
Report to the Chief Officer (Highways and Transportation)

Date: 24 May 2016

Subject: Design & Cost Report for S278 Works Associated With a Hotel Development, Whitehall Road, Leeds.

Capital Scheme Number : 32539

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 application 13/01872/FU for a 128 bed Premiere Inn hotel granted on 4th October 2013, condition 22 of the permission requires highway works to be completed before first occupation of the building, expected in February 2017.
- 2 Alterations to the highway are proposed to provide safe pedestrian and cycle access in the vicinity of the site. The general arrangement of the proposed works are shown on Drawing Number EP/732227/MIS/29A. The works require adoption of an area of land shown shaded red on drawing EP/732227/MIS/31 and involves the conversion of footway to cycle track.
- 3 To meet the requirements of the planning permission and deliver the highway alterations, 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.

Best City Ambition.

- 4 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, cycling facilities 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

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

- i) Note the detail of the highway works as outlined in section 3 and shown on drawing number EP/732227/MIS/29A;
- 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 Council will design and construct the highway and surface water outfall works at the developer's expense;
- iii) Give authority to incur expenditure of £250,000 works costs and £50,000 staff costs to be fully funded by the developer through the S278 Agreement;
- iv) Approve the adoption of new highway construction on land shaded red on drawing number EP/732227/MIS/31 so that it can be added to the Council's maintenance regime;
- v) Approve with reference to the powers contained in Section 66(4) of the Highways Act 1980, that the relevant lengths of footway shown on drawing EP/732227/MIS/29A as proposed cycle tracks are removed and that following the removal of the footways, cycle tracks are constructed under the powers contained under the provisions of section 65(1) of the Highways Act 1980 for shared joint use by pedal cyclists and pedestrians; and
- vi) 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 Council will design and construct the highway.

1.0 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 hotel on the Whitehall riverside site on Whitehall Road
- 1.2. To obtain authority to adopt the land shaded red on plan EP/732227/MIS/31
Approve the conversion of footway to cycle track.
- 1.3 To give authority to incur expenditure associated with the implementation of the highway works associated with the development
- 1.4 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 Council at the developer's expense,

2.0 Background information

- 2.1 Planning application 13/01872/FU for a 128 bed Premiere Inn hotel granted on 4th October 2013, condition 22 of the permission requires highway works to be completed before first occupation of the building.
- 2.2 The highway works envisaged when planning consent was granted for the hotel involved carriageway widening to provide an on carriageway cycle lane from Northern Street to the site accesses, this was in accordance with the original outline consent for the whole development site that stretches along the south side of Whitehall Road from Northern Street almost to Globe Road that would eventually provide widening along the full length of the site frontage.

- 2.3 Subsequently, following successful installation of off carriageway facilities elsewhere in the city and development of the Whitehall Road / Northern Street junction proposals it has been agreed to install an off carriageway scheme, as a result of the cost saving associated with this change, the developer has agreed to extend the scheme associated with the hotel as far as the existing Whitehall Road crossing and convert this to a Toucan, which will link the route with an informal route across Wellington place.
- 2.4 The highway works contribute to the Best City Ambition of the Council by improving life for the people of Leeds and making our city a better place. The provision of safer crossings, wider footways, cycling facilities 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.
- 2.5 To meet the requirements of the planning permission and deliver the access 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.

3.0 Main issues

- 3.1 The proposed highway works for the Premiere Inn development assist in providing safe cycle access in the vicinity of the site. The proposals involve:
- Widening Whitehall Road to provide an off carriageway cycle track from Northern Street to the existing pedestrian crossing point on the south side of Whitehall Road.
- Conversion of the existing pedestrian crossing to a Toucan crossing
- 3.2 The general arrangement of the proposed works are shown on Drawing Number EP/732227/MIS/29A.
- 3.3 The strip of the development site will be dedicated as public highway to accommodate the widening, the extent is shown as red hatching on drawing EP/732227/MIS/31. The land is within the developer's ownership and they are agreeable to the Council adopting the land as highway.
- 3.4 The works will involve the conversion of the existing Whitehall Road footway to cycle track. Volume 5 Section 2, Part 4 TA 91/05, Annex 1, of the Legal Framework (England and Wales Only) states the following with regard to the conversion of footway to cycle track: "Footway Conversion to Cycle Track A1.21. To convert all, or part, of a footway to a cycle track, all, or the appropriate part of the footway must be 'removed' under the powers in Section 66(4) of the Highways Act 1980, and a cycle track 'constructed' under Section 65(1). The process need not necessarily involve physical construction work, but there needs to be clear evidence that the highway authority has exercised its powers. This can be provided by a resolution of the appropriate committee"; and in respect to the above the exercise of the highway authority's powers will be shown by the approval of this report and the attached drawing (in which proposed sections of footway to be converted to cycle tracks for shared use with pedestrians are highlighted) and the erection of appropriate signage.
- 3.5 It is proposed that the developer will enter a Section 278 Agreement with the Council whereby the Council will design and procure the highway works at the developer's expense.

- 3.6 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 21st March 2016, no comments have been received.
- 4.1.2 Emergency Services and WYCA: The Emergency Services and Metro were consulted email dated 21st March 2016. No comments have been received.
- 4.1.3 Internal consultation has taken place with colleagues in the Highways and Transportation Services and cycle groups as part of developing the design to its current stage. There is a debate between the CCAG2 delivery team and Transport Planning Officers with regard to the most appropriate arrangements for cyclists crossing side roads, the outcome will inform the final design on this project.

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.
- 4.2.3. Council policies and City Priorities
- 4.2.4 The proposed highway works which allow the development to take place accord with the West Yorkshire 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.
- 4.3 Resources and value for money
- 4.3.1 The estimated cost of the highway works is £300,000, consisting of £250,000 works costs and £50,000 fees, which will be fully funded through the Section 278 agreement.
- 4.3.2 The highway works must be completed to meet the development opening date of February 2017.

Capital Funding and Cash Flow.

Funding Approval :	Capital Section Reference Number :-						
Previous total Authority to Spend on this scheme	TOTAL £000's	TO MARCH 2015 £000's	FORECAST				
			2015/16 £000's	2016/17 £000's	2017/18 £000's	2018/19 £000's	2019 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						
TOTALS	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Authority to Spend required for this Approval	TOTAL £000's	TO MARCH 2015 £000's	FORECAST				
			2015/16 £000's	2016/17 £000's	2017/18 £000's	2018/19 £000's	2019 on £000's
LAND (1)	0.0						
CONSTRUCTION (3)	250.0			250.0			
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	50.0			50.0			
OTHER COSTS (7)	0.0						
TOTALS	300.0	0.0	0.0	300.0	0.0	0.0	0.0
Total overall Funding (As per latest Capital Programme)	TOTAL £000's	TO MARCH 2015 £000's	FORECAST				
			2015/16 £000's	2016/17 £000's	2017/18 £000's	2018/19 £000's	2019 on £000's
Section 106 / 278	300.0			300.0			
Total Funding	300.0	0.0	0.0	300.0	0.0	0.0	0.0
Balance / Shortfall =	0.0	0.0	0.0	0.0	0.0	0.0	0.0

4.3.3 Revenue Effects: There are no revenue effects as a result of this capital scheme.

Legal Implications, Access to Information and Call In

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

4.4 Risk Management

4.4.1 The total cost of the highway works and staff fees are fully developer funded.

4.4.2 The works need to be completed before the development is able to open which is scheduled for February 2017.

5.0 Conclusions

5.1 Planning application 13/01872/FU for a 128 bed Premiere Inn hotel granted on 4th October 2013, condition 22 of the permission requires highway works to be completed before first occupation of the building, expected in February 2017.

- 5.2 Alterations to the highway are proposed to provide safe pedestrian and cycle access in the vicinity of the site. The general arrangement of the proposed works are shown on Drawing Number EP/732227/MIS/29A. The works require adoption of an area of land shown shaded red on drawing EP/732227/MIS/31 and involves the conversion of footway to cycle track.
- 5.3 To meet the requirements of the planning permission and deliver the highway alterations, 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.

6.0 Recommendations

- 6.1 The Chief Officer (Highways and Transportation) is requested to:
- i) Note the detail of the highway works as outlined in section 3 and shown on drawing number EP/732227/MIS/29A
 - 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 Council will design and construct the highway and surface water outfall works at the developer's expense;
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 - vi) 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 Council will design and construct the highway.

7.0 Background Papers¹

- 7.1 None.



¹

The background documents listed in this section are available unless they contain confidential or exempt information. The list of background documents does not include published works.

U:HWT/Admin/wordproc/Comm/2016/Whitehall Road Riverside Hotel – S278 Highway Works.doc

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: Gillian MacLeod	Contact number: 0113 39 51341
Date of the equality, diversity, cohesion and integration impact assessment: 18 th September 2012	

1. Title: Equality Implications of Section 278 Process
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

3. Summary of strategy, policy, service or function that was assessed:

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	<input type="checkbox"/>

(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

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 equality characteristics, stakeholders and barriers that apply to your strategy, policy, service or function

Equality characteristics

Age

Carers

Disability

Gender reassignment

Race

**Religion
or Belief**

Sex (male or female)

Sexual orientation

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

Services users

Employees

Trade Unions

Partners

Members

Suppliers

Other please specify

Potential barriers.

Built environment

Location of premises and services

Information and communication

Customer care

Timing

Stereotypes and assumptions

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:

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)

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

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 Service Manager	December 2013

14. Monitoring progress for equality, diversity, cohesion and integration actions (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)

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