

Report of Transport Development Services

Report to the Chief Officer (Highways and Transportation)

Date: 18 May 2021

Capital Scheme Number: 33052

Subject: Design & Cost Report for Highways Works associated with a Legal Agreement for Amendment to the Street Register and Upgrade and Access Works at Whitehall Road, Farnley.

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: 2	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Summary

1. Main issues

- The provision of well-maintained highway network is a duty of the Highway Authority.
- A review of the Street Register has been undertaken in relation to a large area of land off Whitehall Road in Farnley which ought to be shown as adopted highway. **The Council has obtained legal advice with regards the status of the land form part of the recommendation in this report.**
- A detailed scheme has now been agreed with a third party in order to facilitate the proper upgrade of the land in question as an agreed requirement to ensure it meets reasonable standards of highway adoption. These works are to be funded and implemented by the third party prior to the Council amending the Street Register.

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

- The provision of well-maintained highways helps to improve the quality of the environment and also help reduce traffic collisions to make a specific contribution to the Best City for Communities and a Child Friendly City.

3. Resource Implications

- The developer will meet the Council's costs, check the design and inspect the works, all of which will be fully funded through the proposed legal agreement.
- The work can be undertaken within existing council resources.

Recommendations

- a) Note the confidential legal advice contained in Appendix 2.
- b) Note the detail of the highway works as outlined in the third bullet point in section 1 Main Issues and as shown on drawing number LMSR-16-06-009-E included in Appendix 3.
- c) Note and approve that the City Solicitor will negotiate the terms of and enter into an agreement with the developer pursuant to Section 2 of the Local Government Act 2000 and the Localism Act 2011 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 generally akin to the provisions of Section 278 of the Highways Act 1980 following resident consultation.
- d) Give authority to incur expenditure of £11,400 staff costs and £16,000 TRO costs (or £20,000 if advertised separately) to be fully funded by the developer through the proposed legal agreement.
- e) Request the City Solicitor to advertise a draft Traffic Regulation Order at the appropriate time to provide 2 point closures on the Whitehall Road service road and, if no valid objections are received to make, seal and implement the order as advertised;
- f) Request the City Solicitor to advertise a draft Traffic Regulation Order at the appropriate time to provide 20mph speed limit order and double yellow lines at the proposed turning heads on the Whitehall Road service road and, if no valid objections are received to make, seal and implement the order as advertised;
- g) Give authority to amend the Street Register on completion of the highways works, to the satisfaction of the Highway Authority and to add the area of land shown on plan GM1 included in Appendix 4, subject to the developer continuing to be responsible for maintenance of the land for a further 12 months following such amendment.

1. Purpose of this report

- 1.1 The purpose of this report is to note the position concerning issues regarding status of land and legal advice provided to date. (Confidential Appendix 2 sets this out).
- 1.2 To agree the scheme of highway works proposed to bring the area of land off Whitehall Road to an acceptable standard for adoption.
- 1.3 To give authority to incur expenditure associated with the implementation of the highway works.

- 1.4 To obtain authority to negotiate the terms of and enter into the proposed legal agreement referred to in section 3 (c) Recommendations.
- 1.5 To give authority to amend the Street Register on completion of the highway works to include the area of land shown on plan GM1 included in Appendix 4 as mentioned in section 3 (f) Recommendations.

2. Background information

- 2.1 Representatives of the developers who have options on land to the rear of existing houses on Whitehall Road, Farnley have been in discussion with the Council for a number of years to make an amendment to the Street Register to include a swathe of land which was the subject of Deeds of Dedication from the 1930's.
- 2.2 The Deeds of Dedication allowed for dedication subject to the land in question being required for the widening of Whitehall Road. The adjacent residential properties were accommodated with the existing service road but no such widening of Whitehall Road has taken place. However, it is noted the Council has been cutting the grass on this area of land for a significant period of time under highways maintenance budget.
- 2.3 In the early 2000's the Council also undertook repairs to the service road following requests to do so from local residents and ward members following damage caused by statutory undertakers works. These maintenance works were funded from the highways maintenance budget.
- 2.4 Furthermore, in 2008 the Council became registered with this area of land through a large scale voluntary registration process with Her Majesty's Land Registry on a qualified basis⁽¹⁾ insofar as it may have become Highway land following the several Deeds of Dedication.

Note: 1. "Qualified basis" means that the Council does not have full title to the land and any title it has is limited so as to only be effective if and so far as the land has or may become part of the highway.

- 2.5 The Council has taken both internal and external legal advice in relation to its position regarding whether formal dedication and acceptance had taken place pursuant to the Deeds of Dedication based on the acts of maintenance that have taken place and if as a result the area of land ought to be placed on the Street Register as adopted highway. A confidential report from legal services is contained in Appendix 2.
- 2.6 Negotiations have therefore taken place on a without prejudice basis with a draft legal agreement being agreed which reflects the Council's intention to amend the Street Register on completion of highway works to make the land up to an acceptable standard for adoption, those works being funded and carried out by the proposed developer under the supervision of the Council.
- 2.7 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. They will also address local resident concerns and improve accessibility for them as well as helping to reduce traffic collisions to make a specific contribution to the Best City for Communities and a Child Friendly City.
- 2.8 Outline planning permission 16/05912/OT has since been granted for development of the land behind the existing dwellings with the means of access being shown across part of the area of land which is subject to the proposed legal agreement. The proposed access to the housing development is also shown on plan LMSR-16-06-009-E, included in Appendix 3. Residents of the existing dwellings raised significant concern about the prospect of "rat-running" along the current service road by potential new residents, hence the provision to stop up this "rat-run" has been included in the

highway works which will be subject to resident consultation following completion of the legal agreement and in advance of commencement of works on site.

2.9 A reserved matters application (19/05326/RM) for the land behind the existing dwellings was submitted on 28th August 2019. It is not considered that this matter should impact on the issue of the prospective amendment of the highways register pursuant to the proposed legal agreement.

3. Main issues

3.1 The proposed highway works are shown on drawing LMSR-16-06-009-E, included in Appendix 3 and consist of:

- Formation of a new priority vehicular access junction on Whitehall Road in line with the planning permission for application 16/05912/OT.
- Planing of existing surfacing and resurfacing of existing service road (subject to acceptable core samples of construction).
- Full road construction for new turning head areas and new areas of carriageway / parking bay.
- Provision of 2 point closures on the existing service road to be marked with bollards.
- All necessary supporting works to drain, landscape and light the service road.
- Any necessary statutory undertaker's diversions.

3.2 It is proposed that the works will be covered by permissions in the legal agreement 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.

3.3 On completion of the works pursuant to the proposed legal agreement the Council will amend the Street Register to include this area of land by way of formal acceptance of purported dedication.

4. Corporate considerations

4.1 Consultation and engagement

4.1.1 Ward Members: A meeting has been held with Ward Members and local resident representatives who also expressed concern that they did not want the service road to be adopted and they did not want the new development. "Rat-running" was also a great concern to all.

4.1.2 Internal consultation has taken place with colleagues in the Highways and Transportation Services as part of developing the design to its current stage.

4.1.3 The works are required to ensure the road is brought up to the required standard as part of the agreements to be put in place with the developer. Any such statutory consultation will be undertaken as part of the TRO proposals at the appropriate time. Separate to this, there will be some minor consultation on the approved scheme for highway works with residents prior to commencement of the highways works which may require some minor amendments so long as they do not significantly impact on costs.

4.1.4 The Council shall disregard the proposed legal agreement when considering any objections to the required TRO and regarding any objections made, the Council

shall have no duty or obligation to the developer by reason of the Agreement to make the TRO other than regarding all persons interested in the TRO in its capacity as the local highway authority.

- 4.1.5 The works to be carried out under the proposed legal agreement with the developer will provide highway benefits for residents and other users with regard to design and safety aspects that will be significant and longstanding and that would otherwise not be deliverable in light of the status of the land.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 An EDCI Impact Assessment has been carried out in line with improvement to highway schemes process and is attached as Appendix 1. The assessment confirmed that the individual designs put forward to reflect this process so far as is capable of being applied under the proposed legal agreement, will take into account the needs of each of the equality characteristics and will aim to meet the normal requirements of 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 access to the site for existing residents. The works will be designed to accommodate the needs of all users and are consequently for the public benefit.

4.3 Council policies and the Best Council Plan

- 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.

Climate Emergency

- 4.3.2 The works which are subject to this report are small in scale and will have minimal impact on the Climate Emergency in Leeds. Sustainable urban drainage is proposed.

4.4 Resources, procurement and value for money

- 4.4.1 The estimated costs for forecast year 2021/22 are £11,400 design fees, including 10% highway fees relating to works under the agreement and £16,000 TRO costs (or £20,000 if advertised separately), which will be fully funded through the proposed legal agreement as would otherwise be the case under Section 278 processes. Therefore, the total fee associated with the works is £27,400 (or £31,400 if TROs were advertised separately).
- 4.4.2 The highway works must be completed to meet the opening date of the residential development. The development of the site will be dependent on the grant of a reserved matters planning permission.

Capital Funding and Cash Flow.

Funding Approval :	Capital Section Reference Number :-		33052				
Previous total Authority to Spend on this scheme	TOTAL	TO MARCH	FORECAST				
	£000's	2017 £000's	2019/20 £000's	2020/21 £000's	2021/22 £000's	2022/23 £000's	2023/24 £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						
TOTALS	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Authority to Spend required for this Approval	TOTAL	TO MARCH	FORECAST				
	£000's	2017 £000's	2019/20 £000's	2020/21 £000's	2021/22 £000's	2022/23 £000's	2023/24 £000's
LAND (1)	0.0						
CONSTRUCTION (3)	0.0						
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	11.4				11.4		
OTHER COSTS (7)	20.0				20.0		
TOTALS	31.4	0.0	0.0	0.0	31.4	0.0	0.0
Total overall Funding (As per latest Capital Programme)	TOTAL	TO MARCH	FORECAST				
	£000's	2019 £000's	2019/20 £000's	2020/21 £000's	2021/22 £000's	2022/23 £000's	2023/24 £000's
Highway works associated with Whitehall Road, New Farnley	0.0				31.4		
	31.4						
	0.0						
Total Funding	31.4	0.0	0.0	0.0	31.4	0.0	0.0
Balance / Shortfall =	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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

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

4.5.1 The recommendations identified in this report are a lawful vehicle to ensure the highway works can be undertaken on the land in question before the Street Register is amended.

4.5.2 The information contained in Exempt Appendix 2 relates to the privileged legal advice to the Council and this element of the report should be treated as exempt under Rule 10.4.of the Access to Information Procedure Rules.

4.5.3 The report is exempt from call in.

4.6 Risk management

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

4.6.2 The works need to be completed before the development is able to open, expected to be 2022/23.

5. Conclusions

5.1 Highways works are proposed to enable the Council to adopt an area of land which is subject to potential legal proceedings and provide an access to an approved development site ref 16/05912/OT.

5.2 Alterations to the highway are proposed to provide safe vehicular access to the site and to upgrade an existing unadopted service road to an adoptable standard and provide access controls to prevent “rat-running”.

5.3 The steps outlined in this report provide public benefit with the significant upgrade of an existing privately maintained service road for which the Council is entering a legal agreement for the carrying out of necessary highway works that would otherwise be undeliverable. This ratifies the status of the road and provides a clear benefit for all users.

5.4 The Council shall disregard the proposed legal agreement when considering any objections to the required TRO and regarding any objections made, the Council shall have no duty or obligation to the developer by reason of the Agreement to make the TRO other than regarding all persons interested in the TRO in its capacity as the local highway authority.

6. Recommendations

- Note the confidential legal advice contained in Appendix 2
- Note the detail of the highway works as outlined in the third bullet point in section 1 Main Issues and as shown on drawing number LMSR-16-06-009-E, included in Appendix 3.
- Note and approve that the City Solicitor will negotiate the terms of and enter into an agreement with the developer pursuant to Section 2 of the Local Government Act 2000 and the Localism Act 2011 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 generally akin to the provisions of Section 278 of the Highways Act 1980 following resident consultation.
- Give authority to incur expenditure of £11,400 staff costs and £16,000 TRO costs (or £20,000 if advertised separately) to be fully funded by the developer through the proposed legal agreement.
- Request the City Solicitor to advertise a draft Traffic Regulation Order at the appropriate time to provide 2 point closures on the Whitehall Road service road and, if no valid objections are received to make, seal and implement the order as advertised;
- Request the City Solicitor to advertise a draft Traffic Regulation Order at the appropriate time to provide 20mph speed limit order and double yellow lines at the

proposed turning heads on the Whitehall Road service road and, if no valid objections are received to make, seal and implement the order as advertised;

- Give authority to amend the Street Register on completion of the highways works, to the satisfaction of the Highway Authority and to add the area of land shown on plan GM1 included in Appendix 4, subject to the developer continuing to be responsible for maintenance of the land for a further 12 months following such amendment.

6 Background documents

6.1 None

7 Appendices

7.1 Appendix 1 – EDCI Impact Assessment

7.2 Appendix 2 – Confidential Legal Advice

7.3 Appendix 3 – Plan LMSR-16-06-009-E

7.4 Appendix 4 – Plan GM1

APPENDIX 1

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

Directorate: City Development	Service area: Highways & Transportation
Lead person: Gillian MacLeod	Contact number: 0113 37 88091
Date of the equality, diversity, cohesion and integration impact assessment: 22 October 2019	

1. Title: Equality Implications of Highways Works associated with a Legal Agreement for Amendment to the Street Register at Whitehall Road, Farnley
Is this a:
<input checked="" type="checkbox"/> Strategy /Policy <input type="checkbox"/> Service / Function <input type="checkbox"/> Other
If other, please specify

2. Members of the assessment team:		
Name	Organisation	Role on assessment team e.g. service user, manager of service, specialist
Gillian MacLeod	LCC	Service Manager
Lisa Brannan	LCC	Service Officer
Ahmad Huneidi	LCC	Service Officer
John Mills	LCC	Technical Support Team Leader
Kasia Speakman	LCC	Highways Access Officer

3. Summary of strategy, policy, service or function that was assessed:

Where highway schemes are developed and undertaken by agreement with developers and the highway Authority reflecting either the statutory provisions of Section 278 (S278) of the Highways Act 1980 or an agreement such as in this instance, provision is made 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.

Such agreement terms entered into between developers and the Council and ensure 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. This thereby ensures that ensure that the works are designed and supervised by Leeds City Council on behalf of the developer meet the required standards of adoptable highway and accessibility for all users.

The works involve upgrade and adoption of the existing service road serving properties 594-658 Whitehall Road in Farnley. The TRO works, which will be subject to highway agreement and consequent residents consultation, include 3 fixed bollards on either side of a proposed vehicular access for the residential development to prevent and stop “rat running” traffic.

The officers have identified that such road usage occurs during busy periods to bypass congestion on Whitehall Road. The closure proposed under the TRO will also ensure that there is no increased development traffic through the quiet service road, thereby reducing air and noise pollution. The creation of cul-de sacs will also improve visibility and enable safe turning for residential, delivery and servicing vehicles.

This Equality, Diversity, Cohesion and Integration (EDCI) Impact Assessment considers the process of determining the requirements of such developments and how this process gives due regard to the equality characteristics. Specific EDCI considerations of the schemes are considered at inception and initial design prior to approval. A summary of these considerations is included in section 5.

4. Scope of the equality, diversity, cohesion and integration impact assessment
(complete - 4a. if you are assessing a strategy, policy or plan and 4b. if you are assessing a service, function or event)

4a. Strategy, policy or plan

(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"/>

Please provide detail:

4b. Service, function, event 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"/>
Please provide detail:	

<p>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.</p> <p>(priority should be given to equality, diversity, cohesion and integration related information)</p>
<p><u>Process Review</u></p> <p>When considering improvements to the highway which are in the interest of the public and wider development matters at highways consideration review;</p> <ul style="list-style-type: none">• 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.• Road safety – current statistics and impact on these.

Site Specific Considerations

The works which are the subject of this report involve the upgrade and adoption of an existing access road for properties on Whitehall Road in Farnley. The access road will remain as a shared space road as it is now which may have differential impacts for some users, however indications from existing residents are that they do not want the road changing in nature significantly to include a footway. The road will also be closed to through traffic which will ensure that there is no increase in traffic on the quiet access road from new development traffic. It will also remove existing “rat running” traffic which sometimes uses the road at busy times to bypass congestion on Whitehall Road. The creation of culs-de sac will enable and encourage child play walking and cycling.

Are there any gaps in equality and diversity information

Please provide detail:

N/A

Action required:

Procedure reviewed November 2020

6. Wider involvement – have you involved groups of people who are most likely to be affected or interested

Yes No

Please provide detail:

The relevant TRO proposed will ensure that Statutory Consultation is undertaken with the wider groups.

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

<input checked="" type="checkbox"/> Age	<input checked="" type="checkbox"/> Carers	<input checked="" type="checkbox"/> Disability
<input type="checkbox"/> Gender reassignment	<input checked="" type="checkbox"/> Race	<input checked="" type="checkbox"/> Religion or Belief
<input checked="" type="checkbox"/> Sex (male or female)	<input type="checkbox"/> Sexual orientation	
<input type="checkbox"/> 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.

Built environment

services

Location of premises and

Information and communication

Customer care

Timing

Stereotypes and assumptions

Cost

Consultation and involvement

Financial exclusion

Employment and training

specific barriers to the strategy, policy, services or function

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 the requirements of improvement to the road and for the benefit of the public.

Action required:

8b. Negative impact:

None. All designs will be of benefit to the public and constitute improvement to the highway.

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)

Action	Timescale	Measure	Lead person
Add 'Additional Equality Considerations	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
EDCI IA reviewed and amended. Specific site considerations have been added to section 5.	October 2019	Update TDS team and ensure site specific considerations are included akin to S278 HB Reports going forward.	Gillian MacLeod

13. Governance, ownership and approval 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	October 2019
Date impact assessment completed		22/10/2019

14. Monitoring progress for equality, diversity, cohesion and integration actions (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)

15. Publishing	
Though all key decisions are required to give due regard to equality the council only publishes those related to Executive Board, Full Council, Key Delegated Decisions or a Significant Operational Decision .	
A copy of this equality impact assessment should be attached as an appendix to the decision making report:	
<ul style="list-style-type: none"> • Governance Services will publish those relating to Executive Board and Full Council. • The appropriate directorate will publish those relating to Delegated Decisions and Significant Operational Decisions. • A copy of all other equality impact assessments that are not to be published should be sent to equalityteam@leeds.gov.uk for record. 	
Complete the appropriate section below with the date the report and attached assessment was sent:	
For Executive Board or Full Council – sent to Governance Services	Date sent:
For Delegated Decisions or Significant Operational Decisions – sent to appropriate Directorate	Date sent:
All other decisions – sent to equalityteam@leeds.gov.uk	Date sent: 24 April 2013 Reviewed and re-sent May 2017, November 2019