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To: KCC Scrutiny Committee – 6 July 2018

Subject: **Managing Highway Infrastructure in Kent**

Classification: Unrestricted

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## **Summary**

This report provides the Scrutiny Committee with a brief overview of the approach to managing Kent's highway infrastructure.

### **1. Introduction**

#### **1.1 The law relating to the highway authorities duty –**

The statutory duty to maintain the highway is contained at Section 41 (1) of the Highways Act 1980. This states:

*'The authority who are for the time being the Highway Authority for a highway maintainable at the public expense are under a duty to maintain the highway.'*

For there to be a breach of Section 41, there must have been a failure to maintain or a failure to repair.

Section 58 of the Highways Act 1980 sets out to clarify the reasonability of the duty set out in Section 41

Section 58.1 of the Highways Act 1980 states that;

*'In an action against a highway authority in respect of damage resulting from their failure to maintain a highway maintainable at public expense it is a defence to prove that the authority had taken such care as in all circumstances was reasonably required to secure that the part of the highway to which the action relates was not dangerous for traffic.'*

In order to prove a Section 58 defence, a Highway Authority is required to establish two things:

1. That it has a reasonable maintenance policy; and
2. That the policy has been properly carried out.

The main elements of a reasonable maintenance policy are a reasonable inspection policy and reasonable timescales for repair. Kent County Council's Highway Safety Inspection regime forms a key aspect of its strategy for managing risks and liabilities. This strategy is outlined in its Safety Inspection

& Condition Survey Manual and follows national guidance provided by the Well-Maintained Highways – Code of Practice for Highway Maintenance.

## 1.2 How the Network is maintained

The Highways Asset Management team is responsible for maintaining the highway and does so in three ways;

- Planned works to carry out significant maintenance on and asset management basis as set out in [Developing Our Approach to Asset Management in Highways – 2018/19 to 2020/21](#).
- Planned and regular safety inspections of the whole highway network identifying and arranging repair of all safety critical defects found.
- Reactive work carried out by the District teams comprising stewards and engineers who respond to customer enquiries and act on issues encountered in between inspections.

These component parts make up the comprehensive approach that Kent takes in Maintaining the Highway network.

## 2.0 Asset Management

- 2.1 On 13 January 2016, the Environment and Transport Cabinet Committee (ETCC) resolved to support the further embedding of asset management principles. A Members' Task and Finish Group (T&FG), involving Members from each political group, was established and met six times during 2016 to develop a new asset management approach and maximise DfT Incentive Fund capital resource. As a result, the ETCC approved *Our Approach to Asset Management in Highways* on 8 July 2016. This two-page document describes the key principles adopted in applying asset management to achieve the authority's strategic outcomes.

T&FG Members and officers also developed a detailed complementary strategy document *Implementing our Approach to Asset Management in Highways* which was considered and approved by ETCC on 12 January 2017. This outlines a number of further workstreams to fully embed asset management principles into highway maintenance decision making. This evidenced a Band 2 rating for Incentive Fund purposes.

ETCC considered the matter again on 31 January 2018 and agreed an updated strategy document *Developing Our Approach to Asset Management in Highways – 2018/19 to 2020/21*, which includes a summary of current highway asset condition, a forecast of future asset performance based on current investment and an assessment of resource needed to maintain assets and service levels at current levels. This document enabled Kent to submit a Band 3 Incentive rating and maximise DfT capital funding. All three documents are published on [www.kent.gov.uk](http://www.kent.gov.uk).

- 2.2 Whilst the shortfall in capital investment and increasing backlogs is relevant to the majority of asset groups, by far the largest shortfall and backlog relates to our largest (5,400 miles) and most valuable (£6bn) asset group, roads. It is also the asset group for which we have very robust inventory and asset condition data. The current and forecasted position for road asset management is grave; we are undoubtedly in a prolonged period of asset decline.
- 2.3 The current annual allocation for planned road maintenance is around £13m (not including reactive capital pothole and patching spend) and if that remains unchanged we will see significant deterioration in road condition over the next ten years. The percentage of the network in very poor condition and needing maintenance will significantly increase in all road classes and this is a particular concern in respect of classified roads given the volume and speed of traffic.
- 2.4 The approach to maintaining the highway asset is holistic. Untrained eyes naturally focus on potholes as these are very visible, but there are numerous defect types such as cracking, stone-loss, rutting, depressions, loss of texture/grip etc that are indicative of failure or end-of-life, and it is these defects that essentially make up the estimate of maintenance backlog. The majority of defects mentioned above are early indicators that a road's end-of-life is approaching, and the mechanical and visual surveys carried out are designed to identify that so that the Kent can intervene before failure and potholes occur. Our annual modelling exercise identifies around 7,000 such schemes annually.
- 2.5 It is a common misconception that potholes are caused by poor weather. Whilst it is true that freeze-thaw conditions in winter will cause the road surface to fail, these sections had already reached the end of their serviceable life. They have failed because we have not renewed or preserved the road surface in time.
- 2.6 Planned highways asset management (as opposed to the majority of reactive maintenance) is funded entirely by Department for Transport funding streams. Embedding asset management principles into our management of highway assets alone will not be sufficient to avoid the grave outcomes described above. A significant and sustained increase in funding is needed, but the scope for resourcing that locally is very limited given other local pressures linked to social care and an ageing population.

### **3.0 Highway Safety Inspections**

- 3.1 Kent County Council's Highway Inspections are carried out in accordance with its Safety Inspection & Condition Survey Manual and follows national guidance provided by the-outgoing Code of Practice for Highway Maintenance - Well-Maintained Highways.

- 3.2 Kent County Council's Highway Inspectors undertake a comprehensive system of inspections. These inspections are carried out at the following regular intervals depending on the classification of the road:
- Monthly
  - Three monthly
  - Six monthly
  - yearly
- 3.3 Defects identified on an inspection are investigated when the following levels are met: 20mm for footways and 50mm for carriageways. Repairs are considered for those exceeding these measurements but ultimately each defect must be assessed on its own merits and the assessment of dangerousness will take into consideration, factors such as the position on the highway and the speed, volume, and type of traffic that uses it.
- 3.4 When defects are identified and deemed to require repair, these will be programmed in line with priorities that have been adopted. These priorities are categorised as follows:

P1 – Repair or make safe in 2 hours

P2 – Repair or make safe by end of next working day

P3 – Repair within 7 days

P4 - Repair in 28 days

P5 - Programmed works – repair within timescale of up to one year

The priority assigned to a defect will depend on several factors but ultimately is determined by a risk assessment that considers the severity of the defect against the likelihood of an accident.

#### **4. District Teams**

- 4.1 The District teams handle the majority of customer enquiries regarding highway maintenance issues and respond according to the nature of the enquiry be it a request for information, report of a highway defect, or other issues affecting highway usage.
- 4.2 The district teams investigate and act on reports of defects ordering repairs where required according to the standards set out in the Safety Inspection & Condition Survey Manual.
- 4.3 The district teams also liaise with County Members, District Members, and Parish and Town Councils.

## **5. Conclusion**

Kent's Highways Asset Management team implements a holistic approach to maintaining the highway in a safe condition using planned work, regular inspections, and reactive work arising from enquiries and items encountered between inspections.

Current levels of resource are insufficient to carry out planned road maintenance at the right time and prevent potholes, consequently potholes will continue to occur, but Kent has a robust Safety Inspection regime in place to identify any that are considered safety critical for repair. Kent is currently fulfilling its legal duty under the Highways Act 1980 to maintain the adopted highway network in a safe condition and an appropriately safe and functioning state.

If funding remains unchanged for future years our ability to fulfil our Highways Act duties will become increasingly difficult.

It is important to understand that despite the shortfall in funding for planned road maintenance and as a consequence, the increasingly fragile highway network, Kent's patch and mend approach and robust safety inspection regime identifies and repairs any safety critical defects ensuring the highway network is currently in a safe condition and appropriately functioning state.

## **6. Recommendations**

- 6.1 Members are asked to note the content of this report.

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