

Executive

30 August 2018

Report of the Director of Economy and Place

**Portfolio of the Executive Member for Finance and Performance and
Executive Member for Economic Development & Community Engagement**

York Central Update – Western Access

Summary

1. York Central is a 72 hectare (ha) area of land adjacent to the railway station and is one of the largest brownfield sites in northern England, see plan at Annex 1. It provides a huge opportunity for regeneration providing new homes, Grade A commercial office space, an enhanced National Railway Museum and a range of new public spaces and facilities.
2. The scheme is being promoted by the York Central Partnership (YCP) which is made up of Network Rail (NR) Homes England (formerly the Homes and Communities Agency or HCA), the National Railway Museum (NRM) and the City of York Council (CYC).
3. The YCP have developed a master plan for the regeneration of York Central which has been submitted as an outline planning application for the whole York Central site. A detailed application for a new access road, bridge and spine road is due to be submitted in September. The provision of an additional vehicular pedestrian and cycle access from the west of the site is the key *enabling* element of the scheme. This access point inevitably has impact upon the Millennium Green, a 1.83 ha plot of land leased to the Millennium Green Trust for a term of 999 years in February 2000. The lease included a reservation over a small area to the north west corner for future access to York Central. The lease contains a clause entitling the Council to take back occupation of the part of the site on giving at least 3 months' written notice to the Trust subject to the Council using its best endeavours to grant a replacement 999 year lease of an alternative area of similar size and suitability.
4. In November 2017 Executive endorsed the YCP preferred Western access option with a view to developing an optimised solution that would minimise

the impact upon the Millennium Green (MG). This report seeks agreement to the final alignment of the road and a package of land transfers and compensation between the Council and the Millennium Green Trust (MGT) to ensure the deliverability of the access route within the funding window of the West Yorkshire Transport Fund (WYTF) and to ensure the long term future of the Millennium Green itself.

5. This report also outlines the considerable progress on the scheme and sets out proposals for undertaking the detailed design of the first phase of infrastructure in order to bring the scheme forward as soon as possible.

Recommendations

6. Executive is asked :-

- I. To agree the route of the York Central Access road, bridge and spine road and to submit detailed planning applications in the autumn as set out in Annex 3.
- II. To agree to repossess the land reserved in the Millennium Green lease to facilitate the access road onto York Central
- III. To grant a long lease of a plot of replacement land on the other side of the Holgate Beck to provide long term replacement for the reserved land and to undertake minor improvement works to this land as agreed with the Trust
- IV. To obtain a licence from the Millennium Green Trust permitting use of the area of land required to facilitate the construction of the bridge and to landscape this land prior to returning it to the Millennium Green Trust on completion of the works
- V. To agree to offer MGT temporary use of alternative CYC owned land adjacent to the MG during the period of the licence
- VI. To make a compensatory payment to the Millennium Green Trust of £375k to reflect the disturbance to the Millennium Green and enable the trustees to provide for the long term maintenance of the Millennium Green, of which £300k will be conditional upon planning permission.
- VII. To provide further support to the Millennium Green Trust for their legal and technical support costs to a maximum of £25k.
- VIII. To appropriate embankment land to the west of Severus Bridge for the use of the Highway in order to provide an additional pedestrian and cycle deck across the railway
- IX. To agree to undertake the detailed design work for the key site infrastructure outlined in this report including the access bridge and the spine road, and the NRM rail link.
- X. To seek further funding from the WYCA and YNYER LEPs to fund the detail design of the first phase infrastructure through to construction commencement
- XI. To commit a further £2,390k funding from the EIF to fund the project through to March 2019.

- XII. In the eventuality that WCYA or YNYER grant funding is forthcoming to use the grant to reduce the level of EIF support required.
- XIII. To receive a further report in November 2018 with a detailed financial plan for the delivery of York Central including analysis of potential Enterprise Zone backed Council borrowing, in order to establish a budget for delivery of York Central infrastructure
- XIV. To receive a further report in January 2019 setting out :
 - a. a partnership agreement with the York Central Partnership to formalise the relationship and the financial agreement between the partners
 - b. Seek approval to draw down funds and commence construction of the access road and bridge

Reason: - To ensure the early delivery of a new access route to York Central within the timescale of available grant funding and the long term maintenance of the Millennium Green

Background

- 7. The delivery of York Central is essential to the growth of York, contributing significantly to the growth of the regional economy, through the provision of high quality office space, and to meeting housing need in the city. Though the site has been earmarked for regeneration for many years, previous attempts to deliver the scheme have not come to fruition and we are now poised to seize this once in a lifetime opportunity to make this development a reality.
- 8. There have been a number of developments which have finally enabled the scheme to be brought forward :-
 - i. The establishment of the York Central Partnership bringing together all the public sector land owners
 - ii. Assembling the land for redevelopment and clearing it of operational rail use
 - iii. Establishment of Housing Zone Status which has brought investment from Homes England to support the delivery of housing on the site.
 - iv. Establishment of the Enterprise Zone which brings with it the potential to retain the additional business rates generated from the site to allow investment in delivering economic growth on the site.
 - v. Securing significant enabling funding from a range of government agencies including the WYTF, YNYER LEP, Leeds City Region LEP, the One Public Estate Programme, the Homes England and the Ministry of Housing, Communities and Local Government (MHCLG).

9. The site does, however, have significant infrastructure challenges. It is entirely circumscribed by rail lines, with the rail station at the bottom of the teardrop of land, the East Coast Main Line (ECML) forming a barrier to the north and east, and the Freight Avoiding Lines (FAL) to the south and west. See site plan at Annex 1. Current access roads onto the site already run through minor residential streets in the Salisbury Terrace area, or under the Marble Arch Rail Bridge and have limited capacity and low bridges, limiting access for high vehicles. They are not suitable to serve a comprehensive re-development of York Central. It is therefore necessary for a new access route into the site to be constructed.
10. It is a priority for all partners to accelerate the delivery of York Central in order to:-
 - i. Deliver a significant quantum of much needed mixed tenure housing within the local plan period
 - ii. Deliver essential commercial space to promote economic growth
 - iii. Maximise the retained business rates from the Enterprise Zone through early phase build out of commercial space
 - iv. Achieve early land receipts to reduce the financing cost of up front infrastructure
 - v. Undertake capital highways spend before the end date of the WYTF spend deadline in March 2021

Developing a Western Access Route

11. In November 2017 Executive agreed to proceed with the YCP recommended western access alignment which enters the site from Water End, but with the requirement to undertake further design work and assessment to mitigate the impact upon the Leeman Road Millennium Green (MG) and seek legal advice on the route to achieve this. The YCP provided a financial undertaking to the Trustees of the MG to enable them to consider their legal obligations. Detailed consultation has also taken place with the MGT Trustees and their views have informed the development of the road alignment. This has given rise to a proposed landscaping approach for the MG, and an access road alignment which has been positively received by both the MG Trustees and the YC Community Forum.
12. Further legal review revealed that whilst CYC is able to repossess the small area of the Millennium Green land reserved under the terms of the lease (on condition that CYC uses reasonable endeavours to provide a suitable replacement parcel of similar size), the Trustees could not permanently dispose of any further land without the agreement of the

Charity Commission. The Charity Commission's determination would be based purely upon the terms of the Trust Deed and whether any land disposal would be 'compellingly in the best interests of the Trust's beneficiaries' not upon broader social or economic arguments. An offer of suitable replacement land and financial compensation could be considered in mitigation by the Charity Commission, but the process is lengthy and represents a significant risk to the project delivery programme timescales.

13. It may be possible to CPO the land required where there is a robust argument and it can be demonstrated that there are no other viable alternative routes onto the site. However, this could delay the vacant possession of the site and hence the construction of the bridge to March 2020. As a viable alternative route has been established and is proposed in this report, the CPO route is unlikely to be successful.
14. A full appraisal of the detail of all options together with risks and costs has been carried out by the YCP legal and design teams to confirm the preferred route alignment to take forward into detailed design and the preparation of a full planning application.
15. YCP concluded that the best solution was to negotiate an acceptable route with the MGT that did not require any MG land outside that portion of land reserved in the lease for access to York Central.
16. In the June 2018 Executive report, Executive agreed
 - i. To delegate the approval of the layout and the submission of a detailed planning application for the first phase infrastructure of the York Central scheme to the Executive Member for Transport and Planning.
17. This decision is intrinsically linked to the Millennium Green related decisions needed to deliver the alignment and so it is recommended that Executive make this decision as part of this report.
18. Work has subsequently been undertaken to determine an alignment that avoids any highway construction on MG land other than on the reserved land also avoiding the need for any easements or taking any support from the MG land. This alignment is illustrated in Annex 3. The structural solution will not be visible above ground; the embankment to the side of the roadway will slope down into the MG mitigating the visual impact of the road. This solution also allows Network Rail track-side access to the ECML for maintenance purposes, but due to the tight space constraints there is no

possibility of an embankment on that side of the road and the supporting wall will be visible from Water End.

19. The proposed access road and bridge option is estimated to cost c£20m more than the alignment first identified as part of the consultation in 2017, but is judged to be the only deliverable solution that can be delivered within the funding timescale for the WYTF (by March 2021) and has the least effect on adjoining communities and green space. This additional cost will be incorporated into the overall infrastructure costs which form part of the HIF funding bid for the York Central scheme and a final funding strategy will be brought back to Executive as part of the YCP Partnership Agreement in January 2019.
20. A final funding strategy will be brought back to Executive in a further report in November 2018 with a detailed financial plan for the delivery of York Central including analysis of potential Council borrowing and the use of Enterprise Zone retained business rates income in order to establish a budget for delivery of York Central infrastructure. Following this a further report in January 2019 will set out:
 - i. a partnership agreement with the York Central Partnership to formalise the relationship and the financial agreement between the partners
 - ii. Seek approval to draw down funds and commence construction of the access road and bridge

Millennium Green

21. In order to deliver this route a negotiated agreement with MGT will require:
 - i. The council to take back possession of the reserved land (coloured green on the plan at Annex 2) terminating the MGT Lease in so far as it relates to that land
 - ii. The council to offer a long lease of replacement land (coloured yellow on the plan at Annex 2) to the MGT for a nominal rent of £1 per annum (if demanded) to replace the reserved land and to reprovide vehicle access to the MG for maintenance purposes. The MGT to agree to a licence permitting occupation of the portion of land coloured blue on the plan at Annex 2 to be used for the construction of the road and bridge and for this land to be returned to the MGT after construction fully landscaped with upgraded paths and infrastructure to a specification agreed with MGT.

- iii. The council to offer the MGT temporary use during the period of the licence of the alternative land coloured pink on the plan at Annex 2
- iv. The council to provide the MGT with compensation to reflect the disturbance during construction works and to provide a source of funding to ensure the effective maintenance of the MG going forward. This has been agreed at £375k. £75k of this will be paid as soon as the agreement is signed with a further £300k to be paid on receipt of planning permission. In addition CYC have supported the MGT with £20k of legal fees and will commit to provide funding up to £5k to enable the MGT to commission technical advice on the specification of the landscape and planting scheme for the land to be handed back after construction

22. This proposal has already obtained the preliminary approval of the Charity Commission via a quicker route than that required for permanent land disposal. The MG Trustees are able to agree these proposals following consultation with local residents which they carried out in July and early August. The area of MG returned to the Trustees will include; new pathways, new planting and landscape which will be maintained by YCP for a period of 5 years following completion. The £375k payment will enable the MGT to fund a regular maintenance programme in future years for the whole of the Green.

Other Land Issues

23. The proposed design necessitates the construction of a new bridge deck adjacent to the existing Severus Bridge for pedestrians and cycles, allowing the existing bridge deck to provide a wider carriageway to accommodate the junction for the York Central access.
24. The cycle/footbridge design requires the use of a piece of land on the other side of Severus Bridge to land the new bridge deck. This land is currently part of the embankment of the road and was seemingly acquired in 1900 as part of the site for the future Poppleton Road School. It is adjacent to the playing fields, but has never been used as playing field and is fenced off to prevent children from accessing the embankment. This land needs to be formally dedicated for use as a highway and to formally remove it from the school boundary. As the land has not been used as a school playing field this does not require us to seek consent from the Department for Education

for this. The school have been consulted. Annex 3 highlights the area of land in blue.

Community Engagement

25. . An early consultation exercise in 2016 (Seeking your Views) and a specific consultation on access options in August- September 2017 fed into the decision made in November 2017 to identify a preferred western access route. The 21 June 2018 Executive report outlined the extensive consultation activity already undertaken which has since been supplemented by face to face consultation events focusing on movement, the masterplan, the proposed expansion of the NRM and transport. This extensive engagement process has shaped the YCP decision to seek out a route from the west that sought to minimise the impact upon the Millennium Green and has strongly influenced the Outline Master Plan and the Design Guide.
26. Since the June Executive report there has been further detailed engagement with MGT leading to agreement on the proposed route and on the proposed Heads of Terms set out above. The MGT's own recent local consultation included leaflet distribution to 5,500 local households, drop-in events and an information display at St Barnabas Church during a three week period. The MGT has recorded all the feedback and agreed for it to be published on the My York Central website.

Partnership Agreement

27. The YCP is currently a non- legally binding partnership of public sector bodies. All work undertaken to date has been undertaken at risk by all partners, which has been funded partly from external grants. A Memorandum of Understanding has been agreed by all partners and detailed work is underway to finalise the formal partnership agreement but it is anticipated that costs incurred in this early phase will be shared across the partnership when it is formally agreed (except for NRM).

Timetable

28. The proposed timetable for the project is set out below

Master plan Consultation	Jan-April 2018
Access construction Exec decision	March 2018
Agree YCP MoU	June 2018
Submission of Outline Planning Application	Aug 2018

Submission of Full Planning Application	Sept 2018
Detailed RIBA stage 4 design for construction of access road and bridge commences	Oct 2018
Determination of Planning Applications	Dec –Jan 2018
Executive decision on Partnership Agreement and commencement of infrastructure construction	Jan 19
Bridge and road construction commences	March/April 2019
Bridge and spine road complete	March 2021

Funding the next phase of work

29. Network Rail has already spent £4.4m on land assembly and rail clearance. Homes England has committed £18.9m towards land assembly and has contributed a further £200k towards the planning costs of the site. In addition Homes England is investing heavily in the establishment of a dedicated delivery team. Though some of this investment is backed by asset acquisitions these will not be realised unless the scheme is developed out so are “at risk” at this stage.
30. Homes England are the administering body for the Housing Infrastructure Fund (HIF) and CYC are mid way through the co development stage of the MHCLG HOF bidding process with an initial £57m capital grant bid to support the delivery of the project. The next stage is to undertake a green book based appraisal of the bid, working with the dedicated Homes England HIF team to co-develop a final proposal. This will be submitted by September 2018 with an associated decision on funding in December 2018. HIF is an important part of the overall funding for the infrastructure and will fundamentally shape the final partnership agreement.
31. The NRM have spent £1.14m on the master planning of their museum development scheme supported by a CYC grant of £200k and they continue to fundraise. As an important cultural anchor they will continue to help shape the overall scheme and integrate their plans with the development of York Central but their role differs from the major land owners NR and Homes England and from the Council as the custodian for a new part of the city and an enabler of the future scheme. As a Charitable organisation, NRM cannot undertake any development activity on non-Museum land, so NRM will not share in either the York Central development costs or receipts. The NRM have disposed of their surplus land assets to the Homes England in order to

integrate them into the overall scheme and facilitate the early phases of their £50m development plans.

32. In December 2013 Members agreed to earmark £10m towards the delivery of York Central. Currently £5,338k has been released to support technical work, masterplan development through to planning, land acquisition costs and site preparation works. There have also been other grant contributions from WYTF, Homes England, One Public Estate, Leeds City Region LEP and DCLG Enterprise Zone funding. These combine to total £7,459k shown in the table below:

	£'000	£'000
CYC – (£10m Allocation)		
Land purchase approval	1,014	
NRM Masterplan contribution	200	
Other Approvals	<u>4,124</u>	
Total CYC		5,338
WYTF Contribution		947
OPE Grant		250
Homes England Grants		689
LCR LEP Grant		200
DCLG EZ		35
Total Funding Available		7,459

Table 1 York Central Funding

33. Actual expenditure to 31st July 2018 and forecast

	Expend £'000
2015/16	112
2016/17	1,565
2017/18	2,197
2018/19 Actual to date	873
Estimate 2018/19	5,602
Total	10,349

Table 2 York Central Expenditure

34. In order to maintain the momentum of the project and ensure the delivery of the transport infrastructure within the funding window of the WYTF it is important to commence the detailed design work of the road and bridge to take this from the RIBA stage 3 level submitted to planning to RIBA 4 to enable a start on site soon after planning permission is granted.

35. If this design work is not undertaken until the planning permission is granted and HIF funding is in place then this will delay commencement on site until at least July 2019 and potentially push out spend beyond the WYCA funding window. This design work will cost an estimated £2.89m.
36. The current funding available is £7,459k. An allocation of £500k from YNYER LEP has been granted since the report to Executive in June. This leaves a requirement for a further allocation of funding of £2,390k.
37. Both WYCA and YNYER LEPs have indicated that they are willing to consider an additional request for grant funding for spend in 2018/19 and funding bids are being prepared for determination in November and December 2018. Until this funding is confirmed then a further drawdown from the CYC £10m allocation of £2,390k will be required.
38. This allocation would reduce the unallocated budget from £4,662k to £2,272k.
39. Any additional CYC funding will be at risk until a Partnership Agreement is signed and if the HIF funding is not forthcoming and if the scheme does not go ahead then this funding may be abortive. Should the scheme ultimately not be delivered then an element of these costs would be classed as abortive and need to be written off back to revenue. The estimated liability would total £5,714k.
40. Should WYCA / YNYER LEPs agree to provide additional grant funding this will be used to replace CYC funding. Updates will be provided through regular York Central or capital monitor reports.

Council Plan

41. :The project will assist in the creation of a Prosperous City for All, and be a Council that listens to residents particularly by ensuring that
 - i. Everyone who lives in the city can enjoy its unique heritage and range of activities.
 - ii. Residents can access affordable homes while the greenbelt and unique character of the city is protected.
 - iii. Visitors, businesses and residents are impressed with the quality of our city.
 - iv. Local businesses can thrive.
 - v. Efficient and affordable transport links enable residents and businesses to access key services and opportunities.
 - vi. Environmental Sustainability underpins everything we do.

- vii. We are entrepreneurial, by making the most of commercial activities.
- viii. Engage with our communities, listening to their views and taking them into account.

Implications

42.

Financial – financial implications are set out in paragraphs [29-40]

Human Resources (HR) – none

Equalities – Equalities impacts will be considered in the full infrastructure planning application and detailed design process

Legal – Legal advice has been provided throughout the Millennium Green option appraisal process and is incorporated in the main body and recommendations of this report

The proposed lease of land to replace the land to be returned to the Council's possession is subject to the best consideration rules. In this case the return of the Reserved Land will constitute the consideration. In the event that there is a disparity in valuation a General Consent Order gives the Council authority to dispose of land for less than best consideration if the Council considers that the purpose of the disposal is likely to contribute to the promotion of the economic, social or environmental well being of the area and the difference between best consideration and the consideration being obtained by the Council is less than £2 million. Subject to an appropriate valuation audit trail that consent can clearly be relied upon in this case.

The Council's powers of general competence contained in the Localism Act 2011 are sufficient to enable it to make the proposed payments to the MGT. As with every decision these powers must be exercised in accordance with normal public law principles. The Council may well take the view that the social and environmental benefits associated with protecting the long term stability of the MGT are important factors underpinning the reasonableness of that decision. The report does not identify any specific equalities issues associated with the recommendations. These are likely to have greater importance at subsequent stages of the project but Members are very familiar with their duties in this regard and may consider that ensuring the future of the MG is likely to have positive benefits for certain groups with protected characteristics who may benefit from being able to use it.

Information Technology (IT) - There are no IT implications.

Crime and Disorder - The detail design of any future scheme will require detail consideration of crime and disorder implications and there will be structured input from the Police Architectural Liaison Officer

Property – Covered in the report.

Risk Management

43. The project is complex and high risk and until the scheme receives planning consent and a partnership agreement is formalised all investment from all parties is at risk. The EZ facilitates up front borrowing which would be repaid by future retained business rates and there is an inherent risk that the income is not generated or is slower to accrue. The partnership agreement therefore needs to identify how partners share this risk and ensure that the development of the scheme continues to focus on the delivery of business space. The project has multiple partners and funders and stakeholder management is essential to continue momentum and gain commitment to the scheme.
44. The primary risk is the potential breakdown of the delivery partnership between the partners with a consequent failure to unlock the site. This has been addressed by the establishment of a working group, project board and escalation procedures thus ensuring senior level collaboration across all the public sectors partners. It is expected that these will be embedded within the terms of a proposed partnership agreement.
45. If the scheme does not go ahead there is the risk that the cost of the development to date may not be fully recovered.
46. Costs spent on land acquisition would be recoverable but the costs of preparing a masterplan and planning applications without a partnership agreement in place are at risk and can only be mitigated by finalising a partnership agreement.
47. Failure to obtain the necessary regulatory approvals to dispose of land on the site for development or to clear operational railway uses from the site is another significant risk – this would prevent the development of the site in whole or part. Mitigation plans to date include the acquisition and extinguishment of long-term rail industry leases on the site by Network Rail and development of a strategy that identifies relocation sites for the rail uses. In addition, a rail land use strategy for York is being taken forward and it is believed this meets operator needs and Network Rail's planned capacity improvement schemes. This issue is being mitigated by Network Rail prior to any infrastructure investment with a clear commitment under the proposed

partnership agreement to remove rail uses from the site within a phasing plan to enable site development.

48. An obvious risk is of failure to secure planning permission – this is being mitigated by early engagement with CYC as local planning authority in the ongoing development plans and engagement of stakeholders and local communities at both concept stage and as detailed plans emerge.
49. There is a risk that the scheme may not attract development market interest or new occupiers. This risk has been mitigated by the proposed approach to infrastructure delivery, and further evidence gathering from our appointed advisors. In addition, the development of a delivery and marketing strategy and the award of EZ status will incentivise early business occupation.
50. There is a risk that CYC may not secure equity investment towards some of the costs of the enabling infrastructure. However, this will be mitigated by the EZ status and access to borrowing this brings. It will also be mitigated by early sign off of funding from Homes England and a comprehensive gateway process for release of West Yorkshire Transport Funds (WYTF).
51. This report specifically deals with the risks presented by the access across the Millennium Green. If this cannot be achieved through negotiation then there will be a significant delay to the scheme which could mean access to grant funding is lost which may mean that the scheme is not viable and cannot be delivered.
52. There is a risk of costs being higher than estimated which is mitigated by the two stage procurement which will seek to establish fixed costs before construction commences. If the costs escalate beyond the tolerances established in the partnership agreement then the overall business case will need to be reviewed before construction commences and the partnership agreement needs to provide for this.
53. A full risk register has been developed by the YCP and will be regularly reviewed by the project board as the project progresses.

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Report approved 17 August 2018

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For further information please contact the author of the report

Annexes

Annex 1 – Map of York Central site

Annex 2 – Map of Millennium Green land ownership and proposed acquisitions,
disposals and licences

Annex 3 – Proposed route of Western Access

Background Papers:

List of Abbreviations

CYC - City of York Council

ECML - East Coast Main Line

EIA - Environmental Impact Assessment

EZ – Enterprise Zone

FAL - Freight Avoiding Lines

HIF - Housing Infrastructure Fund

LCR - Leeds City Region

LEP - Local Economic Partnership

MG - Millennium green

MGT - Millennium Green Trust

MHCLG –Ministry of Housing Communities and Local Government

NRM - National Railway Museum

WYTF – West Yorkshire Transport Fund

YC - York Central

YCCF - York Central Community Forum

YCP - York Central Partnership