

Regulatory Committee

Meeting to be held on 08 March 2023

Part I

Electoral Division affected:
Wyre Rural Central

Highways Act 1980 – Section 119
Wildlife and Countryside Act 1981 – Section 53A
Proposed Diversion of Part of Footpath 2-21-29 at Croftlands, Pilling
(Annexes 'B' and 'C' refer)

Contact for further information:

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Brief Summary

The proposed diversion of part of Footpath 2-21-29 at Croftlands, Pilling.

Recommendation

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath 2-21-29 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 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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its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

A request has been received from the owners of the residential property of Croftlands, Moss House Lane, Pilling, for an Order to be made under Section 119 of the Highways Act 1980, to divert part of Footpath 2-21-29.



The recorded alignment of the footpath is through the residential and private garden areas of the property, then through the private gardens of a neighbouring residential property, then into an adjacent field. It is proposed that the footpath is diverted to run on the private driveway to Croftlands then a short distance into the adjacent field to where the footpath currently enters the 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-C, and the proposed new route is shown by a bold broken line and marked A-D-E.

Consultations

The Local Member, Wyre Borough Council and Pilling Parish Council have been consulted and at the time of writing, there was no adverse response.

The Peak and Northern Footpaths Society and the Wyre branch of the Ramblers have been consulted and there was no adverse response.

The consultation with the statutory undertakers has been carried out and 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 4196 4796	10m east of the north-western corner of the pasture field adjacent to the access track to Croftlands.
B	SD 4187 4795	Western boundary of Croftlands adjacent to a drainage ditch.
C	SD 4189 4789	Northern boundary of Moss House Lane, between the residential properties of Well Gardens and Moss Lea.
D	SD 4195 4796	Field gate at north western corner of pasture.
E	SD 4196 4787	Open junction of access track with Moss House Lane.

Description of existing footpath to be diverted

That part of Footpath 2-21-29 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	NW then WSW	105	The entire width
B	C	SSE	60	The entire width

Description of new footpath

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

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A	D	WSW	10	2	Grass
D	E	SSE	90	3.5	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 kissing gate that conforms to BS 5709:2018	Grid Reference SD 4195 4796 (point D)

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 Pilling 29 be amended to read as follows:

"No. of Path:
29

Kind of Path:
Footpath

Position:
Horse Park Lane to SD 4196 4796, continuing WSW to Croftlands' access track at SD 4195 4796 then SSE along the access track to Moss House Lane at SD 4196 4787.
(All compass points given are approximate).

Length:
0.33 km



Other Particulars:

The only limitations on the section between SD 4196 4796 and SD 4196 4787 is the right of the owner of the soil to erect and maintain a kissing gate that conforms to BS 5709:2018 at SD 4195 4796.

The width between SD 4196 4796 and SD 4195 4796 is 2 metres and from SD 4195 4796 to SD 4196 4787 is 3.5 metres."

Criteria satisfied to make and confirm the Order

The proposed diversion is considered expedient in the interests of the owners of the land for reasons of privacy and security. 'Croftlands', and the adjacent house 'Well Gardens', are private, residential properties. Currently the public footpath runs through the garden of Croftlands, adjacent to the dwelling, then through the grounds of Well Gardens.

The diversion will instead continue in the adjacent pasture for an additional 10 meters, then it will continue on the Croftlands access track to join Moss House Lane, removing it entirely from the gardens of both properties. This will significantly increase the privacy and security of the residential dwellings, whilst providing a route that is safe, convenient and slightly more direct for public use.

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 south western point of termination of Footpath 2-21-29 to divert it from its current termination point on Moss House Lane to another point on Moss House Lane 70 meters to the east. In some instances that could be considered to be less convenient. However, in this case, there is already the need to walk on the road and the extra length is on a straight section of road where visibility is good. It is suggested that the proposed termination point is substantially as convenient to the public.

The Committee are advised that so much of the Order as diverts part of Footpath 2-21-29 is not to come into force until the county has certified that the necessary work to the alternative route has been carried out.

There is no apparatus of which we are aware at the time of writing belonging to or used by statutory undertakers under, in, upon, over, along or across the land crossed by the present route.

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 own the land crossed by a majority of the existing route. The owners of the section B-C, and the owners of the track on the proposed route D-E have confirmed that they are in agreement with the proposal and that they would not raise any objection if a Diversion Order is made.



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 which 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 alternative route is slightly more direct, runs over firm ground and has a similar gradient to the existing footpath.

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. As the existing footpath connects to other parts of the public rights of way network via Moss House Lane it is suggested that many users might find a walk on the new route to be more convenient. Also, because the new footpath will utilise the access track to Croftlands, some users of the footpath may feel more comfortable and at ease when passing through the vicinity of Croftlands on the access track than when walking through the private grounds of the residential properties.

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, affected landowners have indicated agreement and if a claim were to arise, the compensation is underwritten by the applicants.

It is also advised that the needs of the disabled 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 alternative route will be of adequate width, firm and well drained underfoot and the gate proposed to be installed on the route will conform to the British Standard for gaps, gates and stiles 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.

Other 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.

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 Secretary of State to allow the applicant to promote confirmation, according to the recommendation.

Implications:

This item has the following implications, as indicated:

Risk management

Consideration has been given to the risk management implications associated with this application. The Committee is advised that the decision taken must be based solely on the evidence contained within the report, guidance contained both in the report and within Annexes 'B' and 'C' included in the Agenda Papers, officers' presentation and discussion. Provided any decision is taken strictly in accordance with the above then there is no significant risks associated with the decision making process.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Tel
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None

Reason for inclusion in Part II, if appropriate

N/A

