
Chief Executive's Office

Please ask for: Steve Pearce
Direct Dial: (01257) 515196
E-mail address: steve.pearce@chorley.gov.uk
Your Ref:
Our Ref:
Doc ID:
Date: 30 November 2005

Chorley
Borough Council

Town Hall
Market Street
Chorley
Lancashire
PR7 1DP

Chief Executive:
Jeffrey W Davies MA LLM

Dear Councillor

EXECUTIVE CABINET - THURSDAY, 1ST DECEMBER, 2005

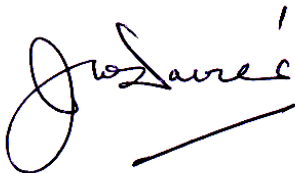
I am now able to enclose, for consideration at the above meeting of the Executive Cabinet, the following reports that were unavailable when the agenda was printed.

Agenda No	Item
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14.	<u>Crosse Hall Lane - Proposed Scheme of Private Street Works</u> (Pages 225 - 228)
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Report of the Director of Legal Services (copy enclosed)

Yours sincerely



Chief Executive

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Distribution

1. Agenda and reports to all Members of the Executive Cabinet and Chief Officers for attendance
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આ માહિતીનો અનુવાદ આપની પોતાની ભાષામાં કરી શકાય છે. આ સેવા સરળતાથી મેળવવા માટે કૃપા કરી, આ નંબર પર ફોન કરો: 01257 515822

ان معلومات کا ترجمہ آپکی اپنی زبان میں بھی کیا جاسکتا ہے۔ یہ خدمت استعمال کرنے کیلئے براہ مہربانی اس نمبر پر ٹیلیفون
کیجئے: 01257 515823

Report of	Meeting	Date
Director of Legal Services (Introduced by Executive Member for Traffic and Transportation, Councillor D Gee)	Executive Cabinet	01/12/05

CROSSE HALL LANE, CHORLEY – PROPOSED SCHEME OF PRIVATE STREET WORKS

PURPOSE OF REPORT

1. To consider for approval a scheme of private street works for the making up of a length of Crosse Hall Lane, Chorley.

CORPORATE PRIORITIES

2. The report does not affect any corporate priorities.

RISK ISSUES

3. The report contains no risk issues for consideration by Members.

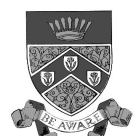
BACKGROUND

4. At its meeting on 30 June 2005 the Executive Cabinet considered a report on the status of Crosse Hall Lane, Chorley. Despite being a route of longstanding (dating back to at least the late 18th Century), the lane remains an unadopted highway and is poorly surfaced. A public right of way runs along the lane – Bridleway No. 13 – from Eaves Lane down to the Canal, but otherwise the lane has simply the status of a private road. Thus, while horse-riders and pedestrians may exercise a public right of passage along the lane, the right to use the lane as vehicular route is strictly speaking exercisable only by adjoining land-owners or their invitees.
5. Morris Homes Ltd have acquired a large area of land bounded by the Leeds - Liverpool Canal on the west and the M.61 Motorway on the east, and by Froom Street on the north and Crosse Hall Lane on the south. The site is allocated for residential development under the Local Plan and the aforesaid have been granted planning permission for the construction of some 160 houses on the site.

ACCESS TO DEVELOPMENT SITE

6. It is intended that access to and from the above site should be obtained by way of an access road linking the southern end of the site to Crosse Hall Lane. The access road would run from the south-western corner of the development site in a westerly direction, across a bridge to be constructed spanning the Leeds – Liverpool Canal and thence across a parcel of undeveloped land to connect with the northern side of Crosse Hall

Continued....



Lane. It is further intended that Crosse Hall Lane would in turn serve as the main vehicular access between the between the aforesaid access road and its junction with Eaves Lane.

7. The fact that Crosse Hall Lane is an unadopted highway means that the road is only poorly surfaced and lacks any form of highway lighting, drains or footways (pavements). If, therefore, the above length of Crosse Hall Lane is to serve as the route for through vehicular traffic between Eaves Lane and the new access road leading to the proposed housing development, then the lane would clearly need to be brought up to a satisfactory standard of construction.

LEGAL ISSUES AND OPTIONS

8. The report to Executive Cabinet on 30 June 2005, set out the legal position in some detail, pointing out that the normal option for making a road up to adoptable standard – an agreement under Section 38 of the Highways act 1980 – could not be used in this instance, because the developer did not own the land on which Crosse Hall Lane stands. In the circumstances, the most viable option was to employ powers under the private street works code – sections 205-218 of the Highways Act 1980. The County Council in its capacity as Highway Authority had been consulted as to the use of these powers, given the absence of a known owner and the fact that the works would be carried out by Morris Homes, and were of the view that pursuant to Section 228(7), the Highways Act 1980, street works may, in some, cases, be carried out by a person or body other than the authority itself.
9. Thus, if the conditions set out in Section 228(1)-(4) of the Act could be met, Crosse Hall Lane, having been brought up to adoptable standard, ought to be able to be adopted without a dedication from an owner. In this regard, the County Council on detailed consideration of this issue argued that as Crosse Hall Lane was a private street for the purposes Sections 205-218, then clearly works could be implemented in the street. Publication of the proposal in the press and the posting of notice on site would afford an opportunity for persons to come forward and present claim of ownership.
10. Accordingly, Executive Cabinet at its last meeting passed a resolution to the effect that the length of Crosse Hall Lane concerned was not to the satisfaction of the Council (in its capacity as agent for the street works authority for the area) sewered, levelled, paved, metalled, flagged, channelled, made good and lighted. And it was further resolved that plans and specifications of works together with an estimate of cost and a provisional apportionment of those costs be accordingly prepared in respect of a scheme for the making up of the above length of highway and be presented to a future meeting of the Executive Cabinet for formal consideration.
11. Pursuant to the above Morris Homes Ltd, have now drawn up and submitted a scheme of private street works for the making up to adoptable standard of a length of Crosse Hall Lane situated between its junction with Eaves Lane and the point where the proposed new access road is to join its north side and lead off to the new development.

PROCEEDING WITH A PRIVATE STREET WORKS SCHEME

12. The commission of private street works schemes involves a two-stage process. Before proceeding to approve a specific scheme of private street works, Councils are required in the first instance to declare themselves satisfied that the road forming the subject of the scheme is in an unsatisfactory condition and that the Council is therefore of the view that a scheme for its making up should be prepared for formal consideration at a future date. In this instance, it is plainly evident that Crosse Hall Lane is in condition that falls far short of any form of adoptable standard, being poorly surfaced and lacking any proper system of drainage or street lighting and that the only way of remedying this by way of a scheme of private street works. In the second stage of the process Councils considers formal details of the scheme with a view to approving their implementation. Details of the scheme, plans,

specifications, apportionments, are now available and will be formally presented for approval at the meeting

COMMENTS OF THE HEAD OF HUMAN RESOURCES

13. There are no comments from the Head of Human Resources.

COMMENTS OF THE DIRECTOR OF FINANCE

14. There are no comments from the Director of Finance

RECOMMENDATIONS

- 15. (1) That the plans, specifications, sections, estimates and provisional apportionments for the making up of Crosse Hall Lane, Chorley, as submitted pursuant to Section 205 of the Highways Act 1980 are hereby approved.
- (2) That all the costs of the scheme be borne by Morris Homes Ltd.
- (3) That the Director of Legal Services be authorised be authorised to serves appropriate notices on all frontagers.

REASONS FOR RECOMMENDATION

16. Crosse Hall Lane, Chorley is an unadopted road, in a poorly surfaced condition and lacking any proper system of highway drainage or street lighting. The prospect of new housing development on a site in close vicinity to the road, means Crosse Hall is set to serve as the sole means of highway access to and from that new development. Clearly Crosse Hall Lane in its current material condition could not in any way satisfactorily serve in such a role and the only way of upgrading the length of road concerned to a satisfactory highway standard is by way of commissioning a scheme of private street works pursuant to the provisions of the Highways Act 1980.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

17. The other alternatives available for facilitating the making up of Crosse Hall Lane, e.g. an agreement pursuant to the provisions of Section 31, Section 38 or Section 278 of the Highways Act 1980, are contingent upon landownership and therefore cannot be applied in this instance.

ROSEMARY A LYON
DIRECTOR OF LEGAL SERVICES

Background Papers			
Document	Date	File	Place of Inspection
Letter, estimates, plans, specifications and apportionments from Singleton Clamp & Partners, Consulting Engineers	21 October 2005	2470	Legal Services, The Coach House, Duxbury

Report Author	Ext	Date	Doc ID
G Fong	5169	17 June 2005	LEGALREP