

Appendix 1: Orphan Pathways & Street Furniture, Rear Driveways and Public Right of Ways Task & Finish Group

Summary

The report sets out the findings from the council's Task & Finish Group which identifies some of the significant issues and ideas the council could consider to improve how it manages orphan pathways, rear communal driveways and public rights of way. This includes the roles and responsibilities of Members and officers, how they work together, as well as how the council works with local communities and citizens. In making use of all the assets, knowledge and tools available the council is likely to significantly improve what might be possible at these sites for and with local communities, as well as reduce ongoing and future costs to the council's budget(s).

Background & Context

In November 2016 a "Task and Finish" process was commissioned by the Assistant Leaders to undertake a fact-finding exercise to help the council better understand the current arrangements, practices and issues concerning the management, maintenance and security of accessways. This applies to public rights of way, "orphan" pathways and rear communal driveways. The Task and Finish group met between December and February with the following aims and outcomes, which were to help the council to:

- Have a better understanding of the scale and scope of liabilities, responsibilities and challenges concerning the management of accessways.
- Have a better understanding of the current practices, resources, tools, provisions and issues concerning the management of accessways.
- Be in a position to commission activity which can address relevant issues and gaps in resources or service provision which can improve how accessways are managed.

There are three particular types of land which have been the focus of the task and finish group, though the findings and ideas developed from this process could be applied more broadly:

- Public rights of way, which are managed by Birmingham City Council Highways
- Non-Highway Maintainable at Public expense (HMPE) which are owned and managed by agencies and services other than Birmingham City Council Highways
- Rear communal driveways which might be considered "easements" in the home ownership of local residents

There are also three general themes and a number of specific issues which feature regularly in these types of sites which have been explored. This is in terms of current arrangements for managing them, problems or issues in their resolution, as well as good practice and ideas to consider and promote:

- Health and safety – dangerous trees; street-lighting; remedying filthy and verminous sites; removal of combustible material; repairs and maintenance, including street furniture
- Clean and green – dumped rubbish and fly-tipping; overgrown vegetation
- Community safety – burglary; vehicle crime; anti-social behaviour; feelings of safety

The task and finish group which consisted of the following: Councillor Mike Leddy (chair); Councillor Karen McCarthy (Labour Group); Councillor Neil Eustace (Liberal Democrat Group); Austin Rodriguez (Neighbourhood Development & Support Unit). The following thematic areas and individuals were also represented and contributed to the task and finish process:

- Housing Management - Carl Hides (BCC Landlord Services)
- Highways, Transportation and Rights of Way – Phil Woodhouse, Kamyar Tavassoli, Paul Laythorpe, Mahroof Malik Paul Newark (BCC Highways & Transportation); Nick Woodgate (Amey)
- Waste Management & Enforcement - Anthony Greener, Louise Bessant, Tony Quigley, Marytn Smith
- Community Safety - Sue Brookin (WMFS) and PC Gareth Pemberton (West Midlands Police)
- Legal Responsibilities and Tools - Lisa Morgan and Jane Hopkins (BCC Legal Services)
- Housing Development - Ron Williams (Birmingham Municipal Housing Trust)

Findings and recommendations

What was most apparent from each individual themed session is that there are a number of cross-cutting issues which are affecting multiple service areas and agencies. These can broadly be described as:

- There are a disproportionately large number of sites which can be considered a liability and currently a negative asset for the council. These could benefit from being put into more productive use and ownership;
- There are areas of uncertainty between council policy and the council's statutory duties. This mostly applies to land which is not in the council's ownership or management responsibilities;
- Red-tape and bureaucratic processes slowing down responses or taking up disproportionate amounts of Member and officer time to work through;
- The need for cultural change in terms of what can be expected from the council and what is expected from local communities and citizens, particularly in terms of looking after and managing these sites;
- The lack of awareness and general promotion of the various good practices and improvements taking place across the council in individual service areas.

The Task & Finish group's purpose was not to make any formal recommendations to the council, but to identify a number of ideas and issues which the council and its partners might wish to explore. This includes the Assistant Leaders but also individual officers and portfolio holders in the council. The following are the recommended ideas and areas which the group thinks should be taken forward:

Policy issues and ideas for Members to consider:

1. **Consider the disposal of all land which has no development potential and can be considered as a current council and community liability.** This would be for free to anyone who wishes to register an interest in it. It is likely to apply to areas of no more than 20 square metres and is also likely to entail the transfer of individual small strips of land to adjoining private properties and homes (such as rear garden accessways). Such an approach would need to be considered within the legal limitations concerning public rights of way.
2. **For any land which is believed to be unregistered and which the council has undertaken some form of management, for at least twelve years and beyond its statutory duties,** the council should look to register that land under its ownership. This particularly applies to sites which the council might have fenced off for instance. These might then be disposed of through sale or other means, depending on the potential uses for it.
3. **For members of the Planning Committee to make consideration of the issue of "fast-growing" trees and unadopted highways** or similar sites put forward in planning applications from housing developers. This is particularly for the purposes of trying to "design-out" future problems which are likely to occur in the management of housing estates.
4. **For unadopted or unregistered land where there is no land ownership or responsibility** – essentially no one's responsibility - then the council should adopt a policy that it is then "everyone's responsibility". This would see the council provide an enabling and supporting role for local residents, communities and groups in order to manage issues at particular sites. This might include removing rubbish from an organised litter pick, providing educational letter templates (as per BCC Housing Management process) or supporting the development of funding bids for solutions, for instance.

Organisational issues ideas for Officers to consider:

1. **Adopting a "Total Place" budget approach where the same process for waste management and highways maintenance are used for all types of publically accessible council owned land,** regardless of which "division" of the council has management responsibility for it. The council currently wastes a lot of its Members' and officers' time in identifying land ownership and responsibility, individual budgets and referring issues to Waste Management and Highways to ultimately deal with. The process also leads to significant inconsistencies in the quality and nature of how issues are resolved on different sites – which has a reputational and knock-on impact for citizens and communities accessing those sites.
2. **Developing and maintaining a list of contacts** which can be made available to Members and officers across the council for officers with responsibility for managing different types of council land. This is related to the above point and includes Housing, Transportation, Education and Parks, for instance. This would significantly improve the speed and ease of communication in raising and responding to issue at individual sites.
3. **The job descriptions for "Neighbourhood Action Coordinators"** to include a responsibility for the coordination of activity to resolve issues at the types of sites. This would include issues around land

ownership, the “total place” coordination of services, as well as enabling local citizens and communities to take ownership and pride of these sites.

Connected “whole council” and city issues and ideas to consider:

1. **Where possible a “one council” approach to be progressed which brings Members and officers together as part of one team.** This is reflecting on the local knowledge and visibility which Members can bring to support officers deliver services and other activities for the council. It applies particularly to Members being encouraged to take part in inspection processes and activities (e.g. EQS or street furniture assessments) to provide extra “eyes and ears” for officers out in Wards. This might also include Members adding their local knowledge to asset registers, particularly relating to street furniture and highways issues, for instance. There is also a broader opportunity for Members to visit local offices to get to know officers involved in managing neighbourhood type issues to understand who they are and what they do.
2. **Local View to be promoted for use by all Members** accompanied by the relevant training, which has been offered by officers in BCC Transportation. Access to and good use of this tool has the potential to save significant amounts of time and resource in identifying land ownership and Members being able to make the right referrals to the right people in the council to look at.
3. **The council to consider how it can become more of an “enabling council”** bringing together its knowledge of local community groups and activity (via both Members and officers) and its “offer” to support those groups in their local areas. In this context it applies particularly to how local groups can be supported to help encourage or directly organise activity to keep watch over and look after the condition of the sites relevant to this task and finish process. This includes things like adapting letter templates and tools in for example, Housing Management, for local community groups to use.
4. **Raising awareness of and regularly promoting all the good practices and improvements happening in the council,** which are helping the council to better manage these types of sites. This is particularly with Members and might be through Marketplace activities or specific Member development sessions, training or surgeries. It includes for instance: the education and enforcement approach in Housing Management; the development of asset registers and rights of way knowledge in Highways and Transportation; successful “Total Place” pilots in Waste Management and Enforcement; the prevention activity taking place via community safety partnership relationships; the success BMHT is having in designing out issues in new housing estates.
5. **Running a “dragons den” type of initiative inviting Members to nominate problematic sites where the council’s various practices and improvements can be tested out and applied.** These might be sites which are a problem for 2-3 reasons covering issues such as land ownership, waste management, community safety, street furniture maintenance, access, for instance. This would provide the opportunity to showcase the council’s good practice and bring together various council divisions and Members together in a joint problem solving approach.

Further areas to explore

There are also a number of areas, issues and themes which the Task and Finish Group was unable to cover but where it is recommended that further investigation and enquires are made. These include:

- Birmingham Property Services’ “Minor Land” disposal process
- Land ownership of Public Rights of Way across the city
- The role of schools in educating children and young people in keep their neighbourhoods clean
- Looking beyond grant-funding to community funded gating schemes
- The Land Registry’s strategic direction of travel and potential activity over the coming 5-10 years
- Substations – ownership, contacts and general policies towards accessways and related sites