

**Decision Maker:** Environment Portfolio Holder

For Pre-Decision Scrutiny by the Environment PDS Committee on

**Date:** 7<sup>th</sup> June 2016

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

**Title:** PRIVATE STREET WORKS: PLAWSFIELD ROAD - SECOND RESOLUTION

**Contact Officer:** Laura Squires, Traffic Engineer  
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**Chief Officer:** Nigel Davies, Executive Director of Environment & Community Services

**Ward:** Penge and Cator

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1. Reason for report

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

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2. **RECOMMENDATIONS**

- 2.1 That the specification, plan, sections, estimate and provisional apportionment now submitted by the Executive Director of Environmental and Community Services, in respect of the scheme approved by the Environment Portfolio Holder on 3<sup>rd</sup> August 2015, be approved without modification and:-
- 2.2 That the Portfolio Holder further resolves that the Council bears the whole of the cost of the 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
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## Financial

1. Cost of proposal: Estimated Cost £424k
  2. Ongoing costs: Any on-going maintenance will be contained within existing revenue budgets
  3. Budget head/performance centre: TfL funding for Public Transport Interchange and Access.
  4. Total current budget for this head: £449,501
  5. Source of funding: TfL LIP funding for 2016/17 and 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 raised at provisional and final apportionment stages. However, the superintendence charge (for administration and supervision) mentioned 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 also resolve to bear the whole of the expenses of the street works under S.236(1) of the Highways Act 1980.
  2. Call-in: Applicable
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All users of Plawsfield Road, which provides access to one side of Kent House railway 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 7 July 2015, the Environment Portfolio Holder received a report regarding the use and condition of Plawsfield Road, Beckenham. The road has not been made up and adopted as a highway maintainable at the public expense.
- 3.2 Plawsfield Road has been a highway for many years. On the basis of information provided by the former Beckenham Council, it was included in the London Borough of Bromley, non-statutory list of un-adopted streets between 1965 and 1966 as an unadopted highway. The street is located between its junction, with Beckenham Road (A234) and the south side of Kent House railway station.
- 3.3 Complaints about the condition of the road have been received from 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 street to become highway maintainable at public expense, the Council needs to adopt it. The Council will only 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 premises fronting the street, which includes adjoining and abutting.
- 3.5 The Portfolio Holder made a First Resolution under S.205(1) of the Highways Act 1980, following the Environment PDS Committee on 7 July 2015. 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.

### **4. POLICY IMPLICATIONS**

- 4.1 Policy T14 of the Council's Unitary Development Plan 2006 allows the frontagers, who usually have to meet most of the cost of making-up, to express a view on the proposed works by means of a referendum. In this case, however, it is intended that the whole of the expenses of the street works will be met from TfL funds and therefore no referendum has been carried out.

### **5. FINANCIAL IMPLICATIONS**

- 5.1 The estimated cost of £424k for the implementation of the works will be funded from the 2016/17 TfL Local Implementation Plan (LIP) budget for Public Transport Interchange and Access, Making Up and Adoption Plawsfield Road (£369,501) and from funding carried forward from 2015/16 for Plawsfield Road (£80k).
- 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 superintendent's charge is included in the total cost of the scheme.
- 5.3 Once adopted the footways and carriageway should not require any planned or reactive maintenance during the twenty year design life. The cost of street cleaning and cyclical maintenance of drainage assets will need to be met from existing revenue budgets.

## 6 LEGAL IMPLICATIONS

- 6.1 During the design of the scheme for Plawfield Road, the Barnmead Road Residents Association has taken an interest on behalf of all local residents. Under the Code however, the Council is still required to serve notices on the owners of premises fronting the street, even though they are not to be charged with the cost of the street works.
- 6.2 Within one month from the date of the first publication of a notice under section 205(5)(a) an owner of premises shown in the provisional apportionment, may, by notice to the Council, 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.

If any objections should be received and are not withdrawn, the Council may apply to the Magistrates Court for the objections to be heard and determined.

- 6.3 After street works have been executed in a private street, s228 of the Highways Act 1980 permits the Council to adopt the street by means of notices displayed in the street for a period of one month.
- 6.4 During the period that the s.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. In this instance, the owner of Plawfield Road is believed to be Barnmead (Cator Estate) Residents Ltd and it is not thought that this company will object to the adoption of the street, after it has been made up. The views of Network Rail have not yet been sought.

<b>Non-Applicable Sections:</b>	Personnel Implications
Background Documents: (Access via Contact Officer)	ES15036 - Plawfield Road (Private Street Works) –First Resolution report to Environment PDS Committee, 7 <sup>th</sup> July 2015