

Regulatory Committee

Meeting to be held on 4 February 2015

Electoral Division affected: Ribble Valley North East
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Highways Act 1980 – Section 119

Wildlife and Countryside Act 1981 – Section 53A

Proposed Diversion of Part of Public Footpath No. 44, Grindleton and Public Footpath No. 5 Sawley, Ribble Valley Borough.

(Annexes 'B' and 'C' refer)

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Executive Summary

The proposed diversion of parts of Public Footpath No. 44 Grindleton and Public Footpath No. 5 Sawley, Ribble Valley Borough.

Recommendation

1. That an Order be made under Section 119 of the Highways Act 1980 to divert parts of Public Footpath No. 44 Grindleton and Public Footpath No. 5 Sawley from the route shown by a bold solid line and marked A – B – C – D and B – G and C – E and L – J on the attached plan to the route shown by a bold broken line and marked A – H – G – F – E – D and L – K – J 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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State and the Authority take a neutral stance with respect to its confirmation.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 Joanne McTiffin, Acrelands Farm, Sawley Road, Grindleton, Clitheroe, BB7 4QS for an Order to be made under Section 119 of the Highways Act 1980 to divert parts of Public Footpath No. 44 Grindleton and Public Footpath No. 5 Sawley in the vicinity of Acrelands Farm, Grindleton.

Following a local authority search it has been brought to the attention of the applicant and Lancashire County Council that the legally recorded line of the public footpath is not presently available for use. An application has been made by the landowner to

divert the public footpath onto the route that is for the most part currently being used by the public.

Consultations

The necessary consultation with the Statutory Undertakers has been carried out and at the time of writing, no objections or adverse comments to the proposal have been received.

Ribble Valley Borough Council and Sawley and Grindleton Parish Councils have been consulted. Sawley Parish Council have confirmed that they do not have any objection to the proposed diversion but noted that there is an issue with a septic tank near the route which the owners should be obliged to rectify before the proposed diversion is finalised.

No response has been received from Ribble Valley Borough Council and it is assumed they have no comments to make.

A response from the Manor of Slaidburn has been received who hold the mines and minerals interests under LAN8168 and they have no objection to the proposed diversion.

The Ramblers have confirmed that they are content with the proposal and the Peak and Northern Footpath Society have confirmed they have no objection to the proposal.

Advice

Description of existing footpath to be diverted

That part of Public Footpath No. 44 Grindleton and Public Footpath No. 5 Sawley as described below and shown by a bold continuous line A – B – C – D and B – G and C – E and L – J on the attached plan (All lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)
A (SD 7698 4663)	B (SD 7704 4676)	NNE	150
B (SD 7704 4676)	C (SD 7707 4679)	NE	35
C (SD 7707 4679)	D (SD 7708 4679)	ENE	10
C (SD 7707 4679)	E (SD 7710 4675)	SE	45
B (SD 7704 4676)	G (SD 7707 4673)	SE	40
L (SD 7694 4661)	J (SD 7695 4661)	ENE	15
Total length			295

Description of new footpath

A footpath as described below and shown by a bold dashed line A – H – G – F – E – D and L – K – J on the attached plan (All lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A (SD 7698 4663)	H (SD 7703 4671)	generally NNE	100	3	Tarmac surfaced path
H (SD 7703 4671)	G (SD 7707 4673)	ENE	45	2	Field path
G (SD 7707 4673)	F (SD 7709 4674)	ENE	25	2	Field path and footbridge
F (SD 7709 4674)	E (SD 7710 4675)	NE	15	2	Field path
E (SD 7710 4675)	D (SD 7708 4679)	NNW	45	2	Field path
L (SD 7694 4661)	K (SD 7695 4660)	ESE	10	2	Field path
K (SD 7695 4660)	J (SD 7695 4661)	NNE	10	2	Field path
Total length			250		

The proposed alternative route will be subject to a limitation of a kissing gate (to be complaint with BS5709:2006) at point K.

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

If this application is approved by the Regulatory Committee, the Executive Director for the Environment suggests that Order should also specify that the Definitive Statement for Public Footpath No. 44 Grindleton to be amended as follows:

The 'Description of Route' column to read:-

"Footpath commencing at the Sawley Parish Boundary at Green End and proceeding in a north westerly direction to grid reference SD 7707 4673 then:

FROM	TO	COMPASS DIRECTION (approx.)	LENGTH (metres) (approx.)	WIDTH	OTHER INFORMATION
Path junction 50m S of Acreland SD 7707 4673	Sawley Parish boundary at footbridge SD 7709 4674	ENE	25	2 m	Field path and footbridge
Path junction SD 7707 4673	Where path meets driveway SD 7703 4671	WSW	45	2 m	Field path
Where path meets driveway SD 7703 4671	Point on tarmac driveway SD 7698 4663	SSW	100	3 m	Tarmac surfaced path
Point on tarmac driveway SD 7698 4663	Point on tarmac driveway SD 7695 4661	SW	Not defined	3 ft	Not altered by PPO
Where path meets driveway SD 7695 4661	Kissing gate SD 7695 4660	SSW	10	2 m	Field path
Kissing gate SD 7695 4660	Where path meets driveway SD 7694 4661	WNW	10	2 m	Field path

thence south westward to its junction with Path No. 43 "

The length column to read: "0.44 km"

The width column to read: "3 ft except where specified otherwise in the description of route"

The 'General' column to read

"No. 2 Wicket Gates

No 2 Field Gates

No. 1 Kissing gate to meet BS5709:2006 at SD 7695 4660"

If this application is approved by the Regulatory Committee, the Executive Director for the Environment suggests that Order should also specify that the Definitive Statement for Public Footpath No. 5 Sawley to be amended as follows:

The 'Description of Route' column to read:-

"Footpath commencing at the Grindleton Parish Boundary west of Moses Clough and proceeding in a south easterly direction to SD 7708 4679 then

FROM	TO	COMPASS DIRECTION (approx.)	LENGTH (metres) (approx.)	WIDTH (metres)	OTHER INFORMATION
Corner of hedge E of Acreland SD 7708 4679	Point in field SE of Acreland SD 7710 4675	SSE	45	2	Field path
Point in field SE of Acreland SD 7710 4675	Grindleton Parish Boundary at Footbridge SD 7709 4674	SW	15	2	Field path

and also from SD 7710 4675 (point in field SE of Acreland) proceeding in a south easterly direction to the Grindleton Parish Boundary at Green End."

The length column to read: "0.95 km"

The width column to read: "3 ft except where indicated in Description of Route"

Criteria satisfied to make and confirm the Order

The proposed diversion is felt to be expedient in the interests of the owners of the land as would remove the public footpath from the affected dwelling and gardens and provide an improvement in privacy and security for the residents of Acreland.

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, or they have given their consent.

The Committee are advised that so much of the Order as extinguishes part of Public Footpath No. 44 Grindleton and Public Footpath No. 5 Sawley, is not to come into force until the County Council has certified that the necessary work to the alternative route has been carried out.

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.

A majority of the land crossed by the footpath proposed to be diverted and of the land crossed by the proposed alternative route is in the ownership of the applicant. A short section of the section proposed to be diverted (C–D) and the proposed alternative route (F–E) is in the ownership of Mrs Joan Porter, Lawson House, Sawley who has raised no objection to the proposal.

The applicants have agreed to defray any compensation payable and to bear all advertising and administrative charges incurred by the County Council in the Order making procedures, and also to provide an alternative route to the satisfaction of the County Council, including the costs of the design and installation (by Lancashire County Council) of a footbridge at point F and the payment of a commuted sum for future maintenance.

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 overall of similar gradient to the existing route.

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 many users might find a walk on the new route to be more enjoyable, because the existing footpath runs through the curtilage of residential properties and as such some users of the path would feel more comfortable and at ease. The proposal will divert the footpath away from the property avoiding the need to pass immediately next to the dwelling and through the gardens.

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.

It is also 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, as a highway authority, under The Equality Act 2010 – formerly the Disability Discrimination Act 1995 (DDA) in providing a route that has the minimum number of structures and which are easy to use (kissing gate and footbridge) and the route is of adequate width with a firm tarmac surface for part of its length and firm natural surface elsewhere.

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 particular it is compatible with the themes Community to Countryside Links (CCL) and Reduced Mobility and Visually Impaired (RMVI).

It is suggested 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 (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 Annex 'B' (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
File Ref: 211/657	various	Megan Brindle County Secretary and Solicitors Group 01772 535604
File Ref: PRW-03-21-44		Mr Stephen Williams Environment Directorate, 01772 533886

Reason for inclusion in Part II, if appropriate

N/A