

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Infrastructure and Regeneration

Planning Committee: 22 October 2014

Subject: Diversion of public path at/near Wester Cochno Farm, Cochno Road, Hardgate by Mr Richard Spratt

1. Purpose

- 1.1** To enable the Committee to consider the representations which have been received following publication of a draft public path diversion order, and to agree whether or not to proceed with the order by referring it to the Scottish Ministers.

2. Recommendations

- 2.1** That the Committee decides **not to proceed** with the public path diversion order.

3. Background

- 3.1** The application relates to a 1.1km section of rural track which forms a continuation of the western arm of Cochno Road. The track provides access to Wester Cochno and Cochnohill Farms, and continues into the Kilpatrick Hills to Greenside Reservoir. The track is privately owned by a local farmer and the Forestry Commission, but its use as a public path is well established. The track is recorded as a claimed right of way by the Scottish Rights of Way and Access Society (SCOTWAYS), although this status has never been vindicated by any legal proceedings.
- 3.2** Whilst the track has been used by local people and visitors as a walking and cycling route into the Kilpatrick Hills for many years, it is also used to access locations around Greenside Reservoir for anti-social activities. This has resulted in anti-social behaviour being experienced by the residents of the properties alongside the track, including vandalism and late night noise. The Police are understood to have been called to the location, and have met with residents to try to address the anti-social behaviour problems in the hills around Greenside Reservoir. However, the location is difficult to police due to its remoteness and the many small areas of woodland and hidden areas.
- 3.3** As a result, the affected residents have sought to move a section of the route to Greenside Reservoir away from their homes, in order to reduce the opportunity for and likelihood of anti-social behaviour by persons travelling to or from the hills. Forestry Commission Scotland, which owns a substantial area of land north of Cochno Road, has recently planted woodland and installed a new path network in the vicinity of the site in order to encourage

responsible public access. One of these new forestry paths forms a “bypass” which avoids the houses at West Cochno and Cochnohill, and whilst slightly longer than the original route (by approximately 150m and not 75m as stated in the previous report), it is of a high standard of construction and offers improved views across the Clyde and Glasgow. On 5 June 2013 the Planning Committee agreed to amend the Council’s Core Path 98 to follow this new route.

- 3.4** The effect of amending the core path route was that signs and maps now show the Forestry Commission track as the core path, and no longer show the original route past Wester Cochno and Cochnohill. This encourages many of the walkers/cyclists to use the new path, but the persons who are responsible for the anti-social behaviour problems are less likely to abide by signs or maps and the problems have therefore continued. The residents would therefore like to install gates blocking off the original route, in order to make access by such people more difficult. However, the original route past their homes remains a right of way, whilst the new forestry track has not yet had time to become established as a right of way itself. This application therefore seeks a public path diversion order under Section 35 of the Countryside (Scotland) Act 1967, to change the route of the right of way to use the new forestry track. This would allow the residents to install gates closing off the original route.
- 3.5** A report on this issue was considered at the Planning Committee on 28 May 2014 and the Committee agreed to the issuing of a draft notice. Under the legislation covering such applications, public consultation does not take place until after a draft public path diversion notice has been issued. Details of the representations which have been received are set out in Section 4 below. As there are objections to the draft order, it would require to be confirmed by the Scottish Ministers before it could take effect. This would involve referring the matter to the Ministers, who would hold a public local inquiry in order to consider the matter. The Committee is therefore invited to consider these representations and to decide whether it wishes to proceed with the order in the light of the comments received.

4. Main Issues

Representations

- 4.1** The draft order has been advertised by way of a site notice and local newspaper notice, and letters/emails were sent to a variety of groups and organisations to advise them of the proposal, although not all of these parties have responded. A total of 22 representations have been received, of which 21 object to the proposal (eighteen individuals, Clydebelt, the Parkhall, North Kilbowie and Central Community Council, and ScotWays). Reasons for objection given were as follows:

Effectiveness at Reducing Anti-Social Behaviour

- Whilst most objectors expressed sympathy for the residents affected by anti-social behaviour, they doubted whether the path diversion would alleviate these problems;
- Proposal would only move anti-social behaviour problem a short distance;
- Anti-social individuals would ignore path diversion and continue to use current route;
- Anti-social behaviour is a matter for Police Scotland and not a valid reason to divert a Right of Way (ROW);
- Police Scotland's position on the application requires to be confirmed;

Principle of Proposal

- Would set an undesirable precedent for closing ROWs because of anti-social behaviour;
- Would penalise responsible path users for the behaviour of a small minority;
- Additional signage could be used to encourage use of the new path without having to close the existing route;

Advantages of Current Route

- Route is a well used access into the Kilpatrick Hills which people have enjoyed using for many years;
- Current route has attractive view of Loch Humphrey Burn which the new path lacks;
- Local historical significance of the original route as a means of accessing the hills from Clydebank. During the Great Depression many unemployed people took to hillwalking to keep fit/occupied, and people from Clydebank were involved in the establishment of early rambling and mountaineering clubs.
- It has been suggested that the path served as a route from Clydebank to the Carbeth huts and to what is now the West Highland Way, and was used as an escape route during the Clydebank Blitz.

Disadvantages of New Path

- New path is steeper and narrower than original route, and less suitable for people with mobility or other health problems;
- New path is longer than original route;
- New path has not been designed for use by horses or mountain bikes, which will damage the path. (Note: the path has in fact been constructed to Lowland Path Construction standards which is intended to allow use by horses and bicycles);
- If the diversion is allowed there must be a commitment to maintain the new path to an appropriate standard.

Other Issues

- Complaints about one of the landowners having allegedly sought to discourage legitimate use of the ROW, and about the condition of buildings adjacent to the ROW;
- Suggestion that closing old route might conflict with terms of Land Reform (Scotland) Act 2003

- 4.2** The other representation is from the British Horse Society, which has no objection to the proposed path diversion subject to the new path being suitably maintained and made available for use by horse riders on an ongoing basis.

Acceptability of the New Path

- 4.3** The new path is well constructed and offers certain advantages over the original route, and it is understood that since the changes to the core path signs many walkers have started using the new route in preference to the original path. It is acknowledged that the new path is narrower and more steeply graded in places and it is also approximately 150m longer. Although some objectors have referred to the new path being less suitable for people with mobility problems, the section of path is part of a much longer path of varying quality, and it is not likely that people who could not manage the modest increase in length/gradient of the proposed diversion would set out to use the existing route either. Nonetheless, it must be recognised that the existing route is long established and, being both familiar and slightly easier, some walkers would prefer it to the new path.

Comments of Police Scotland

- 4.4** Police Scotland has been consulted on the application and they have looked at the plans and the representations received. They have checked through Police Incidents to the area since 1st January 2014 and noted that there are 16 calls of an Anti Social Behaviour nature. These range from youths drinking to a "mini rave", and to youths blocking access to property with tyres. The locus for most of these incidents appears to be the derelict water tower/works further down Cochno Rd, albeit there are 2 calls to the "Greenie" which is the field at the reservoir.
- 4.5** In their experience when dealing with a local issue like this, local persons have relevant knowledge of the area and will usually follow the easiest route to where they want to go, ie path of least resistance. Albeit moving the public right of way would make law abiding users move away from the properties in question, they very much doubt this would have the same effect to local youths who are under the influence of alcohol. I understand that the residents are looking to displace the youths/ASB away from their properties; however their experience tells them that this is extremely difficult to achieve. The anti-social behaviour is a matter for the Police to deal with and should be reported as it has been. They are aware of the issues at the water works and have directed officers to pay extra attention to it where possible.

Impact on Anti-Social Behaviour

- 4.6** The rationale for diverting the right of way is that it would help to address problems which residents have experience with antisocial behaviour of some individuals using the path, and if these people could be made to use the new path then the impact on residents would be reduced. However, it is less clear whether diverting the public path and installing gates and signs would be likely to actually achieve this. Whereas most ordinary walkers would doubtless respect the change in the route, the anti-social individuals may continue to use the existing route. Rowdy and intoxicated groups returning home would be likely to take the shortest and most convenient route and would be unlikely to be dissuaded from using the current path and this has been supported by the comments of Police Scotland.
- 4.7** The applicant has confirmed that they plan to install high gates at the north end of the original route, where it forms a junction with the new path. It is envisaged that people returning by this route late at night would be unlikely to climb or circumvent the gates in the darkness and would therefore follow the new path. At the south end of the diverted path a lower gate is intended as there is not such a problem with people travelling up the hill. The details of these gates are not available at this time, but depending upon their height the installation of gates may not require an application for planning permission.

Conclusions

- 4.8** There is an acknowledged problem with anti-social behaviour in the vicinity, and the problems which this has caused for the applicant are acknowledged. The new path has been constructed to a high standard and forms a valuable addition to the local path network, and it is desirable that the public should be encouraged to use it. However, the existing route is long established, and is wider, slightly shorter and more easily graded than the new path. Closure of the existing route would penalise the majority of path users who use it for responsible access to the countryside, because of the actions of a small minority of anti-social persons, and would set an extremely unfortunate precedent. Police Scotland has commented that they do not feel that these measures would remove the problem of anti-social behaviour on the properties. Under the circumstances it is considered that the case for diverting the public path is not strong enough to merit pursuing this course of action.

5. People Implications

- 5.1** None.

6. Financial Implications

- 6.1** There are no direct financial implications.

7. Risk Analysis

- 7.1** No risks have been identified.

8. Equalities Impact Assessment (EQIA)

8.1 An EQIA is not required.

9. Consultation

9.1 Publicity and consultation have been carried out, and the representations received are summarised in Section 4 above.

10. Strategic Assessment

10.1 The proposal does not raise any issues in terms of the strategic priorities of the Council.

Richard Cairns

Executive Director of Infrastructure and Regeneration

Date: 9 October 2014

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| Person to Contact: | Pamela Clifford, Planning & Building Standards Manager, Housing, Environmental and Economic Development, Council Offices, Clydebank. G81 1TG. 01389 738656 email: Pamela.Clifford@west-dunbarton.gov.uk |
| Appendix: | 1. Report to 28 May 2014 Planning Committee concerning diversion of core path. |
| Background Papers: | 1. Application documents and plans 2. Representations received 3. Comments of Police Scotland |
| Wards affected: | Ward 4 (Kilpatrick) |