

Regulatory Committee

Meeting to be held on 15 September 2021

Part I

Electoral Division affected:
Longridge with Bowland

Highways Act 1980 – Section 119

Wildlife and Countryside Act 1981 – Section 53A

Proposed Diversion of Part of Footpath Hothersall 13 at Welch House Barn, Hothersall, Ribble Valley Borough

(Annexes 'B' and 'C' refer)

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Executive Summary

The proposed diversion of part of Footpath Hothersall 13, Ribble Valley 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 Hothersall 13, 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-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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its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 prospective owners of the residential property of Welch House Barn, Hothersall Lane, Longridge 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 Hothersall 13, Ribble Valley Borough.

The recorded alignment of the footpath is along the driveway, through the residential and private garden areas of the property. It is proposed that the footpath is diverted to run along the edge of the adjacent field.

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 A-C-B.

Consultations

Ribble Valley Borough Council and Hothersall 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 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 6197 3585	Point on the access track immediately west of the entrance to Welch House Barn.
B	SD 6203 3581	Point in the northern corner of the pasture field that adjacent to the eastern boundary of Welch House Barn.
C	SD 6203 3581	Point in the south east corner of the field at Welch House Barn.

Description of existing footpath to be diverted

That part of Footpath Hothersall 13 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	ESE	70	The entire width

Description of new footpath

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

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A	C	Generally ESE	75	2	Grass
C	B	SW	5	2	Grass

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 6197 3585 (adjacent to 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 6203 3581 (Between points C and B)

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 Hothersall 13 be amended to read as follows:

The 'Position' column to read:

"Hothersall Lane to SD 6197 3585 at Welch House Farm, generally east south east to SD 6203 3581, then south west for 5 metres to SD 6203 3581 then to a junction with footpath Hothersall 14.

(All lengths and compass points given are approximate)."

The 'length' column be amended to read:

"0.56km"

The 'Other Particulars' column be amended to read:

"The only limitations on the section between SD 6197 3585 and SD 6203 3581 is the right of the owner of the soil to erect and maintain a gate that conforms

to BS 5709:2018 at SD 6197 3585 and SD 6203 3581. The width between SD 6197 3585 and SD 6203 3581 is 2 metres."

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.

With the exception of a small area of land, approximately 2 square metres at point B, all of the land crossed by the existing footpath and of the proposed new footpath is currently owned by the vendors of the property. When the sale is completed this land will be in the ownership of the applicants. The owners of the land at point B have been consulted and have confirmed that they will not raise any objection to the diversion proposal.

The proposed diversion is expedient in the interests of the owner of the land, as it would remove the footpath that runs along the driveway, through the residential and private garden area of the property. The new footpath is proposed to run outside the residential area, enabling the existing obstructions on the footpath to be retained and provide the residents with an improvement in privacy and security.

Currently parts of the footpath proposed to be diverted are obstructed and the owner of the land has made the proposed new footpath available as an alternative route.

Under normal circumstances the landowner would be required to ensure that the existing definitive route is available for use before a Diversion Order is considered. This enables the proposed new route to be easily evaluated in comparison with the existing route although it is advised that temporary obstructions are ignored.

However, in some instances such as this, the restoration of the route is considered to be impracticable, disproportionate or not in the interests of users. It is suggested that due to the close proximity of the route that is available on the ground to the route proposed to be diverted does not adversely affect the ability to evaluate the merits of the diversion when comparing both routes.

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. In this case, the proposed diversion will not alter the points of termination of Footpath Hothersall 13, and therefore the criteria concerning the alteration of termination points do not need to be considered.

The Committee are advised that so much of the Order as extinguishes part of Footpath Hothersall 13 is not to come into force until the county council has certified that any required 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 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 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 exiting footpath. It is proposed that there will be two gates on the new footpath, one adjacent to point A and one located between points C and B. The gates will conform to the British Standard for gates, gaps as stiles (BS:5709:2018) and as such they will be easy to use.

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 provide the improved open views of the countryside and provide an obvious, safe and convenient footpath away from the driveway, the buildings and private garden area at Welch House Barn. Therefore, users of the footpath are likely to find the new footpath easier to use and feel more comfortable than if they were to use the existing route.

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. It is noted that all owners of the land crossed by the existing and proposed new footpath are in full agreement with the diversion proposal, therefore 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. It is proposed that there will two gates and they 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 if objections prevent confirmation of the Order by the county council that the Order be submitted to the Planning Inspectorate 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: 211-703		Planning and Environment Group
File Ref: 3-23-FP13		Mrs R J Paulson, 01722 532459

Reason for inclusion in Part II, if appropriate

N/A