



EXECUTIVE MEMBER DECISION

REPORT OF:	Executive Member for Growth and Development
LEAD OFFICERS:	Strategic Director of Environment & Operations
DATE:	25 April 2024

PORTFOLIO/S AFFECTED:	Growth and Development
------------------------------	------------------------

WARD/S AFFECTED:	(All Wards);
-------------------------	--------------

SUBJECT:	EMD - Private Street Works Code of Practice
-----------------	--

1. EXECUTIVE SUMMARY

To seek approval for the introduction of an updated Code of Practice for dealing with Private Street Works schemes instigated by residents, usually of unmade roads.

Residents of unadopted streets are able to request that the council formally adopt their street in order that it becomes a 'highway maintainable at public expense'. This Code of Practice sets out the process by which this will be achieved including guidance as to how the costs of any scheme to bring the road up to adoptable standard are apportioned between the residents.

2. RECOMMENDATIONS

That the Executive Member approves the Private Street Works Code of Practice to be used when implementing schemes under the Private Streets Work Code contained in sections 205 to 218 of the Highways Act 1980.

3. BACKGROUND

On becoming a Unitary Authority in 1998, the council became the highway authority for the borough and, at that time, adopted all the highway policies and codes of practice that it inherited from the previous highway authority, Lancashire County Council.

Over the years these policies have been revised and updated in line with changing legislation and technological advances but also to reflect the council's own vision and priorities.

There are many unmade, unadopted streets across the borough, however it is rare for residents to come together in agreement to request the council to invoke the Private Street Works Code outlined in sections 205 to 218 of the Highways Act 1980. Indeed, in the 25 years since becoming a Unitary Authority there have only been two private street works schemes carried out within the borough, one in 2007 and one in 2014 and hence the updating of the Private Street Works Code of Practice has been of fairly low priority.

Whilst the two schemes above were both completed successfully, their implementation highlighted the inadequacy of the current brief Code of Practice with officers having to 'learn' the implications of the legislation during the scheme.

The proposed Code of Practice goes into much more detail on the procedure and the lengthy legal process that has to be followed. It provides clear direction to guide officers through the often difficult process.

4. KEY ISSUES

The current code of practice was produced at a time when the council were agents for the highway authority, Lancashire County Council. The code is therefore written in the terms of a two tier authority system rather than that of a unitary authority. This was also a time when highway budgets were not under pressure as much as they are currently.

It is under this background that a change is proposed in the code of practice as to how provisional and final apportionment of costs are determined. It is clear in the Private Street Works Code in the Highways Act 1980 that the overriding method of apportioning expenses should be according to the frontage of the liable premises along the street. The act does however allow the street works authority to consider the greater or less degree of benefit to be derived by any premises from the street works when settling the apportionment.

The current Code of Practice sets out various scenarios, mainly regarding 'flank frontages', whereby the apportionment to the premises may be reduced with the highway authority contributing the cost of the shortfall to the scheme. With increasing budget pressures across the authority, the council is no longer in a position to guarantee such contributions to these schemes and therefore the proposed code is written with this in mind.

The concept of effective length of frontage is introduced whereby the effective length of the majority of frontages equals the actual length of the frontage but any '*...greater or less degree of benefit...*' is catered for by adjusting the actual length to give an either increased or decreased effective length for the premises. The apportionment is then based on the effective lengths of all the frontages. Whilst the new code gives examples of the levels of adjustment for different scenarios, it should be noted that these are for guidance only and '*...the Council still needs to subsequently consider the greater or lesser degree of benefit to be derived by any premises from the street works in settling any apportionment ...*'

5. POLICY IMPLICATIONS

The new Code of Practice is largely based on the principles of the current code with the exception being the removal of the council's commitment to contributing to certain aspects of the scheme, unless of course the council is itself a 'frontage' to the street.

6. FINANCIAL IMPLICATIONS

Any request for Private Street Works approved by the Executive Board will require up front financing, with a prospect of recovering costs over several years.

7. LEGAL IMPLICATIONS

None – the Code of Practice is in line with the Private Streets Work Code contained in sections 205 to 218 of the Highways Act 1980.

8. RESOURCE IMPLICATIONS

None

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

None

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1
-----------------	----------

CONTACT OFFICER:	George Bell
-------------------------	--------------------

DATE:	26 February 2024
--------------	------------------

BACKGROUND PAPER:	LCC's 1997 Code of Practice Proposed updated Code of Practice
--------------------------	--