



Diversion of Footpath 243017, Loweswater Fell and Pottergill, Loweswater Parish

Summary

1. The landowner at Pottergill has applied to divert part of footpath 243017 onto an alternative route which has been in use for some years as a 'permitted' path. In my view this proposal satisfies the legislative grounds and tests – the diversion route is not substantially less convenient, and though a little less enjoyable in terms of historical interest, I consider the benefits to the owner, and improvements to convenience in some regards, to outweigh this.
2. In conjunction with this it appears expedient to consider diverting a longer section of this footpath over Loweswater Fell to a more convenient route in the public interest.

Recommendations that:

- a **We make a diversion order for public footpath 243017 to replace the route A-B-C-D with E-F-G-C-H-D as shown on the Plan (Annex 1); and**
- b **We confirm the order if no objections are received or if those objections are withdrawn;**
- c **If objections are received, officers will decide (in consultation with the applicant) whether to submit the Order to the Planning Inspectorate for determination, or abandon the Order.**

Background

3. Throughout this report I will refer to the section of the diversion applied for by the landowner (below the fell wall) as Section 1, and the section above the fell wall (which we are considering including in any Order in the public interest) as

Section 2. A plan showing each section is included as Annex 2 for reference. Photographs of the current footpath and proposed diversion route are included in Annex 3 (referred to below as P1, P2, P3 and so on).

4. The landowner at Pottergill has applied to divert part of footpath 243017 over their land (Section 1). The definitive line currently crosses a stream between points E and A on the Plan, close to the remains of an old farmstead, and then ascends via a stone step stile and over rough ground to the fell wall at point B. An alternative route has developed, and in recent times has been signed by the owner, which ascends from point E, crossing the stream further upslope and then to a stile at point F. Several local users have reported to us that they have used a route which utilises the definitive line from point E to point A, ascending via the stone step stile (or scrambled up the wall whilst the stile was out of repair) and then diverged from the recorded definitive line of the footpath to cross the stile at point F. It appears possible that this is the route which has always been in use historically.
5. The most commonly used continuation of this footpath across Loweswater Fell (over Low Fell and Darling Fell) differs quite substantially from the line recorded on the definitive map. There is no indication in aerial photographs that the definitive line (points B-C-D) accurately reflects the route ever mainly in use by the public, and there is presently no physical trod on the ground. The proposed route, being physically usable, is far more convenient. This is open access land, so the public are able to walk where they wish, but as we are considering a diversion of Section 1 it appears sensible to also consider a diversion of the rest of the path over the fell (Section 2). The route primarily in use by the public follows a well-established trod along the route shown on the plan F-G-C-H-D.

Policy context

Links to Vision and Management Plan

6. The Vision for the Lake District National Park sets out our aspirations for what we hope to achieve by 2030. To summarise, these are to have a landscape

which provides an irreplaceable source of inspiration, whose benefits to people and wildlife are valued and improved; a landscape whose natural and cultural resources are assets to be managed and used wisely for future generations.

7. The Management Plan contains the policies and actions for achieving the aims of the Vision. The main delivery aim in the Partnership's Plan for access and rights of way is to make the most of the landscape and nature as the backdrop for outdoor leisure experiences for all, particularly the next generation of returning visitors, from relaxing and tranquil, to adventurous and exhilarating.

Links to Business Plan

8. Our Business Plan states what actions will be taken as the National Park Authority plays its part, in partnership with others, in realising the Vision. The core Access & Recreation Action is to deliver the 'improve, maintain, promote and integrate elements' of the 'Out there' Strategy to deliver infrastructure and services which focus on serving under-represented groups (as identified by the 'Lake District for Everyone' Key Outcome Group).

Links to other strategic plans

9. The Ranger Service Plan 2026-27 contains the priorities for our service, including Contributing to World Class Visitor Experiences. This aims to achieve a programme of activity that will implement the adopted Cumbria and the Lake District Access and Recreation Strategy.
10. 'Out There' our Access and Recreation Strategy for 2023 - 2028 (approved March 2023) contains our vision for countryside access and recreation in the Lake District, which is: A well-connected network fit for purpose in the 21st Century with high quality infrastructure, facilities and services meeting the needs of all visitors and residents. We have identified four priority themes of work, and under each of these are a series of strategic actions that will

contribute to the achievement of our goal and our strategic aims. The four priority themes are:

- Improve: rights of way and countryside access.
- Manage and maintain: rights of way, countryside access and recreational activities.
- Promote and engage: connect more people to nature and the special qualities of the Lake District.
- Integrate: with health and wellbeing, sustainable transport and the economy.

11. This proposal appears to be of very minimal impact in relation to these aims. A diversion would alter the route of the footpath at Pottergill in the interest of the landowner and processing diversion applications such as these is part of effective management of the rights of way network. The current route of the footpath failed an Ease-of-Use survey in 2024 and even if we undertook regular strimming of the bracken on the definitive line and a gate or stile was added over the wall at point B it would likely fail any future survey due to the rough surface and extremely steep gradients over the fell. Although the proposed diversion route still has challenging gradients and surface conditions in places, it is fully passable for its expected user (fell walkers), and would likely pass an Ease of Use survey.
12. Our charging policy was agreed at Authority in August 2006, and the actual charges updated regularly since then.
13. Factors to take into account when determining changes to the network were agreed at Park Management Committee in May 1997 ("Changing the Rights of Way Network: Statement of Policy"), and are listed at Annex 4.

Options

14. The following options are possible:
 - a) Make the recommended Diversion Order
 - b) Make a Diversion Order for only part of the proposed route – either Section 1 (in the landowner's interest) or Section 2 (primarily in the public interest)
 - c) Do not make an Order

Proposals

15. I recommend option 14a for the reasons set out in the discussion section below. The proposed diversion in my view meets the legislative tests set out under Section 119 of the Highways Act (1980).

Discussion

Likelihood of Objection

16. We have received some comments regarding this proposal which indicate objections may be received if an Order is made (see Stakeholder Consultation section below for summaries and Annex 5 for full responses). Responses received from members of the public have been anonymised and numbered 1–5. A couple of the responses (Loweswater Parish Council and member of the public 4) mention that they see no real need for the diversion – the reasons why I consider the proposals to be in the landowners' and public's interest are discussed in paragraphs 22-27.
17. Several consultees (members of the public 1, 2, 4 and 5) have referred to the previous actions of the owner discouraging or obstructing access to the current footpath at Pottergill, or concerns about their intentions for the building remains, these points do not appear relevant to the current decision. Previous obstructions / misleading signage must be considered to be 'temporary circumstances' affecting use of the path, and are not relevant to our comparison of the proposed diversion route with the current footpath. If a diversion did not proceed we would need to ensure that obstructions are removed. Any future development on the footprint of the building remains would be subject to obtaining any necessary planning permission.

18. Further points made (primarily by member of the public 1) which relate to the relative convenience and enjoyment of the current and proposed routes are discussed below in relation to the relevant 'tests' (paragraphs 30-43).

Grounds and Tests for Diversion

19. The grounds and tests for a diversion are different at the making and confirmation stage. However, as we have discretion as to whether to make an order in the first place, it would be unwise to ignore something that could prevent an order from being confirmed. Therefore, the issue should be considered in the whole, and the factors to take into account are set out and discussed below. These factors incorporate our own policies on changes to the rights of way network which are set out in Annex 4.
20. For several of the grounds / tests below I will discuss Sections 1 and 2 of the proposal separately as they are quite distinct proposals.
21. There are only two grounds for a diversion of a right of way (section 119, Highways Act 1980), namely where it appears to the Authority that it is expedient to do so:
- a. in the interests of the owner, lessee or occupier of the land crossed by the path; OR
 - b. in the interests of the public

Section 1

22. I consider that the Section 1 diversion is expedient in the interests of the landowner - they have highlighted in their application their view that the existence of the 'permitted' route and the footpath creates a burden for them, in effect having to consider two public routes in their plans for the land. Before applying they stated, *'In any event, having allowed a permissive path to remain I do not want the additional burden of having to maintain in any way the legal footpath and accordingly, I view this as beneficial in sorting out the footpaths across my land, both permissive and legal'*. They also maintain a stone stile at point A which they would no longer need to do if the path were diverted.

23. The applicant states they have no specific plans for the building remains at this time – however it appears that having the footpath at a greater distance from these would be in their interest if they were in future to undertake any development here (subject to any necessary planning permission).

Section 2

24. The Section 2 diversion would, in my view, be in the interest of the public. This section is wholly over open access land, so the public could still use the current footpath route if they choose, but having the main usable trod shown on maps, waymarked if necessary, and the surface maintained if issues arise, would be beneficial in terms of navigation and ease of use.
25. With the advent of mapping apps and navigation by GPS, the line drawn on the map over the fell bearing no relation to a path on the ground is more likely to lead walkers into difficulty. This diversion would alter the recorded footpath so it followed a usable route, more aligned with the expectations of modern users.
26. Although our general policy is to avoid waymarking in the fells to avoid visual clutter, I would agree with the Local Access Forum's suggestion (Annex 5) that a waymark at point G may be appropriate as it could be installed on the existing stile within the fenceline, and may be particularly valuable to walkers (if a diversion proceeds) in the years shortly after the legal change until most mapping is updated. A waymark would also be installed on the stile at point F.
27. This section of the diversion proposal would also be in the interest of the owner of the land above the fell wall (between points F and G, and points B to C) – they would prefer that the majority of walkers use this route to minimise any erosion or ecological impacts on their land, which they are managing with the aim of benefitting conservation / nature, so having this shown on maps (and waymarked where appropriate) would have some benefit to them. The other two landowners over whose land the routes pass have confirmed they would have no objection to the proposed diversion.

Tests to be Considered

28. These are:

- Will the new path be substantially less convenient to the public?
- The effect which the diversion would have on public enjoyment of the path or way as a whole;
- The effect the order would have as respects other land served by the existing right of way;
- The effect of the new right of way on land over which the new path is created;
- That termination of the alternative footpath is on the same or a connected highway, and is substantially as convenient to the public.

Will the new path be substantially less convenient to the public?

29. Planning Inspectorate Advice Note 9, commenting on the case of *Young* identifies that the new route should not be substantially less convenient to the public in terms of, for example, features which readily fall within the natural and ordinary meaning of the word 'convenient' such as the length of the diverted path, the difficulty of walking it, and its purpose.

Section 1

30. Taking these considerations into account I do not think the Section 1 diversion will be substantially less convenient to the public. The proposed diversion route between points E and F is slightly shorter (approximately 120 metres) than the current footpath between points E-A-B (approximately 135 metres). They both feature similarly steep gradients up to the fell wall.
31. At point A on the current footpath there is a (recently repaired) stone step stile in the retaining wall (P3), the majority of walkers ascending or descending Low Fell are likely to be fine with using a stone step stile – but this may be somewhat less convenient, or cause trepidation, for some users.
32. There are obstructions on the definitive line – it is largely covered by bracken and other vegetation between points A and B and there is no means of crossing the fell wall at point B. We have not been able to find any evidence

that there was ever a stile or gate at point B. From aerial photographs it appears there has been a stile at point F, and no trod on the definitive line, since at least 1995. However, for the purposes of the diversion proposal these are more in the realm of 'temporary' obstructions, in that if a diversion does not proceed we would need to seek to address these or consider whether there was sufficient evidence to support a Definitive Map Modification Order.

33. The proposed diversion route is steep, with a well-established trod which during our visit was loose and muddy in places where heading more directly up / down the slope. However, if the definitive line were being regularly used it may be expected to be of a similar nature, given its similar gradient / topography.
34. As noted above, the responses we've received from the public make it clear that a route between points A and F has been used regularly in the past, and it's possible that this has always been the route actually in use, rather than the recorded line of the footpath. Again, the proposed diversion route appears similar in gradient and topography – and therefore I do not consider the proposed diversion route to be substantially less convenient than this either.
35. Member of the public 1 has highlighted that the current footpath crosses the stream (between points E-A) where the path is flatter and wider, whereas the stream crossing on the diversion route is narrower and on a slope. However, neither stream crossing is particularly deep or broad (photos below) – and I do not think the crossing on the diversion route would present a significant difficulty to any path user who was going to be tackling the continuation of this footpath. The majority of users could be expected to either completely step over the stream on the diversion route, or be shod with footwear which they were comfortable stepping through shallow fords in.

Stream crossing on the current footpath (near point A) -



Stream crossing on the proposed route (between points E and F) -



36. Member of the public 1 also raised a concern that the stream crossing here may become muddy, this was not evident during our site visit – as mentioned above the beck is narrow enough that most users could step over it. The surface here also appears quite stony and I do not envisage significant issues unless the channel were to widen. If surface issues did develop in future these would become our responsibility to resolve – adding a wath or culvert could be relatively straightforward solutions.

Section 2

37. Section 2 passes over Low Fell and Darling Fell to the unclassified road near Miresyke. The proposed route is longer (approximately 2,220m instead of

1,780m) but this additional distance is outweighed by the fact that it is far easier to use - the definitive line crosses extremely steep slopes (so steep on the descent from Darling Fell to point D that our Ranger and myself were unwilling in the snowy weather conditions to attempt to walk it – see Annex 3, P29-31). The proposed route also features steep slopes, but the trod used by the majority of the public is at least fully walkable.

38. In addition to its steep slopes, much of the current recorded footpath is very hard going, crossing rough ground with vegetation (bracken, bilberry and heather) and scree (particularly on the eastern slopes of Low Fell and western slopes of Darling Fell where the footpath is at its steepest). It would take a large amount of work to create similar underfoot conditions to those found on the proposed route, and even then the steeper slopes make it less convenient (and at times perilous). There are some sections of the definitive line which would be completely illogical for the public to use as part of a walk, and no realistic prospect of encouraging the public to use it. It appears likely that the line drawn on the definitive map was somewhat indicative and does not translate well to the standards of accuracy most users now expect. I note for example the feedback we received from the Local Access Forum, who observed the vagaries of where the footpath is recorded here leading to navigational difficulties for two groups of users (and in one of these cases an argument).
39. Both routes cross a stile (the current footpath at point C, the proposed route at point G) and near point C they converge to cross the ford over Crabtree Beck. I would not anticipate either of these features to cause particular issues for the expected user. As noted by the Open Spaces Society in their consultation response replacing the existing stiles with gates would further improve accessibility– if a diversion proceeds we will continue to discuss this possibility with the relevant landowner, in our conversations thus far they have highlighted the importance to them of ensuring this boundary remains stock proof and indicated a preference to retain stiles.
40. During our initial site visit we identified the issues caused by a muddy / boggy section above point F on the proposed route, this was also highlighted in the

comments we received from members of the public 1 and 4. We have discussed with the owner here installing some stepping stones through this section to aid walkers and these works would be undertaken before the Order were confirmed. The stile at point F is also in poor condition and would require replacement prior to confirmation. These minor works would further improve the proposed route in comparison with the definitive line.

What is the effect of the diversion on public enjoyment of the path or way as a whole?

Section 1

41. The Section 1 diversion would in my view have a minor negative impact on enjoyment. At point A users can observe the remains of a farmstead which is reputed to have housed unmarried pregnant women for a time (see pages 7 – 12 of the November 2020 edition of the Lorton & Derwent Fells Local History Society's publication 'Wanderer', and 'Life in Old Loweswater' by Roz Southey), and then appears to have fallen into disuse in the late nineteenth Century, and so may be of historic interest for some users. These remains have now been reduced to little more than very low walls and so are of far less visual interest than they once may have been. They are not recorded on the Historic Environment Record. Given how little of them is left it appears difficult to ascribe a great deal of weight to the value of these to public enjoyment. Member of the public 1 also highlighted that the nearby retaining wall and thrutches (through stones forming a stone step stile) have recently been restored and may also be of interest for walkers as vernacular features. The stream crossing between points E-A runs through a stone water trough feature which will be of interest for some users – this can still be viewed from the proposed diversion route, though not as closely (see P1).
42. One further aspect of being able to reach point A is that there is an opening in the trees here which offers excellent views out to Crummock Water and the surrounding fells (see P4). Very similar views are possible from either route once above the fell wall (P18 and P38), but only making some ascent, so there is a loss of enjoyment to the public in terms of ease of access to this view – currently a walker could potentially head along the footpath through

Foulsyke Wood just as far as point A to take in the view. However, the majority of walkers using this path appear to continue up the fell, suggesting the impact in terms of loss of the view from point A is not so significant.

Section 2

43. On Section 2 both routes offer excellent and extensive views with little to choose between them. A long section of the proposed route does follow alongside the fenceline. For some walkers this might present more of a feeling of being hemmed in, particularly where they are ascending or descending steeply alongside. However, the recorded footpath in my view has a more significant failing in simply being so steep and rough in places, and difficult to navigate, that this is likely to affect the enjoyment of any walker attempting to stick to the definitive line, as highlighted in the Local Access Forum's consultation response.

Would the order affect other land served by the existing right of way?

44. In my assessment the proposed diversion would have no effect on other land served by the existing right of way.

Is there any effect of the new right of way on land over which it is created?

45. The proposed diversion route is already physically present as a well-established trod and is the most frequently walked east-west route over Loweswater Fell. Consequently, there would be no significant effect of the proposed diversion on the land it would be created over or its use. The only minor surface work proposed is to add some stepping stones through the muddy section close to point F. The landowner here is supportive of this as it should reduce erosion / run-off. Both routes under discussion are within the land owned by the same four owners, none of whom have raised issues with the proposed diversion. There would not appear to be any effect on the use of the land or on any private rights.

Is the termination of the alternative footpath on the same or a connected highway, and is it as substantially as convenient to the public?

46. No change to the termination points of the footpath are proposed as part of this diversion.

Other Considerations Required by Legislation

47. Before confirming a Public Path Creation or Diversion Order we are required to have regard to any material provision of a Rights of Way Improvement Plan (RoWIP). No RoWIP formally exists now for Cumberland, so we are effectively considering our own 'Out There' Access & Recreation Strategy to be the LDNPA's RoW improvement plan.
48. The proposals meet the general aims within the Access & Recreation Strategy (as discussed in the Policy section earlier), most identifiably the making of orders to reflect match current demand/usage and to suit modern needs (page 12 of the Strategy) as discussed in paragraph 25.
49. The current recorded footpath line appears to have essentially just recorded that there was a right of way across Loweswater Fell somewhere. This footpath was added to the Definitive Map as a result of a public inquiry, having been claimed by Friends of the Lake District during the 1976 review process. It appears possible that because this path did not go through the same stages of public scrutiny which most newly recorded PRow did when added to the Definitive Map (draft and provisional maps usually being made available to the public to comment on), the recorded line ended up being drawn with a more 'indicative' level of precision.
50. Limited Mobility - We have a duty to audit the proposals with regard to limited mobility. This footpath is not suitable for users with mobility equipment or with significant mobility issues, due to their gradients / surface both routes under discussion are challenging for all users, with the definitive line being virtually un-walkable in places / certain conditions.
51. Impact on the needs of agriculture and forestry - assessment required under schedule 6, of the Countryside & Rights of Way Act 2000. The proposed

diversion route is already well used and therefore there will be no further additional impact on the agricultural / forestry use of the land from making it a public right of way.

52. We consider landscape impact, biodiversity and archaeological interests and have to conserve biodiversity under the Natural Environment and Rural Communities Act 2006. And under section 11 of the Countryside Act 1968 we have to have regard to the conservation of flora, fauna, and geological and physiographical features and the amenity of the countryside. Between points F and G the proposed route passes close to an earthen enclosure recorded on the Historic Environment Record, but the trod here is well defined and it does not appear likely that it would widen or diverge enough that users would walk over this feature. Our Historic Environment Advisor was included in our consultation and raised no concerns regarding this.
53. As mentioned in paragraph 27, the owner of the land over which the current footpath passes from point B to point C, and the proposed route between points F and G, is managing their land with the aim of ecological / conservation benefit and is supportive of the diversion over this section as it would benefit their management of the land if the majority of users continued to follow the proposed route. There has been recent tree planting in the vicinity of the definitive line, the proposed diversion would avoid any likelihood that these became an obstruction and required removal.
54. Impacts on Outstanding Universal Values (OUVs) – In my view this diversion proposal would have a very minimal impact on the OUVs of the Lake District World Heritage Site – for the most part the proposed diversion route would not affect opportunities to enjoy the special features of the locale. The only factor I can identify relating to this are those I have mentioned in relation to public enjoyment of the historic / vernacular features near point A at Pottergill (paragraphs 41-42).

Stakeholder consultation

55. We have consulted our usual consultees, including Cumberland Council (the Highway Authority), the parish council, relevant user bodies, interested

parties, utility companies – along with others whom have requested to be consulted.

56. The responses received are included in Annex 5. I have summarised what I believe are the main relevant points made below:

Local Access Forum

- Support proposed diversion. Current route is steep, rough, mostly invisible and causes unnecessary navigation challenges, on visit assisted two confused groups.
- Proposed route follows well trodden path. Section 1 section is clear to follow. Section 2 becomes very steep but still preferable to the definitive line. Suggest this may become eroded or widen over time.
- Suggest stepping stones at Crabtree Beck and waymark at point G.

Loweswater Parish Council

- Felt there was no need to change the footpath as it is over open access land (however, I noted in response that Section 1 is not over open access land).

Member of the public 1

- Strongly object to Section 1 diversion proposal for the following reasons, *‘interest of the thrutches, historic interest of Pottergill wall and potential mud issues and also the fact that the landowner has tried to deter access along the PRow in a number of different ways’*.
- State that they would accept option of crossing the stream between points E-A, ascending via the stone stile from point A to point F – this is the route they have used as the definitive line is obstructed
- Wary about owner’s reasons for seeking diversion. Notes that the owner previously reduced the buildings, which were of historical interest, to the very little which now remains.
- Highlight historic / vernacular interest of the restored retaining wall and stone stile.

- Note muddy area above the stile at point F, *'It is a mud wallow, with nothing to hold onto, steep sides on one side, barbed wire fence on the other, thick mud at the base'*. State that the stream crossing between points E-A is, *'far less muddy and less likely to become so as there is gravel underfoot, washed down by the stream and a rock face above the crossing'*.

Member of the public 2

- Agreed that the proposed route corresponds with the route now in use by walkers, but highlights that this is due to the owner's actions in discouraging / preventing use of the current footpath via point A.
- Agree that the proposed diversion is no less convenient than the current footpath, but deplore the unauthorised actions undertaken by the owner.

Member of the public 3

- Not a regular walker of this footpath, but state the route was changed a few years ago.

Member of the public 4

- Noted changes to the routes used in the area over the years which are likely to have increased use of footpath 243017. Nature of the footpath at Pottergill has changed because of felling.
- State that the current footpath line, *'seems perfectly adequate – why would they create all that crossing back and forth when there's a straight path from Pottergill to the fell?'*
- Mentions a suggestion that the new landowner doesn't want people coming as close to Pottergill, though notes there are no longer any buildings.
- Believe the footpath crosses the stile at point F and mentions nearby muddy patch.

Member of the public 5

- Supportive of a change to the footpath to align the legal line with the route on the ground.
- Confirms the route which has also previously been in use by the public via point A then to the stile at point F.
- Mentions concern that the owner wants the path re-aligned in order to re-develop the farm buildings and that there is local concern about their intentions, but acknowledges this is a planning matter.
- States that the proposed route at the Darling Fell end has been the main used path for at least 25 years.

Open Spaces Society

- No objection in principle, note the difficulty of the terrain and that following the definitive line of the whole route was all but impossible.
- Would like stiles on the proposed route to be replaced with gates and remedial works carried out where there are surface issues.

Demonstrating best value

Work Programme and Relevance to This Case:

57. This proposal has come about through an application made by the landowner. Although making diversion orders is not a statutory duty (it is possible 'Right to Apply' regulations will come into effect in future), our processes are designed to deal with applications in as timely a fashion as possible, doing so is part of effective management of the public rights of way network. The discrepancy between the definitive and used routes here has been known since at least c.2002 when it was logged on our system as part of a survey of rights of way alignment issues within the National Park – a diversion order would present the opportunity to efficiently resolve this.
58. **Challenged** – The **challenge** is for us to achieve our policies without significant financial or staff implications. Although stimulated by an application from a landowner, we are combining this with a change we consider beneficial

to the public which would also resolve a long-standing alignment issue – thereby making the whole process more efficient.

59. **Compared** – We have **compared** our casework completion rates with other authorities, and our rate of processing these sorts of orders is roughly comparable. The diversion will align the definitive map with the route now predominantly in use on the ground above the fell wall and as discussed in paragraph 11 is likely to improve our ‘ease-of-use’ performance indicator if the path is selected for survey in the future.
60. **Consulted** – We have **consulted** user bodies, the Local Access Forum, and other interested parties as part of the process, their responses and our comments are included in Annex 5.
61. **Compete** – Processing public path orders is not a **competitive** procedure. Cumberland Council can also process orders, but we are more closely connected with the day-to-day management of the network under our agency agreement with the Council and so can act more effectively.

Finance considerations

62. The staff and administrative costs for a standard diversion are £3,150, and two adverts in the West Cumberland Times & Star, costing around £400+VAT each. The proposal has been instigated in the landowner’s interest, but there appears an opportunity to include an additional section in the public interest (albeit a diversion on open access land which would not generally have been a high priority), so it appears reasonable to split the staff and administrative costs evenly, with the owner also meeting the advertising costs. Works to replace the stile at point F and minor surface works to address the muddy patch near point F appear logical to improve the diversion route if an order proceeds. The Authority appears best placed to undertake these works and meet these costs.

Risk

63. As with all Public Path Orders there is a risk that the proposed order may be objected to, in which case we may need to discuss further with the applicant whether they wished us to abandon the order due to the potential further costs, or submit it to the Secretary of State for determination. As already discussed there has been a mixture of responses to this proposal. One of the responses received has expressed clear opposition to the diversion, so there is a possibility that an objection will be received if an order is made. The points relevant to the tests are considered in the Discussion section – in my view these are satisfied.

Legal considerations

64. The order will be made under section 119 of the Highways Act 1980 and we are able to make orders under this section by virtue of schedule 9, paragraph 11 of the Environment Act 1995. The modification element will be made under section 53A(2) of the Wildlife & Countryside Act 1981, and we have powers to do such orders through our Agency Agreement with Cumberland Council.

Human resources

65. The work involved with an average Public Path Order is approximately 60 hours from members of the Ranger teams, one hour from the GIS Officer, and one hour from a member of Legal Services. This proposal has involved more work than usual due to the time spent on consultation and preparing the case for Committee. The work involved is all part of our day-to-day duties, and much of it has already been undertaken. If an order is made and objected to (and not abandoned), the case would need to be submitted to the Planning Inspectorate for determination. This would involve a significant amount of additional work in terms of Rights of Way Officer time.

Diversity implications

66. I have not identified any significant diversity implications. As noted in paragraph 50, the proposed route is somewhat easier to use.

Sustainability

67. I have not identified any significant environmental, economic or social effects which would result from this proposal. As discussed (paragraphs 27 and 53) the land above the fell wall over Low Fell is being managed for conservation benefits and the landowner here would prefer that most walkers utilise the established route in terms of preventing ecological damage.

Background papers	Case file reference: 1412.243.005
Author / Post	Will Hinchliffe, Rights of Way Officer
Responsible Director	Stephen Ratcliffe, Sustainable Development
Date written	23 June 2026

Annex 4: Our Policies on Changes to the Public Path Network

Policies on changing the public path network have been developed and approved by the Authority. These are listed below, and reference is made to them, where appropriate, in the discussion part of the paper.

- There will be a presumption in favour of preserving the historical integrity of the network.
- The concerns of those managing land, especially for agriculture and forestry, will be recognised where legitimate operations may affect the public's enjoyment of or safety in using a public right of way. Under schedule 6 of the Countryside & Rights of Way Act 2000, we also have to look at the impact of all changes on agriculture and forestry.
- There will be a presumption against re-alignment of cross-field paths onto routes following field edge boundaries.
- There will be a presumption against any reduction in the amount of public access in the National Park.
- Where the route in use at present differs from the definitive line, there will be a presumption in favour of restoring the original route before considering a legal diversion.
- The future maintenance and management implications of any proposed change to the network will be considered.
- Changes should, if possible enhance public benefit through enabling the better enjoyment of the cultural landscape and nature conservation interest and should not reduce the ability of the public to discover any of the special qualities / features of the National Park.

The following Annexes are attached as separate documents:

Annex 1: Proposed order plan

Annex 2: Proposed order plan with sections

Annex 3: Photographs of the definitive line and proposed diversion route

Annex 5: Stakeholder Consultation Responses