

TITLE OF REPORT : HITCHIN (CAMBRIDGE JUNCTION) ORDER – NEW RAILWAY AND ANCILLARY WORKS

REPORT OF THE HEAD OF FINANCE, PERFORMANCE AND ASSET MANAGEMENT

1. SUMMARY

- 1.1 To consult with Hitchin Committee on Network Rail's proposals for the Hitchin rail curve.

2. FORWARD PLAN

- 2.1 This report contains a recommendation on a key decision that was first notified to the public in the Forward Plan for 1st January 2010, published on 22 December 2009.

3. BACKGROUND

- 3.1 Network Rail proposes to construct a new 2.26 km length railway line off the East Coast Main Line at Hitchin to relieve congestion at the existing junction with the Cambridge branch line.
- 3.2 The District Council has been served with notice of application to compulsory acquire land and rights in some of the District Council's land off Cadwell Lane, Hitchin and to extinguish rights over land.
- 3.3 The application documentation was received on 29th September 2009 with a deadline for responses by 11th November 2009.
- 3.4 The majority of the land covered by the rail scheme is not owned by the District Council. On the 2nd November 2009 a Special Planning Committee considered the railway proposals. A letter of objection was made on behalf of NHDC's Planning Committee by the 11th November 2009 deadline.
- 3.5 This report relates to only that land owned by the District Council and does not consider the wider Planning issues.
- 3.6 The District Council owns land off Cadwell Lane, Hitchin, as identified on Network Rail's plan attached to this report. Issues for the District Council to consider as land owner relate to first environmental and contamination, and second to the implications of the proposals on the District Council's rental income from the land it leases to Sita metal recycling.
- 3.7 Due to the limited notice by Network Rail it was not possible to consult with Hitchin Committee or seek instructions from Cabinet Committee before the deadline for responses of 11th November 2009. To protect the District Council's position, before the deadline the Senior Estates Surveyor wrote a letter of objection on behalf of the District Council as land owner. This indicated the contents of the letter were subject to consultation with Members at a later date who may wish to amend or ratify the

letter's content. A copy of this letter is in the Members Room.

4. ENVIRONMENTAL ISSUES RELATING TO THE DISTRICT COUNCIL'S LAND

4.1 The route of the proposed railway development runs through the District Council's land off Cadwell Lane including Cadwell Marsh and Burymead Springs.

4.2 Network Rail is proposing to use compulsory purchase powers to incorporate a flood attenuation scheme within the boundary of Cadwell Marsh including Burymead Springs. They also plan to permanently reduce the size of the publicly accessible site by acquiring a strip of land parallel to the site's eastern boundary. Once created, Network Rail flood attenuation scheme will be handed back to the District Council for long term maintenance.

4.3 Some of the comments received from various District and Hertfordshire County Council officers and others, as reported to the Special Planning Committee of 2nd November 2009, have included:

Hertfordshire Biological Records Centre:

Considers that there will be significant impact on wildlife sites. Concerned at how the proposed ecological mitigation, compensation and enhancement features will be delivered.

Landscape Officer (NHDC)

Would request a landscaping condition that requires details of species, size at time of planting, ultimate height, density and location to be agreed to ensure that the optimum mitigation is achieved.

Environmental Health officer (Contaminated land, NHDC)

Requests a contaminated land condition to safeguard human health and the built and natural environment.

Environmental Protection Officer (NHDC)

Recommends alterations to several of the submitted conditions 5, 8 and 9. Recommends additional conditions with regard to dust monitoring and operational noise.

4.4 The acquisition of the land from Burymead Springs will reduce the site accessible for public enjoyment and appropriate management for wildlife. The proposed exchange amenity land is located within land already owned by the District Council and is of considerably lower wildlife value.

4.5 The location of the flood attenuation scheme is close to the land let by the District Council to Sita Ltd for metal recycling. Previously the Sita site was used for scrap cars. The possibility of contamination to soil in and adjacent to the site of the flood attenuation basin is higher than anywhere else in the Wildlife Site and as such the creation of a water body in this location is unwise. Officers have suggested to Network Rail that a better alternative location for the flood attenuation scheme would be to the north of Cadwell Marsh way from any potentially contaminated land. This is on land not owned by the District Council and has been proposed solely for environmental and public amenity reasons and not because this alternative location is on land owned by a third party.

5. LAND OWNERSHIP ISSUES RELATING TO THE DISTRICT COUNCIL'S LAND

5.1 The Transport and Works Act regulations state that where a public right of way is extinguished an alternative provision should be made. It is recommended that the District Council does not object to the acquisition of 793 sq m of Open Space Land required for Permanent Rights to the east of Burymead Spring, shown coloured green on Network Rail's plan attached, and that authority is delegated to Officers to

agree its disposal by private treaty negotiations on terms to be agreed provided they are the best reasonably obtainable and subject to any necessary statutory procedures regarding the loss of Public Open Space.

- 5.2 Network Rail proposes to permanently acquire from the District Council 490 sq m of Open Space Land for railway construction works. This land is immediately adjacent to the right of way land in paragraph 4.1 above and shown coloured light blue on Network Rail's plan. It is recommended that the District Council does not object to the acquisition of 490 sq m of Open Space Land required for Permanent Works and that authority is delegated to Officers to agree disposal as outlined in paragraph 4.1.
- 5.3 The 2,555 sq m site of Open Space Land required for the flood attenuation basin is shown yellow on Network Rail's plan. Network Rail propose that, having acquired this Open Space land from the District Council, a flood attenuation basin is constructed. It is further proposed by Network Rail that on completion of the flood attenuation basin it hands back the same land to the District Council. The District Council would then become responsible for the long term maintenance of the flood attenuation basin.
- 5.4 The letter from the Senior Estates Surveyor has objected to the proposals for Network Rail's flood attenuation basin as this would unfairly place the burden of long term maintenance of this feature on the District Council. It may be necessary to periodically remove silt from the attenuation basin. If the silt is contaminated, then it would have to be disposed of to a suitable licenced site. This may be required frequently, possibly every 3 to 5 years. It is understood that the current cost of disposal of contaminated material is £100 per tonne. Along with excavation and transport costs this will place a maintenance burden on the District Council estimated to be of around £30,000 every 3 to 5 years. It is wrong that the District Council should be required to be responsible for the maintenance and future costs of the flood attenuation scheme that is required only for the purposes of servicing Network Rail's track and structure.
- 5.5 The District Council land at Cadwell Lane includes an open storage site held for investment purposes let to Sita Ltd for metal recycling. This leased land is split by an access road and comprises to the north of the access road approximately 4,895 sq m and to the south of the access road approximately 2,950 sq m. Sita's have a business lease for a term of 20 years from 24 September 1989. Sita Ltd have indicated that they wish to renew their lease. Subject to contract renewal terms have been agreed.
- 5.6 Network Rail propose to acquire 1,230 sq m of the northern part of the site let to Sita to provide replacement Open Space Land. This is shown coloured purple on the attached Network Rail plan. This acquisition will result in the permanent loss by the District Council of income from part of the land leased to Sita. Network Rail propose to turn this open storage land into Exchange Open Space and then return it to the District Council.
- 5.7 The letter by the Senior Estates Surveyor objected to Network Rail's acquisition of 1,230 sq m's of the District Council's land let to Sita Ltd on the basis that it is likely to be significantly contaminated, it will be difficult and expensive to clean up, and that the reduction of the land left for rent will reduce the District Council's ability to let the land in the future.
- 5.8 Network Rail have a second proposal for the land currently leased to Sita Ltd. Network Rail wish to use compulsory purchase powers to temporarily acquire the whole of the site let to Sita Ltd including the access road. This will result in Sita Ltd having to vacate the site for around 2 to 3 years. This temporary closure of the business could effectively force Sita Ltd to permanently relocate. The District Council is likely to suffer a financial loss if Sita Ltd does not return after the

temporary closure as it may not be possible to find another tenant quickly. For those reasons the letter by the Senior Estates Surveyor raised objections to Network Rails proposals to temporarily acquire the land let to Sita Ltd.

6. LEGAL IMPLICATIONS

- 6.1 The Council's constitution empowers the Cabinet to approve the disposal of land or buildings for a consideration or annual rent that exceeds £250,000 but does not exceed £2,500,000.
- 6.2 The Secretary of State has the power to disregard objections based upon the financial loss suffered by land owners as a result of the compulsory purchase of land. It is therefore possible that the District Council's objections to the compulsory purchase order could be disregarded by the Secretary of State.
- 6.3 Compensation for the compulsory purchase of the District Council's land will (in the absence of a private treaty agreement) be determined by the Land Tribunal and not by the Secretary of State.

7. FINANCIAL AND RISK IMPLICATIONS

- 7.1 The Council currently receives a significant rental income from the site occupied by Sita Ltd held as an investment. Subject to contract terms for renewal of the lease have been negotiated for an increase in rent from September 2009. The proposals under Section 5 of the report could result in the loss of this income.
- 7.2 In the short term negotiations in any proposed compulsory purchase of land may result in reduced rental income. In the longer term the proposals suggest the site would be of a reduced size and hence may have a lower rental value.
- 7.3 Network rail's proposal to hand back the Sita site to the District Council after the construction of the flood attenuation basin may result in the District Council incurring ongoing revenue maintenance costs as described in section 5.5, estimated to be £30,000 every 3 to 5 years.

8. HUMAN RESOURCE AND EQUALITIES IMPLICATIONS

- 8.1 There are no Human Resource or Equalities issues.

9. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 9.1 Tony Bradford, Countryside Management Service.

10. RECOMMENDATIONS

- 10.1 That Cabinet be informed of the comments of consultation with Hitchin Committee.

11. REASONS FOR RECOMMENDATIONS

- 11.1 The recommendation contained within paragraph 10 is made in accordance with the Council's declared policy.

12. APPENDICES

- 12.1 Network Rail Open Space Plan drawing No. N280-NRT-DRG-CN-000009
HITCHIN (12.1.10)

13. CONTACT OFFICERS

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14. BACKGROUND PAPERS

- 14.1 Letter dated 20 November 2009 by the Senior Estates Surveyor to the Secretary of State for Transport

