



Report to the Chief Officer (Highways and Transportation)

Date: 28 July 2020

Subject: Section 116 Highways Act 1980 – Stopping Up Order and Diversion Order, Sandbed Lane (Byway Arthington 11) Arthington Leeds

Are specific electoral wards affected? If yes, name(s) of ward(s): Adel and Wharfedale	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will the decision be open 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

The purpose of this report is to:

Extinguish public motorised and horse drawn vehicular rights along the length of Sandbed Lane between points A and B on Drawing No. SD/217960/Z215/02, with the length affected becoming a bridleway.

Divert the length of Sandbed Lane between points A and B on Drawing No. SD/217960/Z215/02.

Stop up the length of Sandbed Lane between points B and C on Drawing No. SD/217960/Z215/02.

1. Main issues

In accordance with Section 116 of the Highways Act 1980 to:

- Extinguish public motorised and horse drawn vehicular rights along the length of Sandbed Lane between points A and B on Drawing No. SD/217960/Z215/02, with the length affected becoming a bridleway;
- Divert the length of Sandbed Lane between points A and B on Drawing No. SD/217960/Z215/02 from that shown on the public rights of way definitive map to follow the existing route on the ground;

- Stop up the length of Sandbed Lane between points B and C on Drawing No. SD/217960/Z215/02.
- To enter into a formal arrangement under Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 for the purposes of providing a parking area for 3 to 4 cars as shown on Drawing No. SD/217960/Z215/02.

2. Best Council Plan Implications

- By removing vehicular traffic from an area used mainly by pedestrians and horse riders for leisure activities, the proposal will reduce pedestrian/vehicle conflict improving the safety of the users of the bridleway and support a healthy and physically active lifestyle.

3. Resource Implications

- The applicant, the Landowner, has paid the standard fee of £3,800 which includes £800 for advertising. The applicant has agreed to meet the costs, if any, which may be incurred by statutory undertakers relating to this report. There are additional costs relating to the preparation of a Legal Agreement under Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 to be met by Leeds City Council

Recommendations

- a) The Chief Officer (Highways and Transportation) is requested to instruct the City Solicitor to apply to the magistrates' court for an Order under Section 116 of the Highways Act 1980 to:
 - Extinguish public motorised and horse drawn vehicular rights along the length of Sandbed Lane between its junction with the farm track at Point A and the edge of the sand bed at Point B on Drawing No SD/217960/Z215/02, with the length affected becoming a bridleway;
 - Divert the length of Sandbed Lane between its junction with the farm track at Point A and Point B on Drawing No. SD/217960/Z215/02 from that shown on the public rights of way definitive map to follow the existing route on the ground;
 - Stop up the length of Sandbed Lane between Point B and the centre of the river at Point C on Drawing No. SD/217960/Z215/02.
 - Enter into a formal arrangement under Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 for the purposes of providing a parking area for 3 to 4 cars as shown on Drawing Number SD/217960/Z215/02.

1. Purpose of this report

- 1.1 To seek approval to promote an order under Section 116 of the Highways Act 1980 to extinguish public vehicular rights along, divert and stop up parts of Sandbed Lane.

2. Background information

- 2.1 Warren Lane and Sandbed Lane are located north of A659 Arthington Lane between Pool in Wharfedale and Arthington, approximately 12km north west of Leeds City Centre. Drawing No. SD/217960/01 shows the location.
- 2.2 Warren Lane, an adopted highway, runs north from the A659 to the eastern side of the viaduct carrying the Leeds to Harrogate railway across the River Wharfe
- 2.3 Sandbed Lane, a byway open to all traffic, continues north from the western side of the viaduct for a distance of 600m and is nominally 3.7m wide. It provides vehicular access to the viaduct, a sewage treatment works, farm buildings, an open field and the river bank
- 2.4 Sandbed Lane originally served the former Castley Ford across the river which is no longer in use because the river is too deep. Erosion at times of flooding has steepened the banks so there is no longer vehicular access to the river bed. The byway extends to the city boundary at the centre of the river, from where the route nominally continues into North Yorkshire, but, in practice, it is now a dead end. Fig. 1 in Appendix A shows the former ford site.
- 2.5 Fig. 2 in Appendix A shows the road under the viaduct and the length of byway between the viaduct and the junction with the sewage works access at Point B which provide vehicular access to the viaduct and sewage works
- 2.6 North of the sewage works access, the byway runs alongside the works for a distance of 60m, downhill towards an open field. Figs. 3, 4 and 5 in Appendix A show this length which has a tarmac surface but is too steep for pedestrians with mobility problems, wheelchairs or mobility scooters to use
- 2.7 Just north of the sewage works, at Point C, a private track branches off towards some farm buildings to the west. North of Point C.
- 2.8 North of Point C, the definitive map shows the byway running north across the field for a distance of 492m to the river bank at Point D. On the ground, however, the route runs east along the field edge for a distance of 20m before turning north to follow the field edge along the river bank for a distance of 543m to join the route shown on the map at Point D.
- 2.9 The black arrows on Figs. 3, 4 and 5 show the route on the map and the white arrows show the route on the ground. Figs. 6, 7, 8 and 9 in Appendix A show this length which is unfenced on either side and has a soft surface formed of the same natural material as the adjacent field which is unsuitable for on road vehicles to use.
- 2.10 North of Point D, the byway runs north for a further 36m as far as the city boundary at the centre of the river. From here, North Yorkshire's definitive map shows the route continuing to Castley Lane as an unsurfaced unclassified road but there is no practical access between the river bed and the top of the bank on either side.
- 2.11 For most of its length, the byway is too narrow for two way traffic or for vehicles to park without obstructing it or trespassing on farmland and, although farming activity has narrowed the byway over the years, Parks and Countryside is working with the land owner to restore it to its original width. There is insufficient space for vehicles to turn at the northern end of the byway without trespassing on farmland so vehicles

reaching the far end may need to reverse back along the entire length. For most of its length, the byway is immediately adjacent to the top of the river bank and any need for reversing or parking close to the edge raises safety concerns.

- 2.12 Despite its shortcomings, Sandbed Lane continues to be used for vehicular access to the river bank, mainly by dog walkers and people seeking to view the river and the viaduct, including some with limited mobility. Vehicular access to more distant views of the river and viaduct are available from Castley Lane on the other side of the river but the journey from Warren Lane is significant.
- 2.13 The land owner, who farms the land directly, has experienced vehicles causing damage by being driven across the field, fly tipping and theft of large items which would need vehicular transport to remove from the farm buildings accessed off the byway.
- 2.14 As a result, the land owner has placed a barrier across the byway just north of its junction with the Sewage Works entrance.
- 2.15 The landowner opened the barrier in the morning to allow access to the byway and closed the barrier again at night.
- 2.16 Following complaints from users of the byway the Landowner stopped closing the barrier but, requested that the byway be extinguished so he can protect his land and property.

3. Main issues

- 3.1 Following a request received from the Landowner to extinguish public motorised and horse drawn vehicular rights along the length of Sandbed Lane from Warren Lane to the riverbed, a report was submitted to this Highways Board on 28th August 2018 requesting approval to:
 - Extinguish public motorised and horse drawn vehicular rights along the length of Sandbed Lane between point A and Point B on Drawing No SD/217960/z215/02 with the length affected becoming a bridleway.
 - Divert the length of Sandbed Lane between point A and B no Drawing No. SD/217960/Z215/02.
 - Stop up the length of Sandbed Lane between point B and point C on Drawing No. SD/217960/Z215/02.
 - Enter into a formal arrangement under Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 for the purposes of providing a parking area for 3 to 4 cars as shown on Drawing No. SD/217960/Z215/02.
 - Instruct the City Solicitor to prepare and advertise notices under the provisions of Section 228 of the Highways Act 1980 declaring the area of highway shown hatched on Drawing SD/217960/SL/03 to be highway maintainable at public expense.

- 3.2 A copy of that report is attached.
- 3.3 Consultation was carried out prior to the previous report and three objections were received. One from a Ward Member and two from regular users of the area.
- 3.4 As a result, concerns were raised by this Highways Board at that meeting regarding;
- The proposal to adopt Warren Lane under Section 228 of the Highways Act and
 - Access to the riverside via the steep lane for people with disabilities or the elderly if Sandbed Lane was gated at the top of the hill.
- 3.5 Highway adoption records show the adopted length of Warren Lane ending at the eastern side of the viaduct at Point A on Drawing SD/217960/SL/02A and the public rights of way definitive map shows the byway starting at the western side. The 9m length of road under the viaduct is not recorded as either adopted highway or public right of way and is in unregistered ownership.
- 3.6 This length has a tarmac surface and appears to be laid out as a street, indistinguishable from Warren Lane. It therefore seems reasonable to conclude that they form a street in which the highway authority has carried out works.
- 3.7 The original report, therefore, recommended adopting this length of highway under Section 228 of the Highways Act. However, the extinguishment of vehicular rights on Sandbed Lane does not affect this length of road and, as a result it is considered that proposing to adopt this length of road is not necessary for this proposal.
- 3.8 North of the sewage works access, the byway runs alongside the works for a distance of 60m, downhill towards an open field. It has a tarmac surface but is too steep for pedestrians with mobility problems, wheelchairs or mobility scooters to use.
- 3.9 The original report recommended that a gate be provided at the top of the hill adjacent to the sewage works entrance to prevent motorised and horse drawn vehicle from continuing along Sandbed Lane as part of the proposal to downgrade Sandbed Lane to a bridleway. A 1.5m wide access to allow for pedestrians and horse riders would be provided adjacent to the gate.
- 3.10 Concerns were raised by this board that if the gate was provided at the top of the hill it would prevent the elderly or disabled from visiting the riverbank by car as they do now.
- 3.11 As a result of the comments raised, particularly to the difficulty accessing the river bank area for the elderly and disabled if they cannot access the area by car, it has been agreed with the Land Owner that the gate could be relocated to the bottom of the hill and the Land Owner has agreed to provide a car parking area for 3 to 4 cars adjacent to the new location of the gate on level ground.
- 3.12 The original objectors have been consulted on the new proposal to relocate the gate to the bottom of the hill and the provision of a car parking area for 3 to 4 cars and consider the proposal is now acceptable.

3.13 Parks and Countryside have confirmed that they will maintain the new diverted route of the Byway once the Stopping Up Order has passed Judicial Review. A Legal Agreement under Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 will now deliver the provision of the 3 to 4 parking spaces.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Consultation was carried out prior to the previous report and three objections were received. One from a Ward Member and two from regular users of the area.
- 4.1.2 Ward Members were consulted with the amended proposal and no objections were received. The Ward Member who originally objected to the gate being located at the top of the hill no longer objects to the proposal to relocate the gate at the bottom of the hill
- 4.1.3 The two objectors were consulted again with the amended proposal. One is now happy with the proposed amendment. And the other has not replied to date.
- 4.1.4 The City Solicitor will inform statutory undertakers and emergency services as part of the statutory consultation process of promoting a stopping up order.
- 4.1.5 Owners of land adjoining the length proposed for adoption, ward members and the parish council were consulted about the proposed adoption by either email or letter with plans on 19 May 2017. There have been two responses from neighbouring landowners, including Network Rail, and one from the parish council, none offering any objection.
- 4.1.6 Parks and Countryside's Public Rights of Way Section's standard list of consultees were consulted about changing the byway's status by either email or letter with plans on 13 March 2017. The list includes ward members, the parish council, statutory undertakers, Network Rail, The Environment Agency, emergency services, user groups and countryside interests.

4.2 Equality and Diversity/Cohesion and Integration

- 4.2.1 An equality, diversity, cohesion and integration screening (Appendix B) has been carried out and confirms that a full impact assessment is not needed. Except for disability and age, the proposal is not considered to impact on any one equality characteristic more significantly than any other. The screening found that:
 - Sandbed Lane provides vehicular access to views of the River Wharfe and the viaduct carrying the Leeds to Harrogate railway across it which is particularly convenient for disabled residents of adapted bungalows in Warren Lane;
 - there is concern that a stopping up order would discriminate on grounds of disability or age by preventing vehicular access to these views by those who, because of disability or age, would be less able than others to access them by other means;
 - vehicular access to more distant views of the river and viaduct would still be available from Castley Lane on the other side of the river;

- access from Sandbed Lane would still be legally available for wheelchair or mobility scooter users although the topography and surface are unsuitable;
- fitting a RADAR lock to the barrier, which would allow disabled people with RADAR keys to open it to gain vehicular access, has been considered but rejected because the track is too narrow for vehicles to turn without trespassing on farmland;
- the landowner has agreed to open the barrier for individual motorised users with mobility difficulties who approach him directly when the proposed order takes effect;
- removing vehicular access would improve conditions for non-vehicular users, particularly those with disabilities and older people, by removing potential conflict with vehicles.

4.2.2 It seems reasonable to conclude from these findings that there may be some adverse impact on people with mobility difficulties affecting their ability to enjoy views of the river and viaduct. However, an alternative is available and the proposal will, in itself, reduce existing risk of possible difficulties for that group and potential conflict with others.

4.3 Council policies and the Best Council Plan

4.3.1 This Report supports the Best Council Plan and Key City Priorities. By removing vehicular traffic from an area used mainly by pedestrians and horse riders for leisure activities, the proposal will reduce pedestrian/vehicle conflict and improve the health and wellbeing of the users of the bridleway.

Climate Emergency

By removing vehicular traffic from an area used mainly by pedestrians and horse riders for leisure activities, the proposal will reduce pedestrian/vehicle conflict and improve the health and wellbeing of the users of the bridleway

4.4 Resources, procurement and value for money

4.4.1 The applicant has paid the standard fee of £3,800 which includes £800 for advertising. The applicant has agreed to meet the costs, if any, which may be incurred by statutory undertakers exercising their rights under Section 116 of the Highways Act 1980 to recover from the council the cost of removing, diverting or abandoning any equipment located in, on, over, along or across any highway affected by an order granted under Section 116. There are additional costs relating to the preparation of a Legal Agreement under Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 to be met by Leeds City Council.

4.5 Legal implications, access to information, and call-in

4.5.1 None of the content of this report is exempt from public display or contains confidential information.

4.6 Risk management

4.6.1 There is no risk to the Council

5 Conclusions

- 5.1 The public vehicular rights between points A and B are considered unnecessary in accordance with Section 116 of the Highways Act 1980
- 5.2 The diverted route between points A and B on the ground is a less commodious route than the existing length shown on the definitive map.
- 5.3 The length of adopted highway between points B and C is considered unnecessary.

6 Recommendations

- The Chief Officer (Highways and Transportation) is requested to instruct the City Solicitor to apply to the magistrates' court to:
- Extinguish public motorised and horse drawn vehicular rights along the length of Sandbed Lane between its junction with the farm track at Point A and the edge of the sand bed at Point B on Drawing No. SD/217960/Z215/02, with the length affected becoming a bridleway;
- Divert the length of Sandbed Lane between its junction with the farm track at Point A and Point B on Drawing No. SD/217960/Z215/02 from that shown on the public rights of way definitive map to follow the existing route on the ground;
- Stop up the length of Sandbed Lane between Point B and the centre of the river at Point C on drawing No SD/217960/Z215/02.
- To enter into a formal arrangement under Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 for the purposes of providing a parking area for 3 to 4 cars as shown on drawing number SD/217960/Z215/02.

6. Background documents¹

- a. The previous report to this Highway Board on 28th August 2018

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.