

Cabinet

Date of Meeting: 09 July 2019

Report Title: A500 Dualling – Approval to Acquire Land Required to Deliver the Scheme

Portfolio Holder: Cllr Craig Browne – Deputy Leader

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. The Council has successfully entered into a 2-stage Delivery Agreement with Balfour Beatty Limited through the SCAPE Civil Engineering and Infrastructure framework as the procurement method for the Scheme. The Agreement utilises the NEC X23 clause whereby the Council can walk

away in Stage 1 (Pre-construction) without commitment to carry out Stage 2 (Construction).

- 1.6. The Outline Business Case has been resubmitted to Department for Transport (DfT) to reflect the increased scheme estimate which is now £68.7m. The DfT future spend contribution application has been increased from £42.6m to £53.3m.
- 1.7. The current programme (subject to final funding approvals) is for the main works to start in 2020, with an estimated 27-month construction period.
- 1.8. This report seeks approval for Cabinet to authorise the use of the powers of Compulsory Purchase to undertake the acquisition of land and new rights required for the construction of A500 Dualling Scheme.

2. Recommendations

That Cabinet

- 2.1. Authorise 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 Scheme as shown on the CPO Plan (Appendix A).
- 2.2. Authorise the making of a Side Roads Order (or Orders) under Sections 8, 14 and 125 of the Highways Act 1980 and all other necessary powers to improve, stop up existing highways, construct lengths of new highway and stop up and provide replacement private means of access as required to deliver the Scheme;
- 2.3. Authorise the Executive Director – Place in consultation with the Director of Governance and Compliance 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 Scheme.
- 2.4. Authorise the Executive Director – Place in consultation with the Director of Governance and Compliance Services to take all appropriate actions to secure the confirmation of the contemplated orders including:
 - 2.4.1. Authority to take all necessary action to secure the making, submission to the Secretary of State for confirmation and (if confirmed) implementation, of the Orders including the publication and service of all relevant notices and for the Director of Governance and Compliance to secure the presentation of the Council's case at any public inquiry and the subsequent service of Notices to Treat and Notices of Entry or, as the case may be the execution of General Vesting Declarations;

- 2.4.2. Authority to negotiate and enter into agreements and undertakings with the owners of any interest in the required land under the CPO and/or the SRO (“the Orders”) and any objectors to the confirmation of the Orders setting out the terms for the withdrawal of objections to the Orders including where appropriate, the inclusion in and/or exclusion from the CPO of land or new rights or the amendments of the SRO and to authorise the Director of Governance and Compliance to agree, draw up, and to sign all necessary legal documents to record such agreements and undertakings;
- 2.4.3. Authorise in the event that any question of compensation is referred to the Upper Tribunal (Lands Chamber) the Director of Governance and Compliance to take all necessary steps in connection with the conduct and, if appropriate, settlement of such proceedings;
- 2.4.4. Authorise the Director of Governance and Compliance Services to appoint suitable counsel to advise and represent the Council at any Public Inquiry held in respect of the Orders and to provide legal support to the team through the process;
- 2.5. Authorise the Head of Estates to seek to acquire the land and rights (or extinguish the same) required for the Scheme by agreement and to instruct the Director of Governance and Compliance to negotiate and enter into the agreements necessary to complete such acquisitions.
- 2.6. Authorise the Head of Estates to negotiate and approve the payment of relevant and reasonable professional fees incurred by landowners and others with compensate able interests in taking professional advice in connection with the acquisition of their interests required for the scheme and related compensation claims and also in advancing the development or implementation of the Scheme.
- 2.7. Authorise entering into an agreement with Staffordshire County Council under powers in section 8 of the Highways Act 1980 facilitating the transfer of functions of Staffordshire’s highway powers and duties -in relation to that land which falls within the administrative boundary of Staffordshire County Council required for delivery of this scheme.

3. Reasons for Recommendations

- 3.1. The acquisition of this land enables the Council to proceed with the development and delivery of the A500 Dualling scheme. This is a vital road connection as it provides a key strategic transport link between Crewe and Nantwich to the M6 at Junction 16.
- 3.2. Acquiring the necessary land and rights by negotiation is preferable and the Council must be able to demonstrate by the time of the public inquiry that it has made reasonable efforts in this regard. However it is not realistic to

assume that voluntary acquisitions could be concluded with all affected parties and for all land title issues to be dealt within the funding window for this scheme. Accordingly, the authorisation of compulsory purchase action is sought so that the project programme can be maintained and to demonstrate the Council's intent to proceed with the scheme.

- 3.3. In addition to facilitating the eventual delivery of this scheme, initiating the CPO process over the entire land holding, that is required to implement the scheme, provides the legal framework for the compulsory acquisition of land necessary to deliver the scheme. The CPO process requires that the acquisition of land should be pursued by agreement and the use of compulsory purchase powers should be a last resort.
- 3.4. In resolving to make a Compulsory Purchase Order for the A500 Dualling 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 a highway 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.
- 3.5. The scheme will require the acquisition of full title to c17 hectares of land (or thereabouts) and a further c2 hectares of land over which new rights are to be created. The interests of 6 owners, including the Duchy of Lancaster, are affected. The map to accompany the CPO will be available for inspection by members at the meeting and a reduced size version is annexed to this report.
- 3.6. 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.
- 3.7. Some of the areas over which full title is to be acquired will not be required for the permanent works and, subject to negotiation, may be offered back to the current owners along with the payment of compensation in due course.

The areas that may be subject to offers back to the owners are shown shaded green, orange and yellow on the non-statutory land acquisition plans which will be available for inspection by members at the meeting.

- 3.8. 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.
- 3.9. In addition, the SRO makes provision for the stopping-up of numerous private means of access to premises and 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.
- 3.10. The plans of the works and alterations to be authorised by the Side Roads Order will be available for inspection by members at the meeting.
- 3.11. The land that is 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.
- 3.12. As a small portion of the scheme lies within the Staffordshire County Council (SCC) area it has been agreed in principle with SCC that the authorities will enter into an agreement to allow Cheshire East to construct the part of the highway falling within the administrative boundary of SCC, promote the scheme and progress the CPO and SRO on behalf of both authorities. Section 8 of the Highways Act 1980 provides a legal mechanism to enable such schemes to be delivered by a neighbouring Authority promoting the Scheme. .
- 3.13. In the event that 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.

4. Other Options Considered

- 4.1. It is intended to acquire all the land required for the Scheme by agreement where possible and to use the powers under the Highway Act to compulsory purchase land and interests that cannot be acquired through agreement beforehand to ensure deliverability of the scheme within the programme.
- 4.2. If the development of the scheme is put on hold whilst waiting for DfT programme entry there will be a direct and immediate negative impact on the delivery programme. Some activities are seasonally dependent and short delays to these activities could quickly become very significant. As

well as delaying the delivery of the benefits of the scheme it is estimated that there will be a project cost increase amounting to £150k per month of delay. This cost will be the liability of the Council as it will be from the local contribution.

If a decision is made to cancel the scheme the Council will need to refund to the DfT the £1.8m grant received to date and there will be no benefit from the Local Contribution spent to date (£2.7m up to end May 2019). Furthermore, the benefits attributed to the scheme will not be delivered and the Council's reputation with the DfT and TfN will be seriously compromised.

5. Background

- 5.1. Preparation of the planning application and submission of the Outline Business Case was authorised by Cabinet at its May 2017 meeting.
- 5.2. Planning application reference 18/3766N was approved by the Strategic Planning Board on 19th December.
- 5.3. The Outline Business Case was submitted to the DfT in June 2018. The Outline Business Case (OBC) was revised and resubmitted to DfT in May 2019.
- 5.4. Subsequent to the OBC submission to the DfT in June 2018, due diligence in the ground investigation, discussions with National Grid and programme review with the SCAPE delivery team have led to a combined increase in the Scheme cost estimate, from £58.5m to £68.7m. The DfT future spend contribution application has been increased from £42.6m to £53.3m. The most significant cost increases are due to the following:
 - 5.4.1. Two National Grid gas mains cross the scheme. National Grid originally advised that these would not need diverting or significant protection works. The position now is that one of the gas mains needs to be diverted and the other needs upgraded protection.
 - 5.4.2. At the time of the original OBC submission it was known that there are two areas of very poor ground on the scheme. The design of the existing A500, which was built in 1987, indicates that the poor ground had been excavated up to depths of 10m deep and replaced with rock fill during the construction of the original road. Subsequent ground investigation analysis found that the actual extent of the rock fill is significantly less extensive than shown in the design. A much more robust geotechnical design for the new road is required than originally envisaged because of actual conditions encountered.

- 5.4.3. There is also increased inflation cost because of the increased scheme cost and because of the longer construction period associated with these additions.
- 5.5. To meet the programme for the Scheme, the Council will need to undertake further work i.e.:
 - 5.5.1. Negotiations with affected land owners to secure land required for the Scheme by agreement whilst proceeding with the making of a CPO and SRO should agreements fail and statutory powers of acquisition need to be used ;
 - 5.5.2. 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;
 - 5.5.3. 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;
 - 5.5.4. A suitable supply chain is required, including local companies as far as is possible, to ensure timely commencement of the main works.
- 5.6. The majority of the land required for the Scheme is in the ownership of the Duchy of Lancaster. The Council cannot rely on powers of compulsory purchase to acquire crown land and must secure this land by agreement. Engagement with the Duchy's agents has already commenced.
- 5.7. The remainder of the land required to deliver the scheme can be acquired compulsorily but the Council are required to demonstrate that they have sought to engage with landholders to agree acquisition only relying on CPO powers as a last resort. 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.
- 5.8. 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.
- 5.9. Whilst acquisition by agreement will be pursued, initiating the CPO process over the third party land holdings 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.

- 5.10. If a CPO is required it is expected that it will be made in August 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.
- 5.11. At the east end of the scheme, close to the M16 Junction 6 roundabout there is part of the proposed highway infrastructure (part of a permanent drainage attenuation pond and part of a proposed temporary site compound) that lie within the Staffordshire County Council (SCC) area. It has been agreed in principle with SCC that the authorities will enter into an agreement under Section 8 of the Highways Act 1980. This will enable Cheshire East to promote the scheme and progress the CPO and SRO on behalf of both authorities.
- 5.12. 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.
- 5.13. 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.
- 5.14. The Duchy of Lancaster, as a major owner of the land required for the Scheme and of land which will benefit from the A500 works, 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 from the Duchy.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. In resolving to make a Compulsory Purchase Order and a Side Roads Order 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. Part XII of the Highways Act 1980 includes a number of CPO powers to support the delivery of highways. These include:
- 6.1.3. Section 239 of the 1980 Act pursuant to which the highway authority for the area may acquire land required for the construction of a highway, other than a trunk road, which is to become maintainable at the public expense, as well as any land required for the improvement of a highway.
- 6.1.4. Section 240 of the 1980 Act, pursuant to which the highway authority may acquire land required for use in connection with construction or improvement of a highway and the carrying out of a diversion or other works to watercourses.
- 6.1.5. Section 246 of the 1980 Act pursuant to which the highway authority can acquire land for the purpose of mitigating any adverse effect which the existence or use of a highway constructed or improved by them has or will have on the surroundings of the highway.
- 6.1.6. Section 248 of the 1980 Act pursuant to which the highway authority can acquire land in advance of requirements.
- 6.1.7. Section 249 of the 1980 Act prescribes distance limits from the highway for the acquisition of land for certain purposes.
- 6.1.8. Section 250 of the 1980 Act allows the highway authority to acquire rights over land, both by acquisition of those that are already in existence, and by the creation of new rights.
- 6.1.9. The delivery of the Scheme will require the Council to make a CPO using the powers set out above.
- 6.1.10. A compulsory purchase order should only be made where there is a compelling case in the public interest. Compulsory purchase powers are only to be used as a last resort and that the land proposed to be acquired must be the minimum considered to be reasonably required to achieve the selected design option.

6.1.11. In submitting the CPO to the Secretary of State for Transport for confirmation, the Council must demonstrate that there are no impediments to implementation of the CPO. To do so, the Council must provide substantive information as to the sources of funding available for both acquiring the land and implementing the Scheme for which the land is required.

6.1.12. The Council must also show that the scheme is unlikely to be blocked by any physical or legal impediments to implementation; including any need for planning permission or any other consent or licence and completion of an Agreement with Staffordshire County Council to ensure that Cheshire East Council can exercise highway functions within the specified land within their area. .

6.1.13. An order under section 14 of the 1980 Act authorises a highway authority to stop up, improve, raise, lower or otherwise alter a highway that crosses or enters the route of a classified road. It also provides for the construction of new highways for purposes concerned with any such alterations or related purposes. Section 125 of the 1980 Act provides that an SRO may authorise the highway authority to stop up private means of access to premises and to provide new means of access to premises. In all instances where stopping up of either highway or private means of access is proposed, the Secretary of State must be satisfied that either no access to premises is reasonably required or that other reasonably convenient means of access to the premises are available to the premises or will be provided.

6.1.14. Section 8 of the Highways Act 1980 provides that local highway authorities may enter into agreements with an adjoining highway authority to transfer the functions of one highway authority to another and this includes the power to acquire land compulsorily.

6.2. Finance Implications

6.2.1. In June 2018, Council approved a Supplementary Capital Estimate of £0.4m to increase the current budget of £4.1m to £4.5m to enable the scheme to progress whilst awaiting the outcome of DfT funding and Planning Application decisions.

6.2.2. In order to proceed with the development of the scheme while waiting on DfT Programme Entry, the Council has increased the approved budget from £4.5m to £6.5m in the main capital programme. This has been implemented in two stages:

- 6.2.2.1. In June 2019 there was a virement of £0.5m from the Alderley Edge Bypass Scheme, which is no longer required for Part 1 claims to the A500 Dualling Scheme.
- 6.2.2.2. A supplementary capital estimate of £1.5m was reported in the 2018/19 Financial Outturn and Review of Performance report to Cabinet on 11 June 2019 and will be recommended to Council for approval on 18 July 2019.
- 6.2.3. The £6.5m approved budget has been secured from £4.7m local contributions and £1.8m DfT contributions.
- 6.2.4. This budget will enable the project to proceed to October 2019 with key aspects of the preconstruction programme to safeguard the programme, progress land procurement and develop works cost certainty. If DfT decide not to include the scheme in the programme at any point during that period, expenditure can be stopped immediately and the contract with the delivery team through the SCAPE framework can be terminated at any time.
- 6.2.5. An Outline Business Case was submitted to the DfT in June 2018. By January 2019 the DfT had not confirmed DfT programme entry and by this time, as a result of ongoing scheme development and due diligence, additional scope and cost information had come to light that resulted in an increase to the scheme cost estimate to £68.7m. It was agreed with the DfT that a revised Outline Business Case would be submitted to reflect this change. The revised Outline Business Case was submitted to the DfT in May 2019.
- 6.2.6. The original Outline Business Case was submitted to DfT aligned to a total scheme cost of £57.8m based on the information that was available at that time. Subsequent ground investigations, further discussions with National Grid in relation to gas main protection and diversion requirements and a programme review with the appointed Design and Build contractor, have led to this increase in the scheme cost estimate.
- 6.2.7. Although the revised Outline Business Case is based on the increased total scheme cost of £68.7m, the total local contribution of £13.6 has not increased. This has been possible because DfT guidelines have changed and they now allow for an increased proportion of contribution from the DfT. The total requested contribution from the DfT is now £55.1m.
- 6.2.8. A detailed cost estimate has been prepared by specialist engineering and property consultants. The following table summarises the main cost elements for the Scheme.

Scheme Element	Estimated Outturn Costs (2018 Q1 prices)
Scheme expenditure up to end May 2019	£4.50m
Construction incl. Preliminary works	£38.60m
Supervision costs	£3.70m
Land acquisition	£2.40m
Part 1 Claims	£0.46
Statutory utilities	£6.50m
Preparation costs	£2.30m
Inflation allowance	£6.54m
Risk Allowance	£3.70m
Total	£68.7m

6.2.9. The Scheme funding relies on local funding sources, referred to as the Local Contribution, secured from both the Council and third party (developer) sources. The following table summarises the funding sources.

Funding Source	Value £ (2018 Q1 prices)
DfT Grant (including £1.8m already received for scheme development and the future contribution £53.3m))	£55.1m
Whole scheme local contribution This figure includes the end May 2019 sunk costs local contribution £2.685m and the future expected local contribution £10.9m (the January 19 Cabinet report stated that future local contribution was £11.39m, this is now reduced to £10.9m due to ongoing spend since January).	£13.6m
Total Scheme costs	£68.7m

6.2.10. At this stage, the current estimate of funding from S106 developer contributions is in the range of £2m to £6m based on developments that may be released by the Scheme as set out in the Local Plan Strategy. The funding strategy for the scheme is to maximise the value of S106 contributions however, there is no guarantee that these developments will come forward or even if they do, that all predicted funding will be collected.

6.2.11. Officers are continuing to pursue alternative funding sources, including developer contributions, which could be used towards the Local Contribution. This approach will be retained, ensuring that the call on Council resources is minimised. The total scheme cost will be revised in the Capital Programme in a future report to Cabinet following the outcome of the revised OBC submission to the DfT.

6.2.12. 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, excluding the £1.8m provided by DfT to develop the Outline Business Case.

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 was prepared to accompany the planning application for the Scheme and considered in determining to grant planning permission.

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. 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.

- 6.5.2. 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.
- 6.5.3. 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.
- 6.5.4. 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.
- 6.5.5. 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.
- 6.5.6. 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.
- 6.5.7. 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. A revised Outline Business Case was submitted to the DfT in May 2019 and the scheme has not yet been granted DfT programme entry. Although DfT programme entry is expected, it is not yet certain.
- 6.7.3. 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 mid- 2020.
- 6.7.4. 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 £3.7m. 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.
- 6.7.5. 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 approve the Outline Business Case.
- 6.7.6. A revised Outline Business Case was submitted to the DfT in May 2019 and the scheme has not yet been granted DfT programme entry. Although DfT programme entry is expected it is not yet certain.
- 6.7.7. 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.
- 6.7.8. 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 agrees 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 a supportive partner as the Scheme takes shape.

- 6.7.9. 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.
- 6.7.10. The Council will be required to forward fund the whole of the local contribution and to underwrite all third party contributions expected through Section 106 (S106) agreements, as developer contributions may take many years to collect. The current estimate of funding from S106 agreements is in the range £2m to £6m, based on developments that could be released by the Scheme as set out in the Local Plan Strategy. The funding strategy for the scheme is to maximise the value of S106 contributions however, there is no guarantee that these developments will come forward or even if they do, that all predicted funding will be collected.
- 6.7.11. 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.

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 included 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 and 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 will be assessed as part of the programme of works associated with preparing an Environmental Assessment to accompany 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.

6.11. Climate Change Implications

6.11.1. The proposed scheme has been subject to a comprehensive Environmental Appraisal as part of the statutory planning process. This has demonstrated the wider environmental and ecological impact of the bypass. The Council has resolved to consent the Scheme subject to conditions.

6.11.2. The proposed scheme is embedded in the Local Plan Strategy, which has been subject to Examination in the Public by the Planning Inspectorate. The Local Plan has been deemed to be a robust plan for sustainable development across the borough. The scheme contributes to this overall plan for sustainable growth in Cheshire East by enabling growth through improved connectivity and reducing adverse impacts of traffic and travel.

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 members for Haslington are Cllr Mary Addison and Cllr Steven Edgar.

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 can be inspected by contacting the report writer.

10. Contact Information

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

Name: Chris Hindle

Job Title: Head of Strategic Infrastructure

Email: chris.hindle@cheshireeast.gov.uk