

ITEM 4

**PETITION TO ENVIRONMENT & TRANSPORT SELECT COMMITTEE – 19  
JULY 2013**

**Submitted by: Supporters of the Fortyfoot Road Safety Campaign**

We, the undersigned, hereby petition Surrey County Council to effect two actions on a major, pressing health and safety issue. It is also an urgent matter of moral responsibility with a clear duty of care for the Council to:

1. Make sound repairs to the craters in Fortyfoot Road, Leatherhead, without delay.
2. Adopt the road permanently at the next County Council Cabinet meeting.

**Response**

Although Fortyfoot Road is subject to public highway rights for all purposes, it has not been adopted as a highway maintainable at public expense. The County Council, in its capacity as Highway Authority, is not responsible for the upkeep of this road. Our resources are fully utilised on the 4800+ km of adopted highway for which the County Council is responsible.

This section of Fortyfoot Road has fallen into disrepair and been subject to a number of complaints over the years. Ad hoc repairs have been undertaken by various parties but no frontager has taken overall responsibility. It was last formally considered by the Mole Valley Local Committee in 2006 but subsequent discussions with adjoining landowners have not resulted in a sustainable solution. In 2009 it was estimated that the cost to reconstruct the road to an adoptable standard would be £445,000. There is no existing budgetary provision for this.

Surrey County Council as Highway Authority is not legally obliged to take any action when a privately maintained highway falls into disrepair. However, it does have powers (under section 230 of the Highways Act 1980) to require the frontagers to carry out the necessary repairs to make a road safe for the highway user. If the frontagers refuse, the Authority can carry out work and recharge the expense. The Highways Act 1980 also contains provisions whereby a Highway Authority may make up and adopt a private road and apportion the cost between the frontagers. The costs are apportioned according to frontage measurement and degree of benefit. Frontagers have a legal route of appeal against such a process being put upon them.

Officers from the Highways Service will undertake a further assessment to see what repairs now need undertaking and will advise of options available.

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In the current poor condition, Officers would not recommend that the County Council adopts Fortyfoot Road. To do so would significantly increase our liability for what remains a private street.

**David Harmer**

**Chairman – Environment & Transport Select Committee**