

North Tyneside Council

Report to Director of Regeneration and Economic Development

Date: 6 July 2023

Title: Harrow Street bridge, Shiremoor – use of powers under Section 291 of the Highways Act 1980

Report by: Mark Newlands, Senior Manager – Highways
and Infrastructure

Report to: John Sparkes, Director of Regeneration
and Economic Development

Wards affected: Valley

PART 1

1.1 Executive Summary:

This report seeks a delegated decision to exercise powers under Section 291 of the Highways Act 1980, which enable access across private land, in order to undertake maintenance work at Harrow Street bridge, Shiremoor.

1.2 Recommendation(s):

It is recommended that the Director of Regeneration and Economic Development in consultation with the Cabinet Member for Environment : -

- a) exercises General Delegation GD6 and authorises the use of section 291 of the Highways Act 1980 to gain entry onto land at Harrow Street, Shiremoor by authorised persons and their equipment for the purposes of undertaking repairs to the Harrow Street bridge; and
- b) authorises officers to serve notices on the residents of Harrow Street advising them of the date when authorised persons and equipment will

enter Harrow Street for the purpose of undertaking repairs to the Harrow Street bridge.

1.3 Forward Plan:

It has not been possible to give twenty-eight days' notice of this decision however this item has appeared on the Forward Plan since 4 July 2023 and a decision is sought so that the construction period for essential maintenance work to the Harrow Street bridge can coincide with the planned Metro major line closure on dates in July-August 2023.

1.4 Council Plan and Policy Framework

The proposals in this report relate to the following priority in Our North Tyneside, the Council Plan 2021 to 2025:

- A secure North Tyneside
 - We will continue to invest £2m per year in fixing our roads and pavements

1.5 Information:

1.5.1 Background

The Authority has a statutory duty under the Highways Act 1980 to maintain the adopted highway network within the Borough. The North Tyneside Transport Strategy commits the Authority to ensuring that the highway network is well maintained, including off-road cycling and walking routes, and to maintain its highway network efficiently.

The North Tyneside Highway Asset Management Plan (HAMP) sets out how the Authority applies asset management principles to the management of its highway infrastructure, including bridges and structures, and seeks to make the best use of its resources to maintain the highway asset for its residents, businesses and visitors.

1.5.2 Harrow Street bridge proposals

Harrow Street bridge ("the bridge") is a pedestrian bridge which spans the Metro line and links Harrow Street and Ford Crescent in Shiremoor. Essential maintenance work is required to the bridge and this is anticipated to include concrete repairs and replacement of the bridge parapets.

Nexus, the operator of the Metro system, is to implement a major line closure or 'blockade' on dates in July–August 2023. It is proposed that during this period of closure of the line an opportunity will be taken by the Authority to carry out essential maintenance work to the bridge.

The only practical route for authorised persons to access the bridge with the equipment required to undertake this essential maintenance is from the north side of the Metro line via an unoccupied grassed area adjacent to residential housing at Harrow Street. Whilst the Authority maintains the grassed area, it is not adopted highway and much of it consists of land which is not registered with HM Land Registry and for which definitive ownership information is not available. It is not land that is owned by the Authority.

As stated above, to enable the maintenance work to proceed, it is proposed that the Authority, as the Highway Authority, should exercise its powers under section 291 of the Highways Act 1980 and enter the land adjacent to Harrow Street. Under section 291 of the Highways Act 1980 the Authority cannot demand admission as of right to land which is occupied, unless 7 days' notice of the intended entry has been given to the occupier.

There are two grassed areas in Harrow Street that will be accessed. The first is a long strip of grass running down the centre of Harrow Street. This land is unoccupied and therefore no notices need to be served under section 291 of the Highways Act 1980. The second piece of land is a triangular piece of grassed land approximately 122 square yards in size at the south end of Harrow Street adjacent to the bridge. This piece of land is in private ownership. The owner of the land has let it to the Authority under a rolling Tenancy Agreement. The Authority is permitted to occupy that area of land provided the land is kept tidy and in a proper state of repair, and that no buildings are erected on the land. The Authority can therefore utilise its rights under the Tenancy Agreement to use the land in order to gain access to the bridge.

1.5.3 Engagement with directly affected properties

Residents of directly affected properties are to be given notice by letter explaining the planned works and the reasons why these are to be carried out. Although there is no legal obligation to do this under the Highways Act 1980, given the proximity of the land to their homes it is only right and proper that such notice is given. Insofar as the land which the Authority occupies through a Tenancy Agreement, the landlord will be advised of the activities that will be

undertaken on that piece of land and will receive an assurance that the terms of the Tenancy Agreement in relation to the need to keep the land in good condition will be adhered to.

The Cabinet Member for Environment has been updated on the proposals.

1.6 Decision options:

The following decision options are available for consideration by the Director of Regeneration and Economic Development:

Option 1

To approve the recommendations as set out in paragraph 1.2 above.

Option 2

Not to approve the recommendations as set out in paragraph 1.2 above.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

The proposals will enable the Authority to access Harrow Street bridge in order to carry out essential maintenance to the structure.

1.8 Appendices:

Appendix 1 Equality Impact Assessment



Equality Impact
Assessment_Harrow S

1.9 Contact officers:

Mark Newlands, Senior Manager – Highways and Infrastructure, 0191 643 6129

John Cram, Integrated Transport Officer, 0191 643 6122

Amar Hassan, Principal Accountant, Investment (Capital) and Revenue,
0191 643 5747

1.10 Background information:

- (1) North East Transport Plan
- (2) North Tyneside Transport Strategy
- (3) North Tyneside Highway Asset Management Plan (HAMP)
- (4) Highways Act 1980

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

Funding to implement the proposal is available from the Local Transport Plan (LTP) 2023/24 Highway Maintenance capital budget.

2.2 Legal

The Director of Regeneration and Economic Development can authorise persons and equipment to enter land adjacent to Harrow Street under section 291 of the Highways Act 1980, by exercising general delegation 6 - GD 6 - which states that a Director is authorised: -

“To take decisions on behalf of the Authority on all matters where they have managerial or professional responsibilities for their service areas. A summary of the scope of the Assistant Chief Executive/each Director of Service’s responsibility is set out at the beginning of each service area’s section in the scheme.”

Included in the Director of Regeneration and Economic Development’s management responsibilities is “Transport (Engineering Services)” which would include the use of section 291 of the Highways Act 1980 to repair a footbridge.

By virtue of section 9D of the Local Government Act 2000 any function of the Authority is the responsibility of the Executive unless there is a contrary intention expressed in legislation. There is nothing in the Highways Act 1980 or the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 that indicate that the exercise of powers under section 291 of the Highways Act 1980 should not be a matter for an officer delegated executive decision.

2.3 Consultation/community engagement

2.3.1 Internal consultation

Internal consultation has involved the Cabinet Member for Environment and the Director of Regeneration and Economic Development.

2.3.2 Community engagement

Residents of directly affected properties are to be contacted as described in section 1.5.3.

2.4 Human rights

Any human rights implications must be balanced against the duty that the Authority has to provide a safe highway for people to use. It is not considered that the exercising of powers under Section 291 of the Highways Act 1980 will have a negative impact on individuals' human rights.

2.5 Equalities and diversity

An Equality Impact Assessment for the scheme has been undertaken and is attached as Appendix 1 to this report. Actions are specified to reduce the potential negative impact relating to access arrangements during construction work.

2.6 Risk management

There are no risk management implications arising directly from this report. Strategic and operational risks associated with transport matters are assessed via the established corporate process.

2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability

There are potential positive implications in that the proposals will maintain a pedestrian bridge for continued use and therefore contribute to supporting the use of more sustainable modes of transport in preference to car use.

PART 3 - SIGN OFF

- Chief Executive X
- Director of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Assistant Chief Executive X