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| **Final Order Decision** |
| Inquiry opened on 10 September 2019  Site visit made on 26 August 2021 |
| **by Susan Doran BA Hons MIPROW** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 26 September 2023** |

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| **Order Ref: ROW/3213607M1** |
| * This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as The Derbyshire County Council (Bridleway from Public Bridleway No.8 to Public Bridleway No.9 – Parish of Dale Abbey) Modification Order 2018. * Derbyshire County Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs. |
| * The Order is dated 28 June 2018. * The Order proposes to modify the Definitive Map and Statement for the area by adding a public bridleway as shown in the Order plan and described in the Order Schedule. |
| * In accordance with paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981, notice has been given of my proposal to confirm the Order with modifications. * Two representations were received in response to the notice. |
| **Summary of Decision:** **The Order is confirmed subject to the modifications that I previously proposed and a further modification that does not require advertising as set out below in the Formal Decision** |
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Procedural Matters

1. The effect of the Order if confirmed with the modifications that I previously proposed would be to amend the alignment of Bridleway No.8 from its junction with Footpath No. 46 to its junction with Bridleway No. 9, where it passes over a rock face and through other obstructions (shown on the plan attached to the Order between points E and X), to the alignment A-B as shown the Order plan from Bridleway No.8 to its junction with Bridleway No.9, where it passes between the dwelling and farm buildings at Verger’s Farm and alongside All Saint’s Church. In addition, to downgrade from a Bridleway to a Footpath that length of way shown on the Order plan between points A and E.
2. Of the two representations made to the proposals following advertisement of the notice and deposit of the associated documents relating to the proposed modifications, one appeared to misinterpret the effect of the Order and raised issues that I am unable to take into account. The remaining representation, on behalf of the British Horse Society (BHS), whilst supporting the modifications proposed, sought additional modifications be made for reasons of greater clarity and consistency.
3. In addition, two other submissions were received, one from the Objector, and one from Dale Abbey Parish Council. The former addressed a point made in the submission on behalf of the BHS. The latter confirmed they had no objection to the Order as proposed to be modified.
4. This decision is reached having regard to the findings of my interim decision and following an exchange of written representations further to the above.

The Main Issues

1. The main issues are whether there is any new evidence or argument which might cause me to consider that further modifications to the Order be made for reasons of clarity and consistency.

**Reasons**

*Whether the Definitive Statement for Bridleway No.8 should be included in the Order, and amended*

1. The Definitive Statement for Bridleway No.8 currently reads, *“Bridle Road from path No.6 at Potato Pit Lane (443385) in a westerly direction to path No.9,* *south of All Saint’s Church (437385)”.* It is suggested that part of the Definitive Statement for Bridleway No.8 be varied and included in Part II of the Schedule to the Order.
2. I have considered the suggestion that it is amended to read *“Bridle Road from path No.6 at Potato Pit Lane (443385) in a westerly direction to paths No.46 and No.64, south of All Saint’s Church (437385)”,* along with a side-heading reading, *“The entry for Dale Abbey No.8 to be varied”*. This it is said, is because the modifications previously proposed would result in Bridleway No.8 terminating at its western end (point A on the Order plan, GR SK 4375 3854) on Bridleway No.64 and on Public Footpath No.46, instead of on Bridleway No.9.
3. The Council has no objection to the Definitive Statement being amended as proposed, by recording the consequential effect of the termination point being removed from Bridleway No.9. However, they do not consider a side heading to be necessary.
4. The Definitive Map and Statement should be an accurate record of the ways it records. Accordingly, prejudicial, misleading, or inaccurate information should not be recorded therein. Whilst I can see some logic in making the modification to the Order as suggested, I consider there is insufficient information available to me to provide an accurate description in keeping with the other elements described in the variation of particulars for the modification of the Definitive Statement - the nature of the surface, length and width of the way, and any other remarks. It follows, in my view, that to do so could result in incorrect information being recorded. Further, I am not convinced that such a modification would require advertising, so there would be no opportunity afforded for any error, or insufficiency, to be corrected. Nevertheless, it is open to the Council to make such amendments to the DMS in respect of Bridleway No.8 by other means.
5. On balance therefore, I decline to make the modification sought.

*Whether the sub-heading in* *Part II of the Schedule to the Order should be amended*

1. The sub-heading currently reads, *“Variation to add of particulars of Path or Way”,* and it is suggested that the words *“to add”* be deleted. In addition, it is suggested that a side heading be added as follows, *“The entry for Dale Abbey No.64 to be added”* below it.
2. I agree that the deletion of *“to add”* would make the sub-heading more readable. However, I see little, if anything, to be gained in terms of clarity or consistency by the addition of the side heading as proposed. Part II of the Schedule to the Order already identifies, in the left-hand column, the path (No.64) with which the Order is concerned. I consider the intention of the Order is clear without any further amendment in this regard.
3. It follows that I shall modify the sub-heading *“Variation to add of particulars of Path or Way”* by removing the words *“to add”*.

*Whether the ‘Remarks’ column in Part II of the Schedule to the Order should be amended*

1. Listed under the ‘Remarks’ column are the positions of the various field gates situated along the Order route with their respective grid references. In their original submission, the BHS argued that the grid reference for the last gate listed should be amended to correspond with other references to Point A in the Order and on the plan, making it internally consistent. However, the BHS has since revised its position in respect of this point and have asked that in reaching my decision I disregard this representation.
2. Whilst I have considered the point, I do not propose to make any further modification in this regard.

*Whether the Order title should be amended*

1. The Order is known as *The Derbyshire County Council (Bridleway from Public Bridleway No.8 to Public Bridleway No.9 – Parish of Dale Abbey) Modification Order 2018*. The BHS seeks that it be re-named *The Derbyshire County Council (Bridleway 64 from Public Bridleway No.8 to Public Bridleway No.9 – Parish of Dale Abbey) Modification Order 2018* wherever the title occurs within the Order (on the cover page, above the preamble to the Order, in paragraph 3, and on the Order plan)*.* Consequently, the main effect of the Order, to add Bridleway No.64 to the Definitive Map and Statement would be clear.
2. I agree with the Council that it is not necessary to amend the Order title to refer to the new bridleway. Until such time as or when the Order comes into effect, the route to be added remains un-numbered. I consider that the effect of the Order is sufficiently clear and unambiguous and decline to make the modification requested.

Other matters

1. The effect of the Order as proposed to be modified will retain a bridleway link for users on horseback and with a bicycle between Bridleways Nos. 8 and 9, thus maintaining connections through Hermit’s Wood and as part of longer off-road routes within the area. Whilst concerns about horse riders needing to use the local road network at times as part of longer journeys are understood, I am unable to take them into account in reaching my decision.

Conclusion

1. Having regard to these and all other matters raised in the written representations, I conclude the Order should be confirmed with the modifications previously proposed in paragraph 75 of my interim decision dated 14 October 2022, and with a further modification, described in paragraph 13 above, which does not require advertising.

**Formal Decision**

1. The Order is confirmed subject to the following modifications:

* In line 4 of the first paragraph in the preamble to the Order, delete ‘an event’ and replace with “events”
* At the end of the first paragraph in the preamble to the Order, insert

“; section 53(3)(c)(ii) of the Act, namely the discovery by that authority of evidence which when considered with all other relevant evidence available to them shows that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description; and section 53(3)(c)(iii) of the Act, namely the discovery by that authority of evidence which when considered with all other relevant evidence available to them shows that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.”

* In Part I of the Schedule to the Order, under the ‘Description of Path or Way to be added’, ‘A-B’ correct the Ordnance Survey Grid Reference in line 2 so as to read “SK 4375 3854”, and beneath the description insert

“Description of Path or Way to be downgraded to Footpath

A-E Bridleway in the Parish of Dale Abbey from Public Bridleway No.8 at Point A (GR SK 4375 3854) proceeding in a generally south south-easterly then south south-westerly direction to Public Footpath No.46 at Point E (GR SK 4374 3851), a total distance of 23 metres or thereabouts.

Description of Path or Way to be deleted

E-X Bridleway in the Parish of Dale Abbey from Public Footpath No.46 at Point E (GR SK 4374 3851) proceeding in a generally north-westerly direction to Public Bridleway No.9 at Point X (GR SK 4370 3854), a total distance of 49 metres or thereabouts.”

* In Part II of the Schedule to the Order, Modification of Definitive Statement, in the description of Path No 64, correct the Ordnance Survey Grid Reference where it occurs so as to read “SK 4375 3854”, delete “Field gate (GR SK 4372 3860)”, and in line 7 of the description of the route amend “tuning” to “turning”.
* On the plan attached to the Order, add a new point “E” at the junction of Footpath No.46 with Bridleway No. 8, and a new point “X” at the junction of Bridleway No.8 with Bridleway No.9, and in the Key to the plan, add “Bridleway to be deleted E-X” and “Bridleway to be downgraded to Footpath A-E”
* In Part II of the Schedule to the Order, in the heading “Variation to add of particulars of Path or Way” delete the words “to add”

S Doran

**Inspector**

**MODIFIED ORDER MAP - COPY NOT TO SCALE**

