

INFORMATION BULLETIN - ROADS AND FOOTPATHS IN THE CASTLE POINT DISTRICT OF ESSEX

This information bulletin relates to roads and footpaths in the Castle Point district as well as street lighting.

It comprises a summary of the position and some [FAQs](#) (frequently asked questions) which residents will find useful.

Summary:

Currently there are two administrative local authorities for the district. They have distinct roles, which are set out by Act of Parliament. Since 1974 Essex County Council have had the highways and road functions. Before 1974 those functions were carried out by Benfleet Urban District Council and Canvey Island Urban District Council within their areas at the time. In the 1970s there was a formal change to the highways regime. The change should have been seamless but it is apparent that there are gaps in the information that changed hands from one authority to another and issues have arisen in relation to the position which has been taken by Castle Point Borough Council in relation to particular roads, footpaths and street lighting installations and what has been evidenced by appropriate documentation to Essex County Council.

Castle Point Borough Council no longer keeps information relating to roads and footpaths. They are wholly reliant on the information Essex County Council provide them with.

The legislation allows public roads and footpaths to be differentiated depending on whether they are 'publicly maintainable' or not. The County Council is only able to use its funds to maintain the publicly maintainable routes and street lights on them. Castle Point Borough Council has powers, but not duties, which it can use to maintain the routes which are not maintainable by the County Council, including routes on estates constructed under its Housing Act powers over the years.

In the last few years the County Council has been rationalising the maintainable highways record using the information in the documentation handed over by Castle Point Borough Council and information in its own archives. This has had a number of consequences – routes may have been taken off which were previously on the Borough Council record but had no documentary evidence to support the Borough Council stance; the length of what should be on the record for particular routes has been established by reference to the original documents; the status of some routes has been clarified and noted e.g. where routes are footpath only; and routes which were to be formally made up but did not satisfactorily reach the end of the process have been accepted to exist as non-maintainable and shown accordingly.

All the available information has now been considered but there are still a small number of routes on which there is disagreement between the Borough Council and the County Council for which ultimate resolution might be through a different process.

For the future the County Council will only maintain the routes it has on its [publicly maintainable highway records](#) and the street lights on them for which they, rather than the Borough Council, are the lighting authority.

FAQs

Why is this an issue now?

Over the years the lead council on road and highway issues has changed. Some of the previous councils no longer exist. For a long time (1974 to 2005) Castle Point Borough Council also had an 'agency' arrangement with the County Council. All these complicated what records existed, how and who was keeping them and what they showed. Essex County Council has been working on improving the record. In doing this it is looking at the original documentation by the various councils and unfortunately those documents do not always back up the record so, where necessary, changes have been made.

What does 'private' mean on the record?

The formal part of the list only records the roads and highways for which the County Council considers it has a responsibility in the way the law says is 'publicly maintainable'. Any other parts of the record are an informal record of information held by the county council which explains why other routes are not acknowledged in the same way.

'Private' means that it is not maintainable at the expense of the County Council. It might mean that it is a route that is used by the public, so a public road or highway, but is either maintainable by someone else or maintainable by no-one. It might mean that it is a route that is not open to the public. It might include roads, footpaths and footways that were constructed as part of housing development either by a builder or under contract to the Borough Council using their Housing Act powers to provide council housing but which the County Council never accepted for maintenance purposes.

What rights do I have over a road that is listed as 'private' or not on the list?

A landowner can grant rights over land so if you bought a house from Castle Point Borough Council these rights are likely to be in your purchase deed. If you bought from a builder or from a chain of people who bought from a builder these rights are likely to be in the original purchase document. If neither of these applies and the house has been there for a few decades then something called 'an easement of necessity' is likely to exist whereby you can get from the house to the nearest public road.

What about the street lights?

As the highway authority the County Council can erect and maintain lighting on its highways including attaching street lamps to buildings and lampposts. Since the mid 1960s highway authorities have been responsible for road lighting systems and pre-existing systems were transferred to them under the statute.

Other councils have lighting powers still so parish councils and district/borough councils can provide and maintain lamps in their area in limited circumstances.

Anyone carrying out work on street lights is recommended to use a contractor who is HERS registered. The website is <http://www.thehea.org.uk/hers/> which includes a tab showing registered organizations.

The electrical connection (cable in column) is via the UKPN (electricity board) network. Anything above the electrical cut out (like in a house) can be repaired by a contractor. Normally the electrical supply, the cut out and its enclosed fuse within the street light is the responsibility of the DNO (electricity board). This is UKPN and their website is <https://www.ukpowernetworks.co.uk/>

Where a telecell has been fitted in error to a private light please notify the County Council street lighting office who will arrange for its removal.

How could my road be made up to be publicly maintainable now?

If a road is already public highway then the County Council could use its private street works powers to bring the road up to standard (including provision for lighting) but the charges would be payable by all the adjacent owners. The charges could be divided between each individual property on the road. Arrangements could be made so the contribution is only payable when the current owner sells. The County Council would need to consider the budgetary commitment alongside its other spending at the time a request is made. If anyone in the road objects this could not be achieved. If you are interested in pursuing this option make contact via development.management@essexhighways.org

Is this likely to apply to my road?

If a road would be substandard because of the width available to form a carriageway and footway safely the County Council might not be prepared to do bring it up to standard.

If the property owners along a road have differing views so that a private street works scheme could not be achieved then it would not be progressed.

What if I consider that the state of my road is dangerous?

The County Council can require the owners along a road to carry out works to obviate danger to traffic in a private street. If this is not done within the time allowed, the County Council can carry out the works and recharge the owners.

If the County Council or the Borough Council consider that urgent repairs are needed to prevent or remove danger to persons or vehicles in the road they can carry the works out. The Borough Council's powers are limited to footpaths, bridleways, restricted byways, 30 mph roads, 40 mph roads and urban streets and obtaining the County Council's consent in advance.

What if I (and my neighbours) want to carry out works to my private road?

Depending on what works you want to do you will need to select a suitable contractor considering their experience, reputation and competence. City and Guilds qualifications relating to street works and excavating are likely to be relevant for different elements of a typical road scheme.

You need to consider what you want to achieve by the works (e.g. to make good the worst areas of damage, to generally improve the whole width to avoid maintenance for a further 20 year period etc.) and design your specification to suit. Obtaining detailed quotes will usually be helpful. You might also want to consider drainage, as that will usually improve the life of the road surface.

Health and Safety should be considered from the perspective of the residents adjoining in the road and also the public who pass through the road. It is unlikely that residents will be able to operate within the exemption for residential works contained in the Construction (Design and Management) Regulations 2015. If you are carrying out works extending over more than a couple of days you might need to obtain a temporary closure order. All works should have some traffic management in place such as site signage, advance notification of works and instructions to the occupiers and any excavations will need to be properly protected.

A contractor will usually have suitable insurance but you need to make sure this also covers public liability. The County Council recommends cover of £10m in respect of any one event.

Essex County Council
September 2018