



## Order Decision

Site visit made on 5 February 2018

**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: 26 March 2018**

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### **Order Ref: ROW/3179537**

- This Order is made under Section 257 of the Town and Country Planning Act 1990 (the Act) and is known as the Staffordshire County Council (Public Footpath No. 5 Hednesford Parish) Public Path Diversion and Definitive Map and Statement Modification Order 2016.
- The Order is dated 26 July 2016 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, 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 was one objection outstanding when Staffordshire 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.**

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#### **Procedural Matters**

1. No-one requested to be heard with respect to the Order and so I made an unaccompanied site inspection, taking account of the written representation.
2. As stated above, there was one objection outstanding when the Council submitted the Order for confirmation from Mr Harry Scott on behalf of the local Ramblers' Association.

#### **The Main Issues**

3. The Order was made because it appeared to the Council that it was necessary to stop up the footpath to enable development to be carried out in accordance with a valid planning permission.
4. Section 257 of the Act requires that, before confirming the Order, I must be satisfied that it is necessary to stop up the footpath in question to allow development to be carried out in accordance with the planning permission already given but not substantially complete.
5. Even if I were to find it necessary to stop up the path to allow implementation of the permission, my confirmation of the Order is discretionary. In exercising this discretion I must consider the disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed Order.

## **Reasons**

### ***Whether it is necessary to stop up the footpath to enable development to be carried out***

6. Footpath No. 5 leaves Green Heath Road just south of Pye Green Academy. For the first 150m it runs in a south-westerly direction following the school boundary fence. Thereafter it traverses open land including a multi-use path and brook then terminating at the southern end of a footway link to Chalcot Drive.
7. Although not referenced on the Order itself, the relevant planning permission is CH/14/0268 for the erection of 425 dwellings and associated infrastructure at Pye Green Valley between Green Heath Road and Cannock Road, Hednesford.
8. I have seen a copy of the approved layout plan which shows that the existing route would traverse several private gardens and dwellings<sup>1</sup>. I am therefore satisfied that it is necessary to stop up and divert that part of Footpath No. 5 to enable the development to be carried out.

### ***Whether the development is substantially complete***

9. As I saw when I carried out my site inspection, works to implement the planning permission are at an advanced stage with large swathes of the development at or nearing completion. However, work in the northern part of the site is still on-going and there has been no work affecting the existing legal line of the footpath. Therefore in terms of those works affecting the legal alignment of Footpath No. 5, I am satisfied that the development is not substantially complete.

### ***The effect of the Order on those whose rights would be extinguished by it***

10. Mr Scott opposes the Order on the grounds that the DEFRA Circular 1/09<sup>2</sup> advises, wherever possible, against diverting footpaths onto estate roads with preference being given to the use of paths through landscaped or open space areas. According to the Council, the possibility of diverting the path to the north, across school land was considered but discounted on the basis that it would need to be fenced on both sides for security reasons. A route to the south was also considered but this would have taken the footpath significantly off its legal alignment. Consequently, I am satisfied that the proposed alignment is the most appropriate option and that consideration has been given to alternative routes avoiding estate roads.
11. The proposed route would remain traffic free between points B and D. Thereafter from points D-E-F-G-H-J-K the route would be diverted onto the footway of one of the estate's cul-de-sacs. However, being relatively short in length, I do not consider that traffic volumes or speeds would be high along this section of the proposed route. Although not specified in Part III of the Order, the width of the new route would be 2 metres. According to the approved layout plan, the dwellings on the north side of the road would be set back generously from the footway behind landscaped frontages. Thus, the section alongside the estate road would have a fairly open aspect. No gates, stiles or other authorised obstructions are proposed.

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<sup>1</sup> Plots N232, N233 & N209

<sup>2</sup> Paragraph 7.8

12. According to the Council's figures, the existing route is 375m between points A-C. The new route would be 419m between points B-C of which 117m or roughly one quarter would be alongside the estate road. I do not consider this would be significant in terms of what is likely to be a much longer recreational walk using this and other paths in the area. I am therefore satisfied that the Order would not adversely affect one's enjoyment of the route or have a significant effect on those whose rights would be extinguished by it.

### **Conclusions**

13. I do not consider that there are any disadvantages to outweigh the benefits of the Order which will allow development to take place in accordance with the planning permission. Having regard to this and the matters raised in the written representation I conclude that the Order should be confirmed.

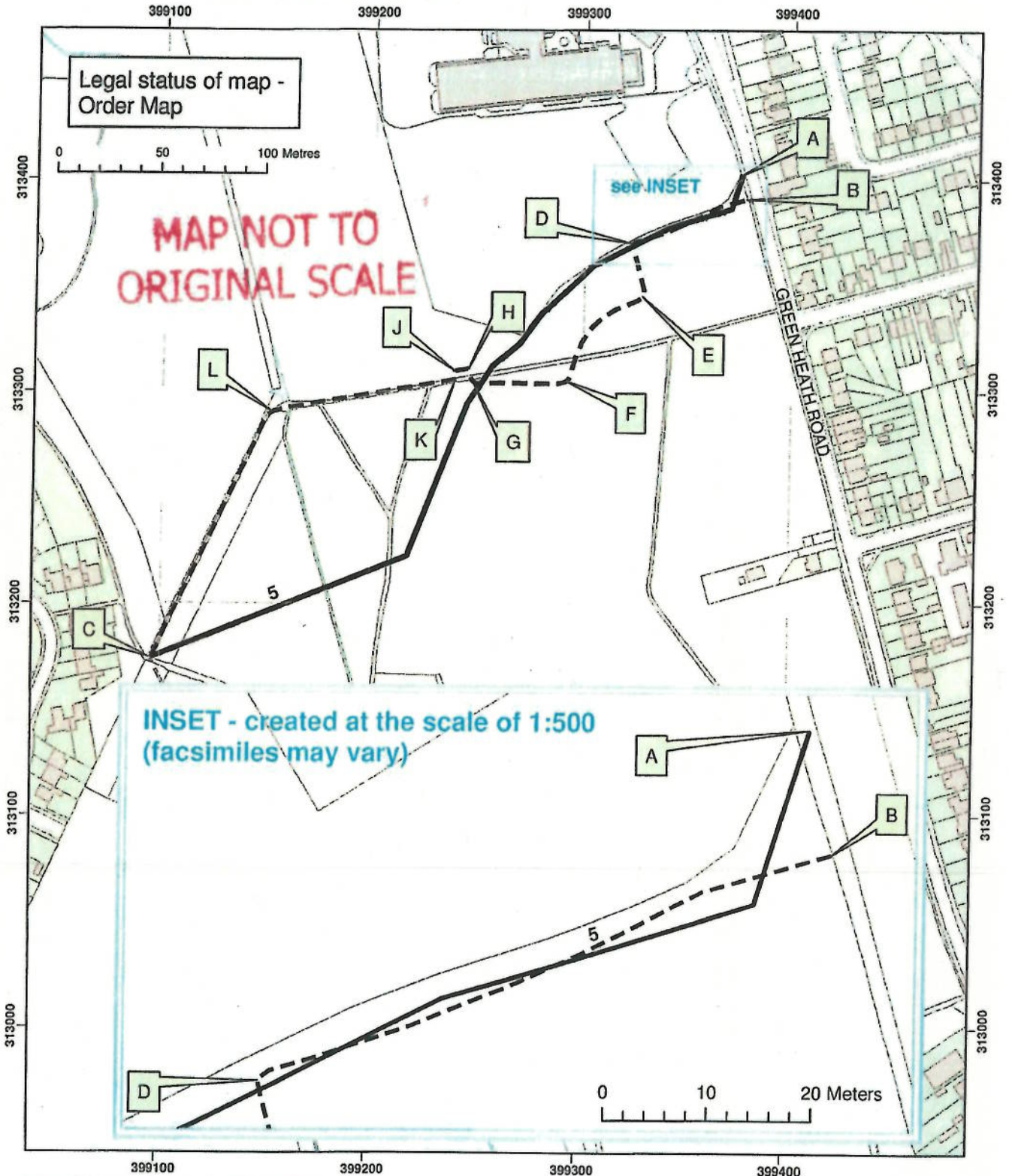
### **Formal Decision**

14. The Order is confirmed.

*D. M. Young*

**Inspector**

Town and Country Planning Act 1990, Section 257 &  
 Wildlife and Countryside Act 1981, Section 53A(2)  
 Diversion of Public Footpath  
 No. 5 Hednesford Parish.



Map created at the scale of 1:2500  
 (facsimiles may vary)

- Path to be extinguished (A - C).
- Path to be created (B - D - E - F - G - H - J - K - L - C).

**Rights of Way Unaffected**

- Footpath

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