

DECISION-MAKER:	CABINET		
SUBJECT:	CONNECT2 CYCLE WAY LAND OWNERSHIP - COMPULSORY PURCHASE ORDER		
DATE OF DECISION:	21 DECEMBER 2009		
REPORT OF:	CABINET MEMBER FOR ENVIRONMENT & TRANSPORT		
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STATEMENT OF CONFIDENTIALITY

None.

SUMMARY:

This report seeks authority to make a Compulsory Purchase Order (CPO) in order to acquire land to proceed with the construction of the Connect 2 cycle and walk way along side the River Itchen between Horseshoe Bridge and Mount Pleasant Industrial Estate

RECOMMENDATIONS:

Having complied with paragraph 15 of the Council's Access to Information Procedure Rules and having had regard to the provisions of the Community Strategy and being satisfied that the proposals in this report are likely to improve the economic, social or environmental well being of the area:

- (i) That a Compulsory Purchase Order be made to authorise the acquisition by the Council of the land along side the River Itchen between Horseshoe Bridge and Mount Pleasant Industrial Estate shown pink on the map in appendix 1 for the purpose of constructing a cycle path under s.226(1)(a) of the Town & Country Planning Act 1990 and the Acquisition of Land Act 1981.
- (ii) To approve the Statement of reasons for making the Compulsory Purchase Order as set out in appendix 2
- (iii) To authorise the Solicitor to the Council, following consultation where appropriate with the Executive Director of Environment and the cabinet member for Environment and Transport, to do anything necessary to give effect to the above recommendations including but not limited to undertaking all procedural steps required to:
 - (a) make, advertise and secure confirmation and implementation of the Compulsory Purchase Order,
 - (b) acquire interests in or rights over the land either by Agreement or Compulsorily,

- (c) approve agreements with land owners setting out the terms for withdrawal of objections to the Order (to include payment of compensation), including where appropriate seeking exclusion of land from the Order, and
- (d) to represent the Council in any Inquiry into the confirmation of the Compulsory Purchase Order.

REASONS FOR REPORT RECOMMENDATIONS

1. This report is submitted for consideration as a General Exception under paragraph 15 of the Access to Information Procedure Rules in Part 4 of the City Council's Constitution, notice having been given to the Chair of the Overview and Scrutiny Management Committee and the Public. The matter requires a decision to instigate the compulsory purchase order in order for works to commence on site in April 2010. This is to suit the "ecology" window in respect of work planned to start on site April 2010 and be completed before migrating birds arrive at the end of summer 2010.
2. A key requirement of the project is that the Big Lottery Fund requires proof of land owners' permission for each project to be sited on or across their respective land. In the case of the Southampton project there are two areas of land that have not been recorded with the land registry.
3. The key to this project is to have land owners permission to install the route across their land. This is a condition of the Big Lottery Fund; by not having land owners consent the Big Lottery Fund will not consider any financial support for the Connect2 project. Therefore the project would not be funded. This would result in the project not progressing or Southampton City Council having to contribute the £450,000.

CONSULTATION

4. The project was subject to a television vote in December 2007. Planning permission for the scheme was approved on 16th March 2009
5. In order to proceed with the project ownership of the land is needed. The title to the land is not registered at HM Land Registry and enquiries have failed to identify the land owner. There is no alternative but to consider a compulsory purchase order.

DETAIL

6. The National Connect2 is a five year project run by Sustrans. It involves the creation of new cycle and walking routes, bridges and other facilities in 79 locations around the UK. It aims to create new networks of local paths, improve cycling and walking access and to connect local areas. Sustrans launched the 'Connect2' project in August 2006 in a successful bid to win £50 million from the Big Lottery's 'Living Landmarks; The People's Millions' competition. It was one of four short listed projects competing in a public vote for the grant and Connect2 was announced as the winning project on 12 December 2007. It is estimated that Connect2 will pass within half a mile of: 3,280,000 people; 1,426,000 households; 1,355 schools; 500,000 pupils; and 57 of the most deprived boroughs in the UK. With the aim to give the benefits of: 61.5 million trips a year are expected to be made on the routes; 79,500 tonnes of CO2 could potentially be saved per annum if each of the journeys

had replaced a car trip; £135 million of funding in total will be generated by Connect2; and 116 local authorities are working to deliver Connect2.

7. The Connect2 is supported by the Big Lottery Fund as part of the People Millions project and will be managed by Sustrans. The funding award of £450,000 from the Big Lottery Fund has been allocated to Southampton for the construction of the boardwalk. To finance the claims from the contractor, although the costs will then be reclaimed from the Big Lottery Funding. Sustrans have appointed a contractor to commence the work. The site programme would commence in April and works would be completed 12 to 16 weeks later. If the April deadline is missed the scheme would not be able to commence until the following year.
8. A condition of the lottery funding is that the Council must have the land owners permission to install the route across their land. Without this permission the project can not progress. Despite extensive investigation including land registry, service planning notice on the site and contacting potential historical owners (Network Rail, the Crown and local industrial park owners) land ownership remains unclear. Land records suggest owners have been Network Rail and Crown Estates. There are two areas of land that have not been recorded with the land registry. The core of the Connect2 project in Southampton relates to the implementation of a cycle way "boardwalk" along side the River Itchen between Horseshoe Bridge St Denys and Northam Industrial Estate. The land required is reclaimed land and as such would have been Crown Property. But since reclamation the rail line was built during which time part of the land was acquired by Network Rail. Network Rail do not believe they own the land. This leads us to believe that in all likelihood the land is owned by the Crown or the Council but no documentation exists to confirm this.
9. As the owner of the land cannot be identified there is a need to make a CPO. The process is not a quick one. It requires a proper evaluation to be carried out, notification on site in an accessible location to allow possible land owners to come forth, any appeal/purchase process and the confirmation of an Order by the secretary of state. Each stage of the process is subject to various time lines and advertisement procedures.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

10. The project has secured funds that are available from January 2008 for five years. The projected cost of the boardwalk is within the allocated £450,000. It is proposed that the scheme will be added to the Environment and Transport Capital Programme when this is next reviewed by Council in February 2010. The sums expended will be grant funded in arrears, after completion of the construction and land purchase, and therefore the net cost to Southampton City Council will be zero.
11. Following extensive land ownership investigation the Council are not aware that there are any land owners likely to claim title to the land. It appears that the land is owned by the Crown, the Council or Network Rail but there is no definitive historical record to confirm this. Network Rail do not consider themselves to be the owners of the land. The value of the land is likely to be

low due to the fact that it is a narrow slither of land running alongside the rail line and the high water level of the River Itchen. Development value is therefore likely to be very low to zero. However, no formal valuation has been undertaken. It is suggested that officers be delegated authority to consider this issue and undertake proper valuation procedure as part of the authorisation to proceed with the CPO. The cost of acquiring the land is probably limited to the officer time to undertake the legal orders and land valuation work. It is estimated that this cost would be in the region of £15,000 and would be met from the approved Cycling Improvements capital scheme. If land dispute issues were to arise this would be higher but it is not possible to confirm this without formal valuation. It is considered that the risk of a land owner coming forward is low.

Revenue

12. The cost of staff time will be met from existing resources or charged to the capital scheme, as appropriate.

Property

13. The land is required for the improvement of the area which will improve the environmental well being of the area pursuant to section 226(1) (a) of the Town and Country Planning Act 1990.

Other

14. None.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

14. Section 2 of the Local Government Act 2000 permits a Council to do anything likely to improve the economic, social or environmental well-being of its area. Having had regard to the Community Strategy, the proposals in this report are permitted in accordance with the Act.
15. The Compulsory purchase is to be pursued in accordance with s.226(1)(a) of the Town & Country Planning Act 1990 and the Acquisition of Land Act 1981.

Other Legal Implications:

16. In recommending the making of a CPO the rights of third parties that may be affected (including the property rights of the current property owners of the sites) have been balanced against the public interest in acquiring the land. It is recommended that the Council can be satisfied that the proposed CPO is necessary and proportionate having regard to the provisions of the Human Rights Act 1998 and is in the public interest having regard to the need to provide adequate cycling facilities for the public in accordance with the connect2 project.

POLICY FRAMEWORK IMPLICATIONS

17. The project is consistent with the City of Southampton Local Transport Plan 2006 - 2011, which aims to encourage more cycling and walking through the Active Travel Plan.

