

BULWELL AND BULWELL FOREST AREA COMMITTEE 23 MAY 2012

Title of paper:	REQUEST FOR AUTHORISATION TO STOP UP (CLOSE PERMANENTLY) A FOOTPATH AT KNIGHTS CLOSE, TOP VALLEY	
Director	David Bishop, Corporate Director of Development Tel: 0115 8763758 Email: david.bishop@nottinghamcity.gov.uk	Wards affected: Bulwell Forest
Contact Officer(s) and contact details:	Steve Hunt, Traffic Manager Development Tel: 0115 8765294 Email: steve.hunt@nottinghamcity.gov.uk John Lee, Senior Rights of Way Officer Development Tel: 0115 8765246 Email: john.lee@nottinghamcity.gov.uk	
Other officers who have provided input:	Judith Irwin, Senior Solicitor Legal Services Resources Tel: 0115 8764419 Email: judith.irwin@nottinghamcity.gov.uk	

Relevant Council Plan Strategic Priority:

World Class Nottingham	X
Work in Nottingham	
Safer Nottingham	
Neighbourhood Nottingham	X
Family Nottingham	X
Healthy Nottingham	
Leading Nottingham	X

Summary of issues (including benefits to customers/service users):

This report seeks authorisation to make an order to stop up (close permanently) a stepped footpath at Knights Close, Top Valley. The report additionally seeks approval for the Council to confirm the order (if unopposed) or to refer it to the Secretary of State for confirmation (if opposed).

Recommendation(s):

1	Authorise the Corporate Director of Development to make a public path extinguishment order to stop up the footpath shown on the plan at Appendix 1 between points (A) and (B); and
2	If the order is unopposed, authorise the Corporate Director of Development to confirm it
3	If the order is opposed, authorise the Corporate Director of Development to refer it to the Secretary of State for confirmation.

1 BACKGROUND

- 1.1 The Council has been requested by Right Track Social Enterprise Limited (“Right Track”) to close a footpath which runs through its premises at Knights Close, Top Valley. The footpath at its northern point adjoins another footpath running east to west between Southglade Primary School to the east to Old Farm Road to the west. The footpath at its southern point adjoins Knights Close. The footpath is shown on the plan at Appendix 1 between points (A) and (B) and is 48 metres in length. Right Track’s premises are shown hatched on that plan. Photographs illustrating the ends of the footpath are attached at Appendix 2.
- 1.2 The request to extinguish public rights of way over the footpath is made on the basis that the footpath is not necessary for public use and was not used frequently by the public. This is due to the footpath’s design and access characteristics and the availability of an existing alternative route which is in close proximity to the footpath. The alternative route is shown on the plan at Appendix 1 between points (C) and (D). It is 35 metres to the east of the footpath and is 43 metres long. It has no steps. Photographs illustrating the ends of the alternative route are attached at Appendix 3.
- 1.3 Following receipt of the request for the order, the Council’s Rights of Way Officer advised Right Track that it is good practice to carry out informal “pre-order” consultation. This would help to highlight any issues which the proposed closure might present and might also identify potential objections to the future order. On the 22 February 2012 “pre-order” consultation notices were placed at either end of the footpath for a period of 28 days. The notices explained that the Council had received a request to close the footpath and invited representations on the proposed closure by 22 March 2012. A plan showing the alternative route was also placed on site. The only response the Council received to this informal consultation was one telephone call. The caller did not wish to object to the proposals and explained that one of the local schools had a problem with truancy and closing the footpath may increase this due to pupils having to use the alternative route which would add an extra one minute to their journey.
- 1.4 To establish the number of citizens using the footpath as a public right of way compared to the alternative route, over a two day period during April 2012 the Council’s Highway Metrics team carried out a user survey between 07.00 and 10.30 hrs and 15.00 and 18.30 hrs (i.e a total of 14 hours). Over the two days, 15 citizens used the footpath and 174 used the alternative route.

2 REASONS FOR RECOMMENDATIONS

- 2.1 The footpath is used both as a public right of way and for pedestrian access to Right Track’s premises. The footpath has steps at its northern end and runs through a private car park before terminating at the southern end at Knights Close. Traversing the car park has associated health and safety issues for users of the footpath arising from vehicles manoeuvring in and out of this area. These design and access characteristics mean that the footpath is not frequently used by citizens as a public right of way. In addition, there is a convenient and comparatively level alternative route nearby.
- 2.2 Right Track’s longer term intention (if public rights are extinguished by the making and confirmation of a stopping up order) is to retain the footpath for private access into their premises which would be controlled by a gate at either end.

3 OTHER OPTIONS CONSIDERED IN MAKING THE RECOMMENDATIONS

The Council's power to make a stopping up order is discretionary. The Council could therefore decide not to make an order to stop up the footpath in which case it would be retained for public use.

4 FINANCIAL IMPLICATIONS

- 4.1 At its meeting on the 21 March 2012 Area Committee approved the allocation of £2,000 for the Stopping Up Order from the Area Capital Fund which will cover the cost of preparing and publishing the order and officers fees. There will be additional costs to the Council if objections are made to the order and it is necessary to refer the order to the Secretary of State for its confirmation at a local public inquiry or hearing.
- 4.2 Any costs associated with the works to close the footpath, if the stopping up order is made and confirmed, such as gates and fencing, would be met by Right Track.

5 RISK MANAGEMENT ISSUES

5.1 LEGAL IMPLICATIONS

- 5.1.1 The power to make a public path extinguishment order to stop up a public right of way under section 118 of the Highways Act 1980 is exercisable where it appears to the Council that "it is expedient that the public right of way should be stopped up on the ground that it is not needed for public use" (section 118(1)). It is considered that this test is met by reason of the availability of the existing alternative route which is parallel to and in close proximity to the footpath. In addition, the alternative route is shorter, safer for pedestrians and there are no steps to negotiate, as described at paragraph 1.2. The outcome of the informal consultation described at paragraph 1.3 would tend to support this view.
- 5.1.2 If an order is made, notices publishing it have to be placed on site and in a local newspaper and this must include reference to the objection period (minimum of 28 days) within which any person may lodge an objection. If any objections are received, the Council cannot confirm the order itself. If it wishes to proceed with the order, it has to submit the order for confirmation to the Secretary of State who will determine the opposed order either by public inquiry by hearing, or by written representation. If no objections to the order are received, the Council can confirm the order itself. The order does not become effective until it is confirmed.
- 5.1.3 The test to be applied before the Council (if the order is unopposed) or the Secretary of State (if objections are received) confirms an order is different to the order-making stage. The legislation requires the confirming body to be satisfied that it is expedient to do so having regard to the extent (if any) to which it appears that the public right of way would, apart from the order, be likely to be used by the public and the effect which stopping up would have on the land served by it. The likely use of the footpath by the public can be ascertained from the outcome of the survey described at paragraph 1.4. In this particular case, bearing in mind the information detailed above, it is considered that the confirmation test is met.

5.2 CRIME AND DISORDER ACT IMPLICATIONS

None

5.3 EQUALITY AND DIVERSITY IMPLICATIONS

5.3.1 The photographs at Appendix 2 shows the set of steps at the northern end of the footpath which means that it cannot be used as a public right of way by citizens who rely on mobility aids such as powered scooters or manual wheel chairs, and it is less likely to be used by the visually impaired than the alternative route. As can be seen from the photographs at Appendix 3, the alternative route has a set of staggered barriers at its northern end (located at the point marked (C) on Appendix 1). The distance between each barrier allows the passage of powered scooters, manual wheelchairs, double buggies and prams while deterring unauthorised vehicles such as motorcycles and quad bikes.

5.3.2 As can be seen from Appendix 1, the distance along the footpath from point (A) to point (B) is 48 metres and using the alternative route the distance between point (C) and (D) is 43 metres. For citizens starting their journey from a westerly point, for example from the direction of Hathersage Close, the distance from point (A) on the footpath to point (C) on the alternative route is 35 metres. The net effect therefore of using the alternative route would be to add an extra 30 metres to a person's journey when travelling from a westerly direction and reduce the distance by 5 metres when travelling from an easterly direction.

5.3.3 In the event that Committee authorise the making and confirmation of the order, there will be no equality or diversity implications.

6 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

None

7 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

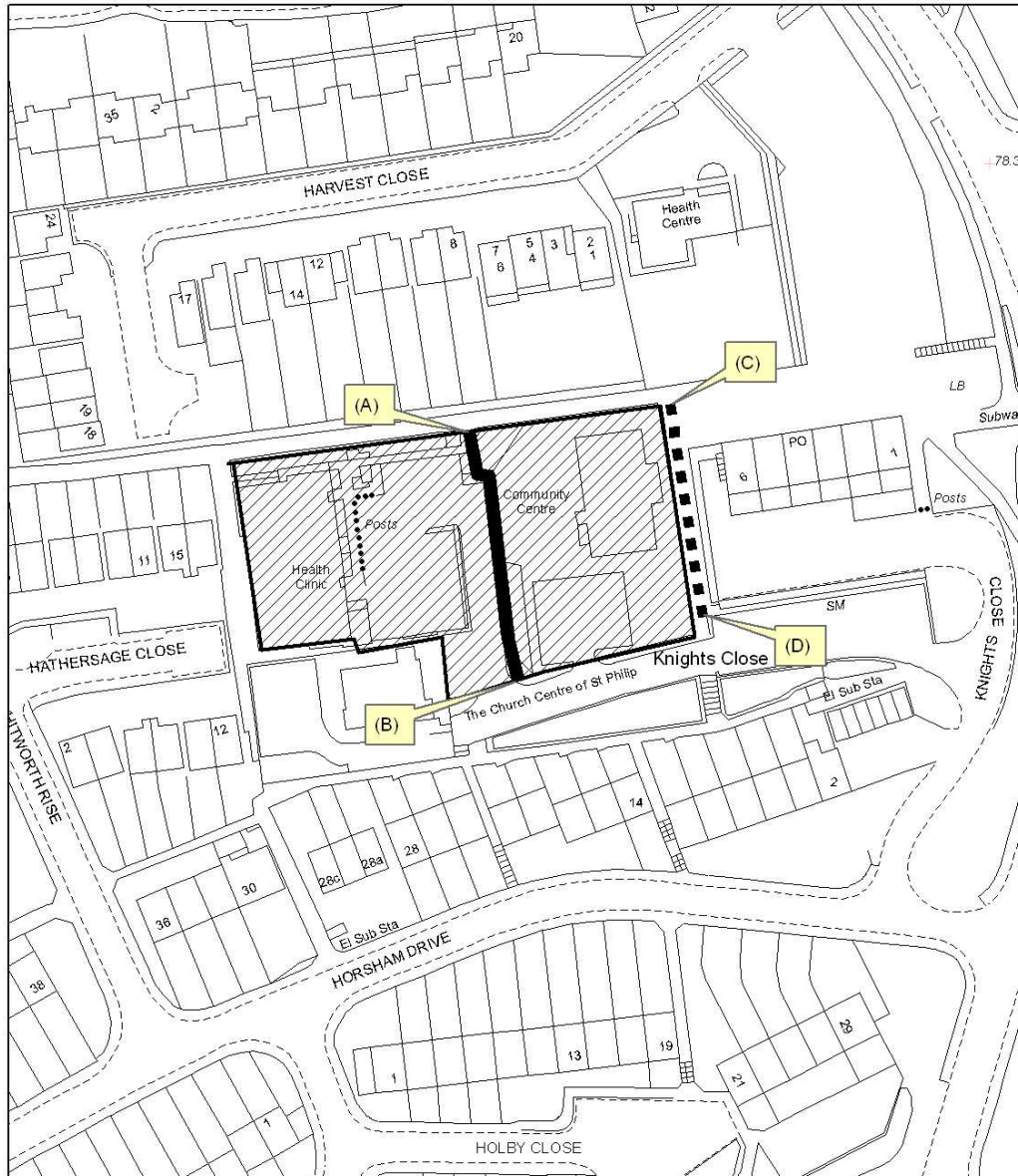
7.1 Highways Act 1980 (as amended)

7.2 Report to Bulwell and Bulwell Forest Area Committee titled "Area Capital Programme and Section 106 Funding" dated 21 March 2012



7.3 Minutes of the Bulwell and Bulwell Forest Area Committee meeting dated 21 March 2012 Minute no. 60.

APPENDIX 1

FOOTPATH SUBJECT OF STOPPING UP REQUEST AND THE ALTERNATIVE ROUTE (IF THE FOOTPATH IS STOPPED UP)



REQUEST TO STOP UP A FOOTPATH AT KNIGHTS CLOSE, TOP VALLEY

<p>Legend</p> <ul style="list-style-type: none"> (A) - (B) footpath subject of stopping up request (C) - (D) alternative route (existing) Rights Track's premises 	<p><small>Map produced on 28th 2012 Map produced by: 2012 Site Track Management</small></p>	<p>N</p> 	 <p>Nottingham City Council</p> <p>Development</p> <p>Scale 1:1,000</p>
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APPENDIX 2

END POINTS OF THE FOOTPATH SUBJECT OF STOPPING UP REQUEST



Footpath (Point (A)) subject of stopping up request - set of steps at the northern end into the car park



Footpath (Point (B)) access to Knights Close from the southern end (also showing vehicular access into the car park)

APPENDIX 3

END POINTS OF THE ALTERNATIVE ROUTE (IF THE FOOTPATH IS STOPPED UP)



Alternative route (Point (C)) - staggered barriers at the northern end (these allow the passage of powered scooters, manual wheelchairs, double buggies and prams while deterring unauthorised vehicles such as motorcycles and quad bikes)



Alternative route (Point (D)) - the southern (Knights Close) end