

READING BOROUGH COUNCIL

REPORT BY EXECUTIVE DIRECTOR FOR ECONOMIC GROWTH &
NEIGHBOURHOOD SERVICES

TO:	TRAFFIC MANAGEMENT SUB-COMMITTEE		
DATE:	16 JUNE 2021	AGENDA ITEM:	
TITLE:	MODIFICATION TO PUBLIC RIGHT OF WAY - FOOTPATH 21A LOCATED SOUTH OF THE FORMER HOMEBASE/TOYS R US SITE KENAVON DRIVE		
LEAD COUNCILLOR:	TONY PAGE	PORTFOLIO:	STRATEGIC ENVIRONMENT, PLANNING AND TRANSPORT
SERVICE:	TRANSPORT	WARDS:	ABBEY
LEAD OFFICER:	NATALIE LUCAS/DARREN COOK	TEL:	0118 937 4703
JOB TITLE:	TRANSPORT DEVELOPMENT ADVISOR / MANAGER	E-MAIL:	NATALIE.LUCAS@READING.GOV.UK / DARREN.COOK@READING.GOV.UK

1. EXECUTIVE SUMMARY

1.1 This report seeks approval for Officers to undertake statutory consultation for a Definitive Map Modification Order to Footpath 21A under Section 257 of the Town and Country Planning Act 1990 in order to enable development to be carried out in accordance with the approved drawings (Planning ref; 170509 and 200888 (Non-material amendments to permission 170509 to alter landscaping, access design and associated alterations)).

1.2 A Definitive Map Modification Order is a legal order which changes the Definitive Map and Statement. This report seeks approval to carry out a Statutory Consultation on the proposals which include the following:

- Removal of the existing steps at the western end of the route and creation of a ramp to the river edge.
- Realignment of the upper level route so as to circumvent the proposed steps and landscaping.

1.3 Appendix 1 - Approved drawing AL6086-2010 Rev F Illustrative Landscape Masterplan

1.4 Appendix 2 - Towpath Public Right of Way Alterations Proposed Plan

1.5 Appendix 3 - Existing Public Right of Way

2. RECOMMENDED ACTION

- 2.1 That the Sub-Committee notes the report.
- 2.2 That the Assistant Director of Legal and Democratic Services be authorised to undertake a statutory consultation under Section 257 of the Town and Country Planning Act 1990 and Section 53A(2) Wildlife and Countryside Act 1981 for a Definitive Map and Statement Modification Order to Footpath 21A for the proposals illustrated in Appendix 2.
- 2.3 That subject to no objections being received, or any objection made is subsequently withdrawn the Assistant Director of Legal and Democratic Services be authorised to confirm the order as an unopposed order.
- 2.4 That any objection(s) received following the statutory advertisement be reported to a future meeting of the Sub-Committee.
- 2.5 That the Head of Transport (or appropriate Officer), in consultation with the appropriate Lead Councillor, be authorised to make minor changes to the proposals.

3. POLICY CONTEXT

- 3.1 Under Section 257 of the Town & Country Planning Act 1990, the Local Authority may make orders for the stopping up or diversion of a footpath, bridleway or restricted byway on receipt of an application. This type of application can only be made where the Local Planning Authority is satisfied that the diversion/stopping-up is necessary to enable development to be carried out in accordance with a planning permission.

4. BACKGROUND AND PROPOSALS

- 4.1 Footpath 21A runs on the north side of a channel of the canalised River Kennet, between Forbury Road to Gas Works Road. It is a relatively short path, giving views over, and access to, the water, and

became available when the former Huntley & Palmers biscuit factory was redeveloped, in the last century. The path is presently at 2 levels, a higher, inland, level, and a lower level, adjacent to the water, which is accessed by steps at each end.

- 4.2 On 10th October 2018 planning permission was granted under planning application number 170509 for the erection of 765 residential units, 5 commercial units, various works to the public realm, including a new riverside square, landscaping, accesses, parking and associated works on the former Homebase/Toys R Us site. Works to the public realm opened up the opportunity for the tiered access between the proposed riverside square and the River Kennet resulting in modifications to the line and width of Footpath 21A. The approved plans incorporate a ramp between the lower and upper levels of the path (in the southwest corner of the site), representing an improvement to the existing arrangement, where step free access to the lowest area of the riverside is not presently possible.
- 4.3 Non-material amendments to permission 170509 were approved on 8th February 2021 under planning application number 200888 to alter landscaping, access design and associated alterations. The non-material amendments did not significantly impact on the approved public realm improvements, however, the amended plans increased the width of Footpath 21A on the riverside (in front of the eastern block), altering the line of planting slightly as a result.
- 4.4 The grant of planning permission does not entitle developers to alter a public right of way. The diversion or stopping up of footpaths, bridleways and restricted byways is a separate process which must be carried out before the paths are affected by the development. As a result, the footpath will need to be modified through Section 257 of the Town and Country Planning Act. The powers under this section are for an order to be made to enable development to be carried out. An order cannot be made or confirmed, if the development has already been completed, or is substantially complete. Although works have commenced on the site for the eastern and central buildings substantial works are still required to the buildings with the works still to commence on the western building, access road and central square. The right of way should be kept open for public use, unless or until the necessary order has come into effect.
- 4.5 This report seeks approval by the Sub-Committee to conduct statutory consultation on the landscaping and public realm works affecting the line and width Footpath 21A as illustrated in Appendix 2. The Borough will prepare and publish the public path modification order by advertising in the local newspaper, consulting with Statutory Consultees and posting of notices on the site at each end of the section of footpath.

- 4.6 If the proposed public path modification order is unopposed, the order will be confirmed. The modifications to the footpath will be legally changed on the Definitive Map and Statement of public rights of way within Reading Borough Council.
- 4.7 The proposed changes to the line of Footpath 21A can be found at Appendix 2.
- 4.8 The minimum widths of the route will be as follows:
- Between points A and B the width varies between 4.0 metres and 6.4 metres
 - Between points B and C/K 6.4 metres
 - Between points C and D 1.3 metre
 - Between points D and E 4.0 metres
 - Between points E and F the width varies between 3.1 metres and 5.85 metres
 - Between points F and G the width varies between 5.85 metres and 3.2 metres
 - Between points G and H 3.2 metres
 - Between points K and L 3.75 metres
 - Between points L and H 2.7 metres
 - Between points H and I the width varies between 7.0 metres and 4.5 metres
 - Between points I and J 4.5 metres
- 4.9 As a comparison to the existing route the proposal ensues that as a minimum the widths are the same as existing but generally does provide improvements to the available widths. It should be stressed that where the existing widths are identified as being greater than proposed this is as a result of the retaining wall structures being included within the previous order however these have been removed from the specified new widths.
- 4.10 The length of the route along the upper level of the path is currently 147.65m. As a result of the proposed landscaping and steps down to the river frontage the length would be marginally increased to 151.2m along the upper level. The lower level would not be affected by the proposed changes.
- 4.11 The proposed alterations to the route provide improved connections to the north through the adjacent development, a replacement of the steps at the western end of the route with a ramp allowing greater accessibility to the river frontage and a greater surveillance for those walking along the route.

5. CONTRIBUTION TO STRATEGIC AIMS

5.1 This proposal supports the aims and objectives of the Local Transport Plan and contributes to the Council's priorities, as set out below:

- Keeping Reading's environment clean, green and safe
- Ensuring the Council is fit for the future

6. COMMUNITY ENGAGEMENT AND INFORMATION

6.1 Statutory consultation will be conducted in accordance with appropriate legislation. Notices will be advertised in the local printed newspaper and will be erected at each end of the section of footpath.

7. LEGAL IMPLICATIONS

7.1 The Stopping up process will be carried out in accordance with the procedure set out in sections 257 and Schedule 14 of the Town and Country Planning Act 1990. Under Section 257 of the Town & Country Planning Act 1990, the Local Authority may make orders for the stopping up or diversion of a footpath, bridleway or restricted byway on receipt of an application. This type of application can only be made where the Local Planning Authority is satisfied that the diversion/stopping-up is necessary to enable development to be carried out in accordance with a planning permission. An order cannot be made or confirmed, if the development has already been completed, or is substantially complete.

7.2 The Definitive Map and Statement are conclusive legal records of the status, position and width of public rights of way and the Council has a duty under Section 53(2)(b) of Wildlife and Countryside Act 1981 to keep the Definitive Map and Statement under continuous review and to make such modifications to the Definitive Map and Statement in consequence of the occurrence of events described in Section 53(3)(c)(i). I.e *(i) a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended*

8. EQUALITY IMPACT ASSESSMENT

8.1 In addition to the Human Rights Act 1998 the Council is required to comply with the Equalities Act 2010. Section 149 of the Equalities Act 2010 requires the Council to have due regard to the need to:-

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.2 It is not considered that an Equality Impact Assessment is relevant as the proposals are not deemed to be discriminatory to persons with protected characteristics. A statutory consultation will be conducted, providing an opportunity for objections/support/concerns to be considered prior to a decision being made on whether to implement the proposals.

9. FINANCIAL IMPLICATIONS

9.1 The diversion or stopping-up of a public right of way under S257 usually results in a private benefit to the developer as it enables a development to go ahead which would otherwise not be possible. The applicant / developer, Berkeley Homes, is required to cover the Council's administrative and legal costs incurred from making the Order.

10. BACKGROUND PAPERS

10.1 None