



Order Decision

Site visit made on 7 April 2015

by **Michael R Lowe** BSc (Hons)

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

Decision date: **09 JUN 2015**

Order Ref: FPS/M1900/4/20

Hertfordshire County Council

- This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and is known as the **Hertfordshire County Council (Wareside 13) Diversion Order 2012**.
- The Order is dated 20 June 2012 and proposes to divert part of footpath 13 at Wareside as shown on the Order map and described in the schedule.
- There were two objections outstanding when the Hertfordshire County Council (the Council) submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.

Decision

1. I confirm the Order subject to the following modifications, which do not require advertisement:

In Part 2 of the Schedule delete the words 'over footbridge' in the 5th line and insert the words 'in width' after the words '3 metres' in line 6.

Background

2. The Council made the Order as part of its programme to provide an off-road route between the estate in the north of the village and the primary school. The scheme is supported by Wareside Parish Council, Wareside School, Hertfordshire Highways 'Safer Routes to School' and the Ramblers'. The landowner has no objections. The effect of the Order is to divert part of footpath 13 from a diagonal route across an arable field onto a route along the southern edge of the field. The proposed diverted route, in conjunction with the newly created footpath 85, would provide a link between the estate and the school which the Council propose to construct to a high standard.

Main Issue

3. The requirements of section 119 of the Highways Act 1980:
 - (1) Whether it is expedient in the interests of the owners of the land or of the public that the footpath in question should be diverted;
 - (2) Whether the diverted footpath will (or will not) be substantially less convenient to the public;
 - (3) Whether it is expedient to confirm the Order, having regard to:
 - (a) The effect the diversion would have on public enjoyment of the footpath as a whole;

- (b) The effect the coming into operation of the Order would have as respects other land served by the existing public rights of way; and
- (c) The effect any new public rights created by the Order would have as respects the land over which the rights are so created and any land held with it.

A diversion must not alter the point of termination of a footpath: (a) if that point is not on a highway, or (b) (where it is on a highway) otherwise than to another highway connected with it, and which is substantially as convenient to the public.

I must have regard to any material provisions of the rights of way improvement plan of the area.

Reasons

Whether it is expedient in the interests of the owner of the land or of the public that the footpath in question should be diverted

- 4. The Order has been made because it appears to the Council that the diversion is expedient in the interests of the public. The Council submits that the diverted route (i) would provide a better link between the Babbs Green Estate and the school near Reeves Green, (ii) would provide an off-road route alternative to walking the narrow country lane and the conflict with vehicular traffic and (iii) would provide a more direct route to walkers travelling west and south from Coanwood Cottages.
- 5. In my view there are clear benefits to the public from the proposed diversion of the footpath for the reasons given by the Council. I am therefore satisfied that the proposed diversion of the footpath would be expedient in the interests of the public.

Whether the diverted footpath will (or will not) be substantially less convenient to the public

- 6. The proposed diversion is longer if heading north from Coanwood Cottages and for walkers travelling along the Hertfordshire Way. However, if heading south from Coanwood Cottages or travelling from the Babbs Green Estate to the school, the diverted route would provide a shorter route. It appears to me that for the users of the Hertfordshire Way and local recreational walks the increased walking time would be unlikely to be a significant disadvantage, whilst the diverted route would be very advantageous for access to the school. The ground conditions of the existing route and the diversion route are broadly similar.
- 7. I am therefore satisfied that the diverted footpath would not be substantially less convenient to the public and would be likely to be more convenient to some users of the footpath.

Termination point

- 8. The proposed diversion would alter the termination point if this were to be judged as the junction with footpath 14. However, footpath 13 continues northward to New Hall Green, such that if New Hall Green were considered to be the termination point it would remain unchanged. Mr Barnes objects to the Order and submits that the diversion would not be substantially as convenient to the public, but does not indicate that he considers the diversion would alter

the termination point. He argues that the diversion would not be substantially as convenient to the public if travelling from Coanwood Cottages to New Hall Green.

9. In my view the proposed diversion does not alter the termination point, but even if the junction with footpath 14 were to be considered the termination point, this termination point would be substantially as convenient.

Whether it is expedient to confirm the Order

The effect which the coming into operation of the Order would have as respects other land served by the existing public rights of way

The effect which the new public right of way created by the Order would have as respects the land over which the right is so created and any land held with it

10. These issues are not in dispute and I am satisfied that such matters do not adversely impact upon the confirmation of the Order.

The effect the diversion would have on the public enjoyment of the footpath as a whole

11. In my view the proposed diversion would enhance the public enjoyment of the footpath by providing a more convenient off-road route to Wareside School and would have no substantial adverse impact upon public enjoyment of the footpath for recreational purposes as part of the wider network.

The Rights of Way Improvement Plan

12. Hertfordshire's Rights of Way Improvement Plan contains various options for the provision of an off-road route between the estate and Wareside School including the proposed diversion. The Core Actions identified are to develop appropriate well maintained links into the countryside and to create and develop off-road routes linking communities with places of work, schools and other local facilities.

13. It appears to me that the proposed diversion would assist in meeting these objectives in the Plan.

Overall Expediency

14. Whilst the 1980 Act details specific matters that must be considered within the expediency test there is no limit upon other material matters which may be considered under the heading of expediency. I have noted the objections on the grounds that other proposals in the 'safer routes to school' scheme are not being pursued, but I do not consider that to be material to the issue of the diversion set out in the Order.

15. In this case it appears to me that there are advantages to the public from the diversion and that, whilst there are some aspects of the diversion, such as the increased distance to some users, these disadvantages are outweighed by the advantages.

16. No objection has been made to suggest that the proposed diversion would have any adverse effects upon agriculture, natural beauty or biological diversity and I am satisfied in these regards.

17. Overall, I am satisfied that it is expedient to confirm the Order.

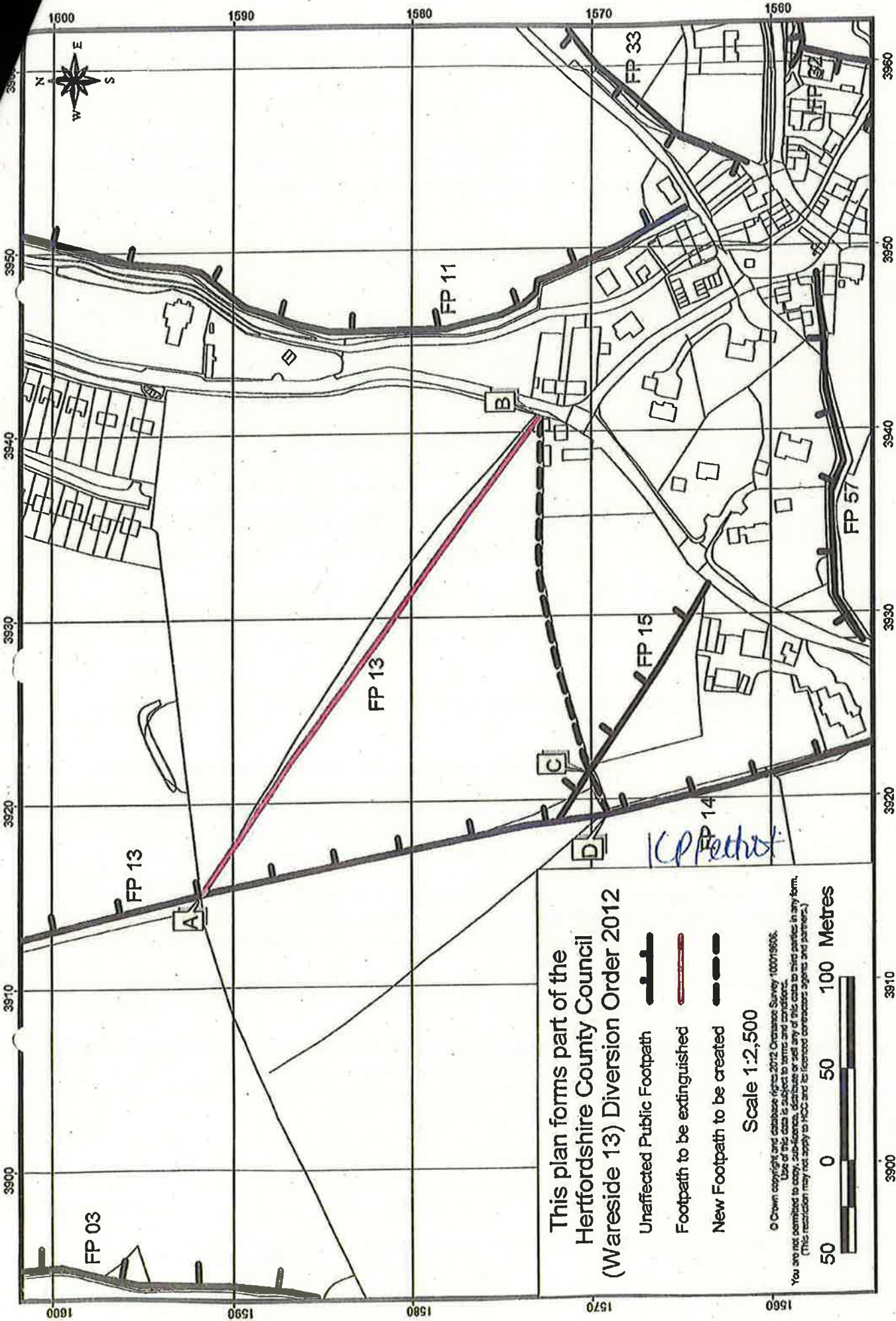
18. I have made two amendments to the Order. Firstly I have deleted the reference to the footbridge as the footbridge is along the route of footpath 14 and is not affected by the Order and secondly to clarify that the width of the new footpath is 3 metres wide.

Conclusion

19. Having regard to all these and all other matters before me I conclude that the Order should be confirmed with the modifications as set out above.

Michael R Lowe

INSPECTOR



This plan forms part of the
 Herfordshire County Council
 (Wareside 13) Diversion Order 2012

- Unaffected Public Footpath
- Footpath to be extinguished
- New Footpath to be created

Scale 1:2,500

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ICP Petcher