

WALSALL METROPOLITAN BOROUGH COUNCIL

EXPLANATORY NOTES

The procedure for adoption of Private Streets Under Section 205 of the Highways Act 1980.
The Private Street Works Code of the Highways Act 1980.

INTRODUCTION

The Procedure available to Councils to make up private streets and have them adopted as highway maintainable at public expense is contained in the Private Street Works Code of the Highways Act 1980.

The procedure is extremely complicated. This explanatory note attempts to simplify the process but is not intended to be an authoritative interpretation of the relevant sections of the Highways Act 1980 which forms the Private Street Works Code.

For an authoritative interpretation reference should be made to the Highways Act 1980 itself. In addition, frontagers are strongly advised to take their own independent legal advice from a solicitor of their choice or the Citizens Advice Bureau.

What is a Private Street?

A private street is one which is not maintainable at public expense and has not been adopted by Walsall Metropolitan Borough Council as the Highways Authority.

Who is responsible for the maintenance of a Private Street?

Generally, the frontagers or the owner of any land which is next to the private street is responsible for its maintenance.

The Maintenance of Private Streets

Walsall Metropolitan Borough Council is the Private Street Works Authority for Private Streets located within the Walsall Area. The Private Street Works Code is a set of rules set out in sections 205 to 237 of the Highways Act 1980 which contains the procedures to be adopted by Walsall Metropolitan Borough Council as the Private Street Works Authority if it proposes to make up and adopt a private street.

Why is the Private Street Works Code being implemented in connection with Railway Lane?

Usually, a scheme is progressed under the Private Street Works Code to bring a street up to an adoptable standard when a petition is received from the majority of frontagers to the street.

The responsibility to ensure that a private street is adopted would normally rest with the landowner(s) or developer, who would arrange for the necessary works to be undertaken and a Section 38 Agreement to be completed adopting the street. However, in the case of Railway Lane the land has no registered owner. With the route being used by pedestrians and cyclists it has been proposed as part of the levelling up funding bid that the route be adopted as part of the highway network.

What is the procedure for making up a private street under Section 205 of the Private Street Works Code?

Where a private street is to be made up under the private street works code the Council as the Private Street Works Authority must pass a series of two resolutions or approvals which:

- (a) Recognise the street is not in its present condition constructed to an adoptable standard suitable to be maintained at public expense.
- (b) Authorise the execution of the private street works.
- (c) Instruct the appropriate officer to prepare specifications, plan sections, estimates and apportionments in connection with the private street works etc. The Apportionment is the term used to describe the Private Street Works Authority costs which is to be attributed to each of the frontagers.

What is the Apportionment?

The Apportionment is the Authority's cost to each frontage for the works to be undertaken. Under normal circumstances this will be sought from the frontagers and is calculated based on the costs of the proposed works and the number of frontages. At this stage a Provisional Apportionment has been calculated. As the section of Railway Lane where works are to be undertaken does not include accesses to adjoining land and is largely used by pedestrians and cyclists as access, the Authority has obtained funding for the works and no cost is proposed to be sought from the frontagers.

What happens if I disagree with the Provisional Apportionment which had been allocated to the frontage?

The grounds on which you can object to the private works scheme are set out in paragraph 5 of the notice. Any objection must be made within one month of the date of the notice. The date by which your objection must be lodged with the Council is set out in Paragraph 4 of the Notice.

The grounds of Objection to the Provisional Apportionment may be summarised as follows:

- (a) That the alleged private street is not a private street.
- (b) That there has been an error in the design, costing etc. or the correct procedures have not been followed.
- (c) That the proposed works are insufficient or unreasonable.
- (d) That the estimated expenses of the proposed works are excessive.
- (e) That any premises ought to be excluded from or inserted in the Provisional Apportionment.
- (f) That the Provisional Apportionment is incorrect in respect of :

- (i) Some “matter of fact” to be specified in the objection; or
- (ii) With regard some consideration mentioned in Paragraph 7 above

These are the only grounds upon which objections can be made and are listed in paragraph 5 of the Notice of Provisional Apportionment.

Appeal to the Magistrates Courts

If the objection cannot be overcome by agreement with the Authority, then the matter is resolved by a hearing in the Magistrates Courts.

What happens next?

The work will be undertaken by the Council’s current Framework Contractor, Lafarge (Tarmac) Ltd.

What happens when the street works are completed?

Following the completion of the street works and any objections have been resolved, the street will be adopted by the Local Authority as a highway maintainable at public expense and any future maintenance or repair of the highway will be undertaken at public expense.

ADVISORY NOTE

These notes are intended for general guidance and are in no way intended as legal advice. You should seek your own independent legal advice on these issues from either a Solicitor or the Citizens Advice Bureau.