

AGENDA

Regulatory Sub Committee

Date: **Tuesday 24 January 2012**

Time: **10.00 am**

Place: The Council Chamber, Brockington, 35 Hafod Road,

Hereford

Notes: Please note the time, date and venue of the meeting.

For any further information please contact:

Pete Martens Committee Manager

Tel: 01432 261885

Email:pmartens@herefordshire.gov.uk

If you would like help to understand this document, or would like it in another format, please call Pete Martens Committee Manager on 01432 261885 or e-mail rclarke@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Regulatory Sub Committee

Membership:

Councillor PL Bettington Councillor JW Hope MBE Councillor FM Norman

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- the matter affects your financial interests or relates to a licensing or regulatory matter;
- the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

AGENDA Pages 1. **ELECTION OF CHAIRMAN** To elect a Chairman for the hearing. 2. **APOLOGIES FOR ABSENCE** To receive apologies for absence. 3. NAMED SUBSTITUTES (IF ANY) To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee. 4. **DECLARATIONS OF INTEREST** To receive any declarations of interest by Members in respect of items on the Agenda. 5. HIGHWAYS ACT 1980, SECTION 119. FOOTPATH RR2A (PART) PARISH 1 - 6 OF ROSS RURAL PUBLIC PATH DIVERSION ORDER 2011 To consider an application for the diversion of part of footpath RR2A. Rosson-Wye. 6. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH 7 - 12 DIVERSION ORDER FOOTPATH MR21 (PART) IN THE PARISH OF **MARDEN** To consider an application for the diversion of part of footpath MR21, Marden. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH 7. 13 - 18 DIVERSION ORDER FOOTPATH KC16A (PART) IN THE PARISH OF **KINGS CAPLE** To consider an application for the diversion of part of footpath KC16A, Kings Caple. 8. In the opinion of the Proper Officer, the following items will not be, or are likely not to be, open to the public and press at the time they are considered. **RECOMMENDATION:** that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below and it

is considered that the public interest in maintaining the exemption outweighs the

			public informati	interest on.	in	disclos	sing th	е
	1	Information rela	ting to any inc	lividual.				
	2	Information which	ch is likely to	reveal the i	identit	y of an	individua	I.
	3	Information rela particular perso	•	nancial or	busin	ess affa	airs of an	У
9.	PROCEI	DURE FOR A HEA	ARING					19 - 20
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Decision Notice - TCTBOP 13 December 2011							37 - 38	
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	To con	sider the suspens	ion of a dual di	river's licen	ce.			
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The Public's Rights to Information and Attendance at Meetings

YOU HAVE A RIGHT TO: -

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

Public Transport Links

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 every 20 minutes from the City bus station at the Tesco store in Bewell Street (next to the
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- The nearest bus stop to Brockington is located in Vineyard Road near to its junction with Old Eign Hill. The return journey can be made from the same bus stop.

HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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In the event of a fire or emergency the alarm bell will ring continuously.

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You should then proceed to Assembly Point A which is located in the circular car park at the front of the building. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

Please do not allow any items of clothing, etc. to obstruct any of the exits.

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MEETING:	REGULATORY SUB- COMMITTEE
DATE:	24 JANUARY 2012
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. FOOTPATH RR2A (PART) PARISH OF ROSS RURAL PUBLIC PATH DIVERSION ORDER 2011
PORTFOLIO AREA:	Highways and Transportation

CLASSIFICATION: Open

Wards Affected

Ross-on-Wye Parish East

Purpose

To consider an application under the Highways Act 1980, Section 119, to make a Public Path Diversion order to divert part of footpath RR2A in the Parish of Ross Rural.

Key Decision

This is not a Key Decision.

Recommendation

THAT a Public Path Diversion Order be made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D414/328-2A.

Key Points Summary

- The applicants Eurogarages Ltd., applied for the diversion of part of footpath RR2A, in the Parish of Ross Rural, on the 27th November 2010.
- The reason for proposing the diversion is that part of the existing line is obstructed by a building on the garage forecourt.
- The proposed diversion is not significantly longer than the existing route.
- Pre-Order consultation and negotiations have been carried out and the proposal has general support.

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

Alternative Options

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 unreasonable.

Reasons for Recommendations

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 and the Herefordshire Council's Public Path Order Policy.

Introduction and Background

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

Key Considerations

- 4 Eurogarages Ltd., applied for a diversion of part of footpath RR2A on 27th November 2010. The reason given for making the application was to divert the existing line part of which is obstructed by a building on the garage forecourt.
- Pre-Order consultation was carried out twice, once in October/November 2010 and, following a change in route requested by the Parish Council, and an independent site safety assessment report on the new route, a second period of consultation was carried out in September/October 2011.
- The proposal has general agreement and support, including from the Parish Council; the Ramblers had expressed a preference for a different route which was not acceptable to the Parish Council; there are no outstanding objections.
- 7 The applicant has agreed to pay for administration and advertising costs and the cost of bringing the diverted footpath into operation including implementing the recommendations made in the site safety assessment report.
- The Local Members, Councillors AM Atkinson and Councillor PGH Cutter, have raised no objections to the application.
- 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 public enjoyment of the path.

Community Impact

The Parish Council and local user groups have been consulted as part of the process and the proposal has general agreement and support; The Ramblers had expressed a preference for a different route which was not acceptable to the Parish Council. Councillors A M Atkinson and P G H Cutter have been consulted and have not objected to the proposal.

Financial Implications

The applicant has agreed to pay the Council's costs in respect of making a diversion order. To pay associated advertising costs, and to meet the costs of bringing the footpath into operation, including implementing the recommendations as set out in the site safety assessment report.

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

Should an order be made to divert part of footpath RR2A, as recommended within this report, there is a risk that the order will receive objections and would then require referral to the Secretary of State which could increase the demands on officer time and resources. However, extensive informal consultations and negotiations have taken place to minimise the risk if such objections.

Consultees

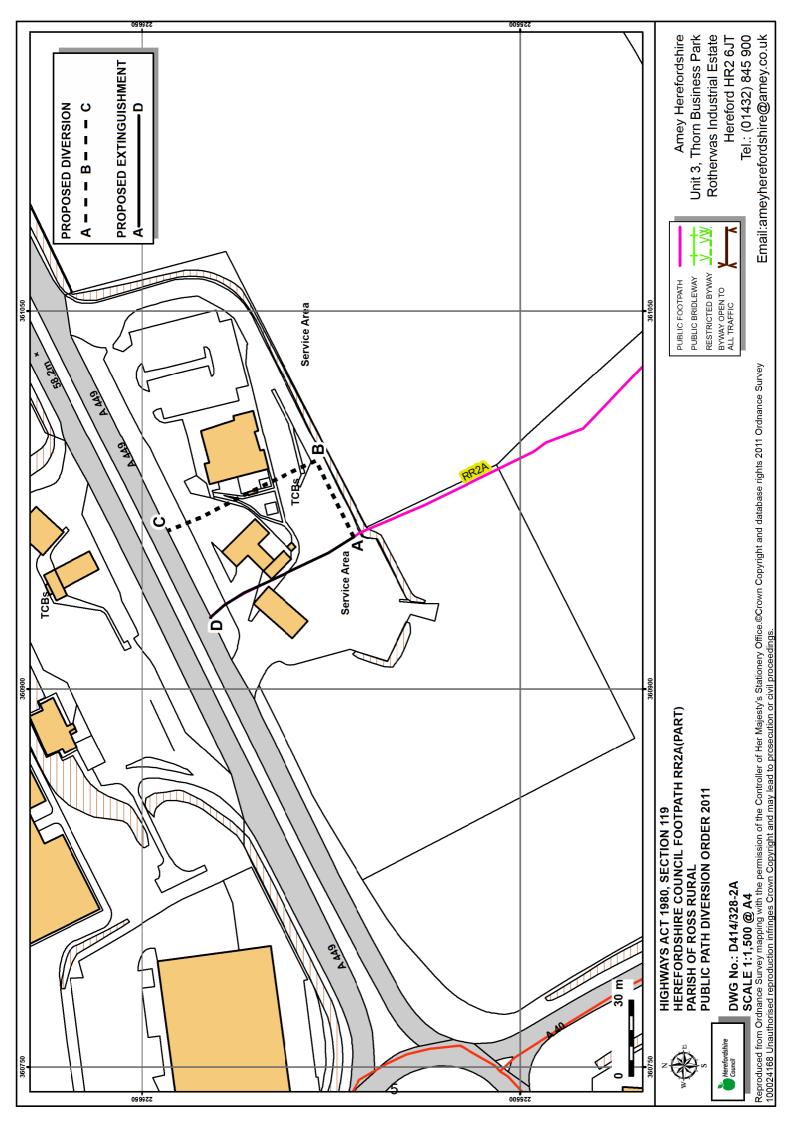
- 14 Prescribed organisations as per Defra Rights of Way Circular 1/09
- 15 Local Members Councillors A M Atkinson and P G H Cutter
- 16 Ross Rural Parish Council
- 17 Statutory Undertakers

Appendices

18 Draft Order and Order Plan, drawing number D414/328-2A

Background Papers

19 None identified.





MEETING:	REGULATORY SUB-COMMITTEE
DATE:	24 JANUARY 2012
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH MR21 (PART) IN THE PARISH OF MARDEN
PORTFOLIO AREA:	Highways and Transportation

CLASSIFICATION: Open

Wards Affected

Sutton Walls.

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath MR21 in the parish of Marden.

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: D325/261-21

Key Points Summary

- The landowners of the existing route, Mr and Mrs Gough, applied to divert the footpath in February 1999.
- The reasons were to bypass the obstruction on the right of way rather than having to remove it. '
- The current legal line of the right of way is obstructed by a sawmill shed.
- The proposed diversion was sent out to pre-order consultation.
- The landowner of the proposed route has objected to the proposal.

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

Further information on the subject of this report is available from Sue White, Public Rights of Way Officer (01432) 842106 grounds that it does not contribute sufficiently to the wider ambitions and priorities of the Council.

Reasons for Recommendations

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 although objections to the proposals have been received, it is felt to be in the wider public interest as it is the only viable option for re-opening the route of MR21.

Introduction and Background

Before an order is made to divert a footpath under the Highways Act, it is necessary to gain a decision from the Regulatory Sub-Committee as they have the delegated authority to make this decision.

Key Considerations

- 4 Mr and Mrs Gough, who are the landowners of the existing route of MR21, made the application on 6th of February 1999. The reason given for making the application was to 'avoid Herefordshire Council's powers to remove any obstruction on a right of way' because the existing route is obstructed by a working sawmill shed. The application arose due to enforcement action.
- The pre-order consultation has been carried out by the Public Rights of Way department. The proposal has general agreement. However, after carrying out a land registry search, it was discovered that the applicant does not own the land on which they wish to divert the path. The landowner was then contacted and has stated that he does not support this diversion and is likely to object to the proposals.
- The Ramblers' Association expressed their feeling that a stock proof fence should segregate the proposed route from the dogs which live at Nine Wells. There are currently 'Beware of the dogs' signs at either end of the existing route.
- 7 The Open Spaces Society were not minded to object to the proposals subject to the path being signposted at point C and waymarked as necessary.
- Although the landowner of the proposed route of the path has objected to the proposals, there is no other alternative route for the path as all the land surrounding Nine Wells is owned by the same land owner. The only other option would be to open the existing legal line of the path. This would require the closure of the sawmill due to safety reasons. The proposed route will not adversely affect the landowner as it will follow an existing track around the outside of the properties.
- The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order. However, the applicant will only be charged the administration costs which were applicable at the time of application.
- The local member, Cllr. Guthrie has no objections to the proposals.
- 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 does not alter the point of termination of the paths.
 - The proposal is not substantially less convenient to the public.

• It is expedient having regard to the effect on the land over which the proposed new path will run.

Community Impact

12 The Parish Council has been consulted and has no objections to the proposals.

Financial Implications

The applicant has agreed to pay for the costs associated with this order, this includes the defraying of any compensation likely to become payable in the event of the order being made as proposed.

Legal Implications

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. However, it does have a duty to secure the removal of any obstructions to a right of way and thus if a diversion order is not possible then the Council would be required to seek the removal of the saw mill buildings.

Risk Management

If an order is made as so recommended then there is a risk that the order may receive objections, particularly from the land owner as listed by the land registry. If the order is then confirmed, the landowner may be entitled to compensation, however, the applicants have signed a form which indemnifies the Council from any possible compensation claim.

Consultees

16

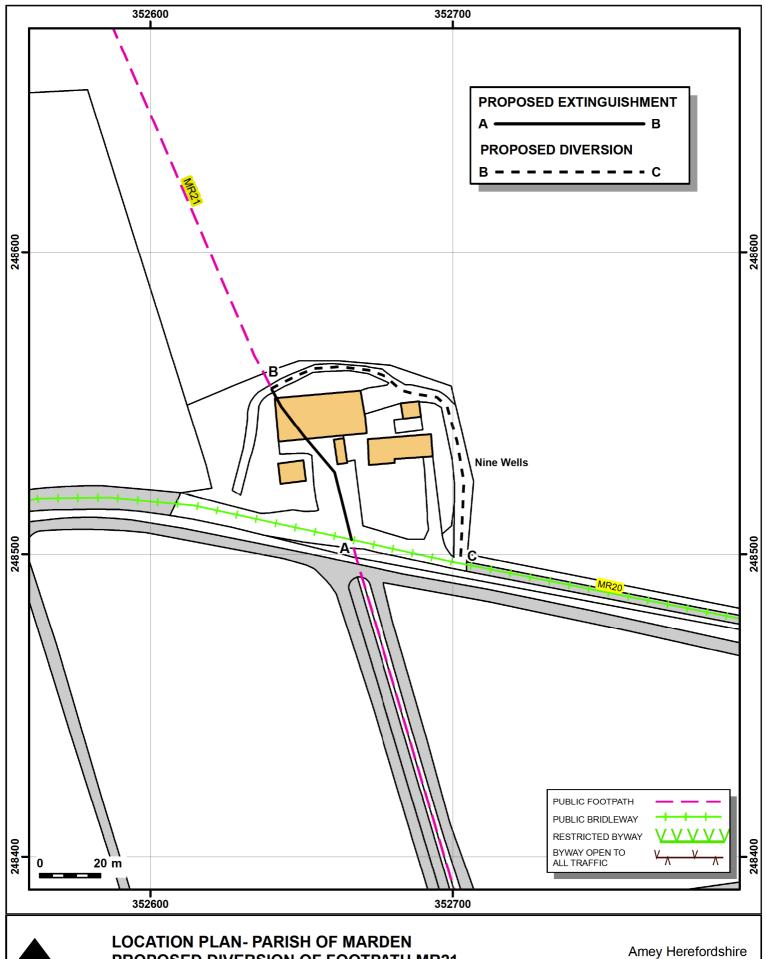
- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Landowners
- Local Member Cllr. Guthrie
- Marden Parish Council.
- Statutory Undertakers.

Appendices

17 Order Plan, drawing number: D325/261-21 and Order and Schedule.

Background Papers

None identified.





PROPOSED DIVERSION OF FOOTPATH MR21

DWG NO.: D325/261-21 **SCALE 1:1,250**

Unit 3, Thorn Business Park Rotherwas Industrial Estate Hereford HR2 6JT Tel.: (01432) 845 900

Email:ameyherefordshire@amey.co.uk

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MEETING:	REGULATORY SUB-COMMITTEE
DATE:	24 JANUARY 2012
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH KC16A (PART) IN THE PARISH OF KINGS CAPLE
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Old Gore

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath KC16A in the parish of Kings Caple.

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: D412/206-16A

Key Points Summary

- The landowner, Mr Jenkins, made an application to divert the footpath, KC16A in April 2011.
- The applicant has carried out a pre-order consultation of the proposals to which there were no objections.
- The existing public right of way is currently obstructed by a building.

Alternative Options

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.

Further information on the subject of this report is available from Sue White, Public Rights of Way Officer on 01432 842106

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Reasons for Recommendations

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 Before an order is made to divert a footpath under the Highways Act 1980, it is necessary to gain a decision from the Regulatory Sub-Committee as it holds the delegated authority to make this decision.

Key Considerations

- 4 Mr H D Jenkins, who is the landowner, made the application on the 25th of April 2011. The reason given for making the application was to formalise the permissive route which has been in use for a number of years.
- The applicant has carried out all pre order consultation. The proposal has general agreement, although the Open Spaces Society correspondent has requested that the proposed route be waymarked and the stile removed and a gate installed which is agreed by the applicant.
- The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order.
- 7 The local member, Cllr. B A Durkin has no objections to the proposals.
- The proposed diversion meets the specified criteria as set out in Council policy 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 The Parish Council has been consulted as part of the process and they responded that they had no objections to the proposals.

Financial Implications

The applicant has agreed to pay for the administration, advertising costs and the costs of any works.

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 an order is made to divert footpath KC16A 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.

The making of diversion orders under HA1980, s119. is a power of the Authority not a duty. The Committee could, therefore decline to make an order and reject this report. However, this would necessitate the re-opening of the path, part of which now passes through the buildings.

Consultees

14

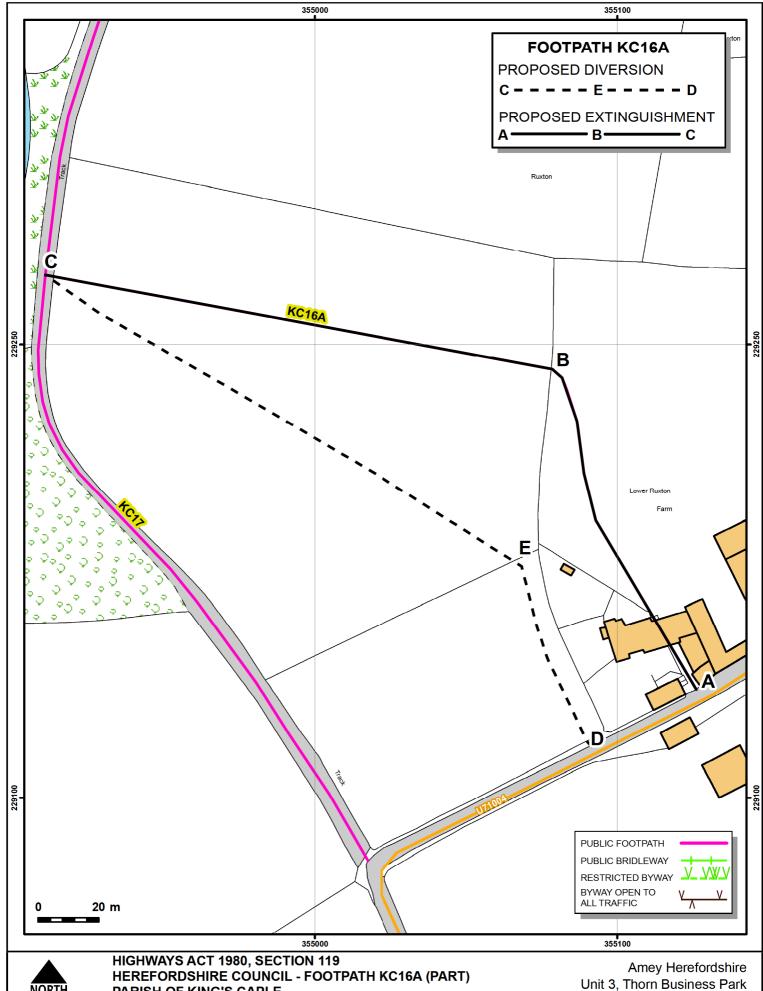
- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member Cllr. B A Durkin
- Kings Caple Parish Council.
- Statutory Undertakers.

Appendices

Order Plan, drawing number: D412/206-16A and Order and Schedule.

Background Papers

None identified.





Herefordshire Council

PARISH OF KING'S CAPLE **PUBLIC PATH DIVERSION ORDER 2011**

DWG No.: D412/206-16A SCALE 1: 1,250 @ A4

Rotherwas Industrial Estate Hereford HR2 6JT Tel.: (01432) 845 900

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<u>REGULATORY SUB-COMMITTEE</u> LICENSING APPEAL PROCEDURE

- 1. Introduction by Legal Advisor to the Sub-Committee.
- 2. Licensing Officer outlines the case.
- 3. Applicant (or his solicitor) sets out his case.
- 4. Questions asked by the Sub-Committee or Licensing Officer or Applicant/Licence Holder.
- 5. Applicant/Licence Holder (or his/her solicitor) asked if (s)he would like to make further comment or representation, or if he requires time to comment or investigate (if so, Chairman defers application).
- 6. In dealing with each application, the Applicant/Licence Holder (and any representative) should also withdraw should be asked to withdraw when they have finished their presentation. All officers, other than the Legal Adviser to the Committee, should also withdraw. It would be preferable for the applicant and officers to await the decision at different locations.
- 7. If either the Applicant/Licence Holder or the officer are needed to furnish additional information, they should all be invited back before the Committee. When the additional information has been furnished, they should all be asked to leave again.
- 8. The Committee then reach a decision, but in the absence of parties.
- 9. The Applicant/Licence Holder and officers will then be invited to return. The Chairman will announce the decision. The Chairman should also say that the decision will be communicated in writing in due course, and that the Applicant/Licence Holder will be informed of any right of appeal (if the decision is one of refusal/suspension).
- 10. When the first application or matter is finished, the Applicant/Licence Holder will leave. The next and subsequent applications/matters are dealt with in the same way.

AGENDA ITEM 11