
Meeting of the Executive Member for City Strategy and Advisory Panel

17 July 2006

Report of the Director of City Strategy

Public Rights Of Way – Proposed Diversion of Part of Public Footpath, York (Dunnington) No9.

Summary

1. This report seeks authority to make the required order to divert part of Public Footpath York (Dunnington) No9 from a cross-garden section, to the driveway of the same property, using S119 of the Highways Act 1980.
2. The report recommends that the Executive Members approve Option A and authorise the making of the proposed public path diversion order.

Background

3. Public Footpath (Dunnington) No9 leaves the A1079 Hull Road approximately 15metres south west of the driveway to Hall Garth, Dunnington, a private residence. It then carries on in a northerly direction across the private garden of that property, where it joins a track, which continues into open countryside in the Dunnington area (see attached plan).
4. Section 119 of the Highways Act 1980, allows the diversion of a public right of way if it is in the interests of the landowner, or of the public and it is expedient to do so.
5. The owners of Hall Garth are wanting to make use of the section of their garden over which the first 34 metres of this footpath runs and have requested that this part of the path be diverted, to start at their driveway.
6. The proposed route is of benefit to the landowner, as it will provide greater privacy to the garden. It could also be said that the proposed diversion is of benefit to the public as, instead of climbing a stile and crossing a private garden, they will be able to use a surfaced driveway to access the rest of the path. The extra distance anyone would have to walk, at most, amounts to 12 metres. There are no other landowners affected by this diversion.

Consultation

7. Pre Order consultation has been carried out in accordance with the Parliamentary Rights of Way Review Committee's Code of Practice for consultation on proposed changes to rights of way. These consultees include The Ramblers' Association, British Horse Society, Open Spaces Society and other similar organisations and all relevant utility companies such as gas companies, telephone companies, electricity companies etc. No objections have been received.

Options

8. Option A. Divert the public right of way, from its present alignment across a private garden, to the driveway of the same property.
9. Option B. Do nothing and leave the footpath open to the public along its present alignment.

Analysis

10. Option A – Make a public path diversion order to divert the first part of the path onto the driveway of the property. The landowner will be able to improve the appearance of the garden of his property and provide greater privacy. This new section of footpath would be vehicle width instead of an undetermined width as at present. This would be a more pleasant route, especially in wet weather. This is recommended.
11. Option B – Refuse to make a diversion order and leave the footpath open for public use along its present alignment. This will be less convenient for the landowner, who will not be able to improve the appearance of his property and thereby increase its market value. It will also be less convenient to users, who will have to continue traversing a stile and crossing a private garden. This is not recommended.

Corporate Priorities

12. The recommended option meets the council's Corporate Aim 1: *Take pride in the City, by improving quality and sustainability, creating a clean and safe environment.*
13. Although this aim relates mainly to the environment, it incorporates the second Local Transport Plan (LTP2), where the *hierarchy of transport users* is firmly embedded within this plan, with pedestrians and cyclists being at the top of our priority when considering travel choice. The encouragement of travel by sustainable modes also corresponds with other 'wider quality of life objectives' as contained in the Community Strategy, such as those relating to health. Although the preferred option has no bearing on vehicle usage, it does assist in making the diverted route more pleasant for users and encourages its use, which would tie in to Objective 1.3 to: *Make getting around York easier, more reliable and less damaging to the environment.*

Implications

- **Financial**

14. The landowner has agreed to cover all costs which may become payable in consequence of the coming into force of this order and has agreed to defray any compensation.

- **Human Resources (HR)**

15. There are no HR implications.

- **Equalities**

16. There are no Equalities implications.

- **Legal**

17. Other than the relevant legal orders being made, there are no legal implications.

- **Crime and Disorder**

18. There are no crime and disorder implications.

- **Information Technology (IT)**

19. There are no IT implications.

- **Property**

20. There are no property implications.

- **Other**

21. There are no other implications.

Risk Management

22. Not applicable.

Recommendations

23. It is recommended that the Advisory Panel advise the Executive Member to accept **Option A**, and resolve to:
 1. To authorise the Director of City Strategy to instruct the Head of Legal Services to make a Public Path Diversion Order, York Footpath (Dunnington) No9.
 2. That if no objections are received to the making of the order, or that if any objections that are received are subsequently withdrawn, the Head

of Legal Services be authorised to confirm the Order recommended in 1. above.

3. That if objections are received and not subsequently withdrawn, a further report be placed before the Committee, to enable Members to consider whether or not to pass the Order to the Secretary of State for determination.

Reason: The reason for making this decision is that it meets the criteria of the legislation, as set out in paragraph 4, where allowing the diversion will be to the benefit of the landowner and also the public.

Contact Details

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City Development and Transport

Report Approved Date 30/06/06

Tel: 551338

Report Approved Date

Specialist Implications Officer(s)

Not Applicable

Wards Affected:

All

Dunnington Parish, Derwent Ward

For further information please contact the author of the report

Background Papers:

File – PROW/064 Dunnington No9
Highways Act 1980

Annexes

1. Plan of proposed diversion.