

Order Decision

Hearing held on 19 October 2016

Site visit made on 19 October 2016

by Susan Doran BA Hons MIPROW

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

Decision date: 10 November 2016

Order Ref: FPS/D0121/5/2

- This Order is made under Section 257 of the Town and Country Planning Act 1990 and is known as the North Somerset District Council (Part of Bridleway LA 2/10, south of the current Stancombe Quarry, between Backwell Hill Road and Bourton Combe, Backwell) Public Path Diversion Order No.4 2015.
- The Order is dated 21 August 2015 and proposes to divert the public right of way shown on the Order plan and described in the Order Schedule.
- There was one objection outstanding at the commencement of the hearing.

Summary of Decision: The Order is confirmed

Procedural Matters

1. This case concerns the proposed diversion (in part) of a public bridleway at Stancombe Quarry to run around the southern and eastern perimeter of the site so as to enable the expansion of the existing quarry.
2. I carried out an unaccompanied pre-Hearing site visit when I was able to walk the existing route (points A-B on the Order plan) and to view the proposed route from public vantage points, including from the existing bridleway and from Long Lane. At the Hearing, I adjourned to site with the parties when, by permission, we accessed and viewed the existing Quarry site, and parts of the existing and proposed lengths of bridleway.
3. At the Hearing I accepted a statement and appendices submitted by Mr Tate of North Somerset Council ('the Council') and took a short adjournment to enable myself and others time to assess them. Most of these documents had already been provided prior to the Hearing. No additional time was requested to consider the material further.

The Main Issues

4. Section 257 of the Town and Country Planning Act 1990 ('the 1990 Act') requires that I must consider whether it is necessary to divert the bridleway in question to allow development to be carried out in accordance with the planning permission already given but not implemented.
 5. However, the power to confirm an order is discretionary. Paragraph 7.15 of the Department for Environment, Food and Rural Affairs Rights of Way Circular 1/09 advises that in deciding whether or not to confirm an order, I must also weigh in the balance the disadvantages or loss likely to arise as a result of the diversion of, in this case, the bridleway to members of the public generally or
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to persons whose properties adjoin or are near the existing highway, against the advantages of the proposed order.

6. The issue is, therefore, whether the proposed diversion is necessary to enable the development to proceed, whether the public or adjoining property owners would be disadvantaged by the diversion, and if so, where the balance of advantage lies.
7. The merits of the development are not at issue.

Reasons

Whether it is necessary divert the bridleway in question to allow development to be carried out

8. Planning permission (ref. 14/P/1179/F2) was granted on 15 May 2015 to extend Stancombe Quarry quarrying activities and operations to 2043. The development itself includes retention of the processing plant, asphalt plants, concrete batching plant, block making plant, laboratory, canteen facilities, storage units, extension to lean-to shed, silos and offices, together with bagging aggregates and imported gravel.
9. Condition 55 of the planning permission concerns Bridleway LA2/10, and states that no mineral extraction shall take place within the Spinney (the area to the south of points A-B) until the proposed rerouted bridleway on plan M11.1749a)13B has been created and surfaced in accordance with details to be submitted to and approved by the Local Planning Authority (the Council).
10. Although Mr Peachey was unaware of the Planning Application, and had seen no notices on the existing bridleway concerning it, both the Council and the Applicant (Tarmac) confirmed it had been extensively 'advertised'. This included a Site Notice placed near point A on the Order route, advertisements in the local press, notification sent to adjoining landowners/occupiers, leaflets distributed, and publicised events held at Parish Halls in the local area. In addition, the submissions indicated that since 1993 local plans and policies have recognised that any future expansion of the Quarry site would require the diversion and/or stopping up of the bridleway. Furthermore, following the granting of planning permission, the period for judicial review of the decision to grant it has expired. Whilst I note the point raised by Mr Peachey, this is not a matter to which I can attach weight in my determination of the Order before me.
11. The existing route (A-B) runs directly across the middle of the site between the existing working quarry and the land to its south, to which the planning permission relates. Some work has been undertaken as regards the proposed bridleway diversion (B-E-D-C) including the removal of trees and vegetation, the laying of a surfaced route and associated fencing and path furniture. However, quarrying activities have not yet commenced in this area and have until 2043 to be completed. Thus (at the date of the Hearing), the existing bridleway remains available for use by the public.
12. I am satisfied that planning permission for the extension of the Quarry into the Spinney is extant. I am further satisfied that the development cannot proceed if the bridleway remains on its current alignment. Therefore, in order for the planning permission which has been granted to be implemented, I conclude it is necessary for part of Bridleway LA2/10 to be diverted.

The effect the Order would have on members of the public or those whose properties adjoin or are near the existing path

13. The proposed diversion would increase the available length of the bridleway, creating a longer route both in terms of time and distance for users travelling between Backwell Hill Road and Bourton Combe, whether on foot, bicycle or on horseback. For Mr Peachey who uses the existing bridleway (A-B) on foot on a regular basis as part of a circular walk, this would add ½ mile or 10 minutes to his journey. This equates to an additional 35 hours over the course a year, roughly equivalent to a working week.
14. I heard that most users of the existing route are from the immediate local area, and include dog walkers and family groups. Use by horse riders was considered to be relatively low. Nevertheless, I would regard the type of use described as recreational. In that regard, an increase in length of the public rights of way network in the area could be regarded as a positive consequence of the proposal rather than a negative one. I consider this more likely given the lack of other objections in this regard. I note the Council considered the effect of the Order in terms of the overall network and public use as a whole, and that some (though perhaps not many) users may be accessing the network other than at point A, thus affecting the length and time of their journeys.
15. I agree that the proposed route is longer, but I disagree that it is substantially longer for users. Whilst I accept that the proposal would impact on Mr Peachey's personal use of the local network, I consider that there would be no significant inconvenience to users as a whole. Indeed, a longer route will be advantageous for those seeking health and well-being benefits.
16. Other benefits to the public were argued would arise from the Order, some straight away, and others in the longer term associated with a Section 106 Agreement and the planned restoration scheme which seeks to dedicate additional public rights of way once quarrying operations have ceased in 2043. Measures that would be implemented in the event the Order were to be confirmed, comprise additional access/safety improvements to path furniture along the connecting Bridleway LA2/59 which runs adjacent to Backwell Hill Road; and the creation of dedicated bridleway links from points D and E on the proposed route to connect with the highway network.
17. I conclude that the effect of the Order on members of the public generally would be beneficial, although there would be a small inconvenience for some users. No issues have been raised as regards the effect of the Order on adjoining properties.

Where the balance lies

18. If confirmed, the Order would provide a longer route of a uniform width with a level surface connecting both the existing termination points (A and B) with the highway network, and which I consider would be beneficial to the wider public.
19. If the Order were not confirmed, the planning permission granted could not be implemented as the quarry site could not be extended as proposed. This would give rise to a number of adverse effects including the inability of the Applicant to extract the raw material for use in the local construction industry and to meet the demand that exists for the raw material, with resulting negative effects on the local economy and employment in the area.

20. In balancing the disadvantages or loss and the advantages, I conclude that the benefits of the Order outweigh any disadvantage identified in terms of the inconvenience that some users would experience.

Other matters

21. Mr Peachey raised concerns about the Environmental Impact Assessment associated with the planning permission; and the effect on the environment should he chose to use his car rather than to walk the proposed route. In addition, he suggested alternative diversion routes, although having viewed the existing quarry site, accepted that some may not be practical.
22. I understand the importance of these issues to Mr Peachey, and more widely. However, the merits of the planning permission are not a matter for me in determining this Order. Neither is the effect of using a different mode of transport as an alternative, a matter I can take into account. Nor is it appropriate for me to consider alternative routes, as I have no powers to amend a planning permission so as to facilitate a different route.

Conclusions

23. Having regard to these and all other matters raised at the Hearing and in the written representations, I conclude that the Order should be confirmed.

Formal Decision

24. I confirm the Order.

S Doran

Inspector

APPEARANCES

For the Order Making Authority:

Mrs E Bowman	Senior Access Officer, North Somerset District Council
Mr D Tate	Principal Planning Officer, North Somerset District Council

For the Applicant:

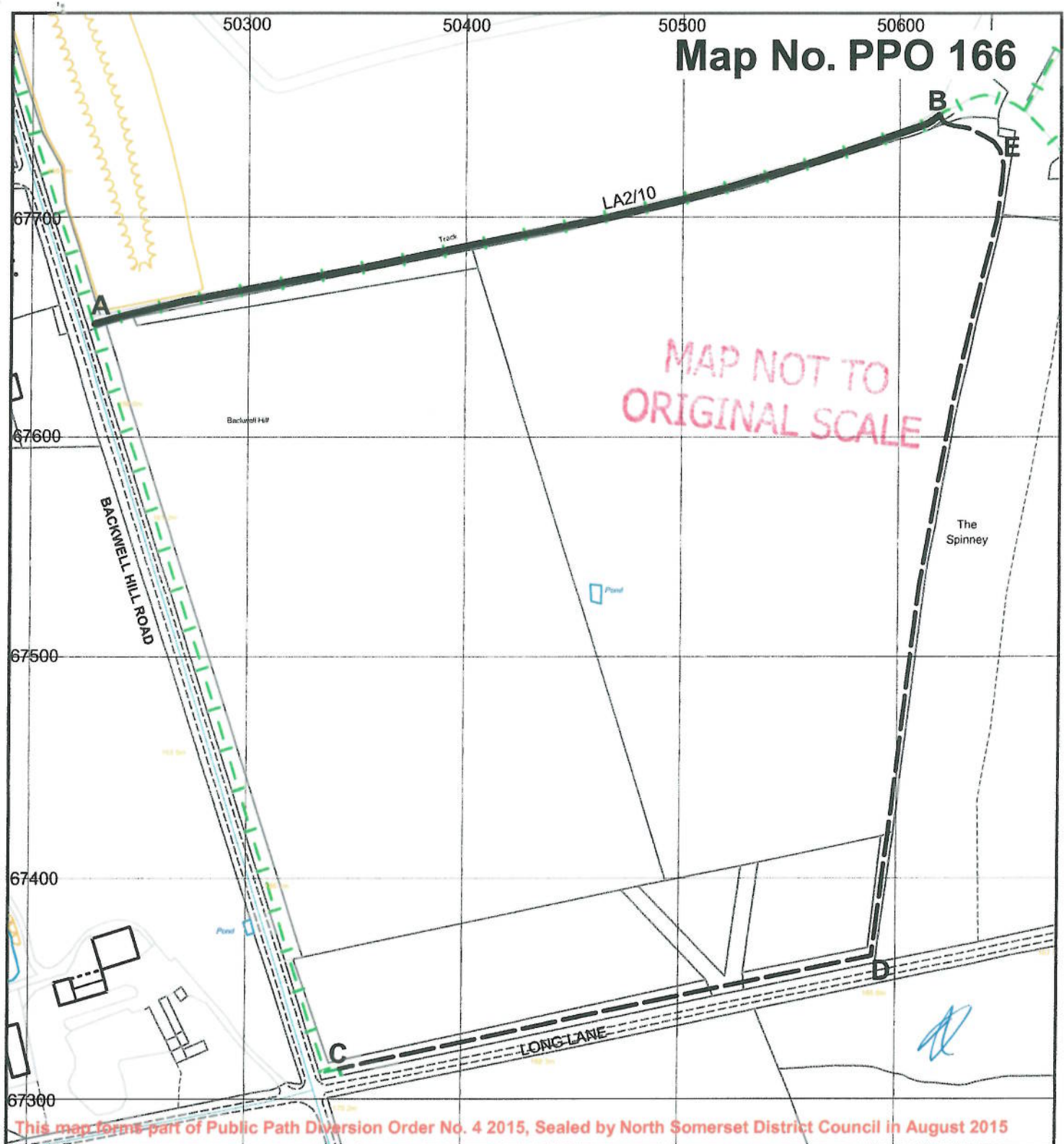
Mr A Thomas	Solicitor, Gowling WLG (UK) LLP, <i>representing</i> Tarmac
Mr S Lamb	Chartered Mineral Surveyor, Quarryplan (GB) Ltd
Mr I Brewer	Geologist, Tarmac

Objector:

Mr S Peachey

DOCUMENTS

1. Statement of Mr D Tate with attachments: Planning Application on behalf of Lafarge Tarmac Ltd; North Somerset Council Consultation Letter regarding the Planning Application; Copy of Site Notice; Copy of Order Plan to show the location where the Site Notice was placed; Copy of Press Advertisement; North Somerset Council Notice of Decision concerning the Planning Application



Town & Country Planning Act 1990 - Section 257 North Somerset District Council

Public Path Diversion Order No. 4 2015

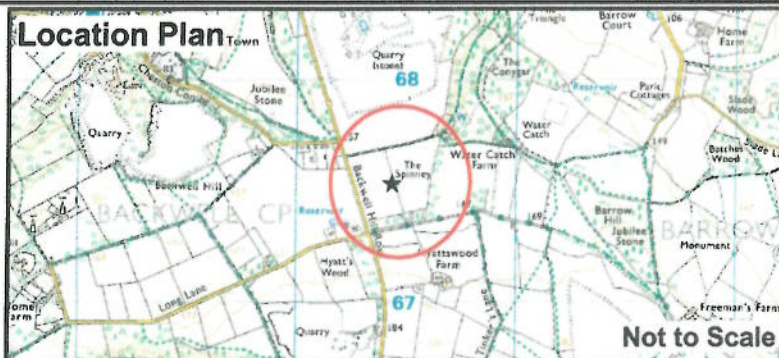
Part of Bridleway LA 2/10, south of the current Stancombe Quarry,
between Backwell Hill Road and Bourton Combe, Backwell



Development & Environment

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Scale 1:2500

Date 20 August 2015

Grid Square ST5067

Drawn by Penny Price

**BRIDLEWAY TO BE
DIVERTED**

Existing ——— (A-B)

Proposed ——— (C-D-E-B)

Connecting ——— Bridleways