

Record of Officer Decision

Decision title:	Town and Country Planning Act 1990, Section 257 (as amended) Proposed Public Path Diversion Order Footpath ZC24 (Part) in the Parish of Leominster
Date of decision:	04 March 2026
Decision maker:	Group Manager - Streetscene, Public Rights of Way and Traffic Management
Authority for delegated decision:	Directorate scheme of delegation: updated 23 December 2021 Directorate: Economy and Place, section 75. To act on behalf of the council in respect of the legislation specified in the foregoing: Town and Country Planning Act 1990
Ward:	Leominster South
Consultation:	Consultation undertaken by the applicant included: Prescribed organisations as set out in the Defra Rights of Way Circular 1/09 – One objection from the Open Spaces Society Local Member Councillor Woodhall - No objection to the proposal Leominster Town Council – No objection to the proposal Statutory Undertakers – No objections to the proposal
Decision made:	THAT: (a) A public path diversion order, for definitive footpath ZC24 in the parish of Leominster, is made in accordance with section 257 of the Town and Country Planning Act 1990, as shown in the draft order and plan TCPA108 in Appendix 1 attached to this report to enable development granted planning permission P250711/F for the proposed change of use of agricultural land to residential curtilage use, the erection of timber garage and redirection of public footpath ZC24 to be carried out and; (b) In the event that there are no un-withdrawn objections to the formal advertising of the order, it is then confirmed. (c) If sustained objections are received, the matter can be passed to the Secretary of State for a decision.
Reasons for decision:	The rights of way department undertook to divert the right of way following a request from the applicant, “to enable construction of a wooden garage that will impact the existing route”. The development plan is attached at Appendix 2. The applicant has carried out a pre-order consultation based on a proposed route (see Appendix 3). There is general support for the proposal, however there is one objection from the Open Spaces Society on the grounds that the proposed path should not be fenced in and should have a stoned surface. The Council does not support

	<p>this objection on the grounds that there is no requirement to stone a rural path as this will urbanise it.</p> <p>The Council believes that it is acceptable for the path to be fenced in on the grounds of security and privacy for the adjacent dwelling as long as the proposed path has a width of 2.5 metres so as to allow for any vegetation growth which the landowner is agreeable to.</p> <p>If the proposed diversion is not made as recommended, the Council will have awarded a planning permission which is then incapable of being implemented.</p> <p>The applicant has agreed to pay the costs associated with advertising the order and any works required.</p> <p>The Local Member, Councillor Woodall, has no objection to the proposal.</p> <p>The proposed diversion meets the specified criteria set out in Council policy and in accordance with the provisions of section 257 of the Town and Country Planning Act 1990 in that the diversion is necessary to allow development granted planning permission to be carried out, and that the development is permitted as defined in Part III, paragraph 55 of the Town and Country Planning Act 1990.</p>
<p>Highlight any associated risks/finance/legal/equality considerations:</p>	<p>Community impact: The applicant has carried out a comprehensive pre-order consultation, which included Leominster Town Council, to which there was one objection from the Open Spaces Society.</p> <p>Equality: Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:</p> <p>A public authority must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none"> • eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; • advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; • foster good relations between persons who share a relevant protected characteristic and persons who do not share it. <p>The majority of public rights of way are in a very rural environment, often remote, with uneven surfaces and varying gradients. There are stiles and gates on many paths which are necessary for stock control. There are also bridges and steps on many paths which aid access to paths by providing crossings for streams and rivers and to help with steep gradients. The nature of the paths means that access may be difficult for members of the public with mobility issues or a disability.</p> <p>Diversion/creation orders seek to remove stiles wherever possible and</p>

improve access by installing gates in their place which allow use by a wider group of people. The Rights of Way Improvement Plan also aims to improve access to public rights of way in this way.

For this proposal, the gradients of the existing and proposed routes are broadly similar. The existing route has one pedestrian gate whilst there are no gates on the proposed route resulting in a potentially positive impact. As such, the proposal is considered to comply with the requirements of the Equality Act 2010.

Finance:

The applicant has agreed to pay for all administration and advertising costs associated with this order and any works necessary to bring the new route into being. If the matter has to be referred to the Secretary of State, the costs associated with any Inquiry or Hearing will be met by the Council.

Environmental Impact:

This decision/proposal seeks to deliver the Council's environmental policy commitments and aligns to the following success measures in the County Plan:

- Improve residents' access to green space in Herefordshire.
- Increase the number of short distance trips being done by sustainable modes of travel – walking, cycling, public transport.

Resource implications:

The applicant has agreed to pay for all administration and advertising costs associated with this order and any works necessary to bring the new route into being. If the matter has to be referred to the Secretary of State, the costs associated with any inquiry or hearing will be met by the budget allocated to the rights of way service through the annual plan.

Legal:

The Council has a discretionary power under section 257, section 259 and schedule 14 of the Town and Country Planning Act 1990 to make diversion orders if it is satisfied it is necessary to enable development granted planning permission to be carried out. In making such an order the Council must consider any material provisions of its Rights of Way Improvement Plan.

It is considered that the criteria under section 257, are met. Once an order is made it must be advertised as prescribed in Schedule 14 of the Town and Country Planning Act 1990 and in accordance with the Town and Country Planning (Public Path Order) Regulations 1993. A minimum of 28 days must be given for objections to be made from the first publication of the notice of order in a newspaper circulating in the area where the land to which the order relates is located. Notice must also be served on each owner, occupier and lessee of the affected land. Statutory undertakers owning or using apparatus under, in, on or over along or across the land must also be served with notice of the making of the order. The bodies listed in the Town and Country Planning (Public Path Order) Regulations 1993 must be served with notice of the making of the order as well.

	<p>If no objections are received to the formal advertising of the order, or any received are withdrawn, then the Council, may itself confirm the order provided that it is satisfied that the criteria in Section 259 of the Town and Country Planning Act 1990 are met. These are that the relevant planning permission has been granted and it is necessary to authorise the stopping up or diversion in order to enable the development to be carried out in accordance with the permission.</p> <p>If there are objections which are not withdrawn then the order will be referred to the Planning Inspectorate, which will act on behalf of the Secretary of State to determine the order. The Secretary of State will appoint an Inspector who will either hold an inquiry or hearing or deal with the matter by way of written representations before making a decision on whether or not to confirm the order.</p> <p>The Order will only come into effect once it has been confirmed by the Council or the Secretary of State as the case may be.</p> <p>Risk Management:</p> <p>There is a risk that if the Order is made as proposed, it may receive objections. If objections are so received, the matter must then be referred to the Secretary of State for a decision, which will place an increased demand on officer time and resources. The costs necessary for this referral cannot be passed onto the applicant.</p> <p>In this case a comprehensive pre-order consultation has been carried out by the applicant, to which one objection has been received. There is, therefore, a risk that an objection will be received at order making stage which means the Order would need to be submitted to the Secretary of State for a decision as to whether it can be confirmed.</p>
<p>Details of any alternative options considered and rejected:</p>	<p>Under the provisions of section 257 of the Town and Country Planning Act 1990 the Council has the power to make diversion orders to enable development to take place. It has no duty to do so. The Council could therefore reject the application on the grounds that it does not contribute sufficiently to the wider ambitions and priorities of the Council. However, this would mean that a planning permission has been granted which would obstruct a public right of way and, therefore, it is appropriate to carry out the diversion in order to keep the path unobstructed.</p>
<p>Details of any declarations of interest made:</p>	<p>If any officers or members involved or consulted in the decision-making have declared an interest you should include the declaration here. N/A</p>

Signed:

Date: 04 March 2026

Please ensure that signatures are redacted before publishing.