

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Council
<b>DATE</b>	21 August 2024
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	B999/Shielhill Road Junction Improvement – Compulsory Purchase Order
<b>REPORT NUMBER</b>	CR&E/24/211
<b>EXECUTIVE DIRECTOR</b>	Gale Beattie
<b>CHIEF OFFICER</b>	John Wilson
<b>REPORT AUTHOR</b>	Suzanne Duncan
<b>TERMS OF REFERENCE</b>	Introduction 6

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### 1. PURPOSE OF REPORT

- 1.1 This report updates Council on the progression of the B999/Shielhill Road Junction Improvements project.
- 1.2 This report requests that the Council approve the recommendation to make the Compulsory Purchase Order (CPO) to facilitate the construction of the B999/Shielhill Road Junction Improvement project.

### 2. RECOMMENDATION(S)

That Council:-

- 2.1 notes the progress made on the B999/Shielhill Road Junction Improvement project and the updates to the programme milestones;
- 2.2 resolves to make a Compulsory Purchase Order in respect of the land identified in the CPO Map (comprising 1 sheet) contained in Appendix 2 and instructs the Chief Officer – Governance to implement the statutory procedures following on from the making of the Order and continue to pursue voluntary acquisition in parallel with the compulsory purchase process.

### 3. CURRENT SITUATION

- 3.1 The B999/Shielhill Road (C19C) junction, to the north of the City is currently sub-standard due to poor visibility. The western approach to the junction along Shielhill Road at the double bend also suffers from poor forward visibility. This presents difficulties for road users attempting to negotiate the road and junction safely.

- 3.2 During the application process for planning consent at the nearby Dubford Development (known within the Aberdeen Local Development Plan (ALDP) 2012 as residential opportunity site OP25 and renamed within the 2015 Aberdeen Local Development Plan as site OP10), a Transport Assessment (TA) was undertaken to examine the impact development generated traffic would have on the surrounding road network. The traffic assessment showed the junction would see increased use due to the development and recommended that mitigation measures in the form of a realignment of Shielhill Road together with the creation of a new junction at Shielhill Road/B999 to the south of the existing junction would improve visibility and combined with a reduction in the speed limit to 40mph, would aid drivers to negotiate the junction safely. The proposed improvements required significant construction works and land outwith the control of the applicant. To enable the granting of consent and address the safety issues financial contributions towards the improvements were secured through a Section 75 agreement.
- 3.3 As the project to improve the junction has progressed further, detailed options to address the desired safety improvement were considered. Traffic signals were ruled out due to the additional capital and operational costs and reduced junction capacity compared with the other options. The original feasibility design, contained within the Transport Assessment, was also not favoured due to a significant amount of higher value land being required from OP10, reducing its development area. It also required a new culverted crossing of the Burn of Mundurno adding to project cost. The preferred design is focused on improving the junction at its current location with reduced requirements to use developable land, while also limiting the need for additional culverting of the burn.
- 3.4 The preferred design involves the realignment of the existing B999 by removing the tight bend, immediately north of Shielhill Road, introducing a slower curve to the east side of the existing B999. Shielhill Road will be extended to meet the new position of the B999 forming the new junction. It will also improve the forward visibility at the double bend on Shielhill Road by removing the stone wall on the north side over the extent of the bends, widening the verge and regrading the slopes within the field. A further safety measure to reduce the speed limit to 40mph on the B999 and Sheilhill Road will also be promoted. Taken together, these features of the preferred design will provide substantial road safety benefits while also retaining junction capacity, accommodating existing and future demands and befitting network performance. Appendix 1 shows a plan of the improvements.
- 3.5 In advance of the main improvement and while contributions were being received, interim measures to improve safety have been implemented. These have taken the form of large, conspicuous warning chevrons, signage and additional road markings. A speed order was promoted to reduce the speed limit on Shielhill Road, at its junction with the new development access from 60mph to 40mph.
- 3.6 Following preliminary work on the project, it was identified that the received developer contributions would not cover the cost of developing and implementing the improvement. The project has now been added to and funded by the Capital Plan, in addition to the developer contributions.

- 3.7 Following delayed commencement due to the Covid 19 pandemic and other resourcing pressures, the project is now fully resourced with preparations and the detailed design well advanced. The current indicative programme for the project is as follows:-

<b>MILESTONES</b>	<b>INDICATIVE TIMELINE</b>
Completion of Detailed Design and Preparation	Sept-24
Compulsory Purchase Order Confirmation & General Vesting Declaration	Jul-25
Commence Procurement	Sep-25
Contract Award	Oct-25
Full Opening	Aug-26
Project Close	Aug-28

### **Land Acquisition**

- 3.8 The land required for the project has been identified as part of the detailed design process, the extent of which has been minimised as far as possible. 12 number of plots have been identified for permanent acquisition. and a further 11 number of plots have been identified as being necessary on a temporary basis for working space during the construction of the project. All of these plots are owned by third parties.
- 3.9 The Council needs to control all of the above plots to progress the project but due to the number of plots and multiple owners it is unlikely that voluntary acquisition will be possible through agreement within a reasonable period of time. As a result, compulsory acquisition of these plots is considered reasonable and proportionate to ensure that they can be acquired outright and within an appropriate timescale.
- 3.10 The 12 plots of land shown coloured pink (permanent acquisition), and 11 plots coloured green (temporary possession) on the CPO Map (comprising 1 sheet) are in Appendix 2. The plots do not include any residential or commercial buildings.
- 3.11 Officers will continue to seek voluntary acquisition alongside a CPO process in line with Scottish Government guidance. The District Valuer (Valuation Office Agency) has been instructed to negotiate terms with each of the affected parties. However, given the importance of the Project in terms of improving the road safety within an area where high vehicular speeds are experienced and to ensure programme slippage does not detrimentally impact on the timescales for delivery of this project, it is now appropriate to commence the compulsory purchase process through the making of a CPO to acquire control over all of the necessary land. Additionally, progressing the CPO now should allow timing of the Project works to proceed in line with expectations, and before the obligation contributions become liable to be repaid in October 2026.
- 3.12 Given the compelling reasons for progressing the Project it is considered on balance that the public interest outweighs that of the individuals or businesses affected. It is acknowledged that affected parties will be deprived of their land

or rights in land however the areas are generally small narrow strips of agricultural land adjacent to the carriageway and/or of a low development potential. They will be compensated in line with the statutory framework and appropriate accommodation works will be offered where possible.

- 3.13 Prior to the CPO being made, fresh title searches will be carried out and other enquiries made so that the schedules are up to date with the most accurate information that is available at that time. Based on current records, it is likely that 8 individuals and companies will require to be notified.

### **Preparation of the CPO**

- 3.14 Work to prepare the CPO has been undertaken with input from in-house Estates and Legal teams supported by external resources.
- 3.15 Design work undertaken by in-house resources supported by external resource has progressed on the Project this year. The project will proceed under the Council's permitted development rights as Roads Authority.
- 3.16 It is anticipated that the detailed design of the Project will evolve over the coming months, however, the final Project works will be accommodated within the land that is currently under Aberdeen City Council ownership / control as well as that acquired as part of the CPO.

### **Process & Timescales**

- 3.17 If Committee approves the recommendations contained in this report, the CPO will be promoted in accordance with the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 by the Council as the Roads Authority to compulsorily acquire land and rights in land for the purpose of carrying out construction and improvement of a public road. It is considered that the powers under the Roads (Scotland) Act 1984 (sections 103, 104, 106 & 110) are the relevant powers to use to secure the necessary rights for the Project. There are no other more specific or appropriate powers which ought to be used. The CPO will be made, advertised and served on all relevant parties. It is anticipated that the CPO will be made by September 2024.
- 3.18 Following notice being served, the CPO will be sent to Scottish Ministers for confirmation. The process allows for objections to be made to the CPO and the objection period must be a minimum of 21 days. Any objections are required to be sent to the Scottish Ministers in writing. Should Scottish Ministers receive objections they will contact the Council to ask if the objection can be resolved and subsequently withdrawn.
- 3.19 Should objections from owners, tenants, occupiers or title burden holders be maintained the Scottish Ministers will arrange for a Public Local Inquiry (PLI) to be held. If a PLI were to be held, Scottish Ministers will appoint an Independent Reporter who will consider the case being made by the Council and any objectors. On completion of the PLI the Reporter will submit a report to Scottish Ministers making a recommendation on whether or not the CPO should be confirmed. Scottish Ministers will then consider the report and make a final decision on whether or not to confirm the CPO.

- 3.20 There are no set time scales for these processes but they typically take between 12-18 months from the making of a CPO to decision by the Scottish Ministers.
- 3.21 If the CPO is confirmed and following any vesting of land acquired there are likely to be claims arising from landowners and other affected parties based on the land compensation legislation which may take several years after completion of the Project to settle. The claims may be referred to the Lands Tribunal for determination if a negotiated settlement is not possible.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 The project has been funded through Section 75 contributions and the Capital Plan. The current budget is £615,000.
- 4.2 The financial implications for the project are continuing to be managed through the detailed design budget monitoring and an updated detailed cost estimate will be produced later this year. Construction inflation, land cost and additional development time are influencing current indications, suggesting that there is likely to be a shortfall in the budget. Once confirmed, this information will be passed in to the 2025/26 budget setting process.
- 4.3 The Section 75 agreement requires obligation contributions to be utilised by October 2026.

#### **5. LEGAL IMPLICATIONS**

- 5.1 An outline of the CPO process and timescales is contained within sections 3.17 to 3.21 above.

#### **6. ENVIRONMENTAL IMPLICATIONS**

- 6.1 An Environmental Impact Assessment screening opinion has been received from the Planning Authority. It concluded that as the project was unlikely to have significant effects on the environment by virtue of its nature, size and location, an Environmental Impact Assessment was not required.
- 6.2 Sustainable Drainage Systems (SuDS) measures will be included as part of the drainage strategy as per SEPA's requirements. The existing road drainage collects at the junction and outfalls into the existing burn. With the implementation of SuDS measures, it is anticipated that there will be a betterment in the quality of the road drainage entering the water course compared with the existing situation.
- 6.3 As the new section of carriageway will be built on an embankment, initially it may be more prominent than the existing road. However it is considered that its prominence is likely to be a temporary situation as mitigation planting and grass verges/embankments will become established over time and help soften the appearance of the road within landscape.

## 7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H)  *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
<b>Strategic Risk</b>	Until land required for the Project is secured it cannot proceed to construction. The Project's aim is to improve road safety as a result of new developments in the area generating higher levels of traffic at a junction where visibility is compromised.	The making of a CPO will provide greater certainty that required land will be acquired outright and within an appropriate timescale.	H	<b>Yes</b>
<b>Compliance</b>	The CPO may not be confirmed if a suitably robust case is not made	This will be mitigated by the preparation of reports and supporting documents that will inform the process.	L	<b>Yes</b>
<b>Operational</b>	<p>There is a risk of objections from customers and citizens particularly from those directly affected by the Project and/or the compulsory purchase process.</p> <p>There is a risk associated with not providing an improved alignment</p>	<p>This will be mitigated by continued dialogue with those affected by the proposals and presentation of a strong case in response. Compensation will also be payable under the statutory rules to affected landowners and other property interests.</p> <p>This will be mitigated by progressing the Project.</p>	<p>H</p> <p>H</p>	<b>Yes</b>

	<p>and junction arrangement.</p> <p>The need for and duration of a PLI is a matter for Scottish Ministers and their appointed Reporter in accordance with statute. This will depend upon whether or not objections from landowners or other affected land interests are raised during the CPO process.</p>	<p>This will be mitigated by continued dialogue with those affected by the proposals. However, it may not be possible to negotiate withdrawal of all objections to the proposals.</p>	H	
<b>Financial</b>	<p>The costs associated with the CPO process may have a potential impact on the budget.</p> <p>The Council is not in control of the requirement for a PLI, the timing or the length of time the CPO process may take.</p> <p>The compensation values as agreed or determined by the Lands Tribunal in due course may exceed the estimate and that of the budget set aside for the acquisition.</p> <p>Should the contributions not be utilised by October 2026, the unspent monies will be at risk as the Section 75 agreement states that</p>	<p>The potential impact will be managed through the ongoing assessment of risks and cost monitoring.</p> <p>The potential impact will be managed through the ongoing assessment of risks, objector management and programme monitoring.</p> <p>Given the nature of the plots included within the CPO the level of variance is likely to be low and will be managed through ongoing cost monitoring.</p> <p>The potential impact will be managed through the ongoing assessment or risks, objector management and</p>	<p>M</p> <p>M</p> <p>L</p> <p>L</p>	<b>Yes</b>

	the Council would be obliged to repay the contribution upon the developer making a request.	programme monitoring.		
<b>Reputational</b>	There is a risk that Aberdeen City Council will experience reputational damage from supporters of the Project if it does not proceed.	This will be mitigated by progressing the Project.	H	<b>Yes</b>
	There is a risk that Aberdeen City Council will experience reputational damage from objectors to the Project if it proceeds.	This will be mitigated by trying to address issues raised by objectors but this may not be achievable in all instances.	L	
<b>Environment / Climate</b>	The proposed Project does not differ markedly to the existing site in terms of its context and scale, generally limited to changes to the road alignment	Impacts are likely to be acceptable against the relevant standards.	L	<b>Yes</b>

## 8. OUTCOMES

<b><u>Council Delivery Plan 2024</u></b>	
<b>Impact of Report</b>	
<b>Aberdeen City Council Policy Statement</b>  <u><a href="#">Working in Partnership for Aberdeen</a></u>	The proposals within this report support the delivery of the following aspects of the policy statement:- <ul style="list-style-type: none"> <li>• Delivering an improved and safer junction at Shielhill</li> <li>• implement traffic management projects which improve road safety</li> </ul>
<b><u>Local Outcome Improvement Plan</u></b>	
Prosperous Economy Stretch Outcomes	

<p>Prosperous People Stretch Outcomes</p>	<p>The proposals within this report support the delivery of LOIP Stretch Outcome 10  – <i>Healthy life expectancy is five years longer by 2026.</i></p> <p>By addressing the road safety issues within the local roads network helps to achieve this aim.</p>
<p>Prosperous Place Stretch Outcomes</p>	<p>The proposals within this report support the delivery of LOIP Stretch Outcome 14  – <i>Increase sustainable travel: 38% of people walking and 5% of people cycling and wheeling as main mode of travel and a 5% reduction in car miles by 2026.</i></p> <p>Successful delivery of the project will provide a safer road network for all users, including cyclists, consistent with this outcome.</p>
<p><b>Regional and City Strategies</b></p>	<p>The strategic objectives of the Regional Transportation Strategy include</p> <ul style="list-style-type: none"> <li>- <i>Accessibility, Safety and Social Inclusion: To enhance choice, accessibility and safety of transport of all in the north east, particularly for disadvantaged and vulnerable members of society and those living in areas where transport options are limited.</i></li> </ul> <p>Key priorities include zero fatalities on the road network. The RTS states that this priority links to the health and wellbeing pillar of the strategy, specifically road safety. Although there have been significant reductions in fatalities from road traffic collisions in recent years, the aspiration is to reduce this to zero. This is in line with the national framework for road safety which is moving towards a vision of zero fatalities on the road network. A particular focus will be on reducing the number and severity of all casualties and on reducing the number and proportion of vulnerable road users, such as pedestrians, cyclists and motorcyclists, involved in road traffic collisions.</p> <p>The aims and objectives of the Aberdeen Local Transport Strategy (2016 – 2021) includes interventions adopted by the Council to guide the planning and improvement of the local transport network for the period between 2016 and 2021 and provide a safe and more secure transport system.</p>

	The project is in line with the Councils' <i>Road Safety Plan 2023 to 2030</i> which reports the achievements made towards the 2030 targets set out in <i>Scotland's Road Safety Framework to 2030</i> , entitled " <i>It's everyone's responsibility</i> " and outlines strategic objectives and actions at local and national level.
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## 9. IMPACT ASSESSMENTS

Assessment	Outcome
<b>Integrated Impact Assessment</b>	Integrated Impact Assessment has been completed
<b>Data Protection Impact Assessment</b>	Not required.
<b>Other</b>	N/A

## 10. BACKGROUND PAPERS

- 10.1 Compulsory purchase in Scotland; A guide for property owners and occupiers  
<https://www.gov.scot/publications/compulsory-purchase-scotland-guide-property-owners-occupiers/>
- 10.2 Capital Programme Committee – 1 December 2021
- 10.3 Capital Programme Committee – 26 May 2021

## 11. APPENDICES

- 11.1 Appendix 1 – Plan of the Improvement (comprising 1 sheet)
- 11.2 Appendix 2 - CPO Map (comprising 1 sheet)

## 12. REPORT AUTHOR CONTACT DETAILS

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