

WARDS AFFECTED
SUTTON WALMLEY & MINWORTH

REPORT OF ACTING DIRECTOR, INCLUSIVE GROWTH
UNDER DELEGATED AUTHORITY

10/08/2020

REPORT TO SEEK DELEGATED AUTHORITY TO DEDICATE A NEW BRIDLEWAY
WITHIN THE PEDDIMORE DEVELOPMENT SITE BETWEEN WISHAW LANE IN THE
NORTH TO WIGGINS HILL ROAD IN THE SOUTH EAST AS PART OF A REVISED
STOPPING UP SCHEME

IAN MACLEOD, ACTING DIRECTOR, INCLUSIVE GROWTH

BACKGROUND CONTEXT

Planning permission was granted to IM Properties PLC and Birmingham City Council Property Services ('Applicants') for the high-quality Peddimore employment park development on 2 September 2019 (2019/00108/PA). A pre commencement condition requires Public Right of Way (PROW) 2086 to be stopped up. A stopping up order under section 257 of the TCPA 1990 was made by the Council on 27 June 2019 ('original S257'). As the original S257 was opposed, it was sent to the Secretary of State ('SoS') for confirmation. The SoS refused to accept the original S257 for confirmation as, in its view, it was invalidly made. The Applicants consider the SoS's decision is legally flawed and have written to the SoS requesting him to reconsider his decision.

As part of a twin track strategy, the Applicants have also agreed a revised scheme of stopping-up following ongoing engagement with objectors to the original S257. The revised scheme proposes: (1) To permanently stop up pursuant to a revised S257 the western section of PROW 2086 (313.5m) which links to Wishaw Lane. A revised S257 in these terms is being drawn up by the Council for sealing on 6 August 2020; (2) To temporarily close pursuant to an order under s.14 Road Traffic Regulation Act 1984 (as amended) the eastern section of PROW 2086 to allow for earthworks and landscaping; and (3) To dedicate under common law a new bridleway between the retained section of Wishaw Lane in the north and Wiggins Hill Road in the south-east as shown with bold black dashes on the attached plans referenced PED-BWB-HGN-XX-DR-TR-160 S2 P4 and PED-BWB-HGN-XX-DR-TR 161 S2 P4.

As to limb (1) above, the western extent of PROW 2086 needs to be permanently stopped as it crosses Development Zone 2 where earthworks will be required as part of the first development phase. As to limb (2) above, the eastern section of PROW 2086 needs to be closed temporarily as it crosses through an area of earthworks and structural landscaping for which full planning permission has been granted. As to limb (3) above, dedicating a new bridleway under common law delivers significant net benefits for local accessibility through connecting to an extensive network of permissive paths within the Peddimore site. Common law dedication requires both express dedication from the landowner and acceptance by the public in the form of actual usage of the route.

DECISION/ACTION TAKEN

This report seeks delegated authority to carry out the following steps : (a) A 28 day non statutory consultation on the proposed new public bridleway to be dedicated under common law to be carried out; (b) Confirmation of the revised S257; and (c) Completion of the works necessary to construct and lay out the new public bridleway and it being open to use by the public. Once these steps are completed and the Council have checked that the bridleway has been built in accordance with the plan, a further delegated report expressly dedicating the bridleway in accordance with limb (3) will be submitted for signature.

As to (a) above, the Applicants are currently drawing up the requisite consultation notices for the joint consultation exercise. As the Council's offices are closed for public inspection because of covid-19, it has been agreed that the documents can be publicly inspected weekdays at the Management Suite, Birch Coppice Business Park. As to (b) above, if the revised S257 is unopposed it can be confirmed by the Council. If it is opposed and any objections cannot be resolved, it will need to be confirmed by the SoS.

REASON DECISION/ACTION TAKEN

The creation of a new public bridleway serves to create and henceforth dedicate in perpetuity a PROW and secure its use for the public. The new bridleway route is significant as it connects the remaining length of Wishaw Lane to Wiggins Hill Road creating an off-road walking, cycling and horse-riding route that is free from motorised traffic and creates a connection with PROW 2086

IMPLICATIONS FOR RESOURCES, FINANCE, PEOPLE, PROPERTY, IT

There are no additional resource implications for the creation of the new public bridleway. Officer time is from the existing budgets for the Peddimore development and public rights of way budget. The requisite notices for the revised stopping up scheme are to be displayed on site which will be undertaken by IM Properties PLC. This report seeks delegated authority to dedicate the new bridleway route to the public. The physical works necessary to lay out the new Bridleway path will be undertaken by IM Properties and is conditional on confirmation of the revised S257. The new bridleway path will be managed and maintained by Peddimore's management company at no cost to Birmingham City Council. The new bridleway will have an impact on property owned by Birmingham City Council as the dedication of a public right of way over its land concerns the creation of a permanent path for use by the public at all times albeit it is considered that such impacts are justified to deliver the significant public benefits of the Peddimore development. There are no implications for IT.

COMPLIANCE WITH PUBLIC SECTOR EQUALITY DUTY

The decision to dedicate by common law the new public bridleway is not considered to result in any identified adverse impacts on persons with protected characteristics pursuant to the Council's public sector equality duty under section 149 of the Equality Act 2010.

SIGNED BY AUTHORISED OFFICER

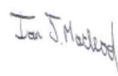
Taking action:

Date:

Contact Officer:

(in case of queries)

Mahroof Malik – Principal Public Rights of Way officer



14.08.20