



Order Decision

Site visit on 20 November 2019

by Sue M Arnott FIPROW

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

Decision date: 24 December 2019

Order Ref: ROW/3228307

- This Order is made under Section 257 of the Town and Country Planning Act 1990. It is known as the Doncaster Borough Council Public Path Diversion Order 2019 Public Footpath No.2 (part) Austerfield.
- The Order is dated 23 January 2019. It proposes to divert a section of public footpath at Bawtry Golf Club, as shown on the Order map and described in the Order schedule.
- There was one objection outstanding when Doncaster Borough Council submitted the Order for confirmation to the Secretary of State for Environment, Food & Rural Affairs.

Summary of Decision: The Order is confirmed.

The Main Issues

1. Since the Order is made under Section 257 of the Town and Country Planning Act 1990, if I am to confirm it I must be satisfied that it is necessary to permanently divert the way in question (shown as A-B on the Order map) to allow development to be carried out in accordance with a valid planning permission.
2. Government Circular 1/09 version 2 (*Defra*) makes clear that, in determining an order of this kind, the merits of the development are not at issue. However it should not be assumed that because planning permission has been given necessitating diversion of a footpath that confirmation of the ensuing diversion order will automatically follow. Any disadvantages or loss likely to arise as a result of the diversion to members of the public¹ may be weighed against the advantages to be conferred by the diversion when determining the Order.

Reasons

3. The development in this case is permitted by planning permission issued by Doncaster Borough Council (DBC) on 17 September 2018 [reference 17/00910/FULM]. The applicant for the diversion of Footpath 2, Saul Construction Ltd, has the benefit of planning permission for "*the erection of a new pro shop, changing suite, ... driving range, sports bar and academy zone/centre of excellence ... including complimentary supporting uses of a hotel with adjoining conference venue, main reception and health & fitness suite together with a bar and ancillary dining restaurant and permission for the change of use of land to create a new car park*"².

¹ ... or to persons whose properties adjoin or are near to the existing highway. However, no issues have been raised in this respect.

² This permission also covers outline consent for the erection of 18 dwellings and associated infrastructure, but this does not have a direct bearing on the proposed diversion of Footpath 2.

4. The proposed development would result in the golf course being re-positioned so that two greens would lie across the present line of Footpath 2 as would the proposed new driving range.
5. Consequently there seems to be little doubt that re-alignment of Footpath 2 is necessary to enable the approved development to proceed.
6. Turning to the relative merits and disadvantages of the proposed diversion, I note firstly that, for most of the section in question (A-B), Footpath 2 follows a very straight line along an old hedged lane (Common Lane) adjacent to Bawtry Golf Club, changing direction slightly at its northern end.
7. The proposal is to divert the public via Bridleway 3; from point A this proceeds broadly westwards (via C) to a roundabout on the A614. This definitive public right of way (known as Cross Lane) also forms the present driveway to the existing clubhouse and car parking associated with Bawtry Golf Club.
8. The new route of Footpath 2 proposed by this Order connects points B and C, following a route that lies parallel to the A614 for most of its length. From point B it would pass to the north of the new driving range, through a newly landscaped area and tree planting scheme which would separate the new car parking areas from the A614. On approaching point C, the new footpath would cross a proposed new access road where it passes over a drain to then meet Bridleway 3.
9. One of the points raised in objection to the proposal appears to be based on a misunderstanding of the proposal. The objector is concerned about the safety of pedestrians on Bridleway 3 if there is increased motorised use. However, it is clear from the approved plans that the proposal entails the construction of an entirely new access road to serve the development, thereby removing vehicular traffic from the existing bridleway.
10. Although it is clear that the safety of pedestrians crossing the new access road will need to be addressed in the design of the new road (the details of which are yet to be submitted to the planning authority for approval), I am satisfied that there will not be a significant risk to the public over or above that which exists at present around point A on Footpath 2.
11. A further point of concern was raised in earlier comments from consultees which relate to the nature of the proposed new route B-C. The essential issue is the proximity of the proposed new footpath to the A614 and the impact of traffic noise in comparison with the relative quiet of the present path.
12. In response to this criticism, both the applicant and the order-making authority (DBC) point to the minimum 12 metre distance between the edge of the carriageway and the new footpath, and to the mature vegetation that would separate the two. Further, the level of the footpath would be substantially below the carriageway so that this natural earth bank would also help to reduce road noise experienced by pedestrians.
13. In terms of other features of the diversion, the length of the Order route proposed to be diverted (A-B) runs to 468m whereas the new section to be provided (B-C) would be 668m; however, a further 400m of Bridleway 3 would be necessary to complete the alternative walk A-C-B. The proposed diversion would therefore be significantly longer than the present route.

14. On the positive side, being proposed at 3 metres, the new path would be substantially wider and have a purpose-built surface; in contrast the definitive statement records the width of Footpath 2 as "3 feet" wide although in practice the available width is greater but limited at present by encroaching vegetation. Having regard to the reasonable needs of members of the public with disabilities who may use this footpath, I consider the increased width to offer an improvement on the existing route.
15. In my view the proposed diversion far exceeds what would be necessary simply to avoid the built-up areas of the new development. However I accept that other alternative (and shorter) routes have been considered but were found to alter the character of the path to an undesirable extent.
16. Whilst the proposed route would clearly be substantially longer, it should retain its relatively 'natural' feel as a path through woodland once new trees mature, and in fact its length has not proved to be a cause for complaint. I do not doubt that with the benefit of additional planting (to be proposed in the detailed landscaping scheme required by the planning authority), traffic noise levels affecting pedestrians on the new route could be limited further. Although I retain some concerns over the disadvantages to the public resulting from this scheme, on balance I do not consider these to provide sufficient cause to prevent confirmation of this Order.
17. In summary, on the basis of the information provided, I am satisfied that the relevant statutory tests are met insofar as the diversion of Footpath 2 (as proposed) is necessary to enable the approved development to proceed and that there would be no overriding disadvantages to the public as a result. I conclude that it would be expedient to confirm the Order.

Conclusion

18. Having regard to the above and all other matters raised in the written representations, I conclude that the Order should be confirmed.

Formal Decision

19. I confirm the Order.

Sue Arnott

Inspector

