

North Tyneside Council

Report to Director of Regeneration and Economic Development

Date: 6 November 2024

Title: Making of a Public Path Extinguishment Order in relation to Public Footpaths known as North Tyneside Public Footpaths Killingworth East 5 (section), Holystone 1 (section) and Holystone 2

Report from Service Area: **Highways and Transportation**

Responsible Officers: **Graeme Clark, Public Rights of Way and Definitive Map Officer** **Tel: (0191) 643 6086**

Wards affected: **Backworth and Holystone**

PART 1

1.1 Executive Summary:

The purpose of this report is to seek the Director of Regeneration and Economic Development's agreement to the making of a Public Path Extinguishment Order ("the Order"). The Order is attached to this report at Appendix 1 and concerns the extinguishment of sections of two paths known as "Killingworth East 5" and "Holystone 1" and the extinguishment of the entirety of a third path known as "Holystone 2" as described in the Order and shown on the plan forming part of the Order.

At the end of the statutory consultation period, if no representations or objections are made to the making of the Order, the Order can be confirmed by the Director of Regeneration and Economic Development after having regard to the matters set out in the appropriate sections of the Highways Act 1980.

Under the Authority's Officer Delegation Scheme, the Director of Regeneration and Economic Development has a specific delegation, namely RED 28 t) which relates, amongst other things, to the making and confirmation of a public path diversion/extinguishment order. RED 28 t) states:

“In consultation with the Head of Law to deal with all matters in relation to any proposal to close or divert highways, footpaths and bridleways in accordance with sections 116, 117, 118, 118ZA, 118A, 118B, 118C, 119, 119ZA, 119A, 119B, 119C, 119D, 119E and section 25 & 26 (creating footpaths, bridleways and restricted byways).”

A confirmed Order formally changes the line of the path on the ground only and does not alter the Authority’s legal record of Public Rights of Way – the ‘Definitive Map and Statement’ (DMs).

To reflect the changes that the Authority is required to make to the DMs as soon as reasonably practicable after an event has occurred, the Authority periodically prepares a separate consolidated report relating to confirmed Orders made by it under the Highways Act 1980 or the Wildlife and Countryside Act 1981. The fact that such Orders have been made and subsequently confirmed means that the Authority can make a “Legal Event Modification Order” (LEMO) which will amend the DMs to reflect the changes brought about as a result of the confirmed Orders. There is no obligation to publicise a LEMO and such an Order cannot be objected to because an opportunity was afforded to individuals to object to the Orders after they were made and advertised.

1.2 Recommendation(s):

It is recommended that the Director of Regeneration and Economic Development:

- (1) in consultation with the Head of Law, agrees to the making of the Public Path Extinguishment Order attached at Appendix 1 of this report and thereafter takes all necessary steps to give notice to the making of that Order in accordance with the requirements of the Highways Act 1980;
- (2) agrees that, if no representations or objections are made to the Public Path Extinguishment Order attached at Appendix 1 of this report following the conclusion of consultation period, to confirm that Order ; and
- (3) notes that, if representations or objections are made to the making of the Public Path Extinguishment Order attached at Appendix 1 of this report, a further report will be provided to the Director of Regeneration and Economic Development setting out the options that could be taken regarding that Order.

1.3 Forward Plan:

Twenty-eight days' notice of this report has been given and it first appeared on the Forward Plan that was published on 20 September 2024.

1.4 Council Plan and Policy Framework

The proposals in this report support the following priorities in the Our North Tyneside Plan 2021 to 2025.

- A green North Tyneside
 - We will increase opportunities for safe walking and cycling, including providing a segregated cycleway at the coast

1.5 Deciding to 'make' (authorise) a PPEO

1.5.1 Background on Identified Paths:

The identified sections of the Public Footpaths referred to in paragraph 1.1 above are recorded on both the DMs and the Authority's List of Streets (LoS – record of standard adopted highways). This is an anomaly because, as standard adopted highways, the Public Footpaths should feature only on the LoS and not also on the DMs.

If the Order is confirmed the only changes on the ground will be to signage. The actual physical paths (recorded on the LoS) will remain in situ and the LoS will not be altered and as set out in paragraph 1.1 above a LEMO will subsequently be made to reflect the changes on the DMs.

1.5.2 Public Path Extinguishment Order Process:

Where it appears to the Authority as respects a footpath in the Borough that it is expedient that it should be stopped up on the ground that it is not needed for public use, the Authority may, by Order made by it, and later confirmed by it as an "unopposed Order" extinguish the public right of way over the footpath. This is the type of Order attached at Appendix 1 to this report. The Order, if made, would be made under section 118 of the Highways Act 1980 and such an Order is referred to in the 1980 Act as a "Public Path Extinguishment Order".

- 1.5.3 The Authority cannot confirm the Order as an unopposed Order, unless it is satisfied that it is expedient so to do having regard to the extent (if any) to which it appears to it that the Public Footpaths would, apart from the Order, be likely to be used by the public, and having regard to the effect which the extinguishment of the right of way would have as respects land served by the Footpaths.
- 1.5.4 Section 118(3) of the Highways Act 1980 states that the Order shall be in a form prescribed by Regulations and shall contain a map defining the land over which the Public Footpaths are being extinguished. The map is included in the Order at Appendix 1 to the report.
- 1.5.5 Schedule 6 of the Highways Act 1980 deals with the making and confirmation of the Order and specifies the notice that must be given following the making of the Order.
- 1.5.6 Before the Order can be confirmed as an “unopposed” Order by the Authority, notice must be given: –
- a) stating the general effect of the Order and that it has been made and is about to be submitted for confirmation or to be confirmed as an unopposed order,
 - b) naming a place in the Borough in which the land to which the Order relates is situated, where a copy of the Order and of the map referred to in the Order may be inspected free of charge and copies may be obtained at a reasonable charge at all reasonable hours, and
 - c) specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the Order may be made.
- 1.5.7 The notice must be given by publication in one local newspaper circulating in the areas in which the land to which the Order relates is situated and by the service of a notice on every relevant owner, occupier, and lessee. It will also be necessary to display notices at the ends of the paths and any area that is being diverted / created by the Order.
- 1.5.8 If no representations or objections are received and the Order is confirmed, as explained above, it is intended that the Authority’s DMs and Statement maintained under section 53 of the Wildlife and Countryside Act 1981 will be

updated as part of an annual consolidation process by using the “Legal Event Modification Order” process.

Representations/Objections

- 1.5.9 If during the consultation period following the making of the Order, a representation or objection is received by the Authority to the making of the Order, or parts of the Order, which is not withdrawn, a further report will be provided to the Director of Regeneration and Economic Development setting out the options that could be taken regarding the Order.
- 1.5.10 Potential subsequent actions could include any of the following: to amend the Order; not to proceed with the Order; or to forward the representation or objection to the Secretary of State for their decision as to whether or not the Order should be confirmed.

1.6 Decision options:

The following decision options are available for consideration:

Option 1 – To approve the recommendations in section 1.2 of the report.

Option 2 – Not to approve the recommendations in section 1.2 of the report.

For the reasons set out above Option 1 is the recommended option.

1.7 Appendices:

Appendix 1 – Public Path Order (PPO) – The Public Footpaths Killingworth East 5 (section), Holystone 1 (section) and Holystone 2 Extinguishment Order

Appendix 2 – Business as usual Equality Impact Assessment

1.8 Contact officers:

Paul Watson, Head of Highways and Transportation, 0345 2000 101

Andrew Flynn, Senior Manager – Integrated Transport, 0191 643 6083

Gary Walker, Sustainable Transport Team Leader, Capita, 0191 643 6219

Amar Hassan, Principal Accountant, Investment (Capital) and Revenue, 0191 643 5747

1.9 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author.

- (1) [North Tyneside Transport Strategy](#)
- (2) [North East Transport Plan](#)
- (3) Natural England – [A guide to definitive maps and changes to public rights of way](#)
- (4) [The Highways Act 1980](#)
- (5) [The Public Path Orders Regulations 1993](#)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

Funding to advertise and implement the proposal is available from the Public Rights of Way Local Transport Plan capital budget.

2.2 Legal

The legal implications are set out in the body of the report.

It is clear from the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 that decisions taken under section 118 of the Highways Act 1980 is a Council function and not an Executive function.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The then Members for the ward in which the paths were situated were informed of the proposal to make the Order. Following the May 2024 elections and changes to ward boundaries, the Members for the ward in which the paths are now situated will be updated as matters progress.

2.3.2 External Consultation/Engagement

Prior to drafting the Order, officers consulted with statutory groups and other stakeholders to make them fully aware of the proposals and to seek views. No objections or concerns were raised.

If the Order is approved the same groups will be consulted again as part of the publication of notification of the Order and following the legal process set out in this report.

2.4 Human rights

Any human rights implications must be balanced against the duty that the Authority has to review the DMs in relation to the users of Public Rights of Way and other stakeholders. It is not considered that the proposed order will have a negative impact on individuals' human rights.

2.5 Equalities and diversity

A Business as Usual Equality Impact Assessment for Public Path and Definitive Map Modification Orders proposal has been undertaken and is attached as Appendix 2 to this report.

2.6 Risk management

There are no risk management implications arising directly from this report. Strategic and operational risks associated with transport matters are assessed via the established corporate process.

2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report, however the proposals facilitate the ongoing use of the public rights of way network, which supports residents in accessing the natural environment.

PART 3 - SIGN OFF

- Chief Executive X
- Director of Service X
- Chief Finance Officer X
- Monitoring Officer X
- Interim Director of
Corporate Strategy and
Customer Service X