

CABINET
27 SEPTEMBER 2018**A38 BROMSGROVE MAJOR SCHEME - PACKAGE 1**

Relevant Cabinet Member

Dr K A Pollock

Relevant Officer

Director of Economy and Infrastructure

Package 1 Local Members

Mrs R Dent

Mr P McDonald

Mrs S Webb

Recommendation

- 1. The Cabinet Member with Responsibility for Economy and Infrastructure recommends that Cabinet:**
 - (a) approves the implementation of the A38 Bromsgrove Major Scheme - Package 1 in accordance with this report, the Conditional Approval Business Case (CABC) and as shown in the attached plans (*Appendix A*) subject to the approved design and certainty of funding;**
 - (b) delegates authority to the Director of Economy and Infrastructure, in consultation with the Cabinet Member with Responsibility for Economy and Infrastructure, to finalise and award the contract and other necessary agreements to deliver the Package 1 project;**
 - (c) approves the Director of Economy and Infrastructure entering into such delegation agreements with Highways England as are required in order to enable the Council to exercise Highways England's powers of land acquisition in relation to Package 1;**
 - (d) approves the acquisition of land required for elements of Package 1, as indicated on the red line plans (*Appendix B*), and delegates authority to the Director of Commercial and Commissioning, in consultation with the Cabinet Member with Responsibility for Economy and Infrastructure, to agree any necessary changes to the red line, land or rights to be acquired including additional land and/or rights;**
 - (e) should it not be possible to acquire all the land by negotiation, Cabinet authorises acquisition of necessary land and rights over land through the making of Compulsory Purchase Orders (CPO) and authorises the Director of Commercial and Commissioning, in consultation with the Cabinet Member with Responsibility for Economy and Infrastructure, to finalise the**

details and make such a CPO including any compulsory acquisition of rights required for the scheme, and authorises the Director of Commercial and Commissioning to approve any Statement of Reasons in relation to the land, that must accompany any CPO submitted for the confirmation to the Secretary of State for Transport, and notes that this will be approved prior to making of the CPO;

- (f) recommends to Council the addition of £6.3m to the Capital Programme for Package 1 on the understanding that this is fully funded by external funding sources, namely Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP), Highways England's Growth and Housing Fund (GHF) and developer contributions through Section 106 contributions, with the Worcestershire Local Enterprise Partnership (WLEP) contribution of £1.3m having already been included in the approved Capital Programme;
- (g) delegates authority to the Director of Economy and Infrastructure to enter into grant funding contracts and related agreements with GBSLEP, WLEP and Highways England and/or their successor bodies to facilitate delivery and funding of Package 1 as may be amended;
- (h) approves the need for forward funding of developer Section 106 contributions; and
- (i) supports the commencement of public engagement and stakeholder management exercises with Highways England and other organisations as required.

Why is this decision important?

2. In July 2018 Cabinet considered a report on the A38 Major Scheme proposal. This covered the strategic rationale for the scheme, the emerging funding strategy and the delivery plan based on phasing the construction of the scheme over 5 packages, shown on the map below, with the potential to complete the scheme by mid-2021. This report seeks a commitment to Package 1 in line with the recommendations from the July 2018 report.



3. Package 1 of the overall A38 Bromsgrove Major Scheme works is critical in supporting the objectives of the Bromsgrove Development Plan (BDP), the Redditch Local Plan, Worcestershire’s Local Transport Plan 4 (LTP4) and both the Worcestershire and Greater Birmingham and Solihull Strategic Economic Plans (SEP) prepared by the relevant Local Enterprise Partnerships. (Links to third party documents have been provided in the Supporting Information section of this report).

4. Package 1 will assist in unlocking development sites in Bromsgrove and would support Worcestershire County Council (WCC) in meeting their commitments set out in developer S106 agreements.

5. This decision is required now to ensure the programme established with Highways England can be adhered to and to demonstrate the WCC commitment to the delivery of the scheme. Delays in approval of Package 1 will impact on the ability to deliver further packages of work by 2021 resulting in potential loss of funds and risks to the ability to mitigate the impact of the Bromsgrove Local Plan.

Background

6. The overall A38 Bromsgrove Major Scheme is a strategically important highway improvement programme supporting growth of Bromsgrove, Redditch and South Birmingham by enhancing the existing A38 Bromsgrove Eastern Bypass. The full scheme comprises junction enhancements on the A38 corridor between its junctions with M5 (Junction 4) to the north and the B4091 in the south.

7. The A38 is an important corridor for traffic travelling between residential areas in Bromsgrove and Redditch and employment areas in South Birmingham. Bromsgrove and Redditch are recognised as important areas of development and economic growth for Worcestershire as a County and for the rest of the West Midlands as a whole.

8. This Major Scheme targets locations where delay and congestion are currently experienced, and where conditions are predicted to deteriorate further without intervention. Importantly the scheme is also part of a wider set of infrastructure required to mitigate the impact of Bromsgrove Local Plan growth. The proposed works differ at each junction but typically include carriageway widening, lengthening of approach lanes,

creation of new lanes for turning traffic, reconfiguration of traffic signals and enhanced pedestrian facilities.

9. It is proposed the junction enhancements in the overall A38 Bromsgrove Major Scheme will be delivered in 5 packages of work. Packaging has been developed based on a combination of the most congested and critical areas, benefits to the users, funding availability and practical implementation of the works.

Package 1

10. Package 1 consists of improvement works at M5 Junction 4, Barley Mow Lane and M42 Junction 1 and has been prioritised:

- (a) due to the key strategic role with the wider network, linking the local road network (A38) and the Strategic Road Network (M42);
- (b) due to the high value for money delivered and benefit to current delays to cars, lorries and public transport services caused by M5 Junction 1; and
- (c) it has an achievable scale and corresponding delivery programme, allowing a start this financial year while matching the specific funding objectives of the Highways England programme.

11. Sections of the improvement works along the A38 originally proposed at both M5 Junction 4 (Lydiate Ash road to Woodrow Lane) and M42 Junction 1 (A38 north) were removed from Package 1 to fit the current funding package. These sections will be completed under latter packages of work.

12. The adopted Bromsgrove Development Plan (BDP) identifies the need for housing and employment growth which will further increase the pressure on the A38 corridor. The scale of growth proposed in Bromsgrove and in the Redditch Local Plan (The Bromsgrove District Plan has allocated a total of 7,000 dwellings and the Redditch Local Plan has allocated 6,400 dwellings) cannot be satisfactorily accommodated on the Strategic Road Network without improvement to M42 Junction 1 and M5 Junction 4. To sustain the level of growth envisaged, additional highway capacity will be required to ensure that the additional economic growth does not lead to deterioration in the functionality of the highway network.

13. Highways England identified that improvements to both M42 Junction 1 and M5 Junction 4 were necessary due to the cumulative traffic impacts of planned development arising. This was accepted at the examination in public of the two Local Plans and the improvement of both M42 Junction 1 and M5 Junction 4 are recorded in the Infrastructure Development Plans (IDP) of both authorities as a key transport infrastructure requirement.

14. Package 1 would indirectly support the delivery of key strategic housing and employment sites in Bromsgrove and Redditch by helping to improve capacity and reliability at key junctions. In combination with other Packages contained in the A38 Bromsgrove Major Scheme, the highway network will be significantly upgraded to accommodate traffic from allocated development sites.

15. The scheme is a key component of the Joint Infrastructure Delivery Plan which recognises that improvements to the A38 will be required to support housing and

employment growth. All of the junctions included in the A38 major scheme are recognised as problem areas in need of intervention and are specifically included within the IDP. The current A38 major scheme therefore has a firm policy basis within the BDP.

16. The overall A38 Bromsgrove Major Scheme aims to address the following objectives:

- (a) Support the delivery of housing and employment growth as outlined in the Bromsgrove Development Plan and the Redditch Local Plan;
- (b) Reduce congestion and transport costs;
- (c) Maximise the efficiency of the road network; and
- (d) Increase journey time reliability.

Funding Strategy

17. Cabinet will be aware that it is intended that the full scheme will be largely externally funded from a variety of sources and more importantly from a variety of funding programmes as they become available. While the packages represent a combination of construction efficiency and value for money, they also allow WCC to reflect different funders' priorities. WCC has a successful track record of securing funding for complex schemes, and there is a reasonable expectation that external funding for the scheme will be secured.

18. The funding for Package 1 for this and subsequent financial years is from three external funding bodies, Highways England Growth and Housing Fund (GHF), Worcestershire Local Enterprise Partnership (WLEP) and Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP), as well as some S106 contributions. It should also be noted that c£0.7m has been funded in 2017/18 relating to feasibility and design works for the A38 Bromsgrove scheme as a whole, which was included in the 2017/18 Approved Capital Programme.

19. A Conditional Approval Business Case (CABC), based on a preliminary design, was approved in May 2018 by the Local Transport Body (LTB) to secure funds from WLEP and GBSLEP. Notification from Highways England and GBSLEP is expected by the end of September 2018.

20. Three development sites in Bromsgrove have submitted their planning applications. However, developer S106 funding contributions would only be secured once planning permission is granted and funding would be received when the development commences, which may not align with Package 1 spend profile.

21. In summary, Package 1 funding bodies and contributions are indicated in the table below:

Funding Bodies	Contributions £ (m)
GHF	2.7
WLEP	1.3
GBSLEP	2.3
S106	1.3
Total	7.6

22. The previously approved Capital Programme for 2018/19 and subsequent years includes the £7.5m WLEP contribution only and covers this and subsequent packages of work, with £1.3m of this being required for Package 1.

23. Whilst recognising the £7.6m funding for Package 1 is to be received from external sources, only £6.3m would need to be added to the Capital Programme, as the £1.3m from WLEP has already been approved.

24. Funding from GHF, GBSLEP and WLEP would be drawn down under the terms of the funding agreements to meet the WCC delivery programme. However, the Section 106 agreement monies would be triggered by development site activity. Based on funding profiles and timing of project delivery, it is expected that grant funding could be used before the need to use S106 funding. As such, the S106 funding is not forecast to be required until 2020/21. However, expenditure on the scheme could still be in advance of the S106 funding being received from the developers. Should this be the case, the Council would need to forward fund the delivery of this element of the programme, and any delay in receipt would give a revenue borrowing cost of c£100k per annum until the funding is received.

Delivery

25. Delivery of Package 1 is dependent upon finalising funding agreements, full business case submissions, technical approval of detailed designs from WCC and Highways England, acquiring land by negotiation, completion of construction within the funding window and access to Highways England network.

26. A parcel of land is required to secure a visibility splay south east of Junction 4 M5. A sale and purchase agreement for the acquisition of relevant land interests is currently being negotiated, and it is reasonable to anticipate that this will be completed by end of 2018. Should the relevant rights not be secured then this element of Package 1 will be delayed to a later package of work while a CPO process is progressed.

27. Based on the environmental Screening Opinion, it has been determined that a planning application is not required for Package 1.

28. The first engagement exercise for Package 1 is aimed to be undertaken in Autumn 2018 and will be designed to inform local communities and others about the scheme.

Procurement

29. WCC would utilise the existing Infrastructure Engineering Term Contract (IETC) to deliver Package 1. The project would be awarded to the IETC contractor under several Individual Project Contracts defined by an Individual Project Template (IPT).

30. The initial IPT will be to provide design services (including preparation of Full Business Case (FBC)) and to provide a target cost price for M5 J4, M42 J1 and Barley Mow Lane. Two further IPT's will be prepared for construction of the works.

31. The contractor would continue to develop the design and target price for M5 J4 and M42 J1 in preparation of the final business case (FBC). The approach allows the contractor to develop the designs in consultation with Highways England reducing the risk to the programme through the technical approvals process. A fully developed design will provide a more accurate cost for inclusion in the FBC and construction target price.

32. The staged FBC submissions provide a more realistic time to acquire land. The contractor has been briefed on the project, programme, technical matters and funding constraints.

Planning

33. The majority of the works within Package 1 are within the highway boundary or are adjacent to the highway boundary with no separation between the works and the boundary. Therefore, under Part 9 of the Town and Country Planning (General Permitted Development) (England) Order 2015 the site would benefit from permitted development rights. However, the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (hereafter referred to the EIA Regulations) also need to be considered in determining whether the site benefits from permitted development rights.

34. The Development Control team at WCC as planning authority has confirmed that an Environmental impact Assessment (EIA) is not required, that Package 1 benefits from permitted development rights and planning permission is not required.

Legal, Financial and HR Implications

35. A sale and purchase agreement for the acquisition of relevant land interest is currently being progressed by Place Partnership. Should it not be possible to acquire the land for the scheme through negotiation, the Council would have to make a CPO for the Package 1. The current land acquisition requirements are indicated on plans in *Appendix B*.

36. As the scheme progresses it may be necessary to acquire land beyond that shown edged in red and authority is sought for the Director, in consultation with the Cabinet Member with Responsibility for Economy and Infrastructure, to agree any changes to the red line, land or rights to be acquired. Cabinet is also asked to authorise the Director in consultation with the Cabinet Member to finalise the details and make Compulsory Purchase Orders if the acquisition of such additional land cannot be achieved through negotiation.

37. The required funding for 2018/19 onwards is £7.6m; however, £1.3m has already been included in the approved Capital Programme for this element of the scheme. Therefore, Council will be requested to approve an increase to the Capital Programme of £6.3m for Package 1 only which is expected to be funded by external sources. The Council is also likely to need to forward fund c £1.3m of Section 106 from 2020/21 at an annual revenue cost of c£100k until developer funding has been received.

38. It should also be noted that, at the time of the Cabinet report, negotiations of all funding agreements are underway. Construction commitments will reflect confirmed funding.

39. Three separate funding agreements are currently being negotiated and will be need to be completed with each of the funding partners. These will cover draw down of funding, but also the monitoring and evaluation of project outputs and outcomes.

40. In addition to the GHF agreement, a further agreement under Section 6 of the Highways Act 1980 (or an equivalent provision of the Highways Act) is required permitting WCC to carrying out parts of the works that are on the Strategic Road Network.

41. Highways England has confirmed that a Road Order (Section 14 of the Highways Act) may be required at M5 J4. Both the Section 6 and Road Order (if required) would be prepared based on the final design.

Privacy and Public Health Impact Assessments

42. The proposed environmental surveys have been carried out within Package 1 with the exception of the tree and reptile surveys. The tree survey is due to be carried out in September/October 2018. The reptile survey has been suspended temporarily due to warm weather conditions; this will be resumed when the temperature drops. The completed environmental surveys have not identified any environmental issues. Currently, it is not anticipated that any environmental mitigation works will be required in Package 1.

43. Additional Air Quality testing has been requested by Worcestershire Regulatory Services (WRS) at the M42 J1. The output of the testing and assessment submitted on 10 August were reviewed by WRS, who confirmed that the works would not have a negative impact on the local residents or environment.

44. An initial Walking, Cycling and Horse Riding Assessment Report (WCHAR) has been carried out (August 2018) with a further report due to be carried out as part of the detail design. The WCHAR's will identify any opportunities for increased physical activity through cycling and walking and health implications as a result of Package 1 works.

Equality and Diversity Implications

45. An Equality Relevance Screening was undertaken in June 2018 for Package 1 and it concluded that an Equality Impact Assessment (EIA) is not required.

Supporting Information

- Appendix A – Package 1 highway drawings

- Appendix B – Land Acquisition plans (colour copies will be available at the meeting and are included with the agenda on-line)

Bromsgrove District Plan (BDP) -

<http://www.bromsgrove.gov.uk/media/2673698/Adopted-BDP-January-2017.pdf>

Redditch Local Plan -

<http://www.redditchbc.gov.uk/media/2751956/Adopted-BORLP4-low-res-17-02-17.pdf>

Worcestershire's LTP4 -

<http://worcestershire.moderngov.co.uk/documents/s11970/Cab%2020161215%20LTP4-appC.pdf>

Worcestershire Strategic Economic Plans (SEP) -

<https://wlep.co.uk/wp-content/uploads/SEP-Summary-Document-Amended-Version-for-Web.pdf>

Greater Birmingham and Solihull Strategic Economic Plans (SEP) -

<https://gbslep.co.uk/wp-content/uploads/2017/06/SEP-2016-30.pdf>

Joint Infrastructure Delivery Plan -

<http://www.bromsgrove.gov.uk/media/1075168/Infrastructure-Delivery-Plan.pdf>

Contact Points

County Council Contact Points

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Background Papers

In the opinion of the proper officer (in this case the Director of Economy and Infrastructure) the following are the background papers relating to the subject matter of this report:

Agenda and background papers for the meeting of the Cabinet held on 12 July 2018

[All agendas and minutes are available on the Council's website here.](#)