

Highways Committee

18 February 2020

**The Durham County Council (Footpath
at Stainton Grove) Public Path Diversion
Order 2007
Town and Country Planning Act 1990
Section 257**



**Joint Report of Geoff Paul, Interim Corporate Director of
Regeneration and Local Services and Helen Lynch, Head of Legal
and Democratic Services**

Electoral division(s) affected:

Barnard Castle East

Purpose of the Report

- 1 To consider a proposal not to proceed with the Durham County Council (Footpath at Stainton Grove) Public Path Diversion Order 2007. The Council's Constitution requires the Committee to formally resolve not to proceed with an Order which was determined by Committee, has subsequently attracted objections but is no longer required.

Executive summary

- 2 A meeting of the Highways Committee in 2005 resolved to make a Diversion Order of an unrecorded public footpath at Stainton Grove, Barnard Castle, under the provisions of the Town and Country Planning Act 1990, to enable the development of a Household Waste Recycling Centre in accordance with planning permission. The Order was made in 2007 and received objections, but no further action was taken as the provision of Household Waste facilities in the area was reviewed. In 2019 the original site nearby was reopened after major improvements and the planning permission was no longer required. There are therefore no grounds for diverting the footpath and Order is not required.

Recommendation

- 3** The proposal is in accordance with the Council's policy and the statutory framework on the diversion of public rights of way.
- 4** It is recommended that the Committee agrees to the formal abandonment of the Durham County Council (Footpath at Stainton Grove) Public Path Diversion Order 2007, under the provisions of section 257 of the Town and Country Planning Act 1990, and that the Corporate Director of Resources be informed accordingly.

Background

- 5** In 2003 planning permission was granted for the development of a Household Waste Recycling Centre adjacent to the waste Transfer Station at Stainton Grove, Barnard Castle. This required the diversion of a popular but unrecorded footpath, on land in the ownership of the County Council. The diversion was considered at a meeting of the Highways Committee on 24 October 2005, at which it was resolved to make a Diversion Order.
- 6** The Diversion Order was made under the provisions of s.257 of the Town and Country Planning Act 1990 on 12 April 2007 and published from 18 April to 18 May 2007. A copy of the Order plan is at **Document A**.
- 7** Objections to the Order were received during the publication period. When a published Order receives objections the County Council has three courses of action. It can resolve not to confirm the Order, seek the withdrawal of the objections, or submit the Order to the Secretary of State for determination.
- 8** The objections to this Order were not withdrawn, but due to prolonged uncertainty about whether the planning permission would ever be implemented, the Order remained undetermined
- 9** In 2019 the existing Household Waste Recycling Centre in Stainton Grove was reopened following an extensive redesign and improvement programme. The original planning permission was no longer required, and therefore the grounds for the Diversion Order no longer existed.
- 10** In order to formally close the file it is necessary for the Highways Committee, which originally resolved to make the Order, to resolve to abandon the Order.
- 11** Notification of the proposed abandonment of the Diversion Order has been given to the Local Members.

Options

- 12** The legal options open to the County Council mean that abandoning the Order is the most appropriate action. As there are no longer any grounds for the diversion there is no need for the Order to be determined by the Secretary of State, and the only other option is for the Order file to remain open, which is not an efficient use of resources.

Main Implications

- 13** The proposal ensure that an order which is no longer needed is formally abandoned.

Conclusions and recommendation

- 14** In conclusion, it is considered that the grounds for abandoning the Order are satisfied. It is therefore recommended that the Durham County Council (Footpath at Stainton Grove) Public Path Diversion Order 2007 be abandoned.

Attached Documents to report

Document A Copy of Order plan

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Appendix 1: Implications

Finance

None

Staffing

Part of routine officer responsibilities

Risk

Low

Equality and Diversity / Public Sector Equality Duty

Not applicable

Accommodation

None

Crime and Disorder

Not applicable

Human Rights

Not applicable

Consultation

As detailed in the report at paragraph 11

Procurement

None

Disability Issues

not applicable

Legal Implications

Abandonment of the Order means the Legal file can be closed