Agenda Item No

# The Vale of Glamorgan Council

# Cabinet Meeting: 5th October 2015

# Report of the Leader of the Council

# A4226 Five Mile Lane Road Improvements

## Purpose of the Report

1. To bring Members up to date with the work undertaken to date in support of the Welsh Government to take forward the A4226 Five Mile Road Improvement scheme and to provide information sufficient to allow decisions to be made regarding the principle of undertaking the scheme, the Business Case in support of the scheme, the design philosophy, the procurement methodology and the method of funding the scheme including the details of the grant offer provided by the Welsh Government.
2. To provide information relating to the risks associated with the scheme and the risks to the Council in taking forward the scheme given the form of the grant offer from the Welsh Government.

## Recommendations

1. That Cabinet accepts the Interim Business Case as set out in Appendix A as the basis for proceeding with the scheme and as the basis for the Welsh Government funding the scheme.
2. That Cabinet accepts the current design and Junction Strategy set in Appendix B as the basis for the submission of a planning application for the scheme and as supporting information to the land acquisition process.
3. That Cabinet acknowledge the need to use of a Compulsory Purchase Order to acquire the land required for the delivery of the scheme and request the Full Council to consider a further report setting out the details of that Compulsory Purchase Order.
4. That Cabinet accept the Land Acquisition Policy to be utilised in respect of this particular road project and as set out in Appendix C.
5. That Cabinet provide delegated authority to the Head of Regeneration and Planning and the Director of Environment and Housing Services in consultation with the Cabinet Member for Regeneration, Innovation, Planning and Transportation and the Cabinet Member for Environment and Visible Services to agree the details and format of an exhibition of the scheme to be provided in an appropriate location as part of the consultation necessary for the planning application for the scheme.
6. That Cabinet provide delegated authority to the Managing Director and Head of Finance in consultation with the Cabinet Member for Regeneration, Innovation, Planning and Transportation and the Cabinet Member for Environment and Visible Services and the Leader of the Council to accept the grant offer from the Welsh Government attached as Appendix D.
7. That Cabinet provide delegated authority to the Director of Environment and Housing Services in consultation with the Cabinet Member for Regeneration, Innovation, Planning and Transportation and the Cabinet Member for Environment and Visible Services, the Leader of the Council and the Managing Director to commence the tender process in relation to the main works contract through the appropriate Ojeu process in advance of the determination of the planning application for the scheme.
8. That Cabinet agree the inclusion of any Welsh Government grant accepted in the Council's Capital Programme.
9. That Cabinet provide delegated authority to the Head of Legal Services to agree and enter into the appropriate contracts in respect of consultancy services in support of the scheme and as may be agreed by the relevant Project Board or Cabinet.
10. That officers provide regular reports back to Cabinet on the progress of the scheme with updated versions of the associated Risk Register as attached as Appendix E.

## Reasons for the Recommendations

1. To enable Cabinet to make a decision as to the principle of the scheme as set in the Interim Business Case.
2. To enable the submission of a planning application for the agreed design to date.
3. To enable a further report to be provided to the Full Council as Cabinet does not hold delegated powers with regard to the use of Compulsory Purchase Orders.
4. To enable land acquired to be acquired via Compulsory Purchase Order in accordance with the Policy Note attached to this report.
5. To enable an appropriate exhibition of the preferred scheme to be provided alongside the standard consultation element of the relevant planning application and the required Compulsory Purchase Order for the acquisition of the land required for the scheme.
6. To ensure that the scheme is fully funded at an acceptable level of risk to the Council.
7. To enable the initial stage of tendering of the main works contract, in line with appropriate procedures, to commence in line with the current programme on the understanding that cabinet will receive a further full report on the initial responses to the tendering exercise including a report providing a short list of preferred contractors for consideration once the scheme has received an approval of planning consent, once the Compulsory Purchase Order for the acquisition of land required for the scheme has been confirmed and once an appropriate level of grant funding is in place to finance the delivery of the scheme.
8. To enable inclusion of the scheme within the Capital Programme.
9. To facilitate the appointment of consultancy support.
10. To ensure appropriate reporting regarding progress on this scheme.

### Background

1. The A4226 (Five Mile Lane) connects Barry at the Weycock Cross roundabout to the Sycamore Cross junction on the A48, and comprises an essential part of the highway network providing access to Barry as well as the St Athan and Cardiff Airport Enterprise Zone. Proposals to improve this stretch of road are contained in the Vale of Glamorgan Deposit Local Development Plan.
2. The Council has previously received a Principal Road Grant from the Welsh Government to advance the Five Mile Lane Highway Improvement Scheme, and to date this work has involved the signalisation of Sycamore Cross junction, as well as initial design and feasibility work together with various environmental assessments relating to the development of a more comprehensive scheme. Significant additional funding is required to complete the development and implementation of this scheme. The Welsh Government announced their commitment to the scheme in July 2013.
3. Since December 2013 Parsons Brinckerhoff (PB) have been employed by the Welsh Government to develop the route design and a partnership approach with the Council is being utilised in taking the work forward. Technical teams have been set up to consider highway design, land acquisition, funding, procurement and environmental issues. Initial environmental survey work and ground investigation work has been undertaken to support the production of an Environmental Impact Assessment report and title searches regarding land ownership have also been undertaken. Initial discussions with landowners regarding preliminary design has been undertaken by Parsons Brinckerhoff acting as consultants to the Welsh Government.

### Relevant Issues and Options

1. **Business Case**. Appendix A contains the Outline Business Case for the scheme. Officers from the Welsh Government and the Council are utilising the Five Case Business Model as the basis for developing an Outline Business Case which provides the details of why the scheme needs to be delivered. The expectation of the Welsh Government is that the Council would procure the works contract and manage the delivery of the scheme. The Five Case Model sets out the Strategic, Economic, Commercial, Financial and Management cases for the project and the guidance is set out at:

<http://wales.gov.uk/docs/caecd/publications/121001wiip5casemodel.pdf>

1. At a strategic level the road scheme seeks to (in outline):

Provide access to the St Athan and Cardiff Airport Enterprise Zone in support of the Welsh Government’s policy for job creation and employment;

Provide for improved road infrastructure and network resilience to service traffic needs accessing or commuting through the area of Barry and the areas west of Barry comprising, but not limited to, Rhoose, St Athan, Llantwit Major as well as the St Athan-Cardiff Airport Enterprise Zone;

Reduce the risk faced by users of this route in its current form due to its geometry and limited driver visibility and in recognition of traffic growth;

Provide a safer route for non-motorised road users in support of the provisions of the Active Travel Bill;

Support the on-going regeneration of Barry and to ensure its status as a visitor destination of regional and national significance is promoted and enhanced;

Support the policies for growth contained in the Vale of Glamorgan Local Development Plan with particular emphasis on the status of the St Athan and Cardiff Airport Enterprise.

1. The Business Case that has been developed sets out the reasons for taking forward this scheme and the benefits that will result from it. The Business Case is set out in Appendix A but the summaries of the various elements relating to the Strategic, Economic, Commercial, Financial and Management cases are as follows:
2. **Strategic case summary**.

The strategic case for the project is well established and the improvement to the A4226 is on the Welsh Government and Local Authority agenda;

The improvements support a framework of policy which is aimed economic regeneration;

The importance of the scheme as an enabler to the development of the Enterprise Zone at St Athan and Cardiff Airport is supported through local and national policy.

1. **Economic case summary.**

The scheme has been subject to a rigorous appraisal process in line with UK and Welsh Government guidance;

Taking apart the wider socio-economic impact of the scheme, the scheme offers good value for money. The BCR for the scheme is likely to be positive, although this is currently under development;

The scheme will provide greatly improved access to the St Athan and Cardiff Airport Enterprise Zones and a range of regionally important employment sites, including Cardiff Airport;

The scheme will increase access to employment opportunities for residents of the Vale of Glamorgan, Cardiff and Bridgend areas.

1. **Commercial case summary.**

The Vale of Glamorgan Council will procure an Employer’s Agent following a competitive tendering process;

The programme is established to ensure that the procurement of the relevant Employer’s Agent team is in place;

A contractor will be procured with the assistance of the Employer’s Agent by the Vale of Glamorgan Council, following a competitive tendering process;

A robust and well established risk management system is in place which ensures that project risks will be managed in line with the Vale of Glamorgan Council’s processes

1. **Financial case summary.**

The overall capital cost of the scheme (excluding land costs) is forecast to be £25.8m with the majority of the spend occurring 2016-18;

The scheme will be financed through Grant Funding to the Vale of Glamorgan Council from Welsh Government;

No outside sources of European funding are available for this project

1. **Management case summary.**

The scheme is pro-actively seeking to maximise local benefits. In particular, the targeted recruitment and training scheme will have a positive impact on the surrounding area;

Engagement with the local community will be an important aspect of the development of the scheme;

Governance arrangements are in place to ensure good project management practices are in place at all levels of the project to ensure the scheme is delivered on time and to budget and that the scheme delivered provides best value

1. **Design**. The development of the scheme has been taken forward by the Consultancy, Parsons Brinckerhoff, working under a brief provided by the Welsh Government and co-ordinated with officers of the Vale of Glamorgan Council. As part of the Outline Business Case options for a "Do Minimum", an "Intermediate" and "Do Maximum" proposals have been considered in detail . The design philosophy, detailed route proposal and the junction strategy are contained in Appendix B to this report.
2. The Do-Minimum – some minor improvements at discrete locations along the existing network, within the study area. The content of the Do Minimum scheme would be limited to those improvements resultant from LDP commitments and existing/planned highway improvements resultant from funding applications which the local authority are currently working on. These improvements would be located on the A4050 Port Road and surrounding study area network. Nothing is planned for Five Mile Lane due to the extent of improvements that would be required to effect change.
3. The ‘Intermediate’ position – removing bends on Five Mile Lane and improving junction visibility at side roads. The local authority has already examined what intermediate options can be implemented on Five Mile Lane as part of their Constraints Report in 2013. The Constraints Report produced by the Vale of Glamorgan Council identifies the worst affected areas on the existing alignment, which allows identification of the position and scale of the improvements. The extent of the works required for Intermediate benefit, actually have significant environmental and cost implications (removing bends on Five Mile Lane and improving junction visibility at side roads). It is felt that the intermediate scheme would not deliver significant enough benefit to support the economic argument or for its implementation to be justified.
4. The ‘Do Maximum’ – providing an offline scheme which ties into the existing A4226 Five Mile Lane at each end, at Weycock Cross and Sycamore Cross and making best use of as much of the existing infrastructure as possible
5. The "Do Maximum" option is the preferred scheme as set in Appendix B - Junction Strategy. This option provides for a new road alignment to the north east of the existing Five Mile lane from a point just beyond the Hawking Centre. The new road feeds back into the old alignment to the north of the Amelia Trust Farm. The new section has three junctions. The first is a staggered junction arrangement at Grovelands farm/ Northcliff Cottage to cater for the Moulton Village traffic. The second is a junction serving the side road to the north of Whitton Lodge and the third is a junction providing access to the east of the Amelia Trust Farm.
6. **Planning**. The scheme will need a planning approval and currently it is intended to submit an application for the scheme upon completion of the design phase and agreement to the principle of the scheme by Cabinet. The scheme will need to be supported by an Environmental Impact Assessment and the Council as Local Planning Authority has already agreed the Scoping Report for that assessment.
7. **Land Acquisition**. As part of the scheme development a land acquisition working group made up of officers of the Council, officers of the Welsh Government and Consultancy support has been meeting to discuss and take forward the process of land acquisition for the delivery of the scheme. The Guidance as set of in Welsh Government Circular NAFW 14/2004 has been reviewed with the Welsh Government and a policy for dealing with land acquisition and the negotiations associated with such land acquisition is set out in Appendix C. The policy sets out that, in line with Welsh Government advice and best practice, the use of a "twin track " approach of developing a case for land acquisition under compulsory purchase order powers whilst negotiating land values and compensation through normal means will not be utilised in this case given the numbers of parcels of land which need to be acquired. Instead the Council will rely solely on the compulsory purchase order process as a fair means of determining value levels and appropriate compensation.
8. **Funding**. The Welsh Government announced the funding for the A4226 Five Mile Lane Road improvements in July 2013. The Welsh Government are offering grant to the Council to cover the costs of the delivery of the road scheme. The Welsh Government grant offer is attached as Appendix D and sets out the terms of the offer. The offer has been reviewed by officers and the considerations are set out as follows:
9. Cost estimating. The scheme has been designed to a stage that will allow the submission of a planning application but the detailed design of the scheme will be completed under the proposed "Design and Build" contract arrangements which are indicated in the Business Case as the preferred delivery route. As a consequence of this the funding offer is based upon a set of cost estimates relating to the construction of the scheme, the costs associated with acquiring the land required and miscellaneous other costs relating to fees and scheme development. Given that the Welsh Government grant offer seeks to quantify the scheme costs at the initial offer stage officers have undertaken a review of the cost estimates relating to the construction works and the land acquisition in order that a judgement can be made as to their robustness.
10. Construction Costs. The evaluation of the scheme construction costs has centred on the rates utilised, the assumptions made with regard to quantum of materials and the assumptions utilised where percentages rates against overall scheme cost has been used as the basis for costing. It is apparent that in the main the construction rates estimates used are based upon the current edition of the SPONS price estimating guide for civil engineering works. Where this rate is not utilised the figures are based upon the South Wales Trunk Road Agency framework rates. The quantum figures for materials are based upon design detail known to date and the survey information available. The percentage rates for preliminaries cost, overheads, profit, supervision and preparation cost are based upon broad industry standards rather than specific models.
11. In reviewing these figures it is apparent that a logical approach has been taken in putting together the cost estimates and in mathematical terms the cost estimates are robust. However, they remain estimates at this stage and given that a large proportion of the cost estimates are based upon so called industry standards the actual tender prices could vary significantly from the current estimates. Variations to outturn costs on such a significant scale of project will depend upon the form of contract and tight project management and at this stage an appropriate percentage of optimism bias needs to be utilised to allow for future variations in delivery costs. The scheme design at this stage seeks to ensure that a complete range of cost items has been fully reviewed and included. The scheme currently assumes a 25% Optimism Bias.
12. **Procurement**. The Commercial case element of the Business case sets out an evaluation of the options available for procurement of the main works. The work undertaken by Parsons Brinckerhoff will take forward the design of the scheme to a point sufficient to submit the planning application but a fully detailed design capable of construction will not be available at that point. The report concludes that, given this position, the preferred option is to utilise a Design and Build form of contract and the preference would be to utilise the NEC suite of contracts for this purpose. Given the value of the scheme it will exceed the European Union threshold as set out for Public Sector Contracting Authorities and , as such, will have to follow the procedures as set out in the European Public Contracts Directive (2004/18/EC). This means that the contract will need to be advertised in the Official Journal.
13. Appendix E contains the current risk register and sets out how each item will be reviewed and appropriate mitigation or other action taken to reduce the scheme risk.

### Resource Implications (Financial and Employment)

1. It is envisaged that the funding for the scheme is being provided via a grant from the Welsh Government to the Council. Scheme cost estimates are currently at circa £25.8 million with this figure taking into account optimism bias. This figure is made up of initial cost estimates for construction costs, land costs, preparation costs and supervision costs.
2. No specific provision has been made within the Council's Capital Programme for this scheme and the Welsh Government grant will need to fully cover the costs of delivering the scheme.
3. No contribution or match funding arrangements have been agreed by the Council for this scheme other than staff time. The offer letter makes provision to cover the technical salaries associated with technical sign off of the detailed designs for the new road.
4. Following negotiations the WG Grant offer has been amended and now includes additional clauses to deal with the programme variations which may be encountered along with methods for dealing with cost variation. A clause has been added which allows for a full review of the scheme works cost following the tender process and in advance of any commitment to the works contract. This will allow either the Council or the Welsh Government to withdraw from the scheme should sufficient funding not be available.
5. A clause has been added which indicates that, subject to compliance with the appropriate regulations and procedures, the level of funding provided by the Welsh Government will be adjusted to match expenditure. This clause deals with the previous concerns raised about certainty of funding associated with any programme delays which affect cost or works cost increases during the delivery stage.
6. An extra clause has been added in to provide funding for any committed or contractual expenditure notwithstanding and withdrawal or cessation of funding. This deals with the concern raised that all committed expenditure would require certainty of funding.
7. Officers have concluded that the financial risks associated with progressing the scheme are now provided for in the WG Offer letter and the Council's Section 151 Officer finds it content acceptable.

### Sustainability and Climate Change Implications

1. Sustainability and climate change are to be considered during the design, procurement and delivery phases of the project. The EIA Scoping Report sets out the processes to review projects impacts in terms of air quality, cultural heritage, ecology and nature conservation, landscape and visual effects, noise and vibration, community and private assets, effects on all travellers, road drainage and water environment, geology and soils, materials and cumulative effects.

### Legal Implications (to Include Human Rights Implications)

1. As the grant receiving body, the Council would be responsible for the procurement of services as described in this report. The Council will have a duty to ensure that any procurement is undertaken in line with European legislation and the Council's own Standing Orders and Financial Regulations.
2. In relation to Contracts it will be necessary to comply with Public Contracts Regulations 2015. The scheme will need to follow the appropriate guidance and regulations with regard to procurement of the employer's agent role and contract works. Given the significant value of both these contracts the Council will need to procure via the OJEU process. The Procurement Technical Group is assessing how the OJEU processes tie in with the draft programme plan. When prepared the full Business Case will contain details of the Commercial Case for the scheme and the works contract costs. This will inform the Financial and Management Cases. These costs will not be known in detail until the works contract procurement process has been undertaken. At present the preferred contract form is a Design and Build option probably utilising the NEC Engineering and Construction Contract suite. Under this approach the preferred contractor would complete the detailed design as well as constructing the road.
3. In relation to the CPO, by virtue of the provisions of s.3(10) of  the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007, as amended, which provides: ‘Unless otherwise provided by these Regulations, a function of a local authority which, by virtue of any enactment (passed or made before the making of these Regulations) may be discharged only by an authority is not to be the responsibility of an executive of the authority’.  The relevant Act is the Acquisition of Land Act 1981 and the Land Acquisition (Just Terms Compensation) Act 1991(in relation to the CPO) and predates the amended Regs.  The Act refers to ‘an authority’, within the context of the Act, includes a Local Authority. This means that the full authority has to make any decision regarding the use of compulsory purchase powers. As the scheme will require the use of a Compulsory Purchase Order (CPO) to aid the acquisition of the land required for the scheme a further report will be presented in due course to Full Council regarding this aspect of the delivery process. In relation to Compulsory Purchase a full statement of reasons justifying the use of compulsory purchase will have to be developed in time for the making of the proposed compulsory purchase order.

### Crime and Disorder Implications

1. There are no crime and disorder implications.

### Equal Opportunities Implications (to include Welsh Language issues)

1. Equal opportunity issues will be considered in the design phase of the road scheme.

### Corporate/Service Objectives

1. The proposal would support the Deposit Local Development Plan which seeks the construction of this road scheme.

### Policy Framework and Budget

1. This report is a matter for Executive decision by Cabinet.

### Consultation (including Ward Member Consultation)

1. Local Ward Members have been consulted.

### Relevant Scrutiny Committee

1. Economy and Environment.

### Background Papers

None.

### Contact Officer

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### Officers Consulted

Operational Manager, Legal

Strategic Estates Manager

Head of Regeneration and Planning

Head of Visible Services and Transportation

Operational Manager, Highways and Engineering

Operational Manager, Countryside and Economic Projects

Operational Manager, Finance

Director of Housing and Environmental Services

Head of Finance/Section 151 Officer

### Responsible Officer:

Rob Thomas-Managing Director