

Key Decision: Yes

Date First  
Published:  
29/11/19

## **Cabinet**

---

**Date of Meeting:** 05 May 2020

**Report Title:** North West Crewe Package – Approval to Authorise the Use of Compulsory Purchase Powers for the Delivery of the Scheme

**Portfolio Holder:** Cllr Craig Browne – Deputy Leader

**Senior Officer:** Frank Jordan - Executive Director - Place

---

### **1. Report Summary**

- 1.1. The Council has set out a clear vision and strategy for sustainable economic growth in the recently adopted Local Plan. A key element of this strategy is a significant investment programme in transport infrastructure to support the housing and jobs in the Borough.
- 1.2. Significant progress has been made in delivering the Council's strategic infrastructure programme. Recent years have seen the completion of schemes such as Crewe Green Roundabout, Sidney Road Bridge, Crewe Green Link Road, Basford West Spine Road, Alderley Edge Bypass, the M6 Junction 16 and 17 Pinch Point schemes, and the new Rail Exchange and car park interchange facility at Weston Road, Crewe. A number of other schemes in the Council's Local Plan Infrastructure Development Plan are either on site or being developed.
- 1.3. The Leighton West area on the edge of Crewe includes the Leighton strategic housing sites, all of which were allocated in the Local Plan. The allocation was supported by a proposal for new highway infrastructure to provide additional capacity on the highway network and access to the new sites. This is referred to as the North West Crewe Package.

- 1.4. The proposal is included in the Cheshire East Local Plan Infrastructure Delivery Plan and includes; a north-south spine road, the realignment of Smithy Lane, an east-west Link Road from A530 to the Spine Road and a series of junction improvements. A plan showing the Scheme is included as Appendix 1.
- 1.5. The North West Crewe Package forms a key part of the Local Plan infrastructure programme for wider Crewe, which will deliver an improved highway network for the town. The benefits of the North West Crewe Package also extend to unlocking a number of other housing and employment Local Plan allocation sites by improving wider traffic movements and transport links, particularly in North Crewe.
- 1.6. As such, the delivery of the North West Crewe Package is important to achieving a supply of development sites in the wider Crewe area and to uphold the Local Plan strategy. The housing sites that would be opened up would also make a significant contribution to maintaining the Council's 5-year housing supply and therefore enable the effective management of any planning applications for land not allocated in the Local Plan.
- 1.7. The new infrastructure will improve links between Leighton Hospital, Crewe and the surrounding area, easing congestion and establishing a "blue light" route to Leighton Hospital. These improvements to the Hospital access junction will provide capacity for the predicted growth in traffic during the Local Plan period up to 2030.
- 1.8. This report seeks authorisation to make The Cheshire East Council (North West Crewe Package) Compulsory Purchase Order 2020 ("the CPO") in respect of the land identified in the Order Map ("the Order Land") and to make The Cheshire East Council (A530 Middlewich Road Classified Road) (Side Roads) Order 2020, The Cheshire East Council (B5076 Flowers Lane Classified Road) (Side Roads) Order 2020, The Cheshire East Council (B5076 Flowers Lane Classified Road Fairfield Roundabout A) (Side Roads) Order 2020 and The Cheshire East Council (B5076 Flowers Lane Classified Road Fairfield Roundabout B) (Side Roads) Order 2020 ("the SROs").
- 1.9. This report also seeks Cabinet approval of the Statement of Reasons ("SoR") and the Order Map ("the Order Map") attached to this report for the purposes of the CPO and (where appropriate) the SROs

- 1.10. The North West Crewe Package (“the Scheme”) is a key part of the Cheshire East Local Plan Infrastructure Delivery Plan for Crewe and part of its plan to support the regeneration and development of Crewe. This support aims to deliver environmental, social and economic benefits to the Town detailed in the Statement of Reasons Appendix 2.
- 1.11. The Scheme itself shall provide a series of highways and junction improvements in the area of Leighton, located to the north west of Crewe. It will create a total of 2.9 km of new roads with street lighting and dual use footways and cycleways with appropriate crossing points to ensure safe crossing facilities.
- 1.12. The Scheme shall deliver an improved highway network for the Town. The benefits also extend to unlocking a number of housing and employment Local Plan sites by improving wider traffic movements and transport links in the locality. These improvements will also reduce congestion and improve access to Leighton Hospital, and the future access to the Bentley Motors Site. The successful delivery of these sites will also support the emerging strategy development work in the Crewe Masterplan and The Constellation Partnership’s HS2 growth strategy.
- 1.13. The current programme is for the main works to start in early 2021, with an estimated 24-month construction period.
- 1.14. Cabinet approved, in principle, the use of powers of compulsory purchase in March 2018. Since that meeting, the design development work has established the extent of the land required for the Scheme. Accordingly, it is necessary to seek Cabinet authority for use of powers of compulsory purchase in parallel with the negotiations to undertake the acquisition of land and new rights required for the construction of the Scheme by agreement, reflecting the land requirement that has now been established as being necessary to deliver the Scheme.
- 1.15. This report details the affected landowners and plots required to deliver the Scheme, with such further detail allowing the Council to make a fully informed decision and proper consideration of the use of powers of compulsory purchase.
- 1.16. The Council has initiated discussions and will continue to seek to negotiate the acquisition of all the legal interests in the land required for the construction of the Scheme by agreement. However, the Council needs to ensure it has the ability to use compulsory purchase powers if it considers that it may not be possible to agree

terms for the acquisition of all the remaining interests in the land required to facilitate construction of the Scheme. The use of such powers would only ever be as a matter of last resort and would be in parallel to continued efforts to negotiate private acquisitions.

## **2. Recommendations**

That Cabinet:

- 2.1. Confirms that the acquisition of the land identified on the Order Map attached to the report is necessary for highway purposes;
- 2.2. Approves the draft Statement of Reasons and the draft Order Map (with schedules) both substantially in the form annexed to the report for the purposes of the Compulsory Purchase Order but delegates to the Director – Infrastructure and Highways in consultation with the Director of Governance & Compliance, authority to modify them as necessary;
- 2.3. Approves the draft SRO's Plan substantially in the form annexed to the report for the purposes of the Side Roads Order and delegates to the Director – Infrastructure and Highways in consultation with the Director of Governance & Compliance, authority to modify them as necessary;
- 2.4. Authorises the Director – Infrastructure and Highways in consultation with the Director of Governance & Compliance to determine the form and contents of the Schedules (“the Schedules”) necessary as part of the CPO to identify the land contained within the Order Map.
- 2.5. Authorises the Director of Governance & Compliance to make The Cheshire East Council (North West Crewe Package) Compulsory Purchase Order 2020 (“the CPO”) pursuant to Section(s) 239, 240, 246, 250 and 260 of the Highways Act 1980 and Schedule 3 to the Acquisition of Land Act 1981 for the purpose of acquiring the land and interests shown on the Order Map and described in the Schedules (or such lesser area of land should this in her opinion be appropriate) to facilitate the construction of the Scheme, and that the Common Seal of the Council be affixed to the CPO and to the Order Map
- 2.6. Authorises the Director of Governance & Compliance to make The Cheshire East Council (A530 Middlewich Road Classified Road) (Side Roads) Order 2020, The Cheshire East Council (B5076 Flowers Lane Classified Road) (Side Roads) Order 2020, The Cheshire East Council (B5076 Flowers Lane Classified Road Fairfield Roundabout A) (Side Roads) Order 2020 and The Cheshire

East Council (B5076 Flowers Lane Classified Road Fairfield Roundabout B) (Side Roads) Order 2020, under Sections 8, 14 and 125 of the Highways Act 1980 and all other necessary powers to improve, stop up existing highways, stop up and/or amend private means of access and provide replacement private means of access, and construct lengths of new highway as required to deliver the Scheme.

- 2.7. Authorises the Director of Governance & Compliance to advertise the making of the CPO and the SROs (“the Orders”) to comply with all associated requirements in respect of personal, press and site notices, and to take all other relevant action thereon to promote the making and the confirmation of the Orders;
- 2.8. Agrees that in the event that no objections are received to the CPO or if all objections are subsequently withdrawn, or the Director of Governance & Compliance certifies that they may be legally disregarded, to authorise the Director of Governance & Compliance to obtain the appropriate Certificate under Section 14A of the Acquisition of Land Act 1981 enabling the Council to confirm the CPO as made;
- 2.9. Agrees that in the event that relevant objections are received to the Orders (or any of them) and are not withdrawn, or that modifications are made to the Orders, to authorise the Director of Governance & Compliance to submit the Orders to the Secretary of State with a request that it be confirmed in the required form;
- 2.10. Agrees that in the event that any Public Inquiry is convened to consider objections to the Orders (or any of them), authorise the Director – Infrastructure and Highways in consultation with the Director of Governance & Compliance to prepare and submit such evidence as is necessary in support of the Orders including enlisting the assistance of outside consultants and Counsel to assist in the preparation and presentation of such evidence;
- 2.11. Agrees that as soon as the Orders (or any of them) have been confirmed and become operative, the Director of Governance & Compliance is authorised to comply with all associated requirements in respect of personal and press notices and to make and give notice of a General Vesting Declaration under the Compulsory Purchase (Vesting Declarations) Act 1981 and/or Notices to Treat and Notices of Entry in respect of the land and rights to be acquired compulsorily;
- 2.12. Delegates power to the Head of Estates to negotiate and agree terms 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 all legal agreements necessary to facilitate any such agreements.

- 2.13. Delegates power to the Head of Estates to negotiate and approve the payment of relevant and reasonable professional fees incurred by landowners and others with compensatable interests in taking professional advice in connection with the acquisition of their interests required for the Scheme and to negotiate, approve and document by way of settlement or other legal agreement payment of all related compensation claims in advancing the development or implementation of the Scheme, including the settlement of any claims made pursuant to Part 1 of the Land Compensation Act 1973.
- 2.14. Agrees that in the event that any question of compensation in respect of such interests or rights is referred to the Upper Tribunal (Lands Chamber) for determination, to authorise the Director of Governance & Compliance to take all necessary steps in relation thereto including advising on the appropriate uses and compensation payable and issuing the appropriate certificates.

### **3. Reasons for Recommendations**

- 3.1. The acquisition of the land enables the Council to proceed with the development and delivery of the Scheme. A scheme plan can be found attached in Appendix 1.
- 3.2. The proposed NWCP package of works consists of the following elements:
  - The Fairfield Link (realignment of Smithy Lane), which includes the A530 Middlewich Road/Smithy Lane roundabout, the Hospital roundabout and the Fairfield roundabout;
  - A new primary Hospital link route connecting the realigned Smithy Lane to the north with Minshull New Road to the south, including the Hospital roundabout junction, the roundabout known in the planning documentation as Engine of the North roundabout and the Minshull New Road roundabout junction;
  - A new East-West Link Road connecting the A530 Middlewich Road/Leighton Hall Farm roundabout to the west to the roundabout known in the planning documentation as Engine of the North roundabout to the east;
  - The Flowers Lane link, forming a new three-arm roundabout junction with the A530 Middlewich Road; and

- Minshull New Road would be closed for vehicular through-access on the section of the road adjacent to Leighton Academy and provide suitable vehicle turning points, remaining accessible as a through-route for Non Motorised User (“NMU”) access.
- 3.3. This is a vital new road scheme as it will deliver an improved highway network for the Town and unlock a number of housing and employment Local Plan allocation sites whilst also reducing congestion and improving access to Leighton Hospital and future access to the Bentley Motors Site. The Scheme also supports the Council’s strategy for Crewe. The construction of the Scheme cannot be achieved without the acquisition of the land and/or new rights identified on the Order Map.
  - 3.4. 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 may not be possible to conclude voluntary acquisitions with all affected parties and for all land title issues to be dealt within the funding window for this Scheme. Accordingly, the renewed 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. The Council will make every effort to acquire by negotiation all necessary interests that are needed to deliver the Scheme (and will continue to do so in parallel to the compulsory purchase process), but it recognises that it may not be possible to agree terms for the acquisition of all interests. Without the acquisition of all interests, the delivery of the Scheme will be impinged and/or unable to proceed.
  - 3.5. The Scheme will require the acquisition of the freehold title to approximately 23.4 hectares of land (or thereabouts) and a further approximately 0.1 hectares of land over which new rights are to be created. The interests of 125 owners are affected. The Order Map will be available for inspection by members at the meeting and a reduced size version is annexed to this report as Appendix 3.
  - 3.6. The land over which freehold title is to be acquired is predominantly agricultural land. The Scheme does not require the acquisition of land in any of the categories where land must be provided in exchange, such as common land or public open space.
  - 3.7. Some of the areas over which freehold 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 in due course in compliance with the Crichel Down rules.

#### Side Roads Orders (SROs)

- 3.8. The SROs will authorise the stopping-up, diversion and creation of new lengths of highway or reclassification of existing highways, together with stopping up and/or amendments to private means of access, and re-provision of private means of access. The CPO will include land that is required to enable the works authorised by the SROs to be carried out.
- 3.9. However, there are alternative provisions for SROs dependent on whether the Fairfield roundabout is delivered as part of the Torus Homes development scheme or the North West Crewe Package, and dependent on whether the roundabout is delivered by the Council or by Torus Homes.
- 3.10. If the Fairfield roundabout is delivered along the alignment as permitted as part of the planning permission for the North West Crewe Package, The Cheshire East Council (A530 Middlewich Road Classified Road) (Side Roads) Order 2020, The Cheshire East Council (B5076 Flowers Lane Classified Road) (Side Roads) Order 2020 and The Cheshire East Council (B5076 Flowers Lane Classified Road Fairfield Roundabout A) (Side Roads) Order 2020 will be required and will authorise the CPO.
- 3.11. If the Fairfield roundabout delivered by the Council along the alignment provided for as part of the Torus Homes development planning permission, The Cheshire East Council (A530 Middlewich Road Classified Road) (Side Roads) Order 2020, The Cheshire East Council (B5076 Flowers Lane Classified Road) (Side Roads) Order 2020 and the additional Side Roads Order referred to as The Cheshire East Council (B5076 Flowers Lane Classified Road Fairfield Roundabout B) (Side Roads) Order 2020 will be required.
- 3.12. If the Fairfield roundabout is delivered along the alignment of the Torus Homes development by Torus Homes, neither The Cheshire East Council (B5076 Flowers Lane Classified Road Fairfield Roundabout A) (Side Roads) Order 2020 nor The Cheshire East Council (B5076 Flowers Lane Classified Road Fairfield Roundabout B) (Side Roads) Order 2020 would be required. . There may be a need for minor amendments to the Scheme's planning permission and a Section 73 variation plus Section 38/278 highways agreement, and these will be dealt with separately.

- 3.13. The alternate provision is being provided for as, at this time, it is not known which roundabout will come forward first. The Order Map provides for the widest area of Order Land in this location that may be necessary and will be finalised prior to the Order being confirmed, with modification as required to minimise the land take so as to only compulsorily purchase as much land as is required, in compliance with the Guidance.
- 3.14. The plans of the works and alterations to be authorised by the SROs will be available for inspection by members at the meeting.
- 3.15. The land that is proposed to be acquired is the minimum considered to be reasonably required to achieve the selected design option. All beneficiaries of any stopped up private means of access will be provided with a reasonably convenient and commodious alternative means of access, unless there is no need for an alternative access to be provided.
- 3.16. In the event that the Scheme is not undertaken, the north west of Crewe shall suffer increasing levels of congestion, constraining future housing and employment land release and access to Leighton Hospital and the Bentley Motors Site.

#### **4. Other Options Considered**

##### **4.1. Land Acquisition by Negotiation**

Land acquisition could be pursued solely by negotiation and subsequent agreement. However, relying on land acquisition by agreement alone does not guarantee that the land required for the Scheme will be secured. Although an agreement has been reached with the principal landowner, this is conditional upon the landowner securing planning consent for a housing development which is satisfactory to them. It is intended to acquire all the land for the Scheme by agreement where possible and to only use the powers under the Highway Act to compulsorily purchase land and interests (where these powers are applicable) that cannot be acquired through agreement beforehand to support deliverability of the Scheme.

##### **4.2. Cancel the Scheme**

If a decision is made to cancel the Scheme there will be no benefit from the National Productivity Fund award spent to date (£5 million up to end March 2020) and these funds would have to be repaid. Furthermore, the benefits attributed to the Scheme will not be

delivered and the Council's reputation with Homes England and the Department for Transport will be compromised.

## **5. Background**

- 5.1. The Council has developed a detailed design and obtained full planning consent for the Scheme under planning application reference 18/6118N.
- 5.2. To meet the programme for the Scheme, the Council will need to undertake further work as follows:
  - 5.2.1. Negotiations with affected landowners to secure land required for the Scheme by agreement whilst proceeding with the making of the CPO and the SROs should agreements fail and statutory powers of acquisition need to be used;
  - 5.2.2. Under the terms of a Section 106 agreement ("S106") attached to planning application reference 16/2373N for the development of up to 400 houses on land at Flowers Lane, a s278 agreement is required with the Torus Housing Association in respect to securing land for a new roundabout connecting Smithy Lane and Flowers Lane;
  - 5.2.3. A S73 application is required to vary the planning consent for the Scheme to amend the location of the new roundabout connecting Smithy Lane and Flowers Lane;
  - 5.2.4. Advance works are required to be completed in sufficient time to ensure ecological mitigations and utilities diversions are sufficiently progressed to enable the main works to commence on time;
  - 5.2.5. A suitable supply chain is required, including local companies as far as is possible, to ensure timely commencement of the main works.
- 5.3. The majority of the land required for the Scheme is under the control of a single landowner and it has been possible to reach agreement with this landowner, but this is conditional upon securing planning consent for a housing development which is satisfactory to them. It is intended to acquire all the land for the Scheme by agreement where possible and to only use the powers under the Highway Act to compulsorily purchase land and interests (where these powers are applicable) that cannot be acquired through agreement beforehand to support deliverability of the Scheme as a matter of last resort.

- 5.4. The majority of the remaining land required to deliver the Scheme is in Council ownership but subject to third-party legal interests which may have to be acquired compulsorily to enable delivery of the Scheme.
- 5.5. The Council has appointed external solicitors to undertake preparatory work including drafting the Orders required to deliver the Scheme. Chartered surveyors have also been appointed to deal with negotiations on land acquisition 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.
- 5.6. 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 national guidance on the use of CPO powers set out in “Guidance on Compulsory Purchase Process and the Crichel Down Rules” (July 2019) (“the Guidance”).
- 5.7. If a CPO is required it is expected that it will be made in June 2020. The Secretary of State for Transport will consider whether the CPO should be confirmed, and such confirmation may be considered following a public inquiry to deal with objections.
- 5.8. The Side Roads Orders (SROs) will also be required as existing accesses directly onto highway will be stopped up on safety grounds. Alternative, replacement means of access shall be provided.
- 5.9. 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. The Local Plan contains a policy for Local Plan Sites 4 (Leighton West - 850 homes) and 5 (Leighton - 500 homes) to contribute to the Scheme. It is therefore expected that contributions will be made to this Scheme by way of planning obligations secured in section 106 agreements if the associated development is consented and implemented.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

- 6.1.1. The Council is the Local Highways Authority (the “LHA”) for the area in which the Order Land is situated. By virtue of Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 (as

amended) and Schedule 3 to the Acquisition of Land Act 1981, the Council has the power to acquire compulsorily any land in its area for highway purposes.

- 6.1.2. In resolving to make a Compulsory Purchase Order and the Side Roads Orders for the Scheme the Council would be proceeding under powers contained in the Highways Act 1980, authorising the compulsory purchase of land and 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.
- 6.1.3. Part XII of the Highways Act 1980 includes a number of powers to support the delivery of highways. Sections 239 and 240 relate to general powers of highway authorities to acquire land for the construction and improvement of highways. Section 246 provides a power to acquire land for mitigating the adverse effects of constructing or improving highways. Section 250 provides that land acquisition powers may extend to creation as well as acquisition of rights, and Section 260 relates to the clearance of title to land acquired for statutory purposes.
- 6.1.4. The Guidance provides updated guidance on the use of compulsory purchase powers. In accordance with the Guidance, the purpose for which an authority seeks to acquire land will determine the statutory power under which compulsory purchase is sought. The Guidance advises that acquiring authorities should look to use 'the most specific power available for the purpose in mind, and only use a general power where unavoidable'.
- 6.1.5. The Council will seek to negotiate the acquisition of all of the legal interests in the land required for the Scheme by agreement. However, the Council needs to utilise its powers under the Highways Act 1980 (as amended) and the Acquisition of Land Act 1981 because it considers that it may not be possible to agree terms for the acquisition of all the remaining interests in the land required to facilitate construction of the improvements within the period of time that is available for the use of public funding. In accordance with the Guidance, the Council is therefore seeking authority to use its powers to compulsorily acquire the interests as a last resort, with efforts to acquire interests by private treaty continuing in parallel with this process, right up to confirmation and implementation of the CPO.

- 6.1.6. The delivery of the Scheme will require the Council to make the CPO using the powers set out above. Having regard to the nature of the proposals and the advice set out in the Guidance, Cabinet is advised that the powers available to it under Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 (as amended) and Schedule 3 to the Acquisition of Land Act 1981 are the most appropriate powers to use in order to achieve its objectives for this part of Crewe.
- 6.1.7. According to the Guidance, 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 should be the minimum considered to be reasonably required to achieve the selected design option.
- 6.1.8. 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.
- 6.1.9. 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 to ensure that the Council can exercise its highway functions within the specified land within its area. In addition to the Guidance, guidance included in Department of Transport Circular 2/97 is also relevant to CPOs made under Highways Act powers. This provides that the Secretary of State for Transport will not confirm a CPO unless he is satisfied that planning permission has been granted.
- 6.1.10. 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.

6.1.11. Included as Appendix 2 is the draft of the SoR that provide a detailed justification for the Orders and sets out why officers believe there is a compelling case in the public interest for making the CPO and the SROs. Cabinet is requested to take into account the matters set out in the draft statement in coming to a decision on whether to authorise the use of CPO powers and proceed with the SROs.

6.1.12. In addition to the above powers, the Council has powers to purchase land by agreement pursuant to s120 of the Local Government Act 1972.

## **6.2. Finance Implications**

6.2.1. The scheme is included in the 2020/24 Approved Capital Programme with a budget of £36.5m. A breakdown of the funding streams is provided within Paragraph 6.2.3. This budget will enable the Council to proceed with the delivery of the Scheme according to the current programme of commencing early 2021 and completion during Spring 2023.

6.2.2. The total Scheme cost is estimated at £36.5M. A high-level cost estimate has been prepared by specialist engineering and property consultants. The following table summarises the main cost elements for the Scheme.

<b>Scheme Element</b>	<b>Estimated Costs</b>	<b>Outturn</b>
Construction incl. Preliminary works & Supervision and Post Construction costs	£25.3M	
Land acquisition	£1.5M	
Part 1 Claims	£1.377M	
Statutory utilities	£1.093M	
Preparation costs	£4.16M	
Risk Allowance / Inflation	£3.07M	
<b>Total</b>	<b>£36.5M</b>	

- 6.2.3. The Scheme funding includes a total Local Contribution of £21.5m, from both the Council and third party (developer) sources. The following table summarises the funding sources.

<b>Funding Source</b>	<b>Value £</b>
National Productivity Fund	£5M
Housing Infrastructure Fund	£10M
Developer Contribution (Section 106)	£10.33M
Developer Contribution (Infrastructure Agreement)	£4M
Cheshire East Council Contribution	£7.17M
<b>Total Scheme costs</b>	<b>£36.5M</b>

- 6.2.4. The developer contributions will include third party land owners and the Council in its capacity as land owner.

- 6.2.5. At this stage, the current estimate of funding from S106 developer contributions is £10.33M based on the assumption

that a Section 106 agreement shall be secured in respect to planning application reference 16/2373N (Land at Flowers Lane) and anticipated housing numbers from the balance of Local Plan Sites 4 and 5. 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.

- 6.2.6. There can be no certainty that the receipt of developer contributions will fall in a timely fashion relative to expenditure or that the HIF contribution will be received. The Council will be forward funding the whole of the Scheme, which could result in a maximum liability of £36.5m.

### **6.3. Policy Implications**

- 6.3.1. In making the Order, the Council must have regard to national policy, the development plan and other relevant local policy and guidance, together with any other material considerations as required by Sections 38(6) of the Planning and Compulsory Purchase Act 2004 and 70(2) of the 1990 Act.
- 6.3.2. The relevant national planning policy is contained the National Planning Policy Framework and the relevant Development Plan, which comprises the Cheshire East Local Plan Strategy. There is strong alignment between the priorities that have been defined at the local and sub-regional level, and those that underpin the Government's transport policy at a national level. This includes the need to build a strong and competitive economy, enhance connectivity and access to employment opportunities.
- 6.3.3. The need for the Scheme is clearly established in the Cheshire East Local Plan Infrastructure Delivery Plan, identifying from the outset the need to improve transport connections to deliver the Local Plan, including the Scheme. There is also acknowledgement of the key contribution that infrastructure schemes play in unlocking regeneration or housing projects in local areas, underpinned by the principles of sustainable development. It is clear that the Scheme development and appraisal is consistent with another of the Government's core objectives: to provide value for money in the provision of major transport infrastructure.
- 6.3.4. A detailed analysis and consideration of the policy context will be found in the SoR.

- 6.3.5. By providing additional highway capacity to cater for additional traffic from development, the Scheme would support the Local Plan Strategy and deliver environmental, social and economic benefits to Crewe. 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.
- 6.3.6. The Scheme has the benefit of full planning consent under planning application reference 18/6118N.

#### **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. In progressing the Orders and carrying out consultations the Council will consider the needs of persons with protected characteristics as set out in equalities legislation. It is not anticipated that the Scheme will have any direct impact on groups with protected characteristics.

#### **7. Human Rights Implications**

- 7.1. A compulsory purchase order should only be made where there is “a compelling case in the public interest”. The Guidance makes it clear that an acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected. In making this assessment, an acquiring authority should have regard, in particular, to the provisions of Article 1 of the First Protocol and Article 6 of the Convention and, in the case of a dwelling, Article 8 of the Convention. These are summarised and considered in detail in the SoR and set out below.
- 7.2. 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.
- 7.3. 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.

- 7.4. 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 SROs will follow existing legislative procedures.
- 7.5. 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.
- 7.6. 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 Upper Tribunal (Lands Chamber) for independent and impartial adjudication.
- 7.7. 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.
- 7.8. In pursuing this Order, careful consideration has been given to the balance to be struck between the effect of acquisition on individual rights and the wider public interest in the construction of the Scheme. Interference with Convention rights is considered to be proportionate and justified in order to secure the construction of the Scheme and the benefits that this will bring.

## **8. Human Resources Implications**

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

## **9. Risk Management Implications**

- 9.1. Key risks to the Council relate to the affordability of the Scheme and this will be addressed through the continued development of the

funding strategy. A complete Risk Register for the Scheme is being maintained.

- 9.2. The Council will be required to accept all responsibility for cost increases beyond the cost envelope provided within Section 7.2 (Financial Implications).
- 9.3. 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.
- 9.4. The Scheme has the benefit of full planning consent under planning application reference 18/6118N which may require variations to enable any changes to the design that may be required as the interfaces with planning applications submitted in respect to Local Plan Sites 4 and 5 are finalised. As indicated in the Legal Implications Section above, the Secretary of State's policy is not to confirm the CPO before planning approval is granted.
- 9.5. The Council is in advanced negotiations for the majority of the land required for the Scheme and the negotiations shall continue with the objective of securing binding legal agreements without recourse to use of compulsory purchase powers.
- 9.6. Electricity apparatus crosses the Scheme, owned by SP Manweb. Costs for diversions have been confirmed with the Statutory Undertaker and this is included in the overall Scheme Cost Estimate.
- 9.7. The Council will be required to forward fund the whole of the local contribution and to underwrite third party contributions expected through S106 agreements, as developer contributions may take many years to collect. The current estimate of funding from S106 agreements is as stated in paragraph 7.2.4, 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.
- 9.8. Should the Scheme not be undertaken the north west of Crewe shall suffer increasing levels of congestion, constraining future housing and employment land release and access to Leighton Hospital and the Bentley Motors Site. This would include release of Local Plan Sites 4 (Leighton West - 850 homes) and 5 (Leighton - 500 homes) for which the Scheme is integral.

## **10. Rural Communities Implications**

- 10.1. As the Scheme is to be primarily constructed within the boundaries of Local Plan housing allocations, it will not introduce any new severance of existing farms or communities which would not occur in any event once the allocations are brought forward for development. There are limited requirements for land outside of the allocations and negotiations are advanced in respect to securing the affected land parcels on a voluntary negotiated basis.
- 10.2. The Scheme impacts on public rights of way which cross the alignment of the Scheme. On 10 June 2019, the Cheshire East Council Public Rights of Way Committee considered the implications of the Scheme and concluded that it was necessary to divert a section of Public Footpath No.20 Crewe to allow for development to be carried out if planning permission was granted. It was considered that the legal tests for the making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 were satisfied. The Committee unanimously resolved that a public path diversion Order be made under Section 257 of the Town and Country Planning Act 1990 to divert parts of Public Footpath No.20 in the town of Crewe on the grounds that Cheshire East Borough Council is satisfied that it is necessary to do so in order to enable development.
- 10.3. There may be some impact during the construction phase on the local road network as new roundabouts are constructed on Flowers Lane, Smithy Lane, Minshull New Road and Middlewich Road (A530). The Scheme shall be constructed 'offline' as much as possible to maintain connectivity during construction.
- 10.4. The Scheme planning applications provide a comprehensive Environmental Assessment which takes into account the effect on the rural community. This assessment includes 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.

## **11. Implications for Children & Young People**

- 11.1. The Delivery Agreement with the Council's appointed construction contractor includes 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.

## **12. Public Health Implications**

- 12.1. 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.
- 12.2. 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.

## **13. Climate Change Implications**

- 13.1. The 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 Scheme. The infrastructure proposed as an integral part of the scheme, such as drainage, includes for a potential climate change allowance.

After the landscaping proposed for the Scheme has been fully established the Scheme has been calculated to provide a net positive biodiversity gain.

- 13.2. The Scheme is embedded in the adopted Local Plan Strategy. 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.

## **14. Ward Members Affected**

- 14.1. The strategic nature of the Scheme will mean that journeys from multiple wards will be affected.
- 14.2. The Scheme itself is situated in Leighton Ward. The local ward member for Leighton is Cllr Byron Evans.

## **15. Consultation & Engagement**

- 15.1. The scheme currently has Planning Permission under planning permission reference 18/6118N and an Engagement Exercise was carried out as part of the pre-planning process.

## **16. Access to Information**

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

## **17. Contact Information**

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

Name: Chris Hindle

Job Title: Head of Infrastructure

Email: [chris.hindle@cheshireeast.gov.uk](mailto:chris.hindle@cheshireeast.gov.uk)