

Regulatory Committee

Meeting to be held on 2nd July 2014

Electoral Division affected: Rossendale South
--

Wildlife and Countryside Act 1981

**Claimed Public Footpath from Union Road to Rawtenstall Footpath 321,
Dearden Heights, Rossendale Borough**

Claim No. 804-546

(Annex 'A' refers)

Contact for further information: Megan Brindle, County Secretary and Solicitor's Group, 01772 535604, Megan.Brindle@lancashire.gov.uk Hannah Baron, Public Rights of Way, 01772 533478 Hannah.Baron@lancashire.gov.uk

Executive Summary

The application for a public footpath from Union Road to Dearden Heights to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804-546.

Recommendation

1. That the application for a public footpath from Union Road to Rawtenstall Footpath No 321, Dearden Heights, to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with File No. 804-546, 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 Union Road, Rawtenstall (Grid Reference SD 7984 2271) for a distance of approximately 200 metres to a point on Footpath 321, Dearden Heights, Rossendale Borough (Grid Reference SD 7966 2266), and shown between points A and B on the attached plan.
3. That, being satisfied that the higher test for confirming the said Order can be satisfied, the said Order be promoted to confirmation if necessary by submitting it to the Secretary of State.

Background

Following an application duly made under Schedule 14 to the Wildlife and Countryside Act 1981 (the 1981 Act) research has indicated that consideration should be given under section 53(3) of the Act to the making of an Order to amend

the Definitive Map and Statement of Public Rights of Way in Lancashire by adding a public footpath extending from a point on Union Road to a point on Rawtenstall Footpath 321, a distance of approximately 200 metres, and shown between points A-B on the attached plan.

The County Council is required by law to investigate the evidence and make a decision based on that evidence as to whether a public right of way exists, and if so its status. Section 53(3)(b) and (c) of the 1981 Act sets out the tests that need to be met when reaching a decision; also current case law needs to be applied.

An order will only be made if the evidence shows that:

- A right of way "subsists" or is "reasonably alleged to subsist" or
- "The expiration... of any period such that the enjoyment by the public...raises a presumption that the way has been dedicated as a public path"

When considering evidence, if it is shown that a highway once existed then highway rights continue to exist ("once a highway, always a highway") even if a route has since become disused or obstructed unless a legal order stopping up or diverting the rights has been made. Section 53 of the 1981 Act (as explained in Planning Inspectorate's Advice Note No. 7) makes it clear that considerations such as suitability, the security of properties and the wishes of adjacent landowners cannot be considered. The Planning Inspectorate's website also gives guidance about the interpretation of evidence.

The County Council's decision will be based on the interpretation of evidence discovered by officers together with documents and other evidence supplied by the applicant, landowners, consultees and other interested parties produced to the County Council before the date of the decision. Each piece of evidence will be tested on the balance of probabilities. It is possible that the Council's decision may be different from the status given in the original application. The decision may be that the route has public rights as a footpath, bridleway, restricted byway or byway open to all traffic, or that no such right of way exists. The decision may also be that the route to be added or deleted varies in length or location from that which was originally claimed.

Consultations

Rossendale Borough Council:

Rossendale Borough Council has been consulted and no response has been received.

Claimant/Landowners/Supporters/Objectors:

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

Executive Director for Environment's Observations

Description of the New Route

Points annotated on the attached Committee plan

Point	Grid Reference (SD)	Description
A	7984 2271	Broken down wall off Union Road, south of Lower Cribden Avenue.
B	7966 2266	Broken down wall with junction of Rawtenstall footpath 321.

A site inspection was carried out on 5th September 2013.

It is evident when on site that the neighbouring desolate building and associated land has fallen into disrepair over the years when the building was no longer in use. There are several points along the boundary of the buildings and associated land where the boundary wall has collapsed, allowing pedestrians to access the field from several points. After many years of this wall being in this desolate state, 3 metre high wire fencing has recently been erected, according to the user evidence, on the access points to the field where the wall has broken down, restricting access. There is signage on the wire fencing stating that this is private land and that pedestrians must use the designated footpath (footpath 321) further north of the field boundary. There is a well-defined trodden route from point A to point B which is approximately 1 metre wide, follows the same route of the claim, and is apparent on the most recent aerial photograph.

The claimed route starts at a 3m broken down section of wall on Union Road, Rawtenstall, (point A) and continues onto a large open field heading in a generally west south westerly direction. The route follows a well-trodden windy path on a grass surface and passes a spring which is approximately 10 metres away from the claimed route before climbing gradually uphill where after approximately 200 metres it meets the boundary wall on the north western side of the field (point B), which is also currently in disrepair and has fallen down in parts. The claimed route goes over the remains of this wall, where it then meets existing public footpath Rawtenstall 321.


The total length of the route from point A on Union Road to point B where the claimed route meets the existing footpath at the boundary wall at Dearden Heights is approximately 200 metres.

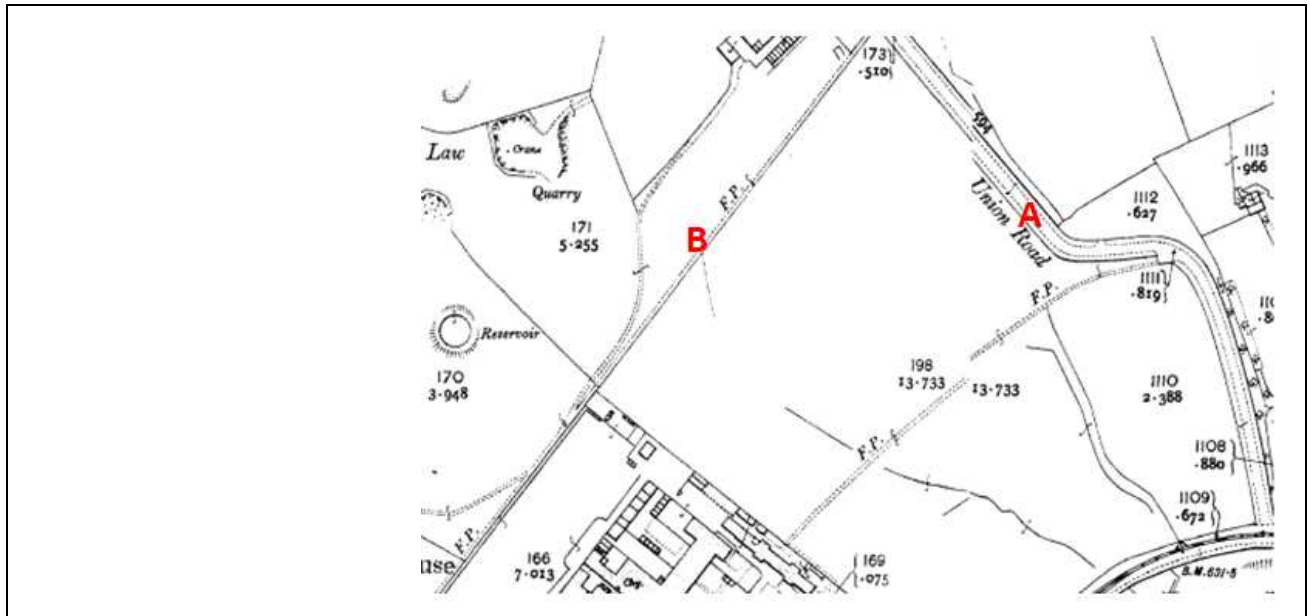
Map and Documentary Evidence

Various maps, plans and other documents were examined with reference to the claimed route.

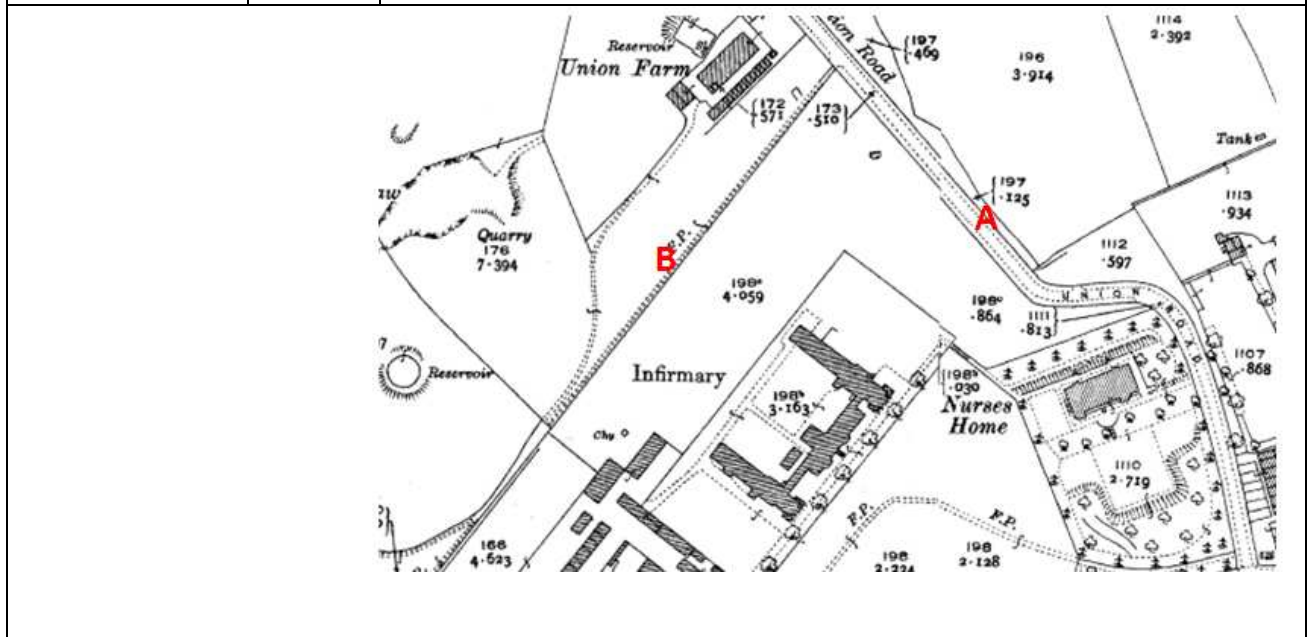
DOCUMENT TITLE	DATE	BRIEF DESCRIPTION OF DOCUMENT & NATURE OF EVIDENCE
Yates' Map of Lancashire	1786	Small scale commercial map. Such maps were on sale to the public and hence to be of use to their customers the routes shown had to be available for the public to use. However, they were privately produced without a known system of consultation or checking. Limitations of scale also limited the routes that could be shown.
Observations		The route is not shown.
Investigating Officer's Comments		The route did not exist as a major route at the time – it may have existed as a minor route but due to the limitations of scale would not have been shown so no inference can be drawn in this respect.
Greenwood's Map of Lancashire	1818	Greenwood's map of 1818 is a small scale commercial map.
Observations		The route is not shown.
Investigating Officer's Comments		The route did not exist as a major route at the time – it may have existed as a minor route but due to the limitations of scale a footpath would not have been shown so no inference can be drawn in this respect.
Hennet's Map of Lancashire	1830	Small scale commercial map surveyed by George Hennet in 1828 – 1829 and published by Henry Teesdale in 1830. The map was on sale to the public and hence to be of use to their customers it is considered that that the routes would be available for the public to use. However, the map was privately produced without a known system of consultation or checking. Limitations of scale also limited the routes that could be shown.
Observations		The route is not shown.
Investigating Officer's Comments		The claimed route did not exist as a major route in 1830. It may have existed as a minor route but due to the limitations of scale a footpath would not have been shown so no inference can be drawn in this respect.
Tithe Map and Tithe Award or Apportionment	1843	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		No map available.
Investigating Officer's Comments		The tithe map for Rawtenstall is not held within Lancashire Archives. This means that we have not been able to view the tithe map for this particular area and therefore no inference can be made as to whether a public right of way existed at this time.

<p>Finance Act 1910 Map</p>		<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>
<p>Observations</p>		<p>The Finance Act Map accompanying the finance valuation and field books was unavailable to view at the Lancashire Archives; this made it difficult to determine under which entry this particular parcel of land was registered, and therefore which entry to look at in the field and valuation books.</p> <p>Some of the surrounding parcels had been recorded, such as Egypt Terrace, Haslingden Road, and Pike Low (which can all be seen on the early Ordnance Survey maps) all of which had no deductions for rights of way, but were not in close enough proximity to the relevant piece of land.</p>
<p>Investigating Officer's Comments</p>		<p>We are unable to determine whether that piece of land had a deduction for a right of way across it.</p> <p>This means that no inference can be made from the Finance Act 1910 Valuation book and map.</p>

<p>Ordnance Survey Maps</p>		<p>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.</p>
<p>6 inch OS map</p>	<p>1894</p>	<p>The earliest OS map examined was published around 1894.</p>
		
<p>Observations</p>		<p>The claimed route is not shown on the 1894 map.</p>
<p>Investigating Officer's Comments</p>		<p>The claimed route probably did not exist in 1894.</p>
<p>25 inch OS map</p>	<p>1893</p>	<p>The earliest edition examined which was published at the larger scale showing the area in more detail was surveyed in 1891-2 and published in 1893.</p>
<p>Observations</p>		<p>The claimed route is not shown on the 1893 map.</p>
<p>Investigating Officer's Comments</p>		<p>The claimed route probably did not exist in 1893.</p>
<p>25 Inch OS map</p>	<p>1911</p>	<p>Further edition of 25 inch map revised in 1909 and published in 1911.</p>

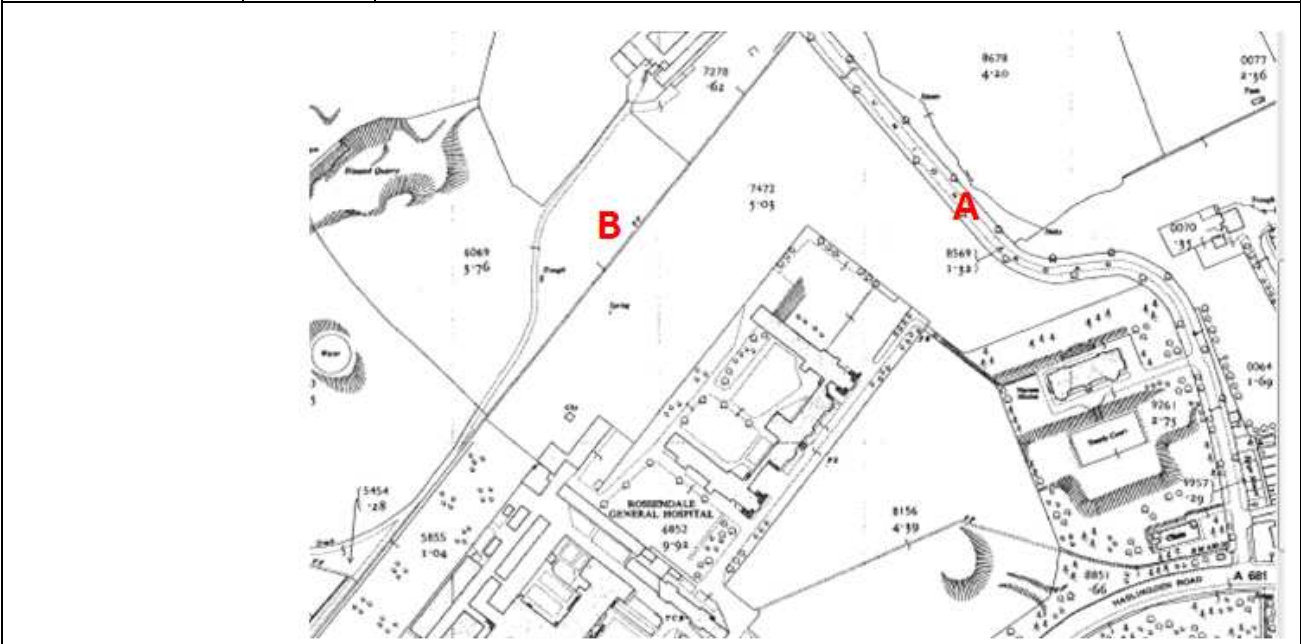


Observations		The claimed route is not shown, however, a different footpath is clearly indicated leading from the hospital to join Union Road, which is further south of the current claimed route.
Investigating Officer's Comments		The claimed route probably did not exist in 1911.
25 Inch OS Map	1930	Further edition of 25 inch map revised in 1928 and published in 1930.



Observations		The claimed route is not shown on the 1930 map. However it is important to note that the infirmary has expanded onto the field and that the footpath shown on the 1912 OS map has changed routes.
Investigating Officer's Comments		The claimed route did not exist in the early 1930s.

6 Inch OS map	1955	This map was used as the base map for the Definitive Map, First Review, and was published in 1951 (Revised 1955).
Observations		The claimed route is not shown, in the same way as the 1931 25 inch map.
Investigating Officer's Comments		The claimed route did not exist in 1951.
25 Inch OS Map	1962	Further edition of the 25 inch map revised in 1960 and published in 1962.



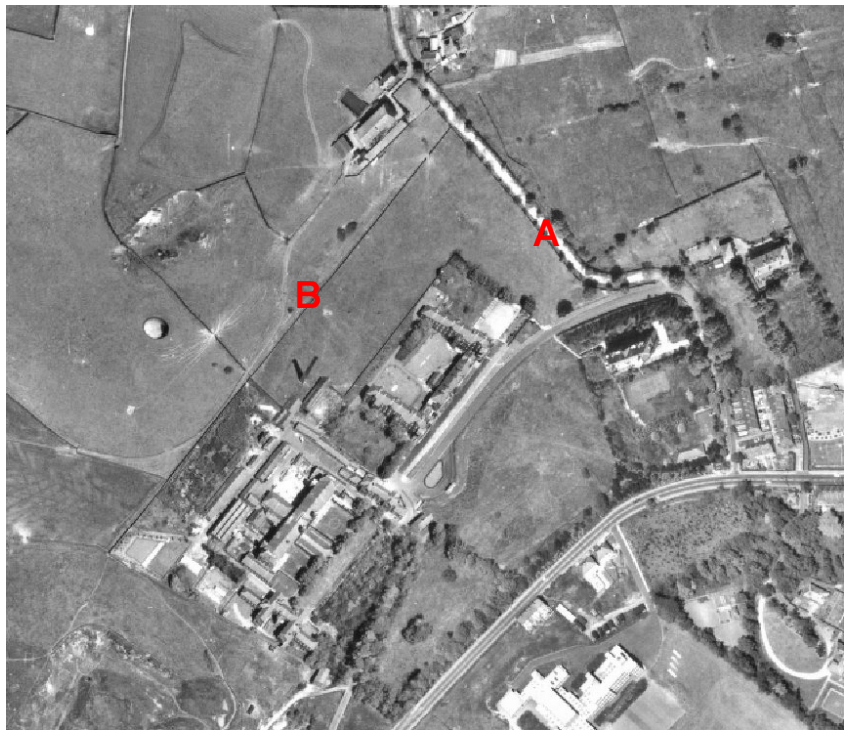
Observations		The claimed route is not shown on the 1962 map.
Investigating Officer's Comments		The claimed route probably did not exist in the early 1960s.
Aerial Photographs		Aerial photographs can show the existence of paths and tracks, especially across open areas, and changes to buildings and field 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 1940	Black and white aerial photograph taken around 1940.



Observations		The claimed route is not visible on the 1940 aerial photograph.
--------------	--	---


Investigating Officer's Comments		The claimed route does not appear to have existed in the 1940s.
----------------------------------	--	---

Aerial Photograph	C 1960	Black and white aerial photograph taken in the early 1960s.
-------------------	--------	---



Observations		The claimed route is not visible on the 1960 aerial photograph.
--------------	--	---

Investigating Officer's Comments		The claimed route does not appear to have existed in the 1960s.
----------------------------------	--	---

Aerial Photograph	1988	Colour aerial photograph taken in 1988.
		
Observations		The claimed route is not visible on the 1988 aerial photograph.
Investigating Officer's Comments		The claimed route does not appear to have existed in 1988.
Aerial Photograph	2000	Colour aerial photograph taken in 2000.

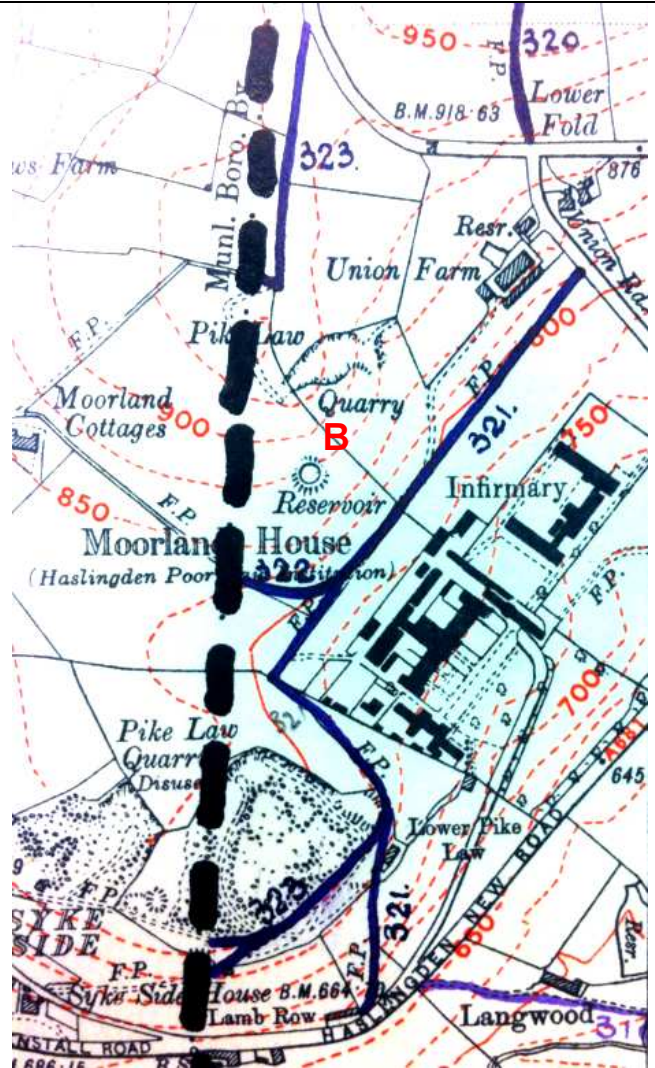


Observations		A faint trodden line can be seen on the claimed route.
Investigating Officer's Comments		The claimed route existed as a trodden route across the field in 2000.
Aerial Photograph	2010	Aerial photograph taken in March 2010.



Observations		The claimed route can be clearly seen as a defined route.
Investigating Officer's Comments		The claimed route existed as a trodden route across the field in 2010. The defined track indicates significant use of the route.
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.
Survey Map	1976	The initial survey of public rights of way was carried out by parish councils in rural districts in the early 1950s 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. County Boroughs were not surveyed until later. In this instance Rawtenstall was not surveyed.
Observations		No map available. Rawtenstall is a Municipal Borough which means that a Survey Map was not produced

Draft Map	1979	The Draft Map was given the 'relevant date' of 1 February 1979 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 24 th April 1979 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 is not shown on the Draft Map. The footpath which was shown on the Ordnance Survey maps as leaving the hospital and heading towards Haslingden Road was not recorded as a definitive right of way on the draft map. However other public footpaths have been recorded, including in close proximity public footpath Rawtenstall 321.
Objections to the Draft Map	1979	There were no objections to the omission of the claimed route on the Draft Map.

Modified Draft Map	1982	A Modified Draft Map was published and placed on deposit in September 1982. The map still does not show the claimed route, and the Modified Draft Statement remained unchanged.
Provisional Map		Once all of the representations were resolved, the amended Draft Map became the Provisional Map 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		There is still no evidence of the claimed route existing at this time.
Definitive Map and Statement	1983	The Provisional Map, as amended, was published as the Definitive Map and Statement in 1983 and is the current legal record.
Observations		The Definitive Map does not record the claimed route and it is not mentioned on the Definitive Statement.
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 their land.

The claimed public footpath does not cross a Site of Scientific Interest or Biological Heritage, nor does it cross access land under the provisions of the Countryside and Rights of Way Act 2000.

Summary

There is no evidence of a route existing on any of the maps which have been inspected. The early commercial maps, the Ordnance Survey maps and the Definitive Map records, do not record a route being in existence over land on which the claim covers.

There was a slight variation of routes over the land in question which were recorded on the Ordnance Survey maps. Rawtenstall Footpath 321 has been in existence since the early Ordnance Survey maps were produced. However, a different footpath, first shown on the 25 inch 1912 map indicates a route which started from the hospital and crossed the field to meet Union Road. The route of this recorded footpath changes over the next 20 years as on the 25 inch 1931 map the route starts from the hospital but turns east and meets Haslingden Road. This footpath was not recorded on the Definitive Map.

None of the Definitive Map records show a route crossing the claimed route.

The site was historically part of a union work house which was used as a mill factory. In later years the building changed operations to become Rossendale General Hospital which fell into disrepair and has since been left derelict for many years. A planning application has been submitted to Rossendale Borough Council to demolish the existing buildings and structures and build 139 dwellings with associated access, car parking and landscaping on the land which the claimed route crosses. This application is currently still under determination from the Borough Council and is awaiting a decision.

The land surrounding the hospital also fell into disrepair, with many of the bordering walls collapsing due to years of lack of maintenance, allowing local people to access the fields from various directions. On site there are various remains of gates and stiles around the perimeter of the land, showing that access was once possible from various directions.

There is an extremely well defined trodden line on the recent aerial photographs which follows the claimed route. The trodden line shown on the aerial photographs indicates that this is very well used route, which is consistent with the user evidence. Photographs taken on site since the fences were erected to prevent access confirm the trodden line on the ground which was still evident.

Since the trodden line is about 1 metre wide it is suggested that the footpath rights may be over a strip 2 metres wide since walkers are narrowest at their feet – this is consistent with the logic used in the 1990 Rights of Way Act when specifying widths of public footpaths to be left clear of crops, i.e. 1m across a field but 1.5m along the field edge. There is no reason to suppose that public rights of way are always wider on field edges so the implication is that a walker uses 0.5m to the side of the area of ground they walk on. Given that people are approximately symmetrical and they can use the footpath in either direction it follows that the public right of way should be 0.5m either side of the trodden strip.

Description of the new Footpath for Inclusion in the Definitive Map & Statement if the Order is to be made (and subsequently confirmed)

The following should be added to the Definitive Statement for Rawtenstall 382, Rossendale Borough:

Proposed Schedule to Order

SCHEDULE

PART 1

MODIFICATION OF THE DEFINITIVE MAP

DESCRIPTION OF WAY TO BE ADDED

Status & Number	From	To	Route	Approximate Length (metres)	Width (metres)
Footpath 382	Union Road, Rawtenstall	Footpath 321, Rawtenstall	A-B	200m	2

PART II

MODIFICATION OF DEFINITIVE STATEMENT

VARIATION OF PARTICULARS OF PATH OR WAY

The statement added for Rawtenstall 382 to read as follows:

"Status: Footpath

Position:

From	To	Compass Direction (approx)	Width (metres)	Approximate Length (metres)	Other Information
Union Road at SD 7984 2271	Footpath 321 at SD 7966 2266	Generally WSW	2	200	Grass surface across field, broken down walls at the start and end of the route.

Limitations and Conditions:

Informal gap in broken wall across route approx. 2m wide roughly tapering from 1m at either side to ground level in the centre, at SD 7984 2271

Informal gap in broken wall across route approx. 2m wide roughly tapering from 1.5m at either side to 25cm in the centre, at SD 7966 2266

Length: 200m"

The statement for Rawtenstall 321 amended to read:

"Status: Footpath

Position: From Union Road near Union Farm S.W passing junction with public footpath no. 382, then via Lower Pike Low to Haslingden Road at Lamb Row.

Length: 0.46 miles"

County Secretary and Solicitor's Observations

Information from the Applicant

In support of the claim, the applicant has provided 42 user evidence forms. 26 of the users are residents from Lower Cribden Avenue, 4 users are from Union Road, 3 Users are from Laneside, 2 users are from Egypt Mount, 1 user lives on Sandown Road, another user is a resident at Langdale Avenue, 1 user is from Oakmount, 1 is from Haslingden Road and 1 is from Hillside.

The user forms indicate knowledge of the route as follows (years):

0-10 (9) 11-20 (17) 21-30(14) 31-40(2)

The route has been used mainly for walking the dog, visiting family and friends, general exercise, leisure walking, walking with children and running. However some users state they have used it for shopping, yoga class, picnics and sledging.

40 users agree the route has been used on foot. 1 user states they have never used the route but has witnessed members of the public using the route, 1 user does not state when and how they used the route.

The frequency of use varies from daily, twice daily to as frequently as 550 times per year to less frequently such as once a week, less than 10 times per year.

41 users agree that the claimed route has run over the same line, 1 user states there has been access via the stone wall entrance for as long as they have lived there. 36 users state there have never been any stiles/gates/fences along the claimed route. 6 users talk about a broken down wall along the route and one user states the answer 'yes' to there being any stiles/gates/fences along the claimed route.

13 users state that they had never seen notices until recently (June 2013) where notices such as 'private land' and 'trespassing' were erected, some also state that there has been a recent blockage to the path. All other users state they have never seen any signs.

Further information from the applicant

The applicants have provided 2 extra points at a later date which they wish to be included as part of their application:

1. They state that the leasehold owners of the field, Hurstwoods have put forward the site as a suggested option for future development as part of the Green Belt & Urban Boundary Review (they have provided an email from Rossendale Borough Council Planning Department for information). From the date of the email, this information has only just come to the light and therefore the applicants were not in a position to include it when submitting the application.
2. The applicants state that Hurstwoods have asked pedestrians to use the existing footpath towards the rear of the field.

As outlined in their application, at certain times of the year the footpath is unusable. They state for some time now the condition of the footpath and bridleway bordering the field present a danger to pedestrians.

The applicants have requested that the footpath be inspected by LCC officers and the decision makers of this application in its present position in order for them to fully appreciate that Hurstwood's request to use the existing footpath is not a viable option.

Objection from Hurstwood Holdings – Lease holder

An objection has been received from Hurstwood Holdings as their clients land is affected by this application. Their client bought the leasehold land in August 2012 and they recently erected fences along those sections of the boundaries which had fallen into disrepair. Signs were also erected to deter local people from exercising their dogs and leaving behind their excrement. Photographs of the fencing and the signage have been provided.

Their client strongly objects to the application as there is already a public footpath which links Union Road to Dearden Heights so there is no need for the proposed modification. If the application is approved and the Order for modification is made the effect will be to sterilise the land against future use and prevent the land from being used for much needed local housing.

Letter from the Secretary of State for Department of Health – Landowner

They confirm they are the landowner for the route in question and have no recent knowledge in relation to the land.

Assessment of the Evidence

The Law - See Annex 'A'

In Support of the Claim

- User evidence
- 2000 and 2010 Ariel Photographs
- No action taken by the owners until recently, after many years of the boundary wall having collapsed

Against Accepting the Claim

- Lack of evidence of the route existing on any of the maps which have been inspected
- Reference to recent action by the owners.

Conclusion

In this matter it is claimed that the route A-B is already a public footpath in law such that it should be recorded on the Definitive Map and Statement.

Since there is no express dedication, it is advised that the evidence is considered to determine whether a dedication can, on balance, be deemed under S31 Highways Act 1980 or inferred at Common Law from all the circumstances.

The evidence in this matter is overwhelmingly user evidence, countered by evidence of recent actions taken by the leasehold owners of the land in question.

However, the Committee will note that land along which the claimed route runs is owned by the Secretary of State for Health and that as the land is held by a Government Department the provisions of S31 Highways Act cannot apply. Section 327 Highways Act provides that provisions such as S31 will only apply if the Government Department agrees and in this matter there is no such agreement.

Hurstwood acquired the leasehold land in August 2012 and whilst no specific date is provided, users claim that 3 metre high fencing has recently been erected on the access points to the field where the wall has broken down, thus restricting access. A number of users claim that notices also appeared in June 2013 such as 'private land' and 'trespassing' and advising pedestrians to use the designated Footpath 321 which is located further north of the field boundary. Some users refer to a 'recent' blockage in the path and others claim to have never seen the signs. There appears to be no reference to any earlier actions by any landowner.

Looking at whether dedication can be inferred on balance at common law it is advised that evidence from the maps in this matter is not the circumstance from which dedication could be inferred but user can be the circumstance from which to infer a dedication. It may be difficult to now indicate an intention to dedicate by Hurstwood's since their acquisition of the leasehold land in 2012 but the user of the route prior to 2012 may be sufficient to indicate that the owners at that time for several years did nothing to stop the public use and from which their intention to give the route up to be a public footpath could on balance be inferred.

Common law does not require there to be twenty years of use. The use would appear to be as of right and exercised by sufficient members of the public.

Taking all of the information into account the Committee may consider that a dedication in this matter may be inferred at Common Law and that an Order be made and promoted to confirmation.

Risk Management

Consideration has been given to the risk management implications associated with this claim. The Committee is advised that the decision taken must be based solely on the evidence contained within the report, and on the guidance contained both in the report and within Annex A included elsewhere on the Agenda. Provided any decision is taken strictly in accordance with the above then there are no significant risks associated with the decision making process.

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 Ref: 804/546	Various	M Brindle, County Secretary & Solicitor's Group, Ext: 35604

Reason for inclusion in Part II, if appropriate

N/A