

Diversion of Leeds Footpath No. 97

Date: 22 June 2021

Report of: Principal Definitive Map Officer

Report to: Natural Environment Manager

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

- To consider the making of a Public Path Diversion Order under Section 257 of the Town and Country Planning Act 1990 to divert Leeds Footpath No. 97 following an application for Planning Permission to for sixteen new council homes (Ref: 21/03387)
- 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. 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 Best Council Plan, West Yorkshire Transport Strategy 2040, Leeds Transport Strategy, Local Transport Plan, Climate Change Plan, Leeds Vision 2030 and the Leeds Health and Wellbeing Strategy all encourage the development and improvement of facilities to promote walking and cycling, active travel, access to green space to improve physical and mental health and reduce pollution and noise. The diversion will help achieve this.

Recommendations

The Natural Environment Manager is requested to authorise the City Solicitor 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 Leeds Footpath No. 97 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Document A and to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.

The Natural Environment Manager is also requested to authorise the declaration of a new section of footpath from Leeds City 97 to Scott Hall Road.

Why is the proposal being put forward?

- 1 A Public Path Diversion Order Application has been made to divert part of Leeds Footpath No. 97 following a planning application for sixteen new homes by Leeds City Council. The diversion would be necessary to allow the development to go ahead as proposed.
- 2 The existing footpath to be extinguished is 114 metres long and has a grass surface with a width of 1.2 metres. It runs from the top of some steps off Scott Hall Road in a generally north westerly direction to another section of Leeds Footpath No. 97 which runs across some open space in south westerly and northerly direction. The proposed new footpath would run from the top of the steps in a south westerly direction along an metaled, but unrecorded footpath, to Scott Hall Drive and then in a north westerly direction along the footway of the new estate road to join the other section of Leeds Footpath No. 97 as shown on Background Document A. It would have a tarmac surface, a length of 107 metres and a width of 2 metres.
- 3 In addition to the diversion the section of Leeds Footpath No. 97 along the northern side of the development would be surfaced with a compacted crushed carboniferous limestone surface and widened to 2 metres to the north and 3 metres to the south west.
- 4 Leeds Footpath No. 97 is currently dead ended at the north eastern end due to some historic development prior to the footpath being recorded on the Definitive Map and Statement. There is evidence of public rights continuing which will be investigated in due course. However, the vesting department have agreed to dedicate a link to Scott Hall Road between numbers 77 and 79 as a public footpath allowing the public to connect to the wider highway network.

What impact will this proposal have?

Wards Affected: Chapel Allerton

Have ward members been consulted?

Yes

No

- 5 The diversion of the footpath would allow the proposed council housing development to go ahead as proposed providing affordable housing.
- 6 Although the diversion would lead to a slightly longer route for those heading in a northerly direction from the southern end of the diversion by approximately 66 metres it would provide a shorter route for those heading in a south westerly direction or the same length for those joining the footpath from Scott Hall Drive. As the route in a northerly direction would take you either back onto Scott Hall Road or to a dead end this is unlikely to be the direction most path users would be heading in.
- 7 In addition the new route will provide a wider surfaced path to replace the existing grassed surface which will be easier to user for everyone and would off-set the slight length increase for those heading north. An addition link will also be provided to Scott Hall Road from the north benefiting all users and this will be a step free option for those coming from Scott Hall Road.

What consultation and engagement has taken place?

- 8 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.

- 9 All user groups who responded all welcomed the addition of the new link to Scott Hall Road at the northern end of the development.
- 10 The Ramblers commented that the diversion onto the footway of estate roads is not the best practice for public footpath diversions, but accepted that this was necessary due to the layout of the site and considered that traffic speeds would be low and the route would be overlooked by the new residents. Leaving the footpath on its original line was considered but discounted on security grounds as it would create a narrow enclosed alleyway path between the current and new houses. This could create safety issues for users, security issues for the houses which back on to it and potentially antisocial behaviour or fly tipping and is not recommended by the Secure by Design Team so was not supported by the Public Rights of Way Section, West Yorkshire Police, Housing or user groups.
- 11 The Ramblers did not consider that it would be in the interests of residents to retain the natural surface of Leeds Footpath No. 97 along the northern end of the development, particularly if the housing were to accommodate families leading to increased push-chair use. The comment was fed back to the applicant and they have agreed to provide a compacted crushed stone surface here.
- 12 They also expressed concern about the access onto Scott Hall Road from the new link being narrow and sloping slightly. Although there is a grass back to the side, the gap itself is off sufficient width and is level with a firm surface to allow easy access for footpath users.
- 13 Finally they asked if the footpaths would be signed. The Public Rights of Way Section have a duty to erect signs where footpaths meet the metalled highway so signs would be erected following the provision of the new footpaths.
- 14 Following the erection of a bylaw removal notice on site, a local resident objected to the loss of the footpaths through the development as it had existed for over twenty years and provided links to the Meanwood Valley Trail and is a popular, well-used path. She was consulted about the Diversion Order and was satisfied that alternative and improved provision was being made for the footpath.

What are the resource implications?

- 15 The cost of making and advertising the necessary Public Path Diversion Order is to be met by the applicant.
- 16 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. Public Inquiry will cost approximately between £4000 and £8000.
- 17 There are no additional staffing implications resulting from the making of the Order.

What are the legal implications?

- 18 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).
- 19 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.

- 20 The recommendations in this report do not relate to a key decision, therefore prior notification in the Forward Plan is not necessary.

What are the key risks and how are they being managed?

- 21 There is the risk that objections will be received to any orders made. ????

Does this proposal support the council's 3 Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

- 22 The diversion of the footpath will enable the development of social housing. The new and improved footpath links will support active travel and encourage walking and reduce vehicle use.

Options, timescales and measuring success

a) What other options were considered?

- 23 The Public Path Diversion Order Application could be turned down, but this would prevent the council housing development proposal going ahead in accordance with the proposed plans.
- 24 During the early stages of the development planning consideration was given to leaving the footpath on its original line. Leaving the footpath on its original line was considered but discounted on security grounds as it would create a narrow enclosed alleyway path between the current and new houses. This could create safety issues for users, security issues for the houses which back on to it and potentially antisocial behaviour or fly tipping and is not recommended by the Secure by Design Team so was not supported by the Public Rights of Way Section, West Yorkshire Police, Housing or user groups.

b) How will success be measured?

- 25 The making of a Public Path Diversion Order under the Town and Country Planning Act 1990 and confirmation as an unopposed order or determination by The Planning Inspectorate if objections are made.

c) What is the timetable for implementation?

- 26 The Public Rights of Way Section will make a Public Path Diversion Order within 6 weeks of approval and confirm shortly after the end of the objection period if none are received.
- 27 The development programme for the completion of the works including the footpaths is October 2022.

Appendices

- 28 EDCI Screening

Background papers

- 29 Background Document A: Proposed Footpath Diversion