



Leicester
City Council

WARDS AFFECTED
All Wards

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Overview & Scrutiny Management Board
Cabinet

22nd January 2009
26th January 2009

The 2nd Edition of the Transport Asset Management Plan 2007 - 2011

Report of the Corporate Director of Regeneration & Culture

1. PURPOSE OF REPORT

To seek approval of the 2nd edition of the Leicester City Council Transport Asset Management Plan 2007 – 2011, which includes the new Gating Order Policy and Vehicle Crossing Policy. The report also gives a summary of progress made in delivering the TAMP improvement plan.

2. SUMMARY

- 2.1 The Transport Asset Management Plan is an essential tool in managing our highway assets. Improvements have been made to the Plan since the 1st Edition was approved by Cabinet on the 1st October 2007.
- 2.2 The improvements include the addition of two policies; a gating order policy (Appendix 1) which provides guidance on how we can gate sections of highway if the highway is being used to facilitate anti social behaviour and criminal activity. The vehicle crossing policy (Appendix 2) sets out how we provide vehicle crossings for people who need to drive vehicles onto private land from the carriageway by crossing the highway verge or footway.
- 2.3 Ten other improvements have been introduced through completed improvement actions including;
 - adopting our Highways, Transport and Development Guide in order to better manage new developments that incorporate roads built to adoptable standards,
 - reviewing the service for emptying road gullies which has resulted in the service now being operated by City Highways who also maintain the highways drains,
 - improvements in the software for managing highway structures, highway trees and soft verges and,
 - the Local Transport Capital Maintenance Programme has been set up which provides a planned programme of highway improvements covering the next three years. This will maximise value for money and minimise disruption as this programme is now co-ordinated with other maintenance works and our integrated transport schemes.

- 2.4 The remaining Improvement Actions are programmed to be addressed in subsequent years.
- 2.5 Copies of the 2nd edition of the Leicester City Council Transport Asset Management Plan 2007 – 2011 will be made available in the member's area prior to the Overview Management and Scrutiny Board and Cabinet meetings.

3. RECOMMENDATIONS

- 3.1 The Overview and Scrutiny Management Board is asked to scrutinise the report and the Transport Asset Management Plan 2007 - 2011 2nd Edition and make comments to be forwarded to Cabinet.
- 3.2 Cabinet is asked to recommend to Council:
- a) Approval of the 2nd Edition of the Transport Asset Management Plan 2007 – 2011 including the new Gating Order Policy and the Vehicle Crossing Policy.
 - b) Note the progress made on the improvement plans contained within the Transport Asset Management Plan.

4. REPORT

- 4.1 The highway network is almost certainly the largest and most visible community asset for which the Council is responsible. It is used daily by the majority of people and it is fundamental to the economic, social and environmental well-being of our community and neighbouring areas. It helps to shape the character and quality of the local areas that it serves and makes an important contribution to the Council's wider priorities, including regeneration, social inclusion, community safety, education and health.
- 4.2 In order to fulfill its potential it is crucial that the highway network is managed efficiently. The development of the Transport Asset Management Plan (TAMP) is therefore an essential element in this, the first edition of which was approved by Cabinet on the 1st October 2007.
- 4.3 The TAMP sets out the how the Council's transport assets are and will be managed to help achieve the Council's corporate objectives and specifically the Council's transport objectives as articulated in the Central Leicestershire Local Transport Plan 2006 to 2011. Contained within it are improvement plans which have been identified as being necessary in order to improve and better manage our transport assets.

Improvements from the 1st edition

- 4.4 Following the successful publication of the 1st Edition of the Leicester City Council Transport Asset Management Plan 2007 – 2011 in August 2007, progress has been made in addressing the improvement actions that were identified. This report identifies them and explains the work yet to do. The plan will continue to be revised and built upon in order for it to remain a useful and live document and one which informs the way in which the Council maintains its highway assets.
- 4.5 Two new policies that are to be included in the new addition are explained below. They are the Gating Order Policy and the Vehicle Crossing Policy.

Gating Order Policy (Improvement Action 4.2.9 c)

- 4.6 Section 2 of the Clean Neighbourhoods and Environment Act 2005 introduced new sections, 129A to 129G into The Highways Act 1980. Under these powers the Council can make gating orders in respect of highways, without affecting their status. Gating orders are intended for use where the presence of the highway is facilitating anti social behaviour or criminal activity. The powers will be particularly useful in enabling the gating of paths running to the rear or side of residential properties which are part of the highway network and that are demonstrably the source of crime and anti social behaviour.
- 4.7 A gating order can contain conditions which allow for paths to be gated for whatever period the Council considers necessary to tackle the problems caused by anti social behaviour and or criminal activity which is being facilitated by the path. Gating orders also allow for the permanent gating of paths although they are only intended to be used as a temporary solution to anti social behaviour and criminal activity. They are not intended to be used as a means of permanently stopping up paths.
- 4.8 Officers in Community Safety (Adults and Housing) are aware of a number of locations where the use of a gating order would be beneficial in reducing known crime and anti social behaviour which is causing concern to local residents. There is a pressure arising from these residents for the Council to undertake gating orders. Section 17 of the Crime and Disorder Act 1998 places a duty on local authorities to do all then can to reasonably prevent crime and disorder in their area.
- 4.9 The gating of paths may have a detrimental effect on the Council's objectives contained within the Central Leicestershire Local Transport Plan 2006 to 2011 and the Rights of Way Improvement Plan 2009 to 2011. In particular the gating of paths could be detrimental to the objectives of tackling climate change by reducing congestion through encouraging walking and cycling for short journeys, delivering accessibility and improving links between communities.
- 4.10 The issue of gating orders and an initial draft policy has been considered by the Local Access Forum. The Forum has concerns that the use of gating orders will see a gradual erosion of the rights of way network. They also have concerns that once gates are erected across a path there will be reluctance amongst local residents and the Council to see the gates removed and the path fully reopened. The Forum has also indicated that it will normally object to any gating order if it affects a public right of way.
- 4.11 In an attempt to strike a balance between the needs of the highway user and the quality of life of those suffering from anti social behaviour and criminal activity the policy requires approval by the appropriate Cabinet Leads, in consultation with the respective ward councillors before a gating order can be passed to the Head of Legal Services for drafting.
- 4.12 If there are objections to the order they will be considered by the appropriate Cabinet Leads, in consultation with the respective ward councillors, who will then decide whether to enact the order.
- 4.13 The draft policy also details how the Council will consider any application to revoke the order and remove the gates.

Vehicle Crossing Policy (Improvement Action 4.2.9 b)

4.14 The work to prepare a vehicle crossing policy was an improvement action identified in the last edition of the plan. The construction of a vehicular crossing enables a person who owns land adjacent to the highway to gain access to their land from the highway or visa versa using a vehicle without that vehicle damaging the verge or bringing material onto the highway. We receive many requests for vehicle crossings throughout the year and they are always dealt with on an individual basis. The Council has had an informal policy for many years but it has never been formally approved. It was therefore recommended that a clear policy is required for officers to work to, see Appendix 2.

Improvement actions completed

4.15 The following paragraphs highlight the improvement actions that have been completed since the first edition of the TAMP.

4.16 A development control procedure is much improved as it is now part of the quality management system for the highways and transportation service. The City Council adopted our Highways, Transport and Development Guide as part of this procedure in January 2008. (Improvement Action 3.5.4).

4.17 The Council's proposed policy on Road Side Memorials and Tribute is to decide on each application in turn on merit. (Improvement Action 4.2.9 a).

4.18 Our inspection, assessment and recording regime has been reviewed and the findings will be considered as part of a forthcoming organisational review within the highways and transportation service. (Improvement Action 4.2.6.1).

4.19 A review of highway drainage services took place and now all highway gully cleansing is undertaken by City Highways. Therefore, all highway drainage maintenance is now sourced from one provider, giving a better continuity of service. (Improvement Action 4.6.2.21).

4.20 Reactive maintenance to highway structures is now managed through the Bridge Management (BMX) database. This is a database specifically designed for this purpose. (Improvement Action 5.6.2.13).

4.21 A street lighting column condition indicator has been determined and was submitted to the Department for Transport by July 2007. (Improvement Action 7.4.4).

4.22 A bi-annual condition inspection of street lighting feeder pillars is now in place. (Improvement Action 7.4.12).

4.23 The old database to support the maintenance of highway trees has been replaced by 'Easitree' which is a state of the art inventory and maintenance management system. This will help the Trees and Woodlands Section manage the highway trees more effectively. (Improvement Action 9.3.1).

4.24 A new database is now up and running which will better facilitate the management of highway 'soft' verges through a modern landscape management software package called 'Down to Earth'. (Improvement Action 9.3.4).

4.25 The Local Transport Capital Maintenance Programme has been set up providing a planned programme of highway maintenance schemes over the next three years. This will maximise value for money and minimise disruption as this programme is now co-ordinated with other maintenance works and our integrated transport schemes. (Improvement Action 13.4.1)

4.26 **Actions Remaining**

Many of the remaining actions will be addressed over the next twelve months. These include areas of higher priority such as the collection of inventory data and developing software and processes to maintain asset registers once the information has been collected. Other areas include defining how different assets are to be managed against a background of limited funding and best national practice.

5. **FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

Financial Implications (Martin Judson – extn: 29 7390)

Alterations from the first Edition

5.1 The improvement actions have been and will be carried out using existing resources.

Gating Order Policy

5.2 There are costs associated with the completion of the legal order and the installation of gates. Further costs will be incurred as a result of maintaining the gates and administering the provision of keys. There will also be a cost when the order is revoked and the gates removed.

5.3 All of the legal costs and those associated within the provision, maintenance and removal of the gates will have to be borne by the applicant. In the majority of instances the Head of Community Safety (Adults and Housing) will undertake this role.

5.4 Adults and Housing have applied for monies from the Capital Programme to fund this work. If Capital Programme monies do not become available the Head of Community Safety will attempt to identify resources for the installation of the gates and any associated legal costs. If these resources are not available then the scheme will not go ahead.

5.5 On occasions applications and funding may also be considered from residents and other bodies external to the Council.

Legal Implications (Anthony Cross - extn 29 6362)

Alterations from the 1st Edition

5.6 The Council has a legal duty to maintain the highways in a satisfactory state and it also has a duty of care to all highway users.

5.7 Section 41 of the Highways Act 1980 places the Council, as Highway Authority, under a duty to maintain the Highway. Failure to comply with this duty, and maintain the Highway, could result in insurance claims for damages against the Council.

Gating order policy

5.8 The legislation in relation to the making of gating orders is contained in Sections 129A-129G of the Highways Act 1980. Regulations have also been made to cover the procedures to be followed in relation to the making of such orders.

- 5.9 Before making a gating order over a section of highway the Council must be satisfied that;
- a) premises adjoining or adjacent to the section of highway are affected by crime or anti social behaviour; and;
 - b) the existence of the highway is facilitating the persistent commission of criminal offences or anti social behaviour at this location and;
 - c) it is expedient to make the order for the purposes of reducing crime or anti social behaviour.
- 5.10 The gating order policy must comply with the above legislation and the legal procedures must be satisfied prior to a gating order being implemented.

6. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph references within the report
Equal Opportunities	Yes	The Plan has been prepared with due regard to Equality in service provision.
Policy	Yes	The Plan supports the Council's Corporate objectives.
Sustainable and Environmental	Yes	The Plan supports the Council's environmental policies.
Crime and Disorder	Yes	The plan supports the Crime and disorder strategy particularly through the provision and maintenance of public lighting (Chapter 8 of the plan) and the addition of the Gating order policy in Appendix B5.
Human Rights Act	Yes	Gating Order Policy para. 5.2.5
Elderly/People on Low Income	Yes	The Plan supports improving access to services for the elderly and people on low incomes.

7. RISK ASSESSMENT MATRIX

Risk	Likelihood L/M/H	Severity Impact L/M/H	Control Actions (if necessary/appropriate)
Progress on completing the Action Plans is slow	M	M	Officers to reprioritise their time to address the Action Plans.
Lack of progress on completing Action Plans	M	L	Review resources available and re allocate.

results in the management of highway assets dropping below accepted practice.			
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L – Low	L – Low
M– Medium	M – Medium
H - High	H - High

8. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

Central Leicestershire Local Transport Plan 2006 – 2011
 Transport Asset Management Plan – First Edition, August 2007
 Highway Maintenance Condition Map 2008
 Highways Act 1980
 Clean Neighbourhoods and Environment Act 2005
 Highways Act 1980 (Gating Orders) (England) Regulations 2006
 Crime and Disorder Act 1998
 Report to Cabinet by the Corporate Director of Regeneration and Culture on the 1st October 2007 seeking approval to the first edition of the TAMP.

9. CONSULTATIONS

Chief Legal Officer
 Chief Finance Officer
 Community Safety, Adults and Housing
 Leicester City Local Access Forum

10. REPORT AUTHOR

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 E-mail Philip.thompson@leicester.gov.uk

Key Decision	Yes
Reason	Is significant in terms of its effect on communities living or working in an area comprising more than one ward
Appeared in Forward Plan	Yes
Executive or Council Decision	Executive (Cabinet)

Appendix 1

Leicester City Council Gating order Policy October 2008

1. BACKGROUND

- 1.1 From 1 April 2006, new powers to gate a highway in order to prevent crime or anti social behaviour from occurring were made available to local authorities under Section 2 of the Clean Neighbourhoods and Environment Act 2005. This has been achieved by inserting new sections 129A to 129G in the Highways Act 1980, which will enable councils to restrict access to a public highway by gating it (at certain times of the day if applicable), without changing the status of the highway.
- 1.2 Regulations have also been prescribed. The Highways Act 1980 (Gating Orders) (England) Regulations 2006, governing the order-making process.

2. CONDITIONS FOR MAKING A GATING ORDER

- 2.1 Gating is intended to be used as a temporary deterrent on highways which are giving rise to high levels or persistent occurrences of crime or anti social behaviour.

3. PROCESSING A GATING ORDER APPLICATION

- 3.1 All applications for gating orders will be investigated by the Head of Community Safety in Adults and Housing. Should the Head of Community Safety recommend that a gating order is required they will forward the application with a report detailing their investigations to the Head of Transport Strategy, Regeneration and Culture.
- 3.2 The report prepared by the Head of Community Safety should contain sufficient evidence to demonstrate that premises adjoining or adjacent to the highway are affected by crime or anti social behaviour; and the existence of the highway is facilitating the persistent commission of criminal offences or anti social behaviour. The evidence provided should be endorsed by crime statistics supplied by Leicestershire Constabulary.
- 3.3 Upon receipt of the report the Head of Transport Strategy will consider what impact the proposed gating would have upon users of the highway network with reference to the Council's statutory Local Transport Plan and the Council's statutory Rights of Way Improvement Plan.
- 3.4 The Head of Transport Strategy will prepare a report for consideration by the appropriate Cabinet Leads, in consultation with the respective ward councillors. The report will outline the need for the order, as previously prepared by the Head of Community Safety, and the impact the order will have upon highway users.
- 3.5 Upon receipt of the report the appropriate Cabinet Leads will decide whether or not to make the order. If it is decided to make the order the Head of Transport Strategy will issue a Delegated Powers Certificate instructing the Head of Legal Services to commence the order making process.

4. MAKING THE ORDER

- 4.1 The order making process will be undertaken by The Head of Legal Services.
- 4.2 Justification for making the order, with supporting evidence, will be prepared by the Head of Transport Strategy prior to making the order so anyone who makes representations can be given a comprehensive reply and reasons for proposing the gating order.
- 4.3 A consultation process will be undertaken prior to the order being put in place. This process will involve engagement with all the relevant agencies that are required by statute and will involve an opportunity for public views to be put forward.
- 4.4 Details of any unresolved objections will be discussed with appropriate Cabinet Leads, and the respective ward councillors. The Cabinet Leads will decide whether or not to enact the order.
- 4.5 The Order will normally be for 12 months duration after which the need or otherwise to continue the order will be considered by the Head of Transport Strategy in conjunction with the Head of Community Services.

5. FUNDING

- 5.1 The Head of Community Safety will arrange for funding to meet the costs associated with the gating order, the physical works required to implement the order and the eventual revocation of the order and removal of the gates.
- 5.2 The Head of Community Safety will also allocate sufficient resources and funds for the administration of keys, routine maintenance work to the gates and repairs as a result of misuse or abuse.

6. REVOCATION OF THE ORDER & REMOVAL OF GATES

- 6.1 It is not intended that gates resulting from Gating Orders should be installed as a permanent highway feature. A decision to revoke the order and remove the gates may therefore, be considered whenever there are significant changes in the local circumstances surrounding the order.
- 6.2 The conditions which led to the gating of the highway will be reviewed every 12 months with the option that the gates be removed subject to assessing the current situation against the gating policy.
- 6.3 The decision to revoke the order will be made by The Crime and Disorder Corporate Planning Group following consideration of a report from the Head of Transport Strategy on the new circumstances and other evidence submitted in support of the order.

Appendix 2

Leicester City Council Vehicular Crossings Policy October 2008

1 Background

- 1.1 A vehicular crossing is an area of lowered footway and kerb which is used to give access to vehicles from a road, across the footway and onto a driveway or parking area. Where vehicles cross the footway and verge without using a crossing constructed for that purpose it is likely that the verge and footway will be damaged.
- 1.2 The Road Traffic Act 1980 (as amended) Section 34 (3) states *“It is not an offence under this section to drive a mechanically propelled vehicle on any land within 15 yards of a road, being a road on which a motor vehicle may lawfully be driven, for the purpose only of parking the vehicle on that land.”*
- 1.3 However, the Highways Act 1980 Section 184 (1) states: *“Where the occupier of any premises adjoining or having access to a highway maintainable at the public expense habitually takes or permits to be taken a mechanically propelled vehicle across a kerbed footway or a verge in the highway to or from those premises, the highway authority may, subject to section (2), serve a notice on the owner and the occupier of the premises-*
 - (a) stating that they propose to execute such works for the construction of a vehicle crossing over the footway or a verge as may be specified in the notice; or*
 - (b) imposing such reasonable conditions on the use of the footway or verge as a crossing as may be specified.”*
- 1.4 In practice most vehicular verge and footway crossings are constructed after application by an occupier to Leicester City Council as Highway Authority. This avoids the need to serve notice under Section 184 of the Highways Act 1980.
- 1.5 Leicester City Council assesses applications for vehicle crossings and ensures that they are built to a standard that will be approved by the Highway Authority.
- 1.6 Under section 72 of the Highways Act 1835 it is an offence to drive a vehicle on a footway. This precludes the use of a pedestrian dropped kerb or a neighbouring vehicle crossing to access a property.

2 Purpose

- 2.1 The purpose of providing vehicular crossings is to
 - prevent damage to the verge and footway and subsequent costs
 - provide off road parking
 - reduce congestion on the highway network and reduce carbon emissions
 - possible accident reduction
 - achieve customer satisfaction by providing increased accessibility, security and reduced insurance premiums for the applicant
 - provide a source of income to Leicester City Council
 - comply with Section 184 of the Highways Act 1980

3 The Policy

- 3.1 Occupiers of premises will be encouraged to apply for the construction of a vehicular crossing as Highways Act S184 (1), without the need to serve notice as Highways Act S184 (2).
- 3.2 Crossings will be constructed providing that applications are approved Leicester City Council as the Highway Authority.
- 3.3 Leicester City Council will charge a commercial rate to construct crossings.
- 3.4 Applications for crossings will be assessed by the Highway Management Team
- 3.5 Crossings will be constructed by City Highways.
- 3.6 Assessment of applications and approval of construction will be carried out with reference to
 - Section 184 of the Highways Act 1980
 - Highways Transportation & Development Guide
 - Current highway design and planning standards
 - Current legislation
- 3.7 Section 184 of the Highways Act 1980 deals with the requirements that the Council, as well as owners and occupiers must comply with in regard to the construction of vehicular crossings. Leicester City Council will comply with these requirements.
- 3.8 Redundant vehicular crossings will be removed and reinstated as footway/verge as part of footway maintenance or new development works.

4 Procedure

- 4.1 Applicants are provided with the Vehicular Crossing Information sheet on request or via the internet. Any clarification or explanation can be obtained by using the contact details provided on this sheet.
- 4.2 Applications are submitted to the Highways Management Team
- 4.3 The Highways Management Team will assess the application and provide a written response to the applicant which will, if successful, include a quotation of the cost of the works.
- 4.4 If an application is refused an appeal may be made in writing to the Head of Highways Management.
- 4.5 Applications that are approved will not be constructed until all necessary documentation and payment is received.