

The background of the slide features a large, light blue watermark of the City of Denny's coat of arms. The coat of arms is a shield divided into four quadrants. The top-left quadrant shows a sailing ship on wavy lines representing water. The top-right quadrant shows a stag's head with large antlers. The bottom-left quadrant shows a castle tower. The bottom-right quadrant shows a grizzly bear standing on its hind legs. Above the shield is a crown with four fleur-de-lis. A banner at the bottom of the shield contains the motto "A NE FOR A".

## **Agenda Item 6**

### **Denny Eastern Access Road**

**Falkirk Council**

**Title:** Denny Eastern Access Road  
**Meeting:** Executive  
**Date:** 26 September 2017  
**Submitted By:** Director of Development Services

**1. Purpose of Report**

- 1.1 The purpose of this report is to provide information on the potential options to accelerate the delivery of the Denny Eastern Access Road (DEAR).

**2. Recommendation(s)**

**2.1 The Executive is asked to:**

- (i) Note the terms of the report.
- (ii) Await the publication of proposed revisions to the planning system, which will include provision for new legislation.
- (iii) Request a follow up report from the Director of Development Services.

**3. Background**

- 3.1 At the Executive meeting of the Council on 15 August 2017 a request was made to the Director of Development Services to submit a report providing information on options to accelerate the work on the DEAR.

**4. Considerations**

- 4.1 The construction of DEAR has been highlighted in the current Local Development Plan (LDP) as required to help deliver the development sites in and around Denny and help alleviate traffic congestion at Denny Cross.
- 4.2 The LDP highlights the development sites that will be required to contribute towards the construction of DEAR. These sites are also highlighted in the current DEAR Supplementary Planning Guidance (SPG) Note June 2013.
- 4.3 Each of these sites will be responsible for a pro-rata contribution based on the relative impact development of the site will have on the surrounding local road network and Denny Cross in particular.
- 4.4 At present two sections of DEAR have been constructed. The north section of DEAR between Broad Street and Denny High School was constructed by Falkirk Council as part of the access to the new Denny High School. A roundabout at the junction of Glasgow Road and Nethermain Road and a section of DEAR has been constructed by Avant Homes as part of the Mydub Farm development site contribution.

- 4.5 The Section 75 legal agreement attached to the planning consent for the Mydub Farm development site governs the contribution of £3.384m. This contribution is made up by construction and a financial contribution as the residual balance of costs.
- 4.6 The final cost of this section of DEAR, including the roundabout, has yet to be confirmed.
- 4.7 Currently agreed developer contributions for DEAR, including the above, are £5.103m of the overall £7.176m construction costs. This leaves £2.073m still to be agreed through planning agreements for the remaining development plan sites.
- 4.8 Supplementary information is contained in Appendix 1 highlighting agreed contributions and the remaining sites and their relevant pro-rata contribution.

## 5. Delivery Programme

- 5.1 If funding for the remainder of the project were to be in place a shorter timescale for the delivery of the remaining length of DEAR is summarised as below:

| Element                     | Timescale | Delivery Timescale |
|-----------------------------|-----------|--------------------|
| Detailed design             | 6 Months  | 6 Months           |
| Land acquisition*           | 6 Months  |                    |
| Procurement*                | 3 Months  |                    |
| Utility works*              | 6 Months  | 6 Months           |
| Construction                | 12 Months | 12 Months          |
| Total Timescale (best case) |           | 24 Months          |

\*Elements can run concurrently

### 5.2 Possible Phasing and Associated Estimated Costs

#### Phase 1

| Works                    | Cost     | Timescale           |
|--------------------------|----------|---------------------|
| Detailed Design          | £304,475 | 6 Months            |
| Land Acquisition         | £543,480 | 6 Months to 2 Years |
| Total Cost and Timescale | £847,955 | 6 Months to 2 Years |

#### Phase 2

| Works                                       | Cost     | Timescale |
|---|----------|-----------|
| Procurement (Part of Detailed design costs) | £0       | 3 Months  |
| Utility Works                               | £838,320 | 6 Months  |
| Total Cost and Timescale                    | £838,320 | 6 Months  |

#### Phase 3

| Works        | Cost       | Timescale |
|--------------|------------|-----------|
| Construction | £5,490,245 | 12 Months |

The detailed design costs include design fees, ecological survey, ground investigation, and relevant road safety audit which are required to progress the detailed design of the scheme.

- 5.3 The detailed design and land negotiations can run concurrently but we would need to have the land acquired before proceeding to procurement, utility works and construction. The procurement and utility works can also run concurrently reducing the overall timetable for delivery.
- 5.4 The current best estimate for land acquisition, assuming agreement can be reached by negotiation is 6 months. The length of time may be longer depending on any legal complexities with land owners and tenant farmers etc.
- 5.5 If the Council is unsuccessful in acquiring the land, to complete DEAR, by negotiation, we would need to compulsorily purchase the land. This process could take up to 2 years to complete and would add significantly to the delivery timetable.
- 5.6 The risk attached to the compulsory purchase process is highlighted in paragraph 7.8 below.
- 5.7 The Scottish Government recently completed a consultation on the Places, People and Planning paper on the future of the Scottish planning system with the Planning Bill outlining proposed legislative changes flowing from the consultation due to be published by the end of 2017.
- 5.8 Proposal 13 contained within the consultation document considers an infrastructure first approach to development as a means to identifying where additional investment should be prioritised to enable future development.
- 5.9 Proposal 14 contained in the consultation document makes reference to a possible infrastructure levy which may help deliver infrastructure needed to support development across a wider area and help build a more confident, infrastructure first approach to planning and development. It also contains provision for restricting the ability to modify and discharge terms of planning obligations to allow a degree of certainty moving forward around financial contributions settled on via section 75 agreements when planning consents are granted.
- 5.10 It is proposed as part of the new Planning Bill to include provisions to address the issue of infrastructure deficiencies being a block to appropriate development by possibly including both a levy and restricting the ability to revisit certain planning obligations.

## **6. Consultation**

- 6.1 As part of the Local Development Plan extensive public consultation exercises were carried out in the local communities in order to produce the plan. As part of the proposals under consultation was Local Development Plan Project INF14 – Denny Eastern Access Road.
- 6.2 The Local Transport Strategy in 2006 and 2014 included extensive consultation with the public, industry and stakeholders regarding transport policies and projects. The Denny Eastern Access Road is referenced in the published strategies.

## **7. Implications**

### **Financial**

- 7.1 The current estimated cost of DEAR between Glasgow Road and the roundabout at Denny High School is £7.176m. This cost comprises of the current construction of a new roundabout at the junction of Glasgow Road and Nethermain Road and a section of DEAR to access the Mydub Farm development site.
- 7.2 The current best estimate for the outstanding balance to complete DEAR is between £4.9m and £5.44m.
- 7.3 The outstanding balance is based on the latest estimated costs of DEAR, listed in paragraph 7.1 above, minus the length and costs of the roundabout and section of DEAR constructed by the Mydub Farm development and financial contributions already received. As mentioned in paragraph 4.6 above these costs have yet to be confirmed.
- 7.4 Should Members be minded to accelerate the delivery of DEAR the method of funding requires to be considered. There are three basic funding options as outlined below:
- a) Prudential borrowing – per paragraph 7.2 above, the range of capital investment required to complete DEAR would impact on the Council's revenue budget by between circa £280k and £310k per annum.
  - b) Re-appraisal of the existing Capital Programme by taking out and/or postponing certain projects to allow funding for DEAR to be accommodated.
  - c) Re-appraisal of how the Council's capital and revenue reserves are to be used.

A combination of two or all of these options is also possible. Any decision to make a council investment additional to that described in Appendix 1 to this report would require to be referred to full council as no existing budgetary provision for these additional funds is currently in place.

- 7.4 There may be costs of legal representation as per paragraph 7.6 below.

### **Resources**

- 7.6 The construction of DEAR is currently dependent on developer contributions. The development sites are highlighted in the current Local Development Plan and the DEAR Supplementary Planning Guidance Note June 2013.
- 7.7 Staff time will be required to conclude any land acquisition and complete the detailed design of DEAR.

## **Legal**

- 7.8 There may be legal challenge from developers who have already contributed to DEAR, either through construction or financial contributions, if the Council complete the scheme. The remaining development sites within the LDP and SPG may no longer be required to contribute towards DEAR if the scheme is completed prior to the sites coming forward for development.
- 7.9 Land will have to be acquired for the Council to complete DEAR. If this acquisition cannot be done by negotiation the Council will have to compulsorily purchase the land in question. If this is the case the Council will require legal representation in preparing and presenting its case.

## **Risk**

- 7.10 The Council may as a result of legal challenge have to fund the whole costs of DEAR and possibly refund those contributions already secured. The remaining sites within the LDP and SPG may no longer be required to contribute towards DEAR if the scheme is completed prior to the sites coming forward for development on the basis that the infrastructure deficiencies have by then been addressed and the obstacle to their respective developments been removed without their contribution.
- 7.11 If any compulsory purchase of the land is unsuccessful the scheme would not be able to progress.

## **Equalities**

- 7.12 An equality and poverty impact assessment is not required.

## **Sustainability/Environmental Impact**

- 7.13 A full Strategic Environmental Assessment was carried out on the Local Development Plan which included DEAR.

## **8. Conclusions**

- 8.1 The Denny Eastern Access Road has been identified as necessary to help alleviate traffic congestion in and around Denny Cross and facilitate the identified sites in the current Local Development Plan and Supplementary Planning Guidance. Since its inception, it was intended that DEAR be funded from developer contributions.
- 8.2 The Scottish Government recently completed a consultation on the proposed People Places and Planning on the future of the Scottish planning system with possible changes to legislation being published by the end of 2017.
- 8.3 If funding for the remainder of the project were to be in place, a possible timescale for the delivery of the remaining length of DEAR is listed in paragraphs 8.4 to 8.7.
- 8.4 Phase 1, the detailed design, would start the process and at best would take up to 6 months to complete with an estimated cost of £304,475. The detailed design will include an ecological survey, ground investigation and relevant road safety audit.

- 8.5 The land acquisition can run concurrently with the detailed design and could at best 6 months or worst case 2 years depending on whether we can procure the land by negotiation. The current estimated land costs for the scheme is £543,480.
- 8.6 Phase 2, the utility works and procurement can run concurrently with a best estimated timescale of 6 months. The utility works has an estimated cost of £838,320. The cost of procurement is part of the design fees listed in paragraph 8.2 above.
- 8.7 Phase 3, the construction cost of DEAR is estimated to be £5,490m and is expected to take 12 months to complete.
- 8.8 It should be noted that the costs highlighted in paragraphs 8.2 to 8.5 above are based on the whole length of DEAR and do not take into account the section of DEAR currently under construction. The costs may reduce once an agreement has been reached, with the Council and the developer, as part of the Section 75 Agreement for the Mydub Farm Development.

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Director of Development Services

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**Appendices:**

Appendix 1 – Denny Eastern Access Road Supplementary Information

**List of Background Papers:**

None

## **Appendix 1 – Denny Eastern Access Road Supplementary Information**

### **DENNY EASTERN ACCESS ROAD**

The DEAR is expected to cost in the region of £7,176,520 (July 2017) and is scheduled (in the Local Development Plan and in Supplementary Planning Guidance) to be fully funded from developer contributions, broken down as follows:

|  |            |
|--|------------|
| Private Developer Contributions  | £4,712,985 |
| Falkirk Council Housing Revenue Account Developer Contributions        | £65,786    |
| Falkirk Council Denny Town Centre Regeneration Developer Contributions | £1,410,000 |
| Council Owned Sites – No Agreements at Present                         | £987,749   |

Falkirk Council's overall contribution towards the construction of DEAR is currently £2,463,535. The Council has, as part of existing planning consents, agreed funding of £1,475,786 leaving an outstanding balance of £987,749 from Council owned sites yet to be brought forward through Planning.

Currently private developer contributions towards the construction of DEAR are £4,712,985. The Council has secured through legal agreement, or is in the process of agreeing through legal agreement, £3,627,764. This leaves an outstanding balance of £1,085,221 from private developer contributions.

The status of the agreements is shown in the table below:

|   |                   |
|---|-------------------|
| Private Developer Contributions Agreed                          | £3,627,764        |
| Falkirk Council Developer Contributions Agreed                  | £1,475,786        |
| <b>Total Agreed Contributions</b>                               | <b>£5,103,550</b> |
|   |                   |
| Private Developer Contributions Outstanding                     | £1,085,221        |
| Falkirk Council Owned Sites Developer Contributions Outstanding | £987,749          |
| <b>Total Outstanding</b>  | <b>£2,072,970</b> |
|   |                   |
| <b>Total Contributions</b>                                      | <b>£7,176,520</b> |



The agreed contributions are broken down as follows:

|                                |                   |   |
|--------------------------------|-------------------|---|
| Mydub Farm Development         | £1,750,000*       | Constructed as part of development access<br>*Falkirk Council estimate, still awaiting final costs. |
| Mydub Farm Residual Balance    | £1,633,900        | Due on completion of 250 <sup>th</sup> dwelling unit.   |
| Dennyloanhead Development Site | £90,000           | Section 75 still to be signed off. Due on completion of 250 <sup>th</sup> dwelling unit.            |
| Banknock development site      | £90,000           | Due on completion of 250 <sup>th</sup> dwelling unit.   |
| Denny Town Centre              | £1,410,000        | Payment due on completion of Phase 3.   |
| Duke Street, Denny             | £65,786           | Payment date to be agreed with the Council and index linked to date of consent.                     |
| Mydub Farm – Additional Units  | £63,864           | Payment Received 27/04/17   |
| <b>Total</b>                   | <b>£5,103,550</b> |   |

Remaining sites eligible to contribute towards the outstanding balance of DEAR

| Site Ref | Location                   | Contribution      |
|----------|----------------------------|-------------------|
| H16      | Mydub 2 Development        | £950,097          |
| H19      | Stirling Street, Denny     | £19,002           |
| H22      | Rosebank, Dunipace         | £116,123          |
| H07      | Banknock South             | £12,316           |
| H14      | Former Denny High School   | £211,133          |
| M05      | Broad Street (residential) | £738,964          |
|          | Windfall Sites             | £25,336           |
|          | <b>TOTAL</b>               | <b>£2,072,970</b> |

The only guaranteed contribution in place at present is the section of DEAR being constructed as part of the Mydub Farm development and the £63,864 for the additional units at Mydub Farm. The costs of this construction has yet to be received, checked and agreed by the Council. The Council has estimated that these costs could be £1,750,000.

In conclusion the latest best estimate of funding received to date for DEAR (construction and financial contributions) is £1,813,864.

To fully construct DEAR would require £5,362,656 this represents the difference between the construction cost of the road (£7,176,520) and an estimate of money or value ingathered or committed to date (this includes section being built by Mydub Farm development).