

Report of Head of Land & Property

Report to Director of City Development

Date: 3 February 2020

Subject: LPTIP: A647 Appropriation of Land for Planning purposes.

Are specific electoral wards affected? If yes, name(s) of ward(s): Armley	<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

1. Main issues

The purpose of this report is to recommend that land at Low Moor be appropriated for the purposes of the Town and Country Planning Act 1990 in order to allow the works required to facilitate bus corridor improvements as part of the LPTIP project may proceed.

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

- This report seeks authority to appropriate land to facilitate bus corridor improvements as part of the LPTIP project. This will contribute to the city wide priority of improving the city's transport infrastructure and tackling climate change risks.

3. Resource Implications

- The appropriation as detailed in this report has little impact on resources other than officer time. The scheme build will have been procured in accordance with the council's procedure rules.

Recommendations

It is recommended that:

- a) the Director of Resources & Housing declares surplus the land that currently vests in housing (as shown cross-hatched on the attached plan)
- b) the Director of City Development approves the appropriation of the land shown cross hatched black and edged black on the attached plan for the purposes of the Town and Country Planning Act 1990 following the expiry of the period for the receipt of objections if none are received or following consideration of any objections

1. Background information

Wider Project Background

- 1.1 The proposed LPTIP A647 Bus Priority Corridor scheme covers the section of the A647 between Armley Gyratory and the Leeds Road Gyratory (in neighbouring Bradford). It also includes the B6157 Stanningley Road/Bradford Road through Stanningley, as the principal route served by buses.
- 1.2 The corridor connects Leeds City Centre with Armley, Bramley, Stanningley, Farsley and Pudsey, providing the key corridor for the majority of bus services serving these communities. The corridor accommodates the City Connect Cycle Superhighway scheme and includes an existing High Occupancy Vehicle (HOV) lane between Town End and Pasture Mount.
- 1.3 Across the full length of the scheme, the following key interventions will be delivered:
 - New bus lanes on Bradford Road.
 - Traffic signal upgrades and minor amendments to layouts of key junctions on Stanningley Road to enable prioritisation of buses and cycles, and more efficient junction operation benefitting all vehicles.
 - Conversion of the HOV Lane on Stanningley Road to a bus lane.
 - Reconfiguration of the junction of Stanningley Road/Ledgard Way/Armley Road/Branch Road (the Ledgard Way junction) to increase capacity for traffic moving in the dominant East/West directions, and to improve the pedestrian and cycle facilities.
 - Widening of the highway on Armley Road to provide an outbound bus lane approaching the Ledgard Way junction, and to enable a gap in the Cycle Superhighway facilities to be filled.
- 1.4 Approval to progress the A647 Bus Priority Corridor scheme to detailed design and construction was granted by LCC Executive Board in February 2019. The Outline Business Case for this scheme was approved by the West Yorkshire Combined Authority in February 2019. The Full Business Case was submitted to the West Yorkshire Combined Authority in December 2019.

- 1.5 The full scheme is predicted to reduce bus journey times by an average of over 8 minutes inbound in the morning peak period, and over 7 minutes outbound in the afternoon peak. These improvements in bus journey times are expected to encourage modal shift from car to bus, to the extent that 209,524 car kilometres are removed from the network each year.

Site Specific – Proposals on Armley Road

- 1.6 The delivery of the new outbound bus lane and extension of the Cycle Superhighway on Armley Road requires the highway to be widened to the south between Abbott Court and Crab Lane. This impacts upon an area of open space called Low Moor, as well as on planters in front of properties on the southern side of Armley Road, close to the Ledgard Way junction. In order to reduce the impact on green space and trees, the extent of widening required has been minimised by:
- Reducing the widths of general traffic lanes and bus lane to the minimum safe widths
 - Minimising central hatching
 - Selecting a retaining wall structure with an acceptable minimum depth
- 1.7 Despite the widening having been minimised, the proposals in this area are expected to require 27 trees to be removed, with a further 4 trees being at risk. Appropriate measures will be put in place during construction to minimise the number of trees to be removed. The potential to transplant existing trees within the immediate area, away from the highway was investigated, but was deemed impossible due to the steep gradient of this space. A flat platform is required for the machinery used in tree transplanting.
- 1.8 In order to compensate for the loss of trees and green space, landscape plans have been developed for Low Moor which will introduce 78 new trees, 45 of which will be Semi-mature, and the remainder will be Extra Heavy.
- 1.9 In addition to landscaping proposed adjacent to Armley Road, tree planting will be undertaken on other sites within Leeds, in order to increase the overall benefit of the scheme in terms of numbers of trees, and to ensure that at least 3 trees are planted for every 1 removed.
- 1.10 A proportion of the subject site currently vests in Housing and to allow the required works to proceed it needs to be declared surplus from housing need and this area then appropriated for planning purposes.
- 1.11 Under Section 122 of the Local Government Act the council is able to appropriate the land for planning purposes, providing it could be proved that the land was no longer needed for its existing purpose. As the land in question is open space it will be necessary to advertise the Council's intention to appropriate.
- 1.12 Benefits of proposals on Armley Road
- 1.13 The Ledgard Way junction scheme will increase the capacity of the junction for traffic travelling in the dominant eastbound and westbound directions. Based on existing traffic volumes, this results in journey time savings for general traffic in the afternoon peak period. Similarly, outbound buses in the afternoon peak will also make journey time savings.
- 1.14 Due to the junction improvements at Ledgard Way, outbound traffic will experience little delay approaching the Ledgard Way junction, on the basis of existing traffic volumes. However, it is anticipated that the reduction in journey times outbound in the PM peak on Armley Road will lead to an increase in traffic volumes using this

route. Further increases in traffic volumes on Armley Road are expected to result from the proposed junction improvement scheme at Armley Gyratory, which is due to be delivered by late 2022. At present, many vehicles avoid Armley Road outbound in the PM peak due to existing issues with congestion, with Kirkstall Road and Tong Road providing more attractive alternative routes for many journeys.

- 1.15 This anticipated growth in traffic on Armley Road has been confirmed by simulations undertaken using the Leeds Transport Model 2. This growth would cause delays for outbound buses in the PM peak, which will be mitigated by the introduction of the proposed bus lane on Armley Road.
- 1.16 Besides motorised modes, cyclists will benefit significantly from the scheme. At present, the existing outbound segregated cycle track (introduced as part of the City Connect programme) ends at Canal Road, after which cyclists share space with general traffic until they meet an advisory cycle lane 50m before the stop line of the Ledgard Way junction. Widening the highway on this section allows the segregated cycle track to be extended from Canal Road to the stop line of the Ledgard Way junction.

2. Main issues

- 2.1 The site currently comprises a wide sloped grass verge with a small number intermittent trees running adjacent to the A647. The area shown hatched black on the plan currently vests in Housing. The remainder of the site is vested in Highways and City Development for planning purposes. The land may be construed as public open space and advice from Legal Services is that the whole site should be appropriated for the purpose of the Town and Country Planning Act 1990 to allow the required works to proceed under the General Permitted Development regulations.
- 2.2 By virtue of Part 9 Class A of Schedule 2 to the Town & Country Planning (General Permitted Development) (England) Order 2015 any works required for the maintenance or improvement of a road, either on land with the boundaries of a road, or on land outside but adjoining the boundary of an existing highway of works required for or incidental to the maintenance or improvement of the highway when carried out by the highway authority will be classed as permitted development
- 2.3 By virtue of Section 203 of the Housing and Planning Act 2016, if land is appropriated by a local authority for planning purposes then the construction of a building and/or the carrying out of work on that land, which is done in accordance with the purpose for which the land was appropriated, is authorised, notwithstanding that it may interfere with the rights of a third party subject to the person(s) having the benefit of any rights being compensated for any injurious affection. It is proposed that the Council appropriates the site to enable the project to proceed without interference.
- 2.4 Under Section 122(1) of the Local Government Act 1972 the Council may appropriate any land which belongs to it and which is “no longer required for the purpose for which it was held immediately before the appropriation”. Any such appropriation can be for any purpose for which the Council is authorised to acquire land by agreement. Under s227 of the Town and Country Planning Act 1990 the Council may acquire by agreement any land it requires for a purpose which it could compulsorily acquire land under s226.

- 2.5 The purposes specified in s226 are “if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land” or if the land is “required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated”. However, the Council could not acquire land for the former purpose unless it thought that the development, re-development or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of its area.
- 2.6 Under s122(2A) of the Local Government Act 1972 before appropriating open space land, a council must advertise its intention to appropriate open space land for two consecutive weeks in a newspaper circulating in the local area and consider any objections to the proposed appropriation
- 2.7 The Human Rights Act 1988 places an obligation on the Council to demonstrate that the use of powers, such as those granted under Section 122 of the Local Government Act 1972 are in the public interest and are proportionate to the ends being pursued.
- 2.8 The Council must therefore be sure that the purpose for which it is using the powers of appropriation and the use of Section 203 to override the rights sufficiently justifies interfering with the human rights of those whose rights are being overridden. There must be a balancing exercise between the public interest and the individual’s rights and any interference with these rights must be necessary and proportionate. In this instance it is considered that this test is met.
- 2.9 The appropriation of the land for planning purposes will allow the road widening scheme to proceed as permitted development.
- 2.10 The area of land to be declared surplus by the Director of Resources & Housing is shown cross-hatched on the attached plan no. 20244/A
- 2.11 The area of land to be appropriated is edged black on the attached plan no. 20244/A.

3. Corporate considerations

3.1 Consultation and engagement

- 3.1.1 The local Ward Members (Armley) were briefed on the proposals for the A647 Bus Priority Corridor scheme on 21st May 2019 and are supportive of the introduction of the westbound bus lane.

The Executive Member for Climate Change, Transport and sustainable development has been briefed on the scheme and is supportive. The most recent briefing was on 21st January 2020.

- 3.1.2 Ward Member consultation for an appropriation is not necessary but in any event they are aware of the scheme proposals and are supportive.
- 3.1.3 The proposed appropriation will be advertised as the land forms part of an open space and any objections received will be considered prior to the appropriation being effected.
- 3.1.4 Two phases of public consultation have been undertaken for the A647 Bus Priority Corridor scheme as a whole, in February/March 2018 and November/December

2018. Both phases included the hosting of material on an online consultation forum, distribution of printed literature to local residential and commercial properties, and public drop-in information events. The appropriation will be advertised and this will give an opportunity for comment for anyone who wishes.

- 3.1.5 Officers within Parks & Countryside have been consulted during the development of landscaping plans relating to these proposals, and their comments have influenced the designs.

3.2 Equality and diversity / cohesion and integration

- 3.2.1 There are no equality and diversity issues caused or affected by this proposal

3.3 Council policies and the Best Council Plan

- 3.3.1 This report seeks authority to appropriate land to facilitate bus corridor improvements as part of the LPTIP project. This will contribute to the city wide priority of improving the city's transport infrastructure and tackling climate change risks.

Climate Emergency

- 3.3.2 Whilst the scheme has attempted to minimise its impact on the local trees, some removal will have to take place. However, this will be compensated by a scheme of planting additional trees. In addition, by improving bus journey times and reliability, the scheme is expected to encourage modal shift from car to bus, resulting in a reduction in carbon emissions.

3.4 Resources, procurement and value for money

- 3.4.1 The appropriation has little impact on resources other than officer time. The scheme build will have been procured in accordance with the council's procedure rules.

3.5 Legal implications, access to information, and call-in

- 3.5.1 Under Part 3, Section 3E(g) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of the Executive in relation to Asset Management.
- 3.5.2 The Chief Officer - Asset Management and Regeneration, Head of Asset Management, Head of Land and Property and Deputy Head of Land and Property have authority to take decisions in relation to Asset Management as delegated in the Director of City Development's sub delegation scheme
- 3.5.3 The proposal constitutes a significant operational decision and is therefore not subject to call in.

3.6 Risk management

- 3.6.1 There is little risk associated with the proposal contained within this report. The appropriation is required in order to successfully build out the scheme to the current programme and therefore deliver the benefits that it is predicted to deliver.

4. Conclusions

- 4.1 It is concluded that the land as identified on the attached plan is declared surplus to requirements and appropriated as detailed in this report.

5. Recommendations

5.1 It is recommended that:

- a) the Director of Resources & Housing declares surplus the land that currently vests in housing (as shown hatched on the attached plan)
- b) the Director of City Development approves the appropriation of the land shown edged black on the attached plan for the purposes of the Town and Country Planning Act 1990 following the expiry of the period for the receipt of objections if none are received or following consideration of any objections

6. Background documents¹

- 6.1 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.