

Regulatory Committee

Meeting to be held on 27 September 2023

Part I

Electoral Division affected:
Wyre Rural East

Highways Act 1980 – Section 119
Wildlife and Countryside Act 1981 – Section 53A
Proposed Diversion of Part of Public Footpath 2-9-FP13 at land to the north of
Tan Yard Road, Catterall
(Annexes 'B' and 'C' refer)

Contact for further information:

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Brief Summary

Application for the diversion of part of Public Footpath Catterall 13 (2-9-FP13) at land to the north of Tan Yard Road Catterall Gates Lane, Catterall.

Recommendation

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert parts of 2-9-FP13 from the routes shown by a bold continuous line and marked A-B-C, C-E and E-F, to the route shown by bold broken lines and marked D-C, C-G-F and E-G-H-J 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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its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.



Detail

A request has been received from Collinson PLC, Tan Yard Road, Catterall Gates Lane, Catterall, PR3 0HP, for an Order to be made under Section 119 of the Highways Act 1980, to divert part of 2-9-FP13.

Consultations

The Local Member and Wyre Borough Council have been consulted and there are no adverse responses.

The Peak and Northern Footpaths Society and raised no adverse response to the proposed diversion.

The Wyre branch of the Ramblers have been consulted and in the first instance, they submitted a holding objection with a suggestion that a footpath from B-H, or C-H be provided.

This suggestion has been carefully considered and discussed with the owners of the land. However, neither of the suggested routes are compatible with the applicant's future aspirations for the growth of the site which has already been granted planning permission for additional car parking and operational areas within the current site in addition to the erection of a module office pod facility and a new access road on the field, to the north of B-C.

The landowners are however, willing to dedicate an additional public footpath (as shown on the plan as G-H-J) that will secure a public right of way adjacent to the River Calder from point H to point J, where it will join the existing footpath that runs alongside the River Calder.

In response to this information, the Ramblers have withdrawn their holding objection with the following comments: 'We have considered your reply, including the additional information supplied. Our thoughts are that the situation is not ideal, but can appreciate the reasons why the proposed development by Collinsons should be allowed to proceed.'

However, if others should decide to object to these proposals, then we could possibly decide that we ought not to support them. We will await to see if the situation develops.'

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 4919 4299	At the junction of 2-9-FP13 and 2-9-BW12 (Tan Yard Road).
B	SD 4918 4310	90 degrees turning point of 2-9-FP13 adjacent to the eastern bank of the River Wyre.
C	SD 4935 4315	East side of the northern end of the new access track.
D	SD 4930 4300	East side of the southern end of the new access track at the junction with 2-9-BW12 (Catterall Gates Lane).
E	SD 4952 4320	A point just north of Keepers Wood Way.
F	SD 4964 4328	A point in the field adjacent to the northern corner of the building known as Millbrook.
G	SD 4951 4321	A point in the field, 10 metres to the north of the northern end of Keepers Wood Way.
H	SD 4949 4328	A point to the east of the northern end of the field fence, 10 metres south of the southern bank of the River Calder.
J	SD 4972 4333	At unmarked point on the field east 45 metres east north east of the play area.

Description of existing footpath to be diverted

Those parts of 2-9-FP13 as described below and shown by a bold continuous line A-B-C, C-E and E-F on the attached map. (All lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A	B	Generally N	110	The entire width
B	C	ENE	175	The entire width



C	E	ENE	175	The entire width
E	F	Generally ENE	150	The entire width

Description of new footpaths

Footpaths as described below and shown by bold broken lines D-C, C-G-F and E-G-H-J on the attached map. (All lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	SURFACE
D	C	Generally NNE	155	2	Compacted stone
C	G	Generally ENE	175	2	Grass/stone
G	F	Generally ENE	145	2	Grass/stone
E	G	NNW	10	2	Grass/stone
G	H	NNW	65	2	Grass/stone
H	J	Generally ENE	260	2	Grass/stone

The footpaths 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 Catterall:

No. of Path:
"13"

Kind of Path:
"Footpath"

Position:



"Calder Bridge to SD 4964 4328 then runs generally west south west for 320 metres to SD 4935 4315, then generally south south west to the junction with BW02009012 (Catterall Gates Lane) at SD 4930 4300."

Length:

"0.76 km"

Other Particulars:

"There are no limitations on the section between SD 4964 4328 and SD 4930 4430. The width between SD 4964 4328 and SD 4930 4430 is 2 metres."

and:

A footpath be added to the Definitive Statement for Catterall to read:

No. of Path:

"2-9-FP19"

The 'Position' column to read: "From a point just north of Keepers Wood Way at SD 4952 4320 running north north west for 75 metres to SD 4949 4328 then generally east north east for 260 metres to the junction with 2-9-FP13 at SD 4972 4333."

The 'length' column to read: "0.33km"

The 'Other Particulars' column to read: "There are no limitations and the width is 2 metres."

Criteria satisfied to make and confirm the Order

The proposed diversion is considered expedient in the interests of the owners of the land.

From point A, the footpath runs between two metal palisade fences that separate it from a car park and part of the applicant's industrial premises. On the approach to B, for approximately 50 metres, the metal palisade fence continues on the east side of the footpath, whilst the west side is unfenced and open views are available of the River Wyre.

From point B to near to point C, the footpath runs between the metal palisade fence around the industrial premises and a wood/metal stock fence that separates the footpath from a field that is in the applicant's ownership.

Part of this proposal is to divert the recorded alignment of part of the footpath (marked C-E-F on the attached plan) that crosses over, or adjacent to the northern boundary of several residential properties. We have not been able to locate any record that prior to these houses and gardens being constructed a legal order was made to divert the footpath.



Therefore if successful, the diversion will move the footpath both from the curtilage of the industrial premises and that of the residential properties. This will increase the privacy and security for both the business and the residents, whilst providing a route that is safe, convenient for public use.

The proposed diversion will alter the southern point of termination of 2-9-FP13 from its junction with 2-9-BW12 (Tan Yard Road) at point A and place it at point D on 2-9-BW12 (Catterall Gates Lane). This is another point on the same highway or a highway connected to it and it is suggested that the new termination points will be substantially as convenient to the public.

The north east termination point of 2-9-FP13 (point F) will not be changed.

Committee is advised that so much of the Order as stops up parts of 2-9-FP13 (A-B-C, C-E and E-F) is not to come into force until the county council has certified that the necessary work to provide the new footpaths 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 a majority of the land crossed by all of the existing and new footpaths. Part of the footpath to be diverted (C-E) crosses over, or adjacent to the northern boundary of several residential properties and a small parcel of land that is the ownership of Catterall Parish Council. All of these landowners have been notified of the proposed diversion and at the time of writing have not raised any objections or adverse comments. Part of the alternative route E-F is not registered with the Land Registry, therefore, notices will be erected on site 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 which are incurred in bringing the new site of the footpath into a fit condition for use for the public.

Should 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 similar in length, it will divert the section C-E-F that runs on overgrown and in parts inaccessible land to run on firm ground and all the new footpaths are of a similar gradient to the existing.



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 proposed diversion will remove that part of the footpath that is, in places and at times wet and impassable due to an old hedge that runs on or overhangs part of E-F. It will provide footpaths that will have a firm surface and are safe and convenient for use in all weathers. It will also provide a greater length of scenic riverside walk and avoid the sections of footpath that are bounded on either side by fences. The new footpaths will not be bounded by industrial fences thereby providing open views of the surrounding countryside. It is also advised that whilst the diversion will remove a short section of footpath from where the River Wyre can be viewed (part of A-B), the new footpath (H-J) will provide a different but longer section of riverbank footpath adjacent to the River Calder.

It is felt that there would be no adverse effect on the land served by the existing routes or the land over which the new paths are 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 people with disabilities 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 with no gates or stiles.

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.

There is a risk of cost to the Authority if the decision is made to pursue an opposed Order to confirmation on behalf of the applicant or owners but it is not a substantial amount. However, unless there are exceptional circumstances it would be unequitable to fund confirmation of this Order at public expense and not others which are not made for public benefit.

Legal

There are no risks associated with following or not following the recommended course of action as long as the decision is made according to the criteria laid out above.

**Local Government (Access to Information) Act 1985
List of Background Papers**

Paper	Date	Contact/Directorate/Tel
		Mrs Ros Paulson, Planning and Environment Group 07917 836628

Reason for inclusion in Part II, if appropriate

N/A

