

**Regulatory Committee**

Meeting to be held on 23 September 2009

**Part I - Item No. 6**Electoral Division affected:  
Longridge with Bowland**Wildlife and Countryside Act 1981**

- 1) **Claimed deletion of Part of Public Footpath No.129 Chipping, Ribble Valley Borough**
- 2) **Claimed Public Footpath from Public Footpath No. 129 Chipping, Ribble Valley Borough to Fish House Lane**

**Claim No. 804/472 and 804/476**

(Annex 'A' refers)

Contact for further information:

Saleha Khalid, 01772 533427, County Secretary &amp; Solicitor's Group

Mrs A Taylor, 01772 534608, Environment Directorate

**Executive Summary**

1. The claim for part of Public Footpath No. 129 Chipping from Fish House Lane to a point to the north of No. 10 Old Hive Cottages be deleted from the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804/472; and
2. The claim for a Public Footpath from a point to the north of No. 10 Old Hive Cottages to Fish House Lane, to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804/476.

**Recommendation**

- i. That the Claim for part of Public Footpath No. 129 Chipping from Fish House Lane to a point to the north of No. 10 Old Hive Cottages be deleted from the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804/430, be accepted; and
- ii. That the Claim for a Public Footpath from a point to the north of No. 10 Old Hive Cottages to Fish House Lane to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804/476 be accepted.
- iii. That an Order be made pursuant to section 53 (2) (b) and section 53 (3) (c) (iii) to delete from the Definitive Map and Statement of Public rights of Way the footpath from a point at GR 6182 4348 on Fish House Lane, Ribble Valley Borough for a distance of approximately 72 metres to GR 6179 4354, on Public Footpath 129 Chipping, Ribble Valley Borough and shown between points A- H on the attached plan.

Recommendation continued...

- iv. 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 footpath from a point on Public Footpath 129 Chipping, Ribble Valley Borough (GR 6179 4354) for a distance of approximately 20 metres to Fish House lane, Chipping (GR 6177 4353) and shown between points H- I on the attached plan.
- v. That, being satisfied that the tests for confirming said Orders at c) and d) can be satisfied, said Orders be promoted to confirmation if necessary by sending to the Secretary of State.

## **Background**

1. A claim has been received for the deletion of part of Public Footpath No. 129 Chipping from point A to point H on the attached plan, a length of 72 metres from GR 6182 4348 to GR 6179 4354 from the Definitive Map of Public Rights of Way.

2. A claim has been received for a Public Footpath extending from a point on Public Footpath No. 129 Chipping to Fish House Lane, a length of 20 metres, and shown between points H - I on the attached plan, GR 6179 4354 to GR 6177 4353, to be added to the Definitive Map and Statement of Public Rights of Way.

## **Consultations**

### Borough Council

Ribble Valley Borough Council has been consulted and does not have any observations or comments to make regarding the proposals.

### Parish Council

Chipping Parish Council has also been consulted. No comments have been received following formal consultation. However, the Applicant who has claimed that a length of path be deleted has forwarded a letter from the Parish Council which supports the Applicant's claim for deletion, details of which are included in the 'Information From Applicant' section below. The Applicant is only claiming the deletion of the footpath and was unwilling to add to the application an alternative length of public footpath to substitute for the length to be deleted, even though evidence submitted supports the existence of an alternative route. The application for the additional length of footpath has been submitted by the Environment Directorate. The letter from Chipping Parish Council supports both the claim for the deletion and the addition of a public footpath.

## 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 the Environment's Observations

#### Site Inspection

1. Claimed deletion of part of Public Footpath No. 129 Chipping from Fish House Lane to a point to the north of 10 Old Hive Cottages.

The claimed route to be deleted commences to the south east of the Old Hive on Fish House Lane, Chipping at point A on the attached plan (GR 6182 4348). It crosses the tarmac surface of Fish House Lane in north east direction to point B. At point B the claimed route is obstructed by a hawthorn hedge. There is no evidence of a gap, stile or gate in the hedge although 4 metres south east the hedge stops and the boundary is fenced with wooden post and rail fencing.

There is no public footpath signpost indicating the start of the claimed route from Fish House Lane. Neither is there any sign or notice indicating that the route claimed for deletion is private.

Beyond the hedge at point B the claimed route extends gradually uphill passing directly through a small area used for growing vegetables and crossing a garden area for a distance of 14 metres to point C.

At point C the claimed route for deletion meets the boundary wall and fence at the rear of the garden just to the south east of some brick/stone-built former coal sheds. It then curves round in a northerly and then north westerly direction passing through the corner of the former coal sheds before crossing a recently constructed gravel garden path, an area of lawn, and then back across the gravel track to point D.

At point D the claimed route is obstructed by a wooden garden fence. The fence is not shown on the attached plan but its appearance suggests that it has been in existence for several years.

From point D the claimed route crosses an enclosed garden in a north westerly direction to the rear of 2 Old Hive. It is obstructed by a further wooden fence at point E on the plan which has been constructed in the same style as the garden fence across the claimed route at point D.

Between point E and point F the claimed route passes across the garden to the rear of 4 Old Hive. At point F the claimed route runs close to the back of No. 4 Old Hive and is obstructed by a stone wall that extends out from the house for a distance of 95cm before continuing as a post and rail fence along the boundary of the garden.

From point F the claimed route continues in a north westerly direction through the garden along the backs of Nos. 6, 8 and 10 Old Hive to point G on the attached plan.

At point G the claimed route is further obstructed by a substantial stone wall that is approximately 1.25 metres high. It then continues for a further 3 metres to point H (GR 6179 4354) which is a point on Public Footpath No. 129 Chipping to the north of 10 Old Hive Cottages.

In summary, the claimed route is 72 metres long and passes through individual gardens belonging to a number of the residents at Old Hive, Chipping. It is obstructed by 5 boundary fences/walls and passes through an old brick building formerly used as a coal shed. There is no evidence that the public are attempting to use the claimed route and there is no evidence that the claimed route exists on the ground.

## 2. Claimed addition of a public footpath from Public Footpath No. 129 Chipping to Fish House Lane

The claimed route starts at a point on Fish House Lane at the corner of the garden wall belonging to No. 12 Old Hive and shown by point I on the attached plan (GR 6177 4353).

From point I the claimed route extends in a north easterly direction across a tarmaced area passing directly in front of the pedestrian gates providing access to Nos. 12 and 14 Old Hive.

After approximately 12 metres the width of the claimed route is restricted to 2.4 metres where it is bounded on the northern side by the garden walls of Nos. 16 and 18 Old Hive and No. 10 Old Hive. The claimed route continues in a north easterly direction for a further 8 metres bounded by the house and garden wall and increasing to a width of 4 metres just before meeting Public Footpath No. 129 Chipping just to the north of no. 10 Old Hive at point H on the attached plan (GR 6179 4354).

In summary, the claimed route is 20 metres long. There are no signs indicating whether the claimed route is public or private and there are no gates or barriers preventing access along the route.

Public Footpath No. 129 Chipping - which extends in a northerly direction from point H - appears to be well used and can only be accessed from Fish House Lane by using the claimed route for addition to the Definitive Map.

In addition, the claimed route provides vehicular access to Nos. 18 and 20 Old Hive and pedestrian access to Nos. 12, 14 and 16 Old Hive.

## Map and Documentary Evidence

A variety of maps, plans and other documents were examined to find out when the route claimed for addition to the Definitive Map came into being, and what its status

might be, and to find out if the route claimed for deletion existed in the past, and if so, if it was a public right of way. A number of maps and other documents have been submitted by the Applicant for the deletion claim. This Applicant's interpretation of the maps is detailed in the section County Secretary and Solicitor's Observations with additional comments by the Executive Director for the Environment.

Other maps and documents examined by the Executive Director for the Environment are also described below.

Some maps produced before Ordnance Survey maps were published were examined. These were Yates' map of Lancashire of 1786, Greenwood's map of 1818 and Hennes' map of 1830. These maps showed the village of Chipping but were too small-scale to identify the Old Hive cottages.

The tithe map for Chipping of 1840 shows three rows of buildings at the site, one corresponding to 2 - 10 Old Hive, one to numbers 20 - 24 and one to numbers 12 - 18. The written schedule accompanying the map describes them as cottages and gardens. No part of Public Footpath no. 129 is shown. If attempting to follow the route claimed for deletion (A - H) on the tithe map it would have been necessary to pass through 3 garden boundaries, although the map would be unlikely to show stiles or small gaps in those boundaries if they existed. The route claimed for addition to the Definitive Map (H - I) seems to be shown as a short spur or branch of Fish House Lane and has no barriers across it.

Maps produced under the requirements of the 1910 Finance Act were examined. The act required all land in private ownership to be recorded so that it may 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 the accompanying valuation books provide details of the value of each parcel of land, along with the name of the owner and tenant (where applicable). The Instruction No. 560 to the surveyors said that the parcels "should continue to be exclusive of the site of the external roadways". It is advised that roadways were said to be routes "subject to the rights of the public" and therefore exclusion of a route indicates that public use was known but not necessarily vehicular status. The owner of the land could also claim a reduction in tax if the land was crossed by a public right of way, and this is recorded in the valuation book. In this instance the maps and extracts from the valuer's field books were obtained from The National Archives. The route claimed for deletion passes through 2 parcels of ownership (probably recorded as numbers 159 and 164 but the numbering added to the record maps is faint). Neither owner claims a deduction in tax for the existence of a public right of way. The valuer has noted that the cottages have no back doors. In contrast, the route claimed for addition to the Definitive Map is excluded from land in private ownership.

Maps and documents associated with the building of canals, turnpike roads and railways can be consulted when researching alleged public rights of way, but in this instance they are not relevant. There was an Inclosure Award for part of Chipping in 1812, but it did not affect the Old Hive area.

Other maps and documents are described below as part of the applicant's evidence, and include the Executive Director for the Environment's comments on them.

## County Secretary & Solicitor's Observations

### Information from the Applicant

A letter from Mr Graham Wilkinson the Chairman of Chipping Parish Council is enclosed by the Applicant for the deletion. He advises that the Parish Council has kept an archive of maps and explains that problems have arisen as a result of a footpath recording exercise that was conducted in the early 1950's. He explains that it seems that the Parish Council may have made an error with regard to the location of the southern end of Footpath 129 Chipping. The route is shown to go through the back of people's gardens rather than directly onto the road. He states he has visited the site and can see no topographical or other evidence that the route ever passed through the residents' gardens. This is supported by custom and practise and by anecdotal evidence from other residents who have lived in the village for many decades. Chipping Parish Council fully supports the position that has been adopted by the affected residents at Old Hive.

A letter from Chipping History Society has been submitted which encloses a number of maps and other documents: a) census returns from 1841 to 1881 show that the residents of Old Hive worked in the iron foundry, mill and chair works and the History Society chairman believes that the footpath from the stile would have been used by them from Old Hive to their place of work across the fields; b) an Ordnance Survey map dated 1847 does not show a footpath at the rear of the houses; c) a map dated 1892 used for the sale of freehold estates in Chipping does not show a footpath at the rear of the houses; d) an Ordnance Survey map dated 1892 does not show the length of public footpath claimed for deletion; e) an Ordnance Survey map dated 1912 does not show a path behind the houses which is claimed for deletion; f) a map of Old Hive produced by Chipping WI in 1976 does not show a footpath behind the Old Hive cottages but, he believes, does show a footpath in front of the houses; g) a Village Trail leaflet of 1986 shows the route to be followed along the line of the path to be added to the Definitive Map (H – I) which continues northwards along the rest of Public Footpath No. 129. The leaflet does not show the length claimed for deletion.

The Executive Director for the Environment comments on the enclosures and their interpretation by the Chipping History Society as follows: b) the 1847 map seems to be an enlargement of a 6-inch Ordnance Survey map. The cottages numbered 2 – 10 are shown with gardens or enclosures behind them with the boundary walls coming right up to the building. No path or track is shown from the road running behind the cottages. The alternative route claimed for addition is shown as an open gap between the rows of cottages. It continues northwards as an enclosed track until it crosses an open field and is no longer enclosed on both sides; c) the 1892 estate map is hand-drawn but is not a direct copy of an Ordnance Survey map. It shows a number of footpaths across the estate, including what is now recorded as Public Footpath No. 129 coming from the north and stopping at the rear of number 20 Old Hive, from which point an open area which could be a short branch from the road follows the line of the claimed route H – I on the plan attached to this report. The length of public footpath claimed for deletion (A – H) is not shown on this map; d) the 1892 Ordnance Survey map seems to be a 25-inch map. The boundaries of land behind numbers 2 – 10 Old Hive have changed since the earlier 1847 map, and

some little structures are now shown there (which could be coal sheds, privies or animal pens) but no path is shown. Public Footpath No. 129 is still shown in the same way passing from the field southwards to join a track which passes along the western side of number 20 at point H before continuing to the road along the route H – I on the attached plan; e) the Ordnance Survey map dated 1912 shows more changes to the boundaries and outbuildings behind the cottages, but no footpath is shown there. The route claimed for addition to the Definitive Map is shown in the same way as on the earlier map as open access to the road.

Copies of the Chipping Parish Survey Map and accompanying survey cards have been submitted by the Applicant for the deletion, as well as the Draft Map for Clitheroe Rural District, the Provisional Map, the original Definitive Map and the Definitive Map, First Review.

The Applicant for the deletion comments on the number of changes in the rights of way network when comparing the Parish Survey Map (compiled by the parish council) with the Draft Map, Provisional Map and Definitive Maps. Changes include the renumbering of Footpath No. 130 to Footpath No. 129 and that the route was also changed to show the footpath going through the houses. The Applicant for the deletion also comments that records for the Draft Map of 1953 recorded Footpath No. 129 as being 0.09 of a mile long and Footpath No. 130 being 0.06 of a mile and on the Definitive Map Footpath No. 130 is no longer recorded but Footpath No. 129 increases in length by 0.15 miles. The Applicant for the deletion has walked up and down the claimed path and states that the length averages to 0.15 miles.

The Executive Director for the Environment comments as follows: there are differences between the parish survey map and subsequent maps. Two of the map sheets used for the parish survey join at Old Hive. The line of Footpath 130, continuing from the southern end of Footpath No. 129 on the survey map is that shown as Public Footpath No. 129 on the Definitive Map ie curving around the rear of numbers 2 – 10 Old Hive. The map indicates the presence of 2 stiles where the path meets the road. The cards on which the two paths are described state that Footpath No. 129 is clearly defined towards Old Hive and then continues 'over stile and then round houses to Highway' which could apply equally to the route claimed for deletion or the alternative route claimed for addition to the Definitive Map. Once all the parish surveys had been completed in rural district council areas, the maps were copied onto large maps covering the whole district, in this instance for Clitheroe Rural District, and called the Draft Map. These draft maps for the whole county (with the exception of the county boroughs) were placed on deposit in council offices in 1955 for 4 months for the public to inspect them and check their accuracy. Whilst over 1000 objections were filed to Lancashire draft maps, none were made to the paths in Chipping. However, many of the survey cards for Chipping have had amendments added to them in red pen. The card for Footpath No. 128 (which was shown as joining Public Footpath No. 129 to the north of point H) has been altered to read that, since the survey, the path had been found not be a footpath (presumably meaning that it was not a public right of way) which had been confirmed by a public meeting. There are similar references to a parish meeting on other cards, also recording that they were found not to be public.

The Draft Map for Clitheroe shows what is now recorded as Public Footpath No. 129 in two parts, numbered 129 in the north and 130 in the south. The path is shown in the same position as on the current Definitive Map following the route claimed for deletion. Following the publication of the Draft Map, all the objections and comments received were processed and those accepted were incorporated into a map that was redrawn and called the Provisional Map. The map shows the path in the same position and re-numbered as Footpath No. 129. The lengths of the two paths have been added together to make a total length of 0.15 miles. (Footpath No. 128 referred to above and found by the parish meeting not to be a public path has been omitted). The Provisional Map was also placed on deposit for inspection, this time for 28 days. No objections were made to the paths in Chipping. The path was shown in the same way on the subsequent Definitive Map and the current Definitive Map, First Review.

The Applicant for the deletion has submitted a number of Ordnance Survey Maps from 1847 until 2002, some of which were also submitted by the Chipping History Society. The findings of the maps of 1847, 1892 and 1912 are described above. A 25-inch Ordnance Survey map of 1932 has been submitted which does not show the route claimed for deletion but does show the gap between the rows of cottages to the road along which the route H – I runs. The 25-inch OS map published in 1967 again does not show the route claimed for deletion but does show the opening between the buildings along which the route claimed for addition runs.

Measurements and descriptions supplied by the Parish Council have been checked by the Applicant for the deletion who states that if the route shown on the Definitive Map is followed it measures 0.238 miles, not the 0.15 miles recorded on the Definitive Statement. The Applicant therefore concludes that Public Footpath No. 129 does not, and never did, extend through the old stone wall and through the private gardens to the rear of numbers 2 – 10 Old Hive.

The Applicant for the deletion has submitted a letter from the secretary of the Longridge group of the Ramblers' Association to the clerk of Chipping Parish Council dated 5 May 1984. The letter refers to a survey of all the footpaths in Chipping and a footpath inspection report in the form of a table is attached. The form includes paths numbered 128 and 130 against which it is stated there is 'no record of this footpath'. The Executive Director for the Environment comments that it is not known what map the Longridge group were using for this survey but there are no paths numbered 128 or 130 in the parish of Chipping on the Definitive Map.

The Applicant for the deletion has submitted a number of aerial photographs of Old Hive, one from Google maps and others from the County Council's on-line Mario mapping web-site. The Applicant believes that the Google photograph dates from 2006. Public Footpath No. 129 is highlighted crossing the field and continuing along the route H – I claimed for addition to the Definitive Map with a note added 'Clearly shows F129 ie obvious way out of Old Hive highlighted'. A colour photograph from Mario has been included with 'The Proper Route' highlighted in yellow which is the route claimed for addition. The Executive Director for the Environment comments that this photograph was taken in April 2003. The aerial photograph from Mario dated '1960s' also shows the same route highlighted as the 'Proper Route' as well as a Mario photograph dated '1940s' and one dated '1945 – 1952' with no additional comment. The Applicant states that these photographs show that the line of the path



claimed for deletion runs through private property and that the alternative route is clearly seen as a route out to the main road. The Old Hive cottages have not changed in their structural layout over the last 60 years, as shown on these photographs, nor have there been any deviations in the boundary walls and fences, which is confirmed by Ordnance Survey maps. The Executive Director for the Environment comments that the aerial photographs are not particularly clear, but they do show that the overlay of public footpaths depicts the route passing through outbuildings between points C and D on the attached plan. The photographs are not clear enough to show if there was a path along the rear of the cottages in the past, or if stiles or gaps existed in the walls that divide the plots of land to the rear of the buildings.

Photographs submitted by the Applicant for the deletion illustrate where the route claimed for deletion runs from Fish House Lane behind numbers 2 – 10 Old Hive, and the alternative route following the lane along the route claimed for addition to the Definitive Map. The Applicant states that to follow the Definitive route it would be necessary to go through a wall and a big wooden cabin on the lawn of number 20 Old Hive, the stepping stones from the gate to the old shed being still visible. The route also goes through old coal sheds which have stood for over 100 years and the old communal toilet built in 1825.

Land Registry documents, which do not show a footpath to the rear of Old Hive, have been provided by the Applicant for the deletion. One of the plans is hand-drawn, dated 1957, and appears to show the extent of ownership of number 16 Old Hive. The area in front of the property, along which the route H – I runs, is named as Old Hive Road.

The Executive Director for the Environment comments that, in summary, all maps and documents examined do not show a path or track along the route claimed for deletion from the Definitive Map, shown as A – H on the attached plan. To follow the route A – H it would have been necessary to pass through a number of walls or other boundaries between enclosures behind the cottages, and at times, through small buildings or structures. Any small gaps, gates or stiles through these boundaries are not shown on the maps examined. With regard to the route claimed for addition to the Definitive Map, H – I on the attached plan, this is shown on all maps examined as an open area between two rows of cottages, and on some appears to be physically an extension of the adjacent lane.

Twenty-two evidence of use forms were submitted by the applicant for the deletion. The number of years the route claimed to be added to the Definitive Map has been known and used was as follows: 80-90 (2), 70-80 (3), 60-70 (3), 50-60 (4), 40-50 (1), 30-40 (2), 20-30 (0), 10-20 (1), 0-10 (6). The number of users reported to have used the length of path claimed for deletion was recorded as zero. Two users attached letters to their user evidence forms. In one of the letters the user states that through family history for over a hundred years, he does not recall there being a footpath running the line of the claimed deleted route. He explains that his grandparents owned the whole row of West View, known as Old Hive at the turn of the last century and the gardens of the properties have always been set up as they are today without deviation to garden walls and fences. He explains that the gentleman who walked the routes for Chipping Parish Council was known personally

to him and was incredibly well acquainted with the footpaths in the area. He explains that an error must have been made when transferring his written information on to the actual map. One explanation for this may be that two map sheets on which the parish information was recorded join at Old Hive with the result that the line of the path has been drawn too far south at the map join into Old Hive.

The second user considers the Ordnance Survey map for 1888 -1893 and highlights a small building on the map and explains this existed at the time when the Ordnance Survey was carried out and the building has since been converted. He therefore states that the footpath claimed for deletion could not have run through this building and the route could not have been walked because of the structure standing 182 years ago.

A user who lived at 16 Old Hive in the 1950s and has known the area for 75 years has marked the route claimed for addition to the Definitive Map as the route he frequently saw being used by hikers.

Another user attaches a letter to state that since 1945 she has no recollection of there being a footpath along the claimed deleted route and that her mother of 86 years has lived in the area for her entire life and also acknowledges that there has never been a footpath to her knowledge behind the said houses where the claimed deleted path runs.

A resident of Old Hive states that she was born in Chipping in 1957 and knows the village very well. She has never known a public footpath to follow the route shown on the map and as a keen walker she has used the footpath from the field which led out onto the road around the front of the houses. This resident says that her mother who was born in one of the cottages in 1929 states that there has never been a public footpath along the route shown on the plan attached to this report during the 78 years that she has lived in Chipping. The footpath follows the route that her daughter described. This view was seconded by the resident's father who worked in Chipping from 1942 to 1993, and lived there from 1951.

Another person states that her family have owned property in Old Hive for over 100 years. At no time was there a footpath as mentioned. The Definitive route passes through a small building that was the original privy to the block.

The route is used by the majority of users for recreational purposes and walking. Frequency of use ranges from once a year to daily. Fourteen users have not specified how often the route has been used per annum. Three users indicate that there is a stile on the route, they have indicated on the plan attached to their user forms where the stile is marked. However this is further along Public Footpath No. 129 and not on the claimed deletion or addition of the footpath. No user has reported any gates along the route being locked.

The Applicant states that no member of the public has ever in 80 years of memory ever had a desire to walk the suggested route of the path through gardens and no signage surveys done in the last 50 years have ever brought any problem to the fore.

## **Assessment of the Evidence**

### **The Law - See Annex 'A'**

In Support of the Claim for addition of the footpath H - I

- Use by the public
- Available route
- Documentary evidence

Against Accepting the Claim for addition of footpath H - I

- No particular evidence against

In Support of the Claim for the deletion of path A to point H

- Route passes through pre existing residential gardens
- Alternative route in existence
- Documentary evidence
- Information from Chipping Parish Council

Against accepting the Claim for the deletion of path A to point H

- Initial presumption that it exists
- The evidence needed to remove a public right from such an authoritative record will need to be cogent
- No objections to it being shown neither on the Draft or provisional maps nor at review

## **Conclusion**

In this matter it is claimed that the line shown on the Definitive Map as the southern end of Footpath 129 Chipping from point A to point H is shown in error and instead it is claimed that there is a public footpath on a line between points H - I.

To delete a footpath from the definitive map requires cogent evidence that there was an error made in putting it onto the map in this case in 1953.

It is suggested that there is evidence that the southern line of Footpath 129 being shown through the old stone wall and through the private gardens to the rear of numbers 2 – 10 Old Hive and this is of itself can be an indication that there was an error made in recording a public footpath through garden walls corroborated by the user evidence presented.

It is suggested that it is sometimes the case that the evidence for an alternative line can be sufficiently strong to prove the error of the line drawn on the map.

It is suggested that the evidence for a footpath already existing for the public on the line H - I is considered first.

The tithe map for Chipping of 1840 shows the claimed route as a spur or branch of Fish House Lane and has no barriers across it. The route claimed for addition to the Definitive Map is excluded from land in private ownership indicating public use was known.

Twenty-two evidence of use forms were submitted (in connection with the route claimed for deletion). None of the twenty-two users reported to have used the route claimed for deletion. Twenty two users claimed knowledge and use of the route claimed to be added to the Definitive Map. Local information relating to the route is strong and comes from those living on the claimed route.

It is clear that the users of the land cannot recall crossing the route claimed for deletion and indeed claim use of the route claimed in addition. By the public using the route would, it is suggested be sufficient circumstances from which to infer that there has already been a dedication of a public footpath on the line H-I. Taking all the evidence into account the Committee may consider, on balance that there are footpath rights already along the claimed route and that the route should be added to the Definitive Map. It is suggested that not only the test for making an Order (footpath reasonably alleged to subsist) can be satisfied but also the higher test (footpath on balance does subsist).

That the line H-I can be considered to subsist as a footpath does not necessarily prove that the line nearby was recorded in error. The Committee should consider whether it is unlikely that two paths existed so close to each other or whether there was only one route through to Fish House Lane which should have been recorded but instead A-B-C-D-E-F-G-H was recorded in error.

In this matter there seems to be a possibility on balance that as a result of the map edge position in the footpath recording exercise conducted in the early 1950's that an error may have been made with regard to recording the location of the southern end of the Footpath 129 Chipping going through gardens rather than directly onto the road although it is not known why the draft map shows a stile in position.

It is suggested that the Committee may consider that there is evidence by way of all the maps and documents that the route claimed for deletion A-H on balance was recorded on its line in error and should have been recorded as H-I. To follow the route A-H it would have been necessary to pass through a number of wall or other boundaries and there is information from the time indicating that this was not the line of a footpath.

Given all the evidence of the existence of the route H-I and the evidence surrounding the recording of A-H the Committee may consider that there is sufficient evidence that the route A-H was recorded in error and that A-H should be removed from the Definitive Map and the footpath on line H-I be added to the Definitive Map and both the claims be accepted.

**Alternative options to be considered - N/A**

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

Paper	Date	Contact/Directorate/Ext
All documents on Claim Files Ref: 5.32267 (804/472) and 5.33257 (804/476)	Various	S Khalid, County Secretary & Solicitor's Group, 01772 533427

Reason for inclusion in Part II, if appropriate

N/A