



Order Decision

Inquiry opened on 31 October 2013

by Heidi Cruickshank BSc (Hons), MSc, MIPROW

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

Decision date: 14 July 2014

Order Ref: FPS/G3300/7/91M

- This Order is made under Section 53(2) of the Wildlife and Countryside Act 1981 and is known as The Somerset County Council (No. 7) Modification Order, 2012.
- The Order is dated 23 November 2012 and proposes to record a public bridleway on the Definitive Map and Statement in the Parishes of Coleford and Mells. Full details of the route are set out in the Order Map and Schedule.
- In accordance with paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981 notice has been given of my proposal to confirm the Order so as to alter the recorded alignment and width in relation to part of the route.

Summary of Decision: The Order is confirmed subject to modifications set out below in the Formal Decision.

Preliminary Matters

1. The effect of the Order if confirmed with the modifications proposed would be to record a public bridleway running from the junction with the county road, Dark Lane, in the Parish of Coleford, generally easterly, and to the south of the Newbury Concrete Works ("the Works"), continuing into the Parish of Mells to terminate on the county road, west of Vobster Cross. This was to be achieved through the upgrading of some existing public footpaths and the addition of a new section of bridleway.
2. I proposed that the Order should be modified with respect to the alignment and widths to be recorded, south of the Works.
3. Following the issue of my interim Order decision ("the IOD") on 20 November 2013, a representation was received ahead of the formal advertisement, confirming that the Mendip Society had no objection to the proposed modifications.
4. In response to the formal advertisement an objection to the proposed modifications was received on behalf of Somerset County Council, the order-making authority ("the OMA") and a representation in support of the proposed modifications was made by the supporters to the Order, The Trails Trust ("TTT"). I was satisfied that the matter raised could be dealt with through the written representations procedure. It is on the basis of comments and evidence arising through this process, along with all the original evidence before me through the Inquiry, that I make this decision.
5. A late representation from Coleford Parish Council was made, however, confirmation was given that the Councillors were happy with regard to the plan submitted by the OMA, subject to the proposed widths being maintained.

Main issues

6. The Order as made intended to record a bridleway over a route identified on the Order map as running through points A – B – C – D – E – F – G – M – N – H – P – J – K – L. A main matter considered at the Inquiry related to the widths to be recorded in relation to the section south of the Works, points B – C – D – E – F. I proposed an additional point be recorded on the Order route to the west of the Works, point X. In relation to this area, it was noted that the alignment proposed by the Order seemed to be incorrect.
7. To resolve this issue, I adjourned the Inquiry to site in the afternoon of 31 October 2013 and, on resumption the following morning, allowed time for the parties to discuss their findings from the site visit. As a result of that, I was presented with a plan which was agreed by all, including the OMA, to reflect the appropriate alignments and width in the section B – C – D – E – F - X.
8. On 13 December 2013, following the issuing of the IOD, the OMA carried out a survey of the route and have submitted a revised plan, which they believe shows the route on the ground in this location, as well as a short section west of point X.

Reasons

9. As set out in the IOD, there was an issue regarding the alignment, with the Order plan showing part of the route inside the boundary of the Works, reflecting a Diversion Order made in 2003. During the site inspection, carried out as part of the Inquiry, it was agreed, as set out by TTT, that the Order route ran to the south, outside the bund. It was also agreed that the Ordnance Survey (“OS”) mapping depicted the bund by way of a black line, seen on the Order plan. I agree with TTT that it seems odd for the OMA survey result to now show an alignment apparently crossing the bund back into the Works.
10. I note that the survey was carried out by the Engineering Design Team, and that the OMA believe it to be more accurately geo-referenced than the proposed alignment, although no details of the survey methodology have been provided. I also agree with the OMA that the OS mapping itself has a margin of error. However, taking account of the comments of the OMA and the TTT, I must agree that the modified line as proposed is the most useful for members of the public. I do not consider that it would be appropriate to propose to modify the line to one which appeared to show a public bridleway running on and over the bund.
11. In relation to the proposed alteration west of point X, I consider that it has been demonstrated that the Order route in this area is incorrectly shown. The matter was not raised by any party in relation to the Order as made. Given my concerns regarding the tolerance of the survey and the OS base map I do not intend to propose a further modification on this basis.
12. As set out in the IOD, the Definitive Map provides conclusive evidence as to a highway shown thereon, whilst the Definitive Statement provides the particulars as to the position or width thereof. Taking account of the fact that the OMA need clarity to ensure the ability to appropriately manage the resource, I will ensure that the relevant modifications are reflected in the

Definitive Statement and add clarification regarding the position outside the Works boundary. I am satisfied that such a modification is for clarification purposes only and does not alter the Order so as to require further advertisement.

Conclusions

13. Bearing in mind the above, and taking account of all the matters that are before me, I am satisfied, on the balance of probabilities, that it is appropriate for me to confirm the Order subject to the modifications set out in the IOD, dated 20 November 2013, with an additional clarification as to the location of the route to be set out in the Definitive Statement.

Formal Decision

14. I confirm the Order subject to the following modifications:

- In the Schedule to the Order:
 - in line 4 replace text "*...southerly...*" with text "*...south south easterly...*";
 - in line 4 replace text "*...40...*" with text "*...35...*";
 - after text "*...to point C...*" remove text "*...at its junction with FR 4/34...*";
 - in line 5 after text "*...runs in a generally...*" remove text "*...east...*";
 - in line 6 replace text "*...55...*" with text "*...50...*";
 - in line 7 replace text "*...160...*" with text "*...150...*";
 - after text "*...the width between...*" replace all text with "*...Points A and E will be 3 metres; points E and F will be 2.5 metres; points F and X will be 2 metres; points X and N will be 3 metres; this width includes the verge to the south side between points C and E and the verge to the east side between points E and F; this width is subject to minor pinch points to a minimum of 1.8 metres at points E and F;*
 - add text "*the line of the bridleway is outside the working area boundary to the 'Newbury Concrete Works'.*";
- In the Order map:
 - insert point X;
 - modify the alignment of the route between points B and F to show the route on the ground, as agreed by the parties to the Inquiry.

Heidi Cruickshank

Inspector