

Division(s):

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 1 - Once work is identified as a local priority:

Priority Order	Scenario	Action	Outcome
A	Work already planned by OCC as part of a programme	OCC liaise with Town/ Parish (If there is still a local desire/need to fund work, then use B below)	OCC continue as planned and keep enquirer informed.
B	Work not planned by OCC (likely that no budget available [or does not meet an OCC policy criteria])	OCC to check proposal and assess merits. If agreed OCC to prepare estimate of construction costs.	If funding provided by Town/ Parish, then work progressed by OCC contractors.

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C	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
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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:

Value of works	Agreement Type	Reference	Who	Fees	Comments
Over £75,000	S278 with full form Standard Conditions	Appendix 1 Revised Standard Conditions	Eligible Town/ Parish Councils	9% of value of works	Existing process already in place
Up to £75,000	S278 Shortform with shortform conditions Appendix 5	Appendix 2 Shortform conditions for Town/ Parish Councils	Eligible Town/ parish Councils	9% of value of works (or minimum of £1,500)	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.
Works that Towns and Parishes have specific powers for and up to a value of £15,000 (excluding electrical works)	Consent Agreement	This is a standard letter consent agreement drafted by legal services	All Town and Parish Councils only	£150	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.

Eligible and Non Eligible Parish Councils

- 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:

Funding	Authorisation from highway authority required including suitable conditions
<p>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).</p>	<p>1. Provision and maintenance of bus shelters. - Section 1 Parish Councils Act 1957</p> <p>2. Provision of bus stop signs – signs indicating a stopping place for public service vehicles. - Section 72 Road Traffic Regulation Act 1984.</p> <p>3. Provision of certain street furniture – seats and litter bins. - Section 1 Parish Councils Act 1957 and Section 5 Litter Act 1983 –</p>
<p>2. Contribute towards reasonable expenses incurred in the provision and maintenance of litter bins in any street or public place Sections 5 & 6 Litter Act 1983</p>	<p>4. Provision of bicycle and motorcycle parking places including racks and stands. - Section 57 and 63 RTRA 1984.</p> <p>5. Provision and maintenance of street lighting. - Section 3 Parish Councils Act 1957.</p>
<p>3 Funding from Community Infrastructure Levy may be applied towards the provision, improvement, replacement, operation or</p>	<p>6. Provision of following signs in addition to bus stops</p> <ul style="list-style-type: none"> - sign - warning of the existence of any danger - sign indicating name of parish/community/ <p>- Section 72 RTRA 1984.</p>

<p>maintenance of infrastructure (or anything else that is concerned with addressing the demands that development places on an area)</p>	<p>any place in it. Note different provisions regarding footpaths and bridleways.</p>
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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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June 2016