

Regulatory Committee

Meeting to be held on 27 January 2021

Part I

Electoral Division affected:
Rossendale East

Highways Act 1980 – Section 119

Wildlife and Countryside Act 1981 – Section 53A

Diversion of Part of Footpath Bacup 486 at land off Rockcliffe Road, Rossendale

(Annexes 'B' and 'C' refer)

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Executive Summary

The proposed diversion of part of Footpath Bacup 486, Rossendale 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 Bacup 486, from the route shown by a bold continuous line and marked A-B to the route shown by a bold broken line and marked C-D-B, 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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Planning Inspectorate and that the Authority take a neutral stance with respect to its confirmation.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 and Advice

The developer of a small residential site off Rockcliffe Road, Bacup, has applied to Lancashire County Council for an Order to be made under Section 119 of the Highways Act 1980, to divert part of Footpath Bacup 486, Rossendale Borough.

The diversion, if successful, will remove the footpath from the rough ground, at the perimeter of the development site and away from the steepest part of the slope that has been formed as part of the development.

The site comprises of a new estate road and 26 residential dwellings. The footpath runs along the south eastern side of the site, from Rockcliffe Road (U7885), then as the land slopes down, the footpath cuts across an area of rough ground, continuing down a flight of old stone steps, then passing under a disused railway bridge and then alongside a stream to join New Line (A6066).

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

Consultations

Rossendale Borough Council has been consulted and at the time of writing, their responses are 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 8704 2221	Junction of Footpath Bacup 486 and Rockcliffe Road.
B	SD 8680 2204	Point approximately 10 metres north east of the disused railway bridge.
C	SD 8704 2222	Junction of the eastern/southern footway of the new estate road and Rockcliffe Road.
D	SD 8683 2209	Point at the top of the slope where the new footpath leaves the footway of the estate road.

Description of existing footpath to be diverted

That part of Footpath Bacup 486 as described below and shown by a bold continuous line marked A-B on the attached map. (All lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A	B	Generally SW	300	The entire width

Description of new footpath

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

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
C	D	Generally SW	335	2	Bitmac surface
D	B	Generally SSW	60	2	Porous composite rubber and stone surface on slope and steps

The footpath to be created by the proposed Order will not be subject to any limitations and conditions.

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 Bacup 486 be amended to read as follows:

The 'Position' column to read:

"Footpath from Rockcliffe Road to New Line. Starts at Rockcliffe Road at SD 8704 2222, running generally south west for 335 metres on the bitmac surfaced eastern footway of the estate road to SD 8683 2209 then generally south south west for 60 metres on a porous composite rubber and stone surface on a slope and steps to SD 8680 2204. Then under railway bridge; then by footbridge over Trough Syke and emerging on New Line opposite St. Saviours Church Vicarage. Path well defined throughout. (All lengths and compass points given are approximate)."

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

The 'Other Particulars' column be amended to read:

"Between SD 8704 2222 and SD 8680 2204 the footpath is 2 metres wide and has no limitations".

Criteria satisfied to make and confirm the Order

To make an Order under section 119 of the Highways Act 1980, the county council must be satisfied that in the interests of the owner, lessee or occupier of land crossed by the path or of the public, it is expedient that the line of the path, or part of, should be diverted.

The proposed diversion is considered to be expedient in the interests of the owners of the land, as it would remove the footpath from the rough ground at the perimeter of the development site and the steepest part of the slope, moving it onto the firm surface of a newly constructed footpath. This will remove the requirement for the landowner to reinstate the footpath on the original alignment on the slope that has been formed during construction of the site.

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 point where Footpath Bacup 486 meets Rockcliffe Road and place it at another point approximately 5 metres to the north west on the same highway. The new termination point has good visibility in both directions along Rockcliffe Road and 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 Footpath Bacup 486, is not to come into force until the county council has certified that any necessary works to provide the surface of the new footpath, adequate drainage and works to ensure the stability of the adjacent slope have 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 and all of the new route is within the boundary of the development site and crosses land that is in the ownership of a housing association, who are in agreement with the proposed diversion. Part of the land crossed by the existing footpath, approximately 40 metres in length at the Rockcliffe Road end is not registered with the Land Registry. Therefore when the Order is publicised on site, notices will also be erected directed at any owner or occupier of the land.

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.

If Committee decide to make the proposed Order and, subsequently, if no objections are received, or if the proposed Order needs to be submitted to the Planning Inspectorate for confirmation, it is considered that the criteria for confirming the Order can be satisfied.

It is felt that, if the Order were to be confirmed, the new 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. There is a flight of steps on the new route but they are considered necessary as the most feasible and safest means of providing access up and down the slope.

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 footpath is a valuable link in the network of public rights of way, providing safe and convenient pedestrian access to the recreational areas at Stubby Lee Park and Moorland Park and also the industrial premises to the south of New Line. As such, it is expected that the footpath will be well used by the residents of the new development and also the wider urban area of Rockcliffe, that is located to the north.

The users would find the new length of footpath to be more enjoyable than the existing footpath which currently runs over rough grassland that is in places, wet and muddy. In contrast, the new footpath will have a properly constructed firm surface that is safe and convenient for use in all weather conditions.

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 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 gates or stiles. There is a flight of approximately 10 steps on the southern end of the new route and that would exclude the use of the footpath by some people with limited mobility. Unfortunately, it is considered that the provision of steps cannot be avoided in this instance due to the gradient of the steep slope; steps appear to be the only feasible option. The number of steps has been kept to a minimum, they have a shallow tread and link to a flight of original stone steps that provide access to that part of the footpath that passes under the railway bridge.

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'. The Rights of Way Improvement Plan states (aim 1.0) that Lancashire County Council should consider the needs of reduced mobility, dexterity and sight impaired when delivering our services. The steps are considered to be the safest means of providing access up and down the slope and the diversion will move this section of footpath from the rough

ground, onto a firm surface with no structures (stiles and gates) and as such is consistent with aim 1.0.

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 Planning Inspectorate at public expense where there is little or no public benefit. It is suggested that in this instance, if objections prevent confirmation of the Order by the county council, the promotion of the Order to confirmation by the Planning Inspectorate, 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 Planning Inspectorate the applicant can support or promote it to confirmation, including participation at public inquiry or hearing. It is suggested that in that scenario 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 – insist on the original footpath being reinstated.

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 Planning Inspectorate 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: 211-729		Planning and Environment Group
File Ref: PRW-14-1-486		Mrs R J Paulson, 07917 836628

Reason for inclusion in Part II, if appropriate

N/A