

Order Decision

Site visit made 28 July 2016

by Heidi Cruickshank BSc (Hons), MSc, MIPROW

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

Decision date: 8 August 2016

Order Ref: FPS/D0840/5/2

- This Order is made under Section 257 of the Town and Country Planning Act 1990. It is known as The Cornwall Council (Footpath No. 1, St Keyne (Part)) (Dwelling on land adjacent to 23, Valley View) Diversion Order 2015.
- The Order is dated 25 November 2015 and proposes to divert the Footpath No. 1 onto an alignment further to the north within land adjacent to 23 Valley View, St Keyne, as shown in the Order map and described in the Order Schedule.
- There was one objection outstanding when Cornwall Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed.

Procedural Matters

1. No-one requested to be heard with respect to the Order and so I made an unaccompanied site inspection, taking account of the written representations.

Main Issues

2. The Order was made because it appeared to the OMA that it was necessary to divert the footpath to enable development to be carried out in accordance with planning permission granted under Part III of the 1990 Act.
3. Section 257 of the 1990 Act requires that, before confirming the Order, I must be satisfied that it is necessary to divert the footpath in question to allow development to be carried out in accordance with the planning permission already given but not substantially complete.
4. Even if necessary to divert the path to allow implementation of the permission my confirmation of the Order is discretionary. I shall consider the merits or disadvantages of the proposed stopping up in relation to the particular facts of the case.

Reasons

Whether it is necessary to divert the footpath to enable development to be carried out

5. The relevant permission is for a "*Proposed dwelling and associated parking area (Revised scheme following decision PA14/05178).*" It relates to land adjacent to 23 Valley View and the permission was granted on 21 January 2015, application number PA14/11254.
 6. I am satisfied that the planning permission directly relates to the land crossed by the Order route. If the footpath is not diverted from the current location
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then the planning permission cannot be implemented as the route would pass through part of the proposed house and boundary to the west. For that reason, I am satisfied that it is necessary to divert the footpath to enable the development.

Whether the development is substantially complete

7. At the time of my site visit the block work for the new building was in place, with close-board fencing separating the proposed line of the footpath from the original property, 23 Valley View. The works to the proposed right of way were not complete and the Order provides that the diversion will only take effect when the Authority certify that the alternative highway has been created. I am satisfied that the development is not substantially complete.

The effect of the Order on those whose rights would be diverted by it

8. The eastern section of Footpath No. 1 St Keyne runs along Valley View Road, which is also recorded as U6158. The section of the footpath running along the road is not altered by this Order. There is a pavement along both sides of this road, providing pedestrian access. Users will walk a short additional distance along the road between points B and C¹ to continue along the footpath. The additional distance for users travelling to and from the south-east is very slight and those travelling to and from the north will have a slightly shorter route.
9. The proposed route A – C will 1.8 metres wide and constructed to a standard set out in the Cornwall Council specification of "Highways for Adoption". West of point A the footpath crosses a field, terminating on the road between St Keyne and East and West Trevillies. Whilst the owner of this land raised concerns about differences in levels, the Order sets out that steps will be provided at point A, the access into the field. I am satisfied that the Order will not have a detrimental effect upon those whose rights may be affected.

Other matters

10. Concerns were raised about the procedures for determining Orders to which objections had been made; other rights of way in the county being virtually unusable, at the time of objection, due to rain and bad weather; and, potential changes to the Cornish countryside and rights of way as a result of development. I have not been given any consideration to these matters, as they are not issues that are relevant to my decision on this Order.

Conclusion

11. Having regard to these and all other matters raised in the written representations, I conclude that it is expedient that the Order should be confirmed.

Formal Decision

12. The Order is confirmed.

Heidi Cruickshank
Inspector

¹ Points A, B and C are shown on the Order map

Town & Country Planning Act 1990 Section 257
Order Plan: Re File TAD 077

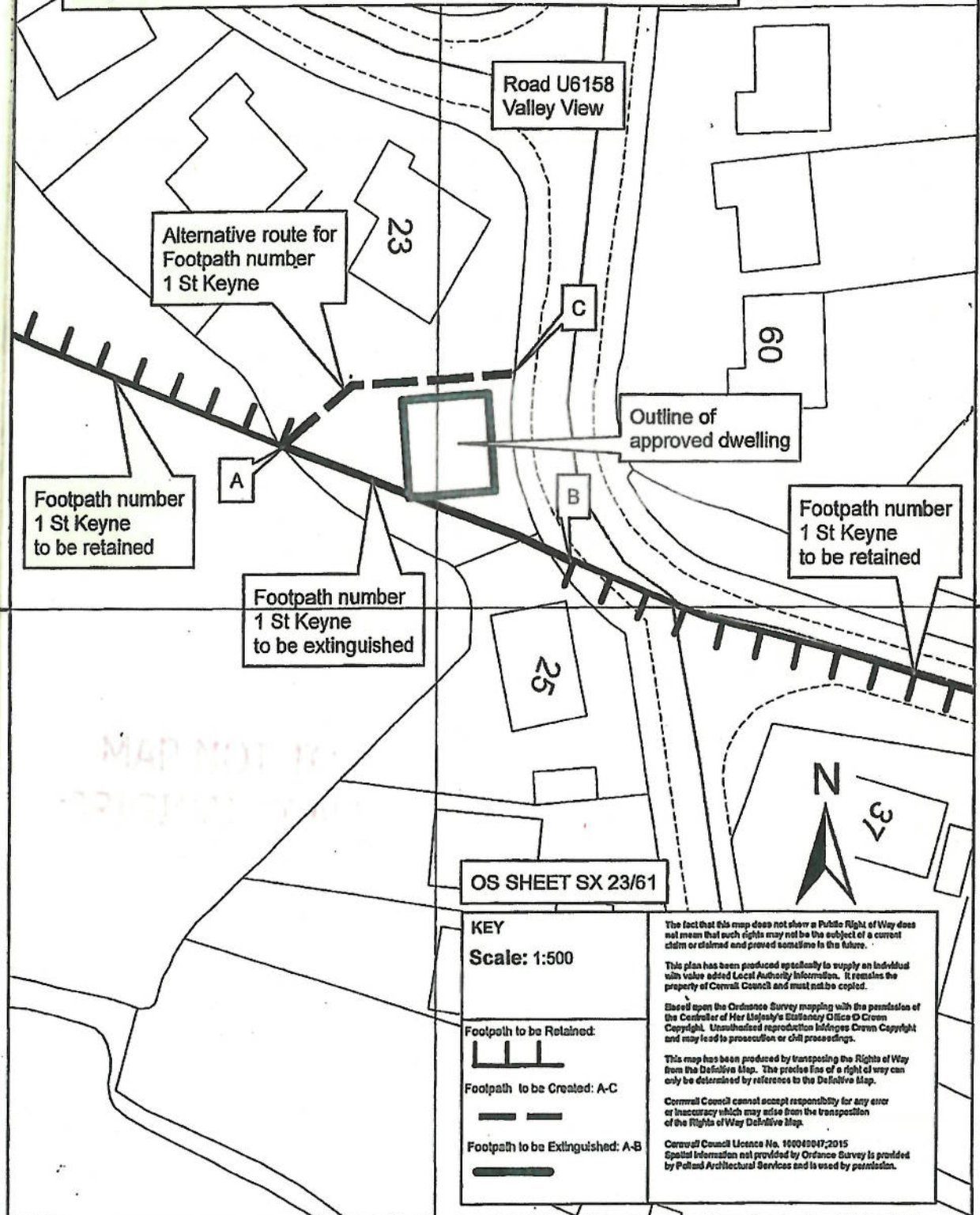
Parish: ST KEYNE CIVIL PARISH Path Number: FP/629/1

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**THE CORNWALL COUNCIL
(FOOTPATH No. 1, ST KEYNE (PART))
(DWELLING ON LAND ADJACENT TO
23, VALLEY VIEW) DIVERSION ORDER 2015**



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