

OFFICER DECISION

Decision: Recovery of expenses due to extraordinary traffic linked to the Derwenthorpe development on Fifth Avenue			
Decision Date: 3 May 2024			
Type of Decision: Director		Key	Non-Key
		√	√
Portfolio Area that decision relates to:			
Leader (inc Corporate Services, Policy, Strategy & Partnerships)		Environment and Climate Emergency	
Economy & Transport	√	Finance, Performance, Major Projects & Equalities	
Children, Young People and Education		Children, Young People & Education	
Health, Wellbeing and Adults Social Care		Housing, Planning & Safer Communities	
Background / Decision Summary:			
<p>City of York Council, the Joseph Rowntree Housing Trust (JHRT) and David Wilson Homes (DWH) have agreed a contribution from DWH to compensate the Council for the repairs which are required on Fifth Avenue as a result of the extraordinary traffic linked to the Derwenthorpe development site.</p> <p>DWH have offered a contribution of £120,000 to the Council. This offer and the works required to bring the street back to an acceptable standard have been reviewed by the Council’s Highway Maintenance team. The review concluded that the amount offered would cover the cost of making the additional repairs, which are now required as a result of years of construction traffic using the street to access the development site.</p> <p>The decision is therefore to accept DWH’s offer of £120,000 for the Council to recover expenses due to extraordinary traffic linked to the Derwenthorpe development on Fifth Avenue. A legal agreement will be drawn up between the interested parties to accept the sum offered and discharge the developer of its obligation with regards to the repairs required on Fifth Avenue due to the extraordinary traffic.</p> <p>Once the contribution is received, the Council will organise the work with suppliers, in line with the Council’s procurement policy. As Fifth Avenue provides access to a primary school and developer funded works are already planned at the junction of Fifth Avenue and Tang Hall Lane for summer 2024, works are likely to be undertaken during school holidays in the first half of 2025 to reduce the impact of the works on school access.</p>			

Options Considered:

Undertake the repairs without a contribution from the developers – this would not provide best value to the Council.

Accept the offer – recommended option as it has been assessed as sufficient to cover the cost of the repairs required by the Council’s Highways Maintenance team.

Reject the offer and require a higher contribution (in court or through arbitration) – this was reviewed with the CYC legal team, and it was not considered an expedient option as any increase in the compensation received would likely be modest and the Council would have to pay for its legal costs (including experts, etc).

Options Rejected:

See above:

- Undertake the repairs without a contribution from the developers; and
- Reject the offer and require a higher contribution (in court or through arbitration)

Consultation Process:

Internal consultation process only: highway maintenance team and Executive Member for Economy and Transport.

Implications

Crime & Disorder		Equalities		Highways	√
Human Resources		Legal	√	ICT	
Financial	√	Affordability		Property	
Climate Change		Health		Other	
Environment		Human Rights			

Implications Contact: Sandra Branigan for Legal implications and Laura Wright for Financial implications.

Level of Risk: Acceptable.

Wards Affected:

All Wards		Fishergate		Holgate		Rural West York	
Acomb		Fulford & Heslington		Hull Road		Strensall	
Bishopthorpe		Guildhall		Huntington & New Earswick		Westfield	
Clifton		Haxby & Wigginton		Micklegate		Wheldrake	
Copmanthorpe		Heworth	√	Osbalwick & Derwent			
Dringhouses & Woodthorpe		Heworth Without		Rawcliffe & Clifton			

Comments/Observations:

Finance team comments: the works required to bring the street back to an acceptable standard have been reviewed by the Council's Highway Maintenance team. The review concluded that funds required to repair the damage on Fifth Avenue due to extraordinary traffic linked to the Derwenthorpe development will be covered by DWH contribution of £120,000 to the Council. This is deemed to be enough to cover the costs of this repair. If that's not the case, the Council will have to cover the remaining balance out of the Highways budget. Costs will need to be recorded for this scheme so that the correct funding (contribution) is allocated at year end.

Decision:

Accept DWH's offer of £120,000 for the Council to recover expenses due to extraordinary traffic linked to the Derwenthorpe development on Fifth Avenue. A legal agreement will be drawn up between the interested parties to accept the sum offered and discharge the developer of its obligation with regards to the repairs required on Fifth Avenue due to the extraordinary traffic. The Council upon receipt will commission the work.

Decision Made by: James Gilchrist, Director of Transport, Environment and Planning

Contact Details: e: james.gilchrist@york.gov.uk

On behalf of: Neil Ferris, Corporate Director of Place

To be implemented by: Michael Howard, Head of Highways & Transport

On Completion – Signed off by

Date: 3 . 5 . 2 4



James Gilchrist

Director of Transport, Environment and Planning