

Proposed Stopping up of Minor County Road at Lowton, Bridford

Report of the Director of Environment, Economy and Culture

Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.

Recommendation: It is recommended that no objection be made to the request to stop up a section of minor county road at Lower Lowton, Bridford between points C-E-F and that application be made under S.116 Highways Act 1980 upon confirmation of the Order applied for to divert the end of the adjoining bridleway from point C to point F as shown on the attached plan 15/5/4/1.

1. Summary

This report stems from a request for action to stop up a short section of minor county road which would be rendered unnecessary in the event of confirmation of an order that has been applied for to Dartmoor National Park Authority (DNPA) to divert an adjoining section of public bridleway and extinguish a section of adjoining public footpath.

2. Background

Lower Lowton Farm lies at the northern end of a cul de sac minor county road, which road also gives access at point C to Bridleway No. 11 and at point E to Footpath No. 7, Bridford. The owners of the farm have applied to DNPA to divert the bridleway to the east of the farmstead along the route A – D – F, and as such diversion will cross Footpath No. 7 at point D they have also applied for extinguishment of the section of path D – E.

Such diversion and extinguishment would appear to remove the necessity for public access of any type over the section of road C – E – F, and as that section is in their ownership the landowners do not rely on its public status for vehicular access either. They have therefore requested this authority apply for stopping up of that section.

The application to DNPA also includes diversion of Footpath No. 12, Bridford from its present junction with the bridleway at point B to point A.

3. Consultations

Consultations have been carried out by DNPA on behalf of this authority in relation to the request, in conjunction with its consultations on the diversion and extinguishment proposals. Responses have been received from the Country Land & Business Association supporting the proposals as a whole, and from Bridford Parish Council and the Cyclists Touring Club which say they have no objection thereto. Teignbridge District Council had no comment.

The Byways & Bridleways Trust objects to the diversion element, and in respect of the road to loss of an historic public highway. Dartmoor Preservation Association objects to loss of "this old historic route". The Open Spaces Society objects to the diversion, mentions that the present route is an old packhorse route of historic value, and says it would object to stopping up of the road. The Ramblers' Association expresses concern over loss of an historic route. The Trail Riders Fellowship refers to a claim that the bridleway has higher status.

It is pointed out that for the purpose of public path orders the status of routes is taken as that currently recorded, and that the bridleway status in this case is consistent with public use as a packhorse route. The claim for higher status is based principally on depiction of the bridleway on two old maps, but neither is evidence that the road was used by the public more than on horseback and foot.

4. Reasons for Recommendation/Alternative Options Considered

The only ground for a magistrates' court to order a public road to be stopped up under s. 116 of the Highways Act 1980 is that the route is unnecessary. In the present case unless and until the bridleway diversion was confirmed no such ground would exist, nor could application to the court be justified in anticipation such grounds would exist. DNPA will consider the application in December, the necessary diversion and extinguishment orders may not be sanctioned by them and objections may prevent any orders that were made being confirmed.

Nevertheless the public does not appear to be under any necessity to use the section of lane in question in vehicles, and the function of that section as a public thoroughfare on foot and horseback would indeed be superseded should the proposed bridleway diversion proceed to an order and its confirmation: Hence the conditional nature of the recommendation.

5. Legal Considerations

The implications of the recommendation have been taken into account in preparing the report.

Edward Chorlton

Electoral Division: Chudleigh Rural

Local Government Act 1972

List of Background Papers

Contact for enquiries: Mike Jenkins

Room No: ABG, Lucombe House

Tel No: 01392 383240

Background Paper	Date	File Ref.
Correspondence File	2007	MRM/F(24)DNP

mm251007pra
sc/bridford county road
3 hq 021107