

Regulatory Committee

Meeting to be held on 15 November 2023

Part I

Electoral Division affected:
Lancaster Rural East

Highways Act 1980 – Section 119
Wildlife and Countryside Act 1981 – Section 53A
Proposed Diversion of Part of Footpath FP0132027 at Lower Stockbridge,
Tatham
(Annexes 'B' and 'C' refer)

Contact for further information:

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Brief Summary

Application for the diversion of part of Footpaths FP0132027 at Lower Stockbridge, Tatham.

Recommendation

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpaths FP0132027 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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its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.

Detail

A request has been received from the owners of the residential property of Lower Stockbridge, Fairheath Road, Tatham, for an Order to be made under Section 119 of the Highways Act 1980, to divert part of Footpath FP0132027. The recorded alignment of this section of the footpath is from the boundary between two pastures to the east of Lower Stockbridge, in a westerly direction, to the southern boundary of the private grounds of Lower Stockbridge, then in a broadly north-westerly, then northerly direction through the private grounds of the residential property of Lower Stockbridge, onto the access track to Lower Stockbridge. It is proposed that the footpath is diverted from the boundary wall of the two pastures, to continue in a broadly west north-westerly direction to a point in the pasture 20 meters to the east of the access track to Lower Stockbridge, to continue in a west south-westerly direction, through a field gate to meet the access track and then continue on the existing line.

The length of existing path to be diverted is shown by a bold continuous line and marked A-B and the proposed alternative route shown by a bold broken line and marked A-C-B on the attached map.

Consultations

The Local Member, Lancaster Borough Council and Tatham Parish Council have been consulted and there are no adverse responses.

The Peak and Northern Footpaths Society and the Lancaster 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 6492 6631	On the boundary between two pastures to the east of Lower Stockbridge.
B	SD 6480 6635	On the access track to Lower Stockbridge.
C	SD 6478 6634	At a point in the pasture 20 meters to the east of the access track to Lower Stockbridge and to the north of the property of Lower Stockbridge.



Description of existing footpath to be diverted

That part of FP0132027 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	W, then broadly NW	160	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)	SURFACE
A	C	WNW	130	2	Grass
C	B	WSW	20	2	Grass then stone

The public footpath to be created by the proposed Order will be subject to the following limitations and conditions:

Limitations and Conditions	Position (Grid Reference)
The right of the owner of the soil to erect and maintain a two-way gate that conforms to BS 5709:2018	SD 6478 6635 (point 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 Tatham 27 be amended to read as follows:

"No. of Path:
27

Kind of Path:
Footpath

Position:
Continuation from footpath 26 from Oak Head Bank, south, crossing Thwaite Lane and High Road, through pasture, then from the pasture boundary at SD 6492 6631 in a broadly west-north-westerly direction to a point in the pasture 20 meters to the east of the access track to Lower Stockbridge, to continue in a west south-westerly, through



a field gate to meet the access track at SD 6480 6635 and then to Proctor's Brow near Lower Stockbridge.

(All compass points given are approximate).

Length:

0.14 km

Other Particulars:

The only limitations on the section between SD 6492 6631 and SD 6480 6635 is the right of the owner of the soil to erect and maintain a two-way gate that conforms to BS 5709:2018 at SD 6478 6635?

The width between SD 6492 6631 and SD 6480 6635 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 for reasons of privacy and security. Lower Stockbridge is a private, residential property. Currently the public footpath runs through pasture and then through the grounds, and immediately adjacent to the dwelling of Lower Stockbridge, to meet Fairheath Road.

The diversion will instead continue from the pasture boundary, in a broadly west north-westerly direction to a point in the pasture 20 meters to the east of the access track to Lower Stockbridge, to continue in a west south-westerly, through a field gate to meet the access track and then continue on the existing line. This will significantly increase the privacy and security of the dwelling, whilst providing a route that is safe, convenient and as 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 highway or a highway connected to it and is substantially as convenient to the public. The proposed diversion will not alter the points of termination of FP0132027.

Committee is advised that so much of the Order as stops up parts of FP0132027, 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 owners of the section A-C and part of C-B, the pasture on part of the proposed route, 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 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, 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. Also, because the new footpath will be diverted out of the grounds of Lower Stockbridge, some users of the footpath may feel more comfortable and at ease when passing through the vicinity of the property than when walking through the 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.

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
None		
Reason for inclusion in Part II, if appropriate		
N/A		

