

Forward Plan reference number: Not Applicable

Report title: Pilot Scheme for Delivery of certain Highways Services by Essex Parish/Town Councils	
Report to: Councillor Kevin Bentley, Deputy Leader and Cabinet Member for Infrastructure	
Report author: Andrew Cook, Director, Highways and Transportation	
Date: 25 February 2019	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 The purpose of this report is to seek approval to run a pilot for the delivery of some highways services by Parish/Town Councils within Essex.

2. Recommendations

- 2.1 To run a 12-month pilot from 1 March 2019 with those Essex Parish/Town Councils set out in Appendix A, authorising them to undertake those highway maintenance services set out in paragraph 3.3.
- 2.2 To agree that the grant awarded to each of the Parish/Town Councils listed in Appendix A will be calculated based on £0.68 per person or £1,000, whichever is the greater amount, as set out in Appendix A.
- 2.3 To delegate authorisation to the Director, Highways and Transportation to sign the agreements with each Parish/Town Councils participating in the pilot set out in Appendix A.
- 2.4 To delegate authorisation for the Director of Highways and Transportation to enter into further agreements with additional Parish/Town Councils upon their request to join the pilot, up until the end of May 2019, on the following basis:
- 2.4.1 Any such agreement will expire on 29 February 2020, and
- 2.4.2 the grant award will be calculated on the same basis as set out in paragraph 2.2 on a pro rata basis subject to a minimum of £1,000.
- 2.5 To agree that any undistributed revenue budget set aside in 2018/2019 to support local devolution is transferred back into the Transformation Reserve to be drawn upon in 2019/20 in order to support the possible roll out of a second phase to all Parish/Town Councils, starting in the 2019/20 financial year.

3. Summary of issue

- 3.1 Essex County Council (ECC) has a legal duty under the Highways Act 1980 to maintain the Essex highways network. ECC currently meets this duty by primarily commissioning Ringway Jacobs to deliver highways maintenance services, but there is also in place several grant agreements with a number of District Councils to deliver them, which have been put in place over the years.
- 3.2 ECC have been reviewing how some Highways services could be delivered via Parish/Town Councils directly to bring highways maintenance closer to communities, helping them to identify and influence expenditure priorities for residents and businesses, and to identify if financial efficiencies can be achieved. This approach aligns with ECC's Organisational Strategy, in particular Strategic Aim 3, helping to create great places to grow up live and work.
- 3.3 ECC has identified a number of maintenance services that could benefit from having local engagement, as they would be able to respond to the need for action quicker, and in a more targeted way as a result of their own local knowledge of the area. These are as follows:
- 3.3.1 **Winter maintenance salt bags scheme (snow clearance and salting of footways and paths):** The Parish/Town Council will be able to arrange, where possible, to clear and salt the footways and paths, specifically in times of bad winter weather (i.e. snowfall). The salt will be provided by ECC and will be used at locations the Parish/Town Council considers important in their local community, such as footways outside doctors' surgeries, local shops and services, and access routes to main bus stops. They will not be required to salt roads, and in particular priority 1 routes, which will continue to be undertaken by ECC.
- 3.3.2 **Minor repairs to Footway and off-road cycle ways:** The Parish/Town Council may arrange for volunteers/qualified contractors, to undertake minor repairs to footways and off-road cycle-ways. This will include the removal of loose material and filling holes.
- 3.3.3 **Highways verge cutting including special roadside verges:** The Parish/Town Council will be able to arrange for the cutting of highway verges in their area. They may cut verges as frequently as they wish in order to enhance the amenity of their area. In addition, the Parish/Town Council may also maintain the designated Special Verges in their area. These are verges have a different maintenance regime due to the species of flora and fauna present in the verges. This will not include verge cutting along priority 1 routes, which will continue to be undertaken by ECC.
- 3.3.4 **Weed control:** The Parish/Town Council will be able to arrange for undertaking weed control for the purpose of preventing the spread of non-noxious weeds on highways, excluding Priority 1 routes, in their area. The main focus of weed control efforts should be on kerb lines and

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footways. There is an expectation that three weed sprays are carried out during the year.

- 3.3.5 **Tree and hedge maintenance:** The Parish/Town Council will be able to arrange for undertaking tree and hedge maintenance in their area, and, only on trees and hedges which are on highway land. Trees and hedges along priority 1 routes will continue to be managed by ECC. Hedges privately owned must be maintained by the owner not the Parish/Town Council. The focus is to keep footways free of over-growing vegetation that would otherwise create an obstruction for users, but work must avoid the bird nesting season.
- 3.3.6 **Public rights of way (PROW) maintenance:** The Parish/Town Council may arrange for the cutting of vegetation, or replacement of PROW signage/equipment in their area. They may cut vegetation as frequently as they wish in order to enhance the amenity of their area but will be required to avoid the bird nesting season.
- 3.3.7 **Passenger transport infrastructure maintenance (bus stop flags and bus shelters):** The Parish/Town Council will be able to arrange for the cleaning of, and minor repairs to, bus stop flags and shelters. The Parish/Town Councils will be required to report to ECC any dangerous defect to the passenger transport infrastructure as soon as possible.
- 3.3.8 **Repair and maintenance of road signs:** The Parish/Town Council will be able to arrange for the cleaning of, and minor repairs to, road signs. No work will be undertaken on signs that are lit as there is danger associated with the electrical supply.
- 3.4 The Parish/Town Council will be required to ensure that all works undertaken by them, either through volunteers or a contractor, are done so in accordance with national Health and Safety requirements, codes of practice, guidance and legislation. The work must only be undertaken where it is safe to do so, and the Parish/Town Council will be responsible for instructing and overseeing all work carried out at their instruction.
- 3.5 In order to understand the level of interest in the proposal, some engagement has taken place with Parish/Town Councils on the concept of local devolution of specific Highways services as a long-term aspiration, but also at whether there would be an interest in taking on the responsibility for a range of maintenance services set out above within each of their respective Parish and Town areas.
- 3.6 The concept was initially raised with a focus group, organised by the Essex Association of Local Councils (EALC) and attended by local Parish/Town Councils in early September 2018. Attendees expressed their willingness to work with ECC to deliver the range of services identified above.
- 3.7 Accordingly, ECC with the assistance of the EALC, wrote to all Parish/Town Councils at the end of September 2018 to identify if there were Councils that

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would be willing to participate in a pilot. Over 90 Parish/Town Councils expressed interest.

- 3.8 In order to explore the interest and ensure that the Parish/town Councils were fully aware of the details of the pilot and the expectations, ECC held an engagement event in November 2018 for the Parish/Town Councils that had expressed interest in the proposed pilot. Representatives from 67 Parish/Town Councils attended.
- 3.9 Following that engagement event, the Parish/Town Councils were asked to formally commit to participating in the pilot. To date a total of 14 Parish/Town Councils have confirmed their commitment. These are set out in Appendix A.
- 3.10 ECC now wishes to run a pilot for 12 months, with the Parish/Town Councils who have expressed an interest being given a grant and an agency arrangement under which they may deliver those highways maintenance services set out above within their area, alongside the existing services that ECC currently commissions. This will enable both parties to test the concept of Parish/Town Councils delivering services and facilitate the move/buy-in to future local devolution.
- 3.11 Each Parish/Town Council will be provided with a grant and will be responsible for determining how the grant is spent within their area to deliver the services set out above. The Parish/Town Councils will be expected to either use volunteers or contractors in order to deliver the services and will be permitted to purchase equipment using the grant in order that volunteers can carry out the work. Essex Highways will assist the Parish/Town Councils by providing health and safety training/guidance ahead of them commencing out any work and will be available to provide specific health and safety advice during the 12-month pilot period
- 3.12 The grant allocated to each participating Parish/Town Council is the greater of £1,000 or 68p per head of population using the 2011 census figure. The proposed grant award values are set out in Appendix A.
- 3.13 A review of the pilot will commence after 6 months, with the aspiration to then roll out the pilot to other Parish/Town Councils in Essex too, whilst ECC considers whether formal local devolution of highways services is possible, based on the success of the pilots and interest from the Parish/Town Councils.

4. Options

- 4.1 **Option 1** – Run a 12-month Pilot for the Highways Maintenance Services with interested Parish/Town Councils, using a Grant Agreement, with a review after 6 months
- 4.2 This option will enable ECC to specify how the Grant is used, enable Parish/Town Councils to test the concept of delivering highways services and

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take action themselves, facilitating the move/buy-in towards future local devolution, without fully devolving ECC's responsibilities initially.

- 4.3 The Parish/Town Councils are aware of what is important to their residents and can better determine how to utilise budgets on Highways services.
- 4.4 There is a risk that the Parish/Town Councils utilise all their budget before the end of the pilot period and/or utilise it on highways services that ECC does not normally prioritise or deliver. However, ECC will set out that the budget cannot be increased should it be fully utilised. ECC will monitor what work is being undertaken by the local councils on a quarterly basis and it will continue to deliver its existing services throughout the pilot too. There is also a risk of local councils' staff and volunteers not operating in accordance with health and safety, ECC will seek to mitigate this by outlining the local councils' health and safety responsibilities at a formal meeting, prior to carrying out the works, and providing detailed guidance on the relevant health and safety obligations.
- 4.5 Option 1 is the recommended option.
- 4.6 **Option 2** – Pilot the delivery of Highways Services with ALL Essex Parish/Town Councils for 12 months, with a review after 6 months, utilising a grant agreement
- 4.7 As Option 1 but with all Parish/Town Councils in Essex. This option is currently not achievable, all Parish/Town Councils have not expressed interest to participate in the pilot.
- 4.8 It is suggested this option is revisited in 2020 after the initially pilot with a smaller number of Parish/Town Councils (option 1), if the pilot is demonstrated to be a success.
- 4.9 **Option 3**– Do Nothing. Continue with commissioning Ringway Jacobs and providing funding to Districts to deliver.
- 4.10 This option does not allow the exploration of new ways of working and does not bring Highways Services closer to understanding what communities want or empowering them. It would however avoid the proposed expenditure.

5. Issues for consideration

5.1 Financial implications

- 5.1.1 The 2018/19 budget includes a budgetary allocation for local devolution of £1m. This is a one-off allocation within the Infrastructure portfolio which was announced in May 2018 for the purpose of supporting ECC's aspiration for devolving highways works to as local a level as possible, building on the work of the Place Scrutiny Task and Finish Group.

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- 5.1.2 The proposal to grant the higher of £0.68 per person per participating parish or £1000 per participating parish can be contained within this budgetary envelope based on those parishes that have expressed an interest. The total cost of the grants awarded is currently £51,310.93 based on the parishes who have committed to be part of the pilot. This cost may increase if further parishes sign up by close of business on 31 May 2019, when the pilot 'sign up' period closes. Participating Parish/Town Councils will be able to utilise their own budgets in addition to the grant awarded in the delivery of the services should they wish to do so.
- 5.1.3 Any unspent budget will be transferred back to the transformation reserve to be drawn down in support of the project in 2019/2020.
- 5.1.4 This pilot will assist in providing an evidence base for what may be achieved from devolution should it reach its full potential.

5.2 Legal implications

- 5.2.1 ECC has a legal duty under the Highways Act 1980 to maintain the Essex highways network, currently this is discharged through a number of arrangements with local Councils and through ECC's main partner, Ringway Jacobs. This duty will remain after the agreements are in place with each Parish/Town Council within the pilot, and ECC will continue to have responsibility for those identified maintenance services.
- 5.2.2 Under the pilot, ECC will enter into agency arrangements with each of the participating Parish/Town Councils, which will clearly set out the grant conditions, and provide the remit within which the Parish/Town Council can utilise the grant for highway maintenance services. Each Parish/Town Council will be required to have in place sufficient insurance provisions for the services they are undertaking. The Grant will not devolve authority for those services to the Parish/Town Council. ECC will need to further consider whether it wishes to formally devolve these at a later date and following an analysis of whether the pilot has been successful.
- 5.2.3 The agreements will provide authorisation to each participating Parish/Town Council to undertake the services specified within them. There is no ability on ECC to obligate each of them to undertake those services. It will be for the participating Parish/Town Council to determine whether they wish to undertake those services themselves or not. The agreement will set out that the grant may only be used for the purposes of providing those specified services. If the Participating Parish/Town Council does not do so they will be required to repay any unspent grant.
- 5.2.4 The pilot is for a period of 12 months. Accordingly, any Parish/Town Council joining the scheme after 1st March 2019, will be given an agreement covering the period to 29 February 2020, in order that the pilot concludes across Essex at the same time. This will ensure that ECC can analysis the data and provide

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for a future model if it is determined that the pilot was a success, ensuring that any new arrangements run across Essex at the same time.

6. Equality and Diversity implications

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 6.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

7. List of appendices

- 7.1 Appendix A – List of Parish/Town Councils in Essex participating in the pilot
- 7.2 Appendix B - Equality Impact Assessment

8. List of Background papers

- 8.1 Presentation pack from the engagement meeting November 2018.

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Kevin Bentley, Cabinet Member for Infrastructure and Deputy Leader	22.02.19

In consultation with:

Role	Date
Director Highways and Transportation	22.02.19

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Andrew Cook	
Executive Director for Corporate and Customer Services (S151 Officer)	22.02.19
Margaret Lee	
Director, Legal and Assurance (Monitoring Officer) Paul Turner	22.02.19