

Report To: **SPEAKERS PANEL (PLANNING)**

Date: 5 October 2016

Reporting Officer: Ian Saxon – Assistant Executive Director – Environmental Services

Subject: **SECTION 257 TOWN AND COUNTRY PLANNING ACT – DIVERSION OF FOOTPATH HYDE 43**

Report Summary: The report seeks authority to make an order under Section 257 Town and Country Planning Act 1990 to divert a public right of way to facilitate the extension to a building that has previously been granted Planning Permission (14/01107/FUL). Under the Council’s constitution, the Speakers Panel (Planning) is responsible for decisions that affect the definitive rights of way network.

Recommendations: It is recommended that an order be made to divert the footpath known as Footpath Hyde 43 as indicated on the plan attached at **Appendix A** and that the Borough Solicitor be authorised to take the necessary steps to implement this decision.

Links to Community Strategy: Provides a safer and secure Environment for the people of Tameside

Policy Implications: None arising from the report.

Financial Implications: The applicant has confirmed, during the application process, that he will meet the full costs involved in the diversion procedure as well as the costs incurred in bringing the new path into a fit condition for use by the public.

(Authorised by the Section 151 Officer)

No costs should be incurred by the Council. If there are any unforeseen costs, these would need to be met by the existing Highways funding envelope.


Legal Implications: DEFRA Circular 1/09 on Rights of Way advises at 7.15 that “The disadvantages or loss likely to arise as a result of the ... diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order”.


(Authorised by the Borough Solicitor)

Risk Management: There is a possibility that the order may not be confirmed if there are substantial objections. Some informal discussions have been taking place with rights of way groups to enable early consideration of any issues arising if the diversion is taken forward to minimise the risk of objections.

Access to Information: **Appendix A** – Location plan showing proposed diversion.

All documentation can be viewed by contacting Michael Hughes, Sustainable travel Officer

 Telephone: 0161 342 3704

 e-mail: michael.hughes@tameside.gov.uk

1. BACKGROUND

- 1.1 Planning approval was granted on 15 January 2015 (reference 14/01107/FUL) to undertake development to extend the farmhouse building at Raglans Farm, Hyde.
- 1.2 The construction of the extension would affect Public Footpath Hyde 43, meaning that the footpath would need to be diverted.
- 1.3 As the diversion of the footpath is needed to allow development in compliance with an approved planning permission, it has been suggested that the most appropriate legislation to use is Section 257 Town and Country Planning Act 1990 (the Act).
- 1.4 An application has subsequently been received to make an order to divert the footpath under Section 257 of the Act.

2. REASONS FOR THE DIVERSION

- 2.1. Footpath Hyde 43 runs from Harrop Edge Road along an old cart track that passes adjacent to Raglans Farm and then continues in a westerly direction to meet with other public footpaths in the public rights of way network.
- 2.2 The planning permission that has been granted at Raglans Farm would impact on the definitive alignment of the footpath. The extension to the farmhouse would be constructed across the alignment of Footpath Hyde 43 thereby causing an obstruction to the public highway.
- 2.3 If the extension at Raglans Farm is to take place as planned then Footpath 43 will need to be diverted in order to retain a route for the public.

3. PROPOSED DIVERSION

- 3.1. The proposed diversion would run from point A to point B as shown by a bold, broken line in **Appendix A**. The exiting footpath to be closed is shown between point A and point B by a bold, continuous line
- 3.2. The applicant has proposed a diversion route that would move the footpath to a parallel alignment (approximately 3 metres away) so that it remains adjacent to the farm building.
- 3.3 The existing footpath follows the old farm track past the farm. The surface has not been maintained over the years meaning that it is muddy and has large stones protruding from the surface in some areas. The footpath ranges in width from 2.4 metres to 3.0 metres as it passes the farmhouse.
- 3.4 The proposed diversion will be maintained at the current width and would be surfaced in a mix of stone setts and limestone chippings.
- 3.5 The applicant has confirmed during the application process that they will meet the full costs involved in the diversion procedure as well as the costs incurred in bringing the new path into a fit condition for use by the public.

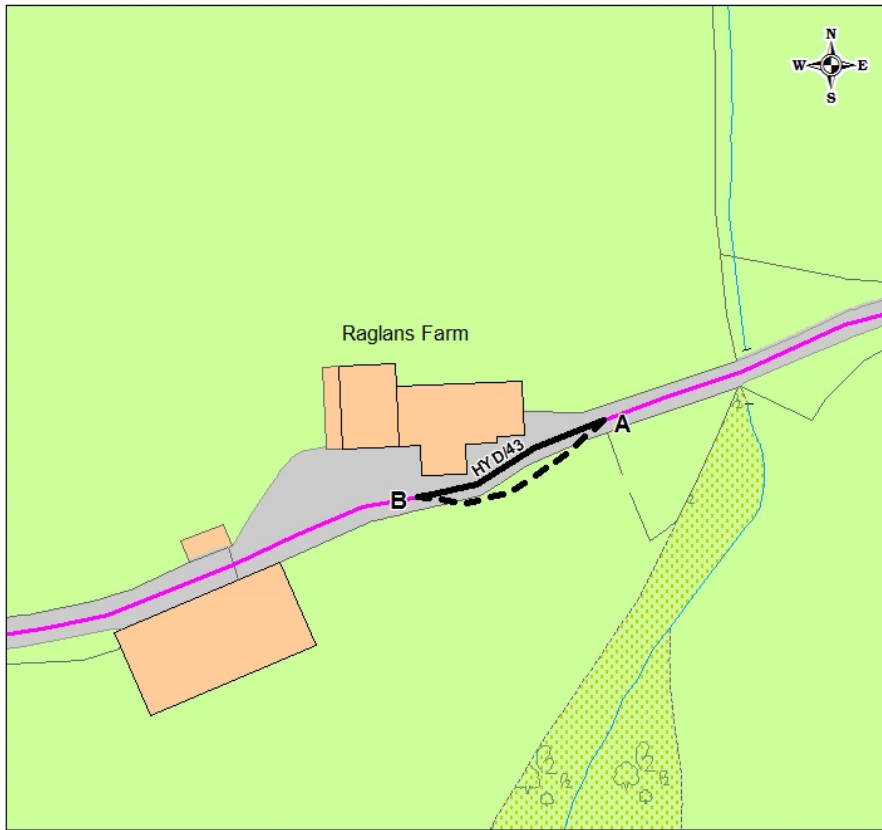
4. COMMENTS OF THE EXECUTIVE DIRECTOR OF PLACE

- 4.1 It is not felt that the proposed diversion route will be less commodious for the users in terms of alignment, width and length as all of these factors remain to all extents and purposes the same.
- 4.2 The major difference between the current footpath and the proposed route is the surface construction. It is felt that the proposed surface which is to be constructed partly from stone setts and the remaining areas from limestone chippings will be an improvement over the existing situation.
- 4.3 The public rights of way organisations that operate in the Tameside area have been given the opportunity to comment on the proposed diversion. No objections were received from them during this period.
- 4.4 If approval is granted to proceed with the diversion of Footpath 43 then the order will be advertised for consultation with the public in accordance with the statutory process.

5. RECOMMENDATION

- 5.1 It is recommended that the order be made to divert Footpath Hyde 43 as indicated on the plan attached at **Appendix A** and that the Borough Solicitor be authorised to take the necessary steps to implement this decision.

APPENDIX A



Robin Monk
Executive Director of Place
Council Offices
Wellington Road
Ashton-under-Lyne
OL6 6DL

HYD/43 diversion

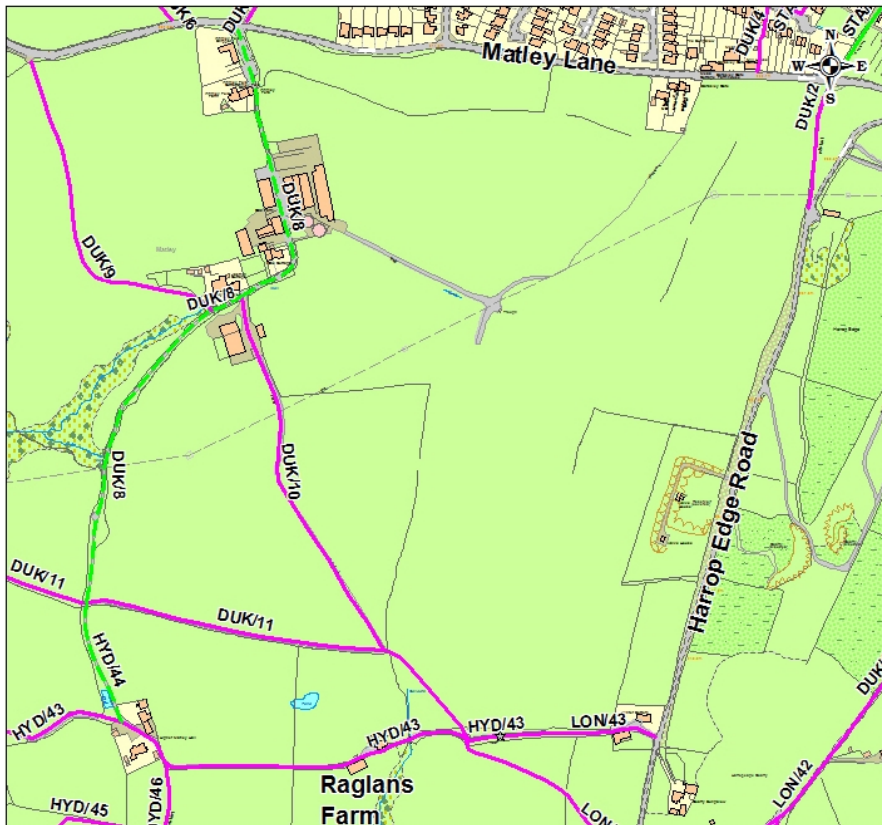
Scale 1:500

Compiled by MH on 7 September 2016

This plan is not a copy of the definitive map. This plan is produced from the council's computer based geographical information system. The plan shows the approximate route of public rights of way recorded on the definitive map, but it does not attempt to show the precise route or width of the right of way. For further information you need to inspect the definitive map and statement. You should also remember that not all public rights of way or highways are recorded on the definitive map. Tameside Metropolitan Borough Council does not accept responsibility for any error or inaccuracy in this plan or from any reliance placed on it.

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Additional information:
Engineering Service
Tel : 0161 342 3704



Robin Monk
Executive Director of Place
Council Offices
Wellington Road
Ashton-under-Lyne
OL6 6DL

HYD/43 diversion

Scale 1:5,000

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