

Date of issue: Wednesday, 6 December 2017

MEETING	LOCAL ACCESS FORUM
DATE AND TIME:	THURSDAY, 14TH DECEMBER, 2017 AT 6.30 PM
VENUE:	MEETING ROOM 3, CHALVEY COMMUNITY CENTRE, THE GREEN, CHALVEY, SLOUGH, SL1 2SP
LOCAL ACCESS FORUM SECRETARY (for all enquiries)	JACQUI WHEELER, RIGHTS OF WAY OFFICER 01753 477479

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



ROGER PARKIN
Interim Chief Executive

AGENDA

PART 1

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>TIME ALLOCATED</u>
1.	Apologies and Welcome		(2 mins)
2.	Declarations of Interest (Members are reminded of their duty to declare personal and prejudicial interests in matters coming before this meeting as set out in the local code of conduct)		
3.	Minutes of Last Meeting on 3rd August 2017	1 - 6	

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>TIME ALLOCATED</u>
4.	Slough Canal - updates	7 - 12	(10 mins)
5.	Draft LAF Work Programme	13 - 14	(15 mins)
6.	Local Cycle and Walking Infrastructure Plan (LCWIP)		
	Successful bid for technical support from DfT		
7.	Possible Closures of FP57 and FP35b		(10 mins)
8.	Berkyn Manor Farm FP		
9.	Matters Arising from last minutes (apart from those on agenda)	15 - 24	(10 mins)
10.	Date of next meeting TBC		

Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Please contact the Democratic Services Officer shown above for further details.

The Council allows the filming, recording and photographing at its meetings that are open to the public. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings. Anyone proposing to film, record or take photographs of a meeting is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.



Local Access Forum – Meeting held on Thursday, 3rd August, 2017 at the Meeting Room 2, Chalvey Community Centre, The Green, Chalvey, Slough, SL1 2SP

Present:-

LAF Members

David Munkley (Chair)
Councillor Satpal S Parmar
Andy Packer
Ken Wright
John Keegan, Ramblers Association
Councillor Mohammed Rasib

Observers

None.

Officers, Slough Borough Council

Jacqui Wheeler
Rights of Way Officer

250. Apologies & Welcome

Andy Packer
Cllr Mohammed Rasib
Toby Evans
Trevor Allen

251. Welcome & Declarations of Interest

None

252. Minutes of Last Meeting

Subject to amendment at 244 – The Local Plan Consultation, the minutes of the last meeting held on 11th April 2017 were approved.

253. CANAL Updates

The Slough Arm Management meetings have come about through informal meetings involving CRT, SBC officers and a representative of the Friends of Slough Canal. The intention is to drive forward for joint working across stakeholders in the canal for maintenance and improvement purposes, including the following Council departments; Highways, Housing, Resilience & Enforcement, and Parks/Public Realm.

Local Access Forum - 03.08.17

As a result of the first meeting CRT have agreed to license the triangle of land at the Uxbridge Road bridge and at the rear of Goodman Park to SBC for peppercorn rent so that it can be added to the Public Realm contract for regular cleansing come the new year. This makes sense as the public perception is that this area is already the Council's to maintain. Officers are currently working on getting the finer details sorted out.

JW referred to the rest of the Action List; including;

- discussions concerning how to deal with homelessness issue which have worsened due to those displaced from the Jubilee River recently evicted encampments.
- JSM reinstatement works
- CRT contractors contract issues
- integration of the parks and the towpath

TH informed the group that a copy of the Fountains maintenance contract was given to The Friends Group at the time of becoming a unitary authority. All agreed that it would be useful to know exactly what the scope of work was in the contract to measure Fountains current performance.

The Friends litter pick a stretch of the canal towpath on the first Sunday of every month apparently in conjunction with Fountains.

JW to circulate the action list from the second meeting of the Slough Arm Management meeting. Members discussed the possibilities for improvements to the triangle of land where currently anti-social behaviour and littering is out of control. TH felt there were two options; either remove the low level vegetation leaving mature trees, or plant denser, spiky vegetation preventing access. The former would open the area up to surveillance and encourage use, however some members were concerned about the effect this would have on flora and fauna. TH stated that there were other more rural locations further along the canal corridor where wildlife has free reign.

JW presented photo record of the canal taken on Thurs 27th July 2017. Graffiti under the Uxbridge road bridge had been left originally as it was bright and attractive. However, over time it had been tagged and spoiled so now JW is seeking to have the wall white washed to encourage fresh bright graffiti. Members felt the perception of the canal as a dumping ground needed to be challenged.

Waterside Drive Steps to Canal – JW agreed to chase the repair of the steps with the private landowner agent for the business park. DM queried whether the original planning consent included obligations about maintenance of these steps.

Local Access Forum - 03.08.17

Wexham Road footbridge – this is a hotspot for littering and rough sleeping. Some of the land under the footbridge is owned by the Council and some is unregistered.

DM asked if the status of the Slough Arm Management Group is formal. JW stated that the meetings are being driven by several officers but that there is potential to develop into a formal group but it needs buy in from CRT, Council Officers, Councillors and other stakeholders.

The Canal Basin Regeneration – there are new architects on this project so delay in the programme is inevitable. No planning application has been submitted or pre-application advice requested though some communications have been happening with Planning officers.

The Canal Festival is a key event taking place on 9th and 10th September 2017 where local residents could be engaged about the canal and the idea of adopting a section.

Resolved – Members resolved to support the Slough Arm Management Group initiative.

254. Joint LAF Chairs Meeting

JW referred to the minutes of the last Joint LAF Chairs meeting in May 2017 in the papers. It was agreed the Joint LAF Chairs meetings were valuable and should be supported. Due to additional work pressures Officers have been unable to organise site visits this year.

Due to changes in rights of way team at RBWM, hosting of future Joint LAF Chair meetings would be shared amongst all the authorities involved. Slough has agreed to host for Bucks as well due to the restrictive distance in getting to Aylesbury.

Due to personal circumstances DM is unable to attend any Joint LAF Chair meetings this year. DM noted that Slough is involved in many of the cross boundary issues. JW will attend when possible and invited any interested members to attend in DM's absence. JW will ensure all are updated on any site visits, venues and actions from ongoing meetings.

Jubilee River Management Meetings – a date has been finalised for the first meeting to be held in Reading at the end of September. Rights of Way Officers from BucksCC, RBWM and Slough along with representative from Eton College will attend to discuss all pertinent issues. JW called for agenda items to be raised;

The River Thames Alliance – EA reluctantly supported this group and TH asked what the current state of play was with them. TH reported that the RTA didn't want CRT to have anything to do with management of the River Thames.

255. SMART Motorway M4 - community engagement

JW tabled the minutes of the comms meeting held in June with Highways England, their designers and their community liaison team and the presentation circulated to all local authorities involved. JW explained the characteristics of the SMART motorway and that this will require that all the bridges along the route will need to be replaced to allow the motorway to be widened.

A plan of action is being put together by HE and their partners to engage with residents and motorists towards the end of this year. Some engagement has happened with parish council's already though not in Slough. It was suggested that LAF's could be included at the same time as parish councils. Work is planned to start on the ground around the end of 2017 start of 2018.

Online bridge replacements are generally happening for bridges where there isn't any major vehicular use. These are; Oldway Lane (bridleway), Old Slade Lane (Footpath), Recreation bridge,

There is an independent auditor of the bridge designs who is ensuring the designs are robust/safe. Members discussed their concerns about smart motorways. DM felt that their safety is questionable with people being asked to adapt to changing lanes unexpectedly and taking note of red crosses warning that a lane is blocked. However, the government has accepted the safety of the smart motorway model with schemes being rolled out on sections of motorway across the country.

Footpath 9 crosses the Langley Interchange roundabout through the subway and over the footbridges. This subway will be widened with new structures on a like for like basis. JW confirmed that the maintenance of the subway tunnel lies with Highways England who only have an ad hoc maintenance regime through a contractor. TH mentioned graffiti in the subway which is not a removed by HE casting the Council in a bad light.

An alternative route will be provided with details to be provided shortly.

Resolved – JW would circulate the presentation to members and bring further updates to the next meeting.

256. Access Fund for Sustainable Travel

JW introduced the Access Fund report from the papers explaining that £1.5m will be used over three years to increase modal shift and attitudes towards sustainable modes of transport. The behaviour change will be encouraged through events targetting all sections of society, including residents of Slough and visitors to Slough.

257. LAF Work Programme 2017

JK suggested that Restoring the Record training session is arranged for members of Slough and other local LAFs due to the cut off date. JW to investigate.

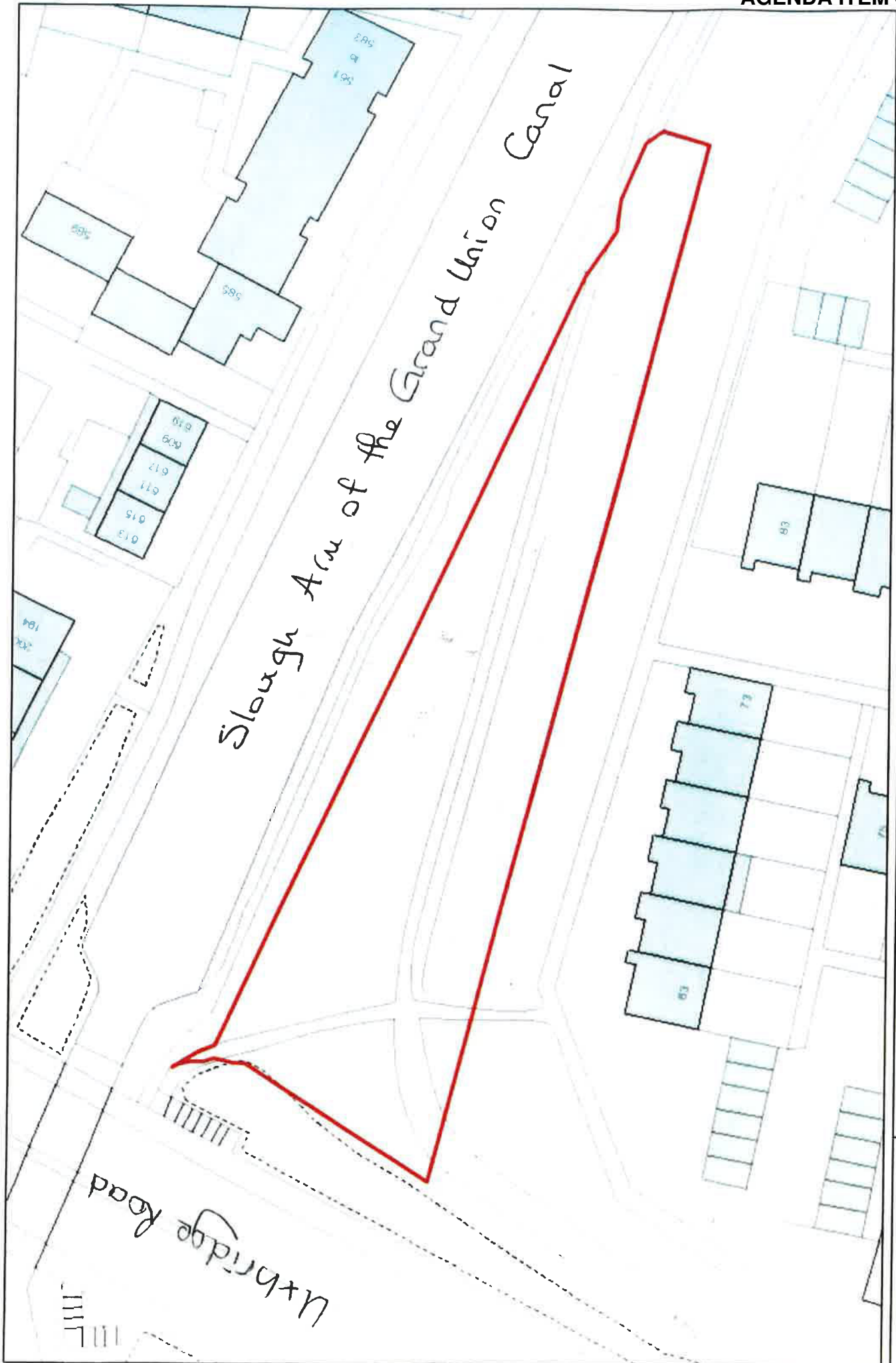
258. Matters Arising (other than those already on agenda)

259. Next Meeting

The next meeting will be at 6.30pm on Thursday 14th December 2017 in Meeting Room 5 Chalvey Community Centre

(Note: The Meeting opened at 6.45 pm and closed at 9.00 pm)

This page is intentionally left blank



This page is intentionally left blank

Slough Arm Management and Action Plan

Actions/Notes from meeting on 7th September 2017

Present: Louise Handley (LH), Jacqui Wheeler (JW), Jeannette Brooks (JB), Esther Masters (EM)

Apologies: Sam Thomas (ST), Gerald Pleace (GP), Steve Handley (SH), Tony Smith (TS), Diane Richards (DR)

ID	Ongoing Actions	Owner
1	Contact Fountains contractors about the litter picking regime currently being undertaken.	ST
2	Continue liaising with Jamie Green of the Jubilee River Riverside Centre – <ul style="list-style-type: none"> - Progress on funding for a vehicle to allow outreach to canal for water activities. - Ask for him to give demo of canal water based activities 	JW
3	Liaise with Ian Blake Resilience/Enforcement to look at outreach potential for canal DONE	EM
4	Proceed with informal maintenance agreement/licence for the triangle area of land in CRT ownership.	GP/JW
5	Speak to Ian Coventry/Ollie Kelly to ensure that the triangle of land is included in Public Realm contract starting 1 st Dec 2017	JW/GP/EM
6	Identify other locations in CRT ownership where SBC want a licence to maintain.	JW/GP/EM
7	Ask CRT for resources for the Slough Canal Festival and other engagement activities. Identify who from CRT will attend.	JW
8	Contact Sabia Hussain and other relevant Councillors about the need to engage with the Goodman Park residents	GP/LH
9	Send Risk assessments for working alongside water to Jacqui and help arrange deep clean of the triangle <i>No info received yet.</i>	ST
10	Provide update on when the contractors will return to undertake the compensation works for the recent cable laying	ST
11	Find out details of current and future access required for the planned maintenance of the Uxbridge Road bridge from Sing Wai Yu.	JW
12	Ask Sing Wai Yu and Savio Decruz about partnership working with Housing, Active Communities, Kam Bhatti and Parks, and Cllrs to support a bid to the Community Asset Fund, Sport England. Establish who needs to approve making an application	JW/EM
13	Ride the canal towpath in Slough to identify hot spot locations for rough sleepers/drinkers/asb - DONE	LH
14	Map the information from site visit and photos into format to be presented at Canal Festival.	LH/SH
15	BASIN REGEN - Email James Lazarus, CRT to ask again that interim safety measures can be made on the narrow path north of the basin. Copy JB in. DONE	JW
16	ROUGH SLEEPERS	EM
	DR has reported an individual rough sleeper at the St Mary's Rd bridge. EM has passed this info on to Resilience & Enforcement and checked the borough boundary. This location is added to the list.	
	EM stated Home Office not doing anymore ops with Slough. No reason given. She will confirm with Ian Blake if night ops still going	

	<p>ahead and ask that JB comes along or her colleague Darren.Starling@canalrivertrust.org.uk</p>	
	<p>JB advised that the CRT policy on rough sleepers is a no police agency approach;</p> <ul style="list-style-type: none">- Can provide information to rough sleepers- Ask them to vacate the space (CRT land)- Advocates a multi-agency approach- Works alongside homelessness agency for support- Give out eviction letters with info on what to do and where to go.- Explore what can be done to mitigate and prevent rough sleeping re-occurring at the location eg; target hardening, landscaping. <p>JB asked what interventions Slough Homeless Our Concern (SHOC). Do they offer training?</p>	JW to investigate
	<p>Slough Canal Festival (sponsored by SUR)</p> <p>JB wants to expand the towpath and water space activities at the event to help expand the engagement with local communities. There is usually a 4 month run up to canal festivals to organise everything. Hayes Festival is on 23rd Sept 2017. Bids can be made specifically for engagement at festivals eg; Hillingdon Community Trust. This could be an option for Slough.</p> <p>CRT has new focus on development and engagement due to their charity status.</p>	

Main Aims;

1. All agreed to work towards building a partnership to manage/improve the Slough Arm with a multi-agency approach taking into account protection of the local habitat, flora/fauna.
2. Work towards building a community base over the next year to be pivotal in enabling a Sport England Community Asset Bid to be made.

Date of next meeting; **TBC 2017 10.30am**, Saturn Suite 2 St Martins Place, 2nd floor east, 51 Bath Road, SL1 3UF

Key of Stakeholder Contacts:

ST - Sam Thomas, Customer Operations Manager, Canal and River Trust

JG - Jon Guest, London Waterways Manager, Canal and River Trust

JW - Jacqui Wheeler, Public Rights of Way Officer, Integrated Transport, SBC

EM - Esther Masters, Community Safety Project Officer, SBC

GP - Gerald Pleace, Parks & Open Spaces Management Officer, SBC

LH - Louise Handley, Project Co-ordinator, Slough Amey

SH - Steve Handley, Project Co-ordinator, Slough Amey

DR - Diane Richards, The Friends of Slough Canal

JB – Jeannette Brooks, Development and Engagement Manager, Canal and River Trust

TS – Tony Smith, Local Supervisor, Canal and River Trust

1. Introductions
2. Agreement with CRT to maintain land at Goodman Park – progress and who will pay for maintenance? – Public Realm or Housing.
3. Water based activities - outcomes of risk assessment
4. Co-ordinated Big Tidy Up from the water and from the towpath – Spring 2018
5. Community Payback/CRT contracted cleaning – updates and/or issues?
6. Rough sleepers and co-ordination of cleaning contractors for extreme cleaning under Wexham Rd footbridge.
7. Super Space and match funding (inc. Halkingcroft Wood) – updates and how to progress
8. AOB

SLOUGH LOCAL ACCESS FORUM

PROPOSED WORK PROGRAMME

No.	Work Item	Summary of work required/undertaken
1	Lost Ways Project – South Bucks	Maps of Dorney and Wexham parishes received showing existing PRoW
2	ROWIP Review	Review existing ROWIP for Slough and decide on any changes required prior to consultation. Or if the ROWIP is a useful document for Slough to keep.
3	Rights of Way Planning Gain Improvements Plan	Members to give suggestions and comments. Continual review required.
4	Joint LAF Site Visits and LAF Chairs Meetings	List of visits suggested in Joint LAF minutes Next meeting due to be at Bracknell in early 2018
5	Access Fund	Funding won by SBC to engage with residents and visitors to make a change to their travel habits.
6	Transport Schemes	Comments to be made on any new schemes
7	Huddle Hot Topics	??
8	LAF Recruitment Campaign	BHS and possible member from Colnbrook Parish Council/Colnbrook Community Partnership Youth Parliament?
9	Annual Report	
10	Bags For Help – Tesco's	Identify locations requiring funding and make an application
11	Local Plans – Slough and Chiltern & South Bucks	Respond to consultations on both as and when received

Proposal – Members agree the LAF programme and the time period it will run over and who will take ownership

This page is intentionally left blank

WILDLIFE AND COUNTRYSIDE ACT 1981

SLOUGH BOROUGH COUNCIL
FIRST CONSOLIDATED DEFINITIVE MAP AND STATEMENT

BYWAY OPEN TO ALL TRAFFIC

THE SLOUGH BOROUGH COUNCIL BRIDLEWAY 93
MODIFICATION ORDER 2015

This Order is made by Slough Borough Council under section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that the Slough Borough First Consolidated Definitive Map and Statement require modification in consequence of the occurrence of an event specified in section 53(3)(c)(i) of the Act, namely, the discovery by the authority of evidence which when considered with all other relevant evidence available to them shows that a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path.

The authority has consulted with every local authority whose area includes the land to which the order relates.

Slough Borough Council hereby orders that:

- 1 For the purposes of this Order the relevant date is 1st June 2015.
- 2 The Slough Borough First Consolidated Definitive Map and Statement shall be modified as described in Part I and Part II of the Schedule and shown on the map attached to the Order.
- 3 This Order shall take effect on the date it is confirmed and may be cited as the Slough Borough Council Bridleway 93 Modification Order 2015.

BYWAY OPEN TO ALL TRAFFIC

THE COMMON SEAL OF
SLOUGH BOROUGH COUNCIL

was hereunto affixed in the presence of:



Sushil Thobhani (Authorised Officer)
Group Solicitor

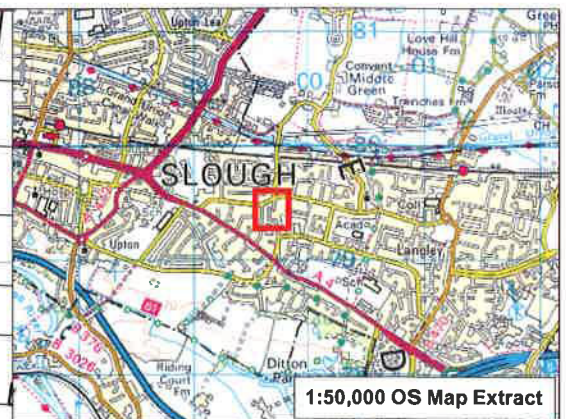
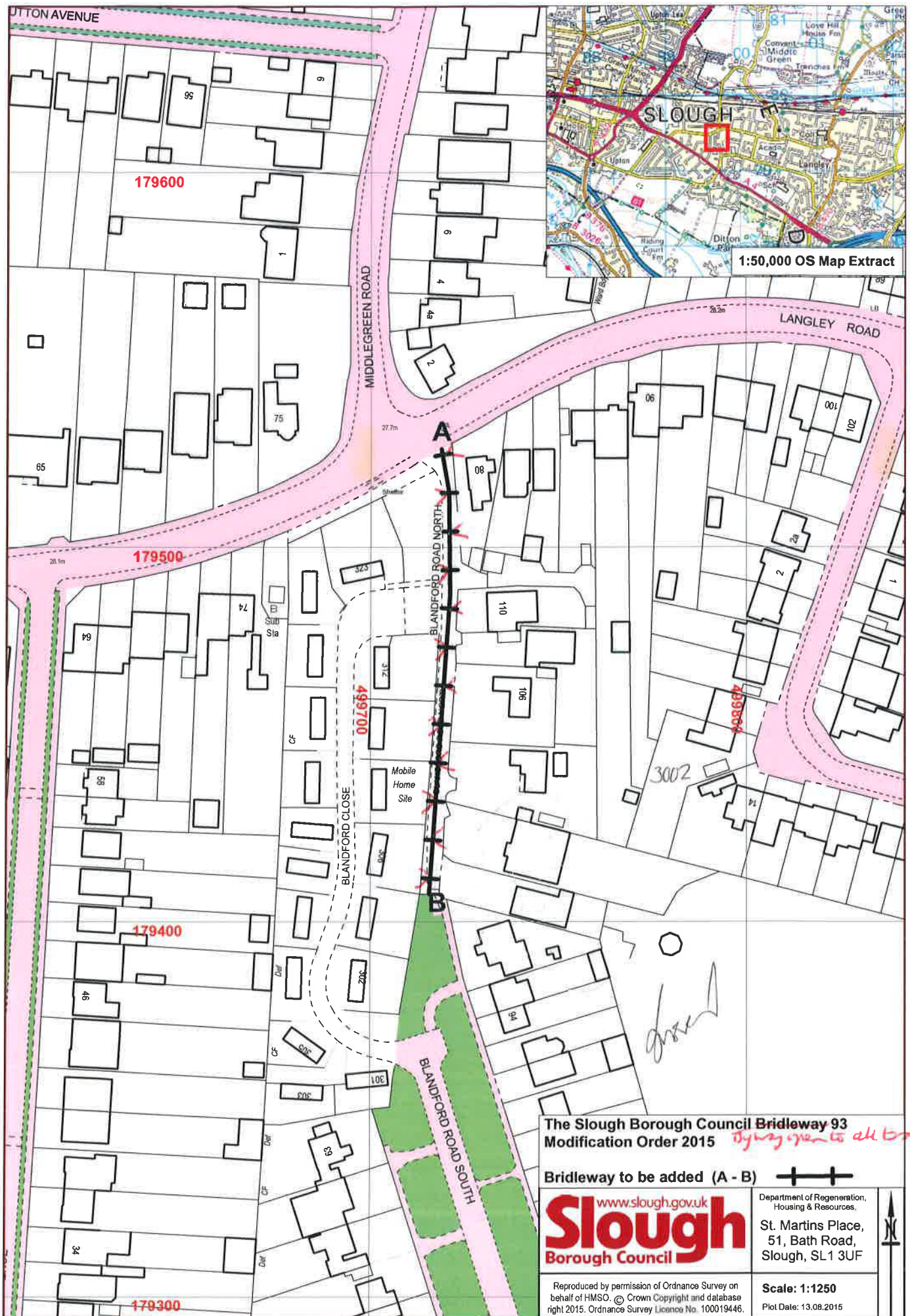
Dated 15 September 2015



The foregoing order is hereby confirmed
subject to the red ink modifications thereon

Mark Yates **01 NOV 2017**

An Inspector appointed by The Secretary
of State for Environment, Food and
Rural Affairs



The Slough Borough Council **Bridleway 93**
 Modification Order 2015 *By agreement to all parties*

Bridleway to be added (A - B)

www.slough.gov.uk
Slough
 Borough Council

Department of Regeneration,
 Housing & Resources,
 St. Martins Place,
 51, Bath Road,
 Slough, SL1 3UF

Reproduced by permission of Ordnance Survey on
 behalf of HMSO. © Crown Copyright and database
 right 2015. Ordnance Survey Licence No. 100019446.

Scale: 1:1250
 Plot Date: 13.08.2015



Order Decision

Inquiry opened on 15 November 2016

by Mark Yates BA(Hons) MIPROW

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 01 November 2017

Order Ref: FPS/J0350/7/1M

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the 1981 Act") and is known as the Slough Borough Council Bridleway 93 Modification Order 2015.
- The Order was made by Slough Borough Council ("the Council") on 15 September 2015 and proposed to add a bridleway to the definitive map and statement, as detailed in the Order Map and Schedule.
- The Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.
- In accordance with Paragraph 8(2) of Schedule 15 to the 1981 Act I have given notice of my proposal to confirm the Order with modifications.

Summary of Decision: The Order is confirmed subject to the revised modifications set out below in the Formal Decision.

Procedural Matters

1. My interim decision ("ID"), dated 23 December 2016, was issued following a public inquiry held on 15-16 November 2016. I proposed to make modifications to the Order in relation to the width and status of the route known as Blandford Road North ("BRN"). This decision should be read in conjunction with my ID with the numbers in square brackets representing particular paragraphs in the ID.
2. Three objections were submitted in response to the ID. The Council objects to the proposed modifications to increase the recorded width of two sections of BRN and my intention to record the route as a byway open to all traffic ("BOAT") rather than a bridleway. Mrs Young and Mr Phillips submit that the whole of BRN should have a width of 30 feet (approximately 9.1 metres).
3. I have considered these objections following an exchange of written representations involving the parties. The parties were informed¹ that I would consider both the modified and unmodified parts of the Order. Therefore, the submission by Mr Buley, on behalf of the Council, that the other objections are outside of my jurisdiction is not correct. However, this process should not be seen as an opportunity to put forward the same evidence and arguments presented at the inquiry. There would need to be something new for me to propose to make additional modifications to the Order.

Main Issues

4. I outlined the relevant matters in relation to the Order, as made, in the ID [4-8]. The issue now is whether there is any new evidence or argument which has a bearing on the status and width of BRN. In considering these matters it

¹ By way of a letter of 1 June 2017 from the Planning Inspectorate

may be necessary to revisit particular pieces of evidence presented to the inquiry.

Reasons

5. I did not find the historical documentary evidence to be supportive of the past dedication of a highway [29]. In this respect, I had particular regard to the evidence in relation to the Langley Marsh Inclosure Award of 1813. I concurred with the Council that BRN was set out in the award as a private road.
6. I note the evidence of Mr Harvey and Mrs Watson regarding their recollections of the nature of the area, which Mrs Young considers to be indicative of BRN serving as the access to a public gravel pit that existed during part of the nineteenth century. Mrs Young also refers to particular court judgments in support of the route historically having public status. Nonetheless, it was clearly the case that BRN was awarded as a private road and the later documentary evidence is not supportive of it subsequently being dedicated as a highway.
7. It is apparent that Mr Phillips is trying to draw an inference between the relevant provisions in the inclosure award and events during the twentieth century, most notably the adoption of the connecting Blandford Road South in 1958. However, I can see no merit in the submissions he makes on this matter. Further, if the use of BRN was '*by right*' it could not constitute '*user as of right*'. Nonetheless, all of the parties accept that the user evidence is supportive of the dedication of a highway. In terms of the maintenance of BRN, this is a separate issue to the status of the route. The conveyancing documents provided by Mrs Young do not provide any assistance in determining the status or width of BRN. I addressed the issue of landownership generally in the ID [10].
8. The Council accepts that the evidence of use by pedestrians, horse riders and cyclists is sufficient to infer the common law dedication of a bridleway prior to 1959 [30]. It is apparent to me that the significant public use followed on from the housing development that occurred in the area after 1952. Therefore, the dedication could have been contemporaneous to this use rather than in relation to the earlier evidence of use, which is limited to Mr Harvey and Mr Jago. Nonetheless, if the dedication is taken to be coeval to the earliest evidence of use, Mrs Jago states that her late husband cycled along BRN in the 1930s. Mr Harvey's use of the route on foot commenced in 1940.
9. The legal position at the time was that a cycle constituted a vehicle and there was no right for cyclists to ride on a bridleway [38]. Therefore, the cycling use would count towards the dedication of a vehicular highway. This means that the landowner should not have interpreted the use by cyclists to be supportive of the acceptance of the dedication of lesser public rights. Further, the evidence of Mrs Watson was clear that when she moved house in 1956/57 she observed use of BRN by motor vehicles until a chain link fence was erected in the early 1960s [32 & 34]. It cannot be determined when the use by motor vehicles commenced but clearly there is the potential for such use to have coincided with the completion of the properties in the area.
10. It remains my view on balance that the evidence is supportive of the dedication of a vehicular highway rather than a public bridleway. As it is accepted that this highway was dedicated prior to 1959, it is not necessary for me to

comment on the more recent evidence of use. I address later the issue of whether the route should be recorded as a restricted byway or BOAT.

11. In terms of the original width of BRN between the physical boundaries, this was defined by the Langley Marsh Inclosure Award. The width of the route was set out by reference to a private road. In such circumstances, I concur with the Council that the hedge to hedge presumption will not apply. Therefore, the other land between the historical boundaries, which was separate to the roadway, would not necessarily have formed part of the highway. This means I may have been in error to place too much weight on the 1956 Ordnance Survey map [41]. The same would apply to other maps from around this period. I consider that the width of the highway should be determined primarily from the evidence of public use. Due to my conclusion that BRN was dedicated prior to 1959, much of the later evidence relied upon by Mrs Young will not be of assistance.
12. No new evidence has been provided to indicate that I was wrong to conclude that the western section of BRN through the trees should not be recorded on the definitive map in terms of the public vehicular rights. Clearly, the public's use of a linear right of way will often be of a recreational nature. It will broadly be to pass and repass. However, other activities such as playing and making camps will not constitute highway use. This conclusion is not inconsistent with the extract from the case of *Hue v Whitely (1929)* cited by Mrs Young. Further, any route used through the trees was separate to the roadway that existed and would not in my view have constituted a footway at the side of a carriageway.
13. Mr Harvey describes BRN as a dirt track about 12 feet wide which resembled a road as it was wide enough for farm vehicles to use. He distinguishes this track from the row of elm trees to the west. Mr Harvey says the trees formed a dense wood about 15 feet wide. The evidence of other witnesses points to the width of the western section being about 15 feet wide. Mr Gosnell used the route from 1956 and he says that the road was about 10 feet wide. Mrs Seager's use did not commence until 1962 but she states the track was 13 feet wide and there was a similar width attributed to the trees and grass verge. Mr Green's evidence of use dates back to 1964 and he states that the verge and trees extended along the whole length of BRN. In respect of the 1968 photograph [34], this was clearly taken sometime after the route had been dedicated and it is far from clear. Nonetheless, towards the southern end of BRN, a tree and vegetation are evident to the west.
14. I am not satisfied it can be determined that the public vehicular rights I have found to subsist extended beyond the track along the eastern side of BRN. Having regard to the evidence outlined above and the submissions of Mr Buley, I consider on balance that I was wrong to propose to increase the width included in the Order towards each end of the route. The historical user evidence does not generally point to any significant widening of the route at either end.
15. Finally, I need to address the Natural Environment and Rural Communities Act 2006 ("the 2006 Act"). Section 67(1) of the 2006 Act states that subject to subsections (2) to (8), *"An existing public right of way for mechanically propelled vehicles is extinguished if it is over a way which, immediately before commencement—*

(a) was not shown in a definitive map and statement, or

(b) was shown in a definitive map and statement only as a footpath, bridleway or restricted byway".

16. BRN falls within Section 67(1)(a) in that it was a public right of way for mechanically propelled vehicles prior to the commencement of the 2006 Act and it was not recorded in the definitive map and statement. I addressed in the ID the exemption found in Section 67(2)(b) of the 2006 Act [44-45]. This exemption is applicable if "*immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980*" (commonly known as the list of streets).
17. The wording of Section 67(2)(b) is clear and unambiguous and protects public rights of way for mechanically propelled vehicles which are not shown in the definitive map and statement but are included in the list of streets. It is apparent that BRN was included in the list of streets prior to the date of commencement and the route continued to be recorded in this document. The issue in this case arises out of BRN being described in the list of streets as a "*Private Street*".
18. The list of streets only serves as a record of the highways maintained by the Council at public expense. It does not provide conclusive evidence of the public rights that exist over a particular way. Clearly the Council took the decision to include BRN in its list of maintained highways. If it is maintained for other purposes, such as in relation to a private right of way, it should not have been included in the list of streets. Nonetheless, it cannot be determined whether the recent resurfacing works highlighted by Mrs Young were undertaken by the Council in its capacity as highway authority.
19. I have concluded from the evidence that BRN is an unrecorded public right of way for mechanically propelled vehicles. This public right of way was included in the list of streets at the commencement of the 2006 Act albeit described as a *private street*. It is not argued that the route was included in the list in error. Having regard to the purpose of the list of streets outlined above, I conclude that the exemption in Section 67(2)(b) of the Act is applicable in this case. Therefore, it remains my view that BRN should be recorded in the definitive map and statement as a BOAT.

Other Matters

20. It is not my role to make a determination in relation to an alleged breach of planning permission or encroachment on the highway. Nor is it appropriate for me to make provision in the Order for the future maintenance of BRN.

Conclusions

21. Having regard to these and all other matters raised I conclude that BRN should be recorded in the definitive map and statement as a BOAT with the varying width included in the original Order rather than the modified width proposed in the ID.

Formal Decision

22. I confirm the Order subject to the following modifications:

- Delete all of the references in the Order to "*bridleway*" and insert "*byway open to all traffic*".

- Replace the notation on the Order Map for a bridleway with the notation for a BOAT and amend the map key accordingly.

Mark Yates

Inspector



