

Report of Public Rights of Way Manager

Report to Parks and Countryside Management Team

Date: 10th March 2021

Subject: Creation Agreement for a Footpath Between The Poplars and The Birches, Bramhope

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

1. To seek authority to create by agreement a public footpath over land owned by Bramhope Parish Council between The Poplars and The Birches, Bramhope and thus enabling the recording of a public footpath on the Definitive Map and Statement.

Recommendations

2. The Natural Environment Manager is requested to authorise the City Solicitor to enter into a Public Path Creation Agreement with the landowner in accordance with Section 25 of the Highways Act 1980 to create a public footpath The Poplars and The Birches, Bramhope with a width of 1.8 metres as shown on Background Document A.

1 Purpose of this report

- 1.1 To request authorisation to enter into a Public Path Creation Agreement under Section 25 of the Highways Act 1980 with the landowner to create a public footpath between The Poplars and The Birches, Bramhope with a width of 1.8 metres as shown on Background Document A.

2 Background information

- 2.1 In 2001 Bramhope Parish Council made a Definitive Map Modification Order Application to record a public footpath on the Definitive Map and Statement between The Poplars and Leeds Road close to Wynmore Avenue after planning permission was applied for a development that would have obstructed the line of the well-used footpath here. Bramhope Parish Council owned most of the land but the northern section was owned by another person. The Definitive Map Modification Order Application was successful and a Modification Order was made and confirmed and this footpath is now recorded on the Definitive Map and Statement as Bramhope Public Footpath No. 14.
- 2.2 Bramhope Parish Council also own the land to the south of The Poplars and a footpath continues from Bramhope Footpath No. 14 across their land to The Birches. Originally this arose through use by the public but the Parish Council have provided a crushed stone surface and a footbridge over the drainage channel. This footpath is well used and provides a traffic free route away from the main road.

3 Main issues

- 3.1 The Parish Council have asked if this footpath can be formally recognised and recorded on the Definitive Map and Statement. As they own the land the most expedient way of doing this is for them to enter into a Creation Agreement with Leeds City Council to dedicate the footpath as a public right of way enabling it to be recorded on the Definitive Map and Statement.
- 3.2 It is very likely that the Parish Council would make a Definitive Map Modification Order Application to record the footpath and provide user evidence to support an application if Leeds City Council didn't agree to enter into a Creation Agreement. This would require significantly more resources in both time and expense to determine an application. As the path is a continuation of the path to the north, is clearly available and is well used without challenge by the landowner a Definitive Map Modification Order Application would very likely be successful.
- 3.3 Once dedicated the footpaths would be shown on the Definitive Map and Statement and the surfaces and bridge would be the responsibility of the Public Rights of Way Section. They are in a good condition and it is unlikely that any work would be required in the near future. The surface is 1.8 metres wide for most of its length. The footbridge is 1.4 metres wide and the surface narrows down to join this on either side over a length of 4 metres. The footpath at The Birches starts at 1 metre wide and increases to 1.8 metres over the first 6 metres. This was queried with the Parish Council who said that the whole path was provided to the same surface width but the surrounding grass has encroached on

it in places. The village caretaker has been taking the grass back to the full path width but hasn't finished it yet which would explain such a short section being narrower.

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 User Groups, Ward Members and appropriate Council Departments. There were no objections to the Creation Agreement and those who responded all supported a Creation Agreement being made.

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 B

4.3 Council Policies and City Priorities

4.3.1 The Rights of Way Improvement Plan Statement of Action DM1 states that we will continue to review the Definitive Map and Statement and DM7 states that we will continue to identify and record all Definitive Map anomalies, missing links and unrecorded paths. The recording of this path will help meet those objectives.

4.3.2 Various plans and policies including the Leeds Transport Strategy, Local Transport Plan, Climate Change Plan, Best Council Plan, Leeds City Region Green Infrastructure Strategy and Leeds Vision 2030 aim to encourage active travel, promote cycling and walking, increase accessibility to green spaces and enhance the rights of way network. The recording of this footpath will help to achieve these aims.

4.4 Resources and Value for Money

4.4.1 As soon as may be possible after the dedication of the way in accordance with the Public Path Creation Agreement the local authority shall give notice of the dedication by publication in as least one local newspaper.

4.4.2 Should the Agreement be signed, minor maintenance may be required occasionally, the cost of which can be met through existing budgets.

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

4.4.4 There are no compensation costs or payments being claimed by the landowners entering into the Creation Agreement.

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 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 Communities & Environment (u).

- 4.5.2 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.
- 4.5.3 An Agreement under this section will be on such terms as to payment or otherwise as may be specified in the agreement and may, if so agreed, provide for the dedication of the way subject to limitations or conditions affecting the public right of way.
- 4.5.4 When such an agreement is made it shall be the duty of the local authority to take all necessary steps for securing that the footpath, bridleway or restricted byway is dedicated in accordance with it.
- 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 The landowner has agreed to enter into the Creation Agreement. This avoids the need to make a Creation Order that can have claims for compensation associated with it. There are also no grounds for objecting which avoid the possibility of a public inquiry.

5 Conclusions

- 5.1 The footpath currently exists on the ground and is well used. The signing of a Creation Agreement with the Parish Council will enable the footpath to be recorded on the Definitive Map and Statement helping to protect and promote it for future use by the most cost effective and timely means.

6 Recommendations

- 6.1 The Natural Environment Manager is requested to authorise the City Solicitor to enter into a Public Path Creation Agreement with the landowner to create a public footpath between The Poplars and The Birches, Bramhope with a width of 1.8 metres as shown on Background Document A.

7 Background Documents¹

- 7.1 Background Document A: Map of the Proposed Footpath
- 7.2 Background Document B: Completed 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.