ASHBY CANAL RESTORATION SNARESTONE TO MEASHAM – PROPOSED TRANSPORT AND WORKS ACT ORDER

REPORT OF THE DIRECTOR OF COMMUNITY SERVICES

Purpose of Report

1. To seek:
   a) Approval to the draft Transport and Works Act (TWA) Order to enable the proposals for the restoration of the Ashby Canal between Snarestone and Measham being submitted to the Secretary of State for the Environment, Food and Rural Affairs; and
   b) Authority for the completion of the proposed Promotion and Connection and Management Agreements with British Waterways.

Recommendations

2. a) To approve the draft proposed Transport and Works Act Order for submission to the Secretary of State;
   b) That the Promotion and Connection and Management Agreements with British Waterways be agreed and that the County Solicitor be authorised to complete these agreements;
   c) To note that upon completion of the agreements with British Waterways the application process will be commenced; and
   d) Following submission of the application the County Council be recommended to confirm the authority's intention of making the application and that the Chief Executive be authorised to publish a special notice of the holding of the Council meeting in accordance with Section 239 of the Local Government Act of 1972.
**Reasons For Recommendations**

3. 
   a) To bring about the restoration of the Ashby Canal;
   b) To recognise the position of British Waterways as a partner in the restoration of the Ashby Canal and to avoid the need to include any British Waterways land in the draft TWA Order;
   c) To ensure the authority’s proper officer is given appropriate powers; and

**Previous Decisions**

4. The Resources Subcommittee at its meeting on 2nd February 1999 resolved to apply for a Transport and Works Act Order for the extension of the Ashby Canal, subject to the Director of Property negotiating terms with Ideal Country Homes (Measham) Ltd (ICHM) for them to indemnify the County Council against the short term cost of acquiring any statutory blighted properties.

5. The County Council at its meeting on 30th June 1999 subsequently confirmed the decision to proceed with the order.

**Timetable for Decisions including Scrutiny**

6. A decision by Cabinet in February would then be followed by a recommendation to the County Council, at the first opportunity after submission of the Order, to confirm its earlier resolution to proceed with an application for a Transport and Works Act Order. Following publication of the Order, consultees will have a minimum six weeks to make objections. The Secretary of State will hold a Public Inquiry if objections cannot be overcome. Such an Inquiry can be anticipated some six months after the publication of the Order.

**Resources Implications**

7. The financial implications of the Order include the application costs, which are approximately £44,000. This amount has already been deposited with the Government following a successful fund-raising exercise within the partnership supporting the application. The costs of any public inquiry (if necessary) will be met from Environment Action Budget.

8. The intervention of time, adjustments to the scheme to meet environmental and land owners concerns and our own experience of construction at Moira have led to revised estimates of construction and purchase costs. The current estimate of costs for this stretch is £10m (including all purchase, construction and compensation costs).
9. In line with the practice adopted for the re-creation of other stretches of the canal, as soon as implementation became a practical possibility then funding was sought. It is now proposed to start seeking partnership contributions from the submission date of the TWA Order. Possible funding partners include EMDA/LSEP, Heritage Lottery Fund, New Opportunities Fund, The Coalfield Regeneration Trust, The Waterways Trust, Local Businesses, Ashby Canal Association, Measham Development Trust etc. A limited amount of match funding from the County Council may be required to trigger grant. However, as a result of the indemnity agreement with ICHM that has now been signed the Authority is protected from blight claims and will be in a position to make a final decision as to whether to proceed with the scheme after the process of assessing grant offers (both capital and revenue support) has been completed.

10. In the long term it is the intention that British Waterways will manage the canal as part of the national canal network. Such a step would allow efficiencies and benefits for the canal user and management arrangements. However, we can anticipate that British Waterways will expect its costs, after income, to be covered.

11. The Director of Resources has been consulted on the Resource Implications section of this report.

12. This report has been prepared in consultation with the County Solicitor.

Circulation Under Sensitive Issues Procedure

Mr. S.D. Sheahan 27th January 2003

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PART B

Background

13. Copies of the draft proposed TWA Order and Side and Connection Agreements are attached to this report. The Order generally is based on the model provisions provided by the government with amendments to suit the circumstances of the canal and to reflect the negotiations with British Waterways. The canal as shown on Appendix A is to follow the original route to just north of the Gilwiskaw Brook, then cross agricultural land to the abandoned Midland Railway. It will follow the line of the old railway through Measham, and over Measham High Street on an aqueduct before returning to a canal basin on the original canal line.

14. In detail the powers sought include:

- Power to construct a new canal including bridges.
- Power to make a junction with the existing Ashby Canal (by the draft TWA Order and the Connection and Management Agreement with British Waterways).
- Powers of compulsory acquisition of land, and to take land temporarily for working sites and maintenance.
- Powers to carry out subsidiary works including those relating to embankments, sewers and watercourses.
- Powers to stop up streets temporarily.
- Powers to close temporarily or divert streets.
- Powers to operate and manage the new canal.
- Provisions relating to water resources.

Deemed outline planning permission

The works will include construction of:
- earthworks,
- lining and filling with water of 4500m of canal:
- stop lock, to separate the canal from the existing navigable waterway.
- works relating to water resources
- accommodation bridges
- two aqueducts
- highway bridge

Plus associated works and facilities to provide a navigable inland waterway from the current terminus of the Ashby Canal to Measham

15. Following the decision to proceed with the restoration proposal by use of a Transport and Works Act Order there have been two principal issues for your officers to resolve:

a) Negotiations with British Waterways regarding the connection to the existing Ashby Canal and thereby the rest of the National Canal Network; and

b) The impact of the proposed extension on the existing SSSI which is designated on the top 6 miles of the existing Ashby Canal between
Carlton Bridge and Snarestone and also on the proposed SSSI and candidate Special Area of Conservation (under the European Habitats Directive) along the Gilwiskaw Brook and River Mease.

16. **British Waterways.** British Waterways has strong support for the proposal and long term aspirations to draw the extension into the national network. However, it has also, quite rightly been anxious to ensure it protects its own interests and to that end has asked for various protections which have led to:
   a) the inclusion of a stop lock at the connection point, with water in the extension 200 mm higher than that in the existing canal
   b) various protective clauses should the extension fail at some stage;
   c) clarity regarding any obligations that may exist from the original Act of Parliament of 1804 and the closure Acts of 1957 and 1966;
   d) the appointment of Parliamentary Agents to assist it in negotiating a connection agreement, side order and triggering clause. We have therefore also felt that we should similarly be represented and regrettable this has meant a long communication chain causing inevitable delays; and
   e) an agreement to the clauses contained within the proposed TWA Order.

17. **English Nature** has been concerned about the extent of impact that there will be on the existing SSSI at the top end of the existing Ashby Canal as a result of additional boats using the canal once it is extended as far as Measham. This has led to the requirement of significant monitoring work that is being carried out by the County Council such that the ecology of the canal is now one of the best understood in the country. The recent designation of the River Mease and Gilwiskaw Brook as a candidate Special Area of Conservation under the European Habitats Directive has led to a further obligation for research and monitoring work. Your officers are now confident that there is a graduated approach that the County Council can take to this issue that will both ensure that the regeneration benefits will accrue to the local economy and also that ecological interest is both protected and enhanced, thus meeting the County Council's nature conservation obligations under the Countryside and Rights of Way Act 2000. However it is possible that English Nature, which is a statutory consultee, will object and therefore the issue will need to be determined by the Secretary of State through a Public Inquiry.

18. The “Blight” Agreement with Ideal Country Homes (Measham) Ltd has now been completed. This agreement is designed to reduce the capital burden on the Council until funding is available for the whole scheme.

**Equal Opportunities Implications**

19. The restoration of the Ashby Canal will continue the process of regeneration for Measham and Snarestone with widespread benefits for employment and quality of life. Provision of the waterway will improve
general access into this part of the National Forest and the towing path will provide a level route providing improved accessibility for all users.

20. Completion of the restoration of the Ashby Canal to Measham will meet the principal objectives set in the Ashby Canal Project Strategy, published in 1995. This would leave a gap of 2.8 miles between Measham and the stretch of canal that has already been completed between Donisthorpe and Moira. This is shown on Appendix B as section 3. Whilst the initial feasibility study showed this to be technically feasible (the principal challenges being construction under the A42 and the degree of differential subsidence in the area), there is no commitment by the County Council to construct this stretch of the canal. The appropriate time to consider this length of restoration will be when the outcome of the TWA Order application is clear.

**Background Papers**

Report to County Council June 1999  
Ashby Canal Project Strategy – April 1995

**List of Appendices**

Appendix A  Plan: Restoration of the Ashby Canal from Snarestone to Measham  
Appendix B  Plan: Ashby Canal Restoration Stages

Copies of the draft proposed TWA Order and Side and Connection Agreements are attached.