

## CABINET

<b>Report Title</b>	A4123 Bus, Cycle & Walking Corridor – Land Appropriation, Ormiston Academy, Tividale		
<b>Date of Meeting</b>	Wednesday, 7 May 2025		
<b>Report Author</b>	Rose Dovey		
<b>Lead Officer</b>	Executive Director - Place		
<b>Lead Cabinet Member(s)</b>	Cabinet Member for Regeneration & Infrastructure		
<b>Why is this a key decision?</b>	1. Expenditure over £1 Million+	yes	
	2. Significant impact on 2 or more wards	no	
<b>Wards Affected</b>	Oldbury;		
<b>Identify exempt information and exemption category</b>	Choose an item.		
<b>Is the report urgent?</b>	No		
<b>Reasons for urgency (only where applicable)</b>			
<b>Appendices (if any)</b>	1. Appendix 1: Proposed Land Take – Ormiston Sandwell Community Academy		

## 1. Executive Summary

- 1.1. This report seeks approval to accept a £1.56m grant from West Midlands Combined Authority (WMCA) for the purposes of the early design and delivery of the section of the A4123 Bus, Walk, Cycle scheme on the A4123 from Burnt Tree junction to Lower City Road, and to consider the appropriation of land adjacent to the A4123 New Birmingham Road from The Ormiston Academy.

## **2. Recommendations**

The Cabinet is recommended to:-

- 2.1 Accept the £1.56m grant from WMCA for the purposes of the early design and delivery of the section of the A4123 Bus, Walk, Cycle scheme on the A4123 from Burnt Tree junction to Lower City Road;
- 2.2 Authorise the appropriation of land at A4123 New Birmingham Road shown in Appendix A as highway to allow for highway improvements on the A4123 New Birmingham Road subject to the relevant completion certificates being issued to Highway Services under Section 36 (2) (a) of the Highways Act 1980, so that they are adopted as public highway and maintainable at public expense;
- 2.3 Authorise an application to the Secretary of State for Education for the appropriation of land at Ormiston Sandwell Community Academy, Lower City Road, Oldbury to Highways Services;
  - 2.3.1 subject to the application being approved by the Secretary of State for Education, the Director of Children and Education be authorised to complete appropriation of the land to Highways Services; and,
  - 2.3.2 subject to (2.3.1), the Director of Regeneration and Growth be authorised to complete the appropriation from Children and Education to Highways Services and agree to any compensation required.
- 2.4 Grant approval for Council to cover the cost of the appointment of legal advisors (up to a maximum of £5,000) to act on the behalf of the Ormiston Academies Trust to enable the legal drafting of documents such as a Deed of Surrender and the Re- Grant of new lease with amended extent of demise for the purpose of the Academy lease, to enable the disposal of part of the non-playing field land leased by them under Part 3 of Schedule 1 to the Academies Act 2010;
- 2.5 Authorise instruction to Council's Legal Services to surrender the original lease dated 17 July 2013 granted to the Ormiston Academies Trust for the Ormiston Sandwell Community Academy and to re-grant the lease with amended extent of demise, which would exclude part of the land required for the purpose of the A4123 Highways Improvements and to vary the lease between Council and the Ormiston Academies Trust to take into account the disposal of part of the non-playing field land leased by them under Part 3 of Schedule 1 to the Academies Act 2010;
- 2.6 Authorise instruction to Legal Services to apply to the Land Registry Applications to:

- 2.6.1. update the current Freehold Title (Title Number: WM881722)
  - 2.6.2. update the Leasehold Title (Title Number MM8928) owned by the Council; and,
  - 2.6.3. update the Leasehold Title owned by the Ormiston Academies Trust (Title Number MM134250)
  - 2.6.4. subject to 2.5.1, 2.5.2 and 2.5.3, close any title/s no longer remaining and update title registers by arranging for the removal of any reference to non-applicable title/s.
- 2.7 Grant approval for instruction to Council's Legal Services to arrange for a Deed of Release of Big Lottery Fund administered land.

### **3. Proposals – Reasons for the recommendations**

- 3.1 The A4123 Walk, Cycle and Bus Corridor project forms part of the West Midlands City Region Sustainable Transport Settlement (CRSTS) programme for the funding period 2022-27. In principle scheme approval for the project was granted at Cabinet on 7th February 2024. Approval for the preferred scheme (junction upgrades with minimal bus priority measures and a fully segregated bi-directional cycle track along the full length of the route) to be further developed through detailed design and to Full Business Case stage was granted at Cabinet on 11th September 2024.
- 3.2 An initial CRSTS grant of £1.56m has been offered to deliver the Burnt Tree junction to Lower City Road section of the scheme along the A4123 Birmingham New Road. This section will connect to the recently delivered Tipton Road to Burnt Tree junction scheme which was delivered using funds from the Department for Transport's (DfT) Active Travel Fund 2 (ATF2) via the Burnt Tree Junction bus and active travel improvement scheme which is currently being developed by Transport for West Midlands (TfWM). Early delivery of the Burnt Tree junction to Lower City Road section of the scheme will enable a continuous route, encouraging a greater take up of active travel by the public. The acceptance of the initial CRSTS grant of £1.56m will also reduce the risk of delay in the overall delivery programme which requires the scheme to be delivered by 1 March 2027.
- 3.3 There is a requirement to increase the footprint of the highway network to enable construction of the new fully segregated bi-directional cycle track. To achieve this, 338.2 sqm of land adjacent to A4123 New Birmingham Road, which is not currently designated as Highways land, is required. The land is council owned however it is currently leased to the Ormiston Academies Trust and forms part of the Ormiston Sandwell Community Academy. The land is

comprised of unused vegetation, known as 'Millenium Trees', which is currently administered by the Big Lottery Fund, and is located adjacent to the Ormiston Sandwell Community Academy's playing field land. The Ormiston Academies Trust is in support of surrendering part of its lease to enable construction of the new fully segregated bi-directional cycle track.

- 3.4 The Plan contained in Appendix A shows the extent of the land requesting to be appropriated. The intention is to vary the lease between the Council and the Ormiston Academies Trust to enable retainment of the residual lands once the Highway Scheme has been completed. Pursuant to the Highways Act 1980, the Council is the Highway Authority for the area in which the highway construction works will be situated and upon the designation coming into effect the area will become maintainable at the public expense.
- 3.5 The Academies Act 2010 requires the Ormiston Academies Trust to apply to the Secretary of State for Education for consent to surrender part of its lease. The Department for Education classes this as 'disposal of non-playing field land'. Council will also need to apply to the Secretary of State for Education for consent to appropriate land that is currently used by a school.
- 3.6 It may be required by the Secretary of State, as a condition of consent, that Council compensate the Ormiston Academies Trust for the appropriation of the land. This will not be known until the application has been reviewed by the Secretary of State. In the event of this occurring, Council will put forward the contention that the construction of the new fully segregated bi-directional cycle track provides safety improvements that will benefit the school community thereby constituting adequate compensation for the appropriation of land.
- 3.7 The application by the Ormiston Academies Trust to the Secretary of State for Education will require an undertaking to their solicitors. Council will need to cover the cost of the appointment of legal advisors to act on the behalf of the Ormiston Academies Trust to enable the legal drafting of a Deed of Surrender and the Grant of a new lease for the disposal of part of the non-playing field land leased by them under Part 3 of Schedule 1 to the Academies Act 2010 and to submit the application to the Secretary of State for Education for consent to surrender part of its lease. Their solicitors have provided a fee estimate of between £1,500 and £2,250 for the legal drafting of the deed and of between £750 and £1,250 to submit the application. Council's Legal Team has advised that a maximum budget of £5,000 is made available for this purpose.
- 3.8 The application to the Secretary of State for Education for consent to appropriate the required land will be undertaken by Council's Children and Education Services via a Delegated Decision Report authorised by the

Cabinet Member for Children and Education Services. Once consent is received, the Director of Children and Education Services and the Director of Regeneration and Growth will be in a position to complete the appropriation and transfer of the land to Highways Services, once any compensation required is agreed upon.

- 3.9. Upon receiving consent by the Secretary of State for Education to appropriate the required land, Council's Legal Services will need to vary the lease between Council and the Ormiston Academies Trust to take into account the disposal of part of the non-playing field land leased by them under Part 3 of Schedule 1 to the Academies Act 2010 and grant a new lease for the term remaining.
- 3.10. Council's Legal Services will also need to apply to the Land Registry Applications to update the current Freehold Title and both the Council and the Ormiston Academies Trust's Leasehold Titles in reflect the variation and changes to the Ormiston Academies Trust's lease. The Council's Freehold and Leasehold title will need to be merged, or the Leasehold title will need to be extinguished to ensure that the variation is adequately reflected with the Land Registry for the Ormiston Academies Trust's Leasehold Title.
- 3.11. Council's Legal Team will also need to liaise with the Big Lottery Fund to arrange for a Deed of Release of the land required to construct the fully segregated bi-directional cycle track.
- 3.12. As set out in the Cabinet reports of 7<sup>th</sup> February 2024 and 11<sup>th</sup> September 2024, this scheme has £29.0 million City Region Sustainable Transport Settlement (CRSTS) funding to deliver the corridor by 2027. The section of the A4123 from Burnt Tree to Lower City Road (excluding the Lower City Road Junction) is proposed for delivery in 2025/26 by Sandwell Borough Council as early funding has been allocated for this section. The remaining length of the A4123 corridor in Sandwell area will be delivered in sections during the period 2025 to 2029 subject to approval of the Full Business Case which will provide a more defined programme for delivery.

#### **4 Alternative Options Considered**

- 4.1. One alternative option is to not continue with the early delivery of the section of the A4123 from Burnt Tree to Lower City Road. This is not recommended, as users would have to wait longer for to make use of the infrastructure and its linkages. Also, construction costs are likely to continue to rise, putting pressure on the overall budget for the A4123 Bus, Cycle & Walking Corridor Scheme. The £29m allocated within the CRSTS programme is specifically for the development and delivery of the A4123 Bus, Cycle & Walking Corridor Scheme. However, if monitoring and evaluation processes highlight a risk of not being

able to deliver the project on time and within budget, funding may be reallocated to another scheme not necessarily within Sandwell, potentially resulting in a loss of investment within the borough.

- 4.2. An alternative option is to not continue with the land appropriation required to construct the scheme. This would mean that the widths required to deliver a compliant segregated bi-directional cycle track would not be available and the current infrastructure, comprising of a non-compliant shared-use walking and cycling facility would have to remain. This would have safety implications for users who are currently required to 'give way' to other users on some sections of the facility where it is too narrow for users to comfortably pass one another.

## **5 Consultation**

- 5.1. A comprehensive public consultation exercise took place between November 2024 and January 2025 to ascertain local sentiment around the proposed interventions. This included public exhibitions in all three local authority areas covered by the scheme. In Sandwell, public consultation events took place at Brandhall Library on 10<sup>th</sup> December 2024 and Portway Lifestyle Centre on 18<sup>th</sup> December 2025.
- 5.2. 27 responses were received – 17 (63%) of which were 'positive' or 'mostly positive', 6 (22%) of which were 'negative' or 'mostly negative' and 4 (15%) of which were 'neutral'. Of the respondents who opted to provide additional comments, some commented that improved lighting and careful tree maintenance should be included as part of the scheme. Negative feedback included that the scheme was a 'waste of money' and investment would be better targeted at improvements to road quality.

## **6. Financial Implications**

- 6.1. The project will be funded through devolved allocations to the West Midlands Combined Authority (WMCA) as part of its City Region Sustainable Transport Settlement. All fees, including SMBC staff time recharges, are included in the estimated scheme cost as set out in the Cabinet reports of 7<sup>th</sup> February 2024 and 11 September 2024.

## **7. Legal and Governance Implications**

- 7.1. The grant funding award from the WMCA is accompanied by a range of conditions and requirements relating to how the funding is used: the Council is obligated to monitor performance and compliance and report back to the WMCA in accordance with the funding agreement.

- 7.2. Pursuant to the Highways Act 1980 (the 1980 Act), the Council is the Highway Authority for the area in which the highway construction works are situated and upon the appropriation coming into effect, the highway construction works become maintainable at the public expense. The adopted status of the land as part of the public highway derives from powers granted to the Council under s.228 of the 1980 Act.
- 7.3. Once the land is appropriated and adopted as part of the highway, the Council as Highways Authority must pursuant to s.36(6) of the 1980 Act update the definitive street map and relevant statement for the respective areas.

## **7. Risks**

- 7.1 A full Risk Assessment accompanies the Outline Business Case for the scheme.

## **8. Equality and Diversity Implications (including the public sector equality duty)**

- 8.1. An Equality impact Assessment accompanies the Outline Business Case for the scheme.
- 8.2. The project will support marginalised and vulnerable groups providing greater opportunity for all to travel to services and jobs safely and affordably. It will also provide opportunity for greater social interaction between all members of the community.

## **9. Other Relevant Implications**

- 9.1. The project includes measures aimed to encourage the use of sustainable, non-car, modes. This will contribute towards improved air quality, reduced carbon outputs and reduced congestion along the A4123. This will enable greater journey time reliability and reduced journey time variability for buses.
- 9.2. The active travel measures along a segregated route for walking and cycling will also give a greater opportunity for safe and effective exercise providing proven physical and mental health and wellbeing benefits to the local communities.

## **10. Background Documents**

- Cabinet Report - 7<sup>th</sup> February 2024
- Cabinet Report - 11<sup>th</sup> September 2024.
- Outline Business Case – A4123 Walk, Cycle and Bus Corridor Improvements

## 11. How does this deliver the objectives of the Strategic Themes?

This report will support the delivery of the following Strategic Themes:-

- **Growing up in Sandwell**

The A4123 Walk, Cycle and Bus Corridor Improvements scheme includes extensive measures designed to encourage more people, including children and young people, to walk and cycle for more journeys. This will enable more children and young people to participate in active travel and experience both the independence and the health benefits of doing so.

- **Living in Sandwell**

The provision of a high-quality, sustainable transport network catering for all modes is vital to enable Sandwell residents to access jobs, education, and services both within and beyond the Borough's boundaries.

- **Healthy in Sandwell**

The scheme will encourage and enable more people to walk and cycle more journeys which will give greater opportunities for safe and effective exercise providing proven physical and mental health and wellbeing benefits to the local communities

- **Thriving Economy in Sandwell**

Successful communities need access to jobs, services and facilities to enable them to contribute to the economy. The provision of a high-quality transport network will enable them to do so and will also improve journey reliability for Sandwell businesses who rely on it to connect to their suppliers and customers.

- **One Council One Team Approach.**

N/A



## Relevance Check

**Budget Reduction/Service Area:**

**Service Lead**

**Date:**

In what ways does this Budget reduction have an impact on an outward facing service? How will the service feel different to your customers or potential customers?

N/A

If not, how does it impact on staff e.g. redundancies, pay grades, working conditions? Why are you confident that these staff changes will not affect the service that you provide?

N/A

Is a Customer Impact Assessment needed? No