

**Report to the Chief Officer of Highways and Transportation**

**Date: 16 February 2016**

**Subject: Design & Cost Report for Highway Works Associated With The Development at 3 Sovereign Square, Leeds**

**Capital Scheme Number: 16686 / 000 / 000**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): City and Hunslet	<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 14/01998/FU was granted for development at Sovereign Street and Swinegate (3 Sovereign Square). As a result off site highway works are required for the vehicle access to the development, to provide footway, including dropped kerbs and tactile paving, along the frontages on Sovereign Street and Swinegate, and for provision of a loading bay on Sovereign Street.
2. The proposed works are all shown on drawing 4797-00-106 Rev C.
3. To meet the requirements of the planning permission, the Developer seeks to enter into a Section 278 Agreement (Highways Act 1980) to enable the highways works to be carried out, whereby these works are carried out by the developer, with the Council providing a design checking/approval service and undertaking inspections during construction.

**Best City Ambition**

The Best City ambition is to improve life for the people of Leeds and make our city a better place. The provision of safer crossings, wider footways and suitable carriageway widths contribute to this ambition by improving the safety and quality of life of Leeds residents by enabling safe pedestrian and vehicular access in local communities. They also help reduce traffic collisions to make a specific contribution to the Best City for Communities and a Child Friendly City.

## Recommendations

4. The Chief Officer (Highways and Transportation) is requested to:
  - i) note the principles of the highway works to provide the vehicle accesses to the development, to provide footway, including dropped kerbs and tactile paving, along the frontages on Sovereign Street and Swinegate, and for provision of a loading bay on Sovereign Street;
  - ii) note that there are £6,000 TRO costs and £10,000 staff checking and inspection costs, all to be fully rechargeable to the Sovereign Street Scheme through the Section 278 agreement; The funding of the work has been agreed in the Heads of Terms for an Option Agreement for the sale of Plot C, Sovereign Street, between the Council and the developer, with an agreed figure to be netted off the land sale;
  - iii) request the City Solicitor to advertise a draft Traffic Regulation Order to facilitate the provision of the loading bay and access on Sovereign Street, as indicated on drawing 4797-00-106 Rev C, and, if no valid objections are received to make, seal and implement the order as advertised;
  - iv) 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.

### 1 Purpose of this report

- 1.1 To note the principle of the implementation of highway works associated with the approved development Sovereign Street and Swinegate (3 Sovereign Square) (planning application ref. 14/01998/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 designed and constructed by the developer at their expense, with the Council checking the design and construction, with step in rights and preparing a Traffic Regulation Order at the expense of the Sovereign Street Scheme.
- 1.3 To request the City Solicitor to advertise a draft Traffic Regulation Order Road and if no valid objections are received, to make, seal and implement the order.

### 2 Background information

- 2.1 Planning permission was granted for the development on Sovereign Street and Swinegate (3 Sovereign Square), the full area of the site can be identified on the attached plan 4797-00-106 Rev C. The development is part of the larger council Sovereign Square project to redevelop the council owned Sovereign Street car park site including three development plots and a significant area of public open space and enhancement of Sovereign Street. The sale of the development plots is funding the public realm works.
  - a. The development is under construction, with the highways works required prior to occupation. The agreed highway works are shown on the attached plan Drawing Number 4797-00-106 Rev C, and are detailed in Section 3.1.

- b. The funding of the work has been agreed in the Heads of Terms for an Option Agreement for the sale of Plot C, Sovereign Street, between the Council and the developer, whereby the Council reimburse the developer for the works; in effect an agreed figure netted off the land sale. The works on the drawing are therefore identified as to be completed by the developer at LCC cost.
- c. 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**

- a. The development shown requires a vehicle access to the basement car parking from Sovereign Street, as well provision of footway, including dropped kerbs and tactile paving, along the frontages, and provision of a loading bay on Sovereign Street.
- b. High quality Yorkstone paving to match that provided in the rest of Sovereign Square will be used on the frontage footway to Sovereign Street.
- c. The proposed works are shown on drawing 4797-00-106 Rev C.
- d. It is proposed that the developer will enter a Section 278 Agreement with the Council whereby the developer will design and procure the highway works at the their expense and the Council will check the design of the work and inspect the construction, with step in powers should the works not be managed or constructed to appropriate standards.
- e. 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.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Ward Members: Ward Members were consulted by email dated 9<sup>th</sup> December 2015; no comments have been received to date on the specifics of this report.
- 4.1.2 Emergency Services and the West Yorkshire Combined Authority (WYCA): The Emergency Services and WYCA were consulted by email dated 9<sup>th</sup> December 2015; no comments have been received to date.
- 4.1.3 Colleagues in Highways and Transportation have been consulted as part of the planning process. Comments have been taken into account.

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

- 4.2.1 An EDCI Impact Assessment has been carried out on the Section 278 Process and is attached as Appendix 1. The assessment confirmed that individual designs put

forward as part of this process, will take into account the needs of each of the equality characteristics and will aim to meet Section 278 (4) which 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”. As part of the design and construction process further equality screenings and impact assessments will be undertaken as required.

- 4.2.2 The proposals will ultimately contribute to improved accessibility to the site for pedestrians and cyclists, the works will be designed to accommodate the needs of all users.

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

- 4.3.1 The proposed highway works which allow the development to take place accord with the Council’s 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 developer will meet the Council’s costs, estimated to be £6,000 for traffic regulation order costs and £10,000 fees to check the design and inspect the works, which will be fully funded through the Section 278 agreement.
- 4.4.2 The land sale agreement obliges the developer to ensure that all costs incurred in the scheme are to be fair and reasonable, and procured in a transparent manner.

### **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 total cost of the highway works and staff fees are fully funded by the Sovereign Street Scheme.
- 4.6.2 The works need to be completed before the development is able to open.

## **5 Conclusions**

- 5.1 Planning permission 14/01988/FU was granted for development at Sovereign Street and Swinegate (3 Sovereign Square). As a result off site highway works are required for the vehicle access to the development, to provide footway, including dropped kerbs and tactile paving, and to provide a loading bay on Sovereign Street.
- 5.2 The proposed works are all shown on drawing 4797-00-106 Rev.C.
- 5.3 To meet the requirements of the planning permission, the Developer seeks to enter into a Section 278 Agreement (Highways Act 1980) to enable the highways works to be carried out, whereby these works are carried out by the developer, with the Council providing a design checking/approval service and undertaking inspections during construction.

## **6 Recommendations**

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

- i) note the principles of the highway works to provide accesses for the development, to provide footway, including dropped kerbs and tactile paving, and to provide a loading bay on Sovereign Street;
- ii) note that there are £6,000 TRO costs and £10,000 staff checking and inspection costs, all to be fully rechargeable to the Sovereign Street Scheme through the Section 278 agreement; The funding of the work has been agreed in the Heads of Terms for an Option Agreement for the sale of Plot C, Sovereign Street, between the Council and the developer, with an agreed figure to be netted off the land sale;
- iii) request the City Solicitor to advertise a draft Traffic Regulation Order to facilitate the loading bay and access on Sovereign Street, as indicated on drawing 4797-00-106 Rev C, and if no valid objections are received to make, seal and implement the order as advertised;and
- iv) 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.

## **7 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 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

<b>Directorate: City Development</b>	<b>Service area: Highways &amp; Transportation</b>
<b>Lead person: Gillian MacLeod</b>	<b>Contact number: 0113 39 51341</b>
<b>Date of the equality, diversity, cohesion and integration impact assessment:</b> 18 <sup>th</sup> September 2012	

<b>1. Title:</b> <b>Equality Implications of Section 278 Process</b>
Is this a: <input type="checkbox"/> Strategy <input checked="" type="checkbox"/> Policy <input type="checkbox"/> Service <input type="checkbox"/> Function <input checked="" type="checkbox"/> Other
Is this: <input type="checkbox"/> New/ proposed <input checked="" type="checkbox"/> Already exists and is being reviewed <input type="checkbox"/> 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

<b>3. Summary of strategy, policy, service or function that was assessed:</b>
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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 housing estate and there are changes required to the highway to enable access to the site, footways, roads etc...

This Equality Impact Assessment considers the process of determining the requirements of such developments and how this process gives due regard to the equality characteristics.

**4. Scope of the equality, diversity, cohesion and integration impact assessment**  
 (complete - 4a. if you are assessing a strategy, policy or plan and 4b. if you are assessing a service, function or event)

**4a. Strategy, policy or plan**  
 (please tick the appropriate box below)

The vision and themes, objectives or outcomes	<input checked="" type="checkbox"/>
The vision and themes, objectives or outcomes and the supporting guidance	<input type="checkbox"/>
A specific section within the strategy, policy or plan	<input type="checkbox"/>

**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)	<input type="checkbox"/>
A specific part of the service (including service provision or employment or a specific section of the service)	<input type="checkbox"/>
Procuring of a service (by contract or grant) (please see equality assurance in procurement)	<input type="checkbox"/>

**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**

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.

<b>Action required:</b> None.

<b>7. Who may be affected by this activity?</b> please tick all relevant and significant equality characteristics, stakeholders and barriers that apply to your strategy, policy, service or function		
<b>Equality characteristics</b>		
<input checked="" type="checkbox"/> Age	<input checked="" type="checkbox"/> Carers	<input checked="" type="checkbox"/> Disability
<input type="checkbox"/> Gender reassignment	<input type="checkbox"/> Race	<input checked="" type="checkbox"/> Religion or Belief
<input checked="" type="checkbox"/> Sex (male or female)	<input type="checkbox"/> Sexual orientation	
<input type="checkbox"/> Other		
(for example – marriage and civil partnership, pregnancy and maternity, social class, income, unemployment, residential location or family background, education or skills level)		
<b>Please specify:</b>  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.		
<b>Stakeholders</b>		
<input checked="" type="checkbox"/> Services users	<input checked="" type="checkbox"/> Employees	<input type="checkbox"/> Trade Unions
<input type="checkbox"/> Partners	<input checked="" type="checkbox"/> Members	<input type="checkbox"/> Suppliers
<input type="checkbox"/> Other please specify		
<b>Potential barriers.</b>		
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

Built environment	Location of premises and services
<input type="checkbox"/> Information and communication	<input type="checkbox"/> Customer care
<input checked="" type="checkbox"/> Timing	<input type="checkbox"/> Stereotypes and assumptions
<input checked="" type="checkbox"/> Cost	<input type="checkbox"/> Consultation and involvement
<input type="checkbox"/> 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:**

**10. Does this activity bring groups/communities into increased contact with each other (e.g. in schools, neighbourhood, workplace)?**

Yes

No

**Please provide detail:**

**Action required:**

**11. Could this activity be perceived as benefiting one group at the expense of another?**

Yes

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)

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

<b>13. Governance, ownership and approval</b> 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 Service Manager	December 2013

<b>14. Monitoring progress for equality, diversity, cohesion and integration actions</b> (please tick)	
<input checked="" type="checkbox"/>	As part of Service Planning performance monitoring
<input type="checkbox"/>	As part of Project monitoring
<input type="checkbox"/>	Update report will be agreed and provided to the appropriate board Please specify which board
<input type="checkbox"/>	Other (please specify)

<b>15. Publishing</b>	
<b>Date sent to Equality Team</b>	24 April 2013
<b>Date published</b>	