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## Order Decision

Inquiries held on 13 August 2014 and 26 January 2016

Site visit made on 12 August 2014

**by Susan Doran BA Hons MIPROW**

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

**Decision date: 5 May 2016**

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### **Order Ref: FPS/M1900/7/67RM**

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as the Hertfordshire County Council (Aldenham 83 and 9) Modification Order 2009.
- Hertfordshire County Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.
- The Order is dated 9 October 2009.
- The Order proposes to modify the Definitive Map and Statement for the area by adding a byway open to all traffic and a restricted byway, and deleting a length of footpath and adding a length of footpath as shown in the Order plan and described in the Order Schedule.
- In accordance with paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981 notice has been given of my proposal to confirm the Order with modifications.
- Four objections were received in response to the notice.

**Summary of Decision: The Order is proposed for confirmation subject to the modifications that I proposed previously, and to further modifications set out below in the Formal Decision**

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### **Procedural Matters**

1. The effect of the Order if confirmed with the modifications that I previously proposed<sup>1</sup> would be, firstly, with regard to Aldenham 83 (also known as Oakridge Lane), to add to the Definitive Map and Statement ('DMS') a Byway Open to All Traffic ('BOAT') between points A and C, and between points E and F on the plan attached to the Order, and a Restricted Byway between points C and E. The width of this continuous route would be defined by reference to the route shown uncoloured or blue on the Inland Revenue Valuation Plan prepared under the Finance (1909-1910) Act 1910, rather than by the grey shading on the Order plan. Further, the section between points B and C would be recorded as following the eastern bank of The Brook, in addition to being described in the Order as following The Brook itself. Secondly, with regard to Aldenham 9, the proposed modifications would clarify that the footpath follows the river bank, on dry land.
2. Of the four objections received to the notice of the proposal to modify the Order, one concerned Aldenham 83, one concerned Aldenham 9, and two concerned the claim for a bridleway between points C and E. In my interim decision, I declined to modify the Order to show the claimed bridleway due to

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<sup>1</sup> In my interim decision dated 14 January 2015

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- the limitations of the Order plan, since to do so, in my view, would potentially result in inaccuracy as regards its recording on the Definitive Map.
3. One of the Objectors asked to be heard and an Inquiry was arranged. At the commencement of the Inquiry, I agreed in consultation with the parties to accept a number of new documents, and took a short adjournment for everyone to familiarise themselves with their content. Further opportunity to consider the documentation was afforded during the lunch adjournment.
  4. Amongst the new documentation which I accepted were submissions on behalf of Hertfordshire County Council ('the Council') regarding the alignment of Aldenham 83, resulting from a January 2016 topographical survey it had commissioned<sup>2</sup>. It is my view that this new evidence impacts on the unmodified part of the Order in relation to Aldenham 83, as well as to Aldenham 9 and the claimed bridleway.
  5. At the Inquiry, Mr Kind, representing the Trail Riders Fellowship ('the TRF'), sought to rehearse submissions made to the previous Inquiry<sup>3</sup> concerning the status of Aldenham 83; a new extract from the Council's List of Streets ('LoS') was provided and new argument about the correct test for BOAT status was advanced. A letter clarifying use of Oakridge Lane by members of the TRF was submitted to the Inquiry. I decided to hear the TRF's submissions in full, determining that I would deal with them as appropriate in my decision. Further submissions on this issue were provided following the close of the Inquiry.
  6. Consequently, I heard new evidence and/or argument in respect of the unmodified part of the Order as well as evidence in respect of the proposed modifications. In my decision, I have addressed all of the evidence heard and made available to me. The question arises though as to whether anyone will be prejudiced as a result. I note the terms of the Inquiry as advised by letter to the parties were more restricted in scope, however, I also note the terms of the Inquiry as stated in the Public Inquiry Notice were more broad in scope. Bearing in mind all of the above, I do not think that anyone will have been prejudiced as a result of my considering all of the evidence since the parties were able to make submissions, and respond to those made by others, at the Inquiry. Furthermore, in the event that I decide to propose additional modifications to the Order which require advertising, then there will be an opportunity for anyone who may feel that they have been disadvantaged, to make further objections or representations<sup>4</sup>. It follows in my view that there is still time for any possible prejudice that may have arisen to be remedied.
  7. No issues arose at the Inquiry to necessitate a further site visit, and no-one requested that I make another inspection of the Order routes.
  8. This decision should be read alongside my interim decision. In reaching this decision I also take account of relevant case law drawn to my attention by the parties, and have considered the evidence together as a whole further to the matters raised.
  9. Further to the topographical survey (paragraph 4), the Council requested additional modifications to the Order as regards the alignments of parts of Aldenham 83 and 9. To that end, a copy of the Order drafted with the

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<sup>2</sup> And circulated to the parties prior to the Inquiry

<sup>3</sup> Held on 13 August 2014

<sup>4</sup> By way of a further statutory notice period for objections

modifications sought was circulated at the Inquiry, together with an enlarged copy of the Order plan marking them.

10. I agreed that the Council would provide a clear copy of the plan following the close of the Inquiry. This they did, providing an A3 size revised Order plan and an A4 size supplementary plan (not to scale) showing in more detail the area at the bend in The Brook (points C-E). The plans were circulated to the parties for comment, and I deal with this below.

### **The Main Issues**

11. The main issues are whether there is any new evidence or argument which might cause me to reconsider my findings in respect of the unmodified part of the Order; and whether there is any evidence or argument which has a bearing on the modifications I proposed, and which might indicate that those modifications should be amended or not pursued.

### **Reasons**

#### ***New evidence or argument in respect of the unmodified part of the Order: Aldenham 83***

##### *The topographical survey: alignment and width*

12. The Council continues to rely on the evidence it submitted for the previous Inquiry with regard to Aldenham 83.
13. However, the results of the topographical survey (paragraph 4) caused the Council to revisit certain aspects of the Order. A re-evaluation of the mapping with the survey results and with the Ordnance Survey ('OS') map of 1897-1901<sup>5</sup>, show that Restricted Byway 83 between points C and E (shown in green on the Order plan) does not coincide with the historical alignment of Oakridge Lane.
14. I agree, and concur that the extracts provided from the Finance Act 1910 and OS maps show the historical route running further to the west. It follows a route between points C and E that is effectively along the current line of The Brook as revealed by the topographical survey. Accordingly, I agree with the Council that modifications to the Order in this respect are required. Therefore, I shall propose that the Order be modified to amend the alignment of the length of Restricted Byway so as to coincide with its historical alignment further to the west between points C and E, its continuation as BOAT 83. Since this will affect land not affected by the Order as made, this modification will need to be advertised.
15. Mr Kind pointed out that there are two versions of the Inland Revenue maps provided in the submissions: the working copy held at the Hertfordshire Archive and the copy held at The National Archives at Kew. Mr Kind did not elaborate further on this. I do not think this is a significant point though since both copies share the same OS base mapping and both appear to show the same extent of colouring, or lack of it, with regard to Aldenham 83. The appropriate wording for the proposed modification (to define the width and alignment by reference to the Finance Act mapping) was a point discussed at length and agreed by the parties at the previous Inquiry. Accordingly, I do not consider

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<sup>5</sup> The base map used for the Inland Revenue plan on which, in my interim decision, I proposed the width of the Order route be determined

that the modification proposed in my interim decision (at paragraphs 29 and 43) requires further amendment.

16. There is, however, a further point raised by Mr Beney in that the width referred to in the Schedule for the Restricted Byway should read between 5 and 12 metres (rather than between 5 and 10 metres) to reflect the actual width measured from the Finance Act mapping; the widest point being at G. I consider such a modification would give greater clarity, and I shall propose a modification to this effect.

*Whether the recording of Oakridge Lane on the List of Streets is sufficient for the purposes of Section 67(2)(d) of the Natural Environment and Rural Communities Act 2006 ('the 2006 Act') and/or section 36(6) of the Highway Act 1980 ('the 1980 Act')*

17. In summary, Mr Kind argued that a public right of way for mechanically propelled vehicles (MPV) from A-B-C-E-F (that is the Order route between A-C and E-F and Drs Stearns' access road between C-E, east of RB83 on the Order plan) was shown on the Council's LoS on 2 May 2006. The further particulars contained in the 'Geographical Information System Layer' ('GIS layer') are (i) irrelevant or (ii) are not sufficiently different from the historical route of the byway (if that is the green alignment<sup>6</sup>); or (iii) insofar as they are different, the onus is on the order making authority to provide a reasonable explanation as to the difference: absent such an explanation, the inevitable inference is that the Council intended to record the true historical route and did so sufficiently for the purposes of the 2006 and 1980 Acts.
18. Both Mr Kind and Mr Westley put similar points to the Inquiry as regards the recording of Oakridge Lane. It was argued that, having regard to *Fortune*<sup>7</sup>, the only issue was whether there was a qualifying statutory written List; there was no provision for a map, a GIS layer that overrides or countermands the List, either in statute or in case law. And, whilst the Council regarded its GIS layer as being part of its LoS, all that Section 36(6) of the 1980 Act required was a List. Further, the purpose of the List was the maintenance of, not the recording of, vehicular rights: if confirmed, the Order would result in a continuous vehicular route becoming discontinuous.
19. I considered such issues at paragraphs 13 to 20 of my interim decision. I note that in *Fortune*, the question addressed at paragraphs 1135-1137 (referred to by Mr Kind) was whether a qualifying Section 36(6) List must be a self-contained List which identified itself as a Section 36(6) List without the need for further enquiry. In the judgement it was held that such a List need not identify itself as a Section 36(6) List, neither was it prevented from being such a List if it required the retrieval of information at the press of one or two buttons, and the intervention of a council employee to explain how it works. There is nothing in my reading of the judgement that says there must not be a map that forms the, or part of the, List, nor indeed that there must be a map, or only a written List. The judgement, in my view, does not prescribe what the LoS should comprise, or in what format it should be kept. Further, the judgement stated it was the responsibility of each Authority to decide how to make (and keep corrected) its own List.

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<sup>6</sup> On the Order plan

<sup>7</sup> *Fortune v Wiltshire County Council* [2010], in particular at paragraphs 1135 to 1137

20. Mr Kind submitted an extract from the Council's LoS for Stevenage High Street to illustrate that the narrow red GIS line is inaccurate as regards the breadth of highways (the definition of the GIS map being a point also raised by Mr Westley), the actual full width of the High Street reaching up to 50 metres on the ground. Furthermore, it was not appropriate to impose a more exacting standard on the LoS than was required for the DMS, whereby a wider divergence can be tolerated.
21. I appreciate that the GIS layer records all routes by a line of the same width, and I am not aware of any intention that the actual width of the way represented is defined by the line showing it. I revert to my comments at paragraph 17 of my interim decision, and also to my comments at paragraph 18 in which I state that it is a fact that immediately before 2 May 2006, the alignment recorded between C and E was different to the historic route of Oakridge Lane. I further note that Oakridge Lane and Drs Stearns' access road are distinct and separate physically existing and mapped features.
22. In my interim decision, I concluded that the Council's List for the purposes of Section 36(6) of the 1980 Act comprised both a database and a GIS layer, which should be read together. In my view, this falls within the scope of the Fortune judgement. It follows that I am not persuaded to depart from my original findings in this regard.

*Whether a BOAT should have been proposed between (or along any part of) C and E, as shown on the Council's List of Streets*

23. In summary, Mr Kind argued that if<sup>8</sup> the Council's LoS identified a highway maintainable at public expense following the alignment shown on that List, or any part of it, between C and E<sup>9</sup> rather than along Restricted Byway 83 between C and E, the Order should have been modified to add a BOAT along it (or any part of it), rather than a Restricted Byway between C and E, it not being the coincidence of the lines themselves that matter, but the coincidence of the width and linear extent of the ways the lines represent.
24. I considered this briefly at paragraph 21 of my interim decision. Since then, the Council's topographical survey has shed new light on the alignment issue, and at the Inquiry Mr Kind indicated that this second ground of his objection had been superseded by the survey.
25. The topographical survey commissioned by the Council shows that the historical alignment of Oakridge Lane is in fact further to the west than is shown on the Order plan (in green), and I have concluded above that the Order should be modified as a result. It follows from this that the two routes (the LoS route and Oakridge Lane) are in fact further apart than shown on the Order plan as made.
26. I further note that there is no historical basis on which to make a modification as described. Neither is there any user evidence to support use of the LoS alignment. Mr Mann's letter submitted at the Inquiry confirms the route used entered/exited The Brook at H, following the stream, passing (but never entering or exiting) C.
27. Accordingly, I do not propose to modify the Order in this regard.

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<sup>8</sup> Contrary to his Ground 1

<sup>9</sup> That is following Drs Stearns' access road to the east of the route marked RB83 in green on the Order plan

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*Whether the difference between the alignment of Restricted Byway 83 and the route shown on the List of Street between C and E is de minimis*

28. In summary, Mr Kind argued<sup>10</sup> that any difference, or divergence, between the two alignments as insubstantial as is apparent here should be regarded as *de minimis*, and insufficient to prevent the whole of Oakridge Lane being registered as a BOAT.
29. I addressed this issue at paragraphs 22 and 23 of my interim decision. I further note that the topographical survey commissioned by the Council has a bearing on this issue. I have concluded above that the historical alignment of Oakridge Lane is in fact further to the west than is shown on the Order plan (in green), and the Order should be modified as a result. Consequently, the distance, or divergence, between the historical alignment and the route shown on the LoS is in fact greater than was believed to be the case when I previously considered the matter. It follows that I am not persuaded to depart from my original findings in this regard.

*Whether it is appropriate to record Aldenham 83 as a BOAT*

30. In summary, Mr Kind argued that no consideration had been given to whether the route, in particular the section B-C, satisfied the test for a BOAT. At paragraph 27 of my interim decision I proposed a modification so as to record the route running here along the eastern bank of The Brook, as well as along The Brook itself.
31. Following the line of The Brook, and to the west, lies Aldenham 9. Mr Kind argued the public would use it on foot in preference to Aldenham 83. Therefore it was possible that foot and/or equestrian use did not outweigh MPV use and, rather than being designated a BOAT, this section of the Order route should not be recorded at all.
32. A BOAT is a carriageway and thus a right of way for vehicular traffic, but one used mainly for the purposes for which footpaths and bridleways are used.
33. Dr Wadey and Miss Harrington gave evidence to the Inquiry that Aldenham 83 was used more by walkers and horse riders than by MPV. Miss Harrington had never met users on motorcycles; although this does not mean that they were not using the route. She had not though, seen pedestrians in The Brook. Her use began in 1979, and was regular to 2002, mostly at weekends and initially after school. Dr Wadey had never encountered MPV when using the route, whether on horseback or, on occasion, walking along the eastern bank.
34. The evidence forms provided to the previous Inquiry support Dr Wadey's and Miss Harrington's evidence. Twenty seven forms indicated that walkers and riders were most often seen using the route. One person referred to a significant number of cyclists, more than walkers; another, to mostly riders; and one stated they did not know. Of a further 10 forms, 8 people claimed use on horseback and 2 with a cycle. Three forms completed by members of the TRF indicated use for periods from 2006 onwards, monthly, 4-6 times a year and 3 times in 18 months. A letter from Mr Mann of the TRF confirmed use of Oakridge Lane by TRF members with MPV for over 40 years; his own personal use being from 2007 on numerous occasions, together with other group members.

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<sup>10</sup> In the event that his Ground 1 was not made out

35. On balance, I find there is evidence of use with vehicles, but there is more use by horse riders and by walkers, though less so for walkers on the section B-C. I conclude that Aldenham 83 (A-C and E-F) satisfies the definition of a BOAT, and it is not appropriate to leave it, or part of it, unrecorded.

***New evidence or argument in respect of the unmodified part of the Order: the claimed bridleway***

*Alignment*

36. I considered the claimed bridleway at paragraphs 36 to 39 of my interim decision, with the route used by those completing forms or providing evidence described at paragraph 36.
37. The topographical survey commissioned by the Council has a bearing on the alignment of that claimed bridleway. If, as the Council argued, the Restricted Byway runs within the current alignment of The Brook from G to H and on dry land from H to E, then it would automatically carry public bridleway rights, thereby fulfilling the claimed bridleway route. Indeed, Dr Wadey agreed that the base mapping used for the Order plan (which it is now evident had not been re-surveyed since the alterations to The Brook in the 1970s) led to an error in the line of the route he had claimed at the Inquiry held in 2014.
38. I heard evidence of use from Miss Harrington at the Inquiry, together with Dr Wadey's clarification of his own use. Miss Harrington described the route she used (from Watling Street) following The Brook then leaving it with the bridge on her left and a sleeper on the right. Dr Wadey also spoke of entering The Brook. In addition, Mrs Trendler had seen a horse rider entering The Brook at point H, when visiting the site in September 2015, thus indicating this as the route currently used.
39. In my interim decision (at paragraph 37) I referred to the ramp which facilitated access to The Brook for equestrian (and other) users. Having regard to the user evidence and the topographical survey, and on balance, I agree with Dr Wadey and the Council that the claimed bridleway alignment coincides with the historic alignment of Oakridge Lane. A 1990 aerial photograph overlain with the 1910 Finance Act map information, provided by Mr Beney, is also helpful in demonstrating the relevant features. I further note that Drs Stearns accepted that the claimed bridleway is subsumed within the alignment of the Restricted Byway, as shown by the topographical survey.

*Supplementary Order plan*

40. In my interim decision I concluded (at paragraph 39) that there was a case to be made out that a bridleway subsisted on the basis of the user evidence adduced. However, due to the limitations of the scale, and the several routes already shown on the Order plan, I found it was impractical for me to modify it to show the claimed bridleway with any degree of accuracy.
41. Dr Wadey submitted there was nothing to prevent an order being modified by the addition of a supplementary plan to accurately show, in this case, the claimed bridleway. I agree that, on occasion, it can be acceptable to add a map or plan to an order, especially for clarification purposes. However, I do not consider that it is open to me to replace an original order plan with a new or revised one, as an order as made is a sealed legal document.

42. In this case, I consider that the addition of an enlarged copy of the Order plan on which the claimed bridleway could be shown clearly would be appropriate. However, the topographical survey has demonstrated that the correct alignment of Oakridge Lane is to the west of its position as shown on the Order plan between points C-E. I have concluded above, by reference to the topographical survey, that the claimed bridleway falls within the width of the Restricted Byway as shown on the Inland Revenue Valuation Map, and therefore within the higher rights enjoyed by it. Accordingly I conclude that no modification is required to show the claimed bridleway as a separate route on the Order plan, nor on a supplementary plan.

***Evidence relating to the proposed modifications: Aldenham 9***

43. I considered Aldenham 9 at paragraphs 31 to 35 of my interim decision, concluding in the interests of clarity to modify the Order by describing the path as following the river bank on dry land.
44. Since Drs Stearns made their objection, the topographical survey commissioned by the Council has shed new light on the situation regarding Aldenham 9. It shows that the alignment of The Brook has changed since the 1970s and (as stated in my interim decision at paragraph 34), that OS mapping had not been revised since that time, to reflect this. The Brook has in fact been moved further to the east (in line with that of Oakridge Lane as shown on the 1910 Finance Act Map). Drs Stearns accepted that this is the case.
45. Mr Beney considered that the proposed modification to describe the path as following the riverbank was, in the light of the topographical survey, confusing, due to the movement of The Brook. Mr Farthing, on behalf of Drs Stearns, indicated that the terms of the drafted Order were acceptable and the path following the riverbank no longer an issue. Mr Westley commented that the DMS would be conclusive as at the relevant date, in this case 2009, the date of the Order.
46. Whilst the topographical survey has highlighted a discrepancy in the OS base map used for the Order, it is the latter on which the information in the Order is recorded. I consider therefore that the modification proposed in my interim decision to clarify that the footpath (which follows the river bank as shown on the Order plan) is on dry land, should remain.
47. In addition, the topographical survey has implications for the alignment of Aldenham 9 between points H and E. I have already concluded above that the alignment of the length of Restricted Byway should be amended so as to reflect its historic course. Having reviewed the mapping evidence in the light of the topographical survey, I agree with the Council that Aldenham 9 is not subsumed within the Restricted Byway, but, as previously concluded, lies to the west of Oakridge Lane. I consider this is consistent with its depiction on the 1953 First Definitive map. Accordingly, I further propose that the Order be modified to amend the alignment of Aldenham 9 between H and E, where it joins BOAT 83, so as to coincide with this alignment running parallel with and along the western side of the historical route of the Restricted Byway. Since this will affect land not affected by the Order as made, this modification will need to be advertised.

***Modifications***

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48. I have concluded above that additional modifications to the Order should be proposed. These are that the line of Restricted Byway 83, as shown on the original Order plan, be moved further west to the alignment shown on the Finance Act map of 1910 (paragraph 14); the variable width of the Restricted Byway be amended to up to 12 metres (paragraph 16); and the alignment of Aldenham 9 be amended so as to run to the west of and beside the amended alignment of Restricted Byway 83 (paragraph 47).
49. However, in the light of these modifications, some additional amendments are necessary to ensure that incorrect information is not recorded in the DMS. These are that a short spur of BOAT 83 at point E on the Order plan as made be deleted; and Footpath 26 be recorded as connecting with the amended line of Restricted Byway 83. As a consequence of the proposed modifications, the grid references for points D, E and H require amendment. In addition to the above, having reviewed again the modifications previously proposed, I consider that further amendment as regards the text describing Aldenham 83 with regard to the route following the eastern bank of The Brook between points B and C would aid clarity.
50. As previously stated (paragraph 10), the Council provided both an A3 revised Order plan and an A4 supplementary plan (not to scale) to illustrate the correct alignments further to the topographical survey. I have considered whether it is appropriate to attach both, or one or the other to the Order for clarification purposes. I note that the revised Order plan would require all the grid references in the Order as made to be amended as they are slightly different to those scaled from the original Order plan and recorded in the Order schedules<sup>11</sup>. However, to simply attach the revised Order plan to the Order without amending the Order schedules, or to attach only the supplementary plan which is not to scale, is likely in my view to lead confusion.
51. Although the former would require a substantial re-writing of the Order as originally made, on balance, I consider it would be acceptable in this particular case. I reach this view given the level of agreement reached between the parties at the Inquiry with regard to the issue of accurately recording the Order routes; and having regard also to the post inquiry comments. I consider that it is open to me to propose these additional modifications, for which there will be an opportunity for objections and representations to be made. However, whilst Mr Beney would prefer the existing Order plan be replaced with the revised copy, I do not consider that my powers of modification extend to this, as stated above (paragraph 41). I therefore propose to attach to the Order the revised A3 Order plan as Supplementary Plan A and to modify the Schedules to the Order as necessary. In addition, I propose to attach to the Order the A4 supplementary plan (not to scale) as Supplementary Plan B to show the routes in more detail at the bend in The Brook.

### **Other Matters**

52. Mr Beney suggested as regards Aldenham 9 that ideally, a new diversion order was needed in the interests of the landowners, path users and of the Council. However, such matters are dealt with under different legislation, and this is not an issue for me in my determination of the Order before me.

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<sup>11</sup> This is due to changes to the OS base mapping and computer software used by the Council since the 2009 Order was made

## Conclusions

53. Having regard to these and all other relevant matters raised at the Inquiry and in the written representations, I propose to confirm the Order subject to the modifications I previously proposed in paragraph 43 of my interim decision<sup>12</sup>, with additional modifications as outlined above.

## Formal Decision

54. I propose to confirm the Order subject to the modifications previously proposed and advertised, and to further modifications, as follows:

In Part I of the Schedule to the Order, under 'Description of Path to be Deleted'

- In the first line, amend the grid reference from "TL 1557 0101" to "TL 1556 0101"; in the second line replace "TL 1556 0096" with "TL 1554 0092", and replace the letter "H" with "E"; and in line 3, replace "50" with "90"

In Part I of the Schedule to the Order, under 'Description of Path to be Added'

- For the BOAT to be added between points A and C, in the third line amend the grid reference from "TL 1566 0135" to "TL 1565 0134"; in the fourth line insert "and its eastern bank" after "The Brook", and amend the grid reference from "TL 1558 0103" to "TL 1557 0103"; and in the last line delete "where it leaves The Brook". In the description of its width, in the second line amend the grid reference from "TL 1558 0103" to "TL 1557 0103"
- For the RB to be added between points C and E, in the first line amend the grid reference from "TL 1558 0103" to "TL 1557 0103"; in the second line replace "65" with "60"; in the third line amend the grid reference from "TL 1557 0097" to "TL 1555 0097"; in the fourth line replace "45" with "50" and amend the grid reference from "TL 1555 0093" to "TL 1554 0092". In the description of its width, in the first line replace "10" with "12", and amend the grid reference from "TL 1558 0103" to "TL 1557 0103"; and in the second line amend the grid reference from "TL 1555 0093" to "TL 1554 0092"
- For the BOAT to be added between points E and F, in the first line amend the grid reference from "TL 1555 0093" to "TL 1554 0092"; and in the second line replace "355" with "350". In the description of its width, in the first line amend the grid reference from "TL 1555 0093" to "TL 1554 0092"; and in the second line amend the grid reference from "TL 1529 0072" to "TL 1529 0071"
- For the Footpath to be added, in the first line amend the grid reference from "TL 1557 0101" to "TL 1556 0101"; in the third line amend the grid reference from "TL 1556 0096" to "TL 1555 0096", and add at the end of the line, "and continuing generally south west along the western side of RB83 for approximately 40 metres to TL 1554 0092 (point E on the Order Plan)". In the description of its width, in the first line amend the grid reference "TL 1557 0101" to "TL 1556 0101", and replace "TL1556

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<sup>12</sup> Dated 14 January 2015

0096" with "TL 1554 0092"; and in the second line, replace the letter 'H' with "E"

In Part II of the Schedule to the Order

- For Aldenham 83, in the third line of the description, amend the grid reference from "TL 1566 0135" to "TL 1565 0134"; in the fourth line insert "and its eastern bank" after "The Brook", and amend the grid reference from "TL 1558 0103" to "TL1557 0103"; in the fifth line delete "leaving The Brook on the east bank and"; in the sixth line amend the grid reference from "TL 1557 0097" to "TL 1555 0097"; in the seventh line amend the grid reference from "TL 1555 0093" to "TL 1554 0092"; in the ninth line replace "355" with "350"; and in the last line amend the grid reference from "TL 1529 0072" to "TL 1529 0071". In the description of its width, in the second line, amend the grid reference from "TL 1529 0072" to "TL 1529 0071"
- For Aldenham 9 in the fourth line of the description, amend the grid reference from "TL 1555 0093" to "TL 1554 0092"; and in the text previously proposed to be added, amend grid reference "TL 1557 0101" to "TL 1556 0101" and amend grid reference "TL 1556 0096" to "TL 1555 0096"
- For Aldenham 26, in the first line amend the grid reference from "TL 1557 0097" to "TL 1555 0097"
- For Aldenham 27, in the second amend the grid reference from "TL 1529 0072" to "TL 1529 0071"

Order Plan

- On the Order Plan, beneath the Order title and explanation, add "For modifications refer to Supplementary Plans A and B attached to this Order"
- Attach as "Supplementary Plan A" a revised A3 Order plan showing the Order routes further to the modifications proposed above and as previously proposed
- Attach as "Supplementary Plan B" an A4 plan (not to scale) showing the Order routes in more detail at the bend in The Brook further to the modifications proposed above and as previously proposed

Since the confirmed Order would affect land not affected by the Order as submitted, I am required by virtue of Paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981 to give notice of the proposal to further modify the Order and to give an opportunity for objections and representations to be made to these proposed modifications. A letter will be sent to interested persons about the advertisement procedure.

*S Doran*

**Inspector**

## **APPEARANCES**

### **For the Order Making Authority:**

Mr D Ogbonnaya	Solicitor, Hertfordshire County Council
who called	
Mrs A Trendler	Definitive Map Officer, Hertfordshire County Council

### **Objecting to proposed modifications to Aldenham Footpath 9:**

Mr N Farthing	Birketts LLP <i>representing</i> Drs M & E Stearns
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### **Objecting to the non-recording of a claimed bridleway:**

Dr P D Wadey	<i>representing</i> the British Horse Society
who called	
Miss S Harrington	

Mr C Beney	<i>representing</i> the Open Spaces Society and Bushey and District Footpaths Association
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### **Objecting to the status of Aldenham 83:**

Mr A Kind	<i>representing</i> The Trail Riders Fellowship
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### **Others who spoke**

Mr M Westley

## **DOCUMENTS**

1. Revised Proof of Evidence of Mrs Trendler, with attachments, submitted by Hertfordshire County Council
2. Documents submitted Mr Kind on behalf of the Trail Riders Fellowship: Opening Statement; Notes regarding the TRF's statement of case Exhibit E: Hertfordshire's street gazetteer GIS plan for Stevenage (part); The test for BOAT status: Addendum to the TRF's legal submission on Ground 4 of its objection and statement of case; copy of letter from Mr S Mann of the Hertfordshire Trail Riders Fellowship
3. Letter dated 26 January 2016 submitted by Mr S Mann of the Hertfordshire Trail Riders Fellowship
4. Document CB1 showing Inland Revenue maps superimposed on 1990 aerial photograph, submitted by Mr Beney on behalf of the Open Spaces Society and Bushey and District Footpaths Association
5. Copy of 2009 Order with further modifications proposed by Hertfordshire County Council
6. Summary of key issues: 'speaking note', submitted by Mr Kind on behalf of the Trail Riders Fellowship
7. Closing submission of Dr Wadey on behalf of the British Horse Society
8. Closing statement of Mr Beney on behalf of the Open Spaces Society and Bushey and District Footpaths Association
9. Closing summary point submitted by Mr Kind on behalf of the Trail Riders Fellowship
10. Closing submission of Hertfordshire County Council

### Received following the close of the Inquiry:

11. An A3 revised Order plan, and an A4 supplementary plan (not to scale) showing the Order routes in more detail at the bend in The Brook, submitted by Hertfordshire County Council