



The Planning Inspectorate

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Your Ref:

Our Ref: FPS/P2745/7/41

Date: 10 February 2014

Dear Sir

WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53
North Yorkshire County Council
Public Bridleway No. 30.9/16 Fordon Road, Folkton Modification Order 2012

I refer to our letter of 10 February 2014 and enclose for your information a copy of the notice of the Inspector's proposal to modify the above-mentioned Order.

This is an interim decision because the Inspector has proposed a modification or modifications to the order, which will need to be advertised before a final decision can be made. To this end I enclose for your information a copy of the notice of the Inspector's proposal to modify the above-mentioned Order.

If you wish to make an objection to the Inspector's proposed modifications, you must ensure that it is submitted between 06 March 2014 and 03 April 2014. Any objections received outside these dates will not be 'duly made'¹. Only objections received within these dates will ensure your right to be heard.

Unless you submit an objection, or otherwise inform us that you now have an interest in the Order, we will not contact you again. In due course the Inspector's final decision will be available to view/download at <http://www.planningportal.gov.uk/planning/countryside/rightsofway/onlinerow/onlinerow>

Yours faithfully

Clive Richards
(Rights of Way Section)

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¹ A 'duly made' objection is one which is received within the period set out in the notice of modification and, according to the judgment in *Marriott v Secretary of State for the Environment, Transport and the Regions 2001*, must be with respect to the Inspector's proposals.

Modifications

1. The Secretary of State or Inspector may decide that an order should be confirmed with modifications. The modifications may be quite small, like correcting a spelling error or adding a grid reference or they may be major. The Inspector will explain the exact modifications in the order decision.
2. Some modifications must be advertised so that people are given the opportunity to object or submit representation to them. The following types of modification need to be advertised:
 - moving the line of a path;
 - increasing the width of a path;
 - adding a width to a path (definitive map modification orders and some public path orders);
 - showing a new path on the order;
 - deleting all or part of a path shown in the order (definitive map modification orders only); or
 - changing the type of path shown in the order (definitive map modification orders only).

Decisions, which propose modifications needing advertisement, are known as 'interim' or 'proposed' decisions.

3. Where a modification needs to be advertised, we will arrange for a notice to be published in a newspaper circulating in the local area, outlining how and when objections or representations can be made. A copy of the notice will be copied to the authority, the objectors (including anyone who has made a statutory representation), the applicant, other people who were given permission by the Inspector to speak at the inquiry (if one was held) and any other people who have asked for a copy of the decision.
4. For your objection/representation to be 'duly made' it has to be made within the time and manner specified in the notice and be with respect to the proposal. Your objection/representation would not be 'duly made' if made before or after the notice period and you would not have the right to be heard.

No objections/representations to proposed modifications

5. If no objections/representations are received to the proposed modifications, the Secretary of State or Inspector will make a final decision, in which he or she will confirm the order with the modifications they previously proposed. The final order decision will be sent to all the people who received a copy of the interim decision.

Objections/Representations to proposed modifications

6. Objections/representations to the modifications will be considered by the Secretary of State or an Inspector (usually the same Inspector who proposed them).

Dependant on the number and content of objections/representations received, there may need to be an inquiry to consider the evidence they contain.

7. If there are only a few objections/representations and/or the issues they raise could be dealt with by written representations, we will write to the authority and relevant parties to ask if they would be happy for a final decision to be made on this basis instead of an inquiry. We will hold an inquiry if anyone asks to be heard by an Inspector.
8. If an inquiry is held into the proposed modifications, the Inspector will not be able to consider any representations into the unmodified part of the order. If anybody asks to give evidence relating to the unmodified part, the Inspector will ask them to submit it in writing to the Planning Inspectorate (within a specified period) and continue to hear the evidence relevant to the modifications. If the submitted representation raises questions likely to effect the Secretary of State or Inspector's decision, it may be necessary to re-open the original inquiry (if one was held). However, if all the parties agree, the new evidence could be dealt with on the basis of written representations (this is the most likely action if the interim decision was made following an exchange of written representations).
9. Having considered the objections/representations, the Secretary of State or Inspector may decide that they do not raise any questions likely to affect their decision. If this is the case no further action on the objections/representations will be taken and the Secretary of State or Inspector will proceed to write a final decision.

What happens if objections/representations are received to the unmodified part of the order?

10. If the only objections/representations received within the objection/representation period relate to those parts of the order the Secretary of State or Inspector does not propose to modify, it may be necessary to re-open the original inquiry or offer the written representations procedure if more appropriate.
11. If the original inquiry is re-opened, the Inspector would not be able to hear evidence relating to his or her proposed modification(s). If anybody asks to give evidence on the modified part, they will be asked to submit it in writing to the Planning Inspectorate within a given period. Again, if the submitted representation raises questions likely to effect the Secretary of State or Inspector's decision, it may be necessary to hold an inquiry so that it can be discussed. However, if all the parties agree, the evidence could be dealt with on the basis of written representations.

Objections/Representations received to the proposed modifications and the unmodified part of the order

12. Where both types of objection/representation are received within the objection/representation period, it may be necessary to hold a 'joint' inquiry. A joint inquiry effectively re-opens the original inquiry whilst allowing the Inspector to hear evidence against the proposed modification(s).

Hearings

13. A hearing may be held instead of an inquiry with the agreement of the authority and the relevant parties.