

Ward: Beckington & Selwood

Portfolio: Community Health Services

FROM: Portfolio Holder
Community Health
Services

Date: 27th September 2021

SUBJECT: Proposal: To seek a resolution of Council to apply to the Secretary of State for a Pedestrianisation Order in respect Berkley Lane & Dark Lane, Berkley Marsh, Frome, pursuant to Section 249 of the Town and Country Planning Act 1990

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Report Sign off	Seen by:	Name	Date
	Legal	Lesley Dolan	15.09.21
	Finance	Richard Bates	15.09.21
	Deputy Chief Executive	Tracy Aarons	15.09.21
	Group Manager	Claire Malcolmson	15.09.21
Summary:	<p>This area, just outside of Frome, has been the District's biggest fly tipping hotspot for many years. When these roads have been open to traffic excessive fly-tipping has occurred, resulting in a significant detrimental impact to the environment and the community's enjoyment of the area. In 2015/16¹ it cost Mendip District Council £64,346 in additional clearance costs above the normal contract due to the vast quantities and the frequency of fly-tipping clearances required.</p> <p>To resolve these issues both Somerset County Council (SCC), through the implementation of a Temporary Traffic Regulation Order and Mendip District Council (MDC) through the implementation of Public Space Protection Orders (PSPOs) in 2017 and 2018, have closed these lanes for significant periods of time. The road closures have created a pleasant amenity for residents to enjoy, specifically by making walking, riding, and cycling safer, but also reducing fly tipping by between 80 and 90%. It has protected the countryside from unsightly and damaging environmental crime and resulted in a significant reduction in annual fly-tipping clearance costs.</p> <p>On occasions, during this period, the lanes have had to be temporarily opened and the reintroduction of vehicles not only saw an increase in fly-tipping but led to feedback from the Parish</p>		

¹ 2015/16 figures as last set of complete figures prior to temporary interventions

	<p>of Berkley and its residents regarding the safety of the lanes due to the speed of travelling vehicles.</p> <p>In February 2021 Mendip’s Cabinet, following consideration of legal advice, resolved not to extend the 2018 PSPO or approve the implementation of a further PSPO, due to the risk of further legal challenge, but sought to recommend that the situation be reviewed to establish a long-term and sustainable solution as a priority.</p> <p>This resulted in the formation of a multi-agency group (MAG) consisting of representatives from:</p> <p>Mendip District Council (MDC) Somerset County Council (SCC) Avon & Somerset Constabulary (ASC) Berkley Parish Council Frome Town Council Environment Agency (EA) Devon & Somerset Fire & Rescue Service (DSFRS)</p> <p>Since March officers have worked together with our partners in the MAG and with local District, County and Parish councillors, to consider and assess a wide range of potential solutions. These are outlined in the report and a practical suite of options put forward.</p>
<p>Recommendation:</p>	<p>Full Council is asked to:</p> <ol style="list-style-type: none"> 1. Resolve to support the application by the Council as Local Planning Authority to the Secretary of State for a Pedestrianisation order pursuant to s.249 of the Town and Country Planning Act 1990 as per Option 3 (Berkley Lane and Gypsy Lane) reflecting the majority of the responses in favour in the consultation but acknowledging the risks and potential for increased objections being received during the formal consultation undertaken by the Secretary of State that may need to be negotiated.
<p>Direct and/or indirect impact on service delivery to our customers and communities</p>	<p>Businesses and residents of Berkley Marsh, Berkley Down and the northern part of the Stonebridge Estate, Frome, have been consulted together with other statutory agencies regarding the proposal to apply for a <i>Pedestrianisation</i> Order for Berkley Lane and Dark Lane as a means of improving the amenity and reducing rural crime and damage to the environment.</p> <p>The initial consultation period ran from 13th August 2021 to 13th September 2021.</p>

<p>Financial Implications:</p>	<p>Over the 3 years prior to any road closure interventions the average cost of additional fly-tipping clearances was circa £50,000 per year. The average cost of additional fly-tipping clearance since the interventions excluding the part year of 2016/2017 has been approximately £8,500 so taking action has produced a saving of £41,500 per year.</p> <p>Should the council do nothing then based on previous history there will be increased costs of clearing the fly-tipping (2021/22 extrapolated to be £20,716). Previous CCTV implementation has cost approximately £10,000 (replace borrowed cameras that were damaged/stolen) and is hoped future investment in cameras would be under £5,000. This investment will be required to try and monitor this area in the absence of any road closures however there are no guarantees that this equipment would stay in situ, increasing the cost of trying to reduce rural crime in this area.</p> <p>The application to the Secretary of State for a Pedestrianisation Order is free and planning officers would assist in the preparation of the documentation.</p> <p>There is a risk of limited compensation claims from local landowners.</p>
<p>Climate Change Risks and Opportunities:</p>	<p>This is a measure creates more opportunities than risks as it will assist in reducing the risk of environmental and ecological damage that occurs due to pollution and contamination of the soils, groundwater and air. Moreover the potential harm is greatly exacerbated by the risk of fly- tipped waste being burned in situ. Consequently, measures adopted to limit the quantity of fly-tipped material will in turn limit opportunities for further offences and in fact on air quality relating to the burning of illegally deposited waste.</p> <p>Closure of the lanes will mean that some residents and businesses will have to drive further to access their land and amenities.</p> <p>There is an opportunity of linking these lane closures to a wider improvement of the Frome Local Cycling Walking Infrastructure.</p>

<p>Legal Implications:</p>	<p>The Department of Transport will consider the Application for a Pedestrianisation Order. A formal consultation period will have to be undertaken and any objections will be forwarded to the LPA for negotiation and resolution. This may require resource from Shape Legal Services.</p> <p>Should objections remain then there will be an Inquiry which could be a Full Public Inquiry or written representations. This will require resource from Shape Legal Services. The final decision will be made by the Secretary of State. This decision once published has a 6-week High Court Challenge Period.</p>
<p>Crime and Disorder Implications:</p>	<p>The reduction in fly-tipping and other associated enviro-crime (burning of waste) will reduce crime and disorder within this area. The Council will still be required to undertake district wide monitoring and enforcement to reduce the displacement of the fly-tipping working with other agencies including across boundaries.</p>
<p>Equalities Implications:</p>	<p>The residents of the Pines Residential site and Berkley Marsh hamlet have alternative routes to access their homes and essential amenities and have been able to do so since 2016, when the first road closure was introduced. It does prevent access to the site from the East. Emergency services can access the site from Frome, through Gypsy Lane.</p> <p>As a positive the removal of vehicles from Berkley Lane makes the walk or cycle to school of any parents and children to Berkley Primary School safer should there be a need. Alternative vehicle routes would have to be used if children were transported to school, but this would be a short extension to the journey, approximately 10 minutes.</p>
<p>Risk Assessment and Adverse Impact on Corporate Actions:</p>	<ol style="list-style-type: none"> 1. Failure to identify and implement solutions for tackling environmental crime and fly tipping (E8). 2. Opportunity to work with communities and partners to help maintain and enhance local amenities (E3).

INTRODUCTION

It has long been known that this area, just outside of Frome, has been the District's biggest fly-tipping hotspot. When these roads have been open to traffic excessive fly-tipping and other unsightly environmental crime (burning of waste) has occurred, resulting in a significant detrimental impact to the environment and the community's enjoyment of the area. In 2015/16² it cost Mendip District Council £64,346 in additional clearance costs above the normal contract due to the vast quantities and the frequency of fly-tipping clearances required (*see table 1*).

² 2015/16 figures as last set of complete figures prior to temporary interventions

Historically, to resolve these issues both Somerset County Council, through the implementation of a Temporary Traffic Regulation Order in 2016 and Mendip District Council through the implementation of Public Space Protection Orders (PSPOs) in 2017 and 2018, have closed the lanes for significant periods of time. This created a pleasant amenity for residents to enjoy, particularly by making walking, riding, and cycling safer. It also reduced fly tipping by at least 60% (averaged over time), protecting the countryside from unsightly and damaging environmental crime and in addition resulted in a significant reduction in annual fly-tipping clearance costs.

On occasions, during this period, the lanes have had to be temporarily opened and the reintroduction of vehicles not only saw an increase in fly-tipping but led to feedback from the Parish of Berkley and local residents regarding the safety of the lane due to the speed of travelling vehicles. This is the situation currently and a cause of much concern.

In February 2021 Mendip's Cabinet, following consideration of legal advice, resolved not to extend the 2018 PSPO for a further period of time or make a further PSPO due to risk of further legal challenge. The area of law in question remains untested in the Courts. Cabinet members appreciated that this was an unpopular decision amongst local residents and at that same meeting sought to approve that the situation be reviewed to establish a long-term and sustainable solution as a priority.

This resulted in the formation of a multi-agency group (MAG) consisting of representatives from:

Mendip District Council (MDC)
Somerset County Council (SCC)
Avon & Somerset Constabulary (ASC)
Berkley Parish Council
Frome Town Council
Environment Agency (EA)
Devon & Somerset Fire & Rescue Service (DSFRS)

Since March the multi-agency working group has met regularly and liaised with local District and County councillors, to consider and assess a wide range of potential solutions. This report proposes a suite of actions, agreed by the MAG, as the best option and most practical way to resolve the impact on the environment and the improvement of the amenity of the area.

HISTORY

Fly-tipping in the Berkley Marsh area has been ongoing for many years. The problem grew when the road network was changed after the building of the Frome by-pass.

With the costs of the clearance rising, meetings with the local residents in the latter part of 2015 resulted in a Temporary Traffic Regulation Order (TTRO) being put in place with effect from the 11 April 2016, closing both Berkley Lane and Dark Lane.

In November 2017, due to new legislation becoming available, Mendip District Council replaced the TTRO with a Public Space Protection Order for three months. After a period of consultation, a further PSPO was implemented for a period of 3 years from February 2018.

During this time fly-tipping was greatly reduced:

YEAR	TOTAL OF INCIDENTS (DISTRICT)	NO. OF INCIDENTS BERKLEY PARISH	TOTAL COST ³ OF FLYTIPPING (BERKLEY PARISH)	INTERVENTIONS APPLIED
2013 -2014	1834	123	£42,246	High spec CCTV cameras deployed but stolen at cost of £10,000. One incident recorded but vehicle not identified.
2014 -2015	2026	250	£40,840	'No Fly Tipping' signs erected many times as frequently removed.
2015 – 2016	2078	324	£64,346	Deployable cameras installed and insufficient evidence collected. It is difficult to site cameras due to bends and limited clear views.
2016 - 2017	1757	83	£10,261	TRRO applied April 2016 for 18 months
2017 -2018	1734	121	£10,325	November 2017 applied 3-month PSPO to close the lane, PSPO extended to 3-years. Concrete blocks removed in line with T&C of PSPO during periods: 29.11.17 – 22.12.17 (4 weeks) 01.03.2018 – 01.03.2018 (1 Day)
2018 -2019	1560	47	£3,264	Concrete blocks removed in line with T&C of PSPO during periods: 21.08.2019 – 30.10.2019.
2019 -2020	1497	133	£11,781	Concrete blocks removed in line with T&C of PSPO during periods: 16.08.2019 – 21.11.2019 (14 weeks)
2020 -2021	2284	59	£7,142	Concrete blocks removed in line with T&C of PSPO during periods: 01.09.2019 – 30.10.21 Concrete blocks removed 18.02.21
2021 – Jun	464	46	£5,179 (20,716) ⁴	Roads fully open and 4 deployable cameras placed out August 2021 & 2 stolen. No evidence gleaned. Security camera procured but vandal / theft proof mounting to be sourced.

³. These costs are for large volume removal of waste and disguise smaller removals that are carried out within the current contract.

⁴. If extrapolated across the year at current rates

Notwithstanding the existence of the PSPOs, MDC agreed to remove the temporary measures at the request of adjacent landowner(s) to allow vehicle movements associated with harvest activities or similar.

The removal of the blocks on 21st August 2018 to allow harvesting and agricultural activities of the surrounding land to take place, saw the rates and volumes of fly tipping increase, with a large-scale clearance being required very shortly after the road in question was effectively reopened. At the request of the landowner, the lane was required to remain open until the end of October 2019 to facilitate hedge cutting and other agricultural and harvest activities. During this time, there was a further increase in fly tipping.

A request on Friday 28th August 2020 for the immediate removal of the blocks to facilitate harvesting needs, saw the Council complete the action on Tuesday 1st September and blocks were replaced on 30th October. Again, seeing an increase in fly tipping during this period as well as a significant impact of vehicles using the lane at speed, caused significant concern to the parish.

Over the years both overt and covert observations and surveillance have been undertaken in the area. Although some offences have been captured on camera it has not been possible to identify those carrying out the fly-tipping in order that enforcement action can be undertaken. Attempts to prosecute offenders have been unsuccessful due to specific and robust court requirements as to evidence of any offending vehicle completing the tip. Also, the location and positioning of the lane and its surrounding landscape sees the application of “trap” cameras being very difficult to site. Despite the difficulties, cameras were deployed between 2015 and 2021, with many of those deployed being damaged or stolen.

Proposals Considered by MAG

No.	Option <i>Physical Prevention</i>	Decision
1	Application of new PSPO with supportive infrastructure – gates/bollards/blocks	Legal advice together with independent Counsel’s advice determined that this not viable for consideration at this time.
2	Closure of the highway under s.116 of the Highways Act 1980 with any associated supporting infrastructure (bund/blocks or other)	Legal advice not a viable solution as removes all highway rights and becomes private land so public access may become restricted. Depending on blocking no guarantee that this would prevent illegal access and tipping on this private land although would be the responsibility of the landowner to clear.
3	Closure of the highway to motorised vehicles pursuant s.249 of the Town and Country Planning Act 1990. The Council resolves to apply to the Secretary of State for Pedestrianisation Order (PO) to improve the amenity of part of its area involving the cessation of public right of way with vehicles over the highway.	Legal advice together with independent Counsel’s advice determined this is a viable option for consideration at this time, so MAG agreed to take forward supported with other measures. (See appendix 1 – letter of support from SCC)
4	Prohibition of Vehicles Order (Traffic Regulation Order)	This would be required in conjunction with option 3 as enforcement powers are required to compliment the PO. SCC have agreed to manage this application should the Secretary of State grant the Council’s application for a PO.

5	Requirement of bollards or other obstruction to prevent vehicular access s.92 under Road Traffic Regulation Act 1984.	This would be required in conjunction with option 3 to physically block the road. SCC have agreed to manage this application should the Secretary of State grant the Council's application for a PO.
<i>Enforcement & Education</i>		
6	Application of additional patrols by police and enforcement agencies including MDC & joint enforcement days or campaigns and sharing of intelligence	These are planned and will involve joint working with the police rural crime officers and MDC enforcement officers and will include stop and search powers.
7	Application of private contractor/surveillance officer	Although a short time limited patrol could make an impact it doesn't offer a long-term solution. Police and MDC are not supportive at current time as current preference is for 6 above.
8	Apply fixed CCTV cameras with required infrastructure to manage surveillance hotspots in multiple locations	Whilst additional infrastructure has been considered and scoping undertaken to meet the requirements of the issue, given the previous experience and high likelihood of vandalism and theft, it is not considered prudent at this time to place further infrastructure into the location without significant reassurance of protection.
9	Addition of deployable cameras	These have been deployed recently within the area but as per previous experience some of these have been removed.
10	Application of temporary roadblocks without permission	Legal advice sought and this advised the Council against this action, equally, Somerset County Council advised against this and confirmed that legal action would be brought against MDC if it proceeded.
11	Waste management campaign for fly tipping	The Somerset Waste Partnership (SWP) continues to work with the District Councils to support campaigns for fly tipping, however, due to the current crisis within the waste and haulage environment, resource cannot be easily deployed to a campaign at the current time, however, this remains part of the business plan actions for SWP.

12	Application of body worn cameras for MDC staff to ensure that all actions of passing traffic, possible fly-tippers etc are captured when on site	Although limited in their application these have now been purchased for use on fly tipping enforcement actions and other enforcement duties across the District. They will be used in any overt targeted operations.
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Option Agreed for Progress by MAG

The proposal is three-fold:

1. Mendip District Council will resolve to apply for an Order from the Secretary of State to Extinguish the Right to Use Vehicles on a Highway under section 249 of the Town and Country Planning Act 1990 (a Pedestrianisation Order).

This application is being sought to reduce the environmental criminality and anti-social behaviour in the area from both fly-tipping and speeding traffic to create a safe pedestrianised route for walkers, riders, and cyclists to enjoy.

2. Somerset County Council will, in support of this, apply for a Traffic Regulation Order under Road Traffic Regulation Act 1984 to enable enforcement.
3. Somerset County Council will also support, to prevent access to vehicles, with the exception of highways maintenance vehicles, emergency services vehicles and those with permitted access, by means of bollards or other obstruction as it considers appropriate.

These proposed actions will apply to Berkley Lane (Option A) or Berkley Lane and Dark Lane (Option B) as indicated in the plans attached (Appendix 2a & 2b).

CONSULTATION

To provide the members of Full Council with robust reasoning for their recommendations, the approach agreed by MAG has been presented to the local community for consultation. This consultation ran from 13th August until the 13th September 2021. This consultation is an informal process to assist in decision making. Should the Council decide to resolve to apply for a Pedestrianisation Order there will be a formal consultation process undertaken by the Department of Transport (Appendix 3 for flow diagram of process – *note this is similar to s249 Application but refers to a s248 application and can be found on Department of Transport website*).

The suite of actions were described in a letter (Appendix 4) which was then sent to:

- Landowners and residents surrounding the lanes including Berkley Marsh and wider Berkley Parish, plus the northern area of the Stonebridge Estate and the Pines Residential Caravan Site.
- Berkley Parish Council & Frome Town Council
- Local business owner (Commerce Park)

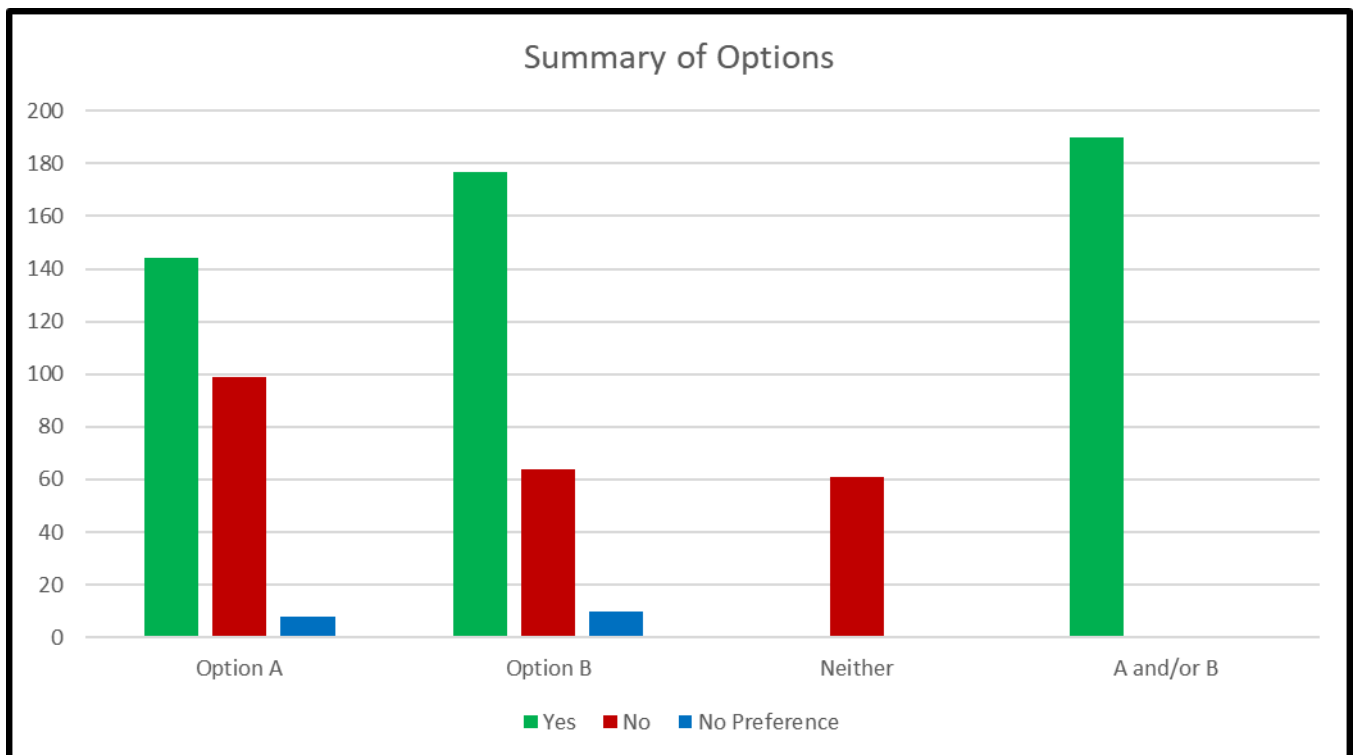
Additionally, comments on the planned suite of actions were requested from:

- Emergency Services
- Utility Companies
- Somerset Highways Authority

CONSULTATION SUMMARY OF RESPONSES

Two hundred fifty-one (252) responses were received from business/residents and landowners, 191 from the online consultation and 61 by post (Summary of Responses - Appendix 5).

	Are you generally in support of Option A pedestrianisation of Berkley Lane	Would you prefer Option B, which extends Option A to include Dark Lane
Yes	144	177
No	100	65
No Preference	8	10



Response from Frome Town Council

There was unanimous support for the closure of the roads with Option B being the preferred. Councillors also hope it will be possible to find a solution that will keep access to the closed roads clear of fly tipping at both ends. It was also noted that the wider issue of fly tipping should be looked at a cross-county issue, working towards a solution for fly tipping. Support for the collaborative approach working with all the residents in the area was welcomed.

Emergency Service & Utilities

Response from Traffic Management Unit at ASC

I understand now that the issues revolve around fly tipping, and road safety concerns regarding the use of the location

As per our telephone conversation, rather than approach the situation with a proposal for pedestrianisation of Berkley Lane and Dark Lane, it may be more appropriate to seek to have the roads designated as "Quiet Lanes" so that their use can be promoted for recreational purposes, walking, horse-riding, cycling etc., rather than pedestrianisation. I understand that local farmers will require an exemption, but this is standard in a rural area.

The major concerns I have with the current proposals are the lack of access for emergency service vehicles, and the potential methods of closure. The "placing of concrete blocks at both ends that can be lifted by forklift to allow hedge cutting and other seasonal access" prohibits emergency access and curtails access for farm vehicles, requiring the presence of a forklift to remove the obstruction/closure. Alternative methods which would address both issues could be the use of a removable bollard or gate system.

From our conversation, I understand that you will be approaching Somerset County Council as the highway authority, regarding this proposal, and I anticipate that statutory consultation for any subsequent Traffic Regulation Order to reduce/regulate access will come to the Traffic Management Unit in due course, to enable us to respond on behalf of the Chief Constable.

The method of blocking to accommodate reasonable requirements for access has yet to be decided and the MAG will consider the points put forward. The reference to "Quiet Lanes" as suggested is not a suitable solution in this context as it won't prevent access by vehicles but could be suitable where only seeking traffic calming solutions.

No response from any other Emergency Service or Utility Company.

OPTIONS CONSIDERED

Option 1: No Pedestrianisation Order Applied For

Do nothing and not resolve to support the application by the Council as Local Planning Authority to the Secretary of State for a Pedestrianisation Order and task the MAG to identify alternative solutions, realising that this is likely to rely on significant investment in cameras and officers in the knowledge that this has not previously led to successful prosecutions and reduction in fly-tipping.

This option was the preferred option for 62 respondents (24.6%). The concerns expressed included impact on businesses and access to land. Although there will be access to owned land (bar the cutting of hedges) alternative gateways and routes will need to be used and so a longer vehicular diversion would be required. It has been expressed that land may be devalued as a result and compensation required.

Nine (9) respondents were not local residents, living beyond the immediate consultation area, but expressed similar concerns to above with regard to access for farmers and

businesses and one referenced access to local school, doctor's surgery and other amenities being impacted. Of these nine, 7 expressed that the lanes were cleaner and safer when left open. Many of these respondents suggested the use of CCTV would reduce the problem, plus the cutting of verges to allow pedestrians to step out of the road when necessary. This was supplemented by a further suggestion of installing street lighting, road signage and road markings, increased enforcement and electronically controlled rising bollards.

Thirty-five (35) respondents were residents or visitors to the Pines Residential Site and the reservations given where that they would like the lanes to stay open to:

- Visits to and from family and friends
- Allow access for emergency vehicles if Gypsy Lane was blocked by movement of large residential caravans (new or replacements)
- Access to local school, doctor's surgery and other amenities – diversion to school is 10 minutes longer
- Access to cemetery
- Better for air pollution as not stuck in traffic or longer journeys

Other respondents referenced that closure either hasn't, or will not, solve the problem, some of these expressing it will just push the problem elsewhere and that the MAG consider other actions and enforcement.

Advantages of Option 1:

1. It will maintain the recent status quo.
2. It will allow unrestricted access by local landowners to all fields using shortest routes.
3. It will allow easy access to local school, doctor's surgery, cemetery and other amenities.
4. Reduce travel for visitors to the Pines Residential Site

Risks of Option 1:

1. This option will not improve the amenity of the area for the local population or make it a safe place to walk, ride or cycle. Given the history of this area it is likely to lead to an increase, once again, to fly-tipping and other rural crime (burning) in this area (in fact already reflected in the year-to-date data). This option will continue to incur costs for the removal of large loads of fly-tipping, circa £50,000 per annum.
2. Alternative measures to resolving the rural crime in this area will be required and the MAG will need to reconvene to consider how the public purse (council taxpayers) can be used to best resolve the environmental crime. The alternatives may be restricted to non-physical preventative measures, through monitoring and enforcement by a variety of agencies. This will be costly. Firstly, as has already been demonstrated the installation of CCTV, both deployable and fixed cameras has led to their almost immediate theft or vandalism. Secondly there could be the option of increasing the presence of enforcement officers, from MDC, ASC and EA however they will only be able to target this area on occasions. Whilst it is hoped that some of this work will be implemented these officers have a wide range of duties across the district, county and

region, respectively, so targeted action days will be limited unless an increase in staff resourcing from all agencies.

3. In addition, this option will not address the dangerous driving/speeding traffic that occurs in these narrow lanes. The MAG will need to further consider how to improve the amenity to protect walkers, riders, horses and cyclists and encourage active travel.

Option 2: Pedestrianisation Order Applied for Berkley Lane Only (Option A)

Resolve to support an application of the Council as Local Planning Authority to the Secretary of State for a Pedestrianisation Order as per Option 2 (Berkley Lane only) reflecting the large number of the responses in favour in the consultation but acknowledging the risks and potential for objections being received during the formal consultation undertaken by the Secretary of State that may need to be negotiated.

One hundred and fifty-two (152) respondents (60.3%) were generally in support of Option A, although their preferences between A & B varied. Only three (3) of these did not want Option B as an alternative.

Advantages of Option 2:

1. All landowners abutting the current highway will have access to their land by existing or alternative gateways and routes.
2. This option will improve the amenity of the Berkley Lane area and replicates the 3-year road closure put in place via the PSPO in 2018. Local people have previously adjusted to that closure so it will be familiar.
3. Savings have been identified previously with this road closed, circa £41,500. This has been a result of a reduction in large fly tips within this lane.
4. This is a measure which will assist in reducing the risk of environmental and ecological damage that occurs due to pollution and contamination of the soils, groundwater and air. Moreover the potential harm is greatly exacerbated by the risk of fly-tipped waste being burned in situ. Consequently, measures adopted to limit the quantity, nature and time elapsed, (before any clearance is practical), will in turn limit opportunities for further offences relating to the burning of illegally deposited waste.
5. It does act as a limited active travel route. A few respondents commented this benefit would be far greater if a pathway from Commerce Park was introduced. This will be fed into the Frome Local Cycling Walking Infrastructure Plans.
6. Increased safety when walking or cycling with children to Berkley Primary School from Pines Residential Site.

Risks of Option 2:

1. Although landowners have access to their land by alternative gateways there is an impact on the route taken to access their fields. This may increase the mileage and time travelled for those affected.

2. One landowner will require permission to access Berkley Lane for the trimming of hedges should a pedestrianisation order be granted so removable bollards/blocks/gates will be required.
3. ASC comment that the method of closure needs to address both, access for farm vehicles and emergency service vehicles e.g., use of a removable bollard or gate system. This will be considered by SCC when identifying the appropriate barriers for closing the road.
4. There is no intention by this road closure to discriminate against those that live on the Pines Residential Site, but responses indicate residents will lose easy access to amenities. However, access to and from the site using Gypsy Lane has been in place during the previous 3-year road closure.
5. This option does leave a through route open (Dark Lane). At times, fly tipping can block this lane, so amenity and access may still be poor.
6. Preventative methods required for Dark Lane will rely on resource intensive non-physical, preventative measures, through increased monitoring and enforcement by a variety of agencies. This is costly with CCTV installation being known to be subject to vandalism or theft and no record of successful prosecutions.
7. As per Option 1 this will not address the dangerous driving/speeding vehicles in these narrow lanes. The MAG will need to further consider how to improve the amenity to protect walkers, riders, horses and cyclists and encourage active travel, noting additional improvements that could be made.
8. Concern regarding short diversions may need to be addressed through reasonable compensation.

The MAG and MDC are conscious that fly tipping campaigns and targeted enforcement should be undertaken to compliment this road closure, and this would apply across the district.

Option 3: Pedestrianisation of Berkley Lane and Dark Lane as per Option B

Resolve to support the application by the Council as Local Planning Authority to the Secretary of State for a Pedestrianisation order as per Option 3 (Berkley Lane and Gypsy Lane) reflecting most of the responses in favour in the consultation but acknowledging the risks and potential for increased objections being received during the formal consultation undertaken by the Secretary of State that may need to be negotiated.

This option was preferred by 177 (70.2%) respondents with a further 10 (4.0%) indicating no preference between options A or B. Frome Town Council also supported this Option.

Advantages:

1. All landowners abutting the current highway will have access to their land by existing or alternative gateways and routes.

2. This option will improve the amenity of the Berkley Lane and Dark Lane area and is a small adjustment to the previous road closure for many residents.
3. More savings could be realised if fly tipping reduced in this road.
4. This is a measure which will assist in reducing the risk of environmental and ecological damage that occurs due to pollution and contamination of the soils, groundwater and air. Moreover the potential harm is greatly exacerbated by the risk of fly- tipped waste being burned in situ. Consequently, measures adopted to limit the quantity, nature and time elapsed, (before any clearance is practical), will in turn limit opportunities for further offences relating to the burning of illegally deposited waste.
5. It does act as a limited active travel route. A few respondents commented this benefit would be far greater if a pathway from Commerce Park was introduced. This will be fed into the Frome Local Cycling Walking Infrastructure Plans
6. Increased safety when walking or cycling with children to Berkley Primary School from Pines Residential Site.

Risks:

1. Although landowners have access to their land by alternative gateways there is an impact on the route taken to access their fields. This may increase the mileage and time travelled for those affected.
2. Two landowners will require permission to access Berkley Lane and Dark Lane for the trimming of hedges should a Pedestrianisation Order be granted so removable bollards/blocks/gates will be required.
3. ASC comment that the method of closure needs to address both, access for farm vehicles and emergency service vehicles e.g., use of a removable bollard or gate system. This will be considered by SCC when identifying the appropriate barriers for closing the road.
4. There is no intention by this road closure to discriminate against those that live on the Pines Residential Site, but responses indicate residents will lose easy access to amenities. However, access to and from the site using Gypsy Lane has been in place during the previous 3-year road closure.
5. Concern regarding short diversions may need to be addressed through reasonable compensation

The MAG and MDC are conscious that fly tipping campaigns and targeted enforcement should be undertaken to compliment this road closure, and this would apply across the district.

RECOMMENDATION

Full Council is asked to:

- 1. Resolve to support the application by the Council as Local Planning Authority to the Secretary of State for a Pedestrianisation order as per Option 3 (Berkley Lane and Gypsy Lane) reflecting the majority of the consultation responses but acknowledging the risks, potential for increased objections being received during the formal consultation undertaken by the Secretary of State that may need to be negotiated and future compensation claims.**

REASONS FOR RECOMMENDATIONS

Option 3 is proposed based on the agreed outcome of the MAG, tasked to establish a long-term and sustainable solution as a priority. This option is supported by majority (74.2%) that responded to the local consultation, plus Frome Town Council. There were only 3 respondents in favour of A and not B, with the remaining respondents 24.6% not wanting either of the lanes closed, there are alternative routes available, and alternative access points for landowners to their land. Additionally, Berkley Lane has been closed for over 4 years since 2015 so residents and businesses have adjusted to this change previously.

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Background Papers