

Report of Director of City Development

Report to Executive Board

Date: 21 June 2017

Subject: East Leeds Orbital Road – Land Assembly & Financing

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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If relevant, access to information procedure rule number: 10.4(3) Appendix number: 6	

Summary of main issues

1. This report sets out the work undertaken to assemble land to facilitate delivery of the East Leeds Orbital Road (ELOR) and requests Executive Board approval to the making of a Compulsory Purchase Order and Side Roads Order. It also sets out and requests approval to the financing package for the scheme.
2. ELOR is integral to the development of the East Leeds Extension (ELE), 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.
3. The Board has received a series of reports since 2013 on the proposals for a new East Leeds Orbital Road as part of a wider East Leeds Transport Package, which will underpin and unlock the full development of the ELE. In itself ELOR is a complex and significant infrastructure project and will be the largest road scheme constructed by the

city council since the 1970s. At its February 2017 meeting the Board considered an update on the project and approved a number of steps to move forward into its next phases. These included a start to procurement of the wider package of transport infrastructure works that will include the detailed design of ELOR; and the principle of acquiring land by negotiation to facilitate the delivery of ELOR.

4. The Board gave in-principle approvals to the use of compulsory purchase powers for the acquisition of land to facilitate the construction of ELOR and to the appropriate changes to side roads that would arise. It was agreed to receive a further report at the earliest opportunity, setting out the detailed case for making a Compulsory Purchase Order for the acquisition of land and a Side Roads Order to authorise the necessary alterations to side roads, footpaths, bridleways and private means of access that will be affected by the ELOR.
5. This report sets out the detailed work that has taken place to establish the land assembly requirements for ELOR and proposes that in the event that all the required land and property interests cannot be acquired by agreement within the required timescales, both a Compulsory Purchase Order (CPO) and related Side Roads Order (SRO) are made so as to facilitate its delivery at the earliest possible opportunity.
6. Details of all of the land and property interests that have been identified as being required to facilitate the construction of ELOR and plans of the areas to be covered in the making of the Orders are provided.
7. The current cost estimate for the ELOR scheme and related works, including land assembly, is £126.63m and approval is requested to enter into agreements with the West Yorkshire Combined Authority (WYCA) to accept an initial grant of £11.81m for project development and land assembly costs. It should be noted that WYCA has allocated £82.95m for the project and approval is also sought to enter into further agreements with WYCA as required. The Council will be required to fund the difference between the available grant and the full final scheme costs by borrowing.

Recommendations

8. Executive Board is recommended to:
 - i. Authorise the Director of City Development to make the Leeds City Council (East Leeds Orbital Road) Compulsory Purchase Order 2017 ("the CPO") under sections 239, 240, 246, 249, 250 and 260 of the Highways Act 1980, the Acquisition of Land Act 1981 and all other enabling powers, as per the details set out in paras 3.5 – 3.8 and the plan at Appendix 3 (subject to any final amendments the Director of City Development considers necessary);
 - ii. Authorise the Director of City Development to make the Leeds City Council (A6120 (East Leeds Orbital Road Classified Road) Side Roads and Other Works) Order 2017 ("the SRO") under sections 14 and 125 of the Highways Act 1980 and all other enabling powers as per the details set out in paras 3.5 – 3.8 and the plan at Appendix 4, (subject to any final amendments the Director of City Development considers necessary);

- iii. Authorise the Director of City Development to take all necessary steps to proceed with and secure confirmation of the CPO and SRO including the service of all requisite notices on affected parties in connection with the making, confirmation and implementation of the CPO and SRO and making of agreements and undertakings with landowners and other affected parties necessary in order to secure removal of any objections made to the CPO and SRO (where such agreements and undertakings are appropriate) and subject to the confirmation of the CPO the making of one or more general vesting declarations under the Compulsory Purchase (Vesting Declarations) Act 1981 or the service of Notice to Treat and Notice of Entry under the Compulsory Purchase Act 1965 and if necessary presenting the Council's case at any public inquiry or other proceedings;
- iv. Agree the provisional financing package for the East Leeds Orbital Road set out in section 4.4 and in the Exempt Appendix, and delegate approval to the Director of City Development to enter into a funding agreement with the West Yorkshire Combined Authority for an initial grant from the West Yorkshire Transport Fund of £11.81m and to draw down the full amount of an £82.95m grant allocation; and approval of a provisional borrowing requirement of £43.68m;
- v. Agree that the Council underwrites all land assembly costs and compensation costs arising from the making and implementation of the CPO and SRO in the event that these exceed the available WYTF grant available and on the basis that such costs will be fully recoverable through roof tax payments, as set out in section 4 of the report;
- vi. Agree that the scheme is injected into the Council's Capital Programme and subject to confirmation of the WYTF Grant, that Authority to Spend is delegated to the Director of City Development, in consultation with the Chief Officer Financial Services, to procure and let the construction contract or contracts for the East Leeds Transport Package;
- vii. Agree that in the event that the Council will need to acquire additional land or interests to ensure that ELOR is delivered, the Director of City Development in consultation with the Chief Officer Financial Services and Executive Member for Regeneration, Transport and Planning is authorised to inject relevant schemes to the capital programme be delegated the authority to spend for such schemes. It should also be noted that such additional costs will be recovered through the East Leeds Extension roof tax.
- viii. Agree that the estimated cost of land assembly for interests that include land outside the direct route of ELOR as set out in the Exempt Appendix is injected into the Capital Programme and authorise the Director of City Development to agree appropriate terms and acquire such land or interests in land that may be necessary to enable delivery of the ELOR scheme; and
- ix. Agree that the information contained in Exempt Appendix 6 should be treated as exempt under Rule 10.4(3) of the Access to Information Procedure Rules and agree the recommendations outlined in Exempt Appendix 6 and the private part of the meeting.

1. Purpose of this report

- 1.1 This report sets out the work undertaken to date to assemble land to facilitate delivery of the East Leeds Orbital Road and requests Executive Board approval to make a Compulsory Purchase Order and a Side Roads Order and of the financing package for the scheme.

2. Background information

- 2.1 Executive Board has previously noted the importance of the East Leeds Extension (ELE) as the largest single area of allocated housing land in the city, estimated to accommodate around 5,000 new homes by the time it is fully built out. This will form a significant part of the overall requirement for 70,000 new homes across Leeds by 2028 as set out in the Core Strategy. The plan at Appendix 1 shows the ELE and its component parts.
- 2.2 Adjoining the ELE is Thorpe Park, a major mixed use development that will see new office, leisure, retail and residential development coming forward, creating 13,000 new jobs and training opportunities, in a significantly expanded business and leisure destination. The scheme will create new highway connections with the M1 motorway and as part of the city's major public transport investment programme, set out in a separate report on the Board's agenda, Thorpe Park is also proposed as the location for a new rail halt and Park & Ride facility. It is envisaged that this will further drive footfall at the site as well as offer attractive new travel options for existing and new residents of East Leeds, commuters, leisure and business visitors as an integrated part of the wider growth of the area, which will also benefit existing neighbourhoods, contributing to the regeneration of East Leeds as a whole.
- 2.3 Other adjoining housing developments are also underway or in the pipeline at Grimes Dyke and Manston Lane with the potential to deliver around 6,000 new homes. In the adjoining inner areas of Seacroft and Halton Moor, 1,000 new homes have recently been approved for development under the Council's Brownfield Land Programme.
- 2.4 Taken as a whole East Leeds represents a major strategic growth point, which is of regional if not national importance. It is recognised by the Local Enterprise Partnership (LEP) and West Yorkshire Combined Authority (WYCA) as a Strategic Priority Area in the Leeds City Region Strategic Economic Plan and by central government as a major development and investment opportunity that will help drive forward the 'Northern Powerhouse' initiative.
- 2.5 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.

- 2.6 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.
- 2.7 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. ELOR is a complex and significant infrastructure project, which as a 7.5km dual carriageway incorporating significant new pedestrian, cycling and equestrian facilities in a landscaped setting, will be the largest single highway scheme constructed by the city council since the 1970s.
- 2.8 The Council has committed to playing a leading role in the co-ordination and delivery of this 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.
- 2.9 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 to enabling the growth of the ELE. These take an integrated approach to all modes of transport, recognising the importance of designing for active travel modes and incorporating these into a wider approach to delivering 'green streets' and high quality, people-focussed places as set out in the separate report on the agenda on 'Cycling Starts Here'.
- 2.10 The three parts of the package are:
- improvements to key junctions on the A6120 Outer Ring Road in North Leeds - to improve traffic flow at key arterial routes, reduce congestion and its environmental effects and to introduce better facilities for pedestrians and cyclists;
 - environmental enhancements and measures to improve the A6120 through East Leeds – to improve facilities for pedestrians, cyclists and public transport so the bypassed section of the outer ring road takes on a more local character, as strategic through-traffic is removed;
 - the construction of the East Leeds Orbital Road (ELOR) between the A6120 at Red Hall and Manston Lane, together with expansion of the Manston Lane Link Road (which is to be constructed by the Thorpe Park developer) – this will include new segregated pedestrian and cycling facilities on the city side of the road, a new ped-cycle leisure route on the country side of the road, dedicated pedestrian and cycle bridges, links into public rights of way and a 'green' underpass to a country park, all of which will become linked into the new housing developments as these come forward.

- 2.11 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 the new infrastructure.

3. Main issues

- 3.1 At its February 2017 meeting the Board considered an update on the East Leeds Transport Package and approved a number of steps to move it forward into its next phases. These approvals included a start to the procurement that will include the commissioning of the detailed engineering design of ELOR through early contractor involvement and agreement to the principle of acquisition of land by negotiation to facilitate its delivery.
- 3.2 Executive Board also agreed that the Council should progress all work necessary to establish the case for the compulsory purchase of land required for the delivery of the ELOR scheme. It gave in-principle approval to the use of compulsory purchase powers for the acquisition of land to facilitate construction of ELOR and to the appropriate changes to side roads that would arise. It was agreed to receive a further report at the earliest opportunity, setting out the detailed case for a Compulsory Purchase Order (CPO) and a Side Roads Order (SRO).
- 3.3 The following sections set out progress in finalising the scheme and establishing the land and property interests affected, progress in acquiring those interests and the compelling case in the public interest for the Council to make a CPO and SRO.

3.4 Progress in Scheme Design and Establishing Land & Property Interests

- 3.4.1 The design of the ELOR scheme has now been completed to a level of detail that will support a planning application, and it is anticipated this will have been submitted in the week commencing 19th June. The completion of the planning design, shown at Appendix 2, has enabled confirmation of the scheme boundary.
- 3.4.2 A dedicated team of land referencers has researched and made contact with all identifiable land owners, occupiers and other parties having an interest in land within the red line boundary of the project to advise of the scheme coming forward and to obtain information about the nature their interests.
- 3.4.3 This has enabled identification all of the freeholds, leaseholds, tenancies, easements, rights and other interests in the land that will be affected by the delivery of the scheme and which will need to be acquired for the ELOR project within the boundary shown on the CPO plan at Appendix 3.
- 3.4.4 In confirming the scheme design it has also been necessary to identify the effects that the implementation of the scheme will have on side roads and the consequent changes that will be required to alter or amend the existing local highway network, private accesses, Public Rights of Way etc. These are shown on the SRO Plan at Appendix 4.
- 3.4.5 In total 65 separate parcels of land required for ELOR have been identified, relating to registered titles, with 315 individual land and property interests across these. Each parcel of land may have one or more owners or reputed owners due to the presence of lessees or tenants in situ, existence of separately owned sub-surface mines and minerals rights or the presence of existing public highway.

Other interests in these land parcels to be acquired may also include access rights and covenants. Some interests are replicated across separate parcels and in some cases the interests are already in the Council's ownership.

- 3.4.6 All known landowners, occupiers and other parties having an interest in the land have now been contacted by the Council and made aware of the requirement for their land or interest to form part of the scheme and of the highway and access changes arising from the SRO.

3.5 Acquisition Progress

- 3.5.1 The Council has already made some progress in acquiring land and interests by negotiation, having purchased a private freehold in the Northern Quadrant of the East Leeds Extension. The Council will also secure the transfer of all of the remaining land for ELOR in the Northern Quadrant through a s106 agreement that is expected to be signed as part of the impending planning approval for the housing scheme there. Officers are also in discussions with landowners and tenants in the Southern and Middle Quadrants 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 unlock adjoining housing land. The Council will seek to secure the transfer of lands and interests owned by developers who will benefit from the ELOR, at nil consideration wherever possible.
- 3.5.2 To deliver ELOR as a single project however all relevant land interests within the full boundary of the scheme will need to be brought in, in a timely way as 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, particularly as land and interests in land in unknown ownership are affected.
- 3.5.3 A Side Roads Order (SRO) will also be required, to give authority to stop up, divert, construct or improve existing parts of the local highway network (including footpaths and bridleways) that will cross or enter the route of ELOR as a new classified road. An SRO also provides authority to stop up and provide new private means of access to premises in relation to those road works.
- 3.5.4 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 (including land and interests in unknown ownership) will very likely mean that not all interests can be acquired by agreement.
- 3.5.5 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. Executive Board has previously noted the potential for the Council to use compulsory powers of acquisition if land could not be acquired by negotiation, at its meetings in January and October 2013, and in January and December 2014. The Board approved the use of compulsory powers in principle at its February 2017 meeting.
- 3.5.6 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.

- 3.5.7 As the Guidance makes clear, use of CPO is intended to be a 'last resort' measure. Any case for CPO should 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.

3.6 The Compelling Case for CPO and SRO

- 3.6.1 The success of any compulsory action would be dependent on the Council demonstrating a compelling case in the public interest for both the CPO and the SRO, in accordance with the relevant guidance referred to above. This requires:

- that the scheme has clear public benefits;
- that human rights and equalities impacts have been considered;
- that there is clarity on the funding and viability for the scheme;
- that there is clarity on the acquisition powers to be used;
- that planning permission for the scheme is or can be secured
- there is a clear technical case for the delivery of the road and the consideration of options for it; and
- other relevant matters as set out in all appropriate CPO and SRO guidance.

- 3.6.2 A detailed Statement of Reasons will support the CPO addressing all these considerations, but in summary the key matters in demonstrating the compelling case in the public interest are as follows:

Benefits of the Scheme

- 3.6.3 The proposed ELOR scheme and the development of the ELE to which it relates is clearly aligned with the adopted Local Plan for the area.

- 3.6.4 The Unitary Development Plan (UDP) allocated land for housing at the ELE through Policy H3.3A.33. This is a saved policy within the Leeds Local Development Framework. The policy requires the preparation of a development framework which will determine the phasing, mix and location of uses, density of development and location of access points. The policy also sets out that an "Assessment of the need for an orbital relief road and if required, funding by the development" should take place as part of the delivery of the allocation. The second section of the policy sets out that the allocation will only be brought forward if (inter alia) "The assessment of the need for an orbital road demonstrates that such a road would both serve the proposed development satisfactorily and produce clear public benefits to users of the highway system".

- 3.6.5 Core Strategy Spatial Policy 6 identifies the requirement to provide 70,000 (net) new homes from 2012 to 2028. This will be distributed in accordance with the settlement hierarchy. The ELE is an extension to the Main Urban Area of Leeds - Spatial Policy 1 of the Core Strategy sets out that sustainable extensions to the Main Urban Area will be a priority for identifying land for development. The Core Strategy explicitly states in paragraph 4.6.12 that land identified for housing "will be composed of current, undelivered allocations", which clearly includes the ELE. Through policy HG1 the Site Allocations Plan (SAP) identifies the ELE site for

housing, reflecting its status as a UDP allocation. The SAP was submitted for allocation in May 2017.

- 3.6.6 The delivery of the ELOR scheme, in underpinning the development of the ELE housing allocation, will provide a significant contribution to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of East Leeds and the wider city. It will:
- unlock a significant area of housing development with capacity for up to 5,000 new homes that will play a key role in meeting the city's wider growth targets as set in the Core Strategy;
 - create new strategic highway capacity that will reduce the impact of background traffic growth and traffic growth arising from adjoining new housing development;
 - enable the environmental improvement of the existing section of the A6120 Outer Ring Road that ELOR will bypass, to improve conditions for pedestrians, cyclists and public transport;
 - deliver significant journey time benefits for people and goods from north and east Leeds to the M1 motorway at junction 46; and
 - improve access to economic opportunities at Thorpe Park and create additional highway capacity that will support economic activity within the existing urban area;
 - link to other planned infrastructure improvements such as the Thorpe Park rail halt and Park and Ride.
- 3.6.7 In assessing how these well-being outcomes can be achieved, the Council has undertaken robust feasibility on the line of route for ELOR and the extent of land required for its delivery. It has engaged Mouchel as scheme designer and project manager.
- 3.6.8 The concept of a relief road for the A6120 in East Leeds has been referred to in documents supporting the drafting and adoption of the 2002 UDP since the early 1990's and originally arose from a proposed Dept of Transport scheme for a Seacroft/ Cross Gates bypass. Options consulted on at the time comprised a dual two lane all-purpose road with grade separated junctions between Roundhay Park Lane and the M1 Junction 46, which was at that time still proposed.
- 3.6.9 From 1994 to 1999 as part of the UDP Public Inquiry, the concept of a route extending from Manston Lane to the A64 and A58 was accepted, based on the approximate line of these proposals and the need for the scheme was formally established in 2001 through the adoption of the UDP. Between 2002 and 2004 an East Leeds Orbital Route Study was undertaken by the Council and a consortium of developers, assessing feasibility of a route from the A58 to the MLLR.
- 3.6.10 To consider and update this previous work, a feasibility study was undertaken by Mouchel in two stages from January 2013 – the first part considered technical scope, design speed and junction strategy, the second part considered alignment options.

- 3.6.11 The outcome of this feasibility work was reported to Executive Board in October 2013, which approved the outline alignment that has since formed the basis for more detailed work.
- 3.6.12 Consultation has been ongoing with statutory and non-statutory stakeholders and landowners to inform the more detailed route design. Public consultation has also been undertaken and all comments considered. The final proposed scheme design and line of route was reported to Executive Board in February and is confirmed in the Appendix 2 to this report.
- 3.6.13 The Council is confident that the design of the scheme is appropriate and that the land identified for it is the minimum extent required having carefully considered a balance between the following matters:
- the Council's wider spatial planning and policy objectives as set out in the Core Strategy;
 - designing to highway standards as specified in Design Manual for Roads & Bridges (DMRB), to meet the needs of all users including vehicles, pedestrians, cyclists and equestrians;
 - the need for the road to align with and connect into the Manston Lane Link Road (MLLR) and to deliver additional highway capacity on the MLLR through Thorpe Park to accommodate strategic through traffic to junction 46 of the M1;
 - limiting the need for land from the Green Belt;
 - the need to minimise the impact of the scheme on availability of development land within the ELE to ensure viability of future housing schemes. This will support the willingness of landowners within the ELE to reach agreement for negotiated disposal of land or to dedicate land to the scheme at nil or nominal transfer values where they would directly benefit from a consequent uplift in the value of their retained land;
 - the need for the road to provide appropriate vehicular access to the development areas in the ELE through a design that limits access/egress points to the arterial routes intersecting the scheme in the interests of road safety, minimising the extent of land required and creating the opportunity for connections to a new spine road to be created through the ELE that will directly serve the related housing development;
 - the requirements of WYCA to embed a 'Green Streets' approach to scheme design to meet requirements of the allocated WYTF, through integration of enhanced landscaping, sustainability and biodiversity considerations;
 - the need to ensure continued access to private residential and business properties and agricultural fields during construction and post-completion of ELOR.

3.6.14 The route alignment is therefore a product of this balance, to deliver high quality road, pedestrian, cycling and equestrian infrastructure in a green landscaped setting in accordance with best practice in the design of highway infrastructure and the specific urban fringe context of the ELE, whilst meeting the principle funder requirements.

Human Rights

3.6.15 The Council is of the view that in pursuing the Compulsory Purchase Order, it has carefully considered the balance to be struck between individual rights and the wider public interest. The ELOR scheme will enable significant benefits to the growth of the city, unlocking major housing development in accordance with the Core Strategy and delivering significant benefits to the strategic highway network that will support economic development.

3.6.16 Any interference with Convention rights, if there is any, is considered to be justified and proportionate in order to secure the economic, social, physical and environmental regeneration that the scheme will bring. All of those persons whose rights under Article 8 of the Convention and under Article 1 of the First Protocol of the Convention will have an opportunity to object to these orders and to have any such objections considered at a public inquiry or hearing, in accordance with their rights under Article 6 of the Convention. Appropriate compensation will be available to those entitled to claim it under the relevant provisions of the statutory compensation code.

Funding

3.6.17 ELOR is included in the East Leeds Transport Package, which forms a key part of the £1bn West Yorkshire Transport Fund (WYTF) programme. There is funding of £82.95m allocated to the package, which received Gateway 1 (outline business case) approval from WYCA in April 2015 and in March 2017 received Gateway 2 approval. Note that the approvals process has recently changed and the scheme is currently at the Activity 4 stage under the West Yorkshire Combined Authority's Project Management Office Framework. .

3.6.18 WYCA and the Council have agreed outline terms for an initial funding agreement for £11.81m of the WYTF allocation, to fund project development costs and land assembly. The full amount of the allocated funding will be drawn down subject to Executive Board approval to enter into the funding agreement and approval by WYCA of the final detailed business case, which itself can only be completed upon confirmation of all statutory procedures and procurement.

3.6.19 The full WYTF grant, once drawn down, will cover the full costs of the A6120 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 through 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.

Clarity in Acquisition and SRO Powers

- 3.6.20 The CPO is to be made in relation to the land shown on the CPO map at Appendix 3, under the provisions of the Highways Act 1980 and the Acquisition of Land Act 1981. The relevant provisions of the Highways Act 1980 are;
- section 239 (construction and improvement of highways and the improvement or redevelopment of frontages to a highway)
 - section 240 (to carry out works authorised under a SRO, and use of land for working space purposes and for the diversion of watercourses)
 - section 246 (to mitigate the adverse effect of the existence or use of a scheme)
 - section 249 (distance limits from the highway applicable to certain land acquisition powers under the Highways Act 1980)
 - section 250 (acquisition of rights including new rights)
 - section 260 (where land acquired by agreement or owned by a promoter (in this case the Council) is included in a CPO to over-ride the effects of a restrictive covenant or other third party right)
- 3.6.21 Executive Board approval is sought to delegate authority to the Director of City Development to make any minor changes to the land-take for the CPO (by the exclusion of plots) considered necessary before the CPO is made.
- 3.6.22 The SRO is to be made under the relevant powers contained in section 14 of the Highways Act (the principal powers for a SRO) and section 125, which authorises the stopping up of private means of access. The SRO is needed, as well as the CPO, to enable the necessary changes to side roads (including footpaths and bridleways) and alterations to private means of access. Without SRO powers, the ELOR cannot be implemented.

Planning Permission & Technical Case

- 3.6.23 Design work for the ELOR scheme is now complete and it is anticipated that the planning application will be submitted in June. It is currently envisaged that the ELOR scheme can still be completed by December 2021, as previously reported to Executive Board, subject to the progression of the planning application and any further statutory procedures.
- 3.6.24 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.
- 3.6.25 The Public Inquiry would also 'test' the technical case for the road, as per details that will be included in the planning application, including the options considered in arriving at the proposed scheme. The technical case will include the strategic need for the scheme and the design process as detailed in the Planning Statement, Route Appraisal and Justification Statement and Design & Access Statement. It will set out its anticipated impacts principally through the Environmental Statement, Transport Assessment and the Planning Statement. If a CPO is required, this could be determined jointly at this Public Inquiry, alongside any SRO.
- 3.6.26 On this basis the Council is satisfied that there is a compelling case in the public interest for the making and confirmation of the CPO and SRO in the circumstances of this case.

- 3.7 It is proposed to include all the land and interests in land identified within the scheme boundary in the CPO. This provides a backstop position in the event that any anticipated land transfers, dedications or acquisitions that are currently underway or impending do not reach agreement or the ownership of land which is currently unknown cannot be identified and needs to be acquired compulsorily. This approach will provide a means to offer confidence that all interests known or unknown can be acquired so as to deliver a 'clean' site for construction of ELOR in line with the project programme.
- 3.8 There is a need to progress this scheme in a timely way to enable and support the delivery of new homes in the East Leeds Extension as a key part of the city's overall growth ambitions. Executive Board is recommended to approve that the Council makes a CPO and SRO for the ELOR as the most appropriate way of ensuring this critical infrastructure scheme can be delivered at the earliest opportunity.
- 3.9 The headline programme for the ELOR scheme is as follows:
- Planning Application Submission June 2017
 - Issue Tender Invitation June 2017
 - Contract Award Oct 2017
 - ORR Advanced Junctions Construction Start Jan 2018
 - ORR Advanced Junctions Construction Completion May 2019
 - ELOR Construction Start Mar 2019
 - ELOR Construction Completion Dec 2021

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The Council has maintained regular engagement and discussion with the principle landowners across the East Leeds Extension regarding the emerging proposals for ELOR and the land requirements. Upon confirmation of the scheme boundary the Council has formally contacted all known landowners and tenants within it to confirm the position, progress discussions towards acquisition and advise them of the effects of the SRO alterations.
- 4.1.2 No specific consultation has taken place with other parties regarding the proposal to initiate compulsory proceedings as this is a decision of the Council to make as an acquiring authority.
- 4.1.3 Public consultation will be undertaken on the ELOR scheme following submission of the planning application and subject to the approval of the Board, the Council's general intentions as regards the CPO and the SRO to underpin delivery of the scheme can be communicated more widely.
- 4.1.4 The Leader and the Executive Member for Regeneration, Transport and Planning have both been briefed and are supportive of the ELOR scheme, 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.

4.2 **Equality and diversity / cohesion and integration**

- 4.2.1 In considering the use of compulsory powers it is important that human rights and equalities impacts are fully taken into account in any Executive decision. It is considered that the use of CPO powers in this case is necessary and proportionate to facilitate delivery of ELOR and there is 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 5 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 at this stage. However this will be kept under review throughout the promotion and implementation of the ELOR, to ensure that any EDCI impacts arising can be measured and mitigated against.

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 much needed 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.
- 4.3.3 The sustainable transport infrastructure being provided as an integral part of the scheme supports the wider strategy for cycling set in the Leeds Cycling Starts Here Strategy and sits within the emerging Leeds transport strategy and the West Yorkshire Transport Strategy.

4.4 **Resources and value for money**

- 4.4.1 The current cost estimate for delivery of the East Leeds Transport Package is £126.63m as detailed in the table below. This is comprised of a base estimate, risk allowance and assumptions about inflation to the point at which a contract is let.

Cost (£m)	ELOR & MLLR expansion	ORR Advanced Junctions	ORR Enhancements	Total
Base Cost	85.41	5.64	4.31	95.36
Risk Allowance	19.65	1.3	0.99	21.94
Inflation	8.33	0.4	0.6	9.33
Total Outturn Cost	113.39	7.34	5.9	126.63

Funding (£m)	ELOR & MLLR expansion	ORR Advanced Junctions	ORR Enhancements	Total
WYTF	69.71	7.34	5.9	82.95
Borrowing	43.68	0	0	43.68
Total Funding	113.39	7.34	5.9	126.63

4.4.2 For the ELOR scheme the full current cost estimate is £113.39m, including currently assumed costs of land assembly. It is anticipated that as the scheme moves into detailed engineering design more refinement to the estimate can be achieved and the risk allowance will reduce.

4.4.3 Capital funding and cash flow

Previous total Authority to Spend on this scheme	TOTAL £000's	TO MARCH 2017 £000's	FORECAST				
			2017/18 £000's	2018/19 £000's	2019/20 £000's	2020/21 £000's	2021 on £000's
LAND (1)	0.0						
CONSTRUCTION (3)	0.0						
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	1310.0	1310.0					
OTHER COSTS (7)	0.0						
TOTALS	1310.0	1310.0	0.0	0.0	0.0	0.0	0.0
Authority to Spend required for this Approval	TOTAL £000's	TO MARCH 2017 £000's	FORECAST				
			2017/18 £000's	2018/19 £000's	2019/20 £000's	2020/21 £000's	2021 on £000's
LAND (1)	6895.0		3375.0	3375.0	72.5	72.5	
CONSTRUCTION (3)	112264.0		3583.0	10625.0	44196.0	45345.0	8515.0
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	6156.0	2199.4	1000.0	1000.0	1000.0	750.0	206.6
OTHER COSTS (7)	0.0						
TOTALS	125315.0	2199.4	7958.0	15000.0	45268.5	46167.5	8721.6
Total overall Funding (As per latest Capital Programme)	TOTAL £000's	TO MARCH 2017 £000's	FORECAST				
			2017/18 £000's	2018/19 £000's	2019/20 £000's	2020/21 £000's	2021 on £000's
LCC Supported Borrowing	43642.1			6413.4	19136.7	13986.2	4105.8
Revenue Contribution	0.0						
Capital Receipt	0.0						
Insurance Receipt	0.0						
Lottery	0.0						
Gifts / Bequests / Trusts	0.0						
European Grant	0.0						
Health Authority	0.0						
School Fundraising	0.0						
Private Sector	0.0						
Section 106 / 278	0.0						
Government Grant	0.0						
SCE (C)	0.0						
SCE (R)	0.0						
Departmental USB	0.0						
Corporate USB	0.0						
WYCA Grant	82982.9	3509.4	7958.0	8586.6	26131.8	32181.3	4615.8
Total Funding	126625.0	3509.4	7958.0	15000.0	45268.5	46167.5	8721.6
Balance / Shortfall =	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Parent scheme number : 16747

Title : EAST LEEDS ORBITAL ROAD (ELOR)

- 4.4.4 Grant funding for the East Leeds Transport package will be obtained through the West Yorkshire Transport Fund. A grant agreement can now be entered into for £11.81m to fund project development and land assembly costs. Once drawn down, the full allocation of £82.95m will fully fund the junction and improvement works to the A6120 Outer Ring Road and partly fund the ELOR project. The grant will be fully approved following completion of all stages of the WYCA project approval process, which will be dependent upon all statutory approvals.
- 4.4.5 As the full grant is not sufficient to cover the full expected costs of ELOR (construction and fees), the Council will be required to fund the difference between this and the full capital scheme costs. The currently forecast borrowing requirement to fund the gap in costs is £43.68m, but the actual costs for all elements of the East Leeds Transport Package will not be known until detailed engineering designs, tendering and contract delivery takes place. So, while there

is a current forecast borrowing requirement for the Council, the exact amount cannot be confirmed and there is a need to retain some flexibility in the borrowing approval.

- 4.4.6 There will be revenue implications for the Council as the debt (the principal sum and the interest costs) will be carried until it is fully repaid through the recovery of roof tax payments from the housing developments. The scheme should ultimately be cost-neutral to the Council on this basis.
- 4.4.7 The Council has investigated the scope for third party investment funds to be employed to meet this funding gap instead of direct borrowing and has engaged in positive dialogue with Legal & General to explore models through which this might be achieved. It has concluded that the level of certainty required in the financial return and the premium that would be applied in transferring risk would add potentially unsustainable cost into the roof tax arrangements. As such a direct borrowing approach through prudential or other appropriate routes is preferred and discussions with Legal & General are continuing to establish how it might offer a value for money solution to on this basis, but the risks outlined at paragraph 4.6 should be noted.
- 4.4.8 WYCA has confirmed that the initial grant can be used to fund the costs of promoting the CPO and SRO and any acquisitions arising from these as well as the cost of acquisitions by negotiation. This funding can be drawn down in advance of the final full approval for the ELOR scheme, at the Council's risk of repayment to WYCA should the scheme not proceed.
- 4.4.9 At this stage however it is not possible to confirm if the initial WYTF grant will be sufficient to cover all the costs of land assembly and acquisition of all interests, either through negotiation, through compulsory proceedings or through compensation arising from the SRO. The principle risk is in relation to those parties with development land who will benefit from the delivery of the road and that agreements cannot be reached with them to transfer land at nil consideration. Further detail on this is set out in the Exempt Appendix 6. As such it is prudent and necessary for the Council to confirm that it will underwrite all such costs over and above this available grant so that there is confidence to all parties concerned that the full land assembly for the scheme can be achieved. The acquisition cost of any third party land or interests within the line of route will be factored into the roof tax obligations and will ultimately be recovered by the Council.
- 4.4.10 Executive Board is asked to approve that the Council enters into the initial grant agreement with WYCA for £11.81m to fund project development and land assembly costs, and that authority to enter into further grant agreement(s) to effect full drawdown of the WYTF allocation is delegated to the Director of City Development in consultation with the Chief Officer Financial Services, subject to progression through WYCA's formal approval process.
- 4.4.11 Executive Board is also asked to approve that the full estimated cost of the scheme of £126.63m is injected into the Capital Programme and that Authority to Spend is delegated to the Director of City Development in consultation with the Chief Officer Financial Services so that as the scheme estimate and cost profile matures, the Council is in a position to react flexibly and efficiently to undertake the necessary borrowing to supplement the full WYTF grant, to procure and let the construction contract or contracts for the East Leeds Transport Package and to

enable the scheme implementation in the context of the Medium Term Financial Plan.

- 4.4.12 In some cases it will be necessary to acquire land or interests for the delivery of the ELOR scheme that will straddle the ELOR scheme boundary – these include agricultural leases and tenancies and sub-surface mines and minerals rights. The Council will need to identify and agree a budget for acquisition of those parts of such land or interests that do not sit within the scheme boundary and would not therefore be funded through the WYTF grant.
- 4.4.13 Additionally there may be cases where the Council is asked to undertake a discretionary purchase of land or property that is not directly within the boundary of the scheme but which is likely to be directly affected through significant diminution in value.
- 4.4.14 The Exempt Appendix sets out further details of these cases and the budget requirements to ensure the Council is in a position to fund and complete negotiated acquisitions.

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

- 4.5.1 Both the Compulsory Purchase Order and Side Roads Order will be made by the Council pursuant to all relevant powers contained in the Highways Act 1980.
- 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.
- 4.5.3 Sections 14 and 125 of the Highways Act 1980 are the main relevant powers where an SRO is required.
- 4.5.4 The land to be acquired is shown coloured pink on the Compulsory Purchase Order plan at Appendix 3. The land over which new rights are required is shown coloured blue on the Compulsory Purchase Order map at Appendix 4.
- 4.5.5 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.
- 4.5.6 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 may indirectly arise to these developers through the public funding of the infrastructure. Legal advice has been sought and

it is believed that recovery of the Council's costs incurred in the construction of the road via roof tax should ensure that State Aid is avoided.

4.5.7 The information contained in the Exempt Appendix 6 relates to the financial or business affairs of particular people, and of the Council. It is considered that the release of such information would or would be likely to prejudice the Council's commercial interests in relation to potential transactions and it is therefore considered that this element of the report should be treated as exempt under Rule 10.4(3) of the Access to Information Procedure Rules.

4.5.8 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 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.

4.6.3 It is further intended to appoint a firm of external RICS surveyors to support the Council in undertaking negotiation and valuation of land to be acquired on a CPO basis.

4.6.4 Although the UDP establishes the need for developers to fund the delivery of ELOR, there is a risk that the principle of the roof tax as a mechanism for recovering the costs incurred by the Council is not accepted by all developers. The Council will seek to offset this through consultation on and adoption of a Development Framework that will set out the planning and delivery principles for the ELE, including the roof tax.

4.6.5 It should be noted that the building out of the ELE following the delivery of ELOR is likely to take place over a number of years and as such the Council's recovery of the scheme costs from housing development will be exposed to a number of risks. Three of the four ELE quadrants are yet to come forward as planning proposals for housing and will therefore be subject to due process. It is also likely that the pace at which housing is developed following any planning approvals will vary according to the performance of the wider economy and housing market, meaning the rate of financial return from roof tax cannot be forecast with certainty and the Council may be exposed to future slowdowns in building. To offset this risk the roof tax will have indexation built in to ensure the ongoing costs of carrying the borrowing are reflected in future payments.

5. Conclusions

- 5.1 The ELOR scheme is a major investment in the city's infrastructure that will play a critical role in unlocking the development of the East Leeds Extension and supporting the growth of a wider area of East Leeds. The scheme has progressed to a position where the Council can confirm all land and interests in land that need to be acquired to enable its delivery. Executive Board has previously approved in-principle the use of a CPO and an SRO to support the required land assembly and this report has set out the detailed and compelling case in the public interest for doing so.
- 5.2 The current cost estimate for the ELOR scheme and the wider related package of transport measures has been set out, with the allocation of a substantial grant through the West Yorkshire Transport Fund to fund these works. The Council can enter into an agreement to draw down the first part of this grant to support project development and land assembly and following due process will be in a position to access the full funding allocation. However additional funding is required, to be obtained through borrowing, so that the full costs of land assembly and scheme construction can be guaranteed. The Council's borrowing and costs will be recouped through the roof tax to be applied to housing development that will be unlocked in the East Leeds Extension.
- 5.3 Executive Board is asked to consider and approve the recommendations to enable this significant project to proceed towards delivery at the earliest opportunity.

6. Recommendations

- 6.1 Executive Board is recommended to:
- i. Authorise the Director of City Development to make the Leeds City Council (East Leeds Orbital Road) Compulsory Purchase Order 2017 ("the CPO") under sections 239, 240, 246, 249, 250 and 260 of the Highways Act 1980, the Acquisition of Land Act 1981 and all other enabling powers, as per the details set out in paras 3.5 – 3.8 and the plan at Appendix 3 (subject to any final amendments the Director of City Development considers necessary);
 - ii. Authorise the Director of City Development to make the Leeds City Council (A6120 (East Leeds Orbital Road Classified Road) Side Roads and Other Works) Order 2017 ("the SRO") under sections 14 and 125 of the Highways Act 1980 and all other enabling powers as per the details set out in paras 3.5 – 3.8 and the plan at Appendix 4, (subject to any final amendments the Director of City Development considers necessary);
 - iii. Authorise the Director of City Development to take all necessary steps to proceed with and secure confirmation of the CPO and SRO including the service of all requisite notices on affected parties in connection with the making, confirmation and implementation of the CPO and SRO and making of agreements and undertakings with landowners and other affected parties necessary in order to secure removal of any objections made to the CPO and SRO (where such agreements and undertakings are appropriate) and subject to the confirmation of the CPO the making of one or more general vesting declarations under the Compulsory Purchase (Vesting Declarations) Act 1981 or the service of Notice to Treat and Notice of Entry under the

Compulsory Purchase Act 1965 and if necessary presenting the Council's case at any public inquiry or other proceedings;

- iv. Agree the provisional financing package for the East Leeds Orbital Road set out in section 4.4 and in the Exempt Appendix, and delegate approval to the Director of City Development to enter into a funding agreement with the West Yorkshire Combined Authority for an initial grant from the West Yorkshire Transport Fund of £11.81m and to draw down the full amount of an £82.95m grant allocation; and approval of a provisional borrowing requirement of £43.68m;
- v. Agree that the Council underwrites all land assembly costs and compensation costs arising from the making and implementation of the CPO and SRO in the event that these exceed the available WYTF grant available and on the basis that such costs will be fully recoverable through roof tax payments, as set out in section 4 of the report;
- vi. Agree that the scheme is injected into the Council's Capital Programme and subject to confirmation of the WYTF Grant, that Authority to Spend is delegated to the Director of City Development, in consultation with the Chief Officer Financial Services, to procure and let the construction contract or contracts for the East Leeds Transport Package;
- vii. Agree that in the event that the Council will need to acquire additional land or interests to ensure that ELOR is delivered, the Director of City Development in consultation with the Chief Officer Financial Services and Executive Member for Regeneration, Transport and Planning is authorised to inject relevant schemes to the capital programme be delegated the authority to spend for such schemes. It should also be noted that such additional costs will be recovered through the East Leeds Extension roof tax.
- viii. Agree that the estimated cost of land assembly for interests that include land outside the direct route of ELOR as set out in the Exempt Appendix is injected into the Capital Programme and authorise the Director of City Development to agree appropriate terms and acquire such land or interests in land that may be necessary to enable delivery of the ELOR scheme; and
- ix. Agree that the information contained in Exempt Appendix 6 should be treated as exempt under Rule 10.4(3) of the Access to Information Procedure Rules and agree the recommendations outlined in Exempt Appendix 6 and the private part of the meeting.

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.