

NORTH YORKSHIRE COUNTY COUNCIL**PLANNING & REGULATORY FUNCTIONS SUB-COMMITTEE****8 MARCH 2013****APPLICATION FOR A DIVERSION ORDER
BRIDLEWAY NO. 10.128/8, SEXHOW GRANGE, SEXHOW****Report of the Corporate Director – Business and Environmental Services****1.0 PURPOSE OF REPORT**

- 1.1 To advise Members of an application for a Diversion Order, the effect of which, if pursued, would be to divert Bridleway No. 10.128/8, Sexhow Grange, Sexhow. A location plan is attached to this report as **Plan 1**. The section of bridleway proposed to be deleted is shown as A – B – C and the section of bridleway proposed to be added is shown as A – D on **Plan 2**
- 1.2 To request Members to authorise the Corporate Director, Business and Environmental Services, to make a Public Path Diversion Order.

2.0 THE COMMITTEE'S RESPONSIBILITIES

- 2.1 Under Section 119 of the Highways Act 1980, the County Council can make a Diversion Order where it is satisfied that is expedient to do so, either in the interests of the owner, lessee or occupier of the land crossed by the route in question, or that it is expedient in the interests of the public.
- 2.2 The Committee's decision whether to make an Order is the first stage of the process. If Members authorise an Order being made, and there are no objections to the Order, the County Council can confirm the Order, but will need to be satisfied that:
- i) the diversion is still expedient, and
 - ii) that the diversion will not be substantially less convenient to the public as a result of the Order, and that it is expedient to confirm the Order having regard to the effect which:
 - (a) the diversion would have on public enjoyment of the route as a whole;
 - (b) the coming into operation of the Order would have, as respects other land served by the existing public right of way; and
 - (c) any new public right of way created by the Order would have, as respects the land over which the right is created and any land held with it.

2.3 However, if there were an objection to an Order that is not subsequently withdrawn, the power to confirm the Order rests with the Secretary of State, who will apply the legal tests set out in 2.2 above.

3.0 BACKGROUND

3.1 The owner of Sexhow Grange has submitted an application to the County Council under Section 119(1) of the Highways Act 1980 to divert the bridleway as shown on **Plan 2**.

3.2 The applicant wishes to divert the bridleway to the north of the farm house and buildings on the grounds of safety and security. The bridleway currently runs alongside a grain store and associated vehicle manoeuvring area. At certain times of the year and especially during harvest, there are a large number of vehicle movements in this area. The applicant has identified this area as being potentially dangerous to the public and wishes to minimise this risk by diverting the route away from the buildings.

3.3 The proposed path was to be recorded as 3.0 metres wide and run adjacent to a hedgerow. As the land is arable, no gates would currently be required for stock control.

3.4 An informal consultation on the proposal was undertaken with the statutory consultees on 16 February 2012, in accordance with the required procedure.

3.5 In response to the consultation, replies were received from the Parish Council, Byways and Bridleways Trust, British Driving Society, The Ramblers and the British Horse Society.

3.6 The Parish Council, the Byways and Bridleways Trust and the British Driving Society had no objections to the proposal.

3.7 Objections were raised by The Ramblers. The British Horse Society representative intimated that they had some concerns but these have not yet been submitted.

4.0 REPRESENTATION AGAINST THE PROPOSED DIVERSION

4.1 The Ramblers objected to the proposal on the following grounds:

- i) That the existing bridleway offers sufficient separation from occasional workings within the farmstead.
- ii) That since the existing bridleway has a width of 4.0 metres and has a hard surface, the proposed field side route is substantially less convenient (to walkers). The proposed section will be soft grass, which will not be able to withstand equestrian use.
- iii) The farmer may fence the proposed route as he has done with other bridleways on his land, thereby reducing the available width.

- iv) Users would be required to negotiate a short section of steep bank on the existing bridleway immediately north of Point C.

5.0 COMMENTS ON THE OBJECTION

5.1 Sufficient separation from occasional workings within the farmstead:

Whilst this farmyard is not continuously active, there are periods of the year when there is considerable activity involving movement of heavy machinery. The applicant considers that diverting the public from the farmyard would improve the safety of users.

The Ramblers' objections have been discussed with the applicant and it was agreed that whilst the surface of the proposed route was mostly robust enough to cope with equestrian traffic, one wet section, running east from Point D for approximately 35 metres, would benefit from having a surface made up with crushed stone or road planings, similar to that found on the existing bridleway between A and B. The applicant agreed to carry out this work if a Diversion Order was made and confirmed.

5.2 The width of the proposed route and the nature of the surface:

The proposed width of 3.0 metres is a standard width for bridleway diversions (as set out in Schedule 12A of the Highways Act 1980). However, bridleways running through pasture fields on this farm have been enclosed by fences and it is a reasonable concern that the landowner may also wish to enclose the proposed bridleway at some stage. Whilst the proposed route runs along the edge of an arable field and therefore has no need to be enclosed, there can be no guarantee that the land will not be grazed at some time in the future. If the bridleway, at 3.0 metres wide, were to be enclosed, this would effectively reduce the useable width for riders to a strip of around 2.0 metres. Such concentrated use could cause the break-up of the grass sward and deterioration of the surface. It is not unreasonable for the applicant to be requested to provide a route similar in nature to the existing bridleway. He has already offered to improve the surface and it is proposed to record a 4.0 metre width for the bridleway within the Order.

5.3 The steep bank between Points C – D

The section of bridleway between Points C – D is currently enclosed and some overgrowth restricts the width for a distance of approximately 60 metres. This section is not part of the proposed diversion, however, if the proposed diversion is pursued, the bank would be used more by those users travelling between east and west. Users travelling between north and east would no longer need to use the steep bank and users travelling between north and west would experience no change to their current route. Overall therefore, it is not considered that the proposed route would be substantially less convenient to the public. Although it falls outside the consideration of the merits of the proposed diversion itself, it is proposed to explore the possibility of widening the section between Points C – D with the landowner to remedy the concerns that have been raised.

6.0 LEGAL IMPLICATIONS

6.1 There are no legal implications associated with the introduction of these proposals.

7.0 CONCLUSION

7.1 The application satisfies the criteria of Section 119(1) of the Highways Act 1980, that is to say, it is in the owner's interests to have the bridleway moved onto a more convenient line for him, and it is considered that the proposed new route would not be substantially less convenient to the public if the width of the proposed section were to be recorded at 4.0 metres wide, as referred to in 5.2 above, and the works described in 5.1 above were to be undertaken and completed prior to the Diversion Order, if made, being confirmed and the new route certified as being in a fit condition for use by the public.

8.0 RECOMMENDATION(S)

8.1 It is therefore recommended that the Committee authorise the Corporate Director, Business and Environmental Services to make a Diversion Order for the route shown as A – B – C on Plan 2 to be diverted to the alignment shown as A - D on Plan 2.

And

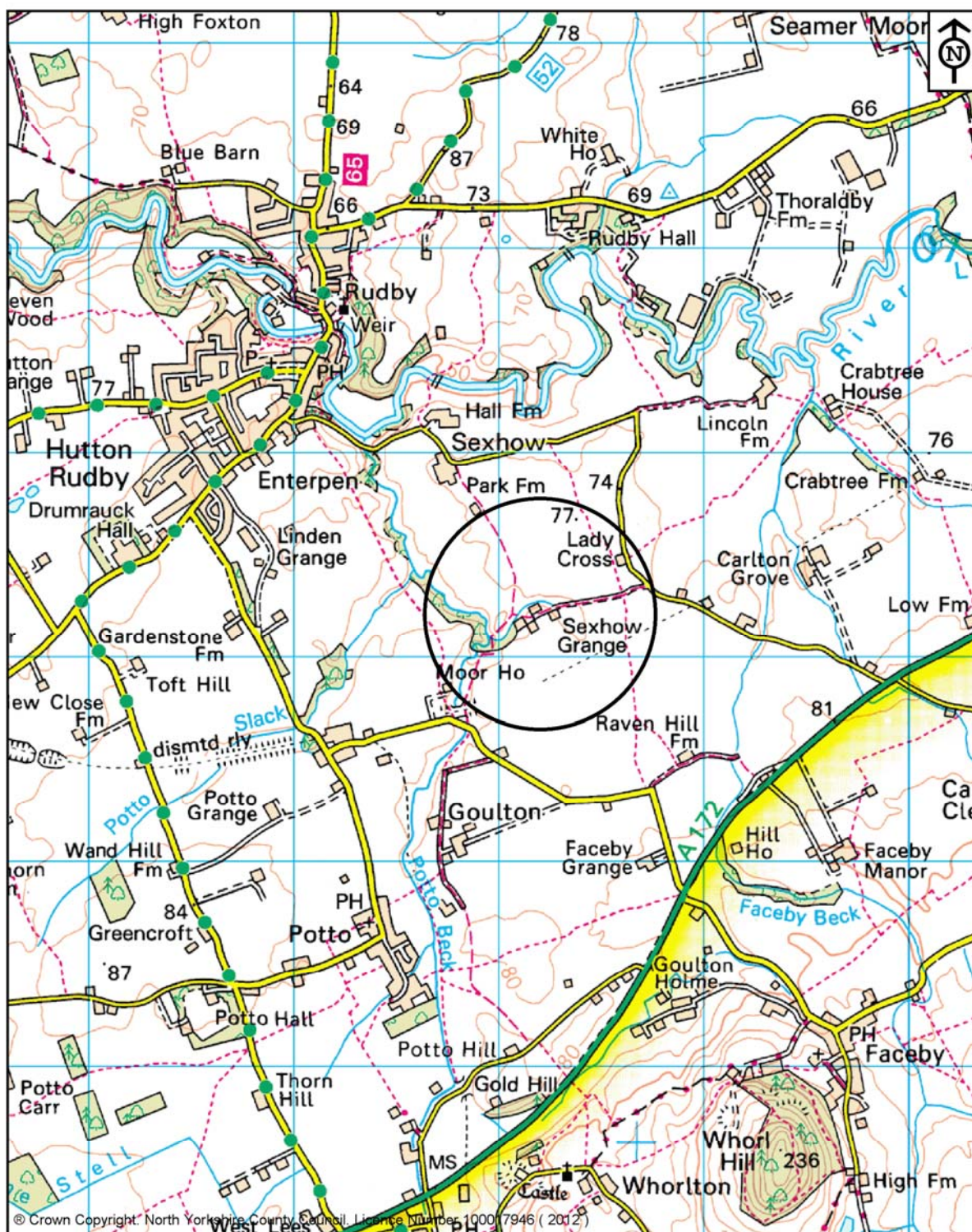
8.2 in the event that formal objections are made to that Order, and are not subsequently withdrawn, the Committee authorise the referral of the Order to the Secretary of State for determination, and permit the Corporate Director, under powers delegated to him within the County Council's Constitution, to decide whether or not the County Council can support confirmation of the Order.


DAVID BOWE

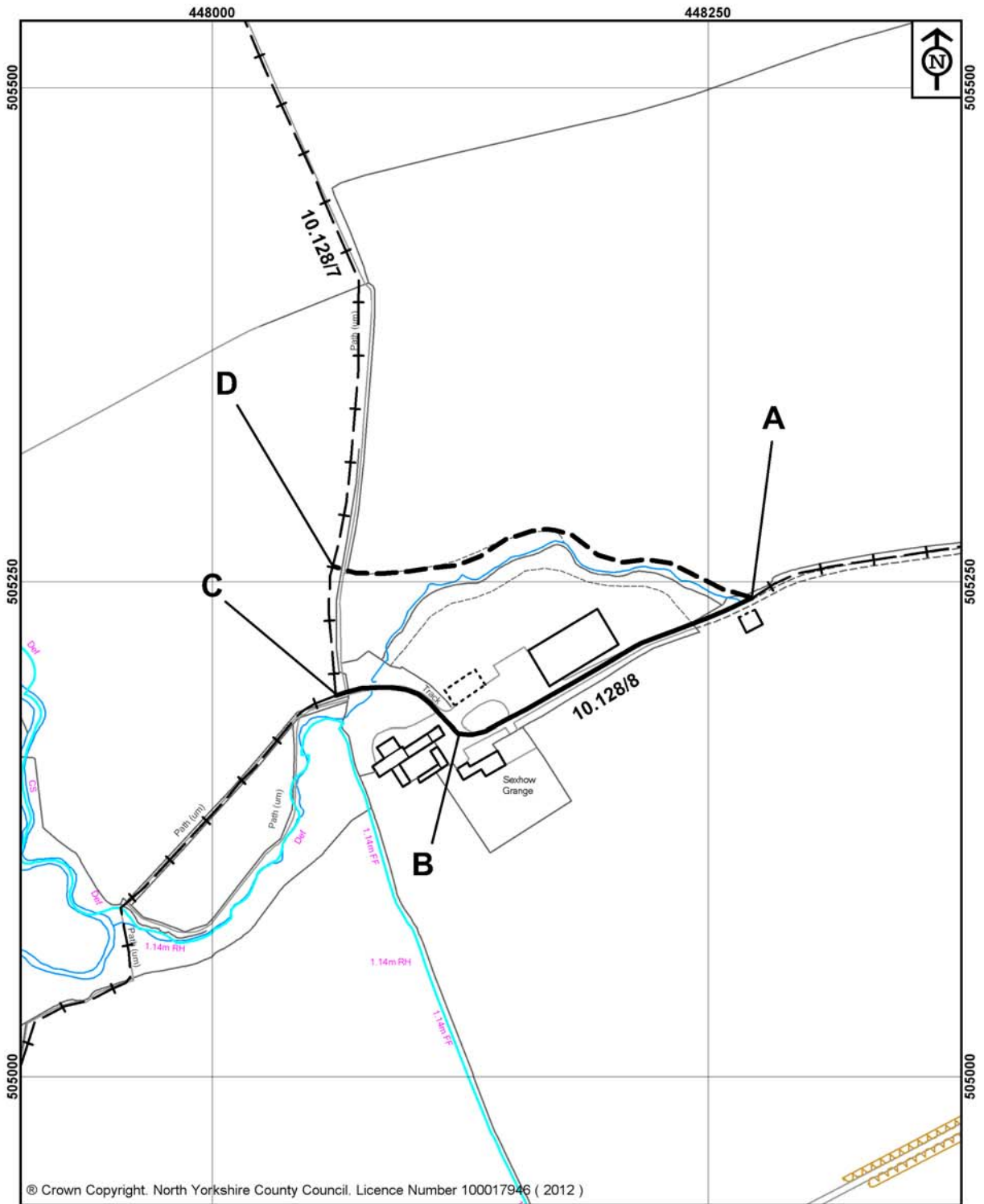
Corporate Director – Business and Environmental Services


Author of Report: Andy Hunter

Background Documents: Definitive Map Team Case file ref: HAM/2008/05/DO



 <p>North Yorkshire County Council</p> <p>Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p>PLAN 1 LOCATION PLAN</p> <p>Map drawn on 17 December 2012 Drawn by AWH Scale 1:25000</p>	<p>North Yorkshire County Council</p> <p>Plan prepared for the Planning & Regulatory Functions Sub-Committee</p> <p>Application for Diversion of Bridleway No. 10.128/8, Sexhow Grange Sexhow</p> <p>File Ref No. HAM/2008/05</p>
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	<p>Map drawn on 10 February 2012</p> <p>Drawn by AWH Scale 1:2500</p>	<p>PLAN 2</p> <p>File Ref No. HAM/2008/05</p>