

## **HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH LH19 (PART) IN THE PARISH OF LITTLE HEREFORD**

**Report By: Public Rights of Way Manager**

### **Wards Affected:**

Upton

### **Purpose**

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath LH19 in the parish of Little Hereford.

### **Considerations**

- 1 The Public Rights of Way department made this application in 2004 and will meet all costs associated with the diversion. A diversion was proposed when it was identified that the footbridge crossing the outflow channel between points A and C has become tilted over to one side, due to erosion of the riverbanks on which it rests. If the footpath is not diverted, action will need to be taken to rectify this in the near future. The application has been prioritised, as it is felt to be in the public interest.
- 2 The landowner has given their written consent to the proposal (Annex A-signed and dated copy of Order Plan) The land crossed by both the existing and proposed new routes is under the same ownership.
- 3 Diverting the path would remove the need for a footbridge between points A and C; it would move the path onto a line that is 2 metres in width and has a level surface. This would benefit the public in that it would make section A-C more easily accessible.
- 4 The proposal would benefit the landowner, as it would move the path out of the caravan park at Westbrook Farm and onto the permissive route that is currently in use on the riverbank between points C and D. The landowner's maintenance responsibilities would be similar to those on the existing route.
- 5 Removal of the footbridge would reduce the Council's maintenance liabilities. If the path is not diverted, there will be a need to replace the footbridge and stabilise the banks on which it rests; this is likely to cost in the region of £10,000. It is felt that repair is not an option; the existing bridge is unlikely to be in a condition that would allow it to be removed to stabilise the banks, then put back in position.
- 6 The Public Rights of Way department has carried out pre-order consultation. No objections have been received; the Byways and Bridleways Trust state that they support the diversion proposal. The Ramblers' Association has commented on the possibility of future erosion. To reduce the likelihood of the whole width of the path being lost, it has been agreed the landowner that the new path would have a width of 6 metres at point D, where the path comes close to the edge of the riverbank.

- 7 The landowner has agreed they will not claim compensation if an Order is made and the proposed diversion comes into operation (Annex B-‘Agreement to waive any claim for compensation and expenses’.)
- 8 The cost of the pre-order consultation that has been carried out is approximately £300. If an Order is made and is unopposed, the likely additional costs to Herefordshire Council are as follows:
  - Advertising fees- £700-£1000 in total
  - Works to bring new route into operation-£800. One new pedestrian gate-approximately £200; removal the existing footbridge for safety reasons-approximately £600 (Annex C-HJS quote, as at 17<sup>th</sup> January 07.)
- 9 The local member, Councillor John Stone supports the application.
- 10 The proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980 in that:
  - The proposal benefits both the public and 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. If the application is rejected, the council will be required to continue to maintain the existing route.

## Risk Management

There is a risk that the Order will be opposed, 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 – Councillor John Stone
- Brimfield and Little Hereford Parish Council.
- Statutory Undertakers
- The Environment Agency

## Recommendation

**That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D363/236-19(i)**

## Appendices

Order Plan, drawing number: D363/236-19(i)

Annex A-Copy of Order Plan, signed and dated by landowner as agreement to proposal

Annex B-Signed and dated ‘Agreement to waive any claim for compensation and expenses’

Annex C-Quote for removal of footbridge from Hereford Jarvis Services