

# HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATHS MD13 AND MD16 (PARTS) IN THE PARISH OF MUCH DEWCHURCH

Report By: Public Rights of Way Manager

## Wards Affected:

Valletts

## Purpose

The County of Herefordshire District Council (the Council) to consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpaths MD13 and MD16 (parts) in the parish of Much Dewchurch.

## Considerations

- 1 The application was made on 7<sup>th</sup> October 1997, by Mr A Twiston-Davies (who is the landowner.) The reasons for which were to, 'ensure security and privacy in an otherwise remote area.'
- 2 Pre-order consultation of the proposal (appendix 1) was carried out by the Public Rights of Way department in January 1998. The proposal sustained an objection from the Ramblers' Association (Appendix 2) and Open Spaces Society (appendix 3) due to a raised manhole on the proposed route and the proposed route being boggy and obstructed by fences, a ditch and an open field drain. The proposed order plan was also felt to be an inaccurate depiction of the site on the ground.
- 3 The proposal was re-visited in 2005 and a GPS survey of the proposed route plotted to ensure accuracy. The proposed route was amended slightly to avoid poached area (by horses) around feeder troughs and to avoid manholes/drains/ditches etc. The applicant agreed the new proposals and they were sent to pre-order consultation once again in February 2006. (appendix 4)
- 4 Once again objections were received from the Ramblers' Association (appendix 5) and the Open Spaces Society (appendix 6) due to the proposed route being '2.5 times longer than the existing route' and the proposed route being water-logged. It was therefore thought to be substantially less convenient to the public.
- 5 The local member, Cllr. Phil Turpin supported the proposals, as did the Much Dewchurch Parish Council.
- 6 The applicant/agent was informed of the objections and a suggestion was made to amend the proposals once again to move the route so that it followed the drive to 'The Woodlands' and avoided the paddocks altogether.
- 7 The applicant was invited, in February 2007, to amend the proposals and send them out to pre-order consultation themselves as procedures had now altered. A further

letter was sent on 8<sup>th</sup> October 2007 and again on 10<sup>th</sup> November 2007 to which we have had no reply. The letter of 10<sup>th</sup> November 2007 stated clearly that if a reply was not received by 1<sup>st</sup> of December, that a recommendation would be made to the Regulatory Committee that the application be rejected.

- 8 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 substantially less convenient to the public.

This is because it is longer than the existing route and is waterlogged.

## 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 agree to make the order, however the objections would ensure that the order would have to be sent to the Inspector for a decision which may lead to a public inquiry thus leading to additional time on staff resources.

## Risk Management

There is no risk

## Consultees

- Prescribed organisations as per annexe E of Department of the Environment Circular 2/93.
- Local Member – Cllr. Phil Turpin
- Much Dewchurch 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 (appendix no 1) and that the application is rejected.**

## Appendices

- Appendix 1 Original Order Plan, drawing number:
- Appendix 2 Letter from The Ramblers Association 16<sup>th</sup> Feb 1998
- Appendix 3 Letter from The Open Spaces Society 20<sup>th</sup> Feb 1998
- Appendix 4 Amended Order Plan drawing no D302(i)276-13,16
- Appendix 5 Letter from The Ramblers' Association 16<sup>th</sup> March 2006
- Appendix 6 Letter from Open Spaces Society 18<sup>th</sup> March 2006