

IN THE MATTER OF:

THE DETERMINATION TO CONFIRM PUBLIC PATH DIVERSION ORDER 2022
FOOTPATH 25 CASTLE HEDINGHAM, DISTRICT OF BRAINTREE ESSEX

SUMMARY
OF PROOF OF EVIDENCE OF
DAVID COLLINS

APPLICANT

I, **DAVID COLLINS**, summarise my proof of evidence as follows:

Background

1. I have lived in or around Essex all my life. I moved into the area of Castle Hedingham (CH) in 2019 purchasing Rushley Green Farm from the Doe family, where I live with my wife, Lucy.
2. I am a fourth-generation farmer; qualified at Writtle University. The family “base” was Church End Farm in Little Hadham, Hertfordshire. At CH we grow hay.
3. I was married at St Nicholas Church in CH. I have been requested to be Chairman of the “Friends of St Nicholas Church”, which I did for the period November 2022 to November 2023. I am a member of the Tennis Club.
4. When I purchased the Property, I did so knowing there was a public footpath running through the Land but not having a full understanding of the problems I would be facing.
5. We have decided to move in my elderly mother with us so that we can look after her in her later years. My mother is currently 92 years of age and is visually impaired.

6. If dogs escape into the garden or mum is aware of people close to the house this is likely to greatly unsettle and potentially endanger her.
7. My mother also has a highland pony which will be kept in the fields. The fields will thus need to be fenced, not only to keep the pony in, but to keep dogs out.
8. The new route is considerably more economically and practically viable for continued agriculture than the existing route. It is significantly in the landowners' interest(s) to move the path for this and other reasons.

Footpath – issues and incidents

9. The first issue is damage to the surface. This damage prevents the growing of hay on this land, and increases erosion and runoff.
10. A second issue is irresponsible use:- the path is used by many dog walkers, many of whom let their dogs off the lead. A number of issues are created by this:
 - a. One common problem is dog fouling/excrement. Which contaminates the hay and is unpleasant to deal with. Dog mess is required to be picked up by law. It is both irresponsible and illegal to leave dog mess.
 - b. Uncontrolled dogs can run over the land and have, on occasions, come into my garden. This obviously erodes my privacy (and that of my family) and amenity of my garden.
 - c. Some walkers will simply follow their dog and, again, depart from the footpath route.
 - d. A “bolting” dog can result in sheep worrying and create risk.
11. Members of the public often do not stick to the public footpath. Many feel that they can “do what they like”. There have been several notable issues of departures from the footpath:

- a. Summer 2020 - BBQ/picnic; trespass, damage to the grass.
- b. Summer 2022 – kite flying; trespass, abuse
- c. Autumn 2021 - dogs off-lead in my garden ; trespass and abuse.
- d. Summer 2023 – a dog came up to the garden – off-lead; lose dog, trespass and abuse.
- e. Summer 2023 – dog off lead; the dog jumped into my pond to chase ducks etc; trespass danger to wildlife, abuse and intimidation.
- f. During a cut of hay a couple walked the perimeter of the Property through the hay and onto my lawn; trespass, abuse.
- g. Tobogganing – damage to grass/surface, occupiers' liability insurance.

12. I believe that the above matters have worsened over time, indeed even in the relatively short time that I have owned the Property.

13. There is a requirement to fence the footpath either along its current route or the proposed route – but I believe that the proposed diversion is a far better solution and certainly better for the landowner, the wildlife and the public generally.

14. Therefore my preference is to divert the footpath to the eastern field margin. I believe this to be the most practical solution for all as it allows for the path to be widened, wildlife underpasses, relevelled and removal of all gates.

15. I reached out to the Parish Council at the pre-application stage to explain the issues I was facing but they were not receptive.

Proposed diversion etc

16. Either route will be fenced, thus preventing dogs from escaping, disturbing wildlife and sheep and from defecating away from the footpath.
17. My intention is to maintain this grassland as a conservation area and continue to encourage the wildlife. Currently the greatest issue to this is errant walkers and uncontrolled dogs.
18. Objectors have questioned the validity of the agricultural, environmental and land management reasons for the requirements to move the footpath. The validity of the reasons has been explained and underpinned by the qualifications, knowledge and two lifetime's relevant experience of Tommy Doe and me.
19. The Carbon footprint of the hay has been raised. We use the most sustainable methods possible. The hay is made using 100% renewable biofuel, is fertiliser free, stored locally, sold locally, to local clients, and delivered by a vehicle running on 100% renewable biofuel.
20. The footpath will be a mere 20 - 30 meters further than the existing one with the same start and finish points. It will have a more gradual decline/incline over its length than the current footpath.
21. There is a duty of care on any landowner, over whose land a footpath runs to manage the vegetation such that it does not impede or endanger the users of the path. I will comply with my statutory and legal obligations.
22. If granted/confirmed the diverted footpath will not require gates. I see this as a considerable benefit for those less mobile. I have given an undertaking to complete any work necessary or required to the footpath (if diverted).
23. I see other benefits namely:
 - a. the diversion is closer to a wooded area. I think this will make the walk "feel" more like it is in the countryside;

- b. the historic terraces will be visible and not have a footpath running through them.
- c. It is clear to me that the route adjacent to the wood is always drier than the existing route, due to the adjacent ditch, and the tree roots drawing the moisture from the soil. The trees would also provide shelter and shade.

Pre-Application

24. I consulted with Mr and Mrs Doe, who supported the application, and with both CH Parish Council and Mr Jason Lindsay (owner of Hedingham Castle) before making the application.

The Application and responses to it

25. I made the application and was pleased that Essex County Council supported it and made the footpath diversion order.

26. Essex Highways did vary the application so that the start and end points were the same as existing.

27. In the main, it appears that the objection is one to change, as to which:

- a. I understand that the route has changed over time/in living memory anyway; and
- b. Of the eight (8) footpaths within CH, over half (five – 5) have already been altered or reclassified in some shape or form.

28. I therefore believe that not only is this change required, it will make the footpath fit for purpose and bring with it benefits to users of all types of the footpath network.

Other

29. If the diversion is allowed then I confirm my willingness to regrade the surface/topography in the vicinity of Rosemary Lane to such specification as reasonably required.
30. If the Secretary of State is minded to confirm the Order subject to modification – i.e. as to gradients, removal of gates and so on – then I would encourage and support this.
31. If the Secretary of State requires a formal undertaking in respect of the above promise (which was also made in the application) then I will gladly do so upon request.

Conclusion

32. For all the reasons set out above I believe that the diversion should be allowed and, as such, I invite the Secretary of State to confirm the “Footpath 25 Castle Hedingham Public Path Diversion Order 2022”.

DAVID COLLINS

Date: 20th February 2024