

# REPORT FOR DECISION

**MEETING:** PLANNING CONTROL COMMITTEE

**DATE:** 15 JUNE 2010

**SUBJECT:** APPLICATION TO DIVERT PART OF PUBLIC FOOTPATH 61, TOTTINGTON AND CLOSE PART OF PUBLIC FOOTPATH 62, TOTTINGTON

**REPORT FROM:** MR I CROOK, TEMPORARY CHIEF ENGINEER

**CONTACT OFFICER:** MR G O'CONNOR, PUBLIC RIGHTS OF WAY OFFICER

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**TYPE OF DECISION:** EXECUTIVE (NON KEY DECISION)

**FREEDOM OF INFORMATION/STATUS:** This paper is within the public domain

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**SUMMARY:** This report contains information regarding an application by Mr D Webster of Birch Hey Farm, Turton Road, Tottington to divert part of Public Footpath 61, Tottington and close part of Public Footpath 62, Tottington

**OPTIONS & RECOMMENDED OPTION** That the committee approve the application to divert part of Public Footpath 61, Tottington and close part of Public Footpath 62, Tottington to allow improved security and land management for the applicant.  
That the committee authorise the Council Solicitor to draft the necessary orders under Sections 118 & 119 of the Highways Act 1980.

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## IMPLICATIONS:

**Corporate Aims/Policy Framework:** Do the proposals accord with the Policy Framework? **Yes**

**Financial Implications and Risk Considerations:** See section 2.0 re risk management issues associated with this proposal.

**Statement by Director of Finance and E-Government:** As the applicant has agreed to pay all reasonable costs associated with the

diversion there are no additional costs for the authority other than staff time associated with the closure process.

**Equality/Diversity implications:** No (see paragraph below)  
**Considered by Monitoring Officer:** Yes  
**Are there any legal implications?** No  
**Staffing/ICT/Property:**  
**Wards Affected:** Tottington  
**Scrutiny Interest:**

**TRACKING/PROCESS**

**DIRECTOR:**

Chief Executive/ Management Board	Executive Member/Chair	Ward Members	Partners
Scrutiny Commission	Executive	Committee	Council

**1.0 BACKGROUND**

- 1.1 An application has been received from Mr D Webster of Birch Hey Farm, Turton Road, Tottington, Bury to divert part of Public Footpath 61, Tottington and close part of Public Footpath 62, Tottington under Sections 119 & 118 of the Highways Act 1980.
- 1.2 The diversion and closure is for the purpose of security, safety and land management. At present the footpath travels along the applicant's vehicular driveway and through the farmyard which contains stables and equestrian equipment.
- 1.3 The proposed diversion would allow the applicant to secure areas where livestock are contained and allow the closure/locking of the main vehicular access gate.
- 1.4 The proposed diversion would allow users of the footpath to enjoy a separate path from one carrying farm traffic.
- 1.5 The closure of part of Public Footpath 62 is required as the new diversion will link up with this footpath outside the farm boundary thus negating the requirement for the path where it goes through the farmyard.
- 1.6 Plan 1, PRW/61&62/TOTT/GOC/1 shows the section of footpath to be diverted as a dotted line A-C-D, the proposed diversion as a bold dashed line A-B-D, and the section of footpath to be closed as a bold solid line B-C.
- 1.7 Plan 2, PRW/61&62/TOTT/GOC/2 shows the location of the path within the surrounding area.
- 1.8 Section 119 of the Highways Act 1980 permits the diversion of a public footpath in the interests of the landowner if the new route is at least no less commodious.

1.9 Section 118 of the Highways Act 1980 allows the closure of a public footpath if it is deemed to be no longer necessary.

## **2.0 RISK MANAGEMENT**

2.1 There is no duty placed on the council to accept the application for diversion and closure.

2.2 If objections are received relating to the application which cannot be resolved, then the matter will become the subject of a Public Inquiry in which case a representative for the Secretary of State will make a judgement on the case.

## **3.0 EQUALITY AND COHESION IMPACT ASSESSMENT (ECIA)**

3.1 An ECIA initial screening form has been completed (Appendix 1). It has been decided that a full impact assessment is not required.

## **4.0 ISSUES**

4.1 Preliminary consultations have been carried out with the prescribed bodies. Appendix 2 indicates the responses received and that no objections have been received other than that indicated below.

4.2 East Lancashire Long Distance Walkers Association initially raised concerns regarding the reasons for the closure aspect of the application. The Council subsequently clarified the situation but we have received no further response.

4.3 The Applicant has agreed to pay all reasonable costs associated with the diversion.

## **5.0 CONCLUSION**

5.1 The diversion allows the landowner to secure his farmyard and make best use of the available land whilst improving safety for users of the path by offering a separate route to that of vehicular farm traffic.

5.2 A closure of part of Public Footpath Number 62, Tottington is required as it would no longer connect with the remaining network.

5.3 That the committee authorise the Council Solicitor to draft the necessary orders under Sections 118 & 119 of the Highways Act 1980.

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**List of Background Papers:-** Definitive Map and Statement  
Equality Impact Assessment

**Attachments:** Plans 1, 2  
Appendix 2

**Contact Details:-** Mr I Crook 0161 253 6309  
Mr G O'Connor 0161 253 7452

## APPENDIX 2

### REPLIES RECEIVED FROM PRELIMINARY CONSULTATION

**Ramblers Association:** Manchester and High Peak – Minded not to oppose

**Openreach BT:** We do not object to your order

**National Grid:** Risk is negligible

**Virgin Media:** Not affected

**Peak and Northern Footpath Society:**

No objection, asks for conditions if temporary diversions are necessary

**East Lancs Long Distance Walkers Association:**

Initially objected to reasons for closure. The Council subsequently clarified the situation but we have received no further response.