

REPORT OF THE CABINET

D. TRANSFER OF A SECTION OF THE ASHBY CANAL TRANSPORT AND WORKS ACT ORDER

Introduction

1. This report concerns the statutory process required to transfer certain transport powers to the Ashby Canal Association.
2. This proposal will allow Ashby Canal Association to take on the ownership and the obligations and responsibilities, subject to Secretary of State consent, regarding the restoration of the section of canal between the current terminus at Snarestone and Measham

Background

3. Since 1994, the County Council has led on the restoration of the Ashby Canal, which was closed in 1966 due to mining subsidence. The last significant section (500m) was restored in 2014/15 from Snarestone northwards to the re-built Bridge 62.
4. The restoration has, to date, been substantially funded from third party sources. With limited capital remaining or further sources of funding, the Council has limited capacity to invest in the project but has come under increasing pressure from stakeholders to do more.
5. The Ashby Canal Association is a Registered Charity and a Company Limited by Guarantee, established in 1966 to promote the restoration of the Ashby Canal. The ACA has indicated a willingness and capability to take on the ownership and the obligations and responsibilities under the Transport and Works Act Order 2005 (TWAO), subject to Secretary of State consent, in seeking to restore the next section of canal, between the current terminus at Snarestone and Measham High Street.
6. In September 2019 the Cabinet approved the submission of an application to the Secretary of State for the Environment, Food and Rural Affairs for consent to transfer powers under the Transport and Works Act Order 2005 to the ACA.
7. At the time it was noted that there were two land parcels which the County Council was purchasing before the transfer application could be submitted. It subsequently became apparent that alongside the land purchases, there were two rights that also needed to be progressed. Work to complete the land purchases and rights is ongoing. It is expected that these will be concluded shortly and that the transfer application will be submitted in early 2023.
8. In September 2021, the Cabinet approved the allocation of £1.1m for funding the maintenance of the section of the Ashby Canal to be transferred to the

ACA, subject to Parliamentary approval of the transfer of a section of the TWAO.

Legal Process

9. The County Council by virtue of Section 20 of the Transport and Works Act 1992 may apply for an Order under that act but must comply with the provisions of Section 239 of the Local Government Act 1972 as power to apply for such Order is subject to the same conditions as apply to a Local Authority promoting Bills in Parliament.
10. Under S239 of the Local Government Act 1972, the application and promotion of the Bill to transfer the powers under the TWAO requires a resolution by the full County Council that it is satisfied that it is expedient to promote a Bill.
11. In addition, the Council must comply with prescribed advertising requirements giving not less than 30 clear days' notice of the meeting, by advertisement in one or more local newspapers and should be in addition to the ordinary notices required to be given for convening a meeting of the Authority. This has been done.
12. The draft Statutory Instrument for the TWAO transfer (which includes a plan of the land to be transferred) is be attached to this report (**Appendix K**). Minor amendments to the draft may be required before submission to the Secretary of State.

Consultation

13. A public consultation regarding the proposed transfer of the TWAO to the ACA was carried out in 2019, prior to the report being presented to the Cabinet. 95% of the 143 respondents strongly agreed with the proposal to transfer the TWAO land and powers to the ACA.
14. No further consultation is required at this time.

Decision of the Cabinet

15. The Cabinet considered this matter at its meeting on 25th November and its decision is set out in the motion set out below.

(Motion to be moved

- a) **That this Council is satisfied that it is expedient for the Council to apply to the Secretary of State for Environment, Food and Rural Affairs to promote an Order under the Transport and Works Act 1992 to transfer powers under the Transport and Works Act Order 2005 to the Ashby Canal**

Association for a section of the Ashby Canal line between Snarestone and Measham; and

- b) That the Director of Environment and Transport in consultation with the Director of Law and Governance be authorised to take all steps as may be necessary or expedient for the purposes of promotion of the Order).**

25th November 2022

Mr N. J. Rushton CC

Background Papers

Report to the Cabinet: 13 September 2019 – Potential Transfer of Part of the Ashby Canal.

<https://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=5605&Ver=4>

Report to the Cabinet: 17 September 2021 – Ashby Canal Maintenance Funding.

<https://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=6446&Ver=4>

Appendix

Appendix K - Draft Statutory Instrument for the TWAO transfer including plan of land to be transferred.

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