

**North Yorkshire Council**  
**Community Development Services**  
**Strategic Planning Committee**

**12 MARCH 2024**

**2020/0045/PROW – PUBLIC BRIDLEWAY 35.59/13 LAND AT LUMBY, PARISH OF  
SOUTH MILFORD DIVERSION ORDER 2024**

**Report of the Assistant Director Planning – Community Development Services**

**1.0 Purpose of the Report**

- 1.1 To determine the making of a Public Path Diversion Order, which would then be subject to the required consultation.
- 1.2 To give delegation to Officers to confirm the Public Path Diversion Order following the expiry of a 28-day consultation period, subject to no objections being received or objections that are received through the consultation period being subsequently withdrawn within two months after the expiration of the objection period. Where objections are received within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, that delegation is given to Officers to refer the Public Path Diversion Order to the Secretary of State.
- 1.3 To give delegation to Officers to certify the Public Path Diversion Order following the completion of the diversion works in accordance with the Order (where the Public Path Diversion Order has been confirmed in 1.2 above).
- 1.4 This application is reported to Committee due to it being a proposal to divert a public highway affected by development. The proposal directly relates to planning application 2019/0547/EIA which is also being reported to Committee.

**2.0 SUMMARY**

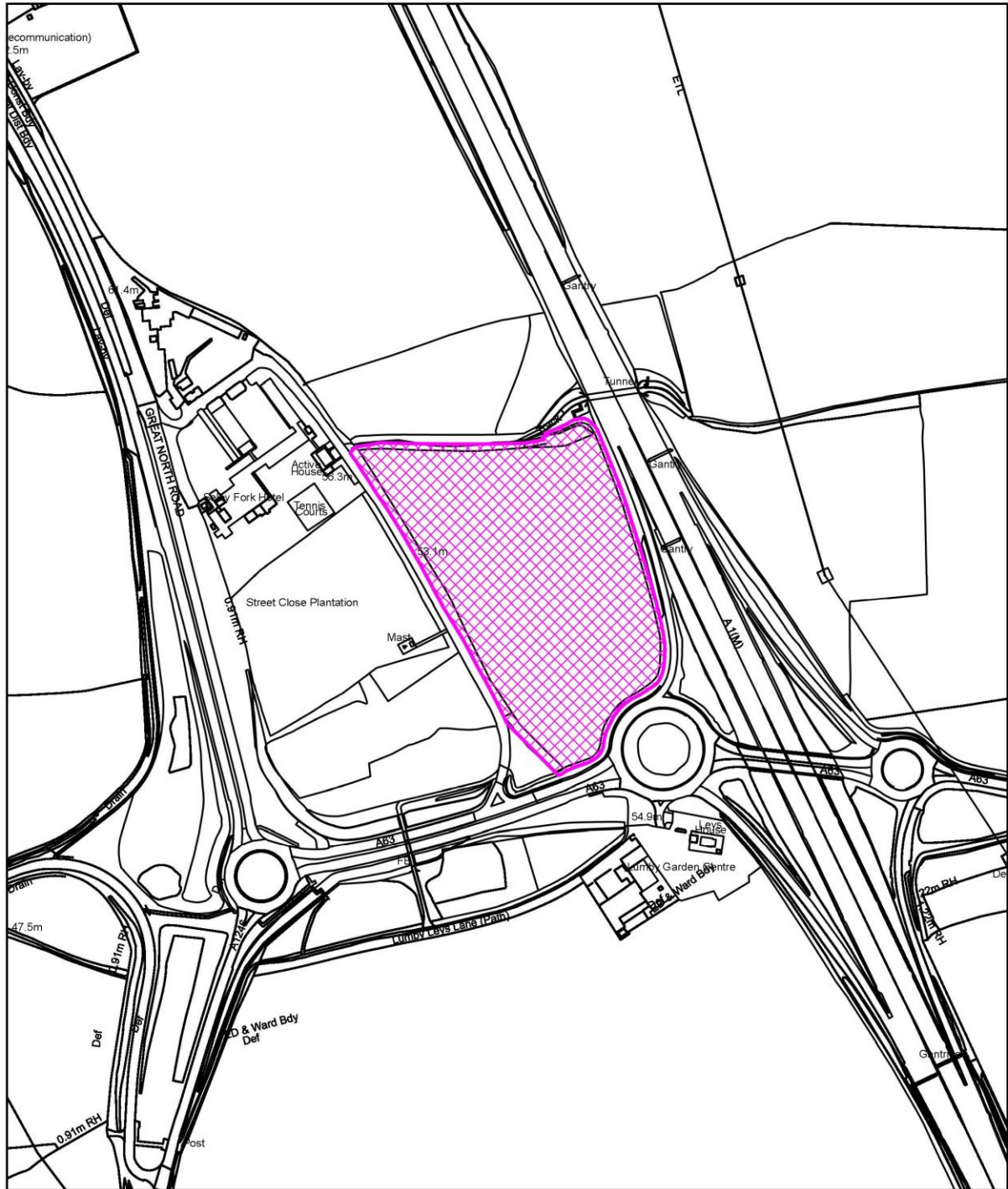
**RECOMMENDATION:**

- i) That approval is granted for the making of the Public Path Diversion Order, which will then be subject to the required consultation.
- ii) That delegation is given to Officers to confirm the Public Path Diversion Order following the expiry of a 28 day consultation period, subject to no objections being received or objections that are received through the consultation period being subsequently withdrawn within two months after the expiration of the objection period. Where objections are received within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, that delegation is given to Officers to refer the Public Path Diversion Order to the Secretary of State.
- iii) That delegation is given to Officers to certify the Public Path Diversion Order following the completion of the diversion works in accordance

**with the Order (where the Public Path Diversion Order has been confirmed in ii. above).**

- 2.1. Planning permission has been sought under Part 3 of the Town and Country Planning Act 1990 (as amended) for the proposed construction of a motorway service area on land at Lumby (Local Planning Authority reference 2019/0547/EIA). In order for this development to be fully implemented, it is necessary to divert public bridleway reference 35.59/13.
- 2.2. The Local Planning Authority have discretionary powers under Section 257 of the Town and Country Planning Act 1990 to make Public Path Orders for the diversion or stopping-up of footpaths, bridleways or restricted byways. This type of application can only be made where the Local Planning Authority are satisfied that the diversion/stopping-up is necessary to enable development to be carried out in accordance with a planning permission. The Growth and Infrastructure Act 2013 also amended section 257 of the Act to allow a diversion/stopping-up Order to be made before planning permission has been granted, provided a planning application has been submitted, as is the case here. However, an Order cannot be confirmed until such time as planning permission has been granted.

Land at Lumby, South Milford  
2020/0045/PROW



©Crown Copyright and Database Rights 2024 Ordnance Survey AC000825864.  
Produced specifically for Planning and Building Control purposes only.  
No further copies may be made.



1:5,000

Do not measure from plan

### **3.0 Preliminary Matters**

- 3.1. Access to the case file on Public Access can be found here:- [2020/0045/PROW | Public Bridleway No. 35.59/13 Land at Lumby, Parish of South Milford Diversion Order 2023 | Land At Lumby Lumby South Milford Leeds West Yorkshire LS25 5LE \(selby.gov.uk\)](https://www.selby.gov.uk/2020/0045/PROW_Public_Bridleway_No._35.59/13_Land_at_Lumby,_Parish_of_South_Milford_Diversion_Order_2023_Land_At_Lumby_Lumby_South_Milford_Leeds_West_Yorkshire_LS25_5LE_selby.gov.uk).
- 3.2. There is one relevant planning application for this application which is detailed below:
- 2019/0547/EIA – Proposed construction of a motorway service area – Decision pending consideration.

### **4.0 Main Issues**

- 4.1 Planning permission has been sought under Part 3 of the Town and Country Planning Act 1990 (as amended) for the proposed construction of a motorway service area on land at Lumby (Local Planning Authority reference 2019/0547/EIA). In order for this development to be fully implemented, it is necessary to divert public bridleway reference 35.59/13.
- 4.2 The Local Planning Authority have discretionary powers under Section 257 of the Town and Country Planning Act 1990 to make Public Path Orders for the diversion or stopping-up of footpaths, bridleways or restricted byways. This type of application can only be made where the Local Planning Authority are satisfied that the diversion/stopping-up is necessary to enable development to be carried out in accordance with a planning permission. The Growth and Infrastructure Act 2013 also amended section 257 of the Act to allow a diversion/stopping-up Order to be made before planning permission has been granted, provided a planning application has been submitted, as is the case here. However, an Order cannot be confirmed until such time as planning permission has been granted.
- 4.3 The Applicant, Roadchef Motorways Limited, have requested that the Local Planning Authority exercises its powers to make a Public Path Order to divert public right of way reference 35.59/13. The request has been accompanied by a good quality large scale plan showing the existing right of way and the proposed right of way; details of the proposed public right of way width; the location and width of any gates and/or fences proposed along the proposed route; and the surfacing of the proposed route. The plan shows the existing bridleway, which runs alongside the eastern site boundary with the A1(M) Northbound On-slip and then along the southern site boundary, diverted within the parcel of land for the majority from its northern most point to run along the northern site boundary and then along the western site boundary to rejoin with the existing bridleway. This would avoid the Public Right of Way having to cross the main access to the proposed motorway service area.
- 4.4 The Local Planning Authority have undertaken a site visit with the NYC Public Rights of Way Officers and are content with the details of the proposed diversion. Accordingly, a Public Path Diversion Order has been drafted (see Appendix A).
- 4.5 This report seeks approval for the making of the Public Path Diversion Order, which will then be subject to the required consultation - notice of sealing is to be advertised

for 28 days via site notice, press notice, and letter to Auto-Cycle Union; British Horse Society; Byways and Bridleways Trust; Open Spaces Society; Ramblers Association; Cyclists Touring Club; NYC Highways; NYC Public Rights of Way Officer; Parish Council, and all immediate neighbours.

- 4.6 If any objections are received within 28 days, the Applicant will have the opportunity to address these in order to determine if they can be withdrawn. If no objections are received within 28 days, or objections that are received through the consultation period are subsequently withdrawn, the Local Planning Authority can then confirm the (unopposed) Public Path Diversion Order. Notice of confirmation of the Order is to be advertised for 42 days via site notice, press notice, and letter to Auto-Cycle Union; British Horse Society; Byways and Bridleways Trust; Open Spaces Society; Ramblers Association; Cyclists Touring Club; NYC Highways; NYC Public Rights of Way Officer; Parish Council, and all immediate neighbours.
- 4.7 If objections are received to the Public Path Diversion Order within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, the Local Planning Authority must refer the Public Path Diversion Order to the Secretary of State. The Secretary of State will then decide the matter either by holding a Public Inquiry or by appointing a person to hear the representations of the objectors. The Secretary of State then decides on the basis of the reports submitted at the Inquiry, or by hearing representations, whether to confirm the Public Path Diversion Order with or without modification.
- 4.8 Once the diversion works have been carried out on site, the Local Planning Authority and the NYC Public Rights of Way Officers will inspect the works to ensure they comply with the Public Path Diversion Order. If the works have been completed satisfactorily the Public Path Diversion Order can be certified.
- 4.9 In making this recommendation, due consideration has been given to the impacts under Section 149 of the Equalities Act 2010 and the Human Rights Act 1998.
- 4.10 Under Section 149 of The Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 4.11 The proposal to divert the Public Right of Way would not result in a negative effect on any persons of on persons with The Equality Act 2010 protected characteristics. Further, the diversion is proposed as a result of the development of the motorway service area, which could have a positive impact in terms of the provision of facilities for those with additional needs, through the design and accessibility of the development, including parking provision.

- 4.12 The proposal to divert the Public Right of Way would not contravene Convention rights contained in the Human Rights Act 1998, with particular reference to right to health or right to private and family life.

## **5.0 RECOMMENDATION**

- i) That approval is granted for the making of the Public Path Diversion Order, which will then be subject to the required consultation.
- ii) That delegation is given to Officers to confirm the Public Path Diversion Order following the expiry of a 28 day consultation period, subject to no objections being received or objections that are received through the consultation period being subsequently withdrawn within two months after the expiration of the objection period. Where objections are received within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, that delegation is given to Officers to refer the Public Path Diversion Order to the Secretary of State.
- iii) That delegation is given to Officers to certify the Public Path Diversion Order following the completion of the diversion works in accordance with the Order (where the Public Path Diversion Order has been confirmed in ii. above).

**Case Officer:** Jenny Tyreman, [jenny.tyreman@northyorks.gov.uk](mailto:jenny.tyreman@northyorks.gov.uk)

**Appendix A – Public Path Diversion Order**