

24th March 2015**Agenda Item:****REPORT OF CORPORATE DIRECTOR ENVIRONMENT AND RESOURCES**

**PROPOSAL: APPLICATION TO ADD A BRIDLEWAY TO THE NOTTINGHAMSHIRE
COUNTY COUNCIL (AREA 3) DEFINITIVE MAP AND STATEMENT**

LOCATION: LAND AT ANNESLEY / GREASLEY

APPLICANT: MR MARK COPELAND, BAGTHORPE, NOTTS

Purpose of the Report

1. To consider an application made in 2008 by Mr Mark Copeland of Bagthorpe, Nottinghamshire to record a route in the parish of Annesley as a public bridleway. A map of the general area is shown at Appendix 1 with the route being applied for shown as a red line between points A1-B-C-D.
2. The effect of this application, if accepted, would be to add a public bridleway to the Definitive Map and Statement for the area. The application route leads from Annesley Bridleway No.1 near Felley Mill and proceeds along a surfaced track which is mainly designated as a definitive path, Annesley Footpath No.2, before terminating at the junction with Weavers Lane (Annesley Bridleway No.2).
3. This report also gives consideration to two other routes, one between points A2-B and one between points C-E-F-G (shown as yellow lines on Appendix 1). These routes are not part of the application, but evidence has been discovered which suggests that additional higher public rights may exist on these connecting routes.

The Law

4. The application was made under the provisions of the Wildlife and Countryside Act 1981 (WCA81). Section 53(3)(b) of WCA81 requires the Surveying Authority (Nottinghamshire County Council) to modify the Definitive Map and Statement following "the expiration in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path" (i.e. a footpath or bridleway, or as a restricted byway).
5. In addition, under Section 53(2)(b) of WCA81 the surveying authority has a duty to keep the Definitive Map and Statement under continuous review and to make such modifications to the Definitive Map and Statement as appear to be requisite in consequence of the occurrence of events described in Section 53(3)(c)(i); namely "the discovery by the authority

of evidence which (when considered with all other relevant evidence available to them) shows: that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist". The case of *R v SSE ex parte Bagshaw and Norton* (1994) has clarified the law in respect of the meaning of 'subsists' (Test A) and 'reasonably alleged to subsist' (Test B);

- 'Test A' requires that the claimed right of way subsists i.e. clear evidence in respect of the existence of the claimed right of way and no credible evidence to the contrary.
 - 'Test B' requires that it is reasonable to allege that a right of way subsists i.e. even if the evidence is finely balanced, but there is no incontrovertible evidence that the claimed route could not subsist, then the test is met and an Order should be made.
6. Section 31 of the Highways Act 1980 (HA80) raises a statutory presumption that a right of way has been dedicated as a highway if the route has been used by the public 'as of right' and without interruption for a period of 20 years unless there is sufficient evidence that there was no intention by the landowner during that period to dedicate it. For use to be considered 'as of right' it must have taken place without force, secrecy or permission.
 7. If it is accepted that dedication may be presumed at law, consideration must also be given to the category of highway that is believed to exist i.e. footpath, bridleway, restricted byway or a byway open to all traffic. This issue should be based on an evaluation of the information contained in any documentary and/or user evidence.
 8. Should the test under Section 31 HA80 fail, then it may be appropriate to consider the dedication of the way at common law. Dedication at common law requires consideration of three issues: whether any current or previous owners of the land in question had the capacity to dedicate a highway, whether there was express or implied dedication by the landowners and whether there is acceptance of the highway by the public. Evidence of use by the public 'as of right' may support an inference of dedication and may also show acceptance by the public.
 9. Where use is being claimed through cycle use, it is appropriate (when considering statutory claims under HA80 s.31) to infer the form of dedication which is least burdensome to the landowner (per Whitworth v Secretary of State for Environment, Food and Rural Affairs [2010]). In rights of way terms, cyclists are entitled to use byways, restricted byways, and bridleways. The least burdensome of these on the landowner is that of public bridleway.

Information and advice

10. The claimed route A1-B-C-D falls entirely within the ownership of the Annesley Estate apart from one short section which runs under the M1 motorway (Highways Agency). The claimed route subsists along a stone surfaced track approximately 3,130 metres long.
11. The Application is supported by 50 Public Rights of Way User Evidence Forms. However, 31 forms also indicate use on a slightly different route i.e. A2-B-C-D or of both routes. The 'alternative' path follows the route of Annesley definitive footpath No.2 for a short distance as it runs along a field edge and through a small area of woodland.
12. The Land between points C-E-F-G is in the ownership of several parties and includes woodland leased to the Forestry Commission. The definitive footpath between points E-F-G has displayed evidence of equestrian use on the ground during officer site visits.

13. A series of photographs showing relevant parts of the routes are shown at Appendix 2.

Historic Documentary Evidence

14. As is standard procedure, a number of archive documents were examined in order to establish whether there is any evidence for pre-existing public rights of way over the claimed route. These documents comprised:

- Chapman's Map of Nottinghamshire (1774)
- Estate plan of Annesley, Annesley Woodhouse and Felley (1817)
- Plan of the Watnall Chaworth Estate belonging to Lord Viscount Melbourne (1825)

- Sanderson's Map 'Twenty Miles Round Mansfield' (1835)
- Ordnance Survey 2" map (published 1836)
- Lothian of Melbourne Estate sketch plan 1867
- Schedule of the Annesley Estate 1867
- Plan of the Annesley Estate 1870
- Plan of the Annesley Estate 1874
- Ordnance Survey 1st Series maps (1880)
- Ordnance Survey 2nd Series maps (1900)
- Ordnance Survey 3rd Series maps (1915)
- Annesley Parish Schedule 1952
- Greasley Parish Schedule 1953

Chapman's Map of Nottinghamshire 1774 (Appendix 3)

15. John Chapman (a land surveyor) undertook the first survey of Nottinghamshire using 'modern' triangulation methods. His map denotes a "bridle road" running directly between Beauvale and Annesley. This corresponds with a route running through point G (Appendix 1) and along Kennel Lane to Annesley Hall near point D. The key as contained in the map lists four categories of roads i.e. Turnpike Roads, Inclosed roads, open roads and **bridle roads**. It is reasonable to presume that Chapman regarded all the 4 categories of roads as public routes. It is noted that Chapman's map does not denote any route between points A-B-C.

Chaworth-Musters Estate Plan 1817 (copyright protected)

16. This estate plan was produced for the Chaworth Musters Estate (cartographer unknown) and is held within the Nottingham University manuscripts collection. A track/road is depicted between points A2-B-C. There is some evidence of a route between points C-D but this is only depicted intermittently. A route between points C-E is denoted as a "Bridle Road" and appears to lead towards Beauvale and which corresponds with the bridle road depicted in Chapman's Map. However, this Estate Plan gives no specific indication as to the public/private status of any depicted route.

Plans of Lord Viscount Melbourne's Estate 1825 (Appendix 4)

17. These estate plans show the situation prior to the construction of the 'New Road' between Beauvale Priory and Watnall. The 'General Plan' (Appendix 4.1) being a smaller scale, depicts route F-G in the same manner (coloured ochre) as other public carriage roads in the

area. The larger scale 'Watnall Chaworth' estate (Appendix 4.2) plan depicts route F-G as a continuation of the public carriage road (New Road) to Moorgreen, but is denoted as a 'Bridle Way' at its eastern end appearing to lead towards Hucknall.

George Sanderson's map 'Twenty Miles Round Mansfield' 1835 (Appendix 5)

18. George Sanderson's map was a commercially available map produced from a survey carried out between 1830-34. The map depicts a "cross road" (i.e. a minor public road) between Felley and Annesley between points A2-C. Such categorisation suggests that the route was considered to be a minor public road. Sanderson's map also shows that the claimed route alignment A1-B-C did not physically exist at that time. However, both routes are so similar they are presumed to have served the same purpose, albeit in a different position due to changes in the road alignment. Sanderson's map also depicts a 'cross road' between points C-D along Kennel Lane as per the route being claimed and depicts a 'cross road' between points C-E-F-G which corresponds with the 1817 Estate Map.

Ordnance Survey 2" Map 1836 (Appendix 6)

19. The 1836 map depicts a road/track between Felley and Annesley on the same alignment as the one shown in Sanderson's map. The map also depicts a fork in the route near to point D south of Annesley Hall. This 'forked section' is no longer in existence, but it does explain the northernmost alignment of the 'Bridle Road' as depicted in 1774 by the Chapman Map. The 1836 OS map therefore confirms that the northern end of Kennel Lane undertook a change in alignment between 1774 and 1836 leading to the present claimed route. Due to the relatively small scale and quality of the 1836 OS map, it is not possible to discern any particular detail between points C to G. The OS map does not provide any information as to the status of any depicted route.

Lothian Estate sketch plan 1867 (Appendix 7)

20. This sketch plan comes from the Lothian Estate collection held at the Nottinghamshire Archives and relates to land around the High Park Wood area (i.e. between points E-F-G). The plan is titled "Plan of High Park Wood shewing the two Bridle and Foot Roads to Annesley and Felley Mill". It is noted that one of these "Bridle and Foot Roads" is currently recorded as Greasley Bridleway No.9, while the other is currently recorded as Greasley Footpath Nos.10 and 11. The latter route is also annotated as "Bridle and Foot Road"... "From Watnall"... "to Annesley". The plan contains a note referring to a gate at point E which reads "Bridle Gate only, the large gate having been removed by me in 1852". The note then identifies other gates in the vicinity which were "being stopped annually" (n.b. closing a gate or locking it once a year is a common practice intended to interrupt use and prevent public highway rights from being acquired over private land). This would suggest that unlike the other gates, the bridle gate at point E was not "stopped" because it was regarded as a public right of way. It is also more likely than not that the "Bridle and foot road" also continued along Kennel Lane as this is the most direct route to Annesley. N.B. the wording on the plan shown as Appendix 7 has been rotated through 180 degrees so that it can be read in the same orientation as the plan.

Chaworth-Musters Estate Plan of Annesley 1870 (copyright protected)

21. This plan is held within the Nottingham University manuscripts collection and depicts a road/track running between Felley and Annesley along the claimed alignment A2-B-C-D, and also between points C-E. The plan also depicts a route annotated as the “line of old road” slightly to the north of the claimed route.

Chaworth-Musters Estate Plan of Annesley 1874 (copyright protected)

22. This plan is held within the Nottingham University manuscripts collection and again confirms the existence of a road/track between points A2-B-C-D and also between points C-E. The “old road” as shown on the 1870 map is no longer depicted. At point E the route is annotated with the wording “to Watnall” which suggests that it formed part of a longer route between parishes and is therefore indicative of a public highway.

Chaworth-Musters reference book of the Annesley Estate 1867 (copyright protected)

23. This book contains of a list of tenants and land and depicts fields numbered in the same manner as those shown on the 1870 and 1874 estate plans. The road/track between Felley and Annesley (A2-B-C-D) and the road/track leading to Greasley (C-E) are listed as “Occupation Roads” i.e. for use of the owner/occupier. However, it is also notable that there is no reference to any “public” footpaths or bridleways on any land contained in the reference book. This suggests that minor highways such as footpaths bridleways were disregarded for the purposes of the register.

Ordnance Survey 1st series maps 1879-1880 (Appendix 8)

24. The 1st series OS maps depict a road/track between Felly and Annesley on alignment A2-B-C-D. It is noted that where the road/track passes Annesley Lodge (near point C) the route splits to two for a short distance (as per the 1870 Estate Plan). A path/track is also depicted between points C-E-F-G.

Ordnance Survey 2nd series maps 1916 (Appendix 9)

25. The 1916 OS maps depict a road/track on the same alignment as the 1st Series (A2-B-C-D), however the route near Annesley Lodge is now annotated “B.R.” i.e. a bridle road. The field edge path/track between points C-E on the 1st Series map now appears to run through the adjacent fields (as per the current definitive Annesley Footpath No.3) and is annotated as a footpath “F.P”. It is noted that from 1888 Ordnance Survey maps carried a disclaimer stating that the depiction of any road, track or path does not constitute evidence of the existence of a public right of way, and therefore the OS map can only be considered to indicate the presence of a physical feature.

Ordnance Survey 3rd series maps 1938 (Appendix 10)

26. The 1915 OS maps depict a road/track between points A2-B-C-D. The ‘split’ at Annesley Lodge has disappeared and there is no “B.R.” annotation on the route.

Annesley Parish Schedule 1952

27. The parish schedule was prepared for the identification of public rights of way in accordance with the National Parks and Access to the Countryside Act 1949 and was intended to identify all public rights of way to be included on a draft Definitive Map. The schedule identifies the track between points A2-B-C-D as being a “**Bridle Road** and Footpath”. The grounds for inclusion are given as “uninterrupted user by public for over 20 years” and “Shown as such on Parish Ordnance Map...Gives access to Moorgreen, Beauvale and Misk Hills (from Annesley)”. Following advertisement of the Draft Map, an objection was received from Mr Radford of Felly Mill Farm in respect of the A2-B-C part of the route. Mr Radford stated that the route between Felly Mill and Annesley Lodge was a public **footpath** and not a bridleway. A subsequent memorandum from the County Surveyor to the County Clerk stated “I see no reason why the present classification [bridleway] should be altered unless evidence to the contrary can be produced”. Although there is no information as to what evidence was subsequently considered, records show that by November 1959 it had been decided to “Amend [the] status from ‘Bridle Road’ to ‘Footpath’ of that part of the path from Weaver’s Lane to the ford near Ferry [Felley] Farm”. It is notable that no objections were received in respect of the remainder of the route between points C-D from being recorded as a bridleway. A schedule publicising the determination of all changes in Area 3 was advertised in November 1959, however, the route in question is not listed. The route was subsequently recorded as a footpath on the Provisional Map and on the Definitive Map itself in September 1961.
28. The Parish Schedule also identifies a “**footpath**” between points C-E. The grounds for inclusion are given as “Uninterrupted user by public for over 20 years”. The schedule does not contain any reference to route C-E carrying public bridleway rights.

The Greasley Parish Schedule 1953

29. The corresponding Parish Schedule for Greasley identifies a “**Bridle Road** and Footpath” between points F-G. This route is included on grounds of “uninterrupted user by public for indefinite years”. The route was subsequently recorded on the Definitive Map as Greasley **Footpath** No.10. No information is available as to what evidence brought about this change in status. A “**footpath**” between points E-F is included in the schedule on grounds of “Uninterrupted user by public for indefinite years”. This route was subsequently recorded on the definitive Map as Greasley Footpath No.11.

User Evidence

30. As stated previously, 50 Public Rights of Way User Evidence Forms were submitted in support of the application route A1-B-C-D. However, 31 of those forms also indicate use on a slightly different route A2-B-C-D. This alternate route follows the line of the already recorded Annesley Footpath No.2 which runs along a field edge and through a small area of woodland.
31. The information contained in the user evidence forms and interview transcripts relate to the presumed dedication of a highway based on uninterrupted use over a twenty year period. This period has to be calculated retrospectively from the date when the right of the public to use the way was brought into question.

32. Relevant to this, it is noted that on the 24th March 1998, the Annesley Estate, deposited a Statutory Declaration on the land subject to the claimed route. The Declaration (under S.31(6) of the Highways Act 1980) sets out any ways that are admitted to be dedicated as highways and thereby demonstrate that no other ways have been dedicated. The declaration does not identify routes A1-B-C-D or A2-B-C-D as being dedicated as public bridleways. Effectively, the statutory declaration brings any public use of those routes on horseback or on cycles into question and thereby sets a date from which the statutory 20 year period can be calculated. Accordingly, the twenty year period runs from 1978 up to the time of the declaration in 1998. The deposit remained effective for 10 years i.e. until 23rd March 2008 but was not renewed thereafter. A copy of the Statutory Declaration map is attached at Appendix 11.
33. According to the information submitted in the user evidence forms, 8 users (by aggregating the individual periods of use) can demonstrate continuous use of route **A1-B-C-D** throughout the specified 20 year period on horseback and cycles. Frequency of claimed use varies from several times per week to monthly. A chart showing overall use is shown as Appendix 12.
34. For route **A2-B** continuous use can be shown by 8 users (by aggregating the individual periods of use) throughout the specified 20 year period on horseback and on cycles. The frequency of claimed use varies from several times per week to monthly. For the route **B-C-D**, 10 individuals can demonstrate continuous use throughout the relevant period. A chart showing overall use is attached at Appendix 13.
35. Prior to the Modification Order Application being submitted, there is no evidence that use was exercised by force, in secret or with permission, or that any signs or notices were erected by the landowner to indicate there was no intention to dedicate a public bridleway. However, it is noted that on inspection in 2008, public footpath signs (erected by the County Council) were present on the claimed route, and that some horse riders refer to these signs in the apparent but mistaken belief that public footpaths equate to a legal right of way for horse riders.
36. In 2008 the County Council received complaints from a number of horse riders regarding the placing of logs by a 'pedestrian gap' on Kennel Lane (Appendix 2.4). This action appears to have triggered the application being made. There is no evidence of any obstructions on the route during the relevant 20 year period 1978-1998.
37. Although there have been many reports of riders being challenged along Kennel Lane (C-D) from 2008 onwards, no evidence has been discovered of any verbal challenges being made towards horse riders or cyclists during the relevant 20 year period 1978-1998.
38. In respect of the claimed route A1-B-C-D, and the alternate route A2-B-C-D, many who completed user evidence forms refer to using the routes with friends, family members and riding groups. Almost all refer to regularly seeing other horse riders and cyclists on the route although they do not always specify when.
39. In late 2013 following alleged verbal challenges by an un-named person, 14 horse riders wrote to the County Council giving evidence in support of the application route. Although all these riders claim to have used the route in person none were prepared to complete a user evidence form when invited to do so. Accordingly, their evidence has been given little weight.

Consultation

40. Following consultation in respect of the application route **and** the additional connecting routes discovered when researching the claim, the following comments / objections were received (officer responses are shown in italics):

41. Savills Chartered Surveyors (representing the Annesley Estate)

- Objection - the historic documents refer to paths and roads but do not specify public use.

Historic maps rarely state if a depicted route is public or private (with the exception of Inclosure Awards), however, when all the available evidence is combined together then 'Test A' is met (as set out at paragraph 5) i.e. that a right of way subsists and there is no incontrovertible evidence that the claimed route could not subsist.

- Coupled with the Statutory Declaration and statements made in 1995/6, there is no case for a public route to be created.

*Notwithstanding the historic evidence, under the relevant procedure (Highways Act 1980 S.31(6)), it is the Statutory Declaration and not the preceding statement and map which provides the relevant evidence of intention at law. Accordingly, there is sufficient user evidence (8-10 evidence forms) to indicate use of the claimed route **prior** to the Statutory Declaration being lodged on 24th March 1998.*

42. Property Owners, Kennel Lane - Objection

- We object to the proposal to register Kennel Lane as a public bridleway
- The existing footpath is well used by the general public. At weekends it is used by ramblers, dog walkers, casual walkers, families with pushchairs, runners, horse riders and cyclists. In the evening there are some walkers but more generally cyclists.

Ongoing use by horse riders and cyclists appears to be acknowledged.

- After every weekend there is an incredible amount of litter left by the public. We spend time before work clearing cans, bottles, packaging, nappies, doggy bags, tissues, and fast food packaging.

Any littering due to public access is very regrettable. The owners have been informed that the District Authority (Ashfield District Council) have responsibility for the removal of litter on all public highways (including public footpaths and bridleways).

- The properties on Kennel Lane have well-kept lawns on both sides of the footpath. Riders allow their horses to trample these with total disrespect. We believe this problem would get worse if the footpath was to become a bridleway.

Although the County Council is sympathetic on this point, it is not something that can be taken into account when deciding the application. Should the problem arise again, the landowners may consider erecting an appropriately worded sign reminding users to keep to the public right of way.

- We have a major problem with illegal motorbikes and quad bikes roaring past our property at excessive speed endangering members of the public. Making this route an official public bridleway would encourage more of this as access would be made easier. Illegal motorbikes are a constant problem in the area and we get no support from the police.

Again, this point, it is not something that can be taken into account when deciding the application. The owners have been advised to report all such instances to the police who are the appropriate agency to take action in relation to such illegal activities.

- Horse riders would treat the surrounding area as open access and would roam anywhere.

The landowner may take a variety of actions to protect his land against trespass, however, this point is not something that can be taken into account when determining whether public rights already exist.

- The footpath should be left as it is as it is already used by horse riders. Making it a public bridleway will just increase the problems already outlined.

It is not anticipated that changing the legal status of the route will lead to a significant increase in use. Furthermore, the County Council is required to update the Definitive Map to reflect the public's rights, as evidenced by the equestrian use.

43. Property Owner, Kennel Lane

- Objection - *No reasons stated.*

44. Property Owner, Kennel Lane

- No objection - Making the route into a bridleway is long overdue. It is a wonderful route and gets riders off the roads which is important for safety.
- It would be a safe route for young riders to use alone.
- The grass verges opposite the Kennel Lane properties are mown by the residents. Riders currently allow their horses to canter on the grass causing damage. Riders should stick to the track.
- The 'horse stile' at the side of the gate (Appendix 2.3, 2.4) could trip a horse and cause an accident. Although this stile was erected to restrict motor bike riders it is ineffective in this respect. I have sympathy with the landowner on this issue but the 'horse stile' should be removed before a rider has an accident.

Although no other complaints have been received regarding this structure, no authorisation has been given for it (as is required on public rights of way under Highways Act 1980 S.147). Officers will discuss this matter further with the landowner.

- Riders should not stray off the track and into the wood. The landowner sometimes has organised shoots in the wood. A game keeper also challenges horse riders on the route.
The right of way being claimed follows a defined route outside of the woodland on a recorded and well used public footpath. No historic rights of way issues have been reported in relation to organised shoots in the woodland. Any current challenges made by the game keeper do not affect use of the route within the relevant 20 year period 1978-98.

45. Mr Hodgkinson (owner of the field crossed by Greasley Footpaths Nos. 10/11)

- No objection - as long as barriers are in place to restrict illegal use by motor/quad bikes.
To control access it is proposed to install a new bridle gate at point G to replace an old field gate which is currently in situ. Some minor vegetation clearance work would also be required.

46. Highways Agency (M1 underbridge)

- No objection.

47. Ashfield District Council (Planning Committee)

- The Council's Service Lead – Waste and Environment confirms that she has no objections to the proposal.
- Councillor D Davis commented; 'I am in support of the additional proposal'.

48. Broxtowe Borough Council

- Footpath No.10 has suffered from abuse by joy riders driving cars down the track and burning them out, and from off road motor cyclists using the track to gain access to the adjacent woodland. A barrier was erected by local landowners about 9 years ago which restricted access to all but walkers and this appears to have been effective in preventing the anti-social behaviour mentioned from occurring. The barrier has been damaged on two occasions and has been repaired by Broxtowe Borough Council at the request of the landowner of Beauvale Abbey Farm who owns/rents part of the adjacent woodland.

At law, this point is not something that can be taken into account when determining whether public rights already exist.

- Before opening up access to create a bridleway, consideration needs to be given to how motor cycles, quad bikes and joy riders will be prevented from accessing the large expanse of woodland that runs alongside the footpath.

This point is not something that can be taken into account when deciding whether or not the route carries public bridleway rights, however, as previously stated it is proposed to install a new bridle gate at point G to replace an old field gate which is currently in situ.

49. Greasley Parish Council comments as follows;

- Footpath No.3 in the parish of Annesley no longer exists. It is just about possible to walk a straight line through the trees so long as you stride over ridges and rows of old tree stumps left behind after felling in the distant past.

Footpath No. 3 is available to use through the woodland, however the public appear to also use an adjacent (non-definitive) surfaced path out of convenience.

- Footpath No. 11 is used by some horse riders as it passes through the wood. The path is bare earth and is muddy in wet weather. If this path was re-designated as a bridleway then an increase in horses would probably damage the path surface to the detriment of walkers. At its present width, the path would not be wide enough for ridden horses and walkers and cyclists to pass each other safely.

It is not anticipated that changing the legal status of the route will lead to a significant increase in use though some clearance work may be necessary to remove undergrowth in places.

- Footpath No.10 is a bare earth path and would probably suffer damage by horses particularly in wet weather. The path exits onto Narrow Lane by a narrow gap, too narrow for horses to get through, although horses do ride around onto the adjacent field to use the path.

Again, it is proposed to install a new bridle gate at point G to replace the old field gate which is currently in situ. Potential damage to the surface of the route is not something that can be taken into account when determining whether public rights already exist.

- There is already a circular route for horse riders via Annesley Bridleway No.1 (Weavers Lane), Felley Mill and Kennel Lane. This proposal would require Kennel Lane to be designated as a Bridleway. To add the link along footpath No. 10 and 11 for walkers and horses would probably damage the surface of the path further, particularly in wet weather, to the detriment of walkers, unless the paths are hard surfaced and widened.

The presence of other routes in the area is irrelevant to whether a public bridleway already exists.

50. Hillary Limb – British Horse Society

- No objection to route A1-B-C-D - this route has been well used by horse riders for many years.

- The application route is a hard surfaced shingle lane and as such bridleway designation would have no detrimental effect on the surroundings.
- I rode this route between 1986 and 1989.
- The route makes an excellent circular route between Annesley Bridleways No.1 and No.4. It would add considerable benefits to the local route network, enabling horse riders and cyclists to use the route legitimately.
- I believe that Kennel Lane was wrongly classified as a footpath in the first instance, the fact that it is called a lane should have been indicative of a status above footpath. As I am sure you are aware, the original parish claim form for this path (Annesley Parish Schedule) states it as being a bridle road, linking Weavers Lane and Felley Ford.

51. Nottingham Footpaths Preservation Society

- No objection to upgrading of Annesley Footpath No.2 to a bridleway provided it follows the claimed route.
- We object to upgrading of the western end of Annesley Footpath No.2 [A2-B] and Annesley Footpath No.3. These are popular and well walked paths. We believe that the routes are only suitable for foot use, and are unsuitable for equestrian and cycle use. Footpath No.3 is very narrow and soft surfaced. There is an ongoing problem with illegal use by cyclists, trail and quad bikes and some horses which has led to surface and safety issues. We request that the authority considers the use of furniture to minimise these illegal activities.

The suitability of a route is not something that can be taken into account when determining whether public rights already exist.

52. Ramblers Association

- We are prepared to accept the application route A1-B-C-D as a bridleway subject to measures to prevent illegal access by motorbikes thereby making Weavers Lane and Kennel Lane safe to walk, ride and cycle.

The County Council is statutorily required to determine whether, on the evidence, public rights already exist, in accordance with its duty to keep the Definitive Map up to date in terms of accurately recording the public's rights. Again, it is proposed to install a new bridle gate at point G to replace the old field gate which is currently in situ.

Reason/s for Recommendation/s

Route A1-B-C-D

53. The only available documentary evidence for Section A1-B-C, is the 1916 Ordnance Survey Plan (Appendix 9) which denotes the route as a 'Bridle Road'. However the evidence is much stronger for the C-D section of the route which is depicted in several sources as being part of a public bridleway between Annesley and Beauvale. There is no evidence of any rights being subsequently stopped up on this route. For this reason, the historic evidence also demonstrates that public bridleway rights subsist on route C-D and it would therefore be appropriate to make an order seeking to record this route as a public bridleway.

54. The case for recording this route as a public bridleway is also supported by 8 user evidence forms for the A1-B section and 10 for the B-C-D section, suggesting that these sections should be deemed to have been dedicated as public bridleway by virtue of uninterrupted use 'as or right' throughout the twenty year period 1978-1998. Prior to the Statutory Declaration in 1998, there is no evidence to indicate that the landowner took steps (notices, barriers or verbal challenges) to indicate he had no intention to dedicate a public bridleway. For this reason, the user evidence demonstrates that public bridleway rights subsist and it would therefore be appropriate to record this route as a public bridleway.

Route A2-B

55. The case for recording this route as a public bridleway is supported by 8 user evidence forms thereby suggesting that a statutory dedication has taken place by uninterrupted use 'as of right' throughout the twenty year period 1978-1998. Prior to the Statutory Declaration in 1998, there is no evidence to indicate that the landowner took steps (notices, barriers or verbal challenges) to indicate he had no intention to dedicate a public bridleway. For this reason, the user evidence demonstrates that public bridleway rights subsist and it would therefore be appropriate to make an order seeking to record this route as a public bridleway.

Route C-E-F-G

56. The case for recording this route as a public bridleway is supported by the documentary sources which, when considered together, suggest that bridleway rights exist between points C-G. No evidence has been found to suggest that bridleway rights have been subsequently stopped up. Although the alignment of this ancient bridleway may have altered between points E-F-G sometime between 1774 (Chapman's Map) and 1835 (Sanderson's Map), the available evidence indicates that a bridleway has been on the C-E-F-G alignment for approximately 179 years. For this reason, the evidence demonstrates that public bridleway rights subsist and it would therefore be appropriate to make an order seeking to record this route as a public bridleway.

Statutory and Policy Implications

57. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION/S

58. It is **recommended** that Committee resolve:

- a) To accept the claim for route A1-B-C-D and authorise officers to make a Definitive Map Modification Order seeking to record it as a public bridleway

and

- b) to authorise officers to accept the additional user evidence for route A2-B and authorise officers to make a Definitive Map Modification Order seeking to record it as a public bridleway

and

- c) to authorise officers to accept the additional historic evidence for the route C-E-F-G and authorise officers to make a Definitive Map Modification Order seeking to record it as a public bridleway.

Neil Hodgson
Service Director Highways

For any enquiries about this report please contact:

Eddie Brennan (0115 9774709)

Definitive Map Officer

Constitutional Comments (SMG 03/03/2015)

The proposals in this report fall within the remit of this Committee.

Financial Comments (SES 02/03/15)

There are no specific financial implications arising directly from this report.

Background Papers

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- a) Modification Order Application case files (3 No.)

Electoral Division(s) and Member(s) Affected

Kirkby in Ashfield South	Councillor Rachel Madden
Beauvale	Councillor John Handley