

REGULATORY COMMITTEE
18th DECEMBER 2002

WINTERSLOW: PROPOSED DIVERSION OF FOOTPATH 28

Purpose of Report

1. To consider an Order being made under the provisions of Section 119 of the Highways Act 1980 to divert Footpath 28 Winterslow where it passes Gutteridge Farm.

Background

2. During the Autumn of 2000, the owners of Gutteridge Farm, East Winterslow, applied for Planning Permission within the provisions of the 1990 Town and Country Planning Act, for a change of use to convert redundant barns at Gutteridge Farm into new dwelling houses.
3. In commenting on the Planning Application, the Rights of Way Team observed that increased use (by means of access to the Gutteridge Farm development) of an unsurfaced path would require improvement works. It was not clear from the plans that the proposed development would encroach on the Footpath.
4. The renovations of the barn have resulted in an increased width to the eastern property boundary, so taking in the width of the Footpath. A new field boundary has been created to the east of the track running south-north at the rear of the properties, being some 8m to the east.
5. A newly created metalled track runs to the east of the properties, extending over the adjacent field boundary, to enable ease of access into the courtyard of the group of dwellings as shown at **Appendix A**, and for which planning permission was granted.
6. A site visit revealed that the completion of the conversion leaves the public in an unsatisfactory position as regards use of the way. Footpath 28 runs uncomfortably close to the new properties.
7. A minor diversion to take the route 5m to the east of the present line is required, in the interests of the public and of the landowner. The diversion would commence just north of No. 2 Gutteridge Farm Cottages, turning east then north to join the new track, running to the northern extent of the new Gutteridge Farm conversions, before turning west to rejoin the legal line presently recorded. The route is shown marked A-B on the plan at **Appendix A**.

Present Position

8. Solicitors acting for the owners of Gutteridge Farm have formally requested that a diversion of this short section of the footpath is made to move the footpath onto the newly constructed track.
9. The owners of Gutteridge Farm have agreed to pay for all costs in relation to the diversion.
10. The eastern boundary of the new track lies in the ownership of adjoining landowner, Mrs Jowlett.
11. Mrs Jowlett has given her written consent to the footpath diversion onto this track and hence her land.
12. The proposed route for the diversion - the metalled road running to the east of the converted properties, is available, and presently in use by the public.
13. The wicker and garden fencing lying on the boundaries of the converted buildings makes the legal line of the path unusable.
14. Diverting the legal line of A-B would make the route more commodious for the public, and would make sense on the ground, being to the east of the property boundary, on the used route.

Policy

15. The current policy of the County Council is not to consider diversions unless the diversion is considered to be substantially in the interests of the owner and the public. Committee approval is required to agree diversion proposals.
16. Officers consider that the diversion marked A-B on the plan would be substantially in the public interest to allow ease of use of the footpath.

Consultation

17. Consultations were carried out on 19th June 2002. The responses are as follows:
18. **Ramblers Association, South Wilts Group** - replied on 30th July 2002 that "*...there are no grounds on which we would raise any objection as the diversion is of a minor nature and the diverted way is free of any obstruction.*"
19. **Winterslow Parish Council** - replied on 26th September 2002 that "*The Parish Council has no objection to this proposal*".
20. **Salisbury District Council** - consent to the diversion is contained within the Planning Permission granted by the District Council.
21. **Utility Companies** - no replies have been received to the consultation.

Legal Points to Consider

22. Section 119 of the Highways Act 1980 states that if the Council considers it expedient *"in the interests of the owner, lessee or occupier of land crossed by the path or way, or of the public"* to divert the line of the path, a diversion order may be made.

Conclusion: Options Considered

23. Footpath 28, Winterslow is currently obstructed by fencing, as constructed within the remit of the agreed planning permission. The proposed diversion is in place on the ground, running on the metalled track alongside the properties.
24. The making of an Order under Section 119 of the Highways Act 1980 would serve the purpose of making a useable and commodious route for the public. It would also allow a satisfactory solution for the owners and solicitors involved with all costs being paid for by the property owner.

Recommendation

25. That:-
- (i) The path be diverted;
 - (ii) An Order be made under Section 119 of the Highways Act 1980 to divert Footpath 28, Winterslow, as shown at **Appendix A**, subject to any works on site being carried out to the satisfaction of the Director of Environmental Services.

Reason for Recommendation

26. To remove the incumbrance of a non-available route from the properties and to make a more commodious route for public use.

RICHARD J LANDER

Director of Environmental Services

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

Correspondence with landowner's solicitors, District and Parish Councils, User Groups, Utility Companies.

Environmental Impact of the Recommendations contained in this Report:

Enhancement of the Rights of Way network