

CET/23/86

Corporate, Infrastructure and Regulatory Services Scrutiny Committee  
16 November 2023

## Community Self-Delivery of Highway Improvements

### Report of the Director of Climate Change, Environment and Transport

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Please note that the following recommendations are subject to consideration and determination by the Cabinet (and confirmation under the provisions of the Council's Constitution) before taking effect.

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#### **1) Recommendation**

That the Committee support the proposed trial to enable communities to fund and deliver their own minor highway improvements in line with the guidance notes included in Appendix A.

#### **2) Background**

At the Full Council meeting on 25<sup>th</sup> May the Cabinet Member for Highway Management reported that the Climate Change, Environment and Transport directorate was considering community self-delivery of minor changes to the highway network where communities have funding in place but the Service lacks the capacity to deliver on their behalf. The Service receives occasional requests from communities that would like to progress improvements themselves.

The Highways and Traffic Management service remains under pressure to manage and operate the network and often lacks capacity to take these proposals forward in a timely fashion. As such the service has developed a guide that would allow local communities to self-deliver these improvements.

#### **3) Proposal**

The Highways and Traffic Management service was the first authority in the country to promote the idea of community self-help, initially through the Snow Warden scheme and then by the Road Warden scheme. These initiatives enable communities to take a more active role in the maintenance and operation of the highway network in and around their locality while providing welcome support to the service which is managing a deteriorating asset. For the purpose of this initiative, 'Communities' are defined as Parish or Town Councils.

The Road Warden Scheme is primarily focused on low level maintenance activities such as grass cutting, sign cleaning and pothole repairs on low maintenance category roads. This proposal takes the community self-help to the next stage by enabling communities to self-deliver minor highways improvements such as dropped crossings, footways, speed limits and traffic calming features.

The Highways and Traffic Management Service with the support of the Engineering Design Group have co-authored a guide for communities which is included in Appendix A. The guide lays out the typical steps that need consideration when delivering permanent works. These steps include;

- Appointing a competent designer
- Environmental considerations (biodiversity, heritage, etc)
- Road Safety and Maintenance Audits
- Consultation with affected parties
- Traffic Regulation Orders

A competent designer would guide communities through the self-delivery process, however, the Highways and Infrastructure group has extensive knowledge and experience of the delivery of a wide range of improvements and would remain available to support and offer direction to communities through a series of 'gateway' reviews. It is suggested that the service would meet with the community and/or their designer at the following key stages;

- Project initiation – early discussion to agree proposals and scope of changes
- Feasibility design – following the completion of an initial design
- Detailed design – once all approvals are in place but prior to awarding a contract
- Pre-construction – meeting with community and their contractor
- Post-construction – to review completed works

The intention will be to undertake a couple of trial schemes as a proof of concept, looking at different geographies and work types. The Service would take on board any learning from the trial to develop the guidance further before reporting back and then wider promotion to all communities.

#### **4) Options / Alternatives**

##### **a) Do nothing**

This would limit the ability for communities who have the necessary funds in place to deliver improvements within their local area.

##### **b) Increase the capacity of the service to deliver more**

The capacity of the service is subject to change based on the number of commissions it has to deliver at any one time. As such, this workload is ultimately influenced by Government policy as well as the County Council's transport and asset maintenance priorities. Even if the service has capacity in the future, there is no reason why communities shouldn't still have the ability to self-deliver if that is their preference.

#### **5) Strategic Plan**

It is anticipated that communities will look to promote small improvements to walking and aids to improvement such as traffic calming. Based on this assumption the proposal is well aligned to a range of the Strategic Plan priorities by improving the environment and supporting communities.

The table below summarises how the proposals would impact achievement of relevant Strategic Plan actions according to a seven-point scale, whereby -3 represents a large negative impact and +3 represents a large positive impact.

<b>Strategic Plan Priority</b>	<b>Strategic Plan Action</b>	<b>Alignment</b>
Investing in Devon's economic recovery	Secure investment in transport infrastructure	+1 (slight positive)
	Maintain and, where necessary, improve our highway network and improve sustainable transport options	+1 (slight positive)
	Deliver £500 million Council capital investment programme over five years	+1 (slight positive)
Improving health and wellbeing	Give people greater opportunities for walking and cycling to increase their physical activity	+1 (slight positive)
Helping communities to be safe, connected and resilient	Continue to support our vibrant community and voluntary sector	+2 (moderate positive)
	Work with voluntary, community and social enterprise organisations on shared plans and aspirations around recovery	+2 (moderate positive)
	Work with communities to enable them to come together to tackle shared challenges	+2 (moderate positive)
	Engage directly with people in meaningful ways and encourage participation in decisions that affect them	+2 (moderate positive)

## 6) Financial Considerations

The proposal is intended to allow communities to fund their own priorities and as such will have no financial impact on the County Council. The costs associated with the staffing time to manage the gateway review process would be Devon County Council's support to the project.

In line with any works carried out by a third party the County Council would request a bond from the community which would protect the County Council should the works not be completed to a satisfactory standard.

## 7) Legal Considerations

Any third party making changes to the Highway network would be expected to enter an agreement in line with Section 278 of the Highways Act. This agreement would offer

protection to the County Council by making clear to communities the requirements to deliver any improvement.

The types of project to be promoted under the proposal are unlikely to meet the threshold for the Construction, Design and Management Regulations (2015). However, it is important that communities recognise that if they are promoting works they would be considered as Clients and the need to appoint a competent designer. In addition, a highway designer will be expected to have professional indemnity insurance in place with a minimum value of £5m. Contractors will need to hold public liability insurance with a minimum value of £5m.

The liability associated with the design of any changes to the highway would remain with the designer and not automatically transfer to the County Council. The gateway review process would accept proposals rather than be an approval body.

The legislation associated with permanent Traffic Regulation Orders requires the County Council to formally seal the order. However, there is no objection to communities engaging with a private solicitor to develop the order in advance of sealing. It is of course vital that communities undertake the consultation process and resolve objections through the local HATOC committee.

In order for the project to be viable the County Council's insurance policy will need to agree to its inclusion. Discussions are currently taking place with insurers.

## **8) Environmental Impact Considerations (Including Climate Change, Sustainability and Socio-economic)**

The proposal intends to provide communities with the ability to self-deliver minor improvements to the highway assets in their locality. Without knowing what proposals might come forward it is difficult to accurately reflect the environmental impacts. However, it is anticipated that communities will want to promote relatively minor walking projects and aids to movement that would have a positive impact on active travel.

The guidance document highlights the need for communities to consider the impacts on biodiversity and the environment as schemes are developed.

The gateway review process is an opportunity for officers to use their knowledge and experience to highlight areas that may require further consideration.

## **9) Equality Considerations**

Where relevant, in coming to a decision the Equality Act 2010 Public Sector Equality Duty requires decision makers to give due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding

in relation to the protected characteristics (age, disability, gender reassignment, marriage and civil partnership (for employment), pregnancy and maternity, race/ethnicity, religion or belief, sex and sexual orientation).

The proposal to enable community self-delivery does not in itself have a negative impact on any part of our community, however the guidance document highlights the importance of the need for an Impact Assessment to be developed by communities on a project-by-project basis. The Gateway Process will provide an opportunity to review any Impact Assessments in line with DCC's Public Sector Equality Duty. As part of the trial the ability for DCC to ensure its Public Sector Equality Duty, will be closely monitored, and included in the learning as a specific issue.

## **10) Risk Management Considerations**

This proposal has been assessed and all necessary safeguards or actions have been taken to safeguard the Council's position.

## **11) Summary**

There have been occasions when communities have been unable to carry out minor improvements to the highway network due to limited resources within the County Council. The proposal provides communities with the necessary guidance to take forward these changes where they have adequate resources.

### **Meg Booth**

Director of Climate Change, Environment and Transport

**Electoral Divisions:** All

Cabinet Member for Highway Management: Councillor Stuart Hughes

## **Local Government Act 1972: List of background papers**

Nil

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Community Self-Delivery of Highway Improvements – Final

### Community Self-Delivery Guide for Works on the Highway

Minor works on the Highway can be delivered by communities by way of the Devon County Council [Road Warden Scheme](#)<sup>1</sup>. The list is not exhaustive but typically covers:

- Pothole repairs (when they do not meet our intervention criteria).
- Clearing weeds.
- Cleaning signs.
- Cleaning drainage (gully gratings).
- Cutting grass.
- Repairing finger posts.
- Cutting hedges.
- Set up a road closure for special events.
- Managing verges for wildlife

Communities are also able to prepare and deliver their own minor improvement projects on the Highway. The information below sets out the various stages of a typical project and will be relevant in most cases. For the purposes of this guide a 'Community' is defined as a Parish or Town Council.

#### Feasibility and Design

To develop support for a proposed improvement it is useful to gather evidence of the issue to be solved. This evidence might take the form of traffic flows, pedestrian flows or traffic speed records. Your local Neighbourhood Highway Officer will be able to tell you if something similar has previously been considered and discounted for any reason.

Depending on the complexity of the proposals it is expected that a highway designer will need to be engaged to carry out a design, this design will need to be detailed enough to acquire the necessary permissions. The design may require consideration of impact of surface water run off, drainage outfalls, environmental compensation, heritage implications, accessibility, ongoing maintenance implications and whole life costs and the impact of any existing services such as gas pipes and electrical cabling. The final design will comprise of drawings, a works specification and possibly a bill of quantities listing all the elements and their costs.

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<sup>1</sup> <https://www.devon.gov.uk/communities/opportunities/road-warden-scheme>

A highway designer will need to have professional indemnity insurance in place with a minimum value of £5m. For very basic schemes with little to no expected impact on the travelling public it may be possible to reduce this and DCC will be able to advise on the appropriate level of design.

Communities will need to recognise their role as a Client in any project. The Construction, Design and Management Regulations (2015) are unlikely to be applicable for minor changes but for a successful project it is important to appoint a competent designer and contractor.

## **Gateway Reviews**

Devon County Council has extensive knowledge and experience of delivering projects and would remain available to offer support to communities and ensure that any proposals being developed are accepted by the Highway Authority through a series of Gateway Reviews.

These reviews provide an opportunity to discuss the proposal and offer advice as to the next steps. The reviews need to be undertaken at the following stages

- Project initiation – early discussion to discuss proposals and agree scope of change
- Feasibility design – following the completion on an initial design
- Detailed design – once all approvals are in place and in a position to award a contract
- Pre-construction – meeting with community and their contractor
- Post-construction – to review completed works

## **Traffic Regulation Orders**

Where proposals restrict or prohibit use of a section of the highway network, for example a new speed limit or “no entry”, a Traffic Regulation Order (TRO) is needed.

A TRO can be drafted by a highway designer that you appoint, or this is something that we can support you in. Once drafted and agreed by the Authority the TRO will need to be advertised for at least 21 days in the local press and via notices on street where the changes are proposed, information will also be made available on the DCC webpages and at a nominated council office. Objections and comments must be made online or by writing to the address in the notice. Any objections received will be considered by local elected members who decide whether to allow the scheme to proceed as advertised, modify the scheme or abandon it. In some instances, it will be appropriate to report objections to one of the DCC Highways and Traffic Order Committees (HATOC).

It is essential that a proposed TRO is advertised adequately and any comments whether positive or in objection are laid out for the HATOC to consider. Failure to follow the process could lead to legal challenge and ultimately, failure of the project. As this is part of the

democratic process it is important to note that your scheme may not proceed if significant objection is received. Therefore, it is important that you ensure you have support from the community and local elected member before proceeding.

The TRO process will take between 6 – 12 months to complete and can cost as much as £6,000.

More information can be found here: [Traffic regulation orders – Road and Transport \(devon.gov.uk\)](https://www.devon.gov.uk/traffic-regulation-orders-road-and-transport)

## Permissions

The following is a list of the typical permissions that will be needed to implement the scheme. Further documents may be required to support a planning application.

- Land acquisition – Land ownership records can be obtained from the Land Registry, if the land isn't already Highway land, a land purchase will be required.
- Planning Permission – works are likely to require a planning application. Further information on what supporting information is needed and how to submit the application is available via the [Planning Portal](#) or via the [local district planning authority](#).
- Permission to Advertise – where a TRO is required permission to advertise will be required from elected Members, after proposals are approved by Officers.
- Road Safety Audit – all works will require a Road Safety Audit carried out by a qualified person. This ranges between a simple Minor Scheme Safety Audit to a full Road Safety Audit carried out to [GG119](#)<sup>2</sup> by an independent qualified road safety auditor. GG119 contains examples of how to write an RSA brief. [RoadSafetyAudit-mailbox@devon.gov.uk](mailto:RoadSafetyAudit-mailbox@devon.gov.uk) can provide advice on the appropriate approach for a particular project.
- Maintenance Audit – a highway maintenance audit will be required to ensure that proposals don't inadvertently increase the amount of maintenance required. This process will require site construction drawings and specification of the works. A maintenance audit form can be provided by your Neighbourhood Highway Officer.
- The County Council would draw up a legal agreement with the community in line with section 278 of the Highways Act. This agreement would lay out the responsibilities of each party. In addition, the County Council may require a bond which could be called upon if the Community failed to satisfactorily complete the works to the agreed standard.

## Equality Needs Impact Assessment

Changes to highway assets will require an equality assessment if they will have an impact on people or the environment. Failure to carry out this assessment may at best mean some

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<sup>2</sup> [710d4c33-0032-4dfb-8303-17aff1ce804b \(standardsforhighways.co.uk\)](https://www.standardsforhighways.co.uk/710d4c33-0032-4dfb-8303-17aff1ce804b)



people within the community are negatively impacted by the change, however, it may lead to a breach of someone's human rights.

More information and support can be found at [Toolkit - Impact Assessment \(devon.gov.uk\)](#)

## Construction Work

Contractors that work on the public highway must have the appropriate licence in place. A contractor can apply for the relevant licence [here](#)<sup>3</sup>, this will give the contractor permission to work on the highway and will allow them to book the necessary road space to undertake the work, the timescales for this depend on the type of traffic management that's proposed. The advance notice for a complete road closure is 3 months, for less intrusive methods the timescales may be shorter. It is important to recognise the responsibility for contractors to consult with stakeholders that may be impacted by the works. We can provide a list of consultees on request.

- Works that include an element of excavation – Section 50 licence
- All other works – Section 171 licence ([Licences to work on the highway](#))<sup>4</sup>

A Temporary Traffic Regulation Order will be required for road closures ([TTRO](#))<sup>5</sup>

Contractors may choose to use another company to undertake the traffic management (e.g. Traffic lights and road closures), but any contractors working on the highway should have the correct insurance, training and certification. Additionally, they should be employed to deal with any emergency that might arise on the highway out of hours.

DCC is able to provide a standard works specification on request. It will be important to ensure all construction works are carried out in line with this specification for both safety and long-term durability.

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<sup>3</sup> <https://www.devon.gov.uk/roadsandtransport/make-a-request/store-materials-on-the-road/place-materials-on-the-road-section-171/>

<sup>4</sup> <https://www.devon.gov.uk/roadsandtransport/make-a-request/>

<sup>5</sup> <https://www.devon.gov.uk/roadsandtransport/make-a-request/temporary-traffic-restrictions/>