

AGENDA MANAGEMENT SHEET

Name of Committee

Cabinet

Date of Committee

6th April 2006

Report Title

Railways Act 2005 – Consultation on Provisions on Closures and Minor Modifications

Summary

The Department for Transport has published consultation on the implementation of the Closures and Minor Modifications provisions of the Railways Act 2005. The provisions set out criteria for the possible withdrawal of railway services and closure of railway stations. It is recommended that Cabinet notes the contents of the report and approves the proposed response of the County Council.

For further information please contact

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Would the recommended decision be contrary to the Budget and Policy Framework?

Yes/No

Background Papers

'Consultation on the Implementation of the Railways Act 2005 Provisions on Closures and Modifications', Department for Transport, 2006.

CONSULTATION ALREADY UNDERTAKEN:-

Details to be specified

Other Committees

.....

Local Member(s)

(With brief comments, if appropriate)

.....

Other Elected Members

Councillor K Browne
 Councillor Mrs E Goode
 Councillor Mrs J Lea } for information

Cabinet Member
(Reports to The Cabinet, to be cleared with appropriate Cabinet Member)

Councillor M Heatley – noted

Chief Executive

.....

Legal

I Marriott - agreed

Finance

.....

Other Chief Officers

.....

District Councils

.....

Health Authority

.....

Police

.....

Other Bodies/Individuals

.....

FINAL DECISION

YES/NO (If 'No' complete Suggested Next Steps)

SUGGESTED NEXT STEPS :

Details to be specified

Further consideration by this Committee

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To Council

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To Cabinet

.....

To an O & S Committee

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To an Area Committee

.....

Further Consultation

.....

Cabinet - 6th April 2006

**Railways Act 2005 – Consultation on Provisions on
Closures and Minor Modifications**

**Report of the Strategic Director of
Environment and Economy**

Recommendation

That Cabinet approves the proposed response to the Department for Transport's consultation on the implementation of the Railways Act 2005 Provisions on Closures and Minor Modifications.

1. Introduction

- 1.1 On the 26th January 2006 the Department for Transport (DfT) commenced consultation on the implementation of the Railways Act 2005 Provisions on Closures and Modifications.
- 1.2 The Railways Act 2005 proposed to change the way in which modifications to the rail network are effected. The Railways Act 2005 distinguishes two types of modification, closures and minor modifications, each having its own procedures.
 - (i) 'Closures' involve the loss of a passenger service, a network (or part of one) or a station (or part of one).
 - (ii) 'Minor modifications' involve lesser change, such as removing railway equipment or the relocation of a station structure.
- 1.3 Under the Railway Act 2005, a Rail Funding Authority (RFA), such as DfT or Centro, a train operating company such as Chiltern Railways or network operating company such as Network Rail, can propose a closure. Detailed proposals can be found within the consultation document, but in short DfT is proposing for rail facility closures the following will apply:-
 - (i) All alternatives must be considered.

(ii) A full consultation must take place, including with passenger groups; as well as passenger impact (both now and in the future), the Government's five Objectives for transport - environment, safety, economy, accessibility and integration - and the resulting benefits/costs must be considered.

(iii) In contrast with the current closure procedures where the Secretary of State determines closure proposals, the independent Office of Rail Regulation must determine whether the proposal meets the criteria set out in the published guidance.

1.4 The Railways Act 2005 outlines what changes to the network may be eligible to be treated as minor modifications. Minor modifications may be determined by the Secretary of State. Essentially, minor modifications to the network are operationally sensible changes which are shown to have no substantive effect on rail users' experience of the railway. As such, the Act exempts them from the closure process described above. However, minor modifications are to be notified to the Office of Rail Regulation. The DfT initially proposes the following:-

(i) The proposed closure of parts of a rail network other than track, for example the shortening of a platform or the removal of signalling equipment.

(ii) The proposed closure of a part of a station in circumstances where it is deemed not necessary for the provision of railway passenger services, for example the closure of toilets or removal of platform canopies.

1.5 A copy of the 'Consultation on the Implementation of the Railways Act 2005 Provisions on Closures and Modifications' will be made available in each of the Party Group rooms. A copy can be made available to Members on request and it can also be found at:

http://www.dft.gov.uk/stellent/groups/dft_railways/documents/page/dft_railways_611064.pdf.

2. Possible Implications for Warwickshire

2.1 It is recommended that the County Council respond to this consultation as it is very likely that any closure process that is agreed may be used by the DfT to secure the closure of Polesworth station. Of equal relevance is that the West Midlands Route Utilisation Strategy, which is the main DfT rail policy document, included detail of the twenty least used stations in the West Midlands. Eleven of these are in Warwickshire and therefore may be at risk from closure in the future.

3. Proposed Response

- 3.1 It is proposed, subject to the approval of the Cabinet, that a consultation response in the form of the draft attached as **Appendix A** be made to the DfT.
- 3.2 In summary, the County Council's response to the DfT makes the following points:-
- (i) The County Council has made substantial investment in providing improved rail facilities and continues to place a high priority on rail in delivering its transport policy.
 - (ii) The County Council acknowledges a closure process is appropriate in some circumstances.
 - (iii) There are substantial aspects of the proposed process about which the County Council has grave concerns.
 - (iv) The County Council is specifically concerned that:-
 - (a) There is a lack of clarity regarding the role of the various organisations involved in the closure process.
 - (b) There is undue weight given to the monetised indicators in comparison with the other, non-monetised, parts of the appraisal.
 - (c) Although costs must be taken into account, railways fulfil a wider social and sustainability agenda that must be taken into account when appraising them, even though they may not necessarily be quantifiable.
 - (d) The appraisal will be based on costs from figures provided by commercial companies with commercial agendas, such as Network Rail.
 - (e) The guidance proposes the use of the closure as the base case.
 - (v) Railways are an important part of an integrated transport system and it is essential that the planning and delivery is undertaken within the same structure as other modes.
 - (vi) The County Council is aware of the criticisms levelled at the guidance by others, in particular transport economists, in relation to the example appraisal calculation presented in the draft guidance.

- (vii) The definition of minor modifications must be clear and beyond dispute. It is currently open to a range of interpretations.
- (viii) The County Council is concerned that the shortening of platforms is being proposed as a minor modification.

JOHN DEEGAN
Strategic Director of Environment and Economy
Shire Hall
Warwick

23rd March 2006

Cabinet - 6th April 2006

Railways Act 2005 – Consultation on Provisions on Closures and Minor Modifications

Implementation of the Railways Act 2005 Provisions on Closures and Modifications

Draft Consultation Response

The County Council appreciates the opportunity to comment on the Railways Act 2005 provisions on closures and modifications. The County Council has made substantial investment in providing improved rail facilities and continues to place a high priority on rail in delivering its transport policy.

The overall trend in the numbers of rail passengers in Warwickshire is one of sustained growth with rail travel becoming increasingly important. Commuting and business travel to the West Midlands Conurbation and Coventry form a substantial element of rail travel in the County for people from a wide range of socio-economic groups. In some communities in Warwickshire, trains provide essential 'socially necessary services' as rail is the only form of regular public transport. There is also significant use of rail for commuting and business travel to London and the South East. Rail journeys for retail, leisure and social activities are also growing. The County Council is very concerned that more effort is being made to revise the procedures for closing railway lines and stations than is going into increasing accessibility and sustainable modes of transport through new railway stations and expansion of the network and associated services.

In light of this the County Council has included Policy PRS 3 in its Local Transport Plan. This states that "The County Council will seek the retention of existing levels of service and of existing stations".

The County Council acknowledges a closure process is appropriate in some circumstances and appreciates the efforts to create transparency in the draft closure process guidance. However, there are substantial aspects of the proposed process about which the County Council has grave concerns.

Accordingly the County Council's responses to the questions in the draft document are as follows:

Question 1. Do you agree that the objective test to be contained in the guidance should relate only to the rail funding authority's calculation of the quantifiable benefits and costs of closure? The ORR would review this assessment only.

The County Council is concerned that there is a lack of clarity regarding the role of the various organisations involved in the closure process. Clarification is needed regarding

whether the Office of Rail Regulation (ORR) will act as an economic regulator or a consumer regulator protecting current and potential customer interests. The Department for Transport (DfT) appears to have overall control of the closure process as it sets the original Passenger Service Requirements (PSRs) and subsequent revisions to them. In addition, it may also benefit from a closure through a saving made in subsidy provision. The County Council believes it is not appropriate that the responsibility for closures should be passed to a third party when all elements of control, responsibility and financial and policy incentives rest with the DfT.

The County Council feels there is undue weight given to the monetised indicators in comparison with the other, non-monetised, parts of the overall appraisal. The railways should be considered in the context of meeting the wider Government transport policies and targets on the environment, the economy and accessibility and not just cost. This is entirely appropriate as the rail industry is essentially a non-commercial activity as it is in receipt of large amounts of public funding. Unless the railway is delivering these policies, the payment of this level of subsidy appears inappropriate.

There is also concern that Benefit Cost Ratio (BCR) values will be based on costs from figures provided by Network Rail (NR) and the Train Operating Companies (TOCs). NR and TOCs will need to be accountable for their assessment of costs and benefits. Clearly, on some occasions, NR or a TOC will have a vested interest in promoting a closure and therefore it is absolutely essential that the costs and benefits are subject to independent analysis.

The County Council believes that if the ORR will not be judging non-monetised costs and benefits, then asking Rail Funding Authorities (RFAs) to consider them in the closure process seems to be no more than a token gesture. The County Council believes that if the ORR is to review the RFA's assessment of closure ORR, then it should consider all aspects.

In respect of the ORR's review process, it appears premature to comment since it is yet to issue its guidance. If the ORR is to review the RFA's assessment of closure, then it must do so in a robust and transparent manner producing a public report of the process undertaken.

Question 2. Do you agree that the funding authority should retain a broad discretion not to pursue a closure, but should only be permitted to make a closure where quantifiable benefits exceed the quantifiable costs to a defined value?

Railways are an important part of an integrated transport system and it is essential that the planning and delivery is undertaken within the same structure as other modes. Currently there is a significant degree of inconsistency between parties within the rail industry and the activities of local authorities which are charged with the delivery of the Government's transport policy. It makes sense for all transportation authorities, including local authorities, to have a more substantive role on commenting on closures within its boundary.

It is noted that important benefits under the Accessibility and Integration objectives, such as option values and contribution to wider Government policy will probably be excluded. For such benefits to be fully represented and taken into account it is

important that substantial involvement from the local authorities affected by the closure takes place since they could be responsible for delivering and funding any alternative to meet social inclusion and accessibility criteria, for which they will be assessed by Government under the Local Transport Plan (LTP).

There is an ambiguity regarding the role of RFA. Paragraph 5 mentions that 'where a train or network operating company proposes a closure, a *view* on whether it should be brought into effect must be taken by the rail funding authority'. It is essential that the RFA's approval should be a specific requirement of the closure process. It is concerning that NR and TOCS, which are not publicly accountable and have commercial objectives, and therefore a potential bias in the inclusion or exclusion of social benefits, will be making proposals for closure and will not be required at any stage to secure the approval of any publicly accountable body.

The County Council believes that there is an over reliance on thresholds and the monetised impacts. Although costs must be taken into account, railways fulfil a wider social and sustainability agenda that must be taken into account when appraising them even though they may not necessarily be quantifiable. The calculation of BCRs is not precise and has limitations and should, therefore, be no more than an approximate guide.

The choice of a decision criterion of a BCR not greater than 1.5 for a closure to be considered does not appear to be warranted as it is used in a different context in relation to funding new schemes. and nowhere is there any justification given for the choice of the threshold. In the DfT guidance on value for money (Page 4, paras 12-14) the rationale for choosing 1.5 as the threshold for investment decisions is in order to allow for the distortionary cost of raising funds to pay for a scheme. Hence a £10 million costed scheme might actually cost greater than £10 million to fund and consequently the level of benefits required to prove the value for money case should be increased accordingly. The VFM guidance alludes to the principle of the Social Opportunity Cost of Exchequer Funds which, while not in the current guidance, is reflected by a financial constraint on HM Treasury funding that results in a BCR of 1.5 being chosen as the VFM threshold. As there is no Treasury funding requirement associated with the closure approval there is no associated justification for choosing 1.5 as the VFM threshold. A clearer assessment would be to consider the monetary costs and benefits in relation to a BCR threshold of 1.0, after which non-monetised benefits would be taken into account.

The County Council does not agree with the DfT's assertion that, in relation to Option Values, there is little robust evidence that could be used to present a monetised benefit or disbenefit for inclusion in the appraisal. This does not take into account that one of the two studies quoted in Webtag Unit 3.6.1, relating to the Option Value Sub-objective, relates to the retention of the Settle-Carlisle rail service for which monetary values were estimated. The same Webtag unit refers to an unpublished Office of Passenger Rail Franchising (OPRAF) report, which also presumably relates to option values for rail service and station closures. The use of a qualitative alternative in the Webtag guidance could lead to the use of sequential testing for non-monetary appraisal objectives. For example, if a closure proposal results in a "strong adverse" qualitative score for any of a number of important criteria (for example option value, wider government policy integration, etc) it could be possible to reject the proposal on these grounds before undertaking the BCR appraisal.

Question 3. Do you agree that the guidance should be based on the same methodology and same monetary values that are used to appraise new projects? If not, what changes would you suggest? And what would you see as the justification for these?

The County Council acknowledges that the approach advocated for the appraisal is a robust one, in relation to transport scheme evaluation, but should acknowledge that there may be a number of limitations to its use in this context.

The approach proposed in the draft guidance is based on a method derived for the justification of investment in new infrastructure, originally for highway schemes but adapted and developed for public transport improvements. There are major differences in the rationale, costs and benefit estimation for introducing a new asset and realising any benefits or costs of removing an asset. As noted in the report (page 6, para 9), many of the branch lines closed in the Beeching era have subsequently failed to meet value for money criteria for reinstatement, despite significant changes in potential demand. This suggests it is a lot simpler and easier to remove railway infrastructure than it is to build new or even to reintroduce what was once in place. There is therefore an underlying difference between the relative calculations of costs and benefits for the two cases.

It is recognised that some form of clear assessment is needed to ensure transparency. The adoption of a New Approach to Appraisal (NATA) method provides a standardised and well understood format. However, recent guidance from DfT on the appraisal of major schemes for new assets and investment recognises the importance of other criteria not clearly quantified under a NATA approach, for example:

- Major Scheme Business Case (MSBC) guidance relating to the Strategic Case for investment;
- Clear statement of the financial and commercial impacts, and beneficiaries, as in the MSBC guidance; and
- Consideration of the wider economic and “productivity” impacts for a scheme, as recommended for Transport Innovation Fund bids.

Many of the strategic benefits will be difficult to quantify, which will be less likely to influence the closure decision than monetised impacts, according to the draft guidance. However, it is these strategic benefits that are particularly important for accessibility, social inclusion, liveability and the environment. The guidance allows for little account to be taken of the importance of public transport for strategic and sub-regional connectivity away from the main city-region centres.

It is interesting to note that the DfT draft guidance includes no reference at all to social inclusion and no indication of how to incorporate social costs and benefits into the closure appraisal.

Within current arrangements for transport infrastructure investment outside London there is a requirement for strategic, regional prioritisation of major schemes, in line with the Regional Funding Allocations (RFAs). It is important to note that any alternative

public transport scheme that is recommended to replace a station or line closure will need to be considered against this prioritisation. This assumes that the alternative option is likely to exceed the £5million major scheme threshold and may affect more than one local authority. The guidance does not allow for any imperative for alternatives to be funded, or for any involvement of the Regional Transport Boards or other funding partners in securing the required investment.

There appears to be a gap between the financial cost benefits that may be realised by a closure and the social and community impacts arising from a reduction in service or accessibility. There is no indication of how alternatives will be funded and if the reduction in rail subsidy, which is assumed in the case of a closure on the grounds of the cost:benefit ratio, will allow a contribution from DfT to the cost of alternative public transport provision. Indeed, since '*all alternatives must be considered*', which could conclude that improved or new services and facilities should be provided, the DfT should provide a commitment to fund the capital and revenue costs of the enhancements. The result of a closure is likely to be lower rail industry and Government subsidy costs. However, it will be the local communities that will suffer a reduction in accessibility with potentially no available funding at the local level to provide alternatives.

The County Council is concerned that the guidance proposes the use of the closure as the base case. Traditionally in scheme appraisals the base case would be a "do-minimum" baseline condition, assumed to have a lower cost than any "do-something" options. However, this may not be the case if the closure option is considered as the base case. Furthermore, the base case condition is generally viewed as robust as in most instances it extrapolates from current conditions. By considering the closure as the base case all other options are being compared against a baseline that requires assumptions made about how it may affect trip making. This places an added level of uncertainty in relation to the valuation of alternatives. Furthermore, it means that there is no requirement to test any of the alternative scenarios against the existing case of retention.

The guidance goes further to say that using 'retention' as the comparator would complicate the application and interpretation of the value for money criteria but does not expand on this to say why this would be so.

For the consideration of alternatives there is no ability in the guidance to consider incremental cost benefit appraisal where step changes in provision may be possible solutions. Under the guidance each individual station closure should in theory be subject to its own appraisal before considering the future of a whole line or group of stations. This may lead to a very different solution to the one proposed.

Taking such an approach would allow a clearer and more logical assessment of the merits or otherwise of appropriate alternatives to full closure. It would also indicate if the base case closure option should be considered at all in that there may be a clearly better alternative (dominance). It is also noted that the principle of dominance is covered in major scheme business case guidance in requiring a test of the next best or low cost alternative to the same degree as the proposed scheme. This is not the case for a proposed closure. As the DfT point out the appraisal is a pass/fail test of closure versus retention and the future decision for usage of the line should be taken separately.

The County Council is aware of the criticisms levelled at the guidance by others, in particular transport economists, in relation to the example appraisal calculation presented in the draft guidance. In agreeing with the comments made in letters to Local Transport Today we would also point out that some of the inconsistencies contained in the example may illustrate the difficulties that arise from setting the closure as the base case.

It is not clear if the full costs of closure, including the management, consultation and development costs for subsequent alternatives, are to be included. Specifically sunk costs are not included.

There is an assumption that any journey made by a different mode following closure will do so on the basis of an increase in generalised cost and that the full impact of this change can be valued as a disbenefit in relation to the closure option appraisal. However, the guidance suggests that passengers who no longer make the same journey do so because the decision to travel is more finely balanced and that the rule of half should apply. This seems to ignore the possibility that the change in generalised cost is so great that it may not be possible for that particular journey to be made (particularly so for non-car available trips). It also seems contrary to the approach that is taken when introducing new public transport infrastructure when the decongestion effects of trips transferring from road should be shown not to induce previously suppressed trips.

The County Council believes that situations which produce, for instance, a 2 minute saving for 10,000 people but also a journey time increase of one hour for 50 people, show a benefit whereas the actual reality is somewhat different. An extra two minutes for someone is of very low value, however large increases in journey time can make travelling unsustainable for those involved.

The guidance suggests that the appraisal period over which discounted benefits and costs should be appraised may be flexible and dependent on future renewal programmes. However, this will make it difficult to compare schemes on a like for like basis and should be reviewed in respect of any alternative scenarios chosen for comparison against a closure and retention. A standard 60 year appraisal for all options an schemes, acknowledging renewal costs as appropriate, is preferred.

Question 4. Do consultees agree in principle with any or all of the proposed descriptions of closures eligible to be treated as a minor modification, or do you have any other comments?

The definition of minor modifications must be clear and beyond dispute. It is currently open to a range of interpretations. The County Council would wish to see a public report, published by the Secretary of State, once a minor modification has been approved which would demonstrate why the 'operationally sensible changes' are shown to have 'no substantive effect' or rail users' experience. This would include benefits and justification for any minor modification.

Without prejudice to the generality of the above comment, specifically the County Council is concerned that the shortening of platforms is being proposed as a minor

modification. A reduction in platform length has long lasting effects on the rail network as the range of trains that could call at a station could be reduced.

Question 5. Do consultees agree with the criteria that underpin each of the proposed descriptions of closures eligible to be treated as a minor modification?

The County Council considers the criteria appropriate.

Question 6. Consultees are invited to consider if the Secretary of State and Scottish Ministers should set down measures to define whether the closure of a facility may be progressed as a minor modification? For example, should there be maximum distances that facilities such as waiting rooms, footbridges or ticket offices may be moved? What other, or alternative, measures might be specified?

The County Council considers it appropriate that there should specific measures to define the boundaries and scope of closures that are progressed as a minor modification. These measures should be clear and beyond dispute.

Question 7. Do consultees have any suggestions for other descriptions of minor closures of railway facilities used in connection with passenger services that could be taken forward as a minor modification?

The County Council does not have any suggestions for other descriptions of minor closures of railway facilities that could be taken forward as a minor modification.