



**PUBLIC BRIDLEWAY No. 473, SHALFORD:
PROPOSED DIVERSION**

**SURREY COUNTY COUNCIL
LOCAL COMMITTEE (GUILDFORD)**

12th FEBRUARY 2008

KEY ISSUE

This report seeks approval to submit the Diversion Order for Public Bridleway No. 473, Shalford to the Secretary of State for the Environment, Food and Rural Affairs for determination.

SUMMARY

An Order to divert Public Bridleway No. 473, Shalford was made on 3 May 2006. Two objections from individuals were received within the statutory objection period. The objectors have indicated they will withdraw if a Cycle Tracks Order to formalise cyclists' use of adjoining Public Footpaths is made and confirmed. If the objections are not resolved the County Council cannot confirm opposed Orders and must submit them to the Secretary of State for the Environment, Food and Rural Affairs for determination. This report should be read in conjunction with that at Item 8 on this agenda.

Report by

HEAD OF ENVIRONMENT &
REGULATION SERVICE

Surrey Atlas Ref.

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GUILDFORD B.C. WARD(S)

SHALFORD

COUNTY ELECTORAL DIVISION(S)

SHALFORD

OFFICER RECOMMENDATIONS

The Committee is asked to agree:

- (i) that The Surrey County Council Bridleway No. 473 (Shalford) Public Path Diversion Order 2006 be submitted to the Secretary of State for the Environment, Food and Rural Affairs for determination if the two objections received to it are maintained.

INTRODUCTION AND BACKGROUND

- 1 The owner of Bunkers Hill Farm has applied to divert Public Bridleway No. 473, Shalford onto a route further away from his house and outbuildings as shown on the attached copy of Drawing No. 3/1/67/H5, attached as **ANNEXE A**. He has agreed to pay the Councils costs of making and advertising a legal order and to undertake the works necessary to bring the new route into a suitable condition. The County Council would like to surface the route as a connection to the Shamley / Bramley cycle link. The landowner would part fund the surfacing of the route and has agreed to a greater width. The section past the outbuildings at Bunkers Hill Farm is fairly narrow and the proposed diversion away from that section would provide a 4.0m wide surfaced path.
- 2 The statutory bodies and other interested parties were consulted and no objections were maintained. The Surrey County Council Bridleway No. 473 (Shalford) Diversion Order 2006 was made under Officers delegated powers on 3 May 2006. Two objections were received from Mr. L. Newman and Mr. C. Meeks. Mr. Meeks is concerned about possible flooding of the proposed route in the future and Mr. Newman has raised concerns about the proposed route being muddier and wetter, on-going maintenance problems and shared use of part of Public Footpath No. 474. In response it was confirmed that the proposed drainage and surfacing works would prevent any such problems. In addition since the Order was made the site has been monitored and no flooding has occurred. During negotiations with the objectors the possibility of formalising cycle use of the adjoining public footpaths nos. 24 Godalming and 474 Shalford was discussed. They indicated they would withdraw their objections if an order were made to upgrade those routes for use by cyclists. It is recognised by the County Council that those routes form an important link from Godalming for cyclists and that proposal is contained in a separate report to this committee.
- 3 Although the two legal orders, Diversion Order and proposed Cycle Tracks Order (CTO), are separate orders and not linked, if the CTO is made and confirmed the objections would be withdrawn and the Diversion Order could be confirmed under Officers delegated powers. If the CTO is not confirmed it is likely the objections will be maintained. The County Council is unable to confirm opposed orders itself and must submit them to the Secretary of State for the Environment, Food and Rural Affairs for determination.

- 4 The proposed surfacing improvement work on the route as part of the Shamley / Bramley Cycle link has been held in abeyance whilst the matter is resolved. The section to the north has already been completed.

OPTIONS

- 5 If the objections to the Order are resolved it can be confirmed. If the objections are maintained the Order must be submitted to the Secretary of State for determination. The third option is to rescind the Order.
- 6 It is the officer's opinion that whilst the proposed diversion is clearly in the landowners interests there is also a benefit to the public providing a wider route away from domestic buildings where conflict can arise. Officers preferred option is to try and resolve the objections by making a CTO on Footpath Nos. 24 and 474 (see report at Item 8 on this agenda) so that the Order can be confirmed by the County Council.

CONSULTATIONS

- 7 The statutory utilities, prescribed bodies, Guildford Borough Council, Shalford Parish Council, Ramblers Association, British Horse Society, Open Spaces Society, Cyclists Touring Club and the County Council's cycling officer were consulted prior to the making of the Order and were served notice of the making of it as required by regulations. No objections were maintained by those bodies. The Order was also advertised on site and in a local newspaper for a statutory period. Two objections from individuals were received and maintained.

FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

- 8 The applicant has agreed to pay the County Council's costs of making and advertising a legal order. If the objections are maintained and the Order submitted to the Secretary of State a public inquiry could be held. Costs for an inquiry in the region of £1,000 will be met from the Countryside Legal Budget. The applicant may not contribute towards the cost of a public inquiry by law under the Recovery of Costs procedures. Provision for the cost of surfacing has already been made as part of links to the Bramley to Womersley cycle route.

EQUALITIES AND DIVERSITY IMPLICATIONS

- 9 The proposed widening and surface improvements would increase convenience for less able walkers.

CRIME AND DISORDER IMPLICATIONS

- 10 The proposed diversion would increase the security and privacy for the occupants of Bunkers Hill Farm.

THE HUMAN RIGHTS ACT 1998

- 11 Under section 6 (1) of the Human Rights Act 1998, 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. This includes the right to property, under Article 1 of the First Protocol to the Convention and the right to respect for private and family life and the home, under Article 8. In this case, the diversion would move the path away from the adjoining properties thus increasing the privacy and peaceful enjoyment for local residents. In the officers' view this proposal has no human rights implications.

CONCLUSIONS AND REASONS FOR RECOMMENDATIONS

- 12 Members are asked to approve the submitting of the Diversion Order to the Secretary of State for the Environment, Food and Rural Affairs if the two objections raised to it are not resolved. If the objections are withdrawn the Order can be confirmed under officers delegated powers.
- 13 Officers do not have delegated powers to submit opposed orders to the Secretary of State. The proposed diversion is supported by officers because of the benefits it will bring to all users.

WHAT HAPPENS NEXT

- 14 All interested parties will be informed about the decision. If the recommendation is agreed the Diversion Order will remain 'on hold' waiting progress of the Cycle Tracks Order and the possible withdrawing of objections to the diversion.
- 15 If a Cycle Tracks Order is not made and confirmed the Diversion Order will be submitted to the Secretary of State for the Environment, Food and Rural Affairs for determination.

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BACKGROUND PAPERS	All documents quoted in the report. File may be viewed upon request

