
Executive

26 August 2021

Report of the Director of Transport, Environment and Planning
Portfolio of the Executive Member for Transport

Updating the Council's adopted highway data and recording processes

Summary

1. This report seeks approval to implement the process required by the Local Government Ombudsman (LGO) in its decision dated 19 May 2021 ([available here](#) and at Annex A).
2. The LGO identified that some of the Council's online highway records (List of Streets and highway extent map) are not up to date. The LGO has therefore requested the following actions from the Council to update the records:
 - a. Complete a review of the Council's road adoption system within three months of the Ombudsman's decision (by 19th August 2021). The review should consider how it is kept up to date and accurate; and
 - b. Within one month of completing the review (by 19th September 2021), report the findings to Councillors and seek approval for changes and recommendations.
3. This report seeks approval for officers to undertake a full update of the highway extent map, List of Streets, and Definitive Map in 2021/22, updating processes to achieve this, and addressing all areas to be reviewed and updated as listed below:
 - a. New roads and streets - prospectively maintainable highways (adoption process, under S.38 of the Highways Act 1980 or equivalent);

- b. New and existing private streets/highways;
- c. Stopping up and changes in highway layout;
- d. Council land acting as a highway but not currently on the map/list;
- e. Highways which have never been included in the List of Streets but should be (such as some paths, snickets, bridge embankments, verges, etc);
- f. A64 boundaries;
- g. Additional Street Data (ASD) information provided to Geoplace to inform the National Street Gazetteer (NSG). This will also support the move to Street Works permits as some of the permit conditions, charges, and fines under the permit system vary depending on ASD characteristics;
- h. Addition of those highways maintainable at public expense recorded of the Definitive Map as a consequence of a Definitive Map Modification Order;
- i. Routes that were shown on the Definitive Map but were not maintainable at the public expense that become maintainable highways as a consequence of an Order being made under the Highways Act 1980 or the Town and Country Planning Act 1990 e.g. diversion of a public right of way.

Recommendations

4. The Executive is asked to:

- 1) Note the actions taken to comply with the LGO's requirements – Including to undertake a full update of the highway extent map, List of Streets, and Definitive Map in 2021/22 and 2022/23, addressing all areas to be reviewed and updated. Executive therefore approves the setting up a small highway recording function within the Place Directorate initially for a period of one year funded through existing resources.

Reason: To comply with the LGO's requirements and meet the Council's statutory duties within an acceptable timescale.

Background

5. In its decision dated 19 May 2021, the LGO identified that some of the Council's highway records (List of Streets and highway extent map) are not up to date. The LGO has therefore requested the following actions from the Council to update the records:
 - a. Complete a review of the Council's road adoption system within three months of the Ombudsman's decision (by 19th August 2021). The review should consider how it is kept up to date and accurate; and
 - b. Within one month of completing the review (by 19th September 2021), report the findings to Councillors and seek approval for changes and recommendations.
6. As per the LGO's requirements, officers have undertaken a review of the Council's road adoption system and processes, and considered how the data should be updated and kept up to date and accurate in the future.

What are the Council's highway records and how are they managed?

7. The Council has a duty to keep the following highway related information up to date and available to the public.
 - a. The List of Streets (or Street Register) – City of York Council has a duty to maintain a list of the streets, which are highways maintainable at public expense, under Highways Act 1980 section 36(6). This forms part of York's Local Street Gazetteer (LSG) data. Every month, the Highway Maintenance team uploads York's LSG data and Additional Street Data (ASD) to the National Street Gazetteer (NSG) hub, called Geoplace (more information available here: www.geoplace.co.uk/addresses-streets/street-data-and-services/national-street-gazetter). This process is currently managed through the Bentley Exor Asset Manager system, which is life-expired and due to be replaced. The data is provided in the form of lines so although the LSG shows the streets' adopted status, it doesn't show the extent of the adopted highway for individual streets (e.g. the boundary of the adopted highway).
 - b. Highway extent map – The map shows the extent of the adopted highway, as opposed to the name of the streets in the List of Streets or a line in the LSG. The map provides a graphical

interpretation of the List of Streets required by the Highways Act, aiming to provide more detail on adopted highway boundaries. This is currently available on the Council's ArcGIS system, with existing staff in the Highway Development Control and Business Intelligence teams being asked to update the maps on an ad hoc basis.

- c. Public Right of Way Definitive Map – The Council has a duty to maintain and keep under review the Definitive Map and Statement, which is a legal record of the public's rights of way within the authority's area (including public footpaths, bridleways, restricted byways, or byways open to all traffic). This information is managed by the Public Right of Way team and requires a significant number of updates to comply with the NSG data format requirements and the highway extent map.
 - d. Register of Common Land and Village Greens – Although not as closely related to highway data, officers will consider whether the Register of Common Land and Village Greens needs updating as well and could form part of this review.
8. The types of streets commonly included in the List of Streets and on the highway extent map are:
- a. Roads (classified and unclassified) including carriageway and footway;
 - b. Private streets (public highway maintained privately – NSG only);
 - c. Private roads (all rights and responsibilities are private – NSG only);
 - d. Prospectively maintainable highways (roads that have been constructed and are in the process of becoming adopted highways, for example under Section 38 of the Highways Act 1980 and equivalently categorised roads prior to this).
9. Other types of streets/highways which should be included in the Register and on the map but are not currently always included¹:
- a. Public rights of way maintainable at public expense, regardless of whether the way is, in fact, currently maintained (such as public

¹ Section 329(1) Highways Act 1980 provides that, "except where the context otherwise requires—...street has the same meaning as in Part III of the New Roads and Street Works Act 1991". Section 48(1) of the 1991 Act provides that: "a "street" means the whole or any part of any of the following, irrespective of whether it is a thoroughfare - (a) any highway, road, lane, footway, alley or passage, (b) any square or court, and (c) any land laid out as a way whether it is for the time being formed as a way or not. Where a street passes over a bridge or through a tunnel, references in this Part to the street include that bridge or tunnel."

footpaths and bridleways, many of them are publicly maintained but not all); and

- b. Urban alleyways, footways, snickets, which are maintainable at public expense.

What is this information used for?

10. The information included in the List of Streets and highway extent map is used:

- a. To inform the Council's Asset Management System (AMS), plan inspections, maintenance and investment programmes, inform the claims process, etc. The new AMS (currently being procured) will rely on NSG data from Geoplace, possibly supplemented by more detailed data from the Council's highway extent map. It is therefore important that this data is kept up to date;
- b. To inform planning decisions, land charges, CRM/customer management, and support enforcement cases (such as highway obstructions or debris/mud deposited on the highway), and respond to home buyers/owners' searches;
- c. To support the Street Works Register. CYC has a duty to keep the Street Works Register under Section 53 of the New Roads and Street Works Act 1991;
- d. To inform the National Street Gazetteer (NSG), which is then replicated in the Street Works Register. This includes significant level of detail, known as Additional Street Data (ASD):
 - i. Whether the streets are publicly maintainable, prospectively publicly maintainable, or private;
 - ii. Street reinstatement category (linked to traffic levels on the street);
 - iii. Designations of protected streets and Section 58 restrictions (restricting further works following substantial road/street works);
 - iv. Designations of streets with special engineering difficulty;
 - v. Designations of traffic-sensitive streets;

- vi. Streets on which the timing of street/road works may be limited (subject to Section 56A directions under New Roads and Street Works Act 1991); and
- vii. Where possible, other features of the street, such as structures, environmental areas, parking restrictions, priority lanes, special surfaces, standard surface, and special construction needs, etc.

What needs to be updated?

11. As identified in the LGO's decision dated 19 May 2021 (see Annex A), some of our online records (List of Streets and highway extent map) are not up to date. The LGO has therefore requested the following actions from the Council to update the records:
 - a. Complete a review of the Council's road adoption system within three months of the Ombudsman's decision (by 19th August 2021). The review should consider how it is kept up to date and accurate; and
 - b. Within one month of completing the review (by 19th September 2021), report the findings to Councillors and seek approval for changes and recommendations.
12. The information to be reviewed and updated includes the following:
 - a. New roads and streets - prospectively maintainable highways (adoption process, S38 or equivalent – 30 to 40 sites of varying sizes & sites which should have gone through a S. 38 process but didn't);
 - b. New and existing private streets/highways (NSG only);
 - c. Stopping up and changes in highway layout;
 - d. Council land acting as a highway but not currently on the map/list;
 - e. Highways which have never been included in the List of Streets but should be (such as some paths, snickets, bridge embankments, verges, etc);
 - f. A64 boundaries;
 - g. ASD information provided to Geoplace to inform the NSG. This will also support the move to Street Works permits as some of the

permit conditions, charges, and fines under the permit system vary depending on ASD characteristics;

- h. Changes to the Definitive Map as a consequence of a Definitive Map Modification Order;
- i. Routes that were shown on the Definitive Map but were not maintainable at the public expense and became maintainable highways as a consequence of an Order being made under the Highways Act 1980 or the Town and Country Planning Act 1990 e.g. diversion of a public right of way.

13. The issues which need to be resolved to enable the Council's highway information to be updated and kept up to date in the future include:

- a. Staff resource requirements (staff time and capabilities) to review the information, prepare the evidence (in some cases, legal advice and support will be required), and decision papers where required, and input the data in both systems;
- b. Revised processes to ensure that new prospective highways or changes to adopted highways are recorded adequately in the List of Streets and the Highway extent map (as well as the Public Right of Way Definitive Map where applicable);
- c. Revised processes to transfer/correlate data from the highway extent map (Arc GIS, using polygons), PRow Definitive Map (Arc GIS, using lines which are not compatible with the NSG format), and the List of Streets (Exor, using lines in NSG format), supported by streamlined processes to capture on site survey data to inform the highway extent map and to address current data format issues, which cause performance issues for web applications;
- d. Updated software to input the List of Streets data (included ASD) and upload this data to the NSG (Geoplace) monthly, as the current Exor system is unreliable and difficult to use. A separate process is in train to replace Exor with a new Asset Management System which will be based on NSG data;
- e. A system/process for cross referencing all the routes shown in each of the four primary highway records CYC holds (List of Streets, LSG/NSG, highway extent map, PRow Definitive Map), possibly using Unique Property Reference Numbers (UPRN).

Consultation

14. Internal consultation was conducted to prepare this report, involving Highway teams (development control, maintenance, and highway adoptions), Public Rights of Way team, the Business Intelligence team and IT.

Options

15. The following options have been identified.
 - a. Recommended option – Undertake a full update of the highway extent map, List of Streets, and Definitive Map in 2021/22 and 2022/23, addressing all areas to be reviewed and updated (as listed above). This would require setting up a small highway recording function within the Place Directorate to meet the Council's duties and centralise records and queries.
 - b. No additional staff resource option - Continuing with current staffing levels and deprioritising some of the tasks currently undertaken by existing staff. The teams with the relevant knowledge and skills currently deliver several statutory duties for the authority such as providing Highway Development Control input for planning applications and reviewing additional documents and details provided to discharge planning conditions once permission has been granted, and supporting the construction of new highways for development sites in York, leading to the adoption of new highways. The level of service provided for these duties would have to be reduced to prioritise the update of the adopted highway information and the update would progress at a slower pace (due to limited existing staff resources), this approach would put the new increased revenues at risk that this team are generating and proposed to be used initially to pay for option a and would take approx. 5 years to complete. This would not meet the LGO's requirements.

Proposal and analysis

16. Prioritise a full update of the highway extent map, List of Streets, and Definitive Map in 2021/22 and 2022/23, addressing all areas to be reviewed and updated (as listed above). This would require setting up a

small highway recording function within the Place Directorate to meet the Council's duties and centralise records and queries.

Objectives and constraints	Full update
Fulfil the Council's duty to keep accurate records	Duty fully met in line with LGO requirements
Meet the requirements set out by the LGO in the decision dated 19 May 2021	Fully met
Provide accurate data to other CYC departments, customers and utilities	Fully met
Update data to support the move to the new Asset Management System (AMS) being procured	Fully met (timescales to be confirmed to meet AMS project requirements)
Update data to support the move to Street Works permits	Fully met (timescales to be confirmed to meet Permit Scheme requirements)

Objectives and constraints	Full update
Costs	<p>Short term cost, estimated at 4.5 FTEs for 12 months, including:</p> <ul style="list-style-type: none"> • 3.5 FTEs in the Adoptions team / Transport/Highway team • 0.5 FTE from Business Intelligence team to provide data quality/ architecture/ publishing support • 0.5 FTE for legal advice <p>Much reduced long term costs due to publicly available data being up to date and accurate.</p> <p>Long term maintenance requirements: 1 FTE.</p> <p>All staff costs are proposed to be funded through Highway Adoptions revenue, including highway searches fees.</p>
Cost estimates	<p>First 12 months: £162,000 (over 2 FYs)</p> <p>Following years (annual cost): £40,500, with the potential to generate some revenue from searches.</p> <p>Cost can be managed within the Transport budgets in terms of income in this area.</p>

Council Plan

17. The Council Plan 2019-23 sets out the following key priorities:

- a. Good health and wellbeing – No impact identified
- b. Well paid jobs and an inclusive economy – No impact identified

- c. Getting around sustainably – No impact identified
- d. A better start for children and young people – No impact identified
- e. A greener and cleaner city – No impact identified
- f. Creating homes and world-class infrastructure – No impact identified
- g. Safe communities and culture for all – No impact identified
- h. An open and effective council – The List of Streets, highway extent map and Definitive Map provide useful information to residents and businesses. The data provided by the Council should be up to date and accurate.

Implications

18. The following implications have been considered and identified:
- a. **Financial** – The estimated cost is £162k for the first 12 month period (over 2 FYs) with a £40k annual cost in the longer term. A review of forecast income from highway adoption fees over the next two years has shown that there will be in the short term income levels greater than budget that will fund these additional one off costs. The longer term resources will be funded from within the overall Transport services budget ideally from additional income.
 - b. **Human Resources (HR)** – Recruitment of a small team would be required for the first 12 months, with one FTE required in the long term.
 - c. **One Planet Council / Equalities** – No One Planet/equality impacts have been identified for this project as this is about updating existing data (any changes to how the data is shared and made available to the public is out of scope)
 - d. **Legal** – The report identifies that the Council, as the local highway authority has a statutory duty to:
 - (i) keep a list of highways maintainable at public expense; and
 - (ii) keep the Definitive Map (and Statement) under continuous review under s.53 Wildlife and Countryside Act 1981 as modified by s.53 Countryside and Rights of Way Act 2000.

Some Legal support will be required where updating the Highway data requires further investigation and evidence.

- e. **Crime and Disorder** – No impact identified
- f. **Information Technology (IT)** – No IT impacts identified but the costs have factored the involvement of the Business Intelligence team during the first 12 months to provide data quality/ architecture/ publishing support.
- g. **Property** – No impact identified

Risk Management

19. The following risks have been identified and will be managed by the project team:

- a. Resources allocated are not sufficient to deliver the required data updates – the team will review the required work, prioritise work and review resources if required
- b. Work required is less than anticipated – the project team will partly be resources through temporary contract so resources can be reviewed on a regular basis
- c. Delays in recruitment – early engagement with HR team for advice, liaise with WWY teams, review JDs and grades if required
- d. Highly complex highway adoptions issues identified through the data update – the team will review these issues and provide separate reports and updates where complex issues require additional staff/specialist support
- e. Data formats/ compatibility with new AMS system – The team will liaise with the Business Intelligence team to establish processes and data formats and with the AMS project team as required
- f. No action taken / Option b (no additional staff resource option) – Highway adoption online records are not updated in line with LGO requirements. Non-compliance with the LGO recommendations would be likely to result in the LGO issuing a further report. After this, if the council still does not take satisfactory action it must publish a statement in a local newspaper explaining why it has refused to follow the Ombudsman's recommendations.

Contact Details

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Report **Date** 13 August 2021
Approved

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Specialist Implications Officer(s) List information for all

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Wards Affected: [List wards or tick box to indicate all] **All**

For further information please contact the author of the report

Background Papers:

The Local Government Ombudsman (LGO) decision dated 19 May 2021 is available here: [20 008 854 - Local Government and Social Care Ombudsman](#)

Annexes

Annex A – Local Government Ombudsman’s decision dated 19 May 2021

List of Abbreviations Used in this Report

AMS - Asset Management System

ASD - Additional Street Data

CRM - Customer Relationship Management

CYC – City of York Council

FTE – Full Time Equivalent

FY – Financial Year

GIS - Geographic Information System

LGO - Local Government Ombudsman

LSG - Local Street Gazetteer

NSG - National Street Gazetteer

PRoW – Public Right of Way

UPRN - Unique Property Reference Numbers