

Regulatory Committee

Meeting to be held on 15 March 2017

Electoral Division affected: Chorley West
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Highways Act 1980 – Section 119

Wildlife and Countryside Act 1981 – Section 53A

Proposed Diversion of Part of Coppull Bridleway 22, Chorley Borough (Annexes B & C refer)

Contact for further information:

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Executive Summary

The proposed diversion of part of Coppull Bridleway 22, Chorley Borough.

Recommendation

1. That an Order be made under Section 119 of the Highways Act 1980 to divert part of Coppull Bridleway 22, from the route shown by a bold continuous line and marked A-B to the route shown by a bold dashed line and marked A-C-B on the attached plan.
2. That in the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State and the Authority take a neutral stance with respect to its confirmation.
3. That provision be included in the Order such that it is also made under Section 53A of the Wildlife and Countryside Act 1981, to amend the Definitive Map and Statement of Public Rights of Way in consequence of the coming into operation of the diversion.

Background

A request has been received from Miller Homes North West for an Order to be made under Section 119 of the Highways Act 1980 to divert part of Coppull Bridleway 22 in the vicinity of the Coppull Enterprise Centre, Mill Lane, Coppull, PR7 5BW.

The length of the existing bridleway proposed to be diverted is shown by a bold continuous line and marked on the plan as A-B and the proposed alternative route is shown by a bold dashed line and marked A-C-B.

The proposed diversion is in connection with a planned development of residential properties on disused land to the west and north of the Coppull Enterprise Centre. The existing route crosses the main access to the development site, the private road that

is a continuation of Mill Lane. The diversion if successful, will move the bridleway to a more direct, safer crossing point with improved visibility. The diversion will also enable the developer to obtain the permission of the owner and the occupier of the land to cross the bridleway on the private road between points A-C, to access their development site with vehicles during the construction phase.

Consultations

Chorley Borough Council and Coppull Parish Council have been consulted and have not raised any objection to the proposal.

The British Horse Society, Peak and Northern Footpaths Society and the Chorley Ramblers have also been consulted and have not objected to the proposal.

The necessary consultation with the Network Rail and the statutory undertakers has been carried out and no adverse comments or objections to the proposal have been received.

Electricity North West Limited (ENWL) have advised that they have a Deed of Grant relating to cables in the area of the proposed bridleway.

Advice

Points annotated on the plan

Point	Grid Reference	Description
A	SD 5639 1463	Point on the bridleway between the pond and the bitmac surfaced private estate road.
B	SD 5639 1468	Point on the stone surfaced bridleway between the rear of the Red Herring pub and the railway.
C	SD 5640 1463	Point on the grass surface verge between the private bitmac surfaced private estate road and the railway.

Description of existing bridleway to be diverted

As described below and shown by a bold continuous line A-B on the attached plan (All lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH	WIDTH
A	B	North	50 metres	The entire width

Description of new bridleway

A bridleway as described below and shown by a bold dashed line A-C-B on the attached plan (All lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A	C	East	15	3	Bitmac surfaced path.
C	B	North	50	3	Grass surfaced path
Total distance of new bridleway			65		

The proposed alternative route will not be subject to any limitations or conditions.

Variation to the particulars of the path recorded on the Definitive Statement

If this application is approved by the Regulatory Committee, the Head of Service Planning and Environment suggests that Order should also specify that the Definitive Statement for Coppull Bridleway 22 to be amended to read as follows:

The 'Position' column to read: "From north end of Mill Lane to SD 5639 1463, running east for 15 metres on a bitmac surface to SD 5640 1463 then north for 50 metres on a grass surface to SD 5639 1468 then past Coppull Ring Mill to junction footpaths 21 and 23. (All lengths and compass directions are approximate)."

The 'length' column be amended to read: "0.36 km"

The 'Other Particulars' column be amended to read "There are no limitations between SD 5639 1463 and SD 5639 1468 and the width between those points is 3 metres."

Officers' assessment of the proposal against the legislative criteria for making and confirming an Order.

The proposed diversion is felt to be expedient in the interests of the owner of the land in that, if the proposal is successful, it will place the bridleway onto his land, enabling the developer to gain agreement to drive over the bridleway.

The current alignment of the bridleway crosses land that is unregistered and the ownership is unknown. Therefore the developer can't contact the owner to seek permission to use that part of the private road which crosses the bridleway. However, the owner and lessee of the proposed alignment A-C is known and is supportive of the housing development because it would regenerate the site and potentially lead to an increase in business for the lessee. They are therefore, willing to provide permission for vehicles to cross their land and thereby give permission to cross the bridleway with vehicles.

The proposed diversion will not alter the points of termination of Coppull Bridleway 22, and therefore the criteria concerning the alteration of termination points do not need to be considered.

The Committee are advised that so much of the Order as extinguishes part of Coppull Bridleway 22, is not to come into force until the County Council has certified that the necessary work to the alternative route has been carried out.

There is no apparatus belonging to or used by statutory undertakers under, in, upon, over, along or across the land crossed by the present definitive route, with the exception of ENWL who have advised that they have a Deed of Grant relating to cables in the area of the proposed bridleway. This information has been passed onto the applicant who has confirmed that they would take the easement into consideration and this would remain intact and unaffected by the bridleway diversion.

It is advised that the proposed Order, if confirmed, will not have any adverse effect on the needs of agriculture and forestry and desirability of conserving flora, fauna and geological and physiographical features. It is also suggested that the proposal will not have an adverse effect on the biodiversity or natural beauty of the area.

Part of the land crossed by the proposed alternative route is in the ownership of Helix Property Limited and Bizspace Limited is the leaseholder. They have both confirmed their agreement to the proposed diversion. Part of the land is unregistered and no owner is known, therefore notices will be posted on site and advertisements will be placed in the newspaper to publish the making and if appropriate, the confirmation of the Order to enable any unknown owners or occupiers to submit representations to the Order.

The applicant has agreed to bear all advertising and administrative charges incurred by the County Council in the Order making procedures, and also to defray any compensation payable and any costs which are incurred in bringing the new site of the bridleway into a fit condition for use for the public.

Should the Committee agree that the proposed Order be made and, subsequently, should no objections be received to the making of the Order, or should the Order be submitted to the Secretary of State for Environment, Food and Rural Affairs for confirmation, it is considered that the criteria for confirming the Order can be satisfied.

It is felt that the path or way will not be substantially less convenient to the public in consequence of the diversion because the alternative route is of similar length and the same gradient as the existing path. In addition, it would move the point where the bridleway crosses the private estate road to a point where the visibility is improved.

It will also divert the bridleway away from the, at times busy junction of the bitmac surfaced and stone surfaced estate roads.

It is felt that, if the Order was to be confirmed, there would be no adverse effect with respect to the public enjoyment of the path or ways as a whole. It is suggested that some users might prefer the new route, because of the improvement in visibility and the potential to reduce conflict between the users of the bridleway and the vehicles at the sometimes busy junction of the bitmac surfaced and stone surfaced estate roads.

It is felt that there would be no adverse effect on the land served by the existing route or the land over which the new path is to be created, together with any land held with it. The owner and lessee that are known have confirmed their agreement to the diversion. Compensation for any material loss could be claimed by a landowner under the Highways Act 1980 Section 28. However such loss is not expected but if a claim were to arise, the compensation is underwritten by the applicant, Miller Homes North West.

It is advised that the needs of the disabled have been actively considered and as such, the proposal is compatible with the duty of the County Council under The Equality Act 2010. The alternative route will be of an adequate width and there is no intention to install stiles or gates on the alternative route.

Further, it is also advised that the effect of the Order is compatible with the material provisions of the County Council's 'Rights of Way Improvement Plan'. In this instance BS5709:2006 has been applied to the alternative route and the least restrictive option of gaps, rather than gates has been selected, reducing the limiting effect of structures.

It is considered that having regard to the above and all other relevant matters, it would be expedient generally to confirm the Order.

Stance on Submitting the Order for Confirmation (Annex C refers)

It is recommended that the County Council should not necessarily promote every Order submitted to the Secretary of State at public expense where there is little or no public benefit and therefore it is suggested that in this instance the promotion of this diversion to confirmation in the event of objections, which unlike the making of the Order is not rechargeable to the applicant, is not undertaken by the County Council. In the event of the Order being submitted to the Secretary of State the applicant can support or promote the confirmation of the Order, including participation at public inquiry or hearing. It is suggested that the Authority take a neutral stance.

Risk Management

Consideration has been given to the risk management implications associated with this proposal. The Committee is advised that, provided the decision is taken in accordance with the advice and guidance contained in Annexes B & C (item 5) included in the Agenda papers, and is based upon relevant information contained in the report, there are no significant risks associated with the decision-making process.

Alternative options to be considered

To not agree that the Order be made.

To agree the Order be made but not yet be satisfied regarding the criteria for confirmation and request a further report at a later date.

To agree that the Order be made and promoted to confirmation by the County Council.

To agree that the Order be made and if objections prevent confirmation of the Order by the County Council that the Order be submitted to the Secretary of State to allow the applicant to promote confirmation, according to the recommendation.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel Planning and Environment Group
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File Ref: PRW-09-10-22

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Reason for inclusion in Part II, if appropriate

N/A