

**Report to the Chief Officer (Highways and Transportation)**

**Date: 02 September 2014**

**Subject: Design & Cost Report for Minor S278 Highways works – for a KFC drive-thru restaurant, on the Cardigan Fields Leisure Site, Off Kirkstall Road, Burley, Leeds**

**Capital Scheme Number: 32103**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Kirkstall	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

- 1 Planning permission for a KFC drive-thru restaurant on a former overflow car park on the Cardigan Fields Leisure Complex Site, off Kirkstall Road, Burley, was granted approval (reference 13/00626/FU) in 2013.
- 2 Alterations are proposed to the highway to facilitate and protect safe access and exit for staff, customers and large delivery/refuse vehicles, including introduction of 'No Waiting at Any Time', 'Loading Only' and 'No Entry' traffic restrictions on the adjacent roads, as well as providing improved pedestrian and cycle links adjacent and to the site.
- 3 The Developer is required to enter a Minor Section 278 Agreement (Highways Act 1980) in order to create the accesses and deliver the required highway works, whereby the developer designs and implements the work and the Council checks the design and inspects the construction to be built to a satisfactory level and has the power to intervene for road safety reasons. This report seeks authority to negotiate terms and enter such Agreement. The total estimated cost of checking and inspecting the scheme will be £10,000 and £6,000 will be incurred for TRO costs.

## **Recommendations**

- 4 The Chief Officer (Highways and Transportation) is requested to:
- i) note the highway works as outlined in Section 3.1 and indicated on drawing reference: T198E-9000 Rev D;
  - ii) give authority to negotiate the terms of and enter into a minor agreement with the developer under the provisions of Section 278 of the Highways Act 1980, whereby the works associated with the development are carried out by the Developer at the full cost of the developer, and the design checked and construction inspected by the Council (with the power to intervene if necessary);
  - iii) give authority to implement the works as set out in Section 3.1;
  - iv) approve an injection of £16,000 into the City Development Department Capital Programme comprising £10,000 staff fees to check and inspect the highway works, and £6,000 to prepare, advertise, make and seal the TRO, all to be fully funded by the developer;
  - v) give authority to incur expenditure of £10,000 staff costs and £6,000 legal costs, all to be fully rechargeable to the developer from a Section 278 agreement;
  - vi) instruct the City Solicitor to draft and advertise two TROS (Traffic Regulation Orders) for the introduction of No Waiting at Any Time and loading restrictions and the prohibition of motor vehicles (no left turn) except for cycles restriction as indicated on drawing no. T198E-9000 Rev D and if no valid objections are received to make, seal and implement the Orders as advertised; and
  - vii) give authority to increase the adopted highway boundary area to that shown on drawing ref. T198E-9000 Rev D.

### **1 Purpose of this report**

- 1.1 The purpose of this report is to note the principle of the implementation of highway works associated with a KFC drive-thru restaurant on a former overflow car park on the Cardigan Fields Leisure Complex Site, off Kirkstall Road, Burley, was granted approval (reference 13/00626/FU) in 2013.
- 1.2 To obtain authority to negotiate the terms of and enter into an agreement under the provisions of Section 278 of the Highways Act 1980, whereby the associated highway works are designed and carried out by the developer, with the Council checking the design and inspecting the works.

### **2 Background information**

- 2.1 Planning permission for a KFC drive-thru restaurant on a former overflow car park on the Cardigan Fields Leisure Complex Site, off Kirkstall Road, Burley, was granted approval (reference 13/00626/FU) in 2013. The alterations proposed to the highway provide for access to the KFC to be gained via a main leisure complex

access whilst retaining the one-way system around the site to control egress and manage other traffic.

2.2 The works are shown on the attached plans reference: T198E-9000 Rev D.

2.3 To meet the requirements of the planning permission the applicant has requested that Leeds City Council, as Highway Authority, enters into a Section 278 Agreement to enable the highway works to be carried out.

### **3 Main issues**

#### **3.1 Design Proposals and Full Scheme Description.**

3.1.1 The proposals within this report are concerned only with entering into a S278 Agreement for the delivery of the highway works, the principle of these works having been considered as part of the planning process.

3.1.2 The highway works will consist of the following:

- Build out and access alterations on the adjacent highway to facilitate two-way access back onto the Cardigan Fields site area after entering/leaving the KFC site access including a no-left turn ban (except cyclists) from the site access and visibility splay and junction radii improvements, while permitting two-way access for cyclists on the adjacent access road;
- Construction of a large vehicle lay-by on the adjacent highway for deliveries to the KFC restaurant;
- Dropped kerbs and tactile paving for improved pedestrian crossing facilities on accesses and junctions in the vicinity of the site;
- All associated Civil's works including (inter alia) signs, TRO restrictions, road resurfacing, road markings and drainage where required; and
- Any Statutory undertakers works resulting from the works described above.

Plans of the works are attached, reference: T198E-9000 Rev D.

3.1.3 It is proposed that the developer will enter a Minor Section 278 Agreement with the Council whereby the developer, acting as the Council's agent, will design, procure and construct the works at their expense with the council design checking and inspecting the construction of the works with step in rights should safety concerns arise. The Council will prepare, advertise, make and seal the Traffic Regulation Orders.

3.1.4 Section 278 of the Highways Act 1980 allows Highways Authorities to enter into agreements with developers for the execution of highway works at the developer's expense. The preconditions for an agreement under Section 278 of the Highways Act 1980 are, first, that the Highway Authority should be satisfied that it will be of benefit to the public to enter into an agreement for the execution of the works and,

secondly, that the work must fall within the Highway Authority's powers of road building, improvement and maintenance.

3.1.5 The developer will be dedicating land to facilitate the works and they have given their approval for the works to take place on their land.

3.2 **Programme** - The design and construction of the works will be carried out within the 2014/2015 programme by the developer.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 Ward Members: Ward Members were consulted by email dated 08 July 2014; no objections have been received to date.

4.1.2 Emergency Services and Metro (WYPTE): The Emergency Services and Metro were consulted email dated 08 July 2014; no objections have been received to date.

4.1.3 Internal consultation has taken place with colleagues in the Highways and Transportation Services as part of the design process. Comments have been taken into account and the design has changed to suit.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 A screening document has been prepared and is attached as Appendix 1 to this report. The screening process confirmed that an independent impact assessment was not required for the approvals requested.

4.2.2 The proposals will provide an improved site access arrangement to the site and will positively impact all users of the highway network. In particular, vulnerable road users such as those with mobility issues / disabilities and the elderly, young and Carers (prams and wheelchairs) will be aided by providing tactile paving/dropped kerbs at crossing points and a diversion of a footway on the preferred pedestrian desire line over the northern exit access road.

### **4.3 Council policies and City Priorities**

4.3.1 The proposed highway works which allow the development to take place accord with the Councils Local Transport Plan and other policies in that they provide a safe means of access for all users of the highway, to and around, the development.

### **4.4 Resources and value for money**

4.4.1 **Full scheme estimate** The total estimated cost is £16,000, comprising £10,000 staff fees for design checking and construction inspecting costs, and £6,000 costs to prepare, advertised, make and seal the TROs, all to be fully funded by the developer via a Minor Section 278 agreement.

#### **4.4.2 Capital Funding and Cash Flow.**

Funding Approval :		Capital Section Reference Number :-						
Previous total Authority to Spend on this scheme	TOTAL	TO MARCH	FORECAST					
	£000's	2013 £000's	2013/14 £000's	2014/15 £000's	2015/16 £000's	2016/17 £000's	2017 on £000's	
LAND (1)	0.0							
CONSTRUCTION (3)	0.0							
FURN & EQPT (5)	0.0							
DESIGN FEES (6)	0.0							
OTHER COSTS (7)	0.0							
<b>TOTALS</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	
Authority to Spend required for this Approval		TOTAL	TO MARCH	FORECAST				
		£000's	2013 £000's	2013/14 £000's	2014/15 £000's	2015/16 £000's	2016/17 £000's	2017 on £000's
LAND (1)	0.0							
CONSTRUCTION (3)	0.0							
FURN & EQPT (5)	0.0							
DESIGN FEES (6)	10.0				10.0			
OTHER COSTS (7)	6.0				6.0			
<b>TOTALS</b>	<b>16.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>16.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
Total overall Funding (As per latest Capital Programme)		TOTAL	TO MARCH	FORECAST				
		£000's	2013 £000's	2013/14 £000's	2014/15 £000's	2015/16 £000's	2016/17 £000's	2017 on £000's
LCC Supported Borrowing	0.0							
Revenue Contribution	0.0							
Capital Receipt	0.0							
Insurance Receipt	0.0							
Lottery	0.0							
Gifts / Bequests / Trusts	0.0							
European Grant	0.0							
Health Authority	0.0							
School Fundraising	0.0							
Private Sector	0.0							
Section 106 / 278	16.0				16.0			
Government Grant - LTP /TSG	0.0							
SCE ( C )	0.0							
SCE ( R )	0.0							
Departmental USB	0.0							
Corporate USB	0.0							
Any Other Income ( Specify)	0.0							
<b>Total Funding</b>	<b>16.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>16.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>Balance / Shortfall =</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

#### 4.5 Legal Implications, Access to Information and Call In

4.5.1 The works are exempt from call in being a consequence of and in pursuance of a regulatory decision.

#### 4.6 Risk Management

4.6.1 The Council's standard Minor Section 278 agreement will be used whereby the developer will fund the total cost of the works to create the modified site access. A bond will be held by the Council against default by the developer.

### 5 Conclusions

5.1 The scheme is intended to facilitate and protect safe access and exit for staff, customers and large delivery/refuse vehicles, including introduction of 'No Waiting at Any Time', 'Loading Only' and 'No Entry' traffic restrictions on the adjacent roads, as well as providing improved pedestrian and cycle links adjacent and to the site.

5.2 This report seeks authority to enter into a Minor S278 Agreement for the agreed highway works.

## **6 Recommendations**

6.1 The Chief Officer (Highways and Transportation) is requested to:

- i) note the highway works as outlined in Section 3.1 and indicated on drawing reference: T198E-9000 Rev D;
- ii) give authority to negotiate the terms of and enter into a minor agreement with the developer under the provisions of Section 278 of the Highways Act 1980, whereby the works associated with the development are carried out by the Developer at the full cost of the developer, and the design checked and construction inspected by the Council (with the power to intervene if necessary);
- iii) give authority to implement the works as set out in Section 3.1;
- iv) approve an injection of £16,000 into the City Development Department Capital Programme comprising £10,000 staff fees to check and inspect the highway works, and £6,000 to prepare, advertise, make and seal the TRO, all to be fully funded by the developer;
- v) give authority to incur expenditure of £10,000 staff costs and £6,000 legal costs, all to be fully rechargeable to the developer from a Section 278 agreement;
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- vii) give authority to increase the adopted highway boundary area to that shown on drawing ref. T198E-9000 Rev D.

## **7.0 Background documents<sup>1</sup>**

7.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

# Appendix 1

## Equality, Diversity, Cohesion and Integration Screening



As a public authority we need to ensure that all our strategies, policies, service and functions, both current and proposed have given proper consideration to equality, diversity, cohesion and integration.

A **screening** process can help judge relevance and provides a record of both the **process** and **decision**. Screening should be a short, sharp exercise that determines relevance for all new and revised strategies, policies, services and functions. Completed at the earliest opportunity it will help to determine:

- the relevance of proposals and decisions to equality, diversity, cohesion and integration.
- whether or not equality, diversity, cohesion and integration is being/has already been considered, and
- whether or not it is necessary to carry out an impact assessment.

<b>Directorate:</b> City Development	<b>Service area:</b> Transport Development Services
<b>Lead person:</b> Gillian MacLeod	<b>Contact number:</b> 39 51341

<p><b>1. Title:</b> Design &amp; Cost Report for S278 Process Report</p>
<p>Is this a:</p> <p> <input checked="" type="checkbox"/> <b>Strategy / Policy</b>                                          <input type="checkbox"/> <b>Service / Function</b>                                          <input type="checkbox"/> <b>Other</b> </p> <p><b>If other, please specify:</b></p>

<p><b>2. Please provide a brief description of what you are screening</b></p>
<p>This screening report relates to the way in which highway works for the benefit of third parties will be dealt with under the provisions of Section 278 of the Highways Act 1980, including the collection of commuted sum payments for future maintenance.</p> <p>This report is considered with process and not with the delivery of any individual S278 agreement. The S278 process is only applicable where third parties are proposing to fund highway works. The process provides a mechanism for the funding, of the design, construction and maintenance of those works either by the Proposer (for minor works) or by Leeds City Council (for more major works). There</p>

are no significant impacts on matters of equality, diversity, cohesion or integration in relation to the process to be followed.

The principle of whether the S278 works are appropriate or not (or will impact on matters of equality, diversity, cohesion or integration) are dealt with through the planning process (if the S278 agreement is the result of a planning application) or through an individual approach and report to the Highways Authority.

### 3. Relevance to equality, diversity, cohesion and integration

All the council's strategies/policies, services/functions affect service users, employees or the wider community – city wide or more local. These will also have a greater/lesser relevance to equality, diversity, cohesion and integration.

The following questions will help you to identify how relevant your proposals are.

When considering these questions think about age, carers, disability, gender reassignment, race, religion or belief, sex, sexual orientation and any other relevant characteristics (for example socio-economic status, social class, income, unemployment, residential location or family background and education or skills levels).

Questions	Yes	No
Is there an existing or likely differential impact for the different equality characteristics?		x
Have there been or likely to be any public concerns about the policy or proposal?		x
Could the proposal affect how our services, commissioning or procurement activities are organised, provided, located and by whom?		x
Could the proposal affect our workforce or employment practices?		x
Does the proposal involve or will it have an impact on <ul style="list-style-type: none"> <li>• Eliminating unlawful discrimination, victimisation and harassment</li> <li>• Advancing equality of opportunity</li> <li>• Fostering good relations</li> </ul>		x

If you have answered **no** to the questions above please complete **sections 6 and 7**

If you have answered **yes** to any of the above and;

- Believe you have already considered the impact on equality, diversity, cohesion and integration within your proposal please go to **section 4**.
- Are not already considering the impact on equality, diversity, cohesion and integration within your proposal please go to **section 5**.

### 4. Considering the impact on equality, diversity, cohesion and integration

If you can demonstrate you have considered how your proposals impact on equality, diversity, cohesion and integration you have carried out an impact assessment.



Please provide specific details for all three areas below (use the prompts for guidance).

- **How have you considered equality, diversity, cohesion and integration?**  
(think about the scope of the proposal, who is likely to be affected, equality related information, gaps in information and plans to address, consultation and engagement activities (taken place or planned) with those likely to be affected)  
  
N/A
- **Key findings**  
(think about any potential positive and negative impact on different equality characteristics, potential to promote strong and positive relationships between groups, potential to bring groups/communities into increased contact with each other, perception that the proposal could benefit one group at the expense of another)  
  
N/A
- **Actions**  
(think about how you will promote positive impact and remove/ reduce negative impact)  
  
N/A

**5. If you are not already considering the impact on equality, diversity, cohesion and integration you will need to carry out an impact assessment.**

Date to scope and plan your impact assessment:	
Date to complete your impact assessment	
Lead person for your impact assessment (Include name and job title)	

**6. Governance, ownership and approval**  
Please state here who has approved the actions and outcomes of the screening

Name	Job title	Date
Gillian Macleod	Transport Development Services Manager	24 August 2012

**7. Publishing**  
This screening document will act as evidence that due regard to equality and diversity has been given. If you are not carrying out an independent impact assessment the screening document will need to be published.  
  
Please send a copy to the Equality Team for publishing

<b>Date screening completed</b>	24 August 2012
<b>Date sent to Equality Team</b>	24 August 2012
<b>Date published</b> (To be completed by the Equality Team)	