

**Regulatory Committee**

Meeting to be held on 24 January 2024

**Part I**

Electoral Division affected:  
Whitworth and Bacup

**Highways Act 1980 – Section 118**  
**Wildlife and Countryside Act 1981 – Section 53A**  
**Proposed Extinguishment of Footpath at Longacres Drive, Whitworth**  
(Annexes 'B' and 'C' refer)

Contact for further information, quoting 211-761:  
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**Brief Summary**

Application for the extinguishment of part of Footpath FP1405129 at Longacres Drive, Whitworth, Rossendale Borough.

**Recommendation**

- (i) That an Order be made under Section 118 of the Highways Act 1980 to extinguish part of Footpath FP1405129 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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its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 FP1405129.

**Detail**

A request has been received from the owners of the residential property of 33 Longacres Drive, Whitworth, for an Order to be made under Section 118 of the Highways Act 1980, to extinguish part of Footpath FP1405129.



The recorded alignment of this section of the footpath is through an established residential development of circa 50 years standing. The current public right of way, running through the properties from no. 17 through to no. 33, was neither diverted nor extinguished at the time of the development. However, there was a footway built to the front of the properties and is part of the adopted highway Longacres Drive, so the right of way is not needed for public use.

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 Whitworth Town Council have been consulted and at the time of writing, there are no adverse responses.

The Peak and Northern Footpaths Society, the Rossendale branch of the Ramblers and Access Rossendale 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.

Consultation with the neighbouring properties also affected by this right of way 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 8889 1867	At a point on the eastern edge of the footway of Longacres Drive on the western boundary of no.33.
B	SD 8895 1881	At a point on the eastern edge of the footway of Longacres Drive on the western boundary of no.17.

### Description of existing footpath to be extinguished

That part of FP1405129 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 NNE	160	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 Order should also specify that the Definitive Statement for Footpath Whitworth 129 (FP1405129) be amended to read as follows:

"No. of Path:  
129

Kind of Path:  
Footpath

Position:  
From Minnie Street to a point on Longacres Drive at SD 8888 1867 then from another point on Longacres Drive at SD 8895 1883 to Long Acres Lane

Length:  
0.16 miles"

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

The proposed extinguishment of footpath FP1405129 is considered expedient on the grounds that this part of the footpath is not needed for public use. Nos. 33 to 17 (odd numbers) Longacres Drive are private, residential properties fronted by a footway 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 160m of pedestrian rights 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 part of the existing route. The owners of the land over which the remaining section included in this application have been consulted with the proviso that if no adverse response was received we assumed that they are in agreement with the proposal and that they would not raise any objection if a Diversion Order is made. The Order would have a positive effect on the land crossed by this length of public footpath because it would assist in the sale of the properties when required. The application was made because of the difficulty in selling one of the properties with the public right of way recorded through the house.

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.



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 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.

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:



## 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: 211-761		Mr A Ibison, Planning and Environment Group, 07773 135050

Reason for inclusion in Part II, if appropriate

N/A

