

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

1. INTRODUCTION

- 1.1 At its last meeting, the Overview and Scrutiny Panel (Service Delivery) received a report by the Adoption of Roads and Sewers Working Group outlining their preliminary findings. The purpose of this report is to provide a further update and to acquaint the Panel with the outcome of a recent meeting of the Working Group.

2. BACKGROUND

- 2.1 The Adoption of Roads and Sewers Working Group met on 24th February 2009, when Councillors M F Shellens and J S Watt were present. Owing to his interests in the study, and in light of his previous employment as a builder, Councillor R S Farrer was in attendance at the meeting.
- 2.2 The District Council's Head of Legal and Estates and Communications and Marketing Manager had been invited to attend the meeting to assist the Working Group with their investigations. The Head of Legal and Estates had attended the meeting to discuss concerns previously identified regarding the limited availability to councils of powers through which to drive through the completion of the adoption process. The Communications and Marketing Manager attended to present to Members options for raising the profile of the Government's intention to transfer responsibility for privately owned sewers and lateral drains in England to the statutory water and sewerage authorities and to publicise the need for prospective house buyers to pay sufficient regard to this important issue.

3. WORKING GROUP INVESTIGATIONS

- 3.1 The Head of Legal and Estates has acquainted the Working Group with the legal provisions in existence in respect of the adoption of both sewers and roads. In his view these provisions are adequate to ensure the adoption process is completed. Following enquiries with local Solicitors on conveyancing practice, the Head of Legal and Estates Working Group has advised that, during the purchasing process, purchasers and mortgage providers are made aware of the status of the roads and sewers serving properties and of their financial liabilities for paying for drainage and road repairs on estates that have not been adopted. Providing the relevant agreement between developer and responsible body is in place, mortgage providers would not be expected to have any concerns over future liability for maintenance of roads or sewers. Where mortgage providers have concerns, retentions are still used, but usually only where there is no bond in place. The Head of Legal and Estates has further advised that insurance indemnity should be available against future liability in these areas.
- 3.2 After discussion on whether there are variations in the advice provided by solicitors, the Working Group has taken up a suggestion that they should attempt to speak to a representative of the local branch of the Law Society. The intention would be to clarify best practice and establish whether there are

any steps that can be taken to ensure the status of roads and sewers is thoroughly followed up during conveyancing.

- 3.3 From the perspective of developers, it was recognised that they would not want to apply the final surface to a road until all construction work had been completed. Yet it was not easy to identify why they would not want to absolve themselves of liability for future maintenance by ensuring completion of the adoption process. It has been speculated elsewhere that this is because of the difference between the construction specifications for Building Control purposes and the standards required for adoption. The latter are higher and are not a statutory requirement.
- 3.4 The Working Group has discussed ideas for providing improved and clearer information via the Land Charges and Land Registration systems. These may be pursued further at the next meeting. Other matters discussed include:
- The planning system generally cannot be used to impose conditions on adoption when other legislation exists through which a matter can be pursued;
 - There would not be a significant cost involved in calling-in a bond;
 - Owners are usually responsible for the maintenance of land and, therefore, for ensuring that they are safe; and
 - Proposals that have previously been reported concerning the adoption of sewers, should mean that a common barrier to the adoption of roads has been removed and that the road adoption process will be expedited in the future.
- 3.5 The Communications and Marketing Manager has discussed a number of options available, which might assist the Working Group to achieve their aspirations in terms of raising the consciousness of the various parties affected by the non-adoption of roads and sewers and ensure that, where necessary, appropriate action is taken. These include the Council's website, District Wide, the local press and briefings for Councillors. More detailed proposals for communicating the study findings will be considered at the Working Group's next meeting.

4. CONCLUSION AND RECOMMENDATION

- 4.1 The Adoption of Roads and Sewers Working Group is continuing to progress 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

Minutes and Reports of the Overview and Scrutiny Panel (Service Delivery) held on 3rd February 2009.

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

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