

SCOTTISH BORDERS COUNCIL PETITIONS AND DEPUTATIONS COMMITTEE

MINUTES of Meeting of the PETITIONS
AND DEPUTATIONS COMMITTEE held in
the Council Chamber, Council Headquarters,
Newtown St Boswells, TD6 0SA on Tuesday,
1 March, 2016 at 10.00 am

Present:- Councillors A. J. Nicol (Chairman), S. Bell, D. Parker, D. Paterson,
J. Torrance and T. Weatherston.

Also Present:- Councillors S. Aitchison and J. Mitchell.

In Attendance:- Depute Chief Executive (Place), Clerk to the Council, Democratic Services
Officer (F. Walling).

Petitioner:- Mr J. Williams

1. **MINUTE**

There had been circulated copies of the Minute of 10 December 2015.

DECISION

APPROVED and signed by the Chairman.

2. **THE PETITIONS PROCEDURE**

There had been circulated copies of an extract from the Scottish Borders Council Petitions Procedure which set out the process to be followed at the meeting.

DECISION

NOTED.

3.1 **HERIOT'S ACCESS TO PUBLIC TRANSPORT HAS BEEN CONSIDERABLY
WORSENER BY THE RAILWAY AND THE SUBSEQUENT UNDERPASS.**

There had been circulated copies of a petition, submitted to the Council on 15 February 2016, entitled 'Heriot's access to public transport has been considerably worsened by the Railway and the subsequent underpass'. The form was accompanied by 58 signatures in total and a chain of emails relevant to the issues raised. There had also been circulated copies of a briefing note by the Depute Chief Executive (Place) which was in response to the petition. The Chairman gave a welcome to Mr John Williams to present the petition and to Philip Barr (Depute Chief Executive - Place), David Richardson (Asset Manager) and Colin Ovens (Infrastructure Manager) from the Council.

3.2 A statement within the petition explained that Heriot village had been subjected to the worst disruption of any community along the entire railway line during the line's construction. The original access between the village and the A7 had been closed and a new road for vehicles built about half a mile away. The only pedestrian access to the A7 and bus stops was via the new underpass which was not considered fit for purpose. It was causing enormous problems for all users but mainly the elderly and school children, particularly during severe weather. As there was no cover on the underpass access, rain cascaded down the steps causing flooding. The steps themselves were permanently water filled. In freezing conditions the steps and ramp were treacherous and became impossible to negotiate. The petition called for the Council to take responsibility for

maintaining pedestrian access to public transport. Prior to submission of the petition Heriot Community Council had attempted to resolve the outstanding issues with BAM, Network Rail, Transport Scotland and Scottish Borders Council. Local Councillors and local MSPs had also been lobbied and Cabinet Secretary for Infrastructure, Keith Brown, had also visited to look at the site along with other outstanding issues affecting Heriot caused by the construction of the railway. It was understood that maintenance of the underpass would rest with Scottish Borders Council.

- 3.3. On being invited by the Chairman to address the Committee, Mr Williams explained that he was representing Mrs Sinclair-Hood who had organised the petition and who was a resident and Heriot Community Councillor. Mrs Sinclair-Hood and her husband regularly used the underpass and had both slipped and fallen recently when conditions underfoot had been icy. Mr Williams referred to the long dispute with the Council reflected by the chain of emails of correspondence between Heriot CC and Mr Philip Barr (Depute Chief Executive – Place) which was attached to the petition. These were in particular about winter service levels for the location and the fact that, although the new road layout into Heriot would continue to be included within the Council's primary salting network, primary treatment service could not be provided to the new underpass. As was the case in other areas that did not receive primary treatment, the Council would provide salt bins to allow self-help for the community. Mr Williams circulated photographs at the meeting which showed the steps and total ramp area covered with ice. Although local volunteers would lend a hand in very severe weather, he questioned how the Council could expect elderly residents to regularly clear the ramp before using it. Even if salted in the morning, the ramp and steps could be frozen again by evening. He explained that the school bus dropped off children on the other side of the underpass, leaving them to negotiate the flooded or icy conditions underfoot. Mr Williams believed that the underpass had been badly constructed, a view supported by an experienced architect and put to Network Rail and Transport Scotland. There was a failure of the water bar construction resulting in leakage of water into the underpass; the design of the ramp did not follow standard recommendations in the Design Manual for Roads and Bridges (DMRB) TD 36/93 regarding the provision of crossfall and side gutters; and there were lips on the steps which held water resulting in frozen surfaces. Mr Williams said that he understood that Scottish Borders Council needed to take a pragmatic approach to the provision of winter service but did not see how the underpass could be equated with a footpath. He also questioned why it was, when gritter lorries passed either side of the underpass, that Council staff could not leave the lorry and treat the underpass and steps.
- 3.4 Members welcomed the petition and expressed sympathy with the issues raised. In response to a request for clarification about the main request within the petition Mr Williams confirmed that, although the community was unhappy about other issues such as lighting on the A7, the major concern was the underpass and steps. He confirmed that it was the community's contention that there were inherent faults in the design of the underpass and that it was accepted that responsibility for maintenance of the underpass, which was owned by Network Rail, should not be taken by Scottish Borders Council until it was compliant with DMRB specifications. In response to a question about general use of the ramp in normal weather conditions Mr Williams said it was very long (about 40 m) and would only be used by pedestrians if absolutely necessary.
- 3.5 A response to the petition was given by Mr Barr. He advised that there had been robust discussions with BAM and Network Rail in order to resolve outstanding issues prior to Scottish Borders Council taking over maintenance of the underpass. An update had now been received in writing from BAM of a satisfactory outcome in terms of the water issues. Remedial work for the prevention of standing water, drainage channels and pumping arrangements all appeared to have been successful. However these measures had not yet been tested to optimum level. Mr Barr was aware that the ramp was tediously long but this was determined by the maximum degree of slope permitted to meet DDA requirements. Although the underpass would remain in the ownership of Network Rail, once outstanding works were completed, the Council would take over maintenance. This

would include landscaping and the provision of salt bins. Mr Barr went on to give further details on the Council's approach to winter maintenance. He explained that there were about 800 kilometres of pathways in the Borders, only 20% of which received salting due to their location in areas of heavy use. Officers had reviewed the policy around treatment of rural areas ensuring that when assessing Heriot, fairness and consistency had been applied. They had confirmed that there were insufficient resources available to provide primary treatment in the vicinity of the new underpass. However there were ongoing discussions about setting up a resilient community in Heriot and support would be provided in the form of training, equipment and materials to assist the community. The Council currently provided over 1000 salt bins across the region in areas where it did not provide primary treatment. Additional salt bin provision at the underpass would give a further self-help facility for the community during extreme winter weather.

- 3.6 Questions from Mr Williams and Members of the Committee were answered by the officers. Confirmation was given that in the event of heavy snowfall the Council's priority was to keep major roads open. However, eventually work would be carried out by the Council to clear other routes and this would include the underpass if it was blocked with snow. Further information was given about the Council's winter service. There were 28 primary routes in the Borders which had been agreed by Council. All the primary routes were designated for salting pre-treatment. No footways came into this category. With regard to the determination of whether infrastructure along the railway was at a suitable standard to be taken over for maintenance by the Council, it was explained that there was a four stage audit culminating in a joint sign-off between the Council, BAM and Network Rail. With respect to the underpass there still needed to be a full exercise to ensure that the pumps were working. With regard to the steps, it was understood that the problem of standing water had been resolved by BAM by filling in the surface of each step behind the lip. Mr Barr emphasised that he could not advocate the driver of a gritter passing either end of the underpass to stop in order to treat this area for reasons of logistics as well as safety. There were further questions about the nature and size of the underpass which was recognised by Members as being a massive piece of urban infrastructure in a rural environment. A question was asked as to whether a roof over the steps would solve the problems but this was not seen to be practical nor appropriate in this location. Officers confirmed that, although there were about 20 underpasses in the Borders, there were no others located in a rural area. The Council had been asked to carry out maintenance of the underpass at Heriot on behalf of Network Rail as it was so remote. In response to a question as to whether the Council had an option not to take it over Mr Barr advised that the contract was being checked by the Council's legal team.
- 3.7 In the ensuing discussion Members were concerned that, from the evidence put forward, it was still unclear as to whether the ramp was compliant with required technical standards. It was imperative that these checks be made before sign-off. Officers were also asked to check whether there were any outstanding planning conditions in respect of the underpass that had not been met. With regard to winter service provision, there was unanimous agreement from Members that the Council's approach must be fair and consistent across the Borders in both urban and rural areas, and that a precedent could not be set in Heriot by providing a special service. Members gave examples of locations within their Wards which could be treacherous in icy conditions, such as steps between different street levels and in the vicinity of Residential Care Homes. In all these areas the Council did not have the resources to provide the winter services requested by the community. Instead salt bins were provided for self-help groups. Members valued the work of resilient communities in this respect and hoped that Heriot would continue their efforts to form their own resilient community. Members were of the opinion, however, that there was an unusual situation at Heriot which could be regarded as exceptional; where the rural location and design of this underpass, which could be considered alien in the environment, was unlike any other underpass in the Borders. The underpass needed to be fit for purpose. It was suggested that it required an exceptional level of winter treatment which did not comply with the Council's winter service policy. As such, Network

Rail should either provide the winter service required or be asked to pay the Council to provide this. It was agreed that this was the approach that should be taken by officers.

- 3.8 On behalf of Members of the Committee, the Chairman thanked Mr Williams for his attendance and presentation of the petition, and Mr Barr and officers for their helpful contribution. Mr Williams thanked the Committee and asked that Heriot CC be kept informed of the progress of negotiations.

DECISION

- (a) **NOTED the petition.**
- (b) **AGREED that, in respect of the underpass at Heriot, to request the Depute Chief Executive (Place) to:-**
 - (i) **ensure through negotiations with Network Rail/BAM that, before sign-off, the structure complied with all relevant technical standards and was fit for purpose, including consideration of whether it would be feasible to place a roof over the steps;**
 - (ii) **check that all planning conditions had been met;**
 - (iii) **inform Network Rail/BAM that the underpass required an exceptional level of winter service provision that did not comply with the Council's policy;**
 - (iv) **ask Network Rail to either provide the winter service required for the underpass themselves or agree to make payment to the Council to provide this level of service; and**
 - (v) **keep Heriot Community Council informed of progress of negotiations.**

4. PETITION CONSIDERED INADMISSIBLE

There had been circulated copies of a briefing note by the Clerk to the Council advising the Committee of the non-acceptance of a petition received in support of the siting of a 3G Pitch at Victoria Park, Peebles. A statement within the form explained that the petition had been raised in response to a recent petition against the siting of a 3G pitch at Victoria Park. The note explained that the petition was received on 29 December 2015. The Executive Committee had agreed at its meeting on 29 September 2015 that Victoria Park was the preferred location for a 3G synthetic pitch in Peebles. Within the terms of the Petitions Procedure agreed at Council, petitions would not be accepted which 'relate to a decision made by the Council or a committee during the preceding six months'. After acknowledging receipt of the petition a detailed letter was therefore written to the Principal Petitioner on 27 January 2016 advising that the petition could not be accepted for consideration by the Petitions and Deputations Committee at this time.

**DECISION
NOTED.**

The meeting concluded at 11.15 am