
Decision Maker: ENVIRONMENT PORTFOLIO HOLDER

FOR PRE-DECISION SCRUTINY BY THE ENVIRONMENT PDS COMMITTEE ON:

Date: 7th July 2015

Decision Type: Non-Urgent Non-Executive Non-Key

Title: FORDCROFT ROAD AND CROSS ROAD, ST MARY CRAY –
MAKING UP (PART)

Contact Officer: Peter Garrett, Highway Development Officer
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Chief Officer: Nigel Davies, Executive Director of Environment & Community Services

Ward: Cray Valley East

1. Reason for report

To obtain approval to the layout of footways in Fordcroft Road and Cross Road, together with First Resolutions under the Private Street Works Code, in order to facilitate the making-up of parts of these streets in conjunction with adjacent development to the west end of Fordcroft Road. This will enable those parts of the footways to be adopted and thereafter to be maintained at the public expense.

2. **RECOMMENDATION(S)**

That the Environment Portfolio Holder: -

- 2.1 Approves the layout for the footway on the southern side of Fordcroft Road, as shown on Drawing No. 11966-01.
- 2.2 Makes a First Resolution under s.205(1) of the Highways Act 1980 in respect of Fordcroft Road as follows: -

The Council do hereby declare that the footway on the southern side of Fordcroft Road is not levelled, paved, metalled, flagged, made-good and lighted to its satisfaction and therefore resolve to execute street works therein, under the provisions of the Private Street Works Code, as set out in the Highways Act 1980.

Schedule of Works

From a point some 66m to the west of the junction of Fordcroft Road with Bridge Road, to the west, to the junction of Fordcroft Road with Bridge Road to the east, as more particularly shown on Drawing No. 11966-01.

- 2.3 Approves the layout for part of the footway on the eastern side of Cross Road, as shown in Drawing No. 11967-01.

Makes a First Resolution under s.205(1) of the Highways Act 1980 in respect of Cross Road as follows: -

The Council do hereby declare that the footway on the eastern side of part of Cross Road, Orpington is not levelled, paved, metalled, flagged and made-good to its satisfaction and therefore resolve to execute street works therein, under the provision of the Private Street Works Code as set out in the Highways Act 1980.

Schedule of works

From a point some 20m to the south of the junction of Cross Road with Poverest Road to the south, to the junction of Cross Road with Poverest Road to the north, as more particularly shown on Drawing No. 11967-01.

Corporate Policy

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

1. Cost of proposal: Estimated Cost Net nil as the costs would be fully met by the owner of the development site to the west end of Fordcroft Road by virtue of provisions in an agreement under Section 106 of the Town and Country Planning Act 1990.
 2. Ongoing costs: Non-Recurring Cost On-going maintenance of the footways will be met from within the Highway maintenance revenue budget.
 3. Budget head/performance centre: Highways footway budget
 4. Total current budget for this head: £1.1m
 5. Source of funding: Owners of development site and existing revenue budget 2015/16
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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 received in respect of the Resolutions of Approval.
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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): – All users of Fordcroft Road and Cross Road.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: Any comments received will be reported at the meeting.

3. COMMENTARY

- 3.1 In March 2012, outline planning permission was granted for residential development on the site of H Smith Engineers Ltd, in Fordcroft Road, St Mary Cray, relating to an application received by the Council on 24 February 2011 and amended by documents received on 26 June 2011.
- 3.2 The nature and extent of the development warranted the making-up of a footway in Fordcroft Road and in part of Cross Road, to improve access to the site. These footways were the subject of an Agreement under s.106 of the Town and Country Planning Act 1990, completed on 30 March 2012, between the Council and the first owners of the site, together with the second owners, Hyde Housing Association Ltd.
- 3.3 Conditional upon the grant of permission and the commencement of the development the owners of the site have undertaken to complete the works specified in the Agreement.
- 3.4 The proposed works will result in the partial making-up of two existing “unadopted highways”. Unadopted highway is one of the meanings of the expression “private street”, found in the Highways Act 1980 and the Council is entitled to make-up any private street for adoption, under the provisions of the Private Street Works Code, also contained in the Highways Act.
- 3.5 Before any works can be carried out in Fordcroft Road and Cross Road, the Council needs to approve the proposed layout and must pass two separate resolutions in respect of each street, under the provisions of the Private Street Works Code.

4. POLICY IMPLICATIONS

- 4.1 Although it is the Council’s policy to generally conduct referenda in private streets, to determine the views of the frontage owners on the making-up of the streets, such referenda do not form part of the statutory process and the results are not binding upon the Council.

5. FINANCIAL IMPLICATIONS

- 5.1 The Private Street Works Code allows most of the cost of street works to be recharged to the owners of premises fronting the street, although certain costs cannot be recharged and have to be met by the Council, as the Street Works Authority.
- 5.2 In the case of the private street works proposed in Fordcroft Road and Cross Road, the owners of the development site are to meet the full cost of the scheme, in accordance with the S106 agreement, so that no charges will fall upon either the frontage owners, or the Council.
- 5.3 The estimated cost of the works for Fordcroft Road is £46k, and £26k for Cross Road.
- 5.4 On-going maintenance of the footways will be funded from the footway maintenance revenue budget.

6. LEGAL IMPLICATIONS

- 6.1 The Private Street Works Code is a set of rules contained in the Highways Act 1980 that empowers the Council to make-up and adopt a private street at the expense of the frontagers.
- 6.2 Before the work of making-up the footways in Fordcroft Road and Cross Road can be formally commenced which will 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 footways to the appropriate standards. The improvement works may be carried out under the provisions of the Private Street Works Code, but the Council

needs to make two distinct Resolutions under s.205(1) of the Highways Act 1980 (a) First Resolutions giving details of those aspects of the existing footways which are currently not to the Council's satisfaction, and (b) Second Resolutions, a "Resolution of Approval" approving the documentation prepared further to the passing of First Resolutions.

- 6.3 Following the passing of First Resolutions under S.205(1) the Council must prepare certain documents namely any necessary plans and sections of the proposed works; a specification of the works required to bring the footways up to a suitable standard; an estimate of the probable expenses of the works; and a provisional apportionment, showing the estimated expenses apportioned between the premises liable to be charged under the Private Street Works Code.
- 6.4 In the case of the proposed works in Fordcroft Road and Cross Road, the expenses will be shown as 'nil' amounts in the provisional apportionments as the costs would be fully met by the owner of the development site to the west end of Fordcroft Road by virtue of the provisions in an agreement under Section 106 of the Town and Country Planning Act 1990.
- 6.5 All of the documents referred to in 6.3 above must then be approved by the Council making Second Resolutions, referred to as the "Resolution of Approval", with or without modification or addition as they think fit.

Non-Applicable Sections:	Personnel Implications
Background Documents: (Access via Contact Officer)	[Title of document and date]