

APPLICATION NO.	Relating to planning permission P03/W1117
APPLICATION TYPE	Diversion of footpath
REGISTERED	September 2005
PARISH	Wallingford
APPLICANT	Oxford University Boat Club
SITE	Wallingford Footpath No 1, Chalmore Gardens, Wallingford.
PROPOSAL	Diversion of footpath (section 119 Highways Act 1980)
AMENDMENTS	None

1.0 PURPOSE OF REPORT

1.1 To consider whether to submit the application for the diversion of a section of Footpath No1 at Chalmore Gardens, Wallingford to the Secretary of State for determination, in the light of an objection received.

2.0 BACKGROUND

2.1 An application to divert a section of Footpath No 1 to take place at Chalmore Gardens, Wallingford was submitted in September 2005. Following informal consultations, the Planning Committee agreed to make an Order under section 257 of the Town and Planning Act 1990 for the diversion of the footpath at its meeting on 24 May 2006. The Order included conditions to address the concerns of amenity societies restricting the opening of the swing bridge.

2.2 However, prior to finalising the Order for formal consultation legal advice was provided that raised doubt as to whether conditions could be applied to an Order made under the Town and Country Planning Act 1990. In order to accommodate the necessary provisions requested by the amenity societies officers pursued the making of an Order under section 119 of the Highways Act 1980 which permits the insertion of appropriate conditions. Further consultation was undertaken on the proposed wording of the conditions in December 2006.

2.3 The Order was made on 2 April 2007 under delegated powers. A copy of the Order and Order Map is **attached** as Appendix 1.

3.0 CONSULTATIONS

3.1 Notices of the Order were placed in the local newspaper, at the site, and were sent to the utilities and local amenity societies as part of the formal consultation process. The Open Spaces Society raised an objection to the Order on the grounds that, in their view, the condition in Part C of the Order does not provide sufficient safeguard for users of the footpath. This could only be achieved if the Order included a condition covering the maximum frequency the swing bridge could be opened. Additionally any change of land ownership could result in a change of view regarding the obligations set out in the condition. (Copies of all correspondence will be available for inspection immediately prior to the meeting or by appointment in Democratic Services).

4.0 CONSIDERATION OF OBJECTIONS

- 4.1 The Open Spaces Society met with the Oxford University Boat Club in July 2007 to discuss a way of addressing the objections of the society. Officers are not aware of any agreed conclusion.
- 4.2 Although the council does not have the power to make any changes to the Order officers were keen to encourage a dialogue. Any agreed revised wording could then be considered by this committee, and if supported, referred to the Secretary of State for consideration.
- 4.3 In light of the fact that the new facility is built and the proposed diversion route is in operation officers consider that sufficient time has been allowed to progress this matter and that a final decision is required on the definitive route of the footpath.
- 4.4 Officers remain satisfied that the condition in Part C of the Order is robust and appropriate as it limits the opening of the bridge for a specific purpose and time. The condition will protect the rights of users and would allow for action to be taken if the condition was abused.

5.0 LEGAL IMPLICATIONS

- 5.1 The Council has power under Section 119 of the Highways Act 1990 to divert footpaths which are affected by development, and for which planning permission has been granted. However, orders which are opposed may not be confirmed by the Council, but must be submitted to the Secretary of State for determination.

6.0 CONCLUSION

- 6.1 The application to divert part of the footpath was made following the grant of planning permission for the construction of a new two storey boathouse facility for Oxford University Boat Club comprising wet and dry boat storage, crew facilities and caretaker's flat at Chalmore Gardens, Wallingford. The Open Spaces Society has maintained its objection to the proposal on the grounds that the proposed condition will not protect the amenity of the public. It is recommended, therefore, that the Council ask the Secretary of State to determine the application.

7.0 RECOMMENDATION

- 7.1 **To request that the Secretary of State determine the application.**

Background Papers:

Application

Consultation responses

Report to the Planning Committee meeting on 24 May 2006

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