

Economy and Growth Committee

Date of Meeting:	13 th September 2022
Report Title:	Southern Gateway Pedestrian and Cycleway Connectivity Scheme – Land and Rights
Report of:	Jayne Traverse, Executive Director - Place
Report Reference No:	EG/17/22-23
Ward(s) Affected:	Crewe Central

1. Purpose of Report

- 1.1.** The Southern Gateway Pedestrian and Cycleway Connectivity Scheme (“the Scheme”) will provide a new gateway entrance to the south of Crewe town centre via a new pedestrian and cycleway linking High Street and Forge Street. The Scheme will also link to the roundabout connecting High Street, Mill Street, Oak Street (A5078) and Vernon Way (A5019), making it more cyclist and pedestrian friendly.

- 1.2.** The Council’s Corporate Plan priorities include providing a thriving and sustainable place that is a great place for people to live, work and visit. With a transport network that is safe and promotes active travel and to be carbon neutral by 2025. The Scheme will provide better walking and cycling links between key service centres in Crewe and support the success of the Corporate Plan.

2. Executive Summary

- 2.1** Cheshire East Council has ambitions to improve pedestrian and cycle links across Crewe. The aim is to create a sustainable and connected travel network and encourage an increase in walking and cycling across the town. To help achieve these ambitions, several different schemes are being brought forward, including the Southern Gateway Pedestrian and Cycleway Connectivity Scheme.

- 2.2** The Council also has plans to promote regeneration of Crewe, which include proposals to improve accessibility and permeability into and around the town centre. Such improvements are expected to increase footfall and dwell time, helping to support activity in the town centre. These plans have previously been set out in the Council's Crewe Town Centre Regeneration Delivery Framework (2016) and Public Realm Strategy (2018).
- 2.3** The Scheme will create a new gateway entrance to the south of Crewe town centre via a new pedestrian and cycleway linking High Street and Forge Street. The Scheme will also link to the roundabout connecting High Street, Mill Street, Oak Street (A5078) and Vernon Way (A5019), making it more cyclist and pedestrian friendly.
- 2.4** The Council has secured full funding for this Scheme from central government. It is one of the ten projects that are being progressed following the Council's successful £14.1m bid for funding from the Government's Future High Streets Fund through the Department for Levelling Up, Housing & Communities (DLUHC).
- 2.5** An extensive public engagement exercise on the proposals for the Scheme was undertaken between 29 April to Friday 10 June 2022. The engagement exercise response has been positive. The Engagement Report has been appended to this report (Appendix A).
- 2.6** The Scheme planning application is under preparation and the application is expected to be made in the near future.
- 2.7** The Scheme delivery requires the acquisition of land owned by third parties which is held as either freehold or leasehold land and will require the parties to surrender their rights over the land.
- 2.8** Negotiations are progressing with the landowners, however, successful negotiations are not certain, and the use of Compulsory Purchase Order powers should be considered to help ensure the delivery of the Scheme.
- 2.9** Compulsory Purchase Order powers may not be necessary as there is also the possible option of appropriating rights under Section 203 of the Housing and Planning Act 2016.

3. Recommendations

The Committee is recommended to:

- 3.1.** Note the findings of the public consultation exercise. The Engagement Report has been appended to this report (Appendix A).
- 3.2.** Delegate authority to the Head of Estates in consultation with the Director of Governance and Compliance and the Chief Financial Officer, to:

- 3.2.1. take all actions necessary for the acquisition, extinguishment or otherwise rendering ineffective any third-party interests over the Scheme land or to appropriate such land so as to come within the provisions of Section 203 of the Housing and Planning Act 2016.
- 3.2.2. release or procure the release of any rights, covenants, and other interests over the Scheme land insofar as it has the right to do so and provided that such release would not put the Council in breach of any obligation to a third party or parties; and
- 3.3. Approve the development of a CPO pursuant to section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) to acquire land and interests in respect land required for the Scheme and pursuant and Schedule 3 to the Acquisition of Land Act 1981 and all other powers as appropriate for the purpose of acquiring the land and new rights for the purpose of facilitating the development, redevelopment, and improvement of the land by way of highway and public realm works.
- 3.4. Authorise the Head of Estates to:
 - 3.4.1. Negotiate and agree terms to seek to acquire the land and rights (or extinguish the same) required for the Scheme by agreement and to instruct the Director of Governance and Compliance to negotiate and enter into the legal agreements necessary to facilitate any such agreements.
 - 3.4.2. Negotiate and approve the payment of any 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.
- 3.5. Delegate to the Head of Infrastructure the authority to negotiate and enter into all necessary agreements in connection with the relocation of a sprinkler system water tank.

4. Reasons for Recommendations

- 4.1. The acquisition of the land enables the Council to proceed with the development and delivery of the Scheme so that the benefits and outcomes of the Scheme can be realised.
- 4.2. The Council will make every effort to acquire the land and all interests it needs by negotiation, but it recognises that it may not be possible to agree terms for their acquisition. Without the acquisition of the land required it will not be possible to deliver the Scheme. It is preferable to acquire the necessary land and rights by negotiation rather than relying upon the Compulsory Purchase powers and/or powers to appropriate rights, as the

Council will have to demonstrate that it has made all reasonable efforts in this regard. However, if the negotiations fail, the Council will have to rely upon its powers to acquire the land and interests using a Compulsory Purchase Order and/or powers to appropriate rights to enable the Scheme to proceed.

- 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, provides the legal framework for the compulsory acquisition of land necessary to deliver the Scheme. The CPO process requires that the acquisition of land should be pursued by agreement and the use of compulsory purchase powers should be a last resort.
- 4.4.** The Council's use of compulsory purchase powers and/or powers to appropriate rights is as a measure of last resort. Negotiations are ongoing with those parties who have an interest in the required rights and land, however, not all of the interests may be acquired by negotiation in order to ensure the delivery of the Scheme within a reasonable timescale.
- 4.5.** A further report, which sets out the detailed justification for doing so, will be brought before Committee to seek authorisation for making a Compulsory Purchase Order and/or using powers to appropriate rights should it be necessary to proceed on either basis.
- 4.6.** A sprinkler system water tank operated by an affected party and needs to be relocated enable the Scheme to proceed.

5. Other Options Considered

5.1. Land and Rights Acquisition by Negotiation

- 5.1.1.** Land acquisition could be pursued solely by negotiation and subsequent agreement. However, relying on land acquisition by agreement alone does not guarantee that the land and rights required for the Scheme will be secured and may delay the delivery of the Scheme.
- 5.1.2.** It is intended to acquire all the land and rights required for the Scheme by agreement where possible and to use the powers under the Housing and Planning Act 2006 to appropriate rights and/or the Town and Country Planning Act 1990 to compulsory purchase land and interests that cannot be acquired through agreement beforehand to ensure deliverability of the Scheme within the programme.
- 5.1.3.** Negotiations are progressing with the landowners, however, successful negotiations are not certain, and the use of Compulsory Purchase Order powers and/or powers to appropriate rights should be considered to help ensure the delivery of the Scheme.

5.2. Relocation of the sprinkler system water tank

- 5.2.1. This needs to be relocated to enable the Scheme to proceed. The terms of the legal agreement with affected party will require that they have uninterrupted utility of the sprinkler system and to facilitate construction of the Scheme it will be necessary to move the tank before the commencement of construction works.

5.3. The Committee not approving the recommendations

- 5.3.1. If the land and rights required for the Scheme cannot be secured through negotiation and subsequent agreement, then the Scheme cannot be delivered without powers of Compulsory Purchase or appropriating rights.
- 5.3.2. If the sprinkler system water tank is not relocated in advance of the construction works then the Scheme may be delayed and the external funding secured via Future High St Fund from DLUCH will be lost.

6. Background

- 6.1. The Council has long-term ambitions to improve pedestrian and cycle links across Crewe to encourage an increase in 'active travel'. In particular, a priority is to improve links from Crewe railway station to the town centre. A phased approach has been adopted, and progress is being made in relation to each of these:
- a) the Southern Gateway Pedestrian and Cycling Connectivity Scheme, connecting the north end of Mill Street to the Civic & Cultural Quarter (which includes the Lifestyle Centre, Christ Church, Memorial Square and Market Hall, Lyceum Theatre). Currently, the alternative pedestrian route is via the longer Vernon Way Retail Park.
 - b) the Mill Street Corridor scheme, providing an improved pedestrian and cycle route between Nantwich Road and Mill Street.
 - c) the Nantwich Road Bridge Enhancement Scheme, comprising an enhanced pedestrian and cycle route from Crewe station to the Mill Street Corridor.
- 6.2. In June 2020 the Council submitted a Future High Street's Fund bid to support a package of regeneration projects to support Crewe town centre, which included the Southern Gateway Scheme. The bid was successful and in June 2021 the Government confirmed a grant offer of £14.1m to support the programme including £3.053m to deliver the Southern Gateway Scheme. The Mill Street Corridor project has been earmarked

for funding from the Government's Towns Fund, and the Nantwich Road Bridge Enhancement Scheme is the subject of a recently submitted bid to the Government's Levelling Up Fund.

- 6.3.** As well as improving connectivity, the Scheme will help to make Crewe more attractive and welcoming and support the Council's ongoing regeneration programme, which aims to encourage more people to visit the town centre and to stay for longer. It will enhance potential development sites, including the Youth Zone project proposed for the Oak Street Car Park site, which is being progressed with funding from the Council and the Government's Towns Fund.
- 6.4.** The Scheme will offer benefits to people living in the area and people accessing Crewe station and the town centre and will further prepare the town for the arrival of HS2 to Crewe by 2033 which is an important component of delivering the Council's future ambitions for Crewe and the surrounding area.
- 6.5.** As part of this investment the Council is planning to improve access and connectivity across Crewe town centre with several new routes for pedestrians and cyclists proposed. The changes will deliver safer, more attractive, and more convenient walking and cycling routes to make it easier for people to get around the town, reducing congestion and journey times. By prioritising walking and cycling, these projects will also contribute towards Cheshire East Council's ambition to be a carbon neutral borough by 2045.

7. Consultation and Engagement

- 7.1.** An extensive formal public engagement exercise on the proposals for the Scheme was undertaken between 29 April to Friday 10 June 2022. The engagement exercise response has been positive. The Engagement Report has been appended to this report (Appendix A)
- 7.2.** The Scheme planning application is under preparation and a Statement of Community Involvement will be included in the Planning Application. There will be further formal consultation as part of the planning process. The Planning Application is expected to be made in the near future.

8. Implications

8.1. Legal

- 8.1.1.** In authorising the progression of a CPO the Council would be proceeding under powers contained in section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) to authorise the compulsory purchase of land and new rights required to facilitate the carrying out of development or improvement on land. The use of the

powers is subject to a restriction under section 226(1A). This provides that the Council as the acquiring authority must not use its powers unless they consider that the proposed development, redevelopment, or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the area for which the Council has the administrative responsibility. The benefit to be derived from exercising the power is not restricted to the area subject to the CPO but to the wellbeing of the whole of Cheshire East.

- 8.1.2. The delivery of the Scheme will require the Council to make a CPO using the powers set out above.
- 8.1.3. According to the Guidance compulsory purchase powers should only be used where there is a compelling case in the public interest that the benefits of the Scheme outweigh the interference with private rights and interests. Compulsory purchase powers are only to be used as a last resort on the land proposed to be a quiet should be the minimum considered to be reasonably required to achieve the Scheme.
- 8.1.4. In progressing the Scheme the Council must demonstrate that there are no impediments to implementation of the CPO. The Council must show that it has sources of funding available for both acquiring the land and implementing the Scheme for which the land is required.
- 8.1.5. The Council must also show that the Scheme is unlikely to be blocked by any physical or legal impediments to the implementation, including any need for planning permission or other concerns or licence to ensure that the Council can exercise its powers.
- 8.1.6. The Council has powers to purchase land by agreement pursuant to Section 120 of the Local Government Act 1972.
- 8.1.7. The impacts of the Scheme on business and residential property that is off-line of the Scheme will be dealt with under the Land and Compensation act 1973
- 8.1.8. A local authority may appropriate land to be held for planning purposes for which it could have acquired land compulsorily under section 226(1)(a) of the Town and Country Planning Act 1990. If the Council has appropriated the land for planning purposes, it (and persons deriving title from the Council) may also rely on Section 203 of the Housing and Planning Act 2016.

- 8.1.9. This section authorises the development or use of land in accordance with a planning permission, notwithstanding that the development or use involves interference with an interest or right to which section 203 applies, or a breach of a restriction as to use of the land. Reliance on section 203 will therefore authorise the Council to override third party interests in the land such as easements, rights to light and restrictive covenants, in order to permit the redevelopment proposals to proceed.

8.2. Finance

- 8.2.1. The Scheme is one of the projects being progressed following the Council's successful £14.1m bid to the government's Future High Streets Fund (FHSF) from the Department of Levelling Up, Housing & Communities (DLUHC). A Cabinet resolution from 10 November 2020 delegated authority to the Executive Director Place, in consultation with others, to accept the grant, approve budgets and take all necessary actions to implement the proposals. A subsequent Council resolution from 22 June 2021 approved a Supplementary Capital Estimate related to this funding programme.
- 8.2.2. Current Budget estimate including land, risk and inflation forecast is £3.834m against a budget of £3.054m. If these cost pressures are realised at the time of the formal construction cost, it will be necessary to Value Engineer the Scheme and / or find additional monies from within the wider Future High Streets Fund Programme. The team are confident that the project can be delivered and managed from within the FHSF programme.

8.3. Policy

- 8.3.1. The Council's Crewe Town Centre Regeneration Delivery Plan (2016) and Crewe Public Realm Strategy (2018) set out plans to promote regeneration of Crewe which include specific proposals to improve accessibility and permeability into and around the town centre. Such improvements are expected to increase footfall and dwell time, helping to support activity in the town centre.
- 8.3.2. This Scheme aligns with the Council's Corporate Plan priorities include making Cheshire East 'a thriving and sustainable place' by:
- providing a great place for people to live, work and visit,
 - a transport network that is safe and promotes active travel,
 - thriving urban and rural economies with opportunities for all.

8.4. Equality

- 8.4.1. An Equality Impact Assessment has been completed for the Scheme and is available on request.
- 8.4.2. 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
- 8.4.3. 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
- 8.4.4. In exercising their compulsory purchase and related powers (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.
- 8.4.5. Equality implications have been considered in the options appraisal and are incorporated into the Outline Business Case. 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.
- 8.4.6. In progressing the Orders and carrying out any further consultations the Council will take into account the needs of persons with protected characteristics and the requirements of the Public Sector Equality Duty.

8.5. Human Resources

- 8.5.1. 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.

8.6. Risk Management

- 8.6.1. Having the ability to take forward the compulsory purchase and/or appropriation of rights powers enables the delivery of the Scheme in the event that these powers are needed to deliver Scheme. Timescales for compulsory purchase and/or appropriation of rights can be prolonged and may extend the delivery period beyond the

current FHSF grant spend period which may require renegotiation with the DLUHC.

- 8.6.2. Relocation of the sprinkler system water tank, cost estimate £100k. Due to the procurement lead time for this work it may be necessary to place the order before other agreements have been finalised to maintain the construction programme. This will be fully outlined in the ODR.

8.7. Rural Communities

- 8.7.1. The Scheme does not have any implications to rural communities.

8.8. Children and Young People/Cared for Children

- 8.8.1. Young people were encouraged to participate in the public engagement process.
- 8.8.2. Opportunities to engage with local schools and colleges will arise as the Scheme progresses for education and training purposes.

8.9. Public Health

- 8.9.1. The recommendations have no immediate impact on public health.
- 8.9.2. The public health implications of the Scheme have been considered during the preparation of an Environmental Assessment Report to accompany the planning application. During determination of the planning application the Council's Environmental Health team will be consulted in relation to Noise and Air Quality and construction stage planning conditions may be applied.

8.10. Climate Change

- 8.10.1. This Scheme will facilitate active travel which supports the Council's agenda to reduce greenhouse gas emissions.

Access to Information	
Contact Officer:	Simon Kerr (Project Sponsor, Infrastructure) Simon.kerr@cheshireeast.gov.uk 07730 378280
Appendices:	Appendix A – Engagement Report
Background Papers:	