

Scrutiny review of dropped kerbs in East Sussex

Report by the Project Board

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The report of the scrutiny review of dropped kerbs in East Sussex

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Recommendations

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1	That base budget provision be established for installing and upgrading dropped kerbs. This would enable a strategic approach to be taken towards future installation and upgrades of dropped kerbs which in turn could lead to greater confidence that the Council is complying with the Disability Discrimination Act. Other benefits are a greater ability to meet the increasing public need for dropped kerbs in the right places, and a clear demonstration that the Council is taking its responsibilities seriously towards some of the most disadvantaged citizens in the community.	6
2	The design of all new dropped kerbs should be in accordance with Department for Transport (DfT) guidelines especially with regard to upstand (flush or 6mm maximum on a bullnose kerb), the use of tactile paving, gradient (maximum 8%, preferred 5%) and avoidance of any drops on the radius section of kerbs. Where it is not possible to remain within these guidelines due to the particular nature of the site then there should be some consultation with local disabled people to identify the best compromise solution before works start.	8
3	Dropped kerbs should be protected from parked cars either by double yellow or white lines wherever practicable.	8
4	Highways development control commentary should be provided to district and borough councils for all development applications where there is a highways impact, including developments of five properties or less.	9
5	When a planning application is received for comment by the highways development control team, the relevant network office should be consulted as a matter of course to check whether there are any outstanding requests for dropped kerbs that could potentially be funded from developer contributions or conditions.	9
6	That the Transport Strategy Team consider using consultants from the National Register of Access Consultants to ensure the best possible outcomes of access audits for larger developments.	10
7	That a policy on dropped kerbs be developed in association with relevant stakeholders to identify priorities for installing new dropped kerbs and upgrading existing sites based on a range of priorities identified by this review (paragraph 44 refers).	11

Overview

1. Kerbs are a barrier to the mobility of many people. They present a significant obstacle in different ways and to different degrees to wheelchair and mobility scooter users, visually impaired people, ambulant-disabled people, people with pushchairs and prams, and shoppers with heavy shopping bags for example.
2. As well as helping the Council to comply with disabilities legislation, installing dropped kerbs brings wider benefits to East Sussex. Dropped kerbs have been cited as a significant factor in town regeneration by ensuring access to shops and services for those who rely on them. They help to maintain the independence of many people who otherwise may not be able to travel very far from their homes, a key aim for Adult Social Care and health services.

Requests for dropped kerbs

3. When a request for a dropped kerb is made by a resident, it is added to an informal list kept locally in the relevant network office. There is no centrally maintained list of requests or of dropped kerbs installed. A request for a particular site may involve complications of road camber and surface gradient with different costs. In essence, the list is a 'moveable feast' as it changes each year depending upon the circumstances of individuals. Currently there are approximately 150 outstanding requests in Hastings, 75 in Eastbourne, 50 to 60 in the western network area and 35 in the east.
4. When a disabled person moves home, he or she may request dropped kerbs in their locality to access local shops and services. In some cases an individual needs several pairs of dropped kerbs linking their home to local amenities. Over recent years the increase in the use of mobility scooters has resulted in a notable rise in the number of requests for routes to be upgraded. Residents currently requesting dropped kerbs are normally informed that their request has been added to the list but are warned that the dropped kerb will only be installed if maintenance work is planned on that particular footway or if additional funding becomes available.
5. A review of other local authorities' websites shows a large variation in approach towards dealing with requests for dropped kerbs. Many authorities do encourage residents to request dropped kerbs where they are needed. Some then undertake to make contact with the resident to discuss the request, but none appear to guarantee that any or particular requests will be met.
6. Requests from the public are not the only indication of where the need for dropped kerbs is greatest because many people remain silent. Other criteria are needed to make sure that dropped kerbs are installed where they are going to have the most beneficial impact – such as on main pedestrian routes. Access audits can be undertaken where new developments are planned to identify the best places to install dropped kerbs.

Network of accessible routes

7. There is currently no County Council policy on when and where to install dropped kerbs, especially in response to requests from the public. Over recent years officers have tried to prioritise between individual requests and, by working with local disability groups, strategic wheelchair routes in the busiest urban areas. Prioritisation has sometimes proved difficult, not helped by the lack of a clear policy and the manual system of storing requests.
8. The network offices' liaison with local disability groups has resulted in an agreed network of routes within many towns in the county which would be considered for upgrading should funds become available. This approach has been particularly successful in Eastbourne where strategic wheelchair route maps have been widely distributed. Hastings Shopmobility has also produced a town map of its wheelchair accessible routes.

9. East Sussex Disability Association (ESDA) considers that whilst it is useful to have maps of accessible routes, a long term aim should be to remove the need for them by making sure that there are good crossing points as a matter of course. The Board concurs with this view.

Wider picture

10. Provision of dropped kerbs need to be kept in perspective of the wider picture as just one of a number of ways of addressing access and road safety concerns of the public. Other important activities include:

- Traffic safety schemes to reduce numbers of people killed and seriously injured
- Highway and pavement maintenance
- Pedestrian crossings
- Raised kerbs at bus stops
- Disabled parking bays
- Reduced speed limits in villages.

11. This review is primarily concerned with conventional roads and pavement spaces. However, the latest street scene thinking advocates shared space environments for some, mainly urban, areas where delineation between road and pavement is deliberately blurred so as to create a flat space shared by pedestrians, cyclists and vehicles. In such a space, dropped kerbs are unnecessary because there are no kerbs.

12. However, it is clear from the attempts to introduce a pilot scheme along these lines in Lewes that there are significant local public concerns. The groups and disabled individuals who provided evidence to this review also expressed opposition to the idea of shared space design arguing that perception of safety is reduced, especially by visually impaired people who feel less able to tell where they are in relation to potential traffic.

13. The shared space philosophy was considered by the scrutiny review of urban speed limits (2006) which strongly supported the idea because the evidence shows clear benefits of such schemes. In particular, reductions in the number of people killed and seriously injured are apparent, and the reduced street 'clutter' (conventional signs, barriers, road markings etc) helps create a better environment that is appreciated by all users of the space.

14. The request for evidence for this scrutiny review has produced one of the best responses from Members of the Council and the public of any recent review. Members' evidence has highlighted a mixed bag of successes and less successful attempts to have dropped kerbs installed across the county over a period of years. Many Members now support the Board's view that this issue is of great importance and some argue that there should be an adequate budget and clear criteria for funding dropped kerbs.

Budgets for dropped kerbs

15. There is currently no single dedicated budget for dropped kerbs in East Sussex. Officers have been resourceful in accessing a range of different sources of funding to install and upgrade dropped kerbs across the county in recent years. Integrated transport and traffic management schemes, Local Area Transport Strategies (LATS), traffic safety schemes, new developments, highways maintenance and an ad hoc footways improvement budget have together provided approximately £150,000 towards the design and provision of dropped kerbs across East Sussex in the last financial year.

16. In recent years, savings in the highways budget has resulted in a reduction in expenditure for the provision of dropped kerbs. This has meant that, apart from where external sources of funding can be found or additional money provided, dropped kerbs are generally only installed where they can be incorporated within maintenance work being undertaken on an adjacent road or footway. With this approach, areas where the need for dropped kerbs is shown to be greatest are not targeted specifically.

17. A footways improvement budget has been available on an ad hoc basis for the last three years. Some of this money has been used to install dropped kerbs and there has been no difficulty in identifying enough appropriate locations. This budget has resulted in the opening up of new accessible routes and has supported a more strategic view of dealing with the issue. If these one-off allocations were not to be continued, then dropped kerbs would revert to being installed predominantly at locations where maintenance work is undertaken.

18. The cost of a pair of dropped kerbs with tactile paving is typically £1,200 to £1,500 (baseline figure). This sum is greater if engineering works are required such as positioning to avoid a manhole cover, awkward camber or gully. Without tactile paving the cost is reduced by approximately one third. The current backlog of requests for dropped kerbs in Hastings and Eastbourne alone would cost from £270,000 to £337,000 to install using baseline figures.

19. The Board considered that base budget provision, alongside an appropriate policy, should be identified for dropped kerbs. This would enable a strategic approach to be taken towards future installation and upgrades of dropped kerbs which in turn could lead to greater confidence that the Council is complying with the Disability Discrimination Act. Other benefits of such an approach would be a greater ability to meet the increasing public need for dropped kerbs in the right places, and a clear demonstration that the Council is taking its responsibilities seriously towards some of the most disadvantaged citizens in the community.

Recommendation 1.

That base budget provision be established for installing and upgrading dropped kerbs. This would enable a strategic approach to be taken towards future installation and upgrades of dropped kerbs which in turn could lead to greater confidence that the Council is complying with the Disability Discrimination Act. Other benefits are a greater ability to meet the increasing public need for dropped kerbs in the right places, and a clear demonstration that the Council is taking its responsibilities seriously towards some of the most disadvantaged citizens in the community.

Performance indicators

20. There is no national performance indicator for dropped kerbs which would enable a valid comparison of the position in East Sussex with elsewhere in the country. The Government Best Value Performance Indicator (BVPI) 165 measures facilities for disabled people at signal controlled road crossings and measures whether dropped kerbs are in place and whether the pavement is flush with the road surface. Signal controlled crossings represent only a small proportion of the total requirement for dropped kerbs.

21. In East Sussex, all signalised crossings have dropped kerbs but not all of them are flush. The Transport and Environment Department intend to continue to measure this indicator in future.

Disability Discrimination Act 2005 (DDA)

22. The Disability Discrimination Act 2005 (DDA) requires local authorities to make reasonable adjustments to the physical features which make it impossible or unreasonably difficult for a disabled person to make use of a service or other benefit associated with a local authority function. This includes moving around within the pedestrian environment. The overriding statutory duty, and priority, of the authority is to maintain the existing highway network.

23. There is clearly scope for exploring the meaning of “reasonableness”, both in the context of whether a physical feature makes it “unreasonably difficult” for a disabled person to use the service or benefit from a function, and also in relation to what adjustment would be reasonable. Cases would have to be determined on their specific facts and merits. A policy setting out criteria to which regard should be given would help determine such issues and is desirable from both a legal and public accountability point of view.

24. There do not appear to have been any DDA compliance challenges in court in relation to dropped kerbs nationally. If there are any in future, the outcome is likely to rest on whether a decision not to meet a request is considered unreasonable. Relevant factors might include the adherence to any policy and availability of adequate funding.

25. The Board considered that a clear policy combined with an appropriate budgetary provision will enable the council to better ensure it is complying with the requirements of this legislation.

Features of dropped kerbs

Tactile paving

26. Tactile paving is used at crossing points to enable visually impaired people to identify the position of the crossing and the alignment of the *blisters* on the paving assists them to line up correctly with the kerb on the opposite side of the road. However, the *blisters* are a source of discomfort to some people, particularly users of wheelchairs.

27. The red coloured tactile paving indicates the presence of a controlled crossing and buff coloured paving indicates an uncontrolled crossing point. Stone and brass studded tactile paving is used in some conservation areas. For the coloured paving to be effective for many visually impaired people, there needs to be a strong contrast of shade between it and the adjacent paving.

28. Dropped kerbs are installed in East Sussex without tactile paving at some individually requested sites which are not considered to be part of a strategic route. The Board considered that tactile paving should be used as a matter of course for all future dropped kerbs but recognised there may be occasions where an alternative is required.



Upstand and gradient

29. Visually impaired people who gave evidence to the Board expressed a preference for a small upstand between pavement and road at dropped kerbs to help them identify the edge of the pavement. Traffic engineers consider that purely flush kerbs are at greater risk of 'ponding' and ice formation without suitable engineering measures. A 6mm upstand, in their view, can often provide a simple and cheap solution to this problem.

30. The latest guidance from the Department for Transport (DfT) on the use of tactile paving surfaces states that:

There should be no vertical upstand between the road surface and the kerb; a 6mm tolerance can be made but only on a bullnose kerb [where the edge of the pavement is rounded]. A detectable kerb upstand prevents visually impaired people from unknowingly stepping off the footway into the carriageway. If there is no kerb upstand, some other readily identifiable indicator must be used.

31. The most common *alternative identifiable indicator* to an upstand is tactile paving which ends at the border of the road surface. East Sussex Disability Association (ESDA) endorses the DfT guidance and does not support any upstand at all for dropped kerbs arguing that a drop, however slight, can pose a hazard or cause extreme discomfort to wheelchair users. This view was strongly echoed by all the wheelchair and mobility scooter users who gave evidence to the Board.

32. Further difficulties are caused by a steep gradient on a dropped kerb especially if combined with a large upstand; these can be particularly difficult for a wheelchair user to negotiate and injuries have occurred in such circumstances. Visually impaired people also report significant problems negotiating the steep gradients on some dropped kerbs in the county.

Recommendation 2.

The design of all new dropped kerbs should be in accordance with DfT guidelines especially with regard to upstand (flush or 6mm maximum on a bullnose kerb), the use of tactile paving, gradient (maximum 8%, preferred 5%) and avoidance of any drops on the radius section of kerbs. Where it is not possible to remain within these guidelines due to the particular nature of the site then there should be some consultation with local disabled people to identify the best compromise solution before works start.

Road markings

33. Many witnesses and members of the public commenting in response to press coverage of the review were very concerned about the problems caused by inconsiderately parked cars which prevent dropped kerbs from being used. Many dropped kerbs are protected by double yellow lines and some carry a single white line in the roadway along the length of the dropped section.

34. Whilst white lines have no legal status, they are nonetheless found to be effective in deterring inconsiderate parking. The Board therefore endorsed the use of white lines wherever yellow lines were inappropriate to help keep dropped kerbs clear for the use of those who need to use them.

Recommendation 3.

Dropped kerbs should be protected from parked cars either by double yellow or white lines wherever practicable.

Dropped kerbs, planning and new developments

35. A new development represents an opportunity to improve the accessibility of the area in its immediate vicinity and also the wider network. This includes the provision of dropped kerbs. To maximise the opportunities available, the Board wished to be satisfied that the following elements were in place and working effectively:

- Effective commentary provided by the Highway Authority (County Council highways development control team) to district and borough councils on all development applications with a highways impact, which would include consideration of dropped kerbs
- Efficient and effective use of contributions from developers obtained through agreements and planning conditions; and effective monitoring and enforcement of those provisions.

Highway Authority commentary on new developments

36. When a planning authority (district or borough council) considers a planning application for a new development, it requires highways development control expertise to ensure that the impact of the development on the immediate area and wider transport network is properly taken into account. This expertise is provided by the County Council's highways development control team.

37. However, at present, commentary by highways development control is no longer automatically provided for developments of five properties or less. The Board was concerned that there are still issues of crossovers and footways even for small developments. Five properties in some areas could easily represent a multi million pound investment and in such cases opportunities may currently be being missed to provide accessibility improvements including dropped kerbs.

Recommendation 4.

Highways development control commentary should be provided to district and borough councils for all development applications where there is a highways impact, including developments of five properties or less.

Contributions from developers towards dropped kerbs

38. Contributions from developers help to mitigate the impact of new development traffic and ensure that sites are fully accessible to all highway users. It is therefore reasonable for contributions to be put towards improvements such as the provision of dropped kerbs on the wider highway network to ensure that good quality safe routes are available from developments to all local facilities such as shops, schools, local transport links and the town centre if appropriate. In practice, minor off-site highway improvements such as dropped kerbs and raised tables are often agreed at the consultation stage to be undertaken by the developer.

39. When a planning application is currently received for comment by the highways development control team, the relevant network office is sometimes, but not routinely, consulted to check whether there are any suitable outstanding requests for dropped kerbs that could be incorporated into an agreement for funding by the developer.

Recommendation 5.

When a planning application is received for comment by the highways development control team, the relevant network office should be consulted as a matter of course to check whether there are any outstanding requests for dropped kerbs that could potentially be funded from developer contributions or conditions.

Access audits for significant developments

40. For significant or larger developments, access audits are used to ensure effective pedestrian and cycle access and compliance with relevant DDA requirements. Access audits identify desirable routes together with the improvements necessary to make them user friendly. The Transport Strategy team are currently engaging consultants to develop a town wide approach starting with Seaford. In future years this approach will extend across the county. Access audits will make it easier to identify areas for improvement and to secure funding from developers.

41. ESDA has found that the benefits of access audits are increased and any conflicting matters resolved more effectively if they are undertaken by people who fully understand the access issues faced by wheelchair users and visually impaired people. The National Register of Access Consultants is suggested as an effective way to identify suitable consultants with this expertise.

Recommendation 6.

That the Transport Strategy Team consider using consultants from the National Register of Access Consultants to ensure the best possible outcomes of access audits for larger developments.

Future Council policy on dropped kerbs

42. The Board concluded that the issue of dropped kerbs is of considerable importance to many people in the county. The current ad hoc method of dealing with requests from members of the public and the information provided to them when they do request a dropped kerb does not constitute ideal customer care. Importantly, the main client group who need dropped kerbs includes some of the most vulnerable members of the community. Involvement of access groups in the development of a policy will therefore be essential.

43. The Board recognised that there will always be a cost implication and a requirement to prioritise between conflicting needs; for example, balancing individual requests for dropped kerbs to access local facilities against the provision of networks and accessible routes along well-used pedestrian areas. Therefore, the policy should ensure that public expectations are not unduly raised and that not all requested locations will be applicable. Nonetheless, there does need to be a clear system so that people requesting dropped kerbs are kept informed about how their request will be managed.

44. From the evidence gathered, the following criteria emerged as being the most important when prioritising the locations of new dropped kerbs and improving existing sites:

1) Resolving immediate safety issues at existing locations:

- For example, where dropped kerbs currently exist only on one side of a road leaving a step on the other, or are in dangerous locations.

2) Maximising benefits to the most number of people by installing dropped kerbs at locations:

- On or part of main pedestrian routes.
- Likely to be used by a large number of people using wheelchairs, mobility scooters or visually impaired people.
- Where the dropped kerb is a 'missing link' in a scheme that could open up other routes.

3) Maximising the opportunities available in association with other activities:

- Maintenance or planned works by the Council or utility companies.

- New developments.
- Integrated transport schemes / Local Area Transport Strategy (LATS) areas.

4) Other factors:

- In response to requests for dropped kerbs: The degree of inconvenience the lack of a dropped kerb causes and whether there is a reasonable alternative; whether the alternative routes are potentially dangerous if a dropped kerb is not provided at the requested location.
- The cost of overcoming any particular problems with installing a dropped kerb at a requested location, for example: drain runs, pits and cambers and Highways Act requirements and whether cost effective solutions such as a steel plate or an infill of blacktop may provide a workable compromise.

Recommendation 7.

That a policy on dropped kerbs be developed in association with relevant stakeholders to identify priorities for installing new dropped kerbs and upgrading existing sites based on a range of priorities identified by this review (paragraph 44 refers).



Appendix: Terms of reference, membership and evidence

Scope and terms of reference of the review

This scrutiny review was established by Transport and Environment Scrutiny Committee on 27 November 2007 to consider and make recommendations on the following aspects of dropped kerbs:

- a) Current performance against any relevant performance indicators.
- b) The ability of the County Council to respond to requests received for dropped kerbs from the public and organisations representing disabled people etc.
- c) Whether the requirements of the Disability Discrimination Act are being met within the current programme.
- d) Partnership working with the borough councils where relevant.

Board Membership and project support

Review Board Members: Councillor Godfrey Daniel (Chairman), Councillor Richard Stogdon.

The Project Manager was Paul Dean (Scrutiny Manager) with logistics and support being provided by Sam White (Scrutiny Support Officer).

Dale Foden, Derek Ireland, Graham Kemp and Peter Valentine provided ongoing support to the Board throughout the review.

Project Board meeting dates

4 April 2008, 13 May 2008 and 29 May 2008.

Witnesses providing evidence

The Board would like to thank all the witnesses who provided evidence in person and members of the public who responded to press coverage.

The Board is particularly grateful to the people attending the witness session on 13 May at ESDA, Hampden Park, Eastbourne. Organisations represented were: Hastings and Rother Disability Forum, Hastings Access Group, Eastbourne & South Wealden MS Society, Access In Seaford and Newhaven Committee, Care for the Carers, Hastings Shopmobility, Scooter and Wheelchair Action Group (SWAG), and East Sussex Disability Association. Several members of the public attended and provided evidence based on their personal experience also.

A separate evidence pack is available on request containing a summary of the views expressed at the public forum and experience of the 12 Members of the County Council and over 30 members of the public who responded to a request for evidence for this review.

Evidence papers

Item	Date
Guidance on the use of tactile paving surfaces / Department for Transport	Updated June 2007
A New Approach to Development Contributions / East Sussex County Council	June 2004
Service Review of Highway Management Agreements (Eastbourne and Hastings) in East Sussex / East Sussex County Council	December 2006

Audit Commission guidance on Best Value Performance Indicator 165 (Pedestrian crossings with facilities for disabled people)	2003
Code of Practice: Rights of Access: services to the public, public authority functions, private clubs and premises / Disability Rights Commission	2006
Access maps for Hastings and Eastbourne	

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