
Order Decision

On papers on file

by Martin Elliott BSc FIPROW

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

Decision date: 14 March 2017

Order Ref: FPS/R1038/4/11

- This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and is known as The North East Derbyshire District Council (Public Footpath No: 56 Parish of Ashover) Public Path Diversion Order (No 1) of 2010.
- The Order was sealed on 13 September 2010 and proposes to divert the public right of way shown on the Order plan and described in the Order Schedule.
- There were two objections outstanding when North East Derbyshire District Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is proposed for confirmation subject to modifications set out below in the Formal Decision.

Preliminary Matters

1. I have made this decision on the basis of the papers on file. I have not visited the site but am satisfied that I can make my decision on the information before me.
2. Following the making of the Order two objections were raised relating to the absence of a width in the Order for the proposed alternative route. The Council submitted the Order to the Secretary of State seeking confirmation subject to the modification of the Order to include a width. The objections were subsequently withdrawn.
3. The Order as made does not include a width for the proposed alternative route and therefore does not comply with the Public Path Orders Regulations 1993 (the Regulations). The statement of reasons submitted by the Council asks that the Order be modified to include the width of the alternative route in accordance with the specification approved by Derbyshire County Council. Correspondence from the County Council provides a specification of a 1.5 metre wide rolled stone surfaced footpath within a 2.0 metre wide strip. The inclusion of this specification would satisfy the Regulations and accord with the Planning Inspectorate's Advice Note 16. Should the Order satisfy the relevant criteria set out in section 119 of the 1980 Act I propose to modify the Order accordingly.

The Main Issues

4. This Order has been made under section 119 of the 1980 Act. There is no evidence before me to suggest that the relevant criteria have not been satisfied such that the Order should not be confirmed.

Other Matters

5. In their original objection the Peak and Northern Footpaths Society notes that the proposed alternative route has been in use for 6-7 years and has deteriorated substantially since construction. The Peak and Northern Footpaths Society states that this needs to be addressed. While I note these observations this is not a matter for my consideration.

Conclusion

6. Having regard to these and all other matters raised in the written representations and in the papers on file I conclude that the Order should be confirmed subject to modifications.

Formal Decision

7. I propose to confirm the Order subject to the following modification:
 - At Part 2 of the Schedule to the Order insert after the description of the new path 'The path has a 1.5 metre wide rolled stone surface within a total width of 2 metres.'
8. Since the confirmed Order would affect land not affected by the Order as submitted, I am required by virtue of paragraph 2(3) of Schedule 6 to the 1980 Act to give notice of the proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modifications. A letter will be sent to interested persons about the advertisement procedure.

Martin Elliott

Inspector

- Proposed Diversion Route
- Affected section of FP56
- Unaffected FP56 Route

MAP NOT TO
ORIGINAL SCALE

SEAL No.
12612

Chair *G. Baxter*
Chief Executive / Principal Solicitor

Based upon the Ordnance Survey map with the copyright of the Controller of Her Majesty's Stationery Office. Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. North East Derbyshire District Council. Licence No. 100019038



Engineering Services,
COUNCIL HOUSE, SALTERGATE,
CHESTERFIELD, DERBYSHIRE, S40 1LF,
TEL: Chesterfield (01246) 231111
FAX: (01246) 650173 MINICOM: (01246) 232162

Original SK 355 620
Drawn YLV
Date 08/04/2010
Scale 1:1000

ALDERGATE

TITLE

PLAN No. 17162a

Diversion of Footpath 56, Ashover

