

DERBYSHIRE COUNTY COUNCIL

MEETING OF CABINET MEMBER – JOBS, ECONOMY AND
TRANSPORT

21 January 2014

Report of the Strategic Director – Economy, Transport and Environment

DAMAGE TO HIGHWAY – YORK AVENUE, SANDIACRE

(1) **Purpose of the Report** To seek the Cabinet Member's approval to serve a Notice under Section 133 of the Highways Act 1980.

(2) **Information and Analysis** The development of a site for a house in York Avenue, Sandiacre involved the construction of a boundary wall and vehicular access. During the construction of the wall, part of the footway was excavated to accommodate foundations. However, when the wall was completed, the disturbed area of footway was not reinstated as required.

Despite a number of requests in writing, to the responsible persons to reinstate the footway, no action has been taken.

Section 133 of the Highways Act 1980 allows the County Council, as Highway Authority, to reinstate the footway at the expense of the responsible persons. It is therefore requested that the Cabinet Member authorises the County Council to make good the damage caused to the footway and recover the reasonable expenses from the owner of the land.

Local Member Comments

Councillor Major has been informed of the proposed action.

(3) **Financial Considerations** The County Council will seek to recover all costs associated with the reinstatement.

(4) **Legal Considerations** Section 133 of the Highways Act 1980 states:

"If the footway of a street that is highway maintainable at the public expense is damaged by or in consequence of any excavation or other work on land adjoining the street, the highway authority for the highway may make good the damage and recover the expenses reasonably incurred by them in so doing

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from the owner of the land in question or the person causing or responsible for the damage.”

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

(4) **Key Decision** No.

(5) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(6) **Background Papers** Held on file in the Maintenance Section of the Economy, Transport and Environment Department. Officer contact details - Suzanne Kiernan, extension 38589.

(7) **OFFICER’S RECOMMENDATIONS** That the Cabinet Member:

7.1 Authorises the County Council to carry out works under Section 133 of the Highways Act 1980 to make good the damage caused to the footway.

7.2 Approves the seeking of the recovery of reasonable expenses incurred by the County Council from the landowner.

Mike Ashworth
Strategic Director – Economy, Transport and Environment