

**BURNLEY BOROUGH COUNCIL**  
**DEVELOPMENT CONTROL COMMITTEE**

27 June 2019

**PART III**

**Application for Public Footpath Diversion Order under section 257  
of the Town and Country Planning Act 1990**

**Application Reference: FDO/2019/0275**

**Date of Application: 15 May 2019**

**Proposal: Proposed diversion of part of Public Footpath Nos. 89 and 90  
(Cliviger) (under section 257 of the Town and Country Planning Act 1990)**

**At: Land To The West Red Lees Road Cliviger**

**1. Purpose of report**

To seek authorisation to make an Order for the diversion of Public Footpaths 89 and 90 at the above site in connection with a planning application that is currently being considered by the Council (reference APP/2019/0155) for a residential development of 129 houses.

**2. Background**

Section 257 of the Town and Country Planning Act 1990 allows a Local Planning Authority as “competent authority” to make an Order authorising the stopping up of any highway if it is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with a planning permission whether an application has already been approved or has been submitted.

The Council make the Order and then follow a process of advertisement by press and site notice and consultation with statutory undertakers, the Cliviger Parish Council and the Ramblers Association, neighbouring residents for a period of 28 days. In the event that there are no objections to the Order then the Order would be confirmed unopposed. However, should there be any objections and these objections are not subsequently withdrawn then the Order would be referred to the Secretary of State for determination. The costs for making the Order and any subsequent referral (which would be dealt with by written representations, a hearing or public inquiry) would be borne by the applicant.

**3. Recommendation**

To authorise the Head of Legal and Democratic Services to make an Order under section 257 of the Town and Country Planning Act 1990 to divert public footpaths 89 and 90 (Cliviger) as shown on the plan submitted with the application and in the

event that there are outstanding objections following a period of consultation and negotiaton, to refer the Order to the Secretary of State for determination.

#### 4. Reasons for Recommendation

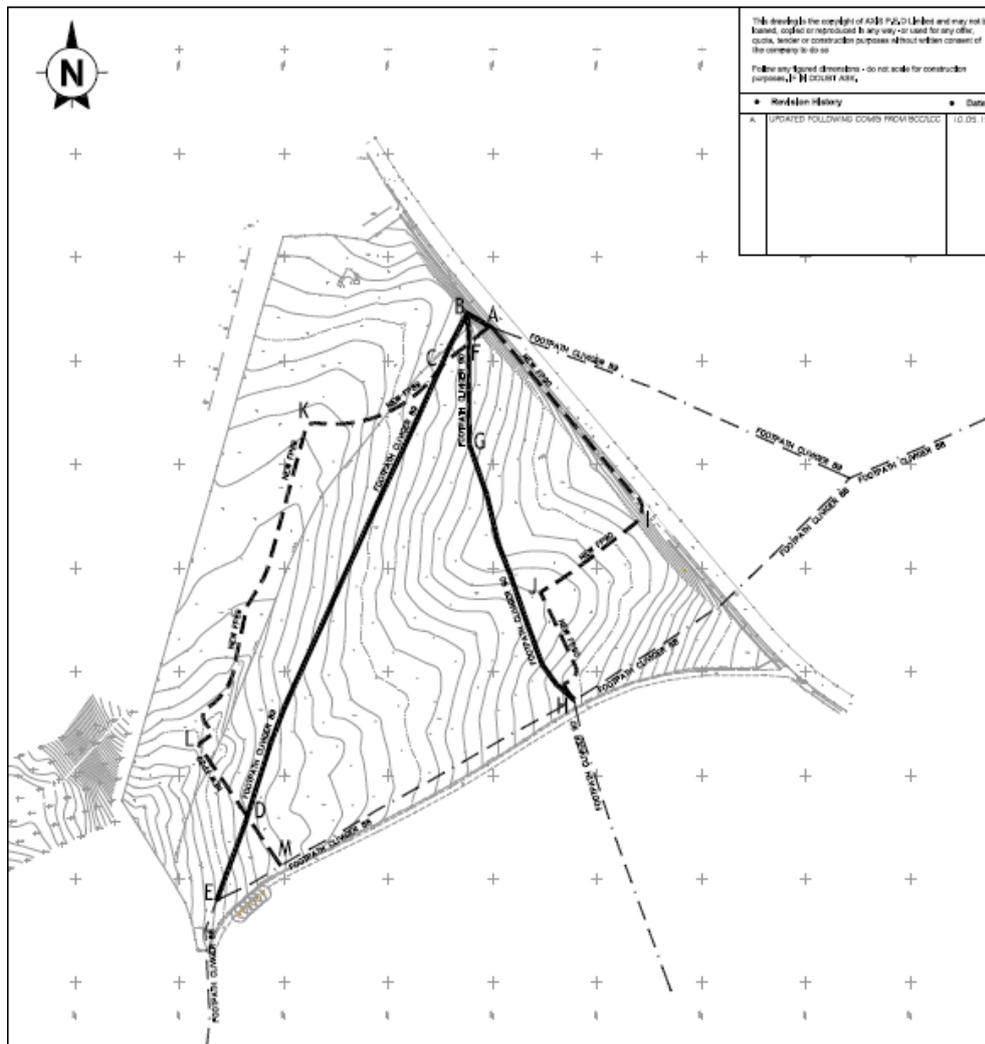
To, subject to the grant of planning permission, allow the carrying out of development which is subject to a planning application which is currently under consideration.

#### 5. Summary of Key points

A draft Order has been submitted with the application which will be reviewed and amended if necessary by the Head of Legal and Democratic Services before the making of the Order. This Order will set out the requirements for the diversion.

Footpaths Nos. 89 and 90 cross the site and converge at a stile at Red Lees Road. Public Footpath No. 88 lies to the south side of these paths and would not be affected by this Order. The proposal is to stop up the parts of Public Footpaths Nos. 89 and 90 that are shown by the solid line on the map below and in substitution form alternative routes indicated by the bold dashed line.

#### Proposed Footpath Diversion Plan



**Solid black line = Existing route of Public Footpath nos. 89 and 90**

**Bold dashed line - - = Proposed Alternative routes**

The alternative routes take into account that the development of the site for residential purposes which would require building over parts of the existing footpaths with roads, drives and new dwellings. The alternative routes would provide a reasonable and practical diversion.

Whilst planning permission has not at this stage been granted for the associated development, the applicant will need to proceed as early as possible with making an Order due to the timescales that can be involved in doing this. In the event that an Order is made and confirmed (without subsequent challenge) then the Order would still not come into effect until the associated planning permission has been granted. The diversion of the footpaths would not therefore occur without first having a planning permission in place.

## **6. Financial implications**

The costs of making the Order, advertisement and any subsequent costs associated with referring the Order to the Secretary of State will be met by the applicant.

## **7. Background Papers**

Planning application APP/2019/0155.