

From: Sonia Coventry (Public Rights of Way Officer (Definition))  
To: Regulation Committee – 24 January 2012  
Subject: Town and Country Planning Act 1990 – Public Rights of Way Diversion and Extinguishment Orders: Service Level Agreement with District and Borough Councils.

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**Summary:** To seek authority to enter into a Service Level Agreement with the District and Borough Councils in order to undertake all Town and Country Planning Act Public Path Orders on their 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 Public Path Orders (“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 the 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, as planning consent is granted, not by the County Council but by one of the twelve District and Borough Councils, then it is that specific Council that has to make the Order.

### **Background**

3. Several District and Borough 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 had arisen in the past was Ashford Borough Council. Having undertaken a consultation exercise into this area of work the independent consultants recommended that Ashford Borough Council approach the County Council with a view to the more experienced County Council staff undertaking this work on their behalf.

## **Service Level Agreement**

5. Following discussions with Officers from Ashford Borough Council and having sought authority from the Regulation Committee on 18 May 2012, staff within the County Council's Public Rights of Way Definition Team have successfully undertaken the making of Town and County Planning Act 1990 Orders on behalf of Ashford Borough Council, with little impact upon current applications.
6. Due to the success with Ashford Borough Council, and following approaches from Tunbridge Wells and Dartford Borough Councils and Dover District Council, the County Councils Rights of Way Definition Team are eager to roll out this service to other District and Borough Councils. As with Ashford Borough Council, I will be given the responsibility for processing these Orders - in addition to current duties - and carrying out the necessary liaison with the relevant District and Borough Councils, assisted by another part-time member of the team where necessary.
7. As with the Ashford Borough Council model the County Council would liaise directly with developers and landowners in respect of the cost incurred in making this type of Order. The County Council is able to recover its full costs of making these Orders and has set its own appropriate fees to generate income.
8. 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 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. This has certainly been the case with Ashford Borough Council.
9. It has been recognised – during the discussions with Ashford Borough Council – that it is important for a Service Level Agreement to be drawn up, which clearly sets out the roles, responsibilities and the conditions which would apply to both Authorities in this respect.
10. As with Ashford Borough Council lawyers from both the County Council and the relevant District or Borough Council will draw up a suitable Service Level Agreement. The Service Level Agreement currently in place between Ashford Borough Council and the County Council will be used as a model for future Service Level Agreements. A copy of this Agreement is attached at Appendix A.

## **Recommendation**

11. I recommend that the County Council enter in a Service Level Agreement with any of the District and Borough Councils - who express an interest – in order to undertake, on their behalf, the making of all Orders under the Town and Country Planning Act 1990.

### **Background Documents:**

Appendix A – A copy of the Service Level Agreement between Kent County Council and Ashford Borough Council

### **Contact Officer:**

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