

## HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH GW3 (PART) IN THE PARISH OF GARWAY

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 GW3 in the parish of Garway.

### Considerations

- 1 Mrs J Williams, who was the landowner at the time, made the original application on 12th November 1996. The reason given for making the application was to remove the path from the garden at Nantewain, thus increasing the privacy and security of its residents. The original proposal is shown on the attached plan (see Annex A-Dwg no 153-3)
- 2 Hereford and Worcester County Council carried out pre-Order consultation on behalf of Mrs Williams in 1997. The proposal had the general agreement of the Ramblers Association, The Open Spaces Society and the Byways and Bridleways Trust. No objections were received from statutory undertakers. The proposal also had the support of Councillor Hart, who was the local member at the time.
- 3 Some years elapsed and although an Order was drafted, it was never sealed or advertised. This may be due to the presence of a building, which aerial photographs suggested might have been built on the proposed diversion route. By 2003, Nantewain had been sold to Mr M Sparey and Mrs R Sparey; they decided to take over the application and alter the proposed route, to move it away from the farm buildings completely. Their proposed route is shown on the attached plan (see Annex B-Dwg no D237/153-3.)
- 4 Following this, there was some correspondence with Mr and Mrs Sparey about the costs to be met. As a result, no pre-Order consultation was carried out until 2006, when the current policy for processing diversion applications had come into operation. Under this policy, existing applicants can be offered the opportunity to carry out their own pre-Order consultation, in return for reduced administration fees. Mr and Mrs Sparey accepted this offer and carried out pre-Order consultation. The proposal has general agreement of the Ramblers' Association, Open Spaces Society, Byways and Bridleways Trust, Cyclists Touring Club Offroad section, the Council's Highways Area Manager and Garway Parish Council. No objections were received from statutory undertakers. The proposal also has the agreement of the current tenant of Nantewain, who is affected by the application.

- 5 Following pre-Order consultation, one minor amendment was made to the route in respect of point C; this is shown on the finalised Order Plan (Dwg no D237/153(i).) Point C has been moved a few metres further east, to make the path slightly more convenient by positioning it on a more level surface. As this change is minor and does not affect road safety considerations at this access point, it has not been felt necessary to carry out further pre-Order consultation.
- 6 The applicants have agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order. They have also given their written agreement to meet the costs of any compensation that may be claimed if a diversion were to come into operation (see Annex C-Signed compensation indemnity form.)
- 7 The local member, Councillor R Smith, supports the application.
- 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 alter the point of termination of the path, but the proposed new route terminates on the same highway as the existing path.
  - 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 Defra Rights of Way Circular 1/08
- Local Member – Councillor R Smith
- Garway 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:

## **Appendices**

Order Plan, drawing number: Dwg no D237/153(i)

Annex A: Mrs Williams' first route proposal. Order Plan, drawing number 153-3.

Annex B: Mr and Mrs Sparey's original route proposal. Order Plan, drawing number D237/153-3

Annex C: Signed compensation indemnity form from Mr and Mrs Sparey

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