



The Director of Legal Services
Sheffield City Council
Town Hall
Sheffield
S1 2HH

Sunday 27th November 2022

Dear Sir/Madam,

Proposed Closure of the Public Right of Way Linking Cobden View Road and Northfield Road, Crookes (ref. LS/RC/3950160)

I am writing to **object** to the proposed Stopping Up Order regarding the public right of way linking Cobden View Road and Northfield Road, Crookes.

This case concerns a footpath across a small plot of land bordering the main road through Crookes, to which the local community has had open access throughout living memory. The plot was used for the display of advertisements and was mowed and maintained by the local authority (we believe) and cultivated by local volunteers for around ten years as a community garden, until February 2020 when it was sold to the current owner. Without warning or consultation, the trees on the plot were felled, the community garden was destroyed, a boundary fence was erected and the plot has since been allowed to become overgrown and derelict. There is significant local public concern about the fate of the footpath.

I wish to object to the proposed closure on two grounds, firstly, that the order of events was irregular and may have resulted in the wrong planning decision and, secondly, that the footpath is a valuable local asset, both functionally and aesthetically.

In June 2022, permission was granted to the landowner to construct thirteen flats and three shops (ref. 22/00723/FUL) on the green space while our application for the footpath to be recognised as a public right of way was still under consideration (ref. Sheff/Sch14/011). I only learned that the footpath had been recognised as a public right of way when the Council wrote to inform me, as a footpath-user and author of the Schedule 14 application, that the landowner had submitted an application to have it stopped up.

The City Council is proposing to close the footpath under the Town and Country Planning Act 1990, c. 8, Part X, Section 257 which states that "a competent authority may authorise the stopping up or diversion of any footpath if they are satisfied that it is **necessary to do so in order to enable development to be carried out...** in accordance with planning permission granted under Part III." It seems to me that the only grounds in which a person could object to the proposed footpath closure under this Act would be if he or she could prove it was unnecessary to do so in the process of developing the site. In our case, the landowner's scheme covers the whole plot, therefore, the closure of the footpath would be necessary in order for the development to be built.

I find this unfair because, if it is the case that a public right of way will be extinguished by the granting of planning permission, then the impact of the closure of the footpath must be taken into consideration when deciding whether or not to grant planning permission. But the Planning

Committee could not have taken this into consideration, because the landowner's application stated that there was no public right of way across the site at that time, although a Schedule 14 application had been made. Had the footpath been formally recognised as a public right of way at the time when the planning application was being considered, this might have led the planning committee to make a different decision. As it is, either the committee had formed a view about our public right of way application before it had been submitted, or the existence of a public right of way across a proposed site of development does not need to be considered when granting planning permission. Either way, it seems we have no way of making representations to defend our acquired rights.

The second part of my objection concerns the aesthetic, heritage, environmental and health value to the local community of the public right of way. Had the landowner wished to close the footpath before he applied for planning permission, I believe he would have needed to rely on the Highways Act 1980 (c. 66, Part VIII, Paragraph 118 on Stopping Up of Footpaths or Paragraph 119 on Diversion of Footpaths) to do so. I believe the Act provides a useful framework for the consideration of the value of a footpath. In summary, the Highways Act 1980 requires that the relevant authority is obliged to consider the extent to which the footpath is **needed for public use**, the **degree of inconvenience** occasioned to the public by using the proposed alternative route and the impact of the path diversion on **public enjoyment of the path** or way as a whole. In the following paragraphs, I will describe the popularity, utility and public benefit of the footpath.

In July 2020, 673 people signed an e-petition entitled "Save Cobden View Community Garden" (see www.sheffield.gov.uk, *e-petitions*) calling on the City Council to preserve the green space, including the footpath across it, because it was used regularly by local residents for recreation and amenity, it was an attractive feature on the high street, it provided a habitat for wildlife and it is located in an area of high-density housing with a documented deficit of green space. Clearly, many people gain enjoyment from using the facilities of the green space and path.

Following the e-petition, three residents of Cobden View Road, including myself, gathered written and photographic evidence of regular usage and submitted an application on behalf of 91 local residents for the plot to be registered as a Village Green. To our dismay, the application was deemed invalid by the local authority because, according to the current Sheffield Local Plan, the plot lies within the Crookes Shopping District and is therefore automatically identified for development (an argument with which we disagreed) and cannot be registered as a Village Green.

Whilst applying for the green space to be recognised as a Village Green, I also sought to have the footpath recognised as public right of way. I gathered evidence from local residents regarding their use of the footpath, wrote the application and submitted it to the City Council on behalf of the local community. As the evidence (which has been submitted to the local authority) shows, the footpath had been in daily use for more than 60 years up until May 2020. It is now fenced off, even though it is acknowledged to be a public right of way. I used the footpath myself on a daily basis between August 2015 and May 2020, to walk from the house in which I live to the shops.

The alternative route is via the pavement on Cobden View Road and Northfield Road which adds only a few metres to the journey, but the steepness of Cobden View Road at the junction makes it treacherous, especially in wet or icy weather. The public right of way provides a safer route from Cobden View Road onto Northfield Road, with sturdy concrete steps at both ends and a flat path in between. It is clear from the construction of the concrete steps, brick pillars, flat path and wooden seat, that the footpath, despite its length, was considered to be of sufficient usefulness and value to the local community to merit the installation of street furniture and use of permanent construction materials.

The green space and the footpath have been used for generations of local residents for relaxation and recreation. Several people stated that they used to exercise their dog on the footpath. Older residents recounted to me how they were taken there as schoolchildren to survey the flora and fauna and how as young people they sat on the low wall at the side of the footpath to eat fish and chips. Parents walking with their children to Western Road Primary School described in their written evidence to me that they preferred to walk on the footpath rather than the pavement because it was set back from the main road and felt safer.

In an attempt to uncover why the green space had never been developed or when the footpath had been created, I obtained a copy of the title deeds from the Land Registry. The title deeds show that the green space, or some part of it, was transferred to the 'Lord Mayor, Alderman and Citizens of Sheffield' in 1959. I contacted the local authority to ask if there was any record of the local authority owning the land. They did not have any record of the 1959 transaction. I was informed that a small triangle of grass in the north-west corner of the plot had belonged to the Council in the past, but it was adversely possessed in August 2017. I remain puzzled as to the circumstances of the adverse possession. The title deeds are sparse on detail and do not contain any documents relating to the transfer of ownership from one owner to another. Ordnance Survey maps of Sheffield in the 1940s show a Police Call Box situated on the site.

Another reference to public ownership of the plot can be found in a planning application dated November 2016 (ref. 16/04123/ADVRG3) in which the Streets Ahead project (part of the Council) applied for planning permission to erect a sign on the green space (which was later withdrawn on the advice that it would have too negative an impact on the aesthetic value of the green space). My purpose in relating these facts is to show that the green space and the footpath running across it have been local features of significant importance to the people of Crookes for years.

Although the site cannot be registered as a Village Green, I humbly request that you uphold our right of access via the footpath across the plot so that we can continue to enjoy this convenient and enjoyable public facility.



View looking north along the public right of way towards Cobden View Road.
Photograph taken in February 2020 by the auction website *BidX1*.

Yours sincerely,



The Director of Legal Services

Sheffield City Council

Town Hall

Sheffield

SI 2HH

By hand

