

### **Question from Councillor Boulton**

Can the Chief Executive investigate and confirm that the Deeside Walkway Railway line will not be closed off for personal development purposes, and that the only motorised vehicles that will be allowed to use the railway line will be Council vehicles or emergency services?

ANSWER:-

#### 1) Closure

The Council has statutory obligations as the planning authority to uphold rights of way and access rights.

The obligation under the Countryside (Scotland) Act is:-

"It shall be the duty of a local planning authority to assert, protect and keep open and free from obstruction or encroachment any public right of way which is wholly or partly within their area"

The duty under the Land Reform (Scotland) Act is similarly worded:-

"It is the duty of the local authority to assert, protect and keep open and free from obstruction or encroachment any route, waterway or other means by which access rights may reasonably be exercised."

Both pieces of legislation provide specific power to institute and defend legal proceedings in support of those duties.

The duties as expressed in both Acts are unequivocal and the Council has in the past expended considerable resources in protecting public rights of way throughout the City and along the former railway line in particular.

Whilst there is a presumption against closure, any request for a closure or partial closure would require to be treated on the merits of that specific case.

#### 2) Access

Council consent may be granted for access by vehicles for construction, maintenance or other purposes subject to such appropriate conditions as the Council may wish to impose in relation to type of vehicle, timing, reinstatement and cost.

Each particular case will be considered on its own merits.

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In terms of Standing Order 20(2), Councillor Boulton has indicated that she is unhappy with the answer in the context of what was agreed at the meeting of the Development Management Sub Committee of 19 July 2012, and would like the matter to be placed on the agenda and for the opportunity to ask a supplementary question of officers at the meeting.