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Highways Information
Merrow Depot
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29 October 2012

Dear,

**PROPOSED REMOVAL OF PUBLIC RIGHTS OF WAY OVER WEY ROAD AND
ROUND OAK ROAD, WEYBRIDGE**

I am writing to you as the registered proprietor of the property known as [Property], which is registered under Land Registry title number [Title no.].

The Wey Road and Round Oak Road Residents Association have asked the County Council to apply to the Magistrate's Court for an order to be made removing the public rights of way over Wey Road and Round Oak Road ("the roads").

As you will be aware, the roads are currently highways maintainable at public expense that are subject to public rights of way and are maintained by the County Council.

The effect of the order would be to make the roads private roads over which the public would have no right of way. The County Council would no longer be responsible for the maintenance of the roads, including the drainage systems and street lighting, and the Borough Council would no longer be responsible for street cleansing. As there would be no public right of way over the roads the owners of the properties they serve would need to secure their own private rights of access. The owners of the roads would be responsible for any claims for compensation for damage or injury caused by their failure to maintain them in a safe condition.

The surface of the roads is currently vested in the County Council as highway authority. If the roads cease to be publicly maintainable highways they will revert to the ownership of the freeholder of the sub-soil. As the title to the sub-soil of the roads is not registered at Land Registry it will be necessary to identify the owner(s) in order to establish responsibility for maintenance and rights of access for the frontagers.

The County Council's policy with respect to applications for the removal of public rights over a road is reproduced at the foot of this letter. Sections 116 and 117 of the Highways Act 1980, which are the statutory provisions under which the County Council can apply to the Magistrate's Court for an order removing the public rights over a road on behalf of a third party, can be viewed online at: www.legislation.gov.uk/ukpga/1980/66/contents

To enable us to gauge the level of support for the Residents Association's request, I would be grateful if you will let me know by Friday 30 November 2012 whether you are in agreement with the proposed removal of the public rights over Wey Road and Round Oak Road. If possible please reply by email to: highwayinfo@surreycc.gov.uk. If you wish to discuss this matter please telephone 020 8541 8922 and ask for me, Ian Taylor, or my colleague George Emmett.

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If you have a mortgage or other loan secured against your property I would advise you to make the lender aware of this proposal, as it may have an effect on the value of your property. You may also wish to seek independent legal advice with regard to the implications of making your road private.

Yours sincerely,

Ian Taylor
Highways Information Team Manager

Policy to be applied to requests by residents for the removal of public rights over a road*.

Where a significant majority of the owners of properties served by a road that is a highway (“the owners”) wish it to cease to be a highway the County Council will, subject to the following conditions and provisions of sections 116 & 117 of the Highways Act 1980, apply to the Magistrate’s Court for an order stopping up the road as a highway.

- 1) The Cabinet Member for Transport considers that it is unnecessary for the road to be a highway.
- 2) The owners are to bear all costs associated with the making of the application, regardless of whether it is successful.
 - i) Initially sufficient funds to cover the estimated cost of making the necessary searches and notifying the owners and occupiers of land and premises served by the road and other interested and relevant parties are to be deposited with the County Council.
 - ii) Subsequently such funds as are required to cover the County Council’s costs in progressing the application shall be deposited in advance of any work being carried out.
 - iii) The owners will undertake to pay final costs as confirmed by the Council following any hearing at the Magistrate’s Court.
- 3) If, following an initial notification exercise, objections to the proposed stopping up are received that cannot be resolved, a report will be submitted to the Local Committee(s) for decision on whether to proceed with the making of the application.
- 4) The owners shall indemnify the County Council for all claims made against the County Council in relation to the road following any stopping up order made by the Magistrate’s Court.
- 5) The owners are to indemnify the County Council for the cost incurred by any statutory undertakers exercising their rights to relocate their apparatus under Part II of Schedule 12 to the Highways Act 1980.
- 6) The owners are responsible for making the necessary arrangements for the future maintenance of the road, including any highway structures, drains, soakaways, street lighting equipment, etc.
- 7) Where the stopping up is subject to the reservation of a footpath or bridleway the owners of the road must undertake to ensure it is maintained in a safe condition and indemnify the County Council against any claims for loss or damage arising from its disrepair.
- 8) The owners are responsible for securing their own rights of way over the road.

* The term “road” does not include public footpaths, bridleways or byways open to all traffic appearing on the definitive map of public rights of way, or cycle tracks.