

Decision Maker: ENVIRONMENT & COMMUNITY SERVICES PORTFOLIO
HOLDER

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

Date: Wednesday 10 October 2018

Decision Type: Non-Urgent Executive Non-Key

Title: PROPOSED MAKING-UP OF CLARENCE ROAD, BICKLEY
(PART) – FIRST RESOLUTION

Contact Officer: Laura Warner, Traffic Engineer
Tel: 020 8313 4231 E-mail: Laura.Warner@bromley.gov.uk

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

Ward: Bickley

1. Reason for report

To obtain a First Resolution under the Private Street Works Code contained in the Highways Act 1980, in respect of the making up and adoption as a highway maintainable at the public expense of Clarence Road, Bickley between Page Heath Lane and Shortlands Grove.

2. **RECOMMENDATION(S)**

2.1 That the Environment Portfolio Holder makes a first resolution under Section 205 (i) of the Highways Act 1980 in respect of the street as follows:

The Council do hereby declare that Clarence Road, between the junctions of Page Heath Lane and Shortlands Grove is not sewered, levelled, paved, metalled, flagged, channelled, made good and lighted to its satisfaction and therefore resolves to execute street works therein, under the provisions of the Private Street Works Code as set out in the Highway Act 1980.

2.2 Schedule of works

From the street junction Page Heath Lane to the north, to the junction with Shortlands Grove to the south, all as detailed in drawing number 12863-01.

Impact on Vulnerable Adults and Children

1. Summary of Impact: No negative impacts.
-

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Quality Environment Safe Bromley Supporting Independence Healthy Bromley
-

Financial

1. Cost of proposal: Estimated Cost: £332k
 2. Ongoing costs: Future maintenance costs will be funded from existing highway maintenance budgets.
 3. Budget head/performance centre: TfL 2018/2019 LIP budget for Cycling and Walking
 4. Total current budget for this head: £924k
 5. Source of funding: TfL LIP Formula Funding 2018/19
-

Personnel

1. Number of staff (current and additional): 2
 2. If from existing staff resources, number of staff hours: 50
-

Legal

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

Procurement

1. Summary of Procurement Implications: None as the works will be carried out by the Council's highways term contractor.
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Local residents fronting Clarence Road, cyclists and pedestrians using Clarence Road.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: Cllr Smith has advised that he is supportive of the scheme provided external funding is available for the scheme.

3. COMMENTARY

- 3.1 Between its junctions with Page Heath Lane and Shortlands Grove, Clarence Road is not in a condition that meets adoptable standards and therefore the Council is not responsible for its maintenance, which includes repair.
- 3.2 The Council is entitled to make-up the Highway for adoption under the provisions of the Private Street Works Code, contained in the Highways Act 1980. Section 236 of the Act enables the Council, as the Street Works Authority, to resolve to bear the whole of the cost of the works, rather than recharge most of the cost to the frontage owners. In this instance, it is proposed that the cost of the works would be met from the LIP budget.
- 3.3 Approximately half way along the unmade section of the street, it crosses a railway line via a bridge, the maintenance of which is the responsibility of Network Rail. The bridge is considered to be in a weak condition, with a maximum limit of 13 tonnes. If Clarence Road were to be made-up, not only would this bridge have to bear the additional weight of the road construction, but also the weight of the additional traffic which the improved running surface would attract, including heavy vehicles which might not take heed of the weight limit. It is therefore intended to implement an experimental road closure between the southern boundary of number 62 Clarence Road and the driveway access to numbers 79-87 Clarence Road. The closure will prohibit all vehicles except pedestrians, pedal cycles and Network Rail service vehicles engaged on maintenance of the bridge. The closure will be reviewed after 6 months with a view to making it permanent.
- 3.4 By introducing a permanent restriction, works over the bridge could be to reduced design standards, compared with the remaining parts of the street, which will require the making of a Resolution of Approval under the Private Street Works Code.
- 3.5 The completed scheme will also support Bromley's ambition to promote quality cycle routes in the Borough.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 No negative impacts.

5. POLICY IMPLICATIONS

- 5.1 Policy T14 of the Unitary Development Plan (UDP) adopted in July 2006 says that un-adopted highways will normally be considered for making-up and adoption, as resources permit, following a referendum. The referendum is not part of the statutory procedure however, and in exceptional circumstances, such as with this scheme, can be dispensed with.
- 5.2 In this case, where there is a clear demand for the Council to take action and it is not proposed that the cost of making up the carriageway will be charged to the frontage owners, it is recommended that a referendum is not conducted.

6. FINANCIAL IMPLICATIONS

- 6.1 The estimated cost of the works is £332k. This will be funded from TfL LIP Formula Funding 2018/19 Budget for Cycling and Walking, which has an allocation of £332k set aside from a total budget of £924k.
- 6.2 Future maintenance costs will be contained within existing highway maintenance budgets.

7. PERSONNEL IMPLICATIONS

7.1 No additional staff resources will be required.

8. LEGAL IMPLICATIONS

- 8.1 The closure of the bridge to traffic other than pedestrians, pedal cycles and Network Rail service vehicles will be achieved by means of making a Traffic Regulation Order under Section 9 of the Road Traffic Act 1984.
- 8.2 The Council must proceed under the requirements of the Private Street Works Code, which will involve serving notices of provisional apportionment on the frontage owners. Because the intention is that the full cost of the scheme will be met without charge to them, the notices will show the individual frontage charges met by the Council. This means that the frontage owners will not be able to raise objections to the proposal on financial grounds, but may choose to pursue objections on other grounds.
- 8.3 Any objections which could not be resolved by negotiation would have to be referred to the Magistrates Court for determination, which could delay the scheme.
- 8.4 The Highways Act 1980, Section 208, sets out the grounds upon which the owner(s) of premises shown in a Provisional Apportionment may object to the proposed works. Only residents liable to be charged with any part of the costs of executing the proposed street works may, by notice, object to the proposed works.
- 8.5 There are six grounds in total, of which one, S208 (b) allows the objection that there is some material informality defect, or error in the documents that have been displayed.

9. PROCUREMENT IMPLICATIONS

9.1 None as the works will be carried out by the Council's highways term contractor.

Non-Applicable Sections:	None
Background Documents: (Access via Contact Officer)	None