
Order Decision

On papers on file

by Martin Elliott BSc FIPROW

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 29 February 2016

Order Ref: FPS/H0724/4/2

- This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and is known as The Hartlepool Borough Council Public Footpath No. 9 Hartlepool Diversion Order 2012.
- The Order was sealed on 7 August 2012 and proposes to divert part of public footpath No. 9 Hartlepool as shown on the Order plan and described in the Order Schedule.
- There was one objection outstanding when Hartlepool Borough Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed subject to modifications.

Preliminary Matters

1. I have made this decision on the basis of the papers on file. I have not visited the site but am satisfied that I can make my decision on the information before me.
2. The objection raises the point that the alternative route should not follow the footway of Gladys Worthy Close. Following discussions between the Council and the objector the Council agreed to submit the Order to the Secretary of State with a request to modify the Order. The Council, in submitting the Order, requested that the Order be modified so as to delete the section of the alternative route which follows the footway on Gladys Worthy Close. On that basis the objector withdrew his objection.
3. In my view it is not appropriate for the alternative route to follow, in part, a footway. Section 66(1) of the Wildlife and Countryside Act 1981 defines a footpath as 'a highway over which the public have a right of way on foot only, other than such a highway at the side of a public road.' Bearing this in mind I propose to modify the Order accordingly by deleting the section of the alternative route along the footway of Gladys Worthy Close.

The Main Issues

4. This Order has been made under section 119 of the Highways Act 1980. There is no evidence before me to suggest that the relevant criteria have not been met and from the information before I am satisfied that the relevant criteria have been met. I have therefore not considered this matter further.
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Conclusion

5. Having regard to these and all other matters raised in the written representations and in the papers on file I conclude that the Order should be confirmed subject to modifications.

Formal Decision

6. I confirm the Order subject to the following modifications:
 - At Part II of the Schedule to the Order at line 6 after '(point F on the attached plan)' delete from 'then along' to 'Kipling Road.' inclusive and insert 'where the public footpath ends at its junction with Gladys Worthy Close.'
 - From the Order map delete the section of the 'proposed diversion' from F to H and, from the Key, delete references to points G and H and amend the Key to show the 'proposed diversion' as D to F.

Martin Elliott

Inspector