



Order Decision

Site visit on 20 October 2014

by Sue Arnott FIPROW

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

Decision date: 1 September 2015

Order Ref: FPS/L3055/4/9M

- 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 dated 15 November 2013 and is known as the Nottinghamshire County Council (Bingham Footpath No. 11) Diversion and Definitive Map and Statement Modification Order 2013.
- The Order proposes to divert a section of public footpath known as Bingham No. 11 at Carnarvon Primary School, Bingham, as detailed in the Order map and schedule. It would also modify the definitive map and statement to take account of this and previous changes to Footpath 11.
- There was one objection outstanding when Nottinghamshire County Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.
- 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 with a modification. In response to advertisement of this modification, one objection¹ was submitted.

Summary of Decision: The Order is confirmed subject to the modifications previously proposed.

Preliminary Matters

1. If confirmed with the modification set out in paragraph 26 of my interim Order Decision issued on 3 December 2014, the Order would divert Footpath No 11 (Bingham) as originally proposed but onto a slightly different alignment. Also it would correct two minor typographical mistakes in the Order Schedule.
2. In addition to the objection (from Ms Shaw), a representative of Carnarvon Primary School has expressed unreserved support for the proposed diversion. Also, the order making authority, Nottinghamshire County Council (NCC) agrees with the conclusions I reached in my interim decision.

Reasons

3. In her submission, Ms Shaw adds little to her previous grounds for objection to the diversion of this section of footpath. She regards my proposed modifications as "not ideal" and "no better or worse than fencing (off) the existing path" although she comments that this would be simpler. In her view the diversion will not benefit the school or the public.
4. These were points I considered at paragraphs 15 and 16 of my interim decision.

¹ The objector, Ms Shaw, submitted three emails: on 5 February 2015, 13 February 2015 and 20 February 2015. Two of these fell within the statutory period for the submission of objections and one was received just after the deadline. Whilst the first was a representation, I regard the remaining two together as a duly made objection.

5. Ms Shaw again challenges the costs associated with this diversion, contending that NCC should spend its resources more effectively. I addressed a similar issue at the end of paragraph 24 of the interim decision and make no further comment on this.
6. The main thrust of Ms Shaw's objection at this stage concerns another point she raised previously although the circumstances are now slightly different. This concerns the fundamental right of the public to be informed of, and have the ability to comment on, any proposed changes to the rights of way network. She submits that, again, this has not happened here.
7. Ms Shaw previously challenged the effectiveness of the statutory notices which were required to be positioned at both ends of the section of Footpath 11 in question since it became clear that the public were unable to reach the southernmost point because of an obstruction.
8. Whilst I accepted NCC's assurance that it had complied with the statutory requirements in strict terms, I recognised that in practice the public may have been somewhat disadvantaged. In view of my conclusions on the merits of the Order and the need for further advertisement, it was my expectation that local people would have a further opportunity to consider the (modified) proposal and thus any possible failings could be overcome.
9. Ms Shaw is quite right insofar as the statutory process for consulting the public is designed to ensure that anyone affected by proposals for change has a fair opportunity to comment on and influence the outcome. Of course they cannot do so if they are not informed of the proposals.
10. In her objection, Ms Shaw explains that she was unable to find any information about the proposed modifications on display at Bingham Library, one of three locations stated in the notice to be places where the relevant documents could be inspected. She makes the point that since this was the only location in Bingham (the other two were in West Bridgford) this would be the place most people would go to inspect the details. Yet even when she knew to look for the information there, she was unable to find it. In any event, she argues, there is no point having the papers held at the library which can be viewed on request of no-one knows to ask.
11. Having raised the lack of publicity previously, she had hoped NCC would insert the public notice in the Bingham Advertiser (which is delivered to each household in the town) rather than the Nottingham Evening Post, but that has not happened. Further, she had looked on notice boards around Bingham and near the school but had not seen a single notice on display.
12. In response NCC confirmed it had placed advertisements in the Nottingham Evening Post (being a paper circulating in the area), posted notices on site and placed documents on deposit at its offices at West Bridgford, at the Rushcliffe Community Contact Centre also in West Bridgford, and at Bingham Library, commenting that items on deposit would not necessarily be displayed but would be available on request. On hearing (from Ms Shaw) that the papers were not available at the library, an officer had hand-delivered another set.
13. Bingham Town Council will have been notified directly of my proposal to modify the Order but has not raised any objection on behalf of the local community. Town notice boards are often a general means of distributing information to individuals who may have a particular interest in a proposal but that does not

appear to have happened here either (although there is no obligation on the Town Council to do so).

14. As previously, I conclude that NCC has complied with the statutory requirements although I agree with Ms Shaw that consultation with the public does not appear to have been as effective as it could have. I understand her frustration with the system when it has appeared to hinder rather than help publicise the proposed changes to this footpath. Nevertheless, the information provided by NCC shows it did all it was required to do in terms of advertising the proposed modifications.

Conclusion

15. Having regard to all matters raised in the written representations, I conclude the Order should be confirmed subject to the modifications previously advertised.

Formal Decision

16. The Order is confirmed subject to the following modifications:

- the Order Schedule Part 2: in line 3 delete the words "along a field edge";
- In the Order Schedule Part 3: in lines 4 and 5 delete the words "along a field edge"; in line 6 delete "Footpath No. 1" and substitute "Footpath No. 11", and in line 8 delete "Barnes Road" and substitute "Banes Road";
- On the Order map: amend the line of the proposed new route as shown in red.

Sue Arnott

Inspector