

**PROPOSED DIVERSION OF PUBLIC FOOTPATH PURTON 104, TO A NEW ROUTE WHICH WILL BE
DESIGNATED AS A PUBLIC BRIDLEWAY**

SUPPORT FOR THE PROPOSAL Nature of Support	Respondent(s)	Officers' Comments
<p>"Purton Parish Council would support the diversion of Footpath 104 onto the permissive route...Although it is recognised that the covenant we are discussing with Mr. Moseley for the protection of Mud Lane is not paramount to the diversion from the County Council's perspective it has to be said that it is from the Parish Council's perspective and has impacted on the decision to support the diversion."</p>	Purton Parish Council	<p>The landowner has offered to enter into a covenant with Purton Parish Council which will allow local people to have access to Mud Lane for historical study, if the public right of way is diverted from it. This will serve to give long-term protection to the lane. The prospect of this covenant cannot, however, be permitted to influence the County Council's decision about the diversion of the path, which must be made only in consideration of the legal criteria set out in the report.</p>
<p>The permissive bridleway is used frequently by horseriders and walkers. Cyclists use it to a lesser degree. It is well fenced, and has a firm grass surface apart from a small patch about 2 metres square which can be easily rectified. It is 4–5 metres wide at its narrowest point. To place this bridleway on the definitive map would be beneficial to all users. If this was accompanied by the upgrade of a small section of footpath at the Ringsbury Camp end (about 20 metres) it would then link into an existing bridleway.</p> <p>The historic route FP 104 (Mud Lane) has not been used for many years due to its constantly wet surface and has consequently become very overgrown. It passes a few metres from the windows of Restrop Farm House. FP 104 has recently been found to be a bridleway. To clear it to become safe for walkers, riders and cyclists would cost a great deal of money (understood to be the year's allocation for the warden). The route would be too narrow to safely accommodate the different user groups.</p> <p>The permissive path should be put onto the Definitive Map and footpath 104 legally closed. The new route is already well defined and is in a better condition and position than the original route could ever be.</p> <p>There is a need to get some sense into the rights of way network. It is now 2008, not when many rights of way were instigated many years ago. The present routes have to fit into the modern transport network so that the majority of people can safely use them.</p>	British Horse Society	<p>Officers agree with these views. The proposed diversion includes the upgrade of the footpath at the Ringsbury Camp end.</p>
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Riders in this area use the permissive bridlepath regularly to gain access to good riding in Red Lodge, Braydon Forest avoiding dangerous roads. Riders are grateful to the landowner for allowing them to use the route.	Local Horserider	Re-opening the path along Mud Lane as a bridleway would retain an off-road route for horseriders to access these areas, but the resulting path would be more difficult for riders to negotiate than the proposed diversion route, and is likely to be muddy through much of the year and suffers from severe flooding in extended periods of wet weather.
E-mailed to the landowner and supplied to the County Council in September 2007, before consultation:- "My family and I occasionally walk around Ringsbury Camp and the existing permissive path provides a very good alternative access. We would like to say that we support your application for the diversion of Footpath 104 onto the permissive path..."	Local Resident	Although this view was expressed prior to the County Council having carried out any consultation, it demonstrates that there is some public support for the proposed diversion.
E-mailed to the landowner and supplied to the County Council in September 2007, before consultation:- "I am writing to voice my support for the permissive route on footpath 104 ...that you have made available and maintain to a very high standard. Thanks to that and the quality horse-friendly gates that you have installed you have provided the village with a scenic path to Ringsbury Camp which is one of the most horse/pony friendly routes in this area. It enables my 9 year old daughter to ride safely with myself in a loop starting at Upper Pavenhill... I attended the Rights of Way meeting at the end of the Parish Council meeting to express my views. It seems that the only valid concern is that if the old right of way is "removed" that an owner of the land in the future could plough it up to destroy the historic pathway or any relics that may be there. My answer to that was to suggest that they could apply to English Heritage for protection against these eventualities under the Ancient Monuments and Archaeological Areas Act 1979... Apart from that there were no valid objections except those who believe that a right of way should never be changed under any circumstance out of principle. One parish councillor in particular...was very supportive of the permissive path... It would be short-sighted and madness to insist on re-instating the old right of way that, by all accounts, would be expensive, difficult to do and at the end of the day would result in FEWER people enjoying access to the beauty of the area."	Local Resident	Although this view was expressed prior to the County Council having carried out any consultation, it demonstrates that there is some public support for the proposed diversion. Approaches were made by officers to English Heritage about some form of protection being given to Mud Lane, but they have not met with any interest. The landowner has offered to enter into a covenant with Purton Parish Council which will allow local people to have access to Mud Lane for historical study, if the public right of way is diverted from it. This will serve to give long-term protection to the lane. This is not however a relevant consideration for Members in determining whether the Order should be made.
SUPPORT FOR THE PROPOSAL Nature of Support	Respondent(s)	Officers' Comments
These views were expressed in a letter to the chairman of Purton Parish	Local Resident	Although this view was expressed prior to the County

<p>Council dated 4th September 2007, a copy of which was given by the author to the County Council.</p> <p><u>“Permissive Path</u></p> <ul style="list-style-type: none"> (i) Used regularly by people walking their dogs, joggers, ramblers, horseriders and the occasional cyclist. (ii) It is an all-weather path that drains naturally due to the topography, therefore useable at all times. (iii) It is well maintained by the landowner. (iv) It provides very good access to Ringsbury Camp. (v) It is of generous width to allow groups to walk together also good for horseriders. (vi) It provides for superb views over the countryside. <p><u>Footpath 104</u></p> <ul style="list-style-type: none"> (i) Unused since the 1930's and is choked with undergrowth and overgrowth. (ii) It is in a depression along its length, being some 4 feet – 5 feet below the surrounding ground level. (iii) Because of the above it acts as a drainage sump to water run-off from the adjacent fields, consequently: <ul style="list-style-type: none"> - it would be extremely muddy or impassable for users in wet weather - extremely difficult to drain effectively (iv) There is a culverted designated track that runs across Footpath 104 that allows access to the adjacent field, but because Footpath 104 is 4 feet – 5 feet lower on each side, the track forms a difficult obstacle. (v) There is a mains water supply pipe beneath Footpath 104 at one point. (vi) There is essential hedging on each side of Footpath 104 which, even if clipped, severely restricts views in any direction. <p>The landowner has expended much time, effort and expense in co-operation with local authority guidance and advice to produce a well thought out and superior alternative to Footpath 104. It is understood and appreciated that Footpath 104 has important historical connections. As such it is permanently identified on the Definitive Map for reference.</p> <p>Wholly supports the owner's request to divert footpath 104 to the permissive path.”</p>		<p>Council having carried out any consultation, it demonstrates that there is some public support for the proposed diversion despite the historical significance of Mud Lane. It ably summarises the differences between the two routes. It is, however, not clear whether the author understands that diversion of Footpath 104 to a new route would result in a change to the Definitive Map.</p>
SUPPORT FOR THE PROPOSAL Nature of Support	Respondent(s)	Officers' Comments
<p>“Having walked Purton footpaths for over fifty years I would like to register my support for Mr Mosley's request to re-direct the above footpath by re-instating the path away from his dwelling. To my</p>	<p>Local resident</p>	<p>This might suggest that if Mud Lane had been regarded as an important path throughout the last fifty years there would have been more effort made to use it and to prevent</p>

knowledge, the original path, Mud Lane, has not been utilised even when Pagintons farmed the land."		it from becoming overgrown and unusable.
OBJECTIONS TO THE PROPOSAL Nature of Objections	Respondent(s)	Officers' Comments
Footpath 104 is an ancient route leading to an ancient monument and is therefore of great value to the public.	Ramblers' Association and Open Spaces Society. Local residents (16)	It is accepted that the current route of Footpath 104 follows the historic sunken lane. The new route cannot offer that experience, but still leads to the ancient monument (Ringsbury Camp). Officers consider that the extra ease of use offered by the new route will make it easier for less able users to access the ancient monument.
The proposed route is almost the same as the current route of Footpath 103 so the diversion would in effect be an extinguishment.	Ramblers' Association and Open Spaces Society	The section of the proposed new bridleway between points D and E runs parallel with part of Footpath 103 for approximately 320 metres of its total length of 440 metres, but on the opposite side of a field hedge. The views from each path are quite different, so that each is enjoyable in a separate way. The proposed new route will be created as a public bridleway which, unlike Footpath 103, allows use by horseriders and cyclists. The objections from the Ramblers Association and the Open Spaces Society fails to consider the interests of horseriders and cyclists.
The Council's estimated cost of £50,000 to re-open Mud Lane is disputed, and is in any case not a relevant consideration. The work could be carried out by volunteers.	Ramblers' Association and Open Spaces Society Local residents (6)	<p>The cost to the County Council, and therefore to the public, of re-opening the existing path is not a relevant consideration when assessing whether or not the new path will be substantially as convenient to the public and to public enjoyment of the path as a whole and whether it is expedient to make the Order.</p> <p>The nature and extent of the work needed is not appropriate for volunteers from either a practical or a health and safety perspective. Mechanical equipment will be needed to remove the fallen trees, including the use of chain saws and winches, and the surface of the lane will need to be raised either side of the culvert, with drainage preserved through it, to enable horseriders and cyclists to pass. This will require mechanical equipment and substantial quantities of stone to be imported to construct ramps and standing areas while gates are negotiated.</p>
OBJECTIONS TO THE PROPOSAL Nature of Objections	Respondent(s)	Officers' Comments
The name of the route, Mud Lane, suggests a certain degree of flooding but it is not the case that the whole of the route becomes flooded. When inspected in early January 2008 only a stretch of the route to the west of	Ramblers' Association	It is accepted that the whole of Mud Lane is not subject to extensive flooding. It does however serve as a ditch into which surface water from the surrounding land drains

<p>the pipe installation was flooded, and we would venture to suggest that the presence of the pipe itself may have altered the drainage pattern of the route and exacerbated the flooding there. It is clear that the installation of the pipe... has caused considerable disruption to the route and effectively caused it to fall into disuse. For that reason feel that pressure should be exerted on Thames Water for its help in restoring the route.</p>		<p>naturally, and is wet and muddy throughout the winter months and during periods of wet weather. In early December 2007 the County Council's Rights of Way Manager found that a thirty metre stretch of the lane was flooded to a depth of two to three feet, while a few days later local people reported that the lane was so deeply flooded that the water was also standing at the edges of the surrounding fields. Not only would the path have been impassable, but it would have been dangerous for anyone to attempt to pass. The diversion route at that time remained sufficiently dry to be passable in ordinary shoes.</p> <p>There is no evidence to support the assertion that the installation of the water main did actually obstruct the lane. The pipe has been found to pass across the lane but is approximately 1 foot below the present surface, so does not currently obstruct it. Although the banks of the lane have fallen in to some extent, it is difficult to imagine that they have collapsed so extensively that the pipe has become completely buried to that depth.</p> <p>Neither is there evidence to suggest that the installation of the pipe has altered the original drainage patterns within the lane, nor that it has been responsible for the disruption that effectively caused the lane to fall into disuse. Officers' understanding is that the lane was closed temporarily when the pipe was installed over fifty years ago, but that lack of use after that was more due to a hostile attitude on the part of the then landowner, which was allowed to prevail until the land changed hands after her death in 2001. Officers do not consider that there is sufficient evidence to suggest that Thames Water can be held responsible either for having caused the problem to arise or for the restoration of the path.</p>
<p>OBJECTIONS TO THE PROPOSAL Nature of Objections</p>	<p>Respondent(s)</p>	<p>Officers' Comments</p>
<p>Landowners should not be able to purchase a property in the knowledge that there is an existing public right of way and then seek to divert it for</p>	<p>Local residents (13)</p>	<p>Section 119 of the Highways Act permits Diversion Orders to be made in the interests of the owner, lessee, occupier</p>

their own advantage.		or public. There are indisputable advantages to be gained by the landowner by moving the path away from the farmhouse, but this objection has no legal substance so long as the diversion route is substantially as convenient to the public and has regard to public enjoyment of the path as a whole. Officers believe that the diversion is substantially as convenient and will, for the majority of users, improve their enjoyment of the path.
The original lane should be preserved in some way even if general access is not available to all. Could it be designated as a restricted byway?	Purton Historical Society	The landowner has offered to enter into a covenant with Purton Parish Council which will allow local people to have access to Mud Lane for historical study, if the public right of way is diverted from it. A restricted byway is a public right of way that may be used by walkers, horseriders, cyclists and non-mechanically propelled traffic so is not an appropriate solution in this situation.
Diverting this path will set a precedent for other diversion requests to be granted.	Local Residents (4)	Each diversion request received is considered on its own merits against set legal criteria. The acceptance of one application cannot set a precedent either for or against the acceptance of others.
The fact that certain paths are difficult to use or impassable during the winter months is not a reason to divert them.	Local Residents (2)	The County Council has a duty under the Countryside and Rights of Way Act 2000 to seek to make improvements to the path network to enable less-able users to access more routes. Drainage of Mud Lane to overcome the winter flooding and mud will not be possible, whereas the proposed new route avoids such problems altogether.
Both the definitive and permissive routes could be retained with clear signage to encourage people to use the permissive route instead. Very few people use the old path and most will be happy to use the permissive path instead.	Local Resident	The landowner is under no obligation to provide the permissive path and may withdraw it at any time. If the diversion does not take place and the permissive path withdrawn, all users would be obliged to use Mud Lane.
Non-native conifer trees have been planted alongside the new path. This "abomination" should not be considered as an alternative to a historic route.	Local Residents (2)	The County Council cannot dictate to landowners what type of trees they may plant alongside either permissive paths or public rights of way.
OTHER REPRESENTATIONS		
No objection provided that local users and the Parish Council are happy. Points out that the Definitive Statement gives a width for path 104 of 0.6 metres and has requested an amendment to the Statement to reflect the historical width of four to six metres.	Mr B Riley	Taken from the top of each bank, the width of the lane varies from approximately four to six metres. It is possible that the width recorded on the Statement reflects the width that was in use at the base of the lane. It is probable that the full width of the highway extends over the whole width of the lane and that the Statement should be modified as Mr Riley suggests. The proposed new route has a width of between four and six metres.