

## **Planning Committee**

<b>DATE</b>	8 <sup>th</sup> September 2021
<b>REPORT OF</b>	Sharon Wroot, Executive Director for Environment, Economy and Resources
<b>SUBJECT</b>	Application for part of Public Footpath 11, Grimsby Diversion
<b>STATUS</b>	Open

### **CONTRIBUTION TO OUR AIMS**

The maintenance and review of the Definitive Map and Statement is identified as a key action in the Council's Rights of Way Improvement Plan (ROWIP) 2021.

The proposal will contribute to the Council's Stronger Economy objective by recording a path on the Definitive Map and will not be deleted in the future.

The ROWIP is identified as a key policy document within the Council's Local Transport Plan, which seeks to provide an opportunity for healthy lifestyle choices and supports the Council's strategic aims to Improve Health & Wellbeing within the Borough.

### **EXECUTIVE SUMMARY**

A report was previously presented at Planning Committee on 31 March 2021 for the diversion Order of part of Public Footpath 11, where it was proposed to be made under the Town and County Planning Act 1990, section 257. Legal Services have subsequently advised that the Order should be made under the Highways Act 1980, section 119.

This report recommends the making of an Order to divert Public Footpath 11, which runs alongside Alexandra Dock, in Grimsby. The proposed diversion is required to reflect changes on the ground, completed in relation to the regeneration of the Riverside area to support further development on Garth Lane.

### **RECOMMENDATIONS**

That an Order is made for the diversion of part of Public Footpath 11, to be diverted under the Highways Act 1980 section 119.

- a. To approve the making of an Order in accordance with Highways Act 1980.
- b. To confirm the diversion Order as made, subject to there being no objections, or in the event of objections which cannot be resolved and withdrawn, for the Order to be referred to the Planning Inspectorate for determination.

### **REASONS FOR DECISION**

The diversion is to aid the regeneration of the riverside area and the regeneration project of Garth Lane. The planning application DM/0758/20/FUL has been

approved. Under Section 119 of the Highways Act 1980, diversions should be made in the interests of the owner, lessee, or occupier of the land or in the interests of the public.

It is the opinion of officers that it is appropriate to divert this section of the Public Footpath in the interests of the public to ensure the line shown on the Definitive Map reflects the line on the ground.

The tests under the Highways Act 1980 section 119 are: is the diversion in the interest of the public – the diverted route would not be substantially less convenient to the public; and would the diversion not alter any point of termination of the path both termination points meet the same highway.

## **1. BACKGROUND AND ISSUES**

- 1.1 As the legal Definitive line has been built over by the formation of new granite steps as part of the regeneration project, it is viewed that the existing line of the path will no longer be safe for users of the footpath. It is therefore proposed to divert the line of the path to run along the newly constructed path. Appendix 1 shows the proposed diversion of the Public Footpath. Appendix 2 shows the plan of the regeneration which is taking place where the footpath is located.
- 1.2 The procedures set in Circular 1/09 Rights of Way, advises before an Order is made a consultation is undertaken. A 28-day consultation letter was sent on 8<sup>th</sup> October 2020 to user groups and Ward Councillors. No objections or concerns were raised during this period.

## **2. RISKS AND OPPORTUNITIES**

- 2.1 There is a risk that there could be objections from members of the public or stakeholder groups to the proposed diversion of the path. As mentioned above the pre-Order making consultations have been carried out and no objections were received.
- 2.2 Failure to divert the Public Footpath will keep the path recorded on the Definitive Map in the location previously used. The Definitive line and the line on the ground would not correspond.

## **3. OTHER OPTIONS CONSIDERED**

- 3.1 The Council could choose to do nothing and not implement the diversion, as the bridge can be moved without the need for a diversion under the Highways Act 1980. However, the legal line would be unsafe to use for members of the public.

## **4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS**

- 4.1 A pre-Order making 28-day consultation has been undertaken and no issues have been raised.

## **5. FINANCIAL CONSIDERATIONS**

- 5.1 If there are objections to the Order and the case goes to the Planning Inspectorate, a public inquiry may be required to make the final decision on the path.

## **6. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

- 6.1 There are no climate change or environmental implications.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 The making of the extinguishment order would not result in additional costs to the Council as it will be met by the Regeneration Partnership.
- 7.2 There will be no call on Council reserves.
- 7.3 The proposal does not affect any other policies as it is to divert a footpath and then record the path on the Definitive Map.
- 7.4 The proposal adds the path to the Definitive Map and legally creates the path for future use.

## **8. LEGAL IMPLICATIONS**

- 8.1 No legal implications.

## **9. HUMAN RESOURCES IMPLICATIONS**

There are no Human Resource implications.

## **10. WARD IMPLICATIONS**

This path lies within the West Marsh Ward.

## **11. BACKGROUND PAPERS**

Public Path Order 25, Fredrick Ward Way, Grimsby

## **12. CONTACT OFFICER(S)**

- Sharon Wroot Executive Director for Resources and Governance. NELC, Tel: 01472 324423
- Mark Nearney, Assistant Director of Housing, Highways and Transport NELC, Tel: 01472 323105
- Matthew Chaplin, Public Rights of Way Mapping Officer, ENGIE, Tel: 01472 324789

**Sharon Wroot**  
**Executive Director for Resources and Governance**

## Appendix 1. Diversion Plan



