

**Report of Public Rights of Way Manager**

**Report to Parks and Countryside Management Team**

**Date: 14<sup>th</sup> July 2017**

**Subject: Diversion of Two Footpaths Off Gelderd Road/ Treefields Industrial Estate**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Morley North	<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 Morley Footpath Nos. 43 and 51 off Gelderd Road and Treefields Industrial Estate, Morley as shown on the maps attached (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  - (b) to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.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 and improve Morley Footpaths Nos. 43 and 51 at Gelderd Road and Treefields Industrial Estate following the granting of Planning Permission for new industrial units.

## **2 Background information**

2.1 Morley Footpath No. 43 runs along Stone Pits Lane off Gelderd Road first along a double hedged track and then along the edge of the field alongside the existing Treefields Industrial estate and finally between existing industrial units to the adopted vehicular road section of Stone Pits Lane. Part of this was diverted in 1996 when the Treefields Industrial Estate was built. Morley Footpath No. 51 runs from Morley Footpath No. 43 alongside a beck and the edge of a wood then across a field to Nepshaw Lane, Morley Byway Open to All Traffic No. 52.

## **3 Main issues**

3.1 The field over which the two footpaths run is to be developed into a new industrial estate and in order to allow the development to go ahead the footpaths will need to be diverted. Background Document A shows the existing footpaths with dashed black lines, the sections of footpaths to be diverted in yellow and the new sections of footpath in red. Background Document B shows the proposed new development with the footpaths to be closed shown with dashed yellow lines and the new footpaths in red. A section of Morley Footpath No. 43 to be improved is shown in dark blue and the unaffected section is shown in green.

3.2 Morley Footpath No. 43 is largely unaffected by the development but the southern end will be slightly affected by the edge of an earth embankment. The developers have also agreed to surface the footpath with a crushed stone surface and increase the width to two metres on a short section that currently has a recorded width of 1.2 metres. This will be an improvement to the existing footpath which is well used, including by children to reach local schools. The length of footpath to be diverted is 40 metres long and the new footpath will be slightly shorter at 37 metres. Background Document A shows the section of footpath to be diverted in yellow and the new section of footpath in red. The section to be improved is shown in dark blue on Background Document B.

3.3 There will be new units over the line of Morley Footpath No. 51 as well as significant earth embankment works and an attenuation pond. It is proposed to divert the footpath around the edge of the attenuation pond, across the new access road, then along a landscaped corridor on a terrace between two earth embankments and then along the eastern boundary of the site to re-join Nepshaw Lane. The existing path to be diverted is 630 metres and the new footpath will be 708 metres. An increase of 78 metres is minor considering the overall length of the footpath and this route is primarily used for recreational purposes rather than as a short cut or utility route making the increase in length less of an issue. The new footpath will be two metres wide and will have a crushed stone surface. It is currently 1.2 metres wide on a grass surface. The new surface will make the footpath easier to use and follow. Currently the footpath meanders across the

field with little indication of where it changes direction making it difficult to follow. Steps will need to be provided up the embankment from Morley Footpath No. 43. The provision of steps on a public right of way is not ideal particularly for those with mobility issues or using pram, pushchairs, wheelchairs or mobility scooters. However, the use of these on the existing footpath would have been difficult because of the grass surface. It will also be possible to avoid the steps by using the new industrial estate road which is to be adopted by Highways missing out only a short section of Morley Footpath No. 51. The section of footpath to be diverted is shown in yellow and the new section of footpath is shown in red on Background Documents A and B.

## **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. There were no objections to the proposed diversions of the footpaths.

### **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 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.

4.3.2 Statement of Action PA1 States that we will assert and protect the rights of the public where they are affected by planned development. Statement of Action PA5 states that we will seek to ensure that developers provide suitable alternative routes for paths affected by development. The proposed diversions will ensure that the rights of the public are protected and ensure the provision of suitable alternative routes 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 developers. 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 Communities and Environment (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 is always the potential for objections to Public Path Diversion Orders when they are made and advertised. The pre-order consultations have not identified any objections to the proposed diversions.

### **5 Conclusions**

- 5.1 The proposed diversions are required to allow development that has been granted planning permission to go ahead. There would be a slight diversion of Morley Footpath No. 43 and the developer will also be improving the footpath by increasing part of the width and providing a crushed stone surface. Morley Footpath No. 51 will be completely diverted and there will be an increase in length and some steps. It will be possible to avoid the steps by using the new industrial estate road and the footpath will be easier to use and follow by the provision of a crushed stone surface footpath.

### **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 Morley Footpath Nos. 43 and 51 off Gelderd Road and Treefields Industrial Estate, Morley as shown on the maps attached (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>**

Background Document A: Proposed Diversion

Background Document B: New Development and Proposed Diversions and Improvements

Background Document C: Equality, Diversity, Cohesion and Integration Screening

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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.