

**Minutes
Environment Scrutiny Panel**

**23 January 2007
5.30 p.m.
Town Hall**

Present: Councillors Wolstenhome (in the Chair), Carr, Colledge, Kinghorn, Leake, McDonnell, Marsden, Pitts, Simpson, Turnbull and Walton

Also in Attendance: Councillors Cowper, Hepplewhite, Hopgood, Kellett and Stoddart

Claire Lancaster – Necklace Park Manager
Nick Hall – Public Rights of Way Officer (North Area), Durham County Council

Apologies

There were no apologies for absence.

Minutes of the Meeting held on 12 December 2006

The minutes of the previous meeting were confirmed as a correct record.

Scrutiny Topic – Biodiversity

Further to a request made at the Scrutiny Committee for information relating to the location of interpretation panels for the City of Durham's "Wildlife Meadows", the Council's Sustainable Development Manager, Jonathan Elmer, provided a list of the sites and number of signs for each location. It was noted that the signs had been delivered to the Council, and that they would be installed during the coming month.

Scrutiny Topic – Riverbanks

• **Witness in attendance, Claire Lancaster – Manager Necklace Park Project**

Further to discussions of this topic at previous meetings, Claire Lancaster, Manager of the Necklace Park Project was in attendance to give Members a brief overview of the Project's aims and progress thus far.

As Members were aware, the Necklace Park Project was one of the suggestions to come out of the 2020 Visioning exercise to help improve Durham City Centre. It was felt that there was not enough access for the public to the riverbanks area, not only in physical terms, but also in terms of knowledge, i.e. the history and heritage of many of the "jewels" situated along the River Wear. After the idea was originally put forward from the visioning exercise, initial discussions led to a consensus that the peninsula area within the City Centre was fairly well established and perhaps it would be more beneficial if the aim of the Park could be to help bring local communities together via the river in order to help create a greater sense of inclusion for the Residents of the Durham.

As the Necklace Park has only funding for two years (there are only 18 months remaining), the expectations of the public will need to be managed carefully. Whilst the idea that the Necklace Park could include a stretch of high quality (and appropriately sympathetic) footpath along both sides of the river between Finchale Priory and Sunderland Bridge would be ideal but in reality, this would prove impossible with the time and resources available to the project.

Accordingly, to maximise the potential of the project with the resources available, it was necessary to pick specific projects that could be realistically achieved. However, it should be noted that the Project could also act as broker between those wishing to develop ideas though may not have access to the relevant information relating to obtaining potential grants or funding.

Ideas for potential projects could come from the public however, as the funding for the Park was granted from the Economic Regeneration Fund of the Regional Development Agency, ONE North East, it would be necessary to take those ideas and develop them so that they are presented in such a way to meet the relevant criteria in order to successfully access the funding.

- Finchale Priory Circular Walk

Finchale Priory is one of the treasures alongside the River Wear, with many people enjoying regular walks around this area. However, much of the land in the area is in private ownership and this is a potential obstacle to obtaining the maximum benefit from the area. The M.P. for Durham, the Right Worshipful The Mayor of Durham and Durham County Council's Rights of Way Section have been consulted regarding permitted access to the area around Finchale Priory. Also, Northumbrian Water have been contacted as regards use of "Pipe Bridge" as they initially wished to have access across the bridge stopped. The County Council's Bridges Team may take on some areas of responsibility in order to maintain public access.

- Frankland Viaduct

Frankland Viaduct was an important link between Belmont and Newton Hall which has fallen into disrepair. Many local people have expressed an interest in the restoration of this route and indeed SUSTRANS, a cycle charity, are interested in becoming involved and indeed there may be a possibility of securing some National Lottery funding towards this. The land on which the viaduct sits is owned by the Durham County Council. Prior to any works, a structural survey would need to be carried out, and also any adverse impact that reopening the route may have on biodiversity would need to be assessed. This route could have a positive impact in economic and environmental terms via people using the route for commuting, creating more opportunities for businesses to take advantage of the passing trade. Also traffic could be reduced as people may opt to cycle or walk along the much more direct route between Belmont and Newton Hall.

- Old Durham Gardens

Old Durham Gardens is owned by Durham City Council and they would like to see the public using it more, as a result, The Necklace Park, in partnership with local people has begun work on a tile mural to be located within the garden grotto. Students from New College Durham are to produce the mural, with the work to be completed by Easter 2007. The City of Durham's Heritage & Design Manager, Michael Hurlow has been involved with this project.

- Houghall College Farm

East Durham & Houghall Community College operates Houghall Farm and the College is keen to open the farm to the public, which hopefully in turn will bring visitors to other nearby attractions such as the Houghall Discovery Trail and the wetlands area. The College is working with the Necklace Park team towards securing funding to help this.

- Virtual Park

One of the key aims of the Necklace Park is to improve the access and quality with a minimal "footprint". An excellent way of being able to achieve this is to, rather than have intrusive and costly interpretation panels (which cannot be updated easily and would require regular maintenance), use an online "Virtual Park" to mirror the actual park and to also provide additional value by way of a greater depth of information and experiences than would be on the ground alone, i.e. history, stories, wildlife information etc.

Further information relating to these and other current projects can be found attached at Appendix A to these minutes.

The presentation was rounded off by noting that one of the challenges facing the Necklace Park was that of persuading private Landowners that there was genuine benefit in having the Park cross areas of their land. Rather than set up new forums for this, it was intended to use existing groups to facilitate discussions with Landowners. The Public Rights of Way Team from the County Council are also helping with this issue, but any help from Local Councillors who may have good working relationships with land owners would be of great assistance to the Necklace Park team.

The Chairman thanked the Necklace Park Manager for her informative presentation and Members put forward questions relating to the project:

- Members thought that it could be beneficial, to help raise awareness of the Necklace Park project, to have some form of "console" located within the City of Durham Tourist Information Centre (TIC, currently located within the GALA Theatre) enabling access to the proposed Virtual Park. An opportunity may also be available to have similar devices or access within the new hotel developments within the City, so that visitors to Durham have access to information upon their arrival. The Panel was informed that the City's Tourism & Conference Officer, Martin Boulton was involved with the Signage Strategy which may incorporate a scheme involving the TIC, and also that there are plans to work with the Clayport Library for use of computers there to gain access to the Virtual Park. The Members were also informed that indeed local hotels were "crying out" for additional information for tourists, and that work regarding this was ongoing in conjunction with the County Durham Area Tourism Partnership.
- Members were keen to learn what improvements were planned to enable increased access for the disabled. The Panel was reassured that various groups were being consulted, e.g. The Disabled Ramblers, and that it more often the case that rather than a whole raft of extensive groundwork, people merely require information regarding what paths are currently suitable for use by various groups, i.e. wheelchair, pushchairs etc. However, in some cases it may be necessary to improve the path on the ground. An example of this being the need for wider access along the bridge over Old Durham Beck, near Maiden Castle.

Work regarding this is underway with the Necklace Park Officers working with the Durham County Council Public Rights of Way Section, the Durham County Council Bridges Team and the Disabled Ramblers towards securing the necessary funds to achieve this goal.

- Whilst Members agreed that improved access to the Riverbanks was in general a good thing, there were concerns as regards how to encourage (and if necessary police) responsible use of the Necklace Park. As the Park goes near to or indeed through working farmland and Sites of Special Scientific Interest (SSSIs) it is hoped that users initially would find out information from the Virtual Park as to the appropriate way to use and enjoy these areas. The County Council's Ecologist will be consulted as regards the correct information.
- Some Members agreed with the idea to promote or help to set up a facility for cycle hire. It would be vital to establish what routes cyclist would have access to as they can often be at odds with other users. It was noted by some Members that previous attempts by private businesses to establish cycle hire facilities had not been successful (Dave Heron Cycles and Cycle Force 2000), though this may have been due to lack of advertising or poor location. One Member pointed out that the City Council has in its possession a few bikes of various design for hire from its Coxhoe Leisure Centre (including some with trailers and cycle for use by disabled people). These cycles were obtained by working with Sustrans and Sport England. The Necklace Park Manager noted this for future reference.
- With regards to proposals for a route to be re-established at the Frankland Viaduct, Members wondered whether this could be read that the scheme for a northern bypass road was no longer a viable option. The Necklace Park Manager explained that a decision was made early on to "ignore" the bypass issue else no improvement would ever be made. Members also wished to be clear that any support of the project to reinstate this route should not be taken as either a condemnation of the proposed northern bypass or backing of other proposed bypass road route.
- Members were interested to hear how the issue of users of the park from outside the immediate city area would be managed, i.e. users travelling into Durham by car. Whilst certain attractions already have an adequate parking provision, e.g. Houghall College, it was hoped that by planning sensible routes between areas with existing parking this issue could be mitigated. Also it is hoped that the County Council Park and Ride Scheme should be utilised as a means of environmentally friendly access to the City and the Park.
- Members felt that one of the keys to unlocking use of the riverbanks was by encouraging more use of the actual river itself. Indeed, the Necklace Park Manager has met with the Chairman of the Durham Anglers' Group as regards work relating to education of young people on how to use the river responsibly. Also in a slightly separate but related issue, it was noted that the Durham City Kayaking Club were in talks with the Environment Agency relating to use of the river.
- The Panel felt that the issue of the river cleanliness (litter rather than chemical pollution) was important. It was noted that whilst the issue was dealt with by the Environment Agency, the Agency now only appear to get involved where incidents of flooding occurs.

- Concerns regarding this apparently have been raised by the Riverbanks Management Group (The City of Durham Heritage & Design Manager, Michael Hurlow being a City Council representative) with the Environment Agency's representative, Barbara Pike. Currently, as explained at a previous meeting, the City Council undertake some litter picking and clear what can be reached safely from the riverbank. Volunteers from the Kayaking Club have aided the Council in removing litter and rubbish from the river in the past, though this is obviously not an ideal solution. Councillors did note that whilst trees blown into the river could be considered "rubbish" by some, it should be noted that they can be useful to some wildlife, e.g. Cormorants.

Note: *Councillor Carr left the meeting at 6.07 p.m.*

- **Witness in attendance, Nick Hall, Public Rights of Way Officer, Durham County Council**

Nick Hall, Public Rights of Way Officer from the Durham County Council Rights of Way Section was in attendance to help Members understand the role and responsibilities of the County Council Public Rights of Way Section (PROW) in relation to the footpaths along the riverbanks and indeed across the District.

Whilst public rights of way enjoy the same status legally as adopted highway, highways (roads) and their adjoining footpaths are the responsibility of the Highway Section. The two main strands for the PROW team are the matters of enforcement and maintenance. The former relates to those instances where a right of way may have been blocked without authority, and the maintenance relates to repairs to help keep the rights of way useable and accessible. In addition, the section also deals with claims for new public rights of way and helps with the setting up of diversions with landowners (though the City of Durham can close / divert certain types of public rights of way – see Appendix B for extract from the relevant legislation).

The County Council maintain the surface of the rights of way, steps, revetments etc. and also are responsible for signposts and markings and also for clearing footpaths where weeds have overgrown the surface, but they do not tackle overhanging trees.

The County Council are also responsible for the majority of the bridges along the rights of way, with the specific section being the Bridges Team. Also old railway tracks now used as walkways have support provided by the County Rangers service.

The Chairman thanked the Public Rights of Way Officer for his time and Members put forward questions to him relating to rights of way.

- The Chairman asked what was meant by a "permissive path". The Public Rights of Way Officer explained that often, landowners would release that a right of way could be applied for over their land due to historic use and therefore it may be preferable to in advance of any such application to open up a route that the landowner felt comfortable with i.e. away from buildings, livestock, machinery etc. in the hope that the public would use this route. Sometimes permissive paths are listed in archives, and some are funded by DEFRA and are listed on their website (www.defra.gov.uk).

- Some Members queried the state of certain routes between villages that seem to have deteriorated. It was felt as current ecological policies are geared towards reducing reliance upon motor vehicles, these routes would become more important in the future and should be improved and maintained for cyclists and people on foot.
- The Rights of Way Officer stated that whilst the PROW Section would look at this type of issue where appropriate, it is often the case that the routes that are being described are alongside public roads and therefore the adjoining footpaths are adopted and maintained by the County Council's Highways Department rather than the PROW Section.
- The Panel asked who would be responsible for the maintenance of safety railing along the riverbanks. The Rights of Way Officer informed Members that if the County Council had put the railings in place, then the Authority would maintain them. However, it is commonly the landowner would be responsible for the maintenance of any railings on their land, though it could be if the land runs alongside a highway then the Highways Section of the County Council may be responsible.
- The Rights of Way Officer felt it was to be noted that within the Local Transport Plan some resources are allocated for the improvement of highways, cycleways etc. and the City of Durham's Sustainable Development Manager, Jonathan Elmer is the appropriate Officer as regards this.
- The Members were informed that works will be carried out to improve the footpath that leads up from the riverbank area, adjacent Bella Pasta, up to the Cathedral at "Windy Gap".
- Members also noted the importance of education of children within schools to ensure that not only are children encouraged to take up healthy activities such as walking to school, enjoying public rights of way etc. they should be educated as regards the responsible way to use these for "safe play". Also there could be an opportunity for schools to liaise with the Necklace Park to enable children to have lessons out of the classroom at some of the Necklace Park "jewels".

Note: *Councillor Pitts left the meeting at 6.30 p.m.*

The Chairman and the Panel thanked both of the Witnesses for their attendance and Members and Officers warmly applauded.

Actions for the next meeting:-

- Report for Information – Temporary Road Closures.
- Information on the Clean Neighbourhood & Environment Act 2005 and how it relates to City of Durham services.
- Witness from Durham Constabulary to inform Members as regards the Police presence along the Riverbanks area.

The Meeting terminated at 6.35 p.m.

About The Necklace Park

The Durham Necklace Park – 12 miles of stunning riverside environment - is a new project funded to draw together a series of existing spaces and places along the chain of the River Wear, stretching from Finchale Priory to Sunderland Bridge.

The project has been created with the help of local people, who have felt increasingly isolated from their own outdoors and wanted to reclaim their river, paths, heritage and environment. Much that is precious, unique and fascinating already exists along these twelve miles. What has been lacking is a way of joining up these assets, of engaging local landowners and working with the Park's vibrant communities.

Over the next two years, we will be working in partnership with local people, agencies, interest groups, businesses and authorities to develop projects of lasting value...while increasing participation and access to those special places within our spectacular City of Durham.

Necklace Park Current Projects

DOTT 07 PROJECT: Mapping the Necklace

During 2007, from January to October, The Necklace Park will be the venue for an innovative celebration of mapping. As part of the Design of the Times 10-year project on "how we design our lives" (www.dott07.com) twenty teams of local enthusiasts – from musicians to foodies, anglers to artists – will be sought and supported over a four-month period. They will decide how best to record and "map" their experience of the Necklace Park through the "eyes" of their obsession...real-time, virtually or digitally. The May Bank Holiday weekend (5th to 7th of May 2007) will be the mapping event itself, followed by a design showcase at a three-week DOTT 07 festival in Newcastle in October 2007. The entire process will be recorded by media arts students from Durham's New College. *(Project and event commissioned by DOTT 07 from Cornerstone Strategies / The Chambers.)*

CERAMIC TILE MURAL...Drawing the Park

A team of young mixed-ability artists from New College Durham have begun on-site research and initial concept work on a large 3-part ceramic tile mural of The Necklace Park. Led by artists Jane Dodds and Barbara Edwards from the college, the students are interpreting the Park's environment, heritage and sensory experience which will work together to form a "map" of the Park. To be completed by Easter 2007, the work is intended for the grotto at Old Durham Gardens, where it will be viewed by visitors to the historic terraced "pleasure gardens". Here it will preside from its vantage point at the top of the ceremonial garden stairs overlooking The Necklace Park and the City. *(Project carried out by New College art students and artists, and recorded by New College media arts students).*

THE VIRTUAL PARK...a Parallel Universe

As The Necklace Park is an "ephemeral park" based in an ecologically fragile and historic landscape, any signposting, interpreting, building, marking or mayhem needs to be carried out online. An important element of The Necklace Park strategy has been the mirroring of the real life environment with its online or "virtual" counterpart.

Here, visitors can experience the Park from a distance, groups can meet and share information and experiences and the Park's own reality can be creatively mapped in layers to form a parallel Park universe. Concept guidelines and content for the site is currently being drawn up for this project and funding will be sought for its commissioning and delivery in 2007.

THE SHELTER...taking it with you

An ongoing, young-person led project has been investigating how teenagers as Durham citizens find their own feet in the Park...while finding places to rest those same feet, relax, meet their friends and enjoy the view. Current work centres on creating a detailed design brief by young people as "clients", for architects and designers to create temporary "shelters" which can be used out in the Park by teenagers and their schools. Rather than creating new shelters *per se*, the light-weight collapsible products will be taken to the Park by individuals or school parties and used "ephemerally", taking advantage of natural windbreaks, organic plant material, gullies and ruins to set up temporary shelters through a range of shelter-based devices. The project will go to an invited pitch in early 2007 and will seek funding for its implementation through a local partnership approach.

THE SENSORY PARK... exploring and performing

Local and invited artists, architects and designers both current and historic have made much of the area the Necklace Park represents as a sensory venue...for music, for performances, for the capturing of historic stories and for the recording of environmental patterns. Now The Necklace Park project has given new impetus to bringing these explorations, performances and installations under one title. Those feeling creative and professional artists of all persuasions will be encouraged to apply their existing, previous or future work to The Necklace Park itself and seek funding to carry these projects out under The Necklace Park's cultural umbrella. Keep an eye on our events and project pages for the fruits of our labour!

OLD DURHAM BECK...restoring a route

The Necklace Park is working in partnership with The Durham City Ramblers and Durham County Council to reinstate access across Old Durham Beck near Maiden Castle. For many years local enthusiasts and walkers have had to detour away from the river to cross this deep-sided chasm further upstream. Now with the help of our friends, we are working with the local community to identify ways to make this area more accessible for people with a range of abilities. The purpose is to restore what is missing and improve what's on offer so a broader range of people can enjoy the Park.

HOUGHALL FARM...exploring hidden gems

On the site of East Durham and Houghall Community College near the Shincliffe area is a real gem of an opportunity for local people, school children, visitors and enthusiasts to seek new experiences within Durham City. Houghall Farm, at the epicentre of the college site, is going to be developed and opened up all to enjoy, starting in 2007. The Necklace Park is working with the farm to help them create ideas for play, exploration, education and engagement. The Houghall Discovery Trail within the farm offers a mystical experience for all who tread there, the wetland area will be a place to stop and stare whilst the local farm residents – goats, sheep, ducks, horses and the odd agricultural student – eagerly await the opportunity to chat with all who pass there.

FINCHALE PRIORY CIRCULAR WALK...accessing not trespassing

With accessibility to our spaces and places at the very heart of The Necklace Park's nature, we are hoping to formalise access to one of the most special places within the Park. Local people have enjoyed walking their dogs, exploring their heritage and paddling in the river in the area around Finchale Priory. Much of this access however, has been on private land and we are now working with a number of local residents and land owners to see if we can find a way to help everyone enjoy their outdoors without stepping on our neighbour's toes. Agreements are in the process of being drawn up and it is hoped that we will see even more progress throughout the early part of 2007.

FRANKLAND VIADUCT...exploring our hidden heritage

Deep in the outskirts of Durham City is a truly magnificent but much neglected monumental asset dating from the core of our industrial heritage past. Closed to local people but very close to their hearts, this vast structure exposes itself from behind the trees in all its towering glory to those lucky few able to make their way down to the rivers' edge below. For many years, the Viaduct has been neglected and access restricted to the local communities who live at either end. Now The Necklace Park, Durham County Council and Sustrans are coming together to explore a future for the Viaduct. Although the road is long and uncertain, the enthusiasm from the local people who have been contacting us day, and in some cases night, has been truly infectious. In early 2007 we are looking to establish a community-led group which will help possibly map the next phase in the history of Frankland Viaduct.

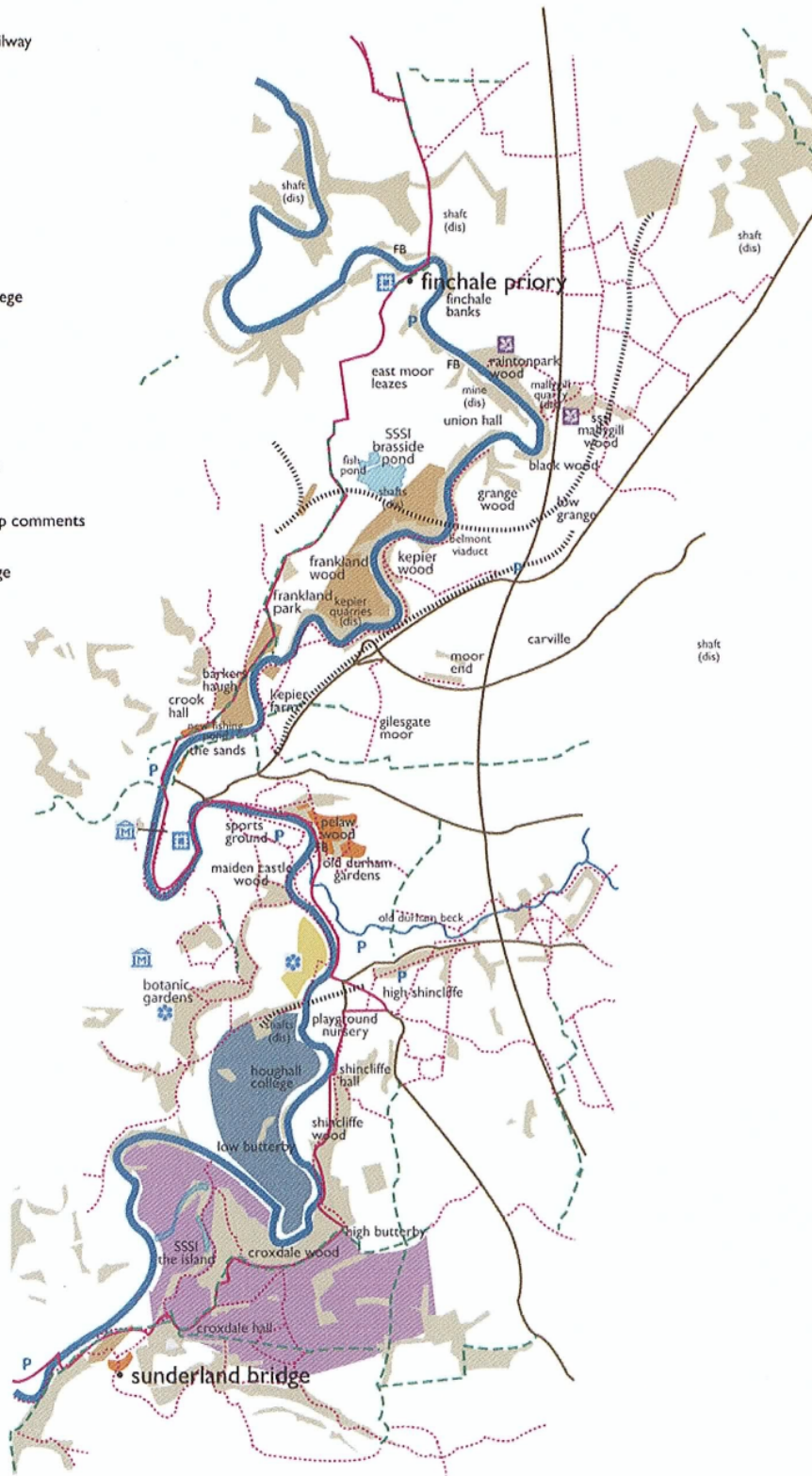
Necklace Park Measures of Success 2006-2008

The Necklace Park will:-

- **Attract additional funding** through its partnership linkages. This should be in addition to the Single Programme funding contributed via the Durham 20:20 Vision.
- **Contribute to the improvement of access** throughout the Park area.
- **Contribute to the improvement of tourism** in the City (including visitor numbers, visitor satisfaction, length of stay and visitor spend)
- **Contribute to the Durham City experience** and assist in developing the Durham City brand through its actions.
- **Contribute to strengthening community linkages** and community involvement in the Park. This includes landowners, young people, parish councils, local interest groups, 'friends' groups etc.
- **Contribute to creating partnerships** within the Park, including the strengthening existing ones.
- **Maintain a 'light touch' approach** to Park development ensuring that "ephemerality" is at the centre of all its actions.

Necklace Park...and land identifications

-  river
-  weardale way
-  minor walkway
-  bridleway
-  road
-  dismantled railway
-  county land
-  city land
-  private land
-  Salvin Estate
-  Houghall College
-  trust land
-  01 NE questions
-  01 SW questions
-  01 annotated map comments
-  english heritage
-  national trust
-  museum
-  gardens
-  parking
-  fishing
-  foot bridge
-  club house
-  golf



**Legislation under which the City of Durham can Stop Up or Divert Footpaths /
Bridleways.**

Town and Country Planning Act 1990

The vast majority of Stopping Up and/or Diversion Orders are made in accordance with s.257 of the 1990 Act. This section allows Local Authorities to make Orders to stop up and/or divert footpaths and bridleways to *enable development to be carried out* in accordance with planning permission granted under Part III of the 1990 Act.

Alternatively, s.258 of the 1990 Act empowers a Local Planning Authority to extinguish public rights of way over footpaths and bridleways where land has been acquired or appropriated by them for planning purposes.

Highways Act 1980

In certain circumstances, a *Local Authority* may consider it expedient to stop up a right of way for example, because it is no longer needed for public use. In such cases, Highways Act legislation should be adhered to in stopping up that right of way, but whatever the legislation, the procedure remains the same.

Agenda Item

STATUS PUBLIC

Portfolio Member/Director/Head of Service Cllr Carol Woods/Director of Legal & Administration Services	Portfolio Environment and Leisure
Subject Powers and duties under the Clean Neighbourhoods and Environment Act 2005 and Anti-Social Behaviour Act 2003	Date 13 th December 2006
	Forward Plan No
Contact Officer Clare Greenlay, Ext 8880	Previous Minutes None
Purpose of Report This report aims to advise members of the detail of the Clean Neighbourhood and the Environment Act 2005 (CNEA 2005) and also to seek approval from Members as to:- <ol style="list-style-type: none"> 1. the level of Fixed Penalty Notices 2. the level of any early settlement fee in relation to a Fixed Penalty Notice 3. the handling of Fixed Penalty Notice receipts 4. the designation of areas making it an offence to distribute free literature in those zones 5. the designation of areas to be subject to Dog Control Orders 	
Executive Summary <ol style="list-style-type: none"> 1. In 2002 DEFRA carried out a review of the legislative framework for providing and maintaining a clean and safe local environment. The review determined that the powers, duties and guidance for dealing with problems associated with the local environment quality (e.g. graffiti, litter, fly posting) were not working as effectively as they should and produced options for delivering changes to the legislative framework. Some of the proposals were incorporated into the Anti-social Behaviour Act 2003, (ABA 2003) but most were developed further and have resulted in the CNEA 2005. 2. The CNEA 2005 has eight major parts and deals with the following:- <ol style="list-style-type: none"> 2.1 <u>Crime and Disorder</u> This part amends the law relating to crime and disorder reduction partnerships to require them to take into account anti-social behaviour and other behaviour adversely affecting the local environment. It also allows for the gating by the Highway Authority of minor highways attracting anti-social behaviour. 2.2 <u>Vehicles</u> This part introduces two new offences relating to nuisance parking and amends the law relating to abandoned and illegally parked vehicles. 2.3 <u>Litter and Refuse</u> This part extends the statutory offence of dropping litter and amends the powers and duties of the Council in relation to litter. It provides a new ability to designate areas in which it is an offence to distribute free printed material without consent. 	

2.4 Graffiti and Defacement

This part amends the law relating to graffiti, fly-posting and the illegal display of advertisements.

2.5 Waste

This part makes provisions in respect of waste, most of which relate to the waste collection authority (Durham County Council).

2.6 Dogs

This part repeals the Dogs (Fouling of Land) Act 1996 and allows the Council to designate areas by making a Dog Control Order. The Council can decide what offences are applicable within the area covered by the Order and is an alternative to the creation of byelaws. If no Order is made however, the byelaw made under the Dogs (Fouling of Land) Act 1996 remain in force.

2.7 Noise

This part addresses issues relating to noise nuisance and creates new powers for the Council to tackle noise from intruder alarms, including the ability to designate Alarm Notification Areas, in which an owner / occupier must supply to the Council details of the key holder. The power to deal with night time noise nuisance is extended from domestic properties to include licensed premises.

2.8 Architecture and the Built Environment

This part established a statutory body (Commission for Architecture and the Built Environment) to promote education and high standards in, and an understanding and appreciation of, architecture and the design, management and maintenance of the built environment.

2.9 Miscellaneous provisions

This part enables local authorities to recover the costs of dealing with abandoned shopping trolleys from their owners and also extends the list of statutory nuisances to include light pollution and nuisance from insects. It also and increases the penalty for various offences relating to pollution.

3. All of the new powers contained within the CNEA 2005 that relate to the Council are now in force and appropriate training on the CNEA 2005 has been or will be provided to relevant officers requesting it. However, decisions have not been made on the levels of fines and whether the Council will allow payment of a reduced amount if the same is received within a specified period.

4. In relation to fixed penalty notices (FPN), it is suggested that that the maximum fine level is imposed, with the early payment provision being set at the minimum penalty available in order to encourage the early settlement of the outstanding sum. At present, sections 19 (litter); 23 (printed material); 60 (dog control orders); 74 (audible alarms) and 28 (graffiti and fly posting) of the CNEA 2005 have a range from £50 to £80 (default level £75), and sections 22 (street litter notice); 48 (waste receptacles) and 82 (night noise) CNEA 2005 have a range of £75 - £110. the minimum early payment charges are respectively £50 and £60.

5. The ABA 2003 has already been the subject of a report to Cabinet but not all areas of the Act were mentioned in that report. Specifically, the responsibility for dealing with graffiti and fly-posting was not addressed. The ability to deal with this issue should properly be dealt with perhaps by neighbourhood wardens in the main, but with Housing and Planning officers also being trained to issue notices.

6. Any Head of Service who wishes to grant additional powers to their officers under any legislative provision will consult their Portfolio Holder and where appropriate seek the adoption of legislation and or delegation of powers to the relevant officers.

7. Further work will need to be carried out as recommended to determine whether it is possible to implement all of the provisions of the CNEA 2005.

Portfolio Member Recommendations or items Requiring a Cabinet Decision

It is recommended that Cabinet:-

1. Set the level of FPN in respect of Sections 19 (litter); 23 (printed material); 60 (dog control orders); 74 (audible alarms) and 28 (graffiti and fly posting) of the CNEA 2005 at the maximum level of £80 (default level £75).
2. Set the level of FPNotices in respect of Sections 22 (street litter notice); 48 (waste receptacles) and 82 (night noise) of the CNEA 2005 at the maximum level of £110 (default level £100).
3. Set the level of early settlement of a FPN (within 14 days) at £50 where the default amount for the ticket is £75, and £60 where the default amount of the ticket is £100.
4. Instruct the Director of Legal and Administration Services to investigate whether it would be appropriate to designate any land within the District as an area in which consent must be sought from the Council prior to distributing free printed material, and if so what the consequences of such a designation would be.
5. Instruct the Head of Environment and Leisure, to determine which land within the District should be subject to a Dog Control Order, and within any land the subject of a Dog Control Order, which offences are applicable.
6. Delegate to the Head of Environment and Leisure the powers contained within Part 6 of the Anti-social Behaviour Act 2003.

Reasons for Recommendations

To ensure that the appropriate Officers have the relevant tools at their disposal to ensure that they maintain and promote clean neighbourhoods and the environment, and ensure that anti-social behaviour is controlled.

Alternative Options to be Considered

1. In respect of FPN's, if the Council does not set an amount, officers will be able to issue notices at the default amount. Alternatively, the Council may chose to impose an amount between the minimum and maximum ranges of penalty which is neither the maximum nor the default amount.
2. If the Council does not resolve to accept a lesser earlier settlement, members of the public will not be able to benefit by settling their liability quickly. The Council currently accepts a reduced early settlement in respect of car parking charges. The Council may also consider imposing an early settlement charge which is more than the minimum allowed.

Consultation

Internal consultation has taken place between Council departments. Further consultation with members of the public is not appropriate in relation to the recommendations made in this report, though consultation will need to be carried out in the event that the Council decides to implement either an Alarm Notification Area, or designate land as subject to either a Dog Control Order or a restriction of the distribution of free printed material.

Financial, Legal and Risk Implications

Financial Implications

In the event that a substantial number of FPN's are issued and the payments collected, there is the potential for revenue to be generated. The CNEA 2005 is relatively prescriptive as to where the receipts generated as a result of FPN's being issued can be re-invested in the service and the Head of Environment and Leisure will no doubt come forward with proposals as to how any revenue generated as a result of imposing fixed penalties can be re-invested in the service. There will however be additional costs incurred in administering the FPN's in respect of handling the issuing, processing and enforcement of the Notices, as well as the costs inherent in initially training officers and the ongoing cost of keeping the training up to date.

Legal

Training has been carried out for some officers in relation to the use of FPN's but further training will be required in respect of any additional officers being authorised to issue FPN's. Failure to provide adequate training will result in the Councils Enforcement Policy not being adhered to with the result that FPN's may be uncollectible and prosecutions will fail, which will have a impact upon the reputation of the Council.

Risk

Risk can be mitigated through appropriate training and diligent record keeping.

Resource Implications

It is anticipated that there will be no immediate resource implications as the additional powers sought will be delegated to those already employed by the Council, however there may be a knock on effect on the administration sections who process the FPN's and any subsequent prosecutions, depending how many FPN's are issued as a result of the delegation of powers outlined.

Timescale for Action

If approved, it is anticipated that action will be taken immediately to implement the resolutions of the Cabinet.

Associated Policies and Plans

The Enforcement Policy is relevant to the issuing of FPN's and prosecution of offences.

Supporting Documents

A Schedule of offences created by the CNEA 2005 is annexed as Appendix A.

Background Papers

A section by section analysis of the CNEA 2005 has been carried out and details of this can be obtained by contacting the Legal and Democratic Services Manager.

Offences created by CNEA Act for which fixed penalties or formal notices are available for purposes of enforcement.

Section/Legislation	Offence	FPN	Formal Notice	Issued by: ??	FPN Amount
S.6(1) Clean Neighbourhoods and Environment Act 2005	Nuisance parking	YES	NO	Senior N/W N/Wardens Planning Enforcement	Amount fixed at £100.
S. 2A(1) Refuse Disposal (Amenity) Act 1978	Abandoning vehicle a	YES	NO	Senior N/W N/Wardens Env.Team Leaders	Amount fixed at £200
S.87/88 Environmental Protection Act 1990	Deposit/Leave Litter	YES	NO	Senior N/W N/Wardens Street Scene Managers Env.Team Leaders Housing Officers	Can be set at local level (between (£50-£80). Default £75

Section/Legislation	Offence	FPN	Formal Notice	Issued by: ??	FPN Amount
S. 92/93/94 Environmental Protection Act 1990	Street litter control notices, and	YES	YES	Senior N/W N/Wardens	Can be set at local level (between £75-£110). Default £100
	Litter clearing notices	YES	YES	Street Scene Managers Env.Team Leaders	
Schedule 3A, para.7(2) Environmental Protection Act 1990	Unauthorised distribution of literature on designated land	YES	NO	Senior N/W N/Wardens Street Scene Managers Env.Team Leaders Licensing Enforcement	Can be set at local level (between (£50-£80)). Default £75
S.43 Anti-social Behaviour Act 2003 Police Reform Act 2002	Graffiti and fly-posting	YES	YES	Street Scene Managers Env.Team Leaders Senior N/W N/Wardens	Can be set at local level (between (£50-£80)). Default £75

Section/Legislation	Offence	FPN	Formal Notice	Issued by: ??	FPN Amount
S.34A Environmental Protection Act 1990	Failure to furnish documentation (waste transfer notes)	YES	NO	Senior N/W N/Wardens Street Scene Managers Env.Team Leaders Env. Agency	Amount fixed at £300
S.5B Control of Pollution (Amendment) Act 1989	Failure to produce authority (waste carriers licence)	YES	NO	Senior N/W N/Wardens Street Scene Managers Env.Team Leaders Env. Agency	Amount fixed at £300
S.47ZA(2) Environmental Protection Act 1990	Offences in relation to waste receptacles	YES	NO	Senior N/W N/Wardens Street Scene Managers Env.Team Leaders	Can be set at local level (between £75-£110). Default £100

Section/Legislation	Offence	FPN	Formal Notice	Issued by: ??	FPN Amount
S. 59 Clean Neighbourhoods & Environment Act 2005	Offences under Dog Control Orders	YES	NO	Senior N/W N/Wardens Dog Warden	Can be set at local level (between (£50-£80)). Default £75
S.71/73 Clean Neighbourhoods & Environment Act 2005	Failure to nominate keyholder (within an alarm notification area) or to notify local authority of nominated keyholder's	YES	NO	Only applicable if alarm notification areas declared	Can be set at local level (between (£50-£80)). Default £75
S. 8 Noise Act 1996	Noise from dwellings	YES		Env Health Manager / EHO's	Can be set at local level (between £75-£110). Default £100

Section/Legislation	Offence	FPN	Formal Notice	Issued by: ??	FPN Amount
Sch. 4 Environmental Protection Act 1990 (ADOPTIVE)	Power to seize and remove shopping trolleys,etc	NO	YES	Street Scene Managers Env.Team Leaders	N/A but need to establish charge for recovery, storage and return of item.
S.79/80/82 Environmental Protection Act 1990	Statutory nuisance arising from insects & artificial light	NO	YES	Env Health Manager / EHO's	N/A
S48-52 Anti-Social Behaviour Act 2003 Town & Country Planning Act 1990	Defacement of property with fly-posting or graffiti Illegal fly-posting	NO NO	YES NO	?? Planning Enforcement Officer(s)	N/A

ENVIRONMENT SCRUTINY PANEL

FIRST DRAFT REPORT (REVIEW) – SCRUTINY OF TEMPORARY ROAD CLOSURES WITHIN THE CITY OF DURHAM AREA

The Panel was tasked with reviewing the previous Scrutiny topic of Temporary Road Closures.

1. BACKGROUND

The City Council has the power to temporarily close roads under the Town Police Clauses Act (TPCA) 1847 for such events as parades, street parties etc. It was noted that the City did not have a Policy for the granting of such road closures. Consequently, a Policy was drafted, and was adopted by Cabinet, April 2005 (Minute 578).

Overall, the Policy was believed to be working well by the Officer who issues the Temporary Road Closure Orders (TRCOs). However, Members were worried that the cost of the *whole* procedure organising an event which requires a temporary road closure, i.e. the cost of insurance and of suitable traffic management, was becoming too expensive for small village organisations to bear and wished to have further information relating to this matter.

2. AIMS

To provide Members with further information relating to the issues connected with the obtaining of a TRCO from the City of Durham and to amend any current policies and procedures as deemed necessary.

3. CURRENT STATUS

3.1 Current Procedure

Following the scrutiny of the subject of Temporary Road Closures in July 2004, a Policy was produced and approved by Cabinet 04 April 2005. At the meeting of the Panel 19 July 2006, the Legal and Democratic Services Manager informed Members that in general the Policy was working very well.

It was noted that a number of applications that previously been received annually had ceased to be submitted. This was thought to be due to the increased cost of the traffic management and associated insurances, rather than the City of Durham fee of £25 for issuing the Order (which is considerably lower than many other Authorities with some being as much as £350). Also it was noted that a previous regular Applicant had modified their event so as to not involve use of the highway, negating the need for an Order to be issued.

3.2 “Problems” with Current Procedure

It was noted that some organisations that had applied for a TRCO were not attending a meeting of the Safety Advisory Group (SAG), which is advised within the Temporary Road Closure Application Form Guidance Notes.

Whilst it may be possible to state that attendance was mandatory, some event organisers felt that they were being discriminated against as the SAG meetings are held during working hours.

Until recently, the Officer who administers the TRCOs did not receive minutes of the SAG meetings, though this situation has now been remedied.

Whilst the current Policy recommends that the Applicant hire a traffic management company to organise the putting up of requisite Notices and the running of the closure on the day, it does not insist on such a requirement. It is an offence if such Notices and traffic management is not carried out by a company or person who has undergone the relevant training and has an appropriate qualification. By not insisting upon the use of qualified persons, the City of Durham could be viewed as condoning such an offence.

Within the guidance notes that the City send out with the application form for a TRCO, there is a sentence to note that the Applicant should perhaps consider the use of alternative routes that would not use a section of the highway. It may be that this could be altered to emphasise the Police and Highways Authority general guidance towards such events, i.e. that if at all possible try to organise them as such that a road closure is not required by holding the event on an area of land off the highway and question whether parades or marches could not be staged on a large open space, rather than along a section of highway.

4. FURTHER INFORMATION

At the Panel meeting 19 July 2006, Members were keen to find out more information as regards what was required of organisers when holding events that required a TRCO as it was an issue the Members were often asked about. The main issues usually brought up with Councillors were:

1. What was the role of the Police as regards these types of road closure?
2. What was the reasoning behind the need for traffic management companies?
3. Why was liability insurance required on the part of the organisers?
4. Why would the "Council" not provide the traffic management and insurance?

4.1 Presence of Police at Temporary Road Closures

In the past the Police had provided Officers to manage the traffic management of road closures but due to resource issues it was no longer possible to provide this service. Since the 1970's the Association of Chief Police Officers (ACPO) Traffic Committee have actively discouraged the use of highways for sponsored or charity events on the grounds of road safety.

However, in 1999 a Public Safety Policy was produced by ACPO setting out the Police position which was to not support any event on the highway unless there had been a risk assessment carried out, there was an appropriate insurance policy in place for the event, and that road closure was obtained with the relevant traffic management being in place.

In Durham if all these criteria were met, the Police would try to have some representation in the form of Community Support Officers or local Beat Officers at the event though purely as a "Police" presence, rather than assisting with traffic management. However, where there is a perceived risk to the integrity of effective emergency service provision i.e. routes becoming impassable, the Police may then provide assistance in this regard, an example being a large event such as the Durham Miners' Gala.

4.2 Traffic Management

As Police Policy denotes that they would be unable to provide traffic management (except in exceptional circumstances) organisers of events would need to provide traffic management for the event. This has two main aspects, one being the implementation of the correct signage to be in accordance with Traffic Signs Regulations and General Directions 2002 and Traffic Safety Measures and Signs for Road Works and Temporary Situations 2006. The other aspect is the relevant number of qualified operatives on the ground to carry out the road closure.

As regards both of these, the relevant qualification is the Lantra Award Sector Scheme 12D, a relatively new qualification. It should be noted that only those people suitably qualified (either through 12D or other qualifications for other types of road closure / works) are legally allowed to place signs on the highway, members of the general public may not. Again the signs themselves must conform with legislation.

Teesdale District Council attempted to help local event organisers obtain the relevant 12D qualification and whilst this was in theory a good idea, it became apparent that the issue was more complex than initially thought. The qualification is in multiple units, with some requiring hands on training with the requisite conforming vehicles and signage. This equipment is quite specific and not inexpensive and may well be beyond the budgets of events organisers. Also any provision of the equipment by Local Authorities would not be cost effective as any *subsidised* cost would unlikely cover costs / maintenance of the equipment and any *full price* provision would be a duplication of private sector facilities and have ongoing implications for Local Authorities budgets, i.e. staffing, physical storage etc.

Problems are compounded by the need for correctly prepared Risk Assessments and Traffic Management Plans which require more units from the 12D qualification (or similar). In addition, as events sizes scale up, the number of people required on site during the closure increases. A "Supervisor" role is required with "Operatives" working below them to carry out the closure correctly and safely. Upon inspection, the "going rate" for Operatives appears to be between £7-10 per hour, with the rates for Supervisors obviously being greater. These are all additional costs not immediately apparent when considering training for an Event Organiser's staff or Local Authority Officers.

Additionally, the Durham County Council being a statutory consultee in the TRCO procedure have requested to see comprehensive Traffic Management Plans prior to any agreement on their part.

Speaking to some traffic management companies, the cost of a small event would be in the order of £500 plus, though this would obviously include the relevant signage and qualified staff.

4.3 Liability Insurance

Another consideration for organisers is that of sufficient liability cover for the event. After brief consultation with some insurance companies the basic scale of fees for such insurance seemed to be of the order of £250 for cover for 1,000 people at a cover level of £5 million

Whilst some insurance companies *would* provide liability insurance for certain events, some would either require “events insurance” (a more expensive premium) or indeed would not provide cover for the part of the event that involved the members of the public on the highway, as the cover is for the event rather than the road closure. It therefore could be that even at an event with Liability Insurance in place, an event organiser may not have the *correct* cover in place in the event of an incident occurring on the temporarily closed road.

It should be noted that whilst many Authorities require a level of cover of £5 million plus, the City of Durham currently only states within its policy “That the Applicant shall be responsible for ensuring that appropriate insurance is in place for the event which requires the Road Closure”. It may be necessary to state a minimum level of £5 million cover as a being required, or indeed more as deemed appropriate.

Also on the pro forma for completion by event organisers, the form states “If my (the Applicant) application is successful I confirm I will:- 1. Make suitable arrangements to manage the event, 2. Arrange suitable insurance for the event during the period of the Road Closure.” This could be interpreted that a TRCO could be agreed to prior to traffic management being arranged and the insurance cover being finalised. It may be that event organisers may not be able to secure such insurance or traffic management prior to the approval of a Temporary Road Closure Order. If this is the case, it may be possible to *approve* the order upon receipt of enquires or quotes from traffic management companies and insurers, then *issue* the signed and sealed Order only upon confirmation of the traffic management and insurance being obtained. However, this may have a negative effect in that the additional time required for this stage could mean application would need to be submitted even further in advance.

Also it should be noted that the level of insurance carried by Traffic Management Companies tends to be in the region of £30 Million as opposed to those levels listed above.

4.4 “Council” Provision

Whilst ideally “the Council” would provide all services that the community requires, it is not always possible either due to no powers to act or lack of resources to undertake the appropriate action.

Whilst the Durham County Council operates road closures for works to the highway and issue Temporary Road Closure Orders for public utilities companies when carrying out works, these are under different legislation and are not similar to those the City would issue under the TPCA 1847.

Whilst there are a number of possible options that may be available for pursuit, in the light of the recent Local Government White Paper and subsequent bids for reorganisation Members may wish to consider the matter further prior to making any decisions.

5. EXAMPLES WITHIN DURHAM

Some Members had queried that whilst the Police would not as a matter of course provide traffic management for events, they appear to be present at many in that role. These include the Durham Miners' Gala, the Annual Fireworks Display at Aykley Heads and the Christmas Lights "Switch On" in the City Centre Market Place.

As regards the Miners' Gala, due to the large scale of the event and the obvious impact of the sheer numbers of people involved, public safety and the integrity of emergency service routes are the key reasons behind the Police presence.

The Annual Fireworks display is a joint event held by the Police Authority, The Fire Service and the Durham County Council, accordingly the Police are the organiser of the event and it would not be cost effective for them to hire in external traffic management for this event when they (their Officers) have the requisite powers and training to carry out the management of the closure.

Upon speaking to the Manager of the Durham Markets Company who headed up the organising of the Christmas Lights Switch On for the Durham City Forum, I was informed that whilst there was a Police presence in the market place on the night of the switch on, the Officers were there in their capacity to maintain public order. Indeed, the Forum had been required to hire a traffic management company at the standard rate the same as any other event organiser. This was also the case for closures connected with the Christmas Festival activities as well.

Researching experiences of events organisers from up and down the Country, an interesting passage from the website of "Run Liverpool" (a Race Organisation) was worthy of note where an insufficient Traffic Management Plan (TMP) had prevented a Road Closure Order from being issued, therefore causing an event to be postponed:

"...the traffic management plan will have to be resubmitted to the local authority with their timescale being six weeks from approval to process a Temporary Road Closure Order. This will no doubt seem an extremely long time by most runners – but it must be understood that we are dealing with legislative process. The days of simply putting on an event on are long gone. Perhaps we have become victims of our own demands, particularly with the 'blame and claim' mentality that exists in some areas of our society."

6. RECOMMENDATIONS

Accordingly, the Panel put forward the following recommendations:-

1. That the City of Durham continues to use its successful Temporary Road Closures Policy.