

# **Communities and Place Review and Development Committee**

**Thursday, 28 November 2019 at 10:30**

**County Hall, West Bridgford, Nottingham, NG2 7QP**

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## **AGENDA**

Minutes of the last meeting held on 26 September 2019	3 - 4
Apologies for Absence	
Declarations of Interests by Members and Officers:- (see note below)	
(a) Disclosable Pecuniary Interests	
(b) Private Interests (pecuniary and non-pecuniary)	
Integrated Transport Measures Programme	5 - 10
Highways Environmental Matters	11 - 26
Work Programme	27 - 30

### **Notes**

- (1) Councillors are advised to contact their Research Officer for details of any Group Meetings which are planned for this meeting.
- (2) Members of the public wishing to inspect "Background Papers" referred to in the reports on the agenda or Schedule 12A of the Local Government Act should contact:-

- (3) Persons making a declaration of interest should have regard to the Code of Conduct and the Council's Procedure Rules. Those declaring must indicate the nature of their interest and the reasons for the declaration.

Councillors or Officers requiring clarification on whether to make a declaration of interest are invited to contact Noel McMenamin (Tel. 0115 977 2670) or a colleague in Democratic Services prior to the meeting.

- (4) Councillors are reminded that Committee and Sub-Committee papers, with the exception of those which contain Exempt or Confidential Information, may be recycled.
- (5) This agenda and its associated reports are available to view online via an online calendar - <http://www.nottinghamshire.gov.uk/dms/Meetings.aspx>

Meeting Communities and Place Review and Development Committee

Date 26 September 2019 (commencing at 10:30 am)

**Membership**

Persons absent are marked with an 'A'

**COUNCILLORS**

Gordon Wheeler (Chairman)  
Errol Henry (Vice-Chair)

Andrew Brown  
Stephen Garner  
John Longdon  
A David Martin

Liz Plant  
Francis Purdue-Horan  
Yvonne Woodhead

**COUNCILLORS IN ATTENDANCE**

Councillor Jim Creamer

**OFFICERS IN ATTENDANCE**

Doug Coutts	-	Via East Midlands Ltd
Suzanne Heydon	-	Place Department
Noel McMenemy	-	Chief Executive's Department
Sean Parks	-	Place Department
Kevin Sharman	-	Place Department
Gary Wood	-	Place Department

**1 MINUTES OF LAST MEETING HELD ON 18 JULY 2019**

The minutes of the meeting held on 18 July 2019 having been circulated to all Members, were taken as read and were signed by the Chairman.

**2 APOLOGIES FOR ABSENCE**

Councillor Francis Purdue-Horan replaced Councillor Richard Butler for this meeting only.

Councillor John Longdon replaced Councillor Sue Saddington for this meeting only.

### **3 DECLARATIONS OF INTEREST**

None.

### **4 INTEGRATED TRANSPORT MEASURES PROGRAMME**

The Committee considered a report and received a detailed presentation, explaining the statutory and framework and evidence base within which the Strategy and Implementation Plan was developed, as well as providing examples of how requests for individual schemes were processed.

Members made a number of comments on a range of issues, including connectivity, air quality, siting and design of pedestrian and school crossings and consistency of approach with neighbouring authorities.

It was confirmed that the Committee would consider programme performance at its November 2019 meeting.

#### **RESOLVED 2019/09**

That:

- 1) the methodology for developing the integrated transport programme to help deliver County Council priorities, national priorities and local transport goals and objectives be endorsed;
- 2) the Local Transport Plan evidence based document be reviewed, and that its findings and recommendations be reported to Communities and Place Committee in due course.

### **5 WORK PROGRAMME**

#### **RESOLVED 2019/10**

That the Committee's work programme be agreed.

The meeting concluded at 11:50 am

**Chairman**

**28 November 2019****Agenda Item:4**

## **REPORT OF CORPORATE DIRECTOR, PLACE**

### **INTEGRATED TRANSPORT MEASURES PROGRAMME**

#### **Purpose of the Report**

1. The purpose of this report is to seek Committee endorsement on the monitoring of the integrated transport objectives and programme elements and to update Committee on progress against transport related indicators.

#### **Information**

##### **Programme monitoring**

2. A strong set of monitoring measures and systems are essential to allow us to track and monitor the impact the highways programmes are having against the Council's priorities. Only by regular reporting and thorough evaluation can we understand where we are really making the difference we set out to achieve, and where we need to adapt, change or stop projects and services we are providing.
3. The County Council has therefore selected a combination of indicators with a view to ensuring that all aspects of strategy delivery are monitored. This ensures that all programmes and individual projects can be justified in terms of their contribution towards achieving the local strategic objectives but also reinforces their contribution to national objectives. A hierarchy of indicators has been developed which is:
  - **key outcome indicators** for the relevant national indicators and any other indicators that directly measure the achievement of transport objectives
  - **intermediate outcome indicators** which represent proxies or milestones towards key outcomes and includes targets for some national indicators (e.g. bus punctuality), and
  - **contributory output indicators** measuring the delivery of schemes, policies or initiatives that will contribute towards the achievement of targets in the two categories above. Targets have not been set for output indicators as these are only used to monitor trends.
4. The current indicators, approved by Communities & Place Committee in May 2018 as part of the Local Transport Plan implementation plan 2018/19 to 2020/21, as well as progress against their targets are detailed in appendix 1 to this report (although contributory output indicators don't have targets the current levels have been compared with the previous year in appendix 1 to show the trend).

5. As this report concerns only the integrated transport measures, the monitoring or review of maintenance of the highways assets is not included within this report or any associated presentations (innovation in maintenance techniques was, however, considered by this Committee at its January and March 2019 meetings; and highway asset management, including repair criteria, is scheduled for consideration by this Committee in 2020).
6. The County Council works with a range of organisations to inform and advise on best practice in the development of highways programmes and to ensure that the programmes deliver value for money. The Department for Transport periodically commissions studies on the effectiveness of the integrated transport block and smaller highways schemes to help highway authorities identify and prioritise future highways programmes. The Council also undertakes reviews of the local outcomes of integrated transport programme elements and individual schemes in order to help determine their value for money.
7. Reviews of the impacts are undertaken on many individual schemes and this is often a specific condition of securing external funding. These reviews include the reductions in casualties where local safety schemes have been delivered and increases in cycling levels following the introduction of cycling infrastructure. The County Council also undertakes periodic reviews of elements of the integrated transport programme, including recent reviews of effectiveness of interactive speed signs and the local impacts of pedestrian crossings. It is proposed that future reviews could include the impacts of new and improved bus infrastructure and changes in local speed limits.

### **Other Options Considered**

8. The other options considered are set out within this report and its accompanying presentation.

### **Reason/s for Recommendation/s**

9. The strategies and integrated transport programmes detailed within this report and its associated presentation have been developed to help ensure delivery of County Council priorities, national priorities and local transport goals and objectives. The packages of measures and the programmes reflect a balance of member, public and stakeholder requests and priorities, evidence of need (including technical analysis), value for money (including the co-ordination of works) and delivery of the County Council's vision and transport objectives.

### **Statutory and Policy Implications**

10. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **Financial Implications**

11. The financial implications, including budget allocations, are determined at the Full Council meeting in February of each year. The allocations are made up of a combination of capital grant, borrowing and successful external funding bids.

## **Public Sector Equality Duty implications**

12. All programmes detailed within this report comply with the Public Sector Equality Duty. An equality impact assessment was undertaken on the Nottinghamshire Local Transport Plan 2011/12-2025/26 in March 2011 to ensure that the strategy and its capital programmes to deliver it met the duty.
13. Equality impact assessment of individual significant and major transport schemes (schemes costing more than £250,000) and Bid programmes are also undertaken by project managers to ensure that they comply with the Public Sector Equality Duty, based on advice from the policy and equality officers.

## **Implications for Sustainability and the Environment**

14. Surveys undertaken with the public and local businesses identified reducing traffic congestion as the highest transport priority for both of these groups. The County Council also has a statutory obligation to address air quality issues resulting from road traffic on its managed roads (there are currently two air quality management areas on County Council managed roads). All of the programmes and measures contained within this report have therefore been developed to address congestion, its knock-on effects on air quality and its impacts on local communities.

## **RECOMMENDATION/S**

It is recommended that Committee:

- 1) Endorse how the integrated transport programme is monitored to help ensure delivery of County Council priorities, national priorities and local transport goals and objectives; and to consider whether any other monitoring is required.

**Adrian Smith**  
**Corporate Director, Place**

**For any enquiries about this report please contact:**

Sean Parks – Local Transport Plan manager Tel: 0115 9774251

## **Constitutional Comments (EP 22/10/2019)**

15. Communities and Place Committee is the appropriate body to consider the content of the report.

## **Financial Comments (GB 31/10/2019)**

16. This report relates to the performance of the Integrated Transport Measure (ITM) capital programme which is approved in the Communities and Place capital programme. The total approved ITM budget for 2019/20 currently stands at £7.3m with all future year budget allocations being determined as part of the Annual Budget Report to Full Council in February of each year.

## **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Integrated Transport Measures Programme – 26 September 2019 Communities & Place Review and Development Committee
- Nottinghamshire Local Transport Plan Strategy 2011/12-2025/26
- Nottinghamshire Local Transport Plan Implementation Plan 2018/19-2020/21
- Nottinghamshire Local Transport Plan Evidence Base 2010
- Highways Capital & Revenue Programmes 2019/20 – 7 March 2019 Communities & Place Committee
- The Council Plan 2017-2021 ‘Your Nottinghamshire, Your Future’ – July 2017
- Place Departmental Strategy – January 2018

## **Electoral Division(s) and Member(s) Affected**

- All



Appendix 1 – Indicators to be monitored during the 2018/19-2020/21 Implementation Plan period

Key	
	On target
	Not on target but likely to be on track by 2021
	Not on target and at risk of not meeting target

Theme	Key outcome indicators	Progress	Intermediate outcome indicators	Progress	Contributory output indicators	Progress
Economy – reducing congestion	Average journey time per mile during the morning peak on the urban centre networks in the county		Traffic flows into town centres		Number of registered car sharers on nottinghamshare	
			Number of local bus and light rail passenger journeys originating in the authority area		Public satisfaction with passenger transport information	
	Changes in areas wide traffic mileage (vehicle kilometres travelled)		Bus services running on time		Public satisfaction with driver behaviour	
			Public satisfaction with local bus services		New travel plans approved	
Safety	People killed or seriously injured in reported road traffic accidents		People slightly injured in reported road traffic accidents			
	Children killed or seriously injured in reported road traffic accidents					
Health and wellbeing – active travel	Child obesity levels	Currently no targets set	Cycling levels		Number of children undertaking cycle training	
					Length of shared or segregated cycle lane or path	
					Footfall in market towns and district centres	
Environmental factors	Number of air quality management areas (AQMAS) on County Council managed roads		Particulate levels in air quality management areas (AQMAS)			
	CO <sub>2</sub> emissions from road transport	Not currently available				
Thriving place and communities – accessibility	Accessibility to public transport services	Not currently available			Number of fully accessible buses	
					Provision of information at bus stops	
					Provision of real-time information	
					Take-up of concessionary fare passes	



**28 November 2019****Agenda Item: 5****REPORT OF CORPORATE DIRECTOR, PLACE****HIGHWAYS ENVIRONMENTAL MATTERS****Purpose of the Report**

1. The purpose of this report is to enable the Communities & Place Review Committee to review the Authority's highway environmental practices and priorities in accordance with the Full Council Resolution of 11<sup>th</sup> July 2019.
2. This report will also enable Committee to assess the feasibility of a number of initiatives which could potentially reduce the impact of the County Council's highways maintenance activities upon the natural environment and protect and enhance wildlife throughout Nottinghamshire, and to recommend which of the initiatives, if any, it would like to recommend to the Communities & Place Committee.

**Information**

3. This report is accompanied by a presentation which will provide Members with further information and details about each of the topics discussed below, this will include, wherever possible, comparisons with the activities undertaken by other Highway Authorities in the region and Highways England.
4. The presentation will also make reference to the emerging advice available from the organisations below:
  - **Plantlife** – Managing grassland and road verges.
  - **The Wildlife Trusts** – Managing road verges
  - **ADEPT** – Glyphosate, where do Local Authorities stand
5. Section 41 of the Highways Act 1980 places a duty on the County Council to maintain the highway in a reasonably safe condition so that traffic can pass along it during all seasons of the year. Highway verges and other land adjoining footways and carriageways are an integral part of the highway network and must be maintained in the interests of safety, serviceability and sustainability.
6. Furthermore, in relation to the exercise of functions under Sections 29(1) and 121(3), Highways Act 1980, highway authorities are required to have regard to agriculture, forestry and nature conservation in the exercise of certain highways functions, and to specifically have due regard to the desirability of conserving flora and fauna (and geological and physiographical features).

7. Additionally, Section 40, Natural Environment and Rural Communities Act 2006 states that every public body and local authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

## **Roadside Grass Cutting**

8. Roadside verges are one of Nottinghamshire's largest highway assets. In total the County Council is responsible for the maintenance of approximately 21,500,000m<sup>2</sup> of verge.
9. For grass cutting purposes Nottinghamshire County Council's '*Highway Network Management Plan*' defines an urban road as being subject to a speed limit of 40mph or less. A rural road is classified as having a speed limit exceeding 40mph. However, there may be some circumstances where this classification needs to be varied to make allowance for local conditions or for the localised adoption of greater or lesser cutting frequencies.
10. The County Council's current grass cutting regimes for rural roads are set out below. It should be noted that the requirement for cutting visibility splays differs to other parts of the highway network because they are an essential safety feature of accesses and junctions which allow traffic on minor roads to see cyclists, vehicles and pedestrians on the main roads they are attempting to join.

### **(a) Urban Roads**

Visibility splays, traffic islands, raised roundabouts and grass adjoining highways in built-up areas with numerous accesses Minimum 5 times per year or as required to maintain visibility.

Grass areas adjoining highways on all other roads. 5 times per year.

Grass areas adjoining footways and cycle tracks. 5 times per year.

### **(b) Rural Roads without footways:**

Visibility Splays Full width cut of visibility splay minimum 2 times per year, or as required to maintain visibility. This is in addition to the single swath cut mentioned below which also includes visibility splays.

All other grassed areas adjoining the highway Single width swath (*i.e. the width of one grass cutting blade*) cut 2 times per year

### **(c) Rural Roads with footways:**

Visibility splays Full width cut of visibility splay minimum 2 times per year or as required to maintain visibility. This is in

addition to the single swath cut mentioned below which also includes visibility splays.

All other grassed areas adjoining the highway

Full width cut between the footway and road edge, single width swath cut at rear of footway 2 times per year

N.B. On all Rural Roads the final cut of the season in every third year is full width.

7. It is not recommended that any changes are made to the grass cutting frequencies on visibility splays as this would present an unacceptable safety risk. It is also not recommended that any changes are made to the full width cut every third year because this cut inhibits the development of self-set trees and shrubs which once established become an obstruction in the highway and are expensive to remove.
8. The presentation will address the following:
  - The results of the ongoing reduced grass cutting frequency trial for rural verges, i.e. reducing the number of cuts from two to one per year. This trial is now in its second year as the results of the first year proved to be inconclusive.
  - Observations about the suitability of the reduced cutting frequency for rural roads with footways.
  - The implications of reduced grass cutting frequencies upon works programming and the plant / machinery required.
  - Liaison with District Councils regarding litter picking prior to grass cutting works.
  - The potential impact of changing grass cutting frequencies may have upon staff whose working hours reflect the seasonal differences which occur through the year.
  - Potential for the phased implementation of any changes.
  - Increasing the numbers of highway verges which are planted with wild flowers from the three currently located in Lowdham, Newark & Retford.
  - A discussion of the suitable locations, ongoing maintenance and most appropriate wildflower seed mixes to use in these locations.

## Weed Spraying

9. The County Council undertakes weed spraying works for the following reasons:
  - To prevent damage to the fabric of the highway.
  - To prevent highway drainage being compromised.
  - To enhance the visual amenity of the highway.
10. In Nottinghamshire no residual weed killers (*i.e. chemicals which leave a barrier on the surface to prevent new germination*) are approved for use on highway surfaces.
11. Currently Glyphosate is the only non-residual weed killer (*i.e. chemicals which are quickly deactivated in the soil*) approved for use on highway surfaces.
12. The European Union issued a new five-year license for the use of Glyphosate on the 12<sup>th</sup> of December 2017 and it currently complies with all existing environmental legislation.

13. The presentation will address the following:

- The current legal position relating to the use of Glyphosate.
- Concerns associated with the use of Glyphosate.
- The implications of District Council's reducing their road cleansing frequencies.
- Possible alternatives to the use of Glyphosate such as the application of hot water, hot foam, burning, alternative products or simply allowing weeds to go untreated or treating weeds on inspection.
- The cost and time impacts which are likely to arise from the use of alternative treatments.
- The potential impact of alternative treatments upon the delivery of the service, i.e. the availability of competent contractors.
- Liaison with District Councils.
- Review of the EU's arrangements for re-licensing Glyphosate.

### **Maintenance of Trees and Hedges**

14. Highway trees and hedges form another significant highway asset. In total the County Council is responsible for the maintenance of highway hedges at 286 various sites around the county and 30,286 highway trees.

15. Tree maintenance works follow the principles set out in the document *'Tree Conservation and Maintenance Policy For trees owned or managed by Nottinghamshire County Council'*. This document commits the Authority to the following:

- Trees shall be retained for as long as practicable. Felling shall be a last resort except when it is necessary to meet the County Council's statutory duties, or it is for the benefit of the growth and health of other trees of greater value for amenity or conservation.
- Pollarding shall be carried out only if it would be appropriate and there is no alternative short of felling, except when it is to resume or continue previous practice or it is for conservation reasons.

16. The County Council's *'Highway Network Management Plan'* states that hedges will be maintained and cut to ensure their growth does not present a hazard to road users and that when cutting is necessary, it is sympathetic to the environment (e.g. outside of the bird-nesting season).

17. The presentation will explain:

- How the maintenance decisions which relate to highway trees and hedges are made (*for example the possible actions which may be taken in response to diseased trees, trees damaging the highway or adjacent properties, trees which are structurally compromised and trees which have been damaged by utilities*).
- How the various maintenance techniques employed by Via EM Ltd.'s Forestry Team contribute to the long-term wellbeing of the County's trees.
- Tree re-planting and its associated restrictions.

- The impact of financial pressures upon environmental maintenance works and how the additional monies invested over the last four years have partially mitigated this.
- The impact of District Councils ceasing their shrub bed maintenance works.
- The protocol developed collaboratively which ensures that Via EM Ltd. do not fell any tree in the highway without first obtaining the County Council's permission.

### **Promotion of Native Tree Species**

18. The County Council's tree conservation and maintenance policy states that when planting new trees, the species selected should be appropriate for the location concerned and that trees growing successfully nearby should be taken as a guide. The policy expresses a preference for native species however, it also acknowledges that '*...exotics...*' may be suitable in some situations.
19. The County Council's position regarding the inclusion of trees in new developments is that, wherever possible, existing healthy trees that will be in the adopted highway should be retained and that any newly planted or retained trees within the proposed highway extent will be adopted by the Highway Authority on the proviso that the developer pays the established predetermined commuted sum to cover their long-term maintenance.
20. The presentation will address the following:
  - The financial constraints acting upon the forestry service which limits its ability to undertake new planting.
  - The selection of appropriate tree species based upon soil characteristics, existing tree species distribution and the nature of the surrounding environment.
  - Potential opportunities to maximize tree planting i.e. incorporating planting into future capital schemes and inviting the public to sponsor trees.

### **Other Options Considered**

21. The other options considered are set out within this report and its accompanying presentation.

### **Reason/s for Recommendation/s**

22. The Committee's findings will enable the County Council to restate its commitment to enhancing Nottinghamshire's ecology and, in refreshing its position on its legal environmental duties, will better determine the Authority's future priorities for its environmental maintenance activities within the highway.

### **Statutory and Policy Implications**

23. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **Financial Implications**

24. The financial implications of this report will be dependent upon the findings and recommendations of the Committee. Any findings may form future recommendations to the Communities and Place Committee.

## **Implications for Sustainability and the Environment**

25. The implications for sustainability and the environment are set out in the report and will be discussed during the presentation.

## **RECOMMENDATION/S**

It is recommended that Committee:

- 1) Review the information contained in this report - and its accompanying presentation - and report its findings and recommendations to Communities and Place Committee in due course, for further consideration.

**Adrian Smith**  
**Corporate Director, Place**

**For any enquiries about this report please contact:**  
Martin Carnaffin – Contract Manager Tel: 0115 9774229

## **Constitutional Comments [SJE 22/10/2019]**

26. This decision falls within the Terms of Reference of the Communities & Place Review & Development Committee to whom responsibility for the review and development of all functions falling under the remit of the Authority's Communities & Place Committee, including policy development in relation to the planning, management and maintenance of highways, has been delegated.

## **Financial Comments [RWK 21/10/2019]**

27. There are no specific financial implications arising directly from the report. Any financial implications arising out of recommendations to the Communities and Place Committee will be considered in future reports to that committee.

## **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Nottinghamshire County Council's Highway Network Management Plan
- Tree Conservation and Maintenance Policy For trees owned or managed by Nottinghamshire County Council



- Plantlife, Managing grassland and road verges, Plantlife  
<https://www.plantlife.org.uk/uk/our-work/publications/road-verge-management-guide>
- Managing road verges, The Wildlife Trusts  
<https://www.wildlifetrusts.org/how-manage-road-verge-wildlife>
- Glyphosate - where do Local Authorities stand, ADEPT  
<https://www.apse.org.uk/apse/index.cfm/members-area/briefings/2019/19-32-glyphosate-where-do-local-authorities-stand/>

**Electoral Division(s) and Member(s) Affected**

- All



## **APSE briefing: Glyphosate- Where do local authorities stand?**

This briefing is provided to all APSE member authorities but will be of particular interest to those officers responsible for grounds maintenance, parks and street cleansing services.

### **Key Issues:**

- Following the publication of a report from the International Agency for Research on Cancer (IARC) in 2015 which found that glyphosate was “a probable human carcinogen”, there has been a great deal of debate across the world as to whether the herbicides which include glyphosate are safe to use.
- This debate has been heightened by recent court rulings in the United States which have awarded multi-million dollar damages to citizens who have claimed continued use of glyphosate has caused them to develop cancer.
- National agencies across the world have declared glyphosate to be safe to use, suggesting it poses no threat. However some countries have now decided to ban glyphosate or severely curtail its use.
- Regarding the UK, it continues to say glyphosate based products are safe to use, but local authorities now find themselves caught between legal advice and the moral question of knowing there have been successful claims that glyphosate has caused cancers.
- APSE has therefore produced this briefing note, itself taking legal advice, as to where local authorities stand in this situation.

### **Background**

The mention of glyphosate tends to drive people into two camps: those who advocate its use as a cheap, effective and readily available herbicide, essential to grounds maintenance and agricultural practices all over the country, and a second group who see it as a potentially dangerous carcinogenic substance which should be banned from use.

Glyphosate as a product is rarely used on its own, but as part of a group of chemicals in products such as Roundup, Pathclear or Weedol, which in themselves are far more toxic than glyphosate on its own.

Local authorities across the country still use glyphosate-based products in large quantities, despite calls to reduce chemical use and move towards a more integrated weed management approach.

There are few alternatives to glyphosate and even those which are seen as alternatives are often still in a pilot phase and much more expensive to use, which considering the budget cuts many local authority parks and grounds maintenance services have suffered, do not make these products attractive.

However, recent United States court rulings against Monsanto, the supplier of one of the world's leading glyphosate-based products, Roundup, has led to the awarding of millions of dollars in damages to plaintiffs who claim to have contracted cancer as a result of the prolonged use of glyphosate-based products. Currently there are over 18,400 lawsuits alleging links between Roundup pesticide and cancer going through, or about to go through the US courts. This situation has led many users to reconsider glyphosate's safety as well as the possibility of legal actions being taken against them.

These concerns has resulted in some UK local authorities joining a growing group of organisations and countries around the world which have banned the use of glyphosate and glyphosate-based herbicides.

Therefore the question has to be asked, where does a local authority stand in relation to using a European Union licenced product which has scientific backing as being safe to use, against the possibility of legal action being taken by employees or residents who claim the use of glyphosate has given them cancer.

## **Safety concerns**

The original safety concerns over the dangers from glyphosate came out of a report from the International Agency for Research on Cancer (IARC) in 2015 which found that glyphosate was "a probable human carcinogen".

This report has been roundly attacked by the manufacturers of glyphosate and called into question by many countries' regulatory bodies which argue that glyphosate is safe to use; it has over 40 years of use and 800 studies behind it. However, critics of glyphosate state that many of these studies can be called into question, as a large proportion were commissioned by the industry which created glyphosate and therefore cannot be trusted.

Despite assurances from national and regulatory bodies (such as the European Food Safety Authority) some UK local authorities have taken the decision to either ban glyphosate and glyphosate-based herbicide use totally, or at least in specific areas, such as schools, playgrounds, parks and pavements i.e. areas where there is a high public footfall or where high risk groups are present.

Against such a complicated and conflicting catalogue of information, where do local authorities stand in relation to the continued use of glyphosate-based products whilst at the same time being aware of the potential hazards and legal implications of using this herbicide?

### **Where do local authorities stand?**

Claims to date have mainly been against the suppliers. For instance, in the US, a groundskeeper at a California county school was awarded \$79 million after arguing that his cancer was caused by several years of exposure to Roundup. As noted above, there are numerous other claims ongoing in the US and we are now also seeing litigation outside of the US. A recent claim has been brought in Australia against Bayer (the parent company of Monsanto) claiming that glyphosate was linked to a claimant's cancer. In addition to this claim there are also reportedly landscape gardeners, council workers and farmers seeking to bring further lawsuits.

As the use of glyphosate-based products is still legal in the UK (glyphosate is an approved active substance on the EU Pesticides Database until 15 December 2022), local authorities cannot be criminally prosecuted simply for using these products. Nevertheless, the Health and Safety Executive (**HSE**) enforce regulations relating to the advertisement, sale, storage, supply and use of pesticides as part of a work activity to ensure the health and safety of employees and persons affected by such work activity is protected. Local authorities themselves are required to enforce controls in respect of the advertisement, sale, supply, storage and use of pesticides for those areas not under the HSE's jurisdiction, including sports grounds, gardens and parks.



In particular, the Plant Protection Products (Sustainable Use) Regulations 2012 (**the Regulations**) require a person who uses or permits an individual to use a plant protection product (pesticide) to ensure that all reasonable precautions are taken to protect human health and the environment and specifically notes that the amount of pesticide used and the frequency of use must be as low as reasonably practicable when pesticides are used in areas used by the general public or by vulnerable groups. Failure to comply with the Regulations, as well as general health and safety legislation requiring an organisation to protect the health, safety and welfare of its employees and those affected by their undertaking, can result in a criminal prosecution and fine.

It is therefore imperative that local authorities using glyphosate products are aware of their legal obligations and continue to use these pesticides accordingly. Conducting thorough risk assessments to understand the impact of using these products and putting in place suitable control measures, including the provision of information, instruction, training and personal protective equipment to persons using pesticides directly is fundamental.

Local authorities should also consider the possibility that future civil claims could be made against them by persons exposed to glyphosate-based products. Much like asbestos-related claims, if it can be proven that exposure to glyphosate during the course of employment has links to cancer, there may be the possibility of a compensation claim. The robustness of the risk assessments undertaken and control measures implemented by local authorities will therefore be fundamental to ensuring any such claims can be prevented or challenged in the future.

For members of the public, such as park users, it is likely to be much more difficult (although not necessarily impossible) for them to establish that regularly using a park treated with Roundup or another glyphosate-based product would have caused or contributed to their cancer therefore limiting the ability for successful claims against local authorities. Nevertheless, local authorities should note increasing pressure from resident groups and other interested parties have been seen elsewhere, with members of the public campaigning for organic pesticides to be used or for no pesticides to be used.

In New York, legislation has been introduced to ban glyphosate-based products from public parks and other properties. Other countries, such as Italy and Portugal, have also

imposed bans on the use of glyphosate-based products in public areas. France and Germany, are seeking to phase-in prohibitions on glyphosate use.

In the UK, a number of local authorities have taken their own steps to impose restrictions on the use of glyphosate-based products and other pesticides and herbicides. For example Croydon, Lewes, Glastonbury, Wadebridge and the London Borough of Hammersmith & Fulham are all reportedly banning the use glyphosate-based products in public areas.

Whilst glyphosate currently remains an approved pesticide in the EU, in light of the successful prosecutions around the world and the growing concerns about glyphosate, it may be prudent for all local authorities to carefully consider the scale of glyphosate use, the likely risks arising, the potential to limit the reliance on glyphosate-based products and the ability to find a suitable alternative product to prepare for the future.

### **Financial implications**

Banning glyphosate-based products will come at a cost. The Crop Protection Agency (whose members include major producers of pesticides and herbicides) stated that banning glyphosate-based products would cost councils an estimated £228 million in higher costs to use alternatives. There may also be additional costs involved in terminating contracts and re-procuring alternatives.

The anti-glyphosate lobby argue that there are organic methods to manage weeds and use manual or other mechanical methods (such as foamstream). However, these alternatives also have cost implications for local authorities and glyphosate-based products remain particularly cost-effective for invasive type weeds.

At this stage, local authorities have a choice. The continued use of glyphosate products responsibly (and in accordance with legal requirements) is permitted and allows for a cost effective solution to the need for pesticide use. Alternatively, local authorities may feel public pressure to limit the use of glyphosate products, or ban their use entirely. Either way, all local authorities need to give serious consideration to the future of using glyphosate products.

As the levels of public interest surrounding these products and the number of successful claims continues to grow, the risk of the products being banned in the EU increases as, no doubt, does the appetite of potential claimants. Local authorities should take the

opportunity whilst the use of glyphosate remains lawful to identify an appropriate, cost effective solution and potential alternative products to ensure the financial implications of using glyphosate can be appropriately managed.

As a footnote, Bayer has recently committed to spend £5.6 billion on weed killer research which will reduce its environmental impact by up to 30% through more targeted and reduced use of chemicals. In addition, Bayer has recently signed an agreement with a UK company for exclusive world-wide rights to commercialise its pollinator friendly bioinsecticide. Therefore whilst still claiming there is a place for glyphosate, Bayer are clearly looking at alternative and more nature-based products.

### **APSE Comment**

Unfortunately there is no right or wrong answer to the question is it safe to continue to use glyphosate products.

Some will argue that 40 years evidence proves it is safe to use whilst others will argue a good deal of the research which proves this has come from the manufactures of glyphosate.

There is the issue of successful claims in court that the continued use of glyphosate has led to cancer together with thousands more cases awaiting judgement. There is also the concern that these claims are now appearing in several countries across the globe and if such a case were to be brought in the UK, whether Local Authorities would be able to cope with paying any damages awarded against them, as well as the cost of finding alternatives.

Equally now that we have seen this 'link', proven or not, then morally should we continue using a product which although highly effective and affordable, could potential pose a threat to our residents.

It appears the only realistic option at the moment, until affordable and effective alternatives can be found is to use glyphosate products as sparingly as possible and away from high public footfall areas. The adoption of more integrated weed control approaches is clearly the way to go as this reduces exposure to chemicals and can also improve levels of biodiversity. Obviously there may be a need for the public to accept higher levels of



weeds as a result, but perhaps this is a price they would be willing to accept if it means the potential threat from chemical spraying can be avoided.

Despite protestations from the manufacturers of glyphosate that they are being unfairly treated and the claims are based more on public opinion rather than hard scientific facts, they are now looking at more natural weed and pest control methodologies such as bioinsecticides, which perhaps in the long-run will be the most positive outcome of this debate.

***APSE thanks Walker Morris, LLP for their guidance and advice on this briefing. This briefing does not constitute direct legal advice to local authorities and local authorities and other parties should always secure their own independent legal advice on the matters of litigation, risk and health and safety of workers and the public referred to in this briefing.***

Wayne Priestley, APSE Principal Advisor

Richard Butterworth  
Senior Associate, Walker Morris LLP

Claire Burrows, Senior Associate, Walker Morris LLP



28 November 2019

Agenda Item:6

## **REPORT OF SERVICE DIRECTOR, GOVERNANCE AND EMPLOYEES WORK PROGRAMME**

### **Purpose of the Report**

1. To consider the Committee's work programme for the period up to March 2020.

### **Information**

2. The County Council requires each committee to maintain a work programme. The work programme will assist the management of the committee's agenda, the scheduling of the committee's business and forward planning. The work programme will be updated and reviewed at each pre-agenda meeting and committee meeting. Any member of the committee is able to suggest items for possible inclusion.
3. The attached work programme has been drafted in consultation with the Chairman and Vice-Chairman, and includes items which can be anticipated at the present time. Other items will be added to the programme as they are identified.
4. As part of the transparency introduced by the new committee arrangements, each committee is expected to review day to day operational decisions made by officers using their delegated powers. The Committee may wish to commission periodic reports on such decisions where relevant.

### **Other Options Considered**

5. None.

### **Reason/s for Recommendation/s**

6. To assist the committee in preparing its work programme.

### **Statutory and Policy Implications**

7. This report has been compiled after consideration of implications in respect of finance, public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such

implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **RECOMMENDATION/S**

- 1) That the Committee's work programme be agreed, and consideration be given to any changes which the Committee wishes to make.

**Marje Toward**  
**Service Director, Governance and Employees**

**For any enquiries about this report please contact: Noel McMenamin, Democratic Services Officer on 0115 993 2670**

### **Constitutional Comments (HD)**

8. The Committee has authority to consider the matters set out in this report by virtue of its terms of reference.

### **Financial Comments (PS)**

9. There are no financial implications arising directly from this report.

### **Background Papers**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- New Governance Arrangements report to County Council – 29 March 2012 and minutes of that meeting (published)

### **Electoral Division(s) and Member(s) Affected**

All

## **COMMUNITIES & PLACE REVIEW & DEVELOPMENT COMMITTEE**

### **WORK PROGRAMME – NOVEMBER 2019–JULY 2020**

<b>Report</b>	<b>Description</b>	<b>Lead Officer</b>	<b>Report Author</b>
<b>28 November 2019</b>			
Integrated Transport Measurement Programme	To seek Committee endorsement on the monitoring of the integrated transport objectives and programme elements and to update Committee progress against transport related indicators.	Adrian Smith	Sean Parks/Sally Gill
Highways Environmental Matters	To enable Communities & Place Review Committee to review the Authority's highway environmental practices and priorities in accordance with the Full Council Resolution of 11 July 2019.	Adrian Smith	Gary Wood/Martin Carnaffin/Via
<b>30 January 2020</b>			
Review of Committee Activity and Achievements – November 2018 to January 2020	To review and evaluate the work of the Committee since its first meeting in November 2018, and to inform future direction of the Committee.	Derek Higton	Gary Wood/ Martin Carnaffin/Via
Highways Environmental Matters - Recommendations		Derek Higton	Gary Wood/Martin Carnaffin/Via
Highways Drainage - Introduction		Derek Higton	Gary Wood/Martin Carnaffin/Via
<b>19 March 2020</b>			
Highways Asset Management – Introductory Report		Derek Higton	Gary Wood/Martin Carnaffin/Via
Highways Drainage – Recommendations		Derek Higton	Gary Wood/Martin Carnaffin

<b>14 May 2020</b>			
Highways Asset Management – Recommendations		Derek Highton	Gary Wood/Martin Carnaffin/Via
<b>9 July 2020</b>			