

<b>Report Title</b>	Proposed diversion of public footpath FP1309033 at Malkin Croft, Great Stonedge Farm, Blacko
<b>Report to</b>	Barrowford and Western Parishes Committee
<b>Report Date</b>	4 <sup>th</sup> February 2026
<b>Report Author</b>	Tom Partridge
<b>Directorate</b>	Operational Services
<b>Lead Executive Member(s)</b>	Councillor D. Hartley
<b>Wards Affected</b>	Barrowford and Pendleside
<b>Public. Part Exempt, or Fully Exempt</b>	Public
<b>Appendices (if any)</b>	1. Location Map 2. Proposals Map

## 1. Executive Summary

- 1.1 The Council has made an order to divert a public footpath which attracted one objection. The Committee is asked to make a decision either to go no further with the proposed diversion, or to send the order to the Secretary of State to consider confirming the order.

## 2. Recommendations

For the reasons set out in this report, Barrowford and Western Parishes Committee is recommended to:

- 2.1 Give careful consideration to the proposal to divert public footpath FP1309033 and the objection which has been received.
- 2.2 If the committee supports the proposed diversion, it's resolution should be to authorise the Head of Legal and Democratic Services to send the order to the Secretary of State at the Department for Environment, Food and Rural Affairs to be determined.
- 2.3 If the committee decides that the footpath should not be diverted, it's resolution should be that the order is not confirmed.

## 3. Information: the Rationale & Evidence for the Recommendations

- 3.1 A decision was made under delegated powers to divert public footpath FP1309033. The location can be seen in Location Map included in Appendix 1. The details of the application can be seen on the Proposals Map in Appendix 2. The basis of the decision to make a diversion order was on a report prepared for the Head of Legal and Democratic Services, dated 25<sup>th</sup>

November 2025 which was subsequently approved under delegated powers. This is included as Appendix 3. Members of the Committee should familiarise themselves with this report which is included in the background papers to this report before making a decision.

3.2 The objection received was as follows:

3.2.1 I object to the proposed diversion of the footpath at Great Stonedge Barn (FP1309033). The existing route is well used, direct, and safe, and provides an important amenity for local residents. The proposed diversion would be less convenient and may raise safety and accessibility concerns. The change appears to benefit private interests of the newly constructed house adjacent to the existing footpath rather than the wider public and would result in a loss of amenity and character of a well used and enclosed and safe footpath. The diverted footpath now includes a section of road used by vehicles the existing footpath was traffic free. The owner of the land clearly wishes to divert for their own benefit to divert away from the newly constructed house and to allow them to extend the garden into the field.

3.3 The “road” described in the objection is the private road which gives access to a small number of properties in the area of Great Stone Edge barn shown between points A and D on the proposals map. This section of road is also a public footpath.

**Discussion**

3.4 The vast majority of diversion orders made by the Council originate with an application from a landowner because it is in their interests for the footpath to be diverted, which is the case with this proposal. The applicant explained that the reason for the diversion is about the management of the land for the purpose of keeping alpacas. The Council is not obliged to send the order to be confirmed, but we are generally supportive of proposals which meet the legislative criteria, i.e. where the proposed diversion is not substantially less convenient. In this case we don't see that there is a substantial loss of convenience nor any deterioration in the quality of the footpath which will continue to be an attractive countryside footpath, albeit with slightly different views than can be enjoyed today. This is a popular footpath and many people will have seen the site notices advertising the proposed diversion. The receipt of just one objection from a private individual suggests a very low level of opposition to the proposed changes.

3.5 By our assessment the proposed diversion satisfies the legal criteria and therefore if the order is sent to the Secretary of State we believe that it would be confirmed. If the committee resolves to take this course of action then we would invite the objector to withdraw their objection, in which case the Council could confirm the order itself as an unopposed order.

**4. Link to Council Plan Priorities: (Providing High Quality Services and Facilities, Proud and Connected Communities and Places, Good Growth and Housing and Healthy Communities)**

4.1 None apply.

**5. Implications**

**5.1 Financial Implications**

Unfortunately, both options available to members have a cost implication owing to government regulations on what costs can be re-charged to an applicant. If the Committee decides to refer the order to the Secretary of State, then the cost in staff time of compiling and creating the considerable documentation required cannot be recovered from the applicant. This just affects the costs associated with referring the order to the Secretary of State, all other costs associated with the diversion can be recovered from the applicant. If the Committee decides that the order should not be confirmed, then in accordance with the cost-recovery regulations the costs which have accrued to date of approximately £1000 cannot be recovered from the applicant.

**5.2 Legal and Governance Implications**

The Council may only confirm the diversion order if the objection received is withdrawn. Otherwise, only an inspector appointed by the Secretary of State at DEFRA may confirm the order. The applicant has no right of appeal if the Council decides not to send the order to the Secretary of State to be determined.

**5.3 Climate and Biodiversity Implications**

None.

**5.5 Human Resources Implications**

None.

**5.6 Equality and Diversity Implications**

None.

**6. Consultation**

6.1 The diversion order was subject to a statutory consultation process which included newspaper advertising, site notices and statutory consultees being notified.

**7. Alternative Options Considered**

- None.

**8. Statutory Officer Sign off** (please put an x in the relevant box below)

Section 151 Officer	x
Monitoring Officer	x

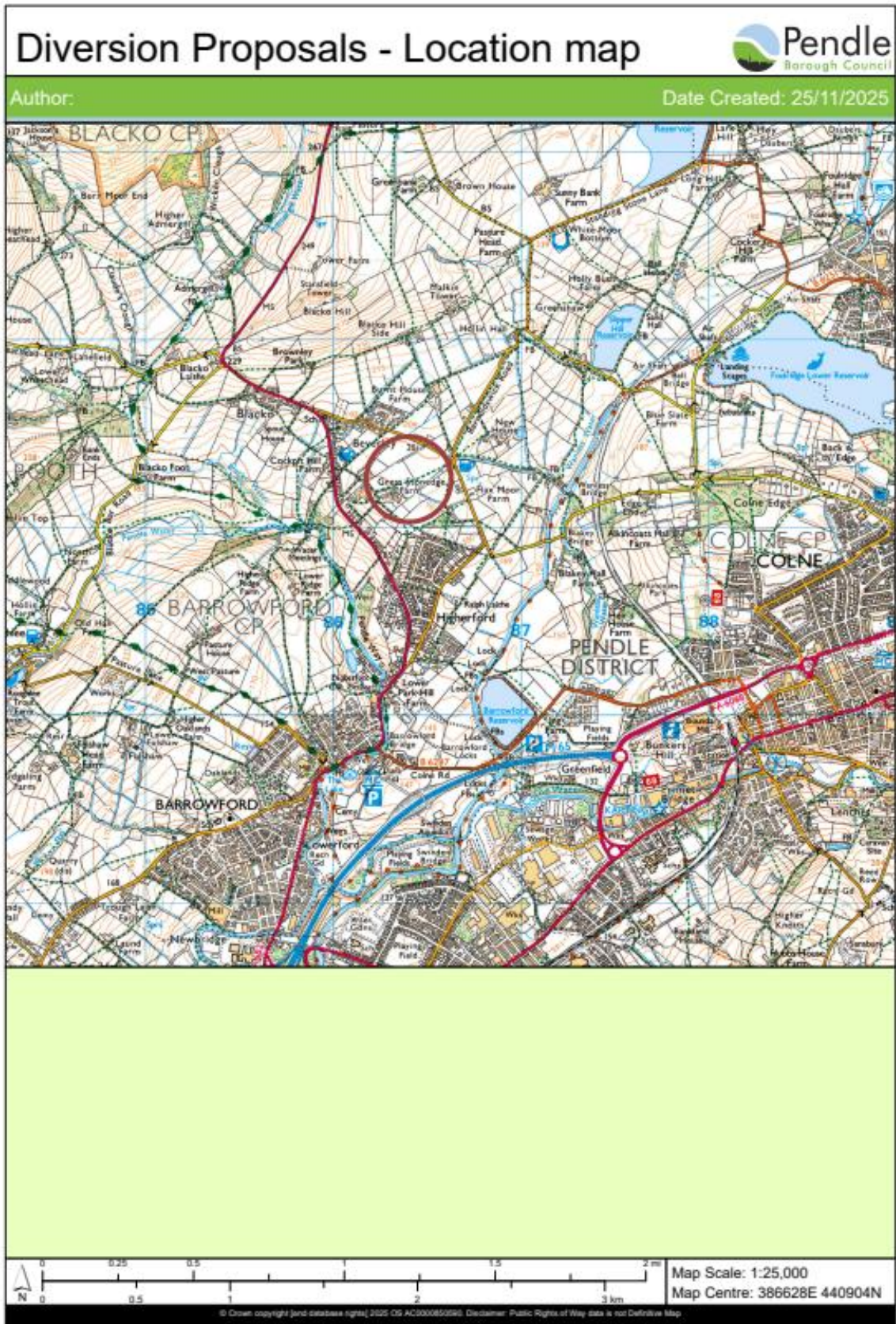
**9. Background Documents**

Report to Howard Culshaw, Head of Legal and Democratic Services, dated 25<sup>th</sup> November 2024

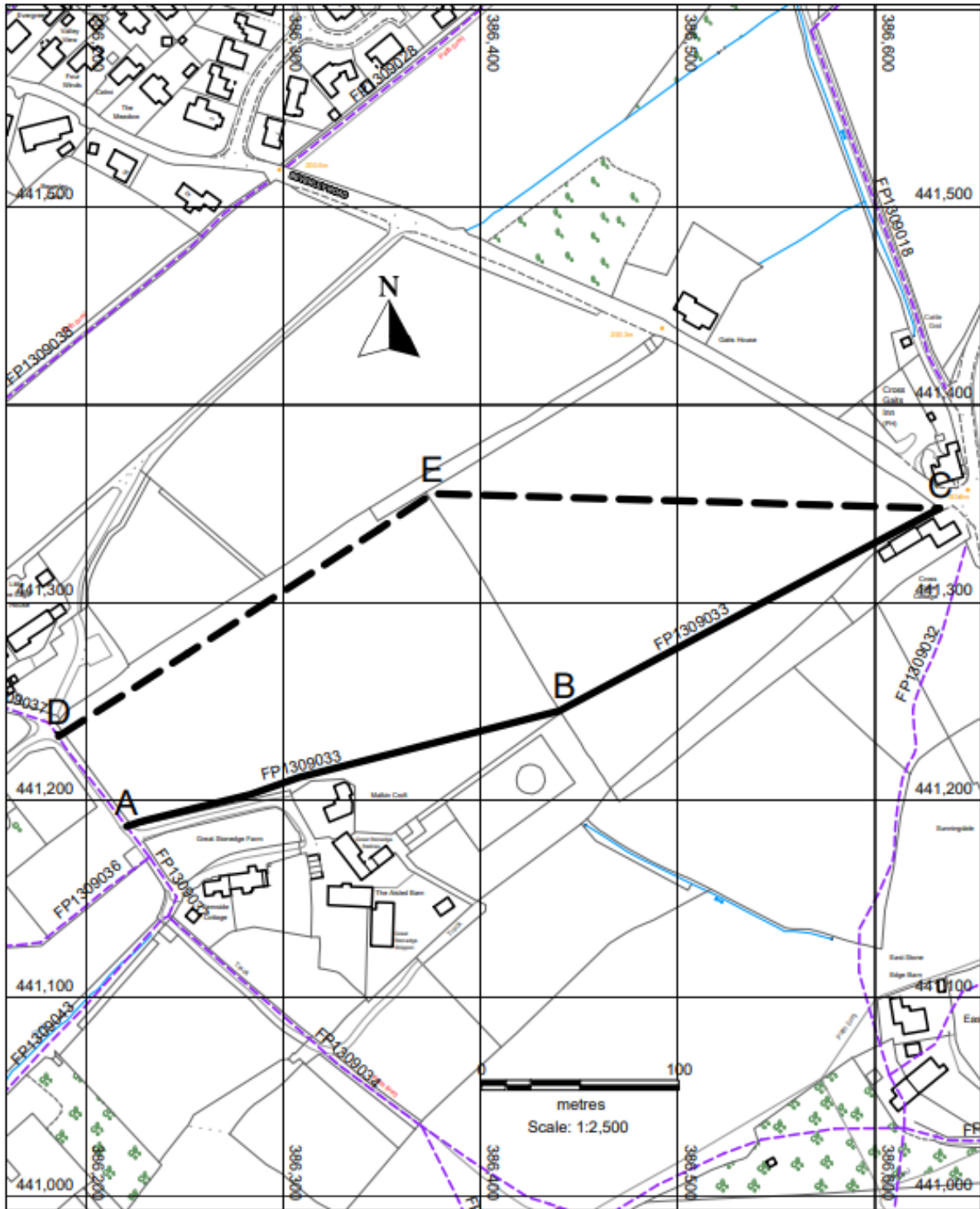
**Contact Officers**

Tom Partridge, Countryside Access Officer, Green Spaces Team, Operational Services. Email: [tom.partridge@pendle.gov.uk](mailto:tom.partridge@pendle.gov.uk)

# APPENDIX 1



# APPENDIX 2



## Proposed diversion of public footpath FP1309033 at Malkin Croft, Great Stonedage Farm, Blacko

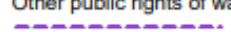
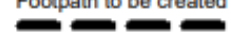
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Scale 1:2500  
 File Reference: R2/14/233  
 Date: 14th May 2025  
 Drawn: T Partridge

Footpath to be diverted

Footpath to be created

Other public rights of way



# APPENDIX 3

**Report Title:** Proposed diversion of public footpath FP1309033 at Malkin Croft, Great Stonedge Farm, Blacko

**Report to:** Howard Culshaw

**Report Date:** 25th November 2025

**Report Author:** Tom Partridge

Appendices (if any) 1. Location Map 2. Proposals Map

## 1. Executive Summary

1.1 This report presents details of an application to divert a public footpath for a decision on whether the Council should make a public path diversion order.

## 2. Recommendations

For the reasons set out in this report, the HEAD OF LEGAL AND DEMOCRATIC SERVICES is recommended to:

2.1 Make an order under Section 119 of the Highways Act 1980 to divert public footpath FP1309033 at Malkin Croft, Great Stonedge Farm, Blacko as shown by the proposals map sent with this report.

2.2 If there are no duly made objections to the order, to confirm the order as an unopposed order.

## 3. Information: the Rationale & Evidence for the Recommendations

3.1 The owner of the land at Malkin Croft has applied to the Council to divert public footpath FP1309033. The location can be seen in Location Map included in Appendix 1. The details of the application can be seen on the Proposals Map in Appendix 2. It is proposed that the existing footpath shown by the bold line A – B – C is diverted to a new line which is shown by bold dashes on the line D – E – C. The new footpath would have a recorded width of 4m wide and would provide for the owner to maintain gates in the footpath at points D and E.

3.2 The Council needs to make a decision either to make the diversion order applied for, or not. In order that an informed decision may be made we have consulted Lancashire County Council, Blacko Parish Council, Ward Councillors, public rights of way user groups and statutory utility companies. In addition, we have checked utility services maps for gas, electricity, water mains and sewers, and telecoms. We also include in this report an assessment of the proposals against the criteria set out by the relevant legislation.

## 3.3 Results of informal consultation and services checks

The only record of underground apparatus is on the line of the existing footpath where BT Openreach has a planned cable showing. BT Openreach did not respond to our consultation email, but as a matter of course we should include a clause in any diversion order to give them the same rights to maintain their apparatus after the footpath has been diverted as they have at present. There are two overhead power lines across the existing path and the proposed diversion near point C. Electricity North West responded with standard safety advice with respect to electricity for any work being carried out, but made no other comments. Lancashire County Council

responded that it had no comment and we received no response from either the parish council or the ward councillors.

The Peak and Northern Footpath Society responded as follows:

- In the interests of members of the public and landowner we would suggest two (not one, as proposed) way mark posts between point C and point E. The land rises from point C before it levels out. A way mark post at the highest point when viewed from point C (approximately at 386609 441351) would better guide walkers to the proposed route. Given the distance from point C to point E (some 200m) a second way mark post roughly halfway (386496 441352) would aid walkers travelling either from point E or point C and ensure the correct line is walked.
- The public footpath signpost at point C would need to be realigned towards point E.
- A new public footpath sign would be required at point D where the proposed path leaves the metalled lane.
- The proposed route from point D is lined to the north by large, low hanging deciduous trees for the first 75m or so which results in the proposed path having a loss of view and light, particularly in the summer when the trees are in leaf, compared to the current route which enjoys an excellent degree of openness and sense of space. We understand that the 4m wide path will pass through an area of land some 12m wide once fenced. Whilst this section wouldn't have the same sense of space and light as the existing path, on balance, the proposed route would be acceptable provided the distance from the northerly fence line to any new paddock fence is a minimum of 12m (including the 4m width of the path) along the section from D to E to avoid any sense the walker is hemmed in by fencing or restricted by the overhanging trees.
- If, as described in the reasons for the proposal, the landowner intends to fence off the area to the south-east creating a 10- 12m wide "corridor" along the line D to E, livestock should not be allowed to access this small area of land to avoid any potential danger to the public.

### **3.4 Assessment of the proposals for making an order**

Under Section 119 of the Highways Act 1980 the Council may make a diversion order if it appears expedient that in the interest of the owner or occupier of the land or of the public that a public footpath is diverted.

3.5 The reason given by the applicant for the diversion being in her interests is to make more efficient use of the land accommodate a new paddock for alpacas. The applicant goes on to explain that alpacas thrive in a secure and peaceful environment. Close and frequent interaction with footpath users could cause the animals stress potentially leading to health and behavioural issues. We have also observed that the site of Malkin Croft is being redeveloped as a dwelling. The existing footpath passes close to the large windows of the house and therefore the diversion is likely to enhance the privacy and security of the property. For both reasons it is reasonable to conclude that the diversion is in the interests of the owners of the land.

3.6 Before making an order, the Council must be satisfied that the new point of termination is substantially as convenient. The points of termination (Points A and D)

are on a linking public footpath a short distance from each other. The new point of termination appears to be substantially as convenient.

3.7 To confirm a diversion order, the Council would have to be satisfied that:

- a. the path will not be substantially less convenient to the public; and
- b. that it is expedient to confirm the order having regard to the effect which:
  - i. the diversion would have on public enjoyment of the path as a whole; and
  - ii. the coming into operation of the order would have as respects other land served by the existing right of way; and
  - iii. any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it, account being taken of the provisions as to compensation.

3.8 We have given careful consideration to the convenience of the new path in terms of length, width, gradient, surface condition, ease of navigation and the presence of stiles or gates which need to be negotiated. The length of the proposed diversion is only marginally longer, and the new path would have a recorded width of 4m wide compared to an unrecorded width, which if the width ever had to be proven would probably be found to be less than 4m wide. Both existing and proposed paths follow a similar gradient. Part of the surface of the proposed diversion was found to be wet underfoot but this can be addressed by drainage and surfacing works which the applicant would need to carry out to bring the site of the footpath into a fit condition for use by the public before a diversion order could take effect. The ease of navigation can be addressed by signposting and waymarking as suggested in the comments received from the Peak and Northern Footpath Society (PNFS). The order would specify a high specification for any gates which are installed, making them easy for people to use.

3.9 The effect on public enjoyment needs careful consideration because this is a well-used footpath and the proposals will move the footpath some distance from where it is currently, i.e. these will be noticeable changes. Both the existing and proposed footpaths are similarly attractive. PNFS have mentioned the trees alongside the diversion route, but these did not particularly overhang into the land held by the applicant and the line of the proposed diversion has been deliberately kept away from the boundary meaning that overhanging branches are unlikely to be an issue. There are attractive views which open up between the trees from the diversion route. The applicant has indicated that one side of the footpath between points D and E would be fenced to provide for the formation of a paddock. We do not anticipate that the other side of the footpath would be fenced, but the footpath would be specified as 4m wide so there would be nothing to prevent this owner or any future owner from installing other fences alongside the footpath, as long as a 4m wide strip is maintained. A diversion order can not specify whether farm animals may also have access to the land.

3.10 There is no other land served by the existing footpath, so this consideration is of little relevance to this case.

3.11 The effect of the new footpath on the land over which it is being created is also of limited relevance because the land is all in the same ownership and the application received reflects how the current owner wishes to use her land.

3.12 We are not aware of any potential impact of the proposals in relation to a duty councils have, namely: to have due regard to the needs of agriculture and forestry, and the desirability of conserving flora, fauna and geological and physiographical features.

The Council is under no obligation to make a public path order, even where an application meets the legislative criteria, but it has been our practice over many years to make public path orders where an application satisfies these tests. If this report is approved an order would be made and advertised. If there are no objections, then the order would be confirmed subject to works first being carried out to bring the new footpath into a fit condition for use by the public. However, if there are objections which are duly made and not subsequently withdrawn, then this report would be sent to Barrowford and Western Parishes Committee for a decision either that the order is not confirmed, or that the order should be sent to the Secretary of State to be determined (the Council cannot confirm an opposed order).

**4. Link to Council Plan Priorities:** (Providing High Quality Services and Facilities, Proud and Connected Communities and Places, Good Growth and Housing and Healthy Communities)

4.1 None apply.

**5. Implications**

5.1 Financial Implications

The applicant has agreed to pay the costs associated with this application including staff time and advertising costs.

5.2 Legal and Governance Implications

The Council may only make a diversion order in accordance with the legislation. The legal tests to be satisfied for an order made under Section 119 of the Highways Act 1980 have been addressed in this report.

5.3 Climate and Biodiversity Implications

None.

5.5 Human Resources Implications

None.

5.6 Equality and Diversity Implications

None.

**6. Consultation**

6.1 Lancashire County Council, Blacko Parish Council, Ward Councillors, public rights of way user groups and statutory utility companies have been consulted. Once the order is made there is a statutory consultation process which includes newspaper advertising and site notices.

**7. Alternative Options Considered**

None.

**8. Statutory Officer Sign off (please put an x in the relevant box below)**

Section 151 Officer

Monitoring Officer

## **9. Background Documents**

Completed Application Form received on 1st November 2024.

### **Contact Officers**

Tom Partridge, Countryside Access Officer, Green Spaces Team, Operational Services. Email: [tom.partridge@pendle.gov.uk](mailto:tom.partridge@pendle.gov.uk)

**APPENDIX 1** [As per report to BWP Committee]

**APPENDIX 2** [As per report to BWP Committee]