



Order Decision

by **Michael R Lowe** BSc (Hons)

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

Decision date: 23 January 2012

Order Ref: FPS/Q9495/7/26

- This Order is made under section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as the Lake District National Park Authority (Right of Way 512064 / 576018 / 521058, Walna Scar Road, Parishes of Coniston, Torver and Dunnerdale-with-Seathwaite) Definitive Map Modification Order 2011.
 - The Order is dated 25 January 2011 and proposes to modify the Cumbria County Council Definitive Map and Statement of Public Rights of Way by changing the description of the greater part of Walna Scar Road from that of a bridleway to that of a restricted byway as detailed in the Order map and schedule.
 - There was one objection outstanding when the Lake District National Park Authority (the Authority) submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.
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Decision

1. I confirm the Order subject to a modification that does not require advertisement.

Preliminary Matter

2. I have noted that the map contained within the Order as made does not use the notation prescribed by the regulations¹. I have therefore amended the map as attached.

Background and Reasons

3. In 2005 the Authority received an application to modify the definitive map and statement so as to show the greater part of Walna Scar Road as a byway open to all traffic. A previous definitive map modification order made in 2007, to give effect to the application, was quashed by consent order of the High Court in August 2010.
4. On 11 January 2011 the Authority reviewed all the evidence available at that time and considered that the status of the route in question was that of a restricted byway. Following the publication of the Order on 25 January 2011 one objection and several representations were received and the Order was referred to the Secretary of State to consider the confirmation of the Order. The sole objection was withdrawn in November 2011 and on that basis the representations were also withdrawn.

¹ The Wildlife & Countryside (Definitive Maps and Statements) Regulations 1993 (S.I. 1993/12) as amended by The Restricted Byways (Application and Consequential Amendment of provisions) Regulations 2006 (S.I. 2006/1177).

5. I have therefore considered this case on the basis of the Authority's statement of case. I have not visited the site and I am satisfied that I can make a decision without the need to do so.
6. The Order has been made under section 53(2)(b) of the 1981 Act relying on the occurrence of events specified in section 53(3)(c)(ii). The main issue is therefore whether the evidence is sufficient to show, on the balance of probabilities, that the way shown in the map and statement as a bridleway ought to be there shown as a restricted byway.
7. Having regard to the Authority's statement of case for confirming the Order, and all the supporting documents, and the fact that there is no longer any matter in dispute, I am satisfied that the evidence indicates that the map and statement should be modified to show a restricted byway.

Conclusion

8. Having regard to these and all other matters, I conclude that the Order should be confirmed with the modification of the notation for a restricted byway on the map contained within the Order.

Michael R Lowe

INSPECTOR