

Report of Public Rights of Way Manager

Report to Parks and Countryside Management Team

Date: 3rd March 2017

Subject: Diversion of Footpath Between St. Albans Place & Cross Belgrave Street

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	City & Hunslet	
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?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: 10.1 (1&2)		
Appendix number: D & E		

Summary of main issues

1. To seek authority for the making of a Public Path Diversion Order following an application for 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 claimed footpath between St. Albans Place and Cross Belgrave Street as 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 - (b) to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.

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 a claimed footpath between St. Albans Place and Cross Belgrave Street following and application for Planning Permission to build serviced apartments.

2 Background information

2.1 An application for planning permission (ref: 16/07741) has been made for a part 7, part 11 and part 18 storey serviced apartment building on land between St. Albans Place and Cross Belgrave Street. The building will be partly over a well-used, but unrecorded and unadopted footpath, a car park and a small section of open space. The footpath is on council owned land and was provided for public use so will require diverting. Background Document B shows the footpath from the Cross Belgrave Street end.

2.2 There is an adopted footpath between St. Albans Place and Belgrave Street alongside Belgrave House Register Office and an adopted footpath from Cross Belgrave Street to New Briggate. From this adopted footpath there is an unadopted and unrecorded footpath to St. Albans Place which runs above the A64(M) slip road. There is also an unrecorded, unadopted footpath across the public open space. Background Document A shows the extent of the adopted highway, including the footpaths, speckled blue.

3 Main issues

3.1 The proposed diversion will be from Cross Belgrave Street, opposite number 3/5 (Sandinista), onto the unrecorded, unadopted footpath above the A64(M) slip road to the rear of the new building. The existing footpath has steps off the adopted footpath up to the footpath above the A64(M) slip road and the new section of footpath will provide a step free link into the existing footpath. The new section of footpath and its continuation to St. Albans Place will be adopted by Highways and Transportation. It will be three metres wide and new street lighting will be provided. Background Document C shows the proposed building and the extent of the new and existing footpath to be adopted.

3.2 In addition to the new and improved section of footpath, there will be improvements to the open space between the existing car park and Belgrave House Register Office. This will include paths across the open space. The existing adopted footpath between Belgrave House Register Office and the public open space will also remain.

3.3 The new route will be approximately 11 metres longer for those coming from Cross Belgrave Street. This is only a slight increase in length and is not considered to be an inconvenience for the path users. For those coming from Belgrave Street, they will still be able to use the existing adopted footpath alongside Belgrave House Registry Office so the length of their journey will not be affected.

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 Vodafone did originally object to the diversion as they have equipment underneath the section of footpath to be extinguished. However, the developers are paying for the relocation of their apparatus and they have agreed to withdraw their objection. Their objection and withdrawal letters are shown as Background Document D.
- 4.1.3 The Leeds Local Access Forum also made comments and their response stated that two members objected to the Diversion Order. They are concerned that the proposed diversion is adjacent to the heavily trafficked inner ring road with its noise and pollution. They suggest that an alternative through the public space should be considered and they believe a route through here is likely to be step free.
- 4.1.4 The exiting footpath route is part of a longer direct route between Wade Lane and Cross Belgrave Street and is mainly used for utility trips. The proposed diversion route is also a fairly direct route that joins St. Albans Place directly opposite the continuation of the footpath to Wade Lane. The alternative route suggested by the Local Access Forum would involve several direction changes, would be about 60 metres longer and would join St. Albans Place 37 metres to the west of the footpath to Wade Lane. Those using the footpath as a utility route would want to use the most direct shortest route. Those using a route for utility purposes are also unlikely to want to walk through an area that is being used as an open space for relaxation and will have seating areas and informal spill out areas from the new commercial unit which is likely to be a café. The development plans also show that there will be steps on some of the paths through the public open space and there is over a four metre height difference from the southwest to the northwest corner of the public open space equating to a gradient of around 5.7%. Therefore, these paths will not be suitable for use by those with mobility issues or those using wheelchairs, prams or pushchairs and in breach of the Equalities Act 2010. The proposed diversion route will not have steps and there is only two and a half metre height difference over the length of the footpath and a gradient of 2.9%. In addition there will be some landscaping to the eastern side of the footpath enhancing the diversion route.
- 4.1.5 Therefore, the diversion proposed is the shortest, most direct and most accessible route and the most suitable diversion route. The routes through the public open space including the existing adopted footpath will also be available for the public to use who may prefer a less direct route, more open route but these are not considered to be the most suitable route for the diversion of the existing footpath. This has been explained to the Local Access Forum but a further response has not been received. The Leeds Local Access Forum comments 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 Document F. The diversion will provide a step free link into an existing footpath improving it for all users.

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 DM6 states that we will endeavour to meet the 2026 cut-off date for recording historical public rights of way. Statement of Action ON8 states that we will recognise the importance of urban ginnels as through routes and will endeavour to protect them for future use. Statement of Action PA1 states that we will assert and protect the right of the public where they are affected by development. Statement of Action PA3 and PA4 state that we will seek funding for path improvements within and in the vicinity of new development sites. Statement of Action PA5 states that we will seek to ensure that developers provide suitable alternative routes for paths affected by development and PA6 states that we will seek to ensure that non-definitive routes are recognised on planning applications and provisions made for them. The diversion of this footpath and the improvements to the existing footpath and new paths within the public open space will ensure that the currently unrecorded rights of the public are recognised and suitable alternative routes provided 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 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 personal information in Background Document C and D of this report have 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 Sections 4.2 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 Public Path Diversion Orders, but the proposed diversion is considered to be the best option and the reasons for this have been explained to the Leeds Local Access Forum who indicated that they may object. The other routes that they suggested as possible alternatives will also be available to anyone who wishes to use them.

5 Conclusions

5.1 The footpath requires diversion to allow the proposed development to be built if planning permission is granted. The new route will provide a step free, direct route that will meet the needs of those currently using the footpath as a direct route from Wade Lane.

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 claimed footpath between St. Albans Place and Cross Belgrave Street as 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 Documents¹

¹ The background documents listed in this section are available to download from the Council's website,

- 7.1.1 Background Document A: Proposed Diversion
- 7.1.2 Background Document B: Exiting Footpath from Cross Belgrave Street
- 7.1.3 Background Document C: Proposed Development and Highway to be Adopted
- 7.1.4 Background Document D: Vodafone Objection and Objection Withdrawal
- 7.1.5 Background Document E: Leeds Local Access Forum Comments and Response
- 7.1.6 Background Document F: EDCI Screening