

5 HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATHS SP19 (PART) AND SP20 (PART) IN THE PARISH OF STOKE PRIOR

Report By: Public Rights of Way Manager

Wards Affected:

Hampton Court

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpaths SP19 and SP20 in the parish of Stoke Prior.

Considerations

- 1 Mr A Rixon, who was the landowner of The Heath Barn at the time, made the original application for a diversion of footpaths SP19 and SP20 in 1997. The application was made when it was identified that the signposts and stiles on footpath SP19 needed to be repositioned onto the legal line of the path, which runs through the garden of The Heath Barn. They had been installed on a permissive route in the 1980's, when a previous landowner had informed the employment training gang who were carrying out the works that the path had been 'diverted'; it was later found that no legal Order had been made to this effect.
- 2 The Public Rights of Way department carried out pre-Order consultation for Mr Rixon's proposed route in 1997. A plan showing the route is attached (see Annex A.) The proposal met with objections from user groups due to the loss of the footpath link A-B that ends at the junction of county roads C1110 and C1055.
- 3 The Foot and Mouth outbreak of 2001 and staffing shortages delayed further processing of the application until 2004, when a site visit was made and an alternative route proposed. By this time, Mr Michael Reed, who is the current applicant, had bought The Heath Barn. Due to pressure of other work, pre-Order consultation was not carried out on this proposal. In 2006, Mr Reed was offered the opportunity to carry out his own pre-Order consultation, which he accepted. This will reduce the administration fees payable for his application if an Order is made.
- 4 The applicant has carried out pre-Order consultation, which has resulted in the route shown on the Order Plan (Dwg no D264/361-19/20.) This route would be advantageous to all affected landowners, as it removes footpath SP19 from the garden of The Heath Barn and a pony paddock, and would facilitate agricultural operations by converting both footpaths from cross-field to field-edge paths. It retains the link directly to the junction of county roads C1110 and C1055.
- 5 The proposed route of footpath SP20 follows a route between D and E that runs parallel with Humber Brook in a wooded depression at the field edge, before ascending a slope to run along the level area of ground at the edge of the cropped field. The Open Spaces Society has indicated that this would be their preferred route,

as they feel it to be a more pleasant walk than a route that avoids the woodland by ascending directly from D to the field edge. In response to the Ramblers' Association's concerns that the path may suffer from erosion, section D-E was inspected following flood-level rainfall, on 29th June 07. The flood debris indicated that the bank between D and E had not flooded and the ground was not boggy. The Ramblers' Association have made no response to the letter sent to them in July of this year, which informed them that the route shown on the Order Plan is being considered. Welsh Water has confirmed that they have no objection, as installation of a roadside signpost should not interfere with the apparatus that is located close to point F. No objections have been received from other consultees.

- 6 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order. The affected landowners have given their consent to the route as shown on the Order Plan and have agreed in writing that they will not claim compensation if the proposed diversion comes into operation.
- 7 The local member, Councillor Keith Grumbley, has been consulted and supports the application.
- 8 The proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980 in that:
 - The proposal benefits the owners of the land crossed by the existing paths.
 - The proposal does not alter the point of termination of footpath SP20, although SP19 would terminate at a point further north on the C1110.
 - 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.

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 Keith Grumbley
- Humber, Stoke Prior and Ford Group Parish Council.
- Statutory Undertakers

Recommendation

That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D264/361-19/20

Appendices

Order Plan, drawing number: D264/361-19/20

Annex A-First route proposal, as submitted by Mr A Rixon