

Cabinet

12 October 2023

A426 / A4071 Avon Mill / Hunters Lane Improvements, Rugby – Compulsory Purchase Order

Recommendations

That Cabinet:

1. Authorise the Executive Director for Resources to acquire the land or rights in respect to the land shown on Drawing No. 9.2-333--010-6309 (**Appendix A**), whether by agreement or by means of a Compulsory Purchase Order (the Order), as is required to enable the construction of the A426/A4071 Avon Mill/Hunters Lane Improvements, Rugby, subject to acquisition taking place only after:
 - i) planning permission has been granted; and
 - ii) authorisation by Cabinet and Full Council via separate reports to be brought forward in 2023/24 to add the proposed £4 million Capital Investment Funding (CIF) local contribution to the scheme Capital Programme; and
 - iii) approval of the external Full Business Case (FBC) by the Department for Transport (DfT) and subsequent funding award, or funding for the purchase of the land is otherwise secured to the satisfaction of the Executive Director for Resources, subject to final authorisation by Cabinet;
2. Authorise the Executive Director for Resources to take any steps incidental, conducive or consequential thereto including the making of the order, the publication and service of all notices and the presentation of the Council's case at any Public Inquiry;
3. Authorise the Executive Director for Resources to approve agreements with landowners setting out the terms for the withdrawal of any objections to the Order, including where appropriate seeking exclusion of land or new rights from the Order; and
4. That the Executive Director for Communities and the Executive Director for Resources be authorised to make such amendments to the drawing referred to in Recommendation 1 as they consider to be minor and necessary modifications after consultation with the Cabinet Portfolio Holder for Transport and Planning.

1. Key Issues

- 1.1 At its meeting on 27 January 2023, it was resolved that Cabinet:
Approves the further development of the A426/A4071 Avon Mill/Hunters Lane Improvement scheme on the Major Road Network (MRN) in Rugby and authorised the Strategic Director for Communities, in consultation with the Portfolio Holder for Transport and Planning, to take all necessary steps required to progress the scheme to Outline Business Case (OBC) submission stage including:
- (i) Finalising designs and determining land requirements;
 - (ii) Commencing negotiations with third-party landowners;
 - (iii) Negotiating terms and entering agreements for alterations to private accesses;
 - (iv) Securing all necessary statutory consents (including licences and planning permissions) and entering any necessary agreements with other regulatory bodies;
 - (v) Exercising any statutory rights of entry for the purposes of carrying out surveys, examinations or other investigations or executing works;
 - (vi) Undertaking public and wider stakeholder consultation;
 - (vii) Submission of an Outline Business Case (OBC) to the Department for Transport (DfT) in accordance with the programme outlined in Section 7 of that report.
- 1.2 At the time of the January 2023 Cabinet meeting, it was envisaged that further reports be brought to Cabinet seeking authorisation to add £4 million funding from the County Council's Capital Investment Fund (CIF) to the Capital Programme, to invite tenders, to award a contract and to complete the required land acquisition, subject to approval of the Full Business Case (FBC) for the proposed scheme and subsequent funding award by DfT.
- 1.3 This scheme is now being progressed towards delivery with works required to start on site no later than March 2025 to comply with DfT funding conditions for all MRN schemes which are being promoted during MRN Investment Period 1 (2020-2025), with an expected completion date in Autumn 2026 following a construction period of approximately 18 months.
- 1.4 The currently active workstreams are as follows:
- (i) Negotiating terms for the required land acquisitions, as described further in section 4 of this report;
 - (ii) Completion of the feasibility design, shown on plan 9.2-333--010-6001 Rev D, attached as **Appendix B**;
 - (iii) Development of the detailed design;
 - (iv) Preparation for the habitat and other studies required to support the planning application and OBC submission;
 - (v) Preparation of the Equality Impact Assessment;
 - (vi) Development of the planning application submission and EIA screening request;

- (vii) Development of an OBC for submission to DfT by the end of November 2023 in support of the funding application, the principle of which has already been agreed;
- (viii) Development of an indicative Construction Management Plan as a basis for initial discussions with potential contractors and scheme assessment;
- (ix) Preparatory work for seminars to be arranged with the Portfolio Holder for Transport and Planning and local elected members to discuss scheme development and programme for delivery;
- (x) Preparatory work for public and wider stakeholder engagement;
- (xi) Development of an internal Full Business Case (FBC) and funding bid for the mandatory local authority financial contribution from the County Council's Capital Investment Fund (CIF), following addition of the scheme to the CIF Pipeline in 2022/23;
- (xii) Drafting of reports for Cabinet and Full Council seeking authorisation to add the proposed £4 million CIF funding allocation to the Capital Programme, subject to approval of the internal FBC and bid by CIF Technical Evaluation Panel.

2. Scheme Description

2.1 A Scheme Layout Plan is shown in **Appendix B** and comprises the elements listed below:

- (i) Enlargement of the existing Avon Mill Roundabout including entry widening to three lanes on all approaches and exit widening to two lanes on A426 and A4071 Newbold Road;
- (ii) Provision of a new segregated foot/cycleway and bridge located to the north of the existing road bridge with connections onto enhanced crossing facilities on A426 Leicester Road to provide safe access to Avon Valley School;
- (iii) A new four arm roundabout at A426 Newbold Road/Hunters Lane to replace the existing priority T-junction arrangement;
- (iv) Construction of a short length of dual carriageway to connect the two roundabouts including a new bridge over the River Avon located to the south of the existing road bridge;
- (v) A new left-in/left-out access junction to provide access to the Starbucks 'Drive-Thru' which is currently under construction on the former Avon Mill Inn site and adjacent residential properties served off the proposed southbound carriageway.

3. Scheme Objectives

3.1 In accordance with DfT requirements for all MRN proposals, the scheme seeks to support all road users by promoting Active Travel opportunities and improving journey times for bus users. It will also make a positive contribution towards achieving Net Zero targets by reducing carbon emissions, as outlined below:

- (i) **Promoting Active Travel opportunities by upgrading facilities for pedestrians and cyclists** - the proposed segregated foot/cycleway and bridge will provide a key 'missing link' in Rugby's cycle network, giving pedestrians and cyclists better access to the town centre and reducing severance.
- (ii) **Supporting local Climate Emergencies and Net-Zero targets** – the carbon impacts of the scheme have been assessed initially though a high-level calculation of the Carbon Dioxide Equivalent (CO₂e) value resulting from vehicle emissions generated by traffic within the area. The results show a modest reduction in carbon emissions with the scheme in place relative to the 'without scheme' scenario, due to reduced congestion and shorter travel distances resulting from a lower propensity for traffic to divert away from major routes. The proposed foot/cycleway and bridge will also make walking and cycling more attractive and encourage a shift away from private car for short local journeys which will also help to reduce carbon impacts. The potential uplift in walking and cycling journeys will be included in the OBC submission to DfT.
- (iii) **Improving Bus Journey Times and Reliability** – Avon Mill roundabout has been identified as a key congestion hotspot by Stagecoach Midlands, the principal local bus operator in Rugby. Scheme assessment work indicates that the proposals would reduce congestion thereby improving bus journey times at the junction and across the wider network.
- (iv) **Supporting Housing Delivery, Economic Growth and Rebalancing** - assessment work shows that the scheme would significantly reduce queues and delays on the approaches to Avon Mill roundabout under forecast conditions and thus help to facilitate significant planned growth in Rugby Borough Council's adopted Local Plan 2011-2031. This comprises over 12,000 new homes, 100 hectares of employment land and 8,000 m² of retail space.
- (v) **Improving Network Resilience** - closure of the existing A426 River Avon bridge for planned maintenance or due to an unforeseen incident would have potentially widespread adverse environmental impacts, as traffic would divert onto less suitable routes. The scheme provides a second road bridge and a new foot/cycleway and bridge thereby significantly improving the resilience of the local road network. The scheme also improves network resilience for the wider Strategic Road Network (SRN) managed by National Highways, as the A426/A4071 forms a diversionary route between the M45/A45 south-west of Rugby and the M1/M6/A5 to the north when there is an incident or planned works on the SRN.

- (vi) **Improving Road Safety** – assessment work shows that the scheme will reduce the propensity for traffic to ‘rat-run’ via the congested Mill Road Tunnel, Murray Road and surrounding residential streets, thus improving road safety and reducing community impacts (e.g. noise, air quality, severance). Walking and cycling journeys will also be made safer via provision of the proposed segregated foot/cycleway and bridge and enhanced crossing facilities on A426 Leicester Road.

4. Land Acquisition

- 4.1 The land requirements are shown on Drawing No. 9.2-333--010-6309, a copy of which is attached as **Appendix A**.
- 4.2 The project team has initiated negotiations with the owners and occupiers of the land identified as required for the scheme. To preserve the maximum degree of flexibility whilst limiting exposure to risk, the County Council will seek to negotiate “Option Agreements” with the landowners whereby purchase of the land will not complete until both award of planning permission and the settlement of the full funding package, both of which are anticipated by Autumn 2024.
- 4.3 If these negotiations prove unsuccessful, it would be necessary to invoke Compulsory Purchase Order (CPO) powers to secure the required land. In view of the lengthy timescales involved in the CPO process, the scheme Project Board has instructed officers to initiate the CPO process as soon as possible to reduce the risk that land acquisition delays the scheme delivery.
- 4.4 It is necessary for the Council to adopt a ‘twin-track’ approach in this case, proceeding with the CPO process for as long as necessary while at the same time negotiating with the landowners.
- 4.5 This approach, in parallel with the negotiations is required to give the County Council confidence that works can start on site no later than March 2025 to comply with DfT funding conditions for all MRN schemes which are being promoted during MRN Funding Period 1 (2020-2025).
- 4.6 The expected scheme completion date is in Autumn 2026 when it is anticipated the scheme would be brought into public use following a construction period of approximately 18 months.
- 4.7 In making the compulsory order, the County Council would be relying upon powers vested in it by:
 - (a) Section 239 of the Highways Act 1980 for highways purposes, and
 - (b) Section 226(1) (a) of the Town and Country Planning Act 1990 which allow the development of land with a view to securing the development or improvement of an area.

4.8 A more detailed summary of the reasons for concluding that the Compulsory Purchase Order would be justified is contained in a 'Statement of Reasons' which will form part of the documentation sent to the DfT should Cabinet approve the making of the Orders. A draft copy is attached at **Appendix C**.

5. Financial Implications

5.1 The Outline Business Case (OBC) supporting the allocation of funding for this project from the DfT is currently being developed for submission by the end of November 2023.

5.2 The current scheme cost estimate is **£24.279 million** at current prices with proposed contributions as follows:

- (i) Central Government (DfT) - £17.873 million (73.6% of total);
- (ii) County Council (Capital Investment Fund - CIF) - £4 million not yet approved (16.5% of total);
- (iii) S.106 Developer Contributions - £2.406 million received (9.9% of total).

5.3 The scheme cost estimate is in the process of being revised for inclusion in the OBC submission to DfT. The revised estimate will include the value of the land to be acquired, and if CPO is required, the costs of preparing and progressing the initial stages of the CPO process.

5.4 Following OBC submission, the DfT contribution towards the scheme will be fixed and the County Council would be responsible for managing any further cost increases.

5.5 To reduce the risk of potential cost overruns, the revised OBC cost estimate will therefore include robust allowances for contingency and recent large increases in inflation, particularly the increased cost of construction and materials.

5.6 The potential DfT contribution for individual MRN schemes, shortlisted by Midlands Connect and subsequently approved by DfT following submission of compelling business case evidence will normally be between £20 million and £50 million although the lower threshold will not be applied rigidly.

5.7 The current DfT funding ask of £17.873 million is below the lower threshold. If there is a significant increase in the total scheme cost estimate at OBC submission stage, it is therefore proposed to increase the DfT funding ask to meet any projected cost increases which are not covered by the local contribution, subject to this being acceptable to DfT.

5.8 There is also a requirement that the local authority or third-party contribution for MRN schemes should represent at least 15% of the total scheme costs.

- 5.9 The proposed local contribution currently comprises a £4 million funding ask from the County Council's Capital Investment Fund (CIF) and S.106 developer contributions totalling £2.406 million which have already been received. In combination, these local contributions currently represent 26.4% of the total scheme costs.
- 5.10 A Full Business Case (FBC) to support an internal funding bid for the mandatory local authority financial contribution towards the scheme from the County Council's Capital Investment Fund (CIF) is currently in development, following addition of the scheme to the CIF Pipeline in 2022/23.
- 5.11 It is proposed to bring separate reports to Cabinet and Full Council in 2023/24 seeking authorisation to add the proposed £4 million CIF funding allocation to the Capital Programme, subject to approval of the FBC and internal funding bid by CIF Technical Evaluation Panel.
- 5.12 As noted previously, to preserve the maximum degree of flexibility whilst limiting exposure to risk, the County Council will seek to negotiate "Option Agreements" with the landowners, whereby purchase of the land will not complete until both award of planning permission and the settlement of the full funding package, both of which are anticipated by Autumn 2024.
- 5.13 A further report will be brought to Cabinet in 2024 seeking final authorisation to purchase the land, subject to approval of the external Full Business Case (FBC) by DfT and subsequent funding award. This further report will set out detailed proposals for funding the land acquisition and delivery of the wider scheme.
- 5.14 Subject to funding availability, there may be a sound business case for acquiring land prior to FBC approval by DfT if reasonable terms can be agreed with landowners to secure the land against future development.
- 5.15 However, should this scheme fail either before or after FBC approval by DfT, the land would be available for future improvement schemes at this location, or for re-sale in a manner calculated to recoup much of the expense of land purchase. This option will be explored further in the separate reports to Cabinet and Full Council referred to above.
- 5.16 In summary, this Cabinet Report is not committing the County Council to any capital spend which is not already covered by the approved scheme budget which comprises S106 contributions already received and DfT grant funding for developing the OBC.

6. Environmental Implications

- 6.1 Initial assessment work has shown that the scheme will improve air quality and reduce carbon emissions by reducing congestion, discourage 'rat-running' and also improve bus journey times and service reliability.

- 6.2 An assessment of whole life carbon costs is due to be undertaken for inclusion with the OBC submission which will include a Carbon Management Plan in accordance with the latest DfT guidance for MRN schemes.
- 6.3 The scheme will provide an essential 'missing link' in the Rugby cycle network by providing a new segregated foot/cycleway and bridge with connections onto enlarged Toucan Crossing facilities on A426 Leicester Road, thus significantly improving active travel opportunities and helping to reduce carbon emissions.
- 6.4 A quantitative assessment of the projected uplift in walking and cycling journeys resulting from the proposed scheme will be included in the OBC submission to DfT.
- 6.5 In considering the requirement for an Environmental Impact Assessment (EIA) to accompany the planning application, the scheme has been reviewed against the EIA Regulations 2017.
- 6.6 An EIA screening will be submitted to consider whether the proposal will have a significant environmental effect by virtue of its nature, size or location.
- 6.7 A range of technical assessments including ecological, arboricultural and other environmental surveys required to support the planning application and OBC submission are currently being progressed. Options for biodiversity offsetting in the scheme area are also being considered.

7. Human Rights Implications

- 7.1 The making of a CPO is a serious matter. Notwithstanding that compensation is payable, the CPO profoundly affects the property of the current landowner. Such action by definition interferes with the landowner's rights under the terms of the Human Rights Act (e.g. to peaceful enjoyment of possessions).
- 7.2 However, such interference is deemed legitimate where the social or economic benefits of the development which the CPO is required to implement are sufficient to outweigh the damage done to the landowner's rights.
- 7.3 In this case, the benefits that will be generated by the creation of an improved junction arrangement at the A426/A4071 Avon Mill/Hunters Lane junction including a new segregated foot/cycleway and bridge with connections onto enlarged Toucan Crossing facilities on A426 Leicester Road are considered sufficient to pass this test. Further details regarding these benefits are contained in the draft 'Statement of Reasons' at **Appendix C**.

8. Timescales associated with the decision and next steps

- 8.1 The expected next steps for the land acquisition process are:

Negotiate terms with landowners and occupiers.	August to October 2023
Prepare and advertise Compulsory Purchase Order.	October to December 2023
Prepare agreements to acquire with landowners.	October to December 2023

Appendices

- A Land Acquisition Plan.
- B Scheme Layout Plan.
- C Draft Statement of Reasons.

Background papers

None

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Local Members: Cllrs Brown, Butlin, Dahmash, Feeney, Kaur, Roberts, Roodhouse, Simpson-Vince, Timms, Warwick.

Other Members: Cllrs Seccombe, Matecki, Bell, Chilvers, Clarke, Crump, Fradgley, Gilbert, Humphreys, Markham, Pandher, Pemberton, Singh, Watson, Wright.