

# Portfolio Holder Decision

## S278 Application B4114 Midland Road

### Morrison Store

<b>Portfolio Holder</b>	<b>Portfolio Holder for Finance and Property</b>
<b>Date of decision</b>	<b>15 November 2023</b>
	<b>Signed</b>

### 1. Decision taken

That the Portfolio Holder – Deputy Leader ( Finance and Property) gives approval to the addition of the following s278 fully developer-funded highway improvement scheme to the Capital Programme for 2023/24;

- a) B4114 Midland Road, Nuneaton - Morrison Store access - of approximate value £357,300.

### 2. Reasons for decisions

- 2.1 On 14th May 2023 Council reconfirmed the delegated power to the Leader, or body nominated by them, to approve the addition to the capital programme of projects costing less than £2.0 million, which are fully funded from external grants, developer contributions or from revenue.
- 2.2 Under the Constitution, the power is delegated onwards to the Portfolio Holder for Finance and Property.

### 3. Background information

- 3.1 **B4114 Midland Road, Nuneaton - Morrison Store access**  
A planning application was submitted to Nuneaton and Bedworth Borough Council by WM Morrison Supermarkets plc for the Erection of a food store, a six-pump petrol filling station with kiosk, external garden centre, substation and ATM pod and ancillary landscaping, customer parking and all other associated works.
- 3.2 Planning consent was granted (Ref 038512) on 27 July 2023 which stipulates that the development shall not be brought into use until the public highway, Midland Road, has been improved so as to provide for the proposed site access ghost right turn lane junction, signalised pedestrian crossing, relocated eastbound bus stop,

tactile paving across Stanley Road and any other associated works in general accordance with the approved plan (drawing no.T653\_03F) received by the Council on 4th November 2022, and have been constructed in accordance with those details for the works to be carried out in the limits of the public highway, the developer is required to enter into a section 278 agreement with Warwickshire County Council.

- 3.3 The applicant / developer must enter into a Highway Works Agreement made under the provisions of section 278 of the Highways Act 1980 for the purposes of completing the works.

#### **4. Financial implications**

- 4.1 As the new highway assets which are being created through this scheme will come on to the Council's balance sheet once completed, the costs incurred by the Council need to be treated as capital expenditure.
- 4.2 Section 278 schemes are fully funded by developer contributions which are ring-fenced for the scheme described in the section above. There are no alternative uses for the contributions and the addition of these schemes will not affect the overall level of available capital resources.
- 4.3 The applicant / developer has already committed to funding the technical review work by accepting the Council's fee estimates. The Council's fees for technical review are always collected in advance of the section 278 agreement being signed.
- 4.4 Procurement and subsequent award of construction contracts will only take place subject to the applicable section 278 agreement being signed, which will provide 100% of the funding. The section 278 agreement will also require the Developer to provide a bond or cash security. The commencement of the works is dependent on the completion of the technical review, procurement, and contractor mobilisation processes. Any slippage or increase in costs due to changes in the scope of the works will be reported in the normal quarterly monitoring process.

#### **5. Environmental implications**

- 5.1 The environmental impacts of developer-funded highway schemes are considered through the planning approval process.
- 5.2 The contractors on the Council's Framework Contract for the Provision of Engineering and Construction Works are currently being evaluated. The new contract will demonstrate that all contractors hold a certificate of compliance with BS EN ISO 140001 (or equivalent) or have otherwise satisfactorily demonstrated their policies and arrangements for the management of construction-related environmental issues.

#### **Report Author**

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<b>Urgent matter?</b>	No
<b>Confidential or exempt?</b>	No
<b>Is the decision contrary to the budget and policy framework?</b>	No

<b>List of background papers</b>
N/A?

<b>Members and officers consulted and informed</b>
Portfolio Holder – Councillor Peter Butlin
Corporate Board – Mark Ryder
Legal – Caroline Gutteridge
Finance – Andrew Felton
Equality – n/a
Democratic Services – Amy Bridgewater-Carnall
Councillors – Warwick, Singh Birdi, Boad, Feeney and W Roberts
Local Member(s): Councillor Caroline Phillips - Nuneaton & Bedworth Borough Councillor Brett Beetham – Nuneaton & Bedworth Borough