

CEREDIGION COUNTY COUNCIL

Report to: Cabinet

Date of meeting: 18 May 2021

Title: Adoption of Coed y Bryn, Aberaeron

Purpose of the report: To seek authorisation to erect a Notice on site stating the Council's intention to pursue the adoption of Coed y Bryn as a Highway maintainable at the public expense.

For: Decision

Cabinet Portfolio and Cabinet Member: Highways and Environmental Services, Housing and Customer Contact – Cllr Dafydd Edwards

1.0 EXECUTIVE SUMMARY

This report seeks authority to erect a site Notice under Section 228 of the Highways Act 1980, in order to adopt Coed y Bryn, Aberaeron as highway maintainable at public expense.

This adoption has been requested by the residents of the estate road and despite several attempts to contact the developer who remains the owner of the road, no response has been received. Inspection of the highway infrastructure (10/10/2017) has revealed it to be generally suitable for adoption leaving the most suitable route to adoption being via Section 228 of the Highways Act 1980.

2.0 BACKGROUND INFORMATION

2.1 Coed y Bryn was constructed in the 1990's to approved plans and whilst the estate road was completed to a high standard, final adoption was not pursued

2.2 The Council was contacted in December 2016 by a resident of Coed y Bryn to consider formal adoption. The resident had the authority from the other residents of the estate road to pursue formal adoption and act on their behalf.

3.0 MAIN ISSUES

3.1 The owner of the metalled carriageway is the Developer of the estate road, and whilst each of the residents wish the road to become adopted the owner has not responded. The deeds of each property ensure that each resident maintain the carriageway until such time that it becomes adopted by the Highway Authority meaning that there is no need or incentive for the developer to pursue adoption. However none of the residents own the roadway and so are legally restricted on being able to dispose of ongoing maintenance through adoption. This can only be enacted by the Highways Authority or the Owner (Developer).

3.2 Clear direction from the Developer has **not** been forthcoming despite several attempts to seek clarification from Council Officers that there would be no objection to this course of action:

- Letter from Council to the Developer 26/04/2017 requesting dialogue – no response
- Letter from Council to the Developer 26/06/2017 serving section 297 notice to provide the Council with all interest in the land – no response received
- Letter from Council to the Developer 18/12/2020 requesting confirmation of their interest in the land and of the intention for the Authority to adopt the highway.

3.3 Advice from Legal & Governance Services confirms that formal adoption can be achieved under Section 228 of the Highways Act 1980 without the permission from the legal landowner of the estate road. The landowner would need to object following notification of the Council's intentions to adopt. Notification would be via a notice erected on site for "one month" i.e. 28 days.

4.0 ACTIONS & IMPLICATIONS FOR COUNCIL

4.1 Condition of the highway

The way that the Council and residents can adopt an estate road is generally determined by the current condition of the road and its ancillary infrastructure. An inspection by a Council engineer will reveal the amount of work to be carried out prior to the estate road being in a condition good enough for adoption. The Private Streetworks Code of Practice (PSWC) lays out the process when the estate road is presented in a sub-standard condition. Estate roads that are in a satisfactory condition can forgo the PSWC process and with due diligence can become adopted by simple notice under s.228 HA1980.

4.2 An inspection of Coed y Bryn was undertaken and presented in a report on 10/10/2017 (see report Appendix A). The recommendations following receipt of the inspection report were:

- Street Lighting was inspected to determine its acceptability
- A service strip of 1.8m is dedicated to the Highways Authority to avoid diversion of underground drainage and street lighting apparatus.
- Highway Drainage pipes were surveyed and an easement for future maintenance should be provided

A final inspection of the site will be undertaken prior to erecting a S.228 notice showing the Council's intention to adopt.

4.3 The Street Lighting system has been inspected by the Street Lighting section and the necessary improvements have been rectified at the cost of the residents. An electrical conformity acceptance test was carried out by SSE on 04/03/2019 which was successful. A final inspection of the Street Lighting will be undertaken prior to erecting the S.228 notice showing the Council's intention to adopt.

4.4 Following a landowner interest verification process with each of the residents, a 1.8m service strip was dedicated to the Council

4.5 The landowner of No 4 is in agreement for an easement across his land for the continued maintenance of the highway surface water drainage. Easements will need to be secured and completed prior to erection of a Section 228 Notice.

4.6. A CCTV survey of the highway drainage is required to determine the condition of the pipework leading to the discharge point in Berllan Deg to the rear of Coedy Bryn. Any remedial work will be carried at the residents expense prior to erection of a Section 228 Notice.

	Has an Integrated Impact Assessment been completed? If, not, please state why	No – no changes are currently proposed. ,
Wellbeing of Future Generations:	Summary: Long term: N/A Collaboration: N/A Involvement: N/A Prevention: N/A Integration: N/A	
Recommendation(s):	IT IS RECOMMENDED THAT Cabinet: 1. Authorises the display of a Section 228 Notice and, 2. If no objections are received, to proceed with the adoption process.	
Reasons for decision:	To ensure that the Wellbeing of residents is maintained through continued inspection and maintenance of the estate road.	
Overview and Scrutiny:	Thriving Communities	
Policy Framework:	Producing better and safer roads.	
Corporate Priorities:	Boosting the Economy Investing in People’s Futures Enabling Individual and Family Resilience Promoting Environmental and Community Resilience	
Finance and Procurement implications:	Remaining cost to adoption to be met by Residents The future maintenance of the estate road will be funded by the HES Revenue budget.	
Legal Implications:	Challenge to the Section 228 Notice.by the estate road landowner.	
Staffing implications:	None identified	
Property / asset implications:	None identified	
Risk(s):	Risks have been minimised by actions already carried out	
Statutory Powers:	Highways Act 1980	
Background Papers:	None	

Appendices: Appendix 1: Site Layout Drawings
EDS Inspection Report

Corporate Lead Officer: Rhodri Llwyd

Reporting Officer: Steve Hallows

Date: 27/01/2021