

REPORT TO RIGHTS OF WAY AND HIGHWAY LICENSING PANEL

Title: **Waltham St Lawrence Footpath 25 (part): proposed Diversion Order**

Date: **4th April 2011**

Officer Reporting: **Anthony Hurst, Principal Rights of Way Officer**

Wards affected: **Hurley & the Walthams**

1. SUMMARY

- 1.1 This report seeks the Panel's approval to publish a Diversion Order for part of Waltham St. Lawrence Footpath 25, at Billingbear Park.

2. RECOMMENDATION

- (i) **That the Head of Legal Services, in consultation with the Head of Highways and Engineering, be authorised to publish a Diversion Order for Waltham St Lawrence Footpath 25 (part) as detailed in this report and shown on the plan attached at Appendix 1.**
- (ii) **If no objections are received or any such objections are subsequently withdrawn, to confirm the Order without further recourse to the Panel. If objections are received and not subsequently withdrawn, to report the proposal back to the Panel for further consideration.**

What will be different for residents as a result of this decision?
The route of the footpath used by the public will be legally protected and will be consistent with the route shown on the Definitive Map of Public Rights of Way and Ordnance Survey maps. The landowner will provide an improved surface for walkers, and remove a step stile which can cause access difficulties for some users.

3. SUPPORTING INFORMATION

3.1 Background

- 3.1.1 The Council has received an application from the owners of Billingbear Park for the diversion of part of Waltham St Lawrence Footpath 25. The current legal route of the footpath runs across fenced paddocks, but for many years walkers have instead used a gravel driveway, which skirts around the edge of the paddocks.
- 3.1.2 The intention of the diversion proposal is to re-route the legal line of the footpath to correspond with the route already used along the gravel driveway. A location plan of the existing and proposed routes is attached at Appendix 1. Additionally, a new section of surfaced footpath is to be provided where the gravel driveway currently ends, as this will provide an improved walking surface and separate walkers from

farm traffic, and an existing step stile at point C will be replaced with a staggered barrier which will enable easier access for legitimate users whilst preventing access by motorbikes.

3.2 Legal criteria to be applied

The proposed footpath diversion must be considered under the criteria set out in Section 119 of the Highways Act 1980. This requires that before making a Diversion Order the Council must be satisfied that the proposal would be in the interests of the owner of the land or in the interests of the public. The Council must also be satisfied that the proposed new route will not be substantially less convenient to the public than the existing route, and must have regard to the effect that the diversion would have on public enjoyment of the path as a whole.

It is considered that in this case the Section 119 criteria are clearly met, as the proposed new route of the footpath is more convenient for the public, and the diversion would be in the interests of both the public and the landowner.

4. OPTIONS AVAILABLE AND RISK ASSESSMENT

4.1 Options

	Option	Comments	Financial Implications
1.	Proceed with publication of Diversion Order	Recommended	All costs are to be met by the applicant
2.	Refuse the Diversion Order application	Not recommended	None

4.2 Risk assessment

There are no specific risks associated with option 1.

If the Council declines to make a Diversion Order (option 2) there is a risk that Notice could be served on the Council for failing to take action over paddock fences that currently obstruct the legal line of the footpath (notwithstanding the fact that a more convenient alternative route is available.)

5. CONSULTATIONS CARRIED OUT

5.1.1 The following pre-Order consultations have been carried out:

5.1.2 Ward councillors: no responses received.

5.1.3 Waltham St Lawrence Parish Council: no response received.

- 5.1.4 East Berks Ramblers: support the proposed diversion.
- 5.1.5 Local Access Forum: no objection, comment that waymarking will need updating.

6. IMPLICATIONS

6.1.1 The following implications have been addressed where indicated below.

Financial	Legal	Human Rights Act	Planning	Sustainable Development	Diversity & Equality
✓	✓	N/A	N/A	✓	✓

6.1.2 Financial: The costs of implementing the diversion (including administration fees, newspaper advertisements, and the costs of works carried out on the new route of the footpath) will be fully met by the applicant. There will thus be no cost to the Council.

6.1.3 Legal: The legal criteria for the proposed Diversion Order are set out in paragraph 3.2 above. If no objections are received following the making of the Order, or any such objections are subsequently withdrawn, the Council can itself confirm the Order. If any objections are made and not subsequently withdrawn, the Council must consider the objections and may either withdraw the Order or refer the Order together with the objections to the Secretary of State with a request that he confirms the Order. The Secretary of State may then determine the opposed Order by means of a local public inquiry, a hearing or written representations.

6.1.4 Sustainable development: Effective management of the public rights of way network has a positive impact on sustainable transport by encouraging alternative forms of transport to the car, and a positive impact on health by encouraging walking and cycling.

6.1.5 Diversity and Equality: The proposal would have a positive impact on diversity and equality, as the footpath will be more accessible to people with restricted mobility due to the proposed surface improvements and replacement of the step stile with a staggered barrier.

Background Papers: Diversion application
 Consultation responses

Authorisation:

	Legal	Finance	Planning	Property	Procurement	DMT
Name:						
Date Approved:						

	Directors Group	Lead Member	Ward Cllrs (if Appropriate)	Leader's Office	Scrutiny Panel
Name:					
Date Approved:					