

<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>27 NOVEMBER 2012</b>
<b>TITLE OF REPORT:</b>	<b>HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH ZC86 (PART) IN THE PARISH OF LEOMINSTER</b>
<b>PORTFOLIO AREA:</b>	<b>HIGHWAYS AND TRANSPORTATION</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Leominster South

### **Purpose**

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath ZC86 in the parish of Leominster.

### **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: D419/226-86(ii)

### **Key Points Summary**

- An application to divert footpath ZC86 was made by S & A Produce (UK) Ltd on 25<sup>th</sup> of January 2012.
- The applicant has carried out a pre-order consultation to which there have been no objections.
- The existing footpath is obstructed by buildings.

### **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 there have been no objections at pre-order consultation stage.

## 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 S & A Produce (UK) Ltd, who are the landowners, made the application on 25<sup>th</sup> of January 2012. The reasons given for making the application were, 'the current route is directly through a farm building and therefore cannot be accessed. The building was constructed some years ago by previous owners and with full planning consent.'
- 5 The applicant has carried out all pre order consultation. The proposal has general agreement.
- 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 landowners, S & D Davies have given their written consent to the proposals.
- 7 The local members, Cllr. R C Hunt and Cllr. P J McCaull have no objections to the proposals.
- 8 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 alter the point of termination of the paths but to a point on the same highway which is not less convenient.
  - The proposal is not substantially less convenient to the public.

## Equalities Impact

- 9 The existing route of the footpath currently passes through a busy farm yard and is obstructed by several barns and a large difference in levels between the farm-yard and the paddock behind. The proposed route travels to the side of the barn and up a short flight of steps then a gentle incline. In context with the surroundings and the wider use of the path, the proposed route is considered to comply with the requirements of the Equality Act 2010.

## Community Impact

- 10 Leominster Town Council were consulted and have no objections to the proposals.

## Financial Implications

- 11 The applicant has agreed to pay the full costs associated with this application including administration and advertising costs and any works necessary to bring the new route into being.

## **Legal Implications**

- 12 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**

- 13 There is a risk that if an order is made as proposed, it may receive objections which would require the matter to be referred to the Secretary of State for a decision. This could result in a public inquiry. However, this is unlikely as the proposals have already been sent out to pre-order consultation and have not received any adverse comments.

## **Consultees**

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- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Members – Cllr. R.C. Hunt and Cllr. P.J. McCaull.
- Leominster Town Council.
- Statutory Undertakers.

## **Appendices**

- 15 Order Plan, drawing number: D419/226-86(ii) and Order and Schedule.

## **Background Papers**

- None identified.