

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	29 JANUARY 2013
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH HER50 (PART), HEREFORD
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Belmont

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath HER50, Hereford.

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: D428/HER-50

Key Points Summary

- Herefordshire Council applied for the diversion in April 2012.
- The diversion is proposed in order to realign the right of way with the newly created path through Belmont Haywood Country Park.
- There are no objections to 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 s 119 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 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 Herefordshire Council, who is the landowner, made the application in April 2012 in order to realign the legal public right of way with the new track created through Belmont Haywood Country Park.
- 5 Pre-order consultation has been carried out by the Public Rights of Way department. The proposal has general agreement although the Open Spaces Society correspondent was concerned with initial proposals that the footpath would pass through the car-park. This has been amended and a path created around the outside of the car-park to separate vehicles and pedestrians.
- 6 The costs of the diversion are to be met by Herefordshire Council.
- 7 The local members, Cllr. Bridges, Cllr. Edwards and Cllr. Powell support the application.
- 8 The proposed diversion meets the specified criteria as set out in Council policy 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 another point that is substantially as convenient.
 - The proposal is not substantially less convenient to the public.

Community Impact

- 9 A comprehensive pre-order consultation has been carried out and has no outstanding objections. Hereford City Council was consulted and does not hold any objections to the proposals.

Financial Implications

- 10 The costs of the diversion are to be met by Herefordshire Council as part of the s.106 agreement and are likely to be in the region of £2000. The s.106 monitoring officer has agreed the use of the funds.

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 it may receive objections, however, this risk is minimal as there were no objections received at pre-order consultation stage.

Equality Implications

- 13 The proposed new route is relatively flat, surfaced and the gates have Radar key access, 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 Members – Cllr. A N Bridges, Cllr. P J Edwards and Cllr. G A Powell
- Hereford City Council
- Statutory Undertakers.

Appendices

- 15 Order Plan, drawing number: D428/HER-50 and Order and Schedule.

Background Papers

- None identified.