

MEETING:	REGULATORY SUB COMMITTEE
DATE:	28 JUNE 2011
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER RESTRICTED BYWAY LG49 (PART) IN THE PARISH OF LLANGARRON
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Ward Affected

Llangarron

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of restricted byway LG49 in the parish of Llangarron.

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: D397/242-49

Key Points Summary

- The landowner applied to divert footpath LG18 in 2008
- Pre-order consultation was carried out and two user groups suggested that the path is likely to have higher rights associated with it.
- The landowner decided to dedicate the relevant section of footpath as a restricted byway and then to apply to divert it (thus it was renamed LG49).
- The user groups which had responded were content with this approach.

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

- The Parish Council, Local Member and tenants do not object to the proposals.

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.

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.

Introduction and Background

3 This report is being considered by the Regulatory Sub Committee because they have the delegated authority to make the decision whether or not to make an order.

Key Considerations

4 Mr James Michael Thorpe, who is the landowner, made the application on 30th of July 2008. The reasons given for making the application were, 'to make official the route which has been in use for many years and which is easily negotiable for users'.

5 The applicant has carried out all pre order consultation. The proposal had general agreement, however, the Open Spaces Society and the Byways and Bridleways Trust correspondents both opined that the footpath may have higher rights associated with it which would remain undiverted in the event of a path order being made. The landowners agreed to dedicate the relevant section of path as a restricted byway and then to apply to divert it. The relevant section of path was then named as LG49.

6 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order. The other affected tenants have given their written consent to the proposals.

7 The local member, Cllr J. A. Hyde supports the application.

8 The proposed diversion meets the specified criteria as set out in Council policy and in 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 paths.
- The proposal is not substantially less convenient to the public.

Community Impact

9 Llangarron Parish Council have been consulted regarding the proposals and responded that they have no objections to the diversion but have requested that the diverted route is waymarked so that all users are clear where the path goes.

Financial Implications

- 10 The landowner has agreed to pay for all advertising and administration costs associated with the making of this order.

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 If a public path order is made as recommended within this report, there is a risk that it may receive objections which would impinge on existing staff and financial resources, however, this risk has been reduced by the carrying out of the pre-order consultation, to which the comments which were made have been addressed by dedicating the section of footpath as a restricted byway.

Consultees

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- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. J A Hyde
- Llangarron Parish Council.
- Statutory Undertakers.

Appendices

- 14 Order Plan, drawing number: D397/242-49 and Order and Schedule.

Background Papers

- None identified.