

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 11th 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 21,500,000m² 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.
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Grass areas adjoining highways on all other roads.	5 times per year.
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Grass areas adjoining footways and cycle tracks.	5 times per year.
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(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>i.e. the width of one grass cutting blade</i>) 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
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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 12th 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:
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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