

RIGHTS OF WAY COMMITTEE

14 November 2017

PUBLIC RIGHTS OF WAY

PROPOSED DOWNGRADING / EXTINGUISHMENT OF BYWAY OPEN TO ALL TRAFFIC No 13 (PARISH OF RODDAM) & PROPOSED UPGRADING / DIVERSION OF PUBLIC FOOTPATHS Nos 12 & 7 (PARISHES OF ILDERTON & RODDAM)

Report of the Executive Director of Local Services
Cabinet Member: Councillor Glen Sanderson, Environment and Local Services

Purpose of report

In this report, the Committee is asked to consider proposals to extinguish / downgrade part of Byway Open to All Traffic No 13 (Parish of Roddam) at Calder and upgrade to public bridleway status and divert Public Footpaths Nos 12 and 7 (Parishes of Ilderton and Roddam) between Calder and The Dod.

Recommendations

It is recommended that the Committee agree that:

- (i) Byway Open to All Traffic No 13 be extinguished over the route G-H-J subject to the retention of public bridleway rights over the H-J section;**
- (ii) the route of Public Footpath No 12 be diverted from A-E to B-F, and upgraded to public bridleway status;**
- (iii) the route of Public Footpath No 7 be diverted from E-G to F-H, and upgraded to public bridleway status;**

1.0 BACKGROUND

- 1.1** In November 2016 the County Council made Definitive Map Modification Order (No 28) 2016. This Order sought to record a byway open to all traffic (BOAT No 13 in the Parish of Roddam) over the U1087 road between the C54 road and Calder (i.e. J-H-G). The Order attracted two objections (from the Northumberland Estates and Mr A Kind of Newcastle), though both of these have now been withdrawn, so the Order can be confirmed, by the County Council, as unopposed.

- 1.2 The Northumberland Estates has formally requested that the public vehicular right of way G-H-J be extinguished on the ground that it is unnecessary.
- 1.3 The G-H section only provides access to Calder (a single property, owned by Lord James Percy) and to the eastern end of existing Public Footpath No 7 (Parish of Roddam). If the eastern end of Public Footpath No 7 is diverted, there would be no need for a public right of way (of any status) to still exist to Calder. i.e. Public rights over the G-H section would be unnecessary.
- 1.4 The H-J section provides vehicular access to Calder, The Dod, Threestoneburn and the farmland and forestry around these properties. The Roddam Burn (point E-F) is a land ownership boundary. The owners of land west of E-F all presumably have a private vehicular right of way (over the track F-H). They may also have a private vehicular right of way over the H-J section or they may have been relying on this section being a public vehicular right of way. If the latter, then it is important that, if public vehicular rights over the H-J section are to be extinguished, then private vehicular rights are retained / established for the properties affected. Nevertheless, public vehicular rights over the H-J section are considered unnecessary.
- 1.5 It is proposed to divert the existing Public Footpath No 7 (Parish of Roddam) from the existing cross-field and cross-moorland route E-G onto the existing stone surfaced track F-H. It is also proposed to divert sections of the existing Public Footpath No 12 (Parish of Ilderton) from the existing cross-moorland paths A-C and D-E onto the existing stone surfaced track B-C and D-F. Footpath No 12 and Footpath No 7, over the route B-C-D-F-H, would simultaneously be upgraded to public bridleway status. The footpath diversions would benefit the 'Roddam' landowner by affording greater privacy at Calder and the 'Ilderton' landowner by removing the public right of way from the sheep pens south of point A. The public will benefit from the right of way being realigned onto the route that most walkers seem to prefer anyway and being upgraded so that horse riders and cyclists may also use the route.
- 1.6 Affected land owners / occupiers, path user organisations and the Northumberland National Park Authority were consulted regarding these proposals in September 2017. The consultation also contained proposals for some minor path realignments at The Dod, which will be dealt with under the delegated authority for routine diversions.
- Lilburn Estates (the owners of small parcels of land at The Dod) indicated that they were "very happy with the proposals".
 - Agents for Lord James Percy (owner of the Roddam section) indicated that they were "happy to proceed as proposed on the plans appended".
 - R Brown and Son (owners of the Ilderton section) indicated, verbally, that they were happy with the proposals, provided their access rights over the H-J section were not compromised.
 - Mr Carrdus of Threestoneburn (a property west of The Dod that uses the A-B-C-D-F-H-J track as part of its main access) indicated his general agreement to the proposals. This agreement was a qualified one in regard to the H-J section, Mr Carrdus requiring assurance that this would continue to be maintained at someone else's expense, that

vehicular access to his property would not be compromised, and that if bins or postboxes had to be relocated as a result, this again would not be at his expense.

- Cycling UK indicated that they thought “the proposed changes seem to make good sense”.
- The Ramblers’ Association indicated that they “thought that the proposed amendments sensible. ... Walkers tend to use the stone track and none of the changes involve any real redirection of route”.
- The British Horse Society indicated “The BHS welcomes the dedication of the stone track from H to B as a public bridleway by Northumberland Estates. It will provide links to other bridleways and has a sustainable surface with fine views. We also welcome the proposed changes around the sheep pens close to the Dod. The need to open a number of gates in a short distance is not popular with horse riders. The proposal will bring benefits for the farmer and the users. We are happy with the proposal to extinguish footpath 7 and footpath 12 as they have no recreational value once the stone track (H-B) becomes a public bridleway. We understand and support the wish to extinguish the vehicular rights on H-G for reasons of privacy for those who live at Calder. However we do not see the need to extinguish the vehicular rights on the section J-H. All over the county you meet a situation similar to this where a minor public road carrying vehicular rights leads to the start of a public bridleway.”

- 1.3 There appears to be universal support for the proposals to extinguish all public rights over the G-H section of road / BOAT No 13, and to the diversion and upgrading to bridleway status of the A-C-D-E-G sections of existing Public Footpaths Nos 12 and 7.
- 1.4 There appears to be less of a consensus over the proposal to downgrade the H-J section of road / BOAT No 13 to public bridleway status. There are concerns that existing private vehicular rights of access to properties west of point H might be compromised and concerns regarding standards of future maintenance on the H-J section, should it cease to be a publicly maintainable road. It is important that these concerns are resolved prior to any stopping up.
- 1.5 Because these proposals involve the extinguishment of a motor vehicular public right of way (BOAT 13 / U1087 road), to achieve this it would be necessary to make an application to the Magistrates’ Court under section 116 of the Highways Act 1980. Although the footpath diversion / upgrade to bridleway proposals could be achieved by standard public path orders, it is likely that they will also be included as part of the application to the Magistrates’ Court - so the whole package of proposals can properly be considered together. The Northumberland Estates will be meeting the cost of making the application to the Magistrates’ Court.

BACKGROUND PAPERS

Local Services Group File: B/34/7+13x & B/23/12x

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