



**SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL**

## Officer Delegated Decision

19 June 2026

Emma Whittaker – Assistant Director –  
Planning & Growth

# Application for Public Path Diversion Order

## Purpose of the Report

To authorise the Assistant Director – Planning & Growth to progress a Public Path Diversion Order under Section 257 of the Town and Country Planning Act 1990 for the diversion of public footpath Hac/3/1 following the grant of planning permission S23/1945

## Report Author

Adam Murray – Principal Development Management Planner

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<b>Decision made by:</b>	Assistant Director – Planning and Growth
<b>Decision:</b>	To agree the provisional Order to divert public footpath Hac/3/1 following the grant of planning permission S23/1945, and start the process outlined at paragraph 2.11.
<b>Public or Exempt:</b>	Public
<b>Key or Non-Key?</b>	Non-Key
<b>For call-in?</b>	No
<b>Reasons for exemption:</b>	N/A
<b>Conflicts of interest:</b>	No
<b>Policy compliant:</b>	Yes
<b>Details of delegation:</b>	<i>Part 3 (c) of the Constitution, Responsibility for Functions, Paragraph 20</i>  <i>To manage services:</i> <i>a) In accordance with any policy decisions made by, or guidelines issued by, the Council</i>

- b) Within budgets made or approved by the Council*  
*c) In compliance with all Rules of Procedure and Codes set out in the Constitution*

*And to take such decisions or actions as they are required or authorised to take in:*

***d) Understanding orders adopted and decisions made by the Council for implementation***

*The Assistant Director (Planning and Growth) also has further powers within the Planning Scheme of Delegation (Development Management – Appendix 1) to take “All decisions, responses or determinations arising in relation to applications, approval of reserved matters, prior approvals, certificates, consents and consultations, submitted to or received by the Council in accordance with all Town and Country Planning, Listed Building and related or associated legislation (including subordinate legislation and any consolidation, re-enactment or amendment thereto) shall be delegated to the Authorised Officer(s) as specified above (in paragraph 24)”, with some exceptions.*

## 1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

### **Finance**

- 1.1 Any financial implications arising from this report can be met from existing resources.

Completed by: *Richard Wyles, Deputy Chief Executive and s151 Officer* **Legal and Governance**

- 1.2 The Assistant Director (Planning and Growth) has a general delegation (listed above) to manage her service. It is clear from reading the information below that she is satisfied that the footpath diversion is necessary to allow the agreed planning application to proceed.
- 1.3 There is a further delegation within Appendix 1 of the Scheme of Delegation (Planning Scheme of Delegation) related to Town and Country Planning legislation.
- 1.4 Any application of the Common Seal to the Order would need to be attested by the Chief Executive, Deputy Chief Executive or any Director, using this Decision Notice as confirmation to proceed.

Completed by: *James Welbourn, Democratic Services Manager*

## 2. The Purpose of the Report

- 2.1 This report relates to an application under Section 257 of the Town and Country Planning Act (TCPA) 1990, which authorises the Local Planning Authority to stop up or divert any footpaths, bridleways or restricted byways, where they are satisfied that it is necessary to enable development to be carried out in accordance with a planning permission.
- 2.2 The proposal is to divert part of public footpath Hac/3/1 at The Manor House, 21 Church Street, Haconby. The diversion has been proposed in order to enable the construction of a single storey timber framed, three bay garage which has been granted planning permission under application ref: S23/1945.

Site Description and Proposal

- 2.3. Manor House (21 Church Street) is a Grade II Listed building, originally a farmhouse dating from the early 18<sup>th</sup> century with mid-19<sup>th</sup> century and 20<sup>th</sup> century alterations. The building is constructed in coursed limestone rubble and limestone ashlar with a pantile roof with stone coped gables.
- 2.4. The property sits on a generous plot to the north-east of the Grade I Listed St. Andrew's Church and is at the eastern edge of the village of Haconby.
- 2.5. Footpath Hac/3/1 is approximately 770m in length is a circular route running between Chapel Street to the north and Hall Road to the west. At its eastern end, the footpath passes through the garden of the Manor House, 21 Church Street, Haconby, with the remainder and majority of the route passing through surfaced pedestrian routes and a wider agricultural area.
- 2.6. The application proposes to divert the Public Right of Way (PRoW) at its midpoint, where it passes through the private garden area of the Manor House. The proposed diversion would result in the existing line of the footpath being extinguished for 84 metres (see solid black line in Appendix 1) and diverted between points A-B along the route (see dashed black line in Appendix 1).
- 2.7. The proposed diverted route would be a total of 118m and would measure 2m in width passing through an established area of trees and woodland flowers.

#### Relevant Planning History

- 2.8. S23/1945 – Construction of a new single storey timber framed three bay garage with solar panels on the south facing pitch of the roof, and installation of solar panels on the south facing pitch of the roof of an existing workshop building – Approved Conditionally – 20.3.2026

#### Legislative Background and Procedure

- 2.9. Section 257(1) of the Town and Country Planning Act 1990 gives Local Planning Authorities (LPAs) the power to make an order to extinguish or divert public footpaths, bridleways or restricted byways, where they are satisfied that it is necessary in order to enable development to be carried out either (1) in accordance with a planning permission or (2) by a government department.
- 2.10. When an application is received, informal consultation is undertaken by the Local Planning Authority before deciding whether to proceed with the formal Order consultation process. Consultation with the appropriate Parish Council and user groups helps to gauge views and identify any particular concerns with the proposed diversion. It should be noted that this is not formal consultation nor is it a statutory requirement.

- 2.11. Following completion of the pre-Order consultation, the Local Planning Authority would seal the draft Public Path Diversion Order and the County Planning Authority would then proceed to undertake the formal Order consultation process. This formal consultation process involves:
- Sealing the Order
  - Serving notice to all consultees (letter & copy of the Order)
  - Newspaper advertisement
  - Site Notice displayed during a 28-day consultation period.
- 2.12. If no objections are received during the 28-day formal consultation, the County Planning Authority will proceed to confirm the Order; this involves repeating the site and newspaper notices and serving confirmation notices to all consultees. The confirmation period lasts 42 days; and during this time, objections can only be made on procedural grounds rather than against the diversion itself.
- 2.13. If there are objections received or if objections can subsequently be resolved and withdrawn, the LPA may confirm the order without modification. If there are objections that have not been withdrawn, the LPA must refer the order to the Secretary of State for a decision.
- 2.14. The Secretary of State would determine whether to confirm the Order with or without modification(s) via either written representations, an informal hearing, or a Public Inquiry.
- 2.15. If confirmed, the Order only amends the definitive map and statement insofar as the route of the PROW, that is, it does not alter the status of the PROW.

### Consultations

- 2.16. Informal consultation has been undertaken with selected consultees. Formal consultation will be undertaken once the draft Order has been made and prior to confirmation.
- 2.17. **Haconby Parish Council** – No comments received
- 2.18. **Open Spaces Society** – No comments received
- 2.19. **The Ramblers** – No comments received
- 2.20. **Lincolnshire Ramblers** – No comments received
- 2.21. **British Horse Society** – No comments received
- 2.22. **Byways and Bridleways Trust** – No comments received
- 2.23. **Lincolnshire Fieldpaths Association** – No comments received

- 2.24. **Cycling UK** – No comments received
- 2.25. **LARA** – No comments received
- 2.26. **Auto Cycle Union** – No comments received
- 2.27. **British Driving Society** – No comments received
- 2.28. **Historic England** – No comments to make
- 2.29. **Western Power Distribution** – No comments received
- 2.30. **National Grid** – No objection to the footpath being moved, we would advise safe digging techniques.
- 2.31. **Anglian Water Services** – No comments received
- 2.32. **Cadent** – No objection
- 2.33. **British Telecom** – No comments received
- 2.34. **Environment Agency** – No objection
- 2.35. **Lincolnshire County Council** – No objection

#### Representations

- 2.36. There is no requirement for public consultation at this stage. However, it should be noted that neighbouring dwellings have been consulted, and one public representation have been received, which has raised support for the proposed diversion.

#### Relevant Considerations

- 2.37. The approved planning permission for a single storey timber framed garage requires the PRoW to be diverted, as the grant of planning permission does not entitle applicants to obstruct a PRoW, and the approved position of the garage would obstruct the definitive route.
- 2.38. In determining the proposed diversion, the Local Planning Authority should not consider the merits of a planning permission when considering whether to make or confirm an Order. However, the effect of the development on the PRoW is a material consideration in the determination of the planning application. In this case, planning permission was granted having regard for the fact that the approved layout would result in the obstruction of the PRoW.

- 2.39. Having granted planning permission, the Local Planning Authority must have good reasons to justify a decision either to not make or not confirm an Order.
- 2.40. In considering whether or not to make an order, and if no objections are received to confirm the Order, the disadvantages or likely loss to members of the public or to property owners adjoining or near the existing PRow, should be weighed against the advantages of the proposed Order. These matters are discussed in turn as follows:
- 2.41. No objections have been raised by consultees, and a public representation has been received in support of the diversion. Lincolnshire County Council Definitive Map Team have also confirmed that they have no objections to the proposed diversion.
- 2.42. The proposed diversion would result in 84m of the existing footpath being diverted to the east of its existing route. The new route would be 118m in length and would follow the boundary of the existing domestic garden. The proposed new alignment would then rejoin the existing route where it sits outside the domestic curtilage on the eastern boundary. Whilst the proposed route would result in an extension to the PRow, this would not result in a disadvantage to neighbouring dwellings, as the proposed route would be positioned within agricultural land. The proposed route would also follow the route that is currently understood to be the walked route by existing users of the PRow.
- 2.43. Views and experiential qualities for users of the PRow would inevitably be impacted by the proposed diversion, as a result in the change in views and addition of a rural, agricultural character to part of the route. However, it is considered that this would improve the experience of the route by taking users through a woodland setting.
- 2.44. The proposed diversion would not affect the useability of the PRow. Whilst it would result in a longer route, this is not considered to result in an unacceptable impact on the convenience of use; the diverted section would remain at an acceptable gradient and width, passing through an area of woodland habitat. The PRow would maintain the existing points of termination at either end of the route and would not require the crossing of any additional areas of public highway. The length of the footpath diversion is considered to be limited, and, on that basis, the proposed diversion would not result in any unacceptable impact on the convenience of use.

### Conclusions and Recommendations

- 2.45. Taking all the above into account, the proposed footpath diversion would result in some impact on the experiential quality of the existing footpath, as a consequence in the change of setting from the current definitive route. However, the proposed diversion follows the alignment that is understood to be the current walked route;

and the setting of the diverted route would be through an area of woodland, which would enhance the visual experience of the route.

- 2.46. Whilst the proposed diversion would result in a slight longer route, the PROW would retain sufficient width and would retain the same convenience of use; given the enhanced legibility of the diverted route. The extent of the footpath affected would be relatively short, and the diversion would enable the PROW to be taken outside of the established domestic curtilage.
- 2.47. Overall, it is concluded that there would be no disadvantage or loss to members of the public or nearby properties, such that the Order should not be made.
- 2.48. Therefore, it is recommended that the draft provisional Order is made and the County Planning Authority proceed to undertake the formal pre-Order consultation process.

### **3. Available Options Considered**

- 3.1 The alternative of not entering into the draft Order has been discounted. Failure to enter into the draft Order would result in the planning permission being unimplementable. This course of action would have implications for the Council's Corporate Plan, which seeks to ensure that residents have access to housing which is suitable for their needs.

### **4. Reasons for the Decision(s)**

- 4.1 Section 257 of the Town and Country Planning Act 1990 enables Local Planning Authorities to make orders to stop up or divert public rights of way if satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted.
- 4.2. The current application has been assessed in accordance with the legislation detailed above, and it is concluded that the proposed diversion would be in the public interest.
- 4.3. Therefore, it is recommended that the Assistant Director – Planning & Growth is authorised to seal the provisional draft Public Path Diversion Order to enable the County Planning Authority to proceed with the formal pre-Order consultation process.

### **5. Consultation**

- 5.1 Section 2 above details the informal consultation completed by the LPA. Further formal consultation will be undertaken following the sealing of the draft Order and as part of the formal Order Confirmation process.

## **6. Appendices**

- 6.1 Appendix 1 – Hac/3/1 Footpath Diversion Plan
- 6.2 Appendix 2 – Draft Public Path Diversion Order

Signed by: **Emma Whittaker**

Dated: **19 June 2026**