



Order Decision

On papers on file

by Mark Yates BA(Hons) MIPROW

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

Decision date: 13 June 2018

Order Ref: ROW/3186524

- This Order is made under Section 257 of the Town and Country Planning Act 1990 ("the 1990 Act") and Section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") and is known as The Kent County Council (Restricted Byway MR248 (Part) Platt) Public Path Diversion and Definitive Map and Statement Modification Order 2017.
 - The Order was made by Kent County Council ("the Council") on 4 July 2017 and proposes to divert part of Restricted Byway MR248, in the parish of Platt, as detailed in the Order Map and Schedule. If confirmed, the Order would also modify the definitive map and statement, in accordance with Section 53(3)(a)(i) of the 1981 Act, once the provisions relating to the diversion come into force.
 - There was one representation outstanding when the Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.
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Decision

1. I confirm the Order.

Main Issues

2. Section 257 of the 1990 Act requires me to determine whether it is necessary to divert the restricted byway to enable development to be carried out in accordance with the planning permission granted.
3. The merits of the planning permission granted for the development is not an issue before me. However, as reflected in paragraph 7.15 of Department for Environment, Food and Rural Affairs Circular 1/09, the impact of the diversion of a public right of way on particular parties is a relevant consideration. Paragraph 7.15 advises that "*The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order*".

Reasons

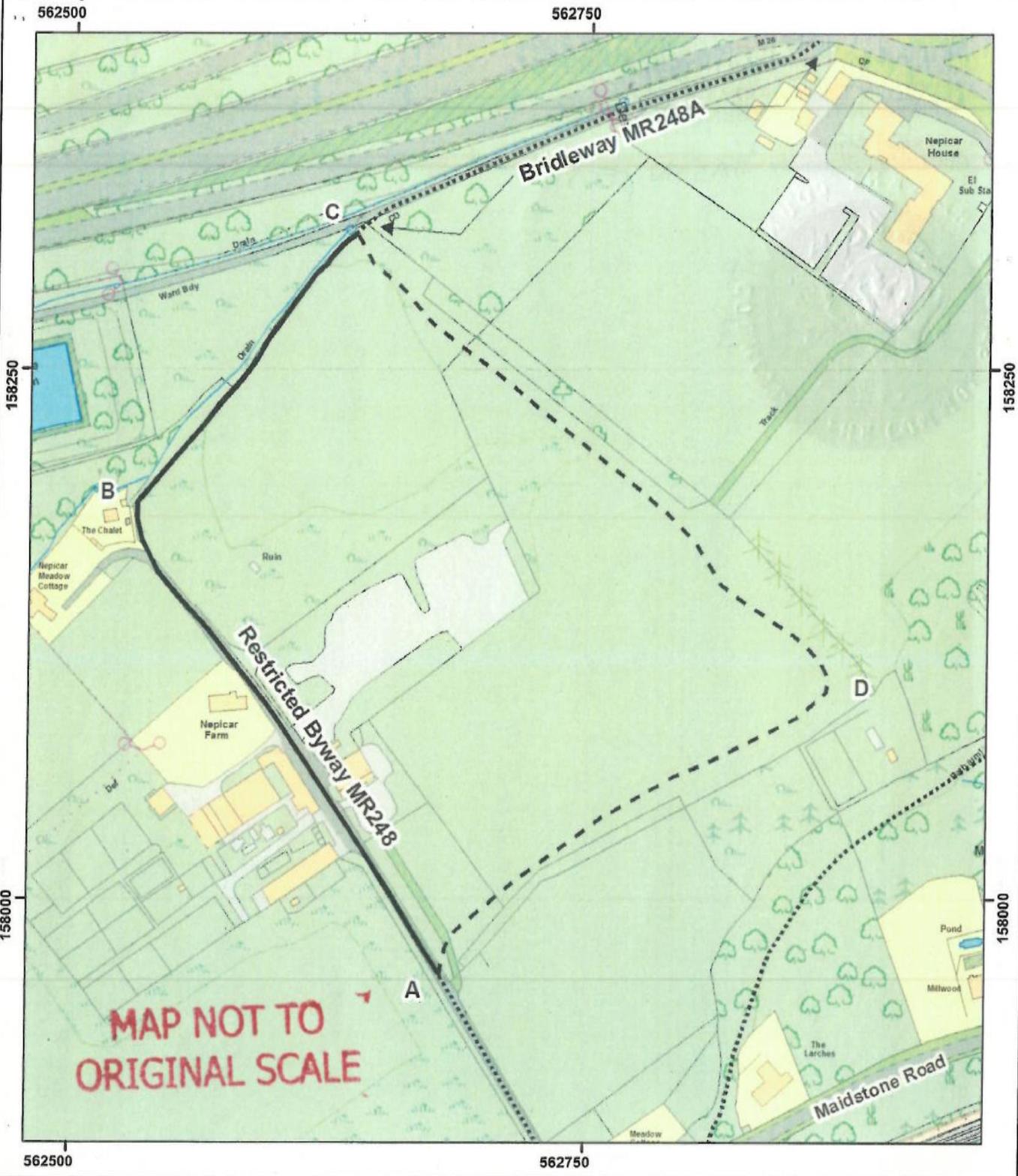
4. Planning permission was granted in July 2016 to revise the existing working, landscaping and restoration scheme at Nepicar Sand Quarry. It is not disputed that the diversion is necessary to enable the planning permission to be implemented. The diversion is required as the restricted byway crosses the site of the extension to the quarry.
 5. The objection from Mrs Hathaway relates to the change to the private right of way to her property. However, she does not object to the diversion of the public rights over the route. If confirmed, the Order would only divert the public rights which correspond to the restricted byway. It would not remove
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the private rights alleged to exist over the land for the benefit of Nepicar Meadow Cottage. As outlined above, I can only consider the disadvantages arising from the diversion of the public right of way.

6. I accept that the diversion is necessary to enable development to be carried out in accordance with the planning permission granted for this site. Further, nothing has been provided to suggest that the diversion of the public right of way would have a significant impact on the public generally or any person whose property adjoins or is near to the restricted byway. Accordingly, I conclude that the Order should be confirmed.

Mark Yates

Inspector

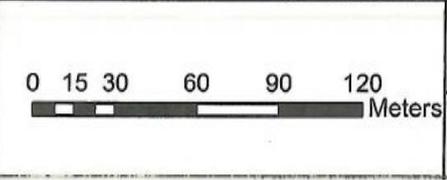


Key	
	Route to be diverted
	Proposed diversion
	Unaffected routes

Town and Country Planning Act 1990: section 257
Wildlife and Countryside Act 1981: section 53(A)(2)
The Kent County Council
(Restricted Byway MR248 (part) Platt)
Public Path Diversion and Definitive Map
and Statement Modification Order 2017
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