

**Report of Public Rights of Way Manager**

**Report to Parks and Countryside Management Team**

**Date: 16<sup>th</sup> August 2019**

**Subject: Variation Order for Public Rights of Way at Thorpe Park**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Temple Newsam, Garforth & Swillington, Cross Gates & Whinmoor	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" 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: Background Documents F, G, and H.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

**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 Stopping Up 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 the footpaths and bridleways shown on the map attached (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  - to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.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 (Footpaths and Bridleways at Thorpe Park) Stopping Up Order 2015 previously made and confirmed on 12 May 2015 (“the 2015 Order”), Background Documents B, C and D.

## **2 Background information**

- 2.1 In February 2015, the Council made a Stopping Up Order under Section 257 of the Town and Country Planning Act 1990, to stop up four sections of footpath and two bridleways at Thorpe Park. The Order also created three new sections of public bridleway and four new sections of public footpath and upgraded one section of public footpath to public bridleway.
- 2.2 The 2015 Order was made following the granting of Planning Permission for mixed use development of offices, retail, residential and leisure facilities with associated roads, parking and landscaping. The development includes a new road linking the East Leeds Orbital Road at Manston Lane to the M1.
- 2.3 The Order was advertised and confirmed but will not come into force until the new routes have been satisfactorily created and constructed.

## **3 Main issues**

- 3.1 The Thorpe Park site is a large and complex development location. Aspects of the planned construction which affect the public rights of way through the site are ongoing. Planning Permission was granted, under planning references 14/01216/FU, 17/02733/COND and 17/04055/FU and earlier permissions, for the developments and associated link road. The implementation of these developments requires the diversion of footpaths and bridleways on the site.
- 3.2 Before making and advertising the 2015 Order, the developers and Council consulted rights of way user groups, resulting in the diversions and additional new routes in the 2015 Order.
- 3.3 The 2015 Order was intended to cover the necessary changes. However, further planning applications for the new road led to changes to the width of Park Approach and the location of the green bridge after the Diversion Order was made. This required some minor variations to the routes of the new public rights of way to accommodate changes in the road widths, the bridge alignment, gradient and constraints on site. There are also opportunities to achieve improved facilities and connectivity for anticipated users of the local public rights of way network.
- 3.4 Under Section 333 of the Town and Country Planning Act 1990, the Council has powers in cases such as this, to revoke or vary public path orders by making a subsequent Variation Order.
- 3.5 The proposed Variation Order retains the overall layout of the 2015 Order, while containing ten relatively minor changes to the alignments of new routes. The

differences between the 2015 Order alignment and the proposed final alignment are shown on the plan in Background Document A and individually described in the table in Background Document E. The routes shown on Background Document A with a solid red line are the paths in the 2015 Order which will not be provided and the routes shown with a solid green line are the proposed new routes. The routes shown with dashed green and red lines are the new and extinguished routes shown in the 2015 Order.

- 3.6 The proposed changes will result in a net gain of 188 metres of footpath and 17 metres of bridleway compared with the proposed outcome of the 2015 Order.

## **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 and Bridleway Groups, Ward Members and appropriate Council Departments.
- 4.1.2 A representative of the British Horse Society commented regarding the clarity of maps circulated, requested screening for the bridleway next to the slip road (Variation 6 in Background Document A and E), a perceived conflict of bridleway users riding against the traffic on the estate road and asked for connections between the remaining sections of Barrowby Lane to the east and to the west. The representative's full comments are in Background Document F.
- 4.1.3 The representative's comments seem to be partly based on their misinterpretation of the consultation documents. A response sent to them, with the plans referred to, is in Background Document G. No further comment has been received from them.
- 4.1.4 The applicant has also commented that the concerns regarding screening will be taken into consideration but will need further dialogue with Highways England who maintain the existing fence.
- 4.1.5 It should also be noted that the current proposal is for the part of this route leading down to the roundabout to be retained as footpath only after the proposed Variation Order. The Order will enable the creation of a new bridleway link to the new link road. Therefore, the proximity of bridleway users to the slip road will be minimised. The original upgrade of this link, from footpath to bridleway, was at the request of cyclists, for a more direct route for commuting than the more recreational bridleway diversion would provide, as this section is also part of a National Cycle route.
- 4.1.6 The comments regarding connectivity and continuity of Barrowby Lane relate to the overall layout of the public rights of way on this site which has developed as a result of several earlier public path orders. These comments are not directly relevant to the changes in the proposed Variation Order. Consultation with rights of way organisations, including horse riding groups before the 2015 Order resulted in the current overall layout. It was intended at that time that the main

east-west link for horse riders would be the route across the green bridge rather than re-creating links between the two sections of Barrowby Lane. This is still the case.

- 4.1.7 A member of Leeds Local Access Forum questioned the gradient stated in change 2B, suggesting that a slightly steeper gradient of 1 in 12 could shorten the length of the route. The comments are in Background Document H. The applicant has confirmed that, to cater for the broad range of non-motorised users anticipated to use the route, the gradient will be maintained at 5%, which is specified as best practice for inclusive mobility in Government guidance and the Design Manual for Roads and Bridges document TA90/05.
- 4.1.8 The local representative of the Ramblers has stated that his organisation supports the proposed Variation Order.
- 4.1.9 The changes proposed in the 2015 Order are still necessary to enable the implementation of the Planning Permissions which affect these public rights of way. The ten variations to the routes of the new paths in the proposed Variation Order will enable the new routes to be satisfactorily constructed to create a network of public rights of way appropriate to the needs of anticipated users.

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

- 4.2.1 A completed EDCI is attached at Background Document I.

## **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. This application has taken longer to reach determination due to the need to assess all potential variations on this complex site.
- 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. The variations to the 2015 Order will facilitate their protection and improvement of the rights of way network.
- 4.3.3 Statement of Action PA5 states that we will seek to ensure that developers provide suitable alternative routes for paths affected by development. The variations will ensure that suitable and appropriate alternative routes are provided.
- 4.3.4 The protection and diversion of the footpaths affected by this development site maintains connectivity for pedestrians and cyclists and makes a positive contribution to realisation of the walking and cycling aspects of strategies including The Local Transport Plan 3 2011-2026 proposal 22 which states that we will 'Define, develop and manage networks and facilities to encourage cycling and walking' and Leeds Vision 2030, which states that Leeds will be a city that has increased investment in other forms of transport such as walking and cycling routes to meet everyone's needs and people can have access to walking and cycling routes.

4.3.5 The Parks and Green Space Strategy Proposal 19 states we will promote and develop green corridors for recreation, conservation and transport, and Proposal 22 states we will contribute to the West Yorkshire Transport Plan by providing sustainable transport routes in our parks and green spaces. The proposed diversion contributes to these aims through the provision of a pedestrian, cycling and horse riding links.

#### **4.4 Resources and Value for Money**

4.4.1 The cost of making and advertising the necessary Variation 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. 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 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. 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 personal information in Background Documents F, G, and H of this report have been identified as being exempt under Access in Information Procedures Rule Number 10.4 (1 & 2) because they contain personal information about members of the public. This information is exempt if and for so long as in all the circumstances of the case, the publics interest in maintaining the exemption outweighs the public interest in disclosing this information. The comments relating to the diversion made in the exempt documents are considered in Sections 4.1, therefore the public's interests in relation to the diversion have not been affected.

4.5.4 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 Orders when formally advertised. The pre-order consultations detailed in Section 4.1 are intended to help identify potential objections and to enable the Council and the applicant to address concerns raised through appropriate amendments to the proposal.

## **5 Conclusions**

- 5.1 Consultation has been carried out for a proposed Variation Order. Comments have been received but no objections were raised to challenge the grounds for making and advertising a Variation Order under Section 333 Town and Country Planning Act 1990, for the changes shown in Background Documents A and E.

## **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 the footpaths and bridleways shown on the map 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: Plan of Proposed Variations
- Background Document B: Leeds City Council (Footpaths and Bridleways at Thorpe Park) Stopping up Order 2015
- Background Document C: 2015 Order Plan
- Background Document D: 2015 Order Confirmation
- Background Document E: Table of Differences
- Background Document F: British Horse Society comments
- Background Document G1: Response to British Horse Society
- Background Document G2: Applicant's Plan

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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.

Background Document G3: Final Outcome Plan

Background Document H: Leeds Local Access Forum comments

Background Document I: EDCI