

## **9 HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH ZC100 IN THE TOWN OF LEOMINSTER**

**Report By: Parks & Countryside Manager**

### **Wards Affected**

Leominster South

### **Purpose**

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert footpath ZC100 in the Town of Leominster.

### **Considerations**

- 1 An Order to divert the public footpath was originally made under the Town and Country Planning Act 1990, in 1994, it was confirmed with modifications by the Secretary of State on the 24<sup>th</sup> of June 1996. This Order could not be certified because the terms of Article 2 of the order have not been complied with (the Order states that the width of the path should be a minimum of 1.5 metres in width and the path is at most 0.5m in parts).
- 2 Since the diversion was never completed, the legal line of the footpath currently runs through 7 gardens and is obstructed by two dwellings.
- 3 All of the landowners affected by the diversion have been consulted, and no objections to the proposal have been received.
- 4 As a result of the pre-order consultation, several comments were received. The Open Spaces Society would wish to see kerb crossing made accessible to wheelchairs, pushchairs and the infirm. There is a raised platform at the kerb crossing point which brings the road surface level with the pavement to make this possible. They also note that it is a possible route for young cyclists and skateboarders, however if this becomes a problem a prohibition Order could be looked at. The Open Spaces Society would wish the path to be 1.5 metres in width except for the section where this is not possible. Councillor J P Thomas thinks the diversion makes sense and supports it.
- 5 Herefordshire Council will pay the advertising, and legal fees and will carry out any works necessary to bring the proposed route into being.

### **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.
- Local Members-Cllr J P Thomas and R B A Burke, Leominster South
- Leominster Town Council

## **RECOMMENDATION**

**THAT a Public Path Diversion Order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D370/226-100 (appendix 1) because the proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980 in that:**

**the proposal benefits the owners of the land crossed by the existing path;**

**the proposal benefits path users because the existing path is obstructed by gardens and buildings;**

**the proposal does not alter the point of termination of the paths; and**

**the proposal is not substantially less convenient to the public.**

## **Appendix**

Appendix 1: Drawing number: D370/226-100