

Report of Public Rights of Way Manager

Report to Parks and Countryside Management Team

Date: 16th December 2016

Subject: Diversion of Leeds Footpath No. 216 at Throstle Terrace

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Middleton Park	<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

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 part of Leeds Public Footpath No. 216 as shown on 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 - (b) to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.

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 part of Leeds Public Footpath No. 216 at Throstle Terrace following the granting of Planning Permission to build 93 houses.

2 Background information

2.1 Part of Leeds Footpath No. 216 runs from Throstle Terrace in an easterly direction across council owned land to Towcester Avenue. Planning permission has been applied for a new housing development with a new access road off the end of Throstle Terrace and a footpath link from the end of this new road to Towcester Avenue. Background Document B shows the proposed new development.

3 Main issues

3.1 Two of the properties will be over the line of the footpath and a new estate road will also be over the footpath, therefore it requires diverting. The ground level at Towcester Avenue is lower than at Throstle Terrace and the development will also affect the ground levels on the line of the footpath.

3.2 It is proposed to divert the footpath onto a footway on the side of the new estate road with a short pedestrian link from this new road to Towcester Avenue. Defra guidance recommends that when paths are affected by development, any alternative alignment should avoid the use of estate roads wherever possible and preference should be given to the use of made up paths through landscaped or open space areas away from vehicular traffic. Due to the confines of this site and the need to provide access into the site off Throstle Terrace, it is not considered possible to provide a new footpath through an open space.

3.3 The pedestrian link will be ramped at a maximum gradient of 1:15 which user groups state is the maximum recommended gradient. Although a less steep gradient would be preferred, British Standards specify that the maximum gradient permitted for ramped paths is 1:12 and the proposed ramp is less steep. As this is only for a short distance and alternative routes are available along another section of Leeds Footpath No. 216 (which will also be surfaced as part of the development) and Rothwell 88 and the new estate roads this is considered to be acceptable. Furthermore, the current footpath crosses a rough, uneven area of grass which showed limited signs of use. As the new footpath will be metalled it will be easier to use and there is likely to be an increase in 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. No objections were received.

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 C.

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. The application was received on the 6th of October 2016.
- 4.3.2 Statement of Action PA1 states that we will assert and protect the rights of the public when there are affected by development. PA5 states that we will seek to ensure that developers provide alternative routes for paths affected by development. The diversion of this footpath will ensure that a pedestrian link is maintained for public use.

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 applicant. 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 As with any Diversion Order there is always the potential for objections. However, pre-order consultations have not raised objections to the Diversion Order and the diversion is required to allow the development to go ahead.

5 Conclusions

5.1 The diversion is necessary to allow the development to go ahead. Although it has not been possible to provide an alternative route through open space as per Defra guidelines, it will result in an improved surface making the footpath easier to use. Another section of the same footpath will also be metalled on its original line and will run through a landscaped corridor resulting in an improved footpath for the public.

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 part of Leeds Public Footpath No. 216 as shown on 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 Documents¹

7.1 Background Document A: Proposed Diversion

7.2 Background Document B: Proposed Development

7.3 Background Document C: EDCI Screening

¹ 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.