

Regulatory Committee

Meeting to be held on 26 March 2014

Electoral Division affected: Chorley Rural East
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Highways Act 1980 – Section 25

Proposed Creation by Agreement of a Public Footpath at Fairview Youth and Community Centre, Adlington, Chorley Borough.

(Annex 'B' refers)

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Executive Summary

Proposed Creation by Agreement of a Length of Public Footpath at Fairview Youth and Community Centre, Adlington, Chorley Borough

Recommendation

1. That the proposal for the creation by agreement of a public footpath at Fairview Youth and Community Centre, be accepted.
2. That a Public Path Creation Agreement be entered into under Section 25 of the Highways Act 1980 between Chorley Borough Council and Lancashire County Council, to create a length of public footpath at Fairview Youth and Community Centre shown by a bold dashed line and marked A – B on the attached plan.
3. That in the event of the Public Creation Agreement being executed, a further Order be made pursuant to Section 52 (2) (b) and Section 53 (3)(a)(iii) of the Wildlife and Countryside Act 1981, to amend the Definitive Map and Statement of Public Rights of Way to reflect the creation of a new public footpath under Section 25 of the Highways Act 1980, whereby a new right of way has been created over land in an area to which the Map relates, being a right of way such that the land over which the right subsists is a public footpath

Background

A draft Section 25 Public Path Creation Agreement ("Agreement") has been agreed with the freehold owners Chorley Borough Council to dedicate a length of public footpath to link Public Footpath No. 5 Adlington to Highfield Road North (U4831), between A – B ("Proposed Creation Route") as shown on the attached plan ("the Plan") by a bold dashed line. The Agreement was prompted by an application for a Definitive Map Modification Order (DMMO) to record a public footpath over land

owned by Chorley Borough Council. It was clear that the claimed route did not reflect the route that is currently in use by the public, nor did the claimed path reflect the route suggested by a preliminary search of the aerial photos and Ordnance Survey maps. Following discussion with Chorley Borough Council, and the applicant for the DMMO, it was agreed that a public footpath creation agreement be pursued to record the route that was currently being used by the public.

The length of proposed footpath to be created is shown as A – B on the attached plan.

The Agreement states that no consideration payment will be made to the owners for the Proposed Creation Route.

Consultations

Section 25 of the Highways Act 1980 requires that the County Council shall consult any local authority in whose area the proposal is situated. Accordingly, the necessary consultations have been carried out with Chorley Borough Council and Adlington Town Council with no objection regarding the Proposed Creation route.

Advice

Points annotated on the plan

Point	Grid reference	Description
A	SD 6003 1362	End of footway on spur of Highfield Road North
B	SD 5994 1356	Corner of Public Footpath No. 5 Adlington on east side of railway

Description of the Proposed Creation Route

From point A, the Proposed Creation Route runs generally south west across an open grassed area for a distance of approximately 110 metres. Presently the Proposed Creation Route is not surfaced and is being used by members of the public.

It is proposed that the surface will remain as is at present and that this will not present a significant burden on budgets for maintaining highways maintainable at public expense

The width of the Proposed Creation Route is 2 metres.

The Proposed Creation Route is not subject to any limitations or conditions.

Criteria satisfied to enter into a Public Path Creation Agreement

Under Section 25 of the Highways Act 1980, the County Council may enter into an Agreement with a freehold owner for the dedication of a footpath, bridleway or restricted byway. The purpose of this provision is to ensure that only suitable routes

need be accepted by the Highway Authority as any route dedicated under Highways Act 1980 Section 25 becomes maintainable at public expense.

The proposal is considered to be a benefit to the public in securing a safe, convenient and direct route in Adlington between the residential area of Westhoughton Road and the centre and majority of the town to the east of the railway. The Proposed Creation Route is presently well used by the public.

It is advised that the dedication of a public footpath will have no adverse effect on the needs of agriculture and forestry and the 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 proposed creation is by means of an Agreement, therefore there will be no compensation payable as a consequence of the coming into operation of the Creation Agreement.

It is 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. In particular, the proposal will provide a 2 metre wide footpath with no limitations or conditions between points A – B.

It is also advised that the effect of the proposed Agreement is compatible with the material provisions of the County Council's 'Rights of Way Improvement Plan', in particular Policy RMV12-2 whereby the Local Authority "Aspire to meeting the British Standard for gaps, gates and stiles BS5709, subject to consideration of landowners requirements, the local character and the accepted practice at any location." In this instance BS5709:2006 has been applied and no limitations are proposed on the length A – B.

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 noted in Annex B elsewhere on the Agenda, and is based upon relevant information contained in the report, there are no significant risks associated the decision making process.

Alternative options to be considered –

To not agree that the County Council enters into an agreement with the landowners for a publicly maintainable footpath to be created by Agreement.

To agree that the County Council enters into an agreement with the landowners for the creation of a publicly maintainable footpath.

Local Government (Access to Information) Act 1985
List of Background Papers

Paper	Date	Contact/Directorate/Tel
File Ref: 211/PRW09-01		Mr S D Williams, Environment Directorate, 01772 533886

Reason for inclusion in Part II, if appropriate
N/A