

WEST OXFORDSHIRE DISTRICT COUNCIL
UPLANDS AREA PLANNING SUB-COMMITTEE
MONDAY 6TH NOVEMBER 2017

FOOTPATH STOPPING UP AT CHURCHILL FARM, CHURCHILL.
REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING AND THE
HEAD OF LEGAL AND PROPERTY SERVICES

(Contact: Abby Fettes, Tel: (01993) 861684 and Jonathan Noel (01993) 861591)

(The decisions on this matter will be a resolution.)

1. PURPOSE

To clarify a decision made by the Sub-Committee on 5th June 2017 regarding a footpath at Churchill Farm Churchill.

2. RECOMMENDATIONS

That the Sub-Committee confirm that its decision on the 5th June 2017 was to make a public path stopping up order with the creation of an alternative route under section 257 of the Town and Country Planning Act 1990.

3. BACKGROUND

- 3.1 On the 5th June 2017 a report was prepared for the Sub-Committee (copy attached) seeking authority to make a public path diversion order under section 119 of the Highways Act 1990 and carry out the required statutory consultation upon it. Attached to that report was a draft order which referred to the making of a public path stopping up order made under section 257 of the Town and Country Planning Act 1990. A mistake had been made in the report by referring to the making of the order under the Highways Act when it should have referred to the Town and Country Planning Act powers.
- 3.2 Following the decision on 5th June the statutory consultation took place. This involved placing an advertisement in a local paper and serving a notice of the closure of the footpath together with a map showing the new route on the parish council, the county council and various amenity groups. The period for objection has expired and none were received.
- 3.3 The Sub-Committee on the 5th June approved the draft order attached to the report and this draft order referred to the correct powers. The legal advice to the Sub-Committee is that because the draft order was correct and the consultations upon it were made under the correct powers and followed the correct procedures it is reasonable to regard the decision made on the 5th June as lawful despite the mistake. No-one has been prejudiced by the mistake and it is very unlikely that the decision could be successfully challenged in the courts.
- 3.4 As the Council are now in a position to confirm the stopping up order it is important that the issue of the mistake is clarified before confirmation occurs. Should the Sub-Committee agree to the recommendation then the stopping up order will be confirmed and the remaining procedure completed.

4. FINANCIAL IMPLICATIONS

None.

5. ALTERNATIVES/OPTIONS

None.

6. REASONS

See section 3.

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Background Papers:

Sub-Committee report dated 5th June 2017 and draft order