

Minutes of the Environment Overview and Scrutiny Panel

County Hall, Worcester

Friday, 26 May 2023, 10.00 am

Present:

Cllr Alastair Adams (Chairman), Cllr Tony Muir (Vice Chairman),
Cllr Mel Allcott, Cllr Paul Harrison, Cllr Emma Marshall, Cllr David Ross and
Cllr Emma Stokes

Also attended:

Cllr Richard Morris, Cabinet Member with Responsibility for Environment
Rachel Hill, Assistant Director for Economy, Major Projects and Waste
Paul Smith, Assistant Director for Highways & Transport Operations
Sarah Gilmour, Intelligent Transport Systems Manager
Kate Griffiths, Interim Democratic Governance and Scrutiny Manager
Alyson Grice, Overview and Scrutiny Officer

Available Papers

The members had before them:

- A. The Agenda papers (previously circulated);
- B. The Minutes of the Meeting held on 23 March 2023 (previously circulated).

(A copy of document A will be attached to the signed Minutes.)

38 Apologies and Welcome

Apologies were received from Councillor Mike Rouse (Cabinet Member for Highways and Transport) and John Hobbs (Strategic Director, Economy and Infrastructure).

39 Declarations of Interest and of any Party Whip

None.

40 Public Participation

None.

41 Confirmation of the Minutes of the previous meeting

The Minutes of the meeting held on 23 March 2023 were agreed as a correct record and signed by the Chairman.

It was noted that information requested at the previous meeting in relation to flooding had not yet been received and it was agreed that the request would be followed up by Officers.

42 Street Works

The Assistant Director (Highways and Transport Operations), the Assistant Director (Major Projects and Waste) and the Head of Traffic Management attended the meeting to update the Panel on a number of areas relating to the co-ordination, compliance and control of street works activities on the highway.

The Panel received a presentation and were given an opportunity to ask questions. In the ensuing discussion, the following main points were raised:

Street Works Overview

- By way of introduction, it was confirmed that Highway Authorities had a 'Network Management Duty' under the Traffic Management Act 2004 and Utility Companies had a statutory right to excavate the public highway to place and maintain their apparatus.
- Figures to show the scale of the County Council's permit scheme, including compliance (inspections) and control (via fixed penalty notices), were shared.
- It was confirmed that inspections of site occupancy took place when works appeared not to be progressing at a reasonable pace. A Member referred to a Severn Trent site in his local area where a hole was dug and traffic lights set up, but no further work took place for 2 weeks. It was suggested that this could have been an issue of site occupancy. Alternatively, on occasions Severn Trent was required to carry out checks on chlorination and water quality and may have had to wait for the results before they could go ahead and reinstate the road.
- It was confirmed that issues reported through the Member Portal should come straight through to the Street Works Team. Issues raised with the local Highways Liaison Officer would also be passed straight to the Street Works Team. The Chairman commented that communication with local Members was key. It was important that Local Members were able to easily find out what was happening in their divisions.
- It was clarified that the figure of 48,741 referred to the number of checks carried out and not the number of site visits. Some of these may be repeat visits to follow up issues identified by previous inspections.
- In relation to fixed penalty notices for work that had overrun, it was confirmed that this would include instances where work had started late or where traffic management was set up but no work was taking place.
- In response to a Member question, it was confirmed that steel sheets may still be used to temporarily cover a hole but this would depend on

the depth of the hole and other health and safety concerns. It was confirmed that much was done to minimise the impact of necessary works on road users.

- It was confirmed that a fixed penalty notice for breach of conditions referred to conditions set as part of the agreed permit with reference to the Code of Practice for street works.
- The Council employed 8 live-site inspectors to check permit conditions and traffic management and 6 inspectors to check reinstatement works and ensure that the highway had not been compromised. A daily inspection schedule was auto-generated by the Street Manager system.
- The number of sites visited in a day would depend on the size of the site and the number of checks to be made.
- It was confirmed that the Street Manager system was controlled by the Department for Transport (DfT). The live-site inspectors were employed at net zero cost with the permit scheme funding the process of coordination, compliance and control. Fixed penalty notices were set by legislation and were not part of the permit scheme. Money received from fixed penalty notices became County Council revenue.
- The inspectors were area based and had the discretion to work in a geographically sensible way.
- In response to a question about the number of staff involved in processing permits, it was confirmed that there was one member of staff for each district council area with two each covering Worcester City and Wychavon. The average cost of each permit was approximately £400. The total revenue including income from permits, fixed penalty notices and inspections would be confirmed following the meeting.
- It was confirmed that the vehicles used by inspectors were funded through the permit scheme and were owned by the County Council. In relation to the use of electric vehicles, the Panel was informed that there was currently a supply issue. Also, some staff may have issues relating to the practicalities of charging from home. It was agreed that details of the vehicles used by inspectors (including whether they were electric, hybrid or petrol/diesel) would be circulated following the meeting.
- It was confirmed that money raised by permits could only be spent on the permit scheme. Money received as a result of fixed penalty notices was income for the County Council but could only be spent on highways improvements.
- It was agreed that figures for the number of fixed penalty notices which were disputed, not paid or negotiated on would be provided to the Panel following the meeting.
- The Panel considered trends in relation to the number of permits and inspections over the last five years. It was noted that last winter there had been a large increase in the number of emergency and urgent utility works following prolonged freeze and thaw events. There had also been a large increase in fines for overruns in 2022/23. It was suggested that this was related to the difference between fines issued by Ofwat (the Water Services Regulation Authority) and those issued by the County Council. With finite resources, the larger Ofwat fines meant that it may be more cost effective for a water company to focus on fixing leaks before reinstating the road surface.

- It was suggested that the increase in the number of permit requests was related to the aging infrastructure, the rollout of superfast broadband, and the connection of new developments to utilities. It was also noted that new developments put additional pressure on aging infrastructure.
- Further information was requested in relation to fines resulting from fixed penalty notices including total numbers, revenue and breakdown by utility. It was agreed that this would be provided following the meeting. It was noted that fines could escalate over time and would be higher for works carried out on strategic roads.

Road Closures and Diversionary Signage

- The Panel heard that requests for road closures and diversions must be made at least three months in advance and would only be approved after full consultation. Diversions were always onto a similar road, ie traffic from an A road would be diverted onto another A road. The diversion may start some distance from the actual closure in order to reduce the risk of an HGV getting stuck on a smaller road. Supplementary signage may also be used, for example, to indicate that businesses remained open beyond a certain point.
- In response to a suggestion from a Member of the Panel, it was noted that maps could not be used on diversion signs as the size of text used needed to conform with national regulations. Signs needed to be easily legible from a passing car. It was important to ensure that consultation on potential road closures resulted in meaningful information as those working in the team did not necessarily have local knowledge.
- The Chairman referred to the online resource one.network which was available on the County Council website and mapped all road works and road closures in the county. He suggested that when Councillors receive a list of potential road closures in their division, it was important they looked at them carefully. It was agreed that there may be different options for different locations and discussions beforehand would allow for the best option to be identified.
- In relation to signage, the Chairman suggested that on occasions it would be helpful to more clearly identify exactly where the road was closed to avoid local residents undertaking unnecessary diversions. It would also be helpful if signage indicated the hours when work was in progress. For example, sometimes work may finish at 2.30pm and the road may open again until the following morning.
- The Panel was reminded that local Highways Liaison Officers would be aware of all road closures. If there was a closure that they were not aware of, this may be an offence (working without a permit) and officers would welcome any available evidence.
- A Member of the Panel suggested that it was not appropriate to divert traffic in Evesham onto the A46 as this was a trunk road and priority should be given to keeping HGVs moving smoothly. It was agreed that this would not be ideal. However, in some circumstances this may be the only option as traffic from a closed A road would have to be diverted onto another A road. It was suggested that signage would be key.

Section 58

- The Panel was informed that Section 58 of the New Roads and Street Works Act allowed a highways authority to place restrictions on any activity following major resurfacing works after authority work or major utility work. The length of restrictions would depend on the type of work that had taken place. However, this would not prevent emergency works or customer connections which could not legally be stopped.
- With reference to emergency works, a Member of the Panel asked what was being done to prevent utility companies abusing the system by badging works as emergency when they could have been planned. It was confirmed that this issue had been discussed at a meeting of representatives of the regional West and Shires Permit Scheme. It was a difficult issue as utilities would need to be challenged via legal process and evidence was difficult to obtain as inspectors would not enter a live site. If a utility company said it was an emergency, the County Council would have to prove that it was not and that would be difficult to do. It was confirmed that to date the County Council had not prosecuted on this issue. It was agreed that the Panel would write to the Cabinet Member with Responsibility for Highways and Transport to express their concerns in relation to emergency works.
- A Councillor who was not a Member of the Panel raised an issue about the siting of poles in respect of the roll out of full fibre broadband in Droitwich. He was informed that the location of poles related to permitted development and was not within the remit of the Street Works Team. The Assistant Director (Major Projects and Waste) suggested that any issues should be reported to the Broadband Team who would follow up with the broadband providers. Also, a list of Frequently Asked Questions was in preparation and would be circulated to all local Members shortly.
- A Member of the Panel suggested that some local authorities had suspended their remedial highways works in advance of planned local development which would lead to additional utility works and asked whether this was being considered in Worcestershire. Members were reminded that the Council had a comprehensive footways and carriageway programme and would aim to future proof this work by, for example, building conduits into the footway to accommodate future broadband developments.
- Members were informed that the DfT's code of conduct for utilities had recently been changed, including the removal of the onus on the utility companies to prove that work was being done in an emergency.
- It was confirmed that the specification for reinstatement of road and footway surfaces was set out in legislation and this did not require full width reinstatement.
- It was confirmed that protection under Section 58 was automatic. Plans for future works were shared at regular planning meetings with the utility companies with the aim of completing all planned works before reinstatement. Surface dressing work was not covered by Section 58.

Agile Development

- Members were informed that the Department for Transport had invested £10m in its Street Manager system using income from trial Lane Rental Schemes. The eventual aim was for the system to provide live information from the site with a digital vision for public information from 'first cone down to last cone up'.
- This was a staff resource intensive area of work. Recent developments included three additional inspector posts created in 2021, a move to out of hours cover in 2022 and one new post and a restructure in response to new legislation in 2023.
- It was confirmed that the DfT had funded the initial Street Manager software and the Council now paid an annual fee. The system was subject to ongoing development and was used by all councils and utilities. It was confirmed that information on one.network was obtained from Street Manager.
- The Panel was informed that local authority staff uploaded photos to Street Manager to show completion of works but it was not clear whether this was also the case for utility companies. It was also not clear whether this database of photos could be made available more widely. It was confirmed that access to Street Manager was for officers and was not a publicly available system. It was suggested that more use could be made of photographic evidence to indicate when works had been completed to the required standard, including the possibility of making this publicly available.
- Although the DfT's digital vision was for public information to be available from 'first cone down to last cone up', the system was not there yet.

Lane Rental

- Under a Lane Rental Scheme, a local highway authority was able to charge a daily rate for the closure of a road or lane (usually only for peak hours). Pioneer schemes had been set up by Transport for London (TfL) and Kent County Council. The aim was for all works to be undertaken outside of traffic sensitive times.
- It was confirmed that, under such a scheme, local authorities would also have to charge for their own works. The increase in out of hours working also came with issues such as noise and health and safety considerations. Lane rental charges were not applied to emergency works for 48 hours so there was also a concern that such a scheme might lead to an increase in emergency works and a reduction in planned works.
- Latest reports suggested that the DfT may shortly announce that income from Lane Rental Schemes could be made available to carry out pothole repairs, something that would change the financial situation with regard to such a scheme considerably.
- It was confirmed that a Lane Rental Scheme would not replace the permit scheme as it would only apply to roads within the top 5% of the strategic network (with the method of calculation being set by the DfT). It was confirmed that the calculations included traffic flow and sensitivity to congestion. A Member of the Panel suggested that the area around Evesham High Street might be a suitable trial area.

- It was confirmed that Oxfordshire County Council was looking to carry out a feasibility study on Lane Rental. There was currently little interest in Worcestershire but it was suggested that this may change if the DfT changed the rules on the funding of pothole repairs. Lane Rental Schemes were managed by a Joint Governance Board which comprised the local authority and key utility companies. Applications for funding from the money raised were assessed by the Joint Governance Board and were currently required to show increased efficiency for street works.
- In response to a question about whether setting up a Lane Rental Scheme would be a good idea for Worcestershire, the Head of Traffic Management suggested that, before setting up a scheme, the County Council would wish to see financial reports from another authority outside of the southeast in order to be reassured about the potential costs.

Other issues

- It was confirmed that, where road closure/diversion signs or cones were not collected, fines would be issued. Councillors should report any such incidents through the Member Portal.
- A Member of the Panel reported a recent local issue involving a contractor's vehicle which was being used for grass cutting. The vehicle was waiting until after peak hours to start work and had parked on a traffic island, blocking the visibility of oncoming traffic and causing significant tailbacks. The Assistant Director for Highways and Transport Operations agreed to look into this further following the meeting.
- It was confirmed that, in relation to permits, conditions could include a request to work overnight. However, it was pointed out that night working tended to be avoided in residential areas and there would be a health and safety issue relating to maintaining a sufficient level of lighting in more rural areas.
- The Chairman of the Panel asked a question about permits for surface dressing. Although a permit may allow closure for three weeks (to take weather conditions into account) often the work was completed in one or two days. However, the information on one.network was not updated and it would appear to the public that the road remained closed. It was confirmed that this issue was currently being looked at, although it was important to note that one.network was also accessed by utility companies and they used the information to assist them in planning their work. The Assistant Director for Highways and Transport Operations confirmed a two pronged approach with overarching dates being displayed on one.network and more specific information communicated locally.
- In response to a question previously asked by the Chairman, the Assistant Director for Highways and Transport Operations confirmed that traffic management in relation to drainage works would be undertaken by a different subcontractor. There was a fixed unit cost for this so, even though traffic management operatives may remain on site for the full day, there would be no detriment to the public.

The Chairman summarised the further information requested as follows:

- The number and type of vehicles used by inspectors, including whether they were hybrid, electric or diesel/petrol vehicles
- Clarification on pricing in relation to permits
- Figures for total revenue in relation to fixed penalty notices, including how many were disputed, in negotiation or not paid
- Further thought to be given to how signage in relation to street works could be improved
- Confirmation of whether utility companies uploaded photos to Street Manager to indicate completed works and how better public information can be provided on when works are completed
- Further thought to be given to how more accurate information could be included on one.network about road closures for surface dressing rather than showing a three week closure as standard.

It was agreed that written confirmation of all information requests and action points would be circulated following the meeting.

43 Work Programme

Members discussed the Panel's work programme.

Concern was expressed that performance and budget information for Q4 2022/23 had not been available for this meeting as it had not yet been considered by Cabinet. It would now be discussed by the Panel in July. The importance of the Scrutiny Panel receiving timely information was noted and it was agreed that the Chairman of the Panel would write to the Leader of the Council about this.

It was agreed that the following would be added to the Panel's work programme:

- Biodiversity Net Gain
- Environment Plan, and
- Local Nature Recovery Strategy

In addition, the Chairman suggested that it may be useful to hold an informal session to look at highways related information on the Member Portal.

He went on to remind the Panel that the Overview and Scrutiny Performance Board (OSPB) would be starting budget scrutiny earlier this year with the intention of providing Cabinet with feedback and suggestions at an earlier stage in the budget setting process. It would be important to bear this in mind when the Panel looked at financial data in July.

It was agreed that the agenda for the Panel's 19 July meeting would cover:

- Update on Street Lighting (LED conversion)
- Solar Power Generation & Use/ Electrification/ Charging Points (to include information on lamp post charging)

- Worcestershire Streetscape Design Guide.

The meeting ended at 12.21 pm

Chairman