

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	29 JANUARY 2013
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH HO6 (PART) IN THE PARISH OF HOLMER
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Burghill, Holmer and Lyde

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath HO6 in the parish of Holmer.

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: D427/186-6(iii)

Key Points Summary

- A diversion is proposed in the interest of the public.
- The reason for the diversion is to avoid the footpath exiting onto Attwood Lane, which was considered to be dangerous for users of the path.
- A pre-order consultation has been carried out, to which there were no objections.
- The diversion will be funded by developer contributions through section 106.

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, 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 A diversion is proposed in the interests of the public in order to remove the danger of exiting from footpath HO6 onto the busy Attwood Road. The diversion will alter the end of the footpath so that it exits onto the adjacent cycle-track instead, making it safer for users.
- 5 Pre-order consultation has been carried out by the Public Rights of Way department. The proposal has general agreement.
- 6 The costs of the diversion will be met through developer contributions (s106).
- 7 The local member, Cllr. S J Robertson fully 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 public.
 - The proposal does alter the point of termination of the paths but to a point which is not less convenient and is on a connecting highway.
 - The proposal is not substantially less convenient to the public.

Community Impact

- 9 A comprehensive pre-order consultation has been carried out, to which the Parish Council replied that they support the proposals.

Financial Implications

- 10 The costs of the diversion (approximately £2000) will be met by developer contribution through s106.

Legal Implications

- 11 Under S119 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 an order is made as proposed, there is a risk that it may receive objections, which would necessitate it's referral to the Secretary of State for a decision, thus placing an increased demand on officer time and resources. However, this risk is minimal as there have been no

objections at pre-order consultation stage.

Equality Implications

- 13 The existing route has a stile at point B (on the order plan), the proposed route will not have any 'furniture'. As such, the proposal is considered to comply with the requirements of the Equality Act 2010.

Consultees

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- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. S J Robertson
- Holmer and Shelwick Parish Council.
- Statutory Undertakers.

Appendices

- 15 Order Plan, drawing number: D427/186-6(iii) and Order and Schedule.

Background Papers

- None identified.