
Order Decision

Site visit made on 16 January 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 06 February 2017

Order Ref: FPS/A4710/5/2

- This Order is made under Section 257 of the Town and Country Planning Act 1990 (the Act) and is known as the Calderdale Metropolitan Borough Council, Public Path Diversion Order and Definitive Map and Statement Order, Order No. 6, 2015 Footpath Blackshaw 38.
- The Order is dated 11 November 2015 and proposes to divert the public right of way shown on the Order plan and described in the Order Schedule. If confirmed, the Order will also modify the definitive map and statement for the area, in accordance with Section 53(3)(a)(i) of the Wildlife and Countryside Act 1981, once the provisions relating to the diversion come into force.
- There were four objections outstanding when Calderdale Metropolitan Borough Council (the Council) submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed.

Procedural Matters

1. Following the making of the Order four objections were received by the Council. These objections remain outstanding.
2. I carried out an unaccompanied site visit where I was able to walk the existing route. The proposed route is fully visible from the existing line of Footpath Blackshaw 38 (the footpath).

The Main Issues

3. The Order was made because it appeared to the Council that it was necessary to divert the footpath to enable development to be carried out in accordance with planning permission 14/00730/HSE for a single storey extension to the north-east elevation at Green Barn, Dark Lane, Blackshaw Head, Hebden Bridge, West Yorkshire HX7 7JR dated 22 August 2014 (the planning permission).
4. Section 257 of the Act requires that, prior to confirming the Order, I must be satisfied that it is necessary to divert the footpath to allow the development to be carried out with the planning permission already given but not substantially complete.

Reasons

Whether it is necessary to divert the footpath to enable the development to be carried out

5. The footpath links Dark Lane to Turret Hall Road in a rural area to the west of Hebden Bridge in the picturesque Calder Valley. The section of the footpath subject of the Order is located on a steep incline immediately south of Dark Lane and east of Green Barn.
6. Having viewed the plans relating to the planning permission, I am satisfied the extension would encroach onto the existing line of the footpath and consequently there is a need to divert it as shown on the Order map.

Whether the development is substantially complete

7. When I visited the area there was no evidence to suggest that any works in connection with the planning permission have commenced. On that basis, I am satisfied that the development is not substantially complete.

Other Matters

8. I have noted concerns that the Order may interfere with the private access rights enjoyed by neighbouring occupiers. According to the Council, the track is not currently used for vehicular access and I saw nothing on my site visit which would lead me to a different conclusion. Nonetheless, the Order was previously amended to ensure the geometry of the new route can accommodate motor vehicles. Moreover, the landowner has confirmed that existing access rights will be protected.
9. Whilst I understand the concerns of neighbouring residents, these are legal matters that will need to be resolved between the relevant parties at a later date. Accordingly, these are not matters which are relevant to my consideration of this Order.
10. The diversion of the footpath would be fairly modest in its extent. No gates or stiles would be removed or erected. The surface of the new route would match the existing and its width would be increased from 1.2 to 2.5 metres. Accordingly, there would not be any significant disadvantage or loss to the general public as a result of the diversion.

Conclusions

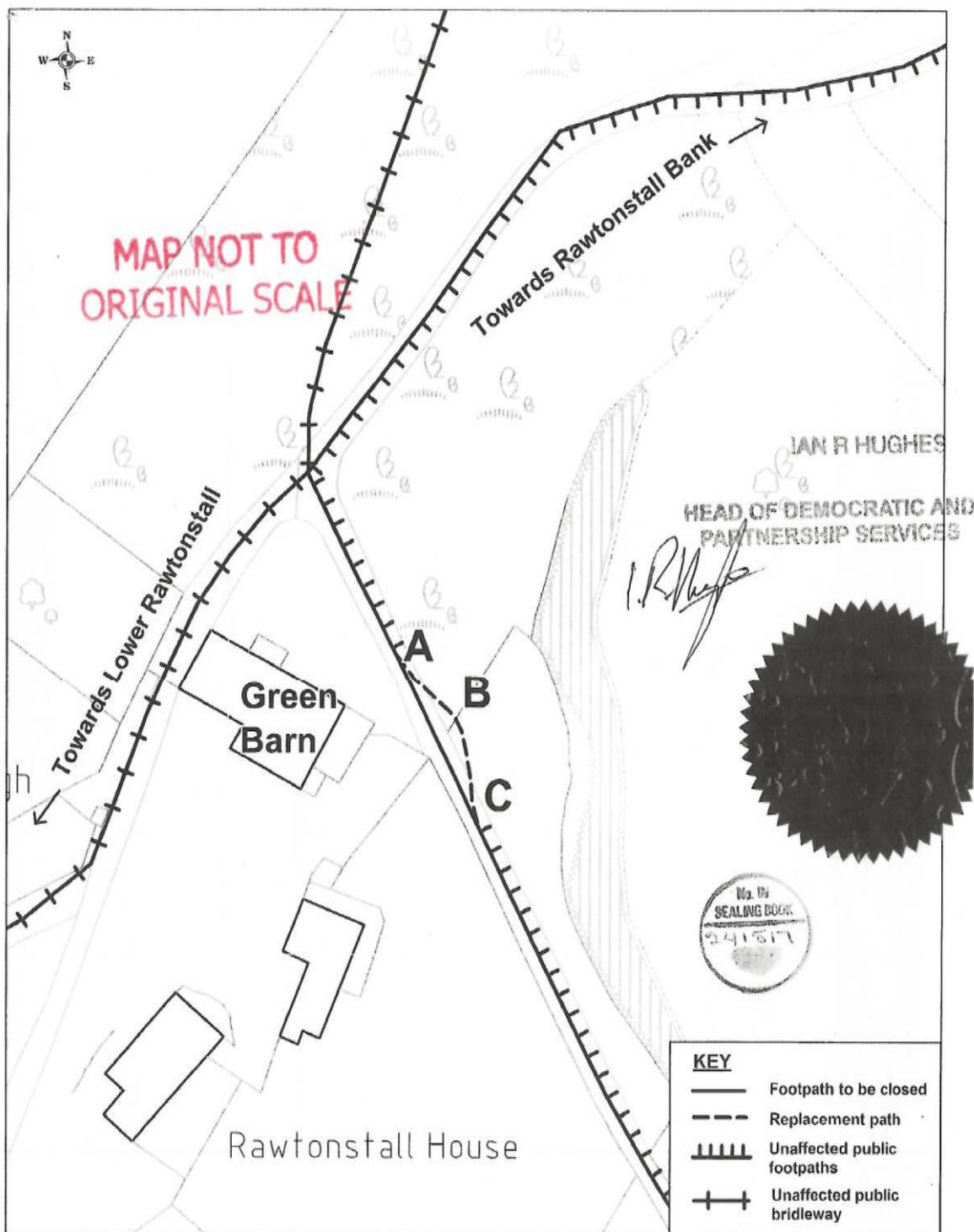
11. Having regard to these and all other matters raised in the written representations, I conclude that it is expedient that the Order should be confirmed.

Formal Decision

12. The Order is confirmed.

D. M. Young

Inspector



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Diversion of public footpath
Blackshaw 38 at
Green Barn, HX7 7JR

Sheet Ref: SD9727

Date: 09/11/2015

Scale: 1:500

Drawn By: PC