

Executive Report

Ward(s) affected: Ash South and Tongham, Ash Wharf

Report of: Director of Planning and Regeneration

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Ash Road Bridge – Pre-construction

Exempt Appendices

This document is exempt from publication under Part 1 Schedule 12A paragraph 3 of the Local Government Act 1972.

- Appendix 5: Project Delivery Strategy
- Appendix 6: Financial Implications
- Appendix 7: Risks and Opportunities
- Appendix 8: Procurement Strategy

Appendix 5**5. Project Delivery Strategy**

- 5.1 The project delivery timescale is influenced by the Council's successful achievement of £10.0 million provisional funding from the Homes England Housing Infrastructure Fund (HIF) in early 2018.
- 5.2 The project delivery strategy is to submit a planning application for the road bridge, link roads and associated junction works only in spring 2019.
- 5.3 It is proposed that that the Council will then submit a separate but linked planning application (to run along similar timescales to the road bridge) to deliver the footbridge, including any land, Compulsory Purchase Order (CPO) and stopping-up required for implementation.
- 5.4 The strategy for the footbridge is following a separate path because it naturally has a longer implementation timescale. The footbridge cannot be installed until the alternative route of the new road bridge is in place. Officers currently perceive the timescale and funding risk on the footbridge to be too high to incorporate the footbridge into the road bridge scheme and be able to deliver the road bridge within the Homes England HIF timescales.
- 5.5 Delivery of an alternative route (excluding the footbridge) will meet the Policy A29 need.
- 5.6 Officers recognise that the footbridge is an integral part of the over-arching scheme included in the Submission Local Plan (Policy A29) and that separation of the road bridge and footbridge is not straightforward because:
- Network Rail will continue to object to housing schemes unless the level crossing is closed and the level crossing cannot be closed until the pedestrian footbridge is provided
 - Network Rail will not be able to close the level crossing without the footbridge project having been delivered and if NR cannot close the level crossing it could prejudice the £2.5 million contribution NR have pledged
 - Surrey County Council (SCC) will object to the highway stopping up without the pedestrian footbridge being provided
 - SCC will not take on adoption of the road bridge and link road without being content at how the overall scheme is being delivered
- 5.7 Officers propose a cooperation and funding agreement between the key stakeholders - the Council, NR and SCC. This will ensure that the funding, requirements of all parties, delivery, ownership, operation and maintenance is clearly understood and apportioned between all for both the road bridge and the footbridge and will provide assurance that the footbridge can be delivered in a reasonable timescale after the road bridge.
- 5.8 It is proposed that the collaboration and funding agreement includes a fall-back position where the Council will use reasonable endeavours to secure the funding

shortfall but if this cannot be secured at the current time the road bridge scheme will be progressed regardless. Reasonable endeavours will then be employed to secure the funding during a future timeframe to be agreed with NR to deliver the footbridge and level crossing closure later.

- 5.9 The Council do not own any of the land required for the delivery of the road bridge, link roads and footbridge. It is proposed that the Council assembles the land required by agreement with a shadow CPO approach. CPO preparation is to be twin-tracked alongside acquisitions by agreement but would not be needed if acquisitions can be secured by agreement.
- 5.10 Separate land and works agreements are proposed with each landowner / developer alongside S106 agreements.

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Appendix 6

6. Financial Implications

Current Budget

- 6.1 A capital bid was not submitted as part of the 2018-19 budget planning process because a proposal had not yet been submitted to Homes England HIF and achieving external funding was not yet certain. The Local Plan also being at submission stage meant there was less confidence in delivery of the project at that time.
- 6.2 A capital bid was not submitted as part of the 2019-20 budget planning process because the Homes England HIF is still proceeding through due-diligence and is not yet certain. In addition, the envisaged S106 contributions were not at a sufficient stage of negotiation to fund the project.
- 6.3 A revenue budget of £80,000 was approved for the financial year 2018-19 to continue feasibility work. Further revenue funding of £370,000 was approved as a carry forward for the Major Projects team as part of the 2017-18 year end closedown. The carry forward was approved under the delegated authority of the Director of Finance and Lead Councillor for Finance and Assets. The carry forward was to further support delivery of the project to the point of planning permission and it is envisaged that some of the design costs may be capitalised once planning permission is achieved.
- 6.4 On 30 October 2018, the Executive approved moving £600,000 capital funding from the provisional capital programme to the approved capital programme to proceed to planning permission stage. Expenditure to date on the capital programme has been £x.
- 6.5 This report seeks approval for a further £2.66 million of the provisionally agreed HIF funding to be moved from the provisional capital fund to the approved capital fund to take the project forward to the preconstruction stage, as detailed in Appendix 8.

Estimated Capital Project Costs

- 6.6 The overall anticipated project cost is shown in **Error! Reference source not found.**1 below.
- 6.7 Footbridge costs have been included in line with the project delivery strategy outlined in Appendix 5. Lines have been added-in for 'excluding footbridge' and 'including footbridge'.
- 6.8 The project costs include a 20% contingency for delivery / construction risk.
- 6.9 The Council do not own any of the land required for delivery of the scheme. It is assumed that nil value will be paid for land acquisition (i.e. all the landowners will

'gift' the land required for the link road/bridge to the Council for the project due to the betterment achieved); however, there will be professional fees.

- 6.10 CPO costs are not included; however, they will need to be considered if it is necessary to initiate the process to facilitate land assembly to the delivery timescales.
- 6.11 The £2.5 million pledged by NR is not included in the 'excluding footbridge' scenario based on the likelihood that this would be used for the footbridge, especially if NR deliver this element of the project themselves.

Table 1 - Estimated Project Cost Breakdown:

Cost of Works	Estimated Cost (Aug18) (A)	Funding (B)	Shortfall (A - B)
Excluding Footbridge	£17,67m	£10.0m (£10m HIF)	£7,67m
Including Footbridge	£21.84m	£12.5m (£10m HIF + £2.5m NR)	£9,34m

6.12 It is planned to fund the shortfall from S106 and further external funding, see below.

6.13 The detailed estimated project cost including the footbridge is proposed to be broken down into individual elements as shown in Table 2 below.

Table 2 – Detailed Estimated Project Cost Breakdown:

Project Breakdown	Project Element	Cost of Works (Aug18)	Cost of Works (Outturn)*
Copperwood Road Package A	Copperwood Road	£1,459,954	£1,525,652
	Copperwood Roundabout	£975,919	£1,019,835
The Link Road / Bridge Package B	Road Bridge	£12,721,067	£13,293,516
	Foreman Road Widening	£612,206	£639,755
	Foreman Road Roundabout	£790,197	£825,755
		£1,111,860	£1,161,894

	Guildford Road Junction		
TOTAL	Excluding Footbridge	£17,671,203	£18,466,407
Footbridge Package C	Footbridge	£4,173,500	£4,361,307
TOTAL	Including Footbridge	£21,844,702	£22,827,714

*Outturn costs based on start on site in January 2020 and completion of construction in March 2021

Provisionally Agreed External Funding

- 6.14 A successful bid to Homes England HIF has provisionally awarded the project £10.0 million funding. The due-diligence and confirmation of the funding will be secured in 2019.
- 6.15 Officers have answered several detailed queries to Homes England during 2018, held a site visit with Homes England and their consultants, and progressed the project to the next stage of due-diligence.
- 6.16 Assuming the Council is successful, a funding agreement will be put in place based on delivery milestones. The Council could be able to drawdown immediately for some of the work already completed.
- 6.17 The project team have engaged the successful bid team to also support the due-diligence process.
- 6.18 The HIF Marginal Viability funding is required to be utilised by the end of March 2021. In order to move the project forward to preconstruction stage (including detailed design and preparation of construction procurement), Officers request that the Executive approve £2.66 million of the provisionally agreed HIF funding to be moved to the approved capital programme.
- 6.19 NR has pledged £2.5 million towards the scheme. The project team consider that the benefits to NR should increase the funding available from NR and are continuing to negotiate with NR. The £2.5 million will not be available until NR's next funding control period starts in March 2019.

Shortfall

- 6.20 It is anticipated that the funding shortfall will be funded by local housing developments where mitigation of transport implications is required. This may be in the form of financial contribution and/or land and/or construction of sections of the route itself.
- 6.21 The project delivery strategy is for the Council to take control of the delivery of the scheme by assembling the land and constructing the road bridge and link roads. Given the status of some proposed developments, step-in rights for developers and the Council are being proposed.

- 6.22 It is anticipated that two of the three landowners / developers directly affected will come forward with developments. One has an outline application in progress.
- 6.23 The third landowner directly affected by the bridge may not come forward with a development during the project delivery timescale. The land strategy, valuations and negotiations to unlock this land for development with the bridge are underway.
- 6.24 Officers are also exploring other external funding opportunities. An Expression of Interest (EOI) for a grant bid is being submitted to the Enterprise M3 Local Enterprise Partnership (EM3 LEP) in February 2019 under the Local Growth Fund 2019-20 prospectus for the residual shortfall in funding. Any funding gained from the LEP would secure the delivery of both the road bridge and, importantly, the footbridge. The Executive is asked to note that an EOI has already been submitted to the EM3 LEP in February 2019 for the Local Growth Fund 2019-21. The Executive is asked to approve the preparation and submission of a detailed bid to follow the EOI.

Section 106

- 6.25 Proportionate land and financial contributions for the bridge are being sought from appropriate developments through S106 agreements.
- 6.26 The road bridge scheme is to be described as two separate but linked projects for Community Infrastructure Levy (CIL) cap purposes - Part 1 - Copperwood Road/Roundabout ("**Copperwood Road**") and Part 2 - the balance ("**The Link Road/Bridge**"). This will allow more than five contributions to be sought under S106.
- 6.27 Note that the Government announced in late 2018 that pooling restrictions will be coming to an end and in addition, the removal of regulation 123 restrictions on CIL, which is collected from a much wider number of developments including those not subject to section 106, could be used in addition to section 106 contributions necessitated by a specific development, allowing infrastructure to come forward by addressing any remaining funding gap without risking the viability of the nearby developments that have already contributed through section 106 obligations.
- 6.28 Officers propose to draft a 'Supplementary planning document (SPD) policy position paper' or an 'adopted material planning consideration' position to capture retrospective pooled contributions pursuant to the S106 from the various housing schemes. This would be submitted on adoption of the Local Plan.
- 6.29 In addition, the Council has commissioned strategic master planning of its strategic sites within the Local Plan and this work is also proposed to become an SPD on adoption of the Local Plan.
- 6.30 Officers have commissioned work based on assessing developer contributions to support the funding of the Ash Road Bridge scheme and this is ongoing.

- 6.31 An estimate of the potential S106 receipts and how these contributions and the external funding will be allocated is included in Table 3 below.
- 6.32 Table 3 shows S106 estimates are based on ten potential developments contributing (five S106 contributions per work package). It must be noted that all S106 contributions are subject to negotiation and developments coming forward. Some of the S106 contributions are currently being agreed. Retrospective development contributions are dependent on an approved SPD (see para 6.28 above). A significant proportion of development has taken place ahead of the Local Plan in Ash and Tongham, reducing the number of developments left from which to seek S106 contributions despite the relaxation of pooling restrictions. It is still therefore anticipated that additional external funding will be sought as there is a significant risk of not all developments coming forward and negotiations not achieving the estimated full potential S106 value in Table 3.
- 6.33 Table 3 assumes worst case that NR will not fully fund the footbridge.
- 6.34 Costs are current (as at August 2018) and an allowance for inflation on costs and S106 receipts will be required.

Table 3 – Estimated S106:

Ash Road Bridge & Footbridge	Cost (Q3 2018)	Provisionally agreed Funding	Estimated S106 Contribution sought	Shortfall / Surplus
Total	£ 21.8m	£12.5m	£5.9m* - £7.86m max	£3.4m**

*reduced by 25%

** plus an allowance for land costs under CPO as 'worst case maximum cost submission', shortfall to seek from LEP is £4.6m, rounded to £5m

- 6.35 Table 3 demonstrates that S106 can significantly fund the project shortfall and the order of magnitude of the remaining shortfall after S106 contributions is realistic to seek from external funding sources such as the LEP.
- 6.36 The Executive is asked to note that an Expression of Interest (EOI) has already been submitted to the EM3 LEP in February 2019 for the Local Growth Fund 2019-21. The Executive is asked to approve the preparation and submission of a detailed bid to follow the EOI.

Appendix 7

7. Project Risks and Opportunities

Policy

- 7.1 The fact that the Local Plan is not yet adopted could suggest a risk; however, the Local Plan is well advanced in its production. Some of the policies have been accepted by the Inspector without the need for modifications. It is considered that these policies, including Policy A29, should be afforded considerable weight in decision-making.
- 7.2 The Council is also undertaking a strategic masterplan for the strategic sites within the Local Plan. It is proposed that this be adopted as a Supplementary Planning Document (SPD) on adoption of the Local Plan. This may impact on the route, final design and planning determination.

Funding

- 7.3 In order to secure the external funding outlined in this report and meet the associated funding timelines, the Council needs to progress the scheme to the next stage of preconstruction (including detailed design and preparation of procurement for construction). This will allow negotiations to continue with landowners and developers to achieve the S106 contributions necessary to implement the scheme and secure the HIF funding from Homes England as well as agreement with NR and SCC. All costs for the preconstruction stage will be incurred at risk to the Council. Should external contributions not be forthcoming or the external funding not be approved then the Council will not be able to recover all of its costs of developing the scheme to the preconstruction stage.
- 7.4 Discussions to secure the HIF grant are still progressing through the due-diligence process with Homes England.
- 7.5 The £2.5 million pledge from NR is subject to conditions along with air rights and not available until at least NR's next control period commencing April 2019. If negotiations with NR are unsuccessful, we will need to look at alternative delivery and funding options.
- 7.6 The calculations for S106 receipts are based on assumed developments coming forward. The number and mix of developments is likely to change. S106 is not guaranteed and is based on negotiations with developers. If the anticipated value of S106 receipts cannot be achieved then the Council will not be able to implement the scheme and the relevant housing allocations in the Council's Local Plan will not be achieved.
- 7.7 A grant bid is being submitted to the LEP in February 2019 under the Local Growth Fund 2019-20 prospectus for the residual shortfall in funding outlined in Appendix 5. Any funding gained from the LEP would secure the delivery of both the road bridge and, importantly, the footbridge. The likely success of the bid cannot be determined at this stage.
- 7.8 The project costs include a 20% contingency for construction risk.

Land

- 7.9 The Council does not own any of the land required for the construction of the road bridge or footbridge. The land is owned by private landowners, NR and SCC.
- 7.10 The project costs do not include any allowance for land purchase. The project delivery strategy is based on achieving land for nil value (due to the betterment achieved) by negotiation with a shadow CPO process. If negotiations are unsuccessful, land costs will be required through the CPO process.
- 7.11 The project costs do not include CPO costs; however, approval for a shadow CPO process was achieved at Executive on 30 October 2018. If full CPO is required, additional costs and a minimum of six-month extension to the programme are to be expected. A separate report will be brought to Executive for consideration to implement the CPO process if required.

Opportunities

- 7.12 Approval of this report could have a positive impact on securing the £10.0 million HIF grant as it demonstrates the Council's commitment to delivering the project.
- 7.13 Early negotiations suggest the level of tariff being proposed to developments in the area is acceptable in viability terms and the project could achieve the estimated level of S106 receipts, setting a precedent for future developments to agree similar tariff levels.
- 7.14 The proposed removal of pooling restrictions could potentially increase the number of S106 contributions sought and hence increase the level of estimated S106 receipts as well as allowing CIL contributions to be directed toward infrastructure as well as S106.
- 7.15 Opportunities for the Council to purchase land within the A29 Policy allocation for housing development are being explored. This could increase the Council's opportunity to bring forward housing sooner by having greater control.

Appendix 8

8. Procurement Strategy

- 8.1 The next stage of the project is preconstruction. This includes:
- ongoing external project resources (Transport Consultant, Pinsent Masons - legal, Aecom – planning and design, Savills – land and CPO, Balfour Beatty - construction)
 - detailed design of the Road bridge
 - continuing the process to secure external funding
 - continuing to progress negotiations with stakeholders
 - continuing to progress negotiations and landowners / developers to secure the land required for the development and S106 contributions
 - full planning application for the Footbridge (requires track side geotechnical investigation)
 - procurement of a New Engineering Contract (NEC) Project Manager and Quantity Surveyor
 - risk allowance for Ground Penetrating Radar (GPR) surveys to further detail and cost utilities diversions if required
 - preconstruction services and preparing the procurement of the construction phase
- 8.2 Preparation of procurement for construction entails negotiating the contract terms and conditions in preparation for approval to commit to the construction contract, which will be sought through another Executive approval in late 2019.
- 8.3 The estimated cost of the preconstruction stage scope as detailed in 8.1 above is £2.66 million, including a 20% contingency.
- 8.4 It is recommended that the Executive approve the immediate transfer of £2.66 million of the provisionally agreed HIF funding from the provisional to the approved capital programme for the Ash Road Bridge preconstruction stage in order to progress the project delivery programme in-line with the provisional HIF funding timescales. It should be noted that this expenditure and all expenditure to date is at the Council's risk and on the basis of securing a successful award and funding agreement with Homes England for the provisional £10.0 million HIF funding.
- 8.5 A decision on the HIF funding is expected in March 2019 and if successful will be swiftly followed by a funding agreement.
- 8.6 The planning for the footbridge will be made as soon as possible after the Road bridge application is submitted. It will be a separate but linked application. It is anticipated that the detailed design and construction of the Footbridge can be delivered by NR and that they will own and maintain the footbridge on completion subject to an agreement with SCC in relation to the public right of way over the footbridge and maintenance contributions.

- 8.7 The preconstruction phase may also require the inclusion of the CPO process. This will be sought through a separate Executive approval approximately mid-way through 2019 once the funding case is secure and negotiations have progressed as far as possible with landowners / developers to try to secure the land through negotiation. The CPO process will lead to additional costs and a delay of a minimum of six months to the construction programme.
- 8.8 The construction procurement strategy has been agreed between the Council's procurement and legal teams and the project teams legal and procurement specialists noting the routes to market available to the Council, the risks and opportunities, timescale implications, costs and Council Constitution requirements on the various procurement options. Previous experience on other large scale Major Projects has also been considered.
- 8.9 The selected route to market is to use the Scape Procure National Civil Engineering and Infrastructure Framework. Balfour Beatty is the sole provider on this Framework. Significant learning has taken place on the Internal Estate Road (IER) project and this will be applied and improved upon during this project procurement. Particularly the engagement of an independent Project Manager and Quantity Surveyor at an early stage to manage the contract and provide commercial challenge and assurance.
- 8.10 Balfour Beatty already has a collaborative working relationship with Aecom (the current incumbent designer) on this project and on IER. The project has already held initial discussions and an initial engagement with Balfour Beatty for delivery of geotechnical investigation and early contractor input to the project.
- 8.11 This procurement method meets the needs of the project programme and has the least impact on procurement costs and resources, compared to the open market OJEU route. The Framework is OJEU compliant. There are no other suitable frameworks available for the scale and complexity of this civil engineering project.
- 8.12 The form of contract will be the National Engineering and Construction Contract (NEC). A Design and Build contract is proposed.
- 8.13 The advantages of the Scape framework include:
- National Framework with an experienced civil engineering contractor
 - Well established framework with established framework procedures and clear means of calling off
 - Competitively tendered framework, hence framework rates are commercially competitive
 - Obligation on contractor to demonstrate value for money
 - Partnering and collaborative relationships envisaged

- Complies with the Council's procurement strategy to ensure compliance as regards the Government's Transparency Agenda and the Council's programme of SME development in partnership with the Chamber of Commerce (Scape framework includes Key Performance Indicators (KPIs) encouraging use of SMEs, local labour, local spend and employment and skills plans amongst others)

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