

SURREY COUNTY COUNCIL**CABINET****DATE: 27 APRIL 2021****REPORT OF CABINET MEMBER: MRS NATALIE BRAMHALL, CABINET MEMBER FOR ENVIRONMENT AND CLIMATE CHANGE****LEAD OFFICER: KATIE STEWART – EXECUTIVE DIRECTOR OF ENVIRONMENT, TRANSPORT AND INFRASTRUCTURE****SUBJECT: ACQUISITION OF LAND IN SUPPORT OF THE RIVER THAMES SCHEME****ORGANISATION STRATEGY PRIORITY AREA: GROWING A SUSTAINABLE ECONOMY SO EVERYONE CAN BENEFIT/ ENABLING A GREENER FUTURE****Purpose of the Report:**

This report is asking Cabinet for approval to acquire freehold lands off Chertsey Road in Spelthorne, as described in Part 2 of this paper, for the purposes of the River Thames Scheme which is being jointly promoted by the Environment Agency and Surrey County Council. This purchase will safeguard the land required for construction of a length of the proposed flood channel and provide additional land to support habitat creation in accordance with the Council's wider green agenda.

Recommendations:

It is recommended that Cabinet:

1. Approve the freehold purchase of land off Chertsey Road, Shepperton, as outlined in the Part 2 of this paper for the purposes of the River Thames Scheme.

Reason for Recommendations:

The decision recommended by this report will contribute to enabling the Council, in partnership with the Environment Agency, to progress the River Thames Scheme – a major infrastructure project that will reduce the risk of flooding from the Thames for communities in Runnymede and Spelthorne. It will achieve this through the construction of two new channel sections to divert water away from the Thames and additional capacity improvements to Sunbury, Molesey and Teddington weirs.

To construct the channel sections, it will be necessary to purchase land and to formalise agreements with third party landowners.

A forward purchase of land, in advance of submission of a Development Consent Order (DCO) application provides the opportunity for Surrey County Council and the Environment Agency to obtain land through agreement for the scheme. Forward purchasing also averts the risk of land disposal by current landowners possibly into small parcels that would make future purchase potentially more complex and expensive.

In addition, the purchase of this land provides an opportunity to provide green infrastructure for the enjoyment of residents in Spelthorne, which is underserved by the Council's

Countryside Estate which provides 10,000 acres of high-quality landscape and recreational space across the county but in Spelthorne, is limited to Sheepwalk Lake. The area known as Chertsey Meads on the opposite side of the river, complements the site linked on both sides to the Thames Path, a 184 mile long national walking trail, which provides an opportunity for a circular route within the site and an additional attraction for visitors to explore along the river.

Since the landscape quality of the site is currently low, there is a high net biodiversity value to be gained from managing the site to maximise value delivered by new wetland, woodland and grasslands.

Approving the purchase of the land will allow Surrey County Council to support both the River Thames Scheme project and the Greener Futures priority objective.

Executive Summary:

Background

1. In October 2019, Surrey County Council Cabinet approved investing £270m in delivering the objectives of the Surrey Local Flood Risk Management Strategy. This investment included a financial contribution of £237m to the River Thames Scheme (RTS) which is being developed and delivered in partnership with the Environment Agency.
2. The Council has been working closely with the Environment Agency over the last year to further develop the RTS and the governance arrangements for the delivery of the scheme.
3. In addition to the flood risk benefits, the scheme provides an excellent opportunity to create a range of socio-economic and environmental benefits for the area, such as generating new areas of river environment with opportunities for public access to riverside and water-based recreation such as canoeing and sailing, together with new habitats for ecology.
4. Following the Council's declaration of a Climate Emergency in July 2019, the Council has committed to mitigating carbon emissions to becoming a net zero carbon county by 2050. The science behind the emissions reduction pathway to 2050, which underpins our Climate Change Strategy (2020), shows that even with a full range of potential mitigation actions, the county will still need to offset around 5% of our emissions to reach net zero. Indeed, one of the primary opportunities for offsetting emissions is through providing vegetation to draw in, or sequester, and thereby offset carbon dioxide from the atmosphere. This potential contribution to offsetting carbon emissions was a driver for our target of planting 1.2 million trees over the next decade.
5. The RTS, being a Nationally Significant Infrastructure Project (NSIP), therefore presents an opportunity to purchase land that can not only be used to facilitate flood defences but enable planting of trees and promotion of wider habitat enhancements whilst creating accessible green spaces for Surrey residents and visitors.

Business Case

6. The proposed route of the two flood diversion channels through agricultural land, lakes and commercial property including old mineral and landfill sites. It will be necessary to acquire rights, or freehold interests, through which the channel passes to construct and deliver the project.

7. The Environment Agency only hold land that is necessary to undertake their operational role in accordance with its statutory functions and obligations.
8. There are circumstances where the Environment Agency or Surrey County Council may be required to purchase land:
 - Where owning land can be the most efficient way of safeguarding the access requirements for operations and maintenance;
 - Where owning land can be the most efficient way of safeguarding the access requirements for operations and maintenance; and/or
 - Where purchase can prove to be the most cost-effective way of compensating a landowner whose use of the land has been blighted by the proposed works.
9. With this in mind, the Environment Agency and Surrey County Council have been offered by a freeholder the opportunity to purchase a parcel of land required for the scheme. The detail of the land and the proposed purchase price is set out in the accompanying Part 2 paper.
10. The purchase of the land by Surrey County Council will allow delivery of the flood channel and provide direct vehicular access from the Chertsey Road for ongoing operations and maintenance of the channel.
11. The purchase of land outside of the footprint of the flood channel will allow for the creation of new and improved habitat as mitigation of associated development of the RTS project. Habitat creation on this site could include the planting of trees, will promote biodiversity, increase recreational opportunity, increase carbon sequestration and contribute to cleaner air for Surrey.

Land Purchase Options

12. There are several options available to acquiring the land in question – including acquiring the land ahead of the full design of the project being complete or waiting to do so after the design is complete. For the former, the Council would effectively purchase the site on the open market, whilst in the case of the latter it would require a Compulsory Purchase Order (CPO) to acquire the land. The options are considered below.

Option 1 Forward Purchase the land holding on the open market to support the construction of the river channel and green agenda.

13. A forward purchase de-risks the scheme as it
 - avoids the land being disposed of to another buyer, or in small parcels by the current landowner.
 - avoids objections from parties with a land interest as the party after disposal no longer has a land interest affected by the scheme.
 - avoids the possibility that wider sets of accommodation works are sought to service land to the west of the channel
 - minimises the risks attached to alternate CPO or Blight Notice activities,

Option 2 CPO the entire site to support the construction of the river channel and green agenda.

14. Delaying a purchase until final design does create certainty but increases risk to the scheme of a landowner objecting to the DCO and/ or disposing of the site in whole or small parcels. Securing land under a CPO, and then having to negotiate a land acquisition triggered by a Blight Notice adds cost and risk to such a scheme
15. It may not be possible to justify a CPO of wider lands beyond the flood channel in the Development Consent Order. The approach for the RTS is to seek only land that can be acquired through agreement for environmental enhancement.

Option 3 CPO the footprint of the river channel only

16. As above, delaying purchase until final design creates certainty as to land requirements, however this creates risk of the landowner objecting to the DCO and seeking diminution of value for remaining 68 acres via a Blight Notice.
17. The remaining 68 acres would have a lower value as access to the site is only possible off Dockett Eddy Lane due to the flood channel severing the lands from the existing main access of the Chertsey Road.
18. This option does not provide immediate control of additional lands that can be optimised to support habitat creation/green agenda.

Consultation:

19. The details of the Cabinet Paper and its recommendation to proceed with Option 1 Forward Purchase the land holding on the open market to support the construction of the river channel and green agenda have been presented to Infrastructure Board (18th March 2021), Capital Programme Panel (CPP) on 24th March 2021 in line with the Council's internal governance for Capital expenditure and to Cllr Natalie Bramhall and have been met with support.
20. The divisional member, Mr Richard Walsh, has been consulted on the plans and supports the proposal.

Risk Management and Implications:

21. Risks associated with the forward purchase of the land holding and how they are mitigated are considered below.

Key Risks and Mitigation Summary			
	Risk Description	RAG	Mitigation Action/Strategy
1	RTS scheme does not proceed, or route is altered.		The Land can still be used to promote SCC Green agenda
2	Access to the residual 68 acres of land not required for the flood channel is compromised by loss of		New access off Dockett Eddy Lane to be constructed as part of the flood alleviation works..

	access from Chertsey Road by the construction of the flood channel		
3	Contamination from former waste and landfill requires clean-up work.		Professional team to be appointed to carry out survey of the site to ensure no extraordinary control measures required, or to reflect cost in reduced purchase price.
4	Reputational damage if once approved the land purchase and flood relief works do not proceed in a timely manner		Clear and precise project plan incl. key dates and deliverables, continual engagement with partners, member and services.
5	Change in laws, e.g., additional measures to deal with waste.		Project team & stakeholders to keep up to date on all legal matters and forward plan.
6	Failure to complete purchase		Vendors to be regularly updated and ensure legal processes are expedited

Financial and Value for Money Implications:

22. Details of cost and financial implications are included in the accompanying Part 2 paper.
23. As the land is required for the delivery of the RTS, the capital cost will be met from the Surrey County Council's approved contribution to the scheme.
24. An application to the Government's Natural Environment Investment Readiness Fund is being prepared by officers for submission to the second round of funding to facilitate future investment in countryside sites and provide longer term funding for maintenance and ongoing improvements in nature recovery and recreational provision. The funding would be used to further improve this site beyond the improvements delivered by the RTS.
25. The site is of sufficient size and quality to become designated a Suitable Alternative Natural Green space (SANG) should planning regulations require one extending to this area of Surrey. This would facilitate the generation of revenue and longer term funding for maintenance of the site. There may also be opportunities to generate licensed income from recreational services such as catering.

Section 151 Officer Commentary:

26. Although significant progress has been made over the last twelve months to improve the Council's financial position, the medium term financial outlook beyond 2021/22 remains uncertain. The public health crisis has resulted in increased costs which may not be fully funded. With uncertainty about the ongoing impact of this and no clarity on the extent to which both central and local funding sources might be affected in the medium term, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term. The

proposed purchase of land is part of the River Thames Scheme, the cost of which is reflected in the Council's approved capital programme and Medium-Term Financial Strategy. There is a risk that the River Thames Scheme might not proceed, or that changes to the scheme could mean the land is no longer required. In that case either the site would be disposed of, or a business case would be presented detailing alternative use and funding. As such, the Section 151 Officer supports the proposal.

Legal Implications – Monitoring Officer:

27. This paper sets out three options in respect of acquiring land to support the River Thames Scheme and implement flood defence works in order to reduce flood risk to communities served by the Council. The options presented in this paper are viable options for the Council to pursue.
28. In respect of the preferred option to forward purchase land to support the construction of a flood channel and green agenda, the Council is empowered by section 120 of the Local Government Act 1972 to acquire land for delivery of any of its functions or services.
29. As more information is made available as part of the usual due diligence process for acquisitions of land, further legal advice on site specific matters can be provided.
30. In taking a decision, Cabinet should have regard to its fiduciary duties to local residents in respect of utilising public monies and when considering this paper, Cabinet Members will want to satisfy themselves that any purchase and associated costs represents an appropriate use of the Council's resources.

Equalities and Diversity:

31. It is not anticipated that the acquisition of the site will have any impact on residents or staff with different protected characteristics. Further work will be required to fully understand any impacts once it has been agreed that the acquisition will go ahead.

Other Implications:

32. The potential implications for the following council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

Area assessed:	Direct Implications:
Corporate Parenting/Looked After Children	No significant implications arising from this report.
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from this report.
Environmental sustainability	A full environmental assessment will be produced for the land as part of the Development Consent Order for the RTS.
Public Health	No significant implications arising from this report.

What Happens Next:

33. The Council's Solicitors will be instructed to progress legal documentation and due diligence whilst the professional team will undertake physical Due Diligence on the land, including ground surveys, to establish any liability.
34. Subject to confirmation that the acquisition has been approved, final terms agreed, and due diligence has been satisfactorily completed, the acquisition is being targeted to complete by 1 June 2021.

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Consulted:

The following officer were consulted during the preparation of the Cabinet Paper:

Doug Hill (Strategic Network Resilience Manager)
 Carolyn McKenzie (Director – Environment)
 Lee Parker (Director – Infrastructure, Planning and Major Projects)
 Katie McDonald (Countryside Commissioning Manager)
 Katie Sargant (Environment Commissioning Group Manager)
 Emma Goddard (Project Manager)
 Zoe Chick (RTS Project Manager)

The details of the Cabinet Paper and its recommendation have been presented to Infrastructure Board (18th March 2021), Capital Programme Panel (CPP) (24th March 2021) and to Cllr Natalie Bramhall and have been met with support.

Annexes:

Part 2 report

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