

Regulatory Committee

Meeting to be held on 24th October 2012

Electoral Division affected: Longridge with Bowland
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Wildlife and Countryside Act 1981

Claimed Public Footpath from Blackburn Road to Church Street, Ribchester, Ribble Valley Borough

Claim No. 804/510

(Annex 'A' refers)

Contact for further information:

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Executive Summary

The claim for a public footpath from Blackburn Road to Church Street, Ribchester, Ribble Valley Borough, to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804/510.

Recommendation

1. That the Claim for a Public Footpath from Blackburn Road to Church Street, Ribchester, Ribble Valley Borough, in accordance with Claim No. 804/510 be accepted.
2. That an Order be made pursuant to Section 53 (2) (b) and Section 53 (3) (c) (i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement of Public Rights of Way a Public Footpath from Blackburn Road (SD 6499 3539) for a distance of approximately 80 metres to Church Street, Brierfield (SD 6496 3531) and shown on the attached plan A-B.
3. That, being satisfied that the test for confirmation can be met, the Order be confirmed if no objections are received. If objections are received, that the Order be submitted to the Secretary of State and promoted for confirmation, if necessary at a hearing or public inquiry.

Background

A claim has been received for a footpath extending from a point on Blackburn Road, Ribchester to a point on Church Street, Ribchester, a distance of approximately 80

metres, and shown between points A - B on the attached plan, (SD 6499 3539 to SD 6496 3531), to be added to the Definitive Map and Statement of Public Rights of Way.

Consultations

Borough Council

Ribble Valley Borough Council has advised it does not hold any evidence either in support of or against the application.

Parish Council

Ribchester Parish Council is the applicant in this matter; their evidence will be considered below.

The evidence submitted by the claimant/landowners/supporters/objectors and observations on those comments is included in 'Advice - County Secretary and Solicitor's Observations'.

Advice

Environment Director's Observations

Description of the Route

The claimed route starts at SD 6499 3539 at a bend in Blackburn Road and runs in a southerly direction across an open area currently used as a car park. The tarmac surface shows the scars of various fixtures or damage and the remains of lines marking parking bays. After about 40 metres the claimed route passes on the east side of the boundary of a garden and outbuilding and turns very slightly to the west along a 2 metre wide area between the remains of marked-out parking bays on the east side and the rear of 49 Blackburn Road on the west, opening out behind the Black Bull Inn then through a 4 metre wide gap with planters in the centre, between buildings to terminate at SD 6496 3531 on Church Street, Ribchester. Adjacent to the building on the south-east side of the gap and near the back edge of the footway there appears to be an old and very large gatepost. Also at the back of the footway across the gap are scars on the ground which suggest that 2 or 3 posts or bollards preceded the planters in preventing vehicular traffic entering the car park from Church Street. The length of the claimed route is approximately 80 metres.

Map and Documentary evidence considered

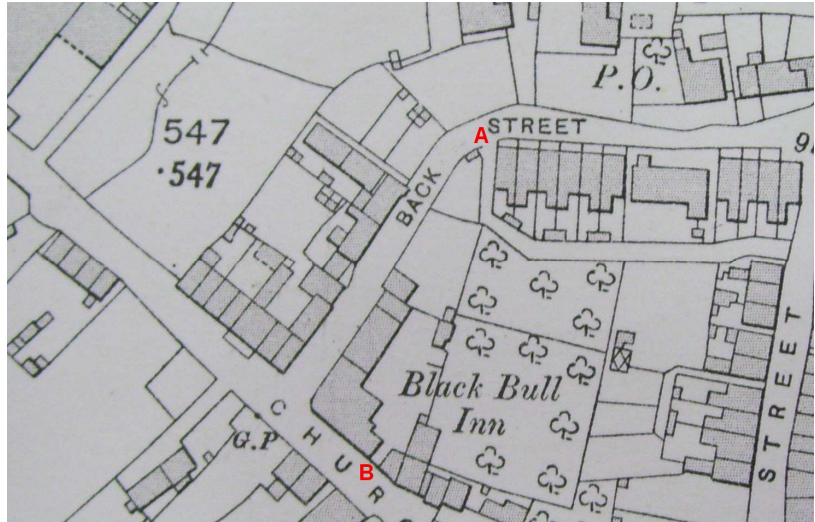
Various maps, plans and other documents were examined to see when the claimed route came into being and to try to determine what its status might be.

DOCUMENT TITLE	DATE	BRIEF DESCRIPTION OF DOCUMENT & NATURE OF EVIDENCE
Yates' Map of Lancashire	1786	Small scale commercial map. Such maps were on sale to the public and hence to be of use to their customers the routes shown had to be available for the public to use. However, they were privately produced without a known system of consultation or checking. Limitations of scale also limited the routes that could be shown.
Observations		The road layout at the centre of the village is shown with some buildings but the small scale of the map makes it impossible to see whether the claimed route existed between the buildings.
Investigating Officer's comments		No inference can be drawn.
Greenwood's Map of Lancashire	1818	Greenwood's map of 1818 is a small scale commercial map.
Observations		The road layout at the centre of the village is shown with some buildings but the small scale of the map makes it impossible to see whether the claimed route existed between the buildings.
Investigating Officer's comments		No inference can be drawn.
Hennet's Map of Lancashire	1830	Small scale commercial map.
Observations		The road layout at the centre of the village is shown with some buildings but the small scale of the map makes it impossible to see whether the claimed route existed between the buildings.
Investigating Officer's comments		No inference can be drawn.
Tithe Map and Tithe Award or Apportionment	1838	Maps and other documents were produced under the Tithe Commutation Act of 1836 to record land capable of producing a crop and what each landowner should pay in lieu of tithes to the church. The maps are usually detailed large scale maps of a parish and while they were not produced specifically to show roads or public rights of way, the maps do show roads quite accurately and can provide useful supporting evidence (in conjunction with the written tithe award) and additional information from which the status of ways may be inferred.

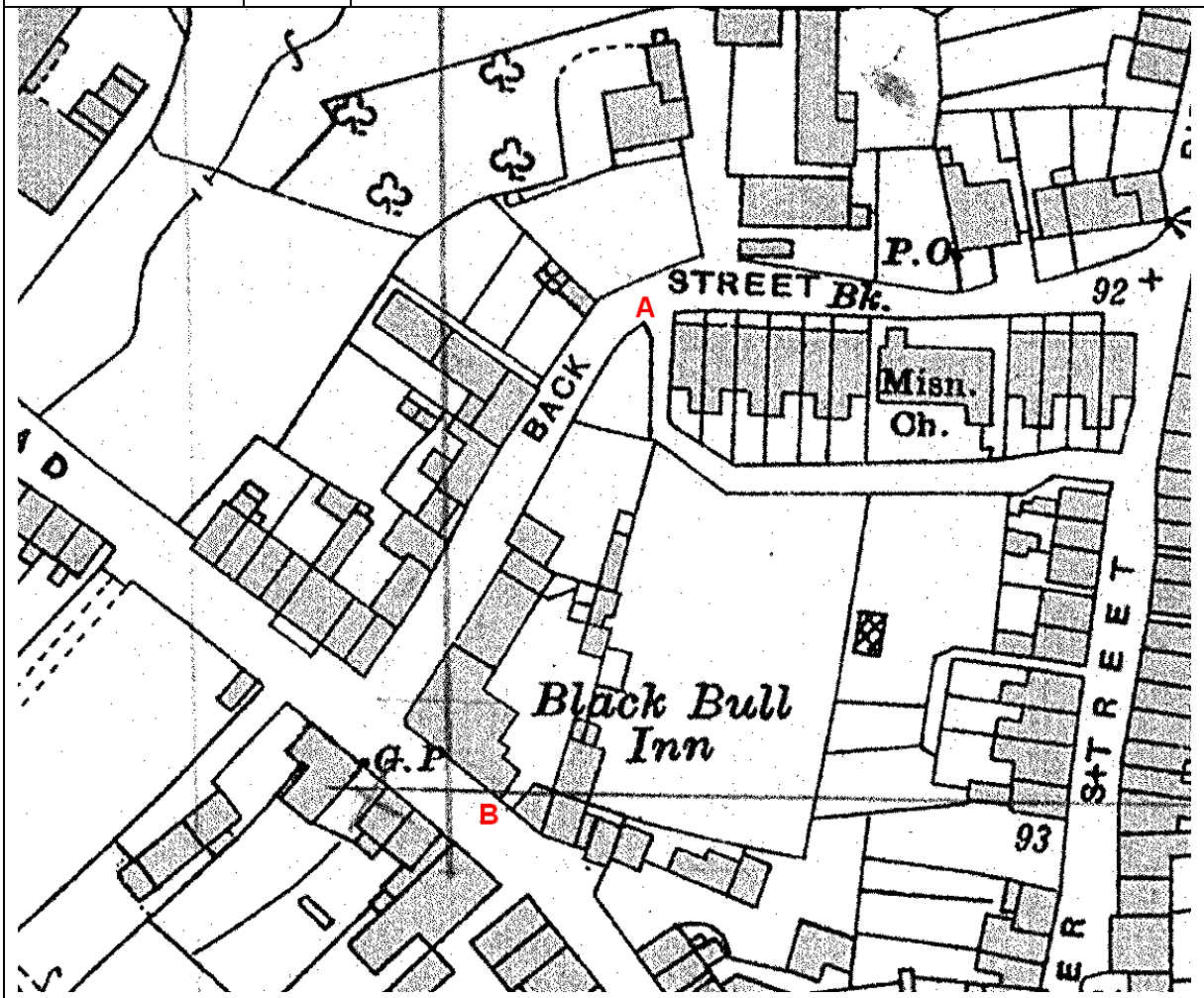


Observations		<p>The title map for Ribchester shows and names the Black Bull Inn and the schedule records that it was owned by Daniel Thwaites. The claimed route is not shown as a path or track. It would have been possible to walk through the pub yard but the land between the yard and Blackburn Road is divided into 2 plots described as gardens. The claimed route is to the east of the detached outbuilding, which would necessitate crossing 4 or 5 fences, hedges or walls.</p>
Investigating Officer's comments		<p>The claimed route did not exist in 1838.</p>
Finance Act 1910 Map		<p>The comprehensive survey carried out for the Finance Act 1910, later repealed, was for the purposes of land valuation and not recording public rights of way. However the maps can often provide very good evidence.</p> <p>Maps, valuation books and field books produced under the requirements of the 1910 Finance Act have been examined. The Act required all land in private ownership to be recorded so that it could be valued and the owner taxed on any incremental value if the land was subsequently sold. The maps show land divided into parcels on which tax was levied, and accompanying valuation books provide details of the value of each parcel of land, along with the name of the owner and tenant (where applicable).</p> <p>An owner of land could claim a reduction in tax if his land was crossed by a public right of way and this can be found in the relevant valuation book. However, the exact route of the right of way was not recorded in the book or on the accompanying map. Where only one path was shown by the Ordnance Survey through the landholding, it is likely that the path shown is the one referred to, but we cannot be certain. In the case where many paths are shown, it is not possible to know which path or paths the valuation book entry refers to. It should also be noted that if no reduction was claimed this does not necessarily mean that no right of way existed.</p>
Observations		<p>The Finance Map material is not available in the Lancashire</p>

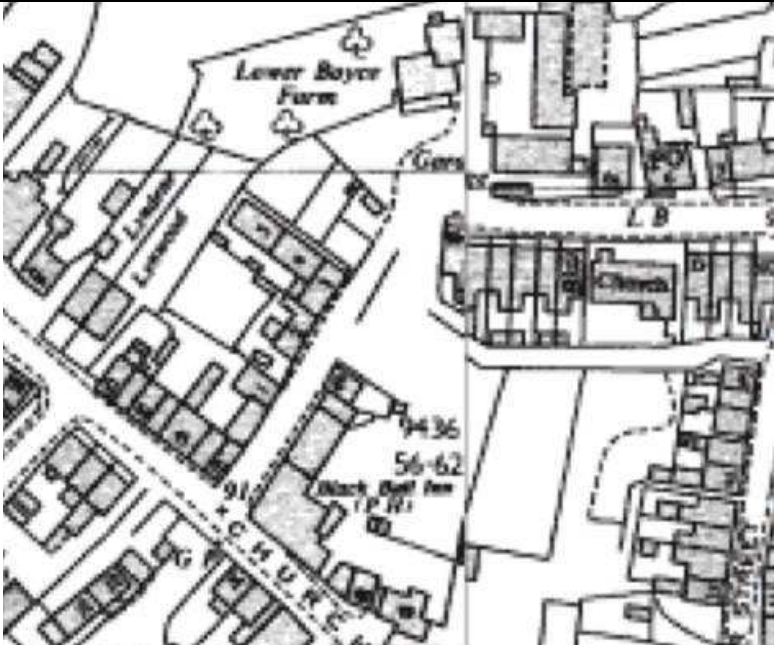
		Archives.
Investigating Officer's comments		No inference can be drawn.
Ordnance Survey maps		The Ordnance Survey (OS) has produced topographic maps at different scales (historically one inch to one mile, six inches to one mile and 1:2500 scale which is approximately 25 inches to one mile). Ordnance Survey mapping began in Lancashire in the late 1830s with the 6-inch maps being published in the 1840s. The large scale 25-inch maps which were first published in the 1890s provide good evidence of the position of routes at the time of survey and of the position of buildings and other structures. They generally do not provide evidence of the legal status of routes, and carry a disclaimer that the depiction of a path or track is no evidence of the existence of a public right of way.
6 inch OS map	1847	The earliest OS map examined was surveyed between 1844 and 1845 and published in 1847.
Observations		The 1847 OS map shows and names the pub as the Old Bull Inn. The claimed route is not shown as a path or track. It would have been possible to walk through the pub yard but the land between the yard and Blackburn Road is divided into 2 plots and shown as orchards or gardens. The claimed route is to the east of the detached outbuilding, which would necessitate crossing 4 or 5 fences, hedges or walls.
Investigating Officer's comments		The claimed route did not exist in 1844, the date of survey of the map.
25 inch OS map	1891	The earliest edition examined which was published at the larger scale showing the area in more detail was surveyed in 1890 and published in 1891.
Observations		The pub is called the Black Bull Inn. The claimed route is not shown. The land to the north of the pub to Blackburn Road (called Back Street on this map) is divided into 2 enclosures in the same way as on the 1847 map. The claimed route is to the east of the detached outbuilding, which would necessitate crossing 4 or 5 fences, hedges or walls. There is also a solid line across the claimed route at Church Street suggesting a gate.
Investigating Officer's comments		The claimed route did not exist in 1890.
25 Inch OS map	1912	Further edition of the 25 inch map revised in 1910 and published in 1912.




Observations		The area of land across which the claimed route runs is shown in the same way on this map as the 1891 edition.
Investigating Officer's comments		The claimed route did not exist in 1910.
25 inch OS map	1932	Further edition of the 25 inch map revised in 1930 and published in 1932.



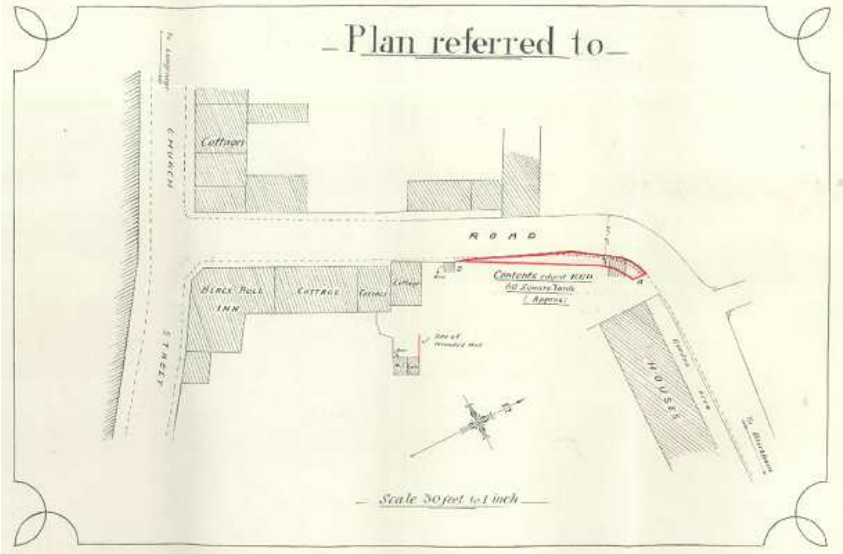
Observations		The area of land across which the claimed route runs is shown
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		in the same way on this map as the 1891 and 1912 editions.
Investigating Officer's comments		The claimed route did not exist in 1930
6 Inch OS map	1956	This map was used as the base map for the Definitive Map, First Review, and was published in 1956 (although the date of revision was before 1930).
Observations		The buildings on Church Street and Blackburn Road are shown but no gap is shown at the start of the claimed route on Church Street. The claimed route is not shown and the land is shown divided into plots as on earlier maps.
Investigating Officer's comments		The claimed route did not exist in 1930.
25 Inch OS map	1967	Further edition of the 25 inch map published in 1967.
		
Observations		This is the first map examined that shows that it might have been possible to walk along the route claimed. No path or track is shown, but the area to the north of the pub yard is shown as open land with no physical restrictions. There is a solid line across the entrance to the yard at Church Street consistent with a gate at that location.
Investigating Officer's comments		It might have been possible to use the route as claimed in 1967. There may have been a gate at the Church Street end.
Aerial Photographs		Aerial photographs can show the existence of paths and tracks, especially across open areas, and changes to buildings and field boundaries for example. Sometimes it is not possible to enlarge the photos and retain their clarity, and there can also be problems with trees and shadows obscuring relevant features.
Aerial photograph	C 1945	This photograph was taken around 1945.
Observations		Although the photograph is not very clear, it is apparent that the

		area to the north of the pub is open ground. However if there were any fences made of wire or other light materials across the claimed route it would not be possible to see these on this photograph.
Investigating Officer's comments		It is possible that the claimed route could be used in 1945.
Aerial Photograph	1963	Black and white aerial photograph taken in June 1963.
		
Observations		Although the photograph is not very clear, it is apparent that the area to the north and east of the pub is open ground. Some vehicles are parked around the perimeter. It appears that there is a gap between the buildings onto Church Street but it is insufficiently clear to identify whether or not there was a gate.
Investigating Officer's comments		It is likely that the claimed route could be used in 1963.
Aerial photograph	1988	Colour aerial photograph taken in June 1988.
Observations		The photograph is of quite good quality. The area to the north and east of the pub is open ground and some parked vehicles can be seen on the land by Blackburn Road.
Investigating Officer's comments		It is likely that the claimed route could be used in 1988, although the photograph does not provide any information about the start of the route on Church Street
Aerial photograph	2000	Aerial photograph taken in June 2000.
Observations		The photograph is not in clear focus. However, the land across

		which the claimed route runs to the north and east of the pub is open ground and at least 28 parked vehicles can be seen across the whole area.
Investigating Officer's comments		As the whole area is used for parking vehicles the claimed route could be used in 2000 depending on the extent of parking on a particular day. The photograph does not provide any information about the start of the route on Church Street.
Aerial photograph	2010	Aerial photograph taken in March 2010.
Observations		The photograph shows that the land across which the claimed route runs to the north and east of the pub is open ground. Four parked vehicles can be seen around the perimeter of the area. No path or trodden route can be seen across the land corresponding to the claimed route. There seems to be a gap between buildings at the start of the claimed route on Church Street.
Investigating Officer's comments		As the whole area appears to be used for parking vehicles the claimed route could be used in 2010 depending on the extent of parking on a particular day. The photograph shows a gap between buildings at the start of the route on Church Street but it is not possible to see if some kind of barrier to pedestrians was located there.
Definitive Map Records		The National Parks and Access to the Countryside Act 1949 required the County Council to prepare a Definitive Map and Statement of Public Rights of Way.
Parish survey map	1950-1952	The initial survey of public rights of way was carried out by the parish council and the maps and schedules were submitted to the County Council. In the case of urban districts and municipal boroughs the map and schedule produced, was used, without alteration, as the Draft Map and Statement. In this instance the initial survey was carried out by Ribchester parish council.
Observations		The claimed route was not shown on the survey map.
Investigating Officer's comments		The claimed route was not regarded as a public right of way in the early 1950s.
Draft Map	1955	Preston Rural District Council amalgamated the parish maps into a Draft Map. The Draft Maps were given a "relevant date" (1 st January 1953) and notice was published that the Draft Map had been prepared. The Draft Map was placed on deposit for a minimum period of 4 months on 1 st January 1955 for the public, including landowners, to inspect them and report any omissions or other mistakes. Hearings were held into some of these objections, and recommendations made to accept or reject them on the evidence presented.
Observations		The claimed route was not shown on the Draft Map.
Provisional Map		Once all of the representations were resolved, the amended Draft Map became the Provisional Map which was published in 1960 and was available for 28 days for inspection. At this stage, only landowners, lessees and tenants could apply for

		amendments to the map, but the public could not. Objections by this stage had to be made to the Crown Court.
Observations		The claimed route was not shown on the Provisional Map.
The First Definitive Map and Statement		The Provisional Map, as amended, was published as the First Definitive Map and Statement in 1962. Legislation required that the Definitive Map be reviewed, and legal changes such as diversion orders, extinguishment orders and creation orders be incorporated into a Definitive Map First Review. Whilst most of the Definitive Map for Lancashire was reviewed, the area formally in the West Riding of Yorkshire was not.
Observations		The claimed route was not shown on the first Definitive Map.
Investigating Officer's comments		The claimed route was not regarded as a public right of way in the 1950s.
Revised Definitive Map of Public Rights of Way (First Review)		Legislation required that the Definitive Map be reviewed, and legal changes such as diversion orders, extinguishment orders and creation orders be incorporated into a Definitive Map First Review. On 25 th April 1975 (except in small areas of the County) the Revised Definitive Map of Public Rights of Way (First Review) was published with a relevant date of 1 st September 1966. No further reviews of the Definitive Map have been carried out. However, since the coming into operation of the Wildlife and Countryside Act 1981, the Definitive Map has been subject to a continuous review process.
Observations		The claimed route is not shown on the Definitive Map (First Review).
Investigating Officer's comments		The claimed route was not regarded as a public right of way prior to 1966.
Statutory deposit and declaration made under section 31(6) Highways Act 1980		<p>The owner of land may at any time deposit with the County Council a map and statement indicating what (if any) ways over the land he admits to having been dedicated as highways. A statutory declaration may then be made by that landowner or by his successors in title within ten years from the date of the deposit (or within ten years from the date on which any previous declaration was last lodged) affording protection to a landowner against a claim being made for a public right of way on the basis of future use (always provided that there is no other evidence of an intention to dedicate a public right of way).</p> <p>Depositing a map, statement and declaration does not take away any rights which have already been established through past use. However, depositing the documents will immediately fix a point at which any unacknowledged rights are brought into question. The onus will then be on anyone claiming that a right of way exists to demonstrate that it has already been established. Under deemed statutory dedication the 20 year period would thus be counted back from the date of the declaration (or from any earlier act that effectively brought the status of the route into question).</p>
Observations		There are no Highways Act 1980 Section 31(6) deposits lodged with the County Council for the area over which the claimed route runs.

Investigating Officer's comments		There is no indication by a landowner under this provision of non-intention to dedicate public rights of way over his land.
Ownership information		As dedication of a highway stems from a dedication by a freehold owner, ownership information and old Deeds can show who owned the land at the relevant times and possibly how a route is described or shown on plans at the times of sale or lease
	1925 1966	A plan (below) showing the location of 60 square yards of land purchased by the highway authority from Daniel Thwaites' trustees. In 1966 a further narrow strip of land (plan not shown) was dedicated by Daniel Thwaites & Co. Ltd. as highway.
<div style="text-align: center;">  </div>		
Observations		<p><i>[Note: the annotations A and B on the above plan are on the original and are not the A and B referred to in this document]</i></p> <p>The ownership of the brewery is not registered but near to point A are two strips of land held by the County Council, taken to widen Blackburn Road footway. In 1925 the Preston Rural District Council purchased a strip from the trustees of Daniel Thwaites deceased and in 1966 a dedication of extra highway width was given to the County Council by Daniel Thwaites and Company Ltd.</p> <p>The 1925 plan shows a tapered strip of land on the bend of Blackburn Road near point A, edged in red. The red parcel of land is for improvement of the Blackburn Road by the former Preston Rural District. At the rear of the cottage which is number 49 Blackburn Road is a wall which divides land at the rear of the pub to the south from the land to the north which opens onto Blackburn Road at point A. By reference to the 1932 Ordnance Survey mapping (above) it is assumed that the land to the east of the WC/coal shed of 49 Blackburn Road was not mapped rather than the blank space representing an open area. However, the 1932 map also shows a second boundary to the north of 49 Blackburn Road not shown on this plan. It reasons for this apparent discrepancy are not known, it could have been that the boundary on the 1932 map was a light or temporary fence or was constructed between 1925 and 1930, similarly the</p>

		<p>driveway adjacent to the houses to the east of point A is shown separated from the claimed route by 1932 but not on the 1925 plan. At point B only the pub buildings are shown – the map does not extend to the adjacent cottage. A solid line is shown extending from the pub eastwards next to the road.</p> <p>The plan attached to the 1966 dedication labels the land near point A as Hotel Car Park and does not show any fencelines although it is not particularly detailed that distance from the Blackburn Road.</p>
Investigating Officer's comments		<p>The map indicates that the land is open near point A in 1925 and not fenced off from the road and open through to the WC/coal shed behind 49 Blackburn Road. At the other end of the claimed route at point B it is likely that there was a fence, wall or gate across the claimed route. It is not possible to deduce whether or not the claimed route could have been used in 1925.</p> <p>In 1966 this smaller scale map indicates the land was free of fencelines as it would arguably have shown the historic fenceline near point A if it had existed as it would affect the strip being dedicated.</p>
Physical Evidence		Features observed on site can often assist in understanding the history of the route and the land across which it runs.
		
Observations		The traces of marked out parking bays indicate that there was room to walk along the claimed route behind 49 Blackburn Road but this was not to allow vehicle movements as the width was insufficient.
Investigating Officer's Comments		It is likely that whilst the car park was marked out in this way the claimed route would not have been obstructed by parked cars.



Observations		The gatepost on the south-east side of the gap suggests that once the gap was gated whereas the scars across the gap suggest that there were posts or bollards.
Investigating Officer's Comments		The traces of posts appear to be more recent than the gatepost and these would have prevented vehicular use but allowed pedestrians to pass through.

The claimed route is not a biological heritage site or site of special scientific interest. It is not recorded as Access Land under the provisions of the Countryside and Rights of Way Act 2000.

Summary

The claimed route is not shown as a path or track on any map or other document examined. Maps show that the pub has existed since at least 1838 but that the land to the north and east of the pub yard was divided into various plots until sometime between 1930 and 1963. The aerial photograph for 1963 (confirmed by the 1:2500 OS map of 1967) shows that the land had been opened up and field boundaries removed. The exact date that this occurred is not known. The area has been used as a car park and it is likely that it was possible to cross the car park on foot from the pub to Blackburn Road since the early 1960s at least. What is less certain is whether there was a gate, fence or other barrier across the entrance to the pub yard on Church Street at any time and if this could have prevented use by pedestrians.

County Secretary and Solicitor's Observations

Information from the applicant

In support of the application, the applicant has produced 12 user evidence forms. The users claim to have known and used the route for the number of years as detailed below:

(0-10) - 1	(11-20) - 3
(21-30) - 1	(31-40) - 2

(41-50) - 3
(61-70) - 0

(51-60) - 1
(71-80) - 1

The main purpose for using the route has been to access local amenities such as the shops, school and church, and some users state the route has been used as a short cut. The range of use varies with four users stating they have used the route on a daily basis and the others stating they have used the route less often such as a few times a year or between 50 and 250 times a year.

All the users agree the route has been used on foot. Two of the users state the route has also been used on a bicycle and one user states the route has been used on horseback. However, the route is being claimed as a footpath and all users agree the route has always run over the same line. None of the users report asking for permission to use the route although one of the users reports being an employee at the Thwaites Brewery between 1964-1984. None of the users report seeing any notices along the route.

One user is the resident of 48 Church Street, Ribchester which is situated next to point B on the proposed Order Plan. Number 48 confirms that for the last 20 years from 1990 he has known and used the route as a short cut. He refers to locked gates between 1950 to 1960's and further states that access at "the back of our cottage, never had a problem getting access". Another user refers to gates locked until mid 70's.

Four users report there being a gate along the route with one user reporting to have seen a gate at the side of the Black Bull Inn but states this gate was always left open. Two of the users state gates were put up to prevent pedestrians and cyclists and this was about five years ago. One of the users states he believes the pub landlord put up these gates.

Two of the users report being prevented from using the route, one user states this was because the gates were being locked and the other user states this was because he was told by the landlady at the Black Bull that the route was not a public right of way. No dates are given for these events.

The applicant states that about eight years ago, the then tenant of the hotel attempted to close the gate but was dissuaded from doing so by the police and on the same night the gate and supporting fence were removed by persons unknown and since no further attempts have been made to restrict access.

In addition to the user evidence forms, the applicant has provided 16 standard signed statements from local residents which state the number of years, the individual had resided at Ribchester and states, 'during my residency there has always been a pedestrian access across the car park land between Blackburn Road and Church Street, Ribchester.'

There is also a letter from a resident of Blackburn Road which states the corner of the Black Bull Inn is badly maintained and with peak time traffic being heavy; it is safer to cross Church Street from the car park.

Information from others

The landowner, referred to as Thwaites Breweries, points out the land over which the claim has been made is in private ownership and is used as the car park for the Inn. They point out that there have been signs displayed for many years stating the land is in private ownership with no public right of access and the public would be crossing the land entirely at their own risk. They submit a plan of proposed development dated 2008 to demonstrate that the line claimed cannot follow the claimed line.

Assessment of the Evidence

The Law - See Annex 'A'

In Support of the Claim

- User evidence
- Map evidence indicates the route A - B physically available from 1960's

Against Accepting the Claim

- Landowners contrary evidence
- The claimed route is not shown as a path or track on any map or other document examined

Conclusion

The claim is that the route A – B is an existing public footpath and should be added to the Definitive Map and Statement of Public Rights of Way.

It is therefore advised as there is no express dedication that the Committee should consider, on balance, whether there is sufficient evidence from which to have its dedication inferred at common law from all the circumstances or for the criteria in Section 31 Highways Act 1980 for a deemed dedication to be satisfied based on sufficient twenty years “as of right” use to have taken place ending with this use being called into question.

Considering initially the criteria for a deemed dedication under Section 31 of the Highways Act, that use needs to be “as of right”, without interruption and also be sufficient for the 20 year period . There is mention of signage and locked gates and possible challenges but it is suggested that not sufficient detail is known to indicate that the route was called into question for the purposes of S31 until the application was made in 2010. It is advised that the route was called into question from the date of the application, 12 March 2010 and the period of use from which dedication can be deemed would be March 1990 to March 2010.

Twelve evidence of use forms have been submitted claiming to have known and used on foot the claimed route "as of right". However, one user confirms that she was an employee "...20 years as Landlady of Blackbull" out of the 44 years she has

known and used the route and confirms this was from "1964 to 1984 Thwaites Brewery". As her own use for the period of 20 years from 1964 to 1984 would have been with permission as landlady and therefore use was not "as of right", this use will be excluded from the evidence to be considered.

All twelve user evidence forms indicate knowledge and use of the claimed route A to B for 20 years or more suggesting user evidence for the sufficient period. It is clear that the route provided a short cut avoiding the narrow Black Bull corner and to easily access the local shop opposite point B. There is some indication of the presence of a gate at point B and whilst on balance it can be accepted that a gate existed at some point, the time period and whether the gate physically prevented users from using the route is in doubt. The current landowner of several years has made no reference to the issue of 'gates' and map evidence does not indicate a gate, fence or other barrier on Church Street or across the route further north so as to prevent use by pedestrians. On balance it is considered that the way had been available and used without interruption 1990 to 2010 and earlier.

In addition to the twelve user evidence forms above the applicant has submitted 16 standard signed statements from local residents which state the number of years the individual had resided at Ribchester and states, 'during my residency there has always been a pedestrian access across the car park land between Blackburn Road and Church Street, Ribchester.' Whilst weight is lost from the fact that it is not the user's personal evidence and words in effect have been put into their mouths via a standard statement, this should not detract from the fact there is a further 16 users of the route claiming knowledge and use.

Further, the applicant has submitted a letter from a resident of Blackburn Road which states the corner of the Black Bull Inn is badly maintained and with peak time traffic being heavy; it is safer to cross Church Street from the car park.

The applicant's submission of user evidence including user evidence forms, standard signed statements and the letter collectively indicate good use for the period of 1990 to 2010. All users are from the local village providing credible use of the route, many have lived in the village all their lives and those new to the village recognise the route A to B and use it. Whilst all users have confirmed that the route has not changed its line claimed from A to B this ought to be set against the fact that the land the route crosses is a car park and cars parked may have dictated the exact line walked. Cars parked would have been intermittent and temporary in nature but the spaces painted for use would keep the route free.

There is one owner of the claimed route and they have provided written representations. They refer to signs having been erected and the signs are being advocated as being inconsistent with the dedication of a highway. However, there has been no submission from the landowner of supporting evidence of any signs/notices, dates and location and therefore a proper assessment cannot be weighed in the balance including consideration as to whether such signs were sufficiently clear to negative the intention of the owner to dedicate. Taking all available evidence into account including the fact that not one user refers to any signs/notices, the landowner has not produced sufficient evidence that there was no intention to dedicate on the facts provided.

Considering also whether there are circumstances from which dedication could be inferred at common law, the claimed route crosses land that is the car park to the Black Bull pub and map evidence indicates it was possible for users on foot to cross the line claimed from A to B in the years since the early 1960s at least.

It is suggested that the way this route is recorded on documentary evidence is not itself sufficient circumstances from which dedication could be inferred. However, sufficient as of right use acquiesced in by the owners may also be circumstances from which dedication can be inferred. However, to infer a dedication at common law is difficult, as in this matter it is in effect the same owner today who is now making it clear that their intention has not been to dedicate the route. To prove on balance that by their acquiescing in the use and taking only limited actions they intended the claimed route be open for use of the public as a footpath when they now say to the contrary would be unlikely.

Taking all the evidence into account, the Committee on balance may consider that the provisions of S31 Highways Act can be satisfied in this matter but to infer dedication at common law is difficult. It is therefore suggested that the claim be accepted.

Alternative options to be considered - N/A

**Local Government (Access to Information) Act 1985
List of Background Papers**

Paper	Date	Contact/Directorate/Tel
All documents on Claim File 5.37214 Ref: 804/510		Jennifer Mort Office of Chief Executive (01772) 533427

Reason for inclusion in Part II, if appropriate

N/A

