

HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH HN6 (PART) IN THE PARISH OF HENTLAND

Report By: Public Rights of Way Manager

Wards Affected:

Pontrilas

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath HN6 in the parish of Hentland as shown on drawing number D378/177-6.

Considerations

- 1 An application to divert part of Public Footpath HN6 under the Town and Country Planning Act 1990 in order to allow development to take place, was made in November 1994, by Mr. J. Goulding, who is the landowner. Despite an order being drafted (and possibly made and advertised) it would appear it was never confirmed or certified by South Herefordshire District Council. The applicant, believing the process to have been completed, carried out the development thus eliminating the possibility of completing the order under the Town and Country Planning Act.
- 2 As it would appear the responsibility for failing to make the order rests with the South Herefordshire District Council, Herefordshire Council have agreed to complete the order under the Highways Act at no expense to the applicant.
- 3 As consultation on the proposals has been carried out in the past, only the Parish Council and the Local Member were invited to comment. Both are in favour of the proposal. User groups such as the Ramblers Association will be sent copies of the order and will have an opportunity to comment.
- 4 The diversion is already in place on the ground and is currently being used by the public. There will be no additional costs other than advertising and staff costs involved in completing the legal process.
- 5 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.

Risk Management

There is a risk that the Order will be opposed, leading to additional demand on existing staff resources.

Consultees

- Local Member - Councillor Godfrey Davies
- Hentland, Ballingham and Bolstone group Parish Council

Recommendation

That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D378/177-6

Appendices

Order Plan, drawing number: D378/177-6