

**Report to the Chief Officer (Highways and Transportation)**

**Date: 15 January 2019**

**Subject: Design & Cost Report for S278 Works Associated with the Wellington Place development on Whitehall Road, Leeds**

**Capital Scheme Number: 33048**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Hunslet and Riverside	<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 The construction of a large office building on the Wellington Place site, planning application 16/02523/RM has triggered the need to amend the access arrangements to the western portion of the Wellington Place site.
- 2 Alterations to the highway are proposed to provide a new safe vehicular access to the site and to reinstate a redundant old access and a temporary access as footway and to create a bus stop clearway on the opposite side of Wellington Street to the development. The proposed highway works are shown on drawing 5703-CUR-00-ZZ-DR-C-95001 Rev P07 S278 highway Works.
- 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 Main Issues and shown on drawing number 5703-CUR-00-ZZ-DR-C-95001 Rev P07 S278 highway Works
- ii) Give authority to incur expenditure of £10,000 staff costs and £7,000 TRO costs to be fully funded by the developer through the S278 Agreement.
- iii) Request the City Solicitor to advertise a draft Traffic Regulation Order on Whitehall Road to create a bus stop clearway and, if no valid objections are received to make, seal and implement the order as advertised;
- iv) give authority to negotiate the terms of and enter into an agreement with the developer under the provisions of Section 278 of the Highways Act 1980 whereby the developer will design and procure the highway works at their expense and the Council will check the design of the work and inspect the construction, with step in powers should the works not be managed or constructed to appropriate standards

### **1 Purpose of this report**

- 1.1 The purpose of this report is to note the principle of the implementation of highway works associated with a mixed use development consisting primarily of office buildings on the Wellington Place site on Whitehall Road.
- 1.2 To give authority to incur expenditure associated with the implementation of the highway works associated with the development
- 1.3 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 developer will design and procure the highway works at their expense and the Council will check the design of the work and inspect the construction, with step in powers should the works not be managed or constructed to appropriate standards

### **2 Background information**

- 2.1 The proposed highway works involve the provision of a new access from Whitehall Road into the site. The new access will serve the western phase of the Wellington Place development, the need for the works to come forward at this stage has been triggered by the construction of a large office building, planning application 16/06523/RM on the Whitehall Road site frontage that will take car park and service access at this point and is currently on site.
- 2.2 The new access is between the old access to the site from its previous uses and a temporary access that was constructed to provide access for construction of the new office building and to the temporary surface car parking on the remainder of the site. As part of the proposed highway works these access points will be closed and reinstated as footway.
- 2.3 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.

- 2.4 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 Main Issues**

- 3.1 The proposed highway works are shown on drawing 5703-CUR-00-ZZ-DR-C-95001 Rev P07 S278 highway Works and consist of:
- Formation of a new priority vehicular access junction on Whitehall Road
  - Reinstatement of the old vehicular access as footway
  - Reinstatement of the temporary construction and car park access as footway on opening of the new access.
  - Relocation of a bus stop 45025848 on the south side of Whitehall Road a short distance east, with associated Traffic Regulation Order to create a bus stop clearway
- 3.2 It is proposed that the developer will enter a Section 278 Agreement with the Council whereby the developer will design and procure the highway works at their expense and the Council will check the design of the work and inspect the construction, with step in powers should the works not be managed or constructed to appropriate standards.
- 3.3 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 3<sup>rd</sup> December 2018 no comments have been received.
- 4.1.2 Emergency Services and WYCA: The Emergency Services and Metro were consulted email dated 3<sup>rd</sup> December 2018. No comments have been received.
- 4.1.3 Internal consultation has taken place with colleagues in the Highways and Transportation Services as part of developing the design to its current stage.

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

- 4.2.1 An EDCI Impact Assessment has been carried out on the Section 278 Process and is attached as Appendix 1. The assessment confirmed that individual designs put forward as part of this process, will take into account the needs of each of the equality characteristics and will aim to meet Section 278 (4) which states that "A highway authority shall not enter into an agreement under this section unless they are satisfied that it will be of benefit to the public". As part of the design and

construction process further equality screenings and impact assessments will be undertaken as required.

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

#### 4.3 Council policies and City Priorities

4.3.1 The proposed highway works which allow the development to take place accord with the 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.

#### 4.4 Resources and value for money

4.4.1 The estimated costs are £10,000 fees and £7,000 TRO costs, which will be fully funded through the Section 278 agreement.

4.4.2 The highway works must be completed to meet the opening date of the office building, expected to be in 2019.

#### 4.5 Capital Funding and Cash Flow.

Funding Approval :	Capital Section Reference Number :-						
Previous total Authority to Spend on this scheme	TOTAL £000's	TO MARCH 2017 £000's	FORECAST				
			2017/18 £000's	2018/19 £000's	2019/20 £000's	2020/21 £000's	2021 £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						
<b>TOTALS</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
Authority to Spend required for this Approval	TOTAL £000's	TO MARCH 2017 £000's	FORECAST				
			2017/18 £000's	2018/19 £000's	2019/20 £000's	2020/21 £000's	2021 £000's
LAND (1)	0.0						
CONSTRUCTION (3)	0.0						
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	10.0			3.0	7.0		
OTHER COSTS (7)	7.0				7.0		
<b>TOTALS</b>	<b>17.0</b>	<b>0.0</b>	<b>0.0</b>	<b>3.0</b>	<b>14.0</b>	<b>0.0</b>	<b>0.0</b>
Total overall Funding (As per latest Capital Programme)	TOTAL £000's	TO MARCH 2017 £000's	FORECAST				
			2017/18 £000's	2018/19 £000's	2019/20 £000's	2020/21 £000's	2021 £000's
Section 106 / 278	17.0			3.0	14.0		
Total Funding	17.0	0.0	0.0	3.0	14.0	0.0	0.0
<b>Balance / Shortfall =</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

#### 4.6 Legal Implications, Access to Information and Call In

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

#### 4.7 Risk Management

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

4.7.2 The works need to be completed before the development is able to open, expected to be 2019.

### 5 Conclusions

5.1 The construction of a large office building on the Wellington Place site, planning application 16/02523/RM has triggered the need to amend the access arrangements to the western portion of the site.

- 5.2 Alterations to the highway are proposed to provide a new safe vehicular access to the site and to reinstate a redundant old access and a temporary access as footway and to create a bus stop clearway on the opposite side of Wellington Street to the development. The proposed highway works are shown on drawing 5703-CUR-00-ZZ-DR-C-95001 Rev P07 S278 highway Works.
- 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 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 Main Issues and shown on drawing number 5703-CUR-00-ZZ-DR-C-95001 Rev P07 S278 highway Works;
  - ii) give authority to incur expenditure of £10,000 staff costs and £7,000 TRO costs to be fully funded by the developer through the S278 Agreement;
  - iii) request the City Solicitor to advertise a draft Traffic Regulation Order on Whitehall Road to create a bus stop clearway and, if no valid objections are received to make, seal and implement the order as advertised; and
  - iv) give authority to negotiate the terms of and enter into an agreement with the developer under the provisions of Section 278 of the Highways Act 1980 whereby the developer will design and procure the highway works at their expense and the Council will check the design of the work and inspect the construction, with step in powers should the works not be managed or constructed to appropriate standards.

## **7 Background Papers**

- 7.1 None.

## Equality, Diversity, Cohesion and Integration Impact Assessment

As a public authority we need to ensure that all our strategies, policies, service and functions, both current and proposed have given proper consideration to equality, diversity, cohesion and integration. In all appropriate instances we will need to carry out an equality, diversity, cohesion and integration impact assessment.

This form:

- can be used to prompt discussion when carrying out your impact assessment
- should be completed either during the assessment process or following completion of the assessment
- should include a brief explanation where a section is not applicable

<b>Directorate: City Development</b>	<b>Service area: Highways &amp; Transportation</b>
<b>Lead person: Gillian MacLeod</b>	<b>Contact number: 0113 37 88091</b>
<b>Date of the equality, diversity, cohesion and integration impact assessment: 18<sup>th</sup> September 2012, updated 15 May 2017</b>	

<b>1. Title: Equality Implications of Section 278 Process</b>
Is this a:
<input checked="" type="checkbox"/> <b>Strategy /Policy</b> <input type="checkbox"/> <b>Service / Function</b> <input type="checkbox"/> <b>Other</b>
<b>If other, please specify</b>

### 2. Members of the assessment team:

<b>Name</b>	<b>Organisation</b>	<b>Role on assessment team e.g. service user, manager of service, specialist</b>
Gillian MacLeod	LCC	Service Manager
Adrian Hodgson	LCC	Service Officer
Andrew Thickett	LCC	Service Officer
Mary Levitt-Hughes	LCC	Equality Officer
Lisa Powell	LCC	Performance Manager

<b>3. Summary of strategy, policy, service or function that was assessed:</b>
<p>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.</p> <p>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...</p> <p>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.</p>

<b>4. Scope of the equality, diversity, cohesion and integration impact assessment</b> (complete - 4a. if you are assessing a strategy, policy or plan and 4b. if you are assessing a service, function or event)
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<b>4a. Strategy, policy or plan</b> (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"/>
<b>Please provide detail:</b>	

<b>4b. Service, function, event</b> 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"/>



<b>Please provide detail:</b>	

### **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.**

<input checked="" type="checkbox"/>	<b>Built environment services</b>	<input checked="" type="checkbox"/>	<b>Location of premises and</b>
<input type="checkbox"/>	<b>Information and communication</b>	<input type="checkbox"/>	<b>Customer care</b>
<input checked="" type="checkbox"/>	<b>Timing</b>	<input type="checkbox"/>	<b>Stereotypes and assumptions</b>
<input checked="" type="checkbox"/>	<b>Cost</b>	<input type="checkbox"/>	<b>Consultation and involvement</b>
<input type="checkbox"/>	<b>Financial exclusion</b>	<input type="checkbox"/>	<b>Employment and training</b>
<input type="checkbox"/>	<b>specific barriers to the strategy, policy, services or function</b>		

**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?**

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: 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)**

Yes

No

**Please provide detail:**

**Action required:**

None

**12. Equality, diversity, cohesion and integration action plan**

(insert all your actions from your assessment here, set timescales, measures and identify a lead person for each action)

<b>Action</b>	<b>Timescale</b>	<b>Measure</b>	<b>Lead person</b>
Add 'Additional Equality Considerations to the S278 pro-forma.	December 2012	N/A	Gillian MacLeod
EIA reviewed and updated by Highways Development Services reps.	May 2017	Update team at technical team meeting May 2017	Gillian MacLeod

<b>13. Governance, ownership and approval</b> State here who has approved the actions and outcomes from the equality, diversity, cohesion and integration impact assessment		
Name	Job Title	Date
Gillian MacLeod	Transport Development Services Manager	December 2012
<b>Date impact assessment completed</b>		<b>Reviewed May 2017</b>

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

<b>15. Publishing</b>	
Though <b>all</b> key decisions are required to give due regard to equality the council <b>only</b> publishes those related to <b>Executive Board, Full Council, Key Delegated Decisions</b> or a <b>Significant Operational Decision</b> .	
A copy of this equality impact assessment should be attached as an appendix to the decision making report:	
<ul style="list-style-type: none"> <li>• Governance Services will publish those relating to Executive Board and Full Council.</li> <li>• The appropriate directorate will publish those relating to Delegated Decisions and Significant Operational Decisions.</li> <li>• A copy of all other equality impact assessments that are not to be published should be sent to <a href="mailto:equalityteam@leeds.gov.uk">equalityteam@leeds.gov.uk</a> for record.</li> </ul>	
Complete the appropriate section below with the date the report and attached assessment was sent:	
For Executive Board or Full Council – sent to <b>Governance Services</b>	Date sent:
For Delegated Decisions or Significant Operational Decisions – sent to appropriate <b>Directorate</b>	Date sent:
All other decisions – sent to <a href="mailto:equalityteam@leeds.gov.uk">equalityteam@leeds.gov.uk</a>	Date sent: 24 April 2013 Reviewed and re-sent May 2017