

**Meeting: Council**

**Date: 5 December 2018**

**Wards Affected: Tormohun**

**Report Title: Torquay Gateway Highways Improvement – Shiphay Lane Junction to Lowes Bridge Junction– Acquisition of Land – Compulsory Purchase Order**

**Is the decision a key decision? Yes**

**When does the decision need to be implemented? January 2019**

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## **1. Proposal and Introduction**

1.1 To achieve a way forward to ensure that the major highway improvement schemes known as the Torquay Gateway Improvements are delivered by seeking Members' approval to make a Compulsory Purchase Order for the land required for the section of the scheme between Shiphay Lane and Lowes Bridge junction, to enable it to be acquired if agreement cannot be reached by negotiation with the Network Rail land owner.

## **2. Reason for Proposal and associated financial commitments**

2.1 £2.49m funding has been agreed in principle from the Department for Transport (Dft) through the Local Transport Board (LTB) for a series of highway and cycle improvements to the Torquay Gateway area. The improvements, which form part of the current Local Transport Plan and Local Plan, have been undertaken commencing April 2015 and the funding has been granted on the basis that the Torbay Council is in a position to complete the entire scheme within the LTB's time period, which has an absolute completion date of March 2021, however the construction works will need to be complete by March 2020.

2.2 For the majority of the proposed improvements there was no requirement for the acquisition of any private land and the individual schemes do not require planning consent. However, one section of this improvement, to widen the A3022 between Shiphay Lane junction and Lowes Bridge junction will require the acquisition of

some land within the ownership of Network Rail.

- 2.3 The section of highway improvement in question will provide additional capacity to this strategic route by adding an additional northbound traffic lane and improved traffic flow through the signalised junctions.
  - 2.4 Land will need to be acquired for the purpose of implementing the highway improvement. The acquisition of such land will be progressed by negotiation between the Council and Network Rail where possible, however, if such negotiation does not result in successful acquisition of land then the Council will need to acquire the land by Compulsory Purchase Order.
  - 2.5 The delivery of the highway improvements is subject to the acquisition of areas of Network Rail land as detailed in Appendix 1. Failure to acquire these areas of land would result in the Scheme not being delivered in its entirety.
  - 2.6 The approval of the recommendations in this report is sought from the Council to seek to ensure delivery of the scheme within the required timescale.
  - 2.7 The proposals contained in this report will commit the Council financially in respect of as yet undetermined land compensation costs along with associated land agency and legal costs: Costs are to be funded from the anticipated capital allocation for the scheme.
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### **3. Recommendation(s) / Proposed Decision**

- 3.1 That negotiations with Network Rail, as landowner, for acquisition of the land required for the Torquay Gateway Highways Improvement – Shiphay Lane Junction to Lowes Bridge Junction Scheme be continued to completion and to acquisition by agreement when possible.
- 3.2 That authority be delegated to the Director of Corporate Services to make a Compulsory Purchase Order for the land required for the Torquay Gateway Improvement Scheme affecting land adjacent to the A3022 Newton Road in accordance with the following:-

That Torbay Council makes a Compulsory Purchase Order under sections 239, 240, 249, 250 and 260 of the Highways Act 1980 for the acquisition of all interests in the land (except those already owned by the Council) and new rights within areas shown (shaded pink for areas of land in respect of which all interests are to be acquired and shaded blue for the areas over which new rights are to be acquired) on plan number (insert new) attached as Appendix 1 to the submitted report for the purpose of highway improvement.

- 3.3 Subject to approval of 3.2 above, that the Director of Corporate Services be authorised to:-
- a) Take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order including the publication and service of all notices and the presentation of the Council's case at any Public Inquiry;
  - b) To acquire interests in land and new rights within the Compulsory Purchase Order either by agreement or compulsorily; and
  - c) Approve agreements with the land owner setting out terms for the withdrawal of objections to the Order, including where appropriate seeking exclusion of land or new rights from the Order.
- 3.4 That detailed design and preparation of proposals continue for the highway improvement scheme in order that a scheme can be implemented following acquisition of all required sections of land.

## **Appendices**

**Appendix 1:** – Proposed Compulsory Purchase Order Plan

**Appendix 2:** – Further Supporting Information

## **Background Documents**

Torbay Local Transport Plan 2011-2026

<http://www.torbay.gov.uk/index/yourservices/transportandstreets/transportpolicy/transportplan.htm>

Application to Local Transport Board for the Torquay Gateway Highway Improvements.

<https://www.torbay.gov.uk/council/policies/transport/local-transport-board/torquay-gateway/>

## Section 1: Background Information

### 1. What is the proposal / issue?

To achieve a way forward to ensure that the major highway improvement schemes known as the Torquay Gateway Improvements are delivered by seeking Members' approval to make a Compulsory Purchase Order for the land required for the section of the scheme between Shiphay Lane and Lowes Bridge junction, to enable it to be acquired if agreement cannot be reached by negotiation with the Network Rail land owner.

### 2. What is the current situation?

£2.49m funding has been agreed in principle from the Department for Transport (Dft) through the Local Transport Board (LTB) for a series of highway and cycle improvements to the Torquay Gateway area. The improvements, which form part of the current Local Transport Plan and Local Plan, have been undertaken commencing April 2015 and the funding has been granted on the basis that the Torbay Council is in a position to complete the entire scheme within the LTB's time period, which has an absolute completion date of March 2021, however the construction works will need to be complete by March 2020.

For the majority of the proposed improvements there was no requirement for the acquisition of any private land and the individual schemes do not require planning consent. However, one section of this improvement, to widen the A3022 between Shiphay Lane junction and Lowes Bridge junction will require the acquisition of some land within the ownership of Network Rail.

### 3. What options have been considered?

The following options have been considered:

1. That the proposed decision to acquire land for the Torquay Gateway Highway Improvement as detailed in Section 3 of the report be progressed.
2. That the proposed decision is not progressed. Not progressing the decision could mean that, where agreement over land acquisition cannot be completed, the scheme does not get delivered and the funding is invested elsewhere in the LEP area.

4.	<p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</b></p> <p>The proposal supports the delivery of the Corporate Plan by meeting the specific Targeted Actions of ‘working towards a more prosperous Torbay’ and ‘Ensuring Torbay remains an attractive and safe place to live and visit’ by improving this section of vital transport infrastructure.</p>
5.	<p><b>How does this proposal contribute towards the Council’s responsibilities as corporate parents?</b></p> <p>The proposal has do direct contribution towards the Council’s responsibilities in this respect however the scheme is unlikely to be detrimental to the safety of children and young people.</p>
6.	<p><b>How does this proposal tackle deprivation?</b></p> <p>The improvement to this section of vital transport infrastructure will support future growth in the Torbay Area.</p>
7.	<p><b>How does this proposal tackle inequalities?</b></p> <p>The proposal will reduce congestion on this section of infrastructure providing improvements to air quality and public transport links. Controlled pedestrian crossing facilities will form part of the scheme.</p>
8.	<p><b>How does the proposal impact on people with learning disabilities?</b></p> <p>There is no direct affect in respect of this proposal however the proposal is unlikely to be detrimental.</p>
9.	<p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>As with any highway improvement, the benefits will apply to all users of the highway. The implementation of the ‘Torquay Gateway’ highway improvements forms part of the current Local Transport Plan and Local Plan, approved as policy by Council.</p> <p>Both the Local Transport Plan and Local Plan were prepared in consultation with all major stakeholders.</p> <p>The Local Transport Plan was prepared jointly with Devon County Council.</p>
10.	<p><b>How will you propose to consult?</b></p> <p>No further formal consultation is proposed in respect of this scheme.</p>

## Section 2: Implications and Impact Assessment

### 11. What are the financial and legal implications?

The Council as the highway authority has powers under the Highways Act 1980 to acquire compulsorily or by agreement, land required for the improvement of a highway and to acquire compulsorily rights over land for highway purposes.

A CPO may be made by the Council, but must be confirmed by the Secretary of State if there are objections. If objections are made to the Order and not withdrawn, the Secretary of State is likely to hold a public inquiry before determining whether or not to confirm the Order, in full or in part. That could incur the Council in presently unquantifiable costs. These might be significant, but may be considered small compared with the overall cost of the scheme.

If the Council acquires land under compulsory purchase powers, statutory provisions as to compensation will apply. The Council will be required to pay market value, payment for any injurious affection and in certain circumstances additional costs such as Home Loss payments and disturbance.

### 12. What are the risks?

1. There is a significant risk that negotiations to acquire land for this scheme could fail and a Compulsory Purchase Order would be the only option for progressing the scheme. If the decision to make a Compulsory Purchase Order is delayed until that time then the Council may not be able to deliver the Scheme within the required timescale. This would have serious implications on the implementation of the Torquay Gateway Improvement in its entirety.
2. If objections are made to the Compulsory Purchase Order, and not withdrawn, the Secretary of State is likely to hold a public inquiry. This may delay the delivery of the scheme.
3. If land is not acquired for this Scheme then the existing highway would have insufficient width to deliver a scheme which would meet the requirements for the DfT funding.

<p><b>13.</b></p>	<p><b>Public Services Value (Social Value) Act 2012</b></p> <p>The Torbay Development Agency will provide support to Torbay Council for the negotiation and valuation for the land to be acquired in liaison with the authority's legal officers.</p> <p>The management and delivery of the scheme will be carried out by officers from the Council's Highways and Transport Team and Future Planning Team.</p> <p>The detailed design and supervision of the scheme will be carried out by the Torbay Development Agency's Engineering Services Team.</p> <p>Accommodation works to properties where land has been acquired will be carried out under the contract for the main highway widening works, which will be procured as a formal contract in accordance with Financial Regulations.</p>
<p><b>14.</b></p>	<p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>A full Business Case was submitted to the HotSW LEP in respect of the economic benefits of delivering the Torquay Gateway Scheme.</p>
<p><b>15.</b></p>	<p><b>What are key findings from the consultation you have carried out?</b></p> <p>There are no specific consultation findings to report as part of this proposal.</p>
<p><b>16.</b></p>	<p><b>Amendments to Proposal / Mitigating Actions</b></p> <p>No amendments have been made to the scheme, however every effort has been made to minimise the amount of land required to deliver the scheme.</p>

## Equality Impacts

17.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people			No differential impact
	People with caring Responsibilities			No differential impact
	People with a disability			No differential impact
	Women or men			No differential impact
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			No differential impact
	Religion or belief (including lack of belief)			No differential impact
	People who are lesbian, gay or bisexual			No differential impact
	People who are transgendered			No differential impact
	People who are in a marriage or civil partnership			No differential impact
	Women who are pregnant / on maternity leave			No differential impact



	Socio-economic impacts (Including impact on child poverty issues and deprivation)	Improvements to major infrastructure will have positive impacts on future growth in the area.	None
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	The proposal will assist in reducing traffic congestion and the use of public transport.	Reduced congestion may encourage an increase in car usage.
<b>16</b>	<b>Cumulative Impacts – Council wide</b> (proposed changes elsewhere which might worsen the impacts identified above)	No cumulative impacts identified	
<b>17</b>	<b>Cumulative Impacts – Other public services</b> (proposed changes elsewhere which might worsen the impacts identified above)	The proposed scheme is within direct access routes for Torbay Hospital, the Ambulance Service and Fire Service and therefore is likely to provide benefits to these services.	