

Cabinet Member for Environmental Services

Agenda

Date: Monday, 5th December, 2011
Time: 9.30 am
Venue: Committee Suite 1 & 2, Westfields, Middlewich Road,
Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

4. **Pedestrian Crossing Policy** (Pages 1 - 16)

To consider a policy on the assessment of locations for pedestrian crossings.

Contact: Paul Mountford, Democratic Services Officer
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5. **List of Streets Policy** (Pages 17 - 26)

To consider a policy for making amendments to the list of streets maintainable at the public expense.

6. **Repairs to Private Streets Policy** (Pages 27 - 38)

To consider a policy on how to deal with requests to repair unadopted roads.

7. **Mirrors on the Highway Policy** (Pages 39 - 44)

To consider a policy for dealing with applications to place mirrors on the highway.

(There are no Part 2 items)

CHESHIRE EAST COUNCIL

Cabinet Member for Environmental Services

Date of Meeting: 5th December 2011
Report of: Head of Highways and Transportation
Subject/Title: Pedestrian Crossing Policy
Portfolio Holder: Councillor Rod Menlove

1.0 Report Summary

- 1.1 That the Cabinet Member approves the proposed Pedestrian Crossing Policy.
- 1.2 The Borough Council currently does not have a policy on the assessment of locations for pedestrian crossings.
- 1.3 Requests for pedestrian crossings are frequently received from a variety sources.
- 1.4 This policy provides a process for handling requests and the assessment procedure for determining the most appropriate form of crossing.

2.0 Recommendation

- 2.1 That the Cabinet Member for Environmental Services approve the Pedestrian Crossing Policy set out in Appendix A to the report.

3.0 Reasons for Recommendations

- 3.1 Cheshire East requires a formal policy on the installation of pedestrian crossings throughout the Borough

4.0 Wards Affected

- 4.1 This report affects all wards equally.

5.0 Local Ward Members

- 5.1 This report affects all ward members equally.

6.0 Policy Implications including – Climate Change - Health

- 6.1 There are no human resources implications of the recommended option.

7.0 Financial Implications (Authorised by the Borough Treasurer)

- 7.1 The Strategic Director confirms that the costs of implementing this policy will be met from existing budgets.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Part III of the Road Traffic Regulation Act 1984 provides powers to local traffic authorities to establish; alter and remove crossings for pedestrians, and such crossings must be indicated in the manner prescribed by Regulations made under Section 25 of the Act.
- 8.2 The relevant regulations governing the detailed requirements include The Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 and The Traffic Signs Regulations and General Directions 2002. Before any establishment, alternation or removal of a crossing takes place, the Chief Officer of Police must be consulted, a public notice given, and the Secretary of State must be informed in writing.
- 8.3 Further guidance on assessment factors and choice of sites is found in the Department for Transport's Local Transport Note 1/95: The Assessment and Design of Pedestrian Crossings. The policy has been drafted taking into account of this legislation and guidance.

9.0 Risk Management

- 9.1 The Authority currently does not have a formal policy for the assessment and determination as to the most appropriate form of crossing for pedestrians. This policy will formalise the processes to be followed when receiving requests to provide safer crossing facilities. The policy supports the Authority's position when determining the risks to members of the public in crossing the carriageway at individual locations.

10.0 Background and Options

10.1 Introduction

The Borough Council is reviewing all its highway policies. Many requests for safer crossing facilities for pedestrians are received annually and this policy gives guidance to officers, Council Members and members of the public regarding the processes that will be followed when considering such requests. It also explains the role of the Local Area Partnerships in the process.

This policy will form part of a suite of highway related safety documents that link in to the main overarching Speed Management Strategy that will come before this committee in the near future.

10.2 Background

The demand for pedestrian crossing facilities far exceeds the Borough's available funding. As such there is a need for a consistent approach to the assessment of the appropriate form of crossing, if any, for each location and a means of prioritising implementation with regard to the limited resources available.

Historically, pedestrian crossing assessments have been based on a numerical score that measures the degree of conflict between vehicles and pedestrians. PV^2 where P is the number of pedestrians crossing per hour over a 100m section and V is the number of vehicles per hour, was and still is a nationally recognised guidance as to the degree of conflict.

Current procedures follow the advice in Local Transport Note 1/95: The Assessment of Pedestrian Crossings. It is still based on a numerical score for assessed locations but incorporates factors to take account of site specific issues, such as community severance, the location of schools and the number of elderly pedestrians. The use of a numerical value gives a means of prioritising all locations for allocating funding. The current procedure has proved to be a robust tool in the decision making process and in defending decisions regarding the provision or none provision of facilities.

However, current procedures are not fully appropriate to Cheshire East's decision making process or its local working between Members and Local Area Partnerships (LAPs).

This proposed policy has taken the basis of the current assessment process but includes the role of local Members and LAPs in the decision making process.

The final recommendation as to the form of crossing will be based on local specific site information included in an Option Report.

11.0 Access to Information

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

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Pedestrian Crossings Policy

Introduction

Crossings are provided as amenities to give access and easier movement to pedestrians. Generally the provision of crossings should be targeted at the needs of those people who experience most difficulty and danger. It should not be assumed that the provision of a crossing alone will necessarily lead to a reduction in road accidents.

The purpose of a crossing is to provide pedestrians with a passage across a carriageway. Each type of crossing has advantages and disadvantages; the type chosen should be appropriate to the circumstances of the site and the demands and behaviour of road users.

Hierarchy

Traffic Management including Refuges

It may be possible to create more crossing opportunities by:

- the provision of a refuge or
- installing traffic calming measures or
- build outs or narrowing the carriageway (to reduce the crossing time).

Refuges allow both pedestrians and cyclists to cross the road in two halves, reducing the size of gap between vehicles that they may require. Although such facilities aid the pedestrian or cyclist crossing the road, they can cause potential problems for the cyclist travelling along the road because of the reduced width available for motorised traffic to pass. Refuges are most appropriate where the road is around 10 metres wide.

Build-outs or road narrowing to assist the pedestrian reduces the distance the pedestrian would have to cross on the carriageway. It also would allow motorised vehicles the opportunity to pass cycles on the off side because there would not be a central restriction. Narrowing of the carriageway can have the advantage of allowing the footway to be widened thus enhancing visibility past permanent obstructions, such as trees, post boxes, etc.

Vehicle speeds and the percentage of heavy vehicles may influence the local acceptability of either option.

Zebra

Zebra crossings should be considered where pedestrian flows are 1100 people per hour or less (averaged over the four highest hours) and where vehicle flows are 500 vehicles per hour or less (averaged over the four highest hours). Zebra crossings are usually used where pedestrian flows are relatively low and traffic

flows are no more than moderate. The likely effect of a Zebra crossing can be tested by checking the availability of gaps in the traffic. Gaps of around five seconds are needed for an able person to cross a 7 metre carriageway.

Vehicle delays are typically five seconds for a single able person crossing, but can be much more where irregular streams of people cross over extended periods.

Zebra crossings are also best avoided on busy town centre streets or outside railway stations since this is likely to result in a constant stream of pedestrians claiming priority. Higher flows of pedestrians will cause substantial delay to vehicles and a Zebra crossing is less likely to be a satisfactory choice.

Where gaps in traffic flows are few, and waiting times long because people feel it may be hazardous to establish precedence, a Zebra crossing is likely to be unsuitable.

Where traffic speeds are higher than 30 m.p.h., people will require longer gaps in the traffic flow or be exposed to the risk of more serious injury if precedence is not conceded for any reason. Zebra crossings should not be installed on roads with an 85 percentile speed of 35 m.p.h. or above.

Zebra crossings should not be considered where there are significant numbers of vulnerable road users such as: unaccompanied children, elderly and people with disabilities.

When considering the installation of a Zebra crossing and pedestrian flows are high during the morning peak and at the end of the school day (but relatively low at other times), because of significant numbers of school children, then the presence of a school crossing patrol should also be taken into account when making the choice between types of crossing. A School crossing patrol can assist to ensure there are reasonable gaps for both vehicles and pedestrians.

Signal Controlled Crossings (Pelican /Puffin / Toucan/ Pegasus)

PELICAN [Pedestrian Light Controlled Crossing]

These have red/amber/green signals facing drivers, and red man/green man signal heads on the opposite side of the road to the pedestrians waiting to cross. A pedestrian push button unit operates these. When the red man is lit pedestrians should not cross (although it is not against the law to do so). The Highway Code says that when the steady red signal to traffic is lit then drivers **MUST** stop. The green man will then light for pedestrians and they should, having checked that it is safe to do so, cross the road. When the green man begins to flash pedestrians should not start to cross although there is still enough time for those on the crossing to finish their journey safely. At all Pelican crossings (apart from 'staggered' crossings) there is a bleeping sound to indicate to the visibility impaired when the steady green man is lit.

PUFFIN [Pedestrian User Friendly Intelligent Crossing]

These differ from Pelican crossings as they do not have a flashing green man/flashing amber signal. The overall crossing time is established each time by on-crossing pedestrian detectors. The demand for the crossing is still triggered by the push button unit but kerbside pedestrian detectors are fitted to cancel demands that are no longer required (when a person crosses before the green man lights). At the latest Puffin crossings the red man/green man signals are above the push button unit on the pedestrians' side of the road. This layout encourages pedestrians waiting at the crossing to look at the approaching traffic at the same time as looking at the red man/green man signal.

TOUCAN [two can cross]

These are designed for both pedestrians and cyclists and are typically used adjacent to a cycle-path (Cyclists are not allowed to cross the road using Zebra, Pelican or Puffin crossings). There is a green cycle symbol alongside the green man. At the latest Toucan crossings the crossing time is established each time by on-crossing detectors in the same way as Puffins. The cost of a Toucan is similar to that of a Puffin.

PEGASUS

These are similar to Toucan crossings but have a red/green horse symbol and higher mounted push buttons to allow horse riders to cross. This type of crossing is only used where many crossing movements are made across a busy main road.

Signal Controlled Crossings are more suitable where:

- vehicle speeds are high, and other options are thought unsuitable;
- there is normally a greater than average proportion of elderly or disabled pedestrians or unaccompanied children;
- vehicle flows are very high and pedestrians have difficulty in asserting precedence;
- there is a specific need for a crossing for cyclists or equestrians;
- pedestrians could be confused by traffic management measures such as a contra-flow bus lane;
- there is a need to link with adjacent controlled junctions or crossings;
- pedestrian flows are high and delays to vehicular traffic would otherwise be excessive.

Caution should be exercised where pedestrian flows are generally light or light for long periods of the day. Drivers who become accustomed to not being stopped at the crossing may begin to ignore its existence, with dangerous consequences. The problems are accentuated as vehicle speeds increase.

Assessment

The decision as to whether to install a crossing and the choice of option will depend on the following factors. Examples

- number of accidents,
- delays,
- local representations,
- local interest groups,
- cost
- relative priority with other sites.

Initial request

Requests for pedestrian crossing facilities can come from a variety of sources. On receipt of a request an initial assessment of the collision history of the location will be carried out. Should it appear that the location does have a record of collisions resulting in injury to vulnerable road users then the location will be considered for inclusion in the Casualty Reduction programme. If the location does not meet this criteria, further consideration will only be given where supported by the local Ward Member through the Local Area Partnership Minor Highway Works process.

An initial site visit is to be carried out during the morning peak hour to determine whether the location is likely to meet the criteria for a pedestrian crossing. This initial assessment will identify any pedestrian desire line and the number of pedestrians crossing. Vehicle flows will be determined either from existing records or by a 15 minute on site count. From this information an estimated PV^2 value is obtained. This gives an indication of the degree of conflict and is determined by multiplying the number of vehicles per hour (V) squared by the number of pedestrians crossing per hour (P) over a 100m section. From this information a site assessment report will be produced as indicated below with a recommendation to either carry out a detailed assessment or not.

A location that indicates a PV^2 of less than 0.1×10^8 will not normally be considered for any further investigation. Those that indicate a higher PV^2 value will be a subject of a detailed assessment.

INITIAL SITE ASSESSMENT INFORMATION

Characteristic	Data and comments at DATE
Location	Location GR Class and type of carriageway Width of carriageway Width of footways v/ verges
Highway facilities	Road lighting, bus stops etc.
Visibility	Can desirable visibility standards be met? Are further parking restrictions required.
Complexity	Road junctions, other pedestrian crossings, public buildings or facilities, schools.
Crossing traffic	Approximate number of people crossing in peak hours. Noticeable groups. Approximate crossing time and difficulty of crossing
Vehicles	Approximate number of vehicles per day and type noticeable types. Peak hour flows. 85 percentile speed and speed limit.
Road accidents	5 year collision data, collisions involving vulnerable users
Estimated PV ²	Based on initial site visit
Recommendation	

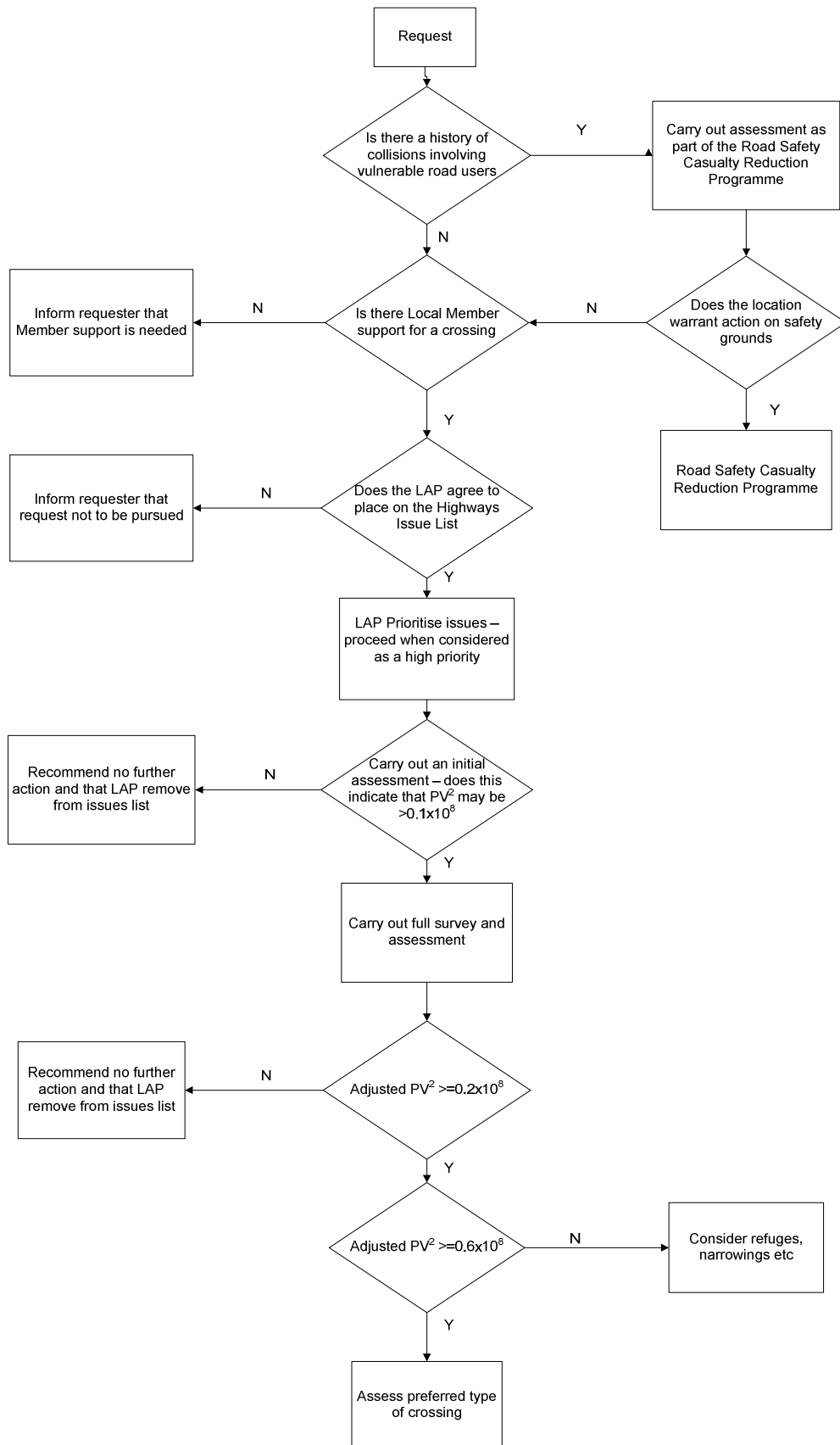
Detailed Assessment

Detailed assessments of locations where a pedestrian crossing should be considered will be carried out.

Final Option Determination

Following the detailed assessment, an Option Report and recommendation will be produced.

Pedestrian Crossing Assessment Process



APPENDIX TO POLICY**DETAILED ASSESSMENT PROCEDURE**

This uses a numerical measure to assess the degree of conflict between vehicles and pedestrians, with a reduced numerical measure for special circumstances. The degree of conflict is determined by multiplying the number of vehicles per hour (V) squared by the number of pedestrians crossing per hour (P) over a 100m section. The average of the four highest hours is taken to represent what is called PV^2 . The principal of PV^2 is a well known and understood measurement nationally and is a tried and tested principal as a basis for pedestrian facilities provision.

When assessing a request for a crossing then, if the value of PV^2 is less than 0.2×10^8 , no formal crossing facilities are normally provided. If the value of PV^2 is above 0.2×10^8 then there should be a more in-depth framework assessment carried out, in line with the advice in Local Transport Note 1/95. This criterion is equally applicable to pedestrian facilities as combined pedestrian and cycle facilities.

However to maintain a consistent approach this framework assessment is also to be based upon a PV^2 approach. This is achieved through adjusting the value of PV^2 to take account of the composition of the pedestrian flow, the width to be crossed, the speed limit and 85%ile speed of the road and the difficulty encountered crossing the road in terms of time spent waiting and crossing.

In adopting this approach the proposal not only gives an indication of the need for a crossing but also allows for the inclusion of costs to incorporate a ranking between different types of crossing and between two different sites if funding is not immediately available to undertake all requests for crossing facilities in a given year.

Where an existing location has a high pedestrian accident rate then, if pedestrian facilities are judged to be most effective remedy, these sites would not be subject to PV^2 criteria.

Other Locations

There are circumstances that an assessment following this process does not fully address the issues of concern such as:

- a) close to a proposed new developments ;
- b) along a proposed Safer Routes to School route; and
- c) along a proposed national cycle network routes.

At all the above situations there may be little existing pedestrian or cycle movements. However, as a result of the proposals significant volumes would result. Yet the application of the modified PV^2 calculation would not imply the provision of a pedestrian facility because the number of new pedestrians and/or cyclists generated by the above three circumstances would not be known.

Therefore, in these circumstances, due consideration should be given to the provision of pedestrian/cycle crossing facilities if the traffic flow for the four busiest hours is above **480** vehicles per hour (two way) or the number of heavy goods vehicles is 300 vehicles per hour (two way) or above. After carrying out a preliminary survey of the proposed site a decision should be reached on whether a crossing is justified or not based upon experience at previously installed sites, judgement and knowledge of local factors.

Detailed Assessment

In order to take account of the various different classifications of pedestrians a series of factors are applied to the value of PV^2 , which is still calculated as the average over the highest four hours, as follows:

EP Percentage of Elderly pedestrians (EP). If the percentage of elderly pedestrians is less than 10%, a factor of 1 should be used. If more than 10%, then use the following formula

$$\frac{(100+EP)}{110}$$

(Elderly defined in terms of visual appearance and is a judgement of the enumeration staff generally taken as over 60)

UC Percentage of unaccompanied children. If there are not more than 10% of unaccompanied children, use 1. If there are more than 10%, use the following formula:

$$\frac{(100+UC)}{110}$$

PW Percentage of pedestrians with prams/pushchairs, wheelchairs or blind (white sticks or guide dogs). If not more than 5% use 1. If more than 5% then use the following formula:

$$\frac{(100+PW)}{105}$$

PB Percentage of bicycles crossing. If not more than 15%, use 1. If more than 15%, use following formula:

$$\frac{(100+PB)}{115}$$

115

RW Road width. If not more than 7.3m, use 1. If more than 7.3m, use the following formula:

$$\frac{W}{7.3}$$

7.3

CT Time to cross (seconds) this reflects the difficulty in crossing in terms of the volume of traffic and complexity of the location (eg presence of junctions or other features). If it takes on average less than 26

seconds cross, use 1. If it takes between 26 and 40 seconds to cross, use 1.2; if it takes between 41 and 60 seconds to cross use 1.4; and if it takes over 60 seconds to cross, use 1.6 (the above crossing times include both waiting time and crossing time).

VS Vehicle speeds; if 85th percentile speed is less than 30 use a factor of 1

If between 30 and 35 use 1.1

If between 36 and 40 use 1.2

If between 41 and 45 use 1.3

If between 46 and 50 use 1.4

NB before considering the use of surface crossings on roads with 85th percentile speeds greater than 50 mph consider speed reduction measures.

CS If a proposal is located where a road divides a substantial community or is outside a school, clinic, community centre, home for the elderly or busy shopping centre adjust as follows:

Proposed location is on a road that causes community severance or outside a school or clinic, home for the elderly etc then apply 1.1.

If the proposed site is close to two of the above use a factor of 1.25.

If a proposed site is close to three or more of use a factor of 1.4.

Modified Formula for PV^2

PV^2 Adjustment factor (EPxUCxPWxPBxRWxCTxVSxCS)

If adjusted PV^2 is greater than 0.6×10^8 consider either a zebra crossing or a signal controlled crossing

Below 0.6 consideration of other measures should be given such as narrowing carriageway to aid crossing, central refuges, traffic calming.

EXAMPLE OF PEDESTRIAN CROSSING OPTION REPORT**Location:****Site Assessment Information**

Characteristic	Data and comments at DATE
Location	Class and type of carriageway Width of footways/verges
Highway facilities	Road lighting, bus stops etc.
Visibility	Can desirable visibility standards be met? Are further parking restrictions required.
Complexity	Road junctions, other pedestrian crossings, public buildings or facilities, schools.
Road accidents	5 year collision data, collisions involving vulnerable users

The location of highest pedestrians crossing was observed to be:

Recommended Location:

The assessment indicated the following in a 12 hour period:

Location Bradfield Road, Crewe - Mablins Lane to Cliffe Road (E369797/N357448)				Factors	
Survey Data				Number of Elderly	14
Traffic Survey Date 6/9/2007				No. of Unaccompanied Children	22
Pedestrian Survey Date 9/10/2007				No. of Prams, Wheelchairs & Blind	2
				No. of Bicycles	118
				Road Width (m)	6.9
				Time to Cross (secs)	26
				85th percentile (mph)	35.6
				Special Factors	
				Severed Community	yes
				Outside School	no
				Outside Clinic	no
				Outside Community Centre	no
				Outside Old Peoples Home	no
				In Busy Shopping Centre	no
				Outside Mobility or Blind Centre	no
				Other	yes
				total	2
				PV ² =	0.15 x1
				Adjusted PV ² =	0.66 x1
Time	All Vehicles	HGV's	Pedestrians		
7.00 - 8.00	875	29	13		
8.00 - 9.00	1136	47	21		
9.00 - 10.00	889	38	6		
10.00 - 11.00	730	35	6		
11.00 - 12.00	683	39	4		
12.00 - 13.00	761	25	3		
13.00 - 14.00	914	31	3		
14.00 - 15.00	818	42	2		
15.00 - 16.00	940	36	11		
16.00 - 17.00	1184	32	10		
17.00 - 18.00	1306	17	5		
18.00 - 19.00	948	12	5		
total	11184	383	89		
Is the assessment on a dual carriageway				no	

Background

A request was made from a local Borough Councillor together with a 472 name petition received, that due to a historic collision problem involving pedestrians between Cliffe Road and Kestrel Drive on Bradfield Road that a formal signal controlled pedestrian crossing be introduced.

A subsequent pedestrian crossing assessment was carried out in October 2007 in line with local and national guidelines (LTN 1/95). This identified the need for a crossing close to Mabllins Lane to serve the most prominent pedestrian desire line. Further discussions have given consideration to the most appropriate type of crossing for the location.

Pedestrian Refuge

The assessment carried out at the time indicated that some form of controlled crossing should be considered.

Assuming that direction of vehicle flows are comparable then on average there would be a vehicle every 8 seconds in each direction increasing to 1 every 6 seconds during the peak. The assessment indicated 36 pedestrians attempting to cross in the pm peak .

Where centre refuge islands are provided they can be an absolute minimum of 1200mm in width (LTN 2/95) but to cater for wheelchair users they should be at least 1500mm and preferably 2000mm (DfT Inclusive Mobility)

LTN 2/08 Cycle Infrastructure Design recommends that a minimum gap of 4 metres is provided at refuges unless additional features to significantly reduce motor vehicle speeds are incorporated. This minimum is recommended in order to reduce the instances of cyclists being “squeezed” at a refuge by overtaking vehicles. The assessment recorded 118 bicycles during the 12 hours. Although it is recognised that refuges have been installed at narrower widths, taking in to account the number of vehicles and cyclists using this route the recommended minimum should be provided in this instance.

The width of the installation would thus be 2 No carriageways at 4m plus a refuge at 2m i.e. 10m. The existing carriageway width is 6.9m so this would require a localised widening of 3.1m. Such a widening may be possible on one side only, i.e. utilising the wide verge at the junction with Mabllins Lane. This would also have the effect of moving traffic nearer to the frontage properties and make the Council liable to Part 1 Claims under the Land compensation Act 1973.

All locations considered were affected by domestic drive accesses. The least affected is just to the west of Mabllins Lane. However, the installation of a refuge at this location would severely restrict access to and from the adjacent filling station especially by large vehicles. A refuge would prevent petrol tankers from turning left out of the station forecourt.

Conclusion – A refuge would have an operational effect on the petrol filling station, severely restricting servicing arrangement and would be resisted by the proprietors. A carriageway widening of up to 3.1m would be required which could only be accommodated on the east bound side on the approach to Mabllins Lane junction, this may result in conflict with vehicles at the give way line as well as creating a sharp change in direction. The Council will also be liable to pay compensation.

Zebra Crossing

Zebra crossings should not be installed on roads with an 85 percentile speed of 35 mph. or above (LTN 1/95). Assessment indicates an 85th percentile of 35.6mph.

Where a crossing is thought necessary but crossing flows are relatively low and traffic flows are no more than moderate, then a Zebra crossing may be suitable (LTN 1/95) Vehicle delays are typically five seconds for a single able person crossing but can be much more where irregular streams of people cross over extended periods, in this case there area around 36 persons in the peak hour that could cross individually.

The capacity of a variable standard urban road with frontage access, pedestrian crossings and loading and unloading is generally in the range of 1500 to 1850 vehicles per hour (Highways agency Traffic Advisory Note 79/99). Bradfield Road has a recorded flow of 1306 during the pm peak and as such the route can be considered to have high traffic flows.

Conclusion – as the route is highly trafficked and the speed of vehicles higher than 35mph then a zebra crossing would be inappropriate for this location due to safety considerations.

Puffin Crossing

LTN 1/95 indicates that signal-controlled crossings such as Puffins are used where:

- vehicle speeds are high, and other options are thought unsuitable;
- there is normally a greater than average proportion of elderly or disabled pedestrians;
- vehicle flows are high and pedestrians have difficulty in asserting precedence;
- pedestrian flows are high and delays to vehicular traffic would otherwise be excessive.

This location meets several of these requirements in that speeds are high, other options considered unsuitable, 14% of pedestrians crossing are considered to be elderly or disabled and vehicle flows are high.

A puffin crossing has the ability to cancel any calls should the pedestrian cross prematurely or walk away. It can also be adjusted to increase the waiting time for pedestrians and thus limiting the number of pedestrian phases during peak times.

Other pedestrian facilities installed on the B5076 corridor at North Street and Remer Street are puffin crossings; refuges nor zebra crossings have been installed and as such a puffin crossing would provide uniformity for those using the route.

Conclusion – a puffin crossing would be appropriate in this location.

Toucan Crossing

The crossing does not form part of a cycle route. A Toucan would not be appropriate.

Recommendation

The most appropriate pedestrian crossing facility would be a Puffin Crossing located to the west of Mabllins Lane junction.

CHESHIRE EAST COUNCIL

Cabinet Member for Environmental Services

Date of Meeting: 5th December 2011
Report of: Head of Highways and Transportation
Subject/Title: List of Streets Policy
Portfolio Holder: Councillor Rod Menlove

1.0 Report Summary

- 1.1 That the Cabinet Member approves the proposed amendments to the List of Streets policy.
- 1.2 The Council is required under statute namely the Highways Act 1980 to keep corrected up to date a comprehensive List of Streets maintainable at the public expense.
- 1.3 The List is to contain all roads, lanes, footpaths, bridleways, byways, restricted byways, squares, courts, alleys and passages which are considered to be maintainable at public expense.
- 1.4 At present this Council does not have in place a policy on any changes that are required to keep the List of Streets up to date. The legislation associated with the List of Streets is not thorough enough to be able to determine what format the so called “list” should be presented.
- 1.5 Currently any changes required to the List of Streets are received from a number of different sources. Types of evidence supplied to the Authority vary, from an adoption plan showing the road and extents to minutes from historical meetings of previous Councils.
- 1.6 There has never been any strict procedure in place prior to any changes to the existing highways that are considered to be maintainable at public expense. The policy will set out to ensure that any future changes to the List of Streets will have a proper audit trail. This will ensure that any subsequent claims on the highway network can be successfully supported with a policy that shows the changes have been correctly followed.

2.0 Recommendation

- 2.1 That the Cabinet Member for Environmental Services approve the amendments to the List of Streets policy set out in Appendix A to the report.

3.0 Reasons for Recommendations

- 3.1 To ensure that any changes to the List of Streets through adding or removing streets are carried out to a robust structured procedure.

4.0 Wards Affected

- 4.1 This report affects all wards equally.

5.0 Local Ward Members

- 5.1 This report affects all wards equally.

6.0 Policy Implications

- 6.1 There are no human resources implications of the recommended option.

7.0 Financial Implications (Authorised by the Borough Treasurer)

- 7.1 The costs of implementing this policy will be that if documentary evidence is found to add a street that is currently not recognised as being a highway maintainable at public expense, there will be a financial issue on the Council to repair this newly found street. There may also be claims from property owners whose land adjoins these newly found streets for any monies they have spent in the past on the maintenance of what was previously thought to be an unadopted highway. It should be remembered that it is a duty of the Authority to keep the List of Streets up to date so is open to challenges at any time from anyone.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The legislation relating to the List of Streets is detailed in Appendix B. Whilst there are statutory requirements for the creation of a list of maintainable highways, there is nothing available as to how this list should be produced or how it can be properly amended.

9.0 Risk Management

- 9.1 This Authority currently does not have any formal policy to deal with changes to the List of Streets. Implementing this policy will ensure this situation remedied to give a coherent, structured and consistent approach when dealing with any additions or removals to the List of Streets. With no policy currently in place the Authority is open to challenge from both internal and external pressures when any changes have been done incorrectly. It should be remembered that any decisions taken arising from this policy can be challenged in the courts.

10.0 Background

- 10.1 The current legislation relating to the List of Streets is under Section 36(6) of the Highways Act 1980. Here at Cheshire East Council, this 'list' comprises in alphabetical order of all known adopted highways that are maintainable at public expense.
- 10.2 The List is to contain all roads, lanes, footpaths, bridleways, byways, restricted byways, squares, courts, alleys and passages which are considered to be maintainable at public expense. It is kept by all Highway Authorities throughout the country and by definition should include all highways. Some Highway Authorities have a map instead and it is thought that this is acceptable as an alternative to a "List".
- 10.3 It should be noted the current List does not contain any Public Rights of Way even though these are considered to be highways maintainable at public expense. These are recorded on the Authority's' definitive map and statement which is the legal record of public rights of way in Cheshire East. In law it is the definitive record of where a right of way is located. Local authorities in the UK have a statutory duty to maintain the Definitive Map. Each right of way also has a written description referred to as the Definitive Statement.
- 10.4 Historically various methods have been used to amend the List of Streets. Most of these were either from an officer sending notification the network was incorrect or by representation from individuals or organisations outside the Authority claiming to have new evidence to support the current list is incorrect.

How do other Highway Authorities amend their highway record?

- 10.5 Through working with a number of Authorities across the country it has become apparent that there are no formal processes currently in place for any necessary changes to the List of Streets. The methods used by highway officers throughout the country varies considerably from just carrying out a change without challenge to those authorities who follow a strict consultation exercise to ensure all changes are properly documented.
- 10.6 It should be noted that there are several highway authorities who are reviewing their systems in how to amend the highway record. They are also to ensuring the public get the information needed to complete a highway search without the need for an undue delay to answer these sorts of queries.

The Way Forward

- 10.7 In view of the fact that the List of Streets and the determination of the highway boundary is considered not to be easy to define, it seems sensible that a set of guide lines are drawn up. These can then be rolled out across countrywide so as to ensure consistency is in place to all relevant highway

authorities. Cheshire East officers are leading the way in this endeavour and Chair the national Highway Records Working Group whose terms of reference include delivery of a nationally recognised policy.

Summary

- 10.8 This policy has been written to ensure that there is a robust structured procedure to make any necessary changes to the List of Streets. The current system is considered not fit for purpose and leaves the door wide open to any challenges whether from an internal or external source.

11.0 Access to Information

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

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Appendix A

1.0 List of Streets Policy

- 1.1 The policy to be followed will enable a coherent, structured and consistent approach when dealing with any additions or removals to the List of Streets
- 1.2 Before any addition or removal of a street from the List the appropriate investigation should be carried out. Once this has been completed a decision will be sort from the Environmental Services Portfolio Holder under their delegated powers.
- 1.3 If a formal adoption plan is available then this would without doubt be considered to be sufficient documentary evidence on its own to change the status of any particular street. However, it should be remembered that in exceptional circumstances the particular section of road may have been closed by some formal procedure and this would need to be checked out.
- 1.4 It should also be noted that all evidence contained in the documents listed below are open to interpretation. The considered opinions of the evidence may be contested by one or more officers. It is therefore essential that the officer writing the report for consideration is able to explain as to why the street should be added/removed from the list.

2.0 Adding a street to the List

- 2.1 If a street is subject to one or more of the following then it would not be necessary to obtain a delegated decision. This would include if the street was subject to an agreement subject to Section 38 1980 Highways Act or section 40 1959 Highways Act, inclusion within a Section 278 agreement of the 1980 Highways Act, is included in the Handover Schedule of the Local Government Act 1929 (unless subsequently been stopped up) is included as being part of a Deed of Dedication or a grant was given by virtue of the Agriculture (Improvement to Roads) Act of 1955.

3.0 Trigger

- 3.1 Request received from either internal or external person or organisation.

4.0 Highway Officer Consultation

- 4.1 Seek the views of the local highway officer as to what they know about the street.

5.0 Site Visit

- 5.1 This would be undertaken to fully understand the situation as it exists on the ground and to take photographs of the area.

6.0 User evidence

- 6.1 This step would come into the equation in the event of any challenges to the public using a street. User evidence is evidence from users of a claimed way and relates to their individual use and the nature of that use along the street being claimed. The Borough Council reserves the right to interview those who provide user evidence personally following submission of an application.

7.0 Primary research

- 7.1 The list of documents to be looked at is not in any order of priority but is sufficient for an assessment to decide whether a street should be added to the List: Enclosure records, Finance Act information, Land Registry, Side Roads Orders (if appropriate), Quarter Session files, Dedication Agreements, Tithe records, County Council minutes, Parish Council minutes, Handover ledgers from previous Authorities, Grass Cutting schedules, Ordnance Survey records, Stopping up orders, deposited plans (if appropriate), Highway records, Planning records, Draft Definitive Map information, Aerial photographs from the Luftwaffe set through to the modern collection and Old County maps such as Greenwoods and others.

8.0 Secondary research

- 8.1 The following documents could be viewed and again is in no order of priority but would be used if the above is not conclusive. Estate records, local histories and Mining records (if appropriate).

9.0 Further consultation

- 9.1 This would only be carried out if the research of the documentary evidence above was not conclusive. Other consultees could include highway officers, Parish and Town Councils, landowners affected by the street and depending on whether the street is contentious will determine whether the consultation would include any user groups.
- 9.2 Any research undertaken must be looked at as a whole rather than identify one piece of evidence on its own. The only exception to this being if an adoption plan or similar exists for a street where this alone would be sufficient to add a street to the List.

10.0 Next steps

- 10.1 In any report produced there needs to be an analysis of the findings of the research and to include a note as to whether the street is considered to be a highway maintainable at public expense. The Borough Solicitor will be consulted as to the evidence and the weight to be attached to the evidence. If it is decided the street should be added then a plan should accompany the report to identify the full extent of the street to be added.

- 10.2 Any recommendations will be sent to the Local Ward Members to gather comments to be included in the report.
- 10.3 The report and plan would then be sent to the Environmental Services Portfolio Holder for an appropriate decision. If accepted the street can be amended accordingly on the List of Streets. Notification of any additions will be sent to the Local Ward Members and Parish Council.

11.0 Removal of a street from the List

- 11.1 This procedure would be similar to the one described for “Adding a street to the List” with a few exceptions. It should be noted that before any street was removed, there would have to be a series of steps so to satisfy all concerned that it definitely needs to be taken off the list of maintainable highways.

12.0 Trigger

- 12.1 Request received from either internal or external person or organisation.

13.0 Area Office consultation

- 13.1 Seek the views of the local highway officer as to what they know about the street.

14.0 Stopping up order

- 14.1 Has this been carried out? Check the online London Gazette for any stopping up order ever having taken place?

15.0 Side Roads Orders

- 15.1 This is an essential piece of documentary evidence that would automatically remove an entry. It should be remembered that the street may be just realigned or similar so the record would be updated accordingly.

16.0 Next steps

- 16.1 In any report produced there needs to be an analysis of the findings of the research and to include a note as to why the street is considered not to be a highway maintainable at public expense. If it is decided the street should be removed then a plan should accompany the report to identify the full extent of the street to be removed.
- 16.2 Any recommendations will be sent to the Local Ward Members to gather comments to be included in the report.
- 16.2 The report and plan would be sent to the Environmental Services Portfolio Holder for an appropriate decision. If accepted the street can be amended

accordingly on the List. Notification of any deletions will be sent to the Local Ward Members and Parish Council.

1.0 List of Streets Legislation and Advice

There have been three pieces of legislation directly concerning the List of Streets:

- Public Health Act 1925
- Highways Act 1959
- Highways Act 1980

The first piece of legislation was under Section 84 of the Public Health Act 1925. It should be noted that this requirement applied to Urban District Councils only so any maintainable highways within the rural areas were not listed.

2.0 Public Health Act Section 84 (1) and (2):

“Every urban authority shall, within six months after the commencement of this Act [8th September 1925], cause to be prepared a list of the streets within their district which are repairable by the inhabitants at large.

Any list prepared under this section shall be open to the inspection of any person, without payment, during the ordinary office hours of the urban authority”.

The 1925 legislation and requirement survived until 1959. In this year the passing of the 1959 Highways Act was made which served solely as a consolidation Act to the 1835 Highways Act. The relevant part was section 38(6) and once again the only obligation to produce a list of maintainable highways was given to urban authorities.

3.0 Highways Act 1959 Section 38(6):

“The council of every borough and urban district shall cause to be made, and shall keep corrected up to date, a list of the streets within their area which are highways maintainable at the public expense; and every list made under this subsection shall be kept deposited at the offices of the council by whom it was made and may be inspected by any person free of charge at all reasonable hours”.

The requirement to list all highways maintainable at public expense was included in the 1980 Highways Act and like in 1959 was only a consolidation Act. The relevant part is found in sections 36(6) and (7). This time the requirement to keep the list of highways maintainable at public expense included the rural areas and specified where the lists can be found.

4.0 Highways Act 1980 Section 36 (6) and (7):

“The council of every county and London borough and the Common Council shall cause to be made, and shall keep corrected up to date, a list of the streets within their area which are highways maintainable at the public expense.

Every list made under subsection (6) above shall be kept deposited at the offices of the council by whom it was made and may be inspected by any person free of charge at all reasonable hours and in the case of a list made by the council of a county, the county council shall supply to the council of each district in the county an up to date list of the streets within the area of the district that are highways maintainable at the public expense, and the list so supplied shall be kept deposited at the office of the district council and may be inspected by any person free of charge at all reasonable hours”.

It should be noted that the requirements have altered slightly since 1925. The main points being that the “list” is to be inspected free of charge but also in the 1980 Act was a requirement to place a copy in each of the borough offices of the council. Here in Cheshire East Council although it is a Unitary Authority, copies are still placed in the old offices of the former boroughs.

CHESHIRE EAST COUNCIL

Cabinet Member for Environmental Services

Date of Meeting: 5th December 2011
Report of: Head of Highways and Transportation
Subject/Title: Repairs to Private Streets Policy
Portfolio Holder: Councillor Rod Menlove

1.0 Report Summary

- 1.1 That the Cabinet Member approves the reaffirmation of the inherited policy for the Repair to Private Streets (Appendix A).
- 1.2 Each year the Council receives requests to repair un-adopted roads. However the Council's responsibility in respect of these un-adopted roads differs to those for highways that are "maintainable at the public expense". The purpose of this report is to set out the issues surrounding repairs to un-adopted roads, to propose a policy for the Council and provide guidance on how to deal with requests to repair.

2.0 Recommendation

- 2.1 That the Cabinet Member for Environmental Services approve the Repair to Private Streets Policy.

3.0 Reasons for Recommendations

- 3.1 The Policy will set out the Council's consistent approach in dealing with requests from owners or frontagers to carry out repairs to private streets to obviate danger to traffic and or pedestrians.
- 3.2 It is practical for the Council to have a policy for urgent repairs to private streets with accompanying guidance. Whilst the guidance is in part subjective it does give the Council some degree of flexibility and discretion. This will enable the Council to consider unusual situations with a degree of pragmatism particularly where use by the more vulnerable sections of the community are concerned as well as affordability issues.

4.0 Wards Affected

- 4.1 This report affects all wards equally.

5.0 Local Ward Members

- 5.1 This report affects all ward members equally.

**6.0 Policy Implications including - Climate change
- Health**

- 6.1 There are no human resources implications of the recommended option.
- 6.2 The policy is intended to ensure that highway officers act in a fair and consistent way.

7.0 Financial Implications (Authorised by the Borough Treasurer)

- 7.1 The Strategic Director confirms that the costs of implementing this policy will be met from existing budgets.
- 7.2 The Council proposes to cap the expenditure for urgent repairs to £500 in any one street in any one year. This would equate to a maintenance crew for a full day to carryout repairs, e.g. pothole filling.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Section 41 of the Highway Act 1980 imposes a duty on the Highway Authority to maintain highways which are maintainable at the public expense. The duty requires the highway authority to maintain the highway in a fit state to accommodate the ordinary traffic which passes or maybe expected to pass along it.
- 8.2 The duty is owed to all users, whether using vehicles or on foot, of the highway whether pedestrians or vehicle users. Section 130 of the Highways Act 1980 imposes a further duty on the highway authority to assert and protect the rights of the public to the use and enjoyment of the highway.
- 8.3 Under Section 230 of the 1980 Act, “where repairs are needed to obviate danger to traffic in a private street” the Highway Authority can step in and may, by notice, require the owners of the premises fronting the street to execute, within a time limit, such repairs as may be specified. In the event of failure to execute such works, the Authority can carry out the repairs and recover the costs from the frontagers. A person who is aggrieved by a notice to carry out repairs can appeal to a Magistrates Court.

9.0 Risk Management

- 9.1 Although the Authority would not be liable for any compensation claims as a result of the poor state of repair of the private street, it does have a duty of care for those using the highway. The Highway Authority will use the powers within Section 230 of the Act to mitigate any risks associated with poorly maintained private streets.
- 9.2 It is practical for the Council to have a policy for urgent repairs to private streets with accompanying guidance. Whilst the guidance is in part subjective it does give the Council some degree of flexibility and discretion.

This will enable the Council to consider unusual situations with a degree of pragmatism particularly where use by the more vulnerable sections of the community are concerned as well as affordability issues.

10.0 Background

- 10.1 Un-adopted roads are more generally known as private streets and a definition is set out in the Highways Act 1980 section 203(2)....”means a street that is not a highway maintainable at the public expense....”

The liability to repair highways exists at three levels:

- Repairable by no one.
 - Repairable by a person or body under statute, prescription, tenure or inclosure.
 - Repairable at the public expense.
- 10.2 A private street may be owned by a person or an organisation but in practice ownership is found not to be recorded and difficult if not impossible to trace. Without any information to the contrary there is a legal presumption in law that the owners of land fronting a highway are presumed to own the sub-soil of the highway, street in this case, up to the centre line of the road. This is known as the “*usque ad medium filum viae principal*”. This presumption may be rebutted by evidence of ownership of the sub-soil.
- 10.3 The owners or frontagers to a private street are not under any obligation to maintain the street unless an obligation has been conferred by virtue of that set out in the second bullet point above. However the owners or frontagers may, under certain circumstances, have some liability for damage or injury caused to users of the street.
- 10.4 The Highways Act 1980 Part XI sets out that whenever a Highway Authority carries out works in a private street the frontagers shall normally be responsible for meeting the costs of repair or improvement.
- 10.5 There are some streets that are in private ownership and are generally known as private roads. For a road to remain private the owner(s) must have prevented general access for at least one day every year and made a declaration by advertisement, sign or by lodging a document with the highway authority stating that the road will be closed to the public at a particular time each year.
- 10.6 Where this has occurred no highway rights will have been established over the road/street in question. The owners of the private road are responsible for its repair and upkeep and the Council would have no responsibility or powers to carry out repairs.

Legal Framework

- 10.7 Cheshire East Council is the Highway Authority for all highways in Cheshire East, whether or not maintainable at the public expense, except for those highways for which the minister is the Highway Authority (these are trunk roads and motorways). It is also the Street Works Authority for all the private streets in the Borough.

Highways Act 1980

- 10.8 Section 130(1) of the Highways Act 1980 sets out that:

“It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority....”

Furthermore, Section 1(2) of the Highways Act 1980 states that:

“Outside Greater London the council of a county are the highway authority for all highways in the county, whether or not maintainable at the public expense...”

- 10.9 Where highway rights have been established over a private street, unrestricted use by the public, exceeding 20 years, and the street is in such a condition that it could present a danger to users then their “rights” and “enjoyment” to use it could be considered to be impaired. At this point the Highway Authority would usually discharge its duty to “*assert and protect the rights of the public*” by using its powers to remove obstructions.

- 10.10 However the Highways Act Section 230(1) provides a way of dealing with urgent repairs to a private street. This section states that:

“Where repairs are needed to obviate danger to traffic in a private street the street works authority may by notice require the owners of the premises fronting the street to execute.....such repairs as may be so specified.”

- 10.11 If the frontagers fail to carry out the specified repairs within the timescale set out in the notice, then Section 230(4) enables the authority to execute the repairs and recover its expenses from the frontagers. Given these powers, it is therefore clearly in the interests of the owners of properties that front a private street to keep it in a reasonable condition.

- 10.12 Section 230(7) of the Highways Act states that:

“....the street works authority....may in any street that is not a highway maintainable at the public expense, execute such repairs as are in their opinion urgently required to prevent or remove danger to persons or vehicles in the street.”

- 10.13 This is a power the Council may use to carry out repairs to remove a hazard or danger without charging the frontagers. It should be noted that this is a power and not a duty. There is no obligation on the street works authority, the Council, to undertake any repairs in a private street. The power should only be used as an exception. This is because the risk of carrying out repairs in a private street by the Council may be misunderstood and used as evidence that the street is a highway maintainable at the public expense.
- 10.14 In summary section 230 of the Act gives the Council the option to either fund any repairs they may wish to carry out in a private street or, alternatively, require the frontagers to undertake and/or pay for the repairs.

Previous Highway Authority Policy

- 10.17 The policy for repairs to private streets was reaffirmed by the former County Council's Environment Executive Member on 4 June 2003. The reaffirmation contained guidance for highway's managers in dealing with requests for repairs to private streets. The reaffirmed policy was that any repair in a private street should be limited to a *maximum* of £1,000 in any one year, irrespective of the length of the street. At an operational level, £1000 had been sufficient to deal with instances where repairs had been required to rectify urgent dangerous defects on private streets.
- 10.18 The scope of repairs carried out under the policy were limited to those which were genuinely required to "*prevent or remove danger*", e.g. filling in deep potholes. There was no intention to carry out repairs that would solve any underlying structural weaknesses in the road construction.

11.0 Access to Information

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

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Appendix A

Repair to Private Streets Policy

It is proposed that Cheshire East Council should have a policy for dealing with urgent repairs to private streets where expenditure is limited to £500 in any one street in any one year and that the budget for repairs to private streets be limited to £5,000 per annum where overall budgets allow this. The budget shall be managed by the Highway Manager.

Proposed guidance for the Highway Manager for dealing with repairs to private streets is set out in Appendix B to this report.

Procedure Guidelines

The procedure guidelines laid out below detail the practice required to effectively implement the policy for undertaking repairs to private streets. It may be necessary to revise this procedure over time to ensure the most effective and efficient delivery of the policy.

Requests for Repairs to Private Streets – Procedure

This procedure should be read in conjunction with the policy for Repairs to Private Streets.

- 1 Any request to undertake repairs in a private street will only be considered if it is received in writing from:
 - (i) One or more residents.
 - (ii) A Parish or District Council.
 - (iii) A Borough Councillor
 - (iv) A Member of Parliament.

Alternatively, Officers may make their own recommendations.

- 2 On receipt of such a request, the site should be inspected and a decision taken as to whether the condition of the road is such that it presents an immediate danger to users. In doing so, the normal 'Category 1' intervention levels should not be used as a guide as to whether the road does present a hazard to drivers or pedestrians. Rather, Officers will be expected to use their judgement and experience to:
 - (i) Identify the defects that could, in their opinion, present a danger to users.
 - (ii) Decide whether the defects are of such a nature that they require urgent attention.
 - (iii) Determine what works would be practical and sensible to do given the scale of the problem and the available budget.

Clearly, this is rather a subjective approach and the application of such a procedure may lead to some inconsistencies arising. However, the purpose of this advice note is not to provide a set of prescriptive standards, but rather to present a set of guidelines and procedures for Officers to work within. Indeed, in some respects, it would be advantageous to retain some degree of flexibility and discretion as this will enable Officers to react to an unusual situation with a degree of pragmatism. For instance, it would be sensible to take a more reasonable and understanding stance if a public

footpath runs coincidentally along the length of the private street or if the route were regularly used by the elderly or infirm.

- 3 If it is clear that some repairs are needed, the next stage should be to decide whether, in the opinion of the Officer, the frontagers should be asked to undertake them rather than the Borough Council.

If necessary, further advice and guidance should be sought from the Highways Manager.

- 4 Once this decision has been taken, the Officer involved will be required to submit a short written report detailing:

- (i) The circumstances behind the request.
- (ii) A description of the site.
- (iii) The defects that have been identified.
- (iv) The works that will be required to obviate the danger and their approximate cost.
- (v) A recommendation as to whether:
 - (a) The defects are such that they require immediate action.
 - (b) The frontagers or the Borough Council should fund the works.

Any relevant photographs should also be included. The report should be forwarded to the Highways Manager.

- 5 The Highways Manager shall then decide whether there is sufficient justification for the Borough Council to undertake and pay for the works. This is subject to funding being available from the Private Street Works budget. Their decision will be confirmed in writing to the Officer. Alternatively, if he/she believes that the frontagers should fund the works, then the relevant Legal Department will be asked to prepare the necessary notices under S230(1).

Note: If a Street Works Authority do issue a notice under Section 230(1), the residents can issue a counter-notice requiring the Authority to invoke their powers under the Private Street Works Act and bring the road up to an adoptable standard. Given the legal problems that such a counter-notice may cause, advice should always be sought from Legal Services before any such notice is issued. If it is clear that the Borough Council has no intention of adopting the street in question, then Officers will carry out the repairs under Section 230(7) and inform the frontagers of the actions the authority is undertaking.

- 6 If the decision is taken to undertake the works at the Borough Council's expense, then before any works are undertaken, a letter must be sent to each and every affected frontager on the street to remind them that:

- (i) The Borough Council has no duty to repair the road.
- (ii) By carrying out the works, the Authority is not, in any way, admitting any maintenance liability.
- (iii) The works will be limited to those which are urgently required to prevent or remove danger to persons or vehicles in the street.

To assist in this matter, attached is a pro-forma letter for Officers to use when responding to a request from the frontagers of a private street to undertake repairs in that street. The letter is attached at the rear of this appendix.

Private Street Works Budget and Allocation Code

All costs incurred in carrying out works in private streets must be booked to the relevant private street works budget. However, any order must first be approved by the Highways Manager.

The private street works budget is limited and once this fund has been exhausted, no further works will be sanctioned. In these cases, all requests will have to be held over until the following financial year.

Register of Repairs

If not already in existence, each Highway Maintenance Team will be expected to create and maintain a register/file which will detail all works that have been carried out on the network of private streets in the Borough. The register should include the following items:

- (a) Street name and location.
- (b) Nature of works undertaken and exact location in the street.
- (c) Cost of the works.
- (d) Date that works were carried out.

Records of all correspondence and any other relevant material (ie photographs, reports etc) should also be held on this file.

Repairs To Private Streets

Pro-Forma Letter To Frontagers

Dear Sir/Madam,

HIGHWAYS ACT 1980 – SECTION 230(7) REPAIRS TO PRIVATE STREET KNOWN AS *(INSERT STREET NAME)*

You may be aware that the Borough Council has recently received a request to undertake repairs on *(Insert street name)*.

According to our records *(insert street name)* is an unadopted road and therefore the Borough Council, as the Street Works Authority, is not responsible for either maintaining it or undertaking any repairs that might be needed.

However, Section 230(1) of the Highways Act 1980 states that;

“Where repairs are needed to obviate danger to traffic in a private street the Street Works Authority may by notice require the owners of the premises fronting the street to execute, within such time that may be specified in the notice, such repairs as may so be specified.”

Furthermore, under Section 230 (4) of the Highways Act 1980, should the frontagers fail to carry out the works in the specified period, the Borough Council has the power to carry out works and recover the costs of doing so from the frontagers. Therefore, it is clearly in the interests of you and your fellow residents, as the frontagers of the private street known as *(insert street name)*, to keep it in a reasonable state of repair.

However, Section 230(7) of the Highways Act 1980 and the Borough Council's own policy in respect of repairs to private streets, does give the Authority a discretionary power to carry out works on Private Streets at the Borough Council's own expense. The costs of any works undertaken on a private street are limited to a value of £500 per street per annum.

I must emphasise that this resolution gives us the *power* to carry out repairs on private streets rather than a *duty*. We are therefore under no obligation to carry out any works if we believe they are not warranted. In addition, the type and nature of works we can undertake will be limited to those required to obviate danger to users.

In this instance, we have decided to use our discretionary powers and undertake repairs to *(insert street name)* at our own costs. However, these repairs will be done on the understanding that:

- i) Any works we do carry out will only be minor in nature (eg filling of potholes) and shall be restricted to those that are required to remedy significant defects which could present immediate danger to users. They will not solve any underlying structural weaknesses in the road construction and, as such, it is likely that such works would only provide a short-term solution to this problem.
- ii) By undertaking the works, the Borough Council is not admitting any past, present or future liability for maintaining (*insert street name*).

In addition, it might also be worth noting that, should the Borough Council receive a subsequent request from either yourself or any other frontagers of (*insert street name*) to carry out further repairs, Officers may well recommend that we use our powers under Section 230(1) and require you, the frontagers, to undertake the works yourselves.

I trust that this letter clearly sets out our position with regard to this matter. However, should you wish to discuss any aspect in further detail, please do not hesitate to contact (*insert contact name and telephone number*).

You should keep a copy of this letter so that you can produce it to any subsequent purchaser of your property.

Yours faithfully

(Insert name)

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CHESHIRE EAST COUNCIL

Cabinet Member for Environmental Services

Date of Meeting: 5th December 2011
Report of: Head of Highways and Transportation
Subject/Title: Mirrors on the Highway Policy
Portfolio Holder: Councillor Rod Menlove

1.0 Report Summary

- 1.1 That the Cabinet Member approves the proposed mirrors on the highway policy.
- 1.2 Sometimes a 'blind exit' from a property or side road is dangerous - for both the driver emerging and those travelling along the main road. Whilst a mirror located on the main road may well help those joining the road, unfortunately a mirror is legally an obstruction on the highway so cannot be put up without the express permission of the Highway Authority and Department for Transport (DfT).

2.0 Recommendation

- 2.1 That the Cabinet Member for Environmental Services approve the mirrors on the highway policy set out in Appendix A to the report.

3.0 Reasons for Recommendations

- 3.1 To enable the Council to carry out its role as Highway Authority for Cheshire East and to fulfil its statutory obligations.

4.0 Wards Affected

- 4.1 This report affects all wards equally.

5.0 Local Ward Members

- 5.1 This report affects all ward members equally..

6.0 Policy Implications including - Climate change - Health

- 6.1 There are no human resources implications of the recommended option.
- 6.2 The policy is intended to ensure that highway officers act in a fair and consistent way.

7.0 Financial Implications (Authorised by the Borough Treasurer)

- 7.1 The Strategic Director confirms that the costs of implementing this policy will be met from existing budgets.
- 7.2 The applicant would be liable for the Council's costs in dealing with the application from submission through to outcome, whatever that may be. It would be prudent for the Council to require a deposit of £400 to cover the initial review. Costs would be on a rechargeable basis and the applicant charged/refunded accordingly. Should the application be taken forward to the DfT then the applicant would be required to make a further deposit to be assessed at the time.
- 7.3 Should the DfT grant a special authorisation then the Council would require the applicant to fund the costs for the supply, erection and a commuted sum for the ongoing maintenance of the highway mirror.
- 7.4 If requests for mirrors come from LAP's and Parish Councils then the cost should not be paid by the residents but from the minor improvement budgets allocated to the individual LAP's

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Section 41 of the Highway Act 1980 imposes a duty on the Highway Authority to maintain highways which are maintainable at the public expense. The duty requires the highway authority to maintain the highway in a fit state to accommodate the ordinary traffic which passes or maybe expected to pass along it.
- 8.2 The duty is owed to all users, whether using vehicles or on foot, of the highway whether pedestrians or vehicle users. Section 130 of the Highways Act 1980 imposes a further duty on the highway authority to assert and protect the rights of the public to the use and enjoyment of the highway. This leads to the Council dealing with any unlawful interference with the highway such as encroachment on and obstruction of the highway.

9.0 Risk Management

- 9.1 The Authority has a robust inspection and assessment regime which seeks to ensure that the road network is kept in a safe condition and that 'safety-related' defects are dealt with in a timely fashion. Maintenance works are planned and supervised to ensure safety for all affected parties and appropriate treatments are designed to minimise risks throughout the lifecycle of the asset.
- 9.2 Routine and cyclical maintenance operations play a key part in meeting the core objectives of highway maintenance which are to ensure network safety, serviceability and sustainability. The successful execution of regular, routine and cyclical maintenance works can contribute greatly to the visual

appearance of the highway environment and street scene. Conversely, poor routine/cyclical maintenance practices and policies generally lead to highways appearing to be unkempt and badly maintained.

10.0 Background

- 10.1 On the face of it a mirror to aid motorists at a road junction or private access where visibility is restricted due to the alignment of the highway, vegetation, fence, wall or building etc. would seem a reasonable way forward.
- 10.2 However the placing of a mirror brings with it issues that could affect road safety. The following may well arise from the placement of a mirror on the highway which could impact on road safety:
- Distortion of reflected image, glare from sunlight or headlamps affecting the driver's vision.
 - Visibility issues during bad weather (rain, snow, frost).
 - Difficulty judging speed of an approaching vehicle from the mirror image.
 - Maintenance issues – mirrors could be prone to vandalism maintenance of their alignment and cleanliness is critical.
 - Reliance on the mirror's restricted image may compromise the safety of other road users (pedestrians and cyclists) who do not appear in the mirror.

National Regulations

- 10.3 Mirrors are classified as a road traffic sign and as they are not prescribed in the Traffic Signs Regulations and General Directions (TSRGD), their use on the highway is subject to special authorisation by the Department for Transport (DfT). Requests for special authorisation to enable the placement of a mirror on the highway are assessed by the DfT against stringent criteria.

Special Authorisation

- 10.4 The DfT will only consider Traffic mirrors on public roads in rural and semi-rural areas where:
- There is a collision history relating to a lack of visibility (the site would have to be discussed with the Police to establish any recorded incidents or collisions).
 - Visibility for vehicles emerging from the side road is severely restricted.
 - A visibility improvement scheme is not feasible.
 - Visibility cannot be improved by removing hedges, walls, trees or other obstacles.
 - The speed limit on the major road is above 30mph

- 10.5 The DfT does not encourage mirrors on the highway, and this is clearly reinforced through the assessment criteria above. Special authorisation will only be considered for junctions in rural/semi-rural locations where visibility is restricted and where there is evidence of accidents related to poor visibility and high speed crossing traffic at locations where a mirror is being requested.
- 10.6 The responsibility for deciding whether any road traffic sign or mirror is needed to maintain safety at a particular location rests with the local highway authority. If the authority is satisfied that the location meets the criteria set out by the DfT, is able to demonstrate that visibility cannot be improved by removal of any obstruction and is satisfied that the issues in paragraph 10.2 above would not override the benefits to road users then special authorisation would be considered by the DfT for the placement of a mirror on the highway.
- 10.7 Special authorisations are normally granted by the DfT on an experimental basis for a period of 12 months. At the end of that period, the highway authority and police would be asked to provide details about:
- The mirror's effectiveness in all weathers.
 - Any complaints from drivers that the mirror is confusing. (It has been found previously that the image a driver sees in the mirror can be distorted and can get the impression that an approaching vehicle is straight ahead when it is, in fact round a corner. Some mirrors are so large and convex that approaching drivers can see their own reflection).
 - Any report of difficulty by a driver in judging both the speed and distance of reflected vehicles.
 - Any problems with glare or sunlight.
 - Any report of damage by accident or vandalism.
 - Whether it has been necessary to clean the mirror.

If a satisfactory response is received to the above questions the special authorisation may be extended. The DfT retain the right to withdraw the authorisation by giving one month's notice should any unforeseen serious problems arise subsequently.

- 10.8 The DfT set out that the use of mirrors be restricted to sites in rural and semi-rural areas as outlined in paragraphs 10.4 and 10.5 above. There are very many junctions in towns which have bad visibility and to embark on the installation of mirrors at these junctions would proliferate their use and prove impractical and ineffective.
- 10.9 The basic requirement that there must be high speed crossing traffic would rarely apply at urban sites. Moreover a mirror could prove to be counter-productive as a safety measure in urban areas because it could lead to an increase in speed of emerging vehicles by drivers relying too much on the mirror. There might also be a tendency for drivers to concentrate their attention on the mirror and ignore the immediate surroundings, e.g. pedestrians crossing in front of the vehicle. A careful assessment is

essential in order that existing hazards are not increased by inducing drivers to take less care than they would normally.

Mirrors not on the Highway

- 10.10 Mirrors may be sited off the highway on private land and that is a matter for the land owner and the person who places the mirror. Planning permission may be required and any applicant should be directed to the Council's Planning Department. Any applicants should be advised that when placing a highway mirror on private property consideration should be given to public liability implications and risk assessment in the event that the mirror is cited as a contributory factor in a road traffic accident. Should any mirror overhang a highway maintainable at public expense, then a licence is required from the Highway Authority.
- 10.11 The Council would not normally be involved with mirrors that are sited off the highway (in private land), unless complaints of problems similar to those outlined above are being made to the Council. Should the Council ascertain that road safety is being compromised as a result of a mirror being placed not in but near to the highway the Council should use its powers to remove the mirror.

11.0 Access to Information

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

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Mirrors on the Highway Policy

Policy Proposal

1. Whilst the placement of mirrors on the highway should not be encouraged there may be sites, albeit very few, that may benefit from a mirror. For any application for a mirror on the highway to be sanctioned the Council must first be satisfied that it meets the DfT's criteria. This would require a site investigation and review of the safety record of that location together with consultation with the police. Additionally information from Statutory Undertakers would be required in order to ensure there are no underground services in the vicinity of where the mirror is proposed to be sited.
2. If the application passes this initial review then the Council may consider submitting an application to the DfT. Should the initial review of the application not be successful the applicant should be informed accordingly.
3. The applicant would be liable for the Council's costs in dealing with the application from submission through to outcome, whatever that may be. It would be prudent for the Council to require a deposit of £400 to cover the initial review. Costs would be on a rechargeable basis and the applicant charged/refunded accordingly. Should the application be taken forward to the DfT then the applicant would be required to make a further deposit to be assessed at the time.
4. Should the DfT grant a special authorisation then the Council would require the applicant to fund the costs for the supply, erection and a commuted sum for the ongoing maintenance of the highway mirror.
5. Any mirrors that are placed in private property and are found to adversely affect highway safety the Council will use its powers to remove the mirror.