

# HIGH PEAK BOROUGH COUNCIL

## Development Control Committee

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<b>Date of Meeting:</b>	13 <sup>th</sup> February 2023
<b>Report of:</b>	Head of Development Services
<b>Subject/Title:</b>	Town and Country Planning Act 1990 Section 257: Application for diversion of FP110 – Cemetery Road and Playing Field, Glossop - HPF/2022/0001

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### 1.0 Purpose of Report

- 1.1 The report outlines an application to divert part of the Public Footpath No. FP110 in the Dinting Ward of Glossop. This includes a discussion of consultations carried out in respect of the proposal and the legal tests to be considered for a diversion order to be made. The application has been submitted by LK2 Architects Ltd on behalf of the applicant Mr D. Rowlinson, Chairman of Glossop North End Community Club and with the consent of the land owner Derbyshire County Council, in connection with an approved application for the provision of upgraded sport facilities relating to Glossop North End Football Club that was approved by Development Control Committee under HPK/2019/0273, and subsequently varied under HPK/2020/0316 and HPK/2020/0531.
- 1.2 The latter of these permissions is being implemented. A site visit carried out in early January confirmed that a material start has been made on site.
- 1.3 The report makes a recommendation based on that information, for a decision by Members as to whether or not an Order should be made to divert the section of footpath concerned.

### 2.0 Recommendations

- 2.1 An Order to be made under Section 257 of the Town and Country Planning Act 1990 to divert part of the Public Footpath No.110 Glossop, the approximate position of which is as illustrated on the attached plan below (Ref: A-10-0011 Rev A00) dated January 2023 on the grounds that the Borough Council is satisfied that it is necessary to do so to allow development to take place.
- 2.2 That the Head of Development Services be given delegated powers to finalise the Order wording to achieve the diversion as approved and make any minor amendments to the plan required/approved by the Highways Authority, or the County Council as landowner, or to comply with the Footpath Diversion legislative requirements.
- 2.3 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Act.

- 2.4 In the event of objections to the Order being received and not resolved, High Peak Borough Council be responsible for the conduct of any referral to the Secretary of State, hearing or public inquiry.

### **3.0 Reasons for Recommendation**

- 3.1 In accordance with Section 257 of the Town and Country Planning Act 1990, the Borough Council, as Planning Authority, can make an Order diverting a footpath if it is satisfied that it is necessary to do so to enable development to be carried out in accordance with a planning permission that has been granted.

- 3.2 Original consultations on a diversion with a route taking the footpath onto the public highway pavement (from point A to point C on the amended proposed plan) elicited 19 letters in support. However an objection was received from the Peak and Northern Footpath Society, as set out below:

*“We object to this proposal because it would represent a considerable detriment to walkers. Cemetery Road is well used by traffic, often travelling over the speed limit. This makes walking upon the pavement an unpleasant and potentially unsafe experience. To replace a green path away from traffic with a potentially dangerous and certainly unpleasant pavement walk would impose considerable disadvantage upon walkers.*

*We do understand the desire to divert this path away from the pitches. However, FP110 is an important route for walkers, who for obvious reasons currently do not use the definitive route. We would support a diversion which enables walkers to use the correct legal route of the path in a safe, convenient and pleasant manner. A path inside the grounds alongside the pitch, parallel to the pavement and away from the traffic would achieve much of this.*

*We are not sure under which legislation this is being put forward and why High Peak Borough Council and not the highways authority, Derbyshire County Council, are acting. Is it propped to make a s119 or s247 order?*

*In the documentation the legal status of the "unmade footpath existing" is not defined. This is crucial to any valid order. If this path is a PROW, even though it is not recorded on the definitive map, then legally the diversion cannot go ahead. Our footpath inspector for the parish reports that it is a path used by the public and that there is a sign, albeit hidden by foliage. So it is possibly a PROW. This point needs clarification.*

*It is not clear who the owner of the land over which the unmade footpath existing runs is. If it is not the same as the owner of the sports pitches then a question of compensation will arise. Again this is another issue that needs clarification before any order can supported by us, given possible cost to the local authority.*

*We cannot therefore support the proposal in its current form. There are unanswered questions as well as our fundamental objection that it is a severe detriment to walkers. It does appear that there is remedy with a*

*new proposal for use of the "unmade path existing" with a new route inside the sports ground parallel to the road and not on the pavement. We would support such a proposal provided the route was secured by means of a legal order and the route did not disadvantage walkers but provided some enhancement on the current situation. It would also be necessary for the unmade footpath existing to be made suitable for public use."*

- 3.3 As a result of the objection the diversion route was amended to retain the diversion within the football club land and away from the road so far as possible. Further to the latest plan dated January 2023 being submitted, Peak and Northern Footpath Society have withdrawn their objection as per an email directly to the agent dated 19<sup>th</sup> January 2023, that states the following:

*"Thank you for the new proposal. Provided that this new proposal, as shown on your drawing A-10-0011, is acceptable all parties and is adopted, I am happy to confirm that PNFS will withdraw their objection to the diversion. I sincerely hope that this will allow a splendid development to get back on track."*

- 3.4 It is proposed that the amended route will comprise an 1800mm wide MOT Type 1 surface from points A to C, then grassed surface as it passes behind the pitch then tarmac surface to the side of the access road to meet the existing highways pavement at point D.

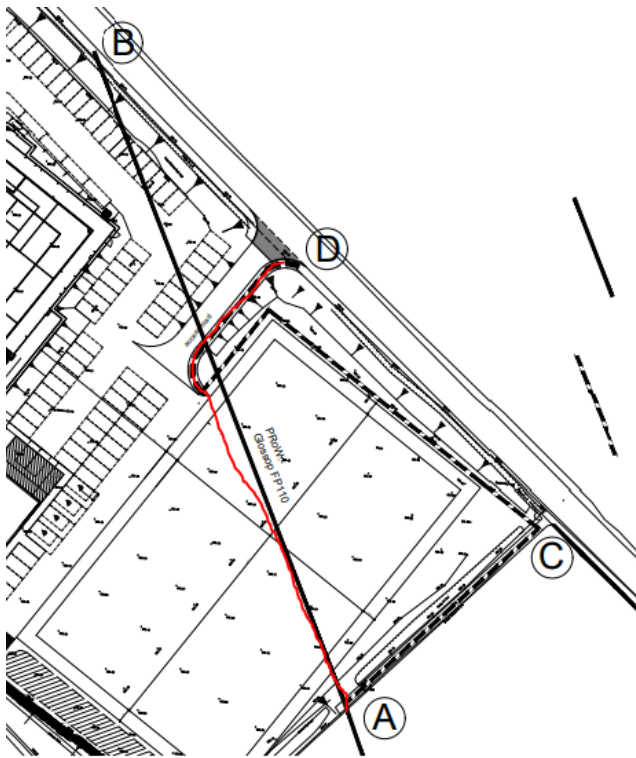
- 3.5 The Highways Authority have been involved in discussions with the applicant and Peak and Northern Footpaths Society and have indicated that they prefer the originally proposed diversion along Cemetery Road ie from point A to point C. They make the following observations (informally) and propose a different route:

*Following the site meeting earlier this month the revised proposal route submitted by Glenn [the applicant] has been assessed and I wish to submit the following observations:*

- the proposed route A – C – D is less convenient and unless the proposed path is fenced out from the amenity area, it is doubtful the public would follow to it. The public tend to take a direct route.*
- Upon certification of an order by High Peak Borough Council the path would become publicly maintainable by Derbyshire County Council regardless of any independent maintenance agreements that may or may not be reached in the future. This proposal comes at a time when this authority, like nearly all public authorities, is looking to reduce its maintenance liabilities in the future.*

*The screen shot below illustrates an alternative that may work. Divert exiting path A – B to an alternative line A – D. This would provide a more direct route across the grass pitch area, remove the need to provide a stone path from C, under the embankment to where it is proposed to meet the tarmac footway at the side of the new entrance road. This would avoid*

*conflict with any landscape mitigation which was in question at the site meeting.*



In addition the County Council has pointed out that there is nothing wrong with the relatively short stretch of pavement at point C to point B which is perfectly safe and adequate for walkers.

- 3.6 It is understood that should the diversion order be made as proposed that the entrance at point A will be closed so as to avoid conflict between walkers and users of the pitch. However, as the County Council officer comments, the footpath as proposed will be less straightforward than the originally proposed Cemetery Road pavement route as walkers will have to navigate around the entrance way (that is at a higher level than the pitch) to get to and from point D. There will also be some additional maintenance costs (over time) compared to the originally proposed diversion in that same area. While the further alternative proposed by the County Council officer removes the dog leg to get onto the entrance way it leaves walkers to navigate across a pitch that may be in use that is less than ideal. The further alternative route is not supported by the applicant and not before this Committee.
- 3.7 It is considered that it is necessary to divert part of Footpath No.110 Glossop to allow the development to be completed without conflicting with current route of the public footpath. While the original proposal, which would have been a diversion from point A to C, would have been a simpler solution with less future maintenance costs the revised route accommodates the objectors view that footpaths should stay off busy highways where possible and will avoid the need for a reference to the

Secretary of State for determination with all the delays that will entail. It also avoids potential conflict between walkers and footballers. However, it should be noted that if other parties, including the Highways Authority formally object to the order once made then such a reference to the Secretary of State for determination would be required in any event. Nevertheless it is considered that the legal tests for the making of a Diversion Order under section 257 of the Town and Country Planning Act 1990 are satisfied and that the Order with amended plan A-10-0011 Rev A00 as applied for should be made. Once made full consultation on the amended diversion will take place.

#### **4.0 Ward Affected**

4.1 Dinting

#### **5.0 Local Ward Members**

5.1 Councilor J. Wharmby

#### **6.0 Financial Implications**

6.1 Not applicable. The applicant bears the cost of the application

#### **7.0 Legal Implications**

7.1 Formal consultation to the Order once made may elicit new objections. Objections received to the proposed order, if not withdrawn, would require a referral to the Secretary of State and could lead to a public inquiry or hearing with attendant planning and legal involvement and use of resources.

#### **8.0 Risk Assessment**

8.1 Not applicable

#### **9.0 Background and Options**

9.1 An application has been received from LK2 Architects Ltd on behalf of the applicant Mr D. Rowlinson, Chairman of Glossop North End Community Club, requesting that the Council make an Order under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 110 in the Dinting Ward of Glossop.

9.2 Public Footpath No.110 commences from its junction with North Road (O.S Grid Reference 403143 395196) and heads eastwards and latterly northwards through and then out of the northern fringes of the housing estate, entering the existing Playing Fields, and exiting the site at Cemetery Road.

9.3 The section of path required to be diverted by the applicant is shown by a solid black line on the relevant plan (Ref: A-10-0010 Rev A00) between point 'A' (the southern entrance to the Playing Fields) and point 'B' (the

exit to Cemetery Road). The proposed diversion is shown by a dashed line, which would see the footpath enter the site and snake around the southerly football pitch (Point 'C'), run parallel with the eastern boundary, and rejoin Cemetery Road, adjacent to (but importantly not crossing) the newly formed vehicular access to the site (Point 'D').

- 9.4 The section of footpath shown by the solid line between points A and B, would be directly affected by the construction of playing pitches, and associated car park and clubhouse building originally granted permission under HPK/2019/0273. Minor amendments were subsequently approved under HPK/2020/0316 and HPK/2020/0531.
- 9.5 As shown on the latest Site Plan approved under HPK/2020/0531 (Ref: (03) 004 Rev A11) the section of footpath to be diverted has a length of approximately 132 metres and would directly conflict with one of the playing pitches, the vehicular access, and part of the car park. Therefore, the footpath diversion is required to preserve public access around the development and is necessary to enable the development as consented to be implemented.
- 9.6 The preferred option that was originally submitted sought to divert the footpath in a straight line parallel with the southern boundary of the site, meeting Cemetery Road some 100m south of where the footpath currently meets this highway, making use of the existing pavement. However, due to the objection (now removed) from the Peak and Northern Footpath Society, the current option is being progressed.
- 9.7 The extent of Footpath 110 which is subject of this diversion is relatively straight and flat between the southern and eastern boundaries of the Playing Fields.
- 9.8 The proposed diversion would see the footpath enter the site and head immediately eastwards following the parameters of the proposed football pitch, running parallel with the eastern boundary, before lastly running parallel to the vehicular access, exiting onto Cemetery Road south of the newly formed site access.
- 9.9 No comments have been received from the local Ward Councilor

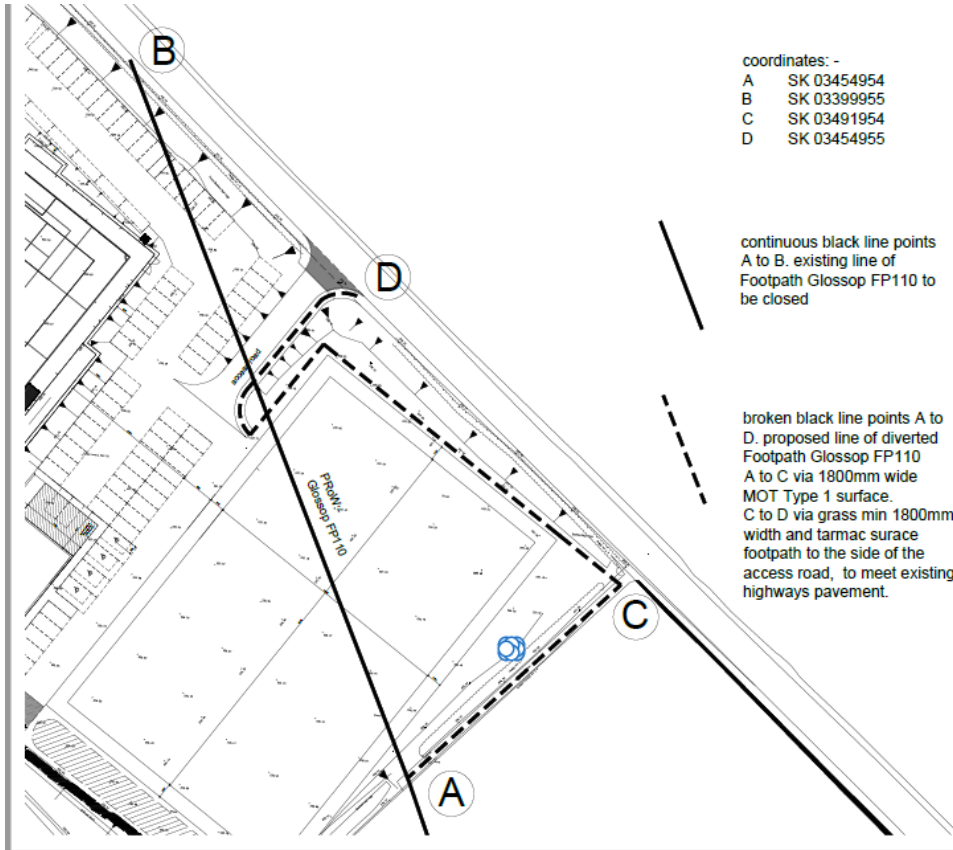
## **10.00 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

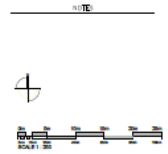
Officer: Ben Haywood  
Tel No: 01538 386966 Ext 4924  
Email: [ben.haywood@highpeak.gov.uk](mailto:ben.haywood@highpeak.gov.uk)

**Background Documents:** Held by Legal Services and Development

# Control



- coordinates: -  
 A SK 03454954  
 B SK 03399955  
 C SK 03491954  
 D SK 03454955



continuous black line points A to B. existing line of Footpath Glossop FP110 to be closed

broken black line points A to D. proposed line of diverted Footpath Glossop FP110  
 A to C via 1800mm wide MOT Type 1 surface.  
 C to D via grass min 1800mm width and tarmac surface footpath to the side of the access road, to meet existing highways pavement.

Project Name	
Client	
Location	
Scale	
Author	
Check	
Drawn	
Project Number	
Date	
Project/Client/Drawn/Scale	
Sheet Number/Total	
1/1	
1:1000	
1/1	
1/1	