

AIRDRIE CLOSE & WEST QUAY DRIVE, YEADING - PETITION REQUEST TO 'STOP UP' ADOPTED PUBLIC FOOTPATH

Cabinet Member	Councillor Keith Burrows
Cabinet Portfolio	Cabinet Member for Planning, Transportation and Recycling
Officer Contact	John Fern Planning, Environment, Education and Community Services
Papers with report	Appendix A

HEADLINE INFORMATION

Purpose of report	To inform the Cabinet Member that a Petition has been received asking for the adopted public footpath that runs between Airdrie Close And West Quay Drive, Yeading to be 'stopped up'.
Contribution to our plans and strategies	The request can be considered as part of the Council's Road Safety Programme
Financial Cost	The re-opening of the footpath and the clearance of undergrowth will be catered for within the present highways budget
Relevant Policy Overview Committee	Residents' and Environmental Services
Ward(s) affected	Yeading

RECOMMENDATION

That the Cabinet Member;-

1. Meets and discusses with petitioners their request to 'stop up' the adopted public footpath.
2. Subject to the outcome of 1 above, considers the Petitioners request together with the advice given in the report by Officers and Legal and instructs Officers to carry out the necessary actions to re-open the footpath.

INFORMATION

Reasons for recommendation

The recommendation meets the Council's legal obligation as the Highway Authority to protect the rights of the public to use the adopted public highway.

Alternative options considered

There are no alternatives to consider as there is not a more commodious alternative route and to stop up the adopted public highway would prevent the public's use and enjoyment of the highway.

Comments of Policy Overview Committee(s)

None at this stage.

Supporting Information

1. A Petition with 32 Signatures has been submitted to the Council under the following heading 'Residents petition to keep the footpath between 7 & 8 Airdrie Close, Yeading fenced off'.
2. The Glencoe Estate was developed in around 1995 and Airdrie Close was adopted in early 1996 together with a footpath that joins Airdrie Close with West Quay Drive. Other such footpaths throughout the estate were also adopted.
3. The footpath has a tarmac surface and street lighting at the Airdrie Close end and should provide residents in various roads and closes on the Glencoe Estate access to West Quay Drive and Marina Approach together with the Marina with residential moorings and its restaurant.
4. It is alleged that at some time in the past, due to anti social behaviour along the path, residents erected a wooden fence across the path thereby blocking its use to the public. There was no consultation with the Highways Authority over this obstruction. The claims relating to anti social behaviour connected with this footpath have not been evidenced to the Council to date.
5. In April 2011 the Council received correspondence from Solicitors on behalf of the lead Petitioner asking for the footpath to be 'stopped up'. This was to enable the lead petitioner who lives adjacent to the footpath to purchase the land and incorporate it within his property.
6. The Council replied at that time that they did not wish the footpath to be stopped up. They thanked the writer for bringing the matter of the blockage to the Council's attention and stated that efforts would now be made to re-open the path as the Council had a duty to protect the rights of the public to the use and enjoyment of any highway. The overgrowth would be cut right back which would open up the way and make it safe and accessible.
7. The Council has also received a letter of support for the stopping up of this footpath from John McDonnell MP a copy of which is attached to this report.
8. Although this footpath has been blocked by residents there is prima facia evidence of use in the past. Officers are of the view that the footpath is necessary and should be retained for the benefit of the wider public. In particular, the footpath is a convenient route which links the estate roads to the North of the footpath to West Quay Drive, Marina Approach and the Marina with its residential moorings and restaurant. An earlier petition requesting a footpath to be constructed along West Quay Drive to assist pedestrians to gain access to the Marina and restaurant has been received by the Council. This shows that there is a requirement to provide footpaths within the estate. If this footpath were to be stopped up, the route to West Quay Drive, Marina Approach and the Marina would be less convenient for pedestrians travelling from areas to the North of the development.

9. The Council having now been advised that the footpath is obstructed must take the necessary action to ensure that it is opened up for the public use.

10. The Petition Hearing was heard at the Civic Centre on 12th October 2011 when it was resolved that the Cabinet Member: -

1) Met and discussed with petitioners their request to 'stop up' the adopted public footpath.

2) The Cabinet Member asked that officers investigate the history to the petitioners claims that a formal request had been made to 'stop up' the footpath in 1998, and the petition be re-submitted to a future petition hearing once this information has been received

11. Following the hearing officers investigated the history to the petitioner's claims and conducted a search of Council records however no trace of any formal request to 'stop up' the footpath could be found. The petition is therefore re-submitted to a future petition hearing.

Planning

There are no planning issues.

Safety, Security and Crime

There is no evidence of any anti-social behaviour on this footpath. The footpath when re-opened will be cleared back to ensure it is safe and accessible. The Local Safer Neighbourhood Officers will also be informed.

Financial Implications

The minor financial implications of re-opening of the footpath and the clearance of undergrowth can be met from existing highways budgets.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

The footpath will provide residents on the estate and members of the public with access between other roads on the estate and West Quay Drive, Marina Approach and the Marina with its residential moorings and restaurant. The Council will be carrying out its statutory duty to assert and protect the public's right to use the adopted public highway.

Consultation Carried Out or Required

No consultation required.

CORPORATE IMPLICATIONS

Legal

The Council has various powers to stop up a highway. In this particular case, the Council could apply to the Magistrates Court for an order to stop up the footpath in accordance with Section 116 of the Highways Act 1980. In deciding whether or not to 'stop up' the way the Court would need to be satisfied that the way was 'unnecessary' for public passage. This report indicates that officers are of the view that the footpath is necessary and is an important link between various estate

roads and West Quay Drive and the Marina. If that is the case then the powers under Section 116 of the Highways Act 1980 would not be available.

Section 138 of the Highways Act 1980 states that it is a criminal offence to obstruct a highway (for these purposes including the foot path) by erecting a fence. That being the case, the person(s) responsible for erecting the fence is liable to criminal prosecution which could result in those persons receiving both a substantial fine and criminal record. Should officers wish to pursue this course of action, further advice should be sought from Legal Services.

BACKGROUND PAPERS

Appendix A

Plan

Photographs of the footpath