

Report to the Chief Officer (Highways and Transportation)

Date: 14 May 2018

Subject: Design & Cost Report for S278 Works associated with outline planning permission for a residential development at on land at Micklethwaite Farm, off Wetherby Road, Wetherby.

Capital Scheme Number: 32696

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Wetherby	<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. Outline planning permission 16/01509/OT was granted on 11th August 2016 for a residential development on land located off Wetherby Road, Wetherby. A location plan is attached at **Appendix 2**.
2. The off-site highway works are described in detail in Section 6.2 below and briefly comprise the marking out of a ghost island right turning lane within the Wetherby Road carriageway and a reduction in the speed limit outside the site from 50mph to 40mph.
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.

Recommendations

1. The Chief Officer (Highways and Transportation) is requested to:
 - i) note the principles of the highway works as outlined in Section 6.2 and shown indicatively on Drawing Number EP/732696/GA/01 as shown at **Appendix 3** of this report; and

- ii) Advertise a draft Traffic Regulation Order to reduce the speed limit to 40mph (from 50mph) along the site frontage; and if no valid objections are received, to make and seal the TRO as advertised.
- iii) give authority to negotiate the terms of and enter into an agreement with the developer under the provisions of Section 278 of the Highways Act 1980; whereby the works associated with the development are carried out by this Council at the cost of the developer; and
- iv) give authority to incur expenditure of £70,000 works costs and £17,000 staff costs to be fully funded by a developer through a Section 278 Agreement; and
- v) give authority to carry out the detailed design, tender and implement the works as set out in Section 6.2.

4 Purpose of this report

- 4.1 The purpose of this report is to note the principle of the implementation of highway works associated with outline planning permission for a residential development on located off Wetherby Road, Wetherby.
- 4.2 To obtain authority to negotiate the terms of and enter into an Agreement under the provisions of Section 278 of the Highways Act 1980, whereby the associated highway works are carried out by Leeds City Council at the expense of the developer.
- 4.3 To request the City Solicitor to advertise a draft Traffic Regulation Order to reduce the speed limit to 40mph outside the site; and if no valid objections are received, to make and seal the TRO as advertised
- 4.4 To give authority to incur expenditure associated with the implementation of highway works associated with the development.

5 Background information

- 5.1 Outline planning permission 16/01509/OT was granted on 11th August 2016 for a residential development on land located off Wetherby Road, Wetherby. The developer is Duchy Homes Ltd.
- 5.2 Highway works are required to provide a satisfactory means of vehicular access to the proposed development from the local highway network. The highway works are shown indicatively on the attached plan Drawing No. EP/732696/GA/01, shown at **Appendix 3** and detailed in Section 6.2.
- 5.3 To meet the obligations 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.

6 Main issues

- 6.1 Duchy Homes Ltd have received outline planning permission (ref: 16/01509/OT) to construct a residential development on land located off Wetherby Road, Wetherby.

- 6.2 The planning permission includes a requirement for off-site highway works to be carried out on Wetherby Road to provide a satisfactory means of access to the development. The proposed works comprise:
- The marking out of a ghost island right turning lane within Wetherby Road alongside the site access junction.
 - Relocation of the speed limit on Wetherby Road to reduce the existing 50mph limit to 40mph in the vicinity of the site.
 - Any works reasonably required following safety audits of the design and construction of the highway works.
 - All associated civils works, including (inter alia) reconstruction, tie-ins, resurfacing, lighting, signing, drainage and lining works etc.
 - Any associated statutory undertaker's works resulting from the works.
- 6.3 Indicative details of the works are included on Drawing No. EP/732696/GA/01 shown at **Appendix 3**.
- 6.4 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.
- 6.5 The Engineering Projects section will be responsible for the detailed design and delivery of works. The developer at their own risk has paid an advanced fee of £10,000 to enable the detailed design process to be started in advance of a S278 Agreement being signed.
- 6.6 Safety Audits and Maintenance Audits are to be carried out as part of the detailed design process. The S278 Agreement will ensure that Safety Audits form part of the design process, and any appropriate works arising out of the audits are implemented at the developer's expense.
- 6.7 The S278 agreement will include the standard commuted sums for future maintenance of the works.

7 Corporate Considerations

7.1 Consultation and Engagement

- 7.1.1 Ward Members: Ward Members were consulted by email dated 20th January 2017. Although no formal responses were received, one Ward Member requested a meeting with officers, on 15th May 2017, to talk through the scheme. At that time, the draft proposals included minor carriageway widening on the opposite side of Wetherby Road to facilitate a wider central right turn lane. However, concerns were expressed that the road widening would over-engineer and urbanise the situation. Accordingly, the proposals have been modified to remove

this element of the scheme and provide a ghost island layout just within the existing width of Wetherby Road. A Stage 1/2 Safety Audit of these proposals has been carried out, which did not reveal any fundamental safety issues with the modified scheme.

- 7.1.2 The revised proposals were presented to the Ward Members at a Wetherby Ward Members Meeting on 13th October 2017. However, they continued to have reservations that the works would not fit in with the “rural, historic market town” character of Wetherby. Specifically, they expressed concerns about the extent of the road markings at the speed limit relocation and the introduction of street lighting along the site frontage. The Members requested that the plans be re-drafted again to take on board these issues.
- 7.1.3 Following the meeting, the highway works proposals have been further considered and refined. This has resulted in a reduction in the extent of the road markings, via the the removal of the ‘dragons teeth’ at the gateway/speed limit change. However, the 40mph roundel marking has been retained to highlight the speed limit reduction (from 50mph) to road users. Only 5 new street lighting columns are proposed and these would be a continuation of the existing street lighting that lies only a short distance away within the current 40mph speed limit on Wetherby Road. This is the minimum number required to protect the new junction. Furthermore, the wider road network in the surrounding locality already includes the presence of existing street lighting columns over an extensive area; and street lighting columns are also to be installed within the access road to the new development. This situation is depicted on drawing no. EP/732696/MISC/04 attached as **Appendix 4**.
- 7.1.4 In summary, the proposed highway works indicated on Drawing No. EP/732696/GA/01 shown at **Appendix 3** have been formulated having due regard to the Ward Members concerns.
- 7.1.4 Emergency Services and WYCA: The Emergency Services and WYCA were consulted via email dated 20th January 2017. The Fire Service responded on 23rd January 2017 to advise that they had no adverse comments to make on the proposals. No further comments from the consultees have been received.
- 7.1.5 Internal consultation has taken place with colleagues in the Highways and Transportation Services. Any substantive comments will be taken into account as part of the detailed design process.

7.2 Equality and Diversity / Cohesion and Integration

- 7.2.1 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.

7.3 Council policies and City Priorities

7.3.1 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.

7.4 Resources and value for money

7.4.1 The developer will meet the Council's costs, estimated to be £70,000 works and statutory undertaker's costs and £17,000 staff fees all of which will be fully funded through the Section 278 agreement.

7.5 Capital Funding and Cash Flow.

7.5.1 Funding: The developer will fund the total cost of the scheme, including works costs, statutory undertaker's costs and the cost of staff fees.

7.5.2 Staffing: The design and supervision of the works can be carried out within the existing staff resources.

Funding Approval :	Capital Section Reference Number :-						
Previous total Authority to Spend on this scheme	TOTAL	TO MARCH 2017	FORECAST				
	£000's	£000's	2017/18	2018/19	2019/20	2020/21	2021 on
			£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 required for this Approval	TOTAL	TO MARCH 2017	FORECAST				
	£000's	£000's	2017/18	2018/19	2019/20	2020/21	2021 on
			£000's	£000's	£000's	£000's	£000's
LAND (1)	0.0						
CONSTRUCTION (3)	70.0		70.0				
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	17.0		17.0				
OTHER COSTS (7)	0.0						
TOTALS	87.0	0.0	87.0	0.0	0.0	0.0	0.0
Total overall Funding (As per latest Capital Programme)	TOTAL	TO MARCH 2017	FORECAST				
	£000's	£000's	2017/18	2018/19	2019/20	2020/21	2021 on
			£000's	£000's	£000's	£000's	£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	87.0		87.0				
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	87.0	0.0	87.0	0.0	0.0	0.0	0.0
Balance / Shortfall =	0.0	0.0	0.0	0.0	0.0	0.0	0.0

7.6 Legal Implications, Access to Information and Call In

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

7.7 Risk Management

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

8 Conclusions

8.1 Outline planning application 16/01509/OT was granted on 11th August 2016 for a residential development on land located off Wetherby Road, Wetherby.

8.2 Highway works are required for the widening of Wetherby Road to provide a ghost island right turning lane at the site entrance and a reduction in the speed limit outside the site from 50mph to 40mph.

8.3 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.

9 Recommendations

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

- note the principles of the highway works as outlined in Section 6.2 and shown indicatively on Drawing Number EP/732696/MISC/03 as shown at **Appendix 3** of this report; and
- Advertise a draft Traffic Regulation Order to reduce the speed limit to 40mph (from 50mph) along the site frontage; and if no valid objections are received, to make and seal the TRO as advertised.
- give authority to negotiate the terms of and enter into an agreement with the developer under the provisions of Section 278 of the Highways Act 1980; whereby the works associated with the development are carried out by this Council at the cost of the developer; and
- give authority to incur expenditure of £70,000 works costs and £17,000 staff costs to be fully funded by a developer through a Section 278 Agreement; and
- Give authority to carry out the detailed design, tender and implement the works as set out in Section 6.2.

10 Background documents¹

10.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Appendix 1
 Equality, Diversity, Cohesion
 and Integration Impact
 Assessment



As a public authority we need to ensure that all our strategies, policies, services 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 37 88091
Date of the equality, diversity, cohesion and integration impact assessment: 18th September 2012, updated 15 May 2017	

1. Title: Equality Implications of Section 278 Process

Is this a:

Strategy /Policy

 Service / Function

 Other

If other, please specify

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:

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)	<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 Leeds Core Strategy, Manual for Streets and LCC Street Design Guide (which has been the subject of an EIA) consideration is given to; walkers, cyclists, public transport users, vulnerable road users and impact on services nearby, for example - schools
- Vehicular access – safety of this relating to width, radii, visibility splays, crossing opportunities
- Internal layout / servicing / bins – shared surface issues. Ability to move around safely.
- Parking – safety issues, availability of disabled spaces in line with the Core Strategy and Parking SPD.
- Travel Plan – Availability and accessibility 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.
- 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. – completed 2012.

Review operation of equality heading on proforma. – May 2017

Action required:

Amendments to be made to the pro-forma.- completed 2012.

Update team in Technical Team Meeting to ensure importance of correctly filling in profroma. – May 2017

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

(**Other** can include – marriage and civil partnership, pregnancy and maternity, and those areas that impact on or relate to equality: tackling poverty and improving health and well-being)

Please specify:

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

Financial exclusion

Employment and training

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 of benefit to the public to meet the requirements of S278 (4)..
Action required:

9. Will this activity promote strong and positive relationships between the groups/communities identified?
<input type="checkbox"/> Yes <input type="checkbox"/> 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)
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Please provide detail: Improving and adding to the public realm with inclusive, accessible and safe design will increase use by the public.
Action required:

11. Could this activity be perceived as benefiting one group at the expense of another? (e.g. where your activity/decision is aimed at adults could it have an impact on children and young people)
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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
EIA reviewed and updated by Highways Development Services reps.	May 2017	Update team at technical team meeting May 2017	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 Development Services Manager	December 2012
Date impact assessment completed		Reviewed May 2017

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	
Though all key decisions are required to give due regard to equality the council only publishes those related to Executive Board, Full Council, Key Delegated Decisions or a Significant Operational Decision .	
A copy of this equality impact assessment should be attached as an appendix to the decision making report:	
<ul style="list-style-type: none"> • Governance Services will publish those relating to Executive Board and Full Council. • The appropriate directorate will publish those relating to Delegated Decisions and Significant Operational Decisions. • A copy of all other equality impact assessments that are not to be published should be sent to equalityteam@leeds.gov.uk for record. 	
Complete the appropriate section below with the date the report and attached assessment was sent:	
For Executive Board or Full Council – sent to Governance Services	Date sent:
For Delegated Decisions or Significant Operational Decisions – sent to appropriate Directorate	Date sent:
All other decisions – sent to equalityteam@leeds.gov.uk	Date sent: 24 April 2013 Reviewed and re-sent May 2017