

CHESHIRE EAST COUNCIL

Cabinet Member for Prosperity and Economic Regeneration

Date of Meeting: 5th March 2013
Report of: Head of Highways and Transport
Subject/Title: Under Bridge Agreement with Network Rail, and Network Rail Professional Fees Estimate in relation to the Crewe Green Link Road (South)
Portfolio Holder: Councillor Jamie Macrae

1 Report Summary

- 1.1 This report seeks approval to enter into an Under Bridge Agreement between Network Rail (NR) and Cheshire East Council (CEC), and also the undertaking to pay NR's reasonable professional fees for their role in supporting the delivery of the Crewe Green Link Road (South) scheme.
- 1.2 The bridge agreement is a NR requirement in order to protect the rail infrastructure and to grant the Council access onto Network Rail's land for the design, construction and maintenance of a new underbridge on the existing Crewe to Stoke railway line, which will carry the railway over Crewe Green Link Road (South).
- 1.3 The following supporting information is included as appendices to this report:
 - Underbridge Agreement – Appendix 1
 - NR fee estimate profile and assumptions – Appendix 2

2 Recommendations

- 2.1 That the Council enter into a formal Underbridge Agreement with Network Rail on the terms and conditions as set out in Appendix 1.
- 2.2 That the estimate of Network Rail's professional fees associated with the development of the scheme, including those incurred before the DfT Final Funding Approval stage, be accepted and formal approval of such be provided to Network Rail.
- 2.3 That any further amendments or modifications of the terms of the agreement or scale of the estimated costs to be incurred prior to final exchange of legal contract be delegated to the Head of Highways and Transport in consultation with the Portfolio Holder.

3 Reasons for Recommendations

- 3.1 In order to progress the scheme, it is essential that the Under Bridge Agreement is entered into as soon as possible. Without the Agreement in place, Network Rail will not provide their agreement in principle ("AIP") to the revised Form 1 submission; nor will they enter into any property agreements with the Council. This, in turn, would prevent the Council from completing the final DfT submission forms for funding. In order to deliver the scheme on time, it is critical that the Under Bridge Agreement is completed as a priority.
- 3.2 In supporting the delivery of the scheme, and the underbridge in particular, NR will provide: advice and input to the design of the structure; requisite technical approvals; construction supervision; post completion monitoring; and, railway possessions for the underbridge construction. The fee estimate includes these costs and therefore confirmation of the Council's undertaking to meet NR's reasonable costs is essential via a signed Underbridge Agreement and formal approval of the associated fee estimate.

4 Wards Affected

- 4.1 Haslington

5 Local Ward Members

- 5.1 Cllrs John Hammond and David Marren

6 Policy Implications (including carbon reduction and health)

- 6.1 The investment accords with the Local Transport Plan Implementation Plan (2011-2015) policy B2 – Enabling development.
- 6.2 This decision will contribute towards the delivery of Crewe Green Link Road (South) which will have a beneficial effect on congestion, road safety, accessibility and reduction of carbon emissions over the urban Crewe highway network.

7 Financial Implications (authorised by Director of Finance and Business Services)

- 7.1 Sufficient budget provision is available within the approved capital programme to cover NR's forecast fees in the 2013/14 financial year.
- 7.2 In the unlikely event that DfT funding is not approved then the Council will be liable to cover the cost of NR fees incurred. The fee estimate produced by NR includes costs of advice, approvals, supervision, possessions charges, post completion monitoring, and 5% contingency.

- 7.3 In total the Network Rail estimate is £625,200, however it is important to note that only approximately £125,000 of this is forecast to be incurred before DfT funding approval is expected in accordance with the current programme.
- 7.4 The total estimate is included within the previously advised total delivery cost of Crewe Green Link Road (South). Final approval, and thus liability for the full estimated costs will only accrue after a final Council decision to proceed with the scheme is taken.

8 Legal Implications (authorised by Borough Solicitor)

- 8.1 The reasons for this agreement requiring approval are set out in section 3.0 above. Other legal implications are covered within the report.

9 Risk Management Implications

- 9.1 The programme for construction of the main scheme revolves around Network Rail possessions. Failure or delay to signing of the Agreement, including undertaking to meet NR's reasonable professional fees, will result in delays to receiving the necessary NR approvals to enable the design to progress and could impact on the Start of Works date. Delay to the Start of Works would likely result in missed main rail possessions, adding an estimated 6 months (minimum) to the programme and could put the 60% DfT scheme funding at risk.
- 9.2 In the unlikely event that the scheme does not proceed to construction or the DfT funding is not approved, the Council will be liable for the NR costs incurred to date.

10 Background and Options

- 10.1 The Prosperity Portfolio Holder's resolution of 16th January 2012, delegated the authority to the Strategic Director (Places & Organisational Capacity), the Head of Highways & Transport, the Borough Solicitor and the Asset Manager to approve the terms of any ancillary agreement, required by Network Rail, in order to deliver the Crewe Green Link Road (South). At that stage the scale of the NR fee estimate was unknown, therefore it was considered that a further Portfolio Holder decision would be required to confirm the Councils undertaking to cover NR's reasonable professional fees associated with the delivery of the scheme.
- 10.2 The attached Underbridge Agreement is based on a NR precedent document (between the County Surveyors Association representing local authorities and Network Rail) which has been negotiated and amended over the last 12 months in order to reflect the requirements of the scheme. It is considered that it would be difficult to negotiate further amendments to the Agreement.
- 10.3 In addition to the Underbridge Agreement, NR has produced an estimate of their professional fees for their role in supporting the delivery of the scheme in accordance with the terms of the Agreement. Unfortunately, there is no comparable scheme against which to compare the scale of the

fees as this will be one of the first schemes that is delivered by an outside party. Recent organisational design changes at NR, prompted by government policy, have removed NR from the automatic design / delivery role which now has to be competitively bid for. They retain the statutory oversight, safety and assurance duty.

- 10.4 The fees are an estimate only but are considered to be reasonable given the complexity of the project. The Council will pay the actual costs incurred which will partly be a function of the final delivery method chosen by the contractor. NR will run an open book accounting system and the council will have the option to audit final accounts. These estimated fees will be included in the final scheme cost package for DfT funding approval.
- 10.5 The Underbridge Agreement also provides the mechanism for the maintenance of the underbridge structure by NR at the cost of CEC, as is standard on structure of this nature where they cross NR infrastructure.
- 10.6 Finally, it is worth noting that the terms of this agreement are broadly consistent with those entered into for the Alderley Edge bypass.

11 Access to Information

- 11.1 The background papers relating to this report can be inspected by contacting the report writer:

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