

Regulatory Committee

Meeting to be held 24 January 2024

Part I

Electoral Division affected:
Longridge with Bowland

Highways Act 1980 – Section 119
Wildlife and Countryside Act 1981 – Section 53A
Proposed Diversion of Footpaths at and near Brabin's Endowed School,
Chipping
(Annexes 'B' and 'C' refer)

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Brief Summary

The proposed diversion of part of Footpaths 3-12-FP1, 3-12-FP2 and 3-12-FP3 at and near Brabin's Endowed School, Chipping.

Recommendation

- (i) That an Order(s) be made under Section 119 of the Highways Act 1980 to divert:
 - Parts of Footpaths 3-12-FP1 & 3-12-FP3 from the route shown by a bold continuous line and marked A-F-G-H-D to the route shown by a bold broken line and marked A-B-C-D on the attached plan.
 - Also, part of Footpath 3-12-FP2 from the route shown by a bold continuous line and marked F-E to the route shown by a bold broken line and marked C-G-E on the attached plan..
- (ii) That in the event of no objections being received, the Order(s) be confirmed and in the event of objections being received and not withdrawn, the Order(s) be sent to the Secretary of State and the Authority take a neutral stance with respect to its confirmation.
- (iii) That provision be included in the Order(s) 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 Governors of Brabin's Endowed Primary School, Chipping, for an Order to be made under Section 119 of the Highways Act 1980, to divert parts of Footpaths 3-12-FP1, 3-12-FP2 and 3-12-FP3.

Brabin's Endowed School is a small, rural primary school, with a relatively small school field that backs on to open agricultural land. The footpath runs between the walled perimeter of the school and the neighbouring residential property, then out across the centre of the school field to the far boundary then out through a gate and across a pasture then along a residential access road. There is also another branch along most of the length of the pasture.

If successful, the diversion will move the footpath away from the centre of the school field and onto the edge of adjacent land that is part of St. Mary's Roman Catholic Primary School, with their consent. This will increase the security and safeguarding for pupils and staff, whilst providing a route that is safe and convenient for public use. The diversion will also cross the pasture around the edges of the field which is more efficient for agriculture.

As the proposal will result in St Mary's giving up land for the footpath the Secretary of State's consent was also required given the provisions of legislation – School Standards and Frameworks Act 1998.

Consultations

Ribble Valley Borough Council and Chipping Parish Council have been consulted and their responses were in favour of the diversion. The Ribble Valley branch of the Ramblers Association has been consulted and their response was in favour of the diversion. The Peak and Northern Footpaths Society has been consulted and initially their response objected to the proposal. Following further discussions, they decided the proposal is appropriate providing certain improvements, outlined below, are made to minor sections of the proposed route.

The consultation with the statutory undertakers has been carried out and no objections or adverse comments on the proposal have been received.

Consent for the change of land use at St. Mary's Roman Catholic Primary school, where the alternative route will be sited, from education to highways has been granted by the Department for Education.

Advice

Points annotating the routes on the attached plan

Point	Grid Reference	Description
A	SD 6231 4314	Pedestrian gate on existing pathway at rear of school.



B	SD 6225 4311	Field gate at south west corner of St. Mary's R.C. Primary School property boundary.
C	SD 6221 4310	Hedge at north west corner of field boundary, near Brickhouse Gardens.
D	SD 6220 4309	Unnamed access road at the boundary between Greenside and Brickhouse Gardens.
E	SD 6233 4292	Unmarked point in pasture 6m north north-east of existing footbridge.
F	SD 6229 4310	Gate on south western boundary of the school field.
G	SD 6224 4307	Gate on western boundary between pasture and unnamed road by Brickhouse Gardens.
H	SD 6223 4307	Unnamed access road in front of 4 Brickhouse Gardens.

Description of existing footpaths to be diverted

Those parts of Footpath 3-12-FP1, 3-12-FP3 and 3-12-FP2 as described below and shown by a bold continuous line marked A-F-G-H-D and F-E on the attached plan. (All lengths and compass points given are approximate).

SECTION	PATH REF	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A-F	3-12-FP1	SW	45	The entire width
F-G-H-D	3-12-FP3	SW then NW	100	The entire width
F-E	3-12-FP2	Generally S	200	The entire width

Description of new footpath

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



SECTION	NEW PATH REFERENCE	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A-B	3-12-FP1	Generally WSW	70	2	Compacted stone
B-C	3-12-FP1	WSW	40	2	Grass
C-D	3-12-FP3	WSW	15	2	Compacted stone
C-E	3-12-FP2	SSE	210	2	Grass/compacted stone
Total length of new footpath:			335		

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 6225 4311 (point B)
The right of the owner of the soil to erect and maintain a kissing gate that conforms to BS 5709:2018	Grid Reference SD 6221 4310 (point C)

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 in the Parish of Chipping be amended to read as follows:

"No. of Path:

1

Kind of Path:

Footpath

Position:

From Longridge Road, Chipping to SD 6231 4314, then crossing into St Mary's RC Primary School continuing in a west south westerly direction on a compacted stone path for 70 metres roughly parallel to the boundary hedge between the schools, through a pedestrian gate at SD 6225 4311, then 40 metres along the edge of a pasture to the north west corner of the field and a junction with footpaths 2 & 3 at SD 6221 4310. (All lengths and compass points given are approximate).

Length:

0.16 km



Other Particulars:

The only limitation on the section between SD 6231 4314 and SD 6221 4310 is the right of the owner of the soil to erect and maintain a gate that conforms to BS 5709:2018 at SD 6225 4311 and the width on this section is 2 metres."

"No. of Path:

2

Kind of Path:

Footpath

Position:

From the junction with footpaths 1 and 3 in the north west corner of the pasture at SD 6221 4310, running south east for 250 metres as a cross field, grass footpath to SD 6233 4292 then to a junction with Longridge Road west of Startifants. (All lengths and compass points given are approximate).

Length:

0.51 km

Other Particulars:

The width between SD 6221 4310 and SD 6233 4292 is 2 metres with no limitations."

"No. of Path:

3

Kind of Path:

Footpath

Position:

From the junction with footpaths 1 and 2 in the north west corner of the pasture at SD 6221 4310 running west south west through a gate and along a compacted stone path for 15 metres to the residential access road at SD 6220 4309 then to the junction with Garstang Road at the Congregational Church.

Length:

0.15km

Other Particulars:

Between SD 6221 4310 and SD 6220 4309 the width is 2m and the only limitation is the right of the owner of the soil to erect and maintain a gate that conforms to BS 5709:2018 at SD 6221 4310."

Criteria satisfied to make and confirm the Order

The proposed diversion is considered expedient in the interests of the owners of the school land for reasons of safeguarding children and security and of the owners of the pasture for more efficient use of the agricultural land. Brabin's Endowed School is a small, rural primary school. The diversion, if successful will move the footpath from across the small school field to the northern side of the boundary of the property onto land that is part of the neighbouring school. This land that is part of the neighbouring school, is non-operational, it will remain in the ownership of the neighbouring school but will be fenced off from the rest of the school playing field to support this diversion proposal and at the same time meet the safeguarding requirements of both schools. This will significantly increase the safeguarding of pupils at Brabin's, whilst providing a route that is safe and convenient for public use.



It will also move the 3 footpaths from across the agricultural field behind the school to run along the edges of the field which makes it easier to farm efficiently.

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 western point of termination of Footpath 3-12-FP1 to divert it from its junction with Footpath 3-12-FP3 and place it at another point on Footpath 3-12-FP3, being 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 40 metres to the north this is on a firm convenient surface.

The Committee are advised that so much of the Order as diverts part of footpaths 3-12-FP1, 3-12-FP2 & 3-12-FP3 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 belonging to or used by statutory undertakers under, in, upon, over, along or across the land crossed by the present definitive route, of which we are aware at the time of writing.

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 part of the existing route. The owners of the section A-B, the neighbouring school, the owners of the pasture and the owners of the parcels of land in front of Brickhouse Gardens 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 procedure, and also to defray any compensation payable and any costs which are incurred in bringing the new 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 alternative route is of similar length and overall gradient to the existing footpath.

The current route F-E runs on open grazing land, the ground between C-E has a similar gradient but is at the field edge and can be wet underfoot, particularly closer to



Point E. If the diversion is successful, the applicants will provide some compacted stone surfacing where necessary between points C-E.

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. It is suggested that many users might find a walk on the new route to be more enjoyable, because the new footpath will be fenced from the school grounds and as such, some users of the footpath may feel more comfortable and at ease when passing through the property.

It is felt that there would be no adverse effect on the land served by the existing route, 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 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:

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.

Risk management

Consideration has been given to the risk management implications associated with this proposal. The Committee is advised that, provided the decision is taken in accordance with the advice and guidance contained in Annexes B & C (item 4) included in the Agenda papers, and is based upon relevant information contained in the report, there are 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.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Tel
File Ref: 211-739		Planning and Environment Group
File Ref: PRW-3-12-FP1, 3-12-FP2 and 3-12-FP3		Mr A Ibison, 07773 135050

Reason for inclusion in Part II, if appropriate

N/A

