

HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER BRIDLEPATH MR22 IN THE PARISH OF MARDEN

Report By: Public Rights of Way Manager

Ward 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 bridlepath MR22 in the parish of Marden as illustrated on Drawing Number D376/261-22 (appendix 1).

Considerations

- 1 An application to divert bridleway MR22 (part) in the parish of Marden was made on 10th January 2006, by Herefordshire Council. The reasons for which were that it would improve user convenience and safety and reduce the Council's maintenance costs. For this reason it was felt that the application is in the Public's interest and therefore fast tracked under the current policy.
- 2 The current line of the bridleway travels through an area which is waterlogged for the majority of the year making the route impassable. The costs of bringing the existing route into a usable condition were calculated to be in the region of £4000 plus additional costs associated with ongoing maintenance. The proposed route of the bridleway follows a farm track which runs parallel to the current route of the right of way. The track has a firm surface and is not liable to flooding. The track only provides access to two properties so is very quiet.
- 3 Pre-order consultation has been carried out by the Public Rights of Way department. The proposal has some objections –
 - British Horse Society (BHS) – objects to the diversion of bridleways onto vehicular routes and where it considers that there is a historical value to a route
 - Open Spaces Society (OSS) – objects because they feel that the problem could be remedied by other means.
- 4 The landowner and neighbouring landowners are in agreement with the proposals.
- 5 The Council will bear the costs involved in the making of this order. These costs will be in the region of £600 for advertising. The landowner has agreed not to claim any compensation.
- 6 The local member, Cllr. Guthrie is in agreement with the proposals. Marden Parish Council are also in support of the proposals.

- 7 The proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980 in 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.

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 failure to make the order will require the existing route to be opened up to the public. This would encompass the costs set out in the attached table (appendix 2) and also continuing maintenance costs.

Risk Management

There is a risk that the Order will be opposed, particularly as two organisations have expressed their opposition to the proposals, leading to additional demand on existing staff resources.

Consultees

- Prescribed organisations as per annexe E of Department of the Environment Circular 2/93.
- Local Member – Cllr John Guthrie
- Marden Parish Council.
- Statutory Undertakers

Recommendation

That a public path diversion order is made under Section 119 of the Highways Act 1980, diverting bridleway MR22 (part) in the parish of Marden as illustrated on Drawing Number D376/261-22 (appendix1).

Appendices

Appendix 1 Order Plan, drawing number: D376/261-22

Appendix 2 E-mail from BHS dated 12th March 2006 and following correspondence

Appendix 3 Letter from OSS dated 26th March 2006 and following correspondence