

Public Footpath Diversion
Report by Head of Planning

Summary: A permanent diversion of the public right of way on foot at Oby is necessary to enable the development and the use of a new boat dyke to be carried out.

Recommendation: That the diversion be agreed as necessary to enable the development to be carried out.

1 Introduction

- 1.1 In 2011 planning permission was granted for flood defence works from Boundary Farm Dyke to Stokesby, including the creation of a linear borrow pit parallel to and south of Boundary Dyke, relocation of the flood bank and permanent diversion of a public footpath (BA/2010/0391/FUL). Much of the flood defence works have been completed, although piling remains to be removed on a number of sections and the works to regrade the banks has not been started.
- 1.2 In November 2013 planning permission was granted for the use as a new boat dyke of the linear borrow pit excavated as part of the 2008 planning permission (BA/2013/0138/FUL). The implementation of this permission will necessitate the further diversion of the public footpath so that it runs south of the new mooring dyke (former borrow pit) rather than south of Boundary Dyke. This is because a link will be cut out between Boundary Dyke and the new dyke to the south to enable boats to move from the new mooring dyke, through Boundary Dyke to the river, meaning that the public right of way will be obstructed by water. The proposal to move it will relocate it 35m to the south on a parallel alignment.
- 1.3 Member authority is needed to authorise the diversion of the route on the grounds that it is necessary to enable the development permitted to be carried out.

2 Permanent Footpath Diversion

- 2.1 The relevant mechanism for a permanent footpath diversion is set out in section 257 of the Town and Country Planning Act 1990, as amended. The key test which must be applied is whether these permanent diversions are necessary in order to enable the development to be carried out.

- 2.2 In this case, there is clear conflict between the current line of the permanent public footpath to the south of Boundary Dyke and the construction and use of the new boat dyke as the approved link between the two dykes crosses the public footpath so without the diversion the link cannot be created.
- 2.3 Whilst the realignment of the public right of way to the south of the new dyke will change the route of the path, it is considered that the extent of the change will not fundamentally harm the character of the public path or the views to the river. It is considered that the creation of the new link between the dykes is necessary to enable the development to take place as permitted and to facilitate the mooring use. Therefore it is considered that the permanent diversion meets the above test.

3 Financial Implications

- 3.1 The cost of the diversion process will be borne by the applicant and/or the Environment Agency as it relates to flood defence works. There will be no cost to the Broads Authority other than staff resources.

4 Conclusion and Recommendation

- 4.1 The public footpath diversion is necessary here to facilitate a development which has been considered acceptable and granted planning permission. It is recommended that the authorisation be given to divert the public path referred to in this report as this diversion is necessary to enable the development to be carried out. It is further recommended that officers are given authority to make any orders necessary to divert the public paths referred to in this report.

Background papers: None

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Appendices: None