

MEETING:	REGULATORY SUB- COMMITTEE
DATE:	24 JANUARY 2012
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. FOOTPATH RR2A (PART) PARISH OF ROSS RURAL PUBLIC PATH DIVERSION ORDER 2011
PORTFOLIO AREA:	Highways and Transportation

CLASSIFICATION : Open

Wards Affected

Ross-on-Wye Parish East

Purpose

To consider an application under the Highways Act 1980, Section 119, to make a Public Path Diversion order to divert part of footpath RR2A in the Parish of Ross Rural.

Key Decision

This is not a Key Decision.

Recommendation

THAT a Public Path Diversion Order be made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D414/328-2A.

Key Points Summary

- The applicants Eurogarages Ltd., applied for the diversion of part of footpath RR2A, in the Parish of Ross Rural, on the 27th November 2010.
- The reason for proposing the diversion is that part of the existing line is obstructed by a building on the garage forecourt.
- The proposed diversion is not significantly longer than the existing route.
- Pre-Order consultation and negotiations have been carried out and the proposal has general support.

Further information on the subject of this report is available from
Chris Chillingworth, Public Rights of Way Officer on (01432) 842100

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, as the proposal allows for unobstructed access and has general support this could be considered unreasonable.

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 1980 and the Herefordshire Council's Public Path Order Policy.

Introduction and Background

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

Key Considerations

- 4 Eurogarages Ltd., applied for a diversion of part of footpath RR2A on 27th November 2010. The reason given for making the application was to divert the existing line part of which is obstructed by a building on the garage forecourt.
- 5 Pre-Order consultation was carried out twice, once in October/November 2010 and, following a change in route requested by the Parish Council, and an independent site safety assessment report on the new route, a second period of consultation was carried out in September/October 2011.
- 6 The proposal has general agreement and support, including from the Parish Council; the Ramblers had expressed a preference for a different route which was not acceptable to the Parish Council; there are no outstanding objections.
- 7 The applicant has agreed to pay for administration and advertising costs and the cost of bringing the diverted footpath into operation including implementing the recommendations made in the site safety assessment report.
- 8 The Local Members, Councillors AM Atkinson and Councillor PGH Cutter, have raised no objections to the application.
- 9 The proposed diversion meets the specified criteria set out in Section 119 of the Highways Act 1980, and in particular that :
 - i) The proposal benefits the owner of the land,
 - ii) The proposal is not substantially less convenient to the public,
 - iii) It would be expedient to proceed with the proposal given the effect it will have on public enjoyment of the path.

Community Impact

- 10 The Parish Council and local user groups have been consulted as part of the process and the proposal has general agreement and support; The Ramblers had expressed a preference for a different route which was not acceptable to the Parish Council. Councillors A M Atkinson and P G H Cutter have been consulted and have not objected to the proposal.

Financial Implications

- 11 The applicant has agreed to pay the Council's costs in respect of making a diversion order. To pay associated advertising costs, and to meet the costs of bringing the footpath into operation, including implementing the recommendations as set out in the site safety assessment report.

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 Should an order be made to divert part of footpath RR2A, as recommended within this report, there is a risk that the order will receive objections and would then require referral to the Secretary of State which could increase the demands on officer time and resources. However, extensive informal consultations and negotiations have taken place to minimise the risk if such objections.

Consultees

- 14 Prescribed organisations as per Defra Rights of Way Circular 1/09
- 15 Local Members Councillors A M Atkinson and P G H Cutter
- 16 Ross Rural Parish Council
- 17 Statutory Undertakers

Appendices

- 18 Draft Order and Order Plan, drawing number D414/328-2A

Background Papers

- 19 None identified.