

Decision Maker: **Environment Portfolio Holder**

For Pre-Decision Scrutiny by the Environment PDS Committee on:

Date: **23rd September 2014**

Decision Type: Non-Urgent Executive Non-Key

Title: **PRIVATE STREET WORKS: GOSSHILL ROAD, SECOND RESOLUTION**

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

Ward: Chislehurst

1. Reason for report

To obtain a Resolution of Approval under the Private Street Works Code, in respect of the unadopted highway known as Gosshill Road. This will enable the street to be made-up and adopted as a highway maintainable at the public expense.

2. **RECOMMENDATION(S)**

That the Environment Portfolio Holder:

- 2.1 **Approves without modification the specification (plan No. 11690-101, which will be on display on the evening of Committee), sections, estimate and provisional apportionment of estimated expenses now submitted by the Executive Director of Environment and Community Services, in respect of the scheme approved by the Environment Portfolio Holder on 16 July 2014.**

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Quality Environment
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Financial

1. Cost of proposal: Estimated Cost £289k
 2. Ongoing costs: Non-Recurring Cost
 3. Budget head/performance centre: TfL funding for Public Transport Interchange and Access and S106 contributions
 4. Total current budget for this head: £289k
 5. Source of funding: 2014/15 TfL LIP funding and S106 contributions
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Staff

1. Number of staff (current and additional): 1
 2. If from existing staff resources, number of staff hours: The staff time involved with this scheme will depend upon whether or not objections are raised at provisional and final apportionment stages. However, the superintendence charge (for administration and supervision) shown in the report is considered sufficient to meet the cost of officers' time.
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Legal

1. Legal Requirement: Statutory Requirement: 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 further resolution, the Resolution of Approval. In order to take advantage of the external funding available, the Council must resolve to bear the whole of the expenses of the street works
 2. Call-in: Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All users of Gosshill Road, which runs to Chislehurst rail station.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: These will be presented to the meeting of the Committee

3. COMMENTARY

- 3.1 Following the Environment PDS Committee on 1 July 2014, the Environment Portfolio Holder received a report regarding the use and condition of Gosshill Road, Chislehurst. The road has not been made up and adopted as a highway maintainable at the public expense.
- 3.2 Gosshill Road has been a highway for many years, and is detailed in maps dating from 1897. It became included in the London Borough of Bromley non-statutory list of un-adopted streets between 1965 and 1966 as an unadopted public highway. The road is located between the street junctions of Summer Hill to the North West and Barfield Road to the South East.
- 3.3 Complaints about the condition of the road have been received from residents and users. On several 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 repairs to be considered.
- 3.4 To enable the unmade part of the street to become highway maintainable at public expense, the Council needs to adopt it. The Council is only empowered to do this following improvement 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 giving details of those aspects of the street with which it is dissatisfied; and a further resolution, a Resolution of Approval. This resolution approves details 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 the street and also adjoining and abutting the street.
- 3.5 The Portfolio Holder made a First Resolution under Sn. 205(1) of the Highways Act 1980, following the Environment PDS Committee on 1 July 2014. The appropriate documents have now been prepared to enable the Resolution of Approval to be made and these documents will be available for inspection at the meeting of the Committee. This enables the Provisional Apportionment, which contains details of property ownerships, to be as up to date as possible.
- 3.6 Gosshill Road has street junctions with Summer Hill and Barfield Roads which make it accessible from various residential roads, including the new residential development on the Aquila site. It is quite well used by pedestrians for Chislehurst Rail station and cyclists for onward travel journeys. It is a poor surface though for cycling, particularly after rain which makes the area very muddy. It is intended that, if made up, it could become part of the new Orpington to Canary Warf cycle route. This would be subject to a further report to and approval by Members.
- 3.7 Gosshill Road has also suffered from fly tipping over recent years. Barriers were previously installed at both ends of the road to reduce this problem. Increased use of the road following improvements would be likely to reduce fly tipping.
- 3.8 The estimated costs of the private street works for Gosshill Road are shown in the table below: -

Estimated works	£
Site Clearance	16,541
Footway/Kerb/Carriageway works	210,279
Street lighting	24,484
Administration & supervision	37,696
Total estimate	<u>289,000</u>

4. POLICY IMPLICATIONS

- 4.1 Policy T14 of the Council's Unitary Development Plan 2006 safeguards the frontagers, who usually have to meet most of the cost of making-up. In this case, however, it is intended that the whole of the expenses of the street works will be met from Sn 106 and TfL funds.

5. FINANCIAL IMPLICATIONS

- 5.1 The estimated cost of £289k for the implementation of the works will be funded from S106 monies (£209k) and the 2014/15 TfL budget for Public Transport Interchange and Access (£80k), as agreed by the Portfolio Holder in July 2014.
- 5.2 It should be noted that all Private Street Works include an amount of 15% of the estimated construction costs to cover staff time associated with the administration and supervision of the works. This amounts to £37,696, and is included in the total cost of the scheme shown in paragraph 3.8 above.

6 LEGAL IMPLICATIONS

- 6.1 Section 228 of the Highways Act 1980 permits the Council to adopt any private street by means of notices, displayed in the street for a period of one month, after street works have been executed in the street.
- 6.2 During the period that the Sn.228 notice is displayed, the owner(s) of the street is/are able to object to its adoption as a highway maintainable at the public expense. In this case, the Council is able to apply to the Magistrates Court for an Order overruling the objection.
- 6.3 The following objections to proposed works can be made. Within one month from the date of the first publication of a notice under section 205(5)(a) an owner of premises shown in a provisional apportionment, by notice to the street work authority, object to their proposals on any of the following grounds:
- (a) that the alleged private street is not a private street or, as the case may be, that the alleged part of a private street is not a part of a private street;
 - (b) that there has been some material informality, defect or error in, or in respect of, the resolution, notice, plans, sections or estimate;
 - (c) that the proposed works are insufficient or unreasonable;
 - (d) that the estimated expenses of the proposed works are excessive;
 - (e) that any premises ought to be excluded from or inserted in the provisional apportionment; or
 - (f) that the provisional apportionment is incorrect in respect of some matter of fact to be specified in the objection or, where the provisional apportionment is made with regard to other considerations than frontage, in respect of the degree of benefit to be derived by any premises, or of the amount or value of any work already done by the owner or occupier of premises.

Non-Applicable Sections:	PERSONNEL IMPLICATIONS
Background Documents: (Access via Contact Officer)	ES14038 - Gosshill Road, First Resolution report to Environment PDS Committee, 1st July 2014