

COMMITTEE	Communities, Housing and Infrastructure
DATE	24 May 2017
REPORT TITLE	Vehicular Access to the Deeside Way
REPORT NUMBER	CHI/17/080
INTERIM DIRECTOR	Bernadette Marjoram
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1. PURPOSE OF REPORT:-

- 1.1 This report is in response to the motion at the Council meeting of 15th March 2017 which acknowledged the value of the Deeside Way both as a core path and a wildlife corridor and instructed the Interim Director of Communities, Housing and Infrastructure to provide a report to the next Communities, Housing and Infrastructure Committee on setting a policy detailing parameters for access or otherwise to construction vehicles to facilitate development.

2. RECOMMENDATION(S)

- 2.1 The Committee agree:
- (a) To note the terms of this report.
 - (b) To acknowledge that presently access to the Deeside Way by construction vehicles to facilitate development is strictly controlled under the current practices and that these current practices work effectively and provide robust control of vehicular access to the Deeside Way.
 - (c) That a bi-annual update is provided through the Property Update from the Head of Land and Property Assets detailing how many licences have been granted since the previous update.

3. BACKGROUND

- 3.1. The Deeside Way is valued both as a core path and a wildlife corridor. For the purposes of this report the Deeside Way refers to the section of this long distance route within Aberdeen City Council's jurisdiction; this being from where the route begins by Duthie Park out to the City Council boundary just west of Peterculter, from there control passes to Aberdeenshire Council.
- 3.2 The Deeside Way is a disused railway line which when closed was passed into Local Authority ownership in the early 1970s. It has since become a popular walking and cycling route and an important wildlife corridor. Within the City it is a mostly tarmac surfaced path, generally about 3 metres in width with large vegetated embankments.
- 3.3 The Deeside Way is managed and maintained by Aberdeen City Council, primarily through Environmental Services and the Ranger Service. The general public have access rights over the Deeside Way in terms of the Land Reform (Scotland) Act 2003 and are entitled to use this for pedestrian, cycle and horse riding use. The Deeside Way is designated as a core path and

therefore the public's right to use it as a recreational corridor is protected. It is mainly used by the public for walking and cycling, both recreationally and as a means of commuting.

- 3.4 There are no general rights of motorised vehicular access over the Deeside Way. There are various access points which would enable vehicular access if required; however, access is via locked gates controlled by the Council's Ranger Service.
- 3.5 The Council is required to take vehicles onto the Deeside Way for maintenance purposes and to empty bins, etc. This is facilitated by the Ranger Service and any damage caused is rectified.
- 3.6 Whilst the public have no general right of vehicular access over the Deeside Way, there may be circumstances which require them to utilise the Deeside Way to obtain access to their property adjoining the walkway. This may include construction, tree works, landscaping and utilities.
- 3.7 There are a number of residential streets which contain terraced houses which adjoin the Deeside Way. The rear of these properties have no access other than via the Deeside Way for development to take place or for maintenance and tree works to be carried out.
- 3.8 The current procedure for members of the public/contractors to obtain vehicular access to the Deeside Way or any other Council property for the reasons mentioned above is as follows:
 - A householder/contractor (the applicant) approaches either the Ranger Service or the Estates Team within Land and Property Assets enquiring if vehicular access can be obtained.
 - The Ranger Service and the Estates Team will liaise with each other on any application. It is for the Ranger Service to make the final decision on the application due to their extensive knowledge of the site, as managing Service.
 - A Licence of Temporary Access can be issued by the Estates Team, if proposals are acceptable. This Licence requires an admin fee of £250 plus VAT. A blank copy of the standard style of Licence can be seen as appendix 9.1 to this report.
 - Once a completed Licence is in place, the Ranger Service are contacted to arrange to open the gate(s) for access and egress to the Deeside Way at the required dates and times and will remain on site, as appropriate. This ensures safety to the public using the Deeside Way and that no damage to the integrity of the wildlife corridor is caused.
 - The Licence requires that any damaged caused must be rectified by the applicant to the satisfaction of the Council. Before and after photographs are taken to evidence this.
 - The applicant is prohibited from occupying part of the Deeside Way or from storing materials, etc. on the Deeside Way. It is only utilised for access to and egress off their site.
 - Authorised access cannot be taken without the appropriate Licence issued by the Council.
- 3.9 In addition the driving of vehicles in open spaces is prohibited without written permission under the Aberdeen City Council (Parks and Outdoor Areas) Management Rules 2014 which states: "4. No person within any areas described at 1 above shall, except with prior written consent of the Council: (a) Ride, drive or wheel any motorised vehicle except in areas designated for that purpose. This rule does not apply to vehicles adapted for use by a person with a disability provided the adapted vehicle is being used by such a person."
- 3.10 There are a number of statutory undertakers with services/utilities either crossing or running along under the Deeside Way who may also require vehicular access. Depending on which statutory undertaker it is they may or may not be required to apply for a licence and pay the admin fee. They do,

however, still contact the Council to agree timing of entry and they are still required to rectify any damage which they may cause.

- 3.11 The vast majority of applications received over the past 25 years for vehicular access to the Deeside Way have been to carry out tree and utilities work. The number of licences which are issued is very low, since 2011 only 4 licences have been issued for tree works and 1 has been issued relating to the AWPR preparation.
- 3.12 Officials are unaware of the Deeside Way having been used for unauthorised vehicular access over this period for domestic, commercial or public construction projects.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications to the Council arising from the recommendations of this report.
- 4.2 The current procedure for managing vehicular access consists of an admin fee, £250 plus VAT. If this process were to be changed, this income stream may be jeopardised.

5. LEGAL IMPLICATIONS

- 5.1 Any access policy and/or procedure must not prevent:
 - (a) The exercising of permitted development rights or implementation of planning permission granted by the planning authority.
 - (b) The right to obtain access to the Deeside Way for emergency work to be carried out to adjacent property, whether privately-owned or Council-owned.
- 5.2 A number of statutory undertakers currently have utilities under or across the Deeside Way, some of which may have Wayleaves or Rights of Servitude in place asserting the right to maintain these.

6. MANAGEMENT OF RISK

- 6.1 If the Committee agree to the recommendations of this report, to keep the current procedure and not produce a new policy, there are no risks to be reported.
- 6.2 However, if the Committee are not minded to agree with the recommendations and require a policy to be produced the risks are that the exercising of permitted development rights, implementation of planning permission and carrying out of emergency work may be restricted. Any policy would have to be worded as such so as to not impinge on wayleave and servitude rights.

7. IMPACT SECTION

Economy

The recommendations of this report have no impact on the economy.

People

The recommendations of this report have no impact on people.

Place

The recommendations of this report have no additional impact on place as the environment is already protected under the current procedure.

Technology

The recommendations of this report have no impact on technology.

8. BACKGROUND PAPERS

8.1 No background papers were consulted in the preparation of this report.

9. APPENDICES (if applicable)

9.1 2016 Licence – Temp Occupancy

10. REPORT AUTHOR DETAILS

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