

PART 1 - PUBLIC

Decision Maker: Portfolio Holder for Transport, Highways and Road Safety

**For Pre-decision Scrutiny by the Environment PDS
Committee on**

Date: 22nd November 2022

Decision Type: Non-Urgent Executive Non-Key

Title: ACCESS ROAD REAR OF 75 - 113 STATION ROAD, WEST
WICKHAM - PROPOSED MAKING UP UNDER PRIVATE
STREET WORKS PROCEDURE

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Chief Officer: Colin Brand, Executive Director of Environment and Community Services

Ward: West Wickham.

1. Reason for report

To advise Members of a requirement for the Council to exercise its powers under the Private Street Works (PSW) Code contained in the Highways Act 1980, to make-up and adopt an existing service road in order that it may provide a suitable means of access to a proposed housing development at the rear of West Wickham Library.

2. **RECOMMENDATION(S)**

That the Portfolio Holder for Transport, Highways and Road Safety:

- 2.1 **As part of the Bromley's Housing Regeneration, the planning application (Application No.21/04851/FULL1) for the redevelopment of the car park site on Croft Avenue to provide a mews of 6 houses comprising 12 flats (6 x 1 bed and 6 x 3 bed) and a detached three storey block of flats comprising 14 units (5 x studio and 9 x 1 bed); with the associated bike and bin stores, car parking, ancillary space, private, communal amenity space and alterations to the access road has been approved, (see also Committee Report by the Renewal, Recreation and Housing Committee on 16th November 2021)**

As part of this development an access road will be brought up to Adoptable Standards (see attached plan) through Private Street Works (PSW).

- 2.2 Makes a First Resolution under s.205(1) of the Highways Act 1980 in respect of the access road to the rear of 75 – 113 Station Road, West Wickham, as follows:**

The Council do hereby declare that the access road to the rear of 75-113 Station Road, West Wickham 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 Highways Act 1980.

Schedule of Works

From the junction of the access road with Croft Avenue to the north, for a distance of 98.0m to the south, as shown on Drg. No. P2359 PAR-ZZ-XX-DR-C 8100 attached.

- 2.3 Approves the proposed layout to which it is proposed that the access road be made-up all as shown on Drg. No. P2359-ZZ-XX-DR-C 8100 attached and**
- 2.4 Resolves that, in this instance, the Council meets all the expenses of the Private Street Works scheme, under the provisions of s.236 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 £ 150k
 2. Ongoing costs: Recurring cost . Future maintenance TBD
 3. Budget head/performance centre: Capital Programme - Provision of Library and Housing Improvements in West Wickham
 4. Total current budget for this head: £9.6m
 5. Source of funding: GLA grant, internal borrowing, S106 contributions, private sale receipts
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Staff

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

1. Legal Requirement: Statutory requirement. The Council is entitled to make-up any private street, such as the access road, under the provisions of the Private Street Works Code, which comprises s.205 to s.218 of the Highways Act 1980.
 2. Call-in: Call-in is applicable ?
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All users of the access road following the construction of the new houses, together with the tenants and residents of the existing shop premises fronting Station Road.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The Council is the owner of land situated to the rear of West Wickham Library. This land has previously been used for the purpose of a public carpark but is now intended to provide for the improvement of the library, together with a small housing development.
- 3.2 It is proposed that access to part of this development will be obtained along an existing unmade and unadopted road to the rear of several shops to the west side of the site, fronting onto Station Road. This road is currently used to service the shop premises, and in making-up the road for adoption, its design and construction will recognise the need such servicing to continue in future.
- 3.3 The Council's ownership of land in this location does not extend to the service road and there is no registered owner of this road. It is a "private street" for the purposes of the PSW Code found in the Highways Act 1980. However, the Council, as the Street Works Authority for the area, is entitled to make-up the street for adoption. The above resolution is the first which must be passed in connection with this procedure.
- 3.4 Typically, when the Council exercises its power under the PSW Code, most of the costs are recharged to the owners of premises fronting the private street, the frontagers. In this instance however, it is recommended that, in view of the primary use which the made-up highway is intended to serve, that of providing access to the housing development, the Council should bear the full cost of the scheme.

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 a referendum may be dispensed with.
- 4.2 There is a requirement for the existing access road to be improved, to enable it to provide access to the new housing development whilst continuing to serve as a service road for the existing shop premises, and it is intended that this improvement will come about as a result of a scheme carried out under the Council's Private Street Works powers. It is not proposed that the cost of improving the access road will be passed onto the frontage owners. These owners have been made aware of the situation, and, in the circumstances, it is recommended that a referendum is not conducted.

5. FINANCIAL IMPLICATIONS

- 5.1 Highways officers have provided an indicative estimate of £150k to make-up and adopt this road, which will fall entirely to the Council. However, specific details will need to be provided when further approval is subsequently sought as part of this process, together with a detailed estimate of the cost of the scheme.
- 5.2 The cost of this will be met from the capital programme of £9.6m for the Provision of Library and Housing Improvements in West Wickham approved by the Executive on 24th November 2021.
- 5.3 Future maintenance and provision of street lighting would also be the Council's responsibility although these costs cannot be quantified at this stage and would need to be met from the Highways revenue budget.

6. LEGAL IMPLICATIONS

- 6.1 In order to make-up and adopt the access road, the Council would have to proceed under the requirements of the Private Street Works Code, as set out in the Highway Act 1980 which provides that “Where a private street is not, to the satisfaction of the street works authority, sewered, levelled, paved, metalled, flagged, channelled, made good and lighted, the authority may from time to time resolve with respect to the street to execute street works and, subject to the private street works code, the expenses incurred by the authority in executing those works shall be apportioned between the premises fronting the street.” This will involve the Council serving Notices of Provisional Apportionment of the expenses of street works on the frontage owners.
- 6.2 As it is intended that the full cost of the scheme will be met by the Council without charge to the frontage owners, the Notices will show “nil” street works charges to them. This means that the frontage owners are unlikely to be able to raise objections to the proposal on financial grounds, but could choose to pursue objections on one of the other of the six statutory grounds, as set out in Section 208 Highways Act 1980, which are open to an owner(s) of premises shown in a Provisional Apportionment of estimated costs, as liable to be charged with any part of the costs of executing the proposed street works. The frontage owner(s) may by Notice to the Council, object to the proposed works. One of the statutory grounds, under S208 (b), allows the objection that there is some material informality, defect, or error in the documents that have been prepared.
- 6.3 Under the Private Street Works Code, any statutory objections that may be raised, and which cannot be resolved by negotiation, would have to be referred by the Council to the Magistrates Court for determination, which could significantly delay the scheme and the making up of the access road.

Non-Applicable Sections	Personnel
Background Documents: (Access via Contact Officer)	