

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(i) (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 was carried out by the Public Rights of Way department. The proposal had general agreement (including that of the Local Members) however there was one notable objection from the Ramblers Association (Appendix 2). They felt that the proposed route was less convenient to the public as it travelled up steps on a less even surface and the proposed path would be enclosed between a hedge and a fence.
- 3 The views of the Disabled Ramblers were then also sought. They agreed with the Ramblers' Association that the proposed route was less convenient to the public, especially to the less able-bodied user, due to the introduction of steps and the uneven ground. In the light of these comments, the applicants have amended their plans to enable access for less able-bodied users. As illustrated on the plan D272/99-99(i)
- 4 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order.
- 5 The proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980 in that:
 - The proposal is considered not substantially less convenient to the public

Alternative Options

The Council could decide to decline to make an order however, this could be deemed to be unreasonable due to the length of time since the application and that the applicants have been compliant in our requests to amend the proposals.

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 made under Section 119 of the Highways Act 1980, as illustrated on the attached plan D272/99-9(i), and that the application is rejected.

Appendices

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

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

Appendix 3 – Letter from the Disabled Ramblers