
Order Decision

Site visit made on 18 December 2014

by Barney Grimshaw BA DPA MRTPI (Rtd)

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

Decision date: 11 August 2015

Order Ref: FPS/F1610/5/1M1

- This Order is made under Section 257 of the Town and Country Planning Act 1990 (the 1990 Act) and is known as the Cotswold District Council (Diversion of Public Footpath HCC/17/1 and Extinguishment of Public Footpath HCC/23/1, Land adjacent to Badger's Field, Chipping Camden) Order 2014.
- The Order is dated 10 April 2014 and proposes to divert Footpath HCC/17/1 across land adjacent to Badger's Field, Chipping Camden to a new line slightly further to the south and east and to extinguish Footpath HCC/23/1 which runs along the western edge of the same land, as shown on the Order Map and described in the Order Schedule.
- In accordance with Paragraph 8(2) of Schedule 15 to the 1981 Act I have given notice of my proposal to confirm the Order with modifications so as not to extinguish Footpath HCC/23/1 and to specify the width of the diverted Footpath HCC/17/1.

Summary of Decision: The Order is confirmed subject only to one modification, to specify the width of the diverted Footpath HCC/17/1.

Procedural Matters

1. I attach a copy of the Order Map for reference purposes.
2. The effect of this Order if confirmed subject to the modifications I proposed in paragraph 17 of my interim decision issued on 23 December 2014 would be to:
 - amend the Order so as not to extinguish Footpath HCC/23/1;
 - amend the Order so as to specify that the width of the diverted Footpath HCC/17/1 will be 2 metres throughout.
3. Following advertisement of the notice and deposit of the associated documents relating to the proposed modifications, one objection was received within the statutory period specified.

The Main Issues

4. With regard to the modifications proposed in my interim decision dated 23 December 2014, the main issues that now require consideration are:
 - i) whether the modifications proposed were justified, and;

ii) whether there is any new evidence that has a bearing on the proposed modifications to the Order as submitted.

Reasons

5. The Order was made because it was considered necessary for the footpaths to be diverted or extinguished in order to enable housing development to be carried out in accordance with planning permission that had already been granted. I agreed that the diversion of Footpath HCC/17/1 was necessary, subject to the width of the new path being specified. No objection has been raised to this part of my interim decision and it is therefore not necessary to consider this further.
6. The sole objection to the proposed modifications, made on behalf of the developers, of the approved housing, relates to Footpath HCC/23/1. In the developers' original statement of case it was argued that the extinguishment of this footpath was necessary because it would be crossed by the main vehicular access to the housing development. I did not see this as a major problem as it is not uncommon for users of footpaths to have to cross vehicular roads and this can usually be accomplished satisfactorily. The current objection focusses on the importance placed in the planning consent upon the housing development being carried out in accordance with the principles of an indicative layout plan and an approved landscape master plan.
7. The layout plan shows the current route of Footpath HCC/23/1 passing through the gardens of two proposed houses. I previously accepted that there is little scope for the proposed housing layout to be changed and accordingly, if the footpath were to remain, the effect would be to reduce the amount of private garden attached to the two houses. It would also pass through areas of proposed new planting shown in the landscape master plan. It is argued that the retention of the footpath would cause significant issues for the existing layout of the scheme and require significant changes to the approved master plan.
8. In these circumstances it appears that the extinguishment of the footpath is necessary to enable the approved housing development to be carried out in accordance with the plans that have been approved.
9. As I concluded previously, the proposed extinguishment of Footpath HCC/23/1 will not have any significant adverse effect on members of the public or persons whose properties adjoin or are close to the path. George Lane is a Restricted Byway running parallel to the footpath and provides a convenient alternative route for walkers.

Conclusions

10. Having regard to these and all other matters raised, I now conclude that the Order should be confirmed subject only to a modification to specify the width of diverted footpath HCC/17/1.

Formal Decision

11. I confirm the Order subject to the following modification:

In the Schedule to the Order, Part 2, add a further sentence at the end of the description of the site of the new footpath to read:

"The width of the footpath is 2 metres throughout."

Barney Grimshaw

Inspector

