

MEETING : RIGHTS OF WAY COMMITTEE
DATE : 24th October 2008

REPORT OF : COUNTY MANAGER TRANSPORT AND REGENERATION
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TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 257
APPLICATION FOR THE DIVERSION OF PUBLIC FOOTPATH NO.49 (PART),
PARISH OF HASLINGTON, BOROUGH OF CREWE AND NANTWICH

INTRODUCTION

1 An application has been received from The Mineral Planning Group acting as agents on behalf of the landowner Mr D Beecroft of White Moss Quarry, Radway Green, Alsager requesting that the Council makes an order under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 49 (part) in the Parish of Haslington, Borough of Crewe and Nantwich.

2 Public Footpath No. 49 Haslington commences at its junction with Close Lane at OS grid reference SJ 7786 5513 and runs in a generally south south westerly then generally south westerly direction to Crewe Road (B5077) at OS grid reference SJ 7744 5446.

3 The section of path to be diverted is illustrated by a solid black line on Plan No. SD/572 between the points marked A and B. The proposed diversion is illustrated on the same plan as a black dashed line, between the points marked A, C and B.

GROUND'S OF APPLICATION

5 The footpath is affected by the proposed development of an aggregate recycling operation at White Moss Quarry. The operational nature of moving and storing aggregates along the edge of the footpath will present a health and safety hazard to users of the footpath and therefore the footpath needs to be diverted before development can take place.

4 Planning permission for the proposal was considered at the County Council Development Regulatory Committee on the 8th September 2008. The application was approved against officer recommendations and four members of the committee voted against. Procedures allow for the matter to be referred up to the Full Council meeting if three or more members vote against a proposal and therefore this matter will be decided on the 16th October. Once a decision is reached the application must still be referred to the Secretary of State who has 21 days within which to call the matter in for an inquiry. The decision of Full Council will be verbally related to committee at the meeting. The application is cited as Application Ref. 07/2008/CCC/8.

5 The current line of Footpath No. 49 Haslington runs across the south easterly edge of the quarry and lies in a north north easterly to south south westerly alignment. It is proposed that the new route will be diverted along the edge of an adjacent field with an open aspect and running mostly parallel with the current route but just outside the proposed development boundary. The current route has an earth and grass surface; the new footpath will mostly be along a grass surface and will be 2 metres wide.

6 The proposed new footpath is already used as an alternative on a permissive basis and at the southern extent, point C, the path will cross the current haul road at a point where visibility is better than the current footpath which crosses the entrance and the exit points to the site adjacent to the main operational area.

CONSULTATIONS

7 Haslington Parish Council, Crewe and Nantwich Borough Council and the local County Councillor have been consulted about the proposal. Crewe and Nantwich Borough Council have replied that they have no comments to make on the proposal. No other response has been received.

8 The statutory undertakers have also been consulted. Scottish Power has lodged an objection to the proposal due to the existence of overhead power cables in the vicinity of the existing footpath which they suggest could be affected by the proposed operational activities on the quarry site. This is a matter that should be considered by the planning department and I have forwarded their comments to the planning officer concerned. The diversion of the footpath would not affect the existence or safety of the power lines for if the Order is made existing rights of access for the statutory undertakers to their apparatus and equipment are protected. Other statutory undertakers have responded that they have no objection to the proposal.

9 The user groups have been consulted. The Peak and Northern Footpath Society have commented that current waymarking and the crossing of the haul roads presents a safety issue but nevertheless the proposed alternative is a considerable improvement on the existing route. The Mineral Planning Group have stated that they will provide additional signage where the proposed route is to cross the haul road. No further comments have been received.

10 The County Council's Natural and Historic Environmental Team has been consulted. The team has indicated that although adjacent to the White Moss site of biological importance the proposed diversion in isolation would be unlikely to have any adverse impact. However Natural England had made contact to ask whether we could investigate the possibility of badgers being active in the vicinity of the existing footpath. An ecological assessment was undertaken by two members of the Rights of Way Team and the conclusion was drawn that badgers are more likely active in the area than not. This was reported back to Natural England and again it was suggested that this is a matter for liaison with the planning department as the development might impact on their habitat.

11 An assessment in relation to Disability Discrimination Legislation has been carried out by the PROW Maintenance and Enforcement Officer for the area and it is considered that the proposed diversion is no less easy to use.

CONCLUSIONS

12 In accordance with section 257 of the Town and Country Planning Act 1990 the County Council, as Planning Authority, can make an Order diverting a footpath if it is satisfied that it is necessary to do so to enable development to be carried out in accordance with a planning permission that has been granted.

13 It is considered that it is necessary to divert part of Footpath No. 49 Haslington as illustrated on Plan No. SD/572 to allow for the extension of aggregate storage/ recycling operations on the quarry site. Committee will be informed at the meeting whether permission has been granted.

14 The comments/ objection that have been received do not directly relate to the footpath diversion itself and are issues for the Planning department to consider. In view of that it is considered that the legal tests for the making and confirming of a Diversion Order under section 257 of the Town and Country Planning Act 1990 are satisfied.

RECOMMENDED that:

- 1) **in the event that the planning permission referred to is ultimately granted following the conclusion of any review or appeals process that may flow, an Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No. 49 Haslington as illustrated on Plan No. SD/572 on the ground that the County Council is satisfied that it is necessary to do so to allow development to take place;**
- 2) **public notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts and;**
- 3) **in the event of objections to the Order being received, the County Council be responsible for the conduct of any hearing or public inquiry.**

complete item

This report has been prepared with regard to the Checklist for Members Reports and due consideration has been given to the relevant matters in its preparation

Local Member	<i>Councillor D Brickhill</i>
Background Documents	Public Rights of Way Files
Available for Inspection at	PROW Unit, Phoenix House, Winsford