

8 HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH WZ1 (PART) IN THE PARISH OF WALTERSTONE

Report By: Rights of Way Manager

Wards Affected:

Golden Valley South

Purpose

To consider an application under the Highways Act 1980, section 119, to confirm a public path diversion order to divert part of bridleway WZ1 in the parish of Walterstone.

Considerations

- 1 Although an order has been made for the original application, taking into account the long time it has taken to determine the application and the fact that two objections have been received, it has been decided to seek approval from the Regulatory Committee to before submitting the order to the Secretary of State for consideration.
- 2 The application to divert footpath WZ1 was received on 24th May 1991. The applicant wanted to divert the path from out of their newly purchased garden area, the reason being, 'to gain privacy in newly created private property'. The proposed path was on land in separate ownership. The landowner consented to the proposals.
- 3 The proposal was sent to pre-order consultation to which there were no objections. The then Local Member was consulted and agreed to the proposals.
- 4 The applicants sent a letter (dated received 10th February 1994) requesting the application be expedited as they had young children, who were frightened by the sudden appearance of walkers in the garden.
- 5 An order was made to divert the path on 30th March 1995.
- 6 Following the making of the order, two objections were received, one from the Ramblers Association and one from the Open Spaces Society. Both felt that the diversion was overly long and that it moved the path so the public would have to walk down a bank and up the other side. They both felt that, the diversion did not meet the criteria laid down in the Highway Act, ie the proposed route was substantially less convenient to the public than the existing route.
- 7 There has been no further correspondence regarding this diversion, either to or from, landowners or objectors.
- 8 The objections require the order to be recommended to the Secretary of State for a decision. If this results in a public inquiry there will be an associated cost to the Council.

- 9 The current Local Member and the Parish Council were consulted on the proposals in October 2005. The Local Member, Cllr. Williams agrees with the proposed diversion and the Parish Council have stated that they hold no objections.

Alternative Option 1

The council could submit the order to the Secretary of State for non-confirmation.

Alternative Option 2

The Council could submit the order to the Secretary of State for confirmation with modifications.

Risk Management

If the objections are sustained, there may be a public inquiry which would be at the expense of the council.

Consultees

- Statutory undertakers
- Local Members – Councillor J M Pickering, Councillor J B Williams (October 2005)
- Parish Council

RECOMMENDATION

THAT The Order is recommended to the Secretary of State for confirmation, An order was made to divert this path on 30th March 1995, it was felt by officers at the time that the diversion met the tests set out in the Highways Act 1980 in that it is not substantially less convenient to the public. It could be held to be unreasonable of the Council, after such a long period of time, not to attempt to conclude this diversion by submitting it to the Secretary of State for confirmation.

Appendix

Appendix 1: Order Plan –Drawing No. D90/397-1

Appendix 2: Copy of letter from applicants asking to speed up the process

Appendix 3: Copy of letter of objection from Ramblers Association.

Appendix 4: Copy of letter of objection from Open Spaces Society.