



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Y Pwyllgor Deisebau

Adroddiad Cwblhau

**Crynodeb o ystyriaeth y Pwyllgor Deisebau o P-03-123 Ffyrdd sydd
heb eu Mabwysiadu**

Mawrth 2009

Derbyniwyd y ddeiseb

16 Ebrill 2008

Dyfarnwyd yn dderbyniadwy

24 Ebrill 2008

Ystyriaeth gychwynnol

8 Mai 2008

Ystyriodd y Pwyllgor y ddeiseb am y tro cyntaf a chytunodd i ysgrifennu at y Dirprwy Brif Weinidog i egluro polisi Llywodraeth Cynulliad Cymru ar y mater hwn.

(Gweler Atodiad 1 am y dyfyniad perthnasol o drawsgrifiad cyfarfod 8 Mai 2008 ac Atodiad 2 am y llythyr a anfonodd y Cadeirydd at y Dirprwy Brif Weinidog)

Ystyriaeth bellach

25 Mehefin 2008

Ystyriodd y Pwyllgor ymateb gan y Dirprwy Brif Weinidog a chytunodd i ysgrifennu at Gymdeithas Llywodraeth Leol Cymru i ofyn a oes unrhyw faterion cyfreithiol neu dechnegol sy'n ei gwneud yn anodd i'w aelodau fynd i'r afael â'r mater hwn

(Gweler Atodiad 1 am y dyfyniad perthnasol o drawsgrifiad cyfarfod 25 Mehefin 2008, Atodiad 2 am yr ymateb a gafwyd gan y Dirprwy Brif Weinidog ac Atodiad 3 am y llythyr a anfonwyd at Gymdeithas Llywodraeth Leol Cymru)

2 Hydref 2008

Ystyriodd y Pwyllgor ymateb gan Gymdeithas Llywodraeth Leol Cymru a chytunodd i ysgrifennu at y Dirprwy Brif Weinidog yn gofyn a oedd yn ymwybodol o unrhyw rwystrau gweinyddol neu reoleiddiol rhag mabwysiadu ffyrdd sydd heb eu mabwysiadu

(Gweler Atodiad 1 am y dyfyniad perthnasol o drawsgrifiad cyfarfod 2 Hydref 2008, Atodiad 2 am y llythyr a anfonwyd at y Dirprwy Brif Weinidog ac Atodiad 3 am yr ymateb a gafwyd gan Gymdeithas Llywodraeth Leol Cymru)

6 Tachwedd 2008

Ystyriodd y Pwyllgor y datblygiadau diweddaraf a chytunodd i ysgrifennu at y Dirprwy Brif Weinidog ynglŷn â'r Llawlyfr Strydoedd

(Gweler Atodiad 1 am y dyfyniad perthnasol o drawsgrifiad cyfarfod 6 Tachwedd 2008 ac Atodiad 2 am y llythyr a anfonwyd at y Dirprwy Brif Weinidog)

13 Ionawr 2009

Ystyriodd y Pwyllgor ymateb gan y Dirprwy Brif Weinidog a chytunodd i ysgrifennu ato i ofyn a ddylai awdurdodau lleol gael canllawiau o ran mabwysiadu ffyrdd hŷn c ysgrifennu at Gymdeithas Llywodraeth Leol Cymru yn gofyn iddi roi enghreifftiau o 'arfer gorau' o ran y canllawiau a gynhrychir gan awdurdodau priffyrdd lleol

(Gweler Atodiad 1 am y dyfyniad perthnasol o drawsgrifiad cyfarfod 13 Ionawr 2009, Atodiad 2 am yr ymateb a gafwyd gan y Dirprwy Brif Weinidog a'r llythyr a anfonwyd ato wedyn ac Atodiad 3 am y llythyr a anfonwyd at Gymdeithas Llywodraeth Leol Cymru)

2 Mawrth 2009

Ystyriodd y Pwyllgor ymatebion gan y Dirprwy Brif Weinidog, Cymdeithas Llywodraeth Leol Cymru a Chyngor Bwrdeistref Sirol Castell-nedd Port Talbot a chytunodd ei fod wedi mynd â'r ddeiseb mor bell ag y gallai ac y byddai'n cloi ei ystyriaethau o'r ddeiseb

(Gweler Atodiad 1 am y dyfyniad perthnasol o drawsgrifiad cyfarfod 2 Mawrth 2009, Atodiad 2 am yr ymateb a gafwyd gan y Dirprwy Brif Weinidog, Atodiad 3 am y llythyr a gafwyd gan Gymdeithas Llywodraeth Leol Cymru ac Atodiad 4 am y llythyr a gafwyd gan Gyngor Bwrdeistref Sirol Castell-nedd Port Talbot)

Clerc y Pwyllgor Deisebau Mawrth 2009

Atodiad 1

Trawsgrifiadau o gyfarfodydd y Pwyllgor Deisebau

8 Mai 2008

Val Lloyd: The second one is something that I am sure is dear to many people: unadopted roads. The petition sets out the problems that affect people whose houses are on such roads. I know that that is a problem throughout Wales, not just in Neath Port Talbot County Borough Council, which is where this petition has come from. I am sure that we have all dealt with this issue in some shape or form. Shall we write to the Welsh Assembly Government on its policy?

Michael German: That would be a good first step, because we will then know where we are in relation to policy. If we decided that there is scope to move forward, we could move on after that.

Val Lloyd: I think that that should be the first stage. I suspect that it will be for the local authority to take forward.

Michael German: As always, it will come down to the hypothecated—or unhypothecated—grant, or money.

Val Lloyd: We have to take the first step, do we not?

25 Mehefin 2008

Val Lloyd: The next petition is on unadopted roads.

Bethan Jenkins: On a point of clarification, the last paragraph in the letter says that:

'There is no policy to provide hypothecated grants for the adoption of unadopted roads'.

Has the Government decided that it will not provide hypothecated grants?

Val Lloyd: No, it is something that local authorities do not want. As a general principle, local authorities do not want hypothecated grants.

Bethan Jenkins: So, when he says that there is no policy, that comes from local authorities.

Val Lloyd: Yes and no; it is a discussion between local authorities and the Welsh Assembly Government. However, in general terms—this is not my version of it—local authorities do not like hypothecated grants; they say that they should be able to spend their money in the way that will best meet the needs of their residents and council tax payers. That is true of all authorities.

Kirsty Williams: I take the Minister's answer, namely that there is no national policy and that that is supported at a local level, and forgive me if I am missing something that was raised when you originally looked at this, but the petition says,

'We, the undersigned, call upon the Welsh Assembly Government to make it easier for unitary authorities to take over unadopted roads while minimising the burden on frontagers'.

Setting money aside, does that mean that there are bureaucratic difficulties in the process, so that, even if the money were there, it would be difficult for local authorities to tackle this? I do not know; it says 'to make it easier'. Whenever I have dealt with this matter, the council says that it is because of money rather than anything else—

Andrew R.T. Davies: It is a get-out clause.

Kirsty Williams: Yes, but it has never explained to me what technical issues make it difficult to do so.

Val Lloyd: My previous experience as a councillor and as an Assembly Member is that all councils have the problem of unadopted roads, and councils, in general, have a policy of working through them. My council follows certain criteria and a date order and it is a very slow process. It allocates a certain amount of money in each budget, and works its way through it, but, on that basis, there is something like a 200-year wait. However, councils ask frontagers to contribute in some areas and put something towards the cost.

Kirsty Williams: That has been my experience. The council will adopt a road if it has been brought up to a certain standard in the first place by the frontagers.

Val Lloyd: They put some money into it, but it has to be a partnership and you have to get all frontagers to agree—some do not agree and some cannot agree. Again, it is a question of the local authority's budget.

Andrew R.T. Davies: It is about where you take it. Almost all of us, at some point, will have dealt with this—I did before becoming an Assembly Member. Councils are always loathe to take these on, and prefer residents to maintain such roads. Ultimately, it boils down to money, because it puts more liability on them. I am uneasy about recommending the closure of this petition, because I do not think that we have achieved a great deal for the petitioners, but I am also unaware of how we can advance it. If someone else has a better idea, I will gladly listen to it.

Val Lloyd: I am in sympathy, but I was also going to ask what we can do. There is no point asking the petitioners to come in, because the principle is well understood to the four of us and to any other Member who would happen to be sitting on the committee, I suspect. I think that we have to close it. Unless someone comes up with a brainwave, we cannot proceed with this. We have aired the issue and sought the Minister's advice. Basically, the local authority can tackle it, but it is up to it how it allocates its budget. It is a difficult issue for all local authorities.

Bethan Jenkins: Are there any community grants available for these types of things?

Kirsty Williams: It is a notoriously difficult problem.

Andrew R.T. Davies: Unadopted roads are such a liability for councils to take on. Many developments were built on the presumption that the owners would take responsibility for the access roads and so on; it is a bit galling for the local authority to have to take over responsibility for those roads.

Val Lloyd: Fortunately, these conditions are now written into new developments, but we are faced with the legacy of roads that date back hundreds of years, in some

instances. It is not a recurring problem, because with new developments, and even with infill developments, this issue is covered as a condition of planning.

Andrew R.T. Davies: Could we ask for local authorities' view on this? They must have a view. Chair, you have said that there is a 200-year wait in some instances—I know that that was a throwaway comment—so it must be a great burden on them. Surely they are in a position where they would like to see some sort of resolution.

Kirsty Williams: Could we write to the Welsh Local Government Association?

Val Lloyd: Yes. That is the only avenue left to us. We could write to the WLGA to ask for its policy on behalf of its members, but I suspect that the reply will be, 'We would love to take them on; please can the Welsh Assembly Government give us some more money?'

Kirsty Williams: Could we specifically ask in the letter whether there are any legal or technical issues that make this a difficult process, apart from the issue of more money? We appreciate that it is probably a matter of resources.

Val Lloyd: We could do that.

Kirsty Williams: We are not stupid; we realise that it will probably come down to money. However, they may be aware of some difficulties.

Val Lloyd: Then, we would have exhausted all avenues, which the petitioners would understand.

2 Hydref 2008

Val Lloyd: The next petition is on unadopted roads.

Michael German: I worry about this petition, because there is no policy to provide unhypothecated grants for the adoption of unadopted roads in the local authority network. There is a lack of a regulatory or compulsory framework or of criteria in relation to this matter. This is not just an issue here; it is an issue everywhere.

Val Lloyd: Yes, it is an issue absolutely everywhere.

Michael German: I do not know enough whether there is a regulatory section that we need to look at or which needs to be investigated. Perhaps we should ask the Deputy First Minister whether he is aware of any administrative procedures or regulations in respect of this matter, and whether or not he considers that they need to be amended. That is just in order that we can know what the rules are, because I am not aware of what they are.

Val Lloyd: We all share this concern. We have discussed it when we have raised this issue twice before. We have all come across this, whether as public representatives at a local government level previously, or at this level. It is a fraught subject, because not all of those who have frontages agree. I know that, in the past, some councils have had a policy of trying to work through two or three roads per year, but it would take hundreds of years to get through them all. So, residents living in some of those streets now will never see any change. I am content to write to the Deputy First Minister, if everyone else is content with that. I see that you are. Thank you.

6 Tachwedd 2008

Val Lloyd: The unadopted roads petition has been before us in the past. We have received a response from the Minister. At our October meeting, we agreed to ask the Deputy First Minister for details of the regime that applies. However, when his previous letter was reviewed, it was there; the answer was already there. We have also received evidence from the Welsh Local Government Association.

Michael German: The question seems to me, Chair, to be whether the 'Manual for Streets', which is what the guidance is, actually makes it easier for local unitary authorities to take over unadopted roads while minimising the burden on frontagers. Whether that is right or wrong, I do not know—that is not the point. The point is whether the guidance, which is contained in that document, makes it easier without burdening frontagers. I do not know the answer to that.

Val Lloyd: I read the letter that Steve Thomas from the WLGA sent us. It says absolutely nothing on the type of adoption that we are looking at. However, I have to put that with a health warning and state that I am reading it as a lay person. It is comprehensive in terms of developers, and I took that to be referring to the building of new roads and estates. I could not find anything that referred to what we were looking for.

Michael German: If it were the case—I am sorry for developing the argument a bit further—that the guidance was insufficient at present to fulfil the purpose of the petition, there might be a case for taking this further and looking at whether the guidance should be amended.

Val Lloyd: The way that I ended up looking at it, after reading it a couple of times, was that the definition of a developer is a broad one. I read the word 'developer' in this context to be referring to a developer of a new place. However, you would still have to follow the same guidance if you were a frontager, would you not?

Michael German: I do not know the answer to that question, Chair, and whether local authorities follow the guidance that is before us today when considering adopting roads.

Val Lloyd: It was sent to us by the WLGA. Therefore, you would think that it would have had a view on it.

Michael German: I wonder whether the WLGA has misunderstood slightly, because this is not about new development, where an estate has been developed and the local authority has to take over the roads, but about long-established roads, where the issue goes so far back that nobody knows.

Andrew R.T. Davies: There are two distinct parts. Most people are now well versed that councils have become very wary so that, when someone is granted planning permission, there is a belt-and-braces approach. Historically, particularly in more industrial areas, there is an inordinate number of pieces of land and roads that no-one wants to touch with a bargepole. Yet, many residents and businesses have to use these areas. The guidelines seem to be a bit on the grey side rather than giving clear guidance for people to work to.

Val Lloyd: Local authorities might have their own policies.

Michael German: As you rightly say, the guidance is about moving the emphasis away from developers. What I am seeking to do is address the issue of the older roads. We all know of them. Obviously, a local authority can resist, but, when it wishes to do so, is it difficult for it to adopt the bits of road or lane that have been around for such a long time? Is it difficult for local authorities? I do not know.

Val Lloyd: I do not think that it is if the frontagers will pay. That is the line that most local authorities take.

Michael German: So, this is about minimising the burden on frontagers. If that is already in place, that is fine, but I do not think that this particular section of the guidance, 'Manual for Streets', actually tells us that. However, if that is the case, I am satisfied. What I am asking for, Chair, is whether I can be satisfied that, in that sort of circumstance, it is easy for local authorities to adopt highways and it is not expensive for the frontagers, which is what the petitioners are asking for.

Val Lloyd: There is a cost to frontagers; you cannot deny that, but I do not know how we can minimise—

Michael German: Is there any guidance extant on that matter?

Val Lloyd: We will have to write and ask that.

Michael German: That is all. I was not going to labour the point.

Val Lloyd: I understand where you are coming from because my postbag is as full as yours on this issue.

Michael German: It would help me to resolve one issue that I have had on board for three years, concerning a lane that the council regularly cleans and cuts the grass and the things on the side, but has not adopted. I do not know whether the one department that deals with maintenance does not know that it is not adopted.

Val Lloyd: I think that that is about custom and practice.

13 Ionawr 2009

Val Lloyd: The next petition, P-03-123, relates to unadopted roads. We considered this at several meetings last term. We wrote to the Deputy First Minister and Minister for the Economy and Transport to ask about guidance. In his reply, he said that no guidance has been issued on the adoption of older roads. The guidance that he has sent us relates to new roads on new housing estates.

Michael German: We have not got much further towards getting an answer to the question posed by the petitioner. There is obviously a Welsh local government angle to this, which perhaps we ought to look at. I am of the view that we should go back to the Deputy First Minister and ask whether he thinks that there should be guidance on older, unadopted highways, as it is those that cause the most problems. I understand the reason: it is all about finance in the end, and about who pays.

Val Lloyd: As well as getting agreement with the frontagers. It is not an easy process. So, we will write to the Welsh Local Government Association to ask for examples of best practice in guidance, and to the Deputy First Minister asking for his

views on whether there should be guidance with specific regard to older roads, which are the problem.

2 Mawrth 2009

Val Lloyd: We now move to P-03-123, on unadopted roads. Some interesting information has returned to us on that. The Minister has been helpful in providing that information. Can we take it any further?

Michael German: No, I do not think so.

Val Lloyd: I do not think so either.

Michael German: The issue is the cash for local authorities to do it. He mentions in his last sentence that hypothecated grants are not provided, so it must come from the local authority budget along with everything else.

Val Lloyd: We have pursued the matter vigorously, so we can safely close that petition

Atodiad 2

Y Pwyllgor Deisebau

Petitions Committee

Ieuan Wyn Jones AM
Minister for Economy and Transport
Welsh Assembly Government
Cardiff Bay
CF99 1NA

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

Our ref: PET-03-123

15 May 2008

Dear Ieuan

PETITION: UNADOPTED ROADS

This petition was considered for the first time by the Petitions Committee on 8 May. The petition calls upon the Welsh Assembly Government to 'make it easier for unitary authorities to take over unadopted roads while minimising the burden on frontagers'.

The committee resolved to ask you to clarify:

- What the Welsh Assembly Government's policy is on unadopted roads, and the current funding provided via the local government settlement.
- Whether the Government has considered the petitioners suggestion of a hypothecated grant
- If the Government has any future plans to address this issue.

I should be grateful if you could consider this request, I look forward to your response.

Yours sincerely,



Val Lloyd,
Chair, Petitions Committee

Enc. Petition Wording & Covering Letter

123

Ieuan Wyn Jones AC/AM
Dirprwy Brif Weinidog / Deputy First Minister

RECEIVED
13 JUN 2008
ABV



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Pich cyf/Your ref: PET-03-123
Ein cyf/Our ref: DFM/00978/08

Val Lloyd AM
National Assembly For Wales
Cardiff Bay
Cardiff
CF99 1NA

RECEIVED
11 JUN 2008

09 June 2008

Dear Val

I refer to your petition and accompanying letter of the 15 May 2008, requesting Welsh Assembly Government support to a policy for the adoption of unadopted roads by local authorities.

The highway network in Wales is divided between the trunk road and motorway network which is the responsibility of the Welsh Assembly Government and the network of local roads which is the responsibility of the local highway authority.

The question of a private road being adopted by the local authority so as to become a public highway is dealt with under Section 38 of the Highways Act 1980. The policy of the Welsh Assembly Government is to encourage local authorities to use their powers under section 38 of the Highways Act in circumstances where local authorities consider it appropriate.

The financial elements which make up the individual service areas of a local authorities' standard spending assessment (SSA) are unhypothecated, be it in education, transport or social services etc. They do not represent spending targets for individual services or are in any way meant to be prescriptive.

There is no policy to provide hypothecated grants for the adoption of unadopted roads into the local authority road network.

Ieuan Wyn Jones

Ieuan Wyn Jones
Gweinidog dros yr Economi a Thrafnidiaeth
Minister for the Economy and Transport

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English Enquiry Line 0845 010 3300
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Y Pwyllgor Deisebau

Petitions Committee

Ieuan Wyn Jones AM
Minister for Economy and Transport
Welsh Assembly Government
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Our ref: PET-03-123

21 November 2008

Dear Ieuan Wyn

PETITION - UNADOPTED ROADS

Thank you for your previous response to the Committee in relation to this petition. The Committee considered your response, and a letter from the WLGA, at its meeting on 02 October and 06 November 2008. Following this consideration, the Committee resolved to ask you whether:

- Guidance has been issued on the adoption of older roads, as the Manual for Streets only appears to provide guidance on the adoption of new roads from developers
- Guidance is issued to local authorities on minimising the financial burden on frontagers when roads are adopted

Thank you for your continued consideration of this matter. I look forward to receiving your response.

Yours sincerely,



Val Lloyd,
Chair, Petitions Committee

Ieuan Wyn Jones AC/AM
Dirprwy Brif Weinidog /Deputy First Minister



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref PET-03-123
Ein cyf/Our ref DFM/02232/08

Val Lloyd AM
National Assembly For Wales
Cardiff Bay
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CF99 1NA



15 December 2008

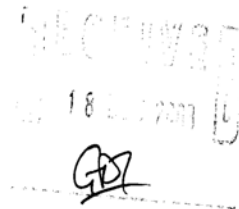
Dee Val

Thank you for your letter of 21 November regarding unadopted roads.

My Transport & Strategic Regeneration Department has not issued any guidance documents on the adoption of older roads nor guidance on minimising the financial burden.

I understand that the local highway authorities in Wales have developed their own policy documents for the potential adoption of unadopted roads into their networks.

Ieuan Wyn Jones
Gweinidog dros yr Economi a Thrafnidiaeth
Minister for the Economy and Transport



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Y Pwyllgor Deisebau

Petitions Committee

Ieuan Wyn Jones AM
Minister for Economy and Transport
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Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

Our ref: PET-03-123

19 January 2009

Dear Ieuan

PETITION - UNADOPTED ROADS

Thank you for your letter dated 15 December in response to the Petitions Committee's consideration of a petition that calls on the Welsh Assembly Government:

"to make it easier for unitary authorities to take over unadopted roads while minimising the burden on frontagers."

You said in your letter that some local highway authorities have developed their own policy documents for the potential adoption of unadopted roads into their networks. The Committee would like to know if it is your opinion that there should be central guidance on this issue from the Welsh Assembly Government?

Thank you for your continued consideration of this matter, and I look forward to your response.

Yours sincerely



Val Lloyd,
Chair, Petitions Committee

Ieuan Wyn Jones AC/AM
Dirprwy Brif Weinidog /Deputy First Minister



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref
Ein cyf/Our ref DFM/00131/09

Val Lloyd AM
Valerie.Lloyd@Wales.gov.uk

30 January 2009

Dear Val

Thank you for your letter of 19 January 2009 regarding unadopted roads.

As your Committee appreciate, the issue of the adoption of an unadopted road into the local authority highway network requires a local authority to make use of the powers given to them under the Highways Act 1980. The correct interpretation and suitable enactment of these powers are not issues for Central Government to instruct or advise upon.

A handwritten signature in black ink, appearing to read 'Ieuan Wyn Jones'.

Ieuan Wyn Jones
Gweinidog dros yr Economi a Thrafnidiaeth
Minister for the Economy and Transport

Atodiad 3

Y Pwyllgor Deisebau

Petitions Committee



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Steve Thomas
Chief Executive
Welsh Local Government Association
Local Government House
Drake Walk
Cardiff
CF10 4LG

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

Our ref: PET-03-123
4 August 2008

Dear Mr. Thomas

PETITION - UNADOPTED ROADS

The Petitions Committee has been considering a petition regarding unadopted roads, raised by a Councillor from Neath Port Talbot County Borough Council. At its meeting on 25 June, the Committee agreed to write to you to ask whether you are aware of any non-financial barriers to Welsh local authorities adopting roads i.e. regulatory or administrative barriers.

The Committee is trying to ascertain whether any particular regulation, or Welsh Assembly Government action, is unduly restricting local authorities from taking on unadopted roads. To be clear, the Committee is trying to gather a view of the policy context, in order to assess the Welsh Assembly Government's position. It is not looking at the actions or decisions of any individual local authority.

If you require any further information, or should you wish to discuss this request, please contact the Petitions Clerk on 029 2089 8505 or at stefan.sanchez@wales.gsi.gov.uk

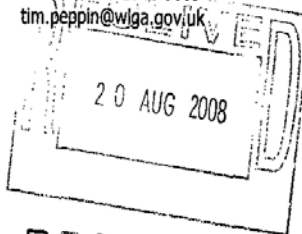
I thank you for considering this request and look forward to your response.

Yours sincerely

Val Lloyd
Chair, Petitions Committee

Our Ref/Ein Cyf:
Your Ref/Eich Cyf:
Date/Dyddiad:
Please ask for/Gofynnwch am:
Direct line/Llinell uniongyrchol:
Email/Ebost:

19th August 2008
Tim Peppin
029 2046 8669
tim.peppin@wlg.gov.uk



Val Lloyd AM
Chair, Petitions Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Dear Ms Lloyd

Petition – Unadopted Roads

RS

Thank you for your letter to Steve Thomas, Chief Executive, WLGA of 4th August enquiring whether any legislative or administrative barriers prevent Welsh local authorities from adopting roads.

After consulting with advisors the main barrier does appear to be financial. As you will be aware there are significant costs involved in maintaining the existing highway with a current backlog of maintenance standing at approximately £240m.

However there is also a legislative framework in place stemming from the Highways Act 1980. Enclosed with this letter is the relevant guidance on highway adoption from the Welsh Assembly Government and the Department for Transport which was published in 2007 in the Manual for Streets. As you will see the local authority can set down standards which must be achieved before adoption can take place. Our investigations have not gone to sufficient depths to assess whether developers are meeting specified standards but we would be happy to examine this further if the Committee felt it was appropriate.

I hope you find this helpful and should you require any more information please do not hesitate to get in touch.

Yours sincerely

T. Peppin

Tim Peppin
Director, Regeneration & Sustainable Development
Cyfarwyddwr Materion Adfywio a Datblygu Cynaldwy

Steve Thomas
Chief Executive
Prif Weithredwr

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www.wlga.gov.uk

11.6.4 A highway authority may be unwilling to adopt items such as planting and street furniture (e.g. play equipment and public art) which are not considered to relate to the highway functions of the street. If there is no private management company, arrangements can be made for such features to be maintained by another public body, such as a district or town/parish council (e.g. by designating areas of public open space).

11.6.5 In these circumstances the developer must ensure that there is agreement between the county, district and town/parish councils as to:

- which authority is best able in practice to take day-to-day responsibility for each element of planting and/or non-highway-related furniture;
- the future maintenance responsibilities, obligations and liabilities arising from such planting, street furniture etc.; and
- the apportionment of these contributions among the authorities concerned in the light of the apportioned responsibilities/liabilities.

11.7 Highway adoption – legal framework

Section 38 Agreements

11.7.1 Section 38 of the Highways Act 1980 gives highway authorities the power to adopt new highways by agreement and this is the usual way of creating new highways that are maintainable at the public expense. The Act places a duty on highway authorities to maintain adopted highways at public expense under section 41.

11.7.2 Under a Section 38 Agreement, the developer is obliged to construct the streets to an agreed standard, having first secured technical approval of the designs from the highway authority. A fee is normally payable by the developer to the highway authority to cover its reasonable costs in checking the design and supervising the construction of the works.

11.7.3 The Section 38 Agreement sets out the obligations of the developer to construct the streets and to maintain them for a set period – normally 12 months. Following the satisfactory discharge of these obligations, the new streets are automatically dedicated as public highway and are maintainable at the public expense.

Advance Payments Code

11.7.4 The Advance Payments Code (section 219 to section 225 of the Highways Act 1980) provides for payments to be made to a highway authority to cover future maintenance liabilities in the absence of a Section 38 Agreement.

11.7.5 The Advance Payments Code provides a compulsory process which involves cash deposits being made by the developer to the highway authority before building works can commence. It is an offence to undertake any house building until these payments have been deposited with the highway authority. The money securing the road charges liability is used to offset the cost of the works in instances where the highway authority carries out a Private Street Works Scheme to make up streets to an acceptable standard.

11.7.6 Thus, before any construction begins, the developer will normally be required either:

- to secure the payment of the estimated cost of the highway works under the Advance Payments Code provisions as set out in section 219 of the Act; or
- to make an agreement with the highway authority under section 38 of the Act and provide a Bond of Surety.

Private streets

11.7.7 Where a developer wishes the streets to remain private, some highway authorities have entered into planning obligations with the developer under section 106 of the Town and Country Planning Act 1990,¹⁶ which requires the developer to construct the new streets to the authority's standards and to maintain them in good condition at all times.

¹⁶ Town and Country Planning Act 1990. London: HMSO.

11.7.8 Such a planning obligation enables the developer to avoid making payments under the Advance Payments Code, as the highway authority can then be satisfied that the streets will not fall into such a condition that a Private Streets Work Scheme will be needed. The planning obligation thus provides exemption to the developer from making advance payments under section 219(4)(e) of the Highways Act 1980.

What is adoptable?

11.7.9 The highway authority has considerable discretion in exercising its powers to adopt through a Section 38 Agreement under the Highways Act 1980, but there are other mechanisms contained in the Act which help to define the legal tests for adoption.

11.7.10 Although seldom used, section 37 of the Act does provide an appeal mechanism in the event of a highway authority refusing to enter into a Section 38 Agreement. Under section 37(1), a developer can give notice to the authority that he/she intends to dedicate a street as a public highway.

11.7.11 If the authority considers that the highway *'will not be of sufficient utility to the public to justify its being maintained at the public expense'*, then it will need to apply to a magistrates' court for an order to that effect.

11.7.12 A further possibility is that the authority accepts that the new highway is of sufficient utility but considers that it has not been properly constructed or maintained, or has not been used as a highway by the public during the 12-month maintenance period. On these grounds it can refuse to accept the new road. In this case the developer can appeal to a magistrates' court against the refusal, and the court may grant an order requiring the authority to adopt the road.

11.7.13 Section 37 effectively sets the statutory requirements for a new street to become a highway maintainable at the public expense. The key tests are:

- it must be of sufficient utility to the public; and
- it must be constructed (made up) in a satisfactory manner.

In addition:

- it must be kept in repair for a period of 12 months; and
- it must be used as a highway during that period.

11.7.14 There is little case law on the application of these tests, however.

11.7.15 Highway authorities have also tended to only adopt streets that serve more than a particular number of individual dwellings or more than one commercial premises. Five dwellings is often set as the lower limit, but some authorities have set figures above or below this.

11.7.16 There is no statutory basis for the lower limit on the number of dwellings justifying adoption. The use of five dwellings as a criterion may have come from the notional capacity of private service supplies (gas, water, etc.) but it is now more commonplace for utilities to lay mains in private streets.

11.7.17 It is not desirable for this number to be set too high, as this would deny residents of small infill developments the benefit of being served by an adopted street.

11.7.18 It is recommended that highway authorities set a clear local policy on this issue.

Adoption of streets on private land

11.7.19 Under some circumstances the developer may not be able to dedicate a certain area of land as highway because he does not own it. If so, the road (or footway, etc.) can be adopted using the procedures under section 228 of the Highways Act 1980.

11.7.20 On completion of the works to the satisfaction of the highway authority, and following any agreed maintenance period, notices are posted on site. These state that unless objections are received from the owner of the land, the highway in question will become maintainable at public expense one month after the date of the notice. An inspection fee is payable in the same way as for Section 38 Agreements.

Section 278 Agreements

11.7.21 A Section 278 Agreement, under the Highways Act 1980, enables improvements to be made to an adopted highway that convey special benefit to a private body – for example, the formation of a new access to a development site, or improvements to permeability and connectivity that help strengthen integration with an existing community.

11.7.22 Before entering into such an agreement, a highway authority will need to be satisfied that the agreement is of benefit to the general public. The developer will normally bear the full cost of the works, and a bond and inspection fee is also payable, as with Section 38 Agreements.

11.8 Design standards for adoption

11.8.1 The highway authority has considerable discretion in setting technical and other requirements for a new highway. Concerns have been raised over the rigid adherence to these requirements, leading to refusal to adopt new streets. This issue was explored in *Better Streets, Better Places*.¹⁷

11.8.2 Highway authorities are nowadays encouraged to take a more flexible approach to highway adoption in order to allow greater scope for designs that respond to their surroundings and create a sense of place. It is recognised, however, that highway authorities will need to ensure that any future maintenance liability is kept within acceptable limits.

11.8.3 One way of enabling designers to achieve local distinctiveness without causing excessive maintenance costs will be for highway authorities to develop a limited palette of special materials and street furniture. Such materials and components, and their typical application, could, for example, be set out in local design guidance and be adopted as a Supplementary Planning Document.

11.8.4 Developers should produce well-reasoned design arguments, and articulate these in a Design and Access Statement (where required), particularly if they seek the adoption of designs that differ substantially from those envisaged in a local authority's design guide or MfS. However, provided it can be demonstrated that the design will enhance the environment and the living experience of the residents, and that it will not lead to an undue increase in maintenance costs, then highway authorities should consider responding favourably.

11.8.5 Drawings should indicate which parts of the layout the developer expects to be adopted and how the adoption limits are to be differentiated on the ground. Widths and other key carriageway dimensions, and the location and dimensions of parking spaces, should also be shown, together with full details of all planting.

11.8.6 Highway authorities would be expected to adopt street layouts complying with their Design Guide which have been constructed in accordance with the highway authority's specification of works. They would normally be expected to adopt:

- residential streets, combined footways and cycle tracks;
- footways adjacent to carriageways and main footpaths serving residential areas;
- Home Zones and shared-surface streets;
- land within visibility splays at junctions and on bends;
- trees, shrubs and other features that are an integral part of vehicle speed restraints;
- any verges and planted areas adjacent to the carriageway;
- Structures, i.e. retaining walls and embankments, which support the highway or any other adoptable area;

¹⁷ ODPM (2003) *Better Streets, Better Places: Delivering Sustainable Residential Environments: PPG3 and Highway Adoption*. London: ODPM

- street lighting;
- gullies, gully connections and highway drains, and other highway drainage features;
- on-street parking spaces adjacent to carriageways; and
- service strips adjacent to shared surface streets.

11.9 Private management companies

11.9.1 Any unadopted communal areas will need to be managed and maintained through

private arrangements. Typical areas maintained in this way include communal gardens, shared off-street car parking, shared cycle storage, communal refuse storage and composting facilities, and sustainable energy infrastructure.

11.9.2 Where a private management company is established, it is desirable for residents to have a strong input into its organisation and running in order to foster community involvement in the upkeep of the local environment.

Y Pwyllgor Deisebau

Petitions Committee



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Steve Thomas
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Our ref: PET-03-123
19 January 2009

Dear Mr. Thomas

PETITION - UNADOPTED ROADS

The Petitions Committee is considering a petition that calls on the Welsh Assembly Government:

"to make it easier for unitary authorities to take over unadopted roads while minimising the burden on frontagers."

We received a very helpful letter from Tim Peppin of WLGA (dated 20 August) in which he offered to provide more information if we needed it. The Committee understands from the Deputy First Minister that some local highway authorities have developed their own guidance in relation to the adoption of older roads. The Committee agreed that I would write to you again to ask whether you could provide us with copies of what you consider to be the best example, or examples, of those guidelines.

Thank you for your consideration of this matter, and I look forward to your response.

Yours sincerely

Val Lloyd
Chair, Petitions Committee

Our Ref/Ein Cyf:
Your Ref/Eich Cyf:
Date/Dyddiad:
Please ask for/Gofynnwch am:
Direct line/Llinell uniongyrchol:
Email/Ebost:

11th February 2009
Tim Peppin
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WLGA • CLILC

Val Lloyd AM
Chair, Petitions Committee
National Assembly for Wales
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Dear Ms Lloyd

Petition – unadopted roads

Thank you for your letter of 19th January to Steve Thomas which he passed to me for a response. Apologies for the delay in replying to you but I have been gathering feedback from our advisers.

A number of authorities have general information on their web sites about road adoption which can be accessed, for example from a search on 'unadopted roads'. I have attached an example.

The procedure available to a Highways Authority for improving unadopted roads to adoption standard is contained within the provisions of the Private Street Works Code of the 1980 Highways Act. The principles of the code are fairly complex but require owners of the property or land with a frontage to bear the majority of the costs of the improvement works. As a result some authorities will only consider works if a certain percentage of the land or property owners are in favour of a scheme being implemented and prepared to contribute.

In relation specifically to older, unadopted roads, some authorities have a policy of 'making up' and adopting older, unadopted roads as funds become available. This does not preclude requests for work to be done on these streets where there are parties willing to pay to accelerate the process. In some cases a priority list of streets will be drawn up based on criteria (e.g. does the street provide the principle means of access to premises?; does it provide a link between other elements of the highway network?). Such criteria will rule out work on rear lanes, alleyways etc, as these provide only a secondary means of access.

There are also authorities that do not have a set policy but will consider specific cases where adoption might be appropriate. Often,

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however, the streets where there is greatest pressure for adoption are those which require major work to bring them up to adoptable standards - in particular, where major structural work is needed to prevent roads from collapsing/slipping etc. To address such cases would require a disproportionate share of authorities' capital budgets and are therefore highly unlikely to be taken forward.

In a number of cases, the 'policies' will have evolved from decisions made over the years. However, hopefully the information in this letter helps to give a flavour of the issues and the approaches authorities take in response.

Yours sincerely

A handwritten signature in black ink that reads "T. Peppin".

Tim Peppin
Director of Regeneration and Sustainable Development

POLICY FOR ADOPTING ROADS

An adopted road is one that the Council is liable to maintain.

The Highways Act 1980 empowers the Council to accept the maintenance liability for un-adopted roads. These can be either newly constructed development roads, or established roads, which have not been adopted previously.

The usual reason why the latter have not been adopted is that they neither comply with the Authority's specification for the construction of roads for adoption, nor the design guide criteria for the layout of adopted roads.

To contribute to the Corporate and Community Plan aims of improving quality of life, community safety and local services for local communities within the County Borough, the Council will:

- Adopt any road that meets the current requirements of both the specification for the construction of roads for adoption, and the nationally based design guide for the layout of roads for adoption.
- Enter into adoption agreements with the interested parties in accordance with current legislation to ensure adoption upon completion of the required works.
- Require that unadopted established roads will firstly need to be improved to meet the current standards at no expense to the Authority.

This policy has cross cutting themes which complement Corporate Objectives for:-

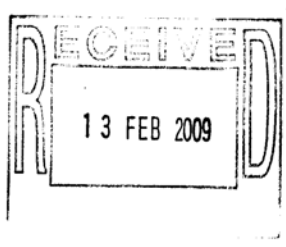
Environment & Transport
Confident Communities

Atodiad 4



9th February 2009 Date Dyddiad
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Mr Mike Roberts Contact Cyswllt
PET-03-123 Your Ref Eich Cyl
MR/NLT Our Ref Ein Cyl



Val Lloyd AM
Chair
Petitions Committee
National Assembly for Wales
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Dear Val Lloyd AM,

PETITION – UNADOPTED ROADS

Thank you for your letter concerning the above, received via the Welsh Local Government Association.

Please find attached an Information Note produced by the Department of Transport which you may find useful should it not have already been brought to your attention. I also enclose the Council’s Policy concerning adoptions for your information.

The Council’s policy deals specifically with adoption of unadopted but established roads which would firstly need to be improved to meet the current standards ‘at no cost to the Authority’.

The context against which the Council has, by necessity, had to adopt its current policy is that there are 136 unadopted established streets with frontages in the County Borough having a total length of 21 kilometres. To make up to standard and adopt these unmade private streets would cost and estimated £18m.

There are also many other minor unadopted roads and lanes and if these were also brought up to standard the estimated cost would be in excess of £60m.

The Council’s policy is that it will adopt any road that meets our current specification for both the highway construction and the nationally based design guide for the layout of roads for adoption. This means that private streets cannot be adopted unless they are

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rebuilt from the road base to the wearing course. It also means that the highway should be composed , as a minimum, of a 5.5 metre carriageway and a footway 1.8 metres wide on either side. The roads must also be suitably lit and drained as appropriate. Many of the unadopted private streets either cling to hillsides or are laid out at a width that may only allow one car to pass between the forecourt walls or hedges and it is recognised that it may be very difficult to ensure that the required geometrical layout is achieved within the existing confines of the unadopted street. There may, in some circumstances, therefore be a case for deviating from a strict adherence to the minimum geometrical requirement which would need to be considered on an individual basis.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Mike Roberts', with a long horizontal line extending to the right.

Mike Roberts
Head of Streetcare

**Information
Note**

July 2008



Unadopted Roads

**Adoption of private streets and
possible funding sources**

Unadopted roads	3
Adoption of unadopted streets	4
Funding sources for works	5
Formula Grant	5
Prudential Borrowing	5
Capital Receipts	5
Local Transport Plan funding.....	6
Neighbourhood Renewal Fund.....	6
Coalfield Communities	6
Home zones	7
Initiatives by some authorities	7
Doncaster	7
Leeds	7
Sewers and surface drainage	8

Unadopted roads

1. Unadopted roads are those roads not maintained at public expense by a highway authority, as defined by Highways Act 1980. The description covers a wide range of circumstances, including
 - streets without a public right of way (eg gated communities, industrial estates, farm access), where liability for maintenance rests with the land owner;
 - streets to which the public have access that are owned and maintained by private or public bodies eg. airports, MoD or NHS estates, Forestry Commission property;
 - streets with public right of way with the responsibility for maintenance resting with either owner of the street (private individual or company) or those whose properties front the streets (frontagers).
2. There is no reliable information on the current number of unadopted streets, estimates can be made on the basis of research in 1972 that estimated there were some 40,000 unadopted streets in the UK. Since that date some streets will have been adopted by a highway authority, while a number of others will have been built. Ordnance Survey has data that would allow all unadopted roads to be identified. This would include private streets (no public right of way), gated communities, streets on private land (eg industrial estates, airports, commercial developments, MoD estate, NHS estate, Forestry Commission roads), roads to farms, petrol forecourts, back alleys, etc. Most of these would not be considered for adoption by a highway authority. There will also be roads that have been built by private developers with the intention that they should be adopted by highway authority once the development has been completed and the roads brought up to standard for adoption. This may take several years for a large development, where properties are built and sold in phases that vary according to the local property market.
3. For most unadopted residential roads the duty to maintain it falls to the frontagers, ie the owners of the property fronting that road, which may include those where the side, or length, of their property fronts the unadopted road. Such streets may not have been maintained leading to potholes and may become unsuitable for those with disabilities or even, when very bad, the use of large vehicles (eg refuse lorries, delivery vehicles).
4. How a street came to be unadopted has a variety of causes, in some cases it is just a historical accident where the builder/developer did not make up the road to standards suitable for adoption. This may apply to residential or industrial developments.
5. In other cases the community was built by a private person or company. Initially, this owner maintained the streets, but when disposing of properties did not make arrangement for adoption of streets. This is the case with many former mining villages or towns, where the mine owners built the houses and the Coal Board acquired them on nationalisation.

When the coal industry was privatised these properties were in many cases sold or transferred to either tenants, usually former miners or their widows, or private landlords, along with liabilities for maintain streets.

6. Those buying property in unadopted street should be made aware of their liability for maintenance or the costs of making up the highway, should the highway authority wish to adopt.

Adoption of unadopted streets

7. Under Highways Act 1980, local highway authorities may adopt streets that they are not currently responsible for maintaining, but this is purely a matter for local decision. Adoption of highways brings with it liability for future maintenance including the provision of surface water drainage, or street lighting, as well as claims arising from the condition of the street.
8. For newly built streets, the developer should either provide a deposit or bond to cover the cost of ensuring the street was up to standard for adoption or enter into an agreement with the authority that subject to an inspection confirming that the street has been built to standard that it will be adopted. In either case there is a right of appeal to the Secretary of State for Transport. Under an agreement the developer may carry out the work himself, which may be less expensive, and is assured, that having been built to the authority's standards, which is confirmed by inspection, the street will be adopted once the works are complete.
9. As adoption of a highway carries responsibility for future maintenance, and liabilities should there be claims arising from the condition of the highway, most authorities will not adopt a highway until it has been brought up to standard. A street may only be adopted if a majority of owners agree in that street agree; many authorities prefer to have 100 per cent agreement. The frontagers (the owners of property fronting the street concerned) are liable for the cost of this work, which it has been estimated may average approximately £1,000 a metre. If the householders are unable to pay, the Highways Act 1980 provides for the authority to agree to payment with interest over a number of years or to place a charge on the property. Either approach means an authority incurs expenditure on behalf of others which may not be recovered for up to 20 years. The highway authority could, subject to decisions by its elected officers, agree to share the cost of bringing highway up to standard.
10. Decisions about adoption of streets are a local matter for local decisions based on the priorities within the authorities own programme of works.
11. When properties on unadopted streets are purchased, the searches should have revealed that the street is unadopted and the solicitor should have explained the potential liabilities to those purchasing such properties. For newly built properties, the purchaser's solicitors should establish whether there is an agreement to adopt the new highway or that a bond has been lodged with the authority.

Funding sources for works

12. The priority each local authority gives to spending resources on unadopted streets is for them to determine locally. There are a number of sources of finance available to authorities, which may be used to support work on unadopted streets.

Formula Grant

13. Formula grant, which comprises Revenue Support Grant, redistributed business rates and principal formula Police Grant, where appropriate, is an unhypothecated block grant ie authorities are free to spend the money on any service provided that they meet their statutory obligations.
14. The majority of the formula grant is distributed according to the **Relative Needs Formulae (RNF)**. There are different formulae for each of the different services for which authorities are responsible, for instance highways maintenance, fire or capital financing. The main determinants of the RNF for highways maintenance are the lengths of road of different types for which the highway authority is responsible, the relative costs of maintenance for these road types and the estimated unit costs per kilometre, which takes account of traffic flows, population, visitors and commuters and winter weather conditions. A cost adjustment is made to reflect differences in the costs of provision between areas.

Prudential Borrowing

15. Prudential Borrowing is not included in Revenue Support Grant. The Prudential system allows local authorities to raise finance for capital expenditure without Government consent. The system seeks to facilitate the use of borrowing for worthwhile capital projects, provided it is affordable ie that authorities can afford to service their debt without extra Government support. Decisions about debt repayment should be dictated solely by consideration of prudent treasury management practice.

Capital Receipts

16. Authorities have access to capital receipts from the sale of assets. Receipts from those assets that are not housing may be used as an authority sees fit for capital purposes or debt redemption. Receipts from housing sales have to be handled as follows:
 - Right to Buy receipts and receipts arising from other sales of dwellings to owner-occupiers - 75% paid to Secretary of State with remaining 25% available for any capital purposes;
 - Other housing sales (eg vacant housing land, shops, garages, playing fields, etc.), 50% paid to the Secretary of State, and the remaining 50% can be used for any capital purpose.

Thus authorities can avoid having to pool these receipts nationally, if they use them for affordable housing or regeneration projects.

Local Transport Plan funding

17. Local authorities already have the flexibility to prioritise their transport expenditure in line with their own locally determined priorities. Each authority's Local Transport Plan (LTP) is built around 5-year integrated transport strategies, devised at local level in partnership with the community and recognises that local problems require local solutions. Funding small-scale integrated transport and maintenance schemes, such as making up unadopted roads, is provided as block capital allocations, allowing authorities to spend it as they wish according to local priorities. Although Department for Transport does not ask for details of each scheme, it does ask local authorities to report in their LTPs on the number and type of schemes they are planning and delivering, and to show how these schemes contribute to wider aims and objectives.

Neighbourhood Renewal Fund

18. Neighbourhood Renewal Fund (NRF) is a special unhypothecated grant which has been made available to the most deprived local authority districts in England. The purpose of the NRF is to provide support to those areas to enable them, working through their Local Strategic Partnership (LSP) to improve service delivery in their most deprived neighbourhoods and improve conditions for their most disadvantaged groups.
19. How those districts decide to allocate those resources is a matter for local determination between the individual LSPs and other partner organisations. The LSPs are expected to take a strategic view of their area, and NRF resources should be spent on priorities which address deprivation, national floor targets and narrowing the gap between the most deprived neighbourhood/groups and the rest. *If any NRF area were to identify unadopted roads as a strategic priority, then NRF resources can legitimately be allocated to address this issue.* From April 2008 the NRF will be replaced by the Working Neighbourhoods Fund, which will be focused on promoting work and enterprise in deprived areas.

Coalfield Communities

20. There is a particular problem of poorly maintained private roads in the former coalfield communities. The local roads in these communities had often been maintained by the National Coal Board before the NCB estates were disposed of. The affected estates are often in deprived areas, and still have private landlords unwilling to contribute to improvements to the roads. The Alliance (formerly the Coalfield Communities Campaign) has campaigned in the past for a programme to bring these roads up to an acceptable standard to allow them to be adopted. There are no official figures for the coalfield communities alone, but the Alliance is currently working with their membership to scope the problem and to suggest priority areas.
21. The Coalfields Regeneration Trust has funding of more than £150m for the social and economic regeneration of coalfield communities in

England but the Trust's funding agreement prevents the use of grant to replace or supplement local authority expenditure. Effectively this prevents the Trust undertaking work on unadopted roads.

22. English Partnerships is able to make improvements to local roads in coalfields (or elsewhere) where this connected to a wider regeneration project, but no specific funding is available for improvements to unadopted roads.

Home zones

23. One authority (Durham County Council), indirectly utilised LTP funds to complete two home zone schemes in their area, both of which had previously been unadopted streets. These schemes had the complementary funding from other sources including the Neighbourhood Renewal Fund, and Single Regeneration Budget, urban and rural Renaissance programme, a Villages Partnership and the relevant Parish Councils.
24. Home Zones are residential areas where the streets are designed to meet the needs of pedestrians and cyclists (including children), instead of simply being corridors for motor traffic. The aim is to change the way that streets are used to improve the quality of life in residential areas. Funding is provided from a variety of sources and a number of authorities have used LTP funding to support the creation of home zones.

Initiatives by some authorities

Doncaster

25. In Doncaster, the elected Mayor, has made a priority of tackling unadopted roads and bringing them up to standard to allow adoption. Doncaster Council has identified more than 600 unadopted roads, although most of these are back alleys or otherwise inappropriate for vehicular traffic. In 2003, following an assessment of all unadopted roads against set criteria, 63 were identified as appropriate for adoption. The owners of properties fronting these streets (frontagers) were surveyed and 17 streets were identified where the majority of frontagers favoured making up the street and adoption. The cost is approximately £2 million over five years and is funded from capital receipts from the disposal of land holdings.
26. The criteria for assessing whether to include a street in the programme included whether it was in a deprived area, the condition of street, and whether it would benefit the local road network with each factored scored and added together. Streets were then prioritised on the basis of the score so that those with lowest scores would be programmed first.

Leeds

27. In Leeds there is an on-going programme (private streets programme) to adopt streets, which has now been approved until 2011. Approximately £3.8m has been spent in the last three years with about 50 streets

benefiting. There is a further £1m a year available for the next three years, which should deliver a similar number of streets. Leeds has about 1,600 unadopted streets and the programme was established several years ago to tackle the position. A detailed programme of priorities was agreed several years ago and the council is working its way through the list with 22 streets adopted in 2007-08.

28. A street is eligible for inclusion in Leeds' Programme if it meets one of the following criteria:
- Streets which give access to public buildings or facilities
 - Streets providing a through route for the general public or service vehicles
 - Street which form the only link between an adopted street and the main highway network
 - Streets which give rise to environmental problems (e.g. flooding) affecting non frontage properties.
 - Streets with property generally pre 1930, substantial areas of the street unsurfaced and the street providing the only means of access to the adopted highway network.
 - Streets in an area that qualify for match funding.
29. All of the streets that meet the criteria for inclusion in a programme are then assessed and scored against ten technical criteria (eg condition of carriageway, footway, accessibility, level of use) to identify the appropriate order of priority for streets identified. The lower the score the higher the priority. Some 123 streets have been identified as meeting the criteria and a priority.
30. As each street is reached, the owner of the street and householders are approached and asked if they are content for the street to be adopted, so long as 50% of those approached do not object, detailed design work is then undertaken. This then forms the basis for detailed consultation, which may include public meetings. If the objections are less than 50% or the land owner does not object, the work is then carried out and the street is adopted. A number of streets have dropped out of the programme, when street owner or householders objected to adoption or technical difficulties associated with the specific street would delay further work.

Sewers and surface drainage

31. The position for sewers and surface drainage differs depending on whether the infrastructure is adopted by the water and sewerage company. A sewer is a conduit which serves more than one property and if built before October 1937 is most likely to be adopted. After October 1937 a new sewer that connects to the public sewage system was only adopted by request, and providing it had been built to prescribed standards. Therefore there exists many kilometres of unadopted sewers below adopted highways, as well as below un-adopted highways. The adopted/un-adopted status of the highway has no bearing on the adopted status of sewers. Those pipes that provide a

surface water drainage function only to the highway are classified as highway drains and are not adopted by the water and sewerage company. Section 115 of the Water Industry Act 1991 makes provision for highway drains, which are vested in the highway authority, to connect to the public sewer. However, highway drains may also connect into private sewers, other structures like soakaways, or discharge directly to receiving watercourses, none of which would be managed by the regional water and sewerage company.

32. Defra have consulted on the transfer to water and sewerage companies for unadopted sewers that ultimately connect to the public sewer system, or are surface water sewers discharging to a receiving watercourse. This transfer will occur on a date yet to be finalised.
33. As with new streets, developers, who are installing new water and sewer systems that are to be adopted, are expected to provide a bond should the new systems require work after adoption.
34. Defra is currently working on a build standard for new sewers that will enable automatic adoption.

[You are here](#) » [Home Page](#) » [Travel & Transport](#) » [Transport Plans & Policies](#) » [Transport Policies](#) » [Adopting Roads](#)

POLICY FOR ADOPTING ROADS

An adopted road is one that the Council is liable to maintain.

The Highways Act 1980 empowers the Council to accept the maintenance liability for un-adopted roads. These can be either newly constructed development roads, or established roads, which have not been adopted previously.

The usual reason why the latter have not been adopted is that they neither comply with the Authority's specification for the construction of roads for adoption, nor the design guide criteria for the layout of adopted roads.

To contribute to the Corporate and Community Plan aims of improving quality of life, community safety and local services for local communities within the County Borough, the Council will:

- ↳ Adopt any road that meets the current requirements of both the specification for the construction of roads for adoption, and the nationally based design guide for the layout of roads for adoption.
- ↳ Enter into adoption agreements with the interested parties in accordance with current legislation to ensure adoption upon completion of the required works.
- ↳ Require that unadopted established roads will firstly need to be improved to meet the current standards at no expense to the Authority.

This policy has cross cutting themes which complement Corporate Objectives for:-

- ↳ Environment & Transport
- ↳ Confident Communities

