

Delegated Decision

13th May 2019

Junction 61 – Section 6 Agreement Authorisation

Ordinary Decision



Report of Regeneration and Local Services

Ian Thompson, Corporate Director of Regeneration and Local Services

Electoral division(s) affected:

Coxhoe

Purpose of the Report

- 1 To authorise the sealing of a section 6 agreement between Durham County Council and Highways England for highway improvement works to be undertaken at Junction 61 of the A1(M).

Recommendation

- 2 To enter into a Section 6 agreement under the Highways Act 1980 with Highways England.

Background

- 3 In Spring 2018, the HE asked DCC to deliver the detailed design and construction of highway improvements to Junction 61 of the trunk road network. This request was made due to challenging timescales required to complete the junction, with a lack of resources available at the HE. Related to an approved planning application and developer requirement, there is a need to complete the junction by early 2020.
- 4 To enable DCC to undertake the construction works on the trunk road network at Junction 61, DCC would need to enter into a Section 6 agreement with Highways England under the Highways Act 1980.
- 5 The main works on the Highways England network are due to commence from the end of May 2019.

6 The final draft of the Section 6 is attached.

Appendix 1: Implications

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Legal Implications

Entering into Section 6 agreement with Highways England delegates Highways England functions for improvement of Junction 61 to the County Councils.

Finance

Total scheme costs 4.317 million.

Consultation

Not applicable.

Equality and Diversity / Public Sector Equality Duty

Not applicable

Human Rights

Not applicable

Crime and Disorder

Not applicable

Staffing

Not applicable

Accommodation

Not applicable

Risk

Delivery of the scheme within project constraints outlined in Section 6 agreement. Works undertaken are required to be completed to the satisfaction of Highways England.

Procurement

Works being delivered by DCC at the request of Highways England.

Dated _____ 2019

Highways Act 1980 section 6 and 8 Agreement between

HIGHWAYS ENGLAND COMPANY LIMITED

and

DURHAM COUNTY COUNCIL

for highway works on the A1(M) Motorway at Junction 61

Highways England Company Limited

Bridge House

1 Walnut Tree Close

Guildford

Surrey GU1 4LZ

THIS AGREEMENT is made as a deed on the2019 under section 6(5) and 8 of the Highways Act 1980 between **HIGHWAYS ENGLAND COMPANY LIMITED** (“**Highways England**”) of Bridge House 1 Walnut Tree Close Guildford Surrey GU1 4LZ Registered in England and Wales number 09346363 and **DURHAM COUNTY COUNCIL** (“**the Council**”) of County Hall, Framwellgate Peth, Durham, DH1 5UQ each referred to in this agreement as “**a party**” or both referred to as “**the parties**”.

- (a) The Council is proposing to carry out a road improvement scheme near / at the A1(M) Motorway (“**The Trunk Road**”), part of which will involve the carrying out of works to the Trunk Road as shown on the attached general arrangement drawings numbered 18C67-SYS-HGN-Z2-DR-CH-01 and 18C67-SYS-HGN-Z3-DR-CH-01 (“**the Scheme**”) and described in the Schedule below (“**the Works**”).
- (b) Planning permission is not required for the Scheme.
- (c) Highways England is the Highway Authority for the Trunk Road and the Council have requested that Highways England authorise them to construct the Works as agent for and on behalf of Highways England under 6(5) and 8 of the Highways Act 1980.
- (d) Highways England has agreed to so authorise the Council to carry out the Works subject to the terms and conditions of this agreement.
- (e) Highways England shall pay the Council a contribution towards the costs of the Scheme of £1,850,000 (one million eight hundred and fifty thousand pounds) (“**the Contribution**”).

IT IS AGREED

1. The Council shall carry out the Works as agent of Highways England.
2. The Council shall:
 - (a) indemnify Highways England against any claims arising under Part I of the Land Compensation Act 1973 or any other statutory provision arising from the use of the Works including Highways England’s reasonable surveyors and legal costs in dealing with such claims; and
 - (b) indemnify Highways England against all costs and expenses properly incurred in complying with its legal obligations to insulate buildings against noise or in complying with its legal obligations under any other statutory provision arising from the construction or use of the Works.
3. The parties agree to the following provisions relating to the funding of the Scheme and the parties’ respective costs in entering into this Agreement:

- (a) Highways England shall pay the Contribution to the Council within 28 days of receipt of an invoice issued by the Council;
 - (b) The Council will apply the whole of the Contribution towards the delivery of the Scheme;
 - (c) The Council will be responsible for meeting all costs incurred by it arising out of or in connection with the preparation for and carrying out of the Scheme in excess of the Contribution;
 - (d) The parties agree to bear their own costs in connection with the entering into this Agreement.
4. The Works to be executed and the expenditure to be incurred by the Council in discharge of the delegated functions carried out by it under this agreement shall be subject to the prior written approval of Highways England such approval not to be unreasonably withheld or delayed.
 5. The Council shall comply with all reasonable requirements of Highways England as to the manner in which the Works are to be carried out.
 6. The Council shall comply with any reasonable directions of Highways England as to the terms of the contract to be entered into by the Council for carrying out the Works.
 7. The Works shall be completed to the satisfaction of Highways England and in particular they shall be constructed in accordance with the Manual of Contract Documents for Highway Works and the Design Manual for Roads and Bridges published by Highways England and any amendment to or replacement of it for the time being in force save to the extent they are a departure from such standards and have been approved by Highways England.

In the event that for any reason the Works are not completed to the satisfaction of Highways England the Council shall either procure the carrying out of such works necessary in order for Highways England to be so satisfied or indemnify Highways England for its costs in carrying out such works. Where Highways England acting reasonably considers it would not be practical to complete the works Highways England may require the Council to either procure reinstatement of the Trunk Road(s) and other land and premises of Highways England disturbed by the Works to their previous condition or to a good condition (at the Council's election) or to pay Highways England's costs in so doing.

8. The Council shall in the execution of the Works take such precautions for the protection of public and private interests as would be incumbent on the Council if it were the Highway Authority and the Council shall indemnify Highways England against all claims for damages and compensation which may be brought against Highways England arising out of the construction and / or use of the Works.

9. The parties shall at all times co-operate with each other to enable the Works to be carried out promptly effectively and without undue disruption to the existing highway network and in particular shall assist each other in the promotion and publication of any necessary traffic regulation orders and dealing with any other statutory requirements including those of any utility companies.
10. Unless otherwise agreed in writing between the parties this agreement shall automatically terminate if the Works are not substantially commenced within 4 years of the date of this agreement. Such termination is without prejudice to the rights of the parties against each other for any breach of this agreement which occurred before termination and without prejudice to the liability of the Council to pay any monies due and outstanding to Highways England at the date of termination.
11. Any dispute or difference under or arising from this agreement may be referred to arbitration by either party by written notice to an independent arbitrator agreed between the parties or upon failure to agree on an independent arbitrator any dispute or difference may be referred to a person appointed as arbitrator by the President of the Institution of Civil Engineers at the request of either party. The award or determination of such arbitrator shall be final and binding on the parties.
12. (1) The Council shall transfer to Highways England any land in the ownership of the Council or acquired by the Council as part of the Scheme comprised within the land marked pink on drawing [xxxxxx] attached to this Agreement which the parties intend shall form part of the site of the Trunk Road within 56 days of satisfactory completion of the Works.

(2) Land transferred under clause 12(1) shall be transferred:
 - (a) free of financial charge;
 - (b) with vacant possession but subject always to usage rights reflecting the public highways status;
 - (c) with full title guarantee; and
 - (d) free from encumbrances that would impact on its use as highway.
(3) The Council shall pay Highways England's legal and administrative costs incurred in relation to the transfer of land.

Schedule (Schedule of Works)

The Works are to the A1(M) Motorway, Junction 61 roundabout (“**the roundabout**”) and slip roads and shall comprise:

- (i) Widening of the inner ring of the western side of the roundabout, to allow a third lane to be introduced.
- (ii) Widening on the north-west out ring of the roundabout to allow a third lane to be introduced on the eastbound approach of the A177 Durham Road.
- (iii) Widening to the western side of the A1(M) northbound exit slip road, including earthworks adjacent to that slip road, to allow a third lane to be introduced on the A688 westbound exit from the roundabout.
- (iv) Widening both sides of the A1(M) southbound exit slip road to allow a third lane on its approach to the roundabout.
- (v) Widening on the eastern side of the A1(M) southbound entry slip road to allow a third lane to be introduced on the westbound approach of the A688.
- (vi) Widening on the outer ring of the eastern side of the roundabout between the A688 entry and exit roads.

The works shall also include new kerbing, drainage amendments, pavement construction, resurfacing, lining, the installation of new lighting, traffic signals and traffic signal equipment.

In witness whereof Highways England Company Limited has affixed its common seal to this Deed and the Council has affixed its common seal to this Deed on the date this agreement is completed.

Executed as a Deed by affixing the common seal of **HIGHWAYS ENGLAND COMPANY LIMITED** in the presence of:

..... Richard Marshall, Regional Director
(Authorised Signatory)

..... Antony Firth, Head of Planning & Development
(Authorised Signatory)

Executed as a Deed by affixing the common seal of **DURHAM COUNTY COUNCIL**

..... Authorised Signatory