

# Agenda Item 23.

Application Number	Expiry Date	Parish	Ward
Shinfield FP 3	N/A	Shinfield	Shinfield South;

<b>Applicant</b>	University of Reading
<b>Site Address</b>	Land adjacent to Shinfield Studios, Cutbush Lane, Shinfield, RG2 9AD
<b>Proposal</b>	Application for the diversion of part of Shinfield Footpath 3 under Section 119 Highways Act 1980
<b>Type</b>	Public Rights of Way Diversion
<b>Officer</b>	Andrew Fletcher
<b>Reason for determination by committee</b>	Scheme of delegation

<b>FOR CONSIDERATION BY</b>	Planning Committee on Wednesday 13 July 2022
<b>REPORT PREPARED BY</b>	Assistant Director – Planning

<b>SUMMARY</b>
<p>The Council has received an application to divert part of Shinfield Footpath 3 under Section 119 Highways Act 1980.</p> <p>The grounds for the making of the diversion order are that part of the line of the path should be diverted in the interests of the owner of land crossed by the path and of the public.</p> <p>It is recommended that the order is made.</p>

<b>PLANNING STATUS</b>
<p><b>Legal Framework for the Decision:</b> Orders for the stopping up or diversion of footpaths, bridleways or restricted byways may be made under section 119 of the Highways Act (1980), if the highways authority is satisfied that it is necessary to do so in the interests of the owner of the land and the public.</p> <p>Defra Rights of way Circular 01/09 is also relevant.</p>

<b>RECOMMENDATION</b>
-----------------------

**That the committee authorise the making of the DIVERSION ORDER:**

1. That authorisation is given to the making of an order under s.119 Highways Act 1980 Act to divert part of Shinfield Footpath 3 as shown on the plan no. 1, on the basis that the diversion will be in the interests of the public and of the landowner;
2. If no objections to the order are received or any such objections are withdrawn, that the order may be confirmed;
3. If objections are received and sustained, the order may be sent to the Secretary of State for confirmation.

<b>CONSULTATION RESPONSES</b>	
Executive Member – Environment and Leisure	No objections
Local Members	No objections
Shinfield Parish Council	No objections
Loddon Valley Ramblers	No objections
Mid & West Berks Local Access Forum	No response
Open Spaces Society	No response
British Horse Society	No response

## **REPRESENTATIONS**

**Town/Parish Council:** The work will be a big improvement on what is there now and the Councilors do not have an issue with this change

### **Local Members:**

Cllr Ian Shenton: No objections  
 Cllr Jackie Rance: No objections  
 Cllr Jim Frewin: No responses received  
 Cllr Chris Johnson: No objections

<b>BACKGROUND</b>
<p><b>Description of existing path and proposed diversion</b></p> <ol style="list-style-type: none"> <li>1. Shinfield Footpath 3 commences on Cutbush Lane and runs in a generally south-easterly direction for approximately 480m, ending at Shinfield Footpath 4 to the south of Old House Farm.</li> <li>2. The section of the path which is required to be diverted is shown by a solid red line between the points A-B on Plan No.1. The proposed diversion route is shown by a solid blue line between the points A-C on Plan No. 1. The University of Reading are the land owners for this section of the path.</li> <li>3. The surface of the path is a grass path through a field. The Council is responsible for the maintenance of the path however as it is an open field no maintenance is required. There is no defined width on the ground or included within the Definitive Statement for the section A-B.</li> <li>4. There are currently no gates or barriers along the path through this section, however there is an existing timber footbridge and metal kissing gate to the north at point D on Plan No. 1 which are proposed to be removed as part of the diversion works.</li> <li>5. The proposed diversion route will be to route the southern section of the path to run along the field edge, turning south-west for the final 85 metres of the path. The proposed diversion route is within the land ownership of the University of Reading.</li> <li>6. The length of Shinfield Footpath 3 to be diverted is approximately 100 metres long. The proposed diverted route will be 85 metres long, a decrease of 15 metres. The existing section of the route to be diverted has no dog-legs; the proposed diverted section will introduce one dog-leg along the route.</li> </ol>

7. The University of Reading undertake to conduct the following work at it's own cost as part of the diversion:
  - a. Surface along the diverted path with compacted limestone scalplings to provide a surface suitable for all year round use.
  - b. Removal of the kissing gate at point D. This will be stored in order that it can be reused elsewhere. The removal of the kissing gate will be an access improvement which will make the path more accessible for those using the path in wheelchairs or with pushchairs/buggies.
  - c. Replacement of the existing timber footbridge at point D which is currently in poor condition. This will be replaced with a 600mm culvert, which will enable a seamless continuation of the path and reduce the maintenance burden on the Council as there will no longer be a bridge to maintain.
  
8. The existing route is not currently bounded by fences; however the landowner has confirmed that they intend to fence the boundaries of the land to secure the adjacent University of Reading Land and prevent livestock routing along the proposed diversion route. A 1.8m high fence is proposed to be installed alongside the path as part of the diversion works.

**Purpose of the Order and legal test for a Diversion**

9. The test under s.119 of the Highways Act (1980) to be used to decide whether to make a diversion order is whether the new route is as substantially convenient to the public and in the interests of the landowner and/ or the public.
  
10. The purpose of the diversion is to alter the definitive line of the path to enable greater use of the land and increased security for the landowner, and to provide an improved path which is more convenient to users all year round.

**Benefits to the landowner**

11. The path between A-B runs across the centre of an open field. The existing position of the path prevents the landowner being able to use the entire land effectively. The position of the path prevents effective fencing being installed as it would leave a triangular section of land that would not be able to be practically used.

**Benefits to the public**

12. The current route crosses a field with a natural grass surface underfoot. During wetter months this path is liable to become muddy and will be more difficult for the public to use than a surfaced path. The existence of a kissing gate along the path also makes it less accessible to those with pushchairs or wheelchairs.
  
13. The effect of the proposed diversion will be to create a new route with a defined width of 2 metres, with a surface suitable for all year round use and making the path safer and more accessible to users. The gate will be removed as part of the works which would make the route barrier free and much more attractive to use for those with wheelchairs or with pushchairs and buggies. The existing bridge currently creates a narrow pinch point on the path which will be removed and the route, therefore, will be more convenient to the public. The improvements to the path which make the entire route accessible for pushchair and wheelchair users, and suitable for use all year round to the public.

14. It is thus considered that the proposed diversion order will be in the interests of both the landowner and the public.
15. The difference in length between the length of path to be diverted and the proposed alternative is a reduction of 15 metres, however the junction with Shinfield Footpath 4 will move 108 metres to the west. On balance it is considered that any perceived disadvantage as a consequence of the revised junction will be outweighed by the improved surface and accessibility, and overall the right of way is improved by proposed diversion. The new junction will also tie in with planned cycleway improvements being undertaken as part of planning application 811841 approved on 13<sup>th</sup> Dec 2021.

#### **Results of the informal consultation**

16. The first stage of the diversion application process is to informally consult key stakeholders prior to any decision.
17. Local Members have been consulted and have made no objections to the diversion. Similarly, Shinfield Parish Council, the Loddon Valley Ramblers, the Mid & West Berkshire Local Access Forum, the Open Spaces Society, and the British Horse Society have been consulted and have made no objections to the proposed diversion.

#### **Next steps**

18. If a decision is made to make a Diversion Order there is a further statutory objection period of 28 days from the date of publication of the Order for any representations or objections. If there are no subsisting representations or objections the Council may then proceed to confirm the order. Otherwise, the order can only be confirmed by the Secretary of State who may decide to hold a Public Inquiry.
19. Should any objections be received that are not subsequently withdrawn a further report will be made to the Planning Committee for a decision whether to refer the matter to the Secretary of State or to abandon the Order.

#### **Relevant policies**

The following policy is relevant to this application:

*Rights of Way Improvement Plan 2020*

*Statement of Action 4: Access For All:*

- 4.3(b): Develop a programme to replace bridges to enable greater accessibility
- 4.3(c): Seek to improve bridges to accommodate users with restricted mobility as part of the planning process
- 4.4: Replace non-accessible structures on the network with more accessible options.

#### **CONCLUSION**

Officers are of the opinion that the proposed diversion satisfies the criteria required under section 119 of the Highways Act (1980) and that it is expedient for the Council to make the order in that:

- 1) It is in the interests of the owner of the land and of the public;

2) In general the proposed diversion route will be as substantially convenient to the public.

It is recommended that the order is made.

**The Public Sector Equality Duty (Equality Act 2010)**

*In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief.*

*There is no indication or evidence (including from informal consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular public path diversion application and there would be no significant adverse impacts upon protected groups as a result of the proposed diversion.*

This page is intentionally left blank