

DERBYSHIRE COUNTY COUNCIL

CABINET MEETING

12 November 2013

Report of the Acting Strategic Director – Environmental Services

**ADOPTION AND MAINTENANCE OF UNDERFILLED BRIDGE
AT BRIDGE STREET, TUPTON (JOBS, ECONOMY AND
TRANSPORT)**

(1) **Purpose of the Report** To update Cabinet on the proposed adoption of the above works and seek approval to accept a financial contribution from the developer to deal with the treatment of invasive weed growth and other remedial works and for the works to be added to the 2013/14 Capital Programme.

(2) **Information and Analysis** As part of a land reclamation project by the former East Midlands Development Agency (EMDA), the disused railway bridge at Bridge Street, Tupton was underfilled and the highway passing over it improved.

A legal mechanism using sections 72, 228 and 278 of the Highways Act 1980 was agreed to allow the County Council to adopt the works as publicly maintainable highway. This was the subject of a report to the Cabinet Member – Environmental Services on 23 April 2009 (Minute No.92/09 refers).

The physical structural works were completed in accordance with the approved designs in June 2009 and the appropriate inspection fees paid to the County Council in November 2009. However, EMDA did not manage to complete the legal Agreements to secure adoption of the works which currently remain unadopted.

Land and assets belonging to EMDA was transferred to the Homes and Communities Agency (HCA) in March 2012, the issue has remained unresolved. In the interim there has been considerable weed growth affecting the works, in particular a persistent plant know as Horse Tail has affected the footway over the former bridge. There is also a minor street lighting defect requiring attention.

The HCA would still like the Council to adopt the works but is not able to enter into the formal adoption Agreement or carry out the necessary remedial works to bring the scheme up to an adoptable standard. In an effort to bring this long standing matter to a conclusion, the Council has offered to adopt all of the works as originally planned provided the HCA makes a one-off payment to the Highway Authority to cover the treatment/ removal of the weed infestation, street lighting remedial works and the posting of notices under Section 228 of the Highways Act 1980 to secure adoption of the works.

The cumulative cost of these works has been calculated as being up to £20,000, depending upon the duration and nature of the weed treatment. The HCA has confirmed that it is prepared to pay this contribution to the Council.

Local Member Comment

Councillor Brian Wright has been consulted and is in agreement with the proposed solution.

(3) **Financial Considerations** The Council has considered a number of scenarios for dealing with the Horse Tail problem up to and including the removal and replacement of the affected areas of footway. The HCA has agreed to pay the County Council the sum of £20,000 to cover its costs in dealing with the weed infestation and rectification of other defects, and to post notices and other processes involved in adopting the works.

(4) **Legal Considerations** Adoption of the works will be carried out using Section 228 of the Highways Act 1980 whereby notices will be posted on site and the streetworks adopted one month later, subject to no objections being raised by the owner(s) of the street. The area for adoption includes two strips of unregistered land. There is a risk that an unknown owner could object to the notice and delay adoption. It is considered that this risk is small and in the event of an objection, the Council would seek to negotiate with the objector or if necessary apply to the Magistrates' Court to overrule the objection. In the latter case, the Council would have to bear the costs of the application.

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.

(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** Documentation relating to the Bridge Street bridge works is held on the Development Control File within the Environmental Services Department. Officer contact details - Graham Hill, extension 38647.

(8) **OFFICER'S RECOMMENDATIONS** That Cabinet:

8.1 Notes the proposed use of Section 228 of the Highways Act 1980 for adoption of the street works.

8.2 Approves the payment of £20,000 to the County Council by the Homes and Communities Agency.

Mike Ashworth
Acting Strategic Director – Environmental Services