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## Order Decision

Inquiry Opened on 24 October 2017

Site visit made on 26 October 2017

**by Susan Doran BA Hons MIPROW**

**an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs**

**Decision date: 29 November 2017**

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### Order Ref: ROW/3168535

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as The Cheshire West and Chester Borough Council (Upgrading of Footpath No 2 Bradley to Bridleway) Modification Order 2014.
- The Order is dated 7 October 2014 and proposes to modify the Definitive Map and Statement for the area by upgrading to bridleway the footpath shown in the Order plan and described in the Order Schedule.
- There were 2 objections outstanding at the commencement of the Inquiry.

**Summary of Decision: The Order is confirmed subject to a modification set out below in the Formal Decision**

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### Procedural Matters

1. This case concerns a route running in a generally easterly direction between Bradley Green (at point A on the plan attached to the Order) and Bradley Farm Lane at the parish boundary with Tushingham-cum-Grindley (at point B). The route passes Meadow House<sup>1</sup>, The Spinney<sup>2</sup> and Yew Tree Farm<sup>3</sup>. It has a variable width along its course of between approximately 2.1 and 7.4 metres.
2. I made an unaccompanied inspection of the Order route on the day before opening the Inquiry. The Inquiry ran for three days. I adjourned during the third day to make a further inspection, this time accompanied by a representative of Cheshire West and Chester Council ('the Council') and Fiona Young (representing the Objectors to the Order, Major and Mrs Lockhart and Mr and Mrs Young), before resuming to hear the closing submissions of the parties.
3. In reaching my decision I take into account the submissions received prior to, together with the oral evidence heard and additional documents submitted at, the Inquiry. During the course of the Inquiry itself, it became apparent that there were some discrepancies between the document bundles provided by the Council to myself and to the Objectors with respect to the proofs of evidence of two of the Council's witnesses, and pagination. These were resolved at the Inquiry, where I was able to locate all the documents referred to and/or receive revised copies. Furthermore, already aware of some issues, the Council had confirmed the contents of the bundle with The Planning Inspectorate prior to the commencement of the Inquiry. On balance, and having further examined

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<sup>1</sup> Also referred to as Meadow Farm

<sup>2</sup> Also referred to as Spinney Farm

<sup>3</sup> Also referred to as Bradley Farm

the bundle, I am satisfied that I have the necessary documentation to enable me to reach my decision.

4. The Order seeks to upgrade an existing public footpath to a bridleway. However, Part I of the Schedule to the Order describes the way to be upgraded as a 'Byway Open to All Traffic'. At the Inquiry, both parties agreed that it was within my powers of modification to correct this to 'Bridleway' should I decide that the Order should be confirmed as made. I am satisfied that no-one has been prejudiced by this typographical error.
5. In addition to the objections, a representation was submitted in support of the Order.

### **The Main Issues**

6. The Order has been made by the Council under Section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 ('the 1981 Act') on the basis of historic documentary evidence and on claimed use by the public on horseback. I must consider whether the evidence discovered, when considered with all other relevant evidence available, is sufficient to show that the existing public right of way ought to be shown as a highway of a different description, and that the Definitive Map and Statement ('DMS') require modification.
7. As regards the documentary evidence, Section 32 of the Highways Act 1980 ('the 1980 Act') requires a court or tribunal to take into consideration any map, plan or history of the locality, or other relevant document which is tendered in evidence, giving it such weight as is appropriate, before determining whether or not a way has been dedicated as a highway.
8. As regards the user evidence, the Council relied on a presumption of dedication arising under Section 31 of the 1980 Act. This requires the date to be established when the public's right to use the Order route was brought into question. The evidence can then be examined to determine whether use by the public on horseback has been as of right and without interruption for a period of not less than 20 years ending on that date. Finally, it is necessary to consider whether there is sufficient evidence that there was during this 20 year period no intention on the part of the landowner(s) to dedicate public bridleway rights.
9. Should these tests not be met, I shall consider the evidence under common law. At common law a right of way may be created through expressed or implied dedication and acceptance. The onus of proof is on the claimant to show that the landowner, who must have the capacity to dedicate, intended to dedicate a public right of way and that the public accepted that dedication.
10. In considering the evidence and in reaching my decision I take into account relevant case law, including that adduced by the parties.

### **Reasons**

#### ***Documentary evidence***

11. The earliest document available to me is the 1795 Chester to Ellesmere Canal Plan<sup>4</sup>. It shows part of the Order route annotated '*Bradley Green*' at one end and '*To Tushingham*' at the other. The Book of Reference describes it as '*Road*

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<sup>4</sup> This proposed canal was never built

*to Bellowhill*'. A named destination suggests it was a through route, probably public, although there appears to be no distinction between public and private routes in the extract of the document provided.

12. Several County Maps show the Order route. These maps were produced for sale to the travelling public to help them get around, and were often sponsored by wealthy local landowners, but may include private as well as public routes. Cary's Map of 1823 shows the Order route, as do Burdett's (1777), Swire and Hutchings (1830) and Bryant's (1831) Maps which depict it as a '*Crossroad*'. Bryant's Map annotates a connecting route from the south-west as a '*Bridle Road*'. This is presently recorded in the DMS as a bridleway and promoted by the Council as the Bishop Bennet Way. This may point to the Order route, which appears to form part of the local highway network, enjoying a higher status; or it may have been a private route. On balance, I tend to agree with the Council that these maps provide evidence of the reputation of the Order route as a highway, but are not conclusive as to its status.
13. Tithe records can provide evidence of the topography of routes, although not always their status. In this case, the Bradley Tithe Map of 1840 shows the Order route passing through various landholdings forming a through route, represented either by double pecked lines or solid boundaries. The Apportionment entries describe it as '*Road*' with no tithe rent apportioned. However, both public and private roads were capable of reducing the productiveness of land for the purposes of tithe assessment.
14. An undated Map of Cheshire submitted by Peter Moore Dutton appears similar to the Cary map (paragraph 12) but adds nothing further to determining the likely status of the Order route. Similarly an 1860 Map of the Chapelry of St Chad, Malpas confirms the existence of the way, but provides no indication of the rights it enjoyed. It may derive from the Tithe Map described above.
15. The 1865 Deposited Plans for the Whitchurch and Tattenhall Railway annotate the Order route from '*Bell o' the Hill*' to the east, again suggesting a through route that was likely to be a public one, but assign no status to it.
16. Ordnance Survey ('OS') Maps for the period 1840 to 1954 (at various scales) consistently depict it as part of a through route.
17. Of note are the Finance (1909-1910) Act 1910 records. Although incomplete as regards the maps, the Field Books provide information about the Order route in respect of two landholdings (or hereditaments): Spinney Farm (now The Spinney) and Bradley Farm (now Yew Tree Farm)<sup>5</sup>. The entries appear to be made by two individuals. This is consistent with, on the one hand, the person transcribing details from Form 4 (completed and returned by the landowner or their agent) and, on the other, the information collected in the field by the Finance Act Valuer.
18. For hereditament 64 (Spinney Farm) under 'Fixed Charges, Easements, Common Rights and Restrictions', a '*Public road from Tushin to Bradley*' and a '*Private right of way to Hillside Farm*' are recorded. Under the entry for 'Charges, Easements and Restrictions affecting market value of Fee Simple' is, '*Remarks. A very detrimental cartroad runs across the holding*'. The word '*Cartroad*' or '*Cartroads*' appears in pencil beside the calculation for

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<sup>5</sup> Recorded in the 1910 Valuation Records under 'Bell o' Hill' Farm, Bradley

'Restrictions'. Finally, a deduction of £30 is allowed for 'Public Rights of Way or User', but none for 'Easements'.

19. For hereditament 60 (Yew Tree Farm) under 'Fixed Charges, Easements, Common Rights and Restrictions', a '*Bridle Road through farm*' is recorded. The word '*Cartway*' appears in pencil beside the calculation for 'Restrictions'. Finally, a deduction of £25 is allowed for 'Public Rights of Way or User', and none for 'Easements'.
20. I do not share the Objectors' view that the deduction for hereditament 60 relates to the Bishop Bennet Way. This bridleway passes the Farm in a south-west/north-east direction. I prefer the Council's interpretation that dotted lines running along it in part and then parallel for some way with the Order route represent an administrative boundary. I further concur with the Council that the land being assessed as hereditament 60 concerns Yew Tree Farm through which only one possible route passes: the Order route<sup>6</sup>. In addition, there are only two possible routes to which the deduction for hereditament 64, The Spinney, could relate: the Order route and the private right of way to Hillside Farm. Although no easement is recorded for the latter, as a private access I do not believe it would attract a deduction for a public right of way. Furthermore, the descriptions for Spinney Farm are consistent with the Order route, and the private right of way described in evidence by Margaret Lockhart, Fiona Young and Amanda Marris as a route they used across the Lockhart's property to The Spinney.
21. The base maps (OS mapping) like the earlier Tithe Map, show the Order route largely by double pecked lines with a short section bounded on both sides at Yew Tree Farm. At either end, the Order route connects to a bounded track. The coloured map available as part of the records for the Bradley Green end of the Order route shows much of hereditament 64 (The Spinney). The land here, including the Order route, is coloured whereas from point A west to the Chapel it is uncoloured and excluded from adjoining hereditaments. This is consistent with the later highways records which show this length of way as a public road (paragraph 28). That the Order route crossing land at The Spinney was not uncoloured and excluded suggest that it was not considered to be a public highway of the same status as the route to which it connected.
22. It is the case, however, that the calculations for the restrictions allowed for in the two assessments do not add up to the total length of the Order route as described in the Order, by reference to each landholding. It is not clear why this should be the case, and the Objectors argue that on the balance of probabilities it cannot be said the entries refer to the Order route. For the reasons given above it seems to me more likely than not that the entries do refer to the Order route. They do not suggest a deduction relating to the bounded tracks at each end of the Order route as they fall outside hereditaments 60 and 64. In my view the representation of a double pecked line or a feature marked on both sides by a solid boundary is simply a reflection of what the OS Surveyor saw on the ground (a track running across open ground or an enclosed track). It is not uncommon for public bridleways, or indeed public roads, to cross open land and, where that is the case, to be shown unfenced. On balance and having regard to the above, I find that the deductions relate to the Order route.

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<sup>6</sup> As indicated by the OS field parcel numbers listed in the calculations

23. Land Registry documents for The Spinney refer to the conveyance of the land in 1920 subject to '*the public road from Agden to Tushingham through the same and coloured blue on the plan and also subject to the right of road and way at all times and for all purposes over and along the road coloured brown on the said plan for the owners and occupiers of Hillside Farm...*'. This is consistent with the 1910 Finance Act evidence for The Spinney, and the landowners' evidence as regards the private access to and from Hillside.
24. During the preparation of the DMS, the Parish Schedule recorded the Order route as a 'Cart Road used mainly as Footpath'. It subsequently came to be recorded in the DMS as a Footpath.
25. Sales Particulars for Hillside, dating to 1981 refer to access from '*the public road at a point opposite Spinney Farm*'. Whilst those for The Spinney, dating to 2003, note that the property deeds state it is subject to '*the public road running from Agden to Tushingham*' following a route running along the existing roadway and continuing past the house. The Seller's Property Information Form repeats this and acknowledges use of the route on horseback by the owners of neighbouring properties as well as by other local people. It also states a belief that the owners of Meadow House have a right of way over the route. This relates to a boundary dispute in around 1980 between the owners of Meadow House Farm and of The Spinney. Correspondence dating to 1981 refers to a right of way over the road in the deeds to Meadow Farm which is also described as a 'public road': this by reference to the OS field numbers<sup>7</sup>. The reference to the Meadow House deeds supports the accounts of Isobel and Caroline Birch given at the Inquiry.
26. The mention of a public right of way within these property documents is of some evidential value. However, sales particulars and conveyances essentially deal with private rights of property rather than public rights, although they may suggest the reputation of the way in question. It would be unusual for a private right of way to run over a public road as described for Meadow House since there would be no need: the public road would enjoy full rights. However, in my view such rights would not be inconsistent with the existence of a public bridleway over the Order route.
27. Correspondence dated 2003 confirms the extent of publicly adopted highway ends at point A, the continuation (the Order route) not being recorded as adopted and therefore not maintained at public expense.

#### *Conclusions on the documentary evidence*

28. Overall I find that the documentary evidence points to the existence of public rights higher than those presently recorded on foot. The early commercial maps provide evidence of the Order route's reputation and together with the Tithe and OS mapping confirm its physical existence as a through route or road.
29. There are inconsistencies in how the Order route is described (and portrayed) within the Finance Act records such that it is not clear whether it enjoyed public bridleway or public vehicular rights: a public road recorded for The Spinney landholding, and a bridle road for Yew Tree Farm in the Field Books, with The Spinney section not excluded from the landholding on the Finance Act Map

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<sup>7</sup> OS First Edition Map showing field numbers 131 (belonging to The Spinney on the north side of the Order route), and field numbers 165 and 167 (belonging to Meadow House/Farm on the south side of the Order route)



available. Later property records suggest, at least as regards The Spinney, that it was a public road, although such records were not prepared with public rights of way in mind and in some cases would not have been in the public domain. Further, the evidence relating to the Meadow House deeds points to the existence of a private right of way which would not be necessary if the Order route enjoyed full public rights.

30. I therefore conclude on balance that the documentary evidence is sufficient on its own to establish a status higher than that of footpath. The evidence as a whole is not inconsistent with the existence of bridleway rights and some suggests the existence of higher rights. I turn next to consider what light the user evidence can shed on the matter.

### ***User evidence***

31. For the purposes of Section 31 of the 1980 Act, it was argued that a roller placed across a gateway on Yew Tree Farm land at its boundary with The Spinney brought into question the public's right to use the Order route on horseback. However, exactly when the roller was placed there was the subject of much debate.
32. There is no corroborating evidence to support 1974, the earliest date mentioned in the written evidence of users. There is nothing to suggest that either Henry Wycherley who owned Yew Tree Farm until 1986, or Mrs Lawrence at The Spinney, who passed away in 2002, had placed equipment at this or any other location to prevent passage, although it was noted that large agricultural implements were often present on Mr Wycherley's land.
33. The date chosen by the Council was 1991, a date put forward by the Applicant, Patricia Adams, having been told of it by others. In cross examination, however, she could not be sure if it was then or later, perhaps in 2002. It was in 2002 that the Application to upgrade the footpath was made to the Council, the Applicant not submitting it earlier due to Mrs Lawrence's ill health<sup>8</sup>. Three user evidence forms and an interview note refer to a roller or 'farm vehicle' that obstructed a gateway although they did not state when this was. Nevertheless, two of these users stopped riding the Order route in 1995 and 1996, which is not entirely inconsistent with an obstruction being there in the earlier part of the 1990s<sup>9</sup>. Anne Whitby saw a roller at this location in 1994. Although Mary Davis, the daughter of Mrs Lawrence, did not recall this happening before 1995.
34. Kevin Huxley who worked on the Lockhart's land from 1982 to 1999 said it had not been placed there during his employment; and Elizabeth Gascoigne rode through with the Hunt in January 2004 and had seen no obstruction then.
35. The earliest date on the Objectors' evidence was around 2004<sup>10</sup>. Both David Young (in 2006) and Amanda Marris recalled watching the Hunt pass through the gate with the obstruction in place. As regards claimed use by the public on horseback, whilst it did not prevent use completely, some riders found it difficult to negotiate and stopped using the Order route. In addition, others

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<sup>8</sup> Although witnesses in support of the Order were of the view that Mrs Lawrence regarded the route as enjoying bridleway rights

<sup>9</sup> Mary Huxley claimed use between 1963 and 1995; Joy Sherwin between 1943 and 1996; Margot Davies between 1964 and 2002; and Roz Hughes between 1963 and 1999 and again from 2000 to 2002

<sup>10</sup> This was followed by one or two subsequent occasions

- became aware that the route was difficult to use or could not be used. However, Margaret Lockhart's evidence was that the roller's purpose was not to prevent use by horses, as she herself regularly rode this route leading a horse: it was intended to prevent quad bikes which had begun to follow the Hunt<sup>11</sup>.
36. 1986 is a possible date of bringing into question when the land at Yew Tree Farm changed hands from Henry Wycherley to Major and Mrs Lockhart. This could tie in with a sign located on a fence at Yew Tree Farm stating 'Footpath'. Fiona Young thought it had been there for many years. However, neither she nor any other witness was able to put a date to this, or indeed say who had put it up.
37. The evidence points to the roller having been periodically in place. On balance, I conclude it more likely than not that the public's right to use the Order route on horseback was brought into question in the early 1990s giving a 20 year period of the early 1970s to early 1990s for the purposes of Section 31 of the 1980 Act.
38. Evidence of use is claimed by 23 individuals, 21 of whom claimed use on horseback with 2 claiming use with a vehicle and/or cycle, and ranges from 1943 through to 2005. Most of the claimed use falls within a period from the early 1960s to the early 2000s. In considering the user evidence I attach greater weight to the oral evidence that has withstood cross examination and accordingly less weight to the untested evidence. In addition, I do not attach weight to evidence of use by permission of the landowners (Mr Wycherley and/or Major and Mrs Lockhart) for example in connection with Hunt meets or Pony Club events, or with using the Order route to go to or from such events: such use being by invitation.
39. I heard evidence from twelve witnesses who either claimed use or witnessed it. It is the case that some of the oral accounts differed to the written accounts made by the same witnesses called by the Council. However, this is not uncommon and people's memories are often jogged on the day by hearing about other events. Further, 'live' evidence from this number of witnesses is not untypical.
40. Users described using the Order route as part of a circular ride, or simply to ride along it and then retrace their steps – I do not find the latter implausible as there are reasons why a particular horse and/or rider would have benefited, such as age, experience and so forth. Several spoke of meeting with and chatting to Mr Wycherley and/or Mrs Lawrence, though they did not indicate they had sought or been given express permission to use the Order route. Some visited Mr Wycherley but also used it as a through route. I heard much about permission having been granted by him to horse riders, including the sons of Kathleen Stockton, as well as to Fiona Young and Amanda Marris. However, this concerned permission to ride over his fields rather than it seems the Order route itself. He was keen to see and encourage young riders and would sometimes put up jumps for them.
41. Peter Moore Dutton spoke of riding the Order route as a child, as did Mrs Hutchinson Smith. Her use began in the 1930s then again from 1967 initially a couple of times a week but over the years dropping to every couple of months.

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<sup>11</sup> Correspondence indicates that the Lockhart's had experienced issues concerning the Hunt and/or its followers dating back to 1995

Jean Jennings use began in the late 1960s, and similarly Jeannie Chantler from 1966 to the 1980s, fortnightly in the summer and less often in winter months. Patricia Adams rode it four or five times between 1976 and 1977. Kathleen Stockton used it three or four times a week over the same period, then about half as often after 1982. She also used it in 1996 and 2000. Her use began before she knew Mary Davis. Anne Whitby used it a dozen times between 1979 and 1980 then less often by 1993/4. Alison Smithson used it once in 1993 and used parts of the Order route on occasion. Christine Brown was able to identify from her diaries several occasions between 1983 and 1989 when she rode it as part of a longer route.

42. Mary Davis recalled local horse riders passing by Spinney Farm between 1977 and 1985, although when she was visiting daily from 1985 to 2002 she saw fewer riders. Both she and David Adams spoke of having ridden it on a bicycle as children. He had seen riders in the 1970s most of whom he knew, although such use became less frequent over later years.
43. By contrast to the claimed use, the Objectors and their witnesses had seen only Margaret Lockhart or one or two riders who were friends of Mr Wycherley and whose use stopped around the time he sold Yew Tree Farm. Indeed, Fiona Young and Amanda Marris as children had ridden on their parents land daily and not seen horse riders on the Order route. The Birch's who live alongside were in a good position to see riders passing by when they were present at the property and where it afforded views of the Order route. They spoke of only seeing these riders and others on Hunt days. Similarly, Kevin Huxley who would have been working on the land daily and in and around the yard and pens at Yew Tree Farm for several hours at a time did not see riders.
44. The reality in my view lies somewhere between the two opposing accounts. I am satisfied that use on horseback took place before, during and after the 20 year period. It was more frequent in the earlier years and reduced in frequency over later years, and in some years was slight. There is nothing to suggest that it was carried out with force or in secret. Further, having discounted use that would have been by the permission of the landowners, I consider that the use of the Order route considered above was not permissive. There is no evidence that either Mr Wycherley or Mrs Lawrence gave permission to anyone to ride the Order route, but rather an assumption on the part of the Objectors and their witnesses that permission had been given as riders were known to or were acquaintances of the landowners.
45. In his written statement Henry Wycherley refers to use of the Order route by bikes, cars and horses, although he does not say whether this was use by the public. Reference is also made to use by the Pony Club to attend meetings at Tushingham Hall (to the east), although this included an invitation by the Wycherley's for riders to use their land, and there are references to putting in jumps and creating access for the Hunt. From 1914 to 1986 (when the land was sold) he states there was 'a right of way for traffic' and that the route was used by coal waggons and horses and for other purposes, although he does not clarify whether this was a public or private right.
46. In a 1976 letter to the then highway authority Mrs Lawrence described the Order route as a through road to the Blue Bell (east of B). She had never stopped anyone on horseback and this is consistent with the user evidence considered above. I heard evidence that Mrs Lawrence welcomed riders on the



Order route and would often chat and open gates for them. By contrast, the evidence of both Isobel and Caroline Birch and of Fiona Young and Amanda Marris contradicts this view, although it does not provide evidence that users were challenged. Both Fiona Young and Amanda Marris indicated they were not using the Order route, but rather the private right of way to and from Hillside.

47. Maragaret Lockhart maintained that both Mr Wycherley and Mrs Lawrence had told her the Order route was not a bridleway, although she had not been on the route when this information was conveyed to her.
48. Photographs provided by David Young show signs indicating a lack of intention to dedicate a bridleway: one at The Spinney stating '*No Through Road Footpath Only*' and one at Yew Tree Farm stating '*Footpath*'. It is not known who put them up, or indeed when. The handmade sign at The Spinney was in place when the Young's were considering purchasing the property in 2003, and on Christine Birch's recollection prior to Mrs Lawrence's death in 2002, although Mary Davis believed it was after this date.
49. None of those giving evidence of use at the Inquiry could recall having seen the signs. The written evidence of four witnesses referred to a '*Footpath Only No Horses*' sign (or similar) at A, but gave no dates when it was present, although this is inconsistent with the signs described above and their locations. I agree with the Council that on balance it seems unlikely that the signs were present during the 20 year period or indeed earlier.
50. There is no evidence of any interruption to use and no other evidence of actions demonstrating that the landowners had no intention to dedicate the Order route as a bridleway.

#### *Conclusions on the user evidence*

51. I have carefully considered the Objectors' arguments that claimed use was permissive, that there is evidence of a contrary intention, and that claimed use was insufficient.
52. I have already concluded above (paragraph 30) that the documentary evidence supports the existence of higher rights over the Order route than those presently recorded on foot. Having considered the user evidence, on balance, I am satisfied that there has been use of the Order route on horseback as of right and without interruption for the 20 year period, albeit that use has been light<sup>12</sup>. I also conclude that there is insufficient evidence of a lack of intention to dedicate the way as a bridleway during that period. I am further satisfied that the evidence of use and the actions of the landowners are of such a nature that dedication of the way as a bridleway has occurred at common law. In any event, I find that the claimed use on horseback supports an existing public right based on the historic documentary evidence. There is very limited evidence of use with a cycle or with a vehicle, although some of this use is likely to have been in connection with the land as a whole or parts of it<sup>13</sup>, and thus permissive. Overall, I am satisfied therefore that bridleway rights at least subsist.

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<sup>12</sup> It is the case that use on horseback reduced in frequency from the mid-1990s onwards

<sup>13</sup> For example by Mary Davis with a bicycle

### **Other matters**

53. Several matters were raised by the parties in writing or at the Inquiry including the suitability or desirability of the route for use by horse riders and the need for safe off-road routes; as well as potential issues that might arise for the landowners were the Order to be confirmed. I recognise the importance of these concerns to those who have raised them. Nevertheless, the legislation is clear in that these are not issues that I am able to take into account in reaching my decision. It follows that I have not done so.

### **Conclusions**

54. Having regard to these and all other matters raised at the Inquiry and in the written representations I conclude on the basis of the documentary and user evidence that the Order should be confirmed with the modification described in paragraph 4 above, which does not require advertising.

### **Formal Decision**

55. The Order is confirmed subject to the following modification:

- In Part I of the Schedule in the sub-heading 'Description of public right of way to be upgraded...' delete 'Byway Open to All Traffic' and insert 'Bridleway'

*S Doran*

**Inspector**

## **APPEARANCES**

### **For the Order Making Authority:**

Anthony Gill *of Counsel*                      *instructed by* Victoria Roberts, Legal Department,  
Cheshire West and Chester Council

who called

Sue Rumfitt                                      Sue Rumfitt Associates (Rights of Way Consultant)

David Adams

Patricia Adams

Christine Brown

Mary Davis

Jane Jennings

Neil Kemsley

Alison Smithson

Kathleen Stockton

Anne Whitby

### **For The Objectors:**

Freddie Humphreys *of Counsel*                      *instructed by* Knights Solicitors, representing  
Major and Mrs Lockhart and Mr and Mrs Young

who called

Caroline Birch

Isobel Birch

Elizabeth Gascoigne

Kevin Huxley

Margaret Lockhart

Amanda Marris

Fiona Young

David Young OBE

### **Others who spoke in support of the Order:**

Jeannie Chantler

Peter Moore Dutton

Mrs Hutchinson Smith

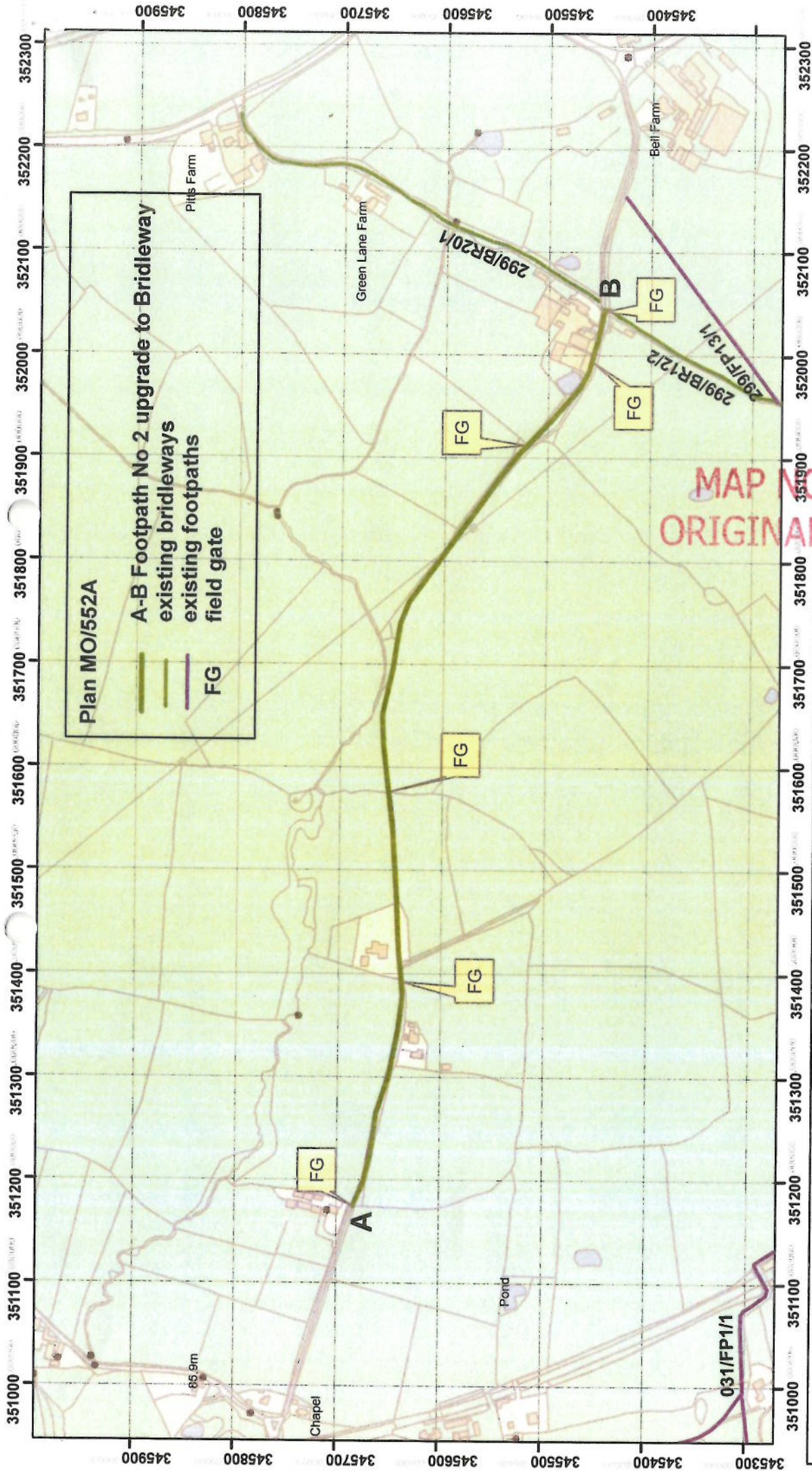
### **Others who spoke against the Order:**

Rosalind Clare

## **DOCUMENTS**

1. Copy of Cheshire West and Chester Council document bundle
2. Opening submission on behalf of Cheshire West and Chester Council
3. Letter from Mrs Kay Dutton dated 9 October 2017
4. Letter from Elizabeth Gascoigne
5. Letter from Mrs Hutchinson Smith
6. Undated historic map of Cheshire, provided by Peter Moore Dutton
7. Map of District Chapelry of St Chad, Malpas, 1860, provided by Peter Moore Dutton
8. Letter from Rosalind Clare dated 24 October 2017
9. Copy of photograph showing The Spinney and footpath notice, 2003
10. Aerial photograph showing The Spinney c.2000, provided by Mary Davis
11. Statement of Jeannie Chantler
12. Amended Statement of Anne Whitby
13. Letter from Colonel A D B Brooks dated 5 October 2017
14. Extract from The London Gazette dated 3 August 1860, provided by the Council
15. Amended Statement of Jane Jennings
16. Bradley Green location plan, provided by the Council
17. Enlarged extract of c1910 Ordnance Survey map, provided by the Objectors
18. Closing submissions on behalf of the Council
19. Closing submissions on behalf of the Objectors





# **Wildlife and Countryside Act 1981** **The Cheshire West and Chester Borough Council (Upgrading of** **Footpath No 2 Bradley to Bridleway) Modification Order 2014**

