

## LONDON BOROUGH OF BROMLEY

### STATEMENT OF EXECUTIVE DECISION

The Portfolio Holder for Environment and Community Services, Councillor William Huntington-Thresher has made the following executive decision:

#### **ACCESS ROAD TO DEVELOPMENT ADJACENT TO SITE OF 2, STATION COTTAGES, CHELSFIELD – PROPOSED LIGHTING UNDER PRIVATE STREET WORKS PROCEDURE - SECOND RESOLUTION.**

##### **Reference Report:**

*Access Road to Development adjacent to site of 2, Station Cottages, Chelsfield – Proposed Lighting under Private Street Works Procedure - Second Resolution Drawing for item on Access Road to Development adjacent to site of 2 Station Cottages, Chelsfield, 20/11/2018 Environment and Community Services Policy Development and Scrutiny Committee*

##### **Decision:**

**(1) The specification and layout shown on drawing no. 60508978/12773/01, estimate and provisional apportionment now submitted by the Executive Director of Environment and Community Services, in respect of a scheme approved by the former Portfolio Holder for the Environment on 12<sup>th</sup> September 2013, be approved.**

**(2) The Council bears the whole of the cost of the street works which will in turn be funded by the developer of the site, under the provisions of s236(1) of the Highways Act 1980.**

##### **Reasons:**

Report ES18080 seeks a Resolution of Approval under the Private Street Works Code in respect of lighting the access road from Station Approach Chelsfield to the site of the development adjacent to 2 Station Cottage.

In 2011, planning consent for Robust Developments Ltd to build two pairs of semi-detached houses adjacent to the site of 2, Station Cottages, Chelsfield. was refused but subsequently allowed on appeal. The Planning Inspector placed conditions on the permission, requiring a passing bay and lighting to be in place in the access road ahead of the development commencing. However, the developer was unable to reach an agreement with the owners of the access road (who are the several owners of the various dwellings fronting the road) to enable construction of a passing-bay and installation of street lighting.

A further application resubmitted in 2015 was permitted, with the same conditions applying – the application having to be started within three years of the permission date which expired on 30<sup>th</sup> September 2018. For a subsequent single dwelling application in 2017, the lighting condition was applied but due to the reduced number of dwellings, and the access road junction having been realigned, the passing bay condition was not included.

The street lighting can be addressed by means of the Private Street Works Code and in the circumstances the Council has been advised to use its powers, even though the lighting will not be adopted upon completion. The developer will meet the Council's costs in full and it is not proposed to pass the lighting cost to frontage owners. Should the Council refuse to use its powers under the Private Street Works

Code, this could be seen as an attempt to frustrate implementation of the award of planning consent by the Planning Inspector. The Council would then be vulnerable to legal challenge for wrongful use of its discretion.

A First Resolution under s.205 (1) of the Highways Act 1980 was made by the former Portfolio Holder on 12<sup>th</sup> September 2013 and documents have now been prepared to enable the Resolution of Approval to be made. Frontagers of the access road have been initially contacted regarding ownership and property width to enable the Provisional Apportionment (which contains details of property ownership) to be as up to date as possible.

In line with Policy T14 of the Unitary Development Plan (UDP) adopted in July 2006, unadopted highways will normally be considered for making-up and adoption, as resources permit, but only following a referendum conducted in each road in which the owners of the majority length of frontage are in favour. In exceptional circumstances a referendum may be dispensed with. In this case, it is not proposed to make-up the road for adoption, but only to light it to enable the development to proceed.

As well as the Developer agreeing to meet all costs for lighting the access road, estimated to be £9.5k (including any costs for appearing before Magistrates to resolve any objections), there will be no costs falling to the Council for future maintenance of the lighting (subject of a legal agreement).

As the Developer will meet the full cost of the scheme without charge to the frontagers, it will not be possible for the frontagers to raise objections to the proposals on financial grounds. Any objections raised by the frontagers that cannot be resolved by negotiation will have to be referred to the Magistrates Court for determination, increasing the cost to the Developer and potentially delaying the scheme. The Developer has been made aware of this.

The developer would be responsible for arranging all the works and the Council's term contractor, AECOM, will carry out the site supervision.

The proposed decision was scrutinised by the Environment and Community Services PDS Committee on 20th November 2018 and the Committee supported the proposal.

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Councillor William Huntington-Thresher  
Portfolio Holder for Environment and Community Services

**Mark Bowen**  
**Director of Corporate Services**  
**Bromley Civic Centre**  
**Stockwell Close**  
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**Date of Decision:** 17 December 2018  
**Implementation Date (subject to call-in):** 27 December 2018  
**Decision Reference:** ENV18013