

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet **DATE:** 22nd January 2018

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PORTFOLIO: Cllr Martin Carter – Cabinet Member for Planning and Transport

PART I **KEY DECISION**

PRIVATE STREET WORKS WHITTLE PARKWAY HIGHWAY IMPROVEMENT WORKS

1 Purpose of Report

The purpose of this report is to seek resolution from the Cabinet in accordance with the Highways Act 1980 Sections 205 to 218 (The Private Street Works Code) that Whittle Parkway is not levelled, paved, metalled, flagged, channelled, made good and lighted to the satisfaction of the Council as the street works authority, to undertake the proposed highway improvement works and adopt a section of the highway on Whittle Parkway as shown in diagram *290-SBC-GEN-WP-100DR D 0002* and that there be a provisional apportionment of the probable expenses to the Trustees of Abu Haneef Educational Trust (The Trust) as set out in the S106 Agreement for 1 Whittle Parkway.

2 Recommendation(s)/Proposed Action

The Cabinet is requested to resolve:

- (a) That Whittle Parkway is not paved, metalled, flagged, made good and lighted to the satisfaction of the Council as the street works authority in accordance with Section 205 (1) of the Highways Act 1980.
- (b) That the Transport and Highways Team apply the strict criteria for a private street works scheme as set out in part of XI of the Highways Act 1980 and Sections 205 to 218 (The Private Street works code) on Whittle Parkway.
- (c) That the specification of the highways works shown in *290-SBC-GEN-WP-100DR D 0002* for the estimate of £86,572.42 which is the probable expenses of the works and provisional apportionment of the probable expenses to 'The Trust' be approved.
- (d) That the Council adopt the section of the highway as set out in drawing *290-SBC-GEN-WP-100DR D 0002 pursuant to Section 228 of the Highways Act 1980*.
- (e) That the Council investigates measures to improve road safety and ease congestion between Walpole Road and Whittle Parkway section.

3. The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan

3a. Slough Joint Wellbeing Strategy Priorities

Priorities:

1. Protecting vulnerable children: The widening of the footway and provision of safer crossing points will provide a safer passage for vulnerable road users using Whittle Parkway to access the school and place of worship.
2. Increasing life expectancy by focusing on inequalities: Provision of safer routes to workplaces and places of worship will increase access into the local community and enhance social inclusion.
3. Improving mental health and wellbeing: the proposed measures will promote sustainable transport modes such as walking and cycling to the businesses and places of worship thereby promoting physical activity.
4. Housing: No Impact.

3b. Five Year Plan Outcomes

- Our children and young people will have the best start in life and opportunities to give them positive lives: Access and infrastructure for pedestrians and cyclists will provide safer crossing and cycling facilities, which has the potential to reduce the number of collisions involving pedestrians and cyclists on Whittle Parkway.
- Our people will become healthier and will manage their own health, care and support needs: Provision of safer routes to workplaces and places of worship encourage residents to walk and cycle thereby promoting physical activities.
- Slough will be an attractive place where people choose to live, work and visit: Highway improvements such as wider footways and better crossing facilities will improve access to key services such as employment and places of worship.

4. Other Implications

(a) Financial

All expenses including the Council's legal, survey, design, civil works and supervision costs incurred as part of the street works undertaken under the Private Street Works code are to be apportioned to the 'The Trust' as set out in the Section 106 agreement for 1 Whittle Parkway. There will be a nil apportionment to other frontagers of the street.

(b) Risk Management

Risk	Mitigating action	Opportunities
Legal Refusal by the Whittle Parkway owner to sign an agreement to allow the Council to enforce the waiting restrictions.	Consultation with the landowner before highways work commences.	As part of the notice procedure required to be followed under the Street Works Code
Property	None	
Human Rights		

Health and Safety	Improvement to the	
Employment Issues	None	
Equalities Issues	None	
Community Support: Possible objection from the local business who may not agree with the proposed highway works.	Continue engagement with businesses around Whittle Parkway before any works are undertaken.	The community will gain an appreciation/ understanding of why the highway works and proposed waiting restrictions are being introduced.
Communications	None	
Community Safety		
Financial	None	
Timetable for delivery: Objections from businesses on Whittle Parkway may delay delivery timescales for the works.	Early engagement with the businesses fronting Whittle Parkway.	In order to minimise the delivery of the scheme.
Project Capacity		
Other		

(c) Human Rights Act and Other Legal Implications

The Council is the street works authority for Whittle Parkway for the purposes of Sections 205 to 218 of the Highways Act 1980 (The Street Works Code). Under the Street works Code, the Council, where they are satisfied that a private street is not sewered, levelled, paved, metalled, flagged, channelled, made good and lighted to their satisfaction may from time to time resolve with respect to the street to execute street works on that street. A private street for these purposes means a street which is not a highway maintainable at public expense. Whittle Parkway is a private street in private ownership. As such any decision by the Council to carry out works to that street could be considered to be an interference with the rights to protection of property set out in Article 1 of the First Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms which is given effect to in the UK by the Human Rights Act 1998.

Article 1 of the First Protocol provides that every natural or legal person is entitled to the peaceful enjoyment of his possessions. However, Article 1 states that the provisions of the Article shall not in any way impair the rights of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

In these circumstances, in view of the fact that the proposed street works will benefit all users of the street and that neither the owner of the land comprising the private street nor any other frontagers will be required to contribute to the costs of the street works, it is not considered that any claim will be able to be validly raised against the proposed street works under the Human Rights Act 1998.

Under Section 228 of the Highways Act 1980 where any street works have been executed in a private street, the street works authority may by notice displayed in a

prominent place in the street declare the street to be a highway maintainable at public expense and the street will become such one month after the date the notice is first displayed unless the owner or a majority of the owners if more than one object during that time. The Council may then, within two months, apply to the Magistrates Court to overrule the objection. Rights of appeal from any decision of the Magistrates is available any the street may not become a highway unless the appeals process is completed and any objection is overruled.

(d) Equalities Impact Assessment

The scheme is being delivered as part of the transport and highways planning mitigation measures that were raised as part of the planning condition for 1 Whittle Parkway Planning application P/00850/012 in. The package of mitigation measures includes improvements to the footway to facilitate sustainable travel and improve road safety to the site therefore no EIA has been undertaken as part of this scheme.

(e) Workforce N/A

(f) Property N/A

(g) Carbon Emissions and Energy Costs N/A

5 Supporting Information

5.1 A Planning application (P/00850/012) proposing to change the use of No 1 Whittle Parkway from an office building (Class B1) to a multifunctional community centre (including a school for not more than 120 places) and place of worship (Class D1) was submitted by the Abu Haneef Educational Trust.

5.2 As part of the planning application, Transport and Highways objected to the planning application on the basis that pedestrian access serving the site is inadequate and the applicant had not provided suitable pedestrian links between the application site and the highway thereby endangering vulnerable pedestrians accessing the site. However, Transport and Highways recommended that subject to the applicant agreeing to the mitigation measures to improve road safety in the area and enter into a S106 agreement, Transport and Highways were willing to withdraw any highway objections. The mitigation measures set out in the S106 included the following:

- provide a continuous footway along Whittle Parkway across the southern access to 470 Bath Road and implementation of dropped crossings across the northern access to 470 Bath Road;
- provide minimum 1.5m wide footway along eastern boundary of site including physical measures to prevent parking on any part of footway by vehicles within the car park;
- provide a build-out on both sides of the carriageway of Whittle Parkway to allow safe pedestrian crossing – ideally this would be aligned to the southern boundary of the development;
- negotiate with landowner of the carriageway of Whittle Parkway to dedicate area within the Whittle Parkway widening line to the local highway authority to be maintained at the public expense, as this would allow parking restrictions to be implemented on Whittle Parkway at the junction with A4 Bath Road to the benefit of all users of Whittle Parkway. If the dedication is not possible then an agreement with the owner on other ways to prevent parking in vicinity of the Whittle Parkway /A4 Bath Road junction would be appropriate;

- Agree with the landowner of the carriageway of Whittle Parkway and set out on a plan measures which will prevent hazardous parking on Whittle Parkway in vicinity of the site access and measures to prevent obstruction of the existing footway;
- Provision of Travel Plan including targets and TRICS compliant surveys;
- A Travel Plan monitoring contribution of £6k;
- £ 86,572.42 Highways and Street Works contribution to upgrading the footway along the north-side of A4 Bath Road to shared cycle / pedestrian use;
- £10,000 towards Street Works contribution in relation to carrying out the legal processes required under the Private Street Works Code.
- £10,000 towards funding the traffic regulation order.

5.3 The Council has met with the landowner who verbally agreed on enforcement but was not willing to confirm in writing whether he was happy with the scheme. Further consultation will be undertaken with the landowner as well as businesses on Whittle Parkway. Once the landowner has agreed that we introduce the waiting restrictions, an agreement with the private road owner to introduce waiting restrictions on Whittle Parkway, a traffic regulation order will be processed under Section 1 of the Road Traffic Regulation Act 1984 and regulation 7 of the Local Authorities Traffic Orders (Procedure) (England and Wales) Regulations 1996.

5.4 Owners of the Progress Business Centre met Officers on site and highlighted their concerns about the proposed highway works especially the narrowing of the section outside No 1 Whittle Parkway. They were concerned that the pinch point would have an impact on access to their site. A letter from the Chairman and proposed changes has been attached in Appendix A.

6 Comments of Other Committees

A report was prepared to the Planning Committee meeting held 9th April 2014 for P/00850/012 - 1, Whittle Parkway, Slough, SL1 6DQ with a recommendation to delegate the application to the Development Management Lead Office for further negotiations with the applicant in respect to highways and transport matters and final determination following completion of an agreement or otherwise pursuant to Section 106 of the Town and Country Planning Act 1990 and the finalising of conditions.

As part of the planning application objections were received from Ward Councillors and local businesses on Whittle Parkway and residents on Lowestoft Drive. A summary of the objections below:

- Disruption during the morning rush hour with people dropping their children at school and also during the weekends. There is also concern about the possible influx of 200-400 worshippers at midday on Fridays.
- Parking: Visitors to the mosque parking in the surrounding roads and obstructing residents accessing their driveways. Neighbouring highlighted their concern about access to sites by car transporters and emergency vehicles.
- Congestion on the Whittle Parkway junction and Bath Road especially during Friday prayers and school start and finish times.
- Danger to the public due to increased traffic using Whittle Parkway.
- Noise pollution due to all day prayers, music and weddings
- Odour/Environmental impact from food preparation and disposal of fats, oils and grease.

- Security: Concerns about the impact visitors to the site on the security of businesses on Progress Business Centre, DWS Bodyworks and the Dealership.

Despite the objections a number of representations were received by the Planning team supporting the development and the comments have been summarised below:

- A school is much needed in Slough.
- A petition was received stating support for the much needed community project for the local population of Slough and how the project will benefit the community and help improve spiritual wellbeing.

7 **Conclusion**

The Cabinet members are requested that they resolve that the Transport and Highways team undertake the works and adopt part of Whittle Parkway that is within the Highway widening line as set out in the submitted plans for Whittle Parkway in accordance with part of XI of the Highways Act 1980 and Sections 205 to 218 (The Private Street works code) on Whittle Parkway.

8 **Appendices Attached**

'A'- Letter and proposed changes from the Progress Business Centre

9 **Background Papers**

- '1' No1 Whittle Parkway S106 Agreement dated 19 May 2017
- '2' Planning Committee report for Meeting held 9th April 2014
- '3' Planning Committee Amendments 9th April 2014