

7 March 2017		ITEM: 7
Planning, Transport and Regeneration Overview and Scrutiny Committee		
Grays South: Delivering the Pedestrian Underpass		
Wards and communities affected: Grays Riverside	Key Decision: Key	
Report of: Brian Priestley, Regeneration Programme Manager		
Accountable Head of Service: Andy Millard, Head of Planning and Growth		
Accountable Director: Steve Cox, Corporate Director of Environment and Place		
This report is Public		

Executive Summary

The Grays South Project aims to transform Grays town centre, creating public squares and an underpass to replace the pedestrian level crossing in Grays High Street together with the development of modern retail and residential units.

The Council has been working with Network Rail to develop the proposals over the past four years. Network Rail continues to support the project through design and their approvals processes however it has become apparent that they are unable to offer significant funding towards delivery of the scheme.

In order to progress the project the Council will have to meet most of the costs of the project. A funding strategy has been developed drawing upon the existing commitments within the capital programme, available s106 funds and anticipated receipts from future developments of other sites owned by the Council around the town centre.

In addition, on the 2nd February 2017 the Council received notification that its bid for £10.8 million from the Local Growth Fund had been successful and that the Council would receive the full amount requested to complete the funding package to deliver the Grays South Project.

Given the ongoing discussion with Network Rail and the recent announcement of funding to support the project the Council is reviewing how we deliver the scheme and seeks the views of the Committee about the approach that is proposed.

1. Recommendation(s)

1.1 Planning Transport and Regeneration Overview and Scrutiny Committee are asked to comment on the approach to managing the delivery of the Grays South Project including;

- a) The division of roles which proposes that Network Rail lead technical design and construction of the underpass, access ramps and steps (elements which are on sensitive operational land) while the Council lead land assembly and design of the public realm;**
- b) The terms on which the Council will agree to this division of roles as set out in paragraph 3.6 of this report;**
- c) The funding strategy which is based on current commitments in the capital programme, S106 funds, use of development receipts from Council land, and the grant from the Local Growth Fund;**
- d) Land assembly based on an approach that keeps land acquisition to the minimum necessary and is based on negotiated settlement with Compulsory Purchase used as a last resort.**

2. Introduction and Background

- 2.1** The Grays South Project aims to transform Grays town centre, creating public squares and an underpass to replace the pedestrian level crossing in Grays High Street together with the development of modern retail and residential units.
- 2.2** The recent announcement that the Council will receive c£10.8 million from the Local Growth Fund in 2019/20 and 2020/21 completes the funding package required to deliver the Grays South Project.
- 2.3** The Grays South Project is a key part of delivering the Council's strategy for the long term regeneration of Grays.
- 2.4** In September 2016 Overview and Scrutiny Committee received a report which outlined an approach to delivering the scheme. Subsequent discussions with Network Rail have led to a revision of the approach which is explained in this report.

3. Issues, Options and Analysis of Options

- 3.1** This section considers delivery of the underpass under the following headings;
 - a) Scope of the scheme and approach to delivery
 - b) Funding Strategy
 - c) Land Assembly

d) Delivery Programme

Scope of the scheme and approach to delivery

3.2 The project includes the following;

- a) Replacement of the level crossing with a c.8metre wide pedestrian underpass;
- b) Creation of public squares at each end of the underpass;
- c) Development of new retail units around the public squares with residential and/or offices above;
- d) Land assembly;
- e) Demolitions necessary to create the space required;
- f) Relocation of Station Approach to create the space required;
- g) Possible relocation of Crown Road to enable a shortened underpass and reduced land requirement.

3.3 Broadly speaking there were 2 alternative approaches to delivery - either Thurrock Council leads or Network Rail leads. In September 2016 the Committee supported a proposal for the Council to lead delivery of the whole project on the basis that the Council would be responsible for virtually all the funding, could deliver at lower cost, and would have greater control of the programme. A copy of the report is included at Appendix 1.

3.4 However subsequent discussions with Network Rail have revealed that some of the advantages of the Council leading delivery of the scheme may be outweighed by some of the disadvantages which include:

- a) additional requirements for Asset Protection Agreements which will add considerably to the delivery time frame;
- b) a non-refundable payment to Network Rail would be required to cover uninsurable risks during construction which increases the cost to the extent that the cost benefits of this approach are substantially reduced;

Furthermore Network Rail has confirmed their commitment to delivering the project and has access to considerable expertise and experience of delivering projects within their operational land. Importantly, potentially costly risks would be retained by Network Rail.

3.5 In light of these more recent discussions it is proposed that the approach to delivery is amended as follows

- a) Network Rail lead technical design of the structure of the underpass, access ramps and steps (elements on sensitive operational land) and manage construction of these works;
- b) Thurrock Council lead land assembly;
- c) Thurrock Council lead the design of the public squares and the external finishes to the underpass;

d) Thurrock Council develops its land for complementary retail and flats or offices working in partnership with C2C and Network Rail to coordinate development of landholdings wherever possible.

3.6 In December 2014 Cabinet agreed a Memorandum of Understanding with Network Rail. It is proposed to update the Memorandum of Understanding as a basis for a contract with Network Rail to provide for the management and coordination of these activities and a framework for payments to be made by the Council as work progresses. As part and parcel of this, the terms on which the Council will consent to Network Rail leading on elements of the project will need to be clearly scoped and agreed, including commitment, resources and governance arrangements.

Funding Strategy

3.7 The estimated cost of the project, including land acquisition, is £27,436,981.

3.8 In considering how to meet this cost the Council has explored the potential of a development receipt strategy - to generate revenue by bringing forward developments on land either currently within its ownership or which will need to be acquired to deliver the underpass. The development receipt strategy sits alongside the Council's existing capital commitment (contained within the Council's Medium Term Financial Strategy) and section 106 funds together with the recently approved bid for funding from the Local Growth Fund for £10.8m. The funding package is as follows:

Thurrock Borough Council Capital Programme	£9,000,000
S106 funds held by Thurrock Council	£1,000,000
Network Rail	£700,000
Development Receipts (plots within project boundary)	£2,896,707
Development receipts (plots outside of project boundary)	£3,000,000
Local Growth Fund	£10,840,274
Total	£27,436,981

3.9 To support the development receipt strategy the Council commissioned Montagu Evans to provide development appraisals of a number of sites that it owns around Grays town centre and which are shown as potential development sites in the Development Framework approved by Cabinet in March 2016. The appraisals showed that these sites have the potential to generate sufficient returns to support the broader funding package.

Land Assembly

3.10 Much of the land required to construct the underpass is already owned by Network Rail or Thurrock Council. The next design stages will consider ways in which to minimise the impact on adjoining land and determine the extent of land assembly required. If Compulsory Purchase is required the Council will

be expected to demonstrate that it is acquiring the minimum area of land required for the project.

- 3.11 The Council has held open dialogue with the owners and occupiers of property affected by the scheme and has provided more general updates to businesses through the Grays Town Partnership. It is important that this dialogue continues throughout the development and delivery of the scheme.
- 3.12 To deliver the underpass the Council will need to acquire or gain control of the various land interests. Montagu Evans has produced a Land Acquisition and Partnership Strategy to support the project. The Strategy is based on relevant guidance issued by Government and it follows the clear views expressed by Cabinet that any acquisitions should be through discussion and negotiation where possible.
- 3.13 Whilst the strategy anticipates the majority of acquisitions through negotiation and individual agreements, it is clear that achieving certainty over land assembly is critical to the delivery of the project and so the Council will need to ensure that all interests have been identified. It is therefore proposed that, alongside any negotiations with affected landowners and occupiers, the Council develops the case for a Compulsory Purchase Order which can be used to:
 - a) acquire interests where a negotiated solution cannot be found;
 - b) address any unknown interests and rights which the Council would otherwise not be aware of.

Cabinet will need to approve this approach.

Delivery Programme

- 3.14 Delivery will require completion of implementation agreements with Network Rail. The latest programme developed with Network Rail suggests completion would be 5 years after the start of the next design stage. The phasing conditions for Local Growth Fund will need to be built in to a revised programme to ensure the funding is used within the years for which it is allocated – namely 2019/20 and 2020/21.

4. Reasons for Recommendation

- 4.1 The underpass is identified as a priority in the Council's Economic Growth Strategy, the Development Framework for Grays and in the Vision for Grays. It is a key project in support of the regeneration of Grays town centre and consultation demonstrates strong stakeholder and community support.
- 4.2 With the completion of the funding package the project can now progress.

5. Consultation

- 5.1 The Grays South Project has been the subject of several approvals from Cabinet - in 2013, 2014 and 2015. In March 2016 Cabinet agreed a Development Framework for Grays which included the underpass and associated development of land holdings.
- 5.2 Public consultation on the development framework has shown there is strong public support with 72% of respondents either supporting or strongly supporting the underpass and 85% of respondents supporting the overall approach proposed for the town centre and rail station area.
- 5.3 The project has also been the subject of discussions with land owners and occupiers - all owners and occupiers have been provided with details of the project. In addition the local business community has been consulted through the Grays Town Management Partnership.
- 5.4 In September 2016 Planning, Transport and Regeneration Overview and Scrutiny Committee supported the project and an approach to delivery based on the Council taking responsibility for the whole scheme. However subsequent discussions with Network Rail have revealed that the expected time and cost savings from this approach are unlikely. Furthermore Network Rail has access to considerable expertise and experience of implementing projects within the railways operational land and they will take much of the risk associated with the project if they lead.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 The Council's Economic Growth Strategy and LDF Core Strategy identify Grays as one of the Growth Hubs where regeneration activity will be focussed. A vision for Grays which included this project was approved by Cabinet in July 2013 following extensive public consultation. In March 2016 Cabinet agreed a development framework to guide the Council's regeneration activities, the framework includes this project.

7. Implications

7.1 Financial

Implications verified by: **Mark Terry**
Senior Financial Accountant

The Council will be the main funder for the project with £9 million provision in the Capital Programme, £1 million of Section 106 funds allocated to the project and funds from development returns to be used to support the scheme. Development appraisals provided by Montagu Evans show that

development of Council sites would generate the returns detailed in the report. The Council will also be the accountable body for funding from the Local Growth Fund where £10.8 million has been allocated to the project.

The financial impact of the proposal within this report are part of the approved scheme within the Councils capital programme. Further project development work is required with the next stage of design being to 'Approval in Principle' at the end of the year when a more detailed understanding of costs and funding will be available and reported to Cabinet for consideration

7.2 **Legal**

Implications verified by: **Vivien Williams**
Planning & Regeneration Solicitor

The Council will need a partnership agreement with Network Rail and C2C setting out joint working arrangements and a framework for payments to be made.

The report sets out the implications of progressing land acquisition and consents for the scheme. Cabinet will need to approve the use of Compulsory Purchase Powers in principle as a first resolution for the Council to approach landowners and to negotiate land acquisitions required for the project. Further reports will be submitted to future meetings of Cabinet including a 'second resolution report' seeking approval for the drafting of a CPO and submission to the Secretary of State if required.

The Town and Country Planning Act 1990 includes provisions whereby an affected party whose land interest is being acquired can serve a blight notice on the Council. The notice can be served at any time after the authority has submitted a notice to the Secretary of State for confirmation. Qualifying interests are defined in the regulations.

Qualifying objectors to a CPO have the right to be heard at a public inquiry. The Council will be required to submit a Statement of Reasons to the inquiry detailing the case for Compulsory Purchase as set out in the report

7.3 **Diversity and Equality**

Implications verified by: **Natalie Warren**
**Community Development & Equalities
Manager**

The project has been the subject of stakeholder engagement summarised in the previous reports to Cabinet. There will be three further increasingly detailed stages of design including submission of applications for planning permission and other consents. Further engagement activity will take place as

the designs are developed. The need to ensure the design meets Equalities Act accessibility expectations have contributed to the scale of the access ramps and the land area required

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

- None.

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- None

9. **Appendices to the report**

- Appendix 1 - Report to Planning, Transport and Regeneration Overview and Scrutiny Committee September 2016.

Report Author:

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