

**Report of Public Rights of Way Manager**

**Report to Parks and Countryside Management Team**

**Date: 8 April 2016**

**Subject: Diversion of Aireborough Public Footpath No.36**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Guiseley & Rawdon	<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: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

- 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**

- The Natural Environment Manager is requested to authorise the City Solicitor:
  - 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 Public Footpath No.36 Aireborough shown on the maps attached as Background Documents 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  - to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.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 divert Public Footpath No.36 Aireborough following the granting of Planning Permission to Exigo Project Solutions.

## **2 Background information**

2.1 Planning Permission for a new food store, including landscaping, access and car parking was granted 30 November 2015 (Planning Reference 15/04549). To allow the development to take place in accordance with the approved plans it is necessary to divert the footpath onto an alternative line.

## **3 Main Issues**

3.1 The existing line of the footpath runs from Otley Road, Guiseley opposite White Cross Hotel and proceeds in a north easterly and then easterly direction to New Birks Farm at lngs Lane. The legal recorded length of the footpath is 338 metres, the width is 1.2 metres and the surface is part cinder and part grass.

3.2 The new section of footpath will be 67 metres long and the section deleted will be 47 metres, an increase of 20 metres. This is considered to be only a short increase in length from a total length of 338 metres to 358 metres. As the footpath will run between the building and a tree lined conifer screen boundary with a closed board timber fence behind, which is only 5 metres wide at its narrowest point, a three metre wide path within a 5 metre corridor has been negotiated. The Public Rights of Way Review Committee Practice Guidance Notes recommend a minimum width of 2 metres or 4 metres when enclosed. The new footpath will be surfaced with hard carboniferous limestone. The new surface and increase in width is considered an improvement on the existing footpath.

## **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. No objections have been received from any of the above Organisations or Council Members.

### **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 B.

### **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 and 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. By diverting the footpath, we are ensuring that a suitable alternative is provided.

#### **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 £4000 and £8000.
- 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 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 were no objections to the Public Path Diversion Order during the pre-order consultations. Therefore, it is unlikely there will be objections to any Order made. The Public Rights of Way Section will inspect the footpath to ensure that it is constructed to a suitable standard before the Order becomes operative.

### **5 Conclusions**

- 5.1 The Public Path Diversion Order is required to allow development to occur which has been granted planning permission. The proposed new line is longer than the existing footpath but it will be wider with an improved hard carboniferous limestone surface.

### **6 Recommendations**

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

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(b) 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 Public Footpath No.36 Aireborough shown on the map attached as 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>**

- |       |                        |   |
|-------|------------------------|---|
| 7.1.1 | Background Document A: | Map showing the proposed Footpath Diversion and Development Landscape Map |
| 7.1.2 | Background Document B: | EDCI Screening Form   |

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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.