



PUBLIC FOOTPATH NO. 375, NORMANDY PROPOSED DIVERSION

SURREY COUNTY COUNCIL LOCAL COMMITTEE (GUILDFORD)

1st DECEMBER 2005

KEY ISSUE

This report considers whether or not an Order should be made to divert footpath 375 in Normandy from its current route. Members are asked to approve the making of a Diversion Order.

SUMMARY

An application has been received from Mr G R Gosden of Little Flexford, Normandy to divert Public Footpath No. 375 where it crosses his land. Mr Gosden has applied in his own interest as landowner to move the footpath further away from his driveway and house. The County Council has a power to make Public Path Diversion Orders under Section 119 of the Highways Act 1980. Applications may be made in the interest of the owners, lessees or occupiers of land, or the general public. The County Council must be satisfied that it is expedient that the line of the path should be diverted. When an Order is confirmed criteria such as convenience and public enjoyment of the path must be satisfied. Two objections have been received to the proposal.

Report by

HEAD OF PLANNING & COUNTRYSIDE

Surrey Atlas Ref.

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GUILDFORD B.C. WARD(S)

NORMANDY

COUNTY ELECTORAL DIVISION(S)

WORPLESDON

OFFICER RECOMMENDATIONS:

Members are asked to agree:

- (i) that a Diversion Order under Section 119 of the Highways Act 1980 for Public Footpath No. 375, Normandy as shown on Drawing No. 3/1/59/H18b (attached as **ANNEXE A**), be made, and either confirmed as an unopposed order, or if objections are received submitted to the Department of the Environment, Food and Rural Affairs for determination.

PROPOSAL

- 1 Mr G R Gosden of 'Little Flexford', Flexford Road, Normandy has applied to divert Public Footpath No. 375, Normandy as shown on Drawing No. 3/1/59/H18b (**ANNEXE A**). Mr Gosden has applied in his own interests as landowner. If the footpath is moved he will be able to increase his security and privacy and says walkers will have a more straightforward route to follow. Mr Gosden has agreed to pay the County Council's costs associated with the making of a legal order and to undertake any necessary works on the new route. Part of the proposed diversion affects land in the ownership of "The Old Stud Farm" whose owners have agreed to the proposal.
- 2 The definitive route currently leaves Flexford Road at point 'A', runs along the entrance to "The Old Stud Farm" and crosses over a stile onto land in the ownership of Mr Gosden. It runs along his driveway and garden area and continues to a stile at point 'B'. It then crosses a field which can be extremely wet in the winter, to a stile at point 'C'. Horses are kept in the field which means the surface of the footpath gets churned up making it difficult to walk on. The proposed route would run from point 'F' parallel to a stream to points 'D' and 'E'. It would then continue across a sleeper bridge through a band of trees to point 'C'. The route 'F'- 'D'- 'E'- 'C' currently exists on the ground and Mr Gosden says many local walkers prefer to use it as it is drier with no stiles and it is away from the house and garden.

RESULT OF CONSULTATIONS

- 3 The statutory bodies and other interested parties have been consulted on the proposal. Guildford Borough Council, the Ramblers Association, the Open Spaces Society and Normandy Parish Council have all raised no objections. The Parish Council and Open Spaces Society representatives had initially raised concerns but following a site meeting they withdrew their objections. Two objections have been received from individuals. One does not object to a diversion in principle but is concerned the route at point 'E' floods after heavy rains. The other objector is the previous owner of the property and her concern is that the proposed route is too wet and does not see the need for a diversion.

- 4 The applicant has recently cleared out a drainage culvert near point 'E' which he says will prevent flooding in that area. The Ramblers Association have stated there is a lot of merit in the diversion which is drier and with clear waymarking will be easier to follow. Five local residents who use the path regularly have written saying they prefer to use the new route as it is less muddy, easier to use and an improvement on the current route. One says they feel they are intruding on the definitive route being so close to the house. There are two stiles on the definitive route and none on the proposed route making it easier for less able walkers to use.

FINANCIAL IMPLICATIONS

- 5 Mr Gosden has agreed to meet the advertising and administrative costs of making a legal order. If an order is made and objections are received causing a Hearing or Public Inquiry to be held, costs in the region of £1,000 will have to be met from the rights of way budget. Any further works to implement the path on the ground will also be met by Mr Gosden.

HUMAN RIGHTS ACT 1998

- 6 Under the Human Rights Act 1988, local authorities are required to act, as far as possible, in a way that does not breach rights contained in The European Convention on Human Rights and must interpret primary legislation, such as the Highway Act, in a manner that is compatible with the Convention, unless the requirements of the legislation mean that it could not have acted differently. Any interference with a convention right must be in accordance with the law.
- 7 The most commonly relied upon Articles of the European Convention are Articles 6, 8 and Article 1 of Protocol 1. These are specified in Schedule 1 of the Act.
- 8 Article 6 provides the right to a fair and public hearing. Officers must be satisfied that the application has been subject to proper public consultation and that the public have had an opportunity to make representations in the normal way and that any representations received have been properly covered in the report.
- 9 Article 8 of the Convention provides the right to respect for private and family life and the home. This has been interpreted as the right to live one's personal life without unjustified interference. Officers must consider whether the recommendation will represent such an interference.
- 10 Article 1 of Protocol 1 provides that a person is entitled to the peaceful enjoyment of his possessions and that no-one shall be deprived of his possessions except in the public interest. Possessions will include material possessions, such as property, and also user rights. Officers must consider whether the recommendation will affect the peaceful enjoyment of such possessions.
- 11 The proposal does not have any human rights implications.

SUSTAINABLE DEVELOPMENT IMPLICATIONS

12 There are no significant economic or environmental implications.

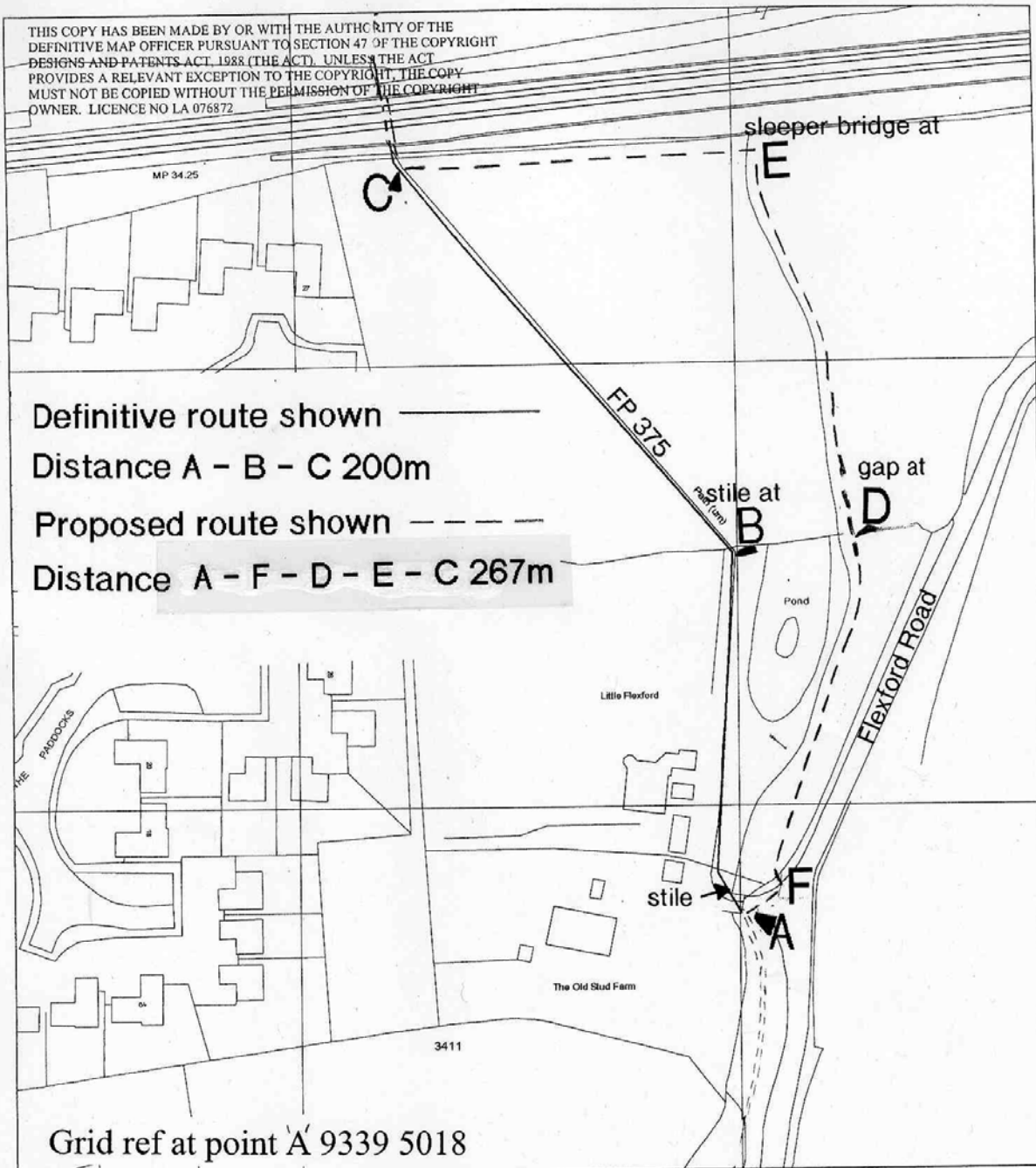
LEAD OFFICER: DEBBIE SPRIGGS,
SENIOR RIGHTS OF WAY OFFICER

TELEPHONE NUMBER: 020 8541 9343

BACKGROUND PAPERS: Correspondence referred to in the report contained in
file 3/1/59X.

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Borough of Guildford



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COUNTY COUNCIL

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