

**From:** [Noel Scanlon](#)  
**To:** [andy leader](#)  
**Cc:** ; NATIONALCASEWORK  
**Subject:** Re: Peak&Northern Footpaths Society - Holmfirth Footpath 60  
**Date:** 16 October 2020 15:34:53  
**Attachments:**

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Dear Mr. Leader

We have been informed by the Department for Transport that the Peak and Northern Footpaths Society does not wish to engage with us on this matter.

This is obviously disappointing but is nevertheless the PNFS's right. Nevertheless, all rights are reserved by the applicant as a result.

We shall not burden the Peak and Northern Footpaths Society any longer.

However, as asked on several occasions, please could you kindly confirm that you (perhaps in a personal capacity or on behalf of the PNFS) are the website manager/operator of the previous website known as: <http://www.pathwatch.blog> and currently: <http://www.path-watch.com>, as well as still running and operating: <http://www.madeinholmfirth.co.uk> and the associated *Twitter* handle?

Thank you in advance.

Kind regards

Noel

**From:** Noel Scanlon  
**Sent:** 12 October 2020 19:32  
**To:** andy leader  
**Cc:** ; NATIONALCASEWORK@dft.gov.uk  
**Subject:** Re: Peak&Northern Footpaths Society - Holmfirth Footpath 60

Mr. Leader

My apologies, I almost forgot, please could you also kindly clarify that you are indeed the operator/manager of the websites and social media links stated in my initial email today?

You did not respond to that in your email of 12:29 today.

Thank you.

Kind regards

Noel

Sent from my iPhone

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**From:** Noel Scanlon  
**Sent:** 12 October 2020 17:44  
**To:** andy leader  
**Cc:** ; NATIONALCASEWORK@dft.gov.uk  
**Subject:** Re: Peak&Northern Footpaths Society - Holmfirth Footpath 60

Dear Mr. Leader

Thank you for your email. To answer your question, this application to the Secretary of State pursuant to Section 247 TCPA is the same layout and formation, but with more up to date information.

Respectfully, we are not aware of the PNFS's concerns with regards to why specifically it considers that the application fails the merits test. This was the same on the Section 257 TCPA application which went through the Council as Highway Authority.

We are therefore still unclear in our understanding as to why the PNFS specifically objects to this application with reference to the merits test. Should the PNFS's position remain the same, I am afraid that we are unable to help you because we are not

able to engage constructively on a vague objection that could mean anything.

The PNFS appears to actively not want to specify why the application does not meet the merits test, or in the alternative the PNFS has seemingly provided a vague objection, possibly masking the fact that it is not able to substantiate it.

You will hopefully and objectively see why those are the only real conclusions that can be drawn without further information.

We are reaching out and trying to establish dialogue with objectors, including the PNFS. In that spirit and in the interests of exhausting enquiries, perhaps we could ask you/the PNFS again, one more time, to set out why in its opinion the PNFS considers that the application does not meet the merits test.

Otherwise, we are obviously unable to assist any further, other than to say all rights are reserved and that the applicant has at least attempted to engage constructively with the PNFS, which on current information is either withholding information, or is not able to substantiate its objection.

Thank you in advance.

Kind regards

Noel

Sent from my iPhone

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**From:** andy leader < >  
**Sent:** 12 October 2020 12:29  
**To:** Noel Scanlon  
**Cc:** ; NATIONALCASEWORK@dft.gov.uk  
**Subject:** Re: Peak&Northern Footpaths Society - Holmfirth Footpath 60

Hello Mr Scanlon,

Thanks for your further email. Apologies but I seem to have missed its predecessor.

Could you please clarify how the current s247 application differs from the previous s257 application? I ask because you are well aware of Peak and Northern's concerns on the past application. I think it would be helpful for us to know from you if it is in fact the same proposal or whether it does, in some way at least, address any of our previous concerns (of which you are aware). As I said in my original reply - am I missing something? Please could you answer that clearly.

Kind Regards

Andy Leader

PNFS

Sent from [Outlook](#)

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**From:** Noel Scanlon <noel.scanlon@nsconsult.co.uk>  
**Sent:** Tuesday, September 29, 2020 3:24 PM  
**To:** andy leader < >  
**Cc:** >; NATIONALCASEWORK@dft.gov.uk <NATIONALCASEWORK@dft.gov.uk>  
**Subject:** Re: Peak&Northern Footpaths Society - Holmfirth Footpath 60

Dear Mr. Leader

Thank you for getting in touch.

As I said in my initial email to you, I am not going to be able to respond to something so generalised. Please do forgive me in advance, but I still do not understand the specifics of the PNFS's objection, despite your email below. The only thing that I can reasonably ascertain from your email below is that the PNFS is stating that the merits test is not surpassed for the same reasons that the Kirklees Council's Huddersfield Area Planning Sub-Committee on 30th January resolved not to make an order under the previous Section 257 TCPA application to the Council.

Should that be the case, at least that gives us some parameters to work to and hopefully at least attempt to alleviate the PNFS objections, so please for your sake, the DfT's sake and our sake, in the interests of being constructive, could you kindly clarify the position on behalf of the PNFS.

Again, even if the PNFS's objection is not withdrawn, the applicant and more importantly the DfT can understand the specifics of its concerns, which will streamline efforts on all fronts where a Public Inquiry is convened.

Otherwise, respectfully, I am unable to ascertain why specifically the PNFS considers that the consequences of diverting the current public footpath rights, weighs negatively, along with specific reasons why the proposal does not meet the relevant merits test referred to in well known case law.

Should I not hear from you or one of your colleagues tomorrow, we shall work on the basis that you do not wish to engage further and let the DfT do with this information what it will. However, we do hope that you are minded to more helpfully confirm the specifics rather than unhelpful generalities of the PNFS objection, in the interests of hopefully at least allowing an opportunity for the applicant to try and address them.

Thank you in advance.

Kind regards

Noel

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**From:** andy leader < >  
**Sent:** 29 September 2020 10:22  
**To:** Noel Scanlon  
**Cc:** NATIONALCASEWORK@dft.gov.uk  
**Subject:** Re: Peak&Northern Footpaths Society - Holmfirth Footpath 60

Dear Mr. Scanlon,

Thank you for "reaching out" to the society on this issue.

In a sense it's difficult to know quite what to say to you. Just a few short months after having a s257 application rejected by Kirklees Council your client has submitted a second application under s247 of the same act which appears to be identical. Despite extensive consultations during the s257 application and the comments and objections from Peak & Northern, other user groups and the public, the new application addresses none of the points and concerns raised. It appears to be exactly the same proposal containing exactly the same flaws.

You may recall I met you on site to do the "walk and talk" and informally discuss the concerns Peak & Northern had on the s257 proposal. None of our concerns were addressed and the proposal went to Huddersfield Planning Sub Committee in January 2020. Along with other objectors we were able to show that the merit test was not met and the committee declined to give authority for an order. Kirklees Strategic Planning Committee have unanimously reaffirmed this decision and Peak & Northern welcome the council's clarity on the matter. Being both Planning and Highway Authority their stance is significant. Holme Valley Parish Council have also voted to object to the s247 application following Peak & Northern's representation to the recent Planning Committee. It is to be hoped that your client will consider the concerns of the wider community and the many valid objections made before continuing with the s247 application.

I have a copy of the s247 application and the supporting statement. It largely goes over the same unsuccessful arguments as the failed s257 application in which the merit test was clearly shown by Peak & Northern, amongst others, not to have been met. It would seem logical to have made changes to the new application in an attempt to address concerns you have been made aware of previously. Surely that's the point of consultation and engagement?

Please do get in touch and let me know if I am missing something here and I would of course discuss things further on behalf of Peak & Northern.

As it stands Peak & Northern maintain the objection. Our preferred option is that the Secretary of State uses his discretion and does not make the order based on the many valid objections received. Alternatively, the applicant could withdraw the application.

Kind Regards

Andy Leader

PNFS

Sent from [Outlook](#)

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**From:** Noel Scanlon <noel.scanlon@nsconsult.co.uk>

**Sent:** Thursday, September 24, 2020 11:03 PM

**To:**

**Cc:**

**Subject:** Fw: Peak&Northern Footpaths Society - Holmfirth Footpath 60

Dear Mr. Leader and Colleagues

Hello, for those not acquainted I am Noel of NSCL, the agent for Mr. Butterfield on this application for a diversion of part of Footpath 60 at Wolfstones.

I have been asked to reach out to you by the DfT following your objection on behalf of the PNFS. My goal is obviously to try and assuage any concerns and ultimately try and persuade you to withdraw your objection to the DfT. I do believe that this is achievable if you would allow me such an opportunity, but it is of course entirely up to you if you would wish to engage.

However, your objection, although validated, is rather generalised, citing only case law and reference to the merits test. In order to help me to help me to try and help you, or at least understand the PNFS's specific concerns, please could you kindly elaborate specifically, but briefly if possible, why the PNFS considers that the consequences of diverting the current public footpath rights, weighs negatively, along with specific reasons why the proposal does not meet the relevant merits test referred to in well known case law.

I shall leave this with you and do sincerely hope that the PNFS will constructively engage in matters. Even if its objection is not withdrawn, the applicant and more importantly the DfT can understand the specifics of its concerns, which will streamline efforts on all fronts where a Public Inquiry is convened.

Should I not hear from you either way by **midday on Monday 28th September**, I shall presume that the PNFS do not wish to engage.

However, I hope that you are minded to get in touch and allow me an opportunity to hopefully provide you with the comfort that you require to be able to withdraw your objection, or at least narrow the issues for all concerned where the Secretary of State may convene a Public Inquiry.

Should you not, that is of course your right and I thank you in any event for taking the time to read this.

Yours sincerely

**Noel Scanlon** *Solicitor, BA(Hons), MSc, MCIWM*

**Director & Consultant**

**NSCL**

**Subject:** Peak&Northern Footpaths Society

**From:** NATIONALCASEWORK  
**Sent:** 24 September 2020 15:21  
**To:**

**Subject:** Objection to proposed stopping up and diversion of Holmfirth Footpath 60 (NATTRAN/Y&H/S247/4337)

Dear Mr Leader

Thank you for your email, submitting Peak & Northern Footpaths Society's objection to these diversion proposals.

As your objection has been accepted, your email has now been passed to the applicant's agent, Noel Scanlon Consultancy Ltd, and they or the applicant will no doubt be in touch with you directly to discuss. I would be grateful if you could keep us informed of all correspondence, and if matters are resolved to your satisfaction, please could you confirm to us that you no longer object.

*Please also be aware that if a diversion Order becomes the subject of a Public Inquiry (PI), all correspondence is copied to the PI Inspector and kept in the PI Library, where it is publicly available.*

Kind regards,  
Claire



Mrs Claire Moody  
Casework Manager, National Transport  
Casework Team  
Tyneside House, Skinnerburn Road,  
Newcastle Upon Tyne NE4 7AR  
Please contact us by email where possible:  
[nationalcasework@dft.gov.uk](mailto:nationalcasework@dft.gov.uk)  
**PLEASE NOTE: My working pattern is Wednesday  
– Friday.**

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**From:** andy leader [[mailto](mailto:andy.leader@dft.gov.uk)]  
**Sent:** 24 September 2020 07:36  
**To:** NATIONALCASEWORK <[NATIONALCASEWORK@dft.gov.uk](mailto:NATIONALCASEWORK@dft.gov.uk)>  
**Cc:**  
**Subject:** NATTRAN/Y&H/S247/4337 Holmfirth Footpath 60 Town & Country Planning Act 1990 s247 Proposed Stopping Up & Diversion Wolf Stones, Holmfirth

Dear Sir/Madam,

Peak & Northern Footpaths Society object to the proposed stopping up and diversion order reference NATTRAN/Y&H/S247/4337.

The society considers that the negative effect of the proposal on public path users outweighs the positive effect of the development.

The proposal does not meet the merit test described in the judgements in Vasiliou v SoS Transport

[1991] 2 All ER 77 and in R (Network Rail) v SoS Environment, Food and Rural Affairs [2017] EWHC 2259 (Admin).

As such we would ask that the order is not made.

Kind Regards

Andy Leader  
Peak & Northern Footpaths Society