

Agenda Item: 3502/2014

Report author: Neil Chamberlain

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Report to Chief Officer (Highways and Transportation)

Date: 23 December 2014

Subject: Design & Cost Report for S278 Works Associated with the Development of

a Wind Farm on land at Hook Moor, Micklefield, Leeds 25

Scheme Number: 16988 / 000 / 000

Are specific electoral Wards affected?		☐ No
If relevant, name(s) of Ward(s): Garforth & Swillington, Harewood, Kippax & Methley		
Are there implications for equality and diversity and cohesion and integration?	☐ Yes	⊠ No
Is the decision eligible for Call-In?	☐ Yes	⊠ No
Does the report contain confidential or exempt information?	☐ Yes	⊠ No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of main issues

- As a result of planning permission being granted for the development of a Wind Farm on land located at Hook Moor, Micklefield, Leeds 25, off-site highway works are required to enable the development to proceed.
- The Developer will need to enter a Section 278 Agreement (Highways Act 1980), whereby the off-site highway works are carried out by the City Council at the developer's cost.
- This report seeks authority to negotiate terms and enter such Agreement for the highway works, to complete the detailed design and construct the works.

Recommendations

- 4 The Chief Highways Officer is requested to:
 - i) note the highway works as outlined in Section 3.1 and indicated on Leeds City Council Drawing Number EP/716988/01/01 at an estimated cost of £152,650.
 - ii) give authority to negotiate the terms of and enter into an agreement with the landowner/developer under the provisions of Section 278 of the Highways Act 1980; whereby the works associated with the development are carried out by this Council at the cost of the developer; subject to conditions

- precedent matters (associated with the planning permission), land ownership and landowner approval issues being fully resolved;
- iii) give authority to implement the works as set out in Section 3.1, subject to the approval of any necessary planning conditions and the negotiation of an acceptable Section 278 Legal Agreement;
- iv) approve an injection of £152,650 into the City Development Capital Programme; and
- v) give authority to incur expenditure of £128,291 works costs and £24,359 staff costs, to be fully funded by a developer per a Section 278 legal agreement.

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 the development of a Wind Farm on land located at Hook Moor, Micklefield, Leeds 25 (planning application reference: 08/01118/FU).
- 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 carried out by Leeds City Council at the expense of the developer.
- 1.3 To approve an injection into the City Development Capital Programme to be fully funded by the developer, and give authority to incur expenditure associated with the implementation of highway works associated with the development.

2 Background information

- 2.1 A planning application for the erection of 5 wind turbines on land located at Hook Moor, Micklefield, Leeds 25 (planning ref: 08/01118/FU) was refused planning permission by Leeds City Council on 4 August 2009. The applicant subsequently submitted an appeal against this decision and a Public Inquiry was held on 19th October 2010, overseen by an Inspector appointed by the Secretary of State for Communities and Local Government. The appeal was subsequently dismissed via a decision dated 15 November 2010.
- 2.2 However, the decision on the appeal was challenged by the applicant and the Planning Inspectorate concluded that the Inspector had erred in law by failing to take account of the renewable energy targets set in the then-live Yorkshire & Humber Regional Spatial Strategy. Consequently, the original decision was remitted back to the Planning Inspectorate and a further Public Inquiry was held on 11 October 2011. This time, the appeal was allowed and planning permission for the development was granted via a decision letter dated 9 December 2011.
- 2.3 The development has a lifespan of no later than 25 years after the first generation of electricity from the development to the electricity grid. The planning permission includes a requirement for the developer to fund the implementation of off-site highway works to facilitate the abnormal load vehicle movements within the local road network during the construction and decommissioning phases of the development. The proposed highway works are shown indicatively on the

- attached plan referenced Leeds City Council Drawing Number EP/716988/01/01 and are detailed in Section 3.1.
- 2.4 The Schedule of Conditions included in the Inspector's decision letter also requires the applicant to submit a Decommissioning and Site Restoration Scheme no later than 3 years before the expiry of the planning permission. The Scheme is required to secure the removal of the turbines and all other elements of the development and site restoration measures. Accordingly, any required traffic management measures to facilitate abnormal load movements during the decommissioning phase and removal of any redundant overrun areas thereafter will be dealt with by the Decommissioning and Site Restoration Scheme.
- 2.5 The Planning Case Officer has advised that there are a number of conditions precedent attached to the wind farm consent that will need to be discharged/approved before any of the agreed S278 works are commenced on the ground. Should the S278 works be started on site prior to receiving LCC approval for all of the remaining conditions precedent, the Case Officer has indicated that this would make the entire development unlawful.
- 2.6 There are also land ownership issues to be resolved and approval from the landowner for the highway works to be carried out on the land has still to be satisfactorily clarified.
- 2.7 In the light of the above, the applicant has been informed that the S278 Legal Agreement will not be signed/entered into until the conditions precedent, land ownership and landowner approval issues have been fully resolved.
- 2.8 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 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.
- 3.1.2 The proposals within this report are concerned only with the delivery of the highway works, the principle of these works having being considered and accepted as part of the planning process.
- 3.1.3 The highway works are required to facilitate the movement of abnormal load deliveries during the construction phase of the development. The proposed works comprise:
 - Reconstruction of the site junction where it joins Collier Lane. The works will
 include new carriageway and footway construction along with an overrun area
 for abnormal loads bounded by a temporary footway.

- Topsoil and seed each side of the reconstructed entrance to tie into the existing ground.
- Construction of an overrun area for abnormal loads at the M1/A642 roundabout (opposite the eastbound slip road exit).
- A temporary Traffic Regulation Order to reduce the speed limit on the B1217 Aberford Road/Collier Lane to 40mph for the duration of the construction period.
- Installation of temporary traffic lights on Collier Lane in the vicinity of the site access.
- Any works reasonably required following safety audits of the design and construction of the highway works.
- All associated civils works, including (inter alia) reconstruction, tie-ins, resurfacing, lighting, signing, drainage and lining works etc.
- Any associated statutory undertakers works resulting from the works.
- 3.1.4 As part of the design process various options have been considered for the signalisation of the junction at the entrance of the site in order to fulfil the requirements in the planning conditions. The resultant design includes for temporary mobile signals. These will be put into place whilst abnormal loads are being manoeuvred into the site. They will be operated by a specialist TM contractor employed by the developer and are to be operated in conjunction with the abnormal load escort company. The signals will be removed once each abnormal load has safely gained access to the site.
- 3.1.5 The proposed works are shown indicatively on the attached Leeds City Council Drawing Number EP/716988/01/01.
- 3.1.6 Design Services have been responsible for the detailed design. The developer at their own risk has paid an advanced abortive fee to Design Services who have undertaken the majority of the detailed design process in advance of a S278 Agreement being signed.
- 3.1.7 Safety Audits and Maintenance Audits are to be carried out as part of the detailed design process. The S278 Agreement will ensure that Safety Audits form part of the design process, and any appropriate works arising out of the audits are implemented at the developer's expense.
- 3.1.8 The S278 agreement will include the standard commuted sums for future maintenance of the Works.
- 3.2 **Programme** It is envisaged that the design and construction of the works will be carried out in the 2014/2015 financial year.
- 4 Corporate Considerations
- 4.1 Consultation and Engagement

- 4.1.1 Ward Members: The proposed highway works and extent of the development site affect three Ward Areas. Accordingly, Members of Garforth & Swillington, Harewood and Kippax & Methley Wards were consulted by email with an accompanying letter and plans on 15 August 2014. At the time of writing this report no comments have been received from Ward Members.
- 4.1.2 Emergency Services and Metro (WYPTE): The Emergency Services and Metro were consulted by email with accompanying letters and plans on 15 August 2014. At the time of writing this report no responses have been received from the Emergency Services.
- 4.1.3 The Highways Agency was consulted by email with an accompanying letter and plan on 15th August 2014. The HA responded with a request for additional information in the form of a drawing showing the swept path analysis for the abnormal load vehicle as it exits the east (northbound) exit slip road at M1 Junction 47. This information has been supplied to the HA and they have since confirmed that the proposals should not adversely affect the HA maintained asset. They have also confirmed that no approvals will be required from them for any of the works in question.
- 4.1.4 A letter-drop exercise has recently been carried out by Design Services to advise nearby residences of the proposed highway works. Lotherton Hall has also been informed of the proposals. At the time of writing this report no responses/comments have been received from the residences or Lotherton Hall.
- 4.1.5 The following service areas have been consulted: Finance, Traffic, Environmental Studies, Transport Policy, Road Safety, Street Lighting, Contracts, Bridges, Flood Risk Management, UTMC, Highway Design, Highway Maintenance, Highway Asset Management and Network Management.
- 4.1.6 Two of the internal consultees have provided substantive responses to the proposals and the issues raised will be addressed as part of the detailed design process.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An EDCI Impact Assessment has been prepared for the Section 278 Process and is attached as Appendix 1. The assessment confirmed that the consideration given to the highway proposals as part of the planning application process addressed the impact of the proposals in terms of equality, diversity, cohesion and integration and that a separate screening or impact assessment was not required for the approvals requested for each individual S278 Agreement.

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 The total estimated costs for this scheme are £152,650 comprising £128,291 works costs and £24,359 staff fees.

4.5 Capital Funding and Cash Flow.

- 4.5.1 Funding: The developer will fund the total cost of the works, including the works costs, statutory undertakers costs and the cost of staff fees.
- 4.5.2 Staffing: The design and supervision of the works can be carried out within the existing staff resources.

Funding Approval :	Capital S	Section Refer	ence Nu	mber :-			
Previous total Authority	TOTAL	TO MARCH	H FORECAST				
to Spend on this scheme		2014	2014/15	2015/16	2016/17	2017/18	2018 on
	£000's	£000's	£000's	£000's	£000's	£000's	£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						
TOTALS	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Authority to Spend	TOTAL	TO MARCH			ORECAS		
	IOIAL		2044/45		2016/17		2040
required for this Approval	COOOL-	2014					
L A N ID (4)	£000's	£000's	£000's	£000's	£000's	£000's	£000's
LAND (1)	0.0		400.0				
CONSTRUCTION (3)	128.3		128.3				
FURN & EQPT (5)	0.0		24.4				
DESIGN FEES (6)	24.4		24.4				
OTHER COSTS (7)	0.0	0.0	450.7				0.0
TOTALS	152.7	0.0	152.7	0.0	0.0	0.0	0.0
Total overall Funding	TOTAL	TO MARCH			ORECAS	т	
(As per latest Capital	IOIAL	2014	2014/15		2016/17		2018 on
Programme)	£000's	£000's	£000's	£000's	£000's	£000's	£000's
rogramme)	2000 3	2000 3	2000 3	2000 3	2000 3	2000 3	2000 3
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	152.7		152.7				
Government Grant	0.0						
SCE(C)	0.0						
SCE(R)	0.0						
Departmental USB	0.0						
Corporate USB	0.0						
Any Other Income (Specify)	0.0						
Tilly Gulet moonie (opeony)							
	150 7	0.0	150 7	0.0	0.0	0.0	0.0
Total Funding	152.7	0.0	152.7	0.0	0.0	0.0	0.0

Parent Scheme Number : Title :

4.6 Legal Implications, Access to Information and Call In

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

4.7 Risk Management

4.7.1 The Council's standard Section 278 agreement is to be used whereby the developer will fund the total cost of the works.

5 Conclusions

This report seeks authority to negotiate terms and enter such Agreement for the highway works, to complete the detailed design and construct the works. Such works, as detailed in Section 3.1, at an estimated cost of £152,650 (incl. design fees).

6 Recommendations

- 6.2 The Chief Highways Officer (Highways and Transportation) is requested to:
 - i) note the contents of this report and the principles of the highway works identified on Leeds City Council Drawing Number EP/716988/01/01 at an estimated cost of £152,650;
 - ii) give authority to negotiate the terms of and enter into an 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 this Council at the cost of the developer;
 - iii) Give authority to implement the works as set out in Section 3.1; and
 - iv) approve an injection of £152,650 into the City Development Department Capital Programme; and
 - v) give authority to incur expenditure of £128,291 works costs and £24,359 staff costs, all to be fully funded by the private developer under a Section 278 legal agreement.

7 Background documents¹

7.1 None.

¹ 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 Impact Assessment

Directorate: City Development



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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. In all appropriate instances we will need to carry out an equality, diversity, cohesion and integration impact assessment.

This form:

- can be used to prompt discussion when carrying out your impact assessment
- should be completed either during the assessment process or following completion of the assessment

Service area: Highways &

should include a brief explanation where a section is not applicable

Birectorate: Only Bevelopment	Transportation
Lead person:	Contact number:
Gillian MacLeod	0113 39 51341
Date of the equality, diversity, cohe	esion and integration impact assessment:
18 th September 2012	
1. Title:	
Equality Implications of Section 27	78 Process
Is this a:	
Strategy X Policy	Service Function X Other
Is this:	
New/ proposed	Already exists and is being reviewed Is changing
(Please tick one of the above)	

2. Members of the assessment team:

Name	Organisation	Role on assessment team e.g. service user, manager of service, specialist
Gillian MacLeod	LCC	Service Manager
Adrian Hodgson	LCC	Service Officer
Andrew Thickett	LCC	Service Officer
Mary Levitt-Hughes	LCC	Equality Officer
Lisa Powell	LCC	Performance Manager

3. Summary of strategy, policy, service or function that was asse	ssed:	
Section 278 (S278) of the Highways Act 1980 makes provision for the Highway Authority to enter into an agreement to execute works with any other person (either an individual / organisation / developer) to make modifications, improvements and changes to the highway and for those works to be funded by that person / developer or organisation.		
Generally, a S278 is applied when, for example, a developer builds a hard there are changes required to the highway to enable access to the site etc		
This Equality Impact Assessment considers the process of determining of such developments and how this process gives due regard to the excharacteristics.	•	
4. Scope of the equality, diversity, cohesion and integration impact (complete - 4a. if you are assessing a strategy, policy or plan and 4b. i a service, function or event)		
4a. Strategy, policy or plan (please tick the appropriate box below)		
The vision and themes, objectives or outcomes	х	
The vision and themes, objectives or outcomes and the supporting guidance		
A specific section within the strategy, policy or plan		
Please provide detail: This EIA assesses the process, objectives and outcomes of a Section 278 agreement.		
4b. Service, function, event please tick the appropriate box below		
The whole service (including service provision and employment)		
A specific part of the service (including service provision or employment or a specific section of the service)		

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Procuring of a service (by contract or grant) (please see equality assurance in procurement)	
Please provide detail:	

5. Fact finding – what do we already know

Make a note here of all information you will be using to carry out this assessment. This could include: previous consultation, involvement, research, results from perception surveys, equality monitoring and customer/ staff feedback.

(priority should be given to equality, diversity, cohesion and integration related information) A S278 agreement is entered into between developers and the Council and ensures that any impact on the highway, or improvements required to the highway, as a result of developments undertaken are agreed, and paid for prior to the works commencing.

S278 agreements can be entered into with an individual, but generally they are made between Developers and the Council.

There are three types of S278 agreements:

Mini Section 278 Agreements

A Mini Section 278 Agreement is a formal arrangement to enable developers to carry out extremely minor highway works. This type of agreement covers minor footway crossing works, amendments to paving to provide level access, removal and reinstatement of planters, etc where the Developer designs and constructs the works, but provides a bond as surety. Leeds City Council obtains staff fees for checking the design and supervision of the works and fixed legal costs. This type of agreement is very minor in nature and does not include for commuted sums (payments for maintenance).

Minor Section 278 Agreements

A Minor Section 278 Agreement is a formal arrangement for developers to carry out minor highway works themselves. It follows the same format as a mini S278 agreement but is used for schemes which are slightly more involved than a footway crossing, but not so involved that there is any major requirement for traffic management on a busy road, or likely involvement with statutory undertakers, and the design is not complex in any way. This type of agreement is most often used where the development and highway works are adjacent or make use of the same site, making it very difficult for a separate contractor to be working in the same area, eg re-paving footways, provision of lay-by within a site contractor's working zone. A Minor S278 still requires the provision of a bond but does also allow for the acquisition of commuted sums for maintenance.

Standard Section 278 Agreements

A Standard Section 278 Agreement is used for all other highway works. The works are designed and supervised by Leeds City Council on behalf of the Developer. This type of agreement is used for most significant off-site highway works associated with planning applications. Standard S278 agreements do not require the provision of a bond as all

monies are paid upfront.

Process Review

When considering the requirements of a planning application that will require a S278 agreement to deliver highway works once consent is granted, a pro-forma is completed which considers the following:

- Accessibility using guidelines laid down in the Manual for Streets and LCC Street
 Design Guide (which has been the subject of an EIA) consideration is given to;
 walkers, cyclists, vulnerable road users and impact on services nearby, for example
 schools
- Vehicular access safety of this, size of the parking bays
- Internal layout / servicing / bins shared surface issues. Ability to move around safely.
- Parking safety issues, availability of disabled spaces in line with the Unitary Development Plan.
- Travel Plan Availability of public transport
- Off site highways works impacts of the development on the surrounding area e.g.
 increased traffic flows, do we need a new set of traffic lights.
- Road safety current statistics and impact on these, visibility.
- Planning conditions

These items are considered in terms of the protected characteristics.

S278 (4) states that "A highway authority shall not enter into an agreement under this section unless they are satisfied that it will be of benefit to the public", and any suggested changes are put forward with this in mind.

Are there any gaps in equality and diversity information Please provide detail:

No, however to reinforce the need to consider equality impacts, an additional equality item will be added to the pro-forma.

Action required:

Amendments to be made to the pro-forma.

6. Wider involvement – have you involved groups of people who are most likely to be affected or interested				
X Yes No				
Please provide detail:				
The guidelines issued by the Department for Transport and other agencies which we				
follow have been equality impact assessed, and this involved some element of				

relevant however, each S278 proposal in on behalf of residents.		•	
Action required: None.			
7. Who may be affected by this active please tick all relevant and significant enthat apply to your strategy, policy, service.	quality characteristics, s	stakeholders and barriers	
Equality characteristics			
X Age	x Carers	x Disability	
Gender reassignment	Race	x Religion or Belief	
X Sex (male or female)	Sexual orienta	ition	
Other			
(for example – marriage and civil partnership, pregnancy and maternity, social class, income, unemployment, residential location or family background, education or skills level)			
Please specify:			
The layout of the development will affect everyone, but may have a particular impact on; disabled people, carers, people with push chairs, children and older people. When designing the layout, the Officer will take into account the needs of these groups, recommending installation of things such as; dropped kerbs, tactile paving and traffic lights.			
Stakeholders			
X Services users	x Employees	Trade Unions	
Partners	x Members	Suppliers	
Other please specify			
Potential barriers.			
Built environment	x Location	of premises and services	

Information Customer care and communication			
Timing Stereotypes and assumptions			
x Cost Consultation and involvement			
specific barriers to the strategy, policy, services or function			
Please specify The location and heritage of a site may affect the type of improvements allowed.			
In the current economic climate, the cost of certain improvements will effect what changes are agreed.			
8. Positive and negative impact Think about what you are assessing (scope), the fact finding information, the potential positive and negative impact on equality characteristics, stakeholders and the effect of the barriers			
8a. Positive impact:			
The designs put forward will take into account the needs of each of the equality characteristics and will aim to meet Section 278 (4) states that "A highway authority shall not enter into an agreement under this section unless they are satisfied that it will be of benefit to the public".			
Action required:			
8b. Negative impact:			
None. All designs will be improvements.			
Action required:			
None.			
9. Will this activity promote strong and positive relationships between the groups/communities identified?			
Yes No			
Please provide detail:			
Not applicable.			

Action required:	
	ng groups/communities into increased contact with each ighbourhood, workplace)?
x Yes	No
Please provide detail:	
Action required:	
11. Could this activity banother?	perceived as benefiting one group at the expense of
Yes	x No
Please provide detail:	
Action required:	
None.	

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12. Equality, diversity, cohesion and integration action plan (insert all your actions from your assessment here, set timescales, measures and identify a lead person for each action)

Action	Timescale	Measure	Lead person
Add 'Additional Equality Considerations to the S278	December 2012	N/A	Gillian MacLeod
pro-forma.			

13. Governance, ownership and approval			
State here who has approved the actions and outcomes from the equality, diversity,			
cohesion and integration impact assessment			
Name	Job Title	Date	
Gillian MacLeod	Transport Developments	December 2013	
Service Manager			

l 4. Mo please	• • •	for equality, diversity, coh	esion and integration actions	
X	As part of Service Planning performance monitoring			
	As part of Proje	ect monitoring		
	Update report will be agreed and provided to the appropriate board Please specify which board			
	Other (please s	specify)		

15. Publishing				
Date sent to Equality Team	24 April 2013			
Date published				