

5 April 2017		ITEM: 14 (Decision 01104419)
Cabinet		
Grays South: Delivering the New Pedestrian Rail Crossing		
Wards and communities affected: Grays Riverside	Key Decision: Key	
Report of: Councillor Mark Coxshall, Portfolio Holder for Regeneration		
Accountable Head of Service: Andy Millard, Head of Planning and Growth		
Accountable Director: Steve Cox, Corporate Director Environment and Place		
This report is Public with three exempt appendices		

Executive Summary

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.

The Grays South Project aims to create public squares and a pedestrian rail crossing to replace the level crossing in Grays High Street, together with the development of modern retail and residential units. This has been a long standing priority for the Council. The level crossing is a barrier to pedestrian movements between Grays south and the town centre and Network Rail have identified it as one of the most dangerous in its Anglian Region. The frequency and length of gate closures will increase significantly as commercial rail freight from DP World increases. This will increase the barrier effect of the crossing and is likely to increase the incidents of unsafe crossings as people become frustrated with waiting at the closed gates.

The Council has been working with Network Rail to develop the proposals for the pedestrian rail crossing. Network Rail has been leading technical design and the Council leading land acquisition and urban design. The Council will also be leading the development of sites created by the scheme and will be investigating opportunities for joint development, where possible, with Network Rail and C2C.

Network Rail continues to support the project through design and their approvals process. In order to progress, the Council will have to meet the costs of the project and a funding strategy has been developed. The strategy draws upon the existing commitments within the Medium Term Financial Strategy (MTFS), available s106 funds and estimated receipts from future developments of other sites owned by the

Council around the town centre matched against the funding to be received from the Local Growth Fund through SELEP.

This report seeks Cabinet's approval to progress the next stages for implementing the project including joint working arrangements, project management and land assembly.

1. Recommendations

1.1 To approve the implementation of the Grays South Project and delegate to the Corporate Director Environment and Place, in consultation with the Portfolio Holder for Regeneration, the negotiation of a joint delivery approach and agreement with Network Rail and C2C.

1.2 To resolve that the use of Compulsory Purchase powers under Section 226(1) (a) and powers of acquisition under section 227 and 237 of the Town and Country Planning Act 1990 (as amended) and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 would in principle be justified in order to facilitate the delivery of a pedestrian rail crossing to replace the level crossing in Grays High Street (the Scheme) on the land outlined red on the plan in Appendix 1.

1.3 Delegate to the Corporate Director of Environment and Place in consultation with the Portfolio Holder for Regeneration the implementation of the Land Acquisition and Partnership Strategy including:

- i. To grant written authority to officers and their appointed agents to enter on to the land and other land for the purposes of carrying out surveys under section 15 of the Local Government (Miscellaneous Provisions) Act 1976**
- ii. To issue notices requisitioning information from persons in relation to the land and other land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 or Section 5A of the Acquisition of Land Act 1981.**
- iii. Undertake land referencing and rights to light surveys to identify all owners, tenants, occupiers, and other interests or those who would be likely to be qualifying persons under Section 12(1) of the Acquisition of Land Act 1981 in relation to the scheme.**
- iv. Negotiate to acquire land needed to facilitate the Scheme by agreement.**

- 1.4 To approve the option 4 design for the pedestrian rail crossing as the basis for the next stage of design and for further consultation about the Scheme to be undertaken.**
- 1.5 To approve the funding strategy.**
- 1.6 To note that**
- i. A detailed report in relation to the exercise of the Compulsory Purchase Powers, setting out the full justification for their use including a full statement of reasons, will be presented for consideration by a future Cabinet.**
 - ii. The appropriation of Council owned land required for the Scheme from the purposes for which it is currently held to planning purposes is likely to be required under section 122 of the Local Government Act 1972 to deliver the Scheme and the need to do so will be identified once detailed proposals have been prepared.**
 - iii. The use of stopping up powers under section 247 of the Town and Country Planning Act 1990 (as amended) is likely to be required to deliver the Scheme.**
 - iv. An equalities assessment will be carried out during the following design stages.**

2. Introduction and Background

- 2.1** In 2013 Cabinet agreed an option for a pedestrian rail crossing as the preferred approach to providing an alternative to the level crossing. This approach was agreed with Network Rail who funded the design of four options that form Appendix 2 to this report. The approach includes the creation of new public squares at each end of the pedestrian rail crossing and development of new retail space around the squares to provide an attractive setting. In March 2014 Cabinet agreed that discussions commence with land owners about a land acquisition strategy. In December 2014 Cabinet agreed a Memorandum of Understanding that set out the terms of working with Network Rail and the appointment of consultants to develop the land acquisition strategy.
- 2.2** The Council commissioned Montague Evans to develop the land acquisition strategy and in March 2016 Cabinet agreed a development framework for Grays which included the pedestrian rail crossing and linked developments, an extract from the framework that illustrates how the pedestrian rail crossing could be integrated in to the wider town centre is in Appendix 3.
- 2.3** Network Rail appointed a team to complete the initial design stage of the pedestrian rail crossing itself and links from the pedestrian rail crossing to the surrounding public realm. This was completed in June 2015. Further funding was then required to enable the project to proceed and it is only with the

announcement that the project will receive a grant from the Local Growth Fund that the funding package for the pedestrian rail crossing and public squares is completed and the project can progress.

- 2.4 In March 2017 Planning, Transport and Regeneration Overview and Scrutiny Committee supported an approach whereby delivery is shared, with Network Rail leading the technical design and construction of the pedestrian rail crossing, steps and ramps and Thurrock Council leading the design of the land assembly and public realm. The Committee also agreed that the Memorandum of Understanding agreed by Cabinet in December 2014 be revised as the basis for formalising joint delivery arrangements, and supported the funding strategy and approach to land assembly discussed in detail later in this report.

3. Issues, Options and Analysis of Options

- 3.1 The section considers delivery of the pedestrian rail crossing under the following headings:
- a) Scope of the scheme and approach to delivery
 - b) Project Management
 - c) Design Approach
 - d) Funding Strategy
 - e) Land Assembly
 - f) Delivery Programme

Scope of the scheme and approach to delivery.

- 3.2 The project includes the following:
- a) Replacement of the level crossing with an 8 metre wide pedestrian rail crossing
 - b) Creation of public squares at each end of the pedestrian rail crossing
 - c) Land assembly
 - d) Demolitions necessary to create the space required
 - e) Relocation of Station Approach to create the space required
 - f) Possible relocation of Crown Road to enable the pedestrian rail crossing to be as short as possible.
- 3.3 Development of new retail units around the public squares with residential and/or offices above would be progressed as a conventional development project. The scheme area is shown on the plan that forms Appendix 1 to this report. This is likely to be the maximum area required and the next stage of design will review the area required and consider ways to reduce the area of land acquisition. There are likely to be related impacts particularly in relation to the public highways and the bus station that will fall outside of this area and project management will be required to ensure that these are properly coordinated.

- 3.4 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 if they lead construction on their land.
- 3.5 In light of these discussions it is proposed that delivery is shared by the Council and Network Rail and with C2C as follows;
- a) Network Rail lead the technical design of the structure of the pedestrian rail crossing and access ramps and steps and manages construction of these and associated works.
 - b) Thurrock Council leads land assembly.
 - c) Thurrock Council lead design and construction of the public squares and the design of the external finishes to the pedestrian rail crossing.
 - d) Thurrock Council develops its land for complimentary retail and flats or offices working in partnership with C2C and Network Rail for coordinated development of their landholdings.
- 3.6 Cabinet is requested to delegate the negotiation of the joint delivery approach with Network Rail and C2C to the Corporate Director Environment and Place in consultation with the Portfolio Holder for Regeneration.
- 3.7 In December 2014 Cabinet agreed a Memorandum of Understanding with Network Rail which established a delivery framework. It is proposed to update this document 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.
- 3.8 Works adjacent to the rail line by the Council would require an Asset Protection Agreement with Network Rail however it is hoped this can be agreed relatively easily because works would not intrude directly on to Network Rail's operational land.

Project Management

- 3.9 Key decision points would be reported to and decisions sought from Cabinet. The project would be managed by the Council's Regeneration Team reporting to the Grays Programme Board chaired by the Corporate Director Environment and Place.
- 3.10 It is proposed that delivery would be supported by the procurement of a specialist project manager with relevant experience of working with Network Rail and specialist urban/landscape designers to work closely with Network Rail's technical design team to ensure the high quality of public spaces required by the Council is achieved. The Council has appointed Montagu Evans to support land acquisition and will require specialist legal support for any Compulsory Purchase required.

- 3.11 It is also proposed to establish a senior level steering group with representation from Thurrock Council, Network Rail and C2C to coordinate and oversee delivery.

Design Approach

- 3.12 Plans of the four options from the last design stage completed by Network Rail form Appendix 2 to this report. In each case the design of the pedestrian rail crossing itself is the same. Each of the options presents a different approach to the ramps/steps and the public squares. The development of these options has sought to balance the quality of public space, accessibility and connectivity and the amount of land required. The differences between the options can be summarised as follows:

	Description	Pros	Cons
1	Compact ramps. Segregated steps.	<ul style="list-style-type: none"> • Minimum land take • DDA compliance 	<ul style="list-style-type: none"> • Heavily engineered, not meeting public realm quality requirements. • High walls along ramps create enclosure • Long foot access on north side to station/buses.
2	Long ramps. Integrated steps.	<ul style="list-style-type: none"> • Better public realm • Opportunities for landscaping • DDA compliance 	<ul style="list-style-type: none"> • Long ramps • Low wall structures required • Larger land take than option1 • Long foot access to station/buses on north side
3	Integrated ramps and steps.	<ul style="list-style-type: none"> • Better public realm • More accessible • Lower land take than option 2 • DDA compliance 	<ul style="list-style-type: none"> • Requires long retaining wall structures • Long foot access to station/buses on north side
4	Crescent shaped integrated ramps and steps.	<ul style="list-style-type: none"> • Highest levels of accessibility • Engineered structures are less obvious • Highest quality of public realm • DDA compliance 	<ul style="list-style-type: none"> • Second highest land take of the different options.

- 3.13 Option Four provides crescent shaped steps on both sides of the rail line with fully integrated steps and ramps. This approach has the benefit of maximising the ways in which people can access the pedestrian rail crossing while minimising the visible retaining wall structures and meeting the Council's wider objectives of providing a high quality public realm. Option Four

establishes key design principles for the next design stage including scale, maximising accessibility, and quality of appearance that minimise the impact of the engineering structures required which can be taken to the next stage of design.

Funding Strategy

3.14 The overall cost of the pedestrian rail crossing, access steps and ramps and public squares is estimated at c£27.4 million. From this total c£5.4 million has been allowed for land acquisition. These figures contain contingencies and are cautious to account for a range of unknowns. They are, however, the best guide currently available.

3.15 In considering how to meet the costs, the Council explored the potential to generate revenue by bringing forward developments on land either currently within its ownership in Grays or which will need to be acquired to deliver the pedestrian rail crossing. Development appraisals indicate that sufficient funds could be generated to support construction. Sitting alongside the Council's existing £9m capital commitment (contained within the Council's MTFs) and £1m of S.106 funds held by the Council, this development receipt strategy has formed the basis of the Council's application to the Local Growth Fund through the South East Local Enterprise Partnership (SELEP) as part of a funding package broken down 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

3.16 On the 2nd February the Council received notification that it would receive the full amount of funding requested from the Local Growth Fund which completes the funding package outlined above.

Land Assembly

3.17 The plan in Appendix 4 shows the approximate extent of land acquisition required and the separate land holdings within that area. The next design stages will consider ways in which to minimise the extent of land acquisition. The anticipated cost of acquiring land interests is estimated at c£5.4m if compulsory purchase was required for all sites. Costs and changes in land values will be monitored throughout the project.

3.18 The Council has maintained an open dialogue with the owners and occupiers of property affected by the scheme and given general updates to businesses

through the Grays Town Partnership. It is important that this dialogue continues throughout the development and delivery of the scheme.

- 3.19 The Council will need to acquire or gain control of all land interests. A Land Acquisition and Partnership Strategy to support the project is attached as part of Appendix 5. Based on relevant Government guidance it sets out the detail of the approach:
- a) Maintain clear and open communication
 - b) Look to negotiate agreement wherever possible with priority given to freeholds and long leases over short leases and occupational interests
 - c) The approach should be subject to review and tailored to each case
 - d) Use of Compulsory Purchase Powers should be a last resort
 - e) Recognise that it may be appropriate to agree conditional contracts for future purchase. There may also be benefit in early acquisition if interests are available and/or where the Council may be able to generate an income prior to implementation of the project
 - f) Support relocation of existing business
 - g) Residential premises within the scheme area should be handled sensitively.
- 3.20 The Strategy anticipates the majority of acquisition being through negotiation and individual agreements. Certainty over land assembly and ensuring that all unregistered or undeclared interests and rights have been identified is critical to delivery.
- 3.21 Should the Council have to rely upon its Compulsory Purchase Order (CPO) powers it will need to produce detailed statements in support of its proposals, participate in a public inquiry and then follow the relevant processes to secure the necessary interests. It is considered necessary to commence both the negotiations and the preparatory work for the CPO as soon as possible to enable the delivery of the project.
- 3.22 Cabinet is asked to give in principle approval to the use of compulsory purchase powers and to the promotion of CPO if necessary to implement the scheme. To inform this decision a Preliminary Schedule of Interests is included as part of Appendix 5 to this report and a draft Statement of Reasons is attached as Appendix 6. Both documents will need to be developed further to demonstrate that the Council has followed proper process and to support the use of its powers of compulsory purchase. The documents will be key inputs into the process and will be appended to any Order. Further updates will be provided to Cabinet to advise of progress on the project and, if required, to seek a further resolution to actually make and publish a Draft Order.
- 3.23 The existing Council owned land required for the scheme will need to be appropriated from its current purpose to planning purposes for the delivery of the scheme. The scheme will also require temporary and permanent closures and diversions of the public highway and is likely to require the creation of

new highway for the necessary relocation of Station Approach. The necessary approvals to effect the various appropriations will be sought through further Cabinet reports as the project progresses.

Delivery Programme

- 3.24 The project is complex and as a consequence requires a lengthy process for design, land acquisition, consents and construction. If a CPO is required land assembly can take two years. The latest programme with Network Rail suggests completion would be 5 years after the start of the next design stage, assuming this is March 2017 completion would be in March 2022. The timescale will depend on completion of the implementation agreements with Network Rail and issues that are beyond the Council's control such as Asset Protection and the need to secure access to the rail line and will be monitored throughout the project.

4. Reasons for Recommendation

- 4.1 The pedestrian rail crossing 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 regeneration of Grays town centre and consultation demonstrates strong stakeholder support.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The 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 includes the pedestrian rail crossing and associated plot developments.
- 5.2 The development framework included public consultation; there was strong public support with 72% of respondents either supporting or strongly supporting the pedestrian rail crossing 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. The Grays Town Management Partnership has also been provided with a series of presentations.
- 5.4 Planning Transport and Regeneration Overview and Scrutiny Committee in March 2017 supported the approach to delivery discussed in this report. The committee requested that issues of safety including CCTV and proper drainage be addressed in future design, that every effort is made to keep the crossing open until the project is completed, and that the public is kept informed.

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 the town centre including 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 impacts 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' 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 and 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 and 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**

As a number of the appendices are exempt these will be published in a separate booklet:

- Appendix 1: Site Area
- Appendix 2: Plans of the four design options
- Appendix 3: Extract from Grays Development Framework
- Appendix 4: Plan of Land holdings within scheme area (EXEMPT)
- Appendix 5: Preliminary Cost Estimate and Land Acquisition Strategy by Montagu Evans (EXEMPT)
- Appendix 6: Draft Statement of Reasons (EXEMPT)

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