



Order Decision

Inquiry held on 26 and 27 November 2019

Site visits on 27 and 28 November 2019

by Paul Freer BA(Hons) LLM PhD MRTPI

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

Decision date: 14 August 2020

Order Ref: ROW/3222938

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981. It is known as the Derbyshire County Council (Bridleway from Main Street Over Haddon via Lathkill Dale and Meadow Place Grange to Back lane – Parishes of Over Haddon and Youlgreave) Modification Order 2018.
- The Order is dated 6 September 2018. It proposes to modify the definitive map and statement for the area by adding a Bridleway linking Main Street Over Haddon with Back Lane as shown on the Order map and described in the Order Schedule.
- There were four objections outstanding at the commencement of the Inquiry. There were also three representations in support of the Order outstanding at that time.

Summary of Decision: The Order is proposed for confirmation in part only and subject to modifications, as set out in the Formal Decision below.

Preliminary Matters

1. Parts 1 and II of the Schedule to the Order divide the route into two sections. The Section identified as A-B is from Main Street Over Haddon to a point on the south side of the River Lathkill, and is within the Parish of Over Haddon. The Section identified as B-C is from the same point on the south side of the River Larkhill to Back Lane, and is within the Parish of Youlgreave. These two sections of the Order route are very different in character, and for that reason it is convenient to consider them separately.
 2. In his evidence on behalf of the Green Lane Association (GLASS), Mr Alan Kind further divides the section A-B into two parts. The first part is that from Over Haddon village to the bridge/ford over the River Lathkill, a point which he terms Bx. The second part is from Bx to point C as shown on the Order plan, where the route meets Back Lane. For reasons that I will set out below, I concur with that sub-division and will adopt it for the purposes of my Decision.
 3. In addition to the above, Mr Kind expressed the view that the start of the Order route at Point A is incorrect and favours a start point further to the south. This is a matter to which I shall return to below.
 4. Partly in response to the distinct differences in character of sections A-Bx and Bx-C, I carried out two separate accompanied site visits. The first of these was primarily in relation to the section A-Bx, but also took in that part of Bx-C up to the gate at Meadow Place Wood. This was carried out on the afternoon of 27 November 2019. The second accompanied site visit was in relation to the
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remainder of section Bx-C, and was carried out on the morning of 28 November 2019, starting from Back Lane.

5. During the course of the Inquiry, Mr Kind raised questions about the status of the copy of the inclosure plan for the 1810 Bakewell & Over Haddon Parliamentary Enclosure Award (1810 Enclosure Award) made available to the Inquiry. The County Council subsequently sought clarification on this point from the archivist at Derbyshire Record Office. In an email to the County Council dated 4 December 2019, the archivist confirms that the plan made available to the Inquiry has been included in the Quarter Sessions records held by the County Council since 1889 and in her opinion was, in all probability, included with the official copy of the award itself when it was enrolled on 15 February 1811. The archivist goes on to explain that the plan itself is not dated but the numbering and descriptions used directly correspond with the 1810 Enclosure Award. Furthermore, and again in her opinion, the archivist considers that the handwriting used in a pencilled note on the plan indicates it may be 19th century, or very early 20th century.
6. The question then arose as to whether the inclosure plan included with the enrolled copy of the 1810 Enclosure Award was required to be signed and sealed by the enclosure commissioners. The County Council responded to that point by quoting extracts from Section 35 of The Inclosure Consolidation Act 1801. That Act provides that maps and plans shall be annexed to and enrolled with the said Award, and shall be deemed and construed in every respect as if they were part of that Award. In a response dated 13 January 2020, Mrs Mallinson and Mrs Stubbs make the same point.
7. In raising the matter at the Inquiry, Mr Kind did indicate that he would be content with a confirmation from the archivist at the County Council that the Inquiry copy is a proper copy of the original. Having regard to the confirmation now given by the archivist at Derbyshire Record Office, I am satisfied that the copy available at the Inquiry was true copy of the original plan. Similarly, I am satisfied that there is no requirement for the inclosure plan for the 1810 Enclosure Award to be signed by the enclosure commissioners. Accordingly, I will afford the copy of the inclosure plan made available to the Inquiry due weight.

Modifications to the Order

8. It was common ground at the Inquiry that I should delete the words 'to add' in the title of Part II of the Schedule to the Order. I propose to modify the Order accordingly.
9. The County Council also requested that I insert headings above the columns set out in Part II of the Schedule. Specifically, the County Council requested that I insert the following headings: Path Number; 1:10,000 OS Sheet Ref Number; Status and Description of the Route; Nature of Surface; Length; Width; and Remarks. I have been provided with a copy of another Order made by the County Council (in relation to Clough Lane and Oldfield Lane, in the parishes of Birchover and South Darley) that includes those same headings. The County Council indicated that the omission of these headings from the Order now before me was inadvertent.
10. Whilst the County Council has requested that the Order be modified in this way, in my view the Order as made is clear in its intentions and there is

nothing to suggest that anyone has been prejudiced. Nevertheless, inserting the suggested headings would add clarity to the Order. I propose to modify the Order accordingly.

11. In addition to the insertion of these headings, there is the question whether the Order is legally defective by not specifying limitations. This issue is raised by Mrs Rhoda Barnett on behalf of The Peak and Northern Footpaths Society (PNFS). In essence, the point made is that, in the view of the PNFS, the Order should set out any limitations relating to the route under a separate heading or column. The Order as drafted, and as requested by the County Council to be modified, does not and would not contain a separate heading or column listing limitations and conditions which, in the view of the PNFS, means that the definitive statement is legally deficient.
12. The format a Modification Order is set out in the Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993 (the Regulations). Section 4 of the Regulations provides that a modification order shall be in the form set out in Schedule 2 to the Regulations or in a form substantially to the like effect, with such insertions or omissions as are necessary in any particular case. On my reading, that in itself provides a degree of flexibility in the format of modifications, depending upon the particular circumstances of the case.
13. Turning then to Schedule 2 of the Regulations and in relation to the variation of particulars of the path or way, the only requirement there is to set out the new description of the path or way or additional particulars. Other than setting out the title, there is no prescribed format for doing so. In particular, there is no specific requirement for limitations or conditions to be set out in a separate heading or column.
14. As drafted, the Order refers to a number of field gates and an open gateway at defined locations along the route under what would be the 'remarks' column. That approach is entirely consistent with the provision in Section 4 of the Regulations to make such insertions as are necessary in any particular case.
15. Taking section 4 and Schedule 2 of the Regulations together, I can find no requirement there for limitations or conditions to be set out in a separate heading or column. Comparison of the Order against the Regulations reveals that it accords with the Regulations or, at the very least, is in a form substantially to the like effect. I conclude that the Order as drafted is not legally deficient, as claimed by PNFS. I therefore consider that it would not be necessary to modify the Order to include a separate heading/column for limitations and conditions.
16. As part of the two site visits referred to above, the opportunity was taken to measure the width of way at various points along each section. This was in response to the point raised by Mrs Barnett. The measurements were recorded by Mr Jackson, Senior Legal Assistant at the County Council, and subsequently copied by the Planning Inspectorate to other parties at the Inquiry. I personally witnessed those measurements being taken and am satisfied that they are both accurate and faithfully recorded. As far as I am aware, none of the measurements recorded have been disputed.
17. In view of my findings below in relation to section A to Bx, only the measurements in relation to section Bx to C of the Order route remain relevant in this context. The measurements recorded show that, in places, this section

of the Order route is both somewhat wider and narrower than set out in the Order. The widest point, being the combined width of the footbridge and the way on the south side of the River Lathkill, was measured as being 12.6 metres. The narrowest point is a gate within the complex of buildings at Meadow Place Farm, where the width was measured as 2.7 metres. I understand that the measurements set out in the Order were taken from the Second Edition of the 1:2500 Ordnance Survey plan of 1898. However, in my view the measurements recorded at the second site visit are to be preferred as being more accurate. I therefore propose to modify the Order to refer to widest and narrowest points identified during that site visit, insofar only as relevant to section Bx to C.

Main Issues

18. As indicated above, I intend to consider this Order in two parts: section A to Bx and Bx to C. I consider that the main issues raised here are:
- in relation to section A to Bx, whether any higher rights than the bridleway proposed to be added by the Order have been established
 - in relation to section Bx to C, whether the evidence is sufficient to show on the balance of probabilities that in the past the Order route has been used in such a way that a Bridleway can be presumed to have been dedicated.

Reasons

Section A-Bx

19. The area of dispute in relation to section A to Bx is whether this part of the Order route has evolved into an 'ordinary' minor country road. There is no statutory definition of an 'ordinary road'. The literal definition of 'ordinary' in the Oxford English Dictionary is 'normal' or 'usual'. In relation to vehicular traffic, I take that to include standard cars and motorcycles with unmodified production-fitted braking and suspension systems, and fitted with tyres designed for everyday motoring. In relation to the driver of that vehicle, I take 'ordinary' to mean someone with no particular skill or training in off-road driving techniques. In other words, an ordinary road would in my view be capable of use by vehicles that have not been specially converted for off-road terrain and would be capable of being driven by someone with no particular skill set beyond passing the standard driving test.
20. How, then, would the driver of such a vehicle react when arriving at Point A of the Order route?
21. The first point to make is that, to have reached that point, the driver must have travelled along Main Street. There is no dispute that Main Street forms part of the vehicular highway network. There is no discernible change in the surface at this point: it therefore looks exactly the same as the surface over which the driver has just travelled.
22. In seeking to progress beyond Point A, the driver is first confronted by conventional road markings in the form of white 'Give Way' lines. Adjacent to these, on the triangular grassed area, is a road name sign containing the name 'Dale Road'. Just behind that road name sign is a pointer sign giving directions to various parking areas, including a disabled parking area further along Dale Road. The grassed area is clearly defined by kerbs.

23. Just beyond the triangular grassed area, the driver is then confronted with a conventional 'No Through Road' sign. This sign appears to be relatively new and conforms with the Traffic Signs Regulations and General Directions 2016. This type of sign conveys "No through road for vehicles" and therefore must have been placed in this position purposefully to advise the drivers of vehicles, as opposed to those on foot or riding/leading a horse.
24. Proceeding down Dale Road, the driver is next confronted by a 'National Speed Limit Sign'. On the reverse of this is a '30mph sign' intended to inform drivers travelling in the opposite direction. By reason of the speed of 60 mph permitted by the National Speed Limit for a single-carriageway road, the former is certainly intended for the drivers of motor vehicles. In relation to the '30 mph sign', given that a driver encountering that sign would have been travelling on a carriageway to which the National Speed Limit applied, it is logical to infer that this sign was intended to convey to the driver the transition to the lower speed limit. Indeed, speed limits do not apply to pedal cycles or horse-drawn vehicles. The corollary must again be that the sign is intended for the attention of a driver of a motor vehicle, with the intention that drivers were able to proceed down Dale Road at speeds up to the National Speed Limit.
25. Further down Dale Road is the disabled parking area indicated by the pointer sign on the triangular grassed area at the junction with main street. I heard much evidence at the Inquiry about the possible origin and subsequent enlargement of this parking area. Having regard to that evidence, it appears likely that the space originated as parking for the Lathkill Shoot and was subsequently adopted by Natural England as a parking space for disabled visitors to the Lathkill Dale Nature Reserve. The Council points out that there is nevertheless no TRO in place for a disabled parking bay in this position.
26. However, to my mind the salient point is how the driver of a vehicle reaching this parking area would react upon encountering that sign. Although the age and provenance of the sign is not clear, it is obviously intended to convey to the driver of a motor vehicle holding a disabled badge the location of the parking area indicated at the beginning of Dale Road. There is no other reason for it being there. The obvious conclusion is that this parking area was provided for use by motor vehicles that can only gain access by using this section of the Order route.
27. On the opposite side of the road to the disabled parking area is a sign affixed to a fence that reads: "No unauthorised vehicles beyond this point". The evidence before me is that the landowners, Melbourne Estates, erected this sign in or around 1967, albeit the sign existing at the time of my site visit appears to be more recent than that (it may of course be a replacement for an earlier sign). The witnesses called by Mrs Mallinson and Mrs Stubbs indicated their belief that this sign refers to the Order route, although no documentary evidence has been produced to verify that (or, for that matter, to challenge it).
28. The placement of this sign is, however, somewhat ambiguous and I am not convinced that it is intended to refer to the Order route. The sign is positioned close to a vehicular entrance into adjoining fields and could just as easily be taken as prohibiting the use of that entrance. I am therefore not persuaded that the presence of this sign is of itself sufficient to show, on the balance of probability, that the landowner had no intention to dedicate the Order route for use by vehicular traffic. Moreover, the implication is that the use of section A to Bx by motor vehicles up till 1967 must have generated concern on the part

- of the landowner, sufficient to cause him/her to erect a sign seeking to prevent unauthorised access to their land. That is further evidence that, even by that date, the Order route had come to be regarded as an ordinary road.
29. Drawing these factors together, here is a situation where the driver encounters a sequence of road markings, road names and road signs that are routinely encountered elsewhere on the wider highway network. There is, at the start of the route at least, no difference in the surface over which they have just travelled. There is no signage or other indication to alert a driver that a change in the road surface is forthcoming, or to cancel the application of the National Speed Limit beyond that point. To that driver, it looks and feels like a public road. It requires no particular skills to negotiate, nor use of a specially adapted vehicle. To that driver, it is an ordinary minor country road, just like many others in the area, and there is nothing to distinguish it from those other roads.
 30. The County Council and others dispute that section A to Bx is an ordinary minor country road. It is therefore necessary to understand how section A to Bx may have evolved to the position that it is in now.
 31. There appears to be no dispute that the Order route is recorded on the 1810 Enclosure Award under the heading of 'Public Bridle Foot and Drift Ways and Private Carriage Roads'. The Section A-Bx, now known as Dale Road, corresponds to Mill Road on the inclosure plan. It is also evident from correspondence relating to highway maintenance that this section of the Order route was still considered to be carrying bridleway rights as late as November 1926.
 32. The Order route is shown on the handover map produced by Bakewell RDC pursuant to the 1929 Local Government Act coloured blue, denoting 'other district roads': in other words, roads that were maintained by the RDC but which were not scheduled or classified.
 33. It does, however, appear to me that there was something of a sea-change in or around 1962. Prior to that date, the road was not sealed. The Council considered at that time that the route as a non-classified road which, whilst of vehicular width, was a green road and used only by farm traffic and for occasional holding of motor trials: a position which the County Council considers is consistent with the route being described as an occupation road in correspondence from the early part of the 20th Century. That description is disputed by some with first-hand knowledge of the route, particularly in relation to the holding of motor trials.
 34. But after 1962, the road was maintained to a somewhat higher standard. It was 'blacktopped' in the same way that any other minor public road might be. As Mr Kind points out, the Council has the power to improve any public highway but has no power or duty to improve a private road for the benefit of private right holders.
 35. The County Council quite fairly responds by saying that the general power to improve highways is enshrined in the Highways Act 1980, and was also in existence under the preceding Highways Act of 1959. Under those Acts, the Council has discretion as to how that power is exercised. It is not, the County Council contends, unreasonable to put a hard surface on a steep route which is also an 'occupation' road. That would be consistent with the duty to keep the

- route in such good repair as renders it reasonably passable for the ordinary traffic of the neighbourhood at all seasons of the year without danger being caused by its physical condition¹. The Council considers that to be consistent with its stated position in 1962.
36. My difficulty with the County Council's position is that the surfacing of the route after 1962 is not to be viewed in isolation. The surface of the road is not in itself indicative of highway status, and could not of itself change the status of the route. However, events following the surfacing of the road also have to be taken into account, and when this is done a very different story emerges.
37. I take the County Council's point that the definition of a 'road' under the section 142 of the Road Traffic Regulation Act 1984 encompasses any highway, including a bridleway. The Road Traffic Act 1998 similarly extends the definition of a 'road' to include a road to which the public at large has access. Having regard to those Acts, and also the judgement in *Director of Public Prosecutions v Vivier* [1991] 4 ALL ER, the County Council considers that it was open to the Council to put up signs on routes (including the Order route) other than carriageways in order to ensure public safety.
38. To my mind, and in relation to in this case, that argument begins to collapse when the nature of the signs erected on the Order route is considered. To recap, these signs are: a pointer sign giving directions to a disabled parking area; a 'No Through Road' sign; a 'National Speed Limit/30mph' sign; and a disabled parking bay sign. Those signs go beyond ensuring public safety on an occupation road: some are for information only, and only the 'National Speed Limit/30mph' sign can properly be regarded as relating to public safety. Moreover, they are all more akin to signage routinely encountered on 'ordinary roads' that form part of the wider highway network.
39. There is no documentary evidence before me to explain why these signs were erected, or what the Council considered the status of the route to be at the time. There is no evidence to suggest that the signs were erected in error. There is no evidence that the landowner challenged or contested the erection of those signs. Given that the landowner is purported to have erected the "No unauthorised vehicles beyond this point" in or around 1967, it might be expected that the landowner would have vigorously contested the erection of signs that might have encouraged or formalised use of the route by motor vehicles. But there is no evidence before me that the landowner did so.
40. Moreover, and it bears repetition, with the exception of a fingerpost sign indicating the start of footpath part way down Dale Road, the signs have one common denominator: they are designed to convey information to the driver of a motor vehicle. It is reasonable to conclude that, in erecting these signs, those responsible had it mind that the route was used as an ordinary road. At the very least, they must have considered that the volume of vehicular traffic using the route justified the erection of these signs.
41. In that context, I am mindful that section A-Bx is a cul-de-sac and that there is no particular destination at the end to which the public might be expected to visit. Nevertheless, there is no signage to cancel the application of the National Speed Limit indicated by the sign part-way down Dale Road.

¹ Burnside v Emerson [1989]

42. Mr Kind argues that the presence of the fingerpost sign is further evidence that the Council perceived the Order route as an ordinary road. He points out that, in summary, section 27(2) of the Countryside Act 1968 (the 1968 Act) provides that at every point where a footpath leaves a metalled road the highway authority shall erect and maintain a signpost indicating that the footpath is a public footpath and showing where the footpath leads to. The logic behind that is that a sign showing the start of a public footpath would only be erected at a position on a metalled road to which the general public have a right to go.
43. The reference there to a 'metalled road' is a reference only to the surface of the road. As Mrs Mallinson and Mrs Stubbs point out, there is a fingerpost sign for Youlgreave FP6 at its junction with a metalled farm access track, a section of the Order route which Mr Kind and others acknowledge does not have public vehicular rights. The position of that sign would nonetheless also be consistent with section 27(2) of 1968 Act. In this case, the surface is blacktop rather than metalled. However, this must be considered in the context of other definitions set out in relevant legislation. By way of example, section 329(1) of the Highways Act 1980 defines "made-up carriageway" as a carriageway, or a part thereof, which has been metalled or in any other way provided with a surface suitable for the passage of vehicles. This would include a tarmac surface, such as that on part of the Order route.
44. Consequently, in my view it is more likely than not that, in erecting this fingerpost sign, the Council considered that Dale Road (Section A to Bx of the Order route) was a made-up carriageway over which the general public have a right to go. This would be entirely consistent with the County Council taking the view that Dale Road was public vehicular road.
45. Overarching all of the above, it is essential to look at this question in the round. No single factor is determinative on its own. But taken collectively, the blacktop surface, the markings on that surface, the signage along the route and the presence of a fingerpost sign, all point to the route being an ordinary road and perceived as such by the general public. Although the presence of the "No unauthorised vehicles beyond this point" could be construed as indicating otherwise, given the ambiguous positioning of that sign, I am not persuaded that this on its own is sufficient evidence to outweigh the collective evidence of the other signage.
46. In his evidence, Mr Kind referred me to the judgment in *Fortune v Wiltshire Council* [2012] EWCA Civ 334 and in particular to a passage from an earlier judgment in *Folkestone Corporation v Brockman* [1914] AC 338 cited therein. That passage is: "If you know nothing about a road except that you find that it is used, then the origin of the road is, so to speak, to be found in the user..."
47. That passage must of course be read in the context in which it is quoted in *Fortune*. The circumstances in *Fortune* are also not on all fours with the circumstances in this case. In particular, this is not a case where nothing is known about the road: it is known that this section of the Order route was recorded on the 1810 Enclosure Award as a bridleway. Nevertheless, given the absence of any evidence in relation to the reasons behind the erection of the signage referred to above, the passage in *Fortune* is of some relevance to question that arises here. This is because, whilst the Order route may have been considered to be a bridleway in the past, the route is now configured for use by motorised vehicles and takes the form of an ordinary country road.

Section A to Bx - conclusion

48. For the reasons set out above, on the evidence available to me it appears to be that section A-Bx of the Order route has come to be used by the general public as an ordinary road and accepted as such. There is certainly no compelling evidence to the contrary. I therefore conclude that, on the balance of probability, the whole of section A-Bx of the Order route should properly be considered to be an ordinary minor public road. For that reason, I do not propose to confirm the Order insofar as it relates to section A-Bx.
49. Because I do not propose to confirm that part of the Order route in relation to section A-Bx, there is no need for me to consider whether point A is the correct starting point for the Order route. Similarly, I do not need to reach any conclusions in terms of the correct width for this section of the Order route.

Section Bx to C

50. The objection made by GLASS and by Mr Kind in relation to the use of this section of the Order route as a bridleway has been withdrawn. However, the objections made by Mr Eagle and Mr Chinnery remain. Both of these objections relate, in part at least, to the use of section Bx to C

Bringing into question

51. The application dated 3 November 2005 initially claimed a Byway Open to All Traffic (BOAT). The County Council's investigation of that application revealed that, in its view, the evidence did not support the addition of a BOAT to the definitive map but did support the addition of a bridleway. Accordingly, the Order was made for the addition of a bridleway. I have not been made aware of any other event being bringing the right to use the way into question. In the absence of any other event, I consider that the application as originally made in November 2005 would have brought the right to use the way into question. Consequently, I need to examine use by the public during the period between 3 November 1985 and 3 November 2005.

Assessment of the evidence

52. The evidence in this case is derived primarily from user evidence forms submitted with the initial application. A total of 30 user evidence forms were received, of which 24 indicated that the respondents had used this section of the Order route on foot or had ridden it on horseback.
53. Of those 24 user evidence forms, a number indicate frequent use of this section of the Order route on foot or on horseback throughout the relevant period. Other forms indicate frequent use over substantial portions of that period. Most of the forms refer to the presence of gates along the route but none of the respondents refer to being stopped from using the route. A number of the respondents indicate that they always believed that the route was a path.
54. The remaining six user evidence forms record use of this section of the route primarily using motor vehicles, but also in some cases on foot or bicycle. The use described by these respondents tends to be more occasional and sporadic, and in most cases spans only part of the relevant period. The latter is consistent with the written evidence of Mr Mycock, occupier of Lathkill Farm, who comments that the Order route was not used by vehicles or motorbikes when he first occupied the property in 1990.

55. The only evidence against the above is that provided by Mr Eagle and Mr Chinnery. In both cases, the objection is briefly stated but both maintain that they have used the Order route (including section A to Bx) in vehicles for many years, the latter claiming to have used motorcycles on the route since 1978. Neither objection is supported by documentary evidence and neither objector appeared at the Inquiry to expand upon their evidence.
56. Having regard to the above, I am satisfied on the balance of probability that section Bx to C of the Order route has been used on foot and for riding/leading a horse throughout the twenty-year period leading up to the submission of the application. The user evidence in support of that is sufficient to raise a presumption of dedication. I am also satisfied, again on the balance of probability, that the use of this section of the Order route by motor vehicles has not occurred throughout the twenty-year period leading up to the submission of the application.

Background evidence

57. The Greenwood and Sanderson maps of Derbyshire (dating to 1824/6 and 1836 respectively) both show this section of the Order route as a 'cross road'. The Council explains that in its experience this designation could apply to public bridle roads, but could equally apply to private and public carriage roads. Early Ordnance Survey Maps also show the Order route, as does the 1962 version. The inclusion of the Order route in these maps indicates that they existed on the ground but, of course, provides no indication of their status.
58. Following the National Parks and Access to the Countryside Act 1949, this section of the Order route was initially claimed as 'carriage way mainly used as a footpath (CRF)'. There is, however, a note on the schedule form that covers the section between Meadow Place Grange to Lathkill Dale which states "Bridle Road Part". In the event, the route claimed at that time was not recorded on the Definitive Map and Statement.
59. This documentary evidence is not inconsistent with this part of the Order route being a bridleway.

Intentions of the landowner

60. No evidence has been provided to demonstrate actions by or on behalf of the owner of the land affected by section Bx to C of the Order route during the period 3 November 1985 and 3 November 2005 to challenge the claimed use. Neither is there any evidence that the landowner intended to rebut the presumed intention to dedicate a right of way for the public on horseback or leading a horse. I therefore conclude that the presumption of dedication indicated by the user evidence has not been rebutted by a lack of intention to dedicate.

Section Bx to C - Conclusion on the evidence

61. I am satisfied that this evidence is, when taken as a whole, sufficient to raise a presumption that the way in question had been dedicated as a public bridleway. I therefore conclude that, on a balance of probability, the evidence indicates that a public bridleway has been established along section Bx to C of the Order route.

Other matters

62. A consistent theme that emerges from the user evidence forms and other representations made is the harm caused by 'off-road' vehicles using the Order route. The concerns expressed include the rutting of grass surfaces, as well as noise and air pollution caused by the vehicles used. Whilst I recognise that the above are clearly matters of considerable importance to local residents, they are not relevant to my considerations in this case.

Conclusion

63. For the reasons set out above, I conclude on the balance of probability, that a bridleway has not been established along section A-Bx of the Order route and that this section of the Order route should properly be considered to be an ordinary minor public road. For that reason, I do not propose to confirm the Order insofar as it relates to section A-Bx.
64. In relation to section Bx to C, I am satisfied that the evidence is, when taken as a whole and on the balance of probability, sufficient to show that a bridleway can be presumed to have been established on the Order route. Consequently, I propose to confirm the Order insofar as it relates to section Bx to C, subject to modifications.

Formal Decision

65. The Order is proposed for confirmation subject to the following modifications:
- In the title of the Order, delete the words in parenthesis and insert there "(BRIDLEWAY FROM LATHKILL DALE AND MEADOW PLACE GRANGE TO BACK LANE - PARISHES OF OVER HADDON AND YOULGREAVE)"
 - In the citation at paragraph 3 of the Order, delete the words in parenthesis and insert there "(BRIDLEWAY FROM LATHKILL DALE AND MEADOW PLACE GRANGE TO BACK LANE - PARISHES OF OVER HADDON AND YOULGREAVE)"
 - In Part I of the Schedule to the Order, delete the letters "A-B" and the description of path or Way to be added insofar as it relates to A-B.
 - In Part I of the Schedule to the Order, delete the letter B-C and substitute there "Bx-C". Delete the description of path or Way to be added insofar as it relates to both A-B and B-C, and substitute there "Bx to C" and "*Bridleway starting in the Parish of Over Haddon proceeding in a southerly direction across the River Lathkill, then continuing in the Parish of Youlgreave in an ESE then WSW direction ascending through Meadow Place Wood on stone track, then passing through field gate and crossing open field in ESE direction to Meadow Place Farm. Then continuing S then E through farmyard then ESE then SE on tarmacadam farm access to N side of Back Lane (2087 6536) at E side of cattle grid.*"
 - In Part II of the Schedule to the Order, delete the words 'to add' in the second sentence of title.
 - In Part II of the Schedule to the Order, insert beneath the title the headings: '*Path Number; 1:10,000 OS Sheet Ref Number; Status and Description of the Route; Nature of Surface; Length; Width; and Remarks.*'

- In Part II of the Schedule to the Order, delete "24 Parish of Over Haddon" and all the description of the path or way associated with that.
 - In Part II of the Schedule to the Order, insert "24 Parish of Over Haddon and" before "41 Parish of Youlgreave"
 - In Part II of the Schedule to the Order, delete the description of the path or way in relation to "41 Parish of Youlgreave" and substitute there: "*Bridleway from the north side of the stone clapper bridge over the River Lathkil, continuing for a short distance via the ford or the adjacent stone clapper bridge to the south side of the River Lathkill (2026 6611) at the Over Haddon parish boundary, continuing in the parish of Youlgreave in an ESE then WSW direction ascending through Meadow Place Wood on stone track, then passing through field gate and crossing open filed in ESE direction to Meadow Place Farm. Then continuing S then E through farmyard then ESE then SE on tarmacadam farm access to N side of Back Lane (2087 6536) at E side of cattle grid.*"
 - In Part II of the Schedule to the Order, insofar as it relates to "41 Parish of Youlgreave", delete reference to 'Varying between 3.5 and 4.5 metres as shown between boundaries on the Second Edition of the 1:2500 Ordnance Survey plan of 1898' and substitute there "*The width of the way varies between 2.7 metres and 12.6 metres*".
66. Since the confirmed Order would affect land not affected by the Order and would not show as a way in the Order as submitted, I am required by reason of Paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981 to give notice of the proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modifications. A letter will be sent to interested persons about the advertisement procedure.

Paul Freer

INSPECTOR

APPEARNCES

In Support of The Order

For the Order-Making Authority

Mrs Mary Fairman

Solicitor, Derbyshire County
Council

She Called:

Mr Peter Jackson

Senior Legal Assistant, Derbyshire
County Council

Supporting the Order

Mrs Diana Mallinson and Mrs Patricia Stubbs, on behalf of the Peak District Green Lanes Alliance and Peak Horsepower, acting as witness and advocate

They called:

Mr Jonathan Bingham

Mr Alec Neville

Ms Tricia Renshaw

Mr Roger Truscott

Also supporting the Order

Mr Joseph Neville

Mr Jack Burling

Mr Peter Saunders

Opposing the Order

Mr Alan Kind

Representing the Green Lane Association (GLASS), and also giving his own evidence

Mrs Rhoda Barnett

Courts and Inquiries Officer (Derbyshire), The Peak and Northern Footpaths Society

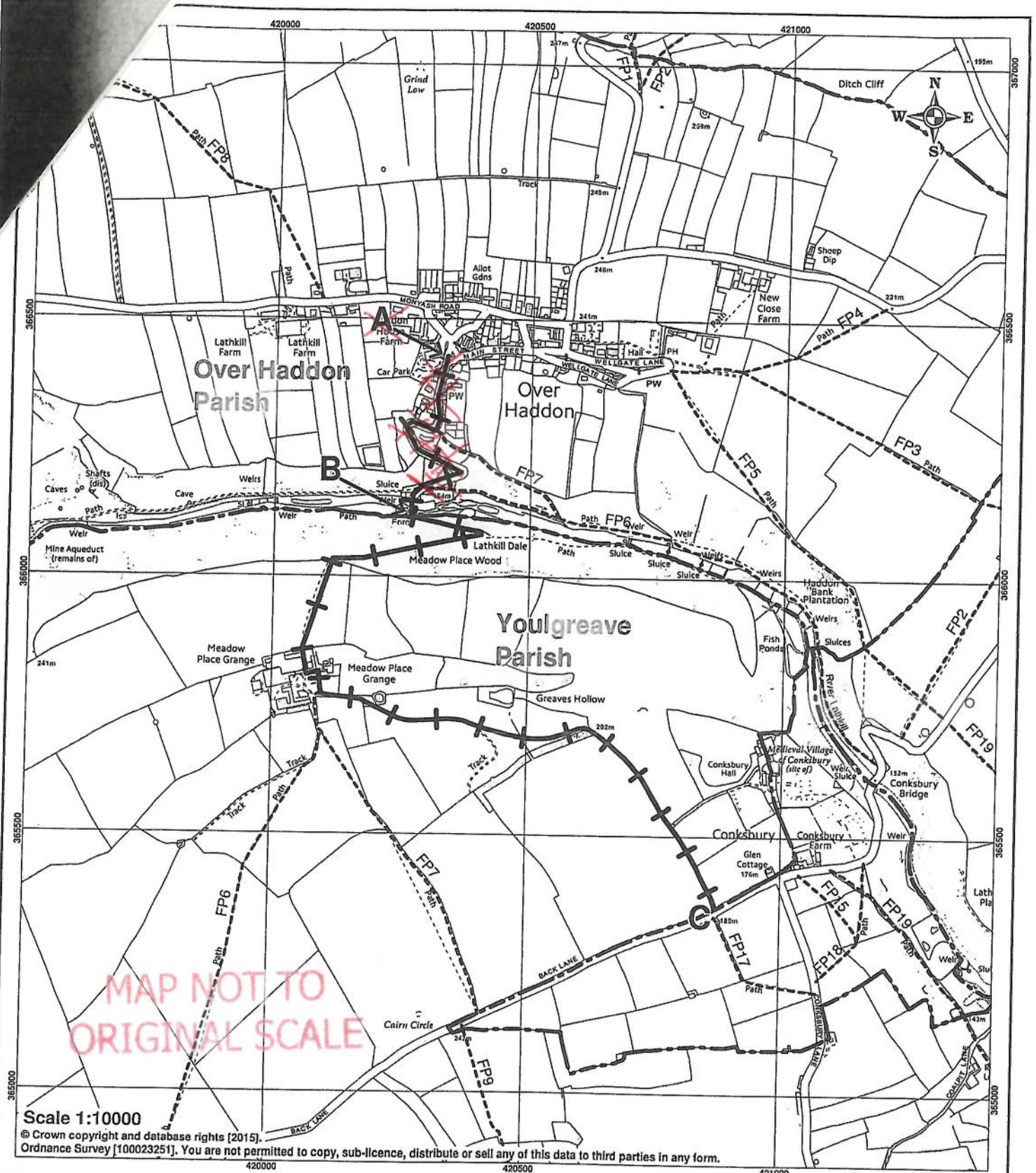
Documents submitted at the Inquiry

1. Extracts from legislation and case law submitted by Mr Kind
2. Extracts from *An Act to consolidate and amend the Laws relating to Highways in that Part of Great Britain called England*, 31st August 1835, submitted by Mrs Mallinson.
3. Photograph of signpost adjacent to the Order route, submitted by Mrs Mallinson.
4. Map showing location and extent of the Derbyshire Dales National Nature Reserve, submitted by Mrs Mallinson.
5. List of questions asked by Mr Kind.
6. Opening submissions by Diana Mallinson and Patricia Stubbs
7. Letter from Mr Roger Truscott, undated.
8. Closing notes by GLASS and Alan Kind
9. Closing statement by Diana Mallinson and Patricia Stubbs
10. Closing submissions on behalf of Derbyshire County Council

Documents submitted after the Inquiry

1. Email from Peter Jackson dated 28 November 2019 enclosing survey plans marked with the relevant width measurements taken on the two site visits, and an example of a recently confirmed Order (in relation to Clough Lane and Oldfield Lane, in the parishes of Birchover and South Darley) made by Derbyshire County Council.
2. Email from Alan Kind dated 28 November 2019 enclosing images of evidence viewed at the Inquiry (as requested).
3. Email from Peter Jackson dated 2 December 2019 confirming that Derbyshire Record Office does hold an enrolled copy of the 1810 Bakewell & Over Haddon Parliamentary Enclosure Award.
4. Email from Peter Jackson dated 5 December 2019 enclosing an email from Derbyshire Record Office.
5. Series of emails from Mr Alan Kind following on from the email dated 2 December 2019 from Mr Peter Jackson.

6. Email from Peter Jackson dated 10 December 2019 responding to the comments made by Mr Kind.
7. Comments on post-inquiry submissions – Diana Mallinson and Patricia Stubbs, dated December 2019.
8. Email from Rhoda Barnett dated 1 January 2020 commenting on the email of 28 November 2019 from Mr Jackson and enclosures therein.
9. Further comments on post-inquiry submissions – Diana Mallinson and Patricia Stubbs, dated 13 January 2020.



MAP NOT TO ORIGINAL SCALE

Scale 1:10000

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Ref: TE/LF/X3330/Order/2018



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Strategic Director - Economy, Transport & Environment
Shand House
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DE4 3RY

Produced by Public Rights of Way on 20 August 2018

Wildlife and Countryside Act 1981, Section 53

**The Derbyshire County Council
(Bridleway from ~~Main Street Over Haddon~~ via
Lathkill Dale and Meadow Place Grange to
Back Lane - Parishes of Over Haddon
and Youlgreave) Modification Order 2018**

- Key:
- Bridleway to be added
 - Existing footpath
 - Parish boundary

