

# Public Right of Way Response to PA/2020/439

Colin Wilkinson

Thu 19/03/2020 12:40

To: Planning <Planning@northlincs.gov.uk>;

Thank you for giving Neighbourhood Services the opportunity to comment of the above application ("application for prior notification for a proposed change of use of an agricultural building to a dwelling house" at barn in field north of Ings Road, Kirton in Lindsey) with respect to public rights of way, registered greens, commons and other access land under the Countryside and Rights of Way Act 2000.

Public Footpath 253 is the public footpath identified in the applicant's design and access statement: "The driveway is crossed by a public footpath halfway down, which the clients have already shored up with fences and good access gates, which will not be changed as part of this application". It is also indicated on the site location plan.

The traffic crossing the footpath is likely to be both light and occasional. We note, too, the pre-existing building, suggesting the footpath either is, or has been, crossed by vehicular traffic already. It might be, therefore, that there is an easement along this driveway for the purposes of accessing the land and the agricultural building. Nevertheless, had the proposal been to drive along the footpath, rather than just crossing it, we should have wanted proof of such an easement. This is because under section 34 of the Road Traffic Act 1988, it is an offence to drive a mechanically propelled vehicle on a public footpath without lawful authority. Furthermore, the law presumes there is no such authority unless the driver can demonstrate the contrary. Even so, we strongly advise the applicant to satisfy himself that he has the requisite lawful authority before proceeding.

On the point about the footpath being shored up with gates, the applicant may wish to note as well that any gate actually positioned across a public footpath is an obstruction unless authorised by the highway authority. However, the highway authority can only authorise gates vis-à-vis certain conditions. These include the ingress or egress of livestock, which definition for the purposes of the legislation includes horses, to or from an agricultural enclosure, including paddocks.

Subject to the above advice, Neighbourhood Services do not object to this proposal on the grounds of public rights of way and access land.

Kind regards,

Colin Wilkinson  
Principal Access and Commons Officer  
Neighbourhood Services  
Assets and Infrastructure  
Operations  
North Lincolnshire Council  
01724 297000

