Responses to Draft Report

Several responses were received to the draft reports, these are outlined below and as they are of relevance to both reports this Addendum has been attached to both.

Responses From:

1) **Cllr Gill Heath (Relevant Councillor) – By Email 16/06/21**

- **email dated 16/06/21 from Cllr Gill Heath to David Adkins**

"I would like to endorse recommendation 1 and 2 on footpath 30 Bradnop that evidence is NOT Sufficient to show a restricted byway.

Also, I endorse the recommendation On bridleway 29 Bradnop that evidence is NOT sufficient to show that a restricted byway subsists and no orders to upgrade should be made."

- **email dated 16/06/21 from David Adkins to Cllr Gill Heath (Clarifying First Email**)

*"*Dear Cllr Heath, Gill, Apologies - the alterative recommendation on PF30 was to upgrade this to a Public Bridleway. Can I just check that this the recommendation you endorse in the first email? Kind regards David".

- **email dated 17/06/21 from Cllr Gill Heath to David Adkins**

"Yes, that is OK"

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2) **Susan Barlow (Landowner) – By Telephone: - 24/05/21**

Susan Barlow contacted Staffordshire County Council initially by email requesting further clarity of the applications on receipt of the draft report. DA contacted Mrs Barlow by telephone to clarify the same. There were no objections or representations to either.

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3) **Mrs Knott (Clerk to Bradnop Parish Council) – By Telephone:- 15/06/21**

Mrs Knott confirmed that the application had been received and that she was not aware of any objections.

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4) **Julie Turner – (Rights of Way Officer) - For Applicant - Staffordshire Moorlands Bridleways Group – By Emails: 13/06/21-15/06/21**

- **(i) email dated 13/06/21 From Julie Turner to David Adkins**

"Please see attached image from an 1837 Ordnance Survey map which shows the two routes being claimed as restricted byways. These routes clearly follow the lines of Bradnop BW 29 and Footpath 30. Maps of this date marked routes used as carriageways and not minor routes such as bridleways. I consider that this is good evidence for the above two routes to be upgraded to restricted byways as they clearly show the routes described in the Inclosure Award. Can you please ensure that this evidence is provided to the CROW Panel at its meeting on Friday and let me know if you intend to change your recommendation to the Panel that BW 29 remains as a BW and FP 29 is upgraded to BW only".

- **(ii) email dated 14/06/21 From Julie Turner to David Adkins**

"You should already have the 1837 OS map that I emailed to you last night - this is the earliest OS map I can find to date. Subsequent OS maps all show the route of what is now Bradnop BW 29 and FP 30 in the same location - so it is SMBG's view that these are the correct historical routes referred to in the Inclosure Award. One of our members is looking at whether the National Record Office at Kew has a copy of the Inclosure Award and map and I will let you know if such a document exists asap."

- **(iii) email dated 14/06/21 From David Adkins to Julie Turner**

"Thank you for sending in the copy of the OS Map for 1837 - and I can confirm I have looked through the details this morning.

The evidential value of OS Maps is somewhat limited (legally speaking) in that they merely show the physical feature of a route rather than its status - as such the evidence still rests heavily on the 1769 Inclosure Award transcript – some 70 years earlier.

I will of course ensure that the Panel have sight of this on the 18th inst. although on its own it does not have enough legal weight for me to change the recommendation.

That said the Panel do not have to accept the recommendation and can still be minded to accept the application when they consider all the evidence before them - it's impossible for us to pre-empt what the Panel decision will be.

Needless to say, I will keep you informed throughout"

- **(iv) email dated 14/06/21 From Julie Turner to David Adkins**

"I accept that the OS map does not show the status of these routes but taken together with the Inclosure Award Transcript - and the fact that all subsequent OS maps show identical routes - this is evidence that the route described in the Inclosure Award is the current routes of Bradnop BW 29 and FP 30. I can forward you other OS maps if you require - these are available online from the National Library of Scotland. The accumulation of evidence in the 1837 OS map and subsequent editions adds weight to the routes being the same as described in the Inclosure Award. The question must be - if the description in the Inclosure Award does not follow the current routes of Bradnop BW 29 and FP 30 - then where would these routes be?

I will walk the routes tomorrow to see what evidence is on the ground and come back to you once I've done this."

- **(v) email dated 14/06/21 From David Adkins to Julie Turner**

"I think you raise a very valid point in the last email as to where any alternative routes would run – and again this is something I will highlight to the Panel. This additional evidence may have some bearing on their ultimate decision".

- **(vi) email dated 17/06/21 from Julie Turner to David Adkins**

"I have just spotted an error in both your reports.

In your report for FP30 Paragraphs 58 and 59 state

"However, the acronyms CRF and CRB used in the Parish Survey Cards could not be used on the Definitive Map and as a result the majority of them were recorded as Roads Used as Public Paths or RUPPs.

This was not the case with the route in question and it was eventually recorded as a Public Footpath. This was not uncommon and despite the apparent limitation of status it did not prejudice the existence of any higher rights where these could subsequently be shown to exist."

Similarly, your report for BW29 Paragraph 50 states

"However, the acronyms CRF and CRB could not be used on the Definitive Map and as a result the majority of them were recorded as Roads Used as Public Paths or RUPPs. This route was never accorded the status of a RUPP"

In fact, both of these public rights of way are former RUPP's. I attach a list prepared by Michael Murphy which lists all former RUPP's which includes these 2 routes. Also, I have a copy of your Council's Wildlife and Countryside Act 1981 Survey of Rights of Way - Statement accompanying Definitive Map - Routes over which public rights of way exist on 30 September 1989 - District of Staffordshire Moorlands which lists both routes as Footpaths and having the comment "Clarification of status" against both of them which shows that these were originally RUPP's. Can I suggest that you liaise with the Rights of Way Team to check the First Definitive Map - Shona Frost has been my contact when I have wanted to view this document. It appears that what was originally FP 29 was upgraded to BW at some point.

Please note that the colouring shown on Michael Murphy's list is mine and indicates applications made by SMBG at that date.

Can you please confirm that you will amend your reports accordingly once you have checked the situation?"

email attachment -

List of Rupps prepared by Michael Murphy – reclassification at Special review. EXCEL.xlsx.

33	Bradnop & Cawdry	29	Footpath	Leek Rural District	Clarification of status
34	Bradnop & Cawdry	30	Footpath	Leek Rural District	Clarification of status

- **(vii) email dated 15/06/21 from David Adkins to Julie Turner**

"Many thanks for the below details relating to RUPP's - and yes I can confirm both routes were recorded as RUPPs on the First Definitive Map. I will add in a detailed supplement on RUPP's and in addition highlight this point verbally to the CROW Panel on Friday. Some Parish Survey Cards included the acronym RP with the CRF crossed through indicating the route was now a RUPP – although these Parish Survey Cards had not been changed to show this. I will add this as a separate supplement to the OS Map of 1837 you sent me earlier. Needless to say let me now if you have any other comments and I will be happy to add them to the report and of course highlight them to the Panel. Again, I have to be impartial so I can guarantee that all the evidence you give me will be put very fully before the Panel."

- **(viii) email dated 15/06/21 From Julie Turner to David Adkins**

"I attach photographs of this route that I have taken this afternoon. The photographs commence at the eastern end of the route adjoining Apesford Road and finish close

to where FP 30 joins BW 29. These images show that the width of the whole length of the route is approximately 30 feet. I encountered 2 tractors using this route and it is certainly wide enough for this type of vehicle and would easily take a horse and carriage. The mainly grassed section of the route has a stone base and is constructed in a manner used for old roads.

All the gates are field gates with bridle latches - there are no bridleway width gates.

From the evidence on the ground this supports the inclosure award evidence that this was a “former publick Horse, Carriage AND Drift Road” (my capitals) i.e. the route was used for all three purposes. Indeed your report states “Inclosure Award evidence is significant evidence and although in this case the accompanying Plan has not survived there is sufficient detail to contend that the route of the present PF30 is contemporary with the “public horse carriage and drift road” heretofore mentioned and as a consequence had higher rights prior to its designation as a footpath so I do not understand why you are seeking that this route be upgraded to bridleway only.

Your report then goes on to state "There are no measurements, widths or bounds to indicate it was anything more than a footpath or a bridleway.” The evidence on the ground is that the route is approximately 30 feet wide along its whole width - much wider than that required for a footpath or bridleway. You will be aware from other Inclosure Awards that public carriage roads were often set out at 30 feet wide. There is no reason for the old walls on each side of the route to be this wide for a bridleway. The walls have been in place for centuries and not recently widened. Staffordshire Moorlands Bridleways Group therefore considers that on the balance of probabilities - based on the wording of the Inclosure Award and the evidence on the ground that there is sufficient evidence that this route was a former public carriage road (plus public horse and drift road) that a Restricted Byway does subsist along the route of Bradnop FP 30.

The Parish Record card for this route was marked CRF. Your report correctly states that “The Commons, Open Spaces and Footpaths Preservation Society produced the informative pamphlet entitled “Survey of Rights of Way” which very effectively explained these acronyms. The definition of CRF was stated as “a public carriage or cart road or green unmetalled lane mainly used as a footpath or bridleway”. This was further clarified as being “highways which the public are entitled to use with vehicles, but which, in practice, are mainly used by them as footpaths or bridleways.” As a public carriage or cart road is included within this explanation then this adds weight to the route being of such a status, and therefore now being a restricted byway.

I would be grateful if you would put this additional evidence and my comments to the CROW Panel on Friday.”

"Sorry - I did not attach some of the photographs of this route. These final three are taken at the north eastern end of this FP - where it adjoins Bradnop BW 29. At the junction of FP 30 and BW 29 there is a cattle grid with a wooden bridle gate.

The other two photos are taken close to Egg Well.

The whole route is approximately 30 feet wide, part tarmacked and part a wide stone track."

- **(ix) email dated 16/06/21 from Julie Turner to David Adkins**

"I attach a photograph showing the junction of BW 29 and FP 30 taken this afternoon. BW 29 is in the foreground. Both the unclassified road Ashenhurst Lane

and BW 29 are tarmaced and in good repair and there is nothing on the ground to indicate a change of status. The route is approximately 30 feet wide. I drove along BW 29 and part of FP 30 as far as Egg Well and there were 3 other cars using this route as the same time - presumably to get to the properties adjoining the route.

The Inclosure Award description for this BW 29 (and other routes) is

A "*Publick Horse Carriage and Drift Road Number 182 called Ashenhurst Road leading out of the before mentioned Turnpike Road between an ancient inclosure belonging to the said Lawrence Stanley called Jailors Meadow on the South East and the allotment Number 181 hereinafter allotted to the said Thomas Mills on the North West from whence the said Road leads into and along the ancient Lane called Pinfold Lane to the allotment Number 180 hereinafter allotted to the said James Finney and by the East side of the allotment to the South corner thereof where the said Lane branches out into two Roads, one branch whereof lying between the last mentioned allotment Number 180 and an ancient inclosure belonging to the said Elizabeth Higginbotham called the Fair Hayes from whence the said branch leads to a place in the Parish of Leek aforesaid called Middle Cliff and the other branch said allotment number 180 between ancient inclosures to Ashenhurst aforesaid."*

Selecting the relevant wording for Ashenhurst Road and the route of BW 29 from this reads

A "*Publick Horse Carriage and Drift Road … ...called Ashenhurst Road leading out of the before mentioned Turnpike Road … …. from whence the said Road leads into and along the ancient Lane called Pinfold Lane ……...where the said Lane branches out into two Roads ……... the other branch ……..between ancient inclosures to Ashenhurst aforesaid."*

The route goes from Ashenhurst Road and then to Ashenhurst. The copy of the 1837 2" to 1 mile scale OS Map that I emailed to you a few days ago is the oldest OS map that I can find. It is a large scale map and clearly shows the route of Ashenhurst Road and BW 29 in the same location as they are today. Subsequent OS maps available online at the National Library of Scotland all show no change to the route of BW 29 from 1837 to the present day. Although there is a gap of 68 years from the Inclosure Award dated 1769 to the 1837 OS map it is unlikely that this route would alter. The County maps of an earlier date that have been submitted as part of Staffordshire Moorlands Bridleways Group evidence is the best evidence available at those dates. There is no evidence on the ground to suggest that this route has been altered since the Inclosure Award, and I would ask the question - where would an alternative route go? The Ashenhurst Road to Ashenhurst route is a direct route and there in nothing in the evidence provided that indicates that the line of the route has been changed over the years.

I attach a copy of Yates map of 1798 (enlarged) - produced only 29 years after the Inclosure Award. This shows the route of BW 29 as being in the same location as it is today.

Your reports states "The use of the term's 'carriage' and 'drift road' within the Transcript could suggest that the route had a higher status than that of a footpath or

a bridleway. Clearly if a horse and carriage were using the route then the status would more likely than not, be higher than a bridleway, and this is further strengthened by the use of the term “road” within the Transcript.”

The width of approximately 30 feet along the full length of BW 29 supports the inclosure award evidence that this was a “former publick Horse, Carriage AND Drift Road” (my capitals) i.e. the route was used for all three purposes, and that therefore BW 29 should be upgraded to a Restricted Byway. I

Your report states "The route is referred to as a “road” in its own right as well as leading out of a “turnpike road”. Clearly this would suggest that route 182 probably had higher rights than that of a bridleway although not conclusively so. The difficulty arises in identifying where exactly this route ran and if it is the same route as is the subject of the claim”. Staffordshire Moorlands Bridleways Group consider that a “road” leading out of a “turnpike road” would have public carriage rights.

Your report states “Taking the Ashenhurst branch to be the claimed route it is curious as to why, if it did have higher rights, it is not continued further on the Plan. Nothing below this point is shown. Of course, this may be due merely to the quality of the Plan in this particular section, or it could suggest that from this point on – that is the point of the “branch” - the route was of a lesser status, namely that of a bridleway or footpath.” Ashenhurst is the site of the former Ashenhurst Hall, which was a private landed estate owning a number of farms and other properties in the locality. It would have been a destination in its own right and therefore BW 29 and FP 30 would have been public carriage roads to it

The Parish Record card for this route was marked CRF. Your report correctly states that “The Commons, Open Spaces and Footpaths Preservation Society produced the informative pamphlet entitled “Survey of Rights of Way” which very effectively explained these acronyms. The definition of CRF was stated as “a public carriage or cart road or green unmetalled lane mainly used as a footpath or bridleway”. This was further clarified as being “highways which the public are entitled to use with vehicles, but which, in practice, are mainly used by them as footpaths or bridleways.” As a public carriage or cart road is included within this explanation then this adds weight to the route being of such a status, and therefore now being a restricted byway.

I would refer you to a recent Appeal to the Secretary of State - Appeal Ref: FPS/P2745/14A/7 dated 23 March 2021. This successful appeal was for the addition of a bridleway to the Definitive Map. Staffordshire Moorlands Bridleways Group consider that the Inspector’s comments are relevant in our application to upgrade BW 29 to a restricted byway. These are:

“ *In my judgement, for the purposes of the Appeal there is sufficient available evidence of the historical existence of a long-standing dedicated physical route to support the proposition that a public right of way on the ground along the line of the Application Route can reasonable be alleged to have arisen for the use of the public.*

My reasons are as follows:

a) With three exceptions, the balance of the historical mapping evidence on successive maps since at least 1765 until the most recent edition of the OS maps, together with other documentary evidence, is strongly suggestive of the fact that there has been a through route dedicated for the use of the public along the Application Route;

b) Further, although it is not conclusive evidence in itself, I consider the fact that the Application Route is a lane identified within the local community by name is also a matter of some significance.

c) The fact that the County Council acknowledges that the mapping evidence has consistently depicted the existence of the Application Route, and that there is no dispute that it exits as a way on the ground, is also of some significance. I would be grateful if you would put this additional evidence and my comments to the CROW Panel on Friday.

In conclusion, Staffordshire Moorlands Bridleways Group consider that the evidence submitted is sufficient to prove on the balance of possibility that BW 29 should be upgraded to a restricted byway as:

1. The Inclosure Award refers to the route being a "publick horse, carriage and drift road". It is incorrect to ignore the word "carriage" and state that the route is a "publick horse road" i.e. a bridleway only.

2. The route is clearly described in the Inclosure Award and is a direct route from the Turnpike Road (now the A523), along Ashenhurst Road to Ashenhurst. Old County maps show the route, the oldest OS map available shows the route in exactly the same position as the route of BW 29, and there is no change to the route in all other historical OS maps and the current edition

3. The route is approximately 30 feet wide. This is the width of many carriage roads set out in other Inclosure Awards. The route would not be this wide if were to be used by ridden horses only rather than horse drawn carriages. The evidence on the ground is that this route has remained unaltered for centuries.

4. Taking all the historical evidence together with evidence on the ground, this builds a sound case for the route to be upgraded to a restricted byway on the balance of probability.

Can you please ensure that Staffordshire Moorlands Bridleways Group case together with this additional evidence be put toward the CROW Panel so that they are fully aware of the facts in coming to a decision.

- **(x) email dated 16/06/21 From David Adkins to Julie Turner**

"Many thanks for sending in the details…I have just had a very quick look through these and will look at them in more depth later on today. I will of course add these as further supplements to the report and again verbally present these - in full - to the Panel on Friday. The details you have provided in the last emails are among the most detailed and replete I've seen in respect of any draft report and I will take the Panel through each of them as requested. As such I will ensure the case built by yourself and the Staffordshire Moorlands Bridleways Group receives the full consideration of the Panel. It is also clear that a significant amount of work has gone into the response/s and this is noted and appreciated".

- **(xi) email dated 17/06/21 From Julie Turner to David Adkins**

One final piece of information from me - this is an Information Sheet on RUPP's produced by the British Horse Society which sets out their interpretation of the legal position.

One of our researchers is working on some additional information at this moment so I will send this through to you as soon as I receive it.

Table of Additional Attachments - *to the addendum*

Attachment A	OS Map dated 1837 – submitted by Julie Turner
Attachment B	OS Map dated 1837 notes – submitted by Julie Turner
Attachment C	Yates Map 1798 – submitted by Julie Turner
Attachment D	RUPPs BHS Sheet – submitted by Julie Turner
Attachment E	RUPPs Explanation – submitted by David Adkins