

CABINET MEETING – 17 NOVEMBER 2020

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

NEW WEAR FOOTBRIDGE – SCHEME UNDER SECTION 106(3) OF THE HIGHWAYS ACT 1980 AND MARINE LICENCE UNDER PART 4 OF THE MARINE AND COASTAL ACCESS ACT 2009

Author(s):

Report of the Executive Director of City Development

Purpose of Report:

The purpose of the report is to obtain approval for making a scheme and seeking its confirmation by the Secretary of State for Transport under section 106(3) of the Highways Act 1980 and for making an application to the Marine Management Organisation for a marine licence under Part 4 of the Marine and Coastal Access Act 2009 in respect of the New Wear Footbridge project.

Description of Decision:

In respect of the New Wear Footbridge project, Cabinet is recommended to:

- (i) Approve the making of a scheme under section 106(3) of the Highways Act 1980 and thereafter the submission of the scheme to the Secretary of State for Transport for confirmation.
- (ii) Approve the making of an application to the Marine Management Organisation for a marine licence under Part 4 of the Marine and Coastal Access Act 2009.
- (iii) Authorise the Assistant Director of Law and Governance to take all necessary action to achieve confirmation of the above scheme and to obtain the above licence.

Is the decision consistent with the Budget/Policy Framework? Yes

If not, Council approval is required to change the Budget/Policy Framework

Suggested reason(s) for Decision:

Construction of the New Wear Footbridge will have temporary and permanent effects on the space available for navigation under the bridge. Statutory powers need to be utilised to authorise the restriction on navigation.

Alternative options to be considered and recommended to be rejected:

The necessary scheme and licence must be in place to allow the bridge to be built. There is therefore no alternative option if the project is to proceed.

Impacts analysed;

Equality ☐ **Privacy** ☐ **Sustainability** ☒ **Crime and Disorder** ☒

Is the Decision consistent with the Council's co-operative values? Yes

Is this a "Key Decision" as defined in the Constitution? Yes

Is it included in the 28 day Notice of Decisions? Yes

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NEW WEAR FOOTBRIDGE – SCHEME UNDER SECTION 106(3) OF THE HIGHWAYS ACT 1980 AND MARINE LICENCE UNDER PART 4 OF THE MARINE AND COASTAL ACCESS ACT 2009

Report of the Executive Director of City Development

1. Purpose of the Report

- 1.1 The purpose of the report is to obtain approval for making a scheme and seeking its confirmation by the Secretary of State for Transport under section 106(3) of the Highways Act 1980 and for making an application to the Marine Management Organisation for a marine licence under Part 4 of the Marine and Coastal Access Act 2009 in respect of the New Wear Footbridge project.

2. Description of Decision (Recommendations)

- 2.1 In respect of the New Wear Footbridge project, Cabinet is recommended to:
- (i) Approve the making of a scheme under section 106(3) of the Highways Act 1980 and thereafter the submission of the scheme to the Secretary of State for Transport for confirmation.
 - (ii) Approve the making of an application to the Marine Management Organisation for a marine licence under Part 4 of the Marine and Coastal Access Act 2009.
 - (iii) Authorise the Assistant Director of Law and Governance to take all necessary action to achieve confirmation of the above scheme and to obtain the above licence.

3. Introduction/Background

- 3.1 A new high-level footbridge over the River Wear, linking Vaux and Sheepfolds, is included in the Riverside Sunderland Masterplan. On completion, the proposed bridge will not reduce the existing vertical clearance for river traffic that is currently in place due to the Wearmouth Bridge.
- 3.2 The authority to construct a bridge over navigable water is obtained by means of a bridge scheme under section 106(3) of the Highways Act 1980 (the scheme). Schemes under Section 106(3) are made by the local authority and, subject to procedural steps, are confirmed by the Secretary of State by way of a Statutory Instrument. Where the navigable watercourse is tidal, the construction of works over the river is also a licensable marine activity which requires a marine licence from the Marine Management Organisation (MMO - who perform the function on behalf of the Secretary of State) under Part 4 of the Marine and Coastal Access Act 2009 (the 2009 Act licence).

- 3.3 The Harbourmaster has advised that a navigation 'envelope' of 25 metres high (above the level of the Mean High Water Spring tide) by 30 metres wide should be provided. The scheme proposals do not reduce the vertical clearance to the river below that at the existing Wearmouth bridges, which are adjacent to this scheme, and the navigation width is not considered to restrict present or likely future river use.
- 3.4 Government guidance promotes a preliminary consultation with river users and the relevant statutory bodies for section 106(3) bridge schemes. Initial contact has been made with statutory bodies and the Port of Sunderland. Meetings/workshops have been arranged to continue the consultation process and other river users are being identified to extend the consultation process to them.

4. Current Position

- 4.1 The programme for delivery of the New Wear Footbridge has been set out in the Sunderland Riverside Masterplan which commits to the delivery of the new bridge in time for Spring 2023. Through feasibility and Early Contractor Involvement (ECI) work already undertaken, in order to meet this target, the procurement and consenting procedures need to be progressed urgently.
- 4.2 It is therefore proposed that a scheme be made and submitted for confirmation to the Secretary of State for Transport on the basis of a minimum of 25 metres high by 30 metres wide navigation envelope. In addition, it is proposed that an application for the 2009 Act licence be made to the MMO on the basis of the proposed footbridge shown on general arrangement drawings SCC-NWF-ATK-SBR-XX-DR-CB-000001 Sheets 1 and 2.
- 4.3 The scheme and the licence will also authorise such temporary restrictions to navigation as may be necessary during construction of the bridge. Should it be necessary, the scheme and the licence can be varied (prior to confirmation and grant respectively, subject to due process) to accommodate the working methods agreed with the yet to be appointed Contractor.
- 4.4 Once the scheme has been submitted for confirmation a public notice will be published. If objections to the scheme (which must include grounds) in response to the notice are received, the Secretary of State will consider whether it is necessary to hold a public inquiry. Similarly, public notice of the marine licence application must be given and if there are objections the MMO may direct that a local inquiry is held. If inquiries are held under both statutory provisions, it is probable that they will be conjoined and heard at the same time.

5. Reasons for the Decision

- 5.1 Construction of the New Wear Footbridge will have temporary and permanent effects on the space available for navigation under the bridge. Statutory powers need to be utilised to authorise the restriction on navigation.

6. Alternative Options

- 6.1 The necessary scheme and licence must be in place to allow the bridge to be built. There is therefore no alternative option if the project is to proceed.

7. Impact Analysis

- (a) **Equalities** – The making of the scheme and the application for the 2009 Act licence shall comply with the Council's "general equality duty".
- (b) **Privacy Impact Assessment (PIA)** – Not Applicable
- (c) **Sustainability** – The project supports the aims of the Sunderland City Council strategy by enhancing the built environment (Attractive and Inclusive City).
- (d) **Reduction of Crime and Disorder – Community Cohesion / Social Inclusion** – The making of the scheme and application for the 2009 Act licence supports the delivery of the project, which in turn promotes community cohesion and social inclusion between the Sheepfolds and Vaux development areas.

8. Other Relevant Considerations / Consultations

- (a) **Co-operative Values** – Initial contact has been made with statutory bodies such as the Environment Agency, Marine Management Organisation, Natural England and Historic England, as well as local stakeholders such as the Port of Sunderland, to develop a cooperative relationship for the project. Meetings/workshops have been arranged to continue this consultation process and other river users are being identified to extend the consultation process to them.
- (b) **Other Considerations:**
 - (i) **Financial Implications** – The costs of preparing and making the applications will be met from the current Capital Programme provision within the Scheme Feasibility and Design project.
 - (ii) **Risk Analysis** – The key risk relating to this decision relates to the potential for objections to the making of the scheme and the potential impact this will have on the delivery programme for the wider project. The means of managing this risk is to continue with the consultation and stakeholder engagement exercises already underway and to commence with the statutory processes under section 106(3) of the Highways Act 1980 and Part 4 of the Marine and Coastal Access Act 2009.
 - (iii) **Employee Implications** – There are no employee implications resulting from this decision. The proposed statutory processes will be managed using existing staff resources.
 - (iv) **Legal Implications** – This decision relates to two legislative processes required to implement the main project, the New Wear Footbridge. The management of these processes will be undertaken in liaison with Law and Governance.
 - (v) **Policy Implications** – The project will be developed and managed in-line with current Council policies.

- (vi) Health & Safety Considerations** – None
- (vii) Property Implications** – There are ongoing land negotiations to purchase parcels of land which are beneath or affected by the project. This process is being dealt with in tandem with the making of the scheme and application for the 2009 Act licence.
- (viii) Implications for Other Services** – Legal services will be provided by the Law and Governance department to progress the making of the scheme and application for the 2009 Act licence.
- (ix) The Public / External Bodies** – Statutory bodies such as the Environment Agency, Marine Management Organisation, Natural England and Historic England have been and will continue to be engaged with on the delivery of the wider project. They have also been briefed on the intention to progress with the making of the scheme and application for the 2009 Act licence.
- (x) Compatibility with European Convention on Human Rights** – It is not considered that the recommended decision will result in interference with any Convention right.
- (xi) Project Management Methodology** – The project will be managed using the Infrastructure and Commercial section's standard project management model.
- (xii) Children's Services** – None
- (xiii) Procurement** – None

9. List of Appendices

Appendix A – General Arrangement Drawings SCC-NWF-ATK-SBR-XX-DR-CB-000001 Sheets 1 and 2.