

# Agenda

## Special Council

Date:	Wednesday, 18 March 2020 18:00.
Venue:	Town Hall, St Annes, FY8 1LW
	<p>Mayor: Councillor Angela Jacques          Deputy Mayor: Councillor Richard Redcliffe</p> <p>Leader: Councillor Sue Fazackerley <small>MBE</small>          Deputy Leader: Councillor Karen Buckley</p> <p>Councillors Ben Aitken, Frank Andrews, Peter Anthony, Tim Armit, Mark Bamforth, Brenda Blackshaw, Paula Brearley, Julie Brickles, Alan Clayton, Delma Collins, Peter Collins, Chris Dixon, Trevor Fiddler, Ellie Gaunt, Brian Gill, Shirley Green, Noreen Griffiths, Peter Hardy, Will Harris, Gavin Harrison, Paul Hayhurst, Karen Henshaw JP, Paul Hodgson, John Kirkham, Matthew Lee, Cheryl Little, Roger Lloyd, Michelle Morris, Kiran Mulholland, Ed Nash, Sally Nash-Walker, Jayne Nixon, Linda Nulty, Liz Oades, David O'Rourke, Bobby Rigby, Michael Sayward, Vince Settle, Elaine Silverwood, John Singleton JP, Roger Small, Heather Speak, Ray Thomas, Tommy Threlfall, Stan Trudgill, Viv Willder, Michael Withers.</p>

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	<b>PROCEDURAL ITEMS:</b>	<b>PAGE</b>
<b>1</b>	<b>Declarations of Interest:</b> Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	<b>1</b>
	<b>ANNOUNCEMENTS:</b>	
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## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
LEADER OF THE COUNCIL	COUNCIL	18 MARCH 2020	4
<b>M55 LINK ROAD</b>			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

The construction of a new purpose-built link road from Lytham St Anne's to the M55 (junction 4) has been a transport priority for Fylde Council and Lancashire County Council since the 1990's and has been included in a number of corporate plans and strategic transport plans. It is a key infrastructure project in the adopted Fylde Local Plan and is seen as essential to the delivery of planned sustainable growth for the borough. In July 2016, the Council committed to providing funding in the sum of £1m to assist in the delivery of the link road. Since then the design and delivery plans and funding packages have moved on considerably and the overall cost of the scheme has been refined.

In the light of the most up to date information, this report proposes pledging a further financial contribution of up to £1m from current and future Business Rate growth receipts arising from the Blackpool Airport Enterprise Zone which are due to Fylde Council, to be underwritten from reserves and/or future s.106 monies in advance of the receipt of those monies, to assist with the funding of the scheme in order to accelerate the construction of the link road in advance of delivery sooner than is required under the existing planning obligation. This additional contribution by Fylde Council would only become necessary if it were not possible to secure additional funding from other external sources.

### RECOMMENDATIONS

Council is recommended, in the event that it is not possible to secure additional external funding, including contributions through section 106 agreements, to:

1. Commit up to £1m of Business Rate growth from the Blackpool Enterprise Zone as a further contribution towards the accelerated construction of the M55-Heyhouses Link Road;
2. Approve the transfer into the M55 Link Road Reserve of current and future Business Rate growth receipts arising from the Blackpool Airport Enterprise Zone to a maximum sum of £1m;
3. Approve that in the event that less than £1m of Business Rate growth has accumulated by the time that the funds are required by Lancashire County Council to deliver the road, that any shortfall would be met from the Funding Volatility Reserve; and
4. That, should members accept the above recommendations, further legal advice will be sought to confirm that state aid rules would not be engaged by the revised proposed public sector contributions.

## SUMMARY OF PREVIOUS DECISIONS

The council has previously agreed the priority to achieve the construction of the M55 link-road. These are contained in a series of strategic plans and policies which are highlighted in paragraph 2 of the report.

### Council - 4 July 2016

Resolved to:

1. approve the establishment of a specific 'M55 Link-road Reserve' to meet the cost of any financial contribution from the Council towards the cost of construction;
2. approve the transfer of £196k from the Capital Investment Reserve into the M55 Link-road Reserve;
3. request that officers investigate further funding opportunities, including the achievement of additional income/savings from budget right-sizing exercises which could be considered for potential transfer into the M55 Link-road Reserve;
4. approve an 'in principle' contribution of up to £1m towards the cost of construction of the M55 link road up to 2019, with a further report detailing how the remainder of the required contribution may be identified;
5. agree the Heads of Terms to establish the conditions that should be attached to the approval of the above financial contribution and that these conditions form the basis of a detailed agreement between all parties;
6. that the Councils programme committees be instructed to consider new capital schemes only where they are urgently required for health and safety reasons or where there is strong business case to protect/enhance existing revenue or create a revenue income stream in order that priority is given to accumulating a sufficient contribution towards delivery of the M55 link road scheme;
7. approve the attendance and involvement of the Leader and Deputy Leader of the Council, along with relevant officers as appropriate, to continue discussions and meetings with the different parties with the aim to reach a solution to funding the accelerated construction of the M55 link road;
8. agree that a further report be prepared for Council when the outcome of the discussions above are finalised in order that Members may consider the final details of the agreement, together with any associated specialist legal or other advice implications and how the contribution from the Council would be funded; and
9. approve an addition to the capital programme for 2016/17 in the sum of £424,765.02, which has been met in full from the balance of S106 developer contributions for construction of the link road currently held by the Council for this purpose in the same sum. The developer contribution is intended to provide funding for the design and the contractual management of the link-road scheme by Lancashire County Council, and Members are requested to note that this payment has been made in accordance with the terms of the planning obligation.

### Council - 25 March 2019

RESOLVED to approve a fully funded addition to the capital programme in 2019/20 of £1,000,000 fully funded from the M55 Link Road Reserve that was created in 2016/17 and to authorise the payment of £1,000,000 to Lancashire County Council towards the construction of the accelerated M55 link road based on Heads of Terms as detailed in the report

## CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services ( <b>Value for Money</b> )	√
Delivering the services that customers expect of an excellent council ( <b>Clean and Green</b> )	
Working with all partners ( <b>Vibrant Economy</b> )	√
To make sure Fylde continues to be one of the most desirable places to live ( <b>A Great Place to Live</b> )	√
Promoting Fylde as a great destination to visit ( <b>A Great Place to Visit</b> )	

## BACKGROUND

### STRATEGIC CONTEXT

1. The principle of developing an improved link to the M55 motorway was established in the former adopted Fylde Local Plan 1996 - 2006 (Policy TR6) (adopted 1994) and the Lancashire County Structure Plan 1991 – 2006 ‘Greening the Red Rose County’ (Policy 34) (adopted February 1997).
2. Subsequent to that, various documents have referred to the road scheme to varying degrees as follows:
  - Lancashire Local Transport Plan 2001/02 - 2005/06 (Lancashire County Council)
  - Joint Lancashire Structure Plan (JLSP) 2001 - 2016, Adopted March 2005 (Lancashire County Council, Blackburn with Darwen & Blackpool Councils)
  - Central Lancashire City Region, Sub-Regional Strategy, First Detailed Proposals, March 2005 (Lancashire County Council, Blackburn with Darwen & Blackpool Councils)
  - Ambition Lancashire 2005 –2025, Strategic vision for the future of Lancashire (Lancashire Partnership)
  - Fylde Local Plan 1996 – 2006 – Alterations Review, Adopted October 2005 (Fylde Borough Council)
  - Lancashire Local Transport Plan 2006 - 2010 (Lancashire County Council)
  - Fylde Council Economic Development Strategy and Action Plan - 2012 to 2030, Adopted January 2013 (Fylde Borough Council)
  - Fylde Coast Highways and Transport Masterplan 2015 – 2032 (Lancashire County Council)
  - The Fylde Coast Framework for Inclusive Growth & Prosperity – 2015 to 2020, Adopted June 2016 (Blackpool, Fylde and Wyre Economic Development Company)
  - The Fylde Local Plan to 2032 – adopted October 2018 (Fylde Borough Council)
3. In February 2016, Council agreed a Corporate Plan which runs from 2016 to 2020. The plan contains five themes. One of the priorities over the next four years under the theme ‘A vibrant economy’ is ‘Improve the transport infrastructure and traffic flow’. An agreed action to deliver this is; ‘Progress the re-opening of the M55/ Moss Road link’. The commitment continues in the draft Corporate Plan 2020/24 which pledges to ‘Work with partners to deliver the M55 Link Road and other transport infrastructure i.e. rural bus routes’.

### PLANNING HISTORY

4. It has previously been the intention that the cost of the new link road would be met from developer contributions. The Northern section from the A583 to School Road has already been completed by the developer on the back of the B&Q Store. Whilst the Southern section from Heyhouses Lane to North Houses Lane was funded and constructed from the residential development of Cypress Point. Accordingly, all obligations attached to those planning permissions were met in full.
5. The middle section from School Road to North Houses Lane (Cypress Point) is planned to be built on the back of the development of Queensway for housing.
6. The Council received a planning application for housing on this site in 2008. Due to the extensive issues which required assessment determination was delayed and subsequently the developer lodged an appeal against the non-determination of the application. The appeal was recovered by the Secretary of State who refused planning permission in June 2010, contrary to the Inspector’s recommendation. This decision was challenged and then quashed by order of the High Court in December 2010.
7. A new inquiry took place in January 2012. In order to enable the Secretary of State to consider the relationship between the housing site and the M55 link road he directed that the M55 link road application be referred to him instead of by the relevant local planning authority, Lancashire County Council, who were minded to approve the application.
8. The inspector recommended approval of both the housing appeal and link road application and the Secretary of State, in June 2012, agreed with the inspector’s conclusions and recommendations and granted planning

permission. The permission required that development shall commence not later than five years from the date permission was granted. Both permissions were subsequently commenced so the permissions remain extant.

9. Two revised planning applications were submitted and approved by LCC in 2019 to revise the alignment of the link road under references 19/0056 and 19/0173.

#### CURRENT SITUATION

10. In the absence of a new purpose-built link road many drivers used the old single carriageway moss road between School Lane and North Houses Lane near Cypress Point as a preferred route between Lytham St Anne's and junction 4 of the M55. Although this road had a weight and width restriction the length between School Road and Annas Road became damaged in late 2014 and was closed by LCC.
11. Since that time, the closure of the moss road has contributed to severe congestion and inconvenience to residents and visitors to the borough. This has also resulted in an economic restriction for the borough until either the moss road is repaired and re-opened or the new link road is built.

#### PROVISION OF THE LINK ROAD THROUGH DEVELOPMENT OF QUEENSWAY

12. The developer (Kensington Developments Ltd) is required, through a planning obligation under s.106 of The Town and Country Planning Act 1990, to fund the construction of the new link road in three phases linked to construction, sales and occupancy of dwellings at 150, 300, 425 dwelling trigger points. The trigger points are set to allow the developer to raise funds for the construction of each phase from housing sales achieved.
13. As currently set out in the section 106 agreement, the three staged payments would fund the road from:
  1. Cropper Road/School Road roundabout to Annas road;
  2. Annas Road up to where it meets the east-west road at a new roundabout (Moss Sluice);
  3. East west roundabout (Moss Sluice) to previously upgraded road (Lytham St. Anne's Way).

Current estimates indicate the total cost of the whole link road to be £25.55m. At currently predicted build out rates, the trigger point for the first payment would not be reached until 2023. Given the uncertainties of the housing market, it is difficult to predict when subsequent payments would be triggered, but even based on the most optimistic build out rates of 100 dwellings per annum, the second trigger point would be reached in 2026/27 and the third in 2027/28. Construction of the road would only be able to commence once the funding is in place and so the road would not be open to users until at least 2030.

#### OPTION TO ACCELERATE CONSTRUCTION OF LINK ROAD

14. The Council has been involved in talks with the developer (Kensington Developments Ltd), Lancashire County Council (Highways) and the Local Enterprise Partnership (LEP) to investigate options for securing early construction of the new link road. Funding from a series of grant funds was secured which, in addition to an advance payment of £7m from the developer, would have allowed the delivery of the link road to be accelerated.

#### BENEFITS OF DELIVERING AN ACCELERATED NEW LINK ROAD TO THE M55

15. Fylde Council has already committed funding to the scheme in order to assist in the accelerated delivery of the road. The advantage of a new road delivered in one contract, achieving certainty of delivery and maximising efficiencies in the letting of the contract include:
  - Reducing congestion on all major roads in St Anne's/Queensway as drivers would travel a more direct route to reach the M55;
  - Reducing congestion on roads in Wesham, Kirkham, Ballam and Wrea Green as more traffic would use junction 4 instead of junction 3 to access Lytham;
  - Generating economic activity and growth by unlocking development potential for circa 1,000 new homes;
  - Unlocking previously dormant employment sites to encourage inward investment and create jobs;

- Providing a strategic link between the main housing (Lytham St Anne's) and employment (Whitehills/Whyndyke/Blackpool Periphery) areas in the borough which has been a stated aim of Fylde Council in a series of key policy documents for many years;
- Provide the infrastructure to facilitate the provision of public transport and cycle links between these strategic areas to promote sustainable transport;
- Support growth that will promote accelerated prosperity for the borough and secure more sustainable long-term ongoing revenue for the council through business rate growth retention;
- Providing more direct and less congested access to St Annes Town Centre and sea front that would help support a vibrant centre and seaside resort.

#### LOCAL CONTRIBUTION 2020 UPDATE

16.A local contribution from Fylde Council towards the project of £1m was agreed in 2016. Since that time funding has been secured from a range of public bodies. However, the downturn in the housing market and other economic uncertainties mean that Kensington Developments Ltd are not in a position to commit significant funding towards the link road project ahead of confirmed sales as was envisaged when the funding package for the accelerated delivery programme was put together in 2016. As a result, it has been necessary to explore alternative options to deliver the accelerated scheme.

17.Various options to deliver the link road in order to facilitate the delivery of the new housing on the Queensway Site have been explored with Homes England, who following due diligence work considered that the site was not viable when regard was had to site infrastructure requirements, obligations and ground conditions.

18.Having re-examined the viability of the project in the light of the work carried out by Homes England, the developer has confirmed that, in addition to the provision of the land necessary to construct the link road, they are able to make a financial contribution of £2.5m to facilitate the early delivery of the link road.

19.The county council's level of financial support was originally £1.7m which was calculated in 2014. This was the cost to rebuild circa 900m of failed road allowing the corridor to be reopened albeit retaining its restrictions of width and not being suitable for 2-way traffic or suitable for large vehicles. Since 2014 a full design has been produced with more accurate costs of utilities and having benefit of topographical and borehole data being available as well as ecology information, as well as a greater understanding of risks.

#### SCHEME COST AND EXISTING FUNDING

20. The latest estimated cost of delivering the unconstrained link road stands at £25.55m and currently £20.77m of funding has been secured. This leaves a current funding shortfall of £4.78m, as set out in the table below:

**Table1: Existing Funding for the M55 Link Road**

Elements of cost	£m	£m
Estimated Construction Cost		<b>25.55</b>
<b>Secured Funding:</b>		
• Lancashire County Council	1.70	
• Fylde Borough Council	1.00	
• National Productivity Investment Fund (part used on BT utility works)	5.00	
• Housing Infrastructure Fund (HIF)	3.81	
• Highways England	4.78	
• LEP (Local Growth)	1.98	
• Kensington Developments Ltd	2.50	
<b>Total secured funding</b>	<b>20.77</b>	
<b>Funding shortfall</b>		<b>4.78</b>

21. To enable delivery of the scheme to commence all of the funding and land requirements must be secured by the 20th March 2020, this deadline having been set by the LEP. If this deadline is not satisfied the LEP funds will be reallocated resulting in a delay whilst officers await the announcement of new public funding programmes, with no certainty of any potential bids for these programmes being successful.
22. Further external funding is actively being sought from a number of the funders listed above, but unless the funding shortfall can be met it is increasingly likely that some of the secured sources, most notably the LEP funding, will be withdrawn and allocated to other infrastructure projects.
23. Accordingly, Lancashire County Council are in the process of increasing their contribution from the £1.7m shown above to £5.48m (an increase of £3.78m), which will leave a residual funding shortfall of £1.0m which this Council is being asked to consider.

#### BLACKPOOL AIRPORT ENTERPRISE ZONE

24. Blackpool Council acts as the Accountable Body for the Blackpool Airport Enterprise Zone (EZ) which straddles the boundary of Fylde and Blackpool Councils. A fundamental principle of Enterprise zones is that Business Rate growth within the EZ (that is additional Business Rates generated above a business rate 'baseline' which is set when an EZ is established) is held by the accountable body for re-investment on expenditure in relation to the EZ itself.
25. The agreement between Blackpool Council, Fylde Council, the Lancashire Enterprise Partnership and the DCLG (now MHCLG) on the financial operation of the Blackpool Airport Enterprise Zone is set out in the Memorandum of Understanding signed on 9<sup>th</sup> November 2016.
26. The delivery of the M55 Link Road is recognised within the Memorandum of Understanding as being key to the longer-term development and sustainability of the Airport Enterprise Zone. A contribution to Fylde Council of £1m towards the Link Road scheme is included within the provisional list of infrastructure projects to be funded from Business Rates growth that are detailed within the Memorandum of Understanding. The payment to Fylde Council is presently scheduled in the EZ Delivery plan approved by The LEP, and Blackpool and Fylde councils for 2027/28.
27. Blackpool Council, as the accountable body for the Enterprise Zone, have explored ways in which the proposed contribution of £1m may be achieved and have suggested that as an alternative to an acceleration of the £1m that, Fylde Council could retain Business Rate growth arising from those businesses located within the Fylde Council part of the Enterprise Zone, up to a maximum sum of £1m or until such time as payment was made for the link Road – whichever was the earlier, as re-imburement of the Councils contribution to the M55 Link road delivery. Thereafter any further Business Rate growth in respect of businesses located within the Fylde Council part of the EZ would be paid over to Blackpool Council for re-investment within the Enterprise Zone until 2041 when the EZ designation will expire.
28. To date the total Business Rates growth generated in the Fylde Council zone stands at £274k. It is proposed that this sum, along with all future Business Rate growth receipts arising from the Fylde sector of Blackpool Airport Enterprise Zone to a maximum sum of £1m, or until such time as payment was made for the link Road – whichever was the earlier be added to the M55 Link Road Reserve in order to provide for the Councils additional potential commitment to the scheme.
29. The Council is requested to note that officers will investigate further funding opportunities to finance the M55 Link Road from external sources and s106 developer contributions, and that this additional contribution by Fylde Council would only become necessary if it were not possible to secure additional funding from other external sources.
30. Discussions to secure an agreement have benefitted from the input of the Leader and Deputy Leader along with the MP.
31. In 2013/14, the council created a 'Funding Volatility Reserve' from additional Business Rates received under the Business Rate Retention Scheme. This is a voluntary set-aside established to provide a degree of protection to the Council's finances against future volatility in central government funding allocations and to fund investment in activity to stimulate Economic Development in the Borough.



32. The reserve, which currently stands at £5.2m, is identified for release to support the revenue budget as and when necessary to cushion the impact of future funding reductions and to fund investment in activity to stimulate Economic Development in the Borough. The first call on this reserve is as match funding for the Fairhaven lottery bid in the maximum sum of £400k, with a further £20k being approved to support the development of a Greater Lancashire Plan at the Finance & Democracy Committee of September 2019. A budget proposal for 2020/21 is for the next priority call upon the reserve to be in respect of the regeneration of St Annes town centre.
33. As set out above, the M55-Heyhouses Link Road is identified as a key infrastructure proposal in a whole raft of policies and strategies and is identified as a key component in securing the economic viability of the borough. As such, the link road is probably the most important economic development project that is identified for the borough.
34. Consequently, it is proposed that in the event that less than £1m of Business Rate growth has accumulated by the time that the funds are required by Lancashire County Council to deliver the road, that any shortfall would be met from the Funding Volatility Reserve. It is anticipated that, notwithstanding the current commitments to be met from the Funding Volatility Reserve as set out above, there would be sufficient monies available in the reserve to meet this additional requirement in respect of the Link Road, should it become necessary.
35. As with the previously agreed financial contribution, in committing any further financial support it is recommended that terms are agreed including:
- The grant made by Fylde Council is to achieve an accelerated construction and delivery of the M55 Link Road significantly in advance of that linked to the delivery of the Queensway housing development. A specific detailed project timetable should be agreed and referred to that sets out this objective;
  - The grant made by Fylde Council requires all parties to the project to use their best endeavours to ensure delivery of the M55 Link Road and reserves the right to reduce or withdraw its contribution if it believes that any party has not done so. Although this may be difficult to objectively measure and judge;
  - The grant is payable on the basis of appropriate contributions from other partners as specified in the report;
  - The offer of a grant from Fylde Council may be reduced or removed if the contributions from other partners are reduced either through a reduction in the cost of the overall project or if any application for additional grant funding towards the project is successful;
  - The contribution from Fylde Council must be acknowledged where appropriate in all publicity that refers to how the funding of the M55 Link Road is made up.
36. It is proposed that the above terms form the basis of an agreement with the different parties to protect the council's investment. Specialist legal and other advice may be required to ensure that any agreement protects the council's interests to the maximum possible extent.

IMPLICATIONS	
Finance	The financial implications are set out in detail in the report.
Legal	The contribution would be made under the council's power of general competence under section 1 of the Localism Act 2011, and in pursuance of the council's powers to promote the economic development of its area. Nevertheless, it is necessary to consider whether the proposed public sector contributions (including the council's proposed contribution) might amount to state aid, which is subject to strict control under EU law. Since this was last considered, it has become clear from discussions with Homes England that the residential development at Queensway will not be able to make the level of contributions towards the road that were previously envisaged. There are clear benefits to St Annes

	<p>and the wider borough from the delivery of this essential infrastructure and if these are to be achieved significant public sector funding is required whether the road is delivered now or in the future. The costs of the road place a significant financial burden on the development such that the level of public subsidy currently proposed is proportionate to the wider public benefits identified in the report.</p> <p>The existing position is that Kensington is obliged to build the road as and when certain trigger points are met. Those trigger points are within the control of Kensington, as they depend on the build-out of houses on its Queensway development. If the development does not reach the final trigger point, the road would not be completed.</p> <p>The financial effect on Kensington of the proposed public sector contributions to the building of the road is that certain costs which (if the relevant trigger points are met) would be borne by Kensington, would instead be paid by the public sector. These would need to be set against the costs to Kensington of early financing of the initial construction costs, which would otherwise be met by receipts from the sale of houses on the Queensway development.</p> <p>As such the preliminary view is that the public sector contributions will be in line with the state aid rules.</p> <p>Nevertheless, it will be necessary, should members accept the recommendations in the report, to obtain further legal advice to confirm that state aid rules would not be engaged by the revised proposed public sector contributions.</p>
Community Safety	None
Human Rights and Equalities	None
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	CONTACT DETAILS	DATE
Councillor Sue Fazackerley		March 2020

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Fylde Coast Highways and Transport Masterplan	July 2015	<a href="http://www.lancashire.gov.uk/council/strategies-policies-plans/roads-parking-and-travel/highways-and-transport-masterplans/fylde-coast-highways-and-transport-masterplan.aspx">http://www.lancashire.gov.uk/council/strategies-policies-plans/roads-parking-and-travel/highways-and-transport-masterplans/fylde-coast-highways-and-transport-masterplan.aspx</a>