

**BRISTOL CITY COUNCIL
PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE**

14th JANUARY 2008

**DIVERSION OF PUBLIC RIGHT OF WAY NO. 226 AT DUNDRY
HILL FARM, WHITCHURCH PARK.**

(Joint report of the Director of Planning, Transport & Sustainable Development and Director of Central Support Services (Head of Legal Services))

(Ward: Whitchurch Park)

Purpose of Report

1. To advise the committee of the receipt of an application seeking a Public Path Diversion Order to divert part of public footpath 226 in Bristol.
2. To seek approval for the making and advertising of a public path diversion order under Sec 119 Highways Act 1980. The order sought is in respect of Public Footpath 226 at Dundry Hill Farm, which lies partly within the area of Bath and North East Somerset Council.
3. To seek approval, in relation to the public right of way affected by the order, to enter into an agreement with Bath and North East Somerset Council pursuant to powers under the Local Government Act 1972 and Local Government Act 2000 to enable Bristol City Council to exercise the functions conferred by the Highways Act 1980 for the purposes of making an order.

Background

4. The length of Public Footpath subject to the application crosses the administrative boundaries between Bath and Northeast Somerset (B&NES) and Bristol, continuing as public footpath BA26/15 in Whitchurch Parish. The Diversion Order application has been submitted to this council and B&NES have been informed and will be considering the section of public right of way within their area. If this committee agrees to advertise the order, it is intended that Bristol city council will undertake the processing of the order, subject to the agreement of B&NES.
5. The diversion application has arisen in conjunction with a problem that came to Bristol City Council's attention in 2006. The landowner had prevented access onto his field by removing a metal stile. After investigation it became apparent that, due to unsatisfactory wording in an order

processed in 1972/3, enforcement of the length of path shown as A—B on the plan attached at Appendix 5(A) could not be undertaken. The 1972/3 order was promoted to divert two public footpaths as a result of the construction of the Court Farm housing estate. One error was partially resolved in 1977 with a dedication agreement over the estate land from Tannorth Road to point A.

6. The route from Tannorth Road crosses two fields and provides a footpath link to Maes Knoll and the 3 Peaks Circular walk, which is advertised and way marked.
7. The proposed diversion will route public footpath 226 around the field edges, with an adequate width. The existing length of footpath within Bristol is 110 metres and the proposal is 292 metres, an increase of 82 metres.
8. The landowner has agreed to dedicate the length shown as A-B and this will proceed concurrently with the diversion order and all the works on site will be undertaken at the same time. This will ensure that a public right of way links up to Maes Knoll and is legally established.
9. The original application shows an exit point onto East Dundry Road at a double bend (point D1 on the attached plan). Subsequent consultation with B&NES suggests that the diversion would be safer if the path continued into B&NES within the field to exit at Point E as shown on the attached plan.
10. The landowner has been consulted on this suggestion and has agreed to amend the application so that the diversion will follow the route C—D and not the route C—D1 within Bristol's boundary, continuing from D to E within B&NES.
11. As Highway Authority the Council has power under Section 119 of the Highways Act 1980 to make orders relating to the diversion of footpaths and bridleways. A diversion order under Section 119 may be made if the council, as the Highway Authority, is satisfied that: *"in the interests of the owner, lessee or occupier of land crossed by the path or way, or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether onto land of the same or of another owner, lessee or occupier)...."*
12. The Council (or the Secretary of State if the order is referred to him) cannot confirm the Order unless they are, or continue to be, satisfied that the Order is in the interests of the owner, lessee or occupier of land or the public as referred to in 3 above, and in addition that:-
 - (i) the path will not be substantially less convenient to the public in consequence of the diversion;

(ii) it is expedient to confirm the diversion, having regard to the effect which:-

- (a) the diversion would have on public enjoyment of the path or way as a whole;
- (b) the coming into operation of the order would have as respects other land served by the existing public right of way; taking into account the provisions as to compensation; and
- (c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it, taking into account the provision as to compensation.

Procedure

- 13. If approval is given to making the order outlined above, the diversion order will be advertised in accordance with the procedure laid down in the Act. If no objections are made to the order, the council may confirm it as an unopposed order.
- 14. If Committee resolve to make an Order, and the relevant authority is received from B&NES, it is intended that agreement is reached whereby the administration of the Order is carried out by Bristol City Council and as such it is advertised with one objection period and one contact address to register objections, to ensure that the need for duplication of process and confusion to path users is reduced.
- 15. Should objections or representations be received following formal advertisement of the order, a further report will be submitted to this Committee for consideration as to whether to withdraw the order in the light of the objections or representations or to forward it to the Secretary of State for confirmation. Any representations or objections that have not been withdrawn will be sent with the order.

Liaison

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|-----|--|------------|
| 16. | Bristol Ramblers Association | No comment |
| | Bristol Open Spaces Society | No comment |
| | Bristol Civic Society | No comment |
| | Bristol British Horse Society | No comment |
| | Bristol Liaison Group Disability Advisor | No comment |
| | Bristol Living Streets | No comment |

Conclusion

- 17. It is considered that the grounds for making an order under s119 Highways Act 1980 are satisfied in this case. The

proposed alternative route shown as C-D –E on the order plan will not be substantially less convenient for use.

Consultation External – Bristol Ramblers Association, Bristol Open Spaces Society, Bristol Civic Society, Bristol British Horse Society, Bristol Liaison Group Disability Advisor, Bristol Living Streets.

Appendices Appendix 5(A) – Plan showing proposed diversion route of Public Right of Way 226 and BA26/15

Policy Implications There are no specific policy implications arising from this report.

Resource Implications The costs of processing and advertising the necessary order can be met from existing budgets.

Other Approvals Necessary

Agreement with Bath and North East Somerset Council that Bristol City Council will process the Order on behalf of both Authorities.

Recommended: that approval be given to the making and advertising of;

(i) a Public Path Diversion Order under Section 119 Highways Act 1980, to divert that part of public footpath 226 as shown on the plan attached at Appendix 5(A) so that it follows the new alignment marked C-D-E as on that plan; and

(ii) if no objections are received to the order, that approval is given to confirm it as an unopposed order; and

(iii) that the Head of Legal and Democratic Services be authorised to enter into an agreement with Bath and North East Somerset Council under section 101 of the Local Government Act 1972 and all other enabling powers to exercise the function which that authority has under Section 119 of the Highway Act 1980.

Local Government (Access to Information) Act 1985 Background Papers

1. Highways Act 1980 obtainable from HMSO
2. Local Government Act 1972 and 2000 obtainable from HMSO.

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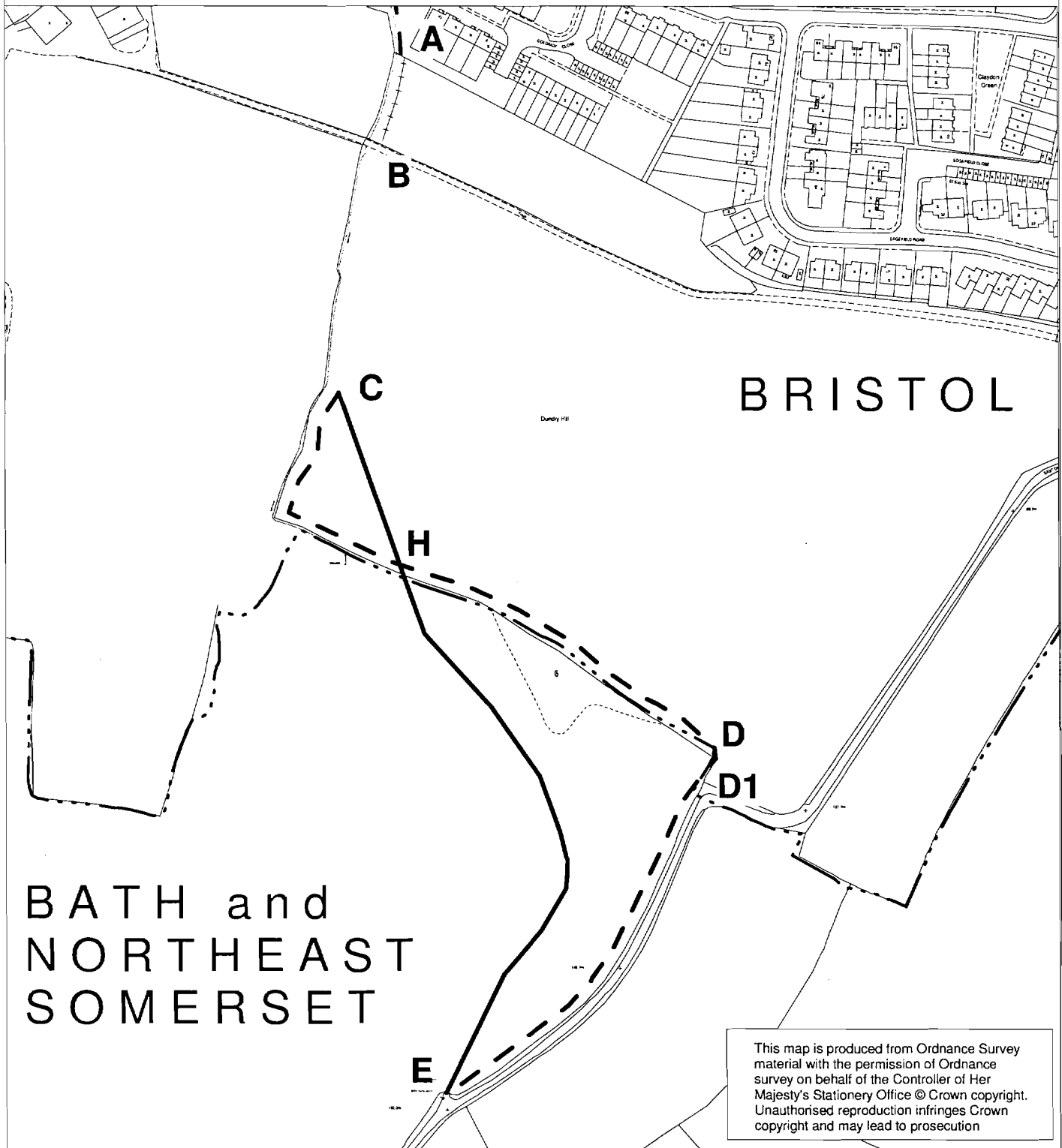
PLEASE NOTE:

The following Appendix is unavailable electronically and has therefore been scanned onto the system. If you require a hard copy of this document please contact the report author direct whose name and telephone number is displayed on the front page of the report.

Highways Act 1980 - Section 119
City Council of Bristol
(Footpath No. 226 (part), Hill Farm
Proposed Public Path Diversion Order No1 2008



DATE : MAP No. 226 SCALE : 1 : 2500



C H E
Path to be diverted

C _ D _ E _
Proposed route

KEY

A B
Dedication

Administrative
Boundary

226
Public Footpath

