
REPORT TO:	Environmental Services Committee	AGENDA ITEM:	9
DATE OF MEETING:	30 May 2002	CATEGORY:	DELEGATED
REPORT FROM:	Deputy Chief Executive	PARAGRAPH NO:	N/A
MEMBERS' CONTACT POINT:	Derek Kinsey	DOC:	
SUBJECT:	Proposed diversion of Public Footpath Nos 9 and 45	REF:	E/7/3/99
WARD(S) AFFECTED:	North West	TERMS OF REFERENCE:	E. S. 06

1.0 Recommendations

1.1 in the light of the objections received that the Committee does not support the making of the Diversion Order

2.0 Purpose of Report

2.1 To determine an application to divert part of public footpaths Nos. 9 and 45 in the parish of Church Broughton.

3.0 Detail

3.1 An application has been received from Mr & Mrs D.J. Simpson of Badder Green Farm, Badway Lane, Church Broughton, Derbyshire, DE6 5AQ to divert a short section of each of the above public rights of way.

3.2 The Definitive Line Footpath No. 9

Footpath No. 9, which is approximately 807 metres long, leads from the road junction north of The Bent in a northerly direction crossing the Bent Brook to the parish boundary south of Barton Park. The footpath is moderately used

3.3 The Proposal

The proposed diversion (under the Highways Act 1980, Section 119) relates to the approximately 80 metre section marked A – B shown as a bold solid line on the attached plan. The alternative route is shown as a bold broken line between points A - C.

3.4 Assessment

My assessment of the proposal is as follows:

- g) The applicant does not own all the land subject to the diversion and proper notice has not been served.
- h) The parish council would match funding from the district council to reinstate this centuries old right of way.
- i) The alternative route is longer, not simpler to use and is inferior in terms of amenity.

The Ramblers Association objects on the basis that whilst the alternative route is no less commodious than the existing this is because of the flooding and owners should not cause an obstruction and expect the right of way to be diverted around it.

The Council for the Protection of Rural England objects as follows:

- a) Footpath No. 45 is an ancient right of way some five centuries old.
- b) Flooding has been caused by nearby development.
- c) Diversion of the path ignores the cause of the current problem and would destroy the ancient right of way.
- d) The diversion should not be allowed and current problems should be resolved by other means.

County Councillor Mrs Littlejohn supports the objections of the Parish Council and comments that the objections to the diversion of these footpaths have been on the Parish Council agenda for the past three years.

11 individual letters have been received raising the following objections:

- a) The paths are an ancient route and are used regularly.
- b) The pleasant and peaceful character of the paths as a green lane would be lost.
- c) A post and rail fence has recently been removed giving a more open appearance to the green lane.
- d) Other community facilities have been lost the area has been the subject of development. This would be a further deterioration of quality of life.
- e) The path has been blocked.
- f) The heritage significance of the paths would be lost.
- g) The alternative route is less commodious and is not as attractive.
- h) Some hedgerow has been removed.
- i) Flooding has been caused by works to the driveway.

4.0 Financial Implications

4.1 There are no direct financial implications for the Council. Should members be minded to make the Order the associated costs would be met by the applicant.

5.0 Corporate Implications

5.1 The Council has the power to approve unopposed diversion Orders. However if formal objections are received the applicant must be referred to the Secretary of State. Where appropriate a Public Inquiry will be held.

6.0 Background Papers

6.1 18/02/02 Application 25/03/02 Informal Consultation

- The proposed line would be only a few metres away from the original line.
- The proposed line would not alter the termination of the footpath.
- The alternative route leads the walker to the footbridge over The Bent Brook. Derbyshire County Council as the Highway Authority erected the footbridge in 1988 upon an alignment approximately 7 metres east of the definitive footpath where the banks the Bent Brook are more substantial.

3.5 The Definitive Line Footpath No. 45

Footpath No. 45 is approximately 543 metres long and runs from Sutton Road South east of the Holly Bush inn eastwards and northwards along Badway Lane to the junction Footpath No.10. The footpath is moderately used.

3.6 The Proposal

The proposed diversion (under the Highways Act 1980, Section 119) relates to the approximately 80 metre section marked D – C shown as a bold solid line on the attached plan. The alternative route is shown as a bold broken line between points D - C.

3.7 Assessment

- My assessment of the proposal is as follows:
- The proposed line would only be few metres away from the original line.
- The alternative is considered to be no less commodious to the user.
- The proposed line would not alter the termination of the footpath.
- The alternative route leads the walker to the footbridge over The Bent Brook. Derbyshire County Council as the Highway Authority erected the footbridge in 1988 on alignment approximately 7 metres east of the definitive footpath where the banks of the Bent Brook are more substantial.
- A kissing gate would be provided at the start of the proposed route at point D.

3.8 Representations

Church Broughton Parish Council objects as follows:

- a) The footpaths have been used for five centuries and it is believed that this is the ancient packhorse road the medieval village of Barton Blount.
- b) Hedges bound footpath No. 45 and No. 9 provides a circular walk. Because of this they are regularly walked.
- c) The present owners of the property have blocked footpath No. 45 and the parish council has since been trying to reopen the route.
- d) Following the removal of hedges and the construction of an access the path was made impassable for a few metres because of flooding from the brook. To the best of knowledge there has been no flooding previously.
- e) The correct routes are regularly walked. Any suggestion that the diversion has been formalised is not correct.
- f) There is no improvement to security to be gained.

