

DR PADGETT (Chair of p's & q's [purton's qualities]) LISTED THE FOLLOWING CONCERNS**REGARDING THE PROCESSING OF THE ORDER** *(Case Officer's comments follow each point made)*

"We are disappointed that the Wiltshire Council has given notice of making a Public Path Diversion and Definitive Map and Statement Modification Order in respect of Footpath 104, known locally as Mud Lane. We object to this and call for a Public Inquiry on the grounds of this being in the public interest. There are several specific new grounds other than those previously listed during the previous several years:

1. "In 2007 two applications for diversion (Footpaths 103 and 96) very close to Mud Lane were refused by the Wiltshire Council (and we support the Council in this) yet we note that the essential difference is that the two which were refused did not represent any financial gain to the Council, whilst diversion of 104 (Mud Lane) provides a financial benefit to Wiltshire Council. We believe that this (financial) conflict of interest should be the subject of a public inquiry in order to ensure that the public good is upheld;".

Officer's Comments: Each case is weighed up on its individual merits and this diversion meets the legal tests required. It is also shown to have many public benefits as laid out in paragraphs 12-16 of the Committee Report, through Officer's comments in **Appendix D** to the report and in Supporters comments forming **Appendix G** to the Report. Also the punitive costs of bringing the old way into a fit state for a bridleway would not be in the public interest (paragraph 17 of the main report and **Appendix H** of the report). The diversion has attracted a great deal of public support and meets the aims of the Equality Act 2010 and the Rights of Way Improvement Plan to increase access to the countryside for all types of user, including the disabled.

2. "During the previous application for diversion there were substantial errors in the counting of the letters/emails in support of the diversion. On this renewed application we have been denied access to the individual comments (despite that this was allowed the last time) and we fear that errors will have been made again. Consequently, we believe that a Public Inquiry should be held in order that the evidence can be firmly reviewed and tested in the public domain to ensure fairness and natural justice;".

Officer's Comments: On the previous application, there was a minor error in the counting, where 4 names were repeated. The cause of this human error was probably being the large number of responses in written and email format. Access has not been denied to documents involved in this case because, as in every other rights of way case, all case documents are open to viewing by the public, on request, at County Hall. Supplying hard copies of all documents to every objector who requests them at multiple stages as the case progresses causes a logistics problem in an already very busy Rights of Way Section with little or no admin support, due to the large volumes involved. However, hard copies of all responses to the current consultation are now in the hands of the objectors.

When a case progresses to Public Inquiry, all case documents are included in Wiltshire Council's Statement of Case bundle. The Rights of Way Section always ensures that the principal Objector has a complete copy of the bundle to enable them to fully prepare for Inquiry.

Officers wholeheartedly agree with the objector's call for a Public Inquiry, which is the normal platform to argue this type of case.

3. "We note that in the Decision Report, the comments in objection to the diversion are clearly analysed yet the comments in support of the diversion are hardly analysed at all, given that supposedly nearly twice as many comments were in support versus objection. This suggests that many (the majority?) of support letters were in fact form letters or single line statements of support which in turn suggests that these are by individuals or organisations solicited specifically to provide a unit of support. Last time, we noted many form/photocopied statements and several from many different counties which clearly lacked local knowledge of the location. This is in contrast to the letters of objection which universally reflected local knowledge and deep insight into the issue. We believe, therefore, that it is essential that all comments (names can be withheld if required) be examined in public to demonstrate properly the level of local relevance;"

Officer's Comments: The fairest way to demonstrate that this accusation is misguided is to list the actual comments from many of those who made written representations in support of the Order. This has been put into a table format and is attached as **Appendix D** to the Committee report. It shows that much passion, local knowledge and understanding of the issues were eloquently presented by the supporters in their responses to the initial consultation on which the Order decision was based. The supporters outnumbered the objectors in a ratio of 2:1.

4. "The original Wiltshire Council letter calling for comments was biased and highly misleading because it failed to indicate to the public that when making comments they should compare a footpath (Mud Lane 104) that is temporarily overgrown (due to years of neglect by the Council) and a non-overgrown grass track (the proposed Diversion) as if they were equally passable. The Government had issued some relevant guidance related to rights of way, which, the Council failed to make known:

"... Provides that, for the purposes of deciding whether a right of way should be stopped up, any temporary circumstances preventing or diminishing its use by the public shall be disregarded ..."

"...When deciding whether the right of way will be/will not be substantially less convenient to the public in consequence of the diversion, an equitable comparison between the existing and proposed routes can only be made by similarly disregarding any temporary circumstances preventing or diminishing the use of the existing route by the public ..."

"Therefore ... the convenience of the existing route is to be assessed as if the way were unobstructed and maintained to a standard suitable for those users who have the right to use it."

Officer's Comments: The Government guidance is intended to be applied by the Order-making authority or the Secretary of State when determining the Order, to help ensure that the legal tests are properly applied. Initial consultation letters are merely to invite comments on the proposals. These comments can be far-ranging and it is up to the individual to raise any point they see fit.

5. "Given the Council errors during the last application, even to the extent that the Public Inquiry had to be halted the day before it was due to commence, due to Wiltshire Council's flawed submission, we believe that it is essential, to regain the public trust, that there is a Public Inquiry, on the grounds of this being in the public interest".

Officer's Comments: It is without doubt that a local Public Inquiry will be in the public interest.