

Decision Maker: Environment Portfolio Holder

For Pre-decision Scrutiny by the Environment PDS Committee on

Date: 1st October 2013

Decision Type: Non-Urgent Executive Non-Key

Title: PRIVATE STREET WORKS - THE FAIRWAY /
SOUTHBOROUGH LANE, BROMLEY: SECOND RESOLUTION

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Chief Officer: Nigel Davies, Executive Director of Environment & Community Services

Ward: Bickley

1. Reason for report

To obtain a Resolution of Approval under the Private Street Works Code, in respect of two sections of unadopted highway at The Fairway / Southborough Lane, Bromley. This will enable the street footways to be made-up and adopted, thereafter to be maintained at the public expense.

2. **RECOMMENDATIONS**

2.1 That the specification design details shown on Plan No. 1132-02-1, sections, estimate and provisional apportionment, which will be on display on the evening of Committee, be approved without modification.

2.2 That the specification design details shown on Plan No. 11324-02-3, sections, estimate and provisional apportionment, which will be on display on the evening of Committee, be approved without modification.

2.3 That the Portfolio Holder further resolves that the Council bears the whole of the cost of the street works, which will be met from funding provided by Transport for London under the provisions of s. 236(1) of the Highways Act 1980.

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Quality Environment Vibrant, Thriving Town Centres:
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Financial

1. Cost of proposal: Estimated Cost: £72.5k of which £37.5k is for part 1 and £35k for part 2
 2. Ongoing costs: Non-Recurring Cost:
 3. Budget head/performance centre: TfL LIP funding for Local Town Centres 2013/14
 4. Total current budget for this head: £185k of which £141k is available.
 5. Source of funding: Transport for London
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Staff

1. Number of staff (current and additional): 1
 2. If from existing staff resources, number of staff hours: Estimated at 160 hours depending on whether or not objections are raised at provisional or final apportionment stages, or to the adoption of the works.
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Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 500 pedestrians per day, based on observations.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors' comments: Ward Members expressed support for this scheme when the first resolution report was presented. Any further update on Members' views will be provided to the PDS Committee.

3. COMMENTARY

- 3.1 Complaints about the condition of two unmade sections of footway in front of numbers 187-211, Southborough Lane to the west of The Fairway and numbers 213a-239 Southborough Lane, to the east of The Fairway have been received from residents and users of the local shopping parade for many years. On many occasions, the Council has been asked to exercise its discretionary powers to carry out urgent repairs to the street at its own expense, under s.230(7) of the Highways Act 1980, but currently there is no budget to enable such urgent repairs to be considered.
- 3.2 On 16 April 2013, the Environment Portfolio Holder received a report regarding the use and condition of the footways mentioned at 3.1 above. which have not been made up and adopted as highway maintainable at the public expense. They were detailed as Part 1 (from a point in line with the western flank boundary of 187 Southborough Lane to the west, to the western boundary of the highway known as 'The Fairway ' to the east) and Part 2 (from the eastern boundary of the highway known as 'The Fairway ' to the west, to a point in line with the eastern flank boundary of numbers 237-239 Southborough Lane, to the east).
- 3.3 The decision was made to progress the schemes and for officers to prepare a further report in order to obtain Resolutions of Approval. There are two sets of documents due to the legal requirement for two separate schemes under the PSW Code. Both schemes will join to the existing adopted highway, known as 'The Fairway'.
- 3.4 To enable the unmade footways to become highway maintainable at the public expense, the Council needs to adopt them. However it is only empowered to do this following improvements to the appropriate standards. The improvement works may be carried out under the provisions of the Private Street Works Code, but for this to occur the Council has to make two distinct Resolutions; a First Resolution to execute the necessary works giving details of those aspects of the street with which it is dissatisfied, and a second Resolution, a "Resolution of Approval". This Resolution approves plans and sections of the proposed works, a specification of the works required to bring the street up to a suitable standard, an estimate of the cost of such works, and a provisional apportionment of these costs amongst the owners of the land fronting onto the works.
- 3.5 The Portfolio Holder made a First Resolution under s. 205(1) of the Highways Act 1980, on 16 April 2013 (ES13036). The appropriate documents have now been prepared to enable a Resolution of Approval to be made, and these documents will be available for inspection at the meeting. This enables the Provisional Apportionment, which contains details of property ownerships, to be as up to date as possible.
- 3.6 The appropriate limit of works are detailed on both sets of plans.

4. POLICY IMPLICATIONS

- 4.1 Policy T14 of the Unitary Development Plan (UDP) adopted in July 2006 says that unadopted highways will normally be considered for making up and adoption, as resources permit, only following a referendum conducted in each road, in which the owners of the majority length of frontage are in favour. In exceptional circumstances, however, such as in this case a referendum maybe dispensed with.

5. FINANCIAL IMPLICATIONS

- 5.1 Usually it is for the frontagers to meet most of the cost of making up streets but in this case it is intended that the Council will meet the whole cost of the streetworks.

- 5.2 Funding is available from Transport for London funding for Local Town Centres to enable works to be undertaken in this financial year, in respect of those matters that were the subject of the dissatisfaction (i.e. the condition of the street) expressed by the Council in the First Resolution. The estimated cost of the total works is put at £72.5k. Of the original TfL allocation of £185k, an uncommitted balance of £141k is available to fund these works.
- 5.3 An amount of 15% of the estimated construction costs has been included to cover staff time associated with surveys, superintendence and notices relating to the works. This amounts to £9,447 and is included in the total cost of the scheme shown in 5.2 above.

6 LEGAL IMPLICATIONS

- 6.1 By making a First Resolution in respect of this scheme, the Proper Officer of the Council was required to prepare various documents in accordance with s.205(3) of the Highways Act 1980. These documents must now be approved by a second resolution, the Resolution of Approval if the scheme is to continue.
- 6.2 It is intended that the full cost of the scheme is met using TfL LIP funding, but to do this the Council must pass a resolution to this effect under s.236(1) of the Highways Act 1980.
- 6.3 In the period that a Notice under s.228 of the Highways Act 1980 is displayed, the owner (s) of the street is / are able to object to its adoption as a highway maintainable at public expense. In this case, the Council would be able to apply to the Magistrates Court for an order overruling the objection.

Non-Applicable Sections:	Personnel Implications
Background Documents: (Access via Contact Officer)	Report ES13036 dated 16 April 2013