

MINUTES of a meeting of the **REGULATORY, LICENSING & APPEALS COMMITTEE** held 14 January 2019 at County Hall, Matlock

PRESENT

Councillor R A Parkinson (in the Chair)

Councillors: R Ashton, C Dale, J Frudd, P Makin, J Innes, J Perkins, C Short, D Taylor and M Wall.

Also in attendance were three members of the public.

01/19 **MINUTES RESOLVED** that the minutes of the meeting held on 29 October 2018 be confirmed as a correct record and signed by the Chairman.

02/19 **PROPOSED DIVERSION OF RIPLEY PUBLIC FOOTPATH NO. 3 AND CREATION OF PUBLIC FOOTPATHS BETWEEN RIPLEY PUBLIC FOOTPATH NO. 3 AND HADDON CLOSE AND BOWMER LANE – PARISHES OF RIPLEY AND CRICH** Authority was sought for the Director of Legal Services to make a Public Path Diversion Order for the permanent diversion of Ripley Public Footpath No. 3 in the interests of the landowners. Authority was also sought for the Director of Legal Services to make a Public Path Creation Order for the permanent creation of a Public Footpath from Haddon Close to the diverted alignment of Ripley Public Footpath No. 3, and to make a Creation Order for the permanent creation of a public footpath between Ripley Public Footpath No. 3 and Bowmer Lane, in the interests of the public.

The County Council had been made aware of the need for the permanent diversion of Public Footpath No. 3 in the Parish of Ripley. The footpath was currently obstructed by residential properties and was consequently unavailable to the public.

The Ripley Urban District Definitive Map and Statement (relevant date: 1 June 1953) showed the alignment of Ripley Public Footpath No. 3, as detailed on the plan appended to the Strategic Director's report as a bold solid line. The surrounding landscape was relatively undeveloped and the path would have been available on the ground. Since the publishing of the Definitive Map and Statement, the landscape of the area had changed due to the development of the area for residential properties.

After investigation, it remained unclear as to why the path was not diverted when the housing was constructed. Records held by Derbyshire County Council and Amber Valley Borough Council did not provide evidence of a Diversion Order being promoted. It did appear that an attempt was made by Amber Valley Borough Council, in 1981, to divert part of Ripley Public Footpath No. 3 affected by the development. However, although the Order was confirmed, it did not come into effect. Amber Valley Borough Council had confirmed that it would not be proceeding with the Order, due to the alternative route no longer being available on the ground to certify. The proposals in the report were therefore being put forward to address the issues onsite retrospectively, onto alignments which would be available for use.

Where a diversion was sought in the interests of the landowner, it was usual to ask that person to defray, or to seek a contribution to, the costs of the Council of any compensation which may become payable, and any expenses incurred in bringing the new site of the path into a fit condition for use by the public. In this case, the diversion was considered to be in the interest of, but has not been sought by, the landowners. The residential properties affected by Public Footpath No.3 were constructed more than 30 years ago and the route had been inaccessible since that development. The Council was pursuing the diversion of Public Footpath No.3 rather than enforcement action to secure the opening of the existing definitive route, which would not be possible without the demolition of three residential properties.

The combination of Diversion Order and Creation Orders was therefore proposed. This would formally record public footpaths on the available walked alignments which would benefit the landowners whose properties were currently affected by a public right of way. It was considered that the most expedient way of doing this is to make a Diversion Order under Section 119 of the Highways Act 1980, and Creation Orders under Section 26 of the same Act.

The proposed Diversion Order would divert approximately 160 metres of Ripley Public Footpath No. 3, shown as a bold solid line between points A-B-C on the plan appended to the Director of Legal Services report, to a line shown as a bold broken line between points D-E-B- F-C. The alternative path was approximately 140 metres in length and had a tarmac and natural ground surface. The recorded width of the path would vary between 1 metre and 1.6 metres between points D-E (as shown shaded grey on the plan), and would be 2 metres in width between points E - B-F and F-C.

The creation of a public footpath between Haddon Close and the proposed alternative alignment of Ripley Public Footpath No. 3 (points G-F on the plan) was sought in the interests of the public. The public footpath would

provide a convenient link from Haddon Close to the diverted public footpath and on to Bowmer Lane, Chatsworth Crescent and Ripley Public Footpath No. 79. The formal recording of the footpath on the Definitive Map and Statement for Derbyshire would protect the public's right to use the path in the future, and would ensure that there was provision for proper maintenance should any issues arise. The proposed Creation Order would add 18 metres of public footpath between the end of the adopted highway (Haddon Close) and the alternative alignment of Ripley Public Footpath No. 3, as shown on the plan as a bold broken line between points F and G. The footpath had a tarmacadam surface and a width of 2 metres.

The creation of a public footpath between Ripley Public Footpath No. 3 and Bowmer Lane in the parish of Crich (points H-J on the plan) was sought in the interests of the public, to provide a convenient link onto Ripley Public Footpath No. 3 from the adopted highway. It would also remove the 'gap' currently in existence in the highway network. As noted above, the formal recording of the footpath on the Definitive Map and Statement for Derbyshire would protect the public's right to use the path in the future, and would ensure that there was provision for proper maintenance should any issues arise. The proposed Creation Order would add a public footpath 16 metres in length, as shown on the plan as a bold broken line between points H and J. The footpath had a tarmacadam surface and a recorded width of 2 metres.

No objections were received to the proposed diversion and creation when informal consultation was carried out on 20 June 2018. The Local Member Councillor Trevor Ainsworth, Ripley Town Council and Amber Valley District Council were consulted and offered no objections to the proposal.

RESOLVED that the Director of Legal Services be authorised to:

(1) make the necessary Order to permanently divert Ripley Public Footpath No. 3 in Ripley, under Section 119 of the Highways Act 1980;

(2) make the necessary Order to create a Public Footpath from Haddon Close to the diverted alignment of Ripley Public Footpath No. 3 in Ripley, conditional upon the Diversion Order being made, under Section 26 of the Highways Act 1980.

(3) make the necessary Order to create a Public Footpath from Public Footpath No. 3 Ripley to Bowmer Lane in the Parish of Crich, conditional upon the Diversion Order being made, under Section 26 of the Highways Act 1980; and

(4) refer the confirmation of the Orders to the Secretary of State should objections be received to the making of the Order.

03/19 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 22 – PARISH OF OFFCOTE AND UNDERWOOD Authority was sought for the Director of Legal Services to make an Order for the permanent diversion of Footpath No. 22, in the Parish of Offcote and Underwood, in the interests of the public.

The County Council had received an application for the permanent diversion of this footpath in the interests of the public. The area was prone to flooding and the proposed alternative route followed drier ground.

If the proposal took effect, it would divert approximately 128 metres of the footpath, shown as a bold solid line between points A, B, C and D on the Plan appended to the Strategic Director's report, onto the route shown by a bold dashed line between points A, E and F, approximately 110 metres long. The route from points A to D for walkers continuing along Footpath No. 22 would be around 42 metres longer, but for walkers turning west onto Footpath No. 24 at Point F the route would be around 72 metres shorter. The recorded width of the new path would be 2 metres, and some improvements would be made; a pedestrian gate to British Standard 5709 and a culvert would be installed at Point E, and ruts near Point F would be filled in to level up the surface.

No objections were received to the proposed diversion when informal consultations were carried out. Consultees included the Local Member, Councillor Simon Spencer, Offcote and Underwood Parish Council and Derbyshire Dales District Council.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Diversion Order under section 119 of the Highways Act 1980 to divert Public Footpath No. 22, in the Parish of Offcote and Underwood ; and

(2) that should objections be received to the making of the Order that could not be resolved, then the matter be forwarded to the Secretary of State for determination.

04/19 PROPOSED DIVERSION OF PUBLIC BRIDLEWAY NO.53 – PARISH OF HAYFIELD Authority was sought for the Director of Legal Services to make a Diversion Order for the permanent diversion of Hayfield Bridleway No.53 in the interests of the public.

It had been identified that part of Public Bridleway No.53 in the Parish of Hayfield was no longer accessible for use. The existing bridleway had become eroded into a deep rut and was difficult to use due to the natural cross slope of the land. It was therefore proposed that the affected section of path be diverted, in the interest of the public, onto an appropriate, alternative alignment. The proposed alternative route was a stoned track with a suitable available width and a relatively level surface, which would offer a more sustainable route for users.

The section of Public Bridleway No.53 to be diverted was part of the approved Pennine Bridleway National Trail. Should the diversion of the path be successful, a Varying Report would be submitted to the Secretary of State for approval to amend the line of the Trail.

The proposed diversion would divert approximately 167 metres of that part of Public Bridleway No.53, shown as a bold solid line between points A-B on the plan appended to the Strategic Director's report. The proposed alternative would be approximately 205 metres in length, shown as a bold hatched line between points A-C. The alternative route has a rolled aggregate surface to a width of 2.5 metres, and will have a recorded width of 4 metres. Moving the termination point of the public bridleway from Point B to Point C on the same adopted highway would provide a more direct route onto Public Bridleway No.50, the continuation of the Pennine Bridleway National Trail.

No objections were received to the proposed diversion when informal consultation was carried out on 12 September 2018. The Local Member, Councillor Beth Atkins, offered no objections to the proposal, subject to it being supported by the Parish Council, Hayfield Parish Council, High Peak Borough Council and Derbyshire County Council.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Diversion Order to divert part of Public Bridleway No.53 in the Parish of Hayfield; and

(2) that should objections be received to the making of the Order that cannot be resolved, then the matter be forwarded to the Secretary of State for determination.

05/19 PROPOSED CREATION OF PUBLIC FOOTPATH ALONG PATH KNOWN AS APPLETREE WALK – PARISH OF DRONFIELD

Authority was sought for the Director of Legal Services to make a Public Path Creation Order for the creation of a Public Footpath along the route known as 'Appletree Walk' in Dronfield, in the interest of the public.

The County Council had been made aware of a walked path that was not recorded on the Definitive Map and Statement for Derbyshire between Appletree Drive and Cross Lane in Dronfield, which was known as 'Appletree Walk'.

The path was not publicly maintainable and the land over which it passed was shown to be unregistered when a Land Registry search was carried out by the County Council. None of the adjacent landowners came forward to claim an interest in the land when consulted.

To protect the public's right to use the path and ensure that there was provision for proper maintenance, it was proposed that the route be formally recognised as a Public Footpath. It was considered that the most expedient way of doing this is to make a Creation Order under Section 26 of the Highways Act 1980.

The effect of the Order would be to create a Public Footpath of approximately 63 metres in length between Appletree Drive and Cross Lane, shown as a bold dashed line between points A-B-C on the plan appended to the Strategic Director's report. The path had a tarmac surface with a width of 1.5 metres. There is a lighting column at Point B.

No objections were received to the proposed creation when the informal consultation was carried out on 30 October 2018. The Local Member, Councillor Alex Dale, Dronfield Town Council and North East Derbyshire District Council were consulted and supported the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Public Path Creation Order for the creation of a Public Footpath along the route known as 'Appletree Walk' in the Parish of Dronfield; and

(2) that should objections be received to the making of the Order that cannot be resolved, then the matter be forwarded to the Secretary of State for determination.

06/19 PROPOSED CREATION OF PATH BETWEEN DALE ROAD AND HAZEL COURT – PARISH OF DRONFIELD Authority was sought for the Director of Legal Services to make a Public Path Creation Order for the creation of a public footpath between Dale Road and Hazel Court, in the Parish of Dronfield, in the interests of the public.

The County Council had been made aware of a path that was not recorded on the Definitive Map and Statement for Derbyshire between Dale Road and Hazel Court in the Parish of Dronfield.

Upon investigation, it appeared that the route was eligible for adoption when the adjacent area (Hazel Court) was developed circa 1983, and a recommendation was made to North East Derbyshire District Council to create a path over the land via a Creation Order. However, it did not appear that such an Order had ever been made and, consequently, there is no publicly maintainable link between Dale Road and Hazel Court.

Part of the land over which the path crosses was unregistered and none of the adjacent landowners came forward to claim an interest in the unregistered land when consulted.

To protect the public's right to use the path and ensure that there is provision for proper maintenance should any issues arise, it was proposed that the route be formally recorded as a public footpath. It is considered that the most expedient way of doing this is to make an Order under Section 26 of the Highways Act 1980, as it is clear that the formal recording of the path as a public footpath would add to the convenience of persons resident to the area.

The effect of the Creation Order would be to create a public footpath of approximately 61 metres in length between Dale Road and Hazel Court, shown as a bold dashed line between points A-B-C on the plan appended to the Strategic Director's report. The path has a tarmacadamed surface with a width varying between 1.8 metres and 2 metres.

No objections were received to the proposed diversion when informal consultation was carried out on 22 August 2018. The Local Member, Councillor Alex Dale, Dronfield Town Council, and North East Derbyshire District Council were consulted and offered no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Order under Section 26 of the Highways Act 1980 to create a public footpath between Dale Road and Hazel Court in the parish of Dronfield ; and

(2) that should objections be received to the making of the Order that cannot be resolved, then the matter be forwarded to the Secretary of State for determination.

07/19 PROPOSED CREATION AGREEMENT FOR A PUBLIC FOOTPATH BETWEEN WHALEY BRIDGE PUBLIC FOOTPATH NO. 56 AND TAXAL MOOR ROAD, PARISHES OF WHALEY BRIDGE AND HARTINGTON UPPER QUARTER Authority was sought for the Director of Legal Services to enter into a Public Path Creation Agreement with the landowner to create a public footpath between Whaley Bridge Public Footpath No. 56 and Taxal Moor Road, in the interests of the public.

The County Council had identified a gap in the highway network between Whaley Bridge Public Footpath No. 56 and Taxal Moor Road, a publicly maintainable carriageway highway. Part of the land over which there was a gap in the network fell within the parish of Hartington Upper Quarter, and part within the parish of Whaley Bridge.

The location of the path to be created would have been close to the boundary of the areas covered by the Whaley Bridge Urban District Definitive Map and Statements (DMS) and the Chapel en le Frith Rural District DMS. This may account for the gap in the network at this location; in any event there was no evidence to suggest why this link to Taxal Moor Road was not included.

The Highway Extents Team has confirmed that the land was not within the boundary of the carriageway, and as there was currently no recorded public right of way to the carriageway, Whaley Bridge Public Footpath No. 56 is effectively a cul-de-sac path. It was therefore seen to be in the interests of the public for a public footpath to be formally recorded. This would allow the path to be formally recorded on the DMS and would also clarify the maintenance liability for the path.

The path would travel from the southern end of Public Footpath No. 56 at the parish boundary, alongside a stone wall across an open, grassed piece of land adjacent to Taxal Moor Road, as shown as a bold dashed line between points A-B-C-D on the plan appended to the Strategic Director's report. That part of the path, between points A-B-C, lay within the parish of Hartington Upper Quarter, and that part of the path between points C-D lay within the parish of Whaley Bridge. The path would be approximately 35 metres in length, with a width of 2 metres.

High Peak Borough Council and the Peak District National Park Authority have been consulted and offered no comments or objections to the proposal. The Local Member, Councillor Alison Fox, Whaley Bridge Parish Council and Hartington Upper Quarter Parish Council have also been consulted, all of whom raised no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to enter into a Public Path Creation Agreement to create a public footpath between Whaley Bridge Public Footpath No. 56 and Taxal Moor Road, in the parishes of Whaley Bridge and Hartington Upper Quarter.

(2) that should objections be received to the making of the Order that cannot be resolved, then the matter be forwarded to the Secretary of State for determination.

08/19 WILDLIFE AND COUNTRYSIDE ACT 1981 - CLAIM TO DELETE PUBLIC FOOTPATH NO. 30 – PARISH OF BREASTON Members were asked to determine an application to amend the Definitive Map and Statement by deleting public footpath number 30 in the Parish of Breaston.

The Council had received an application on 12 May 2016, to delete Public Footpath No. 30 from the Definitive Map and Statement. The application was accompanied by the Applicant's statement of truth. A plan showing the claimed route was appended to the Director of Legal Services report

An informal consultation exercise was carried out between 2 May 2017 and 6 June 2017. Notices were placed on the route and letters were sent to the statutory consultees, landowners and the local elected member, Cllr Robert Parkinson.

A number of objections were received to the proposal and details were given in the Director of Legal Services report.

The Director of Legal Services summarised all of the available evidence as detailed in the report and gave her conclusions to the committee.

RESOLVED to reject the application under section 53 of the Wildlife and Countryside Act 1981 to delete off the definitive map and statement public footpath number 30 in the Parish of Breaston, as shown between Points A-C on the plan attached to the Director of Legal Service's report.

09/19 WILDLIFE AND COUNTRYSIDE ACT 1981- CLAIM TO ADD A FOOTPATH ALONG RICHARDSONS LANE – RIDDINGS Members were asked to determine an application to amend the Definitive Map and Statement by adding a public footpath along Richardsons Lane in Riddings.

The Council had received an application dated 6 December 2016, to add a public footpath to the Definitive Map and Statement. The application was accompanied by 30 user evidence forms (UEF), Land Registry title &

plan, copy of deeds for No. 1 Richardson's Lane, photographs, planning application documents for adjacent housing development, evidence of postal deliveries & dustbin collection using Richardson's Lane and old maps showing Richardson's Lane. A plan showing the claimed route is was appended to the Director of Legal Services report.

On 7 August 2018 the Applicant emailed the Council withdrawing his interest in the claim. The Applicant's UEF was also withdrawn. This left twenty-nine to be considered. On 5 November 2018 a letter was sent out to the twenty-nine witnesses who had completed a UEF informing them of the Applicant's decision. A slip was included for them to complete and confirm whether or not they still wanted their UEF to be considered as part of the investigation. Sixteen responded stating they no longer wanted their evidence to be considered, five wanted their evidence to be considered and eight did not respond. This left thirteen UEF's considered in this report.

An informal consultation exercise was carried out between 2 May 2017 and 6 June 2017. Notices were placed on the route and letters were sent to the statutory consultees, landowners and the local elected members, Cllr Paul Smith and Cllr Steve Marshall-Clarke.

Representations were received both in support of and against the application and details were given in the Director of Legal Services report.

The Director of Legal Services summarised all of the available evidence as detailed in the report and gave her conclusions to the committee.

RESOLVED to reject the application under section 53 of the Wildlife and Countryside Act 1981 to add to the definitive map and statement a footpath along Richardson's Lane from Newlands Road to Newlands Drive in Riddings as shown between Points A-B-C on the plan attached to the Director of Legal Service's report.

10/19 WILDLIFE AND COUNTRYSIDE ACT 1981 - CLAIM TO ADD A FOOTPATH FROM CHEVIN ROAD ALONGSIDE RAILWAY LINE CONNECTING BACK TO CHEVIN ROAD THEN TO PUBLIC FOOTPATH NO 64 - BELPER

Members were asked to consider the application made under the Wildlife and Countryside Act 1981 to add a footpath from Chevin Road alongside the railway line connecting back to Chevin Road then to Public Footpath No 64, Belper to the Definitive Map and Statement as shown on the plan appended to the Director of Legal Services report.

The Council had received an application dated 1 October 2015 to add a footpath from Chevin Road alongside the railway line connecting back to

Chevin Road then to Public Footpath No 64, Belper, to the Definitive Map and Statement. The application included a map showing the claimed route.

The application was supported by 35 Public Way Evidence Forms and supporting documents which were a copy of the 1900 Ordnance Survey Map, evidence of NFU signage, photographs of the claimed route and a supporting letter. The applicant also included a covering note in his submission and stated that user evidence was included from organised groups of walkers and members of the local horticultural society attempting to eradicate invasive Himalayan Balsam.

The applicant stated that the claimed path had been used as an alternative to walking along Chevin Road which was a narrow and hazardous section with no refuge from traffic. This section was also dark, due to being heavily overgrown with trees.

The applicant claimed that the route was old indicated by the old stone stile in the wall between the two southernmost fields and which corresponded with the line of a track marked on the 1901 Ordnance Survey Map. He stated that the trimming of low branches which hindered use of the stile and the clearing of nearby undergrowth indicated that public use had been accepted until recently.

The applicant stated that this acceptance was further evidenced by the construction of wooden stiles (one of which was removed when the 'Private Land' notice went up) and the National Farmer's Union and 'sheep' posters at access points along the route. The applicant's photographs showed the claimed route as well trodden and he believed that the route should have been included on the original Definitive Map and Statement which he now wanted to rectify.

The application was submitted when a gate at the Chevin Road, Milford end of the claimed route (Point A on the attached map) was chained and locked to prohibit access and a sign erected by the gate saying 'Private Land'. This coincided with other changes to stiles and gates along the route and the erection of other signage.

The application included a letter of support from the Chairman of the Milford and Makeney Community Group, stating that the claimed footpath had been used as an amenity for many years.

On 18 April 2017 a consultation letter was sent to the landowner, local members, user groups and statutory undertakers.

Representations were received both in support of and against the application and details were given in the Director of Legal Services report

The Director of Legal Services summarised all of the available evidence as detailed in the report and gave her conclusions to the committee.

RESOLVED that the claim to add a footpath from Chevin Road alongside the railway line connecting back to Chevin Road then to Public Footpath No 64, Belper, be rejected.

11/19 WILDLIFE AND COUNTRYSIDE ACT 1981 – CLAIM TO ADD A FOOTPATH FROM CHEVIN ROAD ALONG THE RIVER DERWENT TO PUBLIC FOOTPATH NO 64 - BELPER Members were asked to consider an application made under the Wildlife and Countryside Act 1981 to add a footpath from Chevin Road along the River Derwent to the Definitive Map and Statement as shown on the plan appended to the Director of Legal Services report.

The council had received an application dated 1 October 2015 to add a footpath from Chevin Road along the River Derwent to Public Footpath No 64, Belper, to the Definitive Map and Statement. The application included a map showing the claimed route.

The application was supported by 27 Public Way Evidence Forms and supporting documents which were a copy of the 1900 Ordnance Survey Map, evidence of NFU signage, photographs of the claimed route and a supporting letter. The applicant also included a covering note in his submission and stated that user evidence was included from organised groups of walkers and members of the local horticultural society attempting to eradicate invasive Himalayan Balsam. In addition the riverside part of the route was used for several years by the public for the Belper Raft Race. The applicant stated that the claimed path had been used as an alternative to walking along Chevin Road which was a narrow and hazardous section with no refuge from traffic. This section was also dark, due to being heavily overgrown with trees. Mr Everett claimed that the route was of some antiquity as the northern section corresponded with the line of a track marked on the 1901 Ordnance Survey Map.

The applicant stated that there was acceptance of public use evidenced by the construction of wooden stiles (one of which was removed when the 'Private Land' notice went up) and the National Farmer's Union and 'sheep' posters at access points along the route. The applicant's photographs show the claimed route as well 2 trodden and he believed that the route should have been included on the original Definitive Map and Statement which he now wanted to rectify.

The application was submitted when a gate at the Chevin Road, Milford end of the claimed route (Point A on the attached map) was chained and locked to prohibit access and a sign erected by the gate saying 'Private Land'. This coincided with other changes to stiles and gates along the route and the erection of other signage.

The application included a letter of support from the Chairman of the Milford and Makeney Community Group, stating that the claimed footpath had been used as an amenity for many years.

On 18 April 2017 a consultation letter was sent to the landowner, local members, user groups and statutory undertakers.

Representations were received both in support of and against the application and details were given in the Director of Legal Services report

The Director of Legal Services summarised all of the available evidence as detailed in the report and gave her conclusions to the committee.

RESOLVED that the claim to add a footpath from Chevin Road along the River Derwent to Public Footpath No 64, Belper be rejected.

12/19 WILDLIFE AND COUNTRYSIDE ACT 1981- CLAIM TO ADD A BYWAY OPEN TO ALL TRAFFIC ALONG BROADWAY LANE AND BULLTOR LANE IN THE PARISHES OF TADDINGTON AND BRUSHFIELD Members were asked to determine an application to record the above route in Taddington and Brushfield parishes, known as Broadway Lane and Bulltor Lane, on the Definitive Map and Statement as a Byway Open to all Traffic.

The Council had received an application dated 19 April 2004 to record the above route, known as Broadway Lane and Bulltor Lane leading from Priestcliffe in the parish of Taddington generally eastwards to the hamlet of Brushfield, as a Byway Open to all Traffic on the Definitive Map and Statement. The application was supported by a plan showing the claimed route and a list of documents, which the applicant stated provided evidence that the route should be upgraded.

The route linked the hamlet of Priestcliffe in Taddington parish directly with Brushfield to the east. It was a good rough stone-metalled track of vehicular width and is predominately defined by stone wall boundaries. The first part of the route leading in a north eastwards direction from Priestcliffe is the section named roadway Lane; the remainder of the route is Bulltor Lane. A plan showing the claimed route was appended to the Director of Legal Services report report.

On 12 June 2017 the County Council consulted various groups and individuals on the claim it had received, including any relevant landowner(s), local and national rights of way user groups and the District Council and Parish Council. The consultees were asked whether they were aware of any evidence or information which might be helpful to the Council in terms of deciding what level of public access rights existed over the claimed route. A copy of the consultation letter and accompanying plan was also displayed on site.

The County Council received a reasonably large number of responses which were detailed in the Director of Legal Services report

The Director of Legal Services summarised all of the available evidence as detailed in the report and gave her conclusions to the committee. On balance, it seemed more likely, despite the fact that recreational motorists had undoubtedly driven along it for a number of years, that that use was not sufficient to raise a presumption of vehicular rights and that the route has continued to subsist at its historic highway status of public bridleway

RESOLVED to authorise the Director of Legal Services to make an Order under Section 53 of the Wildlife and Countryside Act 1981 to amend the Definitive Map and Statement by adding a public bridleway along Broadway Lane and Bulltor Lane in the parishes of Taddington and Brushfield as shown between Points A, B and C on the plan attached to the Director of Legal Service's report.

13/19 WILDLIFE AND COUNTRYSIDE ACT 1981- INVESTIGATION INTO THE RIGHTS OF WAY STATUS OF TADDINGTON PUBLIC FOOTPATHS 6 (PART) AND 7 Members were asked to determine whether a definitive map modification order (DMMO) ought to be made modifying the recorded status of Taddington footpaths 7 and 6 (part) to that of public bridleway.

In the course of preliminary investigations into an application from a member of the public to add a non-classified highway (NCH) named Broadway Lane and Bulltor Lane in Taddington and Brushfield parishes to the definitive map and statement as a Byway Open to all Traffic (BOAT), evidence was discovered which showed that the current Taddington public footpath 7 and part of Taddington public footpath 6 ought to be recorded as carrying public bridleway status.

The route concerned forks off Bulltor Lane above Millers Dale and proceeds generally north eastwards towards Litton Mill on the River Wye. For the most part it formed a grassy track or path. The initial section from Bulltor Lane ran along what looked like a rake (where a vein of lead has historically

been worked from the surface and forms a line of worked ground) before dropping steeply across fields, which had also been intensively mined for lead, to a substantial bridge over the old railway line (now the Monsal Trail) where a short path connects the bridge crossing with the trail. A plan showing the claimed route is appended to the Director of Legal Service report.

On 12 June 2017 the County Council consulted various groups and individuals regarding this investigation, including any relevant landowner(s), local and national rights of way user groups and the District Council and Parish Council. The consultees were asked whether they were aware of any evidence or information which might be helpful to the Council in terms of deciding whether the status of the route ought to be modified.

The only substantive response received was from a person with an interest in highway and landscape history. She wrote to the County Council on 17 July 2017 detailing the historic documentary evidence relating to this route

The Director of Legal Services summarised all of the available evidence as detailed in the report and gave her conclusions to the committee.

RESOLVED to authorise the Director of Legal Services to make an Order under Section 53(3) (c) (ii) of the Wildlife and Countryside Act 1981 to amend the Definitive Map and Statement by upgrading Taddington public footpath 7, and the part of Taddington footpath 6 leading from footpath 7 to the junction with the Monsal Trail, to the status of public bridleway.

14/19 WILDLIFE AND COUNTRYSIDE ACT 1981 - STANCE TO BE TAKEN AT THE FORTHCOMING HEARING INTO THE DEFINITIVE MAP MODIFICATION ORDER (DMMO) FOR BACK LANE, DARLEY DALE Members were asked 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.

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).

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 to the Director of Legal Services report was a copy of the original Order plan on which the Inspector had marked certain changes: Part of the original Order for BOAT status, between point C and a new point X, was 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.

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 had 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 had decided to hold a public hearing on 5 February 2019 (at Committee Room No. 2 in County Hall).

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.

Therefore, the Director of Legal Services considered that it would 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.

RESOLVED 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.