

# Decision Authorisation

---

## **Definitive Map Modification Order Case 579**

## **Alleged footpath between Chestnut Avenue and Platts Lane known as Chapel Walk, Bucknall**

---

Case Reference: DMMO/579/Bucknall

---

### **The Modification Order Application**

1. The Modification Order Application ("the Application") was made by Bucknall Parish Council, seeking the addition to the Definitive Map and Statement for the area a bridleway between Chestnut Avenue and Platts Lane in the parish of Bucknall. It is dated 21 September 2022 and it was received by the County Council on 21 September 2022. The Plan which accompanied the Application shows the alleged footpath ("the application route") as a red dashed line running east from Chestnut Avenue to Platts Lane. It is abutted by "Woodview", "Plum Tree Cottage", "The Cottages" and "Cariad" to the south and by "Oaklea" and "Chapel House" to the north. The Application has been made due to the closure of the route in September 2022. A copy of the Application and the plan which accompanied it can be viewed at **Appendix 1/1-3** attached to the *Analysis of the Evidence and Recommendation Report* dated 6 March 2025.
2. The following documents accompanied the Application: copy of East Lindsey District Council planning permission dated 9 February 1998; copy of 1936 conveyance; and a map entitled Application Plan showing the position of "The Cottages" and its grounds.

### **Summary of Evidence**

3. See the attached *Analysis of the Evidence and Recommendation Report* dated 6 March 2025 for a full analysis of the evidence submitted or discovered in respect of the Application. Following the submission of the Application, 81 UEFs completed by 84 people were received in support of the Application.
4. The documentary evidence, namely Ordnance Survey maps of several series dating from 1887 to 1956 and sales particulars mainly show the application route as a fenced route which may be the entrance to a property. Two documents show the application

as a footpath. This evidence alone is not supportive of the existence of a historical public right of way in the location of the application route.

5. When establishing if a public right of way is *reasonably alleged* to have arisen by deemed dedication under section 31(1) of the Highways Act 1980 ("the 1980 Act"), a date on which the public's right to use the application route had been brought into question must be identified to enable the 20-year statutory term to be calculated retrospectively from that date. The owners of "The Cottages" challenged users of the application route in September 2022 causing the submission of the Application in September 2022. This establishes the 20-year statutory term September 2002 – September 2022, which is referred to hereafter as "the relevant statutory term".
6. The user evidence suggests that there are 32 instances of 20 years' *actual use and enjoyment* of the application route on foot by *the public at large* and *as of right* spanning the relevant statutory term. There are a further 39 instances of *actual use and enjoyment* of the route on foot by *the public at large* and *as of right* covering parts of the relevant statutory term. Frequency of use of the application route on foot varies from three times a day to yearly. This includes eight witnesses reporting to have used it on foot more than once a day, 18 had used it daily, 21 had used it more than once a week, and nine had used it weekly.
7. There have been three instances of *actual use and enjoyment* of the application route on bicycles by *the public at large* and *as of right* covering parts of the relevant statutory term. Frequency of use of the application route on a bicycle varies from four times a week to twice a year. There has been one instance of *actual use and enjoyment* of the application route on a horse by *the public at large* and *as of right* covering parts of the relevant statutory term. Frequency of use of the application route on a horse is monthly.
8. Following complaints by the landowner of "The Cottages" in 1988 regarding use of the application route on a bicycle, Traffic Regulation Order notices were published in the London Gazette to prohibit the riding of any pedal cycle or tricycle on the length of the application route. The Order was made on 11 November 1988 under sections 1(1), 2(1) to (3) and 4(2) of the Road Traffic Regulations Act 1984. The Traffic Regulation Order was in force throughout the relevant statutory term meaning bicycle use cannot give rise to a public right of way.
9. The evidence suggests that the use of the application route by the user witnesses on foot spanning the relevant statutory term was predominantly *without interruption* in the meaning of section 31(1) of the 1980 Act.
10. There is a distinct lack of evidence on the part of the people who previously owned the land that is subject to the application route throughout the statutory term to support that they had no intention of dedicating the route as a public right of way other than the complaints regarding bicycle use.

11. Seventy-seven of the user witnesses and four other people who had written to the County Council about the application route suggested that the route had been used by more people than just those who had completed UEFs or made comments which may support the reputation of the route being a public right of way.
12. Finally, the Official Copy of the Conveyance dated 20 January 1936 for “Oaklea” includes a plan showing a Public Footpath on the application route, and the application route was included as a ‘footpath’ in the Highways Maintenance Atlas 1990 which may add to the reputation of the route being a public footpath.

## **Recommendation**

13. It is my view that the evidence demonstrates that the application route has been subject to sufficient *use and enjoyment* on foot by *the public at large, as of right, and without interruption*, spanning the relevant statutory term September 2002 – September 2022 to *reasonably allege* that a public footpath has arisen by deemed dedication under section 31(1) of the Highways Act 1980.
14. **I, therefore, recommend that a definitive map modification order be made under section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement for the area a public footpath along the length of the application route, as shown in Appendix 7/1 attached to the *Analysis of the Evidence and Recommendation Report* dated 6 March 2025.**
15. Paragraph 4.16 of the Department for Environment, Food and Rural Affairs’ *Rights of Way Circular (1/09)*, which provides guidance for surveying authorities, suggests that a definitive map modification order should include information about the width that is to be added to a definitive map and statement.
16. The widths given in the UEFs of the 81 people who had used the application route during the relevant statutory term range from 0.6 metres (2 feet) to 8 metres (26 feet). 42% of the users recorded the width as between 1 and 1.2 metres (3 to 4 feet). It is likely that the widest of the widths recorded in the UEFs include the vehicular access to “The Cottages” from Platts Land and to “Oaklea” from Chestnut Avenue rather than the route which people had used.
17. Thirteen of the witnesses suggest that the application route is wider at the Platts Lane end and narrows until it reaches the Chestnut Avenue end.
18. The site visit carried out by the County Council in February 2023 found that the width of the application route varied between 0.9 metres (3 feet) and 1.5 metres (5 feet) as shown in **Appendix 7/2** attached to the *Analysis of the Evidence and Recommendation Report* dated 6 March 2025.

19. I, therefore, recommend that the definitive map modification order records the following widths commencing at Platts Lane:
- 1.50 metres for 18.5 metres (point A to B)
  - 1.10 metres for 6.50 metres (point B to C)
  - 0.9 metres for 19 metres (point C to D)
  - 1.2 metres for 21 metres (point D to E)
  - 1.00 metres for 22 metres (point E to F)
  - 1.10 metres for 9 metres (point F to G)
  - 0.80 metres for 9 metres (point G to H)
  - 1.30 metres for 15 metres (point H to I)
  - 0.9 metres for 27.5 metres (point I to J)
  - 1.10 metres (point J)
20. No limitations should be recorded in the definitive map modification order, as the evidence suggests that there were none located on the application route during the relevant statutory term.

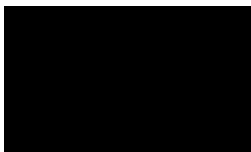
*Julie Hulme*

**Definitive Map Officer  
Countryside Services  
4 March 2025**

## **Authorisation**

I authorise the making of a definitive map modification for the route applied for, which is shown in the plan at **Appendix 7/1** attached, in line with the above recommendation.

**Signed:**



**Name:** Andrew Pickwell

**Job title:** Senior Definitive Map Officer

**Dated:** 20 March 2025