

## Waverley Railway Project: Progress Report and Section 82 Confirmation

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The City of Edinburgh Council

13 November 2003

### Purpose of Report

1. The purpose of this Report is to bring the Council up to date with progress on the lodging of the Waverley Railway (Scotland) Bill ("The Bill") in the Scottish Parliament and to pass a confirmatory Resolution under Section 82 of the Local Government (Scotland) Act 1973, as amended ("The 1973 Act") to support Scottish Borders Council in its promotion of private legislation, confirming this Council's Resolution passed on 20 March 2003.
2. A confirmatory Section 82 Resolution (Appendix A) is required by the Council in order to support Scottish Borders Council as the formal Promoter of the Bill. The Bill is also being supported by Midlothian Council.

### Summary

3. On 20 March 2003 the Council agreed to support Scottish Borders Council in the promotion of a Private Bill in the Scottish Parliament and passed a resolution pursuant to Section 82 of the Local Government (Scotland) Act 1973, as amended.
4. The Bill was introduced in the Scottish Parliament on 11 September 2003. A copy of the Bill is referred to in Appendix B, along with supporting documents at Appendices C to G.
5. Section 82 of the 1973 Act requires the promoters of private legislation to confirm the original Section 82 Resolution by a majority at a special meeting after the Bill has been introduced in the Scottish Parliament. Scottish Borders Council on 30 October 2003 agreed to confirm its Section 82 Resolution. It is now appropriate for this Council to formally support Scottish Borders Council by passing the Resolution set out in Appendix A.

## **Main Report**

### **Scottish Parliament Procedure and Programme**

6. The next stage in the Scottish Parliamentary process will be the Preliminary Stage when a Private Bill Committee will be appointed to consider, amongst other matters, whether to approve the principle of there being a railway. At this stage the Promoters will be required to prove the case of need for the railway. The cost of preparing and presenting the Promoters case has been backed by the Scottish Executive through the Public Transport Fund Award.
7. It is understood that the Scottish Parliament will not appoint a Committee to examine the Bill until the Scottish Executive has confirmed that the funding for the project will be available.
8. On the assumption that funding is confirmed before the end of this year, the earliest that the Parliamentary Committee might be expected to meet will be February 2004.
9. After the Preliminary Stage there follows the Consideration Stage when the Committee will hear representations from Objectors and from the Promoters. At the present time it is not possible to advise when this stage is likely to take place since this is a matter subject to the control of the Parliamentary Bureau.
10. At the Final Stage of the Private Bill process the whole Scottish Parliament meets to consider the Bill. MSPs consider any further amendments and then decide whether or not the Bill should be passed. Any Member of the Scottish Parliament may propose an amendment. Provided the Bill is not subject to any legal challenge, it will be presented to the Queen for Royal Assent, thereafter becoming an Act of the Scottish Parliament.
11. In parallel with the above procedures the Partnership (comprising of Scottish Borders Council, Midlothian Council and City of Edinburgh Council) will be refining and obtaining approval of the Outline Business Case from the Scottish Executive.
12. After approval of the Bill, with Royal Assent, and once funding is secured it is anticipated that construction would take approximately 3 years to complete, allowing the service to commence in 2008.

### **Objections**

13. The objection period commenced on 11 September 2003 and ran until 10 November 2003. Objections required to be lodged with the Clerk's Office at the Scottish Parliament. Copies of the objections will be released to the Partnership.
14. At the conclusion of the objection period, the Promoters are currently holding objector meetings with a view to developing side agreements in order to reach agreement/resolve objections with as many objectors as possible on any accommodation works to be provided to minimise the impact on landowners and residents.

## **Legal Challenge**

15. On Wednesday 29<sup>th</sup> October an application for Interim Interdict was presented to the Court of Session by the Parish Council of Our Lady and Saint Andrew, Galashiels. This sought to stop Scottish Borders Council from confirming its Section 82 Resolution at a Special Meeting scheduled for 30<sup>th</sup> October. These Petitioners argued that the Promoters (Scottish Borders Council) were acting *ultra vires* by including Parish Church property as land intended for compulsory purchase in the Bill. This Council provided legal support for Scottish Borders Council, instructing Senior Counsel to represent the interests of both authorities. After hearing legal debate the judge refused to grant Interim Interdict, holding that the Petitioners had no title to sue. On 30<sup>th</sup> October Scottish Borders Council unanimously confirmed its Resolution.

## **Outline Business Case**

16. The Partnership have prepared a "draft in development" Outline Business Case for presentation to the Scottish Executive for comments. Discussions are ongoing with the Scottish Executive on the initial draft. Questions have been raised and referred back to the Partnership which is now refining the draft.
17. The contents of the Outline Business Case comprises:- scheme objectives including STAG 2 appraisal, preferred option selection, scheme costs and benefits; procurement route; funding strategy; key risks and project development; and implementation process.

## **Funding and Financial Implications**

18. The Scottish Executive awarded Scottish Borders Council additional Section 94 consent to incur capital expenditure of £250,000 in September 2003, bringing the total Passenger Transport Fund consent to £2.115 million. This Council is contributing legal and engineering work in kind to the project.
19. The estimated capital cost of the project is around £129 million (late 2002 prices) and it is anticipated that that this will be funded from a combination of sources, namely:- Scottish Executive's new Integrated Transport Fund (£110 million); local authority contributions including developer and Section 75 contributions (£15 million); and other Public Funding bodies such as Strategic Rail Authority and Enterprise Companies (£4 million).
20. It is anticipated that there will be three principal contributions from the Councils: these being the commitment of resources to develop and monitor the implementation of the project, the assignment of potential developer contributions, such as Section 75 funding and finally the funding of ancillary works otherwise funded by the project.

## Benefits for The City of Edinburgh Council

21. It should ease some of the congestion on the southern road approaches to the city.
22. It has the potential to open up a new and increased labour pool available to the Edinburgh job market.
23. It will create improved public transport connections between Edinburgh, Midlothian and the Borders for business, leisure and tourist trips.

## Strategic Policy Objectives

24. In terms of this Council's Local Transport Strategy the longer term improvements include "the possible re-opening of the Waverley line to the Borders."

## Recommendation

25. That the Council, pursuant to the provisions of Section 82 of the Local Government (Scotland) Act 1973, as amended, agrees to approve the Resolution contained in Appendix A, to confirm the Resolution which was passed at the Special Meeting of the Council held on 20 March 2003.



**Andrew Holmes**  
Director of City Development

4.11.03



**Jim Inch**  
Director of Corporate Services

04/11/03

**Appendices**

Appendix A: Section 82 Confirmatory Resolution  
Appendix B: Waverley Railway (Scotland) Bill  
Appendix C: Explanatory Notes  
Appendix D: Promoter's Memorandum  
Appendix E: Maps, Plans and Sections  
Appendix F: Environmental Statement and Non-Technical  
Summary  
Appendix G: Book of Reference  
Appendices B – G are available for inspection at the Council  
Information Centre. Appendices B – D can also be found at the  
Scottish Parliament website.

**Contact/Tele**

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**Wards affected**

All

**Background  
Papers**

Report to Council 20 March 2003 entitled Waverley Railway  
Project: Progress Report and Section 82 Resolution; Minute of  
Council Meeting.  
Website: [www.waverleyrailwayproject.co.uk](http://www.waverleyrailwayproject.co.uk)  
[www.scottishparliament.uk/bills](http://www.scottishparliament.uk/bills)

## **APPENDIX A**

That the Resolution approved and adopted by a majority of the whole number of the members of the Council at a meeting held on 20<sup>th</sup> March 2003 authorising the Council to support Scottish Borders Council in the promotion of the Waverley Railway (Scotland) Bill which was introduced in the Scottish Parliament on 11<sup>th</sup> September be confirmed.