

**REPORT TO:** Council

**DATE:** 12 October 2016

**REPORTING OFFICER:** Operational Director – Legal & Democratic Services

**PORTFOLIO:** Transportation

**SUBJECT:** Mersey Gateway Bridge – Byelaws pursuant to the River Mersey (Mersey Gateway Bridge) Order 2011 (as amended)

**WARD:** N/A

## **1.0 EXECUTIVE SUMMARY**

1.1 This report asks the Council to approve and make a set of byelaws pursuant to Article 40 of the River Mersey (Mersey Gateway Bridge) Order 2011 (“2011 Order”) to regulate the use and operation of the new crossing, the maintenance of order on and about the new crossing and the conduct of all persons while on and about the new crossing, including the liability for the payment of tolls to use the new bridge.

## **2.0 RECOMMENDATION: The Council is recommended to:**

- 1) approve and make the byelaws in the form appended to this report at Appendices 1 and 2;**
- 2) confirm that the stakeholder engagement exercise carried out by the Mersey Gateway Crossings Board in relation to the byelaws and described in paras 3.4 to 3.5 (inc) is sufficient and no further consultation is required;**
- 3) authorise the Operational Director, Legal & Democratic Services, to take all necessary steps under Article 40 of the 2011 Order (including publication of the notice of making) that must be carried out before the byelaws are submitted to the Secretary of State for Transport for confirmation; and**
- 4) if no objections to the byelaws are received within 28 days the notice of making being published, authorise the Operational Director, Legal and Democratic Services, to submit the byelaws to the Secretary of State for Transport for confirmation; or**

- 5) if objections to the byelaws are received, direct that the Operational Director, Legal and Democratic Services, brings a further report to Council to consider the objections received.**

### **3.0 BACKGROUND**

- 3.1 Article 40 of the 2011 Order authorises the Council to make and enforce byelaws for the regulation of the use and operation of the Mersey Gateway Bridge (MGB), the maintenance of order on and about the MGB and the conduct of all persons, including employees of the bridge operating company, while on and about the MGB. Byelaws made under this Article 40 may not come into operation until they have been confirmed by the Secretary of State.
- 3.2 The plans at Appendix 2 shows the area over which the byelaws will be operative and have effect.
- 3.3 The draft byelaws have been prepared by the Mersey Gateway Crossings Board Ltd (MGCB) in accordance with Article 40 and are appended to this report at Appendix 1. The principle issues that the byelaws will regulate are:
- 3.3.1 Traffic generally on the MGB and the approaches;
  - 3.3.2 Dangerous traffic;
  - 3.3.3 Excluded traffic and types of vehicles subject to special controls;
  - 3.3.4 Tolls (including payment and enforcement);
  - 3.3.5 Prevention of damage and nuisance;
  - 3.3.6 Closure of the MGB;
  - 3.3.7 Penalties for contravention of the byelaws.
- 3.4 There is no requirement in the 2011 Order to carry out consultation before byelaws are made under it (unlike other general legislation that authorises the making of byelaws) but MGCB has, as a matter of best practice, liaised with Merseylink in the formulation of the draft byelaws and sought the views of a number of key local stakeholders on the content of the draft byelaws in June 2016. The MGCB have also engaged in dialogue with the Department for Transport during the development of the draft byelaws.
- 3.5 As a result of this stakeholder engagement, minor amendments have been made to the draft byelaws.
- 3.6 The following have been contacted in relation to the draft byelaws and account of their comments has been incorporated as appropriate into the draft byelaws:
- 1. Halton Borough Transport

2. Cheshire Fire and Rescue Service
3. Network Rail
4. Peel Group
5. Peel Ports Group
6. Halton Borough Council
7. Arriva North West
8. Cheshire Police
9. North West Ambulance Service
10. Warrington Borough Council
11. Knowsley Council
12. Mersey Travel
13. Freight Transport Association
14. Road Hauliers Association

#### **4.0 NEXT STEPS**

4.1 For the byelaws to come into effect, a procedural process as set out in Article 40 of the 2011 Order must now be followed:

4.1.1 the Council must formally make and seal the byelaws;

4.1.2 a notice must be published of the making of the byelaws, giving a period of not less than 28 days in which anyone affected by the byelaws can make representations to the Secretary of State about them (see paragraph 4.3 below);

4.1.3 during the 28 day period, a copy of the byelaws must be available for inspection by the public, free of charge, at the Council's principal office during normal opening hours; and

4.1.4. if requested to do so (and on payment of a reasonable fee, if levied) the Council must provide a copy of the byelaws to any person.

4.2 Once the steps in paragraph 4.1 have been completed, the Council can submit the byelaws to the Secretary of State for confirmation. The Secretary of State may confirm the byelaws with or without modifications (and in full or part) and is likely to set a date that the byelaws will come into effect. If no date is set, the effective date will be 28 days after the byelaws are confirmed. It will be important for the Council to make representations to the Secretary of State at the time of submission about the effective date, to ensure that the byelaws are in force when the MGB becomes operational. Note, it is possible that the Secretary of State may refuse to confirm the byelaws. In this instance, the reasons for the refusal will be explained to the Council and be taken into account in the reformulation of the byelaws for re-submission to the Secretary of State.

4.3 The notice referred to in paragraph 4.1.2 above must be published in the following manner which has been agreed with the Secretary of State:

- publication in the London Gazette;

- publication in two newspapers circulating locally;
- publication on the Council and project web sites; and
- publication on the Council's public notices board/and on the Halton Direct Links.

## **5.0 RESOURCE IMPLICATIONS**

The MGCB will meet the resource implications associated with these statutory procedures.

## **6.0 RISK**

Without the byelaws in place, there will be no legal authority to regulate and control the conduct of traffic and persons using the MGB and to ensure that order is maintained in the operation of the crossing. The Council would also be in breach of a term in its contract with Merseylink.

## **7.0 EQUALITY AND DIVERSITY**

There are no implications for equality and diversity relating to the making of byelaws as they will apply to all who are to use the MGB.

## **8.0 CONCLUSION**

In light of the information contained in this report, the Council is recommended to make the confirmation and resolutions detailed at section 2.0 of this Report.

## **9.0 BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

None.