**Request Reference: 16171536**

**Date received: 14 February 2017**

**Date response sent: 20 March 2017**

**1. What risk assessment has been carried out over the ' proposed new alignment'? Mixing mountain-bikers and walkers over that route needs careful consideration. I have walked the route and it becomes very narrow. If it results in injury, there could well be a liability issue.**

The new route around the ‘fenced field’ will be 3m in width, allowing plenty of room for pedestrians and ‘leisure’ cyclists to pass. The route will not be officially opened for use, until such time that both ends are fully connected by a surfaced route, as the Public Right of Way (PROW) through the final section towards Battery Gardens is not suitable for leisure cycling.

**2. It seems like the changes are being made before consultation. This seems like a move to present a fait accompli. This is surely wrong. You seem to have already decided as works have been carried out before consultation and notification.**

As you may be aware, the authority has for some time been trying to introduce a leisure cycle route between Torquay and Brixham, some of which will be ‘on road’ (cycle lanes) and some ‘off road’ (shared footways or dedicated cycle routes).

We are taking the option of building sections of the route as and when funding (often section 106 contributions) become available and have already introduced sections at Hollicombe, Preston and Paignton Green’s and Roundham.

For a while we have been trying to implement the section of the route between Copythorne and the Brixham Battery, some works having already taken place to widen and surface the path between the holiday parks near the battery. Due to the required works in the Grove the America Lane section has had to be put on hold, however now this is taking place, we can begin to progress our works.

However, currently no advertising of the proposed new alignment of this route has been undertaken and therefore the existing route must remain open for use. It is the duty of the council and the council’s Public Rights of way office to ensure so.

**3. The 'proposed new alignment' benefits directly the farmer who 'owns' the field and it is important that any 'conflict of interests' is addressed.**

The land in question is owned by Churston Barony and the farmer is their tenant. The authority has been in discussion / negotiation with the Churston Barony and recently a land swap was negotiated, this has allowed the line of the proposed route to be switched to the lower side of the ‘common’, to the tree side of recently erected fence line. This will allow the land owner to secure the area for the grazing of cattle, whilst also allowing safe usage of the Public Right of Way away from any conflict with live stock.

The authority has a legal duty to fence the field and this has become increasingly more difficult to do.

**4. A change to a Public Right of Way requires a legal notification Highways Act (1980) and Town and Country Planning Act (1990). When is this to take place? There are legal restrictions on the nature of the diversion such as it cannot be longer or more difficult than the current route. This is highly questionable in this case. You seem to be sacrificing those on foot in my opinion.**

The authority is aware that any changes to the line of a PROW are subject to a full legal process, including the advertising of any proposed changes and the hearing of objections.

Whilst the line of the proposed route is slightly longer, the new route will be much better than the rough and unmade track across the ‘common’ as it will be a properly constructed 3m wide permeable surfaced path; timber edged and made of crushed stone and planings.

**5. To be clear this is an existing Right of Way (BX/56) changes are not at the whim of anyone but have to be properly and legally considered. Your website clearly states that Torbay only provides the following Rights of Way :-**

***Footpaths and Bridleways.***

**The changes are taking place over BX/56 a Public RoW, which must fall into that category. Therefore the RoW BX/56 cannot be diverted over your route for cyclists. Your own council website forbids cycling or riding a horse over your Public Rights of Way.**

As above, the authority is aware that any changes to the line of a PROW are subject to a full legal process, including the advertising of any proposed changes and the hearing of objections.