

NORTH YORKSHIRE COUNCIL

HIGHWAYS ACT 1980

**PUBLIC BRIDLEWAY NO 15.43/14 CRIMPLE VIADUCT, FOLLIFOOT CREATION ORDER
2023**

Appendix 3 - Statement of Grounds

3.0 BACKGROUND TO THE APPLICATION

- 3.1 In 2013 the owner of Rudding Park Estate dedicated a public bridleway along a section of disused land on the estate. The intention was to connect this new bridleway to Public Bridleway no 15.54/61. Copy of Creation Agreement at Appendix 3A
- 3.2 However, it was subsequently established that, due to an anomaly in the Parish and property boundaries (see Appendix 3B below), that there was a gap between the end of the new bridleway and bridleway No. 15.54/61 which lay on land outside the ownership of Rudding Park.
- 3.3 The owner of the land in question has declined to dedicate a section of bridleway to connect the two paths which led to the Authority instigating the process to make a Public Path Creation Order for a short section of public bridleway to connect the two existing bridleways.
- 3.4 Prior to making an Order the Authority carried out an informal consultation; 108 expressions of support were received along with objections.

3.5 The Creation Order was made on 20 January 2023 which was subsequently advertised. Two objections have been received which remain outstanding.

4.0 PRE-ORDER CONSULTATION

4.1.1 An informal consultation exercise was carried out in March 2022 with interested parties, one of whom circulated the details to the public. 107 letters of support were received, along with objections from the landowner and the tenant farmer.

4.1.2 A further consultation was carried out in May 2022 and 61 of the original respondents repeated their support for the proposed connection of the bridleways, 1 new letter of support was also received. (See Appendix 4).

4.1.3 The expressions of support all stated that it would be desirable to connect the two bridleways and create a circular route. Comments were restricted to a simple expression of support with no added detail.

4.1.4 The objections can be summarised as follows –

- The detrimental impacts to farming the land by a likely increase in footfall
- The degradation of the land by a likely increase in footfall
- The increased safety risks to the general public due to the route of bridleway no. 15.54/61 based on the need to use a bridge with no side rails and material falling from the viaduct
- The lack of suitability of Fulwith Mill Lane to meet the needs of daily farming access due to a likely increase in highway traffic

4.1.5 The proposed order received letters of support from –

- The British Horse Society
- Open Country
- Pony Club- York & Ainsty North
- The Ramblers
- Pannal and Burnbridge Parish Council

4.2 THE MAKING OF THE ORDER

The application was considered by officers and the OMA determined to make an Order.

A Public Path Creation Order was duly made by North Yorkshire County Council and sealed on the 24th February 2023

4.3 CONCLUSION

North Yorkshire County Council assessed the facts of the case and determined to make an Order.

The Order Making Authority is **supporting** confirmation of the Order.

Appendix 5 - Comment on Objections Following the advertisement of the Order

5.1 Objector No. 1

5.1.2 Objection 1

The detrimental impacts to farming the land by a likely increase in footfall

Currently, the footfall along cul-de-sac bridleway no. 15.54/61 which passes over our land is relatively light. Nevertheless, the impacts to farming the land we suffer from a light footfall are considerable.

The bridleway is clearly marked via wayfinding signage and maps which have been installed at several key positions along the route to both assist the general public to identify the route of the bridleway and to ask them to politely keep to the route for sake of our farming requirements.

That said, from approximately October to April each year and also any wetter months that occur during the year, the bridleway becomes waterlogged in places. This results in the public very often choosing to divert away from the bridleway by climbing over our post and wire fences in order to avoid getting their feet wet. This not only damages the fences which are in place to separate the public from livestock, but also creates additional pathways of damage to the adjacent fields being farmed.

In addition, when members of the walking public have dogs with them, the dogs foul the land, which is harmful to our livestock. We have also had several instances of dogs worrying the livestock (one sheep was killed by a dog in 2021) as by being 'off-bridleway' the dog walkers and livestock are no longer separated from each other.

In other areas of the land the bridleway is not fenced in, which unfortunately results in the public and dogwalkers taking it upon themselves to ignore the very prominent wayfinding signage in favour of wandering freely across the land. In so doing they not only create unnecessary damage to the land 'off-bridleway' but moreover add distress and health risks to livestock.

There is also the matter of a new circular route attracting professional dog walkers. Currently we have very few professional dog walkers using the bridleway but we would expect that a new circular route may be appealing due to it being an alternative to the much larger walking routes to the adjacent Yorkshire Showground estate. The Yorkshire Showground land is several times larger than our land to the Crimble Viaduct, but we are aware from the Yorkshire Agricultural Society who own the showground that professional dogwalkers present them with very significant challenges. As a result, all livestock on the showground is separated by fenced fields, and unlike our land there are no public rights of way that run through their fenced fields.

If the intention of creating a circular route by joining the two bridleways is chosen by the Authority, then the inevitable increase in footfall by the general public and professional dog walkers will compound the issues currently experienced in farming the land, which will in turn create more cost and inconvenience to both myself as landowner and to our tenant farmer partner to ensure the safety and wellbeing of our livestock.

Should we find ourselves faced with these challenges then the viability of us continuing to farm the land may be threatened

Officer Comment.

It is the official position of the OMA that users should keep dogs on a lead or under close control when on a public right of way. The OMA accepts that in this location, on the edge of a very large town, that dog walkers have the potential to cause issues if dogs are not under proper control; however, it believes that this can be mitigated with effective signage which the OMA can supply.

The OMA challenges the contention that linking the two bridleways will lead to any significant increase in footfall. Anyone currently using the route across the objectors land will need to transit it twice, returning to Fulwith Mill Lane having reached the end of the current cul-de sac path; the OMA believe that creation of a circular route is likely to mean that those persons currently using the route

will continue on along the disused railway, that therefore represents a 50% reduction in footfall which will offset any possible increase in numbers attracted by the circular route.

5.1.3 Objection 2

The inevitable degradation of the land by a likely increase in footfall

As stated above, the general public and dog walkers bring challenges and cost in us farming the land. But in addition to this we also have the time and cost to generally upkeep the land which is constantly damaged by the public finding ways to explore and use the land which is far from the current public rights of way.

The land that makes up our estate includes several areas of woodland. These are identified on the attached ProMap document, reference numbers: 0015; 1226; 1529; and 3443, the latter being adjacent to the Yorkshire Agricultural Society's showground land which is separated by Crimple Beck. All of these woodland areas are between 200m and 600m from bridleway 15.54/61. However, throughout the year certain members of the public take it upon themselves to stray off the bridleway to the woodlands to set up day camps which includes them creating fires and leaving behind general rubbish, remnants of fires and beer bottles etc., all of which we have the cost to clean up. The route to the woodlands can only be taken by walking off bridleway 15.54/61 across fields 0102 and 1819. As part of our management of the farmland we have posted way finding signage together with specific trespass signs to request that members of the public do not trespass over the land to gain access to the woodland and other areas but the notices are ignored, some of which have been ripped from gates and fences in what look like a form of protest about the same.

From the bottom of Fulwith Mill Lane bridleway 15.54/61 joins the land of my neighbour Fraser Thompson. The bridleway is fenced in a fully compliant manner to bridleway requirements and then joins our land at field number 7087. It then continues through fields 7698 and 9888 to join field 0102 which runs to the cul-de-sac where NYCC wish to subject it to a creation order. The bridleway to fields 7698 and 9888 are fenced in a fully compliant manner to bridleway requirements but as stated above, the general public take it upon themselves to climb over the fence to explore fields and the Crimple Beck which runs through the land; all of which is occupied throughout the year by our livestock. We have a situation whereby the public seem to treat the fields as parkland, literally wandering wherever they choose, which constantly damages the land by walking over grass used for grazing and twice yearly harvesting for winter feed.

The bridleway on field 0102 is not fenced in and instead has way finding posts positioned every 30 metres with directional arrows and notices requesting the public to keep to the public right of way. Unfortunately, the route is largely ignored and again the public wander quite literally wherever they want. The wayfinding signage and posts with directional arrows have also been vandalised in what looks like a form of protest to be asked to keep to the public right of way.

I believe that should an order to create a connection to bridleway 15.43/16 be granted, the above issues will no doubt be amplified which in turn will create unnecessary further upkeep and management of the land and at considerably more cost for us to farm the land. In addition, I am sure that in experiencing a further increase in footfall we would need to also enclose the route over field 0102 as has been done to fields 7698 and 9888, again at which will be at a significant additional cost to ourselves.

Officer Comment.

The areas of land which the objector refers to are readily accessible from the existing bridleway and, more easily, from the Yorkshire Showground.

The OMA have sympathy with the landowners regarding misuse of the land but do not see how the creation of a circular bridleway route will exacerbate this issue. It is highly unlikely that any persons intending to engage in such activities would use the connection to the old railway line and the bridleway leading up to the Follifoot Road as a means of access to the land the objector refers to.

5.1.4 Objection 3

The increased safety risks to the general public due to the route of bridleway no. 15.54/61 Bridleway 15.54/61 travels from field 7698 to field 9888 by way of a bridge which is approximately 3.2 metres wide and sits approximately 2.2 metres above the water surface of Crimple Beck. Albeit structurally sound, the bridge is in a poor condition underfoot and has no handrails, which requires caution when being used and supervision of both children and animals for risk of falling off the bridge into the beck.

Bridleway 15.54/61 also travels under arch number 16 of 31 arches which form the Crimple Viaduct. As the viaduct cuts through our land from boundary to boundary our land is divided by this and we therefore have a legal agreement in place with Network Rail to travel from one side of our land to the other in order to allow us to farm the land as a whole and without any inconvenience.

Of the 31 arches, the land under arch numbers 3 – 17 is accessible by our livestock but can also be accessed by any member of the public who stray from the public right of way. Network Rail has access to inspect the viaduct at any given time. The viaduct is 174 years old and needs regular repair and maintenance. As we farm the land either side of and under the viaduct, we are aware of pieces of bricks, stone and organic matter that from time-to-time fall the 100 feet or so from the arches above and onto the land directly below. This includes the land underneath arch number 16 and indeed the remaining 14 arches that are accessible from the land along the bridleway route.

In 2021 we reported significant amounts of brick debris to Network Rail found under arch numbers 16 and 4. The debris ranged from 50mm to 100mm and had fallen some 25+ metres from the underside of arch 16 and from a lower height from arch 4. Network Rail investigated our report and went on to undertake significant remedial works that were out with their normal planned preventative maintenance regime. I have attached our original correspondence to Network Rail and a full copy of all correspondence is available upon request.

It is therefore clearly a concern that there is a risk to anyone walking on the bridleway under arch 16 or any of the other 14 arches along the bridleway route that walkers choose to stray under.

There is no doubt that the creation of a new 'loop' will be attractive as an alternative route for the significant amount of walkers that currently enjoy walking between Fulwith Mill Lane, Almsford Bank and Follifoot Lane. However, this alternative route would also result in an exponential increase in footfall under the Crimble Viaduct which would also significantly multiply the risk of people being potentially hurt by falling masonry and organic matter which, if happened would cause serious injury or even death.

I state this with a genuine concern for the safety and wellbeing of the general walking/riding public as a whole.

I am also sure that Network Rail would require to know of your intentions to exponentially increase the volume of walkers and riders along the bridleway for very obvious reasons; not least that should an incident occur under their viaduct they would potentially be liable for Public Liability damages.

In a similar fashion, an exponential increase in footfall over the bridge at Crimble Beck will also significantly increase the potential of accidents by walkers and riders travelling over the bridge, which as landowner I may become liable for Public Liability damages

Officer Comment.

The OMA do not agree that the creation of the new bridleway will increase the risk to users because of any debris falling from the railway arches, which are not on the line of the existing, or proposed bridleways.

The OMA believe that users could be confined to the bridleway by more effective signage and that there is an opportunity to restrict access under the arches by fencing whilst still leaving sufficient access for livestock and farming activities to be carried out.

5.1.5 Objection 4

The lack of suitability of Fulwith Mill Lane to meet the needs of daily farming access due to a likely increase in highway traffic

Fulwith Mill Lane is a relatively narrow public highway and with no footpaths along its entire length from it starting at the A61 Leeds Road to its end at Fulwith Mill.

The lane takes a 90 degree turn at Stream Corner where after approximately 50 metres (the entrance to Linden Lea) it narrows to a single width carriageway of 3.8 metres. This section of carriageway runs for approximately a further 100 metres where it then narrows to 2.8 metres (at the entrance to Fulwith House) for its final 50 metres to its dead end, which is also the entrance to bridleway 15.54/61 and the only entrance to our land for our farm vehicles and machinery.

Currently, walkers' vehicles get parked at the 90-degree turn (Stream Corner) and down the lane towards the entrance of Linden Lea. This creates not only issues for the residents of Linden Lea and those living along the lane to its end, but moreover, as the entrance to our farmland is only accessible by a farm gate at the end of the lane we are regularly held up for considerable lengths of time by the width of the lane making it impassable for farm vehicles and machinery. We also occasionally suffer from the farm gates being completely inaccessible by walkers ignoring our signage and parking their cars at the foot of the lane.

An increase in footfall created by a loop bridleway will undoubtedly amplify the traffic and cars from walkers which will have nowhere to park. Should professional dog-walkers also choose this as a walk we will also see much larger vehicles such as the vans they use to transport their dogs parked in similar positions; therefore, exasperating what is already a farm access challenge for us as farmers of the land.

I have attached example photographs to demonstrate the above

Officer Comment.

Fulwith Mill Lane is highway maintainable at public expense and there is currently therefore no restriction on either vehicular, pedestrian or equine use.

The road is steep and of limited width serving less than a dozen houses and is used by residents vehicles as well as delivery vehicles and bin lorries.

The OMA believe it is unlikely that local users will currently use vehicles to access the bottom of the road to gain access to the bridleway and the objector states that this only happens "occasionally". It is difficult to see why there will be any increase in such use if a circular route is created.

5.2 Objector No. 2**5.2.1 Objection 5**

This situation has come about because the correct procedures were not followed by NYCC at the time of the creation agreement that was made with the Rudding Park Estate. Had the correct procedures been followed and the landowners been consulted, that Creation Order would never have been made and the cul de sac footpath on Rudding's land would not have been put in.

Officer Comment.

The OMA acknowledges that an error was made when the route along the old railway line was dedicated by Rudding Park in that it was not appreciated that the parish and property boundaries did not match. However, the OMA believe that the response from the public has clearly indicated that there will be a benefit to members of the public in the locality by creating the small section of bridleway to connect the two paths and that it is appropriate to seek to remedy this by way of the Creation Order.

5.2.2 Objection 6

It seems wrong that due to incorrect procedures and incorrect information supplied by the Rudding Estate regarding land ownership, we now have a situation where some members of the public want to create a circular recreational route which cuts through a working farm, when the farm already has 3 public rights of way running through it and there are already numerous other circular routes to take in the Harrogate area should someone wish to do so

Officer Comment.

The OMA disagree that the situation arose because of incorrect information regarding land ownership. Rudding Park dedicated a bridleway up to the land ownership boundary and the plan included in the creation agreement shows a small deviation in that boundary. The problem arose because the Parish Boundary does not conform to the property boundary at this point.

5.2.3 Objection 7

We understood that bridleways are rights of way originally created by people walking across the land to work, market, the next village, church, and school. People and horses now use them for the same purpose but also for recreational use. Whilst the use may have varied over the years the purpose of going from A to B has not, therefore a circular bridleway is alien to its purpose and the network.

Officer Comment.

The OMA agree that the initial purpose of recording public rights of way was to protect routes which had traditionally been used as a means for going from A to B. However, it is well established that this ceased to be the primary function long ago and the principal use

is now recreational and has been so for some time. There is therefore no contradiction in the presence of a circular route for leisure purposes on the network; indeed, there are endless examples where the original functional terminus of a path has ceased to exist and the path now serves as part of a network providing circular routes.

5.2.4 Objection 8

When we and the Eastwoods bought the farm in 2014, the farm was in a poor state of repair. Since then we have invested a lot of time and money in bringing it back into a good condition and it is now a working farm with sheep grazing and grass taken from fields at certain times of year for hay etc. We have tried to keep the public rights of way open, ie not fenced in, across the fields and have had a problem and still do with people deciding to walk with and without dogs all over the fields. We have dealt with this by putting up signage (some of which has been deliberately broken) requesting people to stay on the public rights of way but to no avail. Please see the attached photos 1 and 2 which were taken on two consecutive mornings this week where walkers and their dogs roam free (the location of photos 1 and 2 can be seen on the attached Photo Plan). Of course not everyone strays from the footpaths but unfortunately as in many cases it is some people that ruin it for others. We have resisted fencing off the network on our land but should the use intensify then we may be left with no option in order to minimise the disturbance from the public to the farming of the land. Clearly if this connection were to be made we believe it would result in more walkers with and without dogs coming down and treating the farm like a public park. As above there are already 3 public rights of way over this working farm and we don't believe anymore are required.

Officer Comment.

Dealt with above.

5.2.5 Objection 9

There are numerous other walking/riding opportunities for people to go on in the Harrogate area including the nearby Yorkshire Show ground which is linked to the top of Fulwith Mill Lane by a footpath/bridleway and indeed Harrogate has one of the largest public green spaces in any town, that being the Stray which is also accessible to people wanting to go on short circular walks. As there are numerous other opportunities in the area for short recreational routes, we reiterate that we can see no need for this circular route at the expense of farming.

Officer Comment.

It is entirely correct that there are many other walks in the Harrogate area. However, the proposed route would open up a section of the Crimple Valley not currently accessible other than by cul- de sac routes and also provide better access to a major heritage asset in the form of the viaduct.

5.2.6 Objection 10

It is worth pointing out that in 2013/2014 the 130 acres of farmland, excluding the farm buildings and houses, were put up for sale and bids were invited in part or as a whole. There were 3 bids for small parts of the farmland but The Eastwoods and ourselves were the only people to bid on the whole enabling the farm to receive the valuable investment it needed. Where were Save the Crimple Valley at that time? With over 100 members surely people who are so committed to the area could have at least made an attempt to buy it from coming together to bid? No bid was made.

Officer Comment.

The OMA do not believe that this comment has any validity in the current proceedings.

5.2.7 Objection 11

There has been mention of the generosity of the Rudding Park Estate in dedicating the majority of the land for this circular footpath. There has also been incorrect press coverage made by supporters of this Creation Order that it would open up a historic path which was closed many years ago. If the public wanted to open up the historic route that was previously closed, then they should ask the Rudding Estate to reopen it as they have the ability to do that. Rather than accessing our farm, the route would go up through Home Farm and up to Rudding Lane. This would connect Harrogate to the Rudding Estate, as well as the Towns Rugby Club and then via the underpass would connect to Follifoot and beyond

Officer Comment.

This proposal is not opening up any route which has been closed so the OMA is unable to comment on this objection.

5.2.8 Objection 12

Another strong reason for the objection is that it would result in more people coming onto the farm that would cause further problems with access, more broken fences and gates and more people deciding that they can walk anywhere across the fields.

Officer Comment.

Dealt with above.

5.2.9 Objection 13

The only access to the farm is at the bottom of Fulwith Mill Lane. This is a very narrow lane which is already shared between farm vehicles, cars, horses and pedestrians. We already have regular issues with people blocking the access to the farm and our drive as we live at the bottom of the lane (please see photos 6 and 7 as examples and their location on the attached Photo Plan). By creating a short circular route you will exacerbate this issue as it will encourage more people to come and drive and do a short walk rather than walk from their homes to access the countryside.

Officer Comment.

Dealt with above

5.2.10 Objection 14

I use the existing network regularly and can confirm this theory is borne out every day of the week at the nearby Yorkshire Show ground where hundreds of walkers with and without dogs go, many of which use the car, park in one of the car parks and do one of the numerous circular walks that are available there. The difference with the Yorkshire Showground to this working farm is that there is a couple of large car parking areas where people can park, a large farm shop called Fodder which supplies food and drinks to the walkers and largely tarmac tracks as well as grassed areas, with no livestock, for the public to access whether by foot or horse. It also links into the public rights of way network. In addition to more cars creating problems blocking the farm access, the drives to houses as well as access up and down the road, the undoubted increase in footfall will increase the number of people who walk all over the fields, some with dogs that worry the sheep and some leaving unwanted dog faeces on the land despite the polite signs asking them not to. This could lead to still born lambs and we will have more fences and gates to mend.

Officer Comment.

Dealt with above

5.2.11 Objection 15

We note you intend to make this order under S26 of the Highways Act 1980. S26 states there must be a need established for the bridleway. It is clear no need can be established as there are many short routes already available in the local area and other public rights of way that already cross the farm.

Officer Comment.

The OMA believe tha the high number of supportive responses to the pre-order consultations clearly indicates that there would be a benefit to the public in the locality by creating this route which in itself established the need as required in s26 Highways Act 1980.