

PROPOSED CLOSURE OF FOOTPATH LINKING COBDEN VIEW ROAD AND
NORTHFIELD ROAD, CROOKES, SHEFFIELD 10.

1. PURPOSE

- 1.1 To seek authority to refer the City of Sheffield (footpath linking Cobden View Road and Northfield Road) Public Path Closure Order 2022 to the Secretary of State for Environment, Food and Rural Affairs for confirmation in the light of an objection received.

2. BACKGROUND

- 2.1 Following authority obtained at this Committee on 13th September 2022, the City Council made an Order on 20th October, under Section 257 of the Town and Country Planning Act 1990 ('the 1990 Act'), for the closure of a footpath linking Cobden View Road and Northfield Road in the Crookes area of Sheffield. A copy of the Order and plan are attached as Appendix A.
- 2.2 Following publication of the Order, including the posting of relevant Notices and Plans at the site, the Director of Legal Services received one objection.
- 2.3 Redacted copies of the objection and detailed officer response are included as Appendix C and D respectively. Officers believe that, despite the objection, the Council will still be able to achieve the closure of the path on the basis that it is necessary to facilitate development.

3. LEGAL IMPLICATIONS

- 3.1 The officer response to the objector (Appendix D) sets out the basis for the closure of a footpath pursuant to section 257 of the 1990 Act. The Council may authorise the stopping up (closure) of any footpath by legal order if it is satisfied that it would be necessary in order to enable development to be carried out. The relevant planning application (ref: 22/00723/FUL) was granted by the Council on 17th June 2022. It is clear from the details of that proposal that the footpath which is the subject of the legal order must be stopped up so as to enable development to be carried out.
- 3.2 The officer response also refers to the status of the footpath; while the footpath which is intended to be stopped up by the legal order has not been added to the

Council's Definitive Map and Statement (and is therefore not formally recorded as a public right of way), the Council may consider the implications of it having that status where there is a reasonable basis for doing so. This enabled the matter of whether the footpath is a public right of way, and the implications of the proposed development upon that footpath, to be considered as part of the determination of the planning application. As noted above, the Council resolved to grant permission for the development after having taken these matters into consideration.

- 3.3 Any member of the public has the right to make representations or objections in respect of an order in accordance with the procedure set out in Schedule 14 of the 1990 Act. The objection received in respect of this order does not provide a basis on which to conclude that the footpath would not need to be stopped up so as to enable development to be carried out. This is (as mentioned above) the basis for an order under section 257 of the 1990 Act. The matter of whether planning permission ought to have been granted has already been considered by this committee at its meeting on 14th June 2022 – while the committee is advised to give the objection due consideration when deciding whether to approve the recommendations in this report, it should also do so with regard to the aforementioned test under section 257 of the 1990 Act.
- 3.4 If objections are made to an order made under section 257 of the 1990 Act, and those objections are not withdrawn, the order cannot be confirmed without it being referred to the relevant Secretary of State. An order does not come into effect until it is confirmed. If the recommendations in this report are approved, the Council will make its own representations in favour of confirmation such that the Secretary of State can consider those against the objection when determining whether to confirm the order.
- 3.5 The Council is entitled to decide in light of opposition to an order (as in the present case) not to refer it to the Secretary of State but rather withdraw it instead. If an authority feels it can no longer support the proposal then a formal resolution by that authority not to proceed is required to bring about the withdrawal of the order. The City Council has resolved to take similar action to this in the past, and this order will be withdrawn if Committee chooses not to approve the recommendation contained in this Report.

4 HIGHWAY IMPLICATIONS

- 4.1 The highway implications of the proposed Footpath Closure Order were described in the Report approved by this Committee on the 13th September 2022. The proposal has not altered since that date; nor is it considered that the receipt of the objection has altered those implications for the purposes of the decision now before the committee. It is therefore still recommended that the footpath should be closed.

5 CONSULTATIONS

- 5.1 Officers have written to the objector, to try to ensure that they have a full understanding of the proposal (including the legal basis for the order) and to see if a negotiated solution could be reached in order to resolve the objection. Despite initial correspondence from the objector, no further response has been received at the time of writing this report.

6 EQUAL OPPORTUNITY IMPLICATIONS

- 6.1 No particular equal opportunity implications arise from the proposals in this report.

8 ENVIRONMENTAL IMPLICATIONS

- 7.1 No environmental implications arise from the proposals in this report.

8 FINANCIAL IMPLICATIONS

- 8.1 There are no costs accruing to the Council in association with this proposal.
- 8.2 All fees associated with the application have been met by the applicant.
- 8.3 Therefore, there will be no increase in liability on the Highway Maintenance revenue budget.

9 CONCLUSION

- 9.1 Officers' view is that the closure of the footpath is necessary to facilitate a development for which planning permission has been granted under reference 22/00723/FUL and that the objection does not provides a basis on which to conclude otherwise.
- 9.2 In considering whether to proceed further with the proposed Footpath Closure, it is necessary to balance the objection received against the justifications for supporting the proposal in the first place. Therefore, as this Committee has previously approved the closure, and no material changes have been made to the proposed development, it is proposed that the Order be submitted to the Secretary of State for confirmation.

11 RECOMMENDATION

- 11.1 Instruct the Director of Legal Services to refer the City of Sheffield (footpath linking Cobden View Road and Northfield Road) Footpath Closure Order 2022 to the Secretary of State for confirmation.

Gillian Charters

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2nd February 2023