

AGENDA ITEM

7

COMMITTEE: REGULATION

DATE: 9TH JUNE 2010

SUBJECT: CLOSURE OF FOOTPATH, FORMER HART HILL SCHOOL SITE

REPORT BY: HEAD OF CAPITAL & ASSET MANAGEMENT

CONTACT OFFICER: RICK DONNELLY 01582 547075

IMPLICATIONS:

LEGAL	✓	COMMUNITY SAFETY
EQUALITIES		ENVIRONMENT
FINANCIAL	✓	CONSULTATIONS
STAFFING		OTHER

WARDS AFFECTED: CRAWLEY

PURPOSE

1. To seek confirmation of a footpath diversion order authorised by this committee on 27th April 2010.

RECOMMENDATION(S)

2. To delegate to the Head of Legal Services the authority to confirm the Luton Borough Council (Tower Road To Hart Hill Lane) Footpath Diversion Order 2010 in the event that no representations or objections are duly made, or if any so made are withdrawn.

BACKGROUND

3. On 21st April 2010 Development Control Committee gave consent for the former school site to be developed for affordable housing.
4. On 27th April 2010 the Regulation Committee authorised a footpath diversion order under section 257 of the Town and Country Planning Act 1990. The Luton Borough Council (Tower Road To Hart Hill Lane) Footpath Diversion Order 2010 was made on 11 May 2010 (See appendix A for a copy of the plan of the original footpath and proposed diversion as attached to the order).

REPORT

5. The diversion order does not take effect until it is confirmed. Confirmation cannot be considered until after statutory consultation. If representations or objections are duly made the order must be referred to the Secretary of State to consider confirmation. Otherwise, the Council may confirm it as an unopposed order. The order takes effect immediately on confirmation.
6. In the absence of specific information about what statutory undertakers equipment might be in or under the path, the order provides that the rights of any statutory undertakers who already have any such equipment in place will not be affected.
7. The statutory consultation consisted of:
 - (i) a public notice in the Luton and Dunstable Express on 12th May 2010.
 - (ii) Notices displayed at each end of the affected stretch of footpath from 12th May 2010.
 - (iii) Notice on the Town Hall notice board from 12th May 2010.
 - (iv) 17 individual notices posted on 11th May 2010 to rights-of-way interest groups and statutory undertakers.All notices stated that representations and objections should be made in writing by not later than 14th June 2010.
8. Without the authority to divert the footpath, the finances for the development of the affordable housing cannot be secured. The authority cannot be granted without consultation taking place over a period of 28 days and they're being no objections. Authority was requested at the very next available meeting of this Committee in April.
9. There was not sufficient time for the statutory notice to be prepared, served and expire between the committee meetings of April and June. The expiration date of the notice is 5 days after the meeting of this committee.
10. The following meeting of this committee is scheduled for September 2010. Were the joint venture delivering the affordable housing (of which this Council is a key partner) to wait for the authority from the September

Committee, no progress at all could be made on site for three months (July to September). The pressure to deliver affordable housing in the town requires delays to be avoided if at all possible.

11. At the date of preparation of this report, no objections have been received. As the footpath is to be locally diverted and the new route completed before the existing one closed, none are anticipated. Two written responses have been received confirming non-objection.
12. In the event of an objection, if it cannot be resolved by negotiation and the objection withdrawn, confirmation cannot be decided by the council and has to be requested from the Secretary of State. In this event, the development of the housing would have to wait for the Secretary of State's ruling.

OPTION

13. If the diversion order is not confirmed, the affordable housing development will not be able to proceed in its present design. A new design will have to be submitted to the Planning department, with 4 fewer houses to allow for the existing footpath to remain.

LEGAL IMPLICATIONS

14. There are no implications that are not apparent from this report. The report has been agreed with John Secker in Legal Services on 25 May 2010

EQUALITIES IMPLICATIONS

15. There are no specific equalities issued with this report.

FINANCIAL IMPLICATIONS

16. There are no specific financial implications issued with this report.

APPENDIX

Appendix A – Plan showing location and extent of closure.

LIST OF BACKGROUND PAPERS **LOCAL GOVERNMENT ACT 1972, SECTION 100D**

There are no relevant background papers.