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| <b>TITLE:</b>               | <b>Request for the Temporary Closure of Footpath 4 Remenham (part)</b> |
| <b>FOR CONSIDERATION BY</b> | The Executive on 26 January 2017                                       |
| <b>WARD</b>                 | Remenham, Wargrave and Ruscombe  |
| <b>DIRECTOR</b>             | Josie Wragg, Interim Director of Environment                           |
| <b>LEAD MEMBER:</b>         | Angus Ross, Executive Member for Environment                           |

## **OUTCOME / BENEFITS TO THE COMMUNITY**

The temporary closure will allow the Henley Festival to be organised and run in a safe manner whilst enabling residents and visitors to continue to use Remenham Footpath 4 via a short detour.

The Festival Trust applies annually for this closure to enable the safe management and execution of a locally and regionally enjoyed festival.

## **RECOMMENDATION**

The Executive is recommended:

- 1) to approve the making of an Order for the closure of Footpath Remenham No 4, for a closure of an 80m section of the footpath for the set up and de rig of the Festival stage from Monday 3rd July to Wednesday 5th July 2017 inclusive and from Monday 10<sup>th</sup> July to Tuesday 11<sup>th</sup> July 2017 inclusive;
- 2) to include within the closure a 488m section for evening performances from Wednesday 5<sup>th</sup> July to Sunday 9<sup>th</sup> July 2017 inclusive and an afternoon performance on Sunday 9<sup>th</sup> July, under Section 16A of the Road Traffic Regulation Act 1984, subject to the receipt of the requisite consent of the Secretary of State for Transport.

## **SUMMARY OF REPORT**

The Authority is required to consider whether it is necessary for traffic to be restricted for the purpose of facilitating the holding of a relevant event and whether it is reasonably practical to hold the event otherwise than on the highway (in this case a footpath). The applicant has stated that it is necessary to restrict traffic for the holding of the event and that it is not reasonable for the organisers to hold the event other than on the road in question. Therefore a decision is needed on whether to approve the making of the Closure Order if the event is to proceed. The duration of the closure is also required to be approved by the Secretary of State for Transport.

## Background

1. A request has been received from the organisers of the Henley Festival of Music and the Arts for the closure of part of Footpath No. 4 Remenham between the hours of:

| Day (2017)                     | Times             | Length of closure (metres approx) |
|--------------------------------|-------------------|-----------------------------------|
| Monday 3 <sup>rd</sup> July    | 00.01- midnight   | 80m                               |
| Tuesday 4 <sup>th</sup> July   | 00.01- midnight   | 80m                               |
| Wednesday 5 <sup>th</sup> July | 00.01- 17: 45pm   | 80m                               |
| Wednesday 5 <sup>th</sup> July | 17: 45 -midnight  | 488m                              |
| Thursday 6 <sup>th</sup> July  | 17: 45 - midnight | 488m                              |
| Friday 7 <sup>th</sup> July    | 17:45 - 1:00      | 488m                              |
| Saturday 8 <sup>th</sup> July  | 17: 45 – 2:00     | 488m                              |
| Sunday 9 <sup>th</sup> July    | 11:15 – 15:15     | 488m                              |
| Sunday 9 <sup>th</sup> July    | 17:45 - 23:30     | 488m                              |
| Monday 10 <sup>th</sup> July   | 06:00 - midnight  | 80m                               |
| Tuesday 11 <sup>th</sup> July  | 00: 01- 23:59     | 80m                               |

The closure periods from Monday 3<sup>rd</sup> July to Wednesday 5<sup>th</sup> July 2017 and from Monday 10<sup>th</sup> July to Tuesday 11<sup>th</sup> July 2017, are for the build and dismantling periods when there will be movement of equipment and vehicles on the footpath. The closures required for the set up and dismantling of the stage will be for the shorter length of footpath approximately 80m. An alternative route will run parallel to the closed section of the right of way at a distance of approximately 10m from the footpath. Henley Festival will make every effort to re-open the towpath sooner on Tuesday 11<sup>th</sup> July, as long as it is safe to do so.

2. The Festival takes place after the Henley Regatta. The Festival's organisers make use of the Regatta's infrastructure such as marquees and stands, which are already in situ. The main Festival events are held on a large 'floating stage' constructed in the river bed, the building of which takes place on and adjacent to Footpath No.4.
3. As Highway Authority, this Council has a statutory duty under the Highways Act 1980 to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the Highway Authority. As such, it is for the Council to consider any application for the closure of a highway, albeit on a temporary basis, in conjunction with this statutory duty.
4. Notwithstanding the above, in its capacity as a Traffic Authority, the Council is empowered by the Road Traffic Regulation Act 1984 to make an Order to regulate traffic on a temporary basis in order to facilitate the holding of certain events (a "relevant event") on the highway, provided that it is satisfied that the event cannot be held otherwise than on a road. At section 142(1) of the Act the term "road" is defined as any length of highway or any other road to which the public has access and therefore includes any footpath.
5. If the Order is made as recommended, it would continue in force for more than three days. Section 16B(1)(b) of the 1984 Act provides that, before the Order can be made, the consent of the Secretary of State for Transport would be

required. In 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016 the Secretary of State, after detailed consideration of the material facts, approved the making of a similar length closure order.

6. Whilst there is no legal requirement to consult in respect of the application, the Council agreed at Executive on June 25<sup>th</sup> 2015, that for applications for temporary closures on rights of way affecting the Thames Path and the Blackwater Valley Footpath, (for special events) the following policy will be adopted: 1) prior consultation will be carried out with the following groups: The Ramblers' Association, The Open Spaces Society, Natural England, the relevant Parish Council and the ward member for the area through which the path is situated; and 2) the decision as to whether a closure will be made will be taken by the Executive unless it is agreed by the Executive Member for Environment that such referral to the Executive is not required.
  
7. Consultations were sent out in November to those organisations agreed by the Executive as well as Henley Town Council, who had asked to be consulted in previous years. The deadline for comments was 16<sup>th</sup> November 2016. The only objection received was from the Open Spaces Society. In 2016 there were no complaints or objections to the Temporary Closure of part of footpath Remenham 4 during the Festival in July, from members of the public, local clubs or Remenham residents.

### Analysis of Issues

| <b>Open Space Society issues</b>   | <b>WBC response</b>  |
|--|--|
| The event could be held elsewhere.   | The event uses the same infrastructure as used during the Henley Regatta. It is not a matter for the Authority to state where the organisers should hold the Festival but whether it is necessary to close the footpath or not where they chose to hold the event.   |
| The council must satisfy itself that it is not reasonably practicable for the event to be held otherwise than on a road. The OSS believes that there is nothing about the Festival which requires the use of a road. | The stage is next to the footpath where ticket holders watch the performances. Access needs to be limited to satisfy the licensing requirements and because electrical cabling etc is placed across the footpath. It is therefore considered that it is necessary that the relevant event encompasses the use of the adjoining footpath. |
| The council needs to be aware of its statutory duty, under section 130 of the Highways Act 1980, 'to assert and protect the rights of the public to the use and enjoyment of the highway.                            | The duty is effectively suspended during such times as the Council uses its available statutory powers to close the path by legal order,   |
| This is the Thames Path National Trail, a route of international importance, which should not be interfered with merely for a private event.   | The legislation does not preclude the making of orders for commercial events or on national trails.  |
| The council needs to 'have regard to the safety and convenience of alternative   | The alternative routes identified for use by the public during the closure period is   |

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| routes suitable for traffic which will be affected by the order.  | considered to be appropriate for this relatively short term diversion.  |
| The Society urges the council 'to challenge the festival to demonstrate why it cannot operate with the path left in place'. | The council is satisfied that the event cannot be held without the closure of the footpath for the reasons given above.   |
| The OSS states that the alternative route needs to be a public highway.   | This is not the case. WBC should only have regard to the suitability and convenience of the alternative route for the traffic affected by the order. The owner of the land agrees annually to the use of their land as an alternative footpath during the closure period. |

### **FINANCIAL IMPLICATIONS OF THE RECOMMENDATION**

***The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.***

|                                   | How much will it Cost/ (Save)   | Is there sufficient funding – if not quantify the Shortfall | Revenue or Capital? |
|-----------------------------------|---|---|---------------------|
| Current Financial Year (Year 1)   | The organisers of the Henley Festival pay all legal, advertising costs of the Closure Order | Yes   | N/A                 |
| Next Financial Year (Year 2)      | N/A   | N/A   | N/A                 |
| Following Financial Year (Year 3) | N/A   | N/A   | N/A                 |

#### **Other financial information relevant to the Recommendation/Decision**

N/A

#### **Cross-Council Implications**

None

#### **List of Background Papers**

Email application  
Letter of objection from the Open Spaces Society  
Letter of permission from the Stewards of the Henley Regatta (tbc)

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| <b>Date</b> 12 December 2017      | <b>Version No.</b>                               |