

<b>Meeting:</b>	Executive
<b>Meeting date:</b>	3 March 2026
<b>Report of:</b>	Garry Taylor, Director of City Development
<b>Portfolio of:</b>	Councillor Lomas, Executive Member for Finance, Performance, Major Projects, Human Rights, Equality and Inclusion Councillor Ravilious, Executive Member for Transport

## **Decision Report: Appropriation of Land at Bootham Stray for Highway Purposes**

### **Subject of Report**

1. This report seeks consent to appropriate land on a small part of Bootham Stray for highway purposes. The land is shown shaded orange in Annex 1. This will enable the existing site access to be upgraded to improve cycle and pedestrian facilities across the site access, linking with existing facilities in the vicinity of the site. It will also enable the relocation of a bus shelter and the provision of access routes for pedestrians and cyclists between Wigginton Road and the Cocoa Gardens housing development site.
2. The proposed appropriation is to be carried out under Section 122 of the Local Government Act 1972.
3. This follows a similar request which was granted by Executive in September 2018 to widen the vehicular access which historically served the Nestle works.

### **Benefits and Challenges**

4. The Cocoa Gardens housing site currently being developed by Latimer Developments (a subsidiary of Clarion Housing Group) will deliver 302 new residential units, accessed off Wigginton Road,

north of its junction with Crichton Avenue. Under the planning permission for the scheme (Ref 21/01371/FULM), the scheme is to include 56 shared ownership units and 54 affordable rent units, representing 36% affordable housing provision. This represents a 16% increase in affordable housing units over and above the Council's planning policy of 20% affordable housing on brownfield sites.

5. The proposed scheme includes the land shaded orange on the plan at Annex 1 to provide cycle and pedestrian priority across the site access road, links between Wigginton Road and the site and an upgraded bus stop and shelter.
6. The highway works to be carried out on the appropriated land will benefit the public by linking with existing walking and cycling facilities and improving sustainable transport provision in the area. The land to be appropriated is stray land, classed as open space.

## **Policy Basis for Decision**

7. The Council Plan advocates the provision of sustainable accessible transport for all. The land required will be utilised to provide cycleways, paths and a bus stop.
8. A further priority of the plan is to cut carbon, enhancing the environment for our future. The scheme supports the shift to sustainable transport modes and provides trees and landscaping.

## **Financial Strategy Implications**

9. There are no financial strategy implications given the land is being retained in the ownership of the Council, albeit being appropriated for highway purposes.

## **Recommendation and Reasons**

10. Executive is recommended to:
  - a) Note that the required consultation process in accordance with Section 122 of the Local Government Act 1972 for the appropriation of open space to be utilised as highway was carried out and no objections were received;

- b) Approve the appropriation of the land shown shaded orange in Annex 1 for highway purposes.

**Reason:** to enable the developers of the Cocoa Gardens housing site to provide the required sustainable transport infrastructure to benefit existing highway users and future residents of the development.

## Background

11. In September 2018 Executive agreed to appropriate an area of land forming approximately 379 square metres, owned by CYC and which forms part of Bootham Stray, to highway use (and authority was given for granting of a licence to the developer for carrying out highway works on that land). The rationale was to enable the development of the adjacent site for residential use.
12. The development of the site required an expanded access point onto Wigginton Road in order to create a suitable safe junction. The junction goes over land which forms part of Bootham Stray shown coloured red (“the Red Land”) and stippled blue (“the Blue Land”) on the Plan attached at Annex 2.
13. The Council is the owner of Bootham Stray and that land is an open space recreation area for the residents of York. The plan in Annex 3 illustrates the extent of the Stray. Vehicular access has been permitted across the thin strip of Bootham Stray that runs along the side of the former Nestle factory and that land has not been used for recreation since 1896, however any additional land needed for access is still subject to the legal protections afforded as open space.
14. Annex 3 shows the car park (in green), which at the time of the Executive report in 2018 was leased to and historically used by Nestle. The area of the car park was 1,385 square metres. It was agreed that as part of the deal to provide that the 379 square metres of Stray land be appropriated to highway use and for the developer being granted licence to carry out accessway infrastructure works on the land, that the land coloured green be laid out as publicly accessible open space/ stray land and then surrendered/leased back to the Council. That land was over 3 and a half times the size of the land proposed for the junction and was considered at the time, to more than adequately replace the

potential amenity value of the Red Land and the Blue Land. That legal agreement is still in effect and under the terms agreed the and will be returned as part of the development scheme.

15. Legal documents enabling the original appropriation transaction on the basis outlined were entered into on 13<sup>th</sup> November 2020.
16. Whilst the agreement of the documentation setting out the principles of this first appropriation have been agreed some years ago, City of York Council was approached again by the current owner and developer of the site as they require additional land to be appropriated to provide cycle and pedestrian improvements to the site access and a relocated bus shelter in accordance with the most recent planning consent for the site, obtained in 2022.
17. The additional land to be appropriated is shown shaded orange on the plan in Annex A. The land required comprises a further 464 square metres in total, comprising 282 square metres at the entrance of the site and a further 182 square metres for the paths linking the pocket parks and the housing site. Along with the original land agreed to be appropriated, the total (843 Sq M) is still less than that being returned by virtue of the former car park being returned to open space land.
18. In terms of open and landscaped spaces, the development includes the creation of a pedestrian square to enhance the pedestrian connection to the wider Cocoa Works Development; block paved driveways along the main streets accessing the development; a larger neighbourhood square to promote community building, community gardens & orchard with a variety of fruit bearing trees and different types of planting; and the large meadow, play area with exercise apparatus, and woodland park with a large number of new, existing and relocated native trees.
19. The site promotes access and engagement with nature, as well as food production, to help foster and sense of stewardship and pride between the local community and their environment. This includes existing retained mature trees set around new glades and woodland edge planting within the Stray land; managed woodland and native woodland edge/understorey planting; herb gardens and edible berries as well as the fruit trees.

## Consultation Analysis

20. As part of the appropriation process, notices required under Section 122 Local Government Act 1972 (provided at Annex 5) were published in the local press on 3<sup>rd</sup> and 10<sup>th</sup> November 2025, inviting objections and responses to be submitted by 7<sup>th</sup> December 2025. No objections or representations have been received.
21. The housing development has planning consent under reference 21/01371/FULM and consultation has been undertaken in accordance with planning requirements to enable the site to obtain planning consent.

## Options Analysis and Evidential Basis

22. The preferred option, in line with the previous decision in 2018 is to appropriate the land for highway purposes and for the developer to construct the required highway works. This would mean that, if in the future this access was no longer required, it could be returned to Stray use.
23. An alternative option would be to dispose of the freehold of the land to the developer. However, this is not recommended as the process of disposal of any Stray land would be very difficult, expensive and time consuming. It would also take the land out of Council ownership in perpetuity.
24. Another option would be to refuse the request for appropriation. This would prevent the developer from forming the access as required under the current planning consent (reference 21/01371/FULM). This would prevent the developer from providing the sustainable transport improvements which were assessed as required through the planning process.

## Organisational Impact and Implications

- **Financial**

No financial implications identified as the land is being retained in the ownership of the Council, albeit being appropriated to highways.

- **Human Resources (HR)**

No HR implications identified.

- **Legal**

Whilst the Council is the owner of Bootham Stray, that land is an open space recreation area for the residents of York. For the Council to appropriate part of Bootham Stray to another use/purpose (which includes highway) the following process is required and has been carried out:

- (i) Notice of this needs to be advertised in a local newspaper in two consecutive weeks and the Council must consider any objections or other comments received.
- (ii) Any appropriation of Council land to a different use/purpose must be approved by Executive.

- **Procurement**

No implications identified.

- **Health and Wellbeing**

No implications identified.

- **Environment and Climate action**

The proposal to appropriate land for highway purposes, will result in improved walking and cycling infrastructure for the new development at Cocoa Gardens, supporting the shift to sustainable modes of transport.

- **Affordability**

No implications identified.

- **Equalities and Human Rights**

No differential implications identified. The decision is to appropriate Stray land which was inaccessible to provide sustainable transport improvements. These improvements include walking and cycling facilities and a relocated bus stop/shelter. This will benefit existing highway users and new

residents living on the development site and will benefit all users, including people with protected characteristics under the Equality Act 2010.

- **Data Protection and Privacy**

No implications identified.

- **Communications**

No implications identified.

## Risks and Mitigations

25. Failure to appropriate the land for highway purposes would result in the developer not being able to provide the required highway and sustainable transport improvements.

## Wards Impacted

Guildhall

## Contact details

For further information please contact the authors of this Decision Report.

### Author

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<b>Report approved:</b>	Yes
<b>Date:</b>	20 January 2026

## **Background papers**

Executive Report on 27 September 2018 - Appropriation of Land on Bootham Stray for Highway Purposes

<https://democracy.york.gov.uk/ieDecisionDetails.aspx?ID=5332>

Officer decision 13 October 2025 to conduct the consultation process required under Section 122 of the Local Government Act 1972 for the appropriation of open space to be used as highway on Wigginton Road, at the access to the Cocoa Gardens development

<https://democracy.york.gov.uk/ieDecisionDetails.aspx?ID=7531>

## **Annexes**

- 1 – Plan of Proposed Land to be Appropriated
- 2 – Plan of 2018 Land Appropriation
- 3 – Plan of Stray and Former Car Park Land
- 4 – Photographs of Site
- 5 – Section 122 Notice