

BARNSELY METROPOLITAN BOROUGH COUNCIL

**Report of Assistant Director,
Highways, Engineering and
Transportation to Planning
Regulatory Board on
21st March 2017**

Diversion of public footpaths at Tyers Hall Farm.

1.0	<u>Purpose of Report</u>
1.1	To consider an application to divert Darfield public footpaths 1, 3, 4 and 5 and to extinguish part of Darfield public footpath no. 19 and two short sections of undefined footpath at Tyers Hall Farm, between Ardsley and Darfield.
2.0	<u>Recommendations</u>
2.1	That, in exercise of statutory powers, the Council makes Public Path Orders under the provisions of sections 118 and 119 of the Highways Act 1980 for the diversion of Darfield footpaths 1, 3, 4 and 5 and the extinguishment of part of Darfield footpath no. 19 and two short sections of undefined footpath at Tyers Hall Farm as shown on the plan attached to this report.
2.2	That the Director of Legal and Governance be authorised to publish the Orders and to confirm them himself in the event of there being no objections thereto.
2.3	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.
2.4	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.
3.0	<u>Background and Proposal</u>
3.1	The owner of Tyers Hall Farm has applied to divert and extinguish a number of public footpaths on their land.
3.2	The main purpose of the application is to divert the current path running through the farmyard (A-B-C-D on the plans at Appendix B) onto a new line further away from the farm buildings (A-E-F-D).

3.3	<p>This diversion is sought in order to improve the security and privacy of the farm. There are two principal motivations:</p> <ul style="list-style-type: none"> • To reduce the existing conflict between the working farm and the public, with large farm machinery using the track on a regular basis, little room for the public to walk alongside vehicles and poor visibility around a number of tight corners, and to prevent people approaching the animals kept in the isolation area adjacent to the track, which are often carrying illnesses. • To improve security following problems with vandalism, theft and arson by preventing public access through the farm buildings, especially at night.
3.4	<p>The new route would have a 2 metre bound surface (stone sub base and 40mm to dust smooth surface) and fencing on both sides to separate it from livestock in the adjacent fields. The proposed route is 60 metres longer than the existing path between points A and D but would provide an accessible traffic-free through route with improved views of the farm buildings.</p>
3.5	<p>Additional minor changes are also proposed around the farm buildings to resolve minor mapping errors, including moving the recorded legal line of the path between the farm track (near point A) and point K onto the walked line and extinguishments of non-definitive paths near points A and B where the recorded and walked lines do not match.</p>
3.6	<p>The following other changes are also proposed</p> <ul style="list-style-type: none"> • Darfield FP 3: divert from G-C-E-H onto G-D-F-J-H and • Darfield FP 4: divert from I-J onto I-J around the field edge, to fit in better with the diversion of the farm track and because the current cross-field lines are difficult to follow. The new routes would be easier to sign, with no loss of amenity. (Grass surface, 1.8 metre width.) • Darfield FP 1: divert from L-M onto L-N to allow the field to be divided into grazing strips, create a clear field edge path. (Grass, 1.5m width.) • Darfield FP 19: stop up the dead end section (O-P) where there is no physical path available and which is therefore not considered to be needed for public use.
3.7	<p>By way of a separate dedication agreement, the farm also intends to recognise as public footpaths 3 other routes at the site: The Dearne Way along the disused railway line (route 1 on the plan) and two paths to the west of the farm buildings which connect the River Dearne to the Dearne Way, existing dead end footpaths and Watering Lane (routes 2 and 3).</p>
3.8	<p>Informal consultations have been carried out with user groups, ward councillors and utilities companies. No objections have been received from any of those groups. Councillor Saunders raised queries about the diversion process and the degree of accommodation of the landowner. However, the Council is satisfied that procedure has been followed</p>

3.9	correctly, that the proposed changes will have a positive impact on public access at the site and that no objections have been raised about the proposed diversion routes.
3.10	A different set of proposals were previously considered at this site which was later withdrawn as the new routes were significantly less convenient for the public. The members of the public who expressed concerns about the original proposals were also consulted on the updated application.
3.11	3 responses were received. Two stated that they had no objections to the proposals. The third stated that they 'see no reason for them [the paths] to be moved or altered' but did not outline any specific objection to the proposed new routes.
4.0	<u>Statutory Criteria</u>
4.1	<p>Section 119 of the Highways Act 1980 enables a path to be diverted where it is considered expedient to do so in the interests of the owner, lessee or occupier of the land crossed by the path or in the interests of the public. Before confirming such an order the Secretary of State or the Council, as the case may be, must be satisfied that the diversion is expedient and that the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which –</p> <ul style="list-style-type: none"> (i) the diversion would have on public enjoyment of the path or way as a whole, (ii) the coming into operation of the order would have as respects other land served by the existing public right of way, and (iii) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it.
4.2	The proposed diversion of the path running through the farmyard is considered to benefit the landowner. The diversion would remove the existing conflict between vehicles on the farm track and the public using the footpath and would enable the farm to prevent public access to the site in the evenings, helping to improve security and management of the land.
4.3	It is considered that this diversion would have no negative effect on public enjoyment of the path as it would be of a similar character to the existing path with a 2 metre width, bound surface and fencing to separate it from the adjacent livestock field. The additional 60 metre length is relatively minor on what is primarily a rural leisure route, while the proposed new footpath would be traffic free and arguably provides an improved view of the farm buildings.
4.4	The other diversions move existing footpaths onto field edge locations and are considered to be of benefit to both the landowner and the public by clarifying their location. The new routes will be easier to sign and

	follow, causing less disturbance for landowners and greater clarity for pedestrians. They are considered to have a positive impact on both public enjoyment of the paths and management of the land.
4.5	The Council also has to have regard to the likely impact of the diversion on agriculture, forestry and biodiversity. The proposed diversions are not considered to have any negative impact on these matters.
4.6	Section 118 of the Highways Act 1980 enables a path to be extinguished on the grounds that it is not needed for public use. Before confirming such an order, the Secretary of State or the Council, as the case may be, must be satisfied that it is expedient so to do having regard to the extent to which the path or way would be likely to be used by the public; and the effect which the extinguishment of the path would have as respects land served by the path or way.
4.7	The Council is satisfied that the footpaths proposed to be extinguished are not needed for public use. The riverside path is a dead end route with no physical continuation along the river. Instead, the public use the Dearne Way which runs along the nearby disused railway line. The other short extinguishments will remove undefined sections of the footpath along the farmyard track, which are the result of mapping errors and will not connect to other rights of way if the diversions are approved.
5.0	<u>Options</u>
5.1	The Council makes the orders applied for. Officers are satisfied that the necessary statutory criteria are met and that the proposals are the best available.
5.2	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.
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. The gradients, surfaces and widths of the new paths would be similar to those of the existing paths in order to ensure that they are no less accessible.

9.0	<u>Reduction of Crime and Disorder</u>
9.1	The proposals are partially motivated by concerns about crime at the site. Moving the public footpath away from the farm buildings will enable the farm and properties to be secured at night and is therefore considered to help reduce crime. In response to consultations, South Yorkshire Police's Crime Reduction Officer stated: 'Having visited this farm on several occasions in the past following reports of crime I would concur that the diversion will help the farmer to keep his property and stock more safe and secure. I have no objections to the diversion.'
10.0	<u>Financial Implications</u>
10.1	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.
11.0	<u>Risk Assessment</u>
11.1	The Council has powers under the Highways Act 1980 to make the orders 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.
11.2	Objections may be received to the 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 routes have been identified for the diversion orders.
12.0	<u>Consultations</u>
12.1	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.
12.2	No objections have been received.
13.0	<u>Proposal</u>
13.1	Councillors approve the recommendations in section 2.
14.0	<u>Glossary</u>
15.0	<p>Appendices</p> <p>Appendix A – Map 1: Overview.</p> <p>Appendix B – Map 2: Tyers Hall Farm close-up</p> <p>Appendix C – Map 3: Tyers Hall Farm post-diversions (if accepted)</p>

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