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**Report to:** Cabinet Member Transportation      **Date of Report:** 12<sup>th</sup> October 2011  
Cabinet      **Date of Meeting:** 13<sup>th</sup> October 2011

**Subject:** Thornton to Switch Island Link - Progress Update and Commencement of Detailed Design

**Report of:** Director of Built Environment      **Wards Affected:** Park, St Oswald, Netherton and Orrell, Molyneux, Manor, Sudell

**Is this a Key Decision?** Yes      **Is it included in the Forward Plan?** Yes

**Exempt/Confidential**      No

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### **Purpose/Summary**

To advise Members of current progress with the scheme, to seek Members' approval to commence the detailed design stage of the project and of the revised project management arrangements. To advise Members of the current scheme programme and cost profile.

### **Recommendation(s)**

#### **Cabinet Member - Transportation:**

- 1) Notes the report, supports the recommendations to Cabinet and recommends Cabinet to approve the commencement of the detailed design for the scheme.

#### **Cabinet:**

- 1) the progress in the preparation of the necessary statutory Orders for the scheme be noted.
- 2) approval be given to the commencement of the detailed design of the scheme in parallel to the Orders process.
- 3) the revised Project Management arrangements and Project Board representation for the scheme be approved.
- 4) the revised indicative programme for the scheme be noted.
- 5) the revised spend profile for the scheme be noted.

## How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity	√		
3	Environmental Sustainability	√		
4	Health and Well-Being	√		
5	Children and Young People	√		
6	Creating Safe Communities	√		
7	Creating Inclusive Communities	√		
8	Improving the Quality of Council Services and Strengthening Local Democracy		√	

### Reasons for the Recommendation:

To keep Members apprised of progress and to seek approval to commence the detailed design stage of the scheme and to advise Members of changes in project management arrangements and to confirm the current programme and cost profile for the scheme.

### What will it cost and how will it be financed?

**(A) Revenue Costs – N/A**

**(B) Capital Costs**

Cabinet approved the spend profile for the scheme for 2009/10 – 2012/13, totalling £5.912m on the 1<sup>st</sup> October 2009. The allocations were included in the Capital Programme 2010/11 – 11/12 approved by Cabinet on the 4<sup>th</sup> March 2010. Revised allocations for 2011/12 – 2012/13 were approved by Cabinet as part off the Capital Programme on 3<sup>rd</sup> March 2011.

The proposed commitment is contained within Council's previously approved allocation in the medium term financial plan. A revised funding profile for the Council's allocation is provided in this report.

## Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

<b>Legal</b> - The legal implications are contained within the body of the report. The statutory powers for making the Orders are Sections 14, 125, 239, 240, 246, 249 and 250 of the Highways Act 1980.	
<b>Human Resources</b>	None
<b>Equality</b>	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

## Impact on Service Delivery:

None

## What consultations have taken place on the proposals and when?

The Head of Corporate Finance & ICT (FD1029 ) has been consulted and any comments have been incorporated into this report.

Head of Corporate Legal Services (LD386/11 ) has been consulted and any comments have been incorporated into the report.

## Are there any other options available for consideration?

It would be possible to start the detailed design stage once the statutory Orders have been confirmed, as per the original project programme. This would avoid the risk of potentially abortive spend on the project, but would mean that the delays that have occurred during the Orders process would not be mitigated and the project delivery would be delayed. The implications of this are discussed below in the report.

## Implementation Date for the Decision

Following the expiry of the "call-in" period for the Minutes of the Cabinet Meeting

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## Background Papers:

None

## **1.0 Background**

- 1.1 A report to Cabinet on the 3<sup>rd</sup> March 2011 advised Members of progress on the Thornton to Switch Island Link. Cabinet was advised that the Department for Transport had approved the Council's Best and Final Funding Bid (BAFFB) and that a DfT contribution of £14.5m towards the scheme was confirmed. Cabinet was also advised that the Secretary of State would not intervene in the planning process, so there would be no Public Inquiry on the planning issues and that planning permission for the scheme had been granted.
- 1.2 Cabinet noted that work had commenced on the preparation of the statutory Orders for the scheme (a Side Roads Order and a Compulsory Purchase Order) and approved the resumption of work on the scheme, including the land acquisition process.
- 1.3 The purpose of this report is to:
- Advise Members of progress in the delivery of the scheme and the next stages of the project.
  - Seek approval for work to commence on the detailed design stage of the scheme.
  - Seek approval for revised Governance arrangements due to the impacts of departmental re-organisation.
  - Advise Members of the revised Programme and Funding Profile.

## **2.0 Scheme progress**

- 2.1 Recent work on the project has concentrated on the completion and publication of the statutory orders, a Compulsory Purchase Order and a Side Roads Order, and negotiations with land owners for potential land acquisition by agreement. This process has been delayed due to technical legal issues relating to Government owned land along the route.
- 2.2 The Council's legal advice regarding the Orders publication is that the Orders should not be published unless it is sure that there are no remaining obstacles or impediments to the scheme. This means that the Council needs to have certainty about all elements and areas of the scheme. In addition, in accordance with the regulations on compulsory purchase, Government owned land cannot be included in the Compulsory Purchase Order unless a Section 327 agreement has been reached. A s327 agreement makes allowance for Government owned land to be included in a CPO and these agreements need to be approved by the Government Minister responsible for the Department that owns the land. There are two areas along the proposed link road where this applies as described below.
- 2.3 Towards the western end of the scheme there is some land in the ownership of the Department of Environment, Food and Rural Affairs (Defra), under the management of the Forestry Commission. At Switch Island, the land that was formerly part of the trunk road network as part of the junction, much of which is now occupied by VOSA for a vehicle inspection and testing site, is owned by the Department for Transport.

- 2.4 The Council has been negotiating with the Forestry Commission since March this year about some areas of land towards the western end of the scheme. It was not possible to include the land in the CPO for the scheme because the Forestry Commission advised the Council that they were not prepared to enter into a s327 agreement, but wished to reach a negotiated transfer of land. The Forestry Commission does not object to the scheme and Forestry Commission officers have worked constructively with the project team to initiate the process of land transfer. Nevertheless, the requirement of the Commission to negotiate a land transfer has delayed the publication of the Orders. The principle and details of a land exchange and a series of accommodation works have now been agreed with the Forestry Commission. The formal agreement with the Forestry Commission to enable the land transfer is now being finalised. No completion date has yet been agreed, but it is hoped to be able to request Cabinet approval to publish the Orders at the November Cabinet meeting.
- 2.5 At Switch Island, the land that was formerly part of the trunk road network as part of the junction, much of which is now occupied by VOSA (Vehicle Operator Services Agency) for a vehicle inspection and testing site, is owned by the Department for Transport. The Council has been seeking clarification over the status of this land, in terms of whether it remains designated as highway land, but the information currently available indicates that the land remains both highway and trunk road. As the Switch Island land remains existing highway land, it does not need to be included in the CPO, but the sections of the new link that cross the existing highway land at Switch Island will need to be de-trunked to transfer responsibility for those sections to the local highway authority.
- 2.6 Both the HA and VOSA have confirmed their willingness to enter into agreements with the Council to enable the works to take place and the scheme to be constructed. It is expected that this will take the form of a Highways Act Section 6 agreement with Sefton to enable the necessary works to be undertaken. The basis of this agreement is being discussed with both VOSA and the HA.
- 2.7 Sefton's Property Management consultants, Capita Symonds, are in contact with the other landowners along the route and discussions about possible acquisition by agreement have commenced. These are all making progress, although efforts have mainly been concentrated on the discussions with the Forestry Commission.
- 2.8 A schedule of the planning conditions for the scheme has been compiled and the scope of works required to satisfy each of the conditions is being prepared. Discussions will be held with the Council's Planning Department to ensure that the proposals will satisfy the conditions. A review of the project risk register and programme was also undertaken in September.
- 2.9 Recommendation
- (i) Members note the progress in the preparation of the necessary statutory Orders for the scheme.

### **3.0 Detailed Design stage**

- 3.1 The scheme programme presented to Cabinet in March 2011 has been disrupted by the delay in publishing the Orders due to the negotiations with government departments and agencies. The publication date for the statutory Orders depends on the completion of the transfer agreement with the Forestry Commission and the

completion of a Section 6 Agreement with the Highways Authority and VOSA. Given the delay in publication of Orders, an initial review of the remainder of the scheme programme has been undertaken. The option of undertaking the detailed design phase in parallel with the Orders process as a means of recovering some of the time lost has been investigated and is discussed below.

- 3.2 Under the existing Conditions of Contract, the detailed design falls within Phase 2 of the project contract i.e. during the construction phase of the works. However it has always been the intention, endorsed by the Project Board, to commence this design once the statutory Orders have been confirmed. This will enable the Construction Target Cost to be prepared on the basis of the detailed design, providing greater confidence in the cost estimates and reducing the risk of changes during the construction period.
- 3.3 The implications of initiating the detailed design before the Orders have been confirmed as a means of managing the scheme programme has been assessed. The risks, costs and benefits of either commencing detailed design early or of remaining with the original programme have been considered. The current position of the scheme in relation to planning, funding and legal processes is also important in assessing the likelihood of the scheme proceeding.

#### Current status of the scheme

- 3.4 The scheme has already received planning permission and also has funding approval through the Department for Transport. These are two major commitments to the delivery of the scheme. The remaining statutory process is the land acquisition and side roads order. The land acquisition is being pursued both through negotiation and through the CPO process and the SRO process is being pursued in parallel to the CPO. The Council has taken rigorous precautions to ensure that the Orders are valid. Both the CPO and SRO and the Statement of Reasons have been reviewed by legal Counsel and his recommendations have been incorporated into the relevant documentation. There is a very strong case for the scheme to proceed, so it is expected that the CPO and SRO should be confirmed, although there may still need to be a Public Inquiry to examine either or both of the Orders.

#### Detailed design as programmed

- 3.5 The main risk associated with undertaking the detailed design in accordance with the original programme (once the Orders have been confirmed) is that it does not address the delay already incurred through the Orders process, allowing and, to some extent, reinforcing a situation of 'project drift'. 'Project drift' occurs where a series of delays to a project build up, are not addressed, the project loses momentum and ends up with significant and often costly delays.
- 3.6 Accommodating the delay within the programme is already affecting the momentum of the project. There will be costs associated with delays to the scheme (see below) and the Council's reputation and public support for the scheme may also be adversely affected. Leaving the detailed design until after the Orders are confirmed and working towards a target start date for the works may also place time pressure on the process, with the risk that some areas of potential savings and innovative design may not be able to be explored. The scope for working with statutory undertakers, statutory authorities and sub-contractors to achieve best practice design, value for money and best tender prices may also be limited.

3.7 An estimate of the potential inflation costs arising from the existing degree of delay to the scheme has been made. Although these costs do not compromise the overall project budget at this stage, they do represent potential additional costs that would be incurred by the project.

- Inflation – design & management – 3 months @ £5k/month £ 15k
- Inflation – construction – 3 months @ £50k/month £ 150k

3.8 There are benefits to retaining the detailed design stage as programmed. It ensures greater certainty for the project, because the statutory Orders will have been confirmed. Any requirements arising from a potential Public Inquiry for either the CPO and SRO will also be known and will have been dealt with. It also reduces or avoids the risks of abortive work associated with the early start of the detailed design.

#### Early detailed design

3.9 The main risk of commencing detailed design work at an early stage is that some or all of the work may be abortive, either due to future changes in the project or the risk of the project being cancelled. The risk of the project being cancelled is very small, given the level of political commitment and public support and that planning approval and funding confirmation have been achieved. Nevertheless, there is a small risk that the statutory Orders process (e.g if either or both the Side Roads Order and the Compulsory Purchase Order are not confirmed by the Secretary of State), possible Public Inquiry and associated land acquisition could compromise the delivery of the scheme. The Council has made significant efforts to ensure that the case for the scheme is as robust as possible, which should minimise those risks. There is also some risk that by initiating the detailed design process the Council could be perceived as presumptuous in expecting the scheme to go ahead.

3.10 The cost of the detailed design process (approximately £350k) will be incurred whichever option is taken, so that cost is not considered in the comparison of the options, except for the inflationary element, which is an additional cost on the later implementation of the detailed design. Implementation of the detailed design process would affect the spend profile of the scheme, which can be accommodated within the existing budgets. Potential additional costs associated with starting the detailed design early relate mainly to the risk of design amendments, for example, resulting from a possible Public Inquiry. These are difficult to estimate, but a significant change to the design could cost in the region of £150-200k.

3.11 The potential benefits of an early detailed design are significant, both qualitatively in terms of the project momentum and quantitatively in terms of cost savings. As indicated above, the project has lost some momentum due to the delays in completing the Orders process. Commencing the detailed design at an early stage would re-energise the project team and deliver new momentum to the project in a way that cannot be valued but would bring large benefits to the scheme. It demonstrates a positive and proactive approach to managing the project programme and seeking to mitigate the risks of delay. It would also signal a significant statement of intent by the Council and demonstrate the Council's ongoing commitment to delivering the scheme.

3.12 The contractor/designer team have identified a range of potential savings for the project that could be achieved through an early detailed design. This would provide greater scope for negotiations with statutory undertakers, sub-contractors and

statutory authorities and other interested parties, enabling early resolution of concerns and agreement of accommodation works where necessary. This process will also provide greater certainty in the target cost, because it will be based on a fully developed detailed design and has had the necessary input from all parties. This will reduce the risks of additional costs arising during construction. An indication of the potential savings that could be achieved, including inflation costs, is provided below.

- Inflation savings – 3 months @ £55k/month £ 165k
- Savings on statutory undertaker diversions/works £ 100k
- Best value deals with sub-contractors £ 100k
- Resolution of design issues, e.g. drainage £ 100k

#### Detailed design proposal

3.13 The scheme is currently in a strong position to move forward and the risks of the scheme being cancelled or significantly amended are very small. There are risks, costs and benefits associated with either option for the detailed design stage. However, based on the assessment that has been undertaken, the benefits (both qualitative and quantitative) for the scheme of commencing detailed design in parallel with the Orders process outweigh the risks and costs of leaving the detailed design until later. For these reasons, the Project Board has recommended that the detailed design stage should be started as soon as possible (e.g. from the 1<sup>st</sup> November 2011) and Cabinet is requested to support that recommendation and approve the start of work on the detailed design for the scheme.

#### 3.14 Recommendation

- ii) Cabinet gives approval for the detailed design of the scheme to be commenced in parallel to the Orders process.

### **4.0 Governance arrangements**

4.1 The Department for Transport expect formal and comprehensive Project Management procedures to be in place throughout the duration of the project. Cabinet at the meeting on the 8th February 2007 approved Project Management arrangements based on the Office of Government Commerce (OGC) methodology “Managing Successful Projects with Prince 2”. This process requires management levels and key responsibilities to be formally recognised, and the establishment of a Project Board involving representatives of the Council, delivery partners and prospective users of the project. To date these arrangements have proved very positive in managing the delivery of the scheme.

4.2 The Senior Responsible Owner is the Council’s Contract Project Manager, chairs the Project Board and provides the senior link with the Department for Transport. Cabinet at the meeting of the 3<sup>rd</sup> March 2011 approved that the duties and responsibilities of the Contract Project Manager be delegated Director Environmental Services. Following the recent Departmental re-organisation, this position is no longer applicable.

4.3 It will be important to maintain the responsibility at an appropriate level both within the project team and in liaison with DfT. It is therefore proposed that the designated



officer for the role of Senior Responsible Owner and Sefton Council Contract Project Manager within the Project Management structure for the scheme be amended to the Director of the Built Environment. The DfT will be advised accordingly.

#### 4.4 Recommendation

(iii) Cabinet approves the revised Project Management arrangements and Project Board representation for the scheme.

### 5.0 Scheme Programme

5.1 The scheme programme has been reviewed to take account of the delays in the Orders process. Subject to completion of the land transfer from Defra, the completion of the Section 6 Agreement with the Highways Agency and VOSA, the following indicative key programme dates have been identified. This assumes that the detailed design will be commenced in accordance with the recommendation in this report:

Cabinet approval of Orders (SRO, CPO)	November 2011
Publish Orders (SRO, CPO)	November 2011
SoS decision on need for Orders Inquiry	February 2012
Public Inquiry (if required)	August 2012
SoS Decision following Inquiry	February 2013
Statutory Objection Period	April 2013
Approval of target cost	April 2013
Construction start	May 2013
Construction complete	May 2014
Scheme open to traffic	Summer 2014

#### 5.2 Recommendation

(iv) Members note the revised indicative programme for the scheme.

### 6.0 Scheme Costs

6.1 Cabinet on the 17th May 2007, approved a council contribution to the Thornton to Switch Island Link scheme of £5.912m over the financial years 2008/09 to 2012/13. The profile of the Council's commitment has been reported to Cabinet at the following meetings to keep the Medium Term Financial Plan up-to-date: 17th May 2007, 29<sup>th</sup> November 2007, 2<sup>nd</sup> October 2008, 1<sup>st</sup> October 2009 and 10<sup>th</sup> June 2010.

- 6.2 With the inclusion of the scheme by the new Government in the 'Supported Pool' of major schemes, the DfT have introduced revised funding arrangements. The DfT requested Local Authorities to identify a fixed contribution from the DfT that cannot be altered in the future and that showed a reduction on the amount previously approved at Programme Entry stage. This would mean that any additional costs after the funding package is approved will fall on the Council as promoting authority.
- 6.3 The Council's Best and Final Funding Bid (BAFFB) was prepared on this basis and was approved by Cabinet on 16<sup>th</sup> December 2010. Based on the BAFFB, the Council's funding can therefore be summarised as:

Local Authority Contribution	£4.088m
Ineligible Costs	£0.650m
Contingency	£1.174m
<b>TOTAL</b>	<b>£5.912m</b>

- 6.4 Based on the indicative programme a revised spending profile for the Council's contribution is proposed. This assumes that the detailed design will be commenced in accordance with the recommendation in this report and the revised spending profile is provided in the table below.

	Total Approved £'m	August 2009		August 2011	
		Spend to Date £'m	Spend Profile £'m	Spend to Date £'m	Spend Profile £'m
2007/08	-	-	-	-	-
2008/09	0.830	0.114	0.114	0.114	0.114
2009/10	0.958	0.051	1.122	1.098	1.098
2010/11	0.512		0.712	0.407	0.407
2011/12	1.597		1.949	0.073	0.618
2012/13	2.015		2.015		1.555
2013/14					1.920
2014/15					0.200
<b>Total</b>	<b>5.912</b>	<b>0.165</b>	<b>5.912</b>	<b>1.692</b>	<b>5.912</b>

- 6.5 Recommendation

(v) Members note the revised spend profile for the scheme.

## 7.0 Financial Implications

7.1 The Head of Corporate Finance and ICT comments that all expenditure forecast to be incurred on the scheme can be contained within Council's previously approved allocation in the medium term financial plan. A spending profile for the Council's allocation is provided above, however should the scheme not progress any expenditure incurred would be classed as abortive and would be required to be charged to revenue and be funded from General Fund Balances.

## **8.0 Conclusions**

8.1 The Council has been promoting this scheme for many years and it is important to maintain the momentum of the project. Progress is being made in the statutory Orders process, but the project has experienced some delays. Discussions about land acquisition will continue, but proposals to mitigate the delays by commencing the detailed design stage early have been prepared and recommended to Cabinet. Revised governance arrangements reflecting departmental re-organisations have been proposed and the scheme programme and spend profile have been updated.