

From: **Simon Jones – Interim Corporate Director of Growth, Environment & Transport**

To: **David Brazier – Cabinet Member for Environment & Transport**

Decision No: 21/00047

Subject: **Dover Fastrack – Compulsory Purchase Order**

Classification: **Unrestricted**

Electoral Division: Dover West, Dover North, and Dover Town

Summary: Approval to use of compulsory purchase to secure the land and rights required for the scheme and to give programme certainty.

Recommendation(s):

The Cabinet Member for Highways and Transport is asked:

- i) to approve all acts required to carry out and complete the Dover Fastrack scheme;
- ii) to approve all acts required to acquire the land and rights for the carrying out and completion of the Dover Fastrack scheme, including by means of a compulsory purchase order;
- iii) to approve the delegation to the Interim/Corporate Director of Growth, Environment & Transport under the Officer Scheme of Delegations following prior consultation with the Cabinet Member, any further or other decisions as may be appropriate to deliver the Dover Fastrack scheme;
- iv) to confirm that other decisions in Record of Decision 19/00053 remain extant.

The decision is attached at Appendix D.

1. Introduction

- 1.1 Dover Fastrack will provide a high quality and reliable public transport service for 5,750 new homes that are part of the Whitfield Urban Expansion, the White Cliffs Business Park, and other housing development at Connaught Barracks, to link with Dover Town Centre and the high-speed rail services at Dover Priory Station.
- 1.2 Previously known as Dover Bus Rapid Transport, the project has been renamed Dover Fastrack as it will form a key part of the Fastrack service building on the successful system operating in north Kent. Fastrack is a key component of Kent's Bus Strategy.
- 1.3 Dover Fastrack will provide essential transport infrastructure to support the delivery of Whitfield Urban Expansion identified in Dover District's Local Plan Core Strategy 2010

that identified the need to provide 14,000 new homes across the District. The continuing need for this infrastructure is endorsed in the current review of the Local Plan that covers the period up to 2040.

- 1.4 Housing build out has been slower than expected but development is underway for Phase 1 of the Whitfield Urban Expansion and planning permission has recently been granted for 300 homes at Connaught Barracks.
- 1.5 The overall Fastrack route will mainly be delivered through provision of new roads within the housing developments. Part of the route will utilise the existing highway network. Junction improvements at Castle Hill Road will be delivered as part of the proposed Connaught Barracks Development which is owned by Homes England. However, new infrastructure specific to the scheme will also be required as follows:
 - a) New A2 overbridge for bus/ pedestrian and cycle access.
 - b) New dedicated bus link through White Cliffs Business Park to Dover Road.
 - c) Localised widening of Dover Road.
- 1.6 Dover District Council carried out extensive public engagement to raise public awareness when the Local Plan was developed which includes policies specific to Whitfield Urban Expansion. They also recently consulted on a proposed revision to the Local Plan. There was specific public engagement on the Dover Fastrack scheme in summer 2020, in advance of submitting the planning application, and as part of that process an overview of the project was given in a leaflet that is included in Appendix A.
- 1.7 Considerable progress has been made and the off-line sections involving a link from Dover Road to White Cliffs Business Park and then from the Business Park over the A2 and then running within future phases of development, to link with roads constructed as part of the first phase of development received planning permission in March 2020.
- 1.8 The County Council is working closely with Dover District Council who were awarded funding by Homes England to deliver infrastructure specific to the scheme. Dover District Council is therefore the lead authority for the overall project, and with the County Council as delivery body for the specific infrastructure and also the commissioning body for the Fastrack services.
- 1.9 The estimated cost of the new infrastructure was originally estimated at £16.1m but this was based on an assumption that development of Whitfield Urban Expansion would come forward more quickly than has occurred to date. A revised estimate of £21m is now under consideration by Homes England for further grant support from the Housing Infrastructure Fund. Dover District Council is contributing £1.42m towards the cost. The County Council will have no financial liability other than the normal ongoing operational and maintenance liability associated with new adopted highway infrastructure.
- 1.10 Dover District Council own some land and has recently secured options on two further significant parcels of land. Most of the remaining land required is owned by the developer of Phase 1 of the Whitfield Urban Expansion. Dover District Council has

commenced negotiations that they hope will be successful, but a compulsory purchase order under the Highways Act 1980 is required to give land and programme certainty. Both factors are requirements of the funder, Homes England.

- 1.11 At the outset of the project, a Report to this Committee in July 2019 led to a range of decisions in Record of Decision 19/00053, to enable the scheme to proceed. While this contained implicit authority to proceed with compulsory purchase, the use of compulsory purchase is a strong power available to a local authority and it is appropriate to seek an updated and explicit authority to publish and implement a compulsory purchase order.

2. The Report

- 2.1 The proposed areas of land to be included in the compulsory purchase order are shown on the plan in Appendix B.
- 2.2 In addition to the principal area required through the future phases of development, it also includes existing roads – Richmond Way and Red Kite Way – through the first phase of development to achieve a connection to Archers Court Road. These roads are not yet fully completed or offered yet for adoption, with no planning obligation date. While it is hoped that these roads will be completed by the developer before the Fastrack services begin to operate, the roads will be included in the compulsory purchase order to cover the risk of a situation where the County Council would be required to intervene. Similarly, Richmond Way from the A256 has also been included to ensure that we have a right of access for Fastrack construction vehicles.
- 2.3 At the eastern end of the scheme there is some unregistered land that may be owned by Network Rail, as the land sits over a railway tunnel, and other small areas in unknown ownership. A compulsory purchase order is an appropriate procedural mechanism for the County Council to secure title to such areas.
- 2.4 The Fastrack route will use Dover Road that is already used by existing bus services. There are a few places where the road width is narrower than desirable and the intention is to carry out local widening. Some minor land acquisition is required and voluntary negotiations have commenced. The owners are commercial and utility organisations and there is confidence that the land will be secured by agreement. However, even if the land cannot be secured, the Fastrack service can still operate and that is why these small parcels of land will not be included in the compulsory purchase order.

3. Legal & Policy Tests for use of Compulsory Purchase

- 3.1 The use of compulsory purchase is a strong power available to a local authority and justification for its use must satisfy numerous legal and policy tests. It is considered that, in the stringent development of the scheme, these tests are met. The details will

be included in the Statement of Reasons that will be published with the Order but are summarised in the paragraphs that follow.

- 3.2 The circa 6,000 new homes at Whitfield to be served by a bus rapid transport system – Dover Fastrack – is a key element within Dover District Council's currently adopted Local Plan and emerging Local Plan review.
- 3.3 The proposed route through White Cliffs Business Park and the Whitfield Urban Expansion is aimed to ensure all employees and residents are conveniently within 400m of a bus stop. There is no other option that can provide the same level of service and penetration without the acquisition of land.
- 3.4 Early implementation is important so that new residents have the opportunity and incentive to move away from the traditional reliance on car use. The scheme planning permission and Homes England funding are also time limited, together requiring construction to start as soon as practicable.
- 3.5 The land and rights that will be included in the Order are the minimum that will be necessary to deliver the scheme and have been determined by design and engineering standards, the requirements of statutory bodies and sustainable surface water drainage measures. The compulsory purchase is essential to the successful implementation of the Dover Fastrack scheme. Simply put, the scheme could not be delivered by any means which do not involve the compulsory purchase of the land and rights proposed to be acquired.
- 3.6 All necessary management, consultancy, contractor, and funding resources will be available to deliver the scheme within a reasonable timescale.
- 3.7 Apart from an area of land in unknown ownership, the scheme only requires commercially held development land. The Order will include some yet to be completed or adopted estate roads within the development required for construction access and/or the Dover Fastrack service. However, within the housing land that has so far been developed, the residents have acquired their new homes, on the expectation of these roads being completed and adopted as public highway. Taken together, the use of compulsory purchase is fair and justified and the benefits of Dover Fastrack outweigh any interference with human rights, which would be limited. The substantial public benefits of the scheme would clearly outweigh the limited private loss involved, especially when the availability of compensation is taken into account.
- 3.8 The development of the scheme, including the proposals for compulsory purchase, has correctly followed all statutory procedures to date and in particular with the development of the Dover Fastrack concept and route within the Local Plan and more recently with the grant of planning permission.
- 3.9 There are no foreseeable physical or legal impediments to implementation of the scheme and more than a reasonable prospect of the scheme going ahead. An agreement with Highways England is being prepared giving authority for the scheme to bridge over the A2 and, as with many highway related schemes, there will be a need for some operational traffic regulation orders. No problems in delivering these are anticipated.

3.10 Dover District Council has commenced negotiations with the primary landowner and an offer has been made but no formal response has been received to date. The District Council has agreed to pay the landowner's reasonable fees to allow them to consider a valuation. Even if terms are ultimately agreed, the formal completion of the legal aspects are often lengthy and the District Council has no control over this timetable or certainty of completion. Reasonable steps have to date been taken to acquire the necessary land and rights by agreement, but the point has been reached where, as a last resort, compulsory purchase appears necessary.

4. Financial Implications

4.1 There are no financial implications for the County Council. The estimated costs include all items of cost including a commuted sum to Highways England in respect of the new bridge over the A2. The scheme is just normal highway with no specific high-cost features. As with any new highway the costs of ongoing inspection and maintenance will just be part of the ongoing management of the County wide highway asset.

4.2 The County Council is drawing down monthly payments from Dover District Council to allow the scheme development to proceed. A formal Delivery Agreement has been drafted with Dover District Council which will be finalised once the project budget has been agreed with Homes England which in turn depends in part on the County Council approving the use of compulsory purchase powers. The County Council will not publish the compulsory purchase order until the Delivery Agreement has been completed

5. Policy Framework

5.1 The scheme supports the Strategic Statement Outcome 2 by reducing congestion, improving the highway infrastructure to provide more reliable journey times and improved public transport links and accessibility, to support Kent business and housing growth and encourage economic activity to benefit the local and wider communities.

6. Equalities Implications

6.1 An updated Equalities Impact Assessment has been carried out and is included in Appendix C.

7. Local Member Consultation

7.1 Local Members have been consulted and understand the situation and need for the use of compulsory purchase.

8. Conclusions

8.1 Good progress has been made and now the Fastrack scheme has received planning permission, the next step is to secure all the land required to allow the scheme to be implemented.

8.2 It is hoped that land can be secured by voluntary agreement but this can take time and then further time to make contractually binding, and hence a compulsory purchase order is required to ensure land availability and programme certainty. The proposed compulsory purchase under the Highways Act 1980 is necessary in the public interest and there is a compelling public interest case for making and implementing a compulsory purchase order now.

9. Recommendation(s)

Recommendation(s):The Cabinet Member for Highways and Transport is asked:

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The decision is attached at Appendix D.

10. Background Documents

- Appendix A – Public Consultation Overview Leaflet:
<https://democracy.kent.gov.uk/documents/s104091/DoverFastrackPublicConsultationLeafletSummer2020byDDCbutnamingKCC.pdf>
- Appendix B – Draft Compulsory Purchase Order plan:
<https://democracy.kent.gov.uk/documents/s104092/DVFTWSP12XXDRDI000120CPOplansP040draft9321.pdf>
- Appendix C – Equalities Impact Assessment:
<https://democracy.kent.gov.uk/documents/s104090/DoverBRTEqIAv1050719.pdf>
- Appendix D – Record of Decision.
- Appendix E - Record of Decision 19/00053:
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2277>

11. Contact details

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