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| **Order Decision** |
| Inquiry opened on 7 December 2021 |
| **by Heidi Cruickshank BSc (Hons), MSc, MIPROW** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 7 July 2023** |

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| **Order Ref: ROW/3209564M2** |
| * This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as The Swindon Borough Council Footpath 44 Wanborough Modification Order 2017. |
| * The Order is dated 22 November 2017 and proposes to record Footpath 44, as shown in the Order map and described in the Order Schedule. |
| * In accordance with Paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981 notice has been given of the proposal to confirm the Order subject to modifications. There were four objections and representations to the proposed modifications. |
| **Summary of Decision: The Order is confirmed subject to**  **modifications set out in the Formal Decision.** |
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Procedural Matters

1. As set out in my interim Order decision (the second IOD), issued on 28 January 2022, the effect of the Order if confirmed with the modifications proposed, would be to record a footpath over land in the Parish of Wanborough. This followed evidence provided to two inquiries into the Order, held in 2019 and 2021. The proposed modifications are set out in paragraph 74 of the IOD.
2. Four objections and representations were submitted in response to the advertisement of the proposed modifications.

Main issues

1. The objections, from Swindon Borough Council, the order making authority (the OMA), and the Ramblers, noted errors in the proposed data in the Order and made suggestions for correction of these matters. The representations agreed with the proposed modification to record section A – B – C, as shown on the Order map. Consideration will be given to whether or not the Order can be modified as suggested and, in doing so, whether further advertisement of the proposed modifications is required by reference to the Wildlife and Countryside Act 1981.

Reasons

1. Following the initial IOD, issued 29 November 2019, part of the route, A – B – C, would not have been recorded by the Order. The second IOD proposed to record that route with some modifications to the widths.
2. The Ramblers suggested that the inclusion of section A – B – C should be referenced more clearly in Part I of the Schedule by adding ‘through point B’ to the proposed modified text. As set out in the second IOD, paragraph 41, there is a minor difference between the centre of the track at point B and where it is shown on the Order map. However, I am satisfied that this minor modification to the text would be appropriate, as point B is within the overall track width.
3. The OMA and the Ramblers noted some transposition of text including reference points A, B and C into Part II of the Schedule. Part II relates to the modification of the proposed Definitive Statement, which would not include reference letters; these sections were included in error. I consider that these proposed modifications – the fourth and fifth bullet points under Part II in the second IOD - should be removed. As suggested by the OMA the replacement of 3m with 8.8 m related to the overall width and not the width of the section D – G, which was not proposed for alteration in this process. This matter should also be clarified in the final modifications.
4. I am satisfied that a reasonable person, reading the Orders as a whole, would understand the intention and would not be misled by the minor technical errors which unfortunately arose in transcribing the proposed modifications. As a result, I am satisfied that there is no need to advertise these final modifications. Having regard to these and all other matters raised at the Inquiry and in the written representations, I conclude that the Order should be confirmed subject to modifications set out below.

Formal Decision

1. The Order is confirmed subject to the following modifications:
   * Within Part I of the Schedule:
     + replace text “…*for 30 metres to Point B at OS grid reference SU20338373, continuing west north west for 40 metres…”* with text “and west north west for 70m through point B*”*;
     + after text “…*having a width…”* add text “…*varying from 4 to 8.8 metres between Points A - B - C by reference to the Ordnance Survey Master Map, February 2017, excluding the verge north-east of Point C, and a width* …*”*;
     + remove text “…*Points A and B and…”*;
     + replace text “…*between Points B and…”* with text “…*at Point*…*”*;
   * Within Part II of the Schedule:
     + replace text “…*for 30m…”* with text “…*and west north west for 70m”;*
     + replace text “…*of 3m and continuing west north west for 40m, with a width of 1.2m to…”* with text “…*varying from 4 to 8.8m by reference to the OS Master Map, February 2017, to a gap of 1.2m*…*”*;
     + replace text “*3m”* with text “*8.8m”.*

Heidi Cruickshank

**Inspector**

