

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CABINET**

DATE: **TUESDAY, 15 OCTOBER 2013**

REPORT BY: **DIRECTOR OF ENVIRONMENT**

SUBJECT: **POLICY FOR UNADOPTED ROADS**

1.00 PURPOSE OF REPORT

1.01 To seek approval of a Policy for un-adopted roads across the County.

2.00 BACKGROUND

2.01 There are a number of roads in the County which for various reasons remain un-adopted with residents unsure of their maintenance responsibilities and the process that should be followed in order to bring the road to an adoptable standard. The lack of a clear Policy causes frustration for residents and for the staff dealing with requests from residents for maintenance work to be carried out on these roads.

3.00 CONSIDERATIONS

3.01 The report was presented to the Environment Overview and Scrutiny Committee meeting on Wednesday 9th October 2013. Members were supportive of the Policy and resolved to recommend it to Cabinet for approval.

3.02 The term un-adopted road or 'Private Street' has a statutory definition which relates to the ongoing maintenance liability for the road. Private Streets, unlike the majority of highways are not maintained by the County Council as local highway authority. Consequently a number of Private Streets in the County have suffered from a lack of maintenance and are now in poor condition. In many cases, the Private Street will be a highway. This means that the Council has a duty to assert and protect the rights of the public to use the Private Street, although not to maintain it. So far as there is any liability to maintain a private street, that lies with the owners of the street who will usually be the owners of the properties fronting the street.

3.03 If a Private Street is brought up to a defined standard, the County Council can adopt the road which will then cease to be a Private Street and becomes maintainable at public expense. The usual process is under the Private Street Works Code as set out in the Highways Act 1980. This can be a very lengthy and complex process

which involves the Council in preparing a specification, plans, sections and estimate of the costs of the works, which are provisionally, and then finally (when the cost is known), apportioned among the frontages on the street. The costs incurred in carrying out the work to bring the road up to an adoptable standard is then recovered from residents, normally based on a pro rata comparison to the length of each property's boundary with the new highway, and an assessment of the degree of benefit to each property. In these circumstances the Council would be liable for a contribution for the frontages of any properties within the ownership of the Council on the road and for any sections of the road without property frontage e.g. street end. The maximum Council contribution in this respect would be 20% of the complete cost of the proposed adoption work.

- 3.04 The Council does not hold a budget to contribute towards the cost of upgrading Private Streets and any contribution would need to come from existing maintenance budgets. In practice the improvement of Private Streets would provide only a marginal improvement to the overall highway network of the Council, as a high proportion of Private Streets are cul-de-sacs and of little strategic importance. However, there are good reasons for the County Council to support the process of improving these roads as it facilitates an equitable approach to highway adoption and maintenance arrangement for all residents of the County.
- 3.05 Without clear guidance, the mechanism for the adoption of a Private Street is not clear to residents, some of whom can put a great deal of time and effort into developing a proposal which the County Council or their neighbours are subsequently unable to support, either for financial or technical reasons.
- 3.06 A procedure is already in place for Highways on new Residential Developments to become adopted by the County Council under a legal agreement set out in Section 38 of the Highways Act 1980. Section 38 of the Highways Act is used by Flintshire County Council as Highway Authority to take over and maintain at public expense (adopt) new streets that have been constructed, lit and drained to agreed standards. This approach would therefore provide an effective mechanism for dealing with Private Streets.
- 3.07 Therefore the following Policy for dealing with Private Street Works applications is proposed:

The County Council will adopt a Private Street into the Highway Network if all of the residents on the street comply with the following:

- Submit a detailed design, meeting all the requirements of the current Section 38 process;
- Enter into a Section 38 agreement with the Council (this requires the owners of the street to dedicate it as highway);

- Can demonstrate that they will meet the total costs of upgrading the street in accordance with the Section 38 agreement. (with a Council contribution – if appropriate)
- Arrange for the construction of the works to be undertaken by a contractor approved by the County Council

3.08 The County Council will provide assistance to the applicant(s) by checking and approving the design details, preparing the Section 38 agreement and inspecting the works as they are carried out. The County Council will not make a charge for the assistance in the case of Private Streets in existence prior to the implementation of this Policy.

3.09 This proposal requires agreement of all frontages. If agreement can not be obtained from all of the frontages the County Council will be unable to enter into a Section 38 agreement and the road will not be adopted.

3.10 Maintenance liability on Private Streets will continue to be the responsibility of the owner(s) of the properties fronting on to it until it is formally adopted by the Council.

3.11 The Council will provide free of charge surplus road planing material to residents (subject to availability and if requested to do so) which they must spread themselves/at their own expense to temporarily fill any holes or defects in the road. The material will be supplied without prejudice and without assuming any liability for long term maintenance for the completed work or for the road in general.

4.00 RECOMMENDATIONS

4.01 That Cabinet approves the Policy for Private Street adoptions and the interim maintenance arrangements on these un-adopted roads, as set out in paragraphs 3.06 and 3.10 inclusive.

5.00 FINANCIAL IMPLICATIONS

5.01 All of the proposals will operate from within existing budgets.

6.00 ANTI POVERTY IMPACT

6.01 Not applicable.

7.00 ENVIRONMENTAL IMPACT

7.01 No impact.

8.00 EQUALITIES IMPACT

8.01 A desk top assessment indicated the Policies included in the report do

not unfairly impact on any particular group.

9.00 PERSONNEL IMPLICATIONS

9.01 None

10.00 CONSULTATION REQUIRED

10.01 None

11.00 CONSULTATION UNDERTAKEN

11.01 With Cabinet Member.

12.00 APPENDICES

12.01 None

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

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