

CABINET MEETING – 2 DECEMBER 2011

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

**SUNDERLAND STRATEGIC TRANSPORT CORRIDOR – NEW WEAR
BRIDGE ACQUISITION OF ADDITIONAL LAND AND SUPPLEMENTAL SIDE
ROADS ORDER**

Author(s):

Executive Director of City Services, Deputy Chief Executive and Executive
Director of Commercial and Corporate Services

Purpose of Report:

The purpose of this report is to obtain approval for the stopping up of highways and the acquisition of additional land for the Sunderland Strategic Transport Corridor new Wear bridge project. ("the Scheme") and the making of the Supplemental Side Roads Order and the Supplemental Compulsory Purchase Order No.2 for the Scheme

Description of Decision:

Cabinet is recommended to:-

- i) Approve the making of a supplemental side roads order pursuant to sections 14 and 125 of the Highways Act 1980 to be known as the Sunderland City Council (Sunderland Strategic Transport Corridor – new Wear bridge A1231 and B1405 Classified Roads)(Side Roads)(Supplemental) Order 2011 in order to stop up the highways as described in the attached schedule and identified on plan number NWC/D/SCC/07/GEN/800021 attached to this report.
- ii) Approve the making of a supplemental compulsory purchase order pursuant to Sections 239 and 240 of the Highways Act 1980 to be known as the Sunderland City Council (Sunderland Strategic Transport Corridor – new Wear bridge) (Supplemental No. 2) Compulsory Purchase Order 2011 in order to acquire the additional land on the south side of Pallion New Road as described in the attached Schedule and identified on plan number NWC/D/SCC/07/GEN/800022 attached to this report
- iii) Authorise any of the following officers: the Chief Executive, Executive Director of Commercial and Corporate Services or the Head of Law and Governance to make minor amendments, modifications or deletions to the schedules and the plans should this be necessary and to finalise and make the supplemental orders

iv) Authorise the Deputy Chief Executive and Head of Law and Governance to take all necessary action to achieve confirmation of the supplemental orders	
Is the decision consistent with the Budget/Policy Framework? Yes	
If not, Council approval is required to change the Budget/Policy Framework	
<p>Suggested reason for Decision:</p> <p>The highways that are the subject of this report have long since ceased to serve their original purpose of providing access to numbers 39 to 41 Woodbine Terrace. They are however still highways and the public has the right to use them as such. Should this right be exercised the outcome would be traffic attempting to enter and leave Pallion New Road in close proximity to the proposed traffic signal controlled junction resulting in a significant road safety risk. It is therefore proposed that the highways should be stopped up.</p> <p>When a highway on unregistered land is stopped up the ownership of that land passes to the land owners whose land abuts that highway. Since this would result in small areas of land with no access to the highway and would prevent the stopping up works being carried out under Section 14 of the Highways Act 1980 it is proposed that the Council acquires compulsorily the affected land.</p> <p>Cabinet has previously recognised that there is a compelling case in the public interest to justify the use of the council's CPO powers to secure the land interests and the rights required for the Scheme given the established need for and public benefits of the Scheme to the city. It is considered that there is a compelling case in the public interest to justify the further use of the Council's CPO powers as the second supplemental CPO is also required to secure the essential highway improvement works which are required to the B1405</p>	
<p>Alternative options to be considered and recommended to be rejected:</p> <p>In that the redundant highways have existed for many years and have not apparently been used as highways it would be possible to leave things unchanged. However to do so would leave open the possibility for a landowner at some time in the future to seek to bring his land back into productive use and make use of the highway rights that exist. This would result in traffic seeking to use inappropriate and unsafe accesses to the main road and can not be recommended.</p>	
Is this a "Key Decision" as defined in the Constitution? Yes	Relevant Scrutiny Committee: Environment and Attractive City
Is it included in the Forward Plan? No	

**SUNDERLAND STRATEGIC TRANSPORT CORRIDOR – NEW WEAR BRIDGE
ACQUISITION OF ADDITIONAL LAND AND SUPPLEMENTAL SIDE ROADS
ORDER**

**Report of the Executive Director of City Services, Deputy Chief Executive and
Executive Director of Commercial and Corporate Services**

1.0 Purpose of the Report

- 1.1 The purpose of this report is to obtain approval for the stopping up of highways and the acquisition of additional land for the Sunderland Strategic Transport Corridor new Wear bridge project. (“the Scheme”) and the making of the Supplemental Side Roads Order and the Supplemental Compulsory Purchase Order No.2 for the Scheme.

2.1 Description of Decision

Cabinet is recommended to:-

- i) Approve the making of a supplemental side roads order pursuant to sections 14 and 125 of the Highways Act 1980 to be known as the Sunderland City Council (Sunderland Strategic Transport Corridor – new Wear bridge A1231 and B1405 Classified Roads)(Side Roads)(Supplemental) Order 2011 in order to stop up the highways as described in the attached schedule and identified on plan number NWC/D/SCC/07/GEN/800021 attached to this report.
- ii) Approve the making of a supplemental compulsory purchase order pursuant to Sections 239 and 240 of the Highways Act 1980 to be known as the Sunderland City Council (Sunderland Strategic Transport Corridor – new Wear bridge) (Supplemental No. 2) Compulsory Purchase Order 2011 in order to acquire the additional land on the south side of Pallion New Road as described in the attached Schedule and identified on plan number NWC/D/SCC/07/GEN/800022 attached to this report
- iii) Authorise any of the following officers: the Chief Executive, Executive Director of Commercial and Corporate Services or the Head of Law and Governance to make minor amendments, modifications or deletions to the schedules and the plans should this be necessary and to finalise and make the supplemental orders
- iv) Authorise the Deputy Chief Executive and Head of Law and Governance to take all necessary action to achieve confirmation of the supplemental orders

3.0 Background

- 3.1 At its meeting on 26th June 2008 Cabinet agreed to accept the offer from the Department for Transport (DfT) of Programme Entry for the Sunderland Strategic Transport Corridor – new Wear bridge (SSTC) Scheme. The DfT has therefore accepted that there is a business case for the Scheme and agreed that the Scheme could be further developed to the next stage in the DfT approval process.
- 3.2 As explained in the subsequent Cabinet report dated 1st December 2010, following the Coalition Government's Comprehensive Spending Review, the Scheme is now part of the DfT's Development Pool of local authority major transport schemes seeking DfT funding. All projects within the Development Pool were required to submit a 'best and final bid' (BAFB) to the DfT by 9th September 2011. The DfT's decision on funding will then be made at the end of the year.
- 3.3 As part of the assessment of the BAFB, the DfT will need to be satisfied that the business case remains robust and that the statutory powers and permissions necessary to enable the Scheme to be delivered have either been secured or that there is no significant impediment to them being secured. Members will recall that at the meetings on 8th April and 7th October 2009, Cabinet approved the making of the Sunderland City Council (Sunderland Strategic Transport Corridor – new Wear bridge) Compulsory Purchase Order 2009 ("the CPO") in order to acquire land and new rights which are required for the construction of the new bridge and its associated approach roads on the grounds that there is a compelling case in the public interest to justify the acquisition of the land and the rights to enable the Scheme to proceed. In addition, approval was also obtained for the making of the other relevant statutory orders including a side roads order required for the Scheme.
- 3.4 At its meeting on 1st June 2011 Cabinet resolved to make a supplemental compulsory purchase order for land that was not included in the original CPO as it is outside the works area for carriageway improvement works (although the improvement works also require the stopping-up of the access) and it was hoped that a private agreement could be reached with the landowner and the lessee for the acquisition of either the entire Site or for the acquisition of Plot 58 of the original CPO provided that the landowner was able to secure an alternative means of access to the highway with the adjoining landowner. Unfortunately, the Council has so far been unable to acquire the Site either in whole or in part through negotiation with the landowner and the lessee. The landowner is of course entitled at any time to require the Council to purchase the entire site under Section 8(1) of the Compulsory Purchase Act 1965. However, to date, the landowner has not sought to exercise this power.

- 3.5 The original Orders and the Supplemental Order have now been made and submitted to the Secretary of State for Transport for confirmation. Objections to the Orders have been received resulting in the requirement for Public Local Inquiries which have started but are currently adjourned until 5th December 2011 while consultations take place with lessees on the former Groves site. The consultation is necessary because, at the request of the site owner, the Council is proposing to make some changes to the Side Roads Order but only to the extent that it affects roads within that site. If Cabinet agrees to the two supplemental orders outlined below being made, a further short adjournment of the Inquiries is likely to allow the time period for objections to run, and the Inspector to consider any objections received.

4.0 Proposed Supplemental Side Roads Order

- 4.1 During work carried out for the Public Local Inquiries it became apparent that although not shown on the highway records there are some sections of unadopted highway and a small section of adopted highway at the corner of Pallion New Road and Pallion Subway that have not been stopped up. These highways served numbers 39 to 41 Woodbine Terrace – properties that were demolished in the late 1960s to make way for a radius improvement which in turn was replaced by a roundabout when European Way was built in the early 1980s.
- 4.2 A highway gives the general public the right to pass and re-pass over land that is dedicated as a highway. Should the public wish to exercise that right in this location the outcome would be two unsafe junctions with busy roads. It is therefore proposed that under the provisions of sections 14 and 125 of the Highways Act 1980 a supplemental side roads order be made to stop up the highways and private means of access shown on plan NWC/D/SCC/07/GEN/800021 and described in the schedule attached to this report.

5.0 Proposed Supplemental Compulsory Purchase Order

- 5.1 It is often the case, and indeed for parts of the highways proposed to be stopped up it is the case here, that the land over which the highway right exists is unregistered and therefore in unknown ownership. In such cases when a highway is stopped up ownership of the land reverts to the frontagers. If the Council takes no action the outcome would be to leave small areas of land without a suitable access to the highway and would prevent the stopping up works being carried out under Section 14 of the Highways Act 1980. In order to prevent such an occurrence it is proposed that the Council makes a supplemental compulsory purchase order to acquire the land under the highways to be stopped up. In addition, there is one plot, included for completeness, which is part of the highway to be stopped up which is in Council ownership.

- 5.2 There is also a small area of unregistered land adjacent to the highways to be stopped up that is believed to be part of the back yard of the former number 41 Woodbine Terrace. The other adjacent plot is in the ownership of the Homes and Communities Agency. For the reasons set out above it is proposed that these areas of land should also be included in the supplemental compulsory purchase order. The land to be acquired is shown on plan NWC/D/SCC/07/GEN/800022 and described in the schedule attached to this report. There are two occupiers listed against the plots as a fence has been erected around the area to enclose it with the adjacent premises. The remaining parts of the highway to be stopped up are already included in the original CPO.

6.0 Reason for the Decision

- 6.1 The highways that are the subject of this report have long since ceased to serve their original purpose of providing access to numbers 39 to 41 Woodbine Terrace. They are however still highways and the public has the right to use them as such. Should this right be exercised the outcome would be traffic attempting to enter and leave Pallion New Road in close proximity to the proposed traffic signal controlled junction resulting in a significant road safety risk. It is therefore proposed that the highways should be stopped up.
- 6.2 When a highway on unregistered land is stopped up the ownership of that land passes to the land owners whose land abuts that highway. Since this would result in small areas of land with no access to the highway and would prevent the stopping up works being carried out under Section 14 of the Highways Act 1980 it is proposed that the Council acquires compulsorily the affected land.
- 6.3 Cabinet has previously recognised that there is a compelling case in the public interest to justify the use of the council's CPO powers to secure the land interests and the rights required for the Scheme given the established need for and public benefits of the Scheme to the city. It is considered that there is a compelling case in the public interest to justify the further use of the Council's CPO powers as the second supplemental CPO is also required to secure the essential highway improvement works which are required to the B1405

7.0 Alternative Options

- 7.1 In that the redundant highways have existed for many years and have not apparently been used as highways it would be possible to leave things unchanged. However to do so would leave open the possibility for a landowner at some time in the future to seek to bring his land back into productive use and make use of the highway rights that exist. This would result in traffic seeking to use inappropriate and unsafe accesses to the main road and can not be recommended.

8.0 Relevant Considerations

Financial Implications

The cost of land purchased for the project is a 'main scheme' cost as defined by the DfT. Such costs will therefore be eligible for retrospective funding from the DfT. DfT funding will not be released until Full Approval is granted for the project, which is programmed for September 2012. However, as construction is programmed to commence in October 2012, land acquisition needs to be completed before the works begin.

Negotiations with land owners may result in a requirement to purchase land before Full Approval is granted. Alternatively as a result of having to exercise the powers granted by the Compulsory Purchase Order a requirement to purchase will also arise. A number of options are being explored for the temporary financing of the land purchases, pending Full Approval. The options include the temporary use of LTP allocations, council reserves and prudential borrowing. The temporary financing, once finalised will be reported through the normal quarterly reviews of the Capital Programme.

Compatibility with the European Convention on Human Rights

Article 1 of the First Protocol of the European Convention on Human Rights which is embodied in domestic law by the Human Rights Act 1998 provides that

“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.”

In the context of Article 1, regard must be had to the fair balance which must be struck between the competing interests of the individual and the community as a whole. In the circumstances of this case it is considered that the public benefits in making the second Supplementary Compulsory Purchase Order to support the Scheme outweigh the infringement of the human rights of those people with an interest in the affected land. The land to be included within the Order is a proportionate response to the needs of the Scheme. In addition the second Supplementary Compulsory Purchase Order will follow all applicable legislative provisions in respect of the making and confirming of compulsory purchase orders and the payment of compensation.

9.0 Background Papers

Cabinet reports dated 27th June 2008, 8th April 2009, 7th October 2009, 1st December 2010 and 1st June 2011

Sunderland City Council (Sunderland Strategic Transport Corridor – new Wear bridge) Compulsory Purchase Order 2009

Sunderland City Council (Sunderland Strategic Transport Corridor – new Wear bridge) (Supplemental) Compulsory Purchase Order 2011

Sunderland City Council (Sunderland Strategic Transport Corridor – new Wear bridge A1231 and B1405 Classified Roads)(Side Roads) Order 2009

Statement of Reasons for the original CPO and the Side Roads Order