

REPORT TO: Executive Board

DATE: 10 April 2008

REPORTING OFFICER: Strategic Director - Environment

SUBJECT: Mersey Gateway: Appropriation

WARDS: All

1.0 PURPOSE OF THE REPORT

- 1.1 To seek authority for the appropriation for planning purposes for the Mersey Gateway development of areas of council owned land at St Michael's Jubilee Golf Course and west of the Central Expressway, (shown on plans at Appendix 1), as provided for by section 122 of the Local Government Act 1972, in order to facilitate the Mersey Gateway project.

2.0 RECOMMENDATION:

- i) That the Board approves the appropriation with immediate effect of the Council owned land shown on the plans attached to this report for planning purposes, pursuant to section 122 of the Local Government Act 1972.

3.0 SUPPORTING INFORMATION

- 3.1 The Project is summarised in the overarching report item 8(a) before this meeting.
- 3.3 Some of the land required for the Mersey Gateway project is already owned by the Council. In particular, the council owns two areas of land required for the Mersey Gateway project which are currently used for informal recreation by the public. One of these areas is at St Michael's Jubilee Golf Course which is currently disused as a golf course whilst remediation of underlying contaminated land is undertaken. The second area is an area of land west of the Central Expressway and south of the Bridgewater Canal which, being near to residential properties, is used for informal recreation by local residents. Both these areas are therefore defined as open space.
- 3.4 The appropriation of the land for planning purposes from open space purposes as proposed by this report is appropriate in view of the council's commitment to the Mersey Gateway project as the areas in question are required for it. It will also ensure that any existing rights or restrictions over the land which could prevent the Mersey Gateway project from proceeding can be overridden and will obviate the need for

special Parliamentary procedure to be followed to obtain the necessary orders for the project.

- 3.5 If the land on St Michael's Jubilee Golf Course is appropriated, it will still be possible for the golf course to be re-opened at a future date, notwithstanding the loss of part of it to the purposes of the Mersey Gateway Project. Similarly, sufficient open space will be left adjacent to the Central Expressway to allow the informal recreational use there to continue.

Appropriation

- 3.6 Where open space is included in a compulsory purchase order made under any powers (including the Transport and Works Act 1992), Section 19 of the Acquisition of Land Act 1981 applies. Section 19 requires the compulsory purchase order to be subject to special Parliamentary procedure unless certain tests are satisfied.
- 3.7 As the two areas of open space shown on the plans at Appendix 1, are required for the Mersey Gateway project, it is considered that they should be appropriated from open space purposes. The council is authorised by Section 122 of the Local Government Act 1972 to appropriate land for any purpose for which it is authorised to acquire land by agreement. It is therefore proposed that the two areas of open space be appropriated for planning purposes for the development of the Mersey Gateway project. This will mean that the compulsory purchase powers for the Mersey Gateway project can be confirmed without the need for special Parliamentary procedure.
- 3.8 Where land is appropriated for planning purposes, it is also the case (by virtue of Section 237 of the Town and Country Planning Act 1990) that the erection, construction or carrying out, or maintenance of any building or work on such land is authorised, if it is done in accordance with planning permission, even if it involves interference with third party rights.
- 3.9 The purpose of Section 237 of the Town and Country Planning Act 1990 is to ensure that where land has been acquired or appropriated by a local authority for planning purposes then existing rights, which could prevent the development of that land from proceeding in accordance with planning permission, can be overridden. The powers contained in Section 237 do not remove any legitimate rights of owners or occupiers to compensation which may arise from the interference with such rights, but it does remove the potential for excessive claims and it also removes the potential for such owners or occupiers to frustrate the Mersey Gateway project by obtaining an injunction to prevent the interference with their rights. If agreement cannot be reached as to the amount of compensation, then any claim can be referred to the Lands Tribunal for a decision in the same way as a claim for compensation under a Compulsory Purchase Order.

Representations

- 3.10 On 13th March and 20th March 2008, notice was published of the Council's intention to appropriate land at St. Michael's Jubilee Golf Course and land west of the Central Expressway for the purposes of the Mersey Gateway development and inviting representations. The period allowed for representations expired on 3rd April 2008.
- 3.11 As at the date of this report the Council has received no representations in respect of this matter whatsoever. Officers will update the Executive Board at its meeting in respect of any representations received and as to officers' recommendations in light of them.

4.0 POLICY IMPLICATIONS

- 4.1 The project is a key priority for the Council which will deliver benefits locally and across the wider region

5.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

- 5.1 The implementation of Mersey Gateway will have significant benefits for all Council priorities.

6.0 RISK ANALYSIS

- 6.1 The specific risks are reported in a detailed project risk register linked to the Council's corporate risk management regime.

7.0 EQUALITY AND DIVERSITY ISSUES

- 7.1 Mersey Gateway provides an opportunity to improve accessibility to services, education and employment for all.

8.0 REASON(S) FOR DECISION

- 8.1 The appropriation of land proposals are required to support the making of the Mersey Gateway CPO Order.

9.0 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 9.1 The proposed appropriation is intended to reduce the risks in delivering the Mersey Gateway project against the do nothing option.

10.0 IMPLEMENTATION DATE

- 10.1 The recommended action is required before the Council considers a decision to make the project CPO in May 2008.

11.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

- 11.1 Files maintained by the Mersey Gateway Project Team and by the Highways and Transportation Department.