

Report of	Meeting	Date
Head of Legal, Democratic and HR Services	Planning Committee	10 September 2019

PROPOSED CHORLEY BOROUGH COUNCIL (PART OF FOOTPATH 58 COPPULL AND PART OF FOOTPATH 13 ADLINGTON) PUBLIC PATH DIVERSION ORDER 2019

PURPOSE OF REPORT

1. To consider an application submitted on behalf of J & B Woodcock & Sons for the diversion of part of Public Footpath No. 58 (Coppull) and part of Footpath 13 (Adlington) in order to facilitate the development of a dairy unit housing up to 600 head of cattle and associated infrastructure.

RECOMMENDATION(S)

2. That the making of the proposed Chorley Borough Council (Part of Footpath 58 Coppull and Part of Footpath 13 Adlington) Public Path Diversion Order 2019 pursuant to Section 257 of the Town and Country Planning Act 1990 be approved in respect of lengths of Footpath Numbers 58 and 13 so as to facilitate development in accordance with the grant of planning permission reference 18/00843/FUL.
3. That the Head of Legal, Democratic & HR Services is authorised to serve notice regarding the making of the order on prescribed persons and arrange for notice in the local press and on site.
4. That the Head of Legal, Democratic & HR Services is authorised, in the event that no representations are received objecting to the order or in the event that any which are received are withdrawn, to confirm the order as unopposed and to serve notice regarding the confirmation of the order on prescribed persons and arrange for notice in the local press and on site.

EXECUTIVE SUMMARY OF REPORT

5. Sections of Public Footpaths No. 58 Coppull and 13 Adlington Chorley affect a site in the Green Belt to the east of Wigan Lane between the settlements of Coppull and Adlington at Yew Tree Farm. The parcel of land benefits from the grant of planning permission to construct a dairy unit housing up to 600 cows of various ages and associated infrastructure with buildings covering approximately 23,000 sq. metres. The land is agricultural in use.
6. The cow shed will be largest structure and located in the centre of the site, measuring 153.5 metres x 150.3 metres with a total height of approximately 9 metres.
7. Full planning permission was granted for the development on 22 November 2018.
8. A public right of way along the routes of Public Footpath 58 and 13 traverses the site to be developed. The sections of footpath forming the existing legal route are divided by the parish boundaries of Coppull and Adlington. At the parish boundary the designation of the footpaths changes to accurately describe the parish in which they are located. However, the existing legal route affecting the site is essentially one continuous footpath.
9. The applicant's agent reported from a site visit in September 2018 that the two end points of the footpath (at each end of the fields within the site) were inaccessible due to vegetation and that the public use an alternative route which circuits the field boundaries. The agent supposes that this alternative permissive footpath was established in place of the legal route.

10. The diversion when effected with works which are required by the diversion order at the cost of the applicant will therefore merely regularise the current permissive footpath to make it the legal public right of way.
11. The proposed order requires the provision of a compacted stone surface along the newly diverted route and such other works as may be notified to the applicant following inspection by Lancashire County Council.
12. A Landscape and Visual Impact Assessment provided by the applicant set out a series of landscaping measures that could be used in order to mitigate the impact of the development. This included a belt of landscaping to the south of the proposed cow shed on the high point of the land, with the intention of reducing the impact of views from the public footpath. In order to secure an appropriate level of mitigation and the comprehensive landscaping of the site a condition was attached to the planning permission requiring a scheme for the landscaping of the development and its surroundings to be submitted to and approved in writing by the Local Planning Authority, and that the approved scheme should be delivered thereafter.
13. Members are referred to the draft order and order map immediately following this report which shows a section of the existing legal footpaths by a continuous bold black line between the points A-BC-D. This is the route which it is proposed to divert i.e. it will cease to be a legal right of way.
14. In order to facilitate the development it is proposed to divert the path onto a route between the points A-E-F-D shown by bold black dashes on the order map.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

15. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all	X	A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	

DETAILS OF THE PROPOSAL

16. The length of the currently existing Footpaths No. 13 Adlington and No. 58 Coppull between the points A-B-C-D forming the subject of the application runs for a total distance of about 620 metres.
17. The length of the proposed diverted route between the points A-E-F-D runs for a total distance of about 750 metres.
18. The diversion comprises a slightly longer route so it is not materially less convenient for users.
19. The sections of footpath to be diverted are in practice not used by the general public as they are obstructed by vegetation. The diversion will in fact improve matters for the public by creating a legal, rather than a permissive route along footpaths which will become part of the public footpath network and therefore maintainable at public expense.
20. Consent of the owner of the land affected by the newly diverted route is required. Both the existing legal route and the route of the proposed diversion are on land owned by the applicant. The applicant has agreed to the works in the proposed order.
21. The cost of dealing with the application and statutory notices in the local press will be met by the applicant.

IMPLICATIONS OF REPORT

22. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal		Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

23. The applicant has made a contribution of £1,500 to the costs of making the order. When the order comes into effect after it is certified that its provisions have been complied with legal responsibility for maintenance of the newly created section of public footpath will rest with Lancashire County Council.

COMMENTS OF THE MONITORING OFFICER

24. An order made under Section 257 may provide for the creation of an alternative highway for the footpath to be diverted. The order may also authorise or require works and require any person named in the order to meet the costs of such works.
25. A public notice describing the order must be advertised in the local press and the order placed on deposit for public inspection. This public notice and order map must also be placed at each end of the length of public footpath to be diverted. Owners of land affected by the order and various statutory consultees must be contacted and served with the order and notice and allowed the opportunity to make objections within 28 days from the making of the order. If no objections are made the order may then be confirmed as an unopposed order. After the order is confirmed i.e. made permanent it does not come into effect until Chorley Council certifies that the provisions of the order have been complied with in relation to any works required to bring the diverted route up to standard.

Background Papers			
Document	Date	File	Place of Inspection
Letters & e-mails from applicant and Public Rights of Way Officer at LCC	Various from October 2018 onwards	5264	Town Hall

Report Author	Ext.	Date	Doc ID
Alex Jackson	5166	21 August 2019	IKEN File 5264