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| <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 WA8 (PART) IN THE PARISH OF WALFORD</b> |
| <b>PORTFOLIO AREA:</b>  | <b>HIGHWAYS AND TRANSPORTATION</b>   |

**CLASSIFICATION:** Open

### **Wards Affected**

Kerne Bridge

### **Purpose**

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath WA8 in the parish of Walford.

### **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: D407/395-8(ii)

### **Key Points Summary**

- An application was made by the landowner, Mr Kenneth Hurley in August 2010.
- The application received objections from the Open Spaces Society and the Ramblers' Association at pre-order consultation stage.
- The proposed route was amended and a further pre-order consultation was carried out to which there were 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.

### **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 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 1980, it is necessary to gain a decision from the Regulatory Committee as they hold the delegated authority to make this decision.

## **Key Considerations**

- 4 Kenneth Hurley, who is the landowner, made the application in August 2010. The reasons given for making the application were to improve security for Old Hill Court and enable them to install an electronic gate.
- 5 The applicant has carried out all pre order consultation. The proposal has general agreement, although both the Ramblers' Association and the Open Spaces Society made comments which the landowner has agreed to comply with (walkers refuge set off the road, width of 2metres and clearance of vegetation) and the adjoining landowner Mr E Drummond, whose property is also affected by the application has also given his written consent to the proposals.
- 6 The local member, Cllr. J G Jarvis does not object to the proposals.
- 7 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 alter the point of termination of the paths, however this is onto a connecting highway which is substantially as convenient to the public.
  - The proposal is not substantially less convenient to the public.

## **Community Impact**

- 8 A pre-order consultation has been carried out by the landowner including consulting the Parish Council to which there were no objections.

## **Financial Implications**

- 9 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order, however, these are set at the time of application ie £800 administration fee plus advertising costs and the costs of works necessary to bring the new route into being.

## **Legal Implications**

10. 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**

- 11 There is a risk that if an order was made as suggested, it could receive objections which would require the matter to be referred to the Secretary of State for approval. This could result in a public inquiry which would increase demands on officer time and resources.

However, a pre-order consultation has been carried out to which there were no objections, therefore making this risk unlikely.

## **Equality Implications**

- 12 The proposed new route has a gentle slope passing through the woodland then down along the field headland. The existing route has a similar slope along the driveway to Old Hill Court. 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. JG Jarvis
- Walford Parish Council.
- Statutory Undertakers.

## **Appendices**

Order Plan, drawing number: D407/395-8(ii) and Order and Schedule.

## **Background Papers**

- None identified.