

Regulatory Committee

Meeting to be held on 19 September 2018

Electoral Division affected: Lancaster Rural North

Highways Act 1980 – Section 119

Wildlife and Countryside Act 1981 – Section 53A (2)

Proposed Diversion of part of Carnforth Footpaths 2, 3 and 4, Lancaster

(Annexes 'B' and 'C' refer)

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Executive Summary

The proposed diversion of part of Carnforth Footpaths 2, 3 and 4, Lancaster.

Recommendation

- (i) That subject to no unsatisfactory responses to the consultations, an Order be made under Section 119 of the Highways Act 1980 to divert part of Carnforth Footpaths 2, 3 and 4, from the routes shown by bold continuous lines and marked A-B-C and B-F-G to the routes shown by bold broken lines and marked A-D-E and C-H-F-J-G on the attached map.
- (ii) 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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State and the county council promotes the order to confirmation.
- (iii) 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

The county council has been in discussion with the owners of Galley Hall Farm, Shore Road, Carnforth, LA5 9HZ and the owner of farmland to the south of Galley Hall Farm, for an Order to be made under Section 119 of the Highways Act 1980, to divert part of Carnforth Footpaths 2, 3 and 4, Lancaster.

The diversion proposal has been identified as a priority in connection with the delivery of the England Coast Path. The preferred official route of the England Coast Path is to be on public rights of way that pass close to the shore. However, at certain high tides that route will not be passable because it is subject to occasional tidal flooding.

The network of footpaths at Galley Hall Farm will be promoted as the alternative route to be taken at times when the nearby section of the England Coast Path is flooded. However, over the years problems have arisen with these footpaths and the county council as the local highway authority needs to take action to ensure that the issues are resolved and it is considered to be a priority to do so, in order that they can be promoted as an alternative route for the England Coast Path.

Carnforth Footpaths 2, 3 and 4 cross a field that is low lying and waterlogged. Carnforth Footpath 3 passes through a particularly wet part of that field, marked 'pond' on the Ordnance Survey base map and parts of Carnforth Footpath 2 are often waterlogged and difficult to negotiate. In addition, the footpath currently runs in front of some newly converted dwellings at Galley Hall Farm and part of the footpath is currently obstructed by a wall, with an unofficial diversion in place.

The proposed diversion, if successful, would move the footpaths on to a better drained, drier part of the field and away from the front doors and windows of the newly converted residential properties, providing routes that are safe and convenient for public use in all weathers and which less experienced walkers, such as may be drawn to the 'England Coast Path', feel comfortable with whilst also providing the residents with an improvement in privacy and security.

The lengths of existing path to be diverted is shown by bold continuous lines and marked on the attached map as A-B-C and B-F-G and the proposed alternative routes are shown by bold broken lines and marked A-D-E and C-H-F-J-G.

Consultations

Lancaster City Council and Carnforth Town Council, have been consulted and at the time of writing, their responses are awaited.

The Peak and Northern Footpaths Society and the Ramblers have confirmed that they have no objection to the diversion proposal. The Peak and Northern Footpaths Society have said that they agree that the suggested route will be a great improvement on the present route and the Ramblers have said that the proposed alternative is a much better route and that they would support the diversion proposal.

The consultation with the statutory undertakers has been carried out and at the time of writing, no objections or adverse comments on the proposal have been received.

Advice

(All lengths and compass points given are approximate).

Points annotating the routes on the attached map

Point	Grid Reference	Description
A	SD 4890 7091	Point immediately north east of field boundary.
B	SD 4894 7099	Unmarked point in field at junction of Carnforth Footpaths 2, 3 and 4.
C	SD 4897 7104	Point on Carnforth Footpath 4 immediately west of field boundary.
D	SD 4895 7096	Hedge and fence at field boundary.
E	SD 4898 7104	Point on Carnforth Footpath 4 immediately east of field boundary.
F	SD 4893 7113	Unmarked point in field south of Galley Hall Farm
G	SD 4895 7118	Point in yard at Galley Hall Farm adjacent to track between the barn and the newly converted residential dwelling.
H	SD 4893 7111	Point approximately 2 metres west of northern corner of the field.
J	SD 4894 7118	Point at the western end of the track between the barn and the newly converted residential dwelling.

Description of existing footpaths to be diverted

Part of Carnforth Footpaths 2, 3 and 4, Lancaster as described below and shown by bold continuous lines marked A-B-C and B-F-G on the attached map.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A	B	Generally NNE	90	The entire width
B	C	NNE	60	The entire width
B	F	Generally N	150	The entire width
F	G	Generally NNE	50	The entire width

Total length of footpaths to be diverted:	350
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Part of the route of Carnforth Footpath 3 at point F is not to be extinguished, being a section of approximately four square metres. It is advised that this small section is needed as part of the alternative route.

Description of new footpaths

Footpaths as described below and shown by bold broken lines A-D-E and C-H-F-J-G on the attached map.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	SURFACE
A	D	Generally NE	70	2	Grass
D	E	NNE	85	2	Grass
C	H	Generally NNW	95	2	Grass and boardwalk
H	F	N	25	2	Cleared path through arable crop
F	J	N	45	2	Cleared path through arable crop
J	G	ENE	10	2	Concrete
Total length of new footpaths:			330		

It is proposed that the footpaths to be created by the diversion order will be subject to the following limitations and conditions:

<u>Limitations and Conditions</u>	<u>Position</u>
The right of the landowner to maintain a gate that conforms to BS 5709:2018	Grid Reference SD 4894 7118
The right of the landowner to maintain a gate that conforms to BS 5709:2018	Grid Reference SD 4893 7111 (Point H)
The right of the landowner to maintain a gate that conforms to BS 5709:2018	Grid Reference SD 4895 7096 (Point D)

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 Carnforth Footpaths 2, 3 and 4, Lancaster be amended as follows:

It is proposed that the Statement for Carnforth Footpath 2 be amended to read as follows:

The 'Position' column to read: "Starts in Crag Bank Road north of Marsh Cottages at squeezer stile, then alongside wall through first field (pasture) and second field (ploughed) to SD 4890 7091. The footpath then runs generally north east for 70 metres to SD 4895 7096, then north north east for 85 metres to a junction with Footpaths 3 & 4 at SD 4898 7104. (All lengths and compass points given are approximate)."

The 'length' column be amended to read: "0.46 km"

The 'Other Particulars' column be amended to read "The width between SD 4890 7091 and SD 4898 7104 is 2 metres and the only limitation between those points is the right of the owner of the soil to erect and maintain a gate that conforms to BS 5709:2018 at SD 4895 7096"

It is proposed that the Statement for Carnforth Footpath 3 be amended to read as follows:

The 'Position' column to read: "Starts at SD 4898 7104 at a junction with Footpaths 2 & 4 then runs over a stile and generally north north west for 100 metres to SD 4893 7111, then north for 70 meters to SD 4894 7118 then east north east for 10 metres to SD 4895 7118 at Galley Hall Farm and along metalled road to junction with 6 F.P. (All lengths and compass points given are approximate)."

The 'length' column be amended to read: "0.29 km"

The 'Other Particulars' column be amended to read "The width between SD 4897 7104 and SD 4895 7118 is 2 metres and the only limitations between those points is the right of the owner of the soil to erect and maintain a gate that conforms to BS 5709:2018 at SD 4893 7118 and SD 4894 7118"

It is proposed that the Statement for Carnforth Footpath 4 be amended to read as follows:

The 'Position' column to read: "Starts at a junction with Footpaths 2 & 3 at SD 4898 7104, then along fence in an easterly direction to a stile then between fences along green lane past Hagg House and exit to Hagg Road."

The 'length' column be amended to read: "0.62 km".

No amendment to the 'Other Particulars' column.

Criteria satisfied to make and confirm the Order

The proposed diversion is felt to be expedient in the interests of the public. It will remove the footpaths from a particularly wet part of the field crossed by Carnforth Footpaths 2, 3 and 4, avoiding the need for drainage or substantial earthworks to

enable to the existing footpaths to be reinstated. It will also provide a less intrusive route past the dwellings at Galley Hall which some walkers may prefer.

Some of the buildings at Galley Hall Farm are being converted from agricultural buildings to private residential dwellings and as part of these works there has been a change to the boundary wall crossed by Carnforth Footpath 3, to the south of point G. The ground level of the field south of the buildings at Galley Hall Farm is a couple of metres above the ground level of the farmyard. It is understood that there used to be a set of steps to provide access from the farmyard up to the field but they fell into disrepair and were removed some years ago. The boundary wall has recently been rebuilt, without steps and the landowners provided an unofficial diversion between points G-J-F, passing between the buildings, through a gate and up a slope to access the cross field footpath. This gentler gradient, not requiring steps, is an easier route to walk.

Currently, parts of the Carnforth Footpath 3 are impassable or difficult to negotiate. The boundary wall obstructs the footpath south of point G and the field marked on the map as 'pond' is at times impassable, due to the wet conditions underfoot and the reeds, long grasses and brambles. Under normal circumstances, the landowner would be required to ensure that the existing definitive routes are available for use before a Diversion Order is considered. This enables the proposed alternative routes to be easily evaluated in comparison with the existing routes although it is advised that temporary obstructions are ignored.

However, in some instances, the restoration of the route is considered to be impracticable, disproportionate or not in the interests of the user and that the existing route can be inspected notwithstanding the obstruction. This is the case with this particular footpath and access is currently available on the proposed alternative route from where the existing footpath can be viewed.

The legislation requires that if the termination point of a footpath is proposed to be altered, then the Authority may only make a Diversion Order if the new termination point is on the same path or a path connected to it and is substantially as convenient to the public.

The proposed diversion will alter the termination points of Carnforth Footpaths 2, 3 & 4 and place them at another point on the existing line of Carnforth Footpath 4. It is advised that all changes to termination points are onto the same highway or a highway connected to it and they are substantially as convenient to the public.

The Committee are advised that so much of the Order as extinguishes part of Carnforth Footpaths 2, 3 and 4, 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, of which we are aware at the time of writing.

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.

The owner of Galley Hall Farm jointly owns the land crossed by part of Carnforth Footpath 3 and part of the proposed alternative route. The owner of the land crossed by the remainder of Carnforth Footpath 3 and Carnforth Footpaths 2 and 4, and the remainder of the proposed alternative routes has confirmed that they are in agreement with the proposal and would not raise any objection in the event that a Diversion Order is made.

The owners of Galley Hall Farm have agreed to bear all advertising charges incurred by the county council in the Order making procedures.

The proposed diversion has been prompted by the implementation of the England Coast Path and the proposed alternative routes have been selected in order to divert the footpaths on to better drained, drier land and as such will provide a substantial improvement to the network of public rights of way in this area and will be more suitable for the potential increase in walkers using these footpaths, resulting from the promotion of the England Coast Path.

It is therefore proposed that the administration charge to be waived and the costs which are incurred in bringing the new site of the footpaths into a fit condition for use for the public will be borne by Natural England, who are working on the implementation of the England Coast Path.

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 routes are of similar length and improved gradients to the existing footpaths.

One of the fields crossed by the existing footpaths is low lying, waterlogged and currently very overgrown. Carnforth Footpath 3 passes through a particularly wet part of that field, marked 'pond' on the Ordnance Survey base map and there is currently a footbridge to be crossed between points A-B. It is proposed to divert the footpath onto a better drained, drier part of the field and it is proposed to install a length of boardwalk to provide safe and convenient access on part of the section H-C. The route will follow the contour of the land from the proposed boardwalk to point C. The field crossed by the alternative route A-D-E is firm, dry, lightly grazed by sheep and would be suitable for use as a footpath at all times of the year.

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. Compensation for any material loss could be claimed by a landowner or someone with rights to the land under the provisions of the Highways Act 1980 Section 28. In this instance, as there is no external applicant for the diversion proposal, there is no agreement for the applicant to defray any compensation payable. However such loss

is not expected as all landowners have been identified and provided their written agreement to the diversion proposal.

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 highway authority, under The Equality Act 2010 – formerly the Disability Discrimination Act 1995 (DDA). The alternative route will be of adequate width, with a one way opening pedestrian gate at J, two way opening pedestrian gates at H, C and D and an approximately 30 metre length of boardwalk on the new route, south of H.

Further, it is also advised that the effect of the Order is compatible with the material provisions of the Lancashire 'Rights of Way Improvement Plan'.

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. In this instance the diversion is considered that diversion will be of public benefit as it will provide a substantial improvement to the network of public rights of way at Galley Hall Farm and surrounding farmland. These improved public rights of way will be more accessible and suitable to be promoted as alternative routes at times when the nearby section of the England Coast Path is subject to tidal flooding. In addition, as the proposed diversion has been prompted by the implementation of the England Coast Path there is no external applicant for the diversion proposal. Therefore it is suggested that in this instance the promotion of this diversion to confirmation in the event of objections is undertaken by the county council.

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 if objections prevent confirmation of the Order by the county council that the Order be submitted to the Secretary of State and promoted to confirmation, according to the recommendation.

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

Paper	Date	Contact/Directorate/Tel
File Ref: 211-685		Planning and Environment Group
File Ref: PRW-01-03-02		Mrs R J Paulson, 07917 836628

Reason for inclusion in Part II, if appropriate

N/A