

Cabinet

17 July 2012

Report of the Cabinet Member for City Strategy

Park & Ride Expansion: Appropriation of Land at Poppleton for Planning Purposes

Summary

1. The purpose of this report is to seek authority for the appropriation for planning purposes of 187m² of land at Poppleton, which is registered as a village green and currently being used for agricultural purposes as shown on the attached plan at Annex B, under Section 122 of the Local Government Act 1972. This is in order to facilitate the redevelopment of the land to deliver an improved arrangement for the junction of Northfield Lane and the A59 in connection with the proposed Poppleton Bar Park & Ride site and to enhance economic activity in the area.

Background

2. Expanding York's Park & Ride Network is a key component of delivering the Council Plan priority to 'Get York Moving'. Highway design and consultation has been taking place as this project moves to the procurement stage for construction. The outline highway layout was approved at the Cabinet Member for City Strategy Decision Session on 12 April 2012.
3. As part of the provision of the proposed Park & Ride site at Poppleton it is proposed to upgrade the North Field Lane/A59 junction to allow access to the new site, to improve access to businesses in the area and improve safety.
4. Land at Poppleton has been acquired to enable the delivery of the proposed Poppleton Bar Park & Ride site. Part of the land (approx. 30%) acquired was registered as a village green in 1967. The boundaries of the village green were confirmed during the detailed design of the site. The land has been farmed for at least the last 50

years without general public access. As part of the development access to the village green area will be available to the public for recreational use for the first time.

5. The original layout of the Park & Ride site which was granted planning consent in 2010 is considered to have too great an impact on the village green. An application to vary the original planning consent has been submitted which alters the proposed layout of the Park & Ride site to enhance the village green area. However, owing to the restricted area available, it is not possible to redesign the North Field Lane/A59 junction, with the desired capacity, which avoids the village green.
6. A small area (187m²) of the village green, less than 2% of the registered area (1.4Ha), is needed for a separate left turn lane out of North Field Lane which will increase the overall capacity of the junction and reduce queuing in the area. See Annexes A&B. An equivalent area of land can be designated as village green in the area to ensure that the overall land available for public access is maintained at the same level.
7. Alternative proposals to minimise the impact on the village green have been investigated such as relocating the junction further eastwards into the Garden Centre car park. However this would have affected the viability of a local business and resulted in a lower capacity junction due to the reduction in the stacking length available between North Field Lane and Station Road. A small area of land has been purchased from the Garden Centre to enable the left turn lane into North Field Lane to be provided.
8. Alternatively an application to deregister a section, or all, of the village green could have been made however this would have affected a larger area of the village green, resulted in additional distance from the village to any re-provided area, additional cost and significant delay to the project.

Appropriation Powers

9. The Council has the power to acquire and hold property for various statutory purposes to perform its functions. In order to use land for a purpose other than the one for which it was acquired the land must be “appropriated” for a different use. Appropriation is a statutory process which allows the Council to transfer property within its ownership from one use to another.

10. Section 122 of the Local Government Act 1972 enables the Council to appropriate land for any statutory purpose for which it is authorised to acquire land. The Council must, therefore, determine that the land is no longer needed for the original purpose for which it was acquired and appropriate it for planning purposes.
11. The standard power of appropriation contained in S122 Local Government Act 1972 is not normally available when the land to be appropriated is Common or Village Green. However in limited circumstances this power can be used for such land. This is where the total area of the land appropriated in the Common or Village Green concerned does not exceed 250 square yards (209m²). To enable appropriation of a Village Green to occur notice must be given of the intention to do so advertised in two consecutive weeks in a local newspaper. Any objections must then be considered by the Local Authority. Following appropriation the land remains registered as village green but the appropriation enables the Council to override the statutory restrictions on the use of the land.
12. Appropriation of the land for planning purposes requires the Council to consider the following factors:
 - that the appropriation will facilitate the carrying out of development, re-development or improvement on or in relation to the land or is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated;
 - it will contribute to the promotion of the economic, social and/or environmental well-being of the area;
 - the provisions of the development plan, whether planning permission is in force and any other considerations that would be material to the determination of a planning application for development of the land;
 - that the land is no longer required for the original purpose for which it was acquired.

Basis of Appropriation

13. It is considered that it is permissible to appropriate the land on the following basis.
 - The appropriation facilitates the development of the Park & Ride site and associated highway works.
 - The scheme will promote the use of public transport supporting social inclusion and result in both economic and

environmental benefits by reducing traffic congestion. The appropriated land will enable a higher capacity junction to be provided which will also reduce journey times and improve access to businesses in the area.

- Planning consent has been granted for the Park & Ride site.
- The land was originally acquired for the provision of the Park & Ride site and is now proposed to be used for highway improvements.

Consultation

14. A notice was published in the Press on 30 May and 6 June identifying the area proposed to be appropriated under Section 122 of the Local Government Act 1972 with a last response date for any objections of 21 June. See Annex B for the appropriation plan.

Objections

15. One objection to the proposed appropriation was received as detailed below.

“Upper Poppleton Parish Council wishes to object to the proposed appropriation of land at the junction of Northfield Lane Upper Poppleton and the A59 trunk road on the grounds that insufficient information or justification has been provided to support any requirement to appropriate this land which is designated as village green.”

16. The Parish Council also questioned City of York Council’s decision to use the appropriation procedures at this later stage in the development of the Park & Ride site when it has known of the existence of the village green designation for some time and could have used the more exhaustive and open de-registration process instead.

Analysis of Objection

17. In advance of the objection being received a meeting was held with representatives of the Poppleton Parish Councils on 8 June to discuss the proposals and answer any questions. Further contact has been made with the Parish Council since receipt of their objection to try to resolve their concerns. It is hoped that an update on their position will be available for the Cabinet meeting.

18. The Local Government Act 1972 does not require information or justification to be provided for the appropriation therefore it is not considered that the level of information provided is a valid procedural objection. It is not considered that the Parish Council have made a substantive objection to the proposed appropriation.
19. It is also considered that the most appropriate legal powers are being used for the appropriation of this small piece of land which is registered as village green but has not been available for general access over the last 50 years. In addition the overall area of the village green will be maintained by the provision of an equivalent area at the west end of the registered area. Alternative approaches to changing the status of the land would have been more expensive and time consuming increasing uncertainty and potentially jeopardising the delivery of the project.

Options

20. There are three main options to be considered.

Option 1: Progress the appropriation of the land for the enhanced junction.

Option 2: Redesign the junction to avoid the village green area.

Option 3: Deregister the village green.

Analysis

Option 1

21. **Appropriation of the land for the enhanced junction.** A higher capacity junction can be provided which reduces congestion in the area. This option would enable the overall project delivery programme to be achieved with an expected opening date of April 2014. This major infrastructure project will provide significant economic, social and environmental benefits for residents, businesses and visitors. On balance the advantages to the public from the project are considered to outweigh the loss of a small area of village green particularly given that it appears not to have been used as such and that the proposal will make the remainder more accessible. It is considered that the appropriation process provides the most effective means to address the need to use the small area of the village green.

Option 2

22. **Redesign the junction to avoid the village green area.** The reduced area available will mean a less efficient junction can be delivered. The stop line on North Field lane would need to move southwards to allow the provision of a single straight ahead and left lane reducing the overall capacity of the junction. In addition all traffic from North Field Lane would be through the signal controlled junction removing the advantage of left turn movements via a separate give way lane. The overall operation of the junction would be less effective and additional queuing particularly on North Field Lane at peak times would be experienced. The layout could be designed and built with in the anticipated timescales however the benefits would be reduced.

Option 3

23. **Deregister the village green to enable the originally proposed junction to be provided.** The maximum capacity junction could be provided if the space restriction was removed. The deregistration of the village green under Section 16 of the Commons Act 2006 would involve consultation on the proposal followed by a Public Inquiry with a final decision taken by the Secretary of State. The process is likely to take up to 12 months with a cost of over £20k. Under the current programme Full Approval for the scheme from the DfT is anticipated in December 2012. However, an application can only be made if all statutory approvals have been obtained. Significant delay could be incurred if the Full Approval submission had to wait until the deregistration process was completed.

Council Plan

24. Phase 1 of the Access York is critical to the future economic prosperity and environmental wellbeing of the city and assists in the delivery of the following Council Plan Priorities:

Get York Moving –

- Removes traffic from the city centre
- Increases capacity of the Outer Ring Road
- Provides bus priority for Park & Ride and service bus routes to encourage transfer to sustainable transport
- Improves access across Outer Ring Road by walking and cycling

Create jobs and grow the economy –

- Reduces impact of congestion on business
- Provides improved public transport options for staff and customers

Protect the Environment –

- Improves air quality in the city centre
- Reduces carbon emissions

Implications

Financial

25. The recommend option has very limited financial implications as the scheme is in line with the layout included in the original cost estimates. Option 2 would require additional design and would result in a scheme with reduced capacity but with potentially lower delivery cost. Option 3 would be higher cost due to the requirement to fund a public inquiry and extended project management.

Human Resources (HR)

26. There are no human resource implications.

Equalities

27. There are no equalities implications.

Legal

28. Legal advice has been obtained to ensure that the Council are following the correct approach to addressing the presence of the village green.

Property

29. The land has been acquired by the council to enable the Park & Ride site to be delivered. The village green land proposed to be appropriated for planning purposes will be used as part of the highway network in the area.

Risk Management

30. The recommended option will enable a higher capacity junction to be provided leading to reduced congestion in the area. The decision to appropriate the land for the enhanced junction could be subject to Judicial Review. However, it is considered unlikely that this will occur as the number of objections was low, the remainder of the village green will become available for public use as part of the scheme and the overall area with public access will remain unchanged. Option 2 would provide a lower capacity junction with a risk that additional congestion will occur in the area. Option 3 has a high risk of delaying the overall scheme and potentially jeopardising the funding approval for the project.

Recommendations

31. The Cabinet is recommended to:

- 1) Consider the objection to the appropriation of the land.

Reason: To comply with the requirements of Section 122 of the Local Government Act 1972.

- 2) Authorise with immediate effect the appropriation of land at Poppleton currently owned by the Council for planning purposes in accordance with the provisions of Section 122 of the Local Government Act 1972.

Reason: To enable the delivery of the highest capacity North Field Lane/ A59 junction to improve the social, environmental and economic well-being of the area.

Contact Details

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Cabinet Member Responsible for the Report:

*Cllr Dave Merrett
Cabinet Member for Planning, Transport
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**Report
Approved**



Date *3 July 2012*

*Richard Wood
Assistant Director, Strategic Planning &
Transport*

**Report
Approved**



Date *28 June 2012*

Specialist Implications Officer(s)

*Brian Gray – Legal Services
Phillip Callow – Property*

Wards Affected: *Rural West*

All



For further information please contact the author of the report

Background Papers:

Annexes

Annex A – Poppleton Bar Park & Ride Site Location Plan

Annex B – Land Appropriation Plan