

18 November 2024

TITLE OF REPORT: Proposed Extinguishment of Footpath Whickham 63 at The Derwent Walk, Clockburn Lonnen

REPORT OF: Strategic Director of Corporate Services and Governance and Strategic Director of Housing, Environment and Healthy Communities

Summary

This report to Committee relates to the proposed extinguishment of Footpath Whickham 63 at The Derwent Walk, Clockburn Lonnen.

1. Purpose of the report

- 1.1 To seek authority from the Rights of Way Committee for the making of a public path extinguishment order for the extinguishment of Footpath Whickham 63.

2. Background

- 2.1 The original alignment of Footpath Whickham 63 is shown from Point A to Point B on the attached plan at Appendix 2 to this report.
- 2.2 Footpath Whickham 63 sits in between the field edge and the Derwent Walk. The Definitive Statement describes the original alignment of the route as set out below:

‘From junction with Restricted Byway Whickham 61 and Bridleway Whickham 62, proceeds north-easterly, east side of Goodshields Haugh Wood, then turns north-west to Derwent Walk, joins Bridleway Whickham 215’.

- 2.3 A series of landslips in this area have caused the erosion of the original footpath course and various trees down the embankment. The footpath has been inaccessible since January 2024; however, members of the public have been able to use the adjoining routes to access The Derwent Walk and Clockburn Lonnen areas.
- 2.4 Footpath Whickham 63 is currently legally closed via a Temporary Traffic Regulation Order under section 14(1) of the Road Traffic Regulation Act 1984. The effect of the Order temporarily prohibits pedestrians from proceeding along Footpath Whickham 63 for its entire

length. The Temporary Traffic Regulation Order was required for public safety following a landslide making the footpath unstable.

- 2.5 Legislation provides that a Temporary Traffic Regulation Order can last for up to six months in respect of a footpath, unless the Secretary of State permits an extension to the Order under section 15(5) of the Road Traffic Regulation Act 1984. The current Temporary Traffic Regulation Order is in place until January 2025, at which point the Council would have to request an extension to the Temporary Traffic Regulation Order due to the risk of danger posed to the public.

3. Land Ownership

- 3.1 Land Registry records confirm the land in question is owned by the Council.

4. The Legislation

- 4.1 Under section 118 of the Highways Act 1980, the Council has the power to extinguish a footpath, bridleway or restricted byway if it is expedient to do so, on the ground that the path is not needed for public use. The Council will not be able to confirm an unopposed Order (if approved) unless it is satisfied that it is expedient to do so having regard to the extent to which it appears to the Council that the path (notwithstanding the making of the Order), would be likely to be used by the public and also having regard to the effect the extinguishment would have on land served by the path.
- 4.2 In the case of Footpath Whickham 63 it is considered expedient that it be extinguished as it is not used by the public because a landslide occurred in January 2024, resulting in the footpath becoming unstable and consequently a danger to the public and unsafe for use. In addition, it is not needed because members of the public have access to the existing network of paths in the area, which adjoin and provide access to the Derwent Walk and Clockburn Lonnen areas.
- 4.3 Section 28 of the Highways Act 1980 provides 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 proposed extinguishment of Footpath Whickham 63, there are no known interests in the land that the proposed extinguishment would affect.
- 4.4 Section 29 of the Highways Act 1980 places a duty on local authorities to have regard to agriculture and forestry, and the desirability of conserving flora, fauna and geological and physiological features. There are no such potential implications in this matter.

5. Consultation

- 5.1 No informal consultation has taken place. However, if the Rights of Way Committee determine that a public path extinguishment order should be made, the statutory process places a duty on the Council to advertise notice on site and in the local newspaper which states the general effect of the order and provides that any person may object within a minimum period of 28 days following publication of the notice.
- 5.2 The Regulations also require a copy of any such notice to be served on owners, lessees and occupiers of the affected land; relevant local authorities; relevant parish councils; relevant community councils; and the statutory consultees.

6. Conclusion

- 6.1 In light of the fact that Footpath Wickham 63 is inaccessible and not used by the public because a series of landslips have occurred resulting in the footpath becoming unstable and unsafe for members of the public, along with the fact that there is a network of existing accessible paths, it is considered expedient to extinguish Footpath Wickham 63 on the ground that it is not needed for public use.

Recommendation

Approval is sought from the Rights of Way Committee for the following:

- i) That a public path extinguishment order be made to extinguish Footpath Wickham 63 from Point A to Point B as shown on the plan attached at Appendix 2 to this report.
- ii) 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 extinguishment order to extinguish Footpath Wickham 63 from Point A to Point B as shown on the attached plan 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.

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APPENDIX 1

1 FINANCIAL IMPLICATIONS

The costs of making and advertising the order would be covered by existing budgets

2 EQUAL OPPORTUNITIES IMPLICATIONS

None

3 STAFFING IMPLICATIONS

Staff from Corporate Services and Governance, in liaison with staff from Housing, Environment and Healthy Communities would carry out the processing of the order

4 ACCOMMODATION IMPLICATIONS

None

5 CRIME & DISORDER IMPLICATIONS

None

6 ENVIRONMENTAL IMPLICATIONS

None

7 HUMAN RIGHTS IMPLICATIONS

None

8 WARD IMPLICATIONS

Whickham South and Sunnyside

9 BACKGROUND INFORMATION

None

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