

The Planning Inspectorate
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f.a.o. Helen Sparks

1 March, 2021

To whom it may concern

Town and Country Planning Act 1990 - Section 257
Order Making Authority: Oxford City Council
Title of Order: (Footpath No 80, East of Warren Crescent, Oxford) Public Path
Diversion Order No 2 2019

Dear Sir/Madam

Statement of Case

We wish to repeat our objections to the proposal to divert this footpath, Oxford Footpath 80.

Firstly, this proposal goes against (1) the Oxford Local Plan 2036 and (2) DEFRA 'Rights of Way Circular (1/09): Guidance for Local Authorities'. As residents of the Headington area of Oxford, we are also concerned that it goes against Policy GSP1 of the Headington Neighbourhood Plan which is designed to protect and enhance access to public green space. It also goes against the spirit of CIP2 'Protecting locally important views' - in this case along the beautiful Lye Valley. In our view, the Order Making Authority referred to here as 'the Council' has failed to address these concerns.

The footpath (FP80) has high amenity value and is used by local people for recreation, jogging, dog walking and as a foraging route for wildlife eg badgers & foxes (wildlife corridor).

FP80 Across Warren Meadow (there is a faint line in the grass - clearer when the grass is mown).



Regarding the Oxford Local Plan, the Council refers to Policy G9. However, there is no such policy. One can only assume that this refers to Policy G8, which states that “Planning permission will only be granted for developments that affect, or are likely to increase the use of Public Rights of Way if, by planning condition or planning obligation, they safeguard and improve or add to the Public Rights of Way network”. The Council does not address this intention to go against the Adopted Local Plan, other than by making some general comments which have no validity, as discussed below. Given the current efforts to reduce traffic flow to Headington, the huge increases in employment at the local hospitals and Old Road Oxford University Campus, the stress on ‘green’ ways of travelling such as walking, this neglect is surprising.

The Council argues in several places that only a small section of the total 1.3 km length of Oxford Footpath 320/80 would be affected: e.g. (‘OMA Comments on Objections’ para. 19) *“the section of footpath 320/80 which would be diverted is a relatively small section (124 metres) of the total route of the right of way which is 1.3 km”*. This argument is invalid. The numbering of Oxford footpaths on the Definitive Map is inconsistent, for historic reasons. Many Oxford footpaths are divided into sections, each with its own number. In the case of FP 320/80, Oxfordshire County Council (the Highways Authority, who maintain the Definitive Map) sub-divide FP 320/80 into four sections. People walking the area would recognise four very distinct sections: the section in question over the grassy area known locally as Warren Meadow; a section through trees and reedbeds adjacent to the Churchill Hospital site and with views down to the Lye Valley SSSI; a longer section over the Churchill Hospital grounds, largely following the Boundary Brook; and finally a route over Warneford Meadow. These sections could easily have been given different numbers, which would highlight the inadequate nature of this justification. In reality the Council effectively proposes to extinguish most of that first (northernmost) section, a section which provides a green alternative to walking along roads.

On a similar theme, the statement in paragraph 20 that *“Footpath 320/80, unlike the adjacent right of way 320/79, which has a distinctly rural feel, is more urban in nature”* is completely wrong. In fact, FP 320/80, runs over green space (the stretch under consideration), through woods, through a damp section with springs running from under the Churchill Hospital car park, over a field dotted with hibernacula for slow worms and grass snakes amid a wild flower meadow, alongside the Boundary Brook and finally over the open Warneford Meadow. This footpath has a delightful rural feel, crucial to the many hospital staff and patients and families attending the nearby Maggie’s Cancer Support Centre, located specifically to give its patients the healing sense of natural surroundings. But the proposed diversion would make this an urban walk. And again, the statement in para. 22 that *“users of the footpath ... would not be significantly adversely impacted in terms of the enjoyment of the*

right of way" is preposterous. One might as well claim that it doesn't matter where one walks.

In fact the rural and natural environment of the short circular walk of FP80 dropping down to FP79 to return through the Lye Valley is extremely important to the mental health of the staff of both the Churchill Hospital and the Old Road Campus, including the Jenner Institute where the Oxford Vaccine was devised – because they tell us so. They can complete it in their 30-minute lunch break. It is a fantastic 'stress-buster'. We meet them both by leading their staff Health Walks (in pre-Covid times) and when they stop to talk to us as we work either in the Valley or clearing FP80 of tree and scrub overgrowth. They would indeed be 'significantly disadvantaged' by the Council's proposed urban diversion.

There is another red herring in para. 38 of the OMA Comments on Objections, where the Council cites *"the 'Secured by Design Homes Brochure 2019' paragraph 8.9 which states that in planning developments, Public footpaths should not run to the rear of, and provide access to gardens"*. This comment is irrelevant since the rear gardens of the development will be boarded off; there is no question of access.

In paragraphs 53 – 57, The Council addresses the claim made by Objectors that the Order goes against DEFRA's guidance on interpreting the law in relation to Rights of Way: DEFRA 'Rights of Way Circular (1/09): Guidance for Local Authorities'. Para 7.8 of that guidance states that: "In considering potential revisions to an existing right of way that are necessary to accommodate the planned development, but which are acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic." A key phrase is 'acceptable to the public.' Judging by the large number of Objections to the proposed stoppage of the FP80 the public do not accept it at all.

The Council argues that the phrase 'where possible' *"does not rule out the use of estate roads if it is not possible to provide the route elsewhere"* (their para 54). However, there is indeed another alternative to the proposed diversion. An obvious alternative route would be along the fence line, at the edge of the slope overlooking the beautiful Lye Valley, joining the existing footpath to pass behind the flats of Heath Close. From evidence of badger latrines and foraging it is clear that this is an important wildlife corridor, also used by deer and foxes as well as humans, as the local residents tell us. However, this route along the fence line is not suggested by the Council; therefore it cannot be considered at this juncture.

The Council has instead suggested a diversion of the path to run a short length along the perimeter of the slope above the Lye Valley. However, this would merely be a 'permissive route' and subject to closure at a future date on grounds which may/may not appear reasonable to footpath users.

But the Council's arguments that the official line of the path could not run along the fence-line are vacuous. One argument advanced in several places is that a footpath following the fence line would need lighting – which is not possible because of its environmental disruption (their paras. 45 – 47 and elsewhere). The Council argues that “*if the proposed alternative right of way were to be unlit then this would present a risk to users, both in terms of an increased likelihood of accident or injury and would put users at greater potential risk of becoming victims of crime*” (para 46).

In fact the Friends of Lye Valley would indeed object very strongly to any such lighting as it would disrupt the mating of the protected glow worms which live in the adjacent Lye Valley SSSI. The males fly to the females' lights – they would therefore fly to the lamplight and fail to find mates or reproduce. Important moth species living in the Valley would also be adversely affected for the same reason. The bats which fly along the tree line at the slope edge would also be affected.

But of the total 1.3 km length of Oxford Footpath 80, none is lit. It is not clear why suddenly it becomes important to raise this as an objection. The Ramblers keep a register of the public footpaths in Oxford. They estimate that of the 181 public rights of way in the City of Oxford, less than 10 are lit at night. So if the Council's argument in paragraph 47 that their “*proposed definite route* [along estate roads] *would be well lit*” and the unlit footpaths are unacceptable, then around 150 of Oxford's public footpaths are in need of diversion, and in all cases their enjoyment for walkers will be diminished.

Friends of Lye Valley would also Object to any hard surfacing of the footpath as it would further impair water infiltration into the Lye Valley SSSI fen below.

The Council's objection to lack of “*good natural surveillance*” (from their para. 47) of the fence-line route is very odd. Most of Footpath 320/80 is not under surveillance. Footpath 320/79 below it has no surveillance. Within about 1 mile of this location is the historic footpath called Cuckoo Lane (Oxford FP 320/35). It runs close to the centre of the Headington area, deep within stone walls, and is not lit, nor running past properties providing ‘surveillance’. Many other alleys which are a feature of the local area run between houses' high walls, are not lit and have no ‘natural surveillance’ for example, Cox's Alley, Coppock's Alley, Cooper's Alley Beaumont Alley, Church Alley etc – mostly named after the men who fought another public footpath closure.

If people choose not to use them at night they have alternative options – as is the case here. Exactly the same option would be available to walkers on FP 320/80 if it ran beside the fence. After all, who walks a footpath like this at night? Most of FP80 would be completely impossible in the dark. And if lighting of footpaths is suddenly such a priority, why is there no expressed intention from the Council to light the adjacent stretch of FP 320/80 that runs over Oxford City Council land through woods and over marshes alongside the boundary fence of the Churchill Hospital? Plus FP79 below? These arguments against the viability of a footpath alongside the fence line simply hold no water.

The argument that the Footpath must be extinguished/diverted because the Oxford City Council (Point 2) has already granted itself planning permission

(13/01555/CT3) to privatise this public access land and build across it would seem to betray a certain arrogance, an ignorance of procedure and a misunderstanding of the role of the Planning Inspectorate in considering the issue.

We also support the Objections raised by Mark Pitt of Headington Heritage.

<https://headingtonheritage.wordpress.com/greenspaceroobbery/>

We fail to see that Oxford City Council has made any valid argument in favour of overriding its own Local Plan, nor of DEFRA's own guidance note. In its determination not to allow the definitive route of the path to be diverted eastwards along the fence-line, it has manoeuvred itself into a corner of its own making. This proposal to divert Oxford Footpath 80 cannot possibly be allowed.

Yours faithfully

Committee of Friends of Lye Valley

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The View Down the Lye Valley SSSI

