

**Protective Marking Scheme Level 3
RESTRICTED**

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My Ref: LK602G

Your Ref:

Date: 5 October 2022

Dear Sirs,

**Re: Alleged Footpath from Footpath 23 Ellastone along Green Lane
to Footpath No. 3 Denstone**

We write further to your letter dated 12th September. The contents of which have been noted.

On review of the plan officers remain of the opinion that the southern part of the alleged route runs through plot 558. Officers have been clear in the report that the evidence is not conclusive that the Public Bridle Road referred to in the Field Book is the alleged route, but the legal test is not an absolute test. It is officers view that Paul's Lane does not run through OS 14 and therefore cannot be the Public Bridle Road referred to in the Field Book. There is nothing clear from the plan that there is any other route running through OS 14 that could be a bridleway. The Field Book refers to the public bridleway being "stopped at one end", but this does not automatically mean that the route was stopped up, it could mean that the route terminated at one end. Also, the purpose of Finance Act documentation was not to legally extinguish routes and therefore it does not have the same evidential weight as a Quarter Session Order or an Extinguishment Order.

In relation to the Deposited Railway Plan dated 1845 officers remain of the opinion that route 41 is the claimed route. Officers are not of the view that the single line shown on the Finance Act map between Paul's Lane and the alleged route has been stopped up as a public bridleway, meaning that the alleged route has ceased to exist as a public bridleway between 1845 and 1910.



An abstract of title is not conclusive evidence when it comes to determining public rights of way. It is acknowledged that the alleged route is not referred to in the abstract of title as a public right of way, but this does not automatically mean that it does not exist as a public right of way. The abstract of title is dated 1959 and it may be that at this time the route had fallen into disuse and was no longer being used by members of the public. However, this does not mean that a public right of way legally no longer exists, if there is historical evidence to show the existence of a public right of way and contrary to any evidence showing the route has legally been extinguished then the route still exists as a public right of way.

Officers acknowledge that neither piece of evidence on their own hold strong evidential weight but when the lower test of reasonable allegation is applied it is officers' opinion that it can reasonably be alleged that the route exists as a public bridleway.

As stated, your comments have been noted and your correspondence along with documentation will be put before the Countryside and Rights of Way Panel when they determine the matter. If there is anything else, then please do not hesitate to get in touch.

Yours faithfully

H.J.Titchener

Hannah Titchener
on behalf of Kate Loader, County Solicitor.

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