

Report to: The Chief Officer (Highways and Transportation)

Date: 25 February 2020

Subject: Section 228 (1) Notice under Highways Act 1980, Butt Lane, Farnley, Leeds, LS12 5FA

Are specific electoral wards affected? If yes, name(s) of ward(s): Farnley & Wortley	<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 that the private street indicated on the hatched area on Drawing No.1663/108 Rev 1 is a highway for the purposes of the Highway Act 1980, and is maintainable at the public expense on the expiration of a one month notice period after posting the Section 228 notices on site.

1. Main issues

- The section of land indicated on Drawing No. 1663/108 Rev 1 is necessary to be the highway's authority to complete a Section 38 Agreement under the Highways Act 1980. The land in question is required to provide a turning head on Farnley Park View.
- The ownership of this land is not known, and the developer only holds a Title Possessory of this land when Title Absolute is required.
- Therefore, under Section 228 (1) of the Highways Act 1980 Leeds City Council is required to post notices on site for a period of one month to allow any objectors to come forward.

2. Best Council Plan Implications

- This report supports the Best Council Plan and Key City Priorities. The Section 228 Notice supports the delivery of new adoptable highway to serve a new housing development.

3. Resource Implications

- The applicant, Yorkshire Homes (Leeds) Limited are responsible for the development works and have paid the fee of £2,000 for a Section 228 Notice to be progressed and advertised on site for a period one month.

4 Recommendations

4.1 The Chief Officer (Highways and Transportation) is requested to;

- i) ensure that all necessary steps are taken under the provisions of Section 228 of the Highways Act 1980 to declare the area of highway shown hatched on Drawing No.1663/108 Rev 1 to be highway maintainable at public expense;
- ii) instruct the City Solicitor to prepare and advertise notices under the provisions of Section 228 of the Highways Act 1980 declaring the area of highway shown hatched on the attached Drawing No.1663/108 Rev 1 to be highway maintainable at public expense; and
- iii) give authority to request the City Solicitor to draft and advertise notices under the provisions of Section 228 of the Highways Act 1980 declaring the area of highway shown hatched on Drawing No.1663/108 Rev 1 to be highway maintainable at the public expense. In the event that objections are received from the majority of the owners of the access the City Solicitor be requested to make immediate application to the Magistrates Court for an order overruling the objections.

1. Purpose of this report

1.1 To seek approval in accordance with Section 228 (1) of the Highways Act 1980 to promote a Section 228 Notice for an area of land of unknown ownership located at Farnley Park View and bring it into the ownership of the highways authority.

2. Background information

- 2.1 Yorkshire Homes (Leeds) Limited submitted a planning application No. 17/05617/FU for a housing development of eight residential properties. This application was granted full planning permission on 18th October 2017.
- 2.2 Subsequently, Yorkshire Homes (Leeds) Limited submitted a Section 38 Application for adoption of new roads under Sections 38 and 278 of the Highways Act 1980 on 16th January 2018.
- 2.3 As part of the Section 38 process it was identified that a section of the proposed adoptable highway was not fully in ownership of the developer.
- 2.4 Therefore, the developer, Yorkshire Homes (Leeds) Limited was informed that the matter would need to be resolved via the Section 228 process, bringing the section of highway into ownership of the Highway Authority.

3. Main issues

3.1 The section of land is not in full ownership of the developer as they only hold a Possessory Title when Title Absolute is required.

- 3.2 Section 228 Notices are required under the Highways Act 1980, Leeds City Council is required to post these on site for a period of one month.
- 3.3 The full extent of the unknown area of ownership is indicated on Drawing No. 1663/108 Rev 1.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Ward Members were consulted on the development layout as part of the planning application process for application No. 17/05617/FU. This application was validated on 23rd of August 2017 and the Ward Members were informed at this point of the planning process. No comments were received.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 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.

4.3 Council policies and the Best Council Plan

- 4.3.1 This report supports the Best Council Plan and Key City Priorities. The Section 228 Notice supports the delivery of new adoptable highway to serve a new housing development.

Climate Emergency

- 4.3.2 The Section 228 Notice will promote the delivery of adoptable highway within a shared space layout which in turn would benefit all road users including vulnerable road users. As such it would help encourage pedestrian journeys for residents which should have a positive impact on some of the issues affecting the climate emergency in Leeds.

Further to this, the provision of a safe turning point within the street allows for safer reversing manoeuvres for vehicles, enabling visitors and deliveries to turn within the street and not reverse into the main road. The turning head also reduces the need for vehicles to reverse whilst the engines are cold, and as such diminishes the wear and tear on engines. Findings from the Institute of Advanced Motorists show that reversing can also increase fuel consumption by 20 – 25 times, alleviating the need to reverse the length of the street will reduce the emissions produced and so decrease the environmental impact of vehicles on the area.

4.4 Resources, procurement and value for money

- 4.4.1 The applicant, Yorkshire Homes (Leeds) Limited has paid a fee of £2000 for Section 228 Notices to be progressed and advertised on site.

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

- 4.5.1 Leeds City Council will advertise notices under the provisions of Section 228 of the Highways Act 1980 declaring the area of highway shown hatched on Drawing No.1663/108 Rev 1 to be highway maintainable at public expense. In the event that objections are received from the owners of the land the City Solicitor will be requested to make immediate application to the Magistrates Court for an order overruling the objections.
- 4.5.2 The report is not eligible for call-in.

4.6 Risk management

- 4.6.1 All risks remain with the developer as Leeds City Council will not adopt until the process has been followed to our satisfaction.

5. Conclusions

- 5.1 It is necessary to implement the Section 228 process so that the area of unadopted highway, comprising of unknown ownership located on Farnley Park View, Leeds is considered necessary in accordance with Section 38 and 278 of the Highways Act 1980.

6. Recommendations

- 6.1 The Chief Officer (Highways and Transportation) is requested to:
- i) ensure that all necessary steps are taken under the provisions of Section 228 of the Highways Act 1980 to declare the area of highway shown hatched on Drawing No.1663/108 Rev 1 to be highway maintainable at public expense;
 - ii) instruct the City Solicitor to prepare and advertise notices under the provisions of Section 228 of the Highways Act 1980 declaring the area of highway shown hatched on the attached Drawing No.1663/108 Rev 1 to be highway maintainable at public expense; and
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7. Background documents

- 7.1 None

8. Appendices

- 8.1 Equality, Diversity, Cohesion and Integration Screening
- 8.2 Drawing No. 1663/108 Rev 1