

<b>Report To:</b>	<b>CABINET</b>	<b>Date:</b>	<b>7<sup>th</sup> OCTOBER 2019</b>
<b>Heading:</b>	<b>SUTTON LAWN ACCESS ROUTE CLOSURE</b>		
<b>Portfolio Holder:</b>	<b>CLLR HELEN-ANN SMITH – PORTFOLIO HOLDER FOR STREETS, PARKS AND TOWN CENTRES</b>		
<b>Ward/s:</b>	<b>CENTRAL AND NEW CROSS</b>		
<b>Key Decision:</b>	<b>NO</b>		
<b>Subject to Call-In:</b>	<b>NO</b>		

### **Purpose of Report**

To seek approval to implement the closure of the access route for vehicles travelling through Sutton Lawn Park and retain the pedestrian public right of way.

### **Recommendation(s)**

For Cabinet to agree to close the mid-section of Lawn Lane to vehicles between the upper and lower car parks at Sutton Lawn Park to prevent vehicular traffic cutting through between Station Road and Coxmoor Road.

### **Reasons for Recommendation(s)**

An increasing population and congested roads are encouraging more car users to take a short cut through the public open space increasing the risk in particular to children and wheelchair/mobility scooter users.

### **Alternative Options Considered**

1. Do Nothing: **Not adopted.** A traffic survey identified the high volume of vehicles using the site (more than 1 per minute during daytime hours). The risks to the public due to high numbers of cars and speeds above the speed limit will remain. The access route was not designed to highways specification. This means that the road surface is likely to deteriorate. This will contribute towards risk of injury to pedestrians or damage to vehicles, potentially resulting in compensation claims.

2. Increase traffic calming measures: **Not adopted.** Existing traffic calming was installed which included road humps and speed limit signage. Additional measures will have minimal effect on reducing car numbers and there is a significant number of cars speeding even with existing traffic calming measures in place. The section of access route is not adopted highway, therefore speed control measure are unenforceable.

## Detailed Information

### Background Information

The access route runs between key features of the park including the café, play facilities and the skate/scooter park, gym, and car park. The restriction to vehicular access will improve the safety of the park for recreation activities and the safety of key designated pedestrian routes. The access route for use by pedestrians and safety is compromised when vehicles also use the route. The changes will create an improved environment for park users, with reduced noise and traffic fumes. It will also contribute towards reducing ASB from late night vehicular activity through the park. Vehicular access is not permitted in any other park in the Ashfield District.

Higher volumes of cars are increasing the wear and tear to the road surface, exacerbating the need to invest in maintenance works. The current surface was not designed or constructed to highways specification and it is not an adopted highway. Patching work has been implemented every few years, but if vehicles continue to have access to the route, it will need to be fully resurfaced in the next 5 years at an estimated cost of £70k-80k.

Continuing to allow vehicular access requires the knee rail along both sides of the road to be maintained to control vehicles. The knee rail is failing and will need fully replacing within 2 - 3 years, at an estimated cost of £40k-50k. Gaps in the timber rail are creating uncontrolled crossing points from the informal play space increasing the health and safety risk to the public.

### Survey and Consultation:

In 2016 a consultation was completed focusing on residents at the east end of Sutton Lawn. There are a number of properties at the eastern end of the Lawn specifically around the Dobson Mill Area who benefit from a private right of access through the park. The total number of properties and location of these have not been identified, but out of the 175 properties that have been consulted. 40 properties responded as follows:

- 31 raised concerns over public safety, speeding and ASB and would be in favour of restricting/ closing access.
- 9 properties highlighted the impact on restricting access which would increase journey times and costs, and would not be in favour of the access route being closed. These responses also included requests to create a separate footpath parallel to the road and concerns over emergency service access.

A temporary traffic monitor was installed in 2017 to understand the level and risks associated with traffic flow through the park. Nottinghamshire County Council completed the monitoring over a 13 day period and provided the data analysis. Key findings from the data include:

- 11,534 cars used the access route during the period. 800-950 cars per day.
- 92.8% of cars were travelling at greater than the site speed limit of 10mph.
- 21% of cars were traveling at greater than **10mph over** the site speed limit (i.e. in excess of 20mph).
- 3.2% of cars (369) were traveling greater than **20mph over** the site speed limit (i.e. in excess of 30mph).

Nottinghamshire County Council Public Rights of Way Officer was consulted and concluded that the route was designated as a public right of way in 2005 for foot traffic only:

“The only legal right for the public to use this path is on foot. Unauthorised use by motor vehicles constitutes a criminal offence under section 34 Road Traffic Act 1988 (RTA). The awarded width for this path is 4 metres, we would have no objections to vehicle barriers being installed but would require that a gap or gate be provided for pedestrian access. These structures can be authorised under section 66 of the Highways Act 1980 on the grounds of public safety”.

The designation of this route in 2005 also forms the base date for legal challenge to drive vehicles on the Public Right of Way. A challenge would need to evidence that vehicles had used the Public Right of Way for a continuous period of 20 years. Therefore, a legal challenge could not legitimately be made until 2025.

The Council’s Legal Service has reviewed the information and also highlighted the obligation of a private right of way by foot and vehicles to owners of properties which are within the curtilage of the former Dobson’s Mill site. The right is to allow unobstructed and convenient access on foot and by vehicles. To avoid a claim of infringement of the right the beneficiaries need to provide express consent to the installation of the barrier. These properties have been included in the initial consultation and no responses have highlighted their private right of way. However, the number of beneficiaries of the private right of way is unknown, which also means that the level of risk and any remedies available is unknown at this stage.

The Council’s Legal Service has advised that a key would need to be provided to such persons (currently unknown) with a private right of way. The gate would also need to be monitored to ensure it is being locked and used appropriately and effectively in these circumstances. The gate would also need to be monitored to ensure it is operational at all times so as not to interfere with the convenience of the right of way for any potential beneficiaries.

Nottinghamshire Emergency services have been consulted and responses have been received from the fire and police. EMAS have not provided a response. Comments As follows:

The fire service confirmed that they generally do not use the access route unless there is an incident in the park. They have also confirmed that access to the Wrightson Close area and Lawn Lane area would be accessed via Lucknow Drive and Station Road respectively.

The fire service have requested that they are provided with the key to the proposed barrier and that the locks to all gates on the site are rationalised to the same key.

The police commented that there have been historic issues of vehicles using the access route. The police had previously been involved in trying to reduce the misuse of the route although had been told the access route could not be closed off due to emergency service requiring access. Whilst the access route remains open, they are unable to stop people from cutting through the park.

During their previous involvement they were able to support the installation of barriers to the car parks to reduce use after 11pm.

## Implications

### Corporate Plan:

The closure of the access route will be an active move towards pedestrianising the park, creating a safer environment for recreation activities. The changes will contribute towards key areas of the Corporate Plan including:

#### Health and Wellbeing:

- Increased participation in sports and physical activity
- Reduce adult obesity
- Reduce childhood obesity.

#### Place and Communities:

- Improve resident satisfaction with the area, people enjoy living and working here.
- Increase the numbers of visitors to the area.
- More people involved in community and voluntary work.

#### Organisation Improvements:

Increased perception of how well residents feel informed and engaged.

### Legal:

Legal has reviewed the information and provided advice as detailed in the report based on the advice obtained from Counsel specialising in highway and private rights of way matters.

### Finance:

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	£5k of unallocated S106 has been identified to implement the alterations subject to approval on the capital programme
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

### Risk:

Risk	Mitigation
<b>Without Closure</b>	
Increasing risk of incident (injury/fatality) to public using the park or access route	Incorporate additional traffic calming measures to reduce traffic speeds. Build separate footpath along the edge of the roadway at an estimated cost of £40k-50k
Increasing maintenance costs	None: Without removing the impact of vehicular traffic use, the risk will remain high.

Increasing potential risk of injury claims costs	Incorporate traffic calming measures to reduce traffic speeds. Invest in repair works to roads and barrier treatment. Estimated cost £40k-£50k
Reputational Risk	Investment would be required to improve the long term condition and traffic management at the site.
<b>With Closure</b>	
Challenge of public right of access for vehicles	Designation of the Public Right of Way under the road and traffic act provides a mechanism to refute any challenge.
Challenge of private right of access	Undertake further consultation with affected parties to gauge risk. If challenged, risk management options include: <ul style="list-style-type: none"> <li>• Compensation to affected individuals</li> <li>• Provide individual key access</li> <li>• Remove the barrier</li> </ul>

**Human Resources:**

No HR issues identified.

**Equalities:**

Vehicular access to the key facilities at Sutton Lawn Park will remain unaffected by the changes including access to parking and existing designated disabled parking bays. The conflict between vehicles and Mobility scooter/wheelchair users along this section of the route will be eliminated.

**Other Implications:**

Not applicable

**Reason(s) for Urgency**

Not applicable

**Reason(s) for Exemption**

Not applicable

**Background Papers**

Not applicable

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