

Report of Public Rights of Way Manager

Report to Parks and Countryside Management Team

Date: 11th October 2019

Subject: Diversion of a Public Footpath off Spen Lane

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

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

Recommendations

2. 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 claimed footpath 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 - (b) to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.

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 claimed footpath following the granting of Planning Permission to build a residential development off Spen Lane.

2 Background information

- 2.1 A claimed footpath runs along the north eastern boundary of the site. The site was formerly council owned land and the footpath had been provided by the council for public use. It runs from Spen Lane across to Northolme Avenue with access to North Parade and Thornfield Road. St. Chads Primary School is at the eastern end of the footpath.

3 Main issues

- 3.1 Planning permission has been granted for 50 dwellings on the former site of the West Park Centre. It was not considered feasible to leave the footpath on its original line as it would have become an enclosed path between properties and could have been subject to anti-social behaviour and would have limited garden size. An alternative route was proposed through the existing gate posts, along a short path and then following the new estate road before joining another path through the open space and across the playing fields to North Parade where it re-joins the original line. Background Document A shows the proposed diversion and Background Document B shows the proposed new development.
- 3.2 The existing footpath originally had a metalled surface but this has deteriorated and is partly grassed over. As it is a claimed footpath we do not have a recorded width and we are not sure how wide the surface of the footpath was originally but remaining surface is approximately one metre wide and is uneven. The new footpath will have a tarmac surface and a width of two metres. The section to be closed is 160 metres long and the new section of footpath is 173 metres long. Although slightly longer, this is not considered to make the path less convenient for the public and the improved surface and wider width will make the footpath easier to use, particularly those taking children to school who may also have younger children in pushchairs or prams.

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 There were no objections to the Diversion Order and the West Park Residents Association responded to say they supported the Diversion Order.
- 4.1.3 The Leeds Local Access Forum and local Ramblers did comment that the development commenced prior to the submission and approval in writing of temporary and permanent diversions of the claimed public footpath and details of the surface and timescale for the provision of the new footpath to ensure the

retention of the public footpath as conditioned by the planning permission decision notice. Details were provided of the proposed diversion to the planning department who approved the temporary diversion but not the permanent diversion or surface and did this without consulting with the Public Rights of Way Section. Even when details are provided to the planning department, public rights of way do not get diverted until a Public Path Diversion Order is applied for, made and confirmed. Although this is clearly an issue that need to be raised with the planning department and the Public Path Diversion Order Application should have been made and confirmed much sooner, it does not affect the proposed line of the Public Path Diversion Order which is acceptable to the Public Rights of Way Section, user groups, ward councillor and local residents.

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. The diversion of this claimed footpath ensures that a suitable alternative route is provided with an improved surface.

4.3.3 Local Transport Plan 3 2011-2026 proposal 22 states aims to Define, develop and manage networks and facilities to encourage cycling and walking', Leeds Vision 2030 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. The current Parks and Green Space Strategy proposal 19 states that we will promote and develop green corridors for recreation, conservation and transport and proposal 22 states that we will contribute to the West Yorkshire Transport Plan by providing sustainable transport routes in our parks and green spaces including the development of cycling routes. The provision of a surfaced footpath providing links between community facilities and schools meets these objectives.

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. 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 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 As is always the case, there could be objections to the Diversion Order. There have been no objections to the Diversion Order during the pre-order consultation stages and it is supported by the local residents association.

5 Conclusions

5.1 The proposed diversion is required to allow development that has been granted planning permission and provide an alternative route as conditioned by the planning permission. The alternative route is slightly longer but provides an improved surface.

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 claimed footpath 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 Documents¹

7.1 Background Document A: Proposed Diversion

7.2 Background Document B: Proposed Development

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.