

**SURREY COUNTY COUNCIL****CABINET MEMBER FOR HIGHWAYS, TRANSPORT AND FLOODING RECOVERY****DATE:** 17 JULY 2014**LEAD OFFICER:** TREVOR PUGH – STRATEGIC DIRECTOR, ENVIRONMENT AND INFRASTRUCTURE**SUBJECT:** REQUEST TO ADOPT A NEW ROAD AT PURBECK CLOSE, MERSTHAM**SUMMARY OF ISSUE:**

Transport Development Planning wishes to enter into a Section 38 Agreement with Raven Housing Trust to provide new highway as replacement for the stopping up of the existing highway at Purbeck Close in order to enable development of 40 mixed tenure residential dwellings.

In line with Surrey County Council's current policy on adoption, the Cabinet Member, under the Scheme of Delegation, is asked to give authority to adopt a new road between Purbeck Close and Fieldoaks Way with a pedestrian / cycle link to Portland Drive as set out in Annex 1.

**RECOMMENDATIONS:**

It is recommended that the Cabinet Member, under the Scheme of Delegation and in line with Surrey County Council's current policy, authorise the adoption of new highway between Fieldoaks Way and Purbeck Close as replacement for the stopping up of the existing highway at Purbeck Close in order to enable development of 40 mixed tenure residential dwellings as set out in Annex 1 of the submitted.

**REASON FOR RECOMMENDATIONS:**

The request set out in Annex 1 meets Surrey County Council's current policy on road adoption.

**DETAILS:**

1. The highway authority has considerable discretion in exercising its powers to adopt through a section 38 Agreement under the Highways Act 1980, but there are other mechanisms contained in the Act which help to define the legal tests for adoption.

**What is adoptable?**

2. The key adoption tests for roads and streets are that they:
  - must be of sufficient public utility;
  - be constructed (made-up) satisfactorily;
  - be kept in repair for a period of 12 months;
  - be used as a highway during that period.

### Current Road Adoption Policy

3. On the 21 December 2010 a new policy was adopted for all of those development sites whereby the planning application has been registered following this date. Surrey County Council's natural presumption is to not adopt roads, streets, footpaths and cycleways unless they are constructed to a satisfactory standard, connect to an existing public maintainable highway, pay commuted sums to provide for ongoing maintenance and provided they meet the tests set out below. This will include roads that:
  - have a wider use than simply providing access to residential or commercial properties
  - provide through route(s) (not cul-de-sacs) and that exceed 50 residential units (or mixed use equivalent in traffic generation terms)
  - are cul-de-sacs (no through roads) that lead to a county school
  - are bus routes
  - otherwise have a wider public utility
4. A road with public utility is defined as a road that demonstrates a wider benefit to the general public and/or access to public services.
5. The County Council will not adopt roads, streets, footpaths and cycleways that have no wider highway benefit and that:
  - are cul-de-sacs (no-through roads) serving only private dwellings, commercial or industrial premises
  - are entrances and drives to flats or apartments, garages or parking courts
  - otherwise have no public utility
6. Attached as **Annex 1** is a request for road adoption between Fieldoaks Way, Purbeck Close and Portland Drive, Merstham. This relates to an existing planning permission, pertaining to a planning application registered after 21 December 2010 and meets the current tests of the Council's policy on road adoptions, in that it has a wider use than simply providing access to residential or commercial properties, as it provides a through route for pedestrians and cyclists between two current adopted highways, and in total will service over 50 dwellings.
7. It should also be noted that part of the adoption is effectively 'replacement' highway as a result of a stopping up order to enable the associated development referred to above.

<b>CONSULTATION:</b>
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8. Full consultation has taken place as part of the planning process carried out by Reigate & Banstead Borough Council. Local residents were notified in writing of the planning application, details of which were available to view on-line and at the Borough Office.
9. The stopping up order and proposed new highway has also been subject to consultation as part of the National Transport Casework Team, Department for Transport process. Copies of the draft order and relevant plan were made available for viewing at South Merstham Post Office for 28 days from 01 May 2014.

**RISK MANAGEMENT AND IMPLICATIONS:**

10. There are no risks attached as a result of the proposal within this report.

**FINANCIAL AND VALUE FOR MONEY IMPLICATIONS:**

11. The costs associated with the proposed adoption and future maintenance will be fully met by the developer involved. This includes all construction costs, commuted sums (which provide for future maintenance costs over a 30 year period) where necessary and all Surrey County Council fees.

**SECTION 151 OFFICER COMMENTARY:**

12. The Section 151 Officer confirms that all material financial and business issues and risks have been considered in this report. The financial implications are explained in paragraph 11.

**LEGAL IMPLICATIONS – MONITORING OFFICER:**

13. A refusal to adopt could be challenged and would have to be defended at a Magistrates' Court hearing.

**EQUALITIES AND DIVERSITY**

14. There are no equalities implications associated with this adoption.

**CLIMATE CHANGE/CARBON EMISSIONS IMPLICATIONS**

15. The County Council attaches great importance to being environmentally aware and wishes to show leadership in cutting carbon emissions and tackling climate change. The proposal within this report will have no impact on carbon emissions.

**WHAT HAPPENS NEXT:**

16. Legal Services will be instructed to enter into a Section 38 Agreement with Raven Housing Trust. It is anticipated the road will be completed by August 2015 and become adopted highway in August 2016.

**Contact Officer:**

Kerry James, Principal Transport Development Planning Officer - 020 8541 9816

**Consulted:**

Wide consultation as part of the planning process and stopping up process.

**Annexes:**

Annex 1 – Location Plan, Agreement Plan, Stopping Up Plan.

**Sources/background papers:**

Highways Act 1980 – Section 38.

Town and Country Planning Act 1990

