



Order Decisions

Inquiry opened on 21 January 2020

Site visit made on 23 January 2020

by Susan Doran BA Hons MIPROW

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

Decision date: 17 February 2020

Order Ref: ROW/3220657

Order A

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as The Kirklees Council (Huddersfield Public Footpaths 477, 478, 479, 480, 481 and 482 – Clayton Fields, Edgerton) Public Path Modification Order 2018.
- The Order is dated 26 September 2018 and proposes to modify the Definitive Map and Statement for the area by adding six footpaths as shown in the Order plan and described in the Order Schedule.
- There were 6 objections and one representation outstanding at the commencement of the inquiry.

Summary of Decision: The Order is confirmed

Order Ref: ROW/3220645

Order B

- This Order is made under Section 257 of the Town and Country Planning Act 1990 and is known as the Kirklees Council (Clayton Fields, Edgerton) Public Path Stopping Up Order 2018.
- The Order is dated 26 September 2018 and proposes to extinguish the public rights of way shown on the Order plan and described in the Order Schedule.
- There were 17 objections outstanding at the commencement of the inquiry.

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

Procedural Matters: Orders A and B

1. Order A concerns the addition to the Definitive Map and Statement ('DMS') of six footpaths over land at Clayton Fields on the basis of their claimed use by the public. The footpaths ('the Order routes') form a network connecting with existing public highways.
2. Order B seeks to stop up the Order routes which form the subject of Order A, and in their place to create seven alternative footpaths, and increase the width of the existing Footpath Huddersfield 345 running between Edgerton Road and point A on the plan attached to the Order.
3. Clayton Fields lies to the north of Edgerton Road, Edgerton, and on the south side of Clayton Dike. The land has a complex history having been registered as a town or village green in April 1997, a decision subsequently quashed by the Supreme Court in February 2014¹.

¹ Adamson & Ors v Paddico (267) Ltd [2014] UKSC 7

4. Prior to the Inquiry, I made an unaccompanied visit to the area when I was able to walk and/or view the positions of the claimed footpaths (Order A) and also the alternative footpaths proposed (Order B). I made a further visit after the close of the Inquiry, accompanied by representatives of the main parties, Kirklees Council ('the Council'), Paddico (267) Limited ('the Supporter'), Clayton Fields Action Group ('the main Objector') and other interested parties.
5. At the Inquiry I accepted some late documents submitted by the Council and the main Objector, with the exception of one document (on behalf of the latter) which I considered related to the planning process which is not before me.
6. The Supporter had withdrawn their objections to Order A. They presented a case in support of Order B at the Inquiry. Objecting to both Orders, the overriding issue for the main Objector as regards Order A was the alignment of the Order routes shown therein and in particular that of Footpath 477².
7. Following the close of the Inquiry I accepted and circulated for comment a late statement from an interested party. No comments were received. In reaching my decisions I take into account all the evidence before me, where relevant.

Procedural Matters: Order B

8. Section 257 of the Town and Country Planning Act ('the 1990 Act') provides that an order may be made to stop up or to divert a path with or without the creation of an alternative path for use as a replacement for the path stopped up or diverted. In other words, the stopping up of a path and the diversion of a path are enabled by a single power. This differs for example to the Highways Act 1980 ('the 1980 Act') whereby the powers to divert a path are contained within Section 119 of that Act, and the powers to stop up a path fall under a different section, Section 118 of that Act. Therefore, the scope of an order made under Section 257 of the 1990 Act is fairly broad given that it contains powers both to stop up and divert. However, an alternative path need not commence or terminate at some point on the original line of the original way but should link by means of other highways to the original way.
9. Department for Environment, Food and Rural Affairs ('Defra') Circular 1/09³ advises that the use of estate roads should be avoided wherever possible, preference being given to made-up estate paths through landscaped or open spaces away from vehicular traffic. Here, the intention of Order B is that alternative paths be provided through a mix of footways running alongside estate roads or through public open space. I consider this further below.
10. As well as a provision to create an alternative highway (or highways) the 1990 Act also enables the improvement of an existing highway. Here, the Order seeks to increase the width of part of Footpath 345 on the western boundary of Clayton Fields, on land within the development site.
11. At the Inquiry I raised the issue of widths for the Order routes as a whole since none were stated in the Order for six of the paths. I address this below. In addition, I noted that none of the paths were given Footpath numbers. The Council confirmed that this will be addressed through a definitive map legal event modification order, in the event that Order B is confirmed.

² Also referred to in submissions by the earlier definitive map modification application claim numbers, 183 and 204
³ Version 2, October 2009

The Main Issues – Order A

12. This Order has been made under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 ('the 1981 Act') which requires me to consider whether, on a balance of probabilities, the evidence shows that footpaths subsist along the Order routes.
13. On the evidence adduced of claimed use by the public, the Council considers both the statute and common law tests are met in this case.
14. Under statute, I must consider whether a presumption of dedication arises further to the tests laid down in Section 31 of the 1980 Act. Accordingly, I must establish the date when the public's right to use the Order routes was brought into question. The evidence can then be examined to determine whether use by the public has been as of right and without interruption for a period of not less than 20 years ending on that date. Finally, it is necessary to consider whether there is sufficient evidence that there was no intention on the part of the landowners to dedicate public footpath rights during this 20-year period.
15. Under common law, I must consider whether there is evidence from which it may be inferred that the landowner has dedicated public rights of way and the public has accepted that dedication. Again, use must be as of right. However, if I am satisfied the tests are met under statute, it will not be necessary for me to consider the evidence at common law.
16. In this case, the evidence of use and the actions of the landowners are not disputed. As stated above, the main issue between the parties is the alignment of Footpath 477 on the Order plan.

The Main Issues – Order B

17. Section 257 of the 1990 Act requires that I consider whether it is necessary to stop up the footpaths in question to allow development to be carried out in accordance with the planning permission already given but not implemented.
18. However, the power to confirm an order is discretionary. Paragraph 7.15 of Defra Circular 1/09 advises that in deciding whether or not to confirm an order, I must also weigh in the balance the disadvantages or loss likely to arise as a result of the stopping up of the footpaths to members of the public generally or to persons whose properties adjoin or are near the existing highways, against the advantages of the proposed order.
19. This two-stage test in deciding whether or not to confirm a section 257 order - a 'necessity test' and a 'merits test' - has recently been endorsed in the Court of Appeal in the '*Network Rail*' case⁴.
20. The issue is, therefore, whether the proposed stopping up of the footpaths is necessary to enable the development to proceed, whether the public or adjoining property owners would be disadvantaged by their stopping up, and if so, where the balance of advantage lies.
21. The merits of the development are not at issue.

⁴ R (on application of Network Rail Infrastructure Ltd.) v Secretary of State for Environment, Food and Rural Affairs [2018] Civ 2069

Reasons – Order A

When use of the Order routes was brought into question

22. Some 8 applications were made to the Council between 1996 and 2018 concerning the addition of, or amendment to, claimed footpaths at Clayton Fields, including variation of the alignment of Footpath 477 on the Order plan. The earliest of these, dating to 1996⁵ followed a planning application to develop Clayton Fields for housing and preceded its registration as a town or village green, after which the public would have had a right of access to the land⁶.
23. A 'bringing into question' arises when at least some of the users are made aware that their right to use a way as a highway has been challenged, so that they have a reasonable opportunity to meet that challenge. Here, I consider that the public's right to use claimed paths over the land was brought into question in 1996 when they became aware of the planning application affecting the land and submitted definitive map modification order ('DMMO') applications to the Council. It follows that the relevant 20-year period is 1976 to 1996.

Whether the Order routes were used by the public as of right and without interruption

24. A total of 162 user evidence forms were submitted with the DMMO applications. Most included maps showing the routes used. Claimed use was for the purposes of recreation or to reach other destinations such as St Patrick's Primary School⁷, the shops and other local facilities. Frequency of use varied from daily to once or twice a year.
25. There is nothing to suggest that use by the public was by force, carried out in secrecy, or that it was by permission. Neither is there anything to indicate that use was not continuous during the 20-year period under consideration. I am therefore satisfied that use was as of right and without interruption throughout the 20-year period, sufficient to raise a presumption of dedication.

Whether there was no intention by the landowners to dedicate public rights of way

26. I understand that during the 20-year period the relevant landowner did not consider that they had dedicated rights of way for use by the public. However, in relation to the claim for the land to be registered as a town or village green, which was made around the same time as the 1996 DMMO applications, the landowner acknowledged that the public's use of Clayton Fields was more akin to use to pass and repass along a footpath, or footpaths.
27. There is no evidence before me that landowners challenged use or took any actions to indicate a lack of intention to dedicate public rights of way.
28. I conclude on balance that the necessary tests are met and the Order routes subsist as public rights of way on foot. As stated above it is not necessary to go on to consider the evidence at common law.

⁵ Definitive map modification application claims 30 and 31

⁶ Up to 2014 when the land ceased to be a town or village green

⁷ Situated to the north of point A on the Order plan

The alignment of the Order routes

29. The main Objector drew attention to the plans submitted with the original DMMO applications in that they differed to the routes shown on the Order plan. In this regard, reference was made to various plans drawn up by the Council during its investigations of the applications and their consideration by the relevant Council Committee at its meetings.
30. In reaching its decision to make Order A, the Council considered a combination of sources including the applications themselves, the user evidence forms and maps attached to them (where available); aerial photographic evidence, photographs taken on site and site visits⁸.
31. Accordingly, rather than placing reliance solely on the route as claimed and portrayed in the DMMO applications, a wide range of evidence was considered by the Council. In reviewing this evidence, I note the difficulty in representing on the application plans and the maps attached to the user evidence forms, the actual alignments of the claimed paths as used by the public on the ground. It is evident from the submissions and documentation before me that this has proved difficult. The area of land over which the routes are claimed is somewhat featureless on the base map.
32. It is likely that the majority of those marking maps to show the routes they used are not experts in this regard. Consequently, many of the lines marked on the maps will be representative or indicative of the routes actually used on the ground, and which may appear (now) as a visible wear line or trodden way. Indeed, the main Objector acknowledged that the alignment of application route 183 was indicative, and a subsequent application (204) sought to remedy this. Whilst this does not detract from the use claimed by those completing user evidence forms, it makes it difficult to establish the path alignments with any high degree of accuracy from the maps accompanying them.
33. Similarly, the main Objector acknowledged the routes of applications numbered 30 and 31 had changed due to the topography; and when Clayton Fields was registered as a town and village green (after the 20-year period), there had been a multitude of paths crossing the land. Indeed, his own use of Clayton Fields had changed over the last 20 years. Such factors must be weighed in the balance as it is likely that 'desire lines' will have responded to changes and may not now fully reflect the routes used in the past, notably the 20-year period under consideration. Indeed, I heard at the Inquiry of landscaping works carried out in recent years including removal of scrub vegetation and regenerating oak woodland, and changes in soil levels, with 'desire lines' returning following their completion. I also heard from the main Objector that he had no recollection of a path between points E and F on the Order plan.
34. I turn next to consider specifically the alignment of Footpath 477.

Footpath 477

35. It is the main Objector's case that the alignment of Footpath 477 on the Order plan (points A-J-K-H-I-B) does not reflect the route claimed. As stated above, the application alignment of the path (claim number 183 made in 2014) was later said to be indicative of the route used, an approximation, with a

⁸ All post-dating the 20-year period under consideration - the earliest aerial photograph dating to 2000, site photographs and visits dating from around 2014.

subsequent application (in 2018) having been made (it was said) to amend or correct that alignment⁹. The route claimed was described (and pointed out on site) as running beneath the tree canopy at the top of the bank adjacent to Clayton Dike where there is a trodden path in current use by the public, the 'original route' passing in front of a (former) metal bench at its western end and through the area of regenerating oak woodland at its eastern end. The claimed route was said to closely follow the historic footpath alignment, on mostly flat ground. On the other hand, the Council maintained the 2014 claimed alignment (183) as marked on the application represented an unwalkable route on the ground. Further, that the Order plan was their interpretation and 'best fit' of the combined sources in the absence of sufficient evidence of a different route or routes.

36. No detailed ground survey of the claimed alignment has been undertaken. Nevertheless, it is the alignment in use during the 20-year period that is relevant. At the Inquiry the main Objector wavered between the 2014 and 2018 claimed alignments, and which was the more accurate. In addition, it was argued the route is shown by a line on a 1957 site plan produced for the former owner when the land was previously the subject of development before its registration as a town or village green. However, there is no evidence to support the assertion it represented a path on the ground.
37. Notwithstanding the main Objector's argument, I heard no first-hand evidence from other users as to the route's alignment¹⁰ during the 20-year period under consideration. On the evidence, site conditions and indeed the extent of the tree canopy, will have been different at this time to what they were in 2014, 2018 or as seen on the accompanied site visit. Of the 89 user evidence forms submitted with the 2014 application (183), 50 claimed use during the 20-year period 1976-1996. Having considered these forms, I find the lines marked are variable, although many are broadly consistent with the Order route, taking account of the difficulties of accurate plotting as described above.
38. A mapped comparison of the alignments of application routes 183, 204 and Order route 477 reveals that all 3 commence at different points on Footpath 345, and for the section between there and roughly Order route 482 (points K-L) run broadly parallel before 183 and 204 broadly coincide to follow a similar alignment to Queen's Road. The Order route, however, turns south easterly into the field to meet Order route 478 at H and I before running easterly to meet Queen's Road to the north of the termination points of 183 and 204.

Conclusions on the alignment issue

39. On balance I conclude that the Order routes, or routes equating broadly to them, were used by the public during the 20-year period, and subsequently over time the alignment of the routes have modified as 'desire lines' have adapted to changing ground conditions.
40. It is not unusual for the alignment of a route applied for to be amended either before an order is made by an order making authority, or after when subject to public inquiry, if the evidence indicates that should be the case. In the present circumstances, I consider that the Order routes are representative of those used by the public during the 20-year period under consideration, in effect the

⁹ Definitive map modification application claim number 204

¹⁰ Nor that of any other routes

best fit on the basis of the totality of the evidence adduced. Further, there was no evidence of substance presented at the Inquiry sufficient to persuade me that the alignments in the Order plan should be amended.

Other Matters

41. Some reliance was placed by the main Objector on the wording contained in a Schedule 14 Direction under the 1981 Act made by another Inspector¹¹. However, this concerned a decision as to whether or not the Council, as order making authority, should be directed to make an order, and not on an appraisal of the evidence relating to the claimed right of way.
42. It was clear that objections to the Order are deeply felt, in particular as regards the alignment of Footpath 477, though less so other routes shown on the Order plan. Criticism was expressed about events preceding the making of the Order, and the way in which the Council had conducted matters and reached its decision. However, that decision was not judicially challenged; and such matters are not material to this decision.
43. I appreciate that some people felt there had been a lack of clarity in parts of the Order making process, notably regarding path numbering. However, the form of the Order and related matters are set out under the relevant legislation. I consider the path numbering to be an administrative matter for the Council, in this case utilising the next available Huddersfield path numbers. There is nothing to suggest to me that the procedural requirements with regard to the Order have not been met, nor that the public has been prejudiced. It is clear that the public has engaged with and participated in the process. Whilst I understand the matters raised, the Order remains for me to determine on the basis of the tests set out at paragraphs 12-15 above. Issues such as the suitability, desirability or usefulness of the paths for use by the public are not relevant to my consideration of the evidence.

Conclusions – Order A

44. Having regard to these and all other matters raised at the Inquiry and in the written representations, I conclude that Order A should be confirmed as made.

Reasons – Order B

Whether it is necessary stop up the footpaths in question to allow development to be carried out

45. The footpaths in question are not recorded on the definitive map, being the subject of Order A. Although it is not a prerequisite of the 1990 Act that a footpath must be so recorded before a public path order can be made, I must be satisfied there is sufficient evidence of the existence of the paths as rights of way. I have concluded above that the six paths set out in Order A subsist¹².
46. Planning permission for a residential development and associated roadways, footways and areas of open space was granted on appeal and reserved matters

¹¹ FPS/Z4718/14D/8 issued 22 November 2017, Inspector Helen Slade

¹² Paragraph 28

- approval¹³. Development has commenced with the formation of an access road into the site at its eastern end, from Queen's Road, but is not complete.
47. The main Objector refuted the need to stop up the footpaths given that previously it had been considered at least part of the alignment of the 2014 claim (183) could remain in place on top of the bank. Further, that a sewer easement passing through the site could accommodate an alternative through route between Edgerton Road and Queen's Road. Another Objector drew my attention to the existence of 'ginnels' or 'snickets' elsewhere in the locality passing between historic housing, implying the principle could be adopted here.
48. The test for me to consider is whether the proposed stopping up of the footpaths is necessary so as to enable development to be carried out in accordance with the planning permission that has been granted, rather than what those opposing the Order may prefer. Whilst I recognise that ginnels exist nearby, I am not persuaded that they establish an historic precedent that impacts upon or prevents my consideration of the proposal before me, in relation to the planning permission that has been granted.
49. By overlaying the routes of Order A on the site layout, it is evident that all six paths would be affected by the development were they to remain in their current positions. That is, all would be physically obstructed whether by the dwellings themselves, their gardens, boundaries and so forth.
50. In addition, as stated above, I have concluded that all the paths set out in Order A, as made, subsist. However, had I concluded that the alignment of Footpath 477 should be amended to that of application 183, or indeed 204, I am satisfied that both those alternative alignments would also be similarly affected by the development as approved. The same would be so for the suggested sewer easement route where there would be a conflict with gardens and their boundaries. Accordingly, to accommodate any of the alignments preferred by the main Objector, and in particular the alignment of 183, there would be an impact on the ability to carry out the development as approved.
51. I conclude the 'necessity test' is met as it is necessary to stop up the footpaths in question to allow development, for which planning permission has been granted, to be carried out.

The effect the Order would have on members of the public or those whose properties adjoin or are near the existing paths

Directness

52. Concerns were expressed that the public would be disadvantaged by the proposed routes as they are less direct, do not follow established desire lines, are not as clear or straight, and lack design. Further, they are less user-friendly, for example for those travelling between Deveron Grove and St Patrick's Primary School.
53. Whilst the proposed routes follow alternative lines, links are retained between existing points of access to and from Clayton Fields - Deveron Grove, Edgerton Road, Queens Road, and Footpath 345. In that respect there would be no disadvantage to the public flowing from Order B, if confirmed. For some there

¹³ APP/Z4718/W/15/3002523 by decision dated 11/09/15, and reference 2017/61/90190/W by decision notice dated 21/04/17, respectively

would be further to walk to reach their destination, including those accessing the Primary School from Deveron Grove, but for others there would be a shorter walk. Most of the proposed paths would be hard-surfaced and some lit, enhancing their usability at all times of the year and accessibility to a wide range of users. The proposed Woodland Walk would retain an informal character. Here users would have a choice of routes if they did not wish (or were unable) to follow it: to the north crossing Clayton Dike via proposed and existing footpaths (points Z-X-L-Y), or to the south along proposed footpaths (Z-O-W-T-M-A-Y). Some of the proposed footpaths would pass through managed public open space, and the remainder follow footways alongside estate roads through the development.

54. Having regard to the approved site layout, the package of proposed paths would provide a similar network of paths of similar length, connecting existing public access points, although the walking experience and character of the landscape around them would be different. Nevertheless, I do not consider the proposed scheme to be an unreasonable replacement for the existing routes crossing Clayton Fields, when taking account of the size of the development. Almost all the through routes, links and 'short cuts' would be retained enabling connectivity, albeit on slightly different alignments to those currently enjoyed.

The Woodland Walk

55. Due to the nature of the ground conditions, it was considered the Woodland Walk would not be constructed, notably as no detailed submission had yet been made regarding its construction. Furthermore, it would not be substantially as convenient¹⁴ to users, but less convenient given the gradients, especially for the very young, very elderly, and less mobile users, with a dark and narrow path compared to the route following the top of the bank on level ground.
56. I note that provision of the Woodland Walk is guaranteed within the planning conditions and approvals. Order B provides that it would not come into effect until the Council certifies that the new routes are provided to a suitable standard. If not, then the existing footpaths would not be stopped up. Moreover, condition 6 of the planning permission requires the Woodland Walk be constructed by way of a scheme to be approved by the Council, before any dwelling within the development is occupied¹⁵. So, until the Woodland Walk is constructed to the satisfaction of the Council as highway authority, no dwelling on the site can be occupied.
57. It would include a boardwalk, handrail, and steps where appropriate which the Council and Supporters said will reduce the impact of the footpath on tree roots and so forth. Its future maintenance would be carried out by the Council as highway authority. However, in this regard, paragraph 2 of the preamble to the Order is incorrect and should be removed if I decide to confirm Order B.
58. As regards convenience, it would not be as direct as the existing route but would provide a different experience away from the built environment. I agree that it would not be accessible to all but would nevertheless continue to provide a link between destinations and one that offers closer proximity to the stream, to the natural environment and biodiversity.

¹⁴ Although this point was argued, the 'substantially as convenient' test is one applicable to section 119 of the Highways Act 1980

¹⁵ Condition 6

Environmental issues

59. Clayton Dike was described as a wildlife corridor where some protected species can be seen. Concerns raised about the effect of the proposed footpaths, including the Woodland Walk, on environmental, ecological and wildlife issues were considered as part of the planning permission for the development as a whole. Where necessary, conditions have been attached to the reserved matters permission to ensure the Council as local planning authority is able to influence both the Woodland Walk's creation and management of retained habitats¹⁶. Details to safeguard trees in relation to the Woodland Walk, and to trees elsewhere on the development site are contained within the planning permission along with a landscape and ecological management plan to be approved by the Council.

Use of estate roads or footways

60. As stated above, Defra circular 1/09 advises against, though does not preclude, the use of footways or estate roads as alternative footpath routes, preferring proposed paths to pass through landscaped areas or open space. A plan illustrating the extent to which the proposed alternative routes would follow estate footways indicated 42%, or 49.9%, of the proposed network would be affected, depending on whether or not duplication of the use of footways either side of the access road from Queen's Road was included. So, roughly half the proposed network would accord with the advice, and roughly half would not. Those paths passing through open space and landscaped areas together with the Woodland Walk would be away from traffic, whilst the remainder would be closer to traffic and traffic noise. In this case the proposed routes would pass through culs-de-sac as well as the main access road into the residential estate. Whilst I note concerns about health and exposure to traffic pollution, it is not a through route and, with the size of the development, it is unlikely that traffic movements here would be significantly high.

61. On balance, taken in the context of the overall proposal to accommodate the network of paths established by Order A, I do not consider the extent of footways proposed to be utilised sufficient to warrant not confirming Order B.

Width

62. An additional 2.5 metres would be established alongside Footpath 345 between Edgerton Road and point A, providing a total width of 4 metres to include retention of a row of trees within that width. At the Inquiry, the Supporter confirmed the land affected is within their ownership.

63. However, there are no widths given in Order B for the remaining alternative footpaths as proposed. At the Inquiry, the Council confirmed that, with the exception of the Woodland Walk which it is proposed would have a width of 1.8 metres, the proposed footpaths would be 2 metres wide. Again, except for the Woodland Walk, this is in keeping with the widths given in Order A. In the event I decide to confirm the Order, I shall modify it to include these widths.

Where the balance lies

64. I approach the exercise of my discretion on the basis of the development being allowed to proceed, and consideration of whether the disadvantages and losses

¹⁶ Condition 9

arising from the proposed stopping up are of such significance that I should refuse to confirm the Order.

65. I note that the effect of the development on paths in use over Clayton Fields was considered at length during the planning process and decision on appeal. Confirmation of Order B would enable the development to go ahead in accordance with the planning permission already granted and, in my view and for the reasons given, this is not outweighed by any of the disadvantages or loss arising from it.
66. I conclude that Order B should be confirmed subject to the modifications described above.

Other Matters

67. As with Order A, I note the strength of local feeling, and that the objections are deeply felt. I also note the criticisms raised by the main Objector. However, as above, such matters are not material to my decision. Neither is the Council's approach to enforcement matters as regards public rights of way, a concern raised by the main Objector with regard to the proposed Woodland Walk.
68. In considering whether or not to confirm Order B, I cannot reconsider the planning merits of the proposal or the principle of development at this location.

Conclusions – Order B

69. Having regard to these and all other matters raised at the Inquiry and in the written representations, I conclude that Order B should be confirmed with modifications that require advertising.

Formal Decision – Order A

70. I confirm the Order.

Formal Decision – Order B

71. I propose to confirm the Order subject to the following modifications:

- In the preamble to the Order, delete the following, "The proposed Woodland Walk Y-Z will be privately maintained in accordance with planning requirements."
- In Part 2 of the Schedule to the Order, add "Width 2 metres" after the description of the first six alternative highways, and add "Width 1.8 metres" after the description of the Woodland Walk

Since the confirmed Order would affect land not affected by the Order as submitted, I am required by virtue of Paragraph 3(6) of Schedule 14 to the Town and Country Planning Act 1990 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.

S Doran

Inspector

APPEARANCES

For the Council Orders A and B:

Anthony Gill *of Counsel*

instructed by Julie Muscroft, Service Director Legal, Governance and Monitoring, Kirklees Council

who called

Giles Cheetham

Public Rights of Way Officer, Kirklees Council

Supporter Order B:

Martin Carter *of Counsel*

instructed by Weightmans LLP for Paddico (267) Limited

who called

Roger Lee

Planning Consultant

Objectors Orders A and B:

Jonathan Adamson

Chair, Clayton Fields Action Group

Alan Munro

Mike Woodward

Chair, Marsh Community Forum

Others who spoke:

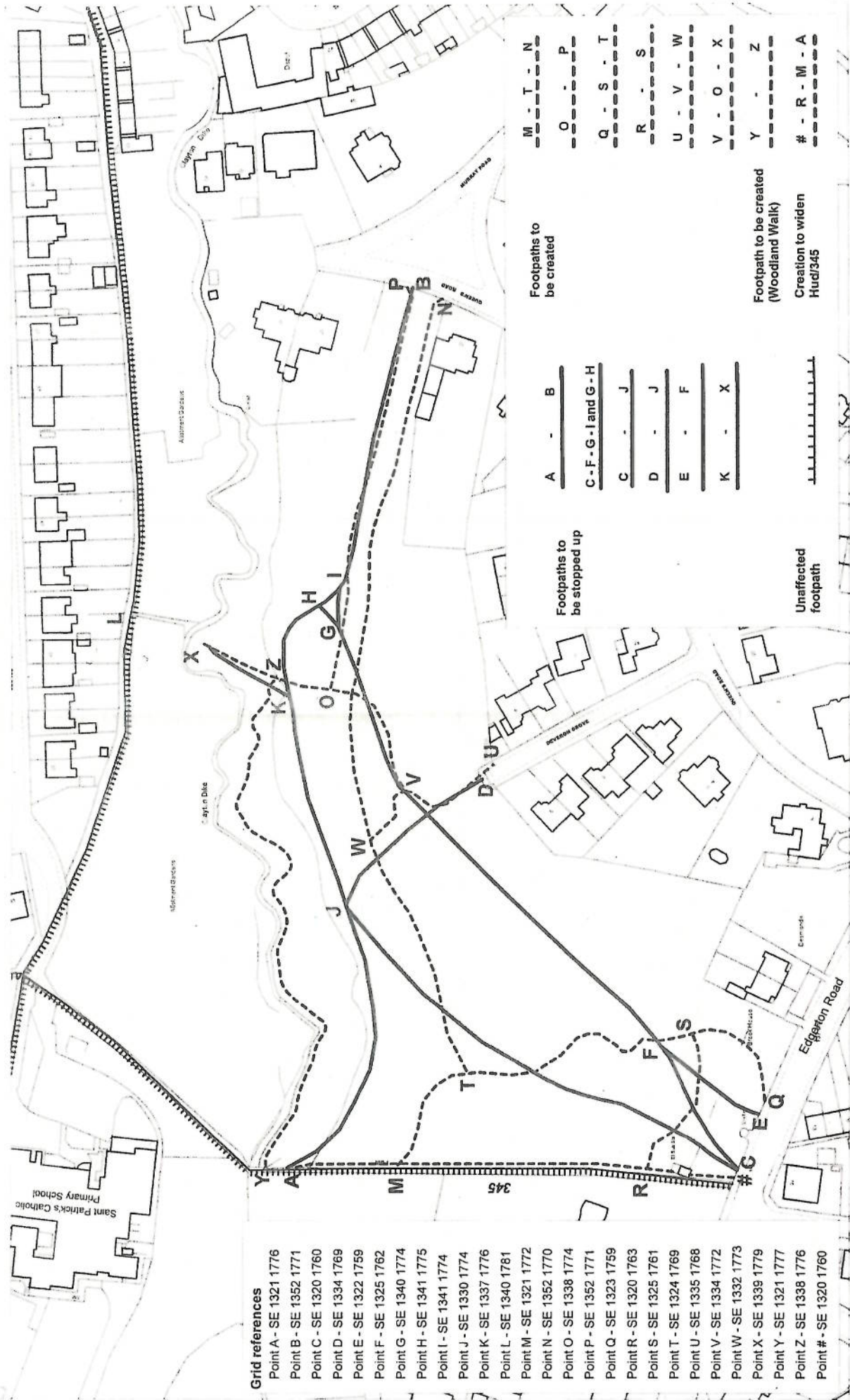
Mark Davies

Jennie Magee

DOCUMENTS

1. Replacement Appendix P4 to Proof of Evidence, Order B, submitted by Kirklees Council
2. Working synopsis of Statement of Case submitted by Jonathan Adamson
3. Freedom of Information Act 2000 request to Kirklees Council, submitted by Jonathan Adamson
4. Enlarged copy of Appendix E, page 928 of Kirklees Council bundle, Order A
5. Copy of an email dated 14 January 2020; statement of Barry Sheerman MP; and letter dated 18 March 2015 from William Magee, submitted by Jonathan Adamson
6. Statement of Scott Clews and Helen Bullas dated 21 January 2020, submitted by Jonathan Adamson
7. Closing submissions on behalf of Paddico (267) Limited
8. Closing submissions on behalf of Kirklees Council
9. Plans provided to the Inquiry by Kirklees Council as follows: enlarged copy of Plan, Order A; Plan showing Definitive Map Modification Application routes; Plan showing routes, Order A overlain on development site layout plan; enlarged copy of Plan, Order B; Site Plan Draft (Drawing No, 1414-101) annotated to show extent of proposed alternative footpaths Order B passing through open space and those following estate roads/footways
10. Aerial photographs provided to the Inquiry by Kirklees Council as follows: dated 2000, 2002, 2006, 2009, 2012 and 2018

Town & Country Planning Act 1990, section 257. Stopping up of footpaths at Clayton Fields, Edgerton and provision of alternative footpath routes



Grid references

- Point A - SE 1321 1776
- Point B - SE 1352 1771
- Point C - SE 1320 1760
- Point D - SE 1334 1769
- Point E - SE 1322 1759
- Point F - SE 1325 1762
- Point G - SE 1340 1774
- Point H - SE 1341 1775
- Point I - SE 1341 1774
- Point J - SE 1330 1774
- Point K - SE 1337 1776
- Point L - SE 1340 1781
- Point M - SE 1321 1772
- Point N - SE 1352 1770
- Point O - SE 1338 1774
- Point P - SE 1352 1771
- Point Q - SE 1323 1759
- Point R - SE 1320 1763
- Point S - SE 1325 1761
- Point T - SE 1324 1769
- Point U - SE 1335 1768
- Point V - SE 1334 1772
- Point W - SE 1332 1773
- Point X - SE 1339 1779
- Point Y - SE 1321 1777
- Point Z - SE 1338 1776
- Point # - SE 1320 1760

Footpaths to be created

- A - B
- C - F - G - I and G - H
- C - J
- D - J
- E - F
- K - X

Footpaths to be stopped up

- M - T - N
- O - P
- Q - S - T
- R - S
- U - V - W
- V - O - X
- Y - Z
- # - R - M - A

Footpath to be created (Woodland Walk)

- # - R - M - A

Unaffected footpath

Map prepared on 3 September 2018
Scale 1 : 1250

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MAP NOT TO ORIGINAL SCALE



Wildlife and Countryside Act 1981, section 53. Modification to add public footpaths to the definitive map and statement at Clayton Fields, Edgerton.

Grid references

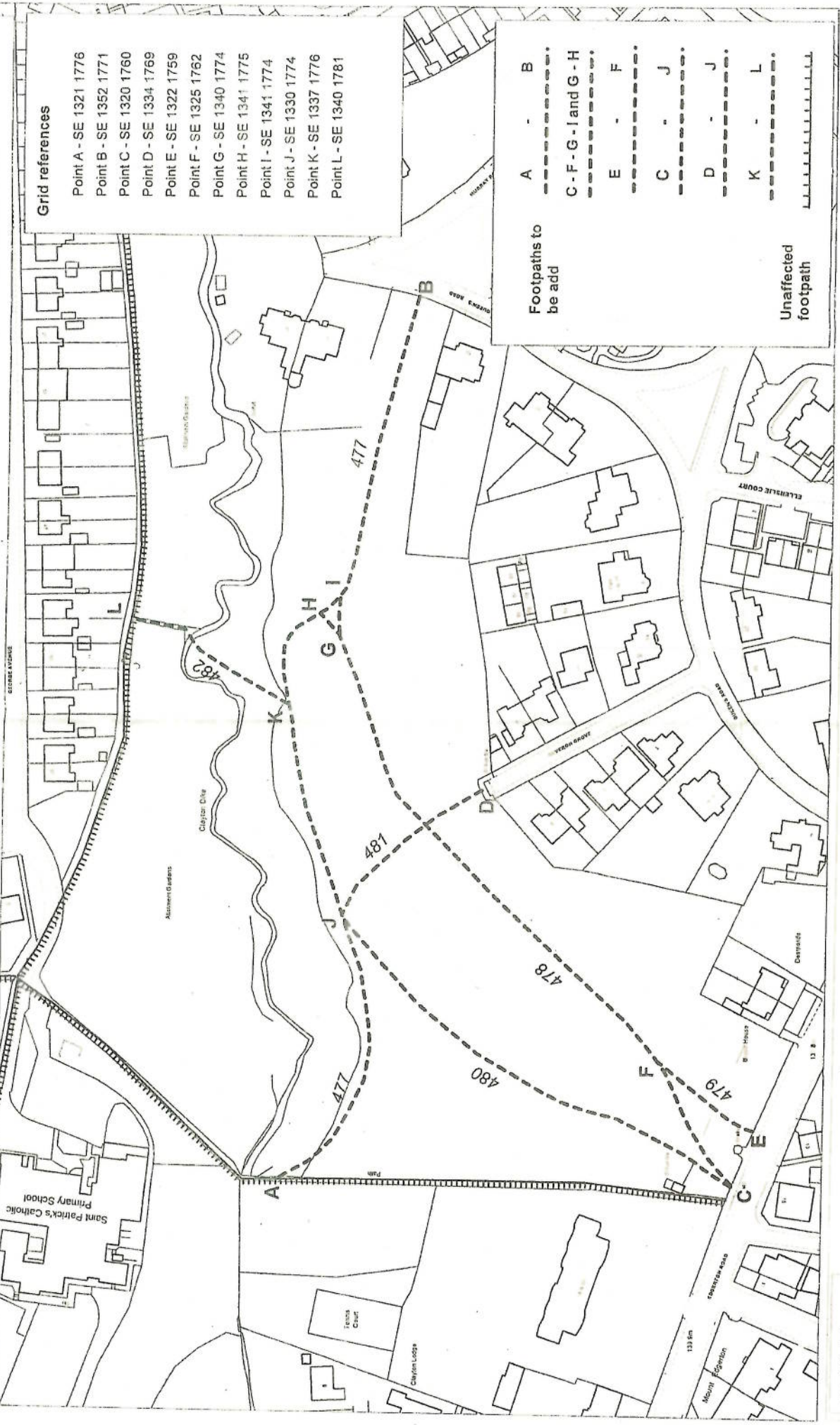
Point A - SE 1321 1776
Point B - SE 1352 1771
Point C - SE 1320 1760
Point D - SE 1334 1769
Point E - SE 1322 1759
Point F - SE 1325 1762
Point G - SE 1340 1774
Point H - SE 1341 1775
Point I - SE 1341 1774
Point J - SE 1330 1774
Point K - SE 1337 1776
Point L - SE 1340 1781

Footpaths to be added

A - B
C - F - G - I and G - H
E - F
C - J
D - J
K - L

Unaffected footpath

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MAP NOT TO ORIGINAL SCALE

Map prepared on 8 September 2018
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