

**Report of Public Rights of Way Manager**

**Report to Parks and Countryside Management Team**

**Date:**

**Subject: Diversion/ Extinguishment/ Improvement of Footpaths and Bridleways at Thorpe Park**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Cross Gates & Whinmoor, Temple Newsam and Garforth & Swillington	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input 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: B to E Appendix number:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

**Summary of main issues**

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

**Recommendations**

- Natural Environment Manager is requested to authorise the City Solicitor:
  - to make and advertise a Public Path Stopping Up Order in accordance with Section 257 of the Town and Country Planning Act 1990, in respect of two bridleways and four footpaths shown on the maps (Background Document A)

and

  - to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.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 extinguish parts of two bridleways and three footpaths and provide alternative footpaths and bridleways following the granting of Planning Permission for a mixed use development of offices, retail, residential and leisure facilities with associated roads, parking and landscaping at Thorpe Park, Leeds

## **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 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 A diversion affecting a footpath and bridleway within this site was also confirmed in 2014 for one plot which was required to be completed before the rest of Phase 2. This plot required the diversion of part of a footpath and bridleway for several years until the rest of the site is completed and the long term proposals for the public rights of way network implemented.

2.4 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.

## **3 Main issues**

3.1 The planning permission granted requires the extinguishment of several public footpaths and bridleways to accommodate the new buildings and road that will link into the ELOR. Alternative routes will be provided but not all of these could be considered as diversions requiring a Stopping Up Order rather than a Diversion Order. Background Document A shows the proposed extinguishments and the alternative routes to be provided.

3.2 A total of 719 metres of bridleway and 1233 metres of footpath are proposed to be extinguished. A total of 1806 metres of new bridleways are proposed and 1331 metres of new footpath. In addition 227 metres of existing footpath is proposed to be improved and upgraded to bridleway to provide access to the existing National Cycle Network Route 66 along Barrowby Lane from the new cycleways on Park Approach for commuting.

- 3.3 Most of the new bridleways will be through open space, either landscaped park areas or more natural landscaping over Brown Moor. The east-west bridleway will include a green bridge over the new link road. The footpath link and part of the bridleway will be on roadside paths alongside the new Manston Lane Link Road. New cycleways will also be provided alongside the road, but as cycleways cannot be shown on the Definitive Map and Statement these are not included in the Order. Additional pedestrian areas will be provided within the development to enable access between the offices, retail and residential areas which will be adopted. Additional paths are also proposed within the landscaped areas but the alignment of these extra routes is subject to change so they are not to be included in the Order. The developer has agreed to dedicate these at a later date.
- 3.4 The level crossing over the railway line needs to be removed as the new road bridge over the railway line will reduce visibility and adversely affect public safety. Access for pedestrians, cyclists and horse riders will be provided over the railway line on footways, cycleways and a bridleway over the bridge which will carry the new link road.
- 3.5 Overall the proposed Order routes combined with the new footways and cycleways will provide increased access through the area for pedestrians, horse riders and cyclists. The new bridleway from Barrowby Lane and over the railway line to Manston Lane will also enable horse riders and cyclist to reach a network of bridleways at Barrowby Common with links to the Parlington and Scholes which are currently not easily available as there is no bridleway or road access across the railway line to Manston Lane.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Although consultation is only required with other local authorities, consultation was also 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. User groups are generally supportive of the proposed diversions and additions to the public right of way network.
- 4.1.2 The Ramblers specified that they did not want the stone paths to be surfaced with magnesium limestone as it can get muddy when wet. Leeds City Council requires carboniferous limestone for surfacing public rights of way which is more hardwearing and does not lead to this kind of issue. They would like the new line of Footpath No. 126 to be set as far back from the carriageway as possible and comment that the roadside planting is further from the carriageway than footpath. The planting is on banking required for the road and it is not possible to locate the footpath on or below the banking. It would make the footpath more difficult to use particularly when they have to come up or down the banking to cross roads. They comment that horse riders have been using footpaths to make circular routes and approve of the proposed new continuous routes for horse riders. They ask if adequate discussions have been held with the riding community. Consultation has occurred with horse riders and cyclist by Leeds City Council and the developers. The bridleway along the eastern side of the site was proposed after

consultation with horse riders. They also approve of the willingness of the developers to dedicate additional paths once the landscaping is finalised on site. They have some concerns as to how easy it will be to cross Manston Lane once the new roads are built and would not want to see difficulties similar to those created when the Stanningley Bypass was built. The proposed new road is only two carriageways not four, as with a bypass so this is not comparable. Highways have considered the road safety issues when determining the Planning Application. There are also pedestrian refuges provided near the roundabout on Manston Lane to cross the road more easily. The Ramblers comments are shown as Background Document B.

- 4.1.3 The Leeds Local Access Forum make similar comments to The Ramblers about setting Leeds Footpath No. 126 back as far as possible from the carriage road. They also welcomed the developer's proposals to dedicate additional routes through the park area as they would form an alternative to Leeds Footpath No. 127. The comments from The Leeds Local Access Forum are shown as Background Document C
- 4.1.4 The Peak and Northern Footpaths Society were concerned about the extinguishment of the Footpath No. 126 particularly across the railway as it was outside of the development area and they questioned if it could therefore be extinguished under the Town and Country Planning Act 1990. They also felt that the section of footpath from the new residential estate road, across the railway and up to Manston Lane could be retained. If a development requires the diversion or extinguishment of a footpath it can affect land outside of the development area if required to allow the development to proceed, particularly if the development would make an existing route outside of the development difficult or dangerous to use. In this case the new road bridge granted permission as part of the development will limit visibility and affect safety on the existing level crossing. Layout, landscaping and ground levels will also be affected on either side of the railway crossing. Therefore, the level crossing does require extinguishment to allow the approved development to go ahead and to ensure the safety of path users. The Peak and Northern Footpaths Society's comments are shown as Background Document D.
- 4.1.5 Sustrans and the Leeds Cycle Campaign both had concerns about the effect of the diversions on the line of the National Cycle Way and were not keen on the proposal to divert the Leeds Bridleway No. 263/ Austhorpe Bridleway No. 5 to the north as it would be a much longer route for commuter cyclists. Ideally they wanted the original line of Barrowby Lane which was diverted in 2002 to be reinstated or alternatively a route along Park Approach. Representatives of the developers and the Public Rights of Way Section met with both groups to explain the proposals in more detail. The additional cycle routes which are not shown as part of the Stopping Up Order were explained and crossing for cyclists. The 2014 Order provided an additional link to Park Approach for use by cyclists, horse riders and pedestrians and some additional measures were agreed to surfacing and access arrangement to make it easier for cyclists. It was also agreed to upgrade Austhorpe Footpath No. 6 to bridleway formalising its use for cyclists. The developers has already proposed to make improvements and provide cycle access but on a more permissive basis. Cycleways are also to be provided along

the new north-south link road providing additional links for cyclists. It was explained that the reinstatement of the original line of Barrowby Lane was not considered feasible and would require the crossing of two busy roads making it less safe for users than the cycleway proposed alongside Park Approach and linking to upgraded footpath. The comments from Sustrans and the Leeds Cycle Campaign are shown as Background Document E.

## **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 F.

## **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 of the Rights of Way Improvement Plan states that we will assert and protect the rights of the public when they are affected by development.

4.3.3 Statement of Action PA5 of the Rights of Way Improvement Plan states that we will seek to ensure that developers provide suitable alternative routes for paths affected by development.

4.3.4 Statement of Action ML2 of the Rights of Way Improvement Plan states that we will endeavour to seek new links in the path network.

4.3.5 Statement of Action ML4 of the Rights of Way Improvement Plan states that we will concentrate on creating new links to join up the fragmented bridleway network.

4.3.6 Statement of Action PW4 of the Rights of Way Improvement Plan states that we will seek to work with other organisations to the Council to maximise the benefits which can be achieved for the path network, its users and the environment.

## **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 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. A 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 consider 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 Papers B to E 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 publics 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 Sections 4 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 proposed new routes will provide suitable alternative routes for walkers, horse riders and cyclists. The bridleways will primarily be recreational routes through parks or open space and will provide additional links to the wider bridleway network to the north. In addition there will be new footpaths, footways and cycleways that will provide additional links more suitable for utility or commuting use. In addition the developer has agreed to dedicate additional paths that they intend to layout once their final alignment is determined.

### **6 Recommendations**

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

- (a) to make and advertise a Public Path Stopping Up Order in accordance with Section 257 of the Town and Country Planning Act 1990, in respect of two bridleways and four footpaths shown on the maps (Background Document 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 Stopping Up Order

7.2 Background Document B: Comments from The Ramblers

7.3 Background Document C: Comments from The Leeds Local Access Forum

7.4 Background Document D: Comments from The Peak and Northern Footpaths Society

7.5 Background Document E: Comments from Sustrans and Leeds Cycle Campaign

7.6 Background Document F: EDCI Screening

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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.