

Agenda Item No. 4(a)

DERBYSHIRE COUNTY COUNCIL

REGULATORY – LICENSING AND APPEALS COMMITTEE

25 July 2016

Report of the Strategic Director – Economy, Transport and Communities

**SECTION 53 OF THE WILDLIFE AND COUNTRYSIDE ACT 1981 –
PROPOSED MODIFICATION ORDER FOR PUBLIC FOOTPATH NO.1 –
PARISH OF WILLINGTON**

(1) **Purpose of Report** To seek authority for the Director of Legal Services to make an order under Section 53 of the Wildlife and Countryside Act 1981 for the purpose of correcting the Definitive Map and Statement of public rights of way.

(2) **Information and Analysis** It has been brought to the attention of officers that the line of Public Footpath No.1 Willington is shown incorrectly on the South Derbyshire Definitive Map. It appears a drafting error, prior to the publication of the Definitive Map in 1987, led to the path being depicted in the wrong location.

The Definitive Map shows Footpath No.1 passing through the car park of The Dragon Public House, shown as a solid bold line between points **A–B–C** on the attached plan reference TE/AG/X3836/Cttee/2016. Research into the alignment has provided evidence that the Public Footpath follows a corridor next to No. 7 The Green, shown as a bold broken line between points **A–D**. An old signpost for this route is present at the roadside, mostly obscured by overgrowth.

In 1950, Willington Parish Council drew up a schedule and map as preliminary work for the preparation of the Definitive Map and Statement. The schedule stated that after leaving Twyford Road (now The Green), the route went past the east end of 'Trelawny', which appears to be No. 7 The Green. It indicated that the route turned west to meet Etwall Road (now known as Canal Bridge). The map showed this route in broad terms, although the south-north length was somewhat skewed to the east. The Definitive Statement also mentions the Parish Award Map 1768, but the County Record Office does not have a copy of this.

The Repton Rural District Definitive Map (1953) showed the route going south to north, but without the link onto Etwall Road to the west. This is at odds with

the accompanying Definitive Statement, which describes the path joining Etwall Road. The map shows two parallel lines, but the eastern one of these is actually a number '1'. This may account for the re-drafting of the line to the east on the 1987 Definitive Map. Another possibility is that due to the scale of the 1987 map, it shows only one corridor to the Green Dragon which was assumed to be the path corridor. The link to Etwall Road is included on both the map and statement from 1987.

Four editions of the Ordnance Survey's large scale 1:2500 'County Series' maps are available between 1843 and 1939, which support the view that a path existed along the line **A-D** depicted on the attached plan.

No written objections were received to the proposed modification when informal consultations were carried out between 30 November and 28 December 2015, although the proprietor of The Dragon gave verbal opposition to the proposal on the grounds that it would prevent a planned expansion of the car park. Councillor Martyn Ford, the Local Member, and South Derbyshire District Council have been consulted and have no objections to the proposal. Willington Parish Council was not consulted due to it currently having no Clerk.

(3) **Financial Considerations** There are no financial considerations associated with this report.

(4) **Legal Considerations** Under the Wildlife and Countryside Act 1981, the Council is obliged to make a Modification Order as soon as reasonably practicable on the occurrence of certain specified 'events'. These events include:

(1) the discovery by it of evidence which (when considered with all other relevant evidence available) shows that a right of way, which is not shown on the map and statement, subsists or is reasonably alleged to subsist over land in the area to which the map relates (Section 53(3)(c)(i)); and

(2) the discovery by it of evidence which (when considered with all other relevant evidence available) shows that there is no public right of way over land shown on the map and statement, as a highway of any description, or any other particulars contained in the map and statement require modification (Section 53(3)(c)(iii)).

Both of the above sections are applicable in this case.

As the Council is obliged to keep the Definitive Map and Statement up to date, it has no discretion over whether to make an Order when one is required. The Council cannot, therefore, take account of the concerns expressed verbally by the landlord of The Dragon.

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

(5) **Key Decision** No.

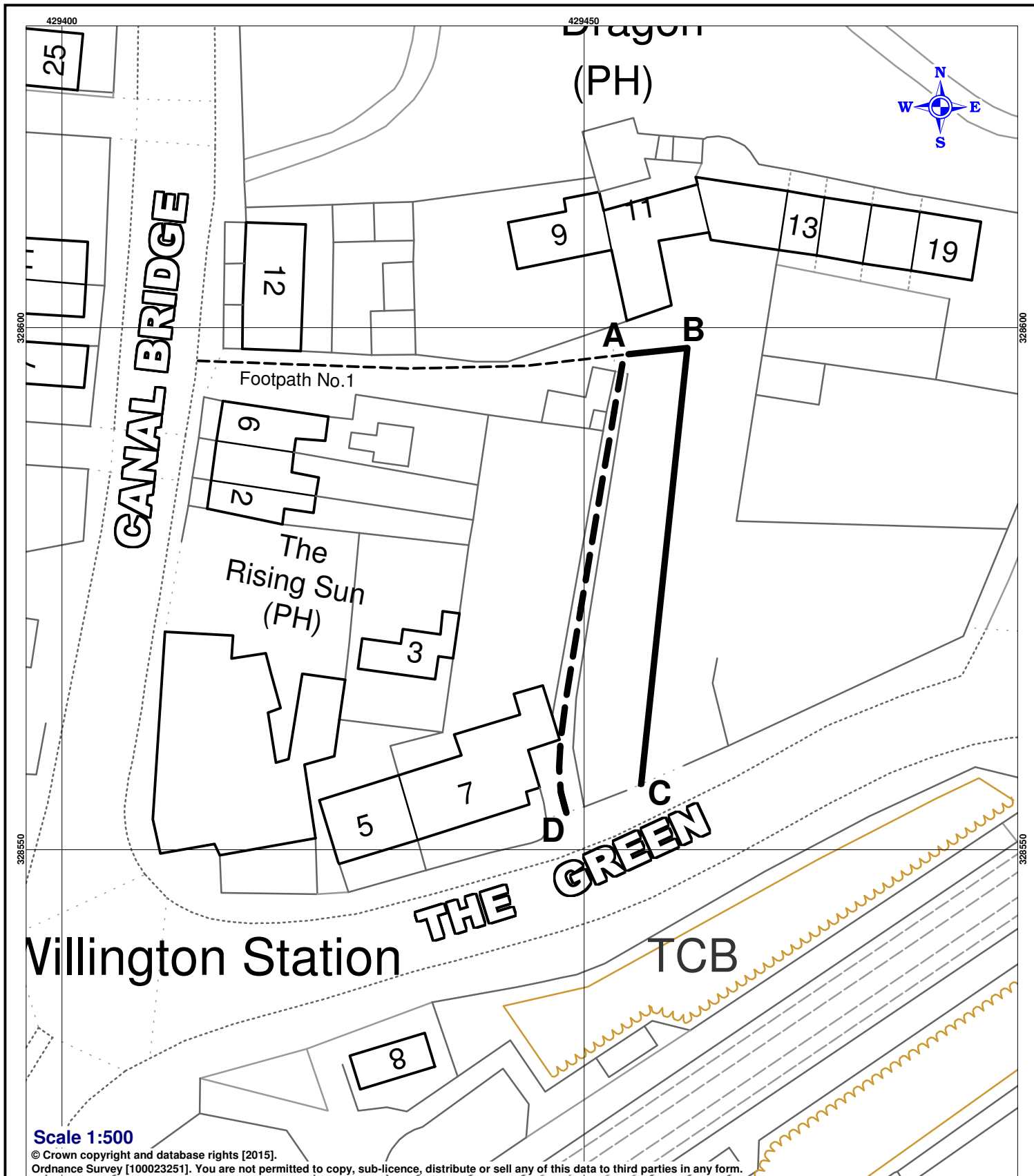
(6) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

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

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

- 8.1 The Director of Legal Services be authorised to make the necessary Order under Section 53 of the Wildlife and Countryside Act 1981 to modify the Definitive Map regarding the depiction of Public Footpath No.1 in the Parish of Willington.
- 8.2 If an Order is made and any objection is received that cannot be resolved, then the matter be forwarded to the Secretary of State for determination.

Mike Ashworth
Strategic Director – Economy, Transport and Communities



Ref: TE/AG/X3836/Cttee/2016



Improving life for local people

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Produced by Public Rights of Way on 12 November 2015

Wildlife & Countryside Act 1981, Section 53

Proposed Modification of Public Footpath No.1 Parish of Willington

Key:

**Footpath to be
deleted**

Footpath to be added

Existing Footpath

A B C

A D

