

North Tyneside Council

Report to Director of Regeneration and Economic Development

Date: July 2022

Title: Making of a Public Path Diversion Order and a Rail Crossing Diversion Order – The North Tyneside Public Footpath Dudley 1 (Section) Public Path Diversion Order 2022 and The North Tyneside Bridleway Dudley 2 (Section of) Rail Crossing Diversion Order 2022

Report from Service Area:	Regeneration and Economic Development	
Responsible Officers:	Graeme Clark, Public Rights of Way, Definitive Map and Cycle Projects Officer	Tel: (0191) 643 6086
Ward affected:	Weetslade	

PART 1

1.1 Executive Summary:

The purpose of the report is to seek approval to the making of a public path diversion order and a rail crossing diversion order. The Orders are attached to this report at Appendices 1 and 2 and concern the diversion of sections of two public paths known as “Dudley 1” and “Dudley 2” as described in the Orders and shown on the plan forming part of the Orders.

At the end of the statutory consultation period, if no representations or objections are made to the Orders having been made, the Orders can be confirmed by the Authority after having regard to the matters set out in section 119(1) (as a public path diversion order), and section 119A (as a rail crossing diversion order), of the Highways Act 1980.

Under the Authority’s Officer Delegation Scheme, the Director of Regeneration and Economic Development has a specific delegation, namely RED 28 t) which relates, amongst other things, to the making and confirmation of a public path diversion order. RED 28 t) states:

“In consultation with the Assistant Chief Executive to deal with all matters in relation to any proposal to close or divert highways, footpaths and bridleways in accordance with sections 116, 117, 118, 119 and section 25 & 26 (creating footpaths, bridleways and restricted byways).”

A separate general delegation, GD6, allows the Director of Regeneration and Economic Development to exercise powers under section 119A for a rail crossing diversion order.

1.2 Recommendation(s):

It is recommended that the Director of Regeneration and Economic Development:

- (1) in consultation with the Assistant Chief Executive, makes the Orders at Appendix 1 and Appendix 2 of this report and thereafter takes all necessary steps to give notice to the making of the Orders in accordance with the requirements of the Highways Act 1980;
- (2) agrees that, if no representations or objections are made to the Orders, to confirm the Orders following the conclusion of the consultation period; and
- (3) notes that, if representations or objections are made to the Orders, a further report will be provided to the Director of Regeneration and Economic Development for a decision on subsequent action regarding the Orders.

1.3 Council Plan and Policy Framework

The proposals in this report support the following priorities in Our North Tyneside, the Council Plan 2021 to 2025:

- A green North Tyneside
 - We will increase opportunities for safe walking and cycling, including providing a segregated cycleway at the coast

1.4 Information:

Background

- 1.4.1 Where it appears to the Authority in respect of a public path in the Borough that, in the interests of the owner, lessee or occupier of land crossed by the path or of the public, it is expedient that the line of the path, or part of that line, should be diverted, the Authority may, by Order made by it, and later confirmed by it as an “unopposed order”: -
 - a) create, as from such date as may be specified in the Order, any such new public path, as appears to the Authority requisite for effecting the diversion; and
 - b) extinguish, as from such date as may be specified in the Order the public right of way over so much of the path as appears to the Authority requisite.
- 1.4.2 The Authority cannot confirm a public path diversion order as an unopposed order, unless it is satisfied that the diversion to be affected by the Order is expedient and that the path will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which –
 - a) the diversion would have on public enjoyment of the path as a whole,
 - b) the coming into operation of the Order would have as respects other land served by the existing public right of way, and
 - c) any new public right of way created by the order would have as respects the land over which the right is so created, and any land held with it.
- 1.4.3 Insofar as the Dudley 2 Order is concerned, the closure of the railway level crossing on Dudley 2 bridleway is considered to be beneficial in the interests of public safety. The Authority has been approached by Network Rail to assist it in its national programme to

provide safer alternatives for all users to main line crossings, and Network Rail has held positive discussions with the landowners affected.

- 1.4.4 The diversion of Dudley 2 as proposed will provide continued connectivity between Dudley and Annitsford. The diversion of the Dudley 1 path as proposed will provide a more direct line between Dudley and neighbouring areas in Northumberland. As such it is considered that the diversion would be expedient, having regard to the points in section 1.4.2.
- 1.4.5 Section 119(7) of the Highways Act 1980 states that a public path diversion order shall contain a map on such a scale as may be prescribed and that the map shall include/show particular information. The maps forming part of each Order can be seen in Appendix 1 and Appendix 2 and include and show the necessary information.
- 1.4.6 Schedule 6 of the Highways Act 1980 deals with the making and confirmation of public path diversion orders and specifies the notice that must be given following the making of a public path diversion order.
- 1.4.7 Before the Order is confirmed as an “unopposed order” by the Authority, notice must be given: -
 - a) stating the general effect of the Order and that it has been made and is about to be submitted for confirmation or to be confirmed as an unopposed order,
 - b) naming a place in the Borough where a copy of the Order and of the map referred to in the Order may be inspected free of charge and copies of the Order may be obtained at a reasonable charge at all reasonable hours, and
 - c) specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
- 1.4.8 The notice referred to in paragraph 1.4.6 must be given by publication in one local newspaper covering the ward(s) affected and by the service of notice on every relevant owner, occupier and lessee. It will also be necessary to display notices at the ends of the path and any area that is being diverted/created by the Order.
- 1.4.9 If no representations or objections are received and the Orders are confirmed, it is intended that the Authority’s Definitive Map and Statement maintained under section 53 of the Wildlife and Countryside Act 1981 will be updated as part of an annual consolidation process to show the line of the diverted paths and their definitive description.

Representations/Objections

- 1.4.10 If during the consultation period following the making of either Order, a representation or objection is received by the Authority, which is not withdrawn, a further report will be provided to the Director of Regeneration and Economic Development for a decision on subsequent action regarding the said Order.
- 1.4.11 Potential subsequent actions could include any of the following: to amend the proposals; not to proceed with the proposals; or to send the representation or objection to the Secretary of State for their decision as to whether or not the said Order should be confirmed.

1.5 Decision options:

The following decision options are available for consideration:

Option 1

To approve the recommendations in section 1.2 of the report.

Option 2

Not to approve the recommendations in section 1.2 of the report.

Option 1 is the recommended option.

1.6 Reasons for recommended option:

Option 1 is recommended for the following reasons:

It is considered expedient that the paths be diverted and it is considered beneficial that the railway level crossing be closed for the reasons set out in the report.

1.7 Appendices:

Appendix 1 The North Tyneside Public Footpath Dudley 1 (Section) Public Path Diversion Order 2022

Appendix 2 The North Tyneside Bridleway Dudley 2 (Section of) Rail Crossing Diversion Order 2022

1.8 Contact officers:

Graeme Clark, Public Rights of Way, Definitive Map and Cycle Projects Officer
(0191) 643 6086

1.9 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) The Highways Act 1980
- (2) Natural England – [A guide to definitive maps and changes to public rights of way](#)
- (3) [North Tyneside Transport Strategy](#)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

Network Rail have agreed to fund all of the costs associated with the order process and the necessary physical works (including construction of paths and drainage, fence lines, gates and signage).

2.2 Legal

The legal process to be followed in making a public path diversion order and the confirmation of such an Order is set out in the body of the report.

It is clear from the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 that decisions taken under section 119 & 119A of the Highways Act 1980 is a Council function.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The Assistant Chief Executive has been consulted on this report and the proposed making of the Orders at Appendices 1 and 2 as required under the Officer Delegation Scheme.

2.3.2 External Consultation/Engagement

Network Rail carried out positive engagement with path user groups, landowners, and ward councillors, with the involvement of officers as appropriate, in advance of the Order being drafted.

2.4 Human rights

The legal process as defined in the body of the report takes account of relevant human rights implications.

2.5 Equalities and diversity

There are no adverse equalities or diversity issues arising from this report.

2.6 Risk management

There are potential positive implications for risk management in that the proposed closure of the railway level crossing on Dudley 2 bridleway, and provision for appropriate alternatives, would mean that risks associated with bridleway users crossing an operational railway would no longer apply.

2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report, however the proposals facilitate the ongoing use of the public rights of way network, which supports residents in accessing the natural environment.