

Cabinet

Date of Meeting: 15 January 2019

Report Title: A500 Dualling Scheme – Funding and Delivery Strategy

Portfolio Holder: Cllr Don Stockton - Portfolio Holder-Environment

Senior Officer: Frank Jordan Executive Director - Place

1. Report Summary

- 1.1. The A500 is a former national trunk road and a key route which connects Crewe and Nantwich to the M6 at Junction 16; and to Stoke and Staffordshire. The section of the A500 between Junction 16 and the junction with the A531 and B5472 at Mere Moss Roundabout is single carriageway and is the only section of the A500 corridor that isn't built to dual carriageway standard.
- 1.2. It has been a long held ambition to dual this section of road to improve connectivity and road safety and more recently the proposed A500 Dualling Scheme (planning application reference 18/3766N – “the Scheme”) has become a key component of the Council's Local Plan Strategy to enable the planned delivery of 65 hectares of employment land and 7,700 new homes in Crewe during the Local Plan period whilst improving traffic flow.
- 1.3. Furthermore, it is a key infrastructure component in supporting the emerging ambitions centred on the delivery of a HS2 Hub Station at Crewe. The scheme will also be able to accommodate construction traffic, which will need to access the HS2 Phase 2a line of route south of Crewe and the proposed Crewe Hub station.
- 1.4. As well as promoting growth within Crewe, the A500 will also serve as the main route from the M6 and the wider region to the proposed HS2 hub station in Crewe, which is expected to open in 2027.
- 1.5. This report seeks approval make the necessary provision in the Council's Capital Programme to deliver the scheme, and delegate to the Executive

Director - Place authority to take all steps considered necessary and/or expedient to deliver the Scheme.

2. Recommendations

That Cabinet

- 2.1. recommend to Council, the inclusion of the sum of £54.79m in the Council's Capital Programme Addendum ("the Addendum"), being the anticipated sum required to deliver the Scheme.
- 2.2. agree to underwrite, from the sum included in the Addendum, the Local Contribution of £11.39m, being the difference between the anticipated cost of the Scheme and the anticipated DfT Grant Funding.
- 2.3. delegate to the Finance and Communications Portfolio Holder authority to agree variations to the amounts indicated in these recommendations within the financial approval limits that apply to full Cabinet.
- 2.4. note that the Executive Director – Place will in accordance with the approved processes, draw down on the Addendum allocation in order to deliver the Scheme reverting to Cabinet only in the event that the Executive Director or the Finance and Communications Portfolio Holder identify a material shift in the costs and/or risks associated with the Scheme.
- 2.5. delegate to the Executive Director – Place (insofar as such delegations are required) in consultation with the Finance and Communities Portfolio Holder authority to take all steps the Executive Director – Place considers to be necessary or expedient to deliver the Scheme which, for the avoidance of doubt, shall include (but not be limited to):-
 - 2.5.1 taking all necessary steps to secure DfT Grant Funding,
 - 2.5.2 exercising all statutory planning and highways powers including the service of notices and the making, confirmation and implementation of all orders including Compulsory Purchase Orders and Side Road Orders,
 - 2.5.3 entering into any contracts, licences, undertakings or other agreements including Phase 1 (pre-construction) and Phase 2 (main construction) contracts under the SCAPE framework to secure all services needed to deliver the Scheme.

3. Reasons for Recommendations

- 3.1. The A500 Dualling scheme is a key part of the Local Plan as it will enable the delivery of key development and housing sites. Implementation of the scheme is vital to ensure that future Local Plan growth can be achieved.

Other Options Considered

- 3.2. Ceasing work, or reducing the Council's contributions to the A500 Dualling Scheme before replacement external funding is identified would put at risk the delivery of the Scheme. This would lead to non-achievement of the Council's ambitions for plan led growth and would be inconsistent with The Council's policies in the Local Plan Strategy and the emerging transport strategies of Transport for the North and the Local Enterprise Partnership.
- 3.3. Progressing the Scheme would allow the submission of the Final Business Case on programme, and will assist in securing DfT grant funding for the scheme.
- 3.4. Should the scheme not be completed, the A500 will continue to be a congestion constraint for traffic travelling between the south of Crewe and the M6 and the wider Cheshire East, Stoke and Staffordshire region.
- 3.5. Consideration has been given to various procurement options to secure the services of a suitably qualified contractor. It is considered that the recommended approach is most likely to reduce risks to key project milestones whilst ensuring that the Council can be assured of fully market-tested prices. Also, there is a strong case for the early contractor engagement provided by the SCAPE framework to mitigate financial risks.

4. Background

- 4.1. Preparation of the planning application and submission of the Outline Business Case was authorised by Cabinet at its May 2017 meeting.
- 4.2. Planning application reference 18/3766N was submitted on 25th July 2018 and the Strategic Planning Board approved the application on 19 December. The Outline Business Case was submitted to the DfT in June 2018.
- 4.3. To meet the programme for the Scheme, the Council will need to undertake further work i.e.:
 - 4.3.1. Early negotiations with affected land owners are needed to secure land required for the Scheme by way of early acquisitions;

- 4.3.2. A market-tested cost estimate for the main works is required for inclusion in the Final Business Case to be submitted to DfT to obtain the Large Local Majors scheme grant funding;
 - 4.3.3. Advance works are required to be completed in sufficient time to ensure ecological mitigations and utilities diversions are completed to enable the main works to commence on time;
 - 4.3.4. A suitable supply chain is required, including local companies as far as is possible, to ensure timely commencement of the main works.
- 4.4. The majority of the land required for the Scheme is in the ownership of the Duchy of Lancaster. Engagement with the Duchy's agents has already commenced.
- 4.5. There is other land that is required for the Scheme that can be acquired compulsorily if necessary but as CPO is a last resort, the acquiring authority must endeavour to acquire land by agreement where possible. If a CPO is required, and the Council makes a resolution to exercise its powers of compulsory purchase then those powers cannot be exercised until such time as an agreement is in place with the Duchy of Lancaster for its land as the Council must be able to demonstrate that there are no impediments to delivery of the Scheme.
- 4.6. The Council has appointed external solicitors to undertake preparatory work in drafting the Statutory Orders required to deliver the Scheme. Chartered surveyors have also been appointed to deal with negotiations on land acquisition by agreement with a view to securing all land necessary to deliver the Scheme by agreement. However, voluntary acquisitions of all of the land affected and rights required may not be possible.
- 4.7. Whilst acquisition by agreement will be pursued, initiating the CPO process over the entire land holding required for the Scheme affords greater certainty that the Scheme will proceed in the event that negotiations break down. This is in line with guidance should parallel negotiations to acquire the land and rights voluntarily not be successful.
- 4.8. If a CPO is required it is expected that it will be made in February 2019, subject to planning approval and confirmation of funding from DfT. Confirmation of the CPO may be subject to a public inquiry to deal with objections before it can be confirmed enabling compulsory acquisition of land and interests.
- 4.9. A Side Roads Order (SRO) will also be required as existing accesses directly onto the A500 will be stopped up on safety grounds. Alternative,

replacement means of access will be provided and where existing public rights of way cross the A500, those rights of way will be diverted to maintain connectivity. Some lengths of public rights of way will be stopped up where they are no longer used by the public and/or more convenient alternative routes exist.

- 4.10. It is the intention that proposed developments in the local area that will benefit from the Scheme will provide a financial contribution to the overall cost of the Scheme. For example, the South Cheshire Growth Village, which is on Duchy of Lancaster land, is a strategic development which has been allocated in the Council's recently adopted Local Plan Strategy. The Local Plan Strategy contains a policy for the development to contribute to the improvement of the A500. It is therefore expected that contributions will be made to this Scheme (and others) by way of planning obligations secured in section 106 agreements if the associated development is consented.
- 4.11. The Duchy, as a major owner of the land required for the Scheme, therefore has a mutual interest with the Council in the Scheme gaining approval. Accordingly, there is every prospect that the land that is not capable of being acquired compulsorily will be made available for the Scheme.
- 4.12. The programme assumes that a funding decision will be made by DfT very soon, but this is not certain. Whilst awaiting the outcome, funding will be required for the project team to respond to any issues that arise from the Planning Application submission, the preparation of draft Orders, preparation to procure a design and build contractor and statutory undertaker design costs. With forward funding, the project team will be in a position to publish the SRO and CPO and start work towards the construction delivery agreement soon after, if there is a positive outcome to the DfT final funding decision.

5. Procurement Route

- 5.1. At its meeting in October 2018, the Council's Commissioning and Procurement Project Board considered a Procurement Options Report and endorsed the use of a SCAPE framework as the procurement method for the scheme which is what is being recommended for approval in this report.
- 5.2. SCAPE is a public-sector owned organisation that has in place a number of national procurement frameworks. The relevant framework for the A500 Dualling Scheme is the Civil Engineering and Infrastructure Framework.

- 5.3. Through this Framework, the Council would enter into a 2-stage Delivery Agreement, with that Agreement utilising the NEC X23 clause whereby the Council can walk away in Stage 1 (Pre-construction) without commitment to carry out Stage 2 (Construction).
- 5.4. Furthermore, the following options exist with regard to the degree of design advice that can be requested from the contractor:
- 5.4.1. Early Contractor Involvement (ECI) where advice is afforded to the design team in terms of project planning and buildability by the contractor. Using this option the Council will independently appoint the Designer.
- 5.4.2. Design and Build Contract where the Scheme is designed by the contractor as part of the awarded contract;
- 5.5. The decision on the degree of design advice to be requested from the contractor will be made by the Executive Director – Place when exercising recommendation 2.5.3 of this report.
- 5.6. Following authorisation to enter into a contract in the form of a 2-stage Delivery agreement via the SCAPE framework, work will proceed in 2 distinct stages, as follows:

Stage 1 - Pre-construction

- 5.6.1. The pre-construction phase will enable the necessary advanced works and investigations to be completed to provide all essential requirements for a Full Business Case submission to DfT. In addition, the pre-construction phase will include procurement, through mini-bids, of advance works to enable A500 Dualling main construction. These advance construction works are expected to include:
- Utilities diversions,
 - Environmental and ecology habitat creation
 - Geotechnical investigations
 - Site compound preparation
 - Site clearance and preparation
 - Construction traffic management planning
- 5.6.2. Task orders will be raised for each element in turn, with the results of mini competitions through the SCAPE supply chain

being considered before appointment of contractors. At this stage, the estimated budget for pre-construction works is £2.0 million.

- 5.6.3. If the Target Cost derived through SCAPE is unacceptable, the Council has the right to terminate the Delivery Agreement at this stage.

Stage 2 - Main Construction

- 5.6.4. Completion of the Pre-construction phase will provide the council with a Target Cost for the main construction works. If this is acceptable, and following independent assurance on costs, the Council has the option to instruct a Contractor to commence the main construction works.
- 5.6.5. The main works phase would commence only after DfT's and the Council's approval of the Full Business Case and release of capital funding. In addition, works will proceed only when all consents are in place including all necessary land acquisitions. Should land acquisition require the Council to exercise compulsory purchase powers, the Delivery Agreement is sufficiently flexible to respond to a revised programme of activities.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. In resolving to make Orders for the Scheme the Council would be proceeding under its powers under the Highways Act 1980 authorising the compulsory purchase of land and the rights required to deliver the Scheme, together with improvements, stopping up of highways, rights of way and private means of access and providing replacement of private means of access.
- 6.1.2. There are well understood legal requirements that must be met before compulsory purchase powers can be used, and appropriate due diligence will be undertaken at all relevant stages to ensure those requirements are met.
- 6.1.3. Likewise, there are a number of requirements around the other exercise of statutory powers and entering into agreements etc... Appropriate due diligence will be undertaken and legal advice sought and followed at the appropriate time.

- 7.1.2 Legal Services and Procurement are content that the SCAPE framework is an appropriate vehicle for letting the construction contract.

6.2. Finance Implications

- 6.2.1. The current approved budget for the Scheme is £4.5 million, with spend to date of £3.8million.
- 6.2.2. As the project proceeds, there will be a requirement for the Council to continue to forward fund the scheme, pending completion of the Final Business Case and release of DfT capital grant. Cabinet is asked to note that current estimated expenditure on the Scheme will be included in the Medium Term Financial Strategy as part of the Capital Addendum, which is to be reported to Cabinet in February 2019.
- 6.2.3. The addendum includes projects that have been added to the programme owing to their strategic importance to the Council. Pending the completion of detailed business case that will need to demonstrate the strategic impact of the scheme, an expenditure profile and funding sources or associated return on investment, the Portfolio Holder for Finance & Communications and the S151 Officer will provide the additional approval for these schemes.
- 6.2.4. If forward funding is considered to be appropriate then a business case would be submitted to the Portfolio Holder for Finance and Communications and the S151 officer for the release of funding from the addendum. At this stage, it is expected that any further forward funding applications would relate to the continued development of the scheme and acquisition of land and property assets required for the scheme, where it is advantageous to the Council to secure these through negotiation.
- 6.2.5. An estimated £2.0million is required required to complete Stage 1 of the delivery agreement (the pre-construction works) in FY2019/20. This would take the total scheme budget to £6.5 million. Therefore, if the DfT approval of the scheme's entry into the Large Local Majors programme is delayed, an estimated further £2.0 million would be required to be spent at risk to keep the scheme on programme.

- 6.2.6. A detailed cost estimate has been prepared by specialist engineering and property consultants.
- 6.2.7. The following table summarises the main cost elements for the Scheme (preferred option). No prior expenditure is included in these values, which should be considered as cost estimates to completion from 1st January 2019.

Scheme Element	Estimated Outturn Costs (2018 Q1 prices)
Construction incl. Preliminary works	£37.80m
Site supervision costs	£3.10m
Land acquisition & Part 1 Claims	£3.22m
Statutory utilities	£0.45m
Design fees	£1.80m
Inflation allowance	£4.27m
Risk Allowance	£3.35m
Total	£53.99m

- 6.2.8. The Scheme funding relies on local funding sources, referred to as the Local Contribution, secured from both the Council and third party (developer) sources. DfT will contribute up to a maximum of 80% of Scheme costs(excluding Part 1 claims).

Funding Source	Value £ (2018 Q1 prices)
DfT Grant	£42.60m
Local Contributions	£11.39m
Total Scheme Costs	£53.99m

- 6.2.9. At this stage, third party contributions are estimated based upon existing or expected 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 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.
- 6.2.10. Cabinet should note that if no S106 contributions are secured towards the scheme, the Council will be exposed to meeting the full Local Contribution of £11.39m
- 6.2.11. The council will be required to underwrite the whole of the estimated level of developer contributions to the scheme as there can be no absolute guarantee that all assumed contributing developments will have happened at the time of contract award.
- 6.2.12. Officers are continuing to pursue alternative funding sources, including developer contributions, which could be used towards the Local Contribution of £11.39 million. This approach will be retained, ensuring that any call on Council resources is minimised.
- 6.2.13. In the scenario where a Full Business Case is submitted, but grant funding is not approved by DfT and the scheme cannot progress, the Council will be exposed to funding all the costs to that point of scheme development, including the purchase of land or assets acquired by negotiation in advance of the decision. Any such land acquired would have a realisable value. In this scenario, based on current scheme estimates and forecasts, this is a maximum estimated financial exposure of approximately £6.89m which would need to be funded from revenue.

6.3. Policy Implications

- 6.3.1. The need for the Scheme is clearly established in the Cheshire East Local Plan Strategy, identifying from the outset the need to improve transport connections to deliver the Plan, including the Scheme.
- 6.3.2. By providing additional highway capacity to cater for additional traffic from development, the Scheme would support the Local

Plan Strategy and the objectives of the Constellation Partnership. The Scheme is thus considered to be in line with local policy and essential for the delivery of the future economic growth plans of Cheshire East Council.

6.4. Equality Implications

- 6.4.1. All public sector acquiring authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. In exercising their compulsory purchase and related powers (e.g. powers of entry) these acquiring authorities must have regard to the effect of any differential impacts on groups with protected characteristics.
- 6.4.2. 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.
- 6.4.3. 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.

6.5. Human Rights Implications

- 6.5.1. It shall be necessary to ensure that sufficient resource is allocated in Strategic Infrastructure, Assets, Highways, Legal, and Planning Services to support delivery of the scheme. If additional temporary resources are required these will be met from the project budget.
- 6.5.2. In deciding whether to proceed with a Compulsory Purchase Order (CPO) and a Side Roads Order (SRO), 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.
- 6.5.3. 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.
- 6.5.4. 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.

- 6.5.5. 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 the acquisition of land which will bring benefits to the residents and businesses that could not be achieved by agreement and this outweighs the loss that will be suffered by existing landowners. The CPO and SRO will follow existing legislative procedures.
- 6.5.6. All parties have the right to object to the making of the Orders and attend a public inquiry arranged by the Secretary of State. Parties not included in the CPO may be afforded that right to make representations to the inquiry if the inspector agrees.
- 6.5.7. 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 Lands Tribunal for independent and impartial adjudication.
- 6.5.8. 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.

6.6. Human Resources Implications

- 6.6.1. It shall be necessary to ensure that sufficient resource is allocated in Assets, Highways, Legal, and Planning Services to support delivery of the Scheme. If additional temporary resources are required these will be met from the project budget.

6.7. Risk Management Implications

- 6.7.1. 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.
- 6.7.2. The Council will be required to accept all responsibility for cost increases beyond the cost envelope stated in the Business Case that approved for grant funding by DfT. The final decision on grant funding will be at the Full Business Case stage, which is

currently anticipated in late 2019. The Council will therefore be exposed to all scheme costs beyond the value of the anticipated Department for Transport capital grant of £43.79m

- 6.7.3. For the purposes of the Financial Case, optimism bias has not been included due to the fact that the scheme costs have been derived based upon a well developed highways design and are inclusive of a risk allowance of £3.35m. For the purposes of economic appraisal, a level of Optimism Bias is applied to uplift estimated costs by 15%, in accordance with DfT guidance, to ensure that the value-for-money of the Scheme is not overstated.
- 6.7.4. Until the point at which DfT make their final investment decision based on the Final Business Case, any council funding of Scheme development is at risk, although this risk decreases significantly once the DfT decision on the Outline Business Case is positive.
- 6.7.5. Achievement of the programme is a risk. There are significant benefits of opening the road widening before construction of the proposed HS2 route and Hub Station in Crewe begins, because HS2 construction traffic will use the A500 as an access route. HS2 construction is currently programmed to begin in 2021. However, if there is a delay in the A500 Scheme, then construction of the road widening could take place at the same time as construction traffic is accessing the HS2 site.
- 6.7.6. The majority of land that would be required to widen the A500 is owned by the Duchy of Lancaster. The land cannot be subject to a CPO unless the Duchy agree to it. Alternatively an agreement would have to be negotiated for the acquisition of their land. The Duchy has however submitted a letter of support for the Scheme and has said that they will be an active and supportive partner as the Scheme takes shape.
- 6.7.7. There are some significant services that cross the Scheme, such as a Mainline Fuels oil pipeline, and high pressure gas mains. An initial cost estimate, including risk, is included in the overall Scheme Cost Estimate, but further work is required to confirm those estimates, and to understand the requirements of the utility companies as Statutory Undertakers.
- 6.7.8. The assumed funding from Section 106 agreements is not all secured so there remains a funding risk of £11.39m which is the

whole of the Local Contribution. Mitigation of this risk is underway via close working with the planning team and negotiations with developers to ensure that sufficient contribution will be secured. There is also a risk of contributions not coming forward even though they have been secured in S106 Planning Obligations. The securing of S106 contributions is a decision of the Local Planning Authority and these projections are subject to the decision of the Local Planning Authority when it considers the relevant planning applications.

- 6.7.9. Section 7.2.12 outlines the Council's financial exposure in the scenario where the scheme is developed to Full Business Case submission, but grant funding is not approved by DfT and the scheme cannot therefore progress to construction.

6.8. Rural Communities Implications

- 6.8.1. As the Scheme is a widening of an existing road, it will not introduce any new severance of existing farms or communities. There are some existing field gates that access directly on to the A500, and these will have to be closed once the road becomes a dual carriageway on safety grounds. However, the farm tenants have said that they already no longer use the gates because of the high volume of traffic on the A500. Appropriate alternative accesses will be provided, as required, as part of the Scheme.
- 6.8.2. Similarly, there are crossing points for public rights of way that will be closed. The Scheme includes diversions for these footpaths to maintain connectivity, and the stopping up of paths where they lead directly to the road.
- 6.8.3. There may be some impact during the construction phase, because the two bridges over the A500 will need to be demolished and replaced. Consideration will be given to how connectivity can be maintained during construction.
- 6.8.4. The planning application provided a comprehensive Environmental Assessment which took into account the effect on the rural community. This assessment will include impacts such as noise, air quality, visual impact plus the Scheme's effects of Public Rights of Way and non-motorised users i.e. pedestrians, cyclists and equestrians.

6.9. Implications for Children & Young People

- 6.9.1. The Delivery Agreement will include a comprehensive framework to capture local Social and Community Value throughout the project. Opportunities to engage with local schools and colleges will arise as the Scheme progresses for education and training purposes. 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.

6.10. Public Health Implications

- 6.10.1. The recommendations have no immediate impact on public health. Issues associated with noise and air quality were assessed as part of the programme of works associated with preparing the Environmental Assessment which accompanied the planning application.
- 6.10.2. The Scheme will have environmental benefits, through reducing traffic congestion, improving travel times and reliability and encouraging multi modal forms of transport such as cycling and walking.

7. Ward Members Affected

- 7.1. The strategic nature of the Scheme will mean that journeys from multiple wards will be affected.
- 7.2. The Scheme itself is situated in Haslington Ward. The local ward member for Haslington is Cllr David Marren.

8. Consultation & Engagement

- 8.1. The Pre-Planning Application Consultation has been undertaken, the consultation report is available on request .

9. Access to Information

- 9.1. The background papers relating to this report are available in electronic format on the Council's web site (Cabinet agenda page) and will be available for inspection in hard copy at the meeting. They are:
- Appendix A – Redline Boundary Plan
 - Procurement Options Report this can be downloaded electronically from the A500 Dualling website:-

https://www.cheshireeast.gov.uk/highways_and_roads/roadworks/major-projects/a500-dualling.aspx

- Planning Consultation Report – available on request

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

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