

Agenda Item No. 4(d)

DERBYSHIRE COUNTY COUNCIL

REGULATORY – LICENSING AND APPEALS COMMITTEE

14 January 2019

Report of the Strategic Director – Economy, Transport and Environment

**PROPOSED CREATION OF PUBLIC FOOTPATH ALONG PATH KNOWN
AS APPLETREE WALK – PARISH OF DRONFIELD**

(1) **Purpose of Report** To seek authority for the Director of Legal Services to make a Public Path Creation Order for the creation of a Public Footpath along the route known as 'Appletree Walk' in Dronfield, in the interest of the public.

(2) **Information and Analysis** The County Council has been made aware of a walked path that is not recorded on the Definitive Map and Statement for Derbyshire between Appletree Drive and Cross Lane in Dronfield, which is known as 'Appletree Walk'.

The path is not publicly maintainable and the land over which it passes was shown to be unregistered when a Land Registry search was carried out by the County Council. None of the adjacent landowners came forward to claim an interest in the land when consulted.

To protect the public's right to use the path and ensure that there is provision for proper maintenance, it is proposed that the route be formally recognised as a Public Footpath. It is considered that the most expedient way of doing this is to make a Creation Order under Section 26 of the Highways Act 1980.

The effect of the Order would be to create a Public Footpath of approximately 63 metres in length between Appletree Drive and Cross Lane, shown as a bold dashed line between points **A-B-C** on the plan (ref. TE/CH/X4220/Cttee/2019). The path has a tarmac surface with a width of 1.5 metres. There is a lighting column at Point **B**.

No objections were received to the proposed creation when the informal consultation was carried out on 30 October 2018. The Local Member, Councillor Alex Dale, Dronfield Town Council and North East Derbyshire District Council were consulted and supported the proposal.

(3) **Financial Considerations** It is proposed that Derbyshire County Council should defray all of the costs in respect of making and advertising the Creation Order, estimated to be in the region of £1,000, which will be covered by the Rights of Way Revenue budget.

The route is already constructed and is in a serviceable condition. Remedial work may be necessary in the future and will be programmed for a future scheme. Any future maintenance will be met from the Rights of Way Revenue Budget.

The route would need to be waymarked should the Order come into effect. Two footpath signs would be required, the approximate cost of this being £330.

All associated costs would be met by the Rights of Way Revenue budget.

(4) **Legal Considerations** The Creation Order can be promoted by the County Council under Section 26 of the Highways Act 1980, provided that it is satisfied that:

- (1) Where it appears to a local authority that there is need for a footpath or bridleway over land in their area and they are satisfied that, having regard to:
 - (a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and
 - (b) the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in Section 28 of the Highways Act 1980

it is determined to be expedient that the path or way be created, the authority may, by Order made by them and submitted to and confirmed by the Secretary of State, or confirmed by them as an unopposed order, create a footpath or bridleway over the land.

- (2) A local authority shall, before exercising any power under this section, consult any other local authority or authorities in whose area the land concerned is situated.

Section 36(2)(d) sets out that:

- (3) a highway, being a footpath created in consequence of a public path creation order or a public path diversion order made by a competent

authority shall for the purposes of this Act be a highway maintainable at the public expense

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

The extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area

The path provides a link between Appletree Drive and Cross Lane, both of which are publicly maintainable highways. It offers a convenient and safe route for residents to local facilities, including the nearby Dronfield Infant and Junior Schools. The path also reduces the need for a considerable amount of roadside walking along busy sections of road, some which are without footways, which would be required should the path not be available.

The effect which the creation of the path or way would have on the rights of persons interested in the land

When a Land Registry search was completed by Derbyshire County Council, the land over which the path crosses was shown to be unregistered. The adjacent landowners have been consulted and none came forward to claim any interest in the land. The path appears to have been provided for use by the public and a lighting column maintained by Derbyshire County Council has already been installed on the route to facilitate travel along it. Consequently, it is seen that the creation of the Public Footpath would have no effect on the rights of persons interested in the land.

(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.

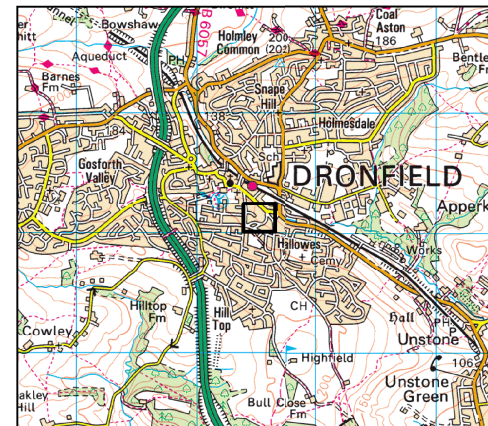
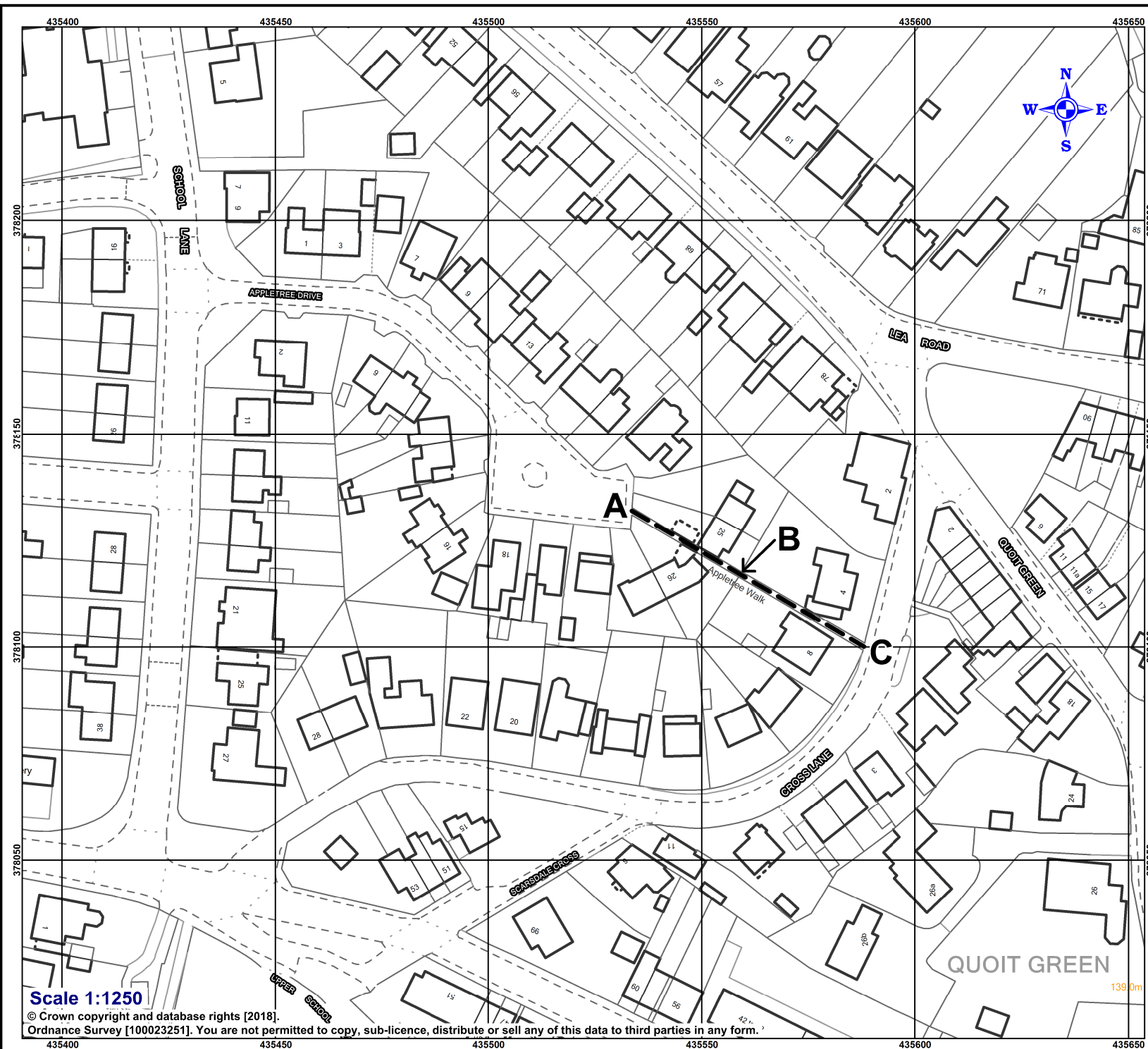
(6) **Background Papers** Held on file within the Economy, Transport and Environment Department. Officer contact details - Corinne Hudson, extension 39660.

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

7.1 The Director of Legal Services be authorised to make the necessary Public Path Creation Order for the creation of a Public Footpath along the route known as 'Appletree Walk' in the Parish of Dronfield.

- 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



Highways Act 1980 Section 26

**Proposed Creation of Public
Footpath along path known as
'Appletree Walk'
- Parish of Dronfield**

Key:

Footpath to be added ---

Ref: TE/CH/X4220/Cttee/2019

Date: 27 November 2018



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