

KENT COUNTY COUNCIL –PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY:

Clair Bell, Cabinet Member for Community and Regulatory Services

DECISION NO:

24/00080

For publication

Key decision: YES

Subject Matter / Title of Decision: Amendments to the Highways Act 1980 – Sections 118ZA & 119ZA

Decision:

As Cabinet Member for Community and Regulatory Services, I agree to the acceptance by Kent County Council of the delegation by Kent District Councils of their functions in respect of public path orders and applications made under the Highways Act 1980 sections 118ZA and 119ZA.

Reason(s) for decision:

Amendments to the Highways Act 1980 to provide a right for landowners to apply for public path diversion and extinguishment orders were included in the Countryside and Rights of Way Act 2000. After a considerable delay, the Department for Environment, Food and Rural Affairs (DEFRA) has been progressing the statutory instruments required to implement the amendments. The amended provisions, and administrative obligations that stem from them, apply to both the County Council and District Councils. In order to ensure a consistent approach to delivery and decision making relating to the provisions and the determination of applications, agreement is sought to accept the delegation of this function by district councils, should they wish to, to the County Council.

Cabinet Committee recommendations and other consultation:

The proposed decision will be considered by members of the Growth, Economic Development and Communities Cabinet Committee at their meeting on 11 September.

Any alternatives considered and rejected:

The only other option available would be to not accept a delegation of the function by the District Councils. It may be, of their own volition, that Districts choose to deliver the function. There are likely to be negative outcomes for both Districts and the County should this be the case. Specifically:

- a. A resource implication for the districts who would be unlikely to secure any economies of scale due to insufficient demand.
- b. Difficulty in recruiting and developing staff with the relevant knowledge and skill set.
- c. Inconsistency in approach, decision making and the quality of public path orders.
- d. Demands on County Council resource to check, amend, or object to applications for which it cannot charge.

A similar function, the making of public path diversion and extinguishment orders under the Town and Country Planning Act 1990, is currently delivered by the Public Rights of Way and Access Service on behalf of eleven of Kent's thirteen planning authorities for the reasons above.

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:

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signed

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date