

## PLANNING COMMITTEE

<b>DATE</b>	<b>03/01/2024</b>
<b>REPORT OF</b>	<b>Carolina Borgstrom, Director for Economy, Environment and Infrastructure</b>
<b>SUBJECT</b>	<b>Diversion of Public Footpaths 54 and 55 Humberston</b>
<b>STATUS</b>	<b>Open</b>

### **CONTRIBUTION TO OUR AIM**

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**

This report recommends the making of an Order to divert parts of Humberston Public Footpaths 54 and 55 as shown in Appendix 1.

The purpose of the diversion is to enable development to be undertaken in line with the outline planning application DM/0493/22/OUT. The planning application plan is shown in Appendix 2 which shows the alignment of the five houses.

The Council has a power to make a diversion Order under Town and Country Planning Act 1990 section 257 to aid development of the site.

### **RECOMMENDATIONS**

That an Order is made for the diversion of part of Public Footpath 54 and 55, which are to be diverted under the Town and Country Planning Act 1990 section 257.

- a. To approve the making of the Order in accordance with Town and Country Planning Act 1990.
- b. To confirm the diversion Orders as made, subject to there being no objections, or in the event of objections which cannot be resolved and withdrawn, for the Order/s to be referred to the Planning Inspectorate for determination.

### **REASONS FOR DECISION**

Public Footpaths 54 and 55 cross a plot of land which is subject to a planning application DM/0493/22/OUT. As a planning application has been made it is considered that it is necessary to enable the development to be carried out as it meets the criteria under Section 257 of the Town and Country Planning Act 1990, that diversions should only be made if it is considered that it is 'necessary to do so'.

There are two objectives relevant from the ROWIP these are:

- Objective R1A/b which relates to Public Path Orders and Definitive Map Modification Orders and to ratify and make improvements to the network for users.
- Objective NMA1B/b which is to improve community safety through ensuring that access to and from Public Rights of Way is safe and practicable.

Diverting the path will improve the surface to the Public Footpaths. Both Public Footpaths run over a natural surface and the planning application will surface both paths on this parcel of land making it more accessible for all users.

It is the opinion of officers that it is appropriate to divert the Public Footpaths.

## 1. BACKGROUND AND ISSUES

- 1.1 Public Footpath 54 runs in a south south westerly direction across the plot of land from the access road from The Coach House to the rear of the houses on Sheraton Drive. There is an anomaly at number 6 Rowan Drive where the Public Footpath is shown on the Definitive Map as running through a garden. This is on the anomaly list and cannot be remedied in this Order as its outside the red line area.
- 1.2 Public Footpath 55 runs in a southerly direction from the access road adjacent to The Coach House, to Rowan Drive.
- 1.3 Consideration was given to keeping the Public Footpaths on the current line. However, with the proposed house and estate road layout the path would obstruct the Public Footpath and the road layout would conflict with users of the Public Footpath.
- 1.4 A 28-day pre-order making consultation letter was sent on 4<sup>th</sup> July 2023 to user groups, Ward Councillors, Humberston Parish Council adjacent landowners. The responses received are as follows: *“The Village Council discussed the proposed diversion at its meeting held yesterday. It notes the diversion but expressed disappointment that the paths are being diverted as a result of further residential development”*.
- 1.5 A local resident responded on 9<sup>th</sup> August 2023 outside the consultation period and stated *“with regards to the above proposal, you will be aware that ourselves and our neighbours find the diversion unacceptable and are proceeding with the Definitive Map Modification Order Public Rights of Way User Evidence Form sent to us. We are currently on with this”*. This objection does not give any reasons for their objection.
- 1.6 There were no other comments from the neighbours during the consultation.
- 1.7 A response from the Grimsby and Louth Footpath Officer of the Lincolnshire Ramblers said the following: *“With reference to the two proposed diversions*

*of Footpaths 54 & 55. I object strongly because of the blind corners the proposals would introduce. The present straight paths can be safely walked but the proposed diversions would allow shelter for unlawful activity especially if high fences are built either side of the footpaths. These footpaths, which are regularly used by customers of the two Hostelryes on Fieldhouse Road, would be inviting criminal acts on unsuspecting walkers”.*

1.8 The right-angle bend on the western side (Public Footpath 54) is to accommodate a residential property and land to the west of the diversion is currently open land.

1.9 Public Footpath 55 on the eastern side of the development diverts the Public Footpath around the parcel of land to accommodate a parking area. The paths will be open due to a low fence which will be 1metre in height. The path will benefit from some natural surveillance from properties looking over this short fence.

## **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.

## **3. OTHER OPTIONS CONSIDERED**

3.1 The Council has the power to divert Public Rights of Way and not a duty. The preventing of the path being diverted could prevent the development going ahead.

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

4.1 The approval of the diversion Order will have positive reputational implications for the council as the application seeks to divert a Public Footpath and will ensure the continued easier use and availability of the path for future use.

4.2 A consultation has been undertaken with user groups, utility companies, Ward Councilors and Humberston Parish Council, objections are recorded above.

## **5. FINANCIAL CONSIDERATIONS**

5.1 If there are objections to the Order the case will be referred to the Planning Inspectorate, a public inquiry or written representations may be required to determine the final decision on the diversion of the path.

## **6. CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

6.1 There are no children and young people implications.

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

7.1 There are no climate change or environmental implications.

## **8. FINANCIAL IMPLICATIONS**

8.1 The making of the diversion and creation Order would not result in additional

costs to the Council as it will be met by Equans.

- 8.2 The landowner is paying for the application for the diversion. There are little implementation costs to open the path, costs will be incurred by the landowner if the decision results in a public hearing or enquiry. We will work with the landowner provide signage along the route.
- 8.3 There will be no call on Council reserves.
- 8.4 The proposal does not affect any other policies as it is to divert a footpath and then record the path on the Definitive Map.

## **9. LEGAL IMPLICATIONS**

9.1 The relevant tests are laid out in the main body of the report.

## **10. HUMAN RESOURCES IMPLICATIONS**

10.1 There are no Human Resource implications.

## **11. WARD IMPLICATIONS**

11.1 This path lies within the Humberston Ward.

## **12. BACKGROUND PAPERS**

12.1 Public Path Order 48, FP54 and 55, Humberston.

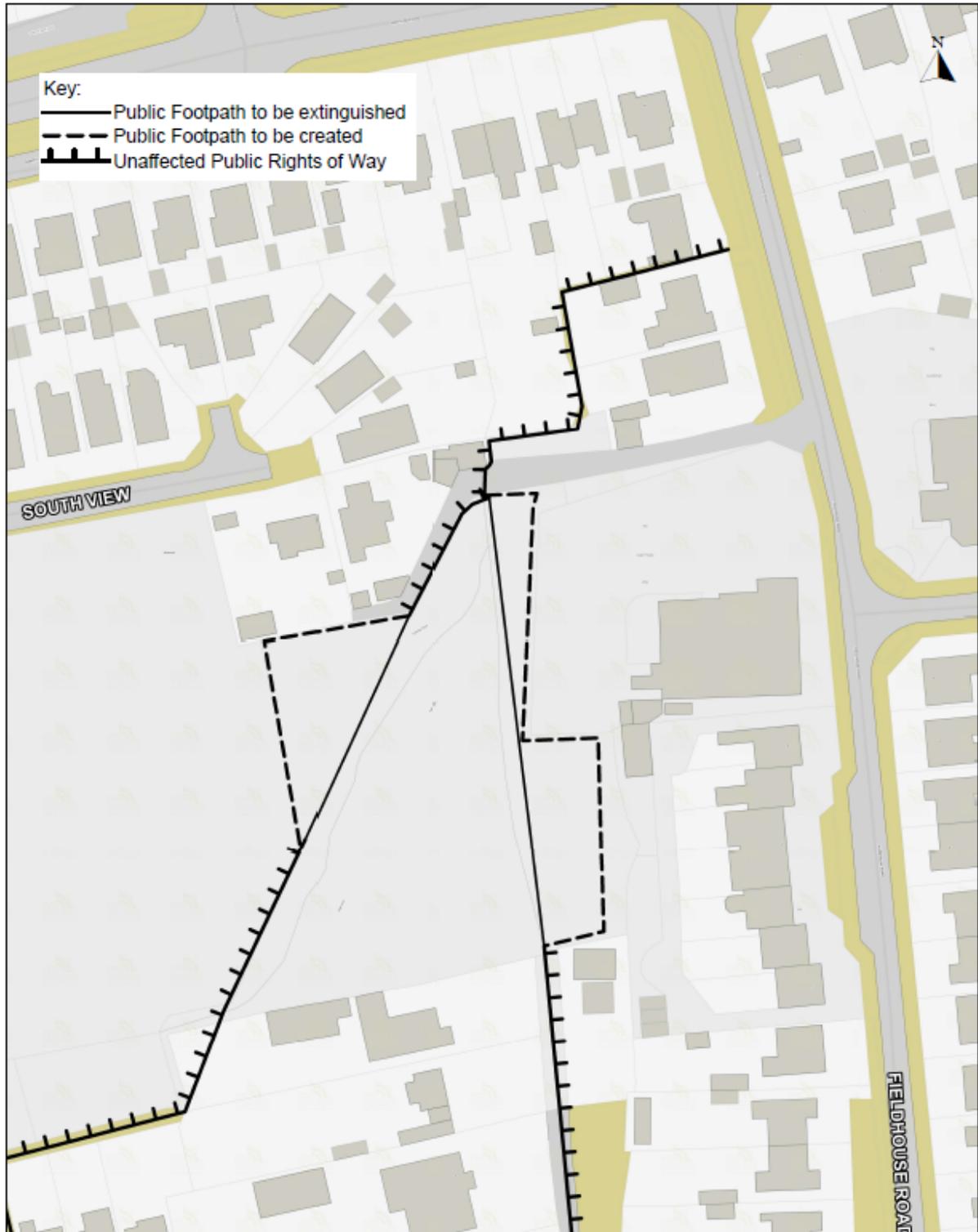
## **13. CONTACT OFFICER(S)**

- Martin Lear, Head of Highways and Transport, Equans, Tel: 01472 324482
- Matthew Chaplin, Public Rights of Way Mapping Officer, Equans, Tel: 01472 324789

**Carolina Borgstrom**  
**Director for Economy, Environment and Infrastructure**

**Appendix 1.**  
**Plan of diversion of Public Footpath 54 and Public Footpath 55**

**Diversion of Part of Public Footpaths 54 and 55, Humberston**



0 20  
metres

Scale 1:1,000

13/04/2023

Details:

This product includes mapping data licensed from Ordnance Survey ©Crown Copyright 2023. Licence number 100020759



Working in partnership

