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# Report to the Chief Officer (Highways and Transportation)

Date: 23 October 2018

Subject: Design & Cost Report for S278 Works associated with planning permission

for a public bar at 39 Austhorpe Road, Cross Gates, Leeds

Capital Scheme Number: 33011

Are specific electoral Wards affected?  If relevant, name(s) of Ward(s):  Cross Gates & Whinmoor	⊠ Yes	□ No
Are there implications for equality and diversity and cohesion and integration?	☐ Yes	⊠ No
Is the decision eligible for Call-In?	☐ Yes	⊠ No
Does the report contain confidential or exempt information?  If relevant, Access to Information Procedure Rule number:  Appendix number:	☐ Yes	⊠ No

# **Summary of main issues**

- Planning permission 16/05185/FU was granted on 13th February 2018 following a planning appeal for a public bar to be operated by J D Wetherspoon plc at 39 Austhorpe Road, Cross Gates, Leeds. A location plan is attached at Appendix 2.
- The off-site highway works are described in detail in Section 6.2 below and briefly comprise the formation of a revised vehicular site access and footway widening along North Road, a loading bay on Austhorpe Road, and the introduction of build-outs and associated changes to give way markings at the junction of Church Lane and Austhorpe Road.
- 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.

#### 4 Recommendations

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 Numbers 7409 100 Rev C3 and TDS2018-1B;

- ii) note the principle of loading and/or waiting restrictions shown indicatively on Drawing Number TDS2018-1B which will be developed at detail design stage and which will be the subject of a further report;
- iii) approve the adoption of new highway construction on land shaded red on drawing number 7409 100 Rev C3 so that it can be added to the Council's maintenance regime;
- 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; whereby the works associated with the development are carried out by this Council at the cost of the developer;
- v) give authority to incur expenditure of £35,000 works costs and £15,000 staff costs and meet the costs of any other works resulting from the outcome of Safety Audits and consultations, all to be fully funded by a developer through a Section 278 Agreement; and
- vi) give authority to carry out the detailed design, tender and implement the works as set out in Section 6.2.

# 5 Purpose of this report

- 5.1 The purpose of this report is to note the principle of the implementation of highway works associated with planning permission for a public bar to be operated by J D Wetherspoon plc at 39 Austhorpe Road, Cross Gates, Leeds.
- 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.
- 5.3 To give authority to incur expenditure associated with the implementation of highway works associated with the development.

#### 6 Background information

- 6.1 Planning permission 16/05185/FU was granted on 13<sup>th</sup> February 2018, following a planning appeal, for a public bar to be operated by J D Wetherspoon plc at 39 Austhorpe Road, Cross Gates, Leeds.
- The premises was formally a doctor's surgery and pharmacy that relocated within the area several years ago. Part of the upper floor to the building is occupied by a dentist, the remainder of the premises has been vacant for several years.
- 6.3 The site is within the Cross Gates town centre adjacent to other retail and town centre uses. There are numerous traffic/parking restrictions in the locality and traffic management measures.
- The site has a frontage to the south with Austhorpe Road (the main route within the Cross Gates town centre), and to the west with North Road (which has a narrow carriageway and footway provision).
- 6.5 Currently there is a small car park / yard at the rear of the property from North Road. This area is informally laid out and accessed by a long and poorly defined dropped crossing over a narrow footway.

- The development site plan is indicated on drawing number 7409 100 Rev C3 at **Appendix 3** of this report. The proposal includes a reduction in the size of the rear car park / yard to accommodate a beer garden.
- 6.7 Highway works are required to provide a satisfactory means of vehicular access to the proposed development from the local highway network. The works primarily comprise the formation of a revised vehicular site access and footway widening along North Road, a loading bay and/or revised waiting restrictions on Austhorpe Road, and the introduction of build-outs and associated changes to give way markings at the junction of Church Lane and Austhorpe Road. The works are shown indicatively on the attached plan indicatively on Drawing Numbers 7409 100 Rev C3 and TDS2018-1B as shown at Appendix 3 of this report, shown at Appendix 3 and detailed in Section 6.2. The footway widening works to North Lane are achieved by widening into the development site, the developer has agreed that the land would be formally dedicated as Highway through the Section 278 Agreement.
- 6.8 Servicing by larger HGVs is proposed from Austhorpe Road as larger vehicles cannot safely travel or unload along North Road, and the rear yard (both historically and as proposed) cannot accommodate the parking and turning of such vehicles. To the immediate south of the site frontage a bus stop and clearway are present which are heavily used. During the planning stage consideration was given to relocating the bus stop so that service vehicles may get as close as possible to the building. Through consultation with the Traffic section it was determined that the bus stop should remain in its current location, being the optimum site for the facility, and that servicing take place to the east of the bus stop on a length that currently has double yellow lines but loading is permitted for a period of up to 30 minutes.
- 6.9 Before the planning authority determined the planning application, the developer elected to appeal to the Planning Inspectorate against the failure to determine the application within the prescribed period. The application was subsequently allowed subject to conditions.
- 6.10 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 associated highway works to be carried out.

### 7 Main issues

- 7.1 J D Wetherspoon plc have received planning permission (ref: 16/05185/FU) to construct a public bar at 39 Austhorpe Road, Cross Gates, Leeds, within the Cross Gates town centre.
- 7.2 The planning permission includes a requirement for off-site highway works to be carried out to provide a satisfactory means of access to the development for vehicles, pedestrians and services vehicles. The proposed works comprise:
  - Widening of the existing North Road footway within the development site on the western boundary of the site to improve provision for pedestrians and other vulnerable road users, and to provide suitable visibility for and of vehicles leaving to site car park;
  - Formation of the site access to the site car park off North Road;

- The reinstatement of any existing redundant accesses along the site frontage with North Road;
- The introduction of build-outs and associated changes to give way markings at the junction of Church Lane and Austhorpe Road to improve visibility for vehicles using the junction. The exact nature of the build-outs, both in terms of construction (physical/kerbed or by white lining) and dimensions, needs to be determined through the detailed design;
- The introduction of loading bay and/or revised waiting restrictions between the proposed build-outs and the existing bus clearway markings along the Austhorpe Road site frontage to assist servicing of the development and other uses in the locality;
- 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.; and
- Any associated statutory undertakers' works resulting from the works.
- 7.3 Indicative details of the works are included on Drawing references 7409 100 Rev C3 and TDS2018-1B shown at Appendix 3. The footway widening works to North Lane are achieved by widening into the development site, the developer has agreed that the land would be formally dedicated as Highway through the Section 278 Agreement.
- 7.4 The total estimated cost of the required highway work is £50,000, comprising £35,000 works costs and £15,000 staff costs, excluding any necessary statutory undertakers' works and commuted sums for future maintenance.
- 7.5 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.
- 7.6 The Engineering Projects section will be responsible for the detailed design and delivery of works. The developer at their own risk has agreed to pay an advanced fee of £10,000 to enable the detailed design process to be started in advance of a S278 Agreement being signed.
- 7.7 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.
- 7.8 The S278 agreement will include the standard commuted sums for future maintenance of the works.

# 8 Corporate Considerations

# 8.1 Consultation and Engagement

- 8.1.1 Ward Members: Ward Members were consulted by letter and email dated 11<sup>th</sup> May 2018 and a Ward Member briefing was subsequently carried out on 16<sup>th</sup> May 2018. Ward Members have expressed some concern about the introduction of a dedicated loading bay restrictions. Ward Members have requested that further dialogue with the designer takes place during the detailed design so that all potential options can be considered. This approach is acceptable to officers.
- 8.1.2 Emergency Services and WYCA: The Emergency Services and WYCA were consulted via letter and email dated 23<sup>rd</sup> April 2018. At the time of writing, no substantive comments or concerns from the Emergency Services or WYCA have been received.
- 8.1.3 Internal consultation has taken place with colleagues in the Highways and Transportation Services. No substantive comments or concerns have been received. Further consultation will be carried out as required as part of the detailed design process and any comments will be taken into account.

# 8.2 Equality and Diversity / Cohesion and Integration

8.2.1 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.

#### 8.3 Council Policies and City Priorities

8.3.1 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.

# 8.4 Resources and value for money

8.4.1 The developer will meet the Council's costs, estimated to be £35,000 works and statutory undertaker's costs and £15,000 staff fees all of which will be fully funded through the Section 278 agreement.

# 8.5 Capital Funding and Cash Flow

- 8.5.1 Funding: The developer will fund the total cost of the scheme, including works costs, statutory undertaker's costs and the cost of staff fees.
- 8.5.2 Staffing: The design and supervision of the works can be carried out within the existing staff resources.

Funding Approval :	Capital S	ection Referen	ce Numbe	er :-			
Previous total Authority	TOTAL	TO MARCH		F	ORECAST	Г	
to Spend on this scheme		2018	2018/19	2019/20	2020/21	2021/22	2022 on
•	£000's	£000's	£000's	£000's	£000's	£000's	£000's
LAND (1)	0.0						
CONSTRUCTION (3)	0.0						
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	0.0						
OTHER COSTS (7)	0.0						
TOTALS	0.0	0.0	0.0	0.0	0.0	0.0	0.0
				_			
Authority to Spend	TOTAL	TO MARCH			ORECAST		
required for this Approval		2018	2018/19	2019/20	2020/21	2021/22	2022 on
	£000's	£000's	£000's	£000's	£000's	£000's	£000's
LAND (1)	0.0						
CONSTRUCTION (3)	35.0		29.0	6.0			
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	15.0		13.0	2.0			
OTHER COSTS (7)	0.0						
TOTALS	50.0	0.0	42.0	8.0	0.0	0.0	0.0
Total overall Funding	TOTAL	TO MARCH	0010/10		ORECAST		2222
(As per latest Capital	£000's	2018 £000's	2018/19 £000's	2019/20 £000's	2020/21 £000's	2021/22 £000's	2022 on £000's
Programme)	£000 S	£000 S	£000 S	£000 S	£000 S	£000 S	£000 S
LCC Companie d Dameouin a	0.0						
LCC Supported Borrowing Revenue Contribution	0.0 0.0						
	0.0						
Capital Receipt							
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	50.0		42.0	8.0			
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						
Tary Saler meeme (Speemy)							
Total Funding	50.0	0.0	42.0	8.0	0.0	0.0	0.0
	50.0	0.0	42.0	8.0	0.0	0.0	0.0

# 8.6 Legal Implications, Access to Information and Call In

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

# 8.7 Risk Management

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

#### 9 Conclusions

9.1 Planning permission 16/05185/FU was granted on 13th February 2018 following a planning appeal for a public bar to be operated by J D Wetherspoon plc at 39 Austhorpe Road, Cross Gates, Leeds.

- 9.2 Highway works are required comprising the formation of a revised vehicular site access and footway widening along North Road, a loading area on Austhorpe Road, and the introduction of build-outs and associated changes to give way markings at the junction of Church Lane and Austhorpe Road.
- 9.3 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.

#### 10 Recommendations

- 10.1 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 Numbers 7409 100 Rev C3 and TDS2018-1B;
  - ii) note the principle of loading and/or waiting restrictions shown indicatively on Drawing Number TDS2018-1B which will be developed at detail design stage and which will be the subject of a further report;
  - iii) approve the adoption of new highway construction on land shaded red on drawing number 7409 100 Rev C3 so that it can be added to the Council's maintenance regime;
  - 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; whereby the works associated with the development are carried out by this Council at the cost of the developer;
  - v) give authority to incur expenditure of £35,000 works costs and £15,000 staff costs and meet the costs of any other works resulting from the outcome of Safety Audits and consultations, all to be fully funded by a developer through a Section 278 Agreement; and
  - vi) give authority to carry out the detailed design, tender and implement the works as set out in Section 6.2.

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

11.1 None.

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, and 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 20	)17
1. Title: Equality Implications of Section	278 Process
Is this a:	
x Strategy /Policy Servic	e / 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
Lisa Powell	LCC	Performance Manager

3. Summary of strategy, policy, service or function that was ass	sessed:	
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 there are changes required to the highway to enable access to the si etc	•	
This Equality Impact Assessment considers the process of determini of such developments and how this process gives due regard to the characteristics.	•	
[4.0amas(4) a mas(9)   12   13   13   13   13   13   13   13		
<b>4. Scope of the equality, diversity, cohesion and integration imp</b> (complete - 4a. if you are assessing a strategy, policy or plan and 4b assessing a service, function or event)		
4a Ctratago nalias ar plan		
4a. Strategy, policy or plan (please tick the appropriate box below)		
The vision and themes, objectives or outcomes	х	
The vision and themes, objectives or outcomes and the supporting guidance		
A specific section within the strategy, policy or plan		
Please provide detail:		
4b. Service, function, event please tick the appropriate box below		
The whole service (including service provision and employment)		
A specific part of the service (including service provision or employment or a specific section of		
the service)		
Procuring of a service (by contract or grant)		

# Please 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, e.g. 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 proforma. – May 2017

6. Wider involvement – have you involved groups of people who are most likely to
be affected or interested
X 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 propose input on behalf of residents.	al is sent to the relevant W	/ard Member for their
Action required: None		
7. Who may be affected by this activi please tick all relevant and significant ed that apply to your strategy, policy, service	quality characteristics, stal	keholders and barriers
Equality characteristics		
x Age	x Carers	x Disability
Gender reassignment	Race	X Religion or Belief
X Sex (male or female)	Sexual orientation	on
Other  (Other can include – marriage and civil areas that impact on or relate to equality being)  Please specify:		
Stakeholders		
X Services users	x Employees	Trade Unions
Partners	X Members	Suppliers
Other please specify		

Potential barriers.		
Built environment x Location of premises and services		
Information Customer care and communication		
Timing Stereotypes and assumptions		
x 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:		

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9. Will this activity promote strong an groups/communities identified?	nd positive relationships between the	
Yes	No	
Please provide detail: Not applicable		
Action required:		
10. Does this activity bring groups/coother? (e.g. in schools, neighbourhood,	ommunities into increased contact with each workplace)	
X Yes	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:		
	s benefiting one group at the expense of ion is aimed at adults could it have an impact on	
Yes	X No	
Please provide detail:		
Action required:		
None		

12. Equality, diversity, cohesion and integration action plan
(insert all your actions from your assessment here, set timescales, measures and identify a lead person for each action)

Action	Timescale	Measure	Lead person
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 of	completed	Reviewed May 2017

14. Monit (please tic	coring progress for equality, diversity, cohesion and integration actions
x	As part of Service Planning performance monitoring
	As part of Project monitoring
	Update report will be agreed and provided to the appropriate board Please specify which board
	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:

- 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 <b>Directorate</b>	Date sent:
All other decisions – sent to equalityteam@leeds.gov.uk	Date sent: 24 April 2013 Reviewed and re-sent May 2017