



**The Ramblers' Association
Huddersfield Group**

Secretary: Susan Genoves
Chairman: Tim Riley

27 August 2020

Re: NATTRAN/Y&H/S247/4337

Proposed diversion of public footpath Footpath 60 (part) at Wolfstones Heights Farm, Holmfirth, Metropolitan Borough of Kirklees. Town & Country Planning Act 1990, Section 247

Dear Secretary of State,

I write with regard to the proposal to make an Order to stop up part of the above public footpath and create a diversion at Wolfstones Heights Farm, near Holmfirth in the Metropolitan Borough of Kirklees.

Huddersfield Ramblers wishes to **object to the proposed Order**.

Background

On 30 January 2020 the planning sub-committee of Kirklees Council, the responsible local authority, **refused authority for an Order to be made** under Section 257 of the 1990 Act to stop up part of the footpath and create a diversion, on an identical basis, at the same site. The Council's decision, passed by 11 votes to 1, is recorded [here](#) in the minutes of its sub-committee meeting (item 12). It followed detailed representations made by footpath user groups and members of the public about the demerits of the proposed stopping up and diversion, which included a risk to public safety on the proposed diversion route to be created.

Nothing about the new proposal is different. This simply represents an attempt by the rebuffed applicant to try to achieve their desired outcome through use of a different part of the 1990 Act.

We note that it is highly unusual for matters relating to public rights of way to be considered under Section 247 of the Act. Section 257 provides the legal framework for matters relating to rights of way, and it was under this Section that an Order has already been sought – and refused.

Our reasons for objecting to the Order

Our principal reason in Huddersfield Ramblers for objecting to this proposed Order is the same as for the previous (refused) Order: **the proposed diversion would place the overwhelming majority of users of Footpath 60 at risk by forcing them to walk for 130 yards along a rural minor road with fast traffic and poor visibility, which under the existing arrangement they do not have to do.**

We know that the “overwhelming majority” of users of the Footpath would be disadvantaged in this way because of data collected by the applicant themselves in support of their previous application for an Order under Section 257!

At that time, the applicant commissioned professional surveys from a planning consultant, Noel Scanlon Consultancy Ltd, and a highways consultant, Paragon Highways, to study usage of Footpath 60 and the road onto which the path exits, Wolfstones Road, by pedestrians and (in the case of the road) motor vehicles. I have attached a copy of the reports produced by both consultants.

Sections 5.7.7 and 6.10.5.4 of Mr Scanlon's report stated that the proposed new point of exit from the diverted footpath onto Wolfstones Road would be "preferable" to the current termination point (point B on your plan) in terms of "safety". Huddersfield Ramblers cannot support this conclusion: in fact, far from backing up the applicant's position that the proposed diversion route is safer and more convenient for pedestrians, the report by Paragon Highways provides evidence to the contrary, as shown below.

When we made our initial objections to Kirklees Council to the previous application to divert this footpath in 2017, and an amended application in 2018, we in Huddersfield Ramblers stated that it was our belief that most users of Footpath 60 continue their walk from the existing exit point (point B on your plan) either by going south towards Upperthong or by crossing straight over the road to enter the land owned by Holme Valley Land Charity, to which permissive access has been granted for many generations, and thus gain the trig point at the summit of Wolfstones Height. In those earlier objections I made an educated guess that around 80% of users of Footpath 60 proceed towards, or come from, these two directions. Very few users of the footpath, I estimated, came from or were proceeding towards the north, so the number of footpath users who stood to be disadvantaged by the proposed diversion was always going to be high.

The traffic survey subsequently carried out by Paragon Highways provided irrefutable evidence in support of my original estimate. The figures in Paragon's report show:

- That, on 30/11/2017, 11 of the pedestrians arriving at point B on your plan who had used, or were intending to use, Footpath 60, had arrived there from Upperthong or the trig point on Wolfstones Height, or were proceeding thereto, compared to only 2 pedestrians who had used or intended to use Footpath 60 who had arrived from or were proceeding to the north (Moor Lane) direction;
- That, on 03/12/2017, 19 of the pedestrians arriving at point B who had used, or were intending to use, Footpath 60, had arrived there from Upperthong or the trig point on Wolfstones Height, or were proceeding thereto, compared to only 4 pedestrians who had used or intended to use Footpath 60 who had arrived from or were proceeding to the north (Moor Lane) direction;
- That, on 11/02/2019, 12 of the pedestrians arriving at point B who had used, or were intending to use, Footpath 60, had arrived there from Upperthong or the trig point on Wolfstones Height, or were proceeding thereto, compared to 0 (zero) pedestrians who had used or intended to use Footpath 60 who had arrived from or were proceeding to the north (Moor Lane) direction;
- That, on 17/03/2019, 24 of the pedestrians arriving at point B who had used, or were intending to use, Footpath 60, had arrived there from Upperthong or the trig point on Wolfstones Height, or were proceeding thereto, compared to 0 (zero) pedestrians who had used or intended to use Footpath 60 who had arrived from or were proceeding to the north (Moor Lane) direction.

Therefore, if the Paragon data is to be believed – and it seems to have been rigorously acquired – then more than **90%** of pedestrians who use Footpath 60 to arrive at Point B on your plan have the Wolfstones Height trig point or Upperthong as their destination, or have come from those places. This diversion would, the data showed, negatively affect the

overwhelming majority of users of Footpath 60, who would be **forced to walk for 130 yards along a rural minor road with fast traffic and poor visibility**.

Mr Scanlon's report, rather oddly, but perhaps understandably given the aims of his client, seemed to harp on the fact that more pedestrians walk on the road than use the footpath "in any event" (6.10.5.3). This is true, according to the Paragon survey, but is disingenuous on Mr Scanlon's part. **The intentions and destinations of pedestrians who do not plan to incorporate Footpath 60 into their route at all are immaterial in any consideration of whether the path should be diverted.** What is at issue is whether **those who are using the footpath** are disadvantaged by the proposed diversion.

In objecting to the application under Section 257, several other path user groups made comments about the architectural and historical interest of the group of buildings, and the merits or demerits of the views from either route. We note these comments. However, in Huddersfield Ramblers we believe that this issue should turn first and foremost on the **safety** of users of the path. Mr Scanlon's report states – in rather strangled syntax – that "*the visibility for pedestrians egressing the new footpath location of oncoming traffic on Wolfstones Road is considerably improved from the existing situation. Intervisibility [??] for drivers travelling along the major road of pedestrians stepping onto the carriageway or verge is also to a high standard.*"

We believe that there is no significant advantage to the proposed new exit on these grounds. From the existing exit (point B on your plan), walkers have an uninterrupted view down the road to the south (towards Upperthong) and a more restricted, but still perfectly good, view along the road to the north. From the proposed new exit, walkers have a good view down the road to the north (towards Moor Lane) and a more restricted, but still good, view to the south. It is, as they say, six of one, half a dozen of the other.

But recreational walkers, whether they are dog-walkers or committed hikers, do not like walking on public tarmac roads for longer than they need to. There are several reasons for this; a principal one is that they go walking in the countryside precisely as an escape from cars and traffic. Overriding even this, though, is the safety aspect. Drivers on rural roads do not always show the same care as they would in urban areas, and the sudden presence of pedestrians on roads usually free from people can cause drivers surprise. Dogs being walked add to the risk. It is beside the point to maintain, as Mr Scanlon does, that "the local highway network operates safely" (6.10.5.5). **Any more time spent walking along the road than is required by the current arrangement can only increase the risk to pedestrians** – and the Paragon report shows that this would apply to over 90% of the users of Footpath 60, who, as the data shows, are going to or from Upperthong or the Wolfstones Height trig point¹. To state, as Mr Scanlon does, that the effect on distance and journey time would be "neutral" (6.10.3.3) is simply fatuous – unless, that is, one belongs to the small percentage of path users heading in other directions (northwards).

In Huddersfield Ramblers we are also completely unconvinced that the physical risk to walkers from vehicles using the current route (A to B on the plan) along the drive of Wolfstones Heights Farm outweighs the risk they would face by having to walk along the public road if the diversion is approved. We note Mr Scanlon's comments about access for emergency vehicles but cannot see visits by such vehicles as being anything other than exceptional events. Of course there may be construction vehicles if the works enabled by the planning permissions begin, but they should cease when complete. As for the applicant's own use of the drive and the "potential conflict between pedestrians and vehicles" (7.7), Mr Scanlon's description of the drive's "relative awkwardness, limited manoeuvrability and

¹ At present, users emerging on Wolfstones Road at Point B who intend to proceed to Wolfstones Height trig point can cross the tarmac in seven paces. The proposed diversion will see them having to use the road for 130 yards.

visibility” (3.2) should be sufficient indication that motorists on the drive should be proceeding slowly and with caution in any case, as much out of care for themselves and their own vehicles as for any pedestrians who may be present. The drive will of course see daily use by the odd vehicle coming to and from the properties, but owing to its nature it is still a **much safer environment for walkers than a public road with bad bends and a 60 mph speed limit**. I might add that there are many, many public rights of way along access drives that are much narrower and more hazardous than this one.

Mr Scanlon’s report mentions the “necessity” test and the “merits” test – the necessity test having been, at least according to Mr Scanlon, already passed by virtue of the need to implement the proposed development in accordance with the planning permissions. On this we have nothing to say.

We urge the Secretary of State to consider the safety of users of Footpath 60 when considering whether to make an Order. The proposed stopping up and diversion of this route is against the interests of the overwhelming majority of users of the footpath because it places them at increased risk.

Yours sincerely,

Oliver Taylor
Footpaths Secretary
Huddersfield Ramblers