

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Housing, Environmental and Economic Development

**Housing, Environment and Economic Development Committee:
2 February 2011**

Subject: Millennium Link Project, Clydebank

1. Purpose

- 1.1** The purpose of this report is to update the Committee on the current extent of negotiations with British Waterways Scotland (BWS), and reaffirm that authority to be delegated to the Executive Director of Housing, Environmental and Economic Development to conclude negotiations with British Waterways Scotland (BWS) to return to BWS the Councils interest in the solum and navigation rights required to operate the canal. The report also seeks authority to transfer and grant them other access rights to the canal that runs through the Clyde Shopping Centre, Clydebank

2. Background

- 2.1** Historically BWS owned the navigation rights to the canal, but when the former Clydebank District Council sponsored the Compulsory Purchase Order for the shopping centre, all rights were then vested with the Council. This was never a problem when the canal fell into disuse. However with the approach of the Millennium there was a desire to have the canal returned to navigable and economic life. The Millennium Commission provided funds for the project via The National Lottery. As part of this there was a condition of the funding package that BWS recover ownership of the solum, the navigation rights and access to the canal, and its machinery, for maintenance purposes. Each council on the route of the canal were required to contribute to the project. WDC's contribution was to be in the order of £287,166.
- 2.2** The scope of work in this location was to include the raising and widening of the 2 road bridges at both Kilbowie Road to the east and Argyll Road to the west together with 2 pedestrian bridges between these aforementioned locations, both of which would provide access to the shopping centres to the north and south of the canal. Subsequently there has been a new canopy erected over the western footbridge, which was funded by Clydebank Rebuilt. This structure is not the subject of any discussion with BWS.

- 2.3** The original proposal was for the transfer of the Council's interest in the solum of the canal, together with the lease of the ground occupied by Debra Rose Limited (known as McMonagles Chip Ship), to BWS at no cost. The transfer of these assets representing the Council's contribution to the project. It was recognised at this stage that the value of the Council's interest in the solum to the canal was no more than £1. The ground lease of the Debra Rose, which is set within the solum of the canal, produced an annual rental to the Council of £18,500pa. This has subsequently been reduced to a rent of £12,000pa. The value attributed to the transfer of the Debra Rose interest at the time was noted as being in the order of £240,000. The principle was ratified, by full Council on 25 June 1997, subject to the terms and conditions being reported back to the Planning and Economic Development Committee or Council for approval. Negotiation broke down between the Council and BWS over the value of the ground lease, with BWS taking the stance that the value was significantly lower than the Council's expectation.
- 2.4** In March 1998 it was reported to Council that there was a potential shortfall in the project and that the respective Councils along the route were being asked to act as guarantor for the shortfall. WDC's additional potential contribution of £104,000 was ratified at the meeting on 25 March 1998.
- 2.5** The most recent referral to Council was 25 April 2001. The Council minute of that meeting is appended but in essence the Council agreed:
- (a) to note the progress of the Millennium Link Project;
 - (b) to approve the action taken to date by Officers; and
 - (c) that authority be delegated to the Director of Economic, Planning and Environmental Services, in consultation with the respective portfolio holders, to finalise terms and conditions relating to the Council's contribution to the Millennium Link Project.
- 2.6** Negotiations have sporadically opened and stalled on several occasions between the Council, BWS, and the owners of the shopping centre. This has been due primarily to changes in personnel in the organisations.
- 2.7** BWS acknowledged that the Council had forwarded a payment of £267,000 in February 2002.
- 2.8** Part of the negotiation surrounds the maintenance of all four bridges. Roads Section of the Council does not currently recommend the adoption of the road bridges over the canal at Kilbowie and Argyll Roads. There is a willingness from the Council to maintain the road surface but not the structures in a similar fashion to the way that rail bridges are treated. BWS wish the Council to maintain the structure of those bridges. An external consultant has been appointed by BWS to discuss these issues direct with Roads. There is an agreement in place regarding the footbridges. This does not cover the canopy over the western most bridge that was erected by Clydebank Rebuilt.

- 2.9** All recent discussions continue to recognise that the value of the interest in the solum is no more than £1.

3. Main Issues

- 3.1** BWS wish to have the solum transferred to them, and have agreed verbally to pay all legal costs incurred by either the Council and the shopping centre owner in achieving the transfer with associated access rights to both the north and south canal banks. Access routes for vehicles currently exist to the north bank but not to the south. This could have impacted on the sale of site of the Playdrome to Tesco but BWS have confirmed that access for vehicles is only required on the north bank for maintenance of the bridge lifting gear (marked A & B on plan 2 attached). Access to the south bank will only be for pedestrians and this can be accommodated as currently exist. BWS previously wished to take title to the area surrounding this equipment but are now willing to receive a licence to occupy with access rights in its stead. BWS have also confirmed that they are no longer interested in acquiring the ground lease of the Debra Rose.
- 3.2** BWS have confirmed that they will honour the existing maintenance obligations in respect of the footbridges and leave the responsibility of the maintenance of the road bridges to be resolved with Roads. Ideally it would have been preferable to have all these issues concluded at the same time. However previous negotiations have determined that this is best dealt with separately.
- 3.3** The original concept was that that the Council would not be a net contributor by way of cash to the project but would contribute by way of asset transfer. Clearly events have dictated that this is not now the case. This is evidenced by the minute of the Council meeting of 25 April 2001 and the acknowledgement from BWS that monies had been transferred. If the site of the Debra Rose was to be transferred this would have reduced the amount available to be securitised in the future.
- 3.4** A scheme of access has been produced that will significantly reduce the impact of access on any future expansion or proposed use of the area immediately south of the existing north shore mall. The appended Plans 1 and 2 show the former and current proposal, with amended access routes, respectively.
- 3.5** The canal currently produces no direct income to the Council, there is however a value in kind given the level of pedestrian footfall attracted to the canal; and it's surrounding environs including the Playdrome, Shopping Centre and community areas. BWS derive little financial benefit from the canal with most of their profit generated from other commercial ventures. The Council currently has repairing obligations for the canal, banks and other structures and as such it is considered that this is a burden on the Councils normal operation.

4. People Implications

- 4.1** There are no other significant people implications from this proposal other than the resources required by the Estates Section of HEED and Legal Services to negotiate and formalise terms.

5. Financial Implications

- 5.1** There are no significant financial or cost implications on the Council in the transferring the asset to BWS. In transferring the asset any future liability is also transferred to BWS.

6. Risk Analysis

- 6.1** Having analysed the risks it is considered that there are no risks in returning the solum to BWS.

7. Equalities Impact

- 7.1** No significant issues were identified in a screening for potential equality impact in this report

8. Conclusions and Recommendations

- 8.1** The Council has previously committed to the expenditure of £267,000 to this project and that it wished to transfer the solum of the canal to BWS, subject to agreeing terms which could be dealt with under delegated powers as provided for in the Council minute of 25 April 2001. In view of the delay in finalising negotiations the Executive Director of Housing, Environmental & Economic Development seeks to reaffirm Members authority to conclude negotiations as set out below.

- 8.2** It is recommended that the Committee:

- a) agrees to the transfer of the solum to BWS for a consideration of £1 with rights of access to the canal banks as agreed amongst all interested parties;
- b) delegates authority to the Executive Director in conjunction with the Head of Legal Services to conclude a license agreement with BWS in relation to access rights for the maintenance of the footbridge lifting gear;
- c) agrees terms with the shopping centre owners on any access issues that impact on their interest, subject to BWS undertaking to underwrite the owners/head tenants legal costs; and
- d) defers agreement of the maintenance obligations of the structures to the road bridges, pending agreement between the respective parties.

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Date: 10 January 2011

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Appendix: Appendix 1 - Excerpt of Council Minutes, 25 April 2001.
Plans 1 & 2

Background Papers: None

Wards Affected: 6