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Ref. No.	
Category:	
People	
Place	Yes
Corporate	
In Constitution	

# Adopted Highways Policy

## Policy Details

What is this policy for?	<p>This policy outlines how Dorset Council, as the Highway Authority, will manage the highway, i.e. roads and footways which are to be maintained at public expense.</p> <p>This includes adoption of new roads and footways, modifying or extinguishing existing highway rights and responding to enquiries about the current status of roads and footways.</p> <p>The Highway Authority is obliged to keep and maintain a register of roads maintainable at public expense – the List of Streets. The register will be made accessible to members of the public at all reasonable times.</p>
Who does this policy affect?	<p>Towns and Parishes</p> <p>Residents</p> <p>Road users</p>
Keywords	<p>Highways</p> <p>Adopted</p> <p>Register</p> <p>Streets</p> <p>Roads</p> <p>Footways</p> <p>Rights of way</p>
Author	<p>Name: Michael Westwood</p> <p>Job title: Community Highway Manager</p> <p>Tel No: 01305228167</p> <p>Email: michael.westwood@dorsetcouncil.gov.uk</p>
Does this policy relate to any laws?	<p>Highways Act 1980</p> <p>Town &amp; Country Planning Act 1990 (Section 247)</p>
Is this policy linked to any other Dorset Council policies?	
Equality Impact Assessment (EqIA)	<p><a href="#">Equalities Impact Assessment (EqIA)</a></p> <p>Not required as no material changes to the policy</p>
Other Impact Assessments	<p><a href="#">Financial Implications</a></p> <p>None identified as part of the changes</p> <p><a href="#">Climate implications</a></p> <p>None identified as part of the changes</p>

	<p><b>Risk Assessment</b> None identified as part of the changes</p> <p><b>Well-being and Health Implications</b> None identified as part of the changes</p>
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## Status and Approvals

Status		Version	
Last review date	June 2021	Next review date	2023
Approved by (Director)	John Sellgren Executive Director of Place	Date approved	June 2021
Member/ Partnership Board Approval	Councillor Ray Bryan portfolio holder Highways Travel & Parking Environment & Wellbeing	Date approved	June 2021

## **Adopted Highway Policy**

### **Policy Statement**

Dorset Council, as the Highway Authority, will manage the Highway, i.e. roads and footways which are to be maintained at public expense. This includes adoption of new roads and footways, modifying or extinguishing existing highway rights and responding to enquiries about the current status of roads and footways.

Fees will be charged by the Council to cover their reasonable costs in administering, approving, inspecting and enforcing agreements relating to the adoption of new roads and footways or changes to the existing roads and footways.

**Policy Authorised by:** DCC Environment Overview Committee and Cabinet

**Date of Authorisation:** 2 October and 7 November 2012

**Policy update to Dorset Council authorised by portfolio holder.**

**Date:** 30/06/2021

### **Policy Objectives**

- To ensure that the Council's policy is clear to both members and the public and is communicated effectively.
- To ensure that the Council's policy is applied consistently, in accordance with legislation and for the greater benefit of the Dorset public.

### **Key Influences**

#### Highways Act 1980

The creation of adopted highway, status enquiries and the extinguishment of highway rights.

#### Town & Country Planning Act 1990 (Section 247)

The extinguishment of highway rights in conjunction with building development.

### **Definitions and Scope – Inclusions and Exclusions**

#### **Inclusions**

- The publicly maintainable highway within the administrative area of Dorset Council.

#### **Exclusions**

- The trunk road (A31, A303 and the A35 west of Bere Regis), which is managed by the Highways England or their agents.
- Private roads or military roads.

## **Outline of Processes**

### **Status Enquiries**

The Highway Authority is obliged to keep and maintain a register of roads maintainable at public expense – the List of Streets. The register will be made accessible to members of the public at all reasonable times.

However, the list does not record the limits of the highway, nor does it include roads which are **not** “highways maintainable at public expense”. (see exclusions)

### **Extinguishment of Highway Rights**

Where areas of public highway are considered by the Highway Authority to be surplus to highway requirements, the public rights of way can be extinguished by an Order made by Magistrates. An application has to be made to the Magistrates’ Court by the Highway Authority on behalf of an applicant.

When considering requests for the extinguishment of highway rights the Council shall apply the following criteria in determining whether the land is considered to be surplus to highway requirements.

- Is the land required to retain adequate sight lines for all traffic including pedestrians, equestrians and cyclists?
- Could the land be required for any future improvement scheme?
- Could the extinguishment and disposal of the land result in a change to the character of the street scene?
- Could the extinguishment and disposal of the land result in a perceived loss of amenity value if transferred from public to private ownership, including environmental considerations?
- Could the extinguishment and disposal of the land result in perceived gain to the applicant but to the detriment of local residents: for example, to secure private parking on land which previously enjoyed and demonstrated general access or utility?
- If the land is owned by Dorset Council does it need to be retained for other purposes?

When highway rights are extinguished, ownership reverts to the owner of the land. It will therefore be necessary to locate the owner and negotiate for them to acquire it.

If there is no known owner, there is a presumption in common law that the land reverts to the adjoining owner.

If you are the adjoining owner, you can apply to the Land Registry to have the land included in your title, but experience has shown that they do not often register areas of former highway that have been acquired under this common law presumption.

### **Adopted Highway / Amendment to Existing Highway**

The Highway Authority shall establish that the area under consideration will serve a useful highway function if adopted. For example, the Highway Authority would probably not consider adopting a road that did not serve more than 5 houses.

The area of adoption shall include margins as required to achieve the necessary visibility standards or maintenance of the infrastructure. The adopted areas shall include any specific design features such as regulatory signs, street lighting and speed restraint points.

The adopted area may include margins to accommodate apparatus owned by Statutory Undertakers such as water, electric or gas companies.

Generally, verges where the sole purpose is landscaping, screening or amenity use will not be adopted

Remote footways forming separate access to an individual or small group of properties shall not normally be adopted.

Separate areas allocated for vehicle parking and/or access to remote garages, parking areas and drives to individual or small groups of properties shall not be adopted.

Any new road or associated area forming part of a new development site shall be constructed in accordance with guidance provided by the Council.

### **Agreements Under Section 38 & 278 of the Highways Act (1980):**

Where the scope of the proposed works is minor in nature and does not involve amending the horizontal or vertical alignment of the existing highway, the use of a Minor Works Agreement will be considered.

Where minor works in the existing highway are associated with a Section 38 agreement permission to undertake the works within the existing highway may be included within the Section 38 agreement as this minimises costs and streamlines the approval and construction processes.

Where the extent of the proposed works within the existing highway is substantial, potentially disruptive to the expeditious movement of traffic, includes traffic signals and/or impacts upon the Strategic Road Network a separate Section 278 agreement will be required. In this instance Dorset Council will review the proposals and determine whether it will require:

1. the developer to submit an agreed sum of money to the Council for it to design, procure and construct the works via existing highway maintenance arrangements;
2. the developer to submit a detailed design for the works to the Council for approval and deposit of an agreed sum of money with the Council for it to procure and construct the works;
3. the developer to be appointed as the Council's agent to both design and implement the works; or

4. the Council completes the detailed design for the works and the Developer to be appointed as the Council's agent to procure and implement the works.

No works will be permitted on the public highway without an appropriate agreement being in place.

The Council will endeavor, at all times, to work in a partnering and collaborative manner with developers and any appointed consultants and contractors. This approach to collaborative working is enshrined in the contracts and the working culture that Dorset Council has with its Strategic partners. However, the Council will retain absolute discretion to decide upon the most appropriate form for delivery of any proposed improvement works in the unlikely event that agreement cannot be reached.

### **Charging**

Fees will be charged by the Council to cover their reasonable costs in administering, approving, inspecting and enforcing agreements relating to the adoption of new highways or changes to the existing highway. To prevent the Council incurring abortive and non-redeemable costs prior to the formal agreement of any works, an initial fee will be charged which will be deducted from the fees charged when formal agreement is reached.

Developer contributions will be levied to cover any increased maintenance liability on the Council. Guidance is provided on when these charges will be made.

### **Related Documents**

Related documents are available on the Council's website:

<https://www.dorsetcouncil.gov.uk/roads-highways-maintenance/roads-highways-and-maintenance.aspx>

### **Measures of Effectiveness**

Measures providing information on how the Council will respond to questions about status enquiries, extinguishment of highway rights, adoption of new highway and amendments to the existing highway. (e.g. average end to end time for completion of enquiries).