

# 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 and Prosperity
<b>Subject/Title:</b>	Congleton Link Road – Funding Strategy and Approval in Principle to Underwrite the Costs of Delivering the Scheme
<b>Portfolio Holder:</b>	Cllr David Brown – Highways and Infrastructure

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### 1. Report Summary

1.1. This paper provides an update on the funding strategy for the proposed Congleton Link Road. This paper:-

- a) outlines the anticipated cost of the scheme
- b) identifies a provisional allocation of central government funding towards those costs
- c) predicts a level of contribution which could be garnered from the owners of land “unlocked” by the link road and sets out the basis upon which that prediction is made
- d) asks for authority for officers to seek to agree land owner contributions as far as they are able to at this stage
- e) notes that notwithstanding central government and any land owner contributions there will remain a funding gap
- f) asks Cabinet to approve, in principle, the underwriting of that gap and to recommend to Council that the scheme budget profile be adjusted accordingly in the Council’s capital programme so that officers can continue to work towards deliver of the scheme.

1.2. The Council has ambitious plans to improve the Borough’s transport infrastructure. Together with Congleton Link Road, the Poynton Relief Road, Sydney Road Bridge and improvements to Crewe Green Roundabout fresh investment of c£135m is planned over the next few years. This is on top of the recent £30m investment in Crewe with the completion of the David Whitby Way and the Jack Mills Way link roads. This investment is expected to help support around 10,000 new jobs.

- 1.3. Congleton Link Road is the single largest infrastructure project the Council has ever undertaken. It is crucial 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.
- 1.4. 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.
- 1.5. In order for the Council to formally resolve to undertake a CPO process, it is important to demonstrate that the scheme can be funded. As such, it will be necessary for the Council to resolve to underwrite, in principle, the potential funding gap.

## **2 Recommendation**

2.1 It is recommended that Cabinet:

- a) Note the latest total scheme cost estimate is £90.7m, c£5.6m of which (project development costs to 31<sup>st</sup> March 2016) has already been invested by the Council.
- b) Note the provisional allocation of £45m of Government funding to the project
- c) Note the existing assumptions under which land owner contributions could be garnered up to the sum of circa £23.7m;
- d) Note the resultant funding gap being between £16.4m and 40.1m (dependant on the level of land owner contributions received)
- e) Note the estimated payback timescales and risks surrounding land owner contribution expectations
- f) Approve the underwriting, in principle, of any necessary gap funding required to deliver the link road
- g) Recommend to Full Council that the scheme budget profile be adjusted accordingly in the Council's capital programme
- h) Authorise the Executive Director of Economic Growth and Prosperity, in consultation with the Director of Legal Services, to negotiate and enter into agreements with key land owners with a view to increasing certainty, as far as is practicable at this stage, as to the level of land owner contributions.

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

3.1 There are no other identified funding strategy options at this stage.

### **4. Reasons for Recommendation**

- 4.1. Congleton Link Road is crucial to the successful delivery of the Local Plan. In order to proceed with the Compulsory Purchase Order for the Link Road the Council must be able to demonstrate that the Scheme is funded and deliverable. This is an 'in principle' decision at this stage as the Council is not contractually bound to any expenditure (beyond scheme development costs) unless and until construction contracts for the road are entered into.
- 4.2. With anticipated costs at £90.7, provisional commitment from central government of £45m and investment to date by the Council of £5.6m, there is currently a £40.1m funding gap.
- 4.3. Given that the scheme will "unlock" significant tracts of land for residential development, the Council's draft Local Plan contains policies seeking to secure the delivery of such sites on a comprehensive, master-planned basis securing appropriate contributions to the delivery of the Congleton Link Road.
- 4.4. There is, accordingly, scope to meet a proportion of the funding gap through contributions made by developers of unlocked land, thereby reducing the cost of the scheme to the public purse. A piece of work has been undertaken to assess the basis for and level at which developers' contributions might be garnered, to inform an understanding of the remaining level of costs that might ultimately fall to be met by the public purse.
- 4.5. It is important to understand, however, that the eventual level of developers' contributions will be dependant on a wide range of variables so absolute certainty as to the eventual amount of those contributions will be difficult to achieve at this stage. However, in order to provide the level of certainty required to embark upon the process of assembling the necessary land for the scheme through the exercise of compulsory purchase powers, the Council needs to be in the position of being able to commit to closing the funding gap even if the assumptions made as to the likely level of developers' contributions are not realised.
- 4.6. The following section of this report sets out the basis upon which the likely level of developers' contributions has been assessed, and discusses some of the variables that will impact upon whether the assessed sums are ultimately realised.

### **5. Developers' Contributions Analysis**

- 5.1. Under the current legislative regime governing developer contributions to infrastructure, the Council would be required to identify no more than 5

development proposals which could properly be expected to contribute to the scheme.

- 5.2. Independent Chartered Surveyors Strutt & Parker LLP and Sanderson Weatherall LLP were commissioned by CEC to produce a headline viability assessment for 5 strategic development sites on the line of the Link Road.
- 5.3. The assessment suggests that the developments could sustain contributions to the link road (in addition to the usual range of other developer contributions such as education) and remain viable. However, in order for those schemes to make an enabling contribution to the link road there would be a need to adjust the level of affordable housing provision across those sites that the Council would ordinarily expect to see.
- 5.4. Table 1 below shows the anticipated levels of funding that could be achieved under different combinations of percentage provision of affordable housing and type of tenure of the affordable housing provided.
- 5.5. The optimum balance, following an independent review, is considered to be achieved at a level of 20% affordable housing (rather than the usual 30%) on a 100:0 intermediate (shared ownership):social rented tenure mix. That would yeild an anticipated contribution of approximately £14,500 per dwelling (equivalent to a levy based on 6.5% of Gross Development Value of any residential development within the relevant sites). Across the board that would generate a contribution of approximately £20.3m to the link road.

Table 1. Variations to Affordable Housing requirements and resultant potential developer contribution to Link Road for 5 largest sites (c1400 houses)

Affordable Percentage	30	16	10	30	20	15	10
Affordable Tenure (Split between Intermediate:Social rented)	(%)	(%)	(%)	(%)	(%)	(%)	(%)
	35:65	35:65	35:65	100:0	100:0	100:0	100:0
	(Tenure)	(Tenure)	(Tenure)	(Tenure)	(Tenure)	(Tenure)	(Tenure)
TApprox amount generated for CLR (5 largest sites only)	£0	£18.8m	£26.9	£9.5m	£20.3m	£24.5m	£30.0m
Approx amount generated for CLR per residential unit	£0	£13,400	£19,200	£6,820	£14,500	£17,500	£21,400

5.6. In addition to these 5 strategic sites, it is anticipated that further contributions totalling c£3.4m may also be achieved from other smaller sites through other arrangements such as S278 agreements.

5.7. In terms of the need to reduce affordable housing requirements to enable the level of developer contribution required under this model, it is noted that the emerging Local Plan includes a policy (**POLICY CS44,CS45,CS16,CS46,CS17**) which would accommodate that reduction, vis:-

*The Council's stated aims for the delivery of the sites to the north of Congleton are that they should be delivered on a comprehensive basis in line with the North Congleton Masterplan. The site cannot be comprehensively delivered without additional highways capacity provided by the proposed Congleton Link Road and as such the Council will seek to ensure appropriate contributions to the Congleton Link Road. The Council will be mindful of the costs of bringing the site forward in such circumstances and will consider alternative affordable housing provision where it is demonstrated through*

*robust viability evidence that 30% affordable housing would render the development of the site unviable in line with paragraph 7 of LPS policy SC5 (Affordable Homes). The Council's expectation is that the site is delivered on a comprehensive basis in the form of outline planning application(s), in line with the North Congleton Masterplan, to secure appropriate contributions towards the delivery of the Congleton Link Road*

- 5.8. It should be noted that this modelling uses CEC's current affordable housing requirements as a base in terms of type/tenure mix and percentage of the overall number of units on site. It also reflects the current regulatory regime governing developer contributions. If any of those assumptions change, there will be impacts on figures generated by this modelling which could, depending on the change, impact positively or negatively on a development's viability and so its ability to contribute the anticipated level of funding to the link road.
- 5.9. For instance, there is ongoing uncertainty about how the Government intends to make provision for affordable housing in the near future. "Starter Homes" are expected to be introduced, which would represent a key policy shift, with anticipated minimum level of 20% discussed within the Consultation Document on the proposed enabling legislation. In aligning itself with that anticipated 20% minimum requirement, it is considered that the balance arrived at above will be in keeping with the anticipated "Starter Homes" legislative and policy requirements.
- 5.10. Sanderson Weatherall LLP, (the valuers who undertook the initial viability assessment) have confirmed that the proposed model remains sufficiently robust to accommodate the anticipated future introduction of Starter Homes. However, there remains a risk that if the scheme that is ultimately introduced is not as anticipated, any difference may disturb the assumptions behind the modelling. That may, depending on the nature of any difference, operate to impact positively or negatively on viability. The likelihood and impact of any such modification cannot be anticipated at this stage.
- 5.11. It should also be noted that the introduction of a Charging Schedule under the Community Infrastructure Levy Regulations 2010 ("CIL") may see a shift away from contributions being garnered through the anticipated 5 S106 agreements, towards the application of a "roof tax" set through the CIL charging schedule. Any difference between the contribution levied under a CIL charging schedule and that flowing from the modelling above may also have an impact on the level of developer contributions available to this scheme.
- 5.12. Finally, it should be kept in mind that the actual level of contribution garnered from any given development proposal will be a matter to be determined as and when each relevant planning application falls to be determined. The level of contribution sought and achieved will be a matter of planning judgement, to be exercised by the relevant decision maker determining the particular application that falls to be determined, on its facts, within the context of the prevailing legislative and policy framework and cognisant of all of the prevailing material planning considerations at the relevant time.

5.13. By the very nature of site assembly and development, there can be any number of variables that can impact on the viability of the scheme and/or the

	Prior Years £m	2016/17 £m	2017/18 £m	2018/19 £m	2019/20 £m	Future years £m	<b>TOTAL £m</b>
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ability to garner a contribution. Ultimately those scheme specific variables are capable of impacting upon the assumptions derived from the modelling above.

## 6. Funding Strategy Overview

6.1. The current budget profile for the scheme is contained in Appendix A. Table 2 below sets out the global funding position as currently anticipated against the original capital programme funding approval on an assumed £14,500 contribution per dwelling on the basis of the modelling above. Table 3 below sets out a summary of the budget profile

Table 2 – Global funding position based on £14,500 per dwelling.

<b>Element</b>	<b>Funding projection based on latest forecasts £m</b>	<b>Original funding as per approved Capital programme £m</b>
Government Funding	45	45
Target for other 'smaller development' contributions	3.4	0
Target for 5 large S106 contributions	20.3	14.1
Expenditure to date (CEC capital funding)	5.6	5.6
Additional CEC Capital funding required	16.4	14.8
<b>TOTAL*</b>	<b>£90.7m</b>	<b>79.5</b>

Construction			1.0	40.6	17.8		<b>59.4</b>
Land and Property		0.8			3.8	0.8	<b>5.4</b>
Preparation and Admin	5.6	1.5	1.2				<b>8.3</b>
On site supervision and testing			0.2	1.4	0.6		<b>2.2</b>
Compensation costs (Part 1 claims)						15.4	<b>15.4</b>
<b>Total</b>	<b>5.6</b>	<b>2.3</b>	<b>2.4</b>	<b>42.0</b>	<b>22.2</b>	<b>16.2</b>	<b>90.7</b>

Table 3 – Budget Profile Summary

6.2. The funding profile (Annex A) shows that the developer income is profiled over 19 years. This is a conservative assessment for the purposes of the financial modelling only. The Local Plan predicts that these developments will all be complete by 2030

6.3. The actual income profile will be dependent on the rate of developer build, although (as the Levy is proposed to be based on GDV) there will be an implicit element of indexing to the amounts received (ie the future amounts received will have increased (or fallen) in line with property values).

6.4. The profile contained in Annex A shows that as future land and compensation costs arise; the developer funding stream is anticipated to be live and be able to assist in meeting these costs. Part 1 Compensation costs can only be claimed from one year after the opening of the road to traffic (current programme shows the road open in January 2020), others will follow the CPO.

6.5. There can be no certainty that the receipt of developer contributions will fall in a timely fashion relative to expenditure. Prior to realising Developer contributions it will be necessary for the Council, as a worst case position, to underwrite up to £40.1m towards the cost of the road. It bears repeating that on account of the variables set out above, the Council may not recover



against the sums it underwrites the full amount of the developers' contributions that the modelling undertaken to date anticipates will arise.

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

7.1. All Congleton Councillors

## **8. Implications of Recommendation**

### **8.1. Policy Implications**

- 8.1.1 OUTCOME 1 *Our local communities are strong and supportive*
- 8.1.2 OUTCOME 2 *Cheshire East has a strong and resilient economy*
- 8.1.3 OUTCOME 4 *Cheshire East is a green and sustainable place*
- 8.1.4 OUTCOME 5 *People live well and for longer*

### **8.2 Legal Implications**

- 8.2.1 The main legal implications insofar as the funding strategy is concerned are set out in the body of the report and relate to the accuracy of the predicted developer contribution over a longer period of time. In essence, planning legislation and policy is a moveable feast. Changes such as the introduction of Starter Homes, and CIL Charging Schedules will impact on assumptions made in the modelling above.
- 8.2.2 In addition, the precise basis and so level of contribution and the ability to require the same are matters that can only be determined at the point in time when the planning application that the contribution is parasitic upon falls to be determined, in the prevailing factual, policy and legislative context. That introduces further variables which cannot be ascertained at this time, and which are capable of impacting upon the assumptions made in the modelling above.
- 8.2.3 These variables could impact on the modelling above in terms of whether and how many S106 agreements could be used to garner contributions, the quantum and profile of receipt of contributions.
- 8.2.4 Precisely what those impacts will be can only be ascertained once the timing and detail of any such change is known and properly understood, relative to the receipt, determination and/or implementation of development anticipated on any related development site.
- 8.2.5 Notwithstanding those variables, and whilst it is anticipated that a developer contribution in the region of that identified by the modelling will ultimately be recouped, if there is to be sufficient certainty as to the Council's ability to fund the scheme, in order that the acquisition of land using compulsory powers can commence, the Council needs to be prepared to commit to covering any remaining funding gap.

### **8.3 Financial Implications**

8.3.1 Dealt with in the main body of the report.

### **8.4 Equality Implications**

8.4.1 None arising from matters relating to funding strategies

### **8.5 Rural Community Implications**

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

### **8.6 Human Resource Implications**

8.6.1 None

### **8.7 Public Health Implications**

8.7.1 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

### **8.8 Other Implications (Please Specify)**

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

### **9.0 Risk Management**

9.1 At this stage, the Council is not at risk of being contractually responsible for the underwriting of the expected developer contributions – this situation will only arise if and when the Council enters into a construction contract to deliver the road.

9.2 Likewise, the Council's own capital risk to the project is currently limited to the future project development costs (estimated as £2.7m) to take through to the start of construction. This is in addition to the development costs incurred to date.

9.3 Engagement events have been held with the key landowners, facilitated by Strutt and Parker as independent brokers. There is universal buy-in and support for the general strategy from the landowners. Further work needs to be undertaken with them on an individual basis and it is intended that agreements be entered into to secure, as far as it is reasonably practicable to do so at this time, increased certainty around the likely level of developer contribution.

9.4 It is important to note that the viability study was undertaken on the basis of the system of affordable housing in place in late 2015 / early 2016. The Government has announced, through the Autumn Statement 2015, its intention to widen the definition of affordable housing to include low-cost starter homes. The enabling legislation for this change is to be provided in the Housing and Planning Bill, currently before Parliament. This has the potential to significantly change the delivery of affordable housing across the country. There may also be challenges from developers around the assumptions made in the viability study.

9.5 Although the details of how the starter homes initiative will operate are still largely to be provided by Government, the independent viability study concludes that it is likely that the Starter Homes initiative will result in higher returns for the private sector. It will not (or should not) disturb the modelling as prepared for the purposes of this exercise. This, of course, assumes no major changes to the Government's current proposals.

9.6 In order to secure the contributions to the road from the 5 largest developments, legal agreements will have to be concluded and planning applications made, granted and implemented. Ideally contributions arising from the same would be received before the road is open to traffic in 2020, but there is no guarantee that developers will progress planning applications in time. However, it is in developers interests to achieve a speedy planning permission. Initial discussions with the main developers/land owners have indicated a reasonably favourable response to the modelling set out above subject to additional information being provided.

9.7 The link road estimate is based on out-turn costs as indicated on the programme at section 10. There is strong local support for the Scheme; however there are localised objections to the proposals from those most directly affected. Members will be aware that whilst the Council can and will take necessary and prudent steps to reduce the risk of challenge, it ultimately has no control over whether a challenge is nonetheless made. Those considerations ought to be factored in to programme timelines wherever possible.

9.8 There can be no guarantee that the developer funding comes forward or that the timescales predicted will be achieved. Market conditions may change for example or developers may submit a different scheme with a 'new' planning application with a different set of planning obligations. As far as possible, this risk will be mitigated by negotiating contributions for affordable housing that reflect link road contributions to encourage developers to participate in the arrangement.

9.9 The rate of housing build will depend on the wider economy and local market conditions. This directly links to the rate at which developer contributions can be made. The profiling assumes that the build rate across the 5 largest sites is 75 houses per year. An independent review of

build rates has confirmed that this is a conservative assessment for financial budgeting.

9.10 If this scheme were not ultimately to proceed, all capital development costs to date would have to be recharged to the revenue account.

## **10. 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 Draft Funding Approval
April 2018	Construction starts
January 2020	Construction complete

## **11. Contact Information**

11.1 Contact details for this report are as follows:

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