

Committees:	Dates:	
Corporate Projects Board Operational Property and Projects Sub Committee Planning & Transportation Committee	11 May 2022 30 May 2022 7 June 2022	
Subject: 1 Broadgate Section 278 Highway Works (UPI 12235)	Issue Report: Gateway 2 Light	Public
Report of: Executive Director Environment Report Author: George Wright – City Transportation	For Decision	

PUBLIC

1. Status update	<p>Project Description: Section 278 highway works to facilitate the new development at 1 Broadgate, EC2M 3WA.</p> <p>RAG Status: Green (Green at last report)</p> <p>Risk Status: Low (Low at last report)</p> <p>Total Estimated Cost of Project (excluding risk): £750,000-£900,000.</p> <p>Change in Total Estimated Cost of Project (excluding risk): No change.</p> <p>Spend to Date: £26,893 of an approved budget of £50,000.</p> <p>Costed Risk Provision Utilised: N/A</p> <p>Funding source: Section 278.</p> <p>Slippage: Project is now expected to conclude in March 2025, 12 months later than the last report to Members (Gateway 1/2 report in October 2020). This is to accommodate the revised construction timetable and any additional costs will be met as part of the s278 payment for the construction phase.</p>
2. Requested decisions	<p>Next Gateway: Gateway 5 - Authority to Start Work (Light)</p> <p>Requested Decisions:</p> <p>Members of the Planning and Transportation Committee:</p> <ol style="list-style-type: none"> 1. Authorise officers to proceed with the statutory process and legal agreements required to progress the highway boundary adjustments (appendix 2) pursuant to Section 256 of the Highways Act 1980. 2. Delegate authority to consider any objection to the advertised Section 256 application, and whether to proceed, to the Executive Director Environment (in consultation with the City Solicitor). 3. Delegate any budget adjustments to the Chief Officer should further Section 278 funds be required from the developer prior to Gateway 5 approval. 4. Authorise officers to enter into a Section 278 agreement with British Land.

	<p>Next steps:</p> <ol style="list-style-type: none"> 1. Work with the developer to finalise the Section 278 scope of works. 2. Refine cost estimates for the Section 278 works. 3. Sign a Section 278 agreement with the developers of 1 Broadgate. 4. Progress the statutory process relating to the Section 256 highway boundary adjustments.
<p>3. Budget</p>	<p>Total Estimated Project Cost The current estimated project cost sits within a range of £750,000-900,000 and will be fully funded by Section 278 funding from the developer British Land.</p> <p>All legal costs incurred by the City in relation to the Section 256 process will be met by British Land through a costs undertaking.</p> <p>Costed Risk Provision requested for this Gateway: No Cost Risk Provision is requested before Gateway 5.</p>
<p>4. Issue description</p>	<p>Background and context Officers have been working with British Land on the scope of the Section 278 works surrounding the new development at 1 Broadgate for several months. During this time, the City and British Land agreed that a land exchange may provide mutual benefits.</p> <p>The Section 278 works area focuses on parts of Eldon Street and Finsbury Avenue. Both streets comprise a mix of private land owned by British Land and public highway. The areas subject to the proposed land exchange are shown in Appendix 2.</p> <p>The area on Eldon Street shown in pink is private land owned by British Land and is approximately 190 square metres. The majority of Finsbury Avenue is also owned by British Land, with the exception of a “dog leg” section of footway and carriageway on the western side that is public highway (approximately 245 square metres). The area shown shaded in orange on the plan at Appendix 2 is public highway. It is recommended that this orange land is swapped with the area shaded pink (owned by British Land).</p> <p>The Section 278 negotiations have brought these land anomalies into focus and it is therefore proposed that a land exchange using section 256 of the Highways Act is progressed. Specifically, it is proposed that the private land on Eldon Street becomes public highway and the highway rights are extinguished on Finsbury Avenue and this becomes private land, although right of access for the public will still remain.</p> <p>Mutual benefits Eldon Street is a particularly busy pedestrian route to and from Liverpool Street station and pedestrian flows are projected to increase when the Elizabeth Line opens. The section of northern footway that is currently public highway is approximately 2.5 metres wide. The adoption of the 190 square metres of private land would provide (and safeguard) a wider</p>

footway that is public highway. The increase in footway width would increase as you travel eastwards towards Liverpool Street reaching a maximum footway width of approximately 6.3 metres at the junction of Blomfield Street (Appendix 3).

The Finsbury Avenue section of public highway is awkward to maintain as it abuts the private land which is paved differently. As part of the new 1 Broadgate development British Land propose extensive landscaping on both the public and private parts of Finsbury Avenue, creating an area of high quality public realm that treats the entire space in an holistic way. The proposals comprise tree planting, soft landscaping, seating and granite paving (a non-standard City paving material). If the proposals are approved, the maintenance of the public highway on Finsbury Avenue could become even more challenging and may not be accepted by the Corporation as some of the proposals are contrary to the Public Realm Supplementary Planning Document.

The proposed land swap would be beneficial to pedestrians using both spaces: a wider footway on Eldon Street; and an improved public realm on Finsbury Avenue.

Land ownership

A research report into the land ownership on Finsbury Avenue is contained in Appendix 4. In summary, the report concludes The City does not appear to have a freehold interest in the land in Finsbury Avenue that forms part of the exchange. The report notes that until local authority boundary changes in 1993, the whole of Finsbury Avenue lay in the London Borough of Hackney and before 1965 in the Metropolitan Borough of Shoreditch. The report states a large parcel of land in Finsbury Avenue is subject to a caution against first registration in favour of British Land.

The land ownership principle applicable to highway is that once the highway status is removed, the ownership of the highway stratum generally reverts to the frontager (unless there is title information to the contrary). In the case of this section of Finsbury Avenue, British Land is the frontager.

The City Surveyor and City Solicitor have reviewed the research report and conclude that if the City's only interest derives from the highway status of the stratum, there is effectively nothing for which any capital sum should be paid to the City.

Highway Boundary Adjustment pursuant to s256 Highways Act 1980

The boundary of 1 Broadgate at Eldon Street and Finsbury Avenue comprises a mix of private land owned by British Land and public highway. Adjusting the public-private boundary will enable extensive landscaping on both the public and private parts of Finsbury Avenue, creating an area of high quality public realm that treats the entire space in an holistic way.

The legal mechanism being engaged to facilitate the boundary adjustment is under s256 Highways Act 1980 (Power to exchange land to adjust

	<p>boundaries of highways). The process under s256 allows opportunity for any objections to be made to the proposal by way of appeal to the Magistrates Court up to two months from the date of notices are published. The effect of the s256 legal mechanism is to remove the public highway status and dedicate replacement highway.</p> <p>This legal mechanism allows for the highway boundaries to be adjusted and for a balancing payment to be made to the City if required. In this case the exchanged land is equal in value and no payment is required. There shall therefore be no payment by way of equality of exchange but the Owners are to pay the Council's costs of entering into the agreement and managing any objections.</p> <p>Public access to other public realm within the Broadgate estate is secured through s106 obligations which allows the public access over it on foot subject to certain permitted closures. Public access to the orange land would be secured through such a provision, entered into under s106 or another appropriate power (such as section 33 of the City of London (Various Powers) Act 1960) and, as with the other public realm obligations, would be subject to certain permitted closures. Provisions will be included in the s256 and the s278 agreement to secure public access to the orange land subject to permitted closures.</p>
<p>5. Options</p>	<p>There are two options that have been considered:</p> <ol style="list-style-type: none"> 1. Proceed with finalising the Section 278 scope of works without the land exchange. 2. Progress a statutory process under Section 256 of the Highways Act and, if approved, agree a Section 278 scope of works based on the exchange of land in parts of Eldon Street and Finsbury Avenue. Officers are recommending progressing Option 2 as this derives the better outcome for people walking. <p>The Section 278 Agreement needs to be finalised by July 2022, so it will contain the two options detailed above. If the Section 256 land swap is approved, option 2 will be progressed.</p>

Appendices

Appendix 1	Cover sheet
Appendix 2	Plan showing proposed land exchange
Appendix 3	Eldon Street increased footway width
Appendix 4	Research report into land ownership in Finsbury Avenue

Contact

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