

BAYDON: PROPOSED EXTINGUISHMENT OF FOOTPATH 3

Purpose of Report

1. To:-
 - (i) Report on objections received by the County Council in respect of a Public Path Extinguishment Order made under Section 118 of the Highways Act 1980 to extinguish a short section of Footpath 3 Baydon.
 - (ii) Seek approval to refer the Order to the Secretary of State for a decision with the recommendation that the Order be confirmed.

Background

2. The report considered by Committee on 14th July 2004, seeking approval to make the Order, is attached at **Appendix A**.

Objections received to the making of the Order

3. **Mr. Richardson, Midway, Ermin Street, Baydon**, wrote on 28th August 2004:-

"I would like to object to the proposal to close the footpath from Finches Lane to Ermin Street. I have lived here all my life and often walk this and the other paths in Baydon. I walked this one only the other day and do not want to see it closed."

4. **Mr. and Mrs. Walker, Roman Way, Ermin Street, Baydon**, also wrote on 28th August 2004:-

"Baydon has so few safe footpaths that to close this one is unacceptable. We and our children have used this footpath on many occasions and interestingly were only recently considering placing a complaint because it is impassable at the Ermin Street end."

"Therefore, not only do we object to the proposed closure, we also wish to see this footpath properly restored to its status as a passable and openly signposted right of way."

5. **Mr. Frances, 119 Chilton Way, Hungerford**, wrote on 31st August 2004:-

"Grounds are that this right of way provides an invaluable link between byway 22 and the lane that leads to bridleway 7 and hence is needed for public use."

6. **Mrs. Kiely, 1 Lawrence Mead, Kintbury, Hungerford.** wrote on 1st September 2004:-

"If you look at the rights of way network as a whole in that area, this path provides a useful link and saves people walking on the road.

Instead of extinguishment, I would like to see the path opened so that the public can use what has been denied to them for some time, and also to see the bank, which is steep, made user friendly by way of steps."

7. An officer met Mr. Richardson and Mr. and Mrs. Walker to discuss their objections. On being informed the legal line of the path passed through the garden of the property known as Spindles, Mr. Richardson and Mr. and Mrs. Walker confirmed they had never walked this route and it was their understanding the path had never been on that alignment but lay adjacent to the eastern boundary of the property. The officer did invite them to withdraw their objections but no further letters have been received. All of the letters received from the objectors are available for inspection in the **Members' Room**.
8. The route of the path was clarified with the two other objectors and in a letter dated 2nd October 2004 Mr. Francis confirmed he had only ever used a 'path' on the eastern side of the hedge at Spindles in an adjoining field. Mr. Francis would like the route he has walked cleared and a flight of steps provided in the bank leading down to Ermin Street where a staggered barrier could also be erected to protect walkers from passing traffic.
9. In a letter dated 14th October 2004, Mrs. Kiely asked why the path has been blocked for so long and could it not be diverted.
10. The owner of the adjoining field is not willing for the path to be diverted into his enclosure where horses are kept.
11. On a site visit, the officer dealing with this matter saw no sign of a walked path along the eastern hedge boundary of Spindles. Neither is there any evidence of public use by sufficient numbers to suggest a presumed dedication of a path through the field.

Main Considerations for the Council

12. The main considerations for the Council are set out in paragraphs 12 to 14 of **Appendix A**.
13. None of the objectors has used this particular section of Footpath 3 and four were of the opinion that the path was in a different location.
14. Whilst the objectors feel there is a need for a path to Ermin Street from Finches Lane, this does not mean there is a need to walk through the property known as Spindles on the definitive line of the path.

Environmental Impact of the Recommendation

15. None.

Risk Assessment

16. None.

Financial Implications

17. The landowner has agreed to pay the County Council's costs in connection with the making of the Order.

Options Considered

18. Members could resolve to abandon the Order and enforce the 'definitive' route through the garden of Spindles.

Reasons for Recommendation

19. To delete a short section of footpath which officers feel was erroneously included on the Definitive Map in 1952. It should be noted that Spindles was built in the 1930s on land forming part of the garden of the Vicarage. The Parish Council has no knowledge of the existence of a path in this area.

Recommendation

20. That approval be given to refer the Public Path Extinguishment Order relating to Footpath 3 (part) Baydon to the Secretary of State for a decision, with a recommendation that the Order be confirmed on the grounds that it is not required for public use.

GEORGE BATTEN

Director of Environmental Services

Report Author

BARBARA BURKE

Senior Rights of Way Officer

The following unpublished documents have been relied on in the preparation of this Report:

Correspondence with the District and Parish Councils and other interested parties