



Planning Inspectorate

Pre-Inquiry Note

Order Ref: ROW/3262032M

The Nottinghamshire County Council (Greasley Footpath No. 32 and No. 40) Diversion Order 2019

1. Introduction and purpose of this note

- 1.1 Ahead of the Public Inquiry scheduled to open on 4 February 2025, the appointed Inspector draws your attention to the matters below. The purpose of this note is to assist in the efficient running of the Inquiry. It gives the parties early notice of the intended structure for the proceedings and seeks to assist those who may be unfamiliar with such events on matters likely to be addressed. It also alerts the parties to where evidence should be focussed.
- 1.2 Please do not make submissions in response to this note. Opportunity to address the main issues identified below will be given at the Inquiry.

2. Likely main issues

- 2.1 The Inquiry is being held so that the Inspector can hear evidence in respect of the previous Inspector's proposed modifications (as set out in the Interim Order Decision dated 11 October 2022) and any new evidence in respect of the unmodified part of the Order, specifically confined to matters under section 119 of the Highways Act 1980. With that in mind, the likely main issues are:
 - Whether the proposed diversion, as modified, is expedient in the interests of the landowners or the public;
 - Whether the proposed diversion, as modified, is substantially less convenient to the public;
 - The effect of the proposed diversion, as modified, on public enjoyment of the path as a whole;
 - The effect of the proposed diversion, as modified, on other land served by the existing public paths;
 - The effect of the proposed new rights of way, as modified, on the land over which the right is so created and any land held with it;
 - The application of the Public Sector Equality Duty;
 - Whether there is any material provision contained in a rights of way improvement plan;
 - Any new issues, not previously raised, with regard to the application of section 119 to the unmodified part of the proposed Order; and
 - How the proposed modifications meet the relevant tests compared with the Order as originally proposed.



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- 2.2 As identified in the Interim Order Decision (paragraph 9), the Order in this case was made in the interests of both the owners of the land *and* the public, hence use of the word ‘and’ within the main issues and text. As indicated above, the Inspector will hear evidence on how the landowners and the public would be affected. In doing so the Inspector is, of course, aware of the requirement within section 119 of the Highways Act 1980 for the Secretary of State to be satisfied that the diversion to be effected by the Order is expedient in the interests of “the owner, lessee or occupier of land crossed by the path **or** [*emphasis added*] of the public”.
- 2.3 The Inspector notes the representations concerning an error in the co-ordinates identified in the Interim Order Decision. The Order Making Authority will be invited to confirm the correction required at the start of the reopened Inquiry. Beyond this, it is unnecessary for the matter to take up Inquiry time.

Matters outside the scope of the Inquiry

- 3.1 Evidence should focus on the above main issues. Having noted that other issues are raised falling beyond the scope of the forthcoming Inquiry, the Inspector considers it important to flag up now those matters on which arguments will not be heard. This is not an exhaustive list:
- 3.1.1 Whether the paths should be deleted from the Definitive Map and Statement in whole or part, or the alignment altered;
 - 3.1.2 Any matters concerning the application for a Definitive Map Modification Order, including documentary material;
 - 3.1.3 The reasons why fencing/gates were erected and whether they constitute an obstruction;
 - 3.1.4 Historic issues including how long the public paths may have existed;
 - 3.1.5 User evidence forms completed after the paths were fenced/gated;
 - 3.1.6 Previous County Court proceedings leading to a 2015 Court Order and ongoing disagreement over alignment of the paths;
 - 3.1.7 The offer of a permissive path;
 - 3.1.8 Complaints over the conduct of the previous Inquiry.

Conduct of the Inquiry

- 4.1 The Inspector emphasises that the Inquiry is concerned with the hearing of evidence and submissions in a structured way on the criteria outlined within section 119 of the Highways Act 1980. The Inquiry is a formal procedure, and all participants are to act with courtesy and respect for others.

5. Inquiry running order and programme

- 5.1 The Inquiry will open online only at 10am on Monday 4 February 2025 utilising Microsoft Teams. Closer to the time, the case officer will circulate details of how you should log in.



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- 5.2 The Inspector will aim to finish each day at around 17.00 hours. There will be regular breaks at convenient points throughout the day.
- 5.3 If a participant has reasonable adjustments that the Inspector should accommodate for protected characteristics under the Equality Act 2010, please notify the case officer in advance.
- 5.4 It is anticipated that the running order will be as follows:
- Inspector's opening remarks
 - Opening statements
An opening statement broadly outlines a party's position. It is entirely optional. They should be kept brief and be no longer than 10 minutes.
 - The case for the Council, being the Order Making Authority ('OMA')
 - The case for other objectors
 - Representations of interested parties (if any)
 - Closing submissions (heard in reverse order, ending with the OMA)
- 5.4 It is expected that those giving evidence will be available for cross-examination by those participants holding an opposing view.

6. Site visit

- 6.1 At this stage, the Inspector has no plans to undertake a site visit. If any party wishes to illustrate a point through the production of further colour copy photographs/aerial images, then they should be supplied to the Planning Inspectorate no later than 7 January 2025. This date corresponds with the timescale for the submission of proofs of evidence.

7. Costs

- 7.1 The usual principle is that each party is responsible for their own costs. If any application for costs is to be made, attention is drawn to guidance published by the Planning Inspectorate regarding costs applications, which can be accessed via this link: [Guidance on Procedures for Considering Objections to Definitive Map and Public Path Orders.html - GOV.UK](#).

8. Decision

- 8.1 In arriving at a decision, the Inspector will consider all relevant written material submitted over the course of this and the previous Inquiry. The Inspector will decide whether: (a) to confirm the Order with the modifications previously proposed (b) to confirm the Order without modifications, or (c) not to confirm the Order.

K R Saward

INSPECTOR

3 December 2024