

TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 247

PROPOSED STOPPING UP AND DIVERSION OF FOOTPATH 60 HOLMFIRTH

(Public Inquiry scheduled 24th August 2021)

WRITTEN STATEMENT/PROOF OF EVIDENCE

RICHARD HOWARD BUTTERFIELD

August 2021

**TOWN AND COUNTRY PLANNING ('TCPA') 1990 - SECTION 247
PROPOSED STOPPING UP AND DIVERSION OF PART OF FOOTPATH 60
HOLMFIRTH**

1. I am **RICHARD HOWARD BUTTERFIELD**. I am the landowner and live at Wolfstone Heights Farm with my family. My contact details are supplied.
2. I am the Chairman of a global branding business. Unfortunately, during normal times, to which we hopefully appear to be returning, this means that I have travel on business quite frequently. For that reason I must offer my sincere apologies that I am unable to attend the Public Inquiry during week commencing 23rd August 2021, as I shall be overseas part of that week.
3. I wanted to set out some simple facts about my position on this matter, why things have been and are being done, as well as why some have clearly not understood the situation.
4. The simplicity is that I have planning permissions to develop and have duly and lawfully commenced development in accordance with those permissions. However, I can only go so far. The reason is, unless the existing footpath is diverted, as was clearly identified in the planning applications, then the planning permissions can never be fully implemented.
5. I have seen various references to me being “arrogant”, or “entitled”, or derogatory terms to that effect, because I have allegedly put the diversion route in place before going through this diversion process. I want to explain this. Basically, the diversion route has been put in by me ‘on risk’. However, it is not true to say that it is something that I have done without thought and with a view to upsetting anyone, as that is simply not the way that I live or operate, a hopefully people will attest.
6. The truth is that permission had been granted, work was underway, contractors were on site and available, so the opportunity to get that diversion path work done was available to me at a particular window in time. Also, we were working required landscaping around the line of the diversion route, so it just made sense to put it in place at that time and work around it whilst the right contractors were available.
7. I therefore had the line of the path and fencing put in. It made sense that people could use it permissively. In part, I believed (perhaps wrongly) that at least people could see what they were going to get in the event of the stopping up and diversion order being made. I am pleased to see that there appears to be a high level of support for the diversion appears to have come out of this process.
8. I have also read and heard references that when the diversion route was put in place, that I had closed the original route. I can say that there is no truth in this whatsoever and I do wonder whether this untruth has garnered misunderstood objection and accusation. The legal footpath route has always been left open. We have been meticulous on this with builders and the like when parts of what is now the old driveway have been blocked (as it has been very many times over the years, I would add; whilst that was its main function, that old driveway has not always been useable as such due to various deposits

and obstructions on its southernmost side). There has always been a four feet passable width route on that northernmost side of the driveway between the two walls.

9. I want to address the point about the gates at the top. These were closed every night until very recently, though never during the day. I had received correspondence many years ago that I could close the gates, but upon receiving correspondence from the Council and the PNFS a couple of years ago, I left these open as a gesture, because my relationship with the Council was better then than it is now. I also have it in writing from a Corporate Director at the Council that the gates could remain closed during the first lockdown last year. I can provide this information but do not want to embarrass or cause difficulty for the person involved. I can provide this if required.
10. However, I have had reason more recently to block off the southernmost side of the old driveway, though obviously leaving the legal footpath on the northernmost side, leaving only the northernmost gate leaf open. I shall not deny that as a by-product this served as a useful demonstration of the actual width of the legal footpath to users. However, that was only a by-product, as I did have other reasons for doing that work. That is presently removed but obviously that is something that I can lawfully reinstate at any time. I have no plans at present, because what we needed to do in connection with that is done. The southernmost gate leaf remains closed and the northernmost gate leaf remains open.
11. Overall, we have wanted this whole development to be a high-quality job, including the diversion route. Apart from a few things that I have read from objectors in the course of diversion applications, the overwhelming feedback is that the diversion route has been very much welcomed. We wanted to put in a better walking route, that was kinder underfoot and allow far-reaching views, as well as be far safer as it opens onto Wolfstones Road. I think that we have respectfully done that as those providing Proofs of Evidence and attending the Inquiry will attest.
12. Unfortunately, this is going to make the situation more painful where I must take the diversion route away if this stopping up and diversion application is not successful. To be clear, where the stopping up and diversion is not successful, then the diversion route will unfortunately have to go, which I am aware will disappoint many over a few. However, I simply cannot justify maintaining the two routes for a variety of reasons.
13. So far as the main building part of the development is concerned, I am not sure how things will work if the stopping up is not successful. I have gone just about as far as I can go for now, which is why some parts may look unfinished, but there is still a significant amount of work to be done, which is reliant entirely on the stopping up being authorised.
14. As Mr. Earnshaw will describe, we did apply to the Council under Section 257 TCPA before this application to the Secretary of State under Section 247 TCPA. It is not news that PROW officers, after much painstaking work it has to be said, reported to their committee, recommending the making of required order. The Committee duly overturned the recommendation based on the volume of representations (note, not specifically objections) received following a non-statutory consultation, as well as alleged highway safety, despite having no evidence or basis.

15. Part of that application entailed discussions about making the grass verges on Wolfstones Road into more solid surfaces. However, this was not a consideration for the Committee. We also examined that further after the refusal to make the order. Also (and this is where I was surprised that officers had pushed this), this is where the Council's Highways Engineers themselves had said that they would not welcome this, principally for reasons of flooding and drainage.
16. Whilst this was not and is not a consideration, I place on record that I remain open-minded to discussion on that if the Inspector finds it necessary. Nevertheless, we must consider that this is not welcomed by the Council's Engineers. Also, it would appear from our own evidence that this is not necessary and there are no reasons not to make the final order in any event from a safety perspective, as Mr. Appleton of Via Solutions will cover at the Inquiry.
17. Following the refusal to make the Section 257 Order by the Council and during further attempted engagement, we were informed clearly that a re-application would likely take at very least two years to determine. It was clearly obvious also that the relationship with the Council was deteriorating and had deteriorated, to the point where I had to consider alternative means. Therefore, the decision was taken to apply under Section 247 directly to the Secretary of State.
18. I am pleased and reassured to see that, although I accept not itself determinative, the level of support for the diversion has more than doubled the level of objection, which must weigh positively and show that there is clear support for the proposed diversion. I have heard surprising reference that there is no advantage to anyone but myself and my family on this diversion. I would respectfully disagree and inform the Inspector that in no way was that the intention. Yes, we will obviously be able to fully implement the building works, but I submit that the diversion route is a far superior footpath route compared with the current one, as well as being considerably safer. To state that there is no advantage to others seems ridiculous and rather narrow-minded. I submit that the advantages obtained from the diversion route considerably outweigh any perceived or actual disadvantages submitted by objectors.
19. From the feedback that I have received, overall, the diversion route is most welcomed and there is a clear preference for its retention over a far inferior current footpath 60 route.
20. All I have ever done is obtained permission and applied to divert a footpath. That's it and nothing more. I have been surprised and disappointed at the treatment that I have received since.
21. I trust that the above at least clarifies a few things for the Inspector and hopefully others. I hope that the Inspector is minded to make the final order and I shall now leave this to the Inquiry evidence.