

Request to direct appoint Womble Bond Dickinson to provide Legal Support from the LCC Legal Services Framework.

Date: November 2023

Report of: Head of Station Development

Report to: Chief Officer of Asset Management and Regeneration

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

This commission is required to enable the Council to respond to the Network Rail promoted Transpennine Route Upgrade Leeds to Micklefield Transport and Works Act Order (TWAO). An initial Technical Consultation Pack was shared with the Council by Network Rail in October 2022 as part of the informal consultation outlining their proposals and seeking feedback. The Transport and Works Act Order (TWAO) was submitted to the Secretary of State for Transport on 17 July 2023 seeking permission to carry out the proposed works.

The council welcomes the principle of TRU and the ongoing collaborative working with Network Rail. To be able to respond to the TWAO and consider issues raised as a result of the initial consultation on the proposals we require legal expertise to be able to respond and prepare for a public inquiry.

This report is seeking to make a direct award to Womble Bond Dickinson using the LCC Legal Services framework following a mini procurement carried out by the legal department. Womble Bond Dickinson scored the highest from the mini procurement that was carried out and have previous experience of working on TWAO's for local authorities. Currently our internal Legal team do not have the resources / capability to undertake the Transport and Work Act Order for TRU East.

Recommendations

The Chief Officer Asset Management and Regeneration

- a) Authorises the appointment of Womble Bond Dickinson following a mini tender under the legal services framework for 1 year starting on 17th August 2023 to provide legal advice to enable the Council to formally respond to the Leeds to Micklefield TWAO. The value of the contract will be up to £100,000 with a current estimate of £93,376.

1. What is this report about?

- 1.1 On 18th November 2021 the Integrated Rail Plan for the North and Midlands was published. One of the commitments in the Plan was for the delivery of the Transpennine Route Upgrade. Since the Plan was published Network Rail has been remitted to deliver the programme of investment and has developed a consenting strategy. This report is seeking to make a direct award to Womble Bond Dickinson for legal services to support the Council's formal response to the Leeds to Micklefield Transport and Works Act Order (TWAO), as part of the Transpennine Route Upgrade (TRU).
- 1.2 The Transpennine Route Upgrade is a multi-billion pound programme improving connectivity between Manchester, Huddersfield, Leeds and York. It aims to bring high-performing, reliable railway, bringing more frequent, more reliable, faster, greener trains.
- 1.3 The overall benefits of the TRU include improved journey times, improved passenger experience, more seats, more freight capacity, and reduced emissions, as well as added social value and levelling up by providing opportunities such as apprenticeships and working with local businesses. The programme of works is designed to resolve existing capacity and performance issues on the network.
- 1.4 To date, no TRU works have been proposed outside the railway boundary to the West of Leeds from the Kirklees boundary through to the western end of Leeds Station which means both the electrification of the line and the development of the new accessible Morley Station is being undertaken within Network Rail's land. The works along this part of the route are being undertaken under Network Rail's Permitted Development rights and include the complete upgrade to Morley Station which opened in June 2023 and completed in July 2023.
- 1.5 To the East of Leeds, from the eastern end of Leeds Station through to Micklefield, several TRU works have been put forward by Network Rail, including:
- a. The closure of 5 level crossings (Barrowby Lane, Barrowby Foot, Garforth Moor, Peckfield and Highroyds Wood)
 - b. 12 bridges impacted (4 of which are to be included in the TWAO)
 - c. Electrification and associated cabinets throughout
- 1.6 Network Rail formally submitted the TWAO for the Leeds to Micklefield to the Secretary of State for Transport on 17 July 2023 to seek permission to carry out elements of the works between Leeds and Micklefield.
- 1.7 The council welcomes the principle of TRU and the ongoing collaborative working with Network Rail but has some scheme concerns for which we require legal advice to respond to the TWAO and prepare for a public inquiry if we cannot reach an agreed solution to the concerns.

2. What impact will this proposal have?

- 2.1 This proposal will mean that we have the resources and expertise to deal with a complex TWAO to supplement the in-house legal support and meet the timescales and processes associated with a TWAO and subsequent Public Inquiry.
- 2.2 The Provider will be an integral part of the Council's multi-disciplinary programme team and therefore shall be capable of understanding and required to work productively with:

- A range of specialist and technical colleagues (e.g. chartered surveyors, town planners etc);
- The Council's in-house legal and commercial teams;
- The Council's other external advisors and consultants (e.g. technical and financial);
- Other stakeholders

3. How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

3.1 The Transpennine Route Upgrade will deliver against the Best City Ambition providing benefits for the wider region. The planned outcomes by the Department for Transport are:

- a) better punctuality: infrastructure to support a 50% reduction in average minutes late for passenger services (compared with service performance before the COVID-19 pandemic).
- b) enhanced passenger capacity: one additional fast or semi-fast passenger service and one additional stopping passenger service per hour between Manchester and Leeds.
- c) faster journeys: a 63- to 66-minute planned journey time between Manchester and York on the end-state route, down from 74 minutes on pre-COVID-19 services (saving up to 11 minutes).
- d) improved environment: up to 87,000 tonnes a year possible reduction in carbon emissions from electrification and a shift from other modes of transport to rail.
- e) facilitation of Northern Powerhouse Rail: works to facilitate the future Northern Powerhouse Rail Programme.

3.2 Infrastructure improvements in the city region will help support the Climate Emergency agenda through the encouragement of sustainable forms of transport. The infrastructure offers alternative and affordable choice for the residents of Leeds and will help drive the shift away from private vehicles. The increased usage of sustainable forms of transport will make a significant contribution to the reduction of carbon emissions in an already busy and congested area. The delivery of the Transpennine Route Upgrade (TRU), will dramatically reduce the flow of traffic in the City centre and prioritise safe and accessible pedestrian and cycle routes as the main method of transport.

3.3 Investment is essential to encourage mode shift from road to rail by improving performance and electrification of the line will result in low carbon transport infrastructure and will improve air quality which in turn supports the Health and Wellbeing Strategy.

3.4 The TRU project will support the Inclusive Growth Strategy for Leeds as the proposed works for electrification of the route will facilitate a modal shift, circulation and capacity across the region. Failure to address these constraints will be a barrier to growth for the city and region.

4. What consultation and engagement has taken place?

Wards affected: • Hunslet & Riverside, Little London & Woodhouse, Burmantofts & Richmond Hill, Cross Gates & Whinmoor, Garforth & Swillington, Harewood, Kippax & Methley, Temple Newsam

Have ward members been consulted?

Yes

No

- 4.1 Network Rail carried out their own consultation in October/ November 2022, with both statutory consultee and wider public stakeholders. Network Rail additionally carried out a ward member briefing inviting affected ward members in December 2022 and consultation with Kippax and Methley Ward Members and Executive Member for Infrastructure and Climate on 22nd May 2023 relating to specific issues at Micklefield.
- 4.2 There has been engagement with the Section Head – Property and Development in Legal Services, Procurement Manager (Solicitor) in PACS and other senior officers of Leeds City Council around the importance of the role of a specialist legal consultant in responding to the TRU TWAO.

5. What are the resource implications?

- 5.1 In the absence of sufficient internal resources to deliver the advice and work required a consultant is being appointed to meet these gaps. Womble Bond Dickinson has a wealth of experience and expertise in this field demonstrated through the mini tendering process and in particular acting for Local Authorities in their role as Statutory Consultee to a TWAO.
- 5.2 Where the advisors costs relate to resolving and negotiating solutions to the issues raised in the Council's formal response to the TRU TWAO these costs will be met by Network Rail for example developing a Highways and Environmental Side Agreement. Where advice is required to support the Council preparing to object at Public Inquiry these costs must be borne by the Council. These costs will be met through the Station Development budget and will be mitigated wherever possible.

6. What are the key risks and how are they being managed?

- 6.1 The TWAO is a statutory process which impact the Council's statutory planning and highways powers as well as compulsorily acquiring Council land. Without sufficient and experienced legal advisors to support the Council's response to the TWAO there is a risk that the Council is not able to negotiate mitigations to the Order to reduce the impact of the construction works on the local communities and the local environment.
- 6.2 The timescales for producing the formal documentation to respond to the TWAO are tight and require a response which is set in the legal context of the Order without Legal advisors there is a risk that the Council would not have sufficient capacity or experience to meet the prescribed timescales. There is a risk that if the Council proceeds to Public Inquiry it will incur significant advisors costs and this will be mitigated as far as possible by continuing to work collaboratively and negotiating with Network Rail.

7. What are the legal implications?

- 7.1 Following publication of the Order, a strict 42-day consultation period follows during which time, the Director of City Development will reply to the detailed proposals on behalf of Leeds City Council in accordance with the delegated power sought at Executive Board in June 2023.
- 7.2 Following the consultation period, the final Order will be submitted for approval to the Secretary of State. If any objections to the Order remain The Secretary of State will arrange for a Public Inquiry to investigate any objections.
- 7.3 As the TWAO has the above strict legal process for responding we have a need for legal advice to fulfil the Councils obligations. The legal services framework and mini tender carried out on that framework means that there are no legal implications as City Councils have the authority to use frameworks.

8. Options, timescales and measuring success

What other options were considered?

Option 1 – Use the legal services framework to appoint Womble Bond Dickinson which will save time and they have demonstrated through a mini tender exercise that they have the expertise required to support the Council

Option 2 – Carry out a new open competition procurement - this would take time and may delay the project and could result in a lack of continuity for advice on ongoing legal issues.

Option 3 - The need to do nothing option was considered and rejected because there are a number of key issues in the TWAO which are detrimental to Leeds and therefore require addressing where possible to mitigate the impact on local communities and or the Council's statutory functions.

9. How will success be measured?

9.1 Legal advice will be provided in a timely manner to meet the TWAO process requirements and protect the Council's position in particular mitigating the impact of construction works where possible on local communities and the environment.

10. What is the timetable and who will be responsible for implementation?

10.1 The commission will commence on 1 August 2023 and last for 1 year. The Station Development Team will be responsible for implementing the contract management.

10.2 The following key dates shall apply in respect of delivery of the services:

- TRU TWAO East – Submitted to Secretary of State 17 July 2023 LCC to respond within 42 days
- TRU East holding objection to go to full Council on 15th November 2023
- Public Inquiry to take place in January/February 2024

Appendices

- None.

Background papers

- None