

**REDLYNCH: PROPOSED DIVERSION OF
REDLYNCH FOOTPATH 3 (PART)**

Purpose of Report

1. To seek approval to the making of an Order under Section 119 of the Highways Act 1980 to divert a short section of footpath 3 Redlynch, as shown on the plan attached at **Appendix 1**.

Background

2. The owners of Cuckoo Farm are converting a barn into a dwelling for themselves and have enquired whether it would be possible for footpath 3 to be diverted further away from the barn but still within the same field.
3. The existing footpath exits onto the road on a bend with relatively poor visibility. Although one might imagine the minor road to be reasonably quiet, whilst visiting the location it was noted that the volume and speed of traffic, including buses, was much greater than had been expected in such a rural location. On the same road near Redlynch village is a country club and golf course which reputedly has increased traffic flows.
4. Where the path exits onto the road it passes over land between two ponds and tends to be damp for a considerable period of the year. A narrow footbridge and surrounding area can become quite icy in Winter.
5. The proposed alternative route crosses grassland near the Compass Inn from where it is understood organised walks commence. More significantly the exit onto the road at this point is set back, making it much safer and providing improved visibility.

Consultations

6. **The South Wiltshire Group of the Ramblers Association** stated in a letter dated 19th August 2003 that diverting the path at point A (**Appendix 1**) would be a good place and the access onto the road at point C appeared to be safer than at point B. The Group also felt the proposed route from A-C was more convenient to walk than on the existing alignment with its footbridge and stile, making the new path less hazardous when wet and less liable to flooding. The Group supports the diversion proposal.
7. **Redlynch Parish Council** - no objection.
8. No statutory undertakers' equipment is affected by the proposal.

Main Considerations for the Council

9. 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."*

10. The existing policies with regard to diversion orders are:-

The County Council will, in view of the limited resources available, no longer consider applications for diversion/extinguishment of rights of way unless there are exceptional circumstances for which prior committee approval is required.

Where justified, the County Council will pursue diversion/extinguishment of public rights of way through the most appropriate means possible with a view to recovering from the applicant the reasonable costs incurred by the County Council.

11. The definitive route takes walkers near the barn now being converted into a dwelling. Members of the public could feel awkward or even discouraged from using the path for fear of intruding on the privacy of the landowners. Consequently, this could affect the public enjoyment of the path as a whole, which the Council must consider with regard to the confirmation of an Order.
12. Under the Human Rights Act 1988, occupiers have a right to a private life and peaceful enjoyment of their possessions. Whilst in relation to exercising its duties under Section 53 of the Wildlife and Countryside Act 1981, the 1981 Act does not allow personal considerations to be taken into account in examining potential public rights of way. Section 119 of the Highways Act 1980 does permit the interests of the owner, lessee or occupier of the land to be taken into account in determining it is expedient to divert a path.

Environmental Impact of the Proposal

13. None.

Risk Assessment

14. The alternative route provides safer access onto road C44 and arguably a surface which would be safer to use in Winter.

Financial Implications

15. The landowners have confirmed that they will pay the costs of the County Council in connection with the making of the Order.

Options Considered

16. Members could resolve not to make the Order.

Reasons for Recommendation

17. To provide a safer and more enjoyable route for the public. The diversion is also clearly in the interests of the landowners.

Recommendation

18. That approval be given to the making of an Order under Section 119 of the Highways Act 1980 providing for the diversion of that part of footpath 3 Redlynch, as shown on the plan at **Appendix 1**.

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

Correspondence with the District and Parish Councils and other interested parties