

### **Extract from the minutes of a meeting of the Public Rights of Way Committee held on 11 June 2018.**

#### **10 Highways Act 1980 section 119 Application for the Proposed Diversion of Public Footpath No.16 (part) in the Parish of Wilmslow**

The Committee considered a report which detailed an application by the National Trust requesting the Council to make an Order to divert part of Public Footpath No.16 in the parish of Wilmslow.

In accordance with Section 119(1) of the Highways Act 1980, it was within the Council's discretion to make an Order to divert a public footpath if it appeared to the Council to be expedient to do so in the interests of the public or the owner, lessee or occupier of the land crossed by the path.

The land over which the section of path to be diverted and the proposed diversion ran both belonged to the applicant. The section of path to be diverted took walkers from the junction between Restricted Byways Nos. 18 and 22, Point A as shown on Plan No.HA/128, up a slight embankment, through a narrow gap between an oak tree and stone wall and across the corner of an agricultural field to the gate at Point B.

The proposed diversion would move the path out of the field and to the east of the current alignment onto a permissive path, which ran parallel to the agricultural field boundary and reconnected with the definitive line of the path at Point B. The permissive path was already in use by members of the public and was 2.5 metres wide with a hard, level well drained surface throughout. The diversion would be in the interests of the landowner as it would divert walkers out of the agricultural field and improve land management.

The Committee noted that not objections had been received during the informal consultations and noted the comments from the Peak and Northern Footpaths Society stating that this was a retrospective application, which satisfied all the requirements with the only qualification being that it no longer visibly linked to Footpath No.21. The Committee considered that the proposed diversion would not be substantially less convenient than the existing route. Diverting the footpath would improve the landowners' agricultural and land management responsibilities. It was considered that the proposed route would be a satisfactory alternative to the current one and that the legal tests for the making and confirming of a Diversion Order were satisfied.

The Committee unanimously

**RESOLVED: That:**

- 1 an Order be made under section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, to divert part of Public Footpath No.16 in the parish of Wilmslow by creating a new section of public footpath and extinguishing the current path, as illustrated on Plan No.HA/128, on the grounds that it is expedient in the interests of the owners of the land crossed by the right of way.
- 2 Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Acts.
- 3 in the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or Public Inquiry.