

Item 14

SURREY HEATH LOCAL COMMITTEE

**PUBLIC BRIDLEWAYS NOS. 107 AND 111
(CHOBHAM)
PROPOSED DIVERSION**

27 JANUARY 2005

KEY ISSUE:

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 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 criterion for a diversion Order is that convenience and public enjoyment of the path must be satisfied.

EXECUTIVE SUMMARY

The above-mentioned Rights of Way were recently found not to exist on their definitive lines. Therefore it is proposed to divert Public Bridleways Nos. 107 and 111 (Chobham) where they cross land at Stanners Hill, Chobham Common. The diversion is requested to move the bridleways onto the routes that are currently being used on the ground. One objection has been received to the proposal.

OFFICER RECOMMENDATIONS:

The committee is asked to agree that an Order under Section 119 of the Highways Act 1980 be made to divert Public Bridleways 107 and 111, Chobham, and either confirmed as an unopposed Order or, if objections are received, submitted to the Secretary of State for the Environment, Food and Rural Affairs, for determination.

PROPOSAL

- 1 In November 2003 surveys were carried out on Rights of Way around the Stanners Hill area on Chobham Common. Public Bridleways Nos. 107 and 111 (Chobham) were found not to exist on their definitive lines, as shown on the attached copies of Drawing Nos. 3/1/81/H53 and 3/1/81/H53a **ANNEXES 1** and **2**. Extracts from the Definitive Rights of Way Map and Statement are attached as **ANNEXES 3** and **4**.
- 2 The County Council is trying to resolve all known anomalies by either opening up paths on their definitive lines or by processing legal Orders. However, there are inevitably some Rights of Way where clearance of the definitive route is not desirable because of conservation considerations. In this case the decision was therefore taken to make an application to divert the legal route onto the routes available on the ground.
- 3 All statutory undertakers and other relevant bodies have been consulted. Surrey Heath Borough Council, Chobham Parish Council, the Ramblers Association, the British Horse Society, the Cyclist Touring Club and the utility companies have raised no objection and local people have written in support of the proposals.

OBJECTION

- 4 An objection has been received from Mr R J Milton of Kilinside Farm, Farnham. He is the correspondent of the Open Spaces Society for Guildford and Surrey Heath areas. Correspondence with the objector is attached as **ANNEXE 5**.
- 5 The objection is made on the grounds that:
it is insufficient reason to divert rights of way due to vegetative growth.

COMMENTS ON THE OBJECTION

- 6 It is not the Council's practise to remove mature trees. Local people support the diversion due to the fact that no mature trees would have to be removed. The proposed route has a good surface and is well used. The British Horse Society, the Ramblers Association, Chobham Parish Council and the Cyclists' Touring Club have raised no objections to the proposals.

IMPLICATIONS

- 7 Financial – the advertising and administrative costs incurred in the making of this Order will be met from the Rights of Way Budget. If any objections were made and maintained and this led to a Public Inquiry or hearing, extra costs in the region of £1,000 would also have to be met from the Rights of Way budget.
- 8 Environmental and Economic Implications – there are no significant environmental and economic implications.

THE HUMAN RIGHTS ACT 1998

9 Section 6 of the Human Rights Act 1998 states that it is unlawful for a public authority to act in a way that is compatible with a European Convention right. As far as possible the County Council must interpret primary legislation, such as the Highways Act 1980, in a manner that is compatible with the Convention. The Highways Act 1980 stipulates the procedure that is to be followed by Highways Authorities when dealing with applications pursuant to s. 119. Article 8 of the European Convention safeguards the right of the individual to respect for a private and family life. It is the officer's view that the human rights of neither the applicant nor the objectors are affected by the application and Article 8 is not engaged. This proposal does not have any human rights implications.

RECOMMENDATION

10 In the circumstances, the recommendation to Members is that The Human Rights Act 1998 is not engaged by the proposal.

CONSULTATION

11 All statutory bodies consulted.

FINANCIAL IMPLICATIONS

12 As detailed in the report.

SUSTAINABLE DEVELOPMENT IMPLICATIONS

13 None

CRIME & DISORDER IMPLICATIONS

14 None

EQUALITIES IMPLICATIONS

15 None

Report by Head of Planning and Countryside

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BACKGROUND PAPERS:	All documents quoted in the report.
