

Statutory Undertaker works

Chiltern Local Committee

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1 Purpose of report

- a There has been major Statutory Undertaker activity within Chiltern and South Bucks for many months and this has caused a lot of concern locally. It is hoped that the information contained in this report will answer many of the questions raised about the legislation surrounding Statutory Undertaker works.

2 Proposed action

- b The Local Committee is invited to NOTE this report

3 Supporting information

Statutory background.

- c The Statutory Undertakers are the public utility companies such as gas, water, electricity, telecommunications/cable TV etc. They are licensed by the government to carry out street works within the highway associated with the installation, repair and improvement/refurbishment of their apparatus, above and below ground.
- d A number of mobile phone companies also have licences granted by the Department of Trade and Industry, which give them powers, which are very similar to the Statutory Undertakers. The erection of antennae masts across the area has been carried out by a number of mobile phone companies under this licence. A separate report on this subject will be presented to the next Local Committee.
- e The New Roads and Street Works Act 1991 (NRSWA) places duties upon the Street Works Authority (Bucks County Council) and the Statutory Undertakers to fulfil certain functions associated with street works.

- f The primary functions are set out in three Codes of Practice which support the Act which deal with: (i) co ordination of works, (ii) specification for reinstatement and (iii) inspections. Taking each one in turn:

Co – ordination of works

- g NRSWA places a general duty upon the Street Authority (Bucks County Council) to use their best endeavours to co ordinate the execution of works in streets for which they are responsible and places a duty upon Statutory Undertakers to co operate with the Street Authority and one another: -
 - (i) in the interests of safety
 - (ii) to minimise the inconvenience to persons using the street (having regard, in particular, to the needs of people with a disability), and
 - (iii) to protect the structure of the street and the integrity of the apparatus in it.
- h The Act allows the Street Authority to issue Directions to Statutory Undertakers in certain circumstances setting out times during which proposed street works may or may not be carried out.
- i The Code of Practice sets out the circumstances under which Directions can be given, as follows (but the Code of Practice makes it clear that Directions must not be used as an unsubstantiated veto on planned works): -
 - (i) in a street which has been designated traffic-sensitive in order to curtail street works during traffic-sensitive periods, where the undertaker has not agreed to do so voluntarily.
 - (ii) in a street not designated traffic-sensitive under ordinary conditions but which is required to carry traffic diverted from another street in order to accommodate street works in that street.
 - (iii) where there is no traffic-sensitive designation but, by reason of a short-term local event or occurrence (e.g. a royal visit, road race, major sports event), it is necessary to curtail street works to avoid traffic disruption.
 - (iv) where serious traffic disruption can be avoided or minimised by one work site serving two or more undertakers.
 - (v) where there is no traffic-sensitive designation but the scale of works is such that one traffic lane is affected and accordingly the works are likely to cause serious traffic disruption which can be avoided or reduced if the works are carried out only at certain times.

- j Co ordination within Bucks generally works well, but it is accepted that concern exists locally about the cable company works carried during the past 9 months or so.

Specification for reinstatement

- k NRSWA places a duty upon Statutory Undertakers to reinstate the street and comply with whatever specification may be prescribed for materials and standards of workmanship.
- l The Code of Practice sets out in some detail the appropriate specification for reinstatements applicable for different categories of road, footways, cycleways, footpaths, commercial and domestic accesses and verges.
- m NRSWA gives the Street Authority powers to carry out investigations to establish if reinstatements meet the required specification and a Defect Notice procedure allows the Street Authority to ensure failures are rectified.

Inspections

- n Statutory Undertakers are required by the NRSWA to give at least seven days notice of their intention to carry out works within the highway and normally give greater notice of major works. Notices are sent to the Area Office over the Internet. There are currently five stages of inspection:
 - (i) During excavation
 - (ii) Whilst reinstating
 - (iii) Immediately after permanent reinstatement
 - (iv) Between 6 and 9 months after permanent reinstatement
 - (v) During the one month preceding the end of the guarantee period
- o All works are subject to a guarantee period of 2 years and therefore inspections take place over this two year period.
- p NRSWA requires inspections to be made on a sample random selection basis taking 6% of the Notices received for each stage of inspection (i.e. 30% for the full five stages). The Area Office currently receives about 10-12,000 Notices per year and therefore during the 2-year guarantee period up to 24000 notices are "live". Up to 8000 inspections take place per year.
- q This number of inspections represents an extremely demanding workload for the Public Utilities Technician.

General

- r By and large the County Council and the Statutory Undertakers have a good working relationship and most of the problems that arise are resolved through discussion.
- s Having said that, during recent months the extensive activity with cable laying and gas main refurbishments across Chiltern and South Bucks has significantly overloaded the Public Utilities Technician. This has been compounded further by the unprecedented weather conditions.
- t Severe staffing shortages at the Area Office have restricted the ability to share this heavy workload, although existing members of staff have assisted where possible dealing with acute problems associated with the cable company works. Temporary staff have also been employed but the labour market is such that this has also been extremely difficult. These resource difficulties have meant that it has just not been possible to fully "police" the cable company works.
- u Notwithstanding this, staff have maintained a dialogue with each of the companies.

New legislation

- w New legislation will be introduced on 1st April 2001, which will invoke Section 74 of the NRSWA. This legislation will enable Street Works Authorities to charge Statutory Undertakers for overstaying agreed working durations for their works on the highway. This will be an incentive to the Statutory Undertakers to tightly control the duration of their works and hence reduce disruption to highway users. However there will be an increased burden upon the County Council to administer and 'police' the procedure.
- x With the experiences of the extreme workload pressures now and over recent months associated with the cable company works and the decision to invoke Section 74 of the NRSWA the County Council shall be employing one additional full time Public Utility Inspector in each of the three Area Offices. This is positive news and it is hoped that very soon it will be possible to 'police' Statutory undertaker works to a far greater degree.

Specific details about the cable company works

- y In order to complete the picture Members may find the following details about cable company operations informative:

- z There are currently 5 cable laying contractors within the Chiltern and South Bucks area and each contract is split up into sections of work or “lots”. These companies are as follows:

Tycom
Torch Telecom
186K
Telewest Communications
Cable & Wireless
Ipsaris

- aa Each of these companies employs companies to design the route for them, a contractor to lay the cables on site and another company to manage the whole contract. There may also be separate contractors laying the cables for each ‘lot’.
- bb In addition to the above there are likely to be up to 8 or 10 gangs working simultaneously for each contractor on site.
- cc It can be seen that the management arrangements for these works are complex and in order to reduce possible confusion the Area Office deals with named personnel within each organisation and makes every effort to develop good working relationships. This is key to ensure that problem sites are rectified quickly.

Contact

- dd The amount of cable company works (and gas main refurbishment) carried out in recent months is unprecedented. The County Council appreciates that local councils are concerned with the disturbance and disruption this work can create. The Area Office will remain the point of contact regarding Statutory Undertaker works and can be contacted on 01494 586600. Alternatively queries relating to actual works on site can be raised direct with the Statutory Undertaker/Contractor by telephoning the contact telephone number that is usually displayed on site notice boards.