Report of Public Rights of Way Manager

Report to Parks and Countryside Management Team

Date: 2nd August 2013

Subject: Diversion and Declaration of Footpaths at Bramley Reservoir and Recreation Ground, Beecroft Hill

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are specific electoral Wards affected?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>If relevant, name(s) of Ward(s):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are there implications for equality and diversity and cohesion and integration?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is the decision eligible for Call-In?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Does the report contain confidential or exempt information?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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 for the construction of a new service reservoir.

2. To seek authority to declare six footpaths over land owned by Leeds City Council at Bramley Recreation Ground, thus adding these footpaths to the Definitive Map and Statement of Public Rights of Way.

Recommendations

3. 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 footpath shown on the map attached at Background Document A
   (b) to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.
   (c) to declare the footpaths shown on Background Paper B at Bramley Recreation Ground as a public rights of way which will result in the addition of six footpaths to the Definitive Map and Statement.
Purpose of this report

1. To consider the making of a Public Path Diversion Order under Section 257 of the Town and Country Planning Act 1990 to divert footpath following the granting of Planning Permission to construct a new service reservoir.

2. To consider dedication of six other footpaths at Bramley Recreation Ground by way of a Declaration so that they can be recorded on the Definitive Map and Statement.

Background information

The footpath proposed to be diverted is a claimed footpath within the former excluded area where public rights of way have not been fully mapped. It is a laid out, crushed stone footpath on council owned land vested with Parks & Countryside and is very well used by the public. There is a temporary closure on the existing footpath with an alternative route provided while the reservoir work is ongoing.

There are other claimed footpaths through the Council owned Bramley Recreation Ground that are also not recorded on the Definitive Map and Statement as they are within the former Excluded Area where public rights of way did not have to be mapped when it was produced in the 1950s. There is now a requirement to record these paths. These paths are well used and mostly laid out. Some of the footpaths have existed since 1888 and the rest since 1933 or 1956.

Main issues

Permission was granted to lay out a new service reservoir on this site as the existing reservoir, which provides drinking water, has reached the end of its asset life. A new footpath 2 meters wide of crushed stone will be provided by the contractor around the reservoir. The new footpath will be seventeen metres longer than the old footpath and of similar construction. It will be provided by the contractor.

Declaring the rest of this footpath and the other claimed footpaths over this site, which are well used and mostly laid out paths would allow them to be recorded on the Definitive Map and Statement as required by our duties under the S.53 of the Wildlife and Countryside Act 1981. A Declaration would save time and money investigating of these paths and making a Definitive Map Modification Order. The recording of the footpaths records there legal status and existence but would not change the maintenance responsibility, this would remain with the relevant parks management team. Background Document B shows the rest of the claimed footpaths over this site with green dashes.

Corporate Considerations

Consultation and Engagement

Although consultation is only required with other local authorities consultation was also undertaken with Statutory Undertakers, Prescribed Organisations, User Groups, Ward Members, Parks Area Office and appropriate Council Departments. No objections were received to the diversion of this footpath or the Declaration 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 Paper 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. PA1 states that we will assert and protect the rights of the public where they are affected by planned development. PA5 states that we will seek 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 provisions made for them. The diversion of the footpath will be in accordance with these policies.

4.3.2 Statement of Action DM1 states that we will continue to review the Definitive Map and Statement. DM4 states that the excluded area of Leeds will be mapped by 2015. DM6 states that we will endeavour to meet the 2026 cut off date for recording historical public rights of way as set out in the Countryside and Rights of Way Act 2000. DM7 states that we will continue to identify and record all Definitive Map anomalies, missing links and unrecorded paths. 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. The dedication of the other claimed footpaths over this site will help achieve these policies and aims.

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 applicant.

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 applicant. Public Inquiry will cost approximately between £3000 and £7000.

4.4.3 There are no additional staffing implications resulting from the making of the Order.

4.4.4 The declaration of the other paths enables them to be recorded on the Definitive Map and Statement with minimal cost and investigation time for the Council to ensure we meet our statutory duty to keep the Definitive Map and Statement under continuous review.

4.4.5 The maintenance of the diverted and declared footpaths can be carried out within existing budgets and staffing levels. The paths are currently maintained by the relevant parks management team and recording the footpaths would not change this.

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
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 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 of Environment & Neighbourhoods (u).

4.5.4 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.

4.5.5 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 There is always the potential for objections to a Diversion Order but none were received during the pre-order consultations.

4.6.2 The paths already exist over council-owned land and are maintained by the relevant parks management team so there would be no increased liability from declaring the routes as footpaths.

5 Conclusions

5.1 The Diversion Order would allow the provision of an alternative route around the new reservoir to enable an approved development to proceed in accordance with planning permission.

5.2 The declaration would enable the rest of the diverted footpath and other footpaths over Bramley Recreation Ground to be recorded on the Definitive Map and Statement in accordance with the councils duty to keep the Definitive Map and Statement under continuous review. Maintenance responsibility and liability would remain with the relevant parks management team.

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 footpath shown on the map attached at Background Document A

(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.

(c) to declare the footpaths shown on Background Paper B at Bramley Recreation Ground as a public rights of way which will result in the addition of six footpaths to the Definitive Map and Statement.

7 Background Documents

7.1 Background Document A: Proposed Diversion

7.2 Background Document B: Paths Proposed for Declaration

7.3 Background Document C: EDCI

---

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.