

BURNLEY BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE

PART III

Application for Public Footpath Diversion Order under Section 257 of the Town and Country Planning Act

Application Reference: FDO/2021/0418, Walton Copy Farm, Burnley Road, Cliviger, BB10 4TA

Date of Application: 2nd July 2021

Proposal: Divert part of Footpath No. 43

1. Purpose of the Report

To inform members of the proposed footpath diversion and to seek authorisation of an Order to be drafted by the Council's legal department.

2. Background

Burnley Borough Council received an application for the diversion of part of footpath No. 43, on the 2nd July 2021. The application is made by John Lindsay on behalf of Mr Philip Braithwaite under section 257 of the Town and Country Planning Act 1990.

The application was made following the submission of a planning application FUL/2020/0534¹ validated on the 6th November 2020 and approved on the 8th November 2021. The diversion is necessary so that the applicant can implement permission FUL/2020/0534.

The applicant owns the land in which the current footpath runs through.

3. Informal Consultation

Initial consultation on the FDO application (FDO/2021/0418) was carried out on 11th August 2021 for 21 days until the 1st September 2021. During this period no objections were received.

On the 8th March 2022 a meeting was held on site with the applicant, agent, Burnley Borough Council planning department and LCC PROW to discuss the application and the suggested diversion.

¹ Proposed extension to dwelling, change of use and adaptation of attached barn to additional living accommodation including extension. Erection of garage, extension of residential curtilage, alteration to vehicle access and diversion of public footpath

After walking the site, LCC PROW team were not satisfied with the proposed alternative route and suggested an alternative route (refer to Appendix 1).

This alternative route was shared with the agent to which he was happy to accept with the proposed FDO application.

4. **Legislation**

Section 257 of the Town and Country Planning Act 1990 allows a Local Planning Authority as 'competent authority' to make an Order authorising the stopping up of any highway if it satisfied that it is necessary to do so in order to enable development to be carried out in accordance with a planning permission whether an application has already been approved or has been submitted.

The Council will make the Order and then follow a process of advertisement by press and site notice and consultation with statutory undertakers, the Cliviger Parish Council and the Ramblers Association, neighboring residents for a period of 28 days. In the event that there are no objections to the Order then the Order would be confirmed unopposed. However, should there be any objections and these objections are not subsequently withdrawn then the Order would be referred to the Secretary of State for determination. The costs for making the Order and any subsequent referral (which would be dealt with by written representations, a hearing or public inquiry) would be borne by the applicant.

5. **Recommendation**

To authorise the Head of Legal and Democratic Services to make an Order under Section 257 of the Town and Country Planning Act 1990 to divert part of public footpath No. 43 as shown on the submitted plan Appendix 1. In the event that there are outstanding objections following a period of consultation and negotiation, to refer the Order to the Secretary of State for determination.

1. Financial Implications

The costs of making the Order, advertisement and any subsequent costs associated with referring the Order to the Secretary of State will be met by the applicant

2. Background Papers

Planning Application FUL/2020/0534

Appendix 1