

DERBYSHIRE COUNTY COUNCIL
REGULATORY – LICENSING AND APPEALS COMMITTEE

21 May 2018

Report of the Strategic Director – Economy, Transport and Environment

PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 14 – PARISH OF HOPTON

(1) **Purpose of Report** To seek authority for the Director of Legal Services to make a Diversion Order for the permanent diversion of Public Footpath No. 14, Parish of Hopton, to enable quarrying to take place in accordance with planning permission issued by the County Council.

(2) **Information and Analysis** The County Council, as the Mineral Planning Authority, has approved a submission from Longcliffe Quarries Ltd in respect of an Environment Act 1995 application for a Schedule 13 Initial Review of Old Mineral Planning Permission of a Scheme of Conditions for Bonemill Quarry, Ryder Point near Wirksworth. The County Council issued its determination of conditions in respect of the working rights on 11 April 2016. (Planning Ref: R3/0198/20). The Council has since received an application for the permanent diversion of the above mentioned footpath to enable quarrying to take place in accordance with the planning permission. The existing route crosses the land proposed to be quarried and the diversion would move it to the northern boundary of the site.

It is proposed to divert the whole of Footpath No. 14 (255 metres long), shown as a bold solid line between points **A** and **B** on the appended plan, and to provide an alternative route approximately 284 metres long shown as a bold broken line between points **C** and **D**. The latter would be 2 metres wide with a compacted stone surface and a pedestrian gate compliant with the current British Standard at both ends. At Point **D**, the map shows the path crossing several boundaries but the fencing will be altered so that that only one boundary will be crossed. The diverted footpath would form a new link in the network connecting Hopton Footpath No. 15 and Bridleway No. 4 in an easterly direction with Hopton Footpath No. 18. Bridleway No. 4 serves much the same purpose as Footpath No. 14 in providing a connection with the High Peak Trail.

No objections were received to the proposed diversion when informal consultations were carried out. The Local Member, Councillor Irene Ratcliffe, Carsington and Hopton Parish Council and Derbyshire Dales District Council were consulted and offered 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 a Diversion Order under Section 257 of the Town and Country Planning Act 1990:

- (1) Subject to Section 259, a competent authority may by order authorise the stopping up or diversion of any footpath if they are satisfied that it is necessary to do so in order to enable development to be carried out—
 - (a) in accordance with planning permission granted under Part III, or
 - (b) by a government department.
- (2) An order under this section may, if the competent authority are satisfied that it should do so, provide—
 - (a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;
 - (b) for authorising or requiring works to be carried out in relation to any footpath for whose stopping up or diversion, creation or improvement provision is made by the order;
 - (c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath;
 - (d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.
- (3) An order may be made under this section authorising the stopping up or diversion of a footpath which is temporarily stopped up or diverted under any other enactment.
- (4) In this section “competent authority” means—
 - (a) in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State, who would have had power to grant it; and
 - (b) in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.

Section 259: Confirmation of orders made by other authorities.

- (1) An order made under Section 257 or 258 shall not take effect unless confirmed by the Secretary of State or unless confirmed, as an unopposed order, by the authority who made it.
- (2) The Secretary of State shall not confirm any such order unless satisfied as to every matter as to which the authority making the order are

required under Section 257 or, as the case may be, section 258 to be satisfied.

- (3) The time specified—
 - (a) in an order under Section 257 as the time from which a footpath is to be stopped up or diverted; or
 - (b) in an order under Section 258 as the time from which a right of way is to be extinguished,shall not be earlier than confirmation of the order.
- (4) Schedule 14 shall have effect with respect to the confirmation of orders under section 257 or 258 and the publicity for such orders after they are confirmed.

Whether it is expedient to make the Order

Planning permission has been granted by Derbyshire County Council, and as it is the local planning authority which granted the permission it is empowered to make a Diversion Order. The Order is necessary to enable the development authorised by the planning permission to take place, i.e. the extension of the quarry on land crossed by the footpath. It is therefore concluded that it is expedient to 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

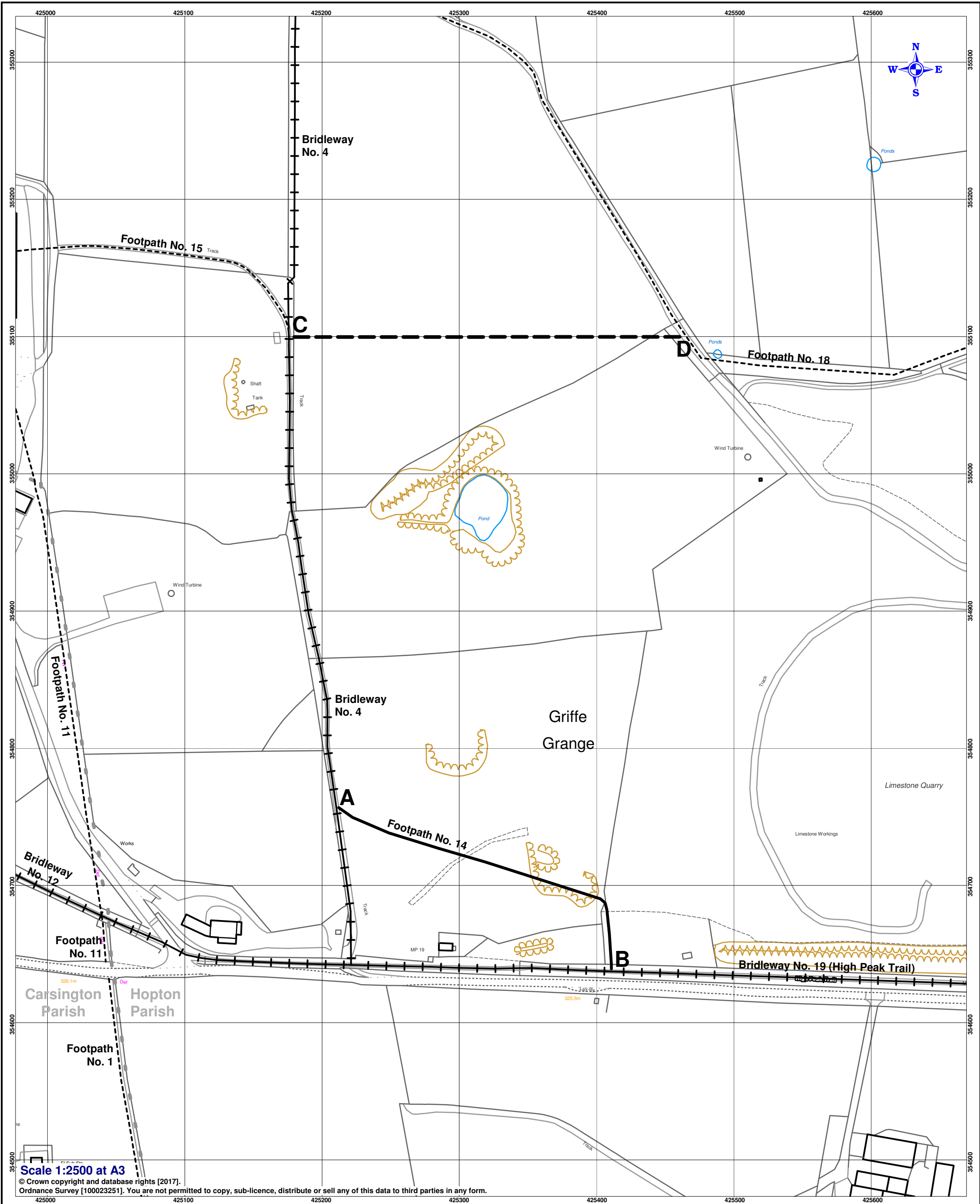
In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport considerations.

- (6) **Background Papers** Held on file within the Rights of Way Section of 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, of Public Footpath No. 14, Parish of Hopton, under the provisions of 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.

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Town & Country Planning Act 1990, Section 257

Proposed Diversion of Public Footpath No. 14 (Part) - Parish of Hopton

Key:

Footpath to be diverted
Alternative footpath
Other public footpaths
Public bridleways
Parish boundary

