



## Order Decision

Site visit made on 15 December 2017

by **Helen Heward BSc (Hons) MRTPI**

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

Decision date: 15 February 2018

---

### Order Ref: ROW/3178615

- This Order is made under Section 119 of the Highways Act 1980 ('the 1980 Act') and Section 53A(2) of the Wildlife and Countryside Act 1981 and is known as the Council of the City of Wakefield Public Path Diversion Order and Definitive Map & Statement Modification Order No 7, 2015, Public Footpath Ossett No 2.
- The Order is dated 10 December 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
- There was one objection outstanding when Wakefield Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

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

---

### Preliminary Matters

1. I undertook an unaccompanied site visit on 15 December 2017.
2. Public Footpath Ossett No 2 (FP2) crosses part of a site owned by Newly Weds Food Limited (NWF Ltd) who is the land owner and applicant. The Order has been made in the interests of the land owner, and the Order Making Authority (OMA) supports the application.
3. PART 1 of the Order Schedule describes existing FP2 as a 1.2 metre wide public footpath, and PART 2 describes the proposed alternative as a 1.2 metre wide public footpath. However, there is an apparent inconsistency in that in PART 3, (Modification of Definitive Statement), the wording for the proposed new statement entry includes "*with a width of 1.5 metres*".
4. Column 9 of the submitted copy of an extract of the Definitive Statement indicates that FP2 has an approximate width of 1.5m. Therefore, if I am minded to confirm the Order, it would be necessary for me to amend the Order so that PART 1 of the Order Schedule would describe existing FP2 as a 1.5 metre wide public footpath and PART 2 would describe the proposed alternative as a 1.5 metre wide public footpath. I am satisfied that these minor modifications would be necessary and reasonable to correct the inconsistencies and that they would not cause any injustice to any of the parties.

### Main Issues

5. Section 119 of the Highways Act 1980 (the 1980 Act) requires that before confirming the Order, I must first be satisfied that it is expedient in the interests of the landowner that the footpath in question should be diverted, and
-

that the new footpath would not be substantially less convenient to the public as a result of the diversion.

6. I shall then consider whether it is expedient to confirm the Order having regard to the effect which the diversion would have on public enjoyment of the path as a whole and on land crossed by the existing path and that to be crossed by the new one. In addition I am required to have regard to any material provisions of a public rights of way improvement plan which has been prepared for the area in which the path lies.

## **Reasons**

### ***The interests of the landowner***

7. The section of FP2 which is proposed to be diverted crosses the site of NWF Ltd between Points A and B on the Order Map. At Point A the walker enters the site through a gap in a perimeter stone wall. From there the path crosses a grassed area at the front of the site and then proceeds across a car park in front of a reception building and an internal access road before reaching Point B on the other side of the site.
8. NWF Ltd is concerned that FP2 compromises the ability to manage site security and to ensure that unauthorised persons do not gain access to products to cause malicious contamination and a public health risk. They submit that as a food business there is increased pressure to ensure that the complete site is secure, with controlled and recorded access for visitors, contractors and employees. They argue that as FP2 crosses the front of the premises across the car park outside of the reception, it is impossible to stop the public from being on the site. The Order would improve site security by diverting FP2 around the perimeter of the site and enabling these two access points to be closed off.
9. The objector, Mr Pearks, argues that FP2 is just an inconvenience for NWF Ltd and does not go anywhere near the operational food production area, which is behind the reception/admin building. He submits that FP2 does not put the plant at risk of closure. Mr Pearks also submits that it would not be a great expense to secure the site without the diversion.
10. I observed that the route of FP2 through the site is quite direct and less than 100m. Nonetheless, part of it crosses an area where vehicles are arriving and leaving, goes straight through a section of car park, and relatively close by an entrance to a building. I observed people going to and from this car park and the building. This section of FP2 provides two unrestricted access points into and out of the site. Therefore, although I noted that the food production area appeared to be some way from FP2 and there is no evidence from the Food Standards Agency to say that the diversion is essential, I do not doubt that FP2 poses risks and issues for the overall management of site security.
11. It might be possible to secure the majority of the site from the existing route of FP2. There are other unsecured points where it appeared possible for a pedestrian to access the site without hindrance, such as along the footpath adjacent to the vehicular access off Pickering Lane. Nonetheless, I have no doubt that it would be beneficial to be able to secure the two pedestrian access points into the site at Points A and B on the Order map, and remove the intervening section of FP2 across the site, which walkers have a right to walk through and across at all times, unchallenged and unimpeded.

12. I know very little of the circumstances at another food production plant with a footpath through the site a few miles away, and I attach very little weight to it in assessing this issue.
13. I conclude that it is expedient for the landowner that the section of footpath in question should be diverted.

***Whether or not the new footpath would be substantially less convenient to the public***

14. The existing route A to B is partly across an access road and car park and I found it both inconvenient and unnerving trying to negotiate the route through. The proposed diversion would take a walker from Point B across a section of field to Point C. A walker would then follow existing hard surfaced highway footpaths to reach Point A and reconnect with FP2. The route would amount to more of a 'dog leg' rather than a 'doubling back'. The diversion section across the field B to C plus the section along existing roads would increase the length above the existing by less than 100m. Mr Pearks accepts that it would not increase the length of FP2 greatly.
15. However, Mr Pearks considers that the diversion would be an inconvenience and annoying particularly because it would be alongside three roads. Leeds Road, Pickering Lane and Owl Lane all meet in the vicinity of the Order route. The Order route would not require the crossing of any of these roads and would follow paths alongside Pickering Lane and Owl Lane. Pickering Lane was not heavily trafficked when I made my visit. Owl Lane was busy, but the footpath here is mainly set back and this section is short.
16. The existing route between Points A and B requires climbing over a stile, negotiating a car park, and an ability to get through a rather narrow gap in the boundary wall adjacent to Owl Lane. There are also some changes of levels, including a short but steep climb up a bank once over the stile. Mr Pearks considers the stile a hindrance and inconvenience. The diversion route would be more level and NWF Ltd owns the field and offers to install a kissing gate at Point C as part of the diversion and to replace another stile with a kissing gate at the eastern side of the field, where FP2 enters from Hidswell Lane.
17. However, whilst the OMA refer to the kissing gates offer, the Order requires only that an alternative footpath highway shall be created to the reasonable satisfaction of the Council of the City of Wakefield. In which case it would be necessary that the description of 'the new statement entry' and column nine of the 'Proposed Statement' table in Part 3 of the Order Schedule be modified by the deletion of the words "6 stiles" and the addition of the words "4 stiles and 2 kissing gates". With these modifications I conclude that the new footpath would not be substantially less convenient to the public.

***The effect which the diversion would have on public enjoyment of the path as a whole***

18. Starting from Ossett Footpath No 5 in the east, the first part of FP2 skirts open land at the back of dwellings and offers some open views. After crossing a recreation ground and Hidswell Lane it continues across the northern edge of the field adjacent to NWF Ltd. It is this section that leads to Point B on the Order map. The walk across this field is pleasant, but once across the stile at the boundary with the NWF Ltd premises the environment changes markedly. The path is then within a business site and the landscape is dominated by a hard surfaced access road, large areas of car parking and the reception

- building. A larger industrial building is glimpsed to the right when crossing the access road.
19. Once past the car park FP2 goes across a grassed area that is part of the site frontage and bounded by a stone wall to Owl Lane. This is a pleasant area but I found that the environment and experience was heavily influenced by the sight and sound of traffic on the surrounding roads. It did not feel rural. I noticed the pond beyond a short section of hedgerow to my right and then the path soon descended to reach a gap in the stone wall from which the path emerges at Point A onto a footpath alongside Owl Lane.
  20. To follow the path to its end it is then necessary to cross this busy road and follow a rather narrow snicket before reaching a small thicket. The final section of the path has a rural feel and crosses some quite open ground to reach its end at the administrative boundary.
  21. The section of FP2 affected by the Order is short in comparison to the overall route and is the least rural and off-road experience along the route as a whole. The diversion would not significantly increase the experience of urban development including roads and traffic upon the route as a whole. The diversion would remove the experience of being within an industrial site. It would also increase the length of the route across a field.
  22. With the diversion dog walkers would need to walk alongside roads between Points A and C. However, dog walkers would have to negotiate vehicles on the existing route through the site of NWF Ltd and Point A is already on the busy Owl Lane. I also observed a number of people walking dogs along Pickering Lane and Leeds Road on my site visit.
  23. The diversion route B to C would increase the length of FP2 within the field adjacent to NWF Ltd. This field is segregated from both the road and the activities of NWF Ltd. Provision of kissing gates at Point C and the field boundary adjacent to Hidswell Road would make the route as a whole more assessable, including for most dog walkers.
  24. I conclude that the diversion would not have a materially adverse effect upon the public enjoyment of the path as a whole and that with the provision of kissing gates would result in a minor enhancement.

***The effect upon land crossed by the existing paths***

25. The removal of the footpath crossing the internal site would have a beneficial impact upon the safety of the operation of NWF Ltd on this land. The land which the diversion would cross is part of a field owned by NWF Ltd and already crossed by FP2. The diversion would not adversely affect land crossed by the existing footpath to be removed or the proposed diversion.

***Rights of way Improvement Plan (ROWIP)***

26. The existing route is not traffic free and I find little evidence to say that the proposal would be detrimental to the health of footpath users. In the light of my findings on other issues I do not agree that it would discourage use, or threaten the integrity, of the network. On the contrary the provision of kissing gates could encourage or be of benefit to some who are health disadvantaged. For these reasons I do not agree that the proposal would be contrary to the Vision Statement and Walking and Pedestrian Strategy in the Wakefield ROWIP, which includes aims to improve accessibility for all.

### **Other Matters**

27. Mr Pearks submits that the path was probably a route for workers to get to the mill previously on the site of NWF Ltd. However, there is little evidence and the weight that I attach to the path being historically significant or a community asset is limited. Although the objector makes assertions regarding obstructions of the existing route, I was able to walk it and temporary obstructions to use are not material to my considerations.
28. Mr Pearks is concerned that the Order would set a precedent for more diversions and for more paths to be diverted for similar reasons. However, each case must be considered on its own merits and it is the significance of the issues raised, not the number of persons that raise them that affects the weight attached to them. Although the objector has submitted alternative proposals, I must confine my considerations to the order before me.

### **Whether or not it is expedient to confirm the Order and conclusions**

29. I have concluded that the Order would be expedient in the interests of the landowner and would not be substantially less convenient to the public. The diversion would not have a materially adverse effect upon the public enjoyment of the path as a whole and, with a modification to secure the provision of kissing gates, there would be a minor enhancement.
30. I found no evidence to say that the diversion would adversely affect land crossed by the existing path or by the proposed diversion. Nor did I find evidence to say that the Order would be contrary to provisions of a ROWIP or that there is historical evidence that would weigh against the proposal. Therefore, and having considered all other matters raised in the written representations, I conclude that the Order should be confirmed subject to the modifications described in paragraphs four and 17 above.

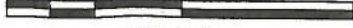
### **Formal Decision**

31. The Order is confirmed subject to the following modifications to the Order:
- (i) Amend the Schedule PART 1 to describe the existing FP2 as a 1.5 metre wide public footpath;
  - (ii) Amend the Schedule PART 2 to describe the proposed alternative as a 1.5 metre wide public footpath;
  - (iii) Amend the Schedule PART 3 description of new statement entry by deleting the words "6 stiles" and adding in the words "4 stiles and 2 kissing gates", and
  - (iv) Amend the Schedule PART 3 table of Proposed Statement (column nine) by deleting the words "6 stiles" and adding in the words "4 stiles and 2 kissing gates".
32. The Order to be confirmed would affect land not affected by the Order as submitted. Therefore, having regard to paragraph 2 (3) of Schedule 6 to the 1980 Act, I am required 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 modification. A letter will be sent in connection with the advertisement of the notice and the deposit of the associated documents to all persons to whom this Order Decision has been sent.

*Helen Heward*

Inspector

0 0.05883



kilometres

Scale: 1:1,250

**MAP NOT TO  
ORIGINAL SCALE**

Path to be diverted  
Path to be created  
Paths not affected



Grid references

A : GR 2690 2215

B : GR 2698 2220

C : GR 2700 2215

9m

Pond

Path (um)

A

B

C

111.3m

125.4m

122.5m

0.4m

Dwl  
buse

69 71

68

57

55

53

PICKERING LANE

**wakefieldcouncil**  
working for you