

Regulatory Committee

Meeting to be held on 13 March 2019

Electoral Division affected:
South Ribble Borough Rural
North

Highways Act 1980 – Section 119

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

Proposed Diversion of part of Bridleway Walton-le-Dale 80, South Ribble Borough

(Annexes 'B' and 'C' refer)

Contact for further information:

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Executive Summary

The proposed diversion of part of Bridleway Walton-le-Dale 80, South Ribble Borough.

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 Bridleway Walton-le-Dale 80, from the route shown by a bold continuous line and marked A-B, to the route shown by a bold broken line and marked A-C 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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State and the county council promotes the order to confirmation.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 and tenants of land crossed by part of Bridleway Walton-le-Dale 80 at Walton Hall Farm on land located to the west of the Capitol Centre, Walton-le-Dale, Preston, PR5 4AW, for an Order to

be made under Section 119 of the Highways Act 1980, to divert part of Bridleway Walton-le-Dale 80, South Ribble Borough.

The proposed diversion is part of a wider scheme to carry out improvements to the public rights of way in this area. This section of bridleway forms a link in the network of public rights of way on the southern side of the River Ribble between Walton-le-Dale, Penwortham and Preston City Centre. As such, it is an important route for recreational use and commuting and it is well used, in particular by cyclists and pedestrians. However the surface is in a poor condition and can get very muddy underfoot in wet weather.

It is proposed that the surface of the bridleway will be improved and a new track constructed to segregate users of the bridleway from the agricultural vehicles, improving the safety and enjoyment for the users of the bridleway.

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

Consultations

South Ribble Borough Council, the British Horse Society, the Peak and Northern Footpaths Society and the Ramblers have been consulted and at the time of writing, their responses are awaited.

The British Horse Society have been consulted and have confirmed that they have no objection to the proposal. They did comment that a rubber compound surface would be preferred to the proposed tarmac surface but the benefit from a track segregated from the agricultural vehicles was welcomed and they would not object on the basis of the surface material in this instance.

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

Points annotating the route on the attached map

Point	Grid Reference	Description
A	SD 5480 2824	Unmarked point on the apex of the bend on Bridleway Walton-le-Dale 80 adjacent to the River Ribble.
B	SD 5449 2811	Junction of Bridleways Walton-le-Dale 80 and 82 and Footpaths Walton-le-Dale 77 and 83.
C	SD 5500 2812	Point approximately 5 metres north east of junction of

		Bridleways Walton-le-Dale 80 and 82 and Footpaths Walton-le-Dale 77 and 83.
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n.b. Lengths and compass points given below are approximate.

Description of existing bridleway to be diverted

Part of Bridleway Walton-le-Dale 80, South Ribble Borough as described below and shown by a bold continuous line marked A-B on the attached map.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A	B	Generally SE	235	The entire width

Description of new bridleway

Bridleway as described below and shown by a bold broken line A-C on the attached map.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	SURFACE
A	C	Generally SE	235	3	Tarmac

It is proposed that the bridleway 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 5500 2812 (Point C)

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 Bridleway Walton-le-Dale 80, South Ribble Borough be amended as follows:

The 'Position' column to read: "Between paths 78 and 77 (along River Bank) to SD 5480 2824 then generally south east for approximately 235 metres to a junction with Bridleway Walton-le-Dale 82 at SD 5500 2812)."

No amendment to the 'length' column.

The 'Other Particulars' column be amended to read "The width between SD 5480 2824 and SD 5500 2812 is 3 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 5500 2812"

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 bridleway from a track that has shared use with agricultural vehicles

If the proposal is successful the current alignment of the bridleway would become a private vehicular track and a new 3 metre wide track will be constructed for the bridleway. A tarmac surface is proposed for the bridleway, as that is consistent with the surface of the bridleway either side of the new section and will require minimal maintenance in the future, particularly as the track will not be used by the agricultural vehicles. A fence will be erected between the two tracks and there will be a bridle gate at point C, for use when livestock is being moved on the adjacent farm tracks. The new route will be signed and waymarked to ensure that the public are aware of the change and know which track is the bridleway and which track is private for agricultural use.

The legislation requires that if the termination point of a public right of way 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 point of Bridleway Walton-le-Dale 80 and place it at another point on the same highway or a highway connected to it and being only approximately 5 metres from the existing termination point, it is suggested that it is substantially as convenient to the public.

The short section of Bridleway Walton-le-Dale 82 between points C and B will become a 5m long cul-de-sac bridleway (at point B), as a result of the termination point of Bridleway Walton-le-Dale 80 being moved to point C. That will mean that Bridleway Walton-le-Dale 82 will join Footpaths Walton-le-Dale 77 and 83 at point B, where public rights for just pedestrians are recorded. It is however suggested that there is a need for public rights for equestrians and cyclists to remain on this short section so that they are able to use it as a passing place to reduce potential conflict at busy times.

The Committee are advised that so much of the Order as extinguishes part of Bridleway Walton-le-Dale 80, is not to come into force until the county council has certified that any 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.

A majority of the land crossed by the existing route and land crossed by the alternative route is in the ownership Walton Hall Farm, Walton le Dale, Preston and they have provided their written agreement to the proposed diversion. A small section of the land crossed by the existing route and land crossed by the alternative route, in the vicinity of point A is in the ownership of Lancashire County Council and is tenanted to the owners of Walton Hall Farm. Lancashire County Council's Property Group have been working with the Planning and Environment Group with regards to the proposed diversion and associated works and are in agreement with the proposal.

The proposed diversion is in the public interest, as the proposed alternative route will provide a substantial improvement to the network of public rights of way in this area and it is proposed that the costs which are incurred in bringing the new site of the bridleway into a fit condition for use for the public will be borne it is proposed that the county council and bear all advertising charges incurred in the Order making procedures.

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 the same length as gradient as the existing bridleway.

It is suggested that, if the Order was to be confirmed, there would be no adverse effect with respect to the public enjoyment of the path or way as a whole. It is suggested that the users would find the new bridleway to be more enjoyable because it will be separated from the agricultural vehicles and have a surface that will be suitable for use at all times of the year.

In some locations a tarmac surface is not the preferred option for a bridleway as it can be slippery underfoot for some horses and sometimes compacted stone, or a rubber compound material is provided instead. However, in this instance there is no gradient on the route as the land is flat and this section of bridleway will connect to a network of existing tarmac routes. The bridleway is on the urban fringe and that the current usage is by far, a majority of cyclists and pedestrians therefore it is proposed that tarmac with the best available grip, will be used in this instance.

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 diversion will assist the landowners in managing the land as it will provide them with a track for agricultural vehicles that is segregated from the public right of way. 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 the external landowners and tenants of the land 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 gate at point C that conforms to BS 5709:2018.

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 Walton Hall Farm. The improved public right of way will be more accessible and suitable to be promoted as a recreational route and as an off road commuter link between local communities, retail outlets and employment areas south of the River Ribble. In addition 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 and C (item 4) 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: 211-680		Planning and Environment Group
File Ref: PRW-07-02-80		Mrs R J Paulson, 07917 836628

Reason for inclusion in Part II, if appropriate

N/A