



## Highways Committee

**Date** Tuesday 1 November 2011  
**Time** 10.00 am  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Minutes of the meeting held on 27 September 2011 (Pages 1 - 4)
2. Declarations of interest, if any
3. Public Right of Way Crossing of A690, Gilesgate, Durham - Joint Report of Corporate Director, Regeneration and Economic Development and Corporate Director, Neighbourhood Services (Pages 5 - 20)
4. Such other business, as in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

**Colette Longbottom**  
Head of Legal and Democratic Services

County Hall  
Durham  
24 October 2011

To: **The Members of the Highways Committee**

Councillor G Bleasdale (Chair)  
Councillor J Robinson (Vice-Chairman)

Councillors B Arthur, A Bainbridge, D Burn, N Foster, D Hancock, S Hugill, D Marshall, J Maslin, A Naylor, J Shiell, P Stradling, T Taylor, L Thomson, R Todd, E Tomlinson, J Turnbull, C Woods, A Wright and R Young

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**DURHAM COUNTY COUNCIL**

At a Meeting of **Highways Committee** held in Committee Room 2, County Hall, Durham on **Tuesday 27 September 2011 at 9.30 a.m.**

**Present:**

**Councillor G Bleasdale (Chair)**

**Members of the Committee:**

Councillors J Robinson (Vice-Chairman), B Arthur, D Burn, N Foster, D Hancock, S Hugill, A Naylor, J Shiell, P Stradling, T Taylor, L Thomson, E Tomlinson, J Turnbull, C Woods and A Wright

**Apologies:**

Apologies for absence were received from Councillors A Bainbridge, D Marshall, J Maslin, R Todd and R Young

**Also Present:**

Councillors J Chaplow and J Wilkinson.

**1 Minutes of the meeting held on 26 July 2011**

The Minutes of the meetings held on 26 July 2011 were agreed as a correct record and signed by the Chairman, subject to the inclusion of Councillor D Burns' apologies, which had been submitted but not recorded.

**2 Declarations of interest**

Councillor J Turnbull declared a personal and prejudicial interest in relation to Item No. 4 (B6302 Broom Lane, Ushaw Moor - Proposed Limited Waiting) as a relative of one of the shopkeepers and withdrew from the meeting during consideration of the item.

**3 B6302 Broom Lane, Ushaw Moor - Proposed Limited Waiting Restriction**

The Committee considered a report of the Corporate Director, Neighbourhood Services which proposed the introduction of a limited waiting, parking restriction for laybys adjacent to shops on Broom Lane, Ushaw Moor (for copy see file of Minutes).

The Strategic Highways Manager informed the Committee that the shops in Ushaw Moor played a vital part in village life and the scheme had been drawn up to address concerning inconsiderate parking, lack of parking turnover and vehicular parking at a nearby bus stop.

Seven objections, covering five issues had been received during the statutory advertisement period. The representations received indicated that parking problems would transfer to the opposite side of the road and that some customers would require more than two hours. One shop owner objected on the basis that their vehicle was parked

outside his business, day and night and one objection was made in relation to the legal order.

Durham Constabulary and the local residents association supported the scheme. One further email of support had also been received.

Councillor Chaplow, one of the local members for Deerness Valley Electoral Division, informed the Committee that she supported the scheme in principle but expressed concern that customers visiting the hairdressers and beauticians in the area would potentially need longer than two hours. Councillor Chaplow felt that the duration of the waiting time and the first sign of any enforcement of the waiting restriction would be a turn-off for customers who would simply travel to neighbouring villages for their services. Councillor Chaplow also queried the ownership of the nearby car park referred to in the report and highlighted potential issues in relation to carrying heavy goods to the car park.

The Strategic Highways Manager informed the Committee that the car park was surfaced and being used. The car park did not belong to the County Council and was therefore unadopted. He acknowledged the steep incline referred to by Councillor Chaplow but pointed out that parking would potentially be available on the opposite side of the road to the shops.

The Committee then heard representation from Mr Kirkup, a local shopkeeper and Mr Booth, Chairman of Ushaw Moor Action Group. They informed the Committee that parking problems had been ongoing in the area for some time and fully supported the scheme for the following reasons:

- previous businesses, including a café, had closed because customers were unable to park, resulting in empty units falling into a bad state of disrepair;
- customers to the local pet shop were unable to park and collect heavy bags;
- large businesses in the area, such as the Co-operative could survive, however, the smaller businesses would suffer;
- parking issues and speeding traffic were of prime concern in the area;
- cars were being parked and double-parked on the busy crossroads which was not only hazardous for local residents, but road safety generally.

The Committee were also informed that the residents group had worked extremely hard with local residents and key partners, including the Area Action Partnership in an attempt to address the parking problems.

Councillor Wilkinson, the other local Member for the area informed the Committee that a survey conducted by the residents group survey highlighted that 50% of people had never used the shops for the simple reason that they were unable to park. Councillor Wilkinson also informed the Committee that the B6302 was the main route through the Deerness Valley area, Ushaw Moor was the largest village in the area and shops relied on passing trade as much as it did to local villagers. He expressed his concern about the sustainability of the shops in Ushaw Moor and was extremely concerned that that more shops would close without the introduction of any parking measures.

Councillors Burn and Woods both highlighted the importance of supporting and helping local businesses in the area.

Councillor Tomlinson informed the Committee that the public consultation and the work carried out in conjunction with the Area Action Partnership appeared to support the proposal and also commented that he had experienced, first hand, the congestion problems in the area and the resultant hazards.

**Resolved:**

The Committee endorsed the proposal and agreed to proceed with the implementation of the scheme detailed in the report.

**4      Unclassified High Chare, Chester-le-Street - Proposed Parking Restrictions**

The Committee considered a report of the Corporate Director, Neighbourhood Services regarding the proposed alteration to parking restrictions at Unclassified High Chare, Chester-le-Street (for copy see file of Minutes).

The Strategic Manager, Highways informed the Committee that representations had been received over a number of years from residents, pedestrians and businesses about numerous road safety hazards at High Chare. The proposed scheme would see the introduction of a loading bay, no waiting/no loading restrictions between 8am and 6pm and the relocation of two existing disabled bays. The Committee received a summary of responses detailed at the informal consultation and statutory advertisement phases.

Councillor Shiell, one of the local Members for the Chester-le-Street North and East Electoral Division commented that the situation at High Chare had become a major issue, particularly at weekends, when problems were being exacerbated due to inconsiderate parking. Councillor Shiell hoped that the proposals were a logical answer to the problems in the area.

**Resolved:**

That the proposals and recommendation detailed in the report be approved.

**5      B6310 and Unclassified Birch Crescent, Myrtle Grove & Valley View, Burnopfield - Proposed Waiting Restrictions**

The Chairman informed the Committee that the item had been withdrawn.

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Highways Committee

1 November 2011

Public Right of Way Crossing of A690,  
Gilesgate, Durham



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Report of Corporate Management Team

Ian Thompson, Director of Regeneration and Economic Development and Terry Collins, Director of Neighbourhood Services

Councillor Neil Foster, Portfolio Holder for Economic Regeneration and Councillor Bob Young, Portfolio Holder for Strategic Environment

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**Purpose of the Report**

- 1 To consider the results of the recent public consultation regarding the public right of way crossing of the A690 at Gilesgate, Durham, and to agree appropriate actions.

**Background**

- 2 On 21 March 2011 a fatal accident occurred when Brandon Nugent, aged 13, was killed whilst crossing the north-eastbound carriageway of the A690 at Kepier Lane, Gilesgate, Durham. An Inquest subsequently returned a verdict of accidental death.
- 3 The A690 is one of the major vehicular routes in and out of Durham City, leading to the A1(M) and on to Sunderland. It is a dual-carriageway with a 70mph speed limit.
- 4 Prior to the construction of the road in the 1960's it was the route of a railway, and it cuts across an ancient public right of way known as Kepier Lane.
- 5 Kepier Lane is recorded on the Definitive Map of Public Rights of Way as Bridleway 114 Durham on the east side of the road, and Bridleway 19 Belmont on the west side. **Appendix A** shows the location. It was recorded on the first Definitive Map in 1952, and the route appears on the earliest Ordnance Survey maps. The Bridleway connects only with a recorded Footpath at Kepier Hospital, so it functions primarily as a footpath, with little evidence of equestrian or cycle usage.
- 6 A Side Roads Order at the time of the road construction stopped up the Bridleway across the verges, carriageways and central reservation of the A690, and realigned the western section to follow the access track to what is

now NEDL's Kepier Training Centre. A flight of steps was constructed within the central reservation along with a footway adjacent to the westbound carriageway.

## **Investigation**

- 7 A site investigation carried out by Durham County Council and Durham Constabulary following the accident assessed the risks at this location, and identified a number of possible control measures.
- 8 The investigation found that since 1997 there had been only one other accident involving a pedestrian at this location, when a girl aged 14 was slightly injured in 2000. The County Council had not received any complaints or notifications of concern over the last three-and-a-half years relating to difficulties experienced by pedestrians whilst crossing the road or from drivers having had hazardous encounters with pedestrians.
- 9 Vehicle speeds were found to be generally at or below the speed limit, but traffic flows are such that there are times when there are insufficient gaps in the traffic for pedestrians to safely cross, but that these times are relatively infrequent. Visibility for motorists is above minimum requirements.
- 10 Surveys of pedestrian usage of the crossing point showed that an average of 1.4 pedestrians per hour used the crossings on weekdays, and an average of 2.3 pedestrians per hour on Saturdays. Saturday usage included unaccompanied children. These figures are relatively low for pedestrian routes in urban areas, but are relatively high for rural public rights of way. They reflect the location and function of the Bridleway as a semi-rural alternative route between Gilesgate and Durham City Centre, and as an access to the riverbanks.
- 11 The conclusion of the investigation was that the severity of any accident involving a pedestrian was likely to be high, but the likelihood of one occurring is very low. This gave an overall risk at the low end of a medium risk rating scale.
- 12 The preferred control measure to be investigated was the physical closure of the crossing point. This could only realistically be achieved by closing the public right of way leading to the A690. Other measures identified included making the crossing more conspicuous, reducing the speed limit and constructing a bridge.

## **Consultation**

- 13 As a consequence, and following discussions with Brandon's family, a public consultation was undertaken between 8 August 2011 and 2 September 2011 to seek the views of interested parties as to the use of the path, whether it should be closed, or how the crossing could be made safer.



- 14 Notices were posted and maintained at either end of the path (**Appendix B**), letters were written to landowners, groups representing path users, Belmont Parish Council and the local County Councillors. Views were also sought from Gilesgate School.
- 15 A total of 45 comments were received. Of these 28 thought that the crossing should remain open, 11 thought it should close, and 6 expressed no clear preference. In addition a petition calling for the closure of the crossing was also received. There was widespread sympathy for Brandon's family, and those who wished the crossing to remain open proposed a range of measures that could help to make the crossing safer. A summary of the consultation responses is attached in **Appendix C**.

## **Legal Issues**

- 16 The only legal mechanism by which the County Council can close the crossing is an Extinguishment Order of the Bridleway under section 118 of the Highways Act 1980. The legal criteria which must be satisfied to extinguish a public right of way are specific and limited; the Council must be satisfied that it is expedient that the path should be stopped up on the ground that it is not needed for public use. Issues such as safety are not considerations if public need can be shown. The attached briefing note explains the legal criteria (**Appendix D**).

## **Conclusion**

- 17 The consultation exercise has clearly shown that the Bridleway has been used by the public for many years, and that a significant number of people continue to use it on a regular basis to walk into Durham, to visit the river banks and woods, and to walk their dogs. The path is valued and people wish to see it retained.
- 18 The alternative routes from Gilesgate to the river are much less direct, and it is therefore very difficult to argue that the path is not needed for public use. A number of respondents have identified that closure of the crossing might create a greater danger, as some people might continue to try and cross the road at unauthorised locations.
- 19 It should be noted that if this Committee determined that an Extinguishment Order should be made, then a statutory process would commence which, because objections would be made, would eventually end up at a Public Inquiry. Such a process would take in excess of a year, during which time the crossing would have to remain open, and it is clear from the legislation that an Extinguishment Order would be extremely unlikely to be confirmed.
- 20 The suggestions for making a retained crossing safer range from those such as an underpass or a bridge which are acknowledged to be unlikely in the current economic climate, to improved signage and road markings, lighting of the crossing area, and reductions in the speed limit from the current 70 mph.

- 21 A footbridge is estimated to cost in excess of £700,000, with the likelihood of additional costs due to unstable ground at this location. Work to make the crossing point more conspicuous and to improve signage is estimated to cost £20,000 (£35,000 with street lighting).
- 22 The type of works that will be implemented are to provide hazard bollards with reflectors at either side of the crossing (verge & central reserve on each carriageway) to highlight the crossing point, to provide additional warning signs in advance of the current signs at about 200yds from the crossing point - signs to be repeated in the central reserve, to change the central dotted road marking to a hazard marking on the approach to the crossing point, and to provide additional footway construction in the central reserve (both sides).
- 23 Lighting at the crossing point may be of value but may be more difficult to achieve due to the lack of an electricity supply to the immediate location. This would need further investigation.
- 24 A reduction in the speed limit to 50mph would decrease average vehicle stopping distances, but would need to be adequately enforced by the Police. The consequences of any accident at 50mph would still be very severe. There is also the likelihood that a reduced speed limit would affect traffic flow and reduce the number of gaps for safe crossing. It is felt that the current speed limit is therefore appropriate to the road, and that a reduction would be unworkable in this location due to the resources needed for enforcement and would be subject to significant abuse by motorists.
- 25 A draft of this report has been considered by Madeline Walker, Brandon's mother, and whilst she would have preferred to have seen the crossing closed she understands the needs of the wider community and the legal and technical issues which apply, and accepts the report and the recommendations below. She hopes that the recommendations can be implemented as soon as possible and that the crossing can be made safer, so that something positive can come out of the tragedy.

### **Recommendations and reasons**

- 26 Given the results of the consultation exercise and the legal criteria that have to be satisfied, an Extinguishment Order is very unlikely to succeed and would be a time-consuming and expensive process.
- 27 A range of practical improvements to the crossing can be implemented.
- 28 **It is recommended that:**
- (a) **An Extinguishment Order is not pursued further.**
  - (b) **Improvements to signage and related crossing works are implemented as described within the report.**
  - (c) **Improvements to lighting are investigated further.**

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**Contact: Dave Wafer Tel: 0191 383 3442**

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## **Appendix 1: Implications**

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### **Finance**

There will be cost implications associated with improvements to the crossing (£20 – 35k).

### **Staffing**

None

### **Equality and Diversity**

Improved signage and other works will improve the safety of young people crossing the road.

### **Accommodation**

None

### **Crime and disorder**

None

### **Sustainability**

None

### **Human rights**

None

### **Localities and Rurality**

Retaining the crossing point gives the local community access via the public right of way to rural areas for recreation and to the City for work, shopping etc.

### **Young people**

None

### **Consultation**

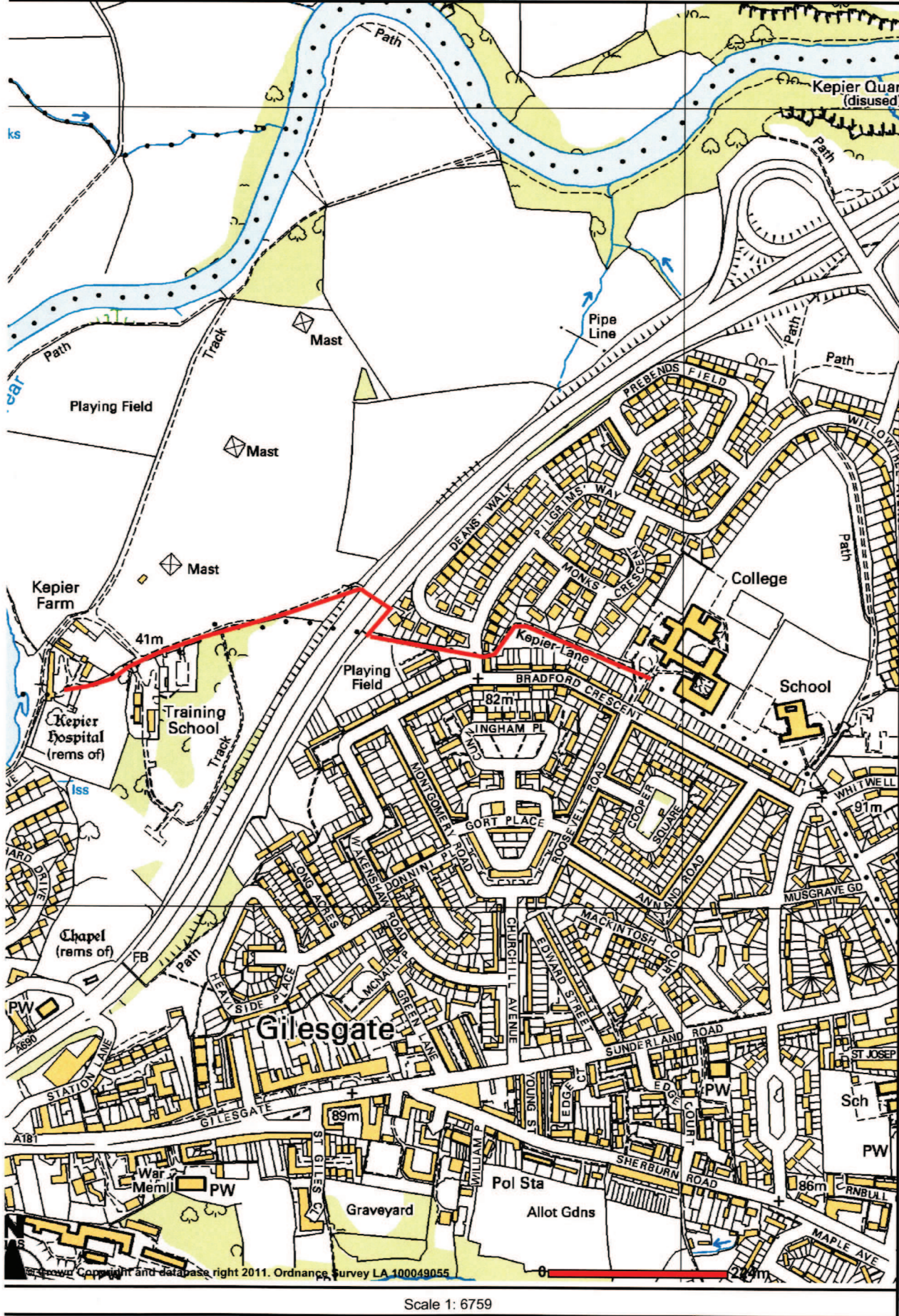
A consultation has been carried out to determine the views of the local community on the use and future of the crossing.

### **Health**

None

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### Durham County Council GIS



Scale 1: 6759

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# PATH ACROSS THE A690 – WHAT DO YOU WANT TO HAPPEN?

Due to safety issues, your views are needed on the future of the Public Right of Way from Pilgrims' Way / Bradford Crescent to Kepier Hospital (known as Kepier Lane), which crosses the **A690**

Do you use the path? Do you think the path should be closed? Could it be made safer?

We want to know what local people think.

Please send any comments to: -

Access & Rights of Way  
Regeneration & Economic Development  
Durham County Council  
County Hall  
DH1 5UQ

or

email: [prow@durham.gov.uk](mailto:prow@durham.gov.uk)

by 2<sup>nd</sup> September 2011.

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A690 Consultation

<b>COMMENT NO.</b>	<b>CLOSE CROSSING</b>	<b>COMMENTS</b>	<b>USAGE</b>
1.	No	Signage and road markings	Regularly
2.	No	Speed limit reduction, vegetation cut back to improve visibility, lighting	
3.	Yes	Footbridge	
4.	No	Construct a footbridge, street lighting, warning sign (speed limit), Kerpier Lane should be stopped up	
5.	No	Footbridge	
6.	No	Signage indicating people crossing	
7.	No	Educate children on speed and distance	Dog Walking
8.	No	Reduce speed limit	
9.	Yes	Close it asap	
10.	Yes	Crossing is in a very bad place and needs to be closed	
11.	No	Pedestrian bridge, reduce speed limit	Several times a week
12.	No	Crossing has been in use for 40 years and does not have a poor accident history	
13.	Yes	Take out crossing where accident occurred	
14.	Yes	Dangerous crossing, traffic is too fast	

<b>COMMENT NO.</b>	<b>CLOSE CROSSING</b>	<b>COMMENTS</b>	<b>USAGE</b>
15.	No comment	Support whatever you suggest in the interest of public safety	
16.	Yes	Crossing dangerous, fast road	
17.	Yes	Link to facebook page, people miss Brandon (don't make anybody else suffer)	
18.	No comment	Divert the footpath along to the footbridge. Part of path could be properly surfaced	
19.	No		Daily
20.	No comment		
21.	No comment	Pupils do not use field for lessons therefore do not cross the road during the day for curriculum requirements.	
22.	Yes	Cut people trespassing across my land with dogs off their leads among cattle with young calves	
23.	No	At some time in the future adjacent footpaths could be upgraded to form a multiuser recreational route	
24.	Yes	Take opportunity and rid road of child tempting feature. If crossing remains open there will be further deaths. Take this opportunity to make a difference.	
25.	No	Lower speed limit, install a crossing controlled by traffic lights	Regularly
26.	No	Warning signs to traffic made larger, road markings	3 times a week for 20 years

<b>COMMENT NO.</b>	<b>CLOSE CROSSING</b>	<b>COMMENTS</b>	<b>USAGE</b>
27.	No	Reduce speed limit, pedestrian traffic lights, small footbridge over the carriageway	Dog walking
28.	No	Tunnel or bridge	Dog walking
29.	No	Bridge or tunnel	
30.	No	Closing path would be a total over-reaction. Many people use path for dog walking and enjoying countryside	
31.	No	Use of basic road crossing skills when crossing and treat the road with care	Regularly
32.	No	Reduce speed limit, pelican crossing	Regularly
33.	No	Construct a footbridge, reduce speed limit, create designated crossing area with barrier, warning signs for motorists, ensure trees and grass verges are cut back regularly	
34.	No	Pedestrian and cycle friendly bridge or underpass	Regularly
35.	No	Speed restriction, signage, road markings, illuminate the steps across the central reservation	
36.	No	Pelican crossing	Daily
37.	No	Speed limit reduction, cut back vegetation	Regularly
38.	No	Speed limit reduction, improve signage	Regularly
39.	No	Crossing controlled by traffic lights, re-constructed flight of steps between the two carriageways, wider paving at the foot of the steps	

COMMENT NO.	CLOSE CROSSING	COMMENTS	USAGE
40.	No comment	Improved signage, foliage cut back	
41.	No comment	Improved lighting, reduction in speed limit, install a 'baffle' similar to that outside schools, install a crossing	
42.	No	Crossing is safe if used in an appropriate manner	Regularly
43.	No comment	Move the speed limit signs, install crossing signs on each side of the steps	
44.	Yes	Path should have been closed when the road was first constructed.	
45.	No	Footbridge (named after Brandon)	
46.	Yes	Petition	

**BRIEFING NOTE FOR HIGHWAYS COMMITTEE**

**EXTINGUISHMENT OF FOOTPATH AND BRIDLEWAYS –  
SECTION 118 HIGHWAYS ACT 1980**

The following briefing note sets out the criteria and considerations for the making of a Public Path Extinguishment Order.

Section 118 of the Highways Act 1980 provides a power for the Council to extinguish footpaths and bridleways.

The Council may only make a Public Path Extinguishment Order where it appears that:

It is expedient that the path or way should be stopped up on the ground that it is not needed for public use (Section 118(1)).

The Council (or the Secretary of State if the Order is opposed) shall not confirm a Public Path Extinguishment Order unless it is satisfied that:

It is expedient so to do having regard to:

- (i) The extent (if any) to which it appears that the path or way would, apart from the Order, be likely to be used by the public, and
- (ii) The effect which the extinguishment of the right of way would have as respects land served by the path or way, account being taken of the provisions as to compensation (Section 118(2)).

When considering either the making or the confirmation of a Public Path Extinguishment Order the Council (or the Secretary of State as the case may be) may have regard to the extent to which any Public Path Creation Order, Public Path Diversion Order or Rail Crossing Diversion Order being considered concurrently would provide an alternative path or way (Section 118(5)).

In addition, when considering the making or the confirmation of a Public Path Extinguishment Order, any temporary circumstances preventing or diminishing the use of a path or way by the public shall be disregarded (Section 118(6)).

When considering whether or not to make a Public Path Extinguishment Order the Council must also have due regard to the needs of agriculture and forestry and the desirability of conserving flora, fauna, and geological and physiographical features (Section 29 Highways Act 1980).

Finally, when considering whether to confirm an order the confirming authority should also have regard to any material provisions of any Rights of Way Improvement Plan.

## Notes

Section 118 of the Highways Act 1980 creates a two part test with different considerations at the order making and confirmation stage. The test of expediency changes from public “need” when making the order to “likely use” by the public when confirming the order.

The Committee must first consider whether the path is or is not needed for public use. It should take into account any representations with regard to the need for the path. It is possible for a path to be used but not needed, if for example, alternative routes are available and suitable for the purposes for which the existing path is used.

If the path is considered to be needed then an Extinguishment Order should not be made.

If the path is not thought to be needed for public use and the Committee feels it is expedient to make an Order, DoE Circular 2/1993 states it is important in making Extinguishment Orders that Authorities give due weight to the criteria to be considered in the confirmation of these orders. Therefore the Committee should also give some consideration to the tests to be applied on confirming an Order.

When considering likely use of the path, the Council may take into account any changes in the area which could affect use (e.g. the building of a new housing development, restoration of opencasting) and should also take into consideration the effect of the extinguishment on the land served by the path allowing that there are provisions for compensation for any persons loss of value in the land.

In considering both tests, if the path is obstructed, this fact should normally be disregarded, although a permanent obstruction could be a factor to be taken into account. Whether an obstruction is temporary will depend on its nature and whether it is likely to endure. Even a building which may seem to be permanent could be considered temporary if, as an unlawful obstruction, it is liable to be removed.