

BARNSLEY METROPOLITAN BOROUGH COUNCIL

**Report of Assistant
Director, Highways,
Engineering and Waste
Management to Planning
Regulatory Board on
20th December 2016**

Proposed footpath creation / extinguishment orders between Silkstone Fall Wood and Champany Fields, Dodworth

1.0	<u>Purpose of Report</u>
1.1	Barnsley Council is considering proposals to create and extinguish a number of public footpaths running between Silkstone Fall Wood and Champany Fields at Dodworth.
2.0	<u>Recommendations</u>
2.1	That, in exercise of statutory powers, the Council makes Public Path Orders under the provisions of sections 26 and 118 of the Highways Act 1980 for the creation and extinguishment of footpaths between Silkstone Fall Wood and Champany Fields at Dodworth as shown on the plans attached to this report.
2.2	That the Common Seal of the Council be affixed to the Orders and that the Director of Legal and Governance be authorised to publish the proposals and to submit the Orders for confirmation by the Secretary of State or to confirm them himself in the event of there being no objections thereto.
2.3	That the Director of Legal and Governance be authorised to make Definitive Map Modification Orders to make the necessary changes to the Definitive Map and Statement for the area.
3.0	<u>Background and Proposal</u>
3.1	When the Champany Fields Estate was built a non-definitive path running through the site was claimed as a public footpath. A new alternative path was provided to connect the estate road to the paths through the adjacent fields, but no formal Public Path Orders were made to deal with those changes and at present none of the routes are formally recorded on the Definitive Map and Statement.
3.2	The proposed creation and extinguishment orders would clarify the public

	rights of way at this location and ensure that the Definitive Map and Statement accurately reflects the network of paths that is physically available on the ground, creating greater certainty for both the walkers who use the routes and the affected landowners and tenants.
3.3	The proposed new routes are all well used, while the path to be stopped up (A-B on the attached plan) is part of a crop field and is understood to have been obstructed for several years without the Council having received any complaints from the public. The proposed route A-B-E provides a clearly defined, well-used alternative, which is around 20 metres longer than the existing footpath.
3.4	All of the paths are to be recorded with their existing surfaces and widths. These are: <ul style="list-style-type: none"> • A-B-C and B-E; grass / earth, 1.5 metre width • C-F; grass / earth, 1.8 metre width • C-D; tarmac, 1 metre width
3.5	The affected landowners and tenants are fully supportive of the proposals which clarify the rights of way on site, deal with the claimed footpath and stop up the obstructed footpath, all of which would require alternative solutions if the orders are not confirmed. Therefore it is considered that no compensation will be required due to the effect of the orders.
3.6	Informal consultations have been carried out with user groups, ward councillors, adjacent householders and utilities companies. No adverse comments have been received.
4.0	<u>Statutory Criteria</u>
4.1	Section 26 of the Highways Act 1980 enables public rights of way to be created where it appears to the Council, as the local authority, that there is need for a footpath or bridleway over land and the Council is satisfied that, having regard to (a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area, and (b) the effect which the creation of the path or way would have on the rights of persons interested in the land, it is expedient that the path should be created.
4.2	The Council is satisfied that there is a need for all of the proposed path creations and that they would add to the convenience and enjoyment of the public by confirming the existing non-definitive routes as public footpaths and providing formal, convenient links between a residential area in Dodworth and a number of leisure routes, both short local routes and linking into the wider rights of way network at Silkstone Fall Wood.
4.3	The Council is also satisfied that the proposed path creations will have no negative effect on the rights of persons interested in the land. The affected landowners and tenants have been consulted and are supportive of the proposals, while no construction is necessary and the paths are

	already used by the public. The orders will potentially reduce liability on the landowner by formalising the status of the paths.
4.4	The Council may make an Order under Section 118 of the Highways Act 1980 to extinguish public rights of way where it is satisfied that a route is not needed for public use. When considering whether the paths are needed for public use, or to what extent they would be likely to be used by the public, the Council may have regard to the extent to which a concurrent public path creation order would provide an alternative path.
4.5	The Council is satisfied that the footpath proposed to be extinguished between points A and E is not needed for public use. The path is understood to have been obstructed for several years without any complaints having been made by the public, while the proposed route A-B-E provides a convenient alternative which is well used, better defined and only around 20 metres longer.
5.0	<u>Options</u>
5.1	The Council makes the orders. Officers are satisfied that the necessary statutory criteria are met. There have been no objections to the proposals during the informal consultation process.
5.2	The Council could decline to make the orders. However, this would mean that the physical paths available on site would continue to have no formal status, that the claimed footpath would have to be dealt with by other means and that enforcement action would be required to reopen the blocked footpath.
6.0	<u>Local Area Implications</u>
6.1	There are no implications for the local area beyond minor changes to the rights of way network.
7.0	<u>Compatibility with European Convention on Human Rights</u>
7.1	These proposals are considered to be compatible with the Convention.
8.0	<u>Ensuring Social Inclusion</u>
8.1	The proposals will have no negative impact on social inclusion.
9.0	<u>Reduction of Crime and Disorder</u>
9.1	The proposals are not considered to have any effect on crime and disorder as they intend to formalise the existing path available on site.
10.0	<u>Financial Implications</u>

10.1	The costs of making the orders will be borne by the Council's rights of way budget.
11.0	<u>Risk Assessment</u>
11.1	The Council has powers under the Highways Act 1980 to make the orders. The statutory process provides an opportunity for objections which, if upheld, may result in the orders not being confirmed by the Secretary of State. However, as the proposals meet the relevant criteria and have received no objections during informal consultations, the risk is likely to be low.
12.0	<u>Consultations</u>
12.1	User groups (including the Barnsley Local Access Forum), ward councillors, other Council departments, adjacent landowners and utilities companies have been consulted on the application.
12.2	No objections or adverse comments have been received following the informal consultation process.
13.0	<u>Proposal</u>
13.1	Councillors approve the recommendations in section 2.
14.0	<u>Glossary</u>
15.0	<u>Appendices</u> Appendix A - Map 1 Proposed public footpath creation and extinguishment orders between Silkstone Fall Wood and Champany Fields, Dodworth
	Officer Contact: Rik Catling Tel: ext 2142
	Date: 20 th December 2016