

North Yorkshire Council

Harrogate And Knaresborough Area Constituency Planning Committee

26 September 2023

OPPOSED PUBLIC BRIDLEWAY NO. 15.43/14 CRIMPLE VIADUCT, FOLLIFOOT CREATION ORDER 2023

Report of the Assistant Director – Integrated Passenger Transport, Licensing, Fleet, Harbours and Countryside Access

1.0 PURPOSE OF THE REPORT

- 1.1 To advise the Harrogate and Knaresborough Area Constituency Planning Committee of the proposed submission to the Secretary of State (SoS) of an opposed Public Path Creation Order.
- 1.2 To request the Committee to decide what stance the Authority should take in its submission to the SoS, regarding the confirmation of the opposed Creation Order.
- 1.3 To request the Committee to delegate authority to the Corporate Director, Business and Environmental Services to forward the opposed Order to the Secretary of State and to support confirmation of the Order.

2.0 BACKGROUND

- 2.1 In 2013 the owner of Rudding Park Estate dedicated a public bridleway along a section of disused land on the estate. The intention was to connect this new bridleway to Public Bridleway no 15.54/61.
- 2.2 However, it was subsequently established that, due to an anomaly in the Parish and field boundary properties, that there was a gap between the end of the new bridleway and bridleway No. 15.54/61 which lay on land outside the ownership of Rudding Park.
- 2.3 The owner of the land in question has declined to dedicate a section of bridleway to connect the two paths which led to the Authority instigating the process to make a Public Path Creation Order for a short section of public bridleway to connect the two existing bridleways.
- 2.4 Prior to making an Order the Authority carried out an informal consultation; 107 expressions of support were received along with objections.
- 2.5 Attached to this report as Appendix A is a copy of the report submitted to the Director – Business and Environmental Services dated 20 January 2023.
- 2.6 The making of a Creation Order was made on 20 January 2023 which was subsequently advertised. Two objections have been received which remain outstanding. The Council cannot confirm a Creation Order where there are outstanding objections; the Order must be forwarded to the Secretary of State to determine whether or not the Order should be confirmed.

- 2.7 The Secretary of State will decide whether to hear representation by written representations, public hearing or Public Inquiry.
- 2.8 The power to make representations to the Secretary of State regarding Public Path Orders to which a valid objection has been received following public advertisement of the Order, subject to consultation with the relevant Executive Member(s) and local Member (s) sits within the terms of reference of the Area Constituency Planning Committee, hence the report to committee for a resolution.

3.0 RESPONSES TO THE PUBLICATION OF THE SEALED ORDER

3.1 The Order was made on 24th of February 2023. On 9th of March 2023 Notice was served on the following-

- Landowner; Objected to the Order.
- Interested Party; Objected to the Order
- Tenant; No response received
- Harrogate Borough Council. No Objection received.
- Follifoot Parish Council. No Objection received.
- Cllr Andy Paraskos. No Objection received.
- The Ramblers. No Objection received.
- The British Horse Society. No Objection received.
- The Open Spaces Society. No Objection received.
- The Bridleways and Byways Trust. No Objection received.
- Open Country. No Objection received.
- Cycling UK. No Objection received.
- Natural England. No Objection received.
- Network Rail. No Objection received.

3.2 A notice was placed in the local press and at either end of the proposed route on 9th March 2023.

- Public notice of the order having been made was issued on 9th of March 2023 and copies were served on affected landowners, local councils, prescribed parties and any other parties. Notices were displayed on site and council officers and in the local press

3.3 Objections were received from the two landowners relying on their letters previously received during the initial consultation and can be summarised as follows –

- The detrimental impacts to farming the land by a likely increase in footfall
- The degradation of the land by a likely increase in footfall
- The increased safety risks to the public due to the route of bridleway no. 15.54/61 based on the need to use a bridge with no side rails and material falling from the viaduct
- The lack of suitability of Fulwith Mill Lane to meet the needs of daily farming access due to a likely increase in highway traffic

3.4 Copies of the objection letters are included in full at Appendix B.

3.5 These matters will be fully considered by the Inspector in the determination of whether the Order should be confirmed.

4.0 CONSULTATION WITH THE EXECUTIVE MEMBER & LOCAL MEMBER

4.1 Local Member Cllr Paraskos has stated that he fully supports the making of a Creation Order.

5.0 FINANCIAL IMPLICATIONS

5.1 There would be cost to the Authority in preparing a submission to the Secretary of State and responding to any queries raised by the Secretary of State and/or attending at any hearing or Public Inquiry. If the Inspector chose to hold a Public Inquiry, the costs of arranging, hosting and supporting the Inquiry would fall to the Council, and would be unlikely to exceed £1,000, excluding any external advocacy support. These costs would be largely for officer time and would be met by the respective staffing budgets. Should the Order be confirmed by the Inspector, an affected party would be entitled to make a claim for compensation, however, this is not a matter for consideration as part of this decision-making process.

6.0 EQUALITIES IMPLICATIONS

6.1 There is no indication that the recommendations have any adverse impact on any of the protected characteristics identified in the Equalities Act 2010.

7.0 LEGAL IMPLICATIONS

7.1 The opposed Creation Order will be determined by an Inspector appointed by the Secretary of State

7.2 The Inspector, based on the evidence and the legal criteria will decide whether to confirm the opposed Order. If the decision is to confirm the Order, it will be subject to a public notification lasting 42 days minimum, details sent to landowners and all other interested parties, notices on site and in the local press. Any challenge at this stage would be regarding processes and procedures. The routes will be amended on the Definitive Map and statement in accordance with the details within the Order.

8.0 CLIMATE CHANGE IMPLICATIONS

8.1 The proposal is to add a 5-metre section of Public Bridleway to link two bridleways. The confirmation of this order would have no positive or negative impact on climate change.

9.0 CONSIDERATION TO BE MADE

9.1 The current consideration is which stance the Council is to take within its submission of this opposed Creation Order to the SoS. In submitting an opposed Order to the SoS the Council needs to express whether, on the basis of the available evidence it;

- supports confirmation of the Order,
- believes the Order should not be confirmed, or
- considers the evidence is either so finely balanced or is particularly unclear and wishes to take a neutral stance.

9.2 The Creation Order was made under s.26 Highways Act 1980 which states –

- (1) *Where it appears to a local authority that there is need for a footpath, bridleway, or restricted byway over land in their area and they are satisfied that, having regard to—*

- (a) *the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area, and*
- (b) *the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in section 28 below, it is expedient that the path or way should be created, the authority may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed by them as an unopposed order, create a footpath, bridleway, or restricted byway over the land.*

9.3 The Council considers the legal basis for making a Creation Order and was satisfied that there is a need for the route and that it is expedient to create the route having regard to the factors identified at s26(1)(a) and (b) of the Highway Act 1980 which was consider in the report dated 20 January 2023.

9.4 No new information has been submitted by the objectors which could justify the Authority taking a different view on the need for the Order.

10.0 RECOMMENDATION

10.1 Therefore, it is recommended that:

- a. the Order is submitted to the Secretary of State for a decision on confirmation as an opposed Order
- b. a supportive stance is taken towards the confirmation of the Creation Order
- c. the Corporate Director is delegated to make representations to the Secretary of State

APPENDICES:

APPENDIX A – Report to Executive Members dated 20 January 2023

APPENDIX B – Objections received to the making of the Creation Order

Background papers: File Ref: HAR-2022-03-CO Crimble Viaduct

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Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions