

Regulatory Committee

Meeting to be held on 14 November 2018

Electoral Division affected: Ribble Valley South West
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Highways Act 1980 – Section 119

Wildlife and Countryside Act 1981 – Section 53A

Proposed Diversion of Part of Dinckley Footpath 12, Ribble Valley Borough

(Annexes 'B' and 'C' refer)

Contact for further information:

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Executive Summary

The proposed diversion of part of Dinckley Footpath 12, Ribble Valley Borough.

Recommendation

- (i) That subject to satisfactory responses to the consultations, an Order be made under Section 119 of the Highways Act 1980 to divert part of Dinckley Footpath 12, 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-D on the attached plan.
- (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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State and the Authority take a neutral stance with respect to its confirmation.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

A request has been received from the owners of Wardfall, Ribchester Road, Dinckley, Blackburn BB6 8AH, for an Order to be made under Section 119 of the Highways Act 1980, to divert part of Dinckley Footpath 12, Ribble Valley Borough.

Wardfall is a residential dwelling that includes former agricultural buildings that have now been converted for domestic use. The footpath runs from Ribchester Road, up the driveway of the property and out through a gate that leads to a pasture field that is currently grazed by sheep. The buildings and gardens at Wardfall are located either

side of the footpath and the diversion, if successful, will move the footpath to the eastern boundary of the property, thereby increasing the privacy and security for the residents, whilst providing a route that is safe and convenient for public use.

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

Consultations

Ribble Valley Borough Council and Dinckley Parish Council have been consulted and, at the time of writing, their responses are awaited. The Peak and Northern Footpaths Society and the Ribble Valley branch of the Ramblers Association have been consulted and at the time of writing, their responses are also awaited.

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 routes on the attached plan

Point	Grid Reference	Description
A	SD 6944 3558	Unmarked point in field approximately 60 metres north of property boundary.
B	SD 6944 3542	Junction of Dinckley Footpath 12 and Ribchester Road.
C	SD 6947 3552	North east corner of property boundary.
D	SD 6946 3542	South east corner of property boundary at the junction of the alternative footpath and Ribchester Road.

Description of existing footpath to be diverted

That part of Dinckley Footpath 12 as described below and shown by a bold continuous line marked A-B on the attached plan. (All lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A	B	S	155	The entire width

Description of new footpath

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

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A	C	SSE	65	2	Grass
C	D	S	100	2	Compacted stone
Total length of new footpath:			165		

The public footpath to be created by the proposed Order will be subject to the following limitations and conditions:

<u>Limitations and Conditions</u>	<u>Position</u>
The right of the owner of the soil to erect and maintain a gate that conforms to BS 5709:2018	Grid Reference SD 6947 3552 (point C)
The right of the owner of the soil to erect and maintain a gate that conforms to BS 5709:2018	Grid Reference SD 6946 3542 (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 Dinckley Footpath 12 be amended to read as follows:

The 'Position' column to read:

"From Ribchester Road near Dinckley Bridge at SD 6946 3542, running north for 100 metres as a stone surfaced footpath to SD 6947 3552 then north north west for 65 metres as a cross field footpath to SD 6944 3558. The footpath then runs to Roman Road at Aspinalls. (All lengths and compass points given are approximate)."

The 'length' column be amended to read:

"0.72 km"

The 'Other Particulars' column be amended to read:

"The only limitations on the section between SD 6946 3542 and SD 6944 3558 is the right of the owner of the soil to erect and maintain gates that conform to BS 5709:2018 at SD 6946 3542 and SD 6947 3552. The width between SD 6946 3542 and SD 6944 3558 is 2 metres."

Criteria satisfied to make and confirm the Order

The proposed diversion is expedient in the interests of the owners of the land for reasons of privacy and security. Wardfall is a residential dwelling that includes former agricultural buildings that have now been converted for domestic use. The public footpath runs on the driveway and the buildings and gardens are located either side of the footpath. The diversion, if successful will move the footpath to the eastern boundary of the property, thereby increasing the privacy and security for the residents, whilst providing a route that is safe and convenient for public use.

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 southern point of termination of Dinckley Footpath 12 and place it at another point on Ribchester Road being the same highway. It is noted that the diversion would move the footpath approximately 20 metres away from the footpath on the other side of the road, Dinckley Footpath 5. In some instances, that could be considered to be less convenient. However, in this case, it is a straight section of a quiet country road where visibility is good. Furthermore, there is good visibility of the traffic coming in both directions from the proposed point of access from the footpath onto the road. It is suggested therefore, that the proposed termination point is substantially as convenient to the public.

The Committee are advised that so much of the Order as extinguishes part of Dinckley Footpath 12, 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 applicants own the land crossed by a majority of the existing route and that part of the alternative route marked C-D. The owners of the remainder of the existing route, located in the field and the proposed route A-C have confirmed that they are in agreement with the proposal and that they would not raise any objection if a Diversion Order is made.

The applicants have 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 footpath 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 overall gradient to the exiting footpath.

The current route runs on a gradual incline from Point B, up the driveway towards the property boundary. The ground between C-D has a similar gradient but is currently rough grass and uneven underfoot. If the diversion is successful the applicants will regrade the slope to provide a gradual incline and provide a compacted stone surface path between points C-D.

It is acknowledged that when walking north to south, on Dinckley Footpaths 12 and 5, the proposed route is less direct and would increase the walk by approximately 30 metres. However on a rural footpath such as this, the footpath will generally be used as part of a much longer walk, likely to be in excess of 2.5km. It appears that the sole use of this footpath is for recreational purposes, rather than communicating between specific locations therefore in this instance the increase in length is likely to be considered to be insignificant given the rural location and overall length of the walk that would be required to reach this footpath.

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 footpath or way as a whole. It is suggested that many users might find a walk on the new route to be more enjoyable, because the new footpath will be fenced from the private garden and the residential dwelling and as such, some users of the footpath may feel more comfortable and at ease when passing through the property.

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. However, such loss is not expected and if a claim were to arise, the compensation is underwritten by the applicants.

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). The alternative route will be of adequate width, firm and well drained underfoot and the gates proposed to be installed on the route will conform to the British Standard for gaps, gates and stiles BS5709:2018.

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'.

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 an Order is not rechargeable to the applicant, is not undertaken by the county council. In the event of an Order being submitted to the Secretary of State the applicant can support or promote it to confirmation, including participation at public inquiry or hearing. It is suggested that the authority takes 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
File Ref: 211-690		Planning and Environment Group
File Ref: PRW-03-15-12		Mrs R J Paulson, 07917 836628

Reason for inclusion in Part II, if appropriate

N/A

