

Planning Committee

DATE	16th June 2021
REPORT OF	Sharon Wroot, Executive Director for Environment, Economy and Resources
SUBJECT	Application for diversion of part of Public Footpath 2, Grimsby
STATUS	Open

CONTRIBUTION TO OUR AIMS

The maintenance and review of the Definitive Map and Statement is identified as a key action in the Council's Rights of Way Improvement Plan (ROWIP) 2021.

The ROWIP is identified as a key policy document within the Council's Local Transport Plan, which seeks to provide an opportunity for healthy lifestyle choices and supports the Council's strategic aim to Improve Health & Wellbeing within the Borough.

EXECUTIVE SUMMARY

The purpose of this report is to recommend the making of a public path diversion order to divert parts of Public Footpath 2, Grimsby. It considers that the legal test for making the diversion order has been satisfied and, that it is expedient to make the order.

RECOMMENDATIONS

That an Order is made for the diversion of part of Public Footpath 2, to be diverted under the Highways Act 1980 section 119.

- a. To approve the making of an Order in accordance with Highways Act 1980.
- b. To confirm the diversion Order as made, subject to there being no objections, or in the event of objections which cannot be resolved and withdrawn, for the Order to be referred to the Planning Inspectorate for determination.

REASONS FOR DECISION

The Council considers that the making of a diversion order for part of Public Footpath 2, Grimsby is necessary in the interests of the landowner, and that it is expedient to make the order.

The legislative tests for Public Path Diversion Orders regarding section 119 Highways Act 1980 are: A right of way may be diverted where it can be shown that it is in the interest of the relevant landowner and/or the public to do so, but only where:

- i) the diverted route would not be substantially less convenient to the public; and

ii) the diversion would not alter any point of termination of the path, other than to another point on the same highway, or a connected highway.

1. BACKGROUND AND ISSUES

1.1 A landowner diversion application has been submitted requesting to divert the Public Footpath away from their residential property. The property owners have had trespassers walking over their driveway and vegetables and fruit stolen from their garden. The purpose of the diversion is to move the path away from the residential property. The Footpath will be enclosed with a fence either side to prevent trespassing.

1.2 Objections were received to a previous proposed Footpath alignment. After meeting with the objectors and landowner the proposal for the path diversion was amended and moved away from the neighbouring properties resolving the previous objections. The line of the diverted path is shown in Appendix 1.

2. RISKS AND OPPORTUNITIES

2.1 The path diversion order can be made by North East Lincolnshire Council in the interests of the landowners.

2.2 Pre-order consultations have been carried out and no objections have come forward from user groups or residents.

2.3 The Area Chair for the Ramblers Association had no objections to the diversion.

3. OTHER OPTIONS CONSIDERED

3.1 The Council could choose to do nothing and not implement the diversion. This could impact the lives of the residents due to how close people are walking to their house.

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

4.1 A pre-Order making 28-day consultation has been undertaken and no objections were made. Concerns were raised about having gates however this has been rectified by the changing gates for inhibitors to prevent cyclists using the path.

5. FINANCIAL CONSIDERATIONS

5.1 If there are objections to the Order and the case goes to the Planning Inspectorate, a public inquiry may be required to make the final decision on the path.

6. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

6.1 Moving the existing path away from the residential house will encourage people to use the path. Comments have been received that people currently do not use the path as its too close to the residential house.

7. FINANCIAL IMPLICATIONS

- 7.1 The making of the extinguishment order would not result in additional costs to the Council as they will be met by the Regeneration Partnership.
- 7.2 Costs would be incurred by the householder if objections are received that require works to be completed to open the path. Costs will also be incurred by the householder if the decision results in a public hearing or enquiry.
- 7.3 There will be no call on Council reserves.
- 7.4 The proposal does not affect any other policies as it is to divert a footpath and then record the path on the Definitive Map.
- 7.5 The proposal adds the path to the Definitive Map and legally creates the path for future use.
- 7.6 The fence will be installed by the householder.

8. LEGAL IMPLICATIONS

- 8.1 The Highways Act 1980 places a duty on the Council (the surveying authority), to ensure they are satisfied that it is necessary to divert the Footpath in accordance with the tests laid out in the Highways Act 1980 and as discussed in the main body of the report.

9. HUMAN RESOURCES IMPLICATIONS

There are no Human Resource implications.

10. WARD IMPLICATIONS

This path lies within the Freshney Ward.

11. BACKGROUND PAPERS

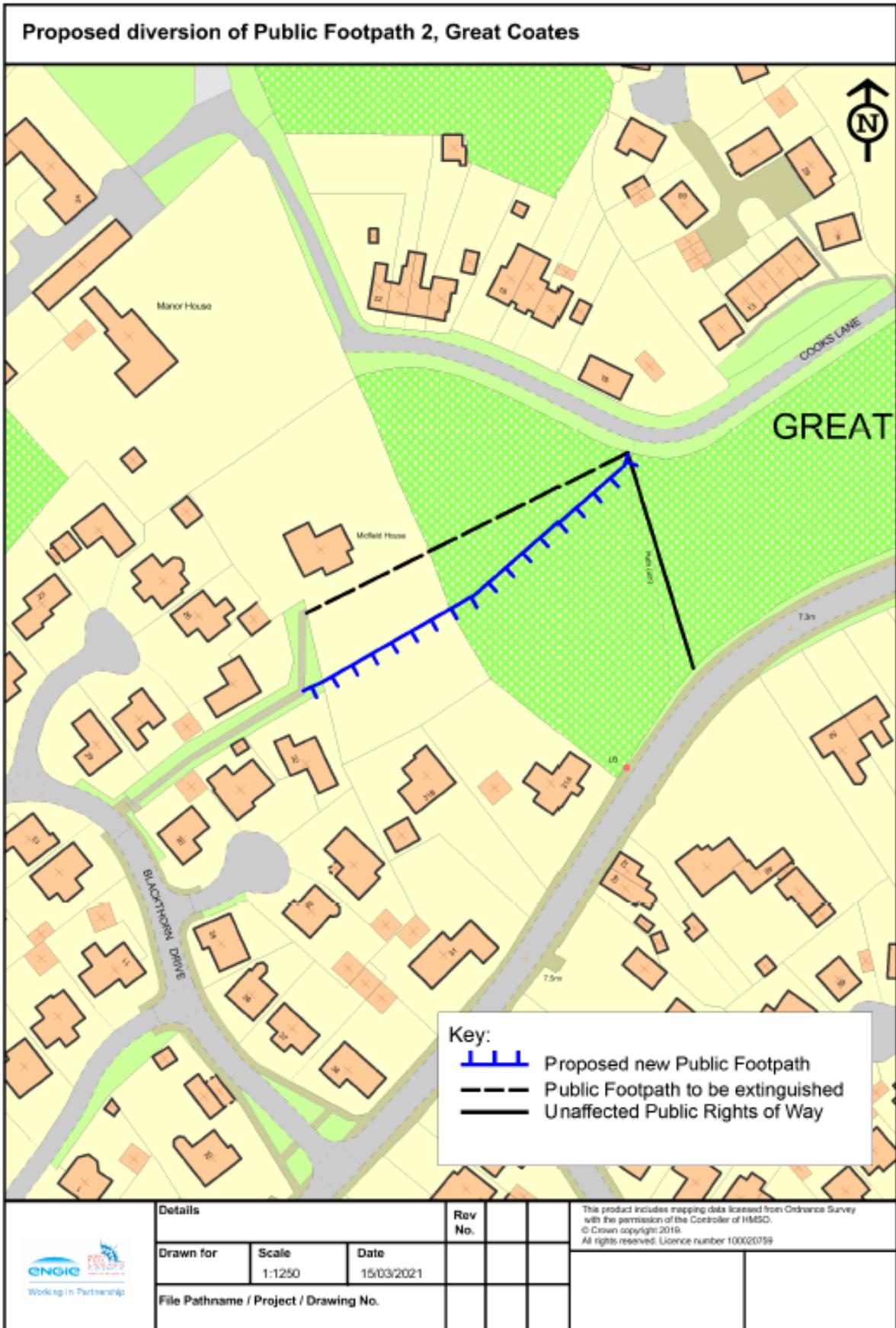
Public Path Order 41, FP2, Grimsby

12. CONTACT OFFICER(S)

- Sharon Wroot Executive Director for Resources and Governance. NELC, Tel: 01472 324423
- Mark Nearney, Assistant Director of Housing, Highways and Transport NELC, Tel: 01472 323105
- Matthew Chaplin, Public Rights of Way Mapping Officer, ENGIE, Tel: 01472 324789

Sharon Wroot
Executive Director for Resources and Governance

Appendix 1



Not to Scale