

# North Yorkshire Council

## Environment Executive Members

26 January 2024

### Highway Development Service – Design and Construction Project – Selby SEN School Access Works

#### Report of the Assistant Director, Highways & Transportation, Parking Services, Street Scene, Parks and Grounds

#### **1.0 Purpose of Report**

- 1.1 The purpose of this report is to seek agreement from the Corporate Director of Environment, in consultation with the Executive Member for Highways and Transportation, for the procurement of Civil Engineering works on behalf of the Council's Children and Young Peoples Services through the council's arm's length contractor North Yorkshire Highways (NYH) via a direct award.

#### **2.0 Background**

- 2.1 The Council's Highway Development Service (HDS) is a design and construction offer to the developer community for Section 278 works associated their development. However, in the case of this scheme it is proposed that the HDS delivers construction works for which no S278 agreement can be entered into (as explained in 6.1). It is proposed to deliver civil engineering works to facilitate access to a new SEN school subject to planning permission for the school being granted.
- 2.2 There are a number of different agencies and parties involved in the construction of the school and its access. The land on which the school is to be constructed is owned by NYC and will be leased to the Wellspring Academy trust. The agricultural land to the south and east of the proposed school will remain fully under NYC ownership but is leased to a tenant who farms the land. The school site is being brought forward and funded by the Department for Education (DfE) and they have employed Bowmer and Kirkland (B+K) to construct the school.
- 2.3 The planning application for the school and associated works was submitted on Friday 17 November 2023. This is a joint planning application between North Yorkshire Council and the Department for Education.

#### **3.0 Detailed Presentation of the Substantive issue**

- 3.1 The Council's Children and Young Peoples Service have approached the HDS, to construct a Ghost Island Right Turn Lane arrangement on the A61 Hull Road, Osgodby, Selby as well as associated road widening, new access road & footway construction, new footway construction to Hull Road, two uncontrolled pedestrian crossings and one puffin crossing plus street lighting relocation, drainage and resurfacing as required.
- 3.2 The preliminary and detailed design work has been undertaken by the council's design company, APP on behalf of the HDS and it is proposed that the construction works are direct awarded to NYH. Discussions have commenced with NYH who have submitted an initial estimate for the works and expect the value to be around £520,000. These works will be delivered by a combination of NYH internal resource

with some elements such as surfacing sub-contracted as required. NYH will be responsible for tendering these elements of the works with support from NYC procurement as required.

- 3.3 The scheme has been subject to numerous delays over its life cycle. It is hoped that the planning application can be determined in Q1 2024 so that the works within the adoptable highway can commence in May 2024.
- 3.4 It is proposed that NYH are the delivery partner for the construction of the scheme. There are a number of advantages to this delivery mechanism, one of the main ones being that the tender period is significantly shorter and less onerous for a direct award to an arm's length business than it would be if we were to go out to the open market or external frameworks. This will help significantly with the overall programme.
- 3.5 Compared to external contractors it is also anticipated that NYH will offer much better value for money and give the Council much more control over the end product and construction costs.

#### **4.0 Alternative Options**

- 4.1 Previous HDS schemes have been delivered using contractors on NYC's Planning and Surfacing framework by contractors procured through YOR Consult.
- 4.2 The Planning and Surfacing Framework would not be appropriate for this project since there is a significant amount of new build civil engineering works which would need to be costed as special items. This would become costly on a project of this scale.
- 4.3 YOR civils has been the Framework through which contractors have been procured for two construction projects on behalf of the HDS in Skipton and Whitby. However, both projects were hit by numerous compensation events (CE's) and costs escalated significantly beyond the tendered construction values.
- 4.4 Due to the fact that the works will not go ahead if Planning Permission for the school and access is not granted, there is a risk that contractors on the open market would not want to tender for the work, since this could potentially be abortive effort. This could also mean that contractors who do tender the work are likely to increase their prices to cover this risk, or that fewer tenders would be received.
- 4.5 Since NYH are an arm's length organisation owned by the Council it is envisaged that they would work with the Council and its appointed Project Manager to keep CE's to a minimum and also looks to make savings through Early Contractor Involvement. They have also been made aware of the risk that the scheme may not go ahead should Planning Permission not be granted but are keen to develop relationships with the HDS and wider council teams and are therefore prepared to price the works despite this risk. As such it is considered that this delivery mechanism minimises risk to the Council and offers best value.

#### **5.0 Financial Implications**

- 5.1 All costs associated with projects that come through the HDS are paid in entirety, by the developer. This includes design, construction, supervision and project management as well as any HDS fees arising during the construction period. Further, NYC fees, previously agreed through the HDS governance framework, are applied to projects in order to ensure all Council costs are covered.

- 5.2 Since there is no legal agreement to be entered into between different council service areas, as the Council cannot enter into an agreement with itself, the appropriate service needs to agree to pay all costs associated with the civil engineering works. The scheme is in the CYPS Capital Plan, and all fees expended will be reimbursed from the CYPS capital budget, including the estimated £520,000 for the construction works. Funds for the highway construction have already been allocated including a significant contingency, therefore the risk to the Council and HDS budget is considered to be minimal.
- 5.3 The approval for the expenditure from the CYPS Capital Budget for this scheme was approved by Executive members on 21 June 2022.

## **6.0 Legal Implications**

- 6.1 The HDS generally delivers schemes for which a S278 agreement is entered into between developers and the Council, wherein developers agree to pay all reasonable costs associated with delivering works within the adoptable highways to facilitate access to or mitigate impacts of their development. However, a S278 agreement would not be appropriate in this case since it is not possible for the authority to enter into agreement with itself. As such the HDS will procure and deliver the works under the Councils permitted development rights once the planning permission has been granted.
- 6.2 The Council is subject to the Public Contract Regulations 2015 (PCR) when procuring goods or services. The PCR includes an exemption for “in house” arrangements (known as “in house” or “Teckal” exemption) where the contracting authority award a contract to an entity which it controls, and which carries out at least 80% of its activities for the controlling contracting authority. Where these requirements are satisfied the contracting authority can award contracts that would otherwise be covered by the PCR to the controlled subsidiary without needing to subject the arrangements to competition. It follows that the Council can make a direct award to NYH given it satisfies the requirements as a Teckal company controlled by the Council.
- 6.3 It is considered that there are no legal implications from offering a construction service other than there being a requirement for the appropriate approvals to be in place in order to allow the Council to tender the works.

## **7.0 Equalities Implications**

- 7.1 An Equality Impact Assessment screening has been completed and included as Appendix 1 of this report. It is considered an Equality Impact Assessment was not required and that there are no equality implications arising from this recommendation.

## **8.0 Climate Change Implications**

- 8.1 A Climate Change Impact Assessment is included as Appendix 2 of this report. No impacts are anticipated given the report seeks approval for the procurement of construction works, which will be required as part of a proposed planning condition.

## **9.0 Reason for Recommendations**

- 9.1 A direct award to NYH offers a quick and effective route to procurement and gives the council the most amount of control over cost and quality compared to alternative procurement options.

## **10.0 Recommendation**

- 10.1 It is recommended that the Corporate Director, Environment in consultation with the Executive Member for Highways and Transportation agree the procurement of the offsite construction works for the Selby SEN School scheme through a direct award to North Yorkshire Highways as set out in section 3 of this report.

### APPENDICES:

- Appendix 1 – EIA Screener Document
- Appendix 2 – Climate Change Impact Assessment

BARRIE MASON  
Environment  
County Hall, Northallerton

23 November 2023

Author of Report: Allan McVeigh Head of Network Strategy

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

## Appendix 1

<b>Initial equality impact assessment screening form</b>			
This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.			
<b>Directorate</b>	Children & Young People's Services		
<b>Service area</b>	Inclusion		
<b>Proposal being screened</b>	Selby Free School		
<b>Officer(s) carrying out screening</b>	Lucy Wade		
<b>What are you proposing to do?</b>	Construct an access road and pedestrian crossings for a new SEN school in Osgodby, Selby. The DfE are building the school as the result of a successful free school application, which is due to open in November 2025.		
<b>Why are you proposing this? What are the desired outcomes?</b>	To enable access to the school and the surrounding NYC owned land.		
<b>Does the proposal involve a significant commitment or removal of resources?</b> Please give details.	There is a significant capital contribution from NYC.		
<b>Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics</b>			
As part of this assessment, please consider the following questions:			
<ul style="list-style-type: none"> <li>• To what extent is this service used by particular groups of people with protected characteristics?</li> <li>• Does the proposal relate to functions that previous consultation has identified as important?</li> <li>• Do different groups have different needs or experiences in the area the proposal relates to?</li> </ul>			
If for any characteristic it is considered that there is likely to be an adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your <a href="#">Equality rep</a> for advice if you are in any doubt.			
Protected characteristic	Potential for adverse impact		Don't know/No info available
	Yes	No	
Age		✓	
Disability		✓	
Sex		✓	
Race		✓	
Sexual orientation		✓	
Gender reassignment		✓	
Religion or belief		✓	
Pregnancy or maternity		✓	
Marriage or civil partnership		✓	
People in rural areas		✓	
People on a low income		✓	
Carer (unpaid family or friend)		✓	
<b>Does the proposal relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details.</b>	There is a need in the Selby area for a SEN school. This project will provide the capacity of school places required in this area.		
<b>Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with</b>	This proposal will have a positive affect on children and young people with SEND.		

## Appendix 1

<p><b>protected characteristics?</b> Please explain why you have reached this conclusion.</p>	<p>The proposed designs provide additional pedestrian crossing points, which are all in line with the appropriate regulation.</p>			
<p><b>Decision (Please tick one option)</b></p>	<p>EIA not relevant or proportionate:</p>	<input checked="" type="checkbox"/>	<p>Continue to full EIA:</p>	
<p><b>Reason for decision</b></p>	<p>The new SEN School and access road will have a positive impact on the local community.</p>			
<p><b>Signed (Assistant Director or equivalent)</b></p>	<p>Chris Reynolds</p>			
<p><b>Date</b></p>	<p>20 October 2023</p>			

## Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk)

**Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:**

Planning Permission  
Environmental Impact Assessment  
Strategic Environmental Assessment

However, you will still need to summarise your findings in the summary section of the form below.

Please contact [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk) for advice.

<b>Title of proposal</b>	Selby Free School Access Road
<b>Brief description of proposal</b>	To build an access road on the Selby Free School site, so the DfE can construct a school.
<b>Directorate</b>	BES
<b>Service area</b>	Transport & Development
<b>Lead officer</b>	Jasmin Gibson
<b>Names and roles of other people involved in carrying out the impact assessment</b>	Lucy Wade
<b>Date impact assessment started</b>	12/04/23 (updated Nov 23)

**Options appraisal**

Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.

Vehicle numbers on the A61 and into the proposed school site mean that a simple priority junction would have been acceptable in terms of the trip rates generated, but it has been agreed with NYC development management that a right turn lane would be a better solution in this area lane for reasons of improved safety for those travelling to and from the school site and also for HGV's during the construction period. Whilst the priority junction would have lower emissions/CO2 than the right turn lane proposal the safety of travelling public is the priority.

**What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?**

Please explain briefly why this will be the result, detailing estimated savings or costs where this is possible.

The costs for the construction of the right turn lane, delivery of project management and supervision of the scheme and design costs to date are currently estimated at £1.36mil though this includes a significant contingency (due to current market uncertainty) and actual total scheme costs are hoped to be less in practice. It is difficult to predict the final cost of the scheme before the works are completed due to the risk of compensation events from the contractor, however we have had initial discussions with North Yorkshire Highways and they have provided an estimate of approximately £520,000. Ultimately the works need to be delivered and the costs of £1.2mil had previously been allowed for with the difference being made up from the SEN capital program if needed.



<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p><b>Positive impact</b> (Place a X in the box below where relevant)</p>	<p><b>No impact</b> (Place a X in the box below where relevant)</p>	<p><b>Negative impact</b> (Place a X in the box below where relevant)</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
<p>Minimise <b>greenhouse gas emissions</b> e.g. reducing emissions from travel, increasing energy efficiencies etc.</p>	<p>Emissions from travel</p>	<p><b>X</b></p>		<p>Forecast trips generated from school staff/student traffic is relatively low.</p>	<p>A travel plan has been prepared which will encourage active modes of travel.</p>	<p>A new footway is being constructed along the full frontage of the school site. Three new pedestrian crossings are being constructed (two uncontrolled and one controlled). Advance warning of the school site in the form of signage will help to reduce vehicle speeds and make the environment more conducive to cycling.</p>
	<p>Emissions from construction</p>		<p><b>X</b></p>	<p>Anticipated construction period is approximately 16 weeks.</p>	<p>Could include a requirement to minimise construction trips within tender for contractor or prefer one based locally to the site to minimise mileage. This</p>	

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						<p>could however increase overall construction cost so this will need to be balanced.</p>	
Emissions from running of buildings		X			<p>N/A school site considered separately to access road construction</p>		
Emissions from data storage		X			<p>N/A</p>		
Other							
<p>Minimise <b>waste</b>: Reduce, reuse, recycle and compost e.g. reducing use of single use plastic</p>			X		<p>Materials will need to be deposited after site clearance has taken place.</p>	<p>Investigate the possibility to reuse topsoil stripped in landscaping the rest of the site.</p>	
<p>Reduce <b>water</b> consumption</p>		X					

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p><b>Positive impact</b> (Place a X in the box below where relevant)</p>	<p><b>No impact</b> (Place a X in the box below where relevant)</p>	<p><b>Negative impact</b> (Place a X in the box below where relevant)</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
<p>Minimise <b>pollution</b> (including air, land, water, light and noise)</p>			X	<p>As above the site will generate construction traffic for approximately 16 weeks. A degree of noise pollution is likely to be generated by some phases of work also, this is considered unavoidable due to the nature of the work. The works may need to be undertaken on nights due to the strategic nature of hull road, as such noise/light pollution may be generated in this area too.</p>		
<p>Ensure <b>resilience</b> to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers</p>		X		<p>The road construction is not in an area of the site prone to flooding. Surface water from highways will need to be attenuated with runoff rates limited to greenfield runoff.</p>		
<p>Enhance <b>conservation</b> and wildlife</p>		X		<p>A small amount of farmland will be hard surfaced as a result of the access road construction. Any tree loss will be mitigated by compensatory planting elsewhere on the site.</p>		

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p><b>Positive impact</b> (Place a X in the box below where relevant)</p>	<p><b>No impact</b> (Place a X in the box below where relevant)</p>	<p><b>Negative impact</b> (Place a X in the box below where relevant)</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
<p>Safeguard the distinctive characteristics, features and special qualities of <b>North Yorkshire's landscape</b></p>		<p>X</p>		<p>N/A</p>		
<p>Other (please state below)</p>						

**Are there any recognised good practice environmental standards in relation to this proposal?** If so, please detail how this proposal meets those standards.

Procurement of the scheme contractor could follow the guidance of the Low Carbon Procurement Guide (commissioned by York and North Yorkshire LEP).

**Summary** Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

Highway construction will naturally cause greenhouse emissions due to the embedded CO2 in the materials used, and temporary increases in traffic due to construction vehicles. Mitigation has been suggested for areas where impacts have been identified and this can be considered further with North Yorkshire Highways.

There is the potential to look at options such as using recycled materials in the road construction, the potential carbon saving from this can be investigated further and as above procurement of the scheme contractor could follow the guidance of the Low Carbon Procurement Guide (commissioned by York and North Yorkshire LEP)

In terms of active travel for the site once constructed, there is a continuous footpath link proposed across the site frontage as well as pedestrian crossings ensuring pedestrian connectivity to the site with three different opportunities for pedestrian access to the site itself. There is a fourth potential access point via a public right of way but it is not anticipated that this would be an appealing route. With regard to cycle connectivity this would be on the main carriageway on Hull Road. There are no existing cycle paths in the vicinity to connect in to, so there are no proposals to construct an on or off highway cycle path. The carriageway is wide, and subject to a 40mph speed limit. Whilst not ideal conditions for cycling, confident cyclists could employ this mode of transport. Due to the proposed future use of the site as a special educational needs school, it is anticipated that the vast majority of students will arrive by either car or minibus and so in this case it is expected that pedestrian and cycling uptake will be relatively low, though provisions are made to encourage this in the travel plan.

**Sign off section**  
 This climate change impact assessment was completed by:

<b>Name</b>	Jasmin Gibson
<b>Job title</b>	Senior Highways Engineer
<b>Service area</b>	Transport & Development
<b>Directorate</b>	BES
<b>Signature</b>	<i>Jasmin Gibson</i>
<b>Completion date</b>	14/04/23 (revised Nov 23)

**Authorised by relevant Assistant Director (signature):** **Barrie Mason**

**Date:** 15 January 2024