

Report to Planning Services Scrutiny Panel

Date of meeting: 03 March 2011

Subject: Construction Damage to Highway Infrastructure

Officer contact for further information: Nigel Richardson Ext 4110

Committee Secretary: Mark Jenkins Ext 4607



Recommendations/Decisions Required:

1. That the Panel notes the changes made to the Planning Decision Notice and how to report damage problems on-line.

Report:

At the meeting held on 2 December 2010, the Panel will recall that Emma Featherstone, Development Manager Engineer, from the County Council's Environment, Sustainability and Highways Executive attended and she advised that any damage to the highway include grass verges, which has been raised as a particular issue by a few Members, should be reported to the Maintenance Team at the West Area Highway Office. She further explained that the difficulty is gathering evidence and proving who or what has caused the damage and therefore how the perpetrator can be held responsible to pay and rectify the damage. Routine maintenance inspections are carried out by highway inspectors for the Highway Authority, who record damage/faults and start the process of rectifying and repair.

It was also reported that this is not a planning enforcement function because the damage itself is not subject to planning control.

However, it was agreed that further discussions will take place between the highway and the planning authorities to see how best to resolve this matter of footway damage during the construction period.

Following this meeting, the County Council have now produced simpler procedures for reporting highway problems, which would include the issue of highway damage during construction. The home page of our own website now advertises "Reporting a Highway Problem Online Has Never Been Easier". It is a case of reporting the problem and this then is investigated. The damage to verges can therefore be repaired if it on highway land, which is predominantly the case in this district. Any damage to a private verge, though, will be down to the individual owner and therefore Planning Officers will need to be made aware of this before deciding the appropriateness of including any planning condition. The County Council Maintenance Team revealed there was 3 cases over a 6 month period where they were able to prove damage caused, at a total cost damage to footways sought from the owners of about £7, 500.

Secondly, all planning decision notices, including certificate of lawful development notices, are now including an informative note that reads as follows:

"Applicants are advised **not to store building materials** on the highway not to damage highway verges, so avoid parking construction vehicles and machinery on verges. If damage occurs, the Council will require verges to be restored at the applicant's expense."

Reason for decision:

This goes further than other local planning authorities, who treat this whole matter as a highway, not a planning issue. As this does not fall within the remit of the Town and Country Planning Act 1990, as amended, this is correct. However, with such strong wording a planning decision notice and County Council's improvements to reporting and responding on highway problems, it is considered that there is greater control in place to take action.

Options considered and rejected:

Nil

Consultation undertaken:

Essex County Council - Highway Authority

Resource implications:

Budget provision: Nil

Personnel: Planning Officers and Highway Officers of the County Council

Land: Nil

Community Plan/BVPP reference: Nil

Relevant statutory powers: The Highways Act

Background papers: None

Environmental/Human Rights Act/Crime and Disorder Act Implications: Nil

Key Decision reference: (if required)