

Regulatory Committee

Meeting to be held on 16 September 2020

Part I

Electoral Division affected:
Mid Rossendale

Highways Act 1980 – Section 118

Wildlife and Countryside Act 1981 – Section 53A

Proposed Extinguishment of Part of the Recorded Route of Footpath Rawtenstall 205, From Windsor Avenue to Staghills Road, Rossendale Borough

(Annexes 'B' and 'C' refer)

Contact for further information:

Mrs R Paulson, Planning and Environment Group
07917 836628, ros.paulson@lancashire.gov.uk

Executive Summary

The proposed extinguishment of part of Footpath Rawtenstall 205, Rossendale Borough.

Recommendation

- (i) That subject to no significantly adverse responses to the consultations, an Order be made under Section 118 of the Highways Act 1980 to extinguish part of Footpath Rawtenstall 205, on the route shown by a bold continuous line and marked A-B-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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its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 extinguishment order.

Background

An application has been received from the person authorised to act on behalf of the registered owners of 25 Windsor Avenue for an Order to be made under Section 118 of the Highways Act 1980, to extinguish part of Footpath Rawtenstall 205, Rossendale

Borough that crosses three properties on a housing estate that was built in the mid 1950's.

The applicant's parents moved to 25 Windsor Avenue in 1954 and lived in the house, firstly as tenants of Rossendale Borough Council local authority housing scheme then subsequently purchasing the property from the local authority in 1981.

At no point in the applicant's parents' tenancy, or during their time as owners of the property had they ever been made aware that a public right of way recorded on the Definitive Map and Statement for Public Rights of Way crossed their property.

A local authority search, carried out in connection with the sale of the property, revealed that a public footpath is recorded passing through 25 Windsor Avenue and the properties to the rear, 104 and 106 Staghills Road.

Rossendale Borough Council and Lancashire County Council do not have any record that a legal order has been made to divert, stop up or extinguish any part of the footpath.

The length of existing path proposed to be extinguished is shown by a bold continuous line and marked on the attached map as A-B-C.

Consultations

Rossendale Borough Council been consulted and at the time of writing, the response is awaited. The Peak and Northern Footpaths Society and the Rossendale 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 8323 2235	Junction of Footpath Rawtenstall 205 and the northern boundary of 25 Windsor Avenue.
B	SD 8322 2233	Point where Footpath Rawtenstall 205 crosses the southern boundary of 25 Windsor Avenue and the northern boundary of 104 Staghills Road.
C	SD 8322 2231	Junction of Footpath Rawtenstall 205 and the southern edge of the boundary between 104 and 106 Staghills Road.

Description of existing footpath to be extinguished

(All lengths and compass points given are approximate).

The entire width of that part of Footpath Rawtenstall 205, commencing at Point A, running south-south-west for 20 metres, crossing 25 Windsor Avenue to point B then south for 15 metres, crossing 104 and 106 Staghills Road to 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 Rawtenstall 205 be amended to read as follows:

The 'Position' column to read:

"From Dark Lane from Church Street, Newchurch S to terminate at the northern boundary of 25 Windsor Avenue at SD 8323 2235. The section of footpath between SD 8323 2235 and SD 8322 2231 has been extinguished. At the southern edge of the boundary between 104 and 106 Staghills Road at SD 8322 2231 the footpath then runs to Bacup Road.

The 'length' column be amended to read:

"0.78 km"

Criteria satisfied to make and confirm the Order

The proposed Order meets the criteria for an extinguishment of a public right of way under section 118 of the Highways Act 1980, i.e. that it is expedient that the path should be stopped up on the grounds that it is not needed for public use.

The footway of Windsor Avenue and Staghills Road provides a safe and convenient link to either end of that part of Footpath Rawtenstall 205 that is proposed to be extinguished.

Since the houses were built over 67 years ago, there has not been a footpath available to be walked on the ground. Since that time the footpath has been obstructed by the houses, fences, walls and front and back gardens.

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 applicant is authorised to act on behalf of the registered owners of 25 Windsor Avenue, crossed by the length to be stopped up, marked A-B. There are two other

properties that are crossed by the length of Footpath Rawtenstall 205 proposed to be stopped up. The owners of those properties have been consulted and are not expected to raise any objection to the extinguishment proposal.

The applicant has agreed to bear all advertising and administrative charges incurred by the county council in the Order making procedures.

It is also advised that the needs of disabled people have been actively considered and the availability of the footways of Windsor Road and Staghills Road have been taken into consideration and therefore the proposal is compatible with the duty of the county council, as a Highway Authority, under The Equality Act 2010.

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 extinguishment 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 20585

List of Background Papers

Paper

Date

Contact/Directorate/Tel

File Ref: 211- 727

Planning and Environment
Group

File Ref: PRW-9-21-205

Mrs R J Paulson,
07917 836628

Reason for inclusion in Part II, if appropriate

N/A