

Regulatory Committee

Meeting to be held on 26 June 2024

Part I

Electoral Division affected:
Ribble Valley South West

Highways Act 1980 – Section 119
Wildlife and Countryside Act 1981 – Section 53A
Diversion of Footpath at Saccary Lane, Mellor
(Annexes 'B' and 'C' refer)

Contact for further information:

Mr D Goode, Planning and Environment Group
01772 533723, david.goode@lancashire.gov.uk

Brief Summary

Application for the diversion of part of Footpath FP0325018 at The Old Coach House, Saccary Lane, Mellor.

Recommendation

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath FP0325018 from the route shown by a bold continuous line and marked A-B to the route shown by a bold broken line and marked E-D-C-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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its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 The Old Coach House, Saccary Lane, Mellor, for an Order to be made under Section 119 of the Highways Act 1980, to divert part of Footpath FP0325018. The recorded alignment



of this section of the footpath is from Saccary Lane in an easterly direction, through the garden of the residential property and close to The Old Coach House then into agricultural land behind the garden (A-B on the Committee Plan). The legal line of the public footpath is not usable because of a rerouting of the path some years ago moving the footpath half-way up the garden (F-B). No diversion order has been found however the footbridge was moved either by Lancashire County Council or Ribble Valley Borough Council (which had an agency agreement for many years); this should not have been done without a public path order in effect. It is proposed that the footpath is diverted to the southern end of the garden then along the field-edge on the eastern side of the boundary hedge of The Old Coach House to re-join the existing route near the boundary with the neighbouring property 'Saccary' (E-D-C-B).

Consultations

The Local Member, Ribble Valley Borough Council and Mellor 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 concern was expressed about the poor condition of the field edge on the proposed route. The applicant has been told that it will need to be made firm by drainage and/or stone before the diversion can take effect.

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

Neighbours have been consulted; 1 reply was in support of the proposal and 2 responses (one from a neighbour and one unknown) pointing out that there has been an unsuitable diversion elsewhere on this footpath which has then been fenced on either side [in fact there is no other legal diversion on this footpath]. This could happen on any route, whether diverted or not and is one of the reasons why all diverted footpaths are specified as being 2m wide. Both responses appeared to refer to the currently walked line and not the legal line of the footpath.

It is proposed that unless an Order is found Lancashire County Council moves the footbridge at public expense as the footbridge appears to have been erected in its current location in error. The applicant has agreed to bear the cost of the remainder of the works. Our bridge engineers report that the bridge can be moved relatively easily and cheaply due to the easy access at this location and the similar profile of the stream at the 2 locations.

Advice

Points annotating the routes on the attached map

Point	Grid Reference	Description
A	SD 6639 3153	At the roadside stream where there is no obvious gap in the vegetation (approx. midway between the slab bridge and wooden footbridge)



B	SD 6645 3157	Western edge of pasture just east of field gate
C	SD 6646 3150	Boundary hedge of The Old Coach House and pasture at the south-east corner of the garden
D	SD 6641 3148	South-west corner of garden on east side of stream
E	SD 6641 3148	Roadside stream 30m south of existing wooden footbridge

Description of existing footpath to be diverted

That part of FP0325018 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	ENE	70	The entire width

Description of new footpath

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

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	SURFACE
E	D	ENE	4	2	Wooden footbridge*
D	C	ENE	50	2	1m compacted stone
C	B	N	80	2	1m compacted stone

*The standard footbridge is less than 2m but the extra width allows for footings/abutments, etc.



The public footpath to be created by the proposed Order will be subject to the following limitations.

Point	Grid Reference	Limitation
C	SD 6646 3150	The right of the landowner to maintain a kissing gate compliant with BS5709:2018
D	SD 6641 3148	The right of the landowner to maintain a pedestrian gate compliant with BS5709:2018

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 Mellor 18 be amended to read as follows:

"No. of Path:

18

Kind of Path:

Footpath

Position:

Commencing on the east side of Saccary Lane by the southern boundary of The Old Coach House at SD 6641 3148, crossing a footbridge and running along the southern edge of the garden to a kissing gate where it continues as Footpath Ramsgreave 6.

Length:

0.05 km

Other Particulars:

The only limitation between SD 6641 3148 and SD 6646 3150 is a pedestrian gate compliant with BS5709:2018 at SD 6641 3148.

The width between SD 6641 3148 and SD 6646 3150 is 2 metres."

and the Definitive Statement for Footpath Ramsgreave 6 to read:

"No. of Path:

6

Kind of Path:

Footpath

Position:



Continuing from footpath Mellor 18 through a kissing gate at SD 6646 3150 and turning north to follow the western edge of the field to SD 6645 3157 then continuing to Midge Hall Farm (now Valley Hall).

Length:

0.68km

Other Particulars:

The only limitation between SD 6646 3150 and SD 6645 3157 is a kissing gate compliant with BS5709:2018 at SD 6646 3150.

The width of the footpath between SD 6646 3150 and SD 6645 3157 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. The Old Coach House is a private, residential property. Currently the legal line of the public footpath runs along the garden and close to the dwelling of The Old Coach House. The residents have reported various incidents of abuse of the public rights and wish to segregate the public footpath from the garden.

The diversion will move the footpath to the south end of the garden of The Old Coach House, then following the edge of the adjacent pasture to continue on footpath FP0333006 northwards. This will significantly increase the privacy and security of the residential dwelling, whilst providing a route that is safe and convenient 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 FP0325018 from its current termination point to another point on Saccary Lane 50 meters to the south. Walkers crossing the lane from footpath FP0325019 will follow Saccary Lane for 25m south instead of 15m north as currently. Those coming along Primrose Hill will cross Saccary Lane directly onto the proposed footpath instead of walking 50m north along the road. 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 that part of FP03225018, 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 ecologist was consulted to identify any likely ecological impacts and has commented that the works should avoid the removal of any mature trees which may be suitable to support roosting bats and all vegetation removal works must be undertaken outside the bird nesting season (March to August inclusive).

The applicants own the land crossed by all except 2m of the existing route which belong to the property 'Saccary', the owners of which have no objection to the proposal. The applicants own the land over which section E-C runs and the owner of the land C-B has agreed to the proposal.

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 with the exception of moving the footbridge to the new location which will be done by the county council.

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 not significantly longer, and has a similar gradient to the existing footpath. The views over the countryside are similar.

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 FP0325018. Also, because the new footpath will be diverted out of the private grounds of The Old Coach House, some users of the footpath may feel more comfortable and at ease to be further from the house 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 and no stiles will be introduced.

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

None

Reason for inclusion in Part II, if appropriate

N/A

