

Name of meeting: Planning sub-committee (Heavy Woollen Area)

Date: 6 April 2017

Title of report: Direction from Secretary of State (DEFRA) to make an order to add a public footpath at Hey Beck Lane to the definitive map and statement of public rights of way.

Purpose of report: Members are asked to note a direction given to the Council by the Secretary of State DEFRA to make a definitive map modification order (DMMO) to add a public footpath to the definitive map and statement as shown between points A and B, on the plan 'A' attached to this report **and to approve the making of a DMMO** to meet the requirements of the direction.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable If yes also give date it was registered
The Decision - Is it eligible for call in by Scrutiny?	No – council committee
Date signed off by <u>Director</u> & name	Joanne Bartholomew on behalf of Naz Parkar 28 March 2017
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	Yes. 27 March 2017
Is it also signed off by the Assistant Director (Legal Governance and Monitoring)?	Julie Muscroft 28 March 2017
Cabinet member portfolio	N/A

Electoral wards affected: Batley East

Ward councillors consulted: Cllrs. M Akhtar F Fadia & A Stubley were notified of the SOS direction.

Public or private: Public

1. Summary

- 1.1 The council received an application for an order to be made to delete a public footpath and to add a public footpath to the formal record of public rights of way at Hey Beck Lane.
- 1.2 The sub-committee of 13 October 2016 refused both parts of that application. The applicant appealed to the Secretary of State against the council's decision.
- 1.3 The inspector appointed by the Secretary of State has allowed part of that appeal and the council has been directed to make an order to add a public footpath as shown on the attached Plan A.

2. Information required to take a decision

- 2.2 In October 2016 members considered an application for a definitive map modification order (DMMO) to add a public footpath to the definitive map and statement at Hey Beck Lane and to delete a public footpath from the definitive map at Hey Beck Lane.
- 2.3 After consideration members resolved not to make an order to do either, on the grounds that there was insufficient evidence to support the application.
- 2.4 The applicant exercised his right to appeal to the Secretary of State DEFRA against the Council's decision not to make any order
- 2.5 In March 2017 the Secretary of State issued her decision on the appeal. Her inspector concluded 'that a public right of way on foot has been reasonably alleged to subsist along the addition route, as shown in attached Plan A. '
- 2.6 The Secretary of State has therefore directed the Council to make a DMMO to add the claimed route to the definitive map and statement as a public footpath
- 2.7 The inspector's decision dismisses the appeal against the council's refusal to make an order to delete a public footpath through the applicant's property.
- 2.8 The committee papers regarding the October decision papers may be consulted.
- 2.9 It is the council's statutory duty to maintain the definitive map and statement.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

- 3.1.1 Providing better facilities for physical activity works towards local and national aims of healthy living.

3.2 Economic Resilience (ER)

3.2.1 There is an indirect impact of a welcoming environment which helps promote and retain inward investment

3.3 Improving Outcomes for Children

3.3.1 See 3.1.1

3.4 Reducing demand of services

3.4.1 See 3.5.

3.5 Other (eg Legal/Financial or Human Resources)

3.5.1 The Council has a statutory duty to maintain the formal record of public rights of way and to respond to applications and discovery of evidence of unrecorded and mistakenly recorded public rights of way.

3.5.2 The Council must comply with the Secretary of State's direction to make an order to add the claimed route to the definitive map and statement. To accord with the Council's delegation scheme, this must be authorised by the sub-committee.

3.5.3 Any person may make an objection or representation to the order adding the route to the definitive map and statement in accordance with the direction. Any such objection would be considered by an inspector appointed by the Secretary of State, who may or may not confirm the order.

4 Consultees and their opinions

4.1 The full committee papers regarding the 13 October 2016 report and decision are available.

4.2 Ward members have been informed of the Secretary of State's direction.

5 Next steps

5.1 Officers are not empowered to make an order under the delegation scheme. Members are therefore asked to note the direction and authorise officers to make the order.

5.2 The order would be advertised and notice served.

5.3 A decision would then be required on any objections that are received, any potential confirmation by the council and/or referral of the order (if opposed) back to the Secretary of State.

6. Officer recommendations and reasons

6.1 That the Council make the definitive map modification order (“DMMO”) as directed by the Secretary of State, to modify the Definitive Map and Statement to record the route as shown by the bold dashed line on Plan ‘A’ as a public footpath, i.e. the addition route applied for and shown on the application plan signed by the applicants and received by the council on 5 February 2014.

7. Cabinet portfolio holder’s recommendations

7.1 Not applicable

8. Contact officer

Giles Cheetham, Definitive Map Officer

9. Background Papers and History of Decisions

9.1 872/1/MOD/181

9.2 As sub-committee report and decision : Item 10 of 13 October 2016

10. Assistant Director responsible

10.1 Joanne Bartholomew, Assistant Director, Place