

---

---

<b>REPORT TO:</b>	<b>Environmental &amp; Development Services Committee</b>	<b>AGENDA ITEM: 10</b>
<b>DATE OF MEETING:</b>	<b>3rd June 2008</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>Director of Community Services</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>D Adkins (01283) 595762</b>	<b>DOC: Open</b>
<b>SUBJECT:</b>	<b>The Rescinding of Two Diversion Orders made on the 20<sup>th</sup> April 2007 and the Proposal of Two New Diversion Orders in Respect of Footpaths 39 and 40 Swadlincote</b>	<b>REF: DA/01/01/07</b>
<b>WARD(S) AFFECTED:</b>	<b>Swadlincote/ Castle Gresley/ Church Gresley</b>	<b>TERMS OF REFERENCE: EDS 06</b>

---

---

## **1.0 Recommendations**

1.1 It is recommended that the Committee rescinds the previous Orders dated 20<sup>th</sup> April 2007 made under the provisions of the Town & Country Planning Act 1990, namely to divert part of Footpath No 39 (Swadlincote) and part of Footpath No 40 (Swadlincote)

1.2 It is recommended that the Committee authorises the making of revised Diversion Orders under the provisions of the Town & County Planning Act 1990 as explained in paragraph 3.8 below.

## **2.0 Purpose of Report**

2.1 In accordance with the scheme of delegation, Orders were made under planning legislation for the diversion of two public rights of way. These attracted substantial opposition, however, and the report seeks Members restitution as the resolution of this matter.

## **3.0 Detail**

3.1 An application was received from David Wilson Homes, East Midlands, to divert part of Public Footpath No 39 and part of Public Footpath No 40. This was necessary to enable continued development of the site and to incorporate the area known as the Local Centre. The intention was for the diverted sections of path to follow the course of pavements and "green routes".

### **The Definitive Line**

3.2 Footpath 39 (part) is shown as a solid bold line running from point A (Grid Ref 428188/318388) on Swadlincote Lane in a generally south-easterly direction for approximately 400 metres to point B (Grid Ref 428488/318130) on the attached plan numbered 1.

Footpath 40 (part) is shown as a solid bold line running from point C (Grid Ref 428175/318300) in a generally south-westerly direction for approximately 58 metres to point D (Grid Ref 428150/18260) on the attached plan numbered 2.

3.3 In accordance with the approved scheme of delegation the application was the subject of an informal consultation and no objections were received. Formal orders were duly prepared, sealed and publicised in accordance with the legislative requirements. This resulted in substantial opposition, primarily from the South Derbyshire Ramblers Association and the Peak and Northern Footpath Society. Officers sought to resolve these objections, exchanging correspondence and then holding a meeting of interested parties. However it was not possible to resolve this matter.

3.4 The main concerns from the Ramblers were around the overall impact of this substantial development on the local footpath network and the extent of footpaths being diverted onto estate footways.

3.5 Due to the complexity of this matter, including a change of management arrangements within the company and the involvement of a further developer, it was decided to prepare a comprehensive scheme dealing with all the footpaths affected.

3.6 A further meeting was held involving the interested parties to discuss revised routings, particularly avoiding the use of estate footways as far as possible. This met with the approval of statutory consultees and the revised proposal was subjected to a further informal consultation. This has not attracted any objections.

3.7 To comply with the legislation and the scheme of delegation the Committee is asked to formally rescind the Orders made in April 2007 and to consider the revised proposal, set out below.

### The Proposal

3.8 The proposed diversion (under the Town & Country Planning Act 1990) would see that part of Footpath 39 marked A-B on the said plan and being more properly shown by a solid bold line being diverted from point A on Swadlincote Lane in a NNE direction for approximately 20 metres and then in a generally Southerly direction for approximately 380 metres, transversing the road at the level crossings, around the new development and local centre emerging at point B and shown by a broken bold line on the said plan.

Footpath 40 more properly shown by a solid bold line and marked C-D on Plan 2 would be replaced by the route also marked C-D and shown by a bold broken line on the said plan.

The proposal intends to keep the footpath routes as close as possible to the existing definitive routes.

### Assessment

3.9 The assessment of the proposal is as follows:

That the sections of definitive footpath to be diverted will be re-routed through the new residential and local centre development benefiting from newly created surfaces (pavements), street lighting and aesthetic improvements brought about by the amenity horticulture associated with the development.

There are no stiles, gates or other obstructions proposed for the new diverted route.

The minimum width of 1.8 metres will be adhered to throughout the length of the diversion.

The surface will be in line with the new development.

The objections made by the Ramblers Association and others during the last consultation stage have now been fully resolved.

#### **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 confirm unopposed Diversion Orders. However if formal objections are received the application must be referred to the Secretary of State for confirmation.

#### **6.0 Conclusions**

6.1 That two new Orders should be made in line with the new development following the rescinding of the previous ones.

#### **7.0 Background Papers**

7.1 Footpath Diversion File – Swadlincote/DWH