

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	6 MARCH 2012
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH EH18 (PART) IN THE PARISH OF EWYAS HAROLD
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Golden Valley South

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath EH18 in the parish of Ewyas Harold.

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: D416/142-18.

Key Points Summary

- An application was made by Mrs Seymour on 14th November 2011 to divert footpath EH18.
- The applicant has carried out the pre-order consultation to which there were no objections.
- The neighbouring landowner whose land is also affected agrees to the proposals.
- The applicant has agreed to pay for costs associated with the making of the 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.

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

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, it is necessary to gain a decision from the Regulatory Committee as they have the delegated authority to make this decision.

Key Considerations

- 4 Mrs Margaret Seymour, who is the landowner, made the application on 14th of November 2011. The reasons given for making the application were 'that there is no line of sight currently between the finger post and stile, the ladder stile is not user friendly and steps would be avoided, altogether the proposed route is much safer.'
- 5 The applicant has carried out all pre order consultation. The proposal has general agreement. The adjoining landowner (Mr Addis), whose property is also affected by the application has written to say that he agrees with 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. G Powell) supports the application.
- 8 The existing route of the path goes over a large ladder-stile to traverse the garden wall of Golden Grove. The proposed route of the path is intended to cross the edge of the garden so as to minimise intrusion onto the property of Golden Grove. The path will enter the garden through a gate which will also make the proposed route more accessible.
- 9 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 proposed point of termination of the path is substantially as convenient for the public as the current point of termination.
 - The proposal is not substantially less convenient to the public.

Community Impact

- 10 The Parish Council has been consulted by the applicants regarding the proposals and has no objections.

Financial Implications

- 11 The applicant has agreed to pay the advertising and administration costs involved in the diversion of this path and to pay for any works necessary to bring the path into being.

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 If an order is made as proposed, then there is a risk that the order may receive objections which would mean the referral of the matter to the Secretary of State for a decision. This would place increasing demands on officer time and resources. However, this is unlikely as extensive pre-order consultation has been carried out which has not received any objections.

Consultees

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- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. Graham Powell
- Ewyas Harold Parish Council.
- Statutory Undertakers.

Appendices

- 15 Order Plan, drawing number: D416/142-18 and Order and Schedule.

Background Papers

- None identified.