

Hampshire County Council

ITEM

Regulatory Committee

26 April 2006

**Application for a Public Path Diversion Order for
Footpath Nos. 18, 22, 23 & 25 in the Parish of Odiham**

Report of the Director of Recreation and Heritage

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Orders for the Diversion of Footpaths and Bridleways may be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, in the following circumstances:-

“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 (whether on to land of the same or of another owner, lessee or occupier), the council may, subject to subsection (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; and
- (b) **extinguish**, as from such date as may be so specified in accordance with the provisions of subsection (3) below, the public right of way over so much of the path or way as appears to the council requisite as aforesaid.

An order under this section is referred to in this Act as a '**public path diversion order**'.”

Members must be satisfied that the diverted route will not be substantially less convenient to the public, and must have regard to the effect that a diversion will have on the enjoyment of the path as a whole.

1. Summary

- 1.1 Hampshire County Council has received an application to divert Footpath Nos.18, 22, 23 & 25 in the Parish of Odiham, as shown on the attached large scale plans (two).
- 1.2 It is proposed that the application for diversion of Footpath Nos.18, 22, 23 & 25 be **approved** under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, on the grounds that the diversion is in the interests of the public.

2. Parties to the Application

- 2.1 The application has been made by Michael De Courcy, of The Bell Cornwell Partnership, Oakview House, Station Road, Hook, Hampshire RG27 9TP.
- 2.2 Mr De Courcy is acting as Agent for G H Janaway & Sons Ltd, of Lodge Farm, North Warnborough, Hampshire RG29 1HA.
- 2.3 G H Janaway & Sons Ltd is the freehold owner of all of the land affected by both the existing footpaths and the proposed new routes.

3. The existing routes and proposed diversions

3.1 Section A-X (part of Footpath No. 23)

- 3.1.1 **Current Alignment** - This section of Footpath No.23 begins at Point A (GR 473415 152325) at a stile beside a road bridge over the River Whitewater and proceeds north east along a narrow concrete access road to Point X (GR 473600 152454) in the centre of a vehicle marshalling yard.
- 3.1.2 The length of Footpath No.23 affected by the proposal is approximately 233 metres.
- 3.1.3 **Proposed Alignment** - The proposed new route of Footpath No.23 begins at Point A (GR 473415 152325) at a stile and proceeds west across a road bridge over the River Whitewater for approximately 30 metres. It then crosses the road to a gap in the fence and continues west down a newly constructed ramp to a gate at Point B (GR 473360 152362). The route then follows high ground at the top of the water meadow to a T-junction with Footpath No.25 at a gate at Point C (GR 473536 152550).
- 3.1.4 The length of the proposed route A-B-C will be approximately 330 metres.

3.2 Section D-X-Y-F (parts of Footpath Nos. 23 and 25)

- 3.2.1 **Current Alignment** - This section of Footpath No.25 begins at Point D (GR 473575 152494) and proceeds south east along a narrow concrete access road for approximately 40 metres to Point X (GR 473600 152454) in the centre of a vehicle marshalling yard. It then continues east across the yard, along part of Footpath No.23, for approximately 75 metres to Point F (GR 473675 152450).

3.2.2 The total length of Footpath Nos.23 and 25 affected by the proposal is approximately 115 metres.

3.2.3 **Proposed Alignment** - The proposed new route of this section begins at Point D (GR 473575 152494) and crosses a minor access road to Lodge Farm in order to gain access to a grass verge behind a parking area. It then turns east along a tarmac path on the northern edge of the vehicle marshalling yard before reaching Point F (GR 473675 152450).

3.2.4 The total length of the proposed route D-E-F will be approximately 126 metres.

3.3 Section Y-H (part of Footpath No. 18)

3.3.1 **Current Alignment** - This section of Footpath No.18 begins at Point Y (GR 473656 152450) and proceeds south along a concrete access road between farm buildings to Point H (GR 473696 152242) at the base on an inclined access ramp to the road bridge.

3.3.2 The total length of Footpath No.18 affected by the proposal is approximately 216 metres.

3.3.3 **Proposed Alignment** - The proposed new route of Footpath No.18 begins at Point F (GR 473675 152450) and proceeds south along a new headland path to rejoin the current alignment at Point H (GR 473695 152242).

3.3.4 The total length of the proposed route F-G-H will be approximately 206 metres.

3.4 Section L-K-J (part of Footpath No. 22)

3.4.1 **Current Alignment** - This section of Footpath No.22 begins at Point L (GR 474404 152104) and proceeds west across a field, ploughed and sown to arable crops, to Point K (GR 473938 152260) and then south and west to reach the field headland at Point J (GR 473834 152144).

3.4.2 The total length of Footpath No.22 affected by the proposal is approximately 668 metres.

3.4.3 **Proposed Alignment** – The proposed new route of this section of Footpath No.22 begins at Point L (GR 474404 152104) and proceeds south across the field by the shortest possible route to reach the headland at Point M (GR 474368 151982). It then continues north and west on a new headland path to reach Point J (GR 473834 152144).

3.4.4 The total length of the proposed route L-M-J would be approximately 684 metres.

4. The reasons for the application

The increasing volume of heavy vehicle movements on the access roads in and around Lodge Farm has raised concerns over public safety, and these are shared by both landowner/tenant and the users of public footpaths that traverse the site.

The World Flowers operation on the Lodge Farm site has grown over the years to the point where it now employs up to 330 local employees, drawn from the surrounding area. It is neither desirable nor practical to consider relocation of the enterprise away from this site, simply in order to reduce traffic volumes.

Given the location of the site in relation to the river and the major roads/motorway to the north, west and south, it would be difficult to suggest alternative options for vehicular access that did not also impact upon other sections of public footpath.

Traffic calming measures have been suggested by at least one objector, but this is not a practical solution, given that it is not the speed of the vehicles that is at issue – there is already signage in place limiting speeds on the access road to 20mph.

The proposed changes to the network in the vicinity of Lodge Farm, and the associated commercial developments, will benefit the landowner/tenant in that the risk of injury to pedestrians will be greatly reduced and the efficiency of farming operations will be improved, but the application has been accepted on the basis that there is sufficient public interest in the proposed diversion to justify an order on that basis alone.

5. The benefits to the public

It is felt that the proposed changes to the network in the vicinity of Lodge Farm will benefit the walking public in the following respects:

- 5.1 Potential conflict between walkers and vehicles on the current routes of Footpath Nos.23 and 25 (the access road for Lodge Farm and the World Flowers industrial units) will be avoided, leading to a significant improvement in pedestrian safety.
The new route takes a dry line across attractive water meadows and then skirts to the north of the marshalling yard on a grass verge and tarmac path.
- 5.2 The northern section of Footpath No.18 is channelled between tall agricultural buildings that restrict views to either side. The area is also subject to frequent movements of animals and farm machinery.
The new route will follow a headland path with extensive views to the east across market gardens.
- 5.3 A large section of Footpath No.22 follows an alignment across a field which is frequently ploughed for arable crops.
The new route will minimise the cross-field length of footpath and include a significant section of headland footpath, leading to an improvement in conditions underfoot.
- 5.4 There will be no requirement for stiles within the revised alignment, although it is envisaged that gates of an approved design will be installed at Points B and C, in order to allow sheep to be grazed on the water meadow.

- 5.5 The proposed realignment of Footpath Nos.18, 22, 23 and 25 does not introduce any significant change in the length of network, nor does it restrict access to routes or points of interest which are accessible from the current alignments.

In developing these proposals with the landowner, the Council has endeavoured to take account of the requirements of the Environment Agency with regard to development on the Whitewater floodplain, and the concerns of user groups that access to the countryside should be preserved and, where possible, enhanced.

6. Summary of Consultation

The proposal was sent out for formal consultation on 5th December 2005 to the following representative groups:

- 6.1 **Local Member** - Cllr Jonathan Glen
Councillor Glen has been consulted on this proposal.
- 6.2 **Hart District Council**
Hart District Council has been consulted on this proposal.
- 6.3 **Odiham Parish Council**
Odiham Parish Council supports the diversion of Footpath Nos.18, 23 and 25, but objects to the proposed route of the diverted section of Footpath No.22, in that the new alignment appears to be “a less safe and less pleasant environment”, being near to the embankment of the A287 road.
- 6.4 **Rights of Way Area Officer – North East**
The proposal had the support of the Area Rights of Way Officer (Rob Thompson) at the time of the site visit in September 2005.
- 6.5 **HCC – Highways Management**
Highways Management has no comment to make on this proposal.
- 6.6 **HCC – Environment Department**
Environment Department has been consulted on this proposal.
- 6.7 **Hampshire County Archivist**
The Ordnance Survey Maps of the late 19th Century appear to show the majority of the current footpath routes. The Archive does not suggest that any higher rights existed over the routes to be diverted.
- 6.8 **The Ramblers’ Association**
The Ramblers’ Association has objected to the proposed diversion of section A-X of Footpath No.23 onto an alignment A-B-C on the western side of the water meadow. However, their preferred route (from Point A to Point D) follows a narrow strip of river bank between the existing access road and the water course, and this alignment is not acceptable to either the Landowner or the Environment Agency.

An alternative alignment running from Point D across the existing bridge over the River Whitewater and then down the western edge of the water meadow is not acceptable to

the County, as the maintenance or replacement of the bridge structure would be subject to obtaining the approval of the Environment Agency.

The Ramblers' Association is, however, in favour of the remaining measures (summarised in paragraphs 3.2 to 3.4).

6.9 The Open Spaces Society

The Open Spaces Society has objected to the proposed diversion of section A-X of Footpath No.23 onto an alignment A-B-C on the western side of the water meadow. Their preferred route is similar to that suggested by the Ramblers' Association.

The Society also has reservations about the route chosen for the diverted alignment of Footpath No.22 and would prefer a route further away from the noise and pollution of the A287 road, together with the dedication of an additional link from Point L to the junction of Footpath Nos.23 & 26. This counter-proposal is not acceptable to the Landowner.

The Open Spaces Society is, however, in favour of the remaining measures.

6.10 Land Access & Recreation Association (LARA)

LARA has no objection to the Proposal.

6.11 British Horse Society

No response to consultation.

6.12 National Farmers Union

The National Farmers Union fully supports the proposals.

6.13 Cyclists Touring Club

No response to consultation.

7. Comments on Consultation Replies

7.1 This proposal has been triggered largely by concern over safety issues on the narrow concrete access road between Points A and X, that carries part of Odiham Footpath No.23. It is not possible to overcome this problem by the implementation of traffic calming or other measures along this road – it is simply too narrow to accommodate both large vehicles and pedestrians at the same time, regardless of the speed involved.

7.2 The opportunity has been taken to incorporate a number of other modifications to the rights of way network that will be of overall benefit to the public.

7.3 Comments received from user groups as a result of the consultation exercise have, for the most part, been either neutral or favourable. There are no strong objections on grounds of principle to the diversion the routes of Odiham Footpath Nos.18, 22, 23 & 25, although the landowner's proposals have not attracted universal support.

7.4 In particular, the proposal to divert Footpath No.23 through Points A, B and C around the margins of the water meadow has provoked adverse comment from two user groups (the Ramblers' Association and Open Spaces Society), but in the absence of a more attractive alternative that is also acceptable to the Environment Agency, the Landowner wishes to proceed with the proposal agreed at a site meeting on 12th September 2005.

8. Criteria for Assessment of the Proposal

- 8.1 The Council, as a Highway Authority, has the *power* to make a Public Path Diversion Order, if it is considered *expedient* to do so in a particular case.
- 8.2 Section 119(2) of the Highways Act 1980 requires that a Diversion Order should not be *made* unless the new termination point is substantially as convenient to the public as the existing termination point.
- 8.3 Section 119(6) of the Highways Act 1980 requires that a Diversion Order should not be *confirmed* unless the new 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:
- 8.3.1 the diversion would have on public enjoyment of the path or way as a whole;
 - 8.3.2 the coming into operation of the order would have as respects other land served by the existing public right of way; and
 - 8.3.3 any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it.

9. Conclusion

Officers are of the opinion that the proposed diversion satisfies the criteria required by section 119 of the Highways Act 1980 and that it is expedient for the Council to make an order in that:

- 9.1 The proposal for diversion of Odiham Footpath Nos.18, 22, 23 & 25 is *in the interests of the public*, as it will provide safer routes for walkers (see paragraphs 5.1 – 5.5).
- 9.2 The proposed diversion will *not be substantially less convenient than the existing route*. The only significant change in length occurs where the route A-X (233 metres) is diverted to the route A-B-C (330 metres) through the water meadows.
- 9.3 The proposed diversion will *not affect the enjoyment of the path as a whole*, as the new routes have been chosen to minimise the interaction between vehicles and pedestrians, and provide a good walking surface with pleasant views of the surrounding countryside.
- 9.4 The alignment and surfacing of the diverted routes should not result in a significant increase in the cost of maintenance at public expense.

10. Recommendation

It is recommended that an Order be made for:

- 10.1 The diversion of part of Footpath No.23 in the Parish of Odiham from the current route to a new alignment running from Point A (GR 473415 152325) through Point B (GR 473360 152362) to Point C (GR 473536 152550).
- 10.2 The diversion of parts of Footpath Nos.23 and 25 from the current route to a new alignment running from Point D (GR 473575 152494) along the northern edge of the vehicle marshalling yard to Point F (GR 473675 152450).
- 10.3 The diversion of parts of Footpath No.18 from the current route to a new alignment running from Point F (GR 473675 152450) south along a headland path to Point H (GR 473696 152242).
- 10.4 The diversion of parts of Footpath No.22 from the current route to a new alignment running from Point L (GR 474404 152104) south across the field to the headland at Point M (GR 474368 151980), and then north and west on a headland path to Point J (GR473834 152144).

Section 100 D – Local Government Act 1972 – background papers

The following documents disclose facts or matters on which this report, or an important part of it, is based and which have been relied upon to a material extent in the preparation of the report.

NB the list excludes: (1) published works and (2) documents which disclose exempt or confidential information as defined in the Act:

File: ATJ/DIV/Odiham Footpath Nos.18, 22, 23 & 25
Rights of Way Office, Mottisfont Court, Winchester