

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	11 JUNE 2012
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH BW1 (PART) IN THE PARISH OF BRIDSTOW
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Llangarron

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath BW1 in the parish of Bridstow.

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: D421/57-1

Key Points Summary

- An application was made by the landowners, Mr and Mrs Wagstaff in February 2012
- A pre-order consultation has been carried out by the applicants, to which there were no objections.
- The Local member, Cllr. JA Hyde has no objections

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

Key Considerations

- 4 Mr and Mrs Wagstaff, who are the landowners, made the application on 3 February 2012. The full reasons given for making the application are appended, however, briefly, it is to enable the applicants to fence their garden and driveway away from the footpath.
- 5 The applicant has carried out all pre order consultation. The proposal has general agreement, although the Open Spaces Society representative has suggested that the gate at point D should be removed as it is not needed for stock control purposes. One of the reasons for the proposals, listed by the applicant, is to allow the field to be fenced from the garden in order to enable grazing. This is a justifiable reason for allowing the gate.
- 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. JA Hyde has no objections to the proposals
- 8 The proposed diversion meets the specified criteria as set out in Council policy and in 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 paths.
 - The proposal is not substantially less convenient to the public.

Equalities Implications

- 9 The proposed new route has similar gradients to those found on the existing route. Users must negotiate a pedestrian gate on both the existing and the proposed routes. As such, the proposal is considered to comply with the requirements of the Equality Act 2010.

Community Impact

- 10 Bridstow Parish Council have been consulted regarding the proposals and do not hold any objections.

Financial Implications

- 11 The applicants have agreed to pay for all necessary advertising and administration costs.

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, there is a risk that objections may be received and this would require the matter to be referred to the Secretary of State for a decision which could potentially lead to a public inquiry which would impact on staff time and resources. However, a comprehensive pre-order consultation has been carried out by the applicant in order to gauge opinion and no objections were received.

Consultees

- 14 Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr JA Hyde
 - Bridstow Parish Council.
 - Statutory Undertakers.

Appendices

- 15 Reasons for the diversion, Order Plan, drawing number: D421/57-1 and Order and Schedule.

Background Papers

- None identified.