

ROTHERHAM BOROUGH COUNCIL – REPORT TO HEAD OF SERVICE

HIGHWAYS (Community Safety and Street Scene)

NON EXECUTIVE FUNCTION

SUBJECT: Public Path Extinguishment Order, Highways Act 1980, Section 118, Rotherham Borough Council, Bridleway No 1 (Part) in the Parish of Orgreave, Public Path Extinguishment Order 2019.

1 EXECUTIVE SUMMARY

- 1.1 The Public Rights of Way service has received an enquiry from the solicitor acting on behalf of a client, regarding the location of Public Bridleway No 1 in the Parish of Orgreave. The current definitive line of the bridleway crosses the private gardens of No: 2 to No: 34 Orgreave Rise. This issue has been raised as a resident is currently in the process of selling the property and the Public Right of Way has been identified on the Authority Searches.
- 1.2 Based on maps and aerial photographs the line of bridleway appears to be a historic mapping error. The bridleway has never been open through the private gardens. It is proposed that the section of the route from Coalbrook Avenue to Retford Road be extinguished as no reasonable alternative can be agreed and a diversion of the bridleway onto the adopted public highway would effectively be an extinguishment.
- 1.3 The possibility of diverting the route onto the recreation ground has been explored previously. However, the landowner, Sheffield City Council, refused to grant access to equestrian traffic over the recreation grounds in all circumstances.

2 RECOMMENDATIONS

- 2.1 It is recommended that the Head of Service for Highways gives approval for the making and confirmation of a public path extinguishment order to remove that section of Orgreave Public Bridleway No 1, namely, between Coalbrook Avenue to Retford Road to correct a historical mapping issue on the definitive map.

3 IMPLICATIONS

(a) Legal

- 3.1 This order is to be carried out under the Highways Act 1980, Section 118. Namely, where it appears to a Council as respects a footpath, bridleway or restricted byway in its area (other than one which is a trunk road or a special road) that it is expedient that the path or way should be stopped up on the ground that it is not needed for public use, the Council may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order, extinguish the public right of way over the path or way.

(b) Policy

- 3.2 It is a statutory duty under section 53 of the Wildlife and Countryside Act 1981 that local highway authorities keep the Definitive Maps and Statements under continuous review to improve the current network of public ways. The Definitive Map Review aims to ensure that the Definitive Map and Statement are an accurate and correct reflection of the Public Rights of Way used by the public and available on the ground.
- 3.2.1 It is the purpose 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 achieving the aims of the ROWIP is to promote 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, if made, will require advertising in the local press and by notices placed 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 the order requires 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 the Officer wishes to find resolve to the order and its opposition.
- 3.3.2 It should be noted that an order for the amendment, addition or removal of a public right of way should not 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 an objection is submitted and not withdrawn the order will require determination by the Secretary of State. In Rights of Way law the Secretary of State can carry out the assessment of an order and its opposition in one of three ways; written representations, a hearing or a public inquiry. The Local Authority has no influence over method of assessment is chosen. To try and minimise the risk of objection the Council consults widely before making an order.

4 SUMMARY OF CONSULTATIONS AND OUTCOME

- 4.1 An informal consultation was sent out to the affected residents, local user groups, statutory undertakers, Orgreave Parish Council and Ward Councillors on 24th July, 2018, with a request for responses by 24th August, 2018.
- 4.1.1 A number of Local User Groups have responded to the informal consultation and asked why the route could not be diverted. The situation and previous consultations have been explained to each respondent and the outcome has

been a general acceptance of the extinguishment. The residents that have responded have all been in support of the order to extinguish the bridleway.

- 4.1.2 If the report is approved; as part of the order making procedure a formal consultation will be sent by the Council's Legal Service to the affected residents, local user groups, statutory undertakers, Orgreave Parish Council and Ward Members.

5 PARISH COUNCILS VIEW

- 5.1 Orgreave Parish Council has been contacted by means of an informal consultation email on 24th July, 2018, with a request for responses by 24th August, 2018.
- 5.2 Orgreave Parish Council is in support of this order.


6 WARD MEMBERS FEEDBACK

- 6.1 Ward Members have been contacted by means of an informal consultation email on 24th July, 2018, with a request for responses by 24th August, 2018.
- 6.2 Councillor Robert Walsh responded asking why a diversion could not take place to route the bridleway through the recreation grounds. The situation and previous consultations were explained to Councillor Walsh.
- 6.3 Councillor Amy Brookes responded asking why the situation had arisen and questioned the legal position. It was explained that the route is historic and there is little information available with regard to what caused the current situation. The legal position on such an occurrence was explained.

7 CABINET MEMBERS FEEDBACK

- 7.1 Cabinet Members have been contacted by means of an informal consultation email on 24th July, 2018, with a request for responses by 24th August, 2018.
- 7.2 Councillor Emma Hoddinott responded to ask if access would still be available into the wider network. It has been confirmed that access will still be available from Coalbrook Avenue.

<i>Report Contact Officer:</i>	Richard Pett
<i>File Reference:</i>	N/A
<i>Background Papers:</i>	N/A
<i>Appendices:</i>	Order and Plan

Approved	<i>Name</i>	<i>Signature</i>	<i>Date</i>
<i>Head of Service (Highways)</i>	Colin Knight		29/08/2019
<i>Reason (if other than for reasons set out in report)</i>			