

WEST DUNBARTONSHIRE COUNCIL

Report by the Acting Director of Housing, Regeneration and Environmental Services (Housing & Regeneration Services)

Planning Committee: 7 February 2007

Subject: Enforcement Action in respect of Sections 13 & 14 of the Land Reform (Scotland) Act 2003 at Milton Brae/Greenland Farm, Milton

1. Purpose

- 1.1** To advise the Committee of the duty of the Council to uphold access rights in relation to Sections 13 & 14 of the Act and to agree to undertake necessary enforcement action at Greenland Farm, Milton.

2. Background

- 2.1** Under the Land Reform (Scotland) Act 2003 it is the duty of the local authority to assert, protect and keep open and free from obstruction or encroachment any route, waterway or other means by which access rights may reasonably be exercised. The Council may for the purposes set out above, institute and defend legal proceedings and generally take such steps as they think expedient.
- 2.2** The public has been prevented from taking access along Greenland Farm road by signs which prohibit access and by the tenant farmer who requests that walkers do not walk along the farm road. The Council has experienced a number of complaints about such restrictions, and the Community Council have also requested that the Council uphold access rights at this locale. The Local Access Forum has also discussed this matter regularly at their recent meetings.

3. Main Issues

- 3.1** Negotiations have been ongoing since August 2006 to try to resolve the situation along Greenland Farm Road, and although some progress has been made through negotiations concerning the provision of public access, the signs advising that there is no right of access continue to be displayed.
- 3.2** Latterly, the matter was referred to the Health and Safety Executive (HSE) by William Thompson & Son, in relation to public access around Sheephill Quarry. The HSE commented that it was outwith their remit to state that there should be no public access around the boundary of the quarry, and therefore it is officers' views that there should be no impediment to the public exercising their access rights at this location.

- 3.3** On 1 December 2006 William Thompson & Son were written to requesting that they remove or reword the signs and stop preventing access. To date, there has been no response.
- 3.4** Should the Council decide to pursue enforcement proceedings, a Notice under Section 14(2) of the Land Reform (Scotland) Act 2003 would be served to seek the removal of the signs. Should this notice not be complied with or there is no appeal by the landowner against the notice, the Council would then be able to remove the signs themselves and also seek reasonable costs from the landowner for doing so.

4. Financial Implications

- 4.1** None at this point.

5. Personnel Issues

- 5.1** None

6. Risk Analysis

- 6.1** There are no known risks to the Council at this point.

7. Conclusion

- 7.1** The Council has a duty to ensure that public rights of responsible access, rights of way and core paths are kept free of obstructions at all times . The display of signage that advises against public access on a well used route is a matter of concern and negotiations about this matter have been unable to resolve the current situation. It is considered that the landowner should be required to remove the offending signs. Therefore authority is sought from the Committee to begin enforcement proceedings against William Thompson & Son concerning the access route at Milton Brae/Greenland Farm, Milton.

8. Recommendation

- 8.1 That the Committee agree to proceed with enforcement action against William Thompson & Son to uphold access rights at Greenland Farm, Milton.**

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Date: 8 January 2007

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Appendices: None

Background Papers: Land Reform (Scotland) Act 2003
Report to Planning Committee 6 September 2006 on
Enforcement Procedures in respect of the Land Reform
(Scotland) Act 2003

Wards Affected: 11