

**From:** [Harry Garland](#)  
**To:** [nationalcasework@dft.gov.uk](mailto:nationalcasework@dft.gov.uk); [Claire.Moody@dft.gov.uk](mailto:Claire.Moody@dft.gov.uk); [ETC@planninginspectorate.gov.uk](mailto:ETC@planninginspectorate.gov.uk)  
**Subject:** Public Inquiry into the proposed stopping up and diversion of footpath 60, Holmfirth (NATTRAN/Y&H/S247/4337 & DPI/Z4718/21/6)  
**Date:** 07 May 2021 09:42:32

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Dear Mrs Moody

**Your refs: NATTRAN/Y&H/S247/4337 & DPI/Z4718/21/6**

As the DfT National Case work team is aware, the Council received an application for a Definitive Map Modification Order (“DMMO”), under the Wildlife & Countryside Act 1981, relating to the particulars of the public footpath Holmfirth 60 recorded in the Definitive Map and Statement, specifically the recorded width of Holmfirth 60. This includes the path as it passes through the site at Wolfstones.

On 21 April 2021, the Council’s relevant committee considered the DMMO application. It resolved to make an Order to amend the recorded width of part of footpath Holmfirth 60. The width is currently recorded in the Statement accompanying the Definitive Map as approx. 1.2m. The recorded width of part of path 60, including that of the part proposed to be stopped up or diverted under s247, would be amended to 3-4m between boundaries. However, following a complaint about a technical issue relating to the meeting webcast, the matter will be re-determined at a later meeting of that committee, which has no meeting proposed before mid-June

The width of public footpath 60 is a material consideration in the section 247 order, and was also highlighted by the applicant in application submissions to the DfT.

It appears necessary to consider the matter of the width of the public footpath 60 before, or at the least, alongside the process of determination of the draft s247 order. If the DMMO matter is not considered, then the s247 order process may not regularise the footpath situation at Wolfstones or bring these matters to a conclusion. The Council already had concerns with the draft s247 order as drafted, and with the submissions of the s247 applicant relating to the position of the public footpath Holmfirth 60.

It is noted that in the s247 case DPI/D2510/18/9 (October 2018), concerning objector’s points regarding additional unrecorded rights, that the DMMO and additional rights matter had already been considered by the surveying authority (Lincolnshire County Council) and the Planning Inspectorate on behalf of DEFRA (Ref: FPS/Q2500/14A/2 August 2016) in the appeal against a DMMO refusal by Lincolnshire County Council.

In a recent Kirklees case concerning alleged additional public rights, formal DMMO application (resulting in a DMMO), planning consent and a similar TCPA 1990 order (albeit under s257), the Planning Inspectorate allocated both matters (Clayton Fields, Huddersfield, PIns refs: 3220645 & 3220657) to the same inspector who held a joint inquiry into the separate order processes. In doing so, the Council and the Planning Inspectorate (for DEFRA) recognised the potential impact of the DMMO determination on the s257 order affecting the same routes. This joint inquiry approach used was useful and worked well.

If a similar joint inquiry approach were adopted by Pins on behalf of DEFRA and the DfT for the

DMMO and TCPA matters at Wolfstones, this would avoid multiple formal determination processes, allow for all relevant matters to be heard, enabling an encompassing determination of both matters, and thereby reduce cost and resource implications for parties involved. The applicant/agent has already cited costs in various communications regarding the s247 process.

It is recognised that if the Council refuses the DMMO application, then a formal right of appeal exists under schedule 14 of the 1981 Act, such appeals are also dealt with by the Planning Inspectorate, on behalf of DEFRA. If the DMMO is made and opposed, it would be submitted to PIns to determine on behalf of DEFRA. If a DMMO is made to vary the particulars regarding width of Holmfirth 60 and remains unopposed after publication, then the s247 draft order would not reflect the extent of Holmfirth 60, and nor would the s247 application submissions.

If the Council's committee decision is to make a DMMO, it is expected that the DMMO would be published within two weeks of that decision, and we would intend to forward any relevant case bundle file on any opposed order as a priority.

In summary, the two matters are intertwined and it is not considered appropriate, given the timetables and complications involved, as well as the costs implications to all parties, to hold a determination inquiry into the draft s247 order in August.

We would ask for the proposed four day August 2021 s247 public inquiry into the draft TCPA 1990 s247 order to be postponed, and rescheduled for when the DMMO matter has progressed to the stage where it has been completed or is in position to be determined by the Planning Inspectorate.

Kind regards

**Harry Garland**

**Legal Officer**

Kirklees Council, Legal Services  
2<sup>nd</sup> Floor, High Street Buildings  
High Street, Huddersfield, HD1 2ND