

# CHESHIRE EAST COUNCIL

## Cabinet

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<b>Date of Meeting:</b>	14 <sup>th</sup> June 2016
<b>Report of:</b>	Executive Director of Economic Growth – Andrew Round
<b>Subject/Title:</b>	Congleton Link Road – Approval to Proceed with the Compulsory Purchase of Land Required to Deliver the Scheme
<b>Portfolio Holder:</b>	Cllr David Brown – Highways and Infrastructure

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### 1. Report Summary

- 1.1. Congleton Link Road is the single largest infrastructure project the Council has undertaken to date. It is essential to the successful delivery of the Council's Local Plan and to resolve long-standing economic and environmental impacts arising from congestion in the town. The link will also improve connectivity across the Borough, particularly for Macclesfield to the M6. The road will be a new principal highway between the A534 Sandbach Road close to its junction with Sandy Lane and the A536 Macclesfield Road to the South of the village of Eaton. ("The Congleton Link Road") (CLR)
- 1.2. Based on these benefits the scheme was provisionally awarded £45m of Government Growth Deal funding and has demonstrated outstanding levels of local support (c85%) through two large scale public consultations. A planning application is due to be determined in the near future; which, if approved, would enable the compulsory purchase (CPO) and land acquisition stage of the project to begin.
- 1.3. The purpose of this report is to recommend that the Cabinet resolves to use Compulsory Purchase powers to acquire land to facilitate the construction of the CLR scheme and associated works to the existing highways network and authorises a Side Roads Order to be made at the same time.
- 1.4. The report also recommends authorising officers to begin initial engagement with contractors to understand the most appropriate future delivery strategy for the scheme.

## 2 Recommendations

2.1 It is recommended that Cabinet:

- A) Subject to a positive resolution of the Strategic Planning Board to grant planning permission for the scheme, approve the use of the powers of compulsory purchase to undertake the acquisition of land and new rights required for the construction of the CLR and to authorise:
  - a) The making of an order (or orders) under under Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 and all other powers as appropriate for the compulsory purchase of land and rights required for the construction of Congleton Link Road as shown on drawing No: B1832001-CPO-LTR-GA-001 (“the CPO”);
  - b) The making of a Side Roads Order (or orders) under Sections 8, 14 and 125 of the Highways Act 1980 and all other necessary powers to improve, stop up existing highways, construct lengths of new highway and stop up and provide replacement private means of access as required to deliver the CLR (“the SRO”);
  - c) The Executive Director of Economic Growth and Prosperity in consultation with the Director of Legal Services to make any amendments necessary to the contemplated orders arising as a result of further design work or negotiations with landowners or affected parties or for any connected reasons in order to enable delivery of the CLR.
  - d) The Executive Director of Economic Growth and Prosperity in consultation with the Director of Legal Services to take all appropriate actions to secure the confirmation of the contemplated orders including:
    - i) To take all necessary action to secure the making, submission to the Secretary of State for confirmation and (if confirmed) implementation, of the SRO and the CPO including the publication and service of all relevant notices and for the Director of Legal Services to secure the presentation of the Council’s case at any public inquiry and the subsequent service of Notices to Treat and Notices of Entry or, as the case may be the execution of General Vesting Declarations;
    - ii) To negotiate and enter into agreements and undertakings with the owners of any interest in the CPO and/or the SRO (“the Orders”) and any objectors to the confirmation of the Orders setting out the terms for the withdrawal of objections to the Orders including where appropriate, the inclusion in and/or exclusion from the CPO of land or new rights or the amendments

of the SRO and to authorise the Director of Legal Services to agree, draw up, and to sign all necessary legal documents to record such agreements and undertakings;

iii) In the event that any question of compensation is referred to the Upper Tribunal (Lands Chamber) to authorise the Director of Legal Services to take all necessary steps in connection with the conduct and, if appropriate, settlement of such proceedings;

iv) To authorise the Director of Legal Services to appoint suitable counsel to advise and represent the Council at any Public Inquiry held in respect of the Orders and to provide legal support to the team through the process;

v) To confirm the appointment of Geldards LLP (solicitors) as the Council's additional legal support to the delivery of the scheme acting on behalf of the Council and under the direction of the Director of Legal services.

e) That, in parallel with the preparation and submission for confirmation of the Orders, the Head of Assets initiate negotiations and seek to conclude terms to acquire the land and rights (or extinguish the same) required for the CLR by voluntary agreement and to instruct the Director of Legal Services to draw up the necessary documents and to execute such documents as are necessary to complete such acquisitions.

f) To authorise the Head of Assets to negotiate and approve the payment of relevant and reasonable professional fees incurred by landowners and others with compensatable interests in taking professional advice in connection with the acquisition of their interests required for the scheme and related compensation claims and also in advancing the development or implementation of the CLR.

B) To approve the continuing project development of the scheme via the Council's highway contract supplier – Ringway Jacobs up to and including the presentation of the scheme at a future public inquiry.

C) To approve that formal pre-engagement discussions with Contractors are undertaken to help inform a future procurement strategy.

### **3. Other Options Considered**

3.1 It is intended to instigate negotiations with affected landowners. However, as there are some 30 affected interests it is not realistic to expect that voluntary acquisitions could be concluded with all affected parties and for all land title issues to be dealt within the funding window for this scheme. Accordingly the authorisation of compulsory purchase action is sought at this stage to maintain the project programme and to demonstrate the Council's intent,

subject to a resolution to grant planning permission by the Strategic Planning Board, to proceed with the scheme.

#### **4. Reasons for Recommendations**

- 4.1. The acquisition of this land enables the Council to proceed with the development and delivery of the Congleton Link Road scheme. This is a vital new road connection as it provides a key strategic transport link to relieve congestion, safety and air quality issues in Congleton and is a cornerstone of the Council's submitted Local Plan.
- 4.2. Acquiring the necessary land and rights by negotiation is preferable and the Council must be able to demonstrate by the time of the public inquiry that it has made reasonable efforts in this regard.
- 4.3. In addition to facilitating the eventual delivery of this scheme, initiating the CPO process over the entire land holding that is required to implement the scheme offers a 'security' and 'backstop' position should parallel negotiations to acquire not be successful.
- 4.4. It is necessary to understand the level of appetite in the contracting industry to deliver this scheme; this will help shape the future procurement strategy.
- 4.5. In resolving to make a Compulsory Purchase Order for the Congleton Link Road Scheme the Council would be proceeding under its powers under Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 for the compulsory purchase of land and rights required. The principal power in the act is Section 239(1), which provides that a highway authority may acquire land required for the construction of a highway which is to be a highway maintainable at the public expense and Section 239(3) which allows a highway authority to acquire land for the improvement of a highway being an improvement which the authority is authorised to make under the Act. Section 246 authorises the acquisition of land for the purpose of mitigating the adverse effects of the construction or improvement of highways. Section 250 authorises the compulsory acquisition of new rights over land and section 260 authorises the clearance of the title to land already held by the Council and required for the scheme and which might otherwise interfere with the Council's activities in exercising its statutory powers to construct the works.
- 4.6. The scheme will require the acquisition of full title to c66 hectares of land (or thereabouts) and a further 7 hectares of land over which new rights are to be created. The interests of some 30 owners and occupiers are affected. The map to accompany the CPO will be available for inspection by members at the meeting and a reduced size version is annexed to this report.
- 4.7. The land over which full title is to be acquired is predominantly agricultural land and the scheme does not require the acquisition of any residential property; nor does it require the acquisition of land in any of the categories where land has to be provided in exchange, such as common land or public open space

- 4.8. Some of the areas over which full title is to be acquired will not be required for the permanent works and, subject to negotiation, may be offered back to the current owners along with the payment of compensation in due course. The areas that may be subject to offers back to the owners are shown shaded green on the non-stutory land acquisition plans which will be available for inspection by members at the meeting.
- 4.9. The SRO will authorise the stopping-up, diversion and creation of new lengths of highway or reclassification of existing highways and the CPO will include land that is required to enable the works authorised by the SRO to be carried out.
- 4.10. In addition, the SRO makes provision for the stopping-up of numerous private means of access to premises and agricultural land and the CPO makes provision for the acquisition of land and new rights to enable new, replacement private means of access to be provided as part of the scheme.
- 4.11. The plans of the works and alterations to be authorised by the Side Roads Order will be available for inspection by members at the meeting.
- 4.12. The land proposed to be acquired is the minimum considered to be reasonably required to achieve the selected design option, subject to two matters that are currently unresolved pending further design work. Firstly, there are currently two options for a small working compound that have been selected in the Back Lane area one of which will be selected for inclusion in the CPO. Secondly, discussions are proceeding with the Statutory Undertakers and these may disclose additional requirements for service diversions for which land or rights may require to be obtained under the CPO.

## **5. Background**

### The Need for the Scheme - Local Plan

- 5.1 There are series of strategic allocations in the emerging Cheshire East Local Plan Strategy (LPS) in the North Congleton area, amounting to in excess of 2000 residential units. In order for these developments to proceed in full, they are dependent upon the provision of the Congleton Link Road.
- 5.2 The North Congleton allocation also contains provision for commercial and retail development which have the potential to create jobs. Access for these sites will be taken from and/or improved from the new link road:
- ◆ Back Lane and Radnor Park – potential for an extension to Radnor Park Trading Estate with 10 hectares for employment uses, retail to meet local needs, 10 hectares of leisure uses, a new primary school and other community uses;

- ◆ Congleton Business Park Extension – potential for a 10 hectare extension to Congleton Business Park for employment, as well as land for commercial uses and retail to meet local needs

### The Need for the Scheme - Highway Network Improvements

- 5.3 The roads through Congleton carry both local traffic and through traffic which is travelling to destinations further afield, such as Macclesfield and the M6. Roads close to the town centre are under pressure from the volume of traffic, at peak hours in particular.
- 5.4 There are a limited number of river crossing points over the River Dane within the town. The main crossing point is via the road bridge situated along the A34 Clayton By-Pass. A smaller road bridge provides a crossing on the A54 Rood Hill closer to the town centre.
- 5.5 The A54 Rood Hill intersects the A34 Clayton by-pass to the north of the town centre. As a result most road traffic wishing to cross the river has to converge on a single junction close to the town centre, causing substantial congestion problems. This junction is signalised and is over capacity, particularly at peak times. Narrow roads with houses and shops immediately fronting onto the footway characterise the streets west of the town centre, south of the River Dane. These roads provide a “rat run” between the A54 (north-east) / A527 and A34 (south) / A54(west) and A534 that avoids the need to cross the River Dane. Congestion at the A54 / A34 Rood Hill junction mentioned above encourages traffic to use this route, particularly at peak times.
- 5.6 The 2011 Census indicated that car ownership in Cheshire East was higher than the national average with 84% of households having access to at least one vehicle and 10% of households having access to three or more vehicles. It also identifies that the most common mode of transport to employment was the private car.
- 5.7 Public transport is available but it does not provide a viable alternative to the private car for most journeys.
- 5.8 Congleton’s proximity to urban centres such as Macclesfield, Crewe and Manchester, as well as Manchester Airport, means that much of the workforce sees Congleton as a base to live, to then commute to work in these urban centres. It also functions as a market town providing shopping opportunities and employment for the surrounding rural area, and is identified as a Key Service centre in the draft Local Plan.
- 5.9 The combination of these factors results in Congleton experiencing significant congestion during the morning and evening peak hours. It is characterised by low travel speeds on the approach to key junctions along the A34 corridor, and as a result the A34 Clayton by-pass in the town centre has been identified in the Cheshire East Local Transport Plan 2011 – 2016 as a congestion hotspot. Four of the five main routes in Congleton have above-

average levels of HGVs for the type of carriageway, which hinders progress through the town, especially due to the relatively steep gradients. Journey time surveys have shown that journey times through the town are very unreliable with longer journey times in the AM and PM peaks than in the inter-peaks.

- 5.10 As described above, Congleton suffers from congestion, which results in poor air quality and adverse impacts on the town centre environment. This also impacts local business and Congleton is suffering from reduced attraction to inward investment, struggling to retain existing employers and realise town centre regeneration aspirations.
- 5.11 The current local road network is recognised in the Submission version of the Local Plan as insufficient to support future development earmarked for Congleton and, in addition, as the local population grows, more traffic will be generated, increasing the strain on the existing roads. Therefore improvements in transport infrastructure are considered essential to help relieve Congleton's congestion problems and to realise the potential for growth.
- 5.12 Investing in the scheme will also address key issues in Congleton, such as community severance, poor air quality and help retain and attract new businesses into the town.

#### The Need for the Scheme - Economic Benefits and Government Funding

- 5.13 In March 2014 a bid for Government funding for the scheme was made from the Local Growth Fund as a key component of the Strategic and Economic Plan for Cheshire and Warrington. This submission is attached at Appendix B.
- 5.14 The Business Case quantified the expected benefits of the scheme as:
- ◆ A forecast increase in Gross Value Added to the local economy of £1.153bn over the 60 year period, and which can be directly related to the impacts of the transport scheme.
  - ◆ A Cost Benefit Ratio of 3.1
  - ◆ Facilitating c3400 new jobs.
- 5.15 In July 2014, the Government confirmed provisional funding for the scheme.

#### Scheme Objectives

- 5.16 Based on these considerations a set of detailed objectives for the scheme have been derived:
- a) To support the economic, physical and social regeneration of Congleton by creating and securing jobs.

- b) To relieve existing town centre traffic congestion/ HGVs, remove traffic from less desirable roads and facilitate town centre regeneration.
- c) To open up new development sites and improve access to Radnor Park Industrial Estate and Congleton Business Park.
- d) To improve strategic transport linkages across the Borough facilitating wider economic and transport benefits.
- e) To reduce community severance along key town centre corridors. To reduce traffic-related pollutants within the towns declared Air Quality Management Areas.

### Alternatives Considered

- 5.17 A Workshop was held in January 2013 which identified a total of 28 options to improve the transportation system in Congleton. In line with best practice contained within DfT guidance, a broad range of potential options across different modes of transport were identified.
- 5.18 These options were appraised based on their ability to:
- Contribute towards achieving the scheme objectives; and
  - Solve the identified problems.
- 5.19 Highway based options scored better against the scheme objectives than non-highway based options. This reflects the demographic data which highlighted that car travel is the dominant mode of transport to work for residents of Congleton.
- 5.20 A Link Road option to the north of Congleton, connecting the A534 Sandbach Road to A536 Macclesfield Road, scored the highest against both the scheme objectives and its ability to solve the identified problems.
- 5.21 The options were also assessed using the DfT's Early Assessment and Sifting Tool (EAST). The EAST assessment confirmed that the highest scoring option was the Link Road option connecting the A534 Sandbach Road to A536 Macclesfield Road.
- 5.22 The decision to progress the link road as the Preferred Option and to investigate improving the existing road ('online improvements') as the Low Cost Option was confirmed at a Cabinet meeting of Cheshire East Council on Monday 22nd July 2013.
- 5.23 Following the selection of the Preferred Option as a link road to the north of Congleton, further work was undertaken to develop and refine the Preferred Option. A route corridor was identified to the north of Congleton which extended from the A534 Sandbach Road (to the west of Congleton) to the A536 Macclesfield Road (to the north of Congleton). The route corridor was

divided into six zones and numerous route options were developed in each zone. Four individual route options (Red, Blue, Green and Purple) were subsequently developed.

- 5.24 In order to identify the best route option, each of the four route options were then qualitatively assessed against the following factors:
- Scheme Costs,
  - Benefit Cost Ratio (BCR)
  - Area unlocked for development
  - Likelihood of public endorsement
  - Engineering Constraints
  - Road User Safety
  - Environmental Constraints
- 5.25 A public consultation on the route options was held in January & February 2014. It was subsequently concluded that the Preferred Option would be a combination of the Red and Purple Options.
- 5.26 Feedback received from members of the public throughout the consultation process resulted in numerous alternative alignments being considered and designed. Each of the alternative alignments were individually appraised and compared to the alignment taken to Public Consultation. Options which were deemed to be an improvement on the original alignment were incorporated into the Preferred Option.
- 5.27 Following the approval of the Preferred Route by the Council in May 2014, the design of the scheme was progressed with consideration given to more detailed engineering, environmental and cost assessments, as well as further consultations with land owners and other local interest groups. Through this design development exercise, a number of potential alignment and / or junction modifications were identified that were considered to represent an overall improvement to the scheme. These modifications were presented and approved at the Cheshire East Council Cabinet meeting of 6th January 2015.
- 5.28 In order to fully assess the merits of the Low Cost Option, a significant amount of design work has been undertaken by Jacobs' Highways team to enable the potential benefits of the scheme to be understood. The economic appraisal analysis has shown that in comparison to the Preferred Option, the Low Cost Option would:
- Generate significantly less transport benefits.
  - Create significant disruption during the construction period.
  - Unlock less development land identified in the emerging Local Plan.
  - Fail to future proof the transport network to support additional future developments.
  - Not resolve the current environmental issues in Congleton.
  - Fail to alleviate the identified severance issues which currently impact pedestrians and cyclists
  - Not generate the same volume of GVA benefits as the Preferred Option.

- 5.29 The extent of the disruption caused by constructing the Low Cost Option is likely to be very unpopular with the businesses and residents of Congleton and consequently the Low Cost option exhibits serious deliverability issues to the extent that it is considered to be undeliverable. In addition, the nature of the Low Cost Option, in its prioritisation of traffic on the main A34 corridor through the town may lead to increased delays on more local roads.
- 5.30 In conclusion, in line with best practice, a detailed assessment of all of the modal solutions and alternative options has been considered and the current option identified offers the best solution to the identified problems and objectives and represents the best value for money.
- 5.31 Finally, a further 'pre planning public consultation' on the link road was undertaken in March 2015 and this along with discussions with landowners, stakeholders and the Council's Development team (part of a formal Pre-application process) has helped shape the final scheme including the introduction of the Back Lane improvement and removal of the Radnor Trading Estate spur.

#### Route Description

- 5.32 The proposed road scheme is a 5.7km link extending between the A534 Sandbach Road (west of Congleton) to the A536 Macclesfield Road (to the north of Congleton). The road will consist of a two-way single carriageway with a 3.65m wide lane and 1m wide exterior hard strip in each direction. A combined cycleway footpath is provided along the route from the Radnor Park Road junction to the A536 Macclesfield Road junction, to connect into adjacent facilities. Pedestrian, cycle and equestrian access between Sandbach Road and Radnor Park is available along the retained part of Sandy Lane, Chelford Road and the realigned Back Lane.
- 5.33 Travelling in an easterly direction, the route will consist of a new roundabout junction to the west of Wall Hill on the A534 Sandbach Road. The route will run parallel to the west of Sandy Lane, until it connects with the A54 Holmes Chapel Road with a new roundabout junction.
- 5.34 The route will then travel in a northerly direction to the west of Somerford, to cross Loach Brook on a new bridge. The route would then continue and pass beneath Chelford Road, which would be taken over the link road on a new bridge.
- 5.35 The proposed link road will continue by severing Back Lane, which is to be stopped up and diverted, and a new roundabout junction formed and which will provide a new connection, via an upgraded Back Lane, into Radnor Park Trading Estate to the south of the proposed route.
- 5.36 The main route will then continue in a north easterly direction and cut through Radnor Wood, before crossing the River Dane and part of its associated valley on a viaduct. This section of the alignment would require earthworks

cutting up to 10m deep into the valley side to the west of the River Dane and an approximate 9m high embankment to the east of the river.

- 5.37 A new roundabout junction will be provided in the River Dane valley, which will provide a connection into Congleton Business Park to the south of the proposed route. From this junction the route would cross under Giantswood Lane, which is taken over the proposed link road on a new bridge. The route then rises out of cutting to cross a tributary of the River Dane, which will be culverted, before connecting into the A34 Manchester Road with a roundabout junction.
- 5.38 The new link road then continues on and meets the A536 Macclesfield Road to the south of Eaton, at a new roundabout junction.

### The Planning Position

- 5.39 The scheme is currently the subject of an undetermined planning application (Planning Application 15/4480C “Congleton Link Road”) that was submitted to Cheshire East Council (CEC) on 26 October 2015. The application was accompanied by an Environmental Statement.
- 5.40 Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging Local Plans according to:
- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
  - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
  - the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 5.41 In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in making the decision on whether to grant planning permission.

### Local Plan

- 5.42 At its meeting on the 28th February 2014, the Council resolved to approve the Cheshire East Local Plan Strategy – Submission Version for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

- 5.43 The Inspector appointed to examine the submitted Local Plan Strategy undertook three weeks of Examination in the Autumn of 2014 and subsequently published Interim Views, which indicated that the Council should undertake further work on key strategic elements of the Plan. This then resulted in the Examination being suspended while the Council undertook further work to address these concerns. The Examination was subsequently resumed and further hearings were held in the Autumn of 2015 to review the work undertaken by the Council to address the Inspector's stated concerns.
- 5.44 In December 2015, the Inspector issued Further Interim Views indicating that he was generally satisfied with the work that had been carried out during the suspension period, subject to the outcome of a further round of consultation and the remaining examination hearings.
- 5.45 The Council has recently completed a 6 week consultation on the Local Plan Strategy – Proposed Changes Version. This takes account of the findings of the additional work undertaken and the Inspectors Further Interim Views with the expectation of further examination hearing sessions being undertaken in September this year.
- 5.46 The Congleton Link Road proposal is fully in line with Strategic Priority 1 of the Local Plan Strategy. This priority seeks to promote economic prosperity by creating the conditions for business growth. The objective is to be delivered in part by capitalising on the accessibility of the Borough, including improved transport links with the Manchester City Region and Manchester Airport.
- 5.47 Strategic priorities 2, 3 and 4 seek to create sustainable communities, protect and enhance environmental quality, reducing the need to travel, promoting more sustainable modes of transport and improving the road network.
- 5.48 Policy CO2 of the LPS - Enabling Business Growth through Transport Infrastructure – specifies that support will be given for schemes identified within the current Infrastructure Delivery Plan. The LPS notes, at paragraph 14.18, a selection of major highway schemes in the Infrastructure Delivery Plan which supports the proposals in the LPS, including the Congleton Link Road.
- 5.49 Policy PG6 (Spatial Distribution) in the Local Plan Strategy – Proposed Changes Version proposes 24 hectares of employment land and 4,150 homes to be delivered in Congleton, as a Key Service Centre. The focus for Congleton over the Local Plan Strategy period will be that of high quality employment led growth to accommodate the expansion of existing businesses and attract new investment into the town. New housing is seen as important as part of a balanced and integrated portfolio of development to support the town centre, ensure balanced and sustainable communities and deliver the Congleton Link Road.

- 5.50 The Local Plan Strategy – Proposed Changes Version includes figure 15.25 which shows the proposed route of the Congleton Link Road alongside the proposed sites to the north of Congleton in the LPS.
- 5.51 Finally, the line of the link road as defined in Planning Application 15/4480C is included in the Local Plan and is defined as key infrastructure to enable the delivery of the North Congleton area.

#### National planning guidance

- 5.52 National Planning Policy Framework (the Framework) (March 2012) sets out the Government's planning policies for England and is a material planning consideration in the determination of planning applications. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking.
- 5.53 In conclusion, the scheme is considered to comply with strategic planning policy and comprises sustainable development when assessed against the criteria defined within the National Planning Policy Framework (NPPF). In addition, it is also considered to comply with current and emerging planning policy. This view is supported in the submitted PDAS Statement, which concludes that the proposed development is considered *“to accord with the current and emerging development plan when considered as a whole. In addition it is considered that the scheme complies with the relevant policies of the NPPF and should therefore be approved in accordance with the “presumption in favour of sustainable development”*.
- 5.54 Members can accordingly conclude that while planning permission is yet to be granted they can reasonably conclude that there are no planning impediments to permission being granted in due course and preventing the scheme from proceeding.

## **6. Wards Affected and Local Ward Members**

- 6.1. All Congleton Councillors

## **7. Implications of Recommendation**

### **7.1. Policy Implications**

- 7.1.1 OUTCOME 1 *Our local communities are strong and supportive*
- 7.1.2 OUTCOME 2 *Cheshire East has a strong and resilient economy*
- 7.1.3 OUTCOME 4 *Cheshire East is a green and sustainable place*
- 7.1.4 OUTCOME 5 *People live well and for longer*

## 7.2. Legal Implications

- 7.2.1 Acquiring authorities are expected to demonstrate that they have taken reasonable steps to acquire the land and interests included in a Compulsory Purchase Order by agreement. However, it is also recognised that while compulsory purchase is intended as a last resort to secure the assembly of all the land needed for a project, valuable time will be lost if authorities delay starting the compulsory purchase process until voluntary negotiations have broken down. Consequently it may be sensible to plan a compulsory purchase timetable and initiate formal procedures to avoid losing time and to help make the seriousness of the authority's intentions clear and which in turn might encourage those whose land is affected to enter more readily into meaningful negotiations.
- 7.2.2 The powers of compulsory purchase contained in the Highways Act 1980 are subject to distance limits from the centre line of the new road as set out in Section 249 and Schedule 18 of the Act and the proposed new principal road and the associated side roads and drainage works will fall within those limits.
- 7.2.3 In January 2016 all affected landowners were served with a formal notice under the the Acquisition Of Land Act 1981 (Section 5A) seeking details of title.
- 7.2.1 It is intended to open voluntary negotiations with affected landowners prior to giving notice of the CPO triggering the objection period. Jacobs have been appointed to undertake this task alongside the Council's Assets Department and are in the process of contacting all owners to attempt to acquire by agreement. However, as already noted there are some 30 affected interests and accordingly it is not realistic to expect that voluntary acquisitions could be concluded with all affected parties and for all land title issues to be dealt within the funding window for this scheme. Accordingly the authorisation of compulsory purchase action is sought at this stage.
- 7.2.2 While an authority should use compulsory purchase powers where it is expedient to do so, in considering whether to confirm the CPO and SRO the Secretary of State will need to be convinced that there is a "compelling case in the public interest for compulsory acquisition" and Members should apply a similar test before authorising its making on the balance of the information contained in this report.
- 7.2.3 The acquiring authority is also expected to show that if compulsory acquisition is notified the scheme is unlikely to be blocked by physical or legal impediments to implementation. These include related infrastructure works and the need for planning permission. As already noted the recommendation in this report is to proceed with the CPO subject to planning permission being granted.
- 7.2.4 In reaching a decision on whether to initiate compulsory purchase action members also need to consider, in addition to the information set out above

about the scheme and the need for it, the position with regard to the funding of the scheme and its human rights implications

## Funding

- 7.2.5 The acquiring authority is expected to make clear the sources of funding for the scheme and to indicate the sources of funding for both land acquisition and compensation and the works themselves.
- 7.2.6 At present it is considered that there is a reasonable expectation of funding from the DfT (50% of the cost) with the scheme achieving a provisional allocation of £45m of Growth funding from the DfT. A further submission to the DfT ('final approval') will have to be made when the Council is in a position to deliver the scheme – this will include having a contractor on board and having the means to acquire the necessary land.
- 7.2.7 The residual funding for the scheme is expected to come from a combination of developer funding and council contributions. A Cabinet report paper recommending that the Council, in principle, underwrites any funding gap for the scheme is being considered in parallel to this report.
- 7.2.8 A further report to Cabinet will be taken in due course explaining the final financial situation and any requirement for Council funding prior to making the DfT submission for final approval.

## Human Rights Assessment

- 7.2.9 In deciding whether to proceed with compulsory purchase Members will need to consider the Human Rights Act and Article 1 of the First Protocol to the European Convention on Human Rights. Although there are apparently no domestic dwellings within the proposed CPO land, Article 8 should also be considered.
- 7.2.10 Article 1 protects the rights of everyone to the peaceful enjoyment of their possessions. No person can be deprived of their possession except in the public interest and subject to the relevant national and international law.
- 7.2.11 Article 8 protects private and family life, the home and correspondence. No public authority can interfere with this interest except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the country
- 7.2.12 In considering the above Articles it should be noted that where such landowners as are affected by the scheme may wish to carry out development of their land then the road may assist them in that regard, subject to any planning policies on any individual application, and they will in any event be compensated for any land acquired under the CPO

7.2.13 Members will need to balance whether the powers it is recommended are used are compatible with the European Convention on Human Rights. In weighing up the issues as set out in this report it can be concluded that there is a compelling case in the public interest for the acquisition of land which will bring benefits to the residents and businesses of Congleton that could not be achieved by agreement and this outweighs the loss that will be suffered by existing landowners. The CPO will follow existing legislative procedures. All parties have the right to object to the CPO and attend a public inquiry arranged by the Secretary of State. Parties not included in the CPO may be afforded that right if the inquiry inspector agrees. The decision of the Secretary of State can be challenged in the High Court for legal defects. Those whose land is acquired will receive compensation based on the land compensation code and should the quantum of compensation be in dispute the matter can be referred to the Upper Tribunal (Lands Chamber) for independent and impartial adjudication. The Courts have held that this framework complies with the Convention and as such a decision to proceed with the recommendation on the basis there is a compelling case in the public interest, would be compatible with the Human Rights Act.

### **7.3. Financial Implications**

7.3.1 It is very difficult to estimate the costs associated with the CPO process due to the number of third party variables over which the Council has no control. On the basis that there is likely to be a Public Inquiry, costs are likely to be in the region of £300,000. This estimate of costs would cover surveyors /solicitors / barristers / land references fees but excludes any references to the Lands Tribunal in respect of compensation.

7.3.2 The actual costs for the land acquisition / compensation costs whether through the CPO process or by negotiation will be included in the overall funding budget for the Congleton Link Road scheme

### **7.4. Equality Implications**

7.4.1 None

### **7.5. Rural Community Implications**

7.5.1 Completion of the Link Road will address congestion and facilitate movement across the Borough to the benefit of both urban and rural communities

## 7.6. Human Resources Implications

7.6.1 There is no anticipated long-term impacts on establishment staffing levels or costs. If additional temporary resources are required these will be met from the project budget.

## 7.7. Public Health Implications

7.7.1 Completion of the Link Road will improve air quality in the town which has a designated Air Quality Management Area thus contributing to public health objectives.

## 7.8. Other Implications (Please Specify)

7.8.1 Delivery of the Link Road is key to the successful delivery of the Local Plan.

## 8. Risk Management

- 8.1 Progressing a CPO would be preceded by an offer of voluntary negotiations to acquire by agreement which could continue during the CPO process. Ultimately however, the making of a CPO could be the only way to resolve the major area of uncertainty that could otherwise delay the proposed project programme.
- 8.2 Entering into the CPO process offers the assurance that the DfT requires to ensure a successful 'Final Approval' for the scheme.
- 8.3 The project programme key dates demonstrate that the scheme can be delivered even assuming the CPO process is necessary.
- 8.4 The council can notify the Secretary of State that it is no longer wishes to use its CPO powers in respect of any interest and request the Secretary of State not to confirm the CPO over those interests at any time if negotiations are successful or if the council considers the financial risks to be too great

## 9. Programme

August 2016	Draft Compulsory Purchase Orders(CPO) Published
March 2017	Public Inquiry into CPO
August 2017	Secretary of State Decision on CPO orders
September 2017	Procurement completed
January 2018	Final DfT Funding Approval
April 2018	Construction starts
January 2020	Construction complete

## **10. Contact Information**

10.1 Contact details for this report are as follows:-

<b>Name:</b>	<b>Paul Griffiths</b>
<b>Designation:</b>	<b>Infrastructure Delivery Manager</b>
<b>Tel. No.:</b>	<b>01270 686353</b>
<b>Email:</b>	<b>Paul.griffiths@cheshireeast.gov.uk</b>

### **Appendix A**

Plan showing area of CPO plan

### **Appendix B**

Local Growth Deal Business Case.