

CABINET BRIEFING

Report for: Decision
Item Number:



<b>Contains Confidential or Exempt Information</b>	<b>Part 1 Excluding Appendix C which is Part II - Not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972</b>
<b>Title</b>	<b>Thames Path Missing Link</b>
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<b>Contact officer, job title and phone number</b>	Kevin Mist, Head of Leisure Services 01628 796443 Anthony Hurst, Principal Officer, Rights of Way 01628 796180
<b>Member reporting</b>	Cllr Eileen Quick
<b>For Consideration By</b>	Cabinet
<b>Date to be Considered</b>	29 May 2014
<b>Implementation Date if Not Called In</b>	2014/15
<b>Affected Wards</b>	Riverside
<b>Keywords/Index</b>	Thames, River, Path, Maidenhead, Riverside

<p><b>Report Summary</b></p> <p>This report seeks to complete the Thames Path National Trail missing link in front of 1-5 Bridge View, Ray Mead Road, Maidenhead.</p> <p>It presents Cabinet with three options for consideration; a riverside footpath, a roadside footway, a river pontoon.</p> <p>There has been a historic desire to complete this project and a riverside footpath is supported by the Council's Local Access Forum, the Ramblers, Maidenhead Civic Society, Natural England and the River Thames Society.</p>
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<b>If recommendations are adopted, how will residents benefit?</b>	
<b>Benefits to residents and reasons why they will benefit</b>	<b>Dates by which residents can expect to notice a difference</b>
Completing the missing link will provide residents with a safe route to enjoy the Thames Path and surrounding	May 2015

riverside environment.	
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## 1. Details of Recommendations

### RECOMMENDATION: That Cabinet:

1.1 Considers the three options set out in this report.

1.2 Approves the appropriate budget of the selected option to be provided in the 2014/15 capital programme, allowing a fund raising programme to be continued with potential partner organisations to raise additional grants towards the cost.

1.3 If options 2 or 3 are selected, the Rights of Way and Highways Licensing panel is recommended to proceed with a Public Path Creation Order or Agreement.

1.4 If options 1 or 3 are selected, a report is submitted to the Rights of Way and Highways Licensing Panel informing them of the decision.

## 2. Reason for Recommendation(s) and Options Considered

2.1 There has been a historic desire to complete the Thames Path National Trail along the river frontage of Ray Mead Road where currently there is a gap in the riverside footpath.

2.2 There is also a gap in the existing roadside footway between the Bridge View properties and Ray Mead Road, meaning that walkers must either walk along the road or cross and re-cross the road to use the footway on the opposite side. There are also current problems with parked cars overhanging the existing public footpath (FP 53). A site plan is submitted as Appendix A

2.3 The Council's Local Access Forum, the Ramblers, Maidenhead Civic Society, Natural England and the River Thames Society support the project to complete the link. The project has also been identified in the Council's Rights of Way Improvement Plan as a desired improvement to the network.

2.4 The project was discussed by the Rights of Way and Highway Licensing Panel on 4 March 2014, and the Panel resolved:

(a) *"That the Panel requests that Cabinet delegate authority to the Leader, the Lead Members and Directors of Operations and Adult & Community Services to work together and with partner organisations to complete this project.*

(b) *That the Panel requests that Cabinet approves a budget of £350k to be provided in the 2014/15 capital programme for the funding of the project.*

(C) *That subject to Cabinet approval to items (a) and (b) above:*

(1) *the Panel hereby authorises the making of a Public Path Creation Agreement under section 25 of the Highways Act 1980 or the making of a Public Path Creation Order under section 26 of the 1980 Act by the Head of Legal Services and, in respect of an order made under section 26, to confirm the*

## CABINET BRIEFING

*order as an unopposed order in the event that no objections are received in respect thereof or any objections so received are subsequently withdrawn;*

*(2) The Panel hereby authorises the Development and Property Manager to pay such consequential compensation or equivalent payments as may arise as a consequence of the coming into operation of any agreement or order authorised under sub-section (1) above”.*

<b>Option</b>	<b>Comments</b>	<b>Estimated Cost</b>
<b>1. Riverside path</b> (Appendix A)	<p>This option would complete the Thames Path in Maidenhead, providing a raised 30m footpath along the river frontage of the five Bridge View properties.</p> <p>However, this would be met with opposition from the property owners resulting in protracted legal issues and costs, due to the inability to reach an agreed settlement.</p>	£350k
<b>2. Roadside path</b> (Appendix B)	<p>This option would see a pedestrian path created along the roadside frontage of the five Bridge View properties.</p> <p>It would necessitate the creation of a private car park on public open space in Bridge Gardens to compensate the residences for this loss of amenity along their roadside frontage. A lease arrangement would be required to give security of tenure for the residents use of the car park.</p> <p>This option was suggested by the property owners and can be undertaken by agreement and without protracted negotiation.</p> <p><b>This is the recommended option</b></p>	£185k
<b>3. River pontoon</b>	<p>There would still be a significant loss of visual amenity for the owners of the Bridge View properties and their agreement to create the pontoon path would be unlikely.</p> <p>Permission would be required from the Environment Agency as the structures would impact significantly on navigation on the river. The cost of construction and ongoing maintenance would be considerably greater than the construction of a land based path due to the specialist</p>	£410k

## CABINET BRIEFING

	nature of construction in the river bed.  The Pontoon could be extended to Riverside Gardens main waterside entrance to provide an attractive and innovative addition to the riverside walk.	
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### 3. Key Implications

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Riverside or roadside Footpath designed, constructed and opened	Footpath not opened by June 2015	Opened by May 2015	Opened by April 2015	Opened by March 2015	May 2015

### 4. Financial Details

#### a) Financial impact on the budget

**Option 1 (Riverside footpath):** if it is necessary to make a Public Path Creation Order compensation will be payable to affected landowners under section 28 of the Highways Act 1980. If the route is secured by way of a Public Path Creation Agreement, a negotiated compensation payment may be made to affected landowners. The budget for the project therefore includes a compensation element for the affected property owners and provision for limited legal expenses. The construction element plus fees is estimated at £100k.

The District Valuer's estimates of compensation is attached at Appendix C (Confidential).

#### Option 1

	Year1 (2014/15)	Year2 (2015/16)	Year3 (2016/17)
	Capital £000	Capital £000	Capital £000
<b>Addition</b>	350k	0	0
<b>Reduction</b>	0	0	0

	Year1 (2014/15)	Year2 (2015/16)	Year3 (2016/17)
	* Revenue £000	Revenue £000	Revenue £000
<b>Addition</b>	5k	0	0
<b>Reduction</b>	0	0	0

## CABINET BRIEFING

**Option 2 (Roadside footpath):** this plan would necessitate negotiations with affected land owners and a public path creation order or agreement. Compensation levels would be much lower due to the reduced impact of the footpath creation. Build costs of a public car park and the necessary pavement works are estimated at £55k, landscaping in the park to lessen the impact of the car park £20k and works to create frontage to the properties £30k (total £105k). Compensations are estimated in appendix C (Confidential)

### Option 2

	Year1 (2014/15)	Year2 (2015/16)	Year3 (2016/17)
	Capital £000	Capital £000	Capital £000
<b>Addition</b>	185k	0	0
<b>Reduction</b>	0	0	0

	Year1 (2014/15)	Year2 (2015/16)	Year3 (2016/17)
	* Revenue £000	Revenue £000	Revenue £000
<b>Addition</b>	2k	0	0
<b>Reduction</b>	0	0	0

**Option 3 (Floating pontoon):** this plan would necessitate negotiations with affected land owners and a public path creation order or agreement. Compensation payments and legal fees would be very similar to option 1 as the impact of views from the property would be similar. The cost of a pontoon with concomitant river bed piles, river bank works are estimated at £160k for a 30m pontoon with pro-rata additions for a larger pontoon.

### Option 3

	Year1 (2014/15)	Year2 (2015/16)	Year3 (2016/17)
	Capital £000	Capital £000	Capital £000
<b>Addition</b>	410k	0	0
<b>Reduction</b>	0	0	0

	Year1 (2014/15)	Year2 (2015/16)	Year3 (2016/17)
	* Revenue £000	Revenue £000	Revenue £000
<b>Addition</b>	15k	0	0
<b>Reduction</b>	0	0	0

The legal fees may be significantly less if the land is secured by way of a public path creation agreement with the landowners under section 25 of the 1980 Act because once agreement is reached as to the compensation amount a formal agreement will be drawn up by the Council's solicitor. The legal fees may be higher under the order process under section 26 of the Act because if objections are received in response to the public path creation order, it will be necessary that a public inquiry is held.

Dependent on which scheme is recommended there are funds in PROW s106 (£19k), Highway s106 (£25k), participatory budgets (£17k) and member contributions

## CABINET BRIEFING

(£2,250). The balance would be required from council capital or additional fund raising.

Officers will work with other funding agents i.e. Natural England and the Ramblers to seek to obtain further grants to help fund the project.

An annual revenue budget will be required to maintain the Thames Path along the Riverside route, requiring additional revenue funding of up to £15k per annum, reduced to £2k p.a for the road side route.

### **5. Legal Implications**

- 5.1 For options 1 and 2, negotiations will need to be entered into with property owners with regard to securing the land over which the footpath will be situated. If the landowners are in agreement with the project, the land may be secured by way of a public path creation agreement. If the landowners are not in agreement with the project then it will be necessary for the Council to make a public path creation order. The necessary negotiations with affected landowners will be undertaken by officers in the Property Services team.
- 5.2 The landowners will be entitled to receive compensation for the diminution in value and for disturbance of land affected by the project if a public path creation order is made and a negotiated compensation payment may be made under a public path creation agreement. The District Valuer's compensation estimates annexed at Appendix C contains the relevant information.
- 5.3 If the landowners are unwilling to enter into a public path creation agreement the Council may make a public path creation order. The order is required to be consulted upon and if objections are received the Council is required to submit the order to the Secretary of State for the Environment for confirmation. The usual procedure is by consideration of the evidence for and against the confirmation of the order at a public inquiry.
- 5.4 In deciding whether or not to confirm the order, the Secretary of State will take into account the extent to which the new path would add to the convenient or enjoyment of a substantial section of the public or to the convenience of residents in the area and the effect which the creation of the path will have on the rights of persons interested in the land taking into account the legal provisions in respect of compensation.
- 5.5 Disputes as to compensation should preferably be settled by arbitration rather than by reference to the Upper Tribunal of the former Lands Chamber as the costs of the action may be disproportionate to the sums involved. It is therefore proposed that the Council will offer to settle disputes relating to compensation by arbitration.
- 5.6 If Option 2 is selected a lease arrangement for use of the private car park will be required and the loss of public open space will require public advertising.

### **6. Value For Money**

The completion of the Thames Path will provide a safe continuance of the riverside pathway. The negotiations with property owners will be conducted as to ensure that best value is achieved. The tender for the contract(s) for design and

## CABINET BRIEFING

construction will be carried out using RBWM procurement processes to ensure value for money is achieved.

### 7. Sustainability Impact Appraisal

None

### 8. Risk Management

Risks	Uncontrolled Risk	Controls	Controlled Risk
Processes for the path creation delays the opening	Medium	Negotiations running alongside the FCO process should assist with the timeframes	Low
Weather conditions delay construction of the boardwalk style footpath and fencing	Medium	Planning of construction period and time built in for winter working will reduce risk	Low
Residents opposition to the selected scheme, increases legal costs and delays implementation	High	Negotiations with residents will be undertaken to achieve an agreed route forward.	Medium

### 9. Links to Strategic Objectives

If the recommended option is approved the links to our strategic objectives will be

- Encourage Healthy People and Lifestyles
- Improve the Environment, Economy and Transport
- Deliver Economic Services
- Deliver Effective Services
- Strengthen Partnerships

### 10. Equalities, Human Rights and Community Cohesion

If the project is approved the following principles of the Human Rights Act 1998 will be engaged:

- The First Protocol Article 1 (*Every person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law*) The Highways Act 1980 provides the legal basis for controlling the use of property in accordance with the general interest. There must be a demonstrable “general interest” for an imposed public right of way creation such as for example a need identified in a ROWIP which is the case in relation to the project. It is intended that the authority will ensure that the interference will be no greater than necessary by way of extensive consultation with affected landowners about mitigation works.

## CABINET BRIEFING

- Schedule 1 Part 1 Article 6 (*In the determination of his civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law*) The public path creation order process provides for any person with a valid objection to the order to be heard before an inspector at a hearing or a public inquiry.
- Schedule 1 Part 1 Article 8 (*everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is accordance with the law*) The Highways Act 1980 provides the legal basis for the interference with this right. It is intended that landowners will be fully consulted to ensure that the effect of the creation order on their privacy is minimised.

Section 17 of the Crime and Disorder Act 1998 confers a duty upon the Council to exercise its functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is intended that the design of the route will such that crime and disorder will be minimised by the installation of suitable screening and other security measures and that the affected landowners will be fully consulted in this respect.

### **11. Staffing/Workforce and Accommodation implications:**

n/a

### **12. Property and Assets**

This project will increase the Public Rights of Way network as an RBWM asset.

### **13. Any other implications:**

Dependant on the selected option a planning application may be required .

### **14. Consultation**

The Ramblers, Natural England, Maidenhead Civic Society, and the River Thames Society have been involved in requesting and progressing this project. Letters of support from the Ramblers, Civic Society, the Rotary Club of Maidenhead and the Open Spaces Society are attached at Appendix E

Discussions have been held with the landowners and residents who would potentially be affected by the creation of the new section of footpath, either along the river frontage or the road frontage. **(Details at Appendix E).**

P.R.O.W meeting on 4<sup>th</sup> March 2014 discussed the issue and received comments from the Ramblers, residents and other interested parties .

The recommendation from this report will go to the next PROW meeting on June 4<sup>th</sup> 2014.

Site photographs are attached at Appendix D.

### **15. Timetable for Implementation**

Once the project and the expenditure are approved the legal process may be commenced. This is likely to take 2 years to complete, however officers believe that with negotiations taking place in the shadow of the FCO and in tandem with it a time reduction could be seen, with implementation in early 2015.



## CABINET BRIEFING

### 16. Appendices

Appendix A: Riverside footpath plan

Appendix B: Roadside footway drawing.

Appendix C: Compensation estimate from District Valuer (riverside footpath option)

Appendix D: Site photographs

Appendix E: Consultation responses

### 17. Background Information

In the Local Budget Consultation of 2013/14 there were 109 instances of the completion of the Thames Path stated when asked for other desired outcomes from the 1450 respondents, and in 2009 a 1000+ signature petition was received requesting that the Council pursue creation of the footpath, 60% of the petitioners were RBWM residents.

### 18. Consultation

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
<b>Internal</b>				
Cllr Burbage	Leader of the Council		7/5/14	
Mike McGaughrin	Managing Director			
Maria Lucas / Catherine Woodward	Head of Legal Services / SLS			
Christabel Shawcross	Strategic Director of Adult & Community Services		15/05/14	
Allan Abrahamson	Finance partner			
Cllr Eileen Quick	Lead Member for Leisure & Libraries			
Cllr Geoffrey Hill	Lead Member for Highways & Transport			
Cllr John Stretton	Chairman of Rights of Way and Highway Licensing Panel			
<b>External</b>	various			

### Report History

Decision type:	Urgency item?
Key decision	No

Full name of report author(s)	Job title	Full contact no:
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