

Notice of a public

Decision Session - Executive Member for Transport and Planning

To: Councillor Dew (Executive Member)

Date: Thursday, 17 January 2019

Time: 2.00 pm

Venue: The Thornton Room - Ground Floor, West Offices (G039)

AGENDA

Notice to Members – Post Decision Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democracy Support Group by **4:00pm** on **Monday 21 January 2019**.

*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent which are not subject to the call-in provisions. Any called in items will be considered by the Customer and Corporate Services Scrutiny Management Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5.00pm on Tuesday 15 January 2019**.

1. **Declarations of Interest**

At this point in the meeting, the Executive Member is asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which he may have in respect of business on this agenda.

2. **Minutes**

(Pages 1 - 8)

To approve and sign the minutes of the meeting held on 25 October 2018.

3. Public Participation

At this point in the meeting, members of the public who have registered to speak can do so. The deadline for registering is **5.00pm** on **Wednesday 16 January 2019**. Members of the public can speak on agenda items or matters within the Executive Member's remit.

To register to speak please contact the Democracy Officers for the meeting, on the details at the foot of the agenda.

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https://www.york.gov.uk/downloads/file/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809

4. Public Rights of Way - Public Footpath, (Pages 9 - 48) Askham Bryan No 9 (Askham Bryan College) Proposed Concurrent Extinguishment and Creation Order

This report considers an application from Askham Bryan College for concurrent extinguishment and creation orders under sections 118 and 26 of the Highways Act 1980, to extinguish the southern section of Public Footpath, Askham Bryan No 9 that currently runs through Askham Bryan College wildlife park and create a new alternative footpath running along the college's private access road.

5. Low Poppleton Lane Experimental Traffic Regulation Order (TRO) - consideration of options (Pages 49 - 58)

This report seeks approval to make permanent the experimental Traffic Regulation Order at Low Poppleton Lane but to also consider options to introduce an alternative permanent order.

6. York Road / Eastfield Avenue, Haxby – Local Safety Scheme (Pages 59 - 66)

This report seeks approval for the implementation of a local safety scheme at the mini-roundabout at the junction of York Road with Eastfield Avenue in Haxby.

7. Urgent Business

Any other business which the Executive Member considers urgent under the Local Government Act 1972.

Democracy Officers:

Catherine Clarke and Louise Cook (job share)

Contact details:

- Telephone – (01904) 551031
- Email catherine.clarke@york.gov.uk and louise.cook@york.gov.uk
(If contacting by email, please send to both Democracy Officers named above).

For more information about any of the following please contact the Democratic Services Officers responsible for servicing this meeting:

- Registering to speak;
- Business of the meeting;
- Any special arrangements;
- Copies of reports and;
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.


我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

**Ta informacja może być dostarczona w twoim (Polish)
własnym języku.**

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

City of York Council

Committee Minutes

Meeting	Decision Session - Executive Member for Transport and Planning
Date	25 October 2018
Present	Councillor Dew
In Attendance	Councillors A D'Agorne and I Gillies

33. Declarations of Interest

The Executive Member was asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests that he might have had in respect of business on the agenda. He confirmed he had none.

Councillor D'Agorne declared a personal non prejudicial interest in relation to agenda item 7 (Consideration of results from the consultation in Danesmead Close Estate, Broadway West, Westfield Drive and Fulford Cross following petitions received requesting Residents' Priority Parking), on which he had registered to speak as Ward Member, as he was a resident of Broadway West.

34. Minutes

Resolved: That the minutes of the Decision Session of the Executive Member for Transport and Planning held on 13 September 2018 be approved and signed by the Executive Member as a correct record.

35. Public Participation

It was reported that there had been nine registrations to speak at the meeting under the Council's Public Participation Scheme.

Martin Davis, a resident of St Lukes Grove, spoke in relation to agenda item 4 (Lumley Road/St Luke's Grove Ward Committee Scheme, Residents Parking – Traffic Regulation) in support of the proposed restrictions. He stated that the majority of residents favoured a full time residents parking scheme to tackle

parking problems which in the past had caused problems with access for ambulances and delivery vehicles.

Arif Khalfe, another local resident and director of a shareholder for two properties on the street, also spoke in support of the recommendations for item 7. He expressed concern about delays in progressing the scheme and asked that, if approved, the scheme be taken forward as quickly as possible.

Councillor Craghill had registered to speak in relation to agenda item 5 (North York Bus Improvement Scheme) but was not able to attend the meeting due to illness and submitted a written representation instead which was considered by the Executive Member.

Councillor I Gillies spoke, as Ward Member for Rural West York, in relation to item 6 (Low Poppleton Lane Experimental Traffic Regulation Order – Decision on the Continuation). He expressed his support for option 2 so that officers could investigate options for opening the road up to all traffic during evenings and weekends and asked that motorbikes and scooters be permitted to use the road during the day as some Manor Academy pupils travelled to school using this mode of transport and it was a much safer route than using the ring road. He asked that an update be provided to the January decision session.

Five people had registered to speak in relation to item 7 (Consideration of results from the consultation in Danesmead Close Estate, Broadway West, Westfield Drive and Fulford Cross following petitions received requesting Residents' Priority Parking) as follows:

- Keir Brown spoke on behalf of the Steiner School and explained that the start and finish times of the school day varied from class to class therefore parents were dropping off/collecting children for extended periods of the day. He stated that 10 minutes was not sufficient length of time to drop off if parked further away from the school and asked that a longer drop off time be allowed or restrictions be applied 10am-3pm instead.
- Kate Ravilious spoke in objection to the recommended option for Broadway West and surrounding area. She expressed concern that introducing residents parking

could push the problems with parking onto access routes and asked the Executive Member and officers to consider access arrangements for the area as a whole rather than individual streets.

- Mr Iggulden, a local resident, spoke in objection to the proposals for Fulford Cross. He raised concerns that the consultation had been carried out in the absence of hard facts and data. He suggested that a range of solutions was needed to tackle the parking problem and that a traffic survey should be carried out and further dialogue take place with the two schools before a decision was made.
- Ben Thorpe, a local resident, also raised concerns about the proposals for Fulford Cross. He stated that the proposals which were now being put forward were not what residents had been consulted on and that it hadn't been made clear to them that residents would be excluded from using the drop off zones.
- Councillor D'Agorne, as Ward Member for Fishergate, expressed his support for option 1 explaining that he had managed to allay some concerns which some Danesmead residents had had about the scheme. He expressed concern however that residents of Fulford Cross were not clear about the operational details and suggested that it may be beneficial to have further discussions in relation to Fulford Cross and to encourage the schools to provide up to date travel plans.

36. Lumley Rd / St Luke's Grove Ward Committee Scheme, Residents Parking - Traffic Regulation Order

The Executive Member considered a report that provided details of a recent ballot on proposals for Lumley Road and St Luke's Grove and of objections raised to the recent advertisement of a residents' priority parking scheme for Lumley Road and St Luke's Grove, Clifton.

The Executive Member considered the following options available to him:

- Option 1: Introduce the originally proposed parking restrictions scheme as detailed in the report to Executive Member Decision Session on 17 May 2018.
- Option 2: Overrule the objections and approve a part-time Residents Parking Scheme.
- Option 3: Overrule the objections and approve implementation of a full time Household and Business Residents Priority Parking scheme.
- Option 4: Overrule the objections and approve implementation of a full time Community Priority Residents Parking scheme.
- Option 5: Do nothing.

The Executive Member acknowledged that the problem would only get worse if nothing was done and agreed that option 4 be approved.

Resolved: That option 4 be approved: to overrule the objections and approve implementation of a full time Community Priority Residents Parking scheme.

Reason: To provide a managed residents parking scheme supported by the majority of local residents to minimise the likelihood of obstruction to two-way traffic flow in Lumley Road and St Luke's Grove, the said roads currently being adversely affected by indiscriminate/obstructive parking, thereby improving safety and improving the local community parking amenity.

37. North York Bus Improvement Scheme

The Executive Member considered a report which summarised the outcomes of a consultation exercise with residents and businesses affected by proposed works to improve bus service reliability on Wigginton Road and sought the permission to deliver a scheme which had been amended in the light of feedback received through the consultation exercise.

The Executive Member noted the content of the two written representations which had been received in respect of this item, one from Councillor Craghill, Guildhall Ward Member, and one from a local resident, both of whom welcomed the decision to take that mini roundabout at Fountayne Street out of the proposed scheme and made some other points.

The Executive Member acknowledged the reasons why a bus lane was not a viable proposal. He noted that all bus operators were supportive of the proposals and agreed that the plan which had been presented for changes to the junction was effective in terms of pedestrian safety.

- Resolved: (i) That the works at the Haxby Road/ Wigginton Road/ Clarence Street/ Lowther Street junction be approved.
- (ii) That the works to remove the Wigginton Road/ Fountayne Street mini-roundabout be taken out of the scheme.

Reason: This allows delivery of a scheme which will improve reliability of bus services on Wigginton Road without a deterioration to access to properties on Fountayne Street, Brigg Street and Hansom Place.

38. Low Poppleton Lane Experimental Traffic Regulation Order - Decision on the continuation

The Executive Member considered a report in relation to the Low Poppleton Lane experimental Traffic Regulation Order (TRO) which had been running for over 6 months. The Executive Member was asked to decide whether to continue with the TRO as is or whether to instruct officers to look at some options that had been put forward by the public to modify the restriction in some way.

With regard to paragraph 18 of the report, officers confirmed that at the end of the consultation period on 12 October, 31 comments had been received. The issues raised in the additional comments received were already covered in those presented in Annex C.

The Executive Member considered the two options set out in the report:

- Option 1 – Make current Experimental TRO Permanent
- Option 2 – To instruct officers to investigate other options, such as hours of operation or an extension to exempting other vehicles, including motorbikes and scooters as well as taxis.

The Executive Member acknowledged the valid comments presented by both Cllr Gillies and residents who had responded to the consultation and noted the comments made with regard to allowing access to motorcycles and scooters.

He noted that, at the moment, the road layout made it unsafe to allow 2 way traffic through the chicane and that would require a redesign of the layout. He also acknowledged that the more changes made such as hours of operation, permitted vehicles, increased the risk of confusion for users and the likelihood of people mistakenly using it when not permitted to. He agreed that a decision could not be made on this today but agreed that officers should be asked to investigate other options as set out below and discuss these with the Executive Member, with the aim of presenting an update to the January meeting if possible.

Resolved:

- (i) That the current Experimental TRO be continued and that options be reviewed by officers to vary the Experimental TRO to address comments raised during the experimental period, including, but not limited to:-
 - (a) allowing motorcycles and scooters to access the restriction.
 - (b) and/or to allow private hire and hackney carriage taxi's to access the restriction.
 - (c) reducing the hours of operation, for example 7am to 7pm for the restriction to be enforced.

Reason: To enable the impact of any changes to be reviewed in detail and provide a further report for a decision on which option to progress.

39. Consideration of results from the consultation in Danesmead Close Estate, Broadway West, Westfield Drive and Fulford Cross following petitions received requesting Residents' Priority Parking

The Executive Member considered a report that highlighted the consultation results for Danesmead Close Estate, Broadway West, Westfield Drive and Fulford Cross to determine what action was appropriate. He considered the four options detailed in the report at paragraphs 15-27 and noted the content of the written representation submitted by a local resident.

Concern had been raised by some speakers around possible displacement of parking due to the introduction of residents parking on adjoining streets. Officers advised that if residents of those streets, who had already been consulted, provided additional evidence of support within 18 months of implementation of a scheme on neighbouring streets, then the council could seek authorisation to re-consult with these areas at that time without further delay.

Discussion took place around Fulford Cross area and in particular the proposed school drop off zones and time limits on these. It was noted that although the consultation response rate from Fulford Cross residents met the normal criteria for progressing a scheme, it was close to the threshold without a majority of properties voting in favour. In view of this and the concerns raised by residents, officers suggested it would be possible to go out to consultation again with Fulford Cross residents with the current proposals and also to have further conversations with the Education Department.

Resolved:

- a) Advertise an amendment to the Traffic Regulation Order to introduce a new Residents' Priority Parking Area to operate Monday to Friday, 9am to 5pm in the Danesmead Estate as outlined on plans included as Annex I. To be allocated the zone number (R63).
- b) Not to proceed with Residents Priority Parking area on Fulford Cross at the present time, but to undertake further consultation in this area and to report the results of this consultation back to the Executive Member at a future decision session
- c) No further action to be taken for Broadway West and Westfield Drive at this time. If residents of these streets provide additional evidence of support within 18 months of implementation of a scheme on neighbouring streets then we seek authorisation to re-consult with these areas at that time.

Reason: To progress the majority views of the residents consulted.

40. Directorate of Economy & Place Transport Capital Programme - 2018/19 Monitor 1 Report

The Executive Member considered a report which set out progress to date on schemes in the 2018/19 Economy & Place Transport Capital Programme, and proposed adjustments to scheme allocations to align with the latest cost estimates and delivery projections.

The Executive Member noted the proposed programme of schemes which had been developed to implement the priorities of the Local Transport Plan (LTP3) and the Council Plan.

It was noted that good progress had been made on the Wetherby Road roundabout upgrade, with the majority of the construction due to be completed by mid-December, and that work on the Scarborough Bridge scheme was due to start soon with the bridge closed from January. Officers confirmed that bridge/footpath closures would be advertised clearly so that users were fully aware.

Resolved:

- (i) That the amendments to the 2018/19 Economy & Place Transport Capital Programme be approved.
- (ii) That the decrease to the 2018/19 Economy & Place Transport Capital Programme, subject to approval by the Executive, be noted

Reason: To implement the council's transport strategy identified in York's third Local Transport Plan and the Council Priorities, and deliver schemes identified in the council's Transport Programme.

Cllr P Dew, Executive Member for Transport and Planning
[The meeting started at 1.30 pm and finished at 2.35 pm].



**Decision Session – Executive Member for
Transport and Planning**

17 January 2019

Report of the Assistant Director of Transport, Highways and Environment

Public Rights of Way – Public Footpath, Askham Bryan No 9 (Askham Bryan College) Proposed Concurrent Extinguishment and Creation Order**Summary**

1. This report considers an application from Askham Bryan College for concurrent extinguishment and creation orders under sections 118 and 26 of the Highways Act 1980, to extinguish the southern section of Public Footpath, Askham Bryan No 9 that currently runs through Askham Bryan College wildlife park and create a new alternative footpath running along the college's private access road (Annex 1: Location Plan and Annex 2: Proposed Order Plan).

Recommendations

2. The Executive Member is asked to support the application and authorise the Assistant Director – Legal and Governance:
 - (a) To make and advertise concurrent extinguishment and creation orders under sections 118 and 26 respectively of the Highways Act 1980 as shown on Annex 2: Proposed Order Plan;
 - (b) To confirm the orders as unopposed orders if no objections are received or if objections are received and withdrawn, or, in the event that objections are received and not withdrawn, to refer the orders to the Planning Inspectorate for determination on behalf of the Secretary of State;
 - (c) To make Definitive Map Modification Orders to make the necessary changes to the Definitive Map and Statement for the area.

Reason: To legally put in place the requested changes.

Background

3. On 22 August 2013 the council received a planning application (13/02946/FULM) from Askham Bryan College for *the erection of educational and associated buildings and related parking, circulation areas and landscaping (for animal management centre, farm and equestrian purposes, 2 staff dwellings, animal housing), siting of animal shelters, silos and feed bins, erection of security fencing, formation of external equine training areas including polo field, formation of new access to York Road, reorganisation of existing access and parking areas, formation of ponds, change of use of existing buildings, temporary student accommodation and providing glazed roof to existing quadrangle*. Permission for the above was issued on 13 February 2014.
4. Soon after the planning permission had been granted by the Council and in preparation for a zoo licence application covering an area of land on the college campus, the College installed the above permitted security fencing and gates across what was a college estate road that ran along the previous alignment of Askham Fields Lane (old Askham Fields Lane) before it was stopped up as a result of the construction of the A64 and put onto a new alignment (new Askham Fields Lane). The new fencing and gates effectively prevented use of the estate road.
5. The erection of the above mentioned security fencing therefore triggered a definitive map modification order (DMMO) application to add a public footpath to the definitive map and statement (DM&S) across the land affected by the above planning application. The application was received on 27th May 2014. The applicants, who at the time both lived on the campus site believed the college estate road (old Askham Fields Road) was a public footpath. The 24 user evidence statements that were submitted in support of the application alleged the footpath was used to travel between Copmanthorpe, Askham Bryan village, the college and also to access the A64 and the bus stop located on the slipway leading to the A1237.
6. The DMMO application was considered at the Executive Member for Transport and Planning Decision Session on 7th December 2016 where it was determined that there was enough evidence to suggest that public rights were reasonably alleged to exist. The DMMO to add the footpath to the DM&S was subsequently made (sealed) on 6 February 2017 and a

period of statutory consultation commenced. No objections were received and as a result the order was confirmed (made operative) by the authority on 26 June 2017.

7. Whilst the DMMO application was being considered, the college continued with their plans for the wildlife park and on 16 December 2015 notified the council of their intention to apply for the zoo license. This was followed by a formal application, received on 15th March 2016 and after the site had been inspected and deemed to comply with the requirements of the license, the license was granted on 1 June 2016. The zoo license runs for 4 years and expires on 31 May 2020.
8. The footpath is now recorded on the DM&S, but is obstructed by the security fencing, gates, animal enclosures and various other structures relating to an estate compound occupying a section of the estate road/footpath. Furthermore, opening the footpath as it is shown on the DM&S would cause a breach in the terms of the zoo license that prohibit unrestricted access by the public to the area of the campus to which the zoo licence applies.
9. Prior to the application that is the subject of this report; the college has applied to the council to remove the footpath from the wildlife area of the college estate road on two separate occasions. First an application was made under section 257 of the Town and Country Planning Act 1990 to divert the footpath in order to enable development to be carried out. The proposed new alignment was to be along the main college access road leading to new Askham Fields Lane. The application was made after a planning application was submitted (17/02898/FUL, validated 20/12/17), for further animal enclosures, a teaching classroom, and a pair of gates that block the footpath. This part of the application is retrospective. However the application to divert the footpath was abandoned as it did not meet the requirements of the legislation because a diversion was not required to enable development to be carried out.
10. The above was then followed by an application to the council under s116 of the Highways Act 1980 to stop up the footpath through the wildlife area by applying to the magistrates' court. This proposal also included provision of an alternative way which was again to be along the main college access road. Preliminary consultation was carried out with Askham Bryan Parish Council who vetoed the application as is their legal right. The application could not then be progressed.

11. Whilst the above applications have been considered, the section of footpath through the wildlife park area has been subject to a temporary Traffic Regulation Order (TRO) which restricts public access along the footpath since 9th September 2017. The TRO was extended by another 6 months by the council and has recently been extended a further 12 months after an application to the Secretary of State. The current restriction expires on 15th November 2019.
12. The college has now submitted a third application (received 27th August 2018) under sections 118 and 26 of the Highways Act to extinguish the section of footpath running through the zoo site and create a new footpath along the access road to the college. It is this application that is the subject of this report.

Consultation

13. A period of informal, pre-order consultation has been carried out with local user groups (The Ramblers, British Horse Society, Byways and Bridleways local representatives, Ward Councillors, the Parish Council and the DMMO applicants). Representations regarding the proposal have been received from x4 residents, x1 user groups and are included verbatim in Annex 3. Those representations that are relevant to the legislation are summarised below with officer's comments. Askham Bryan Parish Council has also objected to the application.
14. Safety of the proposed new route
 - The new route is not safe for pedestrians.
 - Buses entering and leaving the college make the proposed alternative route extremely unsafe.
 - One objector asserts that cyclists using the proposed alternative route have been knocked down.
 - One objector asserts that they have had two very near escapes whilst driving their car to and from their home on the proposed alternative route.
 - One objector asserts that their long experience of the proposed alternative route has led them to consider it unsuitable for use as a public right of way.
15. The alignment of the proposed new path
 - The alignment of the proposed alternative route is not sufficiently similar to the route of the public footpath.

16. Previous attempts to divert the path

- This is the third attempt the college have made to close the footpath.

17. Process

- The footpath should be open to the public to allow proper consideration of the college's proposals. This is in line with guidance from the Ramblers.

18. Representations in support

- One representation supporting the proposal was received during the consultation.

Officer's comments

19. Most of the representations received refer to issues that have occurred prior to the college's application. Issues such as the length of time the temporary Traffic Regulation Order has been in place and the college's previous applications to either divert or extinguish the section of footpath that runs through the zoo site, whilst of genuine concern to those submitting the representations are irrelevant to the legislation. The fact that there is currently an outstanding planning application that affects the line of the path through the zoo site is also a separate matter to the application and cannot be taken in to consideration when determining whether to make the requested orders or not. Additionally, the fact that the path is currently obstructed cannot be taken into consideration as the authority must ignore any temporary circumstances preventing the use of the path by the public when making its decision.
20. With regards to the safety of the proposed new route, it follows the footway adjacent to the college access road. This route is surfaced, street lit and is already in daily use by students, employees and other visitors entering and leaving the campus on foot, including those resident on old Askham Fields Lane. The route does however involve crossing the main entrance to the bus park off the access road which is heavily used at either end of the college day.
21. Although reports of incidents have been received as part of the pre-order consultation process, neither the college, the council or the police have any formal record of any incidents having occurred between vehicles and pedestrians/cyclists when using the proposed alternative route. That notwithstanding, the College is willing to consider mitigation if incidents if there is actual evidence of a legitimate problem. This can also be safeguarded by the inclusion of a certification clause in the creation order should it be made.

22. The consultees concern regarding the alignment of the proposed new route is very much dependent on the starting point or the destination of the user and is considered further in the Analysis section of this report below.
23. Ward Councillors and Group Spokespersons have been consulted in respect of the proposal:

Councillor I Gillies: *I think there are two positions here, one group wants to keep the original route, however it appears that the College have taken steps to block it due to the establishment of their "Zoo", and the conditions imposed on them because of regulations and security. On the other hand local residents want to keep the route for historical and personal reasons. I am sorry we have come to this situation, however I am inclined to oppose the closure of the original route. Statutory consultation is still to take place however. I would have to say, that the alternative route, whilst it is longer, is probably safer. I am also aware that the users of the path are few in number.*

Councillor C Steward: *No comments for the report.*

Councillor A D'Agorne: No comments received.

Councillor S Barnes: No comments received.

Councillor S Fenton: *I am content with the recommendation.*

24. A further period of statutory consultation (28 days) will commence if authorisation is granted to make the orders under s26 and s118 of the Highways Act 1980.

Options

25. Option 1) Support the application and authorise the Assistant Director – Legal and Governance:
- (a) To make and advertise concurrent extinguishment and creation orders under sections 118 and 26 respectively of the Highways Act 1980 as shown on Annex 2: Proposed Order Plan;
 - (b) To confirm the orders as unopposed orders if no objections are received or if objections are received and withdrawn, or, in the

event that objections are received and not withdrawn, to refer the orders to the Planning Inspectorate for determination on behalf of the Secretary of State;

- (c) To make Definitive Map Modification Orders to make the necessary changes to the Definitive Map and Statement for the area.

- 26. Option 2) Refuse the application and do not authorise the making of any of the orders.

Analysis

Option 1

- 27. The college has applied for the concurrent extinguishment and creation orders to assist them with the problems they are facing in regard to the section of footpath that runs through the wildlife park on the college campus. When determining this application however, the Council as highway authority must only give consideration of the application against the prescribed legal tests which are summarised below.
- 28. The Highways Act 1980 s118 allows the authority to make an extinguishment order only when it considers that the path is not needed for public use. This is the only ground on which an order extinguishing a public footpath, bridleway or restricted byway may be made. This is usually because other paths adequately serve the area. Lack of use due to unavailability of the path does not constitute grounds for an extinguishment.
- 29. Before confirming an extinguishment order the legislation requires that a separate legal test must be applied. The council or the inspector (should the matter be referred to the secretary of state for determination) must not confirm the extinguishment order unless they are satisfied that it is expedient to do so having regard to the extent (if any) to which it appears to them that the path would, apart from the order, be likely to be used by the public and the effect that its closure would have on the land served by it. This means that the authority must look not just at any present use of the path but at the use that is likely to be made of the path in the future. Again, any temporary circumstances that diminish the public use must be disregarded; temporary circumstances have been held to include unauthorised and illegal obstructions, including buildings.

30. It should be noted that alleged or actual use of a path does not automatically mean that it is needed within the terms of the legislation. If the proposal is to make concurrent extinguishment and creation orders (as is the case here), then in considering the extent to which a path would be likely to be used by the public, the authority may (but is not required to) have regard to the extent to which the creation would provide an alternative path.
31. The Highways Act gives the authority the power to make a creation order under s26. When making a creation order the authority must be satisfied that that it is expedient that a path should be created. In considering the matter it must have regard to 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.
32. In its application, the college states that the section of footpath is not needed for public use and if it were available, it would receive only nominal use. The proposed extinguishment is made possible by the proposed concurrent creation of the alternative footpath along the college access road. The college argues that the creation of the alternative route means the existing route is not needed, thus fulfilling the ground set out by the Highways Act 1980.
33. The 2014 DMMO application that culminated with the footpath being added to the DM&S was accompanied by 24 supporting user evidence statements. These statements give an insight into the nature of the use of the footpath and also the destinations of those using it before it became obstructed. This data is useful in drawing a conclusion as to whether the footpath is actually needed for public use and also its likely use if it were not stopped up.
34. An assessment of the user evidence forms shows the public used the footpath for both utility and recreational purposes:
 - Dog walking (recreational)
 - Walking (recreational)
 - Recreation (recreational)
 - Visiting friends on campus (utility)
 - To get to shops in Copmanthorpe (utility)
 - To get to work/shops (utility)
 - Access to village (Askham Bryan and Bilborough) (utility)
 - Access to bus stop (utility)

35. Given the start and end points of the path and the availability of a more direct route between Askham Bryan village and Copmanthorpe along the footway adjacent to the new Askham Fields Lane, it is arguable whether or not the section of footpath proposed to be extinguished is needed to get to the shops or work in Copmanthorpe, or to the bus stop on the A64 slip road, unless such use also included a recreational element (Annex 3: Route analysis).
36. The same applies to those living on the old Askham Fields Lane (within the campus) because the proposed new route using the footway adjacent to the college access road towards the new Askham Fields Lane is again a more direct route to Copmanthorpe and the bus stop than using the section of footpath proposed to be extinguished.
37. Furthermore, given the position of the entrance to the college off new Askham Fields Lane, it is unlikely that the footpath was frequently used or will be used in the future as the primary access for those visiting residents of old Askham Fields Lane from the Copmanthorpe direction, on foot. Those visiting residents on old Askham Fields Lane from the Askham Bryan village direction are still able to utilise the section of footpath that is unaffected by the proposal.
38. It is also unlikely that those from Copmanthorpe wishing to walk to Askham Bryan village or the college campus for utility purposes would use the footpath as this would involve taking a more circuitous route which involves a walk along the side of the busy A64 dual carriageway. The more direct route along the footway adjacent to the new Askham Fields Road is quieter and is also street lit where it passes alongside the college, having been recently upgraded to provide a safer route for students/visitors travelling between the bus stop on the A64 slip road and the college.
39. It is therefore reasonable to conclude that the section of footpath proposed to be extinguished is not needed for utility use for travel between the college, Copmanthorpe and Askham Bryan village, given that there is a more direct route currently available for all users.
40. As evidenced by the user evidence forms the remaining use of the path is recreational, for example for health and wellbeing or walking a dog. The section of path proposed to be extinguished leads to and from the A64. Once on the A64 the user then has to walk either 265 metres along the side of the A64 and slipway to the Copmanthorpe roundabout in order to cross to the other side and link up with further walking routes. Or

double back using the footway adjacent to the new Askham Fields Lane towards Askham Bryan village or the college access road.

41. If travelling in the opposite direction the user has to walk almost 1 ½ km to the Bilborough/Askham Richard turnoff at The Buckles Inn or 2 ½ km to the Bilborough Top fly-over in order to cross the A64 and gain access to the wider public rights of way network. If a circular walk is planned using one of the other two public footpaths that cut north/south through the college campus then a walk of between 500 and 820 metres along the A64 is required.
42. It is argued that whilst the A64 has many merits, a quiet location for a pleasant walk is perhaps not one of them and whilst use of the footpath to gain access to the A64 for recreational purposes may have occurred as evidenced by the user evidence forms, it does not appear to have been extensive. It is therefore reasonable to conclude that the section of footpath proposed to be extinguished is not needed for recreational use, especially given that there are another two existing alternative footpaths running north/south through the campus that adequately serve the recreational needs of the public, one being of a hard surface similar to the footpath proposed to be extinguished.
43. With regards to the proposed concurrent creation order, the proposed alternative route used in conjunction with the existing public right of way network, provides for the same journeys to be undertaken as users have made in the past.
44. For those wishing to access the bus stop on the A64 slip road from the footpath, the alternative route proposed to be created actually provides a shorter route by approximately 70 metres if coming from the section of the footpath that is unaffected by the proposal. Similarly, for those claiming to have used the footpath to gain access to Copmanthorpe, the alternative will be substantially more convenient, avoiding the need to walk back up the A64 slip road to the roundabout.
45. The proposed alternative route still allows people to walk alongside the A64 dual carriageway towards the other 2 public footpaths running through the campus, or on towards Bilborough if they wish. The difference in journey length between the existing footpath through the zoo site and the proposed alternative new route amounts to approximately 460 metres. This is argued to be a negligible increase in a journey made for recreational purposes.

46. The proposed new route is similar in many respects to the section of footpath proposed to be extinguished (when taken in its original form). Both routes follow footways adjoining a made up private carriageway. The links via the existing footway infrastructure alongside the new Askham Fields Lane are also very much the same as the continuation alongside the A64 dual carriageway, although with less and slower moving traffic.
47. It should be noted that those living on old Askham Fields Lane (on campus) would not necessarily benefit from the creation of the new path, given that they are already permitted to use the college access road and the upper section of the footpath under license to get to and from their properties. The creation of the new footpath along the access road would however add to the convenience or enjoyment of the public at large such as those living in Askham Bryan village, Copmanthorpe and further afield.
48. In conclusion, it can be reasonably and objectively concluded that the new alternative footpath proposed by the college provides a safer and more efficient route for the majority of users. It also maintains the access enjoyed by recreational users of the path. Bearing this in mind, the creation of the new alternative path allows the lower section of the existing path to be extinguished because it would no longer be needed.

Option 2

49. This option would mean that the application would not be supported and the proposed orders would not be made. The footpath running through the wildlife park would remain and the Council as highway authority would be under an obligation to assert and protect the right of the public to use the public footpath and to prevent the obstruction of it.
50. If after a request by the highway authority to do so, the college refuses to remove the obstructions currently blocking the route, a Notice requiring their removal would be served on the college. If the college breach the requirements of the Notice, the Council would be required to take action to remove the obstructions, which would likely require specialists trained in exotic animal handling. This expertise does not exist within the council and would involve the procurement of specialist contractors. The council would be able to recover from the college reasonable costs incurred in carrying out the enforcement work.
51. The removal of the obstructions (the security fencing and animal enclosures) would put the college in breach of its zoo license and it is

likely, given the limited options available to it, the zoo would have to close. It is likely there would be a number of negative impacts on the college as a consequence.

52. Whilst the above consequences may be of genuine concern to the college, it is reiterated that the council must only give consideration of the application against the prescribed legal tests which are summarised in Implications: Legal, below.
53. The current TRO in place to restrict public access to the footpath would require to be rescinded as it would no longer be appropriate; the current extension granted by the secretary of state having been allowed '*as a permanent closure and diversion of this footpath is being pursued so that a zoo may be operated on the land, a continued temporary closure is appropriate to prevent any danger to highway users*'.
54. It is argued, that the footpath if reopened would continue to receive only minimal use by the wider public.

Council Plan

55. As set out in the Council Plan 2015-19: One of our key priorities is to work towards "A Prosperous City for all: Where local businesses can thrive and residents have good quality jobs, housing and opportunities.
56. One of the aims is to have; Efficient and affordable transport links that enable residents and businesses to access key services and opportunities. This will be met through:
 - Steps taken to improve air quality
 - Continued inward investment in transport
57. In the next 4 years we will: Work to ensure York gets the best deal from all regional partners, including in relation to investment in transport infrastructure.
58. The authorisation of the making of the legal orders required to put the route on the ground, will continue the above aims and 4 year work programme. Especially in regard to improving air quality by encouraging more sustainable modes of transport through the provision of a quality off-road walking and cycling route.

Implications

59. **Financial** Should objections be received to either Order and should the council decide to continue with the application, the Order would be referred to the Secretary of State for determination. This may lead to a Public Inquiry or Hearing which the council will be required to fund. Approximate cost £3,000 to £5,000. Enforcement action would involve a considerable expense, which may not all be recovered from the college.
60. **Human Resources (HR)** Scheme to be delivered using existing resources.
61. **One Planet Council / Equalities** See Annex 5: Community Impact Assessment.
62. **Legal Under** the Highways Act 1980 the council, as highway authority, has powers to extinguish and create footpaths, bridleways and restricted byways.
63. When creating a right of way under s26 the authority must be 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 residing in the area, and; (b) the effect which the creation of the path or way would have on the rights of persons having a legal interest in the land, account being taken of the provisions as to compensation in section 28, it is expedient that the path or way should be created.. It must also have regard to the needs of agriculture, forestry, and the desirability of conserving flora, fauna and geographical and physiographical features. Before confirming a creation order the council must have regard to any material provision of the council's rights of way improvement plan.
64. Section 28 provides for compensation to be paid for loss caused by the making of any Public Path Creation Order where it can be shown that the value of any interest of a person in land is depreciated, or that a person has suffered damage by being disturbed in his enjoyment of land, in consequence of the coming into operation of a public path creation order.
65. When making a public path extinguishment order under s118 the council can have only one reason in law and that is that it appears to it expedient on the ground that the footpath is not needed for public use. If there are no outstanding objections to the making of the order, the council

when considering whether to confirm the order needs to consider whether it is expedient to do so having regard to the extent to which it appears that the footpath is likely to be used by the public and having regard to the effect which the extinguishment would have on the land crossed by the footpath, account being taken of the provision as to compensation contained in s28. The council must also have regard to any material provision of a rights of way improvement plan prepared by the council.

66. Section 118 also allows extinguishment orders to be considered concurrently with creation orders. S118(5) provides that where an extinguishment order is being considered concurrently with a creation order then in considering the extent to which the path the subject of the order would be likely to be used by the public the council may (but not must) have regard to the extent to which the creation would provide an alternative path. Notwithstanding the above, the orders must still each be able to stand on their own i.e. meet the necessary statutory criteria.
67. Officers consider that that this proposal meets the requirements of the necessary statutory criteria (see Analysis paras 23 - 48).
68. **Crime and Disorder:** There are no known Crime and Disorder implications.
69. **Information Technology (IT):** There are no known IT implications.
70. **Property:** There are no known Property Implications.
71. **Other:** There are no known other implications.

Risk Management

72. In compliance with the authority's Risk Management Strategy, there are no internal budgetary pressures relating to either option.

Contact Details

Author:

Alison Newbould
Rights of Way officer
Transport Service
Tel No.
01904 551481

Chief Officer Responsible for the report:

James Gilchrist
Assistant Director of Transport, Highways
and Environment
Report Date 7 Jan 2019
Approved

Specialist Implications Officer(s) List information for all

Implication: **Financial**
Name: Patrick Looker
Title: Finance Manager
Tel No. 01904 551633

Implication: **Legal**
Name: Sandra Branigan
Title: Senior Solicitor
Tel No. 01904 551440

Wards Affected:

Rural West York Ward

For further information please contact the author of the report

Background Papers:

Highways Act 1980 s26 and s118

Report, Decision & Minutes: [Executive Member for Transport and Planning
Decision Session 07/12/16](#)

Planning Ref: 13/02946/FULM

Planning Ref: 17/02898/FUL

Annexes

Annex 1: Location Plan

Annex 2: Proposed Order Plan

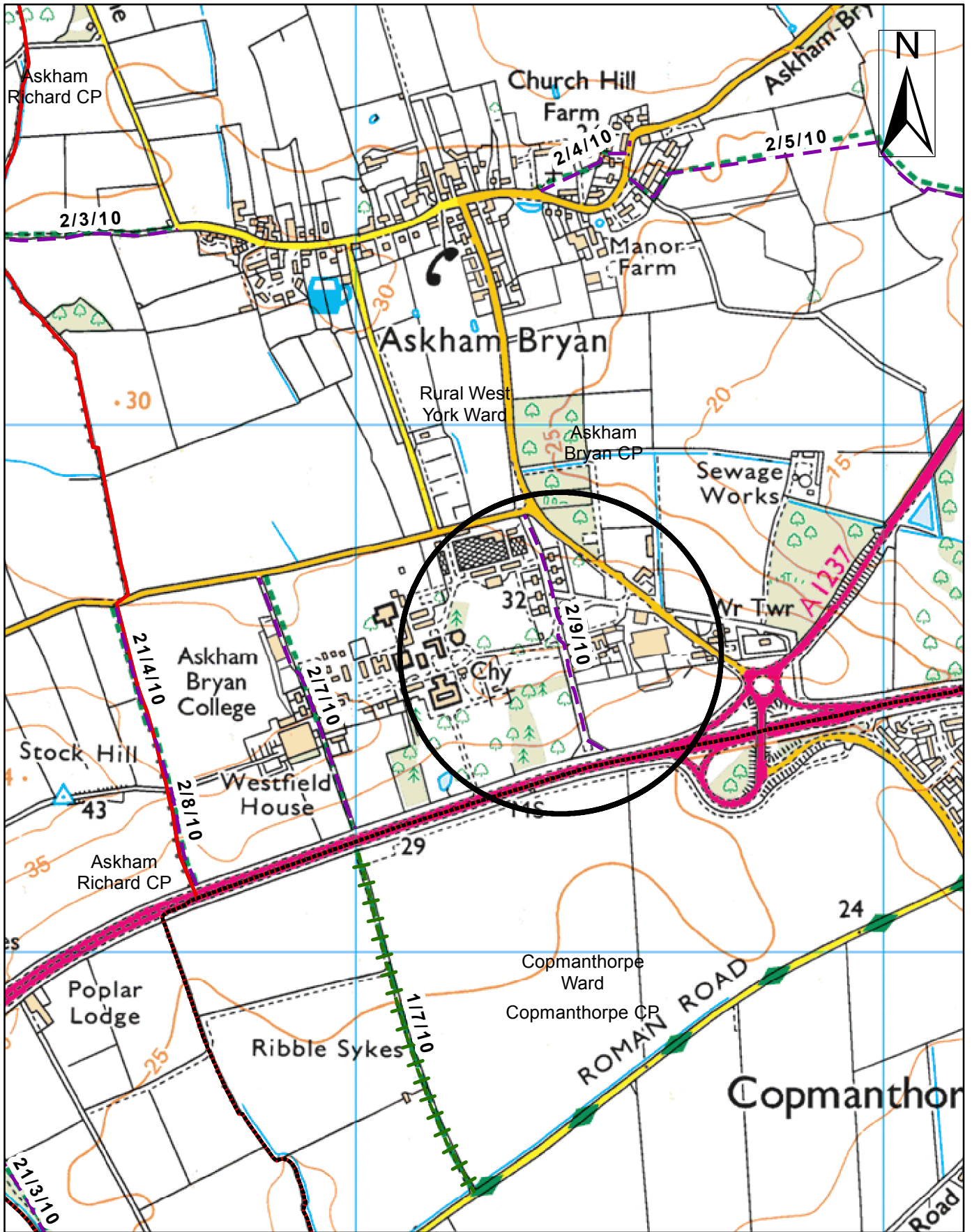
Annex 3: Consultation Responses

Annex 4: Route Analysis

Annex 5: Community Impact Assessment

List of Abbreviations Used in this Report

PROW - Public Rights of Way
DM&S – Definitive Map and Statement
DMMO – Definitive Map Modification Order
TRO - Traffic Regulation Order



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**Public Footpath, Askham Bryan No 9
Proposed Extinguishment and Creation Orders**

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Public Rights of Way	Reference:	Drawing No.

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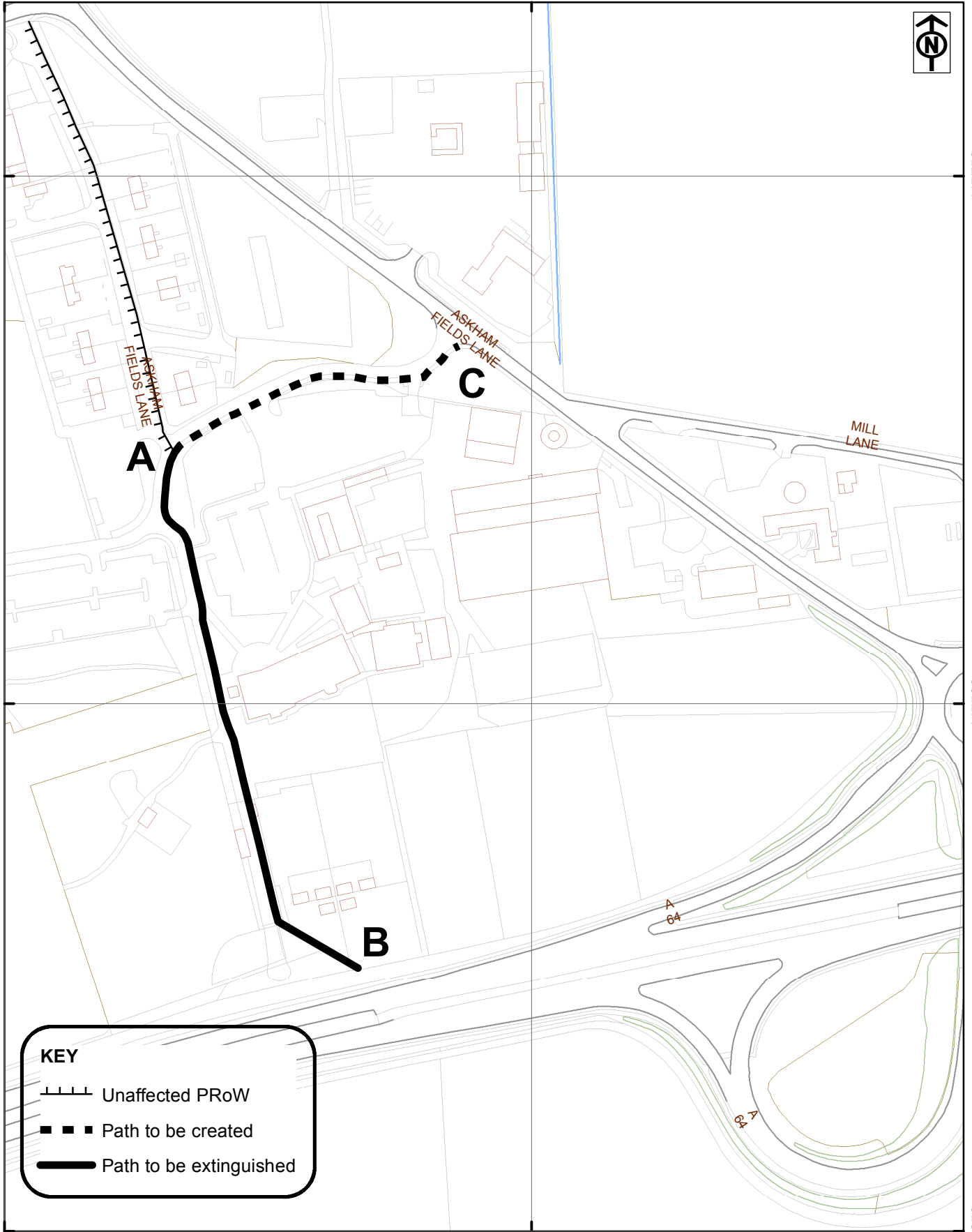
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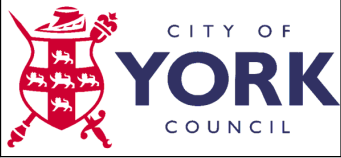
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KEY

- Unaffected PRoW
- Path to be created
- Path to be extinguished



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Askham Bryan 9 Proposed creation and extinguishment order

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Public Rights of Way	Reference:	Drawing No.

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Annex 3 – Consultation responses

Consultee	Objections/representation
Askham Bryan Parish Council	<p>30/11/2018 - The Parish Council discussed this application by Askham Bryan College at some length at its meeting earlier this month, and does not believe that the creation of a new public footpath as shown on the plan is at all desirable.</p> <p>Members believe it would be a less safe and less commodious route than that currently in existence, and therefore wish to object to the proposed extinguishment of the existing path and creation of a new path.</p>
Resident 1	<p>09/11/2018 - Having been dealing with the case since 2014 I feel I have a right to answer you.</p> <p>This is outrageous and as the current application ends on 15 November 2018 it is now time something was completed immediately - I mean open up the PROW once again for all to use. The new route is absolutely ludicrous and why put an application in now after all this time. This is definitely not a safe route for use by anyone on foot and councillors should come and see for themselves what we mean. When buses come in a morning and leave at night you are extremely unsafe. Cyclists have been knocked and I personally have had two very near escapes whilst driving my car to and from my home.</p> <p>The path goes the complete opposite way to the already used PROW and would be entirely unsafe for villagers and locals alike. We know and have been told that CYC cannot grant any more extensions of time to the college as they have had three to date. The Parish Council have also voted against this diversion.</p>

	<p>Why are you playing with the College? Surely your time would be better spent elsewhere now that you have wasted three or more years? I could write a book about your work on the matter and what interesting reading!!!!</p>
Resident 2	<p>10/11/2018 - As a newly appointed member of the Parish Council for Askham Bryan I am extremely concerned at the manner in which the Council and College have acted regarding a PROW. The Parish Council voted against the issue recently and vetoed the College attempt to remove the PROW and they are now trying again on grounds which require the Secretary of State approval.</p> <p>I respectfully request that this decision be denied and the PROW which is now recognised in Law be opened without further delay.</p> <p>10/11/2018 - As an Askham Bryan Parish Councillor I am deeply concerned at the way this issue is being dealt with by The local Council. The College has not historically acted when it should have and allowed this situation to become the mess it is. The Council seems to be further allowing this obfuscation to continue with its announcements and tacit support.</p> <p>We are of the understanding that the Secretary to state is being asked to decide on the PROW and the Council of York is now progressing with extinguishing paths and seemingly moving forward on issues which should be held back while other issues are finalised. My concerns also apply to the planning applications that the college have in place which seem only to be in place to keep the PROW closed.</p> <p>The PROW should be re-opened and should never have been closed until all of these decisions were heard and correctly approved or not by the Council, its</p>

	<p>planners, and other interested parties. It does seem to many that the College is getting its way and the Council is allowing them to usurp regulations rules and similar. I am sure you agree this should not be the case and the damage this belief has is, or should be, of great importance to YCC.</p> <p>The expiration date for the current closure is 15th November 2018 and this PROW should be opened immediately thereafter. I would respectfully request written explanations as to why it is not being re-opened and why it cannot be. I would also like to know why the college planning applications have not been heard and are not likely to be and why they have not been rejected as a result.</p> <p>I respectfully request some clarification on these points. I understand that there are multiple departments dealing with the many issues but, the Parish Council and residents require answers to these questions which sadly have been ongoing for far too long.</p>
Resident 3	<p>10/11/2018 I fully support the comment in the email below from [REDACTED] If this action is not carried out then it sets a precedent that any land owner may block a public footpath until various procedures have been exhausted .</p> <p>City of York Council need to use their powers to enforce the opening of this PROW or they may be liable to legal action themselves at the expense of Council Tax payers money.</p> <p>The latest application can take due process but in the meantime the PROW must be re-opened.</p>

*'I look forward to hearing from you that C of Y C are taking immediate action to enforce earlier orders
As an Askham Bryan Parish Councillor I am deeply concerned at the way this issue is being dealt with by The local Council. The College has not historically acted when it should have and allowed this situation to become the mess it is. The Council seems to be further allowing this obfuscation to continue with its announcements and tacit support.*

We are of the understanding that the Secretary to state is being asked to decide on the PROW and the Council of York is now progressing with extinguishing paths and seemingly moving forward on issues which should be held back while other issues are finalised. My concerns also apply to the planning applications that the college have in place which seem only to be in place to keep the PROW closed.

The PROW should be re-opened and should never have been closed until all of these decisions were heard and correctly approved or not by the Council, its planners, and other interested parties. It does seem to many that the College is getting its way and the Council is allowing them to usurp regulations rules and similar. I am sure you agree this should not be the case and the damage this belief has is, or should be, of great importance to YCC.

The expiration date for the current closure is 15th November 2018 and this PROW should be opened immediately thereafter. I would respectfully request written explanations as to why it is not being re-opened and why it cannot be. I would also like to know why the college planning applications have not been heard and are not likely to be and why they have not been rejected as a result.

	<p><i>I respectfully request some clarification on these points. I understand that there are multiple departments dealing with the many issues but, the Parish Council and residents require answers to these questions which sadly have been ongoing for far too long.'</i></p>
Resident 4	<p>10/11/2018 - I ask the question who says the extinguishment is an appropriate action to take given the creation of a suitable alternative footpath would utilise the surfaced street lit footpath adjacent to the College access road?</p> <p>It is only a suitable alternative to the College as it would not involve any work or cost to them in opening up the approved PROW which they are currently obstructing. It would appear you support it also as then you do not have to use your enforcement powers to get this path opened up for the public to use and thus upset the College? City of York Council consistently allow leniency with the College with all the temporary diversions that have been put in place and one must wonder if they are in cohesion with them?</p> <p>If any further extensions of time are allowed CYC would be setting a precedent to any Landowner to block off an approved PROW in the United Kingdom in future.</p> <p>In May I had an e mail from you "On looking at the planning application it was clear that the application to divert the path did not meet requirements of the legislation as the route was not going to be directly affected by the proposed development. The diversion application was therefore not taken any further. The planning application itself is yet to be determined and my colleagues in Development control are dealing with it." This planning application has never been heard and yet CYC allow the College 3 extensions of time for diversions. The current diversion expires</p>

on 15/11/2018.

The footpath marked A to C on the map is not commodious for the public to use who want to walk through the College grounds along Askham Fields Lane down to the cycle path on the A64 towards Tadcaster and back up the other PROW which runs through the Dairy end of the College and do a circular walk as they have been doing for many years. Very few people want to walk to the bus stop on the A64 by A to C route as has been proved by the user evidence forms that I have copies of.

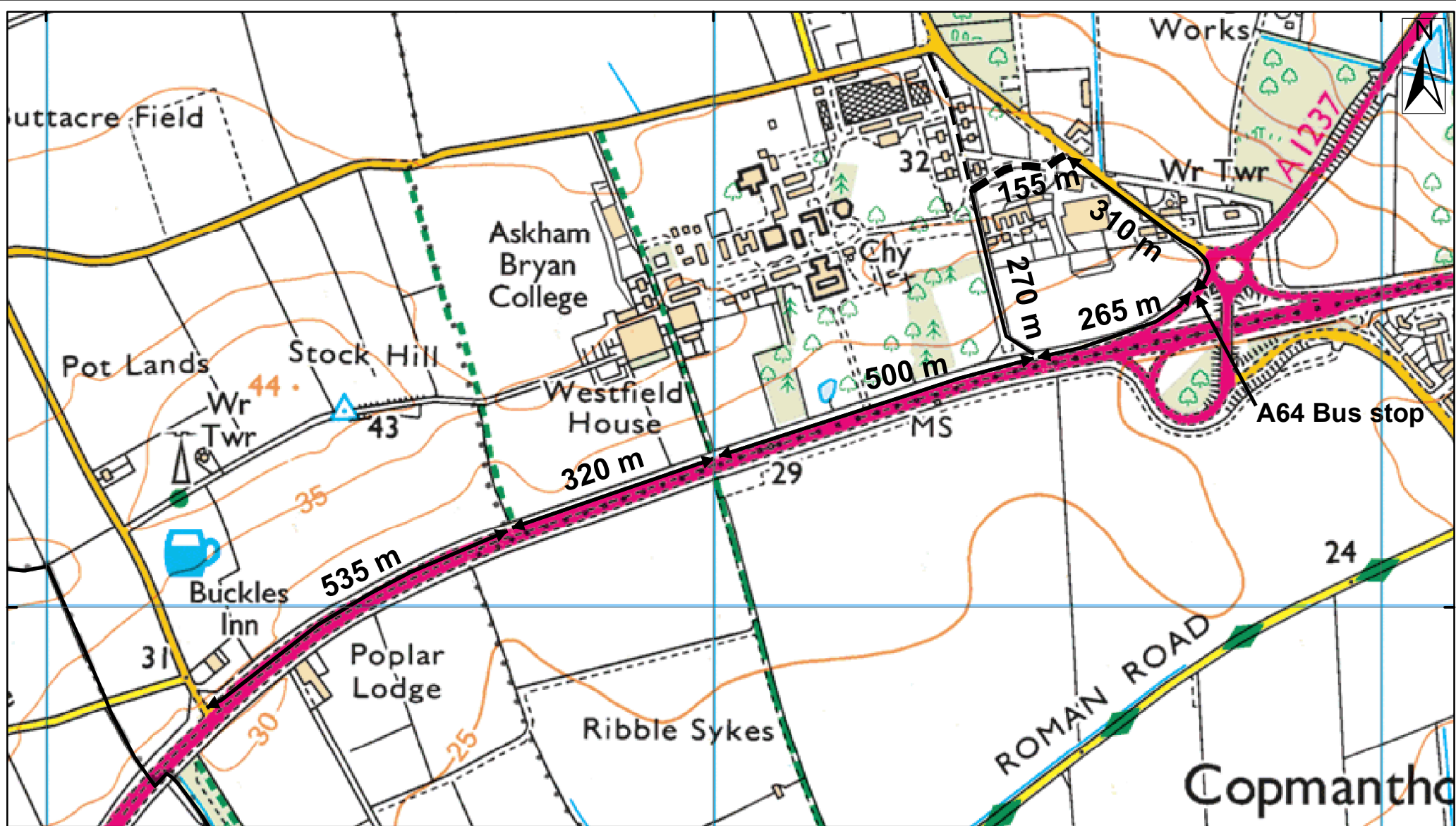
The College students currently take a short cut through the bus park to get to the bus stop on the A64 rather than use route A to C. Route A to C is a dangerous path to walk alongside the access road to the college as has been proved many times. In fact my husband was knocked over by a vehicle leaving the bus park whist pushing his cycle along this route. The coaches seem to think they have an automatic right of way when exiting the coach park over the path and I have had several near misses myself. Also during the summer the hedge alongside this path A to C was so overgrown the college by their own admission health and safety said it was hazardous until they eventually cut it back!

The Parish Council have also voted against route A to C as a suitable diversion. Julian Sturdy MP also objects to the closure of route A to B the route of the approved PROW.

I most strongly object to this diversion and have written to the Secretary of State Chris Grayling about the failings of CYC handling of this on going saga and the extensions of time allowed to the College. Also pointing out the delaying tactics of the College and CYC and that the College never objected within the time scales

	<p>allowed.</p> <p>What happens on 16/11/2018. Will the PROW still be obstructed?</p> <p>Why have you set a date of 07/12/2018 for pre consultation when you are already aware and well informed of objections to this current closure and diversion thus causing further delay?</p> <p>12/11/2018 - Further to my email response to you regarding consultation to footpath no 9 at Askham Bryan college I would like to add the following for your information.</p> <p>Can you let me know if the hard surface of route A to B the approved PROW on the map you sent me has been damaged in anyway. By that I ask has the hard surface been illegally removed or other obstructions been deliberately put on this approved PROW?</p> <p>I would also like to know that the subject has been placed on the agenda for the next Parish Council meeting at Askham Bryan on 15/11/2018.</p> <p>I would also like to point out to you that I have lived on the College campus for more than 45 years and can view route A to C the suggested diversion from my house and I if anyone should know it is the most dangerous part of the Campus to be on so I do not consider it to be a safe alternative route even if it is floodlit.</p> <p>16/11/2018 - The Parish Council were asked last night at their meeting on 15/11/2018 to vote on Highways Act 1980, Section 118 and Section 26 Proposed</p>
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	<p>Concurrent Extinguishment and creation of Public Footpath Public Footpath, Askham Bryan No9. I can inform you all that they voted against the proposed diversion and the extinguishment of the part of the path the college want to extinguish.</p> <p>As of midnight on 15/11/2018 no legitimate diversions are in place to my knowledge and on 16/11/2018 the Highways Authority at York City Council have been served with Form 1 Highways Act 1980, Section 130A(1) - Notice requesting A Local Highway Authority To Secure The Removal Of An Obstruction. The highway authority must serve the form 2 notice within one month from today on the authority. The highway authority must also send form 3 and state what, if any action the authority propose to take in relation to the obstructions that the College have in place. If these obstructions remain form 4 can be served on the highway authority.</p> <p>Local residents and other members of the public now wish to exercise their rights and want to walk the full length of Public footpath No 9 and want to know when it will be opened up for them to use. This should be made possible whilst any discussions are taking place/ I await your comments.</p>
Byways and Bridleways Trust	11/11/2019 - Thank you for consulting: it makes sense to me and I don't anticipate any objection



Annex 4: Route Analysis

Scale 1:8,000	Drawn By:	Date:
Public Rights of Way	Reference:	Drawing No.

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Telephone: 01904 551550

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SECTION 1: CIA SUMMARY
Community Impact Assessment: Summary
1. Name of service, policy, function or criteria being assessed:

**Public Rights of Way – Public Footpath, Askham Bryan No 9 (Askham Bryan College)
Proposed Concurrent Extinguishment and Creation Order**

2. What are the main objectives or aims of the service/policy/function/criteria?

To make concurrent extinguishment and creation orders under sections 118 and 26 of the Highways Act 1980, to extinguish a section of Public Footpath, Askham Bryan No 9 and create a new alternative footpath linking the section of Public Footpath No 9 that is not affected by the proposal, with Askham Fields Lane, Askham Bryan, York.

3. Name and Job Title of person completing assessment:

Alison Newbould – Rights of Way Officer

4. Have any impacts been Identified? (Yes/No)

Yes

Community of Identity affected:

Age; Carers of older and disabled people; Disability; Pregnancy and maternity

Summary of impact:

The impact is considered to be positive/neutral. The creation of the new alternative footpath along the footway of the college access road will provide a more direct and more convenient route for the majority of users. The surface is tarmac and street lit, whereas the route to be extinguished is not street lit. The new alternative footpath is also a more direct route between Askham Bryan village and Copmanthorpe and vice-versa, and does not involve having to use the cycle path adjacent to the busy A64 and slip road up to the Copmanthorpe roundabout.

5. Date CIA completed: 20/12/18
6. Signed off by:
7. I am satisfied that this service/policy/function has been successfully impact assessed.

Name:		
Position:		
Date:		
8. Decision-making body: Decision Session – Executive Member for Transport and Planning	Date: 17 th January 2019	Decision Details:
<p>Send the completed signed off document to ciasubmission@york.gov.uk It will be published on the intranet, as well as on the council website.</p> <p>Actions arising from the Assessments will be logged on Verto and progress updates will be required</p>		

Community Impact Assessment (CIA)

Community Impact Assessment Title:

**Public Rights of Way – Public Footpath, Askham Bryan No 9 (Askham Bryan College)
Proposed Concurrent Extinguishment and Creation Order**

What evidence is available **to suggest that the proposed service, policy, function or criteria could have a negative (N), positive (P) or no (None) effect** on quality of life outcomes? (Refer to guidance for further details)

Can negative impacts be justified? **For example: improving community cohesion; complying with other legislation or enforcement duties; taking positive action to address imbalances or under-representation; needing to target a particular community or group e.g. older people.** NB. Lack of financial resources alone is NOT justification!

Community of Identity: Age

Evidence	Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
<p>Public rights of way officers, as an important part of their work, are required to be aware of the need for paths to be made as accessible as possible, having regard to the effect that their location and physical environment is likely to have on their potential use.</p> <p>Extensive consultation with the public and user groups including those representing older people and people with mobility problems (including wheelchair and buggy users) was carried out to inform the council's Draft Rights of Way</p>	<p>Access to Services; Health; Productive and valued activities; Individual, family and social life</p>	<p>Positive</p>	<p>Positive</p>

<p>Improvement Plan, a requirement of which was to have specific regard to the accessibility of local rights of way to blind or partially sighted persons and those with mobility problems. Responses showed that there is a significant demand for paths to be made more accessible.</p> <p>In this case, the planned creation of the new footpath along the footway of the college access road will provide a more direct and street lit alternative to the path proposed to be extinguished. The new path will lead on to Askham Fields Lane where there have been improvements to the footway alongside the college to facilitate students and visitors getting to the college from Copmanthorpe and the bus stop on the A64 slipway.</p>				
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
<p>Positive: The proposed new route has a tarmac surface and is street lit. It is already used on a daily basis by students and visitors to the college on foot. It provides a shorter, more convenient route between Askham Brian village, Askham Fields Road residents (on campus) and Copmanthorpe.</p>	N/A	None required	A Newbould	

Negative: The route involves crossing the main entrance to the bus park off the access road which is busy at each end of the college day.				
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Community of Identity: Carers of Older or Disabled People

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
As above.		Access to Services; Longevity; Health; Productive and valued activities; Individual, family and social life	Positive	Positive
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
Positive: As above Negative: As above	N/A	None required	A Newbould	

Community of Identity: Disability

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
As above		Access to Services; Health; Productive and valued activities; Individual, family	Positive	Positive

		and social life		
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
Positive: As above Negative: As above	N/A	None required	A Newbould	

Community of Identity: Gender

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
Not applicable		Not applicable	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
There is not expected to be either a positive or negative impact on this community of identity group.		None required		

Community of Identity: Gender Reassignment

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
Not applicable		Not applicable	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
There is not expected to be either a positive or negative impact on this community of identity group.		None required		

Community of Identity: Marriage & Civil Partnership

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
Not applicable		Not applicable	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
There is not expected to be either a positive or negative impact on this community of identity group.		None required		

Community of Identity: Pregnancy / Maternity

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
As above		Access to Services; Health; Productive and valued activities; Individual, family and social life	Positive	Positive
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
There is not expected to be either a positive or negative impact on this community of identity group.	N/A	None required	A Newbould	

Community of Identity: Race

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
Not applicable		Not applicable	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
There is not expected to be either a positive or negative impact on this community of identity group.		None required		

Community of Identity: Religion / Spirituality / Belief

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
Not applicable		Not applicable	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
There is not expected to be either a positive or negative impact on this community of identity group.		None required		

Community of Identity: Sexual Orientation

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
Not applicable		Not applicable	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date
There is not expected to be either a positive or negative impact on this community of	N/A	None required		

identity group.				
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**Decision Session – Executive Member for
Transport and Planning**

17 January 2019

Report of the Corporate Director of Economy and Place

**Low Poppleton Lane Experimental Traffic Regulation Order (TRO) –
consideration of options**

Summary

1. This report seeks approval to make permanent the experimental Traffic Regulation Order at Low Poppleton Lane but to also consider options to introduce an alternative permanent order.
2. The experiment that started in February 2018 was to determine whether a bus only restriction enforced using an Automatic Number Plate (ANPR) camera system was appropriate.
3. A decision was made at the Executive Member for Transport and Planning Decision Session on 25 October to consider additional options to vary the order to reduce the hours of operation and/or make exemptions to the order to permit access for vehicles other than buses.

Recommendations

4. The Executive Member is asked to consider the results of the experiment and to approve:
 - i. Making permanent the traffic regulation order

Reason: To maintain the reduction in traffic on Low Poppleton Lane with a continuation of enforcement with the current ANPR system.

- ii. Consider the option to widen the road and then implement an alternative traffic restriction following the permanent TRO process to allow the following:
 - The restriction to only operate 07:00 – 19:00
 - And/or permit motorcycles and cycles to use this link
 - And/or permit taxis, motorcycles and cycles to use this link

Reason: To allow certain vehicles access through the restriction until such time as Low Poppleton Lane may be closed once alternative access through the British Sugar site development becomes available.

Background

5. Following the construction of the A1237, and when the British Sugar site was operational, Low Poppleton Lane was closed to all traffic. When Manor School was relocated the route was re-opened to buses to allow access for the school buses and the local bus service to Poppleton. Access was initially controlled by a rising bollard however this technology proved unreliable and for a considerable time the link was not physically controlled. Following a decision by the Corporate Director of Economy and Place in September 2017 an Experimental TRO was introduced in February 2018 enforcing the traffic restriction using camera enforcement.
6. As detailed in the report to the Executive Member for Transport and Planning presented at the October 2018 Decision Session the experimental TRO is considered to have been effective. The decision was taken by the Executive Member to continue with the experiment and investigate additional options to permit reduced hours of operation and/or access for certain classes of vehicle in line with bus lanes throughout York. Comments received during the consultation / objection period for this experimental order included requests for opening the link to all or to some types of vehicles for all or part of each day.

7. Opening the Low Poppleton Lane restriction to motorcycles was requested due to concerns about safety at the A59/A1237 junction. There are no recorded injury collisions involving motorcycles in the last three years at this junction, one motorcycle (over 500cc) was involved in a collision with the rear of a car in slow moving traffic on the A1237 near to the junction.
8. Traffic counts were carried out at Low Poppleton Lane in March 2017 and in May 2018, both on Wednesdays over twenty four hours. Before enforcement there were 407 unauthorised motor vehicles in twenty four hours passing through the restriction, 83 (20%) of which were between 19:00 and 07:00. In May 2018, after camera enforcement was introduced, there were 75 unauthorised vehicles in twenty four hours of which 40 were motorcycles. 65 buses used the link in twenty four hours. It appears that the number of Penalty Charge Notices being issued is now reducing with the lowest number issued in November (245).
9. During the period when there was no on site enforcement of the restriction complaints were regularly received regarding traffic use and the danger that this posed.
10. Local residents petitioned for full closure to be restored in 2011 but it was decided that the impact on local bus services would be too detrimental.
11. Outline planning permission has been granted for development of the British Sugar site and planning approval has been given for accesses from Boroughbridge Road and Millfield Lane. These permissions are based on Low Poppleton Lane being permanently closed at the location of the current restriction.

Proposals

12. As indicated in the October 2018 report the results of the experiment indicate that the camera enforcement is an effective way to enforce the Traffic Regulation Order.

13. To open the link to two way traffic other than buses (65 in twenty four hours counted in May) would require works to widen the road. Road safety audits of the scheme to introduce the experimental TRO, including an audit following implementation, recognised the risks of the one way link due to the poor forward visibility around the bend. The risk of collision was however considered to be low as only buses, with professional drivers familiar with the route, were permitted access and there are priority signs in place. Costs to widen the carriageway and alter the traffic signs to permit two way traffic are estimated to be in the region of £20,000 - £25,000.
14. Opening the link to certain classes of vehicle or at different times would also require changes to the traffic signs. The more complex the changes the more difficulty there will be in achieving clear and unambiguous signing. There is a limit to the amount of information that drivers can understand on approach to any traffic signing. More complex signage, including variation to restriction times/vehicle types, increases the risk of the TRO not being observed and potentially undermines the effectiveness of the enforcement.
15. The advance direction signs on the A59 Boroughbridge Road could not practically indicate a more complex arrangement other than adding the different classes of vehicle permitted but this information would be very small unless a much larger sign was installed.
16. Currently no through route signs are used to highlight the restriction, these cannot be varied to include exceptions other than cycles or to allow for variation by time of day. This means that drivers may turn in to Low Poppleton Lane, or continue along Millfield Lane, and will find that they reach the restriction and will need to turn around to avoid a penalty. There is only a small turning head provided on Low Poppleton Lane therefore large vehicles will not be able to turn easily which could be hazardous to other traffic, pedestrians and cyclists. At the end of November the resident of Low Poppleton House, having been asked to remove a

stone placed on the verge *'to deter vehicles from turning using my drive and hitting my wall'* requested measures be put in place *'as trucks still come up the lane and turn in my driveway'*. There is no turning facility on Millfield Lane close to the restriction.

17. The restricted forward visibility at the location of the bus only link means that the single lane restriction could not safely be used by additional traffic. The carriageway would need to be widened which would remove or significantly narrow a section of the off road cycle path adjacent to the footway. This off road cycle path was installed primarily as a safe route to Manor School.
18. Additional traffic on Millfield Lane through to the A1237 Great North Way junction will have a detrimental effect on the junction of Millfield Lane to and from Poppleton – difficulties experienced at this junction at peak times already leads to complaints.
19. Network Rail have opposed any proposal that would lead to additional traffic at the level crossing on Millfield Lane due to safety concerns.

Consultation

20. Objections and comments regarding the experimental TRO were reported to the Executive Member Decision Session in October 2018.
21. The views of the council officer with responsibility for pedestrian and cycle transport planning were sought with reference to the options to permit more vehicles to use the bus only link:
“Low Poppleton Lane and Millfield Lane form an integral part of the Manor School Safe Routes to School scheme. As Manor School is a secondary school the route carries high numbers of both pedestrians and cyclists at school start and finish times. The current access restrictions along Low Poppleton Lane help to reduce potential conflict between pedestrians / cyclists and vehicles both immediately in front of the school and on the access routes. If the access restrictions were to be relaxed or lifted entirely then the route would become less safe as traffic volume and speed would

increase in the area. If, in order to accommodate the relaxation of restrictions, the carriageway needs to be widened and the segregated path on the western side reduced to its former footway width then cyclists would inevitably be forced back onto the carriageway putting them in much closer proximity to whatever traffic was allowed through. Some may continue to use the footway putting pedestrians at risk.”

22. If the Executive Member approved the progression of changes to the Traffic Regulation Order then these would be advertised and any objections received presented to a future meeting for consideration.

Options

23. The options are:

- 1) To make the experimental order permanent to retain the current bus only restriction enforced by the ANPR camera.

- 2a) To make the current experimental order permanent. Then, following works to widen the carriageway consult on a new permanent Traffic Regulation Order to allow access for buses, motorcycles and cycles.

- 2b) To make the current experimental order permanent. Then, following works to widen the carriageway consult on a new permanent Traffic Regulation Order to allow access for buses, taxis, motorcycles and cycles.

- 2c) To make the current experimental order permanent. Then, following works to widen the carriageway consult on a new permanent Traffic Regulation Order to allow access for buses, taxis, motorcycles and cycles 7am to 7pm and access for all vehicles between 7pm and 7am.

Analysis

24. Option 1 - Following consideration of the objections received and referenced in the October 2018 report it is considered that the

existing experimental TRO could be made permanent without the need for any changes to the layout.

25. Option 2a, 2b, 2c - The road safety review of the location has identified that the layout and signage would be need to be changed if any alterations to the times of the restriction or type of vehicles exempted was to be progressed - estimated cost of £20k-£25k. It is considered that expenditure of this level would not be warranted unless the layout change was to be progressed on a permanent rather than experimental basis. The first stage of progressing any of the Option 2 sub-options would therefore be to advertise a revised TRO followed by the consideration of any objections by the Executive Member. In addition it should be noted that the layout will change at this location as part of the British Sugar development.
26. The predicted traffic levels for fully re-opening Low Poppleton Lane to all traffic indicates a significant volume of vehicles would be expected, particularly at peak times. This could also increase traffic levels through Poppleton village and other residential areas as drivers may seek to avoid delays at the A1237 junctions. The current best estimate for additional traffic is an additional 500 to 1000 vehicles each day on Low Poppleton Lane.
27. The A1237 upgrade programme is currently underway and this will improve capacity thus reducing delays for drivers who would possibly choose to divert to Low Poppleton Lane should it be opened to all traffic.
28. If the link is widened to permit safe access for two way traffic this restriction will be less clear as the appearance will not suggest an enforceable restriction. In addition use by private hire vehicles, which are little different in appearance to private cars, can encourage other motorists to follow them through the restriction. This could lead to an increase in traffic despite the restriction and an increase in the issuing of PCNs and appeals.

29. The existing road layout works as a chicane arrangement, to reduce traffic speed, as it gives priority to vehicles from one direction through the single lane restriction. To enable this traffic management feature to operate safely for a wider range of vehicles would need it to be situated on a straighter section of the route with better visibility. The restriction could be moved to an alternative location with this type of arrangement but this would then allow traffic to and from the Tangerine factory access via Low Poppleton Lane and the A59 rather than via Millfield Lane.

Council Plan

A Council That Listens To Residents

30. Residents responded to the experimental TRO with comments considered at the October meeting – this has led to consideration of the options to open the route to taxis, motorcycles and cycles as well as buses and to opening the route to all vehicles 7pm to 7am.

31. **Implications**

- **Financial:** Funds will need to be identified from the Transport Capital Programme to allow widening of the link should the route be opened to more vehicles.
- **Human Resources (HR):** No implications
- **Equalities:** No implications
- **Legal:** A TRO is required to change the restriction at Low Poppleton Lane to amend the permitted vehicle types and/or the hours of operation.
- **Crime and Disorder:** The more complex the restriction the higher the risk is of drivers receiving penalty charge notices due to misinterpretation of the traffic signs and a consequent risk of legal challenge.
- **Information Technology (IT):** No implications

- **Property:** No implications

Risk Management

32. In compliance with the Council’s risk management strategy, the following risks associated with the recommendations in this report have been identified and described in the following points, and set out in the table below:

33. Authority reputation – if option 2 is progressed there is a risk that the signage will be open to misinterpretation potentially undermining the ability to enforce the restriction.

Risk Category	Impact	Likelihood	Score
Organisation/ Reputation	Moderate	Probable	15

34. This risk will be kept under review if Option 2 is progressed and additional signage put in place if necessary.

Contact Details

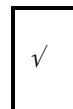
Author:

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 Engineer
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 Tel No. 01904 553469

Chief Officer Responsible for the report:

Neil Ferris
 Corporate Director of Economy & Place

**Report
 Approved**



Date 07/01/2019

Wards Affected: Acomb and Rural West York

For further information please contact the author of the report

Background Papers:

None

Annexes:

None

Abbreviations

ANPR - Automatic Number Plate Recognition

PCNs – Penalty Charge Notices

TRO - Traffic Regulation Order



**Decision Session – Executive Member For
Transport and Planning**

17 January 2019

Report of Corporate Director of Economy and Place

York Road / Eastfield Avenue junction, Haxby – Local Safety Scheme

Summary

1. This report seeks approval for the implementation of a local safety scheme at the mini-roundabout at the junction of York Road with Eastfield Avenue in Haxby.

Recommendations

2. The Executive Member is asked to approve:

Option 1: Implement the scheme as shown in **Annex A**.

Reason: To reduce road traffic collision casualties at this known accident cluster site.

Background

3. Every year City of York Council review injury accident data gathered by North Yorkshire Police to identify accident cluster sites across the authority. A cluster site is defined as a group of four or more accidents in a 50 metre radius over a three year period. Patterns in the collision data are then investigated and schemes developed to address the type of collisions occurring.
4. The mini-roundabout junction of York Road and Eastfield Avenue has been identified as a cluster site with six accidents occurring between 1st January 2015 and 31st December 2017. Five of these accidents involve cycles, the other a powered two wheeler. Three of the accidents were caused by a failure to give way on the part of driver of a motor vehicle. This suggests that visibility of two wheelers may be an issue.

Proposals

5. A scheme as shown in **Annex A** has been developed to remedy predominant accident characteristics at this site with a review to reducing the number and severity of collisions in the area.
6. The proposals include:
 - The removal of unnecessary road hump warning signs to make sightlines clearer at the junction. These are no longer required as the existing 20mph zone signs on Eastfield Avenue indicate to drivers that the road is traffic calmed.
 - The re-installation of give way signs in more visible positions and in ways that reduce the risk of them being hit, and the refreshing of existing markings.
 - Amended cycle markings including removal of green surfacing and cycle symbols, to discourage cyclists from hugging the kerb, and as a result encourage them into a position more directly in the eyeline of drivers.
7. These measures should serve to make the roundabout safer for all road users, but cyclists in particular should benefit from the changes.

Consultations

8. An email asking for comments and a plan outlining the proposals was sent to the Town Council, relevant Councillors, North Yorkshire Police and Transport User Groups. Twelve frontagers to the scheme also received a letter and accompanying plan with three residents responding. Comments made and officer responses are given below:
9. Cllr. A D'Agorne – asked for more details on the collision data, and if any measures are proposed to encourage cyclists to adopt the primary position through the junction eg Advance Stop Lines or cycle logo markings more centrally positioned.

Officer response

Advance Stop Lines are not permitted at non-signalised junctions. In addition, it is difficult to position cycle symbols on the circulatory carriageway of small roundabouts to guide cyclists as their route differs depending on the direction of travel. It would therefore be preferable to

implement the markings as proposed in Annex A, and keep the site under monitoring. If at a later date these are considered beneficial, it would be straightforward to add them.

10. Two residents believed that the main issue was speeding traffic approaching the roundabout then failing to give way. One suggested it was northbound vehicles, the other southbound. Traffic calming and / or a 20mph speed limit was requested to treat this.

Officer response

Excessive vehicle speed has not been listed as a contributory factor to any of the accidents at this location in the years 2015 to 2017. In addition, none of the collisions involved a southbound motor vehicle and only one involved a northbound motor vehicle. The Council has a speed management plan to ensure that speed limits and traffic calming measures are used consistently and appropriately. York Road to the south of Eastfield Avenue is classified as a traffic route where a 30mph speed limit with no traffic calming is considered appropriate to ensure that emergency services and bus services are relatively unhindered. To the north of Eastfield Avenue, York Road is a mixed priority route where it is considered that for most of the route the speed limit should be 30mph. The speed limit on the approaches to the roundabout are considered appropriate.

11. One resident thought it necessary to retain the road hump warning signs as it is believed that the road humps on Eastfield Avenue are ignored.

Officer response

On approach to the junction, there are numerous signs, lamp columns, and telegraph poles and these can make it difficult to see approaching cyclists from the give way line. Some years ago the requirement to sign a 20mph zone with both the 20 zone and road hump warning signs was removed, because a zone implies that there are traffic calming measures. The hump signs are therefore considered surplus and as they are impacting on visibility should be removed.

12. One resident was opposed to removing the cycle lanes on the circulatory carriageway as they link with the other on-road cycle lanes and make it easier to pass queuing traffic. If a more central position is to be encouraged could an advanced stop box be considered?

Officer response

Cycle lane markings on the periphery of mini-roundabouts may not offer the most assertive or visible position to be in, and could encourage the overtaking of cyclists on roundabouts. So in this instance, their removal is recommended. Cycle lanes on the entry and exit to the roundabout would remain to serve as highlighting devices and act as feeder lanes to enable cyclists to pass queuing traffic. Advance Stop Lines are not permitted at non-signalised junctions.

13. One resident requested more emphasis be added to the southbound give way markings.

Officer response

The give way markings would be refreshed as part of the proposals, but as there are already two yellow backed give way signs on the southbound approach, Officers consider that the give way is strongly emphasised and is adequate to advise of the need to give way.

Options

14. The following options are provided for consideration by the Executive Member:
 - Option 1: Implement the scheme as proposed in Annex A.
 - Option 2: Implement the scheme as proposed in Annex A, with any amendments which are considered appropriate by the Executive Member.
 - Option 3: Do nothing, and reallocate the funding.

Analysis

15. The proposals shown in Annex A have been developed to remedy a pattern in the accident data at this site, and there is general support for improvements to be made at this site. Option 1 is therefore recommended. The site would continue to be monitored, and further remedial measures considered if the scheme does not improve the accident situation.

16. Option 2 gives the Executive Member the opportunity to review and modify the proposed works after considering the responses to the consultation and officer comments.
17. Option 3 is not recommended as it would do nothing to improve the accident situation at a known casualty site, with the probability of continued accidents.

Council Plan

18. The recommendations in this report relate to the Council Plan priority “a prosperous city for all”. The estimated average cost to society of a casualty accident is £90,424 (Reported Road Casualties Great Britain Annual Report 2017). The prevention of further accidents will help reduce these costs and allow this money to be spent elsewhere.

Implications

19. The following implications have been considered:
 - **Financial** – The investigation and consultation process has cost £1k, and the costs of proceeding with the recommendations in this report are estimated to be an extra £7k. This is slightly over the original £5.5k budget and is due to the expensive nature of an effective anti-skid removal method that will not adversely affect the road surface. The overspend can be accommodated within the overall safety schemes programme, however, a contribution may be made from public transport funding to repair part of the road surface and reduce the scheme cost.
 - **Human Resources (HR)** There are no HR implications.
 - **One Planet Council / Equalities** - There are no One Planet Council / Equalities implications.
 - **Legal** - There are no legal implications.
 - **Crime and Disorder** There are no crime and disorder implications.
 - **Information Technology (IT)** There are no IT implications.
 - **Property** There are no property implications.

Risk Management

20. In compliance with the Council’s risk management strategy, the following risks associated with the recommendations in this report have been identified and described in the following points, and set out in the table below:

21. Authority reputation – this risk is in connection with public perception of the Council if nothing is done to tackle known accident problems in the authority area and is assessed at 14.

Risk Category	Impact	Likelihood	Score
Organisation/ Reputation	Moderate	Possible	14

22. This risk score, falls into the 11-15 category and means the risk has been assessed as being “Medium”. This level of risk requires frequent monitoring. This is already undertaken by CYC officers during the annual review of accident data. The ongoing Local Safety Schemes programme is designed to reduce accidents by looking for trends in previous accidents which can be addressed.

Contact Details

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Chief Officer Responsible for the report:

Neil Ferris
 Corporate Director – Economy and Place

Report Approved ✓ Date 07/01/2019

Wards Affected: Haxby & Wigginton

For further information please contact the author of the report

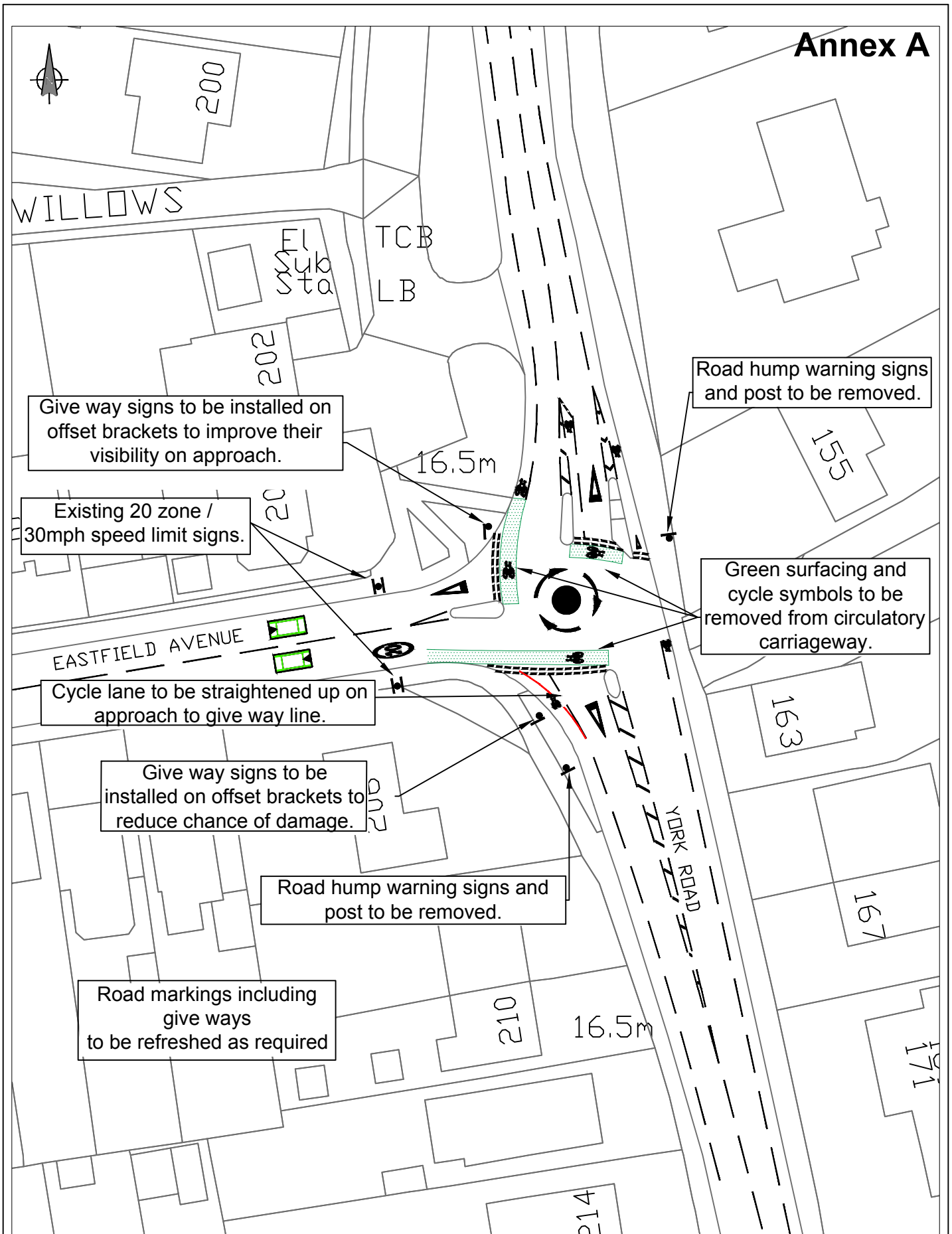
Background Papers:

None


Annexes:

Annex A – York Road / Eastfield Ave – Junction Improvements -
 TP-170014-EA&YR-01

Annex A



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 <p>CITY OF YORK COUNCIL</p> <p>Transport Projects Eco Depot, Hazel Court, James Street, York, YO10 3DS www.york.gov.uk</p>	<p>LSS 18/19 - YORK ROAD / EASTFIELD AVENUE JUNCTION IMPROVEMENTS</p>		SCALE	1:500
			DATE	14-03-2018
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