

# Birmingham City Council

## Report to Cabinet

14 May 2019



**Subject:** Dudley Road Improvement – Land Requirements  
**Report of:** Director, Inclusive Growth  
**Relevant Cabinet Member:** Councillor Waseem Zaffar – Transport and Environment  
**Relevant O &S Chair(s):** Councillor Liz Clements – Sustainability and Transport  
Councillor Sir Albert Bore - Resources  
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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: 006326/2019		
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 On 26th June 2018 Cabinet approved the Project Definition Document (PDD) for the Dudley Road Improvement Scheme and gave authority to make a Compulsory Purchase Order (CPO). Following design development work it has been identified that some small areas of additional land are required to deliver enhanced cycling provision. Approval is sought to a revised scheme layout together with fresh authority to make Compulsory Purchase and Side Roads Orders to include the additional land. The revised scheme layout and land requirements are shown on

drawing nos. CA\_02715\_S1\_050 Rev- G and CA\_02715\_S1\_025 RevA G in Appendices A and B.

## **2 Recommendations**

- 2.1 Approves the Dudley Road Improvement Scheme layout as shown on drawing no. CA\_02715\_S1\_050 Rev- G in Appendix A.
- 2.2 Approves the making of a Compulsory Purchase Order under sections 239, 240 and 250 of the Highways Act 1980 in respect of the land edged black shown on drawing CA\_02715\_S1\_025 RevA G in Appendix B.
- 2.3 Authorises the City Solicitor to carry out all preparatory work for the Compulsory Purchase Order (including land referencing), and to make and submit the Order to the Secretary of State for Transport for confirmation, preparation for Public Inquiry (if required) and to serve all necessary notices to give effect to the Compulsory Purchase Order and its implementation, including High Court Enforcement Officer Notices and (if granted power to do so) to confirm the Compulsory Purchase Order.
- 2.4 Authorises the Assistant Director Property to negotiate and complete the acquisition (and disposal if required) of any interest to facilitate the building of the new highway including easements and drainage in the adjoining land connected to the scheme, in advance of and alongside the confirmation of the Compulsory Purchase Order and to agree costs and compensation relating to the Compulsory Purchase Order, and authorises the City Solicitor to complete such acquisitions or disposals or easements and seal any documents in connection therewith. To pay statutory home loss, basic loss and negotiate disturbance compensation to all qualifying owners and tenants.
- 2.5 Authorises the City Solicitor to draft and submit for confirmation an Order in accordance with Section 14 and Section 125 of the Highways Act 1980 (or other such similar Orders as may be required) to support the Compulsory Purchase Order.
- 2.6 Authorises the City Solicitor to negotiate, execute, seal and complete all necessary documentation to give effect to the above recommendations.

## **3 Background**

- 3.1 The PDD for the Dudley Road Improvement scheme was approved by Cabinet 26<sup>th</sup> June 2018 and included authority to prepare for a Compulsory Purchase Order. Design development work commenced summer 2018 and through engagement with cycle groups some additional land requirements have been identified to better accommodate cyclists and pedestrians and a significant reduction in tree removals.
- 3.2 The revised scheme is shown on drawing no CA\_02715\_S1\_050 Rev- G. The revised proposals better accommodate cyclists through the provision of additional sections of segregated (145m) and shared use (10m) cycleway together with

raised cycle crossing points on two side roads. These changes impact on areas of private land that is either landscaped or hard paved and, no significant adverse impacts on the land owners / occupiers are expected as a result of these revised proposals. These revised proposals will reduce the number of trees being removed by approximately 15 in number.

- 3.3 Authority is now sought to the revised scheme layout and to include the original and the additional land in the proposed CPO resolution, the total land requirements are shown edged black on drawing no. CA\_02715\_S1\_025 RevA G, the additional land requirements are shown green on the plan. The Compulsory Purchase Order is necessary to ensure that the improvement scheme can be delivered and the CPO justification is provided in Appendix E. Not obtaining all the necessary land would result in the scheme not being viable.

#### **4 Options considered and Recommended Proposal**

- 4.1 Do nothing - Proceed with the original scheme – this option would result in loss of 15 substantial trees, miss the opportunity to provide 140m of segregated cycleway and priority for cyclists across a specific side road.
- 4.2 Proceed with the revised scheme - to acquire the additional parcels of land to deliver the preferred scheme and provide enhanced cycle provision through the introduction of 145m of segregated cycleway, 10m of shared use cycleway, provide consistency in priority for cyclists across a specific side road and mitigate loss of 15 trees.
- 4.3 Recommend proceed with the revised scheme - acquire the original and additional parcels of land to deliver the preferred scheme together with the added benefits of the revised changes.

#### **5 Consultation**

- 5.1 The Internal consultation was reported in the approved PDD Report in June 2018. Officers in Legal and Governance and Birmingham Property Services have been consulted on the revised proposals.
- 5.2 Officers in, City Finance and Legal and Governance have been involved in the preparation of this report.
- 5.3 A full public consultation including stakeholders was undertaken in summer 2018. The proposed changes to the scheme layout as shown in plan CA\_02715\_S1\_050 Rev- G reflect the comments of the cycling groups. Following further development of the detailed design it is proposed to engage with residents, businesses and stakeholders to seek comments on the layout that will be taken forward to Full Business Case approval later this year.

## **6 Risk Management**

6.1 A risk management schedule is attached as Appendix C.

## **7 Compliance Issues:**

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

7.1.1 The Dudley Road Improvement Project supports the Council Plan and Budget 2018+ priorities, specifically growing the creation of "Jobs and Skills" through investment in transport infrastructure and improved connectivity that supports new developments being built in Birmingham. The project also aligns with the Birmingham Development Plan, GBSLEP Strategy for Growth, Strategic Economic Plan, the Movement for Growth 2026 Delivery Plan for Transport and the Birmingham Connected Transport Strategy.

7.1.2 Birmingham Business Charter for Social Responsibility (BBC4SR). Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of the contract for the Dudley Road Improvement Scheme. The contractors undertaking this project work under the Council's Highways and Infrastructure Framework Agreement are certified signatories to the BBC4SR and will provide additional actions proportionate to the value of each contract awarded. The actions will be monitored and managed during the contract period.

### **7.2 Legal Implications**

7.2.1 The City Council carries out transportation, highways and infrastructure related works under the relevant primary legislation including 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 on Compulsory Purchase and Department of Transport circular S1/97 and S2/97.

7.2.2 The Council has power to appropriate land under Section 122 of the Local Government Act 1972 where satisfied it is no longer required for the purpose for which it is held immediately before the appropriation. Section 122(2A) requires that where land is existing open space, notice of the intention to appropriate to other use must be advertised and any objections considered prior to the appropriation taking place.

### **7.3 Financial Implications**

7.3.1 The cost of the additional land requirements is expected to be minimal, estimated at £0.050m, and will be contained within the £29.464m budget approved by Cabinet on 26<sup>th</sup> June 2018, which includes contingency provision.

### **7.4 Procurement Implications (if required)**

7.4.1 Not applicable

### **7.5 Human Resources Implications (if required)**

7.5.1 Not applicable

### **7.6 Public Sector Equality Duty**

7.6.1 In January 2018 an analysis of the effects of equality was undertaken for the Dudley Road Improvements scheme and is attached as Appendix D to this report. It was concluded that there would be no adverse effect on protected groups so no further equality impact assessment screening is required for the report recommendations.

7.6.2 Land referencing has been commenced to clarify all third party interests in the land to be acquired for the scheme. Discussions with relevant land owners has commenced with the lead taken by Birmingham Property Services.

## **8 Appendices**

- 8.1 Appendix A Revised Scheme Plan Drawing No. CA\_02715\_S1\_050 Rev- G
- 8.2 Appendix B CPO Additional Land Requirements Plan Drawing No. CA\_02715\_S1\_025 RevA- G
- 8.3 Appendix C Dudley Road Improvements Scheme Risk Management Assessment.
- 8.4 Appendix D Dudley Road Improvements Scheme Equalities EA002853.
- 8.5 Appendix E Dudley Road Improvements Scheme Compulsory Purchase – The Human Rights Act 1998 and the European Convention of Human Rights

## **9 Background Documents**

- 9.1 'Local Growth Fund Transport and Connectivity Projects: Programme Definition Document' – Report of the Deputy Chief Executive to Cabinet, 16th March 2015.
- 9.2 'Winning Resources for BCC Priorities – Acceptance of Grant Funding to Support Preparatory Costs of Transportation schemes in the GBSLEP Growth Deal Programme' – Report of the Deputy Chief Executive to Cabinet, 20th October 2015.

- 9.3 'Updated Transportation and Highways Capital programme 2019/20 to 2024/25 Option Appraisal' Report of the Director, Inclusive Growth to Cabinet, 26th March 2019.
- 9.4 'Dudley Road Improvement: Project Definition Document' – Report of the Corporate Director, Economy to Cabinet, 26th June 2018.