

## **7 HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH CS5 IN THE PARISH OF CASTLE FROME**

**Report By: Head of Highways and Transportation**

### **Wards Affected**

Frome

### **Purpose**

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert footpath CS5 in the parish of Castle Frome.

### **Considerations**

- 1 The application for the diversion of the public footpath was originally made in April 1997, by Sunderlands acting as Agents for Trustees. The proposal is shown on drawing number 79-5,6 (appendix 2) (produced by Hereford and Worcester County Council). The reason for which was to take the path away from the pond and buildings currently causing obstructions to the path.
- 2 The initial consultation drew objections because the proposal would have also extinguished a portion of footpath CS6 through St Michael Church Yard. It was also considered to be more circuitous than necessary. The Open Spaces Society proposed a further alternative for the diversion, which is shown in drawing number D268/79/5(i) (appendix 3).
- 3 The suggestion made by the Open Spaces Society was sent out to the applicant in June 2004 (appendix 4). As a result it transpired that Sunderlands were no longer involved in the application, and the new owner, Mr K Whittal of Town Farm agreed to carry on with the application.
- 4 The applicant has agreed to pay for advertising and to reimburse in full the Council's costs incurred in making the diversion order.
- 5 Following a site visit made on the 11<sup>th</sup> of August 2004, it became clear that the route proposed by the Open Spaces Society would not be practicable, due the difference in level on either side of the ditch at point C. A further proposal was agreed upon (drawing number D268/79-5(ii), appendix 5) and subjected to a pre-order consultation.
- 6 The Parish Council have no objection to the proposal and feel it is common-sense to divert the footpath away from the farm buildings. The Local Member has not responded.

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Further information on the subject of this report is available from Lisa Hughes Assistant Rights of Way Officer on (01432) 261721

- 7 As a result of the pre-order consultation, the Ramblers Association and Malvern Hills District Footpath Society put forward a further proposal, which utilises an existing gap in the hedge in an adjoining field, which would mean safer access to the road. This proposal has been agreed by the applicant, and is shown on the Order plan D268/79-5(iii) as shown in appendix 1. This proposal has been sent to the Local member and the Parish Council, neither has made any further comment.

## **Alternative Options**

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.

## **Risk Management**

There is a risk that the Order will be opposed, leading to additional demand on existing staff resources.

## **Consultees**

- Prescribed organisations as per annexe E of Department of the Environment Circular 2/93.
- Statutory undertakers.
- Divisional Surveyor, Tom Davies
- Local Member - Councillor R Manning
- Stretton Grandison Group Parish Council

## **RECOMMENDATION**

**THAT A public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D268/79-5(iii).**

## **Reasons**

The proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980 in that:

- The proposal benefits the owner of the land crossed by the existing path.
- The proposal does not alter the point of termination of the paths.

The proposal is not substantially less convenient to the public.

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## Appendix

Appendix 1: Drawing number: D268/79-5(iii)

Appendix 2: Drawing number: 79-5,6

Appendix 3: Drawing number: D268/79-5(i)

Appendix 4: Letter to Sunderlands, June 2004

Appendix 5: Drawing number: D268/79-5(ii)

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