

PROPOSED DIVERSION OF PUBLIC FOOTPATH BETWEEN CHORLEY DRIVE
AND SLAYLEIGH LANE, FULWOOD

1. PURPOSE

- 1.1 To seek authority to submit the City of Sheffield (Public Path between Chorley Drive and Slayleigh Lane) Diversion Order 2013 to the Secretary of State for Environment, Food and Rural Affairs for confirmation in the light of an objection having been received.

2. BACKGROUND

- 2.1 Following authority obtained along with planning consent 12/02429/FUL at the West & North Planning & Highways Committee on 4th December 2012, the City Council made an Order on 19th March 2013, under Section 257 of the Town & Country Planning Act 1990, for diversion of part of the public footpath which runs between Chorley Drive and Slayleigh Lane, Fulwood, as shown on the Order plan, a copy of which is included at Appendix A to this Report. (Appendix B to this Report is a context plan showing the wider location within Sheffield of the path in question). The justification for the proposed diversion (indeed, the only justification there can ever be to use this particular power) is that it is necessary in order to enable the development to be carried out in accordance with the planning permission.
- 2.2 Following the publication of the Order, the Director of Legal Services received an objection from a solicitor acting for a resident of one of the houses adjoining the development site.
- 2.3 The contents of the objection are summarised in Appendix C to this Report, along with Officers' views in response.

3. LEGAL IMPLICATIONS

- 3.1 If objections are made to Town & Country Planning Act Section 257 Orders, then in order to progress the matter, the Order has to be submitted to the Secretary of State for confirmation, which process includes his consideration of those objections.
- 3.2 There is no absolute requirement that any Order which is opposed (as in the present case) must be sent to the Secretary of State. Therefore, if an authority feels that, as a result of new information raised in an objection, it can no

longer support the Order, then a formal resolution by that authority not to proceed is all that is required to bring the procedure to an end. The City Council has taken similar action to this in the past. This would be the outcome here if Committee chooses not to approve this Report – the Order would be cancelled, and the development would not be able to go ahead, despite its planning consent.

4 HIGHWAY IMPLICATIONS

- 4.1 The highways issues around the proposed footpath diversion (and the proposed development in general), were described in the planning report approved by the West & North Committee on the 4th December 2012. The proposal has not altered since that date, and indeed the development has now got planning consent, hence it is still recommended that the footpath should be diverted.

5. CONSULTATIONS

- 5.1 The usual action in the face of an objection to a footpath diversion proposal would be to facilitate a negotiation between the applicant and the objector on the details of the matter. But in this case officers believe that there is little prospect of any negotiation on details which might lead to withdrawal of the objection, as the main thrust of the objection appears to be against the principle of the footpath diversion (and, indeed, of the development as a whole).
- 5.2 Officers have, however, written back to the objector, pointing out their view that the objection does not appear relate to the one central reason being used to justify the Order, and explaining the process from this point onwards if the objection is not withdrawn. At the time of submitting this report, the objection has not been withdrawn. Committee will be informed verbally at the meeting if there is any change or update to this.

6. EQUAL OPPORTUNITY IMPLICATIONS

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

7. ENVIRONMENTAL IMPLICATIONS

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

8. FINANCIAL IMPLICATIONS

8.1 All costs associated with the diversion of the footpath, including any costs arising out of the Secretary of State's requirements for confirmation of the Order, will be met by the applicant, therefore the effect on the existing Revenue Budget is considered to be neutral.

9. CONCLUSION

9.1 In summary, and bearing in mind that the only justification for diverting the path is that it is necessary to do so in order to enable the development to be carried out in accordance with the planning permission, Officers' view is that the objection, despite being wide-ranging, does not argue in any way against that sole justification, and is therefore unlikely to persuade a Planning Inspector (appointed by the Secretary of State) to reject the Order. Members may also wish to note that the objector does not state that he himself uses the path and will be inconvenienced by the diversion, and that the Council has not received any other objections to the Order.

9.2 On the basis that the objection, whilst revisiting a number of issues considered during the planning process, makes no case that the only justification for the diversion (that it is necessary in order to enable the development to be carried out in accordance with planning permission) is considered to be invalid, it is proposed that the Order be submitted to the Secretary of State for confirmation.

10. RECOMMENDATION

10.1 The Director of Legal Services submits the City of Sheffield (Public Path between Chorley Drive and Slayleigh Lane) Diversion Order 2013 to the Secretary of State for confirmation.

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Head of Highways Maintenance
Development Services

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