

DERBYSHIRE COUNTY COUNCIL**Meeting of the Regulatory, Licensing and Appeals Committee****26 February 2018****Report of the Director of Legal Services****WILDLIFE AND COUNTRYSIDE ACT 1981
CLAIM TO ADD A BRIDLEWAY ALONG THE NON-CLASSIFIED HIGHWAY
BETWEEN NEW ROAD AND MAIN ROAD – PARISH OF GRINDLEFORD****1. Purpose of the Report**

To enable Members to consider the application made under the Wildlife and Countryside Act 1981 to add a bridleway between New Road and Main Road in the Parish of Grindleford to the Definitive Map and Statement.

2. Information and Analysis**2.1 Details of the Application**

The application was made on 22 January 2013 by Mrs Diana Mallinson to add a bridleway from New Road (B6521) to Main Road (B6001), Parish of Grindleford, to the Definitive Map and Statement. The application was supported by documentary evidence comprising a revised 1897 Ordnance Survey plan, extracts from meetings of the County Council's Bridges and Highways Committee of 1914 and a Definitive Map claim by Stoke Parish dated 1950.

The applicant produced a statement explaining why the documents supported the application. Mrs Mallison indicated that the route was shown as a distinct, physical entity, separate from adjoining plots of land on the Second Edition Ordnance Survey Map of 1897 and linked the roads between Eyam and Grindleford (now the B6521) and between Calver and Grindleford (now the B6001).

She noted that the County Council's Bridges and Highways Committee of 1914 considered proposals for widening the above two roads in 1914, at which time the landowner, Mr M Hunter, asked the County Council to stop up "an old footpath or bridleway" between the two roads in return for giving land for the road widening. The applicant asserted that although the stopping up was not carried out, the minutes indicate that this route was considered to be a public footpath or public bridleway by both the landowner and the County Council at the time.

The applicant notes that in 1950 Stoke Parish (which was incorporated into Grindleford Parish in 1987) claimed the route as bridle path on the basis of uninterrupted public use for over 20 years. The applicant stated that as there is no record of any stopping up of public rights over the claimed route in the Quarter

Sessions records for Derbyshire the bridleway rights claimed in 1950 and indicated in 1914 should still exist.

2.2 Consultation

On 26th January 2015, the County Council consulted with landowners, local members, local and national rights of way user groups, statutory undertakers and District and Parish Councils. A copy of the consultation letter and plan were also displayed on site.

The consultees were asked to provide any evidence or information relating to the history or use of the claimed route which they considered might be relevant to the determination of the application and in deciding what level of public access rights existed over the claimed route.

2.3 User Evidence

As a result of the consultation exercise the County Council received 28 user evidence forms from users of the claimed route in or on a motor vehicle. The forms were found to record similar accounts of use over differing periods of time, essentially recreational vehicular use of the route. Nine of those who completed a form recorded use after the implementation of the Natural and Rural Communities Act 2006 (the NERC Act), under which use with motor vehicles after 2nd May 2006 is not capable of giving rise to public access rights and should be disregarded.

The user evidence forms show the following use of the claimed route:-

Number of Years Route Used	Number of Witnesses
Disregarded forms	9
Less than and up to 10 years	5
11 – 20	5
21 – 30	6
31- 40	3
Total	28

The 19 evidence forms considered showed that the claimed route had been used over a period of between 4 and 36 years up to 2006 on or in a motor vehicle. Two of the witnesses had also cycled along the route and two others had walked it. From the forms it appeared that there had been no hindrance to the use of the route except for one user who referred to a brief period when the track was being resurfaced.

Nearly all the users stated that they have seen other vehicle users along the claimed route and 4 referred to having seen cyclists. None of the witnesses provided evidence of seeing horse use on the route with many stating this in their comments.

Reasons for use of the claimed route were that it had been as part of a longer journey through the Peak District or as part of a route around the local area; some users described a circular route taking in the claimed track.

Three of the witnesses used the claimed route on a weekly basis and 7 on a monthly basis with another 7 visiting less than monthly, one every six months and a final witness using the track annually.

None of the witnesses were ever deterred by stiles, gates or notices except one who mentioned the resurfacing of the route. None of the users worked on the land or had permission to drive or ride a vehicle on the route, nor was anyone ever stopped.

Witnesses commented on a variety of aspects of using the route as follows:-

- Users had only seen other motorcyclists.
- The route had been used in long distance trials.
- The route had been used by groups with mountain bikes and motorcycles/trail riders.
- The route should remain an NCH.
- Many commented that the route was dangerous for horses and riders as it was so steep and was of a loose surface.
- There were no other bridleways in the area.
- The track was already a road maintained at public expense and recorded on the List of Streets.
- Users had never seen horses on the route.
- The route exited onto a dangerous main road.
- It would be cruel to ride a horse along this route and foolish to ride a mountain bike.
- This short road had always been a useful way to reach other roads around Eyam from those around Calver on longer journeys.
- Never seen anyone walking, cycling or horse riding on route.
- Occasionally met other vehicles.
- The route running between two sealed roads away from habitation and hardly visible from the B6001, added to its being little known by other recreational drivers.
- Route didn't connect with any footpath or bridleway and would require the rider to travel some distance on narrow sealed roads to reach one end or the other.
- Perilous for horse as steep and loose downhill section.
- Lane rutted and crossed by tree roots.
- Lane wide enough for two vehicles to pass.
- Shown on map since 1890s as being open for vehicular use.
- Motorcyclists bring business to the area.
- 'Once a highway, always a highway'.
- Use of the route for 20 years showed general acceptance by public of motor vehicle access rights.
- Happy to share lane with other users and recommend BOAT status.

2.4 Comments from vehicle users

Following the consultation exercise in addition to the user evidence forms a large number of representations were received, chiefly in the form of emails. These were

principally from vehicular users of the route and similar comments were made as had been made by users who completed a user evidence form.

The issues raised by those opposed to the recording of the claimed route as bridleway included:-

- The claimed route was already an NCH and many were confused at the request.
- The claimed route was unsuitable as a bridleway due to the exits at both ends. This was a traffic hazard which would not be in the public interest. There was poor visibility for riders with one end of the route being hidden from the road.
- Objectors saw the claim as closure of the claimed route by vehicles.
- Never seen walkers, horses or any other users apart from vehicles.
- Joined two busy roads, potential lethal collision.
- Off-roaders stated that their activities were eroded by decisions to apply Traffic Regulation Orders (TROs) to routes. Green Laners brought revenue to local businesses.
- The County Council should not waste resources on this matter as there were more important cases to deal with.
- The claimed route was on the 'List of Streets' and therefore already had all user status.
- The claim was an attempt to ban MPVs and carriage drivers.
- Countryside byways should be for all use.
- Against Peak Park's philosophy of granting access to the Peak District to all.
- The few NCHs left were being changed to bridleway and only 20% of routes were available to vehicles. Wildlife still grew on these routes.
- Suggested temporary restriction through winter and vehicles over certain weight would be a more effective solution.
- An historic right of way.
- Several objectors stated personal periods of use of 30, 40 and 10 years with no problem and stated – not a bridleway.
- Too steep for a bridleway.
- A disabled motorbike user described the claim as an unfair closure.
- Took scout groups out in 4x4s.
- Objection on behalf of GLASS – Predominance of vehicular use on the claimed route and no attempt by the landowner to stop.
- Vehicle users discriminated against.
- Claimed route resurfaced 3/4 years ago.
- An objector quoted NERC and stated that vehicle use prior to 1930 applied.
- The claim did not meet the user test for any status of right of way other than its current status of public highway.
- Used on motorcycle, no need to add to the Definitive Map.
- If the route was added to the Definitive Map it should be as a BOAT to reflect traffic use. The applicant's evidence appeared to relate to a route south of the claimed route which was recorded as bridleway.
- There were no other bridleway links to the claimed route and riders would need to ride on the main road for a considerable distance to access it.
- Objection on behalf of the Peak & Derbyshire Vehicle User Group – only seen vehicles on the claimed route.

- Long user on motorcycle from 1983 and not seen any other use. The claimed route was narrower and less well surfaced before 2001. User wanted to retain the status quo.
- The owner of 'Overlander Trail Tours' had used the claimed route as part of tours since 2001. The objector enclosed a report on the economic benefits of trail riding to Derbyshire.

2.5 Comments from horse riders

Letters and emails were also received from supporters of the claimed route being recorded as a public bridleway.

The following comments were made:-

- The Derbyshire Dales Ramblers were supportive of the application, but did not provide any evidence or reasons for this.
- A local person had ridden in the area from 1987 to 2002, with a riding stables, at least once a week and sometimes more often. This use was mostly at weekends, but more often in the school holidays. The rider now owned horses and rode with her daughter and other users. Use by motor bikes and vehicles had begun in the area in 1996, but the rider could not recall when it started on the claimed route.
- Another rider rode the claimed route with the same hacking club as mentioned above. Her use had been from 1987 to 2006 with the club and she thereafter had her own horse. The rider had never met a vehicle on the claimed route and stated that dual use would be dangerous.
- Another rider owned a local livery in Curbar from 2007. She was born in 1958, lived locally and had kept ponies all her life. The rider's mother ran a hacking and trekking business for 44 years before her (1963 – 2007). Clients rode to Eyam using this track with up to ten riders at a time at least once a week and sometimes more often. Riders had continued to use the 'Cut' (local reference to claimed route) since the rider took over the business. The rider personally used the route from the late 1960s to 2009, weekly as a child and several times a month as an adult. The rider stopped using the claimed route as her horses, at the time she was consulted about the claim, were not good in traffic. She commented that riding routes in and around Eyam had been damaged by vehicles and her horses had been frightened by motor bikes; this happened shortly before the rider ended her use of the claimed route in 2009.
- Another local rider began riding in 1998 at the Curbar stables and joined the hacking groups. This rider stated that the owner of the Curbar stables stopped operating her trekking business in 2001 (the owner has stated 2007) and this rider then rode with friends. The claimed route was a regular ride, used once or twice a month, riding between Froggatt and Eyam. The rider had used the claimed route less regularly in the last two years before the claim was made due to problems with off-road vehicles in the area. The rider wanted bridleway status along the claimed route so there would be no danger of meeting motorcycles. This had happened in the past and was alarming when riding towards the main road because of the danger of the horse bolting.
- A representative of the British Horse Society (BHS) had ridden the claimed route nearly every year since 1990; 165 times over 25 years. He had ridden

the claimed route as part of a circular route from either Curbar or Stoney Middleton, through Froggatt and Eyam. The rider was obstructed once in November 2001 due to a fallen tree which was cleared; the route was resurfaced in 2003. The rider had seen walkers and cyclists on most occasions and only very occasionally seen trial motorcycles and never 4x4s. The rider stated that the use meant the claimed route should be recorded as a bridleway. It provided a short cut to avoid a busy stretch of main road between Calver and Grindleford.

The applicant, Mrs Mallinson, provided supplementary historical evidence to her claim following the consultation exercise. The following maps were included along with Mrs Mallinson's interpretation of them:-

- Plan of Stoke Hall estate 1839: The estate was offered for sale in 1839 and the sale plan showed the claimed route as an enclosed route between the then turnpike roads which were now New Road and Main Road. The claimed route was marked 'Old Lane' and its land area stated suggesting that the route was part of the land offered for sale.
- Stoke Tithe Plan: This showed the claimed route with an outline similar to that on the 1839 sale plan. The claimed route and the land adjacent were not numbered and Mrs Mallinson stated that this was an indication that they were not part of land which was subject to tithe in 1850.
- Ordnance Survey 1st Edition 1880: This plan showed the claimed route as two numbered plots and when compared with the 1839 sale plan showed that the western part of the route had trees growing in it in 1880 so that users used a defined track rather than the whole width of the plot.
- Dr Wrench's complaint 1882: A local surgeon complained to the Highway Committee in Bakewell about a bridle road from Stoke to Eyam in 1882. At recent public inquiries into the status of what is now Eyam RB 20 and Grindleford RB2 (Steep Lane), it was agreed that Dr Wrench was referring to Steep Lane and its continuation to Riley Lane in Eyam. Mrs Mallinson stated that based on the evidence it was probable that the claimed route was also part of the old packhorse road referred to by Dr Wrench and that its reputation in the 1880s was as a public bridleway.
- Finance Act records c1910: Mrs Mallinson stated that there were no deductions for public rights of way or user. The inclusion of the claimed route in hereditament 274 indicated that it was not considered to be a public carriageway by the owner or the valuer.
- Proposed stopping-up 1914: Mrs Mallinson provided an extract from the minutes of the meeting of Bakewell Rural District Council's General Purposes Committee on 14 December 1914. The meeting of the County Council's Bridges and Highways Committee (referred to in the DMMO application) referred the stopping up proposal to Bakewell RD. The minutes were in connection with a proposed road widening on nearby roads. The claimed route was referred to by a local landowner and the highway authority as 'old lane or footpath' and Mrs Mallinson suggested that this must refer to the claimed route rather than Footpath No 33 Grindleford which also connects the same main roads.
- Handover records 1929/30: The records showed that maintenance responsibility for the claimed route was handed over to the County

Council in 1929 and that the route was included along with other routes, described as 'Semi-green Lanes'.

- Stoke Hall estate sale particulars 1937: The estate was offered for sale again in 1937. The sale plan showed the claimed route as plot 53 and described as a 'Spinney'. This suggested that it was not used as a private vehicular route in 1937, but was neutral as to the existence of public rights.
- Stoke Parish Claim: The applicant added to the information that she submitted with the claim stating that the claimed route was coloured green on the map returned by Stoke Parish, with a black line superimposed on it. Mrs Mallinson believed that the County Council marked the routes that it was responsible for maintaining in green on the maps before they were sent to parishes.
- Comment on motor vehicle use: Mrs Mallinson stated that the date the claimed route was called into question was the date of her application in 2012 which meant that public rights by motor vehicles over 20 years cannot have been accrued as the NERC Act cut through this use in 2006.

2.6 Additional Evidence

2.6.1 Site Visit

On 5th May 2017 officers undertook a site visit of the claimed route. The officers drove along Main Road, Grindleford, and could observe the eastern end of the claimed route at Point B which was slightly obscured by trees. Officers drove round to the other side of the claimed route and parked at Point A on New Road. Officers inspected the route from this point, looking downhill along the track as the gradient was too steep to attempt on foot. The surface of the claimed route, visible from the top was rocky and uneven and bounded either side by a stone wall and trees.

2.7 Summary and Conclusion

The claimed route is recorded as a publicly maintainable highway on the Council's List of Streets, held in accordance with section 36(6) of the Highways Act 1980. The current application seeks to determine the status of the route for the purposes of recording it on the Definitive Map and Statement, with the applicant asserting that the evidence points to the route being a bridleway.

The documentary evidence provided by the applicant tells us little about the status of the claimed route. There is no single piece of evidence that conclusively records the status of the route, with the reported comment of the landowner being the basis of the claim that the route should be recorded as a bridleway.

The maps provide evidence of the existence of a bounded route, with the 1897 Second Edition Ordnance Survey Map clearly showing the claimed route as a physical feature linking the roads between Eyam and Grindleford. Its depiction is consistent with it being a road of some description, but the issue of what highway status, if any, it carries is unclear.

The evidence provided by the minutes of the County Council's Bridges and Highways Committee that the claimed route was known as an old footpath or

bridleway is not conclusive. The Committee resolved to refer the matter of the stopping-up of the claimed route to the Bakewell Rural District Council for their observations. The relevant minute of the RDC, provided by the applicant, notes the referral of the matter but resolves only to raise the matter with the affected parishes. Furthermore, as the claimed route was included in the handing over schedule in 1929, this confirms that it could not have been stopped-up between 1914 and 1929.

The applicant claims that, as there is no record of the stopping-up of public rights over the claimed route in the Quarter Sessions records for Derbyshire, the bridleway rights claimed by the parish in 1950 and referred to in 1914 should still exist, as these rights were not proven or legally recorded. It is the Council's view that whatever highway status the route may have been thought to carry in the past, this does not preclude the existence of other rights, whether established historically or dedicated in more recent times.

The applicant has referred in her submissions to public inquiries into the status of what are now Eyam Restricted Byway (RB) 20 and Grindleford RB2 and seeks to rely on a complaint by Dr Edward Wrench regarding the latter route, which was referred to as Steep Lane, as evidence that the claimed route was part of a packhorse road. The Inspector at those inquiries did not accept the applicant's evidence that Steep Lane was part of an old packhorse road and so it is not accepted that the claimed route was the continuation of a route having that status. Furthermore the Inspector concluded that just because Steep Lane was similarly treated in sale catalogues of 1937 to the claimed route, and the land over which the route ran was privately owned, ownership of the sub-soil did not negate the existence of a pre-inclosure public carriageway running over the land (although it is noted that in that case there was Enclosure Award evidence). This is because many public highways run over private land – only the surface being vested in the highway authority. In the case of the claimed route, it is the Council's view that its inclusion in the plan of the Stoke Hall estate does not preclude the potential for higher public rights than a bridleway.

The sale particulars of 1937 for the Stoke Hall estate are also included, but do not add any weight to the evidence to establish the status of the claimed route. The Stoke Tithe plan 1850, Ordnance Survey 1st Edition 1880 and the Finance Act records 1910 do not assist in establishing any public rights along the claimed route at the time other than the fact that it physically existed as a defined feature at the time.

The County Council did not add the claimed route to the Definitive Map as a bridleway as claimed by Stoke Parish. The parish claimed Old Lane as a bridleway, but they also claimed Steep Lane as a 'footpath and bridleway' and that route eventually became recorded on the definitive map and statement as a footpath. Clearly they were unaware of the historical origins of Steep Lane as a public carriage road and appear to have focussed more on how the route was being used in more recent times. No other documentation was taken into account of in the parish claim for Old Lane, the sole basis for the claim appearing to be over 20 years public user. The parish claim of bridleway status claim for Old Lane does not exclude the possibility of a higher (ie. public carriage road) status route that had long since fallen into disuse. It confirms bridleway use of the route for a period of at least 20 years up to September 1950 when the claim was submitted. It appears that the County

Council disregarded the bridleway claim for Old Lane, probably due to its already being a publicly maintainable highway.

The Council accept that any evidence of use after the NERC Act came into force in 2006 cannot be taken into account, but this does not negate evidence of use that goes back further than 1992.

The user evidence from vehicle users demonstrated that use of the claimed route was not necessarily frequent, but that it had been used by motorcycles and other motorised vehicles regularly for 36 years before 2006. Many users refer to seeing use by other vehicles and that they had used the route as part of a longer journey. Only one user was deterred due to the re-surfacing of the claimed route in around 2001 which is not enough to call the route into question at this time. The Council is satisfied that motor use must be taken into account in considering the status of the claimed route and that the user evidence provides more than 20 years uninterrupted usage, however, the use does not appear to have been regular or frequent in nature.

The vehicle users stated that the claimed route would be dangerous for horse riders to use due to its gradient, its loose surface and its exit on to a busy main road. The claimed route has been referred to as 'Blind Lane' due to its concealed entrance/exit point at Main Road, Grindleford, and this local name is thought to refer to the lack of visibility at the junction of the claimed route with Main Road. However, this is not a matter for consideration in determining the claimed route's status.

Vehicle users also mentioned that it is necessary to ride along Main Road in order to access the claimed route. Some users referred to their bringing business to the locality by travelling to the area to use Old Lane, however neither of these issues are relevant in determining the status of Old Lane.

The large number of submissions providing evidence of vehicular use supports a conclusion that the claimed route has a higher status than bridleway. The comments made by those who responded by email at consultation stage were much the same as those who provided evidence via the user forms, particularly in relation to the route being unsuitable as a bridleway. Many saw the claim as an attempt to close the claimed route or could not understand why the claim had been made as it was already a highway and recorded on the Council's List of Streets.

There is some limited user evidence provided by horse riders in response to the consultation, although the applicant relies on historical records rather than modern use. One of the horse riders was very specific in terms of his use of the claimed route and the occasions when he was deterred. This was in 2001 due to a fallen tree and when the route was resurfaced in 2003. This concurs with a vehicle user who says he was obstructed by the resurfacing in around 2001. Neither of these events would appear to have been any more than a very temporary interruption of use and officers do not consider that these interruptions amount to a calling into question of the route.

The site visit revealed a steep and uneven track, but the claimed route would be suitable for both vehicular and horse use if riders were happy to traverse this

surface. It may also be the case that the surface of the route has changed over the years but the boundaries of the claimed route have been unchanged in centuries.

There is no single document provided by the applicant that offers clear evidence of the status of the claimed route. The physical existence of the route is apparent and the proposal that the route should be stopped up indicates that the landowner in 1914 recognised that the route had some public rights, but is not definitive evidence of its status.

Whilst therefore the historical and documentary evidence is inconclusive with regard to a particular highway status, it seems probable that the claimed route has been considered part of the highway network for a considerable number of years; possibly from as early as 1839.

The Council has received a reasonably substantial amount of user evidence from motorists who say they have driven the route and on balance this user is considered sufficient to raise the presumption that, even if such rights did not previously exist, public vehicular rights have been dedicated over the claimed route.

In addition, the rough character of the route suggests that it is likely to be used more by non-vehicular traffic, e.g. by walkers and horse riders, than by motorists and therefore qualifies for inclusion on the definitive map and statement as a BOAT (such routes are defined in law as being public carriage roads used more for the purposes for which footpaths and bridleways are used).

It is therefore reasonably alleged that the claimed route should be recorded as a Byway Open to All Traffic.

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:
- 3.2 (1) the discovery by it of evidence which (when considered with all other relevant evidence available) shows that a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates (section 53(3)(c)(i)); and
- 3.3 (2) the discovery by it of evidence which (when considered with all other relevant evidence available) shows on the balance on probability that that a highway shown on the map and statement as a highway of a particular description ought to be shown as a highway of a different description, (section 53(3)(c)(ii)).
- 3.4 Section 31(1) of the Highways Act 1980 provides that where a way over land is enjoyed by the public "as of right" and without interruption for a full period of 20 years the way is presumed to have been dedicated as a highway unless there is sufficient evidence that there was no intention

during that period to dedicate it. Enjoyment by the public “as of right” means use by the public without force, without secrecy or permission.

- 3.5 Section 31(2) provides that the 20 year period referred to in section 31(1) is to be calculated retrospectively from the date when the public right to use the way is brought into question.
- 3.6 Section 31(3) provides that a notice erected on site by an owner of land over which a way passes in a manner visible to persons using the way, and maintained by him is, in the absence of proof to a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate the way as a highway.
- 3.7 Section 31(6) provides that an owner may provide sufficient evidence to show of his lack of intention to dedicate by depositing with the Council a map and statement showing any ways over the land he admits to having been dedicated as highways and denying the existence of other ways over it and then lodging statutory declarations to deny the addition of any ways at intervals of not less than 10 years. This will be, in the absence of proof to a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate any additional way as a highway.
- 3.8 A House of Lords legal judgement in 2007 (the ‘Godmanchester’ decision) has clarified what other evidence could be evidence of “no intention to dedicate” for the purpose of section 31(1). The evidence can relate to just one point in time during the period of enjoyment, ‘during’ in the context of section 31(1) need not be throughout the whole period. ‘Intention’ in this context means what the relevant audience (the users of the way) would reasonably have understood the landowner’s intention to be. A letter from the landowner to his own solicitor or estate agent would not be enough; some element of communication to users of the way of an absence of intention by the owner to dedicate must be shown. In terms of section 31(1), an act by an owner which demonstrates ‘no intention ... to dedicate’ is likely in practice also to amount to an event which ‘brings the public right of way into question’.
- 3.9 In brief, unless evidence is provided of one or more specific steps having been taken by a landowner within the period to communicate overtly to the public using the route that (s)he does not intend to grant a public right of way over it, the presumption of dedication will arise under section 31(1) where there is a full period of 20 years of uninterrupted public use, calculated from the date when the public right to use the way is brought into question.
- 3.10 Where there is insufficient evidence to establish a presumption to dedicate under section 31(1) of the Highways Act 1981, there is sometimes sufficient evidence to establish an inference of dedication by the landowner under common law. In the case of *Nicholson v Secretary of State for the Environment* (2006), Dyson J stated: “*Prima facie the more intensive and open the user and the more compelling the evidence of*

knowledge and acquiescence, the shorter the period that will be necessary to raise the inference of dedication...". No minimum period of use is required to raise such an inference, but there must be evidence which is sufficient to infer that there was an intention to dedicate a public right of way.

- 3.11 A public right of way with motor vehicles cannot be created after commencement [2 May 2006] of the Natural Environment and Rural Communities Act 2006 (NERC) except under limited specified circumstances (section 66, NERC). Therefore any use of a route with motor vehicles after 2nd May 2006 should be disregarded. In this case the period of user suggests that public rights may already have been created prior to commencement of NERC. Such existing public rights of way are extinguished by NERC with specified exceptions. Section 67(2)(b) of NERC provides that such a route will not be extinguished if immediately before commencement the existing public right of way was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980.

Other Considerations

3.12 In preparing this report the relevance of the following factors has been considered: social value, financial, prevention of crime and disorder, equality of opportunity, human rights, personnel, environmental, health, property, and transport considerations.

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

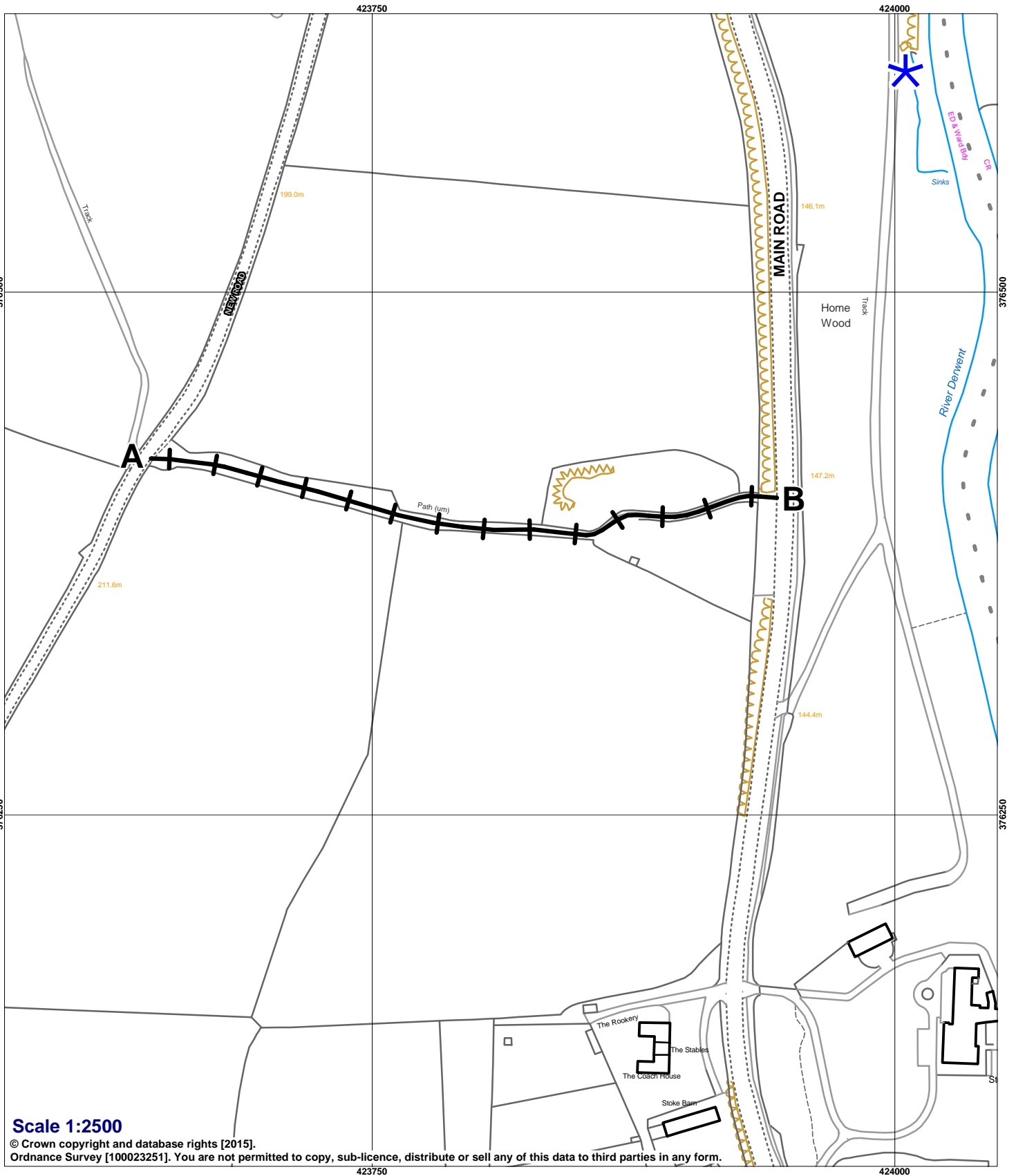
4. Background Papers

4.1 Director of Legal Services reference 59983.

5. OFFICER'S RECOMMENDATION

5.1 That the Committee resolves to authorise the making of an Order under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add a Byway Open to All Traffic along the non-classified highway between New Road and Main Road in the Parish of Grindleford to the Definitive Map and Statement.

**JOHN McELVANEY
DIRECTOR OF LEGAL SERVICES**



Ref: TE/CH/X3904/Cttee/2018



Mike Ashworth

Strategic Director - Economy, Transport & Environment

Shand House
Dale Road South
Matlock
Derbyshire
DE4 3RY

Produced by Public Rights of Way on 11 January 2018

Wildlife and Countryside Act 1981 Section 53

**Claim to add a bridleway along the
non-classified highway between New
Road and Main Road
- Parish of Grindleford**

Key:

Claimed Bridleway (A-B) + + + +

