

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Streetscene & Engineering Cabinet Board

24th September 2021

Report of the Head of Streetcare

Mike Roberts

Matter for Decision

Wards Affected: Glynneath

Renewal of lighting at Manor Drive, Glynneath.

Purpose of Report

- 1 To determine the way forward regarding street lighting in Manor Drive, Glynneath.

Executive Summary

- 2 The lighting on the stretch of Manor Drive concerned has historically been maintained by the Council albeit the road is unadopted. Furthermore, the infrastructure is now in an unmaintainable state and requires renewal if lighting is to continue. To renew the lighting the Council needs permission from the landowner to enter the land under the Public Health Act 1875.

Background

- 3 The Council's previous large scale lighting renewal project identified that certain roads in the County Borough with street lighting, which historically had been maintained by the Council, were in private ownership. Manor Drive is another such street with lighting as shown in Appendix A.

- 4 The lighting of private streets is lawful if carried out under Section 161 of the Public Health Act 1875 (PHA), which allows an urban authority to light streets, markets and public buildings in their district with the landowner's permission. The term 'streets' is used rather than highway indicating the application to private streets. If there is permission under the PHA for lighting to be in place, any decision by the Council to withdraw lighting would be subject to consultation like any other withdrawal of service.
- 5 If lighting is placed on a private street under the PHA, the Council can rely on this power to maintain the infrastructure. Despite this, permission is required from the owners to enter onto the land and to replace existing cabling and columns.
- 6 Like other similar roads identified in the past, whilst there may have been an agreement with the landowner to install lighting in Manor Drive at some point, further to the PHA, there are no records to confirm such an agreement.
- 7 Without records to the contrary, there is the possibility that lighting on Manor Drive was not installed under the PHA but has still been historically maintained. This might be assumed not to be the case as lighting private streets in such circumstances is beyond the Council's powers, and associated action would place the Council at risk given there is then no legal power to rely on. In such case disconnecting and removing the lighting with the landowner's permission would be an option, whilst in the absence of landowner's permission disconnecting the lighting and leaving the infrastructure 'in situ' would also be an option (but give rise to other risks with ongoing deterioration of the infrastructure over time).
- 8 If the Council did wish to review and dispense with lighting on a private street where it might be deemed not to have been carried out under the PHA then the Council would have the ability to counter any claims of 'legitimate expectation' that lighting continue, given the Council cannot be expected to continue to provide a service if there is no legal power to allow it to do so.

9 Previously where street lighting has been found to be located on private land which the Council has been historically maintaining then the following process has been adopted:

If there are no grounds to believe that lighting was not installed under the PHA then:

- I. On the basis that Members would wish to see lighting provision continue it is assumed that lighting was installed under the PHA. In this case the local member has identified that lighting is required to aid the passage for pedestrians and vehicles;
- II. A land registry search is taken in an attempt to identify the landowner. Manor Drive is in the ownership of Aberpergwm Estate; and,
- III. With members endorsement, officers seek permission and formal agreement to enter the land and renew lighting under the PHA by posting an appropriate Public Notice on site and approaching the landowner.

10 In the case of Manor Drive there is a complication in that the privately owned bridge over the dry canal at the entrance to the estate, at the junction with the B4242, has been closed on safety grounds. Furthermore the power supply and old cabling for the three nearest lights (highlighted with a red hoop on the plan in Appendix A) traverses inside the bridge. As a consequence, any renewal of lighting cannot currently take place on a like for like basis. The three lights nearest the bridge will have to be considered alongside any bridge renewal. It is noted the column nearest the bridge has previously been cut down due to safety concerns and it is proposed to cut down the column next to it.

11 This report seeks Member endorsement to approach the landowner of Manor Drive to seek agreement under the PHA to enter their land and renew the lighting and cabling as highlighted on the plan in Appendix A. Alternatively, endorsement to abandon the lighting on the basis there is no record of any agreement,

which will most likely lead to the disconnection and removal of the apparatus at the Council's expense.

Financial Impact

- 12 The estimated cost of the works is £16,000 and can be accommodated within the ongoing SALIX funded renewal work. Ongoing maintenance would continue to be a call on the street lighting budget.

Integrated Impact Assessment

- 13 An Integrated Impact Assessment (IIA) has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. An overview of the IIA has been included in this report in summary form only and it is essential that, for the purposes of the meeting, Members read the Integrated Impact Assessment which is attached to the report at Appendix A.
- 14 In summary, the IIA has concluded that there will be no adverse impacts arising from the recommendation. Should the renewal works not be agreed, this will lead to the lighting in the area being removed, and that the current loss of lighting will become permanent affecting any members of the community who would otherwise have benefitted from its presence.

Workforce Impact

- 15 There are no workforce impacts associated with this report.

Legal Impact

- 16 The legal power to light a private street is a discretionary power which falls under section 161 of the Public Health Act 1875 as detailed in the report.

Risk Management

17 There are no risk management issues associated with this report.

Consultation

18 There is no requirement under the Constitution for external consultation on this item.

Recommendation(s)

19 Having had due regard to the first stage integrated impact assessment, Members endorse that Officers seek permission and formal agreement from Aberpergwm Estate to enter Manor Drive and renew lighting under the Public Health Act as shown in Appendix A.

Reason for Proposed Decision(s)

20 To address the issue of life expired street lighting infrastructure in Manor Drive, Glynneath.

Implementation of Decision

21 The decision is proposed for implementation after the three day call in period.

Appendices

22 Appendix A: Drawing number PL-1 (Manor Drive)

23 Appendix B: Integrated Impact Assessment

Officer Contact

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