

## BARNESLEY METROPOLITAN BOROUGH COUNCIL

Report of Assistant Director,  
Highways, Engineering and  
Transportation to Planning  
Regulatory Board on  
27<sup>th</sup> October 2015

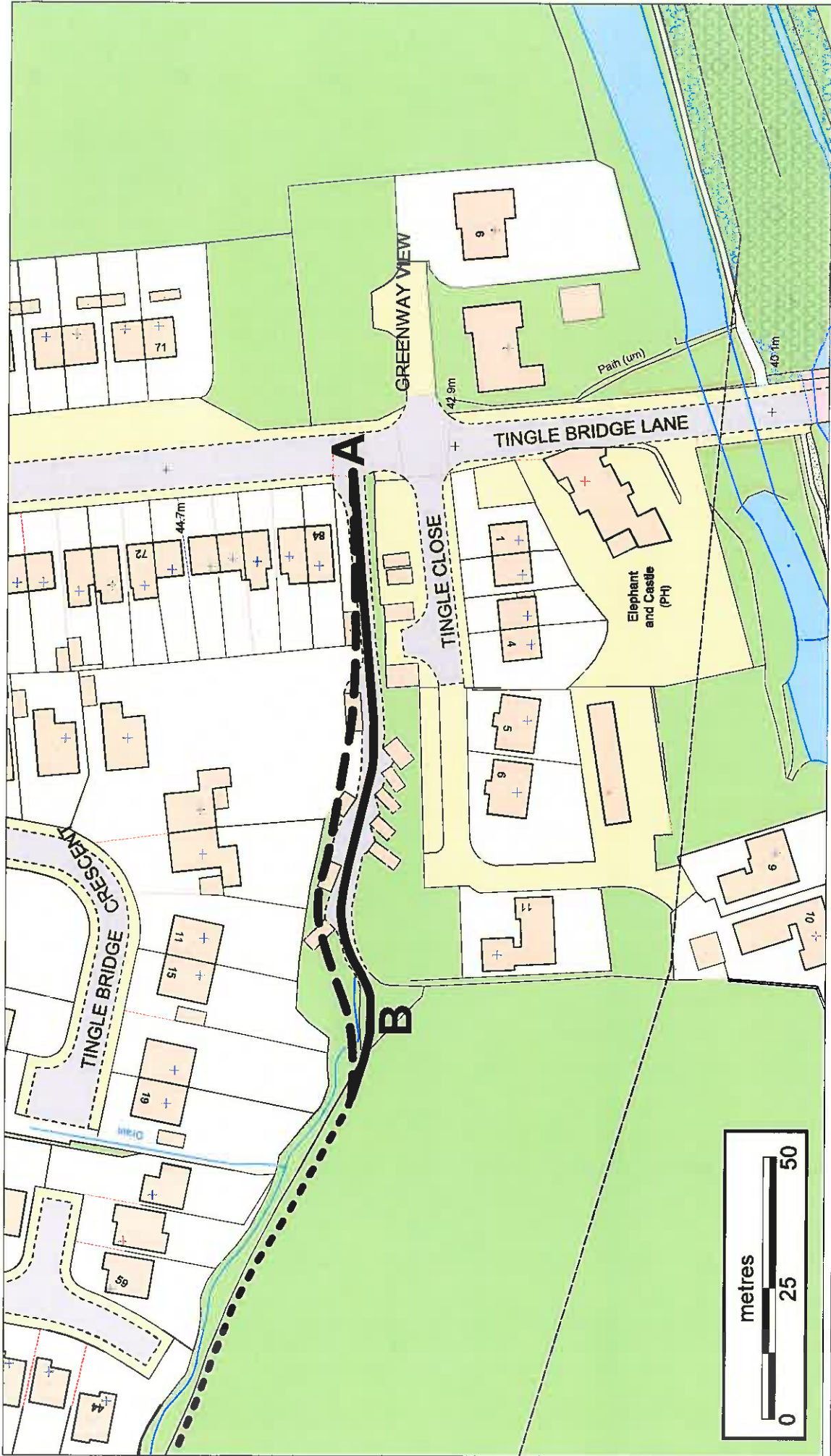
### Diversion of a footpath at Hemingfield.





<b>1.0</b>	<b><u>Purpose of Report</u></b>
<b>1.1</b>	To consider an application to divert Wombwell public footpath no. 19 between Tingle Bridge Lane and Cemetery Road at Hemingfield.
<b>2.0</b>	<b><u>Recommendations</u></b>
<b>2.1</b>	That, in exercise of statutory powers, the Council makes a Public Path Order under the provisions of section 257 of the Town and Country Planning Act 1990 for the diversion of Wombwell footpath no. 19 at Trafford mine workings as shown on the plan attached to this report.
<b>2.2</b>	That the Director of Legal and Governance be authorised to publish the Order and to confirm it himself in the event of there being no objections thereto.
<b>2.3</b>	In the event objections are received which cannot be resolved, the Director of Legal and Governance be authorised to submit the Order to the Secretary of State for confirmation and to take all necessary steps to support the Order at any public inquiry, informal hearing or written representation, as necessary.
<b>2.4</b>	That the Director of Legal and Governance be authorised to make a Definitive Map Modification Order to make the necessary changes to the Definitive Map and Statement for the area.
<b>3.0</b>	<b><u>Background and Proposal</u></b>
<b>3.1</b>	Planning permission has been granted for the development of 2 new residential properties on land off Tingle Bridge Lane at Hemingfield (planning application reference: 2013/0350).
<b>3.2</b>	Wombwell footpath no. 19 runs directly through the proposed new properties. To allow construction, the developer has applied to divert the footpath onto a roughly parallel alignment along the northern boundary of the site.

3.3	The land is a former garage site that is now open. The public currently walk through the centre of the site, between the old garage plots.
3.4	Following development, the proposed new route will run along the new vehicular access then between the boundaries of the new properties and the existing properties to the north. The new path will run roughly parallel to the existing alignment and will be no more than 6 metres away at any point. A minimum width of 2 metres will be maintained throughout, with a tarmac surface up to the properties then a stone sub base surface linking to the fields beyond.
3.5	Informal consultations have been carried out with user groups, ward councillors and utilities companies, and consultation notices have been placed on site. No negative comments have been received.
4.0	<b>Statutory Criteria</b>
4.1	Section 257 of the Town and Country Planning Act 1990 (as amended) enables public rights of way to be extinguished or diverted where the Council, as Planning Authority, is satisfied that it is necessary to do so in order to enable development to take place.
4.2	The existing path runs directly across the site of the proposed new properties, so development is not possible unless the path is moved. Therefore the statutory criteria are met.
4.3	DEFRA Rights of Way Circular 1/09 provides guidance for local authorities and is used by inspectors when considering objections to public path orders made under the Town and Country Planning Act. It states in paragraph 7.15; 'That planning permission has been granted does not mean that the public right of way will therefore automatically be diverted or stopped up. Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.'
4.4	The proposed path will run roughly parallel to the existing alignment, is the same length, will have a minimum 2m width and will have a tarmac then stone sub base surface, so is not considered to cause any disadvantage or loss to the public. The new path will run closer to the boundaries of adjacent properties, but as the land is currently open and includes the existing path, any impact is thought to be minor. No negative comments have been received during informal consultations and therefore the proposals are considered to be the best way forward.

<b>5.0</b>	<b><u>Options</u></b>
<b>5.1</b>	The Council makes the orders applied for. Officers are satisfied that the necessary statutory criteria are met and that the proposed alternative route is the best available. There have been no objections to the proposals during the informal consultation process.
<b>5.2</b>	The Council could decline to make the orders applied for, but as the relevant statutory criteria have been satisfied, it is not considered reasonable to do so.
<b>6.0</b>	<b><u>Local Area Implications</u></b>
<b>6.1</b>	There are no implications for the local area beyond minor changes to the rights of way network.
<b>7.0</b>	<b><u>Compatibility with European Convention on Human Rights</u></b>
<b>7.1</b>	These proposals are considered to be compatible with the Convention.
<b>8.0</b>	<b><u>Ensuring Social Inclusion</u></b>
<b>8.1</b>	The proposal will have no negative impact on social inclusion. The new path will have gradients, surfaces and widths that are similar to or more accessible than the existing footpath.
<b>9.0</b>	<b><u>Reduction of Crime and Disorder</u></b>
<b>9.1</b>	The proposals are not considered to have any effect on crime and disorder. In response to consultations, South Yorkshire Police's Crime Prevention Officer raised no objections or comments.
<b>10.0</b>	<b><u>Financial Implications</u></b>
<b>10.1</b>	If the Order is made and objections are received there will be additional costs to the Council that cannot be passed on to the applicant. This is especially the case if the matter has to be resolved at a public inquiry. However, no adverse comments have been received to the informal consultations for the application, so it is considered unlikely that this will be necessary.
<b>11.0</b>	<b><u>Risk Assessment</u></b>
<b>11.1</b>	The Council has powers under the Town and Country Planning Act 1990 to make the order applied for. The statutory process provides an opportunity for objections which, if upheld, may result in the order not being confirmed by the Secretary of State. However, as the application fulfils the relevant criteria and has received no objections during informal consultations, the risk is likely to be low.

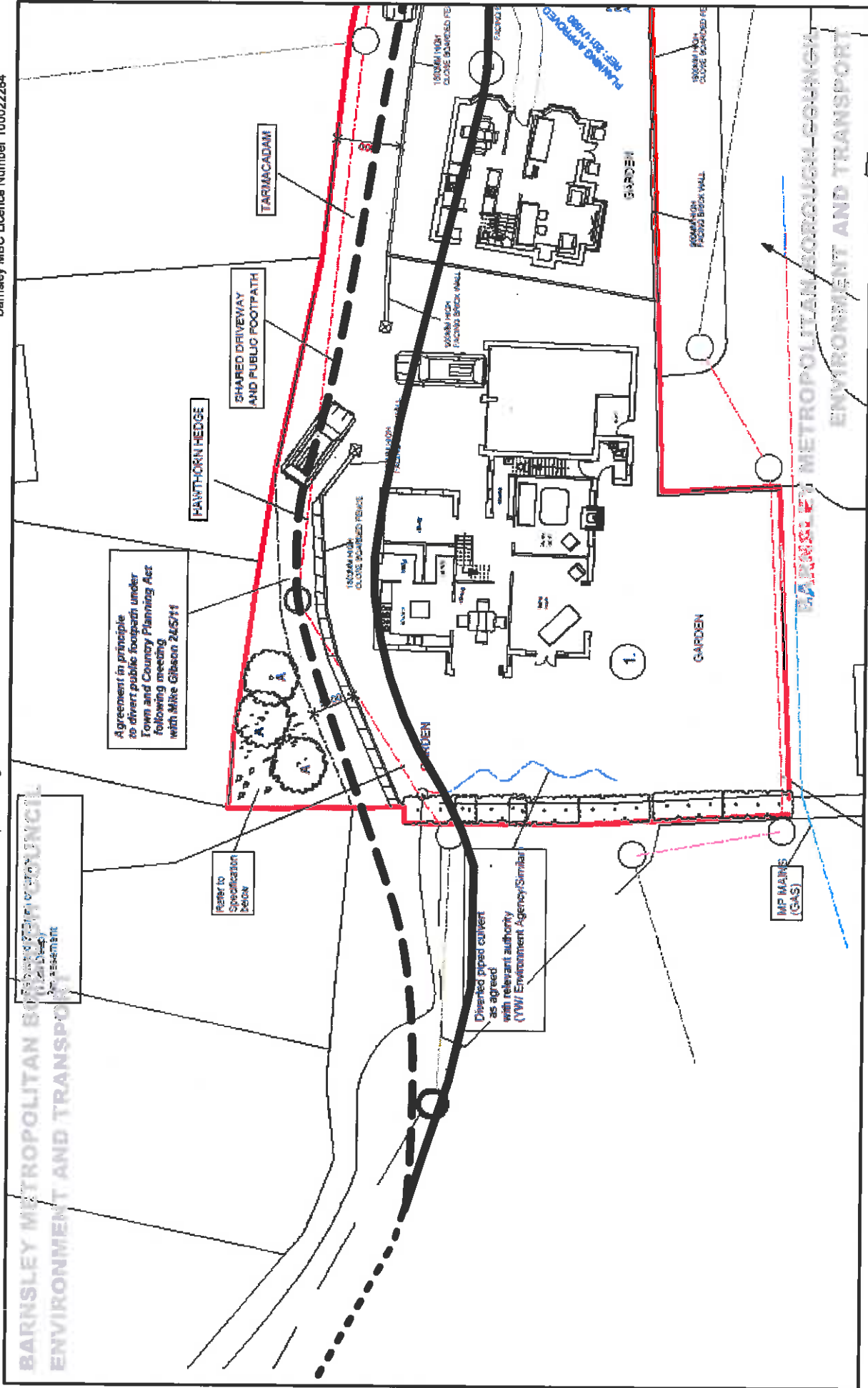
<b>12.0</b>	<b><u>Consultations</u></b>
<b>12.1</b>	User groups (including the Barnsley Local Access Forum), ward councillors, other Council departments and utilities companies have been consulted on the application. No objections or negative comments have been received.
<b>13.0</b>	<b><u>Proposal</u></b>
<b>13.1</b>	Councillors approve the recommendations in section 2.
<b>14.0</b>	<b><u>Glossary</u></b>
<b>15.0</b>	<b>Appendices</b> Appendix A - Plan showing proposed diversion. Appendix B – Plan showing diversion and planning layout.
	Officer Contact: Rik Catling Tel: ext 2142
	Date: 27 October 2015



-  Footpath to be created
-  Footpath to be deleted
-  Unaffected rights of way
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Proposed diversion of Wombwell public footpath no. 19 off Tingle Bridge Lane, Hemingfield	
Drawn by BMBC	Scale 1 : 1000
Map 1	-





Layout width 267mm

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