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**Decision Session – Executive Member for  
City Strategy**

**6 April 2010**

Report of the Assistant Director of City Development and Transport

**Adoption of Highways on New Estates – Update Report**

**Summary**

1. This report provides an interim progress report on highway adoptions completed, together with the current work programme and general development activity. It focuses upon the period following the comprehensive report on the highway adoption service, considered by the Executive Member on 1 September 2009.
2. Also included are brief updates relating to potential improvements to current procedures/systems and the establishment of a local developer forum.

**Recommendations**

3. Based on the commentary presented within this report the Executive Member is advised to note and review the highway adoption work portfolio as detailed under Option A, and that a raked percentage fee linked to the commencement of road building be investigated as detailed under Option B.

Reason: It will provide the most informative analysis, including an ongoing review of work programme and service performance, together with engagement with developers to provide improved understanding of their commercial processes, and identify opportunities for improvement, for the overall benefit of residents.

**Background**

4. Whilst not wishing to duplicate the previous report content, it is hoped that the following list can act as a useful reminder, of the key points and actions that are required through the adoption process:
  - a. Satisfactory completion of a new section of publicly maintainable highway, is governed by highway legislation, chiefly Section 38 of the Highways Act 1980.
  - b. Developers enter (in almost all situations) into a Section 38 Agreement with the Council as Highway Authority, which establishes the

specifications and standards, which the new streets will need to meet before responsibility for maintenance can transfer to the council.

- c. A sub clause seeks to secure completion of the street in parallel with the completion of final dwellings. A 12 month maintenance period follows completion.
- d. Foul and surface water sewerage systems must be approved and adopted by Yorkshire Water, prior to formal highway adoption taking place.
- e. The legal framework (as applied across council's in England and Wales) is specifically laid out to protect the local authority.
- f. Within the authority area, there are currently 86 housing developments, which are governed by a Section 38 agreement.

## **Development Progress**

5. The developments list, attached at Annex A, has been updated, according to progress achieved in the last 6 months. It includes details of key stages in the whole process (this also includes commercial schemes, which are being developed with prospectively adoptable highway layouts, together with associated highway improvement schemes).
6. The following streets have been adopted as highway maintainable at public expense, since September:
  - Littlethorpe Close, Strensall (within the Brecks)
  - Rosetta Way, Acomb (commercial part of Sovereign Park)
  - Monks Cross Drive, Huntington (access to shopping park)
  - Monks Cross Park and Ride cycle path connecting to New Lane
  - Greenfields, Clifton
  - Murton Way, Osbaldwick
7. In addition, progress has been made at several other developments, whereby they have been placed upon the maintenance period, which should allow adoption within the next 12 months. These include:
  - The Sidings, Strensall
  - Foss Islands Link Road
  - Melander Close, off Beckfield Lane
  - Laurens Manor, Lawrence Street
8. When reported at 1 September 2009, there were 86 housing developments governed by Section 38 Agreements. Whilst the above adoptions have not had a noticeable impact on reducing the headline figure, (because as many new developments have been added, as have been adopted) it is nonetheless a good indication that progress is being made in this challenging service area.

9. In addition to the above there are several other streets, which it is anticipated will become adopted within the next few months, including the remainder of the Brecks at Strensall. This development comprises, 9 phases, 25 streets, 3050 metres of highway, being inherited from North Yorkshire. It's adoption will represent a very positive outcome for the authority and local residents.
10. In addition to achieving the ultimate adoption approval on the above developments, significant progress has been made in recent months on many other schemes, in securing fees from developers, relating to both the supervision of works on the ground and auditing of submissions (drawings of design, construction, drainage), seeking technical approval. The following developments are included:
  - Elvington Airfield (2 phases)
  - The Croft, Heworth Green
  - Agar Street, Monkgate
  - Northfield School, Beckfield Lane
  - York College (2 phases)
  - Chapelfields Road
  - Heslington East (2 phases)
  - Burton Garage, Shipton Street
  - Calf Close, Haxby
  - Burton Green, Burton Stone Lane

### **General Development activity**

11. In September it was reported that the recession had resulted in development ceasing on several schemes. Over the last 6 months, the picture has remained surprisingly buoyant in York, with several key developments advancing at differing stages, together with progress on some medium to small scale schemes, including, Heslington East (Field Lane roundabout/Bus interchange), Dane Avenue and Morrill Close.
12. The following sites are active and officer's are engaged with the developer and their representatives: Dennison/Gladstone Street, Deans Acre/Windmill Lane, The Croft/Heworth Green, York College, Roxby/Chequers Farm Elvington, Burton Green Burton Stone Lane, Birch Park, St Anns Court, Richmond/Faber Street and York District Hospital, which includes S38 works.

### **Review of current systems and procedures**

13. It was previously highlighted that whilst the adoption of highways is governed by established legislation in the form of the Highways Act 1980 (not forgetting the requirement for foul and surface water sewerage being approved and adopted by Yorkshire Water), which requires a well rehearsed set of procedures to be followed, officer's had had some discussion with other local authorities, to gauge their procedures on highway adoption and the approach of the developer, to say the commencement of works and completion of agreements. The feedback indicated that the adoptions experience here in York is very comparable to the national perspective.

14. Having said that, there was an indication that reviewing our procedures relating to the percentage fee we charge for the above mentioned services (auditing/supervision), was worthy of consideration. The commencement of the construction of new roads prior to the Section 38 Agreement being in place, is unfortunately common in York and nationally. This gives rise to issues such as the authority not being able to inspect works until such a time as the agreement is in place and thus the developer is undertaking works at potentially considerable risk. In Norfolk, developer's signing the agreement before works commence pay an 8% supervision fee, if they start work prior, the rate is 10%. In York, we currently have a flat rate of 7%.
15. Further comment is provided in Options/Analysis.
16. As mentioned in paragraph 10, efforts have been concentrated to secure the earlier payment of fees for supervision and auditing services. Officer's are presently working with colleagues in legal services in order to make revisions to the template highway adoptions agreement, such that fees are achieved consistent with the services being undertaken. Details of this can be included in the annual adoptions report.

### **Developer Forum**

17. With the temporary additional staffing resource (1 FTE) in place (funded through a growth bid), effort has been concentrated upon the technical review and approval process, together with the site based inspection work and significantly in recent months, applying pressure on developer's, consultant engineering companies and Yorkshire Water.
18. The establishment of a local developer forum, that would aim to meet twice a year, with officer's and the Executive Member, with the objective of discussing current development progress and future schemes, was approved at the September meeting.
19. Officer's intend to arrange for the first of these to take place in April, with invitations to be sent very shortly, together with an initial agenda. It is considered that the initial forum should provide a good opportunity for local developer's to relay their current position of development in York, and their indicative plans for the next year. At the same time, council representatives can cover the local authority perspective, with the objective of seeking to encourage a proactive and healthy working relationship. In addition it is considered that the first meeting should establish the more detailed agenda and objectives setting for the future.

### **Resources**

20. As discussed in the previous report, the service is provided by 3 FTE equivalents. This has been supplemented in the last 6 months, by an additional FTE, that was funded through a successful growth bid. This funding will be fully utilised by the end of March this year.

21. As the service has been operating temporarily with two experienced Adoption Engineers, who lead on all areas of the service, the output has in simple terms doubled. As a result, much greater progress has been possible across the whole remit, from initial auditing, finalising of agreements, supervision and checking of site work, and applying pressure on the other stakeholders to reduce timescales, which essentially gives rise to a much improved service.
22. It is presently anticipated that the service will revert back to a single engineer from the 1<sup>st</sup> April, unless other funding can be secured and the necessary approvals given.

## **Options**

### **Option A**

23. Note the content of the update report and request that officer's prepare the subsequent Annual report in the Autumn.

### **Option B**

24. With reference to Paragraph 14, there is an opportunity to consider revising the Fee rate percentage, in the range of 1% – 3%, for the auditing of technical submissions and supervision of works.

## **Analysis**

25. **Option A** – sets out to review and update upon the highway adoption work portfolio, providing details of adoptions, advancement of developments through the process and the general development picture in York. It is considered that the outcomes represent very positive progress, with several additional developments/streets, now being transferred to the local authority. At the same time more recent developments continue to make further steps in the process, being placed upon maintenance. We also see the advancement of several newer schemes, indicating continued interest in development in York, which must be regarded as good news in the current economic climate.
26. **Option B** – Introducing a raked percentage fee, linked to commencement of road building, is a measure which it is considered could have merit. In that it would seek to encourage developer's to put increased efforts into making the necessary submissions to the council for technical approval of their development. This would mean a greater focus upon early planning, requiring more time/resource investment, aiming to secure 'technical approval', which then forms part of the Section 38 Agreement. Increased performance from the developer's representatives, including legal teams, would also be anticipated.
27. It is recommended that this potential change is detailed up and made the subject of consultation exercise with local developer's. This will allow officer's to explain the rationale behind it and hopefully for developers to recognise the overall benefits. The outcome of the consultation would be brought back to the Executive Member.

## Implications

### Financial/Programme Implications

28. At this stage there are no implications.

### Human Resources

29. As per Financial.

### Legal

30. There are no direct legal implications.

### Other

31. There are no known equalities, property, crime & disorder or other implications associated with the recommendations in this report.

## Risk Management

32. In compliance with the Council's risk management strategy, there are no known risks associated with the recommendations in this report.

### Contact Details:

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### Specialist Implications Officer(s)

Wards Affected: None

All

For further information please contact the author of the report.

### Background Papers:

None

### Annexes:

Annex A Development schedule