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Highways and Transport Committee

21 September 2023

Middlewich Eastern Bypass – Submission of a Full Business Case to the Department for Transport

Report of: Tom Moody, Director of Highways and Transport

Report Reference No: - HTC/44/22-23

Ward(s) Affected: Middlewich and Brereton Wards

Purpose of Report

- 1 The report seeks approval of a funding strategy for the scheme in accordance with an updated budget estimate and to submit a Full Business Case (“FBC”) to the Department for Transport (“DfT”) to secure grant funding of £46.80 million towards the cost of the scheme.
- 2 The report notes that once the DfT grant funding is in place, the contract to construct the scheme can be entered into with the Councils appointed Contractor, Balfour Beatty, via a Notice to Proceed issued in accordance with the Council’s existing two stage Delivery Agreement with Balfour Beatty under the Scape Framework contract.
- 3 The report outlines how the scheme will contribute towards the Council’s Corporate Plan by providing a transport network that is safe and promotes active travel.

Executive Summary

- 4 The Council has set out a clear vision and strategy of sustainable economic growth in the adopted Local Plan Strategy. A key element of this strategy is a significant investment programme in transport to support housing and jobs in the Borough.
- 5 The Middlewich Eastern Bypass scheme will improve the highway network in Middlewich by relieving congestion and road safety concerns

in Middlewich town centre, improving journey times on the wider highway network and will enable the full development of Strategic Location LPS 44 (Midpoint 18) in the adopted Local Plan Strategy. The Scheme will support economic growth, employment and housing delivery in the town and the surrounding area.

- 6 The scheme comprises a 10m wide single carriageway road, extending from a new roundabout off Pochin Way to the north, to a new roundabout junction at its southern end where it joins the A533 Booth Lane. Booth Lane will be realigned to connect with the scheme. The scheme includes new bridges over the Trent and Mersey Canal and the Sandbach to Northwich Railway Line. It will create approximately 2.7km of new roads with street lighting and dual use footways and cycleways with safe crossing facilities. As part of the scheme, it will be necessary to alter private means of access to some properties.
- 7 The current programme is for the main works to start in spring 2024, with an estimated 34-month construction period.
- 8 The estimated total cost of the scheme is £95.74 million, (This includes expenditure of £1.2 million on development of the Outline Business Case, which predates the current scheme, which was funded by a DfT grant.)
- 9 The previous scheme costs estimate from February 2023 was for £92.5 million and this value is included in the Council's current Medium Term Financial Strategy (MTFS). The increase is due to recent volatile market conditions resulting in exceptional levels of inflation in the construction sector which has affected the prices of the work packages from the supply chain.
- 10 An appropriate allowance for further inflation and project risk is included in the scheme estimate.
- 11 HS2 have also now provided an undertaking to contribute a proportionate amount towards the scheme costs, as the new bypass will help in accommodating HS2 Phase 2b traffic when that scheme is being constructed. This contribution will be approximately £1.73m which is over half of the current £3.24m funding gap.
- 12 This report recommends that the additional £3.24 million required to fund and forward fund the scheme is made available from the Council's existing "Strategic Capital Projects" budget in the MTFS and that when HS2 pay their contribution, that the budget is reimbursed.
- 13 So if the recommendation is accepted, the Council would effectively be forward funding this HS2 contribution (at risk) from within the additional

£3.24m that this report recommends providing. This would be in a similar way to other developer contributions.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

1. Approve the Draft Full Business Case for the Middlewich Eastern Bypass, annexed to the report.
2. Authorise the Executive Director – Place in consultation with the Committee Chair to make minor modifications to the Draft Full Business case prior to submission of the Full Business Case to the Department for Transport (DfT).
3. Approve the submission of the Full Business Case for the Middlewich Eastern Bypass (Appendix 1) to the DfT seeking a grant contribution of £46.80 million towards the total scheme cost.
4. Subject to approval of the Full Business Case by the DfT, approve the release of the Department for Transport grant funding to the value of £46.80 million for a contribution towards the delivery of the scheme.
5. Note that the total estimated scheme cost has increased from £92.50 million to £95.74 million.
6. Recommend that a virement for £3.24 million is considered by the Director for Finance and Customer Services in consultation with the Chair of the Highways and Transport Committee and the Chair of the Finance Sub-Committee, from the Strategic Capital Projects programme, increasing the Council contribution to £24.81 million towards the scheme.
7. Approve the forward funding and underwriting at risk of the agreed contribution to the scheme from HS2 in accordance with Assurance C6.22 the Phase 2b (Crewe - Manchester) Draft Register of Undertakings and Assurances v1.4
8. When the HS2 contribution is paid, approve the reimbursement of the Strategic Capital Programme budget with that contribution.
9. Approve the ongoing forward funding of expenditure on the scheme, including all costs of entering into the construction contract, in advance of Section 106 (S106) developer contributions, and note that this presents financial risks as outlined in the financial implications of the report.
10. Note the authorisation already given by Cabinet on 15 January 2019 to delegate to the Executive Director – Place in consultation with the Finance and Communications Portfolio Holder, exercise powers to undertake all the

necessary and prudent preparatory site clearance and general construction works in advance of Stage 2 Construction phase before funding approval from DfT.

11. Note the authorisation given by Cabinet on 15 January 2019 to delegate to the Executive Director – Place in consultation with the Finance and Communications Portfolio enter into a two stage Delivery Agreement with the Contractor for the delivery of the MEB via the Scape Framework.

Background

- 14 The Middlewich Eastern Bypass scheme involves the construction of 2.7km of single carriageway road to follow an approximate north-south alignment to the east of Middlewich, providing a new route between the A54 Holmes Chapel Road and the A533 Booth Lane to the south of the town. It is located within Cheshire East borough, apart from a small area of the northern section which is in Cheshire West & Chester (CWAC) borough. A scheme plan can be found attached in Appendix 2.
- 15 The scheme sits on the eastern edge of the Middlewich Settlement Zone and will provide traffic routes which will avoid Middlewich town centre, relieving congestion and significantly contributing to the delivery of objectives within the Local Plan Strategy; supporting the economic growth targets of Middlewich and the sub-region, which aim for up to 1,950 new dwellings and c.6,500 additional jobs in the town. Policy PG7 of the Local Plan states that Middlewich is expected to accommodate development of 70 ha of employment land and the bypass is required to release a substantial proportion of this land.
- 16 Paragraph 15.510 of the [Local Plan Strategy](#) (LPS) states that the bypass is: ‘a key piece of infrastructure vital to the future prosperity of Middlewich, Cheshire East and the wider region’.
- 17 Within the Local Plan Strategy, the scheme is linked specifically to the Midpoint 18 Business Park (LPS 44, also branded as “Magnitude”), providing suitable means of access to significant currently inaccessible areas of the allocated site. The scheme is also referred to in Table 3.1 of the [Site Allocations and Development Policies Document](#) (SADPD), which contains the breakdown of LPS and other sites expected to contribute to the recovery of forward funded infrastructure schemes, as mentioned in Policy GEN 4 of the SADPD.
- 18 The scheme will help mitigate the effects of development of the Local Plan sites: LPS 42 – Glebe Farm, Middlewich; LPS 43 - Brooks Lane, Middlewich; LPS 44 - Midpoint 18, Middlewich; LPS 45 - Land off Warmingham Lane West (Phase II), should they all come forward, and

as highlighted in Table 3.1 of the SADPD and as mentioned in Policy GEN 4 of that document.

- 19 The Council has developed a detailed design and obtained full planning permission for the scheme from Cheshire East and CWAC Councils (as a small section at the north end of the scheme lies within the administrative area of CWAC).
- 20 The scheme has been the subject of extensive reporting to Cabinet and Committee through its lifecycle which has covered the financial risks to the Council in detail from the requirement for the Council to forward fund the scheme.
- 21 The Council is the Local Highway Authority responsible for maintaining the public highway in the Borough and it will therefore maintain the scheme where it lies within the Borough of Cheshire West & Chester via an agreement under Section 8 of the Highways Act 1980.
- 22 Much of the land required for the scheme is under the control of four principal landowners and the Council has already entered into conditional framework agreements with these landowners prior to acquiring their interests on a private treaty basis subject to approval of the Full Business Case (FBC) and grant of final funding by the DfT.
- 23 The Highways and Transport Committee at its meeting on 9 December 2022, authorised the making of a Compulsory Purchase Order, Side Roads Order and Bridge scheme for the delivery of the Middlewich Eastern Bypass scheme, the Committee were made aware of financial cost and implications to the Council of the scheme, including the requirement to forward fund the scheme at risk until the approval of the FBC by the DfT.
- 24 Orders for the scheme were made on 12 January 2022. A public inquiry into the Orders was held by the Secretary of State for Transport from 8 to 11 November 2022 and the Orders were confirmed with minor modifications by the Secretary of State on 6 June 2023. The scheme has a confirmed Side Roads Order (“SRO”) as works are required to realign the existing public highways and make changes to private means of access.
- 25 To meet the programme for the scheme, the Council will need to submit the FBC to DfT for approval in September 2023 (as recommended in this report) and undertake further work prior to approval of the FBC and release of the DfT grant funding from the Large Local Majors Programme as follows:
 - Negotiations will continue with affected landowners to secure the land required for the scheme by agreement. The Council has

confirmed Compulsory Purchase Orders and will proceed with the implementation of the CPO and the use of statutory powers of acquisition, should the negotiations fail.

- Carry out advance works and general construction works in the Stage 1 preconstruction phase in advance of Stage 2 construction phase.
- Advance works are required to be completed in sufficient time to ensure environmental and ecological mitigations, utilities and service diversions and general site works are sufficiently progressed to enable the main works to commence on programme.
- The Council’s appointed contractor Balfour Beatty will enter into discussions with their supply chain prior to the issue of a Notice to Proceed to Stage 2 construction phase, to ensure best value and timely commencement of the main works.

- 26 The two-stage Delivery Agreement with Balfour Beatty has been structured to allow these works that are critical to programme efficiencies to commence in the preconstruction phase in advance of the final funding contribution from the DfT.
- 27 Engagement of the contractor in the preconstruction phase has allowed a programme to be refined so as to proceed with delivery of the scheme in early 2024, with an estimated 34-month construction period with the road opening in May 2026 and full completion during Spring 2027.
- 28 The anticipated key programme dates for delivery of the scheme are set out in Table 1 below, though this is subject to change, particularly where dependent on timescales for approval of the FBC as advised by the DfT.

Table 1: Programme Key Dates (estimated)

| Activity | Programme Date |
|--|-----------------------|
| Submit FBC to the DfT | September 2023 |
| Approval of FBC / Receive DfT Funding | December 2023 |
| Receive Contractor Offer for Stage 2 works (Target Cost) | January 2024 |

| | |
|--|---------------------------|
| Instruction to Proceed (Notice to Proceed) to Stage 2 construction | February 2024 |
| Implementation (GVD and/or NtT) | January 2024 – April 2024 |
| Site Clearance and Advance works start | January 2024 |
| Access Date – All of the site for main works | April 2024 |
| scheme in Use | May 2026 |
| Planned Completion | November 2026 |
| Completion Date | February 2027 |

Scheme Costs

- 29 The total scheme cost estimate figure includes all sunk costs to date in developing the scheme, the estimated costs to purchase the land, an allowance for compensation costs (known as Part 1 Claims), the contract costs for construction, future professional fees, utility diversions and allowances for future risks. A breakdown of the scheme cost is contained in Table 2 below

Table 2: Total Estimated scheme Costs

| Project Stage | Estimated Cost £M |
|---|--------------------------|
| CONSTRUCTION | |
| Stage 1 Preconstruction | 4.99 |
| Stage 2 Construction | 49.46 |
| Combined Stage 1 and Stage 2 | 54.45 |
| DEVELOPMENT | |
| Development Cost [Design, stats, fees, compensation, inflation] | 18.23 |
| Land and Property | 19.20 |

| | |
|-------------------------------|--------------|
| Project Risk | 3.86 |
| Total Development Cost | 41.29 |
| TOTAL PROJECT COST | 95.74 |

30 Scheme costs incurred to date amount to £20.40 million – of which approximately £8.0 million is for the land acquisition. The remaining £12.4 million is for development and design work, ground investigation and early enabling works including service diversions and environmental and ecology work.

31 The Council's overall expenditure on the scheme is expected to be £95.74 million, which exceed the current funding outlined in the MTFS by £3.24 million.

Scheme Funding

32 The scheme costs will be funded from a combination of funds from the DfT's Large Local Majors Programme grant funding (£48.06 million), together with a Local Contribution of £47.68 million.

33 The Local Contribution towards the cost of the scheme will be met from a combination of external (mainly S106 developer contributions) and a capital contribution from the Council.

34 The Local Contribution currently consists of £22.87 million from S106 developer contributions (of which £12.19 million has already been agreed with the developers) plus £24.81 million from the council's own funds.

35 The scheme funding strategy seeks to maximise the level of contribution towards the scheme from developers of Location Plan Strategy (LPS) allocations that directly benefit from the scheme.

36 Following previous decisions, anticipated S106 developer contributions are being forward funded (at risk) by the council until the monies have been received.

37 The Council's 2023-27 Medium-Term Financial Strategy, reported to Council in February 2023, shows funding for £92.5 million from the Council's approved Capital Programme, meaning there is a £3.24 million funding gap, now recommended to be met by an increased Local Contribution (as the DfT grant is fixed), which will be made up of combination of the new HS2 contribution of £1.73m (forward funded by the Council) plus the Council's own funds.

- 38 This report recommends that the local contribution is adjusted upwards in the MTFs by £3.24 million to meet the funding gap, by using funds from the Strategic Capital Projects budget, which will be used to forward fund the HS2 contribution until HS2 make that payment.

Department for Transport Grant

- 39 The scheme secured entry into the DfT Large Local Majors (LLM) Programme by demonstrating a compelling case in the Outline Business Case for funding.
- 40 There is high confidence that the DfT will approve the Full Business Case (FBC) when submitted and will confirm its funding commitment to the scheme. Subject to the agreement of the recommendations in this report, the FBC submission to the DfT will be in September 2023.

Consultation and Engagement

- 41 The scheme has been subject to extensive local consultation at the Planning Stage and demonstrated high levels of local support.

Reasons for Recommendations

- 42 Before the construction contract can be awarded, the scheme FBC must be approved by the DfT (thus releasing the £46.80 million DfT grant) at a point when the target cost for the construction contract is agreed and all of the land needed has been acquired.
- 43 A requirement of gaining programme entry into the DfT's Programme was that the Council would accept all of the cost inflation risks for these schemes. The total DfT contribution for the scheme is therefore fixed at £48.06 million, of which £1.26 million has already been received for development of the Outline Business Case.
- 44 Representations have been made to the DfT for a relaxation to this, to recognise the current unprecedented market conditions, but they have not agreed to take any of the inflation risk.
- 45 The developers' contribution part of the funding package is a key risk. However, to submit the FBC for the scheme, the Council must be able to demonstrate that it has the means to deliver the scheme; hence the requirement to underwrite any funding shortfall.
- 46 The submission of a FBC to the DfT for approval and release of final grant funding of £46.80 million towards the scheme enables the Council to proceed with the development and delivery of the scheme.

- 47 The Council's appointed contractor Balfour Beatty has now engaged with its supply chain to provide an updated scheme cost for Stage 2 construction phase target cost contract.
- 48 The scheme was competitively tendered under arrangements set out in the delivery agreement between the Council and Balfour Beatty and was in accordance with the Councils Contract Procedure Rules.
- 49 Current volatile market conditions are causing significant increases in the construction cost estimates. In particular, the unprecedented rises in material, plant and labour prices have had a significant impact. The recent exceptional level of inflation has also affected the value of the land required for the scheme, thus affecting the total project cost.
- 50 The public Inquiry, along with a longer period than anticipated for a Secretary of State for Transport decision to confirm the Orders has resulted in a delay to the programmed start of main construction works which resulted in increase in the overall estimated scheme cost, due to inflation.
- 51 A significant amount of expenditure is forecast for after the construction has ended for expenses relating to the land acquisition and any property compensation payable, so factors such as long-term assumptions on land and property prices over a lengthy period have been factored into the overall cost estimate.
- 52 The cost forecasts also contain a significant allowance for risk, which may or may not be realised, but the forecasts presented contain the appropriate allowance at this stage of project development.
- 53 The Stage 1 and Stage 2 contract values shown Table 1 are subject to change if more of the main works are moved into Stage 1 to take place in advance of Stage 2 construction. This may be necessary to avoid delay to the start of main construction works. Therefore, the figures of Stage 2 construction costs may be different at the target cost stage prior to entering into contract with Balfour Beatty. However, the overall estimated scheme costs should remain the same.
- 54 The total anticipated S106 developer contributions for the scheme is £22.87 million, of which the Council has received £1.4 million to date. Further details on S106 contributions are explained in the Financial Implications section.
- 55 Utility service diversions are required in advance of the scheme. These works can only be carried out by the utility companies, who have extended lead times and are often a primary reason for programme delays and cost overruns. Therefore, in certain key locations, early

delivery of service diversion works is important to reduce the risk of disruption to Stage 2 construction works.

- 56 Early works are also required to be undertaken by the Contractor in Stage 1 preconstruction phase, in advance of any funding decision by the DfT. These works are necessary to ensure a prompt start to the main Stage 2 construction phase and that an efficient construction programme can be maintained. Without these advance works, seasonal ecological constraints could add up to 8 months to the construction programme.
- 57 The two-stage delivery agreement with the contractor has been structured in such a way as to allow work to take place in the Stage 1 preconstruction phase with main works in Stage 2 construction phase proceeding only on the issue of a Notice to Proceed instruction following an unconditional offer of funding from the DfT. The advance work is carried out in advance of the DfT funding decision and so carries a financial risk to the council.
- 58 If there is a delay in approval of the FBC and final funding offer from the DfT, it may prove necessary to gain access to third party land for time-critical ecology mitigation works. In such a case, it may be necessary to exercise the Council's CPO powers in advance of a final funding decision, if access cannot be negotiated by an agreement.

Other Options Considered

| Option | Impact | Risk |
|--|---|---|
| Fund the scheme entirely through Local Contribution (ie do not await a decision on the Full Business Case) | If the Council were to proceed without DfT funding of £48.06m, then it would need to find this money from within its own resources. | As the MTFs Capital programme is fully utilised, meaning an extra £48.06m is unaffordable without a significant reprofiling or cancellation of existing schemes within the capital programme. |
| Cancel the scheme | The MEB is a Local Plan led scheme which will deliver the main strategic employment allocation and housing growth as well as transport benefits. 1,950 new dwellings and 6,500 additional jobs are directly or indirectly linked to the | Cancellation of the scheme at this stage could cause reputational damage with funders. It could also affect the credibility of any future Council funding bids. |

| | | |
|---|--|--|
| | <p>delivery of the scheme These benefits will be lost. The expenditure to date on the scheme of approximately £20m million would need to be met by the Council's Revenue budget.</p> | |
| <p>Stop all current work on the scheme whilst awaiting a DfT decision on the business case.</p> | <p>There would be a delay to the programme and a consequent increase in estimated scheme cost due to inflation</p> | <p>If the current trial embankment works are stopped, this will prevent the collation of data to record the settlement period, which forms a key part of the earthworks programme in the construction stage. Unknown settlement period will prolong the construction programme by approximately 3-5 months and increase the scheme costs.</p> <p>Stopping utility diversion works will increase the risk of disrupting critical activities in the construction stage due to their long lead in times resulting in programme delays and additional costs to the scheme.</p> <p>Stopping vegetation clearance works and early ecological works in early 2024 will delay the construction programme by approximately 5 months until the end of bird nesting season in September 2024, resulting in prolongation and additional inflation costs to the scheme.</p> |

Implications and Comments

Monitoring Officer/Legal

- 59 The Council should only use its compulsory purchase powers where it is expedient to do so and to justify the interference with the human rights of those with an interest in the land affected, the Council should use all its endeavours to acquire any land required through negotiation and by private treaty.
- 60 Recommendations 10 and 11 refer the use of a Cabinet delegation to officers in consultation with the Finance and Communications Portfolio Holder. Following the introduction of the Committee system and the decision of the Council at its meeting on 19 April 2021, the Transitional Arrangements will apply with the decision being delegated to officers with the Chair of the relevant committee being consulted.
- 61 Any decision the Council takes should be transparent, appropriate proportionate and should comply with the Wednesbury reasonableness tests, a failure to comply with this could result in the decision being Judicially reviewed.
- 62 The Council will need to ensure that it spends any grant funding in accordance with any specific grant conditions.

Section 151 Officer/Finance

- 63 The estimated project outturn cost of the scheme is £95.74 million including prior year's spending to develop the scheme. A breakdown of the scheme cost is contained in Table 2 (paragraph 29)
- 64 The additional budget required for the scheme will have to be vired from within the existing capital programme as there is no scope within the Capital Financing Budget that funds the prudential borrowing for the Council to increase the overall programme.
- 65 Any funds received from HS2 to fund the Middlewich Eastern Bypass (MEB) will be used to replenish the capital allocation the budget will be vired from and will not be used to increase the MEB budget further.
- 66 The scheme maximises reliance on local funding sources, referred to as the Local Contribution, from third-party developer sources.
- 67 Third party contributions are estimated based upon current or committed S106 developer agreements (or equivalent). Over time the proportion of third-party funding is likely to change in response to development activity in the local area. For this reason, the local funding contribution has been shown as a combination of both Council and

third-party funding. Any change in either element will have a direct impact on the funding obligation arising from the other source.

- 68 In September 2017 it was agreed that the Council will continue to seek alternative funding sources from developer contributions, which could be used to recoup its contribution whilst ensuring a maximum local contribution. This approach is retained, ensuring that any call on Councils' resources is minimised.
- 69 In the scenario where a FBC is submitted but grant funding is not approved by the DfT and the scheme cannot progress, the Council will be exposed to a risk of funding all of the costs associated with development and preconstruction works (in the order of £20.40 million) to that point of scheme development. This costs also includes the purchase of land or assets acquired by negotiation in advance of the submission of the FBC and securing DfT Large Local Majors (LLM) grant funding to the value of £46.06 million. Any such land acquired would have a realisable value. Based on the current scheme estimates and forecasts, this is a maximum estimated financial exposure of approximately £ 20.40 million, less £1.26 million secured from the DfT for OBC development (less land acquisition costs) which would need to be funded from revenue.
- 70 The Council has taken all necessary professional advice to assess the delivery costs of the scheme. The scheme estimate includes a robust allowance for project risk.
- 71 The Council's predicted overall expenditure on the scheme is as shown in Table 2 at para. 29 and includes expended costs incurred in scheme development and preconstruction to date.
- 72 The scheme is also referred to in Table 3.1 - Breakdown of LPS and other sites expected to contribute to the recovery of forward funded infrastructure schemes in the SADPD, and as mentioned in Policy GEN 4 of that document.
- 73 Viability work and working with the developers has established a financial model for Local Contribution from applications based on the anticipated total development floorspace coming forward. This levy will cover employment, residential and mixed uses.
- 74 The Council has resolved to underwrite and forward fund all developer contributions until such time as S106 contributions become payable.
- 75 Compensation (and land) costs form an element of the total cost of the scheme. These are expected to be resolved over a period of up to 7 years after the opening of the road. Developer funding income will also come on-line over this period as S106 agreements are realised.

- 76 Table 3 below shows how the scheme will be fully funded with the required additional virement in place.

Table 3: Funding Arrangements

| Funding | Funding Contribution £M |
|---|--------------------------------|
| Department for Transport (DfT) Grant: | |
| Outline Business Case (OBC) Stage – Funding Received | 1.26 |
| Full Business Case (FBC) Stage – Confirmed Order | 46.80 |
| Local Contribution: | |
| Cheshire East Council (CEC) - Local Contribution | 21.57 |
| Developer S106 Contribution | 22.87 |
| Original Funding Value | 92.50 |
| Additional Cheshire East Council (CEC) - Local Contribution (of which £1.73m is anticipated to come from HS2) | 3.24 |
| Revised Funding Value | 95.74 |

Policy

- 77 In implementing the consented scheme and Orders, the Council must have regard to national policy, the development plan and other relevant local policy and guidance. The relevant national planning policy is contained in the National Planning Policy Framework and the relevant Development Plan. The Development Plan is the Cheshire East Local Plan Strategy (“the Local Plan”). There is strong alignment between the priorities that have been defined at the local and sub-regional level, and those that underpin the Government’s transport policy at a national level. This includes the need to build a strong and competitive economy, enhance connectivity and access to employment opportunities.
- 78 The need for the scheme is clearly established in the adopted Local Plan and SADPD, identifying from the outset the need to improve

transport connections to deliver the Local Plan. There is also acknowledgement of the key contribution that infrastructure schemes play in supporting employment and the need to develop the infrastructure to ensure the sustainability of Midpoint 18. The scheme development and appraisal are consistent with another of the Government's core objectives: to provide value for money in the provision of major transport infrastructure.

- 79 SADPD Policy GEN 4 - Recovery of forward-funded infrastructure costs, states that sites which rely on infrastructure to mitigate the effects of their development, and make it acceptable in planning terms, should contribute to their provision and refers to Table 3.1 - Breakdown of LPS and other sites expected to contribute to the recovery of forward funded infrastructure schemes (of the SADPD), which specifically mentions the sites are expected to contribute to the scheme.
- 80 By providing connectivity to new and existing areas of Middlewich and additional highway capacity to relieve existing congestion and cater for additional traffic from development, the scheme would support the Local Plan Strategy. The scheme is thus considered to be in line with local policy and essential for the delivery of the future economic growth plans of Cheshire East Council.

Equality, Diversity and Inclusion

- 81 All public sector acquiring authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. This means that they must have 'due regard' or think about the need to:
- eliminate unlawful discrimination
 - advance equality of opportunity between people who share a protected characteristic and those who don't
 - foster or encourage good relations between people who share a protected characteristic and those who don't
- 82 Having 'due regard' means public authorities must consciously consider or think about the need to do the three things set out in the public sector equality duty.
- 83 In implementing the consented scheme and Order (e.g. powers of entry and powers to make side road orders) acquiring authorities must have regard to the effect of any differential impacts on groups with protected characteristics.
- 84 To date, equality implications have been considered in the options appraisal and are incorporated into the Outline Business Case. An

Equalities Impact Assessment (EqIA) was prepared to accompany the planning application for the scheme and was considered in determining to grant planning permission. The EqIA will continue to be considered and, where appropriate, reviewed during the life of the scheme.

- 85 Turning to the exercise of compulsory purchase powers, it should be noted that a significant area of land close to, though not within, the CPO boundary is owned and occupied by members of the Gypsy & Traveller communities. In implementing this scheme and exercising the powers necessary for delivery, it is not considered that any group with protected characteristics are adversely affected when it comes to the application of the Public Sector Equality Duty.
- 86 Having said this, in progressing the Orders and carrying out any further consultations, the Council will consider the needs of persons with protected characteristics and the requirements of the Public Sector Equality Duty.

Human Resources

- 87 It shall be necessary to ensure that sufficient resource is allocated in Estates, Highways, Legal and Planning Services to support delivery of the scheme. If additional temporary resources are required these will be met from the project budget.

Risk Management

- 88 A risk register has been developed through the lifecycle of scheme development.
- 89 The Council will be required to accept all responsibility for cost increases beyond the cost envelope provided within the Full Business Case when it is approved for funding by the Department for Transport.
- 90 Until the point at which the Department for Transport make their final investment decision based on the Full Business Case, any Council funding of scheme development is at risk.
- 91 Risk management issues are unchanged from previous Cabinet / Committee reports. A risk register has been produced in the preceding stages of the project development and this will be reviewed and updated through the current stage of works. Capital cost risks are informed by a comprehensive qualitative risk assessment.
- 92 A major risk for any highway scheme is land assembly and any substantive delay to this is likely to adversely impact on the project programme and the start of the construction programme.

- 93 The financial estimate for the scheme has ensured there is included a budget for costs associated with any early acquisitions, including payment of professional fees incurred by affected landowners, required to meet the programme for starting construction. Where possible the Council has entered into early option agreements to acquire land to mitigate the costs associated with the early acquisitions.
- 94 Robust governance arrangements for the scheme have been operating within the strategic infrastructure project management framework and a risk register is in place, which include monitoring an effective control of identified risks and issues.
- 95 An independent Gateway Review by Local Partnerships of the project and its management arrangements recently concluded and gave the following (currently draft) assessment of Delivery Confidence:

Delivery Confidence Assessment

Amber

The Review Team finds that there is strong support and a robust case has been made for the new Bypass that has the ability to unlock new homes.

The Review team finds that there is strong support for project from Council Members and senior stakeholders. The project aligns well with regional strategic priorities as well as the Council's regional strategic priorities. Excellent progress has been made. However, several important issues and tasks need to be completed.

We found there has been good communications with the local community and senior stakeholders evidenced by the approach to public consultation and the fact that there is strong political and senior stakeholder support for the project.

We have given this project an Amber DCA as successful delivery appears feasible but significant issues already exist requiring management attention. Management is well aware of the issues and they should be resolvable.

- 96 The assumed funding from S106 agreements is not all secured so there remains a funding risk. Mitigation of this risk is under way via close working with the planning team and negotiations with developers to ensure that sufficient contributions will be secured. There is also a risk of contributions not coming forward even though they have been signed in S106 planning obligations. The securing of S106 contributions is a decision of the local planning authority, and these projections are subject to the decision of the local planning authority when it considers the relevant planning applications. Based upon the award letter received from the Department for Transport in November 2017, the Council has exposed to all scheme costs beyond the £46.80 million Large Local Major Programme capital grant.

- 97 Paragraph 69 outlines the Council's financial exposure in the scenario where the scheme is developed to Full Business Case submission, but grant funding is not approved by the Department for Transport and the scheme cannot therefore progress to construction.
- 98 Statutory Orders for the scheme have been made and these have been considered by the Secretary of State for Transport at Inquiry. The SoS has confirmed the scheme and Orders and the Council was notified of the decision on 8 June 2023.
- 99 Significant utility infrastructure crosses the scheme, such as Scottish Power Energy Networks 33kV overhead lines. A utility C4 cost estimate, including risk, is included in the overall scheme Cost Estimate.
- 100 The Council will be required to forward fund the whole of the local contribution and to underwrite third party contributions expected through S106 agreements, as developer contributions may take many years to collect. The Council's aim is to maximize the level of funding from contributing Local Plan Sites from S106 developer contributions. The current estimate of funding from S106 agreements is as stated in Table 3 at paragraph 76 based on developments that could be released by the scheme as set out in the Local Plan Strategy. The funding strategy for the scheme is to maximise the value of S106 developer contributions in the Local Contribution however, there is no guarantee that these developments will come forward or even if they do, that all predicted funding will be collected.

Rural Communities

- 101 As the scheme is to be primarily constructed within the boundaries of Local Plan housing allocations, it will not introduce any new severance of existing farms or communities that would not occur in any event once the allocations are brought forward for development. There are limited requirements for land outside of the allocations and negotiations are well advanced with conditional framework contracts in place with most major landowners in respect to securing the affected land parcels on a voluntary negotiated basis.
- 102 The scheme would directly affect four Public Rights of Way (PRoW), one Regional Cycle Route and one Long Distance Path, as well as the wider road network resulting in a short- term disruption for non-motorised users (NMUs). The adverse effects on NMUs would be reduced with mitigation and once the scheme is operational, the overall effect of the scheme on NMUs would be insignificant / beneficial because of the additional footway and cycleways included in the scheme design.

- 103 There may be some impact during the construction phase on the local road network as new roundabouts are constructed on Pochin Way and Cledford Lane and carriageway tie in works are carried out on Booth Lane (A533). The scheme will be constructed 'offline' as much as possible to maintain connectivity during construction.
- 104 The scheme planning applications provide a comprehensive Environmental Assessment which considers the effect on the rural community. This assessment will include impacts such as noise, air quality, visual impact plus the scheme's effects of Public Rights of Way and non-motorised users i.e., pedestrians, cyclists and equestrians.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 105 The Scape Delivery Agreement entered in to by the Council and Balfour Beatty included a comprehensive framework to capture local Social and Community Value throughout the project. Opportunities to engage with local schools and colleges will arise as the scheme progresses for education and training purposes. The means by which young people can be encouraged to participate in the consultation process will be considered as part of the Consultation and Engagement Plan.

Public Health

- 106 The public health implications of the scheme were considered during planning through preparation of an Environmental Assessment to accompany the planning application. Cheshire East Council's Environmental Health team were consulted and raised no objections in relation to Noise, Air Quality and Contaminated Land subject to conditions.
- 107 The scheme will have environmental and public health benefits through reducing traffic congestion, improving travel times and journey reliability, and encouraging multi modal forms of transport such as cycling and walking.
- 108 The reduction in the number of killed and seriously injured following road traffic collisions on the public highway in Cheshire East is a key aim of the Council and external stakeholders.
- 109 As a result of the scheme, traffic flows on key corridors along the A54 through Middlewich are predicted to fall in the opening year by c.30%.
- 110 The scheme would result in significant benefit to the air quality experienced in the centre of Middlewich, especially in the Air Quality Management Areas. The scheme would also provide a benefit in terms

of road safety, noise levels in the centre of Middlewich, especially associated with the Noise Important Areas.

- 111 Much of the scheme is constructed away from public roads and other areas of public access. However, where the scheme connects to existing roads or footpaths, temporary traffic management will be in place to keep road users and non-motorised users safe.
- 112 Construction works will be undertaken in accordance with industry best practice for control of noise and vibration, including British Standard BS 5228 Code of practice for noise and vibration control on construction and open sites.

Climate Change

- 113 The scheme has been subject to a comprehensive Environmental Appraisal as part of the statutory planning process. This has demonstrated the wider environmental and ecological impact of the bypass and the actions, necessary steps and responsibilities for implementing mitigation.
- 114 Climate change implications are considered and reported upon in the Environmental Statement and apply particular focus to flood risk, biodiversity and ecological networks, and greenhouse gas emissions. The scheme maintains coherent ecological networks and generates biodiversity net gain. Flood risk to properties is not made worse by the scheme, and the scheme is designed to not be impacted by floods with an annual probability of occurrence of 1% with additional allowances for more severe flooding consistent with nationally adopted guidance. The increase in carbon as a result of the scheme compared to UK National Emissions shows that overall, it forms a very small contribution to carbon.
- 115 The scheme is embedded in the Local Plan Strategy, which has been subject to Examination in Public by the Planning Inspectorate. The Local Plan has been deemed to be a robust plan for sustainable development across the borough. The scheme contributes to this overall plan for sustainable growth in Cheshire East by enabling growth through improved connectivity and reducing adverse impacts of traffic and travel.
- 116 The scheme contributes to the plan for sustainable growth in Cheshire East by enabling growth through improved connectivity and reducing adverse impacts of traffic and travel. The completed scheme provides for enhanced facilities for non-motorised users in the form of improved pedestrian and cycling connectivity along the bypass and provides connectivity to employment zones within Midpoint 18 Business Park.

- 117 The connectivity benefits of the scheme will be delivered by relieving traffic congestion in the town and relieving delays on strategic roads linking mid Cheshire towns (e.g., the A54). The Middlewich Transport Consultation, which took place in August / September 2016, reported that 79% of respondents stated that there were severe congestion issues affecting roads in Middlewich. 61% of residents stated the top priority was building a bypass.
- 118 It will improve environmental conditions within the town, through reductions in traffic related noise, severance and improved air quality and facilitate a package of complimentary measures to support town centre regeneration, accessibility, and public realm, including improved bus service reliability and restrictions on traffic and heavy goods vehicle movements on the A533 Leadsmithy Street and Lewin Street.
- 119 The proposals include environmental mitigation for negative impacts of the scheme including the loss of trees and hedges because of the scheme. This includes planting for visual screening alongside watercourses or as reinforcement of existing planting areas; creating grassland habitat within and adjacent to the easement for the high-pressure gas main; locating environmental mitigation within the Sanderson's Brook corridor, which is classified as being within Flood Zone 3 and therefore unlikely to be brought forward for development.
- 120 The proposed scheme supports the Local Plan Strategy, which has been subject to Examination in Public by the Planning Inspectorate. The Local Plan has been deemed to be a robust plan for sustainable development across the Borough. The scheme contributes to this overall plan for sustainable growth in Cheshire East by enabling growth through improved connectivity and reducing adverse impacts of traffic and travel.

| Access to Information | |
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| Appendices: | <p>Appendix 1 – Draft Full Business Case</p> <p>Appendix 2 – Scheme Plan</p> |
| Background Papers: | <p>Cabinet - 9 February 2016 Item 100 To consider the feasibility of the proposed scheme and to recommend a preferred route</p> <p>Cabinet - 3 May 2016 Item 149 To consider the results of the public consultation exercise relating to the proposed routes</p> <p>Cabinet - 8 November 2016 Item 60 To consider the feasibility of the scheme and to finalise the road alignment option</p> <p>Cabinet - 11 April 2017 Item 124 To consider and recommend the submission of the Outline Business case to the Department for Transport</p> <p>Cabinet - 12 September 2017 Item 44 To consider if to submit a planning application for the preferred route, and note the updating of the outline business case</p> <p>Cabinet - 12 June 2018 Item 9 To consider the planning and deliverability update</p> <p>Cabinet - 15 January 2019 Item 78 To consider the delivery strategy</p> <p>Cabinet - 9 July 2019 Item 22 To approve the acquisition of land required to deliver the scheme</p> <p>Cabinet - 7 July 2020 Item 18 To seek approval to proceed with the use of Compulsory Purchase Powers</p> |

[Highways and Transport Committee - 21 September 2021](#)

Item 19

To seek approval to withdraw the made Compulsory Purchase Order and Side Roads Order

[Highways and Transport Committee 9 December 2021](#)

Item 39

To authorise the making of a Compulsory Purchase Order, Side Roads Order and Bridge scheme for the delivery of the Middlewich Eastern Bypass scheme.

[Phase 2b \(Crewe - Manchester\) Draft Register of Undertakings and Assurances v1.4](#)