



Report Reference Number: 2019/1018/PROW

To: CEO Urgent Decision Session – Planning
Date: 16 April 2020
Author: Jenny Tyreman, Senior Planning Officer
Lead Officer: Ruth Hardingham, Planning Development Manager

Request for a Public Path Diversion Order relating to Footpath 35.18/6/1 at Land off Low Street, Carlton

This matter has been brought before the CEO Urgent Decision Session – Planning for consideration due to it being a proposal to divert a public highway affected by development.

Planning permission has been granted under Part 3 of the Town and Country Planning Act 1990 (as amended) for a residential development of 66No. dwellings and associated infrastructure and open space provision at Land at Station Road, Carlton (Local Planning Authority references 2014/1129/OUT and 2018/0871/REMM). In order for this development to be fully implemented, it is necessary to divert public footpath reference 35.18/6/1.

The Local Planning Authority have discretionary powers under Section 257 of the Town and Country Planning Act 1990 to make Public Path Orders for the diversion or stopping-up of footpaths, bridleways or restricted byways. This type of application can only be made where the Local Planning Authority are satisfied that the diversion/stopping-up is necessary to enable development to be carried out in accordance with a planning permission, as is the case here.

The applicant, Harron Homes, have requested that the Local Planning Authority exercises its powers to make a Public Path Order to divert public right of way reference 35.18/6/1. The request has been accompanied by: a good quality large scale plan showing the existing right of way and the proposed right of way; details of the proposed public right of way width; the location and width of any gates and/or fences proposed along the proposed route; and the surfacing of the proposed route.

The Local Planning Authority have undertaken a site visit with the NYCC Public Rights of Way Officer and are content with the details of the proposed diversion. Accordingly, a Public Path Diversion Order has been drafted (see Appendix A).

This report seeks approval for the making of the Public Path Diversion Order, which will then be subject to the required consultation - notice of sealing is to be advertised for 28 days via site notice, press notice, and letter to Auto-Cycle Union; British Horse Society; Byways and Bridleways Trust; Open Spaces Society; Ramblers Association; Cyclists Touring Club; NYCC Highways; NYCC Public Rights of Way Officer; Parish Council, and all immediate neighbours.

If any objections are received within 28 days, the applicant will have the opportunity to address these in order to determine if they can be withdrawn. If no objections are received within 28 days, or objections that are received through the consultation period are subsequently withdrawn, the Local Planning Authority can then confirm the (unopposed) Public Path Diversion Order. Notice of confirmation of the Order is to be advertised for 42 days via site notice, press notice, and letter to Auto-Cycle Union; British Horse Society; Byways and Bridleways Trust; Open Spaces Society; Ramblers Association; Cyclists Touring Club; NYCC Highways; NYCC Public Rights of Way Officer; Parish Council, and all immediate neighbours.

If objections are received to the Public Path Diversion Order within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, the Local Planning Authority must refer the Public Path Diversion Order to the Secretary of State. The Secretary of State will then decide the matter either by holding a Public Inquiry or by appointing a person to hear the representations of the objectors. The Secretary of State then decides on the basis of the reports submitted at the Inquiry or by hearing representations whether to confirm the Public Path Diversion Order with or without modification.

Once the diversion works have been carried out on site, the Local Planning Authority and the NYCC Public Rights of Way Officer will inspect the works to ensure they comply with the Public Path Diversion Order. If the works have been completed satisfactorily the Public Path Diversion Order can be certified.

Recommendations:

- i) That approval is granted for the making of the Public Path Diversion Order, which will then be subject to the required consultation.**
- ii) That delegation is given to Officers to confirm the Public Path Diversion Order following the expiry of a 28 day consultation period, subject to no objections being received or objections that are received through the consultation period being subsequently withdrawn within two months after the expiration of the objection period. Where objections are received within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, that delegation is given to Officers to refer the Public Path Diversion Order to the Secretary of State.**
- iii) That delegation is given to Officers to certify the Public Path Diversion Order following the completion of the diversion works in accordance**

with the Order (where the Public Path Diversion Order has been confirmed in ii. above).

Reasons for Recommendation

To allow the diversion of public footpath reference 35.18/6/1 to enable development granted planning permission under Local Planning Authority references 2014/1129/OUT and 2018/0871/REMM to be fully implemented.

1. Legal Issues

1.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

1.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

1.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

2. Financial Issues

Financial issues are not material to the determination of this application.

3. Background Documents

Planning Application file references 2014/1129/OUT, 2018/0871/REMM and 2019/1018/PROW and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer
jtyreman@selby.gov.uk

Appendices:

Appendix (in 2 parts): Draft Version of Footpath 35.18/6/1 Land off Low Street, Carlton Diversion Order 2020