

**21<sup>st</sup> November 2022**

<b>TITLE OF REPORT:</b>	<b>Proposed change to Public Right of Way Footpath Whickham 194 in Derwent Walk Country Park, Swalwell, Gateshead</b>
<b>REPORT OF:</b>	<b>Strategic Director, Corporate Services and Governance and Strategic Director, Housing, Environment and Healthy Communities</b>

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### **Summary**

This report relates to the proposed change to a public right of way in Derwent Walk Country Park.

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### **Purpose of the Report**

- 1) To seek approval of the Public Rights of Way Committee for the Proposal set out at paragraph 4 in this report.

### **Background**

- 2) Footpath Whickham 194 is indicated with a solid black line, as shown from Point A to Point B on the attached plan at Appendix 2 to this report.
- 3) The existing Footpath Whickham 194 has created a cul-de-sac in that it does not lead to anywhere. The alignment runs across Swalwell Visitor Centre Car Park and is blocked by several boundary fences which would have been erected when Derwent Walk Country Park was created over 20 years ago.

### **The Proposal**

- 4) Approval is sought from the Public Rights of Way Committee for the Proposal set out below: -

To extinguish Footpath Whickham 194 from Point A to Point B on the attached plan at Appendix 2 to this report, on the grounds that it is no longer needed for use by the public. It is not currently used by the public and will not be used by the public in future as it is unsafe and inaccessible on its current alignment.

## **Land Ownership**

- 5) The ownership of the land where the above Proposal is to take place if approved by the Public Rights of Way Committee is on Council owned land.

## **Legislation**

- 6) Under section 118 of the Highways Act 1980, the Council has the power to extinguish a footpath, bridleway or restricted byway if it is expedient to do so, on the grounds that the path is not needed for public use. The Council will not be able to confirm an unopposed Order (if approved) unless it is satisfied that it is expedient to do so having regard to the extent to which it appears to the Council that the path (notwithstanding the making of the Order), would be likely to be used by the public and also having regard to the effect the extinguishment would have on land served by the path.
- 7) It is considered that the Proposal to extinguish Footpath Whickham 194 satisfies this test because the public right of way is not currently used by the public and it is not needed because the public have access to other rights of way in the area.
- 8) Section 28 of the Highways Act 1980 provides for the Council to pay compensation where it is shown that the value of an interest in the land has depreciated, or a person has suffered damage by being disturbed in their enjoyment of the land. An "interest" for the purposes of section 28 of the Highways Act 1980, includes any estate in land or right over the land, whether that is exercisable by ownership, licence or agreement.
- 9) In relation to the proposed extinguishment of Footpath Whickham 194, there are no known interests in the land that the proposed extinguishment would affect.

## **Consultation**

- 10) No consultation has taken place.

## **Conclusion**

- 11) In light of the unsafe alignment of Footpath Whickham 194, along with the fact that alternative routes have been created within the Derwent Walk Country Park, the Public Rights of Way Officer would recommend that it is expedient that Footpath Whickham 194 be extinguished because it is not needed for public use now or in the future.

## **Recommendation**

The Public Rights of Way Committee approves:

- i) That a public path extinguishment order be made to extinguish Footpath Whickham 194 from Point A to Point B as shown with a black line on the plan attached at Appendix 2 to this report.
- ii) Grant delegated authority to the Strategic Director of Corporate Services and Governance to undertake the following:
  - a) To consult the statutory consultees and make a public path extinguishment order to extinguish Footpath Whickham 194 from Point A to Point B, as shown with a black line on the attached plan at Appendix 2 to this report.
  - b) If no objections are received, to confirm the order or if objections are received and not subsequently withdrawn, to send the order to the Secretary of State for determination as an opposed order.

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Contact:      Zoe Jones      Ext. 3094

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## **APPENDIX 1**

### **1 FINANCIAL IMPLICATIONS**

The costs of making and advertising the order will be covered by existing budgets.

### **2 RISK MANAGEMENT IMPLICATIONS**

None.

### **3 HUMAN RESOURCES IMPLICATIONS**

Staff from Corporate Services and Governance, in conjunction with the Public Rights of Way Officer, will carry out the processing of the order.

### **4 EQUALITY AND DIVERSITY IMPLICATIONS**

None.

### **5 CRIME & DISORDER IMPLICATIONS**

None.

### **6 SUSTAINABILITY IMPLICATIONS**

None.

### **7 HUMAN RIGHTS IMPLICATIONS**

Under Article 8, everyone has the right to respect for his or her private and family life, home and correspondence.

### **8 WARD IMPLICATIONS**

Whickham North.

### **9 BACKGROUND INFORMATION**

None.

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