

---

**MEETING:** PLANNING CONTROL COMMITTEE

**DATE:** 18 APRIL 2006

**SUBJECT:** APPLICATION TO CLOSE TWO NON-DEFINITVE  
FOOTPATHS AT GRIFFIN CLOSE AND KESTREL  
DRIVE, BURY

**REPORT FROM:** MIKE CANNON, BOROUGH ENGINEER

**CONTACT OFFICER:** IAN CROOK, MANAGER  
HIGHWAY NETWORK SERVICES

---

**TYPE OF DECISION:** NON-KEY DECISION

**REPORT STATUS:** FOR PUBLICATION

---

**PURPOSE/SUMMARY:**

This report contains information regarding an application to close one non-definitive footpath at Griffin Close, Bury and another at Kestrel Drive, Bury.

**OPTIONS AND RECOMMENDED OPTION :**

That the committee approve the application to close the non-definitive footpath at Griffin Close, Bury.

That the committee approve the application to close the non-definitive footpath at Kestrel Drive, Bury.

---

**IMPLICATIONS -**

**Financial Implications and  
Risk Considerations**

See statement by Director of Finance and E-  
Government

**Corporate Aims/Policy Framework:**

Do the proposals accord with the Policy Framework? Yes

Improving Transport and the Environment.  
 Maintaining the asset value of the highway network and contributing to community safety.

Are there any legal implications? Yes

**Considered by Monitoring Officer:** Yes

**Comments:**

The proposals meet the criteria set out in Section 257 of the Town and Country Planning Act 1990

**Statement by Director of Finance and E-Government:** The costs of developing the gardens and of making the extinguishment orders will be met by Groundwork Bury. However, if the matter proceeded to public inquiry the costs of that inquiry would need to be met by the Authority. Members will be aware that in setting the 2006/07 budget they agreed not to make any budget available in 2006/07 for a number of provisions, including the Planning Inquiries provision. Any costs of the inquiry would therefore fall on highways budgets.

**Staffing/ICT/Property:** N/A

**Wards Affected:** Moorside

**Scrutiny Interest:** Economy, Environment and Transport

**TRACKING/PROCESS EXECUTIVE DIRECTOR: Env & Development Services**

Chief Executive/ Management Board	Executive Member/ Chair	Ward Members	Partners
Scrutiny Panel	Executive	Committee	Council
		Planning Control 18/04/06	

**1.0 BACKGROUND**

- 1.1 An application has been received from Groundwork Bury to close two non-definitive footpaths under Section 257 of the Town and Country Planning Act 1990.
- 1.2 The closures will allow the development of two community gardens, both of which have received planning permission.

- 1.3 PLAN 1 shows both paths to be closed within the surrounding area.
- 1.4 PLAN 2 shows the path to be closed at Kestrel Drive as a solid black line.
- 1.5 PLAN 3 shows the path to be closed at Griffin Close as a solid black line.
- 1.6 Section 257 of the Town and Country Planning Act 1990 permits the closure of public rights of way to allow development to take place.

## **2.0 ISSUES**

- 2.1 Groundwork Bury have received planning permission for two community gardens. One at Griffin Close, Bury and the other at Kestrel Drive, Bury.
- 2.2 Neither development can take place without the extinguishment of the non-definitive footpaths running through the relevant areas.
- 2.3 The gardens are to be developed as part of the Moorside Community Safety Initiative which has been formulated to tackle anti-social behaviour and crime and thereby to encourage community involvement in an attempt to create a vibrant and sustainable community.
- 2.4 It is intended that by achieving this, people will be encouraged to use the remaining path network in the area which is currently avoided by many due to the fear of crime and anti-social behaviour.
- 2.5 The non-definitive footpath at Griffin Close is 87 metres in length. The alternative along the footway of a cul-de-sac is 137 metres.
- 2.6 The path at Kestrel Drive is 43 metres in length. Alternative routes are available via the footways of Kestrel Drive, Porritt Street and Hawk Close to a stepped path at the head of Hawk Close providing access to a recreational area. For those living in Kestrel Drive, who will most benefit from the community garden, this is a significantly longer route. But, for the majority of potential pedestrians who would not be starting or ending their journey at Kestrel Drive, the path at Hawk Close offers a similar distance of travel.
- 2.7 Preliminary consultations have taken place with prescribed bodies. The Open Spaces Society has provided verbal confirmation that they would object to the closures. No other objections have been received. (See Appendix 1)
- 2.8 Due to the likelihood of the Opens Spaces Society maintaining their objection if extinguishment orders are made, the Committee should be aware that the matter may proceed to a Public Inquiry. However, as Section 257 of the Town and Country Planning Act 1990 allows for the diversion or extinguishment of a public right of way to allow a development to take place, and the community gardens have planning permission but cannot be developed with the paths still in existence, it is felt that the Authority would be successful in securing the extinguishments at an inquiry.
- 2.9 All reasonable costs associated with the making of the extinguishment orders to the Public Inquiry stage will be paid through funding secured by Groundwork Bury.

### **3.0 CONSULTATIONS**

Legal Services  
Finance and E-Government  
Strategic Housing Unit

### **4.0 CONCLUSION**

- 4.1 The proposed extinguishments would allow permitted developments in the form of two community gardens to be created.
- 4.2 That the Committee authorise the Council Solicitor to make the necessary orders to extinguish the non-definitive footpaths at Griffin Close and Kestrel Drive, Bury under the Town and Country Planning Act 1990.

**C M CANNON**  
**BOROUGH ENGINEER**

---

#### **List of Background Papers:**

Definitive Map and Statement

#### **Enclosures:**

Plans 1, 2 & 3  
Appendix 1

---

#### **Contact Details:**

Ian Crook  
Manager  
Highway Network Services  
Lester House  
21 Broad Street  
Bury  
BL9 OAW

Tel: 0161 253 6309