



**8<sup>th</sup> March 2022**

**Agenda Item:**

## **REPORT OF THE CORPORATE DIRECTOR, PLACE**

### **A614 / A6097 MAJOR ROAD NETWORK – COMPULSORY PURCHASE ORDER AND SIDE ROADS ORDER**

#### **Purpose of the Report**

1. To seek approval to take all necessary steps to make, advertise, obtain confirmation and implement a Compulsory Purchase Order to acquire land and rights required to deliver the A614 / A6097 Major Road Network (MRN) under sections 239, 240, 246, 249 and 250 of the Highways Act 1980 and the Acquisition of Land Act 1981;
2. To seek approval to take necessary steps to make, advertise, obtain confirmation and implement a Side Roads Order under section 14 and 125, and in accordance with Schedule 1 of the Highways Act 1980 for the proposed A614 / A6097 MRN scheme.

#### **Information**

3. Nottinghamshire County Council has the overall responsibility for land acquisition, design, procurement, construction and delivery of the A614 / A6097 MRN scheme. Via East Midlands, on behalf of NCC, will be responsible for managing the land acquisition process and the design and project management of the scheme. Both statutory orders, being a Compulsory Purchase Order (CPO) and Side Roads Order (SRO) (together the “Orders”), will be made by NCC as these powers are not delegated to Via East Midlands.
4. At the Communities and Place Committee meeting on 4<sup>th</sup> April 2019, it was resolved in principle that NCC would, if necessary, compulsorily acquire the land and rights required to deliver the scheme and Committee also resolved that NCC should progress the documents required to make a Side Roads Order.
5. The making and confirmation of the CPO will enable NCC to acquire the land and rights necessary for the construction and maintenance of the scheme and ensure the necessary improvements are made to the local highway network. In officers’ view, delivery of the Scheme cannot be achieved within a realistic timescale, if at all, without the use of statutory powers to compulsorily acquire the requisite land. The funding window for this scheme is relatively small requiring any necessary CPO process to be initiated as soon as possible. Negotiations with all the landowners is already underway and will continue before the start of any such process and throughout. NCC will look, wherever possible, to agree purchasing for all land parcels through negotiation and would only use the CPO process as a last resort if there was not a reasonable prospect of the land and rights required for the delivery of the Scheme being acquired in a timely manner.
6. The making and confirmation of the SRO will enable NCC to improve, raise, lower, direct or otherwise alter highways; stop up highways; construct new highways; stop up private means of access to premises required as a consequence of the construction of the junction improvements; and to provide new private means of access to premises. Both statutory procedures are to be

undertaken concurrently. Procedurally the SRO needs to be made before the CPO and an indicative programme is included in this report.

7. The SRO is necessary to make the changes to side roads affected by the A614 / A6097 MRN scheme and private means of access to premises needed to facilitate the Scheme. The provisions of the SRO will ensure that adequate, convenient and safe access and egress is available to and from the public highway and private premises, providing means of access for both pedestrians and vehicular traffic using the highway network. Where necessary, alternative private means of access will be provided.
8. Together, the Orders will ensure the achievement of NCC's objectives for the Scheme which are to reduce congestion and support economic growth and housing delivery on this strategically important corridor. In order to ensure proper process specialist legal advice has been sought throughout.

### **Compulsory Purchase Order**

9. The making and confirmation of the CPO will enable NCC to acquire the land and rights necessary for the construction and maintenance of the scheme and ensure the necessary improvements are made to the local highway network. The CPO will be made under sections 239, 240, 246, 249 and 250 of the 1980 Highways Act and the Acquisition of Land Act 1981.
10. The land acquired will be for highway purposes to construct, operate and maintain the new road and its connections, to divert watercourses and provide water storage to control and attenuate flow, provide landscaping and other ecological measures and mitigation.
11. The attached drawings (Plans 1 to 4) show the extent of the areas land and rights to be acquired under the Orders and there is a corresponding schedule that is updated regularly following the receipt of responses to statutory Requisitions for Information circulated to affected landowners pursuant to the powers contained in section 16 of the Local Government (Miscellaneous Provisions) act 1976. The CPO schedule of land interests, statement of reasons and notices are currently being finalised in advance of making the Order. Parcels of land to be acquired permanently are shaded pink and land over which rights are to be acquired shaded blue (Order Land). The County Council are in negotiation with relevant landowners and where agreement for sale is reached, the plot of land will be removed from the CPO confirmation.
12. Before the County Council as acquiring authority submits the CPO for confirmation, a notice will be published in a local newspaper and fixed on or near to the land covered by the order. Individual notices are also served on every owner, leaseholder, tenant, and occupier of land comprised in the CPO and any person who may have right to claim compensation.
13. There is also potential that a Public Inquiry may be required in respect of compulsory land acquisition if objections are received and not withdrawn. If this is the case the Secretary of State will either arrange for a public local inquiry or – where all the remaining objectors agree to it – arrange for the objections to be considered through the written representation procedure. In the case of a public inquiry, or, during the written representation procedure the County Council will continue to negotiate with objectors in an attempt to secure the withdrawal of their objections.

### **Side Roads Order**

14. The making and confirmation of a SRO is required as part of the delivery of the scheme. The SRO would be made under section 14 and 125, and in accordance with Schedule 1 of the Highways Act 1980. The SRO will facilitate the following:

- The stopping up of areas of existing public highway (by reference to the highways map);
  - The stopping up of existing private accesses (as noted below where a highway is stopped up the private access to that highway should also be stopped up in addition);
  - Provision of reasonably convenient alternative means of access where required; and
  - Diversion of public footpaths/bridleways
15. Section 14 of the 1980 Highways Act allows highway authorities to rely upon the SRO as being a definitive purpose removing the need to repeat all of the SRO works as individual purposes in the CPO. To depend upon the SRO in this way, the SRO must have legal foundation evidenced by its making and sealing prior to the making and sealing of the CPO. If confirmed by the Secretary of State, the SRO will facilitate the construction and safe ongoing operation of the Scheme.
16. The attached drawings (plans 5 to 8) represent the sites of improvements, stopping up and sites of new accesses and the route of new highways (but not the widths or construction details).
17. The SRO is made by the County Council as local highway authority and submitted to the Secretary of State for confirmation. The Secretary of State will not confirm a SRO stopping up access to the public highway unless satisfied that no such access is reasonably required or that there will be alternative reasonably convenient access to the highway. The SRO plan shows where alternative reasonably convenient routes are available or will be provided.

## **Planning and Scheme Details**

18. The planning application for the A614 / A6097 MRN scheme was submitted to the local planning authority (in this instance, The Nottinghamshire County Council) on 25th February 2022. The application is currently being determined and a decision is expected to be reached in June 2022.
19. The package of measures within the Scheme includes six junction improvements along the A614 and A6097 in order to increase traffic capacity so that both future residential and employment traffic can be accommodated whilst also reducing journey time delays. The six junctions are physically within the Districts of Newark & Sherwood and Rushcliffe but the whole A614 and A6097 route also passes through the Borough of Gedling and extends into the Bassetlaw District. There are a number of both committed and allocated development sites located in close proximity to the Scheme. The junction improvements are identified below:
- Ollerton – the intersection of the A614 / A616 / A6075 roundabout.
  - Mickledale Lane – the A614 / Mickledale Lane crossroads.
  - White Post – the A614 / Mansfield Road roundabout.
  - Warren Hill – the A614 / A6097 priority junction.
  - Lowdham – the A6097 / A612 Nottingham Road / Southwell Road roundabout, and
  - Kirk Hill – the A6097 / Kirk Hill crossroads.
20. Key objectives that will be achieved by the Scheme include:
- Unlocking major development sites;
  - Removal of peak period traffic congestion which will bring significant journey time benefits to commuters and local businesses; and
  - Improve road safety for all users.
21. The scheme is an important part of NCC's strategy to support growth and investment in Nottinghamshire. It will enable the Strategic Road Network and local roads to operate more efficiently by reducing congestion, improving the reliability of journey times whilst also providing

increased capacity at key junctions which will help facilitate economic growth in the area. Without the scheme intervention traffic congestion will continue to increase along the corridor. The traffic modelling work undertaken to assess each junction indicates that there will be instances where junctions will have queues of many hundreds of vehicles in the peak hour time periods if the existing junctions are not upgraded. The corridor already has a high proportion of heavy goods vehicles so additional delays will have a direct impact on the logistics supply chain for businesses both on and close to this important strategic corridor.

22. The package of measures outlined will also provide real economic momentum, especially during the current pandemic, in and around the corridor of interest. As an example; the Thoresby Colliery site is earmarked for 850 new houses and will deliver 2.3 hectares of employment land which will bring new jobs to the local area. Other key sites that will be enabled by the Scheme include; land to the north of Petersmith Drive, Ollerton which has been allocated 305 new houses, land in Newton which has been allocated 500 houses and land to the north of Bingham for 1,000 houses and 15.5 hectares of employment development.
23. The A614 serves a dual-economic function: facilitating regular commuter/ business trips and longer distance traffic movements, and also being an important corridor for the visitor economy which is forecast to grow in the future. In keeping with this, and recognising the need to maximise the visitor economy, the Authority has improved other junctions on the A614 route in recent years. As follows:
  - the A614 / B6034 (Rose Cottage) junction was upgraded from a priority T-junction to a signalised junction with works complete in February 2013.
  - the A614 / A617 Lockwell Hill roundabout junction was enlarged in September 2013.
24. Overall, the provision of measures for the A614 / A6097 are considered to be beneficial in terms of impacts on the local highway network and on transport grounds. The Cost Benefit Analysis undertaken for the Outline Business Case (OBC) that was submitted in December 2020 demonstrated that the benefit to cost ratio is high, with a transport Benefit Cost Ratio of 3.08 (that is a £3.08 return for every £1 spent). The DfT granted Programme Entry for the project in June 2021 and the Full Business Case (FBC) for the scheme is expected to be submitted to the DfT by March 2023 following the completion of all statutory processes.

## **Consultation**

25. Via East Midlands, acting on behalf of Nottinghamshire County Council were the planning applicant for the A614 / A6097 MRN scheme and carried out extensive consultation during the scheme development phase with the opportunity being given for interested parties to make representations regarding the proposals. Statutory Consultees were also contacted in the course of undertaking the Environmental Impact Assessment (EIA) and as part of the pre-application process. Comments received were addressed and incorporated in the EIA and planning application process where possible.
26. Public exhibitions have been the main element of the consultation strategy in showcasing the Scheme proposals. There have been three major consultation events held so far, summarised below:
  - July/ August 2019 – Six public consultation drop in sessions - held in the villages of Ollerton, Bilsthorpe and Lowdham sharing proposals for Schemes at all junctions in the Project.
  - November 2020 – online virtual consultation rooms to display the proposed amended Scheme at Lowdham Roundabout following the previous public consultation and to introduce a new Scheme to the Project, Kirk Hill, East Bridgford.

- May 2021 – online virtual consultation room to display the alternative option for the Mickledale Lane junction: a new roundabout and link road.

27. Consultation invitations were distributed to local residents and business properties prior to the events. All face-to-face events were well attended with a few hundred people visiting each consultation venue. A total of 281 questionnaires were completed and returned during the six public events held in the summer of 2019. In general, responses were in strong agreement that improvements were required across the corridor.

28. The world-wide pandemic (COVID-19) meant face to face interaction with the public was not feasible (in 2020 and 2021), so virtual consultation rooms were set up which went ‘live’ for a total of three weeks for each of these consultation events. The online events were supplemented by hard copies being posted out by request after an extensive letter/ leaflet drop in the local area and the use of social media. The virtual consultation events in November 2020 and May 2021 received over 10,000 online views over a three week period.

29. The compulsory purchase legislation requires the making of the CPO/SRO to be advertised in local newspapers and via site notices prior to and after confirmation by Secretary of State. Objections to the CPO and SRO can be raised following the making of the Orders and these will be considered by the Secretary of State, including at a public inquiry should the Secretary of State determine to hold one in connection with the Orders. Those directly affected by the Orders will be entitled to statutory compensation in accordance with the Compensation Code. Throughout the process it is encouraged that any interested party contacts the Project Team with queries relating to the scheme.

## Timescales

30. The indicative timetable for the project is set out below. You will note that the planning application submission date is a few months later than the timescales previously reported to EDAM Committee. As part of the rigorous oversight mechanisms that are in place within the delivery team for the project, further work was identified that needed to be completed prior to submitting the planning application. The latest timescales are as follows;

<b>Milestone</b>	<b>Date</b>
Planning application submitted	25 <sup>th</sup> February 2022
CPO and SRO published	April 2022
Notification and publicity of the Orders and includes period for comment from interested parties	April 2022
Consideration and Review of Objections	May 2022
Planning application determined	June 2022
Public Inquiry	Autumn 2022
Orders confirmed by Secretary of State	Spring 2023
Submission of Full Business Case to the DfT	Spring 2023
DfT approves Full Business Case	Summer 2023
Start of Works	Summer 2023
Completion of works (all junctions)	Summer 2025

Whilst these are challenging targets and negotiations are underway to obtain land by agreement it is expected that a CPO will be required to acquire all the residual land and rights necessary for the construction and maintenance of the Scheme. This means the key milestones are; the making of the Orders and, following this, confirmation of the Orders by the Secretary of the State. The timing of these depend upon objections received and if a public inquiry is to be held.

## Other Options Considered

31. There have been numerous design options considered at each junction location over the years. The development work for scheme selection has been informed by the DfT's Transport Analysis Guidance process and this resulted in the production of a Options Assessment Report (OAR). This document was submitted to the DfT at the OBC stage in December 2020 and outlined how the corridor package was developed over time. A collaborative approach has been taken throughout the design process and key partners have met regularly throughout the planning process.
32. The impact of the County Council not pursuing a highway intervention for the A614 / A6097 corridor i.e. 'Do Nothing' strategy was also considered at the OBC stage. The modelling work showed that traffic congestion at key junctions would increase significantly with queues of many hundreds of vehicles being forecast at some junctions. Without immediate investment, there will continue to be stop-start traffic with subsequent implications on air quality pollution. A failure to deliver highway improvements would also restrict the ability of Local Planning Authorities in releasing housing and employment development. There are already development limits imposed on some planning permissions until such time as junction capacities have been improved to accommodate existing and development generated traffic.

## Guidance on Compulsory Purchase Process

33. The "*Guidance on Compulsory Purchase Process and The Crichel Down Rules*" issued in July 2019 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".
34. Making the CPO in respect of the current proposals for the Scheme would clearly support this approach given the benefits that will accrue should the Scheme be delivered. As set out above there are clear problems along the A614 corridor and a failure to deliver the Scheme will exacerbate current problems and prevent the wider redevelopment for this part of Nottinghamshire.
35. The benefits identified cannot be achieved without delivery of the Scheme and this requires the land identified to come forward for development. Whilst negotiations to acquire the land by agreement will continue, the acquisition cannot be guaranteed within the programme timeframe without the support of CPO powers. Land acquisition costs are allowed for within the overall programme envelope. If, as hoped, these can be agreed through negotiation the necessary formal approvals have their own due process and each land acquisition will be brought to a future Committee for approval.
36. Department of Transport Circular 02/97 remains the relevant guidance in respect of CPOs for major road schemes. It provides that the Secretary of State for Transport must be satisfied in every case that the land included within the CPO can reasonably be regarded as required for the purposes of the acquisition as stated in the CPO. Where the Scheme is one for the construction and improvement of highway, this will normally mean that the only land to which the CPO should relate will be land falling within the highway as newly constructed or improved.

37. 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 CPO and SRO schedule therefore conform to this guidance.

## **Human Rights Implications**

38. The Human Rights Act 1998 incorporated the European Convention on Human Rights (Convention) into UK Law. The Convention includes provisions which aim to protect the rights of the individual (including companies and similar bodies). In resolving to make the CPO and SRO 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 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.

39. It is acknowledged that the compulsory acquisition of land required to deliver the Scheme could engage the above Articles and amount to an interference with the human rights of those with an interest in the relevant land. In this instance, NCC considers that there is a compelling case in the public interest for the compulsory acquisition of the land required for the Scheme that outweighs any interference with such rights and therefore the use of compulsory purchase powers in this matter is proportionate. Without the use of these powers, it is possible that all of the land necessary to deliver the Scheme may not be made available within a reasonable timescale, which would compromise the delivery of the A614 / A6097 scheme and the extensive benefits for both travellers and local residents that the Scheme provides.

40. Furthermore, the compulsory purchase process clearly provides for those affected to have a right to object to any Orders 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 at a public inquiry held to consider the confirmation of the Orders. Notwithstanding this, any person affected by the proposed Orders will be entitled to compensation pursuant to and subject to the Compensation Code.

41. An Equalities Impact Assessment (EqIA) has been carried out for the A614 / A6097 MRN scheme (see Appendix A). This considers the impact of the proposed works on those with protected characteristics in accordance with the Public Sector Equality Duty, set out in the Equality Act 2010. The EqIA assessment considers that the scheme should provide a range of positive benefits for those with protected characteristics related to age, disability and gender. Improved journey times will make it easier to reach job, education and training opportunities, and healthcare

facilities. Improvements to road surfacing, lighting, signage, crossing facilities, and reductions in speed limits in some areas will improve road safety for all users and increase mobility and accessibility for those who are less mobile. No negative impacts on users with protected characteristics have been identified.

### **Reason/s for Recommendation/s**

42. The A614 / A6097 scheme will contribute to economic growth and investment in this part of Nottinghamshire and will deliver significant journey time savings and improvements in respect of the highways.
43. It is considered that there is a compelling case in the public interest for making the Orders, that there are no satisfactory alternatives and that the benefits of the scheme justify interference with private property rights.

### **Statutory and Policy Implications**

44. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **Finance Implications**

45. The latest cost estimate for the package of measures is currently £28.6 million. The bid to the DfT is for a contribution of £24.3 million with the remainder being funded by S106/CIL/NCC contributions. The DfT allocation is only provisional at this stage and all costs incurred prior to Full Approval are done so at risk and met by NCC.
46. It should be noted that the previously approved local contribution of up to £4million has not been increased. The current level of required NCC funding is £2.5m, with the remainder being met from S106/CIL contributions. Following experience on other projects post covid and Brexit a full review of the Quantified Risk Register has been undertaken to reflect latest line of thinking on items such as inflation and site conditions and will be updated as the project proceeds through its various stages of delivery. Project Board meetings are held on a regular basis and consider the risks associated with scheme delivery and provide appropriate mitigation direction.
47. Under the terms of the OBC, the DfT will require the County Council Section 151 Officer to confirm that NCC accept responsibility for meeting any costs over and above the current contributions totalling £28.6million to deliver all six junction improvements. No further funding will be provided by the Department for Transport and these are standard terms and conditions of funding for the Department's Major Road Network Schemes Programme. If the costs are likely to increase, reports will be brought to Committee for further consideration but stringent management controls are already in place to manage this risk.
48. The scheme must also be implemented in accordance with the scheme proposals as set out in the funding bid as submitted to the Department and subject to any changes which may occur as a result of further design or as a result of remaining statutory procedures. It should be noted that Ministers reserve the right to reconsider their decision on funding if there are any changes to the overall cost, scope or design of the scheme which they consider to be material.



## **RECOMMENDATION/S**

It is **RECOMMENDED** that Committee delegates authority to the Service Director, Investment and Growth in consultation with the Section 151 Officer, the Head of Legal Services and the Chairman of the Economic Development & Asset Management Committee to:

- 1) make a compulsory purchase order and side roads order under the powers conferred by sections 14, 125, 239, 240, 246, 249, 250, and in accordance with Schedule 1 of the Highways Act 1980 and the Acquisition of Land Act 1981
  - (i) acquire all that land shaded pink on the plans included in this report;
  - (ii) acquire all those rights (or interfere with existing rights) over the land shaded blue on the plans included in this report,
- 2) be authorised to take all steps, and to enter into all documentation, on behalf of the Council in connection with the making, confirmation, submission or implementation of the compulsory purchase order and side roads order, including in respect of any public inquiry, appeal or legal challenge concerning the same.
- 3) be authorised to make amendments to the compulsory purchase order, side roads order or other connected documents provided that the proposed amendments do not significantly alter the scope of the compulsory purchase order and side roads order as presented to Committee by this report.
- 4) be authorised to take all steps to:
  - (i) negotiate agreements with any landowners, owners or occupiers of land included within the compulsory purchase order and side roads order; and / or
  - (ii) negotiate agreements with any party with an interest in any land included within or affected by the compulsory purchase order and side roads order, such agreements to include the acquisition of land or interests in land, payment of compensation or any other arrangements related to the delivery of the compulsory purchase order or side roads order.
- 5) endorse the timetable for the next steps in project delivery for the scheme.

**Adrian Smith**  
**Corporate Director – Place**

**For any enquiries about this report please contact:** Kevin Sharman 0115 977 2970

**Constitutional Comments (SJE – 14/02/2022)**

**Financial Comments (CT 14.02.2022)**

The financial implications are detailed in Paragraphs 45-48 of this report.

The main risk to the Council with regard to this project is that the DfT require Nottinghamshire County

Council's Section 151 officer to confirm that the Council accepts responsibility for meeting costs over and above the current DfT contribution. In addition, the DfT allocation is only provisional at this stage and all costs incurred prior to Full Approval are done so at risk and met by NCC.

The overall cost to complete the project currently stands at £28.6m. The bid to the DfT is for a contribution of £24.3m with the remainder being funded by S106/CIL/NCC contributions. No further funding will be provided by the DfT.

Efforts will be made to minimise the contribution required by the Council as the project progresses and the financial costs and contributions become clearer. There will be a requirement for a variation to the capital programme through the usual approval processes once the DfT funding is confirmed. At that stage, total project costs and funding streams will need to be identified and a Latest Estimated Cost report submitted for approval. If the costs are likely to increase, reports will be brought to Committee for further consideration.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Report to Policy Committee 12 September 2018 - Major Infrastructure Improvement Scheme
- Report to Policy Committee 17 October 2018 – A614 / A6097 Major Infrastructure Improvement Scheme
- Report to Communities and Place Committee 4 April 2019 – A614 Major Route Network – Scheme update, compulsory purchase order and side roads orders
- Report to Policy Committee 22 May 2019 A614 / A6097 Major Route Network – Scheme Update and Funding Agreements.
- Report to Communities and Place Committee January 2021
- Report to Economic Development and Asset Management Committee 2 November 2021 – A614 / A6097 Major Road Network – Scheme Update

### **Electoral Division(s) and Member(s) Affected**

Bingham East	Councillor Francis Purdue-Horan
Bingham West	Councillor Neil Clarke
Muskham and Farnsfield	Councillor Bruce Laughton
Ollerton	Councillor Mike Pringle
Sherwood Forest	Councillor Scott Carlton
Southwell	Councillor Roger Jackson