

REPORT FROM: ENVIRONMENTAL SERVICES MANAGER

TO: WEST CRAVEN COMMITTEE

DATE: 10th MAY 2022

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**PROPOSED DIVERSION OF PART OF PUBLIC FOOTPATH 13-3-FP 3
BARNOLDSWICK AT THE FORMER FERNBANK MILL**

PURPOSE OF REPORT

We are asking the committee to consider an application to divert a public footpath and make a decision on whether to make a diversion order.

RECOMMENDATIONS

- (1) That the Head of Legal Services be authorised to make an Order under Section 257 of the Town and Country Planning Act 1990 to divert part of public footpath 13-3-FP 3 as shown on the map sent with this report.
- (2) That in the event of no objections that the order be confirmed, but if objections are received the order be sent to the Secretary of State to be decided.

REASONS FOR RECOMMENDATIONS

- (1) The diversion is necessary for a development which has been granted planning permission.
- (2) The Council can only confirm a diversion order if there are no objections.

ISSUE

1. Planning permission has been granted for the erection of a research and design facility at the site of Fernbank Mill, Fernbank Avenue, Barnoldswick (planning reference 21/0590/FUL). The application which this report considers is the proposed diversion of public footpath 13-3-FP 3 which passes through the site. The applicant considers that the footpath needs to be diverted for the development to go ahead. It was explicit in the planning application that the footpath would be affected by the development and the effect on the footpath was one of the matters which was considered at the planning stage.

2. Nevertheless, the grant of planning permission does not have the effect of diverting the footpath, but this can be achieved if the Council makes a public path order under Section 257 of the Town and Country Planning Act 1991 to bring these changes into effect.
3. The proposed diversion is shown on the map included with this report. The existing footpath is shown as the solid line A – B. The proposed diversion is shown by the bold dashed line A – C – B. It is proposed that the new footpath is constructed to a minimum width of 2m wide.
4. Under Section 257 of the Town and Country Planning Act 1991 the Council may make an order to divert a public footpath if it is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission which has been granted. An order would provide for the creation of the diversion route as a public right of way and it provides for the Council to carry out works to construct the new path and recover the costs from the applicant, or for the Council to require that the applicant carries out the works on the diversion route to the required standard at its own expense.
5. The route of the existing footpath is through the proposed car park area at the front of the proposed buildings. Whilst it would be possible to walk through the car park it is not possible to walk through the proposed gates and the perimeter fencing which are intended to secure the site. This therefore appears to satisfy the criteria that the footpath needs to be diverted for the development to be carried out.
6. The proposed diversion to the east of the building is as close a line to the existing footpath as possible and therefore it lengthens the footpath by no more than is required to accommodate the development. The planning application shows the footpath running through a wide landscaped area.
7. It is proposed that the required specification for the new footpath will be 2.0m wide footpath, 20mm asphalt surface course on 40mm binder, with concrete pin kerbs to edges. Any kerbs to roadways will have drop kerbs and contrasting blister paving.

Informal consultation on the proposals

8. Cadent gas have objected on the grounds that they have underground apparatus which crosses under part of the existing footpath. They are affected because as a statutory undertaker they have a right to access their underground apparatus from a public right of way. This is a common form of objection from Cadent which they say will be removed if they receive a payment of £1000 to draft an easement, or an undertaking to cover the costs of them physically diverting their apparatus. We have written to Cadent explaining that we will include a clause in the order which gives them exactly the same rights over the affected land to maintain their apparatus as they have at present. We are therefore not expecting an objection from Cadent when we make the formal order.
9. We similarly discovered that Northern Powergrid have underground apparatus in the vicinity of the existing footpath and therefore the same clause in the order will protect their rights which exist by virtue of the existing line of the public footpath. Northern Powergrid have not objected to the proposals.

Conclusions

10. The decision to grant planning permission was in effect a decision that the footpath would be diverted in connection with the development.
11. Having granted planning permission there would have to be a serious problem with the proposed diversion for the Council not to make a diversion order under Section 257 of the

Town and Country Planning Act. In this case the proposed diversion is for a 2m wide path which will be constructed as a high quality tarmac path.

12. There is a possibility of an objection from Cadent Gas but the order will include a clause which will mean their existing rights will not be affected.

13. Our recommendation is that the Council makes the order applied for.

IMPLICATIONS

Policy: None.

Financial: None. All the costs of processing the application will be recharged to the applicant.

Legal: None. The proposed order will be fully compliant with the relevant legislation.

Risk Management: None. When the diversion order comes into effect the new footpath will be classed as a highway maintainable at public expense for which the highway authority (Lancashire County Council) is responsible.

Health and Safety: None.

Sustainability: There are potentially some benefits from the diversion by improving the quality of the path surface which may encourage more short journeys on foot between Fernbank Avenue and Priory Way.

Community Safety: The footpath will pass through a 90 degree bend between points A and C which means there will be no clear visibility along the length of the path around this bend because of the proposed building. This may make some people feel less safe using the path, particularly at night. However, this was a matter for the decision to grant of planning permission so this should not be a factor in the decision on making the public path order to allow the development to be carried out.

Equality and Diversity: None. The new footpath will be fully accessible.

APPENDICES

Proposals map

LIST OF BACKGROUND PAPERS