

Birmingham City Council

Report to Cabinet

7 September 2021



Subject: A457 Dudley Road Improvement Scheme – Revised Main Scheme CPO Progression Report

Report of: Acting Director, Inclusive Growth

Relevant Cabinet Member: Councillor Waseem Zaffar – Transport and Environment
Councillor Tristan Chatfield – Finance and Resources

Relevant O &S Chair(s): Councillor Liz Clements – Sustainability and Transport
Councillor Mohammed Aikhlaq – Resources
Councillor Penny Holbrook – Housing and Neighbourhoods

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Soho & Jewellery Quarter, Ladywood and North Edgbaston		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 009098/2021		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential:		

1 Executive Summary

- 1.1 This report seeks the authority in principle to include additional land to progress the “making” of a related CPO and updated SRO for the A457 Dudley Road Improvement Scheme – Revised Main Scheme subject to confirmation of funding via the Levelling Up Fund. The existing CPO/SRO is being progressed, but additional land and works are required for the Revised Main Scheme. However,

as funding for the Scheme is yet to be approved only authority in principle is sought at this stage to allow preparatory work to begin.

- 1.2 The report also requests authority in principle for the making of an order under Section 106 of the Highway Act 1980 to allow the construction of a new bridge over the Soho Loop Canal at Spring Hill Canal Bridge as part of the Revised Main Scheme and subject to confirmation of funding via the Levelling Up Fund.

2 Recommendations

- 2.1 Approves in principle the making of a new CPO for additional land requirements to implement the A457 Dudley Road Revised Main Scheme under sections 239, 240 and 250 of the Highways Act 1980 in respect of the additional land required for the Revised Main Scheme shown on drawings in Appendix A together with any related Side Road Order under Section 14 and 125 of the Highway Act 1980 if required subject to the approval of funding from the Levelling Up Fund.
- 2.2 Approve in principle the making of an order under Section 106 of the Highway Act 1980 to allow the construction of a new bridge over the Spring Hill canal as part of the Revised Main Scheme subject to the approval of funding from the Levelling Up Fund.
- 2.3 Approves entering into negotiations to acquire by agreement the additional land and property required for the purposes of the Revised Main Scheme so as to allow implementation of the Revised Scheme.
- 2.4 Authorises the City Solicitor (or their delegate) to negotiate, execute, seal, take any necessary action, and complete all necessary documentation to give effect to the above recommendations.

3 Background

- 3.1 The A457 forms part of Birmingham's Strategic Highway Network and provides a key arterial route from the Black Country into central Birmingham. The poor standard and inefficient operation of this section of the Dudley Road, together with associated environmental deterioration and poor accessibility for users, makes the corridor an unattractive route to and from the city particularly at peak times. Delays as a result of congestion significantly add to business costs and discourage businesses from investing and locating in this area, as well as adversely impacting on access to employment opportunities for local residents.
- 3.2 The impact of Covid and the adoption of the Birmingham Emergency Transport Plan, meant the Dudley Road Original Improvement Scheme was no longer deliverable and funding could not be secured to deliver the scheme as the Major Scheme Business Case (MSBC) could not be submitted within the required timescale. As such, a Revised Scheme has been developed, which incorporates numerous key elements of the Original Scheme.

- 3.3 The Outline Business Case (OBC) for the Dudley Road Revised Improvement Scheme was approved by Cabinet on 10th November 2020 with the following recommendations:
- Progress the project to detailed design
 - Proceed with the Public Consultation
 - Submit bids for additional resources as identified to address the current estimated funding gap
 - Accept £5.043m LGF from the GBSLEP and to enter into the associated Funding Agreement to facilitate development and land acquisition
 - Development, demolition, remediation, further investigative surveys, and advanced utilities work as appropriate,
 - Acquisition (and disposal if required) of any interest to facilitate the development of the scheme,
 - Negotiate and complete the acquisition (and disposal if required) of any interest to facilitate the building of the improved highway including easements and drainage in the adjoining land connected to the revised scheme,
 - Procurement activities for the demolition and remediation of the MOT garage and various adjacent retail properties,
 - Progress an agreement with the Canal and River Trust to enable widening over the Lee Bridge to be implemented as part of the revised scheme,
 - Advertise the loss of Public Open Space.
 - Granting of Cabinet approval “in principle” to make a CPO in relation to additional lands.
- 3.4 A full public consultation on the Revised Main Scheme, including stakeholders, was undertaken between 17th November 2020 and 15th December 2020. As part of further consultation, the revised Dudley Road Improvement Scheme was presented to the Leader of the Council, Ward Councillors, the Cabinet Member for Transport and Environment and the NHS on the 6th July 2020
- 3.5 A Levelling Up Fund (LUF) bid totaling £19.941m was submitted in June 2021 to provide capital funding to deliver the Revised Main Scheme. It is anticipated that a decision on the outcome of the bid will be received in September 2021.
- 3.6 Under the Revised Scheme the proposals to provide new segregated cycleways to maintain social distancing and a new Bus Lane will require additional land. As a result, a new CPO/SRO will be required in respect of revised land requirements.
- 3.7 The November 2020 A457 Dudley Road Improvement Revised Scheme Outline Business Case only granted Cabinet approval “in principle” to make a CPO in

relation to additional land. This report now seeks authority to include further land in relation to the related CPO and a new related Side Roads order if required subject only to funding being available. In addition, given that a new footbridge will be required “over navigable waters” at Spring Hill Canal Bridge (Soho Loop Canal), authority in principle is required to make an order under section 106 of the Highway Act 1990 to construct the new footbridge required as part of the Revised Main Scheme.

- 3.8 The existing CPO does not meet the specific land requirements of the Revised Scheme as additional areas of land are required as detailed in Appendix A CPO Additional Land Requirements. This plan details all options considered which will be refined for Full Business Case approval following confirmation of funding.

4 Options Considered and Recommended Proposal

Option 1: Progress the Making of the Revised CPO/SRO in Principle and Approve the Making of an Order in Principle under Section 106 of the Highway Act to allow the construction on a new bridge over the Soho Loop Canal as part of the Revised Main Scheme once Levelling Up Funding is confirmed. This will enable the scheme to progress as per the required LUF delivery programme.

Option 2: Delay Progression of the Revised CPO/SRO until FBC Approval in November 2021 (at the earliest). This will delay implementation of the scheme and LUF delivery programme.

Option 3: Cease the Scheme (Do Nothing).

In order to meet the necessary programme requirements to deliver works after the Commonwealth Games, the making of the orders and scheme referred to earlier should be made as soon as possible after the Levelling Up Funding is confirmed therefore Option 1 is the recommended proposal.

5 Consultation

- 5.1 N/A

6 Risk Management

6.1 Key Risks

- Delays to confirmation of funding may result in a delay to CPO/SRO/s106 New Bridge Order programme and an associated impact on site delivery following the Commonwealth Games.
- CRT is a statutory undertaker, and the works to Spring Hill Canal Bridge would be affecting their undertaking. If CRT object to the making of the CPO, they will be an important objector, who will make representations to their own minister, in addition to the objection. To mitigate this potential eventuality, Heads of Terms have been provisionally agreed with CRT to

progress a Deed of Easement for the new Soho Loop Canal bridge crossing.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 The proposals set out in this report will support the delivery of the Council Plan 2018-2022 (as updated in 2019), specifically:

- **Outcome 1 - An entrepreneurial city to learn, work and invest in**, particularly *'We will develop our transport infrastructure, keeping the city moving through walking, cycling and improved public transport'* and *'We will create opportunities for local people to develop skills and make the best of economic growth'*.
- **Outcome 4 – Birmingham is a great, clean and green city to live in**, particularly *'We will improve the environment and tackle air pollution'*.
- **Outcome 6 - Birmingham is a city that takes a leading role in tackling climate change**, particularly *'We will continue to deliver, report and positively promote the council's extensive climate change and carbon reduction activity, with additional initiatives undertaken in line with leading national and peer practice'*.

7.1.2 The scheme proposals have been developed to align with the policies developed from the Birmingham Emergency Transport Plan, which include the introduction of bus priority lanes and new walking and cycling enhancements and a review of short stay on-street parking for the repurposing of road space for sustainable modes of transport.

7.1.3 The project also aligns with the Draft Birmingham Transport Plan, Birmingham Development Plan, Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) Strategy for Growth, Strategic Economic Plan, and the Movement for Growth 2026 Delivery Plan for Transport, the Birmingham Connected Transport Strategy and the Clean Air Strategy for the City of Birmingham – Draft

7.1.4 Birmingham Business Charter for Social Responsibility (BBC4SR):

Works

The social value outcomes to be realised from the scheme will be detailed in the Revised Main Scheme FBC.

7.2 Legal Implications

7.2.1 The City Council carries out transportation, highway and infrastructure related work under the relevant primary legislation comprising the Town and Country Planning Act 1990, Highways Act 1980, Road Traffic

Regulation Act 1984, Traffic Management Act 2004, Transport Act 2000, Countryside and Rights of Way Act 2000, and other related regulations, instructions, directives and general guidance. Consideration has also been given to Ministry of Housing, Communities and Local Government guidance dated February 2018 (updated July 2019) on Compulsory Purchase and also Department of Transport Circulars 1/97 and 2/97 in preparing the CPO and SRO and the March 2000 Guidance on Preparing and Making Bridge / Tunnel Schemes.

- 7.2.2 The City Council's general power of competence, which is limited only to the extent of any pre-commencement restrictions on powers which overlap this power or any specific post commencement restrictions placed on this power, is contained in Section 1 of the Localism Act 2011. Section 111 of the Local Government Act 1972 contains the City Council's ancillary financial and expenditure powers in relation to the discharge of its functions.

7.3 Financial Implications

Capital Costs:

- 7.3.1 The cost of making the CPO is estimated at £0.250m (fees only) and will be funded from the Levelling Up grant allocation, subject to approval of the bid (expected in September 2021). This forms part of the bid totaling £19.941m which was submitted in June 2021 for capital funding to deliver the Revised Main Scheme.
- 7.3.2 The making of the CPO will only be undertaken following confirmation of the Levelling Up funding bid being successful. If the bid is not successful, works to the revised main scheme will cease. BCC fees to develop the CPO documentation will be kept to a minimum in the event that the LUF bid is unsuccessful. Abortive costs will be funded within existing revenue budgets.

7.3.3 Human Resources Implications

N/A

7.4 Public Sector Equality Duty

- 7.4.1 In January 2018 an analysis of the effects of equality was undertaken for the Dudley Road Improvement Scheme, this was updated in September 2020 (Report ref EQUA561). It was concluded that there would be no adverse effect on protected groups and characteristics under the Equality Act 2010 and there is no requirement for a full assessment.

8 Appendices

8.1 List of Appendices accompanying this report:

Appendix A - CPO Land Requirements

Appendix B - Highway Schemes Human Rights Statement

Appendix C - Equality Impact Assessment EQUA561

9 Background Documents

- 9.1 Report to Deputy Leader 10 January 2017 - Birmingham Development Plan adopted
- 9.2 Report to Cabinet 26 June 2018 Dudley Road Improvement – Project Definition Document
- 9.3 Report to Cabinet 14 May 2019 Dudley Road Improvement – Land Requirements
- 9.4 Report to Cabinet 10 November 2020 Dudley Road Revised Improvement – Outline Business Case
- 9.5 Report to Cabinet 11 February 2020 Transportation and Highways Capital Programme - 2020/21 - 2025/26 – Annual Programme Update
- 9.6 Report to Cabinet 16 March 2021 A457 Dudley Road Improvement Revised Scheme Update Report