

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Cabinet **DATE:** 16<sup>th</sup> November 2015

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**(For all enquiries)** Savio DeCruz – Acting Head of Transport (ex 5640)

**WARD(S):** All

**PORTFOLIO:** Councillor Sohail Munawar commissioner for Social and Economic Inclusion.

### **PART I** **KEY DECISION**

#### **SLOUGH MASS RAPID TRANSIT SCHEME (SMaRT) COMPULSORY PURCHASE ORDER UPDATE**

##### **1 Purpose of Report**

The purpose of this report is to seek:

- Permission to use Compulsory Purchase Order (CPO) powers to purchase the last remaining property required to deliver the SMaRT scheme,
- Permission to use Compulsory Purchase Order (CPO) powers to purchase land to the west of 150-160 Bath Road on regeneration grounds; and
- A reduction in the associated risk of challenge should the appropriate government minister confirm the compulsory purchase order.

##### **2 Recommendations/ Proposed Action**

The Cabinet is requested to resolve:

- (a) That the offer of the Berkshire Local Transport Body to provide £5.6m towards the cost of the SMaRT major transport scheme be welcomed;
- (b) That the terms of the offer, including the need for the remainder of the scheme cost approximately £2.5-3m to be met by local funding contributions, be noted;
- (c) That the local funding contribution (outlined in the capital strategy business case) required from Council revenue and capital resources be agreed;
- (d) That the design of the scheme submitted for planning consent under reference S/00713/000;
- (e) That land negotiations around 142 Bath Road and land south of Tintagel House proceed via the compulsory purchase order process;
- (f) That the Strategic Director, Regeneration, Housing and Resources be authorised to take all necessary steps to secure the making, submission, confirmation and implementation of the CPO of the third party land required to deliver the SMaRT Scheme (following statutory process set down in the

Highway Act 1980 and the Acquisition of Land Act 1981, as amended by the Planning and Compulsory Purchase Act 2004.)

- (g) That Officers will investigate further the opportunity to utilise the bus lane to reduce congestion and improve air quality by promoting cleaner vehicles and multiple occupancy vehicles.

### 3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

#### 3a. **Slough Joint Wellbeing Strategy (SJWS) Priorities**

##### **Health**

- 3.1. The SMaRT scheme links with the SJWS priority of enhancing positive health and wellbeing. The scheme will promote a more sustainable alternative to the private car for travelling to and from major employment areas, the town centre and residential communities. Through relieving traffic congestion and reducing the stop-start nature of vehicles the scheme will have a beneficial impact on air quality in general and in Air Quality Management Areas 3 and 4.
- 3.2. Provision of high quality public transport will give people opportunities to reduce their reliance on car use and promote positive behavioural change in personal health through walking to and from rapid transit stops.
- 3.3. SMaRT will improve crossings for pedestrians and cyclists thereby helping to promote these forms of healthy travel.

##### **Regeneration and Environment**

- 3.4. SMaRT links with three SJWS priorities: helping facilitate the regeneration of the town centre and Slough Trading Estate; improving public transport; and encouraging private sector investment to create employment and economic activity.
- 3.5. The A4 provides a strategic route between Slough Trading Estate, the town centre and Heathrow and traffic congestion is a barrier to local economic growth. SMaRT will enhance connectivity and accessibility between these key trip attractors and generators, through junction improvements and bus service enhancements.
- 3.6. SMaRT will mitigate existing and forecast levels of congestion and make a significant contribution to enabling the creation of at least 4,750 new direct full time jobs in Slough and over 2,000 further indirect full-time jobs. It will improve accessibility between areas of higher unemployment or social deprivation and areas of job growth in Slough.
- 3.7. Redevelopment of the land left over at 150 – 160 Bath Road will provide much needed private homes.

##### **Housing**

- 3.8. SMaRT links with the SJWS priorities of developing a mix of housing to meet existing and future needs and providing more choice for home-seekers. The scheme will help facilitate the sustainable development of new housing.

## **Safer Communities**

- 3.9. SMaRT links with the SJWS priorities of making people feel safer and safeguarding vulnerable adults and children. The combination of a reduction in vehicle speeds, high quality resurfacing and the installation of traffic signals provided by the scheme will provide a higher level of road safety for drivers, cyclists and pedestrians

### **Cross-Cutting themes:**

- 3.10. Civic responsibility –SMaRT is in line with the cross-cutting themes of enabling people to use public transport rather than cars, take more exercise and use and develop job skills.
- 3.11. Improving the image of the town – SMaRT will complement the infrastructure and public realm improvements delivered by the Heart of Slough scheme by providing a high quality public transport service from the town centre to Slough Trading Estate. It will help to improve accessibility for those wishing to travel to the town for leisure and shopping as well as work. SMaRT will also provide a better alternative to car travel thereby reducing the volume of traffic in Slough and improving the sense of place.

## **3b Five Year Plan Outcomes**

The SMaRT scheme complies with the Five Year Plan's outcomes and will help to deliver:

- Improved public transport links between the mainline station and the Slough Trading Estate will help ensure businesses of all sizes locate, grow, and stay in Slough,
- Re-developing the land left over will create quality private tenure homes in the borough,
- Improving access to the centre of Slough will ensure it remains vibrant, living, and the cultural facilities are well used,
- The installation of traffic signals provided by the scheme will provide a higher level of road safety for drivers, cyclists and pedestrians,
- Provision of high quality public transport will encourage more people to manage their own health through reducing their reliance on cars; and
- Improving public transport services will enable children and young people in Slough access facilities and organisations that could contribute towards positive life chances.

## **4 Other Implications**

### **a) Financial**

The proposed action will have a financial implication. At this moment the costs for the purchase of the land and associated fees can be retained within the budget, however it may be necessary to return to Cabinet and Council if these costs increase beyond the budget envelope. The council submitted a separate business case to the LEP in July 2014 which identified the scheme would generate £336m GVA by delivering this scheme as a result of the analysis undertaken by the LEP's

independent assessor the funding for this scheme has been approved by the Berkshire LTB.

### Risk Management

<b>Risk</b>	<b>Mitigating action</b>	<b>Opportunities</b>
<p><b>Legal</b></p> <p>Risk of challenge to land acquisitions.</p>	<p>Council has appointed Savills and DJB Law to followed due process and this updated report is part of reducing the risk of challenge.</p>	
<p><b>Property</b></p> <p>Unable to obtain vehicle access to the remaining land at 150 -160 Bath Road</p>	<p>The purpose of including the access land into the CPO resolution, on regeneration grounds, it to ensure that it can be obtained at a fair value.</p>	
<p><b>Human Rights</b></p>	<p>See below.</p>	
<p><b>Health and Safety</b></p> <p>Road safety hazards during construction</p>	<p>Traffic management measures to be introduced to minimise hazards</p>	
<p><b>Employment Issues</b></p>	<p>No risk identified</p>	
<p><b>Equalities Issues</b></p> <p>Compliance with Equality Act 2010</p>	<p>A4 rapid transit proposals are an integral part of Slough's LTP3 which was subject to an EqIA in 2010</p>	
<p><b>Community Support</b></p>		
<p><b>Communications</b></p>		
<p><b>Community Safety</b></p>	<p>No risks identified</p>	
<p><b>Financial</b></p> <p>Damage to statutory utility apparatus</p>	<p>The ground will be scanned prior to excavation with SBC transferring financial risk onto contractor via the form of contract.</p>	
<p><b>Timetable for delivery</b></p> <p>Sections of required land still in third party ownership</p>	<p>This paper will reduce the risk of challenge if a compulsory purchase order can be obtained from the relevant minister.</p>	
<p><b>Project Capacity</b></p>		

Delays during construction	Continually review programme to ensure sufficient time allowance made to address potential delays. Continue to liaise with consultant contractor to seek advice on construction issues. Liaison with external bodies to assist in development and acceptance of scheme design.	
Other		
Impact on local residents, businesses and the general public in the immediate vicinity of the construction works	A Construction Management Plan will be developed to protect their interests by minimising impacts, such as noise, vibration and traffic, during the period of construction.	
Traffic congestion resulting from construction phase	Coordinate construction works with other planned highway schemes. Plan construction elements which have most impact on traffic to coincide with school holidays.	

b) Human Rights Act and Other Legal Implications

In deciding to take compulsory purchase action, the Council has to weigh the Human Rights interests of public need against private property rights and consider that sufficient justification exists for making a CPO.

Account must be taken of Circular 2/97 'Notes on the Preparation, Drafting and Submission of a Compulsory Purchase Order for Highways Schemes' and Circular 06/2004, 'Compulsory Purchase and the Crichel Down Rules', including the need to demonstrate that impediments to the implementation (including planning impediments) can or have been overcome, the SMaRT Scheme is capable of delivery within a reasonable period of time and there is a compelling case in the public interest to proceed with the acquisition

c) Equalities Impact Assessment

Delivery of a rapid transit service along the A4 corridor was an integral part of Slough's Third Local Transport Plan 2011- 2026 which was the subject of an Equality Impact Assessment carried out in 2010. The social and distributional impacts of the scheme and the results were:

- **Severance** - The impact was found to be neutral to vulnerable groups, due to a very small number of roads experiencing an increase and decrease in traffic flows as a result of the proposed scheme;
- **Personal Security** – The scheme is expected to have a neutral impact on security. It will improve the overall reliability of bus services and have a positive impact on personal security as people have a reduced waiting time between buses; and

- **Accessibility** - The impact on vulnerable groups was appraised as slightly beneficial because the scheme demonstrates an improved bus service frequency.

(d) Workforce

No issues.

(e) Property

Most of the land required for the scheme is already within the existing boundaries of the highway or has been acquired by negotiation over the last 12 months. The remaining land required at 142 Bath Road is covered in the supporting information.

(f) Carbon Emissions and Energy Costs

There will be no overall net increase in carbon emissions or energy running cost associated with this project.

## 5 **Supporting Information**

- 5.1 Cabinet resolved in September 2014 to grant the use of CPO powers to obtain the land associated in delivering the SMaRT scheme and the future redevelopment opportunities.
- 5.2 The specific purpose for the land acquisition is to facilitate a new bus lane provided through the SMaRT scheme, however at this stage the council is also looking into the possibilities of providing exemptions for other vehicles such as full electric or multiple occupancy vehicles (car-sharing), this process will be managed through the Significant Decision process.
- 5.3 In January 2015 Cabinet further resolved following the consultation results to proceed with designing and implementing the SMaRT scheme.
- 5.4 In line with the resolutions officers have undertaken the following tasks to secure the necessary land to deliver regeneration along the A4.
- land to the front of 172-184 Bath Road - which has now been set aside for SMaRT as part of the s106 agreement for the planning application granted in March 2015 (Planning Ref: P/01766/022),
  - transfer of a strip of land to the front of 150-160 Bath Road which is already cleared and owned by the Council,
  - the privately owned land, currently used as car parking, to the front of Kingsmead House and Tintagel House on Bath Road have agreed terms via negotiation,
  - the land required for the junction improvements at the Three Tuns Pub Junction comprises forecourt land in front of the Ford garage (128 Bath Road) and amenity space in front of the Three Tuns Pub (124 Bath Road) both of which have been designed out of the scheme due to the prohibitively high compensation levels that would be payable to the operational businesses (in excess of £3m); and

- land to the south of the house at 142 Bath Road – a land swap proposal was negotiated but considered unsatisfactory by the Capital Strategy Board in August '15 and the land will be now be obtained by securing a formal Compulsory Purchase Order from the relevant minister with this section of the SMaRT scheme being delivered separately once the land is secured via the Upper Tribunal (Lands Chamber).

- 5.5 Further to the refusal of the land swap option Savills are now brokering the acquisition of land to the west of the site which will enable highways access, facilitating re-development of the 150-160 Bath Road site.
- 5.6 This report seeks resolution to acquire the highways access land via Compulsory Purchase on regeneration grounds if it cannot be acquired via negotiation at a fair price.
- 5.7 Asset Management considered the acquisition of the whole of 142 Bath Road. When combined with 150-160 Bath Road it generated a scheme of circa 24 units but the residual land value of the combined sites did not generate sufficient value to justify the acquisition of the whole of this property.
- 5.8 Without a robust economic case for acquiring 142 Bath Road a Compulsory Purchase Order on regeneration grounds cannot be granted. Acquisition by negotiation for the whole of 142 Bath Road is not an option as the owner expectations of the properties value is irrationally high.
- 5.9 142 Bath Road is currently let as a home in multiple occupation (“HMO”), so not withstanding the issue around financial viability, attempting to increase the CPO to the whole site also generates additional human rights issues associated with each of the tenants and significantly increases the risk of the order, if confirmed, being challenged or refused.

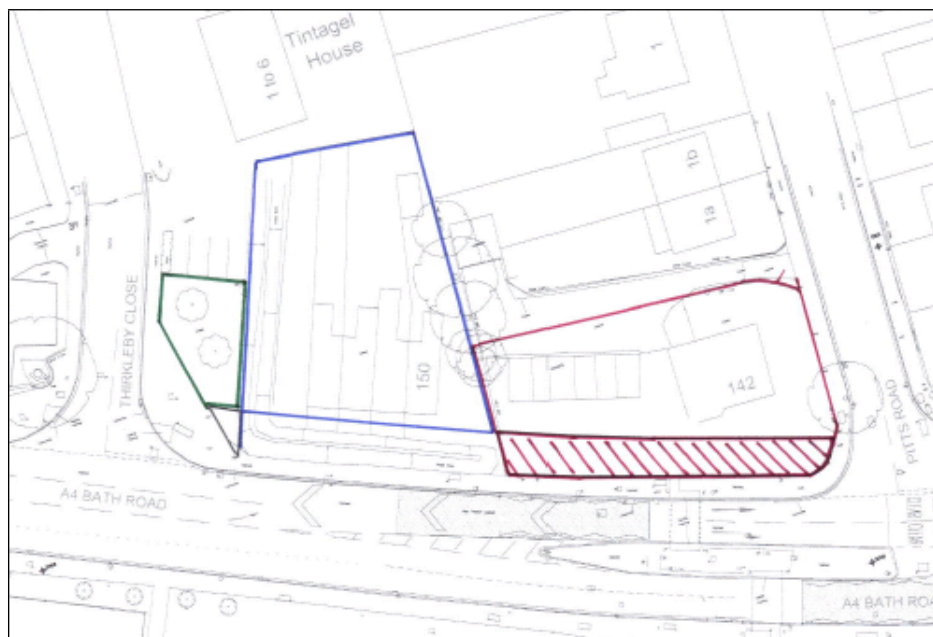


Image 1: Land Parcels – Western Access Land (Green), 150-160 Bath Road Retained Land (Blue), 142 Bath Road (Red), SMaRT land still required (Hatched Red)

- 5.10 We have also consider wider schemes incorporating properties on Pitts Lane (1a, 1b, 1 and 3) but again the existing use value of the properties is significantly higher than the residual land value generated from redevelopment.
- 5.11 It is envisaged that the remaining land at 140-150 Bath Road can be developed as a scheme of 4 houses (subject to the acquisition of the vehicular access land).



Image 2: Potential scheme on retained land

## 6 Comments of Other Committees

None

## 7 Conclusion

There are clear and significant social and economic benefits to the SMaRT scheme and it is in best interest of borough residents and society in general for the remaining land to the south of 142 Bath Road to be acquired via the Lands Chamber of the Upper Tribunal (formerly the Land Tribunal). There are also clear benefits of efficiently utilising the left over land at 150 -160 Bath Road that justify the use of acquisition of the access land by CPO if necessary.

## 8 Background Papers

None