

BARNSLEY METROPOLITAN BOROUGH COUNCIL

**Report of Assistant Director,
Highways, Engineering and
Transportation to Planning
Regulatory Board on
19th March 2019**

**Proposed diversion and stopping up of footpaths
at Pearson Crescent, Wombwell**

1.0	<u>Purpose of Report</u>
1.1	To consider an application to divert a non-definitive footpath running between Pearson Crescent and Wortley Avenue at Wombwell and to stop up a short length of non-definitive footpath at the corner of Pearson Crescent and Wortley Avenue.
2.0	<u>Recommendations</u>
2.1	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.
2.2	That the Executive Director of Core Services & Solicitor to the Council be authorised to publish the Order and to confirm it himself in the event of there being no objections thereto.
2.3	In the event objections are received which cannot be resolved, the Executive Director of Core Services & Solicitor to the Council 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.
2.4	That the Executive Director of Core Services & Solicitor to the Council 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	Hoover Ltd has applied for planning permission for a new residential development on the land between Aldham House Lane, Pearson Crescent and Wortley Avenue at Wombwell. (Planning reference 2018/0849.) A decision on this application is scheduled to be taken at the

	March Planning Regulatory Board and this report is subject to approval of the planning application.
3.2	2 non-definitive footpaths cross the site. An application has been submitted to the Council to formally recognise one of the routes as a public footpath, together with supporting evidence. The developer acknowledges this path as a public right of way.
3.3	The existing footpath crosses land on which several of the proposed new properties will be constructed. To enable the development to go ahead, the developer has applied to divert this footpath onto a new alignment commencing approximately 9 metres west of the existing path on Pearson Crescent and running south between properties before turning south west and running along the footway of a private driveway and joining Wortley Road adjacent to its current location. The new path will be around 5 metres longer than the existing path and is considered to be the best possible alignment given the proposed development layout.
3.4	The path was previously flagged with steps at its northern end, though these have since been removed and the path now has a grass surface throughout, including a steep slope at the northern end.
3.5	The new route will have a tarmac surface and 2 metre width throughout. Steps will be provided with a 150mm height and 1.2m depth, as agreed with Public Rights of Way. The remaining gradients will be no steeper than 1/15.
3.6	A second non-definitive footpath crosses the western corner of the site, across what will be developed as parking areas for the new properties. This path is not included in the application to be formally recorded as a public footpath. The developer wishes to extinguish this path. No alternative provision is considered necessary.
3.7	Informal consultations have been carried out with user groups, ward councillors and utilities companies. No objections have been received.
4.0	<u>Statutory Criteria</u>
4.1	Section 257 of the Town and Country Planning Act 1990 (as amended) enables public rights of way to be extinguished and / 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	Both of the existing paths run across the proposed development site, directly through proposed new properties and parking areas. It is not considered possible to develop the site with the paths in their current positions, therefore the application meets the statutory criteria.
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 diversion is considered to provide the best possible link route for local walkers with an improved surface, wider recorded width, drainage and street lighting, which are considered to be at least as good as the existing route.
4.5	It is not considered that an alternative route is required to replace the proposed extinguishment, as this is a very short link to cut a corner.
5.0	<u>Options</u>
5.1	The Council makes the order applied for. Officers are satisfied that the application meets the statutory criteria, that the proposed alternative route is the best available and that no alternative route is necessary to replace the second path.
5.2	The Council could decline to make the order applied for, but as the relevant statutory criteria have been satisfied and development would not be possible without it, 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 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. Gradients and steps have been minimised as much as possible.
9.0	<u>Reduction of Crime and Disorder</u>
9.1	The proposals are not considered to have any effect on crime and

	disorder.
10.0	<u>Financial Implications</u>
10.1	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.
11.0	<u>Risk Assessment</u>
11.1	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.
11.2	Objections may be received to the order. 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 proposed diversion.
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.
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	Appendices Appendix A – Map 1 Proposed footpath diversion and extinguishment
	Officer Contact: Rik Catling Tel: ext 6650
	Date: 19 th March 2019