

**Report of Public Rights of Way Manager**

**Report to Parks and Countryside Management Team**

**Date: 7 June 2019**

**Subject: Variation Order for the Diversion of Morley Footpath Nos. 41 and 53**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Morley North	
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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

**Summary of main issues**

- To seek authority for the making of a Public Path Variation Order under Section 333(7) of the Town and Country Planning Act 1990 to vary a Public Path Diversion Order made under Section 257 of the Town and Country Planning Act 1990.

**Recommendations**

- The Natural Environment Manager is requested to authorise the City Solicitor:
  - to make and advertise a Public Path Diversion (Variation) Order in accordance with Section 333(7) of the Town and Country Planning Act 1990, in respect of two footpaths shown on Background Document A

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  - to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.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 Variation Order under Section 333(7) of the Town and Country Planning Act 1990 to vary the Leeds City Council (Morley Footpath Nos. 43 & 51) Diversion Order 2017 previously made in 2017 and confirmed in 2018.

## **2 Background information**

- 2.1 Following the granting of planning permission for a new industrial estate a Public Path Diversion Order was made in 2017 and confirmed in 2018 to divert Morley Footpath No. 51, divert part of Morley Footpath No. 43 and to improve part of Morley Footpath No. 43. The Diversion Order is shown as Background Document B with the original line of the footpaths shown with a solid black line, the proposed new routes shown with a dashed black line and the section of footpath to be upgraded shown hatched black.

## **3 Main issues**

- 3.1 Large scale earth moving works were required on site to prepare it for the development. The company undertaking the earth works made slight modification to the works required at the south western corner of the site so that trees within this area did not have to be removed. As a result of this the diversion of a short section of Morley Footpath No. 43 (shown between A and B on Background Documents A and B) is no longer required and the footpath remains on its original line. The developers have resurfaced this footpath and have carried out the improvement works to widen and improve the surface of this footpath just north of the diversion as provided for in the Public Path Diversion Order. This section of path has now been reopened following a temporary closure for the works to be undertaken.
- 3.2 Changes to the banking at the western end of Morley 51 has resulted in a more gradual gradient but on a slightly different alignment to that shown in the original Order, avoiding the need for steps as originally planned. The parapets required on the road bridge over the Dean Beck for safety reasons also needed to be longer than originally proposed for road safety. This means that the crossing point of the road shown in the original Diversion Order needs to be relocated and the footpath realigned so that it isn't obstructed by the bridge parapets. There will be drop kerbs provided to cross the road.
- 3.3 The diversion as originally proposed for Morley Footpath No. 51 is shown with a solid red line on the Background Document A running east from C for 227 metres to the point labelled C1. The proposed new route is shown with a solid green on Background Document A. The unaffected section of the original diversion is shown with dashed green lines. The original line of the footpaths, prior to the making of the Diversion Order are shown with dashed black lines.
- 3.4 The new section of footpath will be 258 metres long. The width will be two metres and the surface crushed stone except for the section running alongside and across the new road and access to one of the plots (shown on the Proposed Variation map) which will be tarmacked. The new increase in length by 30 metres

would increase the overall length of the footpath by a total of 109 metres from the original line of the footpath prior to the Diversion Order in 2017. This is considered to be minor due to the overall length of the footpath. Furthermore, the new footpath will be easier to use as a surfaced path will be provided

## **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 No objections were received to the Variation Order. The Ramblers asked if the line laid out on the ground for Morley Footpath No. 51 was the original line or the proposed new line and if it would require reconstruction. The line on the ground is the line to be provided by the Variation Order and it has been plotted into the GIS using the latest aerial photos to ensure the accuracy of the Variation Order.

4.1.3 One of the Leeds Local Access Forum members stated that ‘it looks a bit convoluted at the road crossing but I guess this is the only safe way to cross the road. I suspect that people will cut across the bell mouth in reality.’ It is not advisable to cross the road on a T-junction and the diversion directs people to cross at the dropped kerb crossing points provided on the road and approved by Highways.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 An EDCI was carried out for the original diversion and showed no equality implications.

4.2.2 This is a Significant Operational Decision and is not eligible for call in.

### **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 developer. 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 Director of Environment and Housing has authority to take decisions relating to countryside management including all matters relating to the provision and maintenance of footpaths and bridleways, as set out in the Constitution under Part 3, Section 3E, Officer Delegation Scheme (Council (Executive) functions), Director of Environment and Housing (2I).

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. Under section 333(7) of the Town and Country Planning Act 1990 any power conferred to make an order, shall include power to vary or revoke any such order by a subsequent order.

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 were no objections to the Leeds City Council (Morley Footpath Nos. 43 & 51) Public Path Diversion Order 2017. The variation to this Diversion Order makes only minor changes to the diverted line and eliminates the need for steps on Morley Footpath No. 51. Therefore, there are unlikely to be objections to the Variation Order.

### **5 Conclusions**

5.1 The Variation Order is required to amend the diverted line of Morley Footpath No. 51 through the development site so that it is not obstructed by the new bridge parapets. It also provides a less steep gradient removing the need for steps. The diversion of part of Morley Footpath No. 43 is no longer required and the Variation Order would allow this to be removed from the original Diversion Order.

### **6 Recommendations**

6.1 The Natural Environment Manager is requested to authorise the City Solicitor:

- (a) to make and advertise a Public Path Diversion (Variation) Order in accordance with Section 333(7) of the Town and Country Planning Act 1990, in respect of two footpaths 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 Variation

7.2 Background Document B: Original Diversion Order Map

---

<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.