

7 HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER BRIDLEWAY HD22 (PART) IN THE PARISH OF BIRLEY WITH UPPER HILL

Report By: Rights of Way Manager

Wards Affected:

Golden Cross with Weobley

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of bridleway HD22 in the parish of Birley with Upper Hill.

Considerations

- 1 An application for a public path diversion order was made in April 1998 by Mr Mackay- Lewis of Gattertop Farm. The proposed diversion as shown on Drawing no. D320/190-22(A) (appendix 1) was to move the Bridleway from points A to C to follow the line amended as A-B-C on the plan. The diversion takes the bridleway away from the applicants' property, Gattertop. The reason for the application was to provide more security to the property.
- 2 In May 1999 the Council informed the applicant that the proposed change was not acceptable as it created a dead end for footpath HD23 (appendix 2). The applicant amended the proposal (drawing number D320/190-22 [B], appendix 3) and this proposal was subject to pre-order consultation.
- 3 The proposal met objection and adverse comments from several of the user groups consulted:
 - a) Byways and Bridleways Trust - View of the pond would be removed; introduction of a number of gates (substantial inconvenience to a horse rider); route less well defined; not compensated for by any benefit of view from Ramshill Wood.
 - b) Open Spaces Society: Proposed route 50% longer than present, much of the proposed route is steep and thus difficult to use; proposed route running through cropped fields not desirable and hedges adjacent block out views for walkers; the present route is much more interesting and attractive.
 - c) Cyclists Touring Club: Not minded to object, but do realise that the proposal fails the test by being substantially less convenient.
- 4 Having regard to the comments received and the requirements of Section 119 of the Highways Act 1980, officers visited the site and concluded that (see letter dated 26th June 2002, appendix 4):

Further information on the subject of this report is available from Susan White Assistant Rights of Way Officer on (01432) 260572

- ❖ The proposed route introduces a number of gates which are a substantial inconvenience to horse riders.
 - ❖ The proposed route is more circuitous (approximately 110m longer) and arguably less attractive.
 - ❖ The existing route has some views across the valley and travels along an attractive, historic, 'green lane'.
 - ❖ The proposed route passes through a paddock containing horses which may also be an inconvenience to horse riders.
 - ❖ On balance the proposed route fails the test by being substantially less convenient than the existing route.
- 5 A further route was proposed by the applicant for the route to cut through enclosure number 8900, instead of going around the outside. However, following a site meeting on the 11th of September 2002, it was concluded by officers that the proposal did not differ substantially from the original proposal and the applicant was informed that it was proposed to reject the proposal as it was substantially less convenient than the existing route. (Letter dated 12th September 2002, appendix 5).

The applicant has not sent any further communication since the meeting of the 11th September 2002.

- 6 The Parish Council and Local Member have been consulted on this matter. Both agree with the proposed diversion and therefore do not agree with rejection of the proposals.

Alternative Options

The council could support the proposal, which is likely to lead to a public enquiry if the objections were sustained.

Risk Management

There is no risk. The Authority is exercising a power rather than a duty. There are no grounds for appeal.

Consultees

- Prescribed organisations as per annexe E of Department of the Environment Circular 2/93
- Statutory undertakers
- Local Member – Councillor J H R Goodwin
- Birley with Upper Hill Parish Council

RECOMMENDATION

THAT The application to divert Bridleway HD22 (part) in the parish of Birley with Upper Hill, made under Section 119 of the Highways Act 1980, is rejected because the proposed diversion does not meet the specified criteria as set out in section 119 of the Highways Act 1980 in that it is less convenient to the public.

Appendix

Appendix 1: Drawing number D320/190-22 [A] showing original proposal.

Appendix 2: Letter dated 25th May 1999 asking applicant to amend proposal.

Appendix 3: Order plan, drawing number: D320/190-22 [B] showing amendment.

Appendix 4: Letter dated 26th of June 2002 advises applicant that objections have been received due to proposed route being less convenient and that the recommendation will be that the application be rejected.

Appendix 5: Letter dated 12th of September 2002 advising applicant that previous objectors are unlikely to be swayed by further amendment.

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