

Report of Public Rights of Way Manager

Report to Parks and Countryside Management Team

Date: 28th July 2017

Subject: Declaration of a Footpath Between Swinnow Lane and Wellstone Garth

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input checked="" type="checkbox"/> Yes Pudsey	<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 to declare public footpaths over land owned by Leeds City Council between Swinnow Lane and Wellstone Garth and thus adding two footpaths to the Definitive Map and Statement as shown on Background Document A.

Recommendations

2. The Natural Environment Manager is requested to authorise the declaration of the routes as shown on Background Document A between Swinnow Lane and Wellstone Garth as public rights of way which will result in the addition of two public footpaths to the Definitive Map and Statement.

1 Purpose of this report

1.1 To seek authority to formally dedicate two footpaths between Swinnow Lane and Wellstone Garth and add them to the Definitive Map and Statement as a public right of way as shown on Background Document A.

2 Background information

2.1 In early 2016 the Public Rights of Way Service were contacted by the Projects, Programmes and Procurement Unit (PPPU) about a path off Swinnow Lane that would be affected by proposals to increase the size of the school, improve parking for staff and the dropping off of children. They were aware that it was a well-used footpath, which probably carried public rights.

2.2 They were advised that it was not recorded on the Definitive Map and Statement but had been identified as a claimed footpath that would need to be investigated when the area was reviewed. If the public were using it it would be added to the Definitive Map and Statement.

2.3 They were advised that if the footpath needed to be moved a Diversion Order could be made under the Town and Country Planning Act 1990. This would cost around £5000, would take about six months and would be subject to a formal objection period which anyone could object to.

2.4 If a Diversion Order was made it would only apply to the section of footpath affected by the development meaning that the Public Rights of Way Service would still need to investigate the claim in the future and if it were found to be public make a Modification Order to record it. The cost of this for the Public Rights of Way Service would be approximately £5000 for the making and confirmation of the Order plus officer time to undertake the investigations.

2.5 The alternative would be for the vesting department to provide a new footpath through the proposed development and to declare the new footpath line and the rest unrecorded footpath that is not affected by the proposed development, as a public right of way. This would cost around £1,500, the public would not be able to object and the declaration could be done in a shorter time period. This would also save the Public Rights of Way Service the cost of investigating the path claim and making a Definitive Map Modification Order to record the path.

3 Main issues

3.1 A site visit was held with PPPU in June 2016 and the full length of the footpaths were walked. There was an A-Frame at the start of the footpath off Swinnow Lane and the full length of the unrecorded footpath was surfaced with a crushed carboniferous limestone surface and in good condition. Looking at the aerial photographs it would appear that the footpath was surfaced in the late 1990s. The width is 1.8 metres throughout and the paths appeared to be well used.

3.2 The school were granted planning permission in April 2017 and are now looking to provide the new section of footpath and make a declaration for the new section of footpath and the rest of the unrecorded footpath. Background Document A shows

the proposed new section of footpath with a solid green line, which will run on a new crushed stone footpath inside the hedge and tree line alongside Swinnow Lane to join the existing unrecorded footpath (shown with a dashed green line) just before it forks and enters the wood. The width of the new section of footpath will also be 1.8 metres wide. The section of footpath to be closed is shown with a solid red line. Background Document B shows the new school and new section of footpath.

3.3 Martin Farrington, Director of City Development, signed a Delegated Decision Notice agreeing to the declaration of the full length of the footpaths in June 2013 on behalf of the vesting department. The Delegated Decision Notice is shown as Background Document C.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Consultation is not required but was undertaken with Ward Members and appropriate Council Departments. There were no objections to the diversion or declaration.

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 The Rights of Way Improvement Plan Statement of Action DM1 states that we will continue to review the Definitive Map and Statement. DM7 states that we will continue to identify and record all Definitive Map anomalies, missing links and unrecorded paths. PA1 states that we will protect the rights of the public where they are affected by planned development. PA5 states that we will see to ensure that developers provide suitable alternative routes for paths affected by development. PA6 states that we will seek to ensure that non definitive routes are recognised on planning applications and planning provisions made for them. PW3 states that we will seek to work in partnership with other services within the council to achieve holistic benefits for the path network, its users and the environment.

4.4 Resources and Value for Money

4.4.1 The public rights of way section will be responsible for maintaining the declared footpaths. This can be carried out within existing budgets and staffing levels.

4.4.2 There are no additional staffing implication resulting from the making of the Declaration.

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 creation of public rights of way under Section 25 of the Highways Act 1980 as set out in the Constitution under Part 3, Section 2C, Officer Delegation Scheme (Council (non-executive) functions), Director Communities & Environment (u).
- 4.5.2 Under Section 25 of the Highways Act 1980, a local authority can enter into a Creation Agreement with any person having the capacity to dedicate a footpath or bridleway in its area. However, an authority cannot enter into an agreement with itself. Therefore, where an authority owns the land over which a path crosses it is appropriate for the authority to recognise the status of a path by means of declaration.
- 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 The declaration of footpaths is not subject to objections from the public and it therefore a quicker and cheaper option that diverting the path.

5 Conclusions

- 5.1 The declaration of the footpaths would ensure that the paths remain open and available for use by the public and are legally recorded. The declaration would save the PPPU the higher cost of diverting the footpath and would save the Public Rights of Way Service the costs and time involved in investigating the claim and making a Definitive Map Modification Order.

6 Recommendations

- 6.1 The Natural Environment Manager is requested to authorise the declaration of the routes as shown on Background Document A between Swinnow Lane and Wellstone Garth as public rights of way which will result in the addition of two public footpaths to the Definitive Map and Statement.

7 Background Documents¹

- 7.1 Background Document A: Proposed Footpaths and Diversion
- 7.2 Background Document B: Proposed Development
- 7.3 Background Document C: Delegated Decision Notice authorising the paths to be declared by the vesting department
- 7.4 Background Document D: Equality, Diversity, Cohesion and Integration 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.