

SURREY COUNTY COUNCIL**CABINET MEMBER FOR TRANSPORT, HIGHWAYS AND ENVIRONMENT****DATE: 10 SEPTEMBER 2013****LEAD OFFICER: IAIN REEVE – ASSISTANT DIRECTOR STRATEGY, TRANSPORT AND PLANNING****SUBJECT: REQUEST TO ADOPT A STRIP OF LAND AT DE BURGH GARDENS TADWORTH****SUMMARY OF ISSUE**

Transport Development Planning wishes to adopt a strip of land under Section 228 of the Highways Act 1980 associated with a development in Surrey as set out in Annex 1.

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 the strip of land at De Burgh Gardens in Tadworth, 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 the strip of land at De Burgh Gardens, Tadworth to become publicly maintainable highway as set out in Annex 1 of the submitted report.

REASON FOR RECOMMENDATIONS

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

DETAILS

1. Under Section 228 of the Highways Act 1980, the highway authority may, by notice displayed in a prominent position in the area in question, declare an area to be highway, maintainable at the public expense.
2. Attached as Annex 1 is a request to adopt an area of land under S228 of the Highways Act, at De Burgh Gardens, Tadworth. This relates to an administrative error from a development in 2004, in that when the road was adopted under the S228 procedure in 2010, the plans provided by the developer did not include the full extent of the street which was supposed to be adopted, in order to give access to Surrey County Council owned land at the former De Burgh School.

CONSULTATION

3. Full consultation has taken place as part of the original planning process in 1999 by Reigate Borough Council. Local residents were directly notified of the planning application in writing. Details of which were available to view at the Council Office. In addition to this, a notice will be put up on site for a period of one month, giving the land owner or any other party opportunity to object.
4. The Asset Strategy Partner for Acquisitions and Disposals in Property Services has been consulted and has instructed Legal Services to proceed with the S228 notice, subject to the authorisation sought in this report.

RISK MANAGEMENT AND IMPLICATIONS

5. If the strip of land is not adopted there will be an area of privately owned land between the public highway and Surrey County Council owned land, meaning that Surrey County Council would not have right of access to its land.
6. The land owner could object to the adoption, and Surrey County Council would have to apply to the magistrates' court for an order overruling the objection. However this is very unlikely as legal services have informed the original developer Westbury Homes of our intention and they have confirmed they have no objection.

FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

7. All costs associated with the proposed adoption will be fully met by Surrey County Council. It is not possible to provide a definitive cost but the total is not expected to exceed £1,000. This includes both legal costs and officer time that will be funded from Transport Development Planning's budget. However, the original developer Westbury Homes did pay all the relevant inspection/design fees and commuted sums associated with the original adoption, which would have taken account of this area of land.

SECTION 151 OFFICER COMMENTARY

8. The Section 151 Officer confirms that all material financial and business issues and risks have been considered in this report.

LEGAL IMPLICATIONS – MONITORING OFFICER

9. A refusal to adopt under S228 would result in the terms of the original proposed S38 agreement not being met and no legal right of access to Surrey County Council land.

EQUALITIES AND DIVERSITY

10. There are no equalities implications associated with the S228 adoption.

CLIMATE CHANGE/CARBON EMISSIONS IMPLICATIONS

11. The County Council attaches great importance to being environmentally aware

and wishes to show leadership in cutting carbon emissions and tackling climate change.

WHAT HAPPENS NEXT:

12. Legal Services will be instructed to draw up a Section 228 Notice which will then be put up on site for a period of 1 month. If no valid objections are received during that month the land will become highway maintainable at the public expense.
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Contact Officer:

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

Consulted:

Wide consultation as part of the planning process

Land Owner

Steve Evans – Surrey County Council Asset Strategy Partner

Local Residents

Annexes:

Annex 1 – Agreement Plan

Sources/background papers:

Highways Act 1980 – Section 228.

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