

<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 LR4 (PART) IN THE PARISH OF LEDBURY RURAL</b>
<b>PORTFOLIO AREA:</b>	<b>HIGHWAYS AND TRANSPORTATION</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Ledbury

### **Purpose**

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath LR4 in the parish of Ledbury Rural.

### **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: D423/221-4

### **Key Points Summary**

- An application was made by Mr J Heard in August 2011
- The applicant carried out a pre-order consultation to which there was an objection from Welsh Water.
- Welsh Water have since withdrawn their objection.
- The neighbouring landowner, who is also affected, agrees with the proposals.

### **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 s119 of the Highways Act and the Council's Public path order policy and any objections received at pre-order consultation stage have been over-come.

## Introduction and Background

- 3 This report is being considered by the Regulatory Sub-Committee because they have the delegated authority to make the decision whether or not to make an order.

## Key Considerations

- 4 Mr J Heard, who is the landowner, made the application on 11<sup>th</sup> of August 2011. The reasons given for making the application were, 'to restore the footpath to use after it was blocked by a farm building, put up in the 1980's by previous landowners'.
- 5 The applicant has carried out all pre order consultation. The proposal has general agreement and the adjoining landowner Mr Nigel Smith, whose property is also affected by the application has given his written consent for 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 members, Cllr. Bettington, Cllr Harvey and Cllr Watts have 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 alters the point of termination of the path but only to a point which is substantially as convenient.
  - The proposal is not substantially less convenient to the public.

## Community Impact

- 9 Ledbury Town Council has been consulted as part of the pre-order consultation and did not hold any objections to the proposals.

## Financial Implications

- 10 The applicant, Mr Heard, has agreed to pay for all administration, advertising costs and any works necessary for the making of the proposed order. 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 There is a risk that if an order is made as proposed, objections may be received which would cause the matter to be referred to the Secretary of State for a decision. This could result in a public inquiry which would have an impact upon existing public rights of way resources.

However, this is unlikely to occur as a comprehensive pre-order consultation has been carried out to which only one objection was received, which has since been withdrawn.

## **Equality Implications**

- 13 The proposed new route and the existing legal line is obstructed by a barn, however, if the barn was removed, users would be required to walk down and then up very steep banks to the level area of ground on which the barn stands. The proposed route of the right of way does not have these steep slopes. The existing path passes over a stile at point A and two fence lines surrounding the barn, however the proposed route is intended to pass through a pedestrian gate then there will not be any further structures along the route of the diverted path. Therefore the proposed route is deemed to be much more accessible than the existing route 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 Members – Cllr. Bettington, Cllr. Harvey and Cllr Watts.
- Ledbury Town Council.
- Statutory Undertakers.

## **Appendices**

Order Plan, drawing number: D423/221-4 and Order and Schedule.

## **Background Papers**

- None identified.