CABINET – 19 JULY 2016
PROPOSED S278 SHORTFORM AGREEMENT
Report by Director of Environment and Economy

Introduction
1. This report presents the proposed approach for enabling small scale infrastructure to be built on the highway, associated with schemes supported by Town and Parish Councils and in certain circumstances where these small scale works are required by developers.

2. Cabinet has previously approved (Cabinet Resolution 15th Sept 2014) the Standard Conditions for the Control of Works on the Highway in Conjunction with Development (“the Standard Conditions”) which are incorporated in highways agreements further to S278 Highways Act 1980 where developers wish to undertake highway works at their expense.

Background
3. For some time it has been recognised that for small scale highway infrastructure works the Standard Conditions are not proportionate.

4. The comprehensive requirements of the Standard Conditions are appropriate for larger scale developments, but less so for smaller scale works promoted by Town and Parish Councils.

Proposal for works promoted by Town and Parish Councils
5. There is a hierarchy of decision making laid out in priority order below with different forms of agreement required depending on the type of work and scale (value) of any proposal. The appendices referred to below are background documents available with the papers for the meeting on the Council’s website.

<table>
<thead>
<tr>
<th>Priority Order</th>
<th>Scenario</th>
<th>Action</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Work already planned by OCC as part of a programme</td>
<td>OCC liaise with Town/Parish (If there is still a local desire/need to fund work, then use B below)</td>
<td>OCC continue as planned and keep enquirer informed.</td>
</tr>
<tr>
<td>B</td>
<td>Work not planned by OCC (likely that no budget available [or does not meet an OCC policy criteria])</td>
<td>OCC to check proposal and assess merits. If agreed OCC to prepare estimate of construction costs.</td>
<td>If funding provided by Town/Parish, then work progressed by OCC contractors.</td>
</tr>
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</table>
Work not planned by OCC and Town/Parish wish to proceed retaining control of the scheme (Where they have the statutory powers to do so)

OCC to check proposal and assess merits.

See table 2 below

Table 2 - If proposed work is agreed with OCC and options A and B have been exhausted then the following table sets out the type of agreement required:

<table>
<thead>
<tr>
<th>Value of works</th>
<th>Agreement Type</th>
<th>Reference</th>
<th>Who</th>
<th>Fees</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over £75,000</td>
<td>S278 with full form Standard Conditions</td>
<td>Appendix 1 Revised Standard Conditions</td>
<td>Eligible Town/Parish Councils</td>
<td>9% of value of works</td>
<td>Existing process already in place</td>
</tr>
<tr>
<td>Up to £75,000</td>
<td>S278 Shortform with shortform conditions Appendix 5</td>
<td>Appendix 2 Shortform conditions for Town/Parish Councils</td>
<td>Eligible Town/parish Councils</td>
<td>9% of value of works (or minimum of £1,500)</td>
<td>New asset expected to transfer to OCC for maintenance (after guarantee period) with appropriate commuted sums These agreements have reduced conditions and remove the need for Bonds for Town and Parish Councils.</td>
</tr>
<tr>
<td>Works that Towns and Parishes have specific powers for and up to a value of £15,000 (excluding electrical works)</td>
<td>Consent Agreement</td>
<td>This is a standard letter consent agreement drafted by legal services</td>
<td>All Town and Parish Councils only</td>
<td>£150</td>
<td>New Asset expected to be retained as the responsibility of the Town/Parish Council for future maintenance. These agreements require no bonds and have very reduced conditions.</td>
</tr>
</tbody>
</table>

Eligible and Non Eligible Parish Councils

6. Town and Parish Councils fall into different categories of eligibility depending on their status. Those Town and Parish Councils who satisfy regulatory
requirements enabling them to exercise general power of competence are able to carry out all categories of works on the highway (as if they were a standard company) using the appropriate agreement. Those Town and Parish Councils who do not qualify to exercise the general power of competence may only fund and as applicable carry out certain works for which they have specific express powers. They do have extended powers to fund works from their portion of Community Infrastructure Levy.

7. Table 3 below sets out a summary of the powers held by Town and parish Councils:

<table>
<thead>
<tr>
<th>Funding</th>
<th>Authorisation from highway authority required including suitable conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Contribute towards the expenses of highway authority in constructing, removing or maintaining traffic calming or other works (including signs or lighting) required in connection with traffic calming work if in the opinion of the Parish Council this is of benefit to their area (Section 274A Highways Act 1980).</td>
<td>1. Provision and maintenance of bus shelters. - Section 1 Parish Councils Act 1957</td>
</tr>
<tr>
<td>3 Funding from Community Infrastructure Levy may be applied towards the provision, improvement, replacement, operation or</td>
<td>3. Provision of certain street furniture – seats and litter bins. - Section 1 Parish Councils Act 1957 and Section 5 Litter Act 1983 –</td>
</tr>
<tr>
<td>4. Provision of bicycle and motorcycle parking places including racks and stands.</td>
<td>4. Provision of bicycle and motorcycle parking places including racks and stands. - Section 57 and 63 RTRA 1984.</td>
</tr>
<tr>
<td>5. Provision and maintenance of street lighting.</td>
<td>5. Provision and maintenance of street lighting. - Section 3 Parish Councils Act 1957.</td>
</tr>
<tr>
<td>6. Provision of following signs in addition to bus stops</td>
<td>6. Provision of following signs in addition to bus stops - sign - warning of the existence of any danger - sign indicating name of parish/community/ - Section 72 RTRA 1984.</td>
</tr>
</tbody>
</table>
8. Provision has been made in the agreements with Town and Parish Councils for OCC to contribute small amounts of money towards schemes conducted by others. This is limited to a maximum amount of £30,000 or no more than 49% of the value of the works. This would be a rare occurrence, but could be in circumstances where the proposed work removes the need for OCC expenditure.

**Proposal for works promoted by developers**

9. A checklist has been prepared for small work being proposed by developers. This is contained in Appendix 3 and it is proposed as the method used for decisions to be made on small improvement works and their appropriateness for the shortform conditions.

10. Once the checklist has been used to assess the appropriateness of the improvement for a shortform agreement, then the revised conditions will be used (Appendix 4).

**Amended ‘Standard Conditions’**

11. The standard condition revisions (Appendix 1) take care of the following small changes that are required to keep the document up to date:

   (a) Updates to technical standards document referencing,
   (b) Inclusion of provision for Health and Safety file to be supplied prior to issue of Completion Certificate,
   (c) Set out more fully Road Safety Audit stage 4 mechanism and when this report is required.

**Financial and Staff Implications**

12. There are no immediate financial considerations as cost of any work additional to that already planned by OCC through existing budgets is borne by third party. All fees set at appropriate level to enable officer support in the process on a cost neutral basis.

13. There are no immediate staffing implications. Additional number of schemes through this route expected to be small.

14. Where Town or Parish is doing work through option C above, OCC staff only provide checking function, covered by the appropriate fee.

**Equalities Implications**
15. None

**RECOMMENDATION**

16. The Cabinet is **RECOMMENDED** to:

   (a) approve the proposed approach and relevant short form conditions for Town and Parish Councils and developers; and

   (b) approve the revised standard conditions.

MARK KEMP  
Deputy Director of Economy and Environment (Commercial)

Background documents: Appendix 1 – S278 Revised Standard Conditions Highway Works 2016  
Appendix 2 – S278 Shortform conditions (Town and Parish Councils)  
Appendix 3 – S278 Developer Agreement Checklist  
Appendix 4 – S278 Shortform Conditions (Developer)  
Appendix 5 – S278 Shortform Agreement (Town and Parish Councils)

As background documents the Appendices have not been published with the agenda and are available on website.

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