

**Record of Officer's Decision**

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| Item:   | <b>Wildlife and Countryside Act 1981<br/>Modification Order to add a Byway Open To All Traffic in the Parish of Peterstow, a Restricted Byway in the Parishes of Peterstow and Hentland and a Restricted Byway in the Parish of Peterstow</b>  |
| Date of Decision  | 31 July 2017   |
| Decision Maker (Officer)  | Assistant Director Environment & Place   |
| Authority for Delegated for Decision (Cabinet Decision or Scheme of Delegation – provide reference) | Regulations functions  |
| If required, identify which Cabinet Member(s) /Portfolio Holder(s) consulted                        | None   |
| Is it a Key Decision?   | No   |
| Decision made   | <p><b>THAT:</b></p> <p><b>An order be made under the provisions of section 53(2)(b) of the Wildlife and Countryside Act 1981, in consequence of events under sections 53(3)(c)(i) of that Act to add to the Definitive Map and Statement: -</b></p> <ul style="list-style-type: none"> <li><b>• a Byway Open to all Traffic with a width of four metres in the Parish of Peterstow, as shown between points A and B on drawing number M274/275 at Appendix 1 to this report;</b></li> <li><b>• a Restricted Byway with a width of four metres in the Parishes of Peterstow and Hentland, as shown between points B and G on drawing number M274/275 at Appendix 1 to this report and</b></li> <li><b>• a Restricted Byway with a width of four metres in the Parish of Peterstow as shown between points H and I on drawing number M274/275 at Appendix 1 to this report</b></li> <li><b>• That part of the original for a Byway Open to all Traffic in the Parish of Peterstow between the unclassified road U71015 and Point A on the plan at Appendix 1 to this report be rejected</b></li> </ul> |

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| <p>Reason for Decision (if a report was produced to support the Decision, refer to and attach the same)</p>   | <p>The Definitive Map and Statement are conclusive legal records of the status, position and width of public rights of way and Herefordshire Council has a legal duty under section 53 of the 1981 Act to keep them under continuous review. The Council must make Orders to modify the Map and Statement - in accordance with s53(3)(c)(i) in this case - where evidence is discovered which, in conjunction with other available evidence shows,</p> <p style="text-align: center;"><i>“that a right of way that is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54a, a byway open to all traffic”</i></p> <p>Following a detailed investigation into this application documentary evidence indicates that public rights subsist or can reasonably be alleged to subsist over the claimed routes, as fully set out in the Research Report at Appendix 2.</p> <p>The recommended outcomes in this matter are not the same as those applied for.</p> |
| <p>Highlight any associated risks/finance/legal/equality considerations</p>   | <p>None</p>   |
| <p>Details of any Alternative Options considered and rejected (together with reasons)</p>   | <p>This decision is to determine whether, on the balance of probabilities, public rights subsist (or are reasonably alleged to subsist) along the routes shown A – B, B – G and H – I) on the plan at Appendix 1 (and also between Point A and the unclassified road U71015). In determining this matter, the council is carrying out a quasi-judicial function in accordance with the provisions of section 53 of the 1981 Act. The only alternative options would be to do nothing, whereby public rights will be omitted from the Definitive Map and Statement, or to amend any part of the decision based on the evidence of the rights that are alleged or reasonably alleged to subsist. The Council is duty bound to investigate such matters.</p>   |
| <p>Details of any declarations of interest (by Cabinet Member / portfolio Holder who was consulted by the officer, which related to the decision)</p> <p>If relevant, a note of the dispensation granted by the Monitoring officer:</p> |   |

Officer Name: Richard Ball

Officer Title: Assistant Director Environment & Place

Signature:

Date: 31 July 2017