
Order Decision

Site visit made on 1 September 2016

by Alan Beckett BA MSc MIPROW

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 25 February 2016

Order Ref: FPS/L3055/7/87M

- This Order is made under Section 53 (2) (b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as Nottinghamshire County Council (Darlton Footpath Nos. 5 – 14 and Ragnall Footpath No. 6) modification Order 2012.
- Nottinghamshire County Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.
- The Order is dated 24 February 2012. The Order was the subject of an interim decision dated 27 October 2015 in which I proposed to confirm the Order subject to modifications which required advertisement.

Summary of Decision: The Order is confirmed subject to the modifications set out in the Formal Decision.

Procedural Matters

1. The effect of the Order, if confirmed with the modifications that I previously proposed, would be to (a) modify the Definitive Map and Statement for the area by recording Darlton Footpath No. 6 as running between Darlton Footpath No. 8 and Darlton Bridleway No. 1 (a distance of approximately 460 metres) and having a width of 1.5 metres; (b) by recording Darlton Footpath No. 8 as running between Woodcoates Road and Darlton Footpath No. 8 and having a width of 1.5 metres. The proposed modifications would also delete Darlton Footpaths 5, 7, 9, 10, 11, 12, 13, 14 and Ragnall Footpath No. 6.
 2. In my interim decision of 27 October 2015, I proposed to confirm the Order subject to the modifications described in paragraph 1 above. Since these modifications would not show a way or ways shown in the Order as submitted, I was required by virtue of Paragraph 8 (2) of Schedule 15 to the 1981 Act to give notice of my proposal to modify the Order.
 3. One objection was received following advertisement of the notice and deposit of the associated documents relating to the proposed modification. In support of his objection, Mr Thompson submitted that the paths which I proposed for deletion had been supported by full historical evidence. In essence, Mr Thompson disagrees with the conclusions I have reached regarding the documentary evidence adduced in this case. However, no new or further evidence was submitted by Mr Thompson in relation to those paths which I proposed to delete from the Order; consequently there is no new or additional evidence before me which causes me to reconsider my interim decision.
 4. Mr Thompson also referred to comments made during the site visit by two of the affected landowners that the paths at issue had at one time been available
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for use. Whilst I do not dispute that this may have been the case, the basis of the claim that these paths were public rights of way was made on documentary evidence and not on use by the public. No evidence of use by the public has been submitted in this case; consequently I could place little weight upon statements made as part of the site visit.

5. Mr Thompson also states that the claims for the footpaths in Darlton and Ragnall were made to improve the connectivity of the local rights of way network. However, the definitive map process is not concerned with the recording of what may be desirable or preferable; it is a process of recording those routes which are found on a balance of probabilities to subsist as public rights of way. In the case of the routes contained in the Order as drafted, the documentary evidence, in my view, was insufficient to demonstrate the subsistence of historic public rights of way in all but two cases.

Conclusion

6. Bearing in mind the above, I consider that the Order should be confirmed subject to the modifications set out in paragraph 96 of my interim decision dated 27 October 2015.

Formal Decision

7. I confirm the Order subject to the modifications previously proposed, namely:
 - (i) in the Schedule Part 1 and Part 2 delete all references to Darlton footpaths 5, 7, 9, 10, 11, 12, 13 and 14 and Ragnall footpath 6;
 - (ii) in the Schedule, part 1 for Darlton footpath No. 6 amend the text to read "Commencing from a point SK 7819 7272 at the junction with Darlton footpath No.8 proceeding for a distance of approximately 460 metres in a generally easterly and south-south-easterly direction to a point SK 7745 7346, at the junction with Darlton Bridleway No. 1, and having a width of 1.5 metres throughout.";
 - (iii) in the Schedule, part 1 for Darlton footpath No. 8, line 4 delete 'between 1 metres and';
 - (iv) in the Schedule, part 2, for Darlton footpath No. 6 amend the text to read "Commencing from a point SK 7819 7272 at the junction with Darlton Footpath No. 8 proceeding for a distance of approximately 460 metres in a generally easterly and south-south-easterly direction on an earth surface across a field and over a dyke to a point SK 7745 7346, at the junction with Darlton bridleway No. 1 and having a width of 1.5 metres throughout its length";
 - (v) in the Schedule part 2, for Darlton footpath No. 8 lines 5 and 6 delete "1 metre along the track and" and "along the field edge";
 - (vi) in the order plans delete all of Darlton footpaths 5, 7, 9, 10, 11, 12, 13, 14, all of Ragnall footpath 6 and part of Darlton footpath 6.

Alan Beckett

Inspector