

FALKIRK COUNCIL

**Subject: WORKS ON PRIVATE ROADS AT BALMORAL GARDENS AND
PARK AVENUE, BRIGHTONS – PROVISION OF ASSISTANCE
TO RESIDENTS**

Meeting: POLICY AND RESOURCES COMMITTEE

Date: 17th November 2009

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DIRECTOR OF LAW AND ADMINISTRATION**

1. PURPOSE OF REPORT

- 1.1 The purpose of the report is to bring to Members' attention a proposal by residents at Balmoral Gardens and Park Avenue in Brightons to have work undertaken on the private roads within their area to bring them up to adoptable standard and, more particularly, to seek a decision from this Committee on a request from the residents for some support from the Council.

2. BACKGROUND

- 2.1 Balmoral Gardens and part of Park Avenue are private roads in a residential area of Brightons. The roads are abutted primarily by privately owned houses and by the grounds of Wallacestone Primary School. As these are private roads, the responsibility for maintenance falls on the owners of the properties which abut the road ("the frontagers"). As can often be the case with private roads, the road is in a poor state of repair.
- 2.2 The residents have prepared a scheme whereby they would fund significant repairs to the roads with a view to bringing them to a standard where they can be adopted by the Council as roads authority. The Director of Development Services has confirmed that the roads would be adopted by the Council were the requisite standard to be achieved.
- 2.3 The residents have managed to secure sufficient agreement among themselves to make the scheme one which is very close to viability. It should be noted that as one of the frontagers, the Council, through the Director of Education, has confirmed its willingness to participate in the scheme. One obstacle which the residents have encountered is that a small number of them, while supportive of the scheme, have insufficient funds available to allow them to meet the cost up front. Typically, this would be a resident who while owning their house may have a limited income due to being retired. The residents' representative has approached the Council to ask if the Council would be willing to assist by providing some up front funding to residents in this situation.

3. THE COUNCIL'S POWERS

- 3.1 The Council has wide discretionary powers under the Roads (Scotland) Act 1984 to provide assistance to frontagers in the maintenance or improvement of private roads. There is, however, no budget for such maintenance or improvement and financial assistance has not been made available for such work in recent years. The request from the residents, however, is not for direct financial assistance. Rather, it is for front funding which would be recoverable at a later stage from any frontager provided with such assistance. It is considered that it would be within the Council's powers to make such assistance available.
- 3.2 The cost would need to be met in the first instance from a roads maintenance budget from within Development Services; but this would be balanced, in accounting terms, by credit entries reflecting the recoverability of the funds. It is suggested that if such assistance were to be afforded by the Council it would be appropriate for the debts to be secured over the frontagers' properties to provide assurance that the monies would be repaid, with interest fixed at a level to reflect the cost of making the funding available. This would also involve some legal fees which would be chargeable to the frontagers. On present calculations, the cost of this scheme for each frontager is likely to be between £3000 and £4000. The numbers seeking this kind of support is expected to be small. Nevertheless, it may be appropriate to fix a financial ceiling to the level of support made available. It is suggested that the ceiling could be fixed at the aggregate sum of £20,000.
- 3.3 This request has highlighted that the Council does not have a policy on the exercise of its powers under the Roads (Scotland) Act in relation to private roads. The Director of Development Services will develop such a policy and present it to this Committee in the new year. This would allow future requests for assistance to be assessed against an agreed policy.

4. RECOMMENDATIONS

4.1 Members are asked to consider:-

- (1) whether the Council should agree, in principle, to provide support in the form of front funding to residents in this situation described at paragraph 2.3; and**
- (2) if so minded, to consider whether a ceiling should be fixed on the total sum available for such funding.**

- 4.2 If Members are agreeable to the proposal in principle, it is recommended that Committee authorise the Director of Development Services and the Acting Director of Law and Administration to consider and agree any applications for such support subject to any financial ceiling agreed and conclusion of an agreement assuring the security for the Council's debt.

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Acting Director of Law & Administration

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Director of Development Services

Date: 10th November, 2009

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LIST OF BACKGROUND PAPERS

NIL