

# Design & Cost Report for Section 278 highway works associated with demolition of derelict buildings, conversion of former industrial buildings to retail and office use, construction of care home, retail units, six residential units and new pay and display car park, A659 Westgate, Otley, Leeds

Date: 30 November 2022

Report of: Transport Development Services

Report to: The Chief Officer (Highways and Transportation)

Will the decision be open for call in? ☐ Yes ☒ No

Does the report contain confidential or exempt information? ☐ Yes ☒ No

## Brief summary

The Chief Highways and Transportation Officer is requested to give authority to negotiate and enter a Section 278 Agreement of the Highways Act 1980 for the execution of highway works associated with a proposed development off the A659 Westgate in Otley, Leeds. The highway works include a new signalised junction, which would require additional land to be dedicated to highways and Traffic Regulation Order advertised by the City Solicitor. The works also include upgrade of the A659 Beech Hill / Kirkgate and the A659 Boroughgate / Crossgate signalised junctions to include MOVA and CCTV technology. The success of such works would be measured by their full implementation prior to occupation of the proposed development to the benefit of the site users and the general public.

## Recommendations

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

- a) Note the details provided in paragraphs 1-8 of this report;
- b) Give authority to negotiate the terms of and enter into an agreement with the developer under the provisions of Section 278 of the Highways Act 1980; whereby the permanent access arrangement associated with the development are carried out by the Council on behalf of the developer;
- c) Request the City Solicitor to revoke the existing Traffic Regulation Order (TRO) on the A659 Westgate in proximity of the proposed works and advertise a Draft TRO for 'No Waiting at Any Time'; and if no valid objections are received, to make, seal and implement the Orders as advertised;

- d) Give authority to incur capital expenditure of £1,480,000 consisting of £1,130,000 civil works costs, £190,000 staff fees and £160,000 commuted sums. These costs will be fully funded by the developers through the Section 278 Agreement; and
- e) Note that a contribution of £425,000 has already been paid towards the scheme through a planning obligation by unilateral undertaking under Section 106 Agreement of the Town and Country Planning Act 1990. The legal agreement appended to the planning permission (reference **22/01175/FU**) and the associated on-demand bond agreement are included in **Appendix 2** for reference.

### **What is this report about?**

- 1 Planning permission was granted on 20<sup>th</sup> May 2019 for the development of a 66-bed care home, retail units, office units, conversion of existing buildings, six residential dwellings, open public car parks and associated infrastructure. The planning application reference number is **17/07108/FU**.
- 2 On 15<sup>th</sup> September 2022, a planning application under Section 73 of the Town and Country Planning Act 1990 been approved to allow the care home and some small retail / commercial units to open ahead of implementing the permanent access arrangement approved under the original consent. The planning application reference number is **22/01175/FU**. This was initially resisted by the Highways Authority as the original approval required the permanent access scheme for the wider development to be completed prior to first use of the site. However, through negotiations with the care home developer, it was agreed for the care home to be served by a temporary access until the permanent access is fully delivered under Section 278 Agreement of the Highways Act. The delivery and funding of the permanent access arrangement following occupation of the care home was secured by a unilateral undertaking under Section 106 Agreement of the Town and Country Planning Act 1990 and an associated on-demand bond agreement.
- 3 This report seeks authority to negotiate the terms and enter a Section 278 Agreement of the Highways Act 1980 for the permanent access arrangements to be delivered by the Council on behalf of the developer, and give authority to incur expenditure.
- 4 It also requests the City Solicitor to revoke the existing TRO on the A659 Westgate in proximity of the proposed works and advertise a draft TRO for the works comprising 'No Waiting at Any Time' as shown on the plan included at **Appendix 3**. If no valid objections are received, to make, seal and implement the Orders as advertised.
- 5 The planned permanent access arrangements will contribute to the 'Best Council Plan' by maintaining and improving the safety of Leeds residents and enabling safe access in the local community.
- 6 The existing access to the site off the A659 Westgate comprising a dropped kerb crossing is unsuitable to serve the proposed development. Until the permanent access arrangement is implemented, a slightly improved temporary access is proposed, comprising a 5.5m wide carriageway, with 6m kerb radius. For reference, the permanent access arrangement is included at **Appendix 3** and the temporary access arrangement is included at **Appendix 4**.
- 7 The permanent access arrangements comprise the following:
  - A. Formation of a new signalised junction, pedestrian crossings and kerb line realignment;
  - B. Installation of MOVA at the new site access junction, Beech Hill / Kirkgate and Boroughgate / Crossgate junctions.
  - C. Installation of CCTV at the new site access junction, Beech Hill / Kirkgate and Boroughgate / Crossgate junctions.
  - D. Reinstatement of any redundant vehicle crossings in proximity of the site to footway with full height kerb;

- E. Widen the car park entrance on southern side of the A659 Westgate, opposite property 31 Westgate;
  - F. Changes to the existing TRO on the A659 Westgate and provision of a new TRO to 'No Waiting at Any Time'.
  - G. Restore full kerb and provide bollard at the arch between 30 and 28 Westgate to prevent vehicular access.
  - H. Associated road markings, street lighting and signage in accordance with TSRGD and the Traffic Signs Manual. The TRO will be implemented following authorisation of the City Solicitor to advertise a Draft TRO; and if no valid objections are received, to make, seal and implement the TROs as advertised.
- 8 In relation to point G above, it should be noted that the developer will be enabling a vehicular crossing between car parks 1 and 2, including an access ramp and installation of stone setts pedestrian walkway. This is to ensure that the properties to the rear are not cut-off, which would then be served from a safer access as noted at point E. The approved site layout plans are included at **Appendix 5**, showing the wider proposals and the references to car parks 1 and 2.

### **What impact will this proposal have?**

- 9 The proposals will improve access to the site for pedestrians and vehicles, through the provision of a signalised junction, with the associated infrastructure, such as pedestrian crossing phases.
- 10 In addition, the proposals to provide CCTV and MOVA technology at the site access, linking with Beech Hill / Kirkgate and Boroughgate / Crossgate junctions will improve the circulation of traffic through Otley Town Centre to the benefits of the general public, including public transport users.
- 11 An Equality, Diversity, Cohesion and Integration (EDCI) impact assessment has been carried out on the Section 278 process and is included in **Appendix 1**. The assessment confirmed that the design put forward as part of this process will take into account the needs of each of the equality characteristics and will aim to meet Section 278 (4) criteria, 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.
- 12 The site is within an established Town Centre area, with local amenities and public transport facilities located within walking distance. Therefore, the proposals will contribute to improved accessibility to the site.

### **How does this proposal impact the three pillars of the Best City Ambition?**

☒ Health and Wellbeing

☒ Inclusive Growth

☒ Zero Carbon

- 13 The proposals achieve a wide range of objectives across the three pillars. The permanent access arrangements will provide safe and suitable access for the proposed development as detailed previously.
- 14 The proposed highway works also accord with the core strategy policies, West Yorkshire Local Transport Plan and other policies in that they provide safe and sustainable means of access.
- 15 Within the site, electric vehicle charging points and secured cycle parking/storage will be provided as part of the approved planning permissions. Therefore, the proposed development will have the required infrastructure to encourage sustainable travel and offset its carbon footprint.
- 16 The proposals contained in this report therefore contribute to Leeds target of net zero carbon emissions by 2030 by enabling and improving facilities for walking, cycling, public transport and use of electric vehicles.

### **What consultation and engagement has taken place?**

Wards affected: Otley & Yeadon

Have ward members been consulted? ☒ Yes ☐ No

- 17 Otley & Yeadon ward members were consulted by email on Friday 30<sup>th</sup> September 2022. No comments have been received from the ward members. Otley Parish Council members were also consulted by email on Friday 30<sup>th</sup> September 2022, with a comment received in relation to cycling access from Manor Garth to meet the A659 Westgate. This has been clarified and addressed.
- 18 The Emergency Services and West Yorkshire Combined Authority (WYCA) were consulted by email on Friday 30<sup>th</sup> September 2022. No comments have been received from either.
- 19 Internal consultations have also been undertaken with colleagues in Highways and Transportation department by email on Friday 30<sup>th</sup> September 2022. Comments on detailed design matters have been passed to the design team and discussed at a meeting on 25<sup>th</sup> October 2022 for inclusion at detailed design stage. The layout has also been updated to address some of the comments raised.

### What are the resource implications?

- 20 The developer will meet the Council's costs, estimated to be £1,480,000 consisting of £1,130,000 civil works costs, £190,000 staff fees and £160,000 commuted sums, all of which will be fully funded through the Section 278 agreement.
- 21 The design of the works can be carried out within the existing staff resources.

Funding Approval:	Capital Scheme Number		33506				
Previous total Authority to Spend on this scheme	TOTAL £000's	TO MARCH 2021 £000's	FORECAST				
			2021/22	2022/23	2023/24	2024/25	2025 onwards
			£000's	£000's	£000's	£000's	£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 £000's	TO MARCH 2021 £000's	FORECAST				
			2021/22	2022/23	2023/24	2024/25	2025 onwards
			£000's	£000's	£000's	£000's	£000's
LAND (1)	0.0						
CONSTRUCTION (3)	1290.0			1290.0			
FURN & EQPT (5)	0.0						
DESIGN FEES (6)	190.0			190.0			
OTHER COSTS (7)	0.0						
TOTALS	1480.0	0.0	0.0	1480.0	0.0	0.0	0.0
Total overall Funding (As per latest Capital Programme)	TOTAL £000's	TO MARCH 2021 £000's	FORECAST				
			2021/22	2022/23	2023/24	2024/25	2025 onwards
			£000's	£000's	£000's	£000's	£000's
LCC Supported Borrowing	0.0						
Revenue Contribution	0.0						
Capital Receipt	0.0						
Insurance Receipt	0.0						
Lottery	0.0						
Gifts / Bequests / Trusts	0.0						
European Grant	0.0						
Health Authority	0.0						
School Fundraising	0.0						
Private Sector	0.0						
Section 106 / 278	1480.0			1480.0			
Government Grant	0.0						
SCE ( C )	0.0						
SCE ( R )	0.0						
Departmental USB	0.0						
Corporate USB	0.0						
Any Other Income ( Specify )	0.0						
Total Funding	1480.0	0.0	0.0	1480.0	0.0	0.0	0.0
Balance / Shortfall =	0.0	0.0	0.0	0.0	0.0	0.0	0.0

What are the key risks and how are they being managed?

22 The total cost of the highway works and staff fees are fully developers funded.

### **What are the legal implications?**

23 The works are exempt from call in being a consequence of and in pursuance of a regulatory decision.

## **Options, timescales and measuring success**

### **What other options were considered?**

- 24 When the Section 73 planning application (ref **22/01175/FU**) was submitted, a plan was put forward to implement a simple priority junction instead of the originally approved signalised junction. This was resisted by the Highways Authority on the basis that a priority junction would not make safe provisions for pedestrians or vehicles in a town centre location. In addition, the extant planning permission include a large retail unit, which could generate traffic levels that a priority junction would not have the required capacity to safely accommodate.
- 25 Nonetheless, in order to allow for the care home to open and some small retail / commercial units to be occupied, the priority junction would serve as the temporary access arrangement until the permanent access arrangement (i.e. the signalised junction) is delivered.
- 26 A Stage 1 Road Safety Audit (RSA) has been undertaken in October 2018 for the permanent access arrangement during the determination stage of the original planning application (ref **17/07108/FU**). The RSA issues raised have been addressed with a revised plan issued and approved as such. Whilst the RSA has not raised fundamental issues, the Council's design team has been made aware of the RSA outcomes. There will be a Stage 2 RSA at detailed design stage and prior to commencement of the works, followed by Stages 3 and 4, which would form part of the Section 278 Agreement.
- 27 A Stage 1 RSA has also been undertaken in March 2022 for the temporary access arrangement during the determination stage of the Section 73 planning application (ref **22/01175/FU**). The access layout has since changed to take into consideration the RSA issues raised, and comments made by the Highways Authority. There will be no further RSAs for the temporary access arrangement.

### **How will success be measured?**

- 28 It is considered that success will ultimately be measured by the delivery of the permanent access arrangement to standards, and the land to be dedicated to highways to be maintained by the authority, thereby achieving the social, environmental and economic benefits to the city from the onset.

### **What is the timetable and who will be responsible for implementation?**

- 29 The care home has opened in October 2022 and some commercial / retail units have been let/leased. The timeline to commence the permanent access arrangement will soon be after the Section 278 Agreement has been signed. It is anticipated for the works to commence on site in February 2023.
- 30 The Council will be responsible for implementing the permanent access arrangement in accordance with the approved plan whilst maintaining access for the care home and the commercial / retail units within the site. Access will also be maintained for the neighbouring properties, however it should be noted that some disruption may occur.

## **Appendices**

- 31 Appendix 1 – Equality, Diversion, Inclusion and Cohesion screening form  
32 Appendix 2 – Unilateral Undertaking and On-demand bond agreements

- 33 Appendix 3 – Temporary Access Arrangement
- 34 Appendix 4 – Permanent Access Arrangement
- 35 Appendix 5 – Approved Site Layout Plans

**Background papers**

- 36 None.