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Section One – Foreword



The highway network forms the largest and most visible community asset for which the County Council is responsible. It is fundamental to the economic, social and environmental well-being of the community, shaping the character and quality of local areas and contributing to wider local authority priorities including regeneration, social inclusion, community safety, education and health.

Yet, highways need to be maintained if they are not to fall into disrepair or disuse. Just as poorly maintained roads can lead to accidents and vehicle damage, footways (the paved or tarmac pedestrian paths which run alongside roads or link clusters of houses in estates) which are cracked or uneven can cause pedestrians to trip, slip or fall and suffer resulting injuries. Cracked and damaged footways can also visually detract from the environment and, together with other factors such as graffiti, poorly maintained fences and overgrown gardens, adversely affect the perception of local people and generate heightened fear of crime.

The County Council has faced many demands upon its budget in recent years, and in looking at areas for savings, the highways maintenance budget has had to bear its share of cutbacks. Whilst reduced maintenance will not usually adversely impact on footways condition in the short term, more recently there has been a recognition by the Council that longer term lack of investment can result in significant footways damage, which is, in turn, more costly to rectify. With this in mind, 2006/7 saw an additional investment by the Council of just under £700,000 targeted at areas which have seen the highest levels of injury claims. Our report looks at some of the problems of maintaining such a large footways network and considers some possible areas of improvement. I hope it will contribute to the debate about how we provide better services for local people.

In conclusion, I would like to thank all of the witnesses who willingly gave up their time to speak to us about the issues; to the members who were fully involved in the process and to the officers who supported the work of the Group.

Councillor Gordon Tennant
Chair of the Working Group

If you require this information summarised in other languages or formats, such as Braille, large print or talking tapes, contact: (0191) 383 3149

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如果你想得到廣東話的資訊，請致電 0191 383 3673

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यदि आप इस सूचना का सार हिन्दी में चाहते हैं, तो कृपया 0191 383 3673 पर फोन करें।

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Section Two – Terms of Reference and Membership of the Working Group

Terms of Reference

2.1 The following terms of reference were adopted by the working group:

Focus

2.2 The Working Group reviewing “footways in better condition” will take evidence from key witnesses involved directly and indirectly in providing and maintaining footways in our local communities.

2.3 The focus of the working group will be primarily on:

- Damage and safety issues linked to car parking on footways
- Responsibility for adopted/unadopted footways
- The respective roles of County, District and Parish Councils
- Works by Utilities on Footways
- Promotion of walking/cycling
- Trips, slips and falls
- Making current funding perform better.

2.4 The review will want to consider in particular:

- Are we achieving value for money through our existing approach?
- What is the extent of the footway network in County Durham; how much is adopted/unadopted and who is responsible for it?
- What are the implications of the Gulliksen judgement in relation to the role of the County Council and how will the Council address the issues?
- What is the role of the County Council in providing services and how, where and when are they delivered?
- What is the role of District/Parish Councils and how can closer working be developed?
- Which Policies and Strategies are in place in relation to the provision and maintenance of the footways network?
- How can damage to footways and safety issues linked to car parking on footways be minimised?
- How can the risks of trips, slips and falls be minimised?
- How can walking and cycling be promoted using footways?
- How can works by Utilities be better programmed and the quality of reinstatements improved?
- How can the provision of good quality footways be used to promote more walking and cycling?
- What opportunities exist for efficiencies in the current arrangements (making current funding perform better)?
- What best practice is there in the field of footway provision and maintenance nationally?

Approach

- 2.5 The working group will receive correspondence, organise visits and meet with relevant parties to ensure it has fully understood and received evidence on this matter before reaching its conclusions and making any recommendations for service improvements.

Reporting

- 2.6 The working group will report in the first instance to the Looking after the Environment Sub-Committee on its findings.
- 2.7 It will then report to Corporate Management Team and Cabinet with its recommendations, requesting Cabinet to respond to these recommendations via an action plan.

Timescale

- 2.8 The Working Group will begin in September 2006 concluding in February 2007.

Membership of the Working Group

- 2.9 **The following Councillors were members of the working group:**

Joseph Armstrong
Rita Carr
Trevor Carroll
Jean Chaplow
Vernon Chapman
Sonny Douthwaite
George Gray
Kenneth Holroyd
Sarah Iveson
Joseph Knox
John Lethbridge
Ken Manton
Dr Edwin Mason
Ron Meir
Len O'Donnell
Reg Ord
John Priestley
Ray Pye
John Shuttleworth
Paul Stradling
Gordon Tennant (Chair)
Norman Wade
Mac Williams

- 2.10 **The following were co-opted members of the working group:**

David Easton (Local Action 21)
Michael Jones (Local Action 21)

2.11 The following County Council officers supported the project:

Tom Bolton (Senior Scrutiny Support Officer, Corporate Services)

Barry Charlton (Committee Administrator, Corporate Services)

Roger Elphick OBE (Head of Highways Management, Environment Services)

Geoff Race (Section Manager, Highways Management, Environment Services)

Section Three – Executive Summary

Introduction

- 3.1 The footways network is a key asset and significant aspect of local communities. The increasing emphasis on walking and cycling and the rights of the pedestrian mean that having a well-maintained footway network is important.
- 3.2 Regular maintenance and continuing investment in the footways network is essential in ensuring that the County Council meets its statutory duties; ensures the safety of pedestrians; prevents costly insurance claims and associated costs against the Council; and improves its best value performance in relation to BV 187 and against other local authorities. However, although the Council's performance has improved in the last few years, it has remained static in terms of its quartile position, because of improving performance in other local authorities.
- 3.3 Under-investment in the footways network in recent years and the damage caused by lack of maintenance associated with utility works and car parking on footways in urban areas has resulted in a network with more significant remedial works required. It is estimated that some £75M would be required to bring footways back up to good condition across the County. In relation to utility works there are existing limitations in the Council's ability to "police" such works because of staffing issues - primarily a moratorium on weekend working on non-emergency activities because of the associated additional salary costs, which means there is currently no weekend working. Some of the costs could be offset by income from utilities for any defects found.
- 3.4 Legislative changes will improve the ability of the Council to better tackle poorly reinstated utility works in future with the introduction of penalty notices. The Council will need to consider how it can better monitor the quality of reinstatements of footways, possibly by increased core sampling. Allied to the damage caused by utility works is the impact on footways arising from the growth in car ownership. Conditions on many housing estates mean that parking on footways is a growing problem. Verge hardening schemes (jointly funded with District Councils) have provided an effective solution in some areas.
- 3.5 The one-off payment of PLI monies has enabled improvements to be undertaken in nine settlements across the County in specific areas with some of the worst footway conditions and where there have been larger numbers of insurance claims. This "invest to save" approach should bring about a reduction in claims in future years, which, in turn, should impact on the level of the PLI premium.
- 3.6 The Gulliksen judgement has the potential to require the Council to take on responsibility for an additional significant network of footways in former housing authority developments, parts of which may not have been substantially maintained in the past. However, depending upon the outcome of the Council's submission in relation to the establishment of a new unitary

Council for County Durham, this is an issue which may need to be addressed by a new unitary authority in any event. Currently, this is a risk that the Council needs to both recognise and manage and it is important that data about the potential size of the network is collated to enable a more accurate assessment to be undertaken.

- 3.7 Opportunities continue to exist to work effectively with District and Parish Councils in relation to footways maintenance. Some District Councils still undertake work on an orders basis. Feedback about the effectiveness of the Community Highways Workers based at Parish level has been good. However, many Parish Councils are not able to provide their share of the funding to implement this innovative way of working.
- 3.8 The recommendations of the working group are based around the following themes:
- **Raising the Council's performance in relation to footways**
 - **Tackling car parking on footways in housing estate roads**
 - **Local Action at Local Level**
 - **Better management of Utilities and Statutory Undertakers works in the Highway**
 - **The Challenges posed by the Gulliksen Case**
 - **Maintenance costs of Improvement and Floorscaping Schemes**

Raising the Council's Performance

- 3.9 There is a need for the Council to re-assess funding provision for footways if it wishes to improve performance and minimise its liabilities to the public. The recommendations to Cabinet in relation to this area are to:

- (a) **Consider the provision of a one-off contribution to the highways maintenance budget to carry out remedial repairs, either across the footways network, or by targeting footways in Categories 1, 1A and 2 (these are the footways against which BV 187 is measured).**
- (b) **Maintain year on year funding for footways maintenance and improvement (as in 2006/07) from any continued falls in PLI annual premiums.**
- (c) **Develop local performance indicators for footways in categories 3 and 4 of the footways hierarchy, so as to give a more accurate picture of the condition of those footways which are most used by the public.**

Tackling Car Parking on Footways in Housing Estates

- 3.10 Many of our older housing estate roads are narrow. Increased car ownership has resulted in car parking either wholly or partly on footways, which can

damage footways and be detrimental to users of the highway (i.e. the visually impaired). The recommendations to Cabinet in relation to this theme are to:

- (a) Identify funding (perhaps arising from recommendations 3.9 a & b above) to promote jointly with our District/Borough Council partners additional verge hardening schemes in housing estates (subject to matched funding from partners)**
- (b) Ask the Corporate Director, Environment Services to consider whether there is a need to promote greater use of traffic regulation orders to help reduce parking on footways in housing estates where there is significant inconvenience to pedestrian users.**
- (c) To request Durham Constabulary to review its approach to obstructed footways, and in particular, how a tougher line can be taken against those car owners whose vehicles are substantially parked on footways to the extent they become impassable for people in wheelchairs or mobility scooters and those with prams and pushchairs.**
- (d) Consider use of *Countywide* to raise awareness about the problem of footway parking; the damage it causes to footways and the inconvenience caused to pedestrians.**
- (e) Ask the Corporate Director, Environment Services, for a report about off street parking guidelines for new residential development in the light of Planning Policy Statement 3 and associated guidance (including an assessment of the impact of current guidance on car parking in new residential developments).**

Local Action at Local Level

- 3.11 Feedback about the community highway worker initiative has been good, but take up has been hampered by the inability of some Parish Councils to provide the necessary funding. There were also issues around how actively the benefits of the scheme have been promoted to the Parishes. The recommendation to Cabinet in relation to this theme is:

To consider how the community highway worker scheme can be better promoted with our Parish/Town Council partners and to identify possible corporate funding to act as pump-priming for re-launching the scheme.

Better managing Utilities and Statutory Undertakers Works in the Highway

3.12 Openings of any highways have consequences for the long-term viability of the structure of that road or footway. Works should be carried out with the least possible delay/inconvenience to the public; with appropriate safety measures in place; and reinstatements that do not result in the surface of the highway being dangerous or less commodious for the public than prior to the works. Works should be co-ordinated to ensure that highways are not opened up after recent resurfacing/reconstruction works. The recommendations to Cabinet in relation to this theme are:

- (a) To ask the Corporate Director, Environment Services to:**
 - (i) Develop and report upon proposals for the introduction of weekend inspection arrangements for utilities/statutory undertaker works, including any associated costs.**
 - (ii) Prepare a report on proposed measures which will ensure that greater co-ordination and more advance notification of utility works is achieved.**
- (b) To require the Corporate Director to develop and report on any actions proposed by Environment Services to more proactively tackle statutory breaches by utilities and statutory undertakers in relation to works in highways.**
- (c) To ask the Corporate Director to consider how existing arrangements for core sampling of reinstatements can be further developed and to report on any implications of this proposal.**

The Challenges posed by the Gulliksen Case

3.13 The Gulliksen case and the potential liability this has for the County Council need to be addressed. The recommendations to Cabinet in relation to this theme are:

- (a) To ask the Corporate Director, Environment Services, to prepare a report on the extent of the footways network in the County affected by the Gulliksen judgement and, together with the Director of Corporate Services, to advise on the technical and legal implications for the County Council.**
- (b) That Cabinet considers, in the light of this report, any potential risks or liability for the Council and whether these should be included in the risk register, together with any actions the Council needs to take to mitigate the impact of Gulliksen.**

Improvement and Floorscaping Schemes

- 3.14 Floorscaping projects, such as those implemented across the County as part of the Urban and Rural Renaissance Initiative often use materials such as natural stone or blocks. These have much higher ongoing maintenance costs than normal footway surfaces, yet no consideration appears to be given to this future liability on the highways maintenance budget in the funding arrangements for these schemes. The recommendations to Cabinet in relation to this theme are:

That Cabinet consider whether the additional maintenance costs of floorscaping schemes should be factored into the budget for such works and the highways maintenance budget be uprated accordingly when these schemes are undertaken.

Review

- 3.15 A key element of scrutiny is reviewing recommendations to determine whether (if accepted) they have made a difference.

It is recommended that a review of the recommendations in this report be undertaken 6 months after their consideration by Cabinet.

Section Four – Methodology

Project Plan

- 4.1 Initial scoping by the working group at meetings on 18 July and 18 September 2006 resulted in a Project Plan (see Appendix 1). This was designed to break down the project into manageable areas of focus for each meeting of the group and so ensure that relevant witnesses were invited to provide evidence as appropriate.

Evidence

- 4.2 The majority of the evidence was provided at sessions of the working group in the form of presentations by expert witnesses, followed by question and answer sessions. Members also undertook site visits around the County. Details of the sessions and evidence are in Appendix 1 of the report.

Engagement and Consultation

- 4.3 Engagement and consultation for this project took the form of consultation (a letter seeking views) with Parish and Town Councils across the County and a roundtable meeting with District/Borough Council representatives. The findings are set out in Section Eight of the report.

Best Practice

- 4.4 Northumbria University was commissioned to undertake research about best practice in tackling footways issues. The findings are contained in Section Nine of the report.

Section Five – What are Footways? The Extent and Condition of the Footways Network

Definitions

5.1 The working group heard that a footway is:

‘a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only’, (i.e. what the public would refer to as pavements)

5.2 Geoff Race (Environment Services) advised the working group that Section 41 of the Highways Act 1980 imposes a duty on the Highways Authority (the County Council, in Durham) to maintain “highways maintainable at public expense”. The Council is responsible for maintaining 3380 kilometres of footway that form part of the adopted highway network. In addition, there are 1000 private streets which are unadopted because they either do not reach the minimum adoptable standard or have not been offered for adoption. The extent of the footways forming part of housing estates, which are not adopted, but are the responsibility of District Councils, is not known but it is expected that this information will be available in the near future.

County-wide Data about Footways

5.3 The Code of Practice for Highways Management (a national document), which has been adopted by the County Council, recommends five broad footway hierarchies (or categories). There is guidance on the criteria for selection, but authorities have the final discretion to decide what goes into each hierarchy. The hierarchies are:

- **Category 1A – Prestige Walking Zones** – i.e. the Market Place in Durham
- **Category 1 – Primary Walking Routes** – busy urban shopping/business areas.
- **Category 2 – Secondary Walking Routes** – medium usage routes through local areas feeding into primary routes.
- **Category 3 – Link Footways** – linking local access footways through urban areas and busy rural footways.
- **Category 4 – Local Access Footways** – associated with low usage, short estate roads to the main routes and cul-de-sacs.

5.4 The majority of footways in the County are in the lowest category (4). The major part of the footway network is constructed from bitmac with the next largest category being concrete flags.

5.5 The table below shows the lengths of footway by District and Category:

Area	Length (m)					
	1A - Prestige Zone	1 - Primary Zone	2 - Secondary Zone	3 - Link Footway	4 - Local Access Footway	Grand Total (m)
Chester-le-street		2,763	13,375	72,037	277,479	365,654
Derwentside		4,644	11,368	86,570	554,935	657,517
Durham	713	3,804	16,178	122,765	441,547	585,007
Easington		3,619	15,844	125,533	476,064	621,060
Sedgefield		6,187	17,792	137,169	407,814	568,962
Teesdale		1,665	1,844	55,615	99,730	158,854
Wear Valley		5,936	10,137	124,858	284,453	425,384
	713	28,618	86,538	724,547	2,542,022	3,382,438

5.6 The table below shows the length of footways based on surface/construction type:

Material	Length (m)					
	1A - Prestige	1 - Primary Zone	2 - Secondary Zone	3 - Link Footway	4 - Local Access Footway	Grand Total (m)
Bitmac		14,032	52,428	421,922	2,062,153	2,510,535
Concrete Flags	9	11,245	22,625	209,869	151,546	435,294
Slurry Seal		1,817	7,789	65,693	137,463	217,761
Concrete		67	1,481	16,442	119,864	132,854
Surface Dressed			41	1,954	29,410	31,404
Other	704	913	625	4,800	20,140	27,182
Rolled Asphalt		181	1,160	2,534	13,832	17,707
Block Paving		363	390	1,333	6,587	8,673
Gravel					316	316
	713	28,618	86,538	724,547	2,541,310	3,381,726

Condition of Footways and Maintenance Regime

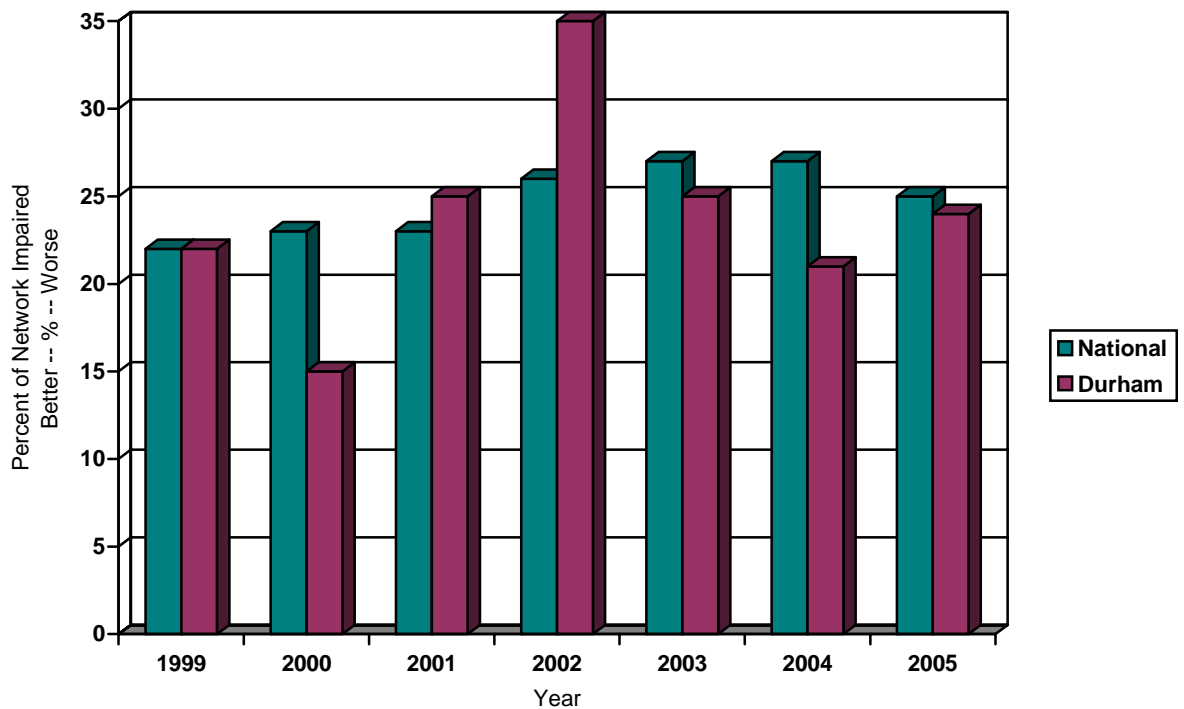
5.7 At the present time four types of footway survey are undertaken to assess condition. These are:

- **CVI (Coarse Visual Inspections)**
- **NRMCS (National Road Maintenance Condition Survey)**
- **Highway Safety Inspections**
- **DVI (Detailed Visual Inspections)**

5.8 **Coarse Visual Inspection (CVI) surveys** are undertaken annually and this is a driven visual survey of low quality. CVI results indicate that the number of minor defects is falling whilst the number of major faults has shown a slight increase. CVI surveys of footways are to be phased out.

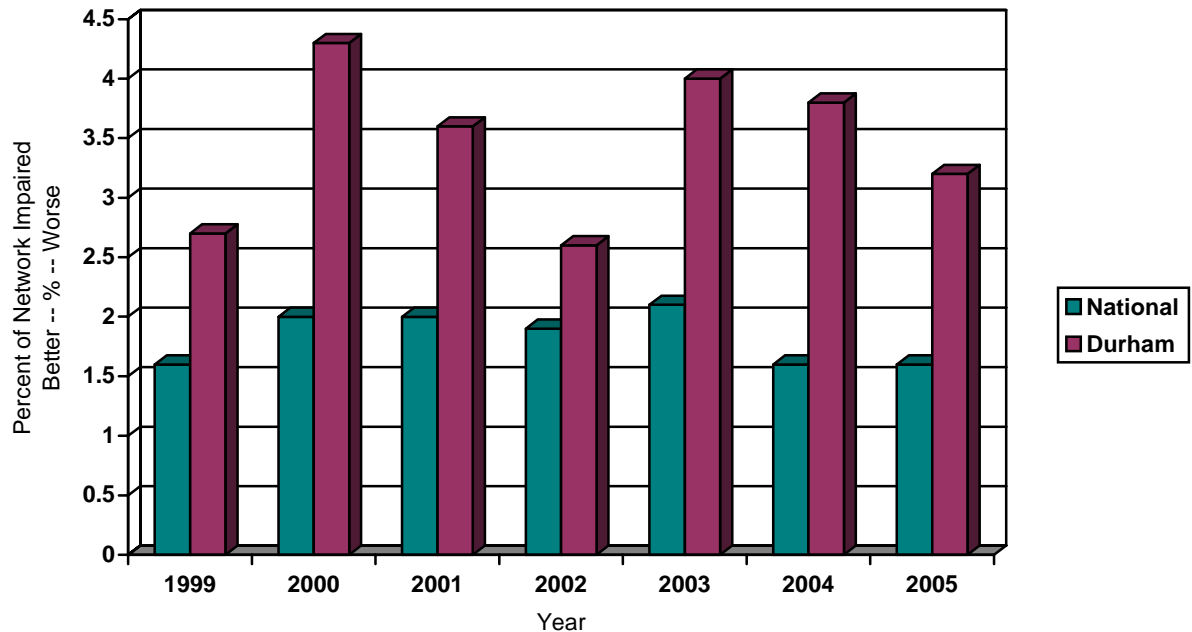
5.9 **The National Road Maintenance Condition Survey (NRMCS)** is a walked visual survey and covers 220 x 100 metre sections of footway, which is a relatively small sample. The statistics for Durham are broadly comparable with the national results for footway overall deterioration and there has been some improvement in performance in recent years.

All non-trunk footways - overall deterioration (%)



5.10 However, the NRMCS results show that performance for footway trips is much worse than the national figures as shown by the table on the next page, although, as with the survey data for condition, the position is improving.

All non-trunk footways - trips (20mm) per 100m



5.11 **The Highway Safety Inspection** is a walked visual survey covering 100% of the footway network. Each hierarchy of footway has a different interval for inspection. Defects in footways greater than 20mm will be treated as a priority and rectified within 24 hours if they are within a prestige zone or primary route (Category 1A or 1), although efforts are made to repair dangerous defects in **all** categories within 24 hours.

5.12 **The Detailed Visual Inspection (DVI)** is a walked visual inspection carried out annually for the top three hierarchies of footways, representing approximately 4% of the network total. Condition surveys in recent years indicated failing performance, peaking in 2004/05, and footway condition was included as a Priority for Improvement in the Best Value Performance Plan for 2006-09 and as a Service Priority for Improvement in the Environment Operational Plan 2006/9.

What Factors Impact on the Condition of Footways?

5.13 The working group was advised by Roger Elphick (Environment Services) that Highways Authorities are facing a number of challenges in relation to the maintenance of footways. These include:

- Limited resources
- An ageing network
- Increased accountability/increasing public expectations.

5.14 **Footway deterioration results primarily from public utility works and vehicle overrun (i.e. parking on footways).** The objectives of footway maintenance include:

- Safety of walking public – to ensure safety of users and to mitigate against third party claims.

- Maintenance of asset value – to keep footways in a safe and accessible condition through planned maintenance.
 - Serviceability – to provide a satisfactory walking surface and to encourage walking.
- 5.15 It was suggested to the working group that the present condition of the footway network was linked to significant under-investment in the late 1980's and early 1990's due to competing budget demands. Whilst some of this has been addressed more recently, by increased investment, it was said that the condition of footways continues to be a subject of public concern. Complaints to the Highways Action Line about footway condition are the third highest after drainage and carriageway complaints.
- 5.16 The working group also heard that standards of safety and serviceability have been difficult to maintain and that funding constraints have led to a reactive approach, with the focus being concentrated on short-term repairs to address safety and legal responsibilities in order to mitigate claims. The deferral of resurfacing and reconstruction work beyond the optimum treatment repair timescale has resulted in continuing deterioration and increased repair costs. For the 2005/06 budget the Citizens Panel ranked footway repairs 5th in overall priority for highways budget spending.
- 5.17 The Transport Asset Management Plan, which is currently under development, is a new approach introduced by the Roads Liaison Group and will link planned investment to network value. It sets out an approach for the management of the transport asset and represents the start of a process of setting out a framework for continual improvement. It will be used to make informed decisions for the optimisation of budgets, programmes and scheme selection.

Utility and Statutory Undertakers Works and the Condition of Footways

- 5.18 The Working Group received evidence from Dave Pownall, Network and Traffic Manager, Environment Services, about utility works on footways.
- 5.19 Works by Utilities or Statutory Undertakers (SU) – we use these definitions interchangeably throughout the report - are governed by the New Roads and Street Works Act 1991 (NRSWA) together with a number of codes of practice. The legislation is very complex and many Highway Authorities feel that the Act is weighted in favour of the SU's.
- 5.20 Before a SU commences work, they are required to serve notice on the highway authority. This does not constitute permission, but acts as a co-ordination tool to allow the highway authority to "co-ordinate the execution of the works". This is done in the interests of safety, to minimise the inconvenience to people using the street and to protect the structure of the street and the apparatus in it. The SU has a duty to cooperate in the process.
- 5.21 When the NRSWA was enacted in 1991 there were only a limited number of SU's. Following the privatisation of public utility companies and major changes in telecoms technology, competition increased and the number of companies able to open the highway also increased. There are now over 200 SU's with a statutory right to place and maintain apparatus in the highway.

5.22 As part of the process the SU submits an opening notice to the street (highways) authority which specifies the date, location and duration of works. The authority assesses the duration and possible conflicts with other works. The notice can be challenged – particularly in relation to the duration of works. Experience has shown that for 85% of works, the County Council receives less than a day’s notice, most of this is for minor works. Notice is required from within 2 hours of work starting for immediate works and up to 1 month for major projects. No notice is required for replacing poles in the same position, for cabling or chamber access. Therefore there is only limited opportunity for co-ordination of works. When the work is completed and the highway reinstated, the SU submits a closing notice. There is a reinstatement guarantee of 2 or 3 years depending on the depth of the work.



Utility works at High Pittington – No provision made for pedestrians

5.23 During the progress of utility works, the County Council has three opportunities to carry out sample inspections. Sites are selected on a random statistical basis (by computer) with 10% of work inspected at each of the three stages (categories A, B & C). This inspection work is paid for by the SU’s. Any additional inspections above the 10% are funded by the authority.

5.24 **Category A inspections** (works in progress) include checks for:

- Notice for works in place
- Temporary traffic signal notification in place
- Signing and guarding to Code of Practice
- Pedestrian provision – walkways etc
- Provision for vulnerable road users – wheelchairs, pushchairs mobility impaired
- Bus stop access

5.25 **Categories B and C inspections** (reinstatements) include checks for:

- Surface depression or settlement)
- Surface crowning) Visual Check &
- Surface regularity, edge depression) Measurement
- Skid resistance)

- Reinstatement of kerb backing)
- Material thickness) Checked by Coring
- Compaction of materials)

5.26 If a deficiency is discovered in reinstatement works (i.e. insufficient materials are used) then an offence is committed until such time as the deficiency is remedied.

5.27 Investigations are carried out by County Council officers as a result of police or public reports. Approximately 300 to 400 reports per annum are received by the Highway Action Line. These reports include deficiencies in signing, lighting and guarding inadequacies.

5.28 In 2005/06 there were 17,000 SU works sites on footways and carriageways. Approximately 1,700 sample inspections were carried out at each stage. Each sample inspection costs SU's £21 which produced an income for the authority of £100,000. This funding is used to employ 3 dedicated Network Control Officers to inspect utility works on 3600 km of highway in the County.

5.29 Sample Inspection results in 2005/06 revealed the following failure rates:

% Failure	Category	Category	Category
	A	B	C
British Telecom	18%	5%	8%
Northern Gas	8%	3%	4%
Northumbrian Water	12%	2%	4%
NEDL	19%	5%	6%

5.30 The Authority can carry out coring investigatory work to determine the long term integrity of reinstatements. Coring enables the County Council to check material specification, thicknesses and compaction. These are indicators of the long term integrity of the reinstatement. However, it costs the Authority approximately £500 per core sample (where compaction is checked as well as fill). If the reinstatement work is found to have been completed to specification, then the County Council pays for the coring. If the reinstatement is defective the SU pays. It was suggested that a possible area for improvement would be the introduction of a routine programme of coring. Some of the authorities, which have implemented routine coring, have discovered a 50% defect level. It was also suggested that the introduction of increased inspection and weekend working by network control officers could lead to an improved level of compliance.

- 5.31 A recent County Surveyors Society research project has found that even if reinstatements (particularly of carriageways) are carried out to specification, long term damage to the integrity of the road is still caused. Under existing legislation there is no recompense from SU's and the liability falls on the highway authority.
- 5.32 Under Section 58 of NRSWA, the Highway Authority can impose a restriction on the execution of street works for twelve months after the completion of major road works. This provides protection against scarring of new surfaces. Where the Authority waives the embargo, it can apply additional conditions such as full width reinstatement. There are exemptions under section 58 for emergency works and for service connections to properties.
- 5.33 In addition to NRSWA, new regulations under the Traffic Management Act 2004 strengthen and enhance highway authority powers and sanctions over works by utilities in highways. These include:
- Errors in Notices, e.g. failure to issue or to cancel a notice, wrong address etc. – will be subject to fixed penalties.
 - New Section 74 regulations relating to prolonged occupation by utilities in the highway
 - Longer advance notice for major works
 - Parity between local authority works and SU works
 - Longer embargo periods under section 58 – up to 5 years before any works can be carried out on newly surfaced highways
 - An additional 10% inspection for over-running works.
 - Power to insist on full or half width reinstatements
 - A new Reinstatements Code of Practice – use of recycled materials
 - Long term damage contributions.

Many of these new Regulations are still being developed and are yet to come into force.

Utility/Statutory Undertaker Views

- 5.34 A number of Utility companies were invited to present evidence. CE Electric UK attended a meeting of the working group to give an overview of the work of a utility company.
- 5.35 CE Electric maintains an electricity distribution network through the companies NEDL and YEDL and is a major provider in the field with an annual system investment of £260 million. The operating area of the Company is from Northumberland to North Lincolnshire and the network consists of 100,000 kilometres of cable with approximately 70,000 kilometres of underground cable.
- 5.36 Every year the company makes 70,000 new connections and these have to be made within a 21-day limit. In County Durham some 6,000 openings are made every year, with 90% of all reinstatements being in footways. The company has over 1000 field staff throughout its operating area carrying out street work activities.
- 5.37 The company have a Quality Assurance Team who audit reinstatements carried out by contractors working on their behalf to ensure that works are

completed to specification. Whilst work is contracted out, all contractors are trained and fully accredited and 90% of Category B and C inspected work is found to be compliant. It was stressed that the company is flexible and is willing to listen to suggestions from authorities, businesses and communities to improve the way that they work.

Parking on Footways

- 5.38 The Working Group received evidence from Dave Wafer, Business Manager, Traffic Group, Environment Services, about parking by vehicles on footways and the damage that can result.
- 5.39 Parking on the footway is generally an increasing problem with greater car ownership and use. The main problem areas usually have an additional factor such as nearby employment areas and inadequate parking provision for residents in areas such as older terraced housing. There is also an increasing tendency for householders to park their works vans outside their properties. The most recent planning guidance also requires only 1.5 car parking spaces to be provided for new residential development and because many households have 2 or more cars, this can be problematical, with cars parking on footways even in newly constructed estates. The £40,000 provided for verge “hardening” which had been matched by some District Councils was addressing the problems in the worst areas.



- 5.40 There is no nationwide ban on parking on the pavement, but there is legislation in London banning parking on the pavement. Local Authorities are able to introduce traffic regulation orders banning parking (i.e. on one side of narrow estate roads) and this can often be achieved in consultation with residents, but it is unlikely that orders will be enforced under current arrangements. The Police are able to take action when a vehicle is deemed to be causing an obstruction. It is also an offence under Section 72 of the Highways Act 1835 to drive a carriage (i.e. a vehicle) on the footway, however it has proved difficult to secure convictions under this legislation.

5.41 The Department for Transport (DfT) had highlighted areas of best practice in:

- Coventry City
- Derby City
- Aberdeen City Council
- Liverpool City Council
- Peterborough City Council

5.42 The initiatives include the introduction of decriminalised parking, publicity campaigns, pavement parking ban zones, designated areas of pavement parking and conversion of some grass verges to parking areas. The last DfT guidance on the subject was published in 1993 and there is no indication that further guidance will be issued.

Section Six – Maintenance of the Footways Network and Liability Issues

Introduction

- 6.1 Maintenance of highways is the responsibility of the County Council, although some District Councils provide services under contractual arrangements and there are arrangements in some parished areas for services to be delivered under local arrangements.
- 6.2 Since the 1970's there have been various codes of practice for highway maintenance. The current code of practice for highway maintenance '**Well-maintained Highways,**' was published in 2005 by the UK Roads Liaison Group. They have also produced the following codes of practice:
- Well-lit Highways: Code of Practice for Highway Lighting Management
 - Management of Highway Structures: A Code of Practice

The Codes provide guidance on the efficient, effective and economic delivery of highway maintenance services and were adopted by Cabinet on 6 April 2006.

- 6.3 The overall highways maintenance works budget was £13.6M in 2004/05 with footway expenditure of £2.8M. In 2006/07 the maintenance budget was reduced to £12M with overall footway expenditure reduced to £2.5M (including one-off public liability funding of £688,000). The footway network was initially valued at £500M, with the maintenance backlog to put the network back into good condition estimated to cost £75M.

Site Visits

- 6.4 As part of the scrutiny investigation, the working group visited a number of sites and met with highways personnel to observe maintenance issues at the undermentioned locations:
- A167 – utility works
 - Pelton – Urban Regeneration and Renaissance works
 - The Crescent, Chester le Street - parking on footways/damaged verges
 - Bullion Lane, Chester le Street – damaged verges
 - Second Avenue, Chester le Street – hardened verges
 - Rydal Road, Chester le Street - met with Highways Inspector Gary Surtees – damaged footways
 - Ullswater Road – ongoing scheme to refurbish footway
 - Sherburn Village, Hillside View – unadopted housing footways.
- 6.5 The aim of the inspections was to gain an overview of the problems faced by the Environment Service in maintaining footways. The site visit gave an opportunity to observe typical examples of the damage caused to footways and verges by parked vehicles and to visit completed and ongoing schemes to refurbish footways.
- 6.6 The working group observed reinstatements following utility works on the A167 at Redhills, Durham City. This involved the refurbishment of the

footway surface. The group was advised that the surface of carriageways and footways were protected from further utility works for a period of 12 months after re-surfacing, though there had been some instances where utilities had not adhered to this protocol.

- 6.7 During a visit to an ongoing urban renaissance scheme at Pelton, it was explained that smaller flagstones and decorative blocks had been used to refurbish footways. The working group was advised that this type of product required higher levels of subsequent maintenance and inspection but provision was not made for this as part of these schemes.
- 6.8 The working group also observed damaged footways and verges at The Crescent and Bullion Lane, Chester le Street caused by parked vehicles. Attention was drawn to a scheme where verges had been hardened at Second Avenue. This involved lowering kerbs and installing hard paving to enable parking off the carriageway.
- 6.9 The Working Group met Gary Surtees, a Highway Inspector, on site at Rydal Road Chester le Street. He explained the format for carrying out highway inspections and advised that he would usually inspect 20 streets per day. The Environment Team employs 23 highway inspectors to carry out regular inspections of this sort on footways. Defects greater than 20mm are reported to the Priority Action Team (PAT), who, subject to workload, will try to rectify faults within 24 hours. As a result of health and safety legislation damaged large flagstones (which are difficult to lift and position) are now usually replaced with bitmac infill.
- 6.10 The regime of inspections and recording mechanisms is primarily targeted at ensuring the footways network does not deteriorate and that injuries are avoided. It also, however, ensures that the Council can offer a defence against claims for trips and slips under Section 58 of the New Roads and Street Works Act if they are able to prove they have a robust regime of inspections.
- 6.11 A Highways Safety Inspection Manual has been developed to provide guidance when carrying out inspections. A risk management approach is taken towards maintenance and it was explained that estate footways such as Rydal Road would be inspected once a year where flexible materials are used such as bitmac. Where hard materials such as flagstones are used, the inspection is carried out every 6 months.
- 6.12 The working group observed the refurbishment of 100 metres of footway at Ullswater Road with flagstones being replaced by bitmac. The edges of footways, which are used by parked vehicles, are given deeper foundations to protect them against damage. The scheme had cost £25,000, with the funding being provided from public liability insurance money and it was hoped that these improvements would minimise liability of the Council against trips, slips and falls. Dave Wilcox, the Northern Area Engineer, explained the procedure for scheme selection. Due to limited resources only those footways that are in very poor condition will be selected for inclusion in the Highway Maintenance Scheme Programme.
- 6.13 In relation to rural footways between villages it was explained to the working group that a decision was taken some time ago not to carry out any further maintenance on this type of footway although work was undertaken to

prevent overgrowth by grass/turf. This policy, although understandable, could potentially conflict with the LTP2 objective of trying to encourage walking and cycling between relatively close communities.

- 6.14 In Sherburn Village the working group inspected the footways serving District Council housing. It was explained that the Gulliksen v Pembrokeshire County Council case (see below in this Section) had potential risk and liability implications for the County Council. Briefly, in 2002, the Court of Appeal decided that pedestrian link paths and roads on municipal housing estates are highways that must be maintained at public expense. As a result there was potential for the County Council being joined in personal injury claims against District Councils. The consequences for future maintenance were also likely to be substantial.
- 6.15 To assess potential schemes the Area Engineer maintains a schedule of future schemes (i.e. 'a wish list'). These schemes have been identified from a number of sources, e.g. the Public, Highway Inspectors, Elected Members and condition surveys. Schedules of schemes are prepared in October each year with site visits being carried out in November and the schemes ranked from 1 to 10. Those scoring 10 are selected first and then if more schemes can be accommodated within the provisional budget, schemes scoring 9 and so on are included. After any adjustments to the proposed schemes they are submitted to Highway Management services for inclusion within the final budget.

Other Key Partners

- 6.16 The Working Group received evidence from Geoff Race on the role of District and Parish Councils and partnership working.
- 6.17 The Secretary of State for Transport is the Highway Authority for Motorways and Trunk roads provided through the Highways Agency and manages roads such as the A1M, A19 and the A66 within the County. County Councils/London Boroughs/Unitary and Metropolitan Districts are the Highway Authorities for Local Roads.
- 6.18 In County Durham there are 3 tiers of Local Government:-
- County Council
 - 7 District Councils
 - 116 Parishes or Town Councils (not all of the County is Parished)
- 6.19 The responsibilities in relation to the management of the highways network for each tier of local government are as follows:-

County Council

Highway Maintenance/Policy/Network Management/Design and Development/Street Lighting/Road Safety/Street Furniture

District Councils

Litter Clearance/Sweeping/Local Planning/Off-Street Parking/Street Furniture/Bus Shelters

Parish Councils

Powers to maintain rights of way and provide Street Lighting/Litter Bins/Seats/

Bus Shelters/Tree planting.

- 6.20 Under Section 42 of Highways Act 1980 **District Councils** can undertake maintenance of unclassified urban streets, though this is rarely taken up by Districts. Under Section 101 of Local Government Act 1972 County Councils can voluntarily enter into Agency Agreements with Districts Councils to maintain highways. In County Durham informal agreements under Section 101 of the 1972 Act were set up with Districts and operated from the mid 1970's up to 2004 under which the District Councils were funded by the County Council to carry out highway maintenance work. The Agency Agreements were generally restricted to the main urban areas (known as the 'pink areas').
- 6.21 The works covered by the Agency Agreements included:
- Cyclic Maintenance – Sweeping/Gully Cleaning/Grass Cutting/Weed Spraying
 - Routine Maintenance – Potholing/Patching/Minor Repairs
 - Structural Maintenance – Resurfacing/Reconstruction
 - Accessibility Improvements – Vehicle Crossings/Disabled Access Ramps
 - Winter Maintenance – Pre-salting/Ploughing/Snow-salting
- 6.22 Following an efficiency review, which arose from the increased complexity and centralisation of systems, the Agency Agreements were terminated on 31st March 2004 after detailed consultations including TUPE transfers and Cabinet approval. District Councils who wished to carry on with highway maintenance under works orders were permitted as outlined below (highlighted boxes):

	Grass Cutting	Gully Emptying	Landscaping & Verge Maint.	Footpath Maint. Works	Minor Scheme Works	Winter Maint.	Emgcy. Action Team	Emgcy Highway Sweeping
Chester-le-Street	X	X	X					X
Derwentside	X	X	X	X	X	X	X	X
Durham	X							X
Easington	X	X		X	X	X	X	X
Sedgefield	X		X					X
Teesdale								X
Wear Valley	X	X	X					X

- 6.23 In relation to liaison arrangements with District Councils there are:
- Area / District meetings on a 4 monthly basis to discuss highway maintenance matters and programmes (unadopted footway lengths);
 - Local Strategic Partnership Sub Group (Transport Related). These are held quarterly and discuss general corporate activities and LTP2 Area Programmes;
 - The County Council also has its own Member Area Panels (MAP's) which are held on a 6 weekly cycle. These discuss corporate matters including highway maintenance queries, complaints, questions and LTP2 Area Programmes.

- Safety Advisory Groups (SAG's) meet 4 to 6 weekly.
- 6.24 In terms of partnership arrangements with **Parish Councils**, the Parish Paths Partnerships has been operating since 1992 giving opportunities to Parish Councils to improve public rights of way. The Community Highway Worker initiative commenced in 2002 (see below). County Council Officers will also attend Parish Council Meetings on request to deal with general or specific highway maintenance matters (this includes resident/local community group meetings).
- 6.25 In addition the Local Council Charter for Easington was agreed on 30th June 2006. This is a Charter between the County Council, Easington District Council and 19 Town and Parish Councils and is designed to increase co-operation between different tiers of Local Government. The Charter promotes:
- Wider consultation on matters affecting local communities;
 - Promoting sustainable social, economic & environmental development;
 - Possibility of delegating some services to Town & Parish Councils and developing more effective use of resources.
- 6.26 Authorities are already working on partnerships to provide flowerbeds, grass cutting, routine maintenance and litter picking in local communities and this is being developed further to tackle Anti-Social Behaviour. A joint bid is also being made with the Primary Care Trust to the Big Lottery to enhance walking for health facilities.
- 6.27 Previously, Highway MAPS involving Members, Parish Councils, District Councils and Community groups used to meet twice yearly to discuss general or specific highway maintenance matters. This arrangement is currently on hold but it is hoped to reinstate the arrangements in 2007.

Community Highways Workers

- 6.28 Information about the Community Highway Worker Initiative was provided to the working group by Gerry Jones and Kevan Graham (a Community Highway Worker for Stanhope Parish Council). An initial consultation was carried out by the County Council with a number of Parish Councils about a scheme in 2002. Stanhope Parish Council was the first to take on a Community Highway Worker. In 2003 further consultations were carried out with all Town and Parish Councils and five new Parishes took on Community Highway Workers. These were:
- Haswell
 - Framwellgate Moor
 - Belmont
 - Brandon and Byshottles
 - Peterlee Town Council
- 6.29 During 2006 Belmont and Framwellgate Moor Parish Councils left the scheme. One new Parish Council Cluster Group comprising Bournmoor, Great Lumley and Little Lumley Parish Councils was established. From the 2003 consultation it was noted that in addition to the 7 Parish Councils

currently involved, 8 Parishes were not interested in the scheme, 42 were interested but had no funding and 59 had not responded to the consultation.

- 6.30 The general duties of the Community Highway Worker are identified by a Parish Council Representative, Highways Inspector, Highways Superintendent or Area Engineer and issued to the Community Highway Worker and this includes:
- Patching pavements, filling potholes with cold lay tarmac
 - Clearing debris from the highway
 - Sweeping Pavements, weeding footpaths, strimming/hedge cutting, edging village greens, pruning trees & shrubs
 - Cleaning highway signs, removing unauthorised signs, putting information signs up (Highway)
 - Drainage (ditches & culverts) maintenance, unblocking storm drains using draining rods
 - Painting, replacing broken wooden fencing rails
 - Other highways work as directed by Highways Inspector, Highways Superintendent or Area Engineer
 - Winter Maintenance - filling salt bins, hand clearing snow and ice, gritting by hand around village shops etc.
- 6.31 For 2006/07 each Community Highway Worker cost £27,000 per annum when supplied with a van and £32,000 when supplied with a pick up truck. The County Council contributes £47 per km of highway. This is deducted from the overall cost and the balance is shared with the Parish.

Member Involvement

- 6.32 Information is made available on the Annual Schedule of Highway Maintenance Schemes to County Council Members with individual scheme details being provided to Parish Councils and Districts. There are also updates and discussions at the District themed Member Area Panels (MAPs) referred to above.

Other Consultation/Involvement

- 6.33 The County Council undertakes consultation on the following areas:
- Traffic Regulation Orders and Traffic Calming proposals. This is a statutory requirement and proposals are discussed with District and Parish Councils and local residents.
 - Disabled Access Ramps -with Applicants, Social Care and Health and Disability Access Groups.
 - Highway Maintenance Citizens Panel Survey. This is carried out annually and records satisfaction and public priorities for forward planning. The Citizens Panel placed footway repairs 5th in the overall list of priorities.
 - Urban and Rural Renaissance Schemes. Consultation is carried out as required with District and Parish Councils.
- 6.34 Contact made with the Environment Service is often made via the Highways Action Line (HAL), which was inaugurated in October 2000. HAL receives approximately 30,000 reports per year via the telephone, e-mail, fax and the Internet on highways and street lighting issues. The Environment Service is

currently trialling a video conferencing system for direct contact with District Councils and Communities. Contact can also be made through Durham Connect via the Customer Relationship Management system on the internet and digital television.

- 6.35 The Environment Service also maintains contact through correspondence. The County Council Website provides information on weekly road works, public utility works, winter maintenance routes and weather reports. Information leaflets have also been published on HAL, winter maintenance, display of goods and "A" boards, skips, hedges and scaffolding.

Improvements to Footways – Disabled Access Ramps

- 6.36 The Disability Discrimination Act 1995 gave disabled people a 'right of access' to goods, facilities, services and premises. These rights were phased in over a number of years. From 1st October 2004 improved access has had to be provided to business and public premises, including improvements to the highway network between transport interchanges and services. The working group received evidence from Brian Taylor about Disabled Access Ramps (DARs)

- 6.37 The Environment Service receives requests for DAR's from a number of different sources including:

- Local Residents
- Social Care & Health
- Occupational Therapists
- Disabled Access Groups
- Members & MPs – usually in response to residents requests

- 6.38 There has been a 332% increase in requests for DARs from 2001/02 (34) to 2005/06 (113) and the rate of growth is likely to be continued in 2006/07 with 94 requests having been received by mid-October 2006 (the final full year total was 133). Such requests could be for the provision of multiple ramps.

- 6.39 Funding for DARs is provided from the Headquarters Budget and £45,000 was provided in 2006/07. Additional funding is also available from:

LTP1 : Rural Coalfields Mini Packages
Integrated Route Management
Urban & Rural Renaissance (Also in LTP2)
Members Allowances

LTP2 : Area Programmes – includes Disabled Access Measures determined by MAPs and Local Strategic Partnerships (Approx £70,000 in 2006/07)

Members Allowances (Approx £22,000 in 2006/07 to date)

There is also funding made available for DAR provision from the Area Office budgets and the Neighbourhood Renewal Fund.

- 6.40 Due to the level of demand relative to the available budget, individual requests have to be prioritised and this is achieved in consultation with Social Care & Health/Adult & Community Services and Local Disability Access Groups. Service Direct constructs most ramps, although orders are also

placed with the Direct Labour Organisations at Derwentside and Easington. During 2005/06 154 DARs were provided although this was much less than the number requested.

Liability Issues

Public Liability Claims and the Footways Inspection Regime

- 6.41 In relation to public liability claims the working group was reminded of Section 41 of the Highways Act 1980 and the statutory duty it imposed on the highway authority to maintain highways at public expense to reasonable standards. Section 58 of the Highways Act 1980 states that a statutory defence against third party claims is provided where the Highway Authority can establish that reasonable care has been taken to 'secure that the part of the highway to which the action relates' to a level commensurate with the volume of ordinary traffic such that it 'was not dangerous to traffic'.
- 6.42 A regime of highway inspections is necessary to identify defects and the need for routine/planned maintenance work. To ensure a consistent Countywide approach a formalised system that prescribes the frequency of inspections and the method of assessment, recording and actioning of highway defects has been adopted and satisfies legal obligations. The regime is specified by the following:-
- Frequency of inspection
 - Items for inspection
 - Degree of deficiency
 - Nature of response
- 6.43 The Highway Safety Inspection Manual, which was launched in April 2004, was prepared in accordance with the Code of Practice of 2001 and after liaison with the County Councils insurers and legal staff. The manual was reviewed in April 2006 in accordance with the Code of Practice of 2005.
- 6.44 The inspection regime set out in the manual is as follows:

Category	Hierarchy Description	General Description	Frequency
1a	Prestige Walking Zone	Prestige Areas in towns and cities with exceptionally high usage, such as Prince's Street, Edinburgh.	2 Weekly
1	Primary Walking Route	Busy urban shopping and business areas, and main pedestrian routes linking interchanges between different modes of transport, such as railways and bus stops etc.	1 Month
2	Secondary Walking Route	Medium usage routes through local areas feeding primary routes, local shopping centres, large schools and industrial centres etc.	3 Months
3	Link Footway	Linking local access footways through urban areas and busy rural footways. To include flagged Local Access Footways.	6 Months
4	Local Access Footway	Footways associated with low usage, short estate roads to the main routes and <i>culs de sac</i> .	1 Year

- 6.45 Inspection of category 1a footways is carried out at 2 weekly intervals, which is higher than the Code of Practice recommendation of inspecting monthly. The majority of footways lie within categories 3 and 4.
- 6.46 The manual provides an extensive list of items for inspection. Footways are inspected for the following items:
- Abrupt level difference in the running surface
 - Potholes, cracks or gaps in the running surface
 - Crowning, depression and rutting in the running surface
 - Kerbing, edging or channel defects
 - Rocking or otherwise unstable footpath or cycleway surfaces
 - Apparently slippery running surface
 - Edge deterioration of the running surface
 - Ironwork (gully lids, manholes etc) broken or missing
- 6.47 Category 1 defects or deficiencies require prompt attention because they represent an immediate or imminent hazard or because there is a risk of short-term structural deterioration. All Category 1 defects should, where reasonably practicable, be corrected or made safe at the time of the inspection. If it is not possible to correct or make safe the defect at the time of inspection a permanent or temporary repair should be carried out within 24 hours. Where a temporary repair is made, the permanent repair should be carried out within 28 days.
- 6.48 Category 2 Defects are those which, following a risk assessment, are deemed to not represent an immediate or imminent hazard or risk of short-term structural deterioration. These defects are not required to be urgently rectified, and those for which repairs are required shall be undertaken within a planned programme of works, with the priority determined by risk assessment.
- 6.49 The manual sets out an inspection procedure, the items for inspection and the degree of deficiency. Examples were provided of defects which were considered a safety hazard and needed prompt attention. The Inspection staff will record whether there are defects or whether it is defect free in the event of future claims being received.
- 6.50 The Number of Footway Inspections for each area is as follows:

Northern Area

- 14 Inspectors
- 331 Footway Inspection Routes
- 612 Footway Inspections per year

Southern Area

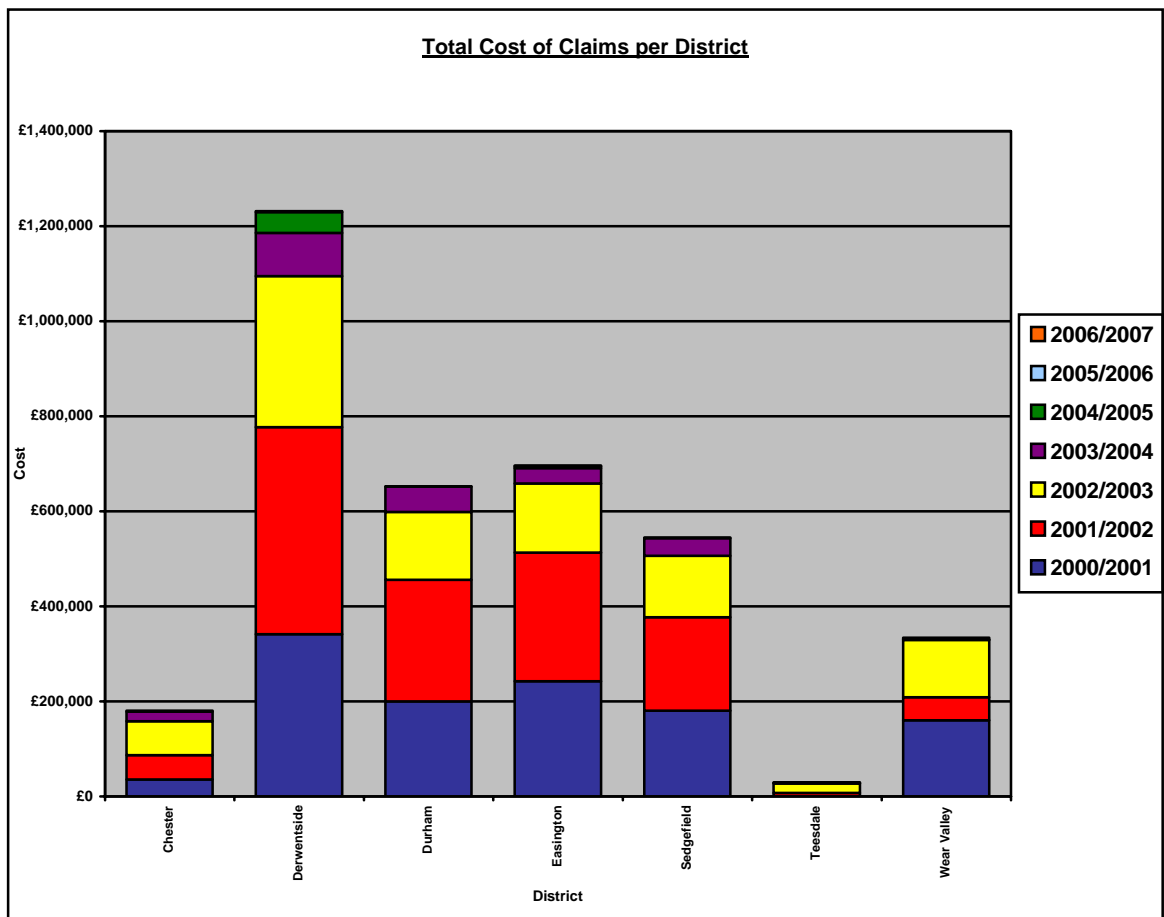
- 9 Inspectors
- 341 Footway Inspection Routes
- 745 Footway Inspections per year

Claims and Claim Handling

6.51 In relation to the claims handling procedure, any potential claimants are advised to submit their claim in writing. Once the claim is received the Area office undertakes a site inspection, with photographs, measurements and making any defect safe. The claims are then registered, given a reference number and entered into the Public Liability Insurance (PLI) database. The claim letter will then be passed to County Council insurers. The Area Office will investigate the claim, arrange a joint inspection with the claimant and complete an accident report form. All information needs to be returned to the Administrative Section of the Environment Service at least 30 days before the 90-day liability deadline and includes:

- Highway Inspection records for previous 12 months
- Joint site inspection form with photographs
- Highway Inspection form
- PLI Information Record form
- Any other relevant information requested by insurers

6.52 Information gathered from the claim form is used for statistical analysis. Data has been collected for the last 7 years and details the total count of claims per defect and the total cost of claims per District. The claims data demonstrates that a peak in the claims count occurred with the introduction of “no win, no fee” claims handling from solicitors.



- 6.53 A report is produced every six months, which shows the claim costs per financial year. It can take several years for a claim to be processed and completed. The number of claims is currently static and should begin to reduce in future years. In the early 1990's, the Council repudiated approximately 40% to 50% of claims. Following the introduction of the inspection regime this has increased to 70%. It was explained that only 1% of claims proceed to the courts.
- 6.54 The County Council operates a mixed insurance and claims handling system, with insurance cover being provided against any major claims. An arms length claims handling system is in place, which is handled by Gallagher Bassett International Ltd., and which costs £200 per claim in addition to any compensation payment. All claims are subject to an excess of £100,000 (which includes the vast majority of claims).
- 6.55 Insurance cover costs over the excess up to an aggregate of £4.25M (current figure) and payments are made directly from the insurance fund, which is managed by the County Treasurer. Insurance cover is currently arranged with the New Hampshire Insurance Company. The County Council have appointed Dickinson Dees & Crutes who are specialist firms of Solicitors for dealing with claims which end up for determination by the courts.
- 6.56 The insurance premium is made up of three parts:
- Insurance Premium – covers the notional risk to insurance company
 - Claims handling charge – based on the notional number of claims
 - Costs of claims – based on the salary cost (used to assess the overall exposure to risk)
- 6.57 Service charge is based on:
- Historical claims experience (average over 6 years)
 - Service salary cost, as a % of the total for the County Council (10% of premium)
 - Number of claims against the service (20% of premium)
 - Cost of claims against the service (70% of premium)
- 6.58 The Environment Service share of the total County Council insurance costs is 74% of the overall cost. At its peak the Environment Service insurance costs were £3m per annum and this was funded by the highway maintenance budget. This premium cost has reduced to £2.5m during 2006/07, which is the equivalent to the entire footway maintenance budget.
- 6.59 Additional funding of £688,000 has been provided in 2006/07 from the liability insurance fund that will be used to target footpath condition improvement works across the County. Nine settlements across the County have been identified which are currently subject to high levels of claims. The highest level of claims is in Derwentside, with high levels of claims in former mining settlements with older housing and footways.
- 6.60 Due to failing performance, the authority included footway condition as a Priority for Improvement in the BVPP 2006-09 and a Service Priority for Improvement in the Environment Operational Plan 2006-09. Statistics, BVPI

and NRMCS results all show that there has been an improvement in footway condition. The BVPI survey, however, only covers Category 1A, 1 and 2 footways which is approximately 4% of the network. In addition the BVPI results are still in the third quartile nationally and the National Road Maintenance Condition Survey trips are still worse than the national average.

- 6.61 In relation to insurance claims, some 90% of these are submitted via solicitors.

Potential Maintenance and Liability Issues – The “Gulliksen Case”

- 6.62 The Working Group received evidence from Patricia Holding, Solicitor, Corporate Services, about the Gulliksen case and the possible consequences for the County Council.
- 6.63 The Gulliksen case arose from an accident on a housing estate. When a footway was originally constructed, the Housing Authority and the Highway Authority were separate Councils. At the time of the accident the housing and highway functions had become part of the same unitary Authority (Pembrokeshire County Council). The claim for compensation against Pembrokeshire went to the Court of Appeal and the Court had to decide whether the road was publicly maintainable. Roads/paths built by a Highway Authority or dedicated by a third party under Section 38 of the Highways Act are publicly maintainable. Prior to the Gulliksen case few Authorities considered roads built by a Housing Authority to be publicly maintainable. The Gulliksen case is a landmark decision and has substantial implications for all Highway Authorities.
- 6.64 The Housing Act 1957 gave power for Housing Authorities to build streets though they do not have powers to construct public highways. The construction of a street for public use will, over a period of time, become a highway with public rights. This does not automatically mean that maintenance becomes the responsibility of the Highway Authority. In these instances they will often remain as private roads with the landowners having responsibility for maintenance. The Highways Act 1959 (Section 38) was the first Act of Parliament imposing a maintenance duty on Highway Authorities.
- 6.65 The Local Government Act 1972 amended the Highways Act 1959 to include the following highways, which are maintainable at public expense:
- Highways constructed by a Highway Authority after the commencement of the 1959 Act.
 - Highways constructed within their own area, under Part 5 of the Housing Act 1957, other than in respect of a highway which the Local Highway Authority is satisfied has not been properly constructed.
- 6.66 The Appeal Court decided in the Gulliksen case, that the Highway Authority did have a statutory duty to maintain estate roads under the Housing Act 1957 by virtue of provision of Section 38 of the Highways Act 1959. It is important to note that the maintenance responsibility is subject to the Highway Authority being satisfied that the road has been properly constructed. The judges in the Gulliksen case did not consider the procedure for offering up a road to the Highway Authority. One legal interpretation of the 1959 Act is that the onus for rejecting the roads is on the Highway Authority

and this will be the case in the absence of any formal request from the Housing Authority.

- 6.67 Under the provisions of the Highways Act 1959, the County Council are legally obliged to maintain housing estate paths, some of which were built 30 years ago, but they have not been offered to the County Council for adoption. It is important to note that in the Gulliksen case highways and housing functions were vested within the same Authority. The highway division of the Authority would have been aware of these roads/paths and the staff would have undertaken construction and subsequent maintenance. Therefore where both functions vest within same Authority the Courts have concluded that such roads/paths are to be publicly maintainable. The decision as it relates to Pembrokeshire County Council is not considered unreasonable.
- 6.68 In contrast, Shire Counties only deal with highway matters, and have no housing function; therefore there is no requirement for the Housing Authority to request the Highway Authority take responsibility for the roads. It is felt that it is unreasonable that such an arrangement should be implied. A Highway Authority as a separate body cannot be expected to know of the existence of such roads and paths and to inspect and either adopt or reject them. It is considered to be unreasonable to expect Highway Authorities to patrol for this purpose.
- 6.69 The legal advisors acting for the County Council have expressed the view that the absence of a positive requirement for notification should not to be read as requiring such a procedure. There is a statutory requirement for developers, to make an application for their roads to be dedicated and maintained.
- 6.70 The question that needs to be asked is why it should be different when this involves social housing estate roads? The County Council view is that there should have been a request from District Councils to take on this maintenance. In respect of claims on housing estate paths, the County Council will resist claims on the basis that the paths are not in such a state of disrepair that the Authority is negligent. An additional defence is also that they have not been formally handed over and that the responsibility therefore remains with the District Council(s). The Courts need to consider the statutory provisions for handing over these roads in relation to the findings in the Gulliksen case. It is likely that the Court of Appeal will resolve such a challenge.
- 6.71 As a way forward each District has been contacted requesting a list of housing estate roads/paths. The County Council will then inspect roads/paths and either adopt or reject depending on their condition. It would be prudent for the County Council to liaise with District Councils when defects are identified. It will also be necessary to agree a remediation programme for defective streets to avoid further accidents. In the event of claims it will be necessary to make clear that there is no admission of liability by the County Council and that any remedial work is undertaken on the understanding that whichever Authority undertakes the work is reimbursed if it is subsequently found not to be responsible.
- 6.72 By 2009 both housing and highway functions may well rest with one or more Unitary Authorities. In the short term, however, all Authorities need to take active steps to identify problems and to undertake the remediation work. Costs will increase the longer this task is delayed.

Section Seven – National and Local Policies, Strategies and Performance Targets

- 7.1 **Section 41 of the Highways Act 1980** imposes a duty on the Highways Authority (the County Council, in Durham) to maintain "highways maintainable at public expense". Section 58 of the 1980 Act states that a statutory defence against third party claims is provided where the Highway Authority can establish that reasonable care has been taken to 'secure that the part of the highway to which the action relates' to a level commensurate with the volume of ordinary traffic such that it 'was not dangerous to traffic'. A systematic process of highway safety inspections, intervention and repairs applied in accordance with the Council's policy is necessary for the statutory defence.
- 7.2 **'Footpaths in better condition' (BV187)** is part of the priority area for improving the quality of the environment. This is measured by inspecting the condition of the footway surface. This is also included as a medium term priority 'ENV 3' in the **Environment Operational Plan** for 2006/07.
- 7.3 As mentioned earlier in the report, since the 1970's there have been various **codes of practice for highway maintenance**. The current code of practice for highway maintenance **'Well Maintained Highways,'** was published in 2005 by the UK Roads Liaison Group. They have also produced the following codes of practice:
- Well-lit Highways: Code of Practice for Highway Lighting Management
 - Management of Highway Structures: A Code of Practice
- The Codes provide guidance on the efficient, effective and economic delivery of highway maintenance services.
- 7.4 To fulfil its potential, it is essential that the local highway network is adequately maintained. The importance of and the need for adequate investment in highway maintenance has been recognised as shown by the high value placed on it by users and the wider community with regard to safety and journey reliability. In this regard a sustained long term programme of investment which is planned, efficiently managed and supported by effective technical and management systems is required to be implemented in conjunction with the Local Transport Plan (LTP2) process and through the development of a **Transport Asset Management Plan (TAMP)** regime.
- 7.5 Footway condition was targeted as an environment priority following a survey in 2004/5 which indicated that 45% of the footway network required refurbishment. Following a 100% survey this has been revised down to 28% in 2005/06. Under LTP2 it is intended that this will be reduced to 20% over the next five years.
- 7.6 The Transport Asset Management Plan, which is currently under development, is a new approach introduced by the Roads Liaison Group and will link planned investment to network value. It sets out an approach for the management of the transport asset and represents the start of a process of setting out a framework for continual improvement. It will be used to make

informed decisions for the optimisation of budgets, programmes and scheme selection.

7.7 **The Local Transport Plan** has a significant role in relation to the promotion of walking and cycling. Harris Harvey, Business Manager, Transport Strategy & Design, provided information to the working group about these aspects of the Plan.

7.8 The second Local Transport Plan (LTP2) addresses the national shared priorities and this includes:

- improved access to jobs and services
- better public transport
- greater road safety
- reduced problems of congestion
- better air quality

7.9 LTP2 also addresses a wider agenda including improving the quality of life and health of people. As part of local priorities accessibility is considered to be the biggest problem for people particularly for those in rural areas.

7.10 Over the course of LTP2, Rights of Way Improvement planning will be progressively incorporated into local transport planning. This provides authorities with a new opportunity to ensure local transport planning is making the most effective use of the rights of way network, in both urban and rural areas particularly in delivering better networks for walkers and cyclists.

7.11 Authorities will also aim to involve local people, the local business community, those delivering other public services, and other key stakeholders. In addition they will also work with all Local Strategic Partnerships (LSPs) within the LTP area, to ensure the broad consistency of local transport strategies and Community Strategies.

7.12 The aims of LTP2 are as follows:

- Bring about equality and social inclusion through better accessibility
- Instil a culture of safety
- Fulfil the transport role in the delivery and support of a vibrant and efficient economy
- Build liveable streets and neighbourhoods
- Protect the environment
- Contribute to the improvement of peoples' health and access to health services

7.13 Of the 20 objectives within LTP2 the following relate to better walking and cycling provision:

OBJ02 Protect and improve the quality of the environment in the County's towns and villages.

OBJ04 Raise the level of satisfaction of residents with their local area as a place to live.

OBJ09 Reduce waste by increasing the recycling and re-use of materials in the construction and maintenance of the highway network.

OBJ10 Improve access to local services through a sustainable, integrated transport system.

OBJ11 Increase access to rural areas and to major links in the County.

OBJ16 Maintain and improve a high quality transport infrastructure.

OBJ18 Increase the numbers of people using buses, walking and cycling.

7.14 LTP2 and the Rights of way Improvement Plan will be integrated during 2007 and this will establish shared aims and recognise rights of way in the development of an integrated transport network.

7.15 Programmes within LTP2 are set at two levels. Over the period of LTP2 the County-wide programme for Integrated Transport will invest in:

- Rights of Way Improvement Plan support (£420,000)
- Improved access to existing developments (£135,000)
- Workplace/School Travel Planning (£1.505million)
- URR programme support (£475,000)
- Transport & Health Action Plan support (£630,000)

7.16 The County-wide programme for Maintenance over the period will invest in:

- Carriageway maintenance
- Footway maintenance (over £11 million)
- Bridge strengthening and maintenance
- Footbridge maintenance (£250,000)

7.17 There are LTP2 Area Programmes for each of the 7 Local Strategic Partnerships (LSP's) and these will have schemes which target community transport, walking and cycling and disabled access improvements.

7.18 Walking and cycling will be supported by the investment of up to £2M over the 5 year plan period. Examples of the support are as follows:

- Supplementing the Parish Paths Partnership programme
- Contributing to The Mineral Valleys project - The Valleys Cycleway and Greenways project
- Providing footway links
- Enhancement of the 5-Villages Network - *The Limestone Links*

7.19 LTP2 is a capital programme and can only provide better infrastructure. Winning hearts and minds may need to be addressed by revenue funding. Examples of how this can be achieved include:

- More focussed and targeted strategies
- Effective footway maintenance
- Reduce graffiti, litter and rubbish
- Remove blockages - signs, barriers and indiscriminate car parking
- Address personal security concerns
- Higher social status needed for walking

Performance

7.20 Due to failing performance, the Authority included footway condition as a Priority for Improvement in the Best Value Performance Plan (BVPP) 2006/09

and a Service Priority for Improvement in the Environment Operational Plan 2006/09. A Detailed Visual Inspection in 2004/5 indicated that 45% of the footway network required refurbishment. Following a 100% survey this has been revised down to 28% in 2005/06. Under LTP2 it is intended that this will be reduced to 20% over the next five years.

- 7.21 Additional funding of £688,000 has been provided from the public liability insurance (PLI) fund that will be used to target footpath condition improvement works across the County. Nine settlements across the County have been identified which are currently subject to high levels of claims.
- 7.22 A risk assessment of footways undertaken in 2005 produced a total risk score of 40 for the BVPI moving from 3rd to 4th quartile. Following additional investment, the risk assessment was reviewed in November 2006 and produced a total risk score of 16. The Authority moved from the 4th quartile to the 3rd following the additional investment though there was a risk that it could fall back without sustained investment. However BV 187 only relates to categories 1A, 1 and 2 footways which represent approximately 4% of the total footway network length.
- 7.23 In terms of the overall highway condition, the County Council is in the top quartile for A class roads, the 2nd quartile for B and C class roads and the 3rd quartile for unclassified roads.
- 7.24 The overall condition of the highway network is linked to expenditure and the poor condition of the footway network is linked to significant under-investment of the late 1980's and early 1990's, though this has been addressed to some extent.
- 7.25 The first part of the LTP1 Delivery Report assessment indicated the following scores:
- Highway Condition 13 out of 15
 - Road casualty reduction 3 out of 10
 - Public transport 3 out of 12
 - Cycling 3 out of 3
- The overall score was 22 out of 40, though the Impact/Strategy is still to be assessed. Overall there was excellent progress in arresting decline in the structural condition of the highway network and meeting the LPSA stretched target to improve condition.
- 7.26 In comparison to other County Councils within our family group for footway surface condition, the County Council is around midpoint in the 3rd quartile.
- 7.27 The National Road Maintenance Condition Survey (NRMCS) for non trunk footway overall deterioration showed that the County Council's performance was better than the national average with a significant improvement since 2002. There has been a slight deterioration during 2005. In relation to footway trips the NRMCS survey showed that the County Council's position is much worse than the national average though performance has been improving.

7.28 Benchmarking in the APSE performance network for 2004/05 showed that the County Council did very well in its family group. Performance of local best value indicators was as follows:

- LBVPI SA1 - Total number of reported incidents of dangerous damage to roads and pavements repaired or made safe within 24hrs from the time that the Authority first became aware of the damage as a percentage of such incidents - 100% of roads repaired within 24 hours
- LBVPI SA2 - The percentage of routine safety inspections completed within the required time limits by the Authority's Highway Inspectors – 98.9% of inspections are carried out within the time limits.

Section Eight – Consultation and Engagement

Introduction

- 8.1 Consultation and engagement for this project consisted of a roundtable meeting with representatives from District Councils and a written consultation exercise with Parish and Town Councils.

District Council Views

- 8.2 District Council colleagues attended a meeting of the working group on 6 November 2007 and were invited to give a brief summary of the position relating to footways within their Authority areas and to elaborate any views they wished the working group to consider. The following comments were made:

Chester le Street District Council – There is no regular inspection of housing footways. There is only one engineer currently employed by the District Council.

Wear Valley District Council – Their main concern is the condition of link footpaths within Council housing estates. Their Insurers have suggested that the County Council has responsibility (Gulliksen case). The County Council is fully aware of the position but no conclusions have been reached.

Derwentside District Council – Their residents are unhappy with the appearance of the network, even if it is not considered to be dangerous. In addition there are concerns about designs that make it difficult to maintain and clean footways. This has arisen as a result of the mechanical sweeping of footways, which was causing damage to footway surfaces. This needs to be further discussed between County and District colleagues. It was explained that the Government is working towards the introduction of aesthetic BVPIs, which might help tackle the appearance of footways. There is an issue of whether there should be better specifications for footways where parking on the footway results from denser housing development.

Durham City Council – There is a need to identify and map the extent of unadopted footways and highways (linked to Gulliksen).

- 8.3 Members generally felt that it was difficult to explain the difference between adopted and unadopted streets to constituents. There was also concern, following the transfer of housing stock to Arms Length Management Organisations (ALMO's) and the sale of property to former tenants, about who would be responsible for highway and footway maintenance and meeting personal injury claims. In addition, there were approximately 1,000 unadopted streets that need to be made up to adoptable standards and it was estimated that this would cost £60M.
- 8.4 Concern was also expressed about poor reinstatement work following utility works. If there is a complaint from residents, utility companies will be asked to return to carry out further repairs.

- 8.5 In relation to new developments, the working group was advised that developers have to provide a bond under Section 38 of the Highways Act 1980. If the developer fails to make up roads and lighting to adoptable standards the Authority can use the bond to complete the work.

Parish Council Views

- 8.6 The Working Group received a presentation from Geoff Race about the views of Parish and Town Councils and the Environment Service response as follows:

West Rainton Parish Council Views

- No cycle path from West Rainton to Carville.
- **Environment Response** - A request for a footpath link between the Park and Ride site and Ramside Bridge on the north side of the A690 had been received. An effort had been made to obtain funding from the Local Area Programme (LAP) but this was not successful. This scheme was held on the LAP future scheme list and there was some optimism that this scheme will be constructed some time in the future. At the time of writing the report, this work had been carried out.

Seaham Town Council Views

- Layout of older housing estates means that many cars park wholly or partly on footways and footway construction standards should be to a higher specification, thus avoiding complaints, insurance claims, repairs and maintenance costs for the County Council. In relation to utilities there appears to be little collaboration or consultation between companies undertaking the works, especially in relation to planned improvement schemes.
- **Environment Response** - The Service was aware of the damage caused by vehicles parking on footpaths, especially flagged footpaths. There was often no alternative for the residents other than to park on the footpath. When schemes are undertaken for the replacement of such footpaths the new footpath is designed accordingly. Whilst a new footpath will often be nominally 170mm thick, in such locations with known over-run it will be designed as a crossing at 305mm thick. Sometimes, a thicker construction will be used at the front of the footpath near to the carriageway where vehicles will over run and then 'normal' construction for the rear section.
- A New Roads and Street Works Act 1991 Quarterly Co-ordination Meeting is held, at which Utility Companies table their forward work programmes to enable works to be co-ordinated, and any conflicts of works by different Utilities and the Highway Authority resolved. However, for 85% of the Utility works undertaken in the County, the Authority receives less than a days' notice. This is because the Utility Company does not have to submit notice in advance for emergency or urgent works, and for minor works they can submit a "daily whereabouts" notice. These account for the vast majority of works sites. Where DCC as Street Authority know about works in advance, we will do all that we can to co-ordinate those works to minimise disruption to traffic. However, the current regulations are not as helpful as they could be, and the

Service has only limited inspection resources to “police” their activities. Of the 15,000 Utility works which take place each year, the Council is only able to inspect 1,500 sites.

Cassop-Cum-Quarrington Parish Council Views

- Blocked drains cause ponding. There is a need for a further programme of dropped kerbs for wheelchairs and pushchairs. The Council should consider adopting and maintaining further paths in some areas, where these improve a network of paths away from the vehicular highway. (As this would in some case require construction to an adoptable standard, including street lighting, a programme of such works could also be worked out with parish councils and other relevant parties, and consideration given to how they can be financed.) All utility companies and their contractors who dig up the highway should erect prominent signs saying who they are and how they can be contacted, what work they are doing and when it is expected to be completed. Utility companies should agree completion dates with the County Council and abide by them, with a penalty clause if they fail to do so. The Council should publish easily accessible lists of works to be done over, say, the forthcoming six months, by or for the County Council, by area. Penalties should be imposed for utility companies that (i) use barriers that fall over as soon as you look at them, blocking highways etc. and (ii) don't take them away again for months (if ever) afterwards.
- **Environment Response** - The County Council does unblock drains when informed of problem areas. In relation to dropped kerbs, the County Council has provided a significant number of dropped crossings in recent years and will continue to provide them where possible. There is no direct budget for DARs in 2007/08 but the Council will continue to provide them via LAP, Members Allowance, Safer Routes to School, Maintenance Schemes etc. As regards currently non-adopted footpaths, the County Council will be considering non-highway footpaths with District Councils under the Gulliksen ruling and some of these will become adopted footpaths and hence require improvement to an adoptable standard. It is a reasonable suggestion that these discussions should be extended to Parish Councils but we would not be able to give any commitment that funding would be available to adopt additional footpaths. In relation to information provision where there are highway openings, the Utility Companies are required by law (Section 65 New Roads & Street Works Act 1991) to display an Information Board at every site involving excavation. The Information Board must clearly display the name of the Utility Company and a telephone number which can be contacted in emergencies.
- When a Utility Company submits a Notice to the County Council as Street Authority that they are going to undertake works, they have to specify the start date together with a duration for the works. If the Utility works extend beyond the end date specified, then they are liable to a fine under NRSWA Section 74. However, the Street Authority has to have actual evidence of the Utility being on site after the end date. As there are only 3 Inspectors to cover the road network, this means that many overruns go unnoticed. As regards co-ordination of works, an NRSWA Quarterly Co-ordination Meeting is held at which Utility Companies have to table their forward work programmes to enable works to be co-ordinated, and any conflicts of works by different Utilities and the Highway Authority resolved. However, for 85% of the Utility

works undertaken in the County, we receive less than a days' notice, because the Utility Company does not have to submit notice in advance for emergency or urgent works, and for minor works they can submit a "daily whereabouts" notice.

- Utility Companies are required by law (Section 65 New Roads & Street Works Act 1991) to erect signs and barriers to protect users of the highway in accordance with NRSWA Code of Practice for Safety at Street Works and Road Works. In 2005/06, the failure rate across all Utilities was 13.5%. This poor performance is now being challenged routinely by DCC, in one 18 month period, fines totalling more than £40,000 had been imposed by the courts as a result of the more serious offences being prosecuted. The Utility Companies were now each introducing new systems and procedures to ensure compliance with the requirements of NRSWA. However, it was likely to be some time before a real improvement is noted on the ground. In the meantime, they would continue to be prosecuted.

Witton le Wear Parish Council Views

- Dead leaves in Autumn lying on the footways are a hazard. Dead leaves also block drains in the village. There are a number of cracked and uneven paving stones and kerbs, and roughly patched areas of pavement.
- **Environment response** – Clearing away dead leaves is currently a District Council function. Witton le Wear is no different to many other villages in that there are many cracked and uneven paving stones and kerbs and patched areas of pavement. This is symptomatic of years of inadequate highways maintenance budgets which as officers we are aware of but have little influence in addressing the problem. At the last routine safety inspection the inspector identified some category 1 carriageway potholes which were attended to. The next inspection was imminent. There are no proposed maintenance schemes, surface dressing, micro asphalt or FST in Witton le Wear.

Stanhope Parish Council Views

- Councillor Shuttleworth explained that the main concern of the Parish Council is the condition of footways within housing estates.

Section Nine - Best Practice

Introduction

- 9.1 Research on Best Practice in relation to footway provision and maintenance was commissioned from the University of Northumbria and undertaken by Glenn Simpson.

Background

- 9.2 Government policy aims to encourage more walking among the population, as people are now walking less. For instance in 1975-76 the average person walked 255 miles per annum compared to around 189 miles per year today. Walking is seen as a way of addressing a number of core Government policy objectives such as reducing car journeys and environmental impacts, addressing health problems such as obesity, encouraging greater use of public space as a means of combating crime and strengthening social cohesion by increasing social interaction among residents in local neighbourhoods.
- 9.3 One key factor that has been identified as contributing to encouraging walking is better footway provision and higher standards and greater frequency of maintenance. In *'Encouraging walking: advice to local authorities'*, the Government asked councils to address three priorities in terms of footway provision and maintenance. These are:
- the deterioration of footways;
 - the quality of materials and the design and construction of footways (with particular emphasis on the need for tactile surfaces and flushed dropped kerbs, to make footways continuous, and to improve access for all); and
 - a lack of space, as accessibility and movement are restricted by narrow footways, and often further reduced by obstacles such as street furniture.
- 9.4 In response to deteriorating footway conditions, the Government introduced in 2002 the Best Value Performance Indicator BV187 - 'condition of surface footway'. BV187 targets the percentage of footway network where structural maintenance should be considered by local authorities. This was seen as a way to encourage local authorities to improve footway conditions in their local areas.
- 9.5 For most local authorities especially those covering large geographical areas, maintenance of footways is an enormous task, mainly because of the length/distance of surfaces to be inspected and the logistics of undertaking this work in both a cost and time effective way. In addition a tighter budgetary environment in local government in recent years has put additional downward pressure on highway maintenance budgets, in particular footway maintenance expenditure. In many local authorities footway maintenance has often lost out to other priority areas.

9.6 Despite Government policy efforts to improve footway conditions as described in the preceding section, the campaign group Living Streets argues that:

...footways are often seen as secondary in importance to roadways. Yet almost everyone, including car drivers, are pedestrians. Every public transport journey begins and ends with walking.

9.7 The Government's transport strategy '*Transport 2010 - The 10 Year Plan*' published in 2000 set out a target to stop the deterioration in the condition of local roads in England by 2004. Significantly however this strategy did not include footways, although this issue has subsequently been addressed by the Government. In 2001, for the first time since 1995, the condition of the roads other than motorways improved. Yet for the estimated 281,000 km of footways in England and Wales, deterioration continued. Indeed, footways are in their worst state than at any time since 1986. Around 24% of all footways showed general deterioration and there existed an average of 2.3 'trip hazards' for every 100 metres. Every category of footway has deteriorated since 1997, but those on rural classified have deteriorated the most.

Category of footway	% deterioration since 1997
Urban Principal	30
Urban Classified	11
Urban Unclassified	17
Rural Principal	13
<i>Rural Classified</i>	41
Overall	17

9.8 Moreover the increase in 'trip hazards' is an even more stark indicator of deteriorating footway conditions. Since 1997, the number of trip hazards per 100 metres of footway is up by 77%. Evaluations conducted by the Audit Commission found that footway maintenance was generally the **worst rated local government** service and that the service had seen little improvement in recent years.

9.9 The condition of footways and footpaths can **influence people's decisions** on whether to choose to walk for local journeys, for instance the elderly and mobility-impaired people can be particularly affected by poor maintenance and slippery or uneven surfaces. Another factor is that retired people over 60 have fewer cars *per capita* than the general population. The proportion having access to a car falls from 83% at the age of 60 to 47% at the age of 70 and only 24% by the age of 80.

9.10 It is not only maintenance that affects the quality of footways and the public's experience of using footways. Other physical factors that can make footways and footpaths unattractive and deter people from walking include:

- Narrow pavements;
- Litter and dog fouling;
- Street clutter;
- Excessive signing;
- Illegal cycling on pavements;

- Illegal pavement parking;
- Overgrowth and encroachment;
- Lack of benches and other facilities for pedestrians;
- Lack of facilities for mobility impaired people; and
- Distance (an important factor because many people will be put off walking if the journey is over one mile, and are very unlikely to walk over two miles).

9.11 As a result of these factors most local authorities find during consultation exercises that **footway conditions rank highly** as a public priority. A survey by the National Consumer Campaign in 1995 highlighted a range of public concerns about the pedestrian environment:

- Cracked or uneven pavements (44% of respondents)
- Dog mess (43%)
- Too much traffic, busy roads (30%)
- Vehicles parked on pavements (27%)
- Bicycles ridden on pavements (20%)
- No pedestrian crossings (19%)
- Pavements dug up (17%)
- Un-cleared snow/ice/leaves (15%)
- Litter and rubbish (11%)
- Narrow pavements (11%)

9.12 However it is important to understand that the need for maintenance is rarely caused by excessive pedestrian use but is more likely to be a combination of:

- Disturbance by statutory undertakers excavations (e.g. utilities);
- Tree root damage
- Over-riding by parked vehicles.

9.13 Damage from vehicles over-riding the footway is most often evident in older residential streets which have neither the road width nor the necessary off-street parking facilities. In addition the type of surfacing used in these areas can often be more susceptible to damage from vehicles and more difficult and costly to repair.

9.14 Living Streets also highlight two other problems with maintenance, which are often over-looked but can have significant impacts on the quality of the walking environment. First is **adequate drainage** of footways. So-called 'ponding' can be a major problem, where water fails to run off and leaves large puddles on footways. Poor drainage not only impacts on the pedestrian users experience but if it is not rectified can also cause long term structural damage to the footway. In addition '**sight-lines**' can often be blocked. Things such as overhanging hedges, vehicles parked on the pavement or other obstructions to sightlines not only divert pedestrians into the road, but they also create an unsafe walking environment, particularly for vulnerable groups in society. A representative of Living Streets is on the Durham Transport Partnership Forum.

9.15 The Living Streets campaign group highlight a number of key debates in regard to footway maintenance and provision. First, is there a need for increased prioritisation of footways by local authorities? Survey audits undertaken by Living Streets found a need for **increased prioritisation**.

Many local authorities decide their spending priorities for highway maintenance based on road conditions and levels of motorised traffic. In contrast footway improvement is often seen as a by-product of highway maintenance. It is often the case that the condition of a footway and its level of use are not taken into account when decisions are made about spending priorities. As a result, footways beside dual carriageways (where footfall is often light) can often be replaced before more heavily used footways that are in poorer condition. This suggests that motorised traffic is given greater priority than the needs of pedestrians, which is a reversal of the road user hierarchy. Living Streets argue that local authorities should prioritise footway improvements on the basis of the condition of the footway and its level of usage.

- 9.16 Second, are local authorities getting value for money for their maintenance? **Many local authorities may not be getting value for money as a result of taking decisions on footway maintenance on a short-term basis.** In some cases cheaper materials are favoured over more expensive but more durable products, particularly in cases where there are significant budgetary pressures. Often too little attention is paid towards the on-going maintenance costs needed to maintain the improved footway in excellent condition. The result can be 'creeping degradation'. Examples of this include:
- Cracked paving flags not being replaced;
 - Paving flags subsiding to leave trip hazards;
 - Disintegrated tarmac;
 - Footways not being reinstated properly after road works.
- 9.17 Living Streets argue that local authorities should experiment with long-term service contracts, whereby a contractor is paid to upgrade the footway and then maintain it at that standard for a number of years. This would give an incentive to the contractor to install high quality, durable products in the first place in order to reduce longer-term maintenance costs. A more long-term approach by local authorities, while more expensive, could provide better value for money over longer time periods.
- 9.18 Third, Living Streets point to the need for a more **customer-focused approach** to footway services. They argue that the level of contact with the pedestrian 'consumer' is very low. As a result it is suggested that local authorities should follow best practice in auditing pedestrian accessibility to and within local town centres, schools, bus stops and stations and other travel generating areas. These audits must include consumers. In contrast Living Streets point out that other local authority services have made significant strides to become more customer-focused in recent years. In comparison, many councils are still under-performing in their attention to good customer practice concerning streets and footways in particular.
- 9.19 One practice measure suggested to improve customer service is to empower the public so that they can make complaints about footways. As best practice councils do in relation to their council housing repairs service, people reporting footpath defects should be given a repair number and should be told what action has been taken as a result of their complaint. They should be able to telephone at a time convenient to them (e.g. when they are walking home in the evening) to make a complaint or receive an update. In addition a more customer-focused service could generate useful information on where

accidents are occurring or potential hazards. This information can inform future decisions on maintenance programmes and lead to better value for money.

- 9.20 Fourth is the question of addressing **pavement parking**, which can cause significant damage to footways and create significant inconvenience and even danger for pedestrians. However the evidence suggests that footway parking is often not taken seriously by local authorities or the police. Often the offence is seen as being trivial or too much effort for little return by enforcement agencies. In addition the scale of the problem is significant in some local areas and strong enforcement could prove to be politically unpopular among sections of the local community. In London, it is illegal to park on the footway, whether there are yellow lines or not. Local council enforcement officers, as well as the police, are allowed to prosecute offenders. However these powers are not available to local authorities elsewhere in England. Nevertheless there are limited enforcement powers available to councils, although whether these are used depends on how seriously the problem is regarded by enforcement authorities.
- 9.21 Fifth is the issue of **better signage for pedestrians**. It is clear that most street signage is intended for use by motorists rather than for the benefit of pedestrians. Indeed, road traffic signs are often placed on footways with little concern for pedestrians. Pedestrian signage is often patchy or poorly designed and located and in some cases is not even considered when footways are being maintained. Street name signs are often left damaged because of poor maintenance or are sometimes left dirty and difficult to read. As a result, many people find navigation on foot to be a very difficult exercise. Local authorities should explore initiatives such as on-street maps at key locations, standard designs for pedestrian signs, making available hand-held maps for visitors and on-street computer terminals providing walking information.

Footway Maintenance Policies of Selected Authorities

- 9.22 This section highlights the footway maintenance policies and strategies adopted by local authorities.

Buckinghamshire County Council – maintenance policy

- 9.23 Council policy states that footways should be inspected at the following intervals:
- footways in main shopping and busy urban areas: *monthly;*
 - urban and busy rural footways: *three months;*
 - all other footways: *six months.*
- 9.24 There is a commitment to repair defined footway defects **within 24 hours** of receiving notification of the defect. In recent years, structural maintenance resources **have been targeted towards footways** in residential and shopping areas where usage is highest.

Edinburgh City Council – maintenance policy

9.25 Maintenance in areas with high numbers of ***trips and slips accident claims are given the highest priority*** in the allocation of maintenance resources. Other factors taken into consideration include:

- condition of the construction, surfacing material or lining;
- the safety of pedestrians and cyclists;
- the prevention of damage to vehicles due to footway, cycleway and road condition;
- the role of the street in terms of the Street Management Framework;
- volumes of vehicles (including buses) and pedestrians;
- presence and condition of special facilities for buses or cyclists;
- presence or proximity of sensitive institutions/development such as schools or hospitals;
- other planned schemes (e.g. new traffic management schemes or other maintenance schemes).

Warwickshire County Council - footway and urban footpath standards policy

9.26 The County Council seeks to ensure that footways and urban footpaths are designed and maintained to a good standard, giving particular attention to the key routes for pedestrians within maintenance regimes. Key priorities are:

- Ensuring that the needs of pedestrians are given high priority within highway maintenance programmes;
- Prioritise the key pedestrian routes to town centres, retail and leisure areas, schools, major employment areas and public transport interchanges within inspection and routine maintenance programmes;
- Ensure that emergency footway and urban footpath defects are repaired quickly and efficiently;
- Seek to co-ordinate street works to minimise impact on pedestrians;
- Seek to reduce obstructions on key pedestrian routes, such as street clutter, excessive signage and overgrown vegetation;
- Ensure that any works to improve footways and urban footpaths take into account the needs of people with mobility or sensory impairments; and
- Design new footways in accordance with the Design Manual for Roads and Bridges or in the case of new developments, in accordance with the County Council's guidelines Transport and Roads for Developments.

Leeds footway strategy

9.27 The footway inspections and surveys regime is carried out as follows:

- *Monthly* walked inspections were introduced on all *prestige* and *primary* walking routes in 2003. However several of these routes are in a good condition with no condition related liability claims. There were no safety defects requiring repair following inspection. These routes have been individually identified and now have a *three monthly* walked safety inspection.

- *Secondary and link footway routes* are inspected *quarterly* in conjunction with the quarterly driven carriageway safety inspections. Some footway defects may be shielded from view, for example by parked vehicles. Hence where an inspector is unable to make a decision from the moving vehicle, closer observation may be made on foot.
- *All footways* have an *annual* walked safety inspection carried out in conjunction with the annual walked carriageway safety inspection.

For footways, the need to maintain ***safety and minimise tripping accidents*** is the prime consideration.

Coventry City Council

9.28 Coventry found that their response to slips, trips and falls on flagged footways by repairing the trip hazard using a bituminous product (black top) was leading to an increasing 'checker board' effect on the 58% of footways that were of a flagged or blockwork construction. This situation caused growing public dissatisfaction with the appearance of the city's footways. To address this problem and improve the service generally the following processes practices and technologies have been adopted over recent years including:

- An Area Forum based reporting and consultation approach.
- The replacement of flagged footways with flexible surfacing and, where appropriate, slurry sealing on footways helping to reduce risks from trip hazards and to reduce cost whilst also reducing the skills demands, in carrying out repairs and replacements.
- Use of recycled concrete and other road materials in lieu of granular sub-base, particularly for use by utilities in footways and other areas that have produced cost savings and environmental advantages.
- The use of retreading and ex-situ full depth recycling techniques which both reuse the existing highway material after reprocessing.
- The development of robust service standards for emergency repairs to footway trip hazards as part of a risk management strategy.
- The adoption of a UK Pavement Management System (UKPMS) - a sophisticated assessment system for recording highway condition using data based on mechanical and visual inspection procedures.

According to the council these processes and practices have all contributed to the provision of a more ***efficient and cost effective service***.

9.29 In addition to the measures mentioned above all new footway construction in Coventry, whether by planned/programmed works or new development will be constructed using a flexible footway surface of a colour and style acceptable to the local environment. In most instances this will mean a black top construction. The policy would not apply to the areas listed below due to their local, historical and strategic importance and contribution to the local environment. These include:

- Conservation Areas;
- City Centre;
- Areas of particular age or style;
- Main pedestrian routes into the city centre;
- Specific district shopping centres.

- 9.30 All repairs to footways are undertaken using the local material present at the particular site. Therefore, where footways are of flagged construction they will be repaired by lifting and/or replacing broken or dangerous slabs in the timeframe detailed in the Code of Practice. The practice of using black top to repair paved footways will cease. Where footways are constructed with flexible materials they will be repaired using the same materials.
- 9.31 The overriding of the footway by vehicles can cause damage to flagged footways. Where damage of this type occurs on a regular and repetitive basis, footway protection schemes are considered. Typically the use of bollards to prevent the paved area being overridden is the most cost effective solution and it contributes to both a reduction in the number of trips, slips and fall hazards and improves whole of life costs for flagged footways.
- 9.32 A number of recommendations were adopted following a highways best value review in 2001:
- 1) Patchwork repairs of damaged footway flags will be adopted as an emergency safety measure only. Where vehicles damage large areas of flagstones these will be replaced with a uniform, smooth tarmac surface unless they are in conservation areas or the city centre (*This practice has been revised as part of the Highway Maintenance Strategy*).
 - 2) New surfacing materials have been specified and research and trials of new patching techniques carried out resulting in the adoption and acquisition of modern equipment.
 - 3) Regular liaison meetings with utilities have been implemented. New inspection staff have been appointed and trained. All aspects of NRSWA are now monitored/controlled using a new software package.
 - 4) A full audit of street trees is underway utilising newly acquired surveying hardware with data held on a Confirm module. This information will form part of the Coventry's Highways Asset Management Plan. Charges levied against undertakers now form a useful source of revenue. The New Traffic Management Act 2004 will cause major changes to this area of our operations.
 - 5) A dedicated footway-crossing officer has been appointed in order to reduce delays in processing applications for footway crossings.
 - 6) When grass verges are repeatedly and substantially damaged by overriding vehicles, or where safety is a major consideration, bollards may be installed.
 - 7) Cycleways form part of the Highways Asset Management Plan and the necessary maintenance will be monitored using this policy. The costs of maintenance of the increasing number of coloured surfacing, white lining, signing etc. associated with these features will need to be addressed when such schemes are proposed.
 - 8) A Corporate Training and Development Strategy has been introduced to develop the skills base and ensure continuing development of the workforce. A dedicated CSD training officer had also been appointed.

Coventry's footway inspection regime

- Footways Prestige Area: *1 month*
- Primary Walking Route: *1 month*
- Secondary Walking Route: *3 months*
- Link Footway: *6 months*
- Local Access Footway: *1 year*

Best Practice/Innovation

9.33 A number of councils have adopted innovative footway provision and maintenance practices.

Recycling and re-use of materials for footway maintenance

- Newcastle City Council has saved over £160,000 by using recycled materials in the **sub-bases** for car parks and footpaths. The City Council's building arm, in partnership with a local recycler, ensures that all suitable materials produced by the Council's building works are recycled back into construction projects.
- Similarly, Fife Council has **re-used material** from footways (excavated during routine pavement renewals) as sub-base for new footways. This has resulted in:
 - £11,700 saving on cost of materials;
 - £108,000 disposal costs avoided;
 - 9,000 tonnes of waste diverted from landfill.
- Swindon Borough Council aims to ensure that footway maintenance works will consist of up to **75% recycled materials** sourced locally.
- Hampshire County Council are **using, reusing and recycling pre-cast concrete**, green and gully waste and blacktop in their highways maintenance programme. One scheme has seen the development and use of *Foamix* for footway repair and road construction – this is a blend of recycled materials bound together by a foam of bitumen and water. Compared with traditional methods it was found that:
 - Evacuation and disposal costs of original highways materials were significantly reduced.
 - The need for production and transportation associated with virgin aggregate was reduced.
 - Energy savings, as this is a 'cold' material although a detailed analysis to quantify the environmental and energy costs of the process needs to take place.
- In 2000, Essex County Council entered into a **partnership arrangement** with May Gurney, Alfred McAlpine, Southend-on-Sea Borough Council and Thurrock Council to form the Essex Highways Recycling and Innovations Group. The aim of the Group is to maximise the production of recyclable material and to minimise the tipping of residual construction materials into landfill sites in highways maintenance work in Essex. Targets for recycling – covering aggregates plus other materials – were agreed as a percentage of all materials used, as follows:
 - 1st year 2000/01 5% target
 - 2nd year 2001/02 12% target
 - 3rd year 2002/03 20% target
 - 4th year 2003/04 28% target
 - 5th year 2004/05 35% target

- 6th year 2005/06 43% target
- 7th year 2006/07 50% target

- A number of innovative methods are used to achieve the targets, including the installation of rubber kerbs, treatment of excavated soil from footways to produce material for sub-base and base layers and ex-situ and in-situ cold recycling techniques for footways and carriageways. Foamed bitumen and cement are both used for in-situ recycling, with the latter halving the costs relative to traditional techniques.

York – Policy promoting the pedestrian

9.34 In 1990 York City Council introduced a **road user hierarchy** to guide implementation of their transport policy. This gave priority to road users in the following order:

1. pedestrians;
2. people with disabilities;
3. cyclists;
4. public transport passengers;
5. commercial/business vehicles requiring access;
6. coach-borne shoppers;
7. coach-borne visitors;
8. car-borne long-stay commuters and visitors.

The hierarchy reviews and challenges widely held, generally unconscious bias towards car travellers in transport planning practice.

Difficulties in taking preventative action against parking on footways – the case of Luton

9.35 In certain areas of Luton, the Borough Council was made aware that parking on the pavement was creating hazards for visually impaired, disabled and elderly people or those with prams or pushchairs. It was also causing increased verge and footway maintenance costs to the Council.

9.36 As a result of these problems, the Council's Environmental Services Committee resolved in March 2000 that a bye law should be introduced making the parking of vehicles on the footway or grass verge an offence subject to a fixed penalty notice. A further report on this matter was presented to the Executive in November 2004 advising that a bye law had **not been implemented** because of legal complications in drafting a bye law and associated road signs, the intensive resources required in providing evidence to the Magistrates Court, problems in establishing who committed the offence and the fact that none of the fine revenue would return to the Council to offset capital costs of introducing a bye law and revenue costs of enforcement and maintenance. The Council noted that powers available to London authorities to prohibit footway parking under the GLC (General Powers) Act 1974 is a much more effective method of addressing this problem. In London Parking Attendants may issue Penalty Charges to vehicles parked on pavements without the need for additional signing. This is a much quicker, cheaper and more effective means of enforcing pavement parking than with a bye law.

Cambridge County Council – ring-fenced funding for footway maintenance

9.37 The council has ring-fenced funding for footway maintenance in order to improve the quality of schemes. This reflects the council's determination to walking as a mode of transport is given priority. It also has a more mundane aim of reducing insurance claims. Specific measures adopted by the council include:

- providing direct and more convenient routes for walking;
- installing drop kerbs at all significant footway intersections and crossing points as well as at bus stops;
- introducing facilities for pedestrians at signal installations;
- improving footway lighting in areas where there is crime or fear of crime.

9.38 In addition the council has introduced **measures to assist those with disabilities**. For instance:

- Increase the number of pedestrian and controlled crossings with tactile paving in order to make walking safer for mobility and sensory impaired people.
- Whenever a footway or other areas used by pedestrians are being considered, repaired or renewed, consideration is given to those who are mobility and sensory impaired such as using the correct type of paving surfaces at all times, for example, by putting blister/raised bumps at pedestrian crossings.
- There are many types of disability and as a result the council attempts to put in infrastructure that is suitable for a range of people.
- Engage with local groups for people with disabilities in order to see what they would like in regard to walking.

9.39 Cambridge has also **increased the frequency** of safety inspections. This has benefits in terms of improving the condition of roads and footways, reducing insurance claims and increasing the satisfaction of the public.

Surrey County Council – prioritising walking

9.40 Surrey County Council has attempted to **promote walking** and make it a key priority in terms of overall transport policy. Surrey has produced a walking strategy which covers a number of key areas (these are assigned priority with the numbering used):

- 1) the accessibility of all town centres will be improved - this will develop from a pilot project in a town centre to identify problems and solutions, with methodologies evolving for application county-wide;
- 2) all highway schemes will be subject to pedestrian audit, taking account of mobility impairment;
- 3) innovative safe pedestrian crossing facilities will be promoted;
- 4) all traffic signalled junctions will provide safe and convenient crossing facilities for all pedestrians;
- 5) increased provision of pedestrian refuges/islands;
- 6) in line with the highway maintenance strategy, increased emphasis will be put on footway maintenance;
- 7) a budget will be created to meet demand for low cost pedestrian improvements;

- 8) the 'Rights of Way' network will be improved to encourage non-recreational use.
- 9.41 The strategy is the result of **extensive consultation** with parish councils, mobility impaired groups, the Pedestrians Association, Ramblers, Friends of the Earth and various other interested bodies. The principle behind the walking strategy is that it continues to evolve through participation and many of the individual strategy elements specifically depend upon this. Continued consultation is seen as one of the most important monitoring tools in measuring its impact. Travel Diary surveys obtaining data from approximately 1,200 households will in future be collected and reported annually.
- 9.42 In terms of footway maintenance there is a **Surrey Design Guide** that provides minimum standards for footways, dependent upon type of location, e.g. wider outside schools. In addition the council carries out regular footway checks, a programme of footway maintenance schemes and an annual programme of preventative works. All reported potential hazardous defects will be dealt with within 24 hours.
- 9.43 Although there is a specific budget for mobility impaired provision on the footway, there is no existing mechanism by which the demand for a new footway or footway extension can be met. Construction of such measures has relied on the pragmatic management of ongoing maintenance. However a **specific mechanism for meeting such demands** will be **investigated**.
- 9.44 Finally, apart from ongoing highway schemes, the County are often made aware (via local residents/councillors) of gaps in the pedestrian network which could be easily filled by, for example, a footway extension, a dropped kerb, a refuge or a bollard to prevent pavement parking. It is proposed to set up a **budget for low cost pedestrian measures**. This will allow the County to react to local requests irrespective of other funding priorities and thereby demonstrate a visible commitment to the promotion of walking. There would be no lengthy procedures involved (e.g. committee reports/feasibility studies) and the only criteria would be that funds must be used to benefit pedestrians and meet basic best value standards.

East Riding of Yorkshire Council and Worcestershire County Council – performance indicators

- 9.45 The East Riding of Yorkshire Council has installed dropped kerbs and tactile paving at all defined pedestrian crossings, both as specific measures and when opportunities arise as part of carriageway and footway maintenance schemes. A **performance indicator** to measure the 'number of insurance claims due to poorly maintained footways' has also been introduced. It was felt this can be used as an important guide as to the condition of the footways in the East Riding.

Worcestershire County Council

- 9.46 Worcestershire County Council's scrutiny committee review of highways found that BV187 performance indicator **only measured the condition of Category 1** (main shopping) and Category 2 (busy urban) footways, which formed only 3.7% of the entire network length in the county. By far the longest length of footways fell into Category 3 (quiet urban). The committee found that there was a clear need to improve category 3 footways, which are not

counted as part of the BV187. If expenditure was focused on category 3, rather than 1 and 2, this would have a detrimental impact on the BVPI (and possibly the Council's excellent status). However Members considered that the Council's priority should be residents' needs, rather than the BVPI. The committee felt that enabling residents and older people in particular, to walk safely would promote independence and help to encourage healthier lifestyles. A recommendation was made that **the Council adopted a new local performance indicator for footways**, which ensures that expenditure can be re-prioritised so that the condition of category 3 footways can be improved.

Making walking more accessible - examples

9.47 Walking can be made **more accessible** by improving footway maintenance and removing obstructions. Schemes include:

- Portsmouth City Council has set a target to repair all dangerous damage on pavements within 24 hours of notification;
- Hertfordshire County Council aims to identify and promote a network of pedestrian priority routes linking all major destinations, especially transport facilities;
- Bournemouth, Poole and Christchurch have appointed an Enforcement Officer to deal with obstacles on the pavement; and
- Halton Borough Council has developed a priority plan for tackling maintenance for new walking routes linking residential areas with schools, shopping centres and workplaces.

Utilities and footway maintenance

9.48 One of the main issues hindering good quality footway maintenance practice is the maintenance work of utilities, in particular the quality of their reinstatement work on public footways. Local authorities have adopted a number of approaches to address this issue.

9.49 A tough approach has been adopted by Devon County Council. The council actively **prosecutes utilities** in cases where poor quality work was not reinstated. They have made about 500 prosecutions in the last 3 years, more than all other local authorities.

9.50 In Hertfordshire, the Regional Highways Authorities and Utilities Committee have created a '**buddying system**' for each local authority within the region. Hertfordshire Highways 'buddied' with the electricity supplier EDF, and worked together to achieve improvement and share best practice in the region. Although this had been awkward and difficult (at times involving court cases), following an agreed improvement plan, it improved mutual understanding and how they worked together.

Audit Commission – good performing highways and related services local authorities

9.51 Evaluations of excellent and good performing highways authorities by the Audit Commission found a number of common themes:

- They were cost effective.

- The service had good customer focus, i.e. was responsive and accessible to the public and other key bodies such as parishes or community groups.
- There was good public satisfaction with highway condition.
- Resources are targeted in a thoughtful way to obtain the best results.
- The council works in partnership with others to deliver results.

9.52 Generally the better councils are ***effective at getting the best from their resources*** and at the same time are seen as ***approachable and responsive*** by the public.

Section Ten – Conclusions

The Importance of Footways

- 10.1 Footways are an intrinsic part of the highways network. It was made clear to the working group in evidence just how important footways are to the economic, social and environmental well-being of our local communities. The increased emphasis on walking and cycling, as outlined in LPT2 and on the rights of the pedestrian, make it all the more important that we maintain the footways network adequately. The condition of footways is also a target in LTP2 and so needs to be met to avoid financial penalties and loss of LTP2 funding.

Funding and Performance

- 10.2 The County Council has a statutory duty to maintain the highway. Regular maintenance and continuing investment in the footways network is essential in ensuring the safety of pedestrians; prevention of costly insurance claims and associated costs against the Council. Pressure on the County Council's budget in recent years has meant that the highways budget and particularly, highways maintenance budget, has had to bear its share of cuts. Whilst the impact of reduced expenditure can be borne without significant impact in the short term, the working group was told by Roger Elphick that continued under-investment which results in lack of maintenance, can lead to serious long term damage to footways, which is much more costly to put right.
- 10.3 Both Geoff Race and Roger Elphick advised the working group on a number of occasions that the estimated cost for footway repairs in the County to bring them all up to good condition is in the order of £75m. Whilst the working group noted the position, it felt that it was unlikely there were any highways authorities that did not have backlogs of varying extent. There has been some recognition by the Council of this issue, with nearly £700,000 of PLI funding identified for footway improvements/maintenance in 9 settlements throughout the County in 2006/07. The money has been targeted at areas with higher than normal insurance claims and this "invest to save" initiative should hopefully lead to a reduction of accidents, and thus reduce claims, which, in turn, should have a beneficial downwards impact on the Council's PLI premiums.
- 10.4 Whilst a key part of any scrutiny investigation is about looking to see if there are ways in which services can be provided more efficiently, in the case of footways, the working group believes there is a need for more investment by the Council in footways repairs and maintenance. The group heard in evidence about the Best Value Performance Indicator (BV 187) in relation to footways. In recent years the Council's Best Value position has remained in the lower quartiles and is only likely to rise with additional targeted investment in the footways network. Although the Council's performance has improved in the last few years, it has remained static in terms of its quartile position because of improving performance in other local authorities. Without further funding, the position is unlikely to improve.

- 10.5 The group is, therefore, suggesting that the Council considers increasing the footways element of the budget in the current year (a one-off increase), as well as looking at whether **any continued falls** in the Council's PLI premiums, which result from decreased claims, can be applied to footways repairs and maintenance, **on an ongoing basis**. As with the £688,000 applied to repairs in 2006/07, there may be some other geographical areas of the County (again, perhaps ranked by insurance claim levels), which would benefit from footway repairs and improvement.
- 10.6 In relation to performance, the working group heard in evidence that the Best Value Performance Indicator (187) is measured against footways in categories 1A, 1 and 2 in the hierarchy, yet it is category 3 and 4 footways which are the commonest and most widely used part of the network. There may be some merit (as the Northumbria University report mentioned had been done in some other highways authorities) in developing a local indicator for these categories of footways.

Tackling Car Parking on Footways in Housing Estates

- 10.7 There are additional areas of footways provision where the working group believes the County Council could operate more effectively. The group heard about £40,000 of funding which had been matched by some District Councils for verge hardening schemes. If it is possible to identify any increased funding for footways in consequence of the working group report, members felt that there might be some benefit in directing some of the monies into verge hardening schemes in those areas where District Councils are able to provide matched funding. The possibility of introducing parking restrictions on narrow streets (i.e. on one side of the road) as a possible solution in similar areas should also not be overlooked in those areas where such parking is causing serious inconvenience to pedestrians. The group also felt that, where there was significant obstruction of footways, the police also had a role to play. Finally, it was considered that the Council itself should do more to raise awareness of the issues – possibly by use of the Countywide free newspaper.
- 10.8 One of the issues considered by the working group in considering the draft of this report at its final meeting, concerned the potential problems caused by restrictions on off-street parking provision in new residential developments. In earlier evidence from Dave Wafer, it was said that planning guidance suggested provision for no more than 1.5 vehicles per new residential dwelling. Members felt that the reality was that many households had at least 2 cars and, whilst they supported the approach that people should be encouraged to use their cars less, they could not be forced to have fewer cars. Having a 1.5 vehicle limit meant that for many of those households who had at least 2 cars, there was potential overspill of vehicles from properties onto estate roads and footways, with resultant footway damage.
- 10.9 Officers from the Planning Team have subsequently commented that County Durham has one of the lowest levels of car ownership in the country. The accessibility and parking standards relate to an **average** on-site provision not exceeding 1.5 spaces per dwelling unit. It has been suggested that determining the car-parking requirement in the context of sustainable development is not straightforward and national guidance is inconclusive on the issue. There is an assumption that people who move into new property will be aware of its parking capacity and constraints, along with the

sustainable transport alternatives. The same accessibility and parking guidelines have requirements for the development of new estates relating to access to public transport services and facilities for walking and cycling. National policy is to find sustainable locations for new development with a view to reducing the need to travel by car.

- 10.10 Officers have commented that the current County Durham Accessibility and Parking Guidelines take a very flexible interpretation of the term “1.5 spaces” based on observations following on from Planning Policy Team research that only around 50% of garages are actually used for parking cars. Whereas the Government guidance counts a garage as representing one space, the County Durham guidelines take a garage to represent half a parking space. Therefore, a single garage with a space in front to park one car is considered to accord with the standards. Thus, most average sized dwellings will be built with the capacity to accommodate two vehicles.
- 10.11 The average 1.5 parking space per dwelling in County Durham for new residential dwellings is applied by the Local Planning Authorities (the District Councils), in their District Local Plans (to be replaced by Local Development Frameworks), which in turn, take their approach on this issue from the Accessibility and Parking Guidelines in Annex G to the Local Transport Plan 2 (which has been approved by the County Council). The guidelines, likewise, are derived from a number of planning policies and plans, which, in relation to the 1.5 space average, include Planning Policy Guidance Note 13 (Transport) and Planning Policy Guidance Note 3 (PPG3 - Housing). It was PPG3 which introduced the average of 1.5 off street parking places per new residential dwelling standard. PPG3 was replaced in November 2006 by Planning Policy Statement 3 (PPS3), which is less prescriptive. It remains for local planning authorities to determine off street parking levels in consultation with stakeholders and local communities “taking account of expected levels of car ownership, the importance of promoting good design and the need to use land efficiently”. The North East Regional Assembly is also required to prepare regional parking standards for inclusion in the Regional Spatial Strategy that will significantly influence local transport and land use policy development.
- 10.12 A number of Government papers have been issued on this matter, most recently “Residential Car Parking Research” (9 May 2007) from the Department of Communities and Local Government (DCLG) which looks at demand for residential parking but is neutral on the direction of policy. The “Manual for Streets” (March 2007) jointly produced by DCLG and Department for Transport concentrates on the liveability of residential areas and focuses on minimising the impact of motor traffic by reducing it and emphasising the alternative modes of transport, particularly walking and cycling.
- 10.13 LTP2 recognises the importance of constraining car parking in new development along with facilitating and encouraging more sustainable modes of transport in achieving its aims of reducing traffic. A monitoring system is currently being piloted and developed to determine the effectiveness of the Accessibility and Parking Guidelines and will start reporting in 2008. Meanwhile, the Districts are being encouraged to link their Local Development Framework with the aims and objectives of LTP2 and development work on the Accessibility and Parking Guidelines is also underway across the County and regionally. In the light of working group views, it may be opportune for Cabinet to call for a fuller report from the

Corporate Director, Environment Services about the policy issues, including an assessment of the effectiveness of the current approach.

Local Action at Local Level

- 10.14 During the project, members heard about the work undertaken by community highways workers in some Parishes. Having a dedicated member of staff based locally means that identification of problem areas on footways and other highways and urgent repairs can be undertaken more quickly. Some of the issues raised by Parish and Town Councils in response to the consultation exercise for this project could have been tackled locally by a community highways worker. In those areas where community highways workers have been appointed with joint County/Parish Council funding, the scheme appears to have been a success, but at some cost to the County Council. The working group feels that there is a need to reinvigorate and better publicise the benefits of the scheme to Parish Councils across the County. Members would see this as an invest to save initiative, but there are likely to be resource issues associated with this, which the existing highways maintenance budget would find it difficult to meet.

Utilities and Statutory Undertakers

- 10.15 Members heard in evidence from Dave Pownall about the existing and proposed changes to the regime for works by utilities in highways. Members heard that the current network control officer funding arrangements do not permit weekend working, yet contractors commence some utility works on weekends. The working group feels that this issue needs to be addressed and that there should be a weekend inspection regime to police such works (this could possibly be achieved by changed rota working, or funded either in the first year by the one-off increase in the budget as suggested above, or on an ongoing basis from any PLI premium savings, or by increased failures/fines income).
- 10.16 The working group heard that key elements for responsible utility working in highways were communication and co-ordination. The evidence provided by CE Electric indicated that that particular Company took a responsible approach to its work and members appreciate that there are some deadlines which Utilities themselves are subject to in relation to making new connections. However, the fact that over 85% of works by utilities are not notified to the Council until just before they commence, indicates to the working group that there is a failing in the system and the Council needs to more vigorous in tackling this issue as well as any other transgressions by Utilities in the highway. Statutory changes will improve the ability of the Council to better tackle poorly reinstated utility works in future, with the introduction of penalty notices, but more needs to be done in terms of monitoring the quality of reinstatements through more invasive and costly techniques such as core sampling.

Implications of the Gulliksen Judgement

- 10.17 The working group heard in evidence from the District Councils and also from the County Council's own legal and technical staff about the potential implications for the Council of the Gulliksen case, both in relation to footways

maintenance and also in terms of potential liability for injuries. The working group believes that work needs to be progressed with the District/Borough Councils to gather data about the extent of those footways which are liable to fall within the remit of Gulliksen and that Cabinet needs to be mindful of the potential liabilities of the Council in this regard. The working group did not hear in evidence whether the implications of Gulliksen had been identified as a risk on the register of risks maintained by the Council, but believe that, if it is not already so identified, consideration should be given to its inclusion.

Improvement and Floorscaping Schemes

- 10.18 During the site inspections early in the project, members viewed some schemes where floorscaping and related improvement works had been carried out. Much of this was linked to the Council's Urban and Rural Renaissance Improvement (URRI) Scheme. Many of these projects use different types of block paving, natural riven stone or other surfacing materials. Members noted that, whilst these schemes led to much more visually attractive locations, they have a higher ongoing maintenance cost. One scheme viewed by members, at Pelton, had a number of areas of floorscaping which already required attention. It is important that the additional future maintenance costs which arise from these types of works are evaluated and factored into the maintenance budget when works of this nature are undertaken in future.

Section Eleven – Recommendations

Introduction

11.1 We have grouped our recommendations around a number of themes as follows:

- **Raising the Council's performance in relation to footways**
- **Tackling car parking on footways in housing estate roads**
- **Local Action at Local Level**
- **Better managing Utilities and Statutory Undertakers works in the Highway**
- **The Challenges posed by the Gulliksen Case**
- **Maintenance costs of Improvement and Floorscaping Schemes**

Raising the Council's Performance

11.2 There is a need for the Council to re-assess funding provision for footways if it wishes to improve performance and minimise its liabilities to the public. Cabinet is recommended to:

- (a) **Consider the provision of a one-off contribution to the highways maintenance budget to carry out remedial repairs, either across the footways network, or by targeting footways in Categories 1, 1A and 2 (these are the footways against which BV 187 is measured).**
- (c) **Maintain year on year funding for footways maintenance and improvement (as in 2006/07) from any savings arising from continued falls in PLI annual premiums.**
- (c) **Develop local performance indicators for footways in categories 3 and 4 of the footways hierarchy, so as to give a more accurate picture of the condition of those footways which are most used by the public.**

Tackling Car Parking on Footways in Housing Estates

11.3 Many of our older housing estate roads are narrow. Increased car ownership has resulted in car parking either wholly or partly on footways, which can damage footways and be detrimental to users of the highway (i.e. the visually impaired and those in wheelchairs/mobility scooters). Cabinet is recommended to:

- (a) **Seek to identify funding (perhaps arising from recommendations 11.2 a & b above) to promote jointly with our District/Borough Council partners additional verge hardening schemes in housing estates (subject to matched funding from partners)**
- (c) **Ask the Corporate Director, Environment Services, to consider whether there is a need to promote greater use of traffic regulation orders to help reduce parking on footways in housing estates where there is significant inconvenience to pedestrian users.**
- (c) **To request Durham Constabulary to review its approach to obstructed footways, and in particular, how a tougher line can be taken against those car owners whose vehicles are substantially parked on footways to the extent they become impassable for people in wheelchairs or mobility scooters and those with prams and pushchairs.**
- (d) **Use *Countywide* to raise awareness about the problem of footway parking; the damage it causes to footways and the inconvenience caused to pedestrians.**
- (e) **Ask the Corporate Director, Environment Services, for a report about off street parking guidelines for new residential development in the light of Planning Policy Statement 3 and associated guidance (including an assessment of the impact of current guidance on car parking in new residential developments).**

Local Action at Local Level

- 11.4 In those areas where highways community workers have been appointed, the results have been encouraging.

Cabinet is recommended to consider how the scheme can be better promoted with our Parish/Town Council partners and to identify possible corporate funding to act as pump-priming for re-launching the scheme.

Better managing Utilities and Statutory Undertakers Works in the Highway

- 11.5 Openings of any highway have consequences for the long-term viability of the structure of the road or footway. It is important that works are carried out with the least possible delay and inconvenience to the public; that appropriate safety measures are in place; and that reinstatements do not result in the

surface of the highway being less commodious for the public than prior to the works. It is equally important that works are co-ordinated to ensure that highways are not opened up after resurfacing or reconstruction works are carried out. Cabinet is recommended to:

- (a) Ask the Corporate Director, Environment Services, to:**
 - (i) Develop and report upon proposals for the introduction of weekend inspection arrangements for utilities/statutory undertaker works, including any associated costs.**
 - (ii) Prepare a report on proposed measures which will ensure that greater co-ordination and more advance notification of utility works is achieved.**
- (d) Require the Corporate Director to develop and report on any actions proposed by Environment Services to more proactively tackle statutory breaches by utilities and statutory undertakers in relation to works in highways.**
- (e) Ask the Corporate Director to consider how existing arrangements for core sampling of reinstatements can be further developed and to report on any implications of this proposal.**

The Challenges posed by the Gulliksen Case

11.6 The Gulliksen case and the potential liability this has for the County Council need to be addressed. Cabinet is recommended to:

- (a) Ask the Corporate Director, Environment Services to prepare a report on the extent of the footways network in the County affected by the Gulliksen judgement and, together with the Director of Corporate Services, to advise on the technical and legal implications for the County Council.**
- (b) Consider in the light of the above report, any potential risks or liability for the Council and whether these should be included in the risk register, together with any actions the Council needs to take to mitigate the impact of Gulliksen.**

Improvement and Floorscaping Schemes

11.7 Floorscaping projects, including those implemented across the County as part of the Urban and Rural Renaissance Initiative, often use materials such as natural stone or blocks. These have much higher ongoing maintenance costs

than normal footway surfaces, yet no consideration appears to be given to this in funding for schemes.

Cabinet is recommended to consider whether the additional maintenance costs of floorscaping schemes should be factored into the budget for such works and the highways maintenance budget be uprated accordingly when these schemes are undertaken.

Review

- 11.8 A key element of scrutiny is reviewing recommendations to determine whether (if accepted) they have made a difference.

It is recommended that a review of the recommendations in this report be undertaken 6 months after their consideration by Cabinet.

PROJECT PLAN FOR WORKING GROUP - FOOTWAYS IN BETTER CONDITION

APPENDIX 1

<p>WHEN Dates/Time/Location</p>	<p>WHO Key Witness</p>	<p>WHAT Evidence/Information</p>	<p>HOW Meeting/Visit/ Correspondence/Briefing Paper/Research</p>	<p>WHY Focus on Remit</p>
<p>18 July 2006</p>	<p>Roger Elphick Geoff Race</p>	<p>Footway provision in County Durham</p>	<p>Briefing</p>	<p>Scene Setting/ focus/challenge</p>
<p>Monday 18 September 11.00 a.m. Room 1A</p>	<p>Geoff Race Joanne Edwards</p>	<p>Extent and nature of footways in County Condition and Inventory database</p>	<p>Meeting/Presentation</p>	<p>What is the extent of the footway network in County Durham; how much is adopted/unadopted and who is responsible for it?</p>
<p>Friday 29 September 9.30 a.m.</p>	<p>Steve Foster and/or Dave Wilcox</p>	<p>Observe scheme and utility works, footway conditions Countywide and “shadow” Highways Inspector</p>	<p>Visit</p>	<p>What is the role of the County Council in providing services and how, where and when are they delivered?</p>
<p>Thursday 17 October 10.00 a.m. Room 2</p>	<p>Geoff Race Steve Foster and Dave Wilcox</p>	<p>Policies and Strategies in relation to Footways Duties/Powers of County Council in relation to footways and arrangements for maintenance etc.</p>	<p>Meeting/Presentation</p>	<p>What is the role of the County Council in providing services and how, where and when are they delivered?</p>

WHEN Dates/Time/Location	WHO Key Witness	WHAT Evidence/Information	HOW Meeting/Visit/ Correspondence/Briefing Paper/Research	WHY Focus on Remit
Monday 6 November 10.00 a.m. Room 1B	Geoff Race G Jones and Community Highways Worker Steve Foster, Dave Wilcox and District Council representatives	Role of Districts/Parishes Partnership Working <i>Roundtable discussion about roles/responsibilities</i>	Meeting/Presentation Workshop	What is the role of District/Parish Councils and how can closer working be developed?
Tuesday 28 November 11.00 a.m. Room 1B	Dave Pownall Dave Wafer	Powers of Utilities, types of works on footways, reinstatement requirements Extent of parking on and damage to footways. Impact on footway users and actions taken	Meeting/Presentation	How can works by Utilities be better programmed and the quality of reinstatements improved? How can damage to footways and safety issues linked to car parking on footways be minimised?

WHEN Dates/Time/Location	WHO Key Witness	WHAT Evidence/Information	HOW Meeting/Visit/ Correspondence/Briefing Paper/Research	WHY Focus on Remit
Tuesday 9 January 2007 10.00 a.m. Room 1A	Geoff Race/Sue Wild Audit Colleagues	Performance data Value for money and budget issues How do we compare to other authorities in our “family” Actions taken or contemplated to achieve efficiency savings	Meeting/Presentation	Is value for money being delivered in the provision of this service? What opportunities exist for efficiencies in the current arrangements (making current funding perform better)?
Tuesday 30 January 10.00 a.m. Room 3B	Tom Bolton Geoff Race	Consultation/engagement feedback	Meeting/Presentation	Is value for money being delivered in the provision of this service?
Delivered after conclusion of evidence session	Northumbria University	Innovative approaches to footway provision and maintenance in other local authorities	Meeting/Presentation	What best practice is there in the field of footway provision and maintenance locally/nationally?
Additional sessions		Recap/other Evidence needed Conclusions/ Recommendations		

