

Report of	Meeting	Date
Director (Governance)	Planning Committee	Tuesday, 10 October 2023

Proposed Chorley Borough Council (Part of Footpath 71 Heath Charnock) Public Path Diversion Order 2023

Is this report confidential?	No
------------------------------	----

Is this decision key?	No
-----------------------	----

Savings or expenditure amounting to greater than £100,000	Significant impact on 2 or more council wards – No
---	--

Purpose of the Report

1. To consider an application submitted on behalf of Gordons (Bolton) Limited for the diversion of part of Public Footpath No. 71 in Heath Charnock in order to facilitate the demolition of a farmhouse and outbuildings and erection of six detached houses and associated garages pursuant to planning permission reference 18/00060/FUL and permission 22/00363/FUL which relates to engineering works.

Recommendations

2. That the making of the proposed Chorley Borough Council (Part of Footpath 71 Heath Charnock) Public Path Diversion Order 2023 pursuant to Section 257 of the Town and Country Planning Act 1990 be approved in respect of lengths of Footpath Number 71 so as to facilitate development in accordance with the grant of planning permissions reference 18/00060/FUL and 22/00363/FUL
3. That the Director of Governance 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 Director of Governance 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the event that no representations are received objecting to the order or in the event that any which are received are withdrawn, to confirm the order as unopposed and to serve notice regarding the confirmation of the order on prescribed persons and arrange for notice in the local press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.

Reasons for recommendations

5. Sections of Public Footpath No. 71 Heath Charnock affect a site at Hole House Farm off Chorley Road in the settlement area of Adlington. The parcel of land benefits from the grant of planning permission to demolish a farmhouse and outbuildings and erect six detached dwellings and associated garages.
6. Full planning permission was granted for the development on 11 May 2018.
7. The diversion when effected with works which are required by the diversion order at the cost of the applicant will make it the legal public right of way.
8. The proposed order requires the provision of such works as may be notified to the applicant following any comment by the Public Rights of Way team at Lancashire County Council.
9. Members are referred to the draft order map immediately following this report which shows a section of the existing legal footpath by a continuous bold black line between the points A-B-C-D-E. This is the route which it is proposed to divert i.e. it will cease to be a legal right of way.
10. In order to facilitate the development it is proposed to divert the path onto a route between the points A-F-G-H-J-E shown by bold black dashes on the order map.

Other options considered and rejected

11. Not to recommend the making of the order. However there is no apparent reason not to make the order and a continuous public right of way will be preserved albeit by a diverted route which does not deviate substantially from the current legal footpath.

Details of the proposal

12. The length of the currently existing Footpaths No. 71 between the points A-B-C-D-E forming the subject of the application runs for a total distance of about 127 metres.
13. The length of the proposed diverted route between the points A-F-G-H-J-E runs for a total distance of about 137 metres.
14. The diversion comprises a slightly longer route so it is not materially less convenient for users.
15. A small river Eller Brook crosses the site which is to be fully culverted and land raised up to the level of the existing public highway. Public Rights of Way at Lancashire County Council commented at the planning application stage that the pedestrian access should not run alongside a route shared by motor vehicles.
16. 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.
17. The cost of dealing with the application and statutory notices in the local press will be met by the applicant.

Comments of the Statutory Finance Officer

18. This applicant is required to make a contribution of £1,500 to the costs of making the order and will be required to meet the cost of placing public notice in the local press both following the making of the order and subsequently if it is confirmed by the Council as an unopposed 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

19. 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.
20. 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 documents

E-mails from applicant and applicant's agent including plan to be used as order map.

Appendices

Appendix A – proposed order map

Report Author:	Email:	Telephone:	Date:
Alex Jackson (Legal Services Team Leader)	alex.jackson@chorley.gov.uk	01257 515166	