

## PLANNING COMMITTEE

<b>DATE</b>	1 <sup>st</sup> December 2021
<b>REPORT OF</b>	Sharon Wroot, Executive Director for Environment, Economy and Resources
<b>SUBJECT</b>	Application for the extinguishment of Public Footpath 19 and a creation of a Public Bridleway, Immingham.
<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.

The proposal will contribute to the Council's 'Stronger Community' objective. Diverting part of the Public Footpath on the Definitive Map will ensure the path is available for continued use and ensure both the landowner and users of the path feel safe.

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 aim to Improve Health & Wellbeing within the Borough.

### EXECUTIVE SUMMARY

This report recommends the making of an Order to extinguish Public Footpath 19 in Immingham and to create a Public Bridleway to the western boundary of the development as shown in Appendix 1.

The purpose of the extinguishment and creation is to enable the development of up to five hundred and twenty-five residential dwellings together with an extra care facility for the elderly with up to eighty units with access to be undertaken in line with outline planning approval DM/0728/18/OUT. The approved plan is shown in Appendix 2.

The Council has a power to make an Order under Town and Country Planning Act 1990 section 257.

## **RECOMMENDATIONS**

That an Order is made for the extinguishment of Public Footpath 19 and to create a Public Bridleway under the Town and Country Planning Act 1990 section 257.

- a. To approve the making of an Order in accordance with Town and Country Planning Act 1990 section 257.
- b. To confirm the extinguishment and creation Order as made, subject to there being no objections or in the event of objections which cannot be resolved and withdrawn, for the Order to be referred to the Planning Inspectorate for determination.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**

Public Footpath 19 crosses the plot of land which is subject to a planning permission DM/0728/18/OUT. Under Section 257 of the Town and Country Planning Act extinguishments should only be made if it is considered that it is `necessary to do so to enable development to be carried out in accordance with planning permission granted`. As six hundred and five residential properties are proposed on the site, it is considered that the extinguishment is necessary to aid development. The Public Bridleway has higher rights so more users will be able to use it.

It is the opinion of officers that it is appropriate to extinguish the Public Footpath and create a Public Bridleway. The Bridleway will only come into being when the Order is confirmed by the Public Rights of Way Mapping Officer.

### **1. BACKGROUND AND ISSUES**

- 1.1 Public Footpath 19 shown on the Definitive Map runs almost in a north / south alignment where it crosses agricultural land. It has not been set out on the ground for many years. This Public Footpath is on the Definitive Map anomaly list. The southern section may have been extinguished but the legal order has not been found.
- 1.2 The path to be extinguished is the solid line on the plan in Appendix 1 between points A-B. The new bridleway is between points C-D. At Point C on the plan in Appendix 1 a new access road into the housing estate. The proposed housing development is shown in Appendix 2 however this is Outline at the current time.
- 1.3 A 28-day pre-order making consultation letter was sent on 17<sup>th</sup> August 2020 to landowner, user groups and Ward Councillors. There were responses from the Ramblers Association and a Councillor and neither had any concerns with the proposal.

## **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 extinguishment and creation of a Public Bridleway.
- 2.2 Failure to extinguish the Public Footpath could prevent the development commencing as it is illegal to obstruct a Public Right of Way.

## **3. OTHER OPTIONS CONSIDERED**

- 3.1 The Council could choose to do nothing and not implement the extinguishment application. In this case the applicant could refer the case to the Planning Inspectorate, as the only test in Town and Country Planning Act 1990 is that the extinguishment and creation is necessary to aid development of the site. The Planning Inspectorate decision is likely to be to extinguish and create an alternative path, and costs could be awarded against the Council.

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

- 4.1 The approval of the extinguishment of the Public Footpath and the creation of the Public Bridleway Order will have positive reputational implications for the council as the application seeks to extinguish the Public Footpath that is recorded on the Definitive Map and will create an alternative route of a Public Bridleway and ensure the continued availability of the Bridleway for future use.

## **5. FINANCIAL CONSIDERATIONS**

- 5.1 If there are objections to the Order and the case is 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. CONSULTATION WITH SCRUTINY**

- 6.1 There has been no consultation with Scrutiny in relation to this matter.

## **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.

## **8. LEGAL IMPLICATIONS**

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

## **9. HUMAN RESOURCES IMPLICATIONS**

- 9.1 There are no direct HR implications

## **10. WARD IMPLICATIONS**

10.1 This path lies within Immingham Ward.

## **11. BACKGROUND PAPERS**

11.1 Public Path Order 23 FP19, Immingham.

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

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- 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. Proposed diversion



Not to scale

**Appendix 2.**  
**Approved Planning Approval showing the location of the development**



Not to scale