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| **Appeal Decision** |
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| **by Laura Renaudon LLM LARTPI Solicitor** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 09 July 2025** |

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| **Appeal Ref: ROW/3353797** |
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| * This Appeal is made by Julie Turner under Section 53(5) of and Paragraph 4(1) of Schedule 14 to the Wildlife and Countryside Act 1981 (‘the 1981 Act’) against the decision of Staffordshire County Council (‘the Council’) not to make an Order under section 53(2) of the 1981 Act. * On 13 September 2024 the Council determined to refuse the application which was dated 2 June 2019. * The appellant claims that the entirety of Waterhouses Public Footpath no. 8, between Farwall Lane, Calton and Waterhouses Public Footpath no. 10 (itself subject to an application to upgrade it to a Restricted Byway) should be upgraded to Public Bridleway status (‘the claimed route’). |
| **Summary of Decision: the appeal is allowed.** |

Preliminary Matter

1. I have not visited the site, but I am satisfied that I can make my decision without the need to do so.

Main Issues

1. The main question arising in the case is whether the available evidence shows that the route presently recorded as Waterhouses Public Footpath no. 8 should be shown on the Definitive Map and Statement as a route of a different description, namely as a Public Bridleway. The application relies on historical documents rather than on more recent evidence of actual user. The test to be satisfied is whether, on the balance of probabilities, the ‘higher’ rights claimed by the appellant subsist over the claimed route.

Reasons

1. The claimed route links an existing vehicular highway, known as Farwall Lane, to what is presently another public footpath (‘FP’), no. 10. FP 10 and Farwall Lane meet to the north of the claimed route, south of the property depicted as ‘Farwall’. To the south of the claimed route, each of FP10 and Farwall Lane meet ‘Back Lane’ at opposite ends to the north of the small settlement of Calton. Within this triangle, the claimed route joins Farwall Lane and FP10 about half way up. At the eastern end, close to where it adjoins Farwall Lane, it also connects with another footpath, FP12, that runs south from that point to meet with Back Lane in Calton approximately halfway between the meeting points of FP10 and of Farwall Lane. As noted in the banner heading above, FP10 is itself the subject of an upgrading application to a Restricted Byway that I understand the Council to be giving favourable consideration.
2. The claimed route is walled against the fields on each side and appears too narrow to pass through comfortably with a cart. Although there is some suggestion that yet higher rights may exist, the application seeks to demonstrate that the true status of the route is as a public bridleway.
3. To this end, various historical maps and documents have been provided. Some, but not all, of these show the route to have been depicted as a route of some sort for very many years. Tithe maps from the 1840s depict it with sienna colouring which is indicative of it being a road of some sort. The Finance Act plan of 1910 shows it as being excluded from any hereditament but it is marked as ‘FP’ on that plan (as is a continuation of it to the east, not now appearing on the Definitive Map at all). As the Council point out, the plan was derived from the Ordnance Survey rather than by the Finance Act surveyors. The exclusion of the route from any hereditament provides some support for the view that rights higher than a footpath existed. The 1954 Rights of Way Survey for the area, carried out pursuant to the 1949 National Parks and Access to the Countryside Act, depicted and described it as a road used as a public path. It is not shown on the Bartholomew or Greenwoods maps although as the Council point out this may be due to the small scale of the plans and that the route carried lower rights than carriage rights. I understand from the parties that the Bartholomew map was designed to depict tourist routes for vehicles and cyclists and hence would be unlikely to depict a route that (then) was unusable by such travellers.
4. It appears that the route was originally recorded on the 1954 survey card as a CRB (carriage road bridlepath) and on the Definitive Map as a RUPP (road used as a public path), but was subsequently ‘downgraded’ to a footpath following a Special Review under the provisions of the Countryside Act 1968. Subsequent litigation elsewhere established that nothing in the Countryside Act 1968 provisions could have the effect of extinguishing bridleway rights from a RUPP, but by then the Definitive Map here had already been amended. It is not clear exactly why the claimed route was downgraded as a result of the Special Review, although the relevant tests for consideration involved questions of the use or suitability of the route for vehicular traffic rather than as a bridleway. It is not clear why it was downgraded to a footpath rather than to a bridleway. I have seen no positive evidence that higher rights did not exist.
5. There is some conflicting evidence from the historic maps, but on the balance of the evidence of the Tithe Maps, the exclusion of the route from any hereditament on the Finance Act map and the consideration originally given by the surveying authority to record the route as a RUPP, I find that the route was (and is) probably at least a bridleway. It connects a carriage road to a route that the Council consider should be upgraded to a Restricted Byway. Its historic and current separation from the adjacent fields would make it suitable for driving packhorses, and there is no evidence that this did not happen. I am informed that horseshoes have been found along the route.

**Conclusion**

1. For the above reasons I conclude that the requirements for making the Order sought are satisfied.

**Formal Decision**

1. In accordance with paragraph 4(2) of Schedule 14 to the 1981 Act, the Council are directed to make an order under section 53(2) and Schedule 15 of the 1981 Act not later than three months from the date of this decision to modify the definitive map and statement to upgrade Waterhouses Public Footpath no. 8 to a Public Bridleway as set out in the application dated 2 June 2019.
2. This decision is made without prejudice to any decision that may be given by the Secretary of State in accordance with their powers under Schedule 15 of the 1981 Act.

Laura Renaudon

INSPECTOR