

Planning Committee

28th January 2021

Report to:
Planning Committee

Director Approving Submission of the report:
Director of Transport and Highways

Ward(s) affected: Holbrook

Title:
Town and Country Planning Act 1990 Section 257
Proposed Extinguishment of Unrecorded Public Footpath, Everdon Road, Monks Park, Holbrooks, City of Coventry.

Is this a key decision?
No

Executive Summary:

The report outlines the investigations to extinguish part of a public footpath at Everdon Road, Monks Park, Holbrooks, City of Coventry. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for an extinguishment order to be made. The proposal has been put forward following an application that has been submitted by Mr B Seamer BSP Consulting (Derby) 5 Pride Point Drive DE24 8BX, on behalf of Citizen Housing Group Ltd, 4040 Lakeside Solihull Parkway B377YN the owner of the land crossed by the path.

The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether or not an Order should be made to extinguish the section of footpath concerned.

In accordance with Coventry City Council's constitution any matters which change the public rights of way network must be considered by the Planning Committee.

The Applicant has agreed to defray all expenses associated with the Order.

Recommendations:

That Planning Committee are recommended to:

- (1) Authorise the City Solicitor to make the necessary Extinguishment Order for all of the Public Footpath defined in this report, at Everdon Road, Monks Park, Holbrooks, City of Coventry pursuant to Section 257 of the Town and Country Planning Act 1990 on the grounds that the City Council is satisfied that it is necessary to do so to enable development to go ahead.
- (2) Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- (3) Endorse that in the event that objections be received to the making of the Order that cannot be resolved, then the matter be forwarded to the Secretary of State for determination and Coventry City Council be responsible for the conduct of any hearing or public inquiry.

List of Appendices included:

Appendix A – Plan of Proposed Order

Appendix B – Town and Country Planning Act 1990 Section 257 and Section 259.

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Town and Country Planning Act 1990 Section 257
Proposed Extinguishment of Unrecorded Public Footpath, Everdon Road, Monks Park, Holbrooks, City of Coventry.

1. Context (or background)

- 1.1 To seek authority for the Executive Director of Resources to make an order for the permanent extinguishment of the Public Footpath (as shown on the plan at Appendix A).
- 1.2 The Council received an application for a permanent extinguishment of the whole of this public footpath. The path is not recorded on the Definitive Map and Statement held by the City of Coventry.
- 1.3 In accordance with Section 257 of the Town and Country Planning Act 1990 as amended by Section 12 of the Growth and Infrastructure Act 2013:
 - “(1A) Subject to section 259, a competent authority may by order authorise the stopping up or diversion in England of any footpath, bridleway or restricted byway if they are satisfied that—
 - an application for planning permission in respect of development has been made under Part 3, and
 - (b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.”
- 1.4 Thus the Council, as the Local Planning Authority, can make an Order diverting a footpath if it is satisfied that it is necessary to do so to enable development to be carried out in accordance with a planning permission granted.
- 1.5 It is considered that it is necessary to extinguish the public footpath as illustrated on the plan at Appendix A to allow for the development to proceed as detailed within planning reference: FUL/2019/2390 decision date 19th November 2019.
- 1.6 Where there are no outstanding objections, it is for the Council to determine whether to confirm the Order in accordance with the matters referred to in paragraph 1.4 above.
- 1.7 In the event of objections to the Order being received and not resolved, Coventry City Council be responsible for the conduct of any hearing or public inquiry.

2. Options considered and recommended proposal

- 2.1 An application has been received from Mr B Seamer BSP Consulting (Derby) 5 Pride Point Drive DE24 8BX, on behalf of Citizen Housing Group Ltd 4040 Lakeside Solihull Parkway B37 7YN requesting that the Council make an Order under Section 257 of the Town and Country Planning Act 1990 to extinguish the whole of the Public

Footpath forming the application. The land crossed by the path to be extinguished is currently owned by Citizen Housing Group Ltd 4040 Lakeside Solihull Parkway B37 7YN.

- 2.2 The existence of the path came to light during consultations when BSP consulting submitted a planning application on behalf of Citizen Group housing Ltd to demolish the existing building and replace it with the erection of 6 single storey bungalows. The footprint of the new development would obstruct the alignment of the public footpath.
- 2.3 On the attached plan the path to be stopped up is shown by a solid bold black line running between points A to B and is approximately 9 metres in length and 2.4 metres in width. The path is a cul de sac path and has only ever served the building containing a number of residential flats, to which it leads. Once the building is demolished and replaced with a development of 6 residential bungalows the path will not form part of the new development and it will not be needed for public use because the land which it currently crosses will comprise part of several residential gardens.

Reasons

Whether the extinguishment of the unrecorded footpath meets the legal tests.

- 2.4 It is considered that the proposed extinguishment is necessary to allow the development to proceed.

The extent of the loss and inconvenience likely to arise either to members of the public generally, or to persons whose properties adjoin, or are near the existing public right of way as a result of the extinguishment of the footpath.

- 2.5 The public will not be inconvenienced by the loss of the footpath as it is a cul de sac path which only served a small number of residential properties which are to be demolished.
- 2.6 There are no other residential properties that will be affected by the extinguishment of the path.

3. Results of Consultations Undertaken.

- 3.1 The Council conducted a pre-Order consultation. As part of the consultation statutory undertakers and statutory consultees were consulted. Responses to consultations were received from the Ramblers Association and the Open Spaces Society; neither organisation made any representations or objected to the proposal. Of the statutory undertakers Atkins Global have responded that they have no objections. No other representations have been received.

4. Timetable for implementing this decision

- a. The Order will be made as soon as practicable. After the Order is made there will be a statutory 28 day objection period.
- b. Should objections be received that cannot be resolved it can take more than six months before the matter is determined by the Secretary of State.

5. Comments from Executive Director of Resources

5.1 Financial implications

If the recommendation is approved, there will be no costs to the Council as the applicant has committed to defraying all costs.

5.2 Legal implications

None

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

N/A

7.2 How is risk being managed

N/A.

7.3 What is the impact on the organisation?

N/A

7.4 Equalities / EIA

Consideration has been given to the City Council's Rights of Way Improvement Plan in considering this application and preparing this report. Thus the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property and transport considerations. An assessment in relation to the Equalities Act 2010 has been carried out and it is considered that there are no impacts to take into account.

7.5 Implications for (or impact on) the environment

none

7.6 Implications for partner organisations?

none

Report author(s):

Name and job title: Alexander Le Marinel, Public Rights of Way Officer

Directorate: Place

Tel and email contact: 02476 972471

Alexander.lemarinel@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Contributors:				
Colin Knight	Director Transport and Highways		06/01/2021	06/01/2021
Greg Payne	Head of Traffic and Transportation		06/01/2021	19/01/2021
Usha Patel	Governance Services Officer		06/01/2021	
Other members				
Names of approvers for submission: (officers and members)	Place Team Leader		06/01/2021	
Finance: Graham Clark	Lead Accountant		06/01/2021	07/01/2021
Rob Back	Head of Planning		06/01/2021	
Legal: Stuart J Evans	Senior Solicitor		06/01/2021	18/01/2021
Other members: Cllr Hetheton	Cabinet Member (Public Services)		06/01/2021	

This report is published on the council's website:

www.coventry.gov.uk/meetings

Appendix A

Plan of proposed extent of Extinguishment Order.

