

**Report of NGT Project Manager**

**Report to Director of City Development**

**Date: 18th December 2013**

**Subject: New Generation Transport (NGT): Appropriation of Open Space**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Implications city wide, with direct impacts on City and Hunslet, Hyde Park & Woodhouse, Headingley, Weetwood, Adel & Wharfedale and Middleton Park Wards.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. In the Best Council Plan NGT is identified as one of the key infrastructure projects that will promote sustainable and inclusive economic growth in the City.
2. Full Council resolved in July to promote a Transport and Works Act Order for NGT and to delegate the necessary authority to the Director of City Development in order to allow him to take all such steps as may be necessary or expedient to carry the above Resolution into effect, including all those steps required for the Council to apply for and thereafter to promote its application for the Order.
3. The NGT scheme is proposed to be implemented over several parcels of land that are currently within the Council's ownership and which it is proposed to appropriate for planning purposes. Nine of these parcels are open space used for public recreation. The identified land is included within the NGT Transport and Works Act Order (TWAO). The land is currently managed by Parks and Countryside as open space for public recreation, but is not required for that purpose.
4. Appropriation of the land will facilitate the carrying out of the development comprised in NGT. This development will include a number of works and operations that will improve recreational amenity in the areas of the City through which NGT passes. The Council may appropriate land held for one statutory purpose to some other statutory purpose and the decision is solely one for the Council to take, no third party (for example the Secretary of State) is involved in the decision making process. In this case the appropriation will enable Council land to be made available

for use for NGT. Permission to construct and operate NGT on this land will still be required from the Secretary of State through the TWAO process. In deciding whether to make the TWAO, the Secretary of State will take account of the planning issues relating to this land, its nature and use, and the impacts on amenity if it is used for NGT. Accordingly, those issues are not dealt with in this report in detail because they will be decided by the Secretary of State.

5. In practical terms, the land will continue to be managed by Parks and Countryside and retain its open nature pending the Secretary of State's approval of the proposed Transport and Works Act Order for NGT and the detailed design out of the scheme. As and when the land is needed for NGT, it will be maintained by Highways and Transportation.

## **Recommendations**

It is recommended that the Director of City Development:

1. confirms that the parcels of land identified on the attached plans, which are currently held for public recreation purposes are no longer required for those purposes;
2. approves the appropriation of the parcels of land to planning purposes to facilitate the carrying out of the development proposed in the NGT TWAO in accordance with section 226 of the Town and Country Planning Act 1990, and in accordance with section 122(1) of the Local Government Act 1972.

### **1. Purpose of this report**

- 1.1 The published Transport and Works Act Order (TWAO) documentation for NGT includes provisions for the acquisition of land for the project. This report seeks authority for the appropriation of Council land for NGT.
- 1.2 The Council may appropriate land that it holds for one statutory purpose to some other statutory purpose. The decision is solely one for the Council to take, no third party (for example the Secretary of State) is involved in the decision making process.
- 1.3 The nine sites identified on the attached plans are currently open space held for public recreation purposes by the Council. However, they are no longer needed in the public interest of their areas for the purposes of public recreation. In several cases, the parcels concerned are on the verge of highways and border much larger open areas that would continue to be used for recreation. In addition, if NGT is constructed, there would be the opportunity to improve recreational amenity in areas along the route by the construction and improvement of green spaces. As the parcels are no longer needed in the public interest for recreation, and their appropriation for planning purposes would facilitate the construction of NGT, it is therefore proposed that they be appropriated by the Council for planning purposes, to be used for the construction, operation, maintenance and use of NGT.

- 1.4 This report does not deal with the planning issues concerning the ultimate *use* of the appropriated land for NGT. The Council does not have the function of deciding those issues, which will be considered at the public inquiry into the TWAO application, and decided by the Secretary of State for Transport in due course.

## **2. Background information**

- 2.1 Metro and Leeds City Council have worked in partnership to develop a modern electrically powered trolleybus system for Leeds known as NGT. The NGT project is seeking to provide a high quality transport system that will help to support the growth of Leeds' economy and improve the local environment by helping to address congestion.
- 2.2 NGT contributes to the Leeds vision of being the best city in the UK by;
- Providing high-quality, accessible, affordable and reliable public transport
  - Contributing to targets to make Leeds a lower carbon city
  - Supporting the creation of significant job opportunities
  - Improving accessibility of local services including shops and healthcare
  - Enabling people to travel on good quality, reliable public transport
- 2.3 Analysis has shown that NGT could generate around 4,000 long term jobs, both in Leeds and the wider City Region, in addition to generating a £160m per annum economic boost for the City Region. In addition around 1,000 jobs would be created during the construction phase.
- 2.4 Full Council passed the 2 resolutions required to promote a Transport and Works Act Order (TWAO) for NGT on the 1<sup>st</sup> July and 13<sup>th</sup> November.
- 2.5 Plans Panel considered the outline details of the route in 2 all day workshops, site visits and 2 dedicated NGT Plans Panel meetings where they gave in principle approval to the route proposals which included the sections on Woodhouse / Monument Moor and Belle Isle Circus.
- 2.6 Extensive public consultation has been carried out on the proposals including 22 public consultation events held between October 2012 and July 2013 attended by over 1000 people. At these events the scheme drawings were explained to those attending.
- 2.7 Opponents to the scheme will have the opportunity to present their objections to an independent inspector at a public inquiry to be held next year that will consider all of the issues related to NGT, including the NGT proposals on the land identified in this report. The inspector will present a report of his findings of the public inquiry to the Secretary of State who will decide whether to grant the TWAO for NGT.
- 2.8 The Council and Metro jointly applied to the Secretary of State for Transport for the TWA Order under the Transport and Works Act 1992, which would authorise the construction, maintenance, operation and use of a trolley vehicle system between the City Centre and Holt Park in the north, and Stourton in the south, to be known as New Generation Transport (NGT). As well as the trolley vehicle system itself,

NGT will involve numerous mitigation works, including the creation of a new park at Headingley Hill, improvements to the amenity of Cinder Moor and Monument Moor, and the planting of 3 replacement trees for every 1 tree that needs to be removed. The application was made on 19 September 2013, and is presently being considered by the Secretary of State. A set of the application documents was served on the Council as local authority and is available on both the NGT and Council's websites.

- 2.9 The Order would grant the Council and Metro powers to acquire and use land required for the purposes of NGT, including power to acquire land compulsorily. Much of NGT will run in the highway, which is already owned by the Council as highway authority. Other land required for the project has already been acquired by Metro or the Council under existing powers. However, some of the land is in the ownership of third parties, or held by the Council for other purposes. This will need to be acquired by Metro or the Council, or appropriated for the purposes of NGT, if the Order is made.
- 2.10 Among the land required are 9 parcels of land that are currently owned by the Council and held as part of larger areas of open space used for public recreation, but which are not themselves needed in the public interest for public recreation. This land is currently within the scope of the compulsory purchase powers conferred by the Order. However, if the Order is made containing compulsory purchase powers over open space, it cannot come into force until it has been approved by Parliament, under what is known as "Special Parliamentary Procedure" or SPP. SPP requires the Order to be subject to further scrutiny by a committee of MPs and Peers, who can effectively re-open the issues that will have been considered and resolved by the public inquiry and the Secretary of State. Unlike planning inquiries and quasi-judicial decisions by the Secretary of State, however, Parliamentary decisions are not subject to judicial review, nor is there any fixed timetable, nor will MPs necessarily have the local knowledge of the land concerned that Councillors do. SPP would therefore add a significant level of risk, and risk of delay, to the NGT proposals.
- 2.11 In order to avoid SPP, it is proposed that the Director of City Development now approves the appropriation of the 9 parcels and holds them for planning purposes, namely the development proposed in the NGT TWA Order. Section 122 of the Local Government Act 1972 allows the Council to appropriate land for any purpose for which it may acquire land. Sections 226(1)(a) and 227 of the Town and Country Planning Act 1990 allow the Council to acquire land if they think the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land. This includes development of the sort contemplated for NGT.
- 2.9 Significant environmental improvements are proposed as part of the NGT project to mitigate for the loss of land which will be supported by a commuted sum for the on-going maintenance of any newly developed assets. This includes:
- a new "pocket park", of public green space approximately 3,500 sq.m., to be created at the top of Headingley Hill adjacent to the new NGT stop.
  - Improvements to Monument Moor including; replanting of the parking area to create an area of wildflower meadow, refurbishment of steps giving access to

the moor, tree planting around the moor and improvements to the public realm in the vicinity of the moor and the junction of Woodhouse Lane and Raglan Road.

- The provision of a new informal play space to be sited near to the junction of Woodhouse Street and Rampart Road.
- New tree planting alongside Otley Old Road
- Landscaping and tree planting to screen the substations
- Tree planting and other environmental improvements to Belle Isle Circus

### **3. Main Issues**

- 3.1 Under section 122(1) of the Local Government Act 1972, the Council may appropriate for any purpose for which it is authorised to acquire land, any land which belongs to it and is no longer required for the purposes for which it is held. Under section 226(1)(a) and 227 of the Town and Country Planning Act 1990 the Council may acquire land if they think the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land. This includes development of the sort contemplated for NGT, and so the Council may appropriate for the purposes of NGT land that it already owns if that land is no longer required for the purposes for which it is held. Each of the 9 parcels is required for NGT but is currently held for the purposes of public recreation and for the reasons set out below none of them is needed in the public interest for those purposes. They may therefore be appropriated from their current use. As their appropriation would facilitate the development comprised in NGT, they may be appropriated for planning purposes, and used for NGT. As the construction of NGT would promote sustainable and inclusive economic growth in the City in accordance with the Best Council Plan, the Council should therefore appropriate the land for these purposes.
- 3.2 Under section 122(2A) of the 1972 Act, the Council may not appropriate any land comprised in open space without first advertising its intention to do so, and considering any objections received. Notice of the Council's intention to appropriate the 9 parcels was published in the Yorkshire Post on 19 and 26 October, and 152 objections were received. These objections are summarised later in the report, so far as relevant to the question of whether the land parcels are required for the purposes of public recreation.
- 3.3 In general terms, a significant majority of the objections did not address the specific use or need for the land parcels for public recreation. 69 objected in general terms to the "loss" of open space; 87 objected to what they saw as an attempt to "pre-empt" the public inquiry; 20 objected generally to the NGT proposals; 16 objected to the impact NGT will have on trees; 2 objected to the impact on listed buildings; and 1 objected that the land should be made available for housing instead. This report does not deal with objections relating to these issues or to the amenity value of the land as greenspace generally, as those issues will be considered at the Public Inquiry. However the more general issues about the nature and appropriateness of the appropriation process are dealt with in section 4 below.

3.4 The 9 parcels of land concerned are as follows:

3.4.1 Land on the corner of Holtdale Approach and Otley Old Road LS16 (see plan Site 7)

This is a small strip of grassland required for provision of a new footway and siting of OHLE poles.

One objection was received stating that the land is needed for housing purposes. This site has been identified in the Council's LDF Site Allocation process of having potential for residential development subject to a review of greenspace in the area. The area to be appropriated would not compromise any housing development as any development would need clearance from the edge of the highway.

Only one of the objections refers to specific use of this area for recreation, namely flower planting however there is no evidence of any flower planting on this land. As the area to be appropriated is a narrow strip with a steep gradient of 255m<sup>2</sup> in an open space of 4037m<sup>2</sup>, and therefore the loss of this land will not prohibit or unduly impact on the recreational use of the remaining open space at this site.

Given the relative difficulty of using this particular land for recreation, its presence alongside a much wider area that would remain available for recreation, and the lack of evidence of any particular use of this land, and the general mitigation and amenity works proposed as part of NGT, it is reasonable to conclude that this parcel is not still needed in the public interest for recreation. Further, its appropriation would facilitate development because it would enable the provision of a footway and the siting of OLE poles, which cannot readily be located elsewhere. It can therefore be appropriated for planning purposes.

3.4.2 Land to the east of Otley Old Road (Tinshill Recreation Ground) LS16 (see plan Site 1)

This is a small strip of land (10m wide) between the playing fields at Holt Park, known as Tinshill recreation ground, and the highway. This land, is required for the siting of overhead electrification poles. The total area likely to be occupied by the poles is approximately 210m<sup>2</sup>, out of an open area of 83,689m<sup>2</sup>. Although formally part of the recreation ground, it is effectively separated by a row of boulders, and could be characterised as highway verge/informal road-side footway, where existing street lighting and other street furniture is sited. None of the objections referred to the specific use of this parcel for recreation.

This land required for NGT makes up only 0.3% of the open space and it is proposed that this loss of green space be mitigated for by the planting along Otley Old Road. The recreational activities in this area take place behind the row of boulders i.e. outside the area to be appropriated. Therefore, the loss of this land will not prohibit or unduly impact on the recreational use of remaining open space at this site. The area not occupied by the poles will be returned to its existing use and will continue to be maintained by Parks and Countryside i.e. apart from the small area of land occupied by the poles, the public will still be able to use this land.

In the circumstances, where this land is effectively used as highway verge/informal footway, is separated from a much larger open area by a row of boulders, and there is no evidence of its specific use for recreation, it is reasonable to conclude that the parcel is not still needed in the public interest for public recreation. Further, its appropriation would facilitate development because it would enable the siting of OHLE poles, which cannot readily be located elsewhere. It can therefore be appropriated for planning purposes.

#### 3.4.3 Land to the east of Otley Old Road and South West of Raynel Drive LS16 (see plan Site 8)

This is a small strip of land in front of St Paul's Church, Otley Old Road, which is required for the siting of overhead electrification poles. As with the land at Tinshill recreation ground, the strip is narrow, and can be characterised as highway verge/informal road-side footway.. None of the objections referred to the specific use of this parcel for recreation. The loss of this land will not prohibit or unduly impact on the recreational use of remaining open space at this site. The areas not occupied by the poles will be returned to their existing use and will be maintained by Parks and Countryside i.e. apart from the small area of land occupied by the poles the public will still be able to use this land.

In the circumstances, where the parcel is effectively highway verge/informal footway, and there is no specific evidence of its use for public recreation, it is reasonable to conclude that the land is no longer needed in the public interest for public recreation. Further its appropriation would facilitate development by enabling the siting of OHLE poles which cannot readily be located elsewhere. The land can therefore be appropriated for planning purposes.

#### 3.4.4 Land to the northeast of Otley Old Road, LS16 (see plan Site 2)

This land off Otley Old Road near St. Paul's Church It is currently partly wooded, with a neighbouring clearing. The land is required for a substation, which will occupy approximately 337m<sup>2</sup> which constitutes just over 1% of the total 26,000sq.m open area. None of the objections referred to the specific use of this parcel for recreation. The loss of this land will not prohibit or unduly impact on the recreational use of remaining open space at this site.

If NGT is constructed, it is intended to plant additional trees in this area which will benefit recreation generally.

In the circumstances, where the land constitutes only a very small part of a much larger open area, where there is no specific evidence of its use for public recreation, and where its main amenity value, its wooded nature will be maintained by the planting of additional trees, it is reasonable to conclude that the land is no longer needed in the public interest for public recreation. Further its appropriation would facilitate development by enabling the construction of a substation which cannot readily be located elsewhere. The land can therefore be appropriated for planning purposes.

### 3.4.5 2 Parcels of Land at Little / Cinder / Monument Moor to the North East of Woodhouse Lane, LS2 and LS6 (see plan Site 3)

Approximately 4,311m<sup>2</sup> of the 51,692m<sup>2</sup> areas of Little Moor, Cinder Moor and Monument Moor are required for NGT. This amounts to about 5% of Little Moor, 1% of Cinder Moor and 19% of Monument Moor. This land is partly required for highway improvements, partly for the siting of overhead electrification poles and partly for the segregated NGT running track adjacent to Woodhouse Lane. Some of these uses could be carried out within the footprint of Woodhouse Lane itself, but this would result in a more substantial impact on the number of trees and amenity value of the area. Further some works would have to take place on the open space itself. In particular, it is proposed to create a new road through Little Moor and to widen Cliff Road. The land that would be appropriated is partly highway verge, and partly hard standing that is used for occasional parking, but does also include areas used for public recreation.

8 of the objections refer to specific uses of Little Moor for recreation (5 in identical terms), specifically the former children's playground. 5 of the objections refer to specific uses of Monument Moor for recreation, including ball games, watching fireworks, fairs and other community activities and the use of hard standing for parking related to recreational events. 1 of the objections refers to the specific use of Cinder Moor for recreation, namely watching fireworks and the use of hard standing for parking related to recreational events. As part of the detailed design process for NGT, the Council and Metro will put forward proposals to the Council as local planning authority setting out how they will implement landscaping and environmental mitigation works on the Moor, as well as at other locations. These will enable the Council as local planning authority to ensure that the mitigation works will result in the recreational value of the Moor being at least as high after the appropriation as it is at present.

As part of the NGT proposals, the opportunity will be taken to provide a new children's play space, improving on the facility that formerly existed on Little Moor, and fulfilling a long-standing objective of the Council's. It should be noted that the children's playground has been closed for around [3 years] and is not therefore currently used for public recreation.

The opportunity will also be taken to carry out significant replanting and public realm improvements in the Cinder Moor and Monument Moor areas. This will include grassing over the existing hard standing area, and creating a new "grasscrete" area which can be used for parking. This will result in a larger area of unbroken amenity grass, resulting in an area which will be more attractive for recreation which will create an overall benefit to both Cinder Moor and Monument Moor, both of which are recognised as being low quality open spaces, scoring 2.5/10 in the Open Space Sports and Recreation Assessment carried out by the Council in 2011. Ball games, firework displays and fairs and other community events will continue to be possible on Monument Moor and Cinder Moor. Additional open space is also proposed to be created at the "pocket park" in the Headingley Hill area. Once these mitigation works have been carried out, it is expected that the recreation amenity of the overall area will be of at least as high value for public recreation. These proposals have been considered and approved in principle by City Plans Panel, and the precise



details of the mitigation measures will require the approval of the Council as local planning authority.

In these circumstances, where the land to be taken represents a small portion of a larger open space, where the specific public recreation that takes place on the land can readily continue on the remaining land, and where the NGT works will themselves entail the laying out of a larger area of amenity grass that will be more attractive for recreation, particularly given the low quality scores given for the existing open space, it is reasonable to conclude that the land is not needed in the public interest for public recreation in its current state. The appropriation of the land will facilitate development by enabling the construction of highway improvements, the construction of a segregated track for NGT, the placing of OLE poles and operations to improve the amenity value of the Moor. This development could not as readily be carried out elsewhere without at least as substantial impact on amenity, particularly on mature trees. Accordingly the land may be appropriated for planning purposes.

#### 3.4.6 Land at Woodhouse Moor to the South West of Woodhouse Lane, LS2 and LS6 (see plan Site 4)

Overhead electrification poles will need to be placed on Woodhouse Moor to the south west of Woodhouse Lane. The poles will occupy a small proportion of a thin road-side strip in an area of the Moor which is outside the formal park boundaries and more closely resembles highway verge. The total area likely to be occupied by the poles is around 200sq.m out of total park area of 216,500sq.m.

10 of the objections refer to specific uses of this section of Woodhouse Moor, 6 of which refer to its use as a recreational footpath (5 in identical terms), and 4 of which specifically refer to its use by joggers. In particular, mention is made by the use of the path by Leeds Park Run, a weekly 5km run around the outskirts of Woodhouse Moor, which passes along Woodhouse Lane between Rampart Road and the small car park near Hyde Park Corner. However, it is not clear that these objections refer to the land proposed for appropriation. On this side of Woodhouse Lane there are two parallel footpaths: a footway immediately adjacent to Woodhouse Lane, and a separate inner footpath, known as Avenue Walk, some 5 metres or so further in to Woodhouse Moor. The land proposed to be appropriated is the grassed verge between the two footpaths. There are no proposals to appropriate the inner footpath, and each of the 10 objections referred to above seems to refer to the use of the inner footpath as opposed to the verge. Even assuming that the objections are in fact referring to the grassed area, all of the activities described (walking, jogging and running) could just as readily continue to take place as the footpath and the rest of the parkland will be unaffected. The areas not occupied by the poles will be returned to their existing use and will continue to be maintained by Parks and Countryside i.e. apart from the small area of land to be taken by the poles the public will still be able to use this land. The poles will be located so as to avoid any tree loss in the grass verge itself.

In the circumstances, where the land affected makes up less than 0.1% of the public open space it is comprised in, where the claimed uses of this area actually tend to take place on the neighbouring footpath which is not proposed for

appropriation, and where any actual uses of the grass verge for public recreation can readily be accommodated on the main part of the Moor without impacting walking or jogging, or the use of the Moor more widely, it is reasonable to conclude that the thin strip referred to is not needed in the public interest for public recreation. Further, its appropriation would facilitate development by enabling the placing of OLE poles, which cannot readily be done elsewhere. Therefore the land can be appropriated for planning purposes.

#### 3.4.7 Land at Woodhouse Lane, LS1(see plan Site 9)

A small area of land opposite Woodhouse Lane multi-storey car park is required for a new road to enable access to the Broadcasting House site via a bridge across the Inner Ring Road. This land is currently undeveloped and has some open areas as well as some tree cover, but is not used significantly or required for public recreation. The area required is 469sq.m out of this area of 5350sq.m. None of the objections referred to its specific use for recreation.

In the circumstances, where there is no particular evidence of the use of the wider area for public recreation, it is reasonable to conclude that the land concerned is not needed for public recreation. Further its appropriation would facilitate development by enabling access to be retained to the Broadcasting House site, which cannot readily be done elsewhere. It can therefore be appropriated for planning purposes.

#### 3.4.8 Land at Nursery Mount Road, LS10 (see plan Site 5)

Approximately 325m<sup>2</sup> to the eastern end of a 5,344m<sup>2</sup> open area off Belle Isle Road and adjacent to the M621 junction 6 is required for an NGT substation and tree planting. The land to be appropriated amounts to approximately 6% of the open area, and none of the objections has referred to its use for public recreation. It is not considered that the loss of this land will prohibit or unduly impact on the recreational use of remaining open space at this site.

In the circumstances, where the land affected makes up only a small part of an open space, where there is no evidence of its specific use for public recreation and where it is proposed to carry out tree planting and thereby improve the overall recreational amenity of the area, it is reasonable to conclude that the land concerned is no longer needed in the public interest for public recreation in its current state. Its appropriation would facilitate development by enabling the construction of a substation which cannot readily be located elsewhere. It therefore can be appropriated for planning purposes.

#### 3.4.9 Land at Belle Isle Circus, LS10 (see plan Site 6)

It is proposed that the NGT route should run through the northern and eastern portion of the centre of Belle Isle Circus. This is currently an open area of approximately 13,619m<sup>2</sup>, and despite being in the centre of a roundabout is used for public recreation. The total area to be appropriated would be 854m<sup>2</sup>, or approximately 6% of the open area. 5 of the objections refer in identical terms to the use of this land for public recreation, namely the use of the park bench adjacent to one of the footpaths through the Circus. It is proposed to realign the footpaths

running through the 94% of the open space that remains, so that it can still be used for recreational walking, and a replacement bench can be located alongside one of the realigned paths. It is also proposed to implement enhanced tree and shrub planting to screen the NGT route, and to reinforce the tree-lined character of Belle Isle Circus, together with a central focal point including seating with the aim of creating a more useable park area. These proposals have been considered and approved in principle by the City Plans Panel.

In the circumstances, where the land proposed to be appropriated is a small part of a larger open area, and where the mitigation works will ensure that the recreational value of the whole area is maintained, and where possible reinforced, it is reasonable to conclude that the land concerned is not needed in the public interest for public recreation. Further its appropriation would facilitate development by enabling the construction of a segregated track for NGT which cannot readily be located within the carriageway of Belle Isle Circus. The parcel therefore can be appropriated for planning purposes.

3.4.10 It is therefore considered that the 9 areas of land detailed above are not needed in the public interest for public recreation in their current state, the purpose for which they are currently held. As the appropriation of each of them would facilitate elements of the development comprised in NGT, it is therefore proposed that they be appropriated under s226(1) of the Town and Country Planning Act 1990 and s122(1) of the Local Government Act 1972 for planning purposes. They will then be used for NGT as and when the TWA Order is made and detailed design completed. Until that time, the land will continue to be maintained by Parks and Countryside, and when used for NGT it will be maintained by Highways and Transportation.

3.5 The plans show the maximum extent of land that is thought to be required for NGT at this stage of the design process. If the TWA Order is made, detailed design work will be carried out and it is expected that the amount of land required will reduce significantly. Any land which is not permanently required for NGT following detailed design and temporary use for construction will continue to be maintained by Parks and Countryside.

## **4. Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The NGT proposals have been subject to a significant amount of public consultation from 2009 onwards:
- Extensive consultation carried out in 2009/2010 – showed strong support for the proposals.
  - Area Committee presentations in September 2012
  - Briefing to the main political groups September-November 2012
  - 22 Public Consultation events held October 2012 - July 2013: over 1000 attendees
  - Meetings with Businesses, access groups, Tenant organisations, Civic Trust, Cycling Forum and the Universities
  - Various meetings with Councillors and MPs

- Engagement with officers from across the Council.
- Numerous meetings with affected land and property owners along the route.
- City Plans Panel all day meeting in June dedicated to NGT and second City NGT Plans Panel meeting in October that reviewed the submitted documentation.

4.1.2 The appropriation was advertised in the Yorkshire Post on Saturday 19<sup>th</sup> and 26<sup>th</sup> October 2013.

4.1.3 152 objections have been received. The main points raised by the objections in relation to specific parcels of land are dealt with in section 3. Other more general and planning-related issues about the appropriateness of the use of the land will be dealt with at the Public Inquiry. There are however, a few general objections that are worth dealing with here:

4.1.4 *Objector claims that the Council is seeking to pre-empt the Public Inquiry:*

It is not accurate to say, as some objections have, that the appropriation will "pre-empt the inquiry" or mean that the parcels of land appropriated in Woodhouse Moor will "no longer be part of the park" in terms of planning policy. In order to build NGT the Council and Metro will ultimately need both permission to construct the works, and permission to use the land. This appropriation deals only with permission to use this Council-owned land for the purposes of NGT. Whatever happens with the appropriation, the Council and Metro will still need to get permission to construct and operate the NGT system. That will still need to be decided at a public inquiry, which will take into account the open nature, use and planning status of the Moor in deciding whether that permission should be given. It will still be open for Objectors to argue at inquiry that permission should not be given, so the inquiry will not be pre-empted in any way by the Council's decision on appropriation.

4.1.5 *Objector claims that more land is to be used for NGT than is shown on the TWAO plans and this would lead to excessive land take:*

All of the land identified on the appropriation plans is included within the Published TWAO documentation, which includes, among other things, planning direction drawings showing the "red line" boundary for NGT works. It is correct to say that most of the areas of land shown on the plans are greater than will eventually be required to allow for design refinement as the scheme progresses. For example the exact sizes of the sub-stations are not known at present so a worst case scenario has been put forward. Also the exact positions of the poles supporting the overhead wires are not known at this stage so a wide strip is shown on the plans but in this strip only the footprint of the poles will actually be used permanently. Apart from the footprint of the poles the land in this area will remain unchanged. The full strips of land are shown on the enclosed plan to reflect the current level of design. Having said this, the areas of land to be appropriated should properly reflect the areas of land that may be used to accommodate the NGT works in order to avoid the need to appropriate additional land at a later stage.

**4.1.6** *Claims that land will be “lost” as public open space regardless of what happens to NGT.*

Appropriation does not, on its own, change the planning policy status of the land appropriated. If the TWA Order for NGT is not made, there will be no permission to carry out development of any kind on the appropriated land. Further, even when appropriated for planning purposes, the land will continue to be maintained by Parks and Countryside until required for NGT, and will therefore maintain its open nature. Proposals for alternative development will need planning permission in the normal way, and will have to deal with the issues relating to the land’s open nature and its designation in the UDP and emerging LDF. Any development is therefore unlikely.

**4.1.7** *Claims that the appropriation was inadequately advertised or consulted on.*

Section 122(2A) of the Local Government Act 1972 requires notice of the proposed appropriation to be placed in a newspaper circulating in the locality in each of two consecutive weeks and for the Council to consider any objections received. The notices were placed in the Yorkshire Post, which is a newspaper circulating in the localities affected. They were placed on 19 and 26 October 2013, and therefore appeared in two consecutive weeks. The deadline specified for receipt of objections was 9 November, which gave respondents 14 days (two weeks) after the later notice appeared. The proposed appropriation was therefore advertised in accordance with the legal requirements.

Several of the objections were received later than 9 November but have been included in the reported total of 152 and included in the listed grounds for objection.

**4.1.8** The Leader and Executive Members for Development & the Economy and Environment have been briefed and are supportive of the proposals.

**4.2 Equality and Diversity / Cohesion and Integration**

**4.2.1** A full equality impact assessment has been undertaken and accompanied the TWAO application. The assessment concluded by stating that the provision of a new and frequent public transport service in the form of a trolleybus network will improve access to a whole range of social and economic resources along the route including the City Centre, Leeds’ two universities, a major hospital, and a whole range of other facilities from shops to places of worship. It also acknowledged however that the construction and implementation phases may have a negative effect on a range of local socio-demographic groups and communities. The report contains a number of recommendations to mitigate the negative impacts.

**4.3 Council policies and City Priorities**

**4.3.1** The NGT proposals support the objectives of the Local Transport Plan and contribute to the delivery of the Council’s Strategic Plan objectives for transport and those of the Vision for Leeds. The scheme will make a major contribution to improving the attractiveness and quality of travel by public transport and is

predicted to encourage a switch from private car to public transport, thereby alleviating congestion on the NGT routes.

- 4.3.2 Progress will be reported to the Executive Board at the key stages in the delivery process. Oversight of the scheme is provided by a Project Board chaired by the Director General of Metro. The Board also includes the Director of Resources and Chief Officer Highways and Transportation from Leeds City Council.

#### **4.3 Resources and value for money**

- 4.3.1 The approved capital programme makes provision of £20.6m as the Council's remaining contribution towards the NGT scheme. Throughout the development phase of the scheme, costs are continually scrutinised to ensure that the scheme promoters are securing value for money. Approving this resolution does not commit the Authority to any additional expenditure.

#### **4.4 Legal Implications, Access to Information and Call In**

- 4.5.1 Under section 122(2A) of the Local Government Act 1972, the Council may not appropriate any land forming part of an open space used for public recreation without first advertising its intention to do so for two consecutive weeks in a local newspaper. The Council must consider any objections received. Notice of the Council's intention to appropriate these 9 parcels was published in the Yorkshire Post on 19 and 26 October. 152 objections were received, and are considered above.

- 4.5.2 The proposal constitutes an administrative decision and is therefore not subject to call in.

#### **4.5 Risk Management**

- 4.5.1 If the Council does not appropriate the site and hold it for planning purposes to be used for NGT, then the Order will be subject to SPP. This is inherently risky, and could lead to the public inquiry effectively being re-run in Parliament, but without the safeguards that apply to quasi-judicial decision making by the Secretary of State, as no appeal or judicial review is possible in the case of Parliamentary decisions, and without the local knowledge that Councillors can bring to bear on this decision. SPP is also likely to add at least 12 months to the programme for NGT, which could jeopardise the availability of DfT funding. The appropriation removes the risk of SPP.

- 4.5.2 The delivery of the project will be managed by a joint Metro/LCC Project Board who will control changes to the proposals to limit increases in project costs.

#### **5. Conclusion**

- 5.1 The 9 parcels of land described above are held for public recreation, but are no longer needed in the public interest for this purpose in their current state. Their appropriation for planning purposes would facilitate the development comprised in NGT. In order to remove the prospect of SPP, the Council should appropriate the 9

parcels of land for planning purposes, namely the development proposed in the NGT TWA Order.

- 5.2 The NGT Project Team will continue to proactively engage and consult with all stakeholders in the on-going development of the NGT proposals, to ensure that concerns and issues raised can be resolved or mitigated wherever possible and all information in the public domain is current and accurate.

## **6. Recommendations**

6.1 It is recommended that the Director of City Development:

1. confirms that the parcels of land identified on the attached plans, which are currently held for public recreation purposes are no longer required for those purposes;
2. approves the appropriation of the parcels of land to planning purposes to facilitate the carrying out of the development proposed in the NGT TWAO in accordance with section 226 of the Town and Country Planning Act 1990, and in accordance with section 122(1) of the Local Government Act 1972.

## **7 Background documents<sup>1</sup>**

7.1 Plans showing the areas to be appropriated.

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.