

Cabinet

Date of Meeting: 05 May 2020

Report Title: Well Managed Highways -Response to Call In

Portfolio Holder: Laura Crane – Portfolio Holder for Highways and Waste

Senior Officer: Frank Jordan - Executive Director Place

1. Report Summary

- 1.1. On the 04/02/20 a paper relating to 'Well-Managed Highways Infrastructure' (Appendix 1) was presented to Cabinet for consideration. The paper outlined proposed changes to the Highway Safety Inspection Policy, Code of Practice for Highway Safety Inspections, The Winter and Adverse Weather Policy, The Adverse Weather Plan and the Cheshire East Highways Resilient Network. Included in these proposals were proposed changes to the winter treatment network.
- 1.2. Cabinet approved the proposals in the paper; however, a call-in request was subsequently received and considered by the Environment and Regeneration Overview and Scrutiny Committee on 16th March 2020.
- 1.3. This report outlines the recommendations made by the Environment and Regeneration Overview and Scrutiny Committee (EROSC). This paper outlines the proposed responses to these recommendations for Cabinet to consider.

2. Recommendations

- 2.1. That Cabinet note the advice of The Environment and Regeneration Overview and Scrutiny Committee in relation to Well Managed Highways, that is

That Cabinet be advised to:

- (1) *To undertake a further round of streamlined consultation on the winter service element only as part of the annual review of the Well Managed Highways Infrastructure annual review process;*
- (2) *That this annual review process be carried out through the Area Highways Groups, including the involvement of all Parish and Town Councils and relevant community/cycle groups as appropriate, with supporting information to be supplied to the AHG's in advance of the meetings and shared with all schools;*
- (3) *That a letter be sent to all schools within the Borough informing them of this additional round of consultation as part of the first annual review;*
- (4) *That all schools will be given an appropriate amount of time to respond to the consultation as part of the first annual review. (to be discussed with the Portfolio Holder to take into consideration the current public health issues and school holidays)*

It should be noted that the above recommendations are taken directly from the EROSC minutes

2.2. That Cabinet agrees to put appropriate measures in place, which enables this advice to be incorporated in to the implementation and review plans for Well Managed Highway Infrastructure.

3. Reasons for Recommendations

3.1. This report addresses the points raised in the call in notice and the subsequent advice provided to Cabinet from the EROSC.

4. Other Options Considered

4.1. There are no other viable options for Cabinet to consider.

5. Background

5.1. The national guidance to which the Council aligns its highway policies and operational procedures has been updated by the release of the 'Well Managed Highway Infrastructure Code of Practice' (WMHI).

5.2. Cabinet, considered a paper on 4/02/20 which outlined proposed changes to the Council's

- Highway Safety Inspection Policy
- Code of Practice for Highway Safety Inspections
- Winter and Adverse Weather Policy
- Adverse Weather Plan
- Cheshire East Highways Resilient Network Strategy

5.3. Following approval of the proposals by Cabinet, a call-in request was received and upheld.

5.4. The call in queried a number of points around the consultation process that was utilised to inform the changes to the documents outlined in Paragraph 5.2. Details of the call in notice can be found in Appendix 2.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. The full legal implications are outline in the cabinet report in Appendix 1.

6.1.2. As a result of the call in, the implementation of the proposals has ceased.

6.1.3. The recommendations of the Well Managed Highway Infrastructure 'The Code' are not statutory but provide highway authorities with guidance on highways management. Adoption of the recommendations within the Code is a matter for each highway authority, based on their own interpretation of local risks, needs and priorities. The Highways Act 1980 covers the legal elements of the management and operation of the road network within England and Wales and as such sets out the statutory duties of highway authorities. This includes the identification and rectification of defects and the provision of winter and adverse weather services. Further duties that the Highway Authority must address are covered under The Railways and Transport Safety Act 2003 and the Traffic Management Act 2004.

6.1.4. The implementation of a new way of working which is in accordance with WMHI should strengthen the Council's defence against third party claims under Section 58 Highways Act and would enable the Council to demonstrate that it is meeting its obligations relating to winter service under Section 41(1A) of the Highways Act 1980 (as amended by Section 111 of the Railways and Transport Safety Act 2003).

6.1.5. The delay in implementation increases legal risk to the Council under the Acts outlined above. A failure to adopt the Code will likely increase the

number of successful claims against the Council along with associated costs.

6.2. Finance Implications

- 6.2.1. As a result of the call in, the costs to the service in the 2020/21 financial year will increase by approximately £230,000.
- 6.2.2. The increased costs are linked to three main factors: An increase in the number of highway safety inspections on some of the Borough's busier roads, the implementation of a 40mm carriageway defect investigatory level compared to the 50mm intervention level that is currently operated and the continued operation of the unamended winter service network.
- 6.2.3. The original proposals were to enable the funding of the additional of £230,000 through a reduction in costs associated with winter maintenance.
- 6.2.4. Some of the above costs will be mitigated through training to ensure highway safety inspectors only identify actionable defects; however, this will only have a limited impact on the increase in costs.
- 6.2.5. The £230,000 increase in costs is unbudgeted in the 2020/21 financial year and as such is a financial pressure. However, the place directorate will look to identify one off compensatory savings for the 2020/21 financial year. Subject to the annual review process, any savings relating to winter maintenance could be implemented in 21/22 enabling the recurrent savings in winter maintenance to be made.

6.3. Policy Implications

- 6.3.1. The policy implications are outlined in the Cabinet report in Appendix 1.
- 6.3.2. The recommendations relating to the winter element of the Cabinet report cannot now be implemented until the 2021/22 winter season.

6.4. Equality Implications

- 6.4.1. An Equality Impact Assessment has been completed as part of the Cabinet report in Appendix 1.

6.5. Human Resources Implications

- 6.5.1. The human resource implications are outlined in the Cabinet report in Appendix 1.

6.6. Risk Management Implications

6.6.1. The risk management implications are outlined in the Cabinet report in Appendix 1.

6.7. Rural Communities Implications

6.7.1. The rural communities implications are outlined in the Cabinet report in Appendix 1.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. The implications for Children & Young People/Cared for Children are outlined in the Cabinet report in Appendix 1.

6.9. Public Health Implications

6.9.1. The public health implications are outlined in the Cabinet report in Appendix 1.

6.10. Climate Change Implications

6.10.1. The climate change implications are outlined in the Cabinet report in Appendix 1.

7. Ward Members Affected

7.1.1. All wards and all ward members are affected by the implication of the code.

8. Consultation & Engagement

8.1. Details of the consultation and engagement undertaken with regards to the proposed changes to the ways of working are discussed in the Cabinet report in Appendix 1.

8.2. Details of the call in request and the points raised around the consultation can be found in Appendix 2.

8.3. A response to the points raised in the call in can be found in Appendix 3.

9. Access to Information

9.1. All supporting documents to this report can be found in the Appendices.

9.2. List of Appendices:

Appendix 1-Well Managed Highway Infrastructure Cabinet Paper

Note: Appendix documents associated with the original cabinet paper can be found here under item 105:

<https://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=241&Mid=7464&Ver=4>

Appendix 2 – Well Managed Highway Infrastructure Call in Request

Appendix 3 – Well Managed Highway Infrastructure Call in Response

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

Name: Matthew Davenhill

Job Title: Contract Asset Manager

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