

Comments of the Open Spaces Society on the proposed diversion of footpath M222 at Hill House Farm, Berkswell

1. Introduction

The Open Spaces Society is Britain's oldest national conservation body, founded in 1865. The Society's aim is to protect, increase, enhance and champion open spaces, common land, village greens and public paths.

2. The proposed diversion

The Society has been asked for informal comments on a possible diversion of public footpath M222 near Hill House Farm, Berkswell.

The current route of the path is shown in red in Figure 1. The proposed route is in green, and the legal route on the Definitive Map is shown in blue.

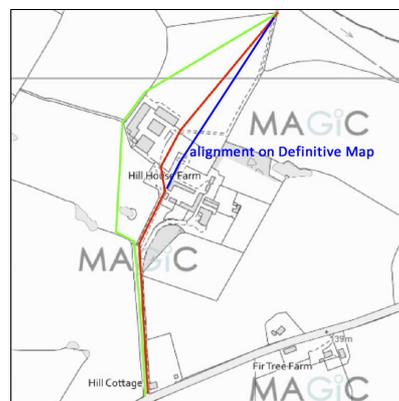


Figure 1 Proposed diversion

Two reasons are cited for diverting the footpath - the health and safety of users of the footpath, and the privacy of the residents in the barn conversions adjacent to the farmyard.

3. Current situation

Although M222 has no vehicle-free continuation, either at the Coventry Road to the south or at Back Lane to the north, it is a useful path that the Society's Local Correspondent uses about once a month.

The path enters the farmyard from the south on a metalled vehicle track, as seen in Figure 2. The buildings where a loss of privacy is reported are those on the right. The lawful route of the path continues straight on, but it is blocked by a large stack of silage bales.

The Highway Authority was notified of this blockage in 2008¹:

"The definitive map shows the route should be essentially straight, passing through the heaps of stored bales at 2558 7983 shown in one photo, and out the other side at the gate at 2559 7987 shown in the other photo. Whether on the legal route or the diverted route, the path runs between the farm buildings, so there appears to be no advantage to the land occupier, but the user of the path is inconvenienced. It would

¹ email to David Keane dated 15 Sept 2008

be appreciated if you could take enforcement action to get the path restored to its correct line."



Figure 2 Farmyard of Hill House Farm from the south

The current route of the footpath continues northwards from the farmyard through a kissing gate visible in Figure 3. The continuation passes through a relatively small oblong field, fenced on all sides, currently used for holding sheep.



Figure 3 Farmyard of Hill House Farm from the north

4. Health and safety

In the course of many visits over the years, the author has not experienced any sense of hazard from the farming operations. Doubtless farm machinery and livestock do cross the yard, but the author has no recollection of difficulties.

The proposed diversion would continue to use virtually all the drive from the Coventry Road. The drive is shared with vehicles accessing the farmyard and the multiple dwellings, and this potential exposure to safety concerns would be unaltered by the proposed diversion.

5. Privacy

It's surprising and disappointing to read that passers-by have peered in windows beside the footpath.

However, in the consideration of the expedience of a path diversion, the Highways Act² specifies that the only relevant interests are those of the owner, lessee, or occupier of the land crossed by the path, and of the public. It does not include the interests of those occupying land adjacent to the footpath. Consequently, the infringement of privacy will not be taken into account by the Highway Authority.

This is to be expected, given the closeness of the vast majority of dwellings to a public highway. In the present case, the situation of Hill Cottage, at the junction of the path with the Coventry Road, would seem to be more problematic than that of the converted barns.

Also in this case, the right of way predated the planning permission³ by many, if not hundreds, of years. The Decision Notice from 15 years ago records that "overlooking" was considered in relation to the existing farmhouse, and presumably would have been a factor in determining the suitability of the conversion of the barns.

6. On-going unlawful diversion

As noted in §3 above, the path has been diverted to the west of its legal route for more than twelve years.

Access has been improved by the installation of kissing gates, but the path remains 15 metres or so from where it should be. If the path were on its correct line, it would run down the side of the farmyard area, rather than across it, and it would be segregated from the small field used for holding sheep.

7. Proposed diverted route

The southern part of the proposed alternative route is not ideal, as that field is used for grazing, and also contains remnant ridge and furrow.

The proposed diversion is estimated to be 75 m longer than the defined route, and would require both improvement and more maintenance than the current route.

8. Conclusions

The Open Spaces Society appreciates the opportunity to comment at this preliminary stage. However, the Society's policy is to oppose a path change unless there is clear public benefit, which does not seem to apply with this proposal (as described).

The preferred option for minimising exposure to hazards in the farmyard would be to return the path to its lawful alignment.

It's not expected that concerns about privacy can be considered in determining a path diversion under section 119 of the Highways Act, and the applicant should be advised to seek alternative practical and legal relief.

The position of the Open Spaces Society to this proposal would be one of objection.

There might be a public benefit in an alternative diversion to the east of Hill House Farm, terminating on Back Lane near the start of M227 at Woodlands, if practicable.

² Highways Act 1980, as amended, section 119

³ Planning application PL/2005/01253 Conversion of barns to six dwellings together with ancillary works