

Agenda Item No. 4(i)

DERBYSHIRE COUNTY COUNCIL

MEETING OF THE CABINET MEMBER – HIGHWAYS, TRANSPORT AND
INFRASTRUCTURE

7 July 2015

Report of the Strategic Director – Economy, Transport and Environment

FUTURE OF THE PARISH/TOWN COUNCIL MINOR MAINTENANCE
SCHEME

(1) **Purpose of Report** To approve consultation on proposed changes to the Parish/Town Council Minor Maintenance Scheme.

(2) **Information and Analysis**

Background to the Scheme

The first record of this scheme being established is a report to the Bridges and Highways Committee on 22 September 1950, which resolved to reimburse parish/town councils the cost of the repair of public footpaths. On 8 January 1960, the Bridges and Highways Committee received a report on proposals to open up a modified scheme to allow parish/town councils to repair public paths and it was this report that laid the foundation for the current scheme which has been in place since that decision was made. A review of the current scheme is therefore timely.

Current Funding is based on the length of paths within the parish.

| Distance in Miles of footpaths and bridleways in the parish | Payment |
|--------------------------------------------------------------------|----------------|
| Up to 5 miles | £315 |
| Over 5 miles and not exceeding 10 miles | £385 |
| 10 → 15 | £430 |
| 15 → 25 | £495 |
| 25 → 35 | £565 |
| 35 → 45 | £610 |
| 45 → 55 | £675 |
| 55 → 65 | £745 |
| 65 → 75 | £810 |

As the name of the scheme suggests, it is intended for minor works. Whilst this is not particularly limiting it excludes the following:

- Work on Restricted Byways or Byways Open to All Traffic.
- The renewal or reconstruction of footbridges.
- The repair and maintenance of public paths or sections of public paths having tarmacadamed, concreted, flagged, paved or other similar permanent surfaces.
- The supply and erection of signposts on public paths.

Membership

156 of the 204 Derbyshire parish/town councils are signed up to the scheme. The current cost of the scheme to the County Council is between £30,000 and £42,000 per annum, depending on the value of the invoices submitted.

Future of the Scheme

Financial management of the scheme is difficult. Any of the enrolled parishes can claim at any time and for up to six years after the end of the County Council's financial year. In reality, the Council has regular claimants, but this uncertainty, combined with the parishes not necessarily claiming the full amount, makes accounting difficult despite the benefits the scheme brings.

The current scheme provides opportunities for parishes to maintain key routes, however, in its present form, it does not permit parishes to engage in a full range of works that have the potential to bring greater benefit to the network and community. For example, parishes are not permitted under the current scheme to erect signposts, carry out significant repairs to the surface of paths and work on all classes of rights of way.

A redesigned scheme could allow parishes to carry out a wider range of activities, but also allow the County Council to manage and monitor the budget more effectively. It is therefore proposed that a revised scheme would allow parishes to bid into the fund for works intended to maintain the network. Each parish would be able to bid for up to a maximum sum of £600 to provide works to the network, including drainage, erection of signs, etc.

The proposed new scheme would be based on the following key principles:

- Priority will be given to bids from Parish/Town Council members of the current Minor Maintenance Scheme in its first year of operation. Expansion to other interested parishes would be considered after the closing date for applications.
- Parishes would be free to carry out any reasonable improvements to the rights of way network as part of their maintenance activities.
- The County Council would fund each scheme up to a maximum of £600 subject to funding being available. This is in line with Section 43 of the Highways Act 1980 which empowers the County Council to defray any expenditure incurred by the parish/town council maintaining paths.

- Multiple applications would be permitted by an individual parish/town council up to the cumulative limit of £600.
- All applications would be accepted until the upper threshold of the budget allocation is reached.
- Any schemes in excess of £600 would be considered after the closing date if funds remain.
- All participating Councils would be expected to present a fully costed scheme prior to the scheme starting and present an invoice by an agreed date.

It is proposed to carry out a consultation with all Parish and Town Councils to gauge their level of interest and potential support for a revised scheme. Details of the proposed new scheme will be sent to all Parish and Town Councils who will be given a period of three months to respond. The result of the consultation will then be considered by the Cabinet Member for Highways, Transport and Infrastructure.

(3) Financial Considerations The current scheme is funded from the Rights of Way Revenue Budget. The cost of the scheme has fluctuated on an annual basis from approximately £27,000 to £41,000 since 2012. Parishes can submit an invoice at any point up to six years after the close of the financial year. The scheme therefore has the potential to lock a proportion of the budget based on estimates from parishes until such time as an invoice is received. If the invoice is received late in the financial year or after its end, the budget will appear underspent. This is not an effective way to manage a budget. Furthermore, if a parish submits an invoice of a lesser amount than the entitlement the budget is automatically underspent. This underspend could have been spent on work by the County Council to improve the Rights of Way network.

A revised scheme would enable more consistent accounting and provide realistic deadlines for the receipt of invoices and subsequent payment.

The proposed budget for the revised scheme would be £67,000. This is based on an average number of claims made by current scheme members over the last 3 years. The scheme would be funded from the Local Transport Plan.

(4) Legal Considerations Rights of Way are public highways. Consequently, there is a duty placed on the Council to maintain those which are maintainable at public expense.

The Agreements between town/parish Councils and the County Council are entered into under the provisions of Section 43 of the Highways Act 1980. Section 43 provides a power to parish or community councils to undertake maintenance of any footpath or bridleway within the parish or community. The

highway to which the Agreement relates must be a highway maintainable at public expense. Byways Open to All Traffic are not included in the minor maintenance scheme.

There is a discretion within Section 43 allowing the County Council to “*defray the whole or part of any expenditure incurred by the parish or community council in maintaining the footpath or bridleway*” which consequently allows the County Council to make payment to the parish or community council.

Six months’ notice is required from either side to terminate the agreement.

The Council has an obligation to consult with those people and organisations likely to be affected by the proposals and to take all responses into consideration prior to any decisions being made.

(5) **Environmental and Health Considerations** Consideration has been given to the County Council’s Rights of Way Improvement Plan in considering this application and preparing this report.

Other Considerations

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

(5) **Key Decision** No.

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

(7) **Background Papers** Held on file within the Rights of Way Section of the Economy, Transport and Environment Department. Officer contact details – Peter J White, extension 39673.

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

8.1 Approves the carrying out of consultation with parish and town councils on proposed changes to the Minor Maintenance Scheme.

8.2 Notes that a further report is to be brought to the Cabinet Member following the consultation to enable a decision to be made on the proposed changes to the Minor Maintenance Scheme.

Mike Ashworth
Strategic Director – Economy, Transport and Environment