

## Austhorpe Footpath No. 2 Extinguishment Order

Date: 16 June 2022

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 Extinguishment Order under Section 118 of the Highways Act 1980 following an application from the Leeds City Council East Leeds Orbital Route Project Team
- 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.

### **Recommendations**

The Natural Environment Manager is requested to authorise the City Solicitor to make and advertise a Public Path Extinguishment Order in accordance with Section 118 of the Highways Act 1980, in respect of a Austhorpe Footpath No. 2 (previously part of Austhorpe Footpath No. 6) shown on the map attached at Background Paper A and to confirm the Order, subject to there being no objections or in the event of objections which cannot be withdrawn, for the order to be referred to the Secretary of State, Department of the Environment, Food and Rural Affairs for determination.

## Why is the proposal being put forward?

- 1 To consider the making of a Public Path Extinguishment Order under Section 118 of the Highways Act 1980 following an application from the Leeds City Council East Leeds Orbital Route Project Team to extinguish Austhorpe Footpath No. 2 as shown in Background Paper A. This footpath was previously part of Austhorpe Footpath No. 6 but was renumbered when another section of it was upgraded to bridleway.
- 2 The existing footpath to be extinguished is 68 metres long and has a crushed stone surface with a width of 0.9 metres. It has a steep gradient and joins the road network on a roundabout at the junction with the slip road to Junction 46 of the M1. Photos of the existing footpath are shown in Background Paper B.
- 3 The alternative route would be along 75 metres of the recently provided Austhorpe Bridleway No. 1 which was constructed as part of the Thorpe Park/ The Springs development and joins William Parkin Way (a new road) 50 metres north-west along the current footway. The bridleway has a crushed stone surface with a width of 4 metres and gradient that significantly less steep than Austhorpe Footpath No. 2 and is compliant with accessible gradient guidelines which is not the case with the footpath to be extinguished. Photos of the new bridleway are shown in Background Paper B.
- 4 The existing footpath was left in situ when the Thorpe Park/ The Springs development order were made, originally to provide a cycle link to the road and then, when the new section of bridleway was proposed, as a slightly shorter route for pedestrians who wanted to continue to Austhorpe Footpath No. 6 off the roundabout south-east of the M1.
- 5 Since then, as part of proposals to improve vehicle and pedestrian safety on the roundabout and to mitigate for increased traffic when East Leeds Orbital Route opens, the width of the slip road is being increased, roadside footways are being rearranged and new controlled crossing points provided. The existing roadside footway between the end of Austhorpe Footpath No. 2 and Bridleway No. 1 will be removed and limited visibility means that it is unsafe for pedestrians to cross the roundabout carriageway and slip road at this point. Instead, pedestrians would use Austhorpe Bridleway 1 to William Parkin Way and then use the new footways and signalised crossing points to safely cross the carriage road, a distance of approximately 80 metres to take you to the centre of the roundabout opposite Austhorpe Footpath No. 2. Pedestrians could then continue on the unaffected footways to Austhorpe Footpath No. 6. Background Paper C shows the proposed roundabout and slip road changes.

## What impact will this proposal have?

### Wards Affected: Garforth & Swillington

Have ward members been consulted?

Yes

No

- 6 Extinguishing the footpath would ensure that the public do not join the carriage road in an unsafe location and are directed to safe signalised crossing points. The bridleway link to the road network is much wider and less steep than footpath to be extinguished making it easier to use for all path users.
- 7 Although the distance travelled for those wanting to continue along Austhorpe Footpath No. 6 off the south-east roundabout is 70 metres further, the additional length is mitigated by the improved gradient and width and the provision of safe crossing points.

## **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 The Local Access Forum responded to say that they had no objections to the Extinguishment Order, 'which appeared to be a sensible resolution to the present situation'.
- 10 The Peak and Northern Footpath Society have no objection to the Extinguishment Order but asked why controlled crossing points were not being provided on the road between the two roundabouts as they were on William Parkin Way. Signalised crossings are required on the roundabout and the bottom of William Parkin Way due to the lack of visibility in these locations which would not give enough time for pedestrians to cross or react if a car was just out of sight. They also considered that walkers from Austhorpe 6, who may be unaware of the changes, may walk anti-clockwise around the south-eastern roundabout. On reaching the north-western roundabout, it would need to be clearly signposted to walkers to ensure that they crossed to the central reservation to use the signalised crossing points to reach Austhorpe Bridleway No. 1. Going anti-clockwise around the south-eastern roundabout is approximately 50 metres further than going clockwise so it is believed that most walkers will go clockwise. Fencing will be erected at the ends of the former footway between the uncontrolled crossing and the bottom of William Parkin Way and anti-pedestrian paving will also be installed along the former footway here making it clear that pedestrians need to use the uncontrolled crossing then the signalised crossings to continue their journey.
- 11 No comments were received from other user groups and there were no objections from statutory undertakers.

## **What are the resource implications?**

- 12 The cost of making and advertising the necessary Public Path Extinguishment Order is to be met by the applicant.
- 13 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 application fee. A Public Inquiry will cost approximately between £4000 and £8000.
- 14 There are no additional staffing implications resulting from the making of the Order.

## **What are the legal implications?**

- 15 The Natural Environment Manager has authority to take decisions relating to the extinguishment of public rights of way under Section 118 of the Highways Act 1980 as set out in the Constitution under Part 3, Section 2C(f), Officer Delegation Scheme (Council (non-executive) functions), Director of Communities, Housing and Environment (1w).
- 16 Section 118 of the Highways Act 1980 enables a Council as respects a footpath, bridleway or restricted byway in their area that it is expedient that the path or way should be stopped up on the grounds that it is no longer needed for public use, to make an Extinguishment Order.
- 17 The Secretary of State shall not confirm an Extinguishment Order and the Council shall not confirm an unopposed Extinguishment Order unless they are satisfied that it is expedient so to do having regard to the extent that the path or way would be likely to be used by the

public, and having regard to the effect which the extinguishment of the right of way would have as respect land served by the path or way, account being taken to compensation.

- 18 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?**

- 19 Public Path Extinguishment Order under Section 118 of the Highways Act 1980 are more likely to attract objections unless there are suitable alternatives already in existence or proposed by a concurrent Creation Order. In this case, a suitable alternative route along Austhorpe Bridleway No. 2, which is much easier to use than the existing footpath, have already been provided. Changes to the roadside footways mean that it will not be possible to continue along the roadside footways at the end of the footpath to be extinguished and safe signalised crossing points will be provided at the end of the bridleway to allow path users to continue along the wider road and footpath network. There have been no objections from user groups.

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

Inclusive Growth       Health and Wellbeing       Climate Emergency

- 20 The improvements to the roadside footway network are linked to the East Leeds Orbital Road works to provide improved traffic management and pedestrian safety. The extinguishment of the footpath will ensure that the public are able to safely use the public right of way and roadside footways for their journey.
- 21 As the decision is not a Significant Operational Decision an EDCI impact assessment is not required. However, a completed EDCI screening is attached at Appendix 1

### **Options, timescales and measuring success**

#### **a) What other options were considered?**

- 22 The Public Path Extinguishment Order can be turned down but this would not be in the interests of road safety and would impact on the opening of the East Leeds Orbital Route.

#### **b) How will success be measured?**

- 23 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?**

- 24 The Public Rights of Way Section will make a Public Path Extinguishment Order within 12 weeks of approval and confirm it shortly after the end of the objection period if none are received.

## **Appendices**

- 25 EDCI Screening

## **Background papers**

26 Background Paper A: Proposed Extinguishment

27 Background Paper B: Photos of the Existing Paths

28 Background Paper C: The Proposed Roundabout and Slip Road Mitigation Works