



## **REPORT OF SERVICE DIRECTOR, HIGHWAYS**

### **SECTION 38 AGREEMENTS – UN-ADOPTED HIGHWAYS**

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

1. To report on the progress of the use of a specialist consultant to complete works in connection with selected outstanding Section 38 agreements so that highways within developments can be adopted by the Highway Authority without having to use public funds and seek approval to procure such services in the future.

#### **Information and Advice**

2. Following approval from Committee in May 2014 the County Council has carried out a trial of a specialist consultant (Bellavail Indemnity Management Services (IMS)) to work on a number of developments around the County. The work that has been carried out involves bringing the roads of developments where the developer has either ceased to trade or failed to adhere to the requirements set out in the relevant legal Section 38 Agreement to a standard whereby the Highway Authority can adopt them so that they become highways maintainable at public expense.
3. If the County Council has to deal directly with such developments as outlined in the previous report the options available to it are limited. However by using a specialist consultant in situations where developers have ceased to trade and/or failed to carry out works to the correct specifications or in accordance with the legal requirements of the Agreement the County Council is able to delegate all the work required to complete the adoption of the highway. The consultant is able to use its experience and resources to use the available funding from the financial bond that developers have to have in place as part of the Agreement to bring the road up to an adoptable standard. In those instances where developers are still trading the consultant can offer alternatives to them other than calling in the bond such as carrying out the necessary works using the consultant's resources or the consultant managing the developer's resources.
4. The advantages for the Highway Authority and County Council in using the services of a consultant are that resources do not have to be used to call in a bond or deal with any other processes involved in bringing the road up to an adoptable standard. For residents the advantage is that the road is adopted and becomes maintainable at public expense. For those developers that are still trading but have failed to complete works in accordance with the legal Agreement the use of the consultant offers alternative means of bringing the roads

up to an adoptable standard other than calling the bond in which would affect their financial standing.

5. Of the 23 sites that have been part of the trial so far 3 have now been formally adopted meaning that 36 householders are now benefiting from living on roads that are formally maintained by the County Council. Another 8 sites are close to the point where the Highway Authority will be able to adopt them and this will mean that a further 399 householders will benefit and once the remaining 12 sites are completed a total of 1190 householders will benefit from living on adopted roads.
6. This work is carried out at no cost to the Highway Authority and ensures that a significant number of residents have the assurance that their roads will be maintained at public expense.
7. As reported to Committee in May 2014 should the trial be deemed to be successful then a proposal would be presented to formally procure such a service. In view of the success of this trial it is recommended that it would now be prudent to do this.

### **Other Options Considered**

8. In considering the use of specialist consultants it has been ascertained that the County Council does not have sufficient resources and expertise available to deal with all of the outstanding Section 38 agreements.

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

9. Without the use of specialist consultants it is likely that some long standing issues with un-adopted roads on developments will continue unresolved potentially blighting the lives of residents.
10. The trial has established that the use of a specialist external consultant is a cost effective tool to ensure the adoption of highways in those developments where the developer has ceased to trade or failed in their legal obligations.

### **Statutory and Policy Implications**

11. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working 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**

12. The use of a specialist consultant will have no financial impact on the County Council other than the cost of the formal procurement process

## **RECOMMENDATION/S**

Approval be given to carry out a formal procurement process to appoint a consultant to continue work to bring roads to adoptable standard.

**Neil Hodgson**  
**Interim Service Director (Highways)**

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

Clive Wood,  
Team Manager Highway Development Control

### **Constitutional Comments (SLB 19/06/2015)**

Transport and Highways Committee is the appropriate body to consider the content of this report.

### **Financial Comments (TMR 15/06/2015)**

The financial implications are set out in paragraph 12 of the report.

### **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.

- None

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

- All