

Agenda Item 22.

TITLE	Procedure for Dealing with Special Event Temporary Closures on Public Rights of Way
FOR CONSIDERATION BY	The Executive on 25 June 2015
WARD	Remenham, Wargrave and Ruscombe, Finchampstead South, Swallowfield
DIRECTOR	Heather Thwaites Director of Environment
LEAD MEMBER	Angus Ross, Executive Member for Environment

OUTCOME / BENEFITS TO THE COMMUNITY

To provide clarity as to how the Council will deal with applications for temporary closures of public rights of way affecting any part of the Thames Path National Trail or the Blackwater Valley Footpath within the Borough, where the closure is required to hold special events such as the Henley Festival for Music and Arts.

RECOMMENDATION

That the Executive agrees that for applications for temporary closures on rights of way on 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/s 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.

SUMMARY OF REPORT

There has been opposition by a number of organisations, to proposed annual closure of the Thames Path for the holding of the Henley Festival of Music and Arts. The path which is a public right of way is closed under s.16A of the Road Traffic Regulation Act. There are no legal procedures for consultation on such closures. This documents sets out how the Authority is to consult on future applications for closure for events held on high profile recreational routes such as the Thames Path and the Blackwater Valley Path.

Background

1. At the Executive meeting of March 2014, it was considered that a working group (WG) should be established to address the concerns frequently expressed in connection with the request for the closure of part of Public Footpath 4 Remenham to allow for the annual holding of the Henley Festival of Music and the Arts. The Henley Festival is held annually on a section of public footpath, making it necessary to close the footpath in the days leading up to the event, during evening performances and for a period after the event.
2. The Executive report for the Temporary Closure recommended that a WG was to be established to investigate the principle of limiting closures of public rights of way for the holding of future sporting or social events. Consideration was to be given to *'the introduction of a byelaw and/or policy which would preclude any further applications, to investigate the principle of limiting current closures to those existing and to conditioning those closures so that they have the minimum impact on the residents and public'*.
3. Footpath 4 Remenham is part of the Thames Path National Trail, which is set in a beautiful location and is therefore a footpath of considerable local and national significance. It is widely used by local residents and visitors to the area and was described by the Member for Remenham and Wargrave as "a jewel in the Borough".
4. Over the years, considerable opposition has been voiced about the closure of this popular footpath by Remenham Parish Council, the Open Spaces Society and the Ramblers' Association, as the closure excludes the public from using part of the right of way, for the purposes of holding of a commercial event. In addition, concern has been expressed about the setting of a precedent culminating in successive closures along the river bank throughout the summer months to the detriment of local residents and visitors to the area. However, to date no complaints regarding the current closure have been made by members of the public.
5. The closure of the footpath is made by order under section 16A of the Road Traffic Regulation Act 1984. Provided that the relevant legislative requirements are taken into account, the Council is acting within its powers to make the closure order. The test the Council has to apply is whether *'it is reasonably practicable to hold the event otherwise than on the road'* in this case the road or highway is a public right of way. The proposed closure is presented to the Executive annually and because it is for more than three days it also has to be approved by the Secretary of State for Transport (SoS). The Council is of the view that it is necessary to close the footpath as it is a part of the event area, a view with which the Secretary of State (SoS) for Transport concurs, as the making of the Order had been approved for several years.
6. There are no procedural regulations in force which govern the making of such orders ie a list of statutory consultees, when and where the order should be advertised, and whether officers or Members make a final decision on the request . Therefore in the interests of transparency, over the years the Council has adopted an informal consultation process involving the Ramblers' Association, the Open Spaces Society, Natural England, the Parish Council and ward members. A report is then taken to the Executive thus giving objectors and supporters an opportunity to be heard on the matter before the decision is taken by Members. The council asks the applicant to provide an alternative route for walkers during the closure periods.

7. The WG was set up in December 2014 comprising Councillors: Stuart Munro, Lindsay Ferris, Simon Weeks and Parry Batth, with Officers: Josie Wragg (Head of Community Services), Catherine Woodward (Shared Legal Solutions) and Rebecca Walkley (Countryside Officer). The Group met three times throughout December and January to investigate the various proposals and to devise a policy on how to deal with future applications under s.16A of the RTRA.

8. The WG considered the terms of reference as set out in the recommendation (2 above) and were advised that a byelaw precluding the consideration of further closures of public rights of way for commercial events was unworkable. This was because the use of its powers under Section 235 of the Local Government Act 1972 would be invalid, as it was doubtful whether grounds exist to establish that such a byelaw is necessary for the purposes of 'good rule and governance or the suppression of nuisances within the Borough'.

9. The WG was also advised that a byelaw was probably unnecessary as the relevant legislation (the Road Traffic Regulation Act 1984) contained a safeguard against successive closures of the same section of footpath for special events. The consent of the Secretary of State is required for further closures during the same calendar year (section 16B(6) Road Traffic Regulation Act 1984). The group was reminded that to date no other applications for closures under section 16A had been received for the same section of path or indeed for any other stretches of the Thames Path or the Blackwater Valley Footpath.

10. It was accepted by the WG that a byelaw was unnecessary in the circumstances.

11. The WG also considered the principle of limiting closures to those events previously approved. However the group was advised that a stated intention to refuse any other requests for closures under 16A would be invalid as each application has to be considered on its own merits. The WG was advised that the Council is required to consider any other applications for closures under section 16A and that when doing so it would be required to have regard to all the relevant legal considerations such as the necessity for the holding of a relevant event, the availability of any alternative route and the safety and convenience of any alternative route as set out in the legislation.

12. The principle of conditioning the impact of closures was also considered by the WG. It was accepted that it is necessary to continue to rigorously challenge the organisers of any event requiring the closure of a public right of way to ensure that the inevitable impact to users as a consequence of the closure is minimised as much as is reasonably practical in every case. It was recognised that for significant footpaths such as those comprising part of the Thames Path or the Blackwater Valley Footpath, the impact on users of any closure would be greater than other less well used routes. It was therefore agreed that closer scrutiny would be required as to arrangements for the provision of an alternative route and the necessity for prolonged closure periods before any request would be considered. It was also agreed that the present consultation exercise adopted for dealing with the Henley Festival application should be adopted in relation to requests for all closures under section 16A affecting any part of the Thames Path or the Blackwater Valley Footpath situated within the Borough.

13. Consequently, it is recommended by the WG that the following policy should be adopted in respect of applications for closure under section 16A of the Road Traffic

Regulation Act 1984 affecting the Thames Path National Trail or the Blackwater Footpath- (1) That 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/s for the area through which the path is situated; and (2) that the decision as to whether an order will be made under section 16A will be taken by the Executive.

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)	N/A		
Next Financial Year (Year 2)	N/A		
Following Financial Year (Year 3)			

Other financial information relevant to the Recommendation/Decision

N/A

Cross-Council Implications

N/A

List of Background Papers

None

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