

<b>MEETING:</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	
<b>TITLE OF REPORT:</b>	<b>HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH MD16 (PART) IN THE PARISH OF MUCH DEWCHURCH</b>
<b>PORTFOLIO AREA:</b>	<b>SUSTAINABLE COMMUNITIES</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Vallets

### **Purpose**

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath MD16 in the parish of Much Dewchurch.

### **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: (DWG No: D302/276-16(ii))

### **Key Points Summary**

- Mr Audley Twiston-Davies made an application to divert footpath MD16 in October 1997. The reasons were, 'to ensure security and relative privacy in an otherwise generally remote area'.
- The existing route of the footpath MD16 is obstructed by an open sided barn and by a small pig-house.
- The original proposals were sent to pre-order consultation but sustained objections due to the route being not as substantially as convenient as the existing route.
- The route was amended and proposals were re-sent to consultation. They again received objections as the route was perceived to be not as substantially as convenient as the existing route.

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Further information on the subject of this report is available from Will Steel on (01432) 842106

- The route has been amended again and the proposals re-sent to consultation. There have been no objections to the present proposals (illustrated on drawing no D302/276-16(ii) attached).
- The applicant has agreed to pay all associated administration costs and to put in place any works necessary as part of the proposed order.

## 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. However, this would mean that the existing route of the footpath MD16 would remain obstructed and could be deemed to be unreasonable.

## Reasons for Recommendations

2 The public path order should be made because it is felt that it meets the criteria set out in s 119 of the Highways Act and objections received at previous pre-order consultation stages have been over-come through the amendment of the proposed route of the path. The making of this diversion order will ensure that the footpath is open and useable to the public.

## Introduction and Background

3 Before an order is made to divert a footpath under the Highways Act, it is necessary to gain a decision from the Regulatory Committee as they have the delegated authority to make this decision.

## Key Considerations

4 Mr Audley Twiston-Davies, made the application on 7<sup>th</sup> October 1997. The reasons given for making the application were, 'to ensure security and relative privacy in an otherwise remote area'.

5 Pre-order consultation has been carried out by the Public Rights of Way department. The current proposal has general agreement.

6 The local member, Cllr. Fishley does not object to these proposals.

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 owner of the land crossed by the existing path.
- The proposal is not substantially less convenient to the public.

9 The existing route travels across a number of paddocks, through the corner of a pig shed and a barn it also passes through two fence lines. The proposed route is a tarmac drive which is free of limitations.

## Community Impact

10 The Parish Council has been consulted as part of the pre-order consultation process and has not objected to the proposals.

## **Financial Implications**

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

## **Legal Implications**

- 12 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.

## **Risk Management**

- 13 There is a risk that any order made may receive objections which would then increase demands on officer time, however this risk has been minimised by carrying out the pre-order consultation to which no objections have been received to the current proposals.

## **Consultees**

- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. Fishley
- Much Dewchurch Parish Council.
- Statutory Undertakers.

## **Appendices**

- 14 Order Plan, drawing number: DWG No: D302/276-16(ii)

## **Background Papers**

- None identified.