

PROPOSED CLOSURE OF PUBLIC FOOTPATH SHE/346 AT WADSLEY BRIDGE,
SHEFFIELD 6.

1. PURPOSE

- 1.1 To seek authority to refer the City of Sheffield (footpath SHE/346) Public Path Closure Order 2018 to the Secretary of State for Environment, Food and Rural Affairs for confirmation in the light of an objection received.

2. BACKGROUND

- 2.1 Following authority obtained at this Committee on 24th October 2017, the City Council made an Order on 7th June 2018, under Section 118 of the Highways Act 1980, for the closure of footpath SHE/346 at Wadsley Bridge, Sheffield 6. A copy of the Order and plan are attached as Appendix A.
- 2.2 Following publication of the Order, including the posting of relevant Notices and Plans at the Claywheels Lane entrance to the footpath, the Director of Legal Services received one objection. The objector has stated that the closure of this cul-de-sac footpath will prevent him carrying out regular inspections of his adjacent property which is being maintained by the tenant.
- 2.3 The content of this objection is summarised in Appendix B to this Report, along with the Officer responses. Officers believe that, despite the objection, the Council will still be able to achieve the closure of the path on the basis that it is not necessary for public use.

3. LEGAL IMPLICATIONS

- 3.1 If objections are made to a public path extinguishment order made under section 118 of the Highways Act 1980, and those objections cannot be resolved by discussion or negotiation with the objectors, the order then needs to be referred to the relevant Secretary of State for confirmation such that it can take effect.

- 3.2 The Secretary of State will decide whether to confirm an order after consideration of the objections and representations. The Council is entitled to decide in light of opposition to an order (as in the present case) not to refer it to the Secretary of State but rather withdraw it instead.
- 3.3 If an authority feels it can no longer support the proposal then a formal resolution by that authority not to proceed is required to bring about the withdrawal of the order. The City Council has resolved to take similar action to this in the past, and this order will be withdrawn if Committee chooses not to approve the recommendation contained in this Report.

4 HIGHWAY IMPLICATIONS

- 4.1 The highway implications of the proposed Footpath Closure Order were described in the Report approved by this Committee on the 24th October 2017. The proposal has not altered since that date; hence it is still recommended that the footpath should be closed.

5 CONSULTATIONS

- 5.1 Officers have written to the objector, to try to ensure that they had a full understanding of the proposal and to see if a negotiated solution could be reached in order to resolve the objection. Unfortunately no response was received.

6 MATTERS ARISING AT THE MEETING OF THE PLANNING AND HIGHWAYS COMMITTEE 27TH NOVEMBER 2018

- 6.1 At the meeting of the Planning and Highways Committee on 27th November 2018 a member of the public raised concerns that the possible reopening of the Don Valley Railway might require the former station at Wadsley Bridge to be reopened and that removing the path might sever a public route to the station.
- 6.2 In light of this comment the Committee deferred their decision, pending further information, to a later time. Since that meeting discussions with Transport Planning Colleagues have confirmed that; though there is a desire (by a private group) to reopen the line, there are no firm proposals (approved or otherwise) that have been submitted to the Council. Additionally no concerns or objections were made during the draft Order period between the 7th June and 19th July 2018, other than those from the aforementioned landowner.

6.3 Colleagues in Legal were consulted regarding this matter and have advised that:

The Council should take into account the situation as it exists 'on the ground' at the time when determining whether to make or confirm an order on the basis that a path is "not needed". If the path is in use at that moment, and will remain in use unless and until replaced by an alternative path at some indeterminate time in the future, it follows that the path is needed for public use. Path SHE/346 is not currently in use nor is it intended to be replaced by an alternative path. It is currently obstructed and incapable of being used. If there is evidence of need or use having been curtailed by the obstruction, then the order should not be made or confirmed unless (as is the case here) the obstruction has existed for so long that there can be no real suggestion of continuing need or use.

7 EQUAL OPPORTUNITY IMPLICATIONS

7.1 No particular equal opportunity implications arise from the proposals in this report.

8 ENVIRONMENTAL IMPLICATIONS

8.1 No particular environmental implications arise from the proposals in this report.

9 FINANCIAL IMPLICATIONS

9.1 All the costs of the Closure Order process and any other associated costs will be met from the Public Rights of Way maintenance budget, as described in the report of 24th October 2017.

10 CONCLUSION

10.1 Officers' view is that the closure of the footpath has no bearing whatsoever on the objector's ability to inspect property within his ownership and, amongst other things, verify that the property is being maintained. If the property has been let out then it would be a standard term in any tenancy/ lease under which the owner is entitled to have access to the property to check that a tenant's obligations as to maintenance (etc.) are being fulfilled. Finally the purpose of a public footpath is not to provide a land owner with the means of inspecting private land. It is considered that the objection is not reasonable and, therefore that Confirmation of the Order by the Secretary of State should be sought.

10.2 In considering whether to proceed further with the proposed Footpath Closure, it is necessary to balance the objection received against the justifications for supporting the proposal in the first place. Therefore, as this Board has previously approved the closure, and the situation on the ground has not materially altered from when the Order was made, it is proposed that the Order be submitted to the Secretary of State for confirmation.

11 RECOMMENDATION

11.1 Instruct the Director of Legal Services to refer the City of Sheffield (Footpath SHE\346 at Wadsley Bridge, Sheffield) Footpath Closure Order 2018 to the Secretary of State for confirmation.

Philip Beecroft
Head of Highway Maintenance

25th June 2019