

Key Decision: Yes

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## **Cabinet**

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**Date of Meeting:** 05 May 2020

**Report Title:** North West Crewe Package – Infrastructure Agreement

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

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

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### **1. Report Summary**

- 1.1. 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, Sydney 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 Cheshire East Local Plan Infrastructure Delivery Plan are either on site or being developed.
- 1.2. 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.
- 1.3. 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.
- 1.4. 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.

- 1.5. 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.
- 1.6. 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.
- 1.7. This report seeks Cabinet approval to enter into an Infrastructure Delivery Agreement for the Council to deliver foul and surface water drainage, landscaping and boundary treatments to serve development proposed within Local Plan Sites 4 and 5. This would be delivered as part of the North West Crewe Package highway scheme.
- 1.8. This report also seeks authorisation to enter into a Deed of Covenant to secure repayment of the costs associated with the Infrastructure Delivery Agreement and to enter into an Indemnity Agreement with developers in respect of potential Part 1 Claims made pursuant to the Land Compensation Act 1973.
- 1.9. The North West Crewe Package ("the Scheme") is a key part of the Cheshire East Local Plan Infrastructure Delivery Plan for Crewe and its plan to support the regeneration and development of Crewe. The Scheme will provide various <sup>1</sup>benefits to the public, which are summarised below:
  - a) Delivery of an improved highway network for the Town through the delivery of a key part of the Local Plan Infrastructure Programme for wider Crewe identified within the Infrastructure Delivery Plan.

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<sup>1</sup> The benefits refer to the Statement of Reasons which is currently in draft stage and will be finalised before Pre-Agenda Briefing on 17<sup>th</sup> March 2020.

- b) Unlocking a number of housing as allocated in the Cheshire East Local Plan by improving traffic movements and transport links. This would increase the supply of new housing through the release of residential development land, making a significant contribution to maintaining Cheshire East Council's 5 year housing supply through Local Plan allocated strategic sites at Leighton West (850 homes – site ref LPS4) and Leighton (500 homes – site ref LPS5).
  - c) Unlocking a number of employment use allocated sites and, therefore, creating new jobs through the release 5 ha of land for employment uses through Local Plan allocated site Leighton West (site ref LPS4).
  - d) Improved access to Leighton Hospital, Crewe and its catchment area which includes the towns of Middlewich, Nantwich and Sandbach through reduced congestion and by putting the Hospital at the locus of the North West Crewe highway network, by 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.
  - e) Retention of advanced manufacturing employment by supporting the Bentley Motors Site and Development Framework endorsed by Cheshire East Council's Cabinet in May 2017.
  - f) 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.
- 1.10. The Council has undertaken extensive negotiations with owners of the land required for delivery of the Scheme and the Infrastructure Delivery Agreement forms a key component of an agreement to acquire land from the principal land owner in the area.
- 1.11. The majority of the land contained within Local Plan Sites 4 and 5 is under the ownership of two land owners; one of which is the Council. These sites shall require foul and surface water drainage, landscaping and boundary treatments (collectively known as “enabling works”).
- 1.12. The Infrastructure Delivery Agreement shall oblige the Council to forward fund and deliver the enabling works as part of the build out of the Scheme itself but will also secure repayment of the costs

when the land benefiting from the enabling works is brought forward for development.

- 1.13. The provision of the enabling works will enable the Council to proceed with the development and delivery of the Scheme without the risk of the road being excavated for connection of drainage at a later date. It will also support environmental protection measures by preventing rework and wastage of material and resources and also reduce the disruption caused to residents and businesses by development in the area.
- 1.14. This report seeks approval for the Council to enter into the Infrastructure Delivery Agreement and all legal agreements associated with the Infrastructure Agreement, including but not limited to, deeds of covenant with the relevant land owners and indemnity agreements in respect of compensation payments.
- 1.15. The Infrastructure Delivery Agreement and the supporting legal agreements must be entered into before the Scheme design is finalised in order to ensure that the proposed infrastructure and landscaping complies with the design and construction requirements of the Council in its capacity as Highways Authority. The risk of not entering into these agreements is that the drainage systems for the land benefitting from the enabling works may not meet the design and construction requirements of the Highways Authority and, as such, may require re-construction prior to adoption.

## **2. Recommendations**

That Cabinet

- 2.1. Authorises the Council to enter into an Infrastructure Delivery Agreement to deliver foul and surface water drainage, landscaping and boundary treatments to serve development proposed on Local Plan Sites 4 and 5.
- 2.2. Authorises the Council to enter into a Deed of Covenant with the benefitting land owners to secure future repayment of the total costs incurred by the Council for construction of the foul and surface water drainage, landscaping and boundary treatments.
- 2.3. Authorises the Council to enter into Indemnity Agreements in respect of any future claims submitted pursuant to Part 1 of the Land Compensation Act 1973.
- 2.4. Authorises the Council to grant easements through Council owned land for the land benefitting from the enabling works.

- 2.5. Authorises the Council in its capacity as land owner to enter into any adoption agreements for the foul and surface water drainage proposals serving the proposed development areas and in connection to the proposed agreements.
- 2.6. Delegates power to the Head of Estates to negotiate terms for any agreements which are ancillary to the Infrastructure Delivery Agreement and to instruct the Director of Governance & Compliance to draft and complete the Infrastructure Delivery Agreement and all legal agreements ancillary to the Infrastructure Delivery Agreement.

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

- 3.1. The Infrastructure Delivery Agreement forms a key component of an agreement for the Council to acquire the majority of the third party owned land required for delivery of the Scheme.
- 3.2. The provision of the enabling works will enable the Council to proceed with the development and delivery of the Scheme without the risk of the road being excavated for connection of mains services connected to the development of the adjacent Local Plan sites for residential development.
- 3.3. The installation of the enabling works during construction of the Scheme supports environmental protection measures by preventing rework and wastage of material and resources. It also demonstrates the Council's forward thinking approach to development by reducing the disruption caused to residents and businesses by development in the area.
- 3.4. The strategy for delivering the enabling works has the benefit of accelerating the delivery of housing across Local Plan Sites 4 and 5 and work towards the requirements of the Housing Infrastructure Fund grant from Homes England which is planned for the Scheme.

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

- 4.1. Not to undertake the infrastructure works with the Developer installing them at a later date

Consideration was given to proceed without installing the infrastructure, however this would slow the pace of housing development and the early delivery of the wider benefits as set out in Para 3.4 above. It would also require the road to be closed within a relatively short period after it is open for use by the public to install the drainage infrastructure, which could impact on the integrity of the road and require early intervention for maintenance.

The Council has adopted a collaborative approach with the parties which own the majority of the third-party land required to deliver the Scheme. This has included a conditional agreement to be gifted the land required for the Scheme and release of Council land included within Local Plan Site 4 from a secure agricultural tenancy held by the same parties. Completion of these agreements is contingent upon the Council entering into the Infrastructure Delivery Agreement, however the Council is seeking approval to use its powers of compulsory purchase (this forms part of a separate paper to be considered by Cabinet) as a matter of last resort in the event that the land and rights required to deliver the Scheme cannot be acquired by agreement within a reasonable timescale so as not to jeopardise Scheme delivery.

#### 4.2. Developer installs infrastructure as early works

It was considered whether the enabling works could be installed by the developers of Local Plan Sites 4 and 5 when the Scheme is under construction. However, this would require collaborative working between the road contractor, the developers of the land benefitting from the enabling works and the developers' contractors, which would increase administrative costs and increase the risks of delays to the construction programme by having two sets of contractors with contrasting objectives on site at the same time. Furthermore, the developers' programmes are not aligned with the road construction programme, and it would be necessary to delay the Scheme to align to programmes which would place the grant funding for the Scheme at risk.

## 5. Background

- 5.1. The Scheme is a key part of the Cheshire East Local Plan Infrastructure Delivery Plan for wider Crewe, which will deliver an improved highway network for the town. It will improve Strategic Highway Connectivity for North West Crewe and, together with existing approved schemes, ease congestion issues in the area.
- 5.2. The Scheme will also unlock a number of housing and employment Local Plan allocation sites by improving wider traffic movements and transport links. These benefits will be realised to their full potential subject to the land owners / developers securing planning approvals for the Local Plan allocated sites. This will make a significant contribution to maintaining the Council's 5-year housing supply through Local Plan allocated strategic sites at Leighton West (850

homes – site ref LPS4) and Leighton (500 homes – site ref LPS5). It will also support improved access to the Bentley Motors Site.

- 5.3. The majority of the land contained within Local Plan Sites 4 and 5 is under the ownership of two land owners; one of which is the Council. These sites require enabling works in connection to their proposed development as housing sites. The enabling works are not necessary for the delivery of the Scheme in isolation.
- 5.4. The Council will undertake the enabling works during the construction of the Scheme to help safeguard against the road being excavated for their installation shortly after construction of the new road.
- 5.5. The Council has adopted a collaborative approach for the land assembly for the Scheme and the parties which own the majority of the land required for the Scheme have agreed to release their land to the Council by agreement on the basis that the Council contractually agrees to deliver the enabling works with the full costs of the works being recovered via the Infrastructure Delivery Agreement.
- 5.6. It is intended that the Council shall acquire all of the land for the Scheme by agreement where possible and shall only seek to use its compulsory purchase powers as a matter of last resort. The Infrastructure Delivery Agreement significantly increases the prospects of securing land by agreement from major land owners within the Scheme and secures a binding legal agreement for repayment of the total costs of the works to the Council.
- 5.7. Residential development may come forward within Local Plan Sites 4 and 5 before the Scheme has been completed. Buyers of such properties may qualify to claim compensation for the diminution in the value of their properties, due to construction of the Scheme, under Part 1 of the Land Compensation Act 1973 even though the allocations for Local Plan Sites 4 and 5 are contingent upon delivery of the infrastructure in phases. The developers of the land owned by the main land owner in Local Plan Sites 4 and 5 have agreed to indemnify the Council from payments arising as a result of Part 1 claims.

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

### **6.1. Legal Implications**



- 6.1.1. The Council is permitted to enter into a binding agreement in respect of delivering the enabling works via an Infrastructure Delivery Agreement. The works are not required as part of the Scheme and, therefore, the Council will be paying for and undertaking works partly for the benefit of a third party land owner/developer.
- 6.1.2. The Council must comply with State aid rules. The Council has structured the Infrastructure Delivery Agreement to ensure that it can recover the total costs plus interest of the works from the benefitting land owners. In order to safeguard the costs associated with the enabling works, the Infrastructure Delivery Agreement provides that a restriction is registered against the benefitting land owners titles to prevent disposal of any of the land benefitting from the enabling works unless the new owners enters into a direct Deed of Covenant with the Council to secure repayment. There is a risk that repayment will not occur if development does not come forward, however, the Council's external advisors have confirmed that the risk is relatively low given that planning applications for the benefitting land have already been submitted to the Local Planning Authority.
- 6.1.3. Where required by the Infrastructure Delivery Agreement or in relation to the Scheme the Council may acquire land by agreement pursuant to section 120 of The Local Government Act 1972.
- 6.1.4. The Localism Act 2011 permits the Council to do anything which individuals generally may do subject to restrictions, which in the main provides that the Council cannot do anything it is unable to do by virtue of existing statutory provisions.
- 6.1.5. The Council has a fiduciary duty to taxpayers and must fulfil this duty in a way which is accountable to local people. The purpose of the Infrastructure Delivery Agreement and the associated legal agreements is to provide foul and surface water drainage, landscaping and boundary treatments to serve the majority of the development proposed within Local Plan Sites 4 and 5. These works are not necessary for delivery of the Scheme, however, the advantages in bringing forward these works as part of the construction of the Scheme (as outlined in this report) is considered to ensure that the new road is not excavated at a later date, to allow the infrastructure required to serve the land benefitting from the enabling works to proceed in sequence with the Scheme and offer savings in



terms of progressing the Scheme in a timely manner whilst future proofing the Scheme with regard to infrastructure preparation for the benefitting development sites. The arrangements to recover the additional funds expended are set-out in Para 6.1.2 above.

## **6.2. Finance Implications**

- 6.2.1. The Council will be required to forward fund the full cost of the infrastructure works, and repayment may take many years to collect as repayment shall be contingent on the land benefitting from the enabling works coming forward for development. The Council will have no control over the timing of development of the benefitting land.
- 6.2.2. The cost of the enabling works, which are repayable under the Infrastructure Delivery Agreement, is currently estimated at £4.0M. The enabling infrastructure works shall serve development land under the ownership of the Council and the third parties which own the majority of the land required for the Scheme. The estimated £4.0M cost shall be apportioned between these interests having regards to the quantum of development on each site. This cost is subject to change based upon market testing and tendering of the proposed works. The full current evaluated cost of these works is included within this estimate.
- 6.2.3. The Infrastructure Delivery Agreement shall require the Council to deliver and forward fund the enabling works and require repayment of the full costs from the land owners when the land benefitting is brought forward for development. There is no guarantee that the land benefitting will come forward for development and, therefore, the costs incurred by the Council will be at risk. However, the Council will secure repayment as it will have a binding legal agreement for repayment of the total costs of the works to the Council.

## **6.3. Policy Implications**

- 6.3.1. 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.

- 6.3.2. The need for the Scheme is clearly established in the Cheshire East, 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.
- 6.3.3. 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.
- 6.3.4. The Scheme has the benefit of full planning consent under planning application reference 18/6118N.
- 6.3.5. Completion of the Infrastructure Delivery Agreement shall secure agreement to acquire a key land holding required to deliver the Scheme and, therefore, increase the prospect of delivering a key component of the Council's infrastructure delivery programme.

#### **6.4. Equality Implications**

- 6.4.1. There are no equality implications associated with this report.

#### **6.5. Human Resources Implications**

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

#### **6.6. Risk Management Implications**

- 6.6.1. The Infrastructure Delivery Agreement shall commit the Council to construct the Scheme and deliver foul and surface water

drainage, landscaping and boundary treatments to serve the development proposed on Local Plan Site 4 and to pay for these works up front in addition to the Scheme works. The agreement will be contingent on the Council having all necessary planning consents, funding agreements and internal approvals in place for the Scheme.

6.6.2. The Infrastructure Delivery Agreement shall also be contingent on the land benefitting from the enabling works having the necessary planning consents in place for development in accordance with their Local Plan allocations.

6.6.3. The Infrastructure Delivery Agreement will operate to place a restriction on the benefitting land where the disposal of this land can only be undertaken if the new owner enters into a direct Deed of Covenant with the Council to secure repayment of the full costs associated with the enabling works plus interest under the Infrastructure Delivery Agreement.

6.6.4. Recovery of the costs associated with the enabling works and receipt of developer contributions towards the Scheme is contingent on the programme for development of the land benefitting from the enabling works. This creates a risk that the repayment of the full costs of the works may not be realised in full, or in part, and the Council will be required to fund the shortfall.

#### **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

#### **6.8. Implications for Children & Young People/Cared for Children**

6.8.1. There are no direct implications for children and young people.

#### **6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

#### **6.10. Climate Change Implications**

6.10.1. 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.

6.10.2. The Scheme is embedded in the 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.

## **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 Leighton Ward. The local ward member for Leighton is Cllr Byron Evans.
- 7.3. A briefing with local members was undertaken in November 2019.

## **8. Consultation & Engagement**

- 8.1. The Scheme currently has Planning Permission and an Engagement Exercise was carried out as part of the pre-planning process. A copy of the report detailing this engagement and comments received as part of the process is available on request or can be accessed by means of the Planning Portal.

## **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:

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