

**Report of Public Rights of Way Manager**

**Report to Parks and Countryside Management Team**

**Date: 22 September 2017**

**Subject: Diversion of Footpaths at Kentmere Approach, Seacroft**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Killingbeck & Seacroft	
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**

- 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**

- Natural Environment Manager is requested to authorise the City Solicitor:
  - to make and advertise a Public Path Diversion Order in accordance with Section 257 of the Town and Country Planning Act 1990, to divert three footpaths and record on the definitive map and statement as shown on Background Paper A.

in and

  - to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.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 three footpaths which run from Kentmere Approach to Asket Crescent, Asket Drive and North Parkway following the granting of Planning Permission for a residential development

## **2 Background information**

- 2.1 The land was owned by Leeds City Council and has been identified for new housing development to regenerate the area as part of the Brownfield Land Programme in partnership with the developer. As well as housing there will be enhancements to greenspaces, connectivity and community facilities. The footpath is not currently recorded on the Definitive Map and Statement but it was provided by the council for public use and links to a number of other claimed paths provided by the council.
- 2.2 Planning permission was granted on 13 July 2017 for 245 dwellings, new public open space, new access roads and associated works (Planning Reference No.16/07453). To allow the development to take place in accordance with the approved plans it is necessary to divert the footpaths onto an alternative line. The proposed development is shown as Background Document B.

## **3 Main issues**

- 3.1 These footpaths are not on the definitive map or adopted highways but they are on council owned land and were provided for public use. The developer accepts that the footpaths exist and they need to be diverted to allow the development to go ahead.
- 3.2 Exiting route one commences at point A opposite 80 Kentmere Approach and continues through open space to exit west south west of 52 Asket Crescent at point B. Route two commences at point C opposite 66 Kentmere Approach and continues through public open space and exits between 73-75 North Parade at point D. Route three commences at point E opposite 24 Kentmere Approach and runs south through public open space to point F at the rear of 73 North Parkway. The existing paths currently run on a tarmac surface.
- 3.3 Proposed replacement route one commences at point G opposite 70 Kentmere Approach and continues south then south west to point H at Asket Crescent. Route two commences at point I opposite 68 Kentmere Approach and continues south then east to point J. There is also a spur shown at point K and exits between 4 and 6 Asket Avenue at point L. Route three commences at point M and continues south to point N between 73-75 North Parkway. The proposed paths will be 2 metres wide with a tarmac surface. The new paths will largely run on footways on the side of the new estate roads with links on footpaths through public open space to the existing ginnels. Although it is preferable to avoid the use of estate roads wherever possible, due to the proposed development and the layout of the site it is not possible to do this in this case.

## **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 have been received from any of the above organisations or Council Members.

## **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. Statement of Action PA6 states that we will seek to ensure that non-definitive routes are recognised on planning applications and provisions made for them.

## **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 The footpaths are currently claim paths to be investigated when the area is reviewed. The diversion of these paths will save the time and cost of investigating the path claims and making the required Modification Orders. The Diversion Order will be met by the developer.
- 4.4.3 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. Public Inquiry will cost approximately between £4000 and £8000.
- 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 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 considered 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, but there have been no objections to the proposed Diversion Order to the definitive map and statement during the pre-order consultation.

## **5 Conclusions**

- 5.1 The proposed diversion will allow a development that has been granted planning permission to go ahead as proposed. Something about saving the time & cost of investigating claimed paths and providing walking links for the existing and new residents.

## **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 three Footpaths 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>**

- 7.1 Background Document A: Map showing the proposed footpath diversion
- 7.2 Background Document B: Map of Proposed Development
- 7.3 Background Document C: EDCI Screening Form

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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.