

Regulatory Committee

Meeting to be held on 08 March 2023

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 3-2-29 at Clifton Lodge, Longridge
(Annexes 'B' and 'C' refer)

Contact for further information:

Mr A Ibison, Planning and Environment Group
07773 135050, adrian.ibison@lancashire.gov.uk

Brief Summary

The proposed diversion of part of Footpath 3-2-29 at Clifton Lodge, Longridge.

Recommendation

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath 3-2-29, from the route shown by a bold continuous line and marked A-B-C-F and C-D to the route shown by a bold broken line and marked A-E-F and F-G-H 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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its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 Clifton Lodge, Longridge for an Order to be made under Section 119 of the Highways Act 1980, to divert part of Footpath 3-2-29.



The recorded alignment of the footpath is through the private grounds of a neighbouring caravan park and then through the private grounds and garden areas of the residential property.

If successful, the diversion will move the footpath out of the caravan park and onto pasture, running in a broadly south westerly direction to meet Footpath 3-12-33 at the eastern proximity of the applicant's property. The diversion continues across further pasture to the south-east of the neighbouring private, residential property to join Bridleway 3-2-35.

This will increase the privacy and security of the residential property whilst providing a route that is safe and convenient for public use.

Consultations

The Local Member, Ribble Valley Borough Council and Longridge Town Council have been consulted and at the time of writing, there was no adverse response.

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

Consultation with the statutory undertakers has been carried out and there was no adverse response.

An adverse response has been received from the residents of the neighbouring property outlining their concerns that there will be a detrimental effect on their privacy, and a potential visual impact on their views of the surrounding countryside if a hedge were to be planted to provide screening. The issues raised have been carefully considered. The footpath currently runs both next to and closer to the neighbouring dwelling at its north western side, albeit with fewer and smaller windows. Our observations are that the dwelling is further from the route of the proposed diversion and at a higher altitude, therefore the dwelling overlooks the proposed route not vice versa. It is considered that the potential impact on the view from the property of a hedge or passing walkers well below the level of the house and on land where people could be by permission anyway does not outweigh the benefits to the applicant. Furthermore the route also provides better views for the public.

Advice

Points annotating the routes on the attached map

Point	Grid Reference	Description
A	SD 6166 3807	On existing pathway within caravan park, close to junction with Footpath 3-2-32.
B	SD 6143 3784	At bottom of former quarry face.



C	SD 6146 3781	On south western boundary of field adjacent to Clifton Lodge, at junction of footpaths 3-2-29 and 3-2-32.
D	SD 6132 3773	On Tan Yard Lane, by Clifton Lodge.
E	SD 6167 3805	Gate at northern end of field boundary, adjacent to south east boundary of caravan park.
F	SD 6148 3778	At northern corner of field boundary, adjacent to south east boundary of Clifton Lodge.
G	SD 6144 3770	On field boundary at eastern corner of Hollin Hall Lodge.
H	SD 6135 3764	On Tan Yard Lane at southern corner of Hollin Hall Lodge.

Description of existing footpath to be diverted

(All lengths and compass points given are approximate)

Those parts of Footpath 3-2-29 as described below and shown by a bold continuous line marked A-B-C-D and C-F on the attached map.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A	B	SW	320	The entire width
B	C	SE	50	The entire width
C	D	SW	165	The entire width

That part of Footpath 3-2-32 as described below and shown by a bold continuous line marked A-B-C on the attached map.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
C	F	SE	30	The entire width

Description of new footpath

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



FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A	E	SE	10	2	Grass
E	F	SW	335	2	Grass
F	G	SW	90	2	Grass
G	H	WSW	110	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 kissing gate that conforms to BS 5709:2018	Grid Reference SD 6167 3805 (point E)
The right of the owner of the soil to erect and maintain a two-way opening pedestrian gate that conforms to BS 5709:2018	Grid Reference SD 6148 3778 (point F)
The right of the owner of the soil to erect and maintain a two-way opening pedestrian gate that conforms to BS 5709:2018	Grid Reference SD 6144 3770 (point G)
The right of the owner of the soil to erect and maintain a kissing gate that conforms to BS 5709:2018	Grid Reference SD 6135 3764 (point H)

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 the affected Footpaths Longridge 29 and 33 be amended to read as follows:

"No. of Path:

29

Kind of Path:

Footpath

Position:

Nook Fold to SD 6166 3807, continuing generally SW via gate just east of Croft's Quarry (Clifton Lodge) at SD 6148 3778, and gate just outside eastern corner of Hollin Hill Lodge at SD 6144 3770, to gate onto Tan Yard Lane (Bridleway 35) at SD 6135 3764.



Length:

0.65 km

Other Particulars:

The only limitations on the section between SD 6166 3807 and SD 6135 3764 are the right of the owner of the soil to erect and maintain gates that conform to BS 5709:2018 at SD 6167 3805, at SD 6148 3778, at SD 6144 3770 and at SD 6135 3764. The width between SD 6166 3807 and SD 6135 3764 is 2 metres."

"No. of Path:

33

Kind of Path:

Footpath

Position:

From junction with Footpath 29 to the SE of the former Croft's Quarry to junction with Bridleway 35.

Length:

0.35 km

Other Particulars:

"

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. 'Clifton Lodge' is a private, residential property. Currently the public footpath runs along the access drive and through the grounds of Clifton Lodge.

The alternative route will instead divert into the adjacent pasture to the SE of the caravan park, continuing broadly parallel to the boundary meeting the end of Footpath 3-2-33 and continuing across 2 pastures, to join Tan Yard Lane, removing it entirely from the drive and grounds of Clifton Lodge. This will significantly increase the privacy and security of the residential property, whilst providing a route that is safe and convenient 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 3-2-29 to divert it from its junction with Bridleways 3-2-35 and 3-2-36 and place it at another point on Bridleway 3-2-35, being the same, or connected to the same highway. It is suggested that the proposed termination point is substantially as convenient to the public because this network of paths will predominantly be for recreational use therefore whilst the new point of termination is moved 95 metres to the south this is on a firm convenient surface. It will be slightly more convenient for some and slightly less convenient for others but as there are new houses closer to the proposed new termination point the balance is moved towards more convenience.

The Committee are advised that so much of the Order as diverts part of Footpath 3-2-29 is not to come into force until the county council 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 that part of the existing route B-C-D. The owners of the section A-B, and the owners of the pasture on part of the proposed route A-E-F 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 own a part share in the land crossed by that part of the proposed route F-G-H.

The applicants have agreed to bear all advertising and administrative charges incurred by the county council in the order making procedure 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 difference in length is very small, with little increase in gradient. Currently, the south western 55m of Footpath 3-2-29 is on an access drive and has restricted views due to the neighbouring property, the proposed diversion will have open views of the surrounding countryside to the south and east.

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 Tan Yard Lane and at Nook Fold, so will the alternative route. It is suggested that many users might find a walk on the new route to be more convenient because the new footpath will utilise pasture land rather than the access drive and gardens to Clifton Lodge, thus some users of the footpath may feel more comfortable and at ease when passing by the vicinity of Clifton Lodge than when walking through the private grounds of the residential property.

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 gates 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.

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

None

Reason for inclusion in Part II, if appropriate

N/A

