

## **BARNSELY METROPOLITAN BOROUGH COUNCIL**

**Report of Assistant Director,  
Highways, Engineering and  
Transportation to Planning  
Regulatory Board on  
20<sup>th</sup> December 2016**

### **Proposed footpath diversion at the old Bolton Hall.**

<b>1.0</b>	<b><u>Purpose of Report</u></b>
<b>1.1</b>	To consider an application to divert a non-definitive footpath south of Carr Head Lane, Bolton-upon-Deane at the site of the old Bolton Hall.
<b>2.0</b>	<b><u>Recommendations</u></b>
<b>2.1</b>	<b>That, in exercise of statutory powers, the Council makes the proposed Public Path Order under the provisions of section 257 of the Town and Country Planning Act 1990, as shown on the plan attached to this report.</b>
<b>2.2</b>	<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>
<b>2.3</b>	<b>In the event objections are received which cannot be resolved, the Director of Legal and Governance be authorised to submit the Orders to the Secretary of State for confirmation and to take all necessary steps to support the Orders at any public inquiry, informal hearing or written representation as necessary.</b>
<b>2.4</b>	<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>
<b>3.0</b>	<b><u>Background and Proposal</u></b>
<b>3.1</b>	HC Development Ltd has been granted planning permission for a new residential development on the site of the old Bolton Hall, south of Carr Head Lane at Bolton-upon-Deane. (Planning reference 2016/0926.)
<b>3.2</b>	A non-definitive footpath runs through 3 of the proposed new properties. This route is subject to an application to be formally recorded as a public footpath and is accepted as a public footpath by the developer.
<b>3.3</b>	To enable the development to go ahead and provide an alternative

	through route for the public, the developer has applied to divert the affected length of the footpath onto the pavement of the estate road running through the site.
<b>3.4</b>	It is considered that this alignment is the best possible through route at this site as it is in keeping with most of the existing route, which is tarmac surfaced pavement along the entrance to Bolton Hall, and is used primarily as an urban link route.
<b>3.5</b>	The diversion will provide the full length of the path with a tarmac surface, which will be 2 metres wide through the development site. The new path will be approximately the same length as the existing route.
<b>3.6</b>	The diversion order covers only the section of path to be diverted. The other sections of the path will be dealt with through dedications by the landowner.
<b>3.7</b>	Informal consultations have been carried out with user groups, ward councillors and utilities companies. No objections have been received.
<b>4.0</b>	<b><u>Statutory Criteria</u></b>
<b>4.1</b>	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.
<b>4.2</b>	The existing path runs across the proposed development site, directly through several of the proposed properties. Development is not possible unless the path is moved and therefore the application meets the statutory criteria.
<b>4.3</b>	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.'
<b>4.4</b>	The Council is satisfied that the proposed new route provides a convenient link route for local walkers that will be at least as good as the existing route, with a wider width, increased street lighting and extended tarmac surface. The proposals are considered to be the best available that will allow the development to go ahead.

<b>5.0</b>	<b><u>Options</u></b>
<b>5.1</b>	The Council makes the order applied for. Officers are satisfied that the application meets the statutory criteria and that the proposed alternative route is the best available.
<b>5.2</b>	The Council could decline to make the orders applied for, but as the relevant statutory criteria have been satisfied and development would not be possible without diversion of the footpath, 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 would provide a tarmac through route which would be at least as accessible as 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 Reduction Officer requested that an access barrier be installed at the junction of the development site and the recreation ground. Such a barrier is already in place at that location.
<b>10.0</b>	<b><u>Financial Implications</u></b>
<b>10.1</b>	If the Orders are 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.
<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.
<b>11.2</b>	Objections may be received to the diversion application. However, the

	Council is satisfied that no relevant grounds for objection have been raised during the consultation period, that the application meets all of the statutory criteria and that the best possible alternative route has been identified for the diversion orders.
<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 and notices have been placed on site.
<b>12.2</b>	No objections 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>	<p>Appendices</p> <p>Appendix A – Map 1 Proposed footpath diversion at Bolton Old Hall, Bolton-upon-Deane.</p> <p>Appendix B – Planning layout Bolton Hall footpath diversion.</p>
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