

**DERBYSHIRE COUNTY COUNCIL**  
**REGULATORY LICENSING AND APPEALS COMMITTEE**

**14 January 2019**

**Report of the Director of Legal Services**

**STANCE TO BE TAKEN AT THE FORTHCOMING HEARING INTO THE  
DEFINITIVE MAP MODIFICATION ORDER (DMMO) FOR BACK LANE, DARLEY  
DALE**

**1. Purpose of the Report**

1.1 To ask members to authorise the stance to be taken by officers involved in a hearing to be held on 5 February 2019 into a definitive map modification order (DMMO) adding Back Lane in Darley Dale to the definitive map and statement of public rights of way.

**2. Information and Analysis**

2.1 On 27 July 2015 the Regulatory Licensing and Appeals Committee authorised the making of a DMMO adding a non-classified highway (NCH) in Darley Dale called Back Lane to the definitive map and statement as part public bridleway and part Byway Open to All Traffic (BOAT).

2.2 Following the making and advertising of the Order in January 2016 objections were received and the matter was referred to the Planning Inspectorate. The Inspectorate concluded that the matter should be decided by means of a public inquiry and this duly took place on 16 January 2018.

Following the Inquiry the Inspector decided to confirm the Order, but with modifications that required the Order to be re-advertised.

Attached is a copy of the original Order plan on which the Inspector has marked certain changes: Part of the original Order for BOAT status, between point C and a new point X, is unchanged. The Inspector decided that the route between point X and point B is an ordinary tarmac road of a type that ought not to be recorded on the definitive map and statement of public rights of way and she accordingly concluded that that section should be omitted. The Inspector concluded that the final section between points A and B, which the Council had concluded was a bridleway, should be recorded as a BOAT.

2.3 Occasionally the Council has itself objected to the decisions reached by Government Inspectors in these matters, however on this occasion officers took the view that there was little chance of a successful challenge.

However the Trail Riders Fellowship (TRF) have challenged the Inspectors decision: They have argued that, as well as the section from points B to X, the section from point X to point C is also an ordinary motoring road and should be left off the definitive map and statement.

2.4 Because of this objection from the TRF the Planning Inspectorate have decided to hold a public hearing on 5 February 2019 (at Committee Room No. 2 in County Hall).

2.5 In terms of the TRF objection; Officers from the County Council strongly dispute whether this particular section (X-C) could ever be described as one suitable for the ordinary motoring traffic of the area and that therefore it ought to be recorded as a BOAT. Members will be aware that BOATs are recognised public carriage roads but they are ones of a type and character that makes them particularly suitable for use as recreational routes by walkers, horseriders and cyclists as well as by motorists.

The particular section of Back Lane concerned, in contrast to the tarmacked B to X section, is roughly metalled, badly rutted in places and with areas of bedrock visible. Officers are of the view that it eminently qualifies for inclusion on the definitive map and statement as a BOAT and that were the Inspector to decide otherwise, i.e. omit it on the basis of the argument advanced by the TRF, it may give ordinary motorists the green light to attempt driving on a route that is essentially only safely useable by off-road type vehicles.

2.6 Because of that, the Director of Legal Services considers that it will be necessary for officers from legal services to attend the hearing and actively put forward the argument that the Order should be confirmed as proposed to be modified by the Inspector, and not as proposed by the TRF.

### **3. Considerations**

#### **Legal and Human Rights Considerations**

3.1 Under the Wildlife and Countryside Act 1981 the Council is obliged to make a Modification Order as soon as reasonably practicable on the occurrence of certain specified 'events'. These events include:

The discovery by it of evidence which (when considered with all other relevant evidence available) shows on the balance on probability "that a highway shown on the map and statement as a highway of a particular description ought to be there shown as a highway of a different description", (section 53(3)(c)(ii)).

#### **Other Considerations**

3.11 In preparing this report the relevance of the following factors has been considered: financial, social value, prevention of crime and

disorder, equality of opportunity, human rights, personnel, environmental, health, property, and transport considerations.

- 3.12 None of these factors are considered to be relevant for the purpose of this report.

#### **4. Background Papers**

Held in Legal Services on file number 36485.

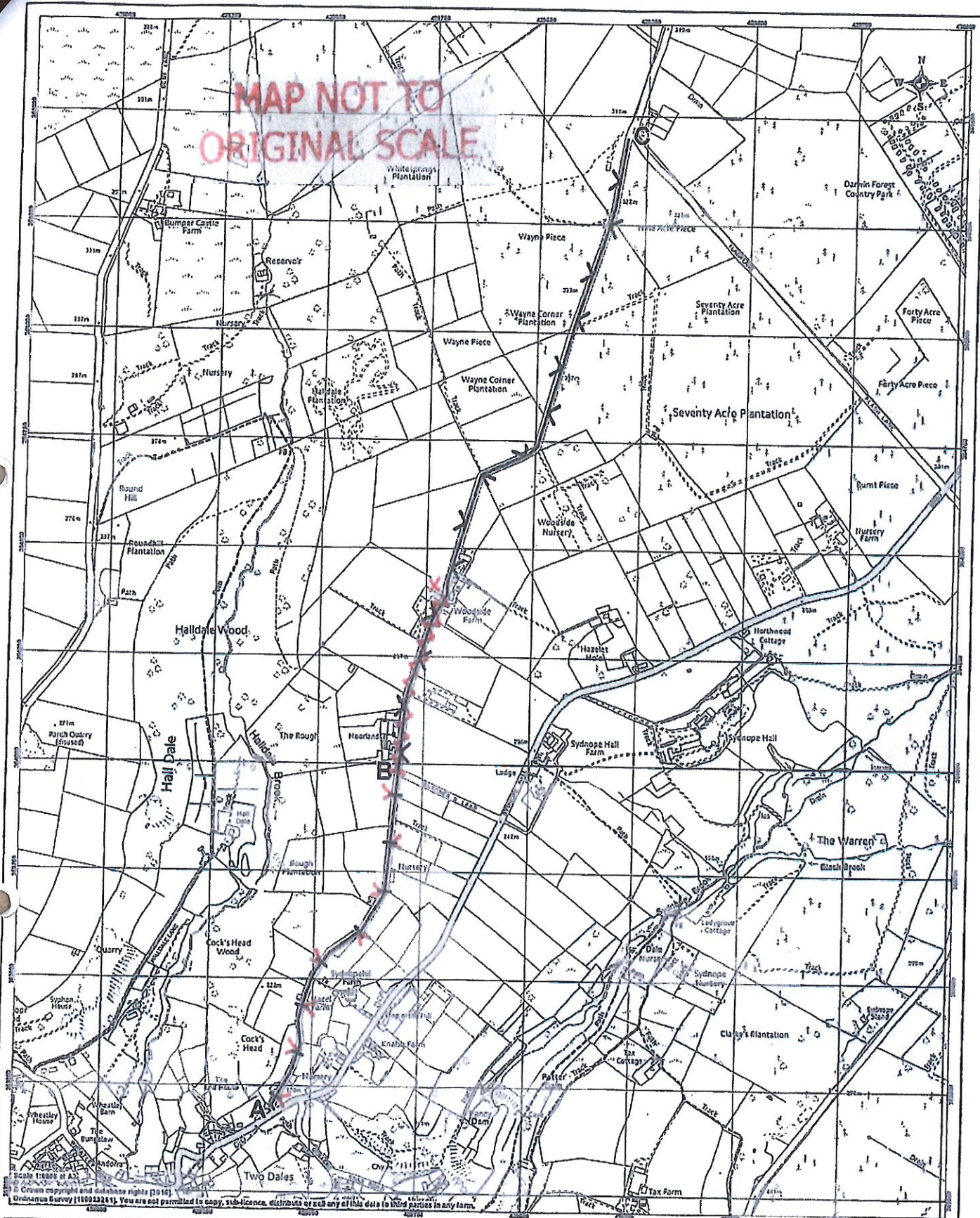
#### **5. OFFICER'S RECOMMENDATION**

That the Committee resolves to authorise the Director of Legal Services to support the modifications proposed by the Inspector in respect of the DMMO for Back Lane when the matter is heard at the public hearing on 5 February 2019, and at that hearing to actively object to the changes to the Order proposed by the Trail Riders Fellowship.

**Janie Berry**  
**Director of Legal Services**



MAP NOT TO  
ORIGINAL SCALE



Ref: TEO/CX3283/Order/2016

**DERBYSHIRE**  
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Produced by Public Rights at Uley on 18 August 2016

### Wildlife and Countryside Act 1981 Section 53

The Derbyshire County Council (~~Bridleway~~ and Byway Open to All Traffic  
along Back Lane - Darley Dale) Modification Order 2016

#### Key:

Bridleway to be added

Byway Open to All Traffic to be added

Existing Footpaths

A ——— B

B ——— C

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