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| **Order Decision** |
| Site visit made on 19 July 2021 |
| **by Barney Grimshaw BA DPA MRTPI(Rtd)** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 24 AUGUST 2021** |

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| **Order Ref: ROW/3243818** |
| * This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as the Downgrading of Public Bridleway No 05.26/37 to Footpath, Nutgill Farm, Ingleton Modification Order 2009. |
| * The Order is dated 29 December 2009 and proposes to modify the Definitive Map and Statement for the area by downgrading a Bridleway to Footpath at Nutgill Farm, Ingleton, as shown on the Order Map and described in the Order Schedule. |
| * There were 14 objections outstanding when North Yorkshire County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation |
| **Summary of Decision: The Order is not confirmed.** |
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Procedural Matters

1. I made an unaccompanied site inspection on 19 July 2021 when I was able to view the whole of the Order route.
2. The Order has been made in compliance with a direction to North Yorkshire County Council, the Order Making Authority (OMA), by the Secretary of State in 2009 following a report made by another inspector. The OMA does not support the Order and has requested that it not be confirmed.
3. In writing this decision I have found it convenient to refer to points marked on the Order Map. I therefore attach a copy of this map.

The Main Issues

1. The requirement of Section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 (the 1981 Act) is that the evidence discovered by the surveying authority, when considered with all other relevant evidence available, should show that a right of way that is shown on the definitive map and statement as a highway of a particular description ought to be there shown as a highway of a different description.

Reasons

*Enclosure Award*

1. Under the Bentham Moor Enclosure Act (1767) and subsequent Award, a footpath was awarded which followed the northern part of the line of the current Order route but then continued on a fairly straight alignment to the east of the current route to a quarry and the adjacent road. No higher status route appeared to exist in the immediate vicinity of the Order route at that time.

*Tithe Records*

1. The Ingleton Tithe Map and Apportionment (1839) show the northern part of the Order route as a single pecked line on a similar alignment to that on the Order map. The route then continues shown in a similar manner on a fairly straight alignment to the east of the current route to terminate at a building in a similar location to the present Nutgill Cottage. The route is not referred to in the descriptions of the plots through which it passes. An objector points out that it was common for bridle roads to be depicted in this way in tithe documents. Nevertheless, these documents do not indicate the status of the route or the existence of public rights over it.

*Ordnance Survey (OS) Maps*

1. The OS map published in 1851 shows a route, similar to that on the tithe map, as a double pecked line. At Aspland Beck the route deviates from a straight line, possibly to reduce the steepness of the incline of the banks. Whilst other routes in the area are annotated ‘Footpath’, the Order route is not. It is suggested that these factors indicate that the route may have been regarded as a bridleway by this time.
2. The OS map published in 1894 shows the route on a similar alignment to the 1851 map. Where it crosses Aspland Beck, a ford is indicated, possibly suggesting a higher status than footpath. However, south of the beck the route is annotated *‘F.P.’* (footpath).
3. The OS map published in 1909 does not show the route.

*Finance Act 1910*

1. No deductions for public rights of way are recorded relating to this area in plots crossed by much of the Order route. In one plot there is a recorded deduction for a public footpath, but this plot covers a large area and this deduction may not relate to the Order route.

*1934 Register of Footpaths*

1. A map produced by Settle Rural District Council shows the Order route on its current definitive alignment. This map was probably prepared under the 1932 Rights of Way Act which provided for the claiming of all public rights of way in the authority’s area. The Order route is shown and described on this map as part of a longer route (including the present Bridleway 83 to the north). All routes claimed are shown in the same way and any higher rights than footpath are not distinguished. The description of the Order route includes reference to a footbridge across Aspland Beck and two stiles.

*The Definitive Map*

1. As part of the process of preparing the first definitive map, a parish survey was undertaken. The resultant schedule refers to the present Bridleway 83 north of Langber End Lane continuing as *“Footpath only from Lane to Nutgill”.* Two stiles needing attention and a footbridge needing renewal are also referred to. No map accompanying the schedule is currently available.
2. When the Draft Map was subsequently prepared (1953), Bridleways 81,83 and the Order route were included as a single continuous bridleway numbered 37. In the accompanying Statement, the Order route is described as being 4 feet wide. Two field gates (at Points F and G), a stile (Point E) and a wicket gate (Point A) are shown on the route. It is not known what the basis was for changing the status of the route from that in the parish survey schedule and it is difficult to reconcile the presence of a stile on the route with its status as a bridleway. Nevertheless, the Draft Map and Statement were placed on deposit for a period of four months during which anyone could submit comments or objections and there is no record of any objection having been made regarding the Order route.
3. In 1967, the Provisional Map and Statement was published with the same information as the Draft Map. This was made available for public inspection and anyone with an interest in land affected could comment or object. Again, there is no record of any objection being made regarding the Order route.
4. In 1969 the Definitive Map and Statement showing the same information was published and made available for public inspection and comment. Similarly, the current Definitive Map and Statement published in 2005.

*Physical Evidence*

1. On my visit, I found it impossible to walk the whole of the Order route. It was obstructed at several points by a locked gate, walls, fences and overgrowth. There were a number of stiles on the route and some evidence of an alternative route having been used. The obstructions and stiles appeared to have been in place for a considerable time.
2. The route is clearly not usable as a bridleway (or even a footpath) at present but that does not mean that this was always the case. If it was ever a public bridleway in the past and has not subsequently been formally stopped up or downgraded it remains a highway of that status. No evidence of the route having been stopped up or downgraded has been adduced. It is also alleged by objectors that present obstructions have not always been in place.
3. The banks of Aspland Beck are relatively steep and there is no evidence of any bridge other than a footbridge. However, I do not think them too steep to be negotiated on horseback or leading a horse and the beck could easily be crossed by a horse, especially as there is evidence of a ford having existed. On my visit I saw hoofprints of cattle at the side of the beck indicating that they had negotiated the bank.

*Other Evidence*

1. Some local horse riders stated that the Order route would be difficult and dangerous to ride and that they had never know a bridleway in the location. However, others opposed the Order and stated that they had attempted to the ride the route but had been unable to as a result of obstructions. One reported that a friend had ridden the route in the past before a gate had been blocked.
2. It is reported that in the past officers of the council and others have expressed a view to the effect that the Order route should not be recorded as a bridleway. However, it seems likely that these views were based on the physical condition of the route at the time rather than a full investigation of the documentary and other evidence.

**Other Matters**

1. A number of matters were raised by both supporters and objectors. These included mainly the desirability of a bridleway being available to horse riders on the Order route and the problems that this might cause to landowners in their management of the land crossed. I understand the points made but, as they concern matters which lie outside the criteria set out in the relevant legislation, I have not given them any weight in reaching my decision.
2. It is stated by a supporter of he Order that the line of the Order route shown on the Draft Map of 1953 appears to pass through Nutgill Cottage which has largely existed since around 1860 and the map was accordingly incorrect. However, it is suggested by the OMA that this impression is the result of a relatively thick line having been drawn on a small scale map and that the route runs in front of the cottage.
3. Although the Order was made as a result of another inspector’s report, made in 2008, I have had the benefit of receiving additional evidence and improved copies of previously available evidence, as well as having visited the route, which has resulted in my now reaching a different conclusion.

Conclusions

1. The available evidence is to some extent confusing. It seems clear that the Order route, or at least part of it was a footpath at the time of the Enclosure but it may have gained a higher status by the mid-19th century after which it may have declined in use.
2. In 1951 the parish survey schedule clearly described it as a footpath. However, in 1953, the Draft Map included it as a bridleway, as have all subsequent versions of the Definitive Map and no objection appears, to have been made to this designation despite there having been a number of opportunities to object. The reason why the parish schedule was not followed in the subsequent maps is not known but, in the absence of substantive evidence to the contrary, it must be assumed that this was not simply an error. An assumption that is reinforced by the consistent reproduction of the same information and the lack of any objection.
3. Accordingly, it is my view that, on the balance of probabilities, the available evidence does not indicate that the definitive map is incorrect and that the status of the Order route should be altered.
4. Having regard to these and all other matters raised, I conclude that the Order should not be confirmed.

Formal Decision

1. I do not confirm the Order.

Barney Grimshaw

Inspector

