

**Regulatory Committee**

Meeting to be held on 27 September 2023

**Part I**

Electoral Division affected:  
Chorley Central

**Highways Act 1980 – Section 118**  
**Wildlife and Countryside Act 1981 – Section 53A**  
**Proposed Extinguishment of Part of Footpath FP0902041 at Duxbury Manor**  
**Way, Chorley**  
(Annexes 'B' and 'C' refer)

Contact for further information, quoting 211-755:  
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**Brief Summary**

Application for the extinguishment of part of Footpath FP0902041 at Duxbury Manor Way, Chorley.

**Recommendation**

- (i) That an Order be made under Section 118 of the Highways Act 1980 to extinguish part of Footpath FP0902041 shown by a bold continuous line and marked A-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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its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 extinguishment.

## Detail

A request has been received from the owners of the residential property of 1D Duxbury Manor Way, Chorley, for an Order to be made under Section 118 of the Highways Act 1980, to extinguish part of Footpath FP0902041.

The recorded alignment of this section of the footpath is on part of a new residential development. The footway was not built on the same line as the diverted footpath with the result that a short section of the public right of way falls within the property boundary of no. 1D Duxbury Manor Way.

The length of existing path to be extinguished is shown by a bold continuous line and marked on the attached map as A-B.

## Consultations

The Local Member and Chorley Borough Council have been consulted and at the time of writing, there are no adverse responses.

The Peak and Northern Footpaths Society and the Chorley branch of the Ramblers have been consulted and there are no adverse responses.

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 5888 1588   | At a point on the southern edge of the footway of Haydock Drive to the west of Duxbury Manor Way and on the northern boundary of 1D Duxbury Manor Way. |
| B     | SD 5889 1587   | At the eastern boundary of the garden of 1D Duxbury Manor Way where it meets the western edge of the footway.  |

### Description of existing footpath to be extinguished

That part of FP0902041 as described below and shown by a bold continuous line marked A-B on the attached map.

| FROM | TO | COMPASS DIRECTION | LENGTH (metres) | WIDTH            |
|------|----|-------------------|-----------------|------------------|
| A    | B  | generally SE      | 10              | The entire width |

(All lengths and compass points given are approximate).



## **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 the Order should also specify that the Definitive Statement for Footpath Chorley 41 (FP0902041) be amended to read as follows:

"No. of Path:  
41

Kind of Path:  
Footpath

Position:  
From Carr Lane to Burgh Lane at a point just south of "The Oaks". The section between SD 5889 1587 and SD 5888 1588 (through the property 1D Duxbury Manor Way) has been stopped up and these points are connected via the adjacent footway.

Length:  
0.59 miles

Other Particulars:

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

The proposed extinguishment is considered expedient on the grounds that this part of the footpath is not needed for public use. 1D Duxbury Manor Way is a private, residential property with a new footway built slightly to the east and north that provides a route that is safe and convenient for public use, making the residual short length of footpath redundant. It is expedient in the interests of the owners of the land for reasons of privacy and security that this duplicate 10m of footpath be stopped up.

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 all of the existing route.

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 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.

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 extinguishment 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                                     |
|-------|------|---|
|       |      | Mr A Ibison, Planning and Environment Group<br>07773 135050 |

Reason for inclusion in Part II, if appropriate

N/A

