

73. ADDITION OF A SECTION OF PATH AT LANGLEY PLACE TO THE DEFINITIVE MAP AND STATEMENT (REF: 11)

The Strategic Policy Adviser presented the report (Ref: 11) requesting the committee to authorise the Council's Legal Services to undertake the legal process to add a section of path at Langley Place to the Definitive Map and Statement.

He emphasised the request was only to authorise the commencement of the legal process and not to approve the addition of the path to the Definitive Map and Statement.

He said background information was included in the report and that the section of path in question was in the excluded area and not on the Definitive Map.

He informed the committee the matter came to notice, when approached by the developers about the section of path outside the Sugar Loaf Pub, after the developers had received planning permission to convert part of the Industrial Estate into residential units. The Developers had provided a lot of historical information, as set out in Appendices A and B, including a letter from a former local resident about the location of the path in that part of the area. They had also provided historical plan, record from the Land Registry and photos.

Information was also obtained for the company managing the site as part of their portfolio.

The Strategic Policy Adviser believed he had received balanced information from the developer and Management Company about the section of path in question. He believed the historical information indicated there had been a public footpath at the location at some point and he had not been able to find any record of any order stopping it from being a public footpath.

He added that Legal advice from the Council's Solicitor was provided in the report and that Appendix B demonstrated there had been a public footpath at Langley Place, which had never been rescinded.

Cllr Castleman addressed the committee on behalf of the Landlord of the Sugar Loaf Pub and as ward councillor. In summary, he believed the officer had not given sufficient information in the report. He said that 80 years ago there may have been a public footpath at the location, but question why the Council could not find a stopping order. He said the developers' information showed there may have been a path there 100 years ago, but residents living knew nothing about such a path.

He alluded the developer had found a stopping order in 1992 from the former Bedfordshire County Council, before Luton split from the County, unrelated to Langley Place, and so, question why they could not find one for Langley Place. He passed photos and papers for consideration by the committee.

He said no reference was made in the report to the right of the owner of the Sugar Loaf Pub. He made the point that pubs were few and far between, with 7 in the area having closed down. He said the Sugarloaf was an important community venue and would be in danger of closing if the proposal went ahead. He requested the committee not to endorse the officer's recommendation.

There being no questions, Cllr Castleman left the room and took no further part in this item.

Mr Barry Morris, the developers' representative was given the opportunity to address the committee. He said they had been the owner and occupier of the Industrial Estate for the last 25 years and were converting offices into 12 residential units and access for residents would be required by the public footpath by Langley Place. He added that in law he understood that once a highway always a highway. He said he had approached the landlord of the pub to remove a barrier preventing access to the path to allow installation of a gate for residents to use and was refused. As the footpath was not on the definitive map, he had taken actions to get it included and provided the historical planning records and a letter from the resident who lived there 70 years ago and knew Langley Place and asked the council to start the legal process.

There being no questions for Mr Morris, Mr Gerald Duggan, the landlord of the Sugar Loaf Pub was given the opportunity to address the committee. He distributed photos of the locations to members. In summary, he said he had been at the pub since 1984/85 and had drunk there in the 1970s and that nothing had changed at the location since then. He denied putting up the fencing, which was already in situ. He conceded he had tidied up and used part of the area near the pub as a storage place. He said he had also tidied up the rough piece of ground belonging to the council, and used it as a pub garden for smokers up to 11.00 pm. After 11.00 pm smokers used the front of the pub to ensure neighbours were not disturbed by noise. He added the surface of the path in question had a hole in it, was dangerous and would be a safety issue if used by residents.

He said since he had been there in 1985 and drunk there in 70s, there had never been a public footpath there and he had never been asked to remove the fence by the developers. He said the footpath was not maintained and would be too dangerous to be used by residents. He conceded the area was under his controlled but not owned by him and claimed it would cause 'havoc' with people if they could not use it.

He believed the path should have been stopped when the Industrial estate was built, which was probably a mistake why it was not.

From questions, Mr Duggan said no planning permission was involved in the provision of the smoking shelter in the garden.

From questions and comments, the Strategic Policy Adviser provided further information as summarised in the below paragraphs.

A definitive map existed, with excluded areas, except Bramingham in the north and Wigmore in the east. The excluded areas needed to be mapped by 2026, which would involve a lot of work.

To a comment that the work on mapping the path would be a small segment in one area to complete, he said the issue came about after an approach by the developers and would need to be dealt with under the excluded area, with the developers providing evidence.

It was commented that the work would need to be done at some point and that a site visit by members of the committee would be needed.

On a question on access to the residential units, the Strategic Policy Adviser said there would be access by residents through the Industrial Estate.

The Vice-Chair commented further information about custom and practice in the town centre on similar issues was needed, as well as a visit to the site. As there was a lot more information needed, she was against the officer's recommendation at this stage.

Another member agreed and added the committee should also hear legal advice from the Council's planning Solicitor. He clarified from Mr Duggan, that he as landlord had not erected a fence.

The Chair concurred there was not enough information before the committee and moved that the committee's decision on this item be deferred pending provision of further information, legal advice, including case law and custom and practice and a site visit, which was agreed.

Resolved: That having considered the report (Ref 11) and the representations made by Cllr Castleman, Barry Morris, for the Developer and owner of the Telmere Industrial Estate and Gerald Duggan, the Landlord of the Sugar Load Pub. The Committee decided there was insufficient information on which to make a decision and deferred the item for consideration to the next meeting of the committee on 29 January 2019, pending provision of further information, legal advice, including case law and custom and practice and a site visit.