



Department
for Transport

Mrs D Morris
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Your Ref:

Our Ref: NATTRAN/EM/S247/3044

Date: 30 January 2019

Dear Mrs Morris

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 247

**PROPOSED STOPPING UP OF HIGHWAY AT DIVERSION OF HIGHWAY AT FOOTPATH
18 COMMENCING AT THE END OF MARSH LANE, NORTH SOMERCOTES LN11 7PD
OS GRID REFERENCE: E: 542192 N: 399792**

SECRETARY OF STATE'S DECISION – ORDER TO BE MADE

1. In accordance with Section 247 of the Town and Country Planning Act 1990, the Secretary of State for Transport (the Secretary of State) has decided that the application made by Environment Agency (the Applicant) for a stopping up Order (the Order), should be approved subject to modification.

BACKGROUND

2. The application was referred to the Secretary of State for a decision as 1 Statutory and 45 non-statutory objections remained outstanding. It was decided that a local Public Inquiry should be held for the purposes of hearing those objections and such an Inquiry was held on 26-27 June 2018 at the Kenwick Park Hotel, Kenwick Park, Louth, LN11 8NR before J Burston BSc MA MRTPI, an independent Inspector appointed by the Secretary of State.

CONSIDERATIONS FOR THE DECISION

3. The Inspector considered the objections and all representations about the Order at the Inquiry, and has submitted his report to the Secretary of State dated 15 October 2018. A copy of that report is enclosed with this letter. References in this letter to the Inspector's report are indicated by the abbreviation "IR" followed by the paragraph number in the report.
4. The Inspector's report summarises the case for the Objectors at IR 18 to IR 62, the Applicant at IR 63 to IR 111 and the Supporters at IR 112 to IR 116. The Inspector's conclusions are at IR 117 to IR 160.

5. The Inspector recommended at IR 161 that the Order should be made subject to the “Option 2” modification.

THE SECRETARY OF STATE’S CONCLUSIONS

6. The Secretary of State has given careful consideration to the Inspector’s report, the objections received, post inquiry correspondence and to a number of other relevant issues, in reaching his final decision on this Order. Namely;
 - Whether there is a valid planning permission
 - Whether the area in question is public highway
 - Whether the closure is necessary to allow development to take place in accordance with the planning permission
 - Whether any disadvantages arising as a result of the stopping up outweigh the advantages of making the order
7. The Secretary of State agrees with the Inspector at IR 130 that there is a valid planning permission in place and the stopping up and diversion of footpath no. 18 is needed to enable the development to proceed.
8. He notes the Inspector’s conclusions and agrees with the recommendation that the Order should be made, subject to the “Option 2” modification.
9. The Secretary of State has considered the High Court decision in 2017 between Network Rail Infrastructure Ltd, R (On the Application Of) v The Secretary of State for the Environment, Food And Rural Affairs [2017] EWHC 2259 (Admin) in reaching his decision.
10. He is therefore of the view that only a 345 metre length of footpath no. 18 is needed to be stopped up rather than the proposed 2,736 metres. The Secretary of State notes from the Inspector’s comments that this would create two cul-de-sacs, however, this would enable access to be maintained for those who wish to access the beach and local habitats, whilst at the same time enabling the development to proceed as per the planning permission.
11. He notes the comments regarding “Option 2” in that they would not meet condition 9 of the planning permission, however, he agrees with the inspector at IR 132 that the planning permission does not state the length of the footpath to be stopped up and therefore would allow the flexibility to stop up and divert the footpath as is needed.
12. Overall, the Secretary of State agrees with the inspectors conclusions with regards to the advantages and disadvantages of stopping up and diverting a length of footpath no.18, conferred by the Order. He notes that whilst there is a disadvantage to users, access will still be maintained for those wishing to travel along footpath no.18 albeit along a slightly longer route.
13. The Secretary of State concludes that the Order should be made with modification. In reaching this decision and in making the Order, the Secretary of State has relied on the information that all parties have provided, as contained in the application and related plans, diagrams, inquiry statements and correspondence, as being factually correct.

14. A copy of this letter has been sent to the objectors. The Order will be advertised and copies will also be made available, on request, to any other persons directly concerned. Any person entitled to a copy of the Inspector's report may apply to the Secretary of State to view any document appended to this report. This must be done by writing to the above address within 6 weeks of receipt of this letter.
15. In accordance with section 287 of the Act, any person aggrieved by or desiring to question the validity of any provision within the Order, on the grounds that it is not within the powers of the above Act or that any requirement or regulation made has not been complied with, may within 6 weeks of when the Order is advertised, apply to the High Court for the suspension or quashing of the Order or of any provision included.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Dave Candlish', with a long horizontal stroke extending to the right.

DAVE CANDLISH

Authorised by the Secretary of State for Transport
to sign in that behalf