



# The Planning Inspectorate

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Mr John McElvaney  
Derbyshire County Council  
Director of Legal Services  
County Hall  
Matlock  
Derbyshire  
DE4 3AG

Your Ref: PS/PS/43923  
Our Ref: ROW/3186313

13 December 2017

Dear Mr McElvaney,

Wildlife and Countryside Act 1981 - Section 53  
Order Making Authority: Derbyshire County Council  
Title of Order: (Upgrading to Restricted Byway of Public Footpath Nos. 25 and 21  
(Part) – Parish of Pilsley and addition of a Byway Open To All Traffic along Timber

I am directed by the Secretary of State for Environment, Food and Rural Affairs to refer to the above named Order, which was submitted for confirmation on 6 October 2017.

Examination of the Order and map has revealed that the Order has been incorrectly drafted. In the body of the Order the relevant date in the Order has been given as 27 November 2013, whilst the date on which the Order was made is 21 November 2013.

The relevant date cannot be after the date on which the Order was made; *Section 56(1) (a), states that, "where the map shows a footpath, the map shall be conclusive evidence that there 'was' at the relevant date a highway as shown on the map....."* This shows that the date ought to be set in the past and not in the future, and as it currently stands, since the relevant date is 6 days after the date on which the Order was made, the relevant date is invalid.

The Secretary of State takes the view that this constitutes a fundamental error which is fatal to the validity of the Order. As she cannot purport to use his power of modification to correct such an error, he has decided not to exercise her power of confirmation. The sealed Orders are returned herewith and a copy of this letter has been sent to the objectors and all other interested parties.

Yours sincerely,

*Yvonne Oddy*  
Yvonne Oddy

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