

SALISBURY: PROPOSED DIVERSION
OF FOOTPATH 62

Purpose of Report

1. To seek approval to the making of an Order under Section 119 of the Highways Act 1980 to divert a section of Footpath 62 Salisbury as shown on the plan at **Appendix 1**.

Background

2. The Salisbury Joint Transportation Team has requested the diversion of a short length of Footpath 62 across The Greencroft.
3. In a scheme to progress the Salisbury Transport Plan, the Team wishes to introduce traffic management measures on Bourne Hill.
4. The proposed diversion of the section of Footpath 62 will necessitate the construction of a new footpath across the western part of The Greencroft between Bourne Hill and the path leading to the subway to Kelsey Road, including street lighting.
5. Salisbury District Council owns The Greencroft and the District Council's City Area Committee has approved the scheme.
6. It is hoped that the entire traffic management scheme can be completed by the end of March 2002. It is noted that a major part of the traffic management works for Bourne Hill relies on the permanent diversion of Footpath 62. The works cannot be undertaken until the statutory procedures have been completed.

Comments on the Proposal

7. Consultation on the proposed diversion has commenced and no adverse comments have been received to date.

Legal Position

8. Section 119 of the Highways Act 1980 provides for the diversion of footpaths and bridleways:-

"Where it appears to a Council as respects a footpath or bridleway in their area (other than one that is a trunk road or a special road) that, in the interests of the owner, lessee or occupier of the land crossed by the path or way or of the public, it is expedient that the line of the path, or part of that line, should be diverted (whether onto land of the same or of another owner, lessee or occupier), the Council may, subject to Sub-Section (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 or bridleway as appears to the Council requisite for effecting the diversion.*

Sub-Section (2) states:-

"A public path diversion order shall not alter a point of termination of a path or way:-

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

Sub-Section (6) states:-

The Secretary of State shall not confirm a public path diversion order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that the diversion to be effected by it is expedient as mentioned in sub-section (1) above, and further that the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which:-

- (a) the diversion would have on public enjoyment of the path or way as a whole;*
- (b) the coming into operation of the order would have as respects other land served by the existing public right of way; and*
- (c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it;*

so, however, that for the purposes of paragraphs (b) and (c) above the Secretary of State, or, as the case may be, the council shall take into account the provisions as to compensation referred to in sub-section (5)(a) above."

Conclusions: Options Considered

9. The proposal fits the criteria to make an Order diverting the path as it would be in the interests of the public, within the traffic management scheme, to do so on highway safety grounds.
10. Whilst the Order does alter the termination point of the path on Bourne Hill, it is to a point which will be more convenient to the public.
11. The proposed diversion would not affect the public enjoyment of the path, nor detrimentally affect land served by the path.
12. Failure to make the Order would have a detrimental effect on the Traffic Management Plan and, in turn, affect the Salisbury Transport Plan.

Recommendation

13. That approval be given to the making of an Order under Section 119 of the Highways Act 1980, providing for the diversion of a section of Footpath 62 Salisbury, with a width of 2 metres, shown on **Appendix 1** to this report.

Reason for Recommendation

14. To allow implementation of the Salisbury Transport Plan and the diversion of the footpath in the public interest.

RICHARD J. LANDER

Director of Environmental Services

The following unpublished documents have been relied on in the preparation of this Report:

Correspondence with the Salisbury Joint Transportation Team, District Council, User Groups and Public Utilities.

Environmental impact of the Recommendations contained in this Report:

None.