



Order Decision

On papers on file

by Alan Beckett BA MSc MIPROW

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

Decision date: 01 August 2019

Order Ref: ROW/3219390

- This Order is made under Section 53 (2) (b) of the Wildlife and Countryside Act 1981 ('the 1981 Act') and is known as the Derbyshire County Council (Bridleway along part of Boat Lane, Stoneyford and upgrading of Heanor Footpath No. 68 to Bridleway – Parish of Aldercar & Langley Mill) Modification Order 2012.
- The Order is dated 15 March 2012 and proposes to modify the Definitive Map and Statement for the area by (a) adding a public bridleway between points A and B, and (b) by upgrading to bridleway public footpath Heanor 68 between points B and C as shown in the Order plan and described in the Order Schedule.
- There was 1 objection outstanding when Derbyshire County Council ('the Council') submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The order is confirmed.

Main Issues

1. Whether the evidence adduced by the Council demonstrates, on a balance of probabilities that a public right of way on horseback subsists over the Order route such that it should be recorded as a public bridleway in the Definitive Map and statement.

Reasons

2. As noted above, the Order attracted one objection. The objector did not question the conclusions reached by the Council as to the status of the Order route following an investigation of the documentary and user evidence adduced.
3. The Council has considered several documentary sources as part of its investigation of the Order route and from its assessment of those documents has concluded that the Order route is historically a public bridleway and should be recorded as such.
4. The physical existence of the Order route as part of a longer route between the county boundary and Woodlinkin is consistently shown on maps depicting the area from the 1830s onwards. Although there is no conclusive evidence as to the status of the Order route, I consider that there is a very clear inference to be drawn from the Brinsley Inclosure Award 1779 that the bridle road awarded on the Nottinghamshire side of the Erewash continued on the Derbyshire side of the boundary and along the Order route.

5. The Brinsley Inclosure Award refers to the setting out and appointment of “*one public horse and bridleroad...beginning at...Westwood Road and from thence extending...to an ancient ford or way through the rivulet called the Erewash into the liberty of Codnor...which said road..shall be called...the Codnor Bridle Road*”. The Inclosure map is labelled “*Bridle Road from Codnor*” at a point which corresponds with point B on the Order plan.
6. A plan and survey of a farm at Stoneyford of 1830 depicts the eastern part of Boat Lane and is annotated “*Bridleroad from Brinsley*”. A gate is shown across the Order route a short distance to the east of point A.
7. The Brinsley Inclosure Award provides evidence that at the time of the Award the Order route formed part of a cross-border public bridleway the existence of which was acknowledged by the Inclosure Commissioners. The farm survey plan suggests that the inclosure award bridleroad remained in existence in the middle of the nineteenth century. No evidence has been submitted to suggest that the public bridleway rights considered to be in existence in 1779 have been subsequently stopped up.
8. Seven user evidence forms were submitted in support of the application to add the public bridleway to the definitive map. Each of the forms describes the route as a bridleway and collectively the forms refer to use between 1930 and 1992. Of these seven forms, five respondents refer to use of the Order route on horseback and on foot with three of these respondents also claiming use of the order route with a pony and trap.
9. Taking the evidence as a whole, I consider that it points towards the claimed bridleway having been in existence since the latter part of the eighteenth century with the user evidence demonstrating that the Order route retained its reputation as a public bridleway into and during the twentieth century.

Other matters

10. The sole objection was made on the grounds that recording the route as a public bridleway would prevent customers using Boat Lane with motor vehicles from reaching the objector’s boarding kennels; that dogs at the kennels could startle horses and that the claimed bridleway was not used due to a locked gate. In addition, the objector queried whether the three gates present on the route would remain.
11. If the objector has the benefit of a private vehicular right of way along the Order route to reach his property, the recording of the route as a public bridleway would have no effect upon the exercise of that private vehicular right. The existence of three field gates on the route is recognised in part II of the schedule to the Order.
12. The matters raised in the objection are not ones to which I can attach any weight in my determination of this Order; my remit is limited to those matters set out above under the heading ‘Main Issues’.

Conclusions

13. I conclude that the evidence before me is sufficient to show, on a balance of probabilities, that a public right of way on horseback subsists over the Order route.

14. Having regard to these and all other matters raised in the material I have read, I conclude that that the Order should be confirmed.

Formal Decision

15. I confirm the Order.

Alan Beckett

INSPECTOR



Wildlife & Countryside Act 1981 S.53

The Derbyshire County Council (Bridleway along part of Boat Lane, Stoneyford and Upgrading of Heanor Footpath No. 68 to Bridleway - Parish of Aldercar and Langley Mill) Modification Order 2012

KEY

- Bridleway to be added
- Footpath to be upgraded to bridleway
- Existing bridleway (Notts)
- Existing footpaths

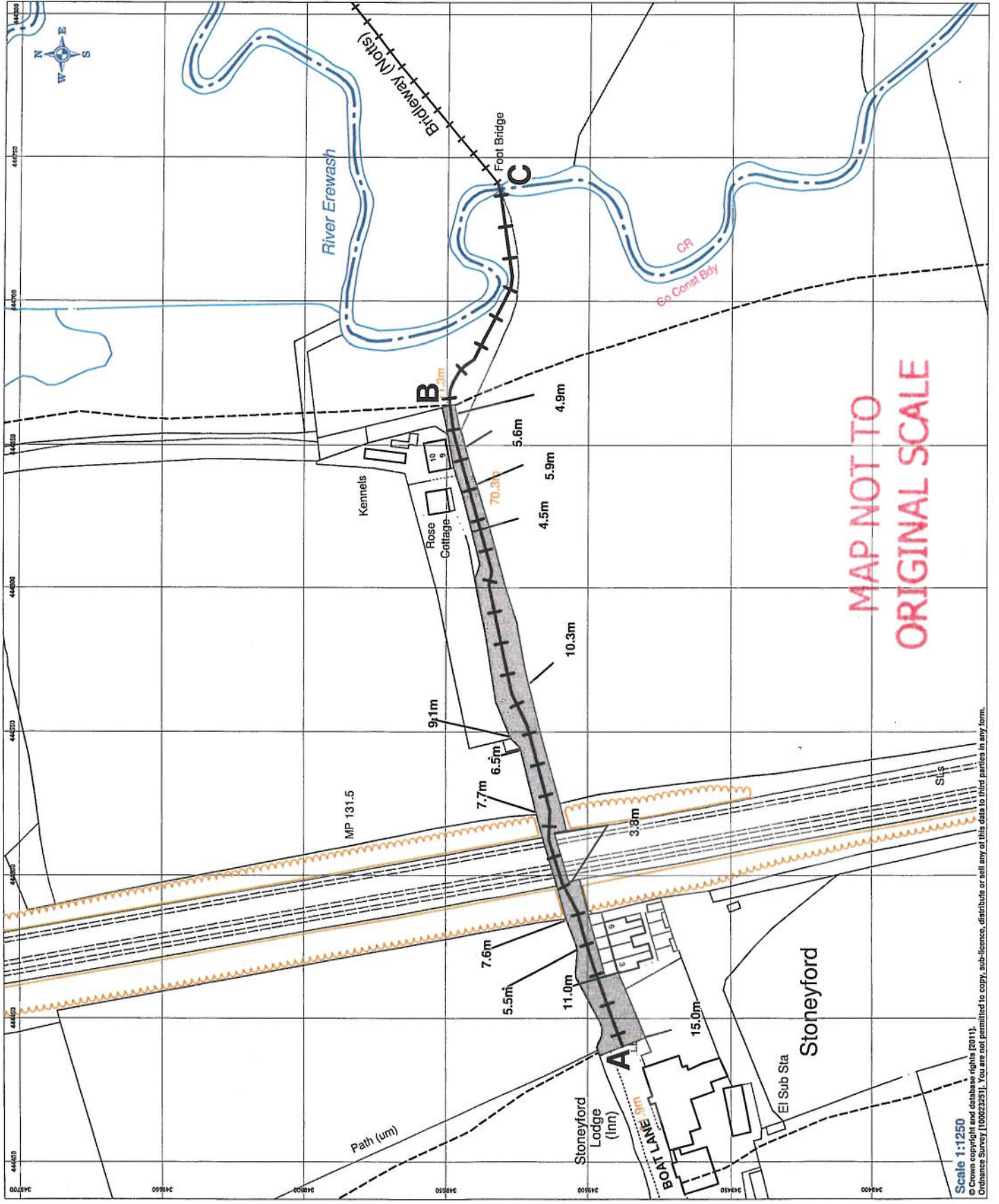
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Improving life for local people

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