

Agenda Item No. 5(d)

DERBYSHIRE COUNTY COUNCIL

REGULATORY – LICENSING AND APPEALS COMMITTEE

15 January 2018

Report of the Strategic Director – Economy, Transport and Environment

PROPOSED DIVERSION OF PUBLIC FOOTPATH NO.17 – PARISH OF LITTLE EATON

(1) **Purpose of Report** To seek authority for the Director of Legal Services to make an Order to permanently divert part of Public Footpath No.17, Parish of Little Eaton, under Section 257 of the Town and County Planning Act 1990.

(2) **Information and Analysis** The County Council has received an application for the permanent diversion of part of Public Footpath No.17, Little Eaton.

The purpose of this diversion is to enable the permanent use of the land for inert waste recycling at Fourways, Ford Lane, Little Eaton in accordance with the Planning Permission granted by Derbyshire County Council under application numbers CW8/0416/8 and CW8/0209/205. In order to facilitate an operational waste management facility, it is necessary to permanently divert the footpath onto an alternative route along the western and northern boundaries of the waste management site.

If the Diversion Order takes effect, it will divert approximately 80 metres of Public Footpath No.17, Little Eaton, shown on plan reference TE/CH/X4102/Cttee/2018 as a solid bold line, between points **A-B**, to a line shown as a bold broken line between points **A-C-B**. The new path will be approximately 100 metres long with a recorded width of 2 metres and a rolled stone surface.

Freeberne Plant Haulage Limited will be responsible for carrying out the associated physical works required on the route, including landscaping the area adjacent to the proposed route to provide visual screening of the waste management site, and the installation of fencing for the safety of footpath users.

The wicket gate currently in place at Point **A**, on plan reference TE/CH/X4102/Cttee/2018 at Ford Lane, will remain in place once the Order

comes into effect. This structure was authorised by Derbyshire County Council on 29 March 2011, under Section 147 of the Highways Act 1980.

No objections were received to the proposed diversion when informal consultation was carried out on 23 October 2017. Councillor Carol Hart, the Local Member, Little Eaton Parish Council and Erewash Borough Council have been consulted and have no objections to the proposal.

Peak and Northern Footpath Society commented that although the diversion of the footpath *'would clearly be highly convenient to the developer, and probably more pleasant to path users if the diversion occurred'*, it remains debatable as to whether the test for a Diversion Order to be *'necessary'* is satisfied by this application. Nonetheless it states that *'However, given that the diversion is minor, and possibly more pleasant to users Peak and Northern will not formally object to the application'*. It is felt that the development of a Waste Management Facility operating with plant and HGVs, and the continuation of the path on its current route, would not be compatible, both in terms of the effectiveness at which the facility could operate, and of public safety which would be an ongoing concern for both the developer and footpath users. The application is therefore felt to meet the criterion of being *'necessary'* under Section 257 of the Town and Country Planning Act 1990.

The Erewash Ramblers Association, although being in general support of the diversion to the path, noted a concern that the *'footpath would, after reinstatement, be an enclosed path that it would become overgrown and eventually impassable or require consistent clearance'*. This issue has no impact on the necessity of the need for a diversion of the public footpath affected by the planning permission granted. Furthermore, maintenance issues would be addressed by the Highway Authority (i.e. the County Council) if, and when, they arose.

(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** The County Council may make an Order under Section 257 of the Town and Country Planning Act 1990 to permanently divert a public footpath, providing it is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission which has been granted, and also that it is the authority granting such permission.

Planning permission has been granted by the County Council for the permanent use of the land over which the current route of the public footpath

crosses, as an inert waste recycling facility. The applicant seeks the Order to divert the footpath to eliminate the need for users to pass through an operational waste management facility. The Council is therefore satisfied that the diversion is necessary to enable the works to take place and is the authority which should make the Diversion 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.

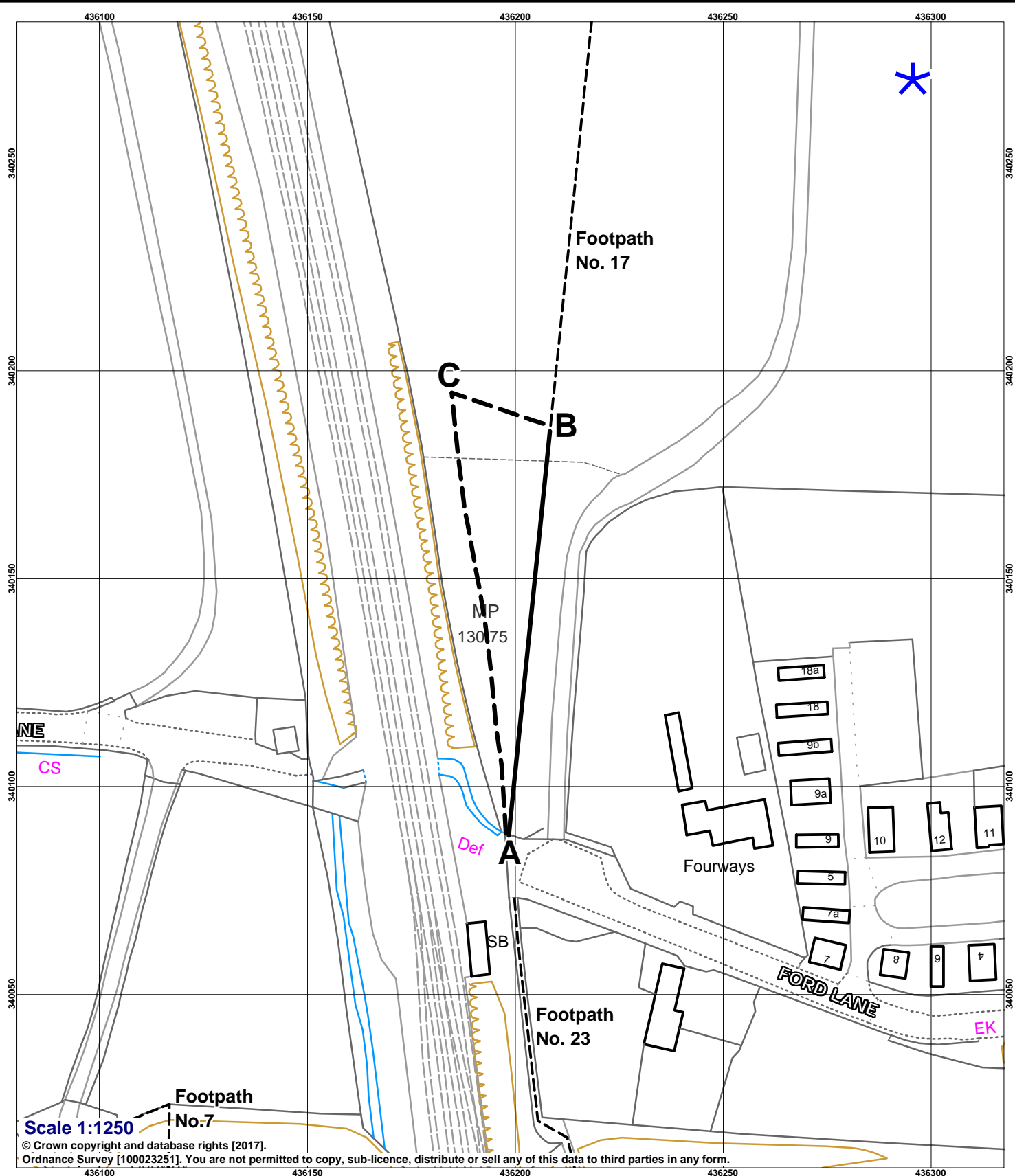
(6) **Background Papers** Held on file within the Economy, Transport and Environment Department. Officer contact details – Corinne Hudson, extension 39660.

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

7.1 The Director of Legal Services be authorised to make the necessary Diversion Order for Public Footpath No.17, Parish of Little Eaton, pursuant to Section 257 of the Town and Country Planning Act 1990.

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



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Town & Country Planning Act 1990 s. 257

Proposed Diversion of Public Footpath No.17 - Parish of Little Eaton

Key:

Footpath to be extinguished	—————
Alternative footpath	- - - - -
Existing Footpath	- . - . -

