



Order Decision

Site visit on 3 September 2019

by Mark Yates BA(Hons) MIPROW

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

Decision date: 03 December 2019

Order Ref: ROW/3196601

- 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 (Public Bridleway No. 18 (part) and Public Footpath No. 31 (part) – Parish of Bradwell) Modification Order 2010.
 - The Order was made by Derbyshire County Council ("the Council") on 16 September 2010 and proposes to modify the definitive map and statement for the parish of Bradwell, as detailed in the Order Map and Schedule.
 - There were two objections outstanding when the Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.
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Decision

1. The Order is not confirmed.

Procedural Matters

2. All of the points referred to below correspond to those delineated on the Order Map.
3. The Council requests that the Order is not confirmed and is looking at pursuing an alternative means of dealing with these rights of way. There appears to be a conflict between the Order seeking to delete public rights in relation to the A-D-E-C route but also proposing to record a footpath over this section. Nonetheless, the Order could possibly be confirmed, subject to modifications, to solely address the alignment of Bridleway 18.

Main Issues

4. The Order relies upon the occurrence of events specified in Section 53(3)(c)(i), (ii) and (iii) of the 1981 Act. Therefore, I need to consider whether the evidence discovered shows on the balance of probabilities that:
 - (i) a right of way which is not shown in the map and statement subsists;
 - (ii) a section of bridleway ought to be shown as a highway of a different status; and
 - (iii) there is no public right of way over land shown in the definitive map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

Reasons

5. There appears to have been the discovery of some new evidence since the relevant date of the definitive map and statement. Further, the discovery of
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- evidence of an error contained in the map or statement will warrant the making of an Order to rectify the error.
6. Reference is made in the background papers to a cross road shown on the Burdett and Greenwood maps of 1762 and 1824, which generally corresponds with the bridleway outlined below. However, copies of these maps have not been provided.
 7. The Council draws attention to a '*Public Bridle Foot and Drift way*' included in the Bradwell Inclosure Award of 1820. Whilst the map with the award shows this bridleway broadly following a route between points A-C, it does not proceed over the alignment shown on the Order Map in the locality of point B. The bridleway is also generally shown continuing between points F-H. It clearly does not follow the relevant sections delineated on the definitive map. The later Bradwell tithe map of 1844 provides additional support for the existence of the route marked on the inclosure map.
 8. Provision was also made in the award for a '*Public Footway*' and the inclosure map shows this to be near to Footpath No. 31. Although it appears to be depicted on an alignment to the west of the footpath shown on the definitive map. There is no apparent path recorded on the inclosure map between points A-D-E-C.
 9. The relevant parish schedules compiled in 1951 indicate that Bridleway 18 and Footpath 31 were initially claimed for inclusion on the original definitive map on the grounds of long-term user. However, reference is made in the entries in the definitive statement for these ways to the 1820 inclosure award. It therefore seems that some reliance was placed on the award when the ways were first recorded in the map and statement.
 10. The reference in the definitive statement to the inclosure award and the difficulty of traversing the A-D-E-C alignment could suggest that the route of this section on Bridleway 18 was incorrectly transposed on the definitive map. The awarded bridleway corresponds more closely with the hollow way on site. It is also evident that the awarded bridleway did not proceed over the F-G route. There is no documentary evidence to support a public right of way between points A-D-E-C. However, I am mindful that the parish schedule refers to longstanding use as the reason for the inclusion of Bridleway 18 on the definitive map.
 11. The documentary evidence is not supportive of the bridleway following the alignment recorded on the definitive map. However, this does not necessarily mean that the A-D-E-C route was recorded in error. In terms of any potential confirmation of the Order solely in relation to the awarded route, the Order Map does not reflect this route. Nor is it evident how the Order could be modified on this matter. Having regard to the evidence provided, I do not consider on the balance of probabilities that the Order should be confirmed.

Other Matters

12. Issues regarding the future maintenance of the rights of way in the area and appropriate signage are not relevant to my decision.

Mark Yates

Inspector



Wildlife and Countryside Act 1981 Section 53
The Derbyshire County Council
(Public Bridleway No 18 (part)
and Public Footpath No 31
(part) - Parish of Bradwell)
Modification Order 2010

KEY

- Bridleway to be added
- Bridleway to be deleted
- Bridleway to be downgraded to footpath
- Existing footpaths
- Existing bridleway

Ref: PE/UBX/2885/Order/2010

Scale 1:2500



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