



MID SUFFOLK DISTRICT COUNCIL

Return to: Ms S Berry, Communities Officer (Public Rights of Way)
 Mid Suffolk District Council, Council Offices, 131 High Street,
 Needham Market, Ipswich, IP6 8DL or
 email Sharon.berry@baberghmidsuffolk.go.uk

From: Peter Newlands

File Ref: T160

SUBJECT:

Highways Act 1980 Section 119

Proposed Diversion of Rougham Public Footpath No 7(part)

Please delete as appropriate:

- a) ~~I have no comments on or objections to the above proposal.~~
- b) ~~I support the above proposal.~~
- c) My comments on the above proposal are as follows (please expand on a separate sheet if necessary):

I have been using this path for around 30 years. As a result of the process leading up to this application it has been discovered that the path on the ground does not follow the line on the definitive map. In a submission dated 27th February 2015 I challenged Suffolk County Council (SCC) to deal with the matter as required by the Wildlife and Countryside Act 1981. They declined. This makes raising an objection to the proposed alteration more complicated than it should be. Also, I didn't think that entities such as Councils could disregard the law so easily and dismissively as per the Public Rights of Way Services letter to me dated 22nd September 2015. Either something is illegal or legal. If it is illegal and there is a mechanism for correcting such an error, this is surely what must be done. Then the process of making alterations, such as those proposed here, can be undertaken correctly. For the sake of clarity, the whole distance shown on the plan A to B to C to western fig.7, is the definitive path route. None of this line has been used on the ground whilst I have been using this path. It would have been helpful if SCC had provided a plan with the line on the ground added in so the adjudicators of this application can see what is actually being requested to be changed.

- d) I object to the above proposal for the following reasons (please expand on a separate sheet if necessary):

Given my comment in c) above please see my objection reasoned on the attached sheets (4).

Signed: Peter Newlands (a signed original of this page has been sent via Royal Mail)

Dated 21st October 2015

SUBJECT:**Highways Act 1980 Section 119****Proposed Diversion of Rougham Public Footpath No 7(part) (continued)**

d) (continued from Frontpage) I object to the above proposal for the following reasons:

I have had continuous and uninterrupted use of the clear and officially marked line of this path, as it is on the ground, for around 30 years and continue to use it frequently. I understand that an application to move the line of a public footpath has to satisfy four tests:

1. Expedient in the interests of the parties stated
2. Termination point of new path substantially as convenient to the public
3. Path as a whole must not be substantially less convenient to the public
4. Is it expedient having regard to the effect on public enjoyment of the path as a whole

I submit as follows:

Number 1: This test fails because:

a) Expedience, to correct a prevailing wrong which is the whole of the line between A to west fig.7 on the plan, as the SCC has discovered exists, cannot cover up an illegality. See my comment under C on the front page. The Rights of Way department compounded the SCC 'error on the ground' as recently as 2011 when they repaired the railway sleeper ditch crossing point by D on the plan. It begs the question as to why the map was drawn so inaccurately or, why the path has been allowed to exist where it is. (see next point b). If it is so important to 'upset the applecart' then, when opportunities have arisen previously, SCC representatives have been negligent in not pursuing corrections during those opportunities.

b) The statement on the plan, under "Key", that the dotted line, C to west fig.7 as "Unaffected Path", is not true. There is no current 'path on the ground' along this line. In fact due to obvious tree growth and subsequent decay there appears to be sufficient evidence that this line has probably never ever been used! The actual used line 'on the ground' is from the dog-leg corner just (to the north of C on the plan) to the opposite western corner of Lake House garden boundary then immediately alongside and south of the fence (part of the southern boundary of Lake House garden) to the road, slightly further north than shown as the exit point on the plan. However, a series of 'yellow painted top' posts has, this year, been positioned to mark this dotted line on the plan (C to west fig.7), on the ground. Is this to evidence to where the current path will be moved to (although this movement is not requested in this application) when and if this proposal is sanctioned and implemented?

c) The cost to SCC of removing the current tree obstructions and the danger that SCC will expose the public to because of the closeness (less than 12 inches) to the Rushbrooke Lake outflow gully, which is 2½ to 3 feet deep, that the plan line takes between C and west fig.7. It is in nobody's interests to open this line up. The current on the ground dog-leg corner to west fig.7 is a good user friendly path and should not

be altered to satisfy a 'wrong' that is the definitive map line. It just underlines the sensibility of redefining the definitive map line under the Wildlife and Countryside Act 1981 before considering any other application for change as the current residents of Water Cottage would prefer.

d) It would appear to be more expedient to spend money on complying with the requirements of the Wildlife and Countryside Act 1981 (too expensive to do so is the major reason given by SCC in the letter to me of 22nd September 2015 for not taking the compliance course of action) rather than spend it, and more, clearing the obstructions, making good/replace the fence introducing a new boundary crossing and remove the existing stile in the southwest garden boundary of Lake House to facilitate the 'on the quiet' intention of replacing the current existing line on the ground with this new line shown on the plan to match the line on the definitive map between these points.

e) The dotted line A to D on the plan already exists on the ground. Of course it is expedient for SCC to deal with this wrong under a Highways Act 1980 amendment as it is cheaper for them to do so. However, is it the legal route? However, where also is the consistency? Allowing an application to the definitive map from AB to AD to reflect what is happening on the ground but seemingly intending to create, on the ground, C to westfig.7 rather than include in the application the actual on the ground position of dog-leg corner to the north of C to exit onto U8018 where it does now across the existing railway sleeper bridge just by the south west corner of Lake House garden?

f) The argument of the applicants must not be read as if the path across Water Cottage curtilage follows the line B to C on the plan. It does not and has not for longer than I have been using it. (See 3a).

Number 2: This test fails and is complicated for two reasons:

a) The proposed exit at point C is south of the existing exit stile requiring cutting a hole through a splendid beech hedge. It facilitates an unnecessary stile removal but, I understand, a stile is now a non-preferred border crossing tool of the Council. An illustration of such 'non-preference' occurred earlier in 2015 when the stile at east fig.7 was removed requiring the public to use the adjacent field gate instead. A perilous undertaking when cattle are grazing in the field! Animal occupation of the field was the reason for installing the stile in the first place. A 'regulation' stile has always been the Water Cottage exit at the dog-leg corner to the north of C on the plan. This stile was thoughtfully built with an additional specially designed dog pass as a public aid. The cost of removing a perfectly serviceable stile benefits nobody.

b) SCC wishes to reinstate the definitive line (by stating it is "unaffected" [untrue as stated at "Number 1"] on the plan) between C and fig.7 to the west, on the quiet. This will seriously inconvenience the public and pose quite a danger. It presupposes that all the obstructions can be successfully removed by SCC including ensuring that, in creating the path on this line all the roots of the trees that need removing can be successfully extracted so as not to leave trip hazards. The need to be so thorough will undermine the integrity of the land to be walked on and will undermine the integrity of the bank of the immediately adjacent gully that is the outflow facility for

Rushbrooke Lake. Footpath foundation problems are guaranteed by such a change although it is stated as “unaffected”.

Number 3: This test fails because:

a) It removes from the public the direct line (as has been the practice on the ground for at least 30 years and is best read, in the absence of a helpful plan from the Council, as D to the dog leg corner just north of C on the plan provided then effectively straight on adjacent to and south of the fence to west fig.7 which is actually a little further north than shown on the plan). The extra distance for the public to walk is therefore greater than indicated by any calculation from the lines on the application plan.

In removing the direct line the public, traveling D to near C in the Water Cottage curtilage will lose the splendid valley view towards Rushbrooke Lake and the very easy unobstructed walking (well sign posted by SCC) across well mown grassland. The current line on the ground here is the best feature of the whole path between road U8015 and road U8018. Replacing the current line for a trudge around a featureless garden boundary is definitely detrimental to public enjoyment. Any vistas that might be afforded between F and C across the valley will be obscured by the mixed plant variety hedge line, around 6 feet in height at the time of writing and not shown on the plan but runs roughly north east from the dog-leg corner to approximately half way to the Water Cottage driveway where it then dog-legs north to stop about 5 meters short of the driveway. This hedge was well established before I started using the path.

One of the joys of the Rights of Way network is the discovery of hidden gems. The current path line that exposes Water Cottage for the public is one of these gems. Moving the line will take the enjoyment away forever!

b) The demerits of forcing on the public the never used line C to west fig.7 have been covered in Number 1 and 2 above and again in Number 4 below.

Number 4: This test fails as the public enjoyment is much reduced. From the west:

a) Between points 7 and C because reverting to the definitive map line the path will be moved into a forest of old trees, a debris strewn chest high stinging nettle invested mini forest floor. The line passes so close to the Rushbrooke Lake overflow gully, that is 2½ to 3 feet deep, that the likelihood of someone falling in is very high indeed. Furthermore, in winter the ground along the whole of this part is very wet and muddy indeed. The current line on the other hand is always firm and dry – summer and winter. In winter where the lake outflow crosses Eastlowhill Road the volume of water can be such (for several days at a time) that the road is underwater rather than over the water!

Taking the public close to the Rushbrooke Lake sluice is another danger to consider.

b) Between C via F and E to D the public will be forced to walk further but for what? There is no advantage to the public for this, the proposal by the residents of Water Cottage. In addition, if all the hedging and trees, that currently form an impenetrable barrier at the moment to access this line are not thoroughly removed, roots and all; but perhaps, just cut back to accommodate the required path width instead, especially

between C and F and on to the Water Cottage access driveway, then permanent maintenance for side growth is going to be required. Such maintenance will also be required for any hedging added to the Lake House side of the boundary fence where the residents may wish to protect more strongly than now any privacy that they may feel they loose as a result of a sanctioned change. The leylandii between E and D will need thorough removal (roots and all) to ensure again the avoidance of tripping accidents.

c) Between points D and A is SCC 'righting' the definitive map 'wrong' and 'adjusting' it to what has 'always' been the position on the ground and helpful avoidance, by dint of the application by SCC from the residents of Water Cottage, of the requirement to apply for a correction under the Wildlife and Countryside Act 1981. (This of course is similar but in reverse of the action proposed to be taken at a) but without being honest and officially righting the wrong first and rendering the 'on the ground' west fig.7 to near C alteration unnecessary.)

Having said that, the ditch crossing at point B, has been neglected for so long (if it ever was actually there in the first place) that to reinstate it would mean demolishing an established building (not shown on the plan) on the southern side of the ditch.

In conclusion of Number 4:

The public will loose the views across the valley of Rushbrooke Lake as already mentioned; will loose the views of a very quintessential Suffolk thatched cottage – Water Cottage and will loose the direct, very pleasant walking, line between D and the dog-leg corner just north of C that they have enjoyed since time immemorial. Unfortunately, for the residents, Water Cottage is a very photogenic building but perhaps such charm is part of the reason why they purchased it. However, it is surely not a reason to impose a sudden and perpetual enjoyment denial onto the public. The current residents will not be there forever but the path line on the ground has existed for many years prior to their arrival and hopefully will remain in the same position for many years after they leave. They of course knew of the existence of the line of the Right of Way, as clearly evident on the ground, when they viewed then proceeded to purchase Water Cottage in 2014. The disclosure that the line on the ground differed to that on the definitive map only came to light when the residents applied to re-route that part of the path that traverses Water Cottage garden earlier this year presumably, having decided that couldn't live with the path across their land. The complications as a result of the application are very unfortunate indeed for the Council, the public and the land owners.

