

## **Divisions Affected – Bicester North**

### **CABINET**

**16 November 2021**

## **A4095 / B4100 Banbury Road Roundabout In Principle Use of Statutory Powers**

### **Report by Corporate Director Environment and Place**

#### **RECOMMENDATION**

1. **The Cabinet is RECOMMENDED to:**
  - a) approve the hybrid design option (see Annex A) and approve progression into Design and Procurement Stage 2 of the project.
  - b) approve in principle the use of The Oxfordshire County Council (Banbury Road Roundabout) Compulsory Purchase Order 202[x] in parallel with negotiations for private acquisition, with such powers of compulsory purchase used only as a matter of last resort. If Compulsory Purchase Order (CPO) is required to deliver the project, we will seek further approval, subject to the scheme meeting all CPO requirements and the paper will be brought back to Cabinet, once the necessary approval has been sought, including public engagement on preferred options and submission of a planning application for the scheme.

#### **Executive Summary**

2. This report seeks approval to progress with a junction capacity and sustainable transport improvements project at the A4095 / B4100 Banbury Road roundabout in Bicester. Bicester is a key area for economic and housing growth in Cherwell and Oxfordshire, with approximately 10,000 new homes and 138.5 ha of employment land supported by the Cherwell Local Plan 2011-2031(Local Plan). Banbury Road roundabout junction improvements will facilitate housing and support North West Bicester's allocation of 6,000 houses and boost economic growth. There are many other strategic infrastructure projects planned to be delivered by 31st March 2023 in Bicester. This project is expected to be complete by February 2023.

#### Project Objectives

3. The objectives of the Project are to:

- a) Provide suitable, resilient transport infrastructure to support development and increase economic vitality;
- b) Reduce congestion in the town;
- c) Create capacity for developments including better sustainable modes provision;
- d) Mitigate the impact of transport on the town's population and urban environment;
- e) Reduce carbon emissions from transport in the town;
- f) Encourage more bus use, cycling and walking; and
- g) Reduce casualties and dangers associated with travel.

#### Land Acquisition

4. The land necessary to deliver the Project has been identified and the landowners impacted have been contacted, with negotiations to acquire by private treaty agreement taking place. It is the Council's intention to acquire land through private treaty agreement with landowners wherever possible, but it is noted that to ensure timely delivery of the Project, the CPO process shall be required in parallel to those private negotiations, with powers of compulsory purchase to be used as a matter of last resort.
5. Key milestone dates for the delivery of the Project are outlined in **Table 1** of this report.

#### **Exempt Information**

6. There is no exempt information in this report.

#### **Background**

7. Four options were initially considered and appraised. Please see Annex B for the options appraisal report.

#### Project Description

8. The A4095 / B4100 Banbury Roundabout (**Figure 1**) is one of the key junctions along the western peripheral ring road and the adopted **Local Plan Policy Bicester-1** supports the provision of the A4095 / B4100 Banbury Road roundabout junction improvements. The proposed road network infrastructure improvements identified in Local Transport Plan (LTP) 4 include increasing highway capacity at the A4095 / B4100 junction, as well as along the peripheral route, including the radial route B4100 connecting Bicester Village with Banbury.
9. The A4095 / B4100 Banbury Road junction is a four-arm roundabout to the North of Bicester. The junction has functioned efficiently until recently but can now become over capacity during peak hours, as the growth of the town increases traffic movement around the ring road, especially along the A4095 from the west.

10. The Project proposes the replacement of the existing roundabout with a signalised crossroad. Pedestrian and cycle improvements to the junction are included with a segregated bi-directional cycle track provided on the eastern side of the B4100 and on the southern side of the A4095. The existing staggered crossing to the east of the junction on the A4095 is to be replaced with a straight across pedestrian/cycle crossing. The current shared footway/cycleway on the eastern side of the B4100 is to be widened.
11. Ministry of Housing, Communities and Local Government (MHCLG) funding will need to be spent by February 2023.
12. The delivery of the Project is supported by a dedicated Project team, which sits within the Bicester & Banbury Programme business unit, within the Growth and Economy Directorate.
13. There are a range of current issues and risks associated with the delivery of the Project, which are being actively managed by the Programme team. Whilst a number of these issues and risks can be considered as reflective of the scale and complexity of the programme being undertaken, land acquisition and drainage are on a critical path of the Project timeline.

#### Project Programme Summary

14. The current estimated timeline for completion of the Project is outlined below.

**Table 1**

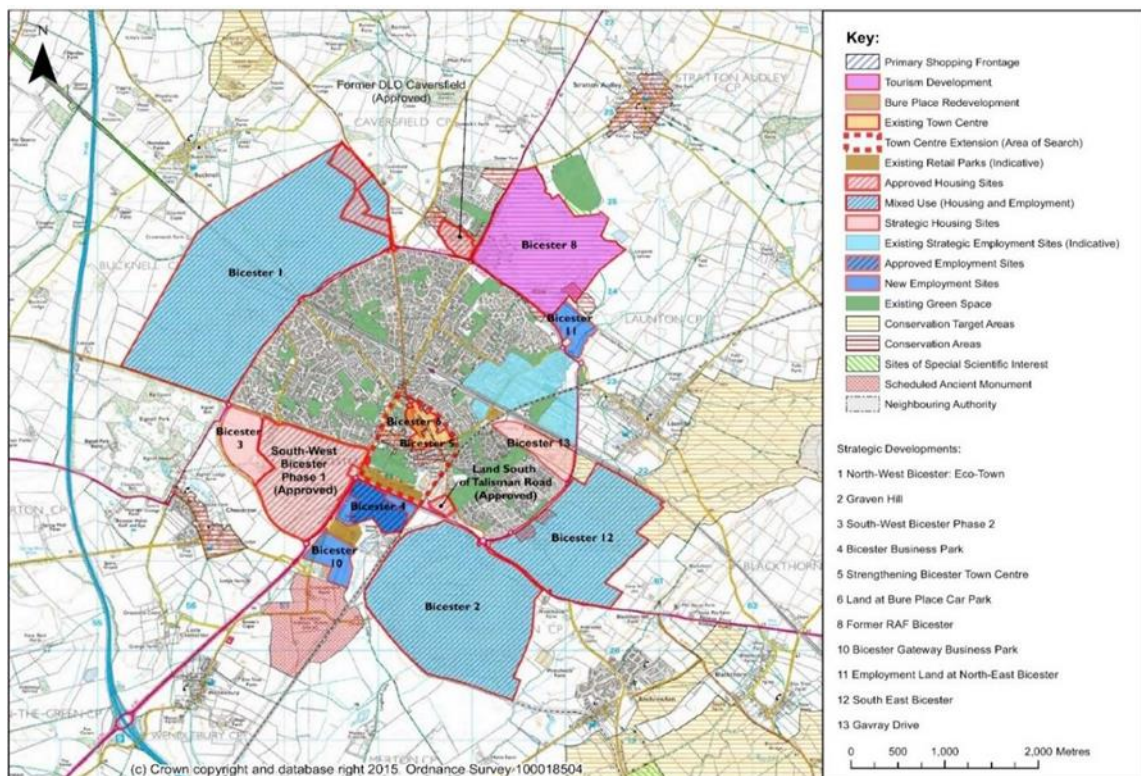
Planning submitted	July 2021
Planning determination expected	November 2021
Detailed design complete	March 2022
Construction start	April 2022
Construction finish	February 2023

#### Strategic Context

15. The Cherwell Local Plan 2011-2031 is based on 3 key themes:
  - Developing a sustainable local economy
  - Building sustainable communities
  - Ensuring sustainable development
16. The 4th Oxfordshire Local Transport Plan (LTP4), Connecting Oxfordshire (2017) has 3 similar main goals:
  - Supporting jobs and housing growth and economic vitality
  - Reducing emissions, enhancing air quality and supporting the transition to a low carbon economy
  - Protecting and enhancing the environment and improving quality of life
17. LTP4 includes the Bicester Transport Strategy of October 2015, which proposes to create a network of transport infrastructure and services that make it easy and attractive to travel by sustainable means. The key component of the Bicester area strategy for many years has been the construction of a system of

peripheral routes to direct distributional trips away from the central routes and therefore free these up for local trips and, in particular, sustainable movements.

18. Bicester development allocation was granted Eco-Town status in 2009 by the Government to act as a showcase for environmentally sustainable communities to be built to the standards under the government's Eco Towns Planning Policy Statement (**PPS**) 1. The policy requires it to be a zero-carbon development achieved through renewable energy and sustainable travel options and delivering homes with high energy efficiency ratings.
19. The Bicester Supplementary Planning Document (**SPD**) adopted in 2015, specified that the layout of Eco-Town must enable a high degree of integration and connectivity between new and existing communities, maximise the potential for walkable neighbourhoods, prioritise non-car modes and encourage a modal shift from car use to other forms of travel. The Local Plan states that the Eco Town development should create at least 50% of trips to be made by means other than the car.
20. The Local Plan states: "*By 2031 Bicester will have grown significantly as indicated at **Figure 1** to become an important economic centre in its own right, be a more attractive place to live and work and will be significantly more self-sustaining both economically and socially*".
21. The Local Plan identified that: "*Infrastructure to support sustainable modes of transport will be required including enhancement of footpath and cycle path connectivity with the town centre, employment and rail stations. Measures to ensure the integration of the remainder of the town including measures to address movement across Howes Lane and Lords Lane*".



**Figure 1: Bicester Town showing planned major Areas for Development**

### Transport Context and Issues

22. Bicester is located 12 miles by road northeast of Oxford on the A34, and 17 miles north west of Aylesbury on the A41, with the M40 one mile east of Bicester centre. By rail, there are direct frequent connections to London, Birmingham and Oxford on the Chiltern Line. M40 junction improvements North of Bicester and plans for East-West Rail Oxford-Cambridge connection will further improve Bicester's strategic transport links.
23. Planning conditions incorporate measures to encourage residents to adopt more sustainable modes of travel, including the provision of segregated cycleways and pedestrian routes linking directly into the town's existing network, a community bus service, a communal car club, electric car charging points, cycle storage standard for each home.

### The Need for the Project – Economic, Environmental and Social Benefits

24. The Project proposals would provide several economic, environmental and social benefits. In order to cope with the planned developments in Bicester, there are various strategic infrastructure projects planned to be delivered by October 2024 to support local economy and housing growth. The Cherwell Local Plan has identified a largest mixed-use site to the North West of this junction, which has a capacity to deliver 3,293 homes and create 3,000 jobs by 2031, with a total of 6,000 homes committed overall.

25. The A4095 / B4100 Banbury Roundabout is one of the key junctions along the western peripheral ring road and the adopted Local Plan Policy Bicester-1 supports the provision of the A4095 / B4100 Banbury Road roundabout junction improvements. Also, the proposed road network infrastructure improvements identified in LTP4 includes increasing highway capacity at the A4095 / B4100 junction as well along the peripheral route, including the radial route B4100 connecting Bicester with Banbury.

#### Economic Benefits

26. The main economic benefits offered by the Project are as follows:
- Delay to business users and freight travelling round Bicester and through the junction is reduced from the improvements made to the junction.
  - Journey time reliability is improved due to the signalisation of the junction, which allows greater adaptability of changes to future flow patterns.
  - Improvements to the performance of the junction supports future growth within Bicester and, specifically, attractiveness of the development at NW Bicester.

#### 27. Environmental Benefits

- The Project is expected to contribute towards reducing traffic noise due to the proposed reduction in speed limit on the A4095 from 50mph to 30mph.
- The Project will reduce future traffic congestion and, therefore, supports the reduction of future emission levels within the local area.

#### 28. Social Benefits

- Delay to commuters travelling through the junction is reduced and journey time reliability is improved.
- Improvements to pedestrian and cycle infrastructure is anticipated to improve physical activity.
- It is anticipated that the Project will contribute towards reducing the risks of accidents at the junction.
- The Project will a positive impact in reducing severance at the location of the junction and improve connectivity for people travelling through the junction.

### The Need for the Project – Highway and Transport Network Benefits

29. The Project proposals would provide a number of Highway and Transport benefits as follows.

#### Highway & Transport Network

- Reduce severance, in particular improving transport connectivity along the A4095 and provide better connections between the Eco Town and Bicester.

- Improves the operation of the A4095 and the strategic highway network.
- Support the growth of Bicester and specifically at NW Bicester by providing suitable levels of capacity on the highway network.
- Improved Walking and Cycling infrastructure, which will facilitate and encourage modal shift.

### Planning Policy Context

30. Key material planning policy considerations include the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG), Oxford Local Plan and Oxfordshire Local Transport Plan 4. Emerging planning policy documentation will also form material considerations, with weight to be attributed depending on the stage of the Local Plan process the document has reached.

### **Progress to Date**

31. The preferred Project was developed to Feasibility Design stage following Option Development, Appraisal and Consultation. Initially three junction design options were generated, appraised and subsequently consulted upon. Following analysis of the consultation and detailed modelling a fourth 'preferred' option was developed as a hybrid between two of the schemes consulted upon. Further consultation on the preferred option was made and this option submitted for planning approval. A Planning Application was submitted on 9<sup>th</sup> July 2021 which is currently still being determined. Currently progress is being made on the Preliminary Design in parallel with determination of the Planning Application.

### **Programme**

32. The programme described above in Project Programme Summary section will be continually updated as the Project progresses and in line with the Council's internal governance requirements.
33. The critical path to the delivery of the Project is to successfully acquire all the necessary land and new rights required for the delivery of the Project.
34. It should be noted that every effort will be made to acquire the necessary land and new rights by private treaty agreement with the affected parties and that utilising powers of compulsory purchase will be a matter of last resort where the absence of such powers would prejudice the delivery of the Project. The Council has appointed external property agents and legal specialists to undertake both private treaty negotiations with a view to reaching agreement and to advise on the compulsory purchase process. However, acquisition of required land may not be possible as programmed and, therefore, is a key risk to the Project delivery.
35. Whilst acquisition by private treaty agreement will be diligently pursued, from a timescale perspective, initiating the CPO process over the entire land holding that is required to implement the Project offers certainty should parallel negotiations to acquire the land and new rights by agreement be unsuccessful. COVID-19 programme effects moving forward have been included as far as

reasonably practicable within the timescales quoted above. The potential ongoing effect is discussed further within the Risk Management section of this report.

## Corporate Policies and Priorities

36. The delivery of the Project will actively support the following key themes within Oxfordshire County Council's Corporate Plan 2020-24.
- An **Innovative** approach to delivering a signalised junction with a high-quality bi-directional cycleway has been chosen to balance improvements for all users.
  - The scheme is striving to be delivered to achieve a Good CEEQUAL rating, which will embed **Carbon Reduction** within the Project.
  - 7-pin NEMA sockets with photocells have been recommended for inclusion within the lighting control systems as a **Technological Change** to improve efficiencies.
  - Traffic modelling utilising future forecasted traffic levels to support an efficient and safe design, while including high quality pedestrian and cycle facilities enables the Council to **Maintain a High Demand Road Network with Reduced Public Funds**.

## Financial Implications

### Project Costs

37. MHCLG funding via CDC has been identified to fund the project, subject to successful negotiation with developers regarding both land and access to land. If such negotiations are successful, accepted and agreed to, the full costs of delivering would be secured from CDC.
38. The current estimated cost is **£6.6m** for the delivery of the scheme. There will be further ongoing reviews on project costs as we proceed through the Design and Procurement stage 2 of the project.
39. Current assumption is that the land will be secured through negotiations by private treaty. If CPO is required, the scheme is not currently fully funded and would need to seek further approval before progressing with CPO development.

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## Legal Implications

### Statutory Powers

40. Members should note that whilst the Council has compulsory purchase powers under the Highways Act 1980 and the Acquisition of Land Act 1981 as an



acquiring Authority, these powers should be used as a matter of last resort. Dialogue with affected landowners has commenced and will continue in parallel to acquire required land by negotiation as a first principle.

41. While an Authority can use compulsory purchase powers where the absence of such powers would mean that a project could not be delivered, in considering whether to confirm the CPO, the Secretary of State for Transport will need to be convinced that there is a “compelling case in the public interest” for compulsory acquisition. Members should, therefore, apply a similar test before authorising the in-principle decision to use these powers, based on the balance of the information contained in this report and its supporting documentation. This is in the knowledge that a further report will be brought to Cabinet at a later date seeking authority to make the formal statutory CPO and the SRO.
42. The Council, as Acquiring Authority, is also required to show that if compulsory acquisition is authorised, the Project is unlikely to be blocked by physical or legal impediments to deliverability. These include related infrastructure works, funding and the need for planning permission, the position of all of which are covered under various sections of this report.
43. Members should also note that following any future Cabinet authority to make the CPO, those receiving notice of the CPO being made have a right to object and, if they wish, have their objections heard at a local Public Inquiry. As Acquiring Authority, the Council would then need to make the case for confirmation of the CPO at any Inquiry. The CPO will not take effect until confirmed by the Secretary of State and until such confirmation is publicised; however, once the CPO is confirmed, an affected party aggrieved by the decision would have a further six weeks after receiving public notification of the confirmation to challenge the decision in the Administrative Court on a point of law, often referred to as statutory Judicial Review. This could result in the CPO, or the decision to confirm it, being quashed in whole or in part.
44. The principal powers in the Highways Act 1980 are:
  - Section 14 and 25 (SROs)
  - Sections 239 and 240, which provide general powers for the acquisition of land for the construction and improvement of highways
  - Section 246 authorises the acquisition of land for the purpose of mitigating the adverse effects of the construction or improvement of highways
  - Section 250 authorises the compulsory acquisition of new rights over land
  - Section 260 authorises the clearance of the title to land already held by the Council and required for the Project and which might otherwise interfere with the Council’s activities in exercising its statutory powers to construct the works.
45. The Acquisition of Land Act 1981 contains powers to acquire new rights and powers to incorporate what is commonly referred to as the “Mining Code”. Section 3 of and Schedules 2 and 3 to the Acquisition of Land Act 1981, provide

that mineral interests are excluded from the land to be acquired. Full consideration will be given to the appropriateness of inclusion of the Mining Code during the development of the CPO and will be reported to Cabinet when powers to make the CPO are sought.

46. Some of the areas over which freehold title is to be acquired may not be required for the permanent works and may be offered back to the current owners at open market value under the Crichel Down Rules, providing that certain criteria are met. There is no obligation on these parties to purchase the land back and so the Council should assume that all land will be retained, whether surplus or not, and budget accordingly.
47. The SRO may authorise the stopping-up, amendment, diversion, improvement and creation of new lengths of highway or reclassification of existing highways, as appropriate and necessary, and the CPO may include land that is required to enable the works authorised by the SRO to be carried out. To the extent that the works under the SRO require third party land, the SRO gives authority to the CPO and the CPO cannot, therefore, be made without the SRO having first been made (i.e., sealed and executed by the Council).
48. In addition, the SRO may make provision for the stopping-up and (where appropriate) re-provision of private means of access to premises and agricultural land. The CPO may make provision for the acquisition of land and new rights to enable new, replacement private means of access pursuant to the CPO, to be provided as part of the Project.
49. It should be noted that the confirmation of compulsory purchase powers does not require that those powers be used nor does it acquire the land interests; it only provides the ability to use them. The Acquiring Authority has a duty to continue to try to acquire all necessary interests by private treaty agreement, where possible, with powers of compulsory purchase being used only as a matter of last resort. There is a statutory process pertaining to the implementation of powers, which will be reported to Cabinet when authority to make the CPO is sought, targeted for November 2021.
50. There may also be a requirement for both permanent and temporary traffic regulation orders (TROs) to enable the Project works; however, Cabinet approval is not required to implement these.

#### Requests for Information

51. In order to pursue a compulsory purchase order, Acquiring Authorities must undertake diligent enquiry to ascertain the land interests that exist in relation to each parcel of land required to facilitate the delivery of the Project. The Council has engaged land referencing specialists to undertake this work, which feeds into the Order Map and Order Schedule.
52. Albeit that much of the information regarding interests in land can be discovered from investigation of the information held at HM Land Registry, one of the key components of land referencing is the ability to request information directly from

the parties known from the desktop referencing process. These requests take the form of statutory requisitions for information pursuant to Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (as amended).

53. Such requisitions provide for a minimum 14-day period from receipt for a response, though authorities often provide a longer period. Non-response to a statutory requisition for information is a criminal offence and it is for this reason that the approval of Cabinet to the service of these notices is sought, over and above the delegated powers to officers in the Council's Standing Order. It should be noted that any action taken as a result of an offence being committed is entirely at the discretion of the Council.

### Human Rights

54. The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("the Convention"). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.

55. The following articles of the Convention are relevant to the determination as to whether a compulsory purchase order should be confirmed:

- Article 1 of the First Protocol protects the right of everyone to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest and subject to the relevant national and international laws. Any interference with possessions must be proportionate and, in determining whether a particular measure is proportionate, a fair balance must be struck between the public benefit sought and the interference with the rights in question;
- Article 6 entitles those affected by the powers sought in any CPO to a fair and public hearing by an independent and impartial tribunal;
- Article 8 protects the right of the individual to respect for his private and family life, his home and his correspondence. A public authority cannot interfere with these interests unless such interference is in accordance with the law and is necessary in the interests of, inter alia, national security, public safety or the economic wellbeing of the country.

56. Any CPO has the potential to infringe the human rights of persons who own property in the Order Land. Such infringement is authorised by law provided:

- the statutory procedures for obtaining the Order are followed and there is a compelling case in the public interest for any CPO; and
- any intervention with the Convention right is proportionate to the legitimate aim served.

57. A full consideration of human rights implications of the Scheme will be considered when reporting to Cabinet in November 2021 for authority to make the CPO.

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## Staff Implications

58. The resource requirements to successfully deliver the Project will come from existing project and technical management functions, primarily within the Growth and Economy Directorate. This will be supported by other disciplines from across the Council and specialist consultants as the need arises.
59. Specialist legal advisors are already engaged to provide support to the CPO process and other such statutory processes to limit the potential for future challenge to an absolute minimum.
60. The forecast Council staffing costs of the Project and technical management to completion are contained within the total budget quoted within this report.

## Equality & Inclusion Implications

61. The equalities implications of the Project will be assessed robustly through the design development stages of the Project. These equalities implications will be considered in line with the Equality Act 2010 and through the completion of an Equality Impact Assessment (EqIA) as part of the design development of the Project.
62. The Public Sector Equality Duty (PSED), to which the County Council is also subject, places additional obligations on public sector bodies to eliminate discrimination, advance equality of opportunity and foster good relations. Recognising and complying with these higher standards is required to discharge the PSED. In particular, steps must be taken to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share that characteristic.
63. Work towards this has already taken the form of considering the safety of all pedestrians, cyclists, and horse-riders through a Walking, Cycling and Horse-Riding Assessment & Review (WCHAR) which will form part of the information presented at planning. This continual review and development process will ensure that the protected characteristics, particularly those of age and disability, are considered appropriately in the design of the Project through the provision of suitable crossing facilities and segregated routes of a high standard along all of the Project. Further to this, by facilitating new bus services and better access to urban and rural areas for non-motorised users, the needs of all people are being addressed. Reviewing the EqIA and the County Council's PSED will be a continuous process throughout the development of the Project.

## Sustainability Implications

64. The Project proposals alongside the other complimentary Bicester projects described earlier in the section entitled '*Corporate Policies and Priorities*' are designed to promote sustainable modes of travel (walking, cycling and using public transport) for in and out of Bicester. This would help in reducing traffic congestion hence carbon emissions and in improving air quality.
65. The Project design has also been developed to offset any bio-diversity net loss and provision of improved environment and habitat for wildlife.
66. During the next stages of Project delivery there will be specific sustainability targets imposed on the design works such as achieving Civil Engineering Environmental Quality Assessment and Awards Scheme (CEEQUAL) 'Very Good' status; and on construction works the build contractor will be required to prepare a Site Waste Management Plan highlighting re-use of materials and appropriate method/s of disposal of unwanted materials to protect the environment.

## Risk Management

67. All key issues and risks affecting the delivery of the works programmes are escalated through the capital governance process to ensure that impact on the Council is considered and managed.
68. COVID-19 currently poses an unquantifiable risk to the Project's future delivery programme and funding. COVID-19 impacts will be closely monitored and implications on the project and wider programme reported.

## Consultations

69. Consultation with Local Council Members, Stakeholders, Business' and the Public began in March 2021 and continued through the development of the scheme and within the determination period. The public consultation period was held between 19<sup>th</sup> March 2021 to 9<sup>th</sup> April 2021, during this period 495 consultation responses were received. Separate engagement meetings were also held with Council Members and Key Stakeholders in March 2021, June 2021 and following the submission of the Planning Application in August 2021 and September 2021 with changes made to the scheme to accommodate for recommendations made.
70. There is a detailed communications and engagement plan in place for the Project. The purpose of this is to ensure consistency of approach to sharing project information.

71. There is a clear understanding of the importance of continuing to develop this communications and engagement plan, strengthening relationships with all stakeholders in the process.

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Corporate Director for Environment and Place

Annexes:                   Annex A – Hybrid design option  
                                  Annex B – Option Assessment Report (OAR)

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