

Open Report on behalf of Andy Gutherson, Interim Executive Director of Place

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| Report to: | Councillor R G Davies, Executive Councillor for Highways, Transport and IT |
| Date: | 07 – 10 May 2019 |
| Subject: | Revision of Arrangements for Lincolnshire's Joint Local Access Forums |
| Decision Reference: | I017889 |
| Key decision? | No |

Summary:

This Report seeks a decision as to the future arrangements for Local Access Forums in Lincolnshire.

Recommendation(s):

That the Executive Councillor:-

- (1) approves a reduction in the number of Local Access Forums covering its area to one, to be a Joint Local Access Forum with North East Lincolnshire Council covering the whole of the administrative areas of Lincolnshire County Council and North East Lincolnshire Council;
- (2) in order to give effect to the above arrangements approves:-
 - a) the giving of notice under regulation 18(2) of the Local Access Forums (England) Regulations 2007 to the South Lincolnshire and Rutland Joint Local Access Forum and Rutland County Council terminating the functions of the said Joint Local Access Forum in respect of Lincolnshire County Council's area; and
 - b) the giving of notice under regulation 16(1) of the Local Access Forums (England) Regulations 2007 to the Mid-Lincolnshire Joint Local Access Forum to change the area for which the said Forum is established so that the Forum exercises its functions in respect of an additional area, namely the area of Lincolnshire County Council's administrative area previously covered by the South Lincolnshire and Rutland Joint Local Access Forum; and
- (3) delegates to the Interim Executive Director of Place authority to determine the final form and the timing of the said notices and to take all steps necessary to give effect to the above arrangements.

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| Alternatives Considered: | |
| 1. | To retain the existing Joint Local Access Forums. |

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| Reasons for Recommendation: |
| To focus the advice of the forum on strategic issues affecting the whole of the Council's area and prevent the risk of conflicting advice in relation to different parts of the Council's area, to reflect the reduced capacity of the Council to service two separate forums and to address the shortfall in volunteers to form the membership of the forums. |

1. Background

1.1 The Countryside and Rights of Way (CROW) Act 2000 created a duty to establish a local access forum to advise various bodies including the County Council as to the improvement of public access to land in the area for the purposes of open-air recreation and the enjoyment of the area, and as such other matters as may be prescribed (*CROW Act 2000 section 94(4)*)

1.2 Various options for such a forum were reviewed and presented to the Executive Councillor for Highways on 15 March 2003. The options included:

- (i) a single forum for Lincolnshire
- (ii) two forums for Lincolnshire (north and south)
- (iii) two joint forums aligned with North East Lincolnshire Council to the north and Rutland County Council in the south

The decision made was to adopt Option (iii) and to establish two joint local access forums based on an analysis of the following advantages and disadvantages.

| Advantages and Disadvantages of different types of forums | |
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| County Wide Forum | North and Southern Forums |
| Advantages | Advantages |
| More likely to be discussing strategic issues Advice and recommendations would be County wide One forum avoids conflicting priorities One forum will have a more prominent profile Better engages County/Regional and National Bodies Easier to service one forum Cheaper to service one forum | Forum members would better understand issues relevant to their locality Enables the forum to give the authority specific advice District Councils would have a better partnership with the forum |
| Disadvantages | Disadvantages |
| Too far removed from local people and real issues More difficult for forum members to liaise with others Travelling More difficult to engage ownership by District Councils Large group required which contradicts Countryside Agency research | Possible conflict between advice given Difficult to precisely draw the line between the two (particularly around Lincoln) Difficult for some County wide groups to find members and time to attend meetings Costs will be almost double Officer time will be taken up supporting Forums at the expense of other work |

- 1.3 The two Joint Local Access Forums, namely the Mid Lincolnshire Joint Local Access Forum and the South Lincolnshire and Rutland Joint Local Access Forum have operated for 15 years and have contributed advice to the appropriate bodies on a number of occasions.
- 1.4 The level of recruitment has dropped over the last few years to the extent that each forum is now holding a number of vacancies and, prior to embarking on a further round of recruitment it was felt prudent to review the arrangements and to determine if alternative provision should be made.
- 1.5 Whilst the purpose of the Forums remains the same many of the particular elements for advice are no longer as prevalent. The 2000 Act also brought the need to produce Rights of Way Improvement Plans (ROWIP), the provision of Open Access Land (the "right to roam" land) and a new form of right of way the "Restricted Byway". Whilst ROWIP2 is in preparation it is not felt that the same levels of engagement with local access forums as had previously been the case will be necessary.
- 1.6 In reviewing the possibility of change three key elements have been identified.
- (i) That the advice required for issues tends to be of a strategic nature covering the whole County and that advice would be better focussed if it was from one source. There is opportunity for the two forums to provide conflicting advice or view different priorities.
 - (ii) Since 2003 the rights of way service has reduced in employees and there is now no dedicated officer. The role is fulfilled by the Team Leader for Countryside Services alongside their other duties. Servicing two forums with little output from either has not been considered an appropriate use of the available resource.

- (iii) Membership levels have diminished and there is a concern that the Forum is geographically poorly represented in some areas whereas others (such as the south-east) dominate. It has also become difficult to ensure a balance between users, landowners and representatives of other interests such as business.

1.7 It is considered that it would now be more appropriate to operate just one forum, jointly with North East Lincolnshire Council. This would leave Rutland County Council to administer its own forum. The majority of current members of the South Lincolnshire & Rutland Local Access Forum represent interests in Rutland.

1.8 Financially it is not considered that operating one joint local access forum will be more costly. In 2017-18 the costs were as follows:

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| Mid Lincolnshire Local Access Forum | £1835.50 |
| South Lincs & Rutland Local Access Forum | £2526.73 |
| Office Administration | <u>£ 934.08</u> |
| TOTAL | £5296.31 |

These figures include room hire and refreshments, postage, printing, secretariat provided by Democratic Services and travelling expenses for the members of the forum. The figures do not include the officer time and travel expenses of the Team Leader – Countryside Services or the expenses of the appointed authority members (four members in total). Each of the other authorities contributes 25% of the cost of facilitating the Local Access Forum per annum.

1.9 Whilst it is expected that for one forum the travel expenditure for the membership may increase the reduction in the secretariat, administration and local authority member and officer costs will decrease more significantly.

2. Legal Issues:

2.1 Local Access Forums are governed by the provisions of the CROW Act 2000 and the Local Access Forums (England) Regulations 2007. To facilitate the reduction in the number of forums will require the use of a combination of the regulations.

2.2 Regulation 18 permits any authority which is part of a joint local access forum to terminate the functions of that joint local access forum within its area by the giving of notice to the local access forum and the other appointing authority. Regulation 18(4) then turns that joint local access forum into a sole local access forum within the remaining appointing authority's area which in this case is Rutland.

- 2.3 Recommendation 2a) seeks approval to give notice under this regulation. Prior to doing so the two appointing authorities – Lincolnshire County Council and Rutland County Council – must have agreed arrangements that are to apply in respect of the forum's minutes, documents, secretary, annual reports and such other matters as the authorities consider appropriate. Lincolnshire County Council and Rutland County Council have agreed that minutes and documents will be retained by Rutland County Council with access being given to Lincolnshire County Council where requested. Rutland County Council will be the secretary of the Rutland Forum with the separate forums preparing their own annual reports.
- 2.4 It is also necessary before giving notice under regulation 18 for the Council to consult with the South Lincolnshire and Rutland Local Access Forum and with Rutland County Council. Both bodies have been consulted with and have indicated their agreement both to the proposal itself and the method of achieving it.
- 2.5 That would leave Lincolnshire County Council with a joint local access forum (Mid Lincolnshire) covering part of the Council's area and North East Lincolnshire Council's area. Regulation 16 would then allow Lincolnshire County Council and North East Lincolnshire Council to expand the area of the Mid Lincolnshire Joint Local Access Forum to cover the rest of Lincolnshire to the boundary with Rutland.
- 2.6 Recommendation 2b) seeks approval for serving the necessary notice under regulation 16. Before giving notice under regulation 16, Lincolnshire County Council must consult any appointing authority or local access forum which they consider will be affected by the change. The Council has consulted North East Lincolnshire Council who are in agreement with the proposal. They are going through their own decision-making so that the giving of notice under regulation 16 can be co-ordinated. Lincolnshire County Council has also consulted with the Mid-Lincolnshire Local Access Forum who are in agreement with the proposal.
- 2.7 The responses to the consultation with each of the Forums can be found in Appendices B and C. Both forums were in favour.

2.8 Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding

Compliance with the duties in section 149 may involve treating some persons more favourably than others

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process

A reduction in the number of forums has no impact with regards to the Equality Act 2010. The work of a local access forum is to advise relevant bodies concerning access to open air recreation inclusive of all protected characteristics. Membership of the Forum is open to all regardless of protected characteristics.

An Equality Impact Assessment is attached as Appendix A.

2.5 Joint Strategic Needs Analysis and the Joint Health and Wellbeing Strategy

The Council must have regard to the Joint Strategic Needs Assessment and the Joint Health & Well Being Strategy in coming to a decision

A reduction in the number of forums has no impact with regards to the JSNA or the JHWS. The work of a Local Access Forum is to advise relevant bodies concerning access to open air recreation including the promotion of access as a way of improving physical and mental health and well-being and this will continue.

2.6 Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

A reduction in the number of forums has no impact with regards to Crime and Disorder. The work of a Local Access Forum is to advise relevant bodies concerning access to open air recreation inclusive of commenting on gating proposals following a Public Space Protection Order.

3. Conclusion

3.1 That it is appropriate to revise the arrangements for Local Access Forums covering the Lincolnshire area to form a sole Joint Local Access Forum with North East Lincolnshire Council.

4. Legal Comments:

The Council has the power to make the changes proposed. The detailed legal provisions governing the decision are dealt with in the Report.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor.

5. Resource Comments:

Accepting the recommendations set out in this report, should have little impact on the budgets of the Council, and should enable resources allocated to support the forums to be utilised to better effect.

6. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This is due to be considered by the Highways and Transport Scrutiny Committee at its meeting on 29 April 2019. The comments of the Committee will be presented to the Executive Councillor.

d) Have Risks and Impact Analysis been carried out?

Yes

e) Risks and Impact Analysis

See the body of the Report

7. Appendices

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| These are listed below and attached at the back of the report | |
| Appendix A | Equality Impact Assessment |
| Appendix B | Letter to Lincolnshire County Council Chief Executive from the Mid Lincolnshire Joint Local Access Forum |
| Appendix C | Letter to Lincolnshire County Council Chief Executive from the South Lincolnshire and Rutland Local Access Forum |

8. Background Papers

| Document title | Where the document can be viewed |
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| Establishment of Local Access Forums in Lincolnshire, Executive Report, Decision Reference 00191, 13/05/2003 | Countryside Services, Lincolnshire County Council |
| Countryside and Rights of Way Act 2000 | www.legislation.gov.uk/ukpga/2000/37/part/V |
| The Local Access Forums (England) Regulations 2007 | www.legislation.gov.uk/ukso/2007/268/contents |

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