

## Report of the Rights of Way Section on its activities since September 2009

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### 1. Introduction

- 1.1 This report complies with the resolution, recorded as minute 38 of the Planning & Rights of Way Panel meeting 8<sup>th</sup> January 2008; that an update report be received annually by the Panel with interim e-mail updates to Panel Members.
- 1.2 Since the last full report to Panel, January 2009, there have been two interim reports, July and September, the first quarterly interim report due March/April being deferred because of priority being given to the preparation of material that was presented to Panel at its meeting 23<sup>rd</sup> June.
- 1.3 The purpose of this paper is to précis the two interim reports and update Panel on more recent activities, thereby giving Panel the opportunity to comment.

### 2. Responsibilities

- 2.1 The overall duty of the Rights of Way Section is to fulfil the City Council's statutory responsibilities in respect of:-
  - The National Parks & Access to the Countryside Act 1949, (NP&AC);
  - The Countryside Act 1968, (CA);
  - The Highways Act 1980, (HA);
  - The Wildlife & Countryside Act 1981, (W&C);
  - The Countryside & Rights of Way Act 2000, (CROW);
  - The Marine & Coastal Access Act 2009, (MCA); and
  - All other legislation that impacts on public rights of way within the City.
- 2.2 Primary duties include the:-
  - review and maintenance of a Definitive Map & Statement;
  - (preparation, publication), implementation and monitoring of a Rights of Way Improvement Plan;
  - representing of the City Council on the Local Access Forum, (the Hampshire Countryside Access Forum) and other bodies as required;
  - consideration, assessment and investigation of Schedule 14 applications submitted by the public under section 53(5) of the W & C Act 1981;
  - preparation, implementation, recording and reporting on a Local Performance Indicator, (ex BVPI 178, now obsolete in favour of National Indicators that do not include any for public rights of way);
  - enforcement to remove obstructions from rights of way;
  - historic research and investigation of routes that are potentially rights of way as part of the continuous review of the Definitive Map and Statement as directed by section 53(3)(c) of the W & C Act 1981;

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- guidance to planning officers and others in respect of developments that impact on rights of way or potential rights of way; and
- response to all manner of enquiries from the public, Council Members, Council Officers, outside bodies, Government Departments and other Local Authorities.

### **3. Definitive Map & Statement; Ward Review**

- 3.1 An assessment has been made of comments and representations regarding the 22 routes identified as potential rights of way within the ward of Bassett, following the 12 week informal consultation that concluded in September.
- 3.2 Indications are that 17 routes are footpaths and 5, because of prolonged periods of use by cyclists, could be Restricted Byways.
- 3.3 Preparations are now well in hand for a four-week consultation on proposals to apply for Definitive Map Modification Orders, inviting further representations prior to the legal procedures that will add them to the Definitive Map.

### **4. Definitive Map & Statement; Legal Events**

- 4.1 Two Definitive Map Modification Orders made 15<sup>th</sup> July and 19<sup>th</sup> August both received objections, not withdrawn, have now been submitted to the Secretary of State who will refer them to the Planning Inspectorate for determination.
- 4.2 To date, no response has been received from the Planning Inspectorate, but having submitted, in both cases, Statements on the grounds for confirmation and Statements on the Authorities comments on the objections, it is still presumed that one will be dealt with by written representations and the other leading to a Public Inquiry.

### **5. Other Actions**

#### **5.1 Enquiries**

Of the numerous and varied enquiries made of the section, priority is given to those which have an immediate impact on a right of way or potential right of way. Such a case has recently arisen concerning the obstruction of a route that lies to the rear of the Lord's Hill District Centre.

The present situation is that, in all probability, there will be a Schedule 14 Application to have a route added to the Definitive Map & Statement. Should a *bona fide* application be received, there will be a duty to investigate the claim and take appropriate action that may result in a Report to Panel, seeking its determination on whether or not the route has accrued public right of way status.

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### 5.2 Rights of Way Improvement Plan, (RoWIP).

Since the annual Full Report to Panel, January 2009, which included a summary list of the status for all actions from the RoWIP (as at December 2008), there has been progress within most of the generic actions but none that would deem any of the outstanding actions as being “completed”.

### 5.3 Local Transport Plan; LTP3

Whilst the rights of way section is not currently involved directly in preparing any part of the LTP, officers within the Travel & Transport Policy Team are making progress in accordance with guidelines and which eventually will include update information regarding the Rights of Way Improvement Plan and the Actions it contained.

### 5.4 Coastal Access

The Marine and Coastal Access Act 2009 received Royal Assent on 12<sup>th</sup> November, the Act fulfilling Government’s commitment to introducing a new marine framework, based on marine spatial planning, (balancing conservation, energy and resource needs), and to improve access to the English coastline.

Part 9 of the Act introduces new powers that extend recreational access to the coast, placing a duty on the Secretary of State and Natural England to secure, as far as possible, a continuous signed and managed long distance route accessible on foot.

To achieve this, the Act amends existing legislation, namely the National Parks & Access to the Countryside Act 1949 and the Countryside & Rights of Way (CROW) Act 2000. Such amendments to the CROW Act were consulted on by DEFRA during the latter part of 2009, closing date 1<sup>st</sup> December.

The MCA Act directs Natural England to prepare a coastal access Scheme, setting out its approach to implementing the new access rights. To this end, Natural England has embarked on a consultation on the contents of its proposed Scheme, closing date 5<sup>th</sup> February 2010. (Further information is available from the Natural England website at [www.naturalengland.org.uk/ourwork/position/consultations](http://www.naturalengland.org.uk/ourwork/position/consultations))

The impact on Southampton appears at this early stage to be slight in that the route identified by Natural England that could form part of the coastal trail is aligned to what is presently known as the Solent Way.

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Entering the City in the east, the trail would follow existing publicly maintained highway footways that cross the southern parts of the City, including the Itchen Bridge, terminating at Town Quay where the trail would continue via the Hythe Ferry towards the New Forest.

If this proves to be the eventual trail, there will be no impact to the western side of the City in and around the port workings onwards towards the A35 at Redbridge.

### 5.5 Southampton Online

The new look website, Southampton Online, went live in October and enabled the rights of way section to improve its web pages so that it is now easier to use and better locate relevant information, including the interactive on-line plan of Rights of Way and Research Projects. (Direct link being at [www.southampton.gov.uk/rightsofway](http://www.southampton.gov.uk/rightsofway))

### 5.6 Planning and Development

The rights of way section, as an internal consultee, has been involved in several planning applications and pre-applications that impact on rights of way or potential rights of way, including proposed regeneration of ex-car park areas within Thornhill and other locations.

DP Blakeway  
December 2009