

Report of the Director of Environment

Meeting of EBM Regeneration and Leisure 07/10/16

Subject: Public Footpath 9/6, Hazelwell House, Whitland

Purpose: Application to divert Registered Public Footpath 9/6 at Hazelwell House, Whitland, under section 119 of the Highways Act (1980) made in the interests of the landowner.

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1. BRIEF SUMMARY OF PURPOSE OF REPORT

The report is seeking the approval to make an Order to divert a public footpath at Hazelwell House, Whitland. The current path follows an historic route from St. Cyffic's Church to Trevaughan, Whitland. An application has been made by the owners of Hazelwell House to divert the path. If approved the diversion would be made in the interests of the landowner for reasons of improving their their privacy and security.

An Order was previously made in 2006 which received objections and remains unconfirmed. All objections have subsequently been addressed and withdrawn. As a result of changes made to the proposed diversion a revised Order now needs to be made.

2. KEY DECISIONS REQUIRED, IF ANY

Approval from the Executive Board Member for Regeneration and Leisure to make the necessary Public Path Order.

3. RECOMMENDATION(S)

That the application be approved and the Authority make the necessary Public Path Order.

4. REASON(S)

The application satisfies the tests laid out in section 119 of the Highways Act 1980, namely that it is expedient that the line of the path should be diverted in the interests of the owner of the land crossed by the path and that the proposed diversion is not substantially less convenient to the public and that it does not adversely affect public enjoyment of the path as a whole.

5. BACKGROUND AND EXPLANATION OF ISSUES

Public footpath 9/6 follows an historic trackway downhill from St Cyffic's Church to Trevaughan, Whitland. A section of the southern part of the route forms the main driveway of Hazelwell House, and then leaves the driveway to pass the property's house and outbuildings along the old trackway, which becomes increasingly overgrown and rough underfoot, before eventually leaving the property and entering woodland. An application was made by the owners of Hazelwell house prior to 2006 to divert part of the footpath off the main driveway and away from the house and outbuildings, taking it through adjacent fields and rejoining the original route where it enters the woodland at the property boundary. An order was subsequently made in 2006 but an objection was received and the order remained unconfirmed, and therefore did not come into force. The applicant contacted the Authority again in July 2014, with a view to proceeding with the diversion, and it was decided that due to the length of time that had elapsed since the order was made the order should be re-advertised and a consultation carried with our statutory consultees and interested parties. This took place in June 2015.

As a result of the consultation a number of objections were received from members of the public on the following grounds:

- 1) That the new route would be longer and crossed more difficult terrain.
- 2) As the new route would pass through fields there was the potential for contact with livestock.
- 3) Part of the new route would cross a wet area subject to flooding.
- 4) Diverting from a safe route bordered by fences and hedges to a route through open fields.

There was one statement of support for the order.

The main objector to the original and re-advertised order lives on an adjacent property, below Hazelwell House. Their primary concern was regarding item 3) above, namely that the registered route is affected by surface water flooding which discharges from the public right of way, into the field containing the diversion route, and subsequently onto their property. They felt that unless the flooding issue was resolved they would not support the order.

Following the objections we contacted the applicants, who then employed a landscape architect to re-draft the diversion route taking into account the objectors views. The route of the diversion was shortened, crossing one field, that would be fenced off to provide a

corridor of equivalent width to the original route to avoid contact with livestock, but allowing grazing by sheep to reduce maintenance requirements. The section of path through the wet area subject to flooding would be surfaced with stone, and a new drainage works scheme would be put in place to take surface water off both the existing and proposed routes. The new route also offers improved views of the surrounding countryside.

We subsequently contacted the objectors with details of the new proposals, and all objections have now been withdrawn.

Conclusions

We are satisfied that the above changes to the original Diversion Order meet the tests laid out in s119 HA80, namely:

- (i) That it is expedient that the line of the path or part of the line should be diverted in the interests of either the owner, lessee or occupier of land crossed by the path or of the public.
- (ii) That the proposed diversion is not substantially less convenient to the public and that it does not adversely affect public enjoyment of the path as a whole.

If the Order is made we will need to carry out a further 28 day public consultation, as required by the 1980 Act.

The applicants will meet all costs associated with works required to bring the new route into being. The applicants and will be responsible for carrying out the said works.

6. OTHER OPTIONS AVAILABLE, AND THEIR PROS AND CONS

If the diversion were to be rejected and original order unconfirmed the path could remain on its original route. This course of action is likely to be unsatisfactory to the applicants.

7. IMPLICATIONS:

2. LEGAL

The Order will be made in accordance with Legal Powers set out in section 119 of the Highways Act 1980.

3. FINANCE

The cost of making, publicising and confirming the Order will be approximately £1100. This can fluctuate due to variations in advertising costs. The applicant has undertaken to pay the £1100 fee to cover the cost of the order and they have signed a declaration to that effect.

8. FEEDBACK FROM CONSULTATIONS UNDERTAKEN

1. SCRUTINY COMMITTEE & DATE - N/A

2. LOCAL MEMBER (S) TO BE NAMED AND COMMENTS INCLUDED, IF ANY

Cllr Jane Tremlett – no comments received

3. COMMUNITY TOWN COUNCIL (S)

Eglwys Gymyn CC – no comments received

4. RELEVANT PARTNERS

Applicants, Hazelwell House, Whitland, Carmarthenshire

5. STAFF SIDE REPRESENTATIVES

The Ramblers Association – No comments received

Area Ramblers Representative – no objection / positive response

“I visited the site with Kevin Thomas [original case officer] in 2012”. “We walked the site together and I subsequently wrote to KT to say that I had no objection to the proposed diversion. I did make one or two observations but as I recall they were not in any way objections. I felt that the diversion route across the field was a better route for the footpath.”

Carmarthenshire Local Access Forum – No comments received

Open Spaces Society – No comments received

Carmarthenshire Tourist Association – No comments received

6. OTHER

Objector 1 - objection now withdrawn

Objector 2 - objection now withdrawn

Objectors 3 - objection now withdrawn

Objector 4 - objection now withdrawn

Objector 5 - objection to original order, no response to new proposal

9. LIST OF BACKGROUND PAPERS USED IN THE PREPARATION OF THE REPORT

Title of Document	File Ref No.	Where available for public inspection
FP 9/6 Hazelwell House, Whitland, Diversion.	RW2/9/Sub-file	Public Rights of Way, Mynydd Mawr Woodland Park, Heol Hirwaun Olau, Tumble, Carmarthenshire, SA14 6HU