**Rowney Gardens Residents Road Association**

**Frequently Asked Questions – July 2021**

1. **Can the road be adopted by the Local Authority so that we do not need to maintain it?**

Technically private roads can be adopted by local Authorities under Part XI of the 1980 Highways Act but in practice this now a rare event. Prior to any adoption process, the road would need to be brought up to a standard laid down by the Local Authority and the cost shared between residents. It should also be noted that if a private road is left in a poor condition the Local Authority has powers to demand repairs. If not repaired, the Local Authority can then carry out the work and demand costs from residents.

1. **What are the main benefits of having a Residents Road Association?**

The three primary advantages are for residents to collaborate in terms of:

Maintenance and repair – both minor repairs and periodic resurfacing

Encroachment - take unified action against parking or obstruction or any other nuisance

Risk and Safety – take out public liability insurance to protect against claims in today’s ‘compensation culture’ from injury or damage incurred by a third party in a private road

1. **Why chose an Unincorporated Association (UA) to manage the road?**

As responsibility for a private road rests with residents, some form of collective management is needed, usually through either a Company or an UA. The advantage of an UA is that it is not subject to regulatory framework in the same way that companies are required to be registered and file accounts. Members of a UA are merely bound together by a set of rules. A UA is not a legal entity and so just provides a framework for the collaboration of a number of members with a common interests without the complexity of unnecessary administration. Companies are only usually formed if the association has ownership of the road, which in our case it does not.

1. **Our Property Deeds say that we have the responsibility to maintain the road. Will this Deed need to be changed?**

No – under the management of an unincorporated association, the ownership of the road sections is retained by each household and no alteration to the Deeds is required. Rowney Gardens house Deeds contain a covenant(3) for the purchaser to *‘for himself and his successors in title that he will pay a proportionate part of any costs reasonably and properly incurred by the Vendors in making repairing and cleansing the service road upon which the property hereby conveyed abuts’.* An unincorporated association is a way in which all residents can collaborate to discharge the responsibility of this covenant.

1. **Can we install barriers or make the road one-way to stop people using it to bypass traffic on the main road?**

Rowney Gardens is a private road and is not classified by the Highways Authority as a Highway it is not maintainable at public expense. However the rights of the public to use the road to pass through and gain access to properties is complex and open to challenge by the public based upon previous use without interruption. This effectively means that the public are able to go to and fro and stop to load or unload, but not to park or use as a playground. Whether a road is a public ‘right of way’ is a complex issue, however even if not, the public may still have a right to pass through and therefore installing barriers and gates may well involve considerable legal complexity. The subject of barriers will continue to be investigated although will not form part of the current proposals.

1. **Will speed humps be part of the resurfacing contract?**

The revised quotations will have a separate scheduled item to include replacing speed humps in their current position.

1. **Will drainage for the road be improved?**

Ideally the opportunity exists, whilst resurfacing the road, to address the issue improving the drainage at the top half of the road where frequent exists in bad weather and also where the water pools at the lower end. However this will add to the cost considerably as soak-away chambers would need to excavated and installed in the verge areas opposite a number of houses, as well as gulleys installed at the road edge. Clearly land owners permission would be required for such work. In addition such work may be classed as a ‘building or engineering operation’ and as such may not get automatic exemption from planning requirements that include resurfacing. For this reason quotations being sought will include items for the work, although it should be understood that it may not be practical or affordable to include in the scheme.

1. **Great Crested Newts have been identified on our property, as road works will be within the 250m zone of their habitat, will measures be taken to consult about licences?**

The committee is mindful of the protected species status of great crested newts that inhabit our gardens and is consulting on whether licence provision will be required for our works.

1. **Will edging be installed to the road surface?**

This will likely be determined by the affordability of the final scheme.

1. **How will the new road surface link to my driveway?**

Due to the varied nature of individual driveway surfaces, so as to avoid undue complexity it is expected that the new surface will stop at the road edge with individual households having the responsibility for the transition areas. It is proposed that the chosen contractor will be asked to make up a small example section of surface prior to works being commissioned so that everyone can see what is proposed.

1. **What will the resurfacing finish look like?**

The surface finish will be standard tarmacadam dark surface which will weather to a light grey dry surface after about 12 months, similar in appearance to Pishiobury Drive.

1. **Will there be an annual subscription for the association?**

Yes the committee has proposed it this stage that a minimal subscription of £20 is payable annually to cover incidental expenses and to meet Public Liability insurance and committee members trustee insurance premiums. It is proposed that a call for funds from each household to meet current resurfacing plans will be an extraordinary demand in this instance. The subject of whether a more substantial annual subscription should be levied to build up a fund to meet the cost of future major works will be a subject put to all members at the next AGM.