

Dear Freeholder/Management Team,

I am writing to you in my capacity as the Chair of the newly formed: The (Unmade) Avenue (BR3) Road Association (The Association).

The Association has been formed by a number of local residents of The Avenue (BR3) to raise funds and formalise the repair and maintenance of the unmade section of The Avenue which runs from Westgate Road to Downs Hill Road.

The road is currently in a severe state of disrepair along its entire length and will soon become undriveable. As such there is now a heightened level of risk to anyone travelling along the road, in terms of damage to vehicles, accidents to residents and non-residents, and public services that use the road (refuse collection, ambulances etc). In addition to this there is also the threat to the variety of pipework and drainage that sit beneath the road as it continues to be eroded. Apart from the practical difficulties for residents and others accessing the properties, we are concerned about potential liabilities for freeholders for any events that might be construed as due to neglect of maintenance.

Piecemeal repairs have been made historically through the efforts of individual local residents, but it has become clear that a more sustainable and long-term approach to finding and funding a solution is needed.

History:

The history of The Avenue and its maintenance is a complex one with neither the owner of the road (Cator Estates) or Bromley Council taking any responsibility for its repair.

This has further been complicated as Bromley Council reclassified the road as an 'unadopted highway' (Not a Private Road). This means that any vehicle regardless of size can use the road, but the road has to be maintained by the residents.

Cator Estates stopped maintaining the road in the late 1980's after taking legal advice whereby the legal advice was such, that they had no obligation as owners to maintain the road as the liabilities rested with the freeholders – there is a Government paper on the new website which sets this out. The point of law is that, should there be an accident and negligence was proved etc. it will be the freeholder's front boundary to the middle of the road who would be liable.

Therefore, it seems that from a legal perspective and the freehold covenants that the maintenance of the unmade portion of The Avenue falls to the freeholders.

The Association

The Association has been formally set up at Companies House as a not for profit Company Limited by Guarantee. It has five directors, all of whom are residents of The Avenue with the aim of ensuring the character of The Avenue is maintained for the benefit of its residents and in doing so also ensures the safety of the residents and any users of The Avenue.

The Association has thus far:

1. Created a transparent legal company structure and appointed directors that will formalise, coordinate and prioritise the needs of the residents of The Avenue.

2. Created a business bank account to allow the transparent collection and audit of any funds raised – this will also allow the provision of formal receipts to Management Companies/Freehold Committees/Freeholders
3. Liaised and communicated with relevant parties with an interest in the road which includes but is not limited to the council and the owner of the road (Cator Estates) – both Bromley Council and Cator Estates have no objections to the plans of The Association. The Highways Division of Bromley Council has also agreed to contribute materials for the repair as and when available at no cost.
4. Identified competitive quotes for the road repair and maintenance from various road surfacing companies.
5. Identified appropriate insurance
6. Performed short term urgent repairs at the request of residents using existing contributions.

All of the above has been completed with the ultimate aim of raising funds that will ensure a long-term sustainable solution for the repair of the road and its continued maintenance.

There seems to be no appetite from the residents to have the road adopted by the council and fully 'made up' and in any case there is also no desire (or available funding) from the council to do so.

Road Repair Solution:

We have spoken with specialist road surfacing companies which have recommended the following which The Association will implement:

1. "Re-Grade" and build up the surface of the road where it is low in places.
2. Refill potholes to bring the road to a smooth level in preparation to lay a new surface.
3. Re-lay the entire length of the road using recycled road planings.
4. Implement a programme of regular maintenance to prevent the road falling into disrepair again.

Funding

Historically, a freehold plot on The Avenue would be occupied by a single residential dwelling and they would be responsible for the repair for their portion of the road. However, over time the majority of single freehold dwellings have been replaced with multiple-residence apartment blocks and this has led to an exponential growth in the flow of traffic and erosion along the road over the last few decades.

It is clear that there is an urgent need to repair the road surface, and we are already in the process of establishing a contract to complete this work – this is subject to raising the necessary money.

I am sure you will understand the importance of getting this work done and appreciate the need for each and every owner of property on this stretch of The Avenue to make a reasonable and equitable contribution for the benefit of all.

As such, we feel the best and fairest way to raise funds is for each freeholder to make an annual financial contribution to the fund based on the frontage meterage of the freehold plot as per the covenants in the freehold documents.

If every freeholder plays its part, an annual sum of c£30,000 will be raised which should enable the principle objective of establishing a sustainable safe road surface that can be maintained.

We urge you to impress this on all your residents the worth of this enterprise and we look forward to your contribution.

Payment Terms:

We have looked at all the options and have reached the conclusion that for multiple occupancy freehold plots this will be calculated as per the below:

$$\text{Freehold frontage width(M)} \times \text{Cost per metre (£)} \times \text{Factor} = \text{Cost per annum (£)}$$

The factor is designed to take into consideration the number of properties on the freehold plot which will account for the additional traffic volume multiple occupancy freeholds create.

Equally, we believe it is also fair to offer a 50% discount to single residency freehold plots as they contribute far less to the actual erosion of the road.

Initially, we would like to receive the annual payment in full as this will allow us to make the immediate repairs required now. However, for future payments we will be open to receiving the payment either as a lump sum or via a monthly direct debit.

Additional information:

Within this pack you also find:

1. A request for payment outlining the annual cost for the repair and maintenance of the frontage meterage of your property alongside bank details and instructions for payment
2. An ordinance survey map which clearly states your frontage meterage
3. The new website address for The Association: www.unmadeavenueassociationbr3.co.uk where you will be able to find additional information and legal documentation around unadopted roads.

If you have any questions, please address these to:

info@theunmadeavenueassociationbr3.co.uk

Regards



Alex Phillips

On behalf of The Association