

<b>8 January 2019</b>		<b>ITEM: 5</b>
<b>Planning, Transport, Regeneration Overview and Scrutiny Committee</b>		
<b>Grays South Regeneration Project: Delivering the Pedestrian Underpass</b>		
<b>Wards and communities affected:</b> Grays Riverside		<b>Key Decision:</b> N/A
<b>Report of:</b> Brian Priestley, Regeneration Programme Manager		
<b>Accountable Assistant Director:</b> Detlev Munster, Assistant Director of Property and Development		
<b>Accountable Director:</b> Steve Cox, Corporate Director of Place		
<b>This report is</b> Public		

## **Executive Summary**

In April 2017 Cabinet agreed the funding package and the next steps towards delivering the pedestrian subway to replace the level crossing in Grays High Street. Following a protracted process to establish the delivery partnership with Network Rail, a delivery agreement has now been completed. Network Rail has commissioned its contractors (VolkerFitzpatrick) and Designers (W.S. Atkins) and the Council has commissioned its designers (Steer) to proceed with the next stages of design and public engagement. The Delivery agreement with Network Rail now provides a clear way forward for the project which is described in this report.

### **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 next stages of the Grays South Regeneration Project set out in this report.**

### **2. Introduction and Background**

**2.1** The Grays South Regeneration Area (GSRA) aims to transform the area of Grays town centre around the South Essex College, Civic Offices and the rail station. The main elements of the project are the creation of public squares and an underpass to replace the pedestrian level crossing in Grays High Street, development of modern retail and residential property around the public squares and an extension to Civic Offices with access directly on to the High Street.

2.2 The Grays Development Framework approved by Cabinet in November 2017 provides the context for the GSRA. The projects in the area are the Council's response to several key drivers:

- a) The level crossing is amongst the most dangerous crossings in the eastern region and is the only pedestrian crossing that features in the top 10 most dangerous. This rating arises because of the number of people jumping the closed gates or using the level crossing as a means of avoiding paying rail fares. This risk is likely to increase as the duration and frequency of gate closures increases.
- b) To support and enhance the viability and vitality of the town centre.
- c) The level crossing is a significant barrier to pedestrians moving to and from the town centre. Gates can currently be closed for up to 12 minutes in normal operation. The frequency and duration of closures will increase as the passenger rail service becomes more frequent from 2020 and commercial rail freight from DP World and Port of Tilbury increases.
- d) Recognition that the area around the rail station does not provide a welcoming arrival point to Grays and that the quality of the public realm needed to be uplifted in response to the South Essex College.
- e) The need to provide a modern approach to delivery of the Council's services in flexible multi-purpose accommodation.

2.3 In April 2017 Cabinet approved the funding package and the next stages for the delivery of the underpass to replace the level crossing of the rail line in High Street and new public squares. In November 2017 Cabinet approved the next stages for developing proposals to extend Civic Offices westwards towards High Street. Cabinet also approved in November 2017 a Refreshed Grays Development Framework which supports the delivery of the GSRA.

2.4 This report focusses on the delivery of the underpass and associated public realm and provides members with details of progress since April 2017 and sets out next steps proposed to progress delivery. In recent months there has been significant progress with Network Rail with the completion of a delivery agreement and commitment of fund for the next stage of delivery.

### **3. Issues, Options and Analysis of Options**

3.1 This section considers progress and delivery of the underpass under the following headings:

- a) Delivery Partnership with Network Rail
- b) Design and public engagement
- c) Land assembly

- d) Legal Support
- e) Business case for Local Growth Fund draw down
- f) Delivery Programme

## **Delivery Partnership with Network Rail**

- 3.2 The Council has been working with Network Rail (NR) to establish the delivery process for the project. However this part of the process has been delayed for a number of reasons. Firstly, with changes in the classification of NR as a publicly owned company, their approach to providing land for the project has changed. A draft Memorandum of Understanding with NR for the delivery of the project included provisions for the land owned by NR to be made available to the project at no cost. NR has now changed this approach and a process of valuations and a business case are to be prepared to determine NR's approach to land for the project. Based on assessment of market value by Montagu Evans this could be c£275,000 but maybe less subject to completion of the business case. Secondly, the costs set out in the last stage of design (GRIP2) by NR were used as the basis for the Council's application for LGF funding but discussions for the next stage have revealed increases in the fees and other charges imposed by NR. These are approximately 2.5 times what was expected for the next design stage (an increase of c£1.5 million) which is off set for this stage by additional funding provided by Network Rail and discussed further in para 3.4 below. In addition NR have sought to apply further costs that they were to incur related to removal of the level crossing. These may add to the cost of the project or require savings through value engineering or changes to the project scope. This delay and these changes have required alterations to the business case delaying its completion and submission to draw down the first tranche of Local Growth Fund grant. This is being managed positively in conjunction with the South East Local Enterprise Partnership.
- 3.3 These issues have contributed to a lengthy process with Network Rail since Cabinet in April 2017. Recently significant positive progress has been made with the completion of two key delivery documents for the next project design stage. Firstly, a Route Requirements Document (RRD) sets out the Council's and NR's design requirements for the underpass. Secondly, a Development Services Agreement provides the formal agreement between the Council and NR for the delivery of the requirements contained in the RRD. This has enabled NR and the Council to complete their project teams and to move forward on the project to start the next stage of their work towards delivering the project.
- 3.4 NR has also committed up to £1.5 million towards the next design stage. This is in addition to the funding they provided for the previous design stage and is more than the previous amount of £700,000 committed by NR. NR's funding is defined in 5 year periods (Control Periods). Their current funding for the project is limited to the current Control Period (CP5) which ends on the 31<sup>st</sup> March 2019, and so some of this funding may be lost. NR and the Council are seeking to ensure the maximum benefit is secured for the project from this

funding. The funding package agreed by Cabinet in April 2017 amounted to £27,436,981. This included provisions in the Capital Programme, S.106 Funds, funds from Network Rail and from development returns on plots within the scheme and the wider town centre, assuming that all land had to be acquired by Compulsory Purchase and assuming development returns based on appraisals of development plots by Montagu Evans.

## **Design and Public Engagement**

- 3.5 NR will carry out the technical design of the underpass and the steps and ramps leading to it. The Council has appointed Steer as its design team to work with NR's contractors to design the rest of the scheme including the public squares and the relationship with adjacent development plots created by the project. Steer will also work on behalf of the Council to design the finishes to the underpass, steps and ramps. The partnership arrangements with Network Rail make clear that while there are technical requirements that must be incorporated in to the design approach for the safety and operation of the railway, the quality of the finishes and appearance of the scheme are paramount. Steer have a great deal of experience in designing public realm with rail structures and will take a lead in defining these in the design approach for the project. A nearby example of their work is changes to the rail station and a pedestrian underpass at Hackney Wick Station.
- 3.6 Steer has also been appointed to produce a design guide for the wider town centre which can be used to coordinate future development and changes affecting the public realm throughout the town centre.
- 3.7 Public consultation on the Grays Development Framework in 2016 identified strong support for the project however it is recognised that people may have reservations or perceptions about the safety and design of underpasses and therefore public consultation will be an integral part of project development. Steer will lead on the Council's behalf public consultation and stakeholder engagement for the design guide and for each stage of design for the project. The first stage of consultation will be in February/March 2019. This will be in addition to statutory consultation processes for planning and is intended to enable full public engagement in the design of the project.
- 3.8 Cabinet will be presented with designs for their consideration and decision prior to completion of the stages leading to the final design for Approval in Principle. The views of PTR Overview and Scrutiny Committee will be sought in advance. The design that is given Approval in Principle by NR and the Council will be used as the basis for seeking full planning permission and other necessary consents and developed in to construction drawings. Approval in Principle is expected in November 2019. Prior to this it is intended to submit an application for outline planning permission in the summer of 2019.

## **Land Assembly**

- 3.9 The Council has appointed Montagu Evans to support land assembly required to deliver the project. They produced a land acquisition strategy which was approved by Cabinet in April 2017 and will support land acquisition throughout project delivery. Now that the DSA has been completed with NR, Montagu Evans will issue letters in January 2019 to the known interests in the land inviting them to discussions and negotiations about the sale of their land interests to support the project.
- 3.10 In April 2017 Cabinet delegated to the Corporate Director for Place the implementation of the approved Land Acquisition Strategy. The Council may need to acquire land using its powers of compulsory acquisition and appropriation under Part IX of the Town and Country Planning Act 1990 (as amended) and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 in order to facilitate the delivery of the project. If Compulsory Acquisition is required a further report will be submitted to Cabinet for their consideration and decision.

### **Legal Support**

- 3.11 The project will require a range of specialist legal support including land acquisition which may include use of the Council's powers to acquire by Compulsory Purchase, Network Rail processes, and formation of commercial delivery partnerships for development plots around the project area. Shoosmiths solicitors have been appointed to provide this support and have extensive experience in all the areas of legal support required to deliver the project

### **Local Growth Fund**

- 3.12 In February 2017 the Council received confirmation that the project would be allocated £10.8 million by the SELEP from the Local Growth Fund available in two tranches, 2019/20 and 2020/21. A more detailed business case has been submitted in December 2018 to draw down the first tranche of this funding and will be considered at SELEP's Accountability Board in February 2019.

### **Delivery Programme**

- 3.13 The current delivery agreement with Network rail covers design works for delivering the underpass and the public realm through to July 2020 (item g below). This programme is set out in the Development Services Agreement with NR up to item (h) in the summary below. Time periods for consents required is included, all consents and land acquisition would have to be completed before construction can commence. Items (i) to (l) below have been estimated and will be clarified as design is developed for Approval in Principle.

	<u>Milestone</u>	<u>Completion</u>
(a)	Commencement of Current NR design work	November 2018
(b)	Completion of surveys	February 2019
(c)	Public consultation	Feb/Mar 2019
(d)	Current Network Rail funding expires	March 2019
(e)	Design stage gateway review	July 2019
(f)	Outline Planning Application	August 2019
(g)	Approval in Principle	November 2019
(h)	Design and Consents stage gateway review	July 2020
(i)	Land acquisition assuming CPO completed	Q2 2021
(j)	Detailed Design for construction (Estimate)	Q3 2021
(k)	Construction underpass (Estimate)	Q3 2022
(l)	Construction public squares (Estimate)	Q3 2023

#### **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 A delivery agreement with Network Rail for the next stages of the project has now been completed and provides a clear way forward.

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

- 5.1 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 Cabinet approved work leading to this report in April 2017. The project is supported in the Refreshed Grays Development Framework approved by Cabinet in November 2017 and the project is supported by proposals to extend Civic Offices approved by Cabinet in November 2017.

**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. In November 2017 Cabinet agreed a Refreshed Grays Development Framework to guide the Council's regeneration activities; the framework includes this project and an extension to Civic Offices.

**7. Implications**

**7.1 Financial**

Implications verified by: **Sean Clark**  
**Director of Finance and IT**

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 as set out in the report. The financial impact of the proposal within this report is part of the approved scheme within the Councils capital programme. NR has committed up to £1.5 million in their current control period ending 31<sup>st</sup> March 2019 and will look to budgets during Control Period 6 to identify other funding.

The next phase of work contracted with Network Rail is at a higher cost than envisaged, the costs set out in the last stage of design (GRIP2) by NR were used as the basis for the Council's application for LGF funding but discussions for the next stage have revealed increases in the fees and other charges imposed by NR. The fees are approximately 2.5 times what were expected for the next design stage (an increase of c£1.5 million) which is off set for this stage by additional funding provided by Network Rail. Should this continue there is a risk that there will be a project shortfall although savings will be pursued to mitigate this. Officers are working with Network Rail to address these issues.

NR has now changed their approach to land required for the project and a process of valuations and a business case are to be prepared to determine NR's approach as set out in para 3.2 of the report. Based on assessment of market value by Montagu Evans this could be c£275,000 but maybe less subject to completion of the business case.

## 7.2 Legal

Implications verified by: **Bob Capstick**  
**Planning and Highways Locum**

The Council has completed a partnership agreement with Network Rail setting out joint working arrangements for the next stages of design. A further agreement will be required for the later stages including construction.

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

This report refers to the legal powers being considered to carry out aspects of the project and there are no comments to add to these at this stage. at Paragraph 3.11 of this report informs this committee that Shoosmiths have been appointed by the Council as its external solicitors to provide legal support to deliver the project.

## 7.3 Diversity and Equality

Implications verified by: **Natalie Warren**  
**Strategic Lead, Community, Development and Engagement**

The project has been the subject of stakeholder engagement summarised in the previous reports to Cabinet. There will be further detailed stages of design and submission of applications for planning permission and other consents. Further engagement activity will take place as the designs are developed which will include an Equalities Impact Assessment. The design will comply with all relevant legislation and standards for accessibility.

## 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**

- None

**Report Author:**

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Property and Development