

**Divisions Affected – Eynsham, Witney (North, East, South and Central)**

**CABINET**

**20 July 2021**

**A40 ACCESS TO WITNEY  
PREFERRED OPTION AND IN PRINCIPLE USE OF STATUTORY  
POWERS**

**Report by Corporate Director Environment and Place**

**RECOMMENDATION**

1. The Cabinet is **RECOMMENDED** to
  - a) Note the progress in developing the A40 Access to Witney project specifically the recent public engagement event undertaken to inform the preferred scheme options.
  - b) Approve Officer's preferred option recommendation and for the formal adoption by the Council of the A40 Access to Witney as an approved scheme.
  - c) Approve in principle the development of The Oxfordshire County Council (A40 Access to Witney) 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, in order to bring forward the timely development of the A40 Access to Witney project. Formal authority for the making of The Oxfordshire County Council (A40 Access to Witney) Compulsory Purchase Order 202[x] will be reported to Cabinet, and necessary approval sought, following public engagement on preferred options and submission of a planning application for the scheme.
  - d) Approve the preparation and service of statutory notices for the Requisition of Information pursuant to Section 16 Local Government (Miscellaneous Provisions) Act 1976 (as amended) to assist with determining the interests in the land required for the delivery of the scheme.
  - e) Approve the preparation of The Oxfordshire County Council (A40 Access to Witney) Compulsory Purchase Order 202[x] in draft , together with a draft Order Map, draft Order Schedule, draft Statement of Reasons and all

**necessary land referencing activity in advance of seeking formal authority to make the Order.**

## **Executive Summary**

2. This report is technical in nature due to the fact that it is intended to be used as a part of the documentary evidence base throughout the statutory processes to which it relates, notably the bringing forward of a Highways Compulsory Purchase Order.

### Scheme Purposes

3. The A40 Access to Witney project proposes improvements to the existing B4022/ A40 junction at Shores Green. The purposes of the A40 Access to Witney transport scheme are to:
  - To reduce congestion and improve air quality in central Witney, including on Bridge Street and in the Air Quality Management Area
  - To support the delivery of planned housing growth in Witney as set out the West Oxfordshire Local Plan 2031
  - To improve access to the A40 from northeast Witney
4. A rigorous option selection process has been undertaken alongside a recent public engagement which has informed the preferred option presented. Further information about this process can be found within the Options Appraisal Report in Annex A.
5. The proposed scheme proposes the installation of west-facing slip roads at the A40/B4022 Shores Green Junction. An off- slip road on the eastbound carriageway and an on slip on the westbound carriageway (to Burford). The slip roads will connect with the existing B4022 road via signalised junctions. A general arrangement plan is contained at Annex B.
6. The proposed scheme option has a number of benefits including increasing highway capacity with the related congestion reduction and increase in road safety together with wider environmental and social aspects.
7. As part of a wider package of interventions the project also supports the delivery of circa 1,850 homes and economic growth within the Witney area.
8. The current estimated costs and budget sources for the preferred option are discussed within, including the financial implications of progressing the project into subsequent stages of delivery.
9. The delivery of the A40 Access to Witney project is supported by a dedicated project team, which sits within the A40 Programme business unit, within the Environment and Place Directorate.

10. Key delivery milestone dates for the delivery of the project are outlined in Table 1 of this report.

## Exempt Information

11. This report is not confidential or exempt.

## Background

12. Witney is a historic town located approximately 12 miles to the west of Oxford in Oxfordshire, with a population of 27,522 as per the 2011 census and over 10,000 households. Witney is the largest town and most densely populated area in West Oxfordshire and contains the main services for the district. There are almost 15,000 jobs (approaching a third of the total in West Oxfordshire District) engaged in wide ranging employment, including jobs in high technology, manufacturing and engineering firms, and the town provides West Oxfordshire's main services and facilities including retail, health care and leisure.
13. West Oxfordshire is a relatively affluent district, with weekly pay some 8% above the average for England, a well-educated workforce (47.5% with qualifications at NVQ4 and above) and a high proportion of the workforce in employment. The ratio of jobs to population is 0.86, implying the need for some out-commuting, but Oxfordshire as a whole has a job density of 1.0, indicating the potential to find employment opportunities within the County. There are also relatively high levels of car ownership, and the 2011 census showed that only 11% of households did not have a car or van (compared to 19% in the South East and 26% in England), and 51% of households had 2 or more cars or vans.
14. Witney has many bus services running within and through it to nearby towns such as Oxford, and Hanborough railway station. The S1 and S2 services provide a relatively high frequency service (around 4 – 5 buses per hour off-peak and up to 7 during the peak [during Covid restrictions] along the Carterton-Witney-Oxford corridor) from Monday to Saturday, running either via Eynsham and Botley or along the A40 and Woodstock Road.
15. The existing cycle network was analysed in 2020 to identify current limitations and the potential for improvements. There is a currently a mixture of shared-use paths and limited on-carriageway cycle lanes, but these do not combine to make a comprehensive safe cycling network. In order to enable a major shift towards active travel that will help to ease congestion as well as improve physical activity the county council has recognised the importance of delivering an integrated programme of cycle network improvements.

### A40 Corridor Programme

16. The preferred scheme option presented for A40 Access to Witney should be considered alongside of the benefits to public transport and active travel the wider A40 corridor programme will deliver. These schemes include:

## CA12

- New Park and Ride site at Eynsham
- A40 Eastbound and Westbound bus lanes and cycle path improvements between Eynsham and Duke's Cut bridges
- A40 Eastbound bus lane and cycle path improvements over the Duke's Cut Bridges
- A40 Dualling (including cycle path improvements) from just east of Witney to Eynsham
- A40 Oxford North running west from Wolvercote roundabout

### Strategic Policy Context

17. Oxfordshire County Council's 4th Local Transport Plan (LTP4), Connecting Oxfordshire and the West Oxfordshire Local Plan (2031) provide key strategic policy context for the Access to Witney junction improvement proposed at A40/B4022 Shores Green.
18. LTP4 was published in 2017 and set out its policy and overall transport strategy. It outlines 3 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.
19. With forecasts for over 85,000 new jobs and 100,000 new homes by 2031, LTP4 recognised the challenges this growth will have on the transport network, in particular the challenge in enabling people to make journeys, whilst avoiding damage to the economy caused by severe congestion, as well as protecting the environment.
20. LTP4 includes an area strategy for Witney that recognises the need for new or enhanced roads related to new developments and to manage and, where appropriate, develop the county's road network to reduce congestion and minimise disruption and delays, prioritising strategic routes.
21. The Witney Area Transport Strategy (WATS) sets the following transport objectives for the town:
  - Establish a transport network that supports future growth and attracts economic investment by improving access to the strategic transport networks and managing through traffic.
  - Mitigate the local environmental impact of increased travel by addressing congestion, and poor air quality through improving opportunities for people to travel on foot, by cycle, and/or public transport, including Door to Door integrated travel (e.g. walking or cycling with bus/rail).
  - Support town centre vitality, by providing a local transport network that enables easy access to services by sustainable means
22. The West Oxfordshire Local Plan (2031) identified the Access to Witney strategic highway improvement scheme as being necessary to support the

## CA12

quantum and distribution of planned housing and employment growth at Witney (the scheme was denoted as an 'Improved (All Movements) Shores Green Junction'). This improvement scheme was in addition to the improvements to the Ducklington Lane junction and the new roundabout on the A40 at Downs Road which have been completed in 2014 and 2018 respectively.

23. The Local Plan noted that delivery of Shores Green Slip Roads will be facilitated by the proposed East Witney Strategic Development Area (SDA) as outlined in Policy WIT1 and will be accompanied by proposed improvements to Bridge Street. The plan recognised that the scheme will mitigate the potential traffic impact of the developments on A4095 Bridge Street and the town centre and to provide improved accessibility to the retail, industrial and employment centres in south Witney.

### A40 Access to Witney Project

24. Proposal to improve access to Witney started in 2014 with improvements to the A40/ Ducklington Lane junction and continued in 2018 with the opening of the new roundabout on the A40 at Downs Road to serve the new Windrush Place development.
25. Improvements are now proposed at A40/B4022 Shores Green Junction. The existing arrangement on the A40 only provides east-facing slip roads which allow traffic from northeast Witney to access the A40 toward Oxford, it is not possible to join the A40 and travel west towards Burford.
26. The County Council proposes to improve the junction through the delivery of west-facing slip roads which will enable traffic from northeast Witney to travel west on the A40 toward Burford without travelling through Bridge Street or the A40/ Ducklington Lane junction in Witney.

### Scheme Objectives

27. The following objectives have been identified against which the potential and success of transport scheme proposals for the Witney area can be assessed
  - Reduce future traffic flows in the Bridge Street area of Witney Town Centre
  - Improve accessibility to/ from key destinations, and the resilience of the transport network to maintain journey time reliability
  - Reduce the level of air pollution within the Air Quality Management Area in the town centre
  - Provide a safe, secure and attractive environment for pedestrians and cyclists in Witney including easier access to and within the town centre
  - Enable modal shift by improving public transport and the quality of service, reliability, or capacity
  - Improve access to the A40 and the wider strategic road network, such as the A34 and M40, without having to travel through the town centre
  - Support the vitality, viability, performance and attractiveness of the town centre

## CA12

- Allow the town to develop in accordance with the current Local Plan, and in particular deliver housing developments in north and east Witney and in the strategic development areas
- Make best use of existing infrastructure assets

### Scheme Description

28. The scheme proposes the installation of west-facing slip roads at the A40/B4022 Shores Green Junction. An off- slip road on the eastbound carriageway and an on slip on the westbound carriageway (to Burford). The slip roads will connect with the existing B4022 road via signalised junctions.

### **Need for the Scheme - Economic, Environmental and Social Benefits**

#### Supporting Growth

29. The relatively high incomes in West Oxfordshire are dwarfed by the cost of housing, with average house prices some 28% higher than the average in England, although lower than the average for Oxfordshire as a whole. As a result, there is significant demand for new homes in Witney.
30. Witney is a key focus for housing growth under the current West Oxfordshire Local Plan (2031), which was adopted in 2018. Witney has doubled in population over the last 30 years and much of its growth has taken place in extensions to the north, west and east of the town.
31. The West Oxfordshire Local Plan proposes delivery of around 15,950 new homes by 2031 and is underpinned by a general presumption in favour of 'sustainable development'. There are limited opportunities for housing within the existing built-up area of Witney and as such there is a need to develop on the fringes of the town. Local Plan growth proposals comprise 4,702 new homes in the Witney sub area by 2031.
32. In this context, the Local Plan identified two strategic development areas (SDA) in Witney. One SDA is to the north of Witney (with land currently allocated for 1,400 homes) and the second SDA is to the east of Witney (with land currently allocated for 450 homes).
33. A range of development and transport scenarios were modelled in support of the West Oxfordshire Local Plan (2031) to determine how future development in the town and a range of transport schemes would affect traffic flows. This traffic modelling indicated that proposed Local Plan development would lead to significant congestion issues on Bridge Street without additional highways interventions.
34. The two schemes which showed the greatest potential to reduce congestion were the construction of west-facing slip roads at Shores Green and a new "West End Link" which provides a second crossing of the River Windrush east of Bridge Street.

## CA12

35. As a result, the West Oxfordshire Local Plan (2031) identifies the Access to Witney strategic highway improvement scheme as being necessary to support the quantum and distribution of planned housing and employment growth at Witney.

### Environmental

36. Traffic congestion is a serious and recognised concern in Witney, and an Air Quality Management Area (AQMA) has been designated at Bridge Street. The main areas of congestion in the existing peak periods are the links around the Bridge Street area, B4022/A4095 junction and on both sides of the River Windrush.
37. Bridge Street, currently carries an average of 29,000 vehicles/day. High levels of congestion lead to social and economic costs to the local area as a result of increased journey times (including for bus passengers) and increased driver frustration, poor journey time reliability.
38. The Bridge Street area is covered by an existing AQMA and (based on these future year traffic forecasts) would be expected to continue to have air quality issues notwithstanding an expected long-term shift to lower emission vehicles.
39. The provision of west-facing slip roads at Shores Green will reduce the need for traffic to route along Bridge Street by providing an alternative means of access to the west of Witney via the A40 and will allow those travelling further west to access the A40 at the A40/B4022 Shores Green junction rather than at the A40/Ducklington Lane junction. This will help improve air quality in the AQMA.
40. A reduction of traffic on Bridge Street and through the town centre will make walking and cycling more attractive, enabling a shift from the private car to more sustainable transport options, further helping to improve the air quality within AQMA.

### Social

41. Delivering an enhanced and safer highway network which reduces congestion will result in a reduction in accidents and severance for all road users and particularly for those walking and cycling with the town centre.

### **Need for the Scheme – Reducing Congestion and Improving Access**

42. Traffic modelling carried out in 2018, which looked at planned growth in Witney as well as general trends in road transport, suggests that by 2031 traffic flows in the morning and evening peaks are likely to increase by between 17% and 21% compared to the levels in 2018. This would result in key routes in the centre of Witney being over capacity during the busiest periods, which is likely to lead to extensive queuing and delays unless steps are taken to reduce traffic volumes.

## CA12

43. Witney's congestion problems are in large part due to there being only one main vehicular crossing point across the River Windrush at Bridge Street, which acts as a bottleneck to traffic travelling east – west across the town.
44. For residents in the north and east of Witney wishing to travel to Witney town centre, the employment areas to the west of town, and the westbound A40, routing via Bridge Street is currently their only feasible option. As noted above, this results in congestion and air quality issues.
45. A reduction of traffic and congestion in the town centre on Bridge Street will reduce delays and provide greater reliability for bus services helping encourage more bus use.
46. In terms of active travel, in 2020 Oxfordshire County Council published an East Witney Cycling Strategy to improve cycle infrastructure from east Witney to enable and encourage a greater proportion of short trips to be undertaken by cycling. Key improvements identified as required by the county council included improved links along and across the B4022, an improved connection to South Leigh across the A40 at Shores Green, and a direct connection between the East Witney Strategic Development Area and the town centre.
47. The proposed scheme will provide controlled pedestrian and cycle crossings at Shores Green as well as safeguarding the cycle connection into the East Witney SDA (providing a connection to and from South Leigh to Cogges and Witney Town Centre).

### **Planning Policy Context**

48. The Development Plan for the Access to Witney planning application comprises:
  - West Oxfordshire Local Plan 2031
  - South Leigh Neighbourhood Plan
49. 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

50. OCC is preparing a single, full planning application accompanied and supported by a single Environmental Impact Assessment (EIA).

### Regulation 3

51. OCC acting as Applicant intends to submit a full planning application to OCC as the LPA. OCC is required to determine some of its own planning applications by virtue of Regulation 3 of the Town and Country Planning General Regulations 1992. Regulation 3 enables OCC to make planning applications to itself



## CA12

providing that the development is to be carried out by or on behalf of the Council and the interest in the development by the Council is significant.

### Planning - Current Position

52. Currently, the Access to Witney scheme is at pre-application stage. OCC as Applicant is working with the LPA to finalise pre-application arrangements, including the approach for delivering collaborative working practices at pre-application stage with Officers from the local and district authorities.
53. A Scoping report, which sets out in detail the proposed approach to the requisite EIA was submitted to the LPA on 1st June 2021 (R3.0079/21).
54. A similar scoping report for Transport Assessment has been submitted to OCC Transport Development Control for their comments on 4 May 2021.

### **Preferred Option**

55. Options appraisal for this scheme complied with the requirements arising from Department for Transport's Transport Appraisal Guidance (TAG). In line with TAG a 'long-list' of options is identified based on the local challenges and the scheme objectives and preparation of an Options Appraisal Report (OAR), as contained at Annex A.
56. The options in the long list were strategically assessed against the following sifting criteria:
  - Objectives: Qualitative scoring of all of the long-list options against the scheme objectives;
  - Affordability: Considers the likely financial affordability of an option including potential funding arrangements;
  - Deliverability: Considers the dependencies of the option and interface risk in relation to other projects, timescales of delivery including whether it accommodates the funding window, contractual complexity and risks, including the necessary land acquisition and the potential for compulsory purchase as a matter of last resort;
  - Acceptability: Considers stakeholder acceptability of an option including public acceptability, local authorities, delivery partners, statutory bodies, landowners and utility companies;
  - Feasibility: Considers practical feasibility of an option in terms of engineering and complexity.
57. In total, 33 options were considered which had the potential to tackle the identified issues. These options comprised interventions across the whole of the Access to Witney study area and encompassed improvements to the highways network (including upgraded junctions and new links), public transport improvements, active travel interventions, and parking management. The majority were sifted out early in the assessment process, and a number of other options are being considered for inclusion in a revised Witney Transport Strategy.

## CA12

58. Five different types of junction arrangements (conventional slip roads, at-grade roundabout, D-Links) at the A40/B4022 junction were shortlisted for a second assessment. This resulted in the west-facing slip roads option being selected for further analysis and design refinement.
59. Three design variants of west-facing slip roads option were subsequently developed into the next stage of detail.

### Preferred Option

60. After comparison of relative benefits and issues with each design layout and incorporating the feedback as set out within the Consultation section of this report the signalised junction was selected as the preferred option as shown at Annex B.
61. The preferred design layout will provide:
  - Improved access to the A40 for the residents of northeast Witney.
  - Support the delivery of strategic housing sites in north and east Witney identified in the West Oxfordshire Local Plan.
  - Safer pedestrians and cycle movement through the signal-controlled crossings.
  - Improved pedestrian/cycle network by connecting the existing shared footway north of the B4022 to the existing footway/bus stop east of the A40 overbridge, providing an improved walking and cycling connections from South Leigh to Cogges and to Witney.
  - An additional crossing of the B4022 west of exit slip, linked to the Public Right of Way (PRoW) network via a relocated PRoW south of B4022.
  - Enable the county council to react more efficiently to changes in traffic flow using traffic signals, providing better network control and resilience.

## Programme

62. The delivery programme has undergone a full review and with the input of a number of key delivery partners to ensure that it is as robust as possible. The programme is being continually updated as the project progresses and in line with Council internal governance requirements.
63. Key milestones through to successful scheme delivery are set out within Table 1.
64. The critical path to the delivery of the A40 Access to Witney project is to successfully acquire all of the necessary land and new rights required for the delivery of the scheme. At present, the programme reflects a worst-case position that the order (or any number of them) will be contested and the Secretary of State for Transport will call a local Public Inquiry.
65. Acquiring authorities should acknowledge and understand that every effort should be made to acquire the necessary land interests and new rights by

private agreement with the affected parties and that **compulsory acquisition is a matter of last resort**. The Council has appointed external property agents and CPO legal specialists to undertake this work. However, acquisitions by negotiated agreement of all of the land affected and new rights required may not be possible within the funding window for this scheme and are, therefore, a key risk to its delivery.

66. Whilst acquisition by agreement will be diligently pursued, from a timescale perspective, initiating the CPO process over the entire land holding that is required to implement the scheme offers certainty should parallel negotiations to acquire the land and new rights by agreement be unsuccessful. This is particularly important considering the funding window within which this scheme needs to be delivered.

**Table 1 – Proposed Key Milestones**

| <b>Activity</b>                                | <b>Target Date</b> |
|--|--------------------|
| Public engagement                              | May 2021           |
| Cabinet – in principle use of statutory powers | July 2021          |
| Planning application                           | late 2021          |
| Detailed design commences                      | late 2021          |
| Cabinet – resolution to CPO                    | early 2022         |
| Planning determination                         | late Spring 2022   |
| Detailed design complete                       | late 2022          |
| Possession of land                             | mid 2023           |
| Construction commences                         | mid 2023           |
| ALL Construction Complete                      | mid 2024           |
| Project Close                                  | Late 2024          |

67. 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**

68. The delivery of the A40 Access to Witney project will actively support the following key themes within Oxfordshire County Council's Corporate Plan 2020-24:
- Providing services that enhance the quality of life and protect the local environment.
  - Supporting a thriving local economy by improving transport links to create jobs and homes for the future
  - Taking action against Climate Change

## Financial Implications

### Project Costs

69. The following is a high-level breakdown of the current project costs for the preferred option, reviewed in detail in June 2021:
- - Stage 0/1 Feasibility £0.830m
  - Stage 2/3 Development and Design - £1.110m
  - Stage 4 Detailed Design – £ 0.565m
  - Stage 5 Construction - £ 8.450m
  - Stage 2-5 Client and miscellaneous costs – £ 0.990m
  - Legal and property fees (inc. land) – £ 0.515m
  - Statutory Undertakers diversions - £1.465m
70. All figures are inclusive of the appropriate inflation allowances.
71. The risks associated with scheme delivery are underwritten by a £2.165m quantified risk and contingency fund which are accounted for separately within the overall forecast budget & included within the Stage 5 costs shown above.
72. Therefore, the total scheme cost to completion is **£13.925m**.

### Project Funding

73. The project is funded as follows;
- Housing Growth Deal - £5.900m
  - Secured Section 106 - £1.162m
  - Unsecured Section 106 - £6.863m
74. There are a number of risks associated with the unsecured element of the funding for the scheme, notably;
- Ability to recover section 106 developer contribution in full; any shortfall in funding will need to be met by the Council by reprioritising the capital programme or funding through borrowing.
  - Timing of agreement to secure funding certainty; the Council may need to continue to progress the scheme, including committing expenditure, with only part funding in place for a prolonged period.
  - Phasing of receipt of the developer contribution; Once the developer contribution is secured, the timing of the receipt of contributions may still require the Council to temporarily fund the scheme via borrowing over the medium to longer term until the Section 106 Contributions are received.
75. A further report will be brought to Cabinet to make the CPO application. This is anticipated to be in early 2022. The report will include an update on the risks set out in paragraph 72 relating to the unsecured section 106 funding and

## CA12

propose alternative options for funding the scheme if the risks have materialised.

76. All project development costs are at this time and will continue to be up to the point of scheme construction being funded via the Housing and Growth Deal allocation.

Comments checked by:

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## Legal Implications

### Statutory Powers

77. 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, as referenced elsewhere in this report, these powers should be used as a matter of last resort. Dialogue with affected landowners has commenced and will continue in parallel to acquire by negotiation as a first principle.
78. While an Authority can use compulsory purchase powers where it is justified and expedient to do so, in considering whether to confirm the CPO, the Secretary of State will need to be satisfied 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 in late 2021 seeking authority to make the formal statutory Order itself.
79. The Acquiring Authority is also expected to show that if compulsory acquisition is authorised, the scheme 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 positions of all of which are covered under various sections of this report.
80. Members should also note that once the CPO is made (following any future Cabinet authority required), those parties with an interest in the land and the public generally have a right to object to the CPO and, if so decided by the Secretary of State for Transport, have their objections heard at a local Public Inquiry. As Acquiring Authority, the Council must make the case for confirmation of the CPO to the Secretary of State but, if heard in a public Inquiry, the case will be made and tested in this forum. The CPO does not take effect until confirmed by the Secretary of State. Confirmation of the CPO affords the Acquiring Authority the power to compulsorily acquire land, but those powers have to be actively engaged, which has statutory minimum time periods for taking possession of land. Once the Order is confirmed, any party aggrieved by the decision has a further six weeks from the first date of public notification of the confirmation in the local press to challenge the decision in the High Court on a point of law, often referred to as statutory Judicial Review. This could result

## CA12

in the Order, or the decision to confirm it, being quashed in whole or in part. The same principles of statutory challenge apply in relation to the Side Roads Order.

81. The principal powers in the Highways Act 1980 are:

- 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;
- 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;
- Section 240, which allows the acquisition of land in relation to an order under Section 14
- 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; and
- Section 260 authorises the clearance of the title to land already held by the Council and required for the scheme and which might otherwise interfere with the Council's activities in exercising its statutory powers to construct the works.

though it should be noted that a full assessment of appropriate Highways Act powers will be included in the Report to Cabinet for the making of the CPO in due course.

82. 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.

83. 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.

84. There may also be a requirement for both permanent and temporary traffic regulation orders (TROs) to enable the scheme, however, Cabinet approval is not required to implement these.

Requests for Information

## CA12

85. In order to pursue a CPO, 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 scheme. The Council has engaged land referencing specialists to undertake this work, which feeds into the Order Map and Order Schedule.
86. 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).
87. 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

88. 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.
89. 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.
90. 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

## CA12

- any intervention with the Convention right is proportionate to the legitimate aim served.
91. 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.

Comments checked by:

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### **Staff Implications**

92. The resource requirements to successfully deliver the A40 Access to Witney project will come from existing project and technical management functions, primarily within the Environment and Place Directorate. This will be supported by other disciplines from across the Council organisation as the need arises.
93. Specialist legal advisors are already engaged to provide support to the CPO and other such statutory processes to limit the potential for future challenge to an absolute minimum.
94. Where external professional staffing resources are being utilised, there is an ongoing plan to ensure corporate knowledge transfer and developing an in-house delivery and technical capacity and expertise.
95. The forecast Council staffing costs of project and technical management to completion are contained within the total budget quoted within this report. These are funded through the capital programme.

### **Equality & Inclusion Implications**

96. The equalities implications of the A40 Access to Witney scheme will be assessed robustly through the design development stages of the scheme. 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 development of the scheme and wider A40 programme.
97. 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.
98. 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 which will form part of the information presented at planning. This continual review and development process will ensure that the



## CA12

protected characteristics, particularly those of age and disability, are considered appropriately in the design of the schemes through the provision of suitable crossing facilities and segregated routes of a high standard along all of the schemes. 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 scheme.

### Sustainability Implications

99. Sustainability implications of the scheme will be considered further as part of the forthcoming planning application and subsequent reports to Cabinet to secure authorities to make the Order.

### Risk Management

100. Further information around risks and their management can be found at Annex D, including a register of key strategic risks to the project.
101. Emerging risks will be escalated through the capital governance process to ensure that issues and risks arising and impact on the Council are considered and managed.
102. COVID-19 currently poses an unquantifiable risk to the project's future delivery programme. COVID-19 impacts will be closely monitored and implications on programme reported.

### Consultations

103. There is a detailed communications and engagement plan in place for the project. The purpose of this is to ensure consistency of approach across the wider A40 programme, ensuring that this is seen as a joined up complementary investment programme.
104. Between February and late April 2021, a series of briefings were held with the following stakeholder groups in advance of the formal engagement exercise;
  - West Oxfordshire District Council.
  - Parish Councils of Eynsham and South Leigh
  - Landowner engagement has been ongoing since early 2020 seeking acquisitions by negotiation. Many of these are well progressed. Furthermore, intensive engagement with affected landowners has been undertaken during the months March – June 2021 as the scheme preferred options became known. This will continue throughout all subsequent stages of delivery.
  - A combined forum of cycling groups

## CA12

- Proactive engagement with statutory bodies such as the Environment Agency and Natural England to ensure that any scheme impacts are carefully and comprehensively mitigated.
  - Engagement with developers of adjacent sites
105. The feedback gathered at these initial engagement processes was used to inform the scheme design and materials which were subsequently presented at the formal engagement event.
106. In May 2021 the A40 programme and A40 Access to Witney web pages were updated and re-launched in advance of the recent public engagement event in order to make these more accessible, user friendly and in preparation for further and more detailed updates to be provided to the public during the subsequent stages of delivery.

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107. To inform the preferred scheme options and as part of the development of the planning application for the scheme a formal public engagement event took place over four weeks commencing on the 10 May 2021. This included an intensive programme of virtual public exhibitions and stakeholder meetings within these timeframes.
108. This stage allowed the public to give feedback on the scheme via dedicated email address, survey web-form, printed response form or a dedicated phone number. The council advertised the consultation via the local media, social media and a direct mailing campaign.
109. Information about the scheme could be obtained online, at the consultation events, in the dedicated consultation booklet/response form or via a discussion with a council officer via the dedicated project email/phone number. This included general information about each of the options plus the relevant scheme plans.
110. A Statement of Community Involvement (SCI) was produced following the formal engagement event, included as a background paper to this report. This contains the complete analysis of the engagement event responses, an executive summary of which is included at Annex C, noting that this continues to be a live document up to the point it is submitted as part of the planning application.
111. Key response facts and figures;
- We have seen at least 6,321 sessions on the pages associated with the A40 Programme. Just under 5k of those were unique users. This generated at least 175 clicks through to the virtual engagement room Social media adverts delivered over 10,000 clicks through to the A40 Programme web pages.
  - The total number of feedback forms received from the engagement event was 39,

## CA12

- A similar number of email responses were also received which are reflected in the statement of community involvement. The themes of the responses received by email were consistent with those gathered through the formal feedback system.
- From the answers provided through the formal feedback **69% indicated they strongly supported / supported the A40 Access to Witney scheme**; 5% indicated they had minor concerns, 13% had significant concerns; and the remainder stated no preference.

112. Key response themes include;

- Improvements at the junction are overdue
- Support for reduction of traffic in Witney town centre
- Increase in traffic in the immediate area
- Consideration given too alternative scheme options
- Increase in “rat running” through adjacent areas potentially caused by the scheme
- Current cost estimates
- Conflicting views on whether the scheme would improve or decrease road safety.

113. Strong support for the scheme was received from the relevant County Council Member and West Oxfordshire District Council.

114. An updated set of frequently asked questions have been published to the project webpage since the engagement event closed in particular addressing any concerns raised. Those who offered their views on the scheme were notified of this via email.

115. Due to the relative simplistic nature of the scheme in question and the high level of support for the scheme in its current form it is not proposed to make any amendments to it. It is however noted that engagement with the adjacent residents of High Cogges and South Leigh Parish Council will continue to monitor any observed impacts and where necessary implement mitigation measures.

116. Therefore, it can be seen that the A40 Access to Witney preferred option as amended are supported by a range of stakeholders hence the recommendation to Members to approve, and to enable a planning application to be submitted later in 2021.

Bill Cotton  
Corporate Director for Environment and Place

Annexes:

Annex A – Options Appraisal Report (available only on the meeting [webpage](#) under “Additional documents”)

## CA12

Annex B - General Arrangement Plan – Preferred Option  
Annex C – Statement of Community Involvement – Executive Summary  
Annex D – Risk Management and Strategic Risk Register

Background papers:

Statement of Community Involvement (SCI), June 2021 –  
available online at: [A40 Access to Witney | Oxfordshire  
County Council](#)

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