

SURREY COUNTY COUNCIL**CABINET****DATE: 23 SEPTEMBER 2014****REPORT OF: MR JOHN FUREY, CABINET MEMBER FOR HIGHWAYS,
TRANSPORT AND FLOODING RECOVERY****LEAD OFFICER: TREVOR PUGH, STRATEGIC DIRECTOR FOR ENVIRONMENT
AND INFRASTRUCTURE****SUBJECT: POLICY FOR ADOPTING ROADS AND STREETS AS
HIGHWAYS MAINTAINABLE AT PUBLIC EXPENSE****SUMMARY OF ISSUE:**

This report proposes changing the policy introduced in December 2010 for the adoption of roads and streets as highways maintainable at public expense. It recommends that a revised policy be introduced from 1 October 2014 that allows and encourages a greater number of roads and streets to be adopted under Section 38 of the Highways Act 1980. This will assist the County in fulfilling its future statutory function as Sustainable Drainage Approval Body under its role as the Lead Local Flood Authority. It also recommends delegating decisions on Section 38 adoptions to officers.

RECOMMENDATION:

It is recommended that the Cabinet:

- (1) Adopts the policy for the adoption of roads and streets as highways maintainable at public expense for all new requests for Section 38 Agreements from 1 October 2014, as set out in Annex 1.
- (2) Delegates the decisions on Section 38 Adoption and Instructions to enter into Section 38 Agreements to the Group Manager Planning and Development and Transport Development Planning East and West Managers as set out in paragraph 11, and that officers establish an advising process on these decisions to local committees and asks the Lead Manager Democratic Services to amend the Scheme of Delegation accordingly.

REASONS FOR RECOMMENDATIONS:

The recommendations are being made for the following reasons:

- There is the need to adopt a greater range of developments to facilitate our role as Lead Local Flood Authority, which requires the County to maintain surface water drainages systems that have been built in accordance with SUDS specification.
- So that the County can better influence the form of newly created environments that will increasingly become a greater proportion of urban and suburban Surrey.

DETAILS:

Background:

1. The highway authority has considerable discretion in exercising its powers to adopt roads and streets through a Section 38 Agreement under the Highways Act 1980. Up until December 2010, the Council were prepared to adopt new roads that provided public utility defined by the following criteria:
 - a. Served more than 6 homes
 - b. Constructed to a satisfactory standard and
 - c. Comprised carriageways, footways, verges, streetlights etc.

The roads had to be kept in repair for a period of 12 months and be used as a public highway during that period to ensure that they were fit for purpose.

2. The policy did not generally accept entrances and paved areas in garage or parking courts, drives to flats and apartments, amenity areas, footpaths that did not serve a wider desire line, or roads accessing businesses and industrial areas.
3. In December 2010, Cabinet significantly reduced the amount of roads eligible for adoption. A narrower definition of public utility was established, which meant that fewer roads meet the criteria for adoption.
4. The policy which is currently operating, naturally presumes against adopting roads, streets, footpaths and cycle-ways unless they meet the following more stringent set of tests:
 - 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 public utility through providing a wider benefit to the general public and / or access to public services.
5. To date, there have only been a very limited amount of roads that have not been adopted. The current policy came in to being at the height of the recession when few developments were being proposed for adoption. Most of those that have been adopted since 2010 were permitted because they secured planning permission prior to the policy change.
6. Under the current policy, purchasers of new homes in the majority of roads that are not eligible are subject to additional maintenance and management costs. They get no rebate for living in a private road, and therefore incur significantly increased costs.

- 7. A review of estate road adoptions over the last 5 years showed that only seven out of 46 schemes fulfilled the current road adoption policy. This means that a considerably greater number of developments than would previously have been the case had no county input as highway authority in respect of public realm and overall design standards.
- 8. The County’s role as Lead Local Flood Authority will include the responsibility of Sustainable Drainage System Approval Body (SAB). This will require us to adopt any Sustainable drainage system (SUDS) that serves two or more properties that has been constructed to specified standards. As drainage systems are likely to be placed within the carriageway or margins, especially where densities are higher and there is less space for the greener form of SUDs, they will be part of the adopted highway. A SAB cannot charge commuted payments for the long term maintenance of these systems, and the only way that funding can be raised is through the highway element, which will attract a commuted sum. It therefore makes sense to include SUDS within the highway so that it can drain both the highway as well as private runoff, but also attract an element of maintenance funding.
- 9. The criteria for adopting highways needs to be modified to allow the inclusion of a wider range of developments to encompass those with SUDs that have to be adopted through the SAB process.
- 10. As with the case of the provision of SUDs, it would therefore be necessary to modify the criteria for the adoption of roads to allow any residential street that met a specified constructional standard to be subject to the Section 38 process.
- 11. Prior to the introduction of the current Section 38 Policy in 2010, delegated powers were assigned to officers to determine which developments should be subject to adoptions, and to issue instructions. In 2010, with the more restrictive approach to adoption, these were removed, and assigned to the Cabinet Member. It is proposed that, in the future, these decisions be delegated to the Group Manager Planning and Development, and Transport Development Planning East and West Managers.

CONSULTATION:

- 12. The Surrey Planning Officers’ Association were consulted at the time of the original policy change in 2010, and they expressed concern that there would be a tranche of roads in future that failed to be built to acceptable standards. This recommendation reverses that decision, so removes that concern.

RISK MANAGEMENT AND IMPLICATIONS:

- 13. There are no identified risks in these recommendations, as it is returning the approach for new requests for adoption agreements that which existed and worked well prior to 2010.

Financial and Value for Money Implications

- 14. The expansion of the Section 38 policy would be entirely self financing. The fee income will off-set any additional expenditure that the County may have in administering the process. The commuted payments process will raise

maintenance revenue, and generate a level of maintenance on the drainage elements.

Section 151 Officer Commentary

15. Section 151 Officer confirms that all material financial and business issues and risks have been considered in this report. The council's costs, both in terms of administration and future maintenance, will be met by the developer. Increased road adoptions may also have a beneficial effect on some grant allocations, i.e. where grant is based on a formula which takes account of road length, although this is unlikely to be significant.

Legal Implications – Monitoring Officer

16. Section 38 of the Highways Act is a power that enables the Council to enter into agreements with developers to adopt highways included in any developments so that they become maintainable by the Council. It is a matter of discretion for the Cabinet to determine the scope of the developments to which the policy refers. Changing the policy to enable more developments to be included will assist the Council in fulfilling its future new duties as a SAB and in reducing flood risk.
17. As this is an executive function, the Cabinet is able to delegate future decision-making concerning section 38 agreements to officers as set out in the report. If Cabinet choose to accept the recommendation to delegate this function to the named officer the Scheme of Delegation will be amended accordingly.

Equalities and Diversity

18. The wider adoption of new estate roads would enable a greater proportion of those residents in Surrey to live on publically maintained roads. This would provide greater fairness across the population and the provision of a higher standard of facility for the mobility impaired through the provision of dropped crossings for example. It would, however, still allow for private estates where Section 38 Agreements are not requested or where the policy tests are not met.

Public Health implications

19. The ability to secure more easily the adoption of SUDs facilities that duplicate as highway, or fall within the highway, would assist in the reduction of flood risk in populated areas. This in turn would reduce the risk of disease and maintain access to public services which could impact on public health.

Climate change/carbon emissions implications

20. The ability to secure more easily the long term maintenance of SUDs facilities that duplicate as highway, or fall within the highway, ensures a contribution towards minimising the impact of increased precipitation that climate change is predicated to bring in future years.

WHAT HAPPENS NEXT:

- Implement the revised Highway Adoption of Roads and Streets Policy from 1 October 2014 to all new requests to enter into Section 38 agreements.
- Amend the appropriate web site pages on Transport Development Planning's section of the County Web site.

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Annexes:

Annex 1 – Highway Adoption of Roads and Streets Policy 1 October 2014

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