

REPORT TO: Executive Board

DATE: 10 April 2008

REPORTING OFFICER: Strategic Director - Environment

SUBJECT: Mersey Gateway: The Compulsory Purchase Orders and Side Roads Orders

WARDS: All

1.0 PURPOSE OF THE REPORT

1.1 To seek authority to make Compulsory Purchase Orders ("CPOs") to acquire all necessary interests in and rights over land in Widnes and land in Runcorn as shown in the plans (to be available at the meeting); and to enable the works described in the overarching report before this meeting to be carried out, operated and maintained and to make Side Roads Orders ("SROs") in order to facilitate the Mersey Gateway Project.

2.0 RECOMMENDATION: That the Board agree that

- i) Authority be given for the Council to make CPOs under the powers conferred by Sections 239, 240, 246, 249, and 250 of the Highways Act 1980 (summarised in the table in Appendix 1) to acquire the interests in and rights over land shown on the plans to be available at the meeting. Similarly, land acquired by agreement should be included in such CPOs for the purpose of overriding covenants and other third party rights in accordance with s260 HA 1980.
- ii) Authority be given for the Council to make SROs under section 14 of the Highways Act 1980 in order to stop up or divert or otherwise alter or improve highways which cross, enter or are otherwise affected by the classified roads to be constructed or improved as part of the Mersey Gateway Project and to provide new highways and/or new means of access to premises as required.
- iii) That the Chief Executive is authorised to settle the areas subject to the CPOs in accordance with the plans to be available at the meeting and confirm the roads to be subject to the SROs and also to settle any documentation required for the CPOs and the SROs including the Statement of Reasons for the CPOs which should be based upon the terms of this report and the overarching report before this meeting.
- iv) That the Chief Executive be authorised to make the CPOs and the SROs and to take all necessary procedural steps prior to and after

the making of the CPOs and SROs, including the submission of the CPOs and SROs to the Secretary of State for confirmation, together with the preparation and presentation of the Council's case at any public inquiry.

- v) That the Chief Executive be authorised to sign and serve any notices or documents necessary to give effect to these recommendations and to take all other actions necessary to give effect to these recommendations.
- vi) That the Chief Executive be authorised as soon as the CPOs and SROs are confirmed by the Secretary of State to advertise their confirmation, to serve and publish all necessary notices of confirmation and, once the CPOs become operative, to take all necessary procedural steps to acquire the interests in and new rights over land included in the confirmed CPOs including the service of Notices to Treat under Section 5 of the Compulsory Purchase Act 1965, Notices of Entry under Section 11 of the CPA 1965 and the execution of General Vesting Declarations under the Compulsory Purchase (Vesting Declarations) Act 1981.

3.0 SUPPORTING INFORMATION

- 3.1 The background to the Project, suite of applications and benefits of the Project are set out in the overarching report at item 8(a), before this meeting. As at the date of this report considerable progress has been made in respect of the preparation of the CPO. These include: the appointment of land referencing agents (Persona Associates) who are carrying out title investigations and site enquiries and who have served notices under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 to requisition ownership information from all parties likely to be affected by the Mersey Gateway Project; and the appointment of specialist agents (GVA Grimley) have been appointed to use the land ownership information to progress negotiations with affected parties.
- 3.2 While negotiations will continue, given the number of interests involved it is not considered possible to acquire all interests in land required for the Project on acceptable terms within a satisfactory timescale. This means that the only practical way of ensuring that all necessary land and rights can be brought into the council's ownership with clean title and the necessary works can be carried out to enable the Mersey Gateway Project to proceed is by progressing the CPOs and SROs.
- 3.3 It is proposed to make two CPOs, one for the land and rights required in Widnes and one for the land and rights required in Runcorn, under the Highways Act 1980. It is also proposed to make SROs under the Highways Act 1980.

- 3.4 The Office of the Deputy Prime Minister Circular 06/2004 states that "*A compulsory purchase order should only be made where there is a compelling case in the public interest*". The benefits of the Mersey Gateway Project and the case for the CPOs are set out in the overarching report at item 8(a) before this meeting. The CPOs and associated SROs are, as set out in that report, considered to be in the public interest.

Human Rights

- 3.5 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with the European Convention on Human Rights. Various Convention rights may be engaged in the process of making a CPO, including the following: the right of everyone to the peaceful enjoyment of their possessions, which can only be impinged upon in the public interest and subject to relevant national and international laws;
- The right to a fair and public hearing for those affected by the project, including those whose property rights are affected by the project; and
 - The right to a private and family life, home and correspondence, which again can only be impinged upon in accordance with law and where such encroachment is necessary in the interests of national security, public safety or the economic wellbeing of the country.
- 3.6 The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that "*regard must be had to the fair balance that has to be struck between competing interests of the individual and of the community as a whole*". Any interference with Convention rights must be necessary and proportionate.
- 3.7 In light of the significant public benefit which will arise from the implementation of the Mersey Gateway project and the fact that owners and occupiers of land which will be compulsorily acquired or adversely affected by the Mersey Gateway project will qualify for compensation, it is considered appropriate to make the CPOs and the SROs. It is not considered that the CPOs and/or SROs will constitute any unlawful interference with any individuals' rights under the Convention, including in particular any property rights.

Consultations

- 3.8 In 2002, an extensive public consultation exercise on the proposal for the Mersey Gateway Project commenced. This comprised three stages and ran to September 2005. The consultation was carried out through leaflets, telephone surveys and questionnaires as well as holding focus groups and workshops with local residents and businesses.

- 3.9 At the same time, consultation with statutory bodies (including the Environment Agency, English Nature, English Heritage, the Highways Agency, the Acting Mersey Conservator, Mersey Docks & Harbour Company, Manchester Ship Canal Company and CABE) about the proposals began. These consultations have been ongoing throughout the development of the Mersey Gateway Project and continue today.
- 3.10 In 2007, a pre-planning application public consultation in respect of the Mersey Gateway Project was held. The aims of the exercise included informing stakeholders at the earliest possible opportunity about the proposals and seeking their views in order to shape the Mersey Gateway Project.
- 3.11 Information about the project was distributed by leaflets sent to local residents and businesses. Landowners and stakeholders were contacted and notified of the impact of the proposals on them. Public consultation exhibitions were also held and details of the Project were distributed via local newsletters, the Mersey Gateway website and the local media, both print and broadcast.
- 3.12 Following completion of the public consultation, in November 2007, a leaflet was distributed to all households and businesses in the Borough, along with stakeholders, which provided feedback on the consultation and addressed the issues raised by respondents to the questionnaire, as well as setting out the likely next steps in the Mersey Gateway project. In that leaflet, HBC sought to address those respondents' concerns over the tolling proposals, explaining the reasons for the tolling and what mitigation measures are intended to be taken in relation thereto.
- 3.13 Most recently, parties affected by the Mersey Gateway Project have been contacted by letter to inform them about the compulsory purchase process and inviting them to make contact with the Council in order to discuss any concerns they might have. Contact has also been invited with the Council's specialist agents with a view to progressing negotiations for the acquisition of their interests.
- 3.14 It is anticipated that the making of the CPOs will encourage affected parties to enter into and actively progress negotiations to agree terms for compensation and/or relocation. The Silver Jubilee Bridge ("SJB") today represents a key vehicular crossing point over the Mersey. It is one of only four main opportunities for road traffic to cross the Mersey between Liverpool and Manchester. From the west, these comprise the two Mersey tunnels, Silver Jubilee Bridge, crossing within Warrington town centre and the Thelwall Viaduct on the M6. As such, the SJB forms a key link in the regional transport network as well as representing the only vehicular and pedestrian link between the Borough towns of Runcorn and Widnes.

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 recommended decisions are required to support the delivery of Mersey Gateway.

9.0 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 9.0 Alternative options for securing the powers to construct, maintain and operate Mersey Gateway have been assessed and rejected.

10.0 IMPLEMENTATION DATE

- 10.1 The recommended decisions are required before the next phase of the statutory process takes place 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.

Appendix 1

- Sections 239 & 240: Construction and improvement of highways including the carrying out of works authorised by a SRO under section 14 including the provision of new means of access to premises; use of land in connection with these purposes; works to watercourses; provision of exchange land where open space included in CPO; improvement or development of frontages to new and existing highways or land adjoining or adjacent to new and existing highways.*
- Section 246: To mitigate the adverse effect of the existence or use of a highway on its surroundings.*
- Section 249: This section specifies the distance limits for the exercise of powers under sections 239 and 240 and should be cited in any CPO.*
- Section 250: Acquisition of existing or new rights.*
- Section 260: Inclusion in a CPO of land acquired by agreement so as to override restrictive covenants or other third party rights]*