

AGENDA ITEM

COMMITTEE: REGULATION

DATE: 20TH OCTOBER, 2003

SUBJECT: CRIME PREVENTION AND PUBLIC RIGHTS OF WAY

REPORT BY: CHIEF EXECUTIVE (HEAD OF LOCAL DEMOCRACY)

CONTACT OFFICER: JOHN HARPER

TEL: 546045

IMPLICATIONS:

LEGAL		COMMUNITY SAFETY	✓
EQUALITIES		ENVIRONMENT	
FINANCIAL	✓	CONSULTATIONS	
STAFFING	✓	OTHER	

WARDS AFFECTED: ALL

PURPOSE

1. The purpose of this report is to advise Regulation Committee of recent legislation which enables local authorities to pursue the diversion, or closure, of rights of way where it is necessary to prevent crime, or to protect pupils and staff of a school from violence, or other threats to their health and safety and to seek the support of the Committee to the undertaking of a pilot scheme to evaluate the processes and the impact upon the Council's resources of carrying out a review of all relevant rights of way in the Borough.

RECOMMENDATION(S)

2. Regulation Committee is recommended to approve, subject to the concurrence of the Dallow, Farley and South Area Committee, the establishment of a pilot scheme for the Leyhill Drive area such pilot scheme to undertake all the necessary work, including reference to other appropriate Committees of the Council, leading to a submission to the Secretary of State of a proposal for the designation of that area subject to all the requirements set out in the guidance issued by the Department of Environment, Food and Rural Affairs being satisfied.

BACKGROUND

3. It is likely that all Councillors have received representation from some of their constituents in relation to the detrimental impact of crime and anti-social behaviour which, in the view of those residents, is exacerbated by the proximity of certain rights of way adjacent to their properties. For example, two approaches have been made to the Council for rights of way to be extinguished, one adjacent to Leyhill Drive in the Farley Ward and one at the rear of Whitwell Close in the Bramingham Ward.

4. The latter request has been submitted by Kelvin Hopkins MP and the former has been the subject of a number of meetings between Councillor McKenzie, Council Officers, local residents and the Police. The issues at Leyhill Drive pre-date the legislation but its introduction has perhaps strengthened the demand from local residents for this particular right of way to be closed.
5. Consideration has therefore been given over a lengthy period to the manner in which the concerns of local residents can be met whilst at the same time maintaining the rights of other law abiding residents to access these rights of way.

New Legislation

6. In February 2003 provisions in respect of Crime Prevention and School Security in relation to Rights of Way were introduced under the Countryside and Rights of Way Act 2000.
7. The new powers contained in Schedule 6 of the Act enable local highway authorities to divert, or close, rights of way where it is necessary to prevent crime, or to protect pupils and staff of a school from violence, or other threats to their health and safety.
8. The powers in respect of schools have been made immediately available throughout England, but as prescribed in legislation, local highway authorities will only be able to divert or close rights of way for the purposes of crime prevention within areas that are designated by the Secretary of State.
9. The Department for Environment, Food and Rural Affairs (Defra) state that it is important to rights of way where crime is a real problem and they are not to be used as a means of restricting routes that are important to the majority of law-abiding citizens who use them.
10. Furthermore, guidance issued by Defra emphasises that "where the new powers are used, the closure or diversion should significantly reduce the opportunity to commit offences and increase the security and well being of residents. The powers should be particularly helpful in areas which are the subject of comprehensive neighbourhood renewal initiatives, such as the New Deal for Communities programme, and high levels of crime are undermining attempts to address wider problems within the neighbourhood".
11. In order for a highway authority to seek to close a right of way it is necessary to make a submission to the Secretary of State seeking approval for the designation of an area. It is only within such a designated area that a right of way may be closed.

Procedure for Designation

12. Any submission to the Secretary of State should include the following information:

1. Overview: Assessing the Need

Highway authorities should consider whether the area has significant recurrent problems of crime arising from rights of way and the effects of those problems on the community. Consideration should be given to the extent to which realistic alternative solutions have been implemented or deemed impractical. This assessment must be supported by local information, including police data and/analysis of recorded crimes and incidents and/or evidence of community surveys/consultations. Information from

local insurance contracts, crime prevention panels and neighbourhood watch co-ordinators may also be useful.

2. Consultation

Highways authorities are expected to consult on formulation of a submission with the local Crime and Disorder Reduction Partnerships. Other consultees are likely to include fire authorities, local residents, neighbourhood partnerships and rights of way user groups.

3. Specific issues to be addressed

- (a) Nature of Problem - description of the type of crimes occurring on the rights of way, with an indication of their seriousness. Crime categories considered to concern the public most are robbery, domestic burglary and vehicle crime. Arson, fear of assault/robbery of pedestrians and drug dealing and taking are also serious and relevant concerns. There are also other crimes, which whilst perceived as less serious, may cause significant problems when occurring on a regular basis or cumulatively. These offences may include anti-social activities, such as noise and disturbing behaviour, fly tipping, dog fouling and graffiti.
- (b) Location of problem - consideration should be given to whether the area has significant problems arising from rights of way that back onto properties, providing an offender an opportunity to operate unseen.
- (c) Occurrence of problems - demonstrate that rights of way are being used to commit crimes. The local Crime and Disorder Reduction Partnerships will have made an assessment of the levels of crime and disorder.
- (d) Effect of problems - identify issues which the local community raise as concerns and how those impact on the quality of life in their community.
- (e) Mitigation of problem - what other measures have been considered and/or tried to reduce crime on or adjacent to rights of way e.g. clean up and carry out repairs on problem rights of way, use of lighting/street furniture and other environmental improvements, use of anti-social behaviour orders, setting up neighbourhood watch schemes, burglary reduction initiatives and other schemes to encourage informal surveillance.
- (f) Other matters - for example, levels of social exclusion in the area and the existence of government or local schemes/initiatives (neighbourhood renewal schemes).
- (g) Mapping the area - a map should accompany the submission. This should be at a scale of 1:10,000 or larger.

Stopping Up or Diverting a Right of Way

- 13. If the Secretary of State designates an area, the highway authority may then consider making an order to stop up or divert a right of way within that area. The authority must show that it is expedient, for the purposes of preventing or reducing crime which would otherwise disrupt the life of the community, that the highway should be stopped up or diverted. In addition the following conditions must be satisfied:-

- (a) that premises situated adjoining or adjacent to the highway are affected by high levels of crime; and
 - (b) that the existence of the highway is facilitating the persistent commission of criminal offences.
14. The highway authority is required to consult with the police authority and give notice to the fire authority. An order shall not be confirmed unless it is expedient to confirm the order having regard to all circumstances, including whether it is consistent with any strategy for the reduction of crime and disorder under the Crime and Disorder Act 1998, the availability of a reasonable convenient alternative route and the effect the stopping up or diversion will have as respects land served by the highway.
15. If there are objections to a stopping up or diversion order, then the Secretary of State will decide whether to confirm it and may decide to hold a public inquiry.
16. Members will note from the report the amount of work which has to be undertaken by the Council prior to a submission being made to the Secretary of State.
17. Indeed your officers have been advised by Bradford City Council that they have had to employ a full time Access Officer to prepare bids and deal with all the associated work.
18. Whilst Officers do consider that there are some rights of way in the Borough where closure might be appropriate in the fight against crime and anti-social behaviour it is clear that in every case a strong reasoned submission will have to be made if it is to succeed and this might not be possible to be undertaken within existing resources if the whole of the Borough is to be reviewed.

How should we proceed?

19. It is therefore suggested that a pilot scheme based on the area around Leyhill Drive be undertaken with a view to establishing the level of workload, the information to be gathered, the links to be made with other agencies and the consultation to be carried out and with the objective of preparing a scheme for submission to the Secretary of State if that is the appropriate course of action.
20. In the meantime further work could be undertaken to assess the need for additional resources in the light of the experience gained from the pilot.

FINANCIAL IMPLICATIONS

21. The costs of a pilot scheme can be met from existing budgets but there will be implications for the Council if there is any proposal to seek to obtain the approval of the Secretary of State of a number of submissions to have areas designated.

STAFFING IMPLICATIONS

22. The work needed for the pilot scheme will not require additional resources but should further resources be required the matter will need to be considered by Administration Committee.

COMMUNITY SAFETY IMPLICATIONS

23. There is no doubt that residents in some areas of the Borough do experience crime and anti-social behaviour as a direct result of the proximity of their properties to certain rights of way.
24. If action is taken to investigate the impact of rights of way on crime and anti-social behaviour and a case, or cases, can be made to seek designated area status for areas of the Borough it is likely that there is likely to be a reduction in crime in those areas.
25. One important aspect of preparing a case for submission to the Secretary of State is the need for the Council to demonstrate what other measures have been considered and/or tried to reduce crime and this in itself may well result in the identification of crime reduction measures, which may negate the need to apply for designated area status.

OPTIONS

- Option 1: To take no action in regard to submissions to the Secretary of State for designated area status in respect of rights of way.
- Option 2: Not to support the establishment of a Pilot Scheme in the Borough.

BACKGROUND PAPERS

Letter dated 13th February, 2003 from Head of Rights of Way Policy Countryside Division.
Department for Environment, Food and Rural Affairs release dated 25th July, 2003.
Defra Guidance Note February 2003.
Legal Services Briefing Note - 24th July, 2003.