

Report to Councillor Joy Dennis, Cabinet Member for Highways and Transport

December 2021

A29 Phase 1 Realignment - Proceed with Compulsory Purchase Order Processes for Land Acquisition

Report by Matt Davey, Director of Highways, Transport and Planning

Electoral division(s):Fontwell

Summary

The A29 Realignment Scheme will deliver a new 4.34 km road to the east of Eastergate, Westergate and Woodgate villages. The scheme will be delivered in at least two phases. The full scheme (Phases 1 and 2) has an estimated cost of £54.24m as outlined in the full business case April 2019 and will provide part of the highway infrastructure needed to support the planned strategic development of the area by providing access to land for residential and commercial development. The scheme will also alleviate traffic congestion along the existing A29, notably at the Woodgate level crossing which causes delays on a key access route into Bognor Regis.

In March 2019, the Cabinet Member for Highways and Infrastructure made a [decision](#) (A29 Realignment Scheme HI20 18/19) which included delegated authority for the submission of a planning application for Phase 1 of the scheme to the Director of Highways and Transport.

Phase 1 between A29 Fontwell Avenue and B2233 Barnham Road received planning permission on the 30th June 2021 with a planning condition (1) which requires the scheme to be started within three years of the grant of the planning permission.

The acquisition of land and new rights are required to enable the scheme to progress towards construction.

Recommendations

The Cabinet Member for Highways and Transport is recommended to -

- (1) authorise the Director of Law and Assurance to publish the necessary Compulsory Purchase Order and take any necessary action to secure the land either by agreement or compulsion in order to secure the delivery of the proposed A29 Phase 1, as set out in section 2 of the report
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Proposal

1 Background and context

- 1.1 The A29 Realignment Scheme will deliver a new 4.34 km road to the east of Eastergate, Westergate and Woodgate villages. The scheme will be delivered in at least two phases. The full scheme (Phases 1 and 2) would provide part of the highway infrastructure needed to support the planned strategic development of the area by providing access to land for residential and commercial development. The scheme will help to alleviate traffic congestion along the existing A29, notably at the Woodgate level crossing which causes delays on a key access route into Bognor Regis.
- 1.2 Phase 1 is 1.25km long from the A29 south of Eastergate Lane to a new junction with Barnham Road, Phase 2 from Barnham Road to a new junction on the A29 south of Lidsey bends. Phase 1 is the focus of this decision.
- 1.3 Phase 1 of the road scheme comprises the provision of a single carriageway with a combined cycleway/footway; at grade crossing points; street lighting; earthworks; landscaping; drainage and sustainable urban drainage systems associated with the scheme; and any works necessary for the mitigation of adverse impacts (including environmental and ecological).
- 1.4 In March 2019, the Cabinet Member for Highways and Infrastructure made a decision which included delegated authority for the submission of a planning application for Phase 1 of the scheme to the Director of Highways and Transport ([Ref HI20 \(18/19\)](#)).
- 1.5 The scheme Transport Business Case which was submitted to the Coast to Capital Local Enterprise Partnership (LEP) was approved by its Investment Board on 17 October 2019. Subsequently £9.90 million of Local Growth Funding was awarded February 2020 for the delivery of Phase 1. The LEP has also agreed that further funds totalling £2.40 million will be earmarked for the delivery of Phase 2 should additional Government Funding become available to the LEP.
- 1.6 In December 2019 Jackson Civil Engineering was awarded the [Design and Build Contract](#) for the scheme under Lot 2 of the West Sussex Highways Framework Jacksons are currently undertaking the detailed design of the scheme.
- 1.7 Currently, land negotiations have been taking place between the Developer, Barrett David Wilson (BDW) and five landowners but these have proved, so far, to be unsuccessful, despite BDW's and the Landowners Agent's best endeavours.
- 1.8 In addition, The County Council has been in discussions with a further Landowner and their Agent for land south of Barnham Road, which although parties have agreed heads of terms and are negotiating a draft agreement the County Council cannot sign agreements on the southern section without simultaneously signing agreements with the northern consortium/developer.
- 1.9 It is therefore necessary for the CPO process to cover all land required for the delivery of the new road and associated works to ensure consistency and delivery.

2 Proposal details

- 2.1 In order for the project to progress to construction, it is necessary to formalise land purchase for the new road and, if negotiations with the landowners and developers are not, or are unlikely to be successfully, concluded within required timescales, to proceed by Compulsory Purchase Order.
- 2.2 This decision is asking for approval to proceed with the formal land acquisition process necessary to secure the delivery of the proposed A29 Phase 1 and to progress the Compulsory Purchase Order. It is confirmed that the extent of Compulsory Purchase is based on the following drawing which can be found in Appendix A;
- 2.3 Title: Planning Redline Boundary No: A29-CAP-HPN-00-DR-C-0174
- 2.4 The total land area is approximately 13Ha made up as follows;
 - 13Ha land which is to be acquired and used for the proposed highway scheme. This includes land to be used for site compounds, haul roads and working space which will subsequently be returned.

Compulsory Purchase Orders

- 2.5 Compulsory Purchase Orders confer authority to acquire land and create new rights over land on a compulsory basis for highway purposes under the Highways Act 1980. The procedure involves the making and advertising of an order, serving notice on persons with statutory interests and submitting the orders to the Secretary of State for Transport for confirmation using powers set out in the Highways Act 1980.
- 2.6 The CPO process is necessary to ensure that all the land needed is available by the time construction commences and is not subject to protracted negotiations. It will also allow any residual interests in land required for the scheme to be resolved. However, efforts will continue to be made throughout the CPO process to acquire land by negotiation and agreement where practicable.
- 2.7 The CPO procedure makes provision for the submission of objections to the Secretary of State for Transport. Efforts would be made to resolve all objections by negotiation. However failure to resolve any statutory objections could result in the Secretary of State appointing an Independent Inspector to examine the merits of the objections and make recommendations at public inquiry which will then serve as a basis for a decision by the Secretary of State to either confirm (with or without modification) or reject the CPO.

3 Other options considered (and reasons for not proposing)

- 3.1 It was hoped that negotiations to acquire the required land by agreement would be successful. These have been led by Barrett David Wilson for the last three years, and although progressing they are taking significant time. WSCC and ADC have, and continue to, support this negotiated approach but now that planning permission has been achieved for the Phase 1 scheme (30th June 2021), to protect the application timescales (three years from the date of the permission to commence the project) and LEP funding deadline (25th March 2025), it is

necessary to push forward with the background works to inform and support CPO notifications to protect the delivery programme should these negotiated agreements continue to be delayed.

4 **Consultation, engagement and advice**

The design of the route for the proposed bypass was determined through extensive consultation and public exhibition in 2019 at preliminary design stage and then a further consultation, on the detailed design, was undertaken in 2020 with local stakeholders, residents, landowners, parish, district and County Councils as well as the statutory consultation through the planning application process (planning application reference WSCC/052/20: A29 Road Realignment Phase 1) in 2021, which was followed by Planning Committee on the 29th June and permission granted on the 30th June 2021.

5 **Finance**

5.1 Capital consequences, please see table below:

	to Mar 21 £m	2021/22 £m	Future Years £m	Total £m
Capital Budget	2.161	0.500	8.989	11.650
Change From Proposal	0.000	0.000	0.000	0.000
Remaining Budget	2.161	0.500	8.989	11.650

5.2 The A29 Phase 1 has an approved budget in the Capital Programme of £11.650m funded by £9.9m Local Growth Fund, £0.7m WSCC Corporate Funding and £1.050m S106 Developer Contributions.

5.3 A budget of £0.6m is allocated within the current funding provision to support the potential CPO process. This includes professional support fees WSCC has procured from Specialists for the initial stages of the background works need to inform the CPO process. The budget also includes allocation for a potential future CPO Inquiry, although WSCC Highways would seek to avoid this path if at all possible, seeking to undertake negotiated settlements with affected landowners.

5.4 The effect of the proposal:

(a) **How the proposal represents good value**

The overall A29 realignment scheme currently has a Benefit Cost Ratio of 1.8:1 which meets the LEP support criteria.

(b) **Future savings/efficiencies being delivered**

The overall A29 realignment scheme will reduce traffic on the old road alignment, which has a number of constraints, such as the Woodgate Level Crossing, the War Memorial Junction and the Lidsey bends, it will improve traffic flow and provide suitable alternative routes for walking and cycling.

(c) **Human Resources, IT and Assets Impact**

The only direct impact could be reduced future highway asset maintenance of the existing A29 alignment as traffic flows are partially diverted to the new route and this could mean that maintenance interventions could last longer.

6 Risk implications and mitigations

- 6.1 The scheme risks have been assessed throughout the detailed design process via a formal risk assessment process which has also identified suitable mitigation measures.
- 6.2 Initial discussions have been held with landowners regarding the option of purchase by negotiation predominantly by Barrett David Wilson Homes who are in the process of acquiring the land for the housing development and the new phase 1 highway, this process has been underway for at least three years. However, due to the number of landowners involved, and the inability to satisfactorily conclude negotiations to date, a Compulsory Purchase Order is required for WSCC to maintain control and keep on programme within the planning and funding deadlines. Time has been factored into the scheme programme to mitigate the risk that the compulsory purchase process will be delayed by a public inquiry.
- 6.3 Funding flexibilities from the LEP have been allowed up to the end of the financial year 2024/2025 (31st March 2025) and the CPO is required to ensure construction completion by this date, including a time allowance for a potential public inquiry.
- 6.4 Other risks to the scheme will include the Order not being confirmed.

Key Risk	Mitigating Action (in place or planned)
Land Not delivered by BDW and Southern Consortium	Use of WSCC direct negotiations and, if necessary, CPO processes (including Public Inquiry)
Planning Condition 1 (3 years commencement) triggered due to no progress	Use Detailed Project programme of interconnected events to examine key trigger/milestone points, seek alternative land purchase approach (WSCC Negotiation and CPO), seek commencement on parts of site under licence if necessary
Funding from LEP withdrawn or repayment due to non-delivery of the scheme	Use Detailed Project programme to identify key constraints/milestones and take action to remove blocking, such as use of CPO for alternative land delivery for the scheme.

7 Policy alignment and compliance

7.1 Our Council Plan

The Plan has four priorities, all of which are underpinned by a cross-cutting theme of tackling climate change:

1. Keeping people safe from vulnerable situations.
2. A sustainable and prosperous economy.
3. Helping people and communities to fulfil their potential.
4. Making the best use of resources.

The scheme will help to support priority 2 through the delivery of the new infrastructure which will enable economic growth in the area.

It will also help to support priority 3 through the addition of new footway and cycleway facilities and priority 4 through the scheme climate resilience on flood mitigation and attenuation.

7.2 Legal Implications

There is a risk that the Order may not be confirmed for some reason, and scheme cannot proceed for reasons, as yet unknown, associated with land acquisition. However, ongoing negotiations will continue to acquire the land through agreement, thus minimising this risk.

7.3 Equality Duty and Human Rights Assessment

An Equality Impact Report is provided in Appendix B. The equality impact of the scheme has been considered. In general it is considered that no group or groups are discriminated against and that through improved access to housing and employment as well as the provision of a new sustainable, off-road, route for travel by those who use non-motorised transport the scheme has a positive social impact.

- The rights of those living near to the new road have been considered. The majority of people in the area will benefit from a less congested and more free-flowing route.
- Persons with interests in the land or property affected by the scheme, either during the works or following completion, may be entitled to statutory compensation for depreciation in the value of their property or grants towards Noise Insulation Work.
- It is therefore concluded that the benefit to the public outweighs the interference with Human Rights.

7.4 Climate Change

Although the building of new roads has been criticised as not supporting the general climate change agenda, this project does support climate change through:

- Provides additional road space to reduce congestion on the highway network will assist in reducing greenhouse gas emissions and improve air quality
- Provides for additional pedestrian and cycle routes to assist the encouragement of use of these modes for short trips and reduce car dependency
- The design of the scheme allows for climate adaptation in terms of flood mitigation of existing undeveloped areas including storage of runoff from storms up to 1:100 years plus a 40% allowance for climate change

The WSCC Climate Change tool was used to assess the scheme and the summary page is attached at Appendix C. This gives a positive outcome for climate change assessment.

7.5 Crime and Disorder Reduction Assessment

At this point no significant implications relating to the Crime and Disorder Act have been identified.

7.6 Public Health

The scheme will provide new footway and cycleway connections which would enable residents to make journeys by foot or bike which could improve their health and wellbeing.

7.7 Social Value

The scheme will provide improvements to sustainable transport infrastructure (e.g. cycle lanes, footways).

The design will feature areas of replanting and compensatory habitat for an overall biodiversity net gain, along with sustainable urban drainage features to mitigate flood risk as a result of the scheme.

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Appendix

Current RLB Plan A29-CAP-HPN-00-DR-C-0174