

Design & Cost Report for S278 Highway Works and S116 Stopping Up Order Associated with Development at Lucent Square, 32 York Road, Leeds, LS9 8SY

Date: 6th March 2024

Report of: Transport Development Services Manager

Report to: Chief Officer (Highways and Transportation)

Capital Scheme Number: 33488

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

The Chief Officer Highways and Transportation is requested to give authority to negotiate and enter a Section 278 Agreement of the Highways Act 1980 for the execution of highway works to create a new footway and vehicular accesses on Shannon Street.

A portion of the development site encompasses land which is currently adopted as highway, this land will become surplus to highway requirements on completion of the highway works and must be 'stopped up' to remove existing highway rights. This report also seeks approval to promote a Stopping Up Order to remove the adopted highway status from the area of land via an application to the Magistrates' Court under section 116 of the Highways Act 1980.

Recommendations

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

- a. Note the detail of the highway works described in outline in paragraph 3 of this report and shown on plan 1831-01-03 A General Arrangement Plan attached at **Appendix 3**;
- b. 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 under Leeds City Council's supervision;
- c. Give authority to incur capital expenditure of circa £5,000 associated with staff checking and inspection costs. These costs will be fully funded by the developer through the Section 278 Agreement; and
- d. Instruct the City Solicitor to apply to the magistrates' court for, and promote as required, a Stopping Up Order under Section 116 of the Highways Act 1980 for the areas of adopted highway as edged red on drawing ref: 996219-SU2310-01 at **Appendix 4** of this report.

What is this report about?

- 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.
- 2 The proposals within this report are concerned only with the delivery of the off-site highway works, the principle of these works having been considered and accepted as part of the planning process for planning consent 18/00294/FU.
- 3 A parcel of land within the development site is currently adopted as highway and will become redundant on implementation of the off-site highway works. It is therefore proposed that any existing highway rights would be removed from this parcel of land via a Stopping Up Order.
- 4 The location of the development site is provided at **Appendix 2** of this report, a General Arrangement Plan is provided at **Appendix 3** and a Stopping Up Plan is provided at **Appendix 4**.
- 5 Planning permission was granted on 25th June 2018 (ref: 18/00294/FU) for the change of use involving alterations and extension of church building to create 52 residential apartments and a retail unit with car parking and ancillary spaces at Lucent Square, 32 York Road, Leeds, LS9 8SY.
- 6 The property will have access via two dropped kerb crossings on Shannon Street. The highway works are detailed further below. The Section 278 works are shown on the plan included at **Appendix 3**.
- 7 To meet the requirements of the planning permission and deliver the highway works, the developer has requested Leeds City Council enter into a Section 278 Agreement of the Highways Act 1980.
- 8 This report seeks authority to negotiate the terms and enter a minor Section 278 Agreement of the Highways Act 1980 for the highway works to allow the developer to complete the detailed design and construction of the works under the supervision of the Council and give authority to incur expenditure.
- 9 The planned highway works will contribute to the 'Best Council Plan' by maintaining and improving the safety of Leeds residents and enabling safe access to the property.
- 10 At present there is no footway along the site frontage to Shannon Street. Pedestrian safety will be improved by the provision of a footway.
- 11 The proposed works comprise:
 - The construction of a 42m section of new 2m wide footway along Shannon Street from Plaid Row/Shannon Street junction to tie in with existing footway east of the site
 - Two new dropped crossings within the new footway on Shannon Street for vehicular access to the site
 - Full kerbs at Plaid Row site frontage.

- All associated civils works including (inter alia) signs, lighting, road markings and drainage
- Concrete pin kerb to mark the new highway boundary.
- Any Statutory undertakers works resulting from the works described above.
- Any works reasonably required following safety audits of the design and construction of the highway works.

12 The existing frontage of the site is currently adopted highway varying in width between 1m at its eastern end and approx. 1.6m at its western end over a distance of approx. 42m. The existing carriageway edge abuts the site over this length leading on to a service yard and parking area. However, the S278 works would introduce a new footway construction to better define the site boundary and the highway boundary across the site frontage. The area of adopted highway between the new footway and the site will therefore become redundant on completion of the works and must be 'stopped up' to remove all existing highway rights from the land.

13 Section 116 of the Highways Act 1980 enables the Local Highway Authority to make an application via the Magistrates' Court to stop up or divert an adopted highway where it is demonstrated that the highway is unnecessary. If the Order is granted by the Magistrates Court, ownership of the areas to be stopped up will revert to the developer/landowner.

14 This report seeks authority to apply to the magistrates' court for, and promote as required, a Stopping Up Order under Section 116 of the Highways Act 1980 for the areas of adopted highway as edged red on drawing ref: 996219-SU2310-01 at **Appendix 4** of this report. The developer missed the opportunity to use S249 Planning powers to achieve this.

What impact will this proposal have?

13. The proposals will provide safe access to the site and remove a gap in the footway provision on Shannon Street.
14. An Equality, Diversity, Cohesion and Integration (EDCI) impact assessment has been carried out on the Section 278 process and is included in **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) criteria, 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.
15. The site is within walking distance of the City Centre, with local amenities and public transport facilities located within walking distance. Therefore, the proposals will contribute to improved accessibility to the site.
16. Site specific issues raised in EDCI - The proposals will contribute to improved access to the site for pedestrians, and vehicles through the provision of a new footway across the site frontage with improved dropped crossings to accommodate vehicular access to the site. Such improvements will be made to accommodate the needs of all users and will specifically benefit elderly people, disabled people and carers.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing Inclusive Growth Zero Carbon

17. The proposals support objectives across the three pillars. The highway works will provide improved pedestrian facilities along Shannon Street.

18. The proposed highway works accord with Core Strategy policy T2, West Yorkshire Local Transport Plan and other policies in that they provide safe and sustainable means of access for all users.
19. The proposed reinstated and improved footway along the Shannon Street site frontage will improve facilities for pedestrians travelling towards the city centre.
20. There are no specific highway amendments proposed for cycling but Shannon Street and Plaid Row are quiet streets and provide direct access to the Cycle Superhighway along the A64.
21. The development incorporates Electric Vehicle Charging Points, cycle parking provision and sustainable travel options which will be promoted through a Travel Plan. Therefore, the proposed development will have the required infrastructure to encourage sustainable travel and reduce its carbon footprint.
22. The proposals contained in this report therefore contribute to Leeds target of net zero carbon emissions by 2030 by improving facilities for walking, cycling, public transport and use of electric vehicles.

What consultation and engagement has taken place?

Wards affected: Burmantofts & Richmond Hill

Have ward members been consulted? Yes No

23. Burmantofts & Richmond Hill Ward Members were consulted by email dated 22nd January 2024, and a meeting was held on 24th January 2024 with 2 of the Ward Members, who are content with the scheme proceeding as planned.
24. The Emergency Services and West Yorkshire Combined Authority (WYCA) were consulted by email dated 4th February 2022, no comments have been received.
25. Internal consultation has taken place with colleagues in Highways and Transportation Services by email dated 4th February 2022. A request for lighting improvement on Plaid Row was made, but no suitable position for a light column was available and it was therefore agreed that this will not be provided.

What are the resource implications?

26. The developer will meet the Council's costs, estimated to be £10,800 fees to check the design, inspect the works and progress the stopping up order, all of which will be fully funded through the Section 278 agreement.
27. Funding: The developer will fund the total cost of the scheme, including works costs, statutory undertaker's costs and staff fees.
28. Staffing: The design and supervision of the works can be carried out within the existing staff resources.

Funding Approval :	Capital Section Reference Number :-		33488				
Previous total Authority to Spend on this scheme	TOTAL £000's	TO MARCH 2024 £000's	FORECAST				
			23/24 £000's	24/25 £000's	25/26 £000's	26/27 £000's	2027 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 2024 £000's	FORECAST				
			23/24 £000's	24/25 £000's	25/26 £000's	26/27 £000's	2027 on £000's
LAND (1)	0.0						
CONSTRUCTION (3)	0.0						
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	6.0			5.0			
OTHER COSTS (7)	0.0						
TOTALS	6.0	0.0	0.0	5.0	0.0	0.0	0.0
Total overall Funding (As per latest Capital Programme)	TOTAL £000's	TO MARCH 2024 £000's	FORECAST				
			23/24 £000's	24/25 £000's	25/26 £000's	26/27 £000's	2027 on £000's
LCC Supported Borrowing	0.0						
Revenue Contribution	0.0						
Capital Receipt	0.0						
Insurance Receipt	0.0						
Lottery	0.0						
Gifts / Bequests / Trusts	0.0						
European Grant	0.0						
Health Authority	0.0						
School Fundraising	0.0						
Private Sector	0.0						
Section 106 / 278	6.0			5.0			
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	6.0	0.0	0.0	5.0	0.0	0.0	0.0
Balance / Shortfall =	0.0	0.0	0.0	0.0	0.0	0.0	0.0

What are the key risks and how are they being managed?

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

What are the legal implications?

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

31. All work proposed lies within the framework of highways legislation and national and local standards for design where applicable. All other relevant legislation will also be taken into consideration, including duties under the Equality Act 2010.

32. The proposals regarding the proposed stopping-up of an area of what is currently publicly adopted highway is to be pursued via the statutory powers available to the Council as highway authority under the provisions of the Highways Act 1980.

Options, timescales and measuring success

What other options were considered?

33. The scope of the highways access and other works was assessed and agreed at Planning Application stage therefore no other options formed part of this proposal.

How will success be measured?

34. Success will be measured by the delivery of the highway works to support planning consent 18/00294/FU, thereby achieving the social, environmental, and economic benefits to the city.

What is the timetable and who will be responsible for implementation?

35. Works for the proposed development commenced in November 2023. The proposed highway works would be fully implemented in financial year 2024/2025.

Appendices

- Appendix 1 – EDCI Screening
- Appendix 2 – Location Plan drawing no: 09 001
- Appendix 3 - General Arrangement drawing no: 1831-01-03 A
- Appendix 4 – Stopping Up Plan drawing no: 996219-SU2310-01

Background papers

- None