

Report of	Meeting	Date
Corporate Director of Governance	General Purposes Committee	18/10/07

## **TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 257 PROPOSED EXTINGUISHMENT OF PART OF PUBLIC FOOTPATH NO 5, ADLINGTON**

### **PURPOSE OF REPORT**

1. To consider an application submitted by the residents' of No. 24 Highfield Road North for the formal extinguishment of part of Public Footpath No. 5, Adlington.

### **RECOMMENDATION(S)**

2. That subject to formal consideration of the application a decision be made as to whether or not the Council approve the making of a Public Path Extinguishment Order pursuant to Section 257 of the Town and Country Planning Act 1990 in respect of an area of Footpath No. 5, Adlington, so as to enable development to be carried out in accordance with the grant of planning permission.

### **REASONS FOR RECOMMENDATION(S)**

3. The applicants are entitled to expect that "due consideration" be given to their application, without the Council's consideration of the application having necessarily been predetermined by a recommendation made in advance of that process.

### **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

4. To have made a recommendation in support of the application would have been to prejudice the Committee's attitude to what is a personal application for the benefit of the landowners, which in the nature of things would result in a clearly discernible effect on the public's use of a long standing public right of way. On the other hand, to have recommended a refusal would equally have been to prejudice the issue, where the applicants have a lawful right to expect that their application should receive "due consideration." This is especially so when viewed against a background where the Highway Authority has refrained to give any opinion on the acceptability or otherwise of the application.

### **CORPORATE PRIORITIES**

5. This report does not relate to any of the following Strategic Objectives:



Put Chorley at the heart of regional economic development in the central Lancashire sub region		Improved access to public services	
Improving equality of opportunity and life chance		Develop the character and feel of Chorley as a good place to live	
Involving People in their Communities		Ensure Chorley is a performing Organisation	

## BACKGROUND

6. Public Footpath No. 5 Adlington comprises two distinct lengths (1) the length running east-west from Chorley Road (A.673) through to Highfield Road North along the old carriage road known as Bradshaw Lane, and (2) the length that ran from Highfield Road North across pasture land belonging to Farivew Farm down to the level crossing on the Preston to Manchester line. The length of footpath concerned relates to (1) above.

## DETAILS OF PROPOSAL

7. The length of footpath forming the subject of the application runs immediately adjacent to the north-facing flank frontage of No. 24 Highfield Road North. The footpath runs west from Chorley Road along a narrow track between Nos. 8 and 10 Chorley Road to emerge onto a broad tract of land, a remaining vestige of the old carriage road Bradshaw Lane. On reaching the rear (northern) boundary of 24 Croston Avenue the footpath enters a much narrower stretch bounded by the rear/side fences belonging to nos. 24 and 26 Croston Avenue and No. 24 Highfield Road North on the south, and by No. 6 Derby Place and No. 26 Highfield Road North on the north.
8. The footpath, when it reaches the north-eastern corner of 24 Highfield Road North, encounters a pinch point due to the angled alignment of the property, after which the width of the footpath once again broadens out as it runs in a westerly direction to join the back of (the adopted) footpath on Highfield Road North. The plot of land on which No. 24 stands is in the shape of a rectangle. The applicants would like to build a garage partly on land within the curtilage of the property and partly on the line of the footpath, the effect of which would be both to reduce the width of footpath available and canalise it on to a narrower line. In the process the plot on which No. 24 built would achieve something of splayed frontage as a result of the land concerned being brought within the curtilage of the property.
9. The obstacle to realising this, i.e. the building of the garage, is of course the presence of Public Footpath No. 5. Thus it is that the residents of No. 24 are making application for the extinguishment of that area of footpath that inhibits the proposed development. The applicants have met on site with representatives of Lancashire County Council (the Countryside Service) and a local councillor to discuss the acceptability or otherwise of their proposal. The County Council representatives, whilst noting the resultant effect on the footpath, i.e. its narrowing, would not represent the normal width of a footpath, i.e. below 2 metres, did not an opinion as to whether or the proposal would be acceptable in its effect.
10. Despite the loss of the Highways Partnership, unilaterally terminated by the County Council on 30 June 2006, it still falls to the Borough Council to decide upon applications made under the Town and Country Planning Act 1990 for the diversion or extinguishment of public rights of way pursuant to the grant of planning permission. Clearly, as part of that process, the Borough Council has to formally consult the County Council in their capacity as Highway Authority for the county, and it would be for the latter to indicate their agreement or otherwise to the proposal. If the County Council signalled its opposition,

then unless the Council was prepared to take the issue to local public inquiry, the application would in all likelihood probably founder on the opposition of the County Council. However, both in correspondence between the applicants and the County Council and in discussions between Council officers and officers of the Countryside Service, the County Council has adopted a something of neutral, wait-and see stance.

11. The making of a Public Path Extinguishment Order would result in the width of the footpath being reduced to something approaching three metres or so. There is no evidence to suggest how well or otherwise the footpath is used. It is possible that usage may have declined somewhat following the building of the Fairview estate, in that the public would have continued their journey over open pasture land (passing along the flank frontage of No. 35 Highfield Road), whereas now the alternatives (assuming a through walk down to the pedestrian level crossing over the railway line) take walkers into the estate or require them to walk further along Highfield Road North down to the gap between Nos. 15 and 17. The application, if granted, would still mean that a walkable route was preserved, if arguably of somewhat lesser facility than at present.

## IMPLICATIONS OF REPORT

12. This report does not have any implications in relation to the following areas:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal			

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CORPORATE DIRECTOR OF GOVERNANCE

<b>Background Papers</b>			
<b>Document</b>	<b>Date</b>	<b>File</b>	<b>Place of Inspection</b>
Letter from residents of No. 24 Highfield Road North, Adlington	4 June 2007	863	Town Hall, Chorley

<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
G Fong	5169	18 September 2007	