

Report to:	Cabinet	Date of Meeting:	6 April 2017
Subject:	M58 Junction 1 Improvements - Compulsory Purchase Order	Wards Affected:	Molyneux;
Report of:	Head of Locality Services - Commissioned		
Is this a Key Decision?	Yes	Is it included in the Forward Plan?	Yes
Exempt/Confidential	No		

Purpose/Summary

This report is to seek authority from Members to make the Sefton Metropolitan Borough Council (M58 Junction 1 Improvements) Compulsory Purchase Order 2017. Members will be aware from previous reports that the M58 Junction 1 Improvement scheme, one of a number of major transport schemes within the Liverpool City Region, is being progressed by the Council. In order to carry out the works it will be necessary to acquire land outside the ownership of the Council and whilst every effort is being made to acquire the land and other interests by negotiation it is considered necessary to make a compulsory purchase order to acquire those areas which are necessary to achieve the works should negotiations not be successful

Recommendation(s)

- (1) Members agree to make the Sefton Metropolitan Borough Council (M58 Junction 1 Improvements) Compulsory Purchase Order 2017 under Section 239 of the Highways Act 1980 and the Acquisition of Land Act 1981 to secure the compulsory acquisition of the land shown coloured pink on the plan attached at Appendix 1.
- (2) Members approve the draft Statement of Reasons for making the said Order and the Head of Locality Services - Commissioned in consultation with the Head of Regulation & Compliance be authorised to finalise the Statement of Reasons for making the Order based on the attached draft.
- (3) Authorise the Head of Locality Services - Commissioned in consultation with the Head of Regulation & Compliance to make, if necessary, minor or technical amendments to the Compulsory Purchase Order boundaries as shown on the plan at Appendix 1.
- (4) Authorise the Head of Regulation & Compliance to seal the Order and take all necessary and ancillary steps, including the publication and service of all statutory notices and the presentation of the Council's case at any public inquiry to secure

the confirmation of the Compulsory Purchase Order by the Secretary of State.

- (5) Authorise the Head of Regulation & Compliance, once the Order has been confirmed, to take all necessary steps, including the publication of any notices to secure the vesting of the land in the Council, including as necessary the making of any General Vesting Declaration under the Compulsory Purchase (General Vesting Declarations) Act 1981 or to serve notices to treat and notices to enter pursuant to the Compulsory Purchase Act 1965 or any legislation replacing or amending the same and thereafter to pay compensation due to affected landowners.
- (6) Authorise the Head of Locality Services - Commissioned to confirm the Order in the event that the Secretary of State notifies the Council that it has been given the power to confirm the Order if it is still considered appropriate to do so.
- (7) Members agree to make a Side Roads Order pursuant to section 14 of the Highways Act 1980 to connect the new slip roads to the M58 motorway.
- (8) Authorise the Head of Regulation and Compliance to seal the Side Roads Order and take all necessary and ancillary steps, including the publication and service of all statutory notices and the presentation of the Council's case at any public inquiry to secure the confirmation of the Side Roads Order by the Secretary of State.

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		x	
2	Jobs and Prosperity	x		
3	Environmental Sustainability	x		
4	Health and Well-Being	x		
5	Children and Young People		x	
6	Creating Safe Communities		x	
7	Creating Inclusive Communities		x	
8	Improving the Quality of Council Services and Strengthening Local Democracy		x	

Reasons for the Recommendation:

The Council, have determined a programme for delivery of the scheme in order to ensure that the £5.5m Growth Fund allocation to the scheme is claimed in full. In order to achieve this, costs need to be expended before June 2019 (this is a condition within the Liverpool City Region Funding Offer). This requires the land and associated rights to be secured and works to be delivered in advance of this date. As the acquisition of the necessary land is a key element of this programme, the Council has determined that a Compulsory Purchase Order will need to be served on affected properties surrounding the junction. Whilst negotiations are ongoing with landowners affected by the proposals, the tight timescales involved mean that it is necessary to make the proposed Order to guarantee delivery of the land.

The recommendation to make the compulsory purchase order is in line with the recommendations and considerations set out in the previous report to Members dated the 3rd September 2015.

The new slip roads will be constructed as highway that joins a trunk road (the M58), which is also being improved under the proposals, and therefore a Side Roads Order is necessary to effect the connection.

Alternative Options Considered and Rejected:

The Council could agree not to make a compulsory purchase order for the scheme, but would then be wholly dependent upon the various elements of land and associated rights to be secured by agreement with the landowners. Should this not be achieved within the programme then either the scheme wouldn't progress or, if the land was secured later than the programmed date and hence the construction extended beyond June 2019, the Council would be liable for additional costs as the full allocation from the Liverpool City Growth Fund wouldn't be drawn down in full.

What will it cost and how will it be financed?

(A) Revenue Costs

None

(B) Capital Costs

The current scheme estimate for the preferred option is £6.7m. This includes the estimated works, fees and land acquisition costs.

The Council submitted an outline business case to the Liverpool City Region Local Transport Body (LCR LTB) for funding to assist the delivery of the Scheme (December 2015). A full business case was submitted in March 2016 to LCR LTB and funding of £5.5m was approved by the Liverpool City Region Combined Authority at its meeting on 7 June 2016 and a formal offer of funding made on 8 July 2016. This offer was subsequently accepted by the Council.

The Council has, through the Cabinet process, confirmed that funds are available to deliver the balance of the works now that City Region Funding has been secured. At its meeting of the 03rd September 2015 Cabinet confirmed that the Council would include the Scheme in its Capital Programme for 2016/17 as a priority against available resources. This was ratified by full Council at its meeting of the 17th September 2015. It is currently anticipated that all costs can be met within this approved budget.

Implications:

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

Financial None	
Legal The Head of Regulation and Compliance will complete the necessary process to serve and administer the notices'	
Human Resources None	
Equality	
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 of the Proposals on Service Delivery:

None

What consultations have taken place on the proposals and when?

The Head of Corporate Resources (FD.4588/17) comments that the cost of the Compulsory Purchase Orders can be funded by the Capital Budget approved' and the Head of Regulation and Compliance (LD.3871/17) has also been consulted and any comments have been incorporated into 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:

There are no background papers available for inspection

1. Introduction/Background

- 1.1 Members will recall a report to Cabinet in September 2015 in which the details of the proposed M58 Junction 1 Improvements scheme were set out. The report sought Members approval for the preferred layout, a recommendation that a financial contribution be included in the Capital Programme 2016/17 as a priority against available resources and approval to begin negotiations with affected landowners.
- 1.2 A further report was submitted to Cabinet in January 2016 setting out the Procurement Proposals for the scheme.
- 1.3 The Council submitted an outline business case to the Liverpool City Region (LCR) for funding to assist the delivery of the scheme (December 2015). A full business case was submitted in March 2016 to LCR and funding of £5.5m from the Liverpool City Region Growth Fund was approved by the Combined Authority at its meeting on 7 June 2016. A formal offer of funding made on 8 July 2016 and this was subsequently accepted by the Council.
- 1.4 The Growth Fund allocation is claimed as a percentage of legitimate costs expended on the scheme. The offer states that no Growth Fund monies can be claimed after June 2019. The indicative programme has been developed to ensure that all land is acquired, design and survey work carried out and construction completed before this date.
- 1.5 Following the previously approved Procurement Strategy, The Council has now appointed John Sisk and Sons as the contractor to complete the scheme design and construction. They have given due consideration to the land required to construct the scheme, the temporary working areas including a site compound and the form and location of the farm access track which is essential to enable the farm to continue to operate.
- 1.6 This exercise has allowed the areas of land required for the scheme to be confirmed.
- 1.7 A land referencing exercise undertaken in 2016 and completed in 2017 has ensured as far as possible that all ownership information is secured and all rights established.
- 1.8 Discussions have been ongoing with the owners, tenants and their agents with the hope that the various elements of land can be acquired by the Council by agreement. These initial discussions were based on assumptions of the necessary land take based on the outline design included within business case submission.

2. Scheme Details

- 2.1 The Scheme is aimed at providing the 'missing' two west facing slip roads at Junction 1 of the M58 motorway. In order to accommodate the slip roads a section of Giddygate Lane will need to be stopped up and the Public Right of Way

diverted. An optioneering exercise was undertaken to examine 4 potential options and these were subsequently appraised.

2.2 Following the analysis of the Options Report it was agreed that Option 3 presented the greatest benefit of the options provided and was selected as the preferred option. The proposal includes the construction of two new, west-facing slip roads, diversion of Giddygate Lane and a redesign of the westbound exit slip layout into lane drop. As a result, the M58 is reduced to two lanes from the westbound exit slip up to the Switch Island junction. The design provides full access to the M58 from Junction 1 and is likely to divert part of the traffic from the local road network, the A59 and A506, onto the motorway, thus creating a positive impact on environment due to reduced vehicle pollution, reduced congestion and increased journey savings time. The design requires land acquisition for new slip roads as well as for diverted Giddygate Lane and diversion of Statutory Undertaker's services.

2.3 The scheme consists of the following features;

- (a) Introduction of two west facing slip roads – the geometry of the slip roads and the embankments on which they sit are determined by the requirements of the Design Manual for Road and Bridges (DMRB). These set out design parameters for the areas of new carriageway and associated verge.
- (b) Associated fencing, signing, drainage and barrier works – the DMRB determines the appropriate scope of acceptable boundary treatment and barriers and these will be determined within the detailed design. An allowance has been made, based on engineering judgement, for the land required to accommodate these features. The signing requirements will also be determined at detailed design stage.
- (c) The continuation of the existing Public Right of Way adjacent to a new slip road. – the section of Giddygate Lane parallel to the motorway is a public right of way and therefore should be maintained. The design will incorporate a new footway/cycle track that will form part of the Public Right of Way and be located adjacent to the new onbound slip road.
- (d) Stopping up of a section of Giddygate Lane impacted upon by the works – following a public consultation exercise with residents and businesses enjoying rights of access on Giddygate Lane it is proposed that the section impacted upon by the new slip road will be stopped up and no alternative lane provided.
- (e) The creation of a farm access track to serve Guest Farm and other fields – Whilst it has been agreed that the lane in its current form should be replicated along an alternative line, it is acknowledged that a new access track to Guest Farm and other fields is required. The route has been determined to have as little impact as possible on the adjacent field and to be positioned where vehicles can exit onto Maghull Lane in a safe way.
- (f) Changes in lane configurations within the M58 to facilitate the two new slip roads; some minor modifications to the existing lanes within the motorway are proposed.

- (g) Minor modification to the existing junction, including signing in response to the new slip roads – the scheme necessitates some minor changes to the roundabout and new signage. Consideration will also be given, as part of the scheme, to any physical changes to the highway layout on the approach to the junction to alleviate current safety concerns.
- (h) Limited landscaping and mitigation works –Landscape and mitigation measures will be proposed as part of the planning application and details will be developed in the detailed design stage. Land is included in the CPO to accommodate the proposals.

- 2.4 The Scheme has been costed and an economic appraisal completed. This is based upon the traffic model for Maghull which identified the likely changes in traffic flow. The model identifies a very high benefit: cost ratio of 9.3 which is considered to provide very high value for money according to DfT criteria.
- 2.5 The draft Local Plan for Sefton has been undergoing a formal consultation process. One of the sites identified for local development is the site adjacent to the Scheme, known as Land East of Maghull. This is identified as the largest and most important development site identified in the Local Plan and is considered essential in meeting the Borough's housing and employment needs.
- 2.6 The traffic model used to determine the economic benefit of the new slip roads has been used to determine the impact of the proposed development. It has concluded that the Scheme will have a very positive impact on transport links to the new development.

3. Location and Description of the Order Lands

- 3.1 The land required to deliver the Scheme includes a number of parcels of land adjacent to the M58 Motorway to the west of Junction 1. The CPO Order Land largely comprises agricultural land but does include a section of unadopted Giddygate Lane which currently forms a Public Right of Way and provides vehicular access, albeit with a locked gate, to people with rights of access. No buildings are included within the land.
- 3.2 The land and interests which need to be acquired are set out in detail in the Schedule attached at Appendix 2. This includes 2 plots to the north of the motorway to accommodate the new off slip and associated fencing and drainage. It also includes 2 plots to the south of the motorway to accommodate the new on slip and associated fencing and drainage with some land for mitigation and the proposed alternative right of way and land to accommodate the new farm access track to Guest Farm. These plots are in agricultural land and some land currently occupied by a section of Giddygate Lane.
- 3.3 The land coloured pink on the Order Map will be acquired permanently by the Council. The Council may sell some of the land, such as that identified for the site compound, on completion of the works.

4.0 The Planning Position

- 4.1 Following discussions with HE, as the statutory agency responsible for managing the motorway network, it was agreed that the scheme did not meet the criteria for a Nationally Significant Infrastructure Project (NSIP) and would therefore be considered through the local planning process.
- 4.2 The Scheme is, therefore, subject to a formal Planning Application. The Council submitted a Pre Application Inquiry in April 2016. The advice received from the Council's Planning department concluded that 'In relation to the planning policy, this proposal is mentioned in Policy MN3 Strategic Mixed Use Allocation-Land East of Maghull of the emerging Local Plan. Policy IN2 Transport of the emerging Local Plan is also of relevance, as the upgrading of the motorway access at Junction 1 on the M58 is listed as requirement as part of seeking to secure an efficient and secure transport network for all users, including walking and cycling'. The advice concluded that 'in planning policy terms the proposal is acceptable in principle'. The scheme, therefore, is clearly identified in Sefton's Local Plan as a policy commitment.
- 4.3 The Council has plans to submit a full application for the scheme in April 2017.

5.0 Purpose and justification for the use of compulsory purchase powers

- 5.1 Section 239, 240, 246, and 250 of the 1980 Act will be employed to acquire the necessary land and rights to construct and maintain the Scheme.
- 5.2 The Council recognises that a compulsory purchase order can only be made if there is a compelling case in the public interest, which justifies the overriding of private rights and interests in the land to be acquired. The Council is satisfied that a compelling case exists here for the reasons set out in the Statement of Reasons which is included in draft form in Appendix 3.
- 5.3 The Scheme seeks to improve traffic conditions by improving access to the strategic road network, reducing congestion and improving reliability of travel time. Currently Junction 1 only has two slip roads on the east side of the roundabout that only allows limited traffic movements.
- 5.4 It is recognized that a thriving economy can prosper on a strong and robust transport infrastructure that establishes the crucial connection between the local economy and the wider global market. The scheme is therefore proposed on the basis of its importance to the wider community and its contribution towards the local, sub-regional and national economic prosperity. The business case for the scheme was developed on the basis of the benefits that the scheme will provide to existing traffic conditions in the area. It will also facilitate potential future development in the Maghull area, depending on the outcome of the Local Plan process.
- 5.5 The objectives of the Scheme have been developed from an understanding of the existing situation and by taking into consideration future traffic conditions. The objectives address the issues on the existing highway network in a specific,

acceptable and realistic manner and take account of wider local, sub-regional and national policy objectives. The strategic objectives of the scheme are:

- **Promote sustainable economic development** through the provision of efficient surface access and improved connectivity to, from and between the town centres, Port of Liverpool, Knowsley Industrial Park area and other existing & future development areas and wider strategic road network;
- **Provide significant economic benefit to the community** by reducing travel time for both commuters and business journeys;
- **Promote improved productivity** by providing a quicker route and eliminating conflict with the local traffic;
- **Provide a positive impact on local air and noise pollution** within Liverpool City Region by reducing congestion and providing better alternative routes; and
- **Provide a safe corridor for traffic** by reducing potential vehicular conflict, hence reducing accident rates at the local and sub-regional level within the area of influence of the scheme.

5.6 The business case developed in order to secure the Growth Fund contribution to the scheme has been undertaken in accordance with the DfT standard approach to scheme appraisal. It has then been subject to an independent review by consultants appointed on behalf of the City Region. The economic appraisal included within the business case identified a very high benefit: cost ratio of 9.3 which is considered to provide very high value for money according to DfT criteria. On this basis the scheme was approved by the Combined Authority and an offer of funding was received.

5.7 It is recognised that the new slip roads can't be constructed without the acquisition of land within private ownership.

5.8 The business case identified the impacts should the land not be secured and the scheme were not to progress. These included the following;

- Congestion continues to worsen in Maghull / Kirkby / Knowsley
- Increased vehicle queues
- Increase in network unreliability
- No improvement in access to employment, housing and social opportunities
- Increased congestion results in increased carbon emissions, deterioration in air quality, increased noise and visual pollution
- Businesses choose to invest elsewhere: LCR potentially loses out to Greater Manchester, Warrington and other regional competitors
- Economic growth in Sefton (and wider LCR) is stifled

- Increased travel costs to businesses (due to congestion / delay) that use the junction
- Conditions deter business investment, impacts on local and regional economy

5.9 It is the Council's opinion that the proposed CPO is necessary to facilitate the delivery of the Scheme and that the statutory requirements for the use of compulsory purchase powers under the Highways Act 1980 have been met. The Order Lands have been determined to be the minimum needed to deliver the Scheme and the Scheme has been designed to minimise the impact on those with land interests in the area. Given the significant public benefits that will be achieved with the delivery of the Scheme and the support of local, regional and national policy, it is considered that the use of compulsory purchase powers is necessary and justifiable in the public interest.

6.0 Compulsory Purchase and the Criche Down Rules Guidance

- 6.1 Although not specifically related to highways compulsory purchase orders this Guidance provides general guidance to authorities in England on compulsory purchase orders and the approach to be taken in determining whether or not an order should be confirmed. The guidance was last updated in October 2015. The guidance confirms that "compulsory purchase powers are an important tool for local authorities to use as a means of assembling land needed to help deliver social and economic change. Used properly they can contribute towards effective and efficient urban regeneration, the revitalisation of communities and the promotion of business – leading to improvements in quality of life"
- 6.2 Making the CPO in respect of the current proposals would clearly support this approach given the benefits that will accrue should the Scheme be delivered.
- 6.3 The basic principle underpinning any CPO is set out at paragraph 12; "A compulsory purchase order should only be made where there is a compelling case in the public interest".
- 6.4 As set out above, there are significant disbenefits resulting from the absence of the two slip roads. Not delivering the proposed improvement will exacerbate current congestion problems, particularly on the A59, impact upon the viability of proposed new development, including that identified within the emerging Local Plan. This will have an impact on the immediate locality, as well as having an impact potentially on the wider Liverpool City Region.
- 6.5 The benefits identified cannot be achieved without delivering the Scheme and this requires the land identified in the Order to come forward. The land is therefore necessary to the Scheme and there is a clear need for the CPO to be confirmed. Whilst negotiations to acquire the land by agreement will continue the acquisition cannot be guaranteed, without the support of CPO powers, within the programme timeframe.
- 6.6 Failing to deliver the benefits associated with the Scheme will, at the very least, ensure that current problems with the route continue and will fail to deliver already identified "future proof" improvements to manage already identified future impacts.

- 6.7 With the commensurate public realm, environmental and economic benefits to the area there is a clear public benefit to delivering the Scheme.
- 6.8 There is also no financial impediment to delivering the Scheme as funds have been identified by the Council in its appropriate capital programme to cover the cost of the Scheme and associated activities if grant funding is made available
- 6.9 The Council has plans to submit a full planning application for the scheme in April 2017 and is confident that permission will be secured following a positive response to the Pre Application. An agreement under Section 6 and other enabling powers of the Highway Act 1980 will be entered into with Highways England and there are no other known impediments that would prevent the Scheme being delivered
- 6.10 Whilst it must be acknowledged that land interests will be affected by the proposed compulsory purchase order, the interests affected are the minimum necessary to enable the Scheme to be delivered, no private residential premises are affected and no buildings are directly impacted by the proposals. Moreover, compensation is legally available to those who may be affected by the proposed orders.
- 6.11 On balance, notwithstanding the impact on individual properties, there is a compelling case in the public interest to deliver the Scheme and to support the proposed compulsory purchase order and necessary side roads order.

7.0 Circular 2/97

- 7.1 Department of Transport Circular 02/97 is still the relevant guidance in respect of compulsory purchase orders for major road schemes.
- 7.2 It provides that the Secretary of State for Transport will require to be satisfied in every case that the land included in the CPO can reasonably be regarded as required for the purposes of the acquisition as stated in the Order. Where the Scheme is one for the improvement or construction of a highway, this will normally mean that the only land to which the CPO should relate will be land falling within the highway as improved or newly constructed. If land outside these limits is required in connection with the improvement or construction of a highway (e.g. as working space) this will need to be made clear...(paragraph 18)
- 7.3 The Scheme has been carefully designed to minimise the amount of land that needs to be acquired and where working space has been identified this has been kept to a minimum. The proposed Order and Order land therefore conform to this guidance.
- 7.4 Paragraph 2 to the Circular also identifies that the Secretary of State would “always wish to be sure that Scheme for which he was authorising the compulsory purchase of land would go forward as proposed in the Order. Consequently, it is his practice not to confirm CPO until he is satisfied that the planning permission of aspect of the Scheme to which the Order relates has been granted”. In this case the works underpinning the Scheme are expected to benefit from planning

permission. The Order will only be made once the Planning Notice has been received.

8.0 Human Rights Act 1998

- 8.1 The Human Rights Act 1998 incorporated into UK law the European Convention on Human Rights (“the Convention”). The Convention includes provisions which aim to protect the rights of the individual (including companies and similar bodies). In resolving to make the Order the Council must consider the rights of the property owners affected by the Orders, should they be confirmed, generally and, in particular, under the following Articles of the Convention;

Article 1 of the First Protocol

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties”

Article 6 – Right to a Fair Trial

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Article 8 Right to respect for private and family life

1 Everyone has the right to respect for his private and family life, his home and his correspondence.

2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

- 8.2 In each of the articles referred to above (and in respect of many of the provisions of the Convention) the rights afforded to an individual are “qualified rights”; this means that they do not prevent proposals affecting those rights. The public authority seeking to affect those rights is obliged to satisfy itself that it has struck the correct balance between the rights of the individuals affected and the public interest in delivering the Scheme.
- 8.3 The works that will be delivered as part of the Scheme will deliver significant public benefits to their area. In the circumstances, and given that the land

interests affected by the proposals will be limited, given the scale of the Scheme, it is submitted that the proposed compulsory purchase order would not constitute an unlawful interference with the individual's property rights given the overall public benefits which will be delivered if the Scheme is progressed. The Council has also taken every reasonable effort to ensure that the land affected by the Scheme is the minimum necessary to deliver the project.

- 8.4 Furthermore, the compulsory purchase process clearly provides for those affected to have a right to object to any order being confirmed and this objection will be considered by an independent Inspector appointed by the Secretary of State for Transport. Any objection may also be considered through a public hearing. Notwithstanding this, any person affected by the proposed orders will be entitled to compensation proportionate to any loss they may incur as a result of their rights being affected by the Orders.