

<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>16 OCTOBER 2012</b>
<b>TITLE OF REPORT:</b>	<b>HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH LQ48 (PART) IN THE PARISH OF LONGTOWN</b>
<b>PORTFOLIO AREA:</b>	<b>HIGHWAYS AND TRANSPORTATION</b>

**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 LQ48 in the parish of Longtown.

### **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: D424/247-48

### **Key Points Summary**

- An application was made by Mrs Jill Hedges on 15<sup>th</sup> of May 2012 to divert footpath LQ48 out of the garden of Pontynys Mill.
- Mrs Hedges sent consultation letters to all of the user groups and the statutory undertakers.
- An objection was received from the Open Spaces Society.
- The applicant amended the proposals and sent them to further consultation to which no objections were received.
- The applicant has agreed to pay all the necessary costs involved in making an 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.

## 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 Jill Hedges, who is the landowner, made the application on 15<sup>th</sup> of May 2012. The reasons given for making the application were that '*when the house was purchased in 1987, there were two sworn statements asserting that LQ48 was unused. This is no longer the case and our peace and privacy is disturbed*'. In fact LQ48 is part of the Monnow Valley Walk, which is a well-used promoted route travelling through the garden of Pontynys Mill.
- 5 The applicant has carried out all pre order consultation. The initial proposal received an objection from the Open Spaces Society. However, the applicant then amended the proposals and re-sent them to pre-order consultation to which there were no adverse comments. The adjoining landowner (Sue Garrett), whose property is affected by the application, has agreed in writing to 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, has been consulted and Cllr. G J Powell has replied that he supports the application.
- 8 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 alter the point of termination of the path, but only to a point which is equally as convenient.
  - The proposal is not substantially less convenient to the public.

## Community Impact

- 9 Longtown Parish Council has been consulted and has given its support to the proposals.

## Financial Implications

- 10 The applicant, Mrs Jill Hedges, has agreed to reimburse the Council for the administration costs involved in making the order and to pay for the associated works and advertising.

## **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

## **Risk Management**

- 12 If the order is made as suggested, it may receive objections which could result in a public inquiry which would increase demands on officer time and resources, however, this risk has been minimised by carrying out the pre-order consultation to which there were no objections.

## **Equality Implications**

- 13 The existing legal line of the path currently passes through the old mill building and is thus obstructed, however, the walked line of the path around the edge of the building passes up a number of steep steps to the east of the building. The proposed route, although travelling up and then down a slope through a field to the north-east of Pontynys Mill, will not encounter any steps and as such the proposal is considered to comply with the requirements of the Equality Act 2010.

## **Consultees**

- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. G J Powell
- Longtown Parish Council.
- Statutory Undertakers.

## **Appendices**

- 14 Order Plan, drawing number: D424/247-48 and Order and Schedule.

## **Background Papers**

- None identified.