

FORM 1

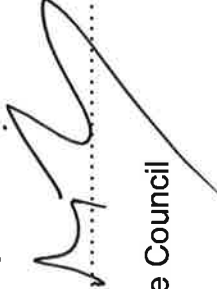
NOTICE OF DELEGATION OF DECISION TO CABINET MEMBER BY STRONG LEADER

Section 15(4) of the Local Government Act 2000, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1st December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

I, Councillor Marcus Hart, as Strong Leader, delegate the decision to divert the Footpath to the side of 1A Damson Way, Bewdley to the Cabinet Member detailed below:

Councillor Nathan Desmond,
Cabinet Member for Resources and Transformation

Dated: *15th December* 2014

Signed: 

Leader of the Council

FORM 2

NOTICE OF DECISION OF CABINET MEMBER

Pursuant Section 15(4) of the Local Government Act 2000, as amended by section 63 of the Local Government and Public Involvement in Health Act 2007, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1st December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

In accordance with the authority delegated to me (delete as appropriate), I have made the following decision:

Subject	Decision	Reason for decision	Date for Decision to be taken
Diversion of Footpath to the side of 1A Damson Way, Bewdley.	Authority to be delegated to the Solicitor to the Council to take such steps as are necessary to make and (if unopposed) confirm a Footpath Diversion Order in relation to Footpath 552 (Part) Bewdley to the side of 1A Damson Way, Bewdley.	The line of Footpath No. 552 Bewdley runs through the dwelling house at 1A Damson Way, Bewdley making it inaccessible. Therefore, with the consent of the owners of the adjoining land, Wyre Forest Community Housing, it is considered expedient (in the interests of the owner of 1A Damson Way and the public) for the Council, pursuant s119 of the Highways Act 1980, to divert the Footpath.	December 2014

I confirm that the appropriate statutory officer consultation has taken place with regard to this decision.

Dated: 16/12/14 2014

Signed: 

Councillor: Nathan Desmond
Cabinet Member for Resources and Transformation

To: Councillor Nathan Desmond, Deputy Leader and Cabinet Member for
Resources and Transformation

From: Mike Parker
Director of Director of Economic Prosperity and Place

Extension 2508
mike.parker@wyreforestdc.gov.uk

Date: 11 December 2014

**Footpath Diversion to the side of 1A Damson Way, Bewdley: Footpath No. 552
(part) Bewdley**

1. PURPOSE

- 1.1 To seek approval to an application for a Footpath Diversion Order under Section 119 of the Highways Act 1980 and to authorise the Solicitor to the Council to make such an Order recommendation.

2. RECOMMENDATION

- 2.1 Authority to be delegated to the Solicitor to the Council to take such steps as are necessary to make and (if unopposed) confirm a Footpath Diversion Order in relation to Footpath 552 (Part) Bewdley to the side of 1A Damson Way, Bewdley.

3. BACKGROUND

- 3.1 Details and reasons for the application are as follows:

- 3.1.1 The Diversion is required as the current line of Footpath 552, Bewdley runs through the dwelling house and garden situated at 1A Damson Way, Bewdley.
- 3.1.2 The Footpath to be diverted is situated on land which is currently owned by the applicant Brian Adrian Raine and Jennifer Ann Raine.
- 3.1.3 The Applicants built the dwelling house at 1A Damson Way in 1988-89. The Applicants were not aware of the existence of the Footpath (notwithstanding the usual searches had been completed) until it was brought to their attention on their proposed sale of the property (which sale has subsequently aborted as a result of the existence of the Footpath). Prior to this, at no time before (to the applicants knowledge) or since the house was constructed, has any person requested walking the definitive route of Footpath 552 (Bewdley) to the extent that the line

runs through the dwelling house and garden at 1A Damson Way, Bewdley.

- 3.1.4 The Applicants are aware that the public have for many years used the route which is the requested diversion route. This route is laid out as a public footpath and is convenient for walkers as it avoids crossing through the residential dwelling house and follows an accessible well defined route.
- 3.1.5 The diversion route applied for has already been accepted by the public as the route (and has been maintained as such) for many years. This application therefore merely requests regularisation.
- 3.1.6 The diverted route of the Footpath crosses land not in the ownership of the Applicant. The Owners of that land, Wyre Forest Community Housing, have consented to Diversion Order being made.
- 3.1.7 The plan attaches the location of the existing Footpath route by the blue dotted line between the points marked A and B. The plan attached also shows the proposed diversion by the red dotted line between the points marked A to C to B.
- 3.1.8 Initial consultation with all parties required pursuant to the legislation has already been undertaken. No objections have been received to the proposals.

4. FINANCIAL IMPLICATIONS

- 4.1 The applicant has signed an agreement to indemnify the Council against all costs that may be incurred by it in relation to the application in full.
- 4.2 Therefore, there will be no financial implications for the Council in dealing with the application.

5. LEGAL AND POLICY IMPLICATIONS

- 5.1 Section 119 of the Town and Country Planning Act 1990 empowers the Council to make an Order authorising the Diversion of a Footpath where it appears "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".
- 5.2 A series of protections exist for members of the public to ensure that Footpath Diversions are only agreed in limited circumstances. The legislation contains an obligation on the Council to advertise the Diversion at several stages of the procedure, to consult (including initial consultation which has already taken place) with statutory bodies and others and the public have an opportunity to object to the Diversion. Ultimately (if there is an objection which is not

withdrawn) the Order will be referred to the Secretary of State for a Decision. If no objections are received then Wyre Forest District Council may confirm the Order.

6. CONCLUSION

- 6.1 The Applicants have applied to have the Footpath Number 552 (Bewdley) diverted in part as the current line runs through their dwelling house. Accordingly, as the Footpath is currently not passable and as the public are currently using an alternative route on the adjoining land it would appear to be in both the interests of the Applicants as owners of the land crossed by the path and the members of the public, and expedient to do so, for the route of the Footpath to be diverted to regularise the route which is currently (and has for many years been) used by the public for crossing between points A and B on the plan attached to this report.
- 6.2 That the Council will not be burdened with the cost of making the Diversion Order.
- 6.3 That the Committee resolve that the Solicitor to the Council make an Order and Confirm the Order if it is unopposed.

7. RISK MANAGEMENT

There are no risk management issues arising from this report.

8. EQUALITY IMPACT NEEDS ASSESSMENT

Any footpaths diverted need to be of a minimum width; this application complies with these requirements and therefore a further assessment is not required.

9. CONSULTEES

Director of Director of Economic Prosperity and Place

Solicitor to the Council

10. BACKGROUND PAPERS

Copy of the Draft Order relating to the Footpath Diversion.

SCHEDULE

PART 1

Description of Site of Existing Path or Way

That part of Footpath No. 522 commencing in the Parish of Bewdley at point **A** (Grid Reference 379058, 275761) proceeding in a northerly direction for approximately 37 metres to point **B** (Grid Reference 379065, 275800) along the blue dotted line.

The route is more particularly described as, "starting at a point to the north-east corner of the electricity substation off Grey Green Lane, Bewdley where there is a 1 metre high concrete post positioned on the centre line of the existing footpath (notated as "post" on the OS plan) Footpath No. 522 runs up a steep incline for the first 8 metres, passing through Point **A** and continues in a straight line to Point **B**."

From Point **A** to Point **B** along the blue dotted line Footpath No 522 is currently inaccessible and there is no demarcation of it on the ground. The width of Footpath No. 522 is unclear between Point **A** and Point **B**.

PART 2

Description of Site of New Path or Way

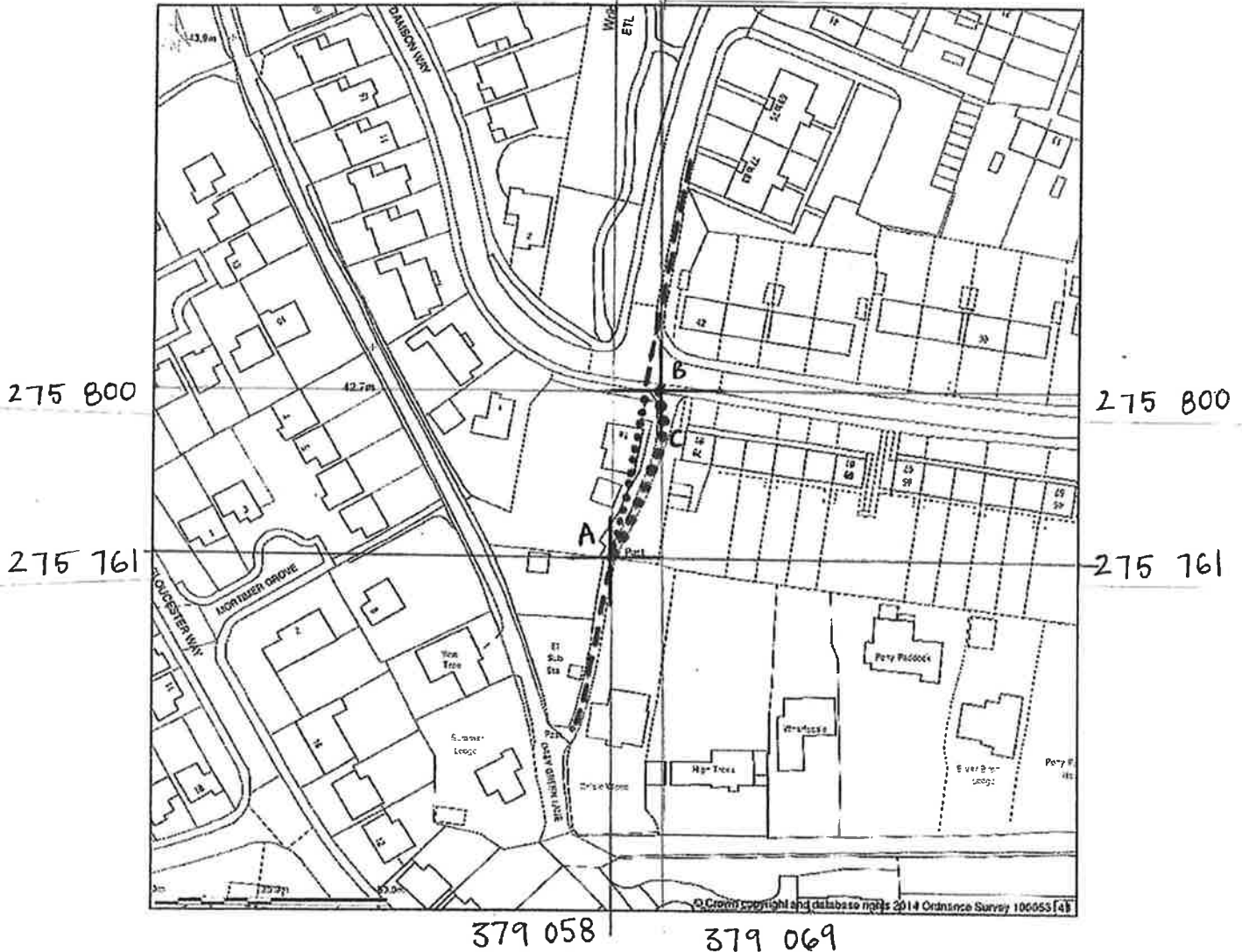
The proposed new route of Footpath No 522 is approximately 42 metres along the red dotted line commencing in the Parish of Bewdley point **A** (Grid Reference 379058, 275761) proceeding first in a north north easterly direction for approximately 28 metres to Point **C** (Grid Reference 379069, 275785) then proceeding in a north north westerly direction until it rejoins the existing footpath at point **B** (Grid Reference 379065, 275800).

From Point **A** to Point **C** to Point **B** along the red dotted line there is an available width of 2 metres comprising of both tarmac and grass surfaces. The width of the tarmac varies from 1.2 metres to 2.5 metres. The minimum width of the proposed new route of Footpath No 522 shall be not less than 2 metres.



1 A Damson Way, Bewdley, DY12 1EZ

379 058 379 069



Site Plan shows area bounded by: 378960.0,275680.0 379160.0,275880.0 (at a scale of 1:1250) The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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..... PATH TO BE DIVERTED

--- EXISTING PATH

..... PROPOSED ROUTE



SCALE 1:1250