

<b>Cabinet Member for Highways and Infrastructure</b>	<b>Ref No: HI12 (19/20)</b>
<b>August 2019</b>	<b>Key Decision: No</b>
<b>A259 Littlehampton Corridor Improvements Land Acquisition</b>	<b>Part I</b>
<b>Report by the Director of Law and Assurance</b>	<b>Electoral Divisions:</b> Littlehampton Town, Littlehampton East, Arundel & Courtwick, Angmering & Findon, Rustington
<p><b>Summary</b></p> <p>A scheme is under preparation for improvements to the A259 near Littlehampton. The project includes dualling parts of the existing single carriageway and necessitates the use of land in the ownership of the County Council as well as land owned by other persons.</p> <p>In January 2018, approval was given by the Cabinet Member for Highways and Infrastructure (ref. HI25 17/18) for the use of powers available to the County Council to make Compulsory Purchase Order (CPO) decisions as the best available option to acquire or make use of the land required by the scheme. The use of those powers was delegated by that decision to the Director of Law and Assurance who proceeded to exercise them.</p> <p>The decision was intended to provide authority for the use of all of the statutory powers needed to give effect to the proposed acquisitions and arrangements in relation to land. However, some references to specific powers were inadvertently omitted from the report seeking confirmation of the authority to act. This report corrects those omissions and seeks ratification of decisions taken by reference to the powers not specifically cited in the original decision.</p> <p>This decision is urgent due to statutory deadlines. The Cabinet Member for Highways and Infrastructure has authorised that this urgent decision can be taken by the Director for Law and Assurance. The Chairman of the Environment, Communities and Fire Select Committee agreed that this decision is urgent and delay would prejudice the County Council's interests.</p>	
<p><b>West Sussex Plan: Policy Impact and Context</b></p> <p>The decision covers the policies engaged by the original decision (HI25 17/18) which address those associated with the County Council's ambition to make the county a prosperous place.</p>	
<p><b>Financial Impact</b></p> <p>None arise from this decision. There is no financial section included in this report.</p>	

## **Recommendations**

The Cabinet Member confirms

- (1) That the decision taken in January 2018 (ref.HI25 17/18) be read and treated for all purposes as if it had included reference to ss 246 and 260 Highways Act 1980 when setting out the statutory provisions for which authority was being given to the Director of Law and Assurance in connection with the highway scheme described in the report on which the decision was based.
- (2) That all decisions taken by the Director of Law and Assurance on the authority of the earlier Cabinet Member decision (ref. HI 25 17/18) and up to the date of this decision are hereby ratified as a valid and proper exercise of delegated authority pursuant to that decision.

## **Proposal**

### **1. Background and Context**

- 1.1 The A259 in Littlehampton experiences high levels of traffic and congestion at several junctions and links. Without mitigation, significant sections will be operating over capacity in both directions. A scheme has therefore been prepared and approved. In order for the project to progress and deliver the expected benefits it is necessary to acquire land beyond the existing highway boundary. Taking into account the large number of plots and land owners involved, a Compulsory Purchase Order (CPO) was considered the best available option to enable the scheme to progress to a strict timetable and to overcome any encumbrances that may be associated with land.
- 1.2 In November 2015, the Cabinet Member for Highways & Transport agreed with the proposal that the Director of Law Assurance and Strategy (as the post was then titled) be authorised to initiate the necessary procedures for the acquisition of land. County Council officers subsequently met the majority of landowners to explain the situation and seek their co-operation.
- 1.3 In January 2018, the Cabinet Member agreed that the Director of Law & Assurance be authorised to complete the necessary procedures for the acquisition of land for phase 1 of the scheme. A subsequent decision clarified the extent of the land covered by the scheme and the exercise of any CPO powers. That decision (HI25 17/18) was treated as exempt from publication under Part I of Schedule 12A of the Local Government Act 1972 and that exemption remains in place in relation to that decision.
- 1.4 A Compulsory Purchase Order was made on 14 May 2019 and has been submitted to the Secretary of State (Department for Transport) for confirmation. The publication of the Order led to eight objections being made and, as a result, the Secretary of State has arranged that an inquiry be held in relation to confirmation of the Order. Various measures have been and are being carried out in relation to the preparations for the inquiry. The County Council is in communication with the Department for Transport in

connection with those preparations. The Inquiry is likely to be scheduled to commence at the end of November for a period of 5 days.

- 1.5 Subsequently, it was identified that the report prepared for the January 2018 decision had inadvertently omitted specific references to provisions in the Highways Act 1980, namely section 246 and section 260. It had always been the intention that these provisions be included in the authority being delegated to the officer as they had been identified as likely to be needed for the effective use of CPO powers in relation to the scheme. The source of authority for the CPO will be considered by the Inquiry. It is important for the County Council's position in relation to the authority for making the Order to be placed beyond doubt.

## **2. Proposal Details**

- 2.1 It is proposed that the decision taken in January 2018 (ref.HI25 17/18) be read and treated for all purposes as if it had included the references to ss 246 and 260 Highways Act 1980 when setting out the statutory provisions for which authority was being given to the Director of Law and Assurance in connection with the highway scheme described in the report on which the decision was based.
- 2.2 It is further proposed that the Cabinet Member be invited to ratify all decisions taken by the Director of Law and Assurance on the authority of the earlier Cabinet Member decision (ref. HI 25 17/18) and up to the date of this decision and to confirm that they be considered as a valid and proper exercise of delegated authority pursuant to that decision.

## **Factors taken into account**

### **3. Consultation**

No further consultation is considered necessary to support or inform this decision as consultation was undertaken in relation to the scheme and the proposed use of CPO powers prior to the original decisions referred to in this decision report. This was fully described in the report for the January 2018 decision.

### **4. Legal Implications**

- 4.1 The exercise of CPO powers by the County Council should be carried out with care and attention and in accordance with the statutory provisions available. Those provisions include a number of sections of the Highways Act 1980 which include powers to address different issues or requirements associated with land affected by a highway scheme. The authority delegating to an officer the power to exercise those CPO powers should also set out fully the scope and extent of the authority being given.
- 4.2 It is lawful for the Cabinet Member to ratify decisions taken by the officer

## 5. Risk Implications and Mitigations

Risk	Mitigating Action (in place or planned)
Decisions taken by the officer not being treated as valid	This decision provides ratification of decisions taken and relies upon legal advice
Challenge by individuals adversely affected by decisions.	This decision ratifies those decisions using the proper authority of the Cabinet Member

## 6 Other Options Considered (and reasons for not proposing)

No other options were considered. It is necessary to confirm the original intention when drafting and seeking endorsement of the decision of the Cabinet Member(ref HI25 17/18) in relation to the related highway scheme. It is also necessary to endorse the validity of the decisions taken by the Director of Law and Assurance by reference to the authority given by that cabinet member decision and of any actions arising from those decisions.

## 7. Equality and Human Rights Assessment

There are no implications for the County Council's responsibilities in relation to Human Rights or the public sector equality duty. The decision relates only to the clarification of internal administrative arrangements. An equality impact assessment was made in relation to the original decision and is referred to in HI25 17/18.

## 8. Social Value, Sustainability and Crime and Disorder Reduction

There are no implications for the County Council's social value and sustainability policies, nor for its duties in relation to crime and disorder reduction. The decision relates only to the clarification of internal administrative arrangements. Relevant assessments were made in relation to the original decision and are referred to in HI25 17/18.

### **Tony Kershaw**

Director of Law and Assurance

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### **Background papers**

The original decision (HI25 17/18) included various plans and other background material which was to be treated as exempt by virtue of the paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972, it having been determined that, in all the circumstances of the case, the public interest in maintaining the exemption of that information outweighed the public interest in disclosing the information. That exemption is not affected by the publication of this decision.

The information is exempt under paragraph 3 - Information relating to the

financial or business affairs of any particular person (including the authority holding that information).