

Name of meeting and date:

Strategic Planning Committee 16 September 2020

Title of report:

Council stance on the Department for Transport draft order: Y&H/4337 – Proposed stopping up of highway at Holmfirth footpath 60, Wolfstones Road, Holmfirth, HD9 3UU. Town & Country Planning Act 1990, Section 247

1. Purpose of report

Members are asked to consider the Council's stance on a draft order made by the Department for Transport ("DfT"), which would stop up part of public footpath Holmfirth 60 and provide an alternative route. The public footpath route to be stopped up, and the proposed diversionary route to be created are shown on appended plan. Members are asked to make a decision on the Council's stance.

2. Summary of Report

An application has been made to the DfT for an order to stop up part of public footpath Holmfirth 60 at Wolfstones, near Upperthong, Holmfirth, and provide an alternative route, to enable development in accordance with planning consents already granted. The DfT has made a draft order under section 247, which is currently out for public consultation. A previous application to the Council, under section 257 of the 1990 Act, for an order which would have had similar effect on the public footpath, was refused by planning sub-committee in January 2020.

Background legal context – members should note that this is not an appeal to the earlier sub-committee refusal but instead there is provision in section 247 of the Town & Country Planning Act 1990 for the DfT to make orders affecting public footpaths if an application is made directly to them. The effect of the DfT order would be the same as the footpath diversion proposal refused by the Council in January 2020. If the Council objects to the s247 draft order, the Secretary of State at the DfT would have to arrange a public inquiry, if he wishes to pursue an order.

3. Ward Councillor comments

Ward members have been consulted on the Council's stance on the section 247 draft order.

Cllr Davies believes that the council should resist the section 247 draft Order, in line with the January sub-committee decision, when he voted against the earlier proposal to divert this public footpath.

Ward members were consulted in three separate preliminary consultations before the January 2020 report to sub-committee.

Cllr Firth and Cllr Davies were members of the January 2020 sub-committee, both voting against the proposed footpath diversion. Cllr Patrick had indicated support for the proposed diversion in the second preliminary consultation.

4. Officer recommendations and reasons

The DfT draft order, if completed, would have the same effect on public footpath Holmfirth 60, at Wolfstones, as the earlier s257 application to the Council, refused by sub-committee.

The sub-committee will not sit before the DfT draft order consultation period ends and, after consultation with the sub-committee Chair, officers now report to Strategic committee for a decision on the Council's stance.

Officers note the 11-1 vote against the proposed footpath diversion in the January 2020 Council sub-committee decision on the similar section 257 order proposal.

In the January 2020 officer report to sub-committee, officers noted the choices that members had, and the reasons that members may choose to make or not make an order. Given the sub-committee decision to refuse, officers would ordinarily look to object to the DfT's similar section 247 order but seek members' view.

Officers recommend that that the Council object to the Town & Country Planning Act 1990 section 247 draft order and oppose this public footpath proposal in the Secretary of State's determination.

With the options available to members in January 2020, and the sub-committee decision, this recommended approach appears to officers to be appropriate and logical. The sub-committee was clear that the similar proposal was not satisfactory for footpath users, and even with the option of securing improvement to the Wolfstones Road verge, they were not persuaded to make an order. Determination of the current section 247 proposal is in the hands of the DfT. If the SoS wishes to pursue an order, he would arrange a public inquiry, where the many arguments may be presented and considered, with opposing views on this contentious matter open to examination before the determining DfT inspector.