



Report to: The Chief Officer (Highways and Transportation)

Date: 22 September 2020

Subject: SECTION 228 (1) NOTICE UNDER HIGHWAYS ACT 1980 AT MOSS BRIDGE ROAD, RODLEY, LEEDS

Are specific electoral wards affected? If yes, name(s) of ward(s): Calverley & Farsley	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<input type="checkbox"/> Yes <input checked="" 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 by coloured hatching on the attached plan – ref 1372/02/02 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 Moss Bridge Road, subject to this Report, is required to be adopted as highway maintainable at public expense to allow vehicular access to the bridge crossing the Leeds and Liverpool Canal and to enable future residential development on adjacent land.
- The ownership of this land is not fully known, and the developer only holds a Title Possessory of this land when Title Absolute is required. The developer has approached Land Registry to try to ascertain who owns title to the land, they have also written to immediate neighbouring land owners and have advertised a Public Notice in the local area to no avail. The developer is satisfied that they have done all that can reasonably be expected to do in an attempt to trace the land owner(s) before approaching the Council to request adopting the street via a Section 228 Notice (1) under the Highways Act 1980.
- Under Section 228 (1) of the Highways Act 1980 Leeds City Council, as Highway Authority, is required to post notices on site for a period of one month to allow for any objectors to come forward.

- Dynamic Capital & Investments will be required to pay a cash bond to Leeds City Council before the Section 228 Notices are posted. This cash bond will be calculated and equates to 120% of the full costs involved in bringing Moss Bridge Road up to an adoptable standard. This will reduce any financial risk to the Authority in case the developer defaults and fails to complete the residential development as proposed including the provision of a new canal bridge and establishment of a new Bridge Maintenance Company as per the planning consents.

2. Best Council Plan Implication

- 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, Dynamic Capital & Investments are responsible for the development works and have paid fees of £4,000 for a Section 228 Notice to be progressed and advertised on site for a period one month.

Recommendations

The Chief Officer (Highways and Transportation) is requested to:

- i) Take all necessary steps, under the provisions of Section 228 of the Highways Act 1980, to declare the area of highway shown as coloured hatching on Drawing No 1372/02/02 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 as coloured hatching on the attached Drawing No. 1372/02/02 to be highway maintainable at public expense; and
- iii) If objections are received from the majority of the owners of the land, request the City Solicitor to make immediate application to the Magistrates Court overruling the objections.

2. 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 Moss Bridge Road and bring it into the ownership of the highways authority.

2. Background information

- 2.1 Dynamic Capital & Investments submitted a planning application No. 18/01501/OT for a housing development of 69 (maximum) residential properties. This application was granted full planning permission on 2nd July 2019.
- 2.2 Subsequently, Dynamic Capital & Investments submitted a request to Leeds City Council for the adoption of Moss Bridge Road under the provisions of Section 228 (1) of the Highways Act 1980 as they did not have full title of the land.

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, as the Highway Authority, is required to post these on site for a period of one month in order for the street to be deemed a highway maintainable at public expense.
- 3.3 The extent of Moss Bridge Road, subject to this Report, and to be adopted as highway maintainable at public expense is shown as coloured hatching on the attached Drawing No. 1372/02/02.
- 3.4 The proposal is to adopt Moss Bridge Road only. At this time the existing swing bridge over the Leeds/Liverpool canal will remain Yorkshire Water's responsibility. A Section 38 Agreement is proposed and required to ensure adoption of any future highways necessary for serving the new residential development.
- 3.5 The existing swing bridge is coming to the end of its serviceable life and to facilitate development of land beyond it a replacement bridge must be provided.
- 3.6 The replacement swing bridge will NOT be adopted and a new Bridge Maintenance Company will be formed to manage the on-going maintenance of it. The Bridge Maintenance Company will not have a Council or Yorkshire Water representative on its board of Directors.
- 3.7 The Directors of the Bridge Maintenance Company will be formed from the Canals and Rivers Trust, residents of the new housing development and the Cricket Club & Nature Reserve who both take access via the bridge.
- 3.8 Dynamic Capital & Investments have agreed to loan the new Bridge Maintenance Company £100,000, which will be held by the Canals and Rivers Trust and repaid over a number of years. The intention is for the sums held by the Bridge Maintenance Company to never fall below £100,000.
- 3.9 In the event of a bridge malfunction alternative emergency vehicular access can be obtained via the Nature Reserve and on to Newlaithes Road. There are a couple of additional pedestrian access routes using other bridges over the canal and the footpaths that run alongside.

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. 18/01501/OT. This application was validated on 02 July 2019 and the Ward Members were informed at this point of the planning process.

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 an approved 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.

4.4 Resources, procurement and value for money

4.4.1 The applicant, Dynamic Capital & Investments has paid fees of £4000 for Section 228 Notices to be progressed and advertised on site.

4.4.2 Dynamic Capital & Investments will also be required to pay Leeds City Council a cash bond equal to 120% of the estimated cost of bringing Moss Bridge Road up to an adoptable standard prior to the advertisement of the Section 228 Notices.

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

4.5.1 The Council will advertise notices on site and in the press under the provisions of Section 228 of the Highways Act 1980 declaring the area of highway shown hatched on Drawing No. No 1372/02/02 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 None of the content of this report is exempt from public display or contains confidential information.

4.6 Risk management

4.6.1 All risks remain with the developer as the Section 228 Notices will not be advertised until all the processes have been followed to the Council's satisfaction. This report makes recommendations solely relating to the section of Moss Bridge Road leading to the canal bridge. The new Bridge Maintenance Company yet to be established will be responsible for the future maintenance, operational risks and availability of the private bridge once provided to residents and for general access across the canal.

5 Conclusions

- 5.1 It is necessary to implement the Section 228 process so that the area of un-adopted highway, comprising of unknown ownership located on Moss Bridge Road, Leeds is adopted as highway maintainable at public expense.

6 Recommendations

The Chief Officer (Highways and Transportation) is requested to:

- i) Take all necessary steps, under the provisions of Section 228 of the Highways Act 1980, to declare the area of highway shown as coloured hatching on Drawing No 1372/02/02 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 as coloured hatching on the attached Drawing No. 1372/02/02 to be highway maintainable at public expense; and
- iii) If objections are received from the majority of the owners of the land, request the City Solicitor to make immediate application to the Magistrates Court overruling the objections.

7 Background documents

- 7.1 None

Equality, Diversity, Cohesion and Integration Screening

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.

A **screening** process can help judge relevance and provides a record of both the **process** and **decision**. Screening should be a short, sharp exercise that determines relevance for all new and revised strategies, policies, services and functions. Completed at the earliest opportunity it will help to determine:

- the relevance of proposals and decisions to equality, diversity, cohesion and integration.

- whether or not equality, diversity, cohesion and integration is being/has already been considered, and
- whether or not it is necessary to carry out an impact assessment.

Directorate: City Development	Service area: Highways and Transportation
Lead person: Richard Middleton	Contact number: 0113 3787378

1. Title: Section 228 (1) Highways Act 1980- Moss Bridge Road, Rodley, Leeds.		
Is this a:		
<input type="checkbox"/> Strategy / Policy	<input checked="" type="checkbox"/> Service / Function	<input type="checkbox"/> Other
If other, please specify		

2. Please provide a brief description of what you are screening
Declaring an area of land of unknown ownership on Moss Bridge Road as necessary adoptable highway under Section 228 (1) of the Highways Act 1980.

3. Relevance to equality, diversity, cohesion and integration		
All the council's strategies/policies, services/functions affect service users, employees or the wider community – city wide or more local. These will also have a greater/lesser relevance to equality, diversity, cohesion and integration.		
The following questions will help you to identify how relevant your proposals are.		
When considering these questions think about age, carers, disability, gender reassignment, race, religion or belief, sex, sexual orientation and any other relevant characteristics (for example socio-economic status, social class, income, unemployment, residential location or family background and education or skills levels).		
Questions	Yes	No
Is there an existing or likely differential impact for the different equality characteristics?		X
Have there been or likely to be any public concerns about the policy or proposal?		X
Could the proposal affect how our services, commissioning or procurement activities are organised, provided, located and by whom?		X
Could the proposal affect our workforce or employment practices?		X
Does the proposal involve or will it have an impact on <ul style="list-style-type: none"> • Eliminating unlawful discrimination, victimisation and harassment 		X

<ul style="list-style-type: none"> • Advancing equality of opportunity • Fostering good relations 		
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If you have answered **no** to the questions above please complete **sections 6 and 7**

If you have answered **yes** to any of the above and;

- Believe you have already considered the impact on equality, diversity, cohesion and integration within your proposal please go to **section 4**.
- Are not already considering the impact on equality, diversity, cohesion and integration within your proposal please go to **section 5**.

4. Considering the impact on equality, diversity, cohesion and integration	
If you can demonstrate you have considered how your proposals impact on equality, diversity, cohesion and integration you have carried out an impact assessment.	
Please provide specific details for all three areas below (use the prompts for guidance).	
<ul style="list-style-type: none"> • How have you considered equality, diversity, cohesion and integration? (think about the scope of the proposal, who is likely to be affected, equality related information, gaps in information and plans to address, consultation and engagement activities (taken place or planned) with those likely to be affected) 	
<ul style="list-style-type: none"> • Key findings (think about any potential positive and negative impact on different equality characteristics, potential to promote strong and positive relationships between groups, potential to bring groups/communities into increased contact with each other, perception that the proposal could benefit one group at the expense of another) 	
<ul style="list-style-type: none"> • Actions (think about how you will promote positive impact and remove/ reduce negative impact) 	

5. If you are not already considering the impact on equality, diversity, cohesion and integration you will need to carry out an impact assessment.	
Date to scope and plan your impact assessment:	
Date to complete your impact assessment	
Lead person for your impact assessment (Include name and job title)	

6. Governance, ownership and approval		
Please state here who has approved the actions and outcomes of the screening		
Name	Job title	Date
Richard Middleton	S38/S278 Engineer	14 th August 2020

7. Publishing
This screening document will act as evidence that due regard to equality and diversity has been given. If you are not carrying out an independent impact assessment the screening document will need to be published.

If this screening relates to a **Key Delegated Decision, Executive Board, full Council** or a **Significant Operational Decision** a copy should be emailed to Corporate Governance and will be published along with the relevant report.

A copy of **all other** screening's should be sent to equalityteam@leeds.gov.uk. For record keeping purposes it will be kept on file (but not published).

Date screening completed	4 th August 2020
If relates to a Key Decision - date sent to Corporate Governance	
Any other decision – date sent to Equality Team (equalityteam@leeds.gov.uk)	4 th August 2020