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Dorset County Council

Dorset Highways

Adopted Highway Policy



Policy Statement

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

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

Policy Authorised by: Environment Overview Committee and Cabinet

Date of Authorisation: 2 October and 7 November 2012

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Policy Objectives

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

Key Influences

Highways Act 1980

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

Town & Country Planning Act 1990 (Section 247)

The extinguishment of highway rights in conjunction with building development.

Definitions and Scope – Inclusions and Exclusions

Inclusions

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

Exclusions

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

Outline of Processes

Status Enquiries

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

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

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Extinguishment of Highway Rights

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

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

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

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

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

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

Adopted Highway / Amendment to Existing Highway

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

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

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

Generally verges where the sole purpose is landscaping, screening or amenity use will not be adopted. It is recognised that trees and shrubs have an important environmental role and may relate to particular highway features. However, in themselves, the areas of land incorporating such landscaping features seldom warrant the status of 'Highway' and conveyed highway rights. Such areas shall primarily be the responsibility of the District Council or, in certain situations, the developer or landowner. Any such arrangements shall be subject to consultation and agreement of the Highway Authority prior to the granting of detailed planning permission and approval of the layout.

Remote footways forming separate access to an individual or small group of properties shall not normally be adopted and shall be subject to discussion and agreement with the Local Planning Authority or Housing Association.

Separate areas allocated for vehicle parking and/or access to remote garages, parking areas and drives to individual or small groups of properties shall not be adopted and shall be subject to discussion and agreement with the Local Planning Authority or Housing Association.

There is scope for external bodies to manage and maintain planted and landscaped areas of designated highway subject to agreement and licence arrangements with the Highway Authority and Local Planning Authority.

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

Charging

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

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

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Related Documents

Related documents are available on the County Council's website www.dorsetforyou.com/roads

Measures of Effectiveness

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