

REGULATORY COMMITTEE

9<sup>TH</sup> OCTOBER 2002

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**CHRISTIAN MALFORD AND SEAGRY: PROPOSED DIVERSION  
OF PART PUBLIC FOOTPATH 7 CHRISTIAN MALFORD  
AND PART PUBLIC FOOTPATH 4 SEAGRY**

**Purpose of Report**

1. To seek approval to the making of an Order under Section 119 of the Highways Act 1980 to divert part of public footpath 7 Christian Malford and part of public footpath 4 Seagry.

**Background**

2. In approximately 1961, the then Wessex Water Authority undertook flood prevention measures, which included the re-alignment of the River Avon and the provision of a new weir in the vicinity of Seagry Mill. As part of the weir construction a pedestrian walkway was provided over it, some 35 metres to the north of the existing footpath crossing of the Avon.
3. The Water Authority (now the Environment Agency) had mistakenly assumed that in accordance with their statutory powers the old footpath crossing of the River Avon had been automatically diverted. No formal diversion of the way had therefore ever been negotiated.
4. The legality of the alternative route has been disputed for many years and therefore negotiations have been ongoing to resolve the issue between the Authority, the landowners and the Environment Agency.
5. Agreement has now been reached to formally divert the original route of the public footpath as shown on the attached plan (**Appendix 1**) as follows:-
  - (i) **C - D** (solid line)  
The route of part public footpath 4 Seagry and part public footpath 7 Christian Malford as recorded in the Definitive Map.
  - (ii) **C - E - F - D** (broken line)  
The proposed diversion over the weir, continuing as a headland path along the river and brook.
  - (iii) **A - B** (solid line)  
The route of part public footpath 4 Seagry as recorded in the Definitive Map.
  - (iv) **A - G - B** (broken line)  
A very minor division, required as part of the package, to remove the line from the east of a garage block, running through the garden of the property, onto a line to the west and south of the garage, onto the used line.

## **Legal Position**

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

"(i) 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 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 ..."

"(6) 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 (i) 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 ..."

## **Recommendation**

7. That the Authority makes an Order pursuant to Section 119 of the Highways Act, 1980 to divert the public footpath as shown on the plan at **Appendix 1**.

## **Reason for Recommendation**

8. The legal line of the public footpath, as recorded in the Definitive Map, has not been able to be used for many years, due to the re-alignment of the River Avon. Negotiations with the Environment Agency and the two other landowners involved has secured an alternative route which meets the criteria as set out in the Highways Act. The route to be provided is in the interests of both the landowners and the public. It is not substantially less convenient to the public and the public enjoyment of the way will be greatly increased.

9. A full public consultation exercise has been carried out and no adverse comments have been received.

**RICHARD J. LANDER**

Director of Environmental Services

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

None.

**Environmental impact of the Recommendation contained in this Report:**

None.