

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, Definitive Map Modification Order, The Creation of Bridleway No 11 in the Parish of Thorpe Salvin 2019

1 EXECUTIVE SUMMARY

- 1.1 Whitwell Road in the Parish of Thorpe Salvin is an unclassified county road which is subject to fly tipping and trespass by 4x4 vehicles, as a result of this it has been brought to our attention for investigations into its status.
- 1.2 Initially an OS Map from 1850 raised questions about the route as clearly stated under the road name is “Bridle Road”, after finding this; historic records at Clifton Park Museum were interrogated, with no success.
- 1.3 Assistance was sought from a Rights of Way Consultant to see what advice could be given on how to proceed with the case. It was suggested that the status of the routes continuation in Derbyshire was investigated to ensure that it was correctly recorded as a Public Bridleway. Investigations into the continuation of the route surfaced an Enclosure Award and Map that clearly state ‘Bushes Bridle Road and Private Carriage Road’; following this we also have the original paperwork that added the bridleway to the Definitive Map for Whitwell in 1952, the date of the first Definitive Map for the Parish.
- 1.4 The evidence found for the Derbyshire Bridleway lent enough weight to the case to make a Definitive Map Modification Order possible.. This DMMO is now being put forward to restore the historical status of the route, the creation of the bridleway will also allow preventative action to be taken in order to reduce or stop fly tipping and 4x4 access.

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 to the Definitive Map for Thorpe Salvin, a historic bridleway.
- 2.2 It is also recommended that the Head of Service give 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 is to be made under section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 ("The 1981 Act") because it appears to the Council that the Thorpe Salvin definitive map and statement require modification following the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows, that a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the rights 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 amendment of the Definitive Map based on the discovery of evidence, if sufficient evidence can be found that a public right of way requires amendment, addition or removal from the Map, it can be carried out under Section 53 of 'The Act'.
- 3.2.2 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.
- 3.2.3 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 know 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 informal consultation was sent out to the landowner, local user groups, statutory undertakers, the Thorpe Salvin parish council and Ward Councillors on 8th April 2019.
- 4.1.1 Responses to the consultation were received from The Ramblers, The Peak and Northern Footpaths Society, The British Horse Society, The Chesterfield Canal Trust, Thorpe Salvin Parish Council, Virgin Media and RMBC Drainage. All comments received are in support of the order.
- 4.1.2 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 Thorpe Salvin parish council has been contacted by means of an informal consultation email on 8th April, 2019.
- 5.2 The following feedback has been received from Thorpe Salvin parish council;
“Just to confirm the Parish Council had not objections to this amendment to the Definitive Map”


6 WARD MEMBERS FEEDBACK

- 6.1 Ward Members Councillor Dominic Beck, Councillor Gordon Watson and Councillor Jennifer Whysall have been contacted by means of an informal consultation email on 8th April, 2019.
- 6.2 No feedback has been received from the Ward Members.

7 CABINET MEMBERS FEEDBACK

- 7.1 Cabinet Member Councillor Emma Hoddinott has been contacted by means of an informal consultation email on 8th April, 2019.
- 7.2 No feedback has been received from the Cabinet Members.

<i>Report Contact Officer:</i>	Jodie Holroyd and Alex Couszins
<i>File Reference:</i>	N/A
<i>Background Papers:</i>	Photos of Historical Documents
<i>Appendices:</i>	Order and plan

Seen:	<i>Name</i>	<i>Signature</i>	<i>Date</i>
<i>Head of Highway Services</i>	Colin Knight		12/06/2019
<i>Reason (if other than for reasons set out in report)</i>	Comments:		