
Order Decision

Inquiry opened on 15 March 2016

by Alan Beckett BA MSc MIPROW

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 May 2016

Order Ref: FPS/H0900/7/69

- This Order is made under Section 53 (2) (b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as the Cumbria County Council (Parish of Beetham: District of South Lakeland) Definitive Map Modification Order (No 1) 2014.
- The Order is dated 30 May 2014 and proposes to modify the Definitive Map and Statement for the area by adding footpaths within Marble Quarry as shown in the Order plan and described in the Order Schedule.
- There were three objections outstanding at the commencement of the inquiry.

Summary of Decision: The Order is not confirmed.

Application for costs

1. At the Inquiry an application for costs was made on behalf of the Dallam Tower Estate ('the Estate') against Cumbria County Council ('the Council'). This application is the subject of a separate Decision.

Procedural Matters

2. I opened the inquiry at the Storth Village Hall, Storth Road, Storth, on Tuesday 15 March 2016 having viewed the claimed footpaths the previous evening. Although it had been possible to hear the oral evidence called by the parties by mid-afternoon on the second day, there was insufficient time available for the preparation and delivery of closing submissions on that day. To make the most efficient use of time and available daylight, I undertook an accompanied site visit during the afternoon of Wednesday 16 March with closing submissions being made on behalf of the parties on Thursday 17 March.
3. The Council adopted a neutral stance in accordance with the determination made on 9 April 2014 by the Development Control and Regulation Committee regarding the application made by Beetham Parish Council ('the Parish Council') to add the claimed footpaths to the definitive map. Paragraph 9.2 of the report considered by the Committee reads "*The evidence brought forward so far is not conclusive, and unless further relevant evidence is found to support the case and / or objections are received to the made order, it is recommended that the County Council should from then on take a neutral position*". At the inquiry the Council was represented by Mr Sims.
4. As the Council had adopted a neutral position, the case for the confirmation of the Order was put on behalf of the Parish Council by Mr Dixon. Mr Laurence QC appeared on behalf of the Estate. I am grateful to Mr Dixon and Mr Laurence for the helpful and courteous way in which they endeavoured to assist me in the course of the Inquiry.

5. As noted above, three objections were received by the Council in response to the statutory notice of the making of the Order. Two of the objections were made on technical grounds relating to the drafting of the Order, whereas the remaining objection (that of the Estate) was made into substantive matters. Although the Council had proposed a number of modifications to the Order in response to the technical objections, given the conclusions that I have reached below, there is no need for me to consider these proposals further.

Reasons

The Main Issues

6. The Order was made in consequence of an event specified in section 53 (3) (c) (i) of the 1981 Act which provides that the Definitive Map and Statement ('DM&S') should be modified where evidence has been discovered which shows, when considered with all other relevant evidence available, that a public right of way which is not currently shown in the DM&S subsists or is reasonably alleged to subsist over the land in question. However, for the Order to be confirmed, I must be satisfied that the evidence discovered demonstrates, on a balance of probabilities, that the claimed rights of way subsist (*Todd & Bradley v the Secretary of State for Environment, Food and Rural Affairs* [2004] EWHC 1450 Admin).
7. Beetham Parish Council's case relied on evidence of use on foot of the claimed routes. In a case where there is evidence of claimed use of a way by the public over a prolonged period of time, the provisions of section 31 of the Highways Act 1980 (the 1980 Act) are relevant. Section 31 provides that where a way has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, that way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it. The period of 20 years is to be calculated retrospectively from the date when the right of the public to use the way was brought into question, either by a notice or otherwise.
8. If I conclude that that statutory tests set out in section 31 of the 1980 Act are not satisfied, I am also required to consider whether dedication of the claimed routes has taken place at common law. The evidential test to be applied, at common law or under the statutory provisions, is the civil standard of proof; that is, the balance of probabilities.

The date on which the right of the public to use the way was brought into question

9. It was common ground between the parties that the date on which use of the claimed routes was brought into question was February 2008 when the Estate lodged with the Council statement and plan under section 31 (6) of the 1980 Act which specified those routes over Marble Quarry which were recognised as public rights of way. Accordingly, for the purposes of section 31 (2) of the 1980 Act, I conclude that the relevant 20-year period is from February 1988 to February 2008.

Whether the claimed footpaths were used by the public as of right and without interruption for a period of not less than 20 years ending on the date the public's right to do so was brought into question

10. A presumption that a public right of way has been dedicated will arise where there is evidence of the enjoyment of the way (or ways) by the public for a period of not less than 20 years ending at the date when the right to use the way was brought into question. Such use has to be as of right; that is, without force, without secrecy and without permission. In addition, the use must also have been without interruption.

Use by the public for not less than 20 years

11. It is likely that in any given location, a public footpath will not be used by all the inhabitants of the country, and is also likely that use will be primarily by a relatively small number of people ordinarily resident within the vicinity of the path. In this case, a total of 10¹ user evidence forms ('UEFs') were submitted in support of the application. In addition to the UEFs, the Parish Council also submitted 11 letters of support from residents within the area. I also heard from 6 witnesses who provided direct evidence of use of the paths at issue.
12. Of the 10 UEFs submitted, I have discounted one as the respondent only claimed to have used the paths at issue since 2008. The original 8 forms which accompanied the application contained maps showing the routes at issue; although the routes shown on the plans had been pre-drawn by a third party, the respondents had annotated the plans to show the position of any gates or notices that they recalled and had also signed the plans. I am in no doubt that the evidence set out in the UEFs relates to use of the Order routes.
13. Five individuals who completed a UEF claimed to have walked the Order routes for periods in excess of 20 years prior to February 2008. Three respondents (all from the same family) had used the paths since November 1988 and their personal use therefore falls short of the required 20 years use by 9 months. Although Mr Gardner's use of the paths extended back into the mid 1970s, he had spent approximately three years out of the country (1997-2000); during that period he walked the claimed routes when home on leave. I consider Mr Gardner's evidence can be separated into two periods of frequent use sandwiched around a period when use was occasional and sporadic.
14. Although some of the respondents could not demonstrate personal use throughout the relevant 20-year period, it is not necessary for all witnesses to be able to do so. What is required is for the claimants to be able to demonstrate that there was continuous use throughout the period by the public, and gaps in the personal use by any given individual during that period or any shortfall in personal use is of little relevance if other members of the public were making use of the paths during that time.
15. The relevant 20-year period in this case spans the outbreak of foot and mouth disease during the winter of 2001. During that outbreak many local authorities suspended access to land under the Foot and Mouth Disease Order 1983 (as amended) and I heard at the inquiry that the Estate had attempted to signify the closure of its own land through the use of warning tape at gateways and other access points irrespective of whether a public right of way was present. I

¹ Eight user evidence forms were submitted at the time of the application. A further UEF was submitted as part of the Parish Council's proof of evidence, and Mr Pickup submitted his own UEF as part of his evidence to the inquiry.

also heard that whilst some witnesses had refrained from walking the claimed paths during the outbreak, others had not as the land at Marble Quarry was not used for animal husbandry and as the paths provided a link between public roads. For some witnesses, there was no interruption to their use of the claimed paths, whilst others clearly showed a measure of restraint.

16. Whilst the foot and mouth outbreak was not eradicated for some months and may have led to a suspension of access (whether voluntary or not), the response to the outbreak cannot be seen to be an interruption to the use of the paths at issue of the kind envisaged by section 31 of the 1980 Act. If access to the Order routes was restricted during the outbreak of disease, that was part of a much wider restriction and not specifically aimed at the prevention of use of these particular paths; consequently I do not consider that public use during the relevant 20-year period was interrupted by the foot and mouth outbreak. In any event, the evidence of at least some of the witnesses was that their use of the claimed routes continued during the outbreak of disease such that use by some members of the public was not interrupted at all.
17. Following a public meeting held in June 2015, 81 people completed a questionnaire which suggested that 61 people had walked the claimed footpaths. Although the analysis provided by Mr Yates suggested that 33 of these respondents had walked the claimed paths for more than 20 years, I have reservations about the reliability of this claim as the questionnaire did not ask the respondents to state when they commenced use of the claimed paths or when or if they had ceased using them. The claim as to the duration of use does not appear to be based on any responses to the questions posed by the questionnaire, although it may be that the responses made in the original questionnaire forms (which were not provided to the inquiry) may contain such information.
18. Further to the public meeting, 11 members of the public provided written evidence of their use of the claimed paths which collectively extended over a period of 45 years. I heard from 3 of these 11 respondents at the inquiry. As noted above, Mr Gardner had used the claimed paths during the relevant 20 – year period, albeit with a break in use of approximately 3 years when work took him abroad and his use during that period was limited to periods of home leave. Mrs Whitehouse had run the claimed paths two or three times per week since 1994 as an individual and with around 20 other members of her running club on a weekly basis. Mrs Wilson had walked the claimed paths on a weekly basis since 1987 for recreational walking and birdwatching.
19. I also heard from two other witnesses in support of the Order. Mr Duckworth had walked the claimed path several times per week since 1974, whereas Mr Pickup spoke of occasional use between the 1970s and 2000 as part of field trips with a natural history society and of further occasional use since becoming resident in 2000.
20. The live evidence I heard was not extensive but the use described by the witnesses was of use in the company of others or use when they had encountered others. Although the extent of the direct evidence of use given at the inquiry was not substantial, it reflects and supports the evidence found in the UEFs, the analysis of the questionnaire and the written supporting statements submitted by the Parish Council. In addition, Mr Dent's evidence for the Estate was that since 2004 he had erected '*private no public access*' signs

on tracks within the woods which were not recognised as public footpaths; in 2008 the Estate had deposited a section 31 (6) statement and plan with the Council. The action taken by the Estate strongly suggests that the use by the public of the paths within the woods had been of sufficient frequency for the Estate to have been aware of the use and to consider that it needed to take action with regard to that use.

21. Although the number of people who gave direct evidence to the inquiry was limited, taking the evidence of use as a whole, I am satisfied that it demonstrates use by the public and that it was of sufficient frequency during the relevant period to have alerted a reasonable landowner that a public right was being asserted.

Without force

22. There are two points of access on the road which runs south from Slack Head, shown as points A and U on the Order plan; although point A was on the roadside, it was common ground that a gate had stood at point Z for many years. In addition, access to the claimed paths can be had from the public footpath (known as the 'Limestone Link') which runs through the site between the Slack Head road and Back Lane; a number of witnesses said that they accessed the paths from the footpath leading from Back Lane.
23. It was the Estate's case that prior to 2001 single gates had stood at or near the Slack Head road at points Z and U and that there had been no gaps between the gate and the wire fence at the side through which the public could access the woods. The gate at Z had provided access to a tip which was in use until the late 1990s and was said to have been a metal gate which was locked when the tip was not open and had remained locked once the tip had closed and the land had been restored. The gate at U was also said to have been locked.
24. In 2001 the Forestry Commission commenced timber extraction in the vicinity of points F, W, V and X and widened the access points at Z and U, installed double gates and left gaps between the gates and boundary fence. Mr Dent had blocked these gaps with rails shortly after the gates had been erected and did so again in 2009 and he said that the Forestry Commission had done likewise on three occasions following requests to do so from the Estate. It was Mr Dent's evidence that the rails used to block the gaps had been broken off shortly after they had been installed.
25. None of the user witnesses recalled having to break down barriers or fences to gain access to the paths running through Marble Quarry. Although Mr Yates recalled the metal gate at Z and the gate at U, he could not recall a time when access around the gates was not possible and had been unaware of any of the repairs said to have been undertaken by the Estate or by the Forestry Commission. Mrs Whitehouse said there was a well trodden route around the gateposts and had not found the access at Z to have been obstructed, neither had Mrs Wilson. Mr Gardner's evidence was that there had always been a gap at the side of the gate at Z and that there had been no gate at U until the Forestry Commission erected gates in 2001. The absence of a gate at U is corroborated by the Forestry Commission survey undertaken in 1995 in which it was recorded that there was no fence or gate and that one was required as soon as possible. Mr Duckworth said there was always a gap to the side of the gate at Z and that there had been no restriction on access around the gate at U.

26. I accept that the Forestry Commission erected double gates in or around 2001 at U and Z and that a gate may have been installed at U at some point between 1995 and 2001. I also accept that the Forestry Commission had left a gap between the gate and the fence which the Estate subsequently attempted to block with rails. I saw on my site visit that at Z the remnants of a rail were still attached to a post near the gate; the rail appeared to have been neatly sawn through to aid its removal. Whatever form of blockage was erected, it appears that it was removed shortly after by persons unknown. The evidence before me is that those people accessing the woods at points Z and U were wholly unaware of any attempt having been made to prevent access at those points with fencing and whatever blockage was erected is likely only to have been present for a short period of time.
27. Whilst the attempt to block access at Z and U can be regarded as the landowner asserting that there is no right of access, the prompt removal of any barrier which was erected can also be regarded as the continued assertion of the existence of a public right of way. I conclude that the attempts to block access were ineffectual as they were present for such a short period of time that those using the paths were unaware that the barriers had ever been present. None of the users I heard from had ever had to break down a fence to gain access to the woods at Z and U and I conclude that such use was not use with force.

Without secrecy

28. It is not disputed that the claimed use took place at all times of the day and in full view of anyone who cared to look. I conclude that the claimed use was not secretive.

Without permission

29. No evidence was presented to demonstrate that an explicit permission had been granted by the Estate for members of the public to access the paths in Marble Quarry. Mr Gardner and Mrs Wilson's evidence was that walking in Marble Quarry was part and parcel of village life which the Estate appeared to accept. Mr Gardner recalled that as a child he had explored the woods for nature study and had explained his activities to the late Brigadier Tryon-Wilson in chance conversation; in Mr Gardner's account, the Brigadier thought that children should engage in such activities. Mr Gardner did not regard this conversation as having been given permission to be in the woods, but considered that it was representative of the benign approach of the Estate to local use of the paths within Marble Quarry.
30. The witnesses recalled an increase in the number of way marks following the passing away of the Brigadier; whilst the Limestone Link had always been waymarked, the number of waymarks on that path had increased significantly since 2001. Mrs Villiers-Smith said that the increase in waymarking had been undertaken so that visitors would not get lost in the woods or stray off the definitive paths. If by increasing the waymarking of recognised public footpaths the Estate sought to convey to the public that use of other paths and tracks in the woods was not welcomed, that message appears not to have registered with those using the claimed paths. Despite the proliferation of new waymarks and posts after 2001, use of the claimed paths continued at the same frequency as before.

31. Although Mr Gardner had had a brief exchange with the Brigadier on one occasion and Mrs Wilson's husband had been introduced to the claimed paths by someone who was said to have been a personal friend of the Brigadier, neither event can be said to be evidence of an express permission to walk in the woods having been given. Whereas walking in the woods on the claimed paths may have been considered to be part and parcel of village life, the approach of the Estate appears to have been little more than passive toleration of use by the public. For permission to be implied there has to be some positive act or acts on behalf of the landowner to demonstrate that use is with permission; passive toleration of use is simply acquiescence in that use. In the absence of any evidence that permission was granted either expressly or impliedly, I conclude that the use of the claimed paths was without permission.

Without interruption

32. With regard to Section 31 of the 1980 Act an interruption in use must be some physical and actual interruption which prevents enjoyment of the path or way and not merely some action which challenges that use but allows it to continue. For any action taken to qualify as an interruption of use there must be some interference with the right of passage.
33. Whether any action can be regarded as an interruption is also dependant upon the circumstances of that action; temporary obstructions of a minor nature such as the parking of vehicles on a road² or the storage of building materials on a path³ have been held not to amount to relevant interruptions.
34. I have already concluded that the outbreak of foot and mouth in 2001 did not interrupt use of the claimed paths. It was submitted that the felling operations undertaken by the Forestry Commission between 2001 and 2003 interrupted use of the claimed paths. The Estate submitted that where felling and extraction operations were being carried out, the Forestry Commission had erected 'no public access' notices and had prevented access along the routes which were adjacent to or through the trees being harvested. In the Estate's submission, the forestry activities had interrupted use over a two year period.
35. The experience of those who had been using the paths during this period was somewhat different. Although the Estate sought to portray the forestry activities as being continuous over the two years from 2001 to 2003, I heard that there were periods when no felling and extraction took place during that time. Mrs Wilson said that there were no forestry activities undertaken at weekends; Mr Duckworth said there was no work undertaken outside of the normal 9 – 5 working day and Mr Pickup described the works as being undertaken with '*bursts of activity*'. The recollections of users was that when tree felling was taking place the path through or near to the area being worked would be unavailable but there were no restrictions on the use of other paths through the woods and there were no restrictions placed on use of the paths in the areas being worked outside of normal working hours.
36. The evidence before me does not suggest that access along the claimed paths was prevented during the Forestry Commissions operations, other than for short periods when the works were being undertaken in the vicinity of one or other of the paths. Nor does the evidence demonstrate that forestry operations

² Lewis v Thomas [1950] 1KB 438

³ Fernlee Estates Ltd v City & County of Swansea [2001] EWHC Admin 360

were being carried out continuously for a two year period. Mr Pickup's description of "*bursts of activity*" during that period appears to me to be a more credible description of the works than that which the Estate sought to portray.

37. Any restriction in the use of the claimed paths would therefore have been of limited duration and of a transient nature which would not permanently deprive the public of the ability to use the paths. As such the felling and extraction works undertaken by the Forestry Commission between 2001 and 2003 did not interrupt use of the claimed paths in the manner envisaged by section 31 (1) of the 1980 Act.
38. In summary, although the user evidence before me is limited in quantity it is sufficient to demonstrate that use of the claimed footpaths occurred throughout the 20-year period prior to February 2008 and that such use was as of right and without interruption. It follows therefore that the evidence adduced by Beetham Parish Council is sufficient to raise a presumption of dedication under Section 31 of the 1980 Act.

Whether there is sufficient evidence of a lack of intention to dedicate

39. I now turn to what is known as the proviso to section 31 (1) of the 1980 Act. In order to take advantage of the proviso, the owner of the land crossed by the claimed paths has to provide evidence of overt and contemporaneous action having been taken against those using the paths.
40. In the case of *Godmanchester and Drain v Secretary of State for Environment, Food and Rural Affairs* [2007] UKHL 28, Hoffman LJ held that in terms of the intentions of the landowner, the "*intention*" means what the relevant audience, namely the users of the way, would reasonably have understood the landowner's intention to be. The test is.... objective: not what the owner subjectively intended nor what particular users of the way subjectively assumed, but whether a reasonable user would have understood that the owner was intending to disabuse him of the notion that the way was a public highway". The most common way that the owner's intentions could have been brought to public attention would have been by the erection on the path of a suitably worded notice or notices denying the existence of a right of way.
41. It is common ground between the parties that throughout the relevant 20-year period a notice which read "*Private No Footpath Dallam Tower Est.*" had been in place alongside one of the paths very near to point G (known to the inquiry as G2). This sign faced south-east and had been fixed to a tree on the eastern side of the path where it would have readily been seen by anyone walking north-west from point G. References are made to the existence of this sign in the original UEFs submitted in support of the application and photographs of the sign in place were submitted by the objector. Mr Oston submitted copies of purchase orders from the Estate to a signmaker dated April 1975 and July 1985 for the supply of signs of the kind located at G2. If the sign at G2 was one erected following the second purchase of signs, then it is likely that the sign would have been present at the start of the relevant 20-year period.
42. I also heard that a similar sign had been present to the north-west of point Y (at a point known as Y1) and had also been fixed to a tree this time on the western side of the track. No photographs of this sign in situ were available although the fixings which remained in the tree were visible at the time of my

- site visit. The existence of this sign is also acknowledged in the evidence of the user witnesses although it was said that the sign disappeared many years ago. Corroboration of the existence of the sign is found in the records of a survey relating to unauthorised access to the woods conducted by the Forestry Commission in 1995. The plan of that survey records the existence of a "Private" sign at both G1 and Y1. I heard from Mr Dent that the sign at Y1 was present in 1995 when he left the Estate's employment to work elsewhere and that it had disappeared by the time he returned to work for the Estate again in 1998.
43. The Forestry Commission survey plan also noted that a "Private" notice had been present at or near Z in 1995. Mrs Houghton was the only witness to recall that this notice also said "No footpath" whereas other witnesses recalled the notice as also stating "no access" or "keep out" or "Dallam Tower Estate". Although the recollections of what the notice at Z said are conflicting, the evidence points to a notice which read "private" (and may have contained other words) being present at point Z in 1995.
44. Although the Forestry Commission survey plan key only describes the notices at G2, Y1 and Z as saying "Private" and not the fuller text shown in the photograph of the notice at G2, I consider it to be more likely than not that the wording on the sign recorded as present at Y1 was the same as on the sign at G2, given both Mr Dent's evidence and copies of orders from the Estates archives for the supply of signs of the type which was in place at G2 until 2015. Although the recollections of the wording of the notice at Z are conflicting, I also consider it to be more likely than not that the notice at Z recorded in the 1995 survey and recalled by Mrs Houghton carried the same wording as the sign at G2 and for the same reasons.
45. In addition to the signs which had been present at G2, Y1 and Z, Mr Dent's evidence was that from 2004 he had erected "*Private No Public Access*" signs at various points within the woods including points Z, U, W, X and on a tree near Y1 identified as Y2. Mr Dent said that these signs had been removed shortly after they had been put up but that he had checked the signs and waymarks on an annual basis as part of his duties and had replaced the signs as necessary.
46. With the exception of Mr Pickup, none of the user witnesses recalled the existence of Mr Dent's signs and it was submitted by the Parish Council that the renewal of the signs on no more than an annual basis had been a futile exercise; the signs disappeared as soon as they had been erected and were present for too short a period for their meaning to be conveyed to the public. Although the exercise may have appeared to be futile, to my mind it demonstrates a repeated attempt by the landowner to inform the public that there was no access over the paths on which the notices were placed. The erection, removal and re-erection of signs is evidence of the interplay between those who assert a right to walk in the woods and those who deny that such a right exists.
47. As noted above, Mr Pickup stated that he had seen one of Mr Dent's notices at point X on one of his occasional visits to the site. Mr Pickup could not be precise about the date when he had seen the notice but placed it between 2004 and 2007 as it coincided with the significant increase in the number of waymarks on the existing public footpaths through the site. I place some weight upon Mr Pickup's evidence as corroboration of Mr Dent's evidence and

consider it likely that if Mr Pickup had seen Mr Dent's signs on one of his occasional visits to the site, then it is likely that these signs would have been seen by other more frequent visitors before they were removed.

48. Whereas Mr Yates considered that the sign at G2 was redundant and Mrs Wilson disregarded it as she thought the estate was content for the public to walk through the woods, the signs at G2, at Y1 and Z (which had been present in 1995) and the signs erected by Mr Dent between 2004 and 2007 were an outward manifestation of the landowner's intention not to dedicate a public right of way over the paths on which those signs were erected. Although Mr Dent's signs appear to have been removed quickly by those who saw them and disagreed with them, the sign at X was seen by Mr Pickup and the other signs erected by Mr Dent are likely to have been seen by others.
49. It matters not whether members of the public considered the sign at G2 redundant and chose to ignore it or any other prohibitory signs which the Estate erected during the relevant 20-year period. Nor does it matter that the public may have subjectively assumed that the Estate was content for them to walk through the woods as it did not take an overly aggressive approach to deterring the public from doing so. Disregarding the signs present on site did not alter the message that the Estate sought to convey through them.
50. Section 31(3) of the 1980 Act provides that an appropriately worded notice, erected in a position where it is visible to the public using the way is sufficient evidence of the intention of the landowner not to dedicate a public right of way.
51. The evidence before me demonstrates, on a balance of probabilities, that at all material times there was an appropriately worded and sited notice at G2. The evidence also demonstrates that at various times during the relevant 20-year period there were also appropriately worded and sited notices erected at U, Z, X, W, Y1 and Y2. It follows that I conclude that there is sufficient evidence of a lack of intention to dedicate public rights of way through Marble Quarry for the landowner to be able to take advantage of the proviso to section 31 (1) of the 1980 Act.

Common law

52. No case was advanced on behalf of the Parish Council that dedication at common law could be inferred. The evidence before me demonstrates that the Estate had since at least the mid-1980s erected and maintained appropriately worded prohibitory notices adjacent to or on the claimed paths which were seen by some members of the public. Consequently it would not be possible, in my view, to infer dedication in the light of credible evidence to the contrary.

Conclusion

53. I conclude that whilst the user evidence adduced is sufficient to raise a presumption of dedication there is sufficient evidence of a lack of intention to dedicate public rights of way over the Order routes for the presumption to be rebutted.
54. Having regard to these and all other matters raised at the inquiry and in the written representations I conclude that the Order should not be confirmed.

Alan Beckett

Inspector

APPEARANCES

For Cumbria County Council (Neutral stance)

Mr A Sims Public Rights of Way Officer

For Beetham Parish Council (the applicant)

Mr P Dixon of Counsel

who called:

Mr W S Yates

Mrs H Whitehouse

Mrs S Wilson

Mr A Gardner

Interested parties in support:

Mr I M J Duckworth

Mr R K Pickup Volunteer Reserves Officer, Arnside and Silverdale
Landscape Trust

For Dallam Tower Estate (the objector)

Mr G Lawrence QC of Counsel

Who called:

Mr D Dent

Mrs P Houghton

Mr M Dixon

Mrs S Villiers-Smith

Mr J Oston

Inquiry Documents

1. Supplementary inquiry bundle for Dallam Tower Estate.
2. Introductory statement from Mr Sims.
3. Opening remarks on behalf of Beetham Parish Council.
4. Summary of evidence of Mr Yates.
5. Copies of user evidence forms of Simon Wagstaff, Mollie Wagstaff and Susan Wagstaff.
6. Copies of photographs of signs and locations of signs at G, Y1, Y2 and W.
7. Mr Pickup's statement on behalf of the Arnside and Silverdale Landscape Trust.
8. Mr Pickup's user evidence form.
9. Closing submissions on behalf of Dallam Tower Estate.
10. Closing submissions on behalf of Beetham Parish Council.

