



DERBY CITY COUNCIL

## AREA PANEL THREE 30 MARCH 2005

Report of the Assistant Director – Highways, Transportation and Waste Management

### **Petition requesting closure of footpath, Western Road to Gordon Road**

#### **SUPPORTING INFORMATION**

- 1.1 A petition has been received containing 52 signatures requesting the closure of a footpath that runs between Western Road and Gordon Road.
- 1.2 The petitioners wish to close the footpath because of the alleged occurrence of anti-social behaviour including prostitution and drug dealing.
- 1.3 A copy of the petition was also sent to the Derby Community Safety Partnership. They have been consulted during the investigation of this issue; their view is that all that can be done to improve safety and security has been done. The footpath was referred to the Anti-Social Behaviour Team during summer 2003, the lighting columns were provided at this time. Derby Community Safety Partnership has received reports from the school that drug dealing occurs in the footpath, but none about prostitution. They also advise that the police are aware of this information.
- 1.4 A public right of way is a way over which all members of public have a right of passage. Since this footpath forms part of the public highway, the City Council as Highway Authority has a duty to protect and maintain it. Urban paths are very important; they often provide safe routes to schools and other important local destinations like shops, doctors' surgeries and bus stops away from car filled streets. Equally, they can offer short cuts, which mean that people will walk to their destination rather than taking their car.
- 1.5 There are a number of ways that the Highway Authority can close a footpath:

Highways Act 1980, section 118 – this section can only be used if it appears that the footpath is 'not needed for public use'. While assessing the footpath the authority must ignore all temporary circumstances preventing or diminishing the use of the footpath by the public.

Highways Act 1980, section 116 – appropriate if the Highway authority considers that the footpath is unnecessary.

Town & Country Planning Act 1990 – the local Planning authority can close a footpath if it is being affected by a new development.

Countryside & Rights of Way Act 2000, schedule 6 – can be used to close a right of way for the purposes of crime prevention

- 1.6 The footpath between Western Road and Gordon Road is approximately 32m long; the majority of it is straight as shown on the plan and photographs in the appendix of this report. Three lighting columns illuminate the footpath during the hours of darkness, also shown on the included photographs.
- 1.7 A number of site visits were carried out during the preparation of this report, to observe the state of the footpath and to assess whether there were sufficient justification to close it as requested by the petitioners.
- 1.8 The site visits to gauge usage of the footpath were carried out at different times of the day including school arrival and dispersal times. The duration of each survey was at least 30 minutes; on each occasion a significant number of people were observed using the footpath. During the school arrival and dispersal, the footpath was particularly well used. It was especially pleasing to observe so many children walking to and from school. The City Council is committed to encouraging the use of sustainable modes of transport being used for the school journey.
- 1.9 There is no evidence to support the closure of the footpath using either section 116 or 118 of the Highways Act 1980. As the footpath is so well used, it cannot be considered to be either unnecessary or 'not needed for public use'. There are no grounds for a closure using the Town & Country Planning Act because the footpath is not being affected by a new development.

Although schedule 6 of the Countryside & Rights of Way Act provides provision to close or divert footpaths for reasons of crime prevention, these orders can only be made in areas that have been specifically designated for that purpose by the Secretary of State. No such areas in Derby have been designated, therefore a closure under this piece of legislation cannot be considered.

The regular use of the footpath, particularly by parents and their children indicates that crime and anti social behaviour is not regular occurrence. It is reasonable to suggest that if undesirable or intimidating conduct were happening, people would avoid using the footpath.

## RECOMMENDATION

- 2.1 To refuse the petitioners request to close the footpath.
- 2.2 To note the improvements that have already been made to the path and the work of Derby Community Safety Partnership in tackling the problems of antisocial behaviour in the surrounding area.

<b>For more information contact:</b>	Rachel Shardlow 01332 715026 <a href="mailto:rachel.shardlow@derby.gov.uk">rachel.shardlow@derby.gov.uk</a>
<b>Background papers:</b>	Correspondence held on Area Panel 3 file in Traffic Management Office
<b>List of appendices:</b>	Location plan, photographs

<b>IMPLICATIONS</b>
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**Financial**

1. None.

**Legal**

2. None.

**Personnel**

3. None.

**Equalities impact**

4. None.

**Corporate objectives and priorities for change**

5. The proposal comes under the Council's Objectives of providing:
  - strong and positive neighbourhoods
  - protecting and supporting people
  - a healthy environment.