

CABINET - 20 JULY 2010

COGGES LINK ROAD SEEKING PERMISSION TO PUBLISH CPO AND SRO ORDERS.

Report by Head of Transport

Introduction

1. Cogges Link Road is a proposed town distributor road for Witney designed to mitigate all the town traffic from the two large housing developments east of the river and north east of the town; it connects Jubilee Way at Oxford Hill to the Sainsbury Roundabout on Witan Way.
2. The Cogges Link Road in its present form was presented to the Cabinet Member for Transport on 27 March 2008 when a decision to proceed with a planning application for the scheme was agreed, dropping the alternative scheme considered (Shores Green slip roads). The scheme was subsequently taken to the Planning and Regulation Committee on 16 February 2009, once revised flooding mitigation was prepared to meet the requirements of PPS 25. Planning permission was granted on 7 April 2009. Cabinet considered and approved a revised Project Appraisal for this scheme on 26 May 2009.
3. Full agreement for flood mitigation and highway drainage is currently being considered by the Environment Agency which will allow the discharge planning conditions.

Compulsory Purchase of Land for Cogges Link Road

4. Much of the land on which the Cogges Link Road is to be constructed is in private ownership. It is known that the owners of a large part of the required site are opposed to the scheme. Other parts of the land required are owned by Witney Town Council, and these plots are 'special category land'. In order to satisfy conditions attaching to the receipt of financial contributions from developers under a s106 Agreement the Council must have contracted the main works before January 2013. To deal with these matters and in order to meet the scheme timetable it is considered necessary to use compulsory purchase powers to ensure that the land can be acquired in time for the scheme delivery in autumn 2013.
5. The land owned by Witney Town Council lies in two locations: (i) part of Witney Country Park between the two branches of the River Windrush from just south of Farm Mill to the A40, and (ii) the play area on the east side of Stanton Harcourt Road south of Cogges. Both of these areas are public open space and so qualify as 'special category land'

6. The compulsory purchase of 'special category land' will be subject to special parliamentary procedure unless the Council provides suitable replacement land for continued public open space use. Replacement land has been identified and will be included in the compulsory purchase order.
7. The replacement land for the part of Witney Country Park that is required for Cogges Link Road is located to the south east of the country park abutting the River Windrush (East Branch) on the north side of the A40. At present this is high fertile arable field which would be lowered for flood storage and transformed to medium fertile MG4 water meadow. This area is also required for ecological mitigation ponds for invertebrates, and for the preservation of ancient hedgerows. The design of the extension to the country park includes a small car park with access from the Cogges Link Road.
8. The replacement land for the play area on the east side of Stanton Harcourt Road south of Cogges is located between the Cogges Link Road and the Cogges Hill Road, close to the cemetery. The children's play equipment at the existing public open space will be moved onto the part of the existing area and will remain adjacent to the southern end of the Cogges Estate.
9. Because of the 'special category land', and the requirement to provide replacement land, in addition to the usual procedures to obtain Secretary of State's confirmation of a compulsory purchase order there will be additional procedures to obtain a certificate from the Secretary of State that the replacement land is 'equally advantageous' as and no less in area than the existing 'special category land'. This additional procedure can run in parallel with the compulsory purchase procedure, with all objections being heard at one public inquiry.
10. The land at Witney Country Park is currently subject to an application for registration as a town or village green (another type of 'special category land'). The County Council in its capacity as local highway authority has objected to this application; Witney Town Council has also objected to this application. A public inquiry in connection with the application is scheduled to commence on 24 June 2010.
11. If the application for registration of the country park as a town or village green is successful, the compulsory purchase procedure together with the additional procedure to obtain certification as to the suitability of the replacement land will provide the mechanism to remove the 'special category' status of the country park land and transfer that status to the replacement land.
12. If the application for registration of the country park as a town or village green is unsuccessful, it would be possible for Witney Town Council to sell the land to the Council by private treaty, provided it first gives public notice of its intention. Following discussions with the Town Clerk it is understood that a report addressing the proposal of a sale by private treaty is to be considered at the meeting of the Town Council on 23 June 2010. A sale by private treaty would remove the public open space status of the country park land and avoid the need to obtain the Secretary of State's certificate that the replacement

land is 'equally advantageous' as and no less in area than the existing 'special category land'. The replacement land would be included in the compulsory purchase to enable its acquisition for its dual function as flood mitigation storage as well as replacement country park. The compulsory purchase procedure could still be used to overcome restrictions on the use of the country park land that were imposed when the Town Council acquired the land in 1988. Depending on the timing of the decision on the town or village green application and a sale by private treaty (if this is agreed by the Town Council) a supplementary compulsory purchase order may be required to deal with the title restrictions.

13. The compulsory purchase procedure will be used to acquire the public open space east of Stanton Harcourt Road south of Cogges Estate and the replacement land. This procedure together with the procedure to obtain the Secretary of State's approval as to the suitability of the replacement land will remove the 'special category' status of the existing public open space and transfer that status to the replacement land.
14. In the event that the Secretary of State confirms the compulsory purchase of land and, where required, the Secretary of State's certification that the replacement land being provided is 'equally advantageous' as and no less in area than the existing 'special category land' is obtained, it is anticipated that the Council's statutory power to make a General Vesting Declaration would be exercised to enable the timely purchase of land requirements for the scheme.

Side Roads

15. The Cogges Link Road involves the improvement, stopping up, and diversion of side roads and public footpaths, and the stopping up of private means of access to premises and the provision of new means of access to premises. A Side Roads Order will, if confirmed by the secretary of state, authorise these works. This order mainly covers the alteration to the junctions on Witan Way and Oxford Hill and a section of Cogges Hill Road will be stopped up and reopened as a footway and cycle way. Private means of access are to be formed into fields severed by the scheme and a new access to an amenity car park will be added. Public footpaths 7, 8 and, 41, will be stopped up where they are crossed by the new road, and a section of Footpath 15 will be stopped up and diverted where it runs beneath the new road.

The Council's Statutory Powers

16. The Council's statutory powers to acquire land for Cogges Link Road are contained in the Highways Act 1980. Procedural matters relating to the service, publication and display of notices are contained in the Acquisition of Land Act 1981. The Acquisition of Land Act also contains the obligation to provide replacement land for 'special category land'. The Highways Act contains the Council's powers to make a side roads order and to carry out works on non-navigable waterways, together with the obligations to serve, publish and display related notices.

Human Rights Act 1998

17. The exercise of powers of compulsory purchase raises consideration of the rights which the affected land owners and occupiers have under the Human Rights Act 1998.
18. The rights of those affected parties must be balanced against the public interest which will be served by the carrying out of the Cogges Link Road Scheme.
19. The current legal position is believed to be that there is no incompatibility between the Council's statutory powers of compulsory purchase and the rights which the affected land owners and occupiers have under the Human Rights Act.
20. The benefits to the public which will be achieved by the carrying out of the Cogges Link Road Scheme are believed to justify the use of compulsory purchase powers as a proportionate means to secure the land required. The affected parties will be compensated for any compulsory purchase of their land which may take place in the event that the secretary of state confirms the exercise of compulsory purchase powers and the acquisition of land subsequently proceeds.

Financial and Staff Implications

21. The scheme is fully funded from within existing budgets of £9.26m developer funding and £4.23 Capital funding to complete the project. Further measures are being taken to try to reduce the SCE funding before it is needed to fund the scheme.

RECOMMENDATION

22. **The Cabinet is RECOMMENDED to**
 - (a) **approve the exercise of the Council's statutory powers of compulsory purchase to enable the acquisition of all land requirements for the purposes of the Cogges Link Road Scheme shown edged red/ and coloured on drawing number B0800100/B4130, including the service, publication and display of notices, the public deposit of documentation, and application to the Secretary of State for Transport for confirmation of the compulsory purchase of all land requirements for the purposes of the Cogges Link Road Scheme;**
 - (b) **approve the making of applications to the appropriate Secretary of State or other body (as the case may be) for certificates that the replacement land to be provided is 'equally advantageous' as and no less in area than the existing 'special category land' which is required for the Cogges Link Road Scheme, including the service,**

publication and display of notices and the public deposit of documentation;

- (c) approve the exercise of the Council's statutory powers for the purchase of land for the Cogges Link Road Scheme by General Vesting Declaration, including the service, display and publication of notices;**
- (d) approve the making of a Side Roads Order in connection with the improvement, stopping up and diversion of side roads including public footpaths, and the stopping up of private means of access to premises and the provision of new means of access to premises, as shown on drawing number B0800100/B4500 Rev B, the service, display and publication of notices, the public deposit of documentation, and application to the Secretary of State for Transport for confirmation of the Side Roads Order;**
- (e) approve the service, display and publication of all notices required for or in connection with the carrying out of works on non-navigable watercourses in connection with the Cogges Link Road Scheme;**
- (f) approve the taking of all necessary steps by officers to implement the statutory procedures required in connection with the Cogges Link Road Scheme; and**
- (g) approve the affixing of the Council's common seal to all orders, declarations, and any other documents arising in connection with the statutory procedures for the Cogges Link Road Scheme**

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Background papers: Nil

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