

Regulatory Committee

Meeting to be held on 27 March 2024

Part I

Electoral Division affected:
Chorley Rural West

Highways Act 1980 – Section 119
Wildlife and Countryside Act 1981 – Section 53A
Diversion of Footpath at Little Bluestone Cottage, Mawdesley
(Annexes 'B' and 'C' refer)

Contact for further information:

Mr A Ibison, Planning and Environment Group
07773 135050, adrian.ibison@lancashire.gov.uk

Brief Summary

Application for the diversion of part of Footpath FP0919055 at Little Bluestone Cottage, Mawdesley.

Recommendation

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath FP0919055 from the route shown by a bold continuous line and marked A-B to the route shown by a bold broken line and marked 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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its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 the residential property of Little Bluestone Cottage, Bluestone Lane, Mawdesley, for an Order to be made under



Section 119 of the Highways Act 1980, to divert part of Footpath FP0919055. The recorded alignment of this section of the footpath is from Bluestone Lane in an easterly direction, south of the boundary fence along the access drive of the residential property of Little Bluestone Cottage. It is proposed that the footpath is diverted to the northern side of the boundary fence of Little Bluestone Cottage, then re-joining the existing route near the rear of the property.

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 C-D-B on the attached map.

Consultations

The Local Member, Chorley Borough Council and Mawdesley Parish Council have been consulted and 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 5044 1537	At the western edge of the access drive of Little Bluestone Cottage.
B	SD 5048 1538	East of point A, at the south-eastern corner of the pasture to the north of Little Bluestone Cottage.
C	SD 5044 1538	On the northern side of the access drive of Little Bluestone Cottage, by the south-western corner of the adjacent pasture.
D	SD 5048 1539	At the south-eastern corner of the pasture to the north of the access drive to Little Bluestone Cottage.

Description of existing footpath to be diverted

That part of FP0919055 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	E	45	The entire width

Description of new footpath

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

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	SURFACE
C	D	E	45	2	Compacted stone
D	B	S	10	2	Compacted stone

The public footpath to be created by the proposed Order will not be subject to any limitations or 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 Mawdesley 55 be amended to read as follows:

"No. of Path:
55

Kind of Path:
Footpath

Position:
From Blue Stone lane in pasture to the north of Little Bluestone Cottage at SD 5044 1538, east to south east corner of pasture, to turn south for 10m to SD 50480 1538, then turn east to continue through pasture to Salt Pit Lane opposite Barretts Farm.
(All compass points given are approximate).

Length:
0.07 km

Other Particulars:
There are no limitations on the section between SD 5044 1538 and SD 5048 1538.

The width between SD 5044 1538 and SD 5048 1538 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. Little Bluestone Cottage is a private, residential property. Currently the public footpath runs along the access drive of, and immediately adjacent to, the dwelling of Little Bluestone Cottage.

The diversion will instead move to the north of the boundary fence of Little Bluestone Cottage, going through the pasture on a line parallel to the current route, then turn slightly to the south before turning east to continue on footpath FP0919055. This will significantly increase the privacy and security of the residential 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 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 FP0919055 to divert it from its current termination point to another point on Bluestone Lane 10 meters to the north. It is suggested that the proposed termination point is substantially as convenient to the public.

Committee is advised that so much of the Order as stops up parts of FP0919055, 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 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. As the existing footpath connects to other parts of the public rights of way network via the remainder of FP0919055. Also, because the new footpath will be diverted out of the private grounds of Little Bluestone Cottage, 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 private 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:

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 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
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None

Reason for inclusion in Part II, if appropriate

N/A

