

Progress Report on Major Capital Projects

A report by the Capital Programme Manager to the Highways Advisory Board on 4 March 2008.

Introduction

1. It is an appropriate time to update the Board on progress of the major transport and highway schemes following the last Report in September 2007. It is understood that the Board welcomes these reports and the intention is to continue to provide them half yearly and when there are important issues to bring to Members' notice.
2. The last six months continue to be dominated by the considerable efforts in progressing the growth area schemes in Kent Thameside and Ashford within the funding and time constraints and general resource pressures on the Team.
3. A claim against the County Council for some £500,000 was successfully defended in the High Court.
4. Schemes have achieved successful internal and external financial audits and a Gateway review.
5. Fastrack continues to be recognised for awards and in particular was a key factor in the County Council receiving the prestigious Transport Authority of the Year award in November.

Progress

6. A progress or status report on Fastrack Thames Way, Fastrack Everards Link Phase 2, Ashford Ring Road, Newtown Road Bridge, Ashford, Rushenden Relief Road, Eurokent Phases 4 & 5, Sittingbourne Northern Relief Road, East Kent Access Phase 2, other schemes and Land matters is given in the Appendix to this Report. For brevity, only some of the background provided in previous reports is provided with the focus given to activity in the last half year
7. Since my last Report to the Board in September there has been substantial progress and the key milestone achievements have been:
 - Fastrack Thamesway. Completed. – March 2008
 - Ashford Ring Road. Award of contracts for the final stages and complex public realm stages of the Ring Road and Bank Street. – October 2007
 - Newtown Road Bridge, Ashford. Network Rail instructed to award contract– January 2008
 - Eurokent Phases 4 & 5. Funding and land Agreement completed. Contract award and start of construction – January 2008
 - Fort Hill De-dualling. Ringway instructed – February 2008
 - Sittingbourne Northern Relief Road. Planning permission for amended scheme and publication of new statutory Orders – January 2008
 - Rushenden Relief Road. Planning consent – October 2007
 - West Malling Station Link. Completion of the Deed of Easement with Network Rail that will allow the private car park implementation – December 2007
 - Everards Claim. The claim for about £500,000 successfully defended and a vindication of actions taken in 1994, in the High Court with award of costs.– October 2007

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- Union Railways/London & Continental Railways claim. Preliminary Issues Hearing before the President of the Lands Tribunal – December 2007.
 - ZED Homes Planning Inquiry Ashford – January 2008
 - East Kent Access Phase 2– Successful Gateway 1 Review by 4ps – November 2007.
 - Corporate Finance Audit of A228 Leybourne & West Malling Bypass and East Kent Access Phase 1C noted good project management and no recommendations.
 - EU Commission and DCLG audit of expenditure of European funding on Fastrack Thames Way. Successful audit with no adverse comments – December 2007
8. The key problems in this period have been:
- Ashford Ring Road remains a challenging project to deliver with its innovative public realm design, many interfaces, funding uncertainties and working within a difficult urban environment.
 - Rushenden Relief Road contract award remains on hold as SEEDA continue to assemble all the land and satisfy the planning conditions.
 - East Kent Access Phase 2. Delay by Secretary of State confirming statutory Orders.

Conclusion

9. Some of the issues referred to are live and matters may have progressed since the time of writing this Report. Where appropriate a verbal report will be given to the Board Meeting.
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Scheme Contacts:

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Kent Thameside Fastrack, Everards Link – John Turner
Ashford Ring Road – Jamie Watson
Newtown Road Bridge, Ashford – Jamie Watson
Eurokent, Thanet – John Farmer
Rushenden Relief Road – Richard Shelton
Sittingbourne Northern Relief Road – John Farmer
East Kent Access Phase 2 – Geoff Cripps

Kent Thameside

Fastrack

Thames Way

The scheme will provide dedicated bus-only lanes adjacent to existing carriageway with priority through the junctions between A226 Overcliffe towards Ebbsfleet Station. The approved CIF funding is £8m.

SEEDA is in receipt of funding in connection with the HST4i initiative aimed at improving access to the European high speed train network. The County Council is a partner with SEEDA and has been allocated €3,000,000 of European Regional Development Funding (ERDF) which will provide further funding support towards the Fastrack public transport access improvements.

The scheme was sufficiently advanced to allow Fastrack services to run in time for the Ebbsfleet International Station opening November 2007.

The scheme has progressed well but has been delayed by a Network Rail electricity power cable where Network Rail has been unable to maintain dates agreed for power shut downs.

By the time of this Board meeting the construction works will have been substantially completed.

Everards Link Phase 2

Phase 2 will provide a link from the bus interchange at Greenhithe Station through to Ingress Park and Swanscombe Peninsula and will become part of the Fastrack riverside route. The scheme interfaces with S106 obligations by Crest Nicholson as developers of the Ingress Park site. The approved CIF funding is £5.24m.

The works are progressing well but there have been issues relating to the interface with Crest Nicholson who have a planning obligation to extend the scheme into Ingress Park but these are now resolved. The two key elements of the large embankment between Phase 1 and the Avenue and the box structure under The Avenue are progressing well – the box is approaching roof slab construction and the embankment is close to road formation level.

There have been some concerns about vibration, associated with the compaction plant used in the construction of the embankment, from a few residents. The concerns are understandable but the works have been proceeding within specified limits and although the concerns are understandable there is no structural damage. As the embankment has proceeded and gets higher and with more mass the effects of vibration become minimal.

The scheme is planned to be completed in June and DCLG has been very supportive in accepting revised spend profiles.

Sittingbourne Northern Relief Road

The Relief Road provides a link across Milton Creek between Ridham Avenue and Castle Road connecting with existing developer funded sections. It is a complex and expensive scheme because in addition to the Creek crossing, the scheme also crosses the Sittingbourne & Kemsley Light Railway and a redundant landfill site.

The funding approval in principle is based on an estimated cost of £43.5m and funded by £29m LTP, £10.4m DCLG and £4.1 S106 developer funding. While the basic estimated cost is still considered robust the delay to the scheme and the effects of construction inflation being significantly above RPI will require additional support of about £3-4m and something that is being discussed with DfT and SEERA.

Following objection to the statutory Orders in early 2007 the scheme was modified to achieve a compromise layout that was a balance between the needs of residents living nearby and private businesses whose land was required. The revised scheme achieved

planning consent in January 2008 and the new statutory Orders were published immediately afterwards.

While it is hoped that the route and landtake is accepted there will be objections from the boating community to the S106 Scheme promoting the fixed bridge across the Creek. This has been reported to Members before and it remains difficult to reconcile the increased and unfunded cost of £4-5m for an opening bridge against very limited existing use and aspirational future use.

A Public Inquiry is inevitable and the Government Office is being encouraged to agree a date in late June/early July.

Rushenden Relief Road

The County Council is progressing this scheme on behalf of and at the request of SEEDA who are the Lead body for funding, assembling the land and satisfying the planning conditions.

SEEDA has had considerable difficulty in finalising the land negotiations and responding to the planning conditions to the satisfaction of English Nature.

The County Council has completed the design and invited construction tenders in summer 2007 at the request of SEEDA in anticipation of a start in autumn 2007.

SEEDA are making progress but at the time of writing the land has still not been secured and the planning conditions not satisfied.

This delay has a number of implications including the revised funding and spend profiles that SEEDA need to agree with DCLG, changes to rail possessions (the Relief Road bridges over the Sheerness line) and whether it might be necessary to invite new construction tenders.

A formal Agreement is also required with SEEDA covering funding and risk before the County Council would be willing to commit to a construction contract.

All major infrastructure projects are difficult and the County Council and SEEDA continue to work in partnership to deliver this important regeneration infrastructure scheme for Sheppey.

Ashford

Ashford Ring Road 2 Way Transformation

The scheme is for the transformation of the Ring Road to 2 way and enhanced public realm and shared space concepts to the south and west sectors between Station Road and New Street. The scheme also includes enhanced public realm to Bank Street between Tufton Street and Elwick Road.

The total cost of the scheme is some £14.5m and is mainly funded from DCLG GAF(2) and GAF(3) but with other public, private and European funding.

Any major changes to a town centre road would be difficult and controversial but this is compounded by the introduction of innovative shared space concepts and complex public realm designs, art and materials.

While much of this is new and at the forefront, Ashford is not a 'one-off' and these ideas are increasingly being promoted and advocated nationally as a solution to balance the needs of all users in town centres across the UK.

Anything new does tend to polarise opinion and the reality is that we will not know how successful it will be for several years until after it has been completed. The difficulty is perhaps more one of timing rather than concept. From a wider regeneration and strategic overview perspective, there was an understandable need to remove the 1970's 'collar'

around the town centre and make a bold statement to accelerate change and attract inward investment. From a narrower highway perspective, it would have been better to have waited until County Square was completed and to have had Victoria Way Phase 1 available to offer some alternative relief for traffic particularly as construction of shared space public realm requires long duration occupation of the highway under traffic management. The long-term durability of shared space public realm under traffic use remains a concern but only time will tell.

Having said that substantial progress is being made. The Phase 1 transformation of the Ring Road to 2-way operation was successfully completed in July 2007 ahead of the Tour de France. In October, contracts have been awarded for the Bank Street works and the Ring Road shared space works. In December, the announcements of GAF(3) funding and GAF(2) underspend availability has removed the uncertainty that existed over what could or could not be done at the present time. The full scheme from Station Road to New Street can now be progressed and avoided the need for abortive works or temporary solutions.

Some land aspects have caused problems but these are now resolved. Working at the interface with County Square has also been difficult but we recognise the imperative of this new flagship development successfully opening in March.

The Bank Street works are planned to complete in the summer and the objective is to complete the Ring Road works by end of October so that Ashford can have a clear trading period in the run-up to Christmas 2008 unfettered by any inconvenience from roadworks.

DCLG and Ashford's Future has been very supportive in understanding the complexity of the schemes and accepting revised spend profiles.

Newtown Road Bridge, Ashford

The scheme is to replace the deck carrying the railway and gain width so that increased headroom is available for a future high quality Smartlink bus service and to provide a better and less oppressive route for pedestrians and cyclists. The scheme has £4m Growth Area funding.

Considerable progress is being made with Network Rail who are leading on the bridge design and whose consultant's are expert on the innovative thin deck construction that is required.

In September, authority was given to Network Rail to award the contract for the steel and fabrication of the bridge deck. In December, authority was given to Network Rail to award the main contract for the bridgeworks and construction will commence in March.

Tenders for the main bridgeworks were significantly above Network Rail's estimates and DCLG has been very supportive in accepting both increased funding and revised spend profiles.

Ashford Southern Sector

The Transport Strategy identifies proposals for:

- Victoria Way Phase 1 to create a link between Victoria Road and Leacon Road. Although ostensibly to create a town centre street to reflect the growth of the town centre it will also offer a degree of traffic relief to the town centre.
- A28 Chart Road dualling between Matalan roundabout and the Tank roundabout.
- Victoria Way Phase 2 to create a more direct link in the longer term between Victoria Way and the Tank roundabout and support the redevelopment of Cobbs Wood industrial estate..

Work is being done in conjunction with Ashford's Future to develop and clarify the need and how and when these schemes should be taken forward. While work is being done on the conceptual street scene aspects of Victoria Way the absence of basic need and engineering

feasibility was exposed in the recent planning inquiry into ZED Homes proposals which are affected by both phases of Victoria Way

Drovers Roundabout to M20 Junction 9

Outline design work is just being finalised and will involve improvements and signalisation of Drovers roundabout, signalisation of Junction 9 and a new footbridge over the M20. The scheme is related to development proposals at Templar Barracks and Eureka Park including the proposed Park and Ride.

Funding will be from a variety of sources including GAF(3) and developer funding.

The scheme will now be taken forward into the surveys and detailed design stage achieving procedural approvals and securing small strips of land required by negotiation.

The challenge is to achieve the final scheme and avoid a sequence of phased improvements and abortive works arising from the fulfilment of S106 planning obligations.

East Kent

Eurokent Phases 4 & 5, Thanet

In partnership with Thanet District Council (TDC), SEEDA, and Rosefarm Estates, the County Council is constructing the access road at Eurokent. The County Council is forward funding the bulk of the Phase 5 construction costs on the back of the uplifted land values. The scheme will facilitate the development of the site and provide local bypass to a particularly poor section of Haine Road. Consultation on the Master Planning of the site is just about to commence.

The overall cost is some £6.5m and SEEDA and Rosefarm are contributing £1.1m.

The 4-way land and funding Agreement was completed in December and this allowed the award of the construction contract.

Work started in mid January and initial works have involved topsoil strip and archaeological investigation. The scheme is on programme to complete in October 2008.

East Kent Access Phase 2

Government indicated its intent in principle to fund the £64m cost when Programme Entry status was approved in July 2006.

The statutory Orders were published in October 2006 and a Public Inquiry was held in April 2007. Statutory objections were successfully negotiated away and the Inquiry was short but the County Council is still awaiting confirmation of the Orders by the Secretary of State.

When the Orders are confirmed the next stage is a formal application to the DfT for Conditional Approval of funding. This is an onerous task and requires a detailed submission that updates the Programme entry bid and confirms the business case, scheme cost estimates, governance and delivery aspects but the work is close to completion.

An important part of the submission is the outcome of an independent Gateway review carried out by 4ps – one of a sequence at various milestone stages of the project. This was held over three days in September and involved interviews with the Cabinet Member, the Director and a wide range of internal and external stakeholders such as Network Rail, GOSE and the East Kent Partnership. The Review identified a number of recommendations a few of which were given a 'Red' status requiring immediate attention that in turn gave the overall project a Red status. This was not a surprise and the recommendations were in the main issues that we were already aware of and addressing. Overall I judge the Review to have been a success and very beneficial for taking the scheme forward.

4ps are funded by Government and the Reviews are free. However, there is a presumption and encouragement by 4ps for Local Authorities to make suitably experienced staff available

for training and to participate in Reviews. I have recently taken part in a Review of a major transport project in the East of England and the experience and wider exposure can only benefit our own major projects.

Subject to the confirmation of Orders and Government giving Conditional Approval to the funding, the next stage would be the invitation of construction tenders. Provided tender returns are consistent with the estimates and Conditional Acceptance then a final submission is made to DfT for Full Acceptance of funding. If successful this will allow full commitment to be given to the scheme and the construction contract awarded.

DfT has indicated that it will take at least 3 months to consider a Conditional Acceptance submission and 1 month for a Full Acceptance submission.

A key issue is the estimated cost. DfT approve funding in cash terms and not on the basis of an estimated cost at a base date. Slippage in the programme such as the delay in confirmation of Orders, some increase in estimated cost arising from development of the design (£2m) and particularly the effects of construction inflation (£5m) has increased the cost estimate to the order of £73m.

Construction inflation appears from published sources to be currently running at about 6% in the southeast compared to RPI of about 3%. It is unfair for Government to put the onus on Promoters to make judgements about inflation that it has no control over but that is the reality we are faced with. However, informal discussions with DfT and SEERA suggest that this increased cash cost should be manageable provided the County Council bears 25% of the increase in accordance with recently issued guidance. This should not be a burden because our costs to date and in 2008/09 in developing the scheme can be taken into account and equate to the 25%.

On the assumption of confirmation of Orders in March and no significant issues with the submissions to DfT, an award of contract might be achievable in December 2008 with the bulk of early activity in 2009 being archaeological investigation, environmental mitigation measures and developing the design and build elements for the critical railway box underpass of Foads Hill and overbridge of Cottington Road.

I would envisage completion of the scheme and open to traffic in summer/autumn 2011.

Fort Hill De-dualling, Margate

As part of the regeneration of Margate the decision was taken Corporately to de-dual Fort Hill to reduce severance and integrate the Turner Contemporary and Rendezvous sites more with the town and particularly the old town.

The scheme will include public realm and accessibility improvements to The Parade and King Street being promoted by Thanet District Council.

The overall funding available is £550,000 Corporately from the County Council, £200,000 from the Integrated Transport allocation for footway enhancements and about £160,000 from Interreg funding secured by Thanet District Council.

Ringway are programmed to commence the works on 7 April and to complete in October in accordance with a commitment given by the Director of Highway Services.

Margate Regeneration is currently holding an exhibition of the proposals for The Parade and King Street and a letter to local residents and businesses about the Fort Hill de-dualling scheme was distributed on 23 February.

Mid Kent

Borough Green & Platt Bypass

A Borough Green Bypass is a long-standing proposal. The scheme has now come to include traffic management on the A25 through Platt. The Bypass was thought to have an

extant planning consent on the basis that the works had been started by virtue of an improved bridge that would accommodate the bypass, built by Network Rail many years ago as part of facilitating works for CTRL.

Celcon submitted a planning application to the County Council for an extension to their block making plant including the construction of the Bypass. A subsequent planning inquiry broke down when a Certificate of Lawful Development for the Bypass issued by the County Council was found to be invalid.

The Leader has given a public commitment to 'fastrack' the promotion of the Bypass and seek planning consent from the County Council to get back to the position that was believed to exist at the time of the Celcon application. There is also a commitment to exploring opportunities for funding.

Work is in hand to carry out environmental surveys and develop a scheme and Environmental Impact Assessment to support a planning application. The development costs of about £200,000 are coming from top slicing KHS revenue allocation.

On the basis of a straightforward development of the scheme, lack of controversy and third parties acting reasonably, the programme is to submit a planning application in March 2009.

A2 Slips Canterbury

For some time, the County Council has been working with Canterbury City Council and assessing the traffic aspects and feasibility of providing the 'missing' slip roads on A2 Canterbury Bypass at Harbledown, A28 Wincheap and Bridge.

The headline benefits are that better provision of slip roads would improve accessibility and reduce unnecessary journeys within the City Centre.

The easiest, cheapest and most deliverable slip road would be the provision of the on-slip at Wincheap.

In a major step forward, Tom Harris MP, the Minister for State for Transport has agreed that the on-slip at Wincheap can proceed and on the basis that associated measures are progressed in parallel to ensure the benefits to the City Centre are captured.

The on-slip is estimated to cost about £1m and will be funded from the Integrated Transport allocations.

The County Council will promote and deliver the scheme. The programme is being developed but planning permission and Orders will be required and a start before 2010 is unlikely and this would be influenced by whether a public inquiry was necessary.

The County Council is also actively engaged with the City Council and its development partner for the redevelopment of Wincheap business estate. These proposals would involve the provision of the off-slip and the local bypass of the A28 through the redeveloped area to take away from the historic Wincheap area. The proposals are at an early stage but for practical and procedural reasons the County Council will ultimately lead on any future promotion of the off-slip.

All Saints Bypass, Maidstone

Maidstone Borough Council has had long-standing aspirations for an All Saints Bypass that would run between Bishops Way and Wrens Cross. The objective is to remove the severance caused by the existing traffic on Palace Avenue and College Road and integrate the redevelopment of this area with the town as well as allowing the Carriage Museum to become clustered with the Church and Bishops Palace.

Maidstone has recently achieved Growth Point status and this had given added impetus to their aspirations for the Bypass.

The scheme is essentially to achieve environmental and regeneration benefits and generally neutral in traffic terms. The County Council has been asked to progress the Bypass on behalf of the Borough Council and with costs reimbursed.

The immediate objective is to develop an outline design in sufficient detail so that meaningful consultations can be had with statutory consultees to secure acceptance to a preferred scheme that could then be taken forward to planning consent.

Other Schemes

Greenhithe Station

Network Rail has recently improved the Station by the installation of a new modular booking hall. They have recently secured DfT funding to carry out the further improvements for the provision of a bridge to connect the platforms replace the unsatisfactory and inhibiting underpass and other station enhancements. DfT require the County Council to be the Lead body for the funding this is a straightforward arrangement whereby the County Council would have a 'mirror' Agreement with Network Rail reflecting all the DfT terms and conditions. It would be a mechanism for the County Council to act in a no risk intermediate administrative capacity.

Dover Priory Station

This is the subject of a separate Report to the Board.

Land Matters

Property and Land Held for Highway Purposes

The only significant portfolio of properties that continue to be held are for the London Road – Hadlow Road Link, Tonbridge and they have a face asset value of some £5m. It is an important scheme in Tonbridge & Malling's Local Development Framework aspirations for Tonbridge but it is expensive and has failed to secure developer funding in the many years that it has been an approved scheme. Discussions continue with Tonbridge & Malling as to the realistic viability of securing funding for the scheme in the short to medium term and if not whether abandonment of the scheme and realisation of the assets needs to be reconsidered.

Many ad-hoc parcels of land continue to be identified by Corporate Property as in County Council ownership and held for highway purposes. The need to retain this land continues to be robustly reassessed in support of the Corporate initiative to realise capital receipts from tied up assets so that they can be better directed at services and more immediate and deliverable projects in support of T2010 objectives.

Land Compensation Act Part 1 Claims (LCAPart1)

After a quiet period during 2007, activity is building up as claims start to be received for A228 Leybourne & West Malling Bypass.

Claims continue to be handled in respect of S278 schemes where developers indemnify the County Council for any liability.

S278 schemes remain difficult because for developers it remains an uncertain financial burden for several years and in theory for 7 years after they have completed their new road or improved road obligations. Developers also often challenge the basis for the assessment of compensation.

At the moment, Legal Services are taking Counsel's Opinion in respect of one challenge to the method of assessment by a Developer who has himself taken Counsel' advice. This relates to the extent that the implications of future use of a road should be taken into account in determining compensation. This is particularly relevant where a Developer builds a section of road that forms part of a future strategic improvement such as Hawkinge Bypass or Sittingbourne Northern Relief Road.

On Hawkinge Bypass, there is also an issue that has been referred to the Ombudsman. Phase 1 of Hawkinge Bypass was built as a S278 scheme several years ago. Legal Services and the Area Offices structure S278 Agreements so that adoption and hence maintenance responsibility is held back until the Developer has fulfilled all his obligations such as completing remedial works and in particular transferring the land occupied by the road.

The Land Compensation Act Part 1 denies claims being made if the road has not been adopted within 3 years. It transpired that the Area Office had not formally adopted the Hawkinge Bypass within 3 years of opening because the land transfer had not been completed. This was exposed when the Developer took Counsel's opinion as part of his efforts to resist the liability. As a consequence all claims were rejected but a householder encouraged by his agent made a complaint to the Ombudsman. The Ombudsman has accepted that there was no intent by the County Council or collusion with the Developer to delay adoption to avoid valid claims being made but has asked what remedy the County Council proposes. This is being considered but if the remedy was to accept claims then the liability would probably fall to the County Council as the Developer would no longer be liable to reimburse and certainly would not offer to reimburse.

Land Acquisition

In previous reports I have referred to the major claim by London & Continental Railways/Union Railways against the County Council in connection with South Thames-side Development Route Stage 4. The claimant has elected to make reference to the Lands Tribunal where previously they had pursued it as an insurance claim and the effect is that it reverts to the County Council to defend the claim rather than the insurers and this has significant resource implications.

A Directions Hearing was held in January and September 2007 for the Tribunal to give Directions for the conduct of the Hearing. The outcome is that a Preliminary Issues hearing was held before the President of the Lands Tribunal on 19 & 20 December. The Hearing was to consider in effect a Preliminary Preliminary Issue as to our stance that the Lands Tribunal did not have jurisdiction to hear the case. The ruling of the President is awaited but likely soon.

If the President was to decide that the Lands Tribunal did have jurisdiction then the next step would probably be to consider a wider range of Preliminary Issues and this relates to whether the claimants had an interest in the land and if so the nature of that interest and if that interest was a compensatable interest and the extent of that compensatable interest. The County Council continues to robustly defend this claim.

Other

A claim had been made by a Developer that an obligation on the County Council to commence a junction improvement by 31 December 1994 was not fulfilled and that a contribution of £150,000 that with interest and costs would now amount to over £500,000 should be returned. The claim was heard in the High Court on 2-4 October and the judgement was totally in the County Council's favour and with the award of our costs as well. This is a complete vindication of actions that were taken in 1994.