

REPORT TO:	ENVIRONMENTAL & DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 7
DATE OF MEETING:	29th January 2004	CATEGORY: DELEGATED
REPORT FROM:	CHIEF EXECUTIVE	OPEN
MEMBERS' CONTACT POINT:	G R Fewkes (ext 595725)	DOC:
SUBJECT:	Proposed Diversion of Public Footpaths No.4 & 5 (Part) and Extinguishment of Public Footpath No.3 (Part), Parish of Smisby	REF: GF/E/7/3/101
WARD(S) AFFECTED:	Hartshorne & Ticknall	TERMS OF REFERENCE: ES06

1.0 Recommendations

- 1.1 It is recommended that Orders be made under the provisions of Section 119 of the Highways Act 1980 to divert part of the definitive line of Public Footpaths No.4 & 5, and a further Order be made under Section 118 (Highways Act 1980) to extinguish part of the definitive line of Public Footpath No.3, in the Parish of Smisby, to the proposed lines as depicted on the attached plan.

2.0 Purpose of Report

- 2.1 To determine an application to divert part of Public Footpaths No.4 & 5, and extinguish part of Footpath No.3, in the Parish of Smisby.

3.0 Detail

- 3.1 An application has been received from Mr A Moseley, of Daniel Hayes Farm, Pistern Hill, Hartshorne, Derbyshire, DE11 7AH to divert and extinguish, as appropriate, sections of the above public rights of way.

- 3.2 The diversions are viewed as necessary to fit in with proposed expansion of activities at the farm as a nature conservation area and visitor attraction, and to afford increased security at the farm buildings.

3.3.1 Footpath No.4

The Definitive Line, which is approximately 2994m long, runs from the junction with footpath No.3 (SK 3459 2010) northwestwards to the parish boundary. Continuing along the parish boundary, then proceeding south eastwards to junction with footpath No.5 at Daniel Hayes Farm (SK 3442 2064).

3.3.2 The Proposal

The proposed diversion (under the Highways Act 1980, Section 119) relates to the approximately 135 metre section marked A to B and shown as a bold solid line on the attached plan. The alternative route is shown as a bold broken line between

points A to E and is approximately 225 metres in length.

3.4.1 **Footpath No.5**

The Definitive Line which is approximately 642m long, runs from Ticknall Road, north of The Elms (SK 3463 2082) in a south westerly direction to footpath No.4 in Sharp's Bottom Wood (SK 3429 2030).

3.4.2 **The Proposal**

The proposed diversion (under the Highways Act 1980, Section 119) relates to the approximately 160 metre section marked D to E and shown as a bold solid line on the attached plan. The alternative route is shown as a bold broken line between points D to E (via F) and is approximately 163 metres in length).

3.5.1 **Footpath No.3**

The Definitive Line, which is approximately 825m long, runs from the Woodville-Melbourne Road above Heath Lane, opposite Forties Lane (SK 3471 1986), in a northerly direction to footpath No.5 at Daniel Hayes Farm (SK 3443 2066).

3.5.2 **The Proposal**

The proposed extinguishment (under the Highways Act 1980, Section 118) relates to the approximately 50 metre section denoted C to F and indicated by a bold solid line. The extinguishment is considered necessary to remove the cul-de-sac section created by the diversion of footpath No.5.

3.6 **Assessment**

The assessment of the proposals is as follows:

- Access will be increased, as 6 large field gates will be avoided by the diversions. However 4 hand gates will be required for stock control purposes (locations denoted on accompanying plan).
- The proposed diversions will offer more interest to path users by passing through newly planted woodland, wildflower meadows and restored wetland, created as part of a large-scale conservation/restoration project currently being implemented on the farm by the landowner.
- Better links will be created with a number of permissive paths (25 year agreement) that are planned throughout the farm.
- The diversions will permit increased security in the farm building area and reduce disturbance from, and to, farm management practices.
- The rights of way network in the Parish will increase by approximately 43m.

On the basis of the assessment it is concluded that the proposed diversion is acceptable.

3.7 **Representations**

The 28-day informal consultation period has been completed. Comments were received from Smisby Parish Council that have now been addressed and resolved (See 3.8.2 below).

3.8.1 Background

This application has undergone two separate informal consultation periods, as the original proposal attracted strong objections from the Derbyshire Footpath Preservation Society and Smisby Parish Council.

3.8.2 A meeting was held on 1 October 2003 involving the applicant and the complainants, with a view to addressing and resolving the objections. New routes and proposals were provisionally agreed upon, which substantially differed from the original application to necessitate a further full informal consultation.

3.8.2 Following the second consultation period, Smisby Parish Council commented that part of the new proposed diversion was historically prone to flooding after periods of prolonged rain. However, this was prior to restoration of the adjacent pond and associated drainage work undertaken by the present owner, which has greatly reduced any tendency to flood in the area.

3.8.3 The landowner is prepared to give formal assurance that further remedial work (including the possible surfacing of the path) will be undertaken should the problem persist in the future. Smisby Parish Council has accepted this offer.

4.0 Financial Implications

4.1 There are no direct financial implications for the Council. Should Members be minded to make the Order, the applicant would meet any associated costs.

5.0 Corporate Implications

5.1 The Council has the power to approve unopposed Diversion Orders. However if formal objections are received the application must be referred to the Secretary of State for confirmation.

6.0 Background Papers

6.1 Footpath Diversion File E/7/3/101.

