REPORT TO PLANNING & DEVELOPMENT COMMITTEE
TO BE HELD ON THURSDAY, 8 March 2018

APPLICATION REFERENCE NO: 15/02657/RG3  
TARGET DATE: N/A.  
GRID REF: 510839-481645 510588-480255

REPORT OF THE PLANNING SERVICES MANAGER – PSM/18/41

SUBJECT: Orders under Section 257 of the Town and Country Planning Act 1990 relating to public paths at Filey for Scarborough Borough Council

1.0 THE PROPOSAL

1.1 This report relates to the making of Orders under Section 257 of the Town and Country Planning Act 1990, which enables the diversion/stopping up of a public path where this is necessary to facilitate development which has been granted planning permission.

1.2 Orders need to be made in respect of existing footpaths that are required to be diverted/stopped up to enable the Filey Flood Alleviation Scheme to be constructed in accordance with the approved plans, permitted under ref. 15/02657/RG3.

1.3 The public paths in question currently provide access across land which will be the subject of works to provide the flood alleviation scheme. The diversions are required to enable the works to be carried out, and it is proposed to provide new routes in close proximity to the existing.

1.4 The length of footpath (Path No. 30.8/12/1 on the Definitive Map) to be stopped up to the north of the Scarborough Road, Filey is required to enable a sizeable drainage channel to be formed. The stopped up section of footpath would be replaced by a new footpath a short distance to the east of the existing, along a similar alignment.

1.5 The length of footpath to be stopped up to the south west of Filey, to the west of the playing fields of Filey School, Muston Road would enable a flood defence embankment and associated channel to be constructed. The stopped up section of footpath would be replaced by a new footpath a short distance to the north west of the existing, along a similar alignment. This footpath forms part of the Yorkshire Wolds Way (Path No. 30.8/1/1 on the Definitive Map).
2.0 SCREENING OPINION REQUIRED?

2.1 No.

3.0 PRE-APPLICATION COMMUNITY ENGAGEMENT

3.1 None.

4.0 CONSULTATIONS AND COMMENTS

4.1 Once made the Order will be the subject of consultations with various statutory consultees and others.

5.0 RELEVANT SITE HISTORY

5.1 2015 – Planning permission granted for construction of flood defences, comprising of a series of earth embankments to encircle large areas of the town of Filey to include; flood water storage areas; land raising; and, drainage channels and culverts to redirect floodwater flows.

6.0 ASSESSMENT

6.1 This report seeks Members’ approval for the making of the Orders, which will then be the subject of the required consultation.

6.2 There are a number of procedures that can be followed in order to seek the diversion or stopping up of a public path, and most often the process is undertaken by the County Council, under the provisions of the Highways Act 1980. In this case, the paths are required to be diverted/stopped up to allow development that has received the grant of planning permission to be carried out, in accordance with the approved plans. Therefore, the process to be followed in this instance falls under Section 257 (Footpaths and bridleways affected by development: orders by other authorities) of the Town and Country Planning Act.

6.3 The proposed diversion/stopping up of the footpaths in this case does not result in the loss of a public path, but involves new routes for pedestrians that would be provided to ensure continued public access through land that will be the subject of engineering works to provide the flood defences to the town of Filey.

6.4 The process involves the making of Orders by the Council’s Legal Services, which are then the subject of consultations with consultees and the public. Notices showing the proposed diversion/stopping up of paths are positioned at the ends of the sections of paths affected by the Orders and a notice must be placed in the local newspaper. A period of 28 days is required to be given to consultees and the public to make representations on the Orders.

6.5 If objections are received, the applicant has the opportunity to address these in order to determine if they can be withdrawn. If no objections are received or objections
that are received through the consultation period are subsequently withdrawn, the Council can then confirm the (unopposed) Orders. Notices are again posted on site and in the press to this effect, and the applicant will be informed that the Order has been confirmed.

6.6 If objections are received to a draft Order within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, the Council must refer the Order to the Secretary of State for the Environment. The Secretary of State will decide the matter either by holding a Public Inquiry or by appointing a person to hear the representations of the objectors. The Secretary of State then decides on the basis of the reports submitted at the Inquiry or by hearing representations whether to confirm the Order with or without modification.

RECOMMENDATION

That THE MAKING OF ORDERS BE APPROVED and that Officers of the Council be given delegated authority to confirm the Orders following the expiry of a 28 day consultation period, subject to the process set out in Section 6.0 of the report.

David Walker

Background Papers:

Those documents referred to in this report.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT MR MARCUS WHITMORE ON 01723 232475 email marcus.whitmore@scarborough.gov.uk