

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Economy, Transport and Environment
Date:	14 January 2020
Title:	M27 Junction 10 Update
Report From:	Director of Economy, Transport and Environment

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Purpose of this Report

1. This report provides an update on the M27 Junction 10 major improvement scheme, for which the County Council is currently the Scheme Promoter. This update follows a previous progress and update report on 15 January 2019.
2. The M27 Junction 10 scheme will facilitate the development of 6,000 new homes and in the region of 5,000 new jobs at Welborne Garden Village. Whilst there has been significant progress over the last year on the scheme development, the report outlines a fundamental impasse in the progression of the business case and scheme development work, pending resolution of critical issues relating to significant gap funding, and the approach to scheme delivery. These difficulties mean it is not possible to progress the Full Business Case development at this time. The report considers the position of the County Council as Scheme Promoter in the context of the above and particularly the current funding position.

Recommendations

3. That since Scheme development work and the progression of work on the Full Business Case is at an impasse, pending the confirmation of full funding for delivery and of a delivery body, the Director of Economy, Transport, and Environment be asked to review the role of the County Council as Scheme Promoter for the M27 Junction 10 Improvement works ("the Scheme") and to bring forward a report to a future Decision Day.
4. That the Director of Economy, Transport, and Environment be authorised to make preparations for a potential suspension and termination of the County

Council's role as scheme promoter to avoid abortive work or expenditure, pending resolution of the funding and delivery arrangements for the Scheme.

5. That the County Council seeks firm agreement with Highways England to ensure that there is clarity around their role in the delivery of the motorway elements of the Scheme.
6. That the County Council supports and works with Fareham Borough Council to secure Government funding for Welborne to ensure that the Junction 10 Scheme can be fully funded and delivered.

Executive Summary

7. Significant progress has been made to develop the design and business case for the M27 Junction 10 improvement scheme since the previous report to the Executive Member on 15 January 2019. However, Scheme development has now reached an impasse beyond which further progress will be stalled until:
 - full and underwritten delivery funding for the Scheme can be identified; and
 - Highways England advises on its role in the design and delivery process going forward, and
 - arrangements for Scheme delivery have been clarified, including the role of Highways England.
7. Significant gap funding needs to be identified to deliver the Scheme. Both Highways England and the County Council have previously advised that, as the Scheme is only required for development purposes, they cannot fund the Scheme and would not provide capital funding nor underwrite any financial risks associated with the Scheme.
8. The County Council and its Strategic Partner (Atkins) have progressed the Scheme design to a point where critical input is required from a delivery body. The former Secretary of State for Transport, Chris Grayling, previously advised that Highways England would be best placed to deliver the Scheme and that Hampshire County Council would be best placed to promote the Scheme. Until the issue of the funding gap has been resolved and there is a mechanism in place for financial risks to be underwritten, it is unlikely that Highways England or any other delivery body can be confirmed. Without a delivery body in place, the design and development work cannot progress further without potential abortive expenditure.
9. In view of fundamental issues relating to the delivery funding gap and the lack of clarity relating to the future delivery body, the County Council now needs to consider the best way forward. To help minimise potential abortive work, it is sensible not to commission further development activities and to consider whether it may be more appropriate for another party to become the Scheme Promoter going forward to help resolve these fundamental matters.

Background

10. The County Council and its Strategic Partner (Atkins) have produced a significant number of around 155 design drawings and supporting documents for the M27 Junction 10 improvement, which formed a detailed part of the

outline Planning Application for Welborne Garden Village submitted to Fareham Borough Council by Buckland Development Limited. In October 2019, Fareham Borough Council resolved to grant Planning Permission for the Scheme, subject to the signing of a Section 106 Agreement. This is a critical milestone for the Scheme.

11. The ability to commence the Welborne development is critically aligned to the junction works. Importantly, the Borough Council has imposed a planning condition requiring the submission and approval of details of all the sources of funding necessary to carry out the Junction 10 works, prior to the commencement of any other work on site other than those related to the delivery of the Junction. The condition will provide confidence that the delivery of the Junction 10 works is fully achievable. Fundamentally, until this condition is met and there is certainty that funding is fully allocated, the development cannot commence; hence the need to identify gap funding is absolutely critical. Furthermore, in line with Highways England and Hampshire County Council advice, the Borough Council by condition requires the Junction 10 improvement works to be completed and open for use prior to the occupation of 1,160 dwellings at Welborne (or before a specified amount of employment/retail floorspace is provided).
12. The County Council has made excellent progress on the Scheme development and design to a point which now needs input from a delivery body. Previous assumptions were that the Highways England Smart Motorways Project (SMP) would deliver the parts of the Scheme which interfaced directly with the M27 following instructions from the former Secretary of State Chris Grayling, who previously advised that Highways England would be best placed to deliver the Scheme. It is now apparent that, due to extended timescales throughout the planning process, the delivery of the Junction 10 Scheme will need to follow the completion of the Smart Motorways Project, hence engagement now needs to take place with different branches within Highways England's Third Parties or Major Projects teams, and involving different processes.
13. It is now critical to understand the role of Highways England going forward, and particularly which party will become the delivery body, as this will inform the design process going forward. There are several different approaches to the construction and delivery of the underpass, all of which have a significant bearing on time and cost. For instance, the underpass could be constructed via a conventional approach over 12 months using traffic management and diversionary running. This approach was the preferred way forward when the works were to be completed in parallel with Smart Motorways. Alternative underpass construction approaches are now likely to be more appropriate and could involve jack box or slide box solutions, which involve building a box off-line and pushing into place over a long weekend closure. This method would save significant amounts of time and network disruption and would also provide significant cost savings. For this reason, it has become the preferred possible approach, as the Scheme will follow the Smart Motorways Project. The approach to delivery will impact upon the detailed design going forward, hence it would be imprudent to proceed further with the design until a delivery body has been confirmed. Highways England is best placed to progress the delivery of the motorway elements of the Scheme as well as having a fundamental

statutory role as the approving Highway Authority over the design and delivery processes for the motorway elements.

14. Highways England Technical Approval and Departure Review processes are ongoing. However, further engagement is now required to seek to understand the optimum way through the Highways England governance processes, which are not directly geared up for schemes being progressed by other parties. Highways England has only recently suggested that its Product Control Framework (PCF) process may be most appropriate. To follow this rigidly from the outset will now involve time-consuming, retrospective document control and approval, which will involve programme delays. Depending upon whether Highways England takes on the Scheme delivery and directly related completion of the Scheme design, the process may need to be applied more rigidly. If another party is to be the delivery body, then potentially a trimmed down version of the process could be applied. Appropriate elements of the required documentation will need to be completed up to a logical point, and to reflect the stage of design that the Scheme is at, given this could be helpful as part of a hand over to another party taking forward the Scheme delivery. While it is anticipated that this will be substantially complete by the end of February, it is possible that a few elements may not be completed within this timeframe, but no additional elements will be commissioned.
15. The approach to delivery now needs to be understood to inform the way forward. Possible options for delivery could be:
 - Highways England funds and delivers all of the Scheme as part of its RIS or Major Projects portfolio;
 - Highways England and Hampshire County Council deliver all of the Scheme in some form of partnership arrangement or Joint Venture, with Highways England delivering the parts of the Scheme which will ultimately form part of its network – (this approach would mean the County Council potentially continuing as Scheme Promoter, but appropriate financial management arrangements would be essential to ensure the County Council does not take on any liabilities for work on the motorway);
 - Hampshire County Council delivers all of the Scheme, with Highways England in an advisory/approval role on the basis that no financial liability would be accepted by the County Council; and
 - other third party/ies (most likely Buckland Development Ltd) deliver some or all of the Scheme and underwrite the financial risks.

Full Business Case

16. There has been significant progress on the Full Business Case with comments from DfT on the Draft Strategic Case having been received and comments on the recently submitted Draft Economic Case awaited. The transport benefits and wider economic benefits modelling (including land value uplift benefits), which fed into the draft Economic Case, have indicated a potential relatively high cost benefit ratio (in the region of 3.5). However, this will clearly be directly related to the Scheme costs which can be ratified once the approach to delivery has been confirmed.

17. Whilst the first two sections of the Business Case are almost complete, subject to addressing comments, it will not be possible to complete the remaining three sections, namely: the Financial, Commercial and Management Cases, without a full understanding of who the Delivery Body will be, or where the funding will come from.

Advanced Works

18. Further to the endorsement on 15 January 2019 by the Executive Member for Environment and Transport, initial advanced works for the Scheme were undertaken in the Spring and Summer 2019. The works were required to meet constraints associated with licensing for protected species on land owned by Highways England and Buckland Estate. The cost of the combined works was in the region of £524,000 and these have been largely completed with elements being delayed due to seasonal constraints associated with protected species.

19. In order to continue to meet the requirements of licences for protected species, the progression of the above along with further enabling works are now required. While fundamental issues around funding and the delivery body are resolved, some works will be required whether the Scheme is progressing towards delivery or if the Scheme is ultimately suspended. However, the scale of works will be less should the main works be delayed beyond January 2021.

20. When it was assumed that the main works would commence in January 2021, a complete mitigation package was required, commencing in December 2019 until summer/autumn 2020. On the assumption that main works will no longer commence in January 2021, for various reasons outlined above it is sensible to delay non-essential advance works, particularly clearance works to avoid the need to re-do them. Due to the seasonal constraints around when mitigation works can be undertaken, the Scheme will consequently slip back by at least 12 months. In view of the above, a reduced package of mitigation work was scoped out due to the inevitable programme delays, which commenced in December 2019 and will be ongoing to Summer 2020, which includes:

- ecological fencing;
- mitigation planting; and
- managing vegetation growth of cleared areas.

21. The remaining advanced works will be undertaken prior to the main works starting and include:

- ecological surveys and closure of roosts and setts – Bats & badgers; and
- vegetation clearance.

22. Some of the works will need ongoing maintenance going forward if the commencement of main works is pushed back to January 2022. The County Council has liabilities associated with the licence agreements to re-instate the land to pre-advanced works state in accordance with licences with Highways England and Buckland if the junction works do not commence within a stated 5 year timescale from when the advanced works commenced in early 2019. These liabilities will need to be accounted for financially should the role of Scheme Promoter be transferred to another body, and the works would need to be costed and funded from the Scheme Promoter budget and not with Hampshire County Council resources.

Programme

23. The delivery programme which identified capital works commencing prior to March 2021 cannot now be achieved due to the following:
- the timescales associated with the planning and the associated Section 106 Agreement processes;
 - the knock-on impact of delays, meaning that the Scheme can no longer progress in parallel with Highways England's Smart Motorway Programme, given its completion date of March 2021;
 - newly advised, lengthy Highways England technical check and approval processes, which now apply as the Scheme is independent from the Smart Motorways Project; and
 - the need to undertake ecological mitigation at the correct time of year.

Finance

Scheme Development Costs

24. The Scheme development costs up to procurement stage were estimated at approximately £4.65million at the time it was anticipated that the Scheme would progress in parallel with Smart Motorways Project with a conventional approach to delivery over a twelve month period. To progress an alternative way forward involving a prefabricated underpass structure (jackbox) or similar rapid approach to delivering the underpass over a long weekend will involve additional design costs to re-do elements of design in a different way. If another approach to delivery is proposed by a delivery body going forward, again additional design costs would be incurred, which could push up development costs above £4.65million. On the basis that a jackbox or similar solution could save £10million-plus in delivery costs, a slight increase in development costs is arguably worthwhile.

Scheme Development Funding

25. There is currently no financial risk to Hampshire County Council, as £4.65million has been advanced for Scheme development and business case work and from the Department for Transport directly to the County Council, as Scheme Promoter. Of this amount, approximately £3.65million has been spent to date. (December 2019). The approach to delivery will inform the need for any additional design work, which will inform whether the remaining £1million will be sufficient to enable development work to be completed up to a point just prior to procurement.

Scheme Delivery Costs

26. The Scheme delivery costs continue to be ratified, and currently range from £85million–100million, of which £50million-58million are directly associated with main works, with other costs relating to traffic management on the motorway, utility diversions, adjustments to the Smart Motorways Project design, and as yet unknown risks. The final Scheme cost will be dependent on the approach to delivery, and the ability to reduce risks and potentially substantial costs, which Highways England may apply around commuted sums, VAT, and the impact upon the Highways England network. It is likely that a delivery approach which follows a jackbox or slide box solution underpass would cost at least £10million

less than the conventional approach to underpass delivery, hence the broad range in costs outlined above.

Scheme Delivery Funding

27. The current delivery funding allocations are as follows:

- £14.9million has been allocated from the Solent LEP Local Growth (LGF) Funding retained by DfT (of this amount £4.65million has already been advanced from DfT directly to Hampshire County Council for Scheme development work). Whilst there is a theoretical possibility that DfT may require repayment of the advance funding, this is very unlikely and mitigated by the County Council proposal to complete the technical work in an orderly way and to make provision for it to be handed onto a different Scheme Promoter. The remaining £10.25million needs to be spent by March 2021 on the motorway elements of the Scheme. (The LEP may now consider reallocating this funding on the assumption that it cannot be spent prior to March 2021 but haven't done so as yet);
- £14.15million has been allocated from the Solent LEP Local Growth Funding which needs to be spent by March 2021 on the motorway elements of the Scheme (The LEP may now consider reallocating this funding on the assumption that it now cannot be spent prior to March 2021 but haven't done so as yet);
- £10million has been allocated from the Housing and Infrastructure Marginal Viability Fund, which can be spent in 2021/22/23 upon delivery of any part of the Scheme to facilitate housing growth. Discussions with MCHLG have advised that the allocated £10million could be increased to £16million; and
- £20million has been identified through Fareham Borough Council's Viability work as an appropriate contribution to be secured via Section 106 as capped from the developer. This can be spent any-time on any part of the Scheme.

28. The programme delays outlined previously mean that it will no longer be possible to incur capital expenditure on the Scheme prior to March 2021. This means that the remaining allocated Solent LEP Local Growth Funding of £24.4million, which needs to be spent by March 2021 in order to comply with the grant conditions set by Government, is likely to be reallocated and will no longer be available towards the Scheme delivery.

29. Based on the above, there currently remains an allocation of just £30million which can be spent on the Scheme beyond March 2021. This means there is now an increased delivery funding gap of around £55-70million.

30. Alternative funding sources to cover the increased gap in delivery funding, together with an under-writer of the associated financial risks, will need to be found before the Scheme can progress further towards the submission of the full business case and delivery stage.

31. The County Council notes that the Borough Council states in its report on the Planning Application that it will work with the applicant in order to secure the additional required funding from external sources, noting that the applicant has capped their offer of a contribution at £20million throughout the application process while the final estimated cost has increased, and the funding gap grown

larger. The Borough Council report goes on to state that it may be the case that the applicant has to consider contributing more to the cost of the junction, in order for it to be delivered, so as to enable the remainder of the development to be constructed. The implications of any increase in contribution by the developer may affect the levels of affordable housing provided during subsequent viability reviews of the Scheme to be secured in the legal agreement.

32. The Fareham Borough Council Planning Authority has resolved that a contribution of £20million is fairly and reasonably related in scale and kind to the development (notably having regard to the significant wider public benefit that an improved Junction 10 brings to the Solent region). Neither the County Council nor Highways England agree with this interpretation and would see the provision of a new motorway junction to be necessitated by the development and related road improvements as required to mitigate the traffic impact of Welborne. The County Council would, however, accept that advancing the provision of the new motorway junction would have wider advantages to the local areas, not least during an extended construction period for Welborne.

Summary and Next Steps

33. It is apparent that there are a number of fundamental matters which require urgent resolution before Scheme development can proceed much further, including the following:
- there is now a significant increase in gap funding required to deliver the Scheme to around £55–70million, based upon the assumption that the Solent LEP is likely to reallocate the Local Growth Funding which needs to be spent prior to March 2021, hence new major funding sources are required to deliver the Scheme;
 - the Scheme delivery funding will need to be fully underwritten to provide sufficient confidence for a delivery body to step forward to take the Scheme forward to delivery. Without a delivery body in place, critical next steps on the design, which will be informed by the approach to delivery, cannot be taken. Clarification is required as soon as possible regarding the role of Highways England in the delivery of some or all of the Scheme; and
 - ongoing engagement is required with both the Smart Motorways Project team and the Technical Approval team within Highways England to better understand the governance of the Scheme and extended approval process timescales going forward, and also to ensure a switch to an adjusted Smart Motorways Project design takes place, which incorporates Junction 10 based on the assumption that Junction 10 will now follow Smart Motorways.

Until these matters have been addressed, the progression of the Scheme is at an impasse, and consequently the County Council needs to review its continuing role as Scheme promoter and not commission additional design work if there is no resolution.

34. Going forward, the County Council should make arrangements for a potential suspension of new Scheme development work, including technical design, business case preparation and non-obligatory advanced site work, to minimise potential abortive costs. In making the arrangements, the County Council will ensure that:

- all ongoing workstreams are completed to a logical point and packaged up in a way to ensure there can be a quick and effective re-mobilisation of work once the approach to securing gap funding and the approach to delivery have been resolved. As part of this process it may ultimately be appropriate for a hand-over to take place to a new Scheme Promoter, who may be better placed to take the Scheme forward to delivery in the future, and work will be packaged up accordingly to enable the potential transfer of material;
- Highways England and Hampshire County Council technical review processes are completed as far as possible;
- the Business Case is completed as far as possible with the information available, but no further work dependent on clarity around funding and the approach to delivery is commissioned; and
- the essential advance works are completed, including ongoing maintenance to meet protected species licence obligations.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes

Other Significant Links

Links to previous Member decisions:	
<u>Title</u> EMET – M27 Junction 10	<u>Date</u> 15 January 2019
Direct links to specific legislation or Government Directives	
<u>Title</u>	<u>Date</u>

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
Fareham Borough Council Planning Decision on Welborne Garden Village - October 2019	Planning Portal/Fareham Borough Council Website

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

The recommendations of this report relate to process and governance for Scheme delivery and will have no direct impact on members of the public. As a result, they have been assessed as having a neutral impact on people with protected characteristics.