

Report

Report to:	Planning Committee
Date of Meeting:	1 December 2020
Report by:	Executive Director (Community and Enterprise Resources)

Subject:	Public Path Diversion Order - Huntfield House (Quothquan), to Hillridge Farm (Biggar) Right of Way No. SL100
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1. Purpose of Report

1.1 The purpose of the report is to:-

- ◆ Seek approval to promote a Public Path Diversion Order under the provisions of Section 35 of the Countryside (Scotland) Act 1967, in relation to diverting part of the Hillridge Farm (Biggar) to Huntfield House (Quothquan) Right of Way No. SL100, as shown on the attached plan
- ◆ Seek approval to confirm the Order should no objections be received, or, if objections are received which are not withdrawn or resolved, to refer it to the Scottish Ministers for determination.

2. Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) That approval be given to promote a Public Path Diversion Order under Section 35 of the Countryside (Scotland) Act 1967 in relation to diverting part of the Huntfield House (Quothquan) to Hillridge Farm (Biggar) Right of Way, as shown on the attached plan.
- (2) That approval be given to confirm the Order should no objections be received.
- (3) That approval be given to refer the Public Path Diversion Order to the Scottish Ministers for confirmation in accordance with Schedule 3 of the Countryside (Scotland) Act 1967, should objections be received which are not withdrawn or resolved.
- (4) That the landowner shall meet all of the Council's expenses relating to the promotion and confirmation of the Order and, if necessary, the referral of the Order to Scottish Ministers.

3. Background

- 3.1 The proposed Public Path Diversion Order relates to the Huntfield Right of Way (Reference SL100), which runs from Huntfield House (which is located approximately 1.7km to the east of Quothquan), to Hillridge Farm, Biggar.
- 3.2 The current route runs through the curtilage and is immediately adjacent to the front door entrance of Huntfield House which is a dwellinghouse. It then heads uphill

through moorland and an area of new woodland planting, before heading over fields to Hillridge Farm (see Plan 1). The owners of Huntfield House have approached the Council to seek discussion about the use of the route. This followed a number of incidents which may, in-part, be attributed to increased use of the route as a consequence of COVID and the general increase in outdoor activity during restrictions. Several meetings have been held with the landowner to look at possible options to address concerns, including diverting the route away from the residential property. The owners do not dispute the status of the path as a Right of Way.

- 3.3 The proposed diversion is shown on Plan 1 and would involve the new route being diverted away from Huntfield House, starting at a point some 0.75km to west of it, opposite the Shieldhill Hotel. This would bring it closer to Quothquan than at present. It would then be routed south-east through a woodland shelterbelt, parallel to the existing route and up over moorland, skirting the edge of the forestry before re-joining the existing right of way.
- 3.4 The proposed diversion would require some work to bring it up to an acceptable standard. This includes the installation of right of way posts, clearing windblown trees, the provision of some gates and the construction of a 20m section of unsurfaced path to link to an existing forest track. The landowner has confirmed agreement to carry out these works at their expense. All of the land is within their ownership and no third party interests are affected by the proposal.
- 3.5 Section 35 of the Countryside (Scotland) Act 1967 indicates that: "Where an owner, tenant or occupier of land crossed by a public path satisfies the planning authority that for securing the efficient use of the land...or providing a shorter or more convenient path across his land, it is expedient that the line of the path...should be diverted...the authority may by order: (a) create...any such new public path as appears to the authority requisite for effecting the diversion, and (b) extinguish...the right of way over so much of the path as appears to the authority requisite as aforesaid".
- 3.6 The main beneficiary of the proposed diversion order is the landowner who would enjoy increased privacy and reduced potential for conflict with walkers passing close to their house. Whilst this is not in itself a justification for the Order, it is a consideration. In addition, the benefit to the local community of Quothquan is that the diverted route would provide more direct access from the village to the right of way and would require less road walking. It would also provide direct access to the right of way from guests staying at the Shieldhill Hotel who may wish to enjoy the local countryside. It should be noted that the process of promoting the Order includes the posting of site notices and placing an advertisement in the local press to allow third parties to make representations.
- 3.7 Confirmation of such an Order would also provide a higher degree of legal protection to the route than at present as it will result in it becoming a vindicated Right of Way rather than a Claimed Right of Way. Thereafter, the route can be registered as such in the Land Register of Scotland.
- 3.8 In conclusion, it is considered that the proposed Public Path Diversion Order would provide a more convenient path across the owner's land. The proposed route will be of a similar standard to that which currently exists and the diversion of the existing right of way will not negatively impact on users and will provide an appropriate alternative to the current route.

4. Next Steps

- 4.1 If the Committee agrees to promote the Order, Legal Services will carry out the statutory process including serving the relevant notices and carrying out advertisement in the local press. If no representations are received, the Order can be confirmed without referral to Scottish Ministers. However, if representations are received which are not resolved or withdrawn, the Order will require to be referred to the Scottish Ministers before it can be confirmed who may hold a public hearing or enquiry. Authorisation is, therefore, also sought to refer the Order to the Scottish Ministers if required.

5. Employee Implications

- 5.1 There are no employee implications. Any work undertaken in connection with the consultation can be met from existing resources.

6. Financial Implications

- 6.1 There are no budgetary implications. The administration associated with promoting the Order will be met from existing resources. The costs associated with physical works on the ground will be met by the landowner.

7. Climate Change, Sustainability and Environmental Implications

- 7.1. There are no implications for climate change, sustainability or the environment in terms of this proposal.

8. Other Implications

- 8.1 There are no other implications.

9. Equality Impact Assessment and Consultation Arrangements

- 9.1 This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy and, therefore, no impact assessment is required.

Michael McGlynn

Executive Director (Community and Enterprise Resources)

11 November 2020

Link(s) to Council Values/Ambitions/Objectives

- ◆ Make communities safer, stronger and sustainable
- ◆ Promote economic growth and tackle disadvantage
- ◆ Focused on people and their needs

Previous References

- ◆ None

List of Background Papers

- ◆ Countryside (Scotland) Act 1967
- ◆ Catalogue of Rights of Way

Contact for Further Information

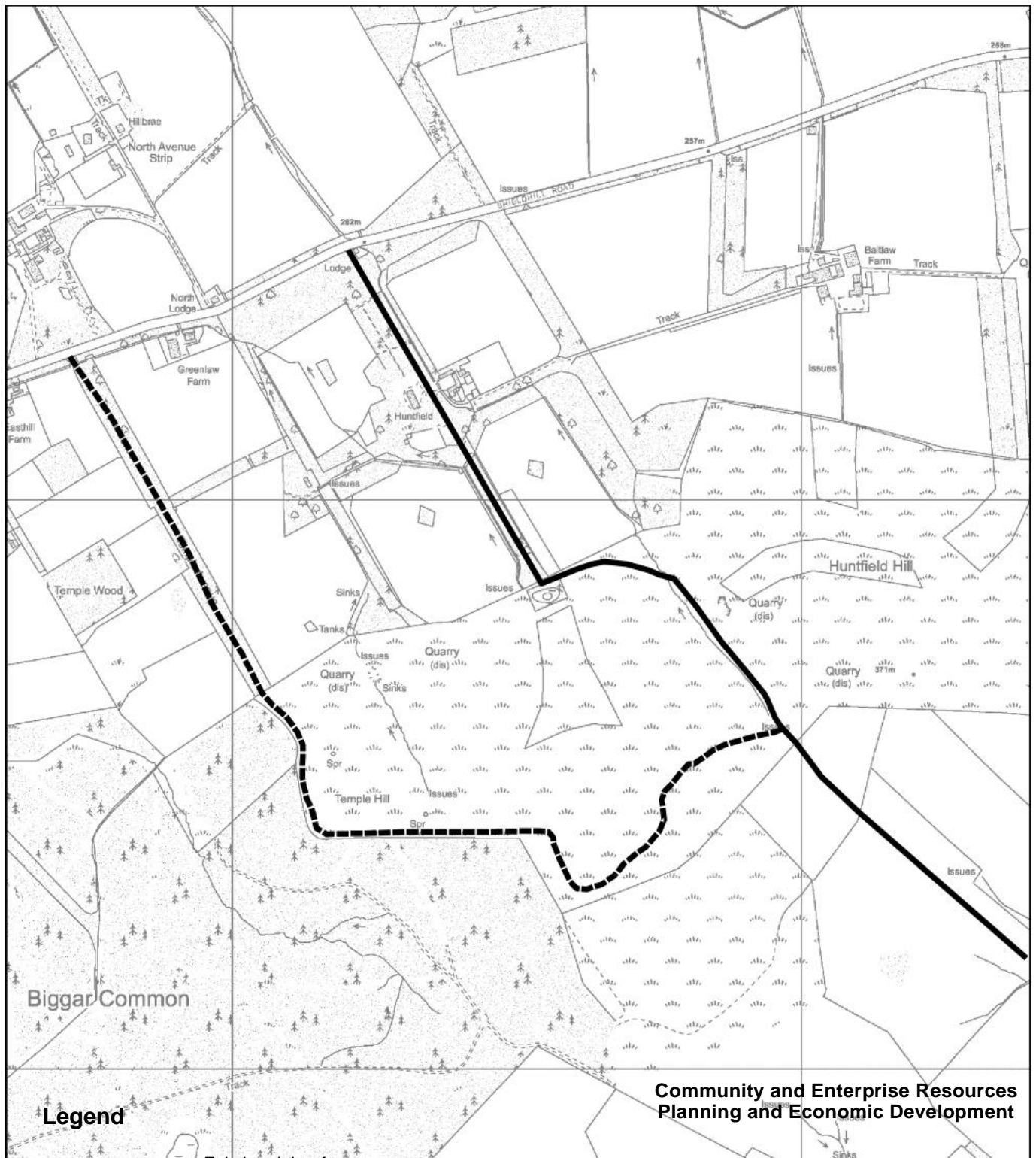
If you would like to inspect the background papers or want further information, please contact:-

Tony Finn, Area Manager - HQ, Montrose House, Hamilton
Ext: 5105 (Tel: 01698 455105)
E-mail: tony.finn@southlanarkshire.gov.uk

Proposed Public Path Diversion Order

Huntfield House (Quothquan), to Hillridge Farm (Biggar)

Right of Way No. SL100



Legend

Existing right of way

Diversion route



Community and Enterprise Resources
Planning and Economic Development

Scale: 1:10,000 Date: Nov 2020

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