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**ROW/3316971**

***"FOOTPATH 25 Castle Hedingham, Public Park Diversion  
Order 2022"***

**SUMMARY proof of evidence of Ian Mark Coward, MRTPI  
on behalf of Mr D. Collins**

**February, 2024**

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## **1.0 SUMMARY PROOF OF EVIDENCE OF IAN MARK COWARD**

1. I express my professional opinion as to the matters that I understand are relevant to a formal decision of the made diversion order.

### **whether it was expedient to make such an Order in the interest of the landowner.**

2. Rushley Green Farm is located in close proximity to the current right of way. It is a family home as well as the focus of a working agricultural enterprise.
3. There are now many hundreds of walkers using the relevant section of footpath 25 and this causes damage to the path as shown on the photographs submitted with the application. The extent of the footpath is widened by use and so consequent trespass arises by material departures from/to the line of the footpath. Furthermore, it appears that walkers do, and have, departed materially from the definitive route – to the point of being, in my opinion “on the doorstep” to Mr Collins’ dwelling and its garden.
4. As a consequence of the level of pedestrian traffic, the footpath and the area surrounding it becomes muddy, slippery and dangerous and also, to a point, aesthetically unattractive.
5. The route of the diversion is onto land which during my site visit in January 2024 was not waterlogged and the ground conditions good; notwithstanding a prior period of prolonged precipitation but also the fact that the surface has not been rolled, trampled and/or subject to a close cut.
6. I also note that Mr Collins did offer to surface the route of the diverted path albeit this did not find favour with the Parish Council.
7. The diversion will also mitigate issues of trespass. Whilst it is accepted that many walkers keep to the footpath and are generally considerate, a number “wander” with some materially departing to the point of trespass onto the land in front of Rushley Green Farm.

8. Departures from the definitive route, to include material departures/brazen trespass, will in my view result in an adverse impact to the amenity to be reasonably enjoyed by the residents of Mr Collins' property/dwelling. There will, of course, be degrees of impact but where third parties are trespassing and take an adverse reaction to being politely asked to stick to the footpath this clearly is a material erosion of amenity as an intrusion to/interruption of normal day-to-day living.
9. The fact that the property is comparatively isolated in my view accentuates the impact. In addition sensible measures to address issues of trespass (such as a polite request to move) have on occasion been met by verbal abuse (as above).
10. I viewed first-hand the existence of dog faeces and understand why this is of concern to the applicant (also his wife and neighbour landowners) – i.e. it is not pleasant and any crop of hay is often spoilt by the dog faeces and cannot consequently be used for animal feed. The existence of dog fouling should also be a general matter of public interest and concern (i.e. there should be no littering or health risk to users of the footpath).
11. I would add that as context to this point I recently obtained a prior approval from Braintree District Council for development described as follows:

**Erection of New machinery store adjoining existing agricultural building: Submission of details following Prior Approval Required (23/02215/AGR)**

12. This was approved pursuant to 23/02478/AGR.
13. Part of the justification for this additional building (and noting that under the agricultural prior approval regime the proposal needs to be seen to be "reasonably necessary" for agriculture) I explained to the local planning authority that the current agricultural building is used for hay storage and consequently a further building was required for the machinery.
14. This was accepted by the local planning authority.

15. I therefore conclude that there is a sufficient impact arising from these points for the proposed diversion, which is relatively limited in extent, to be expedient.

**(ii) the termination points of the diversion are not substantially less convenient to the public**

16. From walking both routes it is clear that there would be no change to the termination points.

**(iii) the diversion should not be substantially less convenient to the public in terms of increased distance**

17. The figures are set out in the statement prepared by the order-making authority, of which I do not disagree, and it is my view that 22 metres is marginal in this context.

18. In addition I note that the purpose of the walk is to enjoy the countryside as opposed to arriving at a destination (i.e going from A to B) in the vast majority of cases. Hence, the most direct route is not a necessity or essential to enjoyment of this footpath (i.e. it is not a "short cut" to shops or school or such like but, instead, a leisure route).

19. I also note at this point that the gradient of the path at the north-eastern end alongside Rosemary Lane is greater. I do understand that such is to be modified by Mr Collins and details are submitted pursuant to this. I have no reason to disbelieve Mr Collins and I consider that his commitment/promise is genuine. I acknowledge that changes to gradient at the northern end (which Mr Collins has promised to do) may find favour with the general public.

**(iv) regard to the effect the diversion would have on the public enjoyment of the path as a whole**

20. It is my view that the new route is slightly preferable: I accept that as a general principle as the difference between the proposed route and the existing is limited then any improvement is naturally also limited.

21. It is my opinion that the diversion/proposed new route will enable a better appreciation of the woodland alongside which it will pass and how this changes season by season. The views and appreciation of the countryside as currently enjoyed will be materially the same with the new route. I also consider that an appreciation of the historical context in terms of the terraces is also likely to increase. Subject to what happens, appreciation of the historic context well may increase from non-existent to marginally to wholly appreciable.
  
22. I therefore confirm my opinion that the modest diversion is expedient and that the enjoyment of the footpath is not to be reduced and in fact marginally improved for the reasons that I have set out.
  
23. I therefore conclude that the proposal does meet the relevant test(s) as set out at Section 119 of the Highway Act and we support the order-making authority's position that the diversion should go ahead.

The evidence which I have prepared and in support of this application to a footpath diversion order (in this proof of evidence but also written statement in support) is true and has been prepared and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinion.

**PHOTOGRAPHS (taken 12 January 2024)**







