

# Individual Decisions

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The attached reports will be taken as an  
Individual Portfolio Member Decisions on:

25<sup>th</sup> May 2006

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# Individual Decision

<b>Title of Report:</b>	<b>Salary Sacrifice Childcare Scheme</b>		
<b>Report to be considered by:</b>	<b>Anthony Stansfeld</b>	<b>on:</b>	<b>25<sup>th</sup> May 2006</b>
<b>Forward Plan Ref:</b>	ID 1144		

## Purpose of Report:

To seek approval for the adoption of the 'salary sacrifice' scheme to be operated by Bentley Jennison (previously known as PPS), the Council's current VAT and tax advisers to utilise the Inland Revenue concession. That the proposed scheme and its implementation are approved.

## Recommended Action:

### **Reason for decision to be taken:**

To enable the salary sacrifice scheme to be implemented.

### **List of other options considered:**

A number of other organisations offer a child care voucher service. Accor, Busy Bees and Imagine Co-operative have been reviewed. Charges quoted by these companies range from 6.5% – 8.5%. Although they do not underwrite the schemes they do provide general advice on how to meet the requirements of the Inland Revenue.

### **Key background documentation:**

None

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## **Supporting Information**

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### **1. Background**

- 1.1 West Berkshire Council in common with many other local authorities has experienced recruitment and retention difficulties across a wide range of service areas.
- 1.2 1.2 Support for working parents can have a positive impact on the recruitment and retention of staff. In addition to helping to attract potential employees into the organisation the value of the on-going benefit may also help to retain them. Further it is hoped that this type of support will help to increase the ratio of mothers returning to work following periods of maternity leave.
- 1.3 Since April 6, 2005 an Inland Revenue concession has been available where employers are able to provide to working parents up to £55 per week towards childcare costs without any tax and NI liability arising for the employee.
- 1.4 Clearly the Council is not in a position to be able to simply offer its employees an additional £2860 per annum by way of payments to approved childcare providers

### **2. Proposed Salary Sacrifice Scheme**

- 2.1 The authorities Tax Advisers, Bentley Jennison, have identified a 'salary sacrifice' scheme aimed at providing the tax and NI benefit to working parents who pay for childcare for children up to age 16 years. This scheme takes maximum advantage of the Inland Revenue concessions. The employee would sacrifice part of their salary and the Council would meet their childcare costs up to the same value.
- 2.2 Savings to employees occur because the employee's gross pay is reduced by up to £55 per week (with no liability for tax and national insurance on the sum sacrificed). The employer then pays the sum sacrificed to the nominated registered/approved childcare provider. The employee pays any balance due to the child carer.
- 2.3 The sacrifice arrangement is entered into voluntarily for a defined period, normally one year, and is evidenced by a variation to the employee's contract of employment. Once an employee enters into a sacrifice arrangement they would be required to continue for the defined period. If the scheme is adopted WBC will develop a policy to clarify the framework, process and general rules of the scheme.
- 2.4 Under current legislation, employees can make Tax and NI savings for employees, a basic rate taxpayer could be up to £800 per annum better off and higher rate taxpayers could benefit by up to £1300 per annum.
- 2.5 Employers also make savings on employer National Insurance contributions that would have been payable on the sum sacrificed. This could be up to £280 per annum for each employee entering into the scheme.
- 2.6 It would appear that take up rates amongst eligible employees is between 3-5%. Current information shows that approximately 100 employees have shown an interest in the scheme meaning that the estimated NI savings for the Council would be approximately £23,000 per annum.
- 2.7 It is now possible to make the benefit available to teachers (since the 1<sup>st</sup> April 2006). This will mean a dramatic increase in the take up that we were expecting. Information has been sent to the schools to gain feedback on the number of interested staff and will be available by the end of April.

2.8 Whilst the scheme offers significant benefits for many working parents it may not be suitable for everyone. Contribution based state benefits may be affected and employees will be advised to check with their pension provider to determine what the effect of salary sacrifice might have on their personal or state pension.

2.9 Contributions to the local government pension scheme would continue in the usual way with contributions based upon the full (pre-sacrifice) salary.

### **3. Proposals for Implementation of the Scheme**

3.1 Significant resource is required to set up, promote and administer the operation of the salary sacrifice scheme.

3.2 It is proposed Bentley Jennison undertake the promotion and administration of the scheme and underwrite any Inland Revenue issues. For this they charge 3% of the total sum paid to Child Care providers in Year 1 with no further charge thereafter. Based on the above assumption this would cost approximately £8,000. In addition, for administration of the scheme (receiving and processing applications, registration of childcare providers, providing a help line etc.), Bentley Jennison, would receive £4 per pay period in respect of each participating employee. Based on the assumption of 100 monthly paid staff this would cost approximately £4800. A total of £12,800.

3.3 WBC resource would also be required to co-ordinate the launch of the scheme, process deductions to pay, arrange payments to childcare providers, process BACS and undertake internal identification of Service NI savings to account for budget to pay for scheme administration. It is intended the balance of £10,200 from estimated NI savings will cover a part time fixed term contract to cover this.

3.4 West Berkshire Council would have the option to take over the full running of the scheme in year 2 (including promotion) or negotiate a further agreement with Bentley Jennison.

3.5 If the scheme proves popular and savings are achieved the scheme would become self financing and any surplus could be used to fund additional staff benefits. Many employers are now offering salary sacrifice benefit schemes as an aid to recruitment and retention.

### **4. Recommendation**

4.1 It is recommended that Members approve the proposed scheme and its implementation.

#### **Appendices**

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None

#### **Implications**

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<b>Policy:</b>	These are integral to the report
<b>Financial:</b>	These are integral to the report
<b>Personnel:</b>	These are integral to the report.
<b>Legal:</b>	A one year contract will need to be signed with Bentley Jennison which is currently being reviewed by legal.
<b>Environmental:</b>	These are integral to the report.



## **Consultation Responses**

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### **Members:**

**Leader of Council:** Cllr Graham Jones

**Overview & Scrutiny  
Commission Chairman:** Cllr Jeff Brooks

**Ward Members:** N/a

**Opposition Spokesperson:** Cllr Denise Gaines

**Policy Development  
Commission Chairman:** Cllr Gordon Lundie

**Local Stakeholders:** As set out in the report

**Officers Consulted:** As set out in the report

**Trade Union:** tba

## Individual Decision

<b>Title of Report:</b>	<b>Claimed Public Right of Way Kintbury</b>		
<b>Report to be considered by:</b>	<b>Councillor Geoff Findlay</b>	<b>on:</b>	<b>25<sup>th</sup> May 2006</b>
<b>Forward Plan Ref:</b>	<b>ID1195</b>		

### Purpose of Report:

To consider the evidence to publish a Definitive Map Modification Order (DMMO) for a public bridleway along the claimed route in Kintbury.

### Recommended Action:

That the Executive / Portfolio Member approves the making of DMMO for a public bridleway along the claimed route in Kintbury detailed in this report

### **Reason for decision to be taken:**

The Council has a Statutory duty to keep the Definitive Map of Public Rights of Way under continuous review and make modifications as necessary.

### **List of other options considered:**

None:

### **Key background documentation:**

- The Wildlife and Countryside Act 1981
- The Highways Act 1980
- Evidence received for and against the existence of a public right of way on the claimed route in Kintbury.

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## **Supporting Information**

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### **1. Background**

- 1.1 This claimed route has a lengthy history and the evidence received by the Council indicates that the public have been using the route in question for the majority of the last century. The legal status of the route now falls to be determined; it must be decided if the evidence is sufficient to show that a public footpath or a public bridleway exists.
- 1.2 The route runs from Wallingtons Road, Kintbury along the access road to St. Cassian's Centre then on to Balsdon Farm where it joins the existing Footpath 21 Kintbury. A plan is shown in Appendix 1.

### **2. Key Legal Issues**

- 2.1 The Wildlife and Countryside Act 1981 requires West Berkshire Council as the Surveying Authority to keep the Definitive Map of Public Rights of Way under continuous review and to make modifications to it as necessary. The Council has a duty to consider the evidence gained and to act on it appropriately.
- 2.2 The Act also requires that a Definitive Map Modification Order (DMMO) is made if the public have enjoyed the use of this route for a sufficient period of time, such that their usage raises a presumption of dedication of a public path. A DMMO is required if there is evidence that shows a right of way subsists or is reasonably alleged to subsist over a particular route. The modification order process is set out in Appendix 2.
- 2.3 The Highways Act 1980 provides that where the public has actually enjoyed the use of the way as of right and without interruption for a full period of 20 years, the route is deemed to have been dedicated to the public, unless there is sufficient evidence that there was no intention during that period to dedicate it. The period of 20 years is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, either by notice or otherwise.
- 2.4 The legal test in all cases is the balance of probabilities.
- 2.5 The Council must therefore decide if the evidence received on the claimed route supports the making of a legal order to formally recognise a public right of way along the route. This is not to create a new right of way, but to legally recognise it, if the evidence shows that one exists.
- 2.6 Matters that can be taken into account when considering whether or not a right of way exists, takes the form of documentary and user evidence. The question of the 'need' for a path, the presence of nearby alternative routes, perceived inconvenience to the public or landowners, the effect on properties in terms of security risks, values etc. and what people would 'like' the route to be, are not relevant considerations under the legislation and cannot be taken into account.

### **3. Documentary Evidence on the Claimed Route**

- 3.1 A search has been made of all relevant documentary evidence. A summary is attached in Appendix 3.
- 3.2 The documentary evidence shows that the route has physically existed on its current alignment since 1913. Prior to this the route was legally diverted in 1893 onto a nearby route, although it has clearly come into public use again as the user evidence below indicates.

#### **4. User Evidence Received**

- 4.1 In examining the user evidence received against the relevant statutory criteria, it is necessary to establish a date that enjoyment of the route by the public was brought into question. Action to bring use of the route into question could take the form of a notice, erected in such a manner to be visible to persons using the route and inconsistent with the dedication of the route as a highway. An example of this could be a notice saying "private no public right of way".
- 4.2 The evidence received suggests that 1996 was the relevant date when use of the route as a public right of way was challenged. Both the landowners and the users have provided a large body of evidence to this effect. It is possible that the date was earlier however and if this is subsequently found to be the case then the relevant user evidence could be considered for an earlier period. The method by which this date has been determined is set out in Appendix 4.

#### **5. The Tests which need to be met under the Highways Act 1980**

- 5.1 Whether the use of the way has been actually enjoyed by the public for a period of 20 years. This is considered in Appendix 5. The evidence suggests that there is a period of 20 years dating back from between 1996 and 1976 during which the public were enjoying use of the route both on foot and horseback.
- 5.2 Whether the use of the route has been 'as of right'. This is considered in Appendix 6. For use of the way to have been 'as of right' it is necessary to show that the use by the public has not been by force, by permission, nor secretive in any way. The balance of evidence suggests that some use has been by permission but that the majority of it has been as of right. Officers conclude that the evidence does not support the fact that the denial of access was sufficiently addressed to the population as a whole, since while some people were given permission to use the route, particularly in recent years, many others were not.
- 5.3 Whether the use of the route has been without interruption. This is considered in Appendix 7. On the strength of the evidence provided by witnesses it is considered that the public were able to use the way without interruption and that if there were physical obstructions they did not prevent the public from using the track. In any case there is no direct evidence that they were put in place to deny public access per se. Walkers and riders presumably accepted the condition of the track whatever its state of repair.
- 5.4 Whether there is sufficient evidence of a lack of intention to dedicate during the relevant period. This is considered in Appendix 8. On balance it appears that the majority of people used the way without it ever being successfully brought to their attention that any of the landowners wished to deny public access and therefore this test is met.

#### **6. Conclusion**

The balance of the evidence received and detailed in this report is that a DMMO should be made to add the route to the Definitive Map as a bridleway, given that the route has been used by people on foot and horseback in such a way that meets all the tests set out in Section 31 of the Highways Act and Section 53 of the Wildlife and Countryside Act.

## Appendices

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- Appendix 1- Plan showing location of claimed right of way
- Appendix 2- The Modification Order Process
- Appendix 3- Discussion of documentary evidence
- Appendix 4- Determination of date when right of way was brought into question
- Appendix 5- Evidence that the use of the way has been enjoyed by the public for 20 years
- Appendix 6- Evidence that use of the way has been as of right
- Appendix 7- Evidence that use of the way has been without interruption
- Appendix 8- Evidence for a lack of intention to dedicate a right of way
- Appendix 9- Summary of public way evidence forms

## Implications

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<b>Policy:</b>	The DMMO procedure is governed by statute.
<b>Financial:</b>	The Council is responsible for the maintenance of the surface of the path and for its signage when DMMO is confirmed. Costs will be met from existing budgets.
<b>Personnel:</b>	None arising from the report
<b>Legal:</b>	An order may be challenged but there is a statutory process through which such a challenge can be made (see Appendix 2).
<b>Environmental:</b>	Effective maintenance of the Definitive Map and ultimately the Public Rights of Way Network

## Consultation Responses

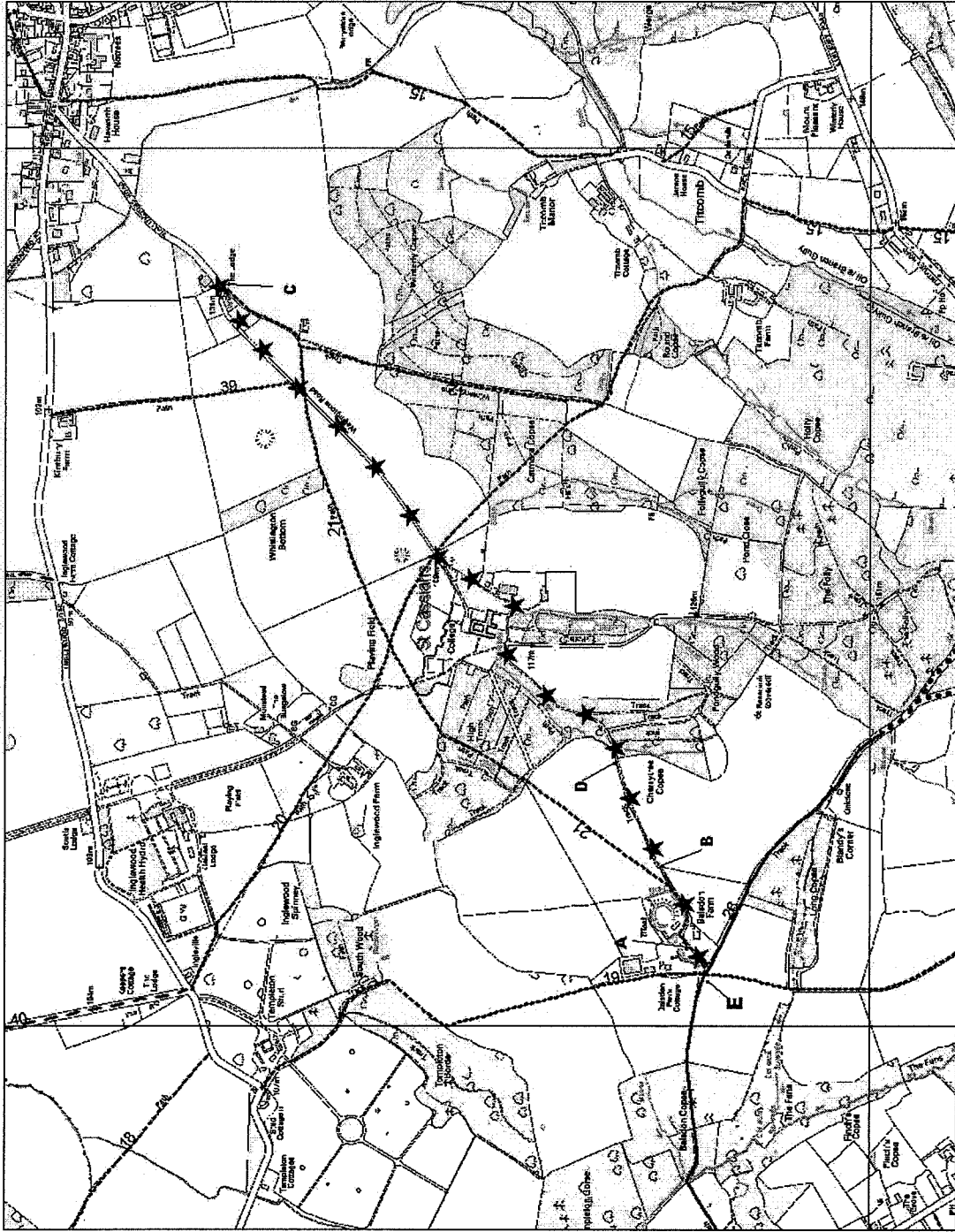
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### Members:

<b>Leader of Council:</b>	Graham Jones
<b>Overview and Scrutiny Commission Chairman:</b>	Jeff Brooks
<b>Ward Members:</b>	Andrew Rowles & Anthony Stansfeld - both do not support officer's recommendation
<b>Opposition Spokesperson:</b>	Royce Longton
<b>Policy Development Commission Chairman:</b>	Quentin Webb – does not support officer's recommendation
<b>Local Stakeholders:</b>	N/A
<b>Officers Consulted:</b>	Bill Jennison, David Holling, Paul Hendry & Elaine Cox
<b>Trade Union:</b>	None

**Individual Decision**  
Kintbury 43

**APPENDIX 1**



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**CLAIMED PUBLIC RIGHT OF WAY**  
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DISTRICT COUNCIL

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## APPENDIX 2 – THE MODIFICATION ORDER PROCESS

1. Once evidence is submitted to the Council that a public right of way may exist, the Council has a legal duty to decide if that evidence, together with any evidence against the existence of a public right of way, is sufficient to show that a public right of way should be added to the Definitive Map.
2. In this case, evidence of the public's use of the route was submitted by various local bodies and individuals and counter-evidence has been gathered following consultation with local landowners and others.
3. This evidence has all been assessed and indicates that a presumption of dedication of a highway has been raised in accordance with the provisions of Section 31 of the Highways Act 1980 or under Common Law.
4. If the recommendation is approved then a DMMO will be made and published. Anyone may make representations or objections to it.
5. If objections are received then the matter is referred to the Secretary of State who will almost certainly decide to hold a local public inquiry at which an independent inspector will hear all the evidence.
6. An inquiry is the appropriate forum for a full and open assessment of all the available evidence, particularly where evidence is conflicting. This is probably the best test of their evidence against the appropriate legal criteria.
7. The Inspector will assess all the evidence and decide whether or not to confirm the order.

### APPENDIX 3 - DISCUSSION OF DOCUMENTARY EVIDENCE

1. Quarter Session records (1893). These contain evidence for the diversion of a footpath which then ran over the route in question to a nearby route, now known as Footpath 21, a definitive footpath. Prior to 1893 therefore the claimed route was considered to be a public right of way; it was then legally closed to the public and a nearby footpath provided in its place. Sometime since then however public use of it appears to have recommenced in addition to, if not as an alternative to Footpath 21.
2. Local Ordnance Survey maps. These indicate that the claimed path has physically existed on its current alignment since 1913. They do not give any additional information about the legal status of the route.
3. The documentary evidence by itself is insufficient to enable a DMMO to be made. It does however contribute to the recommendation to make a DMMO when considered with all the other evidence.



#### **APPENDIX 4 - DETERMINATION OF DATE WHEN RIGHT OF WAY WAS BROUGHT INTO QUESTION.**

1. In this case it is not clear when the public's enjoyment of the way was first effectively challenged, but the most likely date is 1996, when the current owners of Balsdon Farm made their intentions clear in the following ways;

- erecting 'private' signs at several points near the farm,
- some attempts to lock gates across the route
- verbally challenging users of the route especially horse riders
- issuing permission to selected individuals to use the path.

The route through Balsdon Farm itself is of course a definitive footpath, so any challenges here could only be legitimately directed at horse riders, although evidence suggests that walkers were also being discouraged from using the route here and elsewhere along the route.

2. Evidence has also been received which states that the public could have been challenged prior to 1996. St Cassian's claim that a private road sign was erected on the gate post at The Lodge from at least 1973. It is also claimed that there was a 'private road' sign on the edge of Cherry Tree Copse from 1990 and also at Balsdon Farm from 1990. It has proved difficult to substantiate these claims and it could be considered that the words "Private Road" by themselves are of doubtful adequacy in showing that the landowner does not wish pedestrians and equestrians to use the route because of their ambiguity. The words could be, and often are, interpreted as showing an intention to deny the existence of a carriageway, but not that of a right of way on foot or horseback. There are other suggestions of people being challenged while using the route, for example at St. Cassian's Centre in the past. On the other hand, the vast majority of witnesses claiming to have used the route say that they were never challenged.

3. On balance therefore it is concluded that the most likely date when public use of the way was first effectively challenged was 1996.

**APPENDIX 5 - EVIDENCE THAT THE USE OF THE WAY HAS BEEN ACTUALLY ENJOYED BY THE PUBLIC FOR 20 YEARS.**

1. Approximately 17 Forms were submitted in 1970 and a further 47 forms (from 52 witnesses) were submitted in 1999/2000 by people claiming to have walked or ridden along the route. In the case of the later 47 forms, many of these were distributed locally and submitted to West Berkshire Council by Kintbury Parish Council, Inkpen Rights of Way Committee or by local horse riders. The forms were therefore supported by at least three different bodies or interest groups representing path users from different communities. Witnesses come from the community at large, living in both Kintbury and Inkpen and beyond. Frequencies of use range from once or twice a year to almost daily. Reasons for use include recreation, pleasure, exercise, taking a short cut between villages, taking an off-road route, for horse riding, cycling and jogging.
2. Given the age of the earlier evidence forms submitted in 1970 the rest of this report deals solely with the evidence submitted in 1999/2000. However if there is any doubt about agreeing with the recommendation then these earlier forms should be considered.
3. The earliest evidence of use contained in the 1999/2000 forms dates from 1935. Two people claim to have used the route for 50+ years; two for 40+ years; two people claim 30+ years use, and eight claim 20+ years, up to 1996. The remaining witnesses have used the route for varying periods of time up to 20 years.
4. Twenty people have given evidence of use on horse, with the others, except one cyclist, using the route on foot and this mixed use supports the dedication of the route as a public bridleway. For further details see Appendix 8.

## APPENDIX 6 - EVIDENCE THAT USE OF THE WAY HAS BEEN AS OF RIGHT

1. There is little evidence that prior to 1996 the public were forcing entry onto the route. None of the 52 witnesses refer to being challenged before this by anyone while using the route and none refer to having any difficulty in using the route.
2. On the other hand it is claimed by St. Cassians that a Mr Roberts who rented land between 1968 and 1990 would not allow anyone to ride through the property but no further evidence has been provided about this. Mr. Roberts is now deceased and his wife, when questioned about this matter, did not specifically agree that Mr. Roberts had stopped riders.
3. Also a Mr Alton who was employed in 1970 by Mr Russell who lived at Balsdon Farmhouse has said that there were padlocked gates across the track maintained by Commander Marriot. However neither Commander Marriot nor any of the witnesses mentions this. On balance therefore it is considered that if such problems existed they were not effective in preventing the public from using the route.
4. With respect to the question of permission, none of the landowners claim that permission has ever been given to the general public to use the route, although permission has been given to a limited number of individuals. Approximately 9 of the witnesses consider that they may have been given permission to use it however, according to the evidence provided, this has occurred mainly in very recent times around the time when the use of the way by the public was brought into question. It appears that when the current owners bought Balsdon Farmhouse in 1995 they began making their views known about the status of the route and issuing permission to riders they happened to meet along it. About half of those who consider they were given permission say it was from the owners of Balsdon Farmhouse from about 1996 onwards and this is therefore not within the relevant 20 year period.
5. The others were apparently using connecting paths (for which they needed permission) to access the route at St Cassians and consider that by virtue of this it could be considered that they were also using part of the route with permission from St Cassians.
6. This leaves 40 or more witnesses who state they have used the way without permission and as none of the landowners claim to have issued 'blanket' permission to the public, officers conclude that there is sufficient evidence to meet the Highways Act criteria.
7. With regard to the question of secretive use, none of the witnesses suggests that this applies here. Many refer to the way being a popular route between the villages which many people were accustomed to use. It appears that for many purposes the route was used just like other rural roads (it is tarmaced as far as St. Cassians, then becomes a hard gravel track, then tarmaced again through the Balsdon Farm complex). The postman and other delivery vehicles use it, together with the considerable numbers of visitors going to St. Cassians. On the basis of the evidence, it appears that the presence of local walkers, cyclists and riders was not on the whole treated with surprise or objection and that the way was used by local people on a regular basis, freely and openly.
8. One of the existing landowners indeed confirms this, Commander Marriot of The Folly, Inkpen. He has known the track since about 1928 and rode it regularly (before he owned any of it) on horseback to get from Inkpen to the blacksmith in Kintbury. In later years, (1960's) he bought part of the route in question. He maintains that it was always used by riders and walkers. Another person with long knowledge of the way is Terrence Fennemore who worked for the landowner between 1956 and

1986. He maintains that people always used it on foot, horseback and with vehicles and that, although the landowner was never particularly happy about it, he did not instruct his employees to stop people, as it was understood that they had a long-term right to do so. He states that public use of the track was tolerated but not encouraged.

9. St Cassians maintain an alternative view. Although they admit that the way has been used by people on foot and horseback, they claim this is not to the extent that is being claimed. They claim that permission has been given to certain people to ride on the way. Brother Anthony has lived at St. Cassians since 1995 and this is his evidence. Brother Quinn has known St. Cassians since 1946 and states that only a few walkers and riders used the path, and some of those were with permission. Brother Augustine has lived at St. Cassians since 1971 and claims that levels of use are much lower than claimed. He says some riders have been given permission to use the route. He says his predecessor Brother Herman and one of their tenant farmers, Mr Roberts both would not allow riders through the property for a total period of 1956 to 1990. No further evidence has been provided to substantiate this however, therefore officers conclude that the evidence given by the witnesses claiming to have used the route outweighs this.
10. The public as a whole do therefore appear to have been using the route as of right, and although some members of the public may not have been, their numbers are insufficient to negative the intention to dedicate a public right of way.

## **APPENDIX 7 - EVIDENCE THAT USE OF THE WAY HAS BEEN WITHOUT INTERRUPTION.**

1. None of the 52 witnesses claim that they were ever prevented from using the way, either because of the surface condition of the track nor due to any obstacles such as locked gates or barriers nor any challenges . Gates were erected at Balsdon in the 1990's and it was this action which partly denotes the end of the relevant 20 year period.
2. Other evidence suggests however that prior to 1996 walkers and riders may have had some difficulties in using the way. A Mr Alton who was employed by the owner of Balsdon Farmhouse in 1970 states that the track was deeply rutted then and unsuitable for walking and riding and had two padlocked gates across it. A Mr. Unglass was employed by a neighbouring landowner and has known the way since 1959 and states that the route was impassable for most of the year and there was a gate across it at High Trees (about half way along the route).
3. These statements are contrary to the evidence provided by the 50+ statements from people claiming to have used the route. Mr Alton was employed at Balsdon for only a brief time, although he did know the route for a lot longer and he is expressing an opinion on the state of the route. Mr. Unglass claims that there was no track as such until the late 1960's and again is expressing an opinion about the state of the track. The Ordnance Survey maps show that a track did exist.
4. So on balance the conclusion is that the route has been used without interruption for 20 years prior to 1996.

## **APPENDIX 8 - EVIDENCE FOR A LACK OF INTENTION TO DEDICATE A RIGHT OF WAY.**

1. The main body of evidence relates to the existence of a 'private road' sign at the lodge gates to St. Cassians. Many people refer to this and it appears that it was displayed on the gate post and visible when approaching from the direction of Kintbury. Arguably it would not have been observed by people walking from Inkpen. Historically there was no similar sign at the Inkpen end of the track (at least until about 1990 or later). The earliest date for this notice is 1973 (as claimed by St Cassians), 1970 (Mr Alton) and Mr. Fennemore mentions the possible existence of a private sign here in 1956 but this is not substantiated by anyone else. Officers therefore conclude that it was erected before the start of the 20 year period, but whether it was actually effective in indicating a lack of intention to dedicate a public right of way is doubtful.
2. There is no proof that this sign was continuously displayed; there are however suggestions that it became overgrown from time to time and had to be replaced because it either fell into disrepair or was vandalised. None of the witnesses states that it actually deterred them from using the route, considering, if they did see it, that it did not apply them. This would seem logical if, as the evidence suggests, the notice was not generally enforced by further actions on the part of St. Cassians to deny access to walkers and riders.
3. The relevance of such a notice is debatable but the words 'private road' can be taken to mean that the landowner wishes to deny the existence of a carriageway for vehicles, but not a right of way for people on foot or horseback. Many of the witnesses say they saw it but did not consider that it was intended to prevent them from walking or riding, along the route. It can be assumed that St. Cassians erected the sign to make it clear that the road from The Lodge down to their centre was not open to the general public to drive along. They would not have wanted vehicles driving through their grounds, using the route as an alternative to the local roads between Kintbury and Inkpen. This could have been a problem particularly as it has the appearance of a normal country road, being a continuation of Wallingtons Road and there is no physical distinction between the two nor any physical barrier to prevent vehicular passage.
4. Other 'private' signs have been displayed around Balsdon Farm in the 1990's indicating the point when the relevant period of use was brought into question and also apparently at Cherry Tree Copse in 1990, although it has been suggested that this one referred to the surrounding woods and not to the track itself.
5. Other evidence relating to a lack of intention to dedicate includes verbal challenges by the landowners and the granting of permission to use the way. These actions (also discussed in Appendix 6) appear to have been relatively selective and have not been directed towards the majority of path users.
6. On the balance of evidence the conclusion is that there is not sufficient evidence for a lack of intention to dedicate a right of way.

# SUMMARY OF EVIDENCE FORMS

# APPENDIX 9

Claimed Public Right of Way  
Wallingtons Road, Kintbury

Number and Name of Witness	Number of Years of use of Route.	Use from	Use To	On Foot?	On Horse-back or cycle?	Has the witness been challenged or given permission to use route?	Has the Witness observed gates along the route?	Has the Witness observed notices along the route?	Other Comments
1 Russell	8	1991	1999	✓	✓		A Closed 1998 B Closed 1998	B Private road,	
2 English	5	1994	1999	✓					
3 Forder	17	1982	1999		✓				
4 Anwar	12	1986	1998		✓	1997 at Balsdon 1998 permission	B 1997	B Private	
5 Chapman	20+	1975	1999	✓	✓	Permission from St Cassians 1989	1 gate (1997) A/B	A/B Private 1997	
6 Bacon	8	1972	1980		✓				
7 Barber	20+	1978	1999		✓		Balsdon 1990's	C	
8 Bedingham	11	1987	1999	✓	✓	Permission - on connecting route 1987		Private Road	
9 Bellew	4	1995	1999	✓		1997 at Balsdon	A Gate Unlocked B Gate Unlocked	C 1999 Private A Private Road	
10 Marriott	20+	1970)	1997	✓	✓		Gates at Balsdon	?C Private	
11									

Jenkins	12	1976	1988		✓							
12 Clifford	11	1988	1999	✓			1999		A Gate B Gate	E Private road B Private road D Private road A Private		
13 Grieveson	12	1987	1999		✓							
14 New & Yates (2)	5	1994	1999		✓		Permission from St. Cassians, 1994		B Closed gate D Closed gate	Private Notice in Woods.		
15 Bates	6	1988	1994		✓							
16 Bellmont	1	1998	1998		✓		Permission from Balsdon 1998		A Locked 1998 B Locked 1998	A Private road B Private road		
17 Painting	30+	1960	1999			✓	1996 Balsdon 1996 St Cassians		A Gate B Gate	A ) B ) Private C )		
18 Bell	8	1989	1997		✓							
19 Culley	20+	c. 1970	1999			✓						
20 Porter x2	30+	1958	1991			✓				C Private road		
21 Doyle	5	1994	1999			Cycle				A Private road 1994 C Private road 1994		
22 Moore	3	1993	1996?						B Gate	B		
23 Turners (x2)	50+	1935	1999			✓			A/B Gate	A/B Notice C private road		
24 Collins	5	1994	1999		✓		Permission from Balsdon 1994		B Gate	B Private		
25 Frost	20	1979	1999			✓			A Gate 1995 B Gate 1995	C Private road		
26 Astor	20	1960	1980			✓				C Private road		



27	Campbell	20+	1975	1999	✓							C Private road (2000) A/B No Access (2000)
28	Golder	6	1993	1999	✓							C Private road
29	Stabler	20+	1975	1999	✓					B Closed 1998		A 1997 B 1997
30	Cooper	2	1997	1999	✓							
31	Boulter	10	1989	1999	✓							
32	Webb	2	1993	1995			cycle			B Gate		B
33	Weeks	15	1985?	1999	✓					B 1996 locked		B 1996
34	Morris	15	1984	1999	✓					B Gate		B Private
35	Atkins	18	1981	1999	✓							
36	Rimmer	18	1981?	1999?	✓			Challenged at Balsdon		B Gate		Private sign?
37	Atkinson	20+	1971	1996	✓					A/B locked gate 1997		Private sign A/B
38	Owens	15	1984	1999	✓							A B 1997
39	Owens	12	1985	1997	✓							
40	Fennemore	40+	1955	2000	✓			Some permission 1955 - 87				C Private
41	Stacey	40+	1954	1999	✓			Challenged at Balsdon 1999				
42	Balfour	14	1985?	1999?								

43 Gracie	7	1991	1998	✓	✓	Permission from Balsdon 1995?	A 1996 Gate B 1996 Gate	A Private road B Private road	
44 Churchill	2	1975	1977	✓					
45 Mitchell	2	1993	1995	✓					
46 Gladstone	20+	1974?	1999?		✓			C Private road	
47 Huto (x 3)	9	1990	1999		✓	Challenged at Balsdon 1997. Permission 1991 from St Cassians, 1993 from Marriott, 1997 by Balsdon	B Gate		

## Individual Decision

<b>Title of Report:</b>	<b>Trading Standards Performance Plan</b>		
<b>Report to be considered by:</b>	<b>Cllr Geoff Findlay</b>	<b>on:</b>	<b>25<sup>th</sup> May 2006</b>
<b>Forward Plan Ref:</b>	<b>ID1162</b>		

### Purpose of Report:

To consider the 2006/7 Trading Standards Performance Plan.

### Recommended Action:

Approve the Plan or amend prior to approval.

### **Reason for decision to be taken:**

- It is a requirement of the Trading Standards National Performance Framework that the relevant Member Forum approve the Trading Standards Performance Plan.

### **List of other options considered:**

- None

### **Key background documentation:**

- National Performance Framework for Trading Standards Services

<b>Portfolio Member:</b>	Councillor Geoff Findlay
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<b>Tel. No.:</b>	
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<b>E-mail Address:</b>	
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### **Contact Officer Details**

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## **Supporting Information**

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### **1. Background**

- 1.1 The 1999 White Paper "Modern Markets: Confident Consumers" set out the Government's proposals for modernising Trading Standards and to taking forward work on performance measures.

Trading Standards has long recognised the need for a coherent and modern national performance framework. The White Paper recognised that without an overall framework it is difficult for any of the 200 plus Trading Standards services in the UK to evaluate meaningfully their performance. It would also prove difficult to evaluate their contribution to quality of life and economic and social well being goals, either nationally or locally, because of the lack of comparable information and data.

The White Paper was followed by the Audit Commission report, "Measure for Measure". This analysed the Trading Standards Service and drew attention to the areas where the service needed to improve. These included the need for better standardisation between authorities to ensure a nationally minimum level of service provided to businesses and consumers, better consistency in the application of formal enforcement activity and better co-operation between authorities and other enforcers.

### **2.0 The Trading Standards National Performance Framework**

- 2.1 To help trading standards services achieve these aims the National Performance Framework for Trading Standards Services was developed by the Department of Trade and Industry. This development was carried out in conjunction with LACORS (Local Authority Co-ordinating Body for Regulatory Services), the Office of Fair Trading, National Weights and Measures Laboratory and the Trading Standards Institute.

Prior to introduction in 2002 the Framework and in particular the performance planning element was piloted by 19 organisations including various local authorities. One of those organisations was West Berkshire Councils Trading Standards Service. As a pilot we played a significant role in developing the format that the plan before members today is built upon.

The purpose of the framework is to introduce performance standards for local Trading Standards Departments and to ensure that Trading Standards Services throughout the UK work towards national and local priorities in a coherent way. It was also devised in such a way as to ensure that the work of a local authority trading standards service linked into corporate objectives and met community need.

- 2.2 Another key impetus for developing the performance framework was to improve the service provided to consumers and business. It is also part the Government's productivity agenda. In summary the NPF aims to:

- provide clear priorities and core standards for a modern Trading Standards service;
- support the role of Trading Standards in the community and in contributing to key local authority priorities;
- improve performance of Trading Standards by developing a system of measurement and sharing good practice; and

- to facilitate a more coherent and consistent approach to enforcement and service delivery.

### **3.0 What Does the Framework Require of Local Authorities?**

3.1 The National Performance Framework has three key elements: the Service Delivery Plan, the Standard and the Information Return. This report deals with the Service Delivery Plan element.

### **3.2 The Service Delivery Plan**

The Trading Standards Service is required to draw up a Service Delivery Plan outlining provisions in key areas. The framework for the plan and the standards to be incorporated within it are laid down.

The Service Delivery Plan (SDP) falls into three parts. Part One covers the core responsibilities of the local service, its objectives, local structure and resources and expectations of the community. It aims to allow local authorities to set the 'local scene' and outline the circumstances in which they are operating. Part Two sets out priorities for the service in the year ahead and requires services to at least make some provisions in respect of each of the standards. Part Three deals with quality and review.

The plan covers all core functions of the service including weights and measures, consumer safety, consumer credit, under age-sales enforcement, business and consumer advice, road traffic law and fair-trading and fraud investigations. The plan also identifies other key functions of the trading standards service, in particular food law enforcement and animal health. However, these are not referred to in the remainder of the plan as they are dealt with by separate plans.

It is a requirement that the SDP be built clearly upon corporate and community objective. It is also suggested that the plan should also build on the regional trading standards support structure that currently exists. In this area, that regional support is delivered through Trading Standards South East Authorities Liaison Group which is funded partly by the DTI with a contribution from local authorities. The group has a full time Policy Officer (Co-ordinator). The Policy Officer's role is to assist member authorities in keeping up to date with national changes and to co-ordinate work on common themes across the region to ensure that efficiencies are achieved and all possible financial support through grants etc. is accessed.

It is a requirement that the Trading Standards Service Delivery Plan be submitted for Member approval prior to submission to the DTI by the end of May.

### **3.3 Priorities**

The priorities for the service to work towards through the plan have been identified as:

- Informed confident consumers
- Informed successful businesses
- Enforcement of a fair and safe trading environment
- Efficient, effective and improving trading standards services

### **4.0 The West Berkshire Trading Standards Performance Plan**

4.1 In producing the attached plan we have sought to comply with all guidance and, very importantly, with the Standard. We have also built on the feedback (commissioned by the DTI and produced by the

Institute of Public Finance) we received on our 2003/4 plan. In developing the plan we have sought to incorporate the national agenda into a West Berkshire setting. The plan routinely refers to how the work of the Trading Standards Service fits with Corporate Aims and Values – an approach that was singled out for praise in previous assessments. We have also attempted to address local priorities e.g. the planned project on credit and work on under age sales of alcohol and tobacco. Many of the remaining projects are regional Trading Standards South East projects. In order to deliver the objectives of the plan all team leaders have now received training in project management as part of their personal development.

- 4.2 The plan sits along side other plans and agreements which together drive the work of the food and trading standards service i.e. Food Enforcement Plan (also subject to Individual Decision), Animal Health and Welfare Service Level Agreement and the Civil Contingencies Plan.
- 4.3 The plan includes a variety & a balance of activities that are intended to provide the best protection for local residents and business. They include education events such as the Young Consumer of the Year competition & the Junior Citizen initiative which clearly target the consumers of the future. Effort is focussed on a number of sector specific or seasonal issues such as the safety of fireworks, electric blankets & sales of 'underage' products, such as alcohol, to young people. Work to combat overloaded vehicles continues as do investigations into serious breaches of consumer law by unscrupulous traders.
- 4.4 The service has for some time operated with a significant number of vacancies of professional posts. With effect from early May only three of the nine professional posts will be filled by qualified trading standards officers. Five are filled with people at various stages of their training. This in itself represents both a huge investment in the future but a significant short and medium term problem with a day job still to be done. Many of the projects incorporated into the plan will be delivered as part of the training programme for the trainees who need to submit their first round of portfolios in autumn 2006 and the spring of next year.
- 4.5 In a further move ensure that we are constantly improving on service delivery we are intending to apply for ISO 9002 accreditation. The quality manual and associated processes are being finalised and if successful this will sit alongside our Legal Services Commission Quality Mark for Advice with Casework. The longer term plan is to move towards the EFQM model and two staff from the authority will be receiving EFQM Peer Review and Self Assessor training this year to accreditation level.
- 4.5 The Service Plan is produced as Appendix A.

## **Appendices**

Appendix 1 – West Berkshire Council 2006/7 Trading Standards Performance Plan

## **Implications**

<b>Policy:</b>	The plan contributes to a number of strategic objectives and these are highlighted clearly in the plan itself.
<b>Financial:</b>	The budget for the service is set out in the plan. There are no additional budget implications.
<b>Personnel:</b>	Set out in paragraph 4.4

<b>Legal:</b>	The information return is a legal requirement
<b>Environmental:</b>	The draft plan contains initiatives that build upon the corporate objective of enhancing and protecting the quality of our environment.
<b>Equalities:</b>	The plan has equal opportunities and equal access to services at its heart.
<b>Property:</b>	None
<b>Risk Management:</b>	None
<b>Community Safety:</b>	Community Safety is one of the key themes of the plan and the services contributions are set out therein.

### Consultation Responses

#### **Members:**

<b>Leader of Council:</b>	Cllr Graham Jones
<b>Chair Overview and Scrutiny Commission:</b>	Cllr Jeff Brooks
<b>Planning Committee Chairman:</b>	N/A
<b>Ward Members:</b>	N/A
<b>Opposition Spokesperson:</b>	Cllr Royce Longton
<b>Advisory Members:</b>	N/A
<b>Local Stakeholders:</b>	The plan is built upon ongoing liaison with parties such as the PCT, Police and neighbouring Local Authorities.
<b>Officers Consulted:</b>	Staff within Trading Standards Service
<b>Trade Union:</b>	N/A

# FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

## 1. SERVICE AIMS AND OBJECTIVES

### 1.1 Aim

The Food, Agriculture & Animal Health Team works to ensure the safety and quality of food in the West Berkshire Area and to protect the integrity of the food chain, from "plough to plate".

In order to achieve this we aim to provide the highest level of consumer protection whilst seeking to protect the interests of legitimate business. We believe that every resident and visitor to West Berkshire has the right to enjoy safe, wholesome and accurately labelled food.

### Objectives

- Ensure food prepared in the District meets food standards and food hygiene requirements by carrying out a risk based programme of inspections based on LACORS and Food Standards Agency guidelines.
- Carry out an effective programme of sampling, analysis and checking food, fertilizers and feeding stuffs with respect to composition, hygiene and labelling.
- Respond to consumer enquiries relating to animal health, food & feeds safety and quality.
- Encourage good practice and provide training to ensure personal hygiene & food handling techniques are of the necessary quality by working with West Berkshire residents and businesses.
- Promote food, animal health and feeding stuffs safety and standards by providing education campaigns linking in with central government and other local government initiatives.
- Ensuring that a high level of animal health and welfare standards are maintained and promoting bio-security by carrying out an effective programme of animal health & welfare inspections and reacting to outbreaks in accordance with DEFRA guidance.
- To respond to requests by all traders for advice on compliance with food, feeds and animal health legislation including operation of the Home Authority principle.

The annual work of the Team is a combination of inspection, sampling, trader and consumer advice and investigation of complaints. In appropriate cases formal legal action is taken for breaches of legislative requirements.





**Public Protection Services**  
**Food and Trading Standards**

**Trading Standards**  
**Performance Plan**

**2006/07**

## Foreword

I have great pleasure in presenting the Trading Standards Performance Plan for 2006 – 2007.

The Trading Standards Service plays an important role in delivering West Berkshire Council's vision to **'Facilitate a thriving local community and good quality of life in West Berkshire, now and for the future'** Regulatory services are essential in ensuring that local residents and visitors live their lives in a safe & healthy environment. At the same time the rules must be enforced in such a way that reputable, law abiding businesses are not seriously compromised. Sensible, relevant and proportionate enforcement protects local residents and businesses alike from unscrupulous, unfair or dangerous traders or trade practice.

Last year Trading Standards again delivered a value for money consumer and business focussed service. Whether it was taking legal action against local traders who seriously deceived their customers or giving complex advice to consumers on their legal rights, the service went about its business in a thorough and professional manner. This year saw the introduction of Consumer Direct - a national helpline advice service provided by The Department of Trade and Industry and delivered by local authorities working in partnership. The new service compliments that provided by the Council.

There were a number of investigations and legal actions last year ranging from those selling age restricted items to our young persons to fraud and deception. The work carried out to combat overloaded lorries or those that illegally travel on weight restricted roads has also resulted in a number of prosecutions. It is particularly pleasing to see a downward trend in breaches – clearly the message is getting across. The service also received over 1800 complaints or enquiries from local people and businesses during last year which were dealt with effectively & efficiently.

The Doorstep Selling initiative also grew from strength to strength with the introduction of the Rapid Response Team aimed at helping consumers who find themselves victim to Doorstep Crime thereby saving the residents many thousands of pounds.

Hundreds of the very popular Home Safety visits have been made during the past year. By using partnership working we aim to reduce the number of home fires and casualties in West Berkshire.

Overall it has been a successful year. A number of vacant posts have been filled and we welcome the part-qualified staff who joined us to complete their professional training with the Council.

Although we have yet to complete the 'Comprehensive Needs Survey' launched some months ago to identify how the Service can be improved, I look forward to the outcome. That work has already identified areas where we can improve the service to residents and businesses in the District.

In the future I will continue to 'champion' and support the work of this most important Council Service.

**Councillor Geoff Findlay**  
**Executive Portfolio Member for Public Protection**

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## PART ONE: CONTEXT AND COMPARATIVE FACTORS

### A: FOOD & TRADING STANDARDS SERVICE IN THE COMMUNITY

#### 1.0 Core Responsibilities of the Trading Standards Service

The Trading Standards Service (TSS) in West Berkshire incorporates a number of food hygiene functions that are often associated with Environmental Health. For details of Food related activities please see the Food, Agriculture & Animal Health Service Plan. The following pages set out the core responsibilities whilst the table below provides a more detailed breakdown of the functions of the Food and Trading Standards Service in West Berkshire:

See also Appendices A & B

GENERIC FUNCTION	SUB-FUNCTION
Health	All age restricted products inc. <i>test purchasing</i> Proof of Age Card scheme 3 year Public Service Agreement.
Community Safety	Product Safety - <i>inspection and sampling</i> Petroleum Licensing and Vapour Recovery Explosives and Poisons Doorstep Selling
Economic Development	Weights & Measures - <i>Checks on weighing and measuring equipment</i> Checks on goods to ensure correct quantity Proceeds of Crime Act POCA
Food Quality and Safety	Food Quality Food Labelling Food Safety and Hygiene Infectious Disease Control Private water Supplies Quality and Labelling – <i>Fertilisers and Feedingstuffs</i>
Advice	Comprehensive Advice Service - Home Authority Liaison Complex Advice with casework Business Link
Environment	Overloading of Vehicles Weight Restrictions – <i>environmental and structural</i> Unroadworthy Vehicles Animal Health - Disease Control inc. outbreak contingency planning Animal Movement licensing Transport Welfare
Education	Comprehensive Consumer Education Service to: Adults & Children incl. Young Consumer of the Year and Junior citizen



## 2.0 West Berkshire Council's Community & Comparative Factors

In 2003 the West Berkshire Partnership published its first Community Plan which was promptly followed by the Council's Corporate Plan. The latter sets out a 5 year direction for the Authority, taking into account the needs and aspirations of the community as expressed in the Community Plan. The Trading Standards Service is a key agency in supporting the aims set out in these Plans.

### 2.1 Community Objectives

The West Berkshire Community Plan identified 13 priority areas. From this list the West Berkshire Partnership has chosen to focus on the following four leading priorities:

- Ensuring everyone has access to adequate affordable housing whether owned or rented;
- Developing transport solutions matched to people's needs across the district;
- Reducing social exclusion in rural areas by providing equal access to services and facilities;
- Developing learning opportunities for people of all ages to support social and economic well being.

### 2.2 Corporate Objectives – Strategic Priorities

The West Berkshire Council Corporate Plan contributes to these community objectives and develops a number of themes that are specific to the work of the Council. The Vision for West Berkshire Council, as set out in the Corporate Plan, is ***'To facilitate a thriving local community and good quality of life in West Berkshire, now and for the future'***. The Plan then identifies the 'top ten' strategic priorities that are necessary to realise this Vision. These are:

Priority
1. Providing stronger community leadership
2. Tackling all forms of social exclusion across the District
3. Promoting independence for older people and people with disabilities
4. Achieving better and fairer outcomes for children and young people by delivering high quality integrated services through partnership.
5. Ensuring that the street environment is clean, well maintained and safe
6. Increasing the provision of homes that are affordable to those on low incomes
7. Promoting safer communities
8. Improving transportation
9. Enhancing the sustainability of the West Berkshire community and preserving the local environment through improving environmental resource management.
10. Creating attractive and vibrant town centres

### 2.3 Local Priorities

The primary aim of the Trading Standards Service is to provide to provide a high level of protection for both the consumer and the legitimate business community.

At a local level our approach relates directly back to the following strategic priorities:

Corporate Objective / Strategic Priority	Area of Trading Standards work developed from this objective
Tackling all forms of social exclusion across the District	By providing equitable and accessible consumer advice, making consumers aware of their rights and thus empowering individuals. By continuing to develop the West Berkshire Consumer Support Network (CSN).
Ensuring that the street environment is clean, well maintained and safe	By promoting consumer safety and tackling rogue traders and under age sales, vehicle emissions and inspecting environmental labelling on electrical appliances and product packaging. Annual Firework inspections ensuring safe storage and registration.
Improving transportation	By providing an enforcement service in respect of overloading of vehicles, weight restrictions and unroadworthy vehicles
Creating attractive and vibrant town centres	By working with businesses and consumers to create a fair and safe trading environment in which legitimate business can flourish and consumers are attracted.
Maintaining high standards of educational achievement across our schools	By providing education programmes including Junior Citizen and Young Consumers of the Year Competition, raising awareness of the problems of underage sales.

## 2.4 Inclusions in the Corporate Plan

It is proposed that the following items are included in the current re-refresh of the corporate plan:

- Reducing illegal under age sales
- Reducing doorstep crime
- Better informed young people on consumer matters
- Business Advice

## 3.0 Aims, Objectives and Strategic Thinking

### 3.1 Key Aims and Objectives

The key aims and objectives of the Trading Standards Service are:

- Tackling consumer crime & unfair trade practices
- Reducing consumer detriment
- Enabling consumers to make informed choices
- Commitment to improving health and community safety and reducing social exclusion
- Protection of the environment
- Support for the legitimate business community
- Improvement in Service Delivery
- Provision of appropriate training & development opportunities for all staff



### 3.2 Links to Community and Corporate Objectives

Corporate Objective	Areas of Trading Standards Work developed from this objective
Attractive and vibrant town centres Clean, well maintained and safe streets	Tackling Consumer Crime  Improving safety in community  Support and advice for the business community
Tackling social exclusion	Tackling consumer detriment  Enabling consumers to make informed choices through advice  Commitment to improving health and community safety and reducing social exclusion
Improving Environmental Resource Management	Protection of the Environment
Stronger community leadership	Support for the reputable business community  Commitment to improving health and community safety and reducing social exclusion

### 3.3 Member Approval

The TSS Performance Plan and the Food Plan are both submitted for Member approval annually. These are required by the Joint Framework Agreement on Local Authority Food Enforcement.

The Best Value Performance Plan (BVPP) and the Environment and Public Protection Service Plan also receive annual Member approval. Progress against the service plan is reported quarterly. The BVPP is reviewed annually by District Audit.

The following activities have received specific Member approval in the past:

- Under Age Sales Enforcement Programme (Annual)
- Proof of Age Card (one off)
- Fees & Charges (annual)

### 3.4 The Best Value Agenda

In accordance with the national Best Value Agenda, ***West Berkshire's Trading Standards Service seeks to provide a high quality service at an affordable cost.***

In assessing whether best value aspirations are being met the TSS considers a number of service delivery methods. During 2006/7 the service will undertake a comprehensive needs review to:

- identify and develop key quality processes and procedures,
- develop a retention and recruitment scheme
- develop a training & career progression scheme
- determine how best to structure current resources to meet service demand

The service also jointly commissions work through the Trading Standards South East (TSSE) Liaison Group. This leads to economies of scale and a significant reduction in duplication of effort.

### **3.5 National Performance Indicator BV166**

The **BV 166 A & B** score for West Berkshire Trading Standards independently assessed by the District Auditor in 2003/4 and the service was given a score of **100%** against the standard.

BV166 is the only Best Value Performance Indicator that Trading Standards are required to complete. The 10 indicators are as follows:

- i) Does the authority have written and published Enforcement Policies formally endorsed by its Members that cover all aspects of TS?
- ii) Does the authority have risk based inspection programmes and sampling and surveillance regimes for regulatory services?
- iii) Are the programmes and regimes mentioned in ii) followed, monitored and reported on and any variations addressed within a service plan or BVPP?
- iv) Does the authority have targeted educational and information programmes?
- v) Are the programmes mentioned in iv) followed, monitored and reported on, and any deviations from the planned programmes addressed within a service plan or BVPP?
- vi) Does the authority have and implement policies procedures and standards for dealing with complaints made to the authority and does it take part within the Consumer Support Network (CSN)
- vii) Does the authority have and implement policies, procedures and standards for responding to and dealing with statutory notifications
- viii) Are the policies , procedures and standards mentioned in vi) and vii) followed, monitored and reported on, and any variations addressed within a service plan or BVPP?
- ix) Has the authority, within the last 5 years, benchmarked its resources for relevant services against similar local authorities or comparable service providers including private and voluntary?
- x) Does the authority have a range of mechanisms in place to consult stakeholders affected by their service regarding the development of the enforcement policy?

## **B: LOCAL STRUCTURE AND RESOURCES**

### **4.0 Local Authority Organisation, Accountability and Wider Links**

#### **4.1 Council Services and Structure**

##### **4.1.1 Council Structure**

West Berkshire Council's decision-making is based on the separation of the Council's Executive and scrutiny functions. The principal decision making body is now the Executive, which consists of the Council Leader and seven 'Portfolio Members'. Portfolio Members have the authority to take key decisions that fall within their remit. The Portfolio Member for Public Protection, who 'champions' Trading Standards under the newly introduced LACORs scheme, has authority to take key decisions affecting the Service.

#### **Overview and Scrutiny Commission**

The Commission consists of 12 Members, reflecting the political composition of the Authority. Members of the Executive cannot be Members of the Overview and Scrutiny Commission.

Within its terms of reference the Overview and Scrutiny Commission will:

- review or scrutinise decisions made, or actions taken, by the Leader, the Executive, Executive Member or an Officer in connection with the discharge of any of the Council's functions.
- exercise the right set out in the Procedure Rules to call-in and recommend for reconsideration any decisions which are subject to call-in made but not yet implemented by or on behalf of the Executive, Leader, Executive Member or Officer.
- monitor the Council's overall performance particularly in relation to its Service Plans, performance indicators and other key performance information.
- review all proposals from the Executive in relation to the budget.
- make reports and recommendations to the Council, the Executive or a Policy Committee in connection with the discharge of any of the Council's functions.
- monitor the West Berkshire Partnership's performance in relation to the Local Area Agreement.

The implementation of Policies and plans which govern Trading Standards are agreed as appropriate by the Portfolio Member and the Council's Executive as appropriate. However, decisions taken by the Executive (or key decisions taken by officers under delegated powers) may be 'called in' for scrutiny by the Commission at the request of any five Members. The Commission can recommend amendments to decisions, but there is no requirement for the Executive to comply.

**4.1.2 Management Structure**As a unitary authority, West Berkshire Council is responsible for the provision of all local government services in the West Berkshire Area. Food and TSS is a Division of Public Protection Services (which also incorporates Environmental Health and Emergency Planning).

## 4.2 Partnerships

The table below gives details of partnership arrangements that the Trading Standards Service has entered into in order to further common aims and objectives:

Activity	Aim of Partnership	Partners
<b>Tobacco Sales</b>	<ul style="list-style-type: none"> <li>• Reduced access by young people to tobacco products.</li> <li>• Smoke Free Environments</li> <li>• Health Promotion</li> </ul>	Primary Care Trust Other Council Services Other Local Authorities Trading Standards South East (TSSE) Berkshire Tobacco Alliance
<b>Community Safety</b>	<ul style="list-style-type: none"> <li>• Reduced access by young people to age restricted products and in particular alcohol and solvents.</li> <li>• Promotion of responsible trading</li> <li>• Reduction of Anti-Social Behaviour</li> </ul>	Local Schools Police Community Safety Officer Licensees Youth Service Housing Associations Social Services
<b>Consumer Support Network</b>	<ul style="list-style-type: none"> <li>• Network to improve access to consumer advice</li> </ul>	CABx Police Energywatch Council for Voluntary Services Housing Association Community Council for Berkshire
<b>Community Legal Services Partnership</b>	<ul style="list-style-type: none"> <li>• Referrals Protocols</li> </ul>	Legal Department LSC CABx Local Solicitors Housing Advice Welfare Rights Victim Support MIND Bracknell BC Voluntary Sector

<b>Doorstep Selling Initiative</b>	<ul style="list-style-type: none"> <li>• Reduction in doorstep selling problems and abuse through Rapid Response Unit</li> <li>• Education initiative aimed at banks/building societies</li> <li>• Reduce levels of distraction burglary</li> </ul>	TSSE Police Community Safety Neighbourhood Watch
<b>Smart Citizen Competition Young Consumer of the Year</b>	<ul style="list-style-type: none"> <li>• Educating young people on their rights and responsibilities including those related to consumer issues.</li> </ul>	Local Schools
<b>Junior Citizen</b>	<ul style="list-style-type: none"> <li>• Encouraging young people about risks associated with certain activities</li> </ul>	Police Fire Ambulance Service Utilities Rail Safety Local Primary Schools
<b>Crime Reduction Group</b>	<ul style="list-style-type: none"> <li>• Reduce level of car crime</li> <li>• Reduce levels of burglary, including distraction burglary</li> <li>• Links to various TS issues –sale of cars from the highway, unroadworthy cars &amp; doorstep initiatives.</li> </ul>	Police Community Safety Officer Voluntary Sector Local Businesses
<b>Business Support</b>	<ul style="list-style-type: none"> <li>• Inform businesses (especially new businesses) on legal responsibilities</li> <li>• Inform businesses on new law</li> </ul>	Chamber of Commerce Business Link

### 4.3 Enforcement Forums

The Trading Standards Service participates in the following enforcement forums:

<b>Organisation</b>	<b>Purpose</b>	<b>Members</b>
TSSE Authorities Officers Group	Forum to discuss and take forward issues of mutual significance Achievement of economies of scale and avoidance of duplication.	Neighbouring 8 TSSs
SELCOG – Petroleum Group	Forum to discuss petroleum enforcement issues	All petroleum authorities in South Eastern Region
TSSE Focus Groups: Performance, Safety, Food, Consumer Advice, U'age Sales, Fair Trading, Metrology, Law & Evidence	Sharing best practice Ensure Consistent enforcement Benchmark opportunities Coordination of sampling & testing Sharing expertise	Neighbouring 8 TSSs  Public Analysts
HM Revenue & Customs	Sharing Information	Revenue & Customs, neighbouring TSSs
Assoc. of Petrol Enforcement Authorities (APEA)	Sharing Best Practice Ensure consistent enforcement Benchmark opportunities Coordination of sampling & testing Sharing expertise	Local Authorities (Fire, TSS, EH) HSE Oil Companies Petrol pump fitters
DEFRA Divisional Animal Health Panel	Forum to discuss animal health enforcement issues	All TSSs in region DEFRA

SETSA Animal Health Group	Forum to discuss animal health enforcement & law update.	All TSSs in South East
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#### 4.4 Business Support Forums

The Service will work with the business community to develop a more focussed approach, shifting emphasis of the service from reactive to proactive work.

Officers lecture on the monthly Business Link new business courses to explain the Service's role and responsibilities in supporting & assisting business start-ups.

#### 5.0 Trading Standards Expenditure

See Appendix C

#### 6.0 Staffing Allocation

See Appendix D

#### 7.0 Accessibility

As part of the West Berkshire Equalities Strategy, the Council is committed to providing appropriate support to all service users in order to have full access to all services, including:

- making arrangements for translation and interpretation
- home visits
- text phone use
- Braille or tape transcription
- presence of advocates

A recent equalities assessment concluded that the Service is highly accessible with good customer focus.

The following summarises the main routes to accessing the service:

Type of Access	Description
Personal Callers	8.30am – 5pm Mon –Thursday. 8.30am – 4pm Friday Other times by appointment or through 24 hour emergency service
Telephone	Times as above. Note that civil advice calls are routed through to 'Consumer Direct' – a national consumer advice service, in the first instance.
Answerphone	Available outside normal office hours or if all lines are in use
By post	To West Berkshire Council Offices, Faraday Road.
By e-mail	<a href="mailto:Tsadvice@westberks.gov.uk">Tsadvice@westberks.gov.uk</a>
Emergencies	The Council has a 24 hour emergency service number and the Public Protection Service is staffed 24 hours per day
Disabled Access	Building designed for wheelchair users & disabled parking spaces available.
Hearing Impaired	Minicom available
Community Languages	The Council subscribes to language line.
Website	The Council's website has a newly designed Trading Standards Service section

## C: ASSESSING COMMUNITY EXPECTATIONS AND FEEDBACK

### 8.0 Needs and Expectations of Consumers

#### 8.1 Assessment of Need and Expectation

Over the last few years we have made a number of improvements to assess consumer needs and expectations including direct polling and partnership working. The following is a summary of our work in this area:

##### 8.1.1 User Surveys

The service carries out monthly user feedback surveys by contacting at random 50% of those who contacted the service for advice or assistance or to register a complaint for further investigation.

##### 2005/6 data indicates:

- 94% felt the service was easy to contact - about the same as last year
- 94% felt the staff were polite and helpful - up 4 points on last year
- 86% said they felt staff were knowledgeable - down 4 points on last year
- 87% were kept informed on complaint progress
- Overall 85% felt the service was satisfactory or better

From comments received and an analysis of data the following issues are worthy of note.

- Some people have an unrealistically high expectation of the service provided. In some circumstances they expect officers to resolve complaints on their behalf rather than simply provide advice on consumer rights.
- Officers are sympathetic and helpful although some people have commented about not being kept informed of developments.
- Consumer Action Packs are helpful.
- No work has been done to determine whether the advice given was acted on or whether complaints were eventually resolved to the satisfaction of the consumer.
- Many comments were received praising the excellent work of the officers.

##### 8.1.2 Analysis of consumer complaints

Last year the service received over 1800 enquiries and requests for assistance from the public.. Of this almost 1500 were complaints or requests for advice. An analysis of this data reveals the following main areas of concern to West Berkshire people.

1. Second hand cars
2. Food & Drink
3. Prize draws, scams and similar
4. Home maintenance & Improvements
5. Mobile Phones

The list is similar to previous years and mirrors national consumer complaint data but it is interesting to note that complaints about second hand cars and food & drink have overtaken complaints about home maintenance and improvement for the first time. Recent high profile television programme such as 'Rogue Trader' maybe having a positive effect. International and European Prize draw scams remain a problem whilst the high numbers of mobile phone complaints & enquiries can be explained because West Berkshire Trading Standards is 'Home



Authority' to a mobile phone company and receives referrals about the company from other trading standards services nationally.

Future consumer demands and needs are particularly difficult to predict for the following year. The introduction of Consumer Direct in 2005, a national consumer helpline, is already having a significant effect on calls to the department. Complex civil calls and potential criminal breaches are referred back to the service for investigation. The national Consumer Direct database provides intelligence on a new national and regional level.

It is clear that the overall number of complaint or enquiry calls to the department has dropped last year but the number of calls requiring in depth advice or further investigation has been increasing.

### **8.1.3 Local CABx view**

The issue of credit and debt is seen as a high priority for the CABx and remains their number one consumer issue. See below.

### **8.1.4 Consumer Support Network**

A Consumer Support Network Credit Project will be run by Trading Standards this year in association with the CABx and Sovereign Housing. It will determine the need for advice on credit and debt issues and provide advice where it is needed in particular those in Sovereign Housing properties.

## **8.2 Conclusions on Consumer Need in West Berkshire**

Based on our current intelligence consumers in West Berkshire need:

- More information on credit and managing debt
- More information and advice on the risks involved in buying second hand cars
- Advice on dealing with unwanted callers i.e. personal and by phone
- Greater knowledge of consumer rights
- Prompt alert warnings of suspect Prize Draws and Scams

## **9.0 Needs and Expectations of Local Businesses**

### **9.1 The Local Economy**

Unemployment, at less than 1%, is one of the lowest rates in Europe. (November 2004) 7,900 businesses provide almost 80,000 jobs for people. 85% of these businesses employ 10 people or less with the main activities being:

- Business activities, real estate & leasing – 22%
- Wholesale & retail – 19%, &
- Manufacturing – 15%

The very low rate of unemployment in the District is leading to employers recruiting from further afield and an influx of workers into the District.

#### **9.1.1 Meeting business expectations**

West Berkshire TSS subscribes fully to the 'Home Authority' Principle. This includes responding to requests for advice and handling referrals from other local authorities. The Service is Home Authority to some large companies including Vodafone, English Provender Company, HiPP



Nutrition, Tropicana/Pepsico, Direct Wines, Dreweatt Neate, Porsche, Ecover, Pepsico, Sheepdrove Organic, Guide Dogs for the Blind & Bayer UK Ltd.

See also Appendix E

There are no unique West Berkshire business issues as far as the TSS is concerned.

It is interesting and important to note that the TSS is experiencing similar recruitment problems to the rest of the West Berkshire business community. This means few 'proactive' inspections are being carried out resulting in a loss in regular contact with the business community which is unhelpful in developing an effective working relationship. However with 3 new members of staff in place by April 2006 it is hoped that this problem will be addressed.

### **9.1.2 Business User Survey**

The results of the last business survey indicated that local businesses were aware of the TSS, would seek advice from them if necessary and favoured the use of telephone to make contact. They also found radio, newspapers and leaflets to be effective in receiving TSS related information. Another business survey is planned soon.

### **9.1.3 Post Visit Assessments**

When inspections take place 'Customer Satisfaction Questionnaires' are left with business proprietors. This is an ongoing process and the results will be collated later in the year.

## **10.0 Local Awareness of Trading Standards**

### **10.1 The 2003 Consumer Survey**

In 2003 a survey of 500 West Berkshire residents indicated that:

- 12% had recently sought advice on a consumer issue
- 49% would seek advice from CABx in the first instance and 14% from TS
- 40% thought it was very or fairly easy to get advice with 53% saying their preferred method of access to be by telephone
- 72% said they felt very or fairly well informed of their rights as a consumer

These results were surprisingly low given the assumed high profile of Trading Standards within the local media. It also indicates that 60% of those asked felt advice would not be easy to come by – a very worryingly high percentage.

### **10.2 Business User Survey**

This has been reported previously – see 9.1.2

### **10.3 Media Profile**

Relations with the local media remain extremely good with many press releases issued relating to Trading Standards work during the year. Use of local media continues to be an effective strategy in getting various Trading Standards messages across to the general public. It is extremely cost effective with a high proportion of consumers stating they were aware of the work of the service because of local media interest. Almost the full range of work was covered but particular attention was made to the following issues:

- Food hazard warnings
- Underage sales – particularly of alcohol

- Firework safety
- Animal Health issues
- Prize Draw, Data Protection, & Clothing Collection Scams
- Successful prosecutions

#### **10.4 Non user survey**

Non-users were surveyed as part of the 2003 survey. Consideration is being given to repeating the exercise during 2006/7.

#### **11.0 Demands for Specialist Services**

The Service does not currently provide any specialist services as defined in the guidance.

## PART TWO: NATIONAL AND LOCAL PRIORITIES

### D: NATIONAL AND LOCAL PRIORITIES

#### 12.0 Informed Confident Consumers

##### 12.1 Consumer Advice

The service provides a Consumer Advice Service for complex civil casework as set out in paragraph 1.0. Following the introduction of Consumer Direct the nature of this service has changed from simply giving telephone advice to taking on follow-up casework, where appropriate, with a view to resolving problems or disputes.

During the year the TSS maintained its CLS Quality Mark for General Advice with Casework. It is believed the service is the only one in the TSSE to have achieved this standard.

The service also provides advice by using the Consumer Direct advice pack as well as other leaflets developed by the OFT, DTI, FSA and other government departments and agencies.

##### 12.2 Planned Levels of Activity

The following activities are planned for 2006/7 with respect to consumer advice:

Activity/programme/project/work planned	How the activity reflects local need	Links to strategic priorities
Act on casework referrals from 'Consumer Direct'	Consumer demand for more intervention	SP1 & SP2
Through CSN Raise Awareness and Improve Referrals System. Implement CSN credit project	Increase awareness of CA Provision  Increase in awareness of consumer rights	SP1 SP2  SP2
Education campaigns to raise awareness of consumer issues – e.g. prize draw scams, second hand cars & doorstep selling	Complaint analysis, customer surveys	SP1 SP2 SP4
Junior Citizen initiative	Increase in awareness of consumer rights	SP2, SP4
Consumer Law competition	Increase in awareness of consumer rights	SP2, SP4
Monitor and keep up to date TS Community Website	Customer Survey	SP1 SP4
Provide more information on credit and debt to those in social housing	Sovereign Housing Association	SP2 SP4

### 12.3 Continuing to Take Account of Emerging Issues

The TSS will also continue to take account of emerging issues in the following ways:

Activity	Purpose
Monitor & analyse Complaints and Enquiries – incl. those dealt with by Consumer Direct	Look for trends both locally and regionally in complaints to allow TSS to: <ul style="list-style-type: none"> <li>- Tackle problem traders</li> <li>- Provide advice campaigns</li> </ul>
Monitor Local and National Media	Look for changes to market place to enable TSS to: <ul style="list-style-type: none"> <li>- Tackle problem traders</li> <li>- Provide advice campaigns</li> </ul>
Examine Emerging Issues at Regional Level	Provide advice
Monitor Changes to legislation	Look for changes to market place to enable TSS to: <ul style="list-style-type: none"> <li>- Tackle problem traders</li> <li>- provide advice campaigns</li> </ul>
Speak regularly to partners and to vulnerable groups	Look for changes to market place to enable TSS to: <ul style="list-style-type: none"> <li>- tackle problem traders</li> <li>- provide advice campaigns</li> </ul>

## 13.0 Informed Businesses

### 13.1 Informed Successful Businesses

It is a TSS priority to provide advice & assistance to the local business community. A well-informed business community is good for consumers and is consistent with the strategic aim of creating a strong and vibrant local economy.

The following sets out the provision being made in 2006/7 for creating an informed, successful business community in West Berkshire:

Activity/programme/project/work planned	How the activity reflects local need	Links to strategic priorities
Work with Business Link to encourage use of the TSS	User Survey	SP1 & SP10
Research further the business case for a Local Business Partnership	User Survey	SP1 & SP10
Monitor new legislation and where necessary provide advice	Post Inspection Feedback	SP10
Work with TSSE to provide targeted advice for business & for benchmarking exercises	User Survey	SP1 & SP10
Continue to carry out post inspection evaluations	Post Inspection Feedback	SP10
Improve web-site Information	User Survey	SP10
Continue visiting local Trading areas and provide advice and information packs on anti-counterfeiting to local businesses	Business need	SP10
Work with local media to create regular contribution to business reports	Analysis of Enquiries	SP10
Business Verification service	Business & legal necessity	SP10
Promote 'Home Authority Principle'	Business need	SP10

### 13.2 Continuing to Take Account of Emerging Issues

The above table clearly sets out or planned activity for the 2006/7 period. However we will continue to take account of emerging issues in the following ways:

Activity	Purpose
Monitor Complaints & Enquiries	Look for trends and provide advice campaigns
Monitor Local and National Media	Look for trends and provide advice campaigns
Monitor Changes to legislation	To provide advice and avoid breaches
Work with Business Support Agencies	To ensure changing demands are met



## 14.0 Fair and Safe Trading Environment

### 14.1 Provisions for securing a Fair and Safe Trading Environment

In the interest of residents, local businesses and visitors the Council is committed to securing a fair and safe trading environment in West Berkshire. The following sets out the provision being made in 2005/6 for doing so:

Activity/programme/project/work planned	How the activity reflects local need	Links to strategic priorities
Target audits & sampling to reflect problem areas or new legislation.	Consumer Survey	SP2, SP10
'Buy with Confidence' project	Consumer need	SP2,
Credit project in partnership with Sovereign Housing	Consumer need	SP2
Seasonal Product safety projects: <ul style="list-style-type: none"> <li>▪ Electric blankets &amp; PAT consumer electrical testing</li> </ul>	Consumer need – accident prevention	SP5, SP10
Road Traffic Act enforcement: <ul style="list-style-type: none"> <li>▪ Overweight vehicles</li> <li>▪ Weight restricted roads/ bridges</li> </ul>	Consumer need	SP5
General licensing/ registration administration activities: <ul style="list-style-type: none"> <li>▪ Fireworks</li> <li>▪ Poisons</li> <li>▪ Petrol</li> <li>▪ Liquor</li> <li>▪ Motor Salvage - Vehicles (Crime) Act 2001</li> </ul>	Linked to enforcement/ accident prevention.	SP10
Inspection & testing of bulk fuel measuring instruments	Consumer need + business support facility	SP2
Inspection & testing of commercial weighbridges	Consumer/Business need	N/A
Reception & investigation of criminal complaints including referrals & notifications from Consumer Direct	Consumer need	SP2
Quantity checks on non pre-packed foods	Consumer need	SP2
Attendance at Newbury show to ensure compliance with TS, Food & Animal health law	Consumer survey	N/A
Work with TSSE / Police and data exchange to reduce levels of doorstep crime by introducing TSSE wide enforcement initiative	Consumer Survey	SP2
Unfair Commercial Practices Directive- consultation	N/A	SP2

Proceeds of Crime POCA/FI regional use of AI's across TSSE region	N/A	SP2
Work with TSSE / Police/ PCT to reduce illegal access by young persons to dangerous / anti-social products. Underage sales PSA project to incorporate enforcement, survey and health education in conjunction with PCT. TSSE project on sale of knives to U18's and UAS persistent offenders	Consumer Survey	SP2, SP4, SP5
Carry out inspection of metrological equipment based upon risk – linked to food inspections	N/A	N/A
Participate in TSSE targeted regional and national sampling projects and inspection initiatives: <ul style="list-style-type: none"> <li>▪ Energy Labelling</li> <li>▪ Child appealing luminaires</li> <li>▪ High Chairs &amp; baby beds</li> </ul>	Consumer concerns	SP2, SP5
Promote Home Authority Principal	Business Surveys	SP10, SP5
Review enforcement of environmental controls including storage of dangerous products and road traffic enforcement (details above)	N/A	SP5, SP9
Participate in National Consumer Week and other partner Initiatives	Consumer Survey	SP2, SP4, SP5

#### 14.2 Continuing to Take Account of Emerging Issues

The above table sets out or planned activity for the 2006/7 period. However we will continue to take account of emerging issues in the following ways:

Activity	Purpose
Monitor Complaints and Enquiries	Look for trends and target enforcement
Monitor local and national media	Look for trends and target enforcement
Monitor changes to legislation	Target enforcement
Work with partners to assess need	To ensure changing demands are met

## E: EFFICIENT, EFFECTIVE AND IMPROVING SERVICES

### 15.0 THE MODERNISATION AGENDA

#### 15.1 Efficient, Effective and Improving Service Provision

In the interest of residents, local businesses and visitors the Council is committed to securing and efficient, effective and improving trading standards service in West Berkshire. The following sets out the provision being made in 2006/7 for doing so:

Activity/programme/project/work planned	How the activity reflects local need	Links to strategic priorities
Complete the service wide 'needs assessment' to address: <ul style="list-style-type: none"> <li>▪ Ensure systems in place to train part or non qualified staff</li> <li>▪ Career progression</li> <li>▪ Continued competence</li> <li>▪ Structure, officer roles &amp; responsibilities</li> </ul>		N/A
Ensure regular team briefings take place	N/A	SP1
Ensure regular appraisals and one-to-ones take place	N/A	SP1
Maintain CLS Quality Mark	Consumer Survey	SP1
Introduce new evidence control system	N/A	SP7
Develop Service in line with SOCTSO EFQM Model – Peer Review to take place during 2006/7	N/A	SP1
Continue to develop regional & national links to ensure best practice, avoid duplication of effort and wasted resource	N/A	SP1
Maintain business continuity plans and ensure all emergency response plans are up to date	N/A	SP1
Review sources of electronic and written data and databases that are used in service delivery	N/A	N/A
Develop staff training programme and monitor performance against it	Business and Consumer Surveys	SP1
Ensure formal reports are accurate and submitted on time	N/A	N/A



## **F: QUALITY ASSESSMENT AND REVIEW**

### **16.0 PROVISIONS FOR REVIEW**

#### **16.1 Monitoring Performance against the Plan**

Service plan activities are monitored regularly to ensure that targets laid down in the Service Plan are met as follows:

<b>Area to be Monitored</b>	<b>Frequency</b>	<b>Method</b>
Inspections and Sampling	Monthly	FLARE
Complaints and Enquiries (response targets reproduced below)	Monthly	FLARE
Assessment of Quality – Inspections	Monthly	File Checks
Assessment of Quality – Enquiries	Monthly	In accordance with CLS QM
Compliance with Investigation Framework	Ongoing	In accordance with CPIA

#### **16.2 Complaints and Enquiries**

The service standards for complaints and enquiries are as follows:

<b>Type of Enquiry</b>	<b>1<sup>st</sup> Response</b>	<b>Considered Response</b>	<b>Closure</b>
<b>Safety, Food &amp; W&amp;M Complaints</b>	1 day	10 day	95% in 6 months
<b>All other Complaints</b>	2 day	10 day	95% in 6 months
<b>HA Referral</b>	2 day	1 month	N/A
<b>Business Enquiry</b>	2 day	10 day	N/A

#### **16.3 Learning From Others**

We are very keen to learn from best practice developed in other authorities & have found the work done by authorities that have received DTI innovation grants very useful. We intend to work with colleagues from across the TSSE group to improve and enhance service delivery across the region through the work of the Regional Policy Officer.

#### **16.4 Benchmarking**

The Service plans to undertake regular benchmarking, in addition to that already undertaken through TSSE, to ensure value for Money and the best possible performance.

#### **16.5 Consultation**

Plans for consultation (and publication of results of consultation) are highlighted elsewhere in this plan.

#### **16.6 Meeting the Challenges of New Agendas and Future Planning**

Changes to legislation and best practice are regularly reviewed by Principal Trading Standards Officers who have a responsibility to make recommendations & implement changes to service plans where appropriate.

### 16.7 Identification of any variation from plan

Remaining vacant posts within the service will now be filled by April 06 and one full time post will become vacant at the end of the year. However a service wide needs assessment is ongoing and may make recommendations to vary from the plan.

### 16.8 Identification of areas in need of improvement

The following areas for improvement were identified in the plan and have been reproduced below as key targets for 2006/2007:

Target	Where addressed in plan
<ul style="list-style-type: none"><li>• More information for consumers on credit and debt</li></ul>	Section 12, Section 4.2 Section 12, 14, 4.2 CSN, CABx
<ul style="list-style-type: none"><li>• Need to carry out a comprehensive business needs assessment</li></ul>	Section 13
<ul style="list-style-type: none"><li>• Develop relationship with business support organisations.</li></ul>	Section 13
<ul style="list-style-type: none"><li>• More effective consultation with business, consumers and other stakeholders and TSSs</li></ul>	Section 12, 13, 16

## APPENDIX A – CORE RESPONSIBILITIES OF THE TRADING STANDARDS SERVICE

<b>Name of Authority</b>	West Berkshire District Council
<b>Chief Inspector of Weights &amp; Measures</b>	Sean Murphy

<b>Status of Plan</b>	
<b>Approved by Members</b>	
<b>Member Approval Pending</b>	

<b>Enforcement Responsibility</b>	<b>Description</b>	<b>Is this in your remit</b>
Weights & Measures	Work relating to the accuracy of weighing & measuring equipment in use for trade and ensuring quantity of goods is within tolerance. Verification services	Y
Does your authority maintain local standards?		N
Does your authority hold Approved Body status?		N
Fair Trading	Includes claims about prices, quality or description of goods & services	Y
Product Safety	Includes monitoring goods supplied to consumers are safe & correctly labelled	Y
Food Standards	Includes ensuring food is correctly described & labelled throughout the supply chain & that applicable compositional standards are met	Y
Is this function shared with Environmental Health		N
Consumer Credit	Including monitoring licensing regime, ensuring transactions, business documents & advertisements comply.	Y
Animal Health & Welfare	Includes movement licences, monitoring welfare on farm, during transport & at markets	Y
Agricultural Standards	Includes ensuring fertilisers & animal feeding stuffs are of correct composition & labelled correctly.	Y
Age Restricted Sales	Ensuring certain products are not supplied to young persons. E.g. tobacco, knives, videos & DVDs, butane lighter fuel, alcohol,	Y
Road Traffic	Includes supply of unroadworthy vehicles, overloaded goods vehicles, weight restriction areas.	
Explosives	Ensuring fireworks & other explosives are safely stored on registered premises.	Y
Petroleum	Ensuring petrol is safely stored on licensed premises	Y
Environmental Legislation	Includes energy labelling, packaging disposal & motor fuel pollutants	Y
Licensing	Petrol	
	Explosives	
	Poisons	
	Functions under Vehicle (Crimes) Act 2002	

<b>Additional Functions.</b>
Food Hygiene, Safety & Disease Control
Some Health & Safety in food premises
Emergency Planning
Town Centre & Mobile CCTV

<b>Specialist Services</b>	<b>Partners</b>
Metrology Laboratory	Oxfordshire CC

Advice Responsibility	Description	Is this in your remit?
Are you part of a Consumer Support Network?		Y
Business Advice	Through other means other than inspection & home authority	Y
Consumer Advice	Provision of advice & information to consumers + casework	Y

Indicate the level of consumer advice you provide.

Client → Level ↓	Local Tax Payers	Contract in Area	All Contacts
Information	Y	Y	Y
Assisted Information	Y	Y	N
General Help	Y	Y	N
General Help + Casework	Y	Y	N

## APPENDIX B – COMMUNITY TRADING STANDARDS SERVICE DELIVERY PLAN

### PROFILE FORM

<b>Name of Authority</b>	West Berkshire District Council
<b>Area in Hectares</b>	70,000

Local Authority Organisation

<b>In what year will the TSS be part of a Best Value review by your authority</b>		
<b>Indicate if you have received, or are working towards, any of the following:</b>	Received	Working towards
▪ Charter Mark		
▪ Investors in People		
▪ OFT Excellence award		
▪ Beacon Status – topic		
▪ CLS Quality Mark	Yes	
▪ ISO 9000		Yes
<b>Do you use the EFQM model? (yes/no)</b>	No. Working towards	
<b>Do you have a service level agreement with the OFT?</b>	No. Working towards	

**APPENDIX C – LOCAL AUTHORITY ORGANISATION – BUDGETS**

DESCRIPTION	£ 2005/6 Spend	£ 2006/7 Budget
Employee Costs		485K
Supplies & Services		67K
<b>Gross Costs</b>		
		552

## APPENDIX D – STAFFING ALLOCATION

Role	Description	Number of Staff
Managerial	Staff primarily concerned with the management of staff within TS. Include only the proportion of time spent on such duties	0.6
Administration	Staff that support the service within the office	1.0
Enforcement Staff	TSOs, CPOs, FTOs authorised under criminal legislation	9.0
Enforcement Support Staff	e.g. lab staff, technical assistants	1.0
Consumer Advice	Full time staff & proportion of time other staff spend on such duties	0
DTS Trainees		4.0
<b>Total No. of Staff</b>	Exclude vacant posts	<b>12.9</b>
Current Vacancies	All roles	1.0
Long term Vacancies	More than 4 months duration	0

Qualification	Description	Number of Staff
DTS	Diploma in TS or equivalent	5.0
DCA	Diploma in Consumer Affairs	1
DCA Food	Full DCA incl. Food qualification	0
DCA An. Health	Full DCA incl. Animal Health qualification	0
DMS & similar	Diploma in Management Studies, MBA & similar	3
Others:		
	DCA – Petroleum Certificate	1
	DCA – Food and Agriculture Certificate	1
	BA Consumer Protection	0

## APPENDIX E – BUSINESS PROFILE

	Description	Number
Business registered for business rates		TBC
Home Authority companies: Formal agreements	Follow LACORS Home Authority Principle guidance.	0
Home Authority companies: Informal recognition		22
Enquiries received concerning Home Authority companies		
Risk Assessment: Assessment of risk of a business poses to consumers & competitors to determine frequency of inspection visits & appropriate enforcement.		
High	Follow LACORS guidance on premises risk assessment.	
Medium		
Low		
No Inspectable risk		

### Other Business Data

	Description	Number
Business Start Ups	Use figures based on VAT registrations.	TBC
Business Failures		TBC



## Individual Decision

<b>Title of Report:</b>	<b>Food Enforcement Plan</b>		
<b>Report to be considered by:</b>	<b>Cllr Geoff Findlay</b>	<b>on:</b>	<b>25<sup>th</sup> May 2006</b>
<b>Forward Plan Ref:</b>	<b>ID1161</b>		

**Purpose of Report:** Seek approval for the 2006/7 Food Enforcement Plan

**Recommended Action:** Approve the Plan or amend prior to approval.

**Reason for decision to be taken:**

- The Council is required by the Food Standards Agency to consider its approach to food law enforcement and to produce a Food Law Enforcement Plan that has Member approval.

**List of other options considered:**

- None

**Key background documentation:**

- Framework Agreement on Local Authority Food Law Enforcement

<b>Portfolio Member:</b>	Geoff Findlay
<b>Tel. No.:</b>	(01635) 871992
<b>E-mail Address:</b>	<a href="mailto:gfindlay@westberks.gov.uk">gfindlay@westberks.gov.uk</a>

### Contact Officer Details

<b>Name:</b>	Sean Murphy
<b>Job Title:</b>	Food and Trading Standards Manager
<b>Tel. No.:</b>	01635 519840
<b>E-mail Address:</b>	<a href="mailto:smurphy@westberks.gov.uk">smurphy@westberks.gov.uk</a>

## Supporting Information

### 1. Background

#### **The Framework Agreement on Local Authority Food Law Enforcement**

1.1 In October 2000 the Food Standards Agency issued its 'Framework Agreement on Local Authority Food Law Enforcement' (the Agreement). The Agreement was designed to enable the FSA to be proactive in setting and monitoring standards in terms of local authority food enforcement. The key requirement of the Agreement is that local authorities produce an annual 'Service Plan' outlining their planned activity in the field of food law enforcement for the forthcoming year. Service plans are required to:

- focus debate on key service delivery issues;
- provide an essential link with financial planning;
- set objectives for the future, and identify major issues that cross service boundaries; and
- provide a means of managing performance and making performance comparisons

1.2 To assist local authorities in producing a plan, guidance was issued regarding the format. This would also help the FSA to compare plans and approaches. This central guidance became known as 'The Standard'. Whilst there is some scope for locally defined objectives the basic format is to be followed by all local authorities. 'The Standard' requires local authorities to give information in their Food Plans about:

- the services they provide in relation to food enforcement;
- the means by which they will provide those services;
- the means by which they will meet any relevant performance targets; and
- how they intend to review performance and address any variance.

1.3 The guidance states, 'we expect local authority enforcers to adopt a balance of techniques and approaches in order to ensure the safety and wellbeing of the public and the environment and not to rely on one method'.

1.4 The Standard recognises that most local authorities already have in place a framework of service planning which may include corporate objectives, annual reports, service plans and best value plans. The Food Plan is to be seen as a natural extension of the existing process. That is the starting point. In summary, the Standard requires that the Food Plan follow the following format:

Section 1 – Service Aims and Objectives

Section 2 – Background

Section 3 – Service Delivery

Section 4 – Resources

Section 5 – Quality Assessment

Section 6 – Review

In addition to information on food safety (hygiene) and food standards (quality and labelling) the Plan is also required to examine the council's enforcement programme in relation to the enforcement of legislation relating to animal feedingstuffs. The reason for this being that food eaten by farmed animals will eventually enter the human food chain.

## **2.0 The West Berkshire Food Plan**

- 2.1 This is the sixth Food Plan produced by the Food, Agriculture & Animal Health Team. The Plan again uses the more user friendly format introduced last year. Feedback on previous plans suggested that the prescribed FSA presentation style did not appeal to many sectors of the target audience, who would not read several pages of text and did not want to analyse tables of figures and financial information. In order to make it more appealing to a wider audience, the text has been broken up with pictures, graphs and 'did you know' facts and figures boxes. Financial information and figures relating to work completed and targets for the year are presented in pie charts or graphs, thus creating a more straightforward way to interpret information.
- 2.2 In addition to the plan there are to be two leaflets available. One for consumers and one for traders. Each gives a brief overview of the work of the Team and concentrates on the issues most important to each group. By producing these leaflets, the Team hopes to reach even more of their customers and promote the service provided by the Council.
- 2.3 We pride ourselves on our joint work with all our internal and external partners. This helps us set and deliver the Plan. It is also helps us access all available additional funding to deliver key projects. Recently, we initiated a joint venture with Education to provide free food hygiene training and how to cook healthy meals on a budget for mothers with young children in Thatcham and Lambourn. We are hoping to continue this initiative in 2006/7 in other parts of the district.
- 2.4 We have set ourselves some tough targets this year. The Plan shows we have a balanced approach to protecting the food chain through a combination of inspection, advice, audits, sampling and education & training. Our overall aim is that the public should have confidence in the safety and quality of the food prepared and sold in the District and the reputable business are not disadvantaged by those that choose not to comply.
- 2.5 In considering the Plan, attention is drawn to the need to cross-reference with the other work performed by the Food & Trading Standards Team. Many of the staff are called upon to perform a variety roles outside their Team; such as significant support for large investigations, management of CCTV, and assisting with the meeting of the additional targets set out in the Trading Standards Performance Plan and Emergency Planning.
- 2.6 Finally, the service has for some time operated with a significant number of vacancies of professional posts. As a result we have decided to grow our own which means that at this time five posts that should be filled by qualified officers are filled with trainees. The team leader post also becomes vacant at the beginning of May. This in itself represents both a huge investment in the future but a significant short and medium term problem with a day job still to be done. Many of the projects incorporated into the plan will be delivered as part of the training programme for the trainees who need to submit their first round of portfolios in autumn 2006 and the spring of next year.

## **Appendices**

Appendix A – 2006/7 Food Enforcement Plan

## Implications

<b>Policy:</b>	Strategic Priority S2d- Linked through targeted sampling of economy food to tackle food poverty. Strategic Priority 3a- Linked through targeted education in food hygiene for children in key stage 2
<b>Financial:</b>	All financial implications are met through existing budget provision.
<b>Personnel:</b>	None
<b>Legal:</b>	Enforcement of Food, Agriculture & Animal Health legislation is a statutory requirement.
<b>Environmental:</b>	Elements of food chain enforcement have environmental implications eg monitoring pesticide usage and disposal of waste food & animal by-products.
<b>Equalities:</b>	Education & training is available in a range of languages, as are many of the advice leaflets. Those groups identified as being more vulnerable to food poisoning and those vulnerable to food poverty have been considered when drafting the Plan.

## Consultation Responses

### **Members:**

<b>Leader of Council:</b>	Cllr Graham Jones
<b>Chair of the Overview and Scrutiny Commission:</b>	Cllr Jeff Brooks
<b>Planning Committee Chairman:</b>	N/A
<b>Ward Members:</b>	N/A
<b>Opposition Spokesperson:</b>	Cllr Royce Longton
<b>Advisory Members:</b>	N/A
<b>Local Stakeholders:</b>	Trading Standards South East Liaison Group, Health Protection Agency,
<b>Officers Consulted:</b>	All officers in Food & Trading Standards Team.
<b>Trade Union:</b>	None

## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

### 1.2 LINKS TO CORPORATE OBJECTIVES & PLANS

In support of the West Berkshire Partnership's Community Plan for 2003 West Berkshire District Council published a Corporate Plan that sets out direction for the Council over the next 5 years. It identified 10 key, priority corporate objectives to support its overall vision '*To facilitate a thriving local community and good quality of life in West Berkshire, now and for the future* '

The work of the Food, Agriculture & Animal Health Service at West Berkshire supports the aims and objectives of these plans as set out below. In particular it keys into 7 of these objectives as follows:

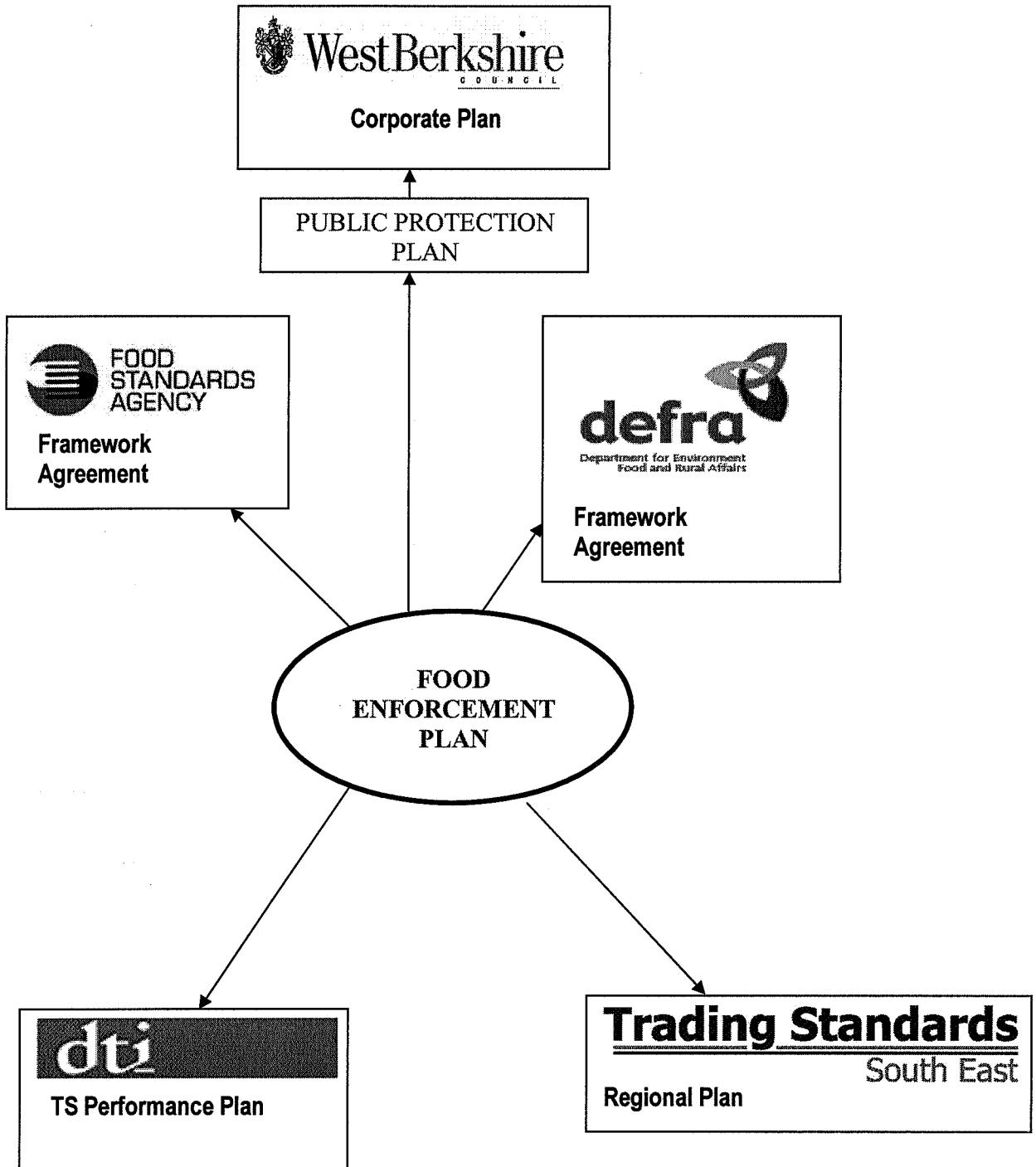
Corporate Objective	Service Activity
Stronger community leadership	Promoting food safety, standards and health via education campaigns Supporting the reputable business community
Tackling social exclusion	Tackling consumer detriment Enabling consumers to make informed choices Commitment to improving health and community safety and reducing social exclusion
Attractive and vibrant town centres	Supporting reputable business community
Promoting safer communities	Promote good public health Reducing crime relating to Food Standards, Food Hygiene and Animal Health
Achieving better and fairer outcomes for children and young people	By delivering high quality integrated services through partnership within the local authority and with central government and others
Promoting independence for older people and people with disabilities	Promoting food safety, standards and health via education campaigns
Enhancing the sustainability of the West Berkshire community and preserving the local environment through improving environmental resource management	Promoting and working with local food producers via business advice and education

The Food Plan is submitted for Member approval annually.

The Best Value Performance Plan (BVPP) and the Environment and Public Protection Service Plan also receive annual Member approval. Progress against the Service Plan is reported quarterly. The BVPP is reviewed annually by District Audit

# FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

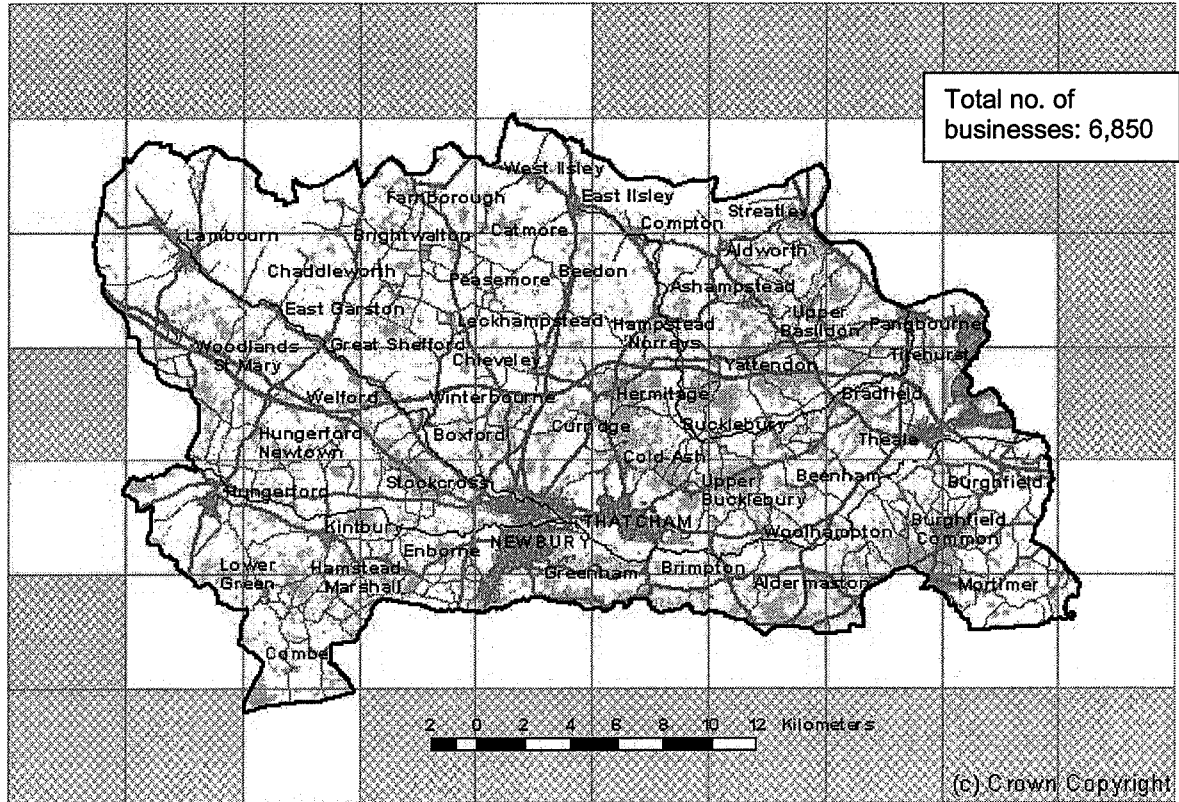
The following diagram illustrates the linkage between various West Berkshire (& other) relevant plans.



# FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

## 2. BACKGROUND

### 2.1 PROFILE OF THE LOCAL AUTHORITY



West Berkshire makes up over half of the geographical area of the county of Berkshire – covering an area of 272 square miles. The district is primarily made up of chalk downlands, loosely centred along the lower reaches of the river Kennet, which rises in Wiltshire and flows through to join the Thames at Reading.

There is a population of just over 144,900 with just over half the population living in settlements on the western Reading fringe and along the Kennet valley. The largest urban area in the district is Newbury/Thatcham, where a third of West Berkshire residents live. Other significant towns are Hungerford with about 5,000 residents and Theale with a population of about 2,500.

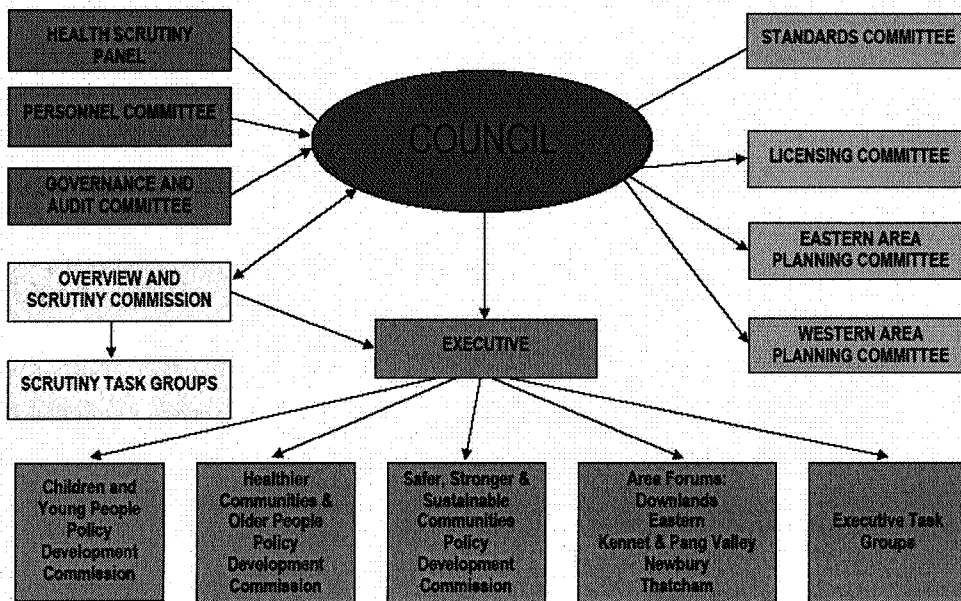
There are approximately 1550 employees working for the local authority, 1000 of which are based in Newbury. There are approximately a further 3000 working in schools.

# FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

## 2.1 ORGANISATIONAL STRUCTURE

### 2.2.1 West Berkshire Council Services Structure

#### West Berkshire Council Committee Structure - 2006 / 2007



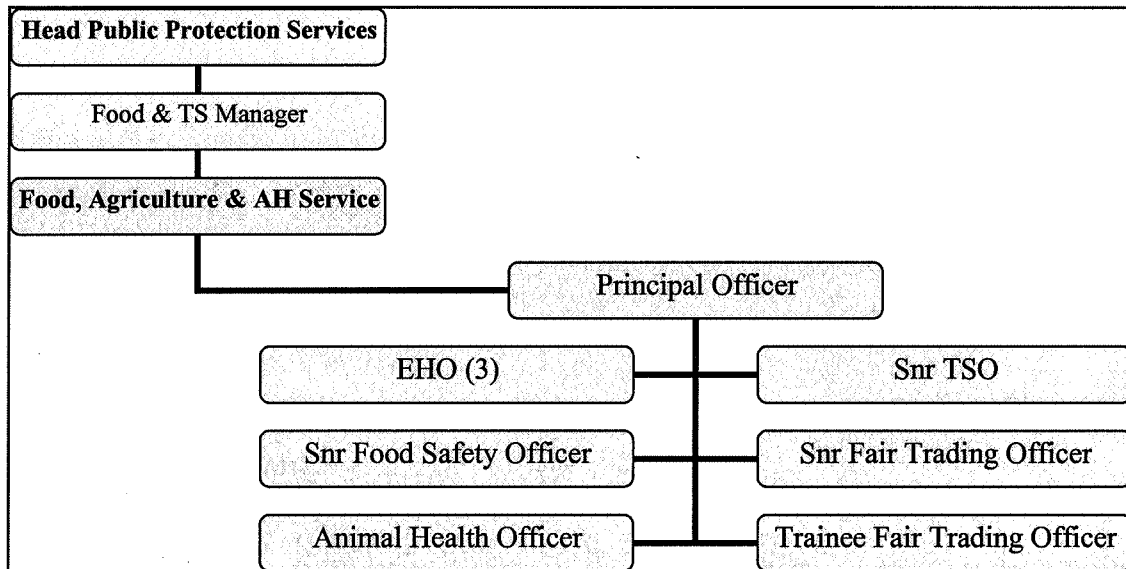
NEED TO ADD COUNCIL STRUCTURE.



## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

The Food, Agriculture and Animal Health Service falls within the remit of the Trading Standards and Food, Agriculture and Animal Health Team. The team manager is a qualified Trading Standards Officer with local government and managerial experience. A Principal Officer performs day to day management of the Food, Agriculture and Animal Health function. The team structure is shown below:

### 2.2.2 Food Service Structure



Specialist scientific support is provided by appointed Public Analysts and the Public Health Laboratory Service.

### 2.3 SCOPE OF THE SERVICE

The Food, Agriculture & Animal Health Team has responsibility for the following areas of food enforcement work.

- Food Hygiene Inspections and sampling
- Food Standards Inspections and sampling
- Feed Standards Inspections and sampling
- Food Complaints
- Fertiliser Sampling
- Infectious Disease Control
- Registration of Food Related Premises
- Registration of Feed Premises
- Food Hygiene Training

## **FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES**

- Food Standards, Health and Animal Health Promotional initiatives working with local communities and businesses
- Animal Health and Welfare, including animal movement licences
- Business Advice

As can be seen the scope of the service includes all agricultural enforcement and all animal health and welfare activities, so represents a "farm to fork" approach to food law enforcement.

Where appropriate, other relevant inspections (e.g. safety, pricing and weights & measures) are carried out at the time of the food standards inspection. This will depend upon the premise type and the risk assessment attached to that premise.

### **2.4 DEMANDS ON THE SERVICE**

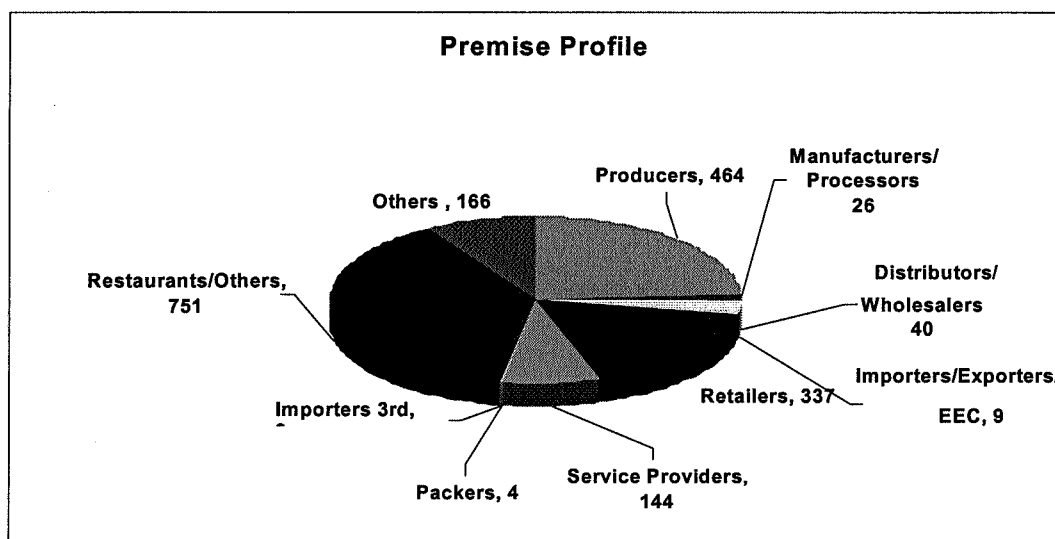
Figure 1 summarises the premise profile that informs the work plans of the Food, Agriculture and Animal Health Team.

Workload is split between reactive work and proactive work. Reactive consisting primarily of consumer complaints or requests for advice from traders and pro-active being mainly inspection of premises, sampling and education based on well established & recognised risk analysis.

There are no unusual West Berkshire food issues although there are a high number of catering and agriculture businesses. English is the first language of most West Berkshire food business proprietors. However, provision for advice, information & assistance is made for the small number of non-English speaking food business proprietors with the use of nationally developed leaflets, subscription to Language Line and the National Register of Public Service Interpreters.

It is worth noting that factors, out of the control of the Service, such as new legislation, major incidents for example human or animal infectious disease outbreaks and food hazard warnings can occur which significantly affects any planned work.

## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES



### Contact details and opening times for Service:

Section of Service	Address	Telephone	Opening Hours
General enquiries and advice for Food Hygiene, Food Standards and Animal Health	Public Protection Food, Agriculture and Animal Health Council Offices Faraday Road Newbury	01635 519930	Monday - Thursday 08:30 – 17:00 Friday – 08:30 – 16:30
	Out of hours Service	01635 42161	Monday-Thursday 17.00 – 08.30 Friday-Monday 16:30 – 08:30

### 2.5 ENFORCEMENT POLICY



Enforcement of these legal obligations takes place by Authorised Officers in accordance with a framework set out by the Council which is in line with the 'Enforcement Concordat' and the Code for Crown Prosecutors.

## 3. SERVICE DELIVERY

### 3.1 FOOD & FEEDINGSTUFFS PREMISES INSPECTIONS

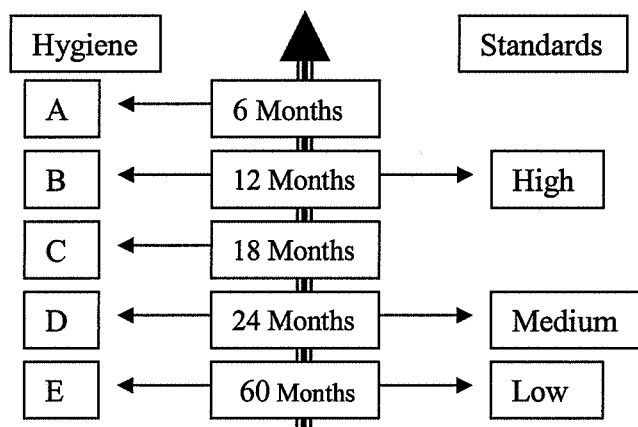
## **FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES**

The Service aims to achieve a 100% inspection rate of all premises due an inspection within any given year as recommended by the Food Standards Agency.

### **Food Hygiene and Standards Inspections**

Food premises are graded and given a risk rating for food safety and food standards. Each risk band has a set interval for inspection. Assessments are carried out at each premise inspection and where necessary a new risk scoring is applied and the inspection period adjusted.

## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES



Food Standards and hygiene inspections of trade premises are carried out in accordance with published Food Standards Agency and LACORS<sup>1</sup> risk assessment guidelines.

### Food Standards Inspections

The guidelines recommend that:

- 100% high-risk premises are inspected per year.
- 50% medium-risk premises are inspected per year.
- 20% low-risk premises are inspected per year (or by an alternative strategy).
- Samples may be taken from premises outside the inspection programme.

The inspection target for each year can be found in Figure 2a, b, and c.

**Figure 2a - Food Standards Inspection targets for 2006/7**

Risk Category	Inspection target for 05/06	Inspections carried out in 05/06	No. of Premises 06/07	Inspection target for 06/07	Officer days
High	12	12	4	4	1.3
Medium	206	173	124	2	0.6
Low	93	29	607	325	108
Total	311	214	766	331	110

- Assumes average of 3 inspections per day.

**Figure 2b - Food Hygiene Inspections**

Risk Category	Inspection target for 05/06	Inspections carried out in 05/06	No. of Premises 06/07	Inspection target for 06/07	Officer days
A	2	1	3	6	3
B	43	42	58	56	28
C	361	294	508	314	157
D	80	50	144	95	48
AES	102	3	344	144	72
Totals	588	390	1057	615	308

<sup>1</sup> LACORS – Local Authorities Co-ordinators of Regulatory Services3

## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

- Assumes average 2 inspections per day.

**Figure 2c - Animal Health**

Risk Category	No. of premises	Inspections required per year	Inspection target for 06/07	Officer days
High				
Medium				
Low				
Total				

- Assumes an average of 2 inspections per day

### 3.2 FOOD & FEEDINGSTUFFS COMPLAINTS

During the course of each year the Service receives over 500 food and animal health related enquiries. Many of these enquiries are classified as 'low' risk although reports of alleged food poisoning are sometimes received. Whereas routine and 'low risk' enquiries will be dealt with within 2 working days (Service Policy) by phone or a standard letter, more urgent cases will receive immediate attention. Premises complained against are also notified and comments sought. A breakdown of all complaints or requests for advice or information for each year is illustrated in the chart in Figure 3 below:

**Figure 3 - Number of enquiries received by the Food Agriculture and Animal Health Team:**

Complaints	05/06	Expected 06/07	Officer days*
Food Hygiene	100	100	50
Food Standards	20	20	10
Food Poisoning	34	30	15
Animal Health	68	50	25

\*Assuming can deal with 2 complaints per day.

### 3.3 HOME AUTHORITY PRINCIPLE

West Berkshire has a number of large national and international companies within its boundaries. The Team aims to build strong links with all companies operating in West Berkshire to achieve a consistent enforcement approach and to provide sound business advice.

We act as the 'Home Authority' for a number of companies (HiPP Nutrition, English Provender Company and Pepsico, which incorporates the 'Tropicana' brand) The 'Home Authority' scheme is documented on LACORS website.

### 3.4 ADVICE TO BUSINESS

The Service aims to provide as much effective advice to West Berkshire businesses as possible. In 2005-6 we had 233 requests for information. Figure 4 below provides a breakdown as to number of enquiries and resource allocation.

Many of the food premises requests relate to new business registration and advice on their legal responsibilities.

## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

The Service also provides advice to those developing food businesses which typically includes the reviewing of plans/drawings to ensure all legislative requirements are met as well as dealing with the practical challenges that face any new food business.

As part of our commitment to business advice senior officers from both Trading Standards and Environmental Health attend monthly Business Link Seminars which act as an open forum to discuss relevant matters with current and prospective business proprietors. This covers any small or medium businesses with fewer than 250 employees.

**Figure 4 - Number of business enquiries received by the Food Agriculture and Animal Health Team:**

Enquiries	05/06	Expected 06/07	Officer days
Food Hygiene	229	230	115
Food Standards	4*	30	15
Animal Health	0*	25	12.5

\* Unfortunately there have been some data recording problems and this does not accurately reflect the numbers of enquiries made.

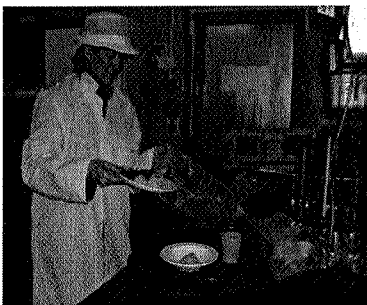
### 3.4.1 FOOD HYGIENE TRAINING

Officers who work on a day to day basis in food law enforcement run all the Food Hygiene courses. All levels are available but the most popular is the Chartered Institute of Environmental Health Foundation Level course which the Team are accredited to teach.

During 2005/6 a total of 35 courses were run which arose out of a combination of businesses contacting us for assistance, officer recommendations for employers and employees and formal requirements under the relevant legislation.

Last year was a very successful year for training with 327 students attending the course examination – compared with 267 the previous year.

### 3.5 FOOD & FEEDINGSTUFFS INSPECTION & SAMPLING



The food that people eat has a direct impact on their health. Sources of ill health in food include poor hygiene standards, microbiological and chemical contamination, and the excessive use of additives, allergens and poor nutritional content.

Millions of people each year report suffering symptoms of food poisoning. In the most severe cases death or long term injury can be the result. In the remainder of the cases the symptoms of food poisoning cause untold misery and many millions of lost working days. The victims are often the very young and elderly.

Poor nutrition is a primary cause of illness in the UK, leading to thousands of premature deaths through heart disease, cancers and other related illnesses.

## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

Sampling is targeted at local manufacturers and companies whose head offices are based in our area as well as locally controlled produce. In addition we actively participate in nationally and regionally co-ordinated sampling programmes.

The policy of the Authority in relation to sampling is as follows:

- Complaints and enquiries
- Locally produced
- Locally controlled
- Co-ordinated sampling plans e.g. through regional groupings or nationally through the Food Standards Agency
- New or changed legislation
- Other local or national issue, reason or concern

Figure 5 provides a list of samples taken along with results together with estimated sample targets for each year and resource allocation.

Businesses are always informed of unsatisfactory sample results and follow up action taken where necessary. All formal sampling is carried out using accredited laboratories to ensure that all results can be used if formal investigations are carried out.

Officers sample animal feedingstuffs to ensure that all farmed animals receive an appropriate level of nutrition and to monitor the quality of on-farm mixing in the area. This helps to ensure that the quality of food being produced for the food chain is maintained and that all relevant legislation is being adhered to.

Where samples fail we aim to provide appropriate advice and, where necessary, enforcement action may be taken.

**Figure 5 - Number of samples taken by Food Agriculture and Animal Health Team:**

Samples	Target 05/06	Samples taken 05/06	Planned 06/07	Officer days*
Food Hygiene	194	71	142	71
Food Standards	124	166	120	60
Feed	20	19	25	12.5

\*Assumes 2 samples per day

### 3.6 CONTROL & INVESTIGATION OF OUTBREAKS & FOOD RELATED INFECTIOUS DISEASES

The Infectious Disease Incident (IDI) investigation process involves both the Berkshire Health Protection Team (BHPT) & the Food, Agriculture & Animal Health service. It responds swiftly to secure accurate epidemiological data from the patient.

#### **HIGH RISK**

- Multiple Cases
- Food Handlers
- Vulnerable Groups
- E.Coli 0157 cases

Information provided by the BHPT is processed and categorised as LOW or HIGH risk. High risk incidents are investigated by officers to identify the cause of the illness.



## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

Officers investigate implicated premises in the West Berkshire Council area. Otherwise the appropriate department will be contacted and informed of the case details. There is close liaison with medical practitioners and patients at all times.

### **LOW RISK**

- Isolated Cases
- Non-food Handlers

Officers investigate the possible causes of illness by looking at patient diet and activity history in low risk cases. If trends are identified officers may re-define the case as high risk i.e. if a patient's illness is linked to another case.

Data is fed into the Regional and National statistics for Infectious Disease.

The Service investigates numerous IDI's (outbreaks) with over 50% of cases coming through direct from the public. Many others come via the Health Protection Agency. The most commonly reported causative agent is Campylobacter. See Figure 6 for related statistics and resource allocation.

**Figure 6 - Number of Infectious Disease Referrals:**

IDI's	05/06	Expected 06/07	Officer days
Food Hygiene	305	300	5

### **3.7 FOOD SAFETY INCIDENTS**

#### **FOOD ALERTS (formerly Food Hazard Warnings)**

Food Alerts are the Food Standards Agency's way of letting local authorities and consumers know about problems associated with food and, in some cases, provide details of specific action to be taken.

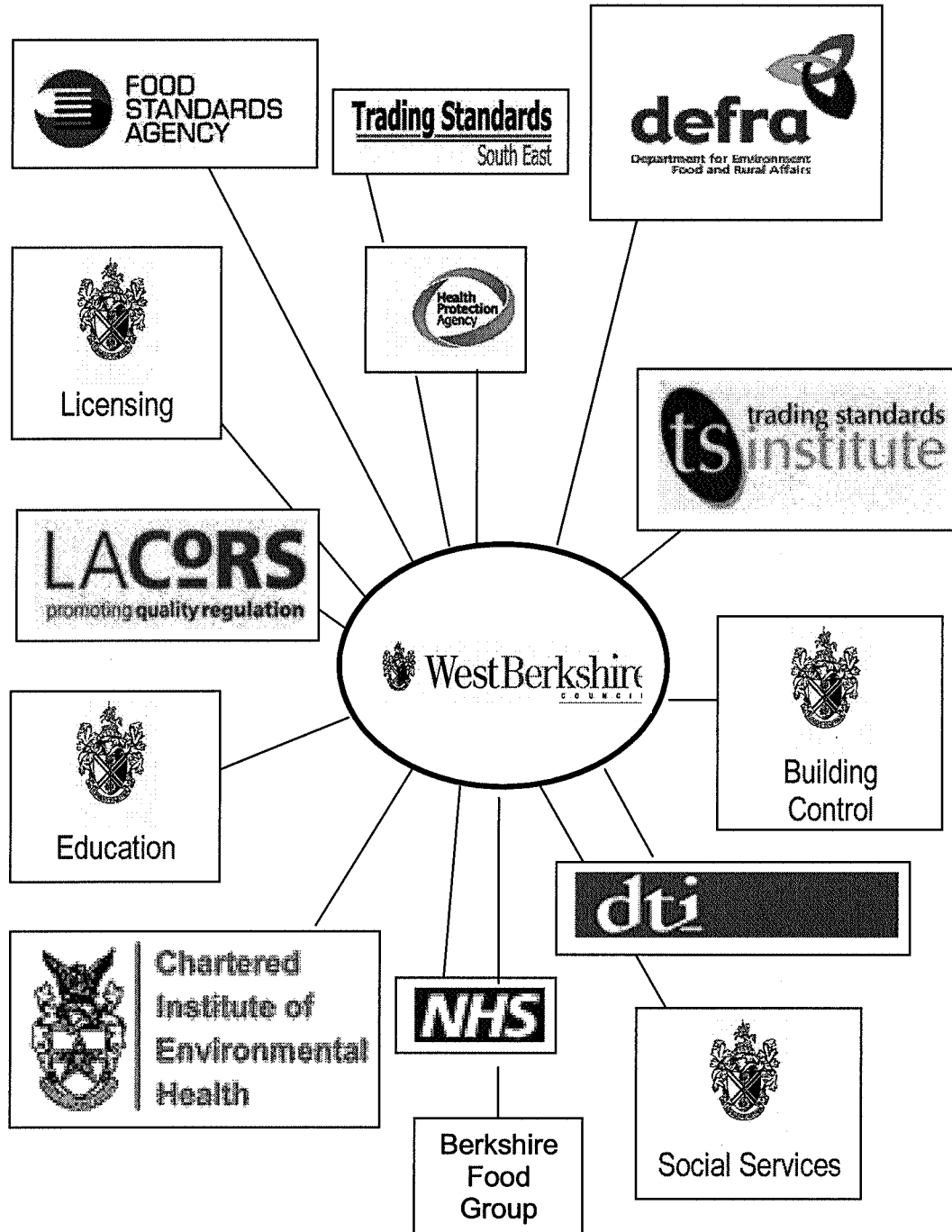
The Service deals with many alerts each year, which require various levels of action including contact with local suppliers and distributors to ensure that products are recalled from sale. In 2005/06 67 were received. See Figure 7 for related statistics and resource allocation.

**Figure 7 – Number of Food Hazard Alerts**

Food Hazard Alerts	05/06	Expected 06/07	Officer days
	67	50	Absorbed into officers workload.

# FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

## 3.8 LIAISON WITH OTHER ORGANISATIONS



## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

### 3.9 FOOD & FEEDINGSTUFFS SAFETY & STANDARDS PROMOTION

#### **Business Education Initiatives 05/06.**

In 2005/06 the service carried out promotional activities at the local Business Link seminars which were held 8 times during the course of the year. The service also linked with all other Berkshire authorities in promoting the Food Standards Agency Safer Food Better Business campaign which involved holding a seminar and working with targeted businesses.

#### **Business Education Initiatives 06/07.**

The Service will continue to attend the Business Link seminars and will be also promoting the new website: [www.tradingstandards.gov.uk/westberks](http://www.tradingstandards.gov.uk/westberks), which holds specific guidance leaflets aimed at food businesses. This site will also provide information on a full range of trading standards legislation as well as information about the Service's activities.

#### Berkshire Food Award

The Berkshire Safe Food Award is a scheme that is to run across all the Berkshire Local Authorities to highlight those catering businesses which are operating high standards of hygiene and food safety in their premises.

Through the awarding of either a Pass, Bronze, Silver or Gold we aim to recognise the efforts and commitment of these businesses and to encourage other caterers operating at a lower standards to put in the extra effort required to achieve a higher award.

Total Officer Days: 25 days

#### **Consumer Education Initiatives 05/06.**

##### Consumer Education Bid – Healthy Food on a budget

Both food standards and food hygiene activities were also promoted to target audiences of young mothers using resources gained from a successful bid from the Local Authority Education Service. 12 courses were held where participants were provided with information about food hygiene, food labelling, and nutrition linking in with the Primary Care Trust dieticians. A local chef gave a cookery demonstration on how to cook healthy nutritious meals on a budget and a recipe book was also devised. In addition to this a free crèche was offered to assist parents in attending the course.

##### Attendance at local events:

Newbury Show – the authority had a stand at the show promoting the work of the Service by providing leaflets and using competitions to help educate members of the public about food hygiene and food standards work.

Prosperous Farm – Food Officers taught local children the importance of food hygiene and hand cleaning.

##### Food Safety Week

During June 2005 Officers from the Service focused on the importance of hand washing and visited 2 day care centres, and 2 schools. They also spent the day at the local

## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

shopping centre showing members of the public how to wash their hands thoroughly and providing them with information leaflets.

### Consumer Education Initiatives 06/07.

#### Healthy Eating on a budget

The success of the 12 courses held in 2005/06 has led to several requests from local community groups for further similar courses to be held and it is hoped that at least a further 5 courses will be held over the course of the coming year.

#### Attendance at local events

The Service will be attending the Newbury Show once again this year and also intends to participate in at least another 2 events in 2006/07.

#### Food Safety Week

This year the focus of Food Safety Week, which takes place in June each year, looks at the 4 C's; Cooking, Cleaning, Chilling and Cross-Contamination. Local school children will be invited to participate in a nationwide poster competition, and 5 or more schools will be visited by Officers from the Service who will demonstrate, using light boxes the need for hand cleaning and also how important the 4 C's is in their everyday lives.

Total Officer Days: 45 days

## 4. RESOURCES

### 4.1 FINANCIAL ALLOCATION

The total expenditure on Food Hygiene & Standards, and Feedingstuffs enforcement will be £xx 2006/7. The total gross operating budget for Animal Health is xx although there is income of xx

The costs of supporting legal action are re-charged to the service unit and must be met from existing budgets.

The main source of income for the team is the Food Hygiene Training that we provide. As a team we run Training for both West Berkshire and Wokingham residents, total income for the team will be approximately £xx in 2006/7.

### Food, Agriculture & Animal Health Cost-centre Breakdown – 2006/2007

#### 4.2 STAFFING ALLOCATION

Activity	EH Officer Days	TS Officer Days
Food Hygiene Inspections	308	0
Food Standards Inspections	0	110
Food Complaints/Enquiries	180	25
Food Hygiene Sampling	71	0
Food Standards Sampling	0	60
Fertiliser and Animal Feedingstuff Sampling	0	12.5
Infectious Disease Control	5	0

## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

Approval of Product Specific food premises	1	0
Registration of Animal Feed Manufacturers and Intermediaries		10
Food Hygiene Training	6	0
Food Health/Standards/ Animal Health Promotions	35	35
Animal Health and Welfare Inspections		
Animal Movement Licences		
<b>Total Officer Days</b>	<b>606</b>	<b>(142.5)</b>

All figures are estimates based on current need and previous data.

### 4.3 STAFF DEVELOPMENT PLAN

We are committed to the training and development of its staff and have developed a comprehensive 'Training and Development Strategy'.

Twice each year staff training needs and competence are fully assessed as well as being monitored through a series of formal and informal briefings. This process cascades through the service and takes in all members of staff. Most training is provided by external training organisations including:

- The Trading Standards Institute
- The Chartered Institute of Environmental Health
- South Western Provincial Council Employers Organisation
- Trading Standards South East Ltd

In addition all food and feedingstuffs related material received by the Service is assessed and where necessary circulated to staff. Any ongoing matters are discussed at team meetings or regular one-to-ones. All members of staff are encouraged to contribute to the development of the Public Protection Annual Service Plan and have contributed to the development of this Food Plan. The service proposals set out in this document are taken into account when assessing training needs.

## 5. QUALITY ASSESSMENT

### 5.1 QUALITY ASSESSMENT

The Service currently holds no external accredited awards for its work in the area of food and feedingstuffs enforcement. Consideration is now being given to ISO 9002 series accreditation for the whole of the Trading Standards and Food function. However, we have been awarded the Community Legal Service Quality Mark for Trading Standards and Food work. The standard achieved was General with Casework.

Established principles are followed when developing the food and feedingstuffs enforcement service. For example, the development of the Service takes account of the Business Excellence Model as developed by the Society of Chief Trading Standards Officers. Additionally, the training and development of staff follows the principles of

## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

Investors in People in that the training and development plan can be linked directly to service as well as individual need.

Performance is monitored on a monthly basis against the overall programme of work for the year and against individual targets as laid down through the employee performance management system. For most statistical data the FLARE premise database is employed.

Regular assessment of performance against this plan will take place and the results fed back to the Executive Member via the Public Protection Management Team. Where appropriate, Member review would be undertaken by the Overview and Scrutiny Committee.

### 6. REVIEW

#### 6.1 REVIEWS AGAINST THE SERVICE PLAN

The Council will continually review its performance against this plan. It will seek continuous improvement year on year and performance will be recorded and fed through officers to the relevant Member forum. The review process is as follows:

Annually	<ul style="list-style-type: none"><li>• Develop plan and submit for member approval</li><li>• Submit plan to Food Standards Agency (FSA)</li><li>• Staff annual reviews</li></ul>
Six Monthly	<ul style="list-style-type: none"><li>• Report performance against plan</li><li>• Six monthly staff performance and training reviews</li></ul>
Quarterly	<ul style="list-style-type: none"><li>• Performance report prepared for FSA</li></ul>
Monthly	<ul style="list-style-type: none"><li>• Performance reported to PPS management team</li><li>• Staff one to ones</li><li>• Monitoring of performance using FLARE</li><li>• Budgets monitored</li><li>• Response times monitored using FLARE</li></ul>

#### 6.2 IDENTIFICATION OF ANY VARIATION FROM THE SERVICE PLAN

The Plan seeks to lay down the foundation policies on which officers can deliver the service for the West Berkshire area. The Service is currently carrying vacancies which will affect delivery of this Plan. This will be managed appropriately, targets will be adjusted and risk assessment & management techniques employed to ensure activities are concentrated on higher risk issues.

##### 6.2.1 Key Issues

The last year has proved another challenging one for the food team. Included amongst the key challenges were:

- Ongoing recruitment and retention issues.
- An increase in food related businesses in the area.

## FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES

- 'Catch-up' with Food Hygiene and Standards inspections.
- The need for ongoing improvements to the premise database.

### 6.2.2 Food Team Staffing Issues

As from 2006/07 the Environmental Food team will be fully staffed and the planned food hygiene inspections should be completed for this year. As from April 2006/07 there will be one fully qualified food standards inspector in post and assistance in meeting the inspection targets will come in the form of a contractor who will be working on a regular basis each month.

### 6.2.3 Inspections

During 2005/06 food hygiene inspectors focused on premises risked A – D, visiting both overdue and due premises. The authority has managed to complete 100% of visits for A, 98% of B premises, 81% of C premises and 62% of D premises. The team will be fully staffed as from May 2006 and therefore plans to visit 100% of A-D premises in addition to taking appropriate action on AES category premises.

Unfortunately during 2005/06 no fully operational food standards inspectors have been in post, but the authority have managed to complete 100% of high-risk premises and 84% of medium risk premises by employing contractors. As from April 2006 there will be one fully operational food standards inspector and a regular contractor who will be able to undertake high and medium risk inspections.

### 6.2.4 Improvements to the Premise Database

Maintenance of any database is always an issue. In the main this is due to new premises, closing premises and premises changing hands. An 'E TSN'<sup>2</sup> project is due for implementation during the year, which will lead to a more accurate & comprehensive database.

### 6.2.5 Information Available to the Public

This has been another area of success with several new guidance leaflets being made available to the public and businesses. This information includes leaflets on the main infectious diseases, guidance for new food businesses, and guidance on HACCP for food businesses and information on training courses available. All this material and other information on the work of the team is available on the new improved food area of the West Berkshire website. In addition to this the authority has also implemented a new trading standards website – [www.tradingstandards.gov.uk/westberks](http://www.tradingstandards.gov.uk/westberks) which will provide comprehensive consumer and business advice on food standards and animal welfare issues.

## 6.3 AREAS OF IMPROVEMENT

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<sup>2</sup> Electronic Trading Standards National – national database containing Trading Standards information about business.

## **FOOD PLAN 2006/ 08. PUBLIC PROTECTION SERVICES**

We are continually striving to improve the efficiency of the service we provide. Below we have identified key areas for improvement for 2006/2007:

1. Continue to improve & increase joint work between food standards and food safety disciplines
2. Develop partnerships both internally & externally
3. Achieve 100% inspection rate for all food premises
4. Recruitment to fill vacant posts
5. Improve performance management process
6. Improve public access to appropriate information



## Individual Decision

<b>Title of Report:</b>	<b>Thames Path National Trail at Purley On Thames Creation Orders</b>		
<b>Report to be considered by:</b>	<b>Geoff Findlay</b>	<b>on:</b>	<b>25<sup>th</sup> May 2006</b>
<b>Forward Plan Ref:</b>	<b>ID1194</b>		

### Purpose of Report:

To authorise the making of Creation Orders to create this section of the Thames Path National Trail.

### Recommended Action:

That the Council authorises the making of the Creation Orders on the Purley on Thames section of the Thames Path National Trail.

### **Reason for decision to be taken:**

To comply with Decision to create this National Trail by the Secretary of State.

### **List of other options considered:**

Path Agreements by negotiation.

### **Key background documentation:**

- Notification of Decision by Secretary of State
- Office Copies of example affected properties in Hazel Road
- Map showing the sections of Thames Path through Purley
- Highways Act 1980 s26
- Valuation Report from Michael Murphy regarding the Hazel Road properties

<b>Portfolio Member:</b>	Councillor Geoff Findlay
<b>Tel. No.:</b>	01635 871992
<b>E-mail Address:</b>	GFindlay@westberks.gov.uk

### **Contact Officer Details**

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## Supporting Information

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### 1. Background

- 1.1 The Thames Path follows England's best known river for 184 miles (294km) as it meanders from its source in the Cotswolds through several rural counties including West Berkshire and on into London. On its way the Trail passes areas of countryside rich in wildlife, historic towns and villages, finishing at the Thames Barrier in Woolwich. Along with the Ridgeway National Trail, the Thames Path is a major countryside tourist attraction generating significant tourist income for the local rural economy.
- 1.2 The route of the path was first identified in the planning permission granted to West New Homes Ltd in September 1975, a piece of forethought that allowed the path to be brought into existence at some future stage. Essentially the route is identified in the rear gardens of the property (Appendix 2). Unfortunately the construction of the path was never enforced.
- 1.3 In September 1989 the Secretary of State approved the proposed route (Appendix 1) and directed the highway authorities to create the Thames Path having considered:
- Pressures and problems created by land change use along the river banks.
  - The committed support of the various local authorities along the route.
  - Representations from many sources, both for and against, and concluded that overall the scheme is of merit and the route the optimum one available.
  - Potential conflicts between users *i.e.* horseriders, cyclist and pedestrians and concluded that all new stretches of path should be pedestrian use only.
  - Ongoing opportunities to be taken for disabled access.
  - The rigorous consultation exercise undertaken by the Countryside Commission (now Countryside Agency) and concluded that the various objections raised, including those by local residents and landowners, are outweighed by the benefits to the public. However, implementation of the route in contentious areas should be preceded by local negotiations.
  - Minor adjustments to the route where development has occurred *e.g.* at Point Wharf in London are permissible without formal amendment of the report.
  - The fact that the Thames Path will be unique in both historical and cultural interest, the first long distance route to follow a river and to start and end in the capital city, and prove a vital tourist attraction, justifies the resources expended on its implementation.

### 2. Establishing the Thames Path

- 2.1 The Thames Path in Purley presently runs along residential roads which is not desirable given its status as a National Trail. This route is currently at variance with the route approved by the Secretary of State. This is as a result of the difficulties each successive highway authority has had in establishing the path in its correct route. Most problematic is the length of path which should run at the rear of properties in Hazel Road, Purley, section C on the map at Appendix 3.
- 2.2 Berkshire County Council first encountered difficulties when it discovered that the original developer of the properties at Hazel Road had not implemented the conditions of the original planning consent, In effect the path did not exist on the ground. There were then difficulties with the legal transfer of the land following the successive changes of developer of the properties. The Highway Authority at the time decided that the implementation of the path would be too 'resource hungry' for the perceived benefit.

- 2.3 Since 1989 there have been repeated attempts to fulfil the Secretary of State's direction to put the path in place on the ground. Each attempt to establish the path has been met with considerable opposition from the affected landowners, resulting in temporary abeyances.
- 2.4 There are two legal options for creating the Thames Path:
- (1) Public Path Agreement entered into with the landowner on a voluntary basis after mutual agreement over the route and conditions. This is the option which Officers' have pursued to date.
  - (2) Creation Order (Appendix 4) imposed on the landowner by the District Council in cases where there is a demonstrable public need for the path but the landowner is unwilling to enter into a Public Path Agreement. It may or may not instigate a Public Inquiry. It also carries an option for the landowner to apply for compensation at the Lands Tribunal, after a minimum of 6 months public usage of the path has elapsed and is in respect of detriment to the Property which has been occasioned due to such public usage.
- 2.5 Officers have followed the recommended approach of the Countryside Agency and landowners have been invited to sign a Path Agreement dedicating the allocated strip of land (which is in their ownership) for the public path use, whilst retaining ownership of the subsoil. In return, all costs have been offered plus any extra mitigation measures such as fencing and planting. This has resulted in three Path Agreements being signed.

### 3. The Current Situation

- 3.1 The table below refers to the map at appendix 3 and provides details of the landowner and whether an Agreement has been entered into;

Section (refers also to map):	Landowners	Signed
A) Across the public open space of Thames Reach	Purley Parish Council	N/A
B) Through the back of Purley Gardens Marina	Owned jointly by 2 brothers – 1 local and 1 in York	No
C) Under the railway through an existing accommodation arch	Network Rail	No
D) Through Purley Park	Purley Park Trust	Yes
E) Along an existing strip of land at the back of the gardens of six properties in Hazel Road	6 individual landowners	2 Yes 4 No
F) From Hazel Road to Marshall Close along an alleyway	Adopted highway – Highway authority	N/A
G) Along the pavements of Marshall Close and Skerritt Way	Adopted highway – Highway authority	N/A
H) Through Skerritt Woods	Purley Beeches Residents Association	No

- 3.2 Thus there are a total of ten private landowners involved plus three publicly owned sections. Of the ten private landowners, unfortunately only three have signed Path Agreements.
- 3.3 Officers' now believe that Creation Orders provide the most effective means of establishing the Thames Path. This is for the following reasons:
- Ongoing negotiations to secure Path Agreements are costly in terms of staff time.
  - Each time discussions with owners take place their legal costs also increase. Although these are payable by the Countryside Agency, it is in all parties interests to make sure they do not escalate.
  - Creation Orders will bring current time consuming and costly negotiations to an end and allow the Secretary of State's Direction to be carried out.
- 3.4 Should there be a public enquiry, the Council will be required to demonstrate a 'public need' for the private sections. This can be done most effectively by showing that the path has been fragmented and the areas in question are isolated and without which the path cannot be used by the public.

#### 4. Establishing the Thames path by Creation Order

- 4.1 Section A - Across the public open space of Thames Reach. This is owned by Purley Parish Council who support the proposed route. Creation Order not required.
- 4.2 Section B - Purley Gardens Marina. This land is owned by two brothers. One lives locally and is willing to dedicate the land for the path. The other owner seeks the construction of a large brick wall to replace the present unmaintained fencing to enhance the security of the Marina. This requirement would be prohibitively expensive to construct and too confining for the route of the path. It is Officers' view that as the existing security fence has been breached in several locations and has not been repaired this argument could be considered invalid. Correspondence has lapsed due to the time consuming negotiations with the Hazel Road residents (see below) but Officers intend to reopen negotiations when Hazel Road legalities are complete. A Creation Order will be required if these future negotiations fail again.
- 4.3 Section C - Accommodation arch under railway. Over the years Railtrack (Network Rail) have insisted that a licence to put the path through the arch will only be granted if West Berkshire Council take over the maintenance of this structure. This would take the form of an annual bill for their existing inspections, which they are required to carry out by statute as they own the structure which holds up their railway. This has always been considered unacceptable and this Council would not be prepared to undertake such a maintenance agreement. We intend to reopen negotiations when the Hazel Road legalities are complete. A Creation Order will be required if these future negotiations fail again.
- 4.4 Section D - Purley Park. A Path Agreement came into force on 20th January 2003. The public do not yet have access to this section as it is unsafe. Creation Order not required.
- 4.5 Section E - Hazel Road Properties. This has been the source of the most difficult negotiations to date:
- (1) No.45 - The owners have expressed a willingness to sign the Path Agreement but so far have not done so despite repeated invitations and deadlines to do so. All correspondence and meetings have included the information that their legal bills will only be met if they sign. We understand that a QC was instructed but we agreed to pay for this only if we received a copy of the findings. So far this has not been sent. The owners also requested an independent valuation of the land in question in terms of loss of amenity, at West Berkshire

Council's expense. This has been done and the results sent to them showing that there would be a nil value lost or gained by the provision of the path. We have not received any further indication that they are ready to sign the Path Agreement and the final deadline has now passed. They have recently requested copies of documents relating to their original house purchase searches which we have supplied.

- (2) No.47 – As No. 45 with the added complication that whereas the owner has expressed a willingness to sign a Path Agreement, they are insisting on sight of a full specification of the works and detailed technical drawings before completion. Such detail will not be available until a contractor is appointed to undertake the work once the path is legally established by either Path Agreement or a Creation Order.
- (3) No.49 – As No. 45.
- (4) No.51 - As No. 45 although requests for increased fencing and planting were agreed at a meeting between Officers and the owners, a request was then made for a second independent valuation. That request, which was extended to cover all the four remaining properties, was met and the valuation (Appendix 5) passed to their solicitors. Subsequently, the owners have sent several letters of complaint regarding the disturbance to their property the path is likely to provide. These were sent to their MP, the Chief Executive, the National Trails Office and the local Ombudsman. These complaints were dismissed by the ombudsman.
- (5) No.53 – Signed Path Agreement but not yet received by WBC from the owner's solicitor. Therefore their legal fees have not yet been reimbursed, although we understand that they paid them directly to the solicitor, against our advice. Creation Order required if the signed Agreement is not received in due course.
- (6) No.55 – Signed Path Agreement with extra fencing negotiated and agreed.

4.6 Officers believe that Creation Orders are now the optimum way forward for the remaining four Hazel Road properties.

4.7 Section F - Alleyway from Hazel Road to Marshall Close. These are in public ownership, there are no issues. Creation Order not required.

4.8 Section G - Pavements of Marshall Close and Skerritt Way. These are in public ownership, there are no issues. Creation Order not required.

4.9 Section H – Through Skerritt Woods. These are owned by Purley Beeches Residents Association. Verbal negotiations resulted in the Association's decision not to sign a Path Agreement but that the members would not oppose a Creation Order. A Creation Order is now required.

## 5. Costs

5.1 Had the Public Path Agreements been completed there was agreement that the Solicitors' reasonable legal fees would be payable by the Council. Each time negotiations take place the owners legal costs increase. It is Officers view that the Agreement route has been exhausted. As the Council is now proposing to proceed with Creation Orders due to the difficulties in obtaining the Public Path Agreements, no legal fees will be paid and it is likely that if the Council is required to proceed with a public inquiry that costs will be requested against the Council. The Planning Inspector will then send his papers to the Secretary of State (S of S) for her response. If the S of S decides that costs are to be awarded against the Council then these are payable by the Countryside Agency. It is impossible to tell what the scale of these costs will be.

- 5.2 The other costs likely to be expected will be compensation due to any of the owners if they successfully obtain compensation payments against the Council. This is estimated in a valuation by Michael Murphy Associates of the 2<sup>nd</sup> March 2006 (appendix 5). Taking into account the conditions of the planning consents the value of the land (which could be used by the owners of the land to prove loss of amenity value within each property) is approximately £3,500/plot. A more costly scenario is also detailed in the report. If residents successfully argue that the original planning conditions are not valid then the value of the land could be approximately £7,000/plot.
- 5.3 The Countryside Agency will be ultimately responsible for the payment of any costs which are recharged to the Council in respect of the success or failure of the proposed Creation Orders.
- 5.4 The costs of construction of the footpath are not likely to be excessive. Until negotiations with residents are completed and the path legally defined the actual construction costs cannot be accurately recorded, however construction costs will be covered by the Countryside Agency.

## **6. Conclusions**

- 6.1 The Agreements already in place have fragmented the remaining sections into islands which makes it easy to demonstrate the public need for the path at Public Enquiry if required, to augment the Secretary of State's decision.
- 6.2 In the interests of protecting the public purse, Creation Orders are now required to complete this requirement without further delay. The landowners will then have the opportunity to reclaim their legal fees at a Land Tribunal after six months of path usage has elapsed. It is in their interests also to not allow these bills to escalate beyond the amount reasonably expected to be the maximum amount awarded.
- 6.3 Officers recommend that the optimum way forward is to make Creation Orders for the following properties:
- (1) The Marina
  - (2) The Railway Arch
  - (3) 45 Hazel Road
  - (4) 47 Hazel Road
  - (5) 49 Hazel Road
  - (6) 51 Hazel Road
  - (7) Skerritt Woods

## **Appendices**

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1. Notification of Decision by Secretary of State
2. Office Copies of example affected properties in Hazel Road
3. Map showing the sections of Thames Path through Purley on Thames.
4. Highways Act 1980 s26
5. Valuation Report from Michael Murphy regarding the Hazel Road properties

## Implications

<b>Policy:</b>	Compliance with decision from Central Government, Secretary of State.
<b>Financial:</b>	Funding from Countryside Agency agreed
<b>Personnel:</b>	None
<b>Legal:</b>	Close liaison with Officers from legal section is required throughout the process.
<b>Environmental:</b>	None
<b>Equalities:</b>	The Thames Path National Trail has regard to the requirements of the Disability Discrimination Act in respect of access for disabled persons.
<b>Partnering:</b>	None
<b>Property:</b>	None
<b>Risk Management:</b>	None
<b>Community Safety:</b>	Constructing the path will formalise and make safe an existing dangerous area which is currently accessed by local children (trespassing) close to the mainline railway.

## Consultation Responses

<b>Members:</b>	
<b>Leader of Council:</b>	Graham Jones: No comments received.
<b>Overview &amp; Scrutiny Commission Chairman:</b>	Jeff Brooks: No comments received.
<b>Ward Members:</b>	John Chapman: Fully supports the measures proposed. Tim Metcalfe: No comments received.
<b>Opposition Spokesperson:</b>	Royce Longton: Strongly supports the making of Creation Orders.
<b>Policy Development Commission Chairman:</b>	Quentin Webb: Supports the recommended action.
<b>Local Stakeholders:</b>	Views included in the formation of this Report.
<b>Officers Consulted:</b>	Michele Sherman, Bill Jennison, Elaine Cox, Hilary Higgins
<b>Trade Union:</b>	

# **Appendix 1**

## **Notification of Decision by Secretary of State**





PRIVATE OFFICE  
29 SEP 1989  
RECEIVED

Department of the Environment  
Room 917.  
Tollgate House  
Houlton Street Bristol BS2 9DJ  
Telex 449321 Direct line 0272-218 178  
Switchboard 0272-218811  
GTN 2074

Adrian Phillips Esq  
Director General  
Countryside Commission  
John Dower House  
Crescent Place  
CHELTENHAM GL50 3RA

COUNTRYSIDE AND ENVIRONMENT  
24 JAN 2005

Our ref : DRA1/172/41

28 September 1989

Sir

1. I am directed by the Secretary of State for the Environment to say that he has considered the proposals by the Countryside Commission, submitted under Section 51 of the National Parks and Access to the Countryside Act 1949, for a Thames Path long distance route, and that he has also considered the representations made to him and to the Commission by interested parties.
2. The River Thames has for centuries been one of Britains's most important and well used river highways, and the principle of encouraging public access along its banks by means of this route running for 180 miles (290km) from the river's source at Kemble to the Thames Barrier at Greenwich, has received widespread support. The Secretary of State is aware of the particular problems posed by the creation of a riverside route, including the erosion of the riverbank, the possibility of flooding and, in urban areas, the difficulties at planning stage of reserving the river frontage. He recognises that there are many areas where minor changes to any proposed route may be necessary, because of the pace of change in land use in the Thames Valley. He also acknowledges that immediate proximity to the river will not be possible in all places, because of the risks of flooding, the presence of existing development or the nature of landownership and the need for security.
3. The Secretary of State has been made aware of the support for the Thames Path from County and District Councils who will be largely responsible for its implementation. He has particularly noted that the Path is supported by the relevant London Boroughs and is in all cases safeguarded by Borough Local Plans, although the proposed route in London only takes the riverside where implementation can be achieved within a 20 year period, and that in some cases the temporary route proposed by the Commission may become the dedicated route, if negotiations with riparian owners are unsuccessful. The Secretary of State is satisfied on all these counts with the principle of the Thames Path as proposed by the Commission, including a route through London.
4. Against that background, the Secretary of State has examined the proposed route in the light of the many representations received, both for and against the proposals. The implementation of the route is a matter for other procedures and it would be inappropriate for the Secretary of State to involve himself in detailed arguments at this stage, but before he can approve the Path, he must first be satisfied about the overall merits of the line of the route and that objections to it are of such a nature that they can be met by subsequent arrangements or negotiations, or that they are outweighed by other factors. The Secretary of State has therefore considered all the representations received by the Commission or subsequently sent directly to him.

5. There have been representations to increase shared use of the route by cyclists and horseriders. The opportunities for this are limited because of the potential for conflict with walkers and increased surface damage. In all, 13 miles (20.9km) of the route has already been designated as cycleway, and 9 miles (14.6km) as bridleway. In view of the concern expressed by landowners and the public about potential conflict with cyclists and horseriders, the Secretary of State accepts the Commission's recommendations that no new stretches of bridleway should be designated at present. However, this does not preclude future negotiations with local authorities for further stretches of cycleway or bridleway, in accordance with the usual procedures for upgrading public paths, where this can be achieved without prejudicing the safety and enjoyment of other users, or destroying the character of the path and its surrounding area.

6. The Commission have considered existing suitability and opportunities for improvements to enable wider access by the infirm, elderly and wheelchair users. Although the path is physically suitable for use by the disabled, there are as yet few suitable access points with car parks. Improvements have been suggested in some areas, and negotiation with user groups and local authorities should enable more facilities to be provided as the route develops. It is noted that an element for such improvements has been included in the Commission's annual maintenance costs, and that specific proposals have been drawn up for certain areas. The Secretary of State also welcomes the Commission's intention of publicising such facilities in guide books and associated leaflets.

7. The Secretary of State has considered especially carefully those parts of the route where there is unresolved controversy either with landowners or local residents. In particular, he has examined alternative routes put forward at Buscot, at Bourne End and at Shepperton. In all these cases, a crossing of the river by the Path is proposed either by the Commission or by objectors. The Secretary of State recognises that at these points fears about the impact of increased access are concentrated, and he has also noted that new bridges form a substantial capital cost of the project. Whilst he accepts that the Commission believe in each case they have proposed the most suitable route he considers the opportunity for discussion and negotiation before work is undertaken on planning or building the bridges or before creation orders in respect of new paths are made and advertised, should enable all the issues to be re-examined carefully. If necessary, or if temporary routes recommended by the Commission prove satisfactory, the Commission may consider applying for a variation of the route as approved.

8. The Secretary of State is satisfied that outstanding objections, (including objections by individual landowners) are either outweighed by the advantages of the proposed route or can be met in various ways when precise details of the route are worked out. He accepts that the Commission's proposals are the result of thorough consultation and consideration. Approval of the general line of the route will allow for detailed negotiation where a new path or bridge is necessary, and, in time, for the resolution of difficulties over temporary routes.

9. The Secretary of State acknowledges the concerns of some local residents but in all these areas he believes that effective management can minimise the impact of any increase in visitors, including increased use of existing rights of way. He is therefore prepared to accept the Commission's proposals should be approved without modification, providing in each case there is opportunity for further discussion with landowners and residents before the proposals are implemented, and he recommends particular attention should be paid to this. In each case, temporary routes (including short stretches of road walking) will allow walkers to enjoy continuous stretches of path while negotiations continue.

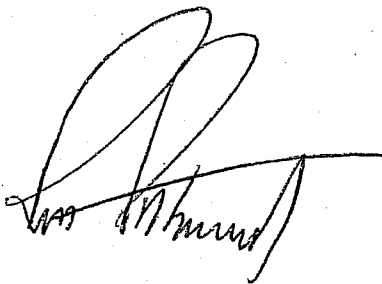
10. The Secretary of State notes that in London - for example at Point Wharf, Brentford - the pace of development has allowed the creation of a riverside route sooner than expected. He welcomes this, and considers that minor amendments to the proposed route can be accommodated by the Commission without formal amendment of the report.

11. The Thames Path will be unique in its historical and cultural interest: it will also be the first long distance route to follow a river and to start or end in the capital city. For these reasons, and those already mentioned above, the Path will attract many visitors, both local and foreign, and benefit local tourism: The Secretary of State notes the cost of implementation and maintenance, which are higher than for other approved routes. He is satisfied that the Commission have assessed these carefully and that they are reasonable, given the recreational value of the route. He welcomes the Commission's proposals regarding sponsorship although inevitably the speed of implementation will depend upon the extent to which the Commission can make funds available from their grant-in-aid, or attract commercial sponsorship for particular aspects of this prestigious project.

12. The Secretary of State therefore approves, without modification, the proposals submitted by the Countryside Commission for the Thames Path Long Distance Route, as set out in their Report of January 1989 and the Maps accompanying it.

13. I enclose copies of the letters which are being sent to the local authorities, notifying them of the Secretary of State's approval of the Commission's proposals.

I am Sir  
Your obedient Servant

A handwritten signature in black ink, appearing to read 'R M Pritchard', written over a horizontal line.

R M PRITCHARD

## **Appendix 2**

**Office Copies of example affected properties in Hazel Road**

## OFFICE COPY OF REGISTER ENTRIES

This office copy shows the entries subsisting in the register on **13 August 2002 at 12:11:23**.

This date **must be quoted as the 'search from date' in any official search** application based on this copy.

Under s.113 of the Land Registration Act 1925, this copy is admissible in evidence to the same extent as the original.

Issued on 13 August 2002.

This title is dealt with by the **Gloucester District Land Registry**.

## HM Land Registry

Title Number : **BK200091**



Edition Date : 29 August 1997

### A: Property Register

*This register describes the land and estate comprised in the title.*

- | COUNTY    | DISTRICT |
|-----------|----------|
| BERKSHIRE | NEWBURY  |
- (22 May 1931) The **Freehold** land shown edged with red on the plan of the above Title filed at the Registry and being 51 Hazel Road, Purley, (RG8 8HR).
  - The land has the benefit of the rights granted by but is subject to the exceptions and reservations contained in the Transfer dated 30 September 1982 referred to in the Charges Register.
  - The Transfer dated 30 September 1982 referred to above contains provisions as to light or air and boundary structures.
  - With effect from 1 April 1998 the land falls within the District of West Berkshire.

### B: Proprietorship Register

*This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.*

#### Title Absolute

- (29 August 1997) PROPRIETOR: DAVID JOHN GIBBINS and JULIE ANNE GIBBINS of 51 Hazel Road, Purley on Thames, Reading RG8 8HR.



2. (29 August 1997) The Transfer to the proprietor contains a covenant to observe and perform the covenants referred to in the Charges Register and of indemnity in respect thereof.

---

## C: Charges Register

*This register contains any charges and other matters that affect the land*

1. By a Transfer dated 12 June 1973 made between (1) Robert Francis Hugh Duncan and Elisabeth Irene Duncan (Transferors) and (2) Loverock Construction Limited (Transferee) the land in this title together with other land was transferred subject to the following rights:-

"THE said property is transferred subject:-

To the right of the Transferors and their successors in title to maintain in their present positions on the property hereby transferred (without any obligation on the part of the Transferors to define the same) all pipes wires cables conduits channels or other apparatus situate in on or over the property hereby transferred whereby main water gas electricity and the telephone service are connected to the remainder of the land comprised in the title above mentioned and the right to make free and uninterrupted use thereof Together with the right to enter upon the property hereby transferred from time to time as necessary for the purpose of inspecting cleansing repairing renewing and maintaining any such pipes wires cables conduits channels or other apparatus as aforesaid the Transferors or other persons exercising such right causing as little damage as possible to the land so entered on and forthwith making good at their own expense all surface and other damage thereby occasioned."

2. A Wayleave Consent dated 15 February 1978 made between (1) Purley Beeches Developments Limited and (2) The Southern Electricity Board contains provisions in the following terms:-

"CONSENT to The Southern Electricity Board (hereinafter referred to as "the Board") placing on or under the land the works described in the First Schedule hereto in the position (as near as may be) indicated in brown on the plan and using maintaining repairing replacing altering renewing inspecting and removing the same and to the Board entering on the land at all reasonable times by themselves their servants and agents for any of the purposes aforesaid."

NOTE:-The land referred to is tinted mauve on the filed plan in so far as it affects the land in this title; the works described in the First Schedule referred to is a low voltage underground cable, and the position indicated in brown referred to is shown by a brown broken line on the filled plan in so far as it affects the land in this title.

3. A Transfer of the land in this title dated 30 September 1982 made between (1) Mount Pleasant Developments Limited and (2) John Alfred Neville Webster and Frances Mary Webster contains restrictive covenants.

NOTE: Copy in Certificate.

4. (29 August 1997) REGISTERED CHARGE dated 1 August 1997 to secure the moneys including the further advances therein mentioned.

**C: Charges Register continued**

5. (29 August 1997) PROPRIETOR: HALIFAX PLC (Co. Regn. No. 2367076) of Trinity Road, Halifax, W Yorkshire HX1 2RG.
- 

**END OF REGISTER**

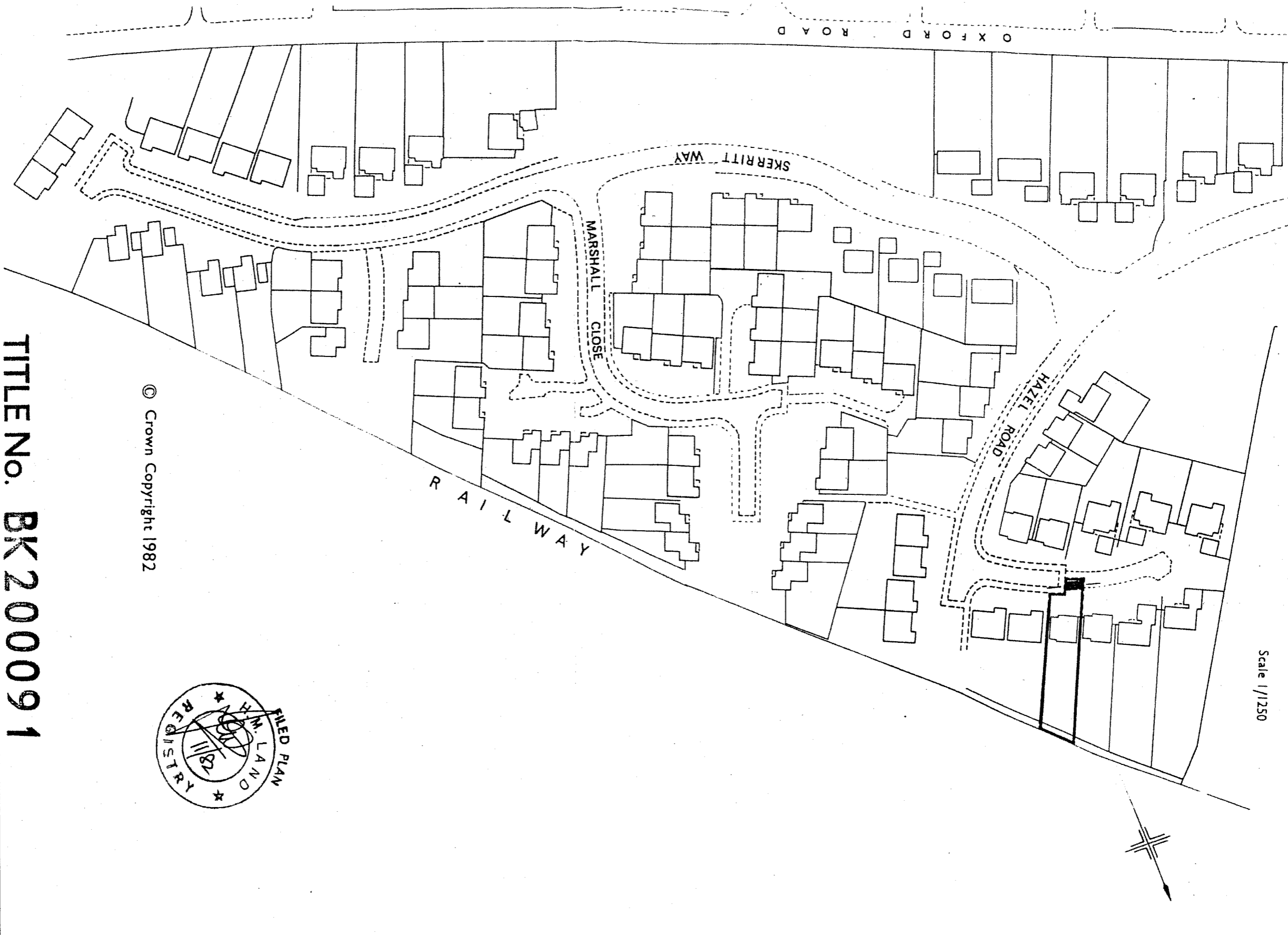
*NOTE: A date at the beginning of an entry is the date on which the entry was made in the Register.*



H. M. LAND REGISTRY

NATIONAL GRID PLAN SU 6675 SECTION J  
BERKSHIRE  
NEWBURY DISTRICT

Scale 1/1250



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**TITLE NO. BK200091**

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Issued on 13 August 2002.

This title is dealt with by the **Gloucester District Land Registry**.

# HM Land Registry

Title Number : **BK193336**



Edition Date : 4 February 1999

---

### A: Property Register

*This register describes the land and estate comprised in the title.*

#### WEST BERKSHIRE

1. (22 May 1931) The **Freehold** land shown edged with red on the plan of the above Title filed at the Registry and being 49 Hazel Road, Purley, (RG8 8HR).
2. The land has the benefit of the rights granted by but is subject to the exceptions and reservations contained in the Transfer dated 29 January 1982 referred to in the Charges Register.
3. The Transfer dated 29 January 1982 referred to above contains provisions as to light or air and boundary structures.

---

### B: Proprietorship Register

*This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.*

#### Title Absolute

1. (27 March 1991) PROPRIETOR(S) : ANTHONY CHARLES JACKSON and SUZANNE CECILIA HARPER both of 49 Hazel Road, Purley, Reading, Berks RG8 8HR.



## C: Charges Register

*This register contains any charges and other matters that affect the land*

1. By a Transfer dated 12 June 1973 made between (1) Robert Francis Hugh Duncan and Elisabeth Irene Duncan (Transferors) and (2) Loverock Construction Limited (Transferee) the land in this title together with other land was transferred subject to the following rights:-

"THE said property is transferred subject:-

To the right of the Transferors and their successors in title to maintain in their present positions on the property hereby transferred (without any obligation on the part of the Transferors to define the same) all pipes wires cables conduits channels or other apparatus situate in on or over the property hereby transferred whereby main water gas electricity and the telephone service are connected to the remainder of the land comprised in the title above mentioned and the right to make free and uninterrupted use thereof Together with the right to enter upon the property hereby transferred from time to time as necessary for the purpose of inspecting cleansing repairing renewing and maintaining any such pipes wires cables conduits channels or other apparatus as aforesaid the Transferors or other persons exercising such right causing as little damage as possible to the land so entered on and forthwith making good at their own expense all surface and other damage thereby occasioned."

2. A Wayleave Consent dated 15 February 1978 made between (1) Purley Beeches Developments Limited and (2) The Southern Electricity Board contains provisions in the following terms:-

"CONSENT to The Southern Electricity Board (hereinafter referred to as "the Board") placing on or under the land the works described in the First Schedule hereto in the position (as near as may be) indicated in brown on the plan and using maintaining repairing replacing altering renewing inspecting and removing the same and to the Board entering on the land at all reasonable aforesaid times by themselves their servants and agents for any of the purposes aforesaid."

NOTE:-The land referred to is tinted blue on the filed plan; the works described in the First Schedule referred to is a low voltage underground cable, and the position indicated in brown referred to is shown by a blue broken line on the filed plan.

3. A Transfer of the land in this title dated 29 January 1982 made between (1) Mount Pleasant Developments Limited and (2) John David Robinson and Lesley Anne Robinson contains restrictive covenants.

NOTE: Copy in Certificate.

---

## END OF REGISTER

NOTE: A date at the beginning of an entry is the date on which the entry was made in the Register.

II. M. LAND REGISTRY.

NATIONAL GRID PLAN  
BERKSHIRE  
NEWBURY DISTRICT

SU 6675

SECTION J

Scale 1/1250



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**TITLE No. BK 193336 /**

*AKA*

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Issued on 13 August 2002.

This title is dealt with by the **Gloucester District Land Registry**.

# HM Land Registry

Title Number : **BK194579**



Edition Date : 20 June 2000

---

### **A: Property Register**

*This register describes the land and estate comprised in the title.*

#### WEST BERKSHIRE

1. (22 May 1931) The **Freehold** land shown edged with red on the plan of the above Title filed at the Registry and being 47 Hazel Road, Purley, (RG8 8HR).
2. The land has the benefit of the rights granted by but is subject to the rights reserved by the Transfer dated 1 March 1982 referred to in the Charges Register.
3. The Transfer dated 1 March 1982 referred to above contains provisions as to light or air and boundary structures.

---

### **B: Proprietorship Register**

*This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.*

#### **Title Absolute**

1. (2 April 1982) PROPRIETOR(S): MICHAEL CHARLES WILLIAMS and JANICE VALERIE ROSE WILLIAMS his wife, both of 47 Hazel Road, Purley, Berks., RG8 8HR.

## C: Charges Register

*This register contains any charges and other matters that affect the land*

1. By a Transfer dated 12 June 1973 made between (1) Robert Francis Hugh Duncan and Elisabeth Irene Duncan (Transferors) and (2) Loverock Construction Limited (Transferee) the land in this title together with other land was transferred subject to the following rights:-

"THE said property is transferred subject:-

To the right of the Transferors and their successors in title to maintain in their present positions on the property hereby transferred (without any obligation on the part of the Transferors to define the same) all pipes wires cables conduits channels or other apparatus situate in on or over the property hereby transferred whereby main water gas electricity and the telephone service are connected to the remainder of the land comprised in the title above mentioned and the right to make free and uninterrupted use thereof Together with the right to enter upon the property hereby transferred from time to time as necessary for the purpose of inspecting cleansing repairing renewing and maintaining any such pipes wires cables conduits channels or other apparatus as aforesaid the Transferors or other persons exercising such right causing as little damage as possible to the land so entered on and forthwith making good at their own expense all surface and other damage thereby occasioned."

2. A Wayleave Consent dated 15 February 1978 made between (1) Purley Beeches Developments Limited and (2) The Southern Electricity Board contains provisions in the following terms:-

"CONSENT to The Southern Electricity Board (hereinafter referred to as "the Board") placing on or under the land (the works described in the First Schedule hereto in the position (as near as may be) indicated in brown on the plan and using maintaining repairing replacing altering renewing inspecting and removing the same and to the Board entering on the land at all reasonable times by themselves their servants and agents for any of the purposes aforesaid."

NOTE:-The land tinted mauve on the filed plan forms part of the land referred to the works described in the first schedule referred to is a low voltage underground cables, and the position indicated in brown referred to is shown by a brown broken line on the filed plan so far as it affect the land in this title.

3. A Transfer of the land in this title dated 1 March 1982 made between (1) Mount Pleasant Developments Limited and (2) Michael Charles Williams and Janice Valerie Rose Williams contains restrictive covenants.

NOTE: Copy in Certificate.

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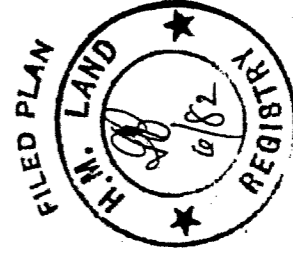
## END OF REGISTER

NOTE: A date at the beginning of an entry is the date on which the entry was made in the Register.

II. M. LAND REGISTRY

NATIONAL GRID PLAN SU6675 SECTION J  
BERKSHIRE NEWBURY DISTRICT

Scale 1/1250



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TITLE No. BK 194579

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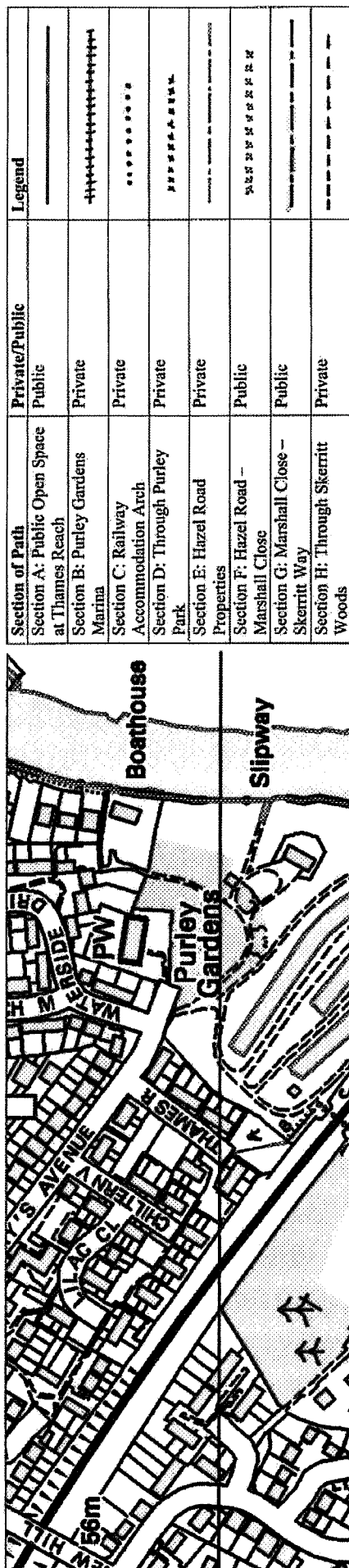


## **Appendix 3**

**Map of already secured sections of Thames path through Purley on  
Thames**

### Thames Path National Trail

Purley on Thames section



Section of Path	Private/Public	Legend
Section A: Public Open Space at Thames Reach	Public	—————
Section B: Purley Gardens Marina	Private	+++++
Section C: Railway Accommodation Arch	Private	.....
Section D: Through Purley Park	Private	-----
Section E: Hazel Road Properties	Private	.....
Section F: Hazel Road - Marshall Close	Public	-----
Section G: Marshall Close - Skerritt Way	Public	-----
Section H: Through Skerritt Woods	Private	-----

**PARISH BOUNDARIES**  
 Purley Park Marina  
 Purley Marina  
 Purley Gardens  
 Purley Park  
 Purley Park Marina  
 Purley Park Marina

**OS 1:500 LANDLINE DATA ANNO**  
 OS 1:500 LANDLINE DATA  
 OS 1:500 LANDLINE DATA INC.

**OS 1:500 LANDLINE DATA ANNO**  
 OS 1:500 LANDLINE DATA  
 OS 1:500 LANDLINE DATA INC.

**PARISH BOUNDARIES**  
 Purley Park Marina  
 Purley Marina  
 Purley Gardens  
 Purley Park  
 Purley Park Marina  
 Purley Park Marina

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05Apr2006  
 1:3000

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## **Appendix 4**

**Highways Act 1980 s26**

**26. Compulsory powers for creation of footpaths and bridleways**

- (1) Where it appears to a local authority that there is a need for a footpath or bridleway over land in their area and they are satisfied that, having regard to-
- (a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and
  - (b) the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in section 28 below, it is expedient that the path or way should be created, the authority may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed by them as an unopposed order, create a footpath or bridleway over the land.

An order under this section is referred to in this Act as a 'public path creation order'; and for the purposes of this section 'local authority' has the same meaning as in section 25 above.

- (2) Where it appears to the Secretary of State in a particular case that there is need for a footpath or bridleway as mentioned in subsection (1) above, and he is satisfied as mentioned in that subsection, he may, after consultation with each body which is a local authority for the purposes of this section in relation to the land concerned, make a public path creation order creating the footpath or bridleway.
- (3) A local authority shall, before exercising any power under this section, consult any other local authority or authorities in whose area the land concerned is situated.
- (4) A right of way created by a public path creation order may be either unconditional or subject to such limitations or conditions as may be specified in the order.
- (5) A public path creation order shall be in such form as may be prescribed by regulations made by the Secretary of State, and shall contain a map, on such scale as may be so prescribed, defining the land over which a footpath or bridleway is thereby created.
- (6) Schedule 6 to this Act shall have effect as to the making, confirmation, validity and date of operation of public path creation orders.

Note: by virtue of the Environment Act 1995 Sch 9 para 11, this section has effect as if references to a local authority included references to a National Park authority and as if the relevant Park were the authority's area. The regulations are the Public Path Orders Regulations 1993 (p 579). See CRWA 2000 s 58 (p 549) for the power to apply for creation orders for rights of way to be created to give access to access land within the meaning of Part I of that Act.

*Text:* pp 168, 169, 195

**27. Making up of new footpaths and bridleways**

- (1) On the dedication of a footpath or bridleway in pursuance of a public path creation agreement, or on the coming into operation of a public path creation order, being-
- (a) an agreement or order made by a local authority who are not a highway authority for the path in question; or
  - (b) an order made by the Secretary of State under section 26(2) above in relation to which he directs that this subsection shall apply,
- the highway authority shall survey the path or way and shall certify what work (if any) appears to them to be necessary to bring it into a fit condition

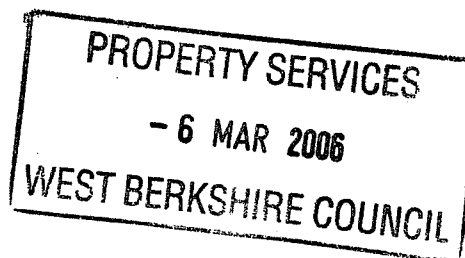
## **Appendix 5**

**Valuation Report from Michael Murphy regarding the Hazel Road  
properties**

2<sup>nd</sup> March 2006

Your Ref: CB/pc/201/98/43.4  
Our Ref: MJMT/bl/9803

Colin Broughton Esq  
Estates Officer  
West Berkshire Council  
Council Offices  
Market Street  
Newbury  
Berks. RG14 5LD



Dear Colin

**HAZEL ROAD PURLEY ON THAMES FOOTPATH DEDICATION  
COVERING LETTER 29<sup>th</sup> FEBRUARY 2006**

I refer to my letter of the above date giving further thoughts on value sums on the basis of your Council's given assumptions.

I would re-iterate that the figures given in each instance are made up of three parts namely land take, injurious affection on the remaining property and additional future maintenance costs (i.e. new boundary fence etc).

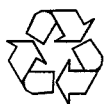
The figures are as agreed prepared for your Council's negotiation purposes and are therefore outside the provisions of the RICS Appraisal and Valuation Standards Manual. Should your Council ultimately wish to present valuation evidence at a Lands Tribunal the RICS suggests that the credibility of evidence given would be enhanced by its preparation under the RICS Appraisal and Valuation Standards.

Further to my conversation with Michele Sherman the valuation assumptions are given in item (3) and (4) in your letter are changed so as to combine into valuation (3) in my letter.

I would make a comment as to the valuation whereby your Council acquires the freehold of a 2 metre strip as against taking only a "Dedication" with the landowner retaining freehold. The Dedication is most likely to be in perpetuity and therefore the effect of the landowners opportunity to enjoy the land is effectively the same in each scenario. I have therefore placed a similar sum in each case for the 'land take' aspect of the valuation.

I trust the enclosed provides a suitable adequate additional information.

Looking however at the valuation approaches in this letter compared to my report of 29<sup>th</sup> September 2005, I believe there is a need for your Council, before taking valuation negotiations to Lands Tribunal, to identify the exact interest it may have in the 2 metre strip. My concern here would be whilst the planning consents clearly indicate the land being retained for a footpath (and public footpath) where is the legal agreement passing an interest in the same to your Local Authority, this I would have thought would have been made using a Section 106 Agreement, or equivalent former legislation (Section 50 something!).



Yours sincerely



**M J M THORNE**

E-mail: [mjmt@michaelmurphyassoc.co.uk](mailto:mjmt@michaelmurphyassoc.co.uk)

Encs.

2<sup>nd</sup> March 2006

Your Ref: CB/pc/201/98/43.4  
Our Ref: MJMT/bl/9803

Colin Broughton Esq  
Estates Officer  
West Berkshire Council  
Council Offices  
Market Street  
Newbury  
Berks. RG14 5LD



Dear Colin

**HAZEL ROAD PURLEY ON THAMES FOOTPATH DEDICATION  
COVERING LETTER 29<sup>th</sup> FEBRUARY 2006**

Thank you for your letter of 7<sup>th</sup> February requesting that I make a further appraisal of the effect on values of 45, 47, 49, 51 and 53 Hazel Road having regard to various further assumptions.

With regard to general comments and property descriptions I refer you to my earlier report of 29<sup>th</sup> September 2005.

I further confirm that I have sought clarification from both yourself and Michele Sherman on the exact requirements for this letter and now make my further report:-

- (1) "A valuation on the assumption West Berkshire Council has no entitlement to access the 2 metre strip as a footpath"

We have assumed for this scenario the approach is on a willing buyer/willing seller basis.

Assuming an unencumbered Title we are of the opinion the value of the interest of a 2 metre wide strip against the railway boundary for the respective properties is as follows:

No. 45 - £ 7,000  
No. 47 - £ 7,000  
No. 49 - £ 7,000  
No. 51 - £ 7,000  
No. 53 - £ 7,000

- (2) "A valuation taking account of the Planning Permission No. 115081 whereby Condition 10 of the Consent states land previously reserved for a footpath at the rear of Plots 54, 55, 56 and 57 shall be retained for that use and shall not form part of the residential curtilages of those plots".

I have studied the current plan of Hazel Road provided by your Council and the plan attached to the Planning Permission No. 115081 dated 29<sup>th</sup> April 1981 and have therefore based my valuation figures on the assumption the given plot numbers referred to are the equivalent house road numbers 45, 47, 49 and 51 respectively.



I have further studied Planning Permission No. 103225 dated 17<sup>th</sup> September 1975. Whilst I am not in possession of the entire drawings relating to the planning, the provisions of Clause 18 are "Provision shall be made in the layout for the construction of a footpath from the road in the north-west of the site to the boundary of the site with the railway and thence north-westwards to the boundary of the site". The layout and description of the drawing extract provided appears indicative of the property house road numbers 45, 47, 49, 51 and 53. The values given assumes all properties are similarly affected by a reservation for the footpath link.

On a willing buyer/willing seller approach and assuming an unencumbered Title save for the above footpath reservation, we are of the opinion the value of the 2 metre strip for the respective properties is:-

No. 45 - £ 3,500  
No. 47 - £ 3,500  
No. 49 - £ 3,500  
No. 51 - £ 3,500  
No. 53 - £ 3,500

- (3) "A valuation on the assumption that the footpath is established using a Public Path Creation Agreement whereby the owners are willing to dedicate the land as Highway whilst they retain ownership of the subsoil".

The figures put forward under this scenario are made on the assumption that conditions of the Planning Consents noted in (2) above have been met, i.e. the land reserved for a footpath does not form part of the curtilage of the dwellings, however acquisition of a legal interest (dedication) is to be made at today's date.

On the basis of the above assumption we are of the opinion value of the interest of a dedication of a 2 metre wide strip against a railway boundary is:-

No. 45 - £ 3,500  
No. 47 - £ 3,500  
No. 49 - £ 3,500  
No. 51 - £ 3,500  
No. 53 - £ 3,500

The figures and advice given in this letter are based on the probable outcome of current or impending negotiations and are therefore not prepared within the provisions of the RICS Appraisal and Valuation Standards Manual.

This report is prepared for West Berkshire Council only and for the purposes for which it was made and may not be relied on by third parties.

Yours sincerely



**M J M THORNE**

E-mail: [mjmt@michaelmurphyassoc.co.uk](mailto:mjmt@michaelmurphyassoc.co.uk)