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# Report to Chief Officer (Highways and Transportation)

Date: 17 March 2015

Subject: Design and Cost Report for S278 Highway Works to Facilitate the Installation of Wind Mitigation Baffles at Bridgewater Place, Water Lane, Leeds

Capital Scheme Number: 32262

Are specific electoral Wards affected?  If relevant, name(s) of Ward(s): City and Hunslet	⊠ Yes	☐ No
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?  If relevant, Access to Information Procedure Rule number:  Appendix number:	☐ Yes	⊠ No

# Summary of main issues

- Following completion of the Bridgewater Place Tall Building in 2007/8 complaints were received from pedestrians about the high winds created around the base of the building and within the public highway on Water Lane / Victoria Road / Neville Street. In a tragic incident in March 2011 a pedestrian was killed and another seriously injured when a lorry was blown over in high winds onto the pedestrians.
- Significant work has taken place to find a means of mitigating this wind impact caused by the presence of the building and as a result planning permission 14/04554/FU has been granted for a wind mitigation scheme consisting of a number of canopies affixed to the building, four vertical screens and three wind baffles. The wind baffles which are part of the wider wind mitigation package are located within and above the adopted highway and require amendments to the layout of the highway to enable them to be installed. This report seeks agreement to the highway works which are required to enable this part of the wind mitigation scheme to proceed including agreement to erection of the baffles themselves.
- The Developer will need to enter a Section 278 Agreement (Highways Act 1980), whereby the highway works are carried out by the Developer at their own cost.
- This report seeks the authority to serve a S228 notice to adopt parts of Water Lane required to implement the wind mitigation scheme and negotiate terms and enter a S278 Agreement for the highway works, to note that the Developer will design and implement these works with the Council carrying out a check of the detailed design and inspecting the works on site all at the Developer's expense.

The wind baffles themselves are being designed by a competent wind consultant with a stage 3 independent check (re-design) also being undertaken as part of an Approval in Principle. It is expected that these works will be installed under licence and an appropriate maintenance agreement will be fully funded by the Developers for the future maintenance of these structures for a 120 year design life period.

#### Recommendations

- 6 The Chief Officer Highways and Transportation) is requested to:
  - i) note the highway works (excluding wind baffles) as outlined in Section 3.1 and indicated on Drawing Number 032543/C200E at an estimated cost of £560,000 works costs (carried out by the Developer at their expense) and £70,000 staff costs;
  - 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 the Developer at their own cost;
  - iii) give authority to allow the Developer to implement the works, acting as the Council's Agent, as set out in Section 3.1;
  - iv) approve an injection of £70,000 staff costs into the City Development Capital Programme to be fully funded by a private developer;
  - v) give authority to incur expenditure of £70,000 staff costs to be fully funded by the private developer under a Section 278 legal agreement; and
  - vi) give authority to serve a S228 notice to adopt the areas of land on Water Lane required to carry out the wind mitigation scheme and provide clarity on the Street Register

### 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 installation of a wind mitigation scheme at Water Lane, Leeds (planning application reference: 14/04554/FU).
- 1.2 This report seeks the authority to serve a S228 notice to adopt parts of Water Lane required to implement the wind mitigation scheme and 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 the Developer at their own cost.
- 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 Planning permission for a wind mitigation scheme at Bridgewater Place, Leeds was granted in November 2014 (reference 14/04554/FU).

- 2.2 The highway works are shown indicatively on the attached plan referenced Drawing Number 032543/C200E and are detailed in Section 3.1.
- 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.
- 2.4 To enable wind baffle 3 to be installed a small area of unregistered land is needed to ensure that maintenance can occur from the public highway and remove the potential for future claims. In addition, an area of the buildings forecourt which was previously registered as adopted highway has since been found to have been closed as public highway by means of a 1987 closure notice. The wind mitigation canopies are shown to have columns planted in this area and will also oversail this area and therefore to ensure that authority can be granted to erect the canopies, maintenance can occur from land within the public highway and to remove the potential for future claims this area is proposed to be re-adopted by means of a S228 notice due to the unregistered status of the land. Sketch plan SK1 identifies these areas of unregistered land.

### 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 Section 228 of the Highways Act 1980 allows Highways Authorities to adopt a private street, after the execution of street works. The Highway Authority shall then declare the street to be a highway, maintainable at public expense. In this instance the forecourt area has already been laid out as an area of paving open to the public and has been in this state since the Highways Works were completed in 2008. The small area of land beneath baffle 3 forms part of an unfenced grassed verge area. It is intended to lay this area out as an extension to the footway as part of the S278 Highway Works.
- 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 proposed comprise:
  - Highway layout amendments to incorporate landing areas and foundations for the baffle columns, including:
    - o A high-kerbed central reservation island
    - o Amended uncontrolled pedestrian crossing location on Water Lane
    - Amended kerblines
    - Reduction in length of left turn lane onto Neville Street

- Required amendments to existing traffic signals posts and heads
- o Hard surfacing of a small area of land under baffle 3.
- Provision of metal studs or similar to identify the extent of the public highway on the building forecourt area.
- Any works reasonably required following safety audits of the design and construction of the highway works.
- All associated civils works, including carriageway and footway reconstruction, tie-ins, resurfacing, lighting, signing, handrailings, drainage and lining works.
- Any associated statutory undertakers works resulting from the works.
- All associated Traffic Regulation orders required to protect the works

There will also be provision of three wind mitigation baffles spanning across Water Lane (to be installed under licence agreement with the owners of Bridgewater Place). These do not form part of the S278 works but will be erected under licence.

- 3.1.4 The proposed works are shown indicatively on the attached Drawing Number 032543/C200E.
- 3.1.5 The developer has paid an advance design check fee of £15,000 to enable Design Services to carry out initial design checks in advance of a S278 Agreement being signed.
- 3.1.5 Safety Audits and Maintenance Audits are to be carried out as part of the detailed design and check 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.
- 3.1.6 The S278 agreement will include the standard commuted sums for future maintenance of the Highway Works.
- 3.1.7 In addition to the standard commuted sums a maintenance regime will be agreed for the maintenance of the Wind Baffles themselves. This will be the responsibility of the building owner but if LCC are required to take on this maintenance as part of a licence arrangement then a separate and considerable commuted sum will be payable for this. The wind baffles themselves are expected to last for 120 years and would be de-commissioned or replaced after this time.
- 3.2 **Programme** It is envisaged that the design and construction of the works will be carried out in the 2014/2015 and 2015/16 financial years.
- 4 Corporate Considerations
- 4.1 Consultation and Engagement
- 4.1.1 Ward Members: Ward Members of City and Hunslet were consulted by email with an accompanying letter and plans on 3 February 2015. 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 3 February 2015. A response has been received from the Yorkshire Ambulance Service expressing no objections. No further responses have been received.
- 4.1.3 Internal Consultation: Colleagues in Highways and Transportation have been consulted as part of the design process.

# 4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An EDCI Impact Assessment has been carried out for the Section 278 Process and is attached as Appendix 1. The assessment confirmed that due regard to the equality characteristics is considered as part of the planning application process. However, if approval is given by the Highways and Transportation Board for Officers to further develop the proposals, an equality screening and (or) impact assessment will be undertaken at the design and construction phase of the scheme.

# 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 £560,000 works costs (excluding baffles) plus £70,000 Leeds City Council staff fees.

### 4.5 Capital Funding and Cash Flow.

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

Funding Approval :	Capital Section Reference Number :-						
Previous total Authority	TOTAL	TO MARCH	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	TODES AST				
	IOIAL	2014			2049 00		
required for this Approval	C000'-	£000's	2014/15 £000's	£000's	£000's	£000's	£000's
LAND (4)	£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		40.0	00.0			
DESIGN FEES (6)	70.0		10.0	60.0			
OTHER COSTS (7)	0.0		10.0				
TOTALS	70.0	0.0	10.0	60.0	0.0	0.0	0.0
Total overall Funding	TOTAL	TO MARCH			ODECAS	-	
(As per latest Capital	IOIAL	2014	FORECAST 2014/15 2015/16 2016/17 2017/18 2018		2018 on		
Programme)	£000's	£000's	£000's	£000's	£000's	£000's	£000's
1 Togramme)	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	70.0		10.0	60.0			
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						
Total Funding	70.0	0.0	10.0	60.0	0.0	0.0	0.0
rotal Funding	70.0	0.0	10.0	60.0	0.0	0.0	0.0
Balance / Shortfall =	0.0	0.0	0.0	0.0	0.0	0.0	0.0

# 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 A bespoke Section 278 agreement is to be used whereby the developer will fund the total cost of the works.

# 5 Conclusions

5.1 This report seeks authority to negotiate terms and enter such Agreement for the highway works, to note that the Developer will design and implement these works

with the Council carrying out a check of the detailed design and inspecting the works on site. The Highway Works, are detailed in Section 3.1, at an estimated cost of £560,000 works costs (excluding baffles) which will be paid for and fully funded by the Developer.

### 6 Recommendations

- 6.2 The Chief Officer (Highways and Transportation) is requested to:
  - i) note the highway works (including wind baffles) as outlined in Section 3.1 and indicated on Drawing Number 032543/C200E at an estimated cost of £560,000 works costs and £70,000 staff costs;
  - 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 the Developer at their own cost;
  - give authority to allow the Developer to implement the works, acting as the Council's Agent, as set out in Section 3.1;
  - iv) approve an injection of £70,000 staff costs into the City Development Capital Programme to be fully funded by a private developer;
  - v) give authority to incur expenditure of £70,000 staff costs to be fully funded by the private developer under a Section 278 legal agreement; and
  - vi) give authority to serve a S228 notice to adopt the areas of land on Water Lane required to carry out the wind mitigation scheme and provide clarity on the Street Register.

# 7 Background documents<sup>1</sup>

7.1 None.

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<sup>&</sup>lt;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 Impact Assessment



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
- should include a brief explanation where a section is not applicable

Directorate: City Development	Service area: Highways &
	Transportation
Lead person:	Contact number:
Gillian MacLeod	0113 39 51341
Date of the equality, diversity, cohesio	n and integration impact assessment:
18 <sup>th</sup> September 2012	
1. Title:	
Equality Implications of Section 278 Pr	ocess
Is this a:	
Strategy X Policy S	Service Function X Other
Is this:	
1 1 1 1 1	Already exists Is changing
	and is being reviewed
(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	essed:
Section 278 (S278) of the Highways Act 1980 makes provision for the to enter into an agreement to execute works with any other person (organisation / developer) to make modifications, improvements a highway and for those works to be funded by that person / developer of	(either an individual / and changes to the
Generally, a S278 is applied when, for example, a developer builds a lathere 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 impa	ct assessment
(complete - 4a. if you are assessing a strategy, policy or plan and 4b. a service, function or event)	
4a. Strategy, policy or plan (please tick the appropriate box below)	
The vision and themes, objectives or outcomes	x
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)	
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.

			nvolved groups of people who are most likely to
be affect	cted or ir	nterested	
×	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 consultation. We follow these guidelines and as such, wider consultation is not required or relevant however, each S278 proposal is sent to the relevant Ward Member for their input on behalf of residents.

Action required: None.	
7. Who may be affected by this activity? please tick all relevant and significant equal that apply to your strategy, policy, service of	ity characteristics, stakeholders and barriers
Equality characteristics	
X Age	Carers X Disability
Gender reassignment	Race X Religion or Belief
X Sex (male or female)	Sexual orientation
Other  (for example – marriage and civil partnersh income, unemployment, residential location	nip, pregnancy and maternity, social class, or family background, education or skills level)
Please specify:	
The layout of the development will affect ev disabled people, carers, people with push of designing the layout, the Officer will take intrecommending installation of things such as lights.	o account the needs of these groups,
Stakeholders	
X Services users X	Employees Trade Unions
Partners	Members Suppliers
Other please specify	
Potential barriers.	
Built environment	x Location of premises and services
Information and communication	Customer care

x 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	t the type of improvements allowed.
In the current economic climate, the cost of care agreed.	certain improvements will effect what changes
8. Positive and negative impact	
Think about what you are assessing (scope)	, the fact finding information, the potential racteristics, stakeholders and the effect of the
8a. Positive impact:	
The designs put forward will take into account characteristics and will aim to meet Section 2 not enter into an agreement under this section benefit to the public".	278 (4) states that "A highway authority shall
Action required:	
8b. Negative impact:	
None. All designs will be improvements.	
Action required:	
None.	
9. Will this activity promote strong and p groups/communities identified?	ositive relationships between the
Yes Please provide detail:	No
Not applicable.	
Action required:	

10. Does this activity bring groups/communities into increased contact with each other (e.g. in schools, neighbourhood, workplace)?
X Yes No
Please provide detail:
Action required:
11. Could this activity be perceived as benefiting one group at the expense of
another?
Yes x No
Please provide detail:
Action required:
None.

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
	December 2012	N/A	Gillian MacLeod
Add 'Additional Equality Considerations to the S278 pro-forma.			

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

l <b>4. Mo</b> please	• • •	for equality, diversity, coh	esion and integration actions
X	As part of Service	ce Planning performance mo	onitoring
	As part of Proje	ct monitoring	
	Update report w Please specify v	rill be agreed and provided to which board	o the appropriate board
	Other (please s	pecify)	

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