

Calderdale MBC

Wards Affected **Elland, Greetland & Stainland**

Cabinet **2nd of November 2020**

West Yorkshire-plus Transport Fund (WY+TF) Elland Railway Station Access Package – Land acquisition and deployment of Compulsory Purchase Powers, Side Roads Order as necessary

Report of the Director, Regeneration and Strategy

1. Purpose of Report

- 1.1 Approval is required to acquire land by agreement within the area of Elland and West Vale to facilitate the creation and improvements of non-motorised user access and routes to the proposed Elland Railway station.
- 1.2 Cabinet is asked to approve the commencements of negotiations by Officers in order to purchase the plots specified in Appendix A, with a total estimated value of up to £517,000 required for the successful implementation of the scheme.
- 1.3 Cabinet is also asked to approve the making of a Side Roads Order, if required, under Section 14 and 125 of the Highways Act 1980, for the implementation of the Elland Access Package.
- 1.4 Approval is sought to implement a scheme or scheme(s) as required in order to construct a bridge over and divert navigable waters under section 106 and 108 of the Highways Act 1980
- 1.5 Approval is also sought, if required, to utilise Compulsory Purchase Powers under Sections 239, 240, 246, 250 and 260 of the Highways Act 1980, in accordance with the plans in Appendix A required for the implementation of the schemes.

2. Need for a decision

- 2.1 The making of a Compulsory Purchase Order, Side Roads Order or scheme in respect of navigable waters requires Cabinet approval.
- 2.2 While the project team continues to progress the acquisition of land detailed in Appendix A through negotiation, the above schemes require the making of a Compulsory Purchase Order to minimise programme risk, and provide an alternative route to the completion of the scheme in accordance with the funding proposals for the schemes.
- 2.3 The temporary underwriting of costs associated with these land purchases, prior to them being reimbursed by West Yorkshire Combined Authority (WYCA), requires Cabinet approval.
- 2.4 A Side Road Order is made under section 14 and 125 of the Highways Act 1980 and requires Cabinet approval.

- 2.5 The making a scheme or scheme(s) as required in order to construct bridges over and divert navigable waters under section 106 and 108 of the Highways Act 1980 requires Cabinet approval.

3. Recommendation

It is recommended:

- 3.1 That subject to the relevant funding being in place, Cabinet approve the purchase of the required land specified in Appendix A and any associated interests.
- 3.2 That the Council approves the purchase of the land specified in Appendix A through negotiation.
- 3.3 That Cabinet approve the use of Compulsory Purchase Orders under sections 239, 240, 246, 250 and 260 of the Highways Act, 1980 and that Delegated Authority be given to the Director of Regeneration and Strategy and the Head of Legal and Democratic Services, in consultation with the Portfolio Holder for Regeneration and Resources, to make any Compulsory Purchase submissions to the Secretary of State which are necessary to deliver the scheme,
- 3.4 That Members approve the making of a Side Road Orders if required.
- 3.5 That members approve the making of a scheme or schemes in respect of bridges over or diversion of navigable waters as required.

4. Background

- 4.1 As part of Calderdale's ambition to be the Best Borough in the North and to deliver on its Vision 2024 and combining this with West Yorkshire Transport Strategy 2040, in light of the declared climate emergency we propose significant additions and improvements to both infrastructure and the public realm environment for both Elland and the West Vale areas. The challenge is significant and sustainable travel infrastructure must see a step-change in quality and coherence if non-car use is to become a viable alternative. We need to respond to our distinctive landscape in a way that is kind to our environment and fosters a less damaging and healthier means of travel.
- 4.2 Alongside the development of a new rail station, a series of improvements has been developed to improve car free access to the proposed station from across the town and the wider area. These will also support the sustainable travel connection from Elland and West Vale and the direct connection onto the Route 66 cycleway with links to both Halifax and Brighouse.
- 4.3 The construction of a new pedestrian bridge will create links from the area north of the River Calder, whilst also creating a direct link to the Route 66 cycleway and towpath. From West Vale, a bridge will connect non-motorised users to the Route 66 cycleway which in turn will provide connections into Elland itself and to the proposed rail station. Further route improvements will increase sustainable travel from other areas within

Elland. These include new and updated infrastructure and a series of public realm enhancements across the project area.

5. Elland Rail Station and Access Package.

- 5.1 Elland is situated on the A629, providing a dual carriageway link to the M62 and hence access to Leeds (19 miles) and Manchester (28 miles). The A629 also forms the primary route for local bus services between Huddersfield and Halifax with six services per hour operating from Elland to Huddersfield and Halifax. However, these facilities do not necessarily serve to provide good quality strategic connectivity to and from Elland because;
- Significant levels of congestion are apparent on the strategic road network that connects Elland to the regional economic centres of Leeds and Manchester;
 - The local road network in Elland, at some key junctions, will start to act as a constraint to growth and development, with current levels of congestion expected to grow;
 - Bus is a more practical option for local journeys, particularly those to Huddersfield and Halifax, rather than for longer journeys to Leeds, Bradford or Manchester;
 - Rail mode share in Elland is very low, just 0.4% for inbound commuters and 1.6% for outbound commuters;
 - Walking is the dominant mode for trips within Elland; and
 - Elland exhibits a high level of households without access to a car (28%), evident in the high levels of walking locally and also the relatively low volume of outward commuting.
- 5.2 The WY Elland Railway station and Access Package is a major sustainable transport project within West Yorkshire Combined Authority's (WYCA) WY+TF and seeks to deliver increased access to public transport for those living and working within Elland, increasing sustainable journey-time along the rail network. The Calderdale scheme focuses on improved sustainable public access, combining this with the economic benefits the new rail station will bring to the area. As part of Calderdale's Borough wide Transport Strategy, we are targeting 50% more trips by rail, 50% more walking trips and 100% more cycling trips.
- 5.3 We are also seeking to reduce air pollution and reduce the number of road deaths.
- 5.4 These are challenging objectives requiring a transformational approach. There are improvements along the network for walking, cycling and access to public transport to facilitate a modal shift. These improvements in addition to new public transport connections will assist in encouraging less car use whilst making walking and cycling more attractive, while also reducing journey times to employment and leisure opportunities to and from Elland and the surrounding area. This will support the Local Plan and wider economic growth (identified in the Leeds City Region Strategic

Economic Framework). Officers have also taken consideration to the interfaces with other Council programmes and objectives for regeneration, namely Phase 1b, Phase 4 and Elland Master Plan.

5.5 These transformational projects have the potential to deliver the following benefits:

- Economic growth: improving journey times to and from Elland and West Vale, encouraging investment and enabling access to employment, increased sustainable access to land for housing and employment developments in Calderdale;
- Sustainability: making train journey possible, while encouraging walking and cycling to and from the station and surrounding areas. More accessible connection onto Route 66 Greenway; and
- Journey times: reduced congestion around Elland and West Vale with non-motorised user access to and from the new railway station and other public transport services.

6. Public Consultation to date.

6.1 Previous Public Consultation on the proposals within the Station and Access Package have received wide approval, with a well-received recent Elland town board presentation.

Table 2-7 Public Events

Engagement Venue	Date
Elland Southgate Methodist Church	28 June 2018
Brighouse Civic Centre	04 July 2018
Elland Southgate Methodist Church	07 July 2018
Halifax Town Hall	16 July 2018

6.2 There was a total of 1,400 individual visits to the Your Voice site, following WYCA and Calderdale website and social media exposure, with a maximum daily total of 118 and 209 survey responses. Below are some of the key findings:

- 97% of respondents said they were either Very Happy (75%), Happy (19%) or Neutral (3%) about the proposals for the rail station;
- 88% of respondents said they were either Very Likely (66%) or Likely (22%) to use a rail station at Elland;
- 65% of respondents would use the station for work purposes and 16% for education, suggesting regular trip making with important economic purposes;

- 59%, 20% and 40% of respondents said they would use the station for leisure, nightlife and shopping purposes respectively, indicating that demand would not be limited to just peak commuter times;
- 85% and 67% said they were happy with the proposed improvements to walking and cycling facilities respectively, and 46% said they would be likely to walk to the proposed Elland station;
- 25% of respondents said they would be most likely to access station by car; and

- 6.3 In summary, the public engagement demonstrated strong support the new the new station and the Access Package and confirmed the view that while there is strong demand for park and ride at the station, there is a great opportunity to maximise the benefits of the station through improved walking and cycling access.
- 6.4 Landowners, occupiers and major stakeholders, including the West Yorkshire Combined Authority (WYCA), local authority partners and statutory undertakers, have been contacted. Some Landowner objections were received as anticipated, and we are working with them to develop an acceptable solution.
- 6.5 A second phase of public engagement was undertaken in July and August 2020. This engagement was run using the Combined Authority's Your Voice portal to ensure the engagement could continue whilst following social distancing requirements as public events weren't possible. Response to this engagement was also positive.
- 94% of respondents said they were either Very Happy (75%) or Happy (19%) with the proposals for a rail station at Elland
 - 90% of people were either Very Likely (70%) or Likely (20%) to use a rail station at Elland
 - 74%, 55% and 49% said they would use the rail station for Leisure, Shopping and work/work related reasons respectively
 - 67% of respondents said they would walk to access the station and 16% would use a Bicycle.
 - 80% of respondents said they were Very Happy (56%) or Happy (24%) with the proposals to improve car-free travel to the proposed station from across Elland.
- 6.6 For reference, further details of both the previous Consultation and current Engagement exercises can be found by following this link:
<https://www.yourvoice.westyorks-ca.gov.uk/elland2020>

7. Options considered

- 7.1 Options for route lines, bridge locations and structures themselves were considered. Desire line, public safety, existing buildings, infrastructure and buildability both financially and from a time perspective were studied.
- 7.2 Other options including 2 separate bridges with reduced land take were found to be non-viable in terms of costs and benefits. An options report has been produced demonstrating the reasoning.

8. Financial implications

- 8.1 As commented upon in a report elsewhere on this agenda, the making of a Side Order has the potential to impact on the timetable of a scheme if there are any objections. Similarly, if Compulsory Purchase powers are required this can also impact significantly on the delivery of a scheme.
- 8.2 There are no specific financial implications arising from this report. It is also difficult to determine with any degree of certainty the impact that either a Side order or Compulsory Purchase powers may have on the overall scheme.
- 8.3 In terms of the Elland Access Package, the scheme is currently at Decision Point 3 (Outline Business Case) in the West Yorkshire Combined Authority Assurance Framework and the approved budget for Project Development costs is £700,153.
- 8.4 It is anticipated at this stage that the overall cost attached to the scheme may be in excess of £7m, with funding required to complete the construction of bridges and other highway infrastructure improvements.
- 8.5 Although the scheme will have to progress through the Assurance Framework in order to attract the relevant funding, it is anticipated that it will ultimately receive funding in excess of £7m from the West Yorkshire Plus Transport funding (£2m) and the Transforming Cities Fund (£5m), to allow the scheme to commence by July 2021 and be completed by March 2023.
- 8.6 None of the costs referred to in this report and attached to either a Side Order or Compulsory Purchase would be incurred without the relevant funding being in place.

9. Legal Implications

- 9.1 In parallel with continued landowner negotiations, a Compulsory Purchase Order ('CPO') may be made under sections 239, 240, 246, 250 and 260 of the Highways Act 1980 and submitted to the Secretary of State for Confirmation. A CPO is only effective once it has been confirmed by the Secretary of State.
- 9.2 The CPO order will not be confirmed until any relevant Planning Permissions are obtained for the project.
- 9.3 If after making the CPO, any qualifying objections are received within the statutory timescales and not resolved, it is likely that the matter will proceed to a local public inquiry. If this is the case, the Secretary of State will appoint an inspector to hear evidence from the objector(s) and the Council, before determining whether or not to confirm the CPO. The Secretary of State has limited power to modify the CPO before confirmation.

- 9.4 Once the CPO is confirmed and notices have been served, all persons with a compensation interest in the order land and who make a claim will be entitled to compensation in accordance with the provisions of a variety of statutory provisions which together form the Compensation Code. . Any dispute with regards compensation can be referred to the Upper Tribunal (Lands Chamber) to determine.
- 9.5 Negotiations with landowners will continue throughout the CPO process and where possible will always be our preferred option for land acquisition.
- 9.6 The scheme may require alteration of accesses and the realignment and improvement of highway. A side roads order may be made under sections 14 and 125 of the Highways Act 1980 will implement these alterations. A Side Roads Order is an order made under sections 14 and 125 of the Highways Act 1980. It may authorise a highway authority for a classified road to stop up, divert, improve, raise, lower or otherwise alter a highway that crosses or enters the route of a classified road. The power extends to works being carried out on highways which will be “otherwise affected” by the construction or improvement of the classified road. Section 14 also provides for the construction of new highways, or parts of, for purposes concerned with any such alternations or related purposes. Section 125 of the 1980 Act provides that a side roads order can authorise the stopping up of private means of access to premises and can provide new means of access to premises.
- 9.7 The scheme may require the making of schemes under section 106(93) and 108 of the Highways Act 1990 in respect of a bridge over and the diversion of navigable waters. The Canal and Rivers Trust are a statutory consultee in respect of any schemes and the Council will work with them to ensure that their requirements can be met to enable continued and safe navigation of the waters affected by the scheme. The Canal and Rivers Trust are a statutory undertaker and it is important that their reasonable requirements are met.

10. Environment, Health and Economic Implications

- 10.1 The Elland Access Package (AP) project alongside the Elland Railway Station project will reduce public journey times to and from Elland and the surrounding housing and industrial areas. The draft Local Housing Plan has identified large housing potential in and around Elland, the AP is a key catalyst in creating sustainable transport links to public transport. Poor air quality is a result of high volume areas, the AP will look to decongest the town with walking and cycling friendly routes. These programmes seek to improve and thereby promote the use of active modes through the creation of safer, more accessible and user friendly routes, accessing the new railway station and surrounding area, resulting in a modal shift away from the private car. Increased active mode travel also has the added benefit of creating healthier residents.
- 10.2 Nationally and locally, air quality is an extremely important topic. This scheme along with the fore mentioned schemes have been designed to produce beneficial results for air quality between Halifax and Huddersfield. This will be achieved through the promotion of public transport and active modes of travel, and addressing congestion areas by improving the flow of vehicles
- 10.3 Cleaner environment: the investment in active travel infrastructure and public transport will reduce private vehicle usage, leading to lower emissions and reduced congestion.

- 10.4 Several small parcels of land are now required to deliver the greatest possible impact against our objectives as set out in the Calderdale Transport Strategy 2016. Failure to secure these parcels of land will greatly compromise the schemes and the outputs from the schemes.

11. Equality and Diversity

- 11.1 In considering the need for Compulsory Purchase Orders, careful consideration has been given to the balance between individual rights and the wider public interest. The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("Convention").
- 11.2 Section 6 of the Human Rights Act prohibits public authorities from acting in a way which is incompatible with the Convention. Various Convention rights may be engaged in the process of making and considering a compulsory purchase order, notably Article 1 protects the right of everyone to the peaceful enjoyment of possessions. No-one can be deprived of possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. Article 8 provides a right to respect to one's private and family life and home.
- 11.3 The European Court of Human Rights has recognised in the context of Article 1 that regard must be had to the fair balance which has to be struck between the competing interests of the individual and of the community as a whole. Similarly any interference with Article 8 rights must be necessary for the reasons set out. Both public and private interests are to be taken into account in the exercise of the Council's powers and duties as a local highway authority. Any interference with Convention Rights must be necessary and proportionate.
- 11.4 In considering the statutory orders sought, the Council has to carefully consider the balance to be struck between individual rights and the wider public interest. Any interference with Convention rights is considered to be justified in order to secure the economic, social, physical and environmental regeneration that the redevelopment will bring. Appropriate compensation will be available to those entitled to claim it under the relevant provisions of the relevant statutory provisions.
- 11.5 It is considered that there is a compelling case in the public interest for contemplation of the Orders and that the Orders, if confirmed, would strike an appropriate balance between public and private interests. In addition, having regard to the provisions of the Highways Act 1980 and the MHCLG Guidance and DfT Guidance, it is considered that the land to be acquired is both suitable for and necessary to deliver the public benefits described above. Furthermore it is considered that interference with individual rights is necessary and proportionate in the context of the delivery of the scheme.
- 11.6 Consultation has and will continue to be undertaken during the acquisition process, with the opportunity being given for interested parties to make representations regarding the proposal. If qualifying objections to the Orders are received, further representations can be made if the Secretary of State decides to hold a public inquiry in connection with the Orders. Those directly affected by the Orders who have legally compensable interests will be entitled to statutory compensation.

- 11.7 In assessing human rights considerations, the Council has had particular regard to the fact that the proposed acquisition will affect land currently owned and occupied by the owners, lessees, occupiers and other legal interests in the Order Land.

12. Summary and Recommendations

- 12.1 Members are asked to consider whether the economic, social and environmental benefits derived from Elland Access Package improvements under the WY+TF strategy validates the land acquisitions and associated Side Roads Order as being in the wider public interest. Whilst emphasis focuses on negotiated land purchase settlements, authority is sought to use compulsory purchase powers in parallel, along with powers to make a Side Roads Order as necessary and a scheme or schemes in respect of bridges over and diversions of navigable waters. Stakeholder engagement is an essential on-going element of the WYTF programme and on-going public engagement is being planned as part of the overall programme

For further information on this report, contact:

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The documents used in the preparation of this report are:

1. National and Local Planning Policies including:-

- a) National Planning Policy Framework
- b) CMBC Unitary Development Plan and emerging Local Plan

2. Highway documents:-

- a) WY+TF Elland Station and Access Package OBC Summary Document

3. Relevant National Circulars:-

- a) DCLG Guidance on Compulsory Purchase and the Critical Down Rules
- b) Department for Transport Circular 2/97: Notes on the Preparation, Drafting and Submission of Compulsory Purchase Orders for Highway Schemes and Car Parks for which the Secretary of State is the Confirming Authority
- c) Department for Transport Circular 1/97: Orders Under Section 14 of the Highways Act 1980 and opposed Orders Under Section 124 of that Act
- d) Department for Transport Guidance: Preparation and Making Bridge/ Tunnel Schemes Under s106 of the Highways Act 1980 and Orders under s108 for the Diversion of Navigable Waters

4. Other relevant documents:-

- a) CPO 2015 Statement of Reasons in the public interest

The documents are available for inspection on request from:

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Appendix A: Statements of Reason and Plans

Statements of Reason: Elland

Area	Plot	Landowner	Statement of Reason
Elland	4,8.1,8.2,11,14,16	Unregistered	Allows for the construction of bridge abutments, its connections and the wider scheme cycle and pedestrian ways and landscaping locations.
Elland	7.1,7.2	John and Carol Halton	<p>7.1) To allow for the construction of a non-motorised bridge taking members of the public from Park Road to Riverside Park. Said provision is a significant and key element to the whole project connecting the northerly side of the River Calder and Calder & Hebble Navigation Canal, creating a new and improved sustainable connection to existing Elland properties, including access to and from the Brighouse direction, West Vale, identified sites from the Local Housing Plan, and Route 66 Greenway.</p> <p>7.2) The same derelict land will be used in a temporary nature for construction site compound/offices</p>
Elland	9.1,9.2,9.3,9.4	John and Carol Halton	<p>9.1) Allow for the connections and construction of the abutments and immediate surrounding area.</p> <p>9.3) Oversail for the bridge.</p> <p>9.2,9.4) Temporary access will also be required to allow access to the above Plot.</p>
Elland	3	New River Community Pubs Ltd	The bridge abutment/landing area and connection onto Park Road will be located here, thus ownership will be required, this parcel of land will also be used to create access directly onto the canal tow path and Route 66.
Elland	2.1,2.2,2.3	New River Community Pubs Ltd	2.2,2.3) Increasing tow path width to allow safe direct access from the bridge onto Route 66 Greenway. Widening of the footway on the Park Road side will also be required for shared space.

			2.1) Temporary construction access will also be needed for lifting operations.
Elland	12	British Millerrain Company Limited	Creation of cycleway and connection from bridge towards the new railway station.
Elland	13.1,13.2,13.3	Calderdale MBC	13.2) To enhance public realm and improve connection between the proposed railway station and Riverside Park, thus access to River Calder and Calder & Hebble Navigation Bridge. 13.1,13.3) Also for allowing construction access into Riverside Park.
Elland	15	NU-Swift Ltd	To widen, improve and alter current footpath into a shared or segregated pedestrian and cycleway space. Creating enhanced sustainable route towards Elland centre.
Elland	18.1,18.2,18.3,18.4 18.5	Optimisation Investments Ltd (Morrisons)	18.2,18.3,18.4) To allow for creation of new highway route, the widening to create a segregated non-motorised route, and widened crossing. 18.1,18.5) Required for temporary access for construction
Elland	19.1,19.2,19.3,19.4	Optimisation Investments Ltd (Morrisons)	19.1) Required for temporary access for construction
Elland	10.1,10.2,10.3, 10.4,10.5,10.6,10.7	Calderdale MBC	10.2,10.3,10.4,10.6) Bridge over sail, abutments/landings and connections from will be created fundamentally in the railway station direction. Land will also be required for embankments of these footway. 10.1,10.5,10.7) Temporary access will be required for construction access, lifting operations and construction compound/offices.
Elland	20	Go On SA	Widening of footway to allow for cycling and pedestrian provisions.

Elland	17	Calderdale MBC	To allow for improved connections and creation of pedestrian and cycleway.
Elland	24	Lockside Estate Limited	Temporary access to allow for construction traffic and materials for the bridge and its connections onto Gas Works lane and the canal tow path.
Elland	1.1,1.2,1.3,1.4 1.5,1.6,1.7,1.8	Canals and Rivers Trust (CRT)	<p>1.1) Widening of the canal tow path which includes narrowing of the canal to create direct car free access from the bridge to Route 66 Greenway.</p> <p>1.7) Permanent rights for over sail of the bridge over the canal.</p> <p>1.6) Areas of landscaping improvements surrounding the bridge and immediate cycleway and pedestrian network also included.</p> <p>1.2,1.4,1.5,1.8) Temporary construction access to facilitate permanent works also required.</p>
Elland	5.1,5.2	Canals and Rivers Trust (CRT)	Allow for public realm improvements around the bridge and immediate cycleway network.

Statements of Reason: West Vale

Area	Plot	Landowner	Statement of Reason
West Vale	21.1, 21.2	North Dean Automotive Ltd	21.1) To allow for the introduction and creation of a shared sustainable non-motorised access from West Vale and Route 69 Greenway onto Route 66 and access towards Elland and the proposed railway station. 21.2) Temporary construction access.
West Vale	22.1, 22.2, 22.3, 22.4, 22.5, 22.6	Heath Rugby Union Football Club	22.1, 22.3, 22.5) As above. Land lost on the above and the prevention of access to the above lower yard can be re-gained on the re-positioning of access on to the Rugby Club.
			The bridge abutments/landing will also be positioned within the Plot. 22.2, 22.4) Construction access, lifting operations and construction compound/offices will also be required temporarily. 22.6) Permanent over sail rights for the bridge.
West Vale	23.1, 23.2, 23.3	Canals and Rivers Trust	23.2) To allow for the landing of bridge/abutments and creation of continued connection onto canal tow path, Route 66 and access towards Elland and the proposed railway station. 23.1) Over sail rights for the bridge. 23.3) Temporary construction access.
West Vale	24	Christopher John Morton	Temporary construction access.

West Vale	25	Unregistered	Temporary construction access.
West Vale	26	Yorkshire Electric Distribution	Temporary construction access.