



COUNCIL EXECUTIVE

KIRKNEWTON LEVEL CROSSING

REPORT BY TRANSPORTATION MANAGER AND HEAD OF PROPERTY SERVICES

A. PURPOSE OF REPORT

The safety of the existing level crossing at Kirknewton has been a major concern to Network Rail and the Council for several years. The Council has been working with Network Rail over the past few years to advance a solution for the crossing and this report provides an update on the work undertaken.

As part of the underbridge solution, land will require to be purchased from private individuals and this report highlights the proposed mechanism to progress these acquisitions.

B. RECOMMENDATION

The Council Executive is recommended to:

1. note the progress made by Network Rail, working in partnership with council officers, on designing the new underbridge, associated new section of road and the pedestrian underpass;
2. authorise the entering of an agreement on the general terms outlined in this report with Network Rail on the underwriting of the acquisition costs for the new road , underbridge and pedestrian underpass;
3. note that the council will commission when appropriate the Valuation Office Service to commence negotiations for the acquisition of the land required by agreement to deliver the project; and
4. authorise officers to commence the compulsory purchase of the land required and settle compensation claims on behalf of the council should the negotiations referred to in 3 above fail within an acceptable timescale to the partners.

C. SUMMARY OF IMPLICATIONS

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| I Council Values | Being honest open and accountable;
Focusing on our customers needs; and
Working in partnership |
| II Policy and Legal (including | Legal agreement to be concluded provided |

Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)

that Network Rail will underwrite financial costs related to land acquisitions. The Council has compulsory purchase powers under the Roads (Scotland) Act 1984 to acquire land for road schemes.

The council has powers under the Roads (Scotland) Act 1984 to access land for the purposes of surveying and site investigations.

A full Scottish Transport Appraisal Guidance (STAG) assessment was carried out for this project.

III Resources - (Financial, Staffing and Property)

Costs associated with the acquisition of the land required including any external fees shall be borne by Network Rail.

The total cost of the works has been estimated at £6 million. Network Rail has agreed to contribute £5 million of this and SEStran has agreed to provide £600,000. £400,000 has also been approved within the council's capital plan.

IV Consultations

Consultation has taken place with Network Rail, Office of Rail Regulator and Legal and Property Services.

In addition initial discussions have taken place with affected landowners. A meeting with Kirknewton Community Council also took place on 8 December 2009.

D. TERMS OF REPORT

Background

On 9 October 2007, the Council Executive approved a report on the existing level crossing at Kirknewton and the need for safety improvements to be made. The report noted the progress being made on securing, the necessary funding for the scheme and the commissioning, by Network Rail, of White Young Green consultants and the need to enter negotiations with land owners.

At this time the plans were to construct a new underbridge with associated road works and provide a new pedestrian overbridge at the station. Since then White Young Green has advanced the detailed design.

Following discussions with the main landowner affected a number of major design changes have been made which lessen considerably the impact of the proposal, and the likely land take required.

Another change, which has been made, is in respect of pedestrian movements around the station. The land required to provide a pedestrian footbridge, which is DDA compliant is substantial and is difficult to accommodate. In addition, the structure will be visually intrusive and therefore Network Rail is considering a pedestrian underpass to the west of the existing level crossing as its preferred design solution.

Although progress has been made on some design aspects and the resultant lessening of the land take, progress has been slow.

The finalising of the design and securing the necessary land has not advanced significantly over the last 12 –18 months and this is now a major concern to all the parties involved with the delivery of this rail safety improvement.

Although there have been discussions it has not been possible to negotiate an access agreement with the landowner to enable accurate ground topography and site investigation parameters to be confirmed.

It may therefore be necessary for the council to use its powers under the Roads (Scotland) Act 1998 to notify the landowner that access will be taken to the relevant land for the purposes of topographical surveys and site investigations.

The council has received letters from both Network Rail and the Office of the Rail Regulator (ORR) highlighting the urgency for these works to be undertaken (Appendix 1 and 2).

Funding & Agreement

Council officers are currently working with Network Rail on the terms of an agreement that will ensure that the council's costs associated with land acquisition are underwritten. This will include reimbursing the Valuation Office fees. Only with this in place will the council be able to progress the land acquisitions to conclusion or if necessary progress compulsory purchase procedures. The agreement will cover all statutory compensation payments to the current land owners, other affected parties, external professional fees and costs associated with the land acquisitions including the statutory costs related to compulsory purchase should these be incurred.

Land Acquisition

Network Rail and Transportation have an agreed design and this will enable formal negotiations to commence in the near future.

It is hoped that the acquisition of land can be achieved by agreement, but if not the Council may require the use of compulsory purchase powers in order to deliver the project in a time frame acceptable to the ORR. If compulsory purchase powers are to be pursued a further report will be brought to committee for approval.

The urgency for the need for this improvement is increasing. Officers and the Valuation Office will therefore try to reach a negotiated settlement with landowners as soon as possible.

Community Consultation

Consultation with the community council took place during the STAG assessment and process. This was at an early stage of the consultation process and when the proposals were indicative.

These indicative proposals have been developed since this time and Network Rail are due to undertake further consultation on more detailed proposals which now include a pedestrian underpass rather than a pedestrian overbridge. As part of this ongoing consultation a meeting took place with Kirknewton Community Council on 8 December.

The meeting was attended by a representatives of Network Rail, Office of Rail Regulator, First ScotRail and the council. Local ward member Councillor Carl John and Angela Constance MSP were also in attendance.

A full explanation of the need for the works and the planned proposal was given by Network Rail. The minute of the community meeting is attached in appendix 3 but the main discussion points can be distilled into two key areas:

- The concern that a pedestrian underpass is to be promoted as opposed to a pedestrian footbridge; and
- The concern that the new road design, was to a excessive standard for the type of “village” road.

The delivery partners fully explained their position at the community council meeting and are of the view that the proposal is the best available in terms of design lay out and standards, pedestrian and vehicular connectivity, minimising land take, visual intrusion and deliverability in terms of cost.

E. CONCLUSION

The Kirknewton Community Council still has reservations on the promoted proposal for the removal of the level crossing but the need to remove the existing level crossing remains a major priority for Network Rail, ORR and the council. The delivery partners are of the view that the proposal is the best available.

Progress has been made in respect of the design and this dramatically reduces the land take. The finalised design will be presented to the landowners and negotiations will commence with them.

In order for the works to be constructed, land requires to be secured. To facilitate the purchase of land, the council will via the Valuation Office, in the first instance, seek agreement with affected owners. However, if agreement cannot be reached, officers will report back to this committee to seek approval to use the council’s powers under the Road (Scotland) Act 1984 to compulsory purchase.

F. BACKGROUND REFERENCES

Council Executive Report 9 October 2007.

Appendices/Attachments: Two Letters from Network Rail and ORR. Minute of the community council meeting 8 December 2009.

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