

MEETING:	REGULATORY COMMITTEE
DATE:	
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119, PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH SD1 (PART) IN THE PARISH OF ST. DEVEREUX
PORTFOLIO AREA:	

CLASSIFICATION: Open

Wards Affected

Valletts.

Purpose

To consider an application under the Highways Act 1980, Section 119, to make a public path diversion order to divert part of footpath SD1 in the parish of St. Devereux, from A to G to A-B-C-D-E-F as shown on the attached plan D39/33-1.

Key Decision

This is not a Key Decision.

Recommendation

That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D391/333-1

Key Points Summary

- The current legal line of footpath SD1 in the Parish of St. Devereux is obstructed by farm buildings.
- The landowner has submitted a proposed alternative route which has the support of the local community and user groups.

Alternative Options

1. 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.

Further information on the subject of this report is available from
Rob Hemblade Public Rights of Way manager on (01432) 261981

Reasons for Recommendations

- 2 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 southern point of termination of the path
 - While it does truncate the original northern termination point onto the A465 access to the footpath via this point has not been available for many years ever since the route of the A465 was realigned.
 - The proposal is not substantially less convenient to the public.

Introduction and Background

3. Herefordshire Council's constitution delegates the decision on Section 119 Diversion Applications to the Regulatory Committee.

Key Considerations

4. 5 The application was originally made on the 13th March 1998 by Mr P Powell who is the landowner. The reasons given for making the application were security of farmhouse and buildings.
- 6 The applicant has carried out all pre order consultation and the proposal has general agreement of the user groups and the Parish and Council.
- 7 The local member, Cllr M J Fishley supports the application.
- 8 The application has been delayed due to the difficulty of reaching a consensus over the proposed line of the diverted path. Doing nothing in this particular case was not an option as the current legal line is blocked and part of the reason why the path is currently blocked was the realignment of the A465 and the lack of provision for the footpath at that time.
- 9 Whilst it is acknowledged that walkers will need to negotiate a steep bund via a flight of steps, access will be improved by the installation of a gate.

Community Impact

- Consultations have been carried out with the Parish Council, local Member and user groups.
- If an order is made, it will be advertised on site and in the local paper and objections invited.

Financial Implications

11. The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order.

If the order proceeds without objections, there are no financial implications. If the order is opposed there will be resource implications for both Herefordshire Council and Amey if the matter proceeds to a Public Inquiry.

Legal Implications

12. Herefordshire Council have powers under s.119 of the Highways Act to Divert a public footpath.

Risk Management

13. 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 – Cllr. M J Fishley
- Kilpeck Group Parish Council.
- Statutory Undertakers Appendices

Background Papers

15. Order Plan, drawing number: D391/333-1