

What Caldbeck Parish Council is asking from the independent review: that the County Council works with the National Park and ourselves to establish the footpath, with each party contributing what it is best placed to do.

The National Park has already offered staff resources to progress the Footpath Creation Order which reduces significantly calls on County Council staff.

Over the last 3 years the Parish Council has completed detailed mapping and signed legal agreements with 8 out of 10 landowners, at a cost of £6,000. It is able to fund the compensation for landowners and construction of the footpath, thanks to a generous donation of £100,000, and to continue the ongoing maintenance of the footpath.

But nothing can be done without the County Council agreeing to the Footpath Creation Order and funding associated costs. Without such support from the County Council as Highways Authority, the National Park will not act and the £100,000 will be returned.

There is need for support for legal costs in the event of the Order being challenged at an Inquiry. Costs of defending the Order are some £10,000 and if the Order were not confirmed costs would be some £30,000. These costs are uncertain. Indeed if the County Council were to support the Order and it was clear that the County Council, National Park and ourselves were fully determined to establish the footpath, it is possible that the Order would not be opposed. A joint approach to the two landowners would be made to demonstrate the agreed purpose and see if agreement could be achieved.

If the Order were challenged, the risks of the Order not being confirmed would be fully analysed by the County Council, National Park and ourselves working together and action taken. If, on advice, the risks were considered too great, the Order would not be defended and many of the worst case costs avoided, albeit there would be no footpath.

The County Council makes much of its role in leading local government, working in partnership to bring together public sector and third party organisations, and enabling local communities to deliver their key priorities. The footpath seems an ideal opportunity for the County Council to put these aims into practice, especially where the County Council is not being asked to fund the cost of the footpath itself, just the Creation Order costs.

The strength of support for the footpath is well demonstrated. The three MPs who represent parts of Allerdale and the Police and Crime Commissioner have written to the County Council. The petition launched before Christmas now has more than 1,500 signatures, with 170 comments explaining why a footpath is needed and urging the County Council to provide support. For the Parish Council, there has been helpful media coverage, both television and print.

The independent review provides an opportunity for the County Council to reconsider whether to provide the support requested. This is the final internal opportunity: if the current decision were confirmed, the Parish Council's only option would be to appeal to the Local Government Ombudsman. **It is therefore imperative that the review considers all the evidence afresh and recognises that without the limited County Council support requested the footpath will simply not happen, the £100,000 returned to the donor and the community will lose. The County Council will have failed in its aims and will have to answer if a pedestrian were injured while walking the road.**

As regards the **processes followed to date** we make the following points:

- County Council officers have been negative from the outset, slow to engage and unwilling to help. The argument has always been 'we have the power but there is no duty' and there are other pressing priorities and resource pressures. For the Parish Council, the County Council comes across as 'can do, won't do'.
- The Parish Council believes it has answered all points raised by officers. For example the County Council's cost estimate for construction was £250,000. The Parish Council has agreed construction costs within its £100,000 funding.
- The County Council has claimed that others could be approached - Allerdale Borough Council and the National Park. Allerdale only gets involved in helping ensure existing footpaths are clear of obstructions, not creating new ones. The National Park is happy to provide staff resources for the bulk of the work but can only do so if the County Council endorses the approach and funds possible Inquiry costs.
- We have regularly offered to meet the County Council and National Park and discuss together how best to progress the project. The County Council has rejected all offers of joint discussions.
- The County Council's briefing to Cabinet was prepared without any consultation with us. We were not allowed to see the brief prior to officers meeting Cabinet. When we were eventually given a copy, the County Council's brief was found to be erroneous in many respects. We submitted a detailed rejoinder which officers have fully accepted and have apologised for the errors in the original brief.
- We have pressed for meetings with Cabinet Members with nil success and often requests have been simply ignored without even the common courtesy of a reply. At Allerdale Local Committee we were told Cabinet Members had been advised by Legal Services not to talk to us. Our perception is that senior County Councillors are reluctant to engage in meaningful dialogue and are content for officers to take responsibility for decisions, thus avoiding Cabinet accountability.
- When we decided to draw attention of Members to the footpath issues, we first went to Allerdale Local Committee to gain support from local Members. We made it clear that this was preliminary to going to either Cabinet or County Council. Member Services and Legal Services were advised and accepting of our position and we expected to attend January's full County Council. The Monitoring Officer then ruled our question out of order as we had asked a similar question at Allerdale and would have to wait 12 months.
- The Allerdale Local Committee experience was a travesty of public participation. The County Council's Constitution states that having asked a question, there may be follow on questions from Members and that the Committee will give an answer, implying debate, proper consideration of issues, and formulation of a collective response. In actuality the Parish Council Chairman summarised the project and presented the question, the local Member added his support, Members were not asked for their views and did not participate, and the Chairman read out a pre-prepared statement drawn up by officers. There was no Member debate and Members did not express any views. Yet in responding to media interest, press officers have stated the Committee endorsed the officer decision.

Parish Council's response to the County Council's reasons for refusing support?

1. The County Council has no statutory obligation to progress a Footpath Creation Order.

The criteria for a footpath creation order under Section 26 of the Highways Act 1980 is 'need' and 'expediency'. The initial questionnaire in 2005 was answered by 200 of 300 households of whom 73% asked for this footpath. That demonstrates need. 170 of the present petitioners have posted comments on the need. The need is self evident: walk along the road, as many do, and you may take your life in your hands. If the footpath were created many more would walk between the two villages.

The County Council has argued that Allerdale or the National Park could pursue a Creation Order but as set out above the reality is that the County Council's endorsement and support is essential. Without that support the footpath is lost and the County Council cannot shrug its shoulders saying others could help.

More generally the County Council has a duty of care to all persons using the road and knows there is a risk to walkers.

The footpath ticks all the County Council's boxes - working in partnership, engaging local communities, encouraging independence, and not compromising public safety.

And the footpath surely meets any value for money tests - a lasting community asset for generations to come, largely paid for by a £100,000 donation, but requiring County Council endorsement and potential legal costs.

In view of the need and expediency, and the road safety dangers at present, coupled with the generous offer of funding for the land acquisition and construction costs, the question is why has the County Council not already offered its help and support?

2. The Countryside Access Team has to concentrate on high priority flood recovery and has insufficient resources to progress the Footpath Creation Order at this time.

Our contention is that the County Council has not properly considered how collaborative working significantly reduces demands for its resources with the National Park providing the staff resources for pursuing the Order. How much resource has gone into saying 'no' compared to giving the endorsement needed by the National Park? Possible legal costs are tiny in relation to the County Council's overall budget, with virement surely an option.

3. The proposed route of the footpath does not have the support of all landowners. There is a significant risk of legal challenge, with additional costs and uncertain outcome.

If the two landowners had not given back word, agreements would have been concluded and the footpath constructed. The Footpath Creation Order route is there precisely for the circumstances we are in.

As set out above, the legal risks would be fully analysed by the County Council, National Park and ourselves working together and action taken. If, on advice, the risks of an Order not being confirmed were considered too great, the Order would not be defended and many of the worst case costs avoided.

In conclusion we would urge that the County Council reconsiders its stance and extends the necessary support and highlight the following points:

- The County Council is the only organisation that can secure action in the circumstances of the project.**
- The call on the County Council is very limited - the National Park has agreed to provide the staff resources for the Creation Order and the footpath itself is paid for by a generous donation.**
- There are strong safety reasons for establishing the footpath as set out in many of the comments on the current petition.**
- The value for money case is robust, a lasting community asset being funded largely by a donation but requiring modest public sector funds for possible legal costs.**
- We are confident that the Parish Council has followed robust processes to date and collaboration between the County Council, National Park and Parish Council should ensure that risks of the Order not being confirmed are minimised.**

The independent review provides an opportunity to look again at all the evidence and to consider wider County responsibilities and benefits. When officers decided against providing support, they believed that others could be approached but this is simply not the case. Without the relatively limited County Council support requested the footpath will fail and that would be down to the County Council.