

# Order Decision

Site visit on 5 April 2016

**by Sue Arnott FIPROW**

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

**Decision date: 19 October 2016**

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## **Order Ref: FPS/R4408/7/16M**

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981. It is known as the Metropolitan Borough of Barnsley (West Riding of Yorkshire County Council Definitive Map and Statement) (Darton) Modification Order (No.12) 2015.
- The Order is dated 13 July 2015. It proposes to modify the definitive map and statement for the area by recording a public footpath along the old Bloomhouse Lane, Darton, as shown on the Order map and described in the Order schedule.
- There were two objections and three representations outstanding when Barnsley Metropolitan Borough Council submitted the Order for confirmation to the Secretary of State for Environment, Food & Rural Affairs.
- In accordance with Paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981 I have given notice of my proposal to confirm the Order with modifications.
- In response to advertisement of these proposed modifications, one objection has been submitted.

**Summary of Decision: The Order is confirmed subject to the modifications previously proposed.**

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## **Procedural Matters**

1. If confirmed with the modifications set out in paragraph 68 of my interim Order Decision issued on 20 May 2016, the Order would record on the definitive map and statement a public bridleway along the historic route of Bloomhouse Lane (between points shown on the Order map as A, D and C) together with a footpath along the Order route between points D and B. Further, the width of the route recorded as a bridleway would be amended to reflect the historical extent of the highway.
2. One objection to my proposed modifications was submitted by Mr and Mrs Wike, owners of land affected by the route(s) in question.

## **Reasons**

3. In their submission, the objectors point out that both ends of what they describe as "this private driveway" have been gated since they bought the land in 1994. They say that since then they have done their utmost to keep it private by trying to stop the public from accessing their property. The only way individuals have gained access is "by vandalising trees and bushes to make their way through". They strongly object to the proposed recording of a bridleway as well as a footpath and express concern that the proposed width of the former (7.3m) is "easily wide enough to enable cars to use (it) as a thoroughfare".
  4. These issues are not new. No further evidence has been submitted that might cause me to alter the conclusions I previously reached as regards the correct status of the Order route(s).
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5. Nevertheless, to address Mr and Mrs Wike's concerns, I draw attention to paragraph 61 of my interim Order Decision in which I concluded:  
*"Although Mr and Mrs Wike's actions post-1994, in their capacity as landowners, demonstrated their lack of intention to dedicate the lane as a public right of way, no steps are reported to have been taken by the previous owners to make clear any intention to stop the public from acquiring rights over it."*
6. Consequently, I accepted that the public could not have acquired a right of way along the lane on the basis of long usage between the 20 year period 1992 - 2012, essentially because the Wikes had taken action from 1994 onwards.
7. However, since the previous owners of the old Bloomhouse Lane had failed to take such action during the period 1974 to 1994, I concluded that use by the public had established a right of way during those years, at least on foot.
8. In paragraph 62 I made clear that this conclusion related specifically to the northernmost section of the Order route (D-B) as I had *"already concluded that most of the lane (A-D-C) was historically of bridleway status"* on the basis of the documentary evidence submitted.
9. The objectors express concern over the possibility that cars may use the lane as a thoroughfare and query the gating of the route.
10. In fact any person who, without lawful authority, drives a motor vehicle on any footpath, bridleway or restricted byway commits an offence under Section 34 of the Road Traffic Act 1988. Gates or any other means of managing the Order route(s) in future will be a matter for discussion with the highway authority.

## Conclusion

11. Having regard to the above and all other matters raised in the written representations, I conclude that the Order should be confirmed subject to the modifications that have been advertised.

## Formal Decision

12. I confirm the Order subject to the following modifications:

### On the Order map

Add points C and D to reflect the historical route of Bloomhouse Green Road; show as "Bridleway to be added" the route between points A, D and C whilst the route D-B remains shown as "Footpath to be added";

### In the Order schedule: Part I: Modification of the Definitive Map

Amend entry as follows:

<u>Annexed Map Ref</u>	<u>Modification</u>	<u>Path/Way No.</u>	<u>From</u>	<u>To</u>	<u>Length</u>	<u>Width(s) en route</u>
1	<b>Bridleway</b> addition	45	Point A	<b>Point C</b>	<b>290 metres</b>	<b>7.3 m (24 feet) narrowing to 5.4 m south west of Manor House Farm</b>
<b>1</b>	<b>Footpath</b> addition	<b>46</b>	<b>Point D</b>	<b>Point B</b>	<b>25 metres</b>	<b>1.2 metres</b>

In the Order schedule: Part II: Particulars to be added to the Definitive Statement

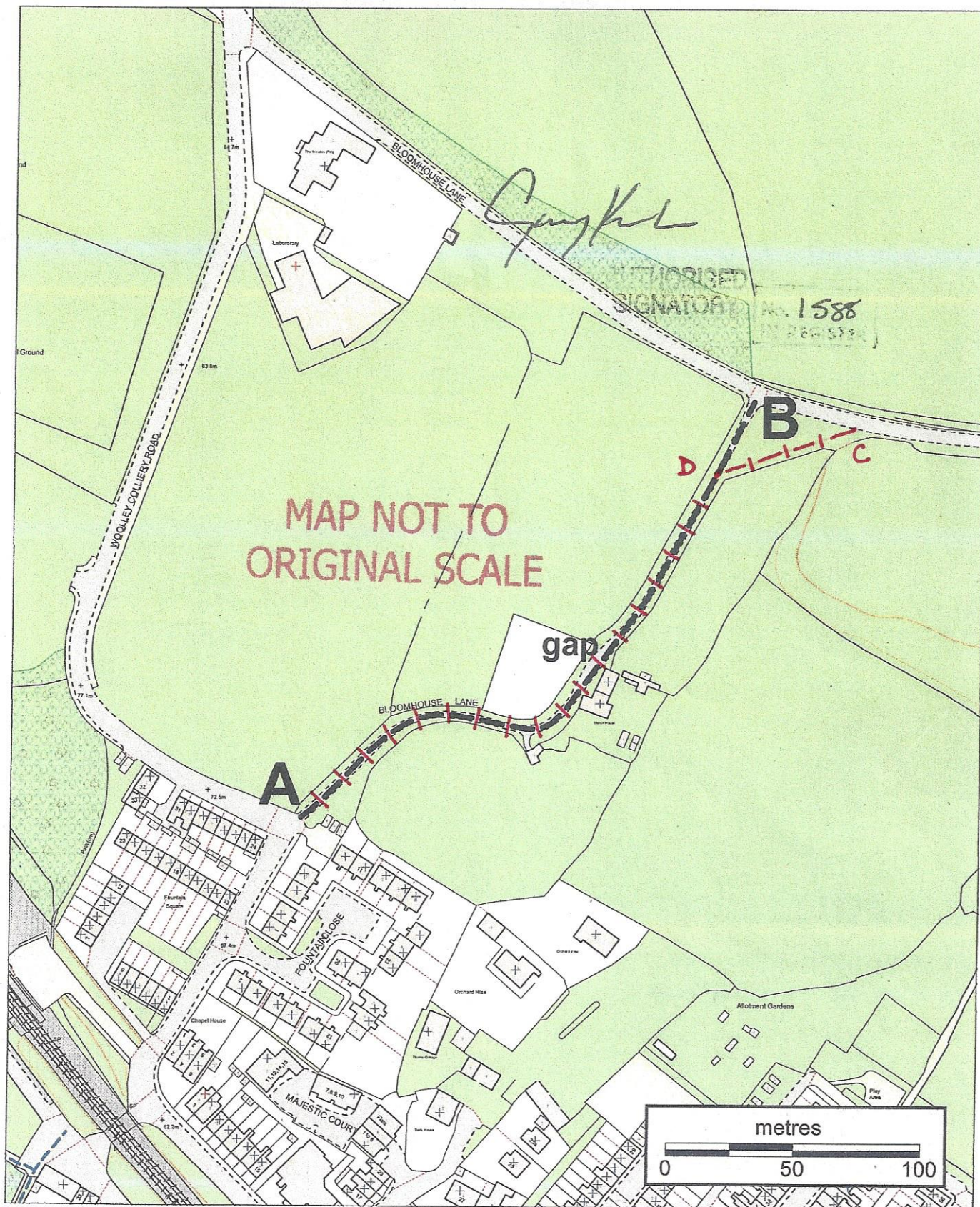
Amend entry as follows:

<u>Path No.</u>	<u>Map Ref</u>	<u>Description of route</u>	<u>Nature of Surface</u>	<u>Length</u>	<u>Width(s) en route</u>	<u>General</u>
45	SE 31 SW	<b>Bridleway</b> commencing on Fountain Square and proceeding generally north east along the old alignment of Bloomhouse Lane via Manor House Farm to join the adopted highway also known as Bloomhouse Lane	Metalled Earth	<b>290 metres</b>	<b>7.3 m (24 feet) narrowing to 5.4 m south west of Manor House Farm</b>	
<b>46</b>	<b>SE 31 SW</b>	<b>Footpath from Bloomhouse Lane proceeding south westwards to join Bridleway 45.</b>	<b>Earth</b>	<b>25 metres</b>	<b>1.2 metres</b>	

(All modifications are shown in bold type.)

*Sue Arnott***Inspector**





Map 1 referred to in The Metropolitan  
Borough of Barnsley (West Riding of  
Yorkshire County Council Definitive  
Map and Statement) (Darton)  
Modification Order (No. 12) 2015

Drawn by BMBC

Scale 1 : 2000

Map 1

Bridleway to be added -|-|-

Footpath to be added

Unaffected rights of way

