



meeting **PLANNING COMMITTEE**

date **15 JUNE 2004**

agenda item number

11

from: **Director of Environment**

ADOPTION OF PROCEDURE FOR THE PERMANENT CLOSURE AND DIVERSION OF RIGHTS OF WAY ON THE GROUNDS OF CRIME REDUCTION IN NOTTINGHAMSHIRE

Purpose of Report

1. (a) To inform Members of the approval by Cabinet on 26 May 2004 of a procedure for dealing with requests for the permanent closure or diversion of rights of way on the grounds of crime reduction.
- (b) To inform Members of the role of Planning Committee in the procedure's implementation.

Policy/Budget Framework

2. Community safety is a top priority for the County Council, which is committed to working with partners to reduce crime and fear of crime. This commitment resulted in the publication of a 'Community Safety Strategy (2003-2005)'. The Strategy links elements of crime reduction, public protection, road safety and accident prevention in service provision. Seven Crime and Disorder Reduction Partnerships have been established based on District Council areas, each of which meets regularly to progress crime reduction initiatives in their respective areas.
3. A report was presented on 29 April 2003 to Planning Committee which resolved that any application for closure of rights of way on crime reduction grounds would be considered by the Committee before the County Council made a submission to the Secretary of State for Environment, Food and Rural Affairs. However, it was recognised in that report that a mechanism for dealing with applications needed to be developed. The report presented to Cabinet on 26 May 2004 provided such a mechanism.

Statutory Powers

4. The legislation facilitating the permanent closure or diversion of rights of way on crime reduction grounds is contained in the Countryside and Rights of Way Act 2000 which enacted new Sections 118B and 119B of the Highways Act 1980.

There is also secondary legislation in the form of the Highways Crime Prevention (Special Extinguishment and Special Diversion Orders) Regulations 2003. These regulations set out the procedure for making the Orders and the form of the Orders.

Background

5. The above legislation enables Local Authorities to close or divert rights of way, bridleways or restricted byways or byways open to all traffic that carry public rights, whether definitive or not, which have become centres of criminal behaviour or used as access or escape routes for persons committing crime. Before any closure or diversion order can be made, an initial application must be made to the Secretary of State, who must be satisfied that the area in which the footpath is situated is severely affected by crime and that the path in question is directly linked to the causes of such crime. If approval is given, the area then has 'designated area' status. Obtaining this status relies heavily on crime statistics from the Police. These statistics must show that there is a real increase in the amount of crime centred on the path and that a reduction in such activity would result from closure or diversion. Council records detailing incidents of removal of graffiti, litter or syringes are also useful in backing up an application. It must be shown that such activity would not simply be moved to adjacent areas and that other measures have been tried to reduce such activity and that these have been unsuccessful. The use of this legislation is intended as a measure of last resort.
6. There are other factors which must be considered before any decision is made to close or divert a right of way. These include taking account of the presence of utility apparatus or highway infrastructure such as street lighting or drainage. The means of physically closing the footpath also need to be decided at an early stage and there must also be a reasonable alternative route available to a permanently closed path.

Actions Required

7. The increasingly high profile of this issue means that it is important that the Authority has a definitive procedure in place for dealing with such requests. The procedure approved by Cabinet and outlined in the attached Appendix reflects the principles contained within the relevant legislation and practical considerations. The initial consideration of the concerns of residents will be by the local Crime and Disorder Reduction Partnership which is best placed to consider any options available to reduce such criminal behaviour.
8. Cabinet approved the adoption of this format for all requests to the County Council for the permanent closure or diversion of rights of way on crime reduction grounds.
9. It is intended that Highways Division of the Environment Department, as the initial point of contact in most instances, will collate information provided by the District Council or Crime Reduction Partnership including providing details of utility and highway apparatus and will also produce the necessary report to

Planning Committee. All such submissions should be considered by Planning Committee, as indicated in paragraph 3 above. If Planning Committee refuse to agree to the submission, the local District Council or Crime and Disorder Reduction Partnership can make a separate application. Even so, this has to be submitted by the Highway Authority with a commentary on why the submission is not supported. Planning Committee may have a role in formalising the Highway Authority comments on such submissions.

10. If 'designated area' status is given by the Secretary of State, in all cases the Countryside Access Team will process the necessary Stopping Up or Diversion Orders following forms given in the Highways Crime Prevention (Orders) Regulations 2003. It should be noted that the Authority cannot confirm an Order if objections are made during the consultation period. Any unresolved objections would necessitate the Order being referred to the Secretary of State for determination possibly culminating in a Public Inquiry.

Consultations

11. The procedure adopted reflects the advice of County Council practitioners and Legal Services as well as liaison with other Local Authorities who have made use of this legislation

Other Options Considered

12. It is intended that the permanent closure or diversion of any right of way is a measure of last resort. Other traffic management and crime reduction measures must have been exhausted before any application is made under this legislation.

Financial Implications

13. There will be a cost implication for processing any Closure or Diversion Orders. An unopposed Order may cost around £1500 whilst objections could lead to the requirement to go to a full Public Inquiry with correspondingly higher costs. Costs involved in physically closing or diverting a right of way are estimated to be well in excess of £2000. Costs of diverting or removing highway infrastructure or utility apparatus will vary greatly on a scheme by scheme basis, but could cost many tens of thousands of pounds in each instance.
14. The County Council will meet all costs involved in processing the necessary order and its own legal costs, but not those of third parties. If an order is confirmed, the subsequent costs of land transfer, physical removal of the right of way and any diversion or removal of highway infrastructure will normally fall to the local District Council in the case of local housing stock, to the landowner where the footpath is on privately owned land or to the County Council in the case of adopted highway. In this instance costs would have to be met from existing Traffic Management Revenue budget heads. However, some costs may be able to be met from the Central Community Safety Budget.

Human Rights Act Implications

15. The Head of Legal Services advises that the relevant rights under the Convention of Human Rights will need to be considered when taking future decisions.

RECOMMENDATION

16. It is RECOMMENDED that Members note:
 - (a) the procedure outlined in the report for dealing with requests for the permanent closure or diversion of Rights of Way; and
 - (b) the role of Planning Committee in the procedure's implementation.

PETER WEBSTER
Director of Environment

Director of Resources' Financial Comments

There are no direct financial implications arising from the contents of this report. However, as noted in the report, there are potential significant costs should a permanent footpath closure be approved. All costs would need to be contained within existing revenue budgets. [KRP 27.5.04]

Head of Democratic and Legal Services' Comments

This report is for noting by Members. [SHB 28.5.04]

Background Papers Available for Inspection

None.

Electoral Division(s) Affected

All.

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THE PERMANENT CLOSURE OR DIVERSION OF RIGHTS OF WAY IN AREAS ON CRIME REDUCTION GROUNDS

The County Council will consider the permanent closure or diversion of rights of way in areas on crime reduction grounds where this is promoted via a District Crime and Disorder Reduction Partnership or local District Council and where the proposals meet with the requirements of relevant legislation and County Council criteria.

The conditions to be satisfied are:

- All applications must follow the guidelines given in Section 5 of the DEFRA Circular 1/2003.
- The details required to comply with DEFRA guidelines must be collated by the local District Council or the District Crime and Disorder Reduction Partnership.
- The County Council Rights of Way Section must be consulted on the proposal and must have confirmed the status of the right of way in question.
- Consultation shall be carried out with affected Utility Companies and satisfactory arrangements put in place for the diversion or future maintenance of any affected apparatus.
- The extent of any highway infrastructure must have been established and satisfactory arrangements have been made for diversion, removal or future maintenance.
- There must be a reasonable alternative route to any closed right of way and a practical means of physically closing the right of way to prevent access.

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Procedure Flowchart