

From: Chris Wade (Public Rights of Way Principal Case Officer)

To: Regulation Committee – 18 May 2010

Subject: Town and Country Planning Act 1990 – Public Rights of Way Diversion and Extinguishment Orders: Service Level Agreement with Ashford Borough Council

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**Summary:** To seek authority to enter into a Service Level Agreement with Ashford Borough Council in order to undertake all Town and Country Planning Act Orders on it's behalf.

## **FOR DECISION**

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### **Introduction**

1. Sections 257 and 258 of the Town and Country Planning Act 1990 enable the making of Orders to divert and extinguish Public Rights of Way in order to enable development to take place.

### **Procedure**

2. The responsibility for making such Orders rests with the Planning Authority responsible for granting planning permission. Applicants who have received detailed or, on occasions, outline planning consent, must therefore apply to that Planning Authority for such an Order. Therefore, if planning consent is granted, not by the County Council but by one of the twelve District Councils within this County, then it is that specific Council that has to make the Order.

### **Background**

3. Several District Councils, have in the past, mentioned to the County Council that they do not have the staff with the ability or expertise to undertake these Orders; accepting that those abilities rest with County Council staff. In consequence, difficulties have arisen and advice often sought from the County Council's staff to overcome them. This has been time-consuming for County Council staff and diverted resources away from resolving County Council issues.
4. One such Authority where difficulties have arisen in the past is Ashford Borough Council. It has recently undertaken a consultation exercise into this area of work and independent consultants recommended that Ashford approach the County Council with a view to the more experienced County Council staff undertaking this work on its behalf.

### **Service Level Agreement**

5. Discussion has taken place with Officers from Ashford Borough Council and after careful consideration it has been agreed that staff within the County Council's Public Rights of Way Team could undertake the making of Town and Country Planning Act Orders on its behalf with little impact upon current applications. One existing member of staff will be given responsibility for processing these Orders in addition to current

duties and carrying out the necessary liaison with the Borough Council and will be assisted by another part time member of the team where necessary.

6. The County Council would liaise directly with Developers and Landowners in respect of the costs incurred in making this type of Order. The County Council is able to recover its full costs of making these Orders and would set its own appropriate fees to generate income.
7. In addition, one other major benefit is that the County Council will be able to deal with Landowners and Developers at the early stages of the Planning process which hopefully will go a long way in overcoming some of the problems that new Development has caused to the Public Rights of Way network and a reduction in the resources that have had to be expended by the County Council in order to overcome such issues.
8. It has been recognised, however, that it would be important for a Service Level Agreement to be drawn up which would clearly set out the roles, responsibilities and the conditions which would apply to both Authorities in this respect.
9. Lawyers from both Authorities have therefore drawn up a suitable Service Level Agreement a copy of which is attached at **Appendix A**.

### **Recommendation**

10. I recommend that the County Council enter into a Service Level Agreement with the Ashford Borough Council in order to undertake, on its behalf, the making of all Orders under the Town and Country Planning Act 1990.

### **Background Documents:**

Appendix A – Copy of a Draft Service Level Agreement between Kent County Council and Ashford Borough Council.

### **Contact Officer:**

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