

REPORT TO: Mersey Gateway Executive Board

DATE: 22nd September 2011

REPORTING OFFICER: Chief Executive

SUBJECT: Land Assembly Progress & Land Acquisition Capital Expenditure Budget Forecast

WARDS: All Wards with Property to be acquired for Mersey Gateway

1.0 PURPOSE OF THE REPORT

1.1 At its meeting on 19th November 2009, the Board considered a Report (MGEB9 – Land Assembly Strategy) and resolved to note the land assembly strategy to be adopted by the Mersey Gateway Team in order to assemble all the land required to construct and operate the proposed Mersey Gateway scheme and to deliver the project to the required timescale. At the meeting on the 28th January 2010 the Board received a subsequent report regarding progress.

1.2 This report advises the Board of:

1.2.1 Progress to date with the acquisition of land required for the Mersey Gateway by agreement and the proposals for acquisition of land using CPO/TWA powers

1.2.2 Issues regarding management of property acquired and advanced works that are required prior to hand over to the Concessionaire

2.0 RECOMMENDATION: That the Board note the progress made in assembling the land required for the Mersey Gateway

3.0 SUPPORTING INFORMATION

3.1 Introduction

3.2 At the meeting of the Mersey Gateway Executive Board on 19th November 2009, Members were advised that before embarking on compulsory purchase and throughout the preparation and procedural stages, the Council as Acquiring Authority is intent on acquiring land by negotiation wherever practicable. The policy towards advance land acquisition was agreed by the Board at its meeting in January 2009 (MGEB16) and satisfies the guidance set out in Government Circular 06/2004. The compulsory purchase of land is intended as a last resort in the event that attempts to acquire by agreement fail, and as such the Council is obliged to continue to acquire land by agreement until such

time as the relevant TWA and CPO's are confirmed and the Council so determines to exercise the powers of compulsory purchase.

3.3 Land Assembly progress:

3.4 The total land area required to construct and operate the Mersey Gateway scheme, together with associated infrastructure and highway improvements, is approximately 156.74ha. At the outset of the Project, the Council either owned or had a legal interest in approximately 62.4ha. This land was made up, in the main, of existing highways, footways and verges together with disused plots such as part of the former St Michael's golf course at Widnes.

3.5 By resolution of the Mersey Gateway Executive Board on 19th May 2008, the Council has adopted a policy within the Mersey Gateway Relocation Strategy which forms the basis on which the Mersey Gateway Team has progressed with acquisitions in advance of CPO/TWA. In accordance with the Mersey Gateway Relocation Strategy and guidance provided in Government Circular 06/2004 the Council sought, wherever practicable, to acquire interests in land by agreement and enter into agreements for acquisition, and in appropriate cases did so. These negotiations were conducted in parallel with the compulsory purchase process.

3.6 In advance of the start of the Public Inquiry the Council had acquired a number of interests in land required and entered into agreements with other parties as detailed below.

Third Party	Nature and Status of Agreement
Anglo Blackwell	Agreement reached for the acquisition of land and buildings at Ditton Road, Widnes from the liquidator of Anglo Blackwell Ltd. Completed in July 2008
Biotrace	Agreement reached for the acquisition of land and buildings at Lancer Court, Astmoor Industrial Estate. Completed in September 2008
Broadthorn / Cheshire Land	Agreement was reached for the acquisition of the land known as Widnes Wharf which will form part of the environmental mitigation measures and the approaches to the actual bridge structure. Completed in May 2009
Thermo Electron Manufacturing Ltd	<p>Advanced acquisition/relocation agreement – contracts exchanged October 2008. The basis of this agreement is that it gave the tenant the certainty they required to commit to relocation premises and their entitlement to compensation as if their premises had been acquired compulsorily in accordance with the Compensation Code.</p> <p>The agreement gave the Council the certainty that it required to be able to deliver up vacant possession to the appointed Project Company.</p> <p>The business vacated their affected premises in March 2011</p>
Ventcroft Ltd	<p>Advanced acquisition/relocation agreement – contracts exchanged May 2009. The basis of this agreement is that it gave the tenant the certainty they required to commit to relocation premises and their entitlement to compensation as if their premises had been acquired compulsorily in accordance with the Compensation Code.</p> <p>The agreement gave the Council the certainty that it required to be able to deliver up vacant possession to the appointed Project Company.</p> <p>The business has committed to relocation premises and will vacate affected property in December 2011</p>

3.7 In the period after Public Inquiry, the continuing land assembly strategy was to:

- Continue with the agreements for acquisition/relocation in accordance with the obligations within the agreements;
- Completion of acquisitions/agreements where terms agreed;

- Assess the remaining businesses for relocation where there is potentially a need to acquire in advance of CPO, to allow sufficient time to physically relocate, having regard to the need for early possession on complicated sites; and
- Formulate land assembly strategy consistent with the procurement process and timetable

3.8 Following the Public Inquiry the MG Team entered into two further agreements, as detailed below.

Solutia (UK) Ltd	<p>Advanced acquisition/relocation agreement – contracts exchanged August 2009. The basis of this agreement is that it gave the tenant the certainty they required to commit to relocation premises and their entitlement to compensation as if their premises had been acquired compulsorily in accordance with the Compensation Code.</p> <p>The agreement gave the Council the certainty that it required to be able to deliver up vacant possession to the appointed Project Company.</p> <p>The business vacated the affected premises in June 2010</p>
Polemarch Ltd	<p>Agreement reached for the acquisition of land and buildings at Davy Road, Astmoor Industrial Estate</p> <p>Completed in December 2009</p>

3.9 The decisions made by the Secretaries of State on 20th December 2010 triggered the next stage in the land assembly process. The Council has commenced the exercise of the relevant compulsory purchase powers enabled by the Compulsory Purchase Orders and the made Order under the Transport and Work Act 1992. These powers allow the Council to acquire the remaining land which is necessary for the Project.

3.10 The Council has served the preliminary notices in the CPO process on the parties affected by these Orders in two stages, as follows. Those land/business owners affected under the CPOs 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. In the following week, those land/business owners affected 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.

3.11 General Vesting Declaration No.1 was served in July 2011 in respect of parcels 69-75. These parcels are known as the Gussion Transport and

Widnes Tank Container site and the land vested in the Council's ownership on the 13th August 2011

- 3.12 General Vesting Declaration No.2 was served in August 2011 in respect of parcels 161-165, 167, 175-181, 198-202 and an Article 28 Notice in respect of the land required on temporary basis at parcels 166 & 173-174. These parcels are known as Catalyst Trade Park and the land vested in the Council's ownership on the 1st September 2011.
- 3.13 The Council now owns or has agreed rights over 63% of the land required
- 3.14 The remained of the land required for the scheme will be acquired by the serving of three further General Vesting Declarations, which will cover the investment landowners, operational businesses to be relocated and minor parcels/severed land. This will be undertaken in a phased approach to ensure affected businesses are given the maximum time possible to relocate and is now expected to commence in October 2011
- 3.15 There are 109 parcels within the purposed Phase I, totalling 382,522m²; 52 parcels and 73,432m² in Phase II and in Phase III, 161 parcels and 255,587m². In addition there are a number of parties where agreement has been reached to provide the necessary rights for the construction of the MG Bridge.
- 3.16 The Council has an obligation to pay either 90% of its estimate of the compensation due or 100% of the agreed compensation within three months of any request for an Advance Payment. It is expected that most parties will submit such claims, however there are likely, given the number of parties, that agreement will not be reached regarding market values and disturbance payments and will be referred to Lands Tribunal to be resolved. This process may mean that payments are still being made after the land acquisition has been physically completed.
- 3.17 In the period between the acquisition of land and the hand over to the Concessionaire, there will be property management issues which are the Council's responsibility. Approval has been sought and given to the demolition of those properties already acquired were the ongoing management costs will exceed the demolition costs. As further properties are acquired then consideration will be given to their demolition prior to hand over to the Concessionaire.
- 3.18 There are a number of elements of advanced works which need to be undertaken in the period between acquisition and handover. The key elements are:
 - Relocation of the primary substation at Ditton Road by SP Manweb
 - Pre-construction engineering and environmental surveys
 - Remediation of contamination at Catalyst Trade Park
 - Enabling Works

- 3.19 Within the budget forecasts for the advance works there is a large contingency, as the actual value of work will only become apparent once the sites have been acquired and the initial ground investigation surveys undertaken.
- 3.20 During the construction of the Mersey Gateway there are likely to be a number of Section 10 claims, relating to businesses whose land is not required by the scheme but due to their close proximity maybe affected by the actual construction works.
- 3.21 12 months after the opening of the Mersey Gateway the residential properties that believe the scheme has had a negative impact upon the value of their property may submit a Part One claim. The likelihood and extent of the cost of these claims will be reviewed and revised before and during construction.
- 3.22 The Land Acquisition budget has been set at £86m, and has not been increased since being originally agreed. This budget is expected to cover the principle elements of:
- Acquisition of the land required, including disturbance payments, SDLT and fees
 - Property management, including demolition of buildings prior to handover to the Concessionaire
 - Advance works, including ground investigations and remediation of contaminated sites
 - Section 10 Claims, as outlined above
 - Part One Claims, as outlined above
- 3.18 Land assembly costs are funded by the 'land grant' from DfT; any gap between receipt of funding from DfT and payment to land owners will be funder from the Council's reserves and/or borrowing (see the Financial Case)
- 3.19 The Council's land assembly strategy will ensure that all land required for the scheme is in the Council's ownership by the time of the selection of Preferred Bidder. .

4.0 POLICY IMPLICATIONS

- 4.1 The project is a key priority for the Council which will deliver benefits locally and across the wider region.

5.0 OTHER IMPLICATIONS

- 5.1 The cost of any advanced acquisition of businesses and negotiating relocation proposals is being funded through the land acquisition budget

for Mersey Gateway secured through the allocation in the Council Capital programme and prudential borrowings. Following full financial approval, expected at selection of preferred bidder stage, the Council will be able to recover the monies incurred on land acquisition through a Department for Transport grant

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children and Young People in Halton

There will be an indirect contribution to contribute to Key Objective E: To ensure that all children and young people in Halton have positive futures after school by embracing life-long learning, employment opportunities and enjoying a positive standard of living.

6.2 Employment, Learning and Skills in Halton

There will be an indirect contribution to Key Objective B: To develop a culture where learning is valued and to raise skill levels throughout the adult population and in the local workforce.

6.3 A Healthy Halton

There will be opportunities for biodiversity activities to contribute to Key Objective C: To promote a healthy living environment and lifestyles to protect the health of the public, sustain individual good health and well-being, and help prevent and efficiently manage illness.

6.4 A Safer Halton

There will be opportunities to contribute to Key Objective C: To create and sustain better neighbourhoods that are well designed, well built, well maintained, safe and valued by the people who live in them, reflecting the priorities of residents.

6.5 Halton's Urban Renewal

There will be opportunities to contribute to Key Objective E: To enhance, promote and celebrate the quality of the built and natural environment in Halton. Tackling the legacy of contamination and dereliction to further improve the Borough's image. In particular, in Area of Focus 12, examples of future planned activity include "Creating local nature reserves and wild spaces that support the Council's efforts to deliver urban renewal and a better quality of life in Halton". The Mersey Gateway nature reserve will be a main delivery mechanism for this Area of Focus.

7.0 RISK ANALYSIS

- 7.1 The Council policy towards advance land acquisition and negotiating relocation is aimed at avoiding job losses. The success in reaching agreement with Thermo Scientific demonstrates the potential rewards from such an approach. Any agreement reached however must be based on proposals being economic and affordable.

8.0 EQUALITY AND DIVERSITY ISSUES

- 8.1 Mersey Gateway provides an opportunity to improve accessibility to services, education and employment for all.

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

- 9.1 Files maintained by the Mersey Gateway Project Team and by the Highways and Transportation Department.