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| MEETING: | REGULATORY SUB-COMMITTEE |
| DATE: | 18 SEPTEMBER 2012 |
| TITLE OF REPORT: | HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH SB1A (PART) IN THE PARISH OF STANFORD BISHOP |
| PORTFOLIO AREA: | HIGHWAYS AND TRANSPORTATION |

CLASSIFICATION: Open

Wards Affected

Frome

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath SB1A in the parish of Stanford Bishop.

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: D418/351-1A

Key Points Summary

- An application to divert the footpath SB1A was received on 17th of January 2012.
- The applicant carried out pre-order consultation.
- There were objections from the Open Spaces Society and the Byways and Bridleways Trust.
- The neighbouring landowner agrees to the proposals
- The landowner has agreed to maintain the bridge on the proposed route.

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
Susan White, Assistant Rights of Way Officer on (01432) 842106

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.

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 Paul Davies, who is the landowner, made the application on the 17th of January 2012. The reasons given for making the application were 'privacy, security and safety of wildlife'.
- 5 The applicant has carried out all pre-order consultation. The proposal has general agreement, apart from a number of objections raised by the Byways and Bridleways trust. The adjoining landowner Mr A J Hamilton, whose property is also affected by the application, has agreed in writing to the proposals.
- 6 The Open Spaces Society representative has objected as, in his opinion, the views from the proposed route are not as attractive as the views from the existing route. He also noted that the proposed route appeared to have been in 'extensive' use by horses.
- 7 The landowner has stated that he has only given permission to his neighbour to ride along the proposed route, which would account for the evidence of equestrian use.
- 8 It is the opinion of the officer, that although the views from the existing route are pleasant, the views from the proposed route are also attractive. There are still good views of the house and ponds from the proposed route and the proposed route also has views of the surrounding hills and has more of a 'countryside' feel as opposed to the existing route which passes very close to The Hyde and across a mown lawn and thus has more of an 'urban' feel.
- 9 The Byways and Bridleways Trust representative further stated that he believed the existing route to have higher rights. However no evidence has been provided which would indicate that the route has higher rights and nor has preliminary research carried out by the Modifications Officer revealed such evidence. The applicant understands that he may succeed in diverting the footpath, but, if further evidence is submitted to the Authority that higher rights do exist, these would not be diverted and would remain *in situ*. The Byways and Bridleways Trust representative went on the state that he wished for a diversion which retained public enjoyment of the wildlife. It is the view of the officer that there is very little difference in this respect between the current and proposed routes.
- 10 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order. The neighbouring landowner, Mr Hamilton has agreed to waive any right to compensation which may result as a consequence of the making of the order as proposed.
- 11 The local member, Cllr. P M Morgan has no objections to the proposals.

- 12 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 does not alter the point of termination of the paths.
 - The proposal is not substantially less convenient to the public.

Community Impact

- 13 Acton Beauchamp Group Parish Council have been consulted and are fully supportive of the proposed diversion.

Financial Implications

- 14 The applicant has agreed to pay for the administration and advertising costs and any works necessary to bring the new route into being and to enter into an agreement for the future maintenance of the bridge should the order be confirmed.

Legal Implications

- 15 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

- 16 There is a risk that if a diversion is made as proposed, then an objection may be received which would necessitate a referral to the Planning Inspectorate. This could result in a public inquiry which would increase demands on officer time and resources.

Consultees

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- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. P M Morgan
- Acton Beauchamp Group Parish Council.
- Statutory Undertakers.

Appendices

- 18 Order Plan, drawing number: D418/351-1A and Order and Schedule.

Background Papers

- None identified.