

Agenda Item No: 11
Report To: **CABINET**
Date of Meeting: 9th February 2017



Report Title: **M20 Junction 10a – allocation of capital spend**

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Portfolio Holder Cllr. Bennett (Planning and Development)
Portfolio Holder for: Cllr Bradford (Highways, Wellbeing and Safety)

Summary: In order to assist in the delivery of Highways England's proposal for a new M20 Junction 10a, the Department of Communities and Local Government has agreed to provide the Council with a fund of £16m to spend in 2016/17 on capital projects subject to the Council agreeing to repay the money from developer contributions to the Homes and Communities Agency.

The sum (alongside contributions from Highways England and the SELEP) will ensure that there is sufficient funding available to promote and construct the scheme if the Development Consent Order for it is granted by the Secretary of State later this year.

Due to the size of the sum involved, this must be approved by Full Council and this report seeks the Cabinet's recommendation for this.

Key Decision: NO

Significantly Affected Wards: The junction 10A project directly affects a group of wards in the area around it, notably Weald East, Saxon Shore, North Willesborough, Highfield and South Willesborough.

Recommendations: **The Cabinet is recommended to:-**

- I. Recommend that Full Council authorises the £16m capital spend made available by the DCLG on the proposed scheme for M20 Junction 10a.**

Policy Overview: This Council has sought a new junction 10A for many years; the need for it is identified in Supplementary Planning Guidance to the Ashford Borough Local Plan SPG6 (2001 and 2004), the adopted Core Strategy (2008) and the Urban Sites & Infrastructure DPD (2012); and the new Local Plan to 2030 will rely on a new junction 10A to access a significant

proportion of the planned growth to 2030.

The junction is therefore one of the Council's 'Big 8' projects, and making arrangements for funding and delivering it are in the interests of both the proper planning of the area and the economic, social and environmental wellbeing of the Borough and its residents and workers.

Financial Implications:

The proposed funding arrangements for junction 10A do not involve any direct Council funding, either initially or by way of repayment. This report sets out a proposed arrangement to put in place the balance of funding that is needed in order for the scheme to be committed by Highways England once it has development consent. This would be on a forward-funded basis, with repayments to be made to HCA from developer contributions that have been received or accrue in the future, rather than from the Council's own resources.

Legal Implications:

The granting of the £16m from the DCLG is subject to the Council and the Homes and Communities Agency (HCA) entering an Agreement in respect of the repayment of the funding from subsequent developer contributions to the HCA or if the proposed Junction 10a scheme does not proceed. When the funding is secured, a separate Agreement over the handling and spending of the funding when it is passed to Highways England will be needed between the Council and Highways England.

Equalities Impact Assessment

Not Required because this decision raises no policy issues relating to protected characteristics.

Other Material Implications:

None

Exempt from Publication:

NO

Background Papers:

None

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Introduction and Background

1. The proposal to construct a new motorway junction to the east of Ashford (Junction 10a) is one of the Council's 'Big 8' priority projects and is crucial to the long term delivery of new development and investment in the town. The proposal is being delivered by Highways England as part of their highway investment programme with fixed contributions of £19.7m from the South East Local Enterprise Partnership (SELEP) and £16m from the Borough Council.
2. It has always been envisaged that the Council's 'contribution' would be in the form of financial contributions from developers – principally those whose sites are released by the additional capacity that Junction 10a would release.
3. However, in order for the scheme to progress, it is necessary for Highways England to be able to demonstrate that they have access to the necessary funding in advance of the scheme being delivered. This has meant that 'forward funding' of the Council's contribution is required.
4. Given the scale of the forward funding required, it is not possible for the Borough Council to provide from its own resources and so, with the assistance of the Homes & Communities Agency (HCA), discussions have been under way since early last year to resolve this issue.
5. In November 2016, the Department for Communities and Local Government (DCLG) wrote to the Chief Executive to advise that the DCLG would provide the Council with £16m in connection with the Council's commitment in respect of the proposed Junction 10a, subject to an agreement being in place with the HCA to ensure recovery of the full amount from ensuing developer contributions or if the project does not proceed. The budget from which DCLG has provided this funding is time constrained and the council will need to show that it has been spent in the current financial year.
6. At the time of drafting this report, it is expected that the Agreement with the HCA will be concluded before the Cabinet meeting.

Proposal/Current Position

7. In order to pass this sum to Highways England for the purposes of delivering Junction 10a, the Council's formal approval of a capital grant to Highways England will be required. This report proposes that the Cabinet makes such a recommendation to Full Council when it meets on the 16th February.

Implications and Risk Assessment

8. The £16m award from DCLG will need to be repaid to the HCA from developer contributions in accordance with the terms of the Funding Agreement with the HCA. The Agreement does not require the Council to underwrite any of the sum, or place the Council at any financial risk in the event that development does not come forward and the anticipated contributions accumulated.
9. A similar proposition was considered by the Cabinet in March 2016 when it was thought that the HCA itself may have been able to provide the necessary forward funding for the Junction 10a scheme. At that time, Cabinet agreed the principle of repaying the forwarded sum through developer contributions in accordance with an Agreement with the HCA. The terms considered then now form the basis for the Agreement to repay the sum now, albeit the funding has come from DCLG and not the HCA
10. A separate Agreement with Highways England will be needed to govern the use of the £16m for the delivery of the project by Highways England.
11. Failure to utilise the £16m for the purposes of delivering the Junction 10a scheme may jeopardise the deliverability of the scheme which in turn would have significant adverse implications for the Council's Development planning and the soundness of the emerging Local Plan to 2030. In these circumstances, additional congestion around the Junction 10 area would arise with no deliverable scheme available to resolve the situation.

Equalities Impact Assessment

12. Not necessary in relation to the funding decisions proposed in this report. Highways England will need to ensure that the design of a J10A scheme takes account of identifiable impacts upon protected groups. The recent Government consultation on the proposed scheme was accompanied by an Equalities Statement which can be read at :-
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482890/Equalities_statement_NPPF_fin.pdf

Consultation Planned or Undertaken

13. No external consultation is proposed or has been undertaken and is not applicable in this instance.

Other Options Considered

14. Several other options have been considered previously. Highways England were approached to see if they could forward fund the £16m on the basis of a similar means of developer contribution-funded repayments. Whilst there was an awareness of the issue, Highways England was not able to come forward with a solution.

15. As mentioned above, it was initially thought that the HCA may be able to provide the necessary forward funding but in discussions throughout 2016, it became apparent that this would not be straightforward, or indeed, possible, as the nature of the funding did not fall under their normal budgeted priorities. Despite this it should be noted that HCA officers have continued to be extremely helpful and supportive of the Council's objectives and have helped to facilitate the solution that is now available.
16. Finally, the option for the Council to underwrite the forward funding itself was considered, potentially through borrowing the necessary sum. However, this would have necessitated the council carrying the risk of development not coming forward as quickly as anticipated to repay the sum and leaving the council financially exposed. In addition, the CIL Regulations as currently drafted in respect of the ability to use CIL payments to repay borrowed funding for infrastructure also would have made this a risky option to take.

Reasons for Supporting Option Recommended

17. The forward funding from DCLG provides the best opportunity of ensuring that the necessary funding to deliver the proposed scheme is available without placing any financial risk on the Council. The Agreement with the HCA does not require the council to underwrite any of the sum from its own resources and there is a strong likelihood that current and future development proposals released by Junction 10a will provide the necessary developer contributions to repay the sum to the HCA in full.

Next Steps in Process

18. If the Cabinet agrees to the recommendation, then the matter will be referred for a formal decision to the Full Council meeting on the 16th February.

Conclusion

19. The purpose of this report is largely procedural given the scale of the capital spending proposed but it is also an opportunity to confirm the Cabinet's support for the delivery of the Junction 10a scheme subject to the confirmation of the Development Consent Order which is now being examined. The opportunity to resolve a long standing concern over the availability of forward funding for the scheme is greatly welcomed and represents an important milestone in the delivery of this project which is vital to Ashford's future growth.

Portfolio Holders' Views

20. Cllr Bradford states "The delivery of Junction 10a is integral to the future success of our Borough and I fully support the capital spend necessary to get the ball rolling".
21. Cllr Bennett states "This is our opportunity to provide a vital part of the jigsaw that will support the long awaited delivery of the Junction 10A scheme, the

key infrastructure project that will unlock development potential for the future. As the report indicates it brings little or no risk and I support the recommendation to Full Council.”

Contact and Email

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