

**Decision Maker:** Rights of Way Sub-Committee

**Date:** 10<sup>th</sup> July 2013

**Decision Type:** Non-Urgent                      Non-Executive                      Non-Key

**Title:** **PROPOSED DIVERSION OF PUBLIC FOOTPATH 288  
SILVERSTEAD LANE, BIGGIN HILL**

**Contact Officer:** Duncan Gray, Project Engineer  
Tel: 020 8313 4556 E-mail: duncan.gray@bromley.gov.uk

**Chief Officer:** Nigel Davies, Executive Director of Environment and Community Services

**Ward:** Darwin

---

1. Reason for report

To obtain the necessary authority to enable the Council to make a Public Path Diversion Order under the provisions of section 119 of the Highways Act 1980.

---

2. **RECOMMENDATION(S)**

- 2.1 **That the Director of Corporate Services, in consultation with the Executive Director of Environment and Community Services, be authorised to take the necessary steps to make a Public Path Diversion Order for Footpath 288 as shown on drawing no. 11372-02, and if no objections are received, or any such objections are withdrawn, to confirm the Order.**

### Corporate Policy

1. Policy Status: N/A.
  2. BBB Priority: N/A.
- 

### Financial

1. Cost of proposal: Estimated cost £1,500
  2. Ongoing costs: Non-recurring cost.
  3. Budget head/performance centre: Highways
  4. Total current budget for this head: £6.118m
  5. Source of funding: Costs to be recovered from the applicant
- 

### Staff

1. Number of staff (current and additional): 0.4
  2. If from existing staff resources, number of staff hours: 40
- 

### Legal

1. Legal Requirement: Statutory requirement. Section 119 Highways Act 1980
  2. Call-in: Call-in is not applicable.
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All users of FP 288
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes.
2. Summary of Ward Councillors comments: None received

### **3. COMMENTARY**

- 3.1 FP 288 runs from Silverstead Lane at its northern end, southwards for some 230m to the Borough Boundary with Kent County Council, just beyond which it joins with the North Downs Way. The route is shown as a continuous black line, between points A and B on drawing no. 11372-02.
- 3.2 The current owner of the property shown on the drawing as Silversted, has made a diversion application to the Council under section 119 of the Highways Act 1980 for the diversion of the current route of the footpath across his land to the route shown as a dashed line between points C and D on the drawing.
- 3.3 The current route of the path runs parallel with and some 12.0m east of the western boundary of the property. It is not enclosed by fencing but does have two stiles, one at each of points X and Y on the drawing. The proposal is for the diverted path to run adjacent to the western boundary of the land with a minimum width of 2.0m, between low (around 1.0m in height) post and wire fences.
- 3.4 A further drawing, number 11372-03, shows the boundary of the property associated with Silversted. From this it can be seen that a short section of the proposed route runs over land outside the applicant's control. The owner of the adjoining land, Squerryes Estate, has been contacted by the applicant and has raised no objection to part of the proposed route running over a section of their land. A copy of a letter from the Estate is attached at Appendix A for clarification in this respect.
- 3.5 The applicant has made the diversion request on the ground that it would enable him to maximise his use of the land by not having a footpath effectively cutting off the western section of it. The proposal would also move the path away from the dwelling which is perceived to have a security benefit.
- 3.6 On its current alignment the path has 2 stiles along its route (points X and Y on drawing 11372-02). The proposed route would be free from stiles making it more accessible to all users and can thus be considered as being of benefit to the public.
- 3.7 The route of the diversion will have a similar surface to the existing route in that it would run over the grassed surface of the field. As such it is not considered necessary to include any reference in the Order to bringing the surface of new route up to any particular standard or delay the date on which the Order, if confirmed, becomes effective.
- 3.8 Extensive consultation has been carried out including the Ward Member, Environment Bromley, local Ramblers Association and British Horse Society representatives and public utility companies. No objections have been received.

### **4. FINANCIAL IMPLICATIONS**

- 4.1 The Council's costs associated with the making and advertising of the Order, estimated at £1,500 will be recovered from the applicant.

### **5. LEGAL IMPLICATIONS**

- 5.1 The route of Footpath 288 is formally recorded in the Council's Definitive Map and Statement of Public Rights of Way and the legislation pertaining to the recording of such ways, the Wildlife and Countryside Act 1981, places a duty on Bromley, as the Surveying Authority, to keep those records under continuous review.

- 5.2 Therefore a Public Path Diversion Order is required in order to progress the applicant's request to change the route of FP 288.
- 5.3 The diversion request must be considered by the Council in relation to the criteria set out in Section 119 of the Highways Act 1980, which are referred to in the following paragraphs together with an explanation of how the request fits with them.
- 5.4 The Council must be satisfied that it is expedient to make the Order in the interests of the owner, lessee or occupier of the land crossed by the path, or in the interests of the public. It is self evident that the diversion would make use of the field more practical for the owner. In addition the fact that there would be no need for stiles or gates on the proposed route would make it accessible to all and easier to use for existing users and thus can be considered to also have benefits for the public.
- 5.5 Where a proposed diversion alters the point of termination of the path on a highway, it may be diverted only to a point which is on the same or a connected highway which is substantially as convenient to the public. The proposed route joins to the same highways, namely Silverstead Lane and the North Downs Way, as the existing footpath, only a short distance, some 12m – 15m, westwards. It is thus considered that the new route would make little difference to users and can thus be considered to be substantially as convenient as the existing.
- 5.6 The path must not be substantially less convenient to the public as a result of the diversion and regard must be given to the effect of the diversion on the public's enjoyment of the path as a whole. The proposed path runs both close and parallel to the existing route and as such is virtually the same length as the existing. This coupled with the fact that no stiles or gates would exist on the diverted route mean that it can be considered that the diversion would not have any significant detriment to users' enjoyment or convenience.

<b>Non-Applicable Sections:</b>	Policy; Personnel
Background Documents: (Access via Contact Officer)	Correspondence on Footpath File