

Name of meeting: Cabinet
Date: 16 February 2021
Title of report: Disposal of land designated as “Open space” to Network Rail to facilitate the Transpennine Route Upgrade

Purpose of report

The purpose of this report is for Cabinet to consider the objections received as a result of advertising the Council’s intention to dispose of open space near Deighton Station and Calder Road in Ravensthorpe, shown edged red on the plans contained within Appendices 1 & 2 and to determine whether to proceed with the intended disposal of the open space.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes Ashbrow & Dewsbury West Wards.
Key Decision - Is it in the <u>Council’s Forward Plan (key decisions and private reports)?</u>	Key Decision – Yes First published 12 January 2021
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	David Shepherd - 08.02.21 Eamonn Croston - 02.02.21 Julie Muscroft - 04.02.21
Cabinet member portfolio	Cllr Peter McBride Cllr Graham Turner Cllr Cathy Scott

Electoral wards affected: Ashbrow & Dewsbury South

Ward councillors consulted: Cllr James Homewood, Cllr Amanda Pinnock, Cllr Harpreet Uppal, Cllr Masood Ahmed, Cllr Gulfram Asif & Cllr Nosheen Dad

Public or private: Public

Has GDPR been considered? Yes, and personal information has been redacted

1. Summary

To deliver the Transpennine Route Upgrade ('TRU'), Network Rail Infrastructure Limited ('NRIL') need to permanently acquire a number of parcels of land along the proposed route.

Ten parcels of Council owned land have been identified as open space and pursuant to the provisions of the Local Government Act 1972 the intention to dispose has had to be advertised. Two objections to the disposals have been received. A single objection each for plots 20-0326 at Deighton and 20-0328 at Ravensthorpe as identified on the plans at Appendices 1 and 2.

Cabinet is therefore asked to consider the disposals of both parcels in light of the objections received.

2. Information required to take a decision

2.1 Background of TRU

The TRU involves improving the railway between Manchester, Huddersfield, Leeds and York.

That part of the TRU known as West 3 covers the section of railway between Huddersfield and Westtown, about half a mile south-west of Dewsbury and is key to delivering the benefits passengers want along the Transpennine railway. Proposals for the scheme include:

- Doubling the number of tracks to four along the majority of the route.
- Separation of the track by way of a fly over at Ravensthorpe.
- Electrification of railway from Huddersfield to Ravensthorpe.

The objectives of the upgrade are

- To improve journey times, frequency & capacity to support economic growth.
- To create a cleaner & quieter railway.

The benefits of the scheme include:

- An overall better railway, one of which is more resilient and reliable while also improving journey times and train frequency.
- Station upgrades to modern standards to provide better accessibility.
- Cleaner travel and potentially quieter for those living close by.

The current timeline of the TRU is as follows:

- March 2020 – Submit Transport & Works Act Order (TWAO) application
- Spring 2021 – Potential Public Inquiry
- Winter 2021 – Secretary of State's decision on application
- 2023 – Start on site (subject to the confirmation and making of the TWAO)

If the TWAO is granted by the Secretary of State, it provides NRIL the relevant powers and rights to be able to compulsory purchase any land and assets required for the

scheme, whether they be permanent land acquisitions or temporary rights required to facilitate the works.

2.2 Disposal of Open Space

Section 19 of the Acquisition of Land Act 1981 defines open space as “any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground”.

This Act provides that in the case of a TWAO it is classed as ‘special category land’, provision for which must be made in the TWAO in order to offer the party whose land is being acquired some replacement land that is equally advantageous to the owner and those persons making use of the open space unless the promoter of the TWAO, NRIL in this instance, can negotiate an acquisition in advance of submission of the TWAO application to the Secretary of State.

Network Rail approached the Council to enquire which of the parcels of land that NRIL need to acquire permanently fell into this category and officers identified ten parcels in total. NRIL’s wish was to acquire the parcels of land in advance of the TWAO application being made by negotiation.

If negotiations cannot be satisfactorily concluded then NRIL will include the parcels of land in their TWAO application and if the Secretary of State confirms the Order, this will grant NRIL compulsory purchase powers to acquire the parcels in question.

As a result of the intention to agree a negotiated disposal the Council has a statutory duty to advertise its intention to dispose of open space land under the provisions of section 123(2A) of the Local Government Act 1972. Notices advertising the intention to dispose of the open space were placed in The Huddersfield Examiner and Dewsbury Reporter between 19th November - 17th December 2020. Each land parcel was advertised for two consecutive weeks with a further week left for objections to be received. The notices were also available to access on the Councils website. A copy of the notices placed in the relevant newspaper can be seen in Appendices 6 & 7.

During the consultation period 2 objections were received. A single objection each for plots 20-0326 at Deighton and 20-0328 at Ravensthorpe as identified at Appendices 1 and 2, both objections of which are covered separately further in this report.

The Councils Disposals & Acquisitions Team have valued each land parcel and are currently in negotiations with NRIL. If an agreement on price can be reached, the Council will enter into an option agreement, whereby if NRIL is granted the TWAO they are able to purchase the land. If the TWAO is **not** approved, then NRIL will be under no obligation to purchase, the option will lapse, and the land will remain with the Council. However, if a negotiated disposal cannot be reached for any parcel, then Network Rail will have to proceed with the TWAO application which, if confirmed, will grant them compulsory purchase powers to acquire the parcels for which they must offer replacement land.

2.3 Objection at Ravensthorpe (20-0328)

An objection was received from the adjoining landowner Berkeley De Veer. The full redacted version of the objection can be seen in Appendix 3. A large part of the objection relates to planning matters which will be dealt with during the TWAO process and any resulting public inquiry.

The relevant parts of the objection relating to the disposal of open space are summarised as follows:

The disposal of the public open space land adjoining Calder Road in Ravensthorpe will prejudice the short and long term delivery of Dewsbury Riverside. If land that is crucial for opening up and facilitating the development of the site instead needs to be secured for public recreation as part of an Exchange Land certificate prepared by Network Rail, the implications of this are:

Short Term

Prejudice on the implementation of a T-junction deliverable under the outline planning permission (2016/60/94118/E) as the alignment of the T-Junction is coincident with parts of the recreation land.

Officers are of the view that there is a reasonable prospect that this objection will be resolved as NRIL has proposed to change the replacement land in question following discussions with Berkeley De Veer and the Council. This will allow BDV to bring forward their access road if they such require.

Longer term:

- 1) *The potential exists for the provision of an absolute barrier between the Dewsbury Riverside site and the adoptable highway once the proposed Route Upgrade works have been undertaken by Network Rail and*
- 2) *The New Calder Bridge proposal would be equally prejudiced by the securing of the Access Area as Exchange Land. The new bridge is proposed to connect the Dewsbury Riverside site with Low Mill Lane and the A644 and provide additional off-site highway capacity. This key strategic highway infrastructure is not required within the Local Plan period but is nonetheless needed for the full 4,000 units within Dewsbury Riverside to be delivered.*

Officers are of the view that there is a reasonable prospect of these objections being resolved so that the TRU investment can proceed “at pace” with the Council continuing to work in partnership with NRIL to bring forward essential rail infrastructure, a new train station for Ravensthorpe and housing delivery at Dewsbury Riverside.

2.4 Objection at Deighton (20-0326)

The Council has received a specific objection in relation to a parcel of land near Deighton Station. The full redacted objection email can be seen in Appendix 4. In summary, the objection questions:

- The amount of land needed in this location
- That no detailed boundary information was provided
- The impacts to the footpath
- The number of trees lost
- Site notices

NRIL has worked collaboratively with the Council in providing a response which can be seen in Appendices 5a & b and provides comprehensive justification to each of the elements raised in the objection.

Further to response being received from NRIL, they have since estimated approximately

6% (between 50 and 60) of the total trees lost in the Deighton area are from the Councils open space plot in question. The rest is from private land not in the Councils ownership.

The decision before the Cabinet relates to the disposal of the land. The removal of the trees by the new landowner, NRIL, would be through an authority granted by the Secretary of State pursuant to a Transport and Works Act Order.

3. Implications for the Council

3.1 Working with People

If approved, the TRU will provide many jobs, particularly in the construction industry not to mention the improved journey times, frequency & capacity to the rail service along the commuter belt.

3.2 Working with Partners.

The Council supports the Transpennine Route Upgrade and the investment and benefits it brings to the Kirklees area and the wider Northern Powerhouse. The scheme will involve working collaboratively to minimise disruption around the district during construction.

3.3 Place Based Working

There will be no impact.

3.4 Improving outcomes for children

There will be no impact.

3.5 Other (e.g. Legal/Financial or Human Resources)

The Council has the statutory powers to dispose of the land and the disposal is in line with the adopted Disposal and Acquisition Policy 2017.

A capital receipt will be received upon disposal of any parcel where the price is above £10,000.

4. Next steps and timelines

If Cabinet approve of the disposals, Kirklees will enter in the relevant option agreement with Network Rail for the disposals of the plots prior to submission of the TWAO application by NRIL or will accept replacement land if officers consider that is the best outcome.

5. Officer recommendations and reasons

The Transpennine Route upgrade is a strategic priority for the Council which supports the scheme and the investment in the area. The Council is also committed to the delivery of Dewsbury Riverside.

If members are minded to uphold the objections then Network Rail Infrastructure Limited will progress with their Transport and Works Act Order application which, if confirmed,

will result in them acquiring compulsory purchase powers but as the land is classed as special category land the Council would receive replacement land instead.

Taking into consideration the above, officer recommendations for each parcel are as follows:

5.1 Deighton (20-0326)

Officer recommendation is for the Council to dispose of the Open Space. Network Rail's response was comprehensive, and the benefits of the Transpennine Route Upgrade outweigh the 'loss' of this parcel in this location.

5.2 Ravensthorpe (20-0328)

Officer recommendation is for Cabinet to approve the disposal of the land. The Council is of the view that there is a reasonable prospect of the remaining two parts of this objection being resolved so that the TRU investment can proceed "at pace" through the Council continuing to work in partnership with NR and in liaison with neighbouring land owner, Berkley de Vere to bring forward essential rail infrastructure, a new train station for Ravensthorpe and housing delivery at Dewsbury Riverside, following submission of the Transport and Works Act Order. This includes bringing forward a design to maximise benefits for all parties whilst providing adequate access to facilitate the Dewsbury Riverside development.

6. **Consultees**

Following a meeting between Officers and the Ashbrow Ward Councillors, Cllr Uppal, writing on behalf of herself and her co-ward Councillors, commented as follows:-

"As we stated in the meeting, we do support the upgrade works to the public transport system but I do have particular concerns that we will lose over 900 trees in Deighton. Whilst the response from NR includes some tree planting it will take some time for the trees to grow and replace the huge amount lost. I also am concerned that the area is losing some open space land. This is even more important in an area like Deighton where we have (sic) struggled with levels of deprivation.

We would therefore urge that any capital receipts from the sale of the land be used to supplement local environmental projects and should include the involvement of local groups like Woodscape and the input of local Cllrs."

Cllr Masood Ahmed of Dewsbury South Ward was happy with the comments made by the Portfolio Holders.

7. **Cabinet Portfolio Holder's recommendations**

The Cabinet Portfolio Holders recommend that Cabinet approves the disposal of the open space at both Deighton and Ravensthorpe.

They agree that the benefits from the TRU will outweigh the disposal of the open space. Given the likely outcome of a compulsory purchase, they agree with officer recommendations and believe this is the best course of action.

8. **Contact officer**

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9. Background Papers and History of Decisions

Not applicable

10. Service Director responsible

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