

Agenda Item No. 4(f)

DERBYSHIRE COUNTY COUNCIL

REGULATORY – LICENSING AND APPEALS COMMITTEE

14 January 2019

Report of the Strategic Director – Economy, Transport and Environment

**PROPOSED CREATION AGREEMENT FOR A PUBLIC FOOTPATH
BETWEEN WHALEY BRIDGE PUBLIC FOOTPATH NO. 56 AND TAXAL
MOOR ROAD, PARISHES OF WHALEY BRIDGE AND HARTINGTON
UPPER QUARTER**

(1) **Purpose of Report** To seek authority for the Director of Legal Services to enter into a Public Path Creation Agreement with the landowner to create a public footpath between Whaley Bridge Public Footpath No. 56 and Taxal Moor Road, in the interests of the public.

(2) **Information and Analysis** The County Council has identified a gap in the highway network between Whaley Bridge Public Footpath No. 56 and Taxal Moor Road, a publicly maintainable carriageway highway. Part of the land over which there is a gap in the network falls within the parish of Hartington Upper Quarter, and part within the parish of Whaley Bridge.

The location of the path to be created would have been close to the boundary of the areas covered by the Whaley Bridge Urban District Definitive Map and Statements (DMS) and the Chapel en le Frith Rural District DMS. This may account for the gap in the network at this location; in any event there is no evidence to suggest why this link to Taxal Moor Road was not included.

The Highway Extents Team has confirmed that the land is not within the boundary of the carriageway, and as there is currently no recorded public right of way to the carriageway, Whaley Bridge Public Footpath No. 56 is effectively a cul-de-sac path. It is therefore seen to be in the interests of the public for a public footpath to be formally recorded. This would allow the path to be formally recorded on the DMS and would also clarify the maintenance liability for the path.

The path would travel from the southern end of Public Footpath No. 56 at the parish boundary, alongside a stone wall across an open, grassed piece of land adjacent to Taxal Moor Road, as shown as a bold dashed line between points **A-B-C-D** on the plan (ref. TE/CH/X4241/Cttee/2018). That part of the path, between points **A-B-C**, lies within the parish of Hartington Upper

Quarter, and that part of the path between points **C-D** lies within the parish of Whaley Bridge. The path would be approximately 35 metres in length, with a width of 2 metres.

High Peak Borough Council and the Peak District National Park Authority have been consulted and offered no comments or objections to the proposal. The Local Member, Councillor Alison Fox, Whaley Bridge Parish Council and Hartington Upper Quarter Parish Council have also been consulted, all of whom raised no objections to the proposal.

(3) **Financial Considerations** As the proposal will benefit the public, it is considered appropriate that Derbyshire County Council bear the cost of preparing the public path creation agreement and the owner's reasonable legal costs. The estimated cost of £2,000 will be met from the current Rights of Way Revenue Budget.

The land over which the proposed path passes is currently in a good state of repair and, therefore, no immediate costs are anticipated to be needed to bring the route into a state suitable for public use. The County Council will be responsible for the maintenance of the surface of the path, and any future costs will be met by the Rights of Way Revenue Budget.

A 'Public Footpath' fingerpost will be installed on Taxal Moor Road, the estimated cost is £145, and will also be met by the Rights of Way Revenue Budget.

(4) **Legal Considerations** Under Section 25 of the Highways Act 1980:

- (1) A local authority may enter into an agreement with any person having the necessary power in that behalf for the dedication by that person of a footpath, bridleway or restricted byway over land in their area.
An agreement under this section is referred to in this Act as a "public path creation agreement".
- (2) For the purposes of this section "local authority"-
 - (a) In relation to land outside Greater London means a county council, a district council; and
 - (b) In relation to land in Greater London means a London borough council or the Common Council.
- (3) Before entering into an agreement under this section a local authority shall consult any other local authority or authorities in whose area the land concerned is situated.
- (4) An agreement under this section shall be on such terms as to payment or otherwise as may be specified in the agreement and may, if it is so agreed, provide for the dedication of the footpath, bridleway or restricted byway subject to limitations or conditions affecting the public right of way over it.

- (5) Where a public path creation agreement has been made it shall be the duty of the local authority who are a party to it to take all the necessary steps for securing that the footpath, bridleway or restricted byway is dedicated in accordance with it.
- (6) As soon as may be after the dedication of a footpath, bridleway or restricted byway in accordance with a public path creation agreement, the local authority who are party to the agreement shall give notice of the dedication by publication in at least one local newspaper circulating in the area in which the land to which the agreement relates is situated.

Assessment of legal considerations

The landowner has the necessary power to dedicate the public footpath, and the location is within the jurisdiction of Derbyshire County Council. The other relevant local authority has been consulted and has not opposed the proposal. It is therefore considered appropriate to proceed with the Public Path Creation Agreement.

- (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

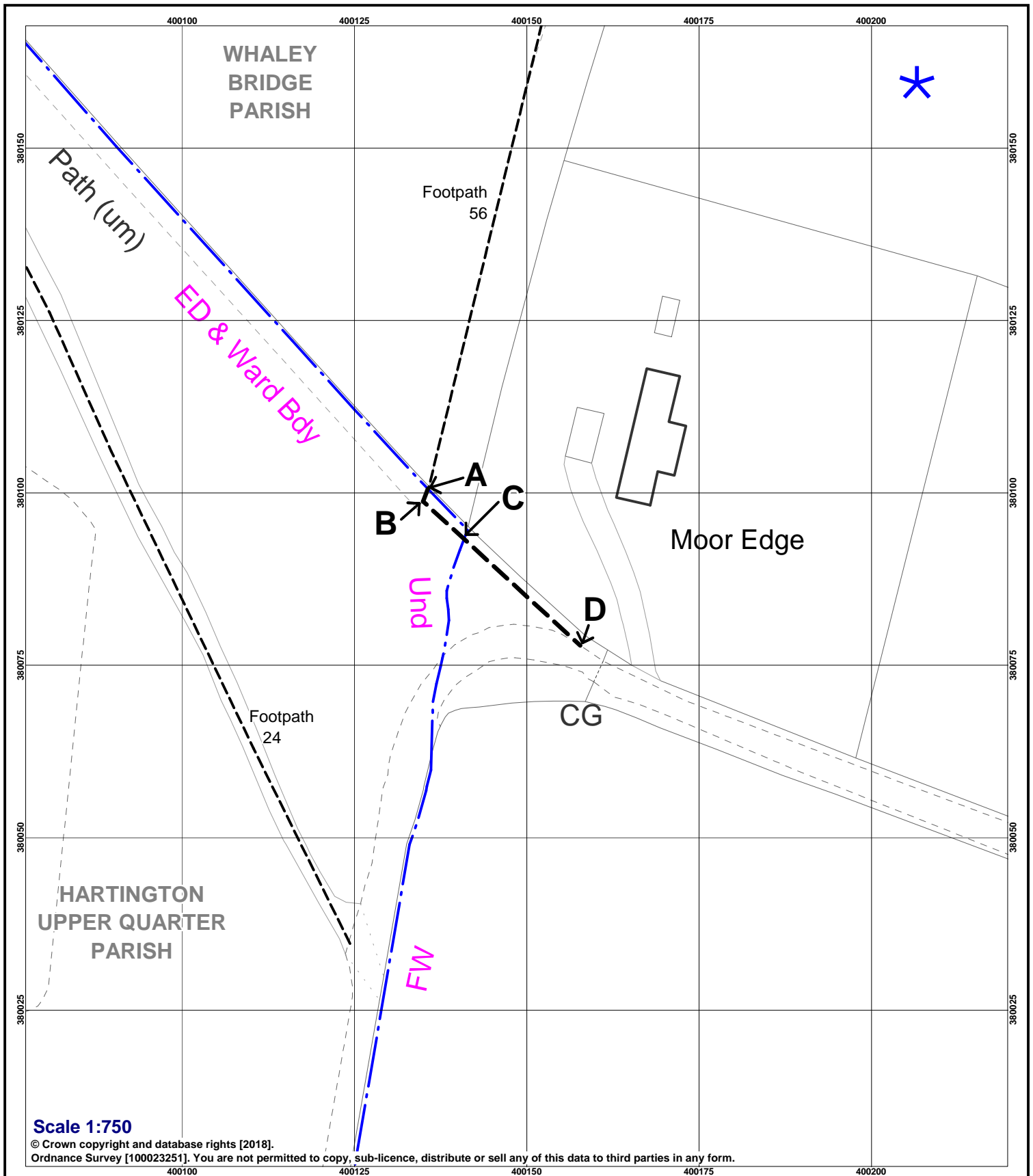
In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport considerations.

- (6) **Background Papers** Held on file within 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 enter into a Public Path Creation Agreement to create a public footpath between Whaley Bridge Public Footpath No. 56 and Taxal Moor Road, in the parishes of Whaley Bridge and Hartington Upper Quarter.
- 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.

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Strategic Director – Economy, Transport and Environment



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Section 25 Highways Act 1980

Proposed Creation Agreement for a Public Footpath between Whaley Bridge Public Footpath No. 56 and Taxal Moor Road, Parishes of Whaley Bridge and Hartington Upper Quarter

Key:	Path to be added	— — — — —
	Existing Footpath	- - - - -
	Parish Boundary	- . - . - .

