

# Highways Act 1980 S119: Kirdford – Request for Diversion of Part of Footpath (fp) 614-1 at Stroods

## Consultation Report

### 1. The existing path and background to the proposal - [Location Plan \(PDF, 231KB\)](#)

A request has been received from the landowner for the diversion of part of the above footpath at his home, Stroods, situated to the west of the A272 at Strood Green in the parish of Kirdford.

Stroods is accessed from the A272 via a driveway which also carries bridleway 614\_1 which continues westwards along the northern side of the house on a route known as Chicken Lane. From its junction with the bridleway at point **A** footpath 614\_1 runs south west crossing the paved front entrance and parking area that lies between the applicant's house to the north and outbuildings comprising garage and home office to the south. Continuing south west fp 614\_1 bisects the applicant's property following a low garden wall with direct views across the garden to the doors and windows of the house. At the southern corner of the garden the path passes through a gate at **B** to enter a field before proceeding along its northwest headland to **C** at the western corner where it crosses into neighbouring farmland via a stile. Footpath 614\_1 then continues across farmland for some half a kilometre to meet Croucham Lane

### 2. Reasons for the Request for Diversion

The applicant states that on its present route the footpath has a considerable impact on the privacy and security of the house, garden and outbuildings. The path brings walkers into the garden area surrounding the house and separates it from the garage and outbuildings. It passes close to the house itself which is already in very close proximity to the bridleway which runs along its northern side. Much of the property can be overlooked from the path, including the swimming pool, which causes the applicant concern in terms of security and impacts on the family's privacy thereby reducing their use and enjoyment of their home.

The applicant would like to improve the privacy and security of his property by diverting the footpath **A-B-C** away from its close proximity to the house onto a more westerly route as shown by a red line **C-D-E** on [Proposal Plan](#) (PDF, 145KB)

### 3. Proposed Diversion

It is proposed that on entering the applicant's property at point **C** the proposed footpath will turn west into Chicken's Copse and then northwards on a woodland track. The proposed route crosses a small, mainly dry ditch line at **D** where a footbridge has been provided and continues north to cross a further double footbridge crossing to meet bridleway 614 at point **E** which is approximately 160 metres(m) west of its present junction.

In the past, this bridleway has suffered some quite serious surface problems but following drainage repair works and maintenance of the surface, a joint project carried out last year by the applicant and the County Council, the condition of the eastern end of the bridleway is much improved and now in good condition for all weather use by walkers and riders. A further phase of improvement works for the continuation of the bridleway west of point **E** is programmed for later this year.

## 4. The Legal Tests

### 4.1 The Making Test for the Diversion of part of fp 614-1

i. The grounds:

An authority may make an order to divert a public path if it is satisfied that it is expedient that the line of the path or way, or part of it, should be diverted in the interests of the owner, lessee or occupier of land crossed by the way; or in the interests of the public; or both.

The application to divert the footpath is made in the interests of the landowner. The reason given is that on its present route the path has an adverse impact on the privacy and security of his house, garden and outbuildings. A diversion of the path onto a route away from the house and garden would enable this situation to be much improved.

ii. The point of termination and convenience:

The authority must also be satisfied that the diversion order does not alter any point of termination of the path, other than to another point on the same path, or another highway connected with it, and which is substantially as convenient to the public.

The southern point of termination of the path will not be changed. The northern point of termination at **E** will be some 160m to the west of its present junction with bridleway 614 which will provide a convenient route for those walkers travelling to and from the east.

#### Conclusion on the Making Test

The landowner has demonstrated that it would be in his interests for the path to be diverted away from the area surrounding the house, garden and outbuildings because it would enable the family's privacy and security to be considerably improved. Therefore, the part of the tests concerning the making of the Diversion Order is satisfactorily met.

### 4.2 The Confirmation Test for the Diversion of fp 614-1

Additional tests apply when considering if a diversion Order should be confirmed or not:-

i. Is the proposed route substantially less convenient to the public?

The present route proposed for diversion **C-B-A** is some 187m in length and the proposed route for those wishing to travel eastwards via bw 614 **C-D-E-A** is significantly longer at 321m. However, in the context of a recreational walk this is not considered to be substantially less convenient and for those travelling west via be 614 the route will be shorter and more direct. On balance the diversion is not considered to be substantially less convenient to users.

ii. ***Is it expedient to confirm the Order having regard to:***

(a) the effect on public enjoyment of the way as a whole?

(b) the effect on other land served by the existing way?

(c) the effect on land over which the way is created?

a) The new path offers an attractive woodland path with good walking conditions. Many path users prefer to avoid passing through a private area close to a house, especially in an out-of-the-way rural location, and so in this respect may find the proposed route more enjoyable.

b) It is not anticipated that other land will be directly affected by the diversion.

- c) It is understood that the applicant owns all the land over which the new path is to run.

### **Conclusion on the Confirmation Test**

The proposed route is not considered substantially less convenient and, on balance, walkers' enjoyment of the path as a whole is not likely to be adversely affected as a result of the diversion.

It is therefore concluded that this part of the legal test for confirmation as set out in Section 119 of the Highways Act 1980 is satisfactorily met.

### **5. Consultations**

On 6 May 2021 letters of consultation were sent to the relevant user groups and other interested parties with the request that any comments be submitted by 3 June 2021. Notice of the consultation was included in the Members' Bulletin. Careful consideration will be given to all comments received.

### **6. West Sussex Rights of Way Management Plan, Human Rights Act 1998, Equality Act 2010 and Crime and Disorder Act 1998 Implications**

In considering this application the County Council's responsibilities under the provisions of the above have been taken into account.

### **7. The Works and Costs**

The new footpath will be provided to a width of 2m and will have open access along its length. The landowner will have an ongoing liability to keep the vegetation trimmed back clear of the path.

The applicant will be required to pay the County Council's costs in respect of adjusting the waymarking. The costs associated with the diversion order process, the usual administrative fees plus advertising charges will also be borne by the applicant.

### **8. Overall Conclusion**

This is a reasonable proposal that will allow the landowner to improve the privacy and security of his home, garden and outbuildings. The proposed new path will provide a good alternative route that will be enjoyable for walkers and not less convenient than the present path.

Judith Grimwood  
Public Rights of Way Officer  
May 2021