

<b>Report to:</b>	Licensing and Regulatory Committee	<b>Date of Meeting:</b>	Monday 18 June 2018
<b>Subject:</b>	St. Luke's Church Road, Formby Public Path Creation Agreements		
<b>Report of:</b>	Head of Locality Services - Commissioned	<b>Wards Affected:</b>	(All Wards);
<b>Portfolio:</b>			
<b>Is this a Key Decision:</b>	N	<b>Included in Forward Plan:</b>	Yes / No
<b>Exempt / Confidential Report:</b>	N		

### Summary:

To seek approval for the Head of Regulation and Compliance in conjunction with the Head of Locality Services – Commissioned to negotiate and enter into Public Path Creation Agreements with the relevant landowners to create a series of Public Rights of Way and to seek approval to make the necessary Modification Orders to record the new ways on the Council's Definitive Map and Statement of Public Rights of Way.

### Recommendation(s):

The Head of Regulation and Compliance be authorised in conjunction with the Head of Locality Services – Commissioned to:-

- (i) Negotiate and enter into Public Path Creation Agreements pursuant to Section 25 of the Highways Act 1980, with the relevant landowners, for the dedication of Public Rights of Way along the routes shown on plan numbers DC1810 to DC1819.
- (ii) Subject to completion of (i) above make Legal Event Modification Orders under the provisions of Section 53 of the Wildlife and Countryside Act 1981 to record the new ways, as per the Creation Agreements, on the Council's Definitive Map and Statement of Public Rights of Way.

### Reasons for the Recommendation(s):

The Council has the power to enter into an agreement with the relevant landowner pursuant to section 25 of the Highways Act 1980 for the dedication of a way as a highway. The Licensing and Regulatory Committee has delegated powers under the current Constitution for issues relating to the Borough's Rights of Way network and management.

**Alternative Options Considered and Rejected:** (including any Risk Implications)

The alternative is not to enter into the Agreements or to dedicate the permissive routes, process the parish Council application or leave the situation as it currently stands.

The public that are currently using the routes may be doing so without permission and would subsequently be committing trespass against the landowners.

The application process could result in no public rights being recorded.

**What will it cost and how will it be financed?**

**(A) Revenue Costs**

The Legal costs for administering the Agreements and Legal Event Map Modification Orders will be met from the existing Rights of Way Revenue Budgets.

**(B) Capital Costs**

Nil.

**Implications of the Proposals:**

<b>Resource Implications (Financial, IT, Staffing and Assets):</b>
None
<b>Legal Implications:</b>
See body of the report
<b>Equality Implications:</b>
There are no equality implications.

**Contribution to the Council's Core Purpose:**

Protect the most vulnerable: Not applicable
Facilitate confident and resilient communities: Not applicable
Commission, broker and provide core services: Not applicable
Place – leadership and influencer: Not applicable
Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: An improved Rights of Way network will help provide sustainable transportation and encourage sustainable travel options.

Greater income for social investment: An improved Rights of Way network will enhance the opportunities to generate visitor attraction income.
Cleaner Greener: An improved Rights of Way network will provide better access for all to Sefton's visitor attractions and promote healthier and more sustainable modes of transport.

**What consultations have taken place on the proposals and when?**

**(A) Internal Consultations**

The Head of Corporate Resources (FD 5146/18) and Head of Regulation and Compliance (LD 4370/18) have been consulted and any comments have been incorporated into the report.

**(B) External Consultations**

**Implementation Date for the Decision**

Immediately following the Committee / Council meeting.

**(Please delete as appropriate and remove this text)**

<b>Contact Officer:</b>	Brian Goodwin
Telephone Number:	0151 934 4239
Email Address:	brian.goodwin@sefton.gov.uk

**Appendices:**

The following appendices are attached to this report:

**Background Papers:**

5<sup>th</sup> September 1994 Highways Committee – Public Rights of Way Claims made by the Formby Civic Society

6<sup>th</sup> March 1995 Highways Committee - Public Rights of Way Claims made by the Formby Civic Society – Consultation Results

23<sup>rd</sup> September 2004 Formby Area Committee - Wildlife And Countryside Act 1981, Section 53, Application For Modification Order To Definitive Map And Statement In Respect Of St. Luke's Church Road And Associated Ways.

# **1 INFORMATION**

- 1.1 An application to have a number of routes within the Ravenmeols area of Formby recorded as Definitive Public Right of Way has been prepared by Formby Parish Council. The routes included in the application are:
- St Luke's Church Road,
  - Range Lane,
  - Albert Road,
  - Alexandra Road,
  - Cambridge Road,
  - Two paths connecting Albert Road and Alexandra Road,
  - Path linking St Luke's Church Road with Beechwood Drive.
- 1.2 The application will seek to have an Order made that if confirmed, will alter the Council's Definitive Map and Statement to include the listed routes as Public Rights of Way. The application would be made under the Wildlife and Countryside Act 1981(1981 Act) to add routes to the Definitive Map and Statement. The relevant statutory provision which applies to adding a route to the Definitive Map and Statement is based on 20 years user evidence is Section 53(3)(b) of the 1981 Act.
- 1.3 The Parish Council has indicated that the purpose of their application is to protect and ensure public access along these routes and to the sefton coast. The application was instigated following one the landowners erecting "Private Road" signs and undertaking works to alter the layout of one of the roads included in the application.
- 1.4 Currently many of the ways included within the application are permissive routes, one being the Sefton Coastal Footpath on St Luke's Church Road, which could be closed by the landowners should they wish to do so.
- 1.5 The Parish Council has been working through the procedural requirements of making an application and has recently completed the processes. Whilst following these procedures they have served a notice upon all the known freehold landowners of land over which the routes pass. This notice informs the landowner of the application and the highway status applied for.
- 1.6 The Parish Council indicates that all of the routes within the application have been used by the public for in excess of 20 years. They also state that the public use has been on foot, by cycle and vehicular. As such the application seeks to have the majority of the ways recorded as Byways open to any traffic.
- 1.7 On receipt of the notice from the Parish Council most of the affected landowners were in contact with either the Parish Council, Sefton Council or both. The general response from the landowners was of support for public access to continue but some had reservations over public vehicular use.

## 2 **BACKGROUND**

- 2.1 In 1994 the Highways Committee considered a report from the Director of Technical Services regarding a similar application made by the Formby Civic Society. The Committee resolved that the Council should consult with the interested parties prior to making an Order to record the routes as Definitive Public Rights of Way.
- 2.2 A second report was put to the Highways Committee in March 1995 to consider the results of the consultation with interested parties. Two objections had been received to the proposals, one that there may be an increase in use of the paths and resultant deterioration of the road surfaces and damage to flora and fauna, and the other that St Luke's Church Road and Range Lane are public footpaths and vehicles may only use it with the express permission of the landowner.
- 2.3 This report recommended the making of an Order under Section 53(2) and (3)(b) and (3)(c)(i) of the Wildlife and Countryside Act 1981 to add the ways and lanes to the Definitive Rights of Way Map and Statement.
- 2.4 In 2004 the Formby Area Committee considered a report from the Technical Services Director that sought approval to consult with residents of Albert Road, Alexandra Road and St Luke's Church for the introduction of access controls in the area and for the Legal Services Director to make Public Path Creation Agreements with the relevant landowners along the majority of the routes included in the application made by the Civic Society.
- 2.5 Section 25 of the Highways Act 1980 provides the legal mechanism for a Local Authority to enter into a Public Path Creation Agreement with a landowner to dedicate an area of their land to the public, as highway. It was pursuant to this legislation that the recommendations of the 2004 report were put forward.

## 3 **PROPOSAL**

- 3.1 The outcome of the application from the Parish Council, should it be formally processed cannot be guaranteed and could conceivably result in no public rights being recorded or that all the ways could be available for vehicular use. The formal decision on the outcome of the application, if it were objected to would rest with the Secretary of State.
- 3.2 The current feedback from the majority of the landowners regarding the application by the Parish Council is of support in principle to public use of the ways but of concern and in some cases opposition, to possible public vehicular use. Therefore, it is likely that some will object to the application, resulting in the requirement to refer the decision to the Secretary of State.
- 3.3 Given the feedback of the landowners is largely in favour of public use, the option considered by the Formby Area Committee in 2004, Public Path Creation Agreements, would be more likely to deliver the outcome of recording and protecting the public's rights. It is therefore, considered appropriate to work with the landowners and to enter into Creation Agreements for the routes included within the application by the Parish Council.

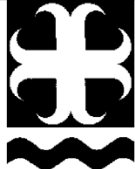

- 3.4 The Parish Council at its meeting of 3 April 2018 resolved to agree the principle of Sefton Council entering into negotiations with the landowners to enter into Public Path Creation Agreements as a potential alternative option to their application, which would achieve the same or similar intended outcomes. The Parish Council also resolved to not withdraw their application in lieu of the possible agreements to ensure it would be duly considered should Sefton Council fail to enter into the Agreements.
- 3.5 The resolution of the Formby Area Committee in 2004 can no longer be enacted due to the length of time passed and the changes of landownership since then. As such and in line with the Council's current Constitution a new resolution would be required.
- 3.6 The proposed Agreements will be for a series of footpaths, bridleways and restricted byway dedications which will add clear benefit to the network for the public including horse riders and will be adding value to the existing Rights of Way network. Therefore, it would be in the public interest to enter into a Public Path Creation Agreement with the relevant landowners for each parcel of land over which the routes pass.
- 3.7 The proposals will also help to meet the following actions from the Liverpool City Region Rights of Way Improvement Plan 2018-2028 (ROWIP):
- Action 1 - Manage the Definitive Map and Statement.
- Action 6 - Increase sustainable travel.
- Action 7 - Support tourism and the visitor economy.
- 3.8 Following completion of the Agreements, a Legal Event Map Modification Order, pursuant to the Wildlife and Countryside Act 1981, would be required to update the Definitive Map and Statement for Public Rights of Way accordingly.
- 3.9 It is important to note that many of the routes currently have private vehicular access rights for residents and their visitors and that the application and possible Creation Agreements will have no legal impact upon these rights.

## 4 **CONCLUSION**

- 4.1 An application has been prepared by Formby Parish Council to record a number of ways on the Council's Definitive Map and Statement for Public Rights of Way. Having reached agreement in principle with the Parish Council and landowners, officers seek approval to negotiate and enter into Public Path Creation Agreements with the relevant landowners which would essentially result in the same or similar intended outcome of the Definitive Map Modification application prepared by the Parish Council.
- 4.2 In order to protect the rights of the public and their enjoyment of the rights of way network it is considered expedient to enter into negotiations with the relevant landowners to dedicate the footpaths, bridleways and restricted byways shown on the attached plans DC1810 to DC1819, to provide a joined up, continuous network in and along the coastal areas Ravenmeols.

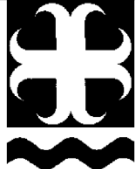

4.3 Therefore, it is recommended that approval for the Head of Regulation and Compliance in conjunction with the Head of Locality Services – Commissioned is granted to negotiate and enter into Public Path Creation Agreements with the relevant landowners to create a series of Public Rights of Way and to make the necessary Modification Orders to record the new ways on the Definitive Map and Statement of Public Rights of Way.



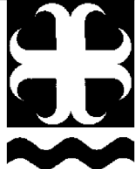

<b>SEFTON M.B.C.</b>  HIGHWAYS DEVELOPMENT & DESIGN	<p><b>Public Path Creation Agreement</b>  <b>Section 25 Highways Act 1980</b></p> <p><b>St Luke's Church Road</b>  <b>Formby Restricted Byway No.57</b></p>									
Jim Black Locality Services - Commissioned Magdalen House Trinity Road Bootle L20 3NJ	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Drawn By: <b>BG</b></td> <td style="width: 25%;">Scale: <b>not to scale</b></td> <td style="width: 25%;">Date: <b>10 May 2018</b></td> <td style="width: 25%;">Checked: <b>B Mason</b></td> </tr> <tr> <td colspan="2">Ward:</td> <td colspan="2">Os Sheet Name:</td> </tr> </table>	Drawn By: <b>BG</b>	Scale: <b>not to scale</b>	Date: <b>10 May 2018</b>	Checked: <b>B Mason</b>	Ward:		Os Sheet Name:		<p><b>DC1810</b></p>
Drawn By: <b>BG</b>	Scale: <b>not to scale</b>	Date: <b>10 May 2018</b>	Checked: <b>B Mason</b>							
Ward:		Os Sheet Name:								
This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution. Sefton Council Licence number 100018192. (c) 2016.										





<p><b>SEFTON M.B.C.</b></p>  <p>HIGHWAYS DEVELOPMENT &amp; DESIGN</p> <p>Jim Black Locality Services - Commissioned Magdalen House Trinity Road Bootle L20 3NJ</p>	<p><b>Public Path Creation Agreement</b> <b>Section 25 Highways Act 1980</b></p> <p><b>St Luke's Church Road</b> <b>Formby Bridleway No.58 (Part)</b></p>	
<p><b>Drawn By:</b> BG</p> <p><b>Scale:</b> not to scale</p> <p><b>Date:</b> 10 May 2018</p> <p><b>Checked:</b> B Mason</p>	<p><b>Ward:</b></p> <p><b>Os Sheet Name:</b></p> <p><small>This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution. Sefton Council Licence number 100018192. (c) 2016.</small></p>	<p><b>DC1811</b></p>



<p><b>SEFTON M.B.C.</b></p>  <p>HIGHWAYS DEVELOPMENT &amp; DESIGN</p>	<p><b><u>Public Path Creation Agreement</u></b>  <b><u>Section 25 Highways Act 1980</u></b></p> <p>St Luke's Church Road          Formby Bridleway No.58 (Part)</p>									
<p>Jim Black          Locality Services - Commissioned          Magdalen House          Trinity Road          Bootle L20 3NJ</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Drawn By: <b>BG</b></td> <td style="width: 25%;">Scale: not to scale</td> <td style="width: 25%;">Date: <b>10 May 2018</b></td> <td style="width: 25%;">Checked: <b>B Mason</b></td> </tr> <tr> <td colspan="2">Ward:</td> <td colspan="2">Os Sheet Name:</td> </tr> </table> <p style="font-size: x-small;">This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution. Sefton Council Licence number 100018192. (c) 2016.</p>	Drawn By: <b>BG</b>	Scale: not to scale	Date: <b>10 May 2018</b>	Checked: <b>B Mason</b>	Ward:		Os Sheet Name:		<p><b>DC1812</b></p>
Drawn By: <b>BG</b>	Scale: not to scale	Date: <b>10 May 2018</b>	Checked: <b>B Mason</b>							
Ward:		Os Sheet Name:								



**SEFTON M.B.C.**




HIGHWAYS DEVELOPMENT & DESIGN

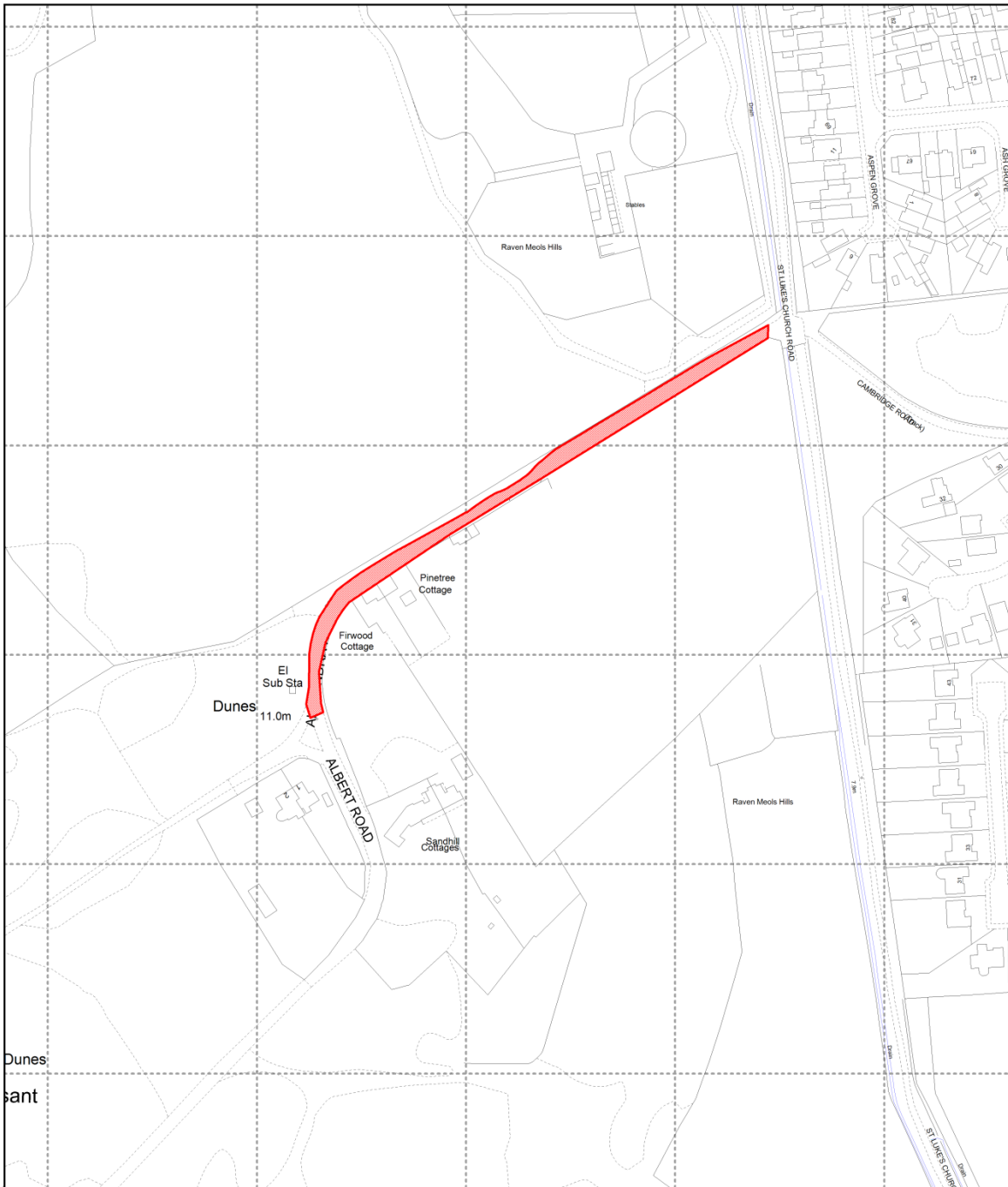
Jim Black  
Locality Services - Commissioned  
Magdalen House  
Trinity Road  
Boole L20 3NJ

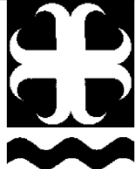

**Public Path Creation Agreement**  
**Section 25 Highways Act 1980**

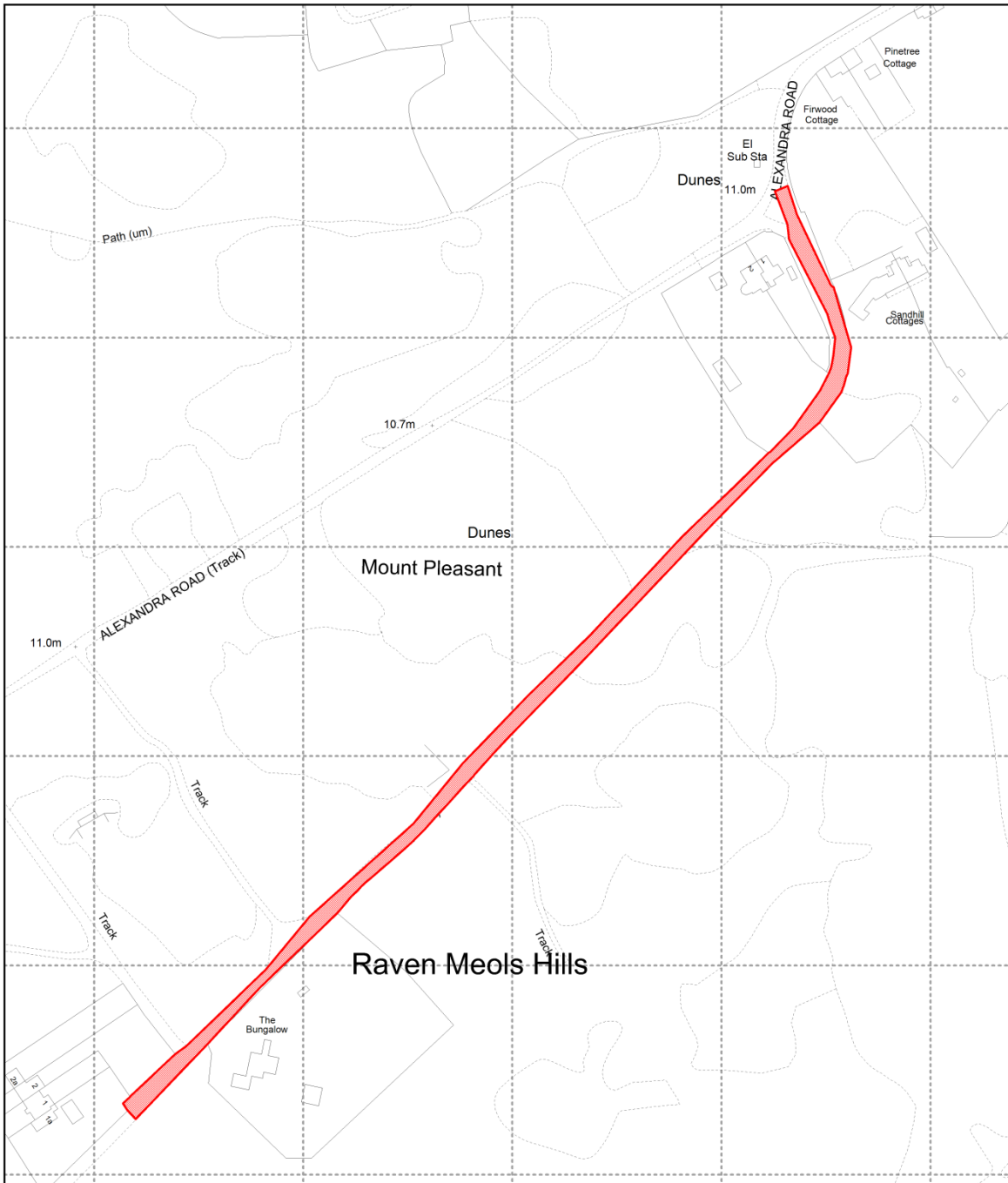
Range Lane  
Formby Bridleway No.59

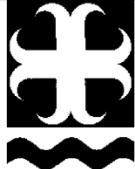



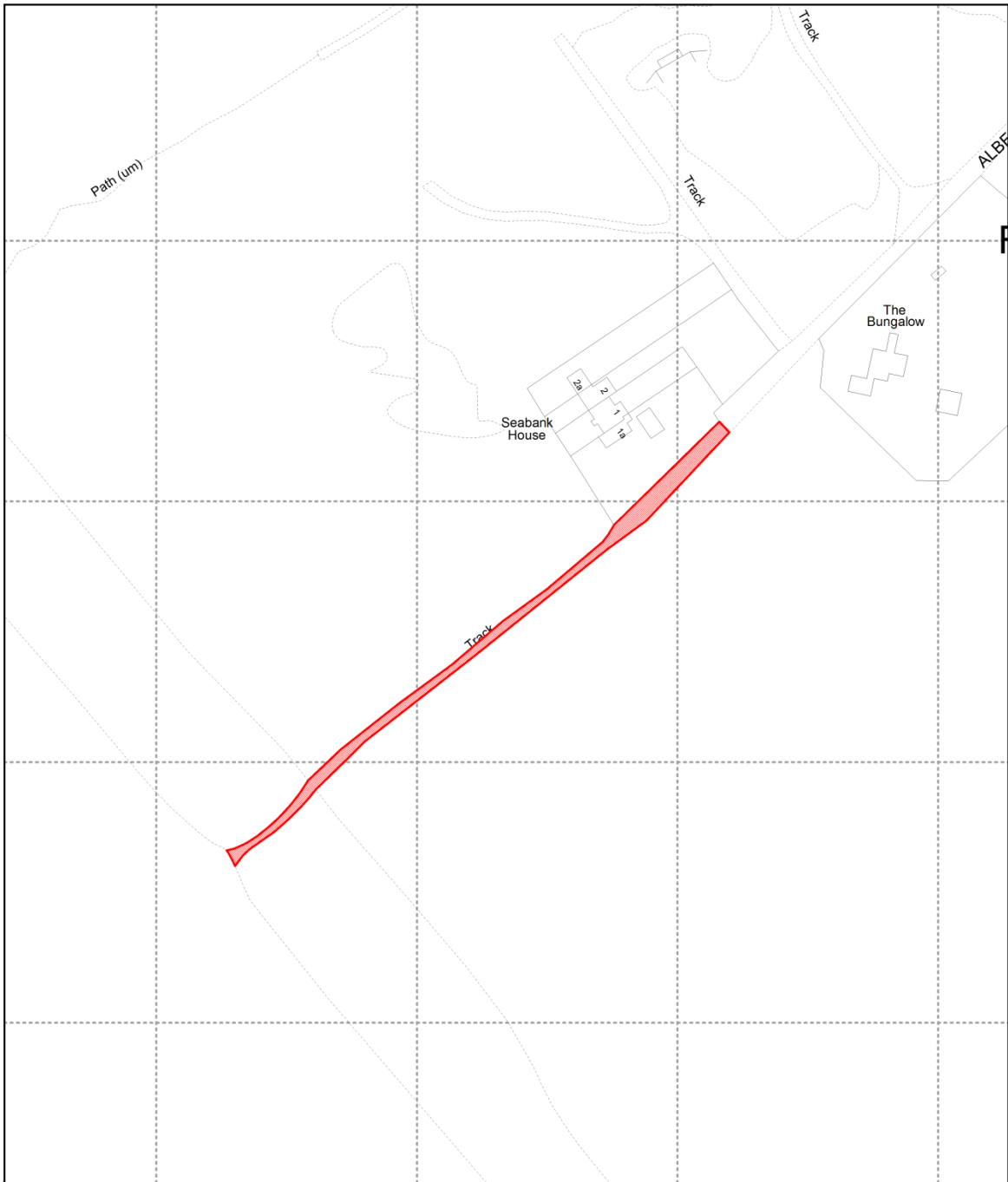
Drawn By: BG	Scale: not to scale	Date: 10 May 2018	Checked: B Mason
Ward:		Os Sheet Name:	
<small>This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution. Sefton Council Licence number 100018192. (c) 2016.</small>			<b>DC1813</b>

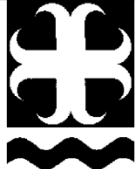



<b>SEFTON M.B.C.</b>  HIGHWAYS DEVELOPMENT & DESIGN	<p><b>Public Path Creation Agreement</b>  <b>Section 25 Highways Act 1980</b></p> <p><b>Alexandra Road</b>  <b>Formby Restricted Byway No.60 (Part)</b></p>									
Jim Black Locality Services - Commissioned Magdalen House Trinity Road Bootle L20 3NJ	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Drawn By: <b>BG</b></td> <td style="width: 25%;">Scale: not to scale</td> <td style="width: 25%;">Date: <b>10 May 2018</b></td> <td style="width: 25%;">Checked: <b>B Mason</b></td> </tr> <tr> <td colspan="2">Ward:</td> <td colspan="2">Os Sheet Name:</td> </tr> </table>	Drawn By: <b>BG</b>	Scale: not to scale	Date: <b>10 May 2018</b>	Checked: <b>B Mason</b>	Ward:		Os Sheet Name:		<p><b>DC1814</b></p>
Drawn By: <b>BG</b>	Scale: not to scale	Date: <b>10 May 2018</b>	Checked: <b>B Mason</b>							
Ward:		Os Sheet Name:								
This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution. Sefton Council Licence number 100018192. (c) 2016.										





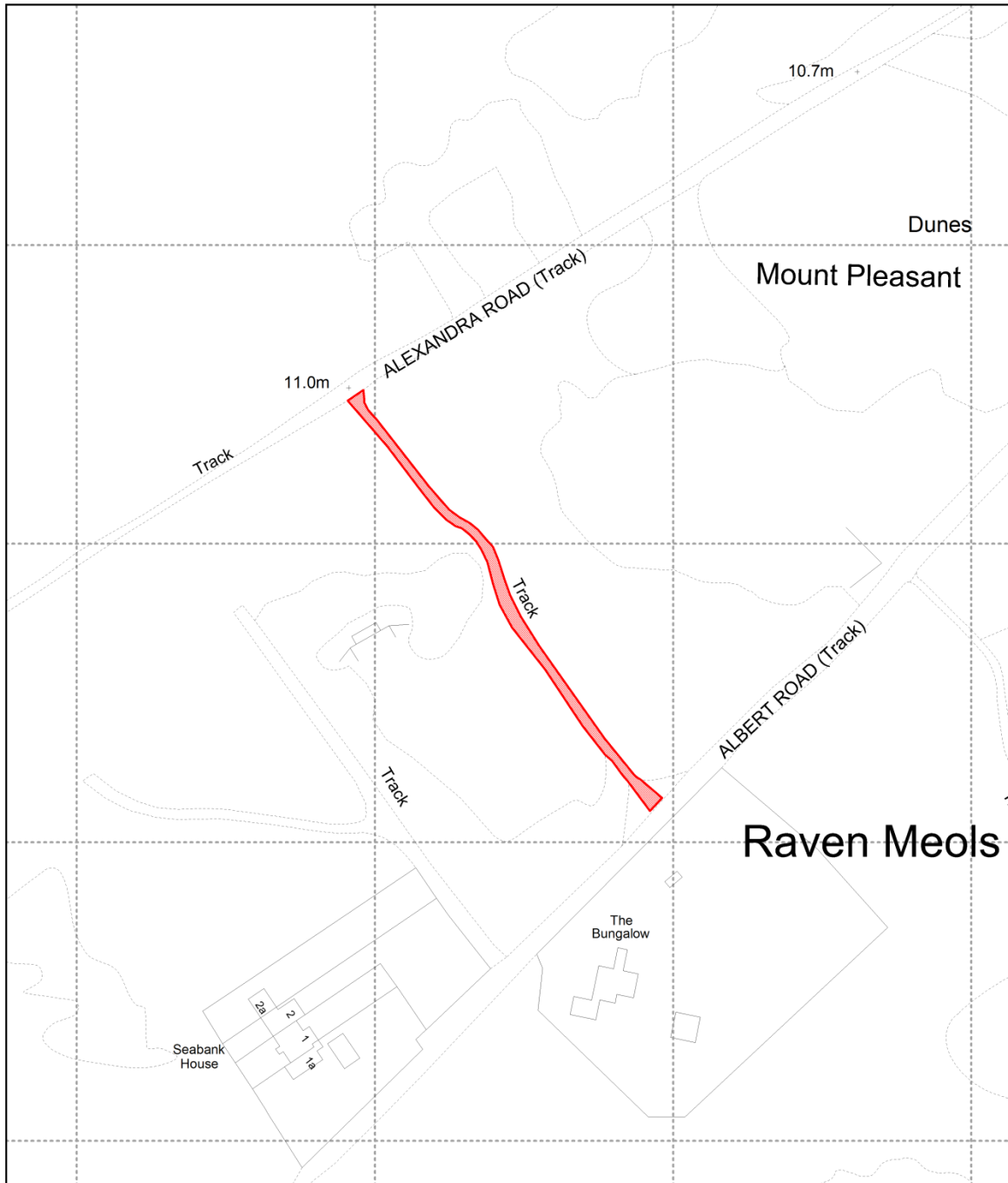
<b>SEFTON M.B.C.</b> 	<p><b><u>Public Path Creation Agreement</u></b>  <b><u>Section 25 Highways Act 1980</u></b></p> <p><b>Albert Road</b>  <b>Formby Restricted Byway No.60 (Part)</b></p>									
HIGHWAYS DEVELOPMENT & DESIGN  Jim Black Locality Services - Commissioned Magdalen House Trinity Road Bootle L20 3NJ	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Drawn By: <b>BG</b></td> <td style="width: 25%;">Scale: not to scale</td> <td style="width: 25%;">Date: 10 May 2018</td> <td style="width: 25%;">Checked: <b>B Mason</b></td> </tr> <tr> <td colspan="2">Ward:</td> <td colspan="2">Os Sheet Name:</td> </tr> </table>	Drawn By: <b>BG</b>	Scale: not to scale	Date: 10 May 2018	Checked: <b>B Mason</b>	Ward:		Os Sheet Name:		
Drawn By: <b>BG</b>	Scale: not to scale	Date: 10 May 2018	Checked: <b>B Mason</b>							
Ward:		Os Sheet Name:								
This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution. Sefton Council Licence number 100018192. (c) 2016.		<b>DC1815</b>								

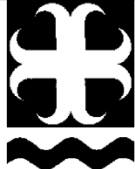



<p><b>SEFTON M.B.C.</b></p>  <p>HIGHWAYS DEVELOPMENT &amp; DESIGN</p> <p><small>Jim Black Locality Services - Commissioned Magdalen House Trinity Road Bootle L20 3NJ</small></p>	<p><b><u>Public Path Creation Agreement</u></b> <b><u>Section 25 Highways Act 1980</u></b></p> <p><b>Albert Road</b> <b>Formby Footpath No.61</b></p>		
<b>Drawn By:</b> BG	<b>Scale:</b> not to scale	<b>Date:</b> 10 May 2018	<b>Checked:</b> B Mason
<b>Ward:</b>		<b>Os Sheet Name:</b>	
<p>This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown Copyright.          Unauthorised reproduction infringes Crown Copyright and may lead to prosecution.          Sefton Council Licence number 100018192. (c) 2016.</p>			<p><b>DC1816</b></p>

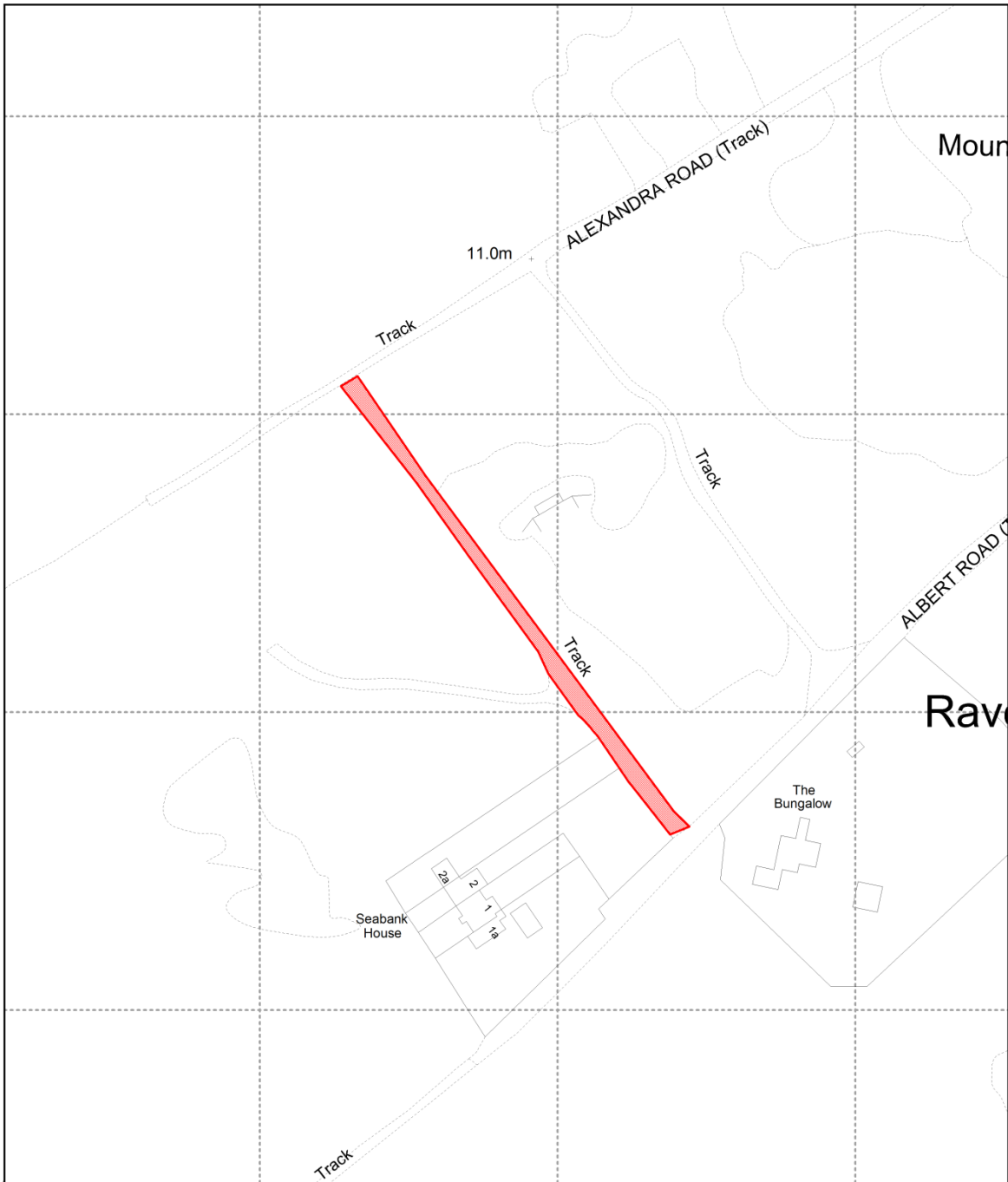


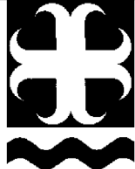

<p>SEFTON M.B.C.</p> 	<p><b>Public Path Creation Agreement</b>  <b>Section 25 Highways Act 1980</b></p> <p>Alexandra Road          Formby Footpath No.62</p>			
<p>HIGHWAYS DEVELOPMENT &amp; DESIGN</p>	<p>Drawn By: <b>BG</b></p>	<p>Scale: not to scale</p>	<p>Date: <b>10 May 2018</b></p>	<p>Checked: <b>B Mason</b></p>
<p>Jim Black          Locality Services - Commissioned          Magdalen House          Trinity Road          Bootle L20 3NJ</p>	<p>Ward: _____ Os Sheet Name: _____</p>		<p><b>DC1817</b></p>	
<p><small>This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution. Sefton Council Licence number 100018192. (c) 2016.</small></p>				



 SEFTON M.B.C. HIGHWAYS DEVELOPMENT & DESIGN	<b>Public Path Creation Agreement</b> <b>Section 25 Highways Act 1980</b>			
	Albert Road to Alexandra Road Formby Footpath No.63			
Jim Black Locality Services - Commissioned Magdalen House Trinity Road Bootle L20 3NJ	<b>Drawn By:</b> BG	<b>Scale:</b> not to scale	<b>Date:</b> 10 May 2018	<b>Checked:</b> B Mason
<b>Ward:</b>		<b>Os Sheet Name:</b>		<b>DC1818</b>
<small>This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution. Sefton Council Licence number 100018192. (c) 2016.</small>				





<p><b>SEFTON M.B.C.</b></p>  <p>HIGHWAYS DEVELOPMENT &amp; DESIGN</p> <p><small>Jim Black Locality Services - Commissioned Magdalen House Trinity Road Bootle L20 3NJ</small></p>	<p><b><u>Public Path Creation Agreement</u></b> <b><u>Section 25 Highways Act 1980</u></b></p> <p>Albert Road to Alexandra Road Formby Footpath No.64</p> <div style="text-align: right;">  </div>	
<p><b>Drawn By:</b> BG</p> <p><b>Scale:</b> not to scale</p> <p><b>Date:</b> 10 May 2018</p> <p><b>Checked:</b> B Mason</p>	<p><b>Ward:</b></p> <p><b>Os Sheet Name:</b></p> <p><small>This map is reproduced from Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution. Sefton Council Licence number 100018192. (c) 2016.</small></p>	<p><b>DC1819</b></p>