

Regulatory Committee

Meeting to be held on 27 March 2024

Part I

Electoral Division affected:
Rossendale East and
Whitworth & Bacup

**Highways Act 1980 – Sections 119, 118 and 25
Wildlife and Countryside Act 1981 – Section 53A
Proposed Diversion, Extinguishment and Dedication of Public Paths
at Height Barn Farm, Bacup
(Annexes 'B' and 'C' refer)**

Contact for further information:

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Brief Summary

Proposed diversion, extinguishment and creation by agreement of bridleways and footpaths at and around Height Barn Farm, Bacup as shown on the attached plans 211-764 v1 and 211-769 v2.

Recommendation

- (i) That Order(s) are made under the Highways Act 1980 to alter some public paths at Height Barn Farm as follows:
 - a. Under section 119: To divert bridleway BW1401503, BW1401493, BW1401678, BW1401492 (part) from the route shown by a bold continuous line and marked A-D-B-E-F-C to the route shown by a bold broken line and marked A-G on the attached map.
 - b. Under section 118. To extinguish footpath FP1401493 shown as a bold continuous line and marked D-E on the attached map.

- (ii) That s.25 Highways Act 1980 Public Path creation agreements are entered into with the landowners to create:
 - a. the section marked F-C shown as a bold continuous line on the attached map 211-764 v1, as footpath.
 - b. the section A-X-Y-Z-P shown as a bold red line on the attached map 211-769 v2, as bridleway.



- (iii) 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event of no objections being received, the Order(s) be confirmed and in the event of objections being received and not withdrawn, the Order(s) be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its confirmation.
- (iv) That the Director of Environment and Planning be authorised to finalise and enter into a Public Path Creation Agreement under Section 25 of the Highways Act 1980 between the owners of the land east of Height Barn Lane and Lancashire County Council with completion at a time and to include wording in accordance with the main terms as set out in the report to dedicate a length of bridleway marked by a bold continuous red line on the attached map 211-769 v2 and annotated A-X-Y-Z-P.
- (v) 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 Order(s).

Detail

An agreement has been reached with the landowners for Order(s) to be made under S.119 and S.118 Highways Act 1980 and to enter into a Public Path Creation Agreement under Section 25 Highways Act 1980. The effect of which is to divert, extinguish and dedicate parts of the network of Public Rights of Way at Height Barn Farm and Venomous Clough.

It is proposed that the bridleway, consisting of BW1401492 (part), BW1401678, BW1401493 and BW1401503, from New Line along Height Barn Lane in a broadly west-south-westerly direction through Height Barn Farm to the junction with Stubblelee Lane (A-D-B-E-F-C on map 211-764 v1) is diverted out of Height Barn Farm. The proposed diverted line would run through the pasture to the north of Height Barn Farm and on a surfaced path through Moorlands Park to Stubblelee Lane (A-G).

There is the section of footpath FP1401492 and FP1401493 that runs between 2 points on the bridleway in a broadly west-south-westerly direction through the gardens of Height Barn Farm which will become redundant and hence it is proposed to extinguish (D-E).

In order to ensure that the northern end of Footpath FP1401496 is still accessible it is proposed that the section of bridleway to be diverted (F-C) is then rededicated as footpath.

It is proposed to enter into an Agreement to dedicate a bridleway from Height Barn Lane running south-east to Venomous Clough then northwards to the Britannia Greenway and New Line (A6066).



- (i) The length of existing bridleway to be diverted is shown by a bold continuous line and marked on the attached map as A-D-B-E-F-C.
- (ii) The length of existing footpath to be extinguished is shown by a bold continuous line and marked on the attached map as D-E.
- (iii) The length of bridleway to be rededicated as footpath following its diversion is shown by a bold continuous line and marked on the attached map as F-C.
- (iv) The proposed diverted route of the bridleway is shown by a bold broken line and marked A-G.
- (v) The proposed creation agreement is shown by a bold red line and marked A-X-Y-Z-P.

These can be seen on the maps 211-764 v1 and 211-769 v2.

It is important to the owners of Height Barn Farm that the Agreement to dedicate the bridleway south-east of Height Barn Lane only takes effect if the diversion of the bridleway through the Farm takes effect.

It is important for the public that the diversion of the bridleway only takes effect if an Agreement is in place to dedicate the bridleway A-X-Y-Z-P and to rededicate footpath rights over F-C.

Consultations

The Local Members, Rossendale Borough Council and the local representatives for Irwell Ward and GreencloUGH Ward have been consulted and at the time of writing, there was no adverse response.

The Peak and Northern Footpaths Society, the Rossendale branch of the Ramblers and the British Horse Society have been consulted and there was no adverse response.

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 plan 211-764 v1

Point	Grid Reference	Description
A	SD 8711 2170	Height Barn Lane east of Height Barn Farm and at the easternmost point of the adjacent pasture
B	SD 8704 2168	Farmyard entrance north-west of the farmhouse
C	SD 8692 2162	Junction of Height Barn Lane and Stubbylee Lane



D	SD 8707 2169	Height Barn Lane north-east of the farmhouse
E	SD 8704 2167	Height Barn Lane by the NW corner of farmhouse
F	SD 8699 2163	Junction of Height Barn Lane with access track
G	SD 8691 2163	Stubbylee Lane 20 meters north-west of the junction with Height Barn Lane.

Points annotating the routes on the attached plan 211-769 v2

Point	Grid Reference	Description
A	SD 8711 2170	Height Barn Lane east of Height Barn Farm and at the easternmost point of the adjacent pasture
X	SD 8729 2163	Fence between rough pasture
Y	SD 8735 2160	Natural dip in rough pasture
Z	SD 8745 2156	Fence between rough pastures west of Venomous Clough
P	SD 8743 2167	Gap in wall onto New Line (A6066)

Description of existing bridleway to be diverted

That part of Height Barn Lane as described below and shown by a bold continuous line marked A-D-B-E-F-C, on the attached map 211-764 v1. (All lengths and compass points given are approximate).



PATH REFERENCE	FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
BW1401492	A	D	WSW	35	The entire width
BW1401678	D	B	WSW	35	The entire width
BW1401678	B	E	S	15	The entire width
BW1401493	E	F	SW	60	The entire width
BW1401503	F	C	WSW	70	The entire width

Description of existing footpath to be extinguished

Footpath at Height Barn Farm as described below and shown by a bold continuous line marked D-E on the attached map 211-764 v1. (Length and compass point given is approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
D	E	WSW	40	The entire width

Description of new bridleways and footpath

Bridleway as described below and shown by a bold broken line A-G on the attached map 211-764 v1.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A	G	WNW then S	300	3	Rubber crumb/ tarmac

Footpath as described below and shown by a bold continuous line F-C on the attached map 211-764 v1.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
F	C	WSW	70	2	Compacted stone

Bridleway as described below and shown by a bold continuous line A-X-Y-Z-P on the attached map 211-769 v2.



FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A	X	ESE	190	3	Rubber crumb
X	Y	ESE	80	3	Rubber crumb
Y	Z	ESE	120	3	Rubber crumb
Z	P	N	140	3	Rubber crumb

Variation to 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 Bridleways Bacup 493, 503, 678 and Footpaths 492, 493 be deleted; Bridleway Bacup 693 be created and Bridleways Bacup 492, 504, 681 and Footpaths Bacup 491, 494, 495, 496, 501 be amended accordingly.

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, security and safety. Height Barn Farm is a working farm. Currently the public bridleway and footpath runs on the access road to the farm and through the centre of the farm.

The diverted route will start at the same point but pass through the pasture to the north of Height Barn Lane then through Moorlands Park to join Stubbylee Lane, removing it from the vicinity of the farm and residential property. This will significantly increase the privacy, security and safety of the farm, whilst providing a route that is safe, convenient and as direct for public use.

The legislation requires that if the termination point of a public path is proposed to be altered then the authority may only make an 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 alter the western point of termination of the bridleway to divert it from its current termination point at the south end of Stubbylee Lane (Bridleway BW1401681) to a point 20m further north on Stubbylee Lane. 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 diverts part of Height Barn Farm is not to come into force until the county council has certified that the necessary work to the alternative route has been carried out and that Agreements are in place to dedicate footpath rights between the south end of Stubbylee Lane and the north-west end of Footpath FP1401496 and bridleway rights between Height Barn Lane and New Line via Venomous Clough.



The proposed extinguishment of Footpath FP1401492 and FP1401493 is required because these are no longer needed as they will be rendered as 2 short culs-de-sac by the diversion of the bridleway to which they currently connect. Their termination points are at no particular points of interest to the public and it is expedient to remove FP1401493 from the garden of the farmhouse at Height Barn Farm and FP1401492 from the grazing land.

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 routes.

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 agreement of the owners of the land crossed by all of the existing route has been achieved.

The county council has agreed to bear all advertising and administrative charges incurred 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 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 way will not be substantially less convenient to the public in consequence of the diversion because the alternative route is slightly more direct, 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 proposed public paths will connect to other parts of the public rights of way network as the existing ones and it is suggested that many users might find the new route to be as convenient. Also, because the new bridleway will be away from the working and residential areas of the farm, some users of the bridleway may feel more comfortable and at ease when passing Height Barn Farm.

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 the gate 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.

Other options to be considered

To not agree that the Order and Agreement be made.

To agree the Order and Agreement be made but not yet be satisfied regarding the criteria for confirmation of the Order and request a further report at a later date.

To agree that the Order and Agreement be made and the Order promoted to confirmation by the county council.

To agree that the Order and Agreement 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 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.



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.

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

