

Southend-on-Sea Borough Council

Report of Corporate Director for Place

To

Cabinet

On

15th March 2016

Report prepared by Peter Geraghty
Head of Planning & Transport.

Agenda
Item No

Proposed Revisions to the Permanent Vehicular Crossings Policy (PVXs)

Executive Councillor: Councillor Martin Terry

A Part 1 Public Agenda Item

1. Purpose of Report

- 1.1 To seek Cabinet approval to amend the existing Permanent Vehicular Crossing (PVX) Policy, following the outcome of its review in light of feedback from residents and members.

2. Recommendation

That the proposed changes to the PVX Policy, process and procedures as outlined in Section 5 of this report be agreed.

3. Background

- 3.1 The Council agreed a new policy for approving Permanent Vehicular Crossings (PVXs) in March 2013 which was subsequently reviewed in October 2014. As part of our on-going commitment to improving customer service provision, its operational effectiveness has been reviewed through customer and Members' feedback.
- 3.2 It needs to be noted that the existing policy has been under close monitoring for its effectiveness in meeting residents' needs. Since June 2013, 86% of applications for PVXs were approved; 50% of which have been constructed and the remaining 50% are with the applicants to decide whether they wish to progress these works. Furthermore, 4% of the refused applications went through the exceptional circumstances policy and all were approved by Members (as at 12/12/2015).
- 3.3 This report therefore sets out further revisions to the policy and the processes for dealing with applications for vehicular crossings and details a set of updated criteria for assessing applications.

4. Legal Requirements

- 4.1 The Council as the Highway Authority has a responsibility to consider applications from the residents to construct a crossover which it may approve with or without modifications. The Authority may propose alternative works, or may reject the request. In determining whether to use its powers in respect of a request, the Council, as the Highway Authority, must under Section 184 of the Highways Act 1980, have regard to the need to prevent damage to the footway or verge and in respect of Section 184 (1)(a) or (3) have regard to:
- a) The need to ensure, so far as practicable, safe entry to and exit from premises.
 - b) The need to facilitate, so far as practicable, the passage of vehicular traffic on the highway network.

5. Proposed Changes to the Policy

- 5.1 A Members' Workshop was held on 14th December 2015 to discuss the existing PVX policy, its operational effectiveness and to enable Members' to suggest any changes that may need to be considered by the Cabinet in its current review of the policy. This workshop was open to all Members of the Council. A written submission was also received from Councillor Flewitt. Following the workshop all Members of the Council were sent notes of the workshop meeting and asked for any further comments contributing to the changes to the policy and procedures before revised proposals are put forward for consideration by the Cabinet. No written comments were received.
- 5.2 The recommendations for the proposed changes in this report have been developed based on constructive feedback from Members and customers on the operation and effectiveness of the policy. The Cabinet is recommended to consider and approve the following revisions to the existing PVX policy:-
- a) Instruct Officers to make necessary contractual arrangements with the existing term contractors to facilitate construction of all future PVX upon approval. As the existing contracts have been awarded through competitive process, this will enable better value for money, reducing heavy construction costs that have been incurred by the residents who sought quotations through independent contractors on the approved list. It is expected that the change in these arrangements will enable the Council to negotiate a better price for customers, alleviating a serious concern of residents and Members. It needs to be noted that the Director of Place is considering feasibility of undertaking PVX construction works, as part of an in-house trading company and will change construction arrangements as needed in due course.
 - b) Exceptional Circumstances Members Panel - To set up a Member Level Independent Panel to deal with all exceptional circumstances applications where there are substantial reasons to deviate from the policy due to exceptional needs of the residents. It is proposed that this Panel is fully trained in terms of the policy, the legislation and the responsibilities in this regard. In particular Members' responsibilities under the Construction Design and Management Regulations (CDM). It is proposed that the Panel comprises of three Councillors who would neither be the Ward Councillors nor residents of the Ward relating to the application under consideration and a decision will be

based on simple majority. Panel Members will complete necessary decision paperwork, detailing reasons for their decision.

- c) Allow PVX to cover full width of properties unless there are justifiable safety concerns.
- d) Tree and Root Protection – To use of the National Joint Utilities Code of Practice - This requires measuring the circumference at 1.5m height of the tree and multiplying this by a factor of 4 to enable effective area for tree root protection. This proposal follows the same principle as the British Standard, but the multiplying factor is 4 rather than 12. This is proposed on the basis of hand digging for exploratory investigations to assess the presence of the roots and whether the tree can be safely retained through root protection measures. It is proposed that the cost associated with such works is borne by the applicant.
- e) If a proposed PVX application necessitates the need to amend an existing Traffic Regulation Order (TRO), the application would have to be accompanied by a legal undertaking by the applicant to agree to pay the cost associated with amending or removing the TRO including advertisements, contractor's costs and administration time. TRO's are subject to a separate statutory process and there is no guarantee that having followed this process, the alteration or changes would be approved.
- f) PVX on Classified Roads – There are different types of classified roads in the Borough and it is proposed to retain the existing policy requirements for such roads. However, where policy criterion is not met, such applications may be considered under exceptional circumstances and assessment is made based on the characteristics of the road, traffic volume, speed, safety and visibility.
- g) Enforcement – Officers to develop enforcement approach to proactively deal with highway encroachment by overhanging vehicles and vehicles parked in forecourts without any PVX. This will help to encourage more residents to apply for legitimate PVXs, avoiding substantial damage to our footways and dangers to pedestrians.

5.3 It is proposed that no changes are made to the remaining policy or the criteria which is to ensure safety, free flow of traffic and protection of the local environment.

5.4 The proposed changes are being recommended to deal with the issues raised by Members and residents during the review process. If agreed, these will be incorporated into the PVX policy. Explanatory and guidance material for future applicants will also be amended to reflect the proposed changes.

5.5 The application fee level for PVX applications under highways legislation will be reviewed on an annual basis as part of the fees and charges.

6. Other Options

6.1 If the proposed changes are not agreed by the Council, only option is to continue with the system that currently exists.

7. Reason for Recommendation

- 7.1 The changes proposed are in response to feedback from Members and the customers.

8. Corporate Implications

- 8.1 The revised policy and procedures will meet the aims of the Council's vision including:

- Clean, ensuring a well maintained and attractive street scene, parks and open spaces
- Prosperous, enable well planned quality developments that meet the needs of the Southend residents and businesses
- Excellent, deliver cost effective, targeted services that meet the identified needs of our community
- Safe, ensure that works are carried out safely and are safe for highway users.

8.2 Financial Implications

- 8.2.1 The cost of administering and processing an application and the construction costs are to be funded by the applicant. The changes to the policy will result in additional work for officers in managing the process and this will be absorbed by the Department for Place.
- 8.2.2 Charges for applications and administration are reviewed annually and agreed by the Council. The cost of construction is dependent on the works required and will cover future maintenance costs.

8.3 Legal Implications

- 8.3.1 The proposed policy and approach will enable the Council to comply with its statutory duty under Section 184 of the Highways Act 1980 in a more effective and efficient manner. There will be liabilities for those agreeing the design of PVXs arising from the CDM Regulations.

8.4. People Implications

- 8.4.1 There will be additional impact on staff and resources arising from managing the contractors and this will be undertaken using in-house staff.

8.5 Property Implications

- 8.5.1 The proposals will ensure that the highway is better protected against damage caused by unauthorised access across the footpath.

8.6 Consultation

- 8.6.1 During the review, consultation has taken place with various teams within the Council and the policy has also been discussed at Special Members' Workshop.

All Council Members were sent a copy of the issues raised at the Workshop meeting and invited to provide any additional feedback.

8.7 Equalities and Diversity Implications

- 8.7.1 During the re-design both equality and diversity issues were considered and the proposed service is believed to accommodate both.
- 8.7.2 Everyone is provided with equal access and opportunity to make an application. The service is primarily available via the Council's Website, an online application can be made or relevant paper copies are available to download and/or print. Where access to our online service is unavailable, paper copies can be posted upon request.
- 8.7.3 Where an application is to create access for a disabled person living or intending to live in the premises it is proposed that the application fee is exempt, (all other costs relating to construction will remain the responsibility of the applicant). This is to ensure consistency with existing planning procedures (and evidence of disability will be required to qualify for this discount).
- 8.7.4 The revised policy and criterion also aims to ensure both the Planning Service and Highways Service assessment are consistent specifically in respect of the minimum parking area required.

8.8 Risk Assessment

- 8.8.1 There are no relevant risk issues arising from the changes to the policy other than those set out in the report.

8.9 Value for Money

- 8.9.1 The proposed new process will provide better value for money as the works will be undertaken by term contractors which have gone through a competitive tendering process.

8.10 Community Safety Implications

- 8.10.1 It is important that any procedure provides an outcome that does not lend to situations detrimental to pedestrians or highway safety. The new process will lend to better outcomes and decisions.

8.11 Environmental Impact

- 8.11.1 The proposed process and criteria aim to strike a balance between a request for a permanent vehicular crossing and the need to clearly and decisively protect the environment specifically having regard to the protection of all existing highway and the general street scene and amenity including grass verges.

9. Background Papers

Southend Design & Townscape Guide

Southend Streetscape Manual

Highways Act 1980

Cabinet report June 2013 and September 2014

10. Appendices

None