

**ADOPTION OF ROADS AND SEWERS
(Report of the Working Group)**

1. INTRODUCTION

- 1.1 The purpose of this report is to set out the findings to date following completion of the first part of the study on the adoption of roads and sewers across the District. The idea for the study emerged following concerns expressed previously by the Panel, who had acknowledged that delays in adoption were a national problem.
- 1.2 The Panel decided to establish a Working Group to investigate the processes and procedures involved with a view to improving the speed of the adoption process. There have been changes to the membership of the Working Group since its establishment, with the current membership comprising Councillors J D Ablewhite, Mrs P A Jordan, M F Shellens, J S Watt and P K Ursell. Former Councillor D A Giles was appointed on to the Working Group and assisted with the investigations until April 2008 and the late Councillor Mrs C A Godley also participated in the study during its initial stages. Councillor P K Ursell has declared a personal interest in the study by virtue of his employment with a local developer.
- 1.3 Discussions have been held with relevant District Council Officers and the Working Group is grateful to them for the support provided during the course of their investigations to date. Investigations are still ongoing and a further meeting of the Working Group has been arranged for 29th January 2009 with Officers from the District and County Councils. At the time of writing the meeting had not yet been held so a further update will be provided at the meeting.
- 1.4 The purpose of this report is to acquaint Panel Members with the investigations undertaken to date by the Working Group.

2. AIMS OF THE WORKING GROUP

- 2.1 The Working Group was originally tasked with undertaking a study on “the process of adopting estate roads and sewers with an aim to put measures in place that could streamline the process and make the procedures more transparent, initially by investigation of introducing a District-wide register of unadopted roads and sewers.”
- 2.2 Having investigated the feasibility and utility of introducing a register of unadopted roads and sewers in the District, it was concluded that this would not be appropriate given the fact that the County Council already has a statutory duty to maintain a register of adopted roads, a register of unadopted roads would very quickly become out of date as new developments were completed and that the maintenance of a register would have resource implications for the District Council. Nevertheless, the Working Group has acknowledged the importance of the principle that underlies such a register but it has been decided that it would be more appropriate to focus on

ensuring that the necessary procedures are in place so that roads and sewers are adopted as soon as they become eligible under the respective statutory procedures.

- 2.3 In light of the above, the Working Group undertook to pursue comprehensive investigations into the existing processes and procedures for adoption, with a view to making recommendations to improve upon the current systems and practices.

3. WORKING GROUP ACTIVITIES TO DATE

- 3.1 The Working Group has met on a number of occasions over the previous year and has interviewed the following District Council Officers:-

- Mr Chris Allen – Projects and Assets Manager
- Mr Graham Shipley – Principal Building Control Officer

- 3.2 In addition to interviewing the above Officers, the Working Group has undertaken comprehensive research in connection with the following:-

- Department for Environment, Food and Rural Affairs (DEFRA)
- Department for Transport (DFT)
- Anglian Water Authority
- District Council's Legal and Estates Division
- District Council's Environmental and Community Health Services Division
- District Council's Land Searches Section
- County Council's Transport Asset Management Section
- Home Insurance Providers

- 3.3 The section below summarises the Working Group's findings to date based upon the evidence already collated.

4. WORKING GROUP FINDINGS TO DATE

- 4.1 As there has been a long standing agreement that the District Council will not scrutinise County Council services and *vice versa*, the Working Group decided to concentrate on the adoption of sewers. This is often (but not always) a necessary precursor to road adoption. Nevertheless, it was intended to compile evidence on current road adoption procedures.

(a) Sewer Adoption

- 4.2 The Working Group has undertaken extensive research into the processes and procedures involved into the adoption of sewers, which is an important part of the study as Highways Authorities will not usually adopt roads until the associated sewers have been adopted by the body responsible for drainage. Other causes of delay for sewer adoption have previously been reported as follows:-

- proposed deviations from the sewers for adoption guide;
- commencement of work by developers before technical approval has been received from the sewerage undertaker;
- legal disputes and legal matters; and

- developers being reluctant to complete remedial works once they have completed a site.
- 4.3 On the basis of their own investigations the Working Group has expressed concern that homeowners are unaware of their current liability towards paying for drainage repairs to their property. It has become apparent that when land searches are submitted, the question of drainage is not automatically raised. The District Council's Land Charges Section have advised the Working Group that any matters relating to drainage are referred to Geodysys, a provider of land and property information for the East of England, which was established by Anglian Water in June 1997 to manage its water asset information and to provide water and drainage search services to all property professionals. Solicitors therefore have to submit their own drainage searches with the company at an additional cost of £36 - £51 to the client. Despite property deeds stating whether the owner of the property is responsible for the cost of maintaining the sewer that serves it, a suggestion has been made that Solicitors should be encouraged to advise clients to undertake drainage searches when purchasing properties.
- 4.4 The Working Group has made enquiries with home insurance providers to investigate whether policies cover drainage and sewerage repairs at a property. The Working Group has been advised that policies are unlikely to provide cover for such repairs. This issue was also referred to within DEFRA's review of private sewers (see paragraph 4.9).
- 4.5 The Working Group has considered various estates in the District that have experienced sewerage problems in the past, namely Kings Road, Dukes Road, Queens Gardens and Regents Road, Eaton Socon and Christie Drive, Huntingdon. The Working Group had initially intended to conduct a site visit to the estates but concluded that little extra information would be gained from visiting the sites. The Working Group has obtained information from the District Council's Environmental and Community Health Services Division on the Council's powers to intervene in certain circumstances when residents are experiencing drainage problems. In cases where such problems are evident, if the blockage is not cleared up within 28 days, the District Council may serve notice and carry out the necessary works. The cost of the works is recharged to the properties concerned or a charge is placed on the property. Although there are concerns over the 28 day period required before the District Council can intervene, the Working Group has nevertheless expressed their satisfaction that some intervention processes are available and in place to address such issues.
- 4.6 During the course of their investigations, it became evident to the Working Group that the estates referred to above had been constructed by public sector housing authorities but are now either privately owned or have been transferred to a registered social landlord. With regard to the latter, the Working Group has examined the terms of the Large Scale Voluntary Transfer agreement and has been advised by the District Council's Legal and Estates Division that the District Council still has a liability to pay for drainage repairs for social housing, should maintenance costs exceed a certain sum in any year. Whilst Huntingdonshire Housing Partnership is liable for the initial costs of up to £65,000, the District Council would then be required to contribute up to a further £65,000 towards the cost of repairs. The Working Group has been advised that should total maintenance costs exceed the sum of £130,000 in any year, the District Council would still be liable, however, the

matter would be referred to arbitration to establish who would be responsible for meeting the cost. The Working Group has been advised that these provisions will cease in 2015.

- 4.7 The Working Group has carried out investigations into the Protocol on Design, Construction and Adoption of Sewers in England and Wales which was introduced by DEFRA in 2002 and reviewed in 2005. The Protocol primarily intended to ensure that all new sewers constructed since then would be built to an adoptable standard. The 2005 review of the Protocol concluded that owing to the cost involved and a lack of legal powers to compel developers to construct sewers to an adoptable standard, sewers were still not being built to an adoptable standard. This point has further been reinforced by the District Council's Principal Building Control Officer, who has advised the Working Group that the Building Control Section are unable to enforce the standards to which sewers are constructed and that current Building Regulations allow developers to construct sewers to a standard that is lower than that required for adoption purposes. The Working Group was advised that one of the recommendations proposed within DEFRA's review of private sewers was that the Protocol should be made mandatory and incorporated within Part H of Building Regulations. The consultant appointed by DEFRA, W S Atkins, had established that only 1% of developments built after the publication of the Protocol were built in accordance within the terms outlined within the document.
- 4.8 It appears that water authorities see no benefit in adopting sewers and they are regarded as a financial liability. The Working Group has investigated the standards to which Anglian Water requires sewers to be constructed and have been advised that their standards are outlined within a publication entitled "Sewers for Adoption". This guide specifies the industry standard and sets out the design standards and specifications, together with the procedure, legal arrangements and timescales for the adoption process. Additionally, the Principal Building Control Officer has advised the Working Group that the National House-Building Council (NHBC) standards for sewer adoption are not the same as those identified by Water Authorities. It has become clear to the Working Group that the existence of various protocols and standards have contributed towards the delay in the adoption process. At this point in the study the Working Group formed the view that more standardisation in this respect was required. Furthermore, in order to encourage water authorities to improve their own adoption procedures, the Working Group considered whether there would be merit in establishing forum of local authorities to lobby water companies on this matter.
- 4.9 Whilst undertaking their investigations into sewer adoption, the Working Group was encouraged by an announcement made by DEFRA on 15th December 2008, which stated that from April 2011, responsibility for 200,00km of privately owned sewers and lateral drains in England would be transferred to the statutory water and sewerage companies. This would mean that a total of 55% of private drainage would be under the direct control of water and sewerage companies. This decision had been reached following an extensive review of private sewers which had commenced in 2001, and had been prompted by a consultation exercise in 2003. Having regard to the latter, the Working Group was advised that the District Council had submitted a response to the consultation, the content of which has been reviewed by the Working Group. DEFRA has advised that the cost of the transfer will be met

by an increase in the sewerage element of bills, estimated to equate to £3 to £11 per year, dependent upon the sewerage company in question.

- 4.10 The Working Group has been advised that the Government intends to consult on draft regulations in Spring 2009 and to present them to Parliament in Autumn 2009. It is intended that the regulations will specify the detailed arrangements for the implementation of the transfer. The Working Group are keen to raise the profile of the DEFRA announcement to Members and local residents and have suggested that a press release be issued and article be published in the District Wide magazine. The Working Group anticipates that DEFRA's initiatives on private sewers will expedite the road adoption process.
- 4.11 The Working Group also made enquiries with the Department for Transport to identify whether or not there are any proposals to review the process for road adoption but no intentions in this direction have been identified.

(b) Road Adoption

- 4.12 The Working Group has been advised of the background to Section 38 Agreements, established under the Highways Act 1980, which enable developers to enter into an agreement with the Highways Authority (in this case, Cambridgeshire County Council) for the construction of new roads with a view to adopting them in the future. Under this Agreement, a developer is required to construct a road to an appropriate standard to the satisfaction of the Highways Authority and in accordance with the agreed specification. The Highways Authority is responsible for negotiating the Agreement and for the issue of guidance to developers, but the latter often being regarded as inconsistent and confusing for developers. Whilst it has become evident that developers do not construct roads to an adoptable standard, the Working Group has acknowledged that there is little incentive or penalty associated with completing the adoption process. The Working Group is also aware that it would be costly for Highways Authorities to take legal action against developers who fail to construct to the required standards.
- 4.13 The Working Group has been advised of common reasons why there are significant delays in the road adoption process, which are as follows:-
- land or legal disputes;
 - remedial works being undertaken where a defect has occurred in construction;
 - the need for roads to be adopted sequentially as they cannot be adopted unless they connect directly to an adopted highway;
 - changing specifications and standards of construction – e.g. lighting; and
 - developers not building sewers to agreed plans which creates problems for their adoption with the knock-on effects for roads.
- 4.14 It is anticipated that a meeting scheduled for 29th January 2009 will enable the Working Group to gather relevant information in respect of the road adoption process for the purposes of this study. The following have been invited to the meeting:-

- Mrs Sue Reynolds – County Council’s Highway Development Control Manager
- Mr Steve Ingram – District Council’s Head of Planning Services
- Mr Andy Moffatt – District Council’s Development Control Manager
- District Councillor Peter Bucknell – Executive Councillor for Planning Strategy and Transport

The purpose of the meeting is to obtain information on the County Council’s procedure for road adoption and on what powers the District Council’s Planning Department can use (if any) to compel developers to construct sewers to an adoptable standard. As highlighted earlier within this report, an update on the outcome of the discussions held will be provided at the Panel’s meeting.

6. CONCLUSION AND RECOMMENDATION

- 4.1 The Adoption of Roads and Sewers Working Group is progressing well with their investigations and is nearing completion of their study. The Panel, therefore, is

RECOMMENDED

to note the contents of the report.

BACKGROUND INFORMATION

Notes of the meetings of the Adoption of Roads and Sewers Working Group.

Contact Officer: Miss H Ali, Democratic Services Officer
☎ 01480 388006