

## PLANNING COMMITTEE

<b>DATE</b>	<b>29<sup>th</sup> March 2023</b>
<b>REPORT OF</b>	<b>Carolina Borgstrom, Director for Economy, Environment and Infrastructure</b>
<b>SUBJECT</b>	<b>Diversion of Public Footpath 116, Aylesby</b>
<b>STATUS</b>	<b>Open</b>

### **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 Aylesby Public Footpath 116 as shown in Appendix 1.

This is in the interest of the landowner as the Public Footpath crosses the agricultural field. The diversion is to divert the Public Footpath around the edge of the field. Diverting the path around the edge of the field will also make it easier for users as the path across the field is impassable during winter months.

Under the Highways Act 1980, Public Rights of Way can be diverted if it is necessary in the interests of the landowner if it joins the same highway and is also as commodious as the existing path. The diversion plan is shown in Appendix 1 the current line between A and B, the diversion will be B to C.

### **RECOMMENDATIONS**

That an Order is made for the diversion of part of Public Footpath 116, which is to be diverted under the Highways Act 1980 section 119.

- a. To approve the making of 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Order as made, subject to there being no objections, or in the event of objections which cannot be resolved and withdrawn, for the Order to be referred to the Planning Inspectorate for determination.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**

Public Footpath 116 crosses an agricultural field, the landowner would like to minimise disturbance of the Public Footpath and avoid an area of wet land in the winter months, it will allow them to better maintain the Public Footpath. Moving the Public Footpath to the opposite end of the lay-by is more open and allows the landowner to monitor

poachers, fly-tippers, and other anti-social behaviour of the Public Footpath. Diverting the path to the field boundary will also improve the enjoyment of the Public Footpath avoiding a large area of wet land. It also allows better cropping of the field and not having to use a spray to maintain the current line of the path.

There are two objectives relevant from the ROWIP these are: objective R1A/b which relates to Public Path Orders and Definitive Map Modification Orders and to ratify and make improvements to the network for users. The diversion is an improvement as the surface will be easier to use. The other objective is NMA1B/b which is to improve community safety through ensuring that access to and from Public Rights of Way is safe and practicable. Diverting the path to the opposite end of the lay-by there is better natural surveillance as it is more open than the current location.

It is the opinion of officers that it is appropriate to divert the Public Footpath.

## 1. BACKGROUND AND ISSUES

- 1.1 Public Footpath 116 currently runs in an east west alignment across an agricultural field shown in Appendix 1.
- 1.2 The Public Footpath only runs to the lay-by from Beach Holt Lane / Nooking Lane and would have probably been a historical path to Riby Manor. The current location of the Public Footpath at the lay-by is the County boundary. There isn't currently an onward link in the County of Lincolnshire.
- 1.3 A 28-day pre-order making consultation letter was sent on 21<sup>st</sup> November 2022 to user groups, Ward Councillors and Laceby Parish Council. The responses received are as follows:
- 1.4 The Ramblers Northern Area Footpath Officer responded: *"I have no objections to the stopping up of Footpath 116 and the creation of a new route around the field, my only concern would be that unless the new route is well signed from the start of the old route, people would continue to use the old route"*. For the purpose of the report there will be signs erected and a barrier installed to prevent the use of the Public Footpath from the lay-by on the current line.
- 1.5 Two emails were received from Chris Padley who is the representative of the Byway and Bridleways Trust and Lincolnshire Fieldpaths Association who asked for the reason for the diversion, which is to stop the anti-social behaviour at the current location and make it easier for users to walk the path.
- 1.6 Councillor Hasthorpe stated the following: *"This makes complete sense and I have no issue with the proposal, in fact fully support it"*.
- 1.7 Councillor Hudson said: *"I will always support common sense diversions of footpaths and bridleways"*.
- 1.8 Laceby Parish Council were consulted as Aylesby do not have a Parish

Council, they said *“The above application was discussed at the Parish Council Meeting on the 6th December 2022. The plans and details of the application were scrutinised by Councillors attending the meeting and no objections were raised”*.

## **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.
- 2.2 Failure to divert the Public Footpath prevent the Public Footpath being used in winter months and the anti-social behaviour activities continuing.

## **3. OTHER OPTIONS CONSIDERED**

- 3.1 The Council could choose to do nothing and not implement the diversion application and leave the path unusable in winter months and anti-social behaviour continuing at the layby.

## **4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS**

- 4.1 The approval of the diversion Order will have positive reputational implications for the council as the application seeks to divert a Public Footpath and will ensure the continued easier use and availability of the path for future use.
- 4.2 A consultation has been undertaken with user groups, utility companies, Ward Councilors and Laceby Parish Council, no objections were received.

## **5. FINANCIAL CONSIDERATIONS**

- 5.1 If there are objections to the Orders the case will be referred to the Planning Inspectorate, a public inquiry or written representations may be required to determine the final decision on the diversion of the path.

## **6. CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

- 6.1 There are no children and young people 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 diversion and creation Order would not result in additional costs to the Council as it will be met by the Regeneration Partnership.
- 8.2 The landowner is paying for the application for the diversion. There are little implementation costs to open the path, costs will be incurred by the landowner if the decision results in a public hearing or enquiry. We will work with the landowner to replace the two signs at either end of the diverted path.
- 8.3 There will be no call on Council reserves.

8.4 The proposal does not affect any other policies as it is to divert a footpath and then record the path on the Definitive Map.

8.5 The proposal adds the path to the Definitive Map and legally creates the path for future use.

## **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**

11.1 This path lies within the Wolds Ward.

## **12. BACKGROUND PAPERS**

12.1 Public Path Order 47, FP116, Aylesby.

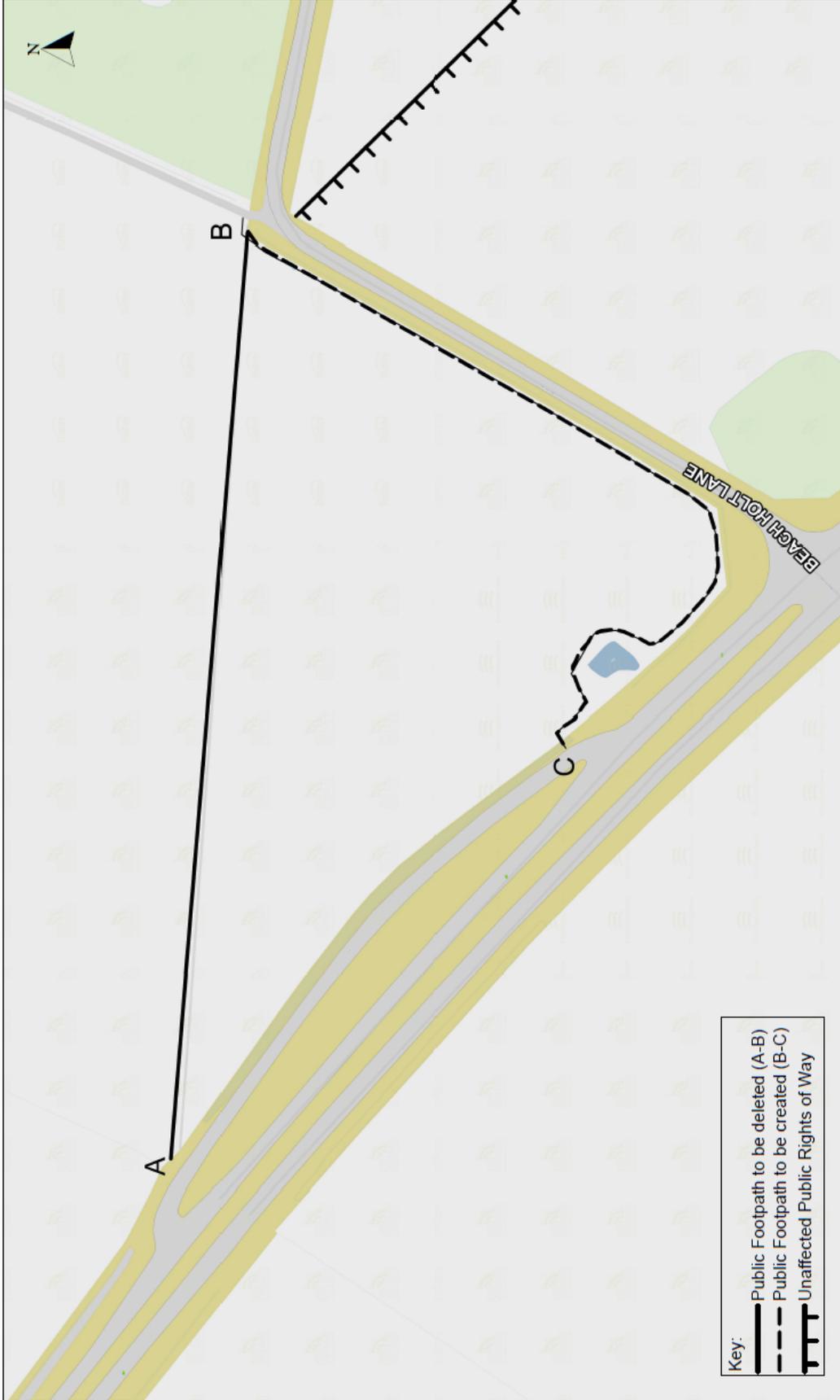
## **13. CONTACT OFFICER(S)**

- Carolina Borgstrom Director for Economy, Environment and Infrastructure NELC, Tel: 01472 326207
- Mark Nearney, Assistant Director for Housing, Highways and Infrastructure Environment, Economy & Resources NELC, Tel: 01472 323105
- Matthew Chaplin, Public Rights of Way Mapping Officer, EQUANS, Tel: 01472 324789

**Carolina Borgstrom**  
**Director for Economy, Environment and Infrastructure**

**Appendix 1.**  
**Plan of diversion of Public Footpath 116, Aylesby.**

**Proposed diversion of Public Footpath 116, Aylesby**



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Details:

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metres  
20/10/2022

Scale 1:2,000



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