



Meeting:	Decision Session - Executive Member for Transport
Meeting date:	8/10/2024
Report of:	James Gilchrist, Director of Transport, Environment and Planning
Portfolio of:	Cllr Ravilious, Executive Member for Transport

Decision Report: Proposed diversion and upgrade of public footpath Acaster Malbis 3

Subject of Report

1. Diverting the obstructed public footpath Acaster Malbis 3 out of a garden, on to a wider and surfaced route. The public footpath will also be upgraded to bridleway as part of the process.
2. The current re-development of Chestnut Farm Holiday Park means that there is a window of opportunity to restore and improve public access in Acaster Malbis at minimal cost to the council.

Benefits and Challenges

3. The proposal will allow off road access for pedestrians, horse riders and cyclists wishing to travel between Hauling Lane and Moor End, Acaster Malbis.
4. The proposal will also provide a shorter route for horse riders and cyclists. At the moment, they have to travel approximately 700 metres on narrow roads. The upgraded route is approximately 240 metres long. This reduces journey length by 65% and allows horse riders and cyclists to avoid riding on the narrow roads.
5. The new bridleway will be tarmac surfaced and will be significantly wider than the existing obstructed public footpath.

All the costs of the construction and any other works required are being met by the land owner.

Policy Basis for Decision

6. The proposals included in this report relate to the Council Plan for 2023-27 commitments, specifically:
 - a. Climate, which states, “prioritise safe active travel in our Movement Plan and in routes to school”.
 - b. Health, which states, “encourage healthy travel options to maintain healthy lifestyles”.

Financial Strategy Implications

7. The financial implications of the recommended option are set out below.
8. Officer time cost to the council to administer the process. However, because the public footpath is obstructed, the council already was under a duty to restore access for the public. The costs associated with the enforcement and removal of the obstructions would be significantly larger than the cost of administering the diversion.
9. Highway maintainable at public expense. Both the current public footpath and the proposed public bridleway are highways maintainable at public expense. There will be a small increase in on going maintenance costs for the council because bridleways are generally maintained to a higher standard than footpaths. However, as the surface treatment the land owner is using is more durable this additional cost should not manifest itself for several years. There is also a cost to the council for changing the existing public footpath signs to public bridleway signs. These costs will be managed within the existing Rights of Way budget.

Recommendation and Reasons

10. That the Executive Member authorises the making of a public path order to divert public footpath Acaster Malbis 3 and upgrade it to bridleway.

Reasons

11. In conjunction with the land owner, the council has an opportunity to divert the public right of way around an obstruction thereby improving access for pedestrians in Acaster Malbis.
12. In addition, the land owner has agreed to make the new route a bridleway, opening it to equestrians and cyclists.

Background

13. Section 119 of the Highways Act 1980 gives CYC, as local highway authority, the power to divert public footpaths, bridleways, and restricted byways where it is expedient to do so and in the interests of either:
 - a. the owner, lessee or occupier of land crossed by the path or way or,
 - b. the public.
14. Any diversions made under section 119 of the Highways Act 1980 shall not alter a termination point of a path or way:
 - a. If that point is not on a highway or
 - b. (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.
15. As the proposed diversion of Acaster Malbis 3 does not alter the termination points of the way these conditions do not apply to the proposal.
16. Acaster Malbis 3 has been obstructed for many years. The first time it was reported to the council by a member of the public was 2007. There have been intermittent reports since.
17. Previous contact with the land owner meant that an alternative route was made available for users, but it did not address the problem of the obstruction.
18. The most recent report of the obstruction in 2023 and subsequent discussions with the land owner made it clear there was an opportunity to resolve the obstruction. This was because the site was undergoing a significant redevelopment.
19. As part of this redevelopment a new, wider and properly surfaced alternative route would be made available for the

public. As part of these discussions the land owner agreed, providing the council waived the administration charges for the diversion, to upgrade the exiting footpath to bridleway, thereby allowing greater access for the public. The land owner will cover the costs of the two newspaper adverts necessary to complete the diversion order process.

20. Both the existing footpath and the new bridleway are shown on the map attached to this report.

Consultation Analysis

21. An initial consultation was carried out between 31 May 2024 and 28 June 2024. Responses were received from the British Horse Society, CYC Flood Risk, CYC Natural Environment, Northern Powergrid, and Northern Gas.
22. Northern Powergrid and Northern Gas had no objections.
23. CYC Flood Risk and CYC Natural Environment had no comments to make.
24. The British Horse Society supported the proposed diversion and upgrade to bridleway of Acaster Malbis 3.
25. Please note there will be a second consultation if the Executive Member authorises the making of an order. This is required by the Highways Act 1980.

Options Analysis and Evidential Basis

26. Option 1. That the Executive Member authorises the making of a public path order to divert and upgrade to bridleway public footpath Acaster Malbis 3.
27. This is the best option for the public because it reopens a long obstructed route and allows more classes of user to enjoy it. This benefits the land owner because it removes the existing public footpath from their garden. This is the best option for the council because it discharges the council's duty as Highway Authority to ensure public highways are not obstructed whilst costing the least amount of money.
28. The new route will be laid out as part of the redevelopment of the site. The route will have a smooth hard surface. The council

will ensure that the new route is made available for public use, to the agreed standard, before the Order is confirmed.

29. There is a risk that should objections be received to the Order which are not subsequently withdrawn, and the council wish to proceed with it, the Order will fall to be confirmed by the Secretary of State. This may be by way of written representations, local hearing or public inquiry. This will result in additional cost to the council.
30. Option 2. That Executive Member authorises the enforcement and opening up of the route of the existing public footpath.
31. This option would discharge the council's duty as Highway Authority to ensure public highways are not obstructed. However, it would not lead to improved access for a wider range of users. In addition, the enforcement and opening up process will cost more financially and in officer time than administering the diversion order.
32. Option 3. That the Executive Member refuses to make the diversion order or initiate enforcement action.
33. This option will mean that the public footpath will remain obstructed and the council will be failing in its statutory duty as Highway Authority.
34. There is also a risk that a person may, through application to the magistrates' court, compel the council to carry out its duty to prevent the obstruction of a highway.

Organisational Impact and Implications

35. **Financial** - the recommended option is to authorise the making of a public path order to divert public footpath Acaster Malbis 3 and upgrade it to bridleway. The costs associated with the advertisement and ongoing maintenance of the route will be covered by landowner. Other incurred costs, such as signs replacement if needed, will be covered from existing Rights of Way budget.
36. **Human Resources (HR)** - there are no HR implications for this proposal.

37. **Legal** - In accordance with Section 119 of the Highways Act 1980 it is within the Council's discretion to make the Order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path. If there are no outstanding objections, it will for the Council to determine whether to confirm the Order. Where objections to the making of an Order are made and not withdrawn, the Order will fall to be confirmed by the Secretary of State. In considering whether or not to confirm the Order, the Secretary of State where the Order is opposed, or the Council where the Order is unopposed, must be satisfied that the path or way is not substantially less convenient as a consequence of the diversion having regard to the effect the diversion would have on the public enjoyment of the path as a whole.
38. **Procurement** – no comments received.
39. **Health and Wellbeing** - making public open spaces accessible to more people has a significant impact on health and wellbeing, enabling people to become physically active, connect with others or spend time in nature – all of which improves physical and mental health and wellbeing. Being physically active can reduce stress, fatigue, anxiety and depression. It can help boost immune systems and may reduce the risk of chronic diseases such as asthma.
40. **Environment and Climate action** - the proposed changes to the bridleway improve accessibility for pedestrians, cyclists and horse riders, supporting our objective to increase active travel. The contractor responsible for making changes to the bridleway and installing the tarmac surface should ensure these materials are appropriate and resilient to the impacts of climate change (higher extreme temperatures and increased rainfall). The contractor should seek to minimise carbon emissions associated with delivering the required works. This could include, but is not limited to, reusing materials, reducing vehicle emissions, and efficient resource use on site.
41. **Affordability** - no comments received.
42. **Equalities and Human Rights** – Please see the attached EqIA. In addition, the Access Officer said that he cannot foresee any

significant access issues and it is great to see the landowner working well with CYC on improving facilities.

43. **Data Protection and Privacy** - the data protection impact assessment (DPIAs) screening questions were completed for the recommendations and options in this report and as there is no personal, special categories or criminal offence data being processed to set these out, there is no requirement to complete a DPIA at this time. However, this will be reviewed following the approved recommendations and options from this report and a DPIA completed if required.
44. **Communications** - there are numerous benefits associated with the proposed changes and these will be communicated efficiently and effectively to the wider community. Robust stakeholder management will be needed for managing relationships with third parties.
45. **Economy** - there are no direct economic impacts arising from the recommendations in this report.

Risks and Mitigations

46. No additional risks identified other than those stated in Options above.

Wards Impacted

47. Bishopthorpe Ward.

Contact details

For further information please contact the authors of this Decision Report.

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Annexes

Annex A, Location Map – Acaster Malbis 3, Diversion and upgrade to
bridleway

Annex B, Proposed Diversion Routes – Acaster Malbis 3.

Annex C, Equalities Impact Assessment