

Report of Director of City Development**Report to Executive Board****Date: 8 February 2017****Subject: East Leeds Orbital Road – Land Assembly & Procurement**

Are specific electoral wards affected?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, name(s) of ward(s): Crossgates & Whinmoor, Harewood, Killingbeck & Seacroft, Moortown, Roundhay	
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If relevant, access to information procedure rule number:	
Appendix number:	

Summary of main issues

1. The East Leeds Extension (ELE) is a major strategic growth area for the city, estimated to accommodate around 5,000 new homes by the time it is fully built out, alongside major new mixed use development at Thorpe Park. Its delivery clearly relates to the Best Council Plan ambition for a Strong Economy and Compassionate City and to the outcomes it seeks to achieve regarding delivery of good quality, affordable homes, well cared for places and a well-planned city which is easy to move around. Delivery of the ELE will provide new homes, meeting housing needs as the city grows, boost the local economy, deliver new social and physical infrastructure and improve travel and access to new employment opportunities.
2. The Board has received a series of reports since 2013 on the proposals for a new East Leeds Orbital Road (ELOR) as part of a wider East Leeds transport package, which will underpin and unlock the full development of the ELE. This report provides an update on the progress of this work alongside the emerging proposals for the ELE and sets out some of the key issues requiring Executive Board consideration and approval to enable the programme to move forward in a timely way.

3. Over the coming year it is anticipated that a start will be made to the Manston Lane Link Road, which upon completion in late 2018/early 2019 will provide the southern link between the ELE and the M1 and enable the occupation of the new housing, retail and leisure facilities at Thorpe Park. It is also anticipated that outline planning approval will be confirmed for the first 2,000 homes in the ELE at the Northern Quadrant, leading to more detailed work to bring forward the first new housing developments there.
4. The timescale for the delivery of ELOR is central to the ability of developers and landowners to bring forward housing proposals across the whole of the ELE. It will provide highway capacity and access to open up the new housing developments and it is proposed that the Council works with all local stakeholders to optimise the infrastructure and housing programmes to ensure the soonest availability of growth benefits, taking into account the need to manage adverse impacts on existing neighbourhoods and communities.
5. The work to bring forward the ELOR has gathered pace and further detail over 2016 and the Council will shortly submit a planning application for this major new transport infrastructure. The report sets out the need to also now commence the procurement process for the main elements of the East Leeds transport package – advance junction improvements on the Outer Ring Road and the ELOR scheme itself.
6. Also critical to the ability to deliver ELOR and realise housing growth in the ELE is the need to complete land assembly for the road scheme. Progress has been made in acquiring some land for this through negotiation or by agreement for land transfers through planning obligations. Further negotiations are ongoing with landowners to establish acquisitions by agreement. However the scope, scale and programme for the scheme are such that it is now likely that compulsory purchase proceedings will need to be invoked to ensure that the acquisition of land to secure vacant possession for the scheme can be achieved in a timely manner. The report sets out the strategic case for taking forward a Compulsory Purchase Order ("CPO") to assemble land alongside continued negotiations with land and property owners and the making of any necessary Side Roads Order ("SRO") for the ELOR.

Recommendations

7. Executive Board is recommended to:
 - i) agree that the Chief Officer for Highways and Transportation commences procurement of the East Leeds transport package as set out at paras 3.2 – 3.4 and authorise the invitation of tenders for a single contract;
 - ii) agree that the Director of City Development is authorised to acquire land by agreement for ELOR in accordance with his existing delegated authority;
 - iii) agree that the Head of Land & Property progress all work necessary to establish a case for compulsory purchase of land required for the ELOR scheme;
 - iv) approves, in principle, the use of compulsory purchase powers for the acquisition of the land outlined in red on the draft map appended at Appendix 3 and the making of an SRO to facilitate the construction of ELOR, as set out in paras 3.11 – 3.27;

- v) agree to receive a further report at the earliest opportunity, setting out the detailed case for the making of a CPO for the acquisition of land and for the making of an SRO, to facilitate the delivery of ELOR; and
- vi) note that the Council's Red Hall site will be marketed for sale later in 2017 to support the Capital Receipts Programme.

1. Purpose of this report

- 1.1 This report sets out important next steps in bringing forward housing development and related infrastructure in the East Leeds Extension and particularly the procurement exercise now required to support the delivery of the East Leeds transport package and land assembly to secure the site for its delivery.

2. Background information

2.1 Strategic Context

- 2.1.1 Executive Board has previously noted the importance of the East Leeds Extension (ELE) as a major strategic growth area for the city, estimated to accommodate around 5,000 new homes by the time it is fully built out. The plan at Appendix 1 shows the area and its component parts.
- 2.1.2 The ELE was allocated in the 2006 Unitary Development Plan Review and is carried forward as allocated residential development land in the Site Allocation Plan (Publication Draft). It forms a significant part of the Core Strategy requirement for 70,000 new homes in the city by 2028.
- 2.1.3 The delivery of the ELE will clearly relate to the Best Council Plan ambition for a Strong Economy and Compassionate City and to the outcomes it seeks to achieve regarding delivery of good quality, affordable homes, well cared for places and a well-planned city which is easy to move around. Delivery of the ELE will provide new homes, meeting housing needs as the city grows, boost the local economy, deliver new social and physical infrastructure and improve travel and access to new employment opportunities.
- 2.1.4 The delivery of the ELE will also assist in delivering the wider objectives of the Best Council Plan and the Best City ambition for Leeds to support communities, build a child friendly city, deliver the better lives programme, enable positive public health outcomes, ensure that development is sustainable and that the Council acts in ways that reflect the need to be more efficient and enterprising.
- 2.1.5 Executive Board has previously recognised the need to progress the ELE programme with clarity and pace. The Board has received a series of reports since 2013 on the proposals for a new East Leeds Orbital Road (ELOR) as part of a wider East Leeds transport package, which will underpin and unlock the full development of the area, providing access to development sites and strategic highways capacity that will relieve pressure on the existing A6120 Outer Ring Road and local highways network.
- 2.1.6 Adjoining the ELE there is also potential for significant growth at Thorpe Park, with further housing development, high quality transport links (including the potential for a new rail station), new community, retail and leisure facilities and access to local jobs and training, which will also benefit existing neighbourhoods in the area, contributing to the regeneration of East Leeds as a whole.

- 2.1.7 Together the ELE, ELOR and Thorpe Park have been recognised by the Local Enterprise Partnership (LEP) as key components of a Strategic Priority Area in the Leeds City Region Strategic Economic Plan and by central government as major development and investment opportunities that will help drive forward the 'Northern Powerhouse' initiative.
- 2.1.8 The Council has committed to playing a leading role in the co-ordination and delivery of the transport infrastructure that will be necessary to realise this residential and economic growth, in a complex context of multiple land ownership, commercial interests and public funding.
- 2.1.9 The East Leeds transport package comprises three related projects, which in combination are considered essential to the overall improvement of travel and movement across East Leeds and enabling growth. These are:
- improvements to junctions on the A6120 Outer Ring Road in North Leeds;
 - environmental enhancements and measures to improve the A6120 through East Leeds for pedestrians, cyclists and public transport; and
 - the construction of the East Leeds Orbital Road (ELOR) between the A6120 at Red Hall and the M1 at Thorpe Park.
- 2.1.10 Measures to improve public transport accessibility and ensure bus services are enhanced and extended to serve new and existing neighbourhoods will also be brought forward alongside the delivery of this 'hard' infrastructure.

2.2 Progress to Date

- 2.2.1 The programme for delivery of the East Leeds transport package sits alongside and has an interface with other activities of the Council, developers and landowners that will bring about expeditious delivery of housing and infrastructure in the East Leeds Extension.
- 2.2.2 The Council undertook a co-ordinated public consultation exercise on this basis over winter 2015/16, covering proposals for the Council-owned Red Hall site, 'high level' issues for the Middle and Southern Quadrants, design proposals for ELOR and information provision for the Northern Quadrant and Thorpe Park. The intent was to ensure local people were aware of the emerging detail, scale and timescales for these major changes in the area, as well as provide opportunity to help shape the future. The outcome of this exercise – the feedback received and how it has been used in helping develop proposals for the ELE – was published on the Council's East Leeds Extension website through a comprehensive Consultation Report, accompanied by press coverage and publicity through social media.
- 2.2.3 In addition to wider public consultation the Council has been working with land owners and developers with interests in the area to identify the best possible fit of the ELOR scheme within the ELE allocation such that it can be designed and delivered to meet planning and highway requirements, whilst minimising development land take such that housing delivery remains viable, of a scale envisaged in the Council's Local Development Framework and leaving sufficient scope for high quality place-making.

- 2.2.4 There is a key relationship between the design and delivery of ELOR and the scope and timing of the new housing proposals it will unlock. Progression of the ELOR project is also important in supporting housing to come forward on the allocated ELE site as early as possible to meet the city's growth requirements.
- 2.2.5 The following sub-sections detail progress on these development issues since the last general update to Executive Board in October 2015. The main body of the report sets out the principal issues for Board's consideration at this stage in relation to the delivery of the ELE programme.

East Leeds Transport Package

- 2.2.6 The transport package continues to form a key part of the £1bn West Yorkshire Transport Fund (WYTF) programme and retains a funding allocation based on the Gateway 1 approval of April 2015. This has been supplemented by a further approval of the Combined Authority from the WYTF programme in December 2016 for land assembly costs associated with ELOR – the total funding allocated to the East Leeds Transport Package is now £82.983m. This will be fully drawn down subject to the final detailed business case, which can only be completed upon confirmation of all statutory procedures and procurement.
- 2.2.7 Further design work on ELOR, which is the main element of the transport package, has progressed over 2016, informed by the public consultation and ongoing dialogue with land owners. In January 2017 design freeze was reached on the scheme along with completion of all technical work to enable a planning application, which will be submitted in early February. The ELOR scheme plans are shown at Appendix 2. The project remains on course for delivery by Dec 2021, but will be subject to progression of the planning application and any further statutory procedures including a potential Public Inquiry, which may also cover issues relating to land assembly and side roads as set out in the main issues section of this report.
- 2.2.8 Alongside the design work on ELOR, detailed design of proposed alterations to the Outer Ring Road junctions identified in the package has also been progressed, covering:
- A6120 Ring Road / King Lane
 - King Lane / Stonegate Road
 - A61 Ring Road / Harrogate Road
 - A61 Scott Hall Road / Harrogate Road / Stonegate Road
 - A6120 Ring Road / Shadwell Lane (the need for any works here is still being assessed)
 - A6120 Ring Road / Roundhay Park Lane / Park Lane
- 2.2.9 These works can be delivered without the need for planning permission and it is proposed to deliver these in advance of the main ELOR scheme. Consultation has been undertaken on the junction schemes and detailed design is programmed to be complete by March 2017. Allowing for procurement, construction of the Outer Ring Road junctions could proceed from late summer 2017, taking 12 to 15 months to complete.

- 2.2.10 The third element of the East Leeds Transport Package is the enhancement proposals for the section of the A6120 Outer Ring Road through East Leeds that will effectively be replaced by the new ELOR road. Outline proposals have been prepared which include improved provision for pedestrians, cyclists and public transport and also how the “green streets agenda”, which is being promoted by WYCA, can be embedded in the approach. To minimise the impact of these works on both local and strategic traffic movement and to avoid negative impact on local communities, they will only be undertaken when through traffic is re-routed onto ELOR, upon it being opened. This being the case, it is proposed to undertake further consultation and detailed development of these proposals nearer the time of implementation.
- 2.2.11 At the same time as the above construction work is progressing and planning application for ELOR is being determined, the detailed design for ELOR will be developed in conjunction with the successful Contractor as well as developing the proposals for the enhanced section of the Ring Road. This will enable construction of ELOR to commence late in 2018 subject to the necessary approvals being in place. The detailed programme for ELOR will also be developed in this period but it is currently anticipated that the construction of ELOR will take approximately 2 years, with the remaining Ring Road enhancement works being completed in 2021.
- 2.2.12 The progress of the ELOR planning design, gathering of detailed site survey information and introduction of further engineering, landscaping and highways detail alongside the development of plans for the ORR will now enable a further estimate of the transport package costs prior to submission of the Gateway 2 Business Case to WYCA and as the scheme moves into the procurement stage. It remains the case that the WYTF grant is intended to cover the full costs of the Outer Ring Road elements of the package, but only part of the costs of ELOR. The gap in the initial capital costs of the ELOR scheme will need to be met by the Council, using prudential borrowing, the full costs of which would ultimately be recovered via a roof tax – incremental payments on the completion of each house in the ELE, secured as obligations through planning permissions. In effect the Council will provide a cash flow facility to enable the scheme to move forward and for the housing potential to be fully realised.
- 2.2.13 At its meeting of February 2016, Executive Board was advised of the potential for the Council to obtain alternative third party investment that might otherwise provide the up-front capital required to meet the costs of the ELOR scheme as an investment to be repaid over time through the roof tax. Officers are still in dialogue with the potential investor and at this time it is not possible to confirm if this funding can be brought to bear on the project. In the event that it cannot, then it is proposed that the Council will fund the balance required for the project using its prudential borrowing powers.

Northern Quadrant

- 2.2.14 An outline planning application for 2,000 homes and associated community facilities submitted by a consortium of landowners and developers in July 2012 is awaiting approval, subject to the completion of a section 106 legal agreement, which is anticipated in early 2017. This is the first part of the ELE to come forward for development; subject to completion of the s106, reserved matters applications coming forward for the first sub-phases and the developers’ programme for these,

a start to housing development could be made here in advance of ELOR. The Council will deliver the full ELOR scheme alongside the early stages of development in the Northern Quadrant.

- 2.2.15 The s106 agreement will commit the landowners to transferring or otherwise funding the acquisition of the land required for ELOR within the site. The Council has made one such acquisition of third party land having completed a negotiated acquisition in November 2016 with the owners of Bramley Grange Farm and through the s106 agreement will be indemnified by the Northern Quadrant landowners for the relevant costs. The remainder of the land is in control of the consortium's members and can be transferred to the Council via dedication in the s106 agreement. The s106 also establishes the roof tax mechanism that will recover the full estimated cost of this section of ELOR between the A58 and A64, based on incremental payments related to the progress of housing development.
- 2.2.16 The consortium submitted a further detailed planning application for a new roundabout on the A58 in August 2016 that will provide access to the development site and form part of the ELOR scheme in advance of the wider project delivery. This requires dedication of land from the Red Hall site by the Council, which can be actioned under previous approval from Executive Board.

Red Hall

- 2.2.17 Executive Board has also previously approved the principles of a planning brief for Red Hall, which is in the Council's ownership. This has now been drafted in more detail and consulted on with local residents and stakeholders over the winter of 2015/16 and again in revision in November 2016; it details the route of ELOR around the site and sets out green space requirements, housing development principles, site access and how the setting of the Listed Buildings should be treated by development proposals when these come forward. It also sets out the principle of the roof tax as a developer's contribution to the ELOR scheme. Land for ELOR within the site would be reserved from any sale by the Council to ensure its availability for the scheme.
- 2.2.18 Work is progressing to construct the new nursery and depot facilities at Whinmoor Grange, which will enable these to be opened and operational in the Autumn, enabling clearance and demolition of the existing facilities at Red Hall.
- 2.2.19 The wider Red Hall site forms part of the Full Council approved capital receipt schedule up to 2019 and beyond and it is anticipated that the brief will be formally adopted in early 2017 to support the marketing of the site for disposal later in 2017, in accordance with the Executive Board's resolution of October 2015.

Middle & Southern Quadrants

- 2.2.20 The Council has drafted a Development Framework for these quadrants that will provide outline planning guidance and principles around which the activities of landowners and developers can be co-ordinated. The Framework will establish the principle of land being provided for ELOR by landowners that will benefit from its construction (as at the Northern Quadrant and Red Hall), the roof tax mechanism as the means of securing developer contributions to the cost of the road and the approach to co-ordination of planning applications, alongside key place-specific development and policy guidance.

- 2.2.21 The Council has undertaken initial high level public consultation to inform the draft framework and will publish it in early 2017 for consultation with all stakeholders, including residents, landowners and developers.
- 2.2.22 The majority of the land required for ELOR in these quadrants is in the ownership of (or under Option to) volume house builders. Taylor Wimpey, Persimmon and Redrow all have interests. The Council remains in discussion with these parties to establish the conditions, process and timing under which the land required for ELOR can be secured and how the design and delivery of the project will co-ordinate with their development proposals.
- 2.2.23 There are a small number of other land owners in the middle and southern quadrants that will not benefit directly from delivery of ELOR and who will not therefore be in a position to transfer land as part of a wider development scheme that delivers future value to them. The Council is in dialogue with these interests with regard to negotiated acquisitions where necessary. More details on the issues relating to this are provided in the main body of the report.

Thorpe Park

- 2.2.24 Outline planning approval is in place for office, retail and leisure uses which include a cinema. Outline planning permission also exists for up to 300 dwellings. Members of City Plans Panel resolved to defer and delegate approval of a detailed reserved matters application for the retail and leisure uses in December 2016. A new planning application is currently under consideration to enable a new M&S food store to open at Thorpe Park, and discussions are currently taking place with Redrow in advance of reserved matters submissions for the housing element.
- 2.2.25 This development will require the construction of a new Manston Lane Link Road (MLLR) through the site, bridging over the Leeds-York train line and connecting Manston Lane to the M1 at J46. Site preparation for the MLLR is currently underway, with the developer's works currently programmed for a formal start that will enable completion by late 2018/early 2019. Opening of the MLLR will unlock the further mixed use development of Thorpe Park and form the first part of ELOR to be delivered, as its southern arm joining the motorway to Manston Lane.
- 2.2.26 Members will recall at December Executive Board the principle of a new rail halt at Thorpe Park with associated park and ride was approved. This infrastructure will be complementary to housing growth in East Leeds. Work is also now progressing between the Council, Thorpe Park and WYCA to consider how a new rail station may be delivered in the immediate vicinity, to form part of an improved local public transport network, provide quick access to and from the city centre along with the potential park and ride facilities for those travelling into Leeds from the north and east.

3. Main issues

- 3.1 The Main issues for Executive Board consideration at this stage of the ELE programme are as follows and detailed in the following sub-sections of the report:
 - a. Procurement and tendering for the Outer Ring Road Junctions and ELOR
 - b. Land Assembly for ELOR

Procurement and tendering for the Outer Ring Road Junctions and ELOR

- 3.2 The programming and interdependencies of each element of the East Leeds transport package have been considered and a procurement strategy developed to deliver each of the elements under a single contract, delivered in specific phases:
- **Phase 1:** Construction of the A6120 Outer Ring Road Junctions.
 - **Phase 2:** Development of the ELOR design, taking the proposals submitted for planning approval by the Council and refining and detailing the scheme to finalise the construction plans and determine the cost for the delivery of the main ELOR works and subsequent A6120 Outer Ring Road improvements, to be delivered as a design and build.
 - **Phase 3:** Construction of the developed design for the main ELOR works and A6120 Outer Ring Road enhancements on a design and build basis.
- 3.3 Phases 1 and 2 will run together. The Council will retain an option whether to progress Phase 3, which will be dependent on the relevant approvals being in place and progression of other matters such as land assembly, as set out in this report. It will also be subject to Contractor performance in Phases 1 and 2 and also on the price generated for the Phase 3 works.
- 3.4 Executive Board is recommended to agree to this procurement approach as the most effective and efficient way of bringing forward this major programme of integrated infrastructure works.

Land Assembly for ELOR

- 3.5 Whilst progress has been made in discussing acquisitions and dedications from land and property owners that will be necessary to assemble land for the route of ELOR, this remains a critical issue for the delivery of the scheme. Clearly the road cannot be delivered across land that is not in the ownership of the Council and without this, certainty cannot be gained in regard to housing delivery or the contribution this would make to the scheme costs. Appendix 3 shows the current maximum extent of the area that will be required for delivery of the scheme.
- 3.6 The Council has already identified the principal landowners across the area and commenced discussions with them regarding the acquisition of land required for ELOR. It has already acquired a private freehold in the Northern Quadrant and will secure the transfer of all other land for ELOR in that part of the ELE through the s106 agreement as part of the impending planning approval for the housing scheme there. Officers are also in discussion with other freehold and tenancy interests in the Southern and Middle Quadrant with a view to reaching agreements for acquisition or to establish the basis on which land will be transferred to the Council to enable scheme delivery and unlocking of adjoining housing land.
- 3.7 To deliver the road as a single project however all relevant land interests will need to be brought in, in a timely way, meaning that a construction programme could only progress with certainty at a rate dictated by the timing of the last acquisition. The making of a Compulsory Purchase Order (CPO) is therefore considered to be essential to facilitate delivery of the scheme in line with the Council's intended programme.

- 3.8 A Side Roads Order (SRO) is also likely to be required. An SRO gives authority to stop up, divert, provide as new or improve existing parts of the local highway network that cross or enter the route of a proposed new classified road. They also provide authority to stop up and provide new private means of access to premises in relation to those road works.
- 3.9 Not all land and property interests that may be affected by the scheme are immediately identifiable, even with reference to information at the Land Registry. The Council has therefore commenced a process of land referencing using dedicated external professional advisors, through which it will establish a comprehensive log of all land and property interests – these will include all freeholds, leaseholds, tenancies, easements, rights and any other legal interests that may need to be acquired for delivery of ELOR. The outcome of the land referencing will show all the relevant parties that the Council will need to contact to seek negotiated acquisition of their interest. It will also identify whether there is land in unknown ownership which can only be acquired compulsorily in any event.
- 3.10 Whilst it is anticipated that further progress can be made on the negotiated approach for some parcels and interests in land, the size of the scheme, extent of the area it covers and number of interests involved will very likely mean that not all interests can be acquired by agreement and that compulsory acquisition may be required.
- 3.11 In a scheme such as ELOR it is good practice to review the need for compulsory powers as early as possible in the process of land assembly and consider the need to run negotiations in parallel with compulsory procedures. This approach is supported in Government guidance on the use of CPO powers, set out in paragraph 2 of *"Guidance on Compulsory Purchase Process and the Crichton Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion,"* ("the Guidance") In this way there is a fall-back position to secure a statutory basis for acquisition by the Council and reimbursement of appropriate land value to the relevant owner if agreement cannot be reached at all or in a timely way in relation to the scheme.
- 3.12 Executive Board has previously noted the potential that the acquisition of all necessary land interests required for the delivery of ELOR may require a CPO. As the Guidance makes clear, use of CPO is intended to be a 'last resort' measure, any case for CPO will need to demonstrate that all reasonable efforts have been employed to acquire necessary land for the road by negotiation and that there is a compelling case in the public interest justifying the use of CPO powers.
- 3.13 The Council has appointed Pinsent Masons, a leading Leeds-based law firm, to advise on all aspects of the ELOR scheme and a land assembly strategy has been developed which includes advice on CPO. In taking forward both the CPO and the SRO, the Council will have regard to the advice set out in the Guidance and also the further guidance on the making of CPO's under the provisions of the Highways Act contained in DfT Circular 2/97 and also the guidance on the making of SRO's contained in DfT Circular 1/97.
- 3.14 The success of any action would be dependent on demonstrating a compelling case in the public interest for both the CPO and SRO, in accordance with the relevant guidance referred to above. Human rights and equalities impacts will be key considerations, as will funding and viability, clarity in the acquisition powers, securing planning permission for the road and being clear on the technical case for

the delivery of the road, the considerations of options for it, and other relevant matters as set out in all appropriate CPO and SRO guidance.

- 3.15 In regard to funding the Council is continuing to develop its WYTF business case and has a Gateway 1 approval as well as an allocation in the wider programme. Project development funds have been released and the Council and WYCA anticipate signing a conditional funding agreement early in 2017 for the full allocated funds for the scheme, which will be subject to a final agreed full business case. The provisionally agreed WYTF allocation now also includes funds for land assembly and the ability to draw these down in advance of full business case approval. The Council has already established that it will have recourse to prudential borrowing for the gap between WYTF grant and the total amount of upfront scheme costs. The first roof tax commitment will soon be in place when planning approval is issued for the Northern Quadrant and further commitments will be secured as housing proposals come forward and gain planning approvals.
- 3.16 In regard to acquisition powers, the legal advice to the Council is that compulsory purchase powers under the Highways Act should be employed as these are the most appropriate powers in the circumstances of the case. An SRO is also required to enable the Council to make the necessary changes to side roads and undertake other works in association with the ELOR scheme, which would also be progressed in accordance with Highways Act 1980 sections 14 and 125 and all other enabling powers and guidance referred to above.
- 3.17 A planning application will be submitted for the ELOR scheme in early February and it is anticipated that this could be determined by the Local Planning Authority by June 2016.
- 3.18 It is already assumed that any planning approval for the ELOR scheme will be 'called in' by the Secretary of State to be heard at a Public Inquiry in Leeds. This has been allowed for in the scheme programme, though timescales will depend on the availability of dates for the inquiry.
- 3.19 The Public Inquiry would also 'test' the technical case for the road, as per the details that will be included in the final business case to the WYTF, including the options considered in arriving at the proposed scheme. If a CPO is required, this could be determined jointly at this Public Inquiry, alongside any SRO.
- 3.20 At this stage it would be advisable to include all land and interests in land required for the scheme in any CPO. This provides a backstop position in the event that any anticipated land transfers, dedications or acquisitions do not reach agreement or land in unknown ownership is identified which needs to be acquired compulsorily, and will provide a means to offer confidence that all interests known or unknown can be required to deliver a 'clean' site for construction of ELOR.
- 3.21 The ELOR project is moving rapidly. The programme assumes a start on site in December 2018, which allowing for the timescales involved in continued negotiations to acquire relevant interests and the process towards a CPO working alongside this, may require the formal making of an Order as soon as April 2017.
- 3.22 Executive Board is recommended to approve that the Council prepares a case for compulsory purchase of all land required for the ELOR scheme as shown at Appendix 3, with final details of any proposed Order to be reported back at the earliest opportunity, together with progress on any agreements for transfer or acquisition of land, to enable consideration of a final case for making of a CPO and SRO.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The Council undertook a public consultation exercise over the winter of 2015/16, covering ELOR and the East Leeds Extension. This comprised online information, distribution of 20,000 leaflets to local residents, social and print media and drop-in events, as well as dedicated meetings with resident and community groups. The Council's ELE website had over 2,000 unique hits and over 300 people submitted feedback through the web, by letter or email. [A feedback report is available on the Council's website.](#)
- 4.1.2 Alongside this public consultation, the Council has maintained ongoing dialogue with statutory bodies and non-statutory interest groups as regards the ELOR proposals.
- 4.1.3 A separate consultation exercise has been undertaken as part of the detailed design for the proposed works to the Outer Ring Road Junctions. Members from the directly affected wards (Alwoodley, Harewood, Wetherby, Crossgates and Whinmoor) have been briefed and kept updated and wider consultation undertaken included issuing letters to over 1900 residents and local businesses that are located within 200m of the junctions. Other stakeholders engaged with included Parish Councils, Civic Trust, Emergency Services, WYCA and community groups
- 4.1.4 A new ORR Junction Improvements webpage has been created which was subject to a high number of page views during the consultation period. LCC Twitter and Facebook accounts were also used to communicate proposals.
- 4.1.5 The Green Streets Initiative has been progressed with the West Yorkshire Combined Authority and the council's landscape planning and design officers to ensure robust attention is paid to any green or environmental mitigation measures proposed.
- 4.1.6 The Leader and Executive Member for Regeneration, Transport and Planning have been briefed and are supportive of the East Leeds transport package, whilst Ward Members for Crossgates and Whinmoor and Harewood, the two wards the ELE covers, have received regular updates on the East Leeds Extension and ELOR.
- 4.1.7 The Council has also maintained regular engagement and discussion with known landowners across the East Leeds Extension regarding the emerging proposals.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 In considering the use of compulsory powers it is important that human rights are fully taken into account in any executive decision. The use of CPO powers in this case is necessary and proportionate to facilitate delivery of ELOR and there is in principle a compelling case in the public interest justifying interference with the human rights of those affected by the scheme.
- 4.2.2 An EDCI screening for the proposals in this report is provided at Appendix 4 and whilst recognising the need to consider human rights, this indicates that the issues set out in this report are unlikely to have equality, diversity/cohesion and integration impacts and that there is no need for a full assessment.

4.3 Council policies and best council plan

- 4.3.1 The East Leeds Extension will play a major role in delivering the housing required to meet the Core Strategy requirements for 70,000 new homes by 2028 and will assist in the delivery of the Best Council Plan ambition for a Strong Economy and Compassionate City and the outcomes it seeks to achieve regarding delivery of good quality, affordable homes, well cared for places and a well-planned city which is easy to move around. Delivery of ELOR and its enabling role in development of the ELE will provide new homes, meeting housing needs as the city grows, boost the local economy, deliver new social and physical infrastructure and improve travel and access to new employment opportunities.
- 4.3.2 The delivery of the ELE will also assist in delivering the wider objectives of the Best Council Plan and the Best City ambition for Leeds to support communities, build a child friendly city, deliver the better lives programme, enable positive public health outcomes, ensure that development is sustainable and that the Council acts in ways that reflect the need to be more efficient and enterprising.

4.4 Resources and value for money

- 4.4.1 Public funding for the East Leeds Transport package will be obtained through the allocation of project grant in the West Yorkshire Transport Fund as set out in the main body of this report. As cost estimates continue to be refined on the main ELOR scheme a further report will be brought to Executive Board to set out the borrowing requirements to meet the initial capital cost of the works and the revenue implications to the Council in carrying debt until it is repaid through the roof tax. Further updates will also be brought on the scope for third party investment to cover this capital gap, to offset the need for further public funding to deliver the scheme in lieu of developer finance.
- 4.4.2 The ability to deliver the ELOR will ultimately require financial contributions from both private and public sectors. Private contributions will be secured through the direct delivery of any relevant planning approvals in the ELE and s106 agreements secured in relation to these which will include the obligations for roof tax payments.
- 4.4.3 The WYTF grant allocation will also now fund land assembly costs for ELOR, which had previously not been included at the Gateway 1 business case approval. This funding can be used to cover the costs of promoting any CPO action and SRO powers that may be required, any acquisitions arising from these as well as acquisitions by negotiation.

4.5 Legal implications, access to information, and call-in

- 4.5.1 Section 120 of the Local Government Act 1972 authorises the Council to acquire by agreement any land for the benefit, improvement or development of the Council's area or for the purposes of any of the Council's functions under any enactment, notwithstanding that the land is not immediately required for such purposes.
- 4.5.2 Sections 239 and 240 of the Highways Act 1980 are the principal powers covering the acquisition of land for the construction of new highways and the improvement

of existing highways. Section 240(2) of the Act authorises the Council to acquire compulsorily or by agreement any land which is required for use by the Council in connection with the construction or improvement of a highway. Section 246 authorises the acquisition of land for the mitigation of adverse effects, section 248 authorises the acquisition of land in advance of requirements (the Council may not need to rely on this if no land in advance is required), section 249 relates to distance limits for land acquisition for various purposes, section 250 authorises the acquisition of new rights and section 260 relates to the inclusion in a CPO of land acquired by agreement where it is necessary to override the effects of a restrictive covenant or other third party right. Sections 14 and 125 are the main relevant powers where an SRO is required.

- 4.5.3 The precise suite of powers required will be determined once land requirements and other matters relating to the road are finally determined.
- 4.5.4 The provision of public infrastructure is usually considered to fall outside the provisions of the European Commission's rules as to the provision of State Aid, provided that there will be no subsequent commercial exploitation of the infrastructure. However, where the infrastructure provides a benefit to an undertaking engaged in commercial activities it is possible that State aid will arise.
- 4.5.5 ELOR will benefit a number of developers in that it will unlock land which they own for development. It is also likely that ELOR will enhance the value of such land. It is therefore possible that State Aid will arise and legal advice is being sought as to whether this is the case and, if so, what the implications are for the project. Preliminary legal advice is that recovery of a relevant proportion of the cost of construction of the road via roof tax should be sufficient to ensure that State Aid does not arise, but further advice is awaited.
- 4.5.6 The contract for the construction of the Outer Ring Road junctions and ELOR is being procured via the OJEU Restricted Tender procedure. This procedure is compliant with the European Commission's rules as to the procurement of public works contracts.
- 4.5.7 This report is subject to call-in.

4.6 **Risk management**

- 4.6.1 The Council has continued its appointment of highways and engineering consultant Mouchel as its strategic partner, which is providing resource and expertise to lead on the ELOR scheme.
- 4.6.2 The Council has appointed a professional Land Referencing company to establish all land and property interests that will need to be acquired for the delivery of the ELOR scheme. The Council has also appointed leading law firm Pinsent Masons to advise on all aspects of ELOR, including planning, procurement and land assembly.
- 4.6.3 It is further intended to appoint a firm of external surveyors to undertake negotiation and valuation of land to be acquired.
- 4.6.4 A comprehensive risk register is in place for the East Leeds Transport Package and for the East Leeds Extension programme. The Transport Package has a dedicated Project Board chaired by the Chief Highways & Transportation Officer

and including a representative from WYCA; there is a wider Programme Board in place for the East Leeds Extension chaired by the Director of City Development.

- 4.6.5 The Council is maintaining contact and dialogue with all stakeholders across the area to ensure transparency of proposals.

5. Conclusions

- 5.1 The ELE, with Thorpe Park, is an area of strategic growth that will play a key role in driving forward the city's housing and economic ambitions. Work is now progressing rapidly on the infrastructure that will support this growth and the fruition of several years of planning will soon begin to be seen through activity on the ground from 2017 onwards, starting with the delivery of the Manston Lane Link Road, to be followed by the anticipated start of housing development in the Northern Quadrant, subject to planning.
- 5.2 The ELOR project is also moving into a more detailed phase of planning, requiring a commencement to procurement and delivery of a land assembly strategy to ensure the programme remains on track and that certainty can be provided to all stakeholders about the detail and timescale of the significant changes that will come forward in the area.
- 5.3 Executive Board approvals are now required to enable the procurement and land assembly to proceed in a timely way and to offer clarity on the co-ordination of any future housing proposals with the availability of new strategic highways and site access arrangements.

6. Recommendations

- 6.1 Executive Board is recommended to:
- i) agree that the Chief Officer for Highways and Transportation commences procurement of the East Leeds transport package as set out at paras 3.2 – 3.4 and authorise the invitation of tenders for a single contract;
 - ii) agree that the Director of City Development is authorised to acquire land by agreement for ELOR in accordance with his existing delegated authority;
 - iii) agree that the Head of Land & Property progress all work necessary to establish a case for compulsory purchase of land required for the ELOR scheme;
 - iv) approves, in principle, the use of compulsory purchase powers for the acquisition of the land outlined in red on the draft map appended at Appendix 3 and the making of an SRO to facilitate the construction of ELOR, as set out in paras 3.11 – 3.27;
 - v) agree to receive a further report at the earliest opportunity, setting out the detailed case for the making of a CPO for the acquisition of land and for the making of an SRO, to facilitate the delivery of ELOR; and
 - vi) note that the Council's Red Hall site will be marketed for sale later in 2017 to support the Capital Receipts Programme.

7.0 Background documents¹

7.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.