
REPORT TO:	ENVIRONMENTAL & DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 8
DATE OF MEETING:	30 th January 2003	CATEGORY: DELEGATED
REPORT FROM:	CHIEF EXECUTIVE	OPEN
MEMBERS' CONTACT POINT:	G R Fewkes (595725)	DOC:
SUBJECT:	Proposed Diversion Public Footpath No.31 (Part) Swadlincote	REF: GF/E/7/3/100
WARD(S) AFFECTED:	Swadlincote	TERMS OF REFERENCE: ES06

1.0 Recommendations

1.1 The Council is asked to consider whether to support the making of an order under the provisions of Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 31 Swadlincote to the proposed line as depicted on the attached Plan 'A'.

2.0 Purpose of Report

2.1 To determine an application to divert part of Public Footpath No. 31 Swadlincote.

3.0 Detail

3.1 An application has been received from Mr C Roe, of Songalt Builders Ltd, 230 High Street, Newhall, Swadlincote, Derbyshire, DE11 0EA to divert a section of the above public right of way. The diversion is necessary to facilitate building operations following a successful planning application for residential development of the site.

The Definitive Line

3.2 Footpath No. 31, which is approximately 232 metres in length, runs from Hastings Road west of Coppice Side in a northerly direction, then northwest to Highfield Road. The definitive line of the footpath has not been walked for more than thirty years.

The Proposal

3.2 The proposed diversion (under the Town and Country Planning Act 1990, Section 257) relates to the approximately 167 metre section denoted by the solid black line A-B on the attached Plan 'A', the alternative route is shown as the bold broken line A-C.

Assessment

3.4 The assessment of the proposal is as follows:

- Much of the route would be available again after being severely obstructed for more than 30 years.
- The majority of the new proposed line will be adopted. The surface of the diverted section will be tarmaced for the entire length, and street lighting will be provided under Section 38 of the Highways Act.
- A landscaped area, two metres wide, will be provided on the diverted section to the rear of properties on Highfield Road (Nos 2 through 12). Thorn bearing shrubs will form the majority of the planting.
- A two metre wide crushed stone surface will be provided between Highfield Road and Point 'A'.
- A minimum one and a half metre width will be provided in all areas.
- The proposed line will be virtually flat and be more commodious to the elderly, pushchairs and other low mobility user groups. The present line has a steep incline.

Representations

3.5 The informal consultation period has been completed with six individual letters received from the residents of Highfield Road, whose properties will be immediately adjacent to the proposed path. Their objections and concerns, which have been strongly supported by the Local Ward Member, are summarised as:

- a) The design does not appear to fall in line with the Crime and Disorder Strategy.
- b) Due to the double right angle bends, the proposed line may create a congregating area for 'troublesome young'.
- c) This may bring increased disturbance and associated security issues to the adjoining properties.
- d) The proposed line will not afford a clear view of the route and may discourage usage through fear of crime – it should be as straight as possible.
- e) Concerns for the safety of children using the path.
- f) A hedge is considered insufficient as a security measure: a fence would be more appropriate.
- g) The footpath should incorporate provisions for access to any future development of Wraggs's Yard.

Further Consultation

3.6 PC Eileen Banton (Crime Prevention Officer, Derbyshire Constabulary) was consulted in conjunction with the Crime and Disorder issues raised in the objections. She stated that "the proposals for the new footpath will have more crime reduction devices in place than the old one - therefore reducing the fear of crime". The Council's previous Police Liaison Officer, Sgt Julie Sproson, has supported this view, as has the present incumbent Sgt Steve Wilson.

3.7 On 12th November 2002, representatives of the developers, objecting residents, Council Officers and the Local Ward Member met at the Council Offices in order to

address the issues raised and seek a mutually acceptable resolution to the objections.

3.8 The meeting concluded with the Developer agreeing to investigate the possibility of adjusting the planned development to incorporate a straight path that avoided the rear of the properties on Highfield Road. This was agreed as acceptable by all attendees.

3.9 The developer has since decided that the possible alternative route produced by his architect would be unsuitable and the original proposed route (as per attached Plan 'A') should be presented for consideration. Due to the shape of the development site, a straighter path would create a sizeable void that he believes would almost certainly create a congregating area – this is depicted on Plan 'B' as a hatched area. However, he has offered to install a two-metre high steel palisade fence in addition to the landscaped area as detailed above.

3.10 The developer has voiced his intention to appeal should an Order not be made.

3.11 Recently the developer has approached some of the objecting residents and intimated that a non-definitive pathway will be installed along the route of the proposed diversion regardless of the final outcome of this diversion process. This has obviously increased concern amongst the complainants.

4.0 Financial Implications

4.1 There are no direct financial implications for the Council, as the costs associated with the order are to be met by the applicant. However any decision can be challenged by appeal to the Planning Inspectorate, and therefore the Council may be subject to certain costs.

5.0 Corporate Implications

5.1 Should the Committee be minded to authorise the making of the Order, Members are advised there is an appeal process available to the objectors that may refer the matter to the Rights of Way Division of the Planning Inspectorate for determination by exchange of written statements or Public Inquiry.

5.2 Conversely, should the Committee not support the making of the order, Members are advised that the applicant is willing to appeal to the Planning Inspectorate.

6.0 Community Implications

6.1 Although the wider local community will benefit from the provisions proposed in the diversion application, there may be deleterious effects for a relatively small number of residents, as voiced in the objections.

7.0 Conclusion

7.1 The proposed diversion has received a number of complaints from adjoining residents, who are concerned about the relocation of a public footpath close to their property. Attempts have been made to achieve a mutual compromise but unfortunately this have not been achieved. Members need to consider whether or not to support the making of the order.

8.0 Background Papers

8.1 Footpath Diversion File E/7/3/100

