

PLANNING COMMITTEE:

28 JULY 2021

REPORT OF THE DIRECTOR OF PLANNING, TRANSPORT, ENVIRONMENT

SECTION 116 HIGHWAYS ACT STOPPING UP OF CHURCHILL WAY

Reason for the Report

1. Cabinet approved the development of Churchill Way to pedestrianise the area and reopen the dock feeder canal. This will require a Section 116 stopping up of the adopted highway along the opening of the dock feeder canal. Legal Services administer the Section 116 legal order process and the case presented at Magistrate Court to determine.

Background

2. In June 2019, the Cabinet approved a Clean Air Plan and set out the steps required to improve air quality in the city centre, and on Castle Street specifically. This included three major city centre schemes:
 - City Centre West: Central Square and Westgate Street
 - City Centre North: Boulevard de Nantes, Kingsway and Castle Street
 - City Centre East: Dumfries Place, Station Terrace, Churchill Way / including the Canal reopening, and Bute Terrace
3. In addition the following supporting projects were included within the Clean Air Plan:
 - City Centre Enabling Works Package: A series of supporting network enhancement that will improve connections to and from the city centre area

- SMART Corridors: Three improvement corridors (North, East and West) aimed at improving bus journey time reliability into the city centre and alleviating congestion problems on key routes.
4. Following the approval of the Clean Air Plan, £15.2m has been secured from Welsh Government to progress these schemes, representing a significant contribution towards the total project cost.
 5. Successful implementation will significantly improve air quality and ensure compliance with legal limits. It will also establish a high quality active travel infrastructure for the city and improve connectivity between key developments by strategically aligning bus routes and enhancing links with the new Transport Interchange.
 6. The scheme received Cabinet approval on the 17th June 2021. Background papers have been provided of the Cabinet Report and Cabinet Decision for more details.

Issues

7. Subject to a confirmed Section 116 Legal Order, the successful completion of the procurement exercise, and any other necessary statutory processes being completed, work is targeted to begin in September 2021.
8. Before the work is substantially completed on site, the existing adopted highway must be stopped up under a Section 116 Highways Act 1980 Legal Order. This is administered by Legal Services to present the application to Magistrate Court requesting the adopted highway is stopped up as it will no longer be accessible for public use along the dock feeder itself.
9. As the Legal Order is open to public consultation, any member of the public wishing to object must appear in court. If the application is refused by Magistrate Court, the adopted highway must be retained and this scheme design altered.

Consultation Exercise and Outcome

10. Between December 2020 and February 2021 public consultation took place on the final option for 'City Centre East' transport improvement schemes. This included permanent bus priority measures on Station Terrace & Churchill Way, a permanent cycleway a revised car park routing system and the first phase of the Canal at the north end of Churchill Way.

11. Local Members have been able to comment on the proposals for the city centre as part of the Clean Air Consultation that ran from April-May 2019. Then again during the scheme consultations for City Centre East (December 2020-February 2021) and Castle Street (March – May 2021).
12. The Environment Scrutiny Committee considered this issue. A letter from the Chair was circulated at the Cabinet meeting.
13. There will be future public and stakeholder engagement for Castle Street and City Centre East transport schemes:
 - A dedicated project website containing all information associated with the project including: project background; maps; designs and operational plans.
 - A communication plan for each phase of works, including: newsletters for local residents and businesses; press releases and proactive media engagement.
 - Regular Stakeholder Meetings with Bus Operators and other key stakeholders.

Legal Implications

14. Section 116 of the Highways Act 1980 allows application to be made by a highway authority to a Magistrates' Court for an order to stop-up or divert any highway other than a trunk road or special road. Under the provisions of this section a Magistrates' Court may make an order to stop up a highway or divert it if it is:
 - Unnecessary or
 - Can be diverted so as to make it nearer or more commodious to the public
15. Notice of the application must be given to owners and occupiers of adjoining lands and to Statutory Undertakers by means of letter and an advert in the London Gazette and the local newspaper. Notices must be displayed prominently on site, at either end of the highway to be stopped up and should embody a plan.
16. The Magistrates' Court will not make an order unless it is satisfied that the applicant authority has given the Notices as required by the legislation and the requirements set out above are met. Any person who would be aggrieved by the making of the order has a right to be heard at the hearing of the Magistrates' Court. There is a right of appeal to the Crown Court against the making of the Order.

17. The Committee must be satisfied in authorising this proposal that:

- The decision is reasonable
- An Equalities Impact Assessment has been carried out
- A Health and Safety Assessment has been carried out

Financial Implications

18. City Centre East will be funded by City Deal Grant Funding, Air Quality Funding and General Capital Fund. The current cost estimate for this project is £7-9m, this includes the highway element and the first phase of the Canal Quarter.

19. Opportunities will be considered for further Welsh Government grant funding bids for Transport funding as well as utilising the Council's own capital programme funding for relevant projects to be undertaken as part of the city centre and wider enabling works.

Recommendations

20. Planning Committee to approve making a Section 116 Stopping Up application to the Magistrates Court to stop up the area of highway shown coloured blue on the attached map referenced Churchill Way Stopping Up Map.

ANDREW GREGORY
DIRECTOR PLANNING, TRANSPORT & ENVIRONMENT
23 JULY 2021

Appendices:

Location Plan of stopping up
Canal Quarter Phase 1 Designs

Background Papers:

Officer Decision Report and Authorisation
Cabinet Report
Cabinet Decision Report

[Consultation CCE v5 11122020 Jan22 \(keepingcardiffmoving.co.uk\)](#)

Equality Impact Assessment Report

