

**Report of Public Rights of Way Manager**

**Report to Parks and Countryside Management Team**

**Date: 22<sup>nd</sup> August 2014**

**Subject: Diversion of a Footpath and Bridleway at Thorpe Park**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): <b>Temple Newsam</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: 10.4 (1 & 2) Appendix number: B, C & D	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

**Summary of main issues**

1. To seek authority for the making of a Public Path Diversion Order following the granting of Planning Permission, in accordance with Section 257 of the Town and Country Planning Act 1990

**Recommendations**

2. Natural Environment Manager is requested to authorise the City Solicitor:
  - (a) to make and advertise a Public Path Diversion Order in accordance with Section 257 of the Town and Country Planning Act 1990, in respect of a parts of Leeds Bridleway No. 263 and Leeds Footpath No. 126 shown on the maps attached as Background Paper A.
  - and
  - (b) to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.

## **1 Purpose of this report**

- 1.1 To consider the making of a Public Path Diversion Order under Section 257 of the Town and Country Planning Act 1990 to divert parts of Leeds Footpath No. 126 and Bridleway No. 263 following the granting of Planning Permission for a clinical training, manufacture research and development and office facility.

## **2 Background information**

- 2.1 The Thorpe Park Development is a major development in the north east of Leeds which includes business, food store, out of town retail, restaurant and residential properties as well as a new road linking to the East Leeds Relief Road at Manton Lane to the M1.
- 2.2 The current line of Leeds Footpath No. 126 and Bridleway No. 263 were diverted onto their current line under the Town and Country Planning Act 1990 by the Leeds City Council (Leeds Path No. 126(Part)) and (Austhorpe Path No. 5 (Part) at Barrowby Lane, Leeds) Public Path Diversion Order 2002 as part of Phase 1 of the Thorpe Park Development. Austhorpe 5 was renumbered Leeds Bridleway No. 263 as it moved parish.
- 2.3 Phase 2 of this development will affect a number of public rights of way and diversions and extinguishments will be required as part of the wider development of the area. These will be subject to an additional Public Path Order under the Town and Country Planning Act 1990.
- 2.4 Surgical Innovations are intending to relocate to new premises on this site. They require their premises to be completed sooner than the rest of the site. Their plot will require the diversion of part of a footpath and bridleway for several years until the rest of the site can be completed and the long term proposals for the public rights of way network implemented.

## **3 Main issues**

- 3.1 The planning permission granted requires the diversion of part of the footpath (A to B) and bridleway (C to D) which will run through service area that needs to be secure and with delivery vehicles manoeuvring would be unsafe for path users. Later development outside of the Surgical Innovations plot will also obstruct the line of the footpath and bridleway to the east with office buildings, a food store, car parking and retail stores which is subject to a separate planning application.
- 3.2 The footpath and bridleway along the western boundary of the Surgical Innovations plot is not affected by their development and it is intended to provide a linking bridleway to the north at a future date. Therefore, this section of footpath and bridleway will not be extinguished by this order so that they remain available for future use.
- 3.3 An alternative footpath (E to B) and bridleway (F to D route will be provided to the south of the Surgical Innovation plot. A new 2 metre wide section of footpath with a parallel 3 metre wide bridleway will begin from the south west corner of the Surgical Innovations plot and run to an existing roundabout with a surface that will

be suitable for all users. From there the footpath will run along a 2 metre wide paved surface and the bridleway along a 3 metre wide grass verge alongside Park Approach. The footpath will then turn north along an access road and then north east on a crushed stone surface to re-join the existing footpath. The bridleway will go around another existing roundabout and then along a short section of crushed stone surface to re-join the existing bridleway. Cyclists and horse riders will also be able to use the carriage way if they prefer. A map showing the proposed diversion is shown as Background Document A.

- 3.4 The proposed diversion will provide a footpath route that is approximately 20 metres shorter than the existing footpath, therefore this will have a limited effect on the convenience of the footpath, making it slightly more convenient. The bridleway route will be approximately 75 metres shorter than the existing bridleway making it more convenient for walkers, horse riders and cyclists. The public rights of way are primarily used for recreational reasons within this area and the relocation of the footpath and bridleway along the side of the Park Approach may make it less enjoyable. However, longer term, there are proposals to divert Bridleway No. 263 to the north through an open park area and over the new road on a green bridge with additional footpath and bridleway links also provided. This will provide more enjoyable route for recreational walkers, cyclists and horse riders. Footpath No. 126 will largely remain on this line with an additional diversion onto paths parallel to the roadside. Although not ideal, the development of Thorpe Park will result in a more urban area and this route will provide more a more utilitarian route for those wanting to use the facilities available. The alternative to the Surgical Innovations diversion alongside Park Approach would be to permanently or temporarily extinguish the paths and provide new routes at a later date. This would have an adverse effect on the public wanting to use the footpath and bridleway over the next few years. Therefore, the Surgical Innovations Diversion is considered to be the best option when balancing the need of the public wanting to use the public right of way network and needs of the development which will provide economic benefits for Leeds.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Although consultation is only required with other local authorities consultation was undertaken with Statutory Undertakers, Prescribed Organisations, Local Footpath Groups, Ward Members and appropriate Council Departments. The developers have also held various consultation meetings with user groups to discuss the public rights of way options.
- 4.1.2 User groups are generally supportive of the shorter term diversion proposed by this Diversion Order and support the longer term proposals for the diversion of footpaths and bridleways over the whole site.
- 4.1.3 The Ramblers specified that they did not want the stone path to be surfaced with magnesium limestone as it can get muddy when wet. Leeds City Council require carboniferous limestone for surfacing public rights of way which is more hardwearing and does not lead to this kind of issue. They also query if the grass

verge will be sufficient to stand up to horse use. Horses and cyclists will also be able to use the roadway if this becomes an issue. The Ramblers comments are shown as Background Document B.

- 4.1.4 The Peak and Northern Footpaths Society queried how the Order was to be made as they believed that it would be an Extinguishment rather than a Diversion. This was because they assumed that Park Approach was an adopted highway. This is a private road and there is no Section 38 Agreement in place to adopt this road. Furthermore, as we are keeping part of the footpath and bridleway for later use we intend to extinguish and provide an alternative route. The comments from the Peak and Northern Footpaths Society are shown as Background Document C.
- 4.1.5 Leeds Cycle Campaign were critical of the previous diversion of the bridleway from its original line on Barrowby Lane to its current location as they consider that this was a less direct route for cycle commuters. They believe that the original line could be easily reinstated. This is not the case as the land has been sold off by the developers. Diversion back onto this line would also introduce additional roundabouts and road crossings into the route which are considered less safe for all users. They prefer the new line proposed by the Surgical Innovations Diversion as it will be more direct for cyclists. Sustrans also made similar comments relating to the earlier Barrowby Lane, although their comments related to the longer term diversion proposals which will be dealt with in a later report.
- 4.1.6 They were also critical of the crushed stone surface as they feel that this is inadequate for cycleways becoming un-useable unless properly maintained. They would prefer to see a sealed surface. The route to be diverted is a bridleway and must be a suitable surface for horse. Sealed surfaces are not suitable for horses. However, in light of the Leeds Cycle Campaign comments the developers have agreed to provide a surface that will be suitable for all users between the south western corner of the Surgical Innovations site and the first roundabout. Cyclists will then be able to choose to use the footway alongside the road which in the long term proposals will be a cycle and footway or use the carriageway here which is a quiet road. The Leeds Cycle Campaign letter is shown as Background Document D.

## **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 As the decision is not a Significant Operational Decision an EDCI impact assessment is not required. However a completed EDCI is attached at Background Paper E.

## **4.3 Council Policies and City Priorities**

- 4.3.1 Statement of Action DM11 of the Rights of Way Improvement Plan states that we will determine all applications for Public Path Orders within 12 weeks of receipt.
- 4.3.2 Statement of Action PA1 states that we will assert and protect the rights of the public where they are affected by planned development. PA5 states that we will seek to ensure that developers provide suitable alternative routes for paths affected by development.

#### **4.4 Resources and Value for Money**

- 4.4.1 The cost of making and advertising the necessary Public Path Diversion Order is to be met by the applicant/ developer.
- 4.4.2 If the Order is opposed, referred to the Secretary of State and is taken to Public Inquiry, then the additional costs are incurred, not covered by the developer. Public Inquiry will cost approximately between £3000 and £7000.
- 4.4.3 There are no additional staffing implications resulting from the making of the Order.

#### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The Natural Environment Manager has authority to take decisions relating to the diversion and extinguishment of public rights of way under Section 257 of the Town and Country Planning Act 1990 as set out in the Constitution under Part 3, Section 2C, Officer Delegation Scheme (Council (non-executive) functions), Director of Environment & Housing (tt).
- 4.5.2 Where it is considered necessary to divert a footpath, bridleway or restricted byway affected by development a competent authority may by order, made in accordance with Section 257 of the Town and Country Planning Act 1990, authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with the granting of Planning Permission under Part III of the Act.
- 4.5.3 The personal information in Background Paper B, C and D of this report has been identified as being exempt under Access in Information Procedures Rule Number 10.4 (1 & 2) because it contains personal information about a member of the public. This information is exempt if and for so long as in all the circumstances of the case, the public's interest in maintaining the exemption outweighs the public interest in disclosing this information. The comments relating to the diversion made in the exempt documents are considered in above therefore the public's interests in relation to the diversion have not been affected.
- 4.5.4 The recommendations in this report do not relate to a key decision, therefore prior notification in the Forward Plan is not necessary.

#### **4.6 Risk Management**

- 4.6.1 There is always the potential for objections to diversions of public rights of way. However, the consultations by Leeds City Council and the developers indicate that there are unlikely to be objections to the proposed diversions.

### **5 Conclusions**

- 5.1 The diversion of the footpath and bridleway are required to allow the development of the new Surgical Innovations site. The proposed new routes offer a suitable alternative for walkers, cyclists and horse riders. The new routes will be slightly shorter than the existing so will be more convenient for utility trips. For

recreational routes, longer term diversions and new routes will be provided which will meet the needs of recreational users as well as for utility trips at a later stage of the development.

## **6 Recommendations**

6.1 The Natural Environment Manager is requested to authorise the City Solicitor:

(a) to make and advertise a Public Path Diversion Order in accordance with Section 257 of the Town and Country Planning Act 1990, in respect of a parts of Leeds Bridleway No. 263 and Leeds Footpath No. 126 shown on the maps attached as Background Paper A.

and

(b) to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.

## **7 Background Documents<sup>1</sup>**

7.1 Background Document A: Proposed Diversion

7.2 Background Document B: Ramblers Association Consultation Reply

7.3 Background Document C: Peak and Northern Footpaths Society Consultation Reply

7.4 Background Document D: Leeds Cycle Campaign Consultation Reply

7.5 Background Document E: EDCI

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.