

Bath & North East Somerset Council		
MEETING	Cabinet	
MEETING	14 November 2024	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3583
TITLE:	Somer Valley Enterprise Zone –Side Roads Order	
WARD:	Paulton	
AN OPEN PUBLIC ITEM		
<p>List of attachments to this report:</p> <p>Appendix 1 Decision E3557</p> <p>Appendix 2 Decision E3487</p> <p>Appendix 3 Decision E3510</p> <p>Appendix 4 Decision E3486</p> <p>Appendix 5 SVEZ Highways Drawings</p> <p>Appendix 6 Equality Impact Assessment</p>		

1 THE ISSUE

- 1.1 The Council submitted a report in July 2024 (EFP Reference: E3557. Appendix 1) which secured authority from Cabinet to make and promote a compulsory purchase order (“CPO”) and take associated actions to acquire the land and rights required to deliver the Somer Valley Enterprise Zone (“SVEZ”), a mixed use commercial development at Old Mills north-west of Midsomer Norton with associated highway works (“the SVEZ Scheme”).

1.2 This report seeks authorisation to make, publish and subsequently secure the following orders which are also required to deliver the SVEZ Scheme;

- (a) a side roads order (“SRO”) under the Highways Act 1980 (“HA 1980”); and
- (b) any traffic regulations orders (“TRO”) under the Road Traffic Regulations Act 1984 (“RTRA 1984”) as may be required for the SVEZ Scheme.

2 RECOMMENDATIONS

2.1 The Cabinet is asked to:

- (a) Authorise the making of an SRO pursuant to sections 14 and 125 of the HA 1980 to secure authority for the SRO Works (as defined at para 5.8 of this Report) which are required to enable implementation of the Highway Works (as defined at para 5.5 of this Report).
- (b) Authorise the making of a TRO(s) pursuant to the RTRA 1984 to enable the TRO Measures which are required to govern the use of the highways network required to accommodate the SVEZ.
- (c) Authorise all necessary steps to be taken to secure the making, confirmation and implementation of the SRO and any TROs including the publication and service of all notices, requisitions for information, statement of reasons and the preparation and presentation of the Council’s case at any public inquiry required to secure confirmation of the SRO by the Secretary of State for Transport.
- (d) Note, and give due regard in determining whether or not to authorise the promotion of the SRO and any TROs, the public sector equality duty contained in section 149 of the Equality Act 2010 (“PSED”) and the requirements of the Human Rights Act 1998, as detailed further in section 11 of this Report.

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- (e) Delegate authority to the Executive Director of Sustainable Communities to (i) approve any changes to the SRO Works and (ii) make any necessary amendments to the SRO which may be required to enable the delivery of the Highway Works, including as detailed design of the SVEZ progresses.
 - (f) Delegate authority to the Executive Director of Sustainable Communities to authorise the final requirements of the TRO(s) which are required to facilitate the delivery of the SVEZ.
 - (g) Authorise the instruction of the SVEZ Project Team and its legal advisers, Burges Salmon LLP, to prepare and serve such documentation as may be required for the SRO and any TRO(s).
 - (h) Note the ongoing progress which has been made towards the acquisition of land required to develop the SVEZ Scheme and the previous decisions outlined in this Report.

THE REPORT

3 BACKGROUND

3.1 To deliver the SVEZ Scheme the Council:

- (a) Confirmed an LDO which applies across the SVEZ, inclusive of highways enabling works which was confirmed by the Local Planning Authority (LPA) on 22 February 2022 ; and
- (b) Is promoting the making of a CPO to acquire the land and rights that are required to deliver the scheme authorised by Full Council on 11 July 2024 (EFP Reference: E3557).

3.2 The purpose of this Report is to secure authority to make, serve and publish an SRO and any TRO(s) and promote such orders under the relevant statutory processes, including authority to take any steps which may be required to implement the SRO should it be confirmed by the Secretary of State for Transport.

4 PREVIOUS DECISIONS

4.1 The following Council decisions have preceded this Report and provide relevant background to this decision:

- (a) On 10 November 2016, the site allocation and proposals for the SVEZ were unanimously approved by Full Council; and
- (b) On 1 May 2018, the Cabinet Member for Economic and Community Regeneration authorised a £100,000.00 provisional capital item to the approved Capital Programme to be matched with £300,000.00 of WECA and section 106 contribution funding to prepare a Business Case for a comprehensive improvement scheme for the A362; this decision was effective from 12 May 2018.
- (c) On 1 February 2024, Cabinet resolved to adopt the Somer Valley Enterprise Zone – In Principle Statutory Mechanisms report (E3487) (Appendix 2). Decision E3487 contained resolutions which authorised the preparatory steps for this report, including powers of acquisition of the land by negotiation and commencement of land referencing, as well as the taking of all steps (including the drafting of a CPO and related documentation) necessary to prepare for this report to Cabinet to determine the use of compulsory purchase powers to acquire the land and rights in land required for the SVEZ Scheme.
- (d) On 1 February 2024 Cabinet resolved to adopt the Somer Valley Enterprise Zone Local Development Order – Commitments report (E3510) (“the Ambitions Paper”) which outlines the Council’s 8 aims and commitments for the SVEZ (Appendix 3).
- (e) On 22 February 2024, the Local Development Order (“LDO”) was adopted as the planning mechanism to deliver the SVEZ Scheme following a Cabinet decision on 1 February 2024 (Appendix 4).
- (f) On 11 July 2024, cabinet resolved to authorise the making of a CPO and supplemental CPO pursuant to s226(1)(a) and 226(3) of

the Town and Country Planning Act 1990 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 for the acquisition of land, interests, and new rights within all or part of the area identified as the CPO Land, for the purposes of facilitating the development of the SVEZ Scheme and associated actions such as voluntary acquisition of land and the payment of compensation (EFP Reference: E3557) (“Decision E3557”) (Appendix X).

5 NEED AND JUSTIFICATION

- 5.1 As outlined in further detail in Decision E3557 the SVEZ comprises two distinct elements, these being the Enterprise Zone and the associated highways works to enable the same which are both authorised by the LDO.
- 5.2 Whilst the LDO removes the need for planning permission in relation to the authorised works outlined in Decision E3557 it does not remove the need to obtain other statutory consents and as such an SRO and any TRO(s) are needed respectively for the reasons outlined in further detail below.
- 5.3 The use of an SRO is not essential to authorise the improvements to the local highway network which are required to facilitate the SVEZ. The necessary alterations could be secured through a range of other orders under the HA 1980 which are available to the highways authority. However, through consultation with Highways Development Management and the Project Team’s legal advisers, it has been determined that an SRO should be promoted as it allows for a single consenting process. This will increase efficiency, provide a comprehensive overview of all necessary works, ensure independent scrutiny from the Secretary of State for Transport and is expected to improve public awareness and engagement with the process.
- 5.4 Fundamentally, the SRO serves as a mechanism to support the LDO and the CPO. The SRO Works already have planning approval through the LDO and the land assembly required for the works (whether by voluntary acquisition or CPO) is already authorised. The SRO does not change the

scheme which has already been approved by Cabinet by authorising the LDO and the CPO.

5.5 The Highway Works

5.6 The highway works are those permitted by the LDO (“the Highway Works”) include the following:

- (a) straightening the A362 to include a new roundabout to provide the necessary access to the SVEZ site;
- (b) widening the road at ‘Sunnyside’ on the A362 to enable vehicles to pass one another easily and without causing delays during busy times;
- (c) additional active and sustainable travel provision including new and improved bus stops;
- (d) pedestrian and cycle path between the SVEZ and the Norton Radstock Greenway; and
- (e) junction improvements at Thicketmead Roundabout.

5.7 The Highway Works are shown on the LDO general arrangement drawings at Appendix 5.

5.8 The SRO Works

5.9 The SRO is required to authorise the Highway Works, and more specifically following alterations and improvements to the existing highway and public rights of way network (“the SRO Works”):

- (a) Creation of a new roundabout (to provide the access to the SVEZ) including realignment an improvement of the existing highway.
- (b) Creation of a new roundabout to replace the existing A362 Thicketmead junction.
- (c) Creation of a new carriageway along a section of the A362 at Sunnyside pinch-point.

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- (d) Stopping up of two small sections of existing highway on the existing A362 and existing B3355 to allow for changes to the highway network layout.
 - (e) Improvements to the existing A362 including (but not limited to) works to allow for straightening and tie-in to the new SVEZ access roundabout and the new roundabout at the Thicketmead junction.
 - (f) Provision of new and improved new cycleway/shared use path along the A362.
 - (g) Stopping up of footpaths which intersect with the proposed new cycleway/shared use path, which will in effect be re-provided by the new provision.
 - (h) Creation and adoption of new estate roads within the SVEZ.
 - (i) Creation of new private means of access through the SVEZ to neighbouring agricultural fields.
 - (j) Alteration of existing access arrangements to the Old Mills Industrial Estate.
 - (k) Creation of a new turning area along the [de-classified] section of the existing A362 (where the A362 will be stopped up to allow for creation of the new roundabout).

5.10 The TRO Measures

5.11 A TRO(s) will be required to govern any necessary changes to the use of the existing highway and new highways elements, including:

- (a) Removal of existing "Give Ways"
- (b) Amendments of speed limits
- (c) Installation of road crossings and on-carriageway bus stops
- (d) Relocation and upgrading of road crossings
- (e) Existing carriageway to be dead ended

6 PLANNING POSITION

- 6.1 As explained above, the Highway Works already benefit from planning permission through the LDO adopted in February 2024. No further planning consent is required to deliver those works. However, the LDO does not authorise either the SRO Works or the TRO Measures, which are required to consent the changes to the highway network and use of the highway that are necessary to enable the delivery of the Highway Works, and in doing so support the CPO by removing any impediments to its delivery.

7 FUNDING AND DELIVERABILITY

- 7.1 Decision E3557 outlines the funding of the SVEZ at section 8 noting this shall be made up of primarily through grants from the West of England Combined Authority Investment Fund (the WECA Investment Fund”) as well as other sources such as Community Infrastructure Levy (“CIL”) and developer contributions paid through section 106 TCPA 1990 contributions and corporate supported borrowing.
- 7.2 Since the publication of Decision E3557 the SVEZ Scheme secured approval of its Outline Business Case + (“OBC+”) from the WECA Committee in the Committee of 26 July 2024 unlocking a further £9,300,000.00 of funding towards land acquisition, promoting the CPO and technical design for the highways and enabling works in relation to the SVEZ.
- 7.3 The funding for the promotion of the SRO and TRO, and the costs of implementing the associated Highway Works and TRO Measures all comes from the existing SVEZ budget and is fully costed. The project budget will be reviewed on a regular basis.

8 STATUTORY CONSIDERATIONS

8.1 Authorising statutes

8.2 The SRO

8.3 The SRO will be made under sections 14 and 125 of the Highways Act 1980. Pursuant to those sections, the SRO will seek authority for the Council (as highways authority) to stop up, divert, improve, raise, lower or otherwise alter a highway that crosses or enters the route of the current classified road (i.e. the A362 which runs along the southern boundary of the SVEZ), or which may be otherwise affected by the construction or improvement of the classified road. The SRO will also authorise the construction of a new highway for purposes concerned with such alteration, or for any other purpose connected with the road or its construction.

8.4 Section 125 of the Highways Act 1980 also allows the SRO to be used to stop up or create new private means of access to premises for the purposes of constructing the SVEZ. Where the SRO permits stopping up of a private means of access, the SRO will only be authorised if the Secretary of State for Transport is satisfied that no access to the premises is reasonably required, or that another reasonably convenient means of access to the premises is available or will be provided.

9 It is a requirement that provision be made in the SRO for the preservation of any rights of statutory undertakers and telecommunications code operators in respect of their apparatus affected by the SRO, subject to section 21 of the Highways Act 1980. Section 21 applies certain provisions of the Town and Country Planning Act 1990 which will allow the extinguishment of these rights where a highway is stopped up or diverted under an SRO.

9.1 Owners or occupiers to which a supply was provided by that apparatus may be entitled to compensation for costs incurred due to the removal of the apparatus and the need to install a new connection with other apparatus.

9.2 The Department of Transport's Circular No 2/97 states that where there is a CPO and a related SRO "*it should be processed, as far as possible, at the same time as the CPO*" (section J(v), paragraph 95).

9.3 When the SRO is submitted to the Secretary of State in its 'as made' form, notice will also be served on persons affected by the order. There is a statutory objection period and, if there are objections, a public local inquiry will be held. The intention is to conjoin this with the inquiry required for the CPO.

9.4 The TRO

9.5 A TRO restricts or prohibits the use of a road or any part of a road by vehicular traffic or pedestrians (section 2 RTRA) will be secured under the RTRA 1984.

9.6 Section 122 of the 1984 Act sets out the considerations which must be taken into account by the Council in exercising its statutory powers, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, these considerations are:

- (a) securing the expeditious movement of traffic on the authority's road network; and
- (b) facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.

9.7 The Council has sought advice on the SRO and any TRO matters from its specialist external legal advisors and will instruct Counsel in due course. The Council has also instructed specialist technical consultant support.

10 RISK MANAGEMENT

10.1 The purpose of the SRO and any TRO is to regularise and authorise changes to the highway network which are already consented by the LDO and for which land acquisition will be supported by the CPO. The purpose of the SRO in particular is to streamline the approval of the Highway Works and reduce the risk of any discrepancies in the consenting position.

- 10.2 Whilst a public inquiry is likely to be required – and this will require an increase in professional and legal expenditure incurred by the Council – by conjoining the CPO with the SRO there will be minimal additional expenditure. The public inquiry itself also has the benefit of allowing increased scrutiny by the public and key stakeholders in a comprehensive manner, rather than a series of separate highways orders being brought forward in a piecemeal manner to achieve the same aims.
- 10.3 Therefore, whilst the SRO is not an essential facet of the SVEZ consenting process, it is the most robust approach to authorising the SRO Works.
- 10.4 Decision E3557 considers specific risks in relation to the delivery of the SVEZ Scheme at section 10, however the following risks are relevant to the SRO and any TRO's in particular below.

Risk	Explanation	Mitigation
Public inquiry required to consider objections to the CPO/SRO.	Whilst this is a project risk in terms of the potential to increase professional costs and the timescales for confirmation of the CPO/SRO, objections and the required public inquiry as a result are expected for CPOs/SROs of this nature and the inquiry is part of the proper due process of determining the CPO/SRO.	<p>The programme has time allocated for a CPO/SRO inquiry.</p> <p>Legal advice has been sought to ensure that the CPO/SRO is properly made and the correct powers are incorporated.</p> <p>The project's legal advisers have advised that promoting the SRO is unlikely to create any unique objection issues beyond those which may arise in respect of the CPO. Or, alternatively, those objections would likely be raised in</p>

		<p>respect of any alternative highways orders promoted.</p> <p>Promoting the SRO in parallel with the CPO reduces the risk of an unaddressed impediment to the CPO.</p>
<p>Promoting alternative highways orders instead of the SRO</p>	<p>The SRO is an optional mechanism available to the Council to regularise the changes to the highway network as a result of the Highways Works. A range of alternative powers and orders could be relied upon rather than using the SRO. However, this is likely to increase uncertainty and complexity, for decision-makers, the public and those affected by the proposals.</p>	<p>The promotion of the SRO is the most effective way to manage risk and programme related to the highways consenting process.</p>

11 EQUALITIES

11.1 Public sector equality duty

11.2 In considering whether to resolve to make a CPO, the Council must pay due regard to its PSED. Pursuant to section 149 of the Equality Act 2010, the Council must have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic (as defined in the Act) and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

11.3 Consideration must also be given to whether, if the decision is made to proceed with the SRO and any TROs, it will be possible to mitigate any adverse impact on a protected group or to take steps to promote equality of opportunity by, for example, treating an affected group more favourably.

11.4 Officers have had regard to the Council's PSED progressing the SVEZ Scheme to date and Members must be mindful of this duty when considering the recommendations in this Report.

11.5 The Council has renewed the existing scheme EqIA with a focus on SRO and TRO matters (Appendix 6) to support this decision. The Council has identified matters which will require active management (e.g. accessibility of SRO documents and ensuring arrangements for the inquiry are accessible) but there are no specific equality impacts which have been identified. There are no specific equality implications directly associated with the subject matter of this Report, which is inherently parasitic on the decisions to promote the LDO and the CPO.

11.6 In order to comply with the PSED the Council must continue to monitor and consider equality issues routinely throughout the implementation of the Scheme.

12 CLIMATE CHANGE

12.1 The Council declared a Climate Emergency in March 2019, committing it to providing the leadership necessary to enable Bath and North East Somerset to achieve carbon neutrality by 2030.

12.2 There are no climate change or environmental implications which stem directly from the authority to make an SRO and any TROs.

12.3 Section 12 of Decision E3557 considers climate change and the compliance of the SVEZ with the Council's objectives in further detail in relation to the CPO. Climate change matters were also considered as part of adopting the LDO. The same issues apply to the SRO and TRO, as it is the impact of Highways Works which is the primary concern. No new matters are raised by the promotion of the SRO/TRO.

13 OTHER OPTIONS CONSIDERED

13.1 The options available to the Council and the decision to deliver the SVEZ (at a project level) are explored in further detail in Decision E3557.

13.2 The Council must secure all necessary highways orders and consents to authorise the Highways Works (through one means or other) to deliver the SVEZ. Failure to address these consents at an early stage could result in an impediment to the CPO, increasing the risk that the CPO is not confirmed by the Secretary of State.

13.3 Proceeding with an SRO is considered by the Council to be the most efficient and expeditious ways to deliver the SVEZ. As explained in relation to risk mitigation, the alternative is the promotion of a range of connected orders and consents which carries more risk and would be less efficient.

14 CONSULTATION

- 14.1 The Council has undertaken a wide range of consultation on the LDO, with the public, statutory environmental bodies and other key stakeholders, this included the design and scope of the Highways Works. Summaries of the main consultation undertaken in relation to the Scheme are set out in section 14 of Decision E3557 (Appendix 1). Statutory consultation requirements regarding TROs will be followed at the point of making any relevant TROs as per section 14.4.
- 14.2 Where Further consultation has been undertaken with Highways Development Management to agree the promotion of the SRO. A meeting was held between Highways Development Management, the project team and the project's legal advisers on 27 August 2024.
- 14.3 Under Schedule 1 paragraphs 1 and 2 HA 1980 the Council as Highways Authority is required to prepare a draft of the SRO and publish it at least one local newspaper circulating in the area in which any highway or proposed highway to which the SRO relates is situated and a notice in the London Gazette, noting the effects of the order, naming the deposit location of the draft SRO and map for a period of 6 weeks from the date of publication of the notice and explaining how any person may object. This means that the public and affected persons will be consulted.
- 14.4 Before a TRO can be made, the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 requires that the proposals are published in the local press and other locations so as to ensure any affected parties are aware. They are then given 21 days to make representations which must be considered before the TRO can be made (regulation 13). Again, this ensures the ability of the public to participate.

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Background papers	None
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