

Nicola Gunn

From: Planning
Subject: FW: 3/2023/0221 Lower Barn Farm Whalley Road Sabden Lancashire BB7 9DT

From:
Sent: Tuesday, June 20, 2023 5:52 PM
To: Planning <planning@ribblevalley.gov.uk>
Subject: 3/2023/0221 Lower Barn Farm Whalley Road Sabden Lancashire BB7 9DT

External Email

This email originated from outside Ribble Valley Borough Council. Do **NOT** click links or open attachments unless you recognize the sender and are sure the content within this email is safe.

Reference 3/2023/0221
Location Lower Barn Farm Whalley Road Sabden Lancashire BB7 9DT
Proposal Proposed field mounted 20kwp solar pv array (52 new solar panels).

Dear Kathryn

Lancashire County Council Public Rights of Way has not objection to the planning application subject to the following condition.

Public Right of Way Obstruction

The developer is advised that the proposed solar panels will obstruct footpath FP0337113 triggering a Diversion Order under the provisions of the Town and Country Planning Act 1990 Section 257 (TCPA90 S257). TCPA90 S257 orders are administered by the authority that is considering, or has granted the planning permission, in this instance Ribble Valley Borough Council.

Regarding the tests and criteria for a TCPA90 S257 Order, in addition to whether it is necessary to divert the footpath to enable the development to be carried out, Paragraph 7.15 of Defra Circular 1/09 (version 2 of October 2009) <https://www.gov.uk/government/publications/rights-of-way-circular-1-09> advises that 'in considering whether or not to confirm the Order, the disadvantages or loss likely to arise as a result of the stopping up of the ways to members of the public generally or to persons whose properties adjoin or are near the existing public right of way should be weighed against the advantages of the proposed Order.'

The detail of the exact alignment of the new route, the construction specification and any association works would need to be agreed with public rights of way before the necessary TCPA90 S257 Order is made. I can advise that the new route must have a minimum width of 2 metres, have a properly constructed surface with no gates or stiles crossing the new route.

It is important for the developer to note that the Diversion Order must be made and confirmed before the development is commenced, in so far as it affects the public rights of way. It should also be noted that the TCPA90 S257 procedure includes a statutory period for objections. If objections are received and not withdrawn, the Order would need to be referred to the Planning Inspectorate for decision so the timescales for commencement of the part of the development that affects the footpath should take that into account. With regards to the timing of the development and the diversion of the public footpath, please note that the legal alignment of the footpath will not change until there is the appropriate legal Order has come into effect and it should be noted that there can be no guarantee of the success of any Public Path Order. Any disturbance of the existing route, without the appropriate confirmed Diversion Order would be liable to enforcement action taken against the developer.

It is advised that the Order Map notation is as described in Schedule 1 of The Town and Country Planning (Public Path Orders) Regulations 1993 and also request please that Lancashire County Council are consulted on the draft Order Map and Order wording and be named as the certifying authority.

Ground level/drainage

Any changes in ground level or installation of drainage should ensure that surface water is not channelled towards or onto a public right of way either within the proposed development site or in close proximity – this is to ensure public rights of way are not exposed to potential flooding or future maintenance issues.

Landscaping

If the applicant intends landscaping they need to ensure that any trees or bushes are at least 3 metres away from a public right of way to prevent any health and safety issues and potential maintenance issues e.g. Overhanging branches or roots coming through the surface of the footpath concerned either within the proposed development or in close proximity.

Temporary closure

If works relating to the proposed development are likely to cause a health and safety risk to users of a public right of way a temporary closure order must be made and in effect prior to commencing those works. Applications should be made 4 weeks before commencement to avoid delay to the works.

Diversion

If a diversion is needed or intended the applicant needs to ensure that the diversion is in place prior to any work commencing on a public right of way. Any disturbance of the existing route, without the appropriate confirmed Diversion Order would be liable to enforcement action taken against the developer.

Obstruction

A public right of way should not be used to store materials, vehicles or machinery and if found to do so would be deemed an obstruction and the applicant would be subject to enforcement proceedings to remove.

Publicity of Application

All applications that affect a public right of way (footpath, bridleway or byway), must be publicised by site notice in at least one place on or near the land to which the application relates for not less than 21 days; and by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.

Regards Julie

Julie Paton
PROW Capital Project Officer
Planning & Environment
Lancashire County Council