

CHESHIRE EAST COUNCIL

Cabinet

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| Date of Meeting: | 24 th June 2013 |
| Report of: | Head of Environmental Protection and Enhancement and the Strategic Planning and Housing Manager |
| Subject/Title: | Congleton Link Road – Viability Position Statement |
| Portfolio Holder: | Councillor David Brown |

1.0 Report Summary

- 1.1 This is a joint report from the Head of Environmental Protection and Enhancement and the Strategic Planning and Housing Manager regarding the proposed Congleton Link Road between the A534 and A536. This is one of the options currently being investigated to address transport and economic growth challenges in Congleton. It presents the current status of the scheme and explores the steps that would be required to evidence its deliverability over the Local Plan period – this will be a key test at the Local Plan Inquiry.
- 1.2 In light of these issues the report seeks approval to continue to progress the design and development of the scheme, its continued inclusion in the Local Plan Core Strategy / Site Allocations Document and highlights potential funding options for the scheme.
- 1.3 The report seeks approval to develop a strategy for the phased delivery of the scheme.

2.0 Recommendations

- 2.1 That Cabinet note the costs for the provision of a single carriageway link road between the A534 Sandbach Road to A536 Macclesfield Road are estimated to be in the region of £62m including land, fees and risk.
- 2.2 That Cabinet note that land costs for the scheme are sensitive to the allocations proposed in the emerging Local Plan and that to minimise this risk the preferred route for the link road be reflected in the Local Plan Site Allocations document.
- 2.3 That Cabinet note that contributions from the development proposed in the Draft Local Plan have the potential to raise up to £14m as part of a mixed funding strategy.
- 2.4 That Cabinet note that substantial use of the Council's own resources is likely, in due course, to be required to both contribute to and 'forward fund'

the delivery of the link road (or phases thereof) within the context of the anticipated revenues associated with future developer contributions and the estimated cost of the scheme.

- 2.5 That Cabinet note that initial work has identified that a positive transport business case can be made for the overall scheme which can be used to support future funding bids.
- 2.6 That Cabinet note that individual funding bids alone may be unlikely to deliver the full funding required to construct the entire link road and that a 'phased approach' to delivery is adopted.
- 2.7 That Cabinet note that a phased delivery of the link road will require a consequential phasing of associated development in the Local Plan.
- 2.8 That Cabinet continue to investigate options for a new link road between the A534 and A536 to support the potential adoption of a preferred route in the Local Plan.
- 2.9 That Cabinet develop a funding strategy to evidence the scheme's financial affordability to the Council over the plan period and support future decisions on a preferred transport solution for Congleton.
- 2.10 That Cabinet note that the validity of the funding position and delivery strategy will be tested through the Local Plan inspection process.

3.0 Reasons for Recommendations

- 3.1 Initial work has confirmed that a new link road between the A534 and A536 would deliver significant traffic benefits within Congleton. The introduction of such a scheme would also result in significant improvements for strategic traffic across the Borough through the improvement of connectivity to the M6. This would also support the economic competitiveness of the Borough in attracting investment and generating GVA.
- 3.2 Continued progression of the scheme through the statutory processes will also ensure that the Council is well placed to take advantage of any future sources of additional Government funding that is allocated to support the delivery of infrastructure to facilitate economic growth. This remains a key policy for the Government.
- 3.3 Several options to improve the transport infrastructure of Congleton are currently under review. The issues raised in this report and decisions requested will help inform final recommendations. It is essential that the council follows a clear, evidence based process in reaching a decision on a preferred solution in order to minimise the risk of future challenge.
- 3.4 The scheme is fundamental to the successful delivery of the Local Plan housing and employment allocations within the Congleton area – evidence of

the schemes deliverability (including financial) will be crucial in supporting this argument at the Local Plan Examination in Public.

- 3.5 Should the Planning Inspector not be convinced that the scheme is financially deliverable over the plan period then potentially the Local Plan Strategy for Congleton will require revision - leading to a delay in adoption of the Local Plan.

4.0 Background and Scheme Status

- 4.1 Following approval of the outcomes of the initial option appraisal process of the Congleton Transport study in April 2013 by the Portfolio Holder for Prosperity and Economic Regeneration, the proposed scheme remains one of several options under consideration to address the objectives of the Congleton transport study. This report will help shape which of these options is recommended as the preferred option.
- 4.2 A 'baseline route' has been established for the proposed scheme and has been used to provide indicative costs for the scheme and inform discussions with the Local Plan team regarding potential site allocations. Approval from Cabinet has been received to progress the scheme up to the identification of a 'Preferred route' for inclusion in the Local Plan. The current programme shows this is anticipated in January 2014 following a period of public consultation in Autumn 2013.
- 4.3 Scheme costs for the provision of a single carriageway scheme between the A534 Sandbach Road to A536 Macclesfield Road (including a new 520m bridge across the River Dane and a combined footway and cycleway on one side of the road) are estimated to be in the region of £62m including land, fees and risk. In line with recommended Government guidance for a major highway schemes in the early stages of the development process, this includes an Optimism Bias uplift of 44%. This uplift is recommended by the Treasury to avoid the underestimation of scheme costs within the early development phases of a major scheme and to ensure that adequate provision is made for unknown costs such as environmental mitigation.
- 4.4 The scheme costs have also been informed by an initial land and compensation valuation exercise. As the 'baseline route' traverses land currently designated as arable, land costs are estimated to be £9.8m. This figure could potentially significantly increase if following the Local Plan site allocations process; the 'baseline route' is required to traverse land designated for commercial or housing within the emerging Local Plan.

However, given that the land could not be developed without the provision of the road and that the land will only be allocated with the road as part of a comprehensive package, this risk may diminish. As a consequence close collaboration between the Local Plan and Highways team is an essential part of the scheme delivery and risk management strategies. It will also support the recommendations regarding the northern extent of the scheme

and associated impact on housing / employment allocations within the emerging local plan.

- 4.5 Annex A summarises the range of options available to the council to fund the scheme. These include external funding bids, new homes bonus and capital receipts. The potential also exists for the wider Cheshire East CIL to contribute to the scheme.

Further work on the financial modelling will be required to evidence the delivery position of the link road at the Local Plan Inquiry.

- 4.6 An immediate funding opportunity is being pursued through the Cheshire and Warrington Local Transport Board (LTB) and devolved major scheme funding over the period 2015-2019. The transport funding available over this period will be settled in the comprehensive spending review. The indicative allocation for the LTB is £21.8m.
- 4.7 The LTB prioritisation process follows an agreed methodology undertaken by independent consultants – as such there can be no certainty that Congleton Link Road (or phase thereof) will be successful in securing any funding from this source. Indeed, given the limited funding currently available through the LTB there is a bias in the methodology towards more affordable transport schemes.
- 4.8 Other opportunities for capital funding linked to growth and jobs will arise over the period of the local plan. Local Enterprise Partnerships based on regional geographies will be key in directing this funding.
- 4.9 Therefore, and in any case, it is considered that a significant amount of funding for the scheme needs to be raised from the private sector. As the Congleton Link Road is required to facilitate the development of a number of key strategic sites to the north of Congleton, the potential contribution from the following sites has been investigated:
- Back Lane and Radnor Park;
 - Congleton Business Park Extension;
 - Giants Wood Lane to Manchester Road; and
 - Manchester Road to Macclesfield Road.
- 4.10 Potential contributions from the above sites will be need to be secured through the planning process via either a Section 106 policy within the emerging Local Plan or via the Community Infrastructure Levy policy that is currently being developed. In line with the Councils objective to facilitate economic growth, potential contributions for the above sites have been calculated based on contributions from the housing sites only (taking into consideration projected build out rates over the plan period) and have assumed developments are compliant with approved Council Policies. The initial investigations have identified a potential contribution from the above sites in the range of £14m.

- 4.11 Therefore in order to deliver the full scheme there is currently a predicted funding shortfall of approximately £48m.
- 4.12 An initial long list of possible funding options to bridge this gap is contained in Annex A - further work will now be undertaken to propose a recommended funding strategy.
- 4.13 Demonstrating the affordability of the scheme is only part of the challenge – the problem lies in the ‘drip feed’ of finance and the need to deliver the scheme in viable ‘sections’
- 4.14 Therefore in order to credibly deliver the link road in a reasonable timescale the council will have to be prepared to underwrite or fund (from capital receipts, etc) a significant proportion of the scheme costs up front and then claw back the funding from developers.
- 4.15 In order to minimise the level of upfront funding it is necessary to consider the phased delivery of the scheme – though all as part of the wider protected route.
- 4.16 An initial assessment has concluded that the following sections have the strongest potential to attract external funding:
- ◆ A54 Radnor Park link – economic benefits – but limited transport benefits. *Target funding would be RGF / growth funding*
 - ◆ A54 – A34 Link – by far the strongest transport and economic benefits. *Target funding would be RGF/ Growth and Transport funding*

Under this strategy, the scheme ‘outliers’ – (A534-A54 and A34 – A536) would be delivered as later phases – though on the route alignment determined by the preferred route strategy.

- 4.17 The scheme costs for the A54 – A34 link (inclusive of the Radnor Park link) are estimated at £47.8M. This link has strong transport benefits – and on this factor alone it is considered that a credible case can be made to attract external funding and evidence this scheme through the statutory processes of planning and CPO. It is considered that this is the core link that provides essential mitigation for the planned housing allocations.
- 4.18 The scheme costs for the Radnor Park link alone are estimated at £12.4m. The reason for the high cost relative to the length of road is the high cost of Part 1 claims anticipated. Given the scheme cost it may be more difficult to make a strong external funding bid or provide the requisite evidence to support a CPO for this section in isolation.
- 4.19 On the basis of a phased approach and depending on the level and success of external funding sought it is considered that the council would be required to underwrite funding in the range of £15 - £30m in order to deliver the core scheme.

- 4.20 Formal decisions on the phasing of the scheme will be required to evidence the schemes viability at the Local Plan Inspection and influence the proposed phasing of site allocations.
- 4.21 Initial assessments of the transport benefits of the scheme show that a positive 'Cost Benefit' case can be made for the scheme on transport grounds alone.
- 4.22 In order to derive a more comprehensive and robust set of results, a strategic model is under development using SATURN software. This model is based on November 2012 roadside interview surveys, manual classified turning counts and automatic traffic counts. This model will include AM and PM peak hours, with an inter peak hour. Journey time surveys were also undertaken to allow travel times in the model to be validated. The model will provide a robust tool to forecast scheme benefits and also form core evidence for a CPO enquiry if required.
- 4.23 It is anticipated that this model will provide a better case for the proposed scheme as it will include strategic traffic reassignment (from the Macclesfield area) onto the road as well as local reassignment.

5.0 Wards Affected

- 5.1 Brereton Rural, Congleton East, Congleton West, Gawsworth, Odd Rode.

6.0 Local Ward Members

- 6.1 Brereton Rural – Cllr John Wray
Congleton East – Cllr David Brown, Cllr Peter Mason and Cllr Andrew Thwaite
Congleton West – Cllr Gordon Baxendale, Cllr Roland Domleo and Cllr David Topping
Gawsworth – Cllr Lesley Smetham
Odd Rode - Cllr Rhoda Bailey and Cllr Andrew Barratt

7.0 Policy Implications

- 7.1 Department for Transport best practice on scheme appraisal has been adopted as part of the decision making process. The Design Manual for Roads and Bridges has been adopted as part of the scheme design process.
- 7.2 As part of the preferred route identification process for the scheme an assessment of the Policy implications of the scheme (and alternatives considered) will be made and considered in the next stage of formal decision making.

8.0 Financial Implications

- 8.1 The approved capital budget for this scheme is currently £3.3m funded 40% by LTP grant and 60% by Prudential Borrowing. The current budget provision takes the scheme to Milestone 9 – Detailed Design stage of Phase 1.
- 8.2 The future funding implications of the full scheme as identified in the report are summarised below to provide an indication of the potential funding gap.

| | Estimate £m |
|---|----------------|
| Scheme Cost for the provision of a single carriageway scheme between A534 Sandbach Road to A536 Macclesfield Rd (including a new 520m bridge across the River Dane and a combined footway and cycleway on one side of the road (including land, fees and risk) - Less existing capital provision | £62 |
| Current CEC budget provision | £3.3m |
| Potential scale of direct funding bids through LEP / LTB | £7 – 15m |
| Developer Contributions from CIL / S106 in Congleton | £14m |
| Potential Funding gap to be met from other govt sources, CIL, NHB, Prudential Borrowing, capital receipts. | £37.7m -£29.7m |

- 8.3 No external funding has yet been secured towards the scheme.
- 8.4 The developer funded element would accrue over a number of years as the sites are built out. Effectively, if early delivery of the road were required the council may be required to 'Forward fund' this (and other) elements
- 8.5 The potential funding strategy currently takes no account of other funding opportunities that may arise over the coming years.
- 8.6 Whilst the Community Infrastructure Levy can be used to repay expenditure on advanced delivery of infrastructure this is only where the expenditure was from Council funds, i.e., capital receipts. It can only be used to repay borrowed funds in certain circumstances and would require a specific direction from the Secretary of State.
- 8.7 The Council is able to access preferential borrowing rates from the Public Works Loan Board, for a 30 year fixed loan current rates are in the region of 3.8%. The repayments per £1m of prudential borrowing at this level of interest would be £53,000 per annum for 30 years.
- 8.8 By way of example, a comparative assessment has been made of the financial implications of the A54-A34 'core' scheme:

| | Estimate £m |
|--|----------------|
| A54-A34 link | £47.8m |
| Current CEC budget provision | £3.3m |
| Potential scale of funding bids through LEP / LTB | £7 – 15m |
| Developer Contributions from CIL / S106 in Congleton | £14m |
| Potential Funding gap to be met from other govt sources, CIL, NHB, Prudential Borrowing, capital receipts. | £23.5m -£15.5m |

9.0 Legal Implications

- 9.1 It is too early to predict the legal issues and considerations which will apply to this project and legal implications will be the subject of future Cabinet reports. However the following matters will / may be relevant.
- 9.2 Because the works contract in respect of the road will be of a value of more than the current threshold (£4,348,350) the mandatory OJEU rules set out in the Public Contracts Regulations 2006 will apply for the construction of any scheme.
- 9.3 A Compulsory Purchase Order will be necessary to deliver any major scheme and the Council has powers under the Highways Act 1980 and the Town and Country Planning Act 1990 (as amended) to acquire compulsorily any land in its area. In due course the Council, as acquiring authority, may be required to consider whether it is minded to make a CPO or CPOs having regard to public interest, wellbeing and other factors. The Council would need to engage external professionals, including lawyers and land referencers to assist with CPO strategy, process and implementation. The costs of pursuing a CPO of this kind will be material especially if there is a public enquiry.
- 9.4 There cannot currently be any certainty that developer (s106) contributions or Community Infrastructure Levy (CIL) will be available to part fund any scheme. Regular reviews of this risk will be needed to inform a decision by the Council about spending speculatively on activities intended to deliver the road and potentially advancing its own monies or potentially borrowing money to fund the road
- 9.5 Legal advice will be required to ensure that anticipated s106 contributions can be justified robustly under regulation 122 of the CIL Regulations 2010 and the Council must be mindful that (a) any committed s106 contribution will only be received if and when the relevant developer decides to implement its planning consent and any specified payment conditions triggered and (b) after the earlier of April 2014 and the adoption of the CIL schedule the number of s106 contributions there can be to the project will be limited to five.

- 9.6 On the current timescales, the Council's CIL inquiry will not take place before Spring 2014 and assuming a 'best case' the Council could be collecting CIL in early 2015.
- 9.7 The Council will need a formal legal opinion specific to this scheme on the extent to and circumstances in which the CIL Regulations will allow CIL to be used to reimburse expenditure already incurred on infrastructure. At present the prospect of CIL repaying Council spend should not be relied upon.
- 9.8 A full environmental statement will be required to support any planning application.
- 9.9 The local planning authority (through the strategic planning board) will have to make an independent decision on the planning application. Strong objection to a scheme can increase the risk of a 'call in' and determination of the planning application by The Secretary of State following a public enquiry.
- 9.10 Protected species as defined in the Conservation of Habitats and Species Regulations 2010/490 are likely to be impacted by the proposed scheme, full mitigation will have to be provided. This is likely to include a license application to Natural England who has to be fully satisfied before removing this constraint to development. It should be noted however that under these regulations the Council when exercising any of its functions must have regard to the requirements of the Habitats Directive (92/43/EEC) including the duty to consider whether there is a satisfactory alternative.
- 9.11 Other legal issues will include the drafting of legal agreements from potential developers and land owners to make financial contributions to a future scheme.
- 9.12 Protection of a route for the link road in the Local Plan would introduce the potential for 'Blight' notices to be served on the authority.

10.0 Risk Management Implications

- 10.1 The development of a financial delivery strategy and confirmation of the phasing of the scheme will reduce the risk of not securing funding through external funding bids or the risk of being found unsound at public examination on the Local Plan Core Strategy. The scale of development in North Congleton renders the Link Road essential to the Local Plan Strategy as currently conceived. If the road were to fail for any reason, the Local Plan would need to be substantially re-written.
- 10.2 Confirmation of an agreed funding strategy will also support the Highways and Local Plan teams in working together to ensure that opportunities for leveraging private sector funding for the scheme are maximised and supported by emerging policy documents.

10.3 The following strategic risks associated with the funding strategy for the scheme should continue to be monitored by the Project Board throughout the scheme development process:

- Land Costs and their relationship with the allocation of sites within the Local Plan;
- Anticipated private sector contributions through Section 106 or the Community Infrastructure Levy are not as significant as currently predicted;
- Scheme costs increase through the scheme development process; and
- Changes in available Government funding for major infrastructure projects.

10.4 The Project Board will also continue to assess the viability of the agreed funding strategy and determine if the Council should continue to invest in the development costs associated with the progression of the scheme through the necessary statutory processes. This will limit the risk of abortive work and associated costs and support the management of expectations from the public.

11.0 Access to Information

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

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