

PROPOSED EXTINGUISHMENT OF PART PUBLIC FOOTPATH 5, ASHINGDON

1 SUMMARY

The report concerns an application for the extinguishment of a section of public footpath 5, Ashingdon.

2 INTRODUCTION

- 2.1 Authority is sought further to Section 118 of Highways Act 1980 to extinguish part of the footpath as shown on the attached plan. Under the provisions of the Act, the Council may make orders for the extinguishment of footpaths if it is considered that they are no longer needed for public use.
- 2.2 In making an Order, the Council must be satisfied that it is expedient that the path should be stopped up and also needs to consider whether it would be likely to be used by the public and the effect any extinguishment would have on land served by the path.

3 PROPOSED EXTINGUISHMENT

- 3.1 The application is from the owner of Ashingdon Hall, Church Road, Ashingdon. The route of the existing footpath passes through this property and adjoining properties; bisecting part of Ashingdon Hall itself.
- 3.2 The existing route, as depicted on the definitive footpath map is shown on the annexed plan by a solid black line and follows the line through points A, B and C before continuing towards St Andrew's Church. The proposal is to extinguish the part of the route from points A to C.
- 3.3 The applicant only discovered the precise route of the footpath when selling his property. The owners of 516 Ashingdon Road and 'Rozal', Church Road were equally unaware that the route crossed their property, the path not being in use and effectively incapable of being used for many years.

4 DISCUSSION

- 4.1 The fact that the pathway is obstructed thereby deterring use is not a determining factor although clearly in this case there has been a significant obstruction for many years, which cannot easily be redressed. The principal issues is whether the length of path is no longer needed for public use and whether the path is likely to be used.
- 4.2 There is an existing route along Church Road, which is an adopted highway, so public access to the remainder of footpath 5 north eastwards would not be effected and indeed appears to have been the accepted arrangement for many years.
- 4.3 The local Ramblers Association has indicated informally that it does not object to the proposal. All the respective owners of the land through which the current footpath runs A-C have indicated their consent to the extinguishment of the footpath.
- 4.4 An alternative proposal has been explored involving a diversion scheme, depicted by a dashed black line running through points D - H on the annexed plan.
- 4.5 The Church is owner of the land affected by the short section of the proposed diversion marked G-H and has indicated that it would be extremely reluctant to accept the new path. The diversion scheme would fail in the absence of agreement.
- 4.6 The Highways Authority considers extinguishment to be the only realistic option in these circumstances.

5 ENVIRONMENTAL IMPLICATIONS

- 5.1 There will be no change so far as existing public usage and access along Church Road is concerned.

6 RESOURCE IMPLICATIONS

- 6.1 The Council's expenses in making the Order will be borne in full by the applicant.

7 LEGAL IMPLICATIONS

- 7.1 In the event that the Council supports the proposed extinguishment, statutory consultation will need to be undertaken and any representations considered prior to the confirmation of the Order.

8 PARISH IMPLICATIONS

- 8.1 Ashingdon Parish Council has informally indicated that it has no objection to the extinguishment,

9 RECOMMENDATION

It is proposed that the Committee considers the following and **RECOMMENDS** accordingly:

- (1) that subject to the owner of Ashingdon Hall bearing the cost of any necessary accommodation works and all the Council's expenses recoverable under the Local Government (Recovery of Costs for Public Path Orders) Regulations 1993 as amended, the proposal to extinguish the section of Footpath 5 Ashingdon from points A to C shown on the annexed plan, be approved, and
- (2) that the Head of Legal Services be authorised to take all necessary steps to secure the making and confirmation of a Public Path Extinguishment Order under the terms of Section 118 of the Highways Act 1980. (HLS)

Albert Bugeja

Head of Legal Services

Background Papers:

Correspondence from the Applicant.

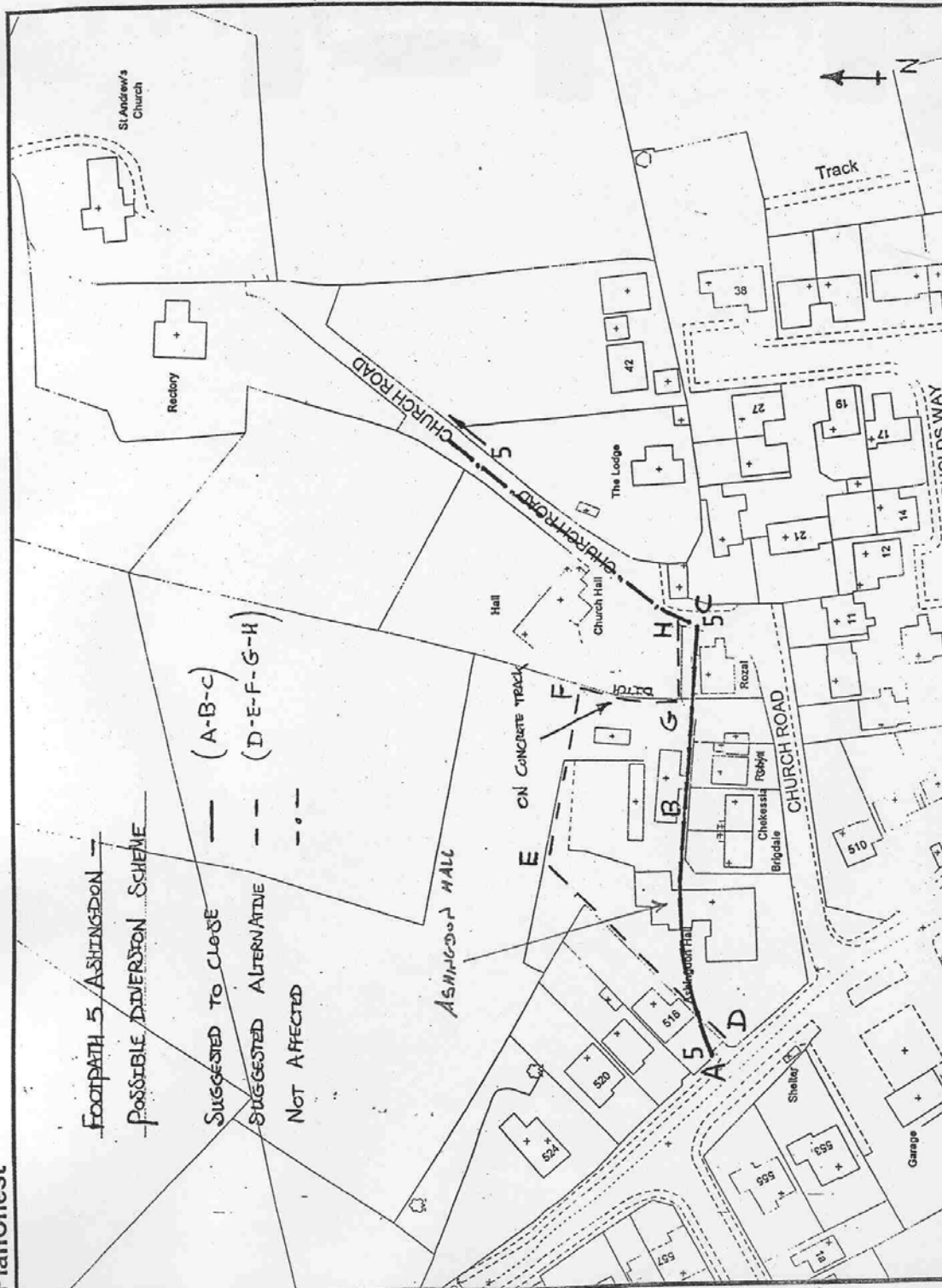
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PlanChest

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Scale: 1:1250
Plot Date: 28/10/2001
By: amr
Dept:

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