

<p align="center">CABINET MEETING – 8th April 2009</p> <p align="center">EXECUTIVE SUMMARY SHEET – PART I</p>	
<p>Title of Report: SUNDERLAND STRATEGIC TRANSPORT CORRIDOR – NEW WEAR BRIDGE ACQUISITION OF LAND AND MAKING OF STATUTORY ORDERS</p>	
<p>Author(s): Director of Development and Regeneration and City Solicitor</p>	
<p>Purpose of Report: The purpose of the report is to obtain approval for the acquisition of land and the making of the Compulsory Purchase and Side Roads Orders for the Sunderland Strategic Transport Corridor new Wear bridge project.</p>	
<p>Description of Decision: Cabinet is recommended to:-</p> <ul style="list-style-type: none"> i) Authorise the Director of Development and Regeneration to acquire such land as may be needed to allow the construction of the Sunderland Strategic Transport Corridor – new Wear bridge project ii) Approve the making of the Compulsory Purchase Order pursuant to Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 to be known as the Sunderland City Council (Sunderland Strategic Transport Corridor – new Wear bridge) Compulsory Purchase Order 2009 iii) Approve the making of the 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) Order 2009 iv) Authorise the City Solicitor to take all necessary action to achieve confirmation of the above Orders v) Approve preliminary consultation with interested parties on a proposed Section 106(3) of the Highways Act 1980 Scheme for the new Wear bridge 	
<p>Is the decision consistent with the Budget/Policy Framework?</p>	<p align="right">Yes</p>
<p>If not, Council approval is required to change the Budget/Policy Framework</p>	

<p>Suggested reason for Decision:</p> <p>The Council has to be certain that it will be able to obtain all of the land that is needed for the SSTC scheme. Certainty can only be guaranteed by successfully completing the Compulsory Purchase process. The Council must also secure the rights to make changes to existing highways and to construct a bridge over navigable waters.</p>	
<p>Alternative options to be considered and recommended to be rejected:</p> <p>It may be possible to acquire all of the land by negotiated agreements and every effort will be made to do so, however, in order to assure certainty it is necessary to promote a Compulsory Purchase Order in parallel with the negotiations.</p> <p>The rights to make changes to existing highways and to construct a bridge over navigable water can only be obtained through the confirmation of the Order and Scheme described and there is therefore no alternative that can be recommended.</p>	
<p>Is this a “Key Decision” as defined in the Constitution? Yes</p> <p>Is it included in the Forward Plan? Yes</p>	<p>Relevant Review Committee: Policy and Co-ordination</p>

**SUNDERLAND STRATEGIC TRANSPORT CORRIDOR – NEW WEAR BRIDGE
ACQUISITION OF LAND AND MAKING OF STATUTORY ORDERS**

Report of the Director of Development and Regeneration and the City Solicitor

1.0 Purpose of the Report

- 1.1 The purpose of the report is to obtain approval for the acquisition of land and the making of the Compulsory Purchase and Side Roads Orders for the Sunderland Strategic Transport Corridor new Wear bridge project.

2.0 Description of Decision

- 2.1 Cabinet is recommended to:-

- i) Authorise the Director of Development and Regeneration to acquire such land as may be needed to allow the construction of the Sunderland Strategic Transport Corridor – new Wear bridge project
- ii) Approve the making of the Compulsory Purchase Order pursuant to Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 to be known as the Sunderland City Council (Sunderland Strategic Transport Corridor – new Wear bridge) Compulsory Purchase Order 2009
- iii) Approve the making of the 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) Order 2009
- iv) Authorise the City Solicitor to take all necessary action to achieve confirmation of the above Orders
- v) Approve preliminary consultation with interested parties on a proposed Section 106(3) of the Highways Act 1980 Scheme for the new Wear bridge

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) project. The DfT therefore accepts that there is a business case for the project and agrees that the project can be further developed to the next stage in the DfT process which is an application for Conditional Approval. At its meeting on 3rd December 2008 Cabinet agreed that the project including the concept design bridge should be further developed.
- 3.2 For the project to receive Conditional Approval the DfT must be satisfied that the business case remains robust and that the statutory powers and

permissions necessary to enable the project to be delivered are in place. Submission of the application for Conditional Approval is on the critical path for the project and is currently programmed for 22nd November 2010. As the relevant statutory processes can potentially take eighteen months (if there is to be a Public Local Inquiry held by the Secretary of State in relation to the Orders or the Scheme) to reach a conclusion, it is therefore now necessary to initiate those processes. Confirmation of the statutory orders is currently programmed for 11th October 2010.

- 3.3 In order to be able to construct the new Wear bridge and its approach roads it will be necessary to acquire land, to stop up sections of highway and to obtain the right to construct a bridge over navigable waters.

4.0 Proposals

- 4.1 The Council already owns some of the land needed for the SSTC and would seek to acquire the remainder by agreement however, the success of such negotiations cannot be guaranteed. It is therefore prudent to promote a Compulsory Purchase Order in parallel with negotiations in order to mitigate the risk that all of the land required might not be available when it is needed.
- 4.2 Details of the affected lands are shown on drawing numbers 08/ED/1726.01 and 08/ED/1726.02 displayed at the meeting of Cabinet. Copies of the drawings and schedules have been placed in the Members' library.
- 4.3 The majority of the land is industrial in nature with the exception of a single building on Hylton Park Road that is used as a dental surgery and the offices for the Sunderland Enterprise Park Management Company. Officers are actively seeking to assist with the relocation of these businesses. Negotiations are also taking place with the owners and occupiers of all of the affected land and buildings. Every effort will be made to agree appropriate compensation terms well in advance of when the land and buildings will be needed.
- 4.4 Construction of the SSTC will require some changes to existing highways. Since the SSTC will be a classified road the powers to make such changes are obtained through a Side Roads Order. A Side Roads Order is required so that sections of highway and private means of access from premises to the highway can be stopped up and new highways and new means of access can be provided. The highway changes are shown on drawing numbers 08/ED/1725.01 to 08/ED/1725.04 displayed. Copies of the drawings and schedules have been placed in the Members' library.
- 4.5 The majority of changes are technical in nature and relate to the change in status of sections of existing highway that will become part of the classified road. Of particular note is that part of Timber Beach Road that connects Wessington Way to Hylton Park Road. This link will be stopped up and not replaced as part of the new works. Traffic wishing to access Hylton Park Road will continue to be able to do so from existing junctions to the east and west of the link.

- 4.6 The construction of a bridge over the river Wear will reduce the available headroom for vessels using the river. The appropriate power necessary to secure the right to construct a bridge which may restrict navigation is obtained by means of a s106(3) Highways Act 1980 Scheme. A preliminary non statutory consultation with river users and statutory bodies is recommended before proceeding to make a s106(3) Scheme. The results of this consultation will be reported to a future meeting of Cabinet at the same time as the authority to make a s106(3) Scheme is sought.
- 4.7 The Orders and Scheme are to be progressed on the assumption that the concept bridge will be confirmed as the design to be taken forward to construction. However, should this not be the case, in the event that the Compulsory Purchase Order has already been made, modifications can only be sought to an Order in very limited circumstances prior to its confirmation. Therefore, it is possible that a new Compulsory Purchase Order would need to be promoted. In such circumstances, a further report would be submitted to Cabinet prior to the making of a new Order. The programme for the project would allow for a new Compulsory Purchase Order without affecting the proposed construction period. In addition, it would also be necessary to reconsult on the s 106(3) order again with no impact on the construction programme. The Side Roads Order would be unaffected.

5.0 Reason for the Decision

- 5.1 The Council has to be certain that it will be able to obtain all of the land that is needed for the scheme. Certainty can only be guaranteed by successfully completing the Compulsory Purchase process. The Council must also secure the rights to make changes to existing highways and to construct a bridge over navigable waters.

6.0 Alternative Options

- 6.1 It may be possible to acquire all of the land by negotiated agreements and every effort will be made to do so, however, in order to assure certainty it is necessary to promote a Compulsory Purchase Order in parallel with the negotiations.
- 6.2 The rights to make changes to existing highways and to construct a bridge over navigable water can only be obtained through the Order and Scheme described and there is therefore no alternative that can be recommended.

7.0 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 27th January 2012. However, as construction is programmed to commence on 19th March 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 two leading cases it has been stressed that where the acquisition of assets serves legitimate social economic or other public policies, considerable latitude in the level of compensation is allowed to member states. In the circumstances of this case, it is considered that the public benefits in making the proposed Orders would outweigh any private loss. As a consequence, it is considered that the reasonable exercise of CPO and stopping-up powers by the Council would not constitute an infringement of the human rights of those either owning or having other interests in the land affected by the proposals.

8.0 Background Papers

Development and Regeneration file reference M21