

**CUMNOCK AREA LOCAL COMMITTEE - 4 NOVEMBER 2004**

**QUESTIONS ARISING FROM 15 MINUTE QUESTION AND ANSWER SESSION**

<b><u>MATTER RAISED</u></b>	<b><u>ACTION REQUIRED</u></b>	<b><u>CURRENT POSITION</u></b>
<p>Community Representative Alex Cochrane made reference to the problem of erosion of the riverbank at the Glaisnock Burn adjacent to the Church of Scotland Crichton West at 46-50 Ayr Road and enquired as to the Council's position in respect of this matter.</p>	<p>Councillor Ross made reference to the proposed environmental study for Cumnock which was to be undertaken by the Planning Section of the Department of Development and Property Services. The Study would aim to identify environmental issues in and around Cumnock which would form the basis of a plan of action and consideration of funding issues relating thereto. The Study would be the subject of public consultation and it was suggested that it would be appropriate for the Church to make representations regarding the issue of riverbank erosion at the Glaisnock Burn as part of that process.</p>	<p align="center">N/A</p>
<p>Substitute Community Representative Mr Matthew Burns expressed concern at recent, separate incidents where two individuals, in one case in a disabled person's buggy, the other in a wheelchair, had encountered severe difficulty arising from a footpath in the Holmhead area of Cumnock having been blocked as a result of excavations by contractors working on behalf of one of the utilities; and sought clarification of the Council's powers and responsibilities in respect of this matter.</p>	<p>Councillor Ross recognised and shared the concerns expressed by Mr Burns in respect of this matter; advised that he, and the appropriate Officers from the Roads Section, were aware of the incidents to which Mr Burns had referred; advised of the action which had been taken by Officers in response to the incidents at the time of occurring; and confirmed that in cases where works which necessitate excavations of this nature are carried out by a contractor on behalf of East Ayrshire Council, the Council has power to require the contractor to take appropriate remedial action, but that the Council's powers are limited where work is carried out on behalf of a third party for example, one of the utility operators as was the case in this instance and in such cases, while the Council will take action insofar as is possible, it may be more appropriate for the Police and the Health and Safety Authorities to be involved.</p>	<p>Following correspondence, the Chair has received letters from Nicol Stephen, MSP, Minister for Transport and Cathy Jamieson, MSP, Carrick, Cumnock and Doon Valley, advising that utility companies, when carrying out roadworks, including works carried out on the pavement, must comply with the Safety at Street Works and Road Works - a Code of Practice, published jointly by the Scottish Executive, the Department for Transport and the National Assembly for Wales under powers contained in the New Roads and Street Works Act 1991. The Act provides that "an undertaker executing roadworks shall secure .... that traffic signs are placed and maintained, and where necessary, operated, as</p>

	<p>Councillor Ross suggested that anyone concerned about the lack of powers available to the Council in such matters should make representations to their MSP seeking arrangements which would grant appropriate powers to Local Authorities. Community Representative Jean Smith confirmed that the Cumnock and Doon Valley Access Panel would be happy to support any such approach to the local MSP.</p>	<p>are reasonably required for the guidance or direction of persons crossing the road”, and further provides that an undertaker who fails to comply with the Act commits an offence and is liable on summary conviction to a fine not exceeding level 3 (£1,000) on the standard scale. Concerns should be reported to the Local Authority, as Roads Authority, which has powers to submit a report for such offences to the Crown Office Procurator Fiscal Service for prosecution.</p> <p>The recently published Transport (Scotland) Bill sets out proposals to tighten and make more effective the enforcement regime for roadworks offences and proposals include increases to the level of fines for offences under the Act on summary conviction from level 3 to level 5 (£5,000) on the standard scale.</p>
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10 November 2004  
SN/SM