

PROPOSED DIVERSION OF PUBLIC FOOTPATH BETWEEN CHORLEY DRIVE AND SLAYLEIGH LANE, FULWOOD  
SUMMARY OF OBJECTION FROM THE RESIDENT OF A PROPERTY ADJOINING THE SITE

VIEWS EXPRESSED	OFFICER OPINION
1. A full copy of the Order was not enclosed with the formal Notice which was delivered to the property.	We would usually include a copy of the Order, although in this case we did not, however a notice was delivered by hand to the objector, which gives details of where the order can be seen or purchased. Notices and plans were also placed at each end of the footpath, therefore we do not consider that the objector was prejudiced.
2. The Order was not displayed on the Council's website for the full consultation period.	Correct. This was an oversight, for which Officers have apologised to the objector. However, placing of Orders on the website is not a statutory requirement; Officers believe that all the statutory requirements, including newspaper advertising and the posting of notices on site, were complied with.
3. A copy of the Order was not available for viewing at Town Hall Reception when the objector visited on 24 <sup>th</sup> April.	There was a slight delay in finding the Order. Although unfortunate, this delay was actually minimal, but the objector chose to return later in the day to view the Order, rather than waiting for it there and then. So Officers' view is that there was no substantive material delay in the objector being able to view the Order, nor would there have been had any other interested parties asked for it.
4. The supporting information delivered with the Notice was inadequate to be in accordance with recommended good practice.	In general, the information provided was more than adequate to clearly explain the proposal, even to a reader who may have been previously unfamiliar with the matter. In this specific case, the objector was abundantly clear as to what was being proposed, having previously made detailed representations during the planning consent process.
5. The Order map is misleading in that the point marked "A" does not seem to correctly denote the proper location of the commencement of the new footpath, and thus the Order map does not give proper and thorough enough detail.	This is the plan reproduced with the Order in Appendix A to this report. Officers believe it is clear and meets all requirements, and cannot understand how it can be misunderstood.
6. There is a discrepancy between the description of the width of the new path in the Order and that shown on the site layout plan in the planning application.	The "border" along the north west side of the new footpath (as shown on the approved planning site layout plan) is to be included in the Adopted Highway and will be maintained accordingly by the Highway Authority as a Highway grass verge. It is therefore correct for it to be considered and described in the Order as part of the overall width of the new path. So there is no discrepancy.
7. The "border" on the site layout plan is not shown on the Order plan.	Correct. The Order plan is not a construction finishes drawing. It has to simply show the current route and the proposed new route, not details such as verges, etc.
8. Confusion between the Order plan and the plan used in the planning report to help describe the requirement for the diversion order.	There is no substantive material difference between the two. The proposal in the Order and notices is quite clear, and is certainly of no greater extent than that which the West & North Planning Committee

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	gave authority to make. The matter has no bearing on the central issue of whether it is now necessary to divert the footpath in order to enable the development to be carried out in accordance with the planning permission.
<p>9. a. Confusion between the planning site layout plan and the plan used in the planning report to help describe the requirement for the diversion order.</p> <p>9. b. The planning site layout plan also shows a “border” which is not shown elsewhere.</p>	<p>The proposal in the Order and notices is quite clear, and certainly of no greater extent than that which West &amp; North Planning Committee gave authority to make. The matter has no bearing on the central issue of whether it is now necessary to divert the footpath in order to enable the development to be carried out in accordance with the planning permission.</p> <p>The “border” along the north west side of the new footpath (as shown on the approved planning site layout plan) is to be included in the Adopted Highway and will be maintained accordingly by the Highway Authority’s maintenance contractor as a Highway grass verge. It is therefore correct for it to be considered and described in the Order as part of the overall width of the new path.</p>
<p>10. The footpaths are described as “Footpaths” in the Order plan but as “Highway” in the plan used in the planning report to help describe the requirement for the diversion order.</p>	<p>Both are correct. The plan used in the planning report was clearly not an Order plan (as there was no authority to make an Order at that stage). The terminology used in it was perfectly adequate and acceptable for Members to reach an informed decision to give authority to make an Order.</p>
<p>11. The presence of the “border” means that the new footpath will be narrower than described in the Order.</p>	<p>The “border” along the north west side of the new footpath (as shown on the approved planning site layout plan) is to be included in the Adopted Highway and will be maintained accordingly by the Highway Authority’s maintenance contractor as a Highway grass verge. It is therefore correct for it to be considered and described in the Order as part of the overall width of the new path.</p>
<p>12. The triangular area in the northern corner of the site (in the angle of the boundaries of 32 Chorley Drive and 67 Slayleigh Lane) is shown as being included in the new Highway on the plan used in the planning report to help describe the requirement for the diversion order, but is not specifically shown on the Order plan.</p>	<p>Correct. The Order plan is not a construction finishes drawing. It has to simply show the current route and the proposed new route, not details such as verges, etc. However, as the objector notes elsewhere, the Order does refer to the width going up to 5.5m on this section of the new route, which takes into account the inclusion of the triangular area in the new Adopted Highway.</p>
<p>13. Section 257 of the Act gives the Council discretion as to whether to make such an Order – SCC is not forced to make the Order, just because the development has obtained planning consent.</p>	<p>Correct. The words “if...satisfied” in the Act do indeed give the Council discretion in its decisions on such Orders. It is believed that this is included in the Act as a safeguard in a two-tier local government system where a district council is the Local Planning Authority but a County Council is the Local Highway Authority – the Highway Authority may not agree with the Planning Authority’s assessment of Highway issues. However, Sheffield City Council is a unitary authority and, as such, tries</p>

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	to take a holistic approach to dealing with the Highways aspects of planning applications as an integral part of the planning consent process. Indeed the objector had, and took, full opportunity to raise his concerns during the planning process for this development, and those concerns were duly noted and considered by officers, and by the West & North Planning & Highways Committee, in how they reached their decisions at that time.
14. The existence of the “elbow/dogs leg” at the northern end of the new footpath (as opposed to the current availability of an end-to-end view along the whole path) could result in anti-social behaviour, and could cause safety concerns of collisions between users due to reduced visibility.	These issues were raised, and then considered and noted by officers, and by the West & North Planning & Highways Committee, in how they reached their decisions during the planning process. Furthermore, the Police have been consulted on the diversion, and have responded to say they have no issues with it. Also, the Ramblers Association, and the Peak & Northern Footpaths Society, which monitor and campaign on such issues, were both served notice and have not objected.
15. The triangular area in the northern corner of the site (in the angle of the boundaries of 32 Chorley Drive and 67 Slayleigh Lane) is likely to attract fly-tipping. How will the Council be able to guarantee that the area will remain uncluttered by rubbish, particularly if it does not form part of the new public footpath?	At the moment, this part of the site is private land and not included in the Highway, therefore removal of any rubbish or fly-tipping is the responsibility of the landowner. In the new layout, it would be part of the Adopted Highway. The Council’s Highway Maintenance Contract (“Streets Ahead”) stipulates that fly-tipping on the Adopted Highway must be removed by the contractor within one working day of being reported. As part of the Adopted Highway, the land would also be subject to regular street cleansing. So it is likely that litter and fly-tipping will pose less of an issue than it may have done to date.
16. The current footpath has, in effect, a ‘green buffer’ either side, giving a rural feel, whereas the new path will add an unwelcome urban dimension to the area.	This is a planning issue. The development, as a whole, has been through the planning application process and obtained planning permission. The matter now to be decided is whether it is necessary to divert the path in order to enable the development to be carried out in accordance with the planning permission.
17.a. The new arrangement of hedge/verge/footpath along the north-western side of the site will be a new maintenance liability on the Council of questionable appropriateness in the current time of economic austerity.  17.b. The new arrangement, if not adequately maintained, risks accumulating rubbish in the border area, and making the new footpath hazardous if weeds or grass are allowed to grow out from the border over the footpath.	This is a planning issue. The development, as a whole, has been through the planning application process and obtained planning permission. The matter now to be decided is whether it is necessary to divert the path in order to enable the development to be carried out in accordance with the planning permission. (However, any costs relating to accrual of the new highway into the Highway Maintenance contract as a result of any increase in maintenance liability will be passed on to the developer as part of the Highway Adoption process). The “border” along the north west side of the new footpath would be included in the Adopted Highway, and thus maintained accordingly by the Highway Authority as a Highway grass verge, including grass cutting and litter picking. Any maintenance issues arising between the

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	contractor's routine visits will be able to be reported to Customer Services for action as appropriate.
<p>18. Objector believes the path is a 'green lane', and that re-aligning it will have the effect of curtailing long established vehicular rights. Notes that Councillor Janice Sidebottom raised this general issue in her 19<sup>th</sup> September 2012 submission to the planning process for the development.</p>	<p>The term "green lane" has no formal status in law. Furthermore, for some years it has not been physically possible to drive along it, and there has been a sign at the Slayleigh Lane end reading "not a public road". Yet no record can be found on file of any complaints from any members of the public who felt that they had the right to drive along it but were being prevented from doing so by the actions of either the Council or the landowner.</p>
<p>19. Is the Council satisfied that the existing access way is in fact a public footpath and does not have any other recognised designation such as would lawfully entitle members of the public to utilise the same for vehicles?</p>	<p>Yes. Officers looked into this matter when the both the objector and Councillor Sidebottom raised the question during the planning process, and were able to find no records indicating any public rights other than public <i>pedestrian</i> rights. (It is fully accepted that, in the past, there would have been <i>private</i> vehicular access rights to Slayleigh Cottages, but it is understood that even these were extinguished by agreement between the relevant property owners some years ago).</p>
<p>20. There is currently a problem with surface water run-off from the land on which the footpath is situated onto the objector's property. This is likely to be increased by the diversion of the footpath, in conjunction with the construction of the development.</p>	<p>This is a planning issue. However, if surface water run off from the Highway onto private property is currently a problem, it should be reported to the Council's Customer Services, as the Streets Ahead Highway maintenance contractor has a duty to address it. The proposed diversion would take the path <u>further away</u> from the property in question, so Officers cannot understand how this will worsen the problem. However, now it has been raised, the new path can be constructed with cognisance of this concern if the development goes ahead.</p>
<p>21. Questions whether the Council has considered the terms of the Equality Act 2010 in its decision-making process to date. In particular, whether the needs/requirements of visually impaired people and those using wheelchairs have been considered, for example raising the concern of collisions with cyclists at the "elbow/dogs leg".</p>	<p>In particular, as with the current route, the new path would not have steps, and would continue to be a level route. The wider issues around the "elbow/dogs leg" were raised, and then considered and noted by officers, and by the West &amp; North Planning &amp; Highways Committee, in how they reached their decisions during the planning process. The Ramblers Association, and the Peak &amp; Northern District Footpath Society, which monitor and campaign on such issues, have been consulted on this diversion, and have not objected to it. This is a footpath, and cyclists should not be using it. Officers have found no record of complaints about cyclists using this path.</p>