

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE – 29th JUNE 2004

PROMOTION OF PUBLIC PATH EXTINGUISHMENT ORDER

Report by the Acting Executive Director of Corporate Support

1. PURPOSE OF THE REPORT

- 1.1** To seek Committee authority to promote a Public Path Extinguishment Order in respect of the footpath leading from Thomson Street to the rear of Witchhill Place, Kilmarnock, (shown hatched on the attached plan) in terms of Section 34 of the Countryside (Scotland) Act, 1967.

2. BACKGROUND

- 2.1** The Council's predecessor authority acquired title to the footpath which previously served as access to property owned by Shanks & Co. Ltd., in conjunction with the purchase of adjacent land to be used for Council housing.
- 2.2** The path provides access from Thomson Street to a row of lock-up garages in Council ownership at the rear of Witchhill Place, Kilmarnock and is listed as part of the public road system.

3. CURRENT POSITION

- 3.1** Following representation to the Council by local residents both individually and through the Orchard Area Tenants and Residents Association (Kilmarnock) comprising residents of William Street, Blair Street and Thomson Street, Kilmarnock in respect of vandalism and anti-social behaviour issues occurring at the footpath, the Council's Housing Committee of 19th May 2004 as part of its regeneration strategy for the wider Longpark area, recommended to this Committee to approve the proposed closure of the footpath in terms of Section 34 of the Countryside (Scotland) Act 1967, on the basis that the footpath was no longer required for public use and that it would be expedient to close it.
- 3.2** Strathclyde Police have been consulted and have confirmed both the nature and extent of vandalism reported by local residents and their support for the proposal on the basis that the footpath no longer has a legitimate public use and that it would be expedient in the interests of public safety to close it.

- 3.3.** The Head of Roads and Transportation has further confirmed that notwithstanding the historic use of the footpath and its listing as part of the public road system, it is no longer required for public use on the basis that alternative access to the garage site at the rear of Witchhill Place is available from Witchhill Place and that there are no additional legitimate requirements for use.
- 3.4** The area comprising the footpath is not identified in the East Ayrshire Local Plan for any specific purpose, the East Ayrshire Local Plan specifically provides, however, that the Council actively seek to integrate and achieve improvements to the local and strategic road, rail, cycle and footpath infrastructure within East Ayrshire. The Head of Planning & Building Control has confirmed that given the existence of an alternative access to the garage site at the rear of Witchhill Place and the lack of a requirement for public use of the footpath that its closure would constitute an improvement in the footpath infrastructure within East Ayrshire.
- 3.5** The East Ayrshire Community Plan 2003/2007 identifies as one of its main objectives improving community safety within East Ayrshire and further identifies as one of its main aims putting systems in place to stop litter, graffiti and vandalism and dealing quickly with any problems as they happen. The proposed closure of the footpath in the interests of public safety will provide an immediate solution to vandalism in the area.
- 3.6** The local member has been consulted and is supportive of the proposal

4. FINANCIAL IMPLICATIONS

- 4.1** Following successful promotion of the Order ownership of the footpath would revert to the Council as Housing Authority in terms of title with consequential capital and maintenance obligations requiring to be met from the Housing Account.
- 4.2** Section 37 of the Countryside (Scotland) Act 1967 provides for compensation to be paid to landlords whose interest in land is depreciated or enjoyment of land is disturbed in consequence of the closure of a public footpath, however, given that the Council is the landowner both of the footpath and the garage site at the rear of Witchhill Place no other parties have a compensatory interest.

5. LEGAL IMPLICATIONS

- 5.1** The Public Path Extinguishment Order will be promoted in terms of Section 34 of the Countryside (Scotland) Act 1967, which empowers the local authority to make appropriate Order in cases where a footpath is no longer required for public use and it is expedient to close it.
- 5.2** The promotion of the order requires to be advertised in terms of the procedure set out in Schedule 3 of the Countryside (Scotland) Act 1967 and, in the event of objection will require to be confirmed by the Scottish Ministers again in terms of Schedule 3 and Section 34 of the Countryside (Scotland) Act 1967.

6. POLICY

- 6.1** The proposed closure is consistent with the aims and objectives contained within the East Ayrshire Local Plan, East Ayrshire Community Plan and the Local Housing Strategy.

7. CONCLUSION

- 7.1** Promotion of the Order will support the Council's aims and objectives as contained within the Local Plan, the Community Plan and the Local Housing Strategy in respect of regeneration and community safety.

8. RECOMMENDATION

- 8.1** Committee is recommended:-

- (i) to approve the promotion of a Public Path Extinguishment Order in respect of the footpath leading from Thomson Street to the rear of Witchhill Place, Kilmarnock in terms of Section 34 of the Countryside (Scotland) Act 1967;
- (ii) to otherwise note the contents of this Report.

David Mitchell,
Acting Executive Director of Corporate Support

3rd June 2004

LIST OF BACKGROUND PAPERS

- 1.** Housing Committee Report of 19th May, 2004.

Any person wishing to inspect the background papers listed should telephone Mrs. Irene Halpin, 01563 576072, Deborah Brady, Policy Officer (Housing, Policy & Strategy), 01563 576792 and Planning & Roads

Implementation Officer: - Irene Halpin

