

AMESBURY: DIVERSION OF BRIDLEWAY NO. 29 AMESBURY (PART)

EXTRACT FROM REGULATORY COMMITTEE REPORT

13TH FEBRUARY 2008

PARAGRAPHS 10-13

10. Section 119 of the Highways Act 1980 provides for the diversion of footpaths, bridleways and restricted byways. There are separate tests, at the order-making stage and at the confirmation stage.

Sub-section 1 states:

“Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one which is a trunk road or a special road), that in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or another owner, lessee or occupier), the council may, subject to subsection (2) below, by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order:

- (a) create, as from such date as may be specified in the order, any such new footpath, bridleway or restricted byway as appears to the council requisite for effecting the diversion; and*
- (b) extinguish, as from such date as may be specified in the order or determined in accordance with the provisions of subsection (3) below, the public right of way over so much of the path or way as appears to the council requisite as aforesaid.*

An order under this section is referred to in this Act as a ‘public path diversion order’.”

11. Officers consider that the legal tests in Section 119 have been met. The first test, as set out above, relates to the order-making stage and officers are satisfied that the diversion has been applied for in the interests of the landowner, APC, in order to enable the development of the Solstice Business Park to continue.

12. Section 119 (2) of the Highways Act 1980 states:

“A public path diversion order shall not alter a point of termination of the path or way:

- (a) if that point is not on a highway; or*
- (b) (where it is not on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public”.*

13. The proposed diversion route retains the same termination point A at its junction with Solstice Park Avenue. The southern termination point C remains on the same highway, (Byway No.1), approximately 140 metres north-north-east of its original termination point B. The proposed diversion route of Bridleway No.29 is approximately 520 metres in length, as opposed to approximately 590 metres of the present definitive route. To reach point B using the proposed diversion route adds approximately 70 metres to the route. The view of officers is that this additional length is substantially as convenient to the public when considered in the general context of the overall length of this path and the greater distance that people using it will be walking or riding during their overall route.