

MEETING:	REGULATORY COMMITTEE
DATE:	1 FEBRUARY 2011
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH WA55B (PART) IN THE PARISH OF WALFORD
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Kerne Bridge

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath WA55B in the parish of Walford.

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: D388/395B

Key Points Summary

- An application to divert footpath WA55B was made by the landowner, Mr M Brain, in April 2008.
- The existing legal line of the footpath is currently obstructed by a garage and runs through the applicants' garden.
- The proposed route of the path will follow the route currently walked on the ground around the boundary of the property.
- The applicant has carried out pre-order consultation to statutory undertakers and user groups. There have been no objections to the proposals.

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

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

grounds that it does not contribute sufficiently to the wider ambitions and priorities of the Council. However, if such an order is not made, the existing route of the path will remain obstructed by the garage.

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 the Council's Public path order policy and there have been no objections at pre-order consultation stage.

Introduction and Background

- 3 Before an order is made to divert a footpath under the Highways Act 1980, it is necessary to gain a decision from the Regulatory Committee as they hold the delegated authority to make this decision

Key Considerations

- 4 Mr M Brain, who is the landowner, made the application on 14th of April 2008. The reasons given for making the application were to eliminate a number of obstacles, providing a flatter surface so improving access and use.
- 5 The applicant has carried out all pre order consultation. The proposal has general agreement and the adjoining landowners, Mr Brown and Mrs Burren-Brown, whose property is also affected by the application (Maytree Cottage) agreed to the proposals.
- 6 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order.
- 7 The local member, Cllr J G Jarvis does not hold any objections to the proposals.
- 8 The proposed diversion meets the specified criteria as set out in Council policy and section 119 of the Highways Act 1980 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 Walford Parish Council were consulted as part of the pre-order consultation and support the proposals, having been in place on the ground for some time.

Financial Implications

- 10 The applicant has agreed to pay all necessary costs associated with the making of this order (including admin fees, advertising costs and any works necessary to bring the order into being).

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 There is a risk that any order made could receive objections which would require referral to the Secretary of State for a decision. This would thus increase demands on resources and officer time. However, this risk has been minimised by carrying out the pre-order consultation to which there were no objections.

Consultees

- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. J G Jarvis
- Walford Parish Council.
- Statutory Undertakers.

Appendices

- Order Plan, drawing number: D388/395B and Order and Schedule.

Background Papers

- None identified.