



Order Decision

Site visit made on 12 January 2021

by Alan Beckett BA MSc MIPROW

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

Decision date: 29 January 2021

Order Ref: ROW/3201724M1

- 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 (Footpath from the junction of Hyde Bank Road and St Georges Road to Public Bridleway 180 – New Mills) Modification Order 2012.
- Derbyshire County Council ('the Council') submitted the Order for determination to the Secretary of State for Environment, Food and Rural Affairs.
- The Order is dated 15 November 2012. The Order was the subject of an interim decision dated 16 December 2019 in which I proposed to confirm the Order subject to modifications which required advertisement.

Summary of Decision: The Order is proposed for confirmation subject to the modifications set out in the Formal Decision.

Procedural Matters

1. The effect of the Order, if confirmed with the modifications that I previously proposed would be to (a) add to the Definitive Map and Statement a public bridleway from the junction of Hyde Bank Road and St Georges Road to a point on public bridleway 180 (as shown on the modified order plan) with a width of 2 metres.
2. In my interim decision of 16 December 2019, I proposed to confirm the Order subject to the modifications described in paragraph 1 above. As the modifications proposed in my interim decision would show as a highway of one description a way which is shown in the Order as a highway of another description, I was required by virtue of Paragraph 8(2) of Schedule 15 to the 1981 Act to give notice of my proposal to modify the Order.
3. Three duly made objections were received following advertisement of the notice and deposit of the associated documents relating to the proposed modifications. Mr A D Kind submitted that a width of 2m was insufficient for a public bridleway as did the Dark Peak Bridleways Association ('DPBA') which otherwise supported modifications (i), (iii) and (iv) set out in paragraph 67 of the interim decision. Mr James McAllister maintained his objection to the recording of a public right of way of any description over his land.
4. In his objection to my proposed modifications, Mr McAllister rehearses the points he made in relation to the procedure under schedule 14 of the 1981 which gave rise to the Order, and to the evidence of use which was adduced in support. Whilst Mr McAllister may have concerns about the procedural aspects of the application those are not matters that I can take into account. In relation to the evidence of use, Mr McAllister appeared at the inquiry and was able to undertake cross examination of those witnesses who appeared and who gave

direct evidence of their use of the claimed route, whether on foot or on horseback. As such the points he raises in relation to the user evidence were considered at the inquiry and in my interim decision. Mr McAllister does not raise any new matters which require my interim decision to be revisited.

The Main Issue

5. The main issue arising from the objections made to my proposed modifications is the width of the public bridleway.

Reasons

6. In paragraphs 43 and 44 of my interim decision, I provided a brief description of the use of the Order route by equestrians who indicated in oral evidence that use had been made of the path both individually and in the company of others. When using the path in the company of others, the witnesses said that they had ridden in single file, but as the route was unenclosed (other than at a pinch point near the Hyde Bank Road / St George's Road junction) it had been possible to step to one side if a pedestrian or other horserider had been encountered using the path in the opposite direction.
7. In the circumstances described by the witnesses, Mr Kind considers my decision to modify the Order to record a public bridleway without further modifying the Order to reflect the width which was likely to have been used by two-way traffic to be irrational.
8. Mr Kind submits that having had regard to the guidance set out in Advice Note 16 that the width to be recorded should be "*sufficient to enable two users to pass comfortably, occasional pinch points excepted*", a width of 2 metres was simply insufficient. Mr Kind acknowledges that if the traffic along the bridleway were one-way only in single file, then a width of 2 metres may be reasonable; but he points out that the evidence in this case is that traffic along the path was bi-directional and required the user to move to one side to allow others to pass.
9. It is submitted that as there is no lawful right to step off the highway to allow others to pass, a width of 2 metres is insufficient for two horses to meet and pass safely and comfortably within the confines of the right of way. Mr Kind submits that a rider on a horse can span 4 feet (1.22 metres) between the toes such that two riders passing each other would need 2.44 metres to pass, but that would not allow them to "*pass comfortably*". Mr Kind contends that the width of 2 metres as set out in my interim decision would make for an unusable and unsafe bridleway and that a width of at least 3 metres would be sufficient and proper.
10. DPBA also objects to a width of 2 metres being recorded for the bridleway. The DPBA submits that the width of the path was estimated by those who completed user evidence forms in 2002 and 2007 to be between 0.5 metres and 2.44 metres (8 feet). It is the DPBA's case that of those who gave evidence at the inquiry, Ms Harding confirmed that she had not ridden footpath 141 to reach bridleway 180 as the footpath was only 2 metres in width and she didn't want to meet pedestrians with pushchairs travelling along it. DPBA concurs with Mr Kind that the Order should be further modified to record a width of 3 metres to allow equestrian users to pass each other without having to leave the highway.

11. DPBA notes that there is a pinch point at OS grid reference SK 0024 8587 where the topography of the ground limits the available width to 1.5 metres for a distance of approximately 3 metres and submits that this restriction on width should be incorporated into the Order.
12. In paragraph 65 of my interim decision I concluded that as equestrian users of the path had ridden in single file when in the company of others, a width of two metres appeared to be reasonable. As pointed out by Mr Kind, this would be the case if use was solely one-way at all times. However, I also acknowledge that at paragraph 44 of my interim decision, I had noted that users had said that it had been possible to stand to one side to allow others to pass in the opposite direction.
13. Whilst a width of 2 metres would be sufficient for two pedestrians to pass comfortably, and would be sufficient for one-way equestrian traffic, I accept the submissions made by Mr Kind and the DPBA that two horseriders passing each other, or a horserider passing a pedestrian, would require a greater width than 2 metres if they were not to step off the highway to do so. Having given further consideration to this matter, I consider that the bridleway should be recorded as having a width of 3 metres with the exception of the natural pinch point at OS grid reference SK 0024 8587 where the width is limited to 1.5 metres for approximately 3 metres.

Conclusions

14. Having regard to these and all other matters raised in the written representations I conclude that the Order should be proposed for confirmation with modifications.

Formal Decision

15. I propose to confirm the Order subject to the following modifications:

in the Order (but not the Order map key) replace any reference to footpath with bridleway;

in the schedule part 1, between 'Bridleway' and 'in', insert 'with a width of 3 metres except at SK 0024 8537 where the width is 1.5 metres for approximately 3 metres';

in the schedule part 2 delete 'Approx' from 'Approx width';

in the Schedule part 2 under width delete '2.0 metres' and insert '3.0 metres except at SK 0024 8587 where the width is 1.5 metres for approximately 3 metres';

in the Order map and Order map key replace the broken black line representing a footpath with a solid line with crossbars to represent a bridleway;

in the Order map key replace 'Footpath to be added' with 'Bridleway to be added'.

16. Since the Order as proposed to be confirmed would show as a highway of one description a way which is shown in the Order as a highway of another description and would affect land not affected by the Order as submitted, I am required by virtue of Paragraph 8 (2) of Schedule 15 to the 1981 Act 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.

Alan Beckett

Inspector