

## **BARNSELY METROPOLITAN BOROUGH COUNCIL**

**This matter is a Key Decision within the Council's definition and has been included in the relevant Forward Plan**

### **REPORT OF THE EXECUTIVE DIRECTOR PLACE TO CABINET ON 26<sup>th</sup> January 2022**

#### **Public**

#### **Grant of Easement: New Foot / Cycle Bridge**

### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is;
- 1.2 To seek approval for Grant of Easement between Network Rail, Barnsley Metropolitan Borough Council as Trustee of part of Pogmoor Recreation Ground and Barnsley Metropolitan Borough Council as owner of Penny Pie Park to facilitate the new Foot and Cycle bridge as per the approved Proposed New Foot and Cycle Bridge (Cab:22.07.2020/9) and New Foot and Cycle Bridge: Award of Contract (Cab 03.11.2021/13)
- 1.3 To seek the necessary approvals to undertake all necessary consultation procedures in relation to the grant of easement required to deliver the proposed new foot and cycle bridge linking Penny Pie Park with Pogmoor Recreation Ground as detailed in section 4 below.

### **2. RECOMMENDATIONS**

- 2.1 **It is recommended that Cabinet recommends to the meeting of full Council on 3<sup>rd</sup> February 2022 that:**
- 2.2 **the Service Director of Legal Services in consultation with the Corporate Asset Manager is authorised to undertake any necessary consultation processes, serve public notices and deal with any objections in relation to the grant of easement**
- 2.3 **It is noted that the Charity Commission and the Coal Industry Social Welfare Organisation (CISWO) have been consulted about the Grant of Easement between Barnsley Metropolitan Borough Council as Trustee of Pogmoor Recreation Ground to Barnsley Metropolitan Borough Council who have provided their written consent to the construction of the footbridge subject to conditions.**

**2.4 The Grant of Easement between Barnsley Metropolitan Borough Council as Trustee of Pogmoor Recreation Ground to Barnsley Metropolitan Borough Council be approved to facilitate the new Foot and Cycle bridge.**

**2.5 The Service Director of Legal Services in consultation with the Corporate Asset Manager is authorised to liaise with the Charity Commission to facilitate the formal approval of the order authorising the easement as this transaction is between connected parties; the Council as trustee and the Council as statutory authority.**

### **3. INTRODUCTION**

3.1 In July 2020, Cabinet authorised all the commencement of the necessary steps, statutory consultations and procedures, including a planning application submission to ultimately facilitate delivery of the approved Proposed New Foot and Cycle Bridge (Cab.22.7.2020/9) over the railway linking Penny Pie Park and Pogmoor Recreation Ground, recognising that the proposal would

- Connect two existing greenspaces which are currently severed by the Sheffield / Huddersfield railway line,
- provide connectivity links between two community areas of Dodworth and Pogmoor (wards being Old Town and Dodworth),
- Provide a safe crossing point which does not exist currently, for children going to and from Horizon Community College as well as the wider general public,
- Provide a safe active travel route for the residents of the borough,
- Help with addressing the Network Rail recorded incursions onto the line by children in the Barnsley area.
- Complement and enhance the delivery of the approved A628 Dodworth Road / Broadway Junction Improvement scheme (Cab.25.07.2018/15)

3.2 On Tuesday, 13<sup>th</sup> April 2021, the Council's Planning Regulatory Board (PRB) resolved to grant the planning application (Ref 2020/1038) for the Provision of new foot and cycle bridge over the existing Barnsley to Huddersfield rail line linking Penny Pie Park to Pogmoor Recreation Ground and associated new footways.

3.3 Subsequent to the planning permission being granted detailed design work has been sufficiently advanced to enable dialogue with stakeholders to continue and to enable a full procurement exercise to be undertaken.

3.4 The detailed design including the associated new footways to be delivered on land north of the railway (Pogmoor Recreation Ground) is partly registered at the Land Registry recording Barnsley MBC as trustee of the recreation ground which is held subject to charitable trusts.. Therefore, a Deed of Easement is required to be granted by Barnsley Council as Trustee of Pogmoor Recreation Ground to Barnsley Council as owner of Penny Pie Park. Rights of access will also need to be reserved

for the Council from the bridge over the footways created from the bridge to Glendale Close.

#### **4. PROPOSAL AND JUSTIFICATION**

- 4.1 The proposal is for the Council to undertake the necessary public notices and procedures in relation to the grant of an easement required to deliver the proposed new foot and cycle bridge linking Penny Pie Park with Pogmoor Recreation Ground
- 4.2 Barnsley Metropolitan Borough Council as Trustee of Pogmoor Recreation Ground are required to grant an easement to Barnsley Metropolitan Borough Council to facilitate the new Foot and Cycle bridge as per the approved Proposed New Foot and Cycle Bridge (Cab:22.07.2020/9) and New Foot and Cycle Bridge: Award of Contract (Cab 03.11.2021/13) Given that the Council is acting as Trustee, the decision to approve the grant of easement is required to be a full Council decision.
- 4.3 As the land is held in trust and governed by the Charities Act 2011 the Council as Trustee instructed Fowler Sandford to undertake an independent valuation of the effect that the granting of an easement in relation to the bridge would have on the Recreation ground, this was received on 4<sup>th</sup> October 2021.
- 4.4 The Charity Commission are required to formally approve the order authorising the easement as this transaction is between connected parties; the Council as trustee and the Council as statutory authority.
- 4.5 The report (attached at Appendix 1 ) concludes that the granting of the Deed of Easement would not have a detrimental effect on the market value of the Recreation ground and given the changing demographics of Barnsley, as with any other mining communities this recreation ground created by way of funding from the Miners Welfare fund already benefits a wider sector of the local community and the construction of the bridge will not adversely affect the use of Pogmoor Recreation Ground by way of inviting the wider community onto the grounds.
- This report has been shared with CISWO (the Coal Mining charity) who have provided their written consent to the proposal to grant a the deed of easement.
- 4.6 Public notices consulting and advising of the proposal to grant the easement will be carried out as per the statutory guidance.
- 4.7 Details of the granted easement along with the responses from CISWO will be provided to the Charity Commission as per the requirements of the Charities Act.
- 4.8 The scheme, once completed, will complement and enhance the delivery of the approved A628 Dodworth Road / Broadway Junction Improvement scheme (Cab.25.07.2018/15), it will
- i. Connect two existing greenspaces which are currently severed by the Sheffield / Huddersfield railway line,
  - ii. provide connectivity links between two community areas of Dodworth and Pogmoor (wards being Old Town and Dodworth),

- iii. Provide a safe crossing point which does not exist currently , for children going to and from Horizon Community College as well as the wider general public,
- iv. Provide a safe active travel route for the residents of the borough,
- v. Help with addressing the Network Rail recorded incursions onto the line by children in the Barnsley area.

## **5. CONSIDERATION OF ALTERNATIVE APPROACHES**

- 5.1 The previously approved Proposed New Foot and Cycle Bridge (Cab 22.7.2020/9) presented the alternative approaches that were considered and discounted
- 5.2 **Do nothing:** The delivery of the greenspace enhancements as part of the approved A628 Dodworth Road / Broadway Junction Improvement scheme (cab.25.07.2018/15), excluding the new foot and cycle bridge is underway. However, this does not provide the wider connectivity between the two existing greenspaces which are currently severed by the Sheffield / Huddersfield railway line.

## **6. IMPLICATIONS FOR LOCAL PEOPLE/SERVICE USERS**

- 6.1 The scheme will provide connectivity links between two community areas of Dodworth and Pogmoor. The new foot/cycle bridge will provide a safe crossing point, which does not exist currently for children going to and from Horizon Community College and the wider general public and will provide a safe and active travel route for the residents of the borough.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 Consultation on the Financial Implications of this report has taken place with representatives of the Service Director (Section 151 Officer) Finance.
- 7.2 Thus report contains no “new” asks for financial support - the financial implications in relation to the delivery of the scheme were fully contained within the previously approved New Foot and Cycle Bridge: Award of Contract (Cab 03.11.2021/13).

## **8. EMPLOYEE IMPLICATIONS**

- 8.1 There are no issues arising directly from this report.

## **9. COMMUNICATIONS IMPLICATIONS**

- 9.1 A robust communications plan developed with representatives from Executive Director of Core Services exists for the entire A628 Dodworth Road / Broadway Junction Improvement scheme. This will be updated to incorporate the proposed new foot /cycle bridge to ensure that timely and accurate information is provided through

appropriate means such as press releases, social media/website updates, local member briefings, engagement with key stakeholders and consultation with local residents.

## **10. CONSULTATIONS**

- 10.1 Public notices consulting and advising of the proposal to grant the easement will be carried out as per the statutory guidance.
- 10.2 Throughout the development of the A628 Dodworth Road/ Broadway Junction Improvement Scheme discussions have been held with local members, the local Member of Parliament and Highways England. The need for the highway improvement scheme is acknowledged and supported.
- 10.3 Public information and stakeholder events have taken place as part of the statutory planning and land appropriation process regarding the Highway improvement scheme.
- 10.4 Public consultation will take place with representatives of Core Services Directorate regarding the financial implications, asset management and risk management issues.
- 10.5 Consultation has taken place with representatives of Communities Directorate, Core Services Directorate and Place Directorate regarding the greenspace implications and potential compensatory measures.

## **11. THE CORPORATE PLAN AND THE COUNCIL'S PERFORMANCE MANAGEMENT FRAMEWORK**

- 11.1 One of the Council's key priorities is to create a thriving and vibrant economy, create more and better jobs, good business growth, and to connect local people with these opportunities. The delivery of the project will enhance the approved A628 Dodworth Road / Broadway Junction Improvement scheme (Cab.25.07.2018/15) that will facilitate employment and housing opportunities identified in the Local Plan, contributing to the provision of employment land to attract new investment and / or allowing existing businesses to stay in the area and expand.
- 11.2 Additionally, the scheme also contributes to the delivery of the Strong and Resilient Communities. The approved enhancements to the park area and the proposed foot/cycle bridge will provide connectivity links between two community areas, a safer walking route to school and an active travel link for residents in the borough.

## **12. PROMOTING EQUALITY, DIVERSITY AND SOCIAL INCLUSION**

- 12.1 Better connectivity, affordable and inclusive travel, a cleaner environment and a healthier population are all key aims of the Barnsley Transport Strategy 2014 – 2033.

12.2 The proposed scheme supports the principles of the Barnsley Transport Strategy 2014 – 2033, and once completed will provide better connectivity and opportunities for local people to access work and assisting in addressing social exclusion.

### **13. RISK MANAGEMENT ISSUES**

13.1 The overall project benefits from a detailed risk register which is reviewed on a regular basis by officers and the Council's Risk and Governance Manager.

13.2 Risk reporting by exception is provided to the Strategic Transport in Barnsley Board.

### **14. HEALTH, SAFETY AND ENVIRONMENT (HS&E)**

14.1 Health and Safety and Environment matters will be identified during scheme preparation and addresses in accordance with The Health and Safety at Work Act 1974, The Environment Act 1995, The Management of Health and Safety Regulations 1999, The Construction (Design and Management) Regulations 2015 and the regulations issued under those Acts or any subsequent relevant legislation.

### **15. COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS**

15.1 The delivery of the proposed scheme does not require private property rights. The rights of individuals are safeguarded through the statutory planning process of securing planning consent for the scheme.

### **16. CONSERVATION OF BIODIVERSITY**

16.1 All relevant ecological, noise and air quality surveys that are required to feed into the statutory processes including planning application will be completed to ensure that any issues that are identified can be fully considered.

### **17. LIST OF APPENDICES**

Appendix 1: Fowler Sandford Valuation Report

Appendix 2: Location Plan

### **18. BACKGROUND PAPERS**

Proposed New Foot and Cycle Bridge (Cab:22.07.2020/9)

New Foot and Cycle Bridge: Award of Contract (Cab 03.11.2021/13)

If you would like to inspect background papers for this report, please email [governance@barnsley.gov.uk](mailto:governance@barnsley.gov.uk) so that appropriate arrangements can be made

Financial Implications/Consultation



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*(To be signed by senior Financial Services officer  
where no financial implications)*