

MEETING:	REGULATORY SUB COMMITTEE
DATE:	19 JULY 2012
TITLE OF REPORT:	BRIDLEWAY BG11(PART) AND BG12(PART) BURRINGTON PUBLIC PATH DIVERSION ORDER
PORTFOLIO AREA:	Highways and Transportation

CLASSIFICATION: Open

WARDS 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 bridleways BG11 and BG12 in the parish of Burrington.

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 under drawing number : D360/72-11,12(ii).

KEY POINTS SUMMARY

- The landowner, Robert Owen, applied for the diversion of parts of bridleways BG11 and BG12, in the parish of Burrington in October 2003.
- The reason for the application is to improve access and ease of use for stock pens, to provide an improved surface for bridleway users, and for privacy and security.'
- Pre-order consultations have been carried out and the proposal has general agreement and support.

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, as the proposal allows for unobstructed access and has general support, this could be considered to be unreasonable.

Further information on the subject of this report is available from
Chris Chillingworth, Public Riights of Way Officer on (01432) 842100

REASONS FOR RECOMMENDATIONS

- 2 The public path order should be made because it is felt that that it meets the criteria set out in Section 119 of the Highways Act 1980 and Herefordshire Council's Public Path Order Policy.

INTRODUCTION AND BACKGROUND

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

KEY CONSIDERATIONS

- 4 Mr Robert Owen of Mary Knoll House, Whitcliffe, Ludlow, made an application on the 29th October 2003. but it was not possible to progress the application until resources became available. The reason given for the application was to improve access and ease of use for the landowner to stock pens, to provide an improved surface for bridleway users, and for reasons of privacy and security.
- 5 Pre-order consultation has been carried out by the applicant and the proposal has general agreement and support.
- 6 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's charge for making the order.
- 7 The Local Member, Councillor L O Barnett, has been consulted and has raised no objections to the application.
- 8 The proposed diversion meets the specified criteria set out in section 119 of the Highways act 1980, and in particular that :
- i) The proposal benefits the owner of the land.
 - ii) The proposal is not substantially less convenient to the public.
 - iii) It would be expedient to proceed with the proposal given the effect it will have on the public enjoyment of the paths.

COMMUNITY IMPACT

- 9 The Parish Council and local user groups have been consulted as part of the process and the proposal has general agreement and support. Councillor Barnett has been consulted and has not objected to the proposal.

FINANCIAL IMPLICATIONS

- 10 The applicant has agreed to pay the Council's standard fee for the making of a diversion order and to pay associated advertising costs. The applicant will be charged the rate applicable in 2003 and has also agreed to meet the cost of bringing the diverted paths into operation.

LEGAL IMPLICATIONS

- 11 Under section 119 of the Highways Act 1980 the Council has the power to make a diversion order but does not have a duty to do so.

RISK MANAGEMENT

- 12 Should an order is made to divert bridleways BG11 and BG12, as recommended in this report, there is a risk that the order will receive objections and would then require referral to the Secretary of State which would increase the demands on officer time and resources. However, extensive informal consultations have been carried out to minimise the risk of such objections.

EQUALITY IMPLICATIONS

- 13 The proposed new route has similar gradients to those found on the existing route; there is a gap at one end and a bridle gate at the other end which will improve accessibility for the public. As such, the proposal is considered to comply with the requirements of the Equality Act 2010.

CONSULTEES

- 14 Prescribed organisations as per Defra Rights of Way Circular 1/09.

Local ward member, councillor LO Barnett.

Burrington Parish Council

Statutory Undertakers

APPENDICES

- 15 Order and order plan, drawing number D360/72-11.12(ii)

BACKGROUND PAPERS

- None identified.