

**Report to: The Chief Officer (Highways and Transportation)**

**Date: 17<sup>th</sup> December 2019**

**Subject: Section 116 Highways Act 1980 – Stopping Up Order & Walkway Agreement (3 December 1979) – ASDA Holt Park Road, Holt Park, Unnamed Footpath, Leeds, LS16 7RY.**

Are specific electoral wards affected? If yes, name(s) of ward(s): Adel & Wharfedale	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<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
Will the decision be open 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**

To declare an area of adopted highway comprising of a unnamed footpath located at Asda, Holt Park Road, Holt Park, Leeds, LS16 7RY, shown in red on drawing SD/217960/Z228/01 in Appendix A unnecessary in accordance with Section 116 of the Highways Act 1980. Including the termination of the historic Walkway Agreement (3 December 1979) between the land owner and LCC.

**1. Main issues**

- The unnamed adopted footpath is no longer required due to the closure and demolition of the retail units running along its length and therefore considered unnecessary in accordance with Section 116 of the Highways Act 1980 as shown in red on drawing SD/217960/Z228/01.
- An application to the magistrates' court under Section 116 of the Highways Act 1980 is required to stop up the area of adopted footpath as shown in red on drawing SD/217960/Z228/01.
- The termination of the historic Walkway Agreement (3 December 1979) is required to finalise the Land Transfer Agreement between Asda and LCC in order to transfer ownership and maintenance responsibility's for the walkway running through the Asda complex as shown in blue on drawing SD/217960/Z228/02.

## **2. Best Council Plan Implications**

- This report supports the Best Council Plan and Key City Priorities. The stopping up order supports the delivery of public open space (POS) and the development of the adjacent LCC General Needs Housing and Extra Care development sites as part of the regeneration of the Holt Park area. Providing housing and extra care of the right quality, type, tenure and affordability in the right places.

## **3. Resource Implications**

- The applicant, Asda are responsible for the demolition works and have paid the standard fee of £3,800 which includes £800 for advertising. The applicant has agreed to meet the costs, if any, which may be incurred by statutory undertakers exercising their rights under Section 116 of the Highways Act 1980 to recover from the council the cost of removing, diverting or abandoning any equipment located in, on, over, along or across any highway affected by an order granted under Section 116.

## **Recommendations**

- a) The Chief Officer (Highways and Transportation) is requested to instruct the City Solicitor to apply to the magistrates' court for a stopping up order under Section 116 of the Highways Act 1980 for the area of adopted footpath as shown in red on drawing SD/217960/Z228/01;
- b) and to approve the termination of the historic Walkway Agreement (3 December 1979) previously entered into between the Council, West Yorkshire Metropolitan County (as then highway authority) and the landowner as shown in red on drawing SD/217960/Z228/01.

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

- 1.1 To seek approval to promote a Stopping Up Order for an area of adopted highway comprising of the unnamed adopted footpath located at Asda, Holt Park Road, Holt Park, Leeds, LS16 7RY unnecessary in accordance with Section 116 of the Highways Act 1980. Including the termination of the historic Walkway Agreement (3 December 1979).

## **2. Background information**

- 2.1 The unnamed adopted footpath is located at the rear of the Asda complex on Holt Park Road Holt Park, Leeds, LS16 7RY situated approximately 7.2km north west of Leeds City Centre.
- 2.2 As part of the Land Transfer Agreement between LCC and Asda of the Holt Park District Centre, Asda have obtained planning permission to demolish the retail units located to the rear of the complex. This area of land will revert into the ownership of LCC as shown in red on drawing SD/217960/Z228/02.
- 2.3 The termination of the historic Walkway Agreement (3 December 1979) is required in order to transfer ownership and maintenance responsibilities to Asda for the walkway running north to south through the complex as shown in blue on drawing SD/217960/Z228/02.

- 2.4 This was previously entered into between the Council, West Yorkshire Metropolitan County (as then highway authority) and the landowner. At the time the Walkway Agreement was entered into, this was necessary under the provisions of Section 18 of the Highways Act 1971 so as to:
- establish that the section was a particular type of highway, known as a 'walkway', which has its own legal provisions;
  - dedicate the 'walkway' to the public as a footpath;
  - ensure the 'walkway', was regarded as a highway maintainable at public expense; and
  - put in place some detailed provisions relating to opening and maintenance of the 'walkway'.
- 2.5 Records held by Street Registry indicate that the extents of the unnamed adopted footpath commences from the northern boundary of retail unit number 7 and terminates at its eastern boundary with retail unit number 16 as shown in red on drawing SD/217960/Z228/01.
- 2.6 However the extents of the adoption of the unnamed footpath is contradicted by the information contained within the Walkway Agreement (3 December 1979). Legal Services have advised for the purposes of completeness to treat the entire length of the unnamed walkway/footpath as adopted as shown in red on drawing SD/217960/Z228/01.
- 2.7 The section of walkway running north to south through the Asda complex will remain and the unnamed footpath which served retail units numbers 7 to 16 will be removed as part of the demolition works. The unnamed adopted footpath provided access to these retail units and is no longer required due to the demolition of the units.
- 2.8 The area of highway to be stopped up are shown in red on drawing SD/217960/Z228/01. The total area of highway to be stopped up is approximately 856 square metres.

## **2. Main issues**

- 2.9 The area of adopted highway is no longer required due to the closure and demolition of the retail units. The area of highway to be stopped up are therefore considered unnecessary in accordance with Section 116 of the Highways Act 1980 as shown in red on drawing SD/217960/Z228/01.
- 2.10 An application to the magistrates' court under Section 116 of the Highways Act 1980 is required to stop up the area of adopted highway shown in red on drawing SD/217960/Z228/01.
- 2.11 Included within in these proposals is the termination of the Walkway Agreement (3 December 1979) which will transfer ownership and maintenance responsibilities to Asda for the walkway shown in blue on drawing SD/217960/Z228/02. The walkway running north to south through the complex will be retained by Asda and remain open to the public.
- 2.12 The area of land being transferred into the ownership of LCC will be laid out as POS providing pedestrian links within the area as shown on the drawing titled 'Farrar Lane Public Open Space Ideas Plan'. The POS will be delivered through the

development of the adjacent land by the Council House New Build Team (CHNBT) for General Needs and Extra Care Housing.

### **3. Corporate considerations**

#### **3.9 Consultation and engagement**

3.9.1 Ward Members were consulted by e-mail dated 16<sup>th</sup> August 2019 and are in full support of the proposals. The City Solicitor will inform statutory undertakers and emergency services as part of the statutory consultation process of promoting a stopping up order.

#### **3.10 Equality and diversity / cohesion and integration**

3.10.1 An Equality, Diversity, Cohesion and Integration screening (Appendix A) has been carried out and confirms that a full impact assessment is not required. The proposals will not impact on any equality characteristic more significantly than any other.

#### **3.11 Council policies and the Best Council Plan**

3.11.1 This report supports the Best Council Plan and Key City Priorities. The stopping up order support the delivery of housing and the regeneration of the Holt Park area providing housing and extra care of the right quality, type, tenure and affordability in the right places.

##### **3.11.2 Climate Emergency**

3.11.3 The stopping up order will enable the delivery of the POS and a net increase in biodiversity and tree planting through the removal of the hard standing areas supporting the aims of tackling the climate emergency in Leeds.

#### **3.12 Resources, procurement and value for money**

3.12.1 The applicant Asda, has paid the standard fee of £3,800 which includes £800 for advertising. The applicant has agreed to meet the costs, if any, which may be incurred by statutory undertakers exercising their rights under Section 116 of the Highways Act 1980 to recover from the council the cost of removing, diverting or abandoning any equipment located in, on, over, along or across any highway affected by an order granted under Section 116.

#### **3.13 Legal implications, access to information, and call-in**

3.13.1 None of the content of this report is exempt from public display or contains confidential information.

#### **3.14 Risk management**

3.14.1 There is negligible risk to the council.

#### **4. Conclusions**

- 4.9 The area of adopted highway comprising of the unnamed footpath located at the rear of the Asda complex on Holt Park Road Holt Park, Leeds, LS16 7RY is considered unnecessary in accordance with Section 116 of the Highways Act 1980.

#### **5. Recommendations**

- a) The Chief Officer (Highways and Transportation) is requested to instruct the City Solicitor to apply to the magistrates' court for a stopping up order under Section 116 of the Highways Act 1980 for the areas of adopted footpath as shown in red on drawing SD/217960/Z228/01;
- b) and to approve the termination of the historic Walkway Agreement (3 December 1979) previously entered into between the Council, West Yorkshire Metropolitan County (as then highway authority) and the landowner as shown in red on drawing SD/217960/Z228/01.

#### **6. Background documents<sup>1</sup>**

- 6.9 None

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<sup>1</sup> 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.