



Order Decision

Inquiry opened on 8 April 2025

Site visits undertaken on 7 and 10 April 2025

by Mark Yates BA(Hons) MIPROW

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

Decision date: 19 June 2025

Order Ref: ROW/3331052

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 ('the 1981 Act') and is known as The Northumberland County Council Definitive Map Modification Order (No. 2) 2022.
- The Order was made by Northumberland County Council ('the Council') on 8 April 2022 and proposes to add four footpaths to the definitive map and statement.
- There were three objections outstanding at the commencement of the inquiry.

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

Procedural Matters

1. I shall refer to the alleged public rights of way ('the claimed routes') by reference to how they are numbered in the Order with the specific points referred to below corresponding to those delineated on the Order Map. The claimed routes can be briefly described as follows:
 - Footpath 24 ('FP24') commences on the U8171 Road at point A and proceeds through the southern part of East Wood to point B. It then continues along a track to the junction with Acomb Footpath No. 18 at point C.
 - Footpath 25 ('FP25') commences from the junction with FP24 at point B and proceeds through the eastern part of East Wood via point E to point G. It then continues across agricultural land to the junction with Wall Bridleway No. 2 at point H.
 - Footpath 26 ('FP26') commences on the U8171 Road at point F and proceeds through the northern part of East Wood to the junction with FP25 at point G.
 - Footpath 27 ('FP27') commences on the U8171 Road at point D and proceeds through East Wood to the junction with FP25 at point E.
 2. An application was made by Mr Wrigley in May 2018 to add the claimed routes to the definitive map and statement ('DMS') in accordance with Schedule 14 of the 1981 Act. He successfully appealed against the Council's decision to only make an Order in relation to FP24 and an Order was made to add all of the claimed routes to the DMS in accordance with Schedule 15 of the Act. It is not my role to address the process undertaken at the Schedule 14 stage.
 3. Whilst the Council took the lead at the inquiry in making the case for FP24, they have taken a neutral stance in relation to the other claimed routes. In contrast, the applicant and Mrs Boothby have made the case in support of all of the routes being
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added to the DMS. The objections from Mr N. Straker and Mr P. Straker were taken forward at the inquiry by Mr Findlay. Mr N. Straker owns East Wood and the land between points G-H. Mr P. Straker owns the B-C section of FP24 and land to the east comprising of the Fallowfield Dene Caravan Park.

Main Issues

4. The Order relies on the occurrence of an event specified in Section 53(3)(c)(i) of the 1981 Act. Therefore, for me to confirm the Order, I must be satisfied that the evidence shows in respect of each route that on the balance of probabilities a public right of way subsists.
5. The user evidence can be considered in accordance with Section 31 of the Highways Act 1980 ('the 1980 Act') or common law.
6. Section 31 requires consideration to be given to whether there has been use of a way by the public, as of right and without interruption, for a period of twenty years prior to its status being brought into question and, if so, whether there is evidence that any landowner demonstrated a lack of intention during this period to dedicate a public right of way.
7. Three main issues arise in relation to dedication at common law: whether the owner of the land had the capacity to dedicate a highway, whether there was express or implied dedication by the landowner and whether there has been acceptance of the dedication by the public. Evidence of the use of a way by the public as of right may support an inference of dedication and may also show acceptance of the dedication by the public.

Reasons

Statutory dedication

When the status of the claimed routes was brought into question

8. It is not disputed that the status of FPs 25, 26 and 27 were brought into question by signage erected in December 2017 at points A, B, D and F by Dr Halliday who has permission to undertake deer stalking in East Wood. These stated '*Private Woodland No Public Access*' and '*Danger, Rifles in Use: Do Not Enter*'. It was this signage that led to people questioning the status of the routes and the making of the application to add them to the DMS. Accordingly, the relevant period to be considered for these routes is 1997 to 2017.
9. In terms of FP24, a deposit and map followed by a statutory declaration were made by Mr P. Straker in relation to Section 31(6) of the 1980 Act in 2010. Section 31(6) sets out the procedure a landowner can undertake to demonstrate that they have no intention of dedicating any additional ways across their land. This involves depositing with the appropriate local authority a statement and plan showing any public rights of way acknowledged to exist followed by a statutory declaration within the required timeframe to declare that no additional ways have been dedicated over the land in question. Although not directly relevant in that case, the comments made by Lord Hoffman in *Godmanchester Town Council and Drain v Secretary of State for Environment, Rural Affairs* [2007] UKHL 28 are supportive of this action being likely to also bring the status of a way into question.
10. I accept that the 2010 deposit was made by a person with a relevant interest in the land. However, an issue arises in relation to Mr P. Straker's ownership only

including land crossed by a section of FP24 (points B-C). Whilst the evidence addressed below is supportive of people on occasions walking between points B-C in conjunction with the other claimed routes, FP24 was used in its own right. It seems to me that where action is taken which is sufficient to bring into question public rights over a significant portion of a way then the status of the route is likely to have been brought into question.

11. Details have also been supplied in relation to the earlier deposit of a Section 31(6) statement and plan in 2002. However, the Council did not receive a statutory declaration in connection with that deposit. Nor has evidence been provided to demonstrate that this process was undertaken in full. It is apparent from reading Section 31(6) that a landowner must submit a statutory declaration as well as the deposited plan and statement in order to demonstrate a lack of intention to dedicate any additional ways across their land. It is therefore unlikely that the depositing of a plan and statement alone will be sufficient to bring the status of a way into question.
12. In light of the above, I conclude on balance that the Section 31(6) deposit of 2010 served to bring the status of FP24 into question and the relevant period for this route is 1990-2010.

Evidence of use by the public

13. The first issue to be determined for each route is whether there was use by the public during the relevant period which is sufficient to raise a presumption of the dedication of a public footpath. Regard should be given to the extent of the use during the relevant periods identified for the claimed routes both in terms of the number of people using the routes each year and the frequency of this use. This use also needs to be considered in the context of the rural nature of the area and the relatively small populations of the surrounding settlements. The claimed use was for recreational purposes in connection with existing highways.
14. Seventy people originally submitted user evidence forms ('UEFs') in support of use of the claimed routes. Some of these people have provided separate forms for each route they have used. I understand the Council's reservations where people have used all or most of the claimed routes and variations involving the different sections on occasions. However, a number of the forms and statements provide an estimate of the frequency of the use for each route used. Particular weight should be given to the sixteen users who gave evidence at the inquiry where they clarified the extent of their use of the different routes. Overall, I found this evidence to be credible and it stood up well during cross-examination. Twelve additional people who did not speak at the inquiry have provided a statement providing further information in support of their use of particular routes.
15. There is general consistency between the UEFs and further written or oral evidence from the people concerned. However, I have noted a couple of incidents where there are significant variations between the previous and more recent evidence, and it is not possible to determine which version of events is correct. Accordingly, I exercise caution in relation to this evidence. In reaching my conclusions on the evidence of use, it has been necessary to disregard the limited use by horse riders.
16. It is alleged that people staying at the caravan park have a right of access over FP24 and a proportion of FP25. One person who completed a UEF was a member of the caravan park owned by Mr P. Straker and it is accepted that their use is likely

- to have been of a permissive nature. The use by another person could also be viewed as permissive during the period they made use of the caravan park.
17. Written statements have been provided in support of a lack of observed use of the claimed routes and two people (Mr Dinning and Mr Browell) gave oral evidence on this issue at the inquiry. I do not consider that these statements alone are sufficient to undermine the user evidence to any significant extent which I have highlighted stood up well to cross-examination. Further, the users themselves did not often see people engaged in farming or other activities on the land when they were using the claimed routes. I also note that there is an acknowledgment by some of those who have opposed the recording of these routes that use was made of FP24. Although some of the observed use could have involved people staying at the caravan park, it could have equally been by other members of the public.
 18. Mr Browell made some additional assertions to those included in his written statement following a visit he made to the site during the week of the inquiry. However, these matters could not be put to the user witnesses who were called during the first part of the inquiry. In summary, he alleges that action has been taken to make the claimed routes accessible and visible when they had previously not existed. Firstly, it is a number of years since the routes were brought into question and the end of the respective relevant periods. Secondly, it cannot be determined that any of the alleged action was undertaken by a supporter or supporters of the Order. In particular, photographs provided by Mrs Boothby during the relevant periods show her and others on sections of the routes.
 19. A short section of fencing was erected near to point D, but this did not prevent access at this point. It is accepted that the fence was erected in response to problems with fly tipping. The Council confirms that point G marked on the Order Map corresponds with the same entry/exit point included in the application. There is a narrow gap in the wall at this point that provides access between East Wood and the remainder of FP25 which crosses agricultural land tenanted by Mr Dinning. Mr Dinning confirmed that a field gate in the boundary beyond point G has been in place where the present gate is located since 1972. Although the previous gate may have been difficult to open, it was not locked in order to prevent access.
 20. The evidence of the users of FP25 is that there has consistently been a gap in the wall at point G. Mr Dinning outlined in his statement that until the early 1990s use of the field was rotated which included grass and a stockproof boundary remained in place. It is therefore stated that access could only have previously been gained by climbing the wall or fence. Such use could constitute use by force and not user as of right. However, the early 1990s falls before the onset of the relevant period. In contrast, Mr Dinning's oral evidence at the inquiry was that a new fence was erected in 2002 and there was no gap in this fence.
 21. I have concerns about the reliance that can be placed on Mr Dinning's oral evidence given the change in position from his written statement. Reference was made to farm accounts supporting a later date, but these were not provided. A question also arises as to why there would have been a need to secure the entire boundary given the existence of the wall and the use made of the land after the early 1990s. In the circumstances, the evidence of the users in relation to access being possible during the relevant period at this point is to be preferred.
 22. I am not satisfied that the evidence in relation to the felling and planting of trees during the early 2000s is sufficient to show that the public were prevented from

using FPs 25 and 26 to any significant extent. Additionally, the evidence of the users was that fallen trees and the boggy nature of sections of the routes within the wood on occasions did not prevent them from continuing to use the routes. This was particularly relevant to a boggy section of FP24.

23. Although shooting generally took place on surrounding land, there were around five times a year when the Wall Shooting Syndicate shot in the wood. The evidence of the users is that they avoided using the claimed routes when this was happening. In terms of other activities undertaken by the shooting syndicate, which took place mainly in the northern part of the wood, I am not satisfied that these served to prevent public access in relation to FP26. It appeared from my visit to the site that FP26 as marked on the Order Map does not pass through the duck pond. However, reference is made to the amount of time spent by members of the syndicate in relation to the rearing and feeding of birds in the northern part of the wood during the relevant period. Therefore, the lack of observed use by members of the syndicate could be more relevant to FP26 given the close proximity of this route to the main activities of the syndicate.
24. From an examination of the different pieces of user evidence, in particular the oral evidence presented at the inquiry, I consider that there is evidence that significant use was made of FP24 during the relevant period of 1990-2010. The extent of the use would be sufficient to raise a presumption of the dedication of a public footpath. Although there was generally lesser use of FPs 25 and 27, the evidence points to fairly significant use being made of these routes during the relevant period of 1997-2017. This evidence would in my view be sufficient on balance to raise a presumption of dedication.
25. The written evidence in relation to use of FP26 is much less both in terms of the number of people who may have used it and the stated frequency of use. Further, a number of issues became apparent from hearing the oral evidence at the inquiry and my visit to the site. The oral evidence indicated that use of this route was limited to rare occasions and often did not involve the whole route with people deviating away from it by way of other routes within the wood. It is also evident that there was some uncertainty during the site visit regarding whether the route used matched the route marked on the Order Map. These factors cast significant doubt on the reliance that can be placed on the untested user evidence in relation to the alleged use of this route. In this case, there would be greater merit in the stated lack of observed use of this route.
26. Overall, I am not satisfied on balance that the evidence is sufficient to raise a presumption of dedication in relation to FP26. The issues outlined above mean that I also consider the user evidence is not sufficient to infer the dedication of a footpath at common law.

Whether any landowner demonstrated a lack of intention to dedicate public footpaths

27. In light of my conclusion above, I do not need to consider this issue in relation to FP26.
28. It cannot be determined whether any of the alleged verbal challenges were made at the request of a landowner. However, it is apparent that the challenges mentioned were confined to a few isolated incidents. It is further apparent that they largely occurred outside of the relevant periods under consideration or were not specific to

use of the routes. None of the users recall any specific challenge to their use of the routes during the relevant periods.

29. I have dealt with the potential physical interruptions or obstructions to use above. Notwithstanding my conclusion that these measures did not prevent people from using the routes during the relevant periods, they were not undertaken for the purpose of demonstrating a lack of intention to dedicate a footpath. Given that I have concluded that the 2002 deposit did not bring the status of FP24 into question, it cannot be viewed as demonstrating a lack of intention to dedicate this route.
30. One of the main issues considered at the inquiry involved a sign placed at the eastern end of FP24 (point C). A photograph of the sign shows that it was worded '*Private Caravanners Doggie Walk to East Wood Please Close Gate*'. The written statement of Mr P. Straker outlines that he believes this photograph was taken during the early 1990s in light of the tractor visible in the background. It is further stated that he believes the sign was erected in 1982 when works were undertaken to separate the path from the adjacent field. He states that the sign was in place in 1997 and potentially remained in situ until the removal of a stile in 2008.
31. A proportion of the user witnesses did not recall seeing the sign or the wording of the sign. There was certainly a lack of recollection of any signage that served to challenge their use of the route prior to the signs erected in 2017. I heard evidence and submissions in relation to what interpretation should be placed on the sign. The fact that there were valid arguments put on the different potential interpretations indicates that it did not carry an unambiguous message to those who saw it. It also needs to be borne in mind that no sign was erected prior to 2017 at the other entry points to FP24, namely points A and B. Nor can the sign be interpreted as being applicable to the other claimed routes where access can potentially be obtained via FP24.
32. There remains some uncertainty regarding how long the sign remained in place. However, I accept that it is likely to have been in place for a fairly significant period of time. Whilst the sign could potentially indicate that the route was private and for the benefit of caravanners to walk their dogs, this is not the only potential interpretation. It was also placed at only one location. In light of the evidence and submissions on this matter, I am not satisfied that the wording and placement of the sign was sufficient on balance to bring it home to users of the route that there was a lack of intention to dedicate a public right of way.
33. Overall, I do not find that the evidence is supportive of any landowner taking sufficient action to communicate to the public that there was a lack of intention to dedicate these paths during the relevant periods.

Conclusions

34. I have concluded on balance that the evidence is sufficient to raise a presumption of the dedication of three public footpaths, namely FPs 24, 25 and 27. Additionally, I do not find that the landowners took sufficient action to demonstrate to the public that there was a lack of intention to dedicate these routes as footpaths during the relevant periods. Therefore, I conclude on the balance of probabilities that three public footpaths subsist.
35. The extent of the use of FP26 would not in my view support the dedication of a footpath under statute or common law. In light of the proposed omission of this

route, the required modifications will need to be advertised. I note the concerns of the supporters that this could delay the process, but this is not a valid consideration.

Other modifications

36. The evidence is supportive of the existence of a longstanding field gate in the boundary to the north of point G and a gap at point G. I consider these limitations should be recorded in the Order to reflect the fact that they were in place when the route was dedicated.
37. I note Mr Findlay's concern about the uniform width of 1.5 metres included in the Order for the claimed routes. He considered that the routes should have a width of 1 metre given the width available in places and the concern that trees may need to be felled to accommodate a width of 1.5 metres.
38. I consider that the claimed routes within the woodland were dedicated by reference to the existing trees and it is not possible to include the multitude of widths that are likely to be available in connection with the routes. Where available, 1.5 metres would be a reasonable width for a public footpath. It seems to me that the most appropriate course of action would be for the Order to specify that the routes have a width of 1.5 metres subject to the limitation of a lesser width being available in places due to the presence of established trees. The confirmation of the Order should not lead to the removal of trees but neither should new trees be planted in a manner that obstructs the routes.
39. As the confirmation of the Order now resides with the Secretary of State, the text in relation to the Council confirming the Order should be deleted.

Other Matters

40. The issues raised in relation to the need for the footpaths or the potential impact of the paths on the use of the land are not relevant to my decision.

Overall Conclusion

41. Having regard to these and all other matters raised at the inquiry and in the written representations I conclude that the Order should be confirmed with modifications.

Formal Decision

42. I propose to confirm the Order subject to the following modifications:

- Delete all entries in the Order and Order Schedule to Footpath 26.
- Add the heading '*Limitations*' at the end of the Order Schedule and then insert the following:
- '*Field Gate at point X*

Gap at point G

The specified widths of 1.5 metres will be limited by the presence of established trees in places where the footpaths pass within East Wood'.

- Delete the text relating to the confirmation of the Order by the Council.
- Remove Footpath 26 from the Order Map.

- Insert 'X' at the location of the field gate.
43. Since the confirmed Order would not show a way which is shown in the Order as submitted I am required by virtue of Paragraph 8(2) of Schedule 15 to the 1981 Act to give notice of the proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modifications. A letter will be sent to interested persons about the advertisement procedure.

Mark Yates

Inspector

APPEARANCES

The Cases in Support

Ms A. Critchlow
Mr T. Finch

Counsel instructed by the Council
Representing the Applicant

Witnesses Called in Support

Mr A. Bell
Mr T. Wrigley
Mrs C. Boothby
Mr S. English
Dr N. Redfern
Mr W. Eddy
Mr N. Staples
Mrs R. Staples
Mr M. Horton
Mrs C. Coats
Ms A. Earnshaw
Mr G. Nicholson
Ms Z. Keen
Ms L. Silvera
Mr J. Dickinson
Mr P. Boothby
Mrs R. Hoffman

Definitive Map Officer called for the Council
Applicant
Assisting with the case for the application

For the Objectors

Mr R. Findlay

Representing Messrs M. and P. Straker

He additionally called:

Mr B. Phillipson
Mr C. Dinning
Mr S. Browell

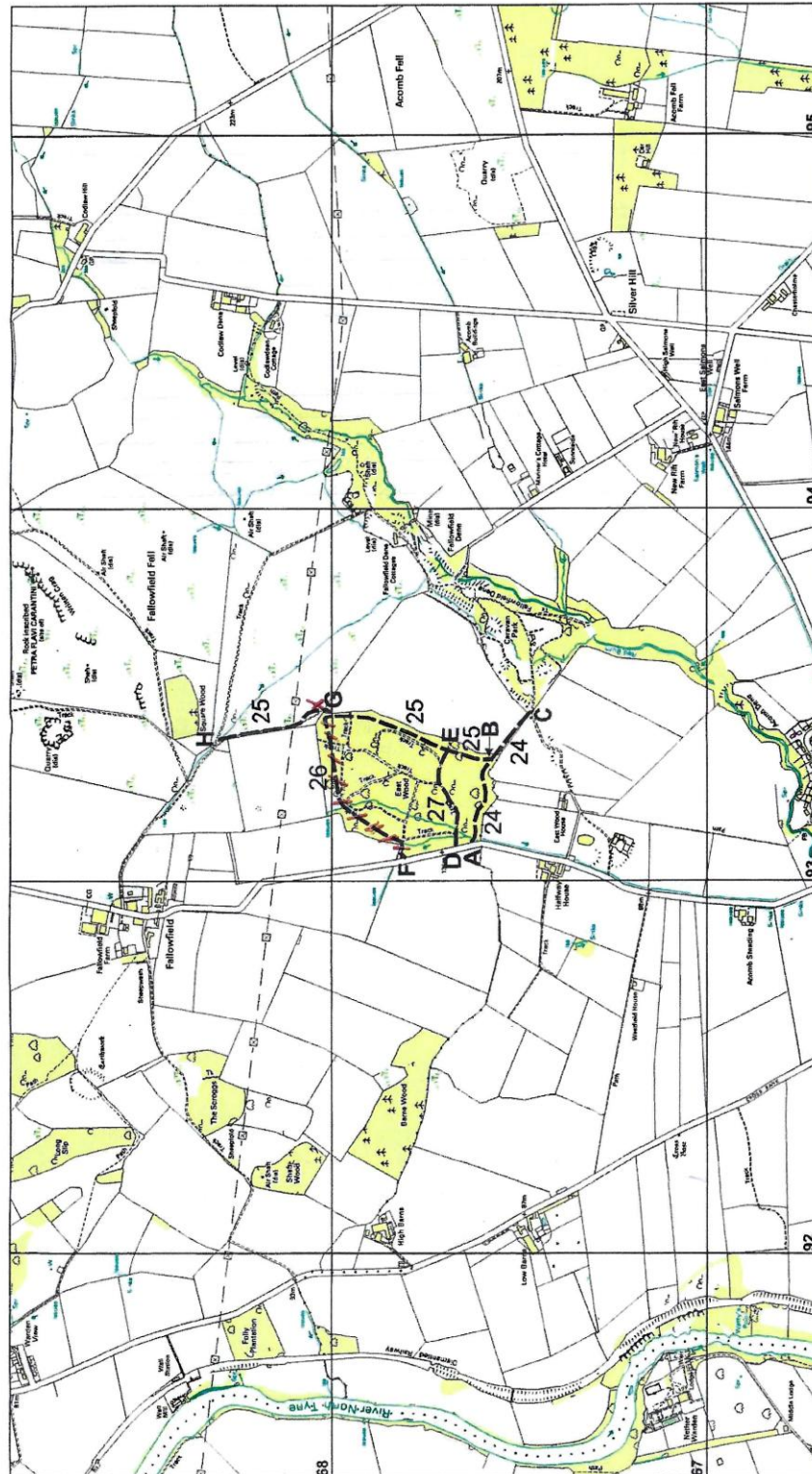
Employee of Fallowfield Dene Caravan Park
Tenant of Fallowfield Farm
Member of the Wall Shooting Syndicate

Interested Party

Dr J. Halliday

DOCUMENTS TENDERED AT THE INQUIRY

1. Statement of issues in support of the application
2. Opening statement for the Council
3. Letter to the inquiry from Mr Gascoigne
4. Photographs supplied by Mr Browell
5. Strava extracts
6. Copies of enlarged photographs
7. User summaries
8. Closing submissions for the Council and the objectors



**The Northumberland
County Council**

Modification Order
(No.2) 2022

Wildlife and Countryside Act, 1981

Definitive Map of Public Rights of Way for the County of Northumberland

 **Northumberland**
County Council

Infrastructure
Local Services

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Public Footpath to be deleted
Public Footpath
Public Bridleway
Restricted Byway
Byway Open to All Traffic

O.S. Map NY 96 NW
Definitive Map No 196

O.S. Map NY 96 NW

Definitive Map No. 1

Scale 1/10,000

Scale 1/10,000