



# Northumberland

## County Council

COMMITTEE: TYNEDALE LOCAL AREA COUNCIL

DATE: 09 NOVEMBER 2021

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### **Petition Regarding Wylam Riverside Footpath**

Report of the Director of Local Services, Paul Jones

Cabinet Member: Councillor John Riddle, Cabinet Member, Local Services

#### **Purpose of report**

To acknowledge and respond to the petition and seek the views of the Local Area Council.

#### **Recommendations**

It is recommended that members consider the report and:

a) note and support the approach taken to date in responding to this matter, and;

b) note that the County Council is not the land owner and therefore has no legal or financial responsibility for the land and that taking any responsibility for this private land would set precedents for how the Council responds to other similar land stability issues elsewhere in the County which would create significant and long-term financial liabilities for the Council.

#### **Link to Corporate Plan**

This report is relevant to the “We want you to love where you live” priority included in the NCC Corporate Plan 2020-2021.

#### **1. Key issues**

1.1 The land where the public footpath was located has slipped into the river and is no longer safe to use, officers have fenced the area off and erected signage warning people to stay out.

1.2 The County Council has undertaken low level work to protect access to the public footpath over several years but since 2013 the progressive regression of this land has been too advanced for this approach to be viable.

1.3 The County Council's in house Technical Services team has advised that a budget estimate for the site investigation and design works would be in the order of £70,000. It is not possible at this stage to provide an informed estimate of the cost of implementing a scheme to address the landslip, as an engineering solution has not been developed. However, given the extent of the area involved and the physical and ecological constraints of working in this confined location it is clear that any solution would be in excess of £500,000 and could easily be significantly higher than this. It should also be noted that in addition to the implementation costs, the Council would also face an on-going maintenance liability for future years and set a precedent should any further significant capital works be required to address regression of land in this or other similar locations.

1.4 The land which is subject to the landslip and upon which the Right of Way is located is owned by Wylam Parish Council.

1.5 The land immediately above Wylam Parish Council's eroded land is in private ownership and includes a private access road to Wylam Nurseries and two residential properties. Without remedial action it is likely in time the access road will be lost and that the business and residential properties will also be adversely affected.

1.6 The County Council is not in a position to comment on the presence of any insurance cover held by any of the affected parties in relation to damage/loss caused by ground movement via landslip or subsidence.

1.8 Without financial support from the County Council it is unlikely either landowner will be able to resource the work required to prevent further loss of this riverbank and that will adversely affect the business and residential properties.

1.9 To protect the public, the County Council have now made a temporary closure order to close the affected section of footpath and have erected appropriate barriers and signage. The Council is also considering a permanent deletion of the footpath, though this is subject to due process and will entail a period of public consultation.

1.10 The footpath at Wylam was very well used and is part of a popular network of rights of way in this area which gives people access to the riverside and is one of a number of routes providing access to the Tyne Riverside Country Park. If it is not maintained going forward and is permanently lost then practically there is a viable short diversion that could be made via the Wylam Waggonway which would still afford good access to all existing public open spaces, except for this short stretch of riverbank. This approach would be in accordance with normal practice.

1.11 There are currently at least 11 other landslips on private land affecting public rights of way in Northumberland and this issue is a common problem across the county, so any decision taken in relation to Wylam should take the issue of setting precedents into consideration.

## 2. Background

2.1 A request for an e-petition was received in April 2021 seeking support from interested people in asking Northumberland County Council to repair a riverbank, restore and reopen a footpath. The wording of the petition request was:

***'Wylam Right of way path closure; Stephenson Terrace to Country Park repair riverbank subsidence.***

*Path has been closed by NCC from the end of Stephenson Terrace Wylam to the Newburn Country Park since 2013 due to riverbank erosion on land owned by Wylam Parish Council, near Tom and Joes Garden Nurseries. Existing fences have been broken down numerous times. Safety hazard as people still go along the dangerous path. NCC to repair Riverbank and restore footpath so route is reopened. The riverbank erosion and ground stability of the land upon which the footpath runs is also affecting the private access road for the adjoining Garden Nurseries business.'*

2.2 The County Council in its statutory role as a Highways Authority is responsible for the management and maintenance of the rights of way network. The right of way which is the subject of this report is a footpath (footpath 9) running alongside the River Tyne from the eastern end of Stephenson Terrace, Wylam that connects into the Tyne Riverside Country Park and the Wylam Waggonway (bridleway), which in turn connect into Newcastle City Council's Tyne Riverside Country Park. The route is therefore well used by walkers and has good connectivity to the wider rights of way network. (See location plan below).

### Wylam Footpath – Location Plan



2.3 The ~280m length of footpath highlighted in orange just to the east of Stephenson Terrace has suffered from ground instability issues for many years, in part caused by the toe of the steep bankside at this location being eroded by the River Tyne causing the land above to slip down and the bankside to regress backwards. These are naturally occurring processes which take place in river valleys.

2.4 County Council officers have made local operational decisions over the years to undertake relatively minor/low level maintenance works using general rights of way revenue maintenance budget provision to repair and maintain the footpath, and up to around 2013 they have also undertaken minor ad hoc works to the bankside in an attempt to protect the access to the public footpath. However, once the progressive regression of this land was too advanced for this approach to be viable, and due to safety concerns over the continued use of the footpath, action was taken to put in place a 'temporary closure' and to fence off the access.

2.5 Following discussions with both the parish council and the adjoining landowner/business, officers have sought to assist in finding a solution to this problem and to try and quantify the financial costs of such works. This has entailed agreeing to seek quotes from suitably qualified consultancies/contractors for the development of potential design solutions for a scheme to stabilise the bankside. Unfortunately, despite their best efforts no company has been prepared to provide a cost for undertaking the design works.

2.6 Officers have therefore sought to be as helpful as they can in trying to support stakeholders to identify a potential way forward to progress a viable solution to the problem but, given the highly complex nature of the issue, they have not been able to do so.

2.7 The regression of the bankside is continuing and has accelerated over this last year. The regression is extending into adjoining private land which includes the private access for a Garden Nursery business. This is their only vehicular access to their popular Garden Nursery and the ground movement therefore threatens the long-term viability of the business, as well as their home.

2.8 The Council's Technical Services Design Team has advised that in order to progress any design work it would first be necessary to undertake comprehensive ground investigation activity. This would provide a much more detailed understanding of the site and its geology, hydrology, drainage arrangements and ground movement in order to understand all of the factors currently in play. This ground investigation work would then enable a viable scheme design to be developed.

2.9 However, given the scope of the ground investigation works required and the significant physical and ecological constraints of the site, it is considered that a budget estimate for the site investigation and design works would be in the order of £70,000. It is also advised that whilst there is insufficient information / work undertaken to determine the cost of implementing the final engineering solution, it is envisaged this would be at least £500,000 and could be significantly more expensive given the ecological and physical constraints of the site. Any solution would also require on-

going monitoring and maintenance creating an on-going financial liability to ensure its long-term effectiveness.

2.10 If the ground stability issue is not resolved and the footpath is permanently lost there is a viable short diversion of approximately 700 metres that could be made via the Wylam Waggonway (bridleway), which would still afford good access to all existing public open spaces, except for the short stretch of riverbank where the landslip is occurring. This approach would be in accordance with normal rights of way practice.

2.11 In determining what the Council's response to this particular issue should be, it is also important to note that there are other landslips affecting public rights of way in Northumberland, almost all of which are on private land. So, any decision that entails the County Council taking on any responsibility to develop and implement an engineering solution at Wylam risks setting a precedent that could expose the County Council to significant financial liabilities in at least 11 other locations currently, notwithstanding any new cases that may arise in future.

### **Implications**

<b>Policy</b>	It is an accepted practice for a Highways Authority when exercising its duties with regards to the maintenance and management of the rights of way network, to make temporary closure orders on public rights of way and, where it is necessary to permanently stop up a section of public right of way, can make diversion or extinguishment orders. A viable diversionary route is available in this case.
<b>Finance and value for money</b>	The cost of designing and implementing a remediation scheme to resolve the river bank erosion/landslip and reinstate the short section of footpath is estimated to be in the order of several hundred thousand pounds. It is not considered that this offers good value for money as the Council is not responsible for the land upon which the footpath runs and a viable diversionary route is available.
<b>Legal</b>	The Council is not the landowner and is not responsible for the stability of the land upon which the footpath runs. The Council is able to apply to close the footpath and use a diversionary route.
<b>Procurement</b>	None
<b>Human Resources</b>	None
<b>Property</b>	The County Council is not the landowner. The regression is affecting a private residence, their access road and their Garden Nursery business.

<b>Equalities</b> (Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	The Wylam Waggonway provides an accessible alternative right of way.
<b>Risk Assessment</b>	None
<b>Crime &amp; Disorder</b>	None
<b>Customer Consideration</b>	The footpath is well used; however, an alternative diversionary route is available that still maintains access to all of the green spaces and connections to the rights of way network.
<b>Carbon reduction</b>	None
<b>Wards</b>	Wylam

**Background papers:**

None

**Report sign off.**

	initials
Monitoring Officer/Legal	NM
Service Director Finance & Interim S151 Officer	JW
Relevant Director	RM
Chief Executive	DL
Portfolio Holder(s)	JR

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