

Divisions Affected – Banbury Grimsbury and Hightown Ward

CABINET

16 November 2021

Banbury Regeneration - Tramway Road Improvements In Principle Use of Statutory Powers

Report by Corporate Director Environment and Place

RECOMMENDATION

1. The Cabinet is **RECOMMENDED** to:
 - a) approve the update design layout (Annex A – Option D) and approve progression of the layout into Design and Procurement Stage 2 of the project.
 - b) approve in principle the use of The Oxfordshire County Council (Banbury Regeneration – Tramway Road Improvements) 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.
 - c) approve the preparation of The Oxfordshire County Council Banbury Regeneration - Tramway Road Improvements (Classified Road) Side Roads Order 202[x] (or multiple Side Roads Orders as may be necessary) to enable the stopping-up, diversion, alteration, improvement and creation of new lengths of highway or reclassification of existing highways. This includes the stopping up of private means of access as necessary where the Project design necessitates. Formal approval for the making of Side Roads Order(s) will be reported to Cabinet, and necessary approval sought, following public engagement on preferred options and submission of a planning application for the Project.

Executive Summary

2. The Oxfordshire Growth Board has secured £215m of Government investment for new homes and infrastructure across Oxfordshire. This will support the ambition of building 100,000 new homes across Oxfordshire between 2011 and 2031 to address the county's severe housing shortage and expected economic growth.
3. The current area transport strategy for Banbury in Local Transport Plan 4 identifies the Cherwell Street corridor as the preferred north-south route through the town. The impact of increased growth to Banbury will add severe pressure on this corridor. A key consideration is the need to balance the conflicting travel needs of vehicular access north-south, pedestrians crossing east-west and bus movements. At the same time there is an intention to better integrate the railway station and the Canalside area with the town centre to facilitate other schemes that will release additional housing in the vicinity.
4. The Banbury Regeneration - Tramway Road Improvements will deliver a new bus and taxi link past the railway station and into the town centre, as well as a new access to Network Rail West Car Park, variable message signing to indicate spare car park capacity to direct drivers to the east or west station car parks and improvements to pedestrian access.
5. The County Council has been considering a bus route through Tramway Road to the station over many years. The scheme objectives seek to improve access to the station, improve bus journey reliability into the town from southern areas of the town and to remove trips from the heavily congested A4260/Bridge Street junction.
6. Oxfordshire County Council (OCC) currently doesn't own any of the land which most of the Banbury Regeneration – Tramway Road Improvements will be built upon. Although landowners are being cooperative and supportive at the present time it would be prudent, given the amount of time (over 18 months) required in the Compulsory Purchase process, that a compulsory purchase formal process is initiated to avoid potential delays at a later date.

Project Objectives

7. The objectives of this project are to:
 - a) Support the Canalside redevelopment SPD based on the outcome of a public consultation in 2018.
 - b) Support Banbury Station masterplan.
 - i. by providing an alternative access that would avoid the Bridge Street junction.
 - ii. integrate a bus service on the doorstep of the station to provide a key step towards turning the station into a transport interchange.

- c) Reduce detrimental environmental/air quality impacts.
 - d) Increase the appeal of travelling to the railway station by non-car modes of travel.
 - e) Provide good bus access from Banbury Station to south of town; and
 - f) Reduce congestion at the A4260/Bridge Street junction by taking away existing traffic seeking to access the station car park from Bridge Street.
8. A schematic plan of the Project is shown at **Annex A**. The current scope of the Project has an approved budget of **£4.567m**.
9. Key milestone dates for the delivery of the Project are outlined in **Table 1** of this report.

Exempt Information

10. This report is not confidential or exempt.

Background

- Feasibility Design.
11. At Feasibility Design Stage, three potential options for a junction where Tramway Road would meet Station Approach were developed and considered:
- Option 1 Compact roundabout.
 - Option 2 Priority junction; and
 - Option 3 Mini-roundabout.
12. These three options were presented to the public through a consultation in January 2020. Based on the responses from the consultation it was concluded that an extended feasibility design is undertaken to further review Option 1 and 3 and also address some of the comments received mostly relating to traffic modelling and land take requirements.
- Extended Feasibility Design.
13. The extended feasibility report undertook the following review of Option 1 and 3 from the feasibility design stage:
- Cross-section of road layout due to land availability constraints
 - Traffic modelling (VISSIM)
 - Budget cost estimates
14. The extended feasibility design recommended that Option 1 be progressed to Preliminary Design.
- Station Approach Road – Alignment Options Review
15. With the release of Local Transport Note (LTN) 1/20 (Cycling Infrastructure Design) it was identified that Option 1 did not provide suitable facilities for both pedestrians and cyclists using the new link between Tramway Road and the Banbury Station forecourt. To address this, the design reviewed four different

design options for the road layout between the junction of Station Approach Road and Tramway road to the Banbury station forecourt.

- Option A – Shared space corridor
 - Option B – Shared Use Path, utilising land take from Certas and Network Rail
 - Option C – Shared Use Path, utilising land take from Network Rail only
 - Option D – Stepped cycle tracks utilising land take from Network Rail Land.
16. Following a detailed review of the above options, it was recommended to progress with Option D because:
- It complies with LTN 1-20 and provides a suitable facility for cyclists.
 - Land take required from one landowner (network Rail) making it more deliverable.
 - Provides scope for landscaping opportunities.

Project Description

17. A schematic plan of the Project is shown at **Annex A** and comprises of:
- Extending the northern end of Tramway Road to provide a connection to Station Approach road.
 - A bus and taxi only link between roundabout of Tramway Road/Station Approach Road to the Station.
 - Improved pedestrian and cyclist access along Tramway Road to the Station.
 - A new access point into the Network Rail west car park.
 - Variable message signing to indicate spare station car park capacity.
18. The Growth Deal funding will need this project to be delivered by 31st March 2023.
19. 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.
20. 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 is key to the delivery of this project.

Project Programme Summary

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

Preliminary Design (including Early Contractor Involvement and Surveys)	March 2021 – January 2022
Consultation	November 2021
Planning Application	December 2021 – April 2022
Planning Condition Discharge	April 2022 – July 2022
Engage with affected developers / landowners to coordinate and cooperate with design activities in order to align with overall full-length road design	February 2021 – December 2021
Detailed Design and indicative Construction Cost Estimates	January 2022 – July 2022
Construction Work	August 2022 – March 2023

Strategic Context

22. The Cherwell Local Plan 2011-2031 is based on 3 key themes:

- Developing a sustainable local economy.
- Building sustainable communities; and
- Ensuring sustainable development.

23. 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; and
- Protecting and enhancing the environment and improving quality of life.

24. The Banbury Vision and Masterplan establishes the long-term vision of the town. The Masterplan integrates planned schemes with new opportunities and initiatives to help create a sustainable market town and regional centre. This vision is formed from six inter-connecting strategic objectives that will:

- Promote Banbury as the regional service centre of choice for the wider region.
- Establish a strong economy.
- Reduce congestion and improve accessibility.
- Create a vibrant and attractive town centre.
- Create a high-quality environment and distinctive place to live and work. and,
- Promote opportunities for local people.

25. The significant housing growth planned for Banbury will provide the opportunity to develop Banbury into a stronger regional centre with full range of retail, leisure, cultural, sporting and social activities.
26. To deliver this role the strategic roads, public transport network and car parking will need to be improved together with better training and higher education opportunities for local people.
27. Traffic congestion and poor access are major constraints on growth and detract from the overall perception of Banbury. Action is needed now to address present concerns and enable growth to be delivered. Traffic congestion along the east/west network and on to the motorway junction needs to be resolved through short term improvements and a longer-term strategic solution. Similarly, in the town centre the congestion at the Cherwell Street and Bridge Street junction needs a long-term solution. A commercially viable bus network is needed to improve choice and access.

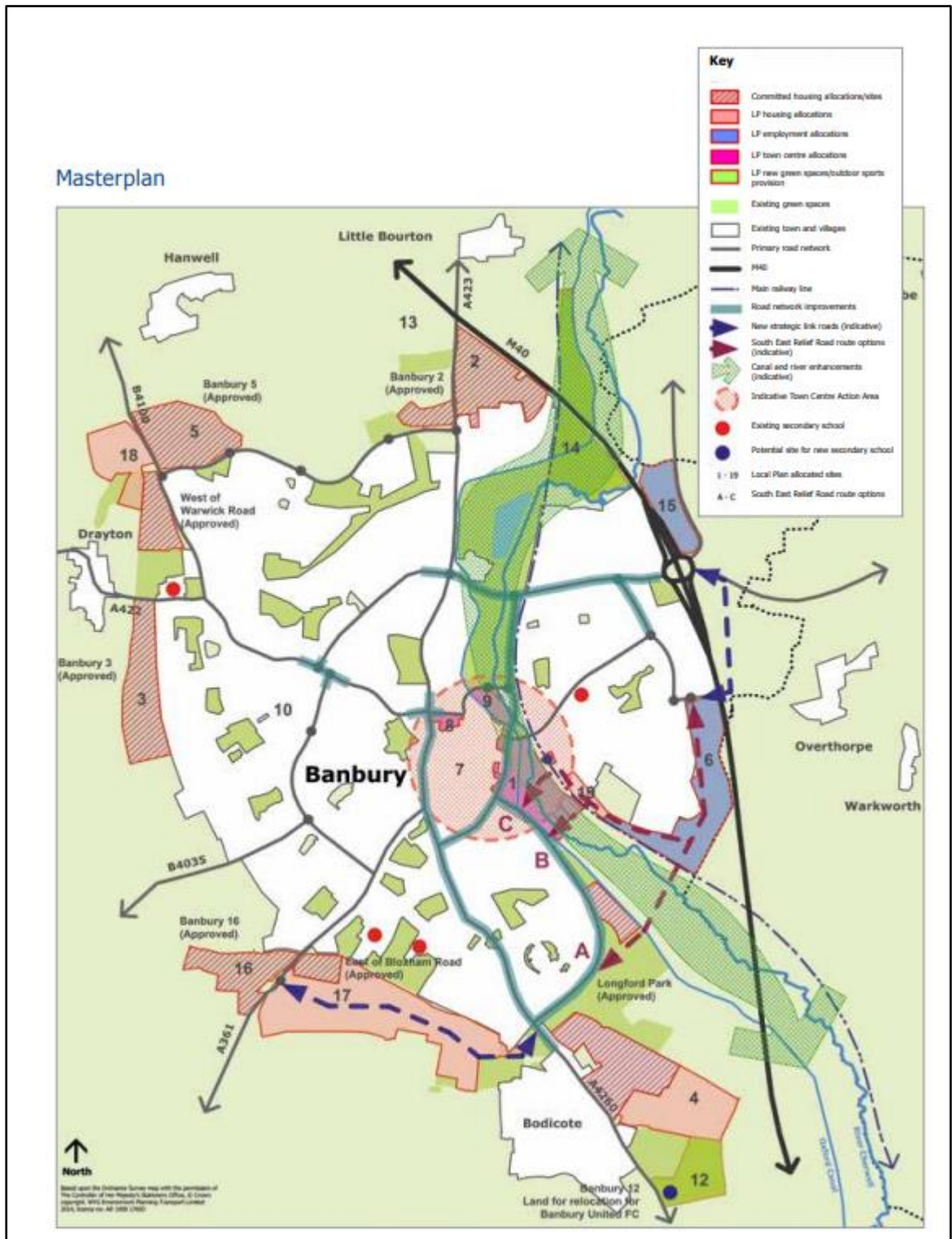


Figure 1: Banbury Vision and Masterplan

Employment and housing

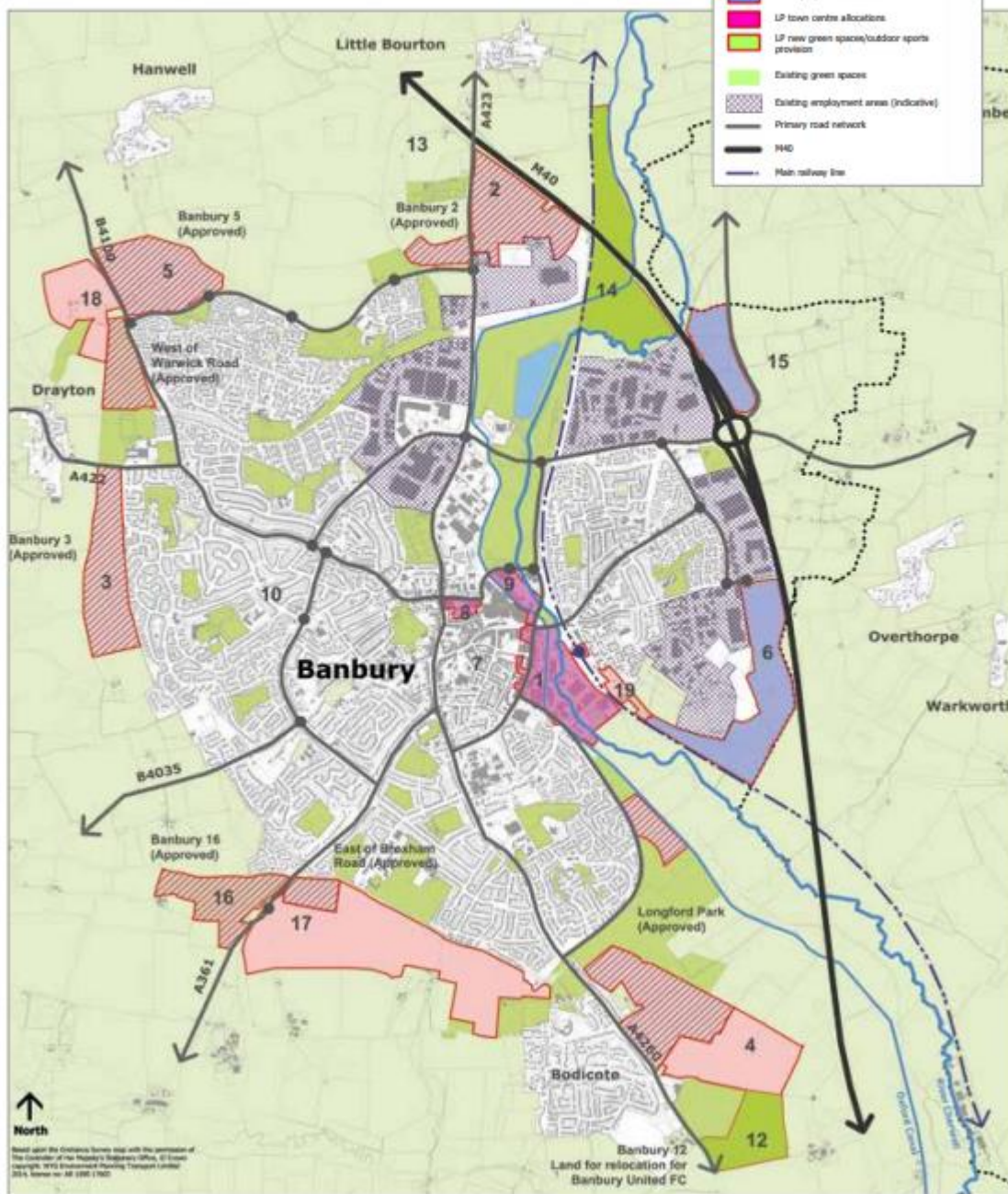


Figure 2: Banbury Employment and Housing

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

28. Further to Oxfordshire County Council's need and intended benefits from this scheme, it is also in-line with Cherwell District Council's 2016 Banbury Vision & Masterplan and the 2017 Chiltern Railways Banbury Station Masterplan. This looked beyond Chiltern Railways current franchise to a vision of what kind of facility the station needs to be in twenty-five years' time. This includes short, medium and long-term interventions of which the Banbury Regeneration - Tramway Road Improvements addresses some of the key issues identified in the masterplan, by providing an alternative access that would avoid the already congested Bridge Street junction and by being a key step towards turning the station into a transport interchange.

Economic Benefits

29. The main economic benefits offered by the Project are as follows:

- Directly supports the Canalside housing development site.
- Reduced bus journey times by retaining existing road access from Bridge Street for buses and taxis.
- Landscape proposals along the new scheme will enhance the gateway into Banbury from the train station thereby making it more attractive.

30. Environmental Benefits

- This project will improve the current streetscape and urban environment.
- Reduction of congestion at the Bridge Street junction with Cherwell Street will improve air quality at the junction.
- Implemented landscape will increase tree planting within the area considerably compared to the existing environment.

31. Social Benefits

- a) Individual and collective health benefits from a mode shift away from car use and an increase in walking and cycling.
- b) A positive impact on air quality from a reduction in vehicular emissions.
- c) Safety improvements and a subsequent reduction in accidents and severance due to enhanced infrastructure for all road users.

The Need for the Project – Highway and Transport Network Benefits

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

Highway & Transport Network

- a) Support Banbury Station masterplan:
 - i. by providing an alternative access that would avoid the Bridge Street junction.

- ii. integrate a bus service on the doorstep of the station to provide a key step towards turning the station into a transport interchange.
 - b) Provide access into the Canalside redevelopment area.
 - c) Reduce detrimental environmental/air quality impacts.
 - d) Increase the appeal of travelling to the railway station by non-car modes of travel.
 - e) Provide good bus access from other strategic development sites to south of town; and
 - f) Offer relief to A4260/Bridge Street junction.
33. 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.

Form and Scope of Planning Application

34. The Project with preferred Option D will be submitted for Planning approval later in December 2021.

Progress to Date

35. Optioneering was undertaken and a preferred scheme identified and developed for the Feasibility Design stage. The Feasibility Design was informed by a Public Consultation exercise which was undertaken between the 13th January 2020 and 9th February 2020. The Project has since progressed into Preliminary Design with the scheme refined further to accommodate for feedback received during consultation and to respond to key stakeholders' requirements. A further optioneering exercise was undertaken during the Preliminary Design stage to explore how the connection between Tramway Road and the Station could be improved for people travelling by foot and cycle. Subsequently Option D of this exercise was selected as the preferred option and is currently progressing within Preliminary Design.

Programme

36. The programme described above in Project Programme Summary section will be continually updated as the Project progresses and in line with Council's internal governance requirements.
37. The critical path to the delivery of the Project is to successfully acquire all of the necessary land and new rights required for the delivery of the Project.
38. It should be noted that every effort will be made to acquire the necessary land and new rights by a private agreement with the affected parties and that **Compulsory acquisition is a matter of last resort using Compulsory Purchase Order (CPO)**. The Council has appointed an external property

agents and legal specialists to undertake both private agreement and CPO works. However, acquisition of required land may not be possible as programmed and therefore, is a key risk to the Project delivery.

39. Whilst acquisition by private 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.
40. 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

41. The delivery of the Project will actively support the following key themes within Oxfordshire County Council's Corporate Plan 2020-24.
 - a) **Providing services that enhance the quality of life and protect the local environment** – This Project will provide a vital link to Banbury Station through Tramway Road, improving bus connectivity between the Town Centre and Station to the south of Banbury.
 - b) As part of this project, the traffic signals at the junction of Tramway Road and Swan Close Road and Hightown Road will also be improved to provide additional network capacity.
 - c) The project will support modal shift away from private cars and into the more sustainable modes of travel of public transport, cycling and walking. This will be achieved through the provision of bus priority and improved pedestrian and cycle infrastructure along the new connection.
 - d) **Supporting a thriving local economy by improving transport links to create jobs and homes for the future** – the Project is integral part of Banbury's wider investment programme which will directly provide enhanced highway capacity, improved journey times and reliability of public transport provision within the jurisdiction of Cherwell District Council and further into Oxfordshire.
 - e) **Taking action against Climate Change** – by reducing congestion and promoting modal shift in how people travel there are clear benefits in terms of reducing carbon emissions, promoting 'zero carbon travel' and improving air quality in the area.

Financial Implications

42. The Project will be funded by Oxfordshire Housing and Growth Deal (£4.567m).
43. There are no financial implications associated with this report.

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Legal Implications

Statutory Powers

44. Members should note that whilst the Council has compulsory purchase powers as an acquiring Authority, under the Highways Act 1980 and the Acquisition of Land Act 1981, 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.
45. While an Authority can use compulsory purchase powers where it is expedient to do so, in considering whether to confirm the CPO, the Secretary of State 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. 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 Order itself.
46. The acquiring Authority is also expected to show that if compulsory acquisition is authorised the Project is unlikely to be blocked by physical or legal impediments to deliverability.
47. Members should also note that following any future Cabinet authority to make the CPO those receiving notice of this 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 Order at any Inquiry. The CPO does not take effect until confirmed by the Secretary of State; however, once the Order 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 Order, or the decision to confirm it, being quashed in whole or in part.
48. The principal powers in the Highways Act 1980 are:
 - a) Section 14 and 25 Side Road Orders (SROs)
 - b) Section 239(1), which provides that a highway authority may acquire land required for the construction of a highway which is to be maintainable at the public expense.
 - c) Section 239(3) which allows a highway authority to acquire land for the improvement of a highway being an improvement which the authority is authorised to make under the Act.

- d) Section 246 authorises the acquisition of land for the purpose of mitigating the adverse effects of the construction or improvement of highways.
 - e) Section 250 authorises the compulsory acquisition of new rights over land and
 - f) 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.
49. 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.
50. The SROs will authorise the stopping-up, amendment, diversion, improvement and creation of new lengths of highway or reclassification of existing highways and the CPO will include land that is required to enable the works authorised by the SRO to be carried out. 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).
51. 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 makes 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.
52. 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.
53. 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

54. 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.

55. 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).
56. 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

57. 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.
58. The following articles of the Convention are relevant to the determination as to whether a compulsory purchase order should be confirmed:
- a) 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.
 - b) Article 6 entitles those affected by the powers sought in any CPO to a fair and public hearing by an independent and impartial tribunal.
 - c) 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.
59. 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:
- a) the statutory procedures for obtaining the Order are followed and there is a compelling case in the public interest for any CPO; and
 - b) any intervention with the Convention right is proportionate to the legitimate aim served.
60. A full consideration of human rights implications of the Scheme will be considered when reporting to Cabinet for authority to make In Principle Use of Statutory Powers for the CPO.

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Staff Implications

61. 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 as the need arises.
62. 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.
63. 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

64. The equalities implications of the Banbury Regeneration - Tramway Road Improvements 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 (**EqlA**) as part of the design development of the Project.

Sustainability Implications

65. During the stage 2 of scheme delivery there will be specific sustainability targets imposed during the design and build of the project

Risk Management

66. Risks affecting the Council's reputation and other wider works programmes will be escalated through the capital governance process to ensure that impact on the Council are considered and managed.
67. 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.

