

Agenda Item No. 5(d)

DERBYSHIRE COUNTY COUNCIL

REGULATORY – LICENSING AND APPEALS COMMITTEE

10 September 2018

Report of the Strategic Director – Economy, Transport and Environment

PROPOSED DIVERSION OF PUBLIC FOOTPATH NO.39 (PART) – PARISH OF CHINLEY, BUXWORTH AND BROWNSIDE

(1) **Purpose of Report** To seek authority for the Director of Legal Services to make a Public Path Diversion Order for the permanent diversion of Public Footpath No. 39 (part) in the Parish of Chinley, Buxworth and Brownside in the interests of the landowner. The proposed diversion would increase the security of the property and enable the landowner to protect their horses from gaining access to the main road (A624).

(2) **Information and Analysis** The County Council has received an application for the permanent diversion of part of Public Footpath No. 39 which currently passes through the farmyard of Bradshaw House Farm continuing into the field to the south-west of the property. The proposed diversion would relocate the start of the footpath 86 metres to the south Point **E**, as shown on the attached plan (ref. TE/CH/X4099/Cttee/2018).

If the Diversion Order takes effect, it will divert approximately 218 metres of the footpath, as shown on the plan as a solid bold line between points **A-B**. The proposed alternative path would be approximately 199 metres long, as shown as a bold broken line between points **A-C-D-E**. The change in location of the current entrance to/exit from the footpath (Point **B**) would mean an additional 86 metres of walking along the highway footway (to Point **E**) if approaching the footpath from the north; if approaching from the south, the required roadside walking would be reduced. The highway footway is of adequate width and condition for use.

The alternative path would have a recorded width of 2 metres and a natural grass surface between points **A-C-D**. The section of path between points **D-E** would have a recorded width of 1.2 metres and a textured concrete surface to aid accessibility on the newly constructed ramp from the highway footway into the field.

Metal hand gates to the current British Standard (BS5709:2018) would be installed at points **A**, **C** and **D** on the attached plan, for stock control purposes.

No objections were received to the proposed diversion when informal consultation was carried out on 14 September 2016. Councillor David Lomax, the Local Member, Chinley, Buxworth and Brownside Parish Council and High Peak Borough Council have been consulted and have no objections to the proposal.

(3) **Financial Considerations** The applicant has agreed in writing to defray all of the costs in respect of making and advertising the Diversion Order and bringing the new route into a suitable condition for public use. This includes Officer time in processing the application which is estimated to be in the region of £2,000.

(4) **Legal Considerations** Derbyshire County Council may make an Order under Section 119 of the Highways Act 1980:

- 1) Where it appears to a council as respects a footpath or bridleway in their area that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or of another owner, lessee or occupier), the council may, subject to subsection (2) below, by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order,—
 - (a) create, as from such date as may be specified in the order, any such new footpath or bridleway as appears to the council requisite for effecting the diversion, and
 - (b) extinguish, as from such date as may be specified in the order the public right of way over so much of the path or way as appears to the council requisite as aforesaid.
- 2) A public path diversion order shall not alter a point of termination of the path or way—
 - (a) if that point is not on a highway, or
 - (b) (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.
- (6) The Secretary of State shall not confirm a public path diversion order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that the diversion to be effected by it is expedient as mentioned in subsection (1) above, and further that the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which—
 - (a) the diversion would have on public enjoyment of the path or way as a whole,
 - (b) the coming into operation of the order would have as respects other land served by the existing public right of way, and

(c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it.

Research has concluded that it is expedient to make the necessary Diversion Order because:

Whether it is in the interests of the owner of the land or of the public that the footpath should be diverted

The landowner wishes to improve the security of the yard through which part of the path passes. In addition, the diversion of this part of the path would enable the landowner to better protect their horses from gaining access to the busy main road (A624), an issue which has occurred in the past and poses a significant safety risk. On the basis of this information, it is in the landowner's interest to divert the path.

Whether the diverted footpath will (or will not) be substantially less convenient to the public

The proposed alternative route would increase the required highway footway walking by 86 metres, along a footway of adequate width, on the same highway as the footpath currently terminates. The length of the public footpath itself would decrease by 19 metres as a result of the diversion coming into effect.

Overall, the proposed diversion benefits the management of the land, which is in the landowner's interest, and improves access for the public by providing a route with fewer structures on it. On balance, the alternative route is not considered to be substantially less convenient than the existing footpath.

The effect the diversion would have on the public enjoyment of the footpath as a whole

Public Footpath No. 39 is a relatively short footpath of which part passes through a working farmyard. The enjoyment of the footpath as a whole would be increased by moving part of the footpath from the farmyard into the adjacent field. In terms of the views of the surrounding landscape and the general feel of the path, the proposed diversion would not have a significant impact upon the public's enjoyment of these. Access to the path from the highway would be provided to a good standard through the construction of a purpose built pedestrian ramp, to a gradient of 1:15.

On the whole, the diversion of the path would appear to have a positive impact upon the public's enjoyment of the path.

The effect which the coming into operation of the Order would have as respects other land served by the existing public rights of way

None identified.

The effect which the new public right of way created by the Order would have as respects the land over which the right is so created and any land held with it

None identified.

Whether it is expedient to make the Order

It is considered that the proposed diversion is in the interests of the landowner and occupier as outlined in this report. The proposed diversion would not be substantially less convenient to the public, and would not have an adverse effect on the public's enjoyment of the route as a whole or adversely affect the land over which the diversion would run or land served by the existing right of way. It is therefore considered expedient to make the Order.

(5) **Environmental and Health Considerations** Consideration has been given to the County Council's Rights of Way Improvement Plan in considering this application and preparing this report.

Other Considerations

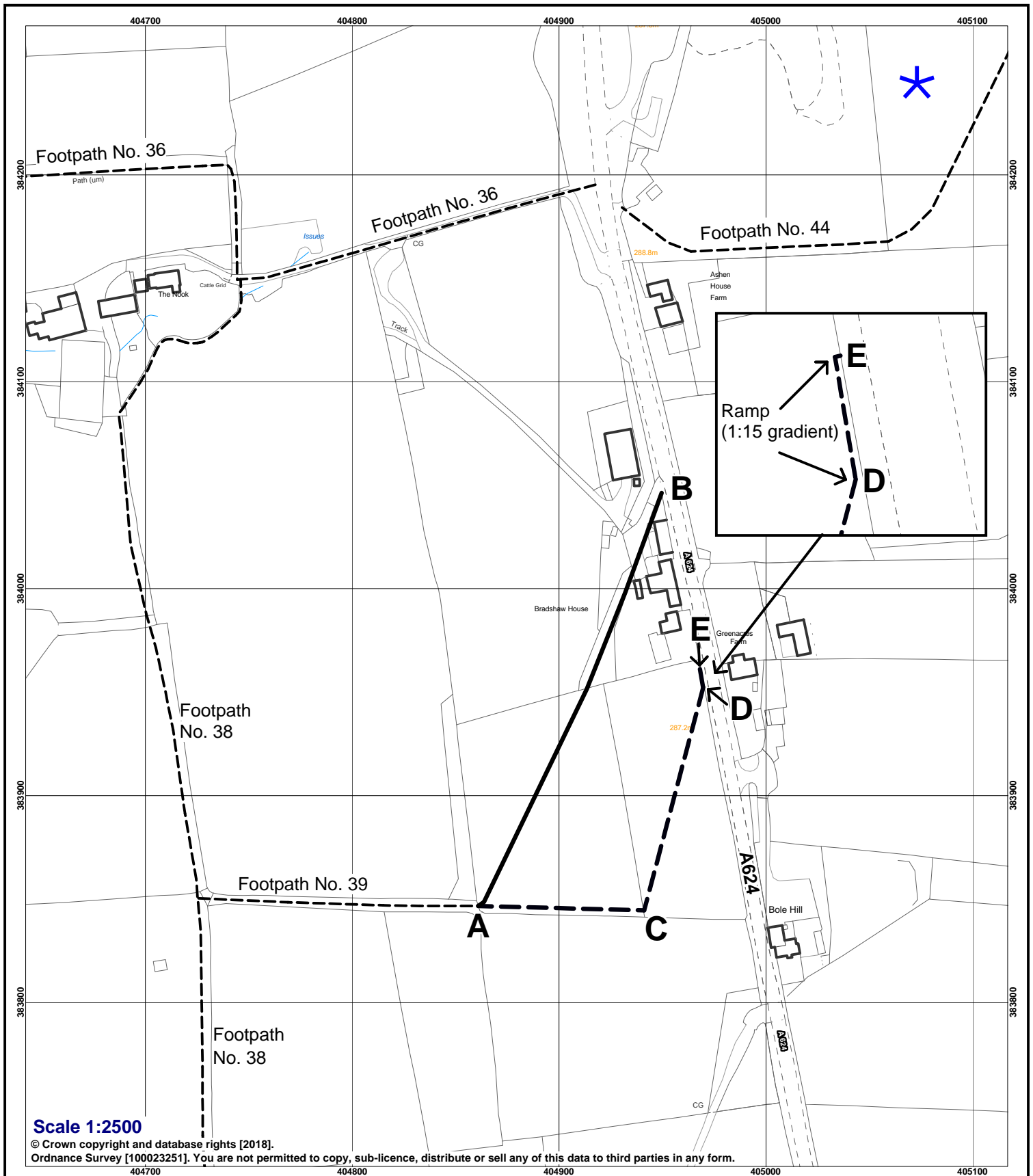
In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport considerations.

(6) **Background Papers** Held on file within of the Economy, Transport and Environment Department. Officer contact details - Corinne Hudson, extension 39660.

(7) **OFFICER'S RECOMMENDATIONS** That:

- 7.1 The Director of Legal Services be authorised to make the necessary Order to divert Public Footpath No.39 (part) in the Parish of Chinley, Buxworth and Brownside.
- 7.2 Should objections be received to the making of the Order that cannot be resolved, then the matter be forwarded to the Secretary of State for determination.

Mike Ashworth
Strategic Director – Economy, Transport and Environment



Ref: TE/CH/X4099/Cttee/2018
Date: 13 July 2018



Mike Ashworth
Strategic Director
Economy, Transport & Environment
Derbyshire County Council
Shand House
Dale Road South
Matlock
DE4 3RY

Highways Act 1980 Section 119
Proposed diversion of Public Footpath
No. 39 (part) - Parish of Chinley,
Buxworth and Brownside

Key:	Path to be diverted	
	Alternative footpath	
	Existing Footpath	

