

**REPORT FOR DECISION**

Agenda Item	
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**MEETING:** PLANNING CONTROL COMMITTEE

**DATE:** 24 JULY 2007

**SUBJECT:** APPLICATION TO CLOSE A NON-DEFINITIVE FOOTPATH AND TO DIVERT PART OF PUBLIC FOOTPATH NUMBER 31 AND PART OF A NON-DEFINITIVE FOOTPATH AT TULLE COURT, PRESTWICH

**REPORT FROM:** IAN CROOK  
HIGHWAY NETWORK SERVICES MANAGER

**CONTACT OFFICER:** IAN CROOK  
HIGHWAY NETWORK SERVICES MANAGER

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**TYPE OF DECISION:** EXECUTIVE (NON KEY DECISION)

**FREEDOM OF INFORMATION/ STATUS:** This paper is within the public domain

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**SUMMARY:**

This report contains information regarding an application by Richardson Projects, Willow Point, 47 Bridgefold Road, Rochdale, OL11 5BX, to close a non-definitive footpath and to divert part of public footpath number 31 and part of a non-definitive footpath at Tulle Court, Prestwich

**OPTIONS AND RECOMMENDED OPTION:**

That the Committee approve the application to close a non-definitive footpath and to divert part of public footpath number 31 and part of a non-definitive footpath at Tulle Court, Prestwich, in order to allow a residential development to take place as per the planning permission granted by the Authority.

That the Council Solicitor is authorised to make the necessary orders.

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**IMPLICATIONS -**

**Corporate Aims/Policy Framework:**

Do the proposals accord with the Policy Framework? **Yes**

**Financial Implications and Risk Considerations**

The closure and two diversions of the footpaths are not considered to carry any significant risks.

**Statement by Director of Finance and E-Government:**

As the developer has agreed to pay all costs associated with the closure and diversions to allow development of the site, there is no call on the Authority's resources

**Equality/Diversity implications**

None

**Considered by Monitoring Officer:**

Yes

**Wards Affected:**

St. Mary's

**Scrutiny Interest:**

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**TRACKING/PROCESS EXEC DIRECTOR: Env & Development Services**

Chief Executive/ Management Board	Executive Member/ Chair	Ward Members	Partners
Scrutiny Commission	Executive	Committee	Council
		Planning Control 24.7.07	

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**1.0 BACKGROUND**

1.1 Plan 1 PRW/PRE/DC/1 shows the non-definitive footpath to be closed as a solid black line A-C and B-C-D

1.2 Plan 2, PRW/PRE/DC/2 shows the section of public footpath number 31, Prestwich to be diverted as a solid black line E-F. The diversion is shown as a bold dashed line E-G-H.

- 1.3 Plan 3, PRW/PRE/DC/3 shows the part of the non-definitive footpath to be diverted as a solid black line J-L. The diversion is shown as a bold dashed line J-K-L.
- 1.4 Plan 4, PRW/PRE/DC/4 shows all three changes together.
- 1.5 Section 257 Town and Country Planning Act 1990 permits the closure and diversion of rights of way to allow development to take place. Section 119 Highways Act 1980 allows the diversion of rights of way for the benefit of the landowner.
- 1.6 The applicants, Richardson Projects have planning permission to redevelop the Tulle Court site as a residential development. The development cannot be carried out as per the permission unless three rights of way are altered.

## **2.0 ISSUES**

### **Risk Management**

- 2.1 The closure of the footpath is not considered to carry any associated risks.

### **Equality Impact Assessment**

- 2.2 An initial screening has been undertaken and the closure will have a neutral impact on all groups.
- 2.3 The section of public footpath number 31 Prestwich to be diverted (Plan 2) has been impassable since Tulle Court was constructed in the 1960s due to the change in ground levels and the presence of high retaining walls and railings. Due to the existing situation this diversion is to be processed under 119 of the Highways Act 1980 for the benefit of the landowner rather than under Town and Country Planning Act 1990 as it was the original Tulle Court development that obstructed the footpath.
- 2.4 The non-definitive footpath to be closed (Plan1) was constructed at the same time as Tulle Court as a means of access for the residents. It was not intended for use by the general public as a means of passing through the court. The rebuilding of Tulle Court means such access is no longer required and cannot be accommodated within the new development.
- 2.5 The diversion of the non-definitive footpath (Plan 3) affects only a small section of the path and is required to give the residents of the new development full use of the green space to the rear of Carmona Drive.
- 2.6 Preliminary consultations have been carried out with the prescribed bodies. Appendix 1 indicates the responses received and that no objections have been raised.
- 2.7 The Ramblers Association have indicated that if the diverted non-definitive footpath (Plan 3) is added to the Definitive Map they would not only offer no objection but fully support the application. This will have to be agreed with the landowner, but in recognising the need to divert this non-definitive footpath

the Authority is acknowledging its use by the public and it should be added to the Definitive Map to ensure that the public's rights are protected in the future.

- 2.8 The applicant has undertaken to pay all reasonable costs associated with the closure and diversions.

### **3.0 CONCLUSION**

- 3.1 Closure of a non-definitive footpath and diversion of part of public footpath number 31, Prestwich and a non-definitive footpath at Tulle Court is necessary to allow Richardson Projects to carry out their planning permission for a new residential development on the site.

- 3.2 That the Committee authorise the Council Solicitor to make the necessary orders under Section 257 Town and Country Planning Act 1990 and Section 119 Highways Act 1980.

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**List of Background Papers:** Definitive Map and Statement.  
Equality Impact Assessment.  
Letter of Application

**Attachments:** Plans 1, 2, 3 and 4  
Appendix 1

#### **Contact Details:**

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