

<b>MEETING:</b>	<b>REGULATORY SUB COMMITTEE</b>
<b>DATE:</b>	<b>26 APRIL 2011</b>
<b>TITLE OF REPORT:</b>	<b>HIGHWAYS ACT 1980, SECTION 119, PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH GR26 (PART) IN THE PARISH OF GOODRICH</b>
<b>PORTFOLIO AREA:</b>	<b>Highways and Transportation</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Kerne Bridge

### **Purpose**

To consider an application under the Highways Act 1980, Section 119, to make a Public Path Diversion Order to divert part of footpath GR26 in the parish of Goodrich.

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

**THAT:- a Public Path Diversion Order is made under Section 119 as illustrated in drawing number D385/154-26(ii)**

### **Key Points Summary**

- The proposed diversion, applied for in September 2007, will move the current footpath further away from a residential property
- There have been no objections to the proposal following pre order consultations
- Officer are supporting the application

### **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 decide not to make an Order. However this may be considered unreasonable as the proposed diversion is very minor and no objections have been raised

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Further information on the subject of this report is available from  
Will Steel, Rights of Way Manager on (01432) 845980

## **Reasons for Recommendations**

- 2 The Public Path Order should be made because it is felt that it meets the criteria set out in Section 119 of the Highways Act 1980 in that it is in the interests of the landowner and is not substantially less convenient to the public and it is consistent with Herefordshire Council's Policy regarding Public Path Orders.

## **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 J. V. Waters and Miss A. L. Jones the landowners, made the application on 29<sup>th</sup> September 2007. The reasons given were to restore the rustic nature of the footpath and improve privacy.
- 5 The existing path runs close to the frontage of Rowlands Coach house. The proposed new route (A to B on the enclosed Plan) is situated about 4 to 5 metres away from the existing line and is in an adjoining field. The applicants own the majority of the land onto which it is proposed to divert the path and have the support and agreement of the other owner for the proposal.
- 6 The proposed new route will pass through two field gates which are included as limitations within the Order.
- 7 The applicant has carried out all pre-Order consultations. The proposal has been agreed by all the consultees including user groups and the Parish Council. The Local Member has also been consulted and has raised no objections.
- 8 The applicant has agreed to reimburse in full the Council's standard charge for making the diversion Order and pay for advertising costs.
- 9 The proposed diversion meets the specified criteria set out in Section 119 of the Highways Act 1980, and in particular that:
- The proposal benefits the owner of the land crossed by the existing path.
  - The proposal is not substantially less convenient to the public as it provides an acceptable alternative to passing immediately in front of the house and is therefore likely to be preferred by user groups.

## **Community Impact**

- 10 There is no significant community impact.

## **Financial Implications**

- 11 The applicants have agreed to pay the Council's standard fee for the making of a diversion Order and to pay the associated advertising costs. The applicant has also agreed to meet the costs of bringing the path into a suitable condition if necessary and to maintain the path. Should objections be lodged as a result of making an Order and the Order is submitted to the Secretary of State, then the Council would be required to meet the costs incurred.

## **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 If an order is made to divert Footpath GR26 as recommended within this Report, there is a risk that the Order will receive objections and would therefore require referral to the Secretary of State which will increase the demands on officer time and resources. However, extensive informal consultations have taken place to minimise the risk of such objections

## **Consultees**

- 14 The following have been consulted about the proposals:
- Prescribed organisations as per Defra Rights of Way Circular 1/09
  - Local Member, Councillor J G Jarvis
  - Goodrich & Welsh Bicknor Group Parish Council
  - Statutory Undertakers

## **Appendices**

- 15 Draft Order and Order Plan, drawing number: D385/154-26(ii).

## **Background Papers**

- None identified.