The Planning Inspectorate

Order Decision

On papers on file

by Martin Elliott BSc FIPROW

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

Decision date: 15 June 2016

Order Ref: FPS/Q2500/7/83

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as the Lincolnshire County Council (Alford Public Footpath No. 1126) Definitive Map Modification Order 2015.
- The Order is dated 2 November 2015 and proposes to modify the Definitive Map and Statement for the area by adding a public footpath as shown in the Order plan and described in the Order Schedule.
- There was one objection outstanding when Lincolnshire County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed subject to modifications.

Procedural Matters

1. I have made this decision on the basis of the papers on file. I have not visited the site but am satisfied that I can make my decision on the information before me.

2. Following the making of the Order one objection was received in relation to the specification of the limitation of a gate in the Order. Following discussions, and in agreement with the objector, the Council requested that the Order be confirmed subject to modifications in respect of the limitation. On this basis the objection to the Order was withdrawn. The modification requested provides a detailed description of the limitation, the Order, if confirmed, will be modified accordingly.

The Main Issues

3. The Order has been made under section 53(2)(b) of the Wildlife and Countryside Act 1981 in consequence of an event specified in section 53(3)(c)(i) of the 1981 Act. The main issue is whether the discovery by the authority of evidence, when considered with all other relevant evidence, is sufficient to show that, on the balance of probabilities, a right of way which is not shown in the map and statement subsists over land in the area to which the map relates.

4. No representations have been made in respect of evidential matters relating to the existence of Order route. I have examined the evidence before me and am satisfied that, on the balance of probabilities, a public footpath subsists on the Order route. I have therefore not considered the evidence further.

Conclusions

5. Having regard to these and all other matters raised in the written representations and in the papers on file I conclude that the Order should be confirmed subject to modification.

Formal Decision

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

   - At Part II of the Schedule to the Order at the end of the first paragraph delete '*The path is subject to the limitation of a gate at TF 4565 7574.'* And insert '*At TF 4565 7574 the path is subject to the limitation of one pedestrian gate on the western side of the way with a width of 2.15 metres, and one field gate immediately adjacent with a width of 3.35 metres. These are shown on the John Spendluffe Technology College plan entitled "Survey of proposed site for new school at Alford, Lincs" dated 1930.'*

Martin Elliott

Inspector


A (Ordnance Survey Grid Reference TF 4565 7574)
B (OSGR TF 4575 7551)
HANBY LANE
ALFORD
John Spendluffe Foundation Technology College (Secondary School)
Alford County Primary School
New Cemetery
FARLESTHORPE ROAD
RAWSLEY CLOSE
PATRICK KEYS CLOSE
COMBE CLOSE
GIBSON WAY
Depot
Nursery
Chapel
Peachcroft
Watergate
THE COMMON SEAL of LINCOLNSHIRE COUNTY COUNCIL was hereunto affixed in the presence of:
Authorised Officer
No. in Seal
Book
N
Key: Public Footpath
Lincolnshire COUNTY COUNCIL
16.10.2015
Alford: Definitive Map Modification Order
Public footpath between Hanby Lane and New Cemetery
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Public Rights of Way & Countryside Access
R A Wills
Executive Director for Environment & Economy
County Offices, Newland, Lincoln, LN1 1YL.
Scale: 1:2500
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