

## Mike Ogden

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**From:** Mike Ogden  
**Sent:** 29 August 2018 15:21  
**To:** 'Jo Bird'  
**Cc:** Peter Crinnion (Peter.Crinnion@durham.gov.uk)  
**Subject:** RE: Proposed Diversion of FP 39 Evenwood and Barony

Dear Jo,

In response to your comments/observations:

1. I am seeking written confirmation from the applicant that he has no intention to fence alongside the proposed route. You are right that this would not be legally binding but it would be a demonstration of goodwill, and we have no reason to doubt his honesty. I think that a route that follows the edge of a field throughout feels more natural than one which diverts around something when already part way into the field, but clearly there is a degree of subjectivity as to how individuals feel about such matters.
2. There is some debate as to whether or not the most recent barn obstructs the current alignment of FP 39 or not, given the level of accuracy of the mapping, but that was a factor in our consideration that it was better for all parties to move the path well away from both current and potential future buildings to avoid any doubt in the future. If the path is obstructed at the moment, the only realistic solution would be a diversion, which is what is proposed anyway.
3. See above.
4. We will investigate the obstruction you refer to, and remind the applicant of the legal requirement to avoid obstruction of public rights of way. I do not know the exact circumstances behind the planning permissions for previous buildings (one of which would have been granted by the former Teesdale District Council), but I don't think they indicate a lack of respect for public rights of way by the applicant, more a failure in communication between planning and rights of way officers in the past. As stated above, what is proposed now is a route that minimises the potential for future conflicts between the path and any aspect of the agricultural business, and resolves any current uncertainty.
5. The depiction of the path running through the building in the planning application (DM/18/00113/FPA) was due to a misunderstanding between the applicant, his agent and Council officers, and we made clear that it was not acceptable. That is why the application was withdrawn and discussions took place leading to the current proposal.
6. I would not expect farm machinery to be blocking the farm track or the Public Footpath, and there will of course be some days when the few minutes it takes a walker to pass the area of the buildings and farmyard coincide with a lack of agricultural activity. Nonetheless, there are many times when there are both vehicle and animal movements around this area, and the presence of a public footpath creates additional health and safety obligations on the farmer. We also know that many path users find modern farmyards intimidating, unpleasant and confusing to navigate. For this reason we have for many years supported applications to remove public rights of way from working farmyards, provided the alternatives are suitable.
7. A farmer will not invest in a building unless they intend to use it, and when it is not used to house livestock it will be used to store feed and other materials, requiring vehicle movements delivering and removing items from the building.

We would not encourage the retention of a path with buildings either side of it in this location, as the path would be likely to become a muddy and generally unpleasant alleyway, exiting into a working area. It would not be attractive for walkers, and would be a safety concern for the applicant.

I still believe that this is a reasonable proposal to provide long-term certainty and a pleasant walking experience for the public. It enables the applicant to operate his business without the concern of managing public access within the farmyard area. I will be preparing the Committee papers within the next few days, so please let me know at your earliest convenience if you wish to withdraw your objection. You are the only outstanding objector to this proposal.

Regards

Mike

**Mike Ogden**  
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**From:** Jo Bird  
**Sent:** 24 August 2018 11:13  
**To:** Mike Ogden <Mike.Ogden@durham.gov.uk>  
**Cc:** Peter Crinnion <Peter.Crinnion@durham.gov.uk>  
**Subject:** Re: Proposed Diversion of FP 39 Evenwood and Barony

Dear Mike

I have several observations and comments regarding this application:

1. With reference to your advising that the current FP 39 has no historic significance is clearly borne out by reference to the 2000 Order and plan, which Peter sent to me. The plan also clearly shows that the current definitive route is a more direct route, ie for anyone using the path from the west and continuing eastwards into Toft Hill Lane, and perhaps to Toft Hill itself (and vice versa). The route now being proposed, while not significantly longer, is a very indirect route, and following it would have the same rather irksome feeling that you consider walkers would experience if walking round a building, or buildings, that may be constructed. There would also be the same possibility of walkers cutting corners around the field edge as there would be if walking around buildings. While the applicant may have stated that he would not fence the path to prevent walkers from cutting corners, it is unlikely that there is any means of holding him to this in the event that people do stray from the path and damage what appears to be permanent grass for cutting for silage or hay.

2. The other, more striking point that must be noted is that the 2000 Order map shows FP 39 obstructed by what must be a farm building, and this may well have been the reason for the path being diverted at that time. While you state in your email to me, below, “the most recent shed is already very close to the legal line of FP 39”, surely the map which forms part of the current proposal is taken from the definitive map, and it shows FP 39 obstructed by a farm building.

3. With regard to this current obstruction, I note from the application details (6/2013/0142 of May 2013, for an agricultural building) that it includes correspondence between the Planning Dept and yourselves, including discussion with the applicant, after which it was stated that the building would not obstruct the right of way (FP 39). The question now is “why does the building obstruct FP 39?”

4. With regard to the matter of obstructing rights of way I noted when I walked this path some weeks ago, that FP 39 where it continues westwards from the point of its junction with FP 38, had been obstructed by a very large mound of muck, with tracks on the ground clearly indicating it had been removed from one or more of the buildings, presumably prior to its being spread on the land (which by now may have taken place). While I did not report this problem to your department, you must already be aware of the two obstructions by buildings, both mentioned above. I wonder what action was taken with the applicant regarding both of these, and how you would respond to any further such obstruction, and I wonder if this includes advice to the applicant that obstructing the highway is a criminal offence?

5. I am surprised by your stating that the applicant is wishing to keep walkers away from the buildings and machinery, as a planning application submitted this year for a livestock building (DM/18/00113/FPA) although subsequently withdrawn, includes a plan showing the proposed line of FP 39 actually passing through the proposed building.

6. It is noted both on maps and at the site, that access to the farm and farmhouse is via a good track running north/south, and this is crossed by the current definitive FP 39. There were some items of machinery being kept (parked) close to this crossing point, but none of them were obstructing either the farm track or FP 39, and there was no evidence that either the farm track or FP 39 were presenting any problem for users of either route. It seems likely that the buildings had been constructed close to the farm track for ease of access and that it would not present problems for access to the farmhouse. If that is so, then the question arises as to why the proximity of the farm buildings to the public footpath should be considered a problem, for users of the path or for access to the buildings, either now or in the future.

7. With reference to the Delegated Report relating to the planning application of May 2013, (6/2013/0142, for the most recent agricultural building) the Planning Consideration and Assessment includes, “The building would not generally be used for accommodation of livestock, except during lambing season or unless this is required in the interests of animal welfare”. It is evident that the buildings are not in use during the summer months, and even if use has changed since 2013, they are probably not in use for more than six months in any year. It is hard so see why this amount of use should present a problem to users of FP 39.

Considering all these points, and the fact that FP 39 eastwards from the farm access track has a good permanent surface, could it be considered please, that the current route of FP 39 be retained, and any new farm buildings be constructed further south, leaving a gap for the path between the current buildings and any new ones? This would be similar to many public paths which pass through farmyards or which pass farm buildings.

It should perhaps be noted that if FP 39 had been a minor road with a tarmac surface, there would be no consideration of diverting it. Any new buildings, and any more storage space needed for machinery, would simply be provided on the other side of the road, or elsewhere on the farm.

Please would you give this suggestion serious consideration as the present proposal is not at all satisfactory, and the Open Spaces Society maintains its objection.

Regards

Jo

Jo Bird  
Open Spaces Society  
Local Correspondent for Teesdale & Wear Valley Districts in Co. Durham

**From:** Mike Ogden  
**Sent:** Wednesday, August 1, 2018 3:42 PM  
**To:** Jo Bird  
**Cc:** Peter Crinnion  
**Subject:** Proposed Diversion of FP 39 Evenwood and Barony

Hi Jo,

Peter has passed me your letter of 18 June 2018 in which you objected to the proposed diversion of FP 39 Evenwood and Barony at High Toft Hill.

I accept that this may look a slightly unusual diversion, and a longer route for anyone using FPs 39 and 37, but I would suggest that it needs to be looked at in a wider context. The applicant is expanding his farm and the most recent shed is already very close to the legal line of FP 39, meaning that walkers who follow the legal line are in close proximity to animals and machinery and the problems that causes for conditions underfoot, particularly in wet weather. He has a planning application pending for an additional shed, having suffered heavy losses of stock last winter due to a lack of shelter. He could proceed with his planning application and seek a diversion of FP 39 under s257 of the Town and Country Planning Act. That would take the path around the south side of the shed and part of the way down the field. He is then likely within a few years to apply for another shed, meaning that the path would need another diversion, moving it further down the field. Walkers approaching from either east or west would be faced by buildings ahead of them, before turning south to head down towards the road then north to head back up again. The likelihood would be that people would start to cut corners and take diagonal, and indeterminate, lines across the fields to avoid the sharp changes of direction.

Rather than a series of increasingly unwieldy planning diversions, the applicant discussed with us the potential to make a larger diversion under s119 of the Highways Act that would give clarity and an easily followed route for the public, away from stock, machinery and buildings (now and in the future), and give him the flexibility to manage his land and stock for the future.

The proposal would add about 190 metres of walking for anyone travelling between FPs 37 and 38, but in the context of a recreational walk in the countryside, which is what this path is used for, that is not a particularly significant additional distance.

The landowner has made it clear that he has absolutely no intention to enclose the proposed route with any form of fence or hedge – his only concern is walkers being close to the working sheds and yards.

It should be noted that FP 39 was diverted onto its current alignment in 2000, so the current route has no historical significance, and the proposed access near the road junction would be of value to anyone walking via FP 21 at Martin Field.

In our view this is a reasonable proposal that provides long-term security for the public and avoids what could be a series of piecemeal planning diversions resulting in a route that lacks any logic but still goes close to the working area of the farm.

I would be grateful if you could reconsider your position on this matter. If you maintain your objection, then the matter will be considered by the Highways Committee, and I will be recommending that the Order is made. I look forward to hearing from you.

Regards

Mike

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This correspondence is from:

Jo Bird



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Peter Crinnion  
Durham County Council

18<sup>th</sup> June 2013

Dear Peter

### **Proposed diversion of FP 39 Evenwood and Barony**

The Open Spaces Society (Reg charity no. 1144840, England & Wales, limited company no 7846516), was founded in 1865 and is Britain's oldest conservation body. It campaigns to protect common land, village greens, open spaces and public paths, and the right of the public to enjoy them.

Thank you for your email of 21<sup>st</sup> May regarding the proposed diversion of FP 39, Evenwood and Barony, on farmland at High Toft Hill.

I have visited the site and must advise that the Open Spaces Society objects to the proposed diversion on the following grounds:

- i. The proposed route is less pleasant than the definitive route as it creates an unnatural detour around three sides of an irregular rectangle, making it considerably longer than the direct route of the definitive path. The path in total is a gently curving, pleasant and direct path, and introducing abrupt changes of direction would adversely affect its character and the enjoyment of walkers.
- ii. Paths which follow around the inside of two or more field boundaries, in this case three field boundaries, feel unnatural and less pleasant, sometimes causing people to stray off the path by 'cutting the corners'. This can result in the occupier of the land erecting a fence, to enclose the path which can lead to difficulties for hedge maintenance, and where barbed wire is used, problems for walkers to avoid both the barbed wire and overgrown hedges.
- iii. The eastern section of the path between the road (Toft Hill Lane) and the entrance track to the farm of High Toft Hill is an attractive and pleasant, wide, permanent, grassy track and this would be lost under the present proposals.

We note the proposed provision of a stile to give direct access from the proposed route to the road leading to Ramshaw. However, there is good and safe access to this road now by using the wide grass verge from the eastern end of the path.

We noted that there was a number of items of farm machinery parked close to where the path crosses the farm access track, but they did not cause any problem or danger, and neither did a



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passing tractor. Visibility was clear. Walkers everywhere have regard to traffic of all kinds whether on or off roads, and would need to take no less care in crossing the access track where it leads onto the road if the path were to be diverted to the proposed location. In fact there could be greater risk from traffic turning onto the track from the road as there could easily be less awareness by either user, of the presence of the other.

We note that a short length of the definitive path has been obstructed by the most recently constructed farm building, and are puzzled as to how this happened. We also note that there are proposals to erect a further building. We suggest that the time to consider the diversion of FP39 would be once plans have been prepared, or submitted, so that any diversion could enable the path to remain as close to its historic line as is reasonably practical.

We ask you, please, to take note of our comments and hope that the suggestion regarding timing for consideration of a diversion will be acceptable.

Yours sincerely

*Jo Bird*

Jo Bird  
Open Spaces Society, Local Correspondent for Teesdale & Wear Valley Districts in Co Durham



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