

Applicant/agent comments on consultation responses

June 2019 consultation process

On Kirklees Highways safety

thank you for the confirmation again that the proposed termination point results in a safer position. Your principal concern therefore seem to relate to pedestrian users walking south (up the hill). In a nutshell and in an ideal world, you would prefer a more formal footway (which I infer to mean a pavement style footway) to come forward, instead of delineative measures like the visual examples provided.

We shall say again that these measures are not strictly necessary as a result of the proposed diversion. However, we invited your input and note the helpful comments.

Accordingly, before committing to this, please could Mr. Butterfield have a cost from Highways for implementing this.

As it is (or rather would be) work on the adopted public highway, we would usually be looking at a s.278 Agreement. However, there is no real necessity as a result of the planning permissions or the diversion.

My thoughts at present is that this could be done by short and simple enabling-type agreement, or even a sort of Advance Payments Code (much as I appreciate that does not really apply, as it is already adopted highway), which would entail monies from Mr. Butterfield on trust, which would be conditional upon the Planning Committee resolving to make an order following the diversion application being reported on 22nd August, with the further condition that the Council will implement and complete works within a suitable timescale from the Committee resolution to make the order; say six months.

The offer of doing this following the making of an order under this s.257 Application, as opposed to waiting for confirmation of an order by the Council or the Secretary of State, would be a goodwill gesture of the highest order on Mr. Butterfield's part, for something that is not actually necessary, but would result in the Council being able to implement a new footway on the east side of the bend where the grass verges currently sit, regardless of whether it is confirmed.

However, before agreeing to any of this, Mr. Butterfield now needs to know how much Highways consider this would cost and whether it is worth doing, given that it is not actually required as a result of this diversion.

The report on the diversion is very likely going to Committee on 22nd August. Things would ideally need to be put in place before this. Therefore, please could you kindly provide costings for what you propose in the **next three working days**, in order that this can be properly considered and if applicable moved on.

Incidentally, I do note from our call several months ago that at this time you had not actually seen the site, other than on GoogleEarth or something similar. Before moving on

this, you may wish to visit the site and walk up the verges on the east side of Wolfstones Road. You might also wish to touch base with Mr. Battersby beforehand, who has visited the site and walked the route himself.

On Respondent A

RESPONSE:

This appears to be misinformed and without any form of merit. The development is not complete. 'Substantial construction' does not mean 'substantial completion' (which incidentally the parameters for are set down in case law). Construction can only go as far as they can, until such time as it requires encroachment on the area of the footpath, which has remained open at all times.

This facts underpinning this representation are not even remotely correct. Despite the fact that there are other options for diversion/stopping up procedure, the answer to the final question is no; s.257 is indeed appropriate.

On Respondent B

RESPONSE:

We do not quite understand this, but nothing to add at this time.

On Respondent C

RESPONSE:

We did not even realise that such a club existed, otherwise it is likely that we would have carried out pre-engagement, as we have done to good effect with other organisations.

Addressing the nature of the representation itself, we have already described the recreational improvement opportunity e.g. 6.10 of the NSCL statement), which we thought that such an organisation may in fact welcome.

Part 6.10.5 of the application supporting statement identifies that even the relevant Highways Safety officers acknowledge that in safety terms the diversion is in fact an improvement and that the "dangerous bend" alleged is less dangerous than the existing arrangement.

On Respondent D

RESPONSE:

We have not had sight of a separate email. However, more generally, it has been identified that this footpath is a recreational footpath, not a functional route. From a recreational point of view, there is no question that this is in fact an improvement.

On Respondent E

RESPONSE:

We have addressed the relationship between the path and Wolfstone Heights Trig Point land owned by the Holme Valley Land Charity throughout the statement. We are not sure of the assertion made, but in any event the evidence does not support what we infer is asserted here.

RESPONSE:

This representation has no basis or support from evidence, which at very best is anecdotal. The person/organisation making this representation not read the supporting statement and the actual user evidence submitted with it. The supporting survey evidence clearly shows that this assertion is not credible and is one-dimensional.

RESPONSE:

Whether or not this is a correct recollection, the clear rationale and evidence supporting the diversion is as detailed in the supporting statement submitted as part of the application.

RESPONSE:

This has no reference to evidence in the supporting statement, which very clearly points to the contrary position.

RESPONSE:

Whilst not correct, this is of no relevance in any event and is dealt with in the supporting statement.

The current iteration of the Trig Point is much more recent. We have never doubted and have indeed acknowledged the importance of the history. However, the relationship with the Land Charity land and the footpath, as well as associated user evidence, is covered in the supporting statement. The Holme Valley Parish Council, obviously connected with the Land Charity, supports the proposed diversion. Again, it is important to identify that the Land Charity land is not a PROW and is accessed with permission. It may be closed or restricted at any time.

RESPONSE:

This is not correct and perhaps the person/organisation representing may wish to revisit this objectively, because it is in fact the very contrary position. The conflict still occurs, arguable to an equal if not more dangerous level at the point between the new driveway and the existing driveway to Wolfstone Heights Farm. This again is detailed in the statement.

RESPONSE:

This is of no real consequence, but ironically simply reinforces that this is not a functional route, but a recreational route, which will be improved all ways up by the proposed diversion. Please revisit the supporting statement.

RESPONSE:

Nothing to add.

RESPONSE:

Whilst we suspect that we know the identity of this persons, this is a representation that we would like to engage with (and have attempted to prior to submission of this application), but would particularly welcome cross-examining in a Public Inquiry following objections to a made Order where such engagement continues to be resisted.

On Respondent F

RESPONSE:

Other than the no gating, nothing to add, other than very pleased to receive such a positive representation.

On Respondent G

RESPONSE:

It will not be muddy; surface materials are as described. Nothing to add, other than again very pleased to receive a positive representation, which we know is from a member of the Holmfirth Harriers, albeit in a personal capacity.

On Respondent H

RESPONSE:

I am sorry that this person/organisation finds that this substantial quality development is disagreeable. The development is being built in accordance with planning permission(s) granted. This is therefore of no relevance whatsoever to this application to divert.

RESPONSE:

As above re survey. Not relevant.

RESPONSE:

There has never been a 'dead end'. The diverted path was put in on risk as described and is actually being used.

RESPONSE:

This representation has no basis. This is not the case according to the evidence submitted, including important information from Mr. Walker on Highway Safety.

On Respondent J

RESPONSE:

Excellent, nothing to add, other than obviously very pleased to receive such a well-thought out and measured, positive representation.

On Respondent K

RESPONSE:

Again, the evidence submitted, including from the Council's Highways Safety Officer and the Rights of Way Section commenting on the planning applications, does not support this position.

On Respondent L

RESPONSE:

We know even from recent events post-supporting statement that this is not the case. Again, this highlights that this is a recreational rather than functional route, which will be improved as a result of the diversion and has considerable advantages compared with the existing position.

On Respondent M

RESPONSE:

Perhaps a little more than we were expecting by the time I had got to the end of that one! Nothing to add, other than welcome a positive response, even a "fan" of the proposed diversion. Also evidence that it is being used and enjoyed already...

On Respondent N

RESPONSE:

Once again, no reference to the supporting statement and this comment is not supported by any evidence. The alleged danger has been addressed and again, even the Council concedes that this is a perfectly useable verge and the termination point onto Wolfstones Road is safer than the existing arrangements in terms of potential conflict with vehicular and pedestrian traffic.

On Respondent O

RESPONSE:

This assertion is not correct. The objector may wish to objectively revisit the supporting statement.

RESPONSE:

Yes it does. This is completely wrong. Please revisit the associated plans with the permissions which show the footpath as being extinguished, with no further access.

RESPONSE:

We cannot agree when the representation is misguided and clearly factually incorrect. An ineffective and not supportable representation.

On Respondent P

RESPONSE:

Again, we were not aware of such an organisation, otherwise we would have attempted engagement prior to submission of the application. However, this does again reinforce that this is a recreational and not a functional route, which all ways up will be improved as a result of the diversion.

RESPONSE:

The evidence, including the relevant Council departments, find to the contrary.

RESPONSE:

How...? It is again noted that the Holme Valley Parish Council support this diversion.

RESPONSE:

Correct - we agree; this footpath diversion will indeed lead to considerable improvement. Please revisit the supporting statement.

On Respondent Q

RESPONSE: This is not what the supporting statement says. However, it is wrong to state that the granting has no bearing on whether to make and/or confirm an Order, as Circular 01/09 attests. The objector is also not correct to state that the planning permissions can be fully implemented without the path being diverted. This is plainly not correct.

RESPONSE: We are not seeing how this can be a ridiculous statement when (i) this is supported by the Council's Highways Safety Section; and (ii) the evidence points completely to the contrary of what is claimed. This is not an objection held up and supported by any evidence whatsoever. Aside from this, pedestrians walk on the road in any event, the evidence for which shows this to be in all directions.

RESPONSE: This does not merit consideration or a response. This is dealt with in the supporting statement and is in fact reinforced in more recent unfortunate events resulting in theft of materials from Wolfstone Heights.

RESPONSE: This is dealt with in the supporting statement. We have also described the obvious aesthetic benefit in the far reaching views that the diverted path offers, compared with only four feet of footpath width that is enforceable - a surprising omission from this engagement from this objector and others.

RESPONSE: The evidence provided, the Council's PROW officer and the Highways Safety Officer states completely to the contrary. There is no question that safety is improved compared with the current enforceable footpath position.

RESPONSE: the planning permissions are granted. This objection is of no relevance or consequence to this application.

RESPONSE: Agreed to some extent, but simple repetitive representations is the strongest evidence that objectors have not engaged with the updated position. However, the volume of objections is not determinative in any event.

RESPONSE: Whilst alleged experience of users is of course not to be discounted, "In my experience..." is no substitute for the evidence provided. In addition, it is an evidential dichotomy to state "In my experience..." and then state that "most users..." continue to the trig point. This is supposition at best, is not credible as evidence and pays no attention to the evidence submitted. It is simple disagreement for the objector's own personal viewpoint, not credible evidence rebutting the evidence provided with the application.

RESPONSE: The surveys could not be said to have wholly taken place in winter. Nevertheless, the point on seasonal variation is acknowledged already in the application, but paragraph 5.6 of the supporting statement covers this point, including that this is the only available evidence and data.

RESPONSE: Yes they will, but the Council's PROW official has stated that these are perfectly serviceable walking verges. The point is taken in advance that traditionally, walkers in rural parts tend to walk on the side of the road facing the traffic. However, the Highways Safety Officer has identified that in this situation, given the topography and landscaping, better inter-visibility between road-using pedestrians and cars is achieved on the east side of the road up the existing verges. Please refer to the attached statement, including the Appendices for further information.

RESPONSE: ...and what...? This is Land owned by the Holme Valley Land Charity, not the applicant for this diversion.

RESPONSE: This is dealt with at 6.10 in the Supporting Statement.

RESPONSE: This is supposition, but is again dealt with in the statement. There is no question that four feet of footpath will result in tunnelling, compared with the much wider diversion on this recreational walkway. The applicant would intend a site visit delineates 120cm of path available, as was done recently in the visit of a Council official by way of illustration.

RESPONSE: This is dealt with in the statement. Whilst Holmfirth Harriers purport to have objected, one is supporting the position personally.

RESPONSE: This is dealt with in the statement. Aside from anything else, the majority of the buildings will be new following the construction having taken and currently taking place in accordance with the planning permissions.

On Respondent R

RESPONSE: We are delighted to have received such a welcome and positive response to the proposal.

On Respondent S

RESPONSE: We are again delighted to have received the very important support from the Parish Council for the proposed diversion. It should also be noted that the HVPC is also the controlling arm of the Holme Valley Land Charity, which owns the separate Charity Land containing the trig point.

On Respondent T

RESPONSE: This is all noted, but is dealt with in the supporting statement. To be clear again, the planning permissions are granted and being implemented. In particular, it is not in question that safety is improved as a result of the proposed diversion, which is reinforced by the Council's Highways Safety professionals. Finally, we would state again that the applicant has lived in this property for almost three decades. For this reason alone and whilst this objection is not relevant in any event, we submit that the alleged privacy requirement as the principal motivation of the applicant is unfounded.

On Respondent U

RESPONSE: We have attempted to engage with the Holmfirth Harriers. This was duly declined. It is disappointing that the running club did not wish to engage and discuss matters, as this would have been a useful opportunity to offer explanations and assuage any concerns, which continue to be unfounded. Again, a repetition of previous objections, from 2017, which is not to be ignored, but strongly suggest a lack of engagement with this latest application. We have incidentally received a positive representation from a runner who is a member of Holmfirth Harriers, but he has stressed that his representation is in a personal capacity and does not come from Holmfirth Harriers. Nevertheless, this is a clear indication that Holmfirth Harriers is not unanimous in its representation, especially when those who took the time to actually review the latest application have realised that there are substantial benefits to the diverted path, to both runners and other recreational users.

All aspects are covered in the supporting statement. We are in particular keen to speak with the Holmfirth Harriers further, but understand that they do not wish to engage and rely on old representations which do not necessarily reflect the updated application.

Furthermore, by way of rudimentary and we concede simplistic example, surely a wide, open footpath with appropriate finishing and surfacing, terminating or beginning on a safer part of Wolfstones Road, is better for a running group than running up and possibly down a footpath of just four feet in width.

On Respondent V

RESPONSE: This is dealt with in the supporting statement and has also been dealt with in the above responses.

On Respondent W

RESPONSE: This has all been responded to in the supporting statement. It is a shame that we were not aware of this particular organisation, otherwise we would at least have attempted to engage. On balance, this merits a more general response, rather than one in relation to each point made. The applicant has never ignored the presence of the trig point and Charity Land.

However, it is equally important to reinforce that these are not public rights of way and the land charity can be closed at any time. Whilst on one level the applicant accepts that this is not as convenient to walkers, this is only the case IF all users are walking to and from the trig point, up/down the current footpath, which the evidence shows is not the case.

Nevertheless, an important oversight in terms of convenience, is that almost all objectors have neglected to mention the position that only four feet of footpath width is actually enforceable. This contrasts with the much wider diversion path, with far reaching views and side-by-side rather than tandem group walking.

We have commented previously on the alleged dangers with the diversion route, which is contrary to all evidence including expert officer opinion. We have also commented on the misapprehension that the applicant's primary motivation is to achieve greater privacy, having lived at the property for three decades.

On Respondent X

RESPONSE: This is dealt with in the supporting statement. We disagree, it is certainly a more pleasant walking experience and does undoubtedly achieve a neutral position when it comes to journey times, because this takes into account the real position that not all are walking towards Netherthong.

On Respondent Y

RESPONSE: The Council is required to address the application. No further comment is required from the applicant in this respect.

The development is not complete. This has been addressed. The planning permissions cannot be fully implemented without this diversion.

A review of the access arrangement on the Charity Land is not something for the applicant and is not a consideration (or even relevant) for this application.

The final part is personal preference, but the personal opinion is not as a result of any evidence, which contrasts with that submitted with the application.

On Respondent Z

RESPONSE: There is no question that the diverted route offers this in abundance and to a far greater extent than the current footpath route.

RESPONSE: These are serviceable walking verges, as identified by the Council.

RESPONSE: We disagree. The diverted path (which again is far wider than the enforceable four feet width of current footpath) is aesthetically, recreationally, functionally and from a safety perspective far superior to the current footpath route. Aside from anything else, how can a tarmacadam footpath that impregnates a part of a current driveway, with majority new buildings on either side possibly be considered a 'green lane'?

RESPONSE: This is of no relevance to this application.

RESPONSE: This is in our submission an improvement.

RESPONSE: There is again no question that this diversion is necessary for planning permissions granted by the Council to be fully implemented. The continuous assertion that this application is somehow principally motivated due to the privacy of the applicant and his family is neither relevant or accurate.

RESPONSE: This is not relevant. The planning permissions have been granted.

RESPONSE: As responded above.

On Respondent ZA

RESPONSE: The supporting statement addresses this position.

On Respondent ZB

RESPONSE: The Council itself and the evidence submitted is clear that there would be no increased risk as a result of this diversion. This is covered at 5.7.6, 5.7.7 and 10.5.4 , Appendix 1(3) and Appendix 2 of the supporting statement.

Response has already been provided in relation to the new (rather than historic) buildings, with the only listed building feature being Wolfstone Heights, which is currently being converted in accordance with a planning permission and associated listed building consent. Further, the view of the Wolfstone Heights listed building is better achieved from Wolfstones Road itself.

To suggest that somehow this diversion application runs contrary to the mutual respect and tolerance shared between farmers, landowners and walkers is far-fetched and disingenuous in our view, when considering the facts and the backdrop. We again identify that these are not "ancient" public rights of way, but have never hidden from the recreational use element, as is abundantly clear in the supporting statement.

On Respondent ZC

RESPONSE: There is no suggestion that the diversion of the current footpath does not/will not promote walking - quite the opposite. We are keen to speak with Signpost, if they would like to get in touch.

Once again, we find objectors working on the assumption that all are walking up the path to the Wolfstone Heights trig point, which as the evidence now clearly identifies, is not accurate. Not everyone is walking towards Netherthong and the trig point. Furthermore, people are walking on the road in any event from the Wilshaw side towards Netherthong presently.

On Respondent ZD

RESPONSE: We feel that we need to provide a more full response to this objection from the PNFS. We note the objection, but to some extent we are surprised at this seemingly rather desperate leap from a knowledgeable organisation on such matters like the PNFS.

Briefly, whether or not the Council granted planning permissions allegedly "in ignorance", apart from not being accurate in any event, is of no consequence or relevance.

We also wish to pick up on the assertion that : "The Council accepted this diversion application in ignorance of Footpath 60's use as direct off road access to Wolfstones Heights access land. Officers wrongly concluded in the planning process that "***moving the terminus of path 60 to the north will take it away from the existing access to Wolfstones Height, by over 100 metres, however that access is not currently recognised as public and this rural road has a serviceable verge for walking***"

Officers had certainly not "wrongly" concluded this; it was and remains entirely correct. This is borne out of a simple disagreement with the Council's position, which is in fact that lawful position. The Charity Land is not public land and Highways officers have confirmed that the highway verge on the east side of Wolfstones Road is indeed a serviceable verge for walking. The PNFS appears to now be asking the Council to state otherwise, which would be tantamount to the Council actually saying that it has made a mistake, or worse acted unlawfully.

To state that this is wrong is incorrect in fact and in law. This appears by the PNFS an attempt to revisit the planning permissions granted. It had opportunity to do this when they were granted by taking the matter to Judicial Review. Clearly it decided against this, realising it had no credible case, or missed the opportunity. Either way, the matter is moot. The planning permissions were granted and are being implemented so far as they can be. The law is clear that applications for diversion and stopping up is not an opportunity to revisit the merits of either planning applications or planning permissions granted.

Again, we are surprised at this from the PNFS, knowing full well the position in law in this respect.

The apparent "overwhelming numbers and quality of public objection to the previous consultation..." is something that is neither reality, nor in fact relevant.

Returning to what is before us, which is this application and not previous iterations, briefly, there have been 42 representations. Of these 35 are objections and seven (7) are supportive (or to be fair six are supportive and one is neutral/supportive). It is not an insignificant number, but 35 objections is hardly "overwhelming". In terms of alleged quality, whilst not wishing to detract from any objections, it is apparent from all of the responses being provided, that **ALL** objections are rebuttable and dealt with in the supporting statement; some being personal opinion, some not borne out of evidence submitted, some reiterating 'old' objections from a previous consultation, thereby demonstrating a lack of engagement with this actual application, as well as some just being plainly wrong, misconceived, or at best misguided. Sadly and surprisingly from a respected organisation, this objection from the PNFS appears to be a reflection of this, coupled with an attempt to somehow revisit the planning permissions granted.

For completeness, we do not agree that this proposed diversion results in a loss of amenity for walkers, on what is a recreational walking route. We have covered this elsewhere and we do not think that it could be argued that this is a more unpleasant walking experience, particularly considering that users would otherwise be walking up an increasingly enclosed footpath of just four feet in width.

Once again, this is working on an anecdotal assumption, that all users are walking up the footpath (not down) and are making their way to the trig point on the Charity Land. We now know that this is not necessarily accurate and the Council, nor any other user group, has evidence to the contrary.

On the final point made, regarding an order being made from the application and this likely ending up in Public Inquiry, we are first very keen to examine the PNFS on its assertions should it come to this. Further, the cost of determination in the event that an order is objected to and the objections are not withdrawn, is not a relevant consideration for the Council when deciding whether or not to make an order. Finally, we note that the alleged cases of inspectors not confirming similar orders on the grounds of the loss of amenity are, unusually, not provided.

We would welcome further dialogue with the PNFS, whom we have met previously, prior to submission of the application as part of an engagement drive. We would certainly like to be provided with alleged cases of Secretary of State-appointed Inspectors not confirming similar orders, etc. However, these should in fact have been provided to the Council already as part of its objections, where indeed they do exist as the PNFS states.

On Respondent ZE

RESPONSE: This has already been addressed in the supporting statement and to some extent above.

RESPONSE: This has already been addressed in the supporting statement and to some extent above.

RESPONSE: The memorial and seating area is not on the land owned by the Land Charity. It is further land to which there is only permissive access, which can be closed at any time. The applicant and his team do not deal in "smokescreen", we deal with facts and the facts are that neither the Charity Land or the land beyond it is a PROW. In any event, this is of limited assistance in the determination of this application.

RESPONSE: To state that important safety considerations is "farcical" is unhelpful and not accurate. Again, the evidence submitted and the Council's Highways Team, have accepted that the terminus further north (i.e. down the hill) on Wolfstones Road, is safer than that which exists at present.

There is no other evidence to the contrary from anyone, save for anecdotal evidence and layperson opinion.

RESPONSE: The "report-writer" does know the area, but this is not relevant in any event. We are not and never will seek to dilute a position where something would be dangerous, but the facts and the evidence shows that this will clearly not be the case. On the contrary, the main purpose and usage of the path has not been underplayed. It is a recreational route that will be improved as a result of the diversion. All information is provided in the supporting statement and to some extent in the responses elsewhere.

On Respondent ZF

RESPONSE: This has been dealt with in the supporting statement and to some extent above. Moreover, it is not relevant.

RESPONSE: This has again been dealt with in the supporting statement and to some extent above. Moreover, it is again not relevant.

RESPONSE: There is no doubt from the applicant's side that something (a feature of sorts) has been there, but the current iteration of the trig point has been in place for less than ten (10) years.

RESPONSE: This has been addressed in the supporting statement.

RESPONSE: This is neither relevant, or correct. The continuation of legitimate works in accordance with planning permissions granted cannot force a decision to divert a footpath, much as the Council would need to have a good reason not to make or confirm an order.

RESPONSE: To suggest that the pedestrian surveys are "irrelevant" is both wrong and unhelpful. This is compounded when considering that no other evidence, from the Council or any other party exists.

RESPONSE: We agree.

On Respondent ZG

RESPONSE: No information is provided Therefore no response can be provided.

On Respondent ZH

RESPONSE: We think that we understand this, but cannot agree with the conclusions promoted.

RESPONSE: We note the acceptance that people walk on the road in any event and are pleased to receive this accepted fact from the Ramblers Association, whose members will doubtless walk on the road (and others) themselves. However, it is wrong to state that the assertions are somehow disingenuous. The supporting statement clearly demonstrates that the advantages of the diversion outweigh any perceived disadvantages.

RESPONSE: Mr. Scanlon apologies for his allegedly mangled syntax, as "Intervisibility" should perhaps be hyphenated and it is a term used to describe the visual and safety relationship between pedestrians and vehicle users. However, the assertion that this will somehow be unsafe is not agreed and is not borne out of any evidence on the Ramblers' part.

This is dealt with in the supporting statement.

RESPONSE: We disagree. Both the evidence submitted and the relevant Council officers confirms otherwise.

RESPONSE: We do not agree. We can't agree that this is "fatuous", especially when no evidence other than anecdotal evidence at best is provided to the contrary.

RESPONSE: We do not understand this reference to "seven places". We are not able to comment further.

RESPONSE: surely it cannot be argued that removing any conflict whatsoever on the narrow drive with notable 'blindspots' could be safer than the diversion route for pedestrians, especially in bad weather conditions, particularly ice and snow conditions.

RESPONSE: We are pleased and welcome the Ramblers' sensible and only line that can be taken on this, when others have not understood.

RESPONSE: This has all been addressed in the supporting statement and to some extent above.

On Respondent ZJ

RESPONSE: We disagree. Responses to similar objections and the supporting statement addresses all of these points.

On Respondent ZK

RESPONSE: This is (in fairness by the objector's own admission) an objection not borne out of knowledge of the system. The planning permissions are granted and the opportunity to challenge those has now passed. The supporting statement deals clearly with the concerns on safety, which is again supported by the evidence submitted and the Highways Section.

The assumption that all users of the footpath are heading to and from the trig point on the Charity Land is not founded, as can be seen with the evidence submitted, which apart from anecdotal or misconceived evidence is the only such evidence in existence to the best of our knowledge.

The Council will feel no pressure to "nod through" such an application. However, having granted the planning permissions, the Council does require a good reason not to make or confirm an order.

To suggest that the applicant has shown little regard for public feeling is disingenuous. The diversion route has many advantageous and results in a far more pleasant recreational experience than the part of the current footpath to be diverted.

Finally, it can hardly be considered "arrogance beyond belief" to implement, completely on risk, the diverted path route has been implemented in accordance with the planning

permissions granted, whilst the current footpath has of course had to remain open and will obviously have to do so until legally diverted. Further, the diversion route, which again has been implemented (but not yet surface finished) completely on risk, at least allows the opportunity to see and experience the diversion route, before it is determined by the relevant decision-maker that the order can be confirmed to have the effect of formally diverting the path. In very few cases is such a useful visual and physical aid offered as part of such applications.

On Respondent ZL

RESPONSE: Whilst the objection is noted, its reasons are respectfully misguided. The grass verge is highway verge and Highways Safety has already conveyed that it is preferable to walk up the hill (south towards Netherthong) on the east side of the road at this point. This also does not address the position that walkers currently walk up the road from the north to the south - Wilshaw to Netherthong, adequately and safely; of course there are no recorded incidents on Wolfstones Road.

On Respondent ZM

RESPONSE: Issues of safety have been addressed. There is no evidence of the road being "increasingly busy". We have identified that the motivation of the applicants is the ability to fully implement the planning permissions, granted by the Council. A full response to this objection is covered throughout the supporting statement.

On Respondent ZN

RESPONSE: The motivation of the owner is to be able to fully implement his planning permissions, granted by the Council. The issue of safety has been addressed in the supporting statement and the evidence and the acknowledgement of the Council's Highways Section that the terminus point further north (i.e. down the Wolfstones Road) is an important feature of the diversion. All of this is covered in the supporting statement.

On Respondent ZO

RESPONSE: In response, the claim that the path is 'linear' is not lost, but this does not take into account four feet in width only is the existing footpath. Far greater views are achieved by the footpath diversion and the route is equally distinct in the landscape. The path still links with other farm tracks in the area. It is not lost or denied that the route is well-used, but advantages of the diversion are provided.

On Respondent ZP

RESPONSE: Again, the motivations of the applicant are to be able to fully implement the planning permissions, granted by the Council.

On Respondent ZQ

RESPONSE: The necessity is of course proven. As identified in the Supporting Statement, the diversion of the relevant part of the footpath is clearly necessary to enable the development to be implemented. Of this there is no question at all.

The alleged unavailability or inaccessibility of planning consents on the Council's website is of no consequence, but for completeness, I have just been able to access these this morning without difficulty.

The Supporting Statement has dealt with the issues in relation to access for emergency vehicles. There is no question that the newly created driveway is more conducive to such access. This is not quite what is meant by paragraph 3.4. Paragraph 3.4 is a reference to alternatives considered, but discounted. The development(s) is/are being constructed in accordance with the planning permissions granted.

RESPONSE: This part of the representation is of no consequence or relevance.

RESPONSE: The "traditional" local buildings are in fact still being constructed in accordance with planning permissions granted, to the north side, and Wolfstone Heights on the south side of the current path is a rebuild as a result of the fire seven years ago. The only listed building structure is that being converted at Wolfstone Heights at present, which as identified in 6.10.6.3: *"...the greater proximate views of the Wolfstone Heights listed building are observed from Wolfstones Road, particularly from the verge on the eastern side of Wolfstones Road, which would be used if walking up the hill towards Upperthong."*

Other than this, this part of the representation is a subjective response.

RESPONSE: The Council's Rights of Way Section disagrees and acknowledges that this is a serviceable verge suitable for walking.

RESPONSE: The traffic surveys conducted are the only evidence of such types available. There have been no recorded incidents in the last five years and no records previously. We refer the reader to 5.6 of the Supporting Statement for further information and reference.

On Respondent ZR

RESPONSE: All safety aspects are covered in the Supporting Statement, which points to considerable advantages in this respect. The representation again assumes that all users will be moving from the diverted footpath and walking south up the hill, which the evidence does not support. 6.10.5.3 of the Supporting Statement that it is apparent from the Survey that more pedestrians walk on the road than use the Footpath in any event. The landowner's motivations are again to have the ability to fully implement his planning permissions that have been granted by the Council.

Responses to more recent representations (i.e. ZS-ZZL)

"I had started to respond individually, as I had to the other representations. However, it transpires that all of these recent representations, from Respondent "F" (I wonder if that might be a typing error - possibly "ZF" ...?) in your email to me on 18th October at 13:52, through to Respondent ZZL in your more recent email below (21st October at 18:52). There are obvious threads and themes here, so I thought it better and easier for all parties to provide a more general response to these latest very positive and welcoming representations.

As I have said separately already, whilst quantity is not a realistic assessment tool in these situations, it is perhaps worth mentioning that it is not quite 50:50 for and against the diversion, but it is now around 60:40, even 55:45. To therefore sweepingly state, as some have done, that the proposed diversion is not welcomed can no longer be an accurate assertion. Clearly the diversion has its supporters and is actively welcomed.

During the course of this application, it has never been denied and will not be denied that Footpath 60 is a well-used recreational route. However, the latest positive representative reinforce that it is indeed a recreation and leisure route and not a functional route.

However, these latest representations reinforce several other things, not least that the diversion route appears to be welcomed as a considerable improvement, as we have always promoted.

There is now strong evidence the diversion route is in fact being used already anyway, even in its unfinished state. It is a shame that the commissioned survey work was not able to quantify this in some way, but we have to concede that this was not part of the instructions to Paragon Highways.

It is now beyond doubt that not everyone using the footpath is walking up to the Trig Point on the Wolfstone Heights Charity Land. This hypothesis simply does not stand up. Much has been made of the apparent linear route up to the Trig Point, almost as a default position, even though this is not PROW. The evidence now points to something different. We also make comment in relation to the position of the Trig Point land and surrounding other land further below.

In fact, a number of users are commenting that they welcome the shorter route northwards towards Wilshaw and even Honley, with others even welcoming the slightly longer route if walking towards the Trig Point land, or indeed towards Upperthong. After all, this is a leisure route. We are also pleased to see that some even welcome the grass verges to delineate (and these may well be improved shortly anyway, but you understand the position on this). Where people are walking towards the Trig Point or towards Upperthong,

Looking at this from the opposite direction, we note that some users walking up the hill from the bottom of Wolfstones Road welcome the shorter distance to reach the diversion route, moving naturally and with far reaching views and close pleasant surroundings back onto Footpath 60 and moving eastwards on the existing path.

Users are welcoming of the more pleasant route and far reaching vista. We are pleased to see that some have picked up on the wider and less enclosed walking area, along with the overall ease of use compared with the current footpath.

We also note the number of runners using the diversion route. This seems to negate or at least dilute the negative representations issued before now by the Holmfirth Harriers. Simply because the Holmfirth Harriers is an official running club obviously does not make its opinion greater than those of independent runners, who seem to be very positive and welcoming of the diversion route.

We note also that there is not one concern in relation to safety, which reinforces the evidence submitted already. In fact, the opposite seems to be the position, both in terms of the diversion route itself, but also the access on to and off Wolfstones Road, with some commenting on the far safer egress position compared with the current termination point, which is reinforced by your Highways colleagues.

Where users are using the route to walk south towards Upperthong, nobody is complaining, with some even welcoming this. This is because it is a leisure route and length is not the issue. Whilst the diversion route is longer, it is a far more pleasant route and a distance of around 120m extra on the road, following egress from the footpath onto Wolfstones Road from the east, is not something which recreational users are concerned with. A more pleasant walk, slightly extended (or in some cases shortened, depending on where one starts and where one is going), is seemingly the more positive outcome according to these latest representations.

Apart from evidence submitted already and comments in relation to other representations, there does not seem to be much more to add. Too often these consultations result in disproportionately negative representations. We are therefore delighted that users have taken their time to write to you and convey their welcoming of what is a clear improvement in all senses to Footpath 60 and the overall user experience.

Wolfstone Heights Trig Point and Surrounding Land

A couple of unexpected recent findings have come to light in respect of the Trig Point land, owned by the Holme Valley Land Charity, as well as other surrounding land.

First, contrary to popular belief, the Trig Point land is not PROW and never has been. A sign has been erected recently to reinforce this position. We have had no input into the erection of such signage and to be clear, I have not been engaged to act for and have not advised the Land Charity. I have sent a photo of this previously, but shall send it again separately.

Second, it appears that hitherto it was thought that there was only one way to an from the Trig Point. We have recently located purported negation signage on land below and beyond the land owned by the land charity. We understand that the land is owned by a Mr. Stephen Heinz, but we have not had any contact or dealings with him. We speculate that the Land Charity and Mr. Heinz may have realised that it was possible that their land was being used

and they have taken action accordingly to safeguard their respective land using negation signage and promoting permissive access.

The sign beyond the Trig Point land (coming from east to west) is before a seating area. We have heard, albeit anecdotally, that this seating area is a memorial to Mr. Heinz's grandson who very sadly died last year. We do wonder if the Land Charity and Mr. Heinz may have been in discussions to allow permissive use of their respective land, whilst protecting it from becoming PROW, TVG, etc. However, that is again speculation, and it is noted that the signage is in different forms.

I shall send photos of these signs separately. Unfortunately the photos are too large to send with this email, so I shall send that on straight after this email.

However, what this does show, is that it appears that there is more than one way up to the Trig Point. We in fact now count four ways in different locations, which we did not realise until now. All of these are permissive. Whilst the Trig Point is a prominent local feature, it is still clear that the land is not PROW and there is clearly no intention to dedicate it as such, or seemingly the land around it.

Should you receive any more representations prior to your reporting, please could you forward these for comment. Aside from the photos that I shall send separately, I do believe that concludes the position from our side, unless of course we can assist further in any way.

Regarding the HV Land Charity

The Holme Valley Land Charity is the organisation which administers and manages the Charity Land (the 'trig point' land).

I met with the Holme Valley Land Charity at one of its arranged management committee meetings. I had contacted the Clerk of the Holme Valley Parish Council ('HVPC') Planning Committee, who at the time was a locum clerk called Tony Marlor.

I had asked to address the HVPC Planning Committee about the diversion application (impending, at the time). However, I also asked if it was possible to address the Holme Valley Land Charity. There were two headline reasons for that. The first is that we wanted to take the opportunity to present the impending application, given the alleged and much mentioned (if at times overstated and not always accurate) relationship with walkers, but the second was that we had heard local rumour (and it really was nothing more) that the Land Charity was considering re-organising its paths to the trig point, so we wanted to bring the application to their attention and see if there were opportunities, even with a view to a small contribution, etc.

Mr. Marlor passed on the details and I was then contact by the Chair of the HV Land Charity, Mr. Greg Cropper, who invited me to the meeting of its Committee. I attended on 20th February to describe the impending new application, talk about proposals for new pathways with a view to dovetailing into Richard's diversion proposals.

Whilst the Land Charity was courteous, interested and receptive, they did not give much away. and the meeting seemed to turn towards a position that it was suddenly more concerned at giving the impression that the Charity Land would be in danger of becoming a formal PROW.

I recall that I did briefly explain (in very headline terms and with no detail; I certinaly was not acting for the Land Charity or providing any advice) that this was not automatic and that there was a legal process to go through to establsih a PROW. However, I took away with me that whilst Richard's proposed diversion was understood and improving the quality of access, including the organisation, ease of access and layout of this was in the Land Charity's longer-term thoughts, the Land Charity seemed nervous and was pre-occupied about even giving the impression that the Charity Land would somehow become a formal PROW. I seem to recall that there was also subsequent concern about this potentially affecting the relationship with the adjacent landowner, but I could not give you any more detail than this.

Also, the HVLC management committee didn't want to cut across the HLPC Planning Committee, which I informed the Land Charity management committee before the meeting I was due to present to in the following couple of weeks. From memory, although not untoward or unusual, I think a couple of those individual Land Charity members also sat on that HVPC Planning Committee, so will have wanted to remain neutral in any event.

Therefore, whilst the meeting was useful in some respects, if nothing else to answer any questions about the impending application and at least present that we might look to dovetail in and look at prospective opportunities, the Land Charity did maintain a neutral position on any proposals and has not engaged further.

I met with the Holme Valley Parish Council Planning Committee a week or so later, to present and answer questions about the impending diversion application.

Mr. Cropper, with whom I was in touch, is no longer on the Land Charity management committee. Other than a short note to thank the Land Charity management committee for hearing me, I have had nothing back from the Holme Valley Land Charity.

There has been no contact from the Holme Valley Land Charity since and no further attempts to engage it at the time of writing.

I did hope that this assits. You should have everything that you need from the above, but more so from the fact that the Holme Valley Parish Council, previously an objector, now formally supports the footpath diversion.”

AND regarding the applicant's photo submissions for adjacent land:

"Please find attached a photo point location plan and also the corresponding photos in the separate attachment. Apologies, but the pdf of the photoplan is too large, so I have had to send a screen shot. Should you want the actual photoplan in hard copy then I can drop it into your offices when I am next passing, but hopefully that will not be necessary.

Photo 1 was put up in by the Holme Valley Land Charity on the trig point land as it meets Wolfstones Road on the opposite side where footpath 60 terminates.

Photo 2 several months ago, which you already know about.

Photos 2, 3 and 6 were apparently erected by Mr. Stephen Heinz, who is the owner of the land between the HVLC land on which the trig point sits and the woods. He appears to be generously allowing people to cross with permission and to enjoy the bench/shelter area that he had constructed in memorial to his late grandson.

Photos 4, 5 and 7 are in the woods to the west of Mr. Heinz's land, apparently owned by a family called the Braithwaites. You will see are Police-related notices. I don't know if you knew about these through any liaison you might have with the Police in your duties, but the signs are there to see in those woods. Point no. 5 is where the woods owned by the Braithwaites meets Mr. Heinz's land to the east, which subsequently meets the trig point land further to the east owned by the HVLC.

We don't know of any other restrictive/permissive signage in that area."