

EXECUTIVE

DATE: 9th MARCH 2009

SUBJECT: LUTON TOWN CENTRE TRANSPORT SCHEME

REPORT BY: HEAD OF ENGINEERING AND TRANSPORTATION

CONTACT OFFICERS: 01582 547106 PHIL CUNNINGHAM

IMPLICATIONS:

LEGAL	✓	STAFFING	
EQUALITIES	✓	COMMUNITY SAFETY	
FINANCIAL	✓	RISKS	✓

OTHER

CONSULTATIONS:

COUNCILLORS CONSULTED	CONSULTED
STAKEHOLDERS CONSULTED	OTHER

WARDS AFFECTED: All

LEAD EXECUTIVE MEMBER(S): Councillors Don Worlring and Roy Davis

RECOMMENDATION(S)

1. Executive is recommended to:
 - (a) Note the Planning Permissions (08/01331/FUL, 08/01326/FUL and 08/01328/FUL) were granted on 17th February 2009 for the main elements of the Luton Town Centre Transport Scheme.
 - (b) Note that a further planning application is being submitted for a replacement link road from Midland Road to Gillam Street to facilitate access to and from Hitchin Road.

- (c) Agree to use the GAF3 funding to progress this project to the construction stage and for the construction of the bus interchange with any remaining funding for land acquisitions for the scheme in the High Town area
- (d) Approve the making of a Compulsory Purchase Order (CPO) under Part XII of the Highways Act 1980 for the acquisition of properties and any new rights that may be required over adjoining land and any other land not owned by the Council that it requires for the purpose of the scheme as shown on drawing No. M53260/205 Rev C (CPO – Land ownership/occupation) which will be displayed at Executive
- (e) Authorise the appropriate Heads of Service to:

 - i) take all necessary steps to secure the making, confirmation and implementation of the compulsory purchase order including the publication and service of all notices and the presentation of the Council's case at any Public Inquiry
 - ii) acquire interests in land and new rights within the compulsory purchase order area either by agreement or compulsorily
 - iii) approve agreements with land owners setting out the terms for the withdrawal of objections to the Order, including where appropriate seeking exclusion of land from the Order and/or making arrangements for relocation of occupiers
 - iv) make one or more General Vesting Declarations or service of Notices to Treat and Notices of Entry (as appropriate) pursuant to the Compulsory Purchase (Vesting Declarations) Act 1981 and the Compulsory Purchase Act 1965 respectively should the CPO be confirmed by the Secretary of State
 - v) authorise the Head of Legal Services to instruct Counsel and experts to represent the Council and provide evidence at any inquiry into the confirmation of the CPO if necessary

BACKGROUND

2. Proposals to complete the ring road on the north side of Luton Town

- Centre and provide a new bus station adjacent to the railway station were included in the Council's first Local Transport Plan (LTP) for 2001-2006. While the scheme was given "in principle" funding approval in December 2003, progress on this project was limited because of the need to ensure the scheme proposals were consistent with the Luton Town Centre Development Framework, and because of concerns raised by Network Rail in 2005 about the loss of station parking spaces displaced by the scheme and the proposed Luton Dunstable Busway.
3. Agreement was reached with Network Rail on the proposed design of a replacement multi-storey car park for the station, together with the release of their land. This enabled the procuring consultancy support to progress the development of the Town Centre Transport Scheme in 2007. The multi-storey car park includes provision for the Inner Ring Road between Old Bedford Road and Church Street/Hitchin Road to run beneath it. An agreement with Network Rail to construct the car park was signed in January 2008.
 4. In addition to land owned by LBC and Network Rail, third party land will be required. It is hoped that this land can be acquired by negotiation, without recourse to Compulsory Purchase Orders (CPOs). However, CPOs will need to be progressed concurrently so that should negotiations for voluntary transfers fail, delays in securing the land and hence provision of the scheme will be avoided.
 5. Initial options investigated for this section of road included alignments both north and south of the railway. This early work concluded that a new road south of the railway through the station forecourt area would not be viable. The work also demonstrated that a new tunnel under the railway at Hitchin Road would not be practicable from a vertical alignment perspective. This work therefore concluded that the new road should run parallel and north of the railway between Old Bedford Road and Hitchin Road. Further to the east the road should follow Crescent Road and either join Crawley Green Road at its existing junction with Crescent Road (with Crawley Green Road being dualled to St Mary's Road) or join Crawley Green Road further south at the roundabout at St Mary's Road via a new bridge over the railway lines. Extensive work on both of these options was then carried out. Two Executive reports have reported on the above progress.
 6. On 7th July 2007 Executive agreed to carry out the design and consultation for the Luton Town Centre Transport Scheme based on two route options. At the meeting Executive also agreed that the use of Compulsory Purchase Orders for the purchase of land required for this project be approved in principle and that the section of the Inner Ring Road be referred to as the 'Gateway Link Road' during the design process.

7. The second Executive report on the preferred option for the Gateway Link Road was presented on 25th February 2008. At this meeting the Executive agreed the adoption of the 'Red' Option (the route which utilises the full length of Crescent Road with a new bridge over the railway on Crawley Green Road), as the preferred route for the Gateway Link be agreed and that approval be given for a planning application to be submitted for the proposed Luton Town Centre Transport Scheme. The Executive also agreed that the Head of Capital and Asset Management be authorised to negotiate for the voluntary transfer to the Council of land required for the proposed road submit a detailed report to the Executive for consideration of use of its compulsory purchase powers in the event that he is unable to conclude agreement for voluntary transfer.
8. The Planning Committee granted three planning permissions (08/01331/FUL, 08/01326/FUL and 08/01328/FUL) for this project on 17th February 2009. A final planning application is being submitted for the construction of the small section road between Midland Road and Gillam Street in order to improve access between Midland Road and Hitchin Road. Appendix A shows the red line boundaries for the four planning applications and an outline of the overall Luton Town Centre Transport Scheme.
9. Presently, there is provisional funding of £14 million allocated to this project from within the Regional Funding Allocation. It is also anticipated that a further £8.1 million will be confirmed from the RFA in the coming months. £4 million Growth Area Funding 3 (GAF3) has also been allocated to this project. There is the possibility of significant S106 contributions also being used to fund this scheme (particularly contributions from the Power Court development), though clearly in the present financial climate such contributions cannot be relied upon. Therefore the assumed budget available at the present time is £26.1 million.

REPORT

10. The Luton Town Centre Transport Scheme incorporates the Gateway Link Road between Hucklesby Way and St Mary's roundabout, thereby completing the Inner Ring Road. The new road will limit access to and egress from Midland Road and therefore a new link road from Midland Road to Gillam Street (subject to a planning application) providing access to/from Hitchin Road will need to be provided. The scheme includes a bus interchange in the vicinity of the existing railway station. The scheme incorporates a separate access to the rail and bus stations which will include set down and waiting bays for taxis, limited short term "kiss and ride" facilities, some parking for the disabled, together with early morning and late evening access for station deliveries. The scheme also

incorporates alterations to John Street, Cheapside, Bute Street and Guildford Street that together facilitate the closure of the town centre to through traffic and hence allow increased pedestrianisation.

11. An updated estimated cost and programme have been prepared. The scheme is estimated at £26.9 million. The costs include land, inflation and a Quality Risk Assessment i.e. risks have now been costed and included in the total cost. The estimated construction costs (current prices) are set out below:
12. The overall estimated outturn costs of the scheme are set out below:

Overall Costs	£,000s
Construction Costs	13,000
Quantitive Risk Assessment	3,000
Land, compensation, etc	7,000
Inflation	2,150
Other e.g. NR, Public Inquiry etc	1,750
Total	26,900

13. From the above it can be seen that there is insufficient funding to complete the scheme unless additional funds can be obtained or cost saving made. S106 contributions would be the most likely source of additional funding. There is also scope for significant cost savings from the land, particularly in respect to the land required from Network Rail and the Power Court Site. There may also be a saving if the footbridge from Luton Station to Midland Road is replaced using GAF3 funding, as this bridge will need to be modified in order to accommodate the proposed road below.
14. The most critical part of the LTCTS is the provision of the bus interchange as this is a crucial element in terms of the future success of the Luton Dunstable Busway scheme. The construction of the bus interchange is being included as an option in the LDB contract documents. It would clearly make sense to construct the bus interchange as part of the LDB if additional funding can be identified for this work. The estimated cost of the bus interchange (and kiss & Ride, disabled parking and loading facilities) is £2 million exclusive of inflation or quantified risk assessment. The construction of work in the Station Gateway area is complicated by the need to work around Network Rail projects including the Thameslink platform widening, DDA improvements to the station and the proposals for a new/refurbished station. One option would be to use the £4 million GAF 3 allocation to fund the bus interchange and associated works. This should help ensure that this GAF 3 funding was spent before the March 2011 deadline.
15. The present programme for this project is as set out below (assuming a

conventional procurement process):

Publish Orders	Spring 2009
Public Inquiry -	Autumn 2009
Start on site	Late 2010
Completion of works	Early 2012

16. While it is hoped that the project will progress in accordance with the above programme, it is noted that at the present time the RFA funding for this scheme will require the project to be slipped by approximately a year.
17. The next stage of this project is to publish all the required Orders for the project. This will include both the highway and traffic related orders and also the publishing of the necessary Compulsory Purchase Orders. This report seeks approval to publish the CPOs for the whole project. The land subject to the CPO for this project is shown on Drawing number No. M53260/205 Rev C (CPO – Land ownership/occupation), which will be displayed at Executive.

CPO

18. In accordance with the requirements of the Secretary of State for confirmation of the CPO all necessary consents either need to have been obtained or the Local Planning Authority need to have given an indication that such consent will be forthcoming. All necessary funding is in place or is secured to implement the scheme subject to a present shortfall of £0.8 million. The funding is dependant on the normal Government approvals. As discussed below the shortfall will be covered by additional funding provision (though S106 agreements etc) or cost savings. No contract will be placed until the scheme is fully funded. There is therefore no impediment to the CPO.

HUMAN RIGHTS

19. It is hoped that the properties can be obtained by negotiation without recourse to a CPO. However, certainly in two cases this seems unlikely. The Human Rights aspect of the exercise of these powers has been considered.
 - i) in particular, Article 1 of the First Protocol to the European Convention on Human Rights and Articles 6 and 8 may apply to the making of a CPO.
 - ii) Article 1 provides that no-one shall be deprived of his possessions except in the public interest and subject to conditions provided by law. Whilst owners will be deprived of their property if the CPO is confirmed this will be done in accordance with the law.

- iii) Article 6 allows everyone a right to a fair hearing. All those affected by the Order will be informed as far as possible and notices will be published in the local newspaper and posted on the buildings. Anyone affected by the CPO will have the right to make representations to the Secretary of State and to be heard at an inquiry.
- iv) Article 8 provides that everyone has the right to respect for his private and family life, his home and correspondence.

LEGAL IMPLICATIONS

- 20. There are the following legal implications to this report as agreed with Brenda Vale in Legal Services on 24th February 2009. Part XII of the Highways Act 1980 provides powers for a local authority to compulsorily acquire land for highway schemes. However, before a compulsory purchase order can be confirmed by the Secretary of State, the Council must show that it has taken steps to acquire the land by agreement. Government Guidance states that compulsory purchase orders must only be made if the Council is satisfied that there is a compelling case in the public interest to do so and that it sufficiently justifies interfering with the Human Rights of those with an interest in the land affected. Further in making the CPO there should be no impediment to its eventual implementation. If there are objections to the making of the CPO it is likely that an inquiry will be held by the Secretary of State.
- 21. Further implications arising from the acquisition of land for the various options are set out in the risk implications below.

EQUALITIES IMPLICATIONS

- 22. The key equalities implications of this report are that the overall scheme will:
 - Improved parking for disabled drivers
 - Improved, safer environment for pedestrians and people with mobility impairments
 - Better public transport facilities
- 23. A report on the overall Luton Gateway proposals was made to the Disability and Access Forum on the 7th December 2006. A further report on the Town Centre Transport Scheme and other associated schemes in and around the Town Centre was made to the Disability Advisory and Access Forum (DAAF) on 7th February 2008. DAAF gave their general support to the proposed schemes supporting the aspiration of the Council

to regenerate Luton Town Centre and improve transport for all within the town. Further reports to DAAF will be made as this project progresses. The further updating report to DAAF was made on 3rd December 2008. An EIA is in progress for the project.

24. Agreed by Environment & Regeneration's Equalities Coordinator on 26th February 2009.

FINANCIAL IMPLICATIONS

25. At its meeting on 25th March 2008, the Executive agreed £350K to be allocated for this project from the Local Transport Plan (LTP) Integrated Transport settlement for 2008/09. This has been sufficient to take this project up to the Planning Application stage which was formally lodged in November 2008. It is anticipated that further funding of about £1.75million will be required in order to progress the scheme including detailed design and contract documents, Public Inquiry, Compulsory Purchase Orders and procurement of a contractor to implement the scheme. It is envisaged that this will be funded by the GAF3 allocation and LTP funding.
26. A proportion of the above preparation costs for the development of this scheme can be claimed from the Government when the scheme is finally approved, but there is no guarantee this will be paid.
27. The estimated cost of the preferred scheme is £26.9 million, which exceeds the £26.1 million provisionally allocated (£22.1 million RFA plus the £4 million of GAF III). This leaves a funding short fall of £0.8 million with the present design. It is hoped that this short fall will be obtained from S106 contributions or by the dedication of land to the Council for this project thereby saving on land acquisition costs. S106 contributions will be sought from developments in the town centre, as the completion of the road will be necessary in order for these developments to work from a transport perspective. However, given the current state of the economy S106 contributions cannot be guaranteed. If no S106 contributions are secured, nor savings made in land acquisition costs, other potential areas of cost reduction will need to be identified or additional funding will need to be identified from within the Council's capital programme.
28. Agreed by the Departmental Finance Manager on 26th February 2009.

RISK IMPLICATIONS

29. As previously mentioned the allocated funding is unlikely to cover the costs of the proposed project. A funding shortfall would mean that the project could not be completed in line with current proposed timescale

unless additional funding is obtained or cost saving made. It is therefore essential that sufficient funding is identified prior to contracts being awarded for the works.

30. Network Rail operational land is required for this scheme. The Council cannot CPO this land and therefore the use of this land is dependant on the agreement of Network Rail. The authority will be entering into a collaboration agreement with Network Rail to facilitate the Station Gateway Redevelopment thereby releasing Network Rail land for this scheme at no direct cost.
31. Other land required for this project can be acquired through CPOs, though this can be time consuming. The cost of this land would be assessed on market value basis with a 'no scheme' scenario. Compensation costs will also arise from the purchase of these land parcels due to any ongoing site operations/uses including potential compensation for disturbance and extinguishment of businesses, etc. The authority will need to work with businesses affected by the scheme in order to minimise disruption to businesses and avoid any closures.
32. As previously reported to Executive in July 2007 and February 2008, potential blight notices could be served on the Council that could create significant budgetary problems if they result in compensation becoming payable before full funding is available. However, such costs should be able to be managed through GAFIII funding, if approved, or existing budgets including the Local Transport Plan Integrated Transport budget.
33. Network Rail will be lengthening the platforms at Luton Station as part of their Thames Link 2000 project. This work is presently programmed for 2010/11. Network Rail is very unlikely to allow construction of the new road on the land to start before this work is complete. Therefore any delay to this work could cause delay to the road project. Extensive discussions with Network Rail are on-going. The Council are also working with Network Rail on proposals for a new/refurbished station at Luton.

OPTIONS

34. The Executive confirm that work should progress on the Luton Town Centre Transport Scheme and that Compulsory Purchase Orders and other orders required for the scheme be published.
35. The Executive resolves not to proceed with the Luton Town Centre Transport Scheme. This would result in the pedestrian, cyclists, public realm, public transport and regeneration benefits not being obtained. The Government/Regional Transport funding for this project would be reallocated to other projects almost certainly outside of Luton.

APPENDICES

Appendix A : Red line boundaries for the four planning applications and outline of the overall Luton Town Centre Transport Scheme.

BACKGROUND PAPERS

Executive reports and minutes of meetings December 2004, 22nd January 2007, 10th April 2007 and 25th March 2008

Reports to Disability Advisory and Access Forum on the 7th December 2006, 7th February 2008 and 3rd December 2008

Executive reports and minutes of meetings dated 12th December 2007, 7th July 2007 and 25th February 2008

Planning Permissions (08/01331/FUL, 08/01326/FUL and 08/01328/FUL) 17th February 2009

Drawing No. M53260/205 Rev C (CPO – Land ownership/occupation)