

SURREY COUNTY COUNCIL

**CABINET MEMBER FOR TRANSPORT, HIGHWAYS &
ENVIRONMENT**



DATE: 9 OCTOBER 2013

LEAD OFFICER: TREVOR PUGH, STRATEGIC DIRECTOR ENVIRONMENT &
INFRASTRUCTURE

SUBJECT: FORTY FOOT ROAD – RESPONSE TO PETITION

SUMMARY OF ISSUE:

To respond to a formal petition submitted at Environment & Transport Select Committee regarding Forty Foot Road in Leatherhead. This road is an unadopted road that is not maintainable by the Highways Authority, Surrey County Council, but is suffering from significant deterioration.

RECOMMENDATIONS:

It is recommended that:

1. the highway reconstruction and drainage works in Forty Foot Road set out in Annex 3 be agreed with funding to be provided on the basis set out in the report;
2. Surrey County Council adopt the main section of Forty Foot Road (from Popular Rd to Leatherhead-bypass) serving the public services located on the road following the completion of the highway works identified in recommendation 1 to ensure the road meets required adoptable standard.

REASON FOR RECOMMENDATIONS:

In recognition of the exceptional circumstances presented by the almost exclusive use of this section of road by a high number of community and public services and the facilitation of this work by the financial contribution of other stakeholders, to improve this section of road, ensure its long term maintenance and thereby help the schoolchildren and vulnerable people in Surrey's care who use the road regularly.

DETAILS:

Introduction

1. Forty Foot Rd is currently an unadopted road with no organised provision of road maintenance. Over the past decades, this has allowed to the road to deteriorate to such an extent that it is no longer supporting travel and is now having significant impact on the welfare of road users.
2. The 850m road serves two very different purposes with a mixture of residential and critical public services (including a special needs school and adult social care). The diverse stakeholder needs and complex funding arrangements have consequently prevented any long term maintenance

agreement, while the ongoing road deterioration has now put the cost to remedy beyond local resources.

Background

3. The lack of a formal maintenance agreement resulted in a formal petition in July 2013 to Environment & Transport Select Committee (attached as **Annex 1**) requesting that the council adopt the road to prevent further distress to local pupils. In its formal response the Select Committee referred the issue to Cabinet Portfolio Holder to review options and facilitate a long term solution. Fortyfoot Rd is approximately 850m long connecting Epsom Rd and Leatherhead by-pass. The road contains a large number of private dwellings (house & flats) but also includes significant public and community services including:
 - a. Woodlands School (Surrey County Council)
 - b. The Beeches (an Anchor care home with the freehold held by Surrey County Council)
 - c. Fortyfoot recreation ground (Mole Valley District Council)
 - d. Fortyfoot Hall – base of Mencap and Fortyfoot Playgroup (Mencap)
 - e. Leatherhead Hospital (NHS)
4. The road is currently unadopted and there is no mechanism for the frontagers to manage road maintenance and repair. Maintenance responsibility falls upon each of the owners of properties on a road, usually with each contributing funding based upon the size of its frontage onto the road. This analysis was previously completed and the proposed allocation is confirmed in **Annex 2**.
5. However, the analysis confirmed that over 80% of the funding allocation would be sourced from publicly owned organisations. This is a very unusually high percentage, and in most cases a private road would by its nature be funded predominately by private funding. This has created two specific challenges:
 - a. **Ongoing Funding Commitment** – the local public services (Woodlands School, the Beaches) do not have the individual resources to be able to support such an ongoing funding contribution
 - b. **Protecting public investment** –A large investment in the residential part of Forty Foot Rd would not represent good value for the Surrey taxpayer.
6. The issues above have been ongoing for many decades, with road repairs undertaken ad-hoc and as necessary.
7. However, the level of road deterioration is now having a real impact on local users, none more so than the school children using private transport to access Woodlands School, where the road surface can cause specific discomfort due the complex nature of their disabilities.

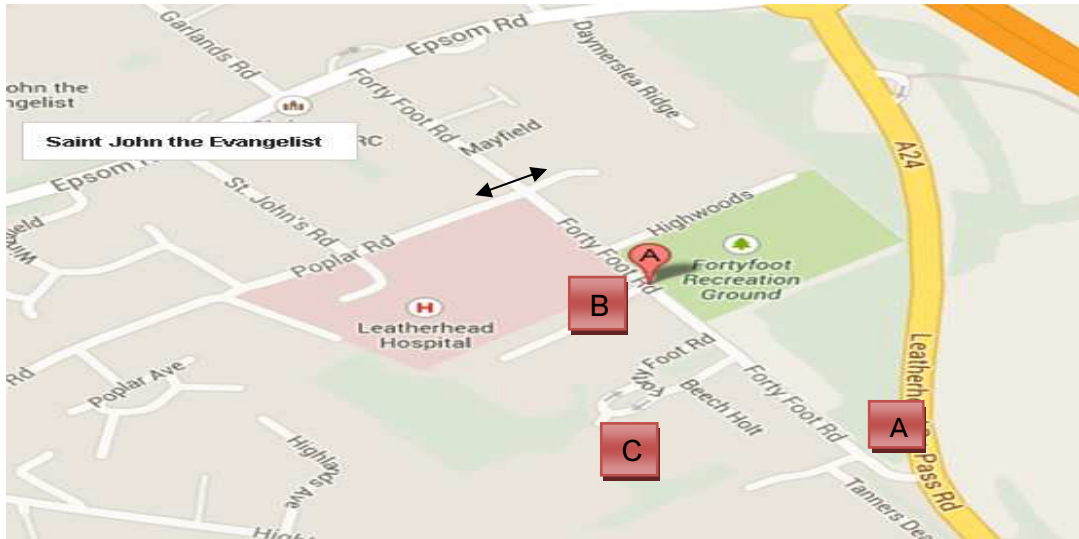
8. This has led to the creation of Fortyfoot Road Safety Campaign Group to lobby County Council to adopt the road culminating in submission of a formal petition to Environment & Transport Select Committee.
9. Following referral from Environment & Transport Select Committee, the Cabinet Member tasked Surrey Highways to develop a long term solution based upon three key tests:
 - a. **Exceptional Circumstances** – Officers would need to prove beyond doubt that the case warranted exceptional treatment from council standard policy in relation to managing unadopted roads;
 - b. **Public Value** – any solution had to demonstrate public value and not divert resources from existing highway programmes;
 - c. **Long Term Solution** – any solution had to be future proofed and resolve the issue permanently without need for interim measures
10. Recognising the different road purposes and stakeholders, officers therefore divided the road into two sections, and assessed each section based upon the three tests above.

Section One: Epsom Rd to Popular Rd

11. This 200m section is primarily residential and would not pass the “Exceptional Test”. The road serves residents living on Fortyfoot Rd and Mayfield and the private ownership meets the expected parameters of an adopted road.
12. Residents have recognised their obligation to provide maintenance and in recent years local residents combined funding to resurface the worst parts of this road section.
13. It is therefore recommended that this road section is not considered for adoption at this stage. Any such requests would be considered under existing policy guidelines with residents required to fund any required works to ensure the road meets the “adoptable standard” of the highway.
14. Though it falls outside the Cabinet Member’s area of responsibility, local highway officers would be willing to support the Local Member for Leatherhead and East Fetcham in organising a local meeting to explore whether there is a willingness from residents to develop a more formal solution. Officers would be able to facilitate residents having access to support network including Private Road Services Ltd, an organisation specifically created to support resident associations develop company vehicles to maintain and manage private road network.
15. Any such agreement should also include the frontages on Beech Holt to ensure all private dwellings are managed by a single group to support residential needs.

Section Two: Popular Rd to Leatherhead Bypass (A24)

16. Apart from the private street of Beech Holt, the remaining 650m of Forty Foot Rd (from Popular Rd) is fully occupied by public owned organisations and can be divided into three areas (see map overleaf).



a. Minor Access Road (50m)

This section was formally adopted by Surrey County Council in response to the creation of new properties on Tanners Dean. The minor access road was not fully constructed and is thus only suitable for local residents using Tanners Dean, and as a consequence Popular Rd is used as main access point.

b. Main Access Road (600m)

The main access from Popular Road was built in 1967 by the Leatherhead Urban District Council (LUDC) “for the provision of a Junior Training Centre, a Hostel for confused elderly, residential development and a new C of E primary school for 400 juniors and infants” However, for reasons unknown the final road was never adopted by the LUDC

c. Gyratory System (200m)

In 1984 the County Council sold land to Quoin Homes Ltd to develop for housing. A condition of the sale required the developer to construct a gyratory system, to which a new estate road was to be connected, these to become highways maintainable at the public expense. However, for reasons unknown, this agreement was never implemented. The gyratory system has subsequently been used to support development of key public services including increasing capacity at Woodlands School and Fortyfoot Hall for Mencap.

17. A historical review would therefore suggest that both sections were originally intended to be built and be adopted by the Highway Authority. This would be in line with standard highway policy, and it is only for unknown circumstances that prevented both sections being fully adopted.
18. The apparent construction intent that the road be adopted and their almost exclusive use by public owned organisations therefore supports the conclusion that this specific road section is an Exceptional Circumstance and should thus be treated outside of standard Surrey Highways policy.

19. Based upon these exceptional circumstances, Surrey Highways have undertaken a detailed design to confirm the cost to bring this section of the road to Adoptable Standard. The review identified three specific condition areas:

	Main Access Rd	Gyratory System
Road Surface	Major weaknesses in road base, requires full reconstruction. Cost £90,000	No major weaknesses identified, minor patching and water proof only £10,000
Footway	Major weakness in key sections require full reconstruction Cost £20,000	No issues identified
Drainage	Potential system weakness with capacity not complying with current highway standards. However, review confirms no immediate risk of failure and thus recommends deep clean only, with ongoing risk monitored Cost £5,000	Existing drainage systems not connected as single unit, requires new pipes to connect all gullies into single system to remove ongoing risk of surface water £25,000
Streetlights	Lights recently upgraded as part of PFI upgrade, no issues identified	Lights recently upgraded as part of PFI upgrade, no issues identified
Total	£115,000	£35,000

20. There would therefore need to be a minimum investment of £150,000 to bring both sections to adoptable highway standard. In normal circumstances this cost would be significantly higher, however, the following actions have helped reduce overall cost:
- a. *Drainage Risk* – the existing drainage system does not comply with highway standards, with full replacement costing between £150,000 to £200,000. However, legislation does not require replacement and Surrey Highways risk assessment confirms no immediate risk of surface water. Surrey Highways are therefore willing to accept risk of managing system post adoption.
 - b. *Design Costs* – Surrey Highway’s contractors have waived all design costs. Surrey Highway design costs will be absorbed within existing employee budgets.
 - c. *Overhead & Profit* – Kier, SCC Main contractor, have agreed to waive all overhead and profit to design and build scheme
21. Recognising the local financial constraints and the requirement to avoid existing highway resources, officers, with direct support of Portfolio Holder, have successfully worked with internal and external stakeholders to identify a funding solution and this is identified overleaf:

Organisation	Funding Contribution
SCC Contribution	£110,000
Mole Valley District Council	£25,000
Kier Grant Contribution*	£15,000
Total	£150,000

22. Surrey Highway Officers wish to specifically thank the support and willingness from all stakeholders to help identify joint solution for this unique situation. Specific thanks are provided to Mole Valley District Council and Kier Services for providing support to this unique case.
23. The funding contribution above will therefore enable road section from Popular Rd to Leatherhead-bypass to become fully adoptable highway.
24. Through close working with stakeholders and utility companies work it is hoped that construction works will be completed before the Christmas holidays. If this proves unachievable (e.g. due to a need for utility diversions) then works are provisionally programmed for Monday 17 February 2014 to coincide with Woodlands School half term.
25. The funded solution above therefore provides a long term solution to an historic anomaly, and removes uncertainty for local residents and public organisations. The solution will ensure critical public services operate from a public maintained highway (as is normally the case elsewhere), while residents will continue to be responsible for managing and maintain their own discrete section.

CONSULTATION:

26. To support decision making a formal site visit (chaired by Portfolio Holder) was undertaken to Woodlands School in August. The site visit involved a delegation of council officers and Members to meet local stakeholders and understand local concerns.
27. Further consultation has been completed with Mole Valley District Council; the Chairman of the Mole Valley Local Committee and officers from the council's Education and Adult Social Care departments. All have expressed support for finding a solution to the exceptional circumstances presented by this case.

RISK MANAGEMENT AND IMPLICATIONS:

28. Surrey County Council Highways would incur any cost overruns on the scheme, however, the detailed design has confirmed that the estimated cost of £150,000 should be adequate to meet needs.
29. Surrey Highways would be accepting additional flooding risk with adoption of existing drainage system; however, survey work confirms no immediate replacement is required and the works would be delivered as part of council's long term drainage replacement programme, with no immediate cost impact.

30. The formal investigation has proved the case to be unique and exceptional and therefore creates no potential precedent for other non-adopted roads.

Financial and Value for Money Implications

31. Surrey County Council's contribution to the scheme will be £110,000. Of this, £50,000 will be met from existing Children, Schools & Families budgets and £60,000 from Environment & Infrastructure.
32. Environment & Infrastructure do not currently have budget allocated to fund these works. The Directorate will seek to manage these costs within its budget however there is a risk that this may lead to an overspend. Scheme design costs will be met from existing employee budgets.
33. There will be additional long term maintenance liability to remove carriageway defects and undertake drainage cleansing, however, given the size of the road (600m) and number of gullies, there is no significant risk to ongoing revenue funding.

Section 151 Officer Commentary

34. Expected costs are set out in paragraph 19, and proposed funding is explained in paragraphs 31 and 32. Environment & Infrastructure do not currently have budget allocated to fund these costs, but will seek to manage costs within existing budgets. Long term maintenance costs have not been quantified, but will need to be accommodated within existing budgets.

Legal Implications – Monitoring Officer

35. Surrey County Council's published policy on the adoption of roads states that the Council's natural presumption is not to adopt roads unless they are constructed to a satisfactory standard and meet other stated criteria.
36. It is a matter of law that public authorities should be open to consider exceptions to policy where there are good reasons to do so.
37. This report highlights a number of considerations that the Cabinet Member may wish to take into account in making a decision, in particular the high level of public and community benefit that will result from adoption of this section of the road, the willingness of stakeholders and partners to work together to fund the investment required to bring the road up to an adoptable standard and the history of this section of road.

Equalities and Diversity

38. The nature of the public and community services located on Forty Foot Road mean that it is frequently used by both elderly and vulnerable young people.

Other Implications:

39. Failure to implement long term solution could have negative impact on Surrey County reputation and reduce access to critical public services for vulnerable children and adults.

WHAT HAPPENS NEXT?

40. The following project plan will be delivered:

- October 2013 All funding contributions received according to paragraph 21
- December 2013 Report circulated to Environment & Transport Select Committee confirming outcome of petition
- Oct – Feb 2014 Detailed Design completed and Public Section constructed to adoptable standard

Officers and Divisional Member seek to facilitate Residential Meeting

Contact Officer:

Mark Borland, Surrey Highways Group Manager
020 8541 7028, mark.borland@surreycc.gov.uk

Consulted:

Forty Foot Road Safety Campaign Group
Highways Information Team
Mole Valley District Council

Annexes:

Annex 1 - Fortyfoot Rd Petition
Annex 2 - Properties and Frontages of Fortyfoot Road
Annex 3 – Proposed works and financial contributions

Sources/background papers:

- Surrey County Council Policy on Road Adoption
 - Surrey County Council Commuted Sums Protocol
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