



# Order Decision

Site visit on 5 April 2022

**by Mark Yates BA(Hons) MIPROW**

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

**Decision date: 20 July 2022**

---

## Order Ref: ROW/3265197

- This Order is made under Section 119 of the Highways Act 1980 ("the 1980 Act") and is known as The Cheshire West and Chester Borough Council (Public Footpath No. 4 (part) and Public Footpath No. 5 (part) Beeston) Public Path Diversion Order 2018.
  - The Order was made by the Cheshire West and Chester Borough Council ("the Council") on 12 April 2018 and proposes to divert two footpaths, as detailed in the Order Map and Schedule.
  - There was one objection outstanding when the Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.
- 

## Decision

1. The Order is confirmed.

## Main Issues

2. I need to have regard to the relevant tests set out in Section 119 of the 1980 Act when determining whether it is expedient to confirm the Order. It is apparent that the objection from the owner of land crossed by the proposed paths relates to the small field which presently contains only a short section of Footpath 5.
3. In terms of the landowner's suggestion that the footpaths could be diverted within the curtilages of the properties outlined below, it is my role to consider the merits of the diversions included in the Order. Clearly, if the Order is not confirmed, the parties may wish to consider whether an alternative course of action should be pursued.

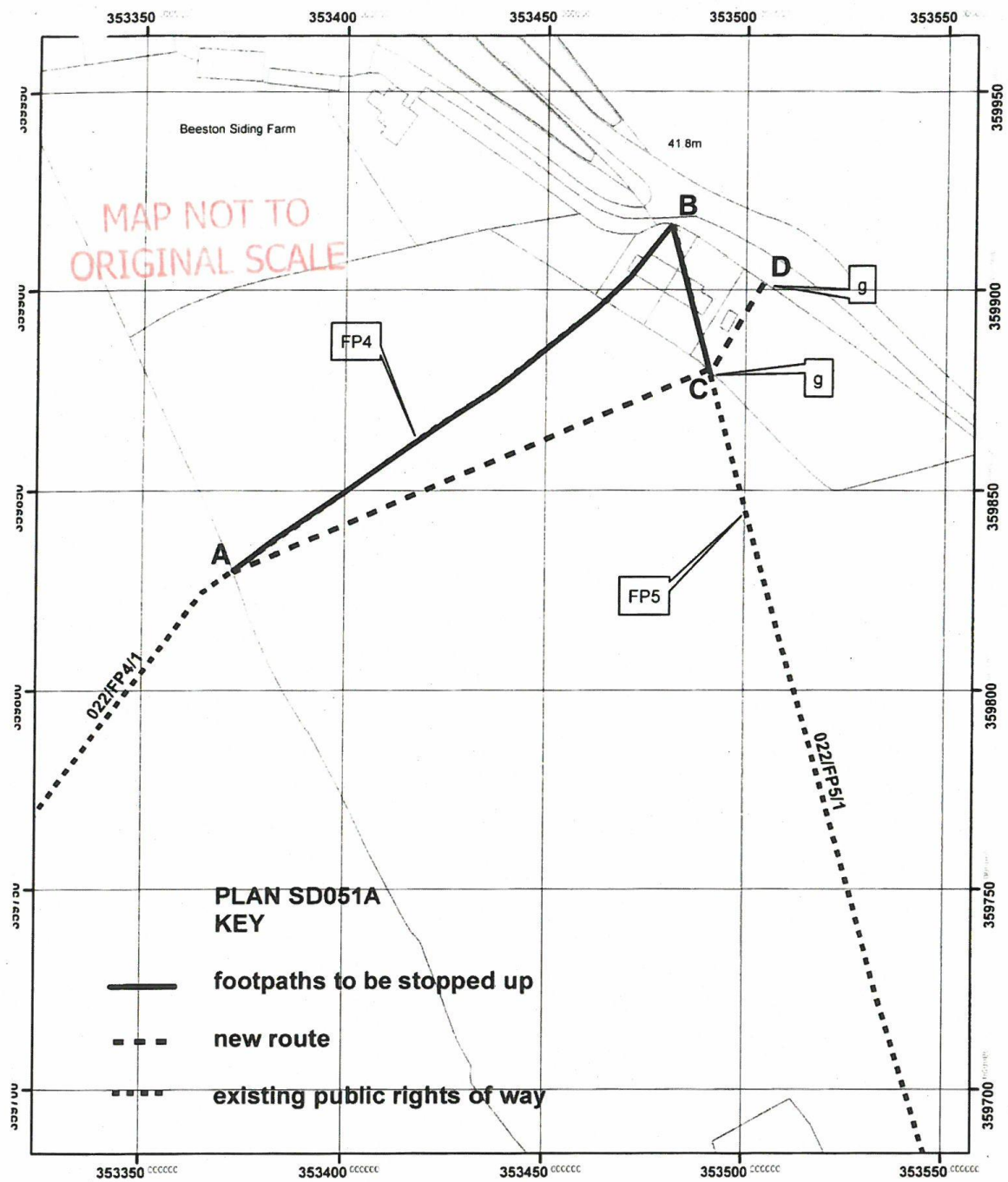
## Reasons

4. By reference to the points shown on the Order Map, it is proposed to divert Footpath 4 from A-B to A-C and Footpath 5 from B-C to D-C. These footpaths are obstructed by two properties which were built in 1943. It is clearly expedient, in the interests of the current owners and occupiers, to divert the footpaths where they pass through these residential properties.
  5. The diversions would move the current north-eastern termination points of the paths a short distance from point B to points C and D. No concerns have been raised regarding this matter and the proposed termination point with Bates Mill Lane at point D is further away from the vehicular access to Beeston Siding Farm. I find that the proposed termination points are substantially as convenient as those that presently exist.
-

6. The terrain is generally the same for the comparable routes and there is a minimal decrease in the distance to be walked. Some clearance works are required for the C-D section within the small field, but the existing footpaths would not be extinguished until the necessary works have been undertaken to the Council's satisfaction. The two proposed gates are to be built in accordance with the standards adopted by the Council. I consider that, when disregarding the present obstructions, the diversions would not lead to the paths being substantially less convenient for the public.
7. No details have been provided of any impact arising from the diversions on public enjoyment of the footpaths. If access was opened up through the gardens of the properties, this could potentially deter some people from using the paths and the proposed alternative between points C-D is likely to offer a more enjoyable experience than walking through the gardens.
8. The Council refers to policies E05 and BS4 in its Rights of Way Improvement Plan and the need to provide more than adequate access. There is nothing to suggest that the diversions are contrary to any material provision in the plan.
9. There is no apparent land served by the existing paths. It is asserted by the landowner that the Order would have a detrimental effect on use of the small field and how the land has to be managed. However, no further details are provided on these matters. This field currently comprises of scrubland and a pond. Furthermore, Section 28 of the 1980 Act (as applied by Section 121 of the Act) makes provision for compensation to be paid where the value of an interest in land is depreciated or a person has suffered damage by being disturbed in their enjoyment of the land.
10. I find from the details provided and my observations of the site that the impact of the present routes of the footpaths on the owners and occupiers of the two properties is far greater than the placing of the paths over the land crossed by the proposed routes. Having regard to these matters and the other relevant tests I conclude that it is expedient to divert the footpaths. It follows that the Order should be confirmed.

*Mark Yates*

**Inspector**



**Highways Act 1980 s119**  
**The Cheshire West and Chester Borough Council**  
**(Public Footpath No 4 (part) and Public Footpath No 5 (part)**  
**Beeston) Public Path Diversion Order 2018**



N  
 1:1,250

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Cheshire West and Chester Council 100049046.