

## **ADEPT Engineering Board update April 2023**

On 21st April 2023, there were 26 attendees at the Engineering Board meeting, continuing to show the interest in the subjects being covered but also reinforcing the fact that virtual meetings yield better attendance. So, what was the draw this time?

The meeting started with a presentation on the National Underground Asset Register. This is a national project that seeks to bring together into a digital format the detail of what lurks under the surface and might inhibit (or facilitate) the delivery of any highway infrastructure project. Given that circa 60,000 accidental strikes to the buried pipes and cables across the UK costs an estimated £2.4bn a year, there's a huge upside to this piece of work – even if it brings into sharper focus the need to be really clear about what we all have underground, such as our drainage infrastructure, lighting cables and, in some cases, district energy networks. The task of maintaining our assets featured in our stock-take on where local highway authorities were with their contracts – particularly those going through or about to embark on procurement exercises. The last year has been a turbulent one in many respects, but issues such as long delivery lead-in times, price volatility and labour shortages don't make the task any easier. With many authorities looking at a mixed economy approach, it can be a challenge to get the blend right, though, between in-house provision and external supply. A further challenge lies ahead for those authorities whose PFIs are coming to an end – but they will now be working together to address that. Sticking with the underground theme, the next topic covered was the roll out of full-fibre networks. Attendees cited some of the difficulties faced, leading some to the point where permits were refused in order to achieve corrective behaviour.

Following a brief update on Live Labs 2 (which is to be covered more extensively in the Board's next meeting), the focus switched to a problem encountered in a Land Tribunals hearing when trying to prevent 'adverse possession'. The judge has yet to rule on the case but an argument put forward on behalf of the property owner accused of land grab was that the Highways Act description of 'highway' is limited. It was suggested that highway land is limited to carriageways, footways and footpaths unless otherwise clarified under title through Land Registry that there is a stated public right of way over it. The Department for Transport was asked if its legal team could look into this and provide clarification, in the event that the judge upholds this interpretation! The legal theme continued when covering the next topic – the challenge of felling a tree in the highway that isn't diseased, dying or damaged but is implicated in an insurance claim for causing property damage. The example given has entailed tree protestors twice preventing the felling of an implicated highway tree, multiple visits to the County Court and High Court for possession order and various injunctions, a judicial review and consideration in the Court of Appeal. The tree still stands, more than a year after the first attempt to fell it took place. The irony is that the accumulated costs of legal action completely exceed the cost of felling the tree and planting replacements that would at least match its environmental benefit.