



**REPORT TO: ECONOMIC DEVELOPMENT AND INFRASTRUCTURE
SERVICES COMMITTEE ON 25 NOVEMBER 2014**

SUBJECT: ELGIN WESTERN LINK ROAD

**BY: ACTING CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE)**

1. REASON FOR URGENCY/REPORT

1.1 This report is submitted to Committee in terms of the Local Government (Access to Information) Act 1985, on the Chair certifying that, in his opinion it requires to be considered on the grounds of urgency in order to give early consideration to the implications of the decision of the Planning and Regulatory Services Committee on 13 November 2014 to refuse the planning application relative to the Elgin Western Link Road Scheme (WLR). In particular, paragraphs 6.1.3 and 6.2 detail the urgency associated with clarification of the Council's position relative to the WLR.

2. RECOMMENDATION

2.1 It is recommended that Committee:

- (i) notes the decision of the Planning and Regulatory Services Committee on 13 November 2014 to refuse the application for the WLR and of the reasons for this;**
- (ii) considers the following options now available to the Council:**
 - a. EITHER to reaffirm the Council's commitment to the WLR as a strategic project for the reasons set out in this report, instructing officers to undertake work with Jacobs to address/mitigate the grounds for refusal and to work towards submission of an amended application as soon as possible, all other work related to the WLR continuing to be progressed in accordance with previous instructions; OR**
 - b. to accept the decision of 13 November 2014 as signalling the end of the WLR as a strategic project, noting the implications of such a decision as set out in Sections 6 to 7 of this report, and as a result instructing officers to progress one of the following alternatives:**

- i. Do nothing/do minimum option – high school access and Bilbohall connecting road**
- ii. Network enhancements**
- iii. Rural inner route**
- iv. Rural outer route**
- v. Another alternative identified by committee; and**

(iii) EITHER reaches a decision on recommendation 2 above OR refers the options on to the meeting of the Council on 17 December 2014 for consideration, recommending the option preferred by this committee.

3. BACKGROUND

- 3.1 The Western Link Road (WLR) (previously the Western Distributor Road and Urban Inner Route) is a crucial part of the Elgin Traffic Management programme, has been the subject of at least 30 reports to The Council or its Committees over the past 12 years and has been identified as a strategic project for the Council.
- 3.2 The stated objective of the Elgin Traffic Management programme is
- “To provide a quicker, safer and more reliable transport system in and around Elgin, while accommodating future development.”*
- 3.3 A key element of the WLR is that it would create a new crossing over the railway thus providing an alternative route which would reduce traffic at congested junctions elsewhere as part of the network. This also provides crucial network resilience i.e. the ability of the network to function when things go wrong, for example, when roads have to be closed or restricted for various reasons.
- 3.4 The WLR has been identified as the strategic intent of the Council in the Local Plan since 2000. This was restated in the adopted Local Plan 2008 and in the agreed proposed Local Development Plan 2014. It has featured in these plans as part of a road improvement infrastructure in support of the release of designated sites including retail and housing, particularly in the south of Elgin.
- 3.5 The majority of the existing housing designations in Elgin South have already been constructed with the intention that the new road infrastructure would support this and future development.

4. REASONS FOR REFUSAL

- 4.1 The grounds for refusal given at the conclusion of the Planning and Regulatory Services Committee (P & RS) on 13 November 2014 may be summarised as follows :-

- the proposed noise mitigation measures to address the potential increase in traffic were not satisfactory and the scale, density and character were not appropriate to the surrounding area (EP8 and IMP1 (a));
 - the development would not integrate into the surrounding landscape, which is very close to a wetlands area which has a special scientific interest (IMP1 (b));
 - the level of adequate roads, public transport and cycling and footpath provision were not appropriate to the development in terms of pedestrian safety (IMP1 (c));
 - the conservation of natural and built resources had not been demonstrated in relation to the wetlands area (IMP1 (i)); and
 - the mitigation measures for the impact of development traffic were not appropriate and concerns remained regarding pedestrian safety and traffic movements, and that the Designing Streets Policy had not been adequately adhered to in that matter (T2).
- 4.2 Whilst officers were of the view that the original application was strong and it was recommended for approval on that basis, their views have been further informed by the debate relative to the application. Following consideration of the issues raised during that debate, officers are confident that additional information and mitigation measures to address the concerns raised, as set out in section 5 of this report, could be developed and included in an amended application.

5. PREPARING A FRESH PLANNING APPLICATION

- 5.1 If it still the intention of the Committee to pursue the WLR as a strategic project for the Council, then a fresh application will be required which addresses the reasons for refusal as stated in Section 4 of this report. Additional information and mitigation for a fresh application would require further development, but it is currently apparent that a fresh application would have to include reference to the following paragraphs:
- 5.1.1 At the Hearing, the applicant's summary presentation explained that traffic figures had reduced as a result of economic recession. The application stated the most recent traffic figures but the P & RS Committee considered that figures presented at the Hearing by objectors created sufficient uncertainty to refuse the application. A resubmission would be categorical about traffic figures to remove this dubiety.
- 5.1.2 Regarding noise, a fresh application would consider both how noise may be further mitigated and explain better the noise impacts.
- 5.1.3 The P&RS Committee did not give specific detail on how the application failed in terms of scale, density and character. A fresh application would explain how

it meets these criteria ensuring that environmental agencies have no concerns, while looking to see how any impacts might be mitigated further.

- 5.1.4 It is unclear what adequate roads, public transport and cycling and footpath provision the project failed to deliver, especially when compared to the existing shortfalls. P&RS Committee was not specific in its reasons. A fresh application would provide further evidence of the additional provision.
- 5.1.5 To address specific pedestrian safety concerns, it is proposed that, while not normally undertaken at this point, a Stage 2 Road Safety Audit would be carried out and the findings used to revise the design before a resubmission.
- 5.1.6 To address specific “Designing Streets” concerns an independent audit would be instructed and officers would include any resulting design changes in the revised submission.

6. IMPLICATIONS FOR NOT PROCEEDING WITH THE WESTERN LINK ROAD

6.1 Local Development Plan and Future Planning Implications

- 6.1.1 The WLR was first identified in the 2000 Local Development Plan as being required to support the proposed development of land on the south of Elgin. This requirement was restated in the 2008 plan and forms part of the proposed 2014 plan. If Committee were to decide to remove support for the WLR and do nothing to provide the necessary road improvements to support the development that has occurred in Elgin since 2000 and is planned for the future, the existing road infrastructure will act as a constraint to new development in Elgin. This could result in a significant constraint on the development of land for housing and employment purposes and undermine the aims of the Moray Economic Strategy, the Elgin City for the Future project and the spatial strategy of the new Local Development Plan. Removal of support for the WLR would also create uncertainty for developers.
- 6.1.2 If alternative options to the WLR are to be considered, these options must address the impact of planned development and seek to mitigate these through appropriate provision for increased traffic flows.
- 6.1.3 As the proposed Local Development Plan is currently under examination, the Reporter will require to consider any decision which removes support for the WLR and the impact this has on enabling the development of land and economic growth that is identified in the proposed plan. The Reporter can make binding recommendations to amend the plan however if the WLR scheme is not to proceed and there is uncertainty over how infrastructure is to be provided to support designations within the Plan the Reporter may ask the Council to reconsider the Plan in respect of Elgin to provide clarity.

6.2 Land and Compulsory Purchase

- 6.2.1 The Council made a Compulsory Purchase Order (CPO) in respect of land required for the scheme. By the due date, six objections were received, of which three were from parties whose land is affected. Of these, one objection has been withdrawn. Another plot is no longer required but the owner remains an objector.. Negotiations with the third party are concluding and their final response is awaited. Once the final position of objectors is known the Council would advise Transport Scotland and ask that they confirm the CPO. A public local inquiry may be required where a remaining objector is also a party whose land is affected by the CPO.
- 6.2.2 Meantime negotiations for acquiring land are at various stages with 3 houses already in Council ownership. One owner, whose land, but not their house, is required wishes to sell and has intimated that they would wish to serve a blight notice on the Council. This is the subject of a confidential report to the Council meeting on the 17 December 2014 as the period of notice in terms of the blight notice is running. Another house owner is understood to be close to agreeing compensation with the District Valuer and wants early conclusion of the transaction as they have been unable to lease the house due to the scheme's impact with resultant cost. Whilst the CPO continues to be promoted the Council will be at risk of affected owners submitting blight notices without requiring to show that they are unable to sell their property for a reasonable price.
- 6.2.3 If there is ongoing uncertainty over the Council's position relative to the WLR, there is a risk that Transport Scotland will refuse to confirm the CPO. In that event, in order to proceed with the WLR the Council would then need to promote a fresh CPO.
- 6.2.4 Should Committee decide to proceed with the scheme after considering this report land acquisition and the CPO would continue. Otherwise the CPO could be withdrawn at a meeting of The Moray Council and properties acquired to date sold, excluding those which may be required for any Network Enhancement proposals.

6.3 Developer Contributions

- 6.3.1 Developer contributions have been received to alleviate traffic problems and mitigate the impact arising from development. £625K has been assigned to the WLR, of which 25% needs to be spent before the end of 2018. If the contributions are not spent in accordance with their associated legal agreements then they must be returned with interest. If these contributions cannot be assigned to the WLR then efforts will be required to allocate these to appropriate parts of the network. However this will require additional design work and negotiation with other parties, e.g. land owners.

6.4 Housing Development

- 6.4.1 There are 3 sites designated in the Bilbohall area in the current Development Plan, Bilbohall South (75 houses), South West of Elgin High School, (80 Houses) and Knockmasting Wood (85 houses). The Council is currently committed to the development of affordable housing at the Bilbohall South site.
- 6.4.2 The conditions of sale to Grampian Housing Association require the Council to provide road access and drainage to the site by March 2016. They also allow Grampian Housing Association to ask the Council to re-purchase the land if the road access cannot be delivered. The cost of this is estimated to be £2.7M plus interest (currently at £329K).

6.5 Abortive Costs

- 6.5.1 Should the Council consider not to proceed with the WLR there would be abortive costs. It has not been possible to assess the full implication of the abortive costs at this stage and compensation costs would be subject to matters of confidentiality.
- 6.5.2 However development of the scheme since 2007 has cost £3.08M of which £740K are property costs.
- 6.5.3 Only costs that can be apportioned and implemented to the scheme such as the Edgar Road extension can be capitalised. All other costs would have to be taken from the Council's revenue account. This was previously reported to The Moray Council on the 27 March 2013 (paragraph 14 of the minute refers).

6.6 The Wards

- 6.6.1 Network Rail have commenced a programme of improvements to the Aberdeen – Inverness railway. The aim is to increase train frequencies, and specifically towards a half-hourly service to Inverness. While improved signalling would slightly reduce the duration of each closure of the level crossing gates, the number of closures per day would increase more than three-fold to four times per hour, increasing substantially the delays to traffic.

7. ALTERNATIVE OPTIONS

- 7.1 The Council undertook an option appraisal for traffic management options for Elgin's south-west quadrant in 2011. It followed the process set out in the Design Manual for Roads and Bridges (DMRB). These were considered by this Committee on the 8 March 2011 (paragraph 9 of the minute refers) and on the 28 June 2011 (paragraph 4 of the minute refers) with the WLR approved by the later Committee.
- 7.2 The DMRB – Stage 2 report considered 5 options which are summarised as follows and current implications assessed.

7.3 Do-Minimum

- 7.3.1 The Do-Minimum option was referred to in the Stage 2 report as a Do-Nothing option but included an access road to the affordable housing option site at Bilbohall.
- 7.3.2 The extension of Edgar Road will be considered as part of the planning application for the new high school however a connecting road will be required at the end of this extension to meet the conditions of sale for the site and will require a separate planning application.
- 7.3.3 The Bilbohall site has been identified as delivering 75 – 100 affordable houses. However without a traffic assessment to assess the impact on Edgar Road and its associated junctions of the WLR being abandoned, it would not be possible at this stage to determine how many houses would be recommended for approval.

7.4 Existing Network Enhancement

- 7.4.1 The “Existing Network Enhancements” comprised a number of minor traffic management improvements::
- a) A new A96/Wittet Drive Junction as per the current proposal for the Western Link Road
 - b) Minor improvements to Dr Grays roundabout and on South Street
 - c) Junction improvement at Hay Street/Moray Street,
 - d) Junction improvement at Laichmoray roundabout,
 - e) Junction improvement at Edgar Road roundabout
 - f) Possible dualling of Alexandra Road
- 7.4.2 While (a) above would relieve congestion at peak periods on the A96 eastbound and make it easier and safer for traffic from Wittet Drive to join or cross the A96 (especially pedestrians and cyclists), it does not contribute to enabling increased capacity of railway crossings. Implications would also have to be considered on the impact on traffic flows along Wittet Drive and on congestion at other key junctions such as the Wards, and would need further traffic modelling.
- 7.4.3 While b) and c) provides localised improvements neither of these produce additional traffic capacity on the road network.
- 7.4.4 Both d) and e) can be considered as a single project. Improving these junctions has the potential to increase capacity across the railway line. The solution would be either roundabouts or linked signals. It is likely that capacity can be increased but this is finite and limited, and was required with or without WLR. The Council is appraising options for these junctions presently. Even the best option will do little to improve traffic distribution or network resilience. The Edgar Road roundabout is the subject of an outstanding planning condition and the application of this condition will be the subject of a report to the P & RS Committee.

- 7.4.5 Dualling Alexandra Road f) provides no benefits in terms of railway crossings. In traffic terms it provided other benefits, offset by substantial environmental and social impact. It would not be consistent with “Designing Streets” and worsen the severance of the Lossie Green area from the town centre – a severance that the Elgin Town Centre Regeneration Master Plan is attempting to address.
- 7.4.6 The application of designing streets to the network enhancements option would have a significant impact on any proposal to alter the existing network. Additional design features to comply with Designing Streets could greatly increase the costs from the original estimate.
- 7.4.7 In summary, the main weakness of the Network Enhancements package alone is that it does not provide Elgin with a new crossing of the railway. So, while each measure can contribute to improving traffic management in Elgin, they are not joined up and do not sufficiently address the broader issue of north-south traffic crossing the railway.
- 7.5 Rural (Inner) Route
- 7.5.1 The rural inner route - while providing a new railway crossing it is predicted that it would attract less than half the number of vehicles of the WLR and at an estimated costs of £24.5m delivered a Benefit Cost Ratio (BCR) of 0.2 and was therefore regarded as not delivering value for money.
- 7.5.2 While the route provides some additional capacity on road links within the city centre of Elgin, the overall volumes of traffic attracted to the route are relatively small as the route’s connection to the A96 is too far west to be attractive to the high proportion of motorists undertaking journeys within Elgin.
- 7.6 Rural (Outer) Route
- 7.6.1 The rural outer route - while again providing a new railway crossing it is predicted that it would attract a third of the vehicles that would use the WLR. With an estimated cost of £68.2M delivered a BCR of 0.1 and again did not represent value for money.
- 7.6.2 Again although the route provides some additional capacity on road links within the city centre of Elgin, the overall volumes of traffic attracted to the route are relatively small as the route’s connection to the A96 is too far west to be attractive to the high proportion of motorists undertaking journeys within Elgin.
- 7.7 Both the Rural Inner and Outer Routes did not deliver value for money nor did they provide the desired level of improvement in traffic flows across the network. The case for not promoting these schemes has not significantly changed however should the Council wish to pursue any of these options then more detailed design and land acquisition will be required with significant costs incurred before any planning application could be pursued.

8. REFERRAL TO FULL COUNCIL

- 8.1 At a Special Meeting of the Council on 29 January 2014, (paragraph 4 of the minute refers) the Council recognised the WLR as a strategic project of the Council and resolved a conflict between the Council's Economic Development and Infrastructure Services Committee and its P&RS Committee by deciding that the WLR should remain in the new Local Development Plan.
- 8.2 At a later meeting of the Council on 2 April 2014, (paragraph 5 of the minute refers) the Council considered the way in which it wanted to handle strategic projects where conflicts arose between service committees. In particular, it was agreed that once Full Council had jurisdiction over a project either because it was referred to resolve a conflict or because it had otherwise been called in by Full Council, the project should thereafter remain with Full Council unless the Council chose to remit it back to the original service Committee(s).
- 8.3 It was also agreed that that decision would not operate retrospectively. This meant that reports on the WLR would not thereafter always be heard at full council simply by virtue of the earlier referral in January.
- 8.4 At a further meeting of the council on 28 May 2014, (paragraph 5 of the minute refers) the Council declined to call in the WLR project, members being of the view that the P&RS Committee was the appropriate body to determine the attendant planning application.
- 8.5 Following on from the decision of the P&RS Committee on 13 November to refuse the planning application for the WLR, the future of that strategic project must now be determined.
- 8.6 Whilst the Economic Development and Infrastructure Services Committee clearly has the power to make that decision, the history of the project has been such that it has repeatedly divided opinion both amongst the public and amongst elected members. The significance of the project in terms of the 10 year Plan and the Moray Economic Strategy is considerable.
- 8.7 Referral of the project to full council is not technically required in terms of the decision of 2 April because, whilst refusal of the planning application brings the future of the project into question, that refusal did not in itself bring the project to an end. Nonetheless, members may be of the view that because of the complicated and lengthy history of the project, the way in which it has polarised opinion, the significance of the project in strategic terms and the financial and other implications of the various alternatives canvassed in this report, that full council is the appropriate body to reach a final decision on the future of the project.

9. **SUMMARY OF IMPLICATIONS**

(a) **Moray 2023: A Plan for the Future/Service Plan**

The Moray 2023 plan identifies that the top priority is a growing, diverse and sustainable economy. It identifies that this needs to be supported by infrastructure and that the economy of Moray is heavily dependent of roads infrastructure.

(b) **Policy and Legal**

The legal issues are complex and mostly related to planning and property. Policy issues mostly relate to economic development and planning and are described through the report.

As this is a Council planning application the Council's Scheme of Administration does not allow for an appeal process, and would therefore require the Council to resubmit a planning application if it was minded to pursue this project.

(c) **Financial implications**

To date the Council has spent £3.08 Million on this project. £740K has been in property costs which would have a resale value which the Council would try to recoup.

Should the Council decide not to pursue the Do-Minimum option or any option that does not provide a link to the affordable housing site then repayment of £2.7million for reacquisition of housing land incurs interest which depends on the base rate.

If Committee is minded to do something other than re-submit an application then the associated design & development costs will be significant.

(d) **Risk Implications**

The risks of not implementing the WLR or any other option are articulated at the relevant points throughout the report.

(e) **Staffing Implications**

There are no staffing implications related to the recommendations.

(f) **Property**

Property implications are discussed in this report in summary. More detailed information would need to be submitted in any additional reports to follow, which would be a matter of confidentiality.

(g) Equalities

The WLR has been designed in accordance with the Designing Streets Policy and in consultation with the Community to ensure that it caters for the needs of all ages and those with disability.

(h) Consultations

A Scott, Legal Services Manager, The Acting Head of Legal and Democratic Services, The Corporate Director (Corporate Services), The Head of Development Services, The Head of Housing and Property, The Transportation Manager, The Consultancy Manager and The Estates Surveyor have been consulted and their comments incorporated into the report.

10. CONCLUSIONS

- 10.1 The WLR has long been a fundamental part of development of the Moray economy. It addresses a number of transportation needs and supports the Local Plan, Moray 2023 and Moray Economic Strategy.**
- 10.2 Its purpose is to support existing and future development and its absence will impact on congestion and potentially restrict housing development and economic growth.**
- 10.3 A fundamental feature of the WLR was a crossing over the Aberdeen to Inverness railway in the south west of Elgin.**
- 10.4 In terms of cost and effectiveness relative to the provision of an additional railway crossing, retaining the WLR as a strategic project for the Council and submitting a revised planning application addressing the reasons for refusal in a resubmission has very clear advantages. It is accepted however that the public perception presented at the Planning Hearing reflected concerns on a number of fronts. Officers are of the view that these concerns could be adequately addressed in the revised submission.**
- 10.5 Alternative options have previously been dismissed as not delivering value for money nor delivering the traffic improvements required to provide a sustainable infrastructure for the south of Elgin.**
- 10.6 The Scottish Government supports capital expenditure on infrastructure that supports sustainable economic growth. This WLR clearly meets this policy and facilitates further economic activity in the construction sector.**

Author of Report: Stephen Cooper, Head of Direct Services

Background Papers: None

Ref: