

REPORT TO: Mersey Gateway Executive Board

DATE: 27th January 2011

REPORTING OFFICER: Strategic Director, Environment and Economy

SUBJECT: The Secretaries of State Decision on the Applications and Orders and progress towards commencing Procurement

WARD(S): Borough-wide

1.0 PURPOSE OF REPORT

The Government announced the decision for Mersey Gateway on 20th December and published the Secretaries of State Decision Letters along with the Public Inquiry Report and Supplementary Report produced by the Inspector Alan Grey. This report provides Members with a summary of the conclusions reached and the statutory powers either made, or confirmed, as a consequence of this decision. Members are also advised of the action now being taken to secure the land required for the scheme and to prepare for the procurement process now planned to commence in the spring.

2.0 RECOMMENDED: That members note:

- i) The substance of the decisions announced by Government on 20th December, which either made or confirmed all the statutory powers requested for Mersey Gateway.**
- ii) The action now being taken by the project team to secure the land through exercising the compulsory purchase powers confirmed in the Transport and Works Act Order and the two Compulsory Purchase Orders and to prepare the procurement process.**

3.0 BACKGROUND

3.1 Members will recall that the decisions for Mersey Gateway had been held up pending the outcome of the Government Spending Review that was concluded last October. The resulting confirmation of the Government's funding support for Mersey Gateway enabled the decisions to be addressed, leading to the announcement on 20th December which conveyed the following key conclusions and decisions:-

- 3.1.1 That a clear need for a new road crossing of the Mersey in Halton has been established.

- 3.1.2 That the Project represents the most appropriate means of meeting that need taking into account national and local planning, transport and environmental policies and the exhaustive consideration of alternatives undertaken by the Council.
- 3.1.3 The Secretary of State recognises that the Project would have some adverse impacts on the environment and residents, but is satisfied that the extensive mitigation measures proposed by the Council would reduce those impacts to an acceptable minimum and the residual adverse impacts would be significantly outweighed by the overriding public interest in securing the Project benefits.
- 3.1.4 The Secretary of State concludes that it will be necessary for the Council to charge tolls for the use of Mersey Gateway Bridge and to impose charges for the use of SJB, both to provide revenue for the construction of the Project and to avoid unacceptable levels of congestion on the SJB. Also, subject to some minor modifications to the Transport and Works Act Order and the Road User Charging Order, the Secretary of State concludes that the Orders would establish an appropriate framework within which the Council could set and vary tolls and charges.
- 3.1.5 The Secretary of State, in confirming the compulsory purchase powers, is satisfied that there is a compelling case in the public interest for compulsorily acquiring the land for the purposes of the Project.
- 3.2 The above summary conclusions are consistent with the findings expressed in the reports of the Inspector Mr Alan Grey relating to the applications and orders made by the Council back in spring 2008 and considered at the Public Local Inquiry that sat for twenty days between May and July 2009. The Inspector's Report, together with his short supplementary report, runs to over 300 pages. The report plus all the documents relating to the planning decision, are available on the Mersey Gateway website and hard copies have been placed on deposit at the Kingsway and Halton Lea Libraries and at Direct Link offices in Widnes and Runcorn.
- 3.3 The Inspector's Report starts with a list of the orders and applications submitted by the Council and explains what each one would authorise. The Inspector then provides his summary of the evidence presented by the Council in promoting the case for approving Mersey Gateway, to be followed by the evidence presented by those supporting the Project. The Report then considers the evidence presented by each Objector and the Council response to the points raised by each Objector. The

key findings of the Report are contained in the Conclusions (Section 11). The following points are seen as key factors emerging from the Inspector's conclusions.

- 3.4 The Inspector notes the long standing ambition of the Council to deliver a Second Mersey Crossing and recognises the considerable support the Project receives, notably from statutory consultees or public bodies and the relative absence of objection from these groups. The Inspector does however recognise the considerable dissent in the non-statutory objections, much of which he concludes is focused on tolls and the environmental implications for local residents. The Inspector advises that all the views have been thoroughly aired at the Inquiry.
- 3.5 The Inspector does not raise any substantive doubt about the Council case for the Project and concludes that 'as a consequence of the extensive research, analysis, design and consultation undertaken, the Council's proposals are fully justified'¹ and the Inspector then lists his reasons for reaching this conclusion. Key abstracts from the report are as follows:-
- 3.6 When considering the case for alternative solutions and different routes for a new crossing, the Inspector concludes 'I am satisfied that a wide and sufficient consideration of alternatives has been undertaken, resulting in the Project being preferred'².
- 3.7 The Inspector considers the full extent of potential environment impact. Overall he concludes that 'the Project's environmental impacts, particularly on the Mersey itself and on the adjoining residential areas, would be contained by its design and by the extensive mitigation measures proposed; and where adverse impacts remained in the longer term they would be justified in the public interest and outweighed by wider environmental, economic and other benefits. Moreover the Project's implications for climate change would be positive, contrary to widely held beliefs'.³
- 3.8 The final conclusions in the Inspector's report support the decisions announced by the Secretaries of State, as listed in Paragraph 3.1 above.
- 3.9 The outcome reflects well on the project and the professionalism of the project team and is the result of careful and thorough preparation of the planning applications and orders submitted with the support of extensive environmental assessments and consultations. Although the delay in obtaining the decisions is regrettable, the reasons for the delay were beyond Council control.

¹ See Inspector's Report 11.3.2.1

² IR 11.3.2.12

³ IR 11.5.3

3.10 Taken together the approved orders and applications authorise the Council to acquire all the land required for the scheme by compulsory purchase; to undertake construction and to maintain and operate the scheme including the power to charge tolls on Mersey Gateway and to impose charges for SJB. Although the approvals granted are consistent with the Council applications, the planning approvals are subject to a number of conditions that require subsequent submissions that will deal with more detailed proposals. For example the final design for the scheme will be determined through the procurement process leading to the detailed design plans proposed by the successful contractor being submitted to Halton Borough Council for approval, as the local planning authority (see Planning Condition 3 in the Decision Letter and Deemed Planning Consent). There are over 40 Planning Conditions to discharge and the project team are consulting Halton Planning Officers on an appropriate protocol for dealing with these submissions. Members should note that these considerations will place a considerable workload on the development control team.

Commencing the Compulsory Purchase Process

3.11 Members should note that the decisions made by Government on 20th December have triggered a number of statutory processes including the exercise of the compulsory purchase powers enabled by the Compulsory Purchase Orders and the made Order under the Transport and Work Act 1992. These powers allow the project team to acquire the land which is necessary for the construction and maintenance of the Project. Commencing the CPO process does not require any further Council resolutions because such resolutions were established at Council meetings listed in the table below:-

Record of Council Resolutions to Secure CPO Powers

Resolution	Decision Taken By	Target Meeting
To make TWA application	Full Council	5 th March 2008
To confirm TWA application	Full Council	13 th August 2008
To make Highways Act CPO	Executive Board	10 th April 2008

3.12 The Council has served the preliminary notices in the CPO process on the parties affected by these Orders in two stages, as follows:

3.12.1 Those land/business owners under the CPO's have been served with the official notice regarding the compulsory purchase of their land interest. Notices relating to these orders were published in local newspapers and put up on various sites around the borough on 13th January 2011.

- 3.12.2 In the following week, those land/business owners under the TWA Order were served with the official notice regarding the compulsory purchase of their land interest. Notices relating to this order were published in local newspapers and put up on various sites around the borough on 20th January 2011.
- 3.13 A press release explaining that the Council was commencing the CPO process was issued. A short briefing note was circulated to all Councillors.
- 3.14 Although the notices issued cover all the known interests in the land required for the scheme, the actual programme for taking possession of sites will be phased over the next 18 months. Details of the programme for taking possession of specific sites will be reported to the Board at future meetings.
- 3.15 Alongside the land assembly tasks explained above the project team are now making good progress towards being in a position to commence the procurement process. A final sign off will need to be given by Department for Transport and Treasury officials and this is expected to be secured by April. It is likely that this approval process will confirm the details of a Conditional Funding Agreement with the DfT. Once our procurement proposals are approved the first step is to advertise in the Official Journal of the European Union inviting expression of interest in tendering for the Mersey Gateway contract. More detail on the procurement plans will be reported to the Board at the next meeting in March.

4.0 POLICY IMPLICATIONS

- 4.1 Ensuring that the CPO process commenced promptly on securing confirmation of the compulsory purchase powers will expedite project delivery which is key policy objective for the Borough Council.

5.0 FINANCIAL IMPLICATIONS

- 5.1 The project budget is being revised under the direction of the Officer Project Board and forecasts will be confirmed and reported to members at the Board meeting in March.

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

- 6.1 Securing the Mersey Gateway Bridge will bring immense opportunities for the Borough of Halton and will contribute to all of the Council's priorities.

7.0 RISK ANALYSIS

7.1 The Mersey Gateway is included in the Corporate Risk Register. The planning risk was one of two key strategic risks identified at the inception of project delivery. The remaining key risk is to deliver procurement on an affordable basis.

8.0 EQUALITY AND DIVERSITY ISSUES

8.1 There are no equality and diversity issues arising from this report.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Project Records	Mersey Gateway Project Office	Matthew Fearnhead