phase 2 a further decision will be needed.

- 5.3 The Council received the final target costs for SEALR Phase 2 on the 24 January 2024. These have been reviewed and have undergone external due diligence. The total cost for SEALR Phase 2 is £25,225,052.
- 5.4 As such, this report is seeking to approve and release an increase in the budget for SEALR Phase 2, as set out in Confidential Appendix B and Appendix D. This is to be funded from the capital virement of HIF grant associated with Aylesbury Grid Reinforcements (please refer to paragraph 6 of this report).
- 5.5 Please refer to Cabinet Papers dated 4 January 2024, which sets out the background to SEALR Phase 2. It should be noted that this recommendation continues to give effect to the delegations given by Cabinet on the 4 January 2024.

SEALR Phase 1

- 5.6 The Council received the final target costs for SEALR Phase 1 on the 7 March 2024. These have been reviewed and are subject of an external due diligence exercise to ensure that the submitted costs are in accordance with the stated contract rates. The total cost for SEALR Phase 1 is £122,715,890.

6. HIF Aylesbury Grid Reinforcements (AGR)

- 6.1 The Council has also been working with UK Power Networks (UKPN) to deliver increased electricity capacity in Aylesbury. Changes in legislation have led to a change in delivery approach such that UKPN will now be delivering the majority of the necessary upgrades using their own financial resources. This was set out in a Leader decision on the Aylesbury New Primary Grid Connection - revised delivery contract and capacity allocation, which was taken on the 4 January 2024.
- 6.2 This has enabled approximately £14.96m of additional HIF funding to be reallocated within the existing HIF programme to SEALR.
- 6.3 Taking into account the cost escalations in relation to SEALR, it is recommended that the AGR is apportioned between both phases, as a capital virement:
- £10,360,247 of reallocated AGR funding be used to offset the cost increase associated with SEALR Phase 2.
 - £4,601,350 of reallocated AGR funding be used to offset the cost increase associated with SEALR Phase 1.
- 6.4 As a result, SEALR Phase 2 is fully funded and can proceed in accordance with the Cabinet resolution of the 4 January 2024, subject to the approval and release of the changes to the budget as set out in Confidential Appendix B and Appendix D.

7. Shortfall in Funding

- 7.1 Due to inflation and other cost increases, the funding available for SEALR is now insufficient for the Council to deliver the road within existing budgets.
- 7.2 Taking into account the HIF AGR capital virement, there remains a funding gap of **£11,727,127** within SEALR Phase 1 as set out in Table 2.

SEALR Phase 1	
Current Budget January 2024	£97,933,819
Project Cost March 2024	£122,715,890
Project Funding *	£110,988,763
<i>Funding Gap</i>	£11,727,127
SEALR Phase 2	
Current Budget January 2024	£16,788,869
Project Cost	£25,225,052
Project Funding *	£25,225,052
<i>Funding Gap</i>	£0
SEALR	
Project Cost	£147,940,942
Project Funding *	£136,213,815
<i>Funding Gap</i>	£11,727,127

**including HIF AGR capital virement as set out in paragraph 6.2*

Table 2: SEALR funding gap

8. Options to Address the Funding Gap

HIF Woodlands/Eastern Link Road South

- 8.0 Woodlands is a major mixed-use development site on the east side of Aylesbury. It has outline planning consent (16/01040/AOP) to provide up to 102,800 m² of employment (B1/B2/B8), up to 1,100 dwellings (C3), 60 residential extra care units (C2), mixed-use local centre of up to 4,000 m² (A1/A2/A5/D1), up to 5,700 m² hotel and conference centre (C1), up to 3,500 m² leisure facilities (A1/A3/A4), up to 16 ha for sports village and pitches, athletes accommodation (10 x 8-bed apartments), and up to 2 ha for a primary school (D1), with a strategic link road connecting with the Eastern Link Road (North) and the A41 Aston Clinton Road. Please refer to the illustrative masterplan in Figure 2.

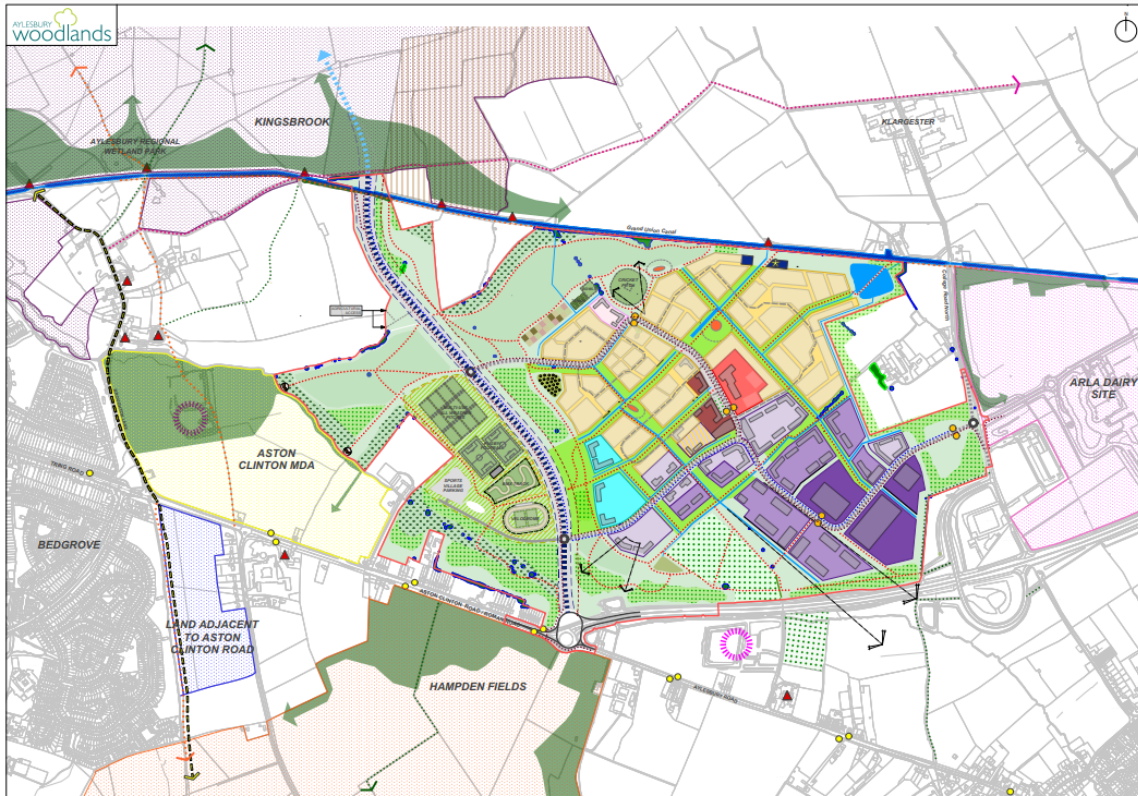


Figure 2: Woodlands Illustrative Masterplan

- 8.1 The site is allocated for development in the Vale of Aylesbury Local Plan. Aylesbury is a key area of growth in the UK with over 16,000 homes planned to be delivered in the VALP and in 2017 Aylesbury obtained Garden Town designation. A significant part of the site falls within the Aylesbury Woodlands/Arla Enterprise Zone, which was designated by Central Government in 2015.
- 8.2 Woodlands is a fundamental part of a long-term strategy to deliver an orbital traffic route around Aylesbury, delivering the ELRS. The ELRS will connect to the Eastern Link Road (North) that has already been substantially delivered as part of the Kingsbrook development and the Southern Link Road to be delivered by Hampden Fields by December 2025. Please refer to the Aylesbury Link Road plan in Figure 3.
- 8.3 As part of the Woodlands outline planning permission, the ELRS is to be delivered as a single carriageway with land reserved for widening and junctions delivered capable of accommodating a future dual carriageway.
- 8.4 The S106 agreement for the Woodlands planning application states that the ELRS must be completed and open to the public before any of the employment or residential accommodations can be occupied. The ELRS needs to be delivered by December 2024 unless an extension is agreed by the Local Planning Authority, and no approach has been made to date in this regard. There is however no possibility of delivering the road by December 2024.

- 8.5 The S106 Agreement also specifies that no development beyond Phase 1C (74% employment, made up of 3,070 sqm floor space for uses falling within Class B1 of the Use Classes Order and up to 39,850 sqm floorspace for uses falling within Class B2 of the Use Classes Order and up to 32,800 sqm floorspace for uses falling with Class B8 of the Use Classes Order) can be occupied unless the Southern Link Road is constructed and opened to the public.
- 8.6 The Southern Link Road is to be provided by Taylor Wimpey as part of the Hampden Fields Development. Taylor Wimpey has agreed with the Local Planning Authority an extension to the timescales for delivering the Southern Link Road to September 2025. This extension takes into account delays that arose to their programme arising from the unsuccessful Judicial Review challenge.
- 8.7 A planning application has recently been submitted to the Council as Local Planning Authority for the design of the A41 Aston Clinton roundabout improvements (the Southern junction of the ELRS).
- 8.8 The Council has secured funding towards the delivery of the ELRS through the Housing Infrastructure Fund (HIF) and Local Growth Funds (LGF). The estimated costs of the ELRS have however escalated beyond the funding awarded to the Council for delivery. Due to inflation and other cost increases, the HIF funding is now insufficient for the Council to deliver the ELRS as a single or dual carriageway within existing budgets.
- 8.9 As such, it has been agreed that the best way to bring forward the delivery of the ELRS and the Woodlands development is through the marketing of the site and a possible Joint Venture/Special Purchase Vehicle Partnership, including the Council, or a site sale facilitated by the Council.
- 8.10 On the 4 January 2024 Cabinet resolved:
1. *That the preferred delivery option for the Eastern Link Road South be APPROVED.*
 2. *That authority be delegated to the Service Director for Property and Assets, in consultation with the Cabinet Member for Accessible Housing and Resources:*
 - i. *To market through a Council procurement process the Woodlands development site to include the Eastern Link Road South as a single carriageway road with passive provision for dualling.*
 - ii. *To negotiate revised Heads of Terms with Landowners and Buckinghamshire Advantage to enable the marketing of the site to developers.*
 - iii. *To explore opportunities for a Joint Venture / Special Purchase Vehicle Partnership and/or sale to bring forward the Woodlands development to include the Eastern Link Road South as a single carriageway road with passive provision for dualling (developer-led approach).*
 3. *That £800,000 be released from the existing Eastern Link Road South Budget, funded from Housing Infrastructure Fund, agreed by Homes England to cover establishing and negotiating the Heads of Terms, the marketing of the Woodlands site, creating the supporting*

documentation for the revised Woodlands approach to Homes England, and project management costs.

4. *That it be NOTED that a subsequent report for Cabinet will be prepared once marketing has been concluded for the Council to complete negotiations with a selected Developer, Landowners and Buckinghamshire Advantage and enter a Joint Venture/Special Purchase Vehicle Partnership and/or Sale with a development partner once marketing has been concluded and terms from the Selected Developer have been clarified through the marketing and procurement process.*

8.11 Since the Cabinet decision in January, the Council has been working on preparing the Woodlands site for marketing and the project remains on course to go to market in April 2024.

Option 1: Reprioritisation of HIF funding for Woodlands/ELRs

- 8.12 To address the shortfall in funding of **£11,727,127** in SEALR Phase 1, it is recommended that HIF is reprioritised from Woodlands/ELRs. This will result in a reduction in the funding available to invest in the delivery of the ELRS through the marketing of Woodlands.
- 8.13 This recommendation continues to facilitate the marketing of Woodlands, to give effect to the delegations given by Cabinet on the 4 January 2024. The reduction in available funding is however likely to influence the outcome of the marketing of the site.
- 8.14 It should be noted that the Council will not formally enter into any agreements ahead of seeking a Cabinet decision to proceed with a Joint Venture/ Special Purchase Vehicles Partnership and/or sale of the Woodlands development following the outcome of the marketing process.
- 8.15 If the marketing was to fail, this would effectively leave the delivery of both Woodlands and the ELRS to market forces, with BA continuing to promote the site under the Promotion Agreement.
- 8.16 The delivery of the ELRS is controlled by the obligations within the S106 for outline planning permission for the Woodlands Development.
- 8.17 Please refer to Confidential Appendix B and Confidential Appendix C.

Option 2: Reprioritisation of HIF funding for Woodlands/ELRs and underwrite the DfT contribution.

- 8.18 To address the shortfall in funding of **£11,727,127** in SEALR Phase 1, it is recommended that HIF is reprioritised from Woodlands/ELRS.

- 8.19 In addition, it is recommended that HIF funding from Woodlands/ELRS is used to forward fund and underwrite **£13,472,000** of SEALR Phase 1, pending the final approval of the business case by the DfT.
- 8.20 This will result in a further reduction in funding available to invest in the delivery of the ELRS through the marketing of Woodlands.
- 8.21 The timing of the decision for the release of funding from the DfT is a significant risk to the programme for SEALR Phase 1. One of the conditions of funding is that a Full Business Case (FBC) must be produced and approved by the DfT. Design consultants AECOM are producing the FBC on behalf of the Council. This will be submitted to the DfT for approval at the beginning of April 2024, post Cabinet.
- 8.22 If the Council does not obtain approval by July 2024 from the DfT to release the funding in time for the commencement of the main works in August 2024, this could impact on the overall construction programme and will add further inflationary costs to the scheme. This risk is high due to the need for sign off by the Secretary of State for Transport and Treasury, with uncertainty over timings of a potential general election.
- 8.23 It is therefore recommended that the Council forward funds and underwrites the DfT contribution, utilising HIF funding for Woodlands/ELRS, to enable SEALR Phase 1 to commence subject to Homes England approval and finalisation of the HS2 Ltd Funding Agreement.
- 8.24 This recommendation continues to facilitate the marketing of Woodlands, to give effect to the delegations given by Cabinet on the 4 January 2024. The further reduction in funding is however likely to influence the outcome of the marketing of the site.
- 8.25 It should be noted that the Council will not formally enter into any agreements ahead of seeking a Cabinet decision to proceed with a Joint Venture/ Special Purchase Vehicles Partnership and/or sale of the Woodlands development following the outcome of the marketing process.
- 8.26 The delivery of the ELRS is controlled by the obligations within the S106 for outline planning permission for the Woodlands Development.
- 8.27 Please refer to Confidential Appendix B and Confidential Appendix C.
- 8.28 This report therefore recommends proceeding with Option 2, to enable SEALR Phase 1 to commence subject to Homes England approval and finalisation of the HS2 Funding Agreement. This is particularly important due to the timescales for rail possession in September 2025 to allow for the construction of the bridge.

9. Other options considered.

9.1 The Council has considered a number of alternative options to deliver SEALR Phase 1, as summarised below:

A. Do Nothing

Growth Implications

9.2 The cost of delivering SEALR Phase 1 is being met through HIF, HS2 funding, DfT funding and S106 obligations. The Council would seek to recover HIF funding through S106 planning obligations from AGT1. The amount of recoverable HIF would be dependent upon the viability of the AGT1 site achieved through any future planning consent. If recovered then this would be available by the Council for subsequent projects to support housing growth, as per the HIF Grant Delivery Agreement.

9.3 If SEALR Phase 1 was not delivered by the Council, this would affect the funding streams outlined above, the purpose of which is to unlock high quality housing development (see later). SEALR was identified in the adopted SPD as a key infrastructure requirement for AGT1 to be delivered by the council, rather than developer led. The transport modelling undertaken to date in relation to the AGT1 applications reinforces this and demonstrates that AGT1 housing allocation cannot come forward without the SEALR infrastructure in place to mitigate the impact on the highway. The developers involved in AGT1 have been advised of the need for proportionate contributions towards SEALR as part of the work currently being undertaken on the Infrastructure Delivery Framework for AGT1. All transport modelling undertaken for current planning applications has been on the basis of SEALR Phase (1 and 2) being a committed scheme to be delivered by the Council, if this position changes (SEALR Phase 1 is not delivered) it will lead to additional significant work being required and would inevitably delay determination of pending planning applications for allocated sites in the Vale of Aylesbury Local Plan, which would be likely to impact significantly on the Council's future 5-year housing land supply.

9.4 Other allocated AGT sites which already benefit from planning permission, including Hampden Fields and Woodlands, were subject to S106 agreements which have secured funding towards the delivery of SEALR with the aim of removing traffic and congestion from key arterial routes to mitigate those developments, as well as mitigating the impact of the HS2 Stoke Mandeville Relief Road. There would be severe traffic impacts on these roads and town centre gyratory if this remained unmitigated through the non-implementation of SEALR.

HIF and Financial Implications

9.5 If the scheme were not to proceed then HIF, HS2 and DfT funding allocated for SEALR Phase 1 would very likely be withdrawn. The withdrawal of external funding would

make the delivery of SEALR by any single developer almost impossible due to financial constraints.

- 9.6 Negotiation with Homes England would take place to allow for HIF funding secured for SEALR Phase 1 to be reprofiled to the delivery of the South Western Link Road (forward funding developer delivery).

HS2 Implications

- 9.7 Transport modelling has shown that the HS2 realignment of the A4010, required under the HS2 Hybrid Act, will cause increased congestion at the Aylesbury gyratory because of traffic reassignment. A failure to deliver SEALR Phase 1 will result in increased congestion and delay for road users. It is very likely that the majority of HS2 funding being provided to SEALR Phase 1 would be withdrawn by HS2 Ltd.

- 9.8 Please refer to Confidential Appendix A and Confidential Appendix B.

B. Delay Land Acquisition for SEALR Phase 1

- 9.9 If a decision is taken to delay land acquisition until such time as confirmation that DfT funding is secured, then this would impact on existing contractual obligations and the overall construction programme. This would lead to further cost inflation, delay, and almost certain loss of time critical funding. Please refer to Confidential Appendix A and Confidential Appendix B.

C. Delay Delivery of SEALR Phase 1

- 9.10 To meet the construction programme, particularly the possession of the railway line, the Council is required to issue notice under the existing contract for works to proceed in July 2024, to allow works to start on site.
- 9.11 Delaying a decision to proceed will result in loss of time that cannot be accommodated within the Construction Programme, which is already carrying significant risks associated with ground conditions, and particularly Thames Water.
- 9.12 Any postponement of the project would further increase the overall cost of the scheme due to inflationary effects, and almost certain loss of time critical funding. Please refer to Confidential Appendix A and Confidential Appendix B.

D. Alternative Sources of Funding

- 9.13 The Council has considered alternative funding sources that could be utilised for the purposes of SEALR. For the reasons set out here and in the confidential appendices, the funding is time critical for the delivery of SEALR. No alternative available funding has been identified that could meet the shortfall and arrest any escalation in costs due to delay. Due to the overall value and funding period, there are very limited options available for the Council to meet this shortfall without significantly impacting on the Council's capital programme and statutory duties. The reprioritisation of

available appropriate infrastructure funding is a prudent and legitimate approach to utilising HIF funding, subject to Homes England Agreement.

- 9.14 A review of all remaining HIF projects has been undertaken to assess the opportunities and risk associated with the re-prioritisation funds to address the identified shortfall in SEALR Phase 1. The value of the remaining HIF schemes would not address the overall funding shortfall for SEALR Phase 1.
- 9.15 Please refer to Confidential Appendix B and Confidential Appendix C.

10. Legal and financial implications

Financial

- 10.1 This project continues to be primarily funded by external funding from Homes England, HS2 Ltd, DfT and S106 developer contributions.
- 10.2 Changes to the Capital Programme:
- The Capital Programme currently includes a released budget of £97,933,819 for SEALR Phase 1, £16,788,869 for SEALR Phase 2 and £800,000 for Woodlands.
 - The budget envelope for SEALR Phase 1 and SEALR Phase 2 will need to increase and be released in line with the amendments as set out in Confidential Appendix B and in Appendix D.

Financial Risk

- 10.3 There are a number of risks to the overall project cost including Part 1 Land Compensation Claims and the possibility that inflation could increase further beyond the identified budget. The breakdown of costs, including risk, as contained in Confidential Appendix B.
- 10.4 The reprioritisation of HIF funds will be subject to a separate agreement with Homes England, which may impact on the ability to accelerate SEALR Phase 1. There is also a risk that Homes England will not agree to the reprioritisation of funding.
- 10.5 The Council is in continuing negotiations with HS2 Ltd in relation to the Funding Agreement, which will allow the Council to claim actual costs associated with bridge structure at set milestones throughout the project. Securing the necessary funding agreement may impact on Council's ability to accelerate SEALR Phase 1.

Legal

- 10.6 Since the previous Cabinet decisions of October 2020 and December 2022 the cost and risks associated with the delivery of SEALR Phase 1 has changed. Therefore, to give effect to the intention of the Previous Council's Decisions, a revised delegation is now being sought to proceed with the scheme.

- 10.7 Homes England have provided written agreement to the variation in HIF funding to support the SEALR project in line with the submission requested in June 2022, followed by the Cabinet resolution in December 2022.
- 10.8 The terms of the HIF agreements set out by Homes England state that the HIF funding is provided to the Council as a recoverable fund to allow the early delivery of necessary new physical infrastructure (with the purpose of unlocking high quality housing development). The Council must clearly demonstrate that the funding is not being used for the purposes of subsidising private development. The HIF funds therefore must be recoverable, with the expectation that recovered funds will then be useable for other capital schemes that support housing growth across the County.
- 10.9 The principle of reprioritising HIF funding to eligible projects has previously been established and agreed with Homes England. A separate agreement will still be required with Homes England to cover the re-prioritisation, as set out in this paper.

11. Comments from Legal and Section 151 Officer

11a Director of Legal & Democratic Services comment

The Service Director of Legal and Democratic Services has been consulted on this report and has nothing else to add.

11b Section 151 Officer comment

The S151 Officer has read and noted the report. The Delivery of the relevant infrastructure has a number of inherent risks that are being managed. The use of funding allocated to the Woodlands development/Eastern Link Road to support the Delivery of SEALR phases 1 and 2 will enable the initial delivery of these schemes.

12. Corporate implications

- 12.1 Agreeing to the recommendations of this report will allow Buckinghamshire Council to commence delivery of SEALR Phase 1 to give effect to the intention of the Previous Council's Decisions.
- 12.2 The Corporate Plan identifies 'Increasing Prosperity' as a key priority. Agreeing to the recommendations of this report would support the following aims:

"Continuing to deliver the infrastructure that Buckinghamshire needs where possible ahead of planned growth, including improving connectivity and strategic transport links, increasing sustainability, attracting investment in the economic prosperity of the county and tackling congestion,"

12.3 In addition, the following corporate implications have been identified:

- a) **Property** - the works would be undertaken on existing highways land or on land the Council is assembling for the purpose of delivering SEALR Phase 1 and Phase 2. All property implications have been set out in confidential Appendix A.
- b) **Maintenance** - Once constructed the road will be adopted as publicly maintained highway. The Council has a signed Basic Asset Protection Agreement (BAPA) with Network Rail for the bridge maintenance. Maintenance arrangements will be agreed with all relevant parties prior to completion.
- c) **HR** - there are no direct anticipated HR implications resulting from agreeing to these recommendations.
- d) **Climate Change** - Agreeing to the recommendations of this report will enable the SEALR project to progress. The principal aim of the SEALR, and of the Aylesbury Orbital Link Road, is to draw traffic away from the town centre which supports the Aylesbury Transport Strategy. The SEALR Phase 1 project will plant a significant number of trees (over 5,000) which will help to mitigate carbon dioxide that is produced from vehicles using the road. Galliford Try have additionally produced the Construction Environmental Management Plan (CEMP) which sets out how the contractor will consider and manage environmental implications of the construction.
- e) **Sustainability** - Both phases of the SEALR will achieve at least 10% biodiversity net gain; Phase 1 is expected to achieve 14%. For information, Phase 2 is currently expected to deliver over 40% biodiversity net gain. Agreeing to the recommendations of this report will facilitate the SEALR project, enabling improvements to the ecological character of the area.
- f) **Equality** - All public sector acquiring authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. In exercising their compulsory purchase and Side Roads (and related) powers (e.g. powers of entry) acquiring authorities must have regard to the effect of any differential impacts on groups with protected characteristics. An equalities impact assessment was undertaken as part of the Cabinet Decision dated 10th December 2022 and has been updated as part of this report. Please refer to Appendix C. In implementing this scheme and exercising the powers necessary for delivery it is not considered that any group with protected characteristics are adversely affected under the Equality Duty.

- g) **Data** - There are no anticipated data implications resulting from agreeing to these recommendations.
- h) **Value for money** - The Council is in contract with the contractor Galliford Try and consultant AECOM under the Midlands Highways Alliance Plus Framework for Medium Schemes and Professional Services. The NEC4 Option C contract being utilised is a collaborative contract which seeks to share risks and pain/gain thereby engendering a collaborative ethos on the project. SEALR was a model project as part of the tendering process for the 3rd iteration of the Medium Schemes Framework within the MHA, which secured 4 contractors to work across the MHA area via a competitive process. Within that process, Galliford Try was successful in achieving regional contractor status in Buckinghamshire and Oxfordshire. Galliford Try have undertaken competitive tendering to sub-contractors during the Early contractor Involvement process in recent years. These have been and continue to be evaluated on a price:quality basis to ensure that the Council takes forward the most economically advantageous bid.
- i) **Health & Safety** - The design and construction works have been and will continue to be undertaken taking due care of Health and Safety matters. The project is being taken forward following the Construction Design and Management Regulations (CDM) 2017 and all other appropriate health safety legislation and guidance.

13. Local councillors & community boards consultation & views

- 13.1 The SEALR project team has met with local elected members on a number of occasions, including the chair of the Aylesbury Community Board. Prior to the main site works commencing, local members will be briefed on the programme and traffic management, as well as providing key points of contact for escalation of issues.
- 13.2 A meeting was held on 3 January with local ward members ahead of the Cabinet Decision for SEALR 2 on 4 January to provide an update on the project. The SEALR project team will continue to liaise with local members as the project progresses.

14. Communication, engagement & further consultation

- 14.1 SEALR Phase 1 held 2 public consultation events in 2017 and 2018 with Phase 2 holding an online public event in early 2021. The public were also consulted as part of the statutory planning process for Phase 1 and Phase 2.
- 14.2 E-bulletins for the project are produced and distributed to a mailing list. These e-bulletins inform on project progression and key events. These e-bulletins started in

2018 and 48 bulletins have been distributed to date. There are over 600 subscribers to the e-bulletins and links to the project website are included.

- 14.3 The project has a dedicated webpage that is updated regularly:
<https://www.buckinghamshire.gov.uk/parking-roads-and-transport/road-and-infrastructure-projects/view-road-projects-in-development/new-road-south-east-aylesbury-link-road-sealr/> .
- 14.4 A recent project bulletin and press release have taken place in relation to the start of works on the A413 Wendover Road and B4443 Lower Road Roundabouts.
- 14.5 The communications plan will be enhanced through the construction period, to ensure that residents and the travelling public are aware of any impacts arising. The main form of communication is the use of e-bulletins which members of the public can sign up to receive via the project website.. The use of electronic signs on site also informs road users of up-to-date information that may affect their journey.

15. Next Steps and Review

- 15.1 The budget for SEALR phase 2 will be increased and released in accordance with Appendix D. This will give effect to the delegations given by Cabinet on the 4 January 2024 and allow for works to proceed.
- 15.2 The budget for SEALR Phase 1, will be increased and released in accordance with Appendix D, subject to Homes England approval and finalisation of the HS2 Funding Agreement. The Council will engage with Homes England and HS2Ltd to expedite these matters.
- 15.3 The budget for Woodlands/ELRS will be reduced, as set out in recommendation 4 and Confidential Appendix B. The approval continues to facilitate the marketing of Woodlands, to give effect to the delegations given by Cabinet on the 4 January. Any recoverable funds will be reallocated to the Woodlands/ELRS budget.
- 15.4 A separate Cabinet decision will come forward to proceed with a Joint Venture/ Special Purchase Vehicles Partnership and/or sale of the Woodlands development following the outcome of the marketing process.
- 15.5 Cabinet is asked to delegate to the Corporate Director for Communities and the Corporate Director for Planning Growth and Sustainability, in consultation with the Leader proceeding with the delivery of the main works for SEALR Phase 1.
- 15.6 This will enable the phased delivery of the South East Aylesbury Link Road, within required timeframes to achieve the intended programme and to give effect to the Previous Council Decisions.

16. Background papers

- 16.1 There are confidential appendices to this report, which are exempt by virtue of paragraph 3 of Schedule 12A of Part 1 of Schedule 12a of the Local Government Act 1972 because they contain information relating to the financial or business affairs of any particular person (including the authority holding that information).

Confidential Appendix A - Land Acquisition

Confidential Appendix B - Project Finances and Risks

Confidential Appendix C - Woodlands and ELRS

Appendix D - Financial Summary

Appendix E - EQIA

- **Cabinet Member Decision 15 July 2016**
<https://buckinghamshire.moderngov.co.uk/CeListDocuments.aspx?Committeed=543&MeetingId=5386&DF=15%2f07%2f2016&Ver=2>
- **Cabinet Member Decision 24 July 2017**
<https://buckinghamshire.moderngov.co.uk/CeListDocuments.aspx?Committeed=543&MeetingId=5453&DF=24%2f07%2f2017&Ver=2>
- **Cabinet Decision 13 November 2017**
[https://buckinghamshire.moderngov.co.uk/celistdocuments.aspx?MID=4742&DF=13%2f11%2f2017&A=1&R=0&F=embed\\$View%20the%20decision%20for%20item%2011.\\$htm](https://buckinghamshire.moderngov.co.uk/celistdocuments.aspx?MID=4742&DF=13%2f11%2f2017&A=1&R=0&F=embed$View%20the%20decision%20for%20item%2011.$htm)
- **Cabinet Member Decision 9 July 2019**
<https://buckinghamshire.moderngov.co.uk/ceListDocuments.aspx?MeetingId=5573&DF=09%2f07%2f2019>
- **Cabinet Decision 9 December 2019**
[https://buckinghamshire.moderngov.co.uk/celistdocuments.aspx?MID=4776&DF=09%2f12%2f2019&A=1&R=0&F=embed\\$View%20the%20decision%20for%20item%2011.\\$htm](https://buckinghamshire.moderngov.co.uk/celistdocuments.aspx?MID=4776&DF=09%2f12%2f2019&A=1&R=0&F=embed$View%20the%20decision%20for%20item%2011.$htm)
- **Shadow Executive decision 7 January 2020**
<https://buckinghamshire.moderngov.co.uk/ieDecisionDetails.aspx?ID=161>
- **Strategic Sites Committee 11 February 2021**
<https://buckinghamshire.moderngov.co.uk/ieListDocuments.aspx?CId=362&MID=532>

- **Leader Decision 19 March 2021**
<https://buckinghamshire.moderngov.co.uk/ieDecisionDetails.aspx?ID=468>
- **Cabinet Decision 9 November 2021**
<https://buckinghamshire.moderngov.co.uk/ieIssueDetails.aspx?IId=27285&PlanId=0&Opt=3#AI10008>
- **Cabinet Decision 6 December 2022**
<https://buckinghamshire.moderngov.co.uk/ieListDocuments.aspx?CId=337&MeetingId=17464>
- **Leader Decision 30 October 2023**
<https://buckinghamshire.moderngov.co.uk/ieDecisionDetails.aspx?ID=1166>
- **Cabinet Decision 4 January 2024**
[Report for South East Aylesbury Link Road SEALR Project.pdf \(moderngov.co.uk\)](#)
- **Cabinet Decision 4 January 2024**
[Decision - Woodlands and Delivery of the Eastern Link Road South - Modern Council \(moderngov.co.uk\)](#)
- **Leader Decision 4 January 2024**
<https://buckinghamshireintranet.moderngov.co.uk/ieDecisionDetails.aspx?ID=1239>

17. Your questions and views (for key decisions)

- 17.1 If you have any questions about the matters contained in this report, please contact the author of this report. If you have any views that you would like the cabinet member to consider, please inform the democratic services team by 5pm on 21 March 2024. This can be done by email to democracy@buckinghamshire.gov.uk.