

Thursday, 10 March 2016

Edinburgh Tram Phase 1b & 1c Land Acquisition

Item number	8.1
Report number	
Executive/routine	
Wards	4 – Forth 5 – Inverleith 6 – Costorphine / Murrayfield

Executive summary

It was reported to Council on 10 December 2015 that the Council retains powers under the Edinburgh Tram (Line One) Act 2006 and the Edinburgh Tram (Line Two) Act 2006 to acquire land under compulsory purchase powers, and to commence construction on new sections of tramway. The Council has not exercised its compulsory purchase powers to acquire land between Roseburn Delta to Granton Square (Phase 1b) or between Granton and Newhaven (Phase 1c).

This report sets out a recommended way forward for land acquisition for Phases 1b and 1c.

Links

Coalition pledges	P18 , P19 , P45 , P46 , P50
Council outcomes	CO7 , CO8 , CO22
Single Outcome Agreement	SO1

Edinburgh Tram – Phase 1b & 1c Land Acquisition

Recommendations

- 1.1 It is recommended that the Council:
 - 1.1.1 notes that the Council's existing powers to acquire land for Phases 1b and 1c expire on 7 May 2016;
 - 1.1.2 approves exercising the existing powers before 7 May 2016 and serving the necessary General Vesting Declarations (GVDs) in order to protect the Council's position in relation to Phase 1b and 1c; and
 - 1.1.3 approves the acquisition of land from third party landowners where third party agreements have been entered into and delegates authority to the Acting Executive Director of Resources to complete those acquisitions on terms and conditions approved by him.

Background

- 2.1 It was reported to Council on 10 December 2015 that the Council retains powers under the Edinburgh Tram (Line One) Act 2006 and the Edinburgh Tram (Line Two) Act 2006 to acquire land under compulsory purchase powers, and to commence construction on new sections of tramway. The Council has not exercised its compulsory purchase powers to acquire land between Roseburn Delta to Granton Square (Phase 1b) or between Granton and Newhaven (Phase 1c).
- 2.2 The compulsory purchase powers set out in the Line One Act cease on 7 May 2016 and there is no scope for a further extension within the Act.
- 2.3 The Council report in December broadly considered two options in relation to the acquisition of land between Roseburn Delta to Granton Square (Phase 1b), as follows:
 - Option 1** – Exercise the existing powers before they expire on 7 May 2016; or
 - Option 2** – Apply for new powers to acquire the land in the future through either a new private bill or Transport and Works Order.
- 2.4 In relation to Option 2, Council noted that there may be other means of securing lands in the future should the Council agree to further develop the line and therefore sought further legal advice confirming this position prior to making any final decision on how to proceed.

Main report

- 3.1 Following the Council meeting in December further legal advice has been taken on the alternative to exercising the existing powers before they expire on 7 May 2016. That is to apply for a new private bill or for a Transport and Works Order.
- 3.2 The request for legal advice was expanded to also include the acquisition of land for Phase 1c as this provides the link between Granton Square and Newhaven which in turn provides wider network connectivity in the future.
- 3.3 An order made under the Transport and Works (Scotland) Act 2007 (a TAWS) has in most cases, replaced the private bill process for authorising a new railway (which starts and ends in Scotland) or tramway system. This would therefore be the route adopted by the Council should it have to seek new powers in relation to Phases 1b and 1c, rather than the promotion of a new private bill.
- 3.4 Applications for TAWS orders are made to the Scottish Ministers. The Scottish Ministers consider each application on its merits, and make decisions after considering all the comments made, sometimes through a public inquiry. TAWS orders can be made (with or without amendments), or can be rejected. There is no certainty that a TAWS order would be granted.
- 3.5 There is no set time to complete a TAWS process as this mainly depends on how complicated the proposed order is and whether or not a public local inquiry is held. In the case of the tram extension it seems likely that a public hearing would be required.
- 3.6 Any application would be likely to generate a substantial interest, may be subject to legal challenge, and would likely take considerable time to complete from application to decision. It is worth noting that the progress of the Edinburgh Trams Private Bills through Parliament was a lengthy one, with 28 months between submission (January 2004) and Royal Assent (May 2006). This excludes the time and costs required to prepare the documentation to support the Bill – which commenced in early 2002.
- 3.7 Additional work has been undertaken to explore the process for obtaining a TAWS order, including meeting Transport Scotland. They concur with the legal advice obtained that there is no certainty that a TAWS order would be granted.
- 3.8 Given the requirements for external advisors to prepare any application, there would also be costs associated with preparing a TAWS application. Were the application to be successful, the cost of the land acquisition would still need to be budgeted for.
- 3.9 Further work has also been undertaken to explore in more detail the possibility of exercising the existing powers before they expire including a desktop technical assessment to review all land referenced under the Line One Act in relation to Phase 1b and key properties on Phase 1c.
- 3.10 This exercise has concluded that some of the land referenced will not be required for construction and that instances of severance are likely to be low.

This means severance claims will be less than anticipated and compensation costs are likely to reduce.

- 3.11 In parallel with the technical assessment a review of third party agreements relating to Phase 1b and Phase 1c has been carried out by the Council Legal and Risk team. Under the terms of each of the third party agreements, the Council could acquire certain land identified in the Line One Act from specific landowners though this may be subject to further discussion.
- 3.12 It remains the case that acquiring the land may be controversial with an attendant risk of challenge. However, this needs to be balanced with the Council's wider *Transport 2030 Vision* and the importance of taking all reasonable steps to protect the future tram alignment. Increased public transport capacity with better connections remains at the heart of the 2030 vision which is seeking to develop a well planned, physically accessible sustainable city.

Conclusion & Recommendations

- 4.1 While previous discussions have centred around Phase 1b, this report also seeks approval to exercise existing powers before 7 May 2016 in relation to Phase 1c (Granton to Newhaven). In general, the acquisition of these plots is considered relatively straightforward as the majority of the land required for Phase 1c is either already in Council ownership or is covered by third party agreements.
- 4.2 The desktop technical exercise referred to above has now confirmed that the estimated compensation arising from the acquisition of the required land for Phase 1b and Phase 1c can be contained within the £1.75million estimate reported to Council in December 2015. It is therefore recommended that the land acquisition required for Phase 1c is progressed alongside the land acquisition for Phase 1b.
- 4.3 Given the uncertainty and cost attendant on an application for a TAWS order, and taking account of the Council's wider *Transport 2030 Vision*, the Council should proceed to exercise the powers it has to acquire the land required for Phases 1b and 1c before they expire. It would be prudent to also acquire land now from third party landowners with whom the Council has entered into third party agreements, again to give certainty that the Council could construct Phases 1b and 1c in future, should it resolve to do so.

Measures of success

- 5.1 Transport investment can increase effective density between places of residence and employment in two ways; firstly, by reducing transport costs and thereby improving accessibility around and between jobs and people.
- 5.2 The current tram line is currently performing ahead of expectations, and the Council has approved that work to develop a procurement package for an

extension of the line between York Place and Newhaven can move into the next stage.

- 5.3 The purpose of considering Edinburgh Tram extensions is to support the overall level of economic growth of Edinburgh through enhancing the viability and attractiveness of major housing and employment sites identified in the Local Development Plans. The tram extensions can help support a level of economic activity (jobs, development and housing) at a greater level that would otherwise be the case.
- 5.4 The Phase 1b and 1c alignments between Roseburn delta and Newhaven have the potential to enhance connectivity and better link the existing residential areas along the route with the City Centre as well as promote the development of the Granton area, which has historically suffered from poor transport links, which are seen as key to releasing the potential of this part of the city.

Financial impact

- 6.1 It is estimated that an allowance of £1.75million would be required for the purposes of settling compensation claims should a compulsory purchase process be initiated prior to the expiry of the existing tram powers.

Risk, policy, compliance and governance impact

- 7.1 The recommendations set out in this report are in alignment with the Transport 2030 Vision, the Local Transport Strategy, and the Local Development Plan and reflect the broader Council policy objectives of promoting and protecting development and stimulating economic activity in the city.
- 7.2 There is a small risk that the £1.75million estimate may not be sufficient depending on the outcome of discussions with landowners. The likelihood of this risk occurring is deemed to be low however and the desktop technical exercise referred to above has now confirmed that the estimated compensation arising from the acquisition of the required land for Phase 1b and Phase 1c can be contained within the £1.75million.
- 7.3 Any other legal and financial risks have been set out in the body of this report.

Equalities impact

- 8.1 The proposals and recommendations described in this report could contribute to the public sector general equality duty to: (i) advance equality of opportunity. There is no distinct relevance in respect of the general duties to; (ii) eliminate unlawful discrimination, harassment and victimisation, or; (iii) foster good relations.

- 8.2 An Equalities and Rights Impact Assessment has been prepared in respect of the Edinburgh Tram extensions project and is available as background reference. There are no direct negative equalities or human rights impacts anticipated.

Sustainability impact

- 9.1 The potential to extend the tram network aligns with and is cognisant of the requirement to reduce carbon emissions and the need to travel. In doing so, this will promote a shift to more sustainable modes of transport that will bring reduced carbon dioxide and nitrogen oxide emissions.
- 9.2 The promotion of a high capacity, high quality public transport system aligns with Transport 2030 Vision, the Local Transportation Strategy and draft Local Development Plan and will help achieve a sustainable Edinburgh, as both documents' actions include improving the extent of the public transport offered in Edinburgh, thus enhancing social inclusion and equality of opportunity.
- 9.3 The recommendation to safeguard the Phase 1b route under the Local Development Plan and Local Transport Strategy documents supports sustainable public transport opportunities into the future.

Consultation and engagement

Leaders Group

Background reading/external references

A Strategy for Jobs: The City of Edinburgh Council's Economic Strategy 2012-2017

http://www.edinburgh.gov.uk/download/downloads/id/501/a_strategy_for_jobs_2012-17

Edinburgh City Local Plans

http://www.edinburgh.gov.uk/downloads/download/229/edinburgh_city_local_plan

Edinburgh Local Development Plan – Proposed Plan March 2013

http://www.edinburgh.gov.uk/download/downloads/id/122/proposed_local_development_plan_march_2013

Local Transport Strategy 2014-2019

http://www.edinburgh.gov.uk/info/20221/roads_and_transport/341/transport_policy

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Links

Coalition pledges	P18 – Complete the Tram in accordance with current plans. P19 – Keep Lothian Buses in public hands and encourage the improvement of routes and times. P45 – Spend five per cent of the transport budget on provision for cyclists. P46 – Consult with a view to extending current 20mph zones. P50 – Meet greenhouse gas targets, including the national target of a 42 per cent reduction by 2020.
Council outcomes	CO7 – Edinburgh draws new investment in developing regeneration CO8 – Edinburgh’s economy creates and sustains job opportunities CO22 – Moving efficiently – Edinburgh has a transport system that improves connectivity and is green, healthy and accessible.
Single Outcome Agreement	SO1 – Edinburgh’s Economy Delivers increased investment, jobs and opportunities for all.
Appendices	None