



Report for: ACTION
Item Number: 4

Contains Confidential or Exempt Information	NO
Title	Hurley Footpath 25 : proposed Diversion Order
Responsible Officer(s)	Anthony Hurst, Principal Rights of Way Officer Ben Smith, Strategic Manager Highways and Transport.
Contact officer, job title and phone number	Anthony Hurst, Principal Rights of Way Officer 01628-796180
For Consideration By	Rights of Way and Highway Licensing Panel
Date to be Considered	4 th June 2013
Affected Wards	Hurley & Walthams

Report Summary
 This report seeks the Panel's approval to publish a Diversion Order for part of Hurley Footpath 25. A plan showing the proposal is attached at Appendix 1.

If recommendations are adopted, how will residents benefit?	
Benefits to residents and reasons why they will benefit	Dates by which they can expect to notice a difference
The proposed new route of the footpath would be a more attractive, safe and enjoyable route for path users than the existing footpath.	2013

Details of Recommendations:

- (i) That the Head of Legal Services, in consultation with the Strategic Manager of Highways and Transport, be authorised to publish a Diversion Order for Hurley Footpath 25 (part) as detailed in this report.
- (ii) If no objections are received following publication of the Order, or any such objections are subsequently withdrawn, to confirm the Order without further recourse to the Panel. If objections are received and not subsequently withdrawn, to report the proposal back to the Panel for further consideration.

Financial details: All costs arising from the diversion, (including legal and administration costs, newspaper advertisements, and the costs of physical works to create the new route of the footpath) will be met by the applicant. The Applicant has also agreed to defray the costs of any compensation payable as a consequence of the making of the diversion order.

Legal implications: The proposed 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 expedient in the interests of the owner, lessee or occupier of the land crossed by the path and/or in the interests of the public. In this case the order would be made in the interests of the owner as moving the path away from the residential property will improve security of the property. Due regard has been paid to the needs of agriculture and forestry and the desirability of conserving flora, fauna and geographical and physiographical features. It is considered that the diversion of the path will not affect any of the above. Where a proposed diversion alters the point of termination of the path on a highway, it can be diverted only to a point which is on the same or a connected highway which is substantially as convenient to the public. In this case both points of termination of the path would be on Hurley FP 25, so this requirement is met.

Before it confirms an order the Council must also be satisfied that the proposed new route of the footpath 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. Consideration of the factors which contribute to convenience such as the nominal increase in length of the path, the new path having a defined width, the ease of route finding, and the surface and setting of the new path leads to the conclusion that the diverted route will be more convenient and enjoyable for the public than the current route.

Under the Council's Constitution, the Council's power to divert public footpaths and bridleways is delegated to the Rights of Way and Highway Licensing Panel.

Value for Money: As noted above, there will be no cost to the Council arising from the proposed diversion. Additionally, the applicant has undertaken to enter into a maintenance agreement whereby they will be responsible for maintaining the new route of the footpath.

Sustainability Impact Appraisal: 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.

Risk Management: There are no identified risks associated with this proposal.

Links to Strategic Objectives: Effective management of the public rights of way network has a positive impact on healthy lifestyles by encouraging walking.

Equalities, Human Rights and Community Cohesion: The proposed new route of the footpath will have no stiles or steps, and will have a firm, level, well-drained natural surface that would be accessible to people in wheel chairs or mobility buggies, and by walkers with pushchairs.

Staffing/Workforce and Accommodation implications: none.

Property and Assets: none.

Consultation:

Pre-order consultations already undertaken:

Ward members for Hurley & Walthams (Cllrs. Cox, Evans and Hunt) have been consulted, and Cllr Hunt attended a site meeting with the applicant on 7th May. No objections have been raised by the ward members.

Hurley Parish Council has been consulted and members of the Parish Council attended a site meeting with the applicant on 7th May. The Parish Council has no objection to the diversion application.

The East Berks Ramblers have been consulted, and support the proposed diversion (see comments in Appendix 2).

The Local Access Forum has been consulted on the proposal and has no objection.

Formal consultations:

If the Panel approves the making of an Order, statutory consultations will be undertaken. This will entail the posting of Notices on site and in the Maidenhead Advertiser, and formal written consultations with statutory consultees. If any objections are received during the statutory 28 day consultation period the proposal will be reported back to the Panel for further consideration.

Timetable for Implementation: Provided that no objections are received during the statutory consultation period and that the Order is confirmed, it is anticipated that the diversion will be implemented in 2013.

Appendices:

Appendix 1: plan showing diversion proposal.

Appendix 2: consultation responses.

Background Information:

1. The application: the Council has received an application from the landowner for the diversion of part of Hurley Footpath 25. The reasons for the diversion as stated by the applicants are as follows:
2. *"Footpath 25 Hurley currently crosses the plot of land that I have purchased. The alignment has been obstructed for many years by the actions of the previous landowner. The Council is aware of the position, the freeholder and head tenant have given their consent, and I have consulted with the Ramblers. There is a desire from all parties to get this unsatisfactory situation resolved once and for all, particularly as the current unofficial alignment takes people to the north east and north west sides of the plot on a dangerous and narrow track.*

The land and house at Channers was left in a completely dilapidated and waste filled state by the previous landowner and it is my intention to do works to the land to create an attractive family home that is appropriate to the Greenbelt landscape in which it sits. Put simply, we want to create a country environment in which to raise our two young daughters. The current Footpath 25 is preventing the

essential remediation and redevelopment of this land and it would also vastly impact on the privacy and security of any new family home. In summary, the footpath's diversion is crucial to the viability of my hopes and aspirations for my family."

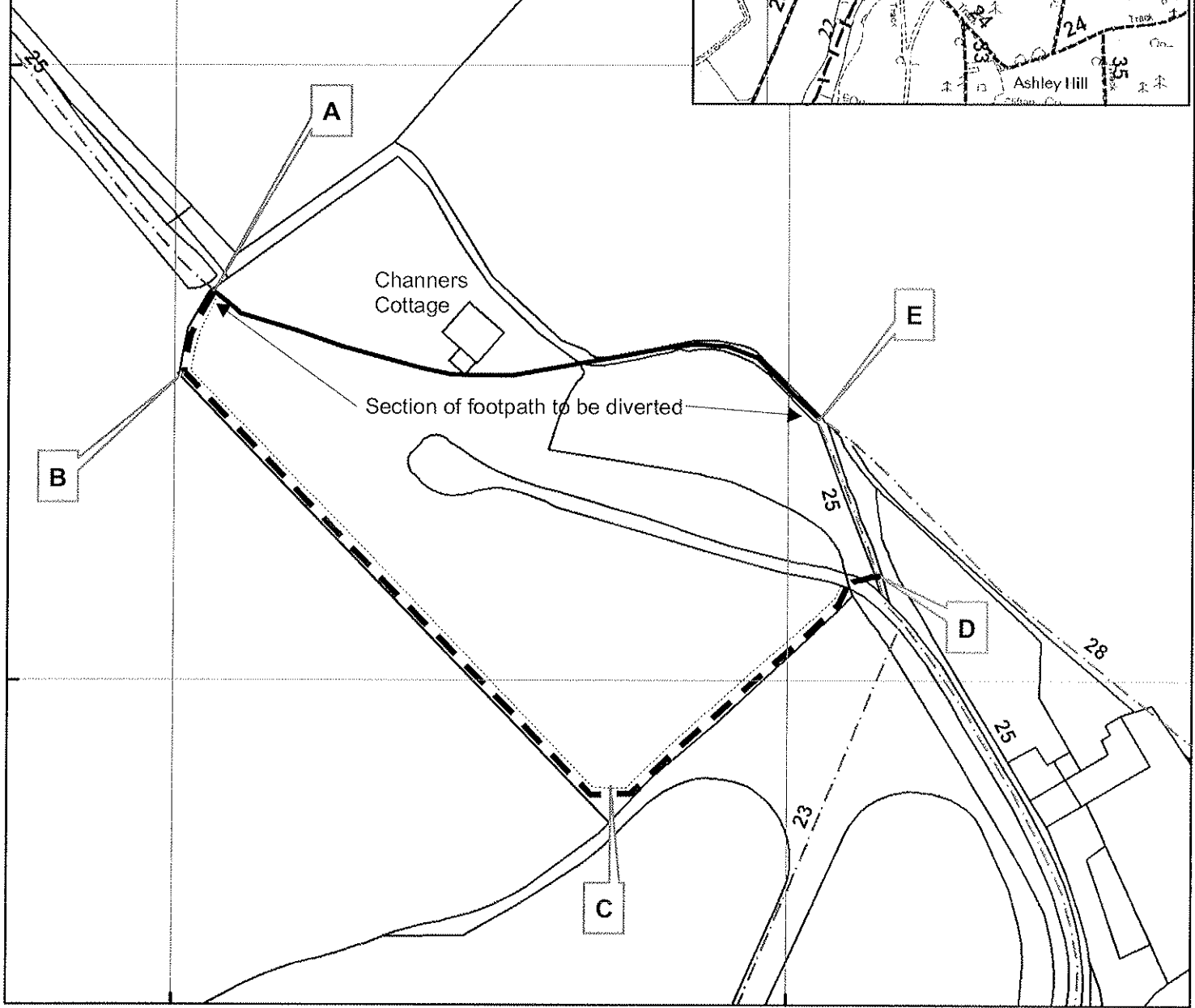
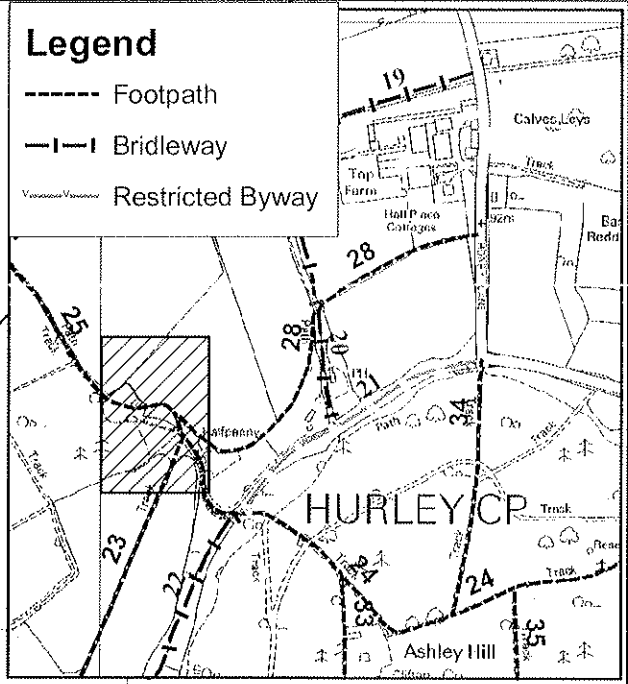
3. The existing legal route of Hurley Footpath 25 runs through the grounds of the property "Channers", between points A to E on the plan at Appendix 1. The section of Footpath 25 that passes "Channers" cottage has been blocked for many years, since the previous owner of the property put in place an unofficial diversion which skirts around the northeast and northwest of the property. In assessing whether the proposed new route of the footpath is substantially as convenient to the public as the existing legal route, the Council should disregard the existing obstructions on the footpath.
4. The proposal is to divert the section of Hurley Footpath 25 shown between points **A** and **E** on the Plan at Appendix 1 to follow the routes shown as **A-B-C-D**.
5. The proposed new footpath would skirt around the southeast and southwest edge of the property (rather than follow the existing unofficial diversion around the northeast and northwest of the property). The proposed new footpath would have a firm, level, well-drained natural surface, and be separated from the grounds of the property by a post-and-wire fence not exceeding 1.2 metres in height. The proposed new footpath would have a legally defined width of 3.0 metres throughout, and in a few places where there are trees within this 3.0 metre width there would be a clear usable width of a minimum of 2.0 metres. There would be no stiles or gates across the line of the footpath.
6. Conclusion: No objections have been received in response to pre-order consultations with the Parish Council, ward members and the Local Access Forum, and it is noted that the East Berks Ramblers have confirmed their positive support for the proposal. It is considered that the legal criteria for making a Diversion Order (as set out in the Legal Implications paragraph above) are met, and that a Diversion Order should be published. In the event that any objections are received following publication of the Order, and are not subsequently withdrawn, the proposal would be brought back to the Panel for further consideration.

Consultation

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Cllr John Stretton	Panel Chairman		Chairman's Briefing 17th May	
Cllr Maureen Hunt	Panel Vice-Chairman		Chairman's Briefing 17th May	
Ben Smith	Strategic Manager Highways & Transport			
Shared Legal Services	SLS	9 th May	10 th May	Legal Implications paragraph
Decision type: decision		Urgency item NO		
Report no.	Full name of report author	Job title	Full contact no:	
	Anthony Hurst	Principal Rights of Way Officer	01628-796180	

Legend

- Footpath
- |-|- Bridleway
- ~~~~~ Restricted Byway



482000

482100

Public Rights of Way

Scale: 1:1,000

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Hurley Footpath 25 (part) Public Path and Definitive Map and Statement Modification Order

- Route as existing A-E
- - - - - Route as proposed A-B-C-D
- Parts of footpath 25 and other rights of way unaffected by the Order

(5)

The Royal Borough

Windsor & Maidenhead



Mr A Hurst
Principal Public Rights of Way Officer
Royal Borough of Windsor & Maidenhead Town Hall
Maidenhead
Berks SL6 1RF

29 April 2013

Dear Anthony

Hurley footpath 25 (part) diversion application: consultation letter

Thank you for your letter of 27 March 2013.

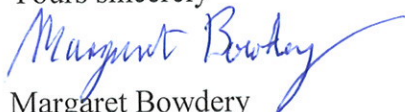
We welcome the proposed diversion which will resolve the many problems we have experienced since 1978 whilst using the unofficial diversion round the boundary of the Channers Cottage property.

The proposed realignment round the south and west boundary of the property follows the route we agreed with the applicant on the 8 January 2013. We would like to make the following recommendations to safeguard the future of this footpath:-

- Width** The footpath should have a minimum usable width of 3m between fencing.
- Hedging** Any hedge planting should be outside the perimeter footpath fencing
- Trees** Where existing trees fall within the width of the proposed footpath a minimum width of 2m should be provided
- Dog-legs** The path should follow a natural curved line at points B - C - D - E to maintain clear sight lines where the path changes direction.
- Gaps** As a stock proof boundary fence is proposed on both sides of the new footpath, there should be no limitations/gates at Point B or E in accordance with Council Service Standards and to comply with British Standards. NB There are no gates on the existing unofficial route.

We look forward to this diversion being approved by the Rights of Way Panel on 4th June.

Yours sincerely



Margaret Bowdery
President & Footpath Secretary
East Berks Group