

MEETING:	REGULATORY COMMITTEE
DATE:	7 DECEMBER 2010
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH LV11 (PART) IN THE PARISH OF LLANVEYNOE
PORTFOLIO AREA:	Highways and Transportation

CLASSIFICATION: Open

Wards Affected

Castle

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath LV11 in the parish of Llanveynoe.

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 in drawing number: D382/244-11.

Key Points Summary

- The landowner applied for the diversion of Footpath LV11 in 2007
- The footpath runs between the farmhouse and a barn which has now been converted to include part of the living accommodation
- The proposal is to divert part of the footpath a short distance to run across adjacent pastureland in the applicant's ownership for reasons of privacy.
- Informal consultations have been carried out and there are no outstanding objections to the proposal.

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 decide not to make an order.

Further information on the subject of this report is available from
Will Steel, Rights of Way Manager on (01432) 845980

Reasons for Recommendations

- 2 The public path order should be made because it is felt that it meets the criteria set out in Section 119 of the Highways Act and Herefordshire Council's Public Path Order Policy in that it is in the interest of the landowner and is not substantially less convenient to the public.

Introduction and Background

- 3 This report is being considered by the Regulatory Committee because it has the delegated authority to make the decision whether or not to make an order.

Key Considerations

- 4 Mr and Mrs Clare, the landowners, made the application on 10/04/2007. The reasons for the proposed diversion are that the current legal line runs through the farmyard and very close to buildings which have recently been given planning permission for residential development. The proposed route takes the path away from the buildings and is more convenient to both users and landowner. .
- 5 The proposed route runs across open fields and through gates rather whereas the existing path runs along a very muddy enclosed track and is therefore more accessible
- 6 The applicant has carried out all pre-order consultations with user groups, the parish council and the local member and the proposal has general agreement. The Local Member, Councillor J B Williams, has stated he has no objections to diverting the footpath.
- 7 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's standard charge for making the diversion order.
- 8 The proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980, and in particular that:
- The proposal benefits the owner of the land crossed by the existing path.
 - The proposal is not substantially less convenient to the public.

Community Impact

- 9 The Parish Council and local user groups have been consulted as part of the process and there have been no objections to the proposals. The route is generally more convenient for local residents.

Financial Implications

- 10 The applicants have agreed to pay the Council's standard fee for the making of a diversion order (£800) and to pay associated advertising costs. The applicant has also agreed to meet the costs of bringing the new path into a suitable condition.

Legal Implications

- 11 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

- 12 If an order is made to divert LV11 as recommended within this report, there is a risk that the order will receive objections and would therefore require referral to the Secretary of State which will increase the demands on officer time and resources. However extensive informal consultations have taken place to minimise the risk of such objections.

Consultees

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- Prescribed organisations as per Defra Rights Of Way Circular 1/09
- Local Member-Councillor J B Williams
- Longtown Group Parish Council
- Statutory Undertakers

Appendices

- 14 Order Plan, drawing number: D382/244-11

Background Papers

- None identified.