

Cabinet – 13 December 2017

York's Bridge Replacement Scheme

Portfolio: Councillor Lee Jeavons – Deputy Leader and Regeneration

Service: Planning, Engineering and Transportation

Wards: Pelsall

Key decision: No

Forward plan: No

1. Summary

- 1.1 In 2013 a series of reports were considered by Cabinet in relation to the proposed replacement of York's Bridge, Norton Road, Pelsall, in order to address its poor and deteriorating condition and to improve road safety. Following an extensive consultation exercise, Cabinet approved the then final scheme together with authorisation to pursue planning permission, a Bridging Order and deregistration of a small part of Pelsall North Common to facilitate construction of the new bridge.
- 1.2 The process of seeking deregistration of Common land requires an application to the Secretary of State via the Planning Inspectorate who can then consider the case against representations and or objections. In May 2015 the Planning Inspector refused the application to deregister part of Pelsall North Common. Details of why are included in section 3 of the report. This decision effectively precluded construction of the new bridge.
- 1.3 This report sets out the reasons why it is necessary to replace the bridge, new proposals to address the Inspector's concerns and seeks authorisation to pursue a further consultation exercise, leading to a fresh planning application and a common land deregistration application.

2. Recommendations

- 2.1 That Cabinet approve the commencement of pre-application consultation and delegate to the Head of Legal and Democratic Services to prepare and submit applications under the relevant sections of the Commons Act 2006 to deregister and if necessary to undertake restricted works, on those parts of Pelsall North Common as detailed in **Appendix A** as necessary to facilitate construction of a new Bridge.
- 2.2 That Cabinet approve the proposal to offer the Council Owned land detailed in **Appendix B** as replacement land for the common land to be deregistered and delegate authority to the Head of Planning Engineering and Transportation, in consultation with the Portfolio Holder for Regeneration to progress this exchange.

2.3 That Cabinet approve the preparation and submission of the necessary planning application(s) for the scheme following the relevant consultation.

3. Report detail

3.1 There have been proposals by the Highway Authority to improve York's Bridge and its approaches since 1976 when West Midlands County Council, the previous Highway Authority, first imposed highway improvement lines on the approaches to the bridge.

3.2 The bridge was first approved for inclusion in Walsall Council's 1992/94 bridge strengthening programme at a meeting of the Highways and Public Works Committee on 12 November 1992.

3.3 More recently the bridge was identified in the Council approved Local Transport Plan 2 (LTP2) as part of a programme of bridge strengthening across the West Midlands, with funding provided by the Department for Transport through Local Transport Plan allocations.

3.4 The bridge was identified as a priority for action and needs to be addressed to maintain local/regional accessibility, improve road safety, and prevent the possible need to implement even lower weight restrictions or, ultimately, complete closure.

3.5 Importantly, the bridge is located on a district distributor road and the Council as Highway Authority is under a duty to ensure it maintains accessibility for local, commuter and commercial traffic to and from the northern edge of the borough's highway network.

3.6 As a result of previous structural assessments, the bridge had already been subject to a 10 tonne weight restriction. Further deterioration in the bridge's condition has required that the weight limit be reduced to 7.5 tonnes following an assessment of its condition in 2015.

3.7 Due to poor horizontal and vertical alignment, combined with a narrowing of the carriageway, there have been 10 reported accidents with 16 casualties since 1999. The current lack of footways over the existing bridge means that pedestrians and cyclists are at particular risk.

3.8 Funding from the Local Transport 2 allocation has been used to undertake the detailed design of a replacement bridge that will address all of the above issues. Funding has been accumulated over preceding years to a level now sufficient to undertake the construction of a replacement bridge and associated highway alignment.

3.9 Previous consultation exercises explored various options for the bridge replacement and or strengthening, eventually culminating in the proposed design shown in appendix D which was approved by Cabinet on the 24 July 2013. It is not subsequently proposed to explore these options further.

3.10 Planning Permission was gained subject to conditions in February 2014, a bridging Order was also approved at the same time and procurement of the necessary land from Canals and Rivers Trust was secured in July 2014. The Planning Permission

had a three year time limit for implementation, which has now expired and a further permission will need to be secured if the project is to proceed.

- 3.11 The footprint of the proposed bridge requires the deregistration of a small part of Pelsall North Common. This equates to 2,465 m² which is less than 0.01% of the total common area. In addition there is a further area of land (4,135 m²) that would be required on a temporary basis during the construction phase. The previous application to deregister this land offered a temporary deregistration on the understanding that the Council would return (and improve) the land back to Common on completion of the new bridge. The application therefore requested deregistration of a total of 6,600m² (some permanent and some temporary)
- 3.12 The process of deregistration also requires, where possible, the provision of exchange land to be registered as common to offset the area lost to the construction project. At the time of the previous application Moat Farm Pool at the junction of Norton Road and Lichfield Road was identified and offered as replacement common land as part of the application.
- 3.13 In May 2015 the Planning Inspectorate issued the decision not to support the deregistration of the common land for the following reasons:
- Although the Planning Inspector accepted the submissions made by Walsall Council of its intention to re-register land as common land, this was not sufficient. The Inspector took the view that she could not place any weight on the Council's intention to re-register those parts of the common in absence of any legal undertaking given by the Council.
 - The planning Inspector considered the loss of release land would mean changes to the way in which local people would use the common land, particularly in relation to access to the canal towpath on the eastern side of the bridge and she considered this would not be in the interests of the neighbourhood.
 - The inspector gave consideration to the offer of Moat Farm Pool and took the view that the provision of this land as replacement land is not in line with the Planning Inspectorate Guidance Notes which sets out " we would not expect to see the stock of public access land diminished by an offer of replacement land that is already subject to some form of public access
- 3.14 In the absence of the deregistration approval the construction of the bridge cannot proceed. Officers have been working to produce an alternative land replacement strategy in order to facilitate a new application to deregister the land required. This is set out below:
- 3.14.1 The amount of common land needed to temporarily house construction activities, such as compound and storage areas, has been significantly reduced to the minimum necessary.
- 3.14.2 It is not proposed to deregister this land but to seek approval to undertake works on it followed by restoration and improvements on completion of the new bridge. This can be facilitated under Sections 16 and 38 of the Commons Act 2006.

- 3.14.3 The area of land to be deregistered has therefore reduced to that of the footprint alone 2,465m². After exploring many options, officers have identified an area of land that is potentially more suitable for replacement common land than Moat Farm pool.
- 3.14.4 The land at High Bridges, Pelsall is shown on the plan attached as **Appendix B**. The total area shown is 7,891 m² and is currently densely overgrown with trees and shrubs and fenced off from the adjacent highway. The land is in council ownership and has been allocated in the Site Allocation Document (SAD) for Open Space, but there is currently no public right of access. Improvement of this land to facilitate public access and use will also compliment the adjacent newly declared Wyrley and Essington Canal Local Nature Reserve.
- 3.14.5 Taking the relative land sizes in paragraphs 3.14.3 and 3.14.4 above it is clear that not all of the land is needed for replacement common land. The exact amount to be offered is yet to be determined but it should be well in excess of the common land being deregistered..
- 3.14.6 In order to progress the new application a certain degree of preparatory work is required. This will include a full ecological survey of the entire site incorporating, former wells, mineshafts, Land Contamination, bat survey, newts, badger sets, Nesting Birds etc.

4. Council priorities

4.1 Pursue inclusive economic growth

Failure to address the current problems with the existing bridge could ultimately lead to further weight restrictions or possibly even closure. The B4154 is a district distributor and as such plays a key strategic transportation role. The efficient and safe movement of goods and services will assist the boroughs economic wellbeing.

4.2 Make a positive difference to the lives of Walsall people

The improved attractiveness and access to the relevant areas of common land will encourage their use. Improved pedestrian and cycle safety across the new bridge encourages sustainable and active travel options.

4.3 Safe, resilient and prospering communities

The new bridge will address significant safety concerns associated with the existing layout, improving the safety of all road users. It will also free up transportation links to the North of the Borough assisting with the movement of goods and services and indeed people's access to jobs.

5. Risk management

- 5.1 Failure to adequately maintain the safe and efficient operation of the public highway could place the Council in breach of its statutory Traffic Management duties.
- 5.2 The Council is required to comply with the statutory provisions set out in Section 16 of the Commons Act and ensure that the consent of the Planning Inspectorate is obtained before the deregistration of common land and exchange of replacement land can take place. In addition further consents may be required under the Commons Act 2006 for any restricted works undertaken on Pelsall North Common which is incidental to the construction of York's Bridge.
- 5.3 Failure to secure permission to deregister the necessary common land or obtain planning permission for the proposal would again prevent delivery of the scheme.
- 5.4 Further delays could be encountered by Judicial Review or Public Inquiry.

6. Financial implications

- 6.1 The funding for this scheme has been secured from Local Transport Plan and Maintenance Block funding allocations for bridge maintenance. There is currently £1.9m in budget which is estimated to be sufficient to deliver the scheme. No additional Council funding is required.

7. Legal implications

- 7.1 Pelsall North Common is registered as common land under the Commons Act 1967. Section 16 of the Commons Act 2006 enables the owner of the common land to apply to the Planning Inspectorate for the land or part of the land to be released or deregistered as common land. If the release land is more than 200 square metres in area, the application must include for replacement land. The replacement land cannot be land which is already registered as common land or a town or village green.
- 7.2 In deciding any application to deregister common land the Planning Inspectorate will give consideration to: The interests of persons having rights in relation to, or occupying the release land (and in particular, persons exercising rights of common over it), the interests of the neighbourhood, and the public interest which may include:
 - a) The nature of conservation
 - b) The conservation of the landscape
 - c) The protection of the public rights of access to any area of land and
 - d) The protection of archaeological remains and features of historic interest
- 7.3 Any other matter that the Planning Inspectorate considers relevant.
- 7.4 Extensive consultation must be undertaken prior to submitting any application to the Planning Inspectorate which should include:
 - a) All active commoners
 - b) Persons with an interest in the land
 - c) Local residents and amenity groups
 - d) The Open Space Society

- 7.5 The above list is not exhaustive but merely gives an indication of who needs to be consulted.
- 7.6 Under Section 38 of the Commons Act 2006 the consent of the Planning Inspectorate will be required to carry out any restricted works on common land. Restricted works are any that prevent or impede access over common land and consideration will need to be given as to whether any works which are to be undertaken in connection with the reconstruction of York's Bridge fall within this category.
- 7.7 Section 106 of the Highways Act 1980 requires that a Bridging Order be progressed for the replacement bridge. This was secured in February 2014 and remains in place.

8. Property implications

- 8.1 The proposed replacement land at High Bridges Pelsall is Council Owned. It was offered for sale as potential housing land in 2012 but no acceptable offers were forthcoming. The land is currently allocated in the pre-modification Site Allocation Document as open space and any development would be contrary to current planning policy. The proposals as set out above do not have any significant detrimental effect on Council Asset values given the current site allocation and other site constraints.

9. Health and wellbeing implications

- 9.1 By providing better access to existing common land, safer travel over the new bridge and secured access to a currently inaccessible piece of land the scheme encourages active travel options and outdoor activities.
- 9.2 The safety of all users will be significantly improved.

10. Staffing implications

- 10.1 None

11. Equality implications

- 11.1 None

12. Consultation

- 12.1 Although full consultation took place leading up to the previous planning and deregistration applications there will be a need to consult on the proposals to use different replacement land.

Background papers

Reports to Cabinet on: 23 January 2013, 24 July 2013 and 11 December 2013.

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5 December 2017

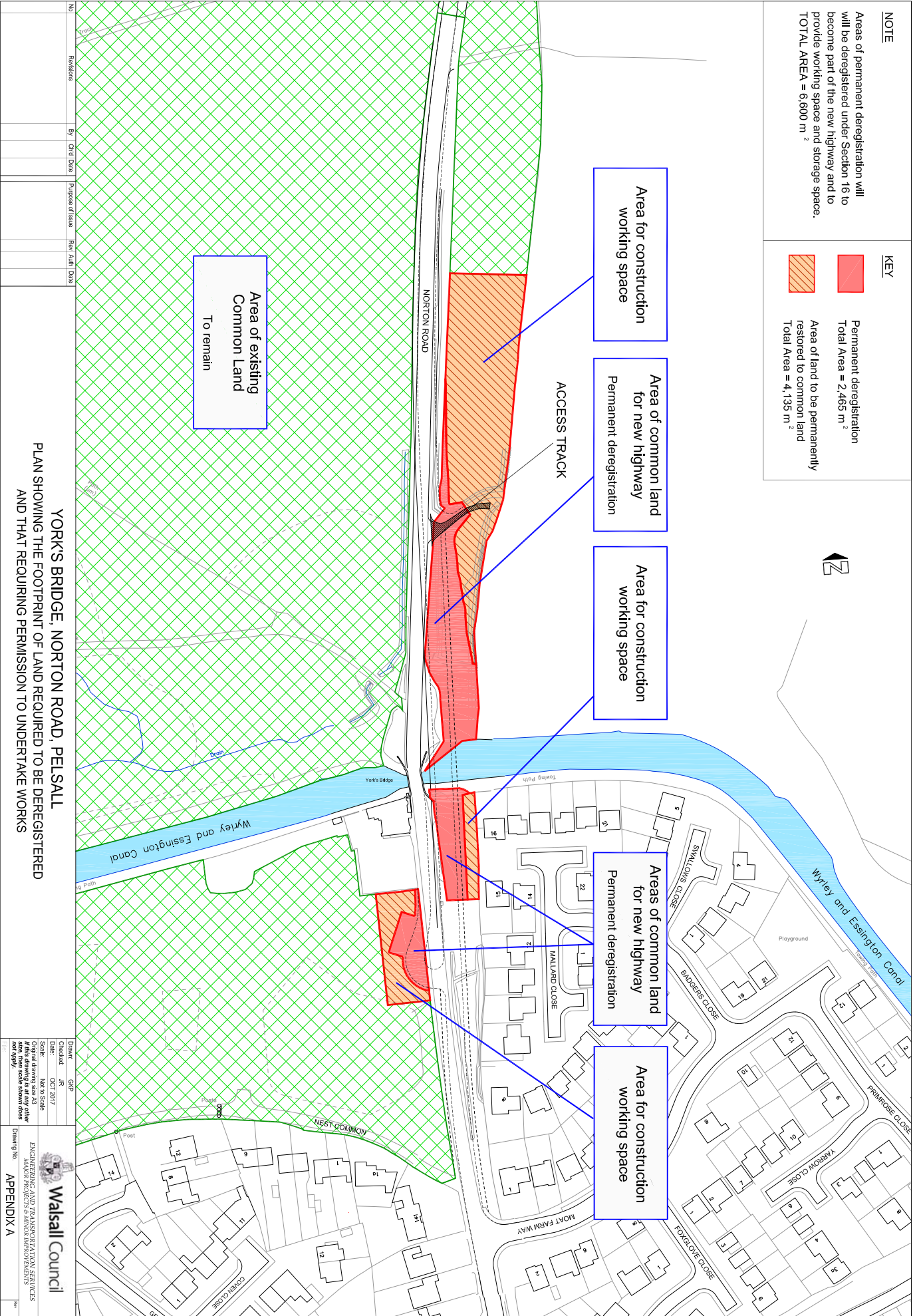
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Councillor Lee Jeavons
Deputy Leader and Regeneration
5 December 2017



YORK'S BRIDGE, NORTON ROAD, PELSALL
PLAN SHOWING THE FOOTPRINT OF LAND REQUIRED TO BE DEREGISTERED AND THAT REQUIRING PERMISSION TO UNDERTAKE WORKS

Drawn: GMP	Checked: JR	Date: OCT 2017	Scale: Not to Scale
Original drawing size A3 This drawing is a copy and is not to be used for any other purpose without the written consent of the author.			
Walsall Council ENGINEERING AND TRANSPORTATION SERVICES MAJOR PROJECTS & SIGNIFICANT IMPROVEMENTS Drawing No. APPENDIX A			

