



Order Decision

Inquiry held on 2 and 3 October 2012

Site visit made on 3 October 2012

by Paul Dignan MSc PhD

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

Decision date: 14th November 2012

Order Ref: FPS/N1160/3/1

- This Order is made under Section 118B (4) of the Highways Act 1980 (the 1980 Act) and Section 53A (2) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as The City of Plymouth Public Path (Plympton St. Mary Footpath 2) (Special) Extinguishment and Definitive Map and Statement Modification Order 2011.
- The Order is dated 4 November 2011 and proposes to extinguish the public right of way shown on the Order plan and described in the Order Schedule. If confirmed, the Order will also modify the definitive map and statement, in accordance with Section 53(3)(a)(i) of the 1981 Act.
- There were 53 objections outstanding at the commencement of the inquiry.

Summary of Decision: The Order is confirmed.

Procedural Matters

1. One of the Order Making Authorities' (OMA) witnesses at the Inquiry, the Council's Public Rights of Way Officer Mr Robin Pearse, was unwell and unable to attend and give evidence. His evidence, set out in his proof of evidence, was therefore unable to be cross-examined and accordingly carried less weight. Before I closed the Inquiry, the objectors present and the OMA confirmed that they were content for the Inquiry to close and for me to proceed to a decision. I am satisfied this course of action does not prejudice the interests of any of the parties.

The Main Issues

2. The Order has been made under Section 118B(1)(b) of the Highways Act 1980 for the purposes of school security. Before confirming the Order, I must be satisfied that:
 - the order route is a relevant highway and that it crosses land occupied for the purposes of a school; and
 - it is expedient for the purposes of protecting pupils or staff from violence or the threat of violence, harassment, alarm or distress arising from unlawful activity, or any other risk to their health and safety arising from such activity, that the order route should be stopped up.
3. I must also be satisfied that it is expedient to confirm the Order having regard to all the circumstances, and in particular to:
 - any other measures that have been or could be taken for improving or maintaining the security of the school;
 - whether it is likely that the coming into operation of the Order will result in a substantial improvement in that security;

- the availability of a reasonably convenient alternative route or, if no reasonably convenient route is available, whether it would be reasonably practicable to divert the highway under section 119B rather than stopping it up, and
- the effect which the extinguishment of the right of way would have as respects land served by the highway, account being taken of the provisions as to compensation.

Reasons

Is the order route a relevant highway that crosses land occupied for the purposes of a school

4. Ridgeway School is an Academy which transferred from the control of the Local Education Authority (LEA). Plymouth City Council was the relevant LEA and is the freehold owner of the parcel of land comprising the school. On the transfer to academy status the land, including the Order route in its entirety, was leased to the school. Although its status as a highway is apparently recorded in the lease, it is not disputed that the Order route crosses land occupied for the purposes of a school, and indeed is an integral part of the school land. The Order route is recorded on the definitive map as a footpath and is therefore a relevant highway for the purposes of Section 118B of the 1980 Act, and Section 118B(1)(b) applies.

Is it expedient that the order route be stopped up for the purposes of protecting staff or pupils

5. Ridgeway School has a roll of about 1250 students between the ages of 11 and 18 and about 170 staff. It occupies a roughly rectangular area just to the north of the Ridgeway, the main shopping street in Plympton. The school buildings are mainly sited towards the southern side of the school grounds, with playing fields to the northern side. The main entrance to the school is on Moorlands Road on its eastern side. The Order route links Moorlands Road to Geasons Lane, a public road that runs into the school grounds from Station Road to the west. Geasons Lane and the Order route pass between school buildings to meet roughly mid-way across the school site.
6. The presence of the Order route means that there is a public thoroughfare on foot across the school grounds. The stopping up of the Order route would remove public access rights entirely from the eastern side of the school site, and while there would still be public access into the school from along Geasons Lane from the west, there would be no through route. If this Order is confirmed, the school intend to seek the stopping up of part of Geasons Lane to fully secure the school perimeter.
7. The footpath has historically been enclosed on both sides by wrought iron railings, with narrow gates to allow movement across. In the vicinity of the school buildings and all-weather games areas, large sections of the railings have been removed on the advice of Devon and Somerset Fire and Rescue Services to facilitate access to the emergency evacuation point and to generally facilitate safe movement around the site. Hence for large parts of the Order route there is no physical barrier separating the general public from the students and staff.

8. The school has identified the presence of the footpath as a security problem for many years and has kept a detailed log of incidents such as trespass, criminal or potentially criminal behaviour, and anti-social behaviour. Two serious incidents, an air-rifle shooting and an unauthorised and dangerous driving incident, evidently predate the detailed log, but since April 2000 a total of 167 incidents were logged to June 2012. Some of these involved what might be described merely as suspicious behaviour, but there are many instances of intruders on the school grounds or in school buildings, incidents of criminal damage and verbal abuse and threatening behaviour, and in one instance a serious assault on a pupil. In many of the records the non-school members involved are identified as having gained access from the public thoroughfare through the school, and a scatter diagram of the locations of the incidents shows that the majority of them occurred close to or on the Order route. This is strong evidence, in my view, to link the presence of the footpath to the type of behaviour described in the 1980 Act, that is violence, or the threat of violence, harassment, alarm or distress, or other risks to the health and safety of staff or pupils arising from unlawful activity.
9. Ms Hesketh, the local Police Community Support Officer, has experienced what she calls a regular pattern of incidents on the school premises that can only be attributed to the existence of the footpath, and a similar conclusion was drawn by the security consultant in the report on a health, safety and security review of the school prepared by Noble, who described the lane and footpath as a crime hotspot. Interviews with staff and pupils as part of the review revealed a strong perception of insecurity due to the footpath.
10. In view of the above, and having regard to the legal duty of care of the school to its pupils and staff, I am satisfied that it is expedient, in the interests of protecting the pupils and staff, that the footpath be stopped up.

Whether it is expedient to confirm the Order having regard to all the circumstances, and in particular to:

Other measures that have been or could be taken for improving or maintaining the security of the school

11. The Noble security review report noted that the management and acceptance of formal security procedures within the school is of a much higher than average standard. Amongst the formal measures are a 14 camera CCTV system, an Intruder Detection System, a Visitors Pass system whereby all visitors must sign in and wear a visible pass at all times, and stringent Key Management and Lock-Down procedures. There are also break and lunchtime supervision schemes involving staff and senior students.
12. Planning permission has been granted for palisade fencing along the playing field boundary with Moorland Road. Once implemented, the school perimeter will be reasonably secure, other than the access points provided by the Order route and Geasons Lane.
13. Objectors have suggested that reinstating the sections of wrought iron railings that have been removed, and thus fully enclosing the footpath, would address many of the security problems. However, this would severely compromise safe movement around the school grounds and would directly conflict with the safety advice of Devon and Somerset Fire and Rescue Services.

14. It has also been suggested that the footpath could be closed for the duration of the school day only, but this would still leave the premises open to trespass outside of school hours.
15. It seems to me that, in the context of existing public access to the school grounds via the Order route and Geasons Lane, the school has done as much as it can to secure the site.

Whether it is likely that the coming into operation of the Order will result in a substantial improvement in that security

16. Many of the objectors also recognise that there are school safety issues arising from the presence of the footpath, but argue that the closure of the footpath will not significantly improve that situation since there will still be public access from the western side along Geasons Lane. I disagree. There would be no public access from Moorlands Road, no public access to the eastern half of the overall site, and there would be no through route. Other than the school, Geasons Lane only provides access to a block of six private houses, so that any lawful public entry into the school site by this route would have to be with genuine reason, and would be far easier to monitor.
17. There is also a gate into the site from the public car park on the western side, and it has been suggested that this remains open all day, indicating that the school is less concerned that it says it is about security. There was evidently some confusion as to which gate this is, but on the basis of the evidence I heard I am able to conclude that the relevant gate is only open at the start and end of the school day to provide access to the staff car park.
18. It has also been suggested that the presence of the public on the Order route is itself a defence against crime and harassment. Whilst I accept that this might be the case with many footpaths, in view of the recorded incidents which I consider can be reasonably attributed to the presence of the footpath, and the type of behaviour it entails, I consider that any benefits in terms of public surveillance are far outweighed by the problems.
19. In coming to this view I have had regard to another Order decision to which I have been referred where the Inspector declined to confirm an Order to stop up a footpath crossing a school because he considered that it would not have a substantial improvement on the security of the school. However, in that case he was provided with little evidence that incursions into the school had occurred from the Order route, or that the route facilitated, or was a source of, crime. The situation at Ridgeway School with regards to this Order route is easily distinguishable. The nature and location of many of the recorded security incidents, and the views put forward by the relevant experts, indicates that the Order route is a significant contributory factor. I am satisfied that the coming into operation of the Order, even if considered in isolation from the wider scheme involving the closure of the Geasons Lane access into the school, would result in a substantial improvement in the security of the school.

The availability of a reasonably convenient alternative route

20. The Order route is well used by local people, largely to access the community facilities, the library, meeting hall and swimming pool, to the west of the school, but also simply as a quieter, reasonably direct, and, for some users, shorter alternative to the public roads that run alongside or close to the school grounds. The Ridgeway, which runs parallel to the Order route just a short

distance to the south, is likely to be the main alternative route. The Ridgeway is part pedestrianised and for the rest has footways on either side. The main objections to the use of the Ridgeway as an alternative are that it can be busy and crowded, with narrow pavements often obstructed by advertising boards and the like. For some, the steepness of Station Road to the west of the school also makes it unsuitable or difficult to use.

21. The extra distances that users would have to travel on the alternative routes are not excessive. For some users the alternative routes would be as short or shorter. The furthest a user would have to walk would be an additional 143m.
22. Clearly the Order route is preferred by users, for a variety of reasons. There are alternatives available however, and they do not add excessive distances to journeys, nor do they present insurmountable difficulties. The alternative routes are all on public highways which are designed for use by pedestrians. In terms of surface and width, they are no worse, and in many cases better, than the Order route. For any journey which might have used the Order route, I am satisfied that there is a reasonably convenient alternative.
23. Consideration also has been given to diverting the footpath as an alternative to closing it. However, no feasible alternative that would overcome the current problems has been identified or suggested.

The effect which the extinguishment of the right of way would have as respects land served by the highway, account being taken of the provisions as to compensation

24. No other land is served by the highway, and the question of compensation does not arise.

Other matters

25. The historic nature of the Order route, it was a footpath to Plympton railway station which operated from 1848 to 1964, is raised by a number of objectors. Whilst I accord this some weight, the formulation of legislation to stop up highways, and the specific purposes of Section 118B of the 1980 Act, clearly envisages there will be circumstances where the loss of a public right is a proportionate response.

Conclusions

26. My overall conclusion, having considered all other matters raised, both at the Inquiry and in written submissions, is that it is expedient for the purposes of protecting pupils or staff from violence or the threat of violence, harassment, alarm or distress arising from unlawful activity, or any other risk to their health and safety arising from such activity, that the order route should be stopped up.

Formal Decision

27. The Order is confirmed.

Paul Dignan

INSPECTOR

APPEARANCES

FOR THE ORDER MAKING AUTHORITY:

Gareth Pinwell

Solicitor, instructed by Plymouth City Council and Ridgeway School

He called

John Didymus

Kevin Willis

Elaine Hesketh

Bruce Sutherland

Headteacher, Ridgeway School

Chairman of School Governors, Ridgeway School

Police Community Support Officer

Noble Health and Safety Consultancy Ltd.

OPPOSING THE ORDER:

John Skinner

John Emery

INTERESTED PERSONS:

Cllr Patrick Nicholson

Mrs Ursula Griffiths

Ward Councillor, Plymouth City Council

Local Resident

DOCUMENTS

- 1 Statement of fitness for work in respect of Mr Robin Pearce
- 2 Speaking notes, John Emery
- 3 Plan of Ridgeway School and communications relating to fencing proposals
- 4 Closing submissions, Gareth Pinwell