

Time Commenced – 18:00pm  
Time Finished – 19:30pm

## **Regeneration and Housing Scrutiny Review Board 17 October 2023**

Present: Councillor P Ingall (Chair), Cllr M Holmes (Vice Chair), Cllrs  
Chambers, Nawaz, Rawson, and Prosser

In Attendance: Nigel Brien, Head of Traffic and Transport

### **08/23 Apologies for Absence**

There were no apologies for absence were received.

### **09/23 Late Items**

There were no late items.

### **10/23 Declarations of Interest**

There were no declarations of interest.

### **11/23 Minutes of the meeting held on 27 June 2023**

The minutes of the meeting held on 27 June 2023 were agreed.

A councillor asked that survey information be made available to Neighbourhood Boards for transparency purposes to enable a ward-by-ward insight into the state of the roads and pavements.

### **12/23 Transport Management Topics**

The Board received a report and presentation from the Director of City Sustainability which was presented by the Head of Traffic & Transportation.

### **Regulation of Temporary Street Works and Road Works**

The officer informed the Board that temporary work on the public highway was heavily regulated, mainly under the New Roads and Street Works Act 1991 and the Traffic Management Act 2004. These Acts set the legal framework and empower the Secretary of State to make regulations and issue codes of practice, which reflect the regulations, to provide strong guidance for both works promoters and highway authorities. More regulations influence utility company activities, these include industry statutes and industry regulators, for example, Ofcom.

The difference between street works and road works was detailed:

- **Street works** are works needed to place, keep, and maintain apparatus mainly by utility companies. There are approximately 8000 registrable works each in Derby.
- **Road works** are works done to maintain the public highway and execution of highway authority duties and powers. There are 4000 registerable works which range from short term minor works to long duration major schemes. There are about 1500 emergency works which vary in scale depending on cause and damage and complexity of repair.

The Notification and Permit process apply to both Street Works and Road Works and the same standards of traffic management and safety also apply.

### **Street Works-Notices and Permits**

The new Roads and Street Works Act established a scheme of formal notification of works, with advance notice of major works, and shorter period of advanced notification for other works categories. The Traffic Management Act refined this, by allowing highway authorities to implement Permit Schemes. Derby was the first unitary authority to implement a Permit scheme for the major road network whilst keeping Notices for other parts of the network.

The key difference between Notices and Permits is that permits need approval. The Highways Authority has some powers of direction in relation to Notices and Permits. The detail needed in a Permit Application is more than needed for a notice which are more flexible. All Street Works must be registered by works promoters using either a notice or by applying for a permit. This can be done retrospectively for emergency works.

### **Charges for overrunning works**

Regulations allow highway authorities to charge, based on a national structure, for occupancy of the highway where there is no valid permit to work. The charges are applied as a Fixed Penalty Notice and need a level of evidence for a Magistrates Court. The works promoter can extend the original works, the condition of a buried asset may be worse than expected and mean works need to continue. In this instance it would not be chargeable. Failure to get a valid extension to a permit would result in an overrun of works which would trigger a charge based on the types of works and type of road. Evidence to support the penalties being applied must be provided. The charges relating to works occupying the carriage way during a period of overrun were highlighted. The Board noted that 80% of Derby are type 4, residential streets, the amount for each of the first 3 days would be £250.00 and would continue at £250.00 for every subsequent day.

### **Powers of Direction on Traffic Management Techniques**

Highway authorities have limited powers of direction. The various regulations and codes of practice recognise standard working practices. Any variation or direction must be justified on specific traffic flow, movement of pedestrians or accessibility.

The local authority's role is to facilitate work. The work promoter and their contractors are responsible for the execution of the work. The work is done by a chain of sub-contractions and was reflective of a commercial market, over which the highway authority has no control.

The officer explained the problems that could arise, such as works being completed and traffic signals still in place. If lights have been hired for a certain time and it is still within the permit window, then charges cannot be applied. If the LA has received a report, then they will try and chase down contractors to get the signals removed.

Councillors raised their concerns and issues regarding road works. They highlighted cases where emergency works had been completed but it could be another day before signals were removed. If the contractors were within the permit time, then nothing could be done. They highlighted other issues including:

- The fragmentation of contractors and sub-contractors. Emergency work without permits finishing on Friday afternoons, the chaos caused by temporary traffic lights remaining sometimes for 24 to 48 hours after work has been completed.
- Traffic lights could be removed to improve the traffic flow. It was suggested that the council should intervene, sending someone to visit and assess the site, and if traffic lights no longer necessary they should be moved to a safe location by the roadside.
- It was recognised that the responsibility for completion of works and removal of traffic control lay with the utility companies. However, the Board suggested that if the council could be more pro-active and worked with the local councillors/communities, then perhaps the disruptive nature and time of the work could have been reduced.

The Board suggested more support was needed from officers in these situations. It was suggested that a list of planned road works with permits agreed in ward areas would be useful so they could inform the local communities. The officer explained that a list was not compiled. If one could be provided, should it include works planned for the next day or for the longer term? Also planned works do not have to start on the first day of the period, they can start at any time during the permitted period. The Board understood that any list provided would not cover emergency works.

A councillor then highlighted the issues of refreshing road markings which seemed to take a long time and sometimes contractors only replace part of the lines. The officer explained that this was revenue funded activity, there was no funding to do this work. Where lines are missing then contractors should put back, but there were costs involved and contractors would do the minimum necessary to ensure they make a profit. The council does not have a lining gang, so they wait until they have a batch of lines on roads to replace and employ a gang for four days work.

Another councillor was interested to know how many of the works failed inspection. The officer confirmed many sites are good on health and safety

issues now. Safety issues had improved by the industry over the last 20 years. If a contractor failed on safety, then they have the time to put right, and no fee would be paid to the local authority. Around 60% of contractors can be non-compliant, and 10% to 15% fail. The councillor asked if one contractor was recognised to be weak, would more samples be taken of their work. The officer explained Inspections must be random.

The Board suggested they could help officers by keeping them informed on road works issues if they had more information about permits, a track on jobs that had overrun could be kept. There should be more joined-up working around this problem. The officer highlighted that Derby City had a strong reputation for enforcement, particularly around traffic management.

The Board discussed Road Space Charging Schemes. A Lane Rental Scheme was suggested. The scheme gives companies who need to close a road or lane to complete highway works a financial incentive to make sure it is carried out in a less disruptive way. A daily rate was charged to companies working on specific roads and if it was during busy periods such as rush hour. Charges applied to works promoted by both utility companies and local highway authorities on the local road network. The officer explained it would be a good way to serve the network but a large framework to support it would need to be put in place.

## **S106 Contributions**

These are contributions negotiated in relation to applications for development and to mitigate the impact of the development, which can include improvements to the highway network. Funds can be made available immediately or there may be agreements when the funding can be accessed and used. The contributions for new physical infrastructure, like pedestrian crossings, do not cover on-going revenue for their maintenance. This was an issue for local authorities as funding may be available for the installation, but pressure on revenue spending meant that adding assets increased existing overspends, mainly on fixed costs like energy. The amount of energy used by traffic lights and bus shelter information boards was highlighted. There was a need for cheaper energy or less assets. The officer informed the Board that street lighting costs were over budget, and there was another anticipated price rise soon.

The councillors understood the situation but drew attention to the local plan where preferred housing sites are agreed. Sustained housing growth also delivers mitigations which are sited in the planning process in “heads and terms”. There was a contract with all to agree to deliver a package to give mitigation to improve an area. If local authority finds it difficult and challenging to deliver mitigations because it will impact on revenue, how can councillors and public be assured they will be delivered?

The Board raised their concerns regarding Section 106 Time outs, funding not used for mitigations in time, being handed back to developers. They were concerned at the possible loss of these funds and felt that Ward Committees need to be more engaged and carry out periodic checks to ensure that funds are not lost.

**The Board noted the issues in the report and asked that all Locality Managers be advised to add Section 106 funding to Neighbourhood Board Agendas.**

## **13/23      Work Programme and Topic Reviews**

The Board considered a report which allowed the Board to study its Terms of Reference and Remit for the remainder of the 2023/24 Municipal Year. The report also allowed officers to inform the Board of any key work areas, issues, or potential topic review subjects within the service areas for discussion or inclusion in the work programme.

The Board discussed the current year's work programme and agreed that an item on "Project Assemble" should be included on the Work Programme for the 16 January 2024 meeting. They wanted an update on:

- The Market Place itself, including the Market Hall
- The Guildhall Theatre and the two adjoining buildings.
- The Quad

They needed to hear what the plans are, as the Board had not received a formal update.

### **Resolved**

- 1. To agree the proposed work programme for 2023/24 which was discussed at the meeting.**

MINUTES END