

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Policy and Resources
Date:	10 December 2015
Title:	Major Highway Scheme: Newgate Lane South – Land Purchase
Reference:	7052
Report From:	Director of Culture, Communities and Business Services

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1. Executive Summary

- 1.1 The purpose of this report is to set out the background to this major highway scheme, known as the Newgate Lane South Road Scheme (“the Scheme”), and to seek approval to the acquisition of all land interests required to implement the Scheme.
- 1.2 In the event that negotiations to acquire all necessary interests in land by agreement are not concluded by 11 January 2016 then it is recommended that authority is given to the making of a Compulsory Purchase Order (CPO).

2. Contextual information

- 2.1 The Scheme involves construction of a new 1.5 kilometre section of single carriageway road between Tanners Lane and Peel Common roundabout through predominantly undeveloped farmland which lies within the Meon Strategic Gap. The Scheme includes modifications to Peel Common roundabout and the stopping-up of the existing arm with Newgate Lane in order to accommodate the new route alignment.
- 2.2 The Scheme would result in a reduction in traffic congestion on highway routes to and from the Gosport peninsula supporting economic development and regeneration within the sub-region and would contribute to the development of a high quality and sustainable integrated transport system for the Boroughs of Fareham and Gosport.
- 2.3 At his meeting on 26 November 2015, the Executive Member for Economy, Transport and Environment is being asked to confirm the extent of land required for the Scheme and also, subject to the award of planning permission for the Scheme, is being asked to recommend that the Executive Member for Policy and Resources gives approval to the acquisition of all

necessary land interests required for the delivery of the Scheme and to the making of a CPO, as necessary. The outcome of this decision will be reported at the meeting.

- 2.4 Preliminary discussions and meetings with affected landowners and the tenant farmer in order to inform on the design proposals were carried out between April 2013 and September 2014. More recently, letters were sent out during October 2015 to all affected land owners and the tenant farmer asking if they would be willing to enter into negotiations for the acquisition of their respective land interests and offering to meet their reasonable professional fees. As at the time of writing, four of the affected landowners and the tenant farmer have responded to advise that representatives had been appointed to act on their behalf and potentially complex negotiations are now at an early stage. Replies from the other two affected landowners are awaited. The negotiations are currently being given a high priority and an update will be reported to the meeting.
- 2.5 To provide certainty of delivery within funding timescales identified with the Solent Local Enterprise Partnership ('the SLEP) for construction of the Scheme, it is considered very likely that it will be necessary to make a CPO to run in parallel with pursuing all acquisitions by agreement as a CPO can take up to two years to be confirmed by the Secretary of State should the need for a Public Inquiry arise. In the event, negotiations with all affected landowners and the tenant farmer would continue after the CPO is made as it would be highly preferable to all concerned to proceed by agreement if this is possible.
- 2.6 Part of the land to be acquired for the Scheme may be Crown land which means the freehold of the land cannot be compulsorily acquired, as legislation does not bind the Crown unless it states to the contrary. Discussions are currently on-going with the individual landowner to confirm the status of the land and to acquire the land by way of agreement.

3. Legal Context

- 3.1 The County Council has the power to make Compulsory Purchase Orders and in relation to this Scheme, the enabling power is the Highways Act 1980.
- 3.2 The Compulsory Purchase Process Guidance from the Department for Communities and Local Government ("CPO Guidance") states that a compulsory purchase order should only be made where a) there is a compelling case in the public interest and b) the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to these considerations.
- 3.3 The public interest test is met due to the proposed acquisition delivering necessary infrastructure to serve improved access to Fareham and Gosport as well as to maximise the wellbeing of residents, particularly in the central area of Stubbington, by reducing congestion and delays to key destinations.
- 3.4 This will help to enhance the prosperity of the area overall as well as the quality of place.

- 3.5 The County Council has also had regard to the provision of Article 1 of the First Protocol to the European Convention on Human Rights. In the light of the significant public benefit that would arise from the delivery of the Scheme, it is considered that it would be appropriate to acquire the land through compulsory purchase should that prove necessary, and that to do so would not constitute an unlawful interference with individual property rights.
- 3.6 Article 6 also requires that those civil rights that may be affected by a decision are given a fair hearing by an independent and impartial tribunal. This is secured by means of the compulsory purchase order process including the holding of an inquiry into any objections which may be made and the ability to challenge any compulsory purchase order in the High Court.

4. Funding

- 4.1. The total scheme cost (including land) based on the current preliminary design is £9 Million which will be wholly funded by the SLEP. Any overspend not funded by the SLEP will be met from Economy, Transport and Environment capital budgets.
- 4.2. The County Council is responsible for leading on delivery of the Scheme which appears in the Integrated Transport Capital Programme for 2017/18. Scheme delivery will be managed by the Director of Economy, Transport and Environment.
- 4.3. The Solent Enterprise Partnership Board, as the funding body, has agreed and allocated funding from its Local Growth Fund 1 and 2 programmes which is provided by the Government and administered by the SLEP. The Scheme has an approved Business Case which includes the delivery programme which envisages a 2017/18 start as the SLEP need to manage the funding stream with the Government. Missing the programme as identified in the Business Case would put the funding at risk, hence, the need to make a CPO in the short term to run in parallel with pursuing all acquisitions by agreement.

5. Planning

- 5.1 A planning application for the Scheme was reconsidered by Hampshire County Council's Regulatory Committee on 18 November 2015 and planning permission for the Scheme has now been approved.

6. Recommendations

- 6.1 That approval be given to acquire all the necessary land interests required to implement the proposed Scheme on detailed terms and conditions to be settled by the Director of Culture, Community and Business Services (Strategic Manager – Assets and Development).
- 6.2 That, in the event that negotiations to acquire all land interests by agreement are not concluded by 11 January 2016, then authority be given to commence

the process for, and the making of a Compulsory Purchase Order in respect of the land detailed in the Appendix as appropriate.

- 6.3 That delegated authority be given to the Director of Culture, Community and Business Services (Strategic Manager – Assets and Development) to amend the scope of the land detailed in the Appendix on the basis that it will not be extended, but it could be refined/minimised.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	Yes
Maximising well-being:	Yes
Enhancing our quality of place:	Yes

Other Significant Links

Links to previous Member decisions:		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
(1) EMETE- LEP Funding Scheme Update	6197	04.11.14
(2) EMETE – Improving Access to Fareham and Gosport – Report of Consultation	6154	04.11.14
(3) EMETE – Newgate Lane Southern Section, Fareham, Update Report	6743	09.07.15
(4) EMETE – Newgate Lane South- Land Approvals		26.10.15
Direct links to specific legislation or Government Directives		
<u>Title</u>	<u>Date</u>	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2. Equalities Impact Assessment:

The proposals will have no or low impact upon groups with protected characteristics. The proposals are accessible to all road users. Mitigation has been identified to add value to accessibility over and above the existing provision.

2. Impact on Crime and Disorder:

2.1. The impact of the Scheme on crime and disorder has been considered and no impact has been identified.

3. Climate Change:

3.1 How does what is being proposed impact on our carbon footprint / energy consumption?

The proposed scheme seeks to improve access to Fareham and Gosport, reducing congestion and journey time delay, particularly including through Stubbington and in Fareham. As traffic problems reduce, investment will be attracted into the area which will help generate jobs enabling residents to travel shorter distances to work.

3.2 How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

Areas where traffic is less congested will experience reductions in air pollution.