

Cheshire East Council

Cabinet

Date of Meeting:	9 th May 2017
Report of:	Executive Director of Place – Frank Jordan
Subject/Title:	Poynton Relief Road – Approval to Proceed with the Compulsory Purchase of Land Required to Deliver the Scheme and Approval to Negotiate and Settle the Terms of a Legal Agreement with Adlington Golf Centre
Portfolio Holder:	Cllr David Brown – Highways and Infrastructure

1. Report Summary

- 1.1. The Council has set out a clear vision and strategy for delivering economic growth. An important element of this strategy is to improve the Borough's national regional and local infrastructure to improve connectivity.
- 1.2. The Poynton Relief Road (PRR) is an important element of this strategy and is included in the new emerging Local Plan. The project would help to deliver allocated housing sites, address longstanding traffic congestion and environmental issues in the village of Poynton as well as delivering an important component of the wider South East Manchester Multi Modal Strategy (SEMMMS).
- 1.3. Cheshire East Borough Council's Strategic Planning Board and Stockport Metropolitan Borough Council's Planning and Highways Regulation Committee have both resolved to grant planning permission for the scheme, subject to a call in decision by the Secretary of State.
- 1.4. The purpose of this report is to recommend that the Cabinet resolves to use Compulsory Purchase powers to acquire land to facilitate the construction of the PRR scheme within the Cheshire East and Stockport Council areas (including associated works to the existing highway network) and authorises a Side Roads Order (SRO) to be made concurrently. The report also recommends that an early agreement with Adlington Golf Centre is progressed to remove a key risk to the scheme.

- 1.5. The drawings before the Committee show the complete scheme, including the part of the scheme within Stockport. It is envisaged that Cheshire East will undertake the promotion of the Orders on behalf of both authorities and an agreement under section 8 of the Highways Act 1980 is proposed to enable Cheshire East to exercise Stockport's functions in relation to the promotion of the part of the scheme within Stockport. The agreement will be concluded prior to the Orders being made and served.

2. Recommendations

- 2.1. It is recommended that Cabinet:
- 2.2. Approve the use of the powers of compulsory purchase to undertake the acquisition of land and new rights required for the construction of the Poynton Relief Road and to authorise:
 - (a) The making of an order (or orders) under Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 and all other powers as appropriate for the compulsory purchase of land and rights required for the construction of the Poynton Relief Road as shown on drawings B1832054/CPO-PRR/001 to 004 inclusive ("the CPO");
 - (b) The making of a side roads order (or orders) under Section 8, 14 and 125 of the Highways Act 1980 and all other necessary powers to improve or stop up existing highways, construct lengths of new highway and stop up and provide replacement private means of access as required to deliver the Poynton Relief Road ("the SRO");
 - (c) The Executive Director of Legal Services in consultation with the Director of Place to conclude an agreement under section 8 of the Highways Act 1980 with Stockport Borough Council to exercise their functions in relation to the promotion and progression of the orders and these authorisations shall apply to both the exercise of the functions of Cheshire East and those of Stockport pursuant to the "section 8 agreement";
 - (d) The Executive Director of Legal Services in consultation with the Director of Place to determine whether the acquisition of the land for the provision of replacement land for the golf course land to be acquired at Adlington Golf Centre and identified on drawing number B1832054/CPO-PRR/005 should be undertaken under the powers identified at (a) above or under other appropriate powers and pursuant to a separate compulsory purchase order and should that be the case then paragraphs (e) – (j) below shall apply to such order;

- (e) The Executive Director of Place in consultation with the Director of Legal Services to make any amendments necessary to the contemplated orders arising as a result of further design work or negotiations with landowners or affected parties or for any connected reasons in order to enable delivery of the Poynton Relief Road;
- (f) The Executive Director of Place with the approval of the Director of Legal Services to secure the confirmation of the contemplated orders including:
 - i) To take all necessary actions to secure the making, submission to the Secretary of State for confirmation and (if confirmed) implementation of the SRO and the CPO including the publication and service of all relevant notices and for the Director of Legal Services to secure the presentation of the Council's case at any public inquiry and the subsequent service of Notices to Treat and Notices to Enter or, as the case may be, the execution of General Vesting Declarations; and
 - ii) The negotiation and the entering into of agreements and undertakings with the owners of any interest in the order lands and with any objectors to the confirmation of the CPO and/or SRO setting out the terms for the withdrawal of objections including, where appropriate, the inclusion in and/or exclusion from the CPO of land or new rights or the amendments to the SRO;
- (g) The Executive Director of Place in consultation with the Director of Legal Services to agree compensation for the acquisition of land and rights acquired compulsorily and in the event that any question of compensation is referred to the Upper Tribunal (Lands Chamber) to authorise the Director of Legal Services to take all necessary steps in connection with the conduct and, if appropriate, settlement of such proceedings;
- (h) That, in parallel with the preparation and submission for the confirmation of the Orders, the Head of Assets to initiate negotiations and seek to conclude terms to acquire the land and rights (or extinguish the same) required for the Poynton Relief Road by voluntary agreement and to instruct the Director of Legal Services to carry out such steps and enter into all necessary agreements to complete such acquisitions;
- (i) The appointment of CBRE (CPO Specialists) as the Council's additional support to the delivery of the scheme acting on behalf of the Council and under the Instruction of the Director of Legal Services;

- (j) The Director of Legal Services (in consultation with the Executive Director of Place) to approve and execute all legal documentation he considers necessary to give effect to the above.
- 2.3. Approve that a contract is entered into with Adlington Golf Centre to relocate the existing 9 hole Graduate Golf Course prior to the delivery of the PRR in return for the provision of the necessary land required for the delivery of the Poynton Relief Road. Approve that the terms of this contract are delegated to the Head of Assets in consultation with the Portfolio Holder for Infrastructure and Highways.
- 2.4. Approve that Advance Utility Diversion works are undertaken to facilitate the relocation of the Golf Course and that the terms of this agreement are delegated to the Head of Assets in consultation with the Portfolio Holder for Infrastructure and Highways.
- 2.5. Approve that the Head of Assets conclude terms to acquire the land and rights required for the early delivery of the A6MARR roundabout spur by voluntary agreement and to instruct the Director of Legal Services to carry out such steps and enter into all necessary agreements to complete such acquisitions to purchase land at the junction with A6MARR in advance to allow this junction to be built as part of the A6MARR works.
- 2.6. Note that the development of the scheme will continue through the Council's highway contract supplier – Ringway Jacobs up to and including the presentation of the proposal at a future public inquiry.

3. Other Options Considered

- 3.1. It is intended to instigate negotiations with affected landowners. However, as there are some 15 affected interests within CEC and Stockport it is not realistic to expect that voluntary acquisitions could be concluded with all affected parties and for all land title issues to be dealt with within the funding window for the scheme. Accordingly the authorisation of compulsory purchase action is sought at this stage to maintain the project programme and to demonstrate the Council's intent to acquire land to deliver the proposed scheme.
- 3.2. The Golf course could be relocated once the scheme has final funding approval from the DfT. However, such an approach would have a much greater impact on the existing businesses and potentially delay the scheme programme.
- 3.3. Diversion of utility services within the land to be used as the new golf course could be done at the same time as the Golf Course

relocation works; however as the Golf Course works cannot proceed until the services are diverted any delay to these works would directly impact on the delivery programme for the replacement Golf Course, and potentially reduce the establishment period of the new Golf Course.

4. Reasons for Recommendations

- 4.1. The acquisition of this land enables Cheshire East and Stockport to proceed with the development and delivery of the scheme. This is a vital new road connecting to the A6 Manchester Airport Relief Road (A6MARR). The scheme also provides a key strategic transport link to relieve congestion, safety and air quality issues in Poynton and forms a strategic part of the Council's emerging Local Plan.
- 4.2. As a portion of the scheme lies within the Stockport Council area it has been agreed in principle with Stockport that the authorities will enter into an agreement under section 8 of the Highways Act 1980, which will authorise Cheshire East to promote the scheme and progress the CPO and SRO on behalf of both authorities and it is recommended that officers are authorised to conclude a "section 8 agreement" for this purpose with Stockport.
- 4.3. Acquiring authorities are always advised that every effort should be made to acquire the necessary land interests by agreement and that compulsory acquisition should be a last resort. It is intended to open voluntary negotiations with affected landowners prior to giving notice of the CPO triggering the objection period. Jacobs, the Council's Term Consultants, have been appointed to undertake this work together with the Council's Assets Department and are in the process of contacting all owners to attempt to acquire by agreement. However, as already noted, there are some 15 affected interests and accordingly it is not realistic to expect that voluntary acquisitions could be concluded with all affected parties and for all land title issues to be dealt with within the funding window for this scheme.
- 4.4. Whilst acquisition by agreement will be pursued, initiating the CPO process over the entire land holding that is required to implement the scheme offers certainty should parallel negotiations to acquire the land voluntarily not be successful.
- 4.5. In resolving to make a Compulsory Purchase Order for the Poynton Relief Road scheme the Council would be proceeding under its powers under Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 for the compulsory purchase of land and rights required. The principal power in the Act is Section 239(1), which provides that a highway authority may acquire land required for the construction of a highway which is to be maintainable at the public expense, and Section 239(3) which

allows a highway authority to acquire land for the improvement of a highway being an improvement which the authority is authorised to make under the Act. Section 246 authorises the acquisition of land for the purpose of mitigating the adverse effects of the construction or improvement of highways. Section 250 authorises the compulsory acquisition of new rights over land and Section 260 authorises the clearance of the title to land already held by the Council and required for the scheme and which might otherwise interfere with the Council's activities in exercising its statutory powers to construct the works.

- 4.6. The scheme will require the acquisition of full title to c33 hectares of land (or thereabouts) and a further c9 hectares of land over which new rights are to be created. The interests of some 15 owners and occupiers are affected. The plans to accompany the CPO will be made available for inspection by Members at the meeting.
- 4.7. The land over which full title is to be acquired is predominantly agricultural land and the scheme does not require the acquisition of any residential property; nor does it require the acquisition of land in any of the categories where land has to be provided in exchange, such as common land or public open space.
- 4.8. Some of the areas over which full title is to be acquired will not be required for the permanent works and will be offered back to the current owners along with the payment of compensation in due course. The areas to be acquired will be available for inspection by Members at the meeting.
- 4.9. The SRO will authorise the stopping up, diversion and creation of new lengths of highway or reclassification of existing highways and the CPO will include land that is required to enable the works authorised by the SRO to be carried out.
- 4.10. In addition, the SRO makes provision for the stopping up of private means of access to a number of premises and to agricultural land and the CPO makes provision for the acquisition of land and new rights to enable new replacement private means of access to be provided as part of the scheme.
- 4.11. The land proposed to be acquired is the minimum considered to be reasonably required to achieve the selected design option. Discussions are proceeding with the Statutory Undertakers and these may disclose additional requirements for service diversions for which land or rights may require to be obtained under the CPO.
- 4.12. The approved PRR scheme severs the existing 9 hole Graduate Golf Course at Adlington Golf Centre. The planning approval for PRR requires that a replacement facility is established prior to

the formal decision to proceed with the PRR. The establishment period for a golf course (c12 months) means that if the project waits until the PRR is formally approved there would be insufficient time for the new course to establish and be available as a replacement facility before the land needed from the current golf course is required for the scheme.

- 4.13. Negotiations with the Golf centre have been ongoing for c20 months which have led to the Golf Centre securing the necessary planning permission for the replacement facility.
- 4.14. In return, the Council will achieve an option to acquire the necessary land for the PRR. If the Council waits until a contract to deliver the PRR is in place there is a risk that there would be insufficient time for a replacement golf course to re-establish and would increase the predicted compensation costs in respect of harm to the viability of Adlington Golf Centre as a going concern.
- 4.15. The Council is still in the process of taking legal advice as to the most appropriate powers of acquisition under which to ensure that the replacement golf course land is made available for golf in accordance with the planning condition. The most likely alternative CPO powers are those under section 226 of the Town and Country Planning Act 1990. The area of replacement golf course land is accordingly shown separately on the plan reference B1832054/CPO-PRR/005 and it is recommended that the Director of Legal Services be authorised in consultation with the Director of Place to determine the powers under which compulsory acquisition should proceed in order to maintain the scheme programme.
- 4.16. There is the opportunity to deliver part of the spur road to PRR as part of the (now on site) A6 MARR works. If this could be done it would avoid significant disruption when PRR is under construction. However, although the land is included in the CPO, an early agreement with the landowner would be necessary to take advantage of the construction works currently underway.

5. Background

- 5.1. Poynton is a settlement within Cheshire East which has over 5,500 households and a population of over 13,000. Poynton is situated approximately 15 kilometres south east of Manchester City centre between Stockport and Macclesfield at the junction between the A523 London Road and the A5149 Chester Road.
- 5.2. Census data from 2011 has demonstrated that Poynton is a commuter town with heavy reliance on car travel and high car ownership. The junction between the A5149 Chester Road and A523 London Road experiences congestion and as a result there is an adverse environmental impact at this location.

- 5.3. The PRR relieves congestion within the centre of Poynton and the effects associated with it. The proposed scheme would form a link in the wider infrastructure plan for the borough, as well as provide improved Strategic Highway Connectivity for the northern Macclesfield business area.
- 5.4. The Business Case for the South East Manchester Multi Modal Strategy (SEMMMS) was submitted to the Department for Transport (DfT) in November 2012. At this point the Preferred Route for the PRR connected to the A6 Manchester Airport Relief Road (A6MARR) scheme at a junction to the north of the A5149 Chester Road. This alignment ran from the A6MARR, under the A5149 Chester Road before passing to the east of Woodford Aerodrome (then an active aerodrome). The route then ran through Adlington Business Park before connecting into the existing A523 London Road. The route was safeguarded in the Macclesfield Local Plan.
- 5.5. Following the publication of this preferred route option, it was announced that Woodford Aerodrome would close and be identified as an area for future development. As a result of this announcement it was determined that there was an opportunity for a more direct alignment of the route.
- 5.6. In 2012 assessments were carried out and two alternative options referred to as the “Green” and “Blue” Route options were identified. It was concluded that the initial route option for the scheme was no longer the most appropriate route in comparison to the more direct “Green” and “Blue” Route options.
- 5.7. A public consultation exercise was carried out in the summer of 2014. Following this, the Green Route was announced as the Preferred Route and safeguarded by the Council in late 2014.
- 5.8. The SEMMMS final report (2001) identified that the crossroads in Poynton between the A5149 Chester Road and A523 London Road experiences high levels of congestion and as a result there is an adverse environmental impact at this location. The primary objective for the scheme is therefore to relieve congestion within the centre of Poynton and the effects associated with it.
- 5.9. The derivation of the objectives for SEMMMS was an objective-led process with the objectives being closely related to the identified problems, issues and opportunities. The derivation of the study objectives was an iterative process which was informed by public and professional consultation.

The 5 core objectives which were adopted in SEMMMS are:

- the promotion of environmentally sustainable economic growth

- the promotion of urban regeneration
- the improvement of amenity, safety and health
- the enhancement of the regional centre, town centres and local village centres and the airport
- the encouragement of the community and cultural life of the neighbourhood and of social inclusion

5.10. The Poynton Relief Road would form a vital link in the wider infrastructure plan for the Borough, would provide improved highway connectivity for the northern Macclesfield business area and would improve the strategic link between SEMMMS and junction 17 of the M6 via Congleton.

Scheme Description:

5.11. Poynton Relief Road would be new offline highway, approximately 3km in length. The road would consist of a two-way single carriageway with a mainline width of 9.3m. It is proposed that a 3.5m wide combined cycle and footway would run beside the length of the route in the western verge, with an off carriageway footpath provided on behind the verge and earthworks on the eastern side.

5.12. The northern end of the route would connect into a junction with the proposed A6MARR (which is currently under construction). The route would then pass under the A5149 Chester Road to the west of Poynton and would continue in a southerly direction to cross the Woodford Aerodrome runway. At the southern end of the scheme, the route would pass to the west of Adlington Business Park before connecting into a new roundabout junction to the west of the Adlington Travel Lodge. Links from this roundabout would allow the relief road to connect into the A523 London Road and Adlington Golf Centre.

5.13. The relief road would sever two existing public rights of way, both of which would be reconnected via new overbridges.

5.14. For the surrounding highway network, a package of mitigation and complimentary measures has been proposed to address the predicted change in traffic flows following completion of Poynton Relief Road.

Planning Position:

5.15. The route of Poynton Relief Road runs through the administrative areas of both Stockport Metropolitan Borough Council ("Stockport MBC") and Cheshire East Council. Therefore planning applications for the parts of Poynton Relief Road within

their respective administrative boundaries were submitted simultaneously to each council on 1 September 2016.

5.16. A full Environmental Statement was submitted as part of the planning documentation.

5.17. Within Cheshire East the application is still undetermined. The planning application (reference 16/4436M) was reported to a special sitting of Cheshire East Council Planning & Highways Regulation Committee on 10th January 2017, at which it was resolved to approve the scheme.

5.18. Cheshire East Council will not be in a position to issue planning permission until confirmation has been received from the Secretary of State for Communities and Local Government that he will not 'call in' the application for a final decision. The Stockport MBC section of Poynton Relief Road has already been referred to the Secretary of State for confirmation, and he has already confirmed that there will not be a 'call in'. As such it is expected that the same recommendation will be made for the Cheshire East Council section of Poynton Relief Road.

5.19. The six week judicial review period will only begin when the formal planning permission is issued.

6. Wards Affected and Local Ward Members

6.1. Poynton West and Adlington – Cllr Mike Sewart, Cllr Michael Beanland. Poynton East and Pott Shrigley – Cllr Jos Saunders, Cllr Howard Murray – Prestbury – Cllr Paul Findlow.

7. Implications of Recommendations

7.1. Policy Implications

Outcome 1: Our local communities are strong and supportive

Outcome 2: Cheshire East has a strong and resilient Economy

Outcome 3: Cheshire East is a green and sustainable place

Outcome 4: People live well and for longer in Cheshire East

7.2. Legal Implications

(a) The powers that the Council would use to compulsorily acquire the necessary land and rights is set out in Section 4 above.

(b) The powers of compulsory purchase contained in the Highways Act 1980 are subject to distance limits from the centre line of the proposed new road as set out in Section

249 and Schedule 18 of the Act and the proposed new principal road and the associated side roads and drainage works will fall within those limits.

- (c) While an authority should use compulsory purchase powers where it is expedient to do so, in considering whether to confirm the CPO and SRO the Secretary of State will need to be convinced that there is a “compelling case in the public interest for compulsory acquisition” and Members should apply a similar test before authorising its making on the balance of the information contained in this report.
- (d) In making a CPO and SRO the acquiring authority is also expected to show that the scheme is unlikely to be blocked by physical or legal impediments to implementation. These include related infrastructure works, the need for planning permission and completion of the Section 8 Agreement with Stockport to ensure that we can act on that authorities behalf. As already noted the recommendation in this report is to proceed with the CPO and SRO.
- (e) Those receiving notice of the making of the CPO have a right to object and, if they wish, have their objections heard at a local public inquiry. As acquiring authority, the Council will need to make the case for the Order at any inquiry. The CPO does not take effect until confirmed by the Secretary of State. However, once the Order is confirmed an affected party aggrieved by the decision would have a further six weeks after receiving notification of the confirmation to challenge the decision in the Administrative Court on a point of law. This could result in the Order, or the decision to confirm it, being quashed in whole or in part.

7.3. Financial Implications

- (a) As reported to Cabinet in February 2017 the scheme is estimated to cost c£38m. The Cabinet resolved at that meeting to underwrite the costs of delivering the scheme.
- (b) The Council has provisionally secured £22m of funding through the Government’s Local Growth Fund, and previously the Local Transport Board. The bid for funding was part of the Cheshire and Warrington Growth Deal which in total received £142m to improve connectivity and deliver growth across the region.
- (c) A sum of £2m is also lodged with Greater Manchester Combined Authority (GMCA) and will be used for the scheme.

- (d) At this stage other potential funding contributions being considered include Community Infrastructure Levy (CIL) or Section 106 agreements for development potential released by the scheme on land within the vicinity of the road.
- (e) The works required to relocate the Golf Course are estimated to cost circa £900k. Advance works to divert overhead services to facilitate the relocation are expected to cost circa £150k.
- (f) It is difficult to estimate the costs associated with the CPO process owing to the number of third party variables over which the Council has no control. On the basis that there is likely to be a public inquiry, costs are likely to be in the region of £300,000. This estimate would need to meet the costs of surveyors / solicitors / barristers / land referencing fees but would exclude any references to the Lands Tribunal in respect of compensation.

7.4. Human Rights Assessment

- (a) In deciding whether to proceed with compulsory purchase Members will need to consider the Human Rights Act 1998 and Article 1 of the First Protocol and Article 8 to the European Convention on Human Rights. There are no domestic dwellings directly affected within the proposed CPO land.
- (b) Article 1 protects the rights of everyone to the peaceful enjoyment of their possessions. No person can be deprived of their possessions except in the public interest and subject to national and international law.
- (c) Article 8 protects private and family life, the home and correspondence. No public authority can interfere with this interest except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the country.
- (d) Members will need to balance whether the exercise of these powers are compatible with the European Convention on Human Rights. In weighing up the issues it is considered that there is a compelling case in the public interest for the acquisition of land which will bring benefits to the residents and businesses of Poynton that could not be achieved by agreement and this outweighs the loss that will be suffered by existing landowners. The CPO will follow existing legislative procedures.
- (e) All parties have the right to object to the CPO and attend a public inquiry arranged by the Secretary of State. Parties not

included in the CPO may be afforded that right if the inquiry inspector agrees. The decision of the Secretary of State can be challenged in the High Court, an independent tribunal, for legal defects. Those whose land is acquired will receive compensation based on the Land Compensation Code and should the quantum of compensation be in dispute the matter can be referred to the Upper Tribunal (Lands Chamber) for independent and impartial adjudication. The Courts have held that this framework complies with the Convention on Human Rights. Accordingly, a decision to proceed with the recommendation on the basis that there is a compelling case in the public interest would be compatible with the Human Rights Act 1998.

7.5. Equality Implications

In progressing the Orders and carrying out consultations the Council will take into account the needs of persons with protected characteristics as set out in equalities legislation.

7.6. Rural Community Implications.

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

7.8. Human Resources Implications

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

7.9. Public Health Implications.

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

7.10. Implications for Children and Young People.

No implications for children and young people as distinct from the wider community.

7.11. Other Implications

Not delivering the scheme will mean that the improvements and benefits outlined above will not be achieved and the congestion and air quality issues will continue unabated.

Public expectations would not be met leading to a lack of public confidence and reputational harm to the Authority.

The Department for Transport's provisional funding allocation of £22m towards the cost of the scheme would be lost.

8. Risk Management

- 8.1. Progressing a CPO would be preceded by an offer of voluntary negotiations to acquire by agreement which could continue during the CPO process. Ultimately, however, the making of a CPO could be the only way to resolve the major area of uncertainty that could otherwise delay the projects programme.
- 8.2. Entering into the CPO process offers the assurance that the DfT requires to ensure a successful Final Approval for the scheme.
- 8.3. The Council can notify the Secretary of State that it no longer wishes to use its CPO powers in respect of any interest and request the Secretary of State not to confirm the CPO over those interests at any time if negotiations are successful or if the Council considers the financial risk too great.
- 8.4. If the scheme did not proceed for any reason the Council will have incurred expense in the relocation of a Golf Facility. However, the option to acquire the land for the PRR will be extant.
- 8.5. If the Adlington Golf Centre facility is not relocated in advance of the works there is a risk that the compensation costs for the harm the scheme would cause to the business will result in a claim for compensation which is currently not budgeted for in the scheme estimate
- 8.6. The land required at the Adlington Golf Centre will remain subject to the CPO in case the proposed voluntary agreement does not proceed to completion and for the purposes of clearance of title once acquired.

9. Contact Information

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