

Meeting:	Decision Session – Executive Member for Transport
Meeting date:	18 November 2025
Report of:	Garry Taylor - Director of City Development
Portfolio of:	Councillor Ravilious - Executive Member for Transport

Decision Report: Proposed diversion of public footpath Nether Poppleton 1

Subject of Report

1. Diverting a section of the public footpath Nether Poppleton 1 from the north side of the existing hedgerow to the south side.
2. The application to divert part of the public footpath has been made by the land owner to enable solar development.

Benefits and Challenges

3. Diverting a section of the footpath will enable maximum use of the field to the north of the existing hedgerow for solar development and therefore maximise agricultural diversification for the land owner.
4. The proposed new section of footpath will have a recorded, legal width of 2 metres which is wider than the current recorded, legal width of 1 metre.
5. The total length of the new section of proposed footpath (379 metres) will be approximately 10 metres longer than the current section of footpath (369 metres), therefore there will be no appreciable increase in travel time and distance for users.
6. The proposed new section of footpath will have a similar, arable surface and gradient to the current section of footpath.

7. The proposed new section of footpath will direct users away from the solar farm construction activities.
8. All costs associated with this proposed diversion will be met by the land owner. This includes the costs associated with administering the diversion order process and any works required to bring the new section of footpath into a fit condition for use by the public.

Policy Basis for Decision

9. The proposals included in this report relate to the Council Plan for 2023-27 commitments and priorities, specifically:
 - a. Commitment: Climate, which states, “prioritise safe active travel in our Movement Plan and in routes to school”.
 - b. Commitment: Health, which states, “encourage healthy travel options to maintain healthy lifestyles”.
 - c. Priority: Health and Wellbeing, which states, “All York residents (young, old and future residents) will...be able to actively participate in their communities.”
 - d. Priority: Transport, which states, “York’s transport networks will be inclusive and sustainable, connecting neighbourhoods and communities”.

Financial Strategy Implications

10. The financial implications of the recommended option are set out below.
11. The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 (S.I. 1993/407), amended by regulation 3 of the Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 (S.I. 1996/1978), permit authorities to charge applicants the costs of making orders under S119 of the Highways Act 1980. Therefore, there are no financial implications as the land owner will meet all the costs incurred by the diversion process, from initial application to completion (minor levelling and grass seeding) of the new section of footpath on the ground.
12. If objections to the making of the order are received during the statutory consultation and these are unable to be resolved, this removes the power of the Council to confirm the order. If the council

considers it appropriate, the matter can either be referred to the Secretary of State for Environment, Food and Rural Affairs to consider the objections and make a final decision or the council must abandon the order. The council are not permitted to charge the applicant for sending an opposed order to the Secretary of State for confirmation. However, unresolved objections from the public may suggest that the proposal may not meet the legal criteria to be applied at the confirmation stage and the matter would be reported to the Executive Member for a decision to be made whether to abandon the order.

13. The current section of footpath is highway maintainable at public expense. The proposed new section of footpath will continue to be highway maintainable at public expense. The council currently cuts the surface of the existing footpath as part of the public rights of way (PROW) annual cutting programme. The path will continue to be included in the annual programme, and as there will be very little change in the footpath's length and surface, there will be no appreciable increase in maintenance costs. The land owner will continue to be responsible for cutting back any overgrowing vegetation.
14. There will be no cost incurred by the council moving the existing public footpath signs as the starting point and termination point will stay the same. Way-marker posts may need to be installed initially to signpost users to the new route, for which the council are responsible, but this cost will be minimal.
15. Compensation can be claimed for the making of Diversion Orders, under S28 of the Highways Act 1980. However this proposal is at the request of the owner of the land over which runs the section of footpath to be diverted and they have agreed to defray any compensation which becomes payable in consequence of the coming into force of this order and any expenses which are incurred in bringing the new site of the path into fit condition for use by the public. This will be laid out in the Order. The owner of the land over which runs the diversion route has also agreed to defray any compensation.

Recommendation and Reasons

16. That the Executive Member authorises:

- (1) The making of a public path order under S119 of the Highways Act 1980 to divert part of the public footpath Nether Poppleton 1 by creating a new public path and extinguishing the current public path as illustrated on the map attached to this report on the grounds that it is expedient in the interests of the owner of the land crossed by the path.
- (2) Public notice of the making of the order be given and if no objections are received within the period specified, or if objections received are subsequently withdrawn, authorises the confirmation of the order.
- (3) In the event the order is confirmed to authorise the making of a legal event modification order to change the Definitive Map.

Reasons

17. The council is satisfied that the proposed diversion order meets the legislative requirements for making an order as set out under S119 of the Highways Act 1980, on the ground that it is expedient to divert the path in the interests of the owner of the land crossed by the path.
18. If the order is unopposed, it is considered that all the legal tests referred to in paragraph [33] below for confirming a diversion order are satisfied. The proposed new section of footpath is not considered substantially less convenient to the public than the current route, as it will be wider, of similar surface and with no significant increase in travel time and distance.

Background

19. S119 of the Highways Act 1980 gives City of York Council (CYC), as local highway authority, the power to divert public footpaths, bridleways, and restricted byways by making a public path diversion order where it is expedient to do so and in the interests of either:
 - a. the owner, lessee or occupier of land crossed by the path or way or,
 - b. the public,

but only where the diverted route would be substantially as convenient to the public.

20. Additionally, any diversions made under S119 of the Highways Act 1980 shall not alter a termination point of a path or way:
 - a. If that point is not on a highway, or
 - b. (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.
21. As the proposed diversion of public footpath Nether Poppleton 1 does not alter the termination points of the way these conditions do not apply to the proposal.
22. Under S119(A) of the Highways Act 1980, the council must consider any material provisions of their Rights of Way Improvement Plan (ROWIP). The ROWIP is intended to be a mechanism for improving the network of public rights of way (PROW) and other non-motorised routes in light of the needs of all types of users. It is not designed to provide detailed solutions to access problems in every locality, but to take a strategic approach to managing public access. York's ROWIP is currently in draft format. The council are satisfied that the proposal meets the aspirations of the draft ROWIP.
23. Planning permission for Poppleton Solar Limited (23/02254/FUL) was approved on 5 September 2024, which included the planned diversion of the footpath as mitigation for visual impacts.
24. An eastern section of the footpath, which is not included in this diversion, was previously diverted in 2005. The alignment, before the 2005 diversion, ran closer to the farm buildings.
25. Both the current section of footpath and proposed new section of footpath are shown on the map attached to this report.

Consultation Analysis

26. An initial consultation was carried out between 4 August 2025 and 5 September 2025. Responses were received from Northern Powergrid, York Consortium of Drainage Boards, Councillor Hook, CYC Natural Environment, Nether Poppleton Parish Council, National Highways, Northern Gas and The Ramblers.

27. Northern Powergrid, York Consortium of Drainage Boards, CYC Natural Environment and Northern Gas had no objections.
28. Councillor Hook, Nether Poppleton Parish Council and The Ramblers supported the proposed diversion.
29. The Ramblers commented that the proposed diversion was 'Much appreciated compared to no hedge twist path and solar farm'.
30. National Highways had no comment.
31. There will be a second, formal consultation if the Executive Member authorises the making of an order. This is required by the Highways Act 1980.

Options Analysis and Evidential Basis

32. Option 1. That the Executive Member authorises the making of a public path order to divert part of public footpath Nether Poppleton 1 by creating a new public path and extinguishing the current public path as illustrated on the map attached to this report, that public notice of the making of the order be given and if no objections are received within the period specified, or if received objections are subsequently withdrawn, authorises the confirmation of the order.
33. If objections are received and not withdrawn, then the matter will be referred back to the Executive Member to decide whether the proposal is abandoned or sent to the Secretary of State for a final decision.
34. This option is recommended as it is expedient in the interests of the land owner and the council is satisfied that the legislative requirements referred to in paragraph 18 of this report for making an order have been met. Those in support of the order have commented that it does not change the overall length of the route (there is an increase of 10 metres) and the wider footpath will make the diversion more comfortable for walkers. Supporters have also commented that the separation of the footpath and solar development by the hedgerow will be appreciated. There have been no objections at pre-order initial consultation stage.

35. In the event the Order receives no objections or any objections that are made are subsequently withdrawn, the council has the power to confirm the Order. Before doing so the council must be satisfied the order is expedient as referred to in paragraph 18 above. It must also be satisfied that the path will not be substantially less convenient to the public as a consequence of the diversion and consider whether it is expedient to confirm the order considering:

- i. The effect the diversion would have on the public's enjoyment of the whole path. The responses to the initial consultation indicate that the diversion will increase the public's enjoyment of the route.
- ii. The effect of the Order on the land crossed by the current route and the new route. The land owner have agreed to defray any compensation that may become.
- iii. material provisions of the council's ROWIP.

It is considered that the proposed diverted path will be a satisfactory alternative to the current one and that the legal tests for the making and of a diversion order are satisfied. Subject to any matters that may be raised should the order be made and advertised, it is also considered that the proposal meets the legal criteria for confirming the order .

36. There will be a no practical change in maintenance costs to the council as we are still responsible for the annual cutting of the footpath.

37. Option 2. That the Executive Member does not authorise the making of the diversion order.

38. This option is not recommended. Although the making of a diversion order is a power that the council can choose to exercise, the application to divert the path has been made by the land owner.

39. as it is their interest that the path be diverted. The new alignment will have a wider recorded, legal width, similar surface and length.

40. As this meets the requirement of the legislation for both making and confirming the order (subject to any matters that may be

raised should the order be made and advertised) the application can be progressed to statutory consultation.

Organisational Impact and Implications

41. **Financial** - There are no financial implications to the Council. All costs associated with this proposed diversion (from initial application to completion) will be met by the land owner. This includes the costs associated with administering the diversion order process and any works required to the new section of footpath.
42. **Human Resources** - There are no HR implications contained within this report.
43. **Legal** — In accordance with Section 119(1) of the Highways Act 1980 it is within the Council's discretion to make the order if it appears to the Council to be expedient to do so in the interests of the public or of the owner, lessee or occupier of the land crossed by the path.

The confirming body for the order must also be satisfied that the diversion is expedient, as described above, and that the path will not be substantially less convenient to the public as a consequence of the diversion. The confirming body must also be satisfied that it is expedient to confirm the order having regard to:

- The effect the diversion would have on public enjoyment of the path as a whole
- The effect on other land served by the path
- Any provisions for compensation
- Any material provision within a Rights of Way Improvement Plan and the effect of the path or way on the needs of agriculture, forestry and biodiversity.

The Council has the discretion not to make an order if it does not consider that the statutory criteria to enable it to confirm the order can be met.

The footpath diversion will not be effective unless the order is confirmed by the confirming body (ie the Council or if there are unresolved objections, the Secretary of State). The effect of a

confirmed order is to create a new right of way and extinguish the old.

If the order is confirmed it will be necessary to modify the Definitive Map & Statement. The Council have a statutory obligation to continuously review the Map & Statement.

- 44. **Procurement** – No comments received.
- 45. **Health and Wellbeing** - There are no implications from a public health perspective.
- 46. **Environment and Climate** – There are no implications from an environment and climate perspective.
- 47. **Affordability** – There are no affordability implications of the report.
- 48. **Equalities and Human Rights** - In this instance I have nothing further to add.
- 49. **Data Protection and Privacy** - The completion of data protection impact assessment (DPIA) screening questions evidenced there would be no processing of personal data, special categories of personal data or criminal offence data processed, so there is no requirement to complete a DPIA.
- 50. **Communications** - There are no specific corporate communications implications, as the change is very localised. We will be able to assist with any response to media interest, should this occur.
- 51. **Economy** - Just to confirm no implications from my side/service area.

Risks and Mitigations

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

Wards Impacted

53. Rural West York.

Contact details

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

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Annexes

Annex A Nether Poppleton 1 proposed diversion location map

Annex B Nether Poppleton 1 proposed diversion route

Annex C Nether Poppleton 1 Equalities Impact Assessment

Appendices

Appendix 1 23/02254/FULM – Approval for Planning Permission