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## Order Decision

Site visit made on 17 October 2016

**by Barney Grimshaw BA DPA MRTPI(Rtd)**

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

**Decision date: 21 October 2016**

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### **Order Ref: FPS/J1915/5/1**

- This Order is made under Section 257 of the Town and Country Planning Act 1990 and is known as the East Hertfordshire District Council, Buntingford No. 12, Diversion Order 2015.
- The Order is dated 26 November 2015 and proposes to divert part of Buntingford Footpath 12 to the north-west of Hare Street Road as shown on the Order Map and described in the Order Schedule.
- There were 2 objections outstanding when East Hertfordshire District Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

### **Summary of Decision: The Order is confirmed.**

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#### **Procedural Matters**

1. I made an unaccompanied site inspection on Monday October 17 2016 when I was able to view the whole of the Order routes. On my visit I noted that development on the line of the existing footpath was well advanced but not complete.
2. In writing this decision I have found it convenient to refer to points marked on the Order Map. I therefore attach copies of this map.

#### **The Main Issues**

3. Section 257 of the 1990 Act requires that I must consider whether it is necessary to divert the footpath in question in order to allow development to be carried out in accordance with a planning permission already given but not implemented.
4. In addition, consideration should also be given to any disadvantages or loss likely to arise as a result of the diversion or extinguishment, either to members of the public, or to persons whose properties adjoin or are close to the existing footpaths.

#### **Reasons**

5. After the Order had been submitted to the Planning Inspectorate for determination on behalf of the Secretary of State, a Creation Agreement was made between Hertfordshire County Council and the developers of the land crossed by the Order routes. This adds an additional public right of way over

the land and, in the light of this, both objections to the Order have now been withdrawn. Nevertheless, it is still necessary to ensure that the relevant criteria are satisfied before the Order is confirmed.

***Whether it is necessary to divert the footpath to carry out the development permitted***

6. Planning permission was granted on appeal in January 2014 (Ref: APP/J1915/A/13/2205581) for the development of up to 160 dwellings and associated works on land crossed by the existing footpath.
7. The approved layout for the development shows seven dwellings, a balancing pond and a pump house obstructing the line of the footpath. The construction of these buildings and the pond has already begun but has not been completed.
8. Accordingly, there is a clear need for the footpath to be diverted to enable the permitted development to be carried out.

***The effect of the diversion on members of the public, or persons whose properties adjoin or are close to the existing footpath***

9. The proposed new route of the footpath follows a generally similar line to the existing path running north-west to south-east and terminates at a point on Hare Street Road (Point G) very close to the existing termination point (Point B).
10. The proposed new route between points A and G is slightly longer than the existing route between Points A and B (approximately 340m rather than 275m) but this is unlikely to represent any significant inconvenience to users.
11. The new route will be easy to follow and will be constructed to the standard required by the highway authority to reflect its anticipated increased use after the new dwellings are occupied.
12. Although the character of the path will change as a consequence of the development, there is no reason to believe that the proposed diversion will result in any disadvantage or loss to members of the public or persons whose properties adjoin or are close to the existing footpath.

**Conclusions**

13. Having regard to these and all other matters raised, I conclude that the Order should be confirmed.

**Formal decision**

14. I confirm the Order.

*Barney Grimshaw*

**Inspector**

