

**North Yorkshire County Council**  
**Business and Environmental Services**

**Executive Members**

**25 March 2022**

**Opposed Bridleway No. 25.122/622**  
**Oak House, Hawnby, Helmsley Diversion Order 2021**

**Report of 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 Public Path Diversion Order for a bridleway in the parish of Hawnby. A location plan is attached to this report as Plan 1. The proposal is shown in detail on Plan 2.
- 1.2 To request the Corporate Director BES, in consultation with the BES Executive Members authorises 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 Transport, Environment 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 Corporate Director BES, in consultation with the BES Executive Members Services that the Order be referred to an Inspector appointed by the Secretary of State.

**3.0 The Application**

- 3.1 The application to divert the bridleway was submitted to the County Council in July 2020.
- 3.2 The reasons given for the application were to divert the bridleway away from the curtilage of Oak House, to improve privacy, security and to ensure safety of users from vehicle movements and enable safe movement of livestock within the yard.

**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 bridleway, 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 outlining the concerns of the objector, and it was determined that a Diversion Order should be made.
- 5.3 The Diversion Order was made on 12 October 2021 and was duly advertised.
- 5.4 During the formal consultation period 1 objection was received from the same party as in response to the earlier informal consultation period. The objector's comments were as follows:
- i) From the local Ramblers representative:
    - Bridleway 25.122/622 runs SE from the B1257 and follows a well-made concrete track (with grass along the middle) for about 1000'.
    - The bridleway rises about 65' from the road to Point A (a distance of about 710'), and then a further 65' from Point A to Point C (via Point B); the distance A-B-C is about 380'.
    - The bridleway passes along the front of Oak House, at a distance of about 10' from the nearest building; the route skirts the various buildings, so there should be no interference with people or vehicles moving between the buildings.

### **Officer Comment:**

The sense of privacy and security can only be articulated by the applicant who lives at the premises. The distance between the house and the bridleway is disputed (1.5 metres from the house, measured by an officer compared with 10' (3 metres) as stated by the Ramblers. Having a public right of way 3 metres distant from the house would be likely to impact upon both the sense of privacy and security.

- The proposed alternative route goes east along the side of a field to Points E & F, then south along the side of another field to Point C.
- The proposed route from A to F drops by about 10'; from Point F to Point C there is a rise of about 75' in a distance of around 300', thus this section would

be uncomfortably steep for many walkers, especially those with disabilities, and it would become increasingly slippery when used by riders.

Officer Comment:

The difference in gradient is disputed as the proposed route follows the same hillside gradient as the existing route and the steep part only amounts to about 20 metres, to the north of Point C and is comparable with the gradient south east of Point B. This route is not close to a village and lies on a wooded hillside where the surrounding landscape consists of steep wooded hillsides and escarpments interspersed with undulating terrain. The proposed new route crosses terrain typical of this part of the North York Moors and does not represent anything out of the ordinary for this area which might challenge any walker. The applicant has expressed the view that the route receives little use by horses and no horses have been seen using the route in the last 25 years. This is due to the horse-riders having to negotiate the busy B1257 to access this bridleway loop. The proposed route follows the field boundary of a well-drained ancient meadow. Therefore it is considered that the surface is unlikely to be churned up by riders in wet weather due to the limited use.

- The proposed diversion is about 50' longer than the current PROW.

Officer Comment:

The bridleway runs in a loop from the B1257 and the current total distance of the bridleway is 960 metres. Therefore, an additional 15 metres is not considered to be excessive and could not be considered to be "substantially less convenient".

- Because the route east from A to F lies lower than the route from B to C, the views over the valley to the north and west are less attractive.

Officer Comment:

The views to the north are unimpeded by the slightly lower proposed route between Points A and F. The views west between Points B to C have a fairly narrow vista due to the buildings to the south and the views on the proposed route could be considered as good, if not better than from the existing route.

- The current route to Oak House is a hard track, which will stand up to equestrian and cycle traffic without being disturbed. The proposed alternative is unsatisfactory for walkers, as it lies over pasture which is likely to be cut up by riders, especially in wet weather. It would especially be more difficult for walkers with disabilities, particularly between Points F & C.
- The bridleway does not come close enough to Oak House to intrude significantly on the privacy of the occupants.
- The Ramblers Association therefore objects to the proposed diversion on the grounds that the new route would be substantially less convenient because it follows a steeper line, on a softer surface which, with equestrian use, would undoubtedly become unsatisfactory and difficult for walkers, and doubly so for those with disabilities.
- We have previously suggested that, if there are difficulties with the PROW interfering with "people or vehicles moving between the buildings" (and we find this hard to believe), we would be content for the route to be altered so that it follows the most easterly and northerly edges of the existing hard track, thereby ensuring no interference. We are sorry that this suggestion has not been accepted.

Officer Comment:

The landowner has applied for a specific diversion which would remove the bridleway from the curtilage of Oak House and the suggestion put forward regarding moving the bridleway to the other side of the driveway will not achieve this.

## **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. It is felt that the Diversion Order meets the legal tests outlined in Para. 4.1 above, and has been made in the interests of the applicant. It is considered that the proposed route is not substantially less convenient for the public and that therefore there is no reason for the Authority to abandon the Order, or oppose confirmation of the Order.
- 12.2 The objection to the Order outlines a number of issues, however it is felt that overall the objections are not sufficient to prevent the confirmation of the Order.

## **13.0 Recommendation**

- 13.1 It is therefore recommended that the Corporate Director BES, in consultation with the BES Executive Members authorises the opposed Diversion Order be referred to the Secretary of State and that within the submission the Authority supports the confirmation of the Order.

MICHAEL LEAH

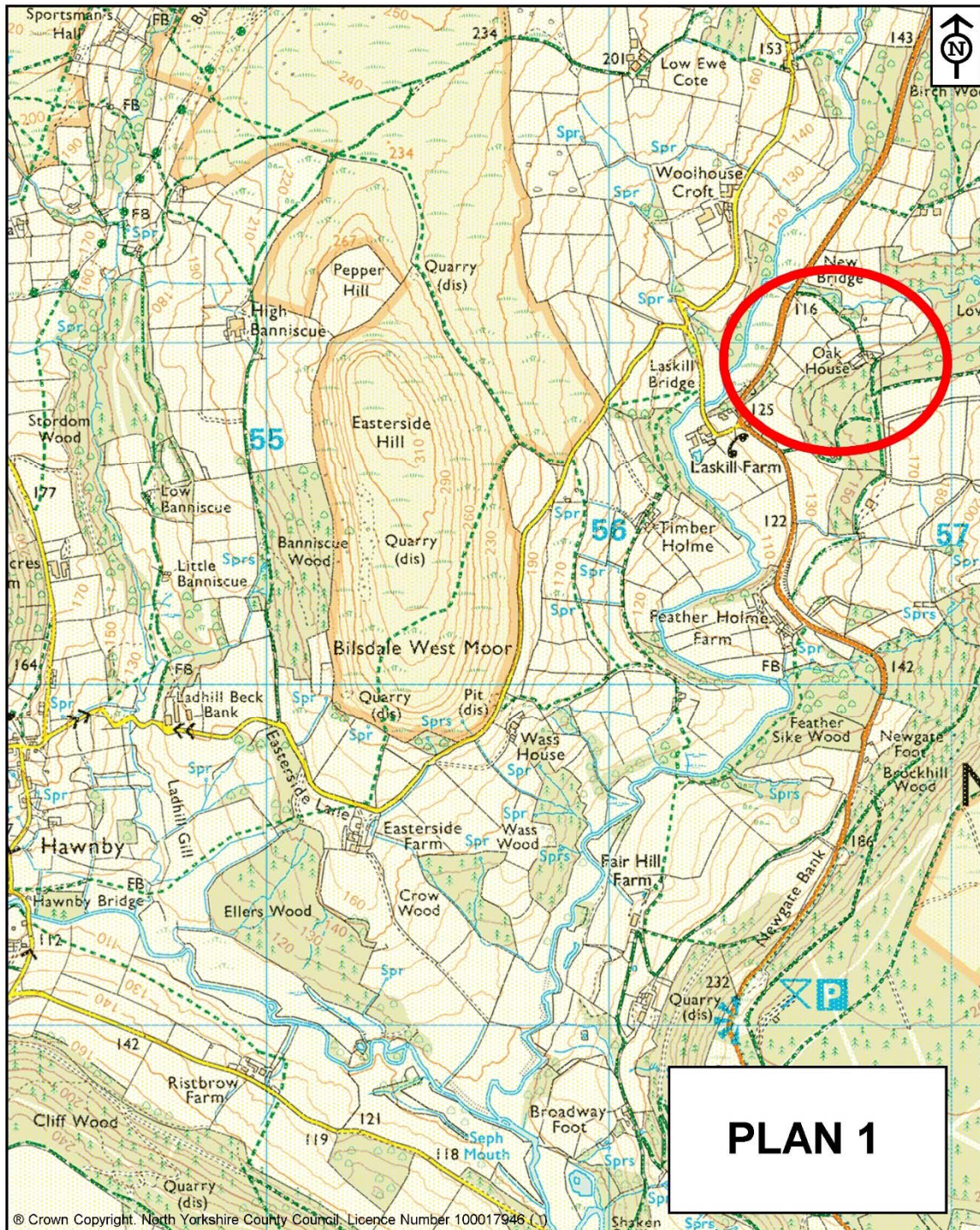
Assistant Director – Travel, Environmental and Countryside Services


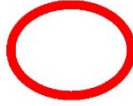
Author of report: Claire Phillips

Background papers: File Ref RYE-2020-06-DO



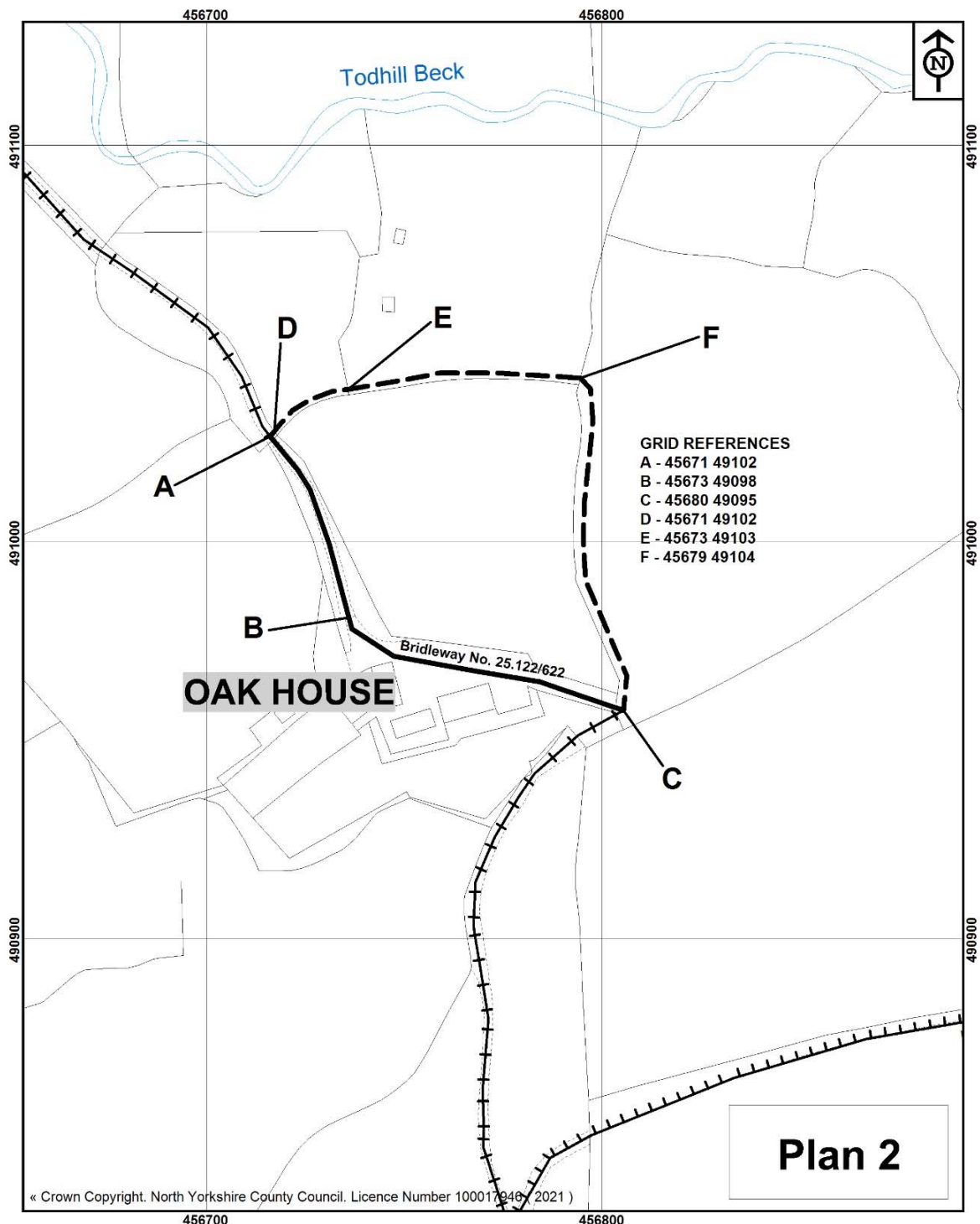
## Location Plan




 <p><b>North Yorkshire County Council</b></p> <p>Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p><b>OAK HOUSE</b></p>  <p>Map drawn on 19 August 2021 Drawn by CP</p>	<p><b>North Yorkshire County Council</b></p> <p><b>Oak House, Hawnby</b></p> <p><b>LOCATION PLAN</b></p> <p>Scale 1:15000 File Ref No. RYE/2020/06/DO</p>
---	--	---



# PLAN 2



 <b>North Yorkshire County Council</b> Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH	<b>Key:</b> Bridleway to be added Bridleway to be deleted Other footpaths Other bridleways	<b>North Yorkshire County Council</b> Highways Act 1980 Section 119  Proposed Diversion of Bridleway No. 25.122/622 Oak House, Hawnby
	Map drawn on 19 August 2021 Drawn by CP	