



Date of Meeting	MeetingDateLegal
Portfolio	Cabinet Member for Neighbourhoods, Community & Culture
Report Author	Julie Simpson
Public/Private Document	Public

## **Upgrade to Bridleway definitive footpath RocEFp13a from Northdene Drive to Bury Road Rochdale**

### **Executive Summary**

1. In accordance with section 31 Highways Act 1981 and Under section 53(2) Wildlife and Countryside Act 1981, a member of the public can submit a statement to the Council for it to consider a claim to add a footpath or bridleway to the definitive map and statement held by the Council or to upgrade an existing route to a higher status than shown on the definitive map and statement by providing evidence of 20 years or more use of a route, recognised as presumed dedication of the way if the use is carried out as of right, without permission and without interference.

The Council has received such a statement to support the upgrade of a footpath (footpath RocEFp13a) running from Northdene Drive to Bury Road to bridleway status. The supporting evidence provided with the claim provides satisfactory reports of use ranging from 3 – 57 years by 25 members of the public. In accordance with the Highways Act 1980, the Council may accept this evidence to assist in their decision making in respect of making the appropriate Order for the upgrade of the footpath.

The Council implemented a highway order to adopt the land as a footway in approximately 1994; however, some of the evidence pre-dates this highway adoption and it is considered appropriate to proceed with the claim.

Landowners are consulted and are asked to submit evidence to support the claim or to describe the actions they have taken to prohibit use by horse riders. No such evidence has been received from the landowners.

Members of the public are informed by the posting of notices on site and in local newspapers as part of the order process.

The order process also incorporates an objection period where members of the public may raise relevant objections to the order. , Should these objections remain unresolved the matter is referred to the Secretary of State for a final decision as to whether the Council should make the order to upgrade the

footpath to bridleway or not.

### Recommendation

2. That Rochdale Township Committee agree with the report and for the Council to proceed with a definitive map and statement modification order to upgrade the footpath RocEFp13a, as shown on the plan annexed, to bridleway.

That Rochdale Township Committee agrees to the Council undertaking an event order to alter the definitive map and statement to show a bridleway running from Northdene Drive to Bury Road should the claim be successful.

That if no objections are received to the order, that the order be confirmed as an unopposed order under paragraph 6 of Schedule 15 to the Wildlife and countryside Act 1981, and if relevant objections are received that the order be referred to the Secretary of State for confirmation.

That the Head of Legal be authorised to make an Order under the relevant Acts, the effect of which, if confirmed, would be to upgrade public footpath RocEFp13a to a public bridleway.

### Reason for Recommendation

3. Under Section 130 Highways Act 1980 the Council has a duty to protect and assert the rights of the public to the use and enjoyment of any highway within the borough; definitive rights of way are classed as highways under the Highways Act 1980. The Council are also required to maintain and keep under review a map, the definitive map, and statement showing the public footpaths and bridleways in its area.

As part of that review the map may be changed should members of the public submit an application to alter a route on the map, and described in the related statement, and successfully show the way to have higher rights. In this paradigm this is a Definitive Map Modification Order to upgrade an existing footpath to bridleway.

The Council has received a statement from a member of the public supported by 25 evidence forms of use. This evidence provides proof that the way is necessary for the intended users and complies with s.31 Highways Act 1980 that the public at large have used this route on horseback for the required period of 20 years or more. This evidence is sufficient for the Council to proceed with the making the appropriate Order for the upgrade of the footpath

Only landowners may raise relevant objections and show how they have attempted to prohibit the use by horse riders. Landowners have been consulted and have not raised any objection to the proposal.

Whilst pedestrians are currently the only legitimate users along the footpath

and this proposed order would create a multi-user route, it is accepted to create routes that legally allow access to other users, a national route, the Pennine Bridleway would be similar in nature and exists to provide access to horse riders, pedal cyclist and pedestrians.

### **Key Points for Consideration**

4. The Council are obliged to keep the definitive map and statement under review, this application contributes to meeting this obligation.

Any member of the public may submit a statement to the Council for it to add a route to the definitive map and statement or to divert or upgrade an existing footpath or bridleway if they can provide sufficient evidence to the Council to show use of a route for 20 years or more.

The Council has received an application accompanied with 25 evidence forms of support each contributing to show the required 20+ years use.

The relevant landowners have been consulted but have failed to provide evidence for or against the claim; the Council can only proceed with the evidence submitted.

The procedure allows for an objection period where any member of the public may submit an objection relevant to this order. Any unresolved outstanding issues are submitted to the Secretary of State who will make the final decision on whether the order should be made or not. The Council will proceed as stated by the Secretary of State. In the event there are no objections the Council may proceed and confirm the order.

A completed successful definitive map modification order dictates the future status of the right of way in question.

An event order is performed following a completed successful definitive map modification order to show the changes on the definitive map.

### **Alternatives Considered**

- 4.1 The only alternative would be to decline to make the order. This would mean the Council are in breach of its duty and would entitle the applicant to appeal to the Secretary of State under paragraph 4 of Schedule 14 of the Wildlife and Countryside Act 1981.

### **Costs and Budget Summary**

5. The costs associated with this order are internal officer and legal costs. Whilst there is no obligation for the Council to undertake any works to the route should it be upgraded to bridleway, the Council will ensure that all users can use the way safely. The main costs will be to change the footpath signs to bridleway. The costs associated with this order will be financed from the Environmental Management Rights of Way budget.

<b>Risk and Policy Implications</b>
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6. The risks should members of Rochdale Township Committee decide not to agree with the report but to confirm that the order should not be made would trigger an appeal to Secretary of State under paragraph 4 of Schedule 14 of the Wildlife and Countryside Act 1981.

<b>Consultation</b>
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7. There is a statutory consultation procedure with the landowners that the applicant is obliged to carry out; a Council officer also consults the landowners.

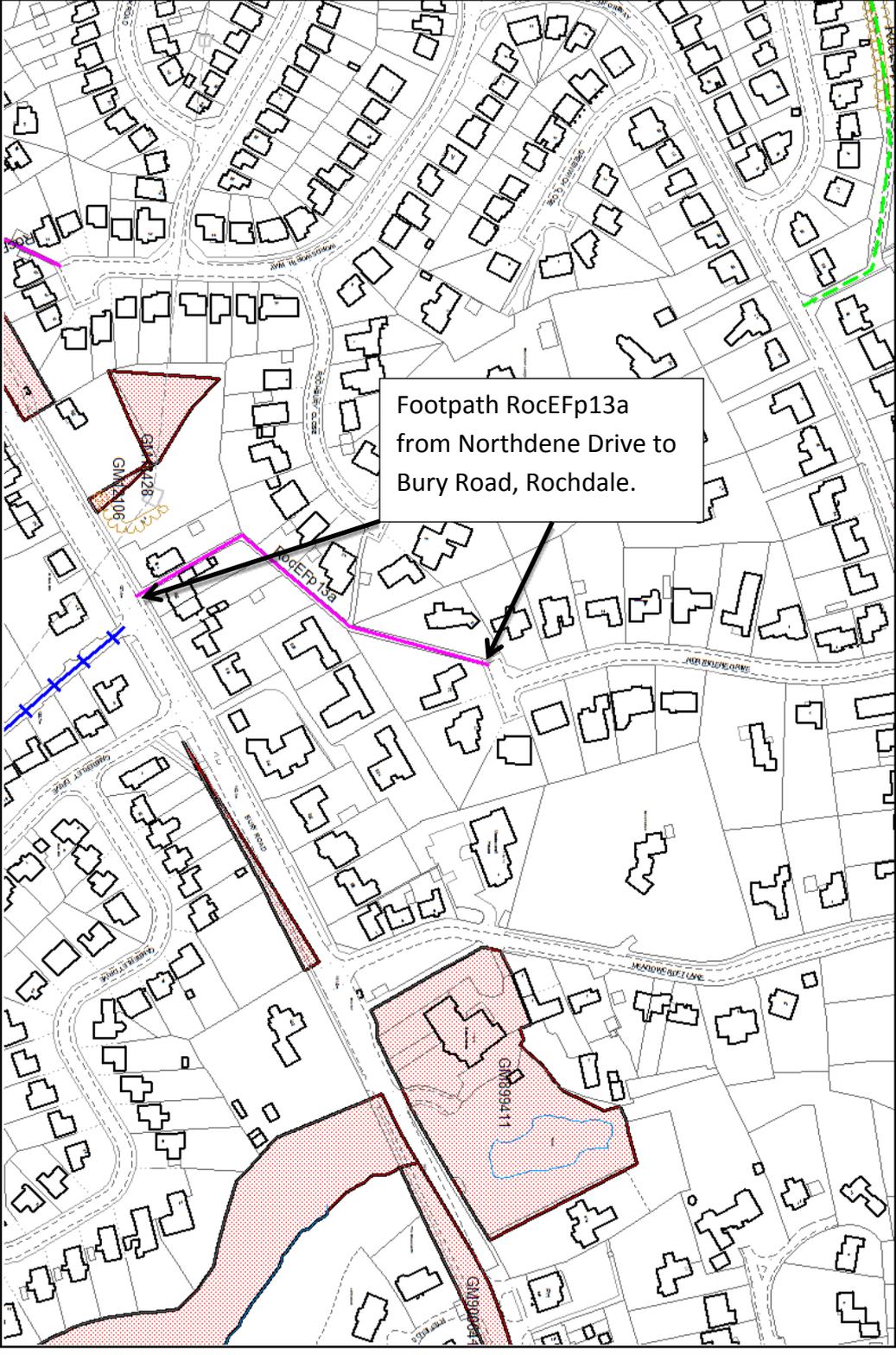
Members of the public will have the opportunity to consider any objections to the order during the objection period as part of the order process.

Consultation is also required with Rochdale Township Committee

<b>Background Papers</b>	<b>Place of Inspection</b>
8. File 13593	Environmental Management, Green Lane, Heywood OL10 2DY

<b>For Further Information Contact:</b>	Julie Simpson, <a href="mailto:julie.simpson@rochdale.gov.uk">julie.simpson@rochdale.gov.uk</a>
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Footpath RocEFp13a  
from Northdene Drive to  
Bury Road, Rochdale.

Scale 1:2233