

## Cabinet (Resources) Panel

15 November 2023

<b>Report title</b>	Well Connected Communities - A454 City East Gateway Phase 1 & 2 Property Acquisitions	
<b>Decision designation</b>	AMBER	
<b>Cabinet member with lead responsibility</b>	Councillor Craig Collingswood Environment and Climate Change	
<b>Key decision</b>	Yes	
<b>In forward plan</b>	Yes	
<b>Wards affected</b>	East Park	
<b>Accountable Director</b>	John Roseblade, Director of Resident Services	
<b>Originating service</b>	Strategic Transport	
<b>Accountable employee</b>	Orla Duffey Tel Email	Black Country Transport Project Manager 07717732870 Orla.Duffey@blackcountrytransport.org.uk
<b>Report to be/has been considered by</b>	Directorate Leadership Team Strategic Executive Board	22 August 2023 29 August 2023

### Recommendations for decision:

The Cabinet (Resources) Panel is recommended to:

1. Authorise the Director of Resident Services to enter into negotiations for property acquisitions, operating within the financial parameters set out in this report.
2. Delegate authority to the Cabinet Member for Environment and Climate Change in consultation with the Director of Resident Services to negotiate final terms for the acquisition of the properties identified in Appendix 2 (of the exempt report) within the financial parameters proposed and once budgetary approval has been secured.
3. Authorise the Chief Operating Officer to:
  - a. Engage in the CPO process if acquisitions by negotiation are unsuccessful.
  - b. Approve the appropriation of Council assets required to deliver the scheme to the transportation portfolio subject to securing funding and budgetary approval for the scheme.

**Recommendation for noting:**

The Cabinet (Resources) Panel is asked to note:

1. A report from 2 April 2019 approved on-going discussions with interested parties and potentially affected landowners.
2. In making the property acquisition offers, these will operate within the financial parameters guided by the property valuation exercise. If the financial parameters are exceeded, the matter will be brought to the Cabinet Resources Panel for final approval.
3. Approval to enter into and the commencement of negotiations places liability on the Council for legal costs incurred by impacted property owners. Such costs would be covered by the major scheme funding from the Department for Transport (DfT). However, if needed, development funding for the City Region Sustainable Transport Settlement (CRSTS) could be used.
4. The intention is to acquire by CPO under Section 226 of the Town and Country Planning Act 1990 / Section 239 of the Highways Act 1980 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976, if negotiations to acquire are unsuccessful. If the pursuit of CPO powers is followed, a further report will be brought to the Cabinet (Resources) Panel.

## **1.0 Purpose**

- 1.1 The purpose of this report is to detail the list of properties to be acquired, in part or in their entirety, for the purpose of implementing the A454 City East Gateway - Phases 1&2 (Willenhall Road) scheme and to seek the required approvals for acquisition.

## **2.0 Background**

- 2.1 As part of the Council's commitment to improve transportation in the region, the City East Gateway corridor schemes have been developed and business cases taken forward to seek funding for their implementation.
- 2.2 The A454 City East Gateway Phases 1&2 – Willenhall Road project extends from Bilston Street Island through Middle Cross and Lower Horseley Fields, up to the Chillington Fields junction. The scheme also incorporates Walsall Street and Lower Walsall Street.
- 2.3 In order to facilitate the design of the scheme, a series of properties need to be acquired in part or in their entirety. By acquiring the land, this will allow the scheme to deliver the junction improvements and segregated cycling infrastructure to support the economic growth of the city and improve the environment for residents.
- 2.4 In addition to the acquisitions, the scheme proposals have an impact on the surrounding residents and businesses, notably those to the south of Walsall Street. The proposals include:
  - Bath Street/Duke Street junction opened up with Warwick Street
  - Duke Street becoming one-way
  - A continuous footway and cycle track connecting Duke Street and Walsall Street
  - A continuous shared footway at Warwick Street and a new boundary wall at 2 Warwick Street

## **3.0 Progress, options, discussion, etc.**

- 3.1 The properties listed in Appendix 2 in the exempt report are to be acquired for the purpose of implementing the A454 City East Gateway Phases 1&2 (Willenhall Road) scheme by agreement or by use of Compulsory Purchase Order powers if negotiations to acquire by agreement fail.
- 3.2 The properties listed in Appendix 3 in the exempt report are Council-owned properties required to implement the scheme design.

## **4.0 Evaluation of alternative options**

- 4.1 The preferred option for this project was presented and endorsed by the Cabinet (Resources) Panel on 2 April 2019 (City East Gateway A454 Phase 1 and 2 Consultation Feedback and Preferred Option). This is Option D: Multi-Modal Corridor Enhancements.

## **5.0 Reasons for decision(s)**

- 5.1 The project requires land acquisition, the majority of which is within the highway boundary, so this report seeks the necessary approvals to acquire the land either by negotiating Heads of Terms or by use of Compulsory Purchase Order powers to acquire the land in the event that negotiations do not succeed.
- 5.2 If the approvals are not granted, there is a risk that the Council is not able to utilise the Department for Transport funding to deliver capital assets that contribute to the Council's objectives.

## **6.0 Financial implications**

- 6.1 A valuation exercise has been completed, which has provided the Council with an estimate of what the acquisitions could cost. The total cost estimate is inclusive of compensation for land acquisitions, severance/injurious affection, main elements of disturbance, legal/surveyor's fees, loss payments, minor items of disturbance, temporary losses and injurious affection with no land take with a 10% contingency on main elements and 30% contingency for potential additional disturbance.
- 6.2 This report seeks approval for the Director of Resident Services to enter into negotiations for acquisitions, operating within the financial parameters set out in the exempt report. Should any of these parameters be exceeded, the matter will be brought to the Cabinet Resources Panel for final approval.
- 6.3 It is proposed that the costs of the property acquisitions required to deliver the project design will be covered by a combination of the project's City Region Sustainable Transport Settlement allocation and the project's Major Road Network funding. The approval of supplementary capital budgets for the acquisitions will be the subject of future reports. Once funding has been secured and negotiations have taken place further reports will be brought to Cabinet Resources Panel to seek approval to proceed with the acquisition of properties and seek approval to enter in the CPO where acquisitions are not likely to be secured through negotiation.
- 6.4 To mitigate against some of the compensation amounts payable there is potential for Council land to be provided in mitigation which would potentially reduce the compensation paid.
- 6.5 Much of the land that will be used in the scheme is already in the Council's ownership. Whilst its financial value will not be realised, this quantification is useful in demonstrating local contribution. Approval is sought in this report to appropriate the relevant land to the Transportation portfolio once funding and budgetary approval is secured for the scheme.
- 6.6 Approval to enter into and the commencement of negotiations places liability on the Council for legal costs incurred by impacted property owners. Such costs would be covered by the major scheme funding from the Department for Transport. However, if needed, previously approved City Region Sustainable Transport Settlement revenue

budgets available for scheme development could be used to cover these until the scheme capital funding is approved. The financial implications of placing a CPO will be covered in a separate report.

[ES/06112023/B]

## **7.0 Legal implications**

- 7.1 The scheme will require the acquisition of plots of land and thus incurs the need to follow the legal process(es) of acquisition.
- 7.2 In the event that land cannot be acquired by negotiation, the Council would then have to engage in the use of CPO Powers, which should be used as the last resort to acquiring land. There is detailed guidance "*Guidance on Compulsory purchase process and The Crichton Down Rules*" on the process is published by the Department for Levelling Up, Housing and Communities which the Council will be required to follow.
- 7.3 The rights of owner and occupiers of interests in the Order land will need to be taken into consideration when making the Order with regards to the provisions of the European Convention on Human Rights (in particular the rights contained in Article 6, Article 8 and Article 1 of the First Protocol) as incorporated into UK law by the Human Rights Act 1998. The Council is of the view that the Order, if confirmed, would strike an appropriate balance between public and private interests. Any objections to the Order will be considered by an independent Inspector at a public inquiry. It is necessary, having regard to the Human Rights Act 1998, to ensure that the interference is proportionate and in the public interest. In this context, the Council has carefully considered the balance to be struck between individual rights and the wider public interest. The Council considers that any interference with Convention rights is justified in order to secure the economic, environmental and social benefits that the scheme will bring. Appropriate compensation will be available to those entitled to claim it under the relevant statutory provisions.
- 7.4 A procurement exercise is to be undertaken to procure a supplier of services to support the use of Compulsory Purchase Order Powers, if required.
- 7.5 As detailed in the body of this report, the scope of the A454 City East Gateway Phases 1 & 2 – Willenhall Road project will require land acquisition. The Council needs to be mindful of the potential of adjoining landowners serving the Council with blight notices, pursuant to Schedule 2 to the Town and Country Planning General Regulations 1992. In such circumstances, the Council will need to consider each claim on a case by case basis and may need to serve counter-notices. In these circumstances, Legal Services will be able to provide advice on the appropriate course of action. The proposed scheme sits wholly within the existing highway boundary so the risk of third party objections should be minimal.

[JA/0910/2023/C]

## **8.0 Equalities implications**

- 8.1 The need for land acquisition to deliver the project recognises the impact this could have on personal or commercial interests relating to the plots of land that need to be acquired.
- 8.2 The need for land acquisition also recognises that steps will be taken to ensure any parties affected are consulted upon and that appropriate provision is put in place to do this, for example making consultation materials available in other formats and languages.

## **9.0 All other implications**

- 9.1 Climate change and environmental impacts have been considered for the A454 Willenhall Road full scheme.
- 9.2 To implement the project, there is a requirement to acquire land, some of which is currently in Council ownership.
- 9.3 Where entire plots are not required to implement the project, this has implications for the composition of the Council's property portfolio.
- 9.4 Valuations of the plots that need to be acquired for the project have been undertaken. This information may be helpful to the Council's Assets team in maximising the return of this land for the Council should it not all be required for scheme implementation.

## **10.0 Schedule of background papers**

- 10.1 Cabinet (Resources) Panel – 18 October 2023 - [Well Connected Communities - A454 City East Gateway Phase 1 & 2 Progress Report](#)
- 10.2 Cabinet (Resources) Panel - 2 April 2019 - [City East Gateway A454 Phase 1 and 2 Consultation Feedback and Preferred Option](#)

## **11.0 Appendices**

- 11.1 Appendix 1: Scheme Red Line Boundary
- 11.2 Appendix 2: Properties to be Acquired (as detailed in the exempt report)
- 11.3 Appendix 3: Council Assets to be Transferred (as detailed in the exempt report)