



Order Decision

Hearing opened on 12 May 2015

by Heidi Cruickshank BSc (Hons), MSc, MIPROW

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

Decision date: 11 February 2016

Order Ref: FPS/Q9495/4/49M

referred to as 'Order D'

- This Order is made under Section 119 of the Highways Act 1980 and Section 53A(2) of the Wildlife and Countryside Act 1981. It is known as The Lake District National Park Authority (Bridleway 419044¹, Fix the Fells paths, Lingmell Beck to Sty Head, Wasdale Parish) Public Path Diversion and Definitive Map and Statement Modification Order 2013.
- The Order is dated 12 August 2013 and proposes to divert part of the bridleway running generally north-east from Lingmell Beck onto an alternative alignment in the same general vicinity. The proposal is shown in the Order plan and described in the Order Schedule.
- In accordance with paragraph 2(3) of Schedule 6 to the Highways Act 1980 I have given notice of my proposal to confirm the Order subject to modifications.
- No objections or representations were received in response to the notice.

Summary of Decision: The Order is confirmed subject to modifications set out in the Formal Decision.

Order Ref: FPS/Q9495/6/15M

referred to as 'Order J'

- This Order is made under Section 26 of the Highways Act 1980 and Section 53A(2) of the Wildlife and Countryside Act 1981. It is known as The Lake District National Park Authority Fix the Fells paths on south side of Buttermere, Buttermere & Brackenthwaite Parish, Public Path Creation and Definitive Map and Statement Modification Order 2013.
- The Order is dated 16 December 2013 and proposes to create a bridleway and footpath to the south-west of Buttermere. The proposals are shown in the Order plan and described in the Order Schedule.
- In accordance with paragraph 2(3) of Schedule 6 to the Highways Act 1980 I have given notice of my proposal to confirm the Order subject to modifications.
- No objections or representations were received in response to the notice.

Summary of Decision: The Order is confirmed subject to modifications set out in the Formal Decision.

¹ Subject to modification

Preliminary matters

1. These two Orders were part of a group of fifteen Orders which were dealt with together and were the only two which had modifications requiring advertisement under the Highways Act 1980. The Orders were dealt with in my Interim Order Decision ("the IOD"), issued on 7 October 2015, following a hearing and unaccompanied site visits, carried out in May 2015.
2. No objections or representations have been made to these proposed modifications.

Main Issues

3. On considering the relevant matters in the IOD I was satisfied that both Orders should be confirmed, subject to the proposed alteration to width at one point in relation to Order D and proposed alterations to both width and location in relation to Order J. Other minor modifications were also made to both Orders. No further evidence has been provided to alter my decision on these matters.

Reasons

4. For the reasons already set out in the IOD I am satisfied that these Orders should be confirmed. In relation to Order D, I consider that the diversion is in the interests of the public and will not be substantially less convenient to them nor negatively affect public enjoyment of the route as a whole. Given the evidence I heard, and my observations on site, I am satisfied that it was appropriate to modify the width in relation to the crossing of Spout Head Gill. I am also satisfied that it is appropriate to make the additional modifications proposed to this Order. I take this opportunity to modify a minor error in my IOD in referring to the authority being satisfied that the proposed route is in fit condition for public use in article 3, rather than "...routes are..." as there is only one bridleway affected by this Order.
5. In relation to Order J, I remain of the view that the creation of the bridleway and footpath would add to the convenience and enjoyment of persons resident and visiting the area. I am satisfied that I should confirm the Order subject to the modifications to show the alternative alignment of the bridleway, along with other modifications in relation to the bridge and widths, as well as removing the integrated legal event modification order relating to the bridleway.

Formal Decisions

Order D

6. In exercise of the powers transferred to me, the Order is confirmed subject to the modifications previously proposed:
 - In the title to the Order:
 - after text "*BRIDLEWAY...*" replace text "...419004..." with text "...419044...";
 - Within the article 1 of the Order:
 - replace text "...on the date of first publication of confirmation of this order." With text "...when the terms of article 3 have been met."

- Within the article 3 of the Order:
 - replace text "*There shall be from the date of first publication of confirmation of this order...*" with "*From the date of certification by the highway authority that the proposed route is in fit condition for public use there shall be...*";
- Within Part 2 of the Schedule, under 'Width':
 - add text "*15 metres at crossing of Spout Head Gill*";
- Within Part 4 of the Schedule, under 'Remarks':
 - add text "*(width 15 metres at crossing of Spout Head Gill)*".

Order J

7. In exercise of the powers transferred to me, the Order is confirmed subject to the modifications previously proposed:
- In the preamble to the Order:
 - paragraph 1, after text "*...a need for...*" replace text "*...public footpaths...*" with text "*...a public footpath and public bridleway...*";
 - paragraph 1, after text "*...it is expedient that...*" replace text "*...the...*" with text "*...they...*";
 - paragraph 2, after text "*...this order) of...*" replace text "*...new public footpaths...*" with text "*...a new public footpath and new public bridleway...*";
 - Within article 1 to the Order:
 - after text "*...there shall be...*" replace text "*...public footpaths...*" with text "*...a public footpath and public bridleway...*";
 - Within Part 1 of the Schedule, in relation to BW220058:
 - under 'Description...', after text "*...point B1 (NY 1830 1543)...*" add text "*..., crossing a bridge and continuing...*";
 - under 'Width', after text "*...2.5 metres...*" add text "*...varying to 1.5 – 1.8 metres over the southerly 430 metres...*";
 - Within Part 3 of the Schedule:
 - delete all text referring to the modification of the definitive statement for 'FP/BW220058'.
 - On Order map, *MAP 1: BATCH REF. 1412. FTF 32. CREATION OF FIX THE FELS PATHS, BUTTERMERE SOUTH WEST SHORE BETWEEN LOW CRAG, HORSE CLOSE, AND BURTNES WOOD, PARISH OF BUTTERMERE & BRACKENTHWAITE:*
 - modify part of alignment of BW220058.

Heidi Cruickshank
Inspector