

CHESHIRE EAST COUNCIL

REPORT TO: CABINET

Date of Meeting: 20 December 2010
Report of: Strategic Director - Places
Subject/Title: Winter Learning Response to Environmental Scrutiny
Committee Recommendations
Portfolio Holder: Cllr Rod Menlove

1.0 Report Summary

- 1.1 Following the events of the longest and deepest winter for some thirty years, it was agreed that Environmental Scrutiny should be asked to examine our learning and provide recommendations to Cabinet for the future improvement and action.
- 1.2 The proposed operational response to each of the Committee's recommendations is contained in the attached Appendix A.
- 1.3 This report has been produced to obtain Cabinet endorsement of the proposed operational responses, which can then be included in the Council's Winter Maintenance Plan 2010/11 and to provide a response to Environmental Scrutiny Committee.

2.0 Decision Requested

- 2.1 That Cabinet endorses the operational response to Environmental Scrutiny Committee recommendations as detailed in Appendix A.

3.0 Reasons for Recommendations

- 3.1 To ensure that the learning from last winter's events following comprehensive challenge by Members is in large measure built into future arrangements as far as is affordable and practical.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including - Climate change - Health

- 6.1 The recommendations made by the Environmental Scrutiny Committee do in part affect the Council's Winter Maintenance Plan for 2010/2011 and in particular are supporting a change in the application of current policy for the provision and location of grit bins to take account of the views and experiences of local Ward Members.

7.0 Financial Implications (Authorised by the Borough Treasurer)

- 7.1 There are immediate costs that will be met from the winter maintenance revenue budget, however, in the event of another harsh winter the Council's existing budget may prove inadequate and an overspend may occur; however, clearly the service will do everything possible to avoid this from happening whilst satisfying our responsibilities under the Highways Act

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Most highway maintenance and management activities are based upon statutory powers and duties contained in legislation and precedents developed over time as a result of case law, notably the Highways Act 1980, which imposes under Section 41 a duty to maintain a highway at public expense. This duty was expanded from 2003 to include a duty to ensure as far as reasonably practicable that safe passage along a highway is not endangered by snow or ice. Section 56 also allows any person who alleges that a highway maintainable at public expense is out of repair may serve a notice on the highway authority and although defences are available, failure to respond appropriately can result in a court order that the highway authority must put the highway in proper repair within such reasonable period as is ordered. It is crucially important that all those involved in highway maintenance and management, including Members have a clear understanding of their powers and duties, and the implications of these.

Even in the absence of specific powers and duties, highway authorities have a general duty of care to users and the community to manage the highway in a condition that is safe and fit for purpose.

As mentioned above, Section 41 of the Highways Act 1980 places a duty on the Council to maintain its highways. There is the remedy of damages if any party suffers loss, damage or injury and they can show breach of this duty. The Council has a defence if it can show that it exercised reasonable measures to keep the highway safe. If potholes form in roads damaged by ice and snow and the Council could reasonably have been expected to be aware of such defects, then these must be repaired within a reasonable time or the Council could be vulnerable to public liability claims.

Some of the responses set out in Appendix A will form part of the Winter Service Plan, which ensures Cheshire East Council continues to meet its legal obligations.

9.0 Risk Management

- 9.1 The Authority has plans in place to address the risks attached to its statutory duties and routine delivery of services. It maintains a Winter Service Plan to address the duties of a Highway Authority in relation to the removal of snow and ice. The Winter Service Plan 2010/11 is based upon the national Code of Practice Well Maintained Highways 2005 and the Resilience of England's Transport Systems in Winter – interim report July 2010.
- 9.2 The significant words in the Highways Act are 'reasonably practicable'; the Duty does not mean that all highways have to be free from ice or snow at all times. The Government indicate that to pre-treat 30 - 35% of the network is sufficient to demonstrate reasonableness; Cheshire East pre-salts about 40% of the network as primary routes. (There is an additional rural hill community service provided that is beyond the main pre-salt routes, about 35 miles extra). The Winter Maintenance Plan is structured to more than meet the test of reasonableness.

10.0 Background and Options

- 10.1 Cheshire East Council is a highway authority with the duty to maintain the highway as set out by Section 41 of the Highways Act 1980 and as amended by S111 of the Railways and Transport Safety Act 2003. In particular, a highway authority is under a duty to ensure, so far as is reasonably practicable, that safe passage along a highway is not endangered by snow or ice.
- 10.2 The Environment and Prosperity Committee gave consideration to a report on 'winter learning', which was referred to the Committee by Corporate Management Team. To enable the Committee to make recommendations to Cabinet for improvement, the report brought together and summarised the Council's learning from events of the longest and deepest winter in thirty years.
- 10.3 The operational response to each of the Committees recommendations is found at Appendix A.
- 10.4 The only recommendation that has not been brought forward for endorsement by Cabinet relates to the contracting of staff to support footway clearance (Appendix A (k)). As the Highways Maintenance budget is already under pressure to deliver the reactive interventions and preventative maintenance necessary to keep the network safe and clear for the travelling public, it was considered that we should continue to rely on ad hoc arrangements to support this activity should events demand rather than commit additional financial resources. However, we will be able to switch available resources more quickly than last year from street cleansing and grounds maintenance to footway clearance.
- 10.5 Highway officers as shown in Appendix A have identified with the help of local Ward Members a list of "farm contractors" that may be willing as necessary to support snow clearance.

11.0 Overview of Year One and Term One Issues

11.1 None.

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

- Report to Environmental Scrutiny Committee – Winter Learning 2009/10
- Draft Winter Service Plan 2010/11.
- Well Maintained Highways – The Code of practice for Highway Maintenance Management.
- The Resilience of England's Transport Systems in Winter – interim report July 2010.

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Winter Learning Outcome Report – Response to Environmental Scrutiny Recommendations

Report Summary

The report has been framed to provide a response to each recommendation of the Environmental Scrutiny Committee.

Background

The Committee gave consideration to a report on 'winter learning', which was referred to the Committee by Corporate Management Team. To enable the Committee to make recommendations to Cabinet for improvement, the report brought together and summarised the Council's learning from events of the longest and deepest winter in thirty years.

Recommendations

Following detailed consideration of the report, Members, Environment and Prosperity Scrutiny Committee made the following observations and recommendations to Cabinet:-

- a) With regard to school closures, it was agreed that the Director for Children and Families should be requested to attend a future meeting of the Committee, to discuss the reasons for the closures and what could be done to ensure that, where possible, schools remain open in the future.

Action completed.

- b) That the weather update received on a daily basis from the Meteorological Office be circulated to schools to assist them in determining whether or not a school should close.

All schools now included on distribution list.

- c) A list of farm contractors, who would be willing to assist in clearing the roads be devised.

Below is list of current / future arrangements.

- *W Riley Brown Low Farm Sutton Cheshire : Gritting & Ploughing Snow Ploughs and Snow blowers (Annual deployment in Winter Period)*
- *Whitehills Farm Ltd Macclesfield Forest Cheshire : Gritting & Ploughing Snow Ploughs and Snow blowers (Annual deployment in Winter Period)*

- *G Taylor Pyme Chair Farm Rainow Cheshire : Gritting & Ploughing Snow Ploughs and Snow blowers (Annual deployment in Winter Period)*
- *P Hodgson Whaley Bridge Derbyshire : Ploughs & Snow Blowers (Prospective Annual deployment in Winter Period)*
- *Brian E Wain Blakehouse Farm Siddington Cheshire :Tractor & Snow plough blade*
- *J Leighton Blue Mantle Ltd: Towed spreader 4x4 vehicle & plough, Quad bike & footway spreader.*
- *Paul Lawton, Gawsworth Towed spreader, ploughs for Landover and tractor, + quad bike.*
- *Ian Marshall, Bridgemere. Snow ploughing, tractor and snow plough. (deployment during snowfall)*
- *Phillip Dulson & Son, Ridley Hall, Tarporley. Unimog and CEC snow plough. (deployment during snowfall)*
- *B S Parker, Bath House, Audlem. 2no tractor and CEC ploughs. (deployment during snowfall)*
- *JH & DA Davies, Granford Lane Farm, Aston, Nantwich. Tractor and CEC plough and JCB. (deployment during snowfall)*
- *Graham Latham, Brindley Lea Hall, Faddiley. Gritter, plough and loading facilities. (deployed during snowfall)*
- *Steve Willis, Houndings Lane, Sandbach. 5no tractors / ploughs, 6No JCB's 1No gritter, 4no quad bikes.*
- *Mark Able, Top End Farm, Barthomley. JCB / farm equipment. (Prospective deployment during snowfall)*
- *Attached plan shows overall coverage of these resources.*

Officers will endeavour to deploy these additional resources on a casual basis as conditions dictate. This is only likely to occur in very exceptional weather conditions and it is hoped these farmers will operate at least initially, on a good will basis.

- d) With regard to the Waste and Recycling Service, it was agreed that residual waste should take priority over recycling and garden waste.

No further action required.

- e) That a six day resilience of salt should be held in stock (6,000 tonnes) and accommodation to house that stock be sought.

Currently there are nationwide difficulties in re-stocking of de-icing salt as Local Authorities respond to the recently published “The resilience of England’s Transport Systems in Winter”

Cheshire East’s current position is:

- ***Lyme Green (covered barn) 2000t (in stock)***
- ***Lyme Green (o/s store) 700t (delivery 29th – 30th Nov)***
- ***Green Street 1500 t (delivery 22nd -26th Nov)***
- ***Brunswick Wharf 500t (delivery 6th – 7th Dec)***
- ***Wardle 800t (in stock).***

In addition, CEC’s contractual relationship with Salt Union, Winsford, means that over half the current gritter fleet is stationed and loads directly from Salt Union. This reduces the risk of delivery disruptions and as last year increases our resilience.

The cost of achieving this strategy is £105,000. This has been ordered from the highway revenue budget, however, should we endure a severe winter again, this may prove insufficient and further expenditure may be needed.

- f) Additional salt boxes should be provided and refilled as and when required.

Last winter 288 salt bins were placed on the network in accordance with the current policy, during the severe winter many more requests were received for additional salt bins. As requested over the summer months officers canvassed all elected members to ascertain if and where additional salt bins are required.

The response was for an additional 145 locations. This will require some capital investment in additional bins and revenue expenditure in relation to the refilling.

Capital, purchase and placement. £25,000. The service is currently exploring how this expenditure can be funded.

Revenue, filling each occasion £7,500. Repeated refilling over the winter period will put further pressure on already stretched budgets.

Many of these additional locations for salt bins may not comply with our current policy, and this may lead to further requests throughout the winter season. (*Locations pages 52 – 54, Winter Service Plan).

- g) That the public be made aware of the legal position with regard to them clearing footpaths and shop fronts. National guidance “Snow Code” has now been published, arrangements will be made to publish on Cheshire East website.

There is no law stopping you from clearing snow and ice on the pavement outside your property, pathways to your property or public spaces.

If an accident did happen, it's highly unlikely that you would be sued as long as you:

- ***are careful***
- ***use common sense to make sure that you don't make the pavement or pathway clearly more dangerous than before***

People using areas affected by snow and ice also have responsibility to be careful themselves.

Tips and advice on clearing snow and ice

- ***start early - it's much easier to clear fresh, loose snow compared to compacted ice that has been compressed by people walking on it***
- ***don't use hot water - this will melt the snow, but may replace it with black ice, increasing the risk of injury***
- ***be a good neighbour - some people may be unable to clear snow and ice on paths from their property***
- ***if shoveling snow, think where you are going to put it so that it doesn't block people's paths or drainage channels***
- ***make a pathway down the middle of the area to be cleared first, so you have a clear surface to walk on***
- ***spreading some salt on the area you have cleared will help stop ice forming - table salt or dishwasher salt will work, but avoid spreading on plants or grass as they may be damaged by it***
- ***pay particular care and attention to steps and steep gradients***
- ***use the sun to your advantage - removing the top layer of snow will allow the sun to melt any ice beneath; however you will need to cover any ice with salt to stop it refreezing overnight***
- ***if there's no salt available, sand or ash are good alternatives***

- j) The Grounds Maintenance and Street Cleaning Services be trained to assist in gritting to further increase the resilience of the winter service.

6 Members of Staff have received NVQ certificates for Winter Service

3 more have volunteered to undergo training through BAMN

- k) Formal arrangements for the clearing of certain key footpaths be included in the policy.

There is currently no planned provision within the winter service plan to carry out pre or post treatment to footway network. During the worst periods of last winter all clearing of footways were completed on a reaction basis, and therefore, at certain times can be difficult to mobilise quickly, e.g. Weekends.

When conditions require and as resources allow, footway clearing is allocated to teams on following basis:-

- ***Town centre areas***

- ***Approaches to hospitals and high schools.***
- ***Approaches to railway and bus stations.***
- ***As requested to assist other services – education / adults services etc.***

Over the summer months there has been national debate amongst industry as to whether footway treatment should be pre planned. As requested by committee, officers have explored approximate costs to provide a planned level of service to the areas listed above, during “high Season” (November to March)

One treatment option would be by application of brine solution, by use of quad bikes and spray bars. Investment required would be for brine storage, hire of labour and equipment and appropriate standby provision. Early indications estimate that an investment of £300,000 would be required for a planned service, or continue treatment on a reactive basis. Again should we suffer a severe winter season costs for footway treatment will require a call on corporate contingency funds.

No plans to introduce this additional element of service are currently envisaged.

Additional Measures

In addition Highways Operations have purchased 500 tonne bags which have been filled with salt mixture and will be available for schools Parish Councils and trouble spots as needed. There have already been some requests for bags to be given to some councils and schools.

This will further assist self-help in more rural communities where bags can be dropped where required whilst minimising the impact on our principal gritting operations.

To improve communications, Members are now included on circulation lists, which include 24 hour, 2-5 day forecasts, and intended actions. These are circulated Monday to Friday. In more severe weather conditions weekend reports will be published.

