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Your Ref:
Our Ref:
Date: 19 November 2012

Dear Member

REGULATION COMMITTEE MEMBER PANEL - WEDNESDAY, 21 NOVEMBER 2012

I am now able to enclose, for consideration at next Wednesday, 21 November 2012 meeting of the Regulation Committee Member Panel, the following report that was unavailable when the agenda was printed.

Agenda No	Item
3	<u>Public Footpath ZF5, Faversham</u> (Pages 1 - 4)

- (a) Application to divert part of Public Footpath ZF5, Faversham
- (b) Application to extinguish part of Public Footpath ZF5 and create by Order a new Public Footpath at Faversham

Yours sincerely

Peter Sass
Head of Democratic Services

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FAVERSHAM REACH RESIDENTS ASSOCIATION LIMITED

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Ms Sonia Coventry
Public Rights of Way Officer
Countryside Access Service
Invicta House
County Hall
Maidstone
Kent ME14 1XX



18th July 2012

Dear Madam,

Public Footpath ZF5, Faversham Reach, Faversham

The Residents Association company understands that Faversham Town Council have applied to divert footpath ZF5 onto a different route through Faversham Reach.

The company intend to oppose this application and when we receive a formal notice of this application we will respond in a formal manner.

Several residents also intend to oppose the application.

Yours faithfully,

A handwritten signature in cursive script that reads "H. Albery".

Mrs. H. Albery (Secretary)
For and on behalf of Faversham Reach Residents Association Limited.

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Ms Sonia Coventry
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22nd August 2012

Dear Madam,

Public Footpath ZF5, Faversham Reach, Faversham

Please find enclosed an objection To Faversham's Town Council proposal [KCC ref PROW/ZF5/1340] and our own application to divert the above footpath and extinguish that part of the footpath that goes through Faversham Reach.

Yours faithfully,

A handwritten signature in cursive script, appearing to read 'H. Albery'.

Mrs. H. Albery (Secretary)
For and on behalf of Faversham Reach Residents Association Limited.

OBJECTIONS TO THE PROPOSED DIVERSION OF FOOTPATH

Faversham Reach Residents Association Limited (hereinafter referred to as FRRA) is the landowner of the land over which the application by Faversham Town Council for the proposed diversion will run. FRRA is responsible for the maintenance of the land and contrary to the statement contained in the application has never been asked for permission nor has any such permission been given by FRRA.

FRRA is grateful to the Town and County Councils for bringing the current anomalous situation of footpath ZF5 to its attention and to the attention of those it represents. Clearly the existing situation, with the designated footpath running through several buildings and a large wall, is far from ideal.

FRRA therefore supports the principle of diversion but would suggest that the footpath be diverted onto a different route, namely the route of the Saxon Shore Way which runs around the outside of Faversham Reach. It will make its own application under s119 of the Highways Act 1980 to secure this outcome.

On this basis, FRRA **objects** to the Town Council's proposal (KCC ref PROW/ZF5/1340) to divert ZF5. In terms of the questions asked on your consultation form:

- 1) The proposed diversion is not in the landowner's interest. The land over which the diverted ZF5 is proposed to run is owned by FRRA. The owner does not consent to the proposed route of ZF5. It will run through the heart of a quiet residential estate, causing inconvenience and security concerns, particularly in respect of the adjacent marina, which has no provisions as to the security of the boats moored there. The landowner would prefer for ZF5 to be diverted along the route of the Saxon Shore Way. That land is understood to be owned by Swale Borough Council.
- 2) The proposed diversion is not in the public's interest. It would be better for the public if ZF5 were routed along the Saxon Shore Way. This is a nationally famous long distance walking route. It is routed around the side of what is now Faversham Reach. However, it does not currently enjoy right of way status. FRRA considers that it would be in the public's interest to divert ZF5 onto the route of the Saxon Shore Way, securing this amenity for the public. To do so would require little or no expenditure as there is already a physical path on the route of the Saxon Shore Way which has recently (in or around 2004) been improved to secure disabled access. Part of the diversion is over an area specified as a car parking space on the planning permission for the development at Faversham Reach and the permission excludes any development over this land or the area enabling vehicular access thereto. It would therefore be necessary to apply for this condition to be amended and if granted is likely to result in vehicles being parked on already congested part of the public highway.
- 3) The proposed diversion is substantially less convenient for the public than the diversion proposed by FRRA because it involves traversing a ramp whereas the route of the Saxon Shore Way is flat and accessible for all.

- 4) The proposed diversion would be less preferable in terms of public enjoyment of the route than FRRA's proposed diversion; as set out above, the public would surely prefer to be able to walk along the route of the Saxon Shore Way than through Faversham Reach. The proposed diversion onto the Saxon Shore Way is along a path upon which there is no vehicular access whereas the proposed diversion of Faversham Town Council is over an area of roadway used by vehicles including delivery vehicles and public utility vehicles with several areas having limited visibility.
- 5) The points of termination are the same.

A further point to consider is the difficulty and cost to the public of securing the Town Council's proposed diversion when compared with that proposed by FRRA.

The land to the southwest of Faversham Reach, on which it is proposed to construct a substantial ramp, is understood to be a town or village green registered as VG236. The construction of a ramp on the green would be unlawful under the 19th century statutes which protect town and village greens. The Commons Act 1876 provides in s29 that, in respect of a green, "any erection thereon or disturbance or interference with or occupation of the soil" shall be a public nuisance (and therefore unlawful). The construction of a ramp would clearly fall within that section.

Even supposing that the construction of a ramp were lawful, it would still be expensive and unnecessary given the existence of FRRA's alternative diversion proposal. Given the context of the recession and the many other priorities which KCC no doubt faces in terms of its expenditure, this must be a relevant consideration when considering which proposal to take forward.

FRRA would therefore invite KCC to prefer its own proposed diversion as the more 'expedient' proposal. However, if KCC is undecided FRRA would suggest that both its proposal and the Town Council's proposal be submitted to an inspector for simultaneous consideration so that he can determine which of them is the most expedient.