

Cheshire East Council

Cabinet

Date of Meeting:	12 September 2017
Report of:	Frank Jordan, Executive Director of Place
Subject/Title:	Middlewich Eastern Bypass
Portfolio Holder:	Cllr David Brown, Highways and Infrastructure

1. Report Summary

- 1.1. The Council has responded to the concerns of residents and businesses in Middlewich by seeking means to secure the delivery of the Middlewich Eastern Bypass. Middlewich is a key service centre hosting four strategic sites for employment and housing. The bypass is a strategic highway scheme which will facilitate future sustainable growth in and around Middlewich, including the delivery of strategic sites that are allocated in the Cheshire East Local Plan.
- 1.2. In 2015 the Council took over the lead role in promoting the delivery of the bypass and an intense programme of works has been underway since that time to achieve the objective of delivering the bypass.
- 1.3. The successful bid to the Department for Transport's (DfT) Development Funding programme for "Fast Track Local Major Schemes" has enabled the Council to prepare an Outline Business Case to Government with a view to securing a capital funding award that will enable delivery of the scheme. Without this intervention from the Council, it is unlikely that the scheme would have progressed in the interim period. At its April 2017, Cabinet endorsed the submission of the Outline Business Case to Government
- 1.4. On 24 May 2017, officers attended an Investment Challenge session at the DfT. This proved successful in ensuring officials were fully aware of the case for the scheme to then inform advice to the Secretary of State for Transport ahead of a decision on whether the bypass will be awarded entry onto the DfT's Large Local Major Schemes Programme. At the time of this report, the Secretary of States decision is pending. Should Government determine that entry into the Large Local Major Schemes programme is not imminent, then the proposed workplan will be reviewed to avoid unnecessary or abortive activity until such a time as Government's intention to fund the project has been confirmed.

- 1.5. To ensure that the fast track project programme is sustained, this report proposes that works commence to prepare for the next key project milestone, the submission of a Planning Application.
- 1.6. All activities necessary to prepare a planning submission that is capable of validation by the Planning Authority have been programmed, with the core activities being, as follows;
 - Highway design works
 - Preparation of planning documentation
 - Environmental statement
 - Environmental Impact Assessment
 - Traffic assessment
 - Flood Risk assessment / drainage strategy
 - Preliminary Ground Condition Surveys
 - Consultation with Statutory Bodies – e.g. Network Rail, Environmental Agency
 - Public consultation on Preferred Route option
 - Engagement with landholders to commence negotiations relating to land acquisition for the scheme.

Pre-application meetings will be held with the relevant planning officers. Work will proceed on the basis of the programme included in the Outline Business Case as submitted to Government.

2. Recommendation

Cabinet is recommended to:

- 2.1. Note the update on the Outline Business Case for Middlewich Eastern Bypass which is currently with the Department for Transport.
- 2.2. Agree that the work requirements as set out in this report to prepare a planning application for the Middlewich Eastern Bypass proceed.
- 2.3. Note that it is anticipated that this application will be submitted to the Planning Authority by Spring 2018, subject to the DfT's decision on programme entry.
- 2.4. Authorise the Executive Director of Place, in consultation with the Portfolio Holder for Highways & Infrastructure to make all necessary arrangements for the preparation of a Planning Application for the preferred route option.

- 2.5. Agree that the Council continues to seek third party funding contributions towards the Middlewich Eastern Bypass.

3. Reasons for Recommendation

- 3.1. There is a demonstrable need for infrastructure improvements in Middlewich to improve traffic flow and alleviate congestion as part of a strategy to support Local Plan growth in employment and housing in the town. In addition, there is considerable local public support for the proposals, as demonstrated by the outcome of the Middlewich Transport Consultation which took place in August / September 2016. Through this consultation, 79% of respondents stated that there are severe issues affecting roads in Middlewich. When asked about priorities for improving transport, overwhelmingly the top priority for respondents was building a bypass, which exceeded the total number of preferences for all other interventions combined.
- 3.2. The scheme will provide a bypass to the town centre and enable access to the Midpoint 18 strategic employment/logistics site. The bypass will support the economic growth agenda for Middlewich and the sub-region, facilitating 1,950 new dwellings and 6,500 additional jobs in the town. The connectivity benefits from the scheme are realised by mitigating traffic congestion in the town and relieving delays on roads linking mid Cheshire towns – especially Middlewich, Winsford & Northwich – via the A54 to the M6 Junction 18.
- 3.3. The scheme is consistent with Cheshire & Warrington LEP's Strategic Economic Plan and is a key element of the HS2 Growth Strategy for the Northern Gateway & Constellation Partnership. It is considered to be policy compliant as it is embedded in the newly adopted Local Plan for Cheshire East.
- 3.4. Earlier this year, an Outline Business Case (OBC) was submitted to Government in accordance with DfT's technical guidance. The Business Case demonstrates that the scheme achieves High Value-for-Money, with a Benefit:Cost Ratio of 2.7. The OBC provides evidence to support a high degree of certainty over the accelerated delivery programme. In particular, there is considerable certainty that land can be assembled by negotiation, without the need for Compulsory Purchase. Completion of the scheme can reasonably be expected by the end of 2020, subject to continued progress and a timely decision on programme entry by the DfT.
- 3.5. An award of funding for the bypass, based upon a favourable outcome from the OBC, does not guarantee that future DfT funding meets the full capital costs of the scheme. The bid was based on a 20% local contribution, comprising a mix of Cheshire East Council and third party/ developer contributions. The Council will continue to seek developer funding contributions towards the Middlewich Eastern Bypass, which could be used to replace any underwriting of the scheme. The business case has identified an £11.7million local contribution.

- 3.6. The decision to proceed with work to prepare a planning application is necessary to maintain progress on the scheme, in accordance with the programme submitted to DfT as part of the Business Case. The Council's Central Finance Group has approved the release of a total £1.5m of the CEC contribution, equally in FY2017/18 and FY2018/19, to progress technical work to allow for a planning application. This funding will only be drawn down in full, subject to a favourable outcome from DfT. Otherwise there will be a programme review for this scheme in the light of DfT's decision. Should DfT announce a negative outcome with regard to Local Majors Funding, committing to this programme at this stage would incur some abortive work. Given the expected timing of the DfT decision, the maximum risk arising from any abortive work is estimated to be £100,000. Without further progress towards planning consent, there is risk of further delay to the project and inflation could expose the Council to a financial risk.

4. Other Options Considered

- 4.1. The various options for the bypass which were assessed informed the recommendation of the preferred option, as approved at Cabinet in April 2017.
- 4.2. Consideration has been given to delaying a decision on progress to planning consent. It is considered that this approach is most likely to risk key project milestones resulting in delayed opening of the road. Meanwhile, construction cost inflation could expose the Council to further financial risks as the local funding contribution would be expected to meet these additional costs.

5. Background

- 5.1. Middlewich Eastern bypass has been a priority for a number of years, following the development of a scheme by Cheshire County Council to bypass to the town centre and enable access to the Midpoint 18 strategic site. Initial sections of the scheme (known as Pochin Way) south from the A54 have been constructed since 2000.
- 5.2. Development and delivery of the bypass was originally in the hands of the Private Sector, with funding largely flowing from development opportunities, but after the award of a planning consent for the Midpoint 18 masterplan and completion of the bypass in 2006, economic uncertainties restricted opportunities for further substantial development and funding opportunities for construction of the remainder of the bypass became severely restricted.
- 5.3. Due to continued lack of progress, the Council took control of delivery of the bypass in 2015 and a programme of works has been underway since that time to progress delivery of the bypass, whilst also developing the scheme to meet a broader set of strategic objectives that have evolved since the original route was conceived. This approach was supported by a successful bid to the DfT's Development Funding programme for "Fast

Track Local Major Schemes”. This has enabled the Council to prepare an Outline Business Case to Government with a view to securing a capital funding award that will enable delivery of the scheme. Without this intervention from the Council, it is very unlikely that the scheme would have progressed in the intervening period.

5.4. The April 2017 report to Cabinet detailed the case for the bypass. The Strategic Case stated the primary objective for the bypass as being ‘To deliver a highway scheme which functions as a bypass to deliver the traffic solution for Middlewich’. In so doing, the bypass will contribute to the following strategic outcomes;

- To support the economic growth agenda for Middlewich and the sub-region, facilitating the delivery of 1,950 dwellings and 6500 jobs in the town
- To mitigate problems of traffic congestion in the town, and on the strategic network linking mid Cheshire to M6 Junction 18
- To improve environmental conditions within the town, through reductions in traffic-related noise, air quality and severance.
- To facilitate the delivery of a package of complementary measures to support town centre regeneration, accessibility and public realm.

5.5. The key requirements of any bypass scheme are, as follows :

- Enabling the delivery of strategic sites and growth defined in the Cheshire East Local Plan
- Delivery of further development opportunities
- Facilitation of growth opportunities arising from HS2, including the Constellation Partnership’s Growth Strategy.
- Facilitation of an east-west by-pass through future-proofing the design to enable future enhancement / extension.
- Connectivity with Cledford Lane, especially for local access to homes and businesses and for non-motorised users.
- Supporting the delivery of a new railway station for Middlewich.
- Facilitating rail opportunities including re-opening the Northwich to Sandbach railway to passenger services.
- Timeliness of delivery and length of construction period.
- Minimising any adverse environmental impacts including noise, air quality and visual intrusion.

- Maximising the cost effectiveness of environmental mitigations.

These factors have informed the assessment of options for the bypass, informing the recommendation of the preferred option for the Outline Business Case, as approved at Cabinet in April 2017.

- 5.6. Following a successful bid to the Department of Transport (DfT) for scheme development, funding of £1.257m was awarded by DfT, which in addition to the Council's previously approved funding enabled the preparation of an Outline Business Case (OBC). This was submitted to DfT on 31st March 2017. Entry to the Large Local Major Programme requires rigorous assessment and compliance with well-established DfT procedures. The requirements are understood and are well known to the Council, with previous schemes having successfully met DfT requirements. The Secretary of States decision on programme entry is pending.

6. Wards Affected and Local Ward Members

6.1 Middlewich and Brereton Rural wards are affected;

- Cllr Simon McGrory
- Cllr Michael Parsons
- Cllr Bernice Walmsley
- Cllr John Wray

In addition, the Portfolio Holder for Highways & Infrastructure met with Middlewich Town Councillors on 14th December 2016 to discuss the options for the bypass. Periodic progress updates have been provided during on-going development of the project.

7. Implications of Recommendation

7.1. Policy Implications

7.1.1. The Scheme is a critical infrastructure project supporting the new Local Plan Strategy Policy CO2 and is included in the associated Infrastructure Delivery Plan. The Eastern By-Pass also aligns strongly to Cheshire and Warrington Strategic Economic Plan and it is included in the Local Transport Plan 2015 Policy B2 – Enabling Development

7.2. Legal Implications

7.2.1. In accordance with the Council's Finance Procedure Rules (E21) Officers must seek Member approval before submitting any bid for specific grant funding that is aligned with the Council's priorities.

- 7.2.2. As outlined in the previous report to Cabinet (November 2016) the outputs of this Outline Business Case Stage were prepared to ensure that the relevant requirements of the statutory planning process are met.
- 7.2.3. Engagement of key stakeholders, residents and members of the public is an obligation of the local authority during the planning and delivery of major highway projects. The proposed approach to consultation and engagement will ensure that the Council takes appropriate measures to discharge its obligations to stakeholders before confirming a preferred route option. That route will, of course, be subsequently subject to the normal, formal consultation process. The responses to the consultation will need to be conscientiously taken into account when Cabinet makes any future decisions.
- 7.2.4. The route of the scheme, alternative schemes, funding of the scheme, land acquisition, costs of land acquisition, potential consideration of the need for use of Compulsory Purchase Powers, and consideration of procurement and State Aid issues have all yet to be considered. All of these points will need separate legal consideration at the relevant time, on the points they raise, in light of the powers under the Constitution. In addition, funding to be provided by a capital contribution from the Council will have to be identified and form part of a capital bid and be a Key Decision.
- 7.2.5. As outlined in the Financial Implications below, the amount of funding from the Council is dependant on how much third party funding may be available through developer contributions. The Council is subject to strict rules on the pooling of funds through s106 agreements and cannot pool more than 5 contributions from such agreements towards any one infrastructure project. Additionally, there are significant drawbacks on the Council forward funding infrastructure projects on the basis of potential s106 funds. In particular, s106 agreements cannot be obtained for projects that have already been completed. The receipt of s106 monies is conditional on the terms of the individual s106 agreements and the ability of the developer to pay. It may be the case that valid s106 agreements never lead to the receipt of funds so this funding stream is not guaranteed.

7.3. Financial Implications

- 7.3.1. The funding implications of these recommendations will draw down allocated funds within the Councils current budget. Within the Budget for FY2017/18, £750,000 capital expenditure is allocated to Middlewich Eastern Bypass development, with an equivalent amount for FY2018/19. Presentation of a high level business case to Central Finance Group on 6th July 2017 has confirmed this budget provision.
- 7.3.2. The Middlewich Eastern By-Pass would be delivered through a blend of scheme funding including third-party developer contributions secured

by the Council. Please note the comments in section 7.2.5 of this report in relation to s106 funds. The viability and affordability of any scheme is a fundamental part of the Outline Business Case process.

7.3.3. A detailed cost estimate has been prepared to inform the Outline Business Case using specialist engineering and property cost consultants. The Outline Business Case was endorsed at the Cabinet meeting on 7th April 2017. The following table summarises the main cost elements for the scheme (preferred option) as presented in the Outline Business Case. No prior expenditure is included in these values, which should be considered cost estimates to completion from 1st April 2017.

Scheme Element	Estimated Outturn Costs (2017 Q1 prices)
Construction incl. Preliminary works	£33.10m
Site supervision costs	£2.03m
Land acquisition & Part 1 Claims	£5.30m
Statutory utilities	£0.75m
Design fees	£5.33m
Inflation allowance	£4.24m
Risk Allowance	£7.73m
Total	£58.48m

7.3.4 The funding strategy for this project is reliant on a successful bid to the DfT's Large Local Major Schemes programme. The costs of Middlewich Eastern Bypass significantly exceed the LEP's guideline value (£48m), which is used to indicate when a scheme is unlikely to be funded through the Local Growth Deal (LGF). It is clear that LGF is not an appropriate funding route for this project.

7.3.5 The bid to the Large Local Majors programme maximises reliance on local funding sources, referred to as the Local Contribution, from both Cheshire East Council and third party (developer) sources. However, there is a need to ensure that reliance on these funding sources is viable and does not adversely impact on the likelihood of future commercial or residential development being delivered. Therefore, for the purposes of this scheme, the local funding contribution was set at 20% of total scheme costs, with the remainder sought as grant funding from Government. Therefore, the

funding mix included in the Outline Business Case, as endorsed by Cabinet in April 2017, is as follows;

Funding Source		Value £ (2017 Q1 prices)
DfT Grant		£46.78m
Local Contribution		£11.70m
Total scheme costs		£58.48m

- 7.3.6 At this stage, third party contributions are estimated based upon committed or current S106 developer agreements (or equivalent). Over time, the proportion of third party funding is likely to change in response to development activity within the local area. For this reason, the local funding contribution is presented as a combination of both Council and Third party funding. Any change in either element will have a direct impact on the funding obligation arising from the other source.
- 7.3.7 In April 2014, Cheshire East Council agreed to underwrite a capital contribution to the bypass to a maximum value of £2.5million (Cabinet resolution dated 1st April 2014). At this meeting, it was agreed that the Council would continue to seek alternative funding sources including developer contributions, which could be used to replace its contribution whilst ensuring a maximum local contribution of £11.7million. This approach will be retained during the delivery of the updated proposals, ensuring that any call on Council resources is minimised.
- 7.3.8 Preparatory work to date on the project has been funded through a blend of Council and DfT resources. The Council's successful bid for DfT Local Majors Development Funding awarded £1.257m from DfT. At this time, the Council's expenditure to date on the project is approximately £1.85m, with £1.257 funded by DfT grant.
- 7.3.9 Pending DfT's decision on entry to the Large Local Major Schemes programme, based upon the submitted Outline Business Case, the Council's Central Finance Group has approved the release of a total £1.5m of the CEC contribution, equally in FY2017/18 and FY2018/19, in order to progress technical work to allow for a planning application. This funding will only be drawn down in full, subject to a favourable outcome from DfT. Otherwise there will be a programme review for this scheme in the light of DfT's decision. Should DfT announce a negative outcome with regard to Local Majors Funding, committing to this programme at this stage would incur some abortive work. Given the expected timing of the DfT

decision, the maximum risk arising from any abortive work is estimated to be £100,000.

8. Equality Implications

8.1.1. Equality implications have been considered in the options appraisal and are incorporated into the Outline Business Case. An Equalities Impact Assessment will be prepared to accompany the planning application for the scheme.

8.1.2. Public consultation on the Preferred Route Option, which is to be completed prior to submission of the Planning Application, will ensure that the consultation methods used enable all residents to engage, with an Equalities Assessment being produced to inform this process.

8.2. Rural Community Implications

8.2.1. The planning application will provide a comprehensive Environmental Assessment which will take into account the effect on the rural community. This assessment will include impacts such as noise, air quality, visual impact plus the schemes effects of Public Rights of Way and Non-motorised users i.e. pedestrians, cyclists and equestrians.

8.3. Human Resources Implications

8.3.1. No Human Resource implications have been identified at this stage.

8.4. Health and Wellbeing Implications

8.4.1. The recommendations have no immediate impact on public health. Issues associated with noise and air quality will be assessed as part of the programme of works associated with preparing an Environmental Assessment to accompany the planning application.

8.4.2. All on-site ground investigation works will be planned and completed with reference to a comprehensive Risk Assessment and Mitigation Strategy, which will take full account of potential impacts on residents, road users and the general public.

8.5. Implications for Children and Young People

8.5.1 No specific implications have been identified at this stage. Opportunities to engage with local schools will be considered as the scheme progresses. The means by which young people can be encouraged to participate in the consultation process will be considered as part of the Consultation & Engagement Plan.

8.6. Overview and Scrutiny Committee Implications

8.6.1. Progress on the scheme is reported to the Councils Environment & Overview Scrutiny Committee.

8.7. Other Implications (Please Specify)

8.7.1. None

9. Risk Management

9.1. Key risks to the Council continue to relate to the affordability of the scheme and this will be addressed through the continued development of the funding strategy.

9.2. The Council will be required to accept all responsibility for cost increases beyond the cost envelope stated in the Business Case that is approved for funding by DfT. This decision is at the Full Business Case stage, which is currently anticipated in late 2019.

9.3. Risk management issues are unchanged from previous Cabinet reports. A risk register has been produced in the preceding stages of the project development and this will be reviewed and updated through the current stage of works. Capital cost risks are informed by a comprehensive Quantitative Risk Assessment, with a risk allowance of £7.7million included in the scheme costs. For appraisal purposes, a level of Optimism Bias is applied to uplift estimated costs by 44%, in accordance with DfT guidance, to ensure that the value-for-money of the scheme is not overstated.

10. Access to Information

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

10.2. Documents are held on file at :

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11. Contact Information

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