

Decision Maker: Rights of Way Sub-Committee

Date: 01 November 2011

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

Title: MAINTENANCE OF THE PUBLIC RIGHTS OF WAY NETWORK

Contact Officer: Peter Turvey, Head of Street Environment
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Chief Officer: Nigel Davies, Director of Environmental Services

Ward: All

1. Reason for report

- 1.1 A Member's request for consideration of options to reduce maintenance costs of little-used paths and bridleways.
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2. **RECOMMENDATION(S)**

- 2.1 To note the contents of the report.

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Quality Environment.
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Financial

1. Cost of proposal: N/A
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Street Regulation (within Streetscene and Greenspace)
 4. Total current budget for this head: £58,550
 5. Source of funding: Within existing revenue budget 2011/12
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Staff

1. Number of staff (current and additional): 1 FTE
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory requirement.
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All residents and visitors to the Borough
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 In the Borough there are 362 registered rights of way (RoW) that are made up of 166km of footpaths, for use by pedestrians only, 14km of bridleways, for use by pedestrians, cyclists and horse riders only and 10km of byways. There are two categories of byways; Restricted Byways, for use by pedestrians, cyclists, horse riders and horse drawn carriages and, Byways Open to All Traffic that can be used by vehicles in addition to all the other kinds of user.
- 3.2 Since 1949, Parliament has required authorities to record all paths which are RoW on a Definitive Map. Recording RoW on a Definitive Map is conclusive evidence of its existence as of that date and gives the path added legal protection to keep it open and usable. Once a public RoW exists, it remains until it is lawfully closed or diverted, but this can only arise out of legal action by the local authority, Magistrates' Court, government department or through an Act of Parliament. The Definitive Map is accompanied by a Definitive Statement which describes each RoW in greater or lesser detail. The Statement may define the position, length or width of RoW which is conclusive evidence. Bromley's current Definitive Map and Statement show the legally defined RoW in the Borough as of 1st April 1994. Work is currently in progress updating the Map and Statement to show all the legal changes in a digitised format for improved accuracy and ease of use.
- 3.3 As a requirement of the Countryside and Rights of Way Act 2000, all authorities in England were required to produce a Rights of Way Improvement Plan (Plan) by November 2007. Bromley's Plan was produced in June 2007 and has since complemented and integrated with Bromley's local transport plan. The Plan is to ensure the long-term stability of the rights of network and contribute towards the key public priorities of health, quality of life and urban congestion. The Statement of Action from the Plan indicated how it was intended to manage and improve the RoW network, with objectives and targets. The existing RoW budget of £58,550 is sufficient only to carry out routine and emergency maintenance on an annual basis. To meet some of the demands of the Plan have required additional resources and this has been achieved through successful bidding to Transport for London and local user groups.
- 3.4 Preparation of the Plan involved consultation with users, including disabled groups, and non-users of the RoW network. Feedback from the users' group showed that 95% of respondents used the network at least once a week for the following purposes;

70% for walking / rambling / jogging

12% for cycling

9% for horse riding

4% for other purposes

The consultation exercise also identified three main maintenance priorities;

Maintenance Priority	Attribute	Comments
1	Feeling of personal safety	The visual appearance, particularly of alleyways, gave the impression that they are not well used, especially when overgrown.
2	Obstructions eg overgrown vegetation, litter and dog fouling	Overgrown vegetation deters use as well as giving the impression of RoW not being used which contributes to

		peoples' fears over personal safety. Therefore, the removal of such obstructions and clearing of dog fouling and litter would make the RoW appear safer.
3	Gates, stiles and other facilities	Identified as a maintenance priority as these attributes will need to be maintained to ensure that they continue to meet expectations.

- 3.5 The RoW network can be considered in two categories, urban and semi-rural. The urban RoW network in the north east of the Borough is heavily urbanised, with few open areas and consisting of mainly paved, short paths that connect roads between houses. As most of these paths are used similarly to those on the road network, they are inspected annually and maintained to the same standard to meet the Council's obligations as the Highway Authority. The semi-rural RoW network is mainly in the southern and eastern areas of the Borough that are far more rural in nature and where most of the bridleways and byways exist. Although some are surfaced the majority have a natural surface are longer in length and also inspected annually. For all areas where routes are heavily used by commuters, are near hospitals and schools or suffer from anti-social behaviour are inspected far more frequently.
- 3.6 The only planned maintenance for the RoW network is for the clearance of vegetation. These works take place during the growing season, between the months of May and September. The contract contains a schedule of each path and bridleway that requires clearance of vegetation twice during the growing season and other paths that require clearance on a monthly basis. The contract also allows for non-scheduled work for dealing with other one-off occurrences. From the annual RoW budget of £58,550, around £25,000 of this is spent on the clearance of vegetation contract. This works out at around £223 per kilometre length of path. Therefore, to achieve, say 10% savings would mean not cutting back about ten kilometres of path. This would lead to a great increase in reports and the possible necessity in doing one-off cut backs at a greater cost. The remainder of the annual budget is spent on maintenance and repairs to surfaced paths to meet safety requirements, levelling and filling of pot-holes etc on un-surfaced paths, finger directional signs, way-markers, fallen and dangerous trees, Council-owned fencing, gates, stiles, posts and cycle-barriers. These types of work are frequently carried out by specialist, small local contractors whose rates are normally lower than the main highway contractors. The other costly factor is for the removal of fly-tipping. Although posts and barriers can be installed to deter this offence, consideration also needs to be given to the users of the network not to impinge on their legal access rights. Every effort is made to bring offenders to justice and in the past twelve months there have been three successful prosecution cases against fly-tippers on the RoW network.
- 3.7 On occasions there are demands and needs to carry out substantial maintenance works. Recent examples have been for the re-surfacing of long lengths of badly rutted bridleways that were extremely dangerous for horses and their riders. The cost of repair to one bridleway alone would have exhausted the entire annual budget. A successful bid was made to Transport for London to fund the majority of the cost with the balance made up with a contribution from Bromley Bridleway Access Group and the RoW budget. A few paths have Custodians who are members of the Environment Bromley Group that on occasions carry out litter picking and some minor cutting back sessions. Successful use is also made of the Community Payback teams that remove graffiti, rubbish and litter especially from hard to reach areas. In most cases stiles, fences and kissing gates are the responsibility of the landowner as they are for their land management purposes. So, when reports are received

about these features or noticed during routine inspection, contact is made with the landowner requesting repairs to be done or be removed if they no longer serve any purpose. If a landowner wishes to install any feature on the RoW network then it would need to meet current access requirements, for example, stiles are no longer considered suitable and a kissing gate should be used instead. The full cost of supply and installation of any feature would be met by the landowner.

- 3.8 A very low number of requests have been received for closures or gating orders to be implemented on the RoW network, but none to date have been successful. The main reason for the requests has been for prevention of anti-social behaviour in the locality. If gating orders were imposed the staffing costs for opening and closing the gates every day of the year would be very expensive and on-going maintenance still a necessity. To close and sell off the area of footpath, if practicable, would require extinguishment of highway rights and compelling evidence the path was redundant. There would be strong resistance to any closures or gating orders from user groups, such as the Ramblers' Association. The RoW network provides important links within the community and meeting with the Government's encouragement of walking as part of a healthy lifestyle.
- 3.9 Around 500 reports are received annually relating to the RoW network. All are dealt with on an individual basis and site visits are usually necessary, if not already aware of the problem. Over 50% of the reports are in connection with overgrown vegetation that is either growing on the RoW or overhanging from private properties. This shows that routine cutting back of vegetation is essential and any reduction would lead to increased complaints with very little cost saving. Meetings with landowners' agents or solicitors are often necessary to resolve any issues relating to disputes of RoW across areas of private land. It is likely more reports will be received to upgrade routes for disabled access to meet the demands of the Equality Act 2010.

4 POLICY IMPLICATIONS

- 4.1 One of the key aims of "Building a Better Bromley" is for a clean and sustainable environment. The RoW network complements and integrates with Bromley's local transport plan. This will ensure the long term stability of the network and contribute towards the key public priorities of health, quality of life and urban congestion.

5 FINANCIAL IMPLICATIONS

- 5.1 The annual budget for maintenance of the RoW network is £58,550, of which around £25,000 is used for clearance of vegetation. The remainder of the budget is used for routine maintenance and repairs and to cover for emergency situations, such as, fallen trees across the network.
- 5.2 In order to meet demands for the larger maintenance schemes it has been necessary to apply for funding from Transport for London and for contributions from specialist user groups.
- 5.3 Very small cost savings are achieved by making use of the Community Payback teams for removal of graffiti and rubbish. Also, assistance from local volunteer groups help with minor maintenance matters.

6 LEGAL IMPLICATIONS

- 6.1 The RoW network is classified as highway and as such has to meet the requirements of the Highways Act 1980 in addition to the Countryside and Rights of Way Act 2000. In respect of the Equality Act 2010, a greater awareness now has to be taken into consideration for disabled access.

Non-Applicable Sections:	Personnel Implications
Background Documents: (Access via Contact Officer)	Rights of Way Improvement Plan 2007