

**To the Chair and Members of the  
Cabinet**

**CPO and Side Road Order for Hatfield Link Road Project**

<b>Relevant Cabinet Member(s)</b>	<b>Wards Affected</b>	<b>Key Decision</b>
Joe Blackham - Cabinet Member for Regeneration and Transportation	Hatfield, Thorne and Moorends, Stainforth and Barnby Dun	K1285

**EXECUTIVE SUMMARY**

1. The DN7 Hatfield Link Road scheme, will link the M18 Junction 5 Roundabout, with Waggon's Way next to Hatfield Colliery. The scheme is a high priority within the Sheffield City Region Investment Fund (SCRIF) enabling capital funding to be drawn down upon completion of business case, design and statutory processes.
2. Preliminary design work has been carried out by the developer Marcol Waystone's consultant, AECOM, which Doncaster MBC are reviewing the detail in order to establish what is needed to complete the detailed design. An Outline Business Case was approved by the Sheffield City Region Combined Authority in April 2014 and the Full Business Case was approved at the 15<sup>th</sup> May 2015 Combined Authority meeting which has secured funding for the project.
3. There is now a need to commence statutory procedures which will require the making of a Compulsory Purchase and Side Roads Order to acquire the required land.
4. In conjunction with securing SCRIF funding of £14.1M a draft heads of terms setting out a stand alone funding agreement with the developer Waystone is being developed with Doncaster MBC, the details of which is presented in the funding strategy.
5. The DN7 Unity scheme objectives are to:
  - Stimulate economic regeneration by connecting people to jobs within the Sheffield City Region.
  - Encourage investment in North East Doncaster through improved access to development sites.
  - Promote social inclusion by improving accessibility.
  - Improve surface connectivity for Stainforth and Hatfield to the Motorway Network.
  - Minimise any adverse environmental impact.

- The development will unlock major employment and housing sites, triggering a potential £800M inward investment in the area.

## **EXEMPT REPORT**

6. Not exempt

## **RECOMMENDATIONS**

7. Recommendations are for Cabinet to approve
  - i) the commencement to undertake a Compulsory Purchase Order and Side Road Order for the DN7 Hatfield Link Road covering the area defined within drawing number 50055/CPO/1;
  - ii) delegate authority to the Director of Regeneration & Environment and the Director of Finance & Corporate Service to negotiate and approve a contribution agreement in line with the principles set out in draft Heads of Terms detailed in paragraphs 28; and
  - iii) to note progress on the scheme programme and Full Business Case.

## **WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?**

8. Completion of the DN7 Unity Link Road will give greatly improved access to the motorway network for the areas of Stainforth and Hatfield. It will provide the conduit for the development of the proposed DN7 Unity business park with the added employment opportunities. It is anticipated that it will also provide an added benefit to the proposed Marina development off Kirton Lane, further increasing the prosperity and leisure opportunities of Doncaster as an attractive vibrant place to work and live.

## **BACKGROUND**

### **DN7 Unity Project:**

9. Marcol Waystone previously Waystone, have been associated with developing the DN7 site since before 2000 and have done a lot of work in producing a footprint of how they would like to develop the site. The drawing attached in Appendix 2 lists all the present Planning Permissions associated with the site.
10. In 2009 Planning permission was granted for the link road and a Section 106 Agreement was signed with Doncaster MBC and all the relevant parties on the 16<sup>th</sup> February 2009. Clause 3.3 of the s106 states 'Waystone shall endeavour to acquire or procure right title of the land within 6 months of the date of the execution of the agreement' and Clause 3.4 states that 'if Waystone are unable to acquire or procure right title of the land within that 6 months, upon written request, it allows the Council to exercise its statutory powers to assist with the acquisition of this land.'

11. A Memorandum of Understanding (MoU) was entered into December 2013, between all the interested parties. The document sets out how the partners will work to deliver the shared vision through agreed principles of governance, project planning, consultation and a Memorandum of Agreement.
12. Marcol Waystone are submitting a Planning Application for the whole of the DN7 site at the end of May which is subject to a Planning Performance Agreement to enable a recommendation to be made by December 2015.

### **Hatfield Link Rd**

13. The DN7 Hatfield Link Road project was accepted into the Sheffield City Region Investment Fund (SCRIF) programme in 2013 with subsequent approval of the Outline Business Case in April 2014. Detailed design and feasibility is now being progressed.
14. Environmental, topographical, archaeological and geological surveys are to be undertaken to enable the design to progress. The Full Business Case (FBC) was submitted to SCRIF 1 April and was approved by the Combined Authority on 15<sup>th</sup> May 2015.
15. Waystone have been in regular dialogue/discussion with all the landowners for a number of years and know who all the interested parties are. These negotiations have been reasonably successful however there are two landowner issues at present, one owner who is proving too difficult to negotiate with, whilst the other issue surrounds land ownership that is in probate. As such Waystone has asked the Council to exercise its right under clause 3.4 of the s106 to ensure there are no unforeseen difficulties and to progress Compulsory Purchase Order (CPO) and Side Road Order (SRO) powers under the 1980 Highways Act to ensure all land and rights can be acquired.
16. A Cabinet resolution is required to enable a Compulsory Purchase Order and Side Road Order (the Orders) to be prepared and authority to advertise such Orders if land cannot be acquired through negotiation.

### **Programme and Full Business Case update**

17. Subject to securing statutory procedures and approval of the Full Business Case (FBC), procurement can commence to appoint a contractor to allow construction to commence in Jan 2017.

Submission of FBC	Q1 2015\16
Complete funding agreements	Q1 2015\16
Start Detail Design	Q1 2015\16
Procure Contractor (ECI)	Q3 2015\16
Complete Design\Surveys	Q2 2016\17
Confirm target cost	
Start construction	Q4 2016\17

The Full Business Case was approved on the 15<sup>th</sup> May at the SCR Combined Authority. This has secured £14.1M of SCRIF funding but this can only be drawn down when Doncaster MBC has satisfied all conditions, namely,

- Securing all land
- Securing all 3<sup>rd</sup> party agreements (eg Network Rail)
- Seeking 3<sup>rd</sup> party contributions
- Agreeing a final works target contract price through procurement of a contractor

At this point a further report will be submitted to Cabinet to approve the award of contract for the main works

## **The Scheme**

18. The Scheme starts at Junction 5 of the M18/M180 Roundabout where the existing services exit/entry onto the roundabout is at present. The road then crosses the existing farmland toward Doncaster MBC's household waste site off Bootham Lane and turns to go up and over the Doncaster-Scunthorpe Railway Line to tie in with the existing roundabout at Waggons Way close to Hatfield Colliery.
19. The current scheme within the SCRIF programme has been estimated at a gross figure of £15.3m and comprises the following:
  - The existing services entry/exit from the motorway roundabout, is to be widened and turned into a dual carriageway for approximately 300m, where a new five leg roundabout will be built to serve the proposed industrial development either side of the link road as well as a new access into the Services. This dual carriageway will be 8.3m wide and will include a 2m wide central reserve. The new speed limit for the link road off the motorway has been determined at 40mph.
  - After the new five leg roundabout the link road will run for approximately 1.0km to a new three leg roundabout where Bootham Lane will connect in before heading up and over the Doncaster Scunthorpe railway line to tie in with the existing Waggons Way roundabout approximately 0.9km away. The link road between these points will consist of a 7.3m wide road with a 3m wide cycle/footway on the southern side with various sized attenuation ponds along the Northern side to cater for the drainage and located next to the Mother Drain.
  - The proposal will mean the construction of a new bridge across the railway line and new culverts/crossing points over three drains as well as accommodation works for the bridleway crossing at Cuckoo Lane appropriate to its usage.
  - There is the requirement to divert several statutory undertakers apparatus such as overhead power lines.
  - The final aspect of the design will require completing the stopping up orders for the various parts of the highway which will become inaccessible and any permanent PROW diversions.

## **Compulsory Purchase Order Process**

20. Due to Waystone having been in dialogue with landowners and all the other interested parties and to ensure there are no unforeseen difficulties, it is proposed to progress Compulsory Purchase Order (CPO) and Side Road Order (SRO) powers under the 1980 Highways Act to ensure all land and rights can be acquired.
21. It is hoped to purchase land by agreement but to utilise these powers only if required. The orders will be used to purchase land outside of the existing highway boundary. In addition it will be necessary to acquire rights over areas of land for the construction and maintenance of the scheme and to stop up/alter existing rights of access. The land and access rights are required because the scheme can only achieve its objectives by widening into third party land and cannot be achieved by improvements solely within the existing highway boundary.
22. The Orders will require serving of notices on owners and occupiers of land and publication of notices in the London Gazette and in the local press. Any objections will be considered by the Secretary of State (SoS) for Transport who will consider all objections and if necessary order a public inquiry before confirming the order.
23. The CPO and SRO will be progressed under powers contained within the Highways Act 1980. The order will require the following:
  - i) A Statement of reasons – identifying why the scheme is needed, details of the scheme and purpose of the Order.
  - ii) A schedule listing, describing each plot of land including ownership details
24. The anticipated timescale, assuming no unresolved objections to the scheme, to confirm orders is as follows:
 

Q1 2015/16	Cabinet resolution to prepare Order
Q2 2015/16	The writing of the Order
Q3 2015/16	Advertise and Objection period.
Q4 2015/16	Submit to SoS.
Q1 2016/17	SoS confirms Order
25. The above programme assumes no objections are received (or if they are that they can be negotiated to withdrawal) and so a public inquiry will not be called by the Secretary of State. Following completion of design and award of contract it is expected that construction will start at the beginning of 2017 and be completed by the end of Spring 2018. There will also be the requirement to advertise Traffic Regulation Orders for the scheme, which will be progressed upon completion of the statutory processes.
26. Prior to the confirmation from the Secretary of State, various third party approvals will have also been sought i.e. Network Rail, Environment Agency licences, Highways England - Section 6, Equestrian and PROW diversions orders.

### **Funding Strategy**

27. The initial intention was that Waystone would fully fund the link road. However this is not achievable within the current milestones due to uncertainty of other

developer commitments (such as the Power park) and the emergence of the Growth Deal and SCRIF programme which identified the DN7 project as an aspiration for the public sector to deliver. The signing of the Memorandum of Understanding (MoU) in 2013 further reinforced the public sector commitment to this project. In doing so there was a need to establish a fair split between the cost and affordability between the public and private sector. A contribution of £3.5m from Waystone has been derived as fair value based upon usage of the road.

28. This value has subsequently been incorporated into a draft Heads of Term between DMBC and Waystone which now require translating into a financial agreement. The draft HoT's details the following principals to ensure that Waystone will contribute the following:

- Contribution in kind to design fees. Previous work by Waystone has enabled DMBC to progress design at a faster rate
- Dedication of land. Waystone will dedicate a land required for the link road to DMBC at nil cost. If a CPO is enacted then Waystone will reimburse DMBC for costs occurred by DMBC in acquiring such land
- Contribution of fill material. Waystone will provide all fill material required for the link road (this assumes that Waystone will shoulder any risk relating to the Aggregate Tax Levy)
- Contribution of cash. The outstanding balance will be by cash payment at a future date. Waystone intend to repay this through cash flowing the wider DN7 development and wish this repayment to be made in later years

29. It should be noted that the approved FBC secured the full capital cost of construction (£14.1m) from SCRIF. However, the Council is seeking a financial agreement with Waystone for a contribution of £3.5m which once secured will reduce the SCRIF ask to £10.6m.

30. In addition to the above, DMBC have received funding from the Homes and Community Agencies Large Site Infrastructure Funding (LSIF) programme towards technical support for the DN7 project. £18,500 of this funding is specifically allocated for technical support to progress legal process during 2015/16 and this is accounted for in the revised financial profile which is detailed below.

<b>Spend profile:</b>								
£000k	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	later year	total
Prep costs		187	608	405				1,200
Construction costs				2,000	9,100	3,000		14,100
<b>Total</b>		<b>187</b>	<b>608</b>	<b>2,405</b>	<b>9,100</b>	<b>3,000</b>		<b>15,300</b>
<b>Funding Source</b>								
SCRIF				2,000	9,100	3,000		14,100
LA (corporate resources)		187	590	405				1,182
Other (LSIF)			18					18
<b>Total</b>		<b>187</b>	<b>608</b>	<b>2,405</b>	<b>9,100</b>	<b>3,000</b>	-	<b>15,300</b>

## OPTIONS CONSIDERED

31. No alternatives needed to be assessed

## REASONS FOR RECOMMENDED OPTION

32. With regard to the use of CPO and SRO procedures, if they are not instigated then the scheme would be reliant upon individual negotiations with land owners to acquire land and associated rights which could only be achieved through a voluntary financial agreement. That would have a critical impact on delivery programme and would introduce uncertainty into the business case for SCRIF.

## IMPACT ON THE COUNCIL'S KEY PRIORITIES

33.

	<b>Priority</b>	<b>Implications</b>
	<p>We will support a strong economy where businesses can locate, grow and employ local people.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Be a strong voice for our veterans</i></li> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	<p>The scheme provides new housing and new infrastructure which all go into enhancing the attractiveness of the surrounding area to inward investment within the logistics and Industrial Areas of the DN7 Unity Area.</p>
	<p>We will help people to live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>The Development will give a real boost to the area in terms of potential jobs, regenerating those that have been lost within the Coal Mining Industry.</p>
	<p>We will make Doncaster a better place to live, with cleaner, more sustainable communities.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>By developing the DN7 area and creating housing, retail and industrial areas we are ensuring key services are kept thriving</p>
	<p>We will support all families to thrive.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	<p>The prospect of employment and housing opportunities will bring added revenue to council budgets.</p>
	<p>We will deliver modern value for money services.</p>	<p>The scheme is looking at developing other forms of heating energy for the</p>

		site to drive down costs even further for the local residents.
	We will provide strong leadership and governance, working in partnership.	Memorandum of understanding signed upto by all parties to deliver the project.

## RISKS AND ASSUMPTIONS

34. The programme assumes that a public inquiry will not be required. if objections are received that cannot be resolved by negotiation then an inquiry will be required which will add a minimum of 8 to 12 months to the programme. this is considered medium risk.
35. The Secretary of State may not confirm the Orders or may impose modifications to the Orders. This is considered a low risk given that the scheme accords with existing policy objectives.
36. Any landowners or interested parties may oblige the Council to purchase land interests under blight conditions where the owner can show that, as a result of proposals by the authority which would involve their purchase of the land in the future, they cannot currently sell their interest except at a substantially depreciated price. This is a risk but given the relatively low value of land affected, not considered to be particularly high.
37. The project programme and milestones reflect the earliest delivery opportunity and assume full resources available and no risks materialising.
38. There is a risk that Waystone may not sign the financial agreement or default on payments.

## LEGAL IMPLICATIONS

39. Sections 239, 240 and 250 of the Highways Act 1980 give powers to a local Highway Authority to acquire land for the provision of a highway and the acquisition of rights for the construction and maintenance of works. The Acquisition of Land Act 1981 prescribes the procedure to be followed and the order will require confirmation by the Secretary of State.
40. A Highway Authority is also given power by section 14 of the Highways Act 1980 to make a Side Roads Order stopping up lengths of Side Roads which would otherwise cross the new road or are otherwise affected by the new road. This Order is also subject to confirmation of the Secretary of State and the procedure is prescribed by the Highways Act 1980. A Public Inquiry may be held into both orders if objections to the Order are submitted and not withdrawn and these stages have been taken into account in the timetable set out above.
41. Regard must be had to the provisions of Article 1 of the first Protocol of the Human Rights Act which provides for the right to peaceful enjoyment of one's possessions and not to be deprived of them except in the public interest in deciding whether to make a Compulsory Purchase Order Circular 06/2004 indicates that an acquiring authority should be sure that the purposes for which it makes a compulsory purchase order should sufficiently justify the interfering of the human rights of those with an interest in the land affected. It is



considered that there is evidence that the public benefit of the scheme will outweigh the private loss for the reasons stated in the report and that in this instance the land required to be compulsorily purchased belonging to private individual interests can be justified in the public interest.

## FINANCIAL IMPLICATIONS

42. The DN7 Hatfield Link Road scheme £15.3m is included in the Council's capital programme. The project is currently able to draw on £1.2m of confirmed funding (mainly corporate resources); however, progression to construction is dependent on securing £14.1m of SCRIF/3rd party funding.
43. Although, the approval of £14.1m SCRIF funding was secured on the 15th May 2015, final draw down of the money is dependent on satisfying a number of conditions, including attempting to secure 3rd Party contributions of £3.5m. If successful, this will reduce the level of SCRIF funding required. However, there is a risk that the actual level and timing of 3rd party contributions achieved may not be sufficient for SCRIF to allow draw down of the amount needed. In this event the Council will have to determine if an alternative funding package can be developed or whether the scheme as conceived can go ahead. For example, the third party cash contribution is estimated to be £1.4m and Waystone have indicated that payment is dependent on their ability to generate income from the development. Currently, Waystone maintain that the contribution cannot be made until the year 2025, long after it is actually needed to pay for construction costs. The intention is that SCRIF will cover this value of the construction costs until the third party cash contribution can be made. However, there is a risk that the length of time before repayment will not be palatable to SCRIF. If SCRIF do not provide for this then the Council would need to identify alternative resources to finance expenditure until repayment.
44. The Council has already committed £1.2m of corporate resources towards preparatory costs; failure to progress to the construction phase could lead to some of those works being abortive, with their associated cost needing to be written out to revenue.
45. There is also a risk from any agreed 3<sup>rd</sup> party contributions being in default of payment. At the point when this could occur the Council and SCRIF are likely to be fully committed to the project with responsibility for any resulting shortfall currently being unclear. If the 3<sup>rd</sup> party contribution agreements are stand-alone then it is likely that any liability would fall to the Council. The Council must ensure that any negotiated agreements contain sufficient guarantees and charges to protect itself in this regard (particularly given the potential length of delay for receipt of the third party cash contribution).
46. By making the CPO, blight conditions may oblige the Council to purchase the land (valued at £350k) regardless of how and when the scheme subsequently progresses. The s106 agreement referred to in the body of the report requires that Waystone reimburse the Council for any costs associated with the land purchase provided the land is made available for the construction works to proceed. If all happens as planned the Council should only be liable for these costs if Waystone default on payment; however, clarity should be sought as to

what happens to the land and its associated cost if the Council has been obliged to make the purchase but the scheme does not go ahead..

47. This is a large and involved scheme; further financial advice and implications will be needed as the project advances.

## **HUMAN RESOURCES IMPLICATIONS**

48. There are no Human Resource Implications associated with this report.

## **TECHNOLOGY IMPLICATIONS**

49. There are no Technology Implications associated with this report.

## **EQUALITY IMPLICATIONS**

50. A Due Regard Statement (DRS) has been prepared and is attached as Appendix A. The main conclusions from the DRS are that the project provides new transport infrastructure and as such offers the opportunity to improve accessibility and to incorporate new facilities to benefit all users. No adverse impacts on specific groups have been identified. The detailed design process will involve consultation with the community, stakeholders and defined equality groups to ensure facilities can be built in (such as tactile surfacing) to ensure the scheme is DDA compliant.

## **CONSULTATION**

51. This report has significant implications in terms of the following:

Procurement		Crime & Disorder	
Human Resources		Human Rights & Equalities	
Buildings, Land and Occupiers	x	Environment & Sustainability	
ICT		Capital Programme	x

Up to date Land Registry searches are being undertaken and Strategic Asset Management has made initial approaches to the known freehold owners, to commence negotiations to acquire the requisite land by agreement. Statutory consultees will be engaged as part of the Business Case work.

As part of the wider DN7 project Waystone will be submitting a planning application at the end of May. This included public consultation and exhibitions within Hatfield and Stainforth on 19<sup>th</sup> March and 20<sup>th</sup> March respectively. The attendance and outcomes from this consultation are being processed by Waystone and their consultants.

## **BACKGROUND PAPERS**

Appendix 1: Site boundary and CPO\SRO Plan (Drg No. 50055/CPO/01)

Appendix 2: Plan of Planning Permissions (Drg No.HMS-DN7-EIP-MP-01)

Appendix 3: Due Regard Statement

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