
Order Decision

by Helen Slade MA FIPROW

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

Decision date: 20 March 2017

Order Ref: FPS/P2745/4/49

- This Order is made under Section 119 of the Highways Act 1980 ('the 1980 Act') and the Section 53A(2) of the Wildlife and Countryside Act 1981 ('the 1981 Act') and is known as the North Yorkshire County Council Footpath No 10.56/9 Crowood House Great and Little Broughton Diversion Order and Definitive Map Modification Order 2015.
- The Order is dated 12 June 2015 and proposes to divert the public right of way shown on the Order plan and described in the Order Schedule, and to modify the Definitive Map and Statement accordingly.
- There were two objections outstanding when North Yorkshire County 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. Two objections were made to this Order within the statutory advertisement period. Neither of the objectors has provided a full postal address and, despite extensive efforts by both North Yorkshire County Council ('the County Council') and, subsequently, the Planning Inspectorate, it has proved impossible to contact them. It has consequently been agreed by the remaining parties to deal with the matter by way of written representations.
2. I have not made a site visit and I am satisfied that I am able to determine the matter without doing so. I have relied on the papers submitted by the County Council to the Planning Inspectorate, which includes photographs of the site, and taken into account the content of the two objection letters.
3. I note that, although the Order itself refers to 'Crowood' House, the County Council's statement, and the Ordnance Survey Map, both identify the property concerned as 'Crow Wood' House. This matter has not been commented on by any party and no modification has been requested. I have therefore referred to the property by its full name when referring to topographical matters, but have made no modification to the Order as I consider it unlikely that there is any room for misunderstanding.

The Main Issues

4. Section 119(1) of the 1980 Act states that an order can be made where it is considered by the authority that it is expedient in the interests of the owner, lessee or the occupier of land crossed by the path or way, or of the public, that the line of the path in question should be diverted. This Order has been made in the interests of the landowner. Section 119(6) of the same Act states that, if I am to confirm the Order, I too must be satisfied in this respect. Furthermore, before the Order can be confirmed I must be satisfied that the
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path will not be substantially less convenient to the public as a consequence of the diversion.

5. Where an order proposes to alter a termination point of the path in question, I must be satisfied that the altered terminus is on the same highway or a highway connected to it, and that it is substantially as convenient to the public.
6. If I am satisfied on the above points, I must then consider whether it is expedient to confirm the Order, having regard to the following issues:
 - a) the effect that the diversion would have on public enjoyment of the path as a whole;
 - b) the effect of the coming into operation of the Order on land served by the existing right of way; and
 - c) the effect of the new public right of way on the land over which it is created (or land held with it);having regard also, with respect to b) and c), to the provisions for compensation as set out in Section 28 of the 1980 Act.
7. No material provisions of the Rights of Way Improvement Plan have been identified by the County Council.

Reasons

Description of the route

8. The path in question currently begins on Bridleway 10.56/6 near Crow Wood House (Pont A on the Order plan), and runs in a roughly east-north-easterly direction past the property for a distance of approximately 485 metres to Point B on the Order plan, where it continues on in the same direction. The proposed route would run on a generally parallel alignment, slightly further from the house itself. It would commence on the same bridleway at Point C, running alongside a field boundary for half of its length, before crossing a paddock to re-join the existing route at Point B. A gap in the fence at Point D would facilitate access between the two fields concerned. The length of the proposed route would be slightly shorter at 475 metres.

Whether it is expedient in the interests of the landowner to divert the path

9. The County Council states that the owner of Crow Wood House wishes to divert the path for reasons of privacy and security. From the letters of objection it would seem that there may have been times when the location of the path has caused difficulties between the owners and walkers. By removing the path from the immediate curtilage of the property these difficulties may be alleviated. I agree with the County Council that the reasons for the diversion are sound and understandable, and that they are in accordance with the provisions of Section 119(1) of the 1980 Act.

Whether the path would be substantially less convenient to the public as a consequence of the diversion

10. The diversion is very minor, and actually results in a slightly shorter route for the public. It runs over similar ground, and is roughly parallel to the existing path. Problems with horses, referred to by one of the objectors, appear to

have been temporary and have been resolved. I am satisfied that the proposed diverted route would not be substantially less convenient to the public, and may indeed be more convenient as there will be no stiles to negotiate.

Whether the altered termination point is substantially as convenient

11. The proposed diversion would leave the same bridleway as the existing path, and Point C is only a matter of a few metres distant from Point A. The altered terminus will therefore be substantially as convenient as the present one.

The effect on the enjoyment of the route as a whole

12. The objectors refer to the fact that Crow Wood House is a Listed Building, and that views of it will be lost as a consequence of the diversion. The County Council accepts that close views of the house will be lost, but notes that the building is Grade II (i.e. the lowest category of listing) and that it is similar to many other farmhouses and town houses of the same period which can be seen elsewhere in North Yorkshire. I acknowledge that the loss of close views may be a disappointment to some users of the path, but I do not consider that this would be sufficient reason not to confirm the Order.
13. The objectors consider that the existing route is easier to follow than the proposed diversion. The County Council points out that the proposed route will run along a field edge for the most part and is will be easy to follow. It provides attractive views of the Cleveland Hills to the south and east, and returns to the same paddock through which it currently runs.
14. The County Council also points out that the proposed route would have no stiles to negotiate which is an advantage to users, despite one of the objectors indicating that climbing stiles, or indeed fences, is no obstacle. In my view a gap is clearly preferable to any form of barrier, however negotiable it may be.
15. I agree with the County Council's assessment, and I am satisfied that the proposed diversion will have a minimal effect on the enjoyment of the route as a whole.

The effect on the land concerned

16. All the land affected is owned by the applicant and owner of Crow Wood House. No issues have been identified which would give rise to any concerns in this regard.

Conclusions

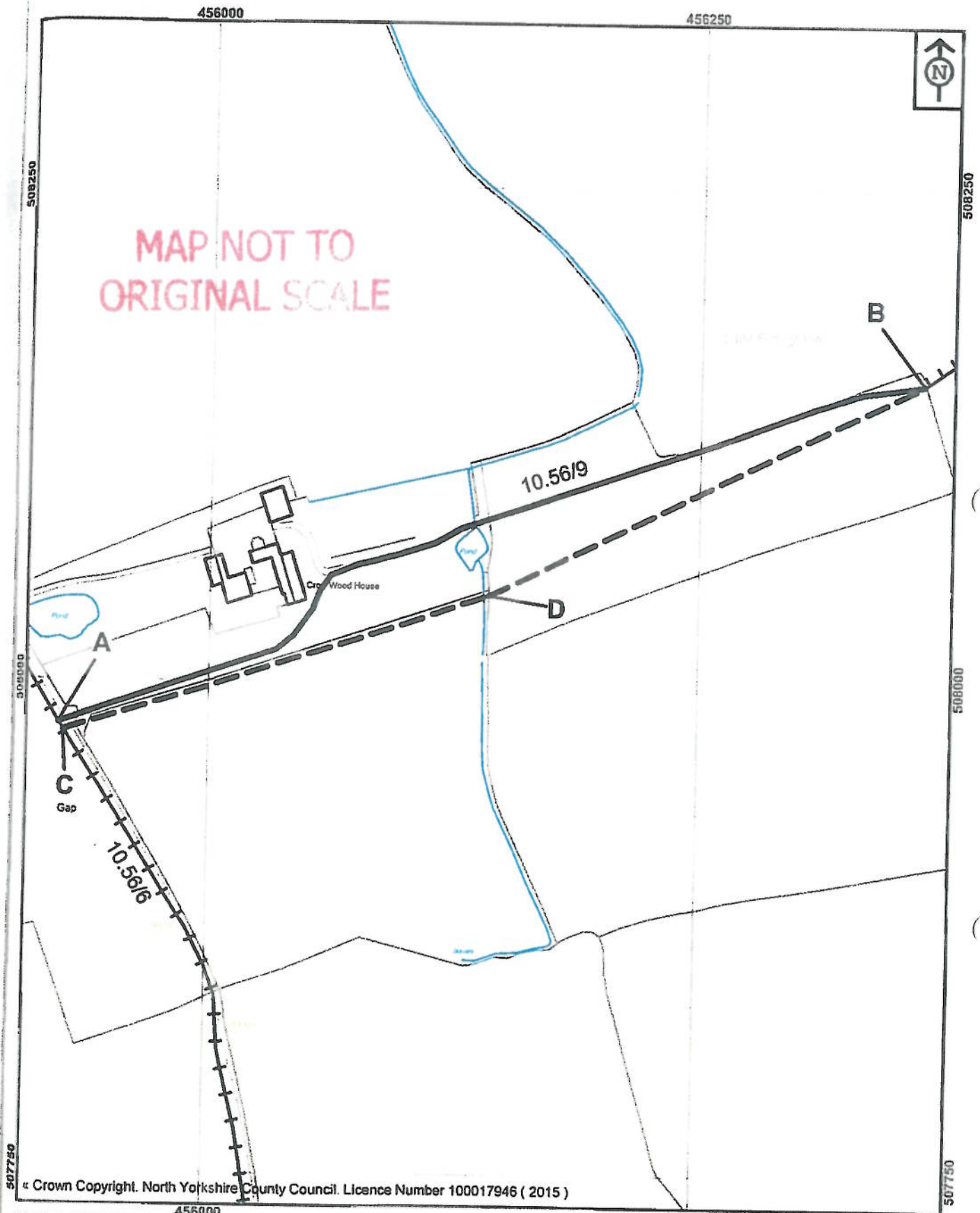
17. Having regard to these and all other matters raised in the written submissions I conclude that it is expedient that the Order should be confirmed, and the Definitive Map and Statement should be modified accordingly.






Formal Decision

18. I confirm the Order.

Helen Slade

Inspector



 <p>North Yorkshire County Council</p> <p>Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p>Key:</p> <p>Footpath to be added </p> <p>Footpath to be deleted </p> <p>Other footpaths </p> <p>Other bridleways </p> <p>Map drawn on 24 March 2015</p> <p>Drawn by RA</p>	<p>North Yorkshire County Council</p> <p>Highways Act 1980 Section 119 Wildlife & Countryside Act 1981 Footpath No. 10.56/9 Crowood House Great and Little Broughton Diversion Order 2015</p>
	<p>Scale 1:2500</p>	<p>File Ref No. HAM/2012/02</p>