

**Report of Public Rights of Way Manager**

**Report to Parks and Countryside Management Team**

**Date: 20<sup>th</sup> February 2015**

**Subject: Extinguishment of Leeds Footpath 201 (part)**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input checked="" type="checkbox"/> Yes City & Hunslet	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" 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: Appendix number: B & C	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

**Summary of main issues**

- To seek authority to extinguish two sections of Leeds footpath 201 over land between Parkside Lane and Leeds Footpath 205, and thus modify the Definitive Map and Statement of Public Rights of Way following an application under Section 118 of the Highways Act 1980 from the landowner.

**Recommendations**

- The Natural Environment Manager is requested to authorise the City Solicitor:
  - to make and advertise a Public Path Extinguishment Order in accordance with Section 118 of the Highways Act 1980, in respect of a footpath shown on the maps attached 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  - to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.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 Extinguishment Order under Section 118 of the Highways Act 1980 to extinguish two sections of Leeds Footpath 201 from Parkside Lane to Leeds Footpath 205, Hunslet.

## **2 Background information**

2.1 An application to extinguish part of Leeds Footpath 201 was received from a local scaffolding business that operates on the land where the footpath crosses. They are in the process of buying some more of the land, and wish to extinguish two sections of Leeds footpath 201, which crosses their site. The Application and Statement of Case are attached at Background Documents B.

## **3 Main issues**

3.1 The applicant claims that the route to be extinguished has not been used for years and is very overgrown. The applicant is buying some of the adjoining land to expand their business premises. They wish to extinguish the path from their land to be able to operate safely without the public walking through the yard.

3.2 There is an alternative route, which is surfaced and adopted. This route, they believe is a suitable alternative and no less convenient to the public.

3.3 The route is currently obstructed, therefore, consideration to the Extinguishment Order should be made as if the route is not obstructed.

3.4 More suitable and convenient adopted routes have been created since Leeds 201 was added to the Definitive Map and Statement. The public are more likely to use these footpaths than the route through the scaffolding yard, even if it was open and available for use. Therefore it is considered that, this section of Leeds Footpath No. 201 is not needed for public use.

## **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.

4.1.2 Comments were received from Leeds Local Access Forum and The Ramblers Association and are attached at Background Document C.

4.1.3 The Local Access Forum were concerned that the route was not way-marked and was difficult to see where it went, as it is obstructed through the scaffolding yard.

4.1.4 The Local Access Forum also queried the alternative route and its status. A Street Registry search shows that the alternative footpath is adopted, see map attached at Background Document D. Discussions with the Local Access Forum concluded with the Rights of Way Section agreeing to include the alternative route in a Legal Event Modification Order to add it to the Definitive Map and Statement.

- 4.1.5 The Ramblers Association also questioned the status of the alternative route. The Street Registry search was sent to them showing the adopted routes, and the above discussion explained.
- 4.1.6 The Ramblers Association queried why an extinguishment order was being used instead of a Diversion Order. There is nowhere to divert the route to, as it is not possible to divert onto an existing highway.
- 4.1.7 The Ramblers Association went on to question why enforcement action had not been taken. It was explained that enforcement action had been considered a number of years after the route had been obstructed but it was felt that the path was unsafe going through a working scaffolding yard.
- 4.1.8 A site meeting was held with the landowner to discuss possible improvements to the footpath network in the area. It was agreed that he would contribute to signing, vegetation cutbacks and would tidy the area around his perimeter when his fencing is replaced. The Local Access Forum and Ramblers were informed and were satisfied with this proposal.

#### **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 Document 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 PA5 states that we will seek to ensure that developers provide suitable alternative routes for paths affected by development. Statement of Action ON1 states that we will take a proactive approach to dealing with path obstructions and nuisances.
- 4.3.3 The Green Strategy aims to encourage cycling and walking for transport and health benefits.
- 4.3.4 The West Yorkshire Walking Strategy aims to improve the walking environment

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

- 4.4.1 The cost of making and advertising the necessary Public Path Extinguishment Order is to be met by the applicant.
- 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 applicant. 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 extinguishment of public rights of way under Section 118 of the Highways Act 1980 as set out in the Constitution under Part 3, Section 2C, Officer Delegation Scheme (Council (non-executive) functions), Director of Environment and Housing (x).

4.5.2 Section 118 of the Highways Act 1980 enables a Council as respects a footpath, bridleway or restricted byway in their area that it is expedient that the path or way should be stopped up on the grounds that it is no longer needed for public use, to make an Extinguishment Order.

4.5.3 The Secretary of State shall not confirm an Extinguishment Order and the Council shall not confirm an unopposed Extinguishment Order unless they are satisfied that it is expedient so to do having regard to the extent that the path or way would be likely to be used by the public, and having regard to the effect which the extinguishment of the right of way would have as respect land served by the path or way, account being taken to compensation.

4.5.4 The personal information in Background Document B & C 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 extinguishment made in the exempt documents are considered in Sections 3 therefore the public's interests in relation to the extinguishment have not been affected.

4.5.5 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 Concerns from the Leeds Local Access Forum and the Ramblers Association regarding the alternative route can be rectified by adding them to the Definitive Map and Statement through a Legal Event Order, and by the landowner making improvements to the surrounding area.

4.6.2 If the path was not extinguished and enforcement action taken to re-open the Definitive route, this could be a potentially dangerous route, as it is through a working scaffolding yard. It is believed that most people would use the alternative route anyway, as it is more convenient and a safer route.

4.6.3 If the Order is made and there are objections, this could lead to a Public Inquiry, where costs would be incurred, as discussed above.

## **5 Conclusions**

- 5.1 An application was received to extinguish two sections of Leeds Footpath 201 from Parkside Lane to Leeds Footpath 205 from a local scaffolding business. The sections of footpath cross their yard. The paths are obstructed and have not been used for a number of years.
- 5.2 Consultation raised issues regarding the alternative route, but this has been rectified by agreeing that this will be added to the Definitive Map and Statement using a Legal Event Modification Order. The landowner has agreed to contribute to improvements in the surrounding area. Therefore, the user groups have indicated that they will not object to the Order if it is made.
- 5.3 It is considered that the Definitive route through the scaffolding yard is dangerous and that the alternative route is safer and no less convenient to the public. If the footpath to be extinguished was open and available for use the public would still use the alternative route as it is more convenient and built to a far higher specification than the existing public footpath. Therefore, it is considered that the section of Public Footpath Leeds No. 102 is not needed for public use.

## **6 Recommendations**

- 6.1 The Natural Environment Manager is requested to authorise the City Solicitor:
- (a) to make and advertise a Public Path Extinguishment Order in accordance with Section 118 of the Highways Act 1980, in respect of a footpath shown on the maps attached at 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>**

Document A: Map

Document B: Application and Statement of Case

Document C: Consultation Responses

Document D: Street Registry search

Document E: EDCI Impact Assessment

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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.