

<b>TITLE</b>	<b>Temporary Closure Remenham Footpath No 4 Henley Festival</b>
<b>FOR CONSIDERATION BY</b>	The Executive on Thursday, 31 March 2022
<b>WARD</b>	Remenham, Wargrave and Ruscombe;
<b>LEAD OFFICER</b>	Director, Place and Growth - Steve Moore
<b>LEAD MEMBER</b>	Executive Member for Environment and Leisure - Parry Batth

**PURPOSE OF REPORT (INC STRATEGIC OUTCOMES)**

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 to:

- 1) 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 4<sup>th</sup> to Wednesday 6<sup>th</sup> July 2022 inclusive and from Monday 11<sup>th</sup> July to Tuesday 12<sup>th</sup> July 2022 inclusive;
- 2) include within the closure a 620m section for evening performances from Wednesday 6<sup>th</sup> July to Sunday 10<sup>th</sup> July 2022 inclusive and day time performances on Saturday 9<sup>th</sup> July and Sunday 10<sup>th</sup> July 2022, 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.

**EXECUTIVE SUMMARY**

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

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 (2022)	Times	Length of closure (metres approx)
Monday 4th July	00:01- midnight	80m
Tuesday 5th July	00:01- midnight	80m
Wednesday 6 <sup>th</sup> July	00:01- 17:45pm	80m
Wednesday 6 <sup>th</sup> July	17:45 - midnight	620m
Thursday 7 <sup>th</sup> July	17:45 - midnight	620m
Friday 8 <sup>th</sup> July	17:45 - 01:00	620m
Saturday 9 <sup>th</sup> July	10:45 - 14:45	620m
Saturday 9 <sup>th</sup> July	17:45 – 02:00	620m
Sunday 10 <sup>th</sup> July	10:15 – 14:15	620m
Sunday 10 <sup>th</sup> July	17:45 - 23:30	620m
Monday 11 <sup>th</sup> July	06:00 - midnight	80m
Tuesday 12 <sup>th</sup> July	00:01- 23:59	80m

The closure periods from Monday 4th July to Wednesday 6<sup>th</sup> July 2022 and from Monday 11<sup>th</sup> July to Tuesday 12<sup>th</sup> July 2022 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 15m from the footpath. Henley Festival will make every effort to re-open the towpath sooner on Tuesday 12<sup>th</sup> July, as long as it is safe to do so.

The original application was for a longer closure period from 5pm each day in line with the recently revised premises license. However, the requested closure timings have been revised following discussions with officers. The rationale for keeping the original timings is to balance the impact of closing the Thames Path National Trail with the needs to the event. In 2021 the Council agreed to the longer diversion and hours of closure due to specific COVID restrictions and the shorter light levels due to the event being held later in the year. These issues are no longer applicable; COVID restrictions have now been lifted and the event is being planned for the usual times following the Henley Royal Regatta.

The Henley Festival organisers are prepared to accept the timings listed above but have raised the following issues:

Henley Festival issues	WBC response
Shared use of the towpath places non-ticket holders within the secure site with no security check having been undertaken. The entrance points are either end of the towpath once the event goes live.	Officers have discussed this issue with the Henley Festival organisers and recognise that a change in approach for the 45 minutes that the path is open will be required, keeping a barrier in place for this time to prevent users of the public footpath deviating off the path and into the private event areas.

<p>At 17:45, when the diversion will be allowed, non-ticket holders will have to be escorted off the path. This potentially introduces a point of conflict with security personnel with non-ticket holders who may have started engaging with the live event activity</p>	<p>The Temporary Traffic Regulation Order will be advertised in advance, with notices on site so that members of the public will be aware of the closure times.</p>
<p>It is hard to enforce the policies and procedures of the Henley Festival event for non-ticket holders as they have not signed into the terms and conditions for the event.</p>	<p>The policies and procedures for the event will still apply to all event attendees, and members of the public will not have a right to enter on to the site off the public right of way.</p>
<p>Cyclists ( though understood not legally permitted to use the path ) and dogs using the towpath, will place ticketholders and staff at potential safety risk.</p>	<p>The Henley Festival are correct that cyclists do not have a right to use the public footpath and the landowner is entitled to ask them to leave. Dogs are a natural accompaniment for walking but should be under close control and not be allowed to wander off the defined path.</p>
<p>The towpath fencing normally in place on Regatta land is not present and there is no separation between river, towpath, and site once the event goes live.</p>	<p>Officers have discussed this issue with the Henley Festival organisers and recognise that a change in approach for the 45 minutes that the path is open will be required, keeping a barrier in place for this time to prevent users of the public footpath deviating off the path and into the private event areas.</p>
<p>The Festival site includes the main stage, Marina Bar and Pontoon Bar &amp; Restaurant. These are directly accessed across the towpath and hence would be open and in the public realm if the towpath is open. There is an issue of access by un-ticketed persons into these 'premises'</p>	<p>Officers have discussed this issue with the Henley festival organisers and recognise that a change in approach for the 45 minutes that the path is open will be required, keeping a barrier or marshalled entrance in place for this time to prevent users of the public footpath deviating off the path and into the private event areas.</p>
<p>The full length of the riverbank is sold for moorings of ticketholders arriving via the river at 17:00. The towpath being open would place the ticket holders and un-ticketed towpath users in some conflict when coming ashore.</p>	<p>Public towpaths are often used in conjunction with public rights of way without issue. Whilst we recognise that there will be more mooring boats than normal during this time it is not expected that this will cause a significant issue provided that boat owners are aware that the towpath should not be obstructed.</p>
<p>Use of the towpath by non-ticketed holders during the live event raises issues with the 'Protect Duty' that event organisers need to consider going forward based on Manchester Arena report.</p>	<p>Officers have discussed this issue with the Henley festival organisers and recognise that a change in approach for the 45 minutes that the path is open will be required, keeping a barrier or marshalled entrance in place for this time to prevent</p>

	users of the public footpath deviating off the path and into the private event areas.
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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.

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.

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.

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. Since 2009 the Secretary of State, after detailed consideration of the material facts, approved the making of a similar length closure order annually.

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 and Leisure that such referral to the Executive is not required.

Consultations were sent out in October to the local Ward Members, Remenham Parish Council, The Thames Path National Trails Officer, Loddon Valley Ramblers and the Open Spaces Society as well as Henley Town Council, who had asked to be consulted in previous years. Natural England confirmed in 2018 that they do not need to be consulted on application provided that the Thames Path National Trails Office are included.

Councillors John Halsall and Graham Howe as the local Ward Members, and Councillor Parry Bath as the Executive Member for Environment and Leisure have raised no objections to the temporary closure.

The Ramblers' Association, Thames Path National Trails Officer, Remenham Parish Council and Henley Town Council have raised no objection to the temporary closure.

The Open Spaces Society has objected to the closure and the points raised in their letter are considered below.

Details of the responses to the consultation and details of permission granted for the alternative paths by the landowner are included in the accompanying documents.

Over the past 5 years there have been 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>
Objection to the closure and noting the additional four hours added to the closure time for 2021.	The Festival wants to develop its work with local community organisations by offering a facility for groups to perform using the Festival's performance venue. The performances will be using the floating stage and therefore the footpath is considered to be a part of the Festival venue and closure of the path is necessary at this time to enable the event to take place.
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 specify where the organisers should hold the Festival but whether or not it is necessary to close the footpath at the point 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 routes suitable for traffic which will be affected by the order.	The alternative routes identified for use by the public during the closure period is considered to be appropriate for this relatively short term diversion.
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 and to date the alternative route has been provided for the duration of the closure periods so there is no reason to suggest that this would not be the case for the 2022 closure.

### **BUSINESS CASE**

Not applicable as the organisers of the Henley Festival pay all legal and advertising fees.

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

***The Council faces severe funding pressures, particularly in the face of the COVID-19 crisis. It is therefore imperative that Council resources are focused on the vulnerable and on its highest priorities.***

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0	Yes	N/A
Next Financial Year (Year 2)	£0	Yes	N/A
Following Financial Year (Year 3)	£0	Yes	N/A

### **Other Financial Information**

The organisers of the Henley Festival pay all legal, advertising costs of the Closure Order.

### **Stakeholder Considerations and Consultation**

The local Members have been consulted together with the Parish Council, the Ramblers' Association, the Open Spaces Society, Thames Path National Trails Officer and Henley Town Council.

An objection to the closure is usually received from the OSS annually. Whilst the Authority must have regard for objections, the Temporary Closure Order can still be made by the Executive if it considers that the requirements of the legislation have been met. Any objections are sent to the Secretary of State so that they are aware of them to consider alongside the application for consent under section 16B(i)(b).

**Public Sector Equality Duty**  
An initial equality impact assessment has been carried out and has not identified any negative impact to the proposal.

**Climate Emergency – *This Council has declared a climate emergency and is committed to playing as full a role as possible – leading by example as well as by exhortation – in achieving a carbon neutral Wokingham Borough by 2030***  
The temporary closure of the path in itself will not cause any negative impact to the carbon neutral targets.

**List of Background Papers**  
Application from the organisers of the Henley Festival  
Map of the proposed temporary closure and alternative paths  
Details of responses from consultees  
Initial Equality Impact Assessment

<b>Contact</b> Andrew Fletcher	<b>Service</b> Delivery and Infrastructure
<b>Telephone</b> 07789 032544	<b>Email</b> andrew.fletcher@wokingham.gov.uk

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