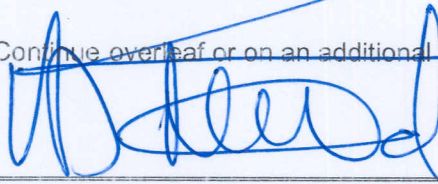


ED2. EXECUTIVE DECISIONS BY A CABINET MEMBER OR AN OFFICER

A. Report Title: PROPOSAL TO CONFIRM A PUBLIC PATH COMBINED ORDER AS AN UNOPPOSED ORDER IN RESPECT OF FOOTPATH LINKING HARTY CLOSE AND LONG LANE STIFFORD CLAYS, GRAYS	
B. Report Author(s): Margaret Willson	Tel: 01375 373 949 E-mail: mwillson@thurrock.gov.uk
C. Decision Maker: Andy millard	
D. Position held: Head of Planning and Transportation	
E. Key decision: NO	F. Delegation ref:
G. Is the decision urgent? YES	
H. If yes, state why. Work needs to be undertaken by private sector partner as soon as possible and possibly before the expiration of the current Traffic Regulation Order in August 2011	

I. DECISION (strike out whichever does not apply) :	
1. I agree the recommendations in the attached report for the reasons given in the report; OR	
2. *My decision is:	
*The reason for my decision is:	
* Continue overleaf or on an additional sheet if necessary.	
Signed: 	Date: 3. 4. 11

URGENCY

Democratic Services will arrange for the completion of the following:	
J. I confirm that in my opinion a decision on this matter is urgent and cannot reasonably be delayed:	
Signed:	Date:

To be completed by Democratic Services

Date decision received by Dem. Services:	Date decision published:
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Implementation date:	
Relevant O & S Committee:	

A GUIDE TO THE PROCEDURE FOR MAKING AND RECORDING DECISIONS BY A CABINET MEMBER OR AN OFFICER

INTRODUCTION

The essential principle is that a decision by a Cabinet Member or an Officer takes the place of a conventional decision taken by full Cabinet. It must therefore be based upon an **Officer report** following the usual requirements for both content and consultation with other Heads of Services, including the Legal and Finance teams.

The report should contain a clear recommendation in the form of a resolution or minute.

The correct template should be used and is accessible through
J:\Thurrock\Corporate Templates - Delegated Decision Proforma.

A and B. TITLE AND AUTHORS OF THE REPORT

These should be the same as in the accompanying report and the Officer's contact details included.

C. NAME OF DECISION TAKER

Name and initial

D. POSITION AND RESPONSIBILITY HELD

This will be the area of responsibility for a Cabinet Member or the job title of an officer.

E. KEY DECISION

There are procedures for Key Decisions. If in doubt, consult the Legal Section.

F. DELEGATION REFERENCE

If the decision is being made by a Cabinet Member, the delegation will appear under the name/title of the Cabinet Member in Part 3.8 of the Constitution, eg "the Leader: Delegation (m)".

If the decision is to be made by an Officer, quote the relevant number in the Officer Delegation Scheme in Part 3.9 of the Constitution, eg 12.3.68.

G and H. URGENCY

Yes or No should be deleted as appropriate.

A "No" indicates that the normal call in rules will apply and the decision, once made, cannot be implemented for 5 working days.

If "Yes" is indicated the reason for the urgency must be stated. Democratic Services will contact the Chairman of the relevant Overview and Scrutiny Committee or the Mayor to agree that the matter is urgent and that, therefore, the usual call-in provisions will not apply.

I. DECISION

For completion only by the person making the decision. If the recommendations in the accompanying report are correctly drafted, the decision will in the great majority of cases accord with the recommendation.

J. OVERVIEW AND SCRUTINY CHAIRMAN

Democratic Services will consult the Chairman of the Overview and Scrutiny Committee or Vice-Chairman (or if they are unavailable the Mayor) to agree that a matter is urgent and cannot await call-in and scrutiny.

ACTION REQUIRED

An Officer seeking a decision from a Cabinet Member or an Officer with the Delegated powers to make a Key Decision shall send a copy of the report together with Form KD to Democratic Services.

Democratic Services will check that it complies with procedures and then send two copies to the decision-maker (one for the decision-maker's retention) together with a return envelope and circulate the report in accordance with Administration Rules 11 and 12. The decision-maker will be asked not to make the decision until five clear days have passed (to allow time for representations) unless the special urgency procedures apply.

On receiving a signed decision from the decision-maker, Democratic Services will publish it. The implementation date (subject to call-in) will then be a further 5 working days later. The Officer seeking the decision will be notified as soon as the decision is cleared for implementation.

Please note that taking a delegated decision should always be done in consultation with legal services – no delegated decision should be taken without their advice.

(Form ED2 can be found on J:\Thurrock\Corporate Templates)

April 2011	ITEM
Delegated Decision Report	
PROPOSAL TO CONFIRM A PUBLIC PATH COMBINED ORDER AS AN UNOPPOSED ORDER IN RESPECT OF FOOTPATH LINKING HARTY CLOSE AND LONG LANE STIFFORD CLAYS, GRAYS.	
Portfolio Holder: Councillor Y Gupta Portfolio Holder for Environment	
Wards and communities affected: Stifford Clays	Key Decision: No
Accountable Head of Service: Andy Millard	
Accountable Director: Bill Newman	
This report is Public	
Purpose of Report: To Obtain Authority to Confirm as an unopposed Order the Public Path Combined Order made on 25 th February 2011 under Section 119 Highways Act 1980 and Section 53A(2) of the Wildlife and Countryside Act 1981 to divert a public highway and add the route of the diverted path on the Definitive Map and Statement for Thurrock.	

EXECUTIVE SUMMARY

Subject to compliance with the statutory procedure, authorisation is sought to Confirm as an unopposed Order the Combined Order made on 25th February 2011 under Section 119 Highways Act 1980 and Section 53A(2) of the Wildlife and Countryside Act 1981 to divert a public highway and add the route of the diverted path on the Definitive Map and Statement for Thurrock.

1. RECOMMENDATION:

- 1.1 To authorise the confirmation of the Combined Order made on 25th February 2011 under section 119 of the Highways Act 1980 ("the 1980 Act") and Section 53A(2) of the Wildlife and Countryside Act 1981 to divert a

public highway and add the route of the diverted path on the Definitive Map and Statement for Thurrock because

- It appears to the authority that in the interest of the public it is expedient that the line of the path should be diverted.
- After undertaking the formal statutory consultation which closed on 1st April 2011, no objections were received in relation to the diversion of the public highway.

2. INTRODUCTION AND BACKGROUND:

- 2.1 Because of the requirement as part of the Planning Permission granted by the Thurrock Thames Gateway Development Corporation under planning reference 10/50243/TTGFUL on 17 January 2011 for the redevelopment of the site to provide No.65 new extra care flats and to demolish the existing leisure hall in the vicinity, the footpath between Harty Close and Long Lane Grays needed to be temporarily closed and subsequently diverted in order to enable the development to proceed.
- 2.2 On 25th February 2011, the Council made the Order to divert the existing footpath to a new route and add the route of the diverted path on the Definitive Map and Statement for Thurrock. The Council thereafter consulted on the making of this Order in accordance with the legal statutory requirements. This consultation concluded on 1st April 2011 and the responses received are stated in paragraph 4.2 of this report.
- 2.3 In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. It is considered that the proposed diversion is in the interests of the public for the reasons set out in paragraph 3.2 to 3.3 below.
- 2.4 Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether to confirm an Order the Secretary will, in addition to the matters discussed at paragraph 2.3 above, have regard to:
 - Whether the path is substantially less convenient to the public as a consequence of the diversion.

And whether it is expedient to confirm the Order considering:

- The effect that the diversion would have on the enjoyment of the path or way as a whole.
- The effect that the coming into operation of the Order would have as respects other land served by the existing public right of way.

- The effect that any new public right of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

- 2.5 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 2.4 above.
- 2.6 The proposed route will not be 'substantially less convenient' than the existing route and diverting the footpath will be of considerable benefit to the public. It is considered that the proposed route will be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a diversion order are satisfied.

3. ISSUES AND/OR OPTIONS:

- 3.1 The footpath between Harty Close and Long Lane Grays has become a public right of way by unhindered use over 20 years.
- 3.2 To ensure that the public use of the way would not be lost as a consequence of development and also to enable the development to proceed, a Public Path Diversion Order is deemed necessary.
- 3.3 The development is for the demolition of existing leisure hall and redevelopment to provide No.65 new Extra Care flats (18 one-bedroom units and No.47 two-bedroom units), plus communal facilities and associated car-parking/external works.
- 3.4 As the development necessitated the existing public right of way and the new public path being closed off to the public for a 12 month period the following legal actions was required:-
 - a) A Traffic Regulation Order has been made on the grounds of public safety as a result of the demolition of the existing leisure hall which provides a temporary closure of the route for a six month period and this came into force from 21 February 2011.
 - b) Prior to the expiry of this order the new path will be physically constructed by Hanover Housing Association to the satisfaction of the Council whereupon the works shall be certified by the Council.
- 3.5 On completion of the works a new public right of way will be created over the new path by the use of a Public Path Diversion Order on a slightly different alignment and this new path will be added to the Definitive Map and Statement for Thurrock. Thereafter the new path will be closed for a period of 6 months through a Traffic Regulation Order on the grounds of public safety due to the fact that there would still be construction works ongoing in respect of the development. Upon the expiry of this 6 month Traffic Regulation Order, the path will be opened and made available for use by the public. See Appendix 1

- 3.6 The existing path runs south from Harty Close to the junction with Long Lane for approximately 80metres
- 3.7 The proposed alternative route runs south of Harty Close generally south east for approximately 16 metres then south to join Long Lane approximately 12metres to the east of the existing path exit and is approximately 98metres in length. Upon completion of the works to bring the alternative route into a fit condition for use by the public, as stated above this will be added to the definitive map and statement.

4. CONSULTATION (including Overview and Scrutiny, if applicable)

- 4.1 Councillor Gupta, Portfolio Holder for Environment, Councillor Gaywood and Councillor Hale were initially consulted on the making of the Order and the commencement of the consultation process. The ward councillors are agreeable to this path. Councillor Gupta had no objections to starting the statutory consultation with other stake holders including residents who may be affected by this new footpath.

- 4.2 Formal Consultation has also been undertaken with Statutory Consultees and Undertakers as part of the Order making process and the responses received are as follows:

- Thurrock Local Access Forum and the Ramblers Association

No objections to the proposal for the path from Harty Close to Long Lane. In fact they both welcome the proposal that would allow the new path to become a Definitive route.

- Anglian Water

No objections to the proposal so long as their rights of access for maintenance and repair remains. This poses no problems because if a diversion order is confirmed, existing rights of access for the statutory undertakers to their apparatus and equipment are protected. This is contained in Part 2, Schedule 12 of the Highways Act 1980.

- UK Power Networks

No objections along the same lines as Anglian Water.

- Essex Police

No objections.

- Openreach BT

As a telecommunications Operator BT has protection under Section 334 of the Act and would have no objections to the Orders.

- 4.3 Councillor Gaywood and Councillor Hale have also been consulted after the completion of the statutory consultation period and are happy to confirm the Order as an unopposed order. Councillor Gupta, Portfolio Holder for Environment has also indicated that he is happy to approve this report.

5. **IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT**

- 5.1 None

6. **IMPLICATIONS**

6.1 **Financial**

Implications verified by: **Menir Hall**
Telephone and email **01375 652 147** mhall@thurrock.gov.uk

The costs arising out of this application are to be borne entirely by the Hanover Housing Association.

6.2 **Legal**

Implications verified by: **Remi Aremu**
Planning Solicitor
Telephone and email: **X 2994**
raremu@thurrock.gov.uk

The legal implications are contained within the main body of the report

6.3 **Diversity and Equality**

Implications verified by: **Samson DeAlyn**
Telephone and email: **01375 652 472** sdealyn@thurrock.gov.uk

The equality and diversity needs for the completed care home development will have been taken into account when the Thames Gateway Development Corporation granted planning permission. This authorisation is required to address health and safety requirements during the redevelopment of the site for the construction. The temporary disruption to all users is required for the safe development of the site. Consideration of any diversity and equality issues will have been given consideration during the Statutory Consultation process for the Section 119 Highways Act 1980 Order, which has raised no objection.

6.4 **Other implications** (where significant) – i.e. **Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental**

None

7. CONCLUSION

7.1 That support is given to the proposal.

BACKGROUND PAPERS USED IN PREPARING THIS REPORT:

- Highways Act 1980 Regulations

APPENDICES TO THIS REPORT:

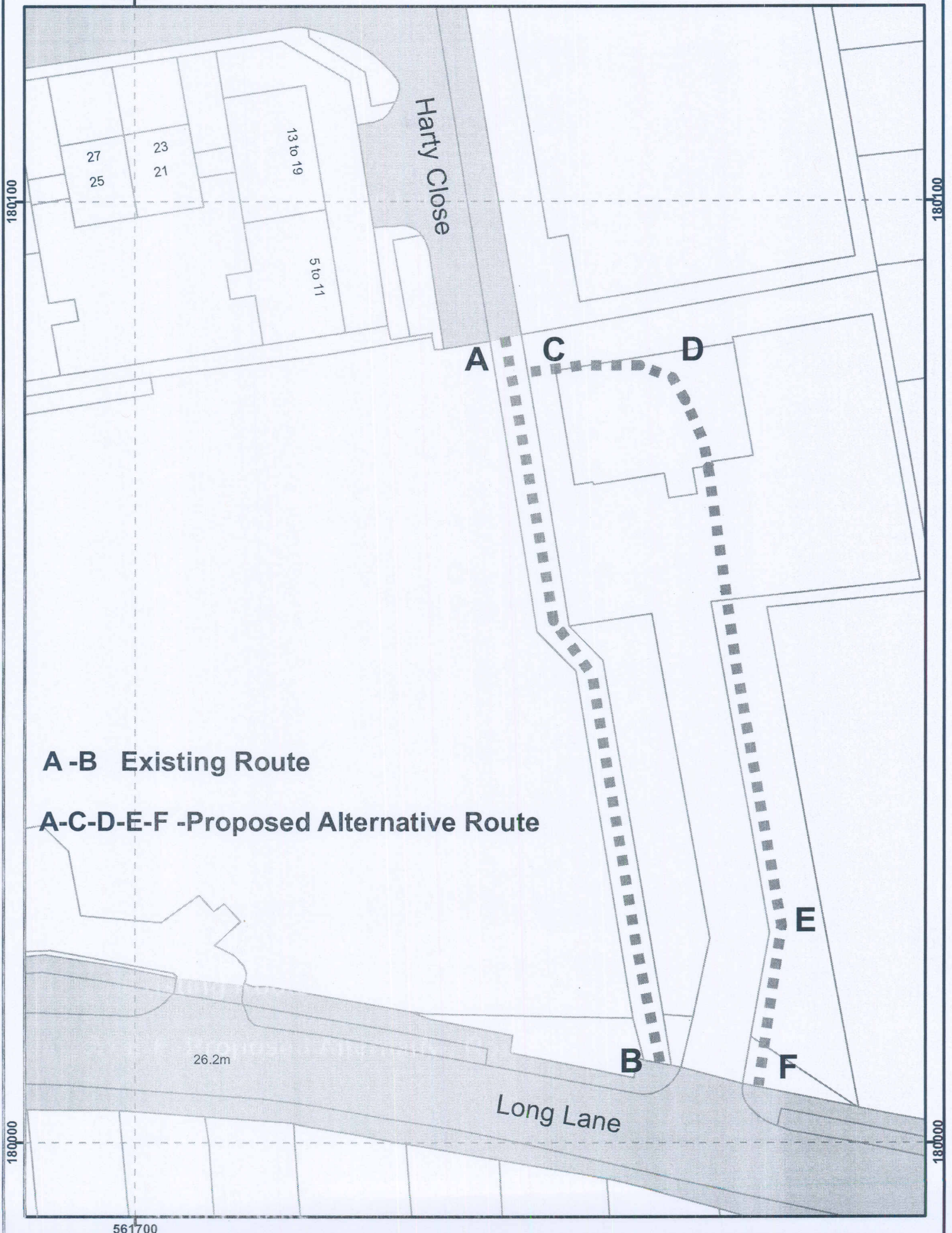
- Appendix 1 - Plan of the existing and proposed route of the public right of way.
- Copy sealed Order made on 25th February 2011

Report Author Contact Details:

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Telephone: 01375 373949

E-mail: mwillson@thurrock.gov.uk



A-B Existing Route

A-C-D-E-F -Proposed Alternative Route

26.2m

Long Lane

561700

Scale 1:500