



Subject	Investigation of a Public Path Creation Order at College Heights / Ailesbury Road
Date:	6 th August 2024
Reporting Officer:	Stephen Leonard, Director of Resources, Fleet and OSS
Contact Officer:	Duane Fitzsimons, Access Officer, CNS Department

Restricted Reports

Is this report restricted? Yes No

Please indicate the description, as listed in Schedule 6, of the exempt information by virtue of which the council has deemed this report restricted.

Insert number

1. Information relating to any individual.
2. Information likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the council holding that information)
4. Information in connection with any labour relations matter
5. Information in relation to which a claim to legal professional privilege could be maintained.
6. Information showing that the council proposes to (a) to give a notice imposing restrictions on a person; or (b) to make an order or direction.
7. Information on any action in relation to the prevention, investigation or prosecution of crime

If Yes, when will the report become unrestricted?

After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in

Is the decision eligible for Call-in? Yes No

<p>1.0</p> <p>1.1</p>	<p>Purpose of Report</p> <p>Members are asked to permit officers to begin the examination of a potential public path creation order from College Heights into the neighbouring Ballynafeigh area. Under the Article 12 of the Access to the Countryside Order (NI) 1983 all Local Councils may enact compulsory powers for path creation where it appears to a district council that there is need for a public path.</p>
<p>2.0</p> <p>2.1</p>	<p>Recommendation</p> <p>Members are asked to grant permission to officers to examine the potential of a public path creation order.</p>
<p>3.0</p>	<p>Main report</p>
<p>3.1</p> <p>3.2</p> <p>3.3</p> <p>3.4</p> <p>3.5</p> <p>3.6</p> <p>3.7</p> <p>3.8</p>	<p><u>Key Issues</u></p> <p>Under the Article 12 of the Access to the Countryside Order (NI) 1983 all Local Councils may enact compulsory powers for path creation where it appears to a district council that there is need for a public path.</p> <p>In 2006 a path through Annadale Grammar School was brought to the Council's attention as a potential public right of way. In 2008 investigations indicated this was not the case. The site was redeveloped into a residential area with a path for use of its residents but not the public at large. In 2022 the Council began to investigate whether it was feasible to enter into a permissive path agreement or public path creation agreement with the landowner. The Access to the Countryside (Northern Ireland) Order 1983 places a duty on District Councils to 'assert, protect and keep open and free from obstruction or encroachment any public right of way'. In 2008 the Legal Advice on the nature of the route pointed that being closed overnight meant that no public right of way exists.</p> <p>The site was developed into a residential area with a path retained for the enjoyment of residents in the development. It is locked by a gate and a management company maintains the landscaped areas of this development including the pathway.</p> <p>In 2022 members of the public approached elected members requesting that the path be open to the general public for use. This includes active travel such as walking to and from school, going to the shops and general recreation. The alternative route involves a 30-minute walk to and another to return which parents and guardians are doing 2-3 times daily.</p> <p>The Council wrote to the landowner and explained that they would be willing to explore the potential of a public path creation agreement. The landowner did not respond. The Council then approached about the potential of a permissive path agreement on a pilot basis whereby the path could be opened and closed during set times of the day for a set period of time. There was no response from the landowner.</p> <p>Public path creation by Order is a complex matter. The Council needs to be satisfied that there is a need for the path. It must also be willing to meet certain undertakings with regard to maintenance, liability, etc.</p> <p>The Council must also consult with statutory undertakers including DAERA to confirm that the path is required and does not adversely impact upon the landowner's enjoyment of the land.</p>

3.9	Should the Council be able to demonstrate that the above can be met, the matter would be taken to a full Council meeting seeking approval to make the Order.
3.10	<p><u>Financial & Resource Implications</u></p> <p>There are no Financial or Resource implications.</p>
3.11	<p><u>Equality or Good Relations Implications</u></p> <p>There are no Equality or Good Relations Implications.</p>
4.0	Appendices
	Appendix 1: Map of the route