

Report for Rights of Way Committee

15th November 2021

TITLE OF REPORT: Proposed diversion of part of Footpath Ryton 62/2, at Bradley Farm.

REPORT OF: Strategic Director, Development, Transport and Public Protection

Summary

This report relates to the proposed diversion of part of Footpath Ryton 62/2 at Bradley Farm, Crawcrook, Gateshead.

Purpose of the report

- 1) To seek authority from the Rights of Way Committee for the making of a public path diversion order for the diversion of part of Footpath Ryton 62/2, at Bradley Farm, Crawcrook, Gateshead.

Background

- 2) The existing line of Footpath Ryton 62/2 is indicated with a bold line marked from Point A to Point C on the plan attached at Appendix 2 to this report.
- 3) The section of Footpath Ryton 62 proposed to be diverted is indicated with a bold line marked from Point A to Point C on the plan attached at Appendix 2 to this report.
- 4) The Council, in its capacity as Local Highway Authority, is requesting approval for the part diversion of Footpath Ryton 62/2 on to a new alignment to the east of the existing footpath. The proposed route of the diversion is indicated by a broken line from Point A to Point B to Point C on the plan attached at Appendix 2 to this report. The application for the diversion has been made by the landowner.

The Proposed Route of the Diversion

- 5) From Point A to Point C, shown on the plan attached at Appendix 2 to this report shows the existing line of Footpath 62/2 running in a north westerly direction for a total distance of approximately 80 metres. From Point A on the plan attached at Appendix 2 to this report, the proposed diverted route, shown with a broken line, would proceed for a short distance in a northerly direction to Point B, then in a westerly direction for a total distance of approximately 112 metres to re-join the original path at Point C, shown on the plan attached at Appendix 2 to this report. From Point A to Point B there would be approximately 12 steps installed to mitigate the gradient. The steps will be 2m wide and constructed from 150mm x 150mm timber with a 75mm stob. Steps will be edged with treated timber to retain the bank on either side.
- 6) The section of Footpath Ryton 62/2 proposed to be diverted around the field edge to allow for fencing to be erected and allow the grazing of livestock. The diverted path is equally as commodious as the original path.

Land Ownership

- 7) The current alignment of the route from Point A to Point C shown on the plan at Appendix 2 to this report; runs wholly across land in the ownership of applicant Mark Tinnion. The proposed diversion of the route from Point A to Point B to Point C would also be solely across land owned by Mark Tinnion.

The Law

- 8) Section 119 of the Highways Act 1980 provides for the making of a public path diversion order where it appears to the highway authority that:
“In the interests of the owner, lessee or occupier of land crossed by the path or way, or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether onto land of the same or of another owner, lessee or occupier), the council may, by order made by them:
 - a) create, as from such date as may be specified in the order, any such new footpath as appears to the council requisite for effecting the diversion, and;*
 - b) extinguish the public right of way over so much of the path or way as appears to the council requisite.”*
- 9) The proposed diverted route should not be substantially less convenient to the public and in the case of Footpath Ryton 62/2 at

Bradley Farm, it is considered to be expedient in the interests of the landowner to protect livestock from footpath users and their dogs.

- 10) Section 119(2)(b) Highways Act 1980 provides that a public path diversion order shall not alter a point of termination of the path or way (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public. The termination point of Footpath Ryton 62/2 will not be altered and it is considered to be substantially as convenient to the public.
- 11) Where a public path diversion order is being made at the request of a landowner or occupier of land crossed by the path, the Council can require them under section 119(5) of the Highways Act 1980, to enter into an agreement to defray or make contributions towards any compensation payable under Section 28 of the Highways Act 1980 below, or to the cost of the works to implement the diversion. The local authority can also request a landowner who has applied for a diversion order to contribute or pay for the cost of processing the diversion order.
- 12) Section 28 of the Highways Act 1980 does provide for the Council to pay compensation where it is shown that the value of an interest in the land has depreciated or a person has suffered damage by being disturbed in their enjoyment of the land. An "interest" for the purposes of Section 28 of the Highways Act 1980, includes any estate in land or right over the land, whether that is exercisable by ownership, licence or agreement. In relation to the part diversion of Footpath Ryton 62/2, there are no other interests in the land that the proposed part diversion will affect, other than the landowner's. Furthermore, the landowner consents to the proposed part diversion of the path and has other public rights of way running across their land. Therefore the landowner's enjoyment of the land is unlikely to be disturbed by the proposed diversion in order to bring a claim under Section 28 of the Highways Act 1980.

Consultation

- 13) No consultation has taken place for this proposed diversion.

Conclusion

- 14) In accordance with Section 119 of the Highways Act 1980 it is within the Council's discretion to make an order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. It is considered that the proposed diversion is in the interests of the owner.

Recommendation

15) The Rights of Way Committee approves:

- i) That a public path diversion order be made to divert part of Footpath Ryton 62/2 from Point A to Point C as shown with a bold line on the plan attached at Appendix 2 to this report, to the new alignment from Point A to Point C as shown with a broken line on the plan attached at Appendix 2 to this report.

Grant delegated authority to the Strategic Director of Corporate Services and Governance to undertake the following:

- a) To consult the statutory consultees and make a public path diversion order to divert part of Footpath Ryton 62 from Point A to Point C as shown with a bold line on the plan attached at Appendix 2 to this report, to the new alignment from Point A to Point B to Point C, as shown with a broken line on the plan attached at Appendix 2 to this report.
- b) If no objections are received, to confirm the order or if objections are received and not subsequently withdrawn, to send the order to the Secretary of State for determination as an opposed order.

Contact: Zoe Jones Ext. 3094

1 FINANCIAL IMPLICATIONS

The costs of making and advertising the order will be covered by the applicant.

2 RISK MANAGEMENT IMPLICATIONS

None

3 HUMAN RESOURCES IMPLICATIONS

Officers from Legal and Corporate Services, in conjunction with the Public Rights of Way Officer, will carry out the processing of the order.

4 EQUALITY AND DIVERSITY IMPLICATIONS

None

5 CRIME & DISORDER IMPLICATIONS

None

6 SUSTAINABILITY IMPLICATIONS

None

7 HUMAN RIGHTS IMPLICATIONS

Under Article 8, everyone has the right to respect for his or her private and family life and home.

8 WARD IMPLICATIONS

Crawcrook and Greenside

9 BACKGROUND INFORMATION

None

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