

31st October 2013**Agenda Item: 8****REPORT OF SERVICE DIRECTOR, HIGHWAYS****NOTTINGHAMSHIRE EXPRESS TRANSIT: NOTTINGHAM – TON
EXTENSION, FINANCIAL ASSISTANCE PACKAGE FOR LOCAL TRADERS
AND BUSINESS.****Purpose of the Report**

1. To consider an amendment to the terms relating to the Nottingham Express Transit (NET) Financial Assistance Package available to a number of businesses situated along the route of the Nottingham - Toton line extension and to consider a one off contribution to establish an extreme hardship fund.

Background

2. At the County Council Meeting of 27th January 2011 the authority determined to complete the necessary legal settlement deed to withdraw its support for the NET Line 2 and 3 extensions and as such no longer be joint promoter of the project. It was agreed at Full Council however that despite the withdrawal of County Council support for the project it would enter into a 50% funding arrangement with Nottingham City Council to continue to support an agreed Financial Assistance Package (FAP) designed to support local traders in the Chilwell High Road area during the construction phase of the Tram. This is an exceptional arrangement which acknowledges that the construction would cause significant disruption to local traders. Nottinghamshire County Council has made a budget allocation to cover the anticipated costs associated with the FAP.
3. The terms of the FAP were set out in a report to County Council at its meeting of 22nd February 2007. These terms were prepared following consultation with local traders based on a similar package which was applied during the construction of NET Line 1 in Hyson Green. Evidence as submitted by local traders and residents at the Public Inquiry during November 2007 was influenced by the County Council commitment to support the FAP. The scheme is discretionary and sits outside of the national compensation code which applies to schemes such as the NET extensions.

Terms of the Financial Assistance Package

4. Financial assistance is available to all traders and businesses with a frontage onto Chilwell High Road / Chilwell Road, between the junctions with Middle Street and Bridge Avenue. The area of assistance also includes roads that access from Chilwell High Road /Chilwell Road which do not have alternative access. The area is as defined as shown on the map contained as Appendix 1 to this report.
5. The eligibility rules are the same as those that applied to a similar scheme for the Hyson Green shopping area during the construction of NET Line One. To qualify, businesses need to have a turnover of less than £450,000, which reflects the fact that larger businesses are considered to be better able to cope with the disruption. The scheme provides a contribution to loss of gross profit of between 50% and 70% depending on the size of the business, with the smallest businesses receiving the highest contribution. The maximum annual payment is capped at £13,500 per annum. The scheme operates whilst significant construction works are taking place in the vicinity of the business, and for a 'recovery' period afterwards of one third of the time of the construction works.
6. In taking the decision to progress the scheme, the County Council recognised that the necessary cap on the amount of financial assistance that could be paid could in extreme circumstances lead to some businesses continuing to suffer severe hardship during the construction phase. However, it was considered that a cap must be applied to keep a ceiling on the amount of assistance that can be paid, and it was noted that a business can go out of business for any number of reasons other than being directly related to tram construction works.
7. The scheme is being administered by Bruton Knowles Solicitors on behalf of both NCC and Nottingham City Council with costs (including administrative fees) being split equally between the two authorities.
8. A disturbance fund is also in operation which enables local business to claim for additional costs incurred as a direct result of the construction works. Such costs include additional window cleaning for example. There are currently no proposals to alter this fund.

Financial Assistance Package claims to date

9. The Chilwell Road FAP came into operation on 14th January 2013 following the commencement of utility diversion works in advance of NET construction. It is anticipated that significant works will continue until April 2014, a total period of 63 weeks, giving a total claim period, including recovery period of approximately 84 weeks.
10. To date based on information received from Nottingham City Council 23 businesses have made claims via the FAP with a cost to NCC of approximately £60,000 (including fees) up to the end of September 2013, this at a point almost 45% through the eligible claim period (including the recovery period). Following the introduction of the second phase road closure a number of businesses will be affected to a greater extent than they are at present. It should be noted however that at that time a number of businesses will gain some relief from the works.

Feedback on Financial Assistance Package to date

11. Representatives of the Chilwell Road businesses have put forward arguments that the amount of financial assistance available should be increased and the subject has been discussed at a number of local meetings. Essentially this request is to remove the upper claimable limit of £13,500 per annum.
12. The key point made by traders and advocates of removing the cap relates to the fact that the road works along Chilwell High Road are being carried out using a full road closure rather than the previously anticipated approach of using a one way system. At the 2007 public inquiry it was stated that a one way system would be used though this was caveated as being subject to input from the contractor once appointed.
13. There are operational advantages to employing the full closure, implemented in two phases over the whole length of the High Road in that this approach offers an increased area for shoppers to use the street and are not competing with moving general traffic for space and also that the period to cover the works is reduced. Nevertheless the method of construction does differ from that envisaged by traders during 2007 when negotiations on the FAP were underway.
14. Representatives of local business supported by the Beeston Improvement District (BID) have also put forward the suggestion that an additional Special Hardship Fund be established to complement the FAP which it is suggested will address short term cash flow issues creating hardship that could have a terminal effect on more marginal businesses within the identified FAP area. Essentially these will be the businesses to be considered at most risk of ceasing to trade as a consequence of the works. Based on claims to date and anecdotal evidence from business meetings this number of businesses is not expected to be significant.
15. A specific request has also been received from a local business which is located just outside the identified FAP area which states the works are having such an adverse effect on business that it may be required to cease trading. At present NCC has not had any evidence based information to support this claim.

Reasons for Recommendations

16. It is recognised that the period during the NET extension construction is a worrying one for local business proprietors and the works are having a significant effect upon local business. It is also noted that whilst the road closure has operational advantages it has placed a greater impact upon local traders to manage stock deliveries with suppliers and the works contractors and also has removed all passing traffic. Additionally it may be argued that a full closure has made it more difficult to convey the 'business as usual' message to shoppers and visitors. Despite many initiatives to alleviate the fears and maintain a healthy shopping environment along the High Road there is evidence that a number of smaller businesses in the area are operating at the margins of profitability. This has led to some short term cash flow problems which the FAP has been able to resolve.
17. To address this it is considered appropriate to alter the terms of the FAP to assist smaller businesses. It is also considered appropriate for NCC to contribute equally with Nottingham City Council to establish an additional Extreme Hardship Fund which can be administered by Broxtowe Borough Council and targeted to help those in most need of support during the works.

Statutory and Policy Implications

18. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Comments

19. Based on claims to date received from within the identified Chilwell FAP area it is anticipated that very few businesses are currently expected to go above the £13,500 cap and the risk to NCC incurring inflated costs as a result is unlikely to be significant and will not reach levels which were anticipated during negotiations surrounding the initial development of the FAP.

20. It is intended that the special hardship fund be established from the existing residual land compensation budget held within the Highways division. This can be funded from existing budgets allocated with Highways Division.

RECOMMENDATION/S

1. It is **RECOMMENDED** that
 - a) The Financial Assistance Package upper claim limit of £13,500 per annum is removed.
 - b) Nottinghamshire County Council makes a one off contribution of £25,000 (subject to Nottingham City Council making the same contribution) to establish a Special Hardship Fund to be administered by Broxtowe Borough Council (with the criteria for payments being agreed by both contributing authorities) which will assist business in most need of support within the identified Financial Assistance Package area.

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Constitutional Comments (SHB 21/10/13)

Committee have the power to decide the recommendation

Financial Implications (TMR 21/10/13)

The financial implications are stated in paragraphs 19 and 20 of the report.

Electoral Division and Members Affected

Beeston North
Beeston South & Attenborough
Chilwell & Toton