

Cabinet – 13 December 2017

M6 Junction 10 Improvements Scheme & Land Acquisition Programme

Portfolio: Councillor Jeavons: Regeneration

Related Portfolio: N/A

Service: Economy and Environment: Strategic Transportation

Wards: Bentley & Darlaston North, Birchills-Leamore

Key decision: Yes

Forward plan: Yes

1. Purpose/Summary

To update Members regarding development to date and forthcoming development programme for the M6 junction 10 scheme, and to seek specific authorisation to make contact with landowners affected by the scheme and to attempt to acquire land that is needed for the delivery of the scheme.

2. Recommendations

It is recommended that Cabinet:

- 2.1. Approve the making of contact with landowners shown only in the report to private session within the scheme boundary at Appendix 1 to refine understanding of ownerships and other relevant legal interests and to open and undertake land acquisition negotiations;
- 2.2. delegates authority to the Executive Director Economy & Environment, in consultation with the Portfolio Holder for Regeneration, to agree the final purchase price and terms of each site acquisition;
- 2.3. notes that work is to shortly commence preparation of a draft Side Roads Order "SRO" and Compulsory Purchase Order "CPO", including a Statement of Reasons and a schedule of interests to accompany the CPO; and
- 2.4. notes that if necessary a subsequent report will be submitted to Cabinet seeking authorisation to make the above statutory orders, and therefore that report will seek authorisation for the making and publication of a SRO, and if negotiations with landowners affected by the scheme are unsuccessful, that report will also seek authorisation to make and publish a CPO.

3. Background and Current Position

- 3.1. M6 Junction 10 (M6 J10) provides a key gateway to the Black Country Enterprise Zone via the Strategic Road Network (SRN) which connects to the A454 and forms a strategic link between Walsall, the Black Country, Birmingham, and wider West Midlands Region.
- 3.2. The proposed scheme simultaneously provides for: the continued provision of a motorway junction at M6 Junction 10; the replacement of the existing structures; and, an operational improvement of the junction in terms of both traffic capacity and safety – encompassing not only the widening of the motorway junction from 2 lanes to 4 lanes, but also the associated widening of adjacent highway infrastructure, such as on A454 (Black Country Route), A454 (Wolverhampton Road), and (B4464 Wolverhampton Road West).
- 3.3. The above design approach provides the needed additional capacity at specific locations, on the junction circulatory and on the two motorway off-slip roads. However, it does so without inducing more significant impacts (that would have been associated with larger proposals for the junction) upon the environment, upon adjacent land use and upon the two electricity pylons to the immediate north west and south east of the junction.
- 3.4. During 2012 Walsall Council explored the range and character of feasible options for the improvement of M6J10. From 2013 through until March 2015 Walsall Council worked in informal partnership with Highways England (HE) to further explore and agree the optimum option for the improvement to M6 Junction 10. From April 2015 both organisations entered into a more formal partnership following the confirmation of indicative funding allocations, firstly, from HE's Road Investment Programme (RIP) budget and, secondly, from the Black Country Local Growth Fund (BCLGF) budget from Black Country Local Enterprise Partnership (BCLEP). Within the total BCLGF allocation was a ring-fenced budget of £29.6m for the M6 Junction 10 project over the five years to March 2020.
- 3.5. The budget that sits with BCLEP is described as 'DfT retained funding'. This is because, although various responsibilities around budget and scheme approval do sit with BCLEP – and also with HE – the DfT have not fully devolved all responsibility from central government on this scheme as they have done with a large number of smaller schemes funded by LEP's around the country. Accordingly, DfT retain the final responsibility for budget, and they also retain the option to scrutinise and approve the scheme should they determine that intervention around any approval is necessary.
- 3.6. Since development work began in 2012 a total of seven reports have been submitted to Cabinet in relation to the scheme. Six of these reports confirmed the Council's annual Capital Programme for each financial year from 2012/13 up until the present financial year 2017/18. All of these reports were submitted prior to the start of each relevant financial year and all reports included a precise request for annual budget to facilitate further development work of the

scheme at M6 junction 10. All six of these reports and their sections relevant to the scheme at M6 junction 10 were approved. The seventh report was submitted to Cabinet in October 2013 to seek the approval of £650,000 of internal capital funding to expedite development work in lieu of required further external funding. It was also submitted so as to appraise Cabinet of the early work undertaken and the likely design solution which that work had recommended.

- 3.7. In July 2014 it was announced by government that as part of the Black Country Growth Deal, funding for the project would be made available, having previously been prioritised by the BCLEP within their Strategic Economic Plan. This equates to £29.65m that is to be routed to the project via BCLEP and Walsall Council. This was to cover expenditure from the start of the project in April 2015 until the end of the construction period. Further to the £29.65m awarded, HE made a commitment within the 'Road Investment Strategy' in December 2014, to provide the funding over and above the £29.65m, bringing the total funding for the scheme to £65m.
- 3.8. In the time since formally starting the scheme in April 2015 (following on from the above funding allocations) the Council and HE have undertaken work together with a view to developing the scheme and achieving all of the key high level milestones that must be satisfied before construction work can commence.
- 3.9. The key milestones which we have worked towards are as follows:
 - 3.9.1. the securing of all required funding;
 - 3.9.2. the development of a valid business case;
 - 3.9.3. the completion of a legally binding Development Agreement to be entered into by the Council and HE; and
 - 3.9.4. the securing of all required statutory powers including:
 - 3.9.4.1. planning consent,
 - 3.9.4.2. possession of all necessary scheme land; and
 - 3.9.4.3. the approval of relevant statutory orders.
- 3.10. These milestones are at varying stages of completion and are described in paragraphs 3.11 to 3.14 below.
- 3.11. The Council has received annual development funding from the DfT retained funding of £650k, £350k and £120k in the financial years 2015/16 to 2017/18 respectively. The scheme will formally enter PCF (Project Control Framework) Stage 4 on 1st February 2018, pending a successful Stage Gate Assessment Review for PCF Stage 3 on 31st January 2018. PCF Stage 4 is the PCF stage that is formally concerned with land acquisition and statutory orders. This milestone will not formally trigger the release of funding that can be used for land acquisition as funding for that purpose is already available to use. However, the event of successfully completing the SGAR for PCF Stage 3 will remove the risk associated with the project not progressing to the point where land acquisition becomes the focus of the work. The project delivery budget (i.e. construction funding) will only be released to Walsall Council once HE

have signed-off the project at the end-of-stage Stage Gate Assessment Review (SGAR) for PCF Stage 5.

- 3.12. The Business Case is a live document that evolves throughout the project lifecycle and is reviewed under HE's Project Control Framework at the end of each PCF Stage. The current draft is a PCF Stage 3 Business Case and this draft is expected to be signed off, for that PCF Stage, at its end-of-stage SGAR for PCF Stage 3 on 31st January 2018. Further it will be updated twice more (before the start of construction) at stages 4 and 5 and reviewed at SGAR's at the end of both stages. If the scheme is successful at SGAR3 on 31st January 2018 the scheme will then automatically enter PCF Stage 4. PCF Stage 4 is the PCF stage during which a HE project should acquire land or progress towards acquiring land and, alongside and potentially directly related to that, Stage 4 is also the PCF stage where a HE project develops and potentially publishes any statutory orders that are necessary for the scheme to progress.
- 3.13. The Development Agreement has not yet been finalised and negotiations between HE and the Council are ongoing. Cabinet Authority will be required for the relevant senior officer to sign the Development Agreement on behalf of the Council. Once both parties have agreed the final form of the Development Agreement that Development Agreement and its accompanying Cabinet report will be submitted to Cabinet, likely during early 2018.
- 3.14. Planning consent has not been secured yet but a planning application based on the design development work undertaken to date for the scheme at M6 junction 10 was submitted to the Local Planning Authority (LPA) on 25th August 2017. The scheme's planning application is classified as a major planning application and therefore has a minimum determination period of 16 weeks. At some point in time beyond the end of the 16 week determination period it will be the aim of the LPA to determine the application, as a major application, at Planning Committee, subject to the Secretary of State for DCLG seeing the LPA's resolution. The date of the relevant planning committee is unknown at present but is expected to be broadly reflective of the timescales set out above. The Secretary of State for Department of Communities and Local Government (DCLG) may decide to 'call in' the planning application for consideration by a number of methods, one of which being a local public inquiry administered by the Planning Inspectorate (PINS). The risk of this is thought to be low at present but cannot be ruled out.
- 3.15. The process of securing access to all necessary scheme land, and the drafting and preparation of necessary statutory orders, are in their early stages but this report to Cabinet is a key component of these processes.
- 3.16. In the coming weeks there is a need to commence negotiations with any and all affected land owners to attempt to acquire all land required for the scheme. In order to progress the scheme identified at Appendix 1 a total of 1.8ha of land is needed either permanently or temporarily, excluding the site compound options.

- 3.17. Negotiation with regard to the acquisition of the land will begin should this Cabinet report be approved and the recommendations contained herein made. Cabinet should note, however, that regardless of the status and progress of negotiations with affected landowners, no land will be purchased and funding exchange until the following key milestones above are achieved: the sign-off of the scheme's PCF Stage 3 Business Case, the completion of a Development Agreement signed by both project partners HE and the Council; and the grant of a valid planning permission authorising delivery of the scheme.
- 3.18. Section 4 provides more detail regarding the land that is required for the scheme whilst Section 5 provides more detail of the key activities that are envisaged – in the event that the delegations sought in this Cabinet report are granted – to take place during the coming months.

4. Description of Land Required

- 4.1. In order to undertake the required improvements to the junction and connecting routes approximately 1.8ha of land must be acquired, that is not within the existing freehold of either the Council or HE, and which is outside of the potential acquisition or leasing of either the two identified locations for the site compound.
- 4.2. The total costs and other details of land acquisition are excluded from this public report for reasons of commercial sensitivity and are accordingly detailed separately in the report to the private cabinet session.
- 4.3. Of the 1.8ha, some 0.8.ha will be permanent acquisition and the remaining 1.0.ha will be sought for the rights that are temporarily needed over that land, usually for access during the construction period. Note that in addition to the above land areas, there is a need to acquire a site compound which will be utilised as the base for construction operations necessary to construct the scheme.
- 4.4. Approximately 0.8ha of land is required permanently. Rights are required over the remaining approximately 1.0ha. The scheme's current red line boundary is shown at Appendix 1.
- 4.5. The above boundary reflects the boundary of the planning application as submitted in August 2017. However since that submission some small changes to the red line boundary have been deemed necessary for the delivery of the scheme. These changes are shown in the boundary appended to this report at Appendix 1. These changes will be submitted to the LPA in due course and it will be upon this revised boundary that the LPA will make any final determination on the scheme.
- 4.6. Except for the additional land requirements discussed above in broad terms in paragraph 4.5 all of the land required for the scheme is set out in this report, both in the body of the report and in all relevant accompanying appendices and is located entirely within the red line boundary which was submitted as part of the scheme's planning application submission to the LPA in August 2017.

- 4.7. In addition to the land itself it may also be necessary to acquire some other legal interests beyond freeholds, such as leasehold, tenancies and certain sub-soil land interests beneath the public highway.
- 4.8. The project is a joint partnership between Walsall Council and HE, and therefore some land is to be acquired by the Council whilst some land is to be acquired by HE. The identity of the acquiring authority for each individual plot of land will be determined depending upon whether the land in question is adjacent to Council highway land or adjacent to HE highway land. The former will be acquired by the Council and the latter by HE.
- 4.9. It should be noted that there are within the scheme boundary a number of land parcels that are unregistered. These parcels of land are required for the scheme. Given that they are either unregistered or unknown the Council is going to attempt to register via HM Land Registry these parcels of land in the ownership of the Council. These parcels of land mirror the former alignments of roads that existed in the past but which have ceased to exist or which have been realigned in order to facilitate past highway infrastructure construction, such as the construction of the M6 motorway and the Black Country Route (A454). As a result of the fact that these plots were formerly highway of one form or another, it is likely that the Council was previously the owner of these plots. Therefore pending attempts to register this land are unlikely to be challenged although registration with Land Registry may take time.
- 4.10. Some of the land currently required for the scheme is a mixture of rough area of vegetation or hard standing. Some of the land represents private roads, parking spaces. Some of the required land which the scheme requires is that land which is found within the two site compound options, namely Bloxwich Lane Industrial Estate, and John Hill & Sons.
- 4.11. The scheme boundary is adjacent to some residential properties. No actual residential buildings are to be acquired. However, a small amount of residential property is currently thought to be needed for acquisition. There is also a small amount of highway within which potential rights may exist associated with plots of residential land that are adjacent the highway land that is required. The details of this are discussed further in the private report. Whether or not these adjacent properties do have the highlighted potential rights in the above highway land will be further determined via the process of dialogue for which this cabinet report requests authority.
- 4.12. In addition to the plots of land required for rights or permanent acquisition, land is also required as a location for the construction compound. At present there are two potential sites compound options and both have been previously publicly named and discussed in the planning application that was submitted to the LPA in August 2017. It is the intention that only one of the two options will be used.
- 4.13. The decision as to which of the two compound options might be selected can only progress after receiving the authority from Cabinet via this report to

commence dialogue and negotiations with relevant landowners and any other affected legal interests. Further, the actual lease or purchase of whichever site is decided to be optimal for the scheme will only proceed on the same basis as any other plots of land discussed in this report. .

- 4.14. The site closest to the junction is the John Hill & Sons Limited scrapyards. The other site, at slightly greater distance, is the Bloxwich Lane Industrial Estate. If the option that is chosen is John Hill & Sons the intention at present is to utilise the whole of the site for the purposes of construction compound. If the option that is chosen is Bloxwich Lane Industrial Estate the intention at present is not to utilise the whole of the site but to utilise the whole of either 2 or 3 of the units within that site. Further if that site is chosen the contractor will utilise for varying lengths of time all or parts of the area outside of the units – which comprises a single one-way circulatory road around the units – for movement of all vehicles related to construction.
- 4.15. Cost information regarding the two currently highlighted site compound options is detailed in the report to the private cabinet session.
- 4.16. Regardless of where the site compound is sited, that area will be required for occupation by the eventual construction contractor for 1 to 2 months prior to the start of construction works to allow for set-up and mobilisation. The site compound would then be required for the full duration of the works which at present is thought to be 98 weeks. Following the completion of the works, the contractor would likely need the site for a further 1 month to allow for demobilisation. Therefore the expectation is that the chosen site compound option would be needed for approximately 2 years. However, the contractor would need to ensure that within the period of occupation the works are complete and that the contractor deems that they no longer require the compound for their use in relation to the scheme. Thus given that the scheme could potentially experience delays and might therefore take longer than the above period of 98 weeks, it is possible that whichever location is selected as the site compound would need to be occupied for the 1 to 2 month mobilisation period, the 1 month demobilisation period, and for a works period greater than the 98 weeks outlined above.
- 4.17. Typically the consideration and selection of a construction site compound would be undertaken at a later stage in the project's lifecycle. This consideration has been undertaken earlier for this scheme as this was requested by the LPA for inclusion within the environmental statement submitted with the planning application seeking consent for the scheme. Thus, in addition to being considered for land acquisition at an earlier stage than usual some work has also been undertaken to provide further detail on any construction period impacts associated with these site compound options. This detail has been provided within the scheme's planning application and environmental statement.
- 4.18. Both of the currently identified sites are contained completely within the scheme's red line boundary and are shown as such within the documentation submitted to the LPA as part of the scheme's planning application. For

absolute clarity, no land outside of the red line boundary is required for either of the currently highlighted site compound options.

- 4.19. Across the entire scheme, the required land is generally associated with existing or former commercial land uses. The potential impacts upon the businesses that own and/or occupy these sites is unknown at present and is likely to vary from business to business. It is impossible to ascertain what the impacts upon businesses will be until the appointed advisors of the Council are able to approach all potentially impacted businesses – both owners and occupiers – to open discussions on such matters. The need to discuss potential business impacts critical to determining these potential impacts and this is the key reason why this report contains the proposed recommendations shown at section 2 ‘Recommendations’.

5. **Next Stages**

- 5.1. A land referencing agent (Land Referencing Services) has been appointed to undertake initial land referencing to establish all land interests required and affected by the scheme. A desk top study of the title information held at the Land Registry has been carried out and an initial schedule of affected interests produced. The results of this work are detailed in the report to the private cabinet session.
- 5.2. An external valuation surveyor (Lambert Smith Hampton) has also been appointed to provide initial advice around the issue of the costs associated with the land requirements for the scheme. This initial work has been undertaken in tandem with the work of Land Referencing Services, discussed in paragraph 5.1, and also forms part of an initial desktop study. The results of this work are detailed in the report to the private cabinet session.
- 5.3. The desktop study that has been carried out examines the following:
- 5.3.1. all relevant land;
 - 5.3.2. the legal interests relevant to that land; and
 - 5.3.3. the potential costs associated with using that land for the scheme.

This study represents initial work done by the two external suppliers mentioned in paragraphs 5.1 and 5.2. This work is appended to, and is a significant part of the basis for, this report to Cabinet.

- 5.4. It is essential that officers are delegated the requested authority from Cabinet so that contact can be made with land owners and other legal interests that have been uncovered by the aforementioned desktop study. Delegated authority is deemed essential under the terms of the Council’s constitution for any contact with landowners regarding any potential acquisition of land, regardless of whether temporary or permanent.
- 5.5. Upon receiving delegated authority from Cabinet relevant officers will immediately instruct Land Referencing Services and Lambert Smith Hampton to make contact and begin dialogue with relevant land owners and those

parties with other legal interests. Note that a third supplier, Cushman & Wakefield may assist in relation to a small number of sites.

- 5.6. Collectively the above suppliers will: confirm any and all legal interests; serve land interest questionnaires; undertake site visits/ contact landowners and other legal interests; begin discussion and negotiation of the potential cost of acquisition of land required for the scheme, with a view to reaching voluntary agreements with relevant landowners and other legal interests.
- 5.7. The next step is for the above suppliers to attend on landowners and those parties with other relevant legal interests to confirm their interests and to negotiate with them regarding a voluntary acquisition of their interests as such are affected by the scheme.
- 5.8. The delegations sought in this report are therefore necessary in order to allow the Council – alongside obtaining an understanding of all land and other legal rights within the scheme – to negotiate and agree terms and conditions for the acquisition of the sites with landowners and any other legal interests. Where voluntary agreement can be reached in relation to land over which temporary rights are required, the Council will seek to obtain a licence to enter and carry out works and perhaps a permanent easement. Where voluntary agreement can be reached regarding the need for permanent land acquisition, the Council will simply seek to acquire that land permanently. It is critical that all land interests and rights identified as necessary for the project be acquired by the Council to allow the scheme to be delivered.
- 5.9. As it may not be possible to acquire all interests by agreement within a reasonable timescale, it is advisable to progress in tandem with negotiations the statutory procedures required to progress a Compulsory Purchase Order (CPO) and Side Roads Order (SRO) under powers contained in the Highways Act 1980 (1980 Act). If necessary land interests cannot be acquired by agreement with landowners then a CPO may be required but only as a last resort in the event that voluntary acquisition cannot be agreed. A SRO is likely to be required for the permanent closure or diversion of the existing highway running over the existing bridges once the replacement bridges have been provided.
- 5.10. Should Cabinet make the Recommendations requested in this report the project team will prepare a draft SRO, a draft CPO, and a schedule of interests to accompany the CPO. In addition, a draft Statement of Reasons for making the CPO will also be prepared so that the CPO is ready for publication within a relatively short time frame should negotiations with land owners or other legal interests prove unsuccessful. However, the SRO and – if it is required – the CPO, will not be sealed and published as a result of this report to Cabinet. Instead a future report to Cabinet will be submitted to a subsequent meeting of Cabinet during 2018 seeking that authorisation.
- 5.11. If all the land needed can be secured by agreement with landowners, there will be no need for a CPO but a SRO will be required regardless.

- 5.12. An estimate of the land valuations is available and is detailed in the report to the private cabinet session.
- 5.13. The initial valuations will begin to be refined, alongside the 'requisition for information' (RFI) process, and the undertaking of dialogue and negotiation, once approval of this Cabinet report is granted. However, regardless of the decision of Cabinet in response to this report and regardless of any agreement in principle of any acquisition terms and conditions, no agreements will be signed nor any funds be released in exchange for required land until the three following additional milestones are achieved: the sign-off of the scheme's PCF Stage 3 Business Case, the completion of a Development Agreement signed by both project partners HE and the Council; and the grant of a valid planning permission authorising delivery of the scheme.
- 5.14. Should any of the required land match or exceed the constitutional limit value of £500,000 for acquisitions or £50,000 per year for leasing, then any such transactions will not be concluded until such time as Cabinet receive and approve any subsequent report or reports.

6. Highways England

- 6.1. Officers are continuing to negotiate a development agreement with HE which will provide, amongst other things, for the detailed funding arrangements and delivery of construction of the Scheme.
- 6.2. Whilst certain land interests within the scheme are required for alterations to the highway for which the Council is the Highways Authority there are certain other land interests within the scheme that are required for alterations to highway for which HE is Highways Authority. Just as Walsall Council will attempt to acquire by agreement that land that relates to it's network, so too will HE attempt to acquire that land that relates to it's network. Once the land required for the latter – the alterations to the HE highway network -has been acquired and the scheme delivered, it is intended that this land will become part of the highway network for which HE is responsible. As with the Council, if this land cannot be acquired voluntarily a CPO will be required to assemble the land required to deliver the scheme and that CPO would be signed, sealed and published by HE.
- 6.3. If a CPO is required to acquire any land then in collaboration Walsall Council and HE will undertake the necessary CPO procedures. Further, they will each do so by publishing their own separate but simultaneous CPO's with regard to the land that they each need to acquire.
- 6.4. Despite each partner publishing separate CPO's, they will do so using a conjoined approach to resourcing this work. This approach is set out at paragraph 13.5 under 'Staffing Implications'.

7. Scheme Programme

- 7.1. If a CPO and SRO are necessary a public inquiry may well be required in order to deal with any unresolved objections to the statutory Orders once published.
- 7.2. With regard to the planning position, the Secretary of State for DCLG has power to call-in a planning application and require an inquiry to be convened. This is not considered likely to be necessary in this case, but can't be ruled out. Any decision of the Local Planning Authority Planning Committee will be subject to consideration by the Secretary of State.
- 7.3. If no inquiry is required to approve the consents that will authorise the delivery of the scheme, the works are expected to start in winter 2018/2019. However, if an inquiry is required it is anticipated that this would delay the start of the scheme by approximately 9-12 months.
- 7.4. If either a planning public inquiry or a CPO/SRO public inquiry are necessary to consider both the planning application and the statutory Orders the Council and HE will request a single conjoined inquiry is held in order to reduce any potential associated impact upon programme.
- 7.5. If the Council can commence work now to refine understanding of land and other legal interests and begin negotiations then this will significantly expedite the necessary legal work and, allied with this, will assist in increasing the chance of conjoining a public inquiry considering the merits of both the planning case and the CPO/SRO case.
- 7.6. If it takes longer to commence the above work, this increases the chance, if both a planning public inquiry and a CPO/SRO public inquiry are required, that those inquiries become separate rather than conjoined processes. This would have a significant negative time impact – in the region of an additional 9-12 months for each inquiry – upon the scheme's delivery programme.
- 7.7. The construction works will take approximately 98 weeks to complete, in accordance with the scheme's current construction programme.
- 7.8. As the scheme is further developed a more definitive programme will be prepared and released, with greater certainty to be gained once Highways England appoint to the scheme a construction contractor who will subsequently undertake an enhanced assessment of the likely construction duration. Work is currently being undertaken by HE to prepare for procurement and for the releasing of a tender to market. That tender to market is expected to take place during Spring 2018 and the selected contractor is expected to be appointed to the scheme and to formally commence work on the scheme during Autumn 2018.

8. Council priorities

- 8.1. The M6 junction 10 highway improvement scheme supports the Council's purpose to 'reduce inequalities and maximise potential' outlined in the Corporate Plan 2017-2020. Further, it underpins delivery against the Council's priorities, including;

- pursue inclusive economic growth;
 - make a positive difference to the lives of Walsall people; and,
 - safe, resilient and prospering communities.
- 8.2. Improving the safety of the transport network and the security of people using the network is an important consideration in the development and delivery of the scheme.
- 8.3. Environmental and safety factors are considered in the development and delivery of the scheme. Care has been taken in the preliminary design of the scheme to minimise direct impacts on the local environment. An Environmental Impact Assessment was carried out and the results and recommendations of this are shown in the scheme's Environmental Statement which is appended to the scheme's planning application.

9. Risk management

- 9.1. The following risks / risk management should be noted.
- 9.2. If negotiations for required land are not successful then Walsall Council and HE would consider making CPOs to acquire land compulsorily alongside other Statutory Orders. This would facilitate the securing of all necessary land interests but would delay the programme for the scheme should an inquiry be required. The extent of delay would depend largely upon two issues. The first issue is whether land acquisition could be agreed subsequent to making the orders. If all required land cannot be acquired via agreements made after the publication of any such orders then this would cause greater delay, particularly if these matters can only be resolved via a public inquiry. The second issue is how quickly any such public inquiry could be arranged by the Planning Inspectorate and the date which they set for the public inquiry.
- 9.3. With the exception of land that is subject to a valid 'blight notice', any risks associated with potential abortive land acquisition costs will be mitigated by neither completing purchases nor transferring purchase monies until both planning consent has been granted and a development agreement has been entered into with HE.
- 9.4. As noted above, affected landowners may also be able to serve statutory 'blight notices' requiring that the Council acquire their property at its unblighted market value. Should a blight notice be served by any party in relation to land affected by the scheme the Council will determine whether the notice is valid and confirm whether the land is blighted under the statutory definition at section 149 of the Town and Country Planning Act 1990. If the Council does not require the land for the scheme consideration will be given as to whether to serve a counter-notice. The Council will take advice at all times from its external consultants. Where a blight notice is validly served the Council has funds available to deal with any subsequent acquisition.
- 9.5. There are risks associated with potential abortive costs from associated consultants'/advisors' expenditure; namely land referencing agents, estates

surveyors and legal advisors (external solicitors and counsel). The risk comes from the fact that these costs attached to the commencement of negotiations are costs that need to be incurred shortly and before receipt of a valid planning permission and the signing of a development agreement with HE. However, the risk that these costs will come to be abortive is considered to be low due to the fact that the document that is key to unlocking funding – the business case – is very positive and robustly developed.

- 9.6. The business case suggests that the scheme represents – in accordance with HM Treasury Green Book Guidance on major transport schemes – ‘Very High’ value for money. That ‘Very High’ categorisation is underpinned by detailed traffic modelling and economics work which calculates the benefit cost ratio to be 14.8. The Business Case for the scheme has been developed in accordance with the relevant guidance and best practice of HE and the Department for Transport (DfT).
- 9.7. The level of sign-off which a Business Case requires within HE in order for a scheme to be deemed sufficiently advanced as to progress to making actual acquisition of any required land parcels is for the Business Case document, and for the wider scheme, to have successfully progressed through the Project Control Framework) (PCF) to the end of PCF Stage 3. In-turn the scheme and it’s Business Case needs to have successfully passed through the review that marks the end of that stage of PCF, otherwise known as the Stage Gate Assessment Review 3 (SGAR3). To date, the Business Case and the wider scheme have successfully passed through all interim stage SGAR’s and all end of stage SGAR’s up to and including Interim SGAR3. It is expected to receive sign-off prior to end of PCF Stage 3 SGAR on 31st January 2018, from it’s two approvers at Highways England, firstly, the Business Partners within HE’s ‘Transport Planning Group’ (TPG) and secondly HE’s Senior Responsible Officer (SRO) for this scheme.
- 9.8. Therefore the crucial approval of the scheme’s business case is highly likely and is expected in the very near future. No land acquisitions can take place until such time as the Business Case receives the above end of stage SGAR3 approval. Thus there is no risk of any land acquisition taking place until the Business Case is revalidated, and, on current programme, and the funding secured - this will take place by February 2018. However, it is currently the intention, subject to the authority requested in this report, that the contact, dialogue and negotiations that are an essential preliminary step to any land acquisition are all able to take place prior to the revalidation of the Business Case. Thus some small costs of consultancy fees will be incurred starting when Cabinet delegate the necessary authority to begin the above discussions before the revalidation of the business case and thus this smaller expenditure will take place at risk. However, no actual land purchase costs will be incurred prior to the revalidation of the business case, and the achievement of two other key milestones, thus land purchase costs will not be subject to the above risk.
- 9.9. The fact that the Business Case it is not yet approved means that there is still however a low risk of abortive costs being incurred (via work related to land acquisition) until that business case is approved until February 2018 This risk is

low, given that the Business Case is scheduled for its next review fairly soon – by February 2018 – and that the Business Case is already robust and well developed and has previously been validated at prior PCF stages.

9.10. There is also future risk given that the business case will need to be revalidated at both subsequent PCF stages prior to construction (namely PCF Stage 4 and PCF Stage 5). This risk is very similar to the risk in paragraph 9.8 but is marginally higher given that the reviews to be undertaken at PCF Stages 4 and 5 are further into the future and that positive circumstances surrounding the scheme may potentially be subject to change between now and the as yet unconfirmed dates of the above reviews.

10. Financial implications

10.1. In the current financial year, only consultant and advisor fees will be incurred by the Council. These costs can be met from existing external and internal M6 Junction 10 capital budgets.

10.2. Land acquisitions and further fees will be incurred from 1 April 2018 onwards. Estimates of the land acquisition cost from Lambert Smith Hampton are detailed in the report to the private cabinet session.

10.3 The costs of the non-site compound land plots may be covered from the 2018/19 DfT retained funding allocation. However, there is equally the possibility that some or all of those costs will instead be incurred in a later financial year, in the event that forthcoming negotiations do not enable the acquisition of necessary land within 2018/19. The original profile submitted to DfT as part of the Growth Deal was that £14.3m would be receivable in 2018/19 as delivery funding. However, the project will still be in the development stage in 2018/19 therefore the Council will be approaching the DfT before the end of this calendar year to reprofile the funding and request that this funding is received as development funding. This means that the HE PCF Stage 5 approval should not be required by DfT in order to release the funding required for purchasing, leasing or entering into licences for all required land plots.

10.4 However, there is uncertainty around the exact requirements in order to re-profile and secure the funding in April 2018. There is a risk that the DfT are unwilling or unable to re-profile, potentially due to their need to attain their own internal targets regarding the issuance of correct and pre-agreed amounts of funding to project applicants. However, DfT have historically been able to re-profile transport scheme budgets without too much difficulty providing advance notice is given. This notice will be given to DfT, and subsequent dialogue undertaken, during December 2017. The outcome of that will be made known in a subsequent cabinet report on the matter of land acquisition and statutory orders. The risk is deemed a low risk and a mitigation plan is in place for dealing with this. Future spend that relates to this report – the purchase or lease of any necessary land – will not be at risk as this will not take place until such time as the re-profiling is complete and confirmed with DfT.

10.5 If the DfT are able to re-profile then it assumed that:

- (a) the funding will be received in advance in early April 2018, as with previous allocations of the retained DfT development funding; and,
- (b) the development funding condition that “the grant should not be used for advanced purchase of land, utilities diversions etc.,” would be removed.

Assumption (b) is made on the following basis. On 21st January 2018 the scheme will be assessed at the end of PCF Stage 3 SGAR. It is expected that the scheme will be successful in passing that review and therefore as of 1st February 2018 the scheme will commence PCF Stage 4. This is the stage of PCF wherein land acquisition and statutory orders become the prime focus of project work. Therefore DfT will be aware it is standard procedure for a HE scheme to begin acquiring land or attempting to acquire land at this stage and accordingly funding will need to be allocated for this purpose. However, it may be that it is not possible to agree with DfT to remove the above condition that presently prohibits the use of such funding for ‘advance purchase of land’.

- 10.6 If DfT do continue to prohibit the use by this scheme of their annual Growth Deal allocation of ‘retained’ funding for the advance land acquisition, then instead, this work would be progressed via an alternative funding source. The approach to the funding land acquisition costs is set out in the remainder of Section 10.
- 10.7 The acquisition of all non-site compound land will be undertaken using either, the re-profiled ‘retained DfT funding’ if this can be made available for advance land acquisitions. If it cannot be negotiated with DfT that this funding becomes available for advance land acquisition then the Council will instead use existing capital budgets available for 2018/19. The budget total and the source of that budget is detailed in the report to the private cabinet session.
- 10.8 The funding of the lease or purchase of the land required for site compound use will be provided via a different approach. Given the fact that the site compound options are by far the largest plots of land within the scheme’s land acquisition programme it is assumed that the negotiations to lease either of these sites will take a considerable length of time, even in the event that current legal interests are amenable to the proposal that their site be leased and used for this purpose. Should early negotiations prove unsuccessful then the project team will need to seek to include one of the site compound options within any Compulsory Purchase Order/s required for the scheme in order to ensure the scheme’s viability. The Council and HE are hopeful that a site compound option will have been determined and a voluntary acquisition agreed before this point however at this stage it is necessary for the purposes of the planning application to provide for options for both.
- 10.9 No land acquisitions regarding either site compound land or non-site compound land will be completed, and therefore no funds paid to landowners, until:
 - (a) such time as any proposed set of terms and conditions are mutually acceptable to the landowner and to the Council of the advice of its relevant valuer and legal advisors;

- (b) confirmation received from DfT that the 2018/19 allocation is secured;
- (c) planning permission is obtained; and,
- (d) a signed Development Agreement is in place between Walsall Council and Highways England.

The terms and conditions of any land acquisition, including purchase price as well as any supplementary terms, such as accommodation works, will be agreed in line with ensuring best value to the tax payer. Further, any land acquisition which exceeds the stipulated threshold values set out in the Council's constitution – thus in excess of £500,000 for any land purchase or in excess of £50,000 per year for any lease – will not be made without a further report and resolution from Cabinet .

11. Legal implications

- 11.1. The Council can acquire sites as it sees fit pursuant to voluntary agreements but it must make sure that it acts reasonably in doing so and that it meets its fiduciary responsibility to the tax payer to ensure best value.
- 11.2. Appropriate due diligence around the completion of the land transfers may be undertaken by Legal Services. All other legal work will be provided by the external Legal Advisors already engaged in the project.
- 11.3. A CPO and SRO will not be made without a further report and resolution from Cabinet.
- 11.4. Any land acquisition transaction, the price of which exceeds the stipulated threshold values set out in the Council's constitution, will not be made without a further report and resolution from Cabinet.

12. Property implications

- 12.1. The proposal includes the acquisition of land not in the ownerships of either of the project partners, the Council or HE. The plots vary in size and whereas some will be acquired permanently others will be acquired temporarily . All land is essential to facilitate the delivery of the highway improvements scheme.
- 12.2. Note that due to the fact that both project partners have highway land within the scheme boundary, some of the plots to be acquired for the project will be acquired by the Council whereas others will be acquired by HE. The decision as to which specific plots will be acquired by which partner has not been made yet, although, as highlighted in paragraph 6.2 the land which is to be acquired by each project partner will be that land which lies adjacent it's highway network. A subsequent report to Cabinet will be submitted to confirm which parcels of land will be acquired by the Council and which will be acquired by HE. That subsequent report will be submitted to Cabinet prior to and in order to authorise the actual acquisition of any property and prior to and in order to authorise the publication of any statutory orders that are deemed essential for the scheme to progress.

- 12.3. The Council will acquire all required land adjacent to its highway network, as it would were it developing a scheme for which it was the sole relevant highway authority, whilst it is similarly the intention that HE will acquire all required land adjacent to its highway network. Given the location of the site compound options, being adjacent local roads rather than the HE network, attempts to acquire the current two site compound options are to be made with the intention that they are acquired by the Council and not by HE.
- 12.4. For those plots of land that the Council permanently acquires – for purposes excluding the site compound options – there will be ongoing responsibilities for the Council, as land owner and relevant highway authority, such as maintaining existing site security and boundaries, highway maintenance and general maintenance such as hedge trimming once the scheme is completed.
- 12.5. For those plots of land that constitute the site compound options there will be ongoing responsibilities which need to be funded and managed. These ongoing responsibilities will require greater resources to manage than in the case of all other land required for the scheme, given that these plots of land are larger in area. Any such responsibilities will need to be managed for the full occupation duration. On current timescales this will mean discharging all responsibilities for: the 1-2 month mobilisation period; the 98 week construction duration; the 1 month demobilisation period, and any time additional to these durations owing to delays to the works. During this time all responsibility for site security, maintenance, and health and safety, would be passed to the construction contractor. If the construction compound option is acquired prior to the above period of approximately 2 years, then that site will carry liabilities for site security, maintenance, and health and safety which would need to be discharged. It is not yet agreed specifically how that would be managed or funded, but broadly speaking it would be funded from the overall project budget and it would be funded and discharged by either Walsall Council, or by HE, or part-funded and discharged by both.
- 12.6. For all plots of land to be acquired, the work around land referencing, negotiations and associated legal work will be carried out by appointed external support outlined below under 'Staffing Implications'. Where that land is being acquired by HE there will be additional checking and verification carried out by internal HE staff within the 'General Counsel' and District Valuations Services (DVS) teams prior to an acquisition taking place.
- 12.7. The location, area, number and cost of plots is subject to change dependant upon potential future design changes and also upon the progress of negotiations. If plots become larger in number, larger in area and/or fall outside of the red line boundary for the scheme then approval for this would likely need subsequent and additional Cabinet authority. If that is the case then a subsequent report to Cabinet would be submitted. However, if plots reduce in number or become smaller in area then there are no such implications.

13. Health and wellbeing implications

- 13.1. There are no direct health and well being implications arising from this report.

14. Staffing implications

- 14.1. The site acquisition will be progressed by Strategic Transportation and external advisers supporting the work of the above named team within Walsall Council.
- 14.2. There are two key workstreams relevant to this Cabinet report and for which Walsall Council requires external support, being unable to take this forward internally. The first of these workstreams is land referencing. As part of this the Council's appointed agents at Land Referencing Services will serve Request For Information (RFI) questionnaires on landowners and other known legal interests. They will also go out to speak to landowners to establish the extent and character of ownership and other legal interests. The above will be undertaken by the use of external support, namely Land Referencing Services, supported by Weightmans Solicitors LLP, Lambert Smith Hampton, and potentially also Cushman & Wakefield.
- 14.3. For the second of these workstreams the Council will open dialogue regarding willingness to sell and reasonable terms and conditions. This will be done with external support, with all identified parties and will do so via the above three named organisations. Lambert Smith Hampton are the Council's appointed valuation surveyors and will be crucial in establishing dialogue with any/all identified interests, but again, support will be provided to their lead role and this support will be undertaken by Weightmans Solicitors LLP, Land Referencing Services, and potentially also Cushman & Wakefield.
- 14.4. There will be a need to commit staff resources to support scheme delivery once the land is acquired. The project will continue to be led by Strategic Transportation in partnership with HE and other internal teams as necessary.

15. Equality implications

- 15.1. There are no immediate equality implications arising from this report. Equality analysis, legal requirements and good practice issues will be considered throughout the delivery stage, and will include engagement and consultation when needed.

16. Consultation

- 16.1. Officers within Strategic Transportation provide regular progress and monitoring updates regarding the project to the Portfolio Holder, M6 Junction Project Board, Local Enterprise Partnership and Government agencies, as well as ward Member briefings as required.
- 16.2. Approval was granted at Cabinet on 15 March 2017 to deliver the Transport Capital Programme 2017/18 of which M6 junction 10 highway improvements is a named scheme recognised for its significant importance.
- 16.3. The significance of the project is recognised, as is the need to ensure effective engagement with the local community as the project evolves. As such, the

Council has undertaken two key periods of public consultation and one period of information provision over the past two years.

- 16.4. Public consultation first commenced in earnest shortly after the point in time – April 2015 – when relevant funding allocations were made available by the BCLEP and HE. This was to ensure that the objectives and outcomes of the project were made widely known to the local community and businesses and to help increase the likelihood and strength of local stakeholder satisfaction with the developing scheme.
- 16.5. Public consultation was undertaken during a period between December 2015 and the end of January 2016. This was undertaken for three key reasons. Firstly, it was undertaken to raise general public awareness of the scheme at a relatively early stage. Secondly, the consultation was partly constituted of a survey of opinion, and this was to ensure that we were able to understand public views of the scheme and to assist with making the final option selection decision or ‘preferred option announcement’. The third and final reason for the consultation was to attempt to draw out from all stakeholders a greater understanding of any hitherto unknown or underappreciated specific issues which may have necessitated specific and discrete design solutions. The above was undertaken by the M6 junction 10 project team, based within the Council and with assistance and input from joint project partners HE.
- 16.6. Subsequent to the above and prior to the start of the planning process in August 2017, a series of public information provision events and an accompanying programme of publicity initiatives was undertaken. This took place during February 2017. This was undertaken primarily to conduct and publicise the scheme’s ‘Preferred Option Announcement’. It was also aimed at continuing that work which was undertaken in December 2015 and January 2016, namely to help further raise general public awareness. The final purpose of these information events and accompanying publicity during February 2017 was – in the interests of conducting a transparent planning process – to very specifically raise awareness of the two key facts; firstly, that a planning application was due to be published later in 2017, and, secondly, that anyone who wanted to have further involvement with the scheme’s development should be aware of the above likely submission date so as to enable them to engage with the LPA whilst the LPA considered the scheme’s application prior to potentially making its planning determination at a subsequent meeting of the Council’s Planning Committee. The above was undertaken by the M6 junction 10 project team, based within the Council and with assistance and input from joint project partners HE.
- 16.7. The final period of engagement with the public is the recent statutory consultation undertaken as part of the Council’s consideration of the application for planning consent. As stated above such consultation is statutory. This consultation was undertaken by officers of the LPA following submission of the scheme’s planning application on 25th August 2017. The results of the statutory consultation will be an input into the planning determination to be made at a future meeting of the Council’s planning committee.

Appendices

Appendix 1 M6J10 General Arrangement

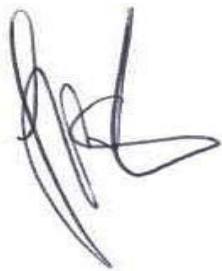
Background papers

- West Midlands Strategic Transport Plan Settlement and Transport Capital Programme 2017/18, Cabinet Report, 15 March 2017

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Simon Neilson
Executive Director

5 December 2017



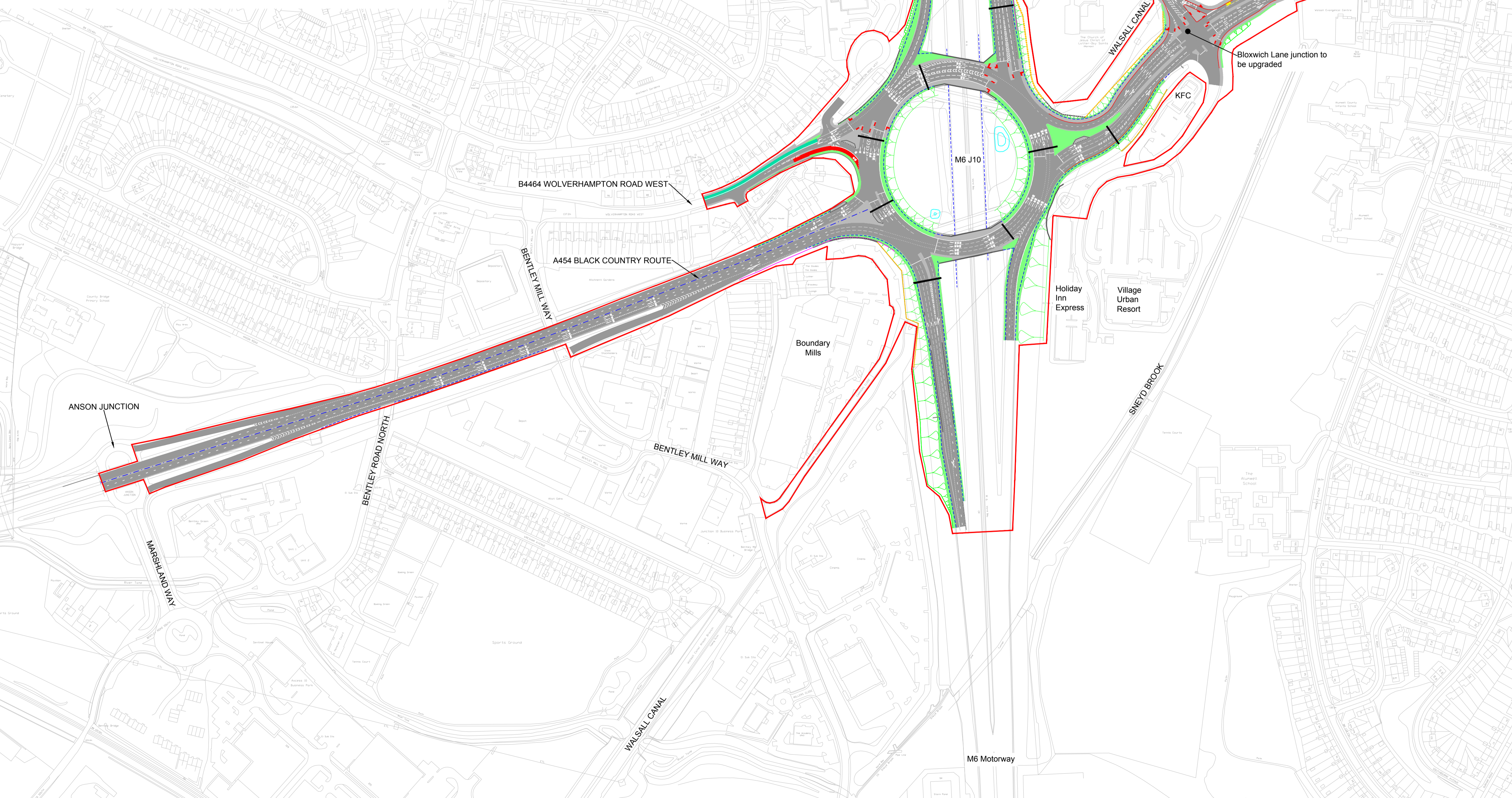
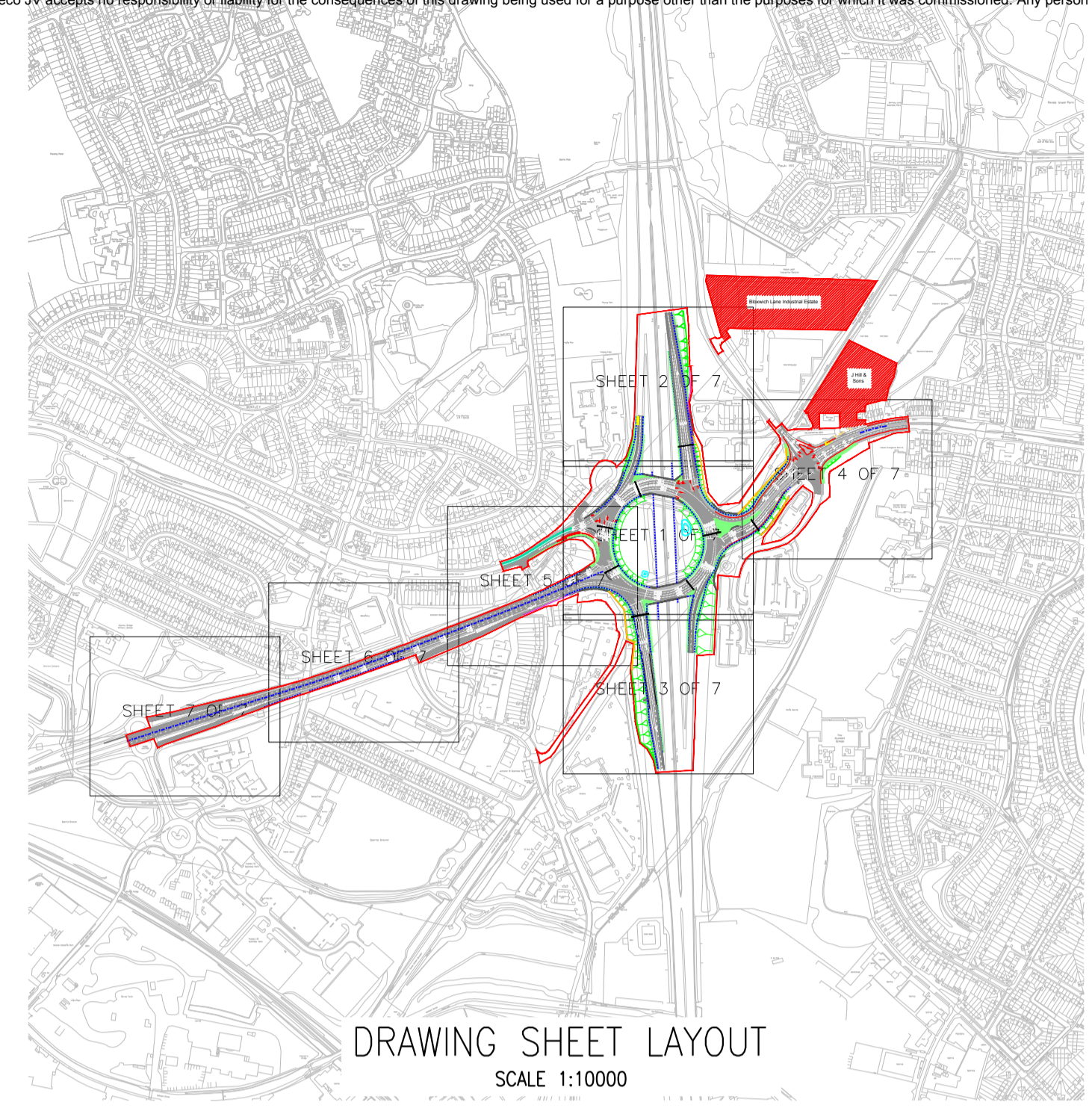
Councillor Lee Jeavons
Portfolio Holder

5 December 2017

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Notes

- All dimensions shown are given in metres unless otherwise stated.
- Do not scale any items or information from this drawing.
- Refer to drawings HE551484-MMSJV-HAC-000-DR-Z-00101 - 00107 for individual plan drawings



Key to symbols

- Proposed Retaining Wall
- Proposed Retaining Wall
- Sign Gantry (Circa 8m high)
- Carriageway
- Grass Verge
- Paved Area / Footway
- Crossing Tactile Paving (Controlled)
- Crossing Tactile Paving (Uncontrolled)
- Vehicle Restraint System
- Earthworks / Embankments
- Potential Site Compound Locations
- Red Line Boundary
- Acoustic Barrier (Height of Barrier 2m - 4m)

Rev	Date	Amendment Details	Drawn	Chk'd	App'd
P01.1	19/06/17	Planning Drawings For Information	DS	---	---
P01.2	19/06/17	Planning Drawings For Information	DS	---	---
P01.3	25/07/17	Planning Drawings For Information	DS	---	---
P01.4	25/07/17	Planning Drawings For Information	DS	---	---
P01.5	28/07/17	Planning Drawings For Information	DS	PD	LJ
P01.6	28/11/17	Revision to Red Line Boundary and Retaining Walls	DS	JM	JS

Mott MacDonald Sweco



Drawing Status	FOR INFORMATION	Suitability	S2
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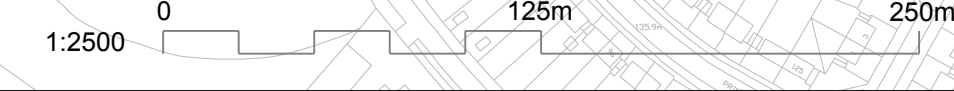
Project Title	M6 JUNCTION 10 IMPROVEMENT
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Drawing Title	PLANNING APPLICATION DETAIL PLAN LAYOUT PLAN
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Scale	1:2500	Designed	DS	Drawn	PR	Checked	PD	Approved	LJ
Original Size	A1	Date	19/06/17	Date	19/06/17	Date	19/06/17	Date	19/06/17

Drawing Number	HE551484 - MMSJV - HAC - 000 - DR - Z - 00100	Project Ref. No.	HE551484
Location		Revision	P01.6

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Equality Impact Assessment (EqIA) for policies, procedures and services.

Guidance document to be used with this form:

Equality Impact Assessment (EqIA) for policies, procedures and services guidance.

	Date proposal first worked on	03/09/17
	Date proposal completed	XX/XX/17
Proposal name	M6 Junction 10 Highway Improvements: Strategic Land Acquisition	
Directorate	Economy & Environment	
Service	Regeneration & Development - Strategic Transportation	
Responsible Officer	Matt Crowton x4358 matt.crowton@walsall.gov.uk	

1	What is the purpose of the proposal?	Yes / No	New / revision
	Policy	No	
	Procedure	Yes	New
	Internal service	No	
	External service	No	
	Other - give detail		

2	<p>What are the intended outcomes, reasons for change, who it is intended to benefit and how the proposal can impact on equality groups?</p> <p>The intended outcome is to deliver highway improvements at junction 10 of the M6 motorway. Political approval is required to allow of land negotiations to take place with the relevant third parties.</p>
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The reason for change is the need to politically approve the negotiation of land required in assist in the delivery of improvements at M6 junction 10.

The intended beneficiaries are:-

- Residents of Walsall
- People who travel to/from Walsall
- People who travel through Walsall
- People who operate, or want to operate, businesses in Walsall.

The proposal can impact on equality groups by ensuring that appropriate facilities are provided as part of the M6 junction 10 highways improvement scheme project that cater for all needs. People in our communities with disabilities will benefit from the introduction of aids such improved pedestrian crossing points across the junction, including the use of tactile paving. Improvement to pedestrian infrastructure will also benefit those with a mobility and/or visual impairment.

3 Summarise your business case, engagement and consultation.

The business case for political approval to undertake necessary land acquisition is that in order to deliver the M6 junction 10 improvements scheme approvals need to be in place prevent delays with regard to this element of the scheme.

Engagement and consultation was undertaken as part of the development of the M6 junction 10 highway improvements scheme. As part of the M6 junction 10 planning application a public engagement report has been produced.

Consultation and engagement activities included:-

- Holding public consultation and information events;
- Writing to local residents and businesses in the vicinity;
- Making documents and proposals available by various channels;

There were no equality impacting issues raised in any of the consultations.

4 How does the proposal help to eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act?

Major, strategic and road safety transportation schemes such as M6 junction 10 can help contribute to reducing time spent travelling, reduce congestion, lessen driver 'stress', improve road safety for vehicles, pedestrians and cyclists, and better access to existing and new employment opportunities. Persons with mobility needs and elderly and vulnerable pedestrians stand to benefit from wider footways, tactile paving, dropped kerbs, refuges, and controlled and uncontrolled crossing points.

5 How does the proposal help to advance equality of opportunity between people who share a protected characteristic and people who do not share it;

Any civil engineering contractor appointed by the Council to help deliver this project will be required, as a minimum, to promote the Council's equality and diversity policies through their approach to project delivery. For M6 junction 10 the civil engineering contractor will be appointed by Highways England who are a government company.

The M6 junction 10 scheme will include features that address the needs of a wide range of client groups, for example:-

- Safety of pedestrians and cyclists
- Improved access to existing and new employment opportunities; and
- Facilities designed for people with mobility needs and elderly people - wider footways, tactile paving, dropped kerbs, refuges, controlled and uncontrolled crossing points.

6 How does the proposal help to foster good relations between people who share a protected characteristic and people who do not share it.

Any civil engineering contractor appointed by the Council to help deliver this project will be required, as a minimum to promote the Council's equality and diversity policies through their approach to project delivery. For M6 junction 10 the civil engineering contractor will be appointed by Highways England who are a government company.

Designs will include features that address the needs of a wide range of client groups, for example :-

- Safety of pedestrians and cyclists;

- Improved access to existing and new employment opportunities; and
- Facilities designed for people with mobility needs and elderly people - wider footways, tactile paving, dropped kerbs, refuges, controlled and uncontrolled crossing points.

7	Does your proposal impact on any other service that jointly could have a severe impact on particular equality groups? If yes, give details	Yes / No
	No	

8	What justifiable action does the evidence, engagement and consultation suggest you take?	Yes / No
	A No major change required	Yes
	B Adjustments needed to remove barriers or to better promote equality	No
	C Continue despite possible adverse impact	No
	D Stop and rethink your proposal	No

Action and monitoring plan

Ref	Date	Action	Responsibility	Timescale	Outcome
1	13/09/17	Works similar to the EqIA have been undertaken as part of the M6 junction 10 planning application.	Strategic Transportation	By 13/09/17	Completed

