

HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH CD9 (PART) IN THE PARISH OF CRADLEY

Report By: Public Rights of Way Manager

Wards Affected:

Hope End

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath CD9 in the parish of Cradley as illustrated on Drawing Number D272/99-9 (appendix 1).

Considerations

- 1 The application was made on 18th April 1997, by Mr & Mrs Davies (who are the landowners.) The reasons for which were 'to segregate users (of the path) from vehicular traffic and for property security'.
- 2 Pre-order consultation has been carried out by the Public Rights of Way department. The proposal has general agreement (including that of the Local Members) however there has been one notable objection from the Ramblers Association (Appendix 2).
- 3 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order.
- 4 There would be an increase in the longer-term maintenance of the path, as the new route encompasses a number of steps and travels along an enclosed section of path, which suffers from vigorous up-growth. The landowners have agreed to take up the future maintenance of the proposed route in terms of up-growth and overgrowth from the adjacent hedge, however, as the Ramblers' Association representative points out in his correspondence, as the land ownership changes, this may cause a problem in the future.
- 5 The views of the Disabled Ramblers association were sought (see appendix 3) as it had been suggested that the proposals should be considered with regard to the Disability Discrimination Act. It is their opinion that the proposed route would be less accessible because the ground is more uneven and would introduce a number of steps. They object to the proposals, as the route would be less convenient to most users and totally inaccessible to people with a physical disability.
- 6 It is felt that the existing route does not pose a threat to users in terms of vehicular traffic as suggested in the application, as it is a drive to a single dwelling and therefore unlikely that there will be a high volume of traffic using the route.
- 7 The proposed diversion does not meet the specified criteria as set out in section 119 of the Highways Act 1980 in that:

- The proposal is less convenient to the public in that it diverts the path from a smooth tarmac drive onto an incline with a number of steps leading to a gate at point C on the order plan.

Alternative Options

The Council could make an order as per the application, however there is a risk with this option that the Order will be opposed leading to additional demand on staff resources.

Risk Management

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. There are no grounds for appeal against the Council's decision.

Consultees

- Prescribed organisations as per annexe E of Department of the Environment Circular 2/93.
- Disabled Ramblers
- Local Members – Cllr Ross Mills and Cllr Roy Stockton
- Cradley Parish Council.
- Statutory Undertakers

Recommendation

That a public path diversion order is not made under Section 119 of the Highways Act 1980, as illustrated on the attached plan D272/99-9, and that the application is rejected.

Appendices

Appendix 1 - Order Plan, drawing number: D272/99-9

Appendix 2 - Letter from the Ramblers' Association of 17th April 2006 with subsequent correspondence

Appendix 3 – Letter from the Disabled Ramblers