

22 May 2013**Agenda Item: 7 (a)****REPORT OF SERVICE DIRECTOR – TRANSPORT, PROPERTY &
ENVIRONMENT****A612 GEDLING TRANSPORT IMPROVEMENT SCHEME (GTIS)
LCA 1973 PT1 COMPENSATION PAYABLE WHERE NO LAND IS TAKEN****Purpose of the Report**

1. To seek approval of the Finance & Property Committee to pay the agreed Part 1 Claims detailed in the exempt appendix attached to the report.

Information and Advice

2. Some information relating to this report is not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972. Having regard to the circumstances, on balance the public interest in disclosing the information does not outweigh the reason for exemption because divulging the information would significantly damage the Council's commercial position. The exempt information is set out in the exempt appendix.
3. GTIS was opened to traffic on 8 May 2007. As with similar improvement schemes at Sutton-in-Ashfield, Hucknall, Awsworth, Rainworth and Mansfield, use of the scheme gives rise to claims under the Land Compensation Act 1973 Part 1. The first date that claims could legally be made was 8 May 2008 and since 8 May 2013 no further claims may be made. Over 200 claims have been made during the relevant period on behalf of claimants by several firms of agents who specialise in this field of professional work.
4. Statute recognises that housing in the vicinity of a new or altered highway may suffer depreciation in value on account of increased noise, fumes, vibration, dirt, as well as from intrusive illumination whether from static street lighting or from vehicle headlights. Unlike compulsory purchase claims, any loss of value attributable to loss of visual amenity cannot be taken into account.
5. It is usual to carefully consider claims inspect adversely affected property, interview claimants and negotiate reasonable compensation with claimants' agents, a lengthy process unless highway authorities are prepared to agree unreasonably high levels of compensation demanded by agents. If properly negotiated, a fair level of settlements where property has genuinely depreciated in value should result, with a rejection of claims where property lies too remote or is too shielded from the effects of new road use for any adverse effect on value having occurred.

6. At Gedling, inspections, interviews and negotiations have been carried out by appointed agents (Bruton Knowles) and as claims are provisionally agreed they have been reported for approval. This report carries an appendix listing properties where provisional agreement has been reached in respect of received claims.
7. Allowing for house price indices for the relevant dates, levels of compensation agreed are in line with those of the other similar schemes, those agreed by other local authorities or the Valuation Office Agency for the Highway Agency, or those as are awarded by the Lands Tribunal in disputed areas. Variations in levels of compensation proposed are as a result of variable house types and the closeness or remoteness of housing in relation to GTIS, which lies very close to some housing.
8. In many cases, although quantified claims were submitted, agents and householders have accepted the Council's opinion that properties have not been devalued and that the claims should be rejected. In most instances where claims have been agreed, they are for lesser sums than were either originally claimed by agents or subsequently agreed by them in negotiations.
9. Occasionally, and in order to reflect fair and proper compensation to claimants, agreed compensation may exceed that originally submitted by agents before anyone was fully able to take into account the adverse effects of traffic and lighting. This also accounts in part for why some original submissions were grossly excessive.

Other Options Considered

10. The only alternative to settling claims through negotiations is through expensive litigation at Lands Tribunal. The likely outcome of prolonged dispute and recourse to Lands Tribunal may be both higher levels of compensation plus the substantial legal costs charged by both sides' barristers.

Reason for Recommendation

11. The recommended payments are all at levels considered to be in line or possibly below that which the Lands Tribunal might award, hence the recommendation is considered the best financial option available.

Statutory and Policy Implications

12. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION

1. That the Finance & Property Committee approve payment of the agreed Part 1 Claims detailed in the exempt appendix attached to the report.

Jas Hundal
Service Director - Transport, Property & Environment

For any enquiries about this report please contact: Tim Slater 0115 977 2076

Constitutional Comments (CEH 26-Apr-2013)

13. The Finance and Property Committee has authority to consider the matters and recommendation set out in the report by virtue of its terms of reference.

Financial Comments (TR 26-Apr-2013)

14. The financial implications are set out in the exempt appendix to the report.

Background Papers

15. None

Electoral Division(s) and Member(s) Affected

16. Ward(s): Carlton East
Member(s): Councillor Nicki Brooks, Councillor John Clarke

