PINS Logo

|  |
| --- |
| **Order Decisions** |
| Site visit made on 23 August 2022 |
| **by Barney Grimshaw BA DPA MRTPI (Rtd)** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 7 September 2022** |

|  |
| --- |
| **Order Ref: ROW/3261494 referred to as Order A** |
| * This Order is made under Section 26 of the Highways Act 1980 (the 1980 Act) and is known as the Oxfordshire County Council, Great Tew Footpath No.23 Public Path Creation and Definitive Map and Statement Modification Order 2019. |
| * The Order is dated 20 September 2019 and proposes to create a public footpath running between Great Tew Footpath No.7 and Tracey Lane as shown on the Order Map and described in the Order Schedule. |
| * There was 1 objection outstanding when Oxfordshire County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation. |
| **Summary of Decision: The Order is confirmed.** |
|  |

|  |
| --- |
| **Order Ref: ROW/3261492 referred to as Order B** |
| * This Order is made under Section 118 of the Highways Act 1980 (the 1980 Act) and is known as the Oxfordshire County Council Great Tew Footpath No.6 (Part) Public Path Extinguishment and Definitive Map and Statement Modification Order 2019. |
| * The Order is dated 20 September 2019 and proposes to extinguish that part of Footpath No.6 which runs from the junction with Footpath No.7 generally south-eastwards to a point south of Tracey Farm Cottage, Great Tew, as shown on the Order Map and described in the Order Schedules. |
| * There was 1 objection outstanding when Oxfordshire County 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. I made an unaccompanied inspection of the area on 23 August 2022, when I was able to walk the whole of the route proposed to be created (Order A) and view the route proposed to be extinguished (Order B).
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

Order A

1. The requirements of Section 26 of the 1980 Act are that, before confirming this Order, I must be satisfied that there is a need for a footpath along the line indicated on the Order Map and that it is expedient to create it having regard to:
2. the extent to which the way would add to the convenience or enjoyment of a substantial section of the public or to the convenience of local residents, and
3. the effect the creation of the way would have on the rights of persons with an interest in the land, taking into account the provisions for compensation.
4. I should also have regard to any material provision of a Rights of Way Improvement Plan prepared by any local authority whose area includes land over which the proposed path would be created.

Order B

1. The requirements of Section 118 of the 1980 Act are that, before confirming this Order, I must be satisfied that it is expedient that the footpath should be stopped up having regard to:

* the extent that it appears that the path would, apart from the Order, be likely to be used by the public, and
* the effect, which the extinguishment of the right of way would have, as respects land served by the path, account being taken of the provisions as to compensation.

1. I should also have regard to any material provision of a Rights of Way Improvement Plan prepared by any local authority whose area includes land over which the Order would extinguish a public right of way.
2. In addition, in cases such as this, where an Order to stop up a path is concurrent with an Order to create a new path or way, I may also have regard to the extent to which the Public Path Creation Order would provide an alternative path, when considering the extent to which the path would be likely to be used.
3. Temporary circumstances, which prevent or diminish the use of the path by the public, must be disregarded.

Reasons

Order A

The need for the footpath

1. The proposed footpath would link existing Footpaths 6 and 7 to Tracey Lane and thence to the surrounding public rights of way network. At present Footpath 6 terminates as a cul de sac, the proposed new footpath would therefore add a useful link to the local network.

The benefits to the public and local residents

1. The new path would add to the convenience and enjoyment of both the public and local residents by increasing connectivity in the footpath network and enabling people to walk between Little Tew and Tracey Lane and onward by way of Bridleways 13 and 14 without a lengthy diversion.
2. The proposed new path would run along a field headland for approximately 956m with extensive open views to the east and would be 3m wide.

The effect on persons with an interest in the land

1. The owner of the land crossed by the proposed footpath supports its creation and there is no evidence that it would have an adverse effect on any person with an interest in the land.

Conclusions with regard to Order A

1. On balance, it is my view that there is a need for this footpath and that it is expedient to create it with regard to the convenience or enjoyment of a substantial section of the public and local residents, and the effect the creation of the way would have on the rights of persons with an interest in the land.

Order B

The likely use of the path

1. The section of Footpath 6 proposed to be extinguished runs from a junction with Footpath 7 (Point A) for approximately 513m south-eastwards through what is now part of the Soho Farmhouse Members Club and Hotel (the Hotel). It crosses an access road, runs close to a guest lodge through anther lodge and terminates as a cul de sac on an access road (Point C). There is no particular feature of public interest at Point C.
2. Accordingly, this section of footpath would appear to serve no useful purpose and is not likely to be used to any significant extent by the public.
3. The path to be created by Order A would run close to and almost parallel with the existing path and offers a traffic free route with the key advantage of linking to other public routes at both ends and not requiring users to retrace their steps. It is therefore likely to be much more attractive to potential users.
4. The existing path is currently obstructed by one of the lodges of the Hotel as mentioned above. However, I have regarded this as a temporary obstruction and assessed the likely use of the path as though it was available without obstruction.
5. The sole objector to the Order states that he still uses the path and points out that there are many examples of cul de sac footpaths which continue to be recorded. He also states that his forbears used to live at Tracey Farm Cottage and he has a personal attachment to the path. I appreciate the objector’s position but do not believe it affects the likelihood of other members of the public wishing to use the path after the creation of the Order A route.

The effect on land served by the path

1. All the owners of land served by the path support the confirmation of the Order. The nature of the hotel development is such that it is unlikely that people would wish to access it on foot and the path terminates some 400m from the entrance/reception area of the complex.

Conclusions with regard to Order B

1. Overall, it is my view that following the creation of the Order A path it is expedient that this path should be stopped up with regard to the extent that it is likely to be used by the public and the effect on land served by the path.

The Rights of Way Improvement Plan (ROWIP)

1. The current Oxfordshire ROWIP (Oxfordshire Rights of Way Management Plan 2015-2025) includes aims which include the improvement of the rights of way network when opportunities arise, adapting the network to balance current and future needs and making it accessible.
2. The effect of confirmation of the current Orders would accord with these aims.

**Other Matters**

1. It is not considered that the confirmation of the Orders would have an adverse effect on agriculture, forestry, flora, fauna, geological and physiographical features or on accessibility for less able users of the rights of way.

Conclusions

1. Having regard to these and all other matters raised, I conclude that both Orders should be confirmed.

Formal Decisions

1. I confirm both Orders.

Barney Grimshaw

**Inspector**



