
Report to: Leader of the Council **Date of Decision:** 21 December 2106
Cabinet **Date of Meeting:** 12 January 2017

Subject: Approval to Serve a S220 Highways Act 1980 Notice on Persimmon Homes NW Ltd in relation to their development at School Lane, Maghull

Report of: Head of Locality Services – **Ward affected:** Sudell
Commissioned

Is this a Key Decision? No **Is it included in the Forward Plan?** No

Exempt/Confidential No

Purpose/Summary

To seek approval to serve a s220 Notice on Persimmon Homes North West Ltd, relating to their proposed development at School Lane, Maghull pursuant to s219-225 of the Highways Act 1980 and to waive the call in period due to the time constraints of the Christmas period and serving of the statutory Notice within 6 weeks of the Building Commencement Notice.

Recommendation(s)

Leader of the Council:

Approve the service of a Notice with the value of £1,599,020 pursuant to s220 of the Highways Act 1980 on Persimmon Homes NW Ltd, relating to their proposed development at School Lane, Maghull;

Cabinet:

- (1) Note the urgent decision made by the Leader of the Council; and
- (2) It be noted that the Leader of the Council and the Chair of the Overview and Scrutiny Committee Regeneration and Skills had given their consent under Rule 46 of the Overview and Scrutiny Procedure Rules for this/these decision(s) to be treated as urgent and not subject to "call in" on the basis that it/they cannot be reasonably deferred because the statutory period for issuing this Notice will expire during the seasonal bank holiday and shut down period.

How does the decision contribute to the Council's Corporate Objectives?

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity	√		
3	Environmental Sustainability	√		
4	Health and Well-Being	√		
5	Children and Young People		√	
6	Creating Safe Communities	√		
7	Creating Inclusive Communities	√		
8	Improving the Quality of Council Services and Strengthening Local Democracy		√	

Reasons for the Recommendation:

Only the Council acting in its capacity as the Highway Authority can serve a Notice under these provisions on a landowner.

What will it cost and how will it be financed?

(A) Revenue Costs

None

(B) Capital Costs

None

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal	
Human Resources	
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery:

None

What consultations have taken place on the proposals and when?

The Head of Regulation and Compliance (LD 3730/16) has been consulted and has no comments on the report.

The Head of Corporate Resources has been consulted and has no comments on this report. (FD 4447/16)

Are there any other options available for consideration?

No

Implementation Date for the Decision

Immediately

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Background Papers:

There are no background papers available for inspection.

1.0 Introduction

- 1.1 The Advanced Payments Code (APC) provides a legal mechanism for Highway Authorities to secure a bond from developers who have not entered into an agreement under Section 38 of the Highways Act 1980 to have new roads that they are constructing adopted as highways maintainable at public expense.
- 1.2 Cabinet Member will recall the recent report of the introduction of the APC procedure and for this to be applied to all future housing developments with newly proposed road infrastructure.
- 1.3 The APC procedure is contained in Sections 219 – 225 of the Highways Act 1980. The purpose of the APC procedure is to ensure that before work begins on erecting new buildings in private streets, sums of money equivalent to that needed to construct the roads serving the buildings are deposited, or secured via a surety by developers. This is to ensure that roads serving the development can be completed to a suitably adoptable standard.
- 1.4 When developers gain planning consent to build new roads and infrastructure, they have the option to offer those roads for adoption as public highway through a Section 38 Highways Act 1980 agreement. However, in some circumstances developers choose to keep the roads private. Where a Section 38 Agreement has not been entered into by a developer, legislation enables the Council, through the APC procedure to secure a bond equivalent to the cost of constructing the road infrastructure.
- 1.5 The proposed housing development at School Lane by Persimmon Homes has been granted planning approval and is also the subject of a Building Control Commencement Notice.
- 1.6 The value of the infrastructure is estimated to be £1,599,020.
- 1.7 The report therefore seeks approval to serve the s220 Highways Act 1980 Notice on Persimmon Homes NW Ltd, to secure those funds which are estimated as the cost to bring the roadways up to an adoptable standard.
- 1.8 The Council Constitution provides for the Cabinet Member Locality Services to make such decisions regarding transport infrastructure.

2.0 Conclusion

- 2.1 A Section 220 Highways Act 1980 Notice can be served on a landowner to secure sufficient funds to be retained by the Council, to enable the road infrastructure to be built to adoptable standards. Following receipt of a building control commencement notice, a Council has up to 6 weeks to serve a Notice under s220 of the Highways Act 1980 which in turn, would secure those funds from a landowner. This is a new policy being adopted by the Council in line with other Council's in the area. If approved, Persimmon Homes NW will be the first developer to benefit from this new policy which will add certainty to both the developer and to the Council.

- 2.1 Persimmon Homes NW Ltd have served the building control commencement notice for their development at School Lane, Maghull and the value of the bond required for the s220 Highways Act 1980 Notice is £1,599,020.
- 2.2 The Council constitution currently provides for such decisions to be made by the Cabinet Member – Locality Services – Commissioned however, due to limited time to serve the Notice within 6 weeks as a consequence of the Christmas period, the Leader has been asked to make this decision as a matter of urgency and approval is sought to waive the call in period in accordance with Rule 46 of the Overview and Scrutiny Procedure Rules.