



Order Decision

on papers on file

by Heidi Cruickshank BSc (Hons), MSc, MIPROW

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

Decision date: 24 May 2017

Order Ref: ROW/3172513

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as The Northumberland County Council Definitive Map Modification Order (No. 3) 2014.
- The Order is dated 9 April 2014 and proposes to record a public footpath to the south of Anick Old House in the Parish of Sandhoe. Full details of the route are given in the Order Map and Schedule.
- There were no objections outstanding when Northumberland County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs.

Summary of Decision: The Order is not confirmed.

Procedural Matters

1. When the Order was made and published three objections were received. The objections were made on the basis that the route should be recorded with the status of bridleway, in conjunction with the upgrading of a footpath to the east to join a bridleway running along Clarty Lane.
2. In July 2015 Sandhoe Parish Council - one of the three objectors - made a formal application to record a restricted byway over these routes. The Rights of Way Committee of Northumberland County Council resolved to make an Order to record bridleway rights over the application route, which included the route subject to this Order.
3. The Northumberland County Council Definitive Map Modification Order (No 34) 2016 ("the 2016 Order"), to record the bridleway, was made on 28 November 2016 and confirmed, as unopposed, on 20 February 2017. As a result, the objections to the 2014 Order were withdrawn and my determination is based on the evidence contained in the papers on file. I have not made a site visit.

Main issues

4. The Order is made under section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the 1981 Act") by reference to section 53(3)(c), which states that an Order should be made to modify the DMS for the area on the discovery of evidence which, when considered with all other relevant evidence available, shows:

"(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way to which this Part applies.

...

(iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification."

Reasons

5. As set out by section 53(3)(c)(i) of the 1981 Act an Order seeks to record "...a right of way which is not shown in the map and statement...". Due to the 2016 Order a public bridleway is now shown in the map and statement. A bridleway is a highway over which the public have a right of way on foot, on horseback or leading a horse, with or without the right to drive animals. The Countryside Act 1968 introduced a right for pedal cyclists to use bridleways.
6. I consider that as the right of way on foot is included within the bridleway, the rights to be recorded on the Definitive Map and Statement by this Order are already shown thereon. Section 53(3)(c)(iii) would allow modification of the particulars of the Definitive Statement. The Definitive Statement has been appropriately modified by the 2016 Order.
7. As a result, I do not consider that it is necessary for the Order before me to be confirmed. It is not capable of confirmation as the rights are already recorded.

Conclusions

8. Having regard to these and all other matters raised in the written representations, I conclude that the Order should not be confirmed.

Formal Decision

9. I have not confirmed the Order.

Heidi Cruickshank

Inspector