

Agenda Item	
Report No	

# The Highland Council

**Committee:** Caithness Local Access Forum

**Date:** 9<sup>th</sup> September 2024

**Report Title:** Core Path Diversion CA06.02 – Halkirk Riverside

**Report By:** Access Officer, Caithness and Sutherland

## 1 Executive Summary

1.1 This report details the request by a member of the public to divert a core path and public right of way.

1.2 The forum is being asked for its views on the proposal and to support, or not, the Council progressing the diversion proposal.

## 2 Recommendations

Forum Members are asked to:

- i. Make a recommendation that they support the proposal, or
- ii. Make a recommendation that they do not support the proposal.

## 3 Background

The core path, CA06.02 – Halkirk Riverside, was adopted onto The Highland Councils Core path plan in September 2011.

The path was in public use prior to February 2005, when access rights as provided by the Land Reform (Scotland) Act 2003 were enacted and meets the prescriptive requirements to be a public right of way.

The Highland Council may make a single amendment to the core paths plan under Section 20C of the Land Reform (Scotland) Act 2003 as amended. Whilst a review of the whole plan is not required to make a single amendment, the processes for determining any change, landowner notification etc, are the same for a single core path as for a wider review other than the Council may set its own consultation time period which otherwise would be 12 weeks for a multiple path amendment.

The Highland Council may, by order under Section 35 of the Countryside (Scotland) Act 1967, divert a public right of way where the owner, tenant or occupier satisfies the authority that for securing the efficient use of land it is expedient that the line of the public path should be moved.

#### **4 Proposal**

The owner of the property Riverside by Gerston has proposed a diversion as shown in Appendix 1, this is in order to use the ground for the sole purposes of the residents of the property.

The existing core path, proposed to be diverted, consists of 65m of unmade path through the grounds of Riverside, 225m of fully constructed vehicle track and 160m on the public highway. Photos of the existing route are shown in Appendix 2

The proposed diversion is currently an agricultural field used for the grazing, the line of the proposed diversion would follow the edge of the field adjacent to a high stone wall and stock fencing, see photos in Appendix 3. The diverted route would be fenced off from the field, other than gaps created through the boundary stone dykes there would be no constructed path along the diverted route.

In the interests of public safety a gate, or chicane, would be required for any new path exiting directly on to the public highway.

#### **5 Assessment of Diversion**

The criteria to be assessed for any proposed diversion of a core path or public right of way are;

- a. Is not substantially longer in length than the original
- b. Provides a surface as good or better than the original
- c. Has the same width or greater than the original
- d. It is not more difficult to pass along the route in terms of barriers or gradients
- e. Public enjoyment of the whole route is not impaired
- f. Regard to the effect on other land served by the existing right of way and by the new route.
- g. Access is not obstructed or deterred before, during or after construction of the diversion.
- h. All costs associated with the diversion, are met by the person proposing it, including construction and future maintenance, consultation with the Local Access Forum, Scottish Rights of Way Society and general public as necessary and any compensation payable.

**Length of diverted route**

The proposed diversion is shorter than that length of core path which would be removed from the plan but this is only relevant when considering the public use of the core path as a circular route from Halkirk. If you consider the residents at Gerston using the core path to access the village, via the riverside path, then the proposed diversion may be longer, varying distances of up to 160m, as all residents at Gerston would have to walk up to the Loch Calder public road to then either follow the public footway to Halkirk or use the proposed diversion back down to the riverside to then walk along the Riverside path.

Aside from Riverside there are 9 other households in Gerston with one other dwelling under construction and a further application in principle under consideration.

**Surface of new route compared to original**

The proposed diversion would be 290m of unmade path compared to 65m of unmade path on the original line with the remainder being on well a constructed private track and public roads.

**Have the same width or greater than the original**

There is ample space along the line of the proposed diversion to provide a suitably wide corridor, subject to overhanging branches being cleared along the proposed diversion.

**It is not more difficult to pass along the route in terms of barriers or gradients**

There are no significant gradients or barriers on the proposed diversion.

**Public enjoyment of the whole route is not impaired**

The main feature of the core path is the route following the banks of the River Thurso and none of this section of the route is being proposed to be removed from the core path plan. Subject to any inconvenience to the residents of Gerston there is unlikely to be any loss of enjoyment to the public as a whole. This is a subjective opinion and would be scrutinised through the public consultation.

**Regard to the effect on other land served by the existing right of way and by the new route.**

The majority of the existing route would still be accessible to the public as the core path follows a public road and shared track. The proposed new route would have implications for that owner/occupier as the land would be removed from agricultural use. The land owner is supportive of the principle of the proposed diversion subject to public and tenant consultation.

**Access is not obstructed or deterred before, during or after construction of the diversion.**

Acknowledged by the applicant

**All costs associated with the diversion, are met by the person proposing it, including construction and future maintenance, consultation with the Local Access Forum, Scottish Rights of Way Society and general public as necessary and any compensation payable.**

Acknowledged by the applicant

## 6 Future Steps

If recommended, the proposal for the core path and public right of way diversion would be taken to The Highland Council Caithness Area Committee. If agreed to support a diversion then the final details would be agreed with the applicant and the path diversion would then be subject to a formal consultation.

Public comments, support or objection, would be received by The Highland Council and it may or may not be able to confirm the diversion/path order. If objections remain outstanding the diversion/path order would be submitted to Scottish Ministers for their direction.

Designation: Access Officer, Caithness and Sutherland

Date: 2<sup>nd</sup> September 2024

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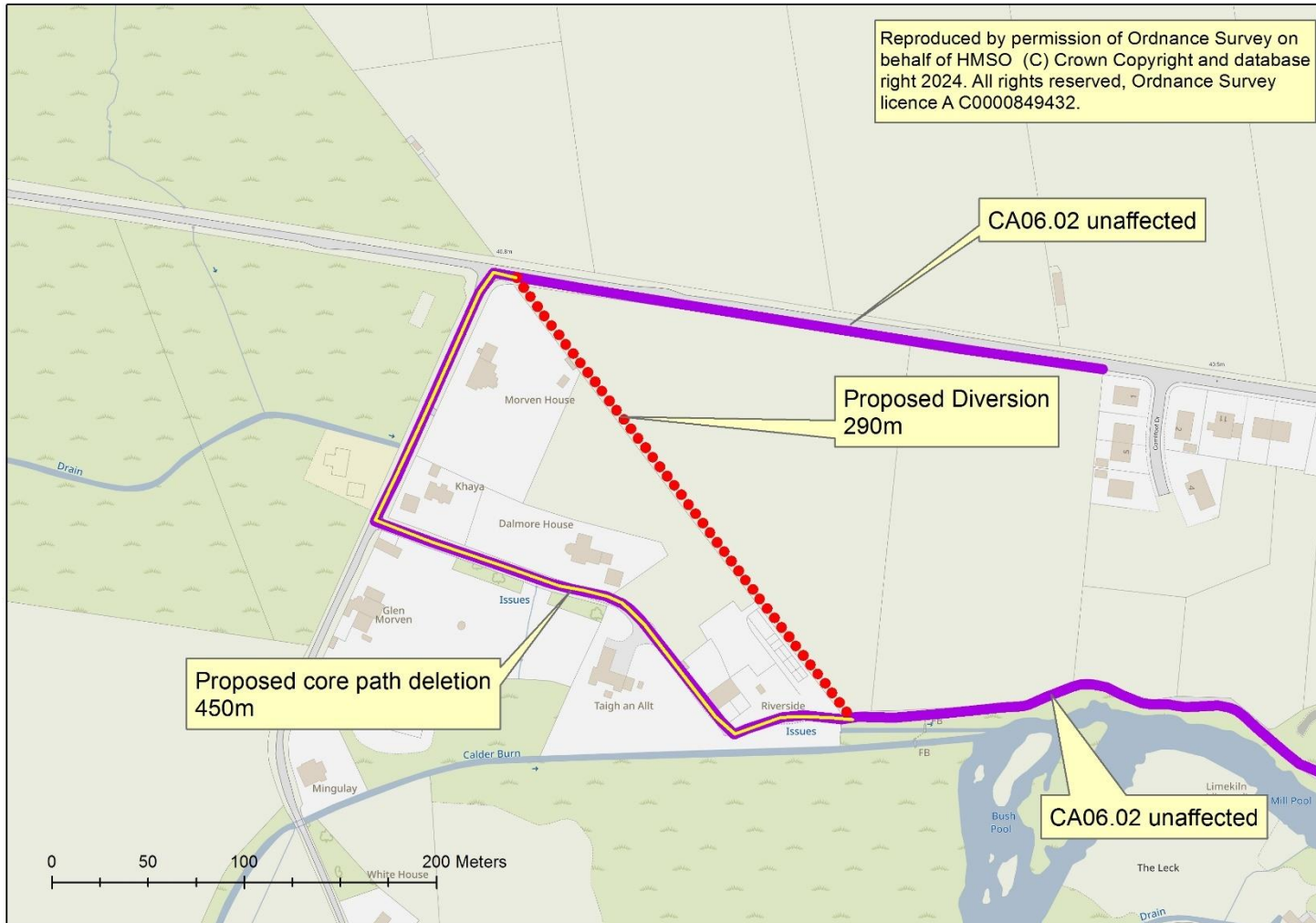
Appendices:

Appendix 1 – Map of existing route and proposed diversion

Appendix 2 – Photos of existing route

Appendix 3 – Photos of proposed diversion

Appendix 1 - Map of existing route and proposed diversion



Appendix 2 - Existing core path photos 2016 (April and Oct)





Appendix 3 – Line of proposed diversion May 2024

