

Cabinet Member for Strategic Outcomes

Agenda

Date: Monday, 15th December, 2014
Time: 10.30 am
Venue: Committee Suite 1,2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relating to the work of the body in question. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

4. **A6 to Manchester Airport Relief Road - Tripartite Delivery Agreement (Pages 1 - 26)**

To approve entering into a tripartite delivery agreement with Manchester City Council, and Stockport Metropolitan Borough Council.

For requests for further information

Contact: Cherry Foreman

Tel: 01270 686463

E-Mail: cherry.foreman@cheshireeast.gov.uk with any apologies

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CHESHIRE EAST COUNCIL

REPORT TO: Portfolio Holder for Strategic Communities

Date of Meeting:	15 th December 2014
Report of:	Director of Economic Growth and Prosperity
Subject/Title:	A6 to Manchester Airport Relief Road – Tri-partite delivery agreement
Portfolio	Strategic Communities
Portfolio Holder	Cllr David Brown

1.0 Report Summary

- 1.1 This report seeks approval to enter into a delivery agreement between Manchester City Council, Stockport Council and Cheshire East Council to aid the delivery and funding of the highway mitigation measures required for the proposed A6- Manchester Airport Relief Road (A6-MARR)

2.0 Decision Requested

- 2.1 That the Council enter into the Tri-partite delivery agreement with Stockport Metropolitan Borough Council and Manchester City Council to aid the delivery of the A6MARR and to agree the financial contributions from Stockport MBC towards highway mitigation measures required pursuant to planning permission conditions

3.0 Reasons for Recommendations

- 3.1 To formally agree the financial contribution of up to £1,572,500 from the A6-MARR scheme towards highway mitigation measures in Cheshire East
- 3.2 To ensure that the council uses best endeavours to discharge the planning conditions related to the scheme; thereby ensuring the effective mitigation is in place prior to the opening of the new road.

4.0 Wards Affected

- 4.1 Disley, Poynton East and Pott Shrigley, Poynton West and Adlington, Wilmslow Dean Row, Handforth, Wilmslow Lacey Green, Wilmslow West and Chorley, Wilmslow East.

5.0 Local Ward Members

- 5.1 Local Ward Members in and near the affected areas include:

- § Disley – Cllr Harold Davenport
- § Poynton East and Pott Shrigley – Cllr Jos Saunders and Cllr Howard Murray
- § Poynton West and Adlington – Cllr Roger West and Cllr Philip Hoyland
- § Wilmslow Dean Row – Cllr Paul Whiteley
- § Handforth – Cllr Barry Burkhill and Cllr Denis Mahon
- § Wilmslow Lacey Green – Cllr Don Stockton
- § Wilmslow West and Chorley – Cllr Wesley Fitzgerald and Cllr Gary Barton
- § Wilmslow East – Cllr Rod Menlove.

6.0 Policy Implications

6.1 The following policy implications are noted.

- § The proposed SEMMMS A6 to Manchester Airport Relief Road will provide an alternative highway link between the A6, A523 and A34 and Manchester Airport and the M56.
- § The existing local road network passes through residential communities, local and district centres suffer from congestion and severance as traffic uses a variety of unsuitable roads to make this orbital journey.

7.0 Financial Implications (Authorised by the Chief Operating Officer)

- 7.1 A financial contribution of up to £1,572,500 is being made to the council from the A6-MARR scheme to contribute towards the cost of the required mitigation measures.
- 7.2 The Council is liable for any costs, expenses or liabilities which are incurred in respect of the delivery and completion of the mitigation measures over and above the financial contributions from the A6-MARR scheme.
- 7.3 Payment of these monies are contingent on the A6-MARR scheme going ahead.
- 7.4 The payment schedule has yet to be agreed but will be linked to the delivery of the mitigation measures.

8.0 Legal Implications (Authorised by the Head of Legal Services)

- 8.1 The Delivery Agreement is a legal agreement between SMBC and CEC and has a number of legal implications. The proposed agreement is included at Annex A

- 8.2 The Agreement requires the Council to use its best endeavours to discharge the planning conditions in relation to the highway mitigation works prior to the opening of the A6-MARR scheme. However, it does not fetter the authority's obligations (as the local planning authority) linked to the discharge of planning conditions.

9.0 Risk Management

- 9.1 The funding from the A6-MARR scheme has been agreed in principle at senior officer and member level and is confirmed in correspondence. A legally binding agreement as proposed will confirm the details of the funding.

10.0 Background

- 10.1 The decision notice for the A6-MARR scheme was published by the council in June 2014
- 10.2 The conditions attached to this decision (ref 13/4355M) included the design and delivery of an extensive programme of highway mitigation measures where it has been demonstrated there would be a traffic impact as a result of the scheme.
- 10.3 Extensive discussion with the A6-MARR team at a senior political and officer level has been successful in negotiating a contribution towards the delivery of these measures.
- 10.4 This is on top of a contribution of c£3.5M negotiated by senior politicians towards the delivery of PRR which will complement the delivery of the A6 MARR scheme

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name:	Paul Griffiths
Designation:	Infrastructure Delivery Manager
Tel No:	01270 686353
Email:	paul.griffiths@cheshireeast.gov.uk

ANNEX A – Tripartite Agreement

THIS AGREEMENT is made this day of 2014

Between

1. **The Metropolitan Borough Council of Stockport** of Town Hall Stockport SK1 3XE (**"Stockport"**) (1) and
2. **Cheshire East Borough Council** of Westfields, Middlewich Road, Sandbach CW11 1HZ (**"Cheshire East"**) (2) and
3. **The Council of the City of Manchester** of Town Hall, Albert Square, Manchester M60 2LA (**"Manchester"**) (3)

and collectively referred to as the **"Partnering Parties"** or individually referred to as the **"Partnering Party"**.

Recitals

- A. Stockport, Cheshire East and Manchester are the local highway authorities for their respective areas
- B. The Partnering Parties desire to construct a Road between the A6 in Stockport and Ringway Road/Ringway Road West in Manchester (**"Relief Road"**) as part of the continuing programme to improve the highway network in and around Greater Manchester and east Cheshire and for this purpose Stockport Cheshire East and Manchester have entered into an Agreement dated the 3rd December 2013 pursuant to Section 8 Highways Act 1980 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and all other enabling powers appointing Stockport to act on behalf of Cheshire East and Manchester to exercise such of their functions as are required to deliver the Relief Road.
- C. Being desirous of ensuring that the programme for the delivery of the Relief Road is achieved Stockport has made and submitted to the Secretary of State for Transport for confirmation –

The Metropolitan Borough of Stockport (Hazel Grove (A6) to Manchester Airport A555 Classified Road) (Side Roads) Order 2013

and to support the proposed highway alterations

The Metropolitan Borough of Stockport (Hazel Grove (A6) to Manchester Airport A555 Classified Road) Compulsory Purchase Order 2013.

- D. In addition Stockport has applied to the Secretary of State for Communities and Local Government for a Certificate pursuant to Section 19 of the Land Acquisition Act 1981 to permit the compulsory purchase of land to be given in exchange for the loss of public open space needed for the Relief Road
- E. The Partnering Parties have considered planning applications to support the Relief Road and have referred the planning applications to the Secretary of State for Communities and Local Government (**"Secretary of State"**) pursuant to the Town and Country Planning (Consultation) (England) Direction 2009 with a recommendation that the planning applications should be approved subject to conditions. The planning applications have since been approved.
- F. Prior to the Relief Road being opened to traffic some of the planning conditions (**"Planning Condition"**) attached to each of the planning permissions granted to Stockport (Decision No:DC:053678) Manchester (Decision No 104094/FO/2013/S2) and Cheshire East (Conditions 8 and 10 of Decision No: 13/4355M) and referred to the Secretary of State (**"Planning Permissions"**) requires a scheme of mitigation and complementary measures (**"Works"**) to be carried out and completed in accordance with a Transport Assessment dated October 2013 (as amended from time to time) produced by the Relief Road's project team.
- G. The Partnering Parties being mindful of the need to ensure that the programme for commencement of the Relief Road is achieved at the earliest opportunity and completed by Summer 2017 have in their separate capacities as local highway authorities agreed to enter into this Agreement to try to ensure that there are no planning obstacles that might otherwise fetter or frustrate completion of the Relief Road.

It is hereby Agreed as follows

1. That each of the Partnering Parties acting in their separate capacities as individual highway authorities within each of their administrative areas will progress the current proposals for the Works and implement them accordingly and use best endeavours to assist in the discharge of the Planning Condition.
2. In the event that any of the Partnering Parties has reasonable cause to apprehend that there is little prospect of the Planning Condition being discharged in good time prior to the opening of the Relief Road to traffic each Partnering Party shall:

- (a) apply immediately to its planning authority in time for an application to be made to consider discharging or varying the Planning Condition; or
- (b) obtain such consent as may be necessary to ensure that completion and opening of the Relief Road to traffic is not unreasonably delayed.

Provided always that the Partnering Parties will not be prevented from utilizing the funding after the opening of the Relief Road to traffic.

3. It is further agreed that the Partnering Parties in consultation and working in partnership with each other will prior to the commencement of the Works agree a timeframe for undertaking the Works and a mechanism to evidence and release funds from the budget held by Stockport and earmarked as a contribution towards the cost of the Works that the Partnering Parties have agreed to carry out to discharge the appropriate Planning Condition relating to the Planning Permissions as a direct consequence of the impact the Relief Road might have on the highway network as it passes through each area of the Partnering Parties in the following manner -

Stockport - £2,372,500.00

Manchester - £185,000.00

Cheshire East - £1,572,500.00

4. For the avoidance of doubt each Partnering Party shall be liable for any costs, expenses or liabilities which are incurred in respect of the delivery and completion of the Works in respect of its administrative area over and above the financial commitments set out in clause 3 above.

5. **Third party rights**

For the purpose of the Contracts (Rights of Third Parties Act 1999) it is agreed and declared that nothing herein contained shall confirm any third party rights.

6. **Disputes**

- 6.1 In the event of any dispute or difference between the Parties arising out of this Agreement resolution shall be sought internally between the Partnering Parties nominated representatives at the time. If the issue and dispute cannot be resolved between the respective nominated representatives then the matter shall be referred to the Chief Executives of the Partnering Parties for determination.

6.2 Any dispute or difference arising between the Partnering Parties which cannot be resolved by the Chief Executives of the Partnering Parties shall be referred to and determined by an independent person (the “Expert”) if so required by any Partnering Party by notice to the other Partnering Parties.

6.3 The Expert shall be appointed by agreement between the Partnering Parties or failing such agreement within 10 days of receipt of the notice referred to in clause 6.1 above shall be appointed on the application of either of the Partnering Parties by such one of the following persons as the Partnering Parties shall agree to be appointed having regard to the nature of the dispute or difference in question –

6.3.1 the President for the time being of the Law Society

6.3.2 the President for the time being of the Royal institute of British Architects

6.3.3 the President for the time being of the Royal Institute of Chartered Surveyors and

6.3.4 the President for the time being of the Institute of Chartered Accountants in England and Wales

or in any such case their duly appointed deputy or any other person authorised by them to make appointments on their behalf

6.4 If within 15 days after service of the notice referred to in 6.3 above the Partnering Parties are unable to agree which of the persons referred to in 6.3 above is appropriate to appoint an Expert the Expert shall be appointed by application by any of the Partnering Parties to the President of the Law Society or his duly appointed deputy or any other person authorised by him to make appointments on his behalf who shall conduct the dispute as the Expert sees fit and whose decision shall be final and binding on each of the Partnering Parties.

6.5 The cost of appointing an Expert and his costs and disbursements in connection with his duties under this Agreement shall be shared between the Partnering Parties as may be directed by the Expert or failing determination of the Expert to be divided equally between the Partnering Parties.

7. Severability of Agreement Provisions

The invalidity or unenforceability of any right or term of this Agreement shall not in any way affect the remaining rights or terms of the same.

8. Alienation

This Agreement is strictly personal to each Partnering Party who shall not be entitled to part with or assign in any way with its interest and obligations under this Agreement.

9. Freedom of Information

The Partnering Parties hereto agree that all matters relating to the Relief Road are obliged to comply with the Freedom of Information Act 2000 and where appropriate the Environmental Information Regulations. Any Partnering Party receiving a request for Information shall notify the other Partnering Parties of such request. The Partnering Party receiving the request will deal with that request and all other Partnering Parties will co-operate as appropriate in meeting the request. However, no Partnering Party shall disclose to any third party any information that could constitute personal information about any individual about their property valuations.

10. Good Faith

The Partnering Parties declare it to be their intention that this Agreement shall operate between them with fairness and without detriment to the interest of any of them and if in the course of the performance of this Agreement unfairness to any other Partnering Party is disclosed or anticipated then the Partnering Parties hereto shall use their best endeavours to agree upon such course of action as may be necessary and equitable to remove the cause or causes of the same and shall act in utmost good faith towards each other.

11. General Provisions.

It is hereby further agreed and declared that: -

- 11.1 This Agreement shall constitute a binding contract between the Partnering Parties hereto for the performance of the obligations and stipulations herein contained and shall be enforceable as such and the provisions of this Agreement shall continue to have effect in respect of anything remaining to be done performed or observed under this Agreement notwithstanding the opening of the Relief Road to public traffic.
- 11.2 No consent or approval modification alteration or waiver of any of the provisions of this Agreement except as otherwise herein provided for shall be effective unless the same is in

writing and signed on behalf of all of the Partnering Parties hereto and annexed to this Agreement.

- 11.3 The failure of any of the Partnering Parties hereto at any time to require performance by any other Partnering Party of any provision of this Agreement shall in no way affect the right of that Partnering Party to require performance of that provision save in respect of an actual variation or waiver.
- 11.4 This Agreement contains the entire agreement between the Partnering Parties hereto in relation to the Works and all prior or contemporaneous agreements understandings representations and statements whether oral or written are merged herein save as regards any future compliance with any statutory requirements or any subsequent amendments to this Agreement that may from time to time be agreed between the Partnering Parties hereto.
- 11.5 English law shall govern this Agreement and the Partnering Parties hereto submit to the non-exclusive jurisdiction of the English Courts.
- 11.6 The professional fees and any other costs of the Partnering Parties in relation to the preparation and approval of this Agreement shall be met by each Partnering Party.

IN WITNESS whereof each Party has caused their **COMMON SEALS** to be hereunto affixed the day and year first before written

The **COMMON SEAL** of
THE METROPOLITAN BOROUGH
COUNCIL OF STOCKPORT
was hereunto affixed in the presence of –

Mayor

Authorised Signatory

The **COMMON SEAL** of the **COUNCIL OF THE**
CITY OF MANCHESTER was hereunto affixed
In pursuance of an Order of the Council of the
said City:

Authorised Signatory

THE COMMON SEAL of
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3. It is further agreed that the Partnering Parties in consultation and working in partnership with each other will prior to the commencement of the Works agree a timeframe for undertaking the Works and a mechanism to evidence and release funds from the budget held by Stockport and earmarked as a contribution towards the cost of the Works that the Partnering Parties have agreed to carry out to discharge the appropriate Planning Condition relating to the Planning Permissions as a direct consequence of the impact the Relief Road might have on the highway network as it passes through each area of the Partnering Parties in the following manner -

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5. **Third party rights**

For the purpose of the Contracts (Rights of Third Parties Act 1999) it is agreed and declared that nothing herein contained shall confirm any third party rights.

6. **Disputes**

- 6.1 In the event of any dispute or difference between the Parties arising out of this Agreement resolution shall be sought internally between the Partnering Parties nominated representatives at the time. If the issue and dispute cannot be resolved between the respective nominated representatives then the matter shall be referred to the Chief Executives of the Partnering Parties for determination.

6.2 Any dispute or difference arising between the Partnering Parties which cannot be resolved by the Chief Executives of the Partnering Parties shall be referred to and determined by an independent person (the “Expert”) if so required by any Partnering Party by notice to the other Partnering Parties.

6.3 The Expert shall be appointed by agreement between the Partnering Parties or failing such agreement within 10 days of receipt of the notice referred to in clause 6.1 above shall be appointed on the application of either of the Partnering Parties by such one of the following persons as the Partnering Parties shall agree to be appointed having regard to the nature of the dispute or difference in question –

6.3.1 the President for the time being of the Law Society

6.3.2 the President for the time being of the Royal institute of British Architects

6.3.3 the President for the time being of the Royal Institute of Chartered Surveyors and

6.3.4 the President for the time being of the Institute of Chartered Accountants in England and Wales

or in any such case their duly appointed deputy or any other person authorised by them to make appointments on their behalf

6.4 If within 15 days after service of the notice referred to in 6.3 above the Partnering Parties are unable to agree which of the persons referred to in 6.3 above is appropriate to appoint an Expert the Expert shall be appointed by application by any of the Partnering Parties to the President of the Law Society or his duly appointed deputy or any other person authorised by him to make appointments on his behalf who shall conduct the dispute as the Expert sees fit and whose decision shall be final and binding on each of the Partnering Parties.

6.5 The cost of appointing an Expert and his costs and disbursements in connection with his duties under this Agreement shall be shared between the Partnering Parties as may be directed by the Expert or failing determination of the Expert to be divided equally between the Partnering Parties.

7. Severability of Agreement Provisions

The invalidity or unenforceability of any right or term of this Agreement shall not in any way affect the remaining rights or terms of the same.

8. Alienation

This Agreement is strictly personal to each Partnering Party who shall not be entitled to part with or assign in any way with its interest and obligations under this Agreement.

9. Freedom of Information

The Partnering Parties hereto agree that all matters relating to the Relief Road are obliged to comply with the Freedom of Information Act 2000 and where appropriate the Environmental Information Regulations. Any Partnering Party receiving a request for Information shall notify the other Partnering Parties of such request. The Partnering Party receiving the request will deal with that request and all other Partnering Parties will co-operate as appropriate in meeting the request. However, no Partnering Party shall disclose to any third party any information that could constitute personal information about any individual about their property valuations.

10. Good Faith

The Partnering Parties declare it to be their intention that this Agreement shall operate between them with fairness and without detriment to the interest of any of them and if in the course of the performance of this Agreement unfairness to any other Partnering Party is disclosed or anticipated then the Partnering Parties hereto shall use their best endeavours to agree upon such course of action as may be necessary and equitable to remove the cause or causes of the same and shall act in utmost good faith towards each other.

11. General Provisions.

It is hereby further agreed and declared that: -

- 11.1 This Agreement shall constitute a binding contract between the Partnering Parties hereto for the performance of the obligations and stipulations herein contained and shall be enforceable as such and the provisions of this Agreement shall continue to have effect in respect of anything remaining to be done performed or observed under this Agreement notwithstanding the opening of the Relief Road to public traffic.
- 11.2 No consent or approval modification alteration or waiver of any of the provisions of this Agreement except as otherwise herein provided for shall be effective unless the same is in

writing and signed on behalf of all of the Partnering Parties hereto and annexed to this Agreement.

- 11.3 The failure of any of the Partnering Parties hereto at any time to require performance by any other Partnering Party of any provision of this Agreement shall in no way affect the right of that Partnering Party to require performance of that provision save in respect of an actual variation or waiver.
- 11.4 This Agreement contains the entire agreement between the Partnering Parties hereto in relation to the Works and all prior or contemporaneous agreements understandings representations and statements whether oral or written are merged herein save as regards any future compliance with any statutory requirements or any subsequent amendments to this Agreement that may from time to time be agreed between the Partnering Parties hereto.
- 11.5 English law shall govern this Agreement and the Partnering Parties hereto submit to the non-exclusive jurisdiction of the English Courts.
- 11.6 The professional fees and any other costs of the Partnering Parties in relation to the preparation and approval of this Agreement shall be met by each Partnering Party.

IN WITNESS whereof each Party has caused their **COMMON SEALS** to be hereunto affixed the day and year first before written

The **COMMON SEAL** of
THE METROPOLITAN BOROUGH
COUNCIL OF STOCKPORT
was hereunto affixed in the presence of –

Mayor

Authorised Signatory

The **COMMON SEAL** of the **COUNCIL OF THE**
CITY OF MANCHESTER was hereunto affixed
In pursuance of an Order of the Council of the
said City:

Authorised Signatory

THE COMMON SEAL of
CHESHIRE EAST BOROUGH
COUNCIL
was hereunto affixed in the presence of:

Authorised Signatory

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