

TO: PLANNING & REGULATORY COMMITTEE **DATE:** 27 September 2023
BY: ANNE WOODS (COUNTRYSIDE ACCESS OFFICER)
DISTRICT(S) TANDRIDGE DISTRICT **ELECTORAL DIVISION(S):**
PURPOSE: FOR DECISION **GRID REF:** 532091 152677

TITLE: **TEMPORARY FOOTPATH DIVERSION ORDER – FOOTPATH 163
(BLETCHINGLEY)**

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1. SUMMARY

- 1.1 Under section 257 and 261 of the Town & Country Planning Act 1990, the County Council may make a footpath diversion order if it is satisfied that it is necessary to do so in order to enable minerals to be extracted.
- 1.2 Planning permission (ref TA2020/434 / RE20/00463/CON) was granted on 28 June 2022 for the extraction of silica sand from land north-west of Brewer Street Farm; the continued temporary diversion of public footpath 163; with associated landscaping and woodland planting; and restoration and aftercare to agriculture and nature conservation.
- 1.3 The applicant submitted an application on 8 June 2023 to temporarily divert Public Footpath 163.
- 1.4 Planning and Regulatory Committee's authorisation is required so that a temporary Diversion order can be made under S257 and S261 of the Town and Country Planning Act.

2. OFFICER RECOMMENDATIONS

- 2.1 The Planning and Regulatory Committee is asked to agree that:
- 2.2 Authority be granted to make a temporary diversion order under section 257 and 261 of the Town and Country Planning Act to temporarily divert Public Footpath No. 163 from the line A-B to the lines B-C and E-C-D as shown on Drawing No. 3/1/21/H38.
- 2.3 If any objections are received and maintained to the Order, it will be submitted to the Secretary of State for the Environment, Food and Rural Affairs for determination.

3. REASONS FOR RECOMMENDATIONS

Under section 257 and 261 of the Town & Country Planning Act 1990, the County Council is satisfied that a temporary footpath diversion order of public footpath 163 (Bletchingly)

should be made in order to enable authorised development (mineral extraction) to be carried out.

4 APPLICATION AND BACKGROUND

- 4.1 Under section 257 of the Town & Country Planning Act 1990, the County Council may make a footpath diversion order if it is satisfied that it is necessary to do so in order to enable authorised development to be carried out.
- 4.2 Under section 261 of the Town & Country Planning Act 1990, the County Council may make a footpath diversion order if it is satisfied that it is necessary to do so in order to enable (specifically) minerals to be worked by surface working.
- 4.3 The planning permission (ref. TA2020/434 / RE20/00463/CON)¹ was considered by this Committee on 25 May 2022 ([Link to agenda](#)) subject to conditions, for the extraction of silica sand with associated landscaping and woodland planting; and restoration and aftercare to agriculture and nature conservation. Permission was granted on 28 June 2022.
- 4.4 The applicant submitted an application 8 June 2023 to temporarily divert Public Footpath 163 to enable these works.
- 4.5 The application is for the temporary diversion of Public Footpath No.163 from the line A-B to the lines B-C as temporary footpath and E-C-D as temporary bridleway as shown on Drawing No. 3/1/21/H38.
- 4.6 On confirmation of the temporary diversion order the temporary bridleway shown E-C-D on Drawing No. 3/1/21/H38 will be dedicated as Public Bridleway 632
- 4.7 At expiration of the Order, Footpath 163 shall be reinstated to its original alignment to a condition not substantially less convenient to the public.

5 ANALYSIS

- 5.1 The temporary diversion on Public Footpath 163 (Bletchingley) is required to enable the authorised development to be carried out.

6 OPTIONS

- 6.1 Make a temporary diversion order and advertise it in accordance with the statutory procedures. If any objections are received and maintained submit the order with the objections to the Secretary of State for determination. This is the Officer's preferred option.
- 6.2 Or: Refuse the application.

7 CONSULTATIONS

¹ [Agenda for Planning and Regulatory Committee on Wednesday, 25 May 2022, 10.30 am - Surrey County Council \(surreycc.gov.uk\)](#), item 46/22

7.1 All interested parties were consulted. The British Horse Society confirmed they had no objection to the changes on the understanding that once the Temporary Diversion Order has been confirmed, the Applicants will dedicate the route D-C-E as Public Bridleway. The Parish Council reviewed the proposal and had no comments. This report has been viewed and approved by Surrey Legal Services.

8 FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

8.1 The County Council will charge the Applicant for the costs of making and advertising the order in accordance with the Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993. The costs are estimated to be in the region of £2,500. If an order is made and then submitted to the Secretary of State for determination, the matter may be dealt with by way of written representations, hearing or public inquiry. If the latter was to occur, then the County Council would be liable for costs in the region of £2000-3000 which would have to be met from the Countryside Access budget. At the current time we cannot reclaim these costs from the applicant.

9 EQUALITIES AND DIVERSITY IMPLICATIONS

It is the objective of Surrey County Council to have due regard to all public users of the highway. There are no equalities and diversity implications.

10 OTHER IMPLICATIONS

Area assessed:	Direct Implications:
Crime and Disorder	No significant implications arising from this report.
Sustainability (including Climate Change and Carbon Emissions)	No significant implications arising from this report.
Corporate Parenting/Looked After Children	No significant implications arising from this report.
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from this report.
Public Health	No significant implications arising from this report.
Localism	There are no localism issues.
Human Rights Act 1988	Under Section 6 (1) of the Human Rights Act 1998, local authorities are required to act, as far as possible, in a way that does not breach rights contained in the European Convention on Human Rights. This includes the right to property, under Article 1 of the First Protocol to the Convention. In the officer's view this proposal has no human rights implications.

11 CONCLUSION AND RECOMMENDATION

11.1 The Officer's recommendation is that a temporary diversion order should be made.

11.2 The Planning and Regulatory Committee is asked to agree that:

- Authority be granted to make a temporary diversion order under section 257 and 261 of the Town and Country Planning Act to temporarily divert Public Footpath No. 163 (Bletchingley) from the lines B-C as temporary footpath and E-C-D as temporary bridleway as shown on Drawing No. 3/1/21/H38 and that if any objections are received and maintained to the order that it is submitted to the Secretary of State for the Environment, Food and Rural Affairs for determination.

11.3 If the Committee reaches a different decision to that recommended, the reasons why should be fully argued and minuted.

12 WHAT HAPPENS NEXT

All interested parties will be informed about the decision.

Contact Officer:

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Lead Officer

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Consulted:

Tandridge District Council, Bletchingley Parish Council, Open Spaces Society, The Ramblers, County Councillor Chris Farr, British Horse Society, statutory utility companies.

Annexes:

Annex A – Drg. No. Drawing No. 3/1/21/H38

Sources/background papers:

Papers contained in file 3/1/21 160 and 163 Bletchingley file are available for inspection by contacting the Officer.