

## **Highways and Transport Committee**

**3<sup>rd</sup> April 2025**

**Report Title: Wildlife & Countryside Act 1981 – Part III, Section 53.**

**Application No. MA/5/244: Application for Modification Order to add a Bridleway between Buxton Old Road and Footpath No.39, Parish of Disley, and upgrade (in part) to Bridleway Public Footpath No.39 Disley**

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**Report of: Philip Cresswell, Executive Director of Place**

**Report Reference No: HTC/49/24-25**

**Ward(s) Affected: Disley**

**For Decision or Scrutiny: Decision**

### **Purpose of Report**

- 1 This report outlines the investigation into an application made to modify the Definitive Map and Statement of Public Rights of Way to add a Bridleway between Buxton Old Road and Footpath 39, Parish of Disley, and upgrade (in part) to Bridleway Public Footpath 39. This report includes a discussion of the consultations carried out in respect of the claim, the documentary and witness evidence investigated and the legal tests for the making of a Definitive Map Modification Order (“DMMO”). The report makes a recommendation based on this information for quasi-judicial decision by Members as to whether an Order should be made to add a Bridleway.

### **Executive Summary**

- 2 The report considers the evidence submitted and researched in the application to amend the Definitive Map and Statement in adding a Bridleway between Buxton Old Road and Footpath 39, Parish of Disley,

and upgrade (in part) to Bridleway Public Footpath 39. This includes a discussion of the consultations carried out in respect of the claim, the historical evidence, witness evidence and the legal tests for a Definitive Map Modification Order to be made. The report makes a recommendation based on that information, for quasi-judicial decision by Members as to whether an Order should be made to record a Public Bridleway.

- 3 The evidence consists of 2 standard user evidence forms submitted by witnesses who claimed to have travelled the path on horseback, supported by a further 18 statements signed by witnesses who also claim to have used the path on horseback. An additional witness statement was received during the informal consultation process held during the investigation of the application. The report determines whether on the balance of probabilities a public Bridleway has been shown to subsist along Footpath 39 (points of A–B Appendix 1) and reasonably alleged to subsist along the route between points B–C of Appendix 1.
- 4 Various historical documents have been viewed including various maps such as County Maps and Ordnance Survey maps, Tithe Map and Finance Act plan. A number of witness statements were submitted with the application and whilst it was only possible to interview a small number of individuals, this evidence is considered sufficient to satisfy the tests that a public Bridleway has been shown to subsist along Footpath 39 (points A–B of Appendix 1) and reasonably alleged to subsist along the route between points B–C of Appendix 1.
- 5 The work of the Public Rights of Way team contributes to the Corporate Plan aim of “A thriving and sustainable place”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

#### RECOMMENDATIONS

The Highways & Transport Committee is recommended to:

1. Decide that a Definitive Map Modification Order be made under Sections 53(3)(c)(i) and 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 to upgrade (in part) Disley Footpath 39 to Bridleway from points A – B of Plan No WCA/049 of Appendix 1 and to add a Bridleway between Buxton Old Road and Disley Footpath 39 Disley, from points B – C of Plan No WCA/049 of Appendix 1, in the Parish of Disley.
2. Decide that public notice of the making of the Order be given and in the event of there being no objections within the period specified, the Order be confirmed in the exercise of the powers conferred on the Council by the said Act.
3. Note that in the event of objections being received, Cheshire East Borough Council be responsible for the conduct of any hearing or Public Inquiry.

## Background

- 6 The application was submitted by an individual on the 25th of September 2008. The application consisted of user evidence forms from 2 individuals and 18 witness statements claiming use on horseback.

### Description of the application route

- 7 Description of Footpath 39 to be upgraded to Bridleway (points A–B of Appendix 1):

Travelling north to south and using the plan Ref: WCA/049 of Appendix 1 as a reference, the application shows a route starting from Ward Lane from point A, OS grid reference SJ 398596 for a distance of approximately 110 metres to point B at OS grid reference SJ 398618. The claimed Bridleway runs along Footpath No.39 Disley, commencing at Ward Lane at a signpost at Point A and heads south in between old stone walls; the stone walls at this part of the route are in a poor condition with little left on the western wall. The path is approximately 1.8 wide between the walls, is of a stone/loose gravel type surface with signs of shallow timber steps or maybe water bars in the surface for the first 50m. The path starts to widen out to approximately 2.4 meters between the walls, where there is also a pedestrian gate accessing Greens Hall Cottage. The condition of the walls have improved by this point albeit it is difficult to view them due to the encroaching vegetation. Whilst the distance between the walls has widened along this section, the usable width is narrow due to the encroaching vegetation. There is a clear trodden route through the centre of the path and the surface has now become more natural and the stones larger and almost “cobbled” in nature, with a combination of old brick in some locations. At Point B the path narrows down to approximately 1.8 meters between the walls, with the western wall having been restored at some time. Footpath No.39 Disley continues towards the west through a way-marked field-gate at Point B.

8. Description of route to be added as Bridleway between Footpath 39 and Buxton Old Road (points B–C of Appendix 1):

From the gate at Point B, OS Grid Reference SJ 398618 the claimed Bridleway widens out to approximately 3.5 meters continuing south between the adjoining stone walls. Whilst the width between the wall is approximately 3.5 meters the useable width is much narrower due to encroaching vegetation. The path then narrows to approximately 2 meters, passing by the pedestrian

access to the adjoining properties. Continuing south passing in between Byron House to the west and Rock House to the east the path is approximately 2.3 meters wide. The vegetation from the sides of the lane is generally well maintained and there is a clear trod route down the centre. The surface is mostly of a natural earth/grass finish with some larger stones visible in some locations. The stone walls either side and are in generally good condition where they adjoin the neighbouring properties. There are no signs on the section between point B and C to indicate that it is public nor that it is private. The route to be added terminates at point C, OS Grid Reference SJ 398616, Junction with Buxton Old Road.

### Photographs

9. Photographs of the claimed route can be seen at Appendix 2.

### **Legal issues**

10 Section 53(2)(b) of the Wildlife and Countryside Act 1981 (WCA) requires that the Council shall keep the Definitive Map and Statement under continuous review and make such modifications to the Map and Statement as appear requisite in consequence of the occurrence of certain events: -

11 Such events are,

#### Section 53(3)(c)(i) where:

“(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows: -

(i) 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, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subsection to section 54A, a byway open to all traffic.”

#### Section 53(3)(c)(ii) where:

“(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows: -

(ii) 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.

12 The evidence can consist of documentary/historical evidence or user evidence or a mixture of both. All the evidence must be evaluated and

weighed, and a conclusion reached whether, on the 'balance of probabilities' the rights are shown to exist. Any other issues, such as safety, security, suitability, desirability or the effects on property or the environment, are not relevant to the decision.

- 13 An order can be made to add a route to the Definitive Map where it can be shown that it is reasonably alleged to subsist whereas an order to upgrade a route already shown on the Definitive Map must exist on the balance of probabilities.
- 14 Where the evidence in support of the application is user evidence, section 31(1) of the Highways Act 1980 applies. This states; -

“Where a way.....has been enjoyed by the public as of right and without interruption for a full period of twenty years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.
- 15 This requires that the public must have used the way without interruption and as of right; that is without force, secrecy or permission. Section 31(2) states that “the 20 years is to be calculated retrospectively from the date when the right of the public to use the way is brought into question”.
- 16 For public rights to have come into being through long use, as stated above, a twenty-year period must be identified during which time, use can be established. Where no challenge to the use has occurred, this period can be taken as the twenty years immediately prior to the date of the application.
- 17 In this case, whilst it appears that some users were challenged in their use of the route on horseback it has not been possible to identify when this challenge first occurred and as such the date of the application will be used to calculate the relevant 20-year period.
- 18 Where a path is already recorded as a Public Footpath it is possible to acquire higher rights of access through use on a bike or on horseback, if that use meets the tests outlined in section 31 of the Highways Act or at Common Law. Sufficient use on horseback over a twenty-year period could raise the presumption that Bridleway rights have been acquired. A Bridleway provides access to the public on foot on a bicycle, on horseback or leading a horse.
- 19 The matter of Public Nuisance needs to be considered in upgrade cases; the Bakewell judgment (*Bakewell Management Ltd v Brandwood [2004] UKHL 14*) provides that if a public nuisance had been caused by such use, then the use does not qualify towards dedication under s31. Any nuisance must have already taken place – it cannot be determined on the

basis that horses may cause a nuisance in the future and there must be evidence of this.

- 20 Public rights can also be established under common law based on evidence of public use and there is no requirement for a period of twenty years. It is possible to create route through implied dedication, where the owner is aware of the public using the route and has taken no steps to deter the public from using the route.

#### The investigation

- 21 An investigation of the available evidence has been undertaken. The documentary evidence that has been examined is referred to below and a list of all the evidence taken into consideration can be found in Appendix 3.

#### County Maps 18th/19th Century

- 22 These are small scale maps made by commercial mapmakers, some of which are known to have been produced from original surveys and others are believed to be copies of earlier maps. All were essentially topographic maps portraying what the surveyors saw on the ground. They included features of interest, including roads and tracks. It is doubtful whether mapmakers checked the status of routes or had the same sense of status of routes that exist today. There are known errors on many mapmakers' work and private estate roads and cul-de-sac paths are sometimes depicted as 'cross-roads'. The maps do not provide conclusive evidence of public status, although they may provide supporting evidence of the existence of a route.

#### P.P. Burdett map (1794)

- 23 The map appears to show a route in the vicinity of Footpath 39 heading in a north-south direction towards Badgers Clough which is identified on the map. Badgers Clough is a small farm immediately east of Rock View Cottage providing some context as to the location of the route. The map is not of a sufficient quality in terms of scaling and detail to identify whether the alignment of Footpath 39 or the unregistered path between point B-C (Appendix 1) is depicted where it leads out to Buxton Old Road. There are buildings shown on both sides of the route where it meets Buxton old Road. Ward Lane, which terminates at Lane Ends is not depicted.

#### Swire & Hutchings (1830)

- 24 The map appears to show a route in the vicinity of the order route heading in a north-south direction towards Badgers Clough which is not identified on the map. The map is not of a sufficient quality in terms of scaling and

detail to identify whether the alignment of Footpath 39 or the unregistered path between points B–C (Appendix 1) is depicted where it leads out to Buxton old Road. There are no buildings depicted in the vicinity of Byron House and Rock View Cottage. Ward Lane, which terminates at Lane Ends is not depicted.

#### Bryant A (1831)

- 25 The map appears to show a route in the vicinity of the order route heading in a north-south direction towards Badgers Clough which is identified on the map. The map is not of a sufficient quality in terms of scaling and detail to identify whether the alignment of Footpath 39 or the unregistered path between points B – C (Appendix 1) is depicted where it leads out to Buxton old Road. Some of the buildings are shown, including what may be Rock View Cottage but the scale is such it is not shown clearly. Ward Lane, which terminates at Lane Ends is depicted on the map.

#### Tithe Map

- 26 Tithe Awards were prepared under the Tithe Commutation Act 1836, which commuted the payment of a tax (tithe) in kind, to a monetary payment. The purpose of the Award was to record productive land on which a tax could be levied. The Tithe Map and Award were independently produced by parishes and the quality of the maps is variable. The 1836 Act relieved the Tithe Commissioners of the need to certify all maps.
- 27 It was not the purpose of the Awards to record public highways. Although depiction of both private occupation and public roads may provide good supporting evidence of the existence of a route, especially since they were implemented as part of a statutory process. Colouring of a track may or may not be significant in determining status. In the absence of a key, explanation or other corroborative evidence the colouring cannot be deemed to be conclusive of anything.
- 28 The tithe map produced c1842 is a second-class map (Maps that met the rigorous standards set by the Tithe Commissioners were classified as ‘first class’ whilst those classified as ‘second class’ varied in quality and scope) and shows the route from Badgers Clough with what appears to be a gate at the road with Buxton Old Road. The route from points A–C (Appendix 1) is shown in its entirety as is the continuation of Footpath 39 through Byron House. The book of reference describes this hereditament as “*road from Lane End to Turnpike Road near Green’s Hall with a land use of thoroughfare*”.

#### Ordnance Survey Records (OS)

29 OS mapping was originally for military purposes to record all roads and tracks that could be used in times of war; this included both public and private routes. These maps are good evidence of the physical existence of routes, but not necessarily of status. Since 1889 the Ordnance Survey has included a disclaimer on all its maps to the effect that the depiction of a road is not evidence of the existence of a right of way. It is argued that this disclaimer was solely to avoid potential litigation. Recent research into the instructions given to the field surveyors and the development of the OS shows they appear to have tried to depict all routes, paths and ways that were physical features and if observed to be used by the public. However, there is no documentation to show the OS went through a statutory process of checking with the local authorities to establish the status of a way or path. The maps are good evidence of the existence of a way or path and can support any other evidence claiming public rights of way.

30 O.S. 6" to 1 mile 1<sup>st</sup> Edition County Series 1881

Route is shown in its entirety leading from Buxton Old Road from what appears to be a gated entrance. It appears quite narrow for the first 30/40 metres part before becoming wider. It continues north to where it meets Ward Lane/Cork Lane, albeit it seems unclear how it exits the lane as there is a boundary, it is assumed there would be a gate at this location. FP 39 is shown as a defined lane leading from Buxton Old Road

31 O.S. 6" to 1 mile 2<sup>nd</sup> Edition 1899

Route is shown in its entirety leading from Buxton Old Road from what appears to be a gated entrance. It appears to be of more of a uniform width at Rock View Cottage than the previous 1881 map. There appears to be a more of a defined exit onto Ward Lane/Cork Lane; this entrance appears to be gated as it has black line across the route. Footpath 39 is shown as a defined lane leading from Buxton Old Road

32 OS 25" to 1 mile 2<sup>nd</sup> Edition Cheshire XX.15 1897

Route is shown in its entirety leading from Buxton Old Road from what may be a gated entrance. There is a brace just north of where the lane leaves Buxton Old Road tying the land either side of the lane.

A black line, maybe indicative of a gate extends across the lane near where FP 39 heads West through Byron House.

The lane is provided its own parcel number of 252 with an acreage of 0.152.

33 O.S. 6" to 1 mile 2<sup>nd</sup> Edition 1912

Route is shown in its entirety leading from Buxton Old Road from what appears to be a gated entrance. There again appears to be more of a defined exit onto Ward Lane/Cork Lane; this entrance appears to be gated as it has black line across the route. FP 39 is shown as a defined lane leading from Buxton Old Road

34 O.S. 6" to 1 mile 1912 Edition 1924

Route is shown in its entirety leading from Buxton Old Road from what appears to be a gated entrance. There again appears to be more of a defined exit onto Ward Lane/Cork Lane; this entrance appears to be gated as it has black line across the route. FP 39 is shown as a defined lane leading from Buxton Old Road

Bartholomew's Half Inch to a Mile

35 Bartholomew was a Scottish company with a good reputation of publishing maps from the late 19th century. Between c1911 and 1928 there was an arrangement with the Cyclists Touring Club for their members to send in revisions and their logo was shown on the maps where this arrangement was in place. The maps were based on OS base maps. The maps set out a classification of use, although there is a caveat that the depiction of any route was not evidence of a public right of way and background to the maps indicates that they relied on user reviews to make any corrections. Comparison of map publication dates may show any consistent depiction of a particular route.

36 Bartholomew's half inch 1902-1906 new series (1904)

The route is not shown on the map. Ward Lane/Cork Lane is shown as a secondary road.

37 Bartholomew's revised half inch 1919-1924 series (1920)

The route is not shown on the map. Ward Lane/Cork Lane is shown as a secondary road.

38 Bartholomew's revised half inch 1940-47 (1941)

The route is not shown on the map. Ward Lane/Cork Lane is shown as a secondary road

Finance Act 1910

39 The Finance Act of 1910 involved a national survey of land by the Inland Revenue so that an incremental value duty could be levied when ownership was transferred. Land was valued for each owner/occupier and this land was given a hereditament number. It is thought that

exclusion of highways on the maps came under S35(1) of the Act not to charge on land or an interest in land held by a rating authority. Landowners could claim tax relief where a highway crossed their land. Although the existence of a public right of way may be admitted it is not usually described or a route shown on the plan.

40 Two sets of plans were produced: the working plans for the original valuation and the record plans once the valuation was complete. Two sets of books were produced to accompany the maps; the field books, which record what the surveyor found at each property and the so-called 'Domesday Book', which was the complete register of properties and valuations.

41 The exclusion of vehicular roads stems from s35 of the Finance Act 1910 which provided that no duty under this part of the Act shall be charged in respect of any land or interest in land held by or on behalf of a Rating Authority. A Highway Authority was considering a Rating Authority.

42 The Wildlife and Countryside Act Definitive Map Orders Consistency Guidelines indicate that:

"..if a route in dispute is external to any numbered hereditament, there is a strong possibility that it was considered a public highway, normally but not necessarily vehicular, since Footpaths and Bridleways were usually dealt with by deductions recorded in the forms and Field Books."

43 In the case of *Fortune v Wiltshire CC [2012] EWCA Civ 334* Lewison J gave consideration to the interpretation of routes excluded from adjacent hereditaments. In essence he concluded that the Finance Act records are not definitive; they are "simply one part of the jigsaw puzzle" to be considered along with other relevant material particular to each case.

44 Reinforcing the view of Lewison J, the Wildlife and Countryside Act 1981 - Definitive Map Orders: Consistency Guidelines<sup>1</sup> concluding comment states:

It should not be assumed that the existence of public carriageway rights is the only explanation for the exclusion of a route from adjacent hereditaments although this may be a strong possibility, depending on the circumstances.

### Working Plans

45 Evidence of the possible existence of a public right of way in Finance Act documentation usually arises in one of two ways:

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<sup>1</sup> Planning inspectorate, updated 27<sup>th</sup> January 2022

Reference to it in one or more of the various documents forming part of the valuation process, or

Exclusion of a route from the assessable parcels of land shown on the map record.

- 46 The plan covering OS sheet Cheshire XX.15 was available at Cheshire Archives; this would be the working plan. The record plan was not available at The National Archives.
- 47 The Finance Act documents inspected shows that part of Footpath 39 is excluded from assessable parcels of land (points A – B Appendix 1). Routes that are uncolored are sometimes referred to as “white roads” as they are separate from abutting hereditaments.
- 48 The section of the map that depicts between Byron House and Rock View Cottage has no hereditaments in the enclosures abutting the route between points B–C (Appendix 1). As such this does not therefore provide any indication of the status of the route in this vicinity.
- 49 There is certainly an indication from the Finance Act Map that part of Footpath 39 (between points A–B) may have carriageway rights. There is unfortunately no detail on section of unregistered route between points B–C (Appendix 1).

#### Definitive Map Process – National Parks and Access to the Countryside Act 1949

- 50 The Definitive Map and Statement is based on surveys and plans produced in the early 1950s by each Parish in Cheshire, of all the ways they considered to be public at that time. The surveys were used as the basis for the Draft Definitive Map.
- 51 Disley Rural District Walking Survey

Described as a Footpath of approximately 200 yards in length, commencing at Ward Lane, Higher Disley and terminating at Byron House, Higher Disley. General description states that the Footpath divides at the rear of Byron House, with outlets onto Buxton Old Road on the East and West side of Byron House. It goes on to describe the path as a narrow path commencing at right angles to Ward Lane, and ascending to Byron House, and out on to Buxton Old Road. About halfway up one passes a fairly large house with well-kept garden. Path is very narrow and is not well kept being muddy and grassy. In handwriting it then states that “walls about 20” apart”. There is a further short comment in handwriting that is not entirely clear.

- 52 Draft Definitive Map July 1950

Footpath 39 is shown travelling north to south along what seems to be a bounded lane. On reaching Byron House the path splits and is shown as existing on both sides of the property, matching what is described in the walking survey. There were no objections from landowners at the time to the addition of Footpath No 39 Disley to the map. Provisional Definitive Map 1st November 1954.

- 53 Footpath 39 is shown travelling north to south along what seems to be a bounded lane, leading in a Westerly direction passing by Byron House. There is no route showing on the Eastern side of Byron House. There were no objections to the addition of Footpath No.39 Disley to the map.

#### Definitive Map

- 54 This replicates what was in the earlier Provisional Definitive Map with Footpath 39 shown travelling north to south along what seems to be a bounded lane, leading in a Westerly direction passing by Byron House. There is no route showing on the Eastern side of Byron House.

#### Definitive Statement

- 55 The path is described as “From Ward Lane in a southerly direction to Buxton Old Road (UC/4/24) at Badgerclough”; and as being generally about 20ft wide.

#### Land Registry information

- 56 None of the land over which the application route runs (from point A – C of Appendix 1) is registered with the Land Registry.

#### Aerial Images

- 57 A number of aerial images were available for the location spanning the period from 1948 through to 2021

- 58 RAF Aerial image Sortie: RAF/541/25

The picture quality is poor. It is possible to make out what appears to be a track running in the vicinity of Footpath 39 but this appears to be located further east.

- 59 Aerial image (black and white) 1971

Very poor-quality image, it is not possible to decipher much from it.

- 60 Aerial image (colour) 1999-2003

Poor quality image; looks like its taken in Winter due to lack of tree cover. Possible to see the general outline of the route and abutting properties.

61 Aerial image (colour) 2010

Image taken in Autumn with a fair bit of tree cover. Long shadows covering parts of the route. Bounded lane visible running between Byron House and Rock View Cottage.

62 Aerial image (colour) 2015-17

Image taken in Summer, with a lot of tree cover. Bounded lane running between Byron House and Rock View Cottage just about visible at the junction with Buxton old Road.

63 Aerial image (colour) 2019-21

Image taken in Autumn with a fair bit of tree cover. Long shadows covering parts of the route. Bounded lane running between Byron House and Rock View Cottage just about visible at the junction with Buxton old Road but mostly obscured by shadows.

Footpath 39 Diversion Order 1987 and Secretary of State decision notice

64 The diversion order relates to the section of Footpath 39, which is not subject to the current application; however, it provides valuable insight into the use of the path at that time and corroborates some of the evidence submitted in the witness statements in the current application. The diversion order made under the Highways Act 1980 received objections and was determined by way of a public inquiry. Two of the individuals who submitted witness statements for the current application gave evidence at the public inquiry reinforcing their use of the route on horseback.

65 The inspector makes reference to the use of the route on horseback describing it as “much used” and refers to the east route (between points B – C of Appendix 1) as probably a well-established public right of way.

Witness evidence

66 There are no registered owners along the route; the abutting owners were contacted as part of the informal consultation held between the 3<sup>rd</sup> October 2024 and 14<sup>th</sup> November 2024. Site notices were also erected either end of the claimed path during the informal consultation period.

67 With regards to user evidence there were two who completed User Evidence Forms (referenced as UEF) and 18 who provided witness statements (referenced as WS). On further examination one of the witness statements indicates that the person in question had not used the route on horseback themselves, rather they owned livery nearby and could attest to use by others.

- 68 Contact was attempted with all witnesses; however, it has only been possible to interview two of the users who supported the application. Eleven indicating that they had used the paths for a period of twenty years. In total the use spans 44 years, between 1964 and 2008.
- 69 One further witness was interviewed as part of the investigations. Discussions with the applicant confirms that the majority of those who provided supporting evidence at the time of the application will have either moved away, are too elderly to provide further information or have passed away.
- 70 One person had not used the route themselves but owned a nearby stables for over sixty years and attests that it was a “common sight” to see the route being used by horse riders. Three individuals either currently live or have lived in Byron House which is situated part way along the Footpath number 39 and such their use on horseback was only along part of the path being claimed and could possibly be considered private in nature.

#### Witnesses interviewed

- 71 Only two of those who provided evidence in support as part of the original application were available for interview.
- 72 One user (UEF1) lived on the route and only used the part that is currently registered as Footpath 39 (point A–B of Appendix 1). They were able to provide a good indication of use by others due to their vantage point from the location and proximity of their property to the route. They had lived at the property since 2002 and would have known the route for 6 years by the time of application.
- 73 The other user (UEF2) also lived nearby, not on the route itself but certainly close enough to be able to see the route and those using it. They had used the route since 1998 when they moved to the property and continued to use it after the application was submitted. Both UEF 1 and 2 lived close proximity to the route and not only used it themselves but also seen others do so.
- 74 Both UEF 1 and UEF 2 indicated that they were challenged by the owner of Rock View Cottage. There was a dispute over landownership and private rights of access, with UEF2 also indicating that the owner of Rock View Cottage would also challenge users on occasion. It is unclear when these challenges would have occurred; however it did not appear to have the effect of stopping or limiting use. It does appear that these challenges were what eventually led to the submission of the application to upgrade and register the route as a public Bridleway.

- 75 Neither users ever recall there being any physical barriers along the route and that it has always existed as a through on the ground running between the stone walls. They used it themselves and also knew of and saw others that they knew and some that they did not know frequently using the route on horseback.
- 76 One user came forward (WS19) during the informal consultation period and was related to WS4. They provided a written statement attesting that they had used the route since around 1984 on a frequency of two to three times a week, often with others. They were related to the person who ran a riding school close by and claimed to have used the route with many others, up to nine at a time and had always considered it to be a route they had access to. They confirmed that there were issues at times with the owner of Rock View Cottage but that this again did not prevent or deter usage. Both WS4 and WS19 provided supporting evidence at the public inquiry for the diversion of Footpath 39 in 1987, where they attested to their use of the path on horseback.

#### Witnesses not interviewed

- 77 It can be difficult to evaluate evidence when individuals are not available for interview. This is particularly true in this case where those who were not interviewed, provided their evidence by means of signed standard witness template rather than a User Evidence Form.
- 78 The statements are all standard text and brief; five are supplemented with some further details around their use of the route. It is not possible to evaluate whether the users had connections with the land, had obtained or sought permission or had otherwise been challenged; however they were all willing to provide their support that they had used the route and that they considered it public.
- 79 For ease of reference the witness statements are referred to as WS followed by the individual's number.
- 80 WS1 indicated that they had not used the route on horseback nor owned a horse; however, they had lived on Ward Lane for over 60 years and could attest to its use by pedestrians and horse riders during that time.
- 81 WS3 is only relevant to the section relating to Footpath No.39 Disley (points A - B of Appendix 1) as they were the previous occupiers of Byron House, between 1983 and 2002. They claim to have used the route on horseback for 30 years. They provide additional information on use of the route by others, which they saw whilst they occupied Byron House.
- 82 WS4 claims use for 48 years and also provide further information beyond that of the standard template. They indicate that they have lived in Higher Disley for over 40 years, including at Badgerclough Farm, which is

directly opposite where the claimed path leaves Buxton Old Road. They claim to have used the route on horseback on a constant basis and that nobody had ever objected to this use and that it provided a safe alternative to Buxton Old Road.

- 83 WS5 is only relevant to the section relating to Footpath 39 (points A-B of Appendix 1) as they lived at Byron House during the six years that they used the route.
- 84 WS6 claims to have used the route for 36 years and that they ridden up and down the path since they were a small child. They state that access is even more important due to the speed of traffic on Buxton old Road.
- 85 None of the other witness statements provide any further detail than a name, address, the years they have used the route and where they kept their horses.

#### Landowner rebuttal

- 86 Whilst the evidence of use may be considered sufficient to show that Bridleway rights can be presumed to exist, these can still be rebutted if there is sufficient evidence that there was no intention during that period to dedicate it as such.
- 87 The Land Registry information suggests that there route itself (in its entirety between point A–C of Appendix 1) is unregistered. The fact that the land is not included in the Land Registry is evidence that land is not registered rather than it not being owned.
- 88 Challenging the use of a way by the public can be done by a person who is not the owner of the way in question. The Planning Inspectorate, Wildlife and Countryside Act 1981 - Definitive Map Orders: Consistency Guidelines indicates that the “bringing into question” does not have to arise from the action of the owner of the land or on their behalf quoting *Applegarth v Secretary of State for Environment, Transport and the Regions [2001] EWHC Admin 487*, where the owner of a property whose access was via a track claimed to be a Bridleway, challenged the public use although he did not own the track. A lack of intention to dedicate, in effect rebutting public rights can only be done by the landowner or someone with the authority to do so on their behalf.
- 89 Understanding when the challenge was made is an important factor in determining whether a public right of way has been established through long usage as it determines the relevant period and whether there was any evidence during that period which may have led to those rights being rebutted.

- 90 In *Applegarth v Secretary of State for Environment, Transport and the Regions [2001] EWHC Admin 487*, Munby J stated: “Whether someone or something has “brought into question” the “right of the public to use the way” is...a question of fact and degree in every case.” Thus any action which raises the issue would seem to be sufficient. Where there is no identifiable event which has brought into question the use of a path or way, section 31 (7A) and (7B) of Highways Act 1980 (as amended by s69 of Natural Environment & Rural Communities Act 2006) provides that the date of an application for a modification order under WCA81 s53 can be used as the date at which use was brought into question.
- 91 It is evident from the witnesses interviewed that the owners of Rock View Cottage did challenge users who were travelling on horseback on occasion and that this is ultimately what led to the submission of the application. It has not however been possible to determine a date when the owner of Rock View Cottage began to challenge use. The owners of Rock View Cottage did submit an objection to the Council following the service of notice of application in 2008.
- 92 In this instance there is no clearly identifiable date as to when the challenge to use occurred and as such the date of the application is considered the date the rights of the public were challenged as provided for by section 31 (7A) and (7B) of HA80 (as amended by s69 of NERC06) and provides the relevant period i.e. 2008-1988.
- 93 Having established the relevant period, consideration is given to whether a lack of intention to dedicate has been shown by the owner or someone acting with authority on their behalf. All abutting owners were contacted as part of the consultation, with notices erected at the commencement of Footpath No.39 on Ward Lane (point A of Appendix 1) and Buxton Old Road (point C of Appendix 1).
- 94 No evidence was discovered nor submitted during the consultation period that would indicate that the presumption of public rights under section 31 of the Highways Act 1980 were in any way rebutted by any individual with a capacity to do so. There is nothing to indicate that the landowner has undertaken any acts that would indicate to the public that they were not using a public Bridleway and as such there appears to have been no rebuttal of the rights.

#### Public Nuisance

- 95 The matter of Public Nuisance needs to be considered in upgrade cases; the Bakewell judgment (*Bakewell Management Ltd v Brandwood [2004] UKHL 14*) provides that if a public nuisance had been caused by such use, then the use does not qualify towards dedication under s31.

- 96 Whilst the owners of Rock View Cottage challenged use on horseback on occasion and the Parish Council included reference to a stile being needed to limit use on horseback there does not appear to be any further information or evidence that use on horseback was considered a public nuisance.
- 97 The lack of actual evidence of incidents implies that use on horseback has not caused a public nuisance.

## **Consultation and Engagement**

- 98 Consultation documentation was sent to abutting landowners owners and occupiers on the 3<sup>rd</sup> October 2024 providing 6 weeks for a response.
- 99 In addition to the owners and occupiers, a consultation was sent on 3<sup>rd</sup> October 2024 to the Disley Ward Member, the Disley Parish Council and local user groups.

Responses were received from:

- 100 The Peak & Northern Footpath Society confirmed that they had no objection to the application. They offered no further evidence.
- 101 The local representatives of the British Horse Society offered their support for the application but provided no additional evidence.
- 102 East Cheshire Ramblers provided no evidence but stated that they considered a formal order as being unnecessary as it was already open for use by horse riders
- 103 The Green Lane Association object to the application indicating that they believe the routes in question should in fact be shown as public carriageways and provided evidence in support of their case. This evidence consisted of:
- 104 Copy of the Finance Act map, which they interpret as depicting the routes as 'white roads', used to indicate Byway rights, with Bridleways not having been excluded from adjacent land parcels in this way.
- 105 Tithe map and apportionment. They indicate that the way the route is shown in the tithe map is consistent with other local carriage roads indicative of Byway rights. Furthermore that groups of highways in Disley were given numbers on the tithe map and described in the apportionments as 'road' and "thoroughfare" and that such terms would not have been used to refer would not have been used to refer to a Bridleway.
- 106 Minutes from the Disley Footpath Society 30.11.07 indicating that Footpath 39 was officially diverted in 1988 but the landowner has created

a new unofficial diversion and that a stile is needed further along to keep horses off the path". Furthermore, on the 4<sup>th</sup> August 2008 it is recorded that horses are entering the private track by Byron House and then joining Footpath 39. There is also an indication that they have photos from 2013 which shows that work was completed to the surface to bring the Footpath up to Bridleway standard.

- 107 Railway Plans for the Manchester Midland Junction Railway and Manchester and Buxton Railway. Greenshall Lane can be seen continuing south past Green Hall towards the application route, shown in the same manner as other carriage roads are shown.
- 108 Photographs of the route and of adjoining Greenshall Lane referencing that public money has clearly been spent on the maintenance of these routes (as indicated by public highway furniture along the route of Greenhalls Lane, and signs erected by Disley Parish Council).
- 109 Reference is also made to the Land Registry's INSPIRE data, where all registered parcels of land are marked green - the order route is excluded from those parcels
- 110 Cheshire Riders Group support the application but did not provide any evidence in support.
- 111 A response from Disley Parish Council was received confirming that they had no objection to the application.
- 112 There were no representations that questioned the validity of the application, nor any evidence submitted in rebuttal of that submitted by the applicants and the witnesses.

#### Other Matters

- 113 One matter that was raised during the consultation is the status of the "road" from which Footpath 39 commences (Ward Lane) and that it is not currently included on the Council's list of streets. The same applies for Greenshall Lane and Cork Lane further on. This has been confirmed by Cheshire East Highways Officers.
- 114 The list of streets is a record of publicly maintainable highways and not of a record of public rights and its omission is not conclusive with regards to its status. The case in favour of Ward Lane being a public highway is that it clearly has a reputation of being public in terms of its usage and that there are number of public rights of way culminating or commencing from it. It would seem implausible that all these would have been recorded as dead ends.

- 115 The status in terms of exactly what rights exist on Ward Lane is a matter to be confirmed however recording Footpath 39 as a Bridleway should not be prejudicial to this - the case in favour of Ward Lane and adjoining roads having at least Bridleway rights would need to be made, however.
- 116 There is nothing that prohibits the making of an Order where it creates a cul de sac. In particular where there is clearly an onward route even if that onward route has no formal designation. In this instance there is of course already a Public Footpath which is recorded as commencing on Ward Lane so clearly Ward Lane was considered capable of accommodating public rights at the time the Definitive Map was being prepared. The status of Ward Lane and other adjoining highways would be a matter to consider separately; it is clear from their physical attributes and use that there are public rights being exercised and likely to be higher than Footpath status.

### **Reasons for Recommendations**

- 117 Under Section 53 of the Wildlife and Countryside 1981 Act, the Council has a duty as the Surveying Authority to keep the DM under continuous review. Section 53(3)(c) allows for an authority to act on the “discovery of evidence” that suggests that the DM needs to be amended. The authority must investigate and determine that evidence and decide on the outcome whether to make a DMMO or not.
- 118 There are two different strands of Section 53 (c) under consideration in this application, Section 53(3)(c)(i) and Section 53(3)(c)(ii) and whilst this will lead to some repetition with regards to the recommendations, they are dealt with separately due to the slightly differing tests required to be met to make an order to amend the Definitive Map and Statement.

#### Upgrading of Footpath No.39 Disley to Bridleway under Section 53(3)(c)(ii) of the Wildlife and Countryside 1981 Act (between points A and B of Appendix 1)

##### Documentary evidence –

- 119 All of the OS maps viewed show that there has been a physical route on the ground between points A–B (Appendix 1) since the earliest map viewed (O.S. 6” to 1 mile 1<sup>st</sup> Edition County Series 1881).
- 120 A through route is shown on the P.P. Burdett map (1794) map, the Swire and Hutching’s map (1830) and Bryant’s Map (1831). These maps show the route between points A–B (Appendix 1); however the maps are of insufficient quality in terms of scaling and detail to show which route is followed from point B (Appendix 1) onwards to Buxton Old Road.
- 121 The tithe map includes the alignment of Footpath 39 in its entirety and described as a thoroughfare. It is depicted in the same way as other

routes that are depicted as public rights of way, with private ways being differentiated as occupation roads. There are other routes depicted on the tithe map in a similar manner that are now public carriageways, however there are also others which are shown on the Definitive Map as Public Footpaths such as Disley Footpath 75 and Disley Footpath 28, i.e there is no uniform approach. This gives us an indication that the route had some public status, which reinforces its later inclusion on the Definitive Map albeit it does not provide further indication of its status and whether this was considered to have higher rights than its currently recorded Footpath status.

- 122 The documents considered as part of the preparation of the Definitive Map include the Disley Rural Walking Survey, The Draft Definitive Map, The Provisional Definitive Map and the Definitive Map and Statement. All of these documents describe the route as a Public Footpath and no evidence has been discovered that indicates that this status was in any way disputed through the various stages of preparation of the Definitive Map.
- 123 The Finance Act documents inspected shows that part of Footpath 39 are excluded from assessable parcels of land (points A – B of Appendix 1). Routes that are uncolored are sometimes referred to as “white roads” as they are separate from abutting hereditaments.
- 124 There is an indication from the Finance Act Map that the route may have carriageway rights, being uncolored and unnumbered and excluded from neighboring hereditaments.
- 125 The Planning Inspectorate, Wildlife and Countryside Act 1981 - Definitive Map Orders: Consistency Guidelines indicates that there is a strong possibility that a route being external to any numbered hereditament, would be considered a public highway, normally but not necessarily vehicular, since Footpaths and Bridleways were usually dealt with by deductions recorded in the forms and Field Books.
- 126 Documents and plans produced under the Finance Act 1910 can provide good evidence regarding the status of a way. In all cases the evidence needs to be considered in relation to the other available evidence to establish its value. It must be remembered that the production of information on such ways was very much incidental to the main purpose of the legislation.
- 127 In the case of *Fortune v Wiltshire CC [2012] EWCA Civ 334* Lewison J gave careful consideration to the interpretation of routes excluded from adjacent hereditaments. In essence he concluded that the Finance Act records are not definitive; they are “simply one part of the jigsaw puzzle”

to be considered along with other relevant material particular to each case.

- 128 Railway Plans for the Manchester Midland Junction Railway and Manchester and Buxton Railway were submitted by the Green Lane Association however these do not show Footpath 39 between point A – B (Appendix 1);
- 129 The documentary evidence provides support of there being higher rights along Footpath 39 between points A – B (Appendix 1); however it is not considered sufficient in its own right to show that the route in Appendix 1 should be shown as a public Bridleway on the balance of probabilities.

### User Evidence

- 130 It is clear that a number of people were willing to attest to their use of the route and that this dated back over many years (44 years in total), between 1964 and 2008; with eleven indicating they had used the route for a period of twenty years or more.
- 131 One person had not used the route themselves but owned a nearby stables for over sixty years and attests that it was a “common sight” to see the route being used by horse riders
- 132 The users that were interviewed either live or have lived near the route and had a good knowledge of the route and would have used it and seen others do so over many years. They also used it with other local horse riders and the proximity of stables (on Ward Lane) and a former riding school (on Buxton Old Road) adds some weight to this.
- 133 Those that were interviewed suggest that use would have been challenged on occasion by the owner of Rock View Cottage. Despite the challenge it did not appear to be effective in deterring use and riders continued to use the route and do so to this day; there are no signs to indicate that the lane is not available for public use or is otherwise private.
- 134 Those interviewed indicate they always believed the path to be a Bridleway, they had not encountered any physical obstructions, they had not entered through force, nor had they sought or been provided permission to be there.
- 135 One user attested that they had used the route since around 1984 on a frequency of two to three times a week, often with others. They were related to the person who ran a riding school close by and claimed to have used the route with many others, up to nine at a time and had always considered it to be a route they had access to.

- 136 The Diversion Order in 1987 provides valuable corroborating evidence of use on horseback with one of the witnesses who provided a statement as part of the current application, (who was unavailable for interview), providing evidence at the public inquiry (WS4). Another witness who was available for interview (WS19) also provided evidence at the inquiry. The inspector at the inquiry makes reference to the level of use on horseback as do other witnesses.
- 137 It is considered that there is sufficient use of the claimed route without force, secrecy, or permission, that is without interruption and as of right that demonstrates that it has been in existence and used for over 20 years.
- 138 No evidence was discovered nor submitted during the consultation period that would indicate that the presumption of public rights under section 31 of the Highways Act 1980 were in any way rebutted.
- 139 In summation the level of use, the length of use, the reputation of the route and the documentary evidence taken together suggests that Footpath No.39 Disley (between points A-B Appendix 1) has acquired Bridleway status on the balance of probabilities.

Addition of a Bridleway between Disley Footpath 39 and Buxton Old Road (points B-C of Appendix 1) under Section 53(3)(c)(i) of the Wildlife and Countryside 1981 Act

Documentary evidence –

- 140 All of the OS maps viewed show that there has been a physical route on the ground between points B – C (Appendix 1) since the earliest map viewed (O.S. 6” to 1 mile 1<sup>st</sup> Edition County Series 1881) and access may have been gated at the junction with Buxton Old Road (point C appendix 1).
- 141 A through route is shown on the P.P. Burdett map (1794) map, the Swire and Hutching’s map (1830) and Bryant’s Map (1831). These maps show the route between points A–B (Appendix 1); however, the maps are of insufficient quality in terms of scaling and detail to show which route is followed from point B (Appendix 1) onwards to Buxton Old Road.
- 142 The route between points B-C (Appendix 1) is identified as a thoroughfare in the tithe map. It is depicted in the same way as other routes that are depicted as public rights of way, with private ways being differentiated as occupation roads. There are other routes depicted on the tithe map in a similar manner that are now public carriageways, however there are also others which are shown on the Definitive Map as public Footpaths such as Disley Footpath 75 and Disley Footpath 28, i.e. there is no uniform

approach. This gives us an indication that the route had some public status at this time, albeit not what its status would have been.

- 143 The documents considered as part of the preparation of the Definitive Map include the Disley Rural Walking Survey, The Draft Definitive Map, The Provisional Definitive Map and the Definitive Map and Statement.
- 144 The Disley Rural District Walking Survey describes the Footpath as dividing at the rear of Byron House, with outlets onto Buxton Old Road on the East and West side of Byron House.
- 145 The Draft Definitive Map also shows the Footpath as dividing on reaching Byron House and exiting both sides of the property, matching what is described in the Disley Rural Walking Survey. In preparation of the Draft Definitive Map, the guidance from the Ministry of Town and Country Planning (Circular 91) suggested that Authorities should include all alleged public rights of way and that border line cases should be decided in favour of inclusion at the first stage.
- 146 By the time the Provisional Definitive Map was prepared the Footpath that was shown in the earlier Draft Definitive Map running between points B-C (Appendix 1) is no longer shown. To remove a Footpath that was shown in the Draft Definitive Map from the subsequent Provisional Definitive Map would have required following prescribed processes under the National Parks and Access to the Countryside 1949, which included the publishing of notices and consideration of objections and submissions both in opposition and in support of its inclusion. In cases where there was a dispute or conflict of evidence the matter would have been dealt with by the Secretary of State.
- 147 In this instance there does not appear to be any evidence as to why the Footpath was removed from the Provisional Definitive Map however a lack of evidence does not necessarily mean that the correct processes were not followed. The Planning Inspectorate, Wildlife and Countryside Act 1981 - Definitive Map Orders: Consistency Guidelines indicates that a 'presumption of regularity' can be invoked where there is a lack of evidence on whether proper legal procedures were followed. In the instance of the preparation of the Definitive Map under the National Parks and Access to the Countryside Act 1949 this presumption is reinforced in a statutory sense in that it allowed a 6 week to period challenge the process of preparing the map, after which in the absence of challenge it is put beyond dispute (National Parks and Access to the Countryside Act 1949 Schedule1, paragraphs 9 and 10).
- 148 In support of this position is the fact that there has been no Footpath shown on the Definitive Map since its publication and this is a position that appears to have been accepted by the public at large since that time.

- 149 The section between points B–C (Appendix 1) is not shown on the Finance Act Map which gives us no indication as to its status.
- 150 Railway Plans for the Manchester Midland Junction Railway and Manchester and Buxton Railway were submitted by the Green Lane Association however these do not show the route between point B – C (Appendix 1).
- 151 The documentary evidence provides some indication that there are public rights along the route between points B–C (Appendix 1), possibly of Footpath status following its inclusion on the Draft Definitive Map however it is not considered sufficient to show that public rights can be reasonably alleged to subsist.

#### User Evidence

- 152 It is clear that a number of people were willing to attest to their use of the route and that this dated back over many years (44 years in total), between 1964 and 2008; with eleven indicating they had used the route for a period of twenty years or more.
- 153 One person had not used the route themselves but owned a nearby stables for over sixty years and attests that it was a “common sight” to see the route being used by horse riders
- 154 The users that were interviewed either live or have lived in close proximity to the route and had a good knowledge of the route and would have used it and seen others do so over many years. They also used it with other local horse riders and the proximity of stables (on Ward Lane) and a former riding school (on Buxton Old Road) adds some weight to this.
- 155 Those that were interviewed suggest that use would have been challenged on occasion by the owner of Rock View Cottage. Despite the challenge it did not appear to be effective in deterring use and riders still continued to use the route and do so to this day; there are no signs to indicate that the lane is not available for public use or is otherwise private.
- 156 Those interviewed indicate they always believed the path to be a Bridleway, they had not encountered any physical obstructions, they had not entered through force nor had they sought or been provided permission to be there.
- 157 One user attested that they had used the route since around 1984 on a frequency of two to three times a week, often with others. They were related to the person who ran a riding school close by and claimed to have used the route with many others, up to nine at a time and had always considered it to be a route they had access to.

- 158 The Diversion Order in 1987 provides valuable corroborating evidence of use on horseback with one of the witnesses who provided a statement as part of the current application, (who was unavailable for interview), providing evidence at the public inquiry (WS4). Another witness who was available for interview (WS19) also provided evidence at the inquiry. The inspector at the enquiry refers to the level of use on horseback as do other witnesses.
- 159 It is considered there is sufficient use of the claimed route without force, secrecy, or permission, that is without interruption and as of right that demonstrates that it has been in existence and used for over 20 years.
- 160 No evidence was discovered nor submitted during the consultation period that would indicate that the presumption of public rights under section 31 of the Highways Act 1980 were in any way rebutted.
- 161 In summation the level of use, the length of use, the reputation of the route and the documentary evidence taken together suggests that the Bridleway rights can be reasonably alleged to subsist on the route between points B - C (Appendix 1).
- 162 The work of the Public Rights of Way team contributes to the Green aim of the Corporate Plan, the “thriving and sustainable place” priority, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

### **Other Options Considered**

- 163 If the authority was to do nothing it would not be complying with its statutory duty under Section 53 of the Wildlife and Countryside Act 1981, which requires the Council to keep the Definitive Map and Statement under continuous review and make such modifications to the Map and Statement as required.

### **Implications and Comments**

#### *Monitoring Officer/Legal*

- 164 The legal implications in relation to highways law are set out in the Legal issues section of this report.
- 165 The Human Rights Act is also of relevance. Whilst article 1 to the first protocol (peaceful enjoyment of property) and article 8 (right to respect for family, private life and home) are engaged, it is important to note that these rights are qualified, not absolute, which means that they can be interfered with in so far as such interference is in accordance with domestic law and is necessary in a democratic society for the protection of the rights and freedoms of others. It is considered that any

interference occasioned by the making of a Modification Order is both in accordance with domestic law (the Wildlife and Countryside Act 1981) and is in the public interest as it is necessary in a democratic society for the protection of the rights and freedoms of others, namely the public who wish to use the way. Should Members resolve that a Modification Order be made in accordance with highways legislation, this is merely the start of the legal process. Once a Modification Order is made, it must be publicised, and any person will have an opportunity to formally object to it. Should objections be received, the Modification Order would have to be referred to the Secretary of State who may hold a Public Inquiry before deciding upon whether or not to confirm the Modification Order.

- 166 Please note that the Council will not disclose the user evidence forms that form part of the background documentation at this stage in the process. The Council considers that the information provided within the user evidence documentation is exempt information under s1&2 Schedule 12A Local Government Act 1972, as amended.
- 167 Under the Wildlife and Countryside Act 1981, there is no such statutory right prior to an Order having been made - persons affected are entitled to the information in the event that an Order is made following the Committee decision.
- 168 Once an Order is made it may be the subject of objections. If objections are not withdrawn, this removes the power of the Local Authority to confirm the Order itself, and may lead to a hearing or Public Inquiry. It follows that the Committee decision may be confirmed or not confirmed. This process may involve additional legal support and resources.

#### *Section 151 Officer/Finance*

- 169 If objections to an Order lead to a subsequent hearing/inquiry, the Council would be responsible for any costs involved in the preparation and conducting of such. The maintenance of the Public Right of Way would continue to be the responsibility of the landowner and Council in line with legislation. The associated costs would be borne within existing Public Rights of Way revenue and capital budgets.

#### *Policy*

- 169 The work of the Public Rights of Way team contributes to the Vision of the Corporate Plan of a greener Cheshire East, with the aim of “a thriving and sustainable place”, and the policies and objectives of the Council’s statutory Rights of Way Improvement Plan.

**Vision - An open, fairer, greener Cheshire East**

**Aim - A thriving and sustainable place**

- A great place for people to live, work and visit
- Welcoming, safe and clean neighbourhoods
- Reduce impact on the environment
- A transport network that is safe and promotes active travel
- Thriving urban and rural economies with opportunities for all
- Be a carbon neutral council by 2027

*Equality, Diversity and Inclusion*

170 An assessment in relation to the Equality Act 2010 has been carried out by the Public Rights of Way Network Management and Enforcement Officer for the area and it is considered that the proposed diversion would be no less convenient to use than the current one.

The legal tests under section 53 of the Wildlife & Countryside Act 1981 do not include an assessment of the effects under the Equality Act 2010.

*Human Resources*

(a) There are no direct implications for Human Resources.

*Risk Management*

(b) There are no direct implications for risk management.

*Rural Communities*

(c) There are no direct implications for Rural Communities.

*Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)*

(d) There are no direct implications for Children and Young People

*Public Health*

(e) The recommendations are anticipated to offer a positive overall impact on the health and wellbeing of Cheshire East residents.

*Climate Change*

(f) The recommendations will help the Council to reduce its carbon footprint and achieve environmental sustainability by reducing energy consumption and promoting healthy lifestyles.

## Access to Information

|                    |   |
|--------------------|---|
| Contact Officer:   | John Lindsay<br><a href="mailto:john.lindsay@cheshireeast.gov.uk">john.lindsay@cheshireeast.gov.uk</a>    |
| Appendices:        | Appendix 1 - Map of route<br>Appendix 2 – User chart<br>Appendix 3 – Documentary evidence list            |
| Background Papers: | The background papers and files relating to this report can be inspected by contacting the report writer. |