

North Yorkshire County Council
Business and Environmental Services

Executive Members

21 January 2021

Opposed Bridleway No. 25.121/027 & Footpath No. 25/121/028
Head House Farm, Hartoft Diversion Order 2021

Report to the Assistant Director – Travel, Environmental and Countryside Services

1.0 Purpose of the report

- 1.1 To advise the Corporate Director of Business and Environmental Services (BES) of an opposed Diversion Order for a bridleway and a footpath within the parish of Hartoft, in Ryedale. A location plan is attached to this report as Plan 1. The proposal is shown in detail on Plan 2.
- 1.2 To request that the opposed diversion order be referred to the Secretary of State and that the Authority supports the confirmation of the Order.

2.0 Background

- 2.1 Within the County Council's scheme of delegation, it is delegated to the Assistant Director of Travel, Environmental and Countryside Services, to decide whether to abandon an opposed Diversion Order where the Authority is of the opinion that the requirements to confirm the Order may not be met and where an Inspector appointed by the Secretary of State may decline to confirm the Order, or to recommend to the Director of Travel, Environment and Countryside Services that the Order be referred to an Inspector appointed by the Secretary of State.
- 2.2 The Assistant Director of Travel, Environmental and Countryside Services has agreed that this Order, though opposed, meets the relevant criteria and should be referred to the Secretary of State for final determination, rather than be abandoned.

3.0 The Application

- 3.1 The application to divert the paths was submitted to the County Council in 2019.
- 3.2 The reasons given for the application were to improve security and privacy of the property and to enable changes to land management, all of which are in the interests of the landowner.

4.0 Relevant legal criteria

- 4.1 Under Section 119 of the Highways Act 1980, the County Council, having consulted any other local authority, may divert a public right of way (PROW) where it appears to the Authority that in the interests of the owner of the land crossed by the PROW described in the Order, it is expedient that the line of the PROW should be diverted, and that the diversion would not be substantially less convenient to the public.

- 4.2 The County Council charges applicants for the costs incurred in the processing/making of diversion Orders, as provided for by the Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 (S.I. 1993/407), amended by regulation 3 of the Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 (S.I. 1996/1978).
- 4.3 Where an Order is opposed, the County Council cannot confirm the Order; it can only be confirmed by the Secretary of State. The Secretary of State will confirm an Order if he/she is satisfied that:
- i) in the interests of the landowner it is expedient to divert the footpath, and
 - ii) 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.

5.0 The Making of the Order

- 5.1 An informal consultation was carried out and an objection was received from the local Ramblers representative.
- 5.2 A report was submitted to the assistant Director, Travel, Environmental & Countryside Services and it was determined that a Diversion Order should be made.
- 5.3 The Diversion Order was made on 24 August 2021 and was duly advertised.
- 5.4 During the Formal Consultation 2 objections were received,
- i) from the Local Ramblers representative:
Bridleway H to G: this currently provides a direct NE-SW route on a good surface; the proposed diversion does not follow any natural line, would require a number of gates and would generally be much less convenient. In discussions with the owner, we noted that it was intended to construct a fenced corridor north-east from point H; in our view it would be appropriate, and straightforward, to extend the corridor from H to the farm yard. This would protect walkers & riders, whilst retaining the direct line currently taken by the bridleway. We have noted that most of the farm buildings lie to the north-west of the bridleway, and so those using the right of way through the yard are unlikely to significantly impair the operation of the farm. For these reasons we object to this diversion.

Officer Comment.

The landowner has applied for a specific diversion which does not include the suggestion put forward regarding corridor route through the farmyard. The route proposed will have gates within the fencing to the sides of the corridor to permit stock movements but there will be no gates across the proposed right of way.

The applicant has stated that increasing bio security and machinery use are important factors in requesting the diversion, the diversion will allow the applicant to make full use of the farmyard area without any risk to the public.

Footpath B to A: this footpath does not go through any fields used by cattle, and is some distance from the farmhouse; the owner told us that no criminal activity has been reported to the police, we are not aware that Hartoft is an area of heightened criminal activity, and no plausible reasons have been given for the proposed diversion. The diversion would move the path from its historical line and extend its length, there would be no benefits to walkers, and the route would be less convenient. For these reasons we object to this diversion.

Officer Comment.

The sense of privacy and security can only be articulated by the applicant who lives at the premises, the issue of crime levels is not relevant because this is not a crime issue.

It is difficult to see how the proposed route is in any way substantially less convenient for the public, the order route is approximately 100 metres longer than the definitive line and is across open grassland. The additional distance is of no significance given the context of the path network and the lengths of any routes likely to be walked by the public.

Considering both of these objections together, it is the view of Officers that they are without merit and will not be sufficient to prevent the order being confirmed.

ii) A representative on behalf of the Ryedale Bridleways Group:

1. Part 3 of the Order Limitations and Conditions. You have only given that for the footpath; the position for the bridleway has not been included. My understanding is that there is to be a field gate at point H and that is the only gate to be authorised.

Officer Comment

A request will be made to the Inspector that in the event of the order being confirmed that an amendment s made to include this gate in the order.

2. With reference to Part 3 Limitations and Conditions there is a small drain that needs to be bridged between points G and I. I ask that be included in Part 3. The BHS advice is that for bridges that cross a ditch with a span of less than 3 m and a deck height of less than 1 m, a bridge with a width of 2 m is sufficient. They also recommends a kickboard of 250 mm and kickboard uplift (the gap between the deck and the kickboard) of 25 mm. I don't think parapets will be required but would like it noted that if this does prove to be necessary they are added.

This bridge over the drain is in a dark area and so the surface of this bridge is important; it should be non-slip and not just wood. The BHS recommends that boards should be laid at right angles to the sides of the bridge, decking should be substantial, non-echoing and without substantial gaps in the decking through which the drain can be seen. There are various types of non-slip boards available. The bridge must be able to take the weight of the horse; the common range being between 350 and 700kg. The citing of this bridge should be that there is the minimum gradient.

Officer comment

The ditch is to be culverted at this point which would allow users to cross it on a flat level surface with no limitation or obstruction. The objector has been informed of this fact but has stated that they believe the culvert should be included in the order. Officers do not consider this to be necessary.

6.0 Representation made by the local member

- 6.1 No formal representations were received from the local councillor in response to the consultations regarding the Diversion Order.

7.0 Legal Implications

- 7.1 The opposed Order would be determined by an Inspector appointed by the SoS, and, as stated above, determination will most likely be by way of written representations.
- 7.2 The Inspector, on the basis of the evidence and the legal criteria will decide whether or not to confirm the opposed Order. If he/she decides to confirm the Order, the routes will be amended on the Definitive Map and statement in accordance with the details within the Order.

8.0 Financial implications

- 8.1 If the opposed Order were to be submitted to the SoS, the Order would be resolved by written representations or a Public Inquiry.
- 8.2 There would be a non-rechargeable cost to the Authority in preparing a submission to the SoS and responding to any queries raised by the SoS and these costs would be for officer time, which would be met by the respective staffing budgets. If the Inspector chose to hold a Public Inquiry, the costs of arranging, hosting and supporting the Inquiry would fall to the Council.

9.0 Equalities Implications

- 9.1 It is the view that the recommendations do not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010.

10.0 Climate Change Implications

- 10.1 The proposal is to alter the status of routes already recorded as public routes within the County Council's records. The confirmation of this order would have no positive or negative impact on climate change.

11.0 Current Decision to be made

- 11.1 The decisions to be made at this stage are, firstly, whether the Order is to be abandoned, or is to be forwarded to the SoS for resolution.
- 11.2 Secondly, if it is decided that the matter is to be forwarded to the SoS then a further decision will need to be made, namely which stance the authority would take within its submission to the SoS towards the confirmation of the Order; that is the Authority needs to decide if it:
- supports confirmation of the Order, believes that the Order should not be confirmed,

- considers the circumstances are so finely balanced, or are particularly unclear and wishes to take a neutral stance.

12.0 Conclusions

- 12.1 In conclusion, the application for the Diversion Order was made to increase privacy and security of the property, and to improve the agricultural management of the land. It is felt that the Diversion Order meets the legal tests outlined in Para. 4.1 above.
- 12.2 The first objection to the Order outlines a number of issues however it is felt that the applicant has made some compromises, and that the remaining objections are insufficient to prevent the confirmation of the Order. The second objection relates to detail omitted from the Order which can be addressed within the submission to the Secretary of State.
- 12.3 It is recommended that the Order be referred to the Secretary of State and that the Council takes a stance of supporting the confirmation of the Order, also requesting the amendments to correct minor details within the Order.

13.0 Recommendation


- 13.1 It is therefore recommended that the Director and Executive Members authorise the referral of the opposed Diversion Order to the SoS, and that within the submission the Authority supports the confirmation of the Order.

MICHAEL LEAH
Assistant Director, Travel, Environmental and Countryside Services

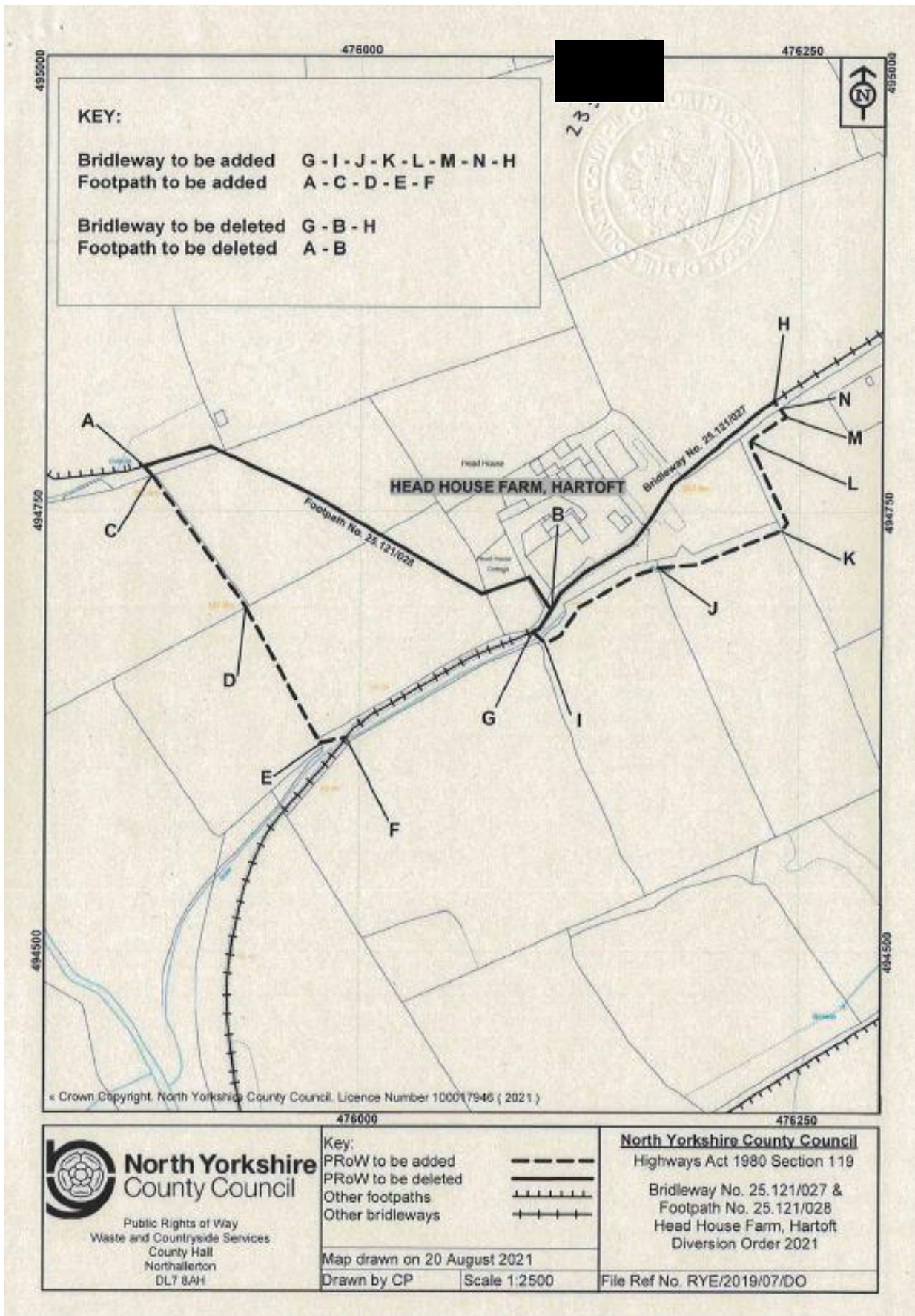
Author of report: Ron Allan

Background papers: File Ref RYE-2019-07-DO



 <p>North Yorkshire County Council</p> <p>Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<h1>LOCATION PLAN</h1>		<p>North Yorkshire County Council</p> <p>Opposed Diversion Order Head House Farm, Hartoft</p> <h2>PLAN 1</h2>
	<p>Map drawn on 10 January 2022</p> <p>Drawn by CP</p>	<p>Scale 1:12500</p>	<p>File Ref No.</p>

PLAN 2



North Yorkshire County Council

Corporate Director - BES

21 January 2022

**Opposed Public Path Order to Divert a Public Bridleway and Public Footpath
at Head House Farm, Hartoft**

AUTHORISATION

I approve / do not approve the recommendation set out above

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ANY ADDITIONAL RECOMMENDATION or COMMENT:

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Karl Battersby

Corporate Director - BES

Signed:Date: