

IN THE MATTER OF THE PROPOSED BRIDLEWAY ALONG GLASS HOUSE LANE FROM PUBLIC FOOTPATH 56 BY THE ROAD AT CHIPNALL MILL TO PUBLIC FOOTPATH 71 BY THE ROAD AT GLASS HOUSES, LOGGERHEADS

AN APPLICATION FOR THE ADDITION OF A PUBLIC BRIDLEWAY TO THE DEFINITIVE MAP

EXHIBITS TO GROUNDS OF OBJECTION

Tab No.	Document	Date
1.	Report of the Council to the Countryside and Rights of Way Panel (the "Report") (with appendices extracted)	Undated
2.	Initial Report of the Council to the Countryside and Rights of Way Panel (with Applicant's comments shown in red text amendment) (the "Initial Report") (with appendices extracted)	Undated
3.	Photographs of Field Book entries for Hereditament No. 26	Undated
4.	Photographs of Field Book entries for Hereditament No. 570	Undated
5.	Photographs of Field Book entries for Hereditament No. 571	Undated
6.	Copy of Letter from Council to Applicant	27 April 2021
7.	Copy of Email from Michelmores to Council	9 June 2021
8.	Copy of Email from Council to Michelmores	18 June 2021

TAB 1

Local Members' Interest	
Cllr P Northcott	Newcastle- Newcastle Rural

Countryside and Rights of Way Panel -

Wildlife and Countryside Act 1981

Application for the addition of a Public Bridleway along Glass House Lane from Public Footpath 56 by the road at Chipnall Mill to Public Footpath 71 by the road at Glass Houses, Loggerheads

Report of the Director for Corporate Services

Recommendation

1. That the evidence submitted by the applicant and that discovered by the County Council is sufficient to show that the alleged bridleway along Glass House Lane from Public Footpath 56 by the road at Chipnall Mill to Public Footpath 71 by the road at Glass Houses, Loggerheads subsists.
2. That an Order under Section 53 (3) (c) (i) should be made to add the alleged right of way shown on the plan attached at Appendix B and marked A to B to the Definitive Map and Statement of Public Rights of Way for the District of Newcastle as a Public Bridleway.

PART A

Why is it coming here – what decision is required?

1. Staffordshire County Council is the authority responsible for maintaining the Definitive Map and Statement of Public Rights of Way as laid out in section 53 of the Wildlife and Countryside Act 1981 (“the 1981 Act”). Determination of applications made under the Act to modify the Definitive Map and Statement of Public Rights of Way, falls within the terms of reference of the Countryside and Rights of Way Panel of the County Council’s Regulatory Committee (“the Panel”). The Panel is acting in a quasi-judicial capacity when determining these matters and must only consider the facts, the evidence, the law and the relevant legal tests. All other issues and concerns must be disregarded.
2. To consider an application attached at Appendix A from Mr Martin Reay for an Order to modify the Definitive Map and Statement for the District of Loggerheads. The effect of such an Order, should the application be successful, would:
 - (i) add an alleged Public Bridleway along Glass House Lane from Public Footpath 56 by the road at Chipnall Mill to Public Footpath 71 by the road at Glass Houses, Loggerheads to the Definitive Map and Statement of Public Rights of Way under the provisions of Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981.
 - (ii) The lines of the alleged Public Bridleway which are the subject of the application are shown highlighted and marked A – B on the plan attached as Appendix B.

3. To decide, having regard to and having considered the application and all the available evidence, and after applying the relevant legal tests, whether to accept or reject the application.

Evidence submitted by the applicant

1. The applicant has submitted in support of his claim evidence from the 1910 Finance Act, Deposited Railway Plan from 1845 and Deposited Railway Plan Route Map from 1845, Drayton in Hales Tithe Map, 1932 Rights of Way Act Deposit, Wright & Charrington Motoring Cycling & Touring Map of the early 1900's and ordnance survey maps dated 1817 and 1834.
2. Mr Reay has provided a tracing of the Drayton in Hales Tithe Map. There is no date on the Tithe Award Map. There is no apportionment with the tracing of the map. A copy of the tracing is attached at Appendix C.
3. The map shows a route numbered 298 starting from Chipnall Mill, which continues vertically in a northerly direction. The route then becomes route 303. Route 298 is described as James Hudson Road and route 303 is described as Rev. Buchanon Road.
4. It is not clear what route 303 connects to as it appears to become two dotted lines running parallel to each other and running through plot 289. The route is separate to adjacent landholdings. There is no annotation along the route to indicate the status of the route and as there is no Award or apportionment with the tracing there is nothing to indicate the status of the route or who, if anyone was responsible for the route.
5. Mr Reay alleges that the claimed route is shown as 298, James Hudson Road and 303 Rev. Buchanon Road. The route shown on the Tithe Map appears to proceed in a more northerly direction than the alleged route, which takes a more north easterly direction. However, it appears to apply to the alleged route as the route connects at Chipnall Mill in the south and continues in a northerly direction in a similar manner to the alleged route.
6. In relation to the 1910 Finance Act material, only maps of the area have been provided, there are no field books with the material. Two maps have been provided, one map is taken from a map of Staffordshire and the other is taken from a map of Shropshire, as the route in question borders the county of Shropshire. Neither maps are dated.
7. Mr Reay alleges that the map of Staffordshire shows part of the claimed route between Glass Houses and Chipnall Mill separate from taxable land holdings. He claims that the remainder of the route runs through plot 26. Copies of the documentation are attached at Appendix D.
8. Both maps show a route running from Chipnall Mill running in a north easterly direction, running along the same route as the alleged way. At Chipnall Mill the route starts as two dotted lines, there is no depiction of what the route is. The route then connects with what appears to be a main carriageway, which runs separate to adjacent landholdings. The Staffordshire map shows the route running through Plot 26 but does not show the length of the alleged route in its entirety. The Shropshire map depicts the same route running through plot 570 and connecting with Glass Houses in the same manner as the alleged route does on current mapping.
9. There is no annotation on either of the maps depicting the status of the routes and as there are no field book entries there is nothing to indicate the nature of the route or whether any tax deductions were made in relation to the route.

10. Mr Reay has provided a Deposited Railway Plan Route Map Q/Rum/20ba dated 1845 and tracings of a Deposited Railway Plan of the Trent Valley Continuation and Holyhead Junction Railway Q/Rum/198, also dated 1845. Copies are attached at Appendix E.
11. The Map appears to show a route running along the alleged way. There is nothing on the map to indicate the status of the route. The claimed route is east of the Liverpool and Birmingham Junction Canal.
12. In relation to the tracing of the Deposited Railway Plan, Mr Reay alleges the claimed route is shown running through number 4 and 5, with 4 being a highway and 5 being a public bridle road.
13. On review of the tracing it appears that the route depicted as number 4 is likely to be the alleged route as it starts at Chipnall Mill and runs in a northerly direction, as does the alleged route. Route 4 is described as: "Drayton in Hales- Highway-Surveyor of Highways". This would suggest that this route is a public highway.
14. In relation to 5 this is referred to as: "Plantation, Public Bridle Road & Footpath-Surveyor of Highways & Thomas Hudson".
15. There is no Book of Reference with the tracing and therefore there is no evidence to confirm the type of land being affected.
16. Both the 1817 and 1834 Ordnance Survey Maps show the physical existence of a route along the alleged way, connecting from Chipnall Mill to Glass Houses. The 1817 map is not as clear as the 1834 map, but the route can still be made out. There is no key with either map and there is no indication as to the status of the route. Copies of are attached at Appendix F.
17. In relation to the 1932 Rights of Way Act Register Mr Reay alleges that part of the claimed route is shown as 2a- Hales Estate Road. In his opinion the route must have carried higher rights than a footpath. No original documents have been provided, only a map of the area with a key. Copies are attached at Appendix G.
18. Part of the alleged route has been marked as 2a and is coloured in orange. Mr Reay has provided a key stating that boundaries of the Hales Estate are marked in red, footpaths are marked in yellow and roads are marked in orange, therefore if the key is accurate this would indicate that the route is a road. Route 2a connects with what is now Public Footpath Number 71 at Glass Houses. At the other end of the route the way connects with another route, which looking at the key appears to be a boundary of the Hales Estate, as it is coloured in red. Route 2a does not cover the whole of the alleged route, as it does not start at Chipnall Mill, as the alleged route does. Route 2a appears to stop where the Hydraulic Ram is depicted on the current mapping.
19. Mr Reay is of the opinion that the route must have carried higher rights than a footpath. There is no indication from the 1932 Rights of Way Act Register as to whether route 2a is public or private.
20. The Wright and Charrington Motoring Cycling and Touring map shows the physical existence of a route along the way. There is no indication as to the status of the route. Copies are attached at Appendix H.

Evidence submitted by the Landowners

21. The landowner, Mr Hall, has submitted a landowner questionnaire and German Chartered Surveyors have also provided a letter as representatives of the Hales Estate, copies of which are attached at Appendix I.
22. Mr Hall does not consider the route to be public. He has never given anyone permission to use the route and he has never seen anyone using the route.

Comments received from statutory consultees

23. The Byways and Bridleways Trust have replied stating that they support the application but have not submitted any evidence.
24. Loggerheads Parish Council responded with a letter dated 10th July 2000 advising that they had no strong objection to the application but would query access to the proposed bridleway as the only option would appear to be from the footpath, which in their opinion would limit the full use of a bridleway.

Comments on Evidence

25. The sole purpose of the tithe documentation was to identify land subject to paying the tithe. The tracings appear to show the alleged route as a highway as it is adjacent to separate landholdings. A highway crossing land would reduce its productivity although this would be true whether the route had public or private status. As confirmed in the case of *Merstham Manor Ltd v Coulsdon UDC [1937]* the important point from the perspective of the tithe commissioner was that the land would be untitheable and not the status of the way.
26. As the route is separate from adjacent landholdings it is more likely to have had higher rights over it than a footpath. There is no apportionment with the documentation and therefore there is no evidence as to who the owner of the route was or whether a tithe was apportioned to the route. In addition, there is no key with the map and therefore there is nothing to indicate the status of the route or the nature of the rights over the route.
27. The tithe documentation on its own does not provide evidence as to the public nature of the alleged route. It could be argued that as the route is separate from the landholdings it is likely to hold the status of at least a bridleway if not having higher rights, but there is no evidence as to what the route's status was at the time the map was drawn up.
28. Where a canal or railway was planned the intended route was surveyed. From the surveys and plans and books of reference were compiled which showed who owned the land crossed by the proposed canal or railway. The book of reference often lists who was responsible for the maintenance of a route, the status and the nature of the rights over it. A copy of the book of reference for the 1845 plan has not been provided, but information is recorded on the tracing, which shows that it was the Surveyor of Highways who was responsible for the route in question. This would indicate that the way was public, as they would not want to take on unwanted maintenance responsibilities for any potential bridges or tunnels that would be needed along the alleged route.
29. On review of the tracings it appears that route 4 becomes route 26, although it could be argued that they are two separate routes. Route 4 runs from Chipnall Mill to the south and runs in a northerly direction.

30. In relation to plot 5 it is recorded as "Plantation, Public Bridle Road & Footpath". Although, it appears that the alleged route follows the line of the route numbered 4, this route does run adjacent to number 5 and in light of the public nature of 5 it is likely that both routes have public rights over them, although this is not definitive.
31. The documentation supports the existence of a public right of way that is likely to have the status higher than a footpath.
32. The 1910 Finance Act Plan of Staffordshire shows part of the alleged route and the Plan for Shropshire shows the whole of the alleged route as separate from adjacent landholdings.
33. A landowner could claim tax relief for public rights of way and these deductions would be shown in the Field Books. Unfortunately, no copies of the Field Books have been provided and therefore there is no evidence as to whether any deductions were made for public rights of way in relation to the map. However, the fact that the route is recorded on the map provides evidence of the existence of a way.
34. The fact that the route is shown separate from the adjacent land, would suggest that the route was a public highway. The separation could mean that the adjacent owners believed that the route was a public highway and thus need not be shown within their property as it would have been exempt from taxation. This would have been unlikely to occur where the route in question only had the status of footpath or bridleway. The latter would have more likely to have been dealt with by means of a deduction for user in the field book.
35. It could also be said that the route is shown excluded because it could be a private right of way.
36. The Finance Act maps are good evidence that a public highway existed, however there is no evidence to support that the way was public or had bridleway status.
37. Ordnance Survey Maps date back to the early 1800's and their purpose is to show physical features on, and the contours of the ground. They do not distinguish between public and private rights of way as can be seen with both the 1817 and 1834 maps, which only show the physical existence of the route and not the nature of the route.
38. These maps do not have any evidential value but they do support alongside the Finance Act material, Tithe Map and Deposited Railway Plan that there was a physical feature on the ground.
39. This can also be said for the Wright & Charrington Motoring Cycling and Touring Map. The map shows the physical existence of the route but not whether it is a public right of way. The Planning Inspectorate has confirmed that "*What is looked for is a general picture of whether the route seemed important enough to get into these documents fairly regularly. A one-off appearance could be an error... consistent depiction over a number of years is a positive indication*". This approach has been approved by the courts, as seen in *Fortune v Wiltshire Council*.
40. In relation to the 1932 Rights of Way Act Deposit this shows part of the alleged route marked as 2a and coloured in orange. No original documents have been provided but from the key to the plan that has been provided it would appear that route 2a is a road, which connects to the boundary of the Hales Estate.
41. It can be confirmed that the route is not a footpath as footpaths are coloured yellow on the map. It is unclear from the documentation however, whether the road is a public or private road or exactly what the nature of the rights were over the route. It

could be argued that because the route is a road and has higher status than a footpath, it will have at least the status of a bridleway, although this is not absolute.

Comments on Draft Report

42. Following circulation of the report comments were received from Mr Alexander Hall of the Hales Estate dated 16 April 2021 advising that they agreed with the original recommendation to reject the application. A copy is attached at Appendix J.
43. The applicant also provided further comments and evidence following circulation of the report. It has come to light that the application route is a public highway/public right of way, shown on the National Street Gazetteer and on the Council's statutory section 36 Highways Act list of roads and streets maintainable at public expense. The alleged route is named Glass House Lane and is unclassified road G2065.
44. The applicant states that Staffordshire County Council, within its Statutory Rights of Way Improvement Plan, state that G classified roads enjoy public user rights for all classes of user. The applicant has submitted further documents including a copy of Staffordshire County Council's List of Streets for the area in question, Rights of Way Improvement Plan for Staffordshire, National Street Gazetteer, a current OS map of the area and a further map from the 1910 Finance Act Plan, showing the application route continuing into Shropshire. Copy of response and documents is attached at Appendix K.
45. Officers have examined this further submitted material. On review of the National Street Gazetteer the alleged route runs along the same line as a route described as: "Glass House Lane, Glass Houses, Newcastle under Lyme". The Staffordshire County Council List of Streets does refer to Glass House Lane as the unclassified road G2065 and the Rights of Way Improvement Plan for Staffordshire does confirm that "G" class roads are available to walkers, cyclists, horse riders and motorised users.
46. In light of the further documentationsubmitted it would appear that the alleged route is public. Although the initial evidence submitted with the application did provide evidence that the right of way had rights over it higher than a footpath, the documentation did not provide any conclusive evidence that the route had public status. Due to the fact that the alleged route is maintainable at public expense and the historical evidence supports the route having status higher than a footpath it can be reasonably alleged that the route is a public bridleway and therefore the officer's recommendation is to amend the original decision and to accept the application.

Burden and Standard of Proof

47. In this instance the applicable section of the Wildlife and Countryside Act 1981 is section 53(3)(c)(i). This section relates to the discovery of evidence of two separate events:
 - (a) Evidence that a right of way which is not shown on the map subsists; or
 - (b) Evidence that a right of way which is not shown on the map is reasonably alleged to subsist.
48. Thus, there are two separate tests, one of which must be satisfied before a Modification Order can be made. To answer either question must involve an evaluation of the evidence and a judgement on that evidence.
49. For the first test to be satisfied, it will be necessary to show that on a balance of probabilities the right of way does subsist.

50. For the second test to be satisfied the question is whether a reasonable person could reasonably allege a right of way subsists, having considered all the relevant evidence available to the council. The evidence necessary to establish a right of way which is “reasonably alleged to subsist” over land must by definition be less than that which is necessary to establish the right of way does “subsist”.
51. If the conclusion is that either test is satisfied then the Definitive Map and Statement should be modified.

Summary

52. All the documentation is supportive of the route physically existing. Whilst the Finance Act and Tithe Map material are helpful, it does not hold as much weight as a legal order such as a Quarter Session or Inclosure award. Therefore, the evidence needs to be looked at as a whole.
53. The Drayton Tithe Map on its own does not provide evidence as to the public nature of the route but as the route is separate from adjacent landholdings it does add to supporting evidence, along with the 1910 Finance Act material that the status of the route is likely to have been greater than a footpath but it does not provide any conclusive evidence that the route had bridleway status. The fact that the way is shown separate could signify that the route was private. As stated in the case of *Maltbridge Island Management Co v Secretary of State for the Environment [1998]*, this “type of evidence may be supportive of the existence of a public right of way but the weight to be given to such documents is a matter for the tribunal of fact, in this case the Panel. Such evidence is not on its own conclusive proof”.
54. Similarly, with the Deposited Railway Plan this shows the alleged route as separate from adjacent landholdings and as the route is recorded as being under the responsibility of the Surveyor of Highways this is supportive that the route is a public highway and that it is likely the route’s status was higher than a footpath but again there is no conclusive evidence to show that the route had bridleway status. The railway plan is the only document to suggest that the way is public and even this is not definitive.
55. In the case of *Fortune v Wilson* it was concluded that where routes are shown excluded from adjacent land there is a good possibility that the route was considered to have rights higher than a footpath or bridleway and that it was a public highway. Therefore, it can be strongly argued that the alleged route had the reputation of having public status but the nature of the rights over the route is not clear. As there were no field book entries accompanying the map it has not been possible to determine if and whether any deductions were made in relation to the alleged route or the status of the route.
56. The Finance Act map is an Ordnance Survey map and it was used to draw on plot numbers, in a similar way to the tithe map. The route would have been used to orientate the plots of land. The map merely shows the physical existence of the route. The fact that the route is shown as being separate could be due to two or three landowners having passage over the land, again highlighting that this could be a private route.
57. The Ordnance Survey Maps and Wright and Charrington Motoring Cycling and Touring Map provide evidence of the physical existence of the route but on their own they are limited in value as they do not record the status of the route. Due to the early dates of the Ordnance Survey Maps they would only show major

carriageways and would not show footpaths. Even though the route is shown to physically exist, the route could be a private way.

58. The 1932 Rights of Way Act Deposit is supportive of the alleged route having higher rights than a footpath as it is recorded as being a road. However, there is nothing to confirm whether it was a public or private road and therefore it cannot be said with any certainty that the route had the status of a public bridleway.
59. Overall, from the documentation originally submitted with the application it is supportive that the alleged route existed and it was likely to be a highway and whilst there is limited evidence that it was public, there is no conclusive evidence that the way has ever had public bridleway status. However, when reviewed with the further evidence submitted from the applicant there does appear to be evidence that the alleged route is a public right of way that can be said to have bridle rights over it.

Conclusion

60. The application is to be considered under s53(3)(c)(i) as mentioned above, and so the question of whether the application should succeed needs to be evaluated against both tests in that section.
61. Whilst there is evidence from the Drayton Tithe Map and 1910 Finance Act material that the route existed and was a carriageway there is no conclusive evidence as to whether the route was public or private and whilst it can be shown that the way's status was greater than a footpath, there is no clear evidence that the way has bridleway status.
62. Therefore, it is your officer's opinion that the application has not passed the test on the balance of probabilities.
63. When the lesser test is considered, that of reasonable allegation, it is your officer's opinion that in considering the further evidence provided by the applicant this test is satisfied. This further evidence shows that the route is an unclassified road maintainable at public expense and as such this route is available to walkers, cyclists, horse riders and motorised users. When this is reviewed in conjunction with the historical evidence which shows the existence of the way and the Railway documentation that is supportive of public rights and that it is a carriageway separate from adjacent landholdings, it can be reasonably alleged that the route is a public right of way with bridle rights over it.
64. It is your officer's opinion that the County Council should make a Modification Order to mark the route as Public Bridleway status on the Definitive Map and Statement of Public Rights of Way.

Recommended Option

65. To accept the application based upon the reasons contained in the report and outlined above.

Other options Available

66. To decide to reject the application to modify the Definitive Map and Statement for the District of Newcastle.

Legal Implications

67. The legal implications are contained within the report.

Resource and Financial Implications

68. The costs of determining applications are met from existing provisions.
69. There are, however, additional resource and financial implications if decisions of the Registration Authority are challenged by way of appeal to the Secretary of State for Environment, Food and Rural Affairs or a further appeal to the High Court for Judicial Review.

Risk Implications

70. In the event of the Council making an Order any person may object to that order and if such objections are not withdrawn the matter is referred to the Secretary of State for Environment under Schedule 14 of the 1981 Act. The Secretary of State would appoint an Inspector to consider the matter afresh, including any representations or previously unconsidered evidence.
71. The Secretary of State may uphold the Council's decision and confirm the Order; however there is always a risk that an Inspector may decide that the County Council should not have made the Order and decide not to confirm it. If the Secretary of State upholds the Council's decision and confirms the Order it may still be challenged by way of Judicial Review in the High Court.
72. Should the Council decide not to make an Order the applicants may appeal that decision under Schedule 15 of the 1981 Act to the Secretary of State who will follow a similar process to that outlined above. After consideration by an Inspector the County Council could be directed to make an Order.
73. If the Panel makes its decision based upon the facts, the applicable law and applies the relevant legal tests the risk of a challenge to any decision being successful, or being made, are lessened. There are no additional risk implications.

Equal Opportunity Implications

74. There are no direct equality implications arising from this report.

J Tradewell

Director of Corporate Services

Report Author: Hannah Titchener

Ext. No: 854190

Background File: LK601G

INDEX TO APPENDICES

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Appendix B	Plan of claimed route
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Appendix E	Deposited Railway Plan 1845 & Deposited Railway Plan Route Map 1845
Appendix F	Ordnance Survey Maps dated 1817 & 1834
Appendix G	1932 Rights of Way Act Deposit
Appendix H	Wright & Charrington Motoring Cycling & Touring Map of the early 1900's
Appendix I	Landowner questionnaire from Mr Hall and letter from German Chartered Surveyors dated 22 June 2000 & 17 July 2000 respectively
Appendix J	Correspondence from Mr Hall of the Hales Estate in response to the draft report
Appendix K	Comments on draft report from the applicant and attached documentation and officers response

TAB 2

Local Members' Interest	
Cllr P Northcott	Newcastle- Newcastle Rural

Countryside and Rights of Way Panel -

Wildlife and Countryside Act 1981

Application for the addition of a Public Bridleway from Footpath 56 to Footpath 71, Loggerheads This description of the application route is entirely incorrect and misleading. It implies the application is for an unusable bridleway between two public footpaths which is not correct. The application submitted clearly states that the route applied for is between two public roads "the road at Chipnall Mill and the road at Glass Houses". These being unclassified road number D2065 at Glass Houses and the ORPA (other route with public access) at Chipnall Mill where the application route crosses the Shropshire County border.

Report of the Director of Corporate Services

Recommendation

1. That the evidence submitted by the applicant and that discovered by the County Council is insufficient to show that the alleged bridleway from Footpath 56 to Footpath 71, Loggerheads subsists. Again, this is also a totally misleading misdescription of the application route. The application route is wholly along a publicly maintainable road, Glass House Lane, which is recorded as G2065 on the highway authorities' statutory record of publicly maintainable highways.
2. That no Order under Section 53 (3) (c) (i) be made to add the alleged right of way shown on the plan attached at Appendix B and marked A to B to the Definitive Map and Statement of Public Rights of Way for the District of Newcastle as a Public Bridleway.

PART A

Why is it coming here – what decision is required?

1. Staffordshire County Council is the authority responsible for maintaining the Definitive Map and Statement of Public Rights of Way as laid out in section 53 of the Wildlife and Countryside Act 1981 ("the 1981 Act"). Determination of applications made under the Act to modify the Definitive Map and Statement of Public Rights of Way, falls within the terms of reference of the Countryside and Rights of Way Panel of the County Council's Regulatory Committee ("the Panel"). The Panel is acting in a quasi-judicial capacity when determining these matters and must only consider the facts, the evidence, the law and the relevant legal tests. All other issues and concerns must be disregarded.
2. To consider an application attached at Appendix A from Mr Martin Reay for an Order to modify the Definitive Map and Statement for the District of Loggerheads. The effect of such an Order, should the application be successful, would:

(i) add an alleged Public Bridleway from Footpath 56 to Footpath 71, Loggerheads to the Definitive Map and Statement of Public Rights of Way under the provisions of Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981. **The application route has been misdescribed here, yet again, thereby misleading readers by implying that the application is to create an unusable bridleway between two public footpaths. This is, yet again, absolutely incorrect.**

(ii) The lines of the alleged Public Bridleway which are the subject of the application are shown highlighted and marked A – B on the plan attached as Appendix B.

3. To decide, having regard to and having considered the application and all the available evidence, and after applying the relevant legal tests, whether to accept or reject the application.

Evidence submitted by the applicant

1. The applicant has submitted in support of his claim evidence from the 1910 Finance Act, Deposited Railway Plan from 1845 and Deposited Railway Plan Route Map from 1845, Drayton in Hales Tithe Map, 1932 Rights of Way Act Deposit, Wright & Charrington Motoring Cycling & Touring Map of the early 1900's and Ordnance Survey maps dated 1817 and 1834.
2. Mr Reay has provided a tracing of the Drayton in Hales Tithe Map. There is no date on the Tithe Award Map. There is no apportionment with the tracing of the map. A copy of the tracing is attached at Appendix C.
3. The map shows a route numbered 298 starting from Chipnall Mill, which continues vertically in a northerly direction. The route then becomes route 303. Route 298 is described as James Hudson Road and route 303 is described as Rev. Buchanon Road.
4. It is not clear what route 303 connects to as it appears to become two dotted lines running parallel to each other and running through plot 289. The route is separate to adjacent landholdings. There is no annotation along the route to indicate the status of the route and as there is no Award or apportionment with the tracing there is nothing to indicate the status of the route or who, if anyone was responsible for the route.
5. Mr Reay alleges that the claimed route is shown as 298, James Hudson Road and 303 Rev. Buchanon Road. The route shown on the Tithe Map appears to proceed in a more northerly direction than the alleged route, which takes a more north easterly direction. **As you will be aware from internet searchable records, not all Tithe Maps are oriented north to south. This includes some Drayton In Hales Tithe Maps. You cannot, therefore, make the assertion you have unless you are certain that you have first oriented the Tithe Map precisely into a north to south orientation, thereby ensuring it is comparable with modern commercial maps. For the benefit of all other readers and me, please explain precisely how you did this in order to to make your comparisons and assertions?**
6. In relation to the 1910 Finance Act material, only maps of the area have been provided, there are no field books with the material. Two maps have been provided, one map is taken from a map of Staffordshire and the other is taken from a map of Shropshire, as the route in question borders the county of Shropshire. Neither maps are dated. **Surveyors acting for the Commissioners under the 1910 Act used the most up to date Ordnance Survey maps available for the area, of 25 inches to the mile scale, to compile the incremental duty tax records. All Finance Act maps compiled, with very few exceptions, are therefore based on maps published by**

Ordnance Survey between 1899 and 1910. Their precise publication date has no relevance to their validity, accuracy or legal standing. The statement made about neither map being dated is, therefore, a moot point and totally irrelevant.

7. Mr Reay alleges that the map of Staffordshire shows part of the claimed route between Glass Houses and Chipnall Mill separate from taxable land holdings. He claims that the remainder of the route runs through plot 26. Copies of the documentation are attached at Appendix D.
8. Both maps show a route running from Chipnall Mill running in a north easterly direction, running along the same route as the alleged way. At Chipnall Mill the route starts as two dotted lines, there is no depiction of what the route is. The route then connects with what appears to be a main carriageway, which runs separate to adjacent landholdings. The Staffordshire map shows the route running through Plot 26 but does not show the length of the alleged route in its entirety. The Shropshire map depicts the same route running through plot 570 and connecting with Glass Houses in the same manner as the alleged route does on current mapping.
9. There is no annotation on either of the maps depicting the status of the routes and as there are no field book entries there is nothing to indicate the nature of the route or whether any tax deductions were made in relation to the route. **Any part of a route excluded from adjoining hereditaments numbers on 1910 Finance Act Maps were not subject to incremental duty tax. Accordingly, the associated Field Books for adjoining hereditaments will not contain any information concerning land that has been excluded from the surveys.**
10. Mr Reay has provided a Deposited Railway Plan Route Map Q/Rum/20ba dated 1845 and tracings of a Deposited Railway Plan of the Trent Valley Continuation and Holyhead Junction Railway Q/Rum/198, also dated 1845. Copies are attached at Appendix E. **You have failed to provide copies of these documents with your draft report. For this reason, I am unable to provide any comments regarding your assertions in sections 11, 12, 13, 14 and 15 of this report. Please can you provide me with copies, by return, for further elaboration and comment?**
11. The Map appears to show a route running along the alleged way. There is nothing on the map to indicate the status of the route. The claimed route is east of the Liverpool and Birmingham Junction Canal.
12. In relation to the tracing of the Deposited Railway Plan, Mr Reay alleges the claimed route is shown running through number 4 and 5, with 4 being a highway and 5 being a public bridle road.
13. On review of the tracing it appears that the route depicted as number 26 is more likely to be the alleged route as it starts at Chipnall Mill and runs in a northerly direction. When looking at the current mapping the alleged route also starts at Chipnall Mill, connecting at Footpath 56. However, when looking at the tracing it is not completely clear as to where route 4 ends and where route 26 starts and it could be argued that route 4 becomes route 26. Route 4 appears to be south of Chipnall Mill and it is unclear where it connects to in the opposite direction. The description for route 26 is as follows: "Cheswardine – Highway- Surveyor of Highways". Route 4 is described as: "Drayton in Hales- Highway- Surveyor of Highways". This would suggest that both routes fall in neighbouring areas but are seen as being public highways.
14. In relation to 5 this appears to refer to a plot of land, which is south of Chipnall Mill and therefore it is your officer's opinion that this does not relate to the alleged route.

15. There is no Book of Reference with the tracing and therefore there is no evidence to confirm the type of land being affected. The tracing also does not show what route 26 connects to.
16. Both the 1817 and 1834 Ordnance Survey Maps show the physical existence of a route along the alleged way, connecting from Chipnall Mill to Glass Houses. The 1817 map is not as clear as the 1834 map, but the route can still be made out. There is no key with either map and there is no indication as to the status of the route. Copies of are attached at Appendix F. I have attached a further Ordnance Survey map of 1880, at 5" to the mile scale, which is one of the rare, tinted versions. This map shows the application route tinted in sienna in exactly the same manner as other all other public highways that are shown as part of the "ordinary roads" network on the list of roads and streets maintainable at public expense. This, collectively with all the other material submitted, is further strong evidence that the application route was (and therefore still is) a substantial public highway with public bridleway user rights as a minimum.
17. In relation to the 1932 Rights of Way Act Register Mr Reay alleges that part of the claimed route is shown as 2a- Hales Estate Road. In his opinion the route must have carried higher rights than a footpath. No original documents have been provided, only a map of the area with a key. Copies are attached at Appendix G.
18. Part of the alleged route has been marked as 2a and is coloured in orange. Mr Reay has provided a key stating that boundaries of the Hales Estate are marked in red, footpaths are marked in yellow and roads are marked in orange, therefore if the key is accurate this would indicate that the route is a road. Route 2a connects with what is now Public Footpath Number 71 at Glass Houses. The application route also directly connects with unclassified public road D2065 and is, therefore, accessible to all classes of highway user. At the other end of the route the way connects with another route, which looking at the key appears to be a boundary of the Hales Estate, as it is coloured in red. Route 2a does not cover the whole of the alleged route, as it does not start at Chipnall Mill, as the alleged route does. Route 2a appears to stop where the Hydraulic Ram is depicted on the current mapping. However, the road records show that the public highway rights continue on from this point, along the application route, to the Staffordshire/Shropshire County boundary north of Chipnall Mill Farm. At this point the 189 metre link between the Staffordshire Boundary to Chipnall Mill Farm and the publicly maintained highway in Shropshire, unclassified road U3127/10, is shown on Ordnance Survey maps as an ORPA (other route with public access). ORPA's were entered on Ordnance Survey maps after interrogation and scrutiny of local highway authorities records to confirm that certain public highway rights existed over them. In this case it would have been the Shropshire authority records. A copy map showing the 189 metre section depicted as an ORPA is attached. The application route is, therefore, a fully connected highway to the wider highway network on both sides of the County boundary.
19. Mr Reay is of the opinion that the route must have carried higher rights than a footpath. There is no indication as to whether route 2a is public or private. That statement is also totally incorrect and misdirection. The route is undeniably a public highway as confirmed by the Councils own statutory record of public highways maintainable at public expense.
20. The Wright and Charrington Motoring Cycling and Touring map shows the physical existence of a route along the way. There is no indication as to the status of the route. Copies are attached at Appendix H.

Evidence submitted by the Landowners

21. The landowner, Mr Hall, has submitted a landowner questionnaire and German Chartered Surveyors have also provided a letter as representatives of the Hales Estate, copies of which are attached at Appendix I.
22. Mr Hall does not consider the route to be public. He has never given anyone permission to use the route and he has never seen anyone using the route. **The application route is recorded wholly as a public highway maintainable at public expense on the statutory records. So, any assertions that the route is not a public highway is totally incorrect and must be disregarded and dismissed by readers.**

Comments received from statutory consultees

23. The Byways and Bridleways Trust have replied stating that they support the application but have not submitted any evidence.
24. Loggerheads Parish Council responded with a letter dated 10th July 2000 advising that they had no strong objection to the application but would query access to the proposed bridleway as the only option would appear to be from the footpath, which in their opinion would limit the full use of a bridleway. **Any comments about the asserted bridleway being “from the footpath” must be totally disregarded and dismissed by readers. The application route commences on unclassified road D2065 and passes wholly along unclassified road G2065. This is shown as a Staffordshire County Council publicly maintainable highway on the legal records.**

Comments on Evidence

25. The sole purpose of the tithe documentation was to identify land subject to paying the tithe. The tracings appear to show the alleged route as a highway as it is adjacent to separate landholdings. A highway crossing land would reduce its productivity although this would be true whether the route had public or private status. As confirmed in the case of Merstham Manor Ltd v Coulsdon UDC [1937] the important point from the perspective of the tithe commissioner was that the land would be untitheable and not the status of the way. **As the route is recorded as a publicly maintainable road there is no ambiguity as to whether it is public or private. The above comments are, therefore, spurious and irrelevant.**
26. As the route is separate from adjacent landholdings it is more likely to have had higher rights over it. **If this statement means the route is more likely to have had higher rights than a footpath I totally agree. And over a route that is undeniably a public highway, confirmed by Councils the statutory road records, meaning it is a public highway with rights that are higher than a footpath.** There is no apportionment with the documentation and therefore there is no evidence as to who the owner of the route was or whether a tithe was apportioned to the route. In addition, there is no key with the map and therefore there is nothing to indicate the status of the route or the nature of the rights over the route. **But the route it is clearly public in nature as the current statutory road records verify and - as you point out in the first sentence of section 26 - it is “more likely to have had higher rights over it [than a footpath]”.**
27. The tithe documentation on its own does not provide evidence as to the public nature of the alleged route. It could be argued that as the route is separate from the landholdings it is likely to hold the status of at least a bridleway if not having higher rights, but there is no evidence as to what the route’s status was at the time the map

was drawn up. I totally agree that the evidence indicates a route of at least bridleway status - but totally disagree with the implied doubt about the public status of the route asserted within the first sentence of section 27. It is totally unacceptable to imply any doubt about the public status of a route that is recorded as a public highway, maintainable at public expense, shown on the Councils own statutory road records.

28. Where a canal or railway was planned the intended route was surveyed. From the surveys and plans and books of reference were compiled which showed who owned the land crossed by the proposed canal or railway. The book of reference often lists who was responsible for the maintenance of a route, the status and the nature of the rights over it. A copy of the book of reference for the 1845 plan has not been provided, but information is recorded on the tracing, which shows that it was the Surveyor of Highways who was responsible for the route in question. This would indicate that the way was public, as they would not want to take on unwanted maintenance responsibilities for any potential bridges or tunnels that would be needed along the alleged route.
29. On review of the tracings it appears that route 4 becomes route 26, although it could be argued that they are two separate routes, with route 26 starting at Chipnall Mill, which is where the alleged route starts. It is your officer's opinion that route 26 reflects the alleged route.
30. In relation to plot 5 it is your officer's opinion that this does not form part of the alleged route. The area on the tracing is south of Chipnall Mill and there is no clear indication from the tracing that plot 5 connects to Chipnall Mill and where the alleged route starts from. Although, 5 is recorded as "Plantation, Public Bridle Road & Footpath", it cannot be confirmed with any conviction that this area forms part of the land affected by the alleged route.
31. The documentation supports the existence of a public right of way but there is no evidence that the route has bridleway status even if it could be confirmed that the route connected with plot 5, which does have a public bridle road. It could be argued that it is unlikely that a highway would be connected with another highway with lesser rights over it.
32. The 1910 Finance Act Plan of Staffordshire shows part of the alleged route and the Plan for Shropshire shows the whole of the alleged route as separate from adjacent landholdings.
33. A landowner could claim tax relief for public rights of way and these deductions would be shown in the Field Books. Unfortunately, no copies of the Field Books have been provided and therefore there is no evidence as to whether any deductions were made for public rights of way in relation to the map. However, the fact that the route is recorded on the map provides evidence of the existence of a way.
34. The fact that the route is shown separate from the adjacent land, would suggest that the route was a public highway. The separation could mean that the adjacent owners believed that the route was a public highway and thus need not be shown within their property as it would have been exempt from taxation. This would have been unlikely to occur where the route in question only had the status of footpath or bridleway. **Agreed.** The latter would have more likely to have been dealt with by means of a deduction for user in the field book.
35. It could also be said that the route is shown excluded because it could be a private right of way. **But that cannot be the case for this application because the road**

records confirm that the whole route is a public highway maintainable at public expense. Your statement is, therefore, neither valid or required and just causes unnecessary confusion.

36. The Finance Act maps are good evidence that a public highway existed, however there is no evidence to support that the way was public or had bridleway status. Public highway status is undeniable because the route is recorded as a publicly maintainable road. So, contrary to what you say, there is evidence that the route is public.
37. Ordnance Survey Maps date back to the early 1800's and their purpose is to show physical features on, and the contours of the ground. They do not distinguish between public and private rights of way as can be seen with both the 1817 and 1834 maps, which only show the physical existence of the route and not the nature of the route.
38. These maps do not have any evidential value but they do support alongside the Finance Act material, Tithe Map and Deposited Railway Plan that there was a physical feature on the ground.
39. This can also be said for the Wright & Charrington Motoring Cycling and Touring Map. The map shows the physical existence of the route but not whether it is a public right of way. The Planning Inspectorate has confirmed that "*What is looked for is a general picture of whether the route seemed important enough to get into these documents fairly regularly. A one-off appearance could be an error... consistent depiction over a number of years is a positive indication*". This approach has been approved by the courts, as seen in *Fortune v Wiltshire Council*.
40. In relation to the 1932 Rights of Way Act Deposit this shows part of the alleged route marked as 2a and coloured in orange. No original documents have been provided but from the key to the plan that has been provided it would appear that route 2a is a road, which connects to the boundary of the Hales Estate.
41. It can be confirmed that the route is not a footpath as footpaths are coloured yellow on the map. I totally agree with your statement that the route is not a footpath and being marked in orange on the map it is a road. It is unclear from the documentation however, whether the road is a public or private road or exactly what the nature of the rights were over the route. It could be argued that because the route is a road and has higher status than a footpath, it will have at least have the status of a bridleway, although this is not absolute. Having dismissed and quashed the many erroneous and repeated assertions in this report, that there is no clear evidence of public rights over application route, I can agree with the statement that it could be argued that the application route "will have at least the status of a bridleway". This would, of course, be minimally public bridleway status based on irrefutable evidence of public user rights contained in the Councils own road records.

Burden and Standard of Proof

42. In this instance the applicable section of the Wildlife and Countryside Act 1981 is section 53(3)(c)(i). This section relates to the discovery of evidence of two separate events:
 - (a) Evidence that a right of way which is not shown on the map subsists; or
 - (b) Evidence that a right of way which is not shown on the map is reasonably alleged to subsist. This is the relevant legal test applicable to this particular

application. The rest of the text and elaboration in this section is somewhat irrelevant and highly likely to just confuse readers.

43. Thus, there are two separate tests, one of which must be satisfied before a Modification Order can be made. To answer either question must involve an evaluation of the evidence and a judgement on that evidence.
44. For the first test to be satisfied, it will be necessary to show that on a balance of probabilities the right of way does subsist.
45. For the second test to be satisfied the question is whether a reasonable person could reasonably allege a right of way subsists, having considered all the relevant evidence available to the council. The evidence necessary to establish a right of way which is “reasonably alleged to subsist” over land must by definition be less than that which is necessary to establish the right of way does “subsist”.
46. If the conclusion is that either test is satisfied then the Definitive Map and Statement should be modified.

Summary

47. All the documentation is supportive of the route physically existing. Whilst the Finance Act and Tithe Map material are helpful, it does not hold as much weight as a legal order such as a Quarter Session or Inclosure award. Therefore, the evidence needs to be looked at as a whole.
48. The Drayton Tithe Map on its own does not provide evidence as to the public nature of the route but as the route is separate from adjacent landholdings it does add to supporting evidence, along with the 1910 Finance Act material that the status of the route is likely to have been greater than a footpath but it does not provide any conclusive evidence that the route had bridleway status.
49. The fact that the way is shown separate could signify that the route was private. **But the evidence contained within the Councils own statutory records dismisses this total speculation because the route is recorded as a public highway maintainable at public expense.** As stated in the case of Maltbridge Island Management Co v Secretary of State for the Environment [1998], this “type of evidence may be supportive of the existence of a public right of way but the weight to be given to such documents is a matter for the tribunal of fact, in this case the Panel. Such evidence is not on its own conclusive proof”.
50. Similarly, with the Deposited Railway Plan this shows the alleged route as separate from adjacent landholdings and as the route is recorded as being under the responsibility of the Surveyor of Highways this is supportive that the route is a public highway and that it is likely the route’s status was higher than a footpath but again there is no conclusive evidence to show that the route had bridleway status. The railway plan is the only document to suggest that the way is public and even this is not definitive. **However, the highway records conclusively evidence that the route is public - so any irrelevant speculation as to whether the route is public or not just creates total and avoidable confusion for readers.**
51. In the case of Fortune v Wilson it was concluded that where routes are shown excluded from adjacent land there is a good possibility that the route was considered to have rights higher than a footpath or bridleway and that it was a public highway. Therefore, it can be strongly argued that the alleged route had the reputation of having public status but the nature of the rights over the route is not clear. As there were no field book entries accompanying the map it has not been

possible to determine if and whether any deductions were made in relation to the alleged route or the status of the route.

52. The Finance Act map is an Ordnance Survey map and it was used to draw on plot numbers, in a similar way to the tithe map. The route would have been used to orientate the plots of land. The map merely shows the physical existence of the route. The fact that the route is shown as being separate could be due to two or three landowners having passage over the land, again highlighting that this could be a private route. **No, it cannot. It is a public highway as the road records confirm.**
53. The Ordnance Survey Maps and Wright and Charrington Motoring Cycling and Touring Map provide evidence of the physical existence of the route but on their own they are limited in value as they do not record the status of the route. Due to the early dates of the Ordnance Survey Maps they would only show major carriageways and would not show footpaths. Even though the route is shown to physically exist, the route could be a private way.
54. The 1932 Rights of Way Act Deposit is supportive of the alleged route having higher rights than a footpath as it is recorded as being a road. However, there is nothing to confirm whether it was a public or private road and therefore it cannot be said with any certainty that the route had the status of a public bridleway.
55. Overall, the documentation is supportive that the alleged route existed and it was likely to be a highway and whilst there is limited evidence that it was public, there is no conclusive evidence that the way has ever had public bridleway status. **It is absolute misinformation and misdirection to state that there is little evidence that the route was (is) public.**

Conclusion

56. The application is to be considered under s53(3)(c)(i) as mentioned above, and so the question of whether the application should succeed needs to be evaluated against both tests in that section. **The assertion that this application needs to be evaluated against both legal tests to decide whether it should succeed is not only entirely incorrect but is also further misdirection. The application only needs to pass the reasonable allegation threshold to succeed.**
57. Whilst there is evidence from the Drayton Tithe Map and 1910 Finance Act material that the route existed and was a carriageway there is no conclusive evidence as to whether the route was public or private and whilst it can be shown that the way's status was greater than a footpath, there is no clear evidence that the way has bridleway status. **This statement makes absolutely no sense. You say that the evidence shows that the ways status was greater than a footpath but there is no evidence that the route is public. Evidence held by the Council shows that the route is public so how could you possibly recommend no order is made to record it, minimally, as a public bridleway?**
58. Therefore, it is your officer's opinion that the application has not passed the test on the balance of probabilities.
59. When the lesser test is considered, that of reasonable allegation, it is your officer's opinion that this test is not satisfied. Despite there being some evidence of the public nature of the alleged route, a strong enough presumption cannot be made that the way has bridleway status.

60. It is your officer's opinion that the County Council should not make a Modification Order to mark the route as Public Bridleway status on the Definitive Map and Statement of Public Rights of Way.

Recommended Option

61. To reject the application based upon the reasons contained in the report and outlined above.

Other options Available

62. To decide to accept the application to modify the Definitive Map and Statement for the District of Newcastle.

Legal Implications

63. The legal implications are contained within the report.

Resource and Financial Implications

64. The costs of determining applications are met from existing provisions.
65. There are, however, additional resource and financial implications if decisions of the Registration Authority are challenged by way of appeal to the Secretary of State for Environment, Food and Rural Affairs or a further appeal to the High Court for Judicial Review.

Risk Implications

66. In the event of the Council making an Order any person may object to that order and if such objections are not withdrawn the matter is referred to the Secretary of State for Environment under Schedule 14 of the 1981 Act. The Secretary of State would appoint an Inspector to consider the matter afresh, including any representations or previously unconsidered evidence.
67. The Secretary of State may uphold the Council's decision and confirm the Order; however there is always a risk that an Inspector may decide that the County Council should not have made the Order and decide not to confirm it. If the Secretary of State upholds the Council's decision and confirms the Order it may still be challenged by way of Judicial Review in the High Court.
68. Should the Council decide not to make an Order the applicants may appeal that decision under Schedule 15 of the 1981 Act to the Secretary of State who will follow a similar process to that outlined above. After consideration by an Inspector the County Council could be directed to make an Order.
69. If the Panel makes its decision based upon the facts, the applicable law and applies the relevant legal tests the risk of a challenge to any decision being successful, or being made, are lessened. There are no additional risk implications.

Equal Opportunity Implications

70. There are no direct equality implications arising from this report.

J Tradewell

Director of Corporate Services

Report Author: Hannah Titchener

Ext. No: 854190

Background File: LK601G

INDEX TO APPENDICES

Appendix A	Copy of application and associated submitted letters and documents
Appendix B	Plan of claimed route
Appendix C	Drayton in Hales Tithe Map
Appendix D	1910 Finance Act sheets
Appendix E	Deposited Railway Plan 1845 & Deposited Railway Plan Route Map 1845
Appendix F	Ordnance Survey Maps dated 1817 & 1834
Appendix G	1932 Rights of Way Act Deposit
Appendix H	Wright & Charrington Motoring Cycling & Touring Map of the early 1900's
Appendix I	Landowner questionnaire from Mr Hall and letter from German Chartered Surveyors dated 22 June 2000 & 17 July 2000 respectively

TAB 3

26

Reference No.

Map. No.

xvi. 8. KAU

xvii. 5. GNR

Situation

Chipmull Mill Farm

Description

~~farm~~ the Sides Road

Extent

~~79a 2 1/2 13/4~~ 48a 3c. 13/4

Gross Value

Land £
Buildings £83

Rateable Value

Land £
Buildings £74/15/-

Gross Annual Value, Schedule A, £

Occupier

Wm. Bayden now J. Shopshire

Owner

see 4

Interest of Owner

hold

Superior interests

Subordinate interests

Occupier's tenancy, Term

yearly agmt from 28 Oct 1899

How determinable

Actual (or Estimated) Rent, £ 120

Any other Consideration paid

Outgoings—Land Tax, £ 1/17/2

Tithe, £ 10/1/2

Other Outgoings

paid by

paid by

Owner

Who pays (a) Rates and Taxes (b) Insurance (a) Owner

Who is liable for repairs (b) Owner

Fixed Charges, Easements, Common Rights and Restrictions

footpath

Former Sales. Dates

Interest

Consideration

Subsequent Expenditure

Owner's Estimate. Gross Value

Site Value

MR001



2

N

9004

099

IR 58/75706

12376207

Return by (25/08/2021 11:47:47)

9533664 (Peter Foden)

Roads and

Closure status: Open

L.T.
T.
Rep

Reference No.....

Particulars, description, and notes made on inspection

B4 T. House *rather old moderate repair. Key plan*
6 Bedrooms *landed*
2 Parlours Kitchen. *bk kitchen* Cellar Small Dairy

hump water. fair supply

Charges, Easements, and Restrictions affecting market value of Fee Simple

Valuation.—Market Value of Fee Simple in possession of whole property in its present condition *GR £130*

L.T.	1.17.2.	<i>less</i>	<u>28</u>	
T.	13.1.2.			102 X 25 = 2550
Reps	.13			Timber = 25
	<u>27.18.4</u>			Sports = 50
				<u>£ 2625</u>

Deduct Market Value of Site under similar circumstances, but if divested of structures, timber, fruit trees, and other things growing on the land

£ 1750

Difference Balance, being portion of market value attributable to structures, timber, &c.£

875

Divided as follows:—

Buildings and Structures.....	£ 700
Machinery	£
Timber	£ 25
Fruit Trees	£
Other things growing on land	<i>P. 100</i> <i>S. 50</i> £ 150

Market Value of Fee Simple of Whole in its present condition

(as before)£ 2625

Add for Additional Value represented by any of the following for which any deduction may have been made when arriving at Market Value:—

Charges (excluding Land Tax).....	<i>Little</i> £ 330
Restrictions.....	<i>Pls Survey</i> £ 25 £ <u>355</u>

GROSS VALUE...£ 2980

26

Reference No.

Map. No.

xvi. 8. KQU
xvii. 5. GNR

Situation

Chipmoll mill Farm

Description

~~farm~~ the ridge land

Extent

~~79a 2r 13p.~~ 48a 3r. 13p.

Gross Value { Land £
Buildings £ 83

Rateable Value { Land £
Buildings £ 74/15/-

Gross Annual Value, Schedule A, £

Occupier

Wm. Bayden now J. Shakespeare

Owner

see 4

Interest of Owner

hold

Superior interests

Subordinate interests

Occupier's tenancy, Term

yearly agmt from 25 Oct 1899.

How determinable

Actual (or Estimated) Rent, £ 120/-

Any other Consideration paid

Outgoings—Land Tax, £ 1/17/2

Tithe, £ 13/1/2

Other Outgoings

paid by } Owner.
paid by }

Who pays (a) Rates and Taxes (b) Insurance (a) Owner

Who is liable for repairs (b) Owner

Fixed Charges, Easements, Common Rights and Restrictions

footpath.

Former Sales. Dates

Interest

Consideration

Particulars

B & T
6 Bed
2 Carlson

hump

Charges, E

Valuation.
in its

L.T. 1-1
T. 13-
Reps .13
27

Deduct

bu
oth

Difference

al

..... £ 25

..... £

owing on land ... ^{F. 100} _{S. 50} ... £ 150

ple of Whole in its present condition

..... £ 2625

represented by any of the following
uction may have been made when

Value:—

ng Land Tax) ... *Little* ... £ 330

..... *Also survey* ... £ 25 £ 355

GROSS VALUE... £ 2980

25

Reference No.

Index letter	Description of Buildings	Dimensions			Cubical Contents	Condition	Remarks
		Frontage	Depth	Height			
	2 Bay Canted e.g. many over						Buildings in good condition Builds with tile roofs - very convenient
	3 Stall stable & shop house Lose box						
	Shiphon 6 des along Meal House Root House.						
	4 Bay Dutch Barn (put up in June 1915) Cattle Shed.						
	Lose box						
	8 to Shiphon along						
	2 fowl pens						
	4 pigstyes & bank						

Buildings

Roofs

Area

Staffs

154 ✓

563 x ✓

462 x ✓

1.529 ✓

2.554

Staffs

161 ✓

153 ✓

152 ✓

151 ✓

149

6.434

6.435 x

300 x

19.034

2.660

1.865

3.460

40.548

144 ✓

148 ✓

Staffs

156 ✓

154 ✓

155 ✓

8.445

8.108

3.526 x

3.834 x

3.048

4.254

4.328

35.696

Buildings

2.554

Roofs

40.548

Area

35.696

48.828 acres

= 48a. 3r. 13p.

299

TAB 4

Map. No. XXVIII III

Reference No. Glass Houses Cottage etc
Situation
Description
Extent

Gross Value { Land £
Buildings £ 6
Rateable Value { Land £
Buildings £ 4
Gross Annual Value, Schedule A, £

Occupier W. P. Shore
Owner A. B. M. Buchanan
Interest of Owner Freehold
Superior interests

Subordinate interests

Occupier's tenancy, Term Not known from
How determinable

Actual (or Estimated) Rent, £
Any other Consideration paid

Outgoings—Land Tax, £ 9.10.11 paid by Owner, £2.9.0
Tithe, £ 42.14.3 Whole Estate paid by
Other Outgoings

Who pays (a) Rates and Taxes (b) Insurance (a) Occupier (b) Owner
Who is liable for repairs
Fixed Charges, Easements, Common Rights and Restrictions

Former Sales. Dates
Interest

Ow
Sit
Ro

MR001

IR 58/59672
12376208
Return by (25/08/2021 11:48:15)
9533664 (Peter Foden)
Closure status: Open

2
W
9010
D99

Parti
Wm
refo
Since
quali
Char
Valu
Pre
Les
D
38ac 38
Dif
M
A

Particulars, description, and notes made on inspection

As in 1909 Cottage & Gardens: 2 bedrooms. flower place
kitchen. bath. Much etc in fair
repair.

Since 1909: Dairy. 1 Blys. (sketch).
Land as arable & rest turf - rather mod
quality (much improved since 1909).

Charges, Easements, and Restrictions affecting market value of Fee Simple

Took in land Decr. 1909, 38½ acres. Rent £60.

Land & Cottage went with 569 in 1909.

Valuation.—Market Value of Fee Simple in possession of whole property
in its present condition

<u>Present Value</u>	Less 12½	Gross Rent £60	Tithe £29	10 = 50 x 21 =	1020
<u>Less improvements since 1909</u>					130
		Structures £50			890
		Improvement to land of £80			20
				£ 5.	930

Deduct Market Value of Site under similar circumstances,
but if divested of structures, timber, fruit trees, and
other things growing on the land

38ac 3r6 3p @ £20 (1909 Value)	Less Tithe £65	£	700
Difference Balance, being portion of market value attribut-		£	230
able to structures, timber, &c.		£	

Divided as follows:—

Buildings and Structures	£ 140
Machinery	£ 20
Timber	£ 20
Fruit Trees	£
Other things growing on land ... fences	£ 50

Market Value of Fee Simple of Whole in its present condition
(as before)

930

Add for Additional Value represented by any of the following
for which any deduction may have been made when
arriving at Market Value:—

Charges (excluding Land Tax)	Tithe £ 65	
Restrictions	footpaths £ 25	£ 90
		<u>1020</u>
	GROSS VALUE...£	

£ 20

£

owing on land ... *fences* £ 50

Example of Whole in its present condition

£

930

Value represented by any of the following
improvements which may have been made when
the land was first valued:

Value:—

(including Land Tax) ... *Tithes* £ 65

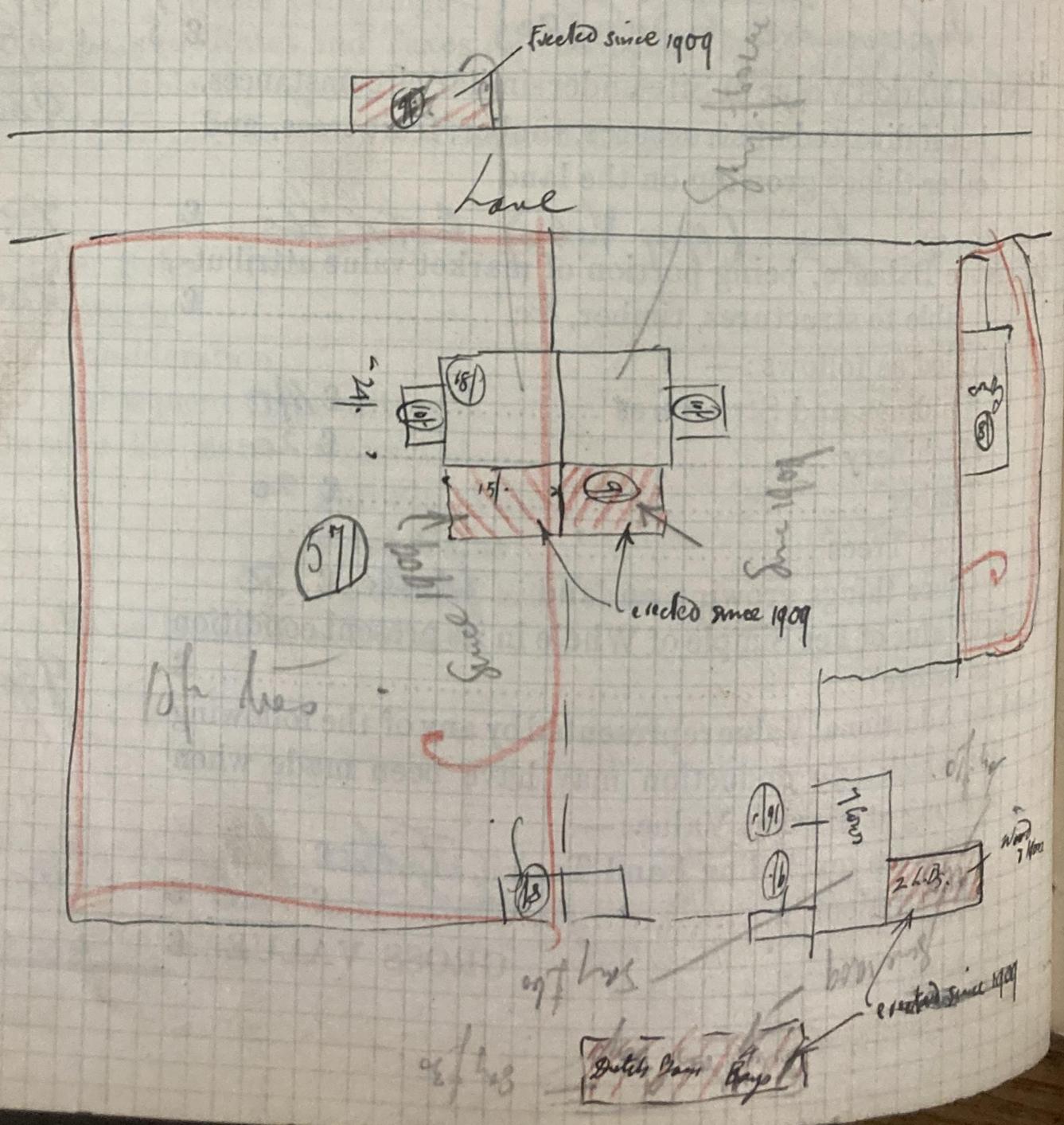
... *footpaths* £ 25 £

90

GROSS VALUE... £

1020

Index letter	Description of Buildings	Dimensions			Cubical Contents	Condition	Remarks
		Frontage	Depth	Height			
	0104 ^o <u>Ac</u>						
	576.	1.347.					
h	575	.671					
b	576.	1.825					
	574.	11.054					
b	572	.400					
	568	12.423					
	530	1.054					
		<u>31.774</u>					
b	573.	<u>7.000</u>					
		<u>38.774</u>					



TAB 5

Map. No. XXVIII III. 9.

.....Reference No.

Situation
Description
Extent

*Glass Houses.
Cottage & Land.
5ac.*

Gross Value { Land £
Buildings £ 8 } Rateable Value { Land £
Buildings £ 6.5.0 }

Gross Annual Value, Schedule A, £

Occupier *J. Grocott.*

Owner *A. B. M. Buchanan.*

Interest of Owner *Freehold.*

Superior interests

Subordinate interests

Occupier's tenancy, Term from

How determinable

Actual (or Estimated) Rent, £

Any other Consideration paid

Outgoings—Land Tax, £ 9.10.11 paid by
Tithe, £ 72.14.3. *Whole estate* paid by *Owner* 6/6.
Other Outgoings

Who pays (a) Rates and Taxes (b) Insurance *a Occupier*

Who is liable for repairs *pl. Owner*

Fixed Charges, Easements, Common Rights and Restrictions

Former Sales. Dates

Interest

Consideration

Subsequent Expenditure

Owner's Estimate. Gross Value
Full Site Value
Total Value
Assessable Site Value

Site Value Deductions claimed

Roads and Sewers. Dates of Expenditure
Amounts

Particulars, description, and notes made on inspection

Cottage. Bldgs Land: 2 Bedrooms. House
Place kitchen pantry. Bldgs. as sketch.
House brick etc in fair repair.

June 1909 : Bldgs across Road & Dairy to place
- also 5 ac land added.

Charges, Easements, and Restrictions affecting market value of Fee Simple

5 acres added since 1909 from 5.69.

Valuation.—Market Value of Fee Simple in possession of whole property
in its present condition

Present Value	Gross Rent £15		
	Less 1/2	2 = 13 x 25 =	335
Less Improvements since 1909	Bldg. (25)		35
	Improvements to land £(10)		300
		£	

Deduct Market Value of Site under similar circumstances,
but if divested of structures, timber, fruit trees, and
other things growing on the land

Yac 20/20 @ £25.	Say	£	200
Difference Balance, being portion of market value attribut- able to structures, timber, &c.		£	100

Divided as follows:—

Buildings and Structures	£	80
Machinery	£	
Timber	£	
Fruit Trees	£	
Other things growing on land ... fences...	£	20
Market Value of Fee Simple of Whole in its present condition (as before)	£	300

Add for Additional Value represented by any of the following
for which any deduction may have been made when
arriving at Market Value:—

Charges (excluding Land Tax)	Take	£	8
Restrictions		£	2
		£	10
		£	<u>310</u>

GROSS VALUE...£ 310

Yac 200 20p @ £25.

Difference Balance, being portion of market value attributable to structures, timber, &c.£ 200
.....£ 100

Divided as follows:—

Buildings and Structures£ 80
Machinery£
Timber£
Fruit Trees£
Other things growing on land .. *fences*...£ 20

Market Value of Fee Simple of Whole in its present condition (as before)£ 300

Add for Additional Value represented by any of the following for which any deduction may have been made when arriving at Market Value:—

Charges (excluding Land Tax) *Tithe* £ 8
Restrictions *Copy & Reserve*£ 2 £ 10

GROSS VALUE...£ 310

TAB 6

Protective Marking Scheme Level 3
RESTRICTED

Mr M Reay
53 Tithe Barn Road
Stafford
ST16 3PL

DX 712320 Stafford 5
Fax No. (01785) 276179
Please ask for: Hannah Titchener
Telephone:

e-mail: hannah.titchener1@staffordshire.gov.uk

My Ref: LK601G

Your Ref:

Date: 27 April 2021

Dear Mr Reay,

RE: Alleged Bridleway from Public Footpath 56 by the road at Chipnall Mill to Public Footpath 71 by the road at Glass Houses, Loggerheads

We are writing in response to your comments regarding the draft report to the above application.

In relation to your comments regarding the title of the application we have taken your comments on board and included the roads you mention in the title. However, on review of our mapping system we can see that the alleged route would connect with public footpath 56 near Chipnall Mill and public footpath 71 near Glass Houses and therefore they have been kept in the title. This title is reflected in the remainder of the report.

In relation to the 1910 Finance Act material the point about stating that the documents were not dated was merely stating a fact and therefore the date of the material could not be compared to the date of the other historical documents provided.

Regarding the 1932 Rights of Way Act Register your comments have been noted, however there is nothing in the document itself to clarify whether route 2a is public or private.

Under the section "Evidence submitted by the landowners", the landowners are entitled to give their opinion and provide their comments on the application. The



landowners are made aware of the legal tests and what issues can be taken into consideration when the application is considered by officers.

When reviewing each individual historical document, we must take into consideration what that document shows, even though it may not necessarily correspond with what is recorded on the Council's own statutory road records. Also, at the time the historical documents were reviewed we had not been provided with the further evidence regarding the Council's statutory road records.

Regarding your comments under the Burden and Standard of Proof section all of the information is relevant as to the legal tests that need to be applied when considering this type of application.

Even though the route connects to an unclassified road and an ORPA (other route with public access) doesn't automatically mean that the alleged route has the same status as the routes it connects with.

A copy of the amended report is enclosed.

Yours sincerely

H.J.Titchener

Hannah Titchener
for Director of Corporate Services

HT2 / LK601G

TAB 7

Subject: RE: Section 53 application for the addition of a bridleway. Our Reference: LK601G. [MICHREF-ACTIVE.139088.1]

From: Sarah Rhodes <Sarah.Rhodes@michelmores.com>

Sent: 09 June 2021 09:19

To: Titchener, Hannah (Corporate) <hannah.titchener1@staffordshire.gov.uk>

Cc: Adam Corbin <Adam.Corbin@michelmores.com>

Subject: RE: Section 53 application for the addition of a bridleway. Our Reference: LK601G. [MICHREF-ACTIVE.139088.1]

CAUTION: This email originated from outside of Staffordshire County Council. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Hannah,

Thank you for your email and for providing these documents.

We have reviewed the Council's Report and appendices and have a few additional queries relating to the application. These relate to information which the Council should have in its possession:

1. **1932 Rights of Way Act Deposit.** Appendix G only includes the maps themselves. We believe that there should have been a cover letter and additional information included with these plans. Please could you provide us with this information.
2. **SCC List of Streets.** Please could you confirm when the Council added the alleged route to this list.

I look forward to hearing from you with the above information.

Kind Regards

Sarah

Sarah Rhodes
Solicitor

DDI +44 (0) 1179069274 | FAX +44 (0) 117 906 9301
Broad Quay House | Broad Quay | Bristol | BS1 4DJ | DX7832 Bristol | +44 (0) 117 906 9300
www.michelmores.com

This email was sent for and on behalf of Michelmores LLP

TAB 8

Subject: RE: Section 53 application for the addition of a bridleway. Our Reference: LK601G. [MICHREF-ACTIVE.139088.1]

From: Titchener, Hannah (Corporate) <hannah.titchener1@staffordshire.gov.uk>
Sent: 18 June 2021 15:56
To: Sarah Rhodes <Sarah.Rhodes@michelmores.com>
Subject: [EXTERNAL] RE: Section 53 application for the addition of a bridleway. Our Reference: LK601G. [MICHREF-ACTIVE.139088.1]

This message originated from outside the organisation

Hi Sarah

Apologies for the delay in getting back to you.

In relation to the 1932 Rights of Way Act Deposit we only have the maps, we do not have any additional information.

In regards to the SCC List of Streets, the Council now uses www.findmystreet.co.uk for their List of Streets which is an initiative set up by GeoPlace, who is the national body that checks the council's gazetteer (Local Street Gazetteer) information. There is no easy way to identify when a street has been added to the council's gazetteer. However, the council's database shows the street in question was last edited in Feb 2011. It is not clear what existed for the street prior to that date.

Kind Regards

Hannah Titchener | Legal Officer (Property & Development)
Staffordshire Legal Services, Staffordshire County Council
Office Location: 1 Staffordshire Place, Tipping Street, Stafford, ST16 2LP
Postal Address: 2 Staffordshire Place, Tipping Street, Stafford, ST16 2DH
☎: 01785 854190
☎: Fax 01785 276179
✉: DX 712320 Stafford 5
✉: hannah.titchener1@staffordshire.gov.uk
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