

Report No.  
ES10124

London Borough of Bromley

Agenda  
Item No.

PART 1 - PUBLIC

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**Decision Maker:** Rights of Way Sub-Committee

**Date:** 1<sup>st</sup> September 2010

**Decision Type:** Non-Urgent Non-Executive Non-Key

**Title:** **FOOTPATH 280 (PART) GRAYS ROAD TO BOROUGH BOUNDARY - APPLICATION FOR DEFINITIVE MAP MODIFICATION ORDER TO UPGRADE TO BRIDLEWAY**

**Contact Officer:** Duncan Gray, Development Manager  
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**Chief Officer:** Nigel Davies, Director of Environmental Services

**Ward:** Darwin

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1. Reason for report

To determine an application for a Definitive Map Modification Order to upgrade FP 280 to bridleway. The application has been made under the Wildlife and Countryside Act 1981 which places a duty on the Council, as the Surveying Authority for public rights of way, to keep the Definitive Map and Statement under continuous review.

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2. **RECOMMENDATION(S)**

2.1 **Subject to the view taken by the Sub-Committee on the merits of the evidence provided in support of the claim, either**

1. **The Director of Legal, Democratic and Customer Services, in consultation with the Director of Environmental Services, be authorised to make a Definitive Map Modification Order under section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 to 'upgrade' footpath 280 to bridleway, or**
2. **Advise the applicant that the Council takes the view that on the balance of probability, the case in favour of the application has not been demonstrated and that their application has been refused and the applicant be advised of their right to appeal to the Secretary of State.**

### Corporate Policy

1. Policy Status: N/A.
  2. BBB Priority: N/A.
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### Financial

1. Cost of proposal: Estimated cost £60
  2. Ongoing costs: Non-recurring cost.
  3. Budget head/performance centre: Transport & Highways - Advertising
  4. Total current budget for this head: £3300
  5. Source of funding: Existing 2010/11 Revenue Budget
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### Staff

1. Number of staff (current and additional): 1
  2. If from existing staff resources, number of staff hours: 10
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### Legal

1. Legal Requirement: Statutory requirement.
  2. Call-in: Call-in is not applicable.
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All users of FP 280
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes.
2. Summary of Ward Councillors comments: The Ward member has been consulted and has not offered any comment owing to his involvement with the Sub-Committee.

### 3. COMMENTARY

- 3.1 The relevant part of FP 280 runs in a southerly direction from Grays Road through Grays Farm for a distance of approximately 280m to the Borough boundary with Kent County Council. Two claims for upgrading this section of FP 280, and its continuation into Kent over their routes SR332 and SR331 (part), (see Plan on page 7), to bridleway status, based on use by horse riders over a number of years, have been received, one by each of the respective Authorities.
- 3.2 This is effectively one claim for a complete route that crosses the boundary between the 2 Authorities, with the majority of the claimed route lying in Kent. Following discussion between the Authorities it was agreed that Kent would carry out the investigation and analysis of the claims in respect of the whole of the claimed route. Their detailed report is attached at **Appendix 1**. Due to the need for the Sub-Committee to reach a decision based on all the available evidence, that report should be read carefully in order to gain an appreciation of the issues involved. A view then needs to be taken, on the balance of probabilities, as to whether sufficient evidence has been adduced in support of the claims to enable the Council to accede to the request to make the requisite Definitive Map Modification Order for that part of the claimed route that lies within Bromley.
- 3.3 Kent's conclusion can be found at paragraph 9 on page 3 of their report, page 6 of this report.
- 3.4 A letter dated 3<sup>rd</sup> February 2010 received from Kent County Council is attached at **Appendix 2** for further clarification on consultation issues and to note that the claimant had advised Kent that it was her intention to appeal to the Government Office for the North East (GONE) against the decision of the County Council. The enclosures referred to in that letter will be made available in the members Room prior to the meeting.
- 3.5 The appeal was duly made and Kent have provided GONE with their comments on the appeal case set out by the Tatsfield Bridleways Association, after having contacted affected land-owners both in Kent and Bromley for comments. Kent's response is attached at **Appendix 3**.

### 4. FINANCIAL IMPLICATIONS

The continuous review of the Definitive Map and Statement is a statutory requirement and thus the Council has to fund the exercise both in terms of assessing the claims and any subsequent maintenance/signing implications. The latter would be met from the existing highways maintenance budget.

The only likely costs would be those of advertising any Definitive Map Modification Order should this Sub-Committee consider sufficient evidence in support of the claim has been made and the advertising costs of £60 would be met from Transport & Highways' advertising budget of £3300.

### 5. LEGAL IMPLICATIONS

These are fully explained in paragraphs 56 to 69 of Appendix B to Kent's report, pages 14-17 of this report.

- 5.2 The Sub-Committee should note that should recommendation 2 be the outcome of consideration of this report, and any appeal to the Secretary of State were to be successful, a further report would need to be submitted to the Sub-Committee in order to determine how the Council should proceed throughout the subsequent Order process.

<b>Non-Applicable Sections:</b>	Policy; Personnel
Background Documents: Access via Contact Officer	File for FP 280