



## Highways Committee

20<sup>th</sup> October 2005

### Report from the Director of Transportation

For Action

Wards Affected:  
Queensbury

### Private Street Works Service Road to rear of 5-31 Burnt Oak Broadway

Forward Plan Ref: E&C-05/06-020

#### 1.0 Summary

- 1.1 This report seeks the authorisation of Members to serve notice of Brent Council's intention, as highway authority, to carry out private street works within the existing service road to the rear of 5-31 Burnt Oak Broadway under the Private Street Works Code set out in the Highways Act 1980 and thereafter to seek the adoption of this length of service road under Section 228 of the Highways Act 1980.
- 1.2 This work is required to enable the redevelopment of the Theoco site to provide a new car showroom and flats and will result in improvements to the condition of the existing poorly maintained rear service road which is vulnerable to regular fly-tipping. All costs are to be borne by the developer.

#### 2.0 Recommendations

- 2.1 That the Committee states that the service road to the rear of nos. 5-31 (odd nos.) Burnt Oak Broadway, being a private street, is not to the satisfaction of the street works authority, sewered, levelled, paved, metalled, flagged, channelled, made good and lighted and resolve with respect to the street to execute street works.
- 2.2 That the Committee resolves that the expenses incurred by the Authority in executing the street works shall be borne by the developer of 5-31 (odd nos.) Burnt Oak Broadway, whilst other frontagers shall receive a nil apportionment.
- 2.3 That the Committee resolves to approve:

- (a) the specification of streetworks, with the plans and sections;
- (b) the estimate of the probable expense of the works; and
- (c) the provisional apportionment, apportioning the estimated expenses to be charged to the developer as in 2.2 above;

as set out in the Appendix to this report.

2.4 That subject to the approval of the items listed in 2.3 above, the Director of Transportation proceed with the works such that the street may be adopted under the provisions of S.228 of the Highways Act 1980 – Private Street Works Code, after which time it shall be adopted.

### **3.0 Detail**

3.1 The Planning Committee, at its meeting of 19<sup>th</sup> February 2004, resolved to grant planning permission (subject to an agreement under Section 106 of the Town and Country Planning Act 1990) for the redevelopment of the Theoco Motors site at 5-13 Burnt Oak Broadway to provide a new car showroom with 53 self-contained flats on five floors above. Basement car parking for 54 cars was included within the development, accessed via the existing private rear service road to the site that connects Limesdale Gardens and Holmstall Avenue. The S106 Agreement was completed on 24<sup>th</sup> February 2004 and the planning permission was subsequently issued.

3.2 Amongst the clauses within the S106 Agreement was a requirement “*to improve the existing rear service road to an adoptable standard between Limesdale Gardens and the southernmost point of the site (a distance of approximately 110m), to include pedestrian access and parking restrictions*“ (see Appendix). Of the remainder of the service road, the southernmost 80m length to the rear of Holmstall Parade is already adopted, whilst the intervening length is also the subject of a planning condition to be brought up to adoptable standard in association with the approved redevelopment of the adjoining Allied Carpet site.

3.3 The existing condition of the street is very poor. The proposed works will therefore result in an enormous improvement to the surface of the existing road and provide proper drainage and street lighting. It will in turn allow the current common practice of fly-tipping in the street to be dealt with more effectively by Brent Council, thereby improving the safety and appearance of the street. Traffic calming measures will be incorporated into the design as necessary, to minimise the possibility of the street being used as a rat-run in the future.

3.4 Genesis Housing Association is now looking to progress the development of the Theoco site and therefore need to bring the existing length of private service road up to an adoptable standard. Whilst they have received the general agreement of the neighbouring owners of the service road along Burnt Oak Broadway, ownership of the western half of the existing rear service road is unregistered. As such, they are unable to progress the improvement works along this section without considerable risk.

- 3.5 The developers have therefore requested Brent Council to invoke the Private Street Works Code within Part XI of the Highways Act 1980 to serve notice of its intention to carry out works in the street to bring the road up to an adoptable standard (including provision of a metalled surface, kerbs, street lighting and drainage). The developer has given a written undertaking to meet the entire cost of the work (estimated at £100,000), so there will be a nil apportionment of costs to the other frontagers of the street.
- 3.6 In the event of an objection being received to the works that is not withdrawn, the Council will need to apply to a magistrates' court for the resolution of the matter. All legal expenses incurred in this eventuality will need to be met by the developer.
- 3.7 Following execution of the private street works, Brent Council will be able to serve notice of its intention to adopt the street under S.228 of the Highways Act 1980.

#### **4.0 Financial Implications**

- 4.1 The estimated construction costs for the service road are £100,000, including street lighting and drainage, with allowances for contingencies and Brent Council's supervision and inspection fees. The developer has given a written undertaking to meet these costs, so there will be no financial implications for Brent Council.
- 4.2 In the event of the matter needing to be referred to a magistrates' court, the developer will need to fully indemnify the Council with regard to all legal fees incurred.

#### **5.0 Legal Implications**

- 5.1 The service of notices to undertake private street works will be carried out under Section 205 of the Highways Act and any objections that are received within the statutory time limit of one month that are not subsequently withdrawn will need to be referred to a magistrates' court. All costs incurred by the Council through this procedure will be underwritten by the developer.
- 5.2 The serving of notices to adopt this length of service road following completion of the works will be carried out under Section 228 of the Highways Act 1980. In the event that more than half of the existing owners of the street object within the statutory time limit of one month, the matter will again need to be referred to a magistrates court for determination and legal fees in this eventuality will once more need to be borne by the developer.

#### **6.0 Diversity Implications**

- 6.1 None

#### **7.0 Staffing/Accommodation Implications (if appropriate)**

- 7.1 Staffing costs for the processing of the notices will be borne by the developer. Legal fees will also be fully indemnified by the developer in the event that the matter needs to be referred to a magistrates' court.
- 7.2 Brent Council's supervision fees for the construction works are covered within the existing S106 Agreement.

### **Background Papers**

Highways Act 1980

Town and Country Planning Act 1990

Item 1/10 – Planning Committee, 19<sup>th</sup> February 2004 – Theoco Renault, 5 Burnt Oak Broadway, Edgware, HA8 5LD (ref: 03/3436)

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