
REPORT TO:	Environmental Services Committee	AGENDA ITEM:	9
DATE OF MEETING:	14 th February 2002	CATEGORY:	DELEGATED
REPORT FROM:	Planning Services Manager	OPEN	
MEMBERS' CONTACT POINT:	Derrick Kinsey (Ext 5725)	DOC:	
SUBJECT:	Proposed Diversion Public Footpath No 16 Parish of Smisby	REF:	DK/Jm/E/7/3/94
WARD AFFECTED:	Ticknall	TERMS OF REFERENCE:	ES06

1.0 Recommendations

It is recommended that an Order be made under the provisions of Section 119 of the Highways Act 1980 to divert the definitive line of Public Footpath No 16 Parish of Smisby to the proposed line on the enclosed plan.

2.0 Purpose of Report

2.1 To determine an application to divert part of Public Footpath No 16 Parish of Smisby.

3.0 Detail

3.1 An application has been received from The National Trust, East Midlands Regional Office, Clumber Park, Stableyard, Worksop, Notts, S80 3BE to divert part of Footpath No 16 in the Parish of Smisby. The diversion is viewed as necessary as the applicant proposes to change the use of Wicket Nook Cottage, presently used as a domestic residence into a holiday cottage. However, investigations carried out by the Rights of Way Section at Derbyshire County Council have revealed that the right of way is, in fact a cul de sac footpath.

3.2 The request has been considered by the Rights of Way Section at Derbyshire County Council and it has made the following comments:

- Until 19 February 1991, the county boundary with Leicestershire passed through the middle of a small enclosure which is the garden at the west side of Wicket Nook Cottage and then along the southern boundary hedge of the garden. The southern boundary hedge of the garden is the point at which the County Definitive Map for the District of South Derbyshire, Parish of Smisby, shows Footpath 16 terminating i.e. the county boundary.
- A County Boundary Order came into effect on 19 February 1991 which is an occurrence after the publication of the County Definitive Map for the District of South Derbyshire. The effect of the boundary order has transferred part of Ashby de la Zouch to the Parish of Smisby at this location.

- To complicate matters further, there is no cross boundary continuation footpath recorded in the Leicestershire County Definitive Map for Ashby de la Zouch. Enquiries with the Rights of Way Officer at Leicestershire County Council reveal that only Ashby de la Zouch Footpath 087 was claimed by the former Urban District Council in the 1950's, for inclusion in the Leicestershire Definitive Map process. It should be noted that following the boundary change, Ashby de la Zouch 087 is now within Derbyshire.

A site inspection has not revealed a way through the garden at the southern boundary at the point where Smisby Footpath 16 terminates is a thick holly hedge. The proposed diversion would therefore provide an alternative route linking the cul de sac Footpath No 16 to Smisby Footpath No 13 which then gives access to the rest of the rights of way network enabling the continuation of journeys either northwards, eastwards or westwards and vice versa.

The correct alignment for Footpath 16 is as shown on the enclosed colour copy. This also shows the old county boundary.

3.3 The Definitive Line

Footpath No 16 which is approximately 760 metres long goes from the County Boundary near the former Wicket Nook Farm in a south easterly direction to the Parish Boundary south east of Bryans Coppice.

3.4 The Proposal

The proposed diversion under the (Highways Act 1980, Section 119) relates to the approximately 244 metre section marked A (35992019) to B (36142000) shown as a bold solid line on the enclosed plan. The alternative route is shown as a bold broken line between points B, and C (35932017).

It would lengthen the right of way by approximately 35 metres.

3.5 Assessment

My assessment of the proposal is as follows:

- The new proposed definitive line would make walking through this popular area more straight forward as all footpaths would be shown correct and up to date on the new map.
- The surface will not alter (mainly grass sometimes cereal crop).
- The longer route would add 35 metres to the definitive footpath network in the Parish and could encourage the WALKING FOR HEALTH SCHEME.

Therefore I conclude that the proposed diversion is acceptable.

4.0 Financial Implications

- 4.1 There are no direct financial implications for the Council as the costs associated with the order are met by the applicant.

5.0 Corporate Implications

5.1 The Rights of Ways Officer has completed the informal consultation and no objections have been received.

Subject to the Committee approval the application will be referred to the Legal and Members Services to complete the order making process.

6.0 Background Papers

6.1 12/11/01 application 12/12/01 Informal Consultation.

