

Regulatory Committee

Meeting to be held on 16 September 2020

Part I

Electoral Division affected:
Chorley Rural East

Highways Act 1980 – Section 119
Wildlife and Countryside Act 1981 – Section 53A
Proposed Diversion of Part of Footpath Heapey 27 at Black Lion Farm,
Wheelton, Chorley Borough
(Annexes 'B' and 'C' refer)

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Executive Summary

The proposed diversion of part of Footpath Heapey 27, Chorley Borough.

Recommendation

- (i) That subject to no significantly adverse responses to the consultations, an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath Heapey 27, from the route shown by a bold continuous line and marked A-B-C to the route shown by a bold broken line and marked A-D-E-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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its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

The owners of Black Lion Farm, Blackburn Road Wheelton, have applied to Lancashire County Council for an Order to be made under Section 119 of the Highways Act 1980, to divert part of Footpath Heapey 27, Chorley Borough.

Black Lion Farm is a working farm that comprises of a residential dwelling, agricultural buildings and farmland. The footpath runs from Blackburn Road, along the farm access track, across the open farmyard and then into a small field, continuing to the former quarry site at Higher Copthurst.

If the diversion is successful, it would remove the footpath that crosses the open farmyard and the small field that is used for grazing and sorting livestock assisting the applicants with their farm operations. It will also improve the privacy and security at the farm, removing the footpath from the open farmyard that includes outbuildings, building materials storage, farm equipment and the parking area for vehicles.

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

Consultations

Chorley Borough Council and Heapey and Wheelton Parish Councils have been consulted and at the time of writing, their responses are awaited. The Peak and Northern Footpaths Society and the Chorley branch of the Ramblers 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 map

Point	Grid Reference	Description
A	SD 5981 2103	South east corner of former quarry site.
B	SD 5981 2106	Point on the east side of the former quarry site, immediately west of the kissing gate.
C	SD 5989 2105	Point on the farm track, to the north of the northern corner boundary of 175b Blackburn Road.
D	SD 5988 2104	South east corner of field.
E	SD 5989 2104	Point on the farm track, to the west of the northern corner boundary of 175b Blackburn Road.

Description of existing footpath to be diverted

That part of Footpath Heapey 27 as described below and shown by a bold continuous line marked A-B-C on the attached map. (All lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A	B	N	30	The entire width
B	C	Generally ESE	85	The entire width

Description of new footpath

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

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A	D	Generally E	75	2	Compacted stone
D	E	NE	10	2	Compacted stone
E	C	NE	2	2	Compacted stone

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 5981 2103 (point A)
The right of the owner of the soil to erect and maintain a gate that conforms to BS 5709:2018	Grid Reference SD 5989 2105 (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 Footpath Heapey 27 be amended to read as follows:

The 'Position' column to read:

"West Parish boundary near Higher Copthurst to a gate at SD 5981 2103, then running generally east for 75 metres as a stone surfaced footpath to SD 5988 2104 then north east for 10 metres as a stone surfaced footpath to a gate at SD 5989 2104, then north east for 2 metres to SD 5989 2105. The footpath then continues to the A674. (All lengths and compass points given are approximate)."

The 'length' column be amended to read:

"0.27 km"

The 'Other Particulars' column be amended to read:

"The only limitations on the section between SD 5981 2103 and SD 5989 2105 is the right of the owner of the soil to erect and maintain gates that conform to BS 5709:2018 at SD 5981 2103 and SD 5989 2104. The width between SD 5981 2103 and SD 5989 2105 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, as it would remove the footpath from the field grazed by livestock and also improve the security of the farm buildings, whilst providing a route that is safe and convenient for public use. The diversion would also reduce potential conflict between the users of the footpath and vehicles unloading livestock, manoeuvring and parking within the working area of the farm.

This proposed diversion will not alter the points of termination of Footpath Heapey 27, therefore it is not necessary to consider the criteria concerning the alteration of termination points.

The Committee are advised that so much of the Order as extinguishes part of Footpath Heapey 27, is not to come into force until the county council has certified that any necessary work to the new footpath 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 majority of the existing route B-C and all of the new route A-D-E-C is within the boundary of Black Lion Farm that is occupied and managed by the applicants but is not registered with the Land Registry. The applicants have advised that they will be able to prove title to the land but if they are not able to access the documents before the order is made, notices will be erected on site directed at any owner or occupier of the land.

The owners of the remainder of the existing route A-B, located in the former quarry site have been consulted on the proposal and it is expected that they will not raise any objection to the diversion proposal.

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 that 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 new route is of similar length and gradient to the existing footpath, with the same number of gates.

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. The new footpath will be fenced from the livestock and the working area of the farm, therefore 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 routes 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 disabled people 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. The new route will be of adequate width, firm and well drained underfoot with no stiles. The two gates will conform to 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 and C 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.

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

Paper	Date	Contact/Directorate/Tel
File Ref: 211-692		Planning and Environment Group
File Ref: PRW-9-15-27		Mrs R J Paulson, 07917 836628

Reason for inclusion in Part II, if appropriate

N/A