
Order Decisions

Site visit made on 21 January 2020

by Barney Grimshaw BA DPA MRTPI (Rtd)

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

Decision date: 06 February 2020

Order Ref: ROW/3226575

- This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and is known as The Wiltshire Council Parish of Royal Wootton Bassett Paths No.10 (part) and No.111 (part) Diversion and Definitive Map and Statement Modification Order 2018.
- The Order is dated 21 May 2018 and proposes to divert parts of two footpaths at Woodshaw Meadows, Royal Wootton Bassett as shown on the Order Maps and described in the Order Schedule.
- There was 1 objection outstanding when The Wiltshire 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 a modification that does not require advertising.

Procedural Matters

1. I made an unaccompanied inspection of the area on 21 January 2020, when I was able to walk and/or view the whole of the proposed new paths and the routes of the existing ones.
2. In writing this decision I have found it convenient to refer to points on the Order routes as shown on the Order Maps. I therefore attach copies of these maps.

The Main Issues

3. The Order is made in the interests of the landowner. Section 119 of the 1980 Act therefore requires that, before confirming the Order, I must be satisfied that:
 - It is expedient in the interests of the landowner that the footpaths should be diverted;
 - The new footpaths will not be substantially less convenient to the public;
 - The diversions are expedient with regard to:
 - the effect on public enjoyment of the rights of way as a whole;
 - the effect on other land served by the existing rights of way;
 - the effect of the proposed new rights of way on the land over which they are created and any land held with it.
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4. Regard should also be given to any material provisions of the Rights of Way Improvement Plan for the area.

Reasons

Whether it is expedient in the interests of the landowner that the footpaths be diverted

5. The land crossed by the footpaths is currently being developed for the construction of new houses. The current routes of both footpaths pass through newly constructed properties. It therefore seems to be clearly in the interests of the landowner that the diversion should take place so as to allow the permitted development to be lawfully completed and the properties sold.
6. The objector argues that the existence of newly built houses on the existing routes of the footpaths should be disregarded when considering the proposed diversions and to some extent this is true. However, even if this is done, it seems to me that it is clearly in the interests of the landowner for him to be able to carry out the housing development for which he has acquired planning permission.

Whether the new footpaths will be substantially less convenient to the public

7. Footpath 111 is proposed to be diverted to a more direct route along a field boundary in one section and partially on to surfaced paths. The proposed new route is of a similar length to the existing one. Overall, this would seem to be at least as convenient to the public. I also note that there are no objections outstanding in respect of this diversion.
8. On the other hand, the proposed diversion of Footpath 10 involves a significant deviation from the present relatively direct route which would add 140 metres to the length of the footpath. The proposed new route would follow an estate road, Evening Star, for approximately 100 metres (Points C-D, Plan A).
9. It is argued on behalf of the OMA and the landowner that, in the context of a footpath 2.7km long, the extra distance would not make the path substantially less convenient to the public. It is also pointed out that for some users wishing to join the path part way along, the new route could be more convenient.
10. The proposed new path would be surfaced in part and elsewhere is said to be located on better drained land than the existing route and accordingly is likely to be more convenient for users in wet conditions.
11. The additional distance and less direct route of the proposed new section of footpath might be regarded as less convenient by some users. However, this will to some extent be offset by the path being either surfaced or crossing better drained land and, in any event, it is my view that, overall, the new route will not be substantially less convenient to the public.

The effect on public enjoyment of the rights of way as a whole

12. The development of the area crossed by the paths will inevitably be altered as a result of the housing development and this will change the character of the footpaths. This would be the case even if the development had been designed in a manner that did not require any footpath diversions.

13. With regard to Footpath 111, apart from the inevitable change in the character of the area, I see no reason why the proposed new route would be less enjoyable to use.
14. With regard to Footpath 10, the fact that approximately 100 metres of the proposed new route will follow an estate road might make this less enjoyable for some users. However, the section of road involved will only serve a limited number of houses and is unlikely to be heavily trafficked. It is also a relatively short section of a much longer right of way.
15. On the other hand, the fact that the new path will be surfaced or less wet underfoot could make it more enjoyable to use. Overall, it is my view that the proposed diversion will not have a major adverse effect on public enjoyment of the right of way as a whole.

The effect on other land served by the rights of way

16. I have seen no evidence to suggest that the proposed diversions would have any adverse effect on other land served by the existing rights of way.

The effect of the new rights of way on the land over which they are created and other land held with it

17. All of the land over which the new rights of way would be created is in the same ownership as the existing paths. The landowner has applied for the diversions and believes that overall its effect will be beneficial. I have no reason think otherwise.

The Rights of Way Improvement Plan (ROWIP)

18. I have not seen the ROWIP, but it is stated on behalf of the OMA that the proposed new paths will be free from any barriers to access which is an important tenet of the plan. The plan also recognises that the historic nature of the rights of way network is likely to require changes in order to meet future needs. It would therefore appear that the proposed diversions will not conflict with any material provisions of the ROWIP.

Other Matters

19. The objector has put forward an alternative diversion in respect of Footpath 10 which he regards as preferable. However, it is not within my remit to consider such alternatives. I must assess the diversion proposed in the Order against the criteria set out in the 1980 Act which is what I have done.
20. In the Order, it is stated that it was formally sealed on the 21 May 201. This is clearly incorrect, and the OMA has requested that the Order be modified so as to state that it was sealed on 21 May 2018. I do not believe that this error will have misled or prejudiced the interests of any party as the Order is clearly titled as having been made in 2018. I have also seen evidence that the Order was in fact properly sealed on the 21 May 2018. I therefore propose to modify the Order accordingly.

Conclusions

21. Having regard to these and all other matters raised, I conclude that the Order should be confirmed subject to the modification referred to.

Formal Decisions

22. I confirm the Order subject to the modification of the date when it was sealed so as to read "*this 21st day of May 2018*".

Barney Grimshaw

Inspector



