



Order Decision

Site visit made on 20 February 2018

by Helen Slade MA FIPROW

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

Decision date: 09 December 2019

Order Ref: ROW/3179946/M2

- This Order is made under Section 53 (2) (b) of the Wildlife and Countryside Act 1981 ('the 1981 Act') and is known as The Kent County Council (Bridleways AW378 and AW379, Kingsnorth) Definitive Map Modification order 2016.
- The Order is dated 21 October 2016 and proposes to modify the Definitive Map and Statement for the area by adding two bridleways as shown in the Order plan and described in the Order Schedule.
- In my previous (second) interim decision, and in accordance with Paragraph 8 (2) of Schedule 15 to the Wildlife and Countryside Act 1981 I gave notice of my proposal to confirm the Order with the modifications I had already proposed regarding the status and width of the Order route, together with a further modification to reduce its length.
- One objection was made with respect to my proposed modification to reduce the length of the Order route.

Summary of Decision: The Order is confirmed subject to the modifications set out below under 'Formal Decision'.

Procedural Matters

1. In my first interim decision, issued on 27 February 2018, I proposed modifications to the Order which required advertisement. I proposed that the recorded width of the route be altered such that it would be wider along the majority of its length than originally set out in the Order, and I also proposed that the route be recorded as a Restricted Byway rather than as a Bridleway.
2. In my second interim decision, issued on 19 February 2019, I proposed a further modification to reduce the length of the Order route at its western end, to show its correct junction with the adopted highway.
3. One objection was made to my second interim decision within the statutory notice period. It was agreed that the matter should be dealt with by the written representations procedure and no further statements have been submitted. I have not made a further visit to the site as I do not consider it necessary for me to do so.
4. This final decision should be read in conjunction with my two interim decisions.

The Main Issues

5. The main issue for me to consider in my final decision is whether or not my conclusion to reduce the length of the Order route is justified by the evidence. All other matters have been fully considered in my earlier decisions and no evidence has been submitted to cause me to alter my conclusions in those respects.

6. As I have already made clear, my decision must be based on the facts of the case, and not on whether or not the outcome is desirable or otherwise. The burden of proof is the balance of probabilities.

Reasons

The length of the Order route

7. In my second interim decision I agreed with Kent County Council that the evidence of the highway records supported that the Order route should be shown commencing at a point 69 metres to the south-east of the point shown on the original Order plan near to Slab Castle. The correct point should have been near to Meadow Farm. The reason for requesting the alteration was that a review of the information supplied by the Highway Definition Officer suggested that the maintainable highway extended further than originally thought.
8. Were the requested modification not to be made, the result would be that a short length of highway was recorded in two different documents, possibly with different rights attached to it. This would clearly have been not only confusing but it might have been inaccurate, resulting in the Definitive Map and Statement not being of the highest accuracy.
9. The objector (Pat Sim) disagrees with my modification, and suggests that the decision shows a lack of common sense. The objector also maintains their objection to the Order as a whole, but I have already concluded on all the other issues in my earlier decisions. No evidence has been submitted to suggest that my decisions on those matters were wrong, and I have already explained that the matter as a whole must be determined on the facts and not on issues of desirability.
10. I am satisfied that no evidence has been submitted to cause me to depart from the conclusions I reached in my first or second interim decisions.

Conclusions

11. Having regard to all matters raised in the written representations, including those submitted following the two advertisements regarding my proposed modifications, I conclude the Order should be confirmed subject to the all the modifications that I have proposed.

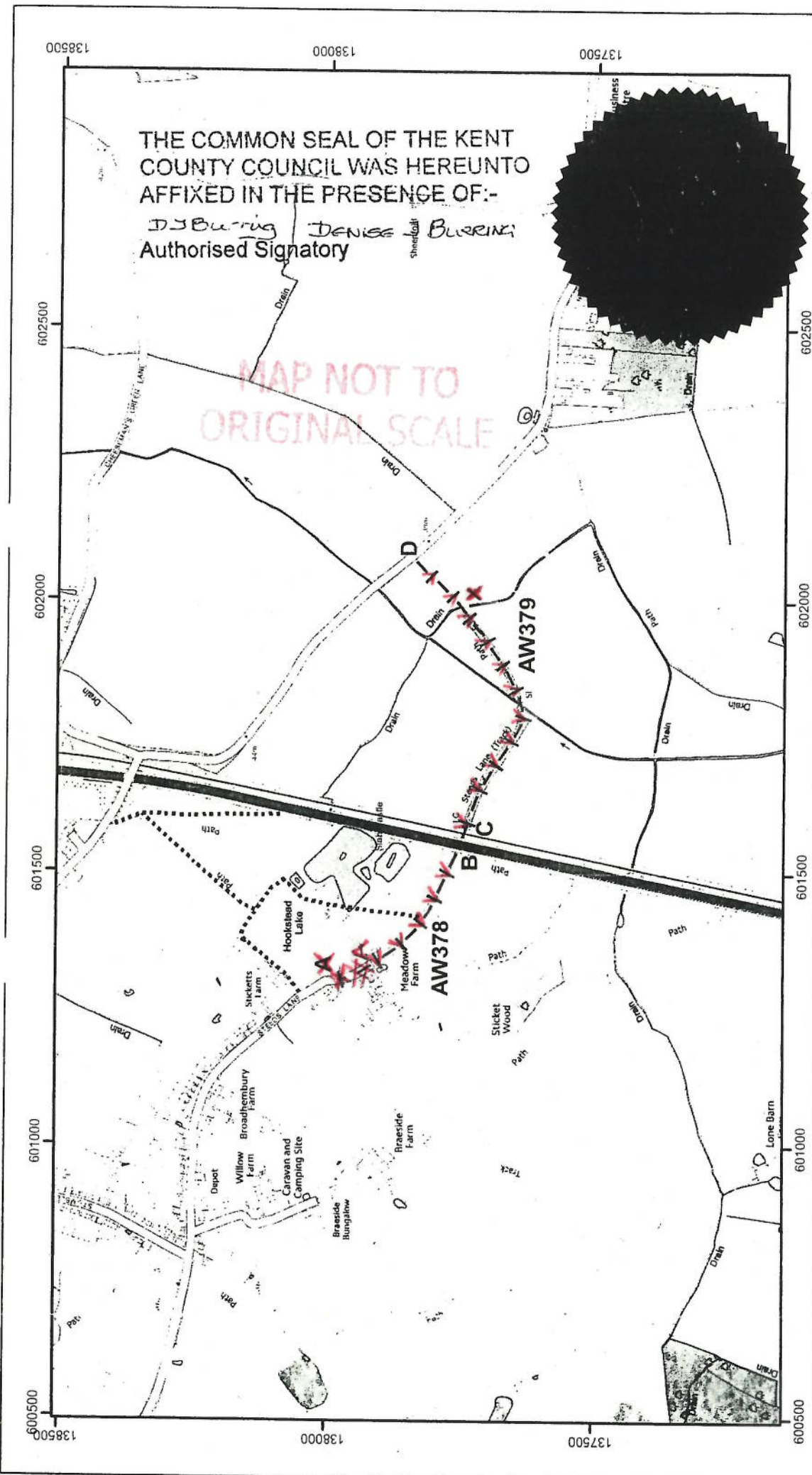
Formal Decision

12. The Order is confirmed subject to the following modifications:
 - The title of the Order to be amended to refer to Restricted Byways rather than Bridleways;
 - **All** references to the Order route in the Order, the Schedule and on the Order Map to be amended to Restricted Byway rather than Bridleway;
 - In Part I of the Schedule in the description relating to the route AW378, delete the reference to the width being 3.0 metres and amend it to 8.0 metres;
 - In Part 1 of the Schedule, in the second line of the first paragraph delete the words 'Slab Castle' and substitute 'Meadow Farm';

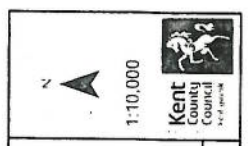
- In the same paragraph amend the grid reference for Point A to read 'NGR TR 0133 3791'
- In the same paragraph delete the reference to '332.0' metres and substitute '263.0';
- In the second paragraph of Part I of the Schedule, in the description of the route AW379, delete the words 'with a width of 3.0 metres';
- In the same paragraph, add the following additional text to the description 'Width between point C and point X – 10 metres; width between point X and point D – 3.0 metres.';
- In Part II of the Schedule in the description relating to the route AW378, delete the reference to the width being 3.0 metres and amend it to 8.0 metres;
- In Part II of the Schedule at the end of the description of AW379 delete the full stop and add the text 'from Brockmans Lane for a distance of 120 metres and then with a width of 10 metres to the A2070.';
- On the Order Map insert point X as shown;
- On the Order Map amend the title the symbol and the key to indicate the status of the route as a Restricted Byway.
- On the Order Map delete the letter 'A' and move it to the new starting point of the Order route opposite Meadow Farm;
- Delete the first section of the Order route between the original letter 'A' and the replacement letter 'A'.

Helen Slade

Inspector



THE COMMON SEAL OF THE KENT COUNTY COUNCIL WAS HEREUNTO AFFIXED IN THE PRESENCE OF:-
 DJ Burring / DENISE Burring
 Authorised Signatory



1310-2016

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Wildlife & Countryside Act 1981 *Restricted*
The Kent County Council (Bridleways Byways
AW378 & AW379, Kingsnorth)
Definitive Map Modification Order 2016

Key

-V-V- Route to be added

..... Unaffected routes

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