

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet **DATE:** 25th February 2019

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WARD(S): Farnham and Colnbrook with Poyle
(And other wards as further private streets are identified for adoption in the future)

PORTFOLIO: Councillor Carter – Lead Member for Transport and Highways

PART I **KEY DECISION**

HIGHWAY IMPROVEMENT WORKS TO ADOPT PRIVATE STREETS

1 Purpose of Report

The purpose of this report is to ask Cabinet to resolve under the private street works code in the Highways Act 1980 that certain private streets within the Borough are not to the satisfaction of the Council as the street works authority, to resolve to execute street works on those streets, to approve the specifications for those works, to approve the provisional apportionment apportioning the estimated expenses between the premises liable to be charged with them under the code and to approve the declaration of these streets as highways maintainable at public expense following execution of the works. This is in order to provide a safe environment for residents and road users.

2 Recommendation(s)/Proposed Action

The Cabinet is requested to resolve:

- a) That Faircroft, Westfield Road, Springfield Road and part of Hillrise are not, to the satisfaction of the Council as the street works authority, sewered, levelled, paved, metalled, flagged, channelled, made good or lighted;
- b) That the specifications for street works to be carried out to those streets and as appended to this report be approved;
- c) That the street works detailed in the said specifications be carried out at Faircroft, Westfield Road, part of Hillrise and Springfield Road to render them satisfactory to the Council as the street works authority in accordance with Section 205 (1) of the Highways Act 1980;
- d) That the estimated expenses of £1.5m for these works be noted;

- e) That the provisional apportionment apportioning the said expenses between the premises liable to be charged with them under the street works code be approved;
- f) That the Highways Team apply the criteria for a private street works scheme as set out in part of XI of the Highways Act 1980 and Sections 205 to 218 (The Private Street works code) on Faircroft, Westfield Road and Springfield Road;
- g) That following the completion of the said street works subject to satisfactory safety audit the Council declare Faircroft, Westfield Road and Springfield Road as set out in drawings *HW 19/20 – PR – 001, HW 19/20 – PR – 001 & HW 19/20 – PR – 001 appended to this Report to be highways* in accordance with Section 228 of the Highways Act 1980; and
- h) To apply the above criteria to other unadopted private streets identified in the future and for funding be allocated to new streets as they are identified and agreed.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

3a. **Slough Joint Wellbeing Strategy Priorities**

Priorities:

1. Better and safer routes for all road users.
2. Increasing life expectancy by focusing on inequalities: Provision of safer routes in turn will boost healthy lifestyles by encouraging walking, cycling and other forms of outdoor activities.
3. Street lighting schemes in these roads will help residents to feel safe and mitigate the risk of potential crime.
4. Housing: Residents will benefit from safe and improved road network.

3b **Five Year Plan Outcomes**

- Outcome 3 – Strong and attractive neighbourhoods
- Our residents will have the best facilities in life and opportunities to positive lives: Access and infrastructure for pedestrians, cyclists and motorists will provide safer routes.
- Our people will become healthier and will manage their own health, care and support needs: Provision of safer routes to workplaces and schools encourage residents to walk and cycle thereby promoting physical activities.
- Slough will be an attractive place where people choose to live, work and visit: Highway improvements such as paved footway, carriageway and street lighting will improve local areas.

4 **Other Implications**

(a) **Financial**

The estimated expenses of the street works proposed in this report are £1.5m. Estimated annual maintenance expenses for adoption of all the private streets listed above as highways is £18,000 to £20,000 per year once brought up to the required standard.

(b) **Risk Management**

Risk	Mitigating action	Opportunities
Legal Challenges to apportionment by frontagers	Comply with procedures under the Highways Act 1980 to resolve any challenges.	As part of the notice procedure required to be followed under the Street Works Code
Property	None	
Human Rights		
Health and Safety	None	
Employment Issues	None	
Equalities Issues	None	
Community Support: Possible objection from the residents	Continue engagement with the residents of Faircroft, Westfield Road and Springfield Road before any works are undertaken.	The community will gain an appreciation/ understanding of why the highway works are required.
Communications	None	
Community Safety		
Financial	None	
Timetable for delivery: Objections from the residents	Early engagement with the residents fronting and adjacent to Faircroft, Westfield Road and Springfield Road.	In order to minimise the delivery of the scheme.
Project Capacity		
Other		

(c) **Human Rights Act and Other Legal Implications**

The Council is the street works authority for Faircroft, Westfield Road, Springfield Road for the purposes of Sections 205 to 218 of the Highways Act 1980 (The Street Works Code). Under the Street works Code, the Council, where they are satisfied that a private street is not sewered, levelled, paved, metalled, flagged, channelled, made good and lighted to their satisfaction may from time to time resolve with respect to the street to execute street works on that street. A private street for these purposes means a street which is not a highway maintainable at public expense. Faircroft, Westfield Road and

Springfield Road are private streets as they are not presently maintainable at public expense.

Under Section 212 of the Highways Act 1980 the Council may recover the whole or any portion of expenses of street works from the owner for the time being of any premises in respect of which any sum which is due for expenses of street works (i.e. the frontagers) together with any interest at such reasonable rates as the Council may determine. Until recovery such expenses are a charge on the premises and all estates and interests in such premises and operates as a local land charge. Under that section the street works authority may also by order declare that any expenses apportioned on any property together with any interest to be payable by annual instalments within a period not exceeding 30 years.

Any decision by the Council to carry out street works could be considered to be an interference with the rights to protection of property of the owner of the land upon which the street works are proposed to be carried out under Article 1 of the First Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms which is given effect to in the UK by the Human Rights Act 1998.

Article 1 of the First Protocol provides that every natural or legal person is entitled to the peaceful enjoyment of his possessions. However, Article 1 states that the provisions of the Article shall not in any way impair the rights of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

In these circumstances, in view of the fact that the proposed street works are to be carried out in the general interest It is not considered that any claim will be able to be validly raised against the proposed street works under the Human Rights Act 1998.

Under Section 228 of the Highways Act 1980 where any street works have been executed in a private street, the street works authority may by notice displayed in a prominent place in the street declare the street to be a highway maintainable at public expense and the street will become such one month after the date the notice is first displayed unless the owner, or a majority of the owners if more than one, object during that time. The Council may then, within two months, apply to the Magistrates Court to overrule the objection. Rights of appeal from any decision of the Magistrates are available and the street may not become a highway unless the appeals process is completed and any objection is overruled.

(d) Equalities Impact Assessment

These highways improvements schemes are being delivered as part of highways measures includes improvements to the footway, carriageway; street lighting and drainage to facilitate sustainable travel and improve road safety to these roads therefore no EIA has been undertaken as part of these schemes.

- (e) Workforce N/A
- (f) Property N/A
- (g) Carbon Emissions and Energy Costs N/A

5 **Supporting Information**

- 5.1 For many years the Council has received complaints from residents and ward members that there are a number of unadopted roads in the borough which are not sewered, levelled, paved, metalled, flagged, channelled, made good or lighted and require significant works to bring them to a satisfactory standard. This would require the installation of carriageways/footways, possible upgrades of the sewers/drainage systems and installation of street lighting schemes. Furthermore it would allow refuse collection and emergency vehicles better access and improved lighting would make the roads safer for the residents.
- 5.2 The maintenance liability for a private street falls upon the frontagers (the owners whose properties front the street) with each owner being responsible for the maintenance of their respective abutting frontage to the centre line of the street.
- 5.3 The streets that have been identified - Faircroft, Westfield Road, part of Hillrise and Springfield Road are unadopted and require significant improvement works as they are either not sewered, levelled, metalled, flagged, channelled and lighted to bring them to a satisfactory standard. Furthermore, to apply the above criteria for other private streets identified in the future and funding be allocated.
- 5.4 The expenses of street works or any proportion of such expenses together with interest at such reasonable rates as the Council may determine may be recovered from owners of premises liable to pay them in accordance with any final apportionment under the street works code and until recovered these expenses and interest are a charge on the premises and all interests in those premises.
- 5.5 It is a ruling group manifesto pledge to ensure all Slough's neighbourhoods reach the standard of the best.

6 **Conclusion**

The Cabinet is requested to approve this proposal to carry out street works on private streets within the borough to provide a safe environment for residents and road users. .

7 **Appendices Attached**

- '1' Highway Improvement plan for Faircroft - **HW 19/20 – PR - 001**

- '2' Highway Improvement plan for Westfield Road - **HW 19/20 – PR - 001**
- '3' Highway Improvement plan for Springfield - **HW 19/20 – PR – 001**
- '4' Highway Improvement plan for Hillrise (to follow)

8 Background Papers

Parliamentary Briefing Paper – House of Commons Library – No. CBP 402,
10 April 2018 – Private, or 'unadopted' roads in England & Wales