

**HAMPSHIRE COUNTY COUNCIL****Decision Report**

<b>Decision Maker:</b>	Executive Member for Economy, Transport and Environment
<b>Date:</b>	26 November 2015
<b>Title:</b>	Newgate Lane South – Land Approvals
<b>Reference:</b>	7106
<b>Report From:</b>	Director of Economy, Transport and Environment

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## 1. Executive Summary

- 1.1. The purpose of this paper is to seek approval to acquire all third party interests in the land required to construct the southern section of Newgate Lane in Fareham (“the scheme”).
- 1.2. In order to ensure the delivery of the Scheme within the agreed programme of funding with the Solent Local Enterprise Partnership, it is proposed to make a Compulsory Purchase Order to run in parallel with negotiations to acquire all third party land by agreement.
- 1.3. This paper sets out the need to progress the formal negotiations for the necessary land, and to the making of a Compulsory Purchase Order as necessary to ensure construction of the Scheme within the agreed timescales.

## 2. Contextual information and background

- 2.1. In November 2014 a report to the Executive Member for Economy Transport and Environment regarding ‘Improving Access to Fareham and Gosport’ recommended that: ‘the preferred schemes as outlined in the report were approved as Council policy, were formally safeguarded and were progressed with immediate effect.’ Further to this recommendation, preliminary and early detailed design work has progressed in relation to the layout for the southern section of Newgate Lane, which includes details of junctions and access arrangements, to be developed within the broad corridor previously identified.
- 2.2. The Scheme forms part of the wider strategy to improve access to Fareham and Gosport by reducing congestion on the existing highway network in order to support economic development and regeneration within the sub-

region. This improvement forms the third stage of the current improvements to the Newgate Lane corridor and will follow the recently completed improvements to the northern section of Newgate Lane, and the improvements to the Peel Common roundabout that are currently under construction. Together with these works the Scheme aims to contribute towards the overall reduction of journey times and improved journey time reliability, especially at peak times through the provision of increased road capacity and improved traffic management.

- 2.3. The principle of the construction of the Scheme is supported by the Fareham Borough Local Plan Part 2 (2015); 'Policy SP49: Improvements to the Strategic Road Network', which safeguards the alignment of the proposed road as identified in this report.
- 2.4. The proposed road has a similar status in the draft Gosport Borough Local Plan (2011-2029) where the alignment is safeguarded where it traverses the administrative area of the Gosport Borough on part of the western side of the Brookers playing fields. This safeguard secures the alignment of the proposed road as identified in this report. The remainder of the western part of the Brookers playing field falls within the Fareham Borough and is described above.
- 2.5. A planning application for the Scheme is to be reconsidered by the County Council's Regulatory Committee on the 18 November 2015.

### 3. **Outline of the Preferred Scheme**

- 3.1. In July 2015 a report to the Executive Member for Economy Transport and Environment confirmed the detailed alignment for the southern section of Newgate Lane, and the approved drawing showing that alignment is attached in **Appendix 1**.
- 3.2. The Scheme will provide a new 1.5km long, 7.3m wide single carriageway with localised widening at key junctions and pedestrian crossing points, between a point immediately to the north of the junction with Tanners Lane, southwards to the Peel Common roundabout where a new connection to the existing roundabout will be formed. The proposed road will take an alignment to the east of the existing road and traverse areas of third party land including a small part of the sports fields located at the northern end, and open farmland southwards to Brookers Lane, and along the western side of the Brookers playing fields at the southern end. The road will be raised slightly above existing ground levels for drainage purposes and is proposed to have grass verges on both sides together with fencing, drainage features, mitigation features and landscaping.

#### 4. **Third Party Land**

- 4.1. The Scheme traverses third party land lying to the east of the existing alignment. The proposed alignment joins the recently improved northern section of Newgate Lane just to the north of the junction with Tanners Lane.
- 4.2. Initial steps to open negotiations with all landowners affected by the proposal have taken place, as well as the tenant farmer who farms the areas of open farmland.
- 4.3. Land interest plans showing all necessary land required for the proposed road Scheme are provided in **Appendix 2** and include an overview plan as well as more detailed plans showing the individual plots.
- 4.4. To provide certainty of delivery within the timescales identified with the Solent Local Enterprise Partnership for a commencement of the improvement works within the 2017/18 year, and in the event that negotiations for the land be unsuccessful, it will be necessary to make a Compulsory Purchase Order (CPO) to secure the necessary land. Given that it can take around two years to complete the CPO process including confirmation by the Secretary of State, it is proposed to commence this process as soon as reasonably possible.

#### 5. **Legal Context**

- 5.1 The County Council has the power to make Compulsory Purchase Orders and in relation to this road construction Scheme, the enabling power is the Highways Act 1980.
- 5.2 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 these with an interest in the land affected. Particular consideration should be given to these considerations.
- 5.3 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.
- 5.4 This will help to enhance the prosperity of the area overall as well as the quality of place. It should also be noted that the Scheme would run through the designated Strategic Gap so as to cause the least disruption to residents and therefore have the least impact on their Human Rights.
- 5.5 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.

- 5.6 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.

## **6 Funding**

- 6.1 The costs of the fees associated with the land negotiations, and the progression of the Compulsory Purchase Order process will be met by the scheme budget. This will include the necessary land agent and legal fees associated with progressing and concluding the acquisitions.
- 6.2 The Solent Local Enterprise Partnership Board, as the funding body, has agreed and allocated funding from their Local Growth Fund 1 and 2 programmes to support the Scheme. The County Council has also committed resources to the Scheme from the Economy Transport and Environment Capital Programme. The combined resources will be sufficient to acquire the land and construct the Scheme. A funding agreement with the Solent Local Enterprise Partnership is currently being developed. However, it is important that the negotiations and the compulsory purchase order for the necessary land are commenced in the short term to meet the agreed delivery timetable.
- 6.3 The aim is to undertake the negotiations and make the Compulsory Purchase Order at this stage. The costs of the land acquisition itself will be reported within the Scheme costs and will form part of the project appraisal report that will be considered by the Executive Member for Economy, Transport and Environment before the commencement of the works.

## **7 Recommendations**

- 7.1 That the Executive Member for Economy, Transport and Environment confirms the extent of the land required to form the southern section of the proposed Newgate Lane South road Scheme (“the Scheme”), in accordance with the approved alignment;
- 7.2 That the Executive Member for Economy, Transport and Environment recommends that, subject to the award of planning permission for the Scheme, the Executive Member for Policy and Resources provides authority to acquire all third party interests in the land required for the delivery of the Scheme, as detailed in the appendix;

- 7.3 That the Executive Member for Economy, Transport, and Environment recommends to the Executive Member for Policy and Resources that a Compulsory Purchase Order be made for the Scheme.

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

<b>Hampshire safer and more secure for all:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	yes
Corporate Improvement plan link number (if appropriate):	

**Other Significant Links**

<b>Links to previous Member decisions:</b>		
<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
<b>Direct links to specific legislation or Government Directives</b>		
<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>
Project Files	EII Court West, 2 <sup>nd</sup> Floor, Winchester

## **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 acquisition of the land required for the Scheme will have no or low impact upon groups with protected characteristics. In the event that a Compulsory Purchase Order is required the guidance published by the Department for Communities and Local Government (Guidance on Compulsory Purchase process and The Crichton Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion) will be followed.

## **2 Impact on Crime and Disorder:**

2.1 Not Applicable

## **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.