

## Regulatory Committee

Meeting to be held on 10 March 2021

### Part I

Electoral Division affected:  
Rossendale East  
Whitworth and Bacup

## Highways Act 1980 Section 119 Wildlife and Countryside Act 1981 – Section 53A Diversion of Footpaths Bacup 415 and 416 and part of 417 and Creation of a Public Footpath at Greave Clough (Annexes 'B' and 'C' refer)

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### Executive Summary

The proposed diversion of Footpaths Bacup 415, 416 and part of 417 and creation of a public footpath at Greave Clough, Rossendale.

### Recommendation

- (i) That subject to no significantly adverse responses to the consultations an Order be made under Section 26 of the Highways Act 1980 to create a new length of footpath shown by a bold broken line and marked D-H on the attached map.
- (ii) That subject to no significantly adverse responses to the consultations, an Order be made under Section 119 of the Highways Act 1980 to divert Footpaths Bacup 415, 416 and part of 417, from the routes shown by bold continuous lines and marked C-B-A and G-B to the routes shown by bold broken lines and marked C-D-E-F and G-E, on the attached map.
- (iii) That in the event of no objections being received, the Orders be confirmed and in the event of objections being received and not withdrawn, the Orders be sent to the Planning Inspectorate and promoted to confirmation, if necessary at public inquiry.
- (iv) That provision be included in the Orders 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 creation and diversions.

## Background and Advice

Greave Clough is a recreational site in the ownership of Lancashire County Council, located in the Rossendale Valley between Todmorden Road and Coal Pit Lane.

The site consists of a steep sided wooded valley with a fast-flowing stream that separates the two sides of the valley. The recorded routes of the footpaths lead to the former crossing point of the stream at the north east edge of the site, where there used to be a set of stepping stones. The stepping stones washed away many years ago and the land has eroded in several places, and as such, much of the southern side of the valley is impassable.

The county council has provided a footbridge at the south west side of the site, at a point where the stream flows between two retaining walls that provide a firm foundation for the footbridge.

The diversion proposal, if successful, will move the recorded routes of the footpaths away from a deep gully and the steep impassable side of the valley, to cross the stream at the footbridge, providing a safe and convenient crossing point to link the two sides of the site. The creation of a length of footpath will provide pedestrian access Todmorden Road at the north west corner of the site.

The lengths of existing path to be diverted are shown by bold continuous lines and marked on the attached map as C-B-A and G-B, and the proposed new routes are shown by bold broken lines and marked C-D-E-F and G-E.

## 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.

## Points annotating the routes on the attached map

Point	Grid Reference	Description
A	SD 8793 2359	Junction of Footpath Bacup 415 and Coal Pit Lane.
B	SD 8784 2361	Junction of Footpaths Bacup 415, 416 and 417.
C	SD 8784 2361	Point on Footpath Bacup 417 west of the stream and approximately 5 metres to the west of point B.
D	SD 8770 2350	Unmarked point in the woodland approximately 10 metres north of the footbridge.

E	SD 8771 2347	Unmarked point in the woodland approximately 10 metres northwest of Coal Pit Lane.
F	SD 8772 2346	Junction of new Footpath Bacup 417 and Coal Pit Lane.
G	SD 8778 2351	Unchanged junction of Footpath Bacup 416 and Coal Pit Lane.
H	SD 8765 2351	Junction of new Footpath Bacup 415 and Todmorden Road.

### Description of existing footpaths to be diverted

That Footpaths Bacup 415, 416 and part of 417 as described below and shown by bold continuous lines marked A-B-C and B-G on the attached map. (All lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A	B	Generally WNW	90	The entire width
B	C	W	5	The entire width

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
B	G	Generally SW	125	The entire width

### Description of new footpaths

Footpaths as described below and shown by bold broken lines C-D-E-F, G-E and H 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	180	2	Soil and grass surface
D	E	Generally S	45	2	6 metre span timber footbridge, compacted stone, soil and grass surface
E	F	SE	10	2	Soil and grass surface

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
G	E	Generally WSW	90	2	Soil and grass surface

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH	OTHER INFORMATION
D	H	Generally WNW	55	2 metres With the exception of a 0.5 metre length at H where the width is 0.8 metres	Soil, grass surface and stone steps

The footpath to be created by the proposed Orders 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 Orders should also specify that the Definitive Statement for Footpaths Bacup 415, 416 and 417 be amended to read as follows:

##### Footpath Bacup 415

The 'Position' column to read:

"Footpath commencing at the junction with Footpath Bacup 417 at SD 8770 2350, running generally west for 55 metres ascending the slope and up a couple of stone steps and a gap in the stone wall at the junction with Todmorden Road at SD 8765 2351. (All lengths and compass points given are approximate)."

The 'length' column be amended to read:

"0.05 km"

The 'Other Particulars' column be amended to read:

"The footpath has no limitations and is 2 metres wide, with the exception of a 0.5 metre length at SD 8765 2351 which is 0.8 metres wide".

##### Footpath Bacup 416

The 'Position' column to read:

"Footpath commencing at the junction with Coal Pit Lane at SD 8778 2351, running generally west south west for 90 metres to the junction with Footpath

Bacup 417 at SD 8771 2347. (All lengths and compass points given are approximate)."

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

The 'Other Particulars' column be amended to read:

"The footpath has no limitations and is 2 metres wide".

Footpath Bacup 417

The 'Position' column to read:

"Footpath commencing at a junction with Coal Pit Lane (footpath Bacup 418) at SD 8772 2346 and running north west for 10m to SD 8771 2347 then generally north for 45m down the slope, crossing the stream via a footbridge to a junction with footpath Bacup 415 at SD 8770 2350. The path then runs generally north east for 180m to SD 8784 2361 and climbs to the west and after a distance of 110 yds. passes through a gap in the wall to meet Todmorden Road A681. (All lengths and compass points given are approximate)."

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

The 'Other Particulars' column be amended to read:

"Between SD 8784 2361 and SD 8772 2346 the footpath has no limitations and is 2 metres wide".

### **Criteria satisfied to make and confirm the Creation Order**

It is advised that the proposal meets the criteria for the creation of a public footpath under section 26 Highways Act 1980, i.e. that it appears to Lancashire County Council that there is a need for a footpath over land in their area and they are satisfied that it is expedient that the path should be created, having regard to:

1. The extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and
2. The effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of provisions as to compensation contained in section 28.

Greave Clough is located on the north east edge of the urban area of Bacup, close to several housing estates and residential properties on Todmorden Road.

A stone wall separates the north western side of the site from Todmorden Road. Currently the only recorded access point from the site from that side is a gap in the wall where footpath Bacup 417 meets the road. The proposed footpath D-H would

provide a link from the footbridge to an additional gap in the wall to provide a further access point at Todmorden Road opposite Footpath Bacup 370 that leads to the wider countryside around Todmorden Old Road.

D-H would link to the new footpath to be created by diversion (F-E-D), providing the shortest and most convenient route crossing the site between Coal Pit Lane and Todmorden Road. It would also provide opportunities for short circular walks via the woodland.

As such, it is suggested that the new footpath D-H would add to the convenience or enjoyment of persons resident in the area.

The creation of the footpath is at the request of the owner, Lancashire County Council, and is consistent with the use of the land as a recreational site. No other persons with an interest in the land are known and therefore it is not anticipated that any claim for compensation under section 28 of the Highways Act 1980 will be received.

### **Criteria satisfied to make and confirm the Diversion 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 diversions are considered to be expedient in the interests of the owners of the land, as they would replace use of the stepping stones which were washed away over 70 years ago with a proper footbridge and make safe the footpaths that run along a deep gully and the steep impassable side of the valley where the ground is unstable.

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 Footpaths Bacup 415, 416 and 417 meet and place them at another point on the same path or a path connected to it and these points would be substantially as convenient to the public.

The Committee are advised that so much of the Order as extinguishes Footpaths Bacup 415, 416 and part of 417, is not to come into force until the county council has certified that any necessary works to provide the surface of the new footpaths 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 routes, of which we are aware at the time of writing.

It is felt that, if the Order were to be confirmed, the new paths or ways will not be substantially less convenient to the public in consequence of the diversion because the new routes will be on land that is accessible, crossing the stream at the footbridge that provides a safe and convenient crossing point to link the two sides of the site, whereas the existing footpaths are either impassable or very difficult underfoot due to the undulating or unstable terrain.

It is for that same reason that 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.

### **Both Orders**

Should the Committee agree that the proposed Orders be made and, subsequently, should no objections be received to the making of the proposed Orders, or should the proposed Orders be submitted to the Secretary of state for Environment, food and rural Affairs for confirmation, it is considered that the criteria for confirming the Orders can be satisfied.

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 as the land is in the ownership of the county council and no other persons with rights to the land are known.

It is advised that the proposed Orders, 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 land crossed by the existing routes and the new routes is in the ownership of Lancashire County Council. The county council will bear all advertising and administrative costs in the Order making procedures, any compensation if necessary and any costs that are incurred in bringing the new site of the footpaths into a fit condition for use for the public.

It is 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. 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 (ROWIP) states (aim 1.0) that Lancashire County Council should consider the needs of reduced mobility, dexterity and sight impaired when delivering our services.

The new routes will be of adequate width, firm and well drained underfoot with no gates or stiles. The gradient of the new footpaths is an improvement on the existing footpaths. There are couple of steps where the new footpath will meet Todmorden Road that might exclude the use by some people with limited mobility. It is considered that the steps will provide the safest and most convenient means of accessing the site at point H due to the difference in height between the woodland and the road. The new footpaths will be substantially more accessible and easier to use than the existing recorded routes.

It is considered that having regard to the above and all other relevant matters, it would be expedient generally to confirm the Orders.

### **Stance on Submitting the Orders 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 but it is suggested that in this instance the promotion of these Orders 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 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 Diversion and Creation Orders be made, or to agree that the Diversion Order but not the Creation Order be made.

To agree the Orders be made but not yet be satisfied regarding the criteria for confirmation and request a further report at a later date.

To consider securing the dedication of the new route (D-H) by means of a public path creation agreement pursuant to section 25 Highways Act 1980.

### **Local Government (Access to Information) Act 1985**

#### **List of Background Papers**

Paper	Date	Contact/Directorate/Tel
File Ref: 211-731		Planning and Environment Group
File Ref: PRW-14-1-415		Mrs R J Paulson, 07917 836628

Reason for inclusion in Part II, if appropriate

N/A