

Agenda Item No. 4(b)

DERBYSHIRE COUNTY COUNCIL

REGULATORY – LICENSING AND APPEALS COMMITTEE

14 January 2019

Report of the Strategic Director – Economy, Transport and Environment

**PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 22 – PARISH OF OFFCOTE AND UNDERWOOD**

(1) **Purpose of Report** To seek authority for the Director of Legal Services to make an Order for the permanent diversion of Footpath No. 22, in the Parish of Offcote and Underwood, in the interests of the public.

(2) **Information and Analysis** The County Council has received an application for the permanent diversion of this footpath in the interests of the public. The area is prone to flooding and the proposed alternative route follows drier ground.

If the proposal takes effect, it will divert approximately 128 metres of the footpath, shown as a bold solid line between points **A**, **B**, **C** and **D** on the attached plan, onto the route shown by a bold dashed line between points **A**, **E** and **F**, approximately 110 metres long. The route from points **A** to **D** for walkers continuing along Footpath No. 22 would be around 42 metres longer, but for walkers turning west onto Footpath No. 24 at Point **F** the route would be around 72 metres shorter. The recorded width of the new path would be 2 metres, and some improvements would be made; a pedestrian gate to British Standard 5709 and a culvert would be installed at Point **E**, and ruts near Point **F** would be filled in to level up the surface.

No objections were received to the proposed diversion when informal consultations were carried out. Consultees included the Local Member, Councillor Simon Spencer, Offcote and Underwood Parish Council and Derbyshire Dales District Council.

(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**

It is in the interests of the public as the proposed alternative route is not prone to flooding and can be walked throughout the year.

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

There is no significant disadvantage to the public in terms of the length of the alternative route compared to the current route as it depends on the direction of travel. There is an overall benefit to the public due to the alternative route being drier than the existing route.

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

The current path and proposed alternative pass through a rural landscape of pasture. The proposed route avoids a wet area referred to above. The diversion will not detract from the overall enjoyment of the route because of the relative minor diversion through similar landscape.

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

The diversion would have no known or anticipated adverse effects.

**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**

The diversion would have no known or anticipated adverse effects.

**Whether it is expedient to make the Order**

It is considered that the proposed diversion is in the interests of the public. It would not be substantially less convenient to the public, and would not have an adverse effect on the public enjoyment of the route as a whole. It would not 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**

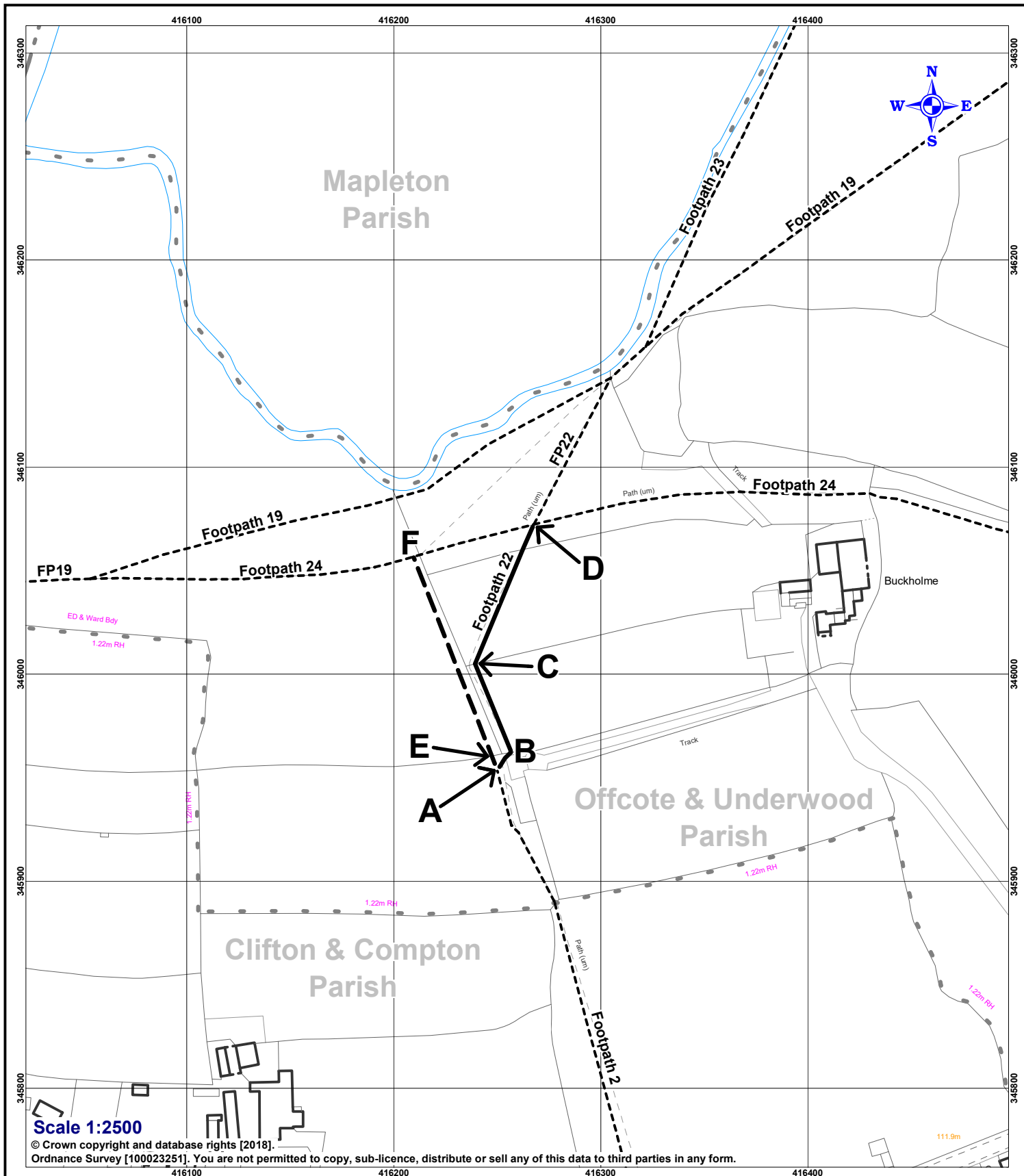
In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport considerations.

(6) **Background Papers** Held on file within the Economy, Transport and Environment Department. Officer contact details David McCabe, extension 39770.

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

- 7.1 The Director of Legal Services be authorised to make the necessary Diversion Order under section 119 of the Highways Act 1980 to divert Public Footpath No. 22, in the Parish of Offcote and Underwood.
- 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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### Highways Act 1980, Section 119

## Proposed diversion of Public Footpath No.22 (Part) - Parish of Offcote & Underwood

<b>Key:</b> Path to be diverted	
Alternative footpath	
Existing Footpath	
Parish boundary	

