

Executive Report

Ward(s) affected: Onslow

Report of Director of Strategic Services, Dawn Hudd

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Grant of licences for amenity land adjacent to Beechcroft Drive

Executive Summary

The current access arrangements from Beechcroft Drive onto the A3 have long been identified by residents and public authorities alike as being suboptimal and compromised. A permanent alternative vehicular access route has, to date, not been achieved, despite investigations and discussions taking place over a number of years.

The purpose of this report is to seek authority to enter into licence agreements with the freeholders of Beechcroft Drive to provide residents with an alternative access route via the Council's amenity land, at less than best consideration.

Recommendation to Executive

That the Executive approves the following recommendations:

1. To authorise the Strategic Services Director, in consultation with the lead Councillor for Resources, to negotiate and enter into all property documentation required to grant licence agreements with the freeholders of Beechcroft Drive for less than best consideration.
2. To approve the allocation of £11,000 revenue to cover the Council's legal costs associated with the drafting and execution of the licences relating to Beechcroft Drive.

Reason(s) for Recommendation:

This recommendation will provide the residents of Beechcroft Drive with an alternative access route to avoid having to enter/exit the residential street via the A3, as well as formalising the arrangement which relates to the Council's own land ownership.

Is the report (or part of it) exempt from publication? (delete as appropriate)

Yes, the Part 2 version of this report

- (a) The content is to be treated as exempt from the Access to Information publication rules because the proposed transaction is commercially sensitive and is therefore exempt by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 as follows: “Information relating to the financial or business affairs of any particular person (including the authority holding that information)” ; and
- (b) The content contains details of legal advice provided to the Council and is therefore exempt by virtue of paragraph 5 of Part 1 of the Schedule 12A to the Local Government Act 1972 as follows: “Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings”
- (c) The content is restricted to all councillors.
- (d) The decision to maintain the exemption may be challenged by any person at the point at which the Executive is invited to pass a resolution to exclude the public from the meeting to consider the exempt information.

1. Purpose of Report

- 1.1 Update the Executive on an opportunity to provide a temporary alternative access route for residents of Beechcroft Drive to avoid having to enter/ exit directly onto the A3.
- 1.2 Seek approval to enter into licence agreements with the freeholders of Beechcroft Drive to allow residents access over the Council’s land.

2. Strategic Priorities

- 2.1 The recommendations relate to the Council’s priority in the Corporate Plan to “work with partners to make travel more sustainable and reduce congestion”. More fundamentally, the recommendations in this report seek to provide a resolution to an existing highways safety concern.

3. Background

- 3.1 The University of Surrey has issued licences to Beechcroft Drive residents to use a route through the Manor Park campus as an alternative to the residents using the Beechcroft Drive junction direct with the A3 trunk road.
- 3.2 The residents’ route via Manor Park crosses the Council’s land. The licence granted by the University does not give permission to residents to traverse the Council’s land, but those residents using this route will informally be doing so. See Appendix 1 for illustration of GBC’s landownership in relation to the secondary access route.
- 3.3 Officers recommend that these informal access arrangements should now be formalised to allow residents of Beechcroft Drive to access, and so traverse, the Council’s land.

- 3.4 To that effect, Officers view that the way forward is to grant a licence for access for a term of 125 years at a peppercorn, with a termination clause. This is as opposed to an easement which does not provide for termination.

4. Consultations

- 4.1 The Cabinet Member for Resources and Leader of the Council have been consulted on this proposed approach, and an update of the proposed recommendation was also provided at the Property Review Group on 19th October 2021.
- 4.2 This approach is recommended in the absence of a permanent alternative arrangement for vehicular access to/from Beechcroft Drive, alternative in the sense of offering a different route not via the existing A3 access. A permanent alternative vehicular access route has, to date, not been achieved, despite investigations and discussions taking place over a number of years. In recent years, GBC officers and councillors have been involved variously in discussions with Highways England (now National Highways), Surrey County Council, the University of Surrey, the Beechcroft Drive residents' association, and the previous Member of Parliament for Guildford.
- 4.3 It should be noted that the Council has continued to highlight its concerns regarding the safety of the present A3 access with National Highways and other parties. For instance, we have recently made a representation to this effect to National Highways' Route Strategy 3 call for evidence. National Highways' Route Strategy process is itself part of the process used to inform the setting of future Road Investment Strategies by Government.
- 4.4 The Beechcroft Drive Residents' Association and the University of Surrey have not yet been notified of this proposed approach – this will be progressed following an Executive decision on the outline recommendations.

5. Key Risks

- 5.1 The University of Surrey has issued licences to the Beechcroft Drive residents to use a route through the Manor Park campus. However, in order to access the route through the Manor Park campus, the residents have to cross the Council's land. Licences should be granted to the Beechcroft Drive residents to regularise their use of the Council's land.

6. Financial Implications

- 6.1 The contracts will be drafted by the Council's in-house legal services team and it is anticipated that a revenue allocation of c.£11,000 will be required to cover this cost.
- 6.2 Residents of Beechcroft Drive will need to cover their own legal costs.

7. Legal Implications

- 7.1 Officers propose to grant licences to the Beechcroft Drive residents.

- 7.2 Granting a licence does not fall within s123 of the Local Government Act 1972. However, Part 3 of the Council's Constitution provides that best consideration reasonably obtainable must be sought when the Council grants licences under officer delegation.
- 7.3 The proposal to grant the licences to the residents for a peppercorn fee therefore requires Executive approval. The Council as a public body owes a fiduciary duty to taxpayers to ensure value for money is being achieved.

8. Human Resource Implications

- 8.1 No HR implications apply – the work required to implement the recommendations detailed in this report can be delivered by existing staffing resources.

9. Equality and Diversity Implications

- 9.1 The Council has a statutory duty under section 149 of the Equality Act 2010 which provides that a public authority must, in exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.2 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report.

10. Climate Change/Sustainability Implications

- 10.1 There are no climate change or sustainability implications arising from this recommendation.

11. Summary of Options

- 11.1 Option 1: The Council could decide not to formally regularise the Beechcroft Drive residents' use of the Council's land. However, the residents informally continue to cross the Council's land.
- 11.2 Option 2: The Council could grant a right of way in the form of an easement. However, the grant of an easement is the grant of an indefinite legal right which can only be terminated if parties agree to enter into a Deed of Release.
- 11.3 Option 3: The Council could grant licences to the Beechcroft Drive residents. The licence enables the Council to permit the use of a route across its land, without granting an easement or a lease. The Council has granted this form of licence on many occasions for other properties.

11.4 Option 3 is the recommended course of action because it grants a temporary permission which can be terminated at any time.

12. Conclusion

12.1 Officers are of the view that the recommendations in this report provide an appropriate basis for the Council to formalise the access arrangements relating to its freehold adjoining Beechcroft Drive.

12.2 The Council is working with Surrey County Council and National Highways to identify solutions to reduce traffic congestion and improve the highway network within the borough. Progressing with the recommendations detailed in this report would also help to deliver an interim solution to an issue recognised by all parties.

13. Background Papers

None.

14. Appendices

Appendix 1: Plan showing the Council's landownership to which the license agreement relates.

Appendix 2: Part 2 version of this report which includes exempt material as set out in the Executive Summary (above).