

Planning Committee

DATE	15/06/2022
REPORT OF	Sharon Wroot, Executive Director for Environment, Economy and Resources
SUBJECT	Application for part of Public Footpath 94, Barnoldby le Beck diversion
STATUS	Open

CONTRIBUTION TO OUR AIM

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 proposal will contribute to the Council's Stronger Economy objective by recording a path on the Definitive Map and will not be deleted in the future.

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 aims to Improve Health & Wellbeing within the Borough.

EXECUTIVE SUMMARY

This report recommends the making of an Order to divert part of Public Footpath 94 in Barnoldby le Beck. The Public Footpath currently runs along a track that passes directly in front of Mount Pleasant which is a residential dwelling.

The diversion will improve the personal privacy of the residential dwelling, and the installation of an additional farm gate at the northern end of the property will stop motor vehicles from gaining unauthorised access to the woodland and pond, reducing criminal nuisance activity. The diversion will also improve the health and safety of users as the proposed diversion will remove the existing risks associated with vehicles exiting the private property directly onto the Public Footpath.

RECOMMENDATIONS

That an Order is made for the diversion of part of Public Footpath 94, 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Order as made, subject to there being no objections, or in the event of objections which cannot be resolved and withdrawn, for the Order to be referred to the Planning Inspectorate for determination.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 diversion is required due to the footpath running in front of a residential dwelling, where a number of instances of anti-social behaviour have occurred, specifically directed at the residential dwelling and adjacent land. Diverting the path away from the residential dwelling and restricting the width will prevent unauthorised use while

still accommodating authorised users. A plan of the diversion can be seen in Appendix one.

The tests under the Highways Act 1980 section 119 are: is it in the interests of the owner or the public to divert the path; is the diverted route substantially less convenient to the public; and would the diversion not alter any point of termination of the path both termination points re-join the commencement of Public Footpath 94.

It is the opinion of officers that it is appropriate to divert this section of the Public Footpath in the interests of the landowner and public and the diverted route will not be substantially less convenient to the public.

1. BACKGROUND AND ISSUES

- 1.1 An application was received to divert part of Public Footpath 94 that runs past a residential property called Mount Pleasant. Photos of the current path are shown in Appendix 2 and 3 along with the location of the diversion.
- 1.2 The applicant will surface the diverted path to a standard suitable for all users and the current route of the path shall not be extinguished until such time as the works to create the new path have been completed.
- 1.3 The procedures set in Circular 1/09 Rights of Way, advises before an Order is made a consultation is undertaken. A 28-day consultation letter was sent on 7th October 2021 to user groups and Ward Councillors. No objections were raised during this period. The Ramblers Association replied stating they have not a problem with the diversion. Councillor Hudson replied saying it was a sensible diversion after explaining the following: “diversion at Barnoldby is to place the Public Footpath away from the residential house as they have had people looking through and knocking on their windows and walking around their garden picking fruit off their trees. The diversion will have a hedge between the house and the footpath creating more privacy. The owner has said they would surface the diverted line round the hedgerow and also fence it where needed”.

2. RISKS AND OPPORTUNITIES

- 2.1 There is a risk that there could be objections from members of the public or stakeholder groups to the proposed diversion of the path. The pre-Order making consultations have been carried out and no objections were received. If there are any objections to the Order, it will be referred to the Planning Inspectorate.

3. OTHER OPTIONS CONSIDERED

- 3.1 The Council could choose to do nothing and not implement the diversion and leave the path running next to Mount Pleasant residential house.

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

- 4.1 A pre-Order making 28-day consultation was carried out from 7th October 2021 and no issues were raised.

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. CHILDREN AND YOUNG PEOPLE IMPLICATIONS

- 6.1 No foreseen implications.

7. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

- 7.1 There are no climate change or environmental implications.

8. FINANCIAL IMPLICATIONS

- 8.1 The making of the extinguishment order would not result in additional costs to the Council as it will be met by the Regeneration Partnership.

9. LEGAL IMPLICATIONS

- 9.1 The relevant tests are laid out in the main body of the report.

10. HUMAN RESOURCES IMPLICATIONS

- 10.1 There are no Human Resource implications.

11. WARD IMPLICATIONS

This path lies within the Wolds Ward.

12. BACKGROUND PAPERS

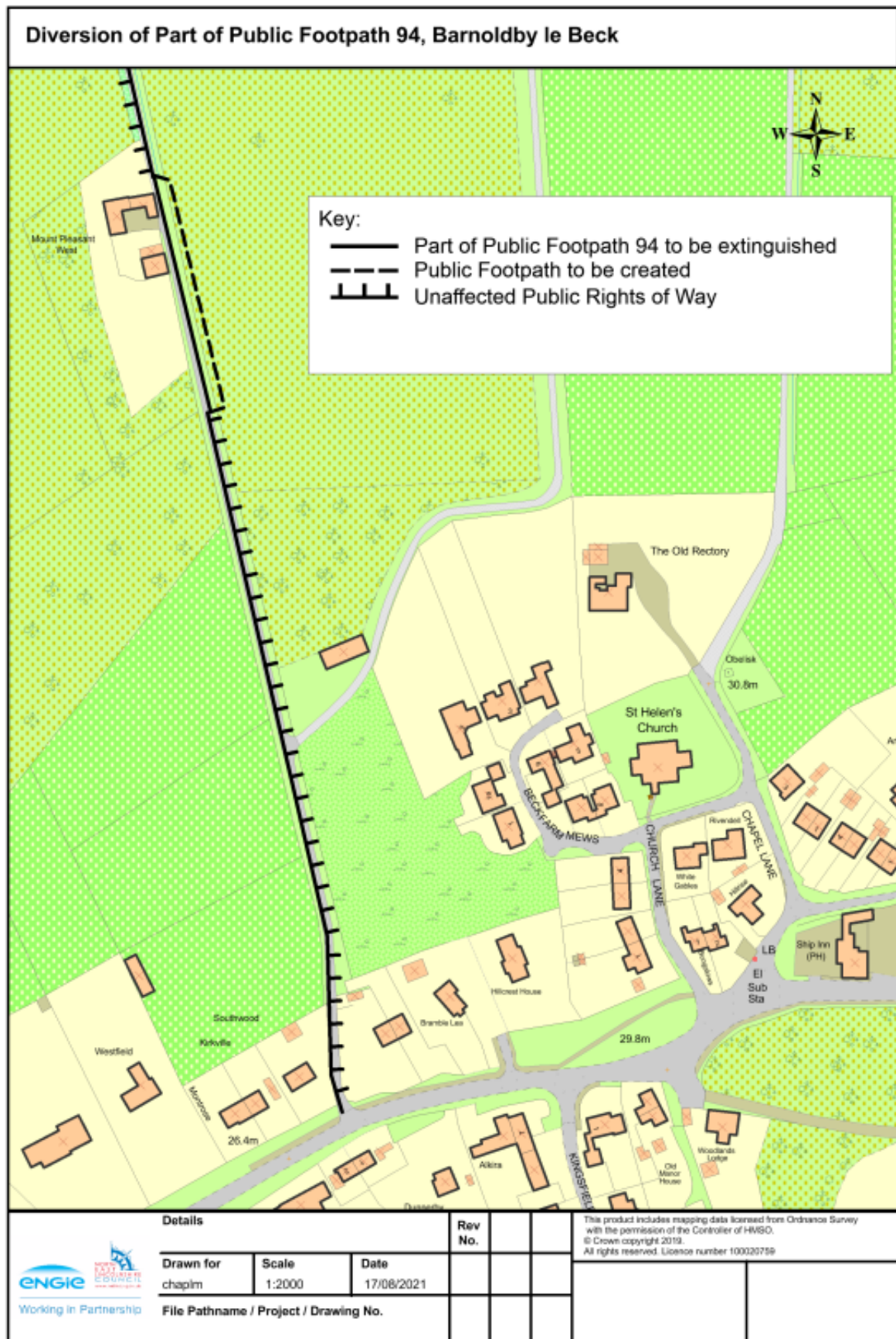
Public Path Order 45, FP94, Barnoldby le Beck.

13. CONTACT OFFICER(S)

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Sharon Wroot
Executive Director for Environment, Economy and Resources

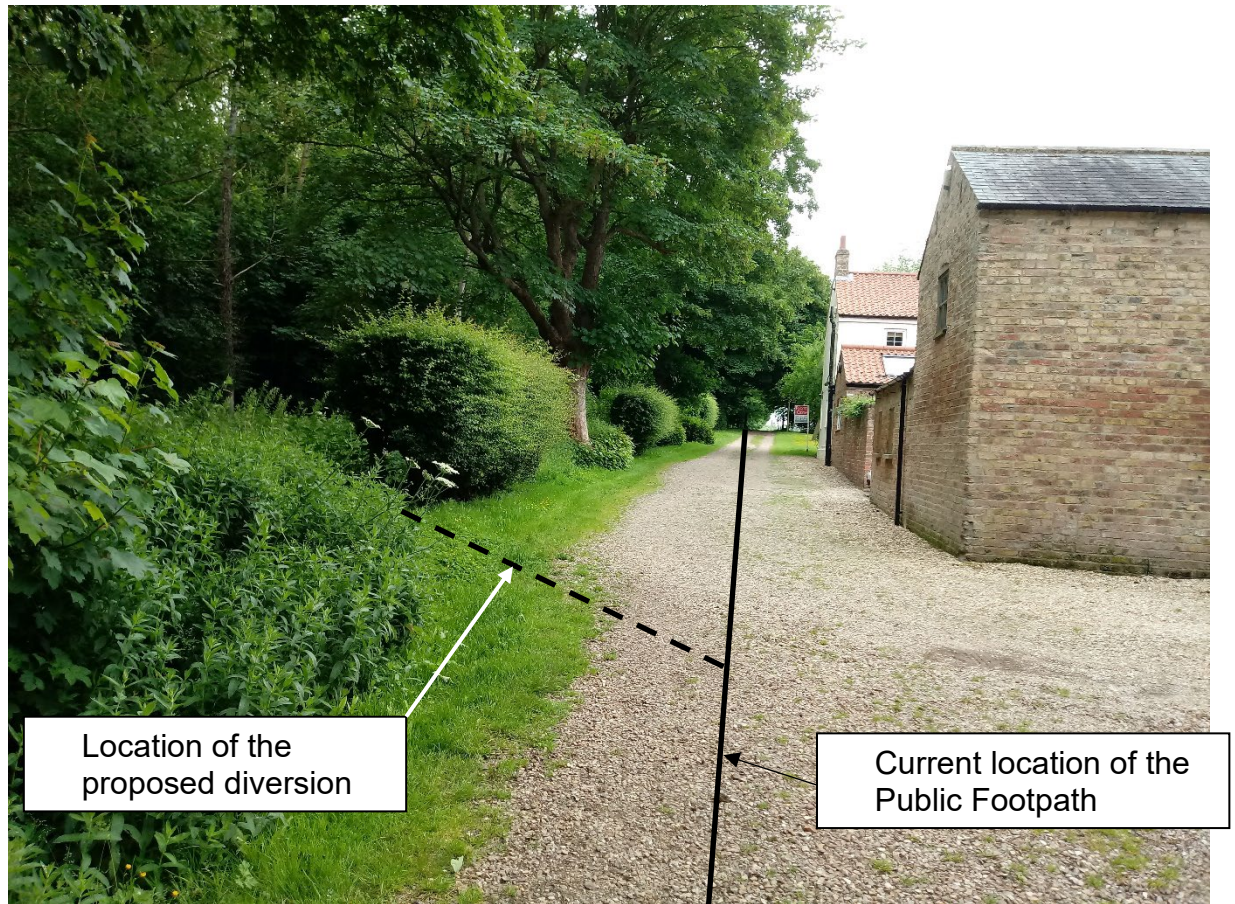
Appendix 1. Diversion Plan



Appendix 2.

Photo of the location of the diversion looking south.

The diversion would run to the left on the opposite side of the hedge.
Note how close the building is to the Public Footpath that currently runs along the hard surfaced track.



Appendix 3.

Photo of the location of the diversion looking north.

The diversion would run to the right-hand side of the large tree.

