

## EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 28 OCTOBER 2005

02/0367/LB: PROPOSED COMPLETE DEMOLITION OF GREE VIADUCT,  
BY DUNLOP FOR BRB (RESIDUARY) LTD

### Update Report by Head of Planning and Building Control

#### 1. PURPOSE OF REPORT

1.1 The purpose of this report is to update the Local Planning Committee on the current situation with respect to the issue of listed building consent for this application and to seek Committee approval in respect of a variation to the terms of the associated Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The application relates to the Gree Viaduct, a concrete rendered, mass concrete/rubble/brickwork structure with 11 no. spans, which crosses the Lugton Water and its valley at a rural location approximately 2km to the south west of Lugton. The Lugton Water forms the boundary between East and North Ayrshire Councils. The greater part of the Viaduct, 7 spans, lies within North Ayrshire.

2.2 The fabric of the structure in 2002 was considered to be in a very poor condition and will since then have deteriorated further.

2.3 **Proposed Development:** In May 2002, Listed Building Consent was sought for the demolition of that part of the Viaduct lying within East Ayrshire, due to the extent of its deterioration. Culverts would be installed to prevent debris from entering Lugton Water. The demolition would be carried out through a series of controlled explosions with charges being placed at the base of each pier resulting in the collapse of the structure. A temporary haul road would be formed to extract rubble across land at Gree Farm (within North Ayrshire). A parallel Listed Building application for demolition of that part of the Viaduct within North Ayrshire has been approved by that Authority.

2.4 The application was accompanied by a feasibility and ecological assessment that highlighted the options available. These amounted to:-

##### **Option 1 - Repair**

The cost of repairing the Viaduct (in 2002) was approximately £1,200,000. That figure did not represent the full cost of full renovation to enable the public to access the Viaduct, it simply rendered it secure.

## **Option 2 – Demolition**

An estimated cost of £165,000 (in 2002) to demolish the viaduct and remove the rubble was considered by ARUP & Partners to be low compared with a similar scheme. A more realistic all-inclusive price of £385,000 was suggested by them.

2.5 The ecological assessment found no protected species on or in the vicinity of the Viaduct at the time of survey and suggested appropriate times of the year for the demolition to be carried out in order to minimise effects on wildlife.

## **3. PLANNING HISTORY**

3.1 Application 02/0367/LB was originally before the Northern Area Local Planning Committee (NALPC) in October 2002 and in response to the Committee's request, the applicant confirmed that, should demolition be agreed, they would be prepared to contribute £50,000 towards the construction costs of a new bridge over Lugton Water (to continue to facilitate a proposed Core Path network) and to transfer the land beneath the viaduct to the Council for the sum of £1. This proposal was considered by the NALPC on 07 February 2003 when it was agreed to grant the application subject to the application being notified to and cleared by Historic Scotland and subject to the Solicitor to the Council satisfactorily concluding a formal agreement under Section 75 of the Town and Country Planning (Scotland) Act which would facilitate the walk/cycle way project.

3.2 Historic Scotland subsequently confirmed that the application did not have to be referred to them.

3.3 It should be noted that the Gree Viaduct has been included in the Core Path Network for the East Ayrshire as well as part of a strategic long distance route between Irvine and East Renfrewshire as part of a Pilot Study for implementing its Access Strategy. The East Ayrshire section makes up the smallest part of the route. The entire East Ayrshire section is likely to cost in the region of £180,000 (not including the part of the route over the Lugton Water). The £50,000 towards the cost of a replacement bridge would provide significant leverage to fund the rest of the route. The Access Officer estimates the cost of a replacement bridge at £74,000 and the timetable for completion of the project is November 2006.

3.4 It is further worth noting that Application KL/W/LB/95/079A for the proposed demolition of Gree Viaduct had been approved by Kilmarnock and Loudoun District Council on 5 October 1995. A similar application was also approved by Cunninghame District Council for that part of the Viaduct in their area on 16 May 1995, but the works were not undertaken.

## **4. FINANCIAL AND LEGAL IMPLICATIONS**

4.1 The Committee's decision to approve the demolition of the viaduct had financial and legal implications, as follows:

## Legal Implications

### 4.2 Conclusion of a Section 75 Legal Agreement providing:

1. For a period of 5 years from the demolition of the viaduct, the Council will have an option to purchase the area beneath the viaduct in the applicant's ownership for the nominal sum of £1. The Council may exercise this option if it promotes and obtains funding for a walk/cycle way project incorporating this land.
2. If the Council promotes the aforementioned walk/cycleway project within 5 years of the demolition of the viaduct, the applicant will contribute to the project £50,000 to be used as part of the project costs to build a replacement bridge over the Lugton Water. This contribution will be paid to the Council upon written request from the Council.

## Financial Implications

### 4.3 Financial implications comprised:

1. The possibility of acquisition by the Council of the land beneath the Viaduct. Although the acquisition of the land is for the nominal sum of £1, the Council would be responsible for the future maintenance thereof.
2. In addition, although the applicant is willing to contribute to the cost of a replacement bridge, the balance thereof and all future maintenance will require to be paid for by the Council.

## **5. MATTERS FOR THE ATTENTION OF THE COMMITTEE**

5.1 There has been extensive correspondence between the applicants' solicitors and the Council's Legal Services since the Committee decision of February 2003. This has concerned the wording and obligations under the Section 75 Agreement. In that the Legal Agreement has not yet been concluded, the decision notice in respect of 02/0367/LB remains to be formally issued.

5.2 The Committee will note its original decision. **If** the Council were to promote and obtain funding for the cycle/walk project, the Council would have an **option** to purchase the land, (£1), beneath the viaduct at any time during the 5 years following its demolition **and** the applicants would contribute £50,000 towards building a replacement bridge.

5.3 However, extensive exchanges of draft Legal Agreements have confirmed that the applicants now would wish the following; **that**, upon request by the Council for the £50,000 contribution, the Council would be **obliged** to acquire the land beneath the viaduct within East Ayrshire for £1 (plus VAT). The Legal Agreement as proposed by the applicants would remove the previous element of discretion and would require the Council to acquire and maintain thereafter the land beneath the

viaduct within East Ayrshire 14 days from the date of requesting the £50,000 contribution.

5.4 The applicants' explanation for this variation is as follows. They say that under the originally proposed agreement, should the Council choose not to buy the land, they would not wish to be in a position where they could be burdened with a liability for the maintenance of a structure over that area of land.

## **6. CONSIDERATIONS**

6.1 The Council is being asked to vary the terms of the Legal Agreement agreed by it in February 2003. The crucial change is that of the Council's purchase of the land beneath the viaduct becoming an obligation rather than at its discretion.

6.2 This variation should be considered against the Neighbourhood Services Department's continuing promotion of the cycle/walk way and the recent securing of funding for a feasibility study addressing the entirety of the route. The Director of Neighbourhood Services has indicated that he would be content to take over ownership of the ground in order to facilitate the project.

## **7. RECOMMENDATION**

**7.1 It is recommended that the Committee agree that the Solicitor to the Council and the Head of Planning, Development and Building Standards liaise with the applicants to secure a variation to the terms of the Legal Agreement to be associated with Listed Building Consent 02/0367/LB such that the Council when it formally requests the contribution of £50,000 will be obliged to purchase from BRB (Residuary) Limited, for the price of £1 (plus VAT), the land situated under the Gree Viaduct in so far as it is located within the geographical area of East Ayrshire.**

**7.2 It is further recommended that upon conclusion of the Agreement as described above, Listed Building Consent 02/0367/LB be issued in terms agreed by the Northern Area Local Planning Committee on 07 February 2003.**

## **8. CONTRARY DECISION NOTE**

Should the Committee not agree to the proposed variation in the terms of the Legal Agreement, the Committee's original decision would stand and Listed Building consent could be issued only following conclusion of the Agreement by the parties in its original terms.

**Alan Neish**  
**Head of Planning and Building Control**

11 October 2005  
(DVM/MMM)

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Listed Building Application 02/0367/LB.
2. Previous Application: KL/W/LB/95/079A.
3. Previous reports to Northern Area Local Planning Committee in respect of 02/0367/LB.
4. Approved Ayrshire Joint Structure Plan.
5. Adopted East Ayrshire Local Plan.

Anyone wishing to inspect the above papers should contact Dave Morris on (01563) 576753.

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