

# Statement of Case

## Objection

Mr J Payton

In relation to the determination of the public path diversion  
order

Public Footpath BA19/22, Skylark farm, Peasedown St John  
Public path Diversion order 2022

Monday 20th November 2023

# 1. Background Information

- 1.1 First on site meeting, discussing the proposed route of the authority. Myself Mr J Payton, The farm manager Mr Craddock and authority representatives Sheila Petherbridge, Wendy Robbins.
- 1.2 The proposed route was instantly a concern, as the local ramblers issued a worry about the subsiding steep bank the proposed footpath was going to follow, along the boundary.
- 1.3 I then Broached a concern about the proposed footpath to the safety of my property. As regards the menage and spooking of horses whilst general public and their dogs use the proposed path which is situated above the menage. Mr Craddock offered to put a fence up, but this was rejected by the authority, as this would need to be upkept.
- 1.4 I was asked by Wendy Robbins what route I would find acceptable through the woods north of my property. My only safe suggestion I could think of at the time, was for the path to follow the northern boundary through the woods (J Payton proposal 1 Appendix A). This was quickly turned down as work would be needed to create a level path. I could see no other way for the proposed footpath to follow, whilst also keeping my property and the users of the menage safe. The meeting ended
- 1.5 Second on site Meeting, at which Discussing other possible routes for the proposed footpath was incited. Myself Mr J Payton, Beckie Rogers and the two council representatives Sheila Petherbridge and Wendy Robbins.
- 1.6 It was discussed about possibly cutting the footpath BA19/22 on the west side of my field to just have the diagonal footpath BA19/23 to meet the authorities proposed footpath at the North East corner of my field (J Payton Proposal 2). This was rejected at the meeting, citing a loss of length of public footpath.
- 1.7 Also it was discussed to move the diagonal footpath BA19/23 to the East boundary of the field, following inside the fence to join at the point of Gassons, BA19/24. This was refused by email on the 10<sup>th</sup> Jan, citing reduction of length of public footpath (and the inclusion of a tarmac path, which Im not sure why someone would put a tarmac path in a field) from Wendy Robbins.

- 1.8 Third and final on site meeting discussing another option. Myself Mr J Payton, Beckie Rogers and the two authority representatives Sheila Petherbridge and Wendy Robbins.
  
- 1.9 At this meeting it was discussed as to moving BA19/22 from the West side of the field to the East side of the field, following inside the fence line. This would Join BA19/24 at Gassons. This would be entirely inside my boundary, also adding an extra 50m of footpath on my property on the south boundary, which would mean the public wouldn't have to walk in the access road and there would be no use of the stile half way along (better connectivity) and end at a gate to join the proposed footpath at the north east corner of the field as well as BA19/23 (J Payton Proposal 3) . (Please see ref Appendix A Map) This proposal was only considered at the 3<sup>rd</sup> meeting and then seemingly disregarded and not shown to the applicant. The response received from Wendy Robbins (ref emails Appendix E) was still referring to the 2<sup>nd</sup> on site meeting about moving BA19/23 which was not even discussed at the 3<sup>rd</sup> on site meeting.

## Details of objection and relevant Evidence

- 2.1 Please see my objection letter ref Appendix D, which states my main objections. The main objection being the damage the proposed footpath will do to my property concerning the effect on the horse menage. The damage will come in the form of added activity along the path in the woods above the menage, which will be an extra cause for spooks. As the menage will be used as a training facility for teaching children and training horses, also as an exercise arena for multiple family members riding horses.
- 2.2 Historically the previous occupants built the menage in 2004 (with planning permission) with the sight of use being for their daughter and family use. Not long after completion an accident occurred in the arena, where a young girl fell from her horse and received serious injury (possible broken leg). From that point on, the whole property was neglected and the site was to fall into disrepair over the years. The menage became completely overgrown and derelict. The footpaths around the property were also in a state of disregard.
- 2.3 The footpath BA19/22 in 2019 once I purchased the property was un-useable and unpassable. As soon as I bought the property I proceeded to eradicate all obstruction from all footpaths. Starting this long 3 and a half years of almost constant work, upgrading the property to a usable state. With the vision to see my entire family use it and enjoy it.
- 2.4 In 2020 work on the menage started, to deal with the subsidence and drainage problems on the property. At this point I conducted a risk assessment of the whole site ,(ref Appendix B) which highlighted multiple issues regarding public right of way and user

safety. These points included broken stiles, removal of tree stumps, buried barbed wire from years of neglect. As well as highlighting the risk of spooks for the menage from footpath BA19/22. All of these highlighted points were then assessed and measures were planned to rectify the issues.

- 2.5 The Risk of Spooks from unexpected noises from Footpath BA19/22 was assessed and the result was to block it off with a 2 m high fence down the side of the menage. This can only be 2m tall per failing to get planning permission for a taller fence at the time. Concentrating on the boundary fencing, whilst this proposed footpath application is going through, I haven't conducted any work on the menage at all since 2021. Until a resolution is reached.
- 2.6 A permissive path was then created whilst this application was in motion, meaning all work stopped and the menage has never been in use while the permitted path was instated.
- 2.7 In 2017 Skylark farm changed the route of the footpath introducing the flights of stairs and the direction the path followed. In 2017 a risk assessment surely was carried out either by the authority or the farm owner to which this change of footpath would pass. What has changed since? Why has the farm now become unsafe for walkers to pass through? Are they now not following the relevant guidance that was stipulated in 2017?
- 2.8 If the authorities proposed footpath goes through, I will not be able to get planning permission for a fence tall enough to effectively block out the danger of spooks in the menage, this being over 2m tall on the northern boundary. A pre -planning application was filed 2020 to fence the area as a storage yard and this was promptly rejected due to environmental landscape effects of a 3m tall fence on the boundary, which would be needed to block out the aforementioned danger.
- 2.9 Being a qualified Health and Safety Rep for Unite the Union for the last 20 years, I have conducted a series of risk assessments for my entire property. The first in 2020 which included the menage to plan and budget and prioritise the workload(Ref Appendix B). The second in 2022 because of the proposed footpath assessing the impact upon my property. (Which I have enclosed in the appendixes ref C)The second risk assessment, regarding the effect the proposed footpath has on the menage, was also jointly written by Beckie Rogers who has years of experience under Paul Nicholls (master horse trainer) training and exercising horses. She also trained disabled and disadvantaged children in Cambodia at Angelina Jolie's Maddox Chivan Children's center using the hippotherapy technique.
- 2.10 Also as regards the effect the proposed footpath will have upon the public, due to walking through a woods suffering with a large percentage of ash dieback. I have had a qualified Tree surgeon (Matt Harrison) assess my property and at the same time assess

the wood in question here. From the government website <https://www.gov.uk/guidance/managing-ash-dieback-in-england#guidance-for-land-managers-and-tree-owners> Written by the forestry commission in June 2021, which includes the document 'Common sense risk management of trees' On page 37 states under 'what the law says' - 'negligence' – 'The person to whom the duty is owed - this is any person who can be reasonably foreseen as coming within the tree's vicinity and being injured by a fall of the tree or a branch from the tree. those using highways, footways, public footpaths, bridleways, railways and canals are likely to come within striking distance of trees on adjacent land.'

I believe as a health and safety representative, any decision to put the public or any person in the way of an identified hazard, requires a risk assessment. Where is the risk assessment for directing a footpath through a woodland suffering from a high percentage of ash dieback?

## J Payton Proposed footpath 3

3.1 The 'J Payton Proposal 3' states (ref this document 1.9) also please see (ref Appendix A Map)

3.2 The third proposal shows the direction of the footpath adjoining path BA19/24 at Gassons and running inside the boundary to the north east corner to a stile or gate on to the farms property to join the authorities proposed footpath. This was at the 3rd site meeting agreed to be an exemplary idea and very enthusiastically viewed from the perspectives of both Authority representatives.

3.3 It would reduce the length of the footpath network by 11m although distance travelled has increased by 25m.

3.4 The proposed footpath to the north of Skylark Farm in the 'conservation' kept land (with a separate land owner) a whole part of footpath BA19/22 has been eradicated between braysdown and the gate entering skylark farm. I cant see why moving a path on my property could not have been involved in this application, as it has been done in the field to the north of Skylark farm, it would have created a perfect alternative to the hazards with the menage and the ash woods. The authority have refused to consider this proposal. This would have removed the harm to my property, the hazards from the woods and created a better walking path for the public.

3.5 This proposal would also mean that the public walking along footpath BA19/23 to the north east corner of my field could join the authorities proposed footpath instead of walking unsafely up a busy road (Gassons) to join BA23/21 and the authorities point C.

3.6 All public who currently walk up the road 'Gassons', will be able to safely walk inside my boundary to point C without setting foot on the road, which is a steep and narrow road with limited passing places. Which I believe was an objection in the beginning of this proposal by a resident of braysdown.

3.7 This proposal would mean the public wouldn't have to walk through a dangerous ash dieback woodland and also would not come near the menage. This not only completely cuts out the danger to users of my property but also means Skylark farm would not be liable to potential public health and safety issues regarding public safety through their woodland.

3.8 This proposal also means the public would walk safely inside my boundary on the south side of my field away from the access road and also removing a stile.

3.9 See Ref (Appendix E) Page 5 Sent: 06 January 2022 10:59 benefits for proposal 06/01/2022

3.10 On the 10 January 2022 (Ref Appendix E) when Wendy Robbins contacted me via email discussing that the proposed route will be going forward. Where it states there is no alternative to walking in a field with horses, I find this confusing as the only footpath that will have no horses on it, is footpath BA19/24. All other footpaths will have horses grazing upon it at some time. Moving BA19/22 (which will have horses on it, at some point) to the east side of the field (where it will also have horses on it at times). The effect of horses on the public is the responsibility of the landowner and I have conducted relevant risk assessments to this effect, being a responsible land owner. The reason for refusal, that states the reduction of the length of footpath has been asked for clarification multiple times and has been responded to with confusing reasons such as; a tarmacked path, horses in the field and reduction in footpath length (reduction of network length I cant even find in their policy)

3.11 Having looked at the map for the authorities proposed footpath the measurement between point A and C comes up approximately 115m shorter then between points A and B. By my measurements (Appendix A Map) the J Payton 3rd proposed path shows a reduction in approximately 11 meters in the network length. Which was discussed at the 3rd onsite meeting. This would give a safe route for walkers and a safe environment for menage users. Its less steep then the proposed route and gives better connectivity for the other public footpaths nearby, also keeps the general public away from vehicles around the stables, woodcutting and any other equestrian activity.

3.12 In the authorities Legislative tests under 'additional criteria' it states;

Connectivity – Which the J Payton proposal 3 would make for better connectivity

Equalities impact – A path not going through a woods with ash dieback would be better for the visually impaired and disabled user.

Gradients – This would be less of a gradient to users as the east side of the field is a gentle slope.

Maintenance – This would mean less maintenance for the footpath as its easier to mow a field then care for a path through a dying wood.

Safety – Multiple hazards have been identified by risk assessments so this proposed path would avoid them all.

This means the authority has already reduced the length of the proposed footpath by 115m approximately for conservation purposes on the land above Skylark Farm and would not consider this proposal which would reduce the length by 11m to avoid Health and Safety issues on my property. Giving no reason at all.



## Summary.

To summarise, my objections are not only for the safe use of my menage but also the public's safety.

The authorities proposed footpath doesn't actually meet all of their own criteria when it comes to the legislative tests and it looks like it is all done based on opinions of the officers involved. The 'J Payton proposal 3' shows that a diversion of the footpath can be made to meet all of the authorities Legislative tests including the additional criteria. So it is my belief that the authority has refused to consider the correct proposal and is now submitting a hazardous and potentially dangerous alternative.

Where are the relevant documents regarding the health and safety for the public using the footpath? (Ref appendix E 19<sup>th</sup> Jan 22) 'The Authority has not refused to do a risk assessment, it is just incorporated in a broader risk assessment which covers more than horses and riders'. Through everything, I haven't seen any evidence that this has been done. With the lack of these documents the authorities are opening themselves to possible future legal action. Denying the Hazards that the risk assessments have highlighted, the possible devastating effects it could have, not only the general public, but the adults and children using my menage.

The worry and anxiety this application has caused myself and my family, is having an effect on all of our mental health. I find myself wondering these days if I should've bought this land in the first place. A safe resolution should and could have been reached in a swift and timely manner, it was only myself and Beckie Rogers coming up with proposed ideas that would help.

I feel the authority (even though they have stated they have done a general risk assessment, which I haven't seen) haven't assessed any hazards. It was the ramblers who brought up the obvious chance of falling down the steep subsiding bank, it was myself who brought up about the assessed hazards on the menage and since my original objection I have noticed and confirmed the hazard of ash dieback from walking through the woods.

Communication has been poor and very confusing at points where I have had to reiterate questions and not been given an answer. I think this shows disregard and no respect for my family and our property.

Kindest Regards

John Payton