

## **HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH CS10 (PART) IN THE PARISH OF CASTLE FROME**

**Report By: Public Rights of Way Manager**

### **Wards Affected:**

Frome

### **Purpose**

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath CS10 in the parish of Castle Frome.

### **Considerations**

- 1 M.B and B Manning, who were the landowners of Hill Farm at the time, made the application on 19th June 1997. The application has been taken over by Mr R Manning, who now lives at Hill Farm and is the current landowner. The reasons for making this application are that a cattle shed has been built over the line of the footpath, which passes through the farmyard.
- 2 The Public Rights of Way department has carried out pre-order consultation. The initial proposal (see appendix A) had the general agreement of the Malvern Hills District Council, the Malvern Hills District Footpath Society and Stretton Grandison Parish Council. No statutory undertaker consultation was carried out at this time.
- 3 The Open Spaces Society representative suggested adding a curve to the proposed route to accommodate a straw bale storage area on the proposed line (see appendix B.) The revised proposal was sent out for pre-order consultation and had the general agreement of the Open Spaces Society, Malvern Hills District Council, the Malvern Hills District Footpath Society and Stretton Grandison Parish Council. The Byways and Bridleways Trust representative raised no objections but requested that a check for higher rights was made on the existing route. A check was made, but no application had been made to modify the Definitive Map and Statement.
- 4 The route shown in the current Order Plan (appendix C-drawing no D280/79-10) has been amended again, following a site visit on 4<sup>th</sup> August 06. This has been necessary because the fence line has been moved since the 1998 pre-order consultation and would otherwise need to be crossed via additional gates. It does not significantly increase the distance to be travelled by footpath users and does not make the meeting point of the path with county road C1158 any less visible or safe. As a result, it has been decided not to send this proposal out for further pre-order consultation. Statutory consultees will however have a chance to comment if an Order is made.
- 5 The proposed diversion would also resolve the anomaly that currently appears on the Definitive Map; the Public Right of Way is shown as ending at the farm access track at its western end, which is not a county road.

- 6 Mr M.B. Manning and Mrs B Manning own the land at Hill Farm Bungalows; they were the original applicants for this diversion.
- 7 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order.
- 8 The applicant is the current Local Member; Legal services have confirmed that given this, further Local Member consultation is not needed.
- 9 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.

## **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.
- Local Members – initially Councillor M. Jolly, then Councillor G. Woodford for the Malvern Hills District Council.
- Stretton Grandison Parish Council.

## **Recommendation**

That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D280/79-10

## **Appendices**

A-Initial Order Plan

B-Amended Order Plan

C-Final Order Plan, drawing number: D280/79-10