



**PUBLIC PATH DIVERSION ORDER  
HIGHWAYS ACT 1980**

**HERTFORDSHIRE COUNTY COUNCIL**

**Hertfordshire County Council  
(Little Hadham 43)  
Diversion Order 2021**

This Order is made by Hertfordshire County Council ("the authority") under section 119 of the Highways Act 1980 ("the 1980 Act") because it appears to the authority that in the interests of the owner of the land crossed by the footpath described in paragraph 1 of this Order it is expedient that the line of the path should be diverted.

Mr J. Elton Barratt has agreed to defray any compensation which becomes payable in consequence of the coming into force of this Order and any expenses which are incurred in bringing the new site of the path into a fit condition for use by the public.

East Hertfordshire District Council has been consulted as required by section 120(2) of the 1980 Act.

**BY THIS ORDER:**

1. The public right of way over the land situate at Little Hadham and shown by a bold continuous line on the plan contained in this order ("the Order Plan") and described in Part 1 of the Schedule to this order shall be stopped up on the date on which the authority certifies that the public footpath described in paragraph [2][3] below is in fit condition for use by the public such date not being earlier than 90 days from the date of confirmation of this Order.
2. [Not withstanding this Order *[Insert name(s) of Statutory Undertakers]* shall have the following rights over the land referred to in paragraph 1, namely:- *describe wayleave rights* ]
3. There shall at the end of 90 days from the date of confirmation of this Order be a public footpath over the land situate at Little Hadham described in Part 2 of the Schedule and shown by a bold broken line on the Order Plan.
4. The rights conferred on the public under this Order shall be subject to the limitations and conditions set out in Part 3 of the Schedule.

IN WITNESS whereof the COMMON SEAL of HERTFORDSHIRE COUNTY COUNCIL was hereunto affixed this                      day of                      2021

The Common Seal of  
HERTFORDSHIRE  
COUNTY COUNCIL  
was hereunto affixed  
in the presence of:-

**Chief Legal Officer**

## **SCHEDULE**

### **PART 1**

#### **DESCRIPTION OF SITE OF EXISTING PATH OR WAY**

The full width of that part of Little Hadham Footpath 43 commencing from Millfield Lane (public road) at TL 4483 2190 (Point A on the Order Plan) and then running in a westerly direction, north of Millfield Cottage, for approximately 65 metres to TL 4476 2190 (Point B on the Order Plan).

### **PART 2**

#### **DESCRIPTION OF SITE OF NEW PATH OR WAY**

Public footpath commencing from Millfield Lane (public road) at TL 4483 2192 (Point C on the Order Plan) running in a west south westerly direction for approximately 75 metres on the south side of the boundary to join Little Hadham footpath 43 at TL 4476 2190 (Point B on the Order Plan).

Width: 3 metres

### **PART 3**

#### **LIMITATIONS AND CONDITIONS**

A 1.8 metre gap, to BS 5709 or better, at TL 4483 2192 (Point C on the Order Plan).

## **Highways Act 1980 S119**

### **Diversion of Part of Footpath 43 Little Hadham**

#### **Reasons for the Diversion of the Footpath**

#### **1. LEGAL CONTEXT**

- 1.1 Section 119(1) of the Act enables a council to make and confirm an order for the diversion of a footpath or bridleway in its area if it appears to the council that it is expedient to do so in the interests of the owner, lessee or occupier of the land crossed by the way, or of the public, and subject to other provisions of the Act, and as set out below.
- 1.2 Guidance on the making and confirmation of orders is contained in Rights of Way Circular (1/09) (October 2009) published by Defra.
- 1.3 S119 of the Act enables an order for the diversion of a footpath or bridleway to be made and confirmed as follows:
  - 1.3.1 S119(1) It is expedient to divert the public rights of way in the interest of the owner, lessee or occupier of the land crossed by the routes or of the public
  - 1.3.2 S119(2) The termination points of the route are not altered, otherwise than to points which are as convenient to the public
  - 1.3.3 S119(6) The route is not substantially less convenient to the public as a result of the diversion
  - 1.3.4 S119(6)(a) With regard to the effect on public enjoyment of the route as a whole
  - 1.3.5 S119(6)(b) With regard to the effect the coming into operation of the order would have as respects other land served by the existing public right of way
  - 1.3.6 S119(6)(c) With regard to the effect which any new public right of way would have on the land over which it is created and any land held with it.
  - 1.3.7 S119(6A) With regard to any material provision of a rights of way improvement plan for the area

- 1.4 S29 of the Act requires Councils to have due regard to the needs of agriculture and forestry and to the desirability of conserving flora, fauna and geological and physiographical features

## 2. **BACKGROUND**

- 2.1 The applicant is the owner of Millfield Cottage, Millfield Lane, Little Hadham, the curtilage of which is crossed by the eastern section of Footpath 43 Little Hadham. Millfield Cottage was purchased by the current owner in 1959. At that time the footpath ran along the headland of the field to the north of the property boundary, on the alignment recorded on the Definitive Map.
- 2.2 In 1986 the owner purchased a triangle of arable land immediately to the north of the property boundary, to use for the growing of willow for specialist basket making work. No diversion of the public right of way took place at that time and the footpath has continued to exist and be available on its recorded alignment, between the property and willow area since then.
- 2.3 A small area of field to the north has now been acquired to enable an application for the diversion of the footpath. The proposed route will run along the new boundary of the field. The proposal therefore recreates the original open and rural character of the footpath, as it existed before 1986 and its incorporation into the garden.
- 2.4 The current eastern termination point is on to Millfield Lane from the applicant's property. Millfield Lane is a busy road with no footway or verge, providing access to and from the A120 and Bishops Stortford. The national speed limit applies. The applicant is aware that since he purchased the property, it has become much busier and carries fast traffic, and he is concerned about road safety for walkers. Millfield Lane is especially popular when polo matches are taking place at the nearby Silver Leys Polo Club. The road is then used by all spectators, as well as large transporters and trailers carrying competitors and horses.

## 3. **GROUND'S FOR THE MAKING AND CONFIRMATION OF THE ORDER**

**S119(1) It is expedient to divert the public right of way in the interest of the owner, lessee or occupier of the land crossed by the public rights of way**

- 3.1 The application is made on the grounds that it is in the interest of the owner of the land crossed by the eastern section of Footpath 43 for the footpath to be diverted. The diversion will benefit the owner of the land at Millfield Cottage by:
- 3.1.1 removing it away from their property to the newly acquired land
  - 3.1.2 enabling them to secure the northern and eastern boundaries of their property and increase security

- 3.1.3 removing their obligation not to obstruct the footpath, and to consider the safety of the public when using the parking area to the property, which is crossed by the footpath
- 3.1.4 The willow is still being cultivated for use for basket making and the area between the existing willow patch and the proposed footpath will be used to expand the willow patch area. The diversion and additional space will enable the willow area to be managed more easily.
- 3.1.5 The diversion will also provide more privacy at the property for the owner, his family and their visitors

**S119(2) The termination points of the route are not altered, otherwise than to points which are as convenient to the public**

- 3.2 The western termination point is not altered.
- 3.3 The eastern termination point is altered to a point on Millfield Lane approximately 23 metres north of the existing point. The proposed point is more convenient for the public as:
  - 3.3.1 it is immediately opposite the termination point of Footpath 42 and so removes road walking and improves road safety between the two footpaths
  - 3.3.2 it uses an existing wide field access point which offers a good refuge for walkers
  - 3.3.3 it gives superior visibility in both directions along Millfield Lane. Visibility is restricted at the current exit point.

**S119(6) The route is not substantially less convenient to the public as a result of the diversion**

- 3.4 The route is more convenient to the public as result of the diversion as:
  - 3.4.1 the distance to be walked between Footpath 43 and the western end of the diversion is decreased by approximately 23 metres
  - 3.4.2 the general direction of travel is maintained
  - 3.4.3 a more direct route is provided between Footpaths 43 and 42
  - 3.4.4 no road walking is required to pass between Footpaths 43 and 42
  - 3.4.5 the route will be available at an increased width of three metres

- 3.4.6 the route will be easier to follow along a field boundary than when passing within a garden and across a private parking area

**S119(6)(a) With regard to the effect on public enjoyment of the routes as a whole**

- 3.5 Public enjoyment of the route will be increased as:

- 3.5.1 The route will retain its rural quality and natural surface on a field headland
- 3.5.2 The route will be more open in character, not being confined in a garden, but a view of the willow will still be available
- 3.5.3 Any embarrassment felt at passing so close to a private dwelling and concern at crossing a parking area is removed
- 3.5.4 The route will be easy to follow and give direct access to Footpath 42 without any road walking
- 3.5.5 At the entrance to Millfield Lane there will be a hedge/fencing with 1.8 metre gap to prevent vehicular access onto the footpath. The roadside verge will act as a refuge for crossing the road.

**S119(6)(b) With regard to the effect the coming into operation of the order would have as respects other land served by the existing public right of way**

- 3.6 The land served by the existing route is within the ownership and occupancy of the applicant and the impact is positive in improving their use and enjoyment of the land.

**S119(6)(c) With regard to the effect which any new public right of way would have on the land over which it is created and any land held with it**

- 3.7 The land was the existing headland of an arable field and is now to be used for the new footpath. The effect is to preclude any disturbance or use of the land which is incompatible with the public's right of way. The effect is acceptable to the applicant.

**S119(6A) With regard to any material provision of a rights of way improvement plan for the area: The Hertfordshire Rights of Way Improvement Plan 2017/18-2027/28 (ROWIP)**

- 3.8 The proposal is compatible with the ROWIP.

**S29 Due regard to the needs of agriculture (which includes the breeding and keeping of horses) and forestry and to the desirability of conserving flora, fauna and geological and physiographical features**

- 3.9 There is no impact on forestry, although the willow growing area may be enhanced by the removal of the footpath. No adverse impact on flora, fauna or geological and physiographical features has been identified.