

Regulatory Committee

Meeting to be held on 15 November 2023

Part I

Electoral Division affected:
South Ribble West

Highways Act 1980 – Section 119

Wildlife and Countryside Act 1981 – Section 53A

Proposed Diversion of Part of Footpath FP0706024 off Station Road, Little Hoole

(Annexes 'B' and 'C' refer)

Contact for further information quoting 211-760:
Mr A Ibison, Planning and Environment Group
07773 135050, adrian.ibison@lancashire.gov.uk

Brief Summary

Application for the diversion of part of Footpath FP0706024 at Station Road, Little Hoole.

Recommendation

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath FP0706024 from the route shown by a bold continuous line and marked A-B (except X-Y across Station Road) to the route shown by a bold broken line and marked A-E-Z-C-D-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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its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 Lower Marsh Farm, Station Road, Little Hoole, for an Order to be made under Section 119 of the Highways Act 1980, to divert part of Footpath FP0706024.

The recorded alignment of the section of the footpath from just south of the end of Station Road to approximately 500m north of the road is along the track. It is proposed that the footpath is diverted from the track and onto a path to be created by Natural England along the western verge where they intend to realign the England Coast Path. To the south of Station Road the current alignment passes through a hedge and it is proposed to divert the last 40m along the field edge and install a kissing gate leading across the tarmac turning head to a further kissing gate into the field to the north.

The length of existing path to be diverted is shown by a bold continuous line and marked A-B, excluding section X-Y across Station Road, and the proposed alternative route shown by a bold broken line and marked A-E-Z-C-D-B on the attached map.

Consultations

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

The Peak and Northern Footpaths Society and the South Ribble 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 (Current)
A	SD 4603 2411	Unmarked point in pasture south-west of the western end of Station Road.
B	SD 4600 2461	Gate on the existing track.
C	SD 4606 2415	Field-gate on north side of turning head outside the adopted length of Station Road.
D	SD 4601 2460	Stile on the existing track.
E	SD 4605 2413	Field-gate on south side of turning head outside adopted length of Station Road



X	SD 4606 2413	Hedge on south side of Station Road
Y	SD 4607 2414	Security gates on north side of Station Road
Z	SD 4606 2414	Unmarked point on the tarmac turning head outside the adopted length of Station Road

Description of existing footpath to be diverted

That part of FP0706024 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	X	NNE	40	The entire width
Y	B	Generally N	500	The entire width

Description of new footpath

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

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	SURFACE
A	E	NE	25	2	Compacted stone
E	C	NE	25	2	Tarmac
C	D	Generally N	480	2	Compacted stone
D	B	NNW	15	2	Compacted stone

<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 4606 2415 (point C)



The right of the owner of the soil to erect and maintain a kissing gate that conforms to BS 5709:2018	Grid Reference SD 4601 2460 (point D)
The right of the owner of the soil to erect and maintain a kissing gate that conforms to BS 5709:2018	Grid Reference SD 4605 2413 (point E)
The right of the owner of the soil to erect and maintain a kissing gate that conforms to BS 5709:2018	Grid Reference SD 4600 2461 (point B)

The public footpath 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 Footpath Little Hoole 24 (FP0706024) be amended to read as follows:

"No. of Path:
24

Kind of Path:
Footpath

Position:
Much Hoole Parish N. Boundary at Raikes Brook, north to SD 4603 2411 SW of the end of Station Road, through a kissing gate, meeting the end of the adopted length of Station Road then through a kissing gate and north along a stone path on the verge to the west of the track, through a kissing gate then a further 15m to a kissing gate at SD 4600 2461 then to Longton Parish S. Boundary.

(All compass points given are approximate).

Length:
1.42 km

Other Particulars:
The only limitations on the section between SD 4603 2411 and SD 4600 2461 are the right of the owner of the soil to erect and maintain gates that conform to BS 5709:2018 at SD 4600 2461, at SD 4606 2415, at SD 4605 2413 and at SD 4601 2460.

The width between SD 4603 2411 and SD 4600 2461 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 agricultural efficiency and security. Currently the public footpath



north of Station Road runs along the access track with the consequent inconvenient interaction between agricultural machinery and pedestrians.

The diversion will instead continue on the verge to the west of the access track. This will significantly increase the usability and security of the access track, allowing the free movement of agricultural machinery, whilst providing a route that is safe, convenient for public use.

The proposal also includes moving a short section south of Station Road to the field edge and across the turning head. This will keep walkers at the edge of the pasture and remove the need to make a new access through the hedge across the existing line.

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 not alter the points of termination of FP0706024.

Committee is advised that so much of the Order as stops up parts of FP0706024, 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 all of the existing route. The adopted vehicular highway section is X-Y.

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 Natural England has agreed that as part of the King Charles III England Coast Path it will pay the costs which are incurred in bringing the new footpath into a fit condition for use by 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. FP existing



footpath connects to other parts of the public rights of way network via Station Road and FP0708001.

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 where necessary field boundaries will be crossed by high standard kissing gates.

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

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.

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.

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

