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| MEETING: | REGULATORY SUB-COMMITTEE |
| DATE: | 27TH MARCH 2012 |
| TITLE OF REPORT: | HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER BRIDLEWAY GW33 (PART) IN THE PARISH OF GARWAY |
| PORTFOLIO AREA: | HIGHWAYS AND TRANSPORTATION |

CLASSIFICATION: Open

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 bridleway GW33 in the parish of Garway.

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: D355/153-33

Key Points Summary

- An application was made by Mr P Fox of March Hill Cottage in Garway to divert bridleway GW33.
- The application was made following substantial earthworks across the bridleway to stabilise the bank above March Hill Cottage which was in danger of collapse.
- The current line of the bridleway is obstructed by terracing.
- The application has been taken over by Mrs Fox.
- The applicant has carried out a pre-order consultation to which there were no outstanding objections.

Further information on the subject of this report is available from
Susan White, Assistant Rights of Way Officer on (01432) 842106

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.

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 Sub-Committee as they hold the delegated authority to make this decision.

Key Considerations

- 4 Mr P Fox, who was the landowner, made the application in June 2003. The reasons given for making the application were that 'the existing route is no longer passable due to essential terracing work to stabilise earth bank to north west of March Hill Cottage'.
- 5 The current applicant, Mrs Fox, has carried out all pre order consultation. The proposal has not received any objections, although the Open Spaces Society insists on clearance of trees etc to a width of 3 metres and appropriate waymarking.
- 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. Hamilton supports the application.
- 8 The proposed diversion meets the specified criteria as set out in Council policy 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 does not alter the point of termination of the path.
 - The proposal is not substantially less convenient to the public.

Community Impact

- 9 Garway Parish Council has been consulted and holds no objections to the proposals.

Financial Implications

- 10 The landowner has agreed to pay for all administration, advertising costs and necessary works associated with this order.

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.

Equality Implications

12 there are not considered to be any adverse equalities implications of the proposal.

Risk Management

13 If an order is made as proposed, it could receive objections which may lead to a public inquiry thus impacting on the public rights of way resources, however, this is unlikely as a pre-order consultation has been carried out with the relevant user groups and statutory undertakers and has not received any objections.

Consultees

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- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. R B Hamilton
- Garway Parish Council.
- Statutory Undertakers.

Appendices

15 Order Plan, drawing number: D355/153-33

Background Papers

- None identified.