` 

|  |
| --- |
| **Order Decision** |
| Inquiry opened on 26 September 2023 |
| **by Nigel Farthing LLB** |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 5 July 2024** |

|  |
| --- |
| **Order Ref: ROW/3281040** |
| * This Order is made under Section 53 (2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as the Nottinghamshire County Council (Carlton Restricted Byway No. 46 and Bridleway No. 47) Modification Order 2015. |
| * The Order is dated 24 April 2015 and proposes to modify the Definitive Map and Statement for the area by adding a restricted byway and a bridleway as shown in the Order plan and described in the Order Schedule. |
| * There were four objections outstanding at the commencement of the inquiry. * In accordance with Paragraph 8(2) of Schedule 15 to the 1981 Act notice has been given of the proposal to confirm the Order with modifications. |
| **Summary of Decision: The Order is confirmed subject to modifications set out below in the Formal Decision.** |
|  |

Preliminary Matters

1. This decision should be read in conjunction with the Order Decision dated 15 December 2023 (the interim decision). That decision proposed to confirm only that part of the Order relating to Ethel Avenue with modification of the status from a restricted byway and bridleway to a public footpath.
2. Because the effect of the interim decision would be to show as a highway of one description a way which is shown as a highway of another description in the Order as submitted it was required by virtue of Paragraph 8(2) of Schedule 15 to the 1981 Act that notice of the proposal to modify the Order be given affording an opportunity for objections and representations to be made to the proposed modifications
3. Notice of the proposed modifications was given but no objections or representations were made.
4. In this decision letter I have found it convenient to refer to the Order plan and for ease of reference a copy is attached.

**The Main Issues**

1. In the absence of any objection or representation to the proposed modification the only issue is formal confirmation of the Order subject to the proposed modifications.

**Overall Conclusion**

1. Having regard to these and all other matters raised I conclude that the Order should be confirmed only in relation to Ethel Avenue and subject to the recording of it as a public footpath only.

**Formal Decision**

1. The Order is confirmed subject to the following modifications:

* Delete all references to “restricted byway” and insert “footpath”.
* Delete all references to Carlton Bridleway No. 47.
* Delete the description of a route between SK5911 4231 and SK 5921 4243
* In the Schedule Part I, delete the words “then south-westerly direction to a point, SK 5911 4231, at the junction with Porchester Road and having a width of 207 metres throughout the whole of its length.” And insert “direction to a point, SK 5927 4238, at the junction with Kenrick Road and having a width of 2.7 metres between SK 5914 4248 and SK 5921 4243 and a width of 2.4 metres between SK 5924 1243 and SK 5927 4238.”
* In the Schedule Part I, delete the description of Carlton Bridleway No. 47.
* In the Schedule Part II, delete the words “235” and “then south-westerly direction on the metalled surface of Ethel Avenue and Emmanuel Avenue to a point, SK 5911 4231, at the junction with Porchester Road and having a width of 2.7 metres throughout the whole of its length.” And insert “direction to a point, SK5921 4238 at the junction with Kenrick Road, having a metalled surface and width of 2.7 metres between SK5914 4248 and SK5921 4243 and an earth and grass surface and a width of 2.4 metres between SK2921 4243 and SK5927 4238.”
* In the Schedule Part II, delete the description of Carlton Bridleway No.47
* On the Order map, delete “Restricted Byway” and insert “Footpath”, delete “Bridleway No. 47”, delete “SK 5911 4231”, delete the notation for a Restricted Byway and for a Bridleway and insert the notation for a Footpath between SK 5914 4248 and SK 5927 4238.

Nigel Farthing

Inspector

**APPEARANCES**

**Supporters:**

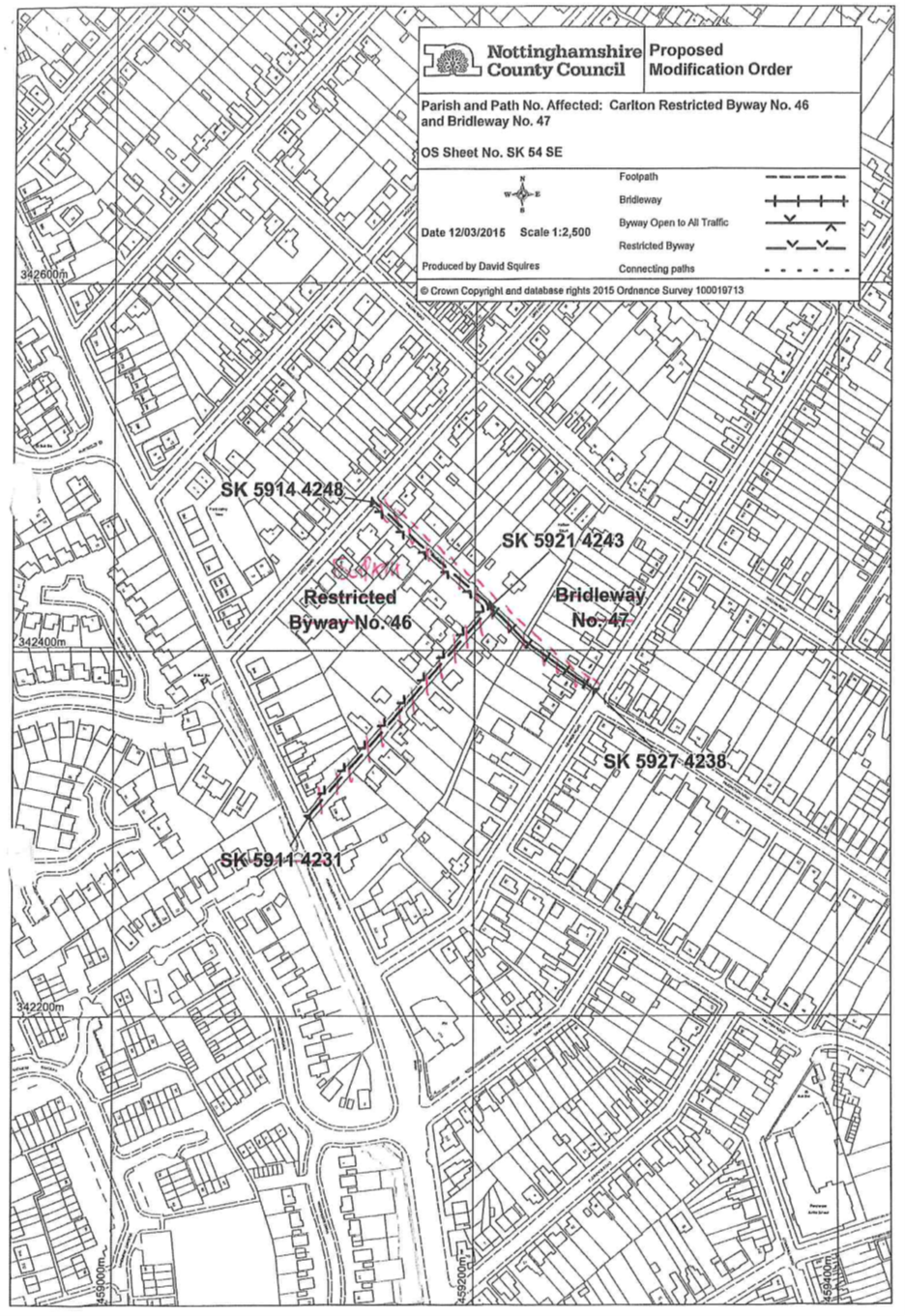
Mr S Parkhouse Representing the Nottinghamshire Ramblers

**Objectors:**

No appearance

**DOCUMENTS**

1. Statement of Evidence AH
2. Annotated Order map

****