

MEETING:	REGULATORY SUB COMMITTEE
DATE:	28 JUNE 2011
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH ET2 (PART) IN THE PARISH OF ELTON
PORTFOLIO AREA:	Highways and Transportation

CLASSIFICATION: Open

Ward Affected

Mortimer

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath ET2 in the parish of Elton.

Key Decision

This is not a Key Decision.

Recommendation

That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D196/139-2(ii)

Key Points Summary

- This application was made by the landowner, Mr Morgan, in 1996.
- The existing legal line of the path is obstructed by a barn.
- The initial proposed route received objections which stalled the process.
- The current proposed route is the route which is currently walked on the ground.
- There have been no objections to this revised route at pre-order consultation.

Further information on the subject of this report is available from
Susan White, Assistant Rights of Way Officer on (01432) 842106

Alternative Options

- 1 Under Section 119 of the Highways Act 1980 the Council has the power to make diversion orders. It does not have a duty to do so. The Council could reject the application on the grounds that it does not contribute sufficiently to the wider ambitions and priorities of the Council, however the existing legal line of the path would remain obstructed by the barn.

Reasons for Recommendations

- 2 The public path order should be made because it is felt that it meets the criteria set out in s 119 of the Highways Act and the Council's Public path order policy and any objections received at pre-order consultation stage have been over-come by amending the proposals.

Introduction and Background

- 3 Before an order is made to divert a footpath under the Highways Act 1980, it is necessary to gain a decision from the Regulatory Sub Committee as they hold the delegated authority to make this decision.

Key Considerations

- 4 Mr Morgan, who is the landowner, made the application in February 1996. The reasons given for making the application were 'in the interests of the landowner'.
- 5 Initial pre-order consultation was carried out by the Public Rights of Way department. The proposal received objections due to the route of the proposals.
- 6 After protracted negotiations, the proposals were amended and sent to pre-order consultation, again, by the applicant's agent.
- 7 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order, however the applicant will be charged the admin costs at the time of application, not the current costs for administration.
- 8 The local Cllr. L O Barnett, does not hold any objections to the proposals.
- 9 The proposed diversion meets the specified criteria as set out in Council policy and section 119 of the Highways Act 1980 in particular that:
 - The proposal benefits the owner of the land crossed by the existing path.
 - The proposal does not alter the point of termination of the path.
 - The proposal is not substantially less convenient to the public.

Community Impact

- 9 Wigmore Group Parish Council was consulted regarding the proposals and hold no objections.

Financial Implications

- 10 The landowner has signed an undertaking to pay all costs necessary with the making of this order. However, he has been assured that the application will not cost more than £900 (admin

and advertising fees) in line with the costs involved at the time of application.

Legal Implications

- 11 Under Section 119 of the Highways Act 1980 the Council has the power to make diversion orders. It does not have a duty to do so

Risk Management

- 12 There is a risk that any order made will receive objections and will then require referral to the Secretary of State for a decision. However, this risk has been minimised by assessing public opinion at pre-order consultation stage, where amendments to the proposals were made in light of the comments received.

Consultees

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- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. L O Barnett
- Wigmore Group Parish Council.
- Statutory Undertakers.

Appendices

- 14 Order Plan, drawing number: D196/139-2(ii) and Order and Schedule.

Background Papers

- None identified.