

# DIRECTOR GENERAL SYPTE - APPROVAL REQUEST REPORT

FROM: **DIRECTOR OF PUBLIC TRANSPORT DEVELOPMENT**

SUBJECT: **ASDA LAND DEAL – A61 WAKEFIELD ROAD  
BARNSELY – PHASE 1**

DATE OF MEETING: **02 NOVEMBER 2022**

Key Decision paper	Report signed off for publication?	Officer Decision Form required?	GMB	STOB	TEB	ARAP	MCA	ASRC	Approval/ Information
Yes	Yes	Yes	X	X	X	X	X	X	Approval

## EXECUTIVE SUMMARY

In order to enable Phase 1 of the A61 works, the widening of Old Mill Lane Bridge and associated highway improvements, land is required to be purchased and a further area of land is required temporarily as a site compound. This land is owned by Asda. Negotiations have been undertaken and a deal agreed. Approval is sought for a Land Deal with Asda/Burwood House Group PLC at a maximum value of £265,000. This approval is subject to the granting of Planning Permission for the scheme.

### 1. KEY DECISION

Is it a Key Decision – **YES**

### 2. RECOMMENDATIONS

Approve a land deal with Asda for up to £265,000 that is required in order to carry out the A61 bridge widening scheme. This approval is on the condition that planning permission is granted on 25 October 2022.

### 3. BACKGROUND INFORMATION

- 3.1. To progress the Phase 1 scheme, it is necessary purchase a portion of land, currently owned by Asda/Burwood House PLC.
- 3.2. Land agents, Sanderson Weatherall have negotiated a deal on our behalf which has been approved at Asda's Main Board.
- 3.3. It should be noted that Asda have recently been taken over and have become noticeably more commercially minded. A reflection of this is that they are now insisting that we introduce a compensation clause into the agreement and have suggested a provisional sum (risk) allowance for this in the region of £700,000 to £900,000. This amounts to approximately 50% - 70% of our total risk pot.
- 3.4. In order to agree a deal and allay Asda's concerns that disruption may affect their

business, a compensation pre-payment of £100,000 is included in the £265,000 total, which is non-refundable and is to be set against any future claim for compensation.

- 3.5. Sanderson Weatherall have advised that as we have put in place Traffic Management and other measures to minimise disruption at the request of Asda, then the mitigating the risk of any compensation claim is manageable. This risk is further mitigated by avoiding construction works during the run up to the 2022 and 2023 Christmas trading periods.
- 3.6. The traffic management involves a 2-lane traffic lane arrangement during the demolition phase of the works, switching to a 3-lane system once the demolition works are completed. Asda have stipulated that the 3-lane traffic management system should be in place between November and December during Asda's busiest trading period. The delay to the start of the project means that the risk of disruption during this period has disappeared and therefore significantly reduced the likelihood of a disruption claim.
- 3.7. We will of course work with the Principal Contractor and Asda throughout the construction period to maintain an open and co-operative relationship in order to mitigate the risk of any disruption claim.
- 3.8. Sanderson Weatherall advised that any compensation claim would mean Asda declaring their profit and turnover and they may be unlikely to want to do this.
- 3.9. Asda however wish to reserve the right to claim compensation under the compensation code which would be applicable if we were following normal Compulsory Purchase Practice under a (CPO) rather than purchase by agreement.
- 3.10. With a view to managing this risk further, Sanderson Weatherall have offered us the services of a compensation/CPO expert, who will advise on claim avoidance as the works proceed.
- 3.11. A further concern is that we are still waiting for a planning decision, and this has delayed the construction start date. In order to try and move things forward, Pat Beijer, Director of Public Transport Development agreed to escalate the matter and met with Matt O'Neill, BMBC's Executive Director for PLACE, to discuss the situation and in particular ascertain what was causing the delay. Following this meeting, we received assurance from BMBC that and decision would be made at the planning meeting due to be held on 25 October 2022.
- 3.12. The land deal with Asda can be summarised as follow:

<b>Land Purchase Price</b>	<b>£100,000</b>
<b>Compound Licence Fee</b>	<b>£45,000 assuming 18-month programme (£30,000 per annum)</b>
<b>Compensation Pre-payment</b>	<b>£100,000 (this amount plus interest at RPI to be set against any future claim for compensation)</b>
<b>Compensation</b>	<b>TBC once specialist advice received</b>
<b>Legal Fees</b>	<b>Reasonable costs incurred in documenting the transaction currently indemnified at £10,000 but predicted to be in the region of £20,000 in total.</b>

This amounts to a maximum of £265,000.

There is sufficient cost plan allowance and project budget to fund this land deal.

The price of £45,000 for the compound is a rental figure, paid to Asda in monthly or quarterly instalments for the use of part of their car park for the site offices and storage area for the duration of the contract.

#### 4. OPTIONS CONSIDERED

- 4.1. Approve the land deal as this will enable the scheme to progress. Recommended.
- 4.2. Do not approve the deal. Without the land purchase and compound licence the works cannot be carried out and the project would not be deliverable.

#### 5. IMPLICATIONS

##### 5.1. CONTRIBUTION TO SYMCA/SYPTE BUSINESS PLAN DELIVERY

<input checked="" type="checkbox"/>	Promote the use of public transport and maximise <b>patronage</b>
<input type="checkbox"/>	Make the most of <b>new technology</b> to improve public transport services
<input checked="" type="checkbox"/>	Work with partners to reduce the impact public transport has on <b>Air Quality</b> and the <b>Environment</b>
<input checked="" type="checkbox"/>	Get the best return for the region from <b>our investment</b> in public transport

##### 5.2. RISK

<b>None</b>	Associated Risk Reference(s) from risk register
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Describe existing or new risks as a result of this paper and any mitigations which are available.

<p>i) <b>Compensation claim from Asda – Possibility under the Compensation Code. Mitigation will involve working with Asda and the contractor to reduce traffic management disruption during busy trading periods.</b></p> <p>ii) <b>Planning decision has delayed the start. Now expected 25<sup>th</sup> October 2022.</b></p>
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##### 5.3. FINANCIAL

<input checked="" type="checkbox"/> Existing Budget	<input type="checkbox"/> No Budget
<input type="checkbox"/> No Financial Implications	

Budget code to be used to fund:	<b>5209-0219-091851</b>			
If capital, specify capital funding source available:	<b>SYMCA TCF £13,288,689</b>			
If virement specify which budget code:				
Have Finance been consulted?	Yes	<input checked="" type="checkbox"/>	No	
Person contacted in Finance	<b>Liz Lawson</b>			
Date Finance consulted	<b>10/06/22</b>			

5.4. LEGAL AND FREEDOM OF INFORMATION ACT

Y N

Does the report contain information which is potentially exempt from the Freedom of Information Act?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Are there any exceptions to Standing Orders which need approval?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Other Legal Implications

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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5.5. INFORMATION TECHNOLOGY IMPLICATIONS

Have IT been consulted on the proposals in this paper and do the recommendations require amendments or new IT software systems or infrastructure?

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

5.6. GENERAL DATA PROTECTION REGULATION

Y N

Does the paper have implications for the handling, transfer, processing or management of customer or other personal data?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Is there a requirement to conduct a Privacy Impact Assessment? If so, please include as an appendix.

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Data retention requirements

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Other Data implications

<input type="checkbox"/>	<input checked="" type="checkbox"/>
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5.7. HUMAN RESOURCE IMPLICATIONS

Have HR been consulted on the proposals in this paper?

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

Does the paper have implications for any of the following;? **No**

<input type="checkbox"/> Individual job roles/responsibilities/grades	<input type="checkbox"/> Resources
<input type="checkbox"/> Skills requirements, e.g. training needs	<input type="checkbox"/> Policies and procedures

5.8. EQUALITY AND DIVERSITY

Does the paper have implications for any of the following;? **No**

<input type="checkbox"/> Age	<input type="checkbox"/> Disability
<input type="checkbox"/> Gender	<input type="checkbox"/> Gender reassignment

<input type="checkbox"/>	Marriage and civil partnership	<input type="checkbox"/>	Religion or belief
<input type="checkbox"/>	Pregnancy and maternity	<input type="checkbox"/>	Race
<input type="checkbox"/>	Sexual orientation		

Is an Equality Impact Assessment (EIA) needed	Yes		No	<input checked="" type="checkbox"/>
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5.9. COMMUNICATIONS AND STAKEHOLDER MANAGEMENT

Does the paper have implications for any of the following;

<input type="checkbox"/>	Stakeholders	<input type="checkbox"/>	Internal communications
<input type="checkbox"/>	Media and Press (including reactive communications)	<input type="checkbox"/>	Marketing plans and campaigns
<input type="checkbox"/>	Mayoral activities (presenting either a risk or opportunity)	<input checked="" type="checkbox"/>	No communications and stakeholder implications

If the paper has Mayoral implications, consider if a Mayoral Briefing Document is required.

5.10. ENVIRONMENTAL STRATEGY IMPLICATIONS

Do the recommendations in this paper change SYMCA/SYPTE's environmental impact?

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

5.11. CHANGE MANAGEMENT IMPLICATIONS

Does the paper result in any significant change management activity;

<input type="checkbox"/>	A Business Case is required to proceed	<input type="checkbox"/>	A Project Initiation Document is required to proceed
<input type="checkbox"/>	Managed through BAU change activities	<input checked="" type="checkbox"/>	No change management implications

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