

Individual Decisions

The attached reports will be taken as
Individual Portfolio Member Decisions on:

1st May 2009

Ref:	Title	Portfolio Member(s)	Page No.
ID1860	Maintenance Agreement for Footpath 36 Hungerford	Councillor Geoff Findlay	3 - 22
ID1861	Maintenance Agreement for Footpath 16 Welford	Councillor Geoff Findlay	23 – 34

Individual Executive Member Decision

Title of Report:	Maintenance Agreement for Footpath 36 Hungerford
Report to be considered by:	Individual Executive Member Decision
Date on which Decision is to be taken:	01 May 2009
Forward Plan Ref:	ID1860

Purpose of Report: To inform the Executive Member for Environment and Public Protection of the proposed maintenance agreement for part of Footpath 36 Hungerford

Recommended Action: The Executive Member approves the Council entering into the maintenance agreement which accompanies the Public Path Diversion Order for Hungerford Footpath 36 and the creation agreement for Hungerford Footpath 36a

Reason for decision to be taken: To enable the proposed Public Path Diversion Order and Creation Agreement to be progressed.

Key background documentation: Draft Public Path Diversion Order for Hungerford Footpath 36 and draft creation agreement for Hungerford Footpath 36a

Portfolio Member Details	
Name & Telephone No.:	Councillor Geoff Findlay - Tel (01635) 871992
E-mail Address:	gfindlay@westberks.gov.uk

Contact Officer Details	
Name:	Sallie Jennings
Job Title:	Rights of Way Officer
Tel. No.:	01635 519070
E-mail Address:	sjennings@westberks.gov.uk

Implications

Policy:	None arising from this report.
Financial:	None arising from this report - the applicant is meeting the Council's costs in making and advertising the Diversion Order, creation agreement and maintenance agreement.
Personnel:	None arising from this report.
Legal/Procurement:	None arising from this report- the applicant will meet the legal costs of the Order, creation agreement and maintenance agreement.
Environmental:	Consultations have been carried out to ensure no adverse effect on the immediate environment of the new route
Partnering:	None arising from this report.
Property:	None arising from this report.
Risk Management:	None arising from this report.
Community Safety:	None arising from this report.
Equalities:	The surface and structures on the new route comply with the Disability Discrimination Act 2005.

Consultation Responses

Members:	
Leader of Council:	Graham Jones - no response received
Overview & Scrutiny Commission Chairman:	Brian Bedwell - stated he had no objections
Policy Development Commission Chairman:	Marcus Franks - no response received
Ward Members:	Paul Hwer and David Holtby - no responses received
Opposition Spokesperson:	Jeff Brooks - no response received
Local Stakeholders:	Hungerford Town Council - No objections, Ramblers' Association - No objections
Officers Consulted:	Bill Jennison/Paul Hendry
Trade Union:	Rosemary Culmer - no response received

Is this item subject to call-in.	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
<p>If not subject to call-in please put a cross in the appropriate box:</p> <p>The item is due to be referred to Council for final approval <input type="checkbox"/></p> <p>Delays in implementation could have serious financial implications for the Council <input type="checkbox"/></p> <p>Delays in implementation could compromise the Council's position <input type="checkbox"/></p> <p>Considered or reviewed by OSC or associated Task Groups within preceding 6 months <input type="checkbox"/></p> <p>Item is Urgent Key Decision <input type="checkbox"/></p>		

Supporting Information

1. Background

- 1.1 Footpath 36 Hungerford crosses the site (the former piggeries, near Highclose Farm, Hungerford, adjacent to the Kennet and Avon Canal) and for many years it has been obstructed by old piggery buildings. Planning permission (03/01105/RESMAT) was granted on 14th July 2004 for the development of the site. This included the demolition of the old piggery buildings to create a boat basin and ancillary facilities including workshop, chandlery, overnight accommodation, and heritage museum.
- 1.2 While part of the site has been prepared for development the owners have applied for and had in place a number of temporary diversion orders affecting Footpath 36. These have currently lapsed as it is hoped the permanent diversion can now be finalised.
- 1.3 Part of the Development referred to in paragraph 1.1 crosses Footpath 36 Hungerford and in order to allow the Development to proceed the footpath will have to be diverted. The relevant statutory provision is s257 Town and Country Planning Act 1990 and therefore the decision making process falls to the Local Planning Authority.
- 1.4 The proposal involves diverting the footpath from across the centre of the site onto its western and northern boundaries. It also involves creating a new section of Footpath (36a) to provide a closer link between the Kennet and Avon Canal and Footpath 35 which is (on the opposite side of the A4) to the west.
- 1.5 At its meeting on 29th April 2009, the Western Area Planning Committee will consider a report which recommends that the Head of Countryside and Environment be authorised to secure the diversion of part of Footpath 36 Hungerford, at this site subject to the following conditions: - 1. The completion of a maintenance agreement requiring the owner and their successors in title to undertake maintenance of the proposed footpath. 2. To carry out the works necessary to bring the new route into a standard suitable for public use as outlined in the Order.
- 1.6 Bill Jennison has already authorised the creation of Footpath 36a Hungerford as a Delegated Officer Decision.
- 1.7 If the diversion and creation proceed, the landowner has also agreed to sign the maintenance agreement which is attached in draft as Appendix D.

2. Details

- 2.1 In signing this document the owner agrees to maintain a free draining, even surface of footpath to 2 metres, and to keep the surface cut (to be free from surface vegetation) at least 3 times per year (within the growing season April to September). The owner also agrees to keep overhanging vegetation regularly cut back to the full legal width and to provide a headroom of 2.4 metres.

2.2 The above affords the route suitable protection for the future and removes the maintenance liability for this section of the path from the Council.

3. Conclusion

3.1 It is therefore recommended that the executive member for Environment and Public Protection approves the Council entering into the maintenance agreement with the landowner and any other party that has an interest in the land or application.

Appendices

Appendix A – Draft Public Path diversion Order (s257 Town and Country Planning Act 1990)

Appendix B – Draft Creation Agreement (s25 Highways Act 1980)

Appendix C - Development Plan showing changes to footpath(s)

Appendix D - Draft maintenance agreement (s111 of the Local Government Act 1972

Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 62 of the Berkshire Act 1986)

Appendix A**PUBLIC PATH DIVERSION ORDER****TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257****WEST BERKSHIRE DISTRICT COUNCIL (FOOTPATH 36 HUNGERFORD (PART))
PUBLIC PATH DIVERSION ORDER 2009**

This Order is made by West Berkshire District Council under Section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to divert the footpath to which this Order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990 namely the planning permission under reference number 03/01105/RESMAT

BY THIS ORDER

1. The footpath over the land situate at Highclose Farm Bath Road Hungerford Berkshire shown by a bold black line on the map annexed hereto and described in Part I of the Schedule to this Order shall be diverted as provided by this Order.
2. There shall be created to the reasonable satisfaction of West Berkshire District Council an alternative highway for use as a replacement for the said footpath as specified in Part II of the Schedule hereto and shown by bold black dashes on the map contained in this Order.
3. The diversion of the said footpath shall have effect on the date on which it is certified by West Berkshire District Council that the provisions of Article 2 above have been complied with
4. The following works shall be carried out to the satisfaction of the Authority in relation to the said footpath described in Part II of the Schedule hereto, namely:
 - i. Installation of Public Footpath signposts to be supplied by the Authority at Points C (3-way) D and A
 - ii. Provision of free draining, even grassed/earth surface along the length of the footpath
5. Shaw Park Developments Limited whose registered office is situate at Sir Stanley Clarke House 7 Ridgeway Quinton Business Park Quinton Birmingham B32 1AF is hereby required to pay the cost of carrying out the above-mentioned works
6. Where immediately before the date on which the said footpath is diverted in pursuance of this Order there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.
7. This Order may be cited as the West Berkshire District Council (Footpath 36 Hungerford (Part)) Public Path Diversion Order 2009

SCHEDULE**Part I**

Description of Site of Existing Path or Way

The length of footpath running from Point A Grid Reference SU 431828 168254 to Point X Grid Reference SU 431887 168446 on the said map for approximately 200 metres in a generally north-north-easterly direction

Part I

Description of Site of Alternative Highway

The length of footpath running from Point A Grid Reference SU 431828 168254 on the said Map for approximately 15 metres in a generally south-westerly to Point B Grid Reference SU 431817 168240 and from Point B to Point C Grid Reference SU 431704 168368 in a north-westerly direction for approximately 170 metres and from Point C to Point D Grid Reference SU 431857 168429 in a north-easterly direction for approximately 175 metres and having throughout its length a dedicated width of two metres

THE COMMON SEAL of **WEST BERKSHIRE**

DISTRICT COUNCIL hereunto affixed this

day of _____ is authenticated by :

Authorised Signatory

**WEST BERKSHIRE DISTRICT COUNCIL
(FOOTPARTH 36 HUNGERFORD (PART))
PUBLIC PATH DIVERSION ORDER 2009**

This Order was confirmed on the
day of 2009

David Holling,
Head of Legal and Electoral Services
Council Offices
Market Street
Newbury
Berkshire RG14 5LD

Authorised Signatory

MS/L14_0391/03_36012

Appendix B**PUBLIC PATH CREATION AGREEMENT****HIGHWAYS ACT 1980 SECTION 25****WEST BERKSHIRE DISTRICT COUNCIL (PARISH OF HUNGERFORD)
PUBLIC FOOTPATH NO 36A**

THIS PUBLIC PATH CREATION AGREEMENT is made 2009 **BETWEEN WEST BERKSHIRE DISTRICT COUNCIL** of Council Offices Market Street Newbury Berkshire RG14 5LD ("the Council") of the first part and **SHAW PARK DEVELOPMENTS LIMITED** (Co Regn. No. 04625000) whose Registered Office is situate at Sir Stanley Clarke House 7 Ridgeway Quinton Business park Quinton Birmingham B32 1AF ("the Owner") of the second part and **ST MODWEN DEVELOPMENTS LIMITED** (Co Regn. No. 892832) whose Registered Office is situate at Lyndon House 58/62 Hagley Road Edgbaston Birmingham B16 8PE ("the Mortgagee") of the third part

WHEREAS

- (1) The Owner is registered as freehold proprietor with title absolute under Title Number BK152314 and shown on the plan annexed hereto and thereon edged red
- (2) It is intended to dedicate a public right of way as a public footpath across the said land and such right of way is shown on the annexed plan by a black dotted line
- (3) The Hungerford Town Council in whose area the land is situated has been consulted pursuant to Section 25(3) of the Highways Act 1980
- (4) The Council has given due consideration to the needs of agricultural and forestry pursuant to Section 29 of the Highways Act 1980

NOW IT IS HEREBY AGREED pursuant to powers in Section 25 of the Highways Act 1980 as follows:-

1. The Owner agrees to make the said dedication
2. The Mortgagee Consents to the said dedication
3. The Council agrees to pay One Pound (£1.00) to the Owner in consideration of
 - (a) making the said dedication and
 - (b) carrying out the works set out in Schedule 2 hereby

THIS DEED WITNESSES

1. The Owner dedicates for use by the public for the purpose of a public footpath **ALL THAT** strip of land shown by a black dotted line and running from point "C" to "C1" to "C2" as marked on the plan annexed hereto and as more particularly described in Schedule 1 hereto
2. This Creation Agreement shall not come into full force until the West Berkshire District Council (Footpath 36 Hungerford (Part)) Public Path Diversion Order 2009 has been confirmed with or without modification by the Secretary of State for the Environment, Transport and the Regions or as an unopposed Order by the Council
4. The Owner shall (if called upon the Council) prove its title to the said strip of land as Beneficial Owner in fee simple

SCHEDULE 1

Description of strip of land subject to the footpath

The length of footpath running from Point C Grid Reference SU 431705 168370 to Point C1 Grid Reference SU 431690 168360 on the said map for approximately 16 metres in a generally south westerly direction and Point C1 to Point C2 Grid Reference SU 431690 168365 for approximately 3 metres in a generally northerly direction and having throughout its length a dedicated width of two metres

SCHEDULE 2

Schedule of Works to be carried out to bring the strip of land into a fit condition for use by the public as a footpath

1. Installation of Oxford (timber) medium mobility kissing gate at Point C2;
2. Installation of Footpath signpost at point C2.

IN WITNESS whereof the parties hereto have executed this Deed in the manner shown below the day and year first before written

THE COMMON SEAL of WEST
BERKSHIRE DISTRICT COUNCIL
hereunto affixed is authenticated by:

Authorised Signatory

EXECUTED AS A DEED BY AFFIXING THE
COMMON SEAL OF SHAW PARK
DEVELOPMENTS LIMITED in the presence of:

Director

Director/Secretary

EXECUTED AS A DEED BY AFFIXING THE
COMMON SEAL OF ST MODWEN
DEVELOPMENTS LIMITED in the presence of:

Director

Director/Secretary





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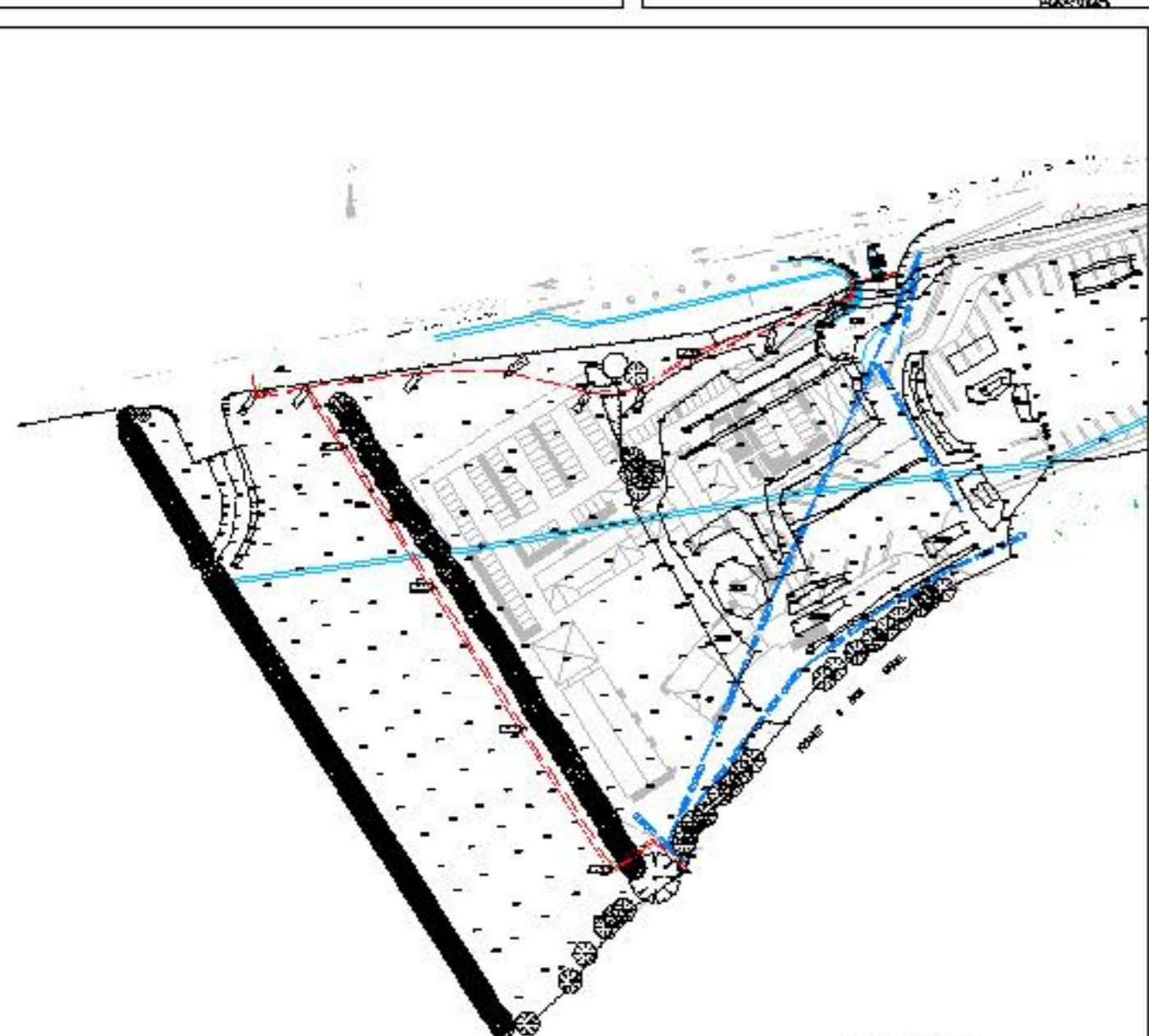
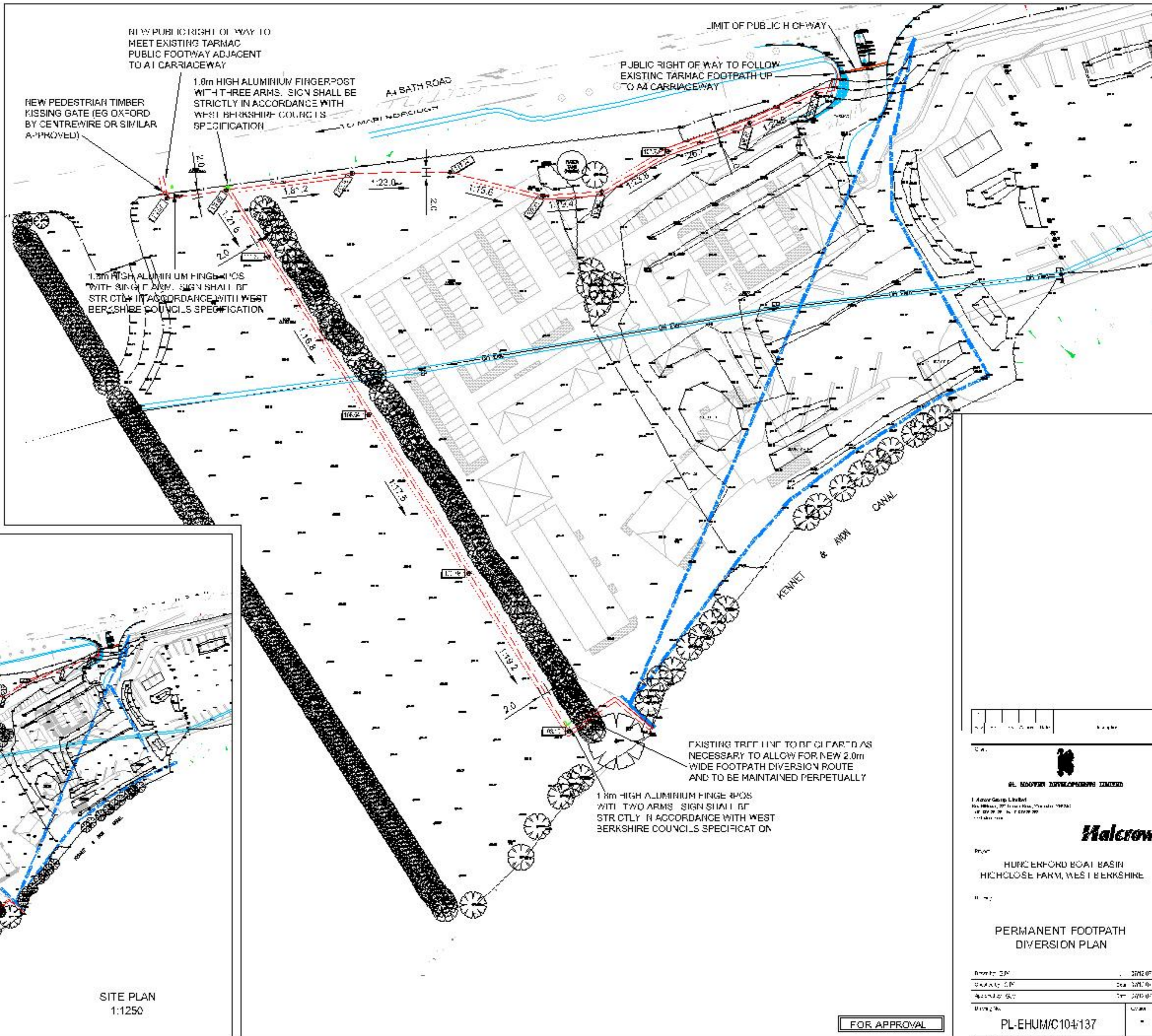
1. ST MODWEN DEVELOPMENTS/SHAW PARK DEVELOPMENTS SHALL BE RESPONSIBLE FOR MAINTAINING A CLEARLY DEFINED ACCESS ON PUBLIC RIGHT OF WAY (PROW). TERMS OF MAINTENANCE SHALL BE AGREED WITH WEST BERKSHIRE DISTRICT COUNCIL

2. NEW PUBLIC RIGHT OF WAY TO FOLLOW CONTOURS OF EXISTING GROUND

3. UNLESS NOTED OTHERWISE, PUBLIC RIGHT OF WAY SHALL BE TAKEN OVER EXISTING SOFT LANDSCAPING

KEY

-  EXISTING PUBLIC RIGHT OF WAY (PROW) OR PERMITTED PATH ROUTE TO BE CLOSED
-  LENGTH OF PUBLIC RIGHT OF WAY (PROW) TO BE CREATED
-  EXISTING GROUND LEVEL INTERPOLATED FROM TOPOGRAPHICAL SURVEY
-  GRADIENT OF PROPOSED PUBLIC RIGHT OF WAY



SITE PLAN
1:1250

EXISTING TRIFOLIUM TO BE CLEARED AS NECESSARY TO ALLOW FOR NEW 2.0m WIDE FOOTPATH DIVERSION ROUTE AND TO BE MAINTAINED PERPETUALLY

1.9m HIGH ALUMINIUM FINGERPOST WITH TWO ARMS SIGN SHALL BE STRICTLY IN ACCORDANCE WITH WEST BERKSHIRE COUNCIL'S SPECIFICATION



St Modwen Developments Limited
1, Lower Green Lane, Bletchley, Milton Keynes, MK1 1JY
Tel: 01295 25 1111 Fax: 01295 25 1112
www.stmodwen.co.uk



Project: HURCEFORD BOAT BASIN
HIGH CLOSE FARM, WEST BERKSHIRE

PERMANENT FOOTPATH
DIVERSION PLAN

Drawn by: SP	Scale: 1:1250
Checked by: SP	Date: 10/10/08
Approved by: SP	Date: 10/10/08
Drawn by:	Scale:
PL-EHUM/C104:137	

FOR APPROVAL

Reference: W/10/08/101/08/08

Appendix D

THIS DEED is made the _____ day of _____ Two thousand and Nine
BETWEEN SHAW PARK DEVELOPMENTS LIMITED (Co Regn. No. 04625000) whose Registered Office is
situate at Sir Stanley Clarke House 7 Ridgeway Quinton Business Park Quinton Birmingham B32 1AF (“the
Landowner” which expression shall include their successors and assigns) of the one part and **WEST
BERKSHIRE DISTRICT COUNCIL** of Council Offices Market Street Newbury Berkshire RG14 5LD
(hereinafter called “the Council”) of the other part

WHEREAS:-

- (1) The Landowner is the Registered Proprietor under Title Number BK152314 at the Land Registry of the land described in the Schedule hereto (hereinafter called “the Land”)
- (2) The Landowner has applied to the Council for the diversion of Footpath 36 Hungerford from the line shown with a bold black line on the plan annexed hereto (hereinafter called “the Plan”) to the line shown with a bold black dashed line on the Plan
- (3) The Council has agreed to make an order diverting Footpath 36 Hungerford (hereinafter called “the Diversion Order”)
- (4) The Landowner has also agreed to enter into an agreement pursuant to Section 25 of the Highways Act 1980 for the purpose of creating Footpath 36a Hungerford (hereinafter called “the Creation Agreement”) shown by a bold black dotted line on the Plan
- (5) Pursuant to the Highways Act 1980 the Council is the Highway Authority for West Berkshire
- (6) The Landowner has agreed to enter into this Agreement and to give the Council the covenants in the manner hereafter appearing

NOW THIS DEED WITNESSETH as follows:-

1. This Agreement is made pursuant to the provisions of Section 111 of the Local Government Act 1972 Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 62 of the Berkshire Act 1986) (which applies accordingly to the covenants hereinafter contained) and of all other powers enabling the Council in this behalf (hereinafter called “the statutory provisions”)
2. This Agreement (with the exception of Clause 3(j)) shall not take effect unless and until the Diversion Order has been confirmed and the Creation Agreement have been completed

3. The Landowner hereby covenants with the Council with the intent that the said covenants shall be enforceable in accordance with the aforementioned statutory provisions or each of them and shall bind the land accordingly as follows:-
- a) to maintain free draining, even and grass surfaced footpaths shown by the black dashed and the black dotted line on the Plan (hereinafter called "the Footpaths") each to be a dedicated width of 2 metres;
 - b) not to plough the Footpaths;
 - c) to keep the surface of the Footpaths cut (to be free from surface vegetation) at least three times per year (within the growing season April to September) to the satisfaction of the Council;
 - d) to keep overhanging vegetation regularly cut back to provide path users with the full legal width and a headroom of 2.4 metres on the Footpaths;
 - e) to maintain the kissing gates at point C2 on the Footpaths to a standard to allow safe and convenient passage for path users to the satisfaction of the Council;
 - f) to install signposts at points A, B, C and D (to be supplied by the Council) on the Footpaths;
 - g) to pay the Council's reasonable legal and administrative expenses incurred in the preparation hereof

IN WITNESS whereof the parties hereto have signed this instrument as their Deed in the presence of the persons mentioned below the day and year first before written

THE SCHEDULE

All those pieces or parcels of land on the south east side of Bath Road Hungerford in the County of Berkshire as the same are for the purpose of identification only shown on the Plan and thereon edged in red

**THE COMMON SEAL of SHAW PARK
DEVELOPMENTS LIMITED**

was hereunto affixed in the presence of :

Director

Director/Secretary

**THE COMMON SEAL of WEST
BERKSHIRE DISTRICT COUNCIL**

hereunto affixed is authenticated by:-

Authorised Signatory

DATED 2009

SHAW PARK DEVELOPMENTS LIMITED

- and -

WEST BERKSHIRE DISTRICT COUNCIL

MAINTENANCE AGREEMENT

relating to Footpath 36 and 36a Hungerford

West Berkshire District Council
Legal and Electoral Services
Council Offices
Market Street
Newbury RG14 5LD

File Reference : LS/L140391

Individual Executive Member Decision

Title of Report:	Maintenance Agreement for Footpath 16 Welford
Report to be considered by:	Individual Executive Member Decision
Date on which Decision is to be taken:	01 May 2009
Forward Plan Ref:	ID1861

Purpose of Report: To inform the Executive Member for Environment and Public Protection of the proposed maintenance agreement for part of Footpath 16 Welford

Recommended Action: The Executive Member approves the Council entering into the maintenance agreement which accompanies the Public Path Diversion Order for Welford Footpath 16 (part)

Reason for decision to be taken: To enable the proposed Public Path Diversion Order to be progressed.

Key background documentation: Draft Public Path Diversion Order for Welford Footpath 16 (part)

Portfolio Member Details	
Name & Telephone No.:	Councillor Geoff Findlay - Tel (01635) 871992
E-mail Address:	gfindlay@westberks.gov.uk
Contact Officer Details	
Name:	Sallie Jennings
Job Title:	Rights of Way Officer
Tel. No.:	01635 519070
E-mail Address:	sjennings@westberks.gov.uk

Implications

Policy:	None arising from this report.
Financial:	None arising from this report - the applicant is meeting the Council's costs in making and advertising the Diversion Order and maintenance agreement..
Personnel:	None arising from this report.
Legal/Procurement:	None arising from this report.
Environmental:	None arising from this report.
Partnering:	None arising from this report.
Property:	None arising from this report.
Risk Management:	None arising from this report.
Community Safety:	None arising from this report.
Equalities:	None arising from this report - The surface and structures on the new route comply with the Disability Discrimination Act 2005.

Consultation Responses

Members:

Leader of Council:	Graham Jones - no response received
Overview & Scrutiny Commission Chairman:	Brian Bedwell - stated he had no comments to make
Policy Development Commission Chairman:	Marcus Franks - no response received
Ward Members:	Andrew Rowles - stated he has no problem with the arrangements Anthony Stansfeld - no response received
Opposition Spokesperson:	Jeff Brooks - no response received
Local Stakeholders:	Welford Parish Council - no objections Ramblers' Association - no objections
Officers Consulted:	Bill Jennison/Paul Hendry
Trade Union:	Rosemary Culmer - no response received

Is this item subject to call-in.	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
<p>If not subject to call-in please put a cross in the appropriate box:</p> <p>The item is due to be referred to Council for final approval <input type="checkbox"/></p> <p>Delays in implementation could have serious financial implications for the Council <input type="checkbox"/></p> <p>Delays in implementation could compromise the Council's position <input type="checkbox"/></p> <p>Considered or reviewed by OSC or associated Task Groups within preceding 6 months <input type="checkbox"/></p> <p>Item is Urgent Key Decision <input type="checkbox"/></p>		

Supporting Information

1. Background

- 1.1 Footpath 16 Welford forms part of the Lambourn Valley Way long distance route. This is a high profile route from the White Horse Hill in Oxfordshire to the Kennet and Avon Canal in Newbury and is promoted by the Council.
- 1.2 Donnington Land and Property ("the Developer") and one of the owners of the land at Tee Kay Farm, Weston (Mr. J Broad) has been granted planning permission to build new homes and B1 business units (attached to properties for home working) on the Site.
- 1.3 Part of the Development referred to in paragraph 1.2 crosses Footpath 16 Welford and in order to allow the Development to proceed the footpath will have to be diverted. The relevant statutory provision is s257 Town and Country Planning Act 1990 and therefore the decision making process falls to the Local Planning Authority.
- 1.4 On 8th April 2009, the Western Area Planning Committee authorised the Head of Countryside and Environment to secure the diversion of part of Footpath 16 Welford in accordance with the provisions of Part X of the Town and Country Planning Act 1990, subject to the following conditions: - 1. The completion of a maintenance agreement requiring the applicant/owner and their successors in title to undertake maintenance of the proposed footpath. 2. To carry out the works necessary to bring the new route into a standard suitable for public use as outlined in the Order.
- 1.5 The proposal involves diverting the footpath from the centre of the Site onto the southern boundary. There has been some concern expressed about the ground conditions in this vicinity due to their boggy nature but extensive research has been carried out involving liaison with the Environment Agency and a robust specification for the surface has been drawn up. If the diversion proceeds, the landowners have agreed to enter into a maintenance agreement whereby they and their successors in title agree to maintain the footpath.
- 1.6 This affords the surface of this high profile footpath, suitable protection for the future and removes the maintenance liability for this section of the path from the Council.

2. Conclusion

- 2.1 It is therefore recommended that the Executive Member for Environment and Public Protection approves the Council entering into the maintenance agreement with the landowner and any other party that has an interest in the land or application.

Appendices

Appendix A – Draft Public Path diversion Order (s257 Town and Country Planning Act 1990)

Appendix B - Draft maintenance agreement

1st draft 2008 2nd Draft 10/07/2008 revised with grid references metrage and new preamble

Appendix A

PUBLIC PATH DIVERSION ORDER

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257

WEST BERKSHIRE DISTRICT COUNCIL (FOOTPATH 16 WELFORD) (PART) PUBLIC PATH DIVERSION ORDER 2008

This Order is made by West Berkshire District Council under Section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to divert the footpath to which this Order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990 namely: 07/01182/OUTMAJ mixed development comprising residential and B1 use situate at Teekay Farm Weston Newbury Berkshire.

All works to be carried out to the satisfaction of the Authority

This Order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") because it appears to the authority that the First Consolidated Definitive Map and Statement require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely, the diversion (as authorised by this Order) of a highway hitherto shown or required to be shown in the map and statement

BY THIS ORDER

1. The footpath over the land situate at Teekay Farm Weston Newbury Berkshire shown by a bold black line on the map annexed hereto and described in Part I of the Schedule to this Order shall be diverted as provided by this Order.
2. There shall be created to the reasonable satisfaction of West Berkshire District Council an alternative highway for use as a replacement for the said footpath as specified in Part II of the Schedule hereto and shown by bold black dashes on the map contained in this Order.
3. The diversion of the said footpath shall have effect on the date on which it is certified by West Berkshire District Council that the provisions of Article 2 above have been complied with
4. The following works shall be carried out in relation to the said footpath described in Part I and II of the schedule hereto, namely:
 - 1 Installation of timber disabled – access kissing gates at points C and E
 - 2 Surfacing of 180 metre length of route between point E and just to the east of point D to the attached specification
 - 3 Installation of public footpath signpost at point E to show route of Lambourn Valley Way
 - 4 Waymarking of route at points D and E
5. Jonathan Broad of Teekay Farm Weston Newbury Berkshire is hereby required to pay the cost of carrying out the above-mentioned works
6. Where immediately before the date on which the said footpath is diverted in pursuance of this Order there is apparatus under, in, on, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

1st draft 2008 2nd Draft 10/07/2008 revised with grid references metreage and new preamble

7. The rights conferred on the public under this Order shall be subject to the limitations and conditions set out in Part I I I of the Schedule to this Order
- 8 This Order may be cited as the West Berkshire District Council (Footpath 16 Welford) (Part) Public Path Diversion Order 2008

SCHEDULE

PART I

Description of Site of Existing Path or Way

The length of the footpath running from Point A [Grid Reference SU: 439800 174095] to Point B [Grid Reference SU: 439925 740050] on the said Map for approximately 155 metres and from Point B to Point C [Grid Reference SU: 440600 173945] on the said map for approximately 150 metres in a generally east-south-easterly direction

PART I I

Description of Site of Alternative Highway

The length of the footpath running from Point C [Grid Reference SU: 440600 173945] to Point D [Grid Reference SU: 439920 174005] for approximately 155 metres in a generally west-north-westerly direction and from Point D to Point E [Grid Reference SU: 439765 174045] for approximately 160 metres and from in a generally west-north-westerly direction having throughout its length a dedicated width of two metres

PART I I I

Limitations and Conditions

Position of path or way to which limitation and conditions apply	Limitations and Conditions
Points C [Grid Reference SU: 440600 173945] and E [Grid Reference SU: 439765 174045]	2 Timber disabled-Access Kissing Gates

THE COMMON SEAL of **WEST BERKSHIRE DISTRICT COUNCIL** hereunto affixed this

day of 2008

is authenticated by :

Authorised Signatory

1st draft 2008 2nd Draft 10/07/2008 revised with grid references metrage and new preamble

WEST BERKSHIRE DISTRICT COUNCIL
(FOOTPATH 16 WELFORD) (PART)
PUBLIC PATH DIVERSION ORDER 2008

David Holling,
Head of Legal and Electoral Services
Council Offices
Market Street
Newbury
Berkshire RG14 5LD

MS/L14_0375/03_61008

Appendix B

THIS DEED is made the _____ day of _____ Two thousand and Eight
BETWEEN JONATHAN MARTIN BROAD and KATHLEEN TERESA BROAD (his Wife) both of Teekay Farm Weston Nr Newbury Berkshire (hereinafter called "the Landowners" which expression shall include their successors and assigns) of the first part and **WEST BERKSHIRE DISTRICT COUNCIL** of Council Offices Market Street Newbury Berkshire RG14 5LD (hereinafter called "the Council") of the second part and **LLOYDS TSB BANK PLC** [Co Regn No 2065] of Dept No 94-46 British Securities Centre PO BOX 853 Unit 8 City Business Park Easton Road Bristol BS99 5HZ ("the Lender") of the third part

WHEREAS:-

- (1) The Landowners are the Registered Proprietors under Title Numbers BK 32031 and BK414235 at the Land Registry of the land described in the Schedule hereto (hereinafter called "the Land")
- (2) The Landowners have applied to the Council for the diversion of Footpath 16 Welford (Part) from the line shown with a bold black line on the Plan annexed hereto (hereinafter called "the Plan") to the line shown with a bold black dotted line on the Plan
- (3) The Council has agreed to make an Order diverting the said Footpath (hereinafter called "the Diversion Order") under the Town and Country Planning Act 1990 Section 257
- (4) Pursuant to the Highways Act 1980 the Council is the Highway Authority for West Berkshire
- (5) The Landowner has agreed to enter into this Agreement and to give the Council the covenants in the manner hereafter appearing
- (6) The Lender has given its consent to the Maintenance Agreement in respect of BK32031 by executing this Deed

NOW THIS DEED WITNESSETH as follows:-

1. This Agreement is made pursuant to the provisions of Section 111 of the Local Government Act 1972 Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 62 of the Berkshire Act 1986) (which applies accordingly to the covenants hereinafter contained) and of all other powers enabling the Council in this behalf (hereinafter called "the statutory provisions")
2. This Agreement (with the exception of Clause 3(e)) shall not take effect unless and until the Diversion Order has been confirmed
3. The Landowners hereby jointly and severally covenant with the Council with the intent that the said covenants shall be enforceable in accordance with the aforementioned statutory provisions or each of them and shall bind the land accordingly as follows:-
 - (a) to maintain the diverted length of footpath shown with a bold broken line on the Plan (hereinafter called "the Diverted Footpath") to a dedicated width of two metres
 - (b) to maintain the hard surfaced areas of the route (D-E) to the original standard (work specification outlined in the Diversion Order)
 - (c) to keep the surface of the route cut (to be free from surface vegetation) at least three times per year (within the growing season April to September) to the satisfaction of the Council's Rights of Way Officer
 - (d) to keep overhanging vegetation regularly cut back path users with the full legal width and a headroom of 2.4 metres at all times

- (e) to pay the Council's reasonable legal and administrative expenses incurred in the preparation hereof
- (f) to maintain the kissing gates at points C and E to a standard to allow safe and convenient passage for path users to the satisfaction of the Council's Rights of Way Officer

IN WITNESS whereof the Mr and Mrs Broad have executed this Instrument as a Deed and the Council and the Lender have hereunto executed the Deed by affixing their Common Seals the day and year first before written

THE SCHEDULE

All those pieces or parcels of land on the south side of Teekay Farm Weston Berkshire edged in red on the Filed Plan annexed to Land Registry Title Numbers BK32031 and BK414235

EXECUTED as a deed by
JONATHAN MARTIN BROAD in
the presence of:

Witness Name

Witness Address

Witness Occupation

Witness Signature

EXECUTED as a deed by
KATHLEEN TERESA BROAD in
the presence of:

Witness Name

Witness Address

Witness Occupation

Witness Signature

THE COMMON SEAL of **WEST BERKSHIRE DISTRICT COUNCIL**
hereunto affixed is authenticated by:-

Authorised Signatory

EXECUTED by

For and on behalf of **LLOYDS TSB BANK PLC** In
the presence of:

or

**EXECUTED AS A DEED BY AFFIXING THE
COMMON SEAL OF LLOYDS TSB BANK PLC** by
Order of the Board of Directors in the presence of :

Authorised Official /By Authority of the Board of
Directors

DATED

200[]

JONATHAN MARTIN BROAD AND KATHLEEN TERESA BROAD

- and -

WEST BERKSHIRE DISTRICT COUNCIL

-and-

LLOYDS TSB BANK PLC

MAINTENANCE AGREEMENT

relating to Footpath 16 Welford
(Teekay Farms)

Legal and Electoral Services
Council Offices
Market Street
Newbury RG14 5LD

File Reference : MS/L14_0375 (03_61008)