

## **Rights of Way Committee**

**5 March 2019**

### **Recent Decision by the Secretary of State's Inspector:**

**West Sussex County Council (Warnham) Public Path (No. 1577)  
Diversion Order 2013**

**West Sussex County Council (Warnham) Public Path (No. 1578)  
Diversion Order 2013**

### **Report by Director of Law and Assurance**

#### **Recommendation**

That this report be noted.

#### **1. Background**

- 1.1 In October 2012 the Committee considered an application made by Mr J C Lucas to divert parts of footpaths 1577 and 1578 in the Parish of Warnham at Warnham Park on to a new route from bridleway 3647, running generally north westwards to Bell Road, under Section 119 of the Highways Act 1980.
- 1.2 The application was made in the interest of the landowner, who requested the diversion to enable him to extend his existing deer park to include land crossed by FP 1577 and for practical reasons associated with fencing and deer herd management. FP 1578 ran west from the A24 past Little Daux Cottage and the landowner believed that the privacy and security of the property would be improved if the path were to be diverted.
- 1.3 The Committee approved the officer recommendation that the legal tests for the making of a Diversion Order under Section 119 Highways Act 1980 had been met.
- 1.4 On 27 September 2019 the West Sussex County Council (Warnham) Public Path (No. 1578) Diversion Order 2013 and the West Sussex County Council (Warnham) Public Path (No. 1577) Diversion Order 2013 were made.
- 1.5 Six letters of objection were received during the statutory notice period; therefore the orders fell to be determined by the Secretary of State
- 1.6 On 8 September 2017, the opposed orders were submitted to the Secretary of State for the Environment, Food and Rural Affairs.

## **2. The Inspector's Decision**

- 2.1 The Inspector concluded that in relation to the diversion of FP 1577, the order is expedient in the interest of the landowner. They found that whilst the diverted route of FP 1577 would be less convenient, as would the termination point, it would not be *substantially* less convenient. They considered that on balance greater weight should be given to the landowner in order to facilitate the expansion of the deer park.
- 2.2 With regards to the diversion of FP 1578, they were satisfied that the need for the diversion was expedient in the interest of the landowner to improve security. They further considered that the diverted route would offer better convenience and public enjoyment, and thus not substantially less convenient to the public.
- 2.3 The Inspector therefore concluded that the legal tests for confirmation of the orders had been met and confirmed the orders.

## **3. Resource Implications and Value for Money**

- 3.1 The County Council has the power, but not the duty, to investigate applications for diversion and extinguishment applications made under the Highways Act 1980. Applicants are required to reimburse the County Council's costs up to the point where an opposed order is submitted to the Secretary of State for determination and while there is no obligation to submit such an opposed order, if the order is submitted, the County Council must bear the costs from that point.

### **Background Papers**

- (a) Committee Report October 2012  
<http://www2.westsussex.gov.uk/ds/cttee/row/row231012i6.pdf>
- (b) Inspectors full decision dated 4 October 2018  
<http://www2.westsussex.gov.uk/ds/cttee/row/row050319warnham.pdf>

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