

**Bolsover District Council**

**Council**

**8<sup>th</sup> November 2017**

**Proposed diversion of public footpath 46, Scarcliffe**

**Report of the Leader and Portfolio Holder - Strategic Planning and Regeneration**

This report is public

**Purpose of the Report**

- To assist and advise the Council in respect of an application for an Order under section 257 of the Town and Country Planning Act 1990 diverting the public footpath referred to above at the Mooracre Lane site.
- To recommend that determination of future applications for the diversion of public footpaths be delegated to the Chief Executive Officer.

**1 Report Details**

**Keepmoat Homes Application**

- 1.1 An application has been received from Keepmoat Homes for the diversion of Public Footpath no.46 to enable the building of dwellings on land at the location. A Planning application for the development (application no.17/00234/FUL) was submitted on 15<sup>th</sup> May 2017 and a Resolution has been passed to grant planning permission subject to completion of an agreement pursuant to section 106 Town and Country Planning Act 1990.
- 1.2 The proposal is to divert definitive footpath No.46, Scarcliffe. The Council is respectfully referred to the plan attached at Appendix 1. The existing route runs from a point marked A on the plan on Rotherham Road, Bolsover to a point marked B on the plan, then to a point marked C in the plan.
- 1.3 The proposed route of definitive footpath Bolsover FP 46 is shown on the plan with a dashed line. It will run from a point marked D on the plan along a newly constructed tarmacadam footpath in a west north westerly direction for a distance of 436 metres to a point marked C on the plan).
- 1.4 Informal consultation took place with statutory undertakers, the Parish and County Councils and other consultees including owners, occupiers or lessees of the affected land and local Members. No objections to the proposal have been received. The consultation period closed on Friday 20<sup>th</sup> October 2017.

- 1.5 Members are respectfully reminded that the Council has the power to make such an Order to divert a footpath, under the provisions of s.257 of the Town and Country Planning Act 1990, if it is satisfied that the diversion is necessary to enable development to be carried out.

### **Determination of Future Applications for the Diversion of Footpaths**

- 1.6 Determining applications for the diversion of footpaths involves a two stage process: to make the Order prior to statutory consultation, and then to confirm the Order. Footpath diversions are often required as part of developments progressing following the approval of planning applications.
- 1.7 The requirement to report each stage of the process to Council can lead to delays and could hold up the commencement of developments. Where there are no objections arising from the consultation, the making of the diversion orders are unlikely to be controversial. It is therefore proposed that the Council delegate authority to the Chief Executive Officer to determine future applications.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 The first issue for consideration by the Council is whether to approve the making of an Order, in the terms outlined in this report.
- 2.2 The second issue, in the event of the making of such an Order, is whether to grant the Council's Chief Executive delegated powers to enable him to confirm that Order following the statutory consultation and the completion of a s.106 agreement.
- 2.3 It is recommended that the Council makes this order to enable the applicant to undertake the permitted development.

## **3 Consultation and Equality Impact**

- 3.1 Informal consultation having taken place as set out above, statutory consultation will be undertaken for a period of 28 days following the making of an Order. The consultees will include statutory undertakers, countryside organisations for ramblers, footpaths, wildlife, open spaces etc., the Environment Agency, Old Bolsover Town Council and Derbyshire County Council, and ward councillors.
- 3.2 There are currently no known Equality Act issues arising.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 Alternatively Council members may refuse the application or defer consideration, however these options would prevent or delay the development from progressing.

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 None

## 5.2 Legal Implications including Data Protection

5.2.1 As outlined at paragraph 1.5 above

## 5.3 Human Resources Implications

5.3.1 None

## 6 Recommendations

That Council:

- 6.1 makes the order to divert public footpath 46, Scarcliffe, as outline at paragraph 1.3 of the report
- 6.2 delegates authority to the Chief Executive Officer to confirm the order to divert public footpath 46, Scarcliffe, following the conclusion of the statutory consultation and the grant of planning permission.
- 6.3 delegates authority to the Chief Executive to determine future applications for the diversion of public footpaths, including both the making and the confirmation of the orders.
- 6.4 includes the delegation at 6.3 above in the Scheme of Delegation within the Constitution.

## 7 Decision Information

<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>District Wards Affected</b>	Scarcliffe, Bolsover
<b>Links to Corporate Plan priorities or Policy Framework</b>	Enables growth through housing development

**8 Document Information**

Appendix No	Title
1.	Plan drafted by Bolsover District Council's Senior Engineer
2.	Narrative prepared by the Senior Engineer to plan referred to at 3.
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
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