

ROTHERHAM BOROUGH COUNCIL – REPORT TO HEAD OF SERVICE
(Community Safety and Street Scene)
NON EXECUTIVE FUNCTION

SUBJECT: Rotherham Borough Council, Wildlife and Countryside Act 1981,
Section 53, Definitive Map Modification Order, Addition of Footpath
No's 12, 13, 14, 15 & 16 in the Parish of Wickersley, 2019.

1 EXECUTIVE SUMMARY

- 1.1 Rotherham Borough Council's Public Rights of Way team is in receipt of a substantial quantity of claims for public use over a number of routes between Duke of Norfolk Lane, Sledgate Lane and Gillott Lane in the parish of Wickersley. These claims assert in excess of 20 years uninterrupted use over the routes, thus assessment has been carried out, and landowners consulted.
- 1.2 A site visit carried out by the Rights of Way Officer and Definitive Map Review Officer brought to light the extent of use in the area with walked lines being easily visible and members of the public being encountered on the claimed lines. The paths walked were open for access, some with structures such as benches, bridges and gates in situ. There was no attempt at obstruction visible on any of the routes.

2 RECOMMENDATIONS

- 2.1 It is recommended that the Head of Service for Highways gives approval for the making and confirmation of an order to add five routes between Duke of Norfolk Lane, Sledgate Lane and Gillott Lane in Wickersley to the Definitive Map and Statement. Please see the plans attached for detailed locations on how the paths have been laid out.
- 2.2 It is also recommended that the Head of Service gives approval for the order to be taken to the Secretary of State if objections are received against the order.

3 IMPLICATIONS

(a) Legal

- 3.1 This order shall be made under The Wildlife and Countryside Act 1981, Section 53 – Duty to keep definitive map and statement under continuous review.
- (3) The events referred to in subsection (2) are as follows;
- (a) the coming into operation of any enactment or instrument, or any other event, whereby-
- (iii) a new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path.

(b) Policy

- 3.2 It is a statutory duty under section 53 of the Wildlife and Countryside Act 1981 that the local highway authorities keep the Definitive Maps and Statements under continuous review to improve the current network of public ways.

- 3.2.1 Section 53 allows for the application by the public for changes to be made to the Definitive Map and Statement. Members of the public can apply to add, remove, divert, upgrade or downgrade a public right of way if sufficient evidence can be provided to assert the claimed rights. In addition to applications by the public, the authority has the powers to take the same actions on a right of way following an event such as an obstruction which cannot be removed, or the discovery of evidence proving or disproving the existence of public rights.
- 3.2.2 It is the vision of the Rights of Way Improvement Plan (ROWIP) to develop, promote and protect a borough wide network of rights of way that meet the present and likely future needs of the public for the purposes of open air recreation, exercise and access to local services. An important part of reaching the aims of the ROWIP is to look towards altering and creating routes in a way that will improve access for local communities that will help to expand the existing network and present health and lifestyle benefits.

(c) Financial

- 3.3 The order, once made will require advertising in a local paper and on site, the publishing of the notice in a newspaper will incur a cost, but it is a legal requirement under Section 53 of the Wildlife and Countryside Act 1981 that an order be advertised in this way.
- 3.3.1 If it is confirmed that the order will require determination by a Rights of Way Officer from the Planning Inspectorate costs will be incurred. An order requires determination by the Planning Inspectorate/ Secretary of State when objections are submitted and not withdrawn. This cost will be dependent on the Officer and how they wish to deal with the order and its opposition.
- 3.3.2 If the new routes require any works to bring them up to a usable standard this will need to be done before the routes come into being. This work will be at a cost which would need to be quoted for following the confirmation of the order.
- 3.3.3 It should be noted that an order for the amendment, addition or removal of a public right of way cannot be based on the financial implications. If there is sufficient evidence or reason for a right of way to be amended in any of the above mentioned ways, an order should be made.

(d) Risks and Uncertainties

- 3.4 With any order there is a risk of objection from the public or an interested party; if this objection is not withdrawn the order will require determination by the Secretary of State. In Rights of Way law the Secretary of State can carry out their assessment of an order and its opposition in one of three ways; written representations, a hearing or a public inquiry, as the local authority we have no say in what path is taken. To try and minimise the risk of objection we consult widely before making an order.
- 3.4.1 It is not known at this point how much it will cost to bring the routes up to a usable standard, or how much the future maintenance of the routes will be.

4 SUMMARY OF CONSULTATIONS AND OUTCOME

- 4.1 An initial consultation letter was sent out to all concerned landowners on the 4th December, 2018 detailing the claimed routes and summarising the evidence that has been submitted by members of the public. The letter also laid out the steps that needed to be taken either for or against the proposals. Responses to this letter were requested by 31st January, 2019.
- 4.1.1 A small number of responses were received by landowners with the general feeling being that if there is sufficient evidence for the creation of the routes then objections will not be submitted.
- 4.1.2 Following the initial consultation with landowners an informal consultation was sent out to the local user groups, statutory undertakers, the Wickersley parish council, Ward Councillors, Elected Member and landowners, on 4th March, 2019 with a request for responses by 5th April, 2019.
- 4.1.3 A response was received on 5th March 2019 from Mr J Harker of the Peak and Northern Footpath Society expressing their support of the order.
- 4.1.4 A response was received on 6th March 2019 from Ms C Parrott of the Ramblers expressing their support of the order, and on behalf of local residents stating their support of the new routes.
- 4.1.5 A response was received on 11th March from Mr J Swash who is currently in the process of adverse possession over a section of Duke of Norfolk Lane, Mr Swash has no objections to the order proposals.
- 4.1.6 Responses from Statutory Undertakes all state that no services will be affected by this order.
- 4.1.7 If this report is approved, a formal consultation will be sent out by legal services to the landowner, local user groups, statutory undertakers, the local parish council and Ward Members. This is part of the order making procedure as followed with every order made.

5 PARISH COUNCILS VIEW

- 5.1 Wickersley parish council has been contacted by means of an informal consultation email on 4th March, 2019 with a request for responses by 5th April, 2019.
- 5.2 The following feedback has been received from Wickersley parish council;
- “At our Parish Council meeting last night we discussed these proposals in more detail and noted that the paths are well established and we therefore have no further comment to make.”*


6 WARD MEMBERS FEEDBACK

- 6.1 Ward Members Cllr Jenny Andrews, Cllr Brian Cutts and Cllr John Turner have been contacted by means of an informal consultation email on 4th March, 2019 with a request for responses by 5th April, 2019.
- 6.2 No feedback has been received from the Ward Members.

7 CABINET MEMBERS FEEDBACK

- 7.1 Cabinet Member Cllr Emma Hoddinott has been contacted by means of an informal consultation email on 4th March, 2019 with a request for responses by 5th April, 2019.
- 7.2 No feedback has been received from the Cabinet Member.

<i>Report Contact Officer:</i>	Jodie Holroyd
<i>File Reference:</i>	PROW/C/30, PROW/C/31, PROW/C/32
<i>Background Papers:</i>	N/A
<i>Appendices:</i>	Order and plan

Approved/ Refused:*	<i>Name</i>	<i>Signature</i>	<i>Date</i>
<i>Highways Head of Service</i>	Colin Knight		12/06/2019
<i>Reason (if other than for reasons set out in report)</i>			