

BARNSELY METROPOLITAN BOROUGH COUNCIL

**Report of Assistant Director,
Highways, Engineering and
Transportation to Planning
Regulatory Board on
27th October 2015**

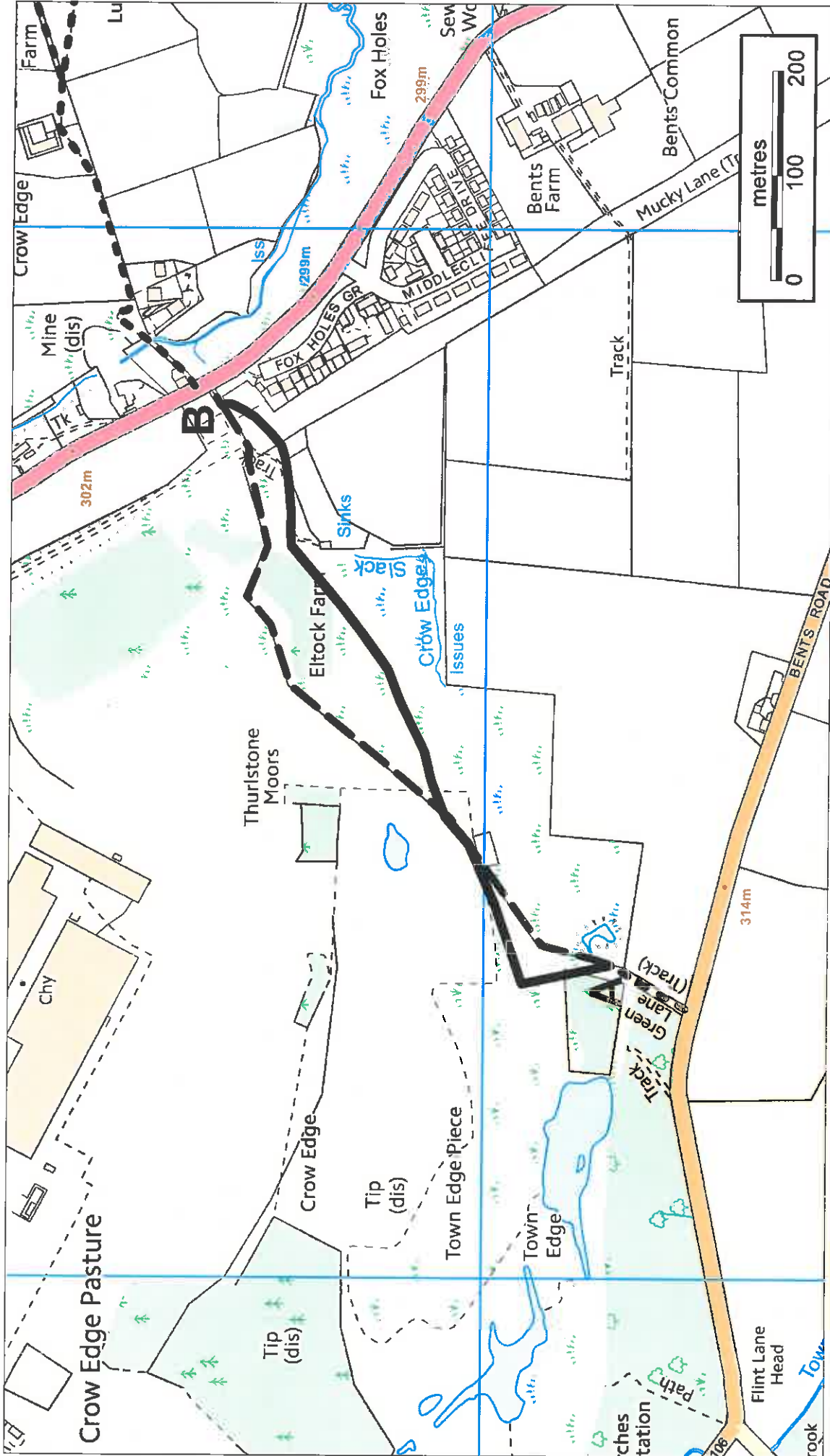
Diversion of a public footpath at Crow Edge.

1.0	<u>Purpose of Report</u>
1.1	To consider an application to divert a section of Dunford public footpath no. 3 between the A616 and Bents Road at Crow Edge.
2.0	<u>Recommendations</u>
2.1	That, in exercise of statutory powers, the Council makes a Public Path Order under the provisions of section 119 of the Highways Act 1980 for the diversion of Dunford footpath no. 3 as shown on the plan attached to this report.
2.2	That the Director of Legal and Governance be authorised to publish the Order and to confirm it himself in the event of there being no objections thereto.
2.3	In the event objections are received which cannot be resolved, the Director of Legal and Governance be authorised to submit the Order to the Secretary of State for confirmation and to take all necessary steps to support the Order at any public inquiry, informal hearing or written representation as necessary
2.4	That the Director of Legal and Governance be authorised to make a Definitive Map Modification Order to make the necessary changes to the Definitive Map and Statement for the area.
3.0	<u>Background and Proposal</u>
3.1	Dunford public footpath no. 3 runs through the Hazlehead wind farm site to the south west of Crow Edge, which is managed by Banks Renewables. During consideration of restoration proposals for the site in 2015 it became apparent that the legally recorded alignment of the path does not match the alignment that is physically available and used by the public on site.
3.2	In 2000, Banks erected fencing alongside the walked route in order to restrict access onto the rest of the site during works. This fencing blocks

	the legal line of the path but does not appear to have been questioned at the time, indicating that the public were already using the informal route. Aerial photographs dated 2002 appear to confirm this, showing a worn line on the informal route but no signs of use on the legal line.
3.3	A site visit in summer 2015 confirmed that reinstatement of the legal alignment of the path would require significant cost and habitat disturbance.
3.4	Therefore Banks have applied to the Council to make a public path order to divert the footpath which, if confirmed, will stop up the recorded legal line of the path and formally recognise the walked route as a public footpath.
3.5	Informal consultations have been carried out with user groups, ward councillors and utilities companies, and consultation notices have been placed on site. No negative comments have been received.
4.0	<u>Statutory Criteria</u>
4.1	Section 119 of the Highways Act 1980 enables a path to be diverted where it is considered expedient to do so in the interests of the owner, lessee or occupier of the land crossed by the path or in the interests of the public. Before confirming such an order the Secretary of State or the Council, as the case may be, must be satisfied that the diversion is expedient and that the path or way 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 – <ul style="list-style-type: none"> (i) the diversion would have on public enjoyment of the path or way as a whole, (ii) the coming into operation of the order would have as respects other land served by the existing public right of way, and (iii) 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.
4.2	The Council also has to have regard to the likely impact of the diversion on agriculture, forestry and biodiversity
4.3	The diversion is considered to be in the interests of both the land owner and the public as it would resolve the current differences between the legal record and the path available on site by formalising the status of the walked path and removing the disused route from the definitive map and statement.
4.4	The diversion is not considered to have any negative impact on the public as it recognises a path that is already in use and stops up an inaccessible

	alternative alignment. The path to be added to the definitive map starts and finishes at the same points as the original path, is approximately the same length (the new route is marginally shorter) and has a defined alignment, width and improved surface. Furthermore, although the legal alignment has not been available for public use for at least 15 years, the Council has no record of any complaints during that time, which suggests the public's preference for the diversion route.
5.0	<u>Options</u>
5.1	The Council makes the order applied for. Officers are satisfied that the necessary statutory criteria are met and that the proposed alternative route is the best available. There have been no objections to the proposals during the informal consultation process.
5.2	The Council could decline to make the orders applied for, but as the relevant statutory criteria have been satisfied, it is not considered reasonable to do so.
6.0	<u>Local Area Implications</u>
6.1	There are no implications for the local area beyond a minor change to the rights of way network.
7.0	<u>Compatibility with European Convention on Human Rights</u>
7.1	This proposal is considered to be compatible with the Convention.
8.0	<u>Ensuring Social Inclusion</u>
8.1	The proposal will have no negative impact on social inclusion. The new path will have gradients, surfaces and widths that are similar to or more accessible than the existing footpath.
9.0	<u>Reduction of Crime and Disorder</u>
9.1	The proposal is not considered to have any effect on crime and disorder. In response to consultations, South Yorkshire Police's Crime Prevention Officer raised no objections or comments.
10.0	<u>Financial Implications</u>
10.1	If the Order is made and objections are received there will be additional costs to the Council that cannot be passed on to the applicant. This is especially the case if the matter has to be resolved at a public inquiry. However, no adverse comments have been received to the informal consultations for the application, so it is considered unlikely that this will be necessary.

11.0	<u>Risk Assessment</u>
11.1	The Council has powers under the Highways Act 1980 to make the order applied for. The statutory process provides an opportunity for objections which, if upheld, may result in the order not being confirmed by the Secretary of State. However, as the application fulfils the relevant criteria and has received no objections during informal consultations, the risk is likely to be low.
12.0	<u>Consultations</u>
12.1	User groups (including the Barnsley Local Access Forum), ward councillors, other Council departments and utilities companies have been consulted on the application. No objections or negative comments have been received.
13.0	<u>Proposal</u>
13.1	Councillors approve the recommendations in section 2.
14.0	<u>Glossary</u>
15.0	<u>Appendices</u> Appendix A – Plan showing proposed diversion.
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	Date: 27 October 2015



- Footpath to be created
- Footpath to be deleted
- Unaffected rights of way

Proposed diversion of Dunford public footpath no. 3 at Crow Edge	
Drawn by BMBC	Scale 1 : 5000
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