

Legislation: Wildlife and Countryside Act 1981
Section: 53 – Duty to keep Definitive Map and Statement under continuous review

Application: Addition of a Right of Way
~~Upgrade of existing Right of Way (E.G. Footpath to Bridleway)~~
~~Downgrade of existing Right of Way (E.G. Bridleway to Footpath)~~

Test: Does the evidence show that the proposed rights exist or can be “reasonably alleged” to exist?

Case: Ethel Avenue, Carlton

List of evidence and summary of evidence:

Documentary – Finance Act map of relevant part of Carlton showing all of claimed route as public highway. Existence of residences suggests route up to Ethel Avenue / Emmanuel Avenue junction (& also Emmanuel Avenue itself) is unregistered carriage road i.e. Byway, but Byway rights extinguished via NERC/route doesn’t fit Byway definition of WCA 1981 Section 66 therefore Restricted Byway is appropriate status.

Land Registry document refers to 1945 conveyance of part of Kendrick Road section to Gedling BC (originally Carlton UDC) and suggests public use / public repair.

User evidence – 23 evidence forms, showing use on foot / cycle going back to 1970. Unsubstantiated claims that access has not always been available, but this is not significant in light of documentary evidence.

Documentary / user combination indicates bridleway is appropriate status for Ethel – Kendrick.

Is the required test met? Yes **A** - where the proposed rights exist
B - where the proposed rights are reasonably alleged to exist

Claim assessed by Tim Hart

Pre-consultation result

Objection from developer. Petition from local residents.

Agreed by Cllrs Weisz and Wilkinson that Officers should proceed directly to Order making stage without going to Ctte.

Decision Proceed to: a) ~~Committee Report~~
b) Order making

If straight to order making, approval by;

Elected member(s)	Cllr Weisz (telephone call by NL on 10/03/2015). Cllr Roy Allan (email NL 13/03/2015).
P&L Ctte Chairman	Cllr John Wilkinson (telephone by NL on 10/03/2015)
Team Manager	Neil Lewis (18/03/2015)
Group Manager	Gary Wood (26/03//2015)

Please attach a plan of the proposed right of way.