

Cabinet Member for Highways, Transport and Economic Growth Decisions

24 September 2024

TITLE: MIXNAMMS LANE PETITION

We the undersigned petition Surrey County Council to Apply The Highways Act X1 1980 to the owners of Mixnams Lane KT16 to make permanent repairs to the road bringing the road to highways standard and include adequate drainage to cope with the regular flooding which causes the road to break up annually to a dangerous state of repair, Causing much damage to vehicles to vehicles due to pot holes under water.

Justification:

Mixnams Lane is the only route on and off the Island and access to 500+ Ratepaying homes it also supports a bus service which has at least 36 bus movements per day + delivery vehicles, care workers and many other essential services. This road has suffered these problems for many years and it gets worse each autumn / winter. The above highways act gives SCC the power to enforce repairs, we call on the council to carry out its duty of care to its residents.

Submitted by: Alan Baldwin
204 Signatures

RESPONSE:

Making Up and Adoption of Private Streets

Part XI of the Highways Act 1980 gives the street works authority powers to execute works in private streets and adopt them as highways maintainable at public expense. The cost of the works is apportioned between the premises fronting the street according to frontage measurement and degree of benefit. Costs may also be apportioned between premises that do not front the street but have access to it and would benefit from the works being carried out. There are provisions for the owners of premises to which costs have been apportioned to object to the apportionment, and for the magistrates' court to determine any unresolved objections.

In the case of Mixnams Lane there are three premises with direct frontages: Penton Hook Marina (who also own the road), land forming part of the Thorpe Park estate to the south, and Penton Park mobile home site, at the eastern end. There are also over 100 properties in Laleham Reach to which access is gained via Mixnams Lane.

Surrey County Council has not initiated any private street works procedures since 1989, when it was decided that the resource implications of doing so were prohibitive. The policy of the County Council since that time has been to only adopt roads where they have been made up to an adoptable standard by those offering them for adoption, who need to meet the Council's costs of inspecting the works and legal expenses. Commuted sums to offset future maintenance costs would also normally be required.

Urgent Repairs to private Streets

Section 230 of the Highways Act 1980, which is in Part XI, gives the street works authority the power to serve notice on the owners of premises fronting a private street requiring them to carry out repairs that are necessary to obviate danger to traffic. A person aggrieved by a requirement under this section has the right of appeal to the magistrates' court.

When notices have been served under this section, the majority in number or rateable value of owners of premises in the street may serve notice on the street works authority requiring them to proceed with the making up and adoption of the road under the private street works code.

If the frontagers on whom notices have been served fail to carry out the necessary repairs within the specified time, the street works authority may carry out the repairs and recover the costs from the frontagers in default.

These powers are only exercised in exceptional circumstances, where there is a clear danger to users of the road, and not when a road is just in poor condition.

Conclusions

The ownership of a private street is not relevant to the provisions of Part XI of the Highways Act 1980, which states that costs are to be apportioned between the owners of the premises fronting the street and those deriving benefit from it being made up and adopted. Surrey County Council are therefore unable comply with the request contained in the petition to require the owners of the road to bring it up to highways standard.

If the interested parties can reach agreement amongst themselves on sharing the cost of making the road up to highways standard, including the installation of adequate drainage and street lighting, the County Council would consider adopting it as a highway maintainable at public expense. Any request for the road to be adopted would need to come from the Marina, as owners of the road.

When the state of repair of Mixnams Lane has been raised in the past, inspections have not found it to be in a condition that would warrant action under section 230 of the Highways Act 1980. If the road does fall into a state of disrepair that poses a danger to traffic using it, the County Council would take action to ensure the necessary repairs are carried out.

The Marina have been asked for their comments on the issues regarding the maintenance of Mixnams Lane. If they are forthcoming they will be provided at the meeting.

Matt Furniss

Cabinet Member for Highways, Transport and Economic Growth

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