

**CABINET  
16<sup>th</sup> DECEMBER 2005**

**WESTBURY BYPASS  
COMPULSORY PURCHASE AND SIDE ROAD ORDERS**

**Purpose of Report**

1. To advise Members of the current position regarding the scheme for the Westbury Bypass and to seek authority to make a Compulsory Purchase Order and a Side Roads Order.

**Background**

2. The safety and environmental problems caused by traffic in Westbury have been of concern for many years. The A350 route through the centre of the town has a sub-standard alignment for the volume of traffic and the number of heavy goods vehicles using it. The traffic has an adverse environmental impact in the town, particularly in terms of traffic noise and air pollution, with the Warminster Road section of the A350 having been declared an Air Quality Management Area.
3. The Wiltshire Structure Plan 2011 was adopted in January 2001 and includes the Westbury Bypass as a scheme to improve the non-trunk road national primary route. The scheme is also included in the package of measures for the Western Wiltshire Sustainable Transport Strategy as outlined in the Wiltshire Local Transport Plan (LTP) 2001-02 to 2005-06.
4. The Westbury Bypass has been developed over a number of years, with initial consideration of route options taking place at an innovative Planning Conference held in 1997. There was subsequently a review of the route options, and the preferred route was confirmed by the Environment and Transport Committee in July 2001. A bid for funding for the scheme was initially submitted to the Government Office for the South West (GOSW) in July 2001, but a decision was deferred pending the outcome of the Bristol/Bath to South Coast Study being undertaken for GOSW by consultants.

**Bristol/Bath to South Coast Study**

5. The completion of the Bristol/Bath to South Coast Study was reported to the Environment Advisory Panel and Cabinet in February 2004, when the Study recommendations that a Westbury Bypass be progressed as a local improvement measure through its statutory processes were welcomed by Members. The South West Regional Assembly has undertaken consultations on the strategic recommendations of the Study in order to respond to Ministers.
6. The Study confirmed the County Council's view that the Westbury Bypass is required to address local environmental problems within the town, especially within the Air Quality Management Area at Haynes Road/Warminster Road.

It recommended that a Westbury Bypass be approved as a local improvement measure for the town with complementary traffic calming in order to improve the local commercial and town centre environment and encourage use of the bypass.

7. The Study was not tasked to consider route options for a Westbury Bypass. However, in order to assess the scheme it did examine hypothetical routes similar to those previously considered by the County Council. These were representative routes which did not take into account the physical, environmental and practical constraints associated with the area, and the modelling was at a strategic level with idealised routes considered.
8. The Option Development and Appraisal Report of the Study concluded that:-

"... the eastern bypass produces savings in vehicle hours, vehicle kilometres, and has the lowest statistic for fuel consumption. On the basis of this analysis it can be safely concluded, based on these parameters, that the eastern alignment represents the most beneficial route for drivers. This is in keeping with the findings from Wiltshire County Council's analysis."
9. The Study and its recommendations did not give any reason to question the Eastern Route as the most appropriate route for the Westbury Bypass. The recommendations of the Study did not include any major improvements to increase capacity on the A36 between Warminster and Beckington, and consequently any such improvements required to accommodate A350 traffic with a Far West Route for a Westbury Bypass would need to be included as part of the scheme.

### **Current Position**

10. The delay in completing the Bristol/Bath to South Coast Study meant that no response to the bid for funding was received until the decision letter on the 2004 LTP Annual Progress Report in December last year. It was recognised that the scheme was a priority for the County Council but, while recognising the benefits of the proposal, Ministers decided that it did not represent a sufficiently high priority at that stage.
11. The County Council's consultants developed the Westbury Bypass proposals including an Environmental Statement in sufficient detail to allow a planning application to be submitted in March 2005. It was re-advertised in July as a result of legal advice indicating that it is a departure from the Local Plan.
12. The consultation on the planning application ended on the 5<sup>th</sup> August 2005, and the responses have been considered. Further information was requested and has been submitted in support of the application, including information on recent environmental investigations and information to address particular concerns identified through the consultation process. There will be a further consultation period for the additional information submitted.

### **Main Considerations for the Council**

13. If planning permission is granted the next stage in the development of the scheme would be the making and publication of the statutory orders comprising the Compulsory Purchase Order and Side Roads Order.

Publication of the Orders would almost inevitably give rise to objections which would result in the Secretary of State directing the County Council to hold a Public Inquiry.

14. The Highways Act 1980 gives the Highway Authority power to acquire land and new rights by compulsory purchase in connection with a road scheme, and to make alterations to rights of way and private means of access. These Orders have to be confirmed by the Secretary of State and can be the subject of a Public Inquiry. The Public Inquiry would be held by an independent Inspector who would report to the Secretary of State. It would provide the opportunity for the public and those having an interest in the scheme to object formally to the proposals and put their case to the Inspector. It would also provide an opportunity for those proposing alternative schemes or amendments to the scheme to put forward their proposals. In order for the Inspector to recommend to the Secretary of State that the Orders should be confirmed, he would have to be satisfied, amongst all the other considerations, that funds for the construction would be forthcoming. Under the current system for funding major road schemes, that would mean provisional approval by the Department for Transport or, under draft proposals for revision of the approval process, programme entry would have to be secured.
15. The County Council will not therefore publish the Orders unless the GOSW is able to give some assurances on this issue. However, it is necessary for the County Council to formally resolve to use its powers as Highway Authority to acquire land and new rights by compulsory purchase. In order to be in a position to publish the Orders at the appropriate time, this resolution is now being sought.

### **The Orders**

16. The land required for the scheme has been identified on Drawing No. 40916-D-2004 which will be displayed at the meeting. This is based on the scheme for which planning permission has been sought. It includes land required for the road, landscaping, mitigation measures, alterations to rights of way and accesses, drainage provision, temporary working areas and associated works.
17. An approach will be made to the landowners with a view to acquiring the land by agreement. However, the large number of owners means that it is unlikely that agreement will be reached with all of them. The use of compulsory purchase powers is considered necessary to ensure certainty regarding the programme for the implementation of this important scheme, subject to its acceptance for funding by Government.
18. It should be noted that the scheme has not completed the planning process at this stage, and that any substantial alterations to the proposals may require supplementary, amended or replacement Orders in due course. Amendments or alterations to the Orders may also be required as the result of any recommendations by the Inspector following a Public Inquiry.

### **Environmental Impact of the Proposal**

19. The planning application includes all the relevant information on the scheme including plans, cross-sections, typical construction details, landscaping, planting, surface water treatment, flood alleviation and other mitigation

measures. The detailed design will include extensive landscaping works to help the scheme fit into the landscape and to mitigate any adverse impacts.

### **Risk Assessment**

20. There is a risk that changes in Government policy, priorities or guidance may mean that it is not possible to progress the scheme. Many of these risks are outside the direct control of the County Council, but to a certain extent the risk to the scheme can be reduced by suitable preparation work at the earliest stage. As with any major scheme there is a risk that funding will not be forthcoming or will be insufficient to meet the final cost.

### **Financial Implications**

21. The making of a Compulsory Purchase Order can result in owners serving blight notices in certain circumstances requiring the County Council to acquire land. This would obviously have financial implications and Members should be aware that currently there is no financial provision to cover such claims in connection with this scheme.
22. The costs of land acquisition are met through the funding provided by central Government, but this only becomes available when the scheme has completed the statutory procedures and has been fully accepted for funding.
23. The County Council has generally not received valid blight notices in respect of other major schemes. This is probably because landowners usually expect land values to rise and are generally not willing to enter into negotiations at an early stage. There is no reason to believe that in the present case any blight notices would result from the proposals, but if any valid claims are received it would be necessary to consider making financial provision or whether to withdraw the Compulsory Purchase Order.

### **Reason for Proposal**

24. Progress on the Westbury Bypass has been hindered by the uncertainty regarding funding decisions for the scheme while the Bristol/Bath to South Coast Study has been taking place. The Study took far longer than had been hoped, but the uncertainty has now been removed to a large extent by the clear recommendations of the Study which recognise the need for a Westbury Bypass
25. A planning application has been made and the preparation of the statutory orders is the next key stage in the development of the scheme. In order to be in a position to make the Orders at the earliest appropriate time, authority is now being sought.

### **Proposal**

26. That Cabinet authorises:-
  - (i) The making of:-
    - 1 A Compulsory Purchase Order under Sections 239, 240, 250 and 260 of the Highways Act 1980 for the acquisition of the land and new rights within the areas shown (coloured red for the

land and blue for the new rights) on Drawing No. 40916-D-2004 for the Westbury Bypass road scheme.

- 1 A Side Roads Order for the Westbury Bypass for the necessary alterations required to rights of way and private means of access in connection with the scheme.

(ii) The Director of Environmental Services and the Solicitor to the Council to:-

- 2 Take all necessary steps to secure the making, confirmation and implementation of the above Orders including the publication and service of all notices and the presentation of the Council's case at any Public Inquiry.
- 3 Acquire interests in land and new rights within the Compulsory Purchase Order either by agreements or compulsorily; and
- 4 Approve agreements with land owners setting out the terms for the withdrawal of objections to the Orders, including where appropriate seeking exclusion of land or new rights from the Orders and/or making arrangements for rehousing or relocation of occupiers.

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**The following unpublished documents have been relied on in the preparation of this Report:**

None