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Meeting	Decision Session - Executive Member for Economy and Transport
Date	16 January 2024
Present	Councillor Kilbane
In attendance	Helene Vergereau - Head of Highway Access and Development James Gilchrist - Director of Environment, Transport and Planning

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### **31. Declarations of Interest (10:10 am)**

The Executive Member was asked to declare, at this point in the meeting, any personal interests not included on the Register of Interests or any prejudicial or disclosable pecuniary interests they might have in respect of the business on the agenda. None were declared.

### **32. Exclusion of Press and Public (10:10 am)**

To consider the exclusion of the press and public from the meeting during consideration of the following:

Annex 1 and Annexes A-M to Agenda Item 5 on the grounds that they contain information relating to any individual and information which was likely to reveal the identity of an individual. This information was classed as exempt under paragraphs 1 and 2 of Part 1 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

### **33. Minutes (10:11 am)**

Resolved: That the minutes of the Decision Sessions held on 14 November 2023 and 12 December 2023 be approved and signed by the Executive Member as a correct record.

### **34. Public Participation (10:11 am)**

It was reported that there had been 4 registrations to speak at the session under the Council's Public Participation Scheme, 3 of whom were available to speak.

Councillor Warters spoke on agenda item 5, raising several issues; he expressed concern about illegal occupation at the Noddle Hill layby off the A166; he also advised that a resident at Scoreby Lane had faced a similar situation and had incurred substantial legal costs; lastly Councillor Warters queried when the next set of double yellow line proposals would be coming before this decision session, adding that he had submitted his views on this to the Executive Member and officers and requested that officers make contact to discuss the proposed restrictions.

The landowner of the area in question spoke on agenda item 5. He made references to the report's annexes (specifically some photographs and maps) and provided a commentary on the location of the ditches and culvert, sizes of land parcels, highway width, width of ditches, and boundary lines. The landowner referred to the specific area in question and the papers which were not in the public domain (despite written and verbal reminders that this would bring the information into the public arena).

Sheri Scruton spoke on agenda item 5 on behalf of Upper Poppleton Parish Council. She advised the Executive Member of the changes to West Field Lane over the years, noting that the hedgerows had been removed and the width of verges had diminished. She highlighted the prospective benefits to villagers and farmers of reclaiming contested land and replanting hedgerows and trees under Option A. She noted residents' concerns over safety when walking on the lane without a sufficient grass verge.

### **35. Highway Encroachment, Rural West (10:28 am)**

The Executive Member considered a report regarding an identified encroachment issue over roadside verges.

The Executive Member entered into private session for consideration of Annex 1 and Annexes A-M of the report.

The Head of Highway Access and Development advised that the Executive Member's decision is to serve notice under the Highways Act and aim to reclaim the associated costs. If a notice of reinstatement was served, the landowner would be able to legally challenge this decision and all evidence excluded from this session would be available to discuss in court.

The Executive Member noted that the decision session was not the forum where the dispute on the evidence presented could be decided. Following on from the decision, there may well be a challenge, and this would be heard in a court following due process.

Resolved:

- i. That CYC takes all necessary enforcement action to recover and reinstate the verges to their full width in accordance with Sections 130, 131 and 305 of the Highways Act 1980, be approved (Option A).
- ii. That authority be delegated to the Director of Transport, Environment and Planning, in consultation with the Director of Governance, to determine and undertake all necessary activity to recover and reinstate the verges to their full width in accordance with Sections 130, 131 and 305 of the Highways Act 1980, including (but not limited to) the determination, drafting, commissioning, and concluding of any necessary public highways works contracts in compliance with the Highways Act 1980 and CYC's Contract Procedure Rules.

Reasons:

- i. Option B (reduced width reinstatement) was not considered feasible as it would almost certainly result in the local authority being challenged for being in breach of its duty and it is unlikely that option B would be acceptable to the local people as represented by their Parish Council as it required the approval of the Parish Council, and this option has been rejected by the Parish Council during previous consultation;
- ii. Option C (no further action taken by CYC) would have resulted in the Council being in breach of its duty, with the risk that a mandatory order could be granted to the Parish Council against the highway authority;

Cllr Kilbane, Chair

[The meeting started at 10.07 am and finished at 10.40 am].