

**Report of Public Rights of Way Manager**

**Report to Parks and Countryside Management Team**

**Date: 19<sup>th</sup> May 2017**

**Subject: Diversion of Part of Great & Little Preston 21**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Garforth & Swillington	
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 type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: 10.4 (1 & 2)		
Appendix number: Background Document B		

**Summary of main issues**

1. To seek authority for the making of a Public Path Diversion Order to divert part of Great & Little Preston Bridleway No. 21 so that it no longer runs through the car park for St. Aidan's Nature Reserve Visitor Centre, and thus modify the Definitive Map and Statement of Public Rights of Way following an application under Section 119 of the Highways Act 1980 from the St. Aidan's Trust.

**Recommendations**

2. 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 119 of the Highways Act 1980, in respect of a part of Great & Little Preston Bridleway No. 21 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  - (b) to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.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 119 of the Highways Act 1980 to divert part of Great & Little Preston Bridleway No. 21 out of the car park for St. Aidan's Nature Reserve Visitor Centre to a five metre wide fenced corridor to the north of the car parking area.

## **2 Background information**

2.1 In 2012 a Public Path Creation Order was made to create new public rights of way over the former St. Aidan's Open Cast Coal site which was being restored as a country park and natural habitat area. The Order was confirmed in 2013 and created over 14 km of footpaths and bridleways. The site is owned by the St. Aidan's Trust and leased to and managed by the RSPB who have a visitor centre and staff on site.

## **3 Main issues**

3.1 The RSPB have a visitor centre on site near the access off Astley Lane and has created a car park in front of it. Part of one of the bridleways created by the 2012 Creation Order, Great & Little Preston Bridleway No. 21 now runs through the car park. In the interests of public safety the St. Aidan's Trust, who own the land, have applied for a Public Path Diversion Order to divert the bridleway out of the car park to run around the northern edge of the car park. Background Document A shows the section of bridleway to be closed in red and the new line is shown in green.

3.2 The current recorded width of the bridleway is 3 metres wide. The new section of bridleway will run between the drag line and the northern boundary of the car park within a 5 metre wide corridor. There is currently some cycle parking racks in this area but these will be relocated.

## **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 There were no objections to the proposed diversion of the bridleway out of the car parking area with user groups being supportive overall to the proposed diversion.

4.1.3 The local British Horse Society representative responded to say that they do not 'object to the proposal as such but we do feel that it is possibly not the best solution for the area'. Their response is shown as Background Document B. They also stated that the consultation plan did not show what is currently in place and that the 'car park is not fenced off from the access road so under this proposal the riders coming from the park are running the gauntlet of the parking cars'. They refer to a fenced corridor along the southern edge of the parking area that they feel would be better for path users to continue their route around the park. It is not clear when they last visited the site but the aerial photograph taken in 2016 shown as Background Document C clearly shows that the car park is

fenced off from the access road and the the line of the proposed diversion is as shown on the the diversion order plan and is fenced from the car park. Since this aerial photograph was taken the parking area has also been tarmacked and parking spaces marked out.

- 4.1.4 They state that ‘riders already in the park are safer using the fenced corridor on the southern edge of the parking area to continue their journey round the park.’ There is another fenced area to the south side of the car park which can be used, although this route is currently not recorded on the Definitive Map and Statement. However, this route is narrower than the fenced corridor to the north of the car park and therefore would be more difficult for horses to pass each other and other path users. Furthermore, the proposed diversion would only increase the length of bridleway by 12 metres. The route suggested by the British Horse Society would see those coming in from Astley Lane travelling an additional 102 metres. Therefore, the proposed diversion is considered to be the best and most direct option.
- 4.1.5 Finally they state that they were concerned about the bottleneck where the bridleway passes the new visitor centre and ask if this is the best route for a bridleway. The bridleway that runs past the front of the visitor centre is not proposed to be diverted. Furthermore, the route suggested by the British Horse Society would still pass the visitor centre and for a longer distance. Due to the layout of the site there is also no other way for horses coming from the east of the site to reach the bridleway heading west without going past the front of the visitor centre.

## **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 D.

## **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 ON1 of the Rights of Way Improvement Plan states that we will take a proactive approach to dealing with path obstructions and nuisances. The diversion of this section of bridleway will ensure that cars do not obstruct the line of the bridleway and will ensure the safety of path users by providing a traffic free route that is segregated from the car park.

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

- 4.4.1 As the RSPB are managing the public rights of way over the St. Aidan’s site it has been agreed with the Natural Environment Manager that the council’s fees relating to the Diversion Order will be waived.
- 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. Public Inquiry will cost

approximately between £4000 and £8000. However, the pre-order consultations have not identified any objections to the proposed Diversion Order.

- 4.4.3 Compensation can be claimed for the making of Diversion Orders under section 28 of the Highways Act 1980. The diversion of the bridleway is in the interests of the landowner and occupier so they would not be claiming compensation. We do not have to confirm the Diversion Order.
- 4.4.4 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 of public rights of way under Section 119 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 & Housing (aa).
- 4.5.2 Section 119 of the Highways Act 1980 enables a Council as respects to a footpath, bridleway or restricted byway in their area that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted, to make a Diversion Order.
- 4.5.3 The Secretary of State shall not confirm a Diversion Order and the Council shall not confirm an unopposed Diversion Order unless they are satisfied that the diversion is expedient in the interests of the owner, lessee or occupier of the land or the public and further that the path or way will not be substantially less convenient to the public and that it is expedient to confirm the order having regard to the effect which the diversion would have on public enjoyment of the path or way as a whole, the coming into operation of the order would have as respects other land served by the existing public rights of way and the new public right of way by the order would have as respect to the land over which the right is so created and any land held with it taking into account any compensation.
- 4.5.4 The personal information in Background Document B 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 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.
- 4.5.5 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 Although no objections have been received at this time, objections may still be received within the four week consultation period. This could result in a Public Inquiry and would include any associated costs

## **5 Conclusions**

5.1 The diversion will remove the bridleway from the car park ensuring the safety of all path users by diverting it onto a traffic free route. It will also ensure that vehicles are not parked across the line of the bridleway causing an obstruction or nuisance to bridleway users.

## **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 119 of the Highways Act 1980, in respect of a part of Great & Little Preston Bridleway No. 21 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 Documents<sup>1</sup>**

7.1 Background Document A: Proposed Diversion

7.2 Background Document B: British Horse Society Representative Response

7.3 Background Document C: 2016 Aerial Photograph

7.4 Background Document D: Equality, Diversity, Cohesion and Integration Screening

---

<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.