



14/03/2013



Public Footpath



Information is available in large print,
braille, audio tape or pc disk on request

Flint Street
Fartown
Huddersfield HD1 6LG
West Yorkshire

Highway Network Manager
Richard Bunney

Please contact:- Giles Cheetham
Tel: 01484 225575

E-mail: giles.cheetham@kirklees.gov.uk
Fax: 01484 225576
Text phone for deaf people: 01484 225531

Our Ref: 872/DIV/1/49/GC/CAH
Your Ref: None

Date: 26 November 2003

Mr & Mrs Bragg
75 Hey Beck Lane
Woodkirk
Dewsbury
WF12 7QU

Dear Mr & Mrs Bragg

**APPLICATION TO DIVERT PUBLIC FOOTPATH BATLEY 49 – HEY BECK LANE.
HIGHWAYS ACT 1980 – SECTION 119**

In the course of investigating the above application, it has come to my attention that public footpath Batley 49 runs across your property as shown on the attached plan. The route is as shown on the Definitive Map held at this office, which is a legal document showing recorded public rights of way. I should be obliged if you would contact Giles Cheetham, the Definitive Map Officer, on the above telephone number to discuss this matter further.

Yours sincerely

JUSTIN ROCHE
Public Rights of Way Manager

Enc.



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Kirklees
 METROPOLITAN COUNCIL

Project

Definitive route

Barley 49

Scale

1:1250

Drawn
 GC

Checked

ENVIRONMENT & TRANSPORTATION SERVICE

T.M.BROWN

B.Sc(Eng), M.Sc., C.ENG., MICE.

Assistant Director Highways and Transportation

Flint Street, Fartown, Huddersfield, HD1 6LG

Title

Bat 49

Section
 PROW

Date
 25th November 2003

Dwg/Ref.No.

5

Public Rights of Way

Fax: 01484 221613

20 May 2013

Our ref 872/1/49/GC

Mr I Bragg
75 Hey Beck Lane
Woodkirk
Dewsbury
WF12 7QU

Dear Mr Bragg

Public footpath Batley 49.

Further to previous correspondence, including our telephone conversation of 16 May 2013, as you are already aware, the above public footpath shown A-B on the enclosed plan is obstructed at your property. Unfortunately our discussions have not reached a satisfactory conclusion and you have stated your intention not to re-open the above path to the public, or to make any formal application to the council to address these issues.

You have been aware of the recorded alignment of Batley public footpath 49 since at least November 2003. You have not taken any steps to address the obstructions, nor to apply to change the alignment as it runs over your land, nor to make any application which may challenge the recording of public rights of way at Hey Beck Lane. These points have all been discussed in detail with you, your options explained and I have invited any queries or discussion which may assist you. You have not taken up any of these options. Indeed, since being informed about the footpath, the footpath has been subject to further obstruction, in the form of the electric gate.

The blocking of a gate off the public footpath has led to a number of requests from members of the public regarding public rights of way at Hey Beck and has brought this matter to a head. Your neighbour shows no intention to proceed with any application to divert footpath 49 and would appear to accept the council's position regarding the path's current definitive alignment.

The public footpath 49 has been recorded since at least the publishing of the first definitive map and statement, which had a relevant date in September 1952. This public footpath used to run outside the curtilage of no.75, between the former south-eastern boundary wall and the stable building. That land and stable building was incorporated at some point into the holdings at 75 Hey Beck Lane, the stable became a garage and subsequently, a bungalow. Your own planning submissions for that bungalow conversion included a plan which shows the alignment of path 49 as I describe. The council's responsibilities regarding the obstructions of the definitive footpath are clear and I would ask you now to re-open the footpath to the public.

I also enclose a copy extract from the modified definitive map and statement with a relevant date of 30 April 1985, which is held by the council under the Wildlife & Countryside Act 1981. I would note for your attention the conclusive nature of the definitive map and statement as recognised in Section 56 of the Wildlife & Countryside Act 1981. In addition, I enclose a copy of your own planning application 2011/92466 submission. All these papers identify and recognise the above public footpath.

As has been previously discussed with you, I note and recognise the proceedings regarding an unsuccessful, unconfirmed Highways Act 1980, section 119 public path diversion order made in August 1992. The incorrect representation of public footpath 49 in those papers is noted, and it is unfortunate that the council, the landowners, the objectors and their respective representatives, as well as the appointed Inspector from the Planning Inspectorate, did not recognise the error; but as you are aware, those proceedings have had no effect on the alignment of Batley footpath 49. Similarly, any allegations regarding the potential dedication of other public rights of way in the vicinity do not affect the recorded alignment of public footpath Batley 49. Again, you have stated your intention not to make formal application to the council regarding these allegations of additional public rights.

The council has shown reasonableness and patience over these issues and has informed and assisted affected landowners but we now have a situation where public access is prevented, we have received requests from various members of the public attempting to exercise their rights and we have no ongoing process proposing to change or to challenge the public footpath in question.

I would now ask you to remove all obstructions and deposited materials from, and remedy any disturbance affecting, the above public footpath over your land and to reinstate the above footpath so that it is open, available and safe for public use by Tuesday 4 June 2013. These items include all and any fencing, walls, the electric gate, the electric gate mechanisms, dwarf walls, bedding plants, shrubs, trees or other non-grass vegetation and soils or other minerals etc.

This letter is an informal request and I enclose a copy of the council's enforcement policy guidelines for your information. Hopefully formal processes will not be required, however I should note that the council has a duty under Section 130 of the Highways Act 1980 to protect and assert the public right of way. The council has received a number of requests regarding the obstruction of public footpaths off Hey Beck Lane. The council has a variety of powers available to deal with obstructions and other issues, including, but not limited to, formal notice and default works under Section 143 and Schedule 12A of the Highways Act 1980 and/or court action. You may be recharged for default works undertaken by the council.

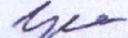
You may find the government guidance to local authorities, Circular 1/09, at the following DEFRA website link helpful – paragraphs 6.15 to 6.20 deal specifically with obstructions.

<http://www.defra.gov.uk/publications/files/pb13553-rowcircular1-09-091103.pdf>

The public footpath will be inspected after 4 June 2013 and if the above issues remain then a file will be sent to the enforcement team in the council's Streetscene service, which would co-ordinate formal action. If you take all reasonable steps to remove the obstructions and you still require an extension to this time limit to complete the removal of obstructions and re-open the path, please let me know as soon as possible, providing a timetable of your proposed works. If this is acceptable then we may grant an extension before referring the file for formal enforcement.

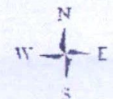
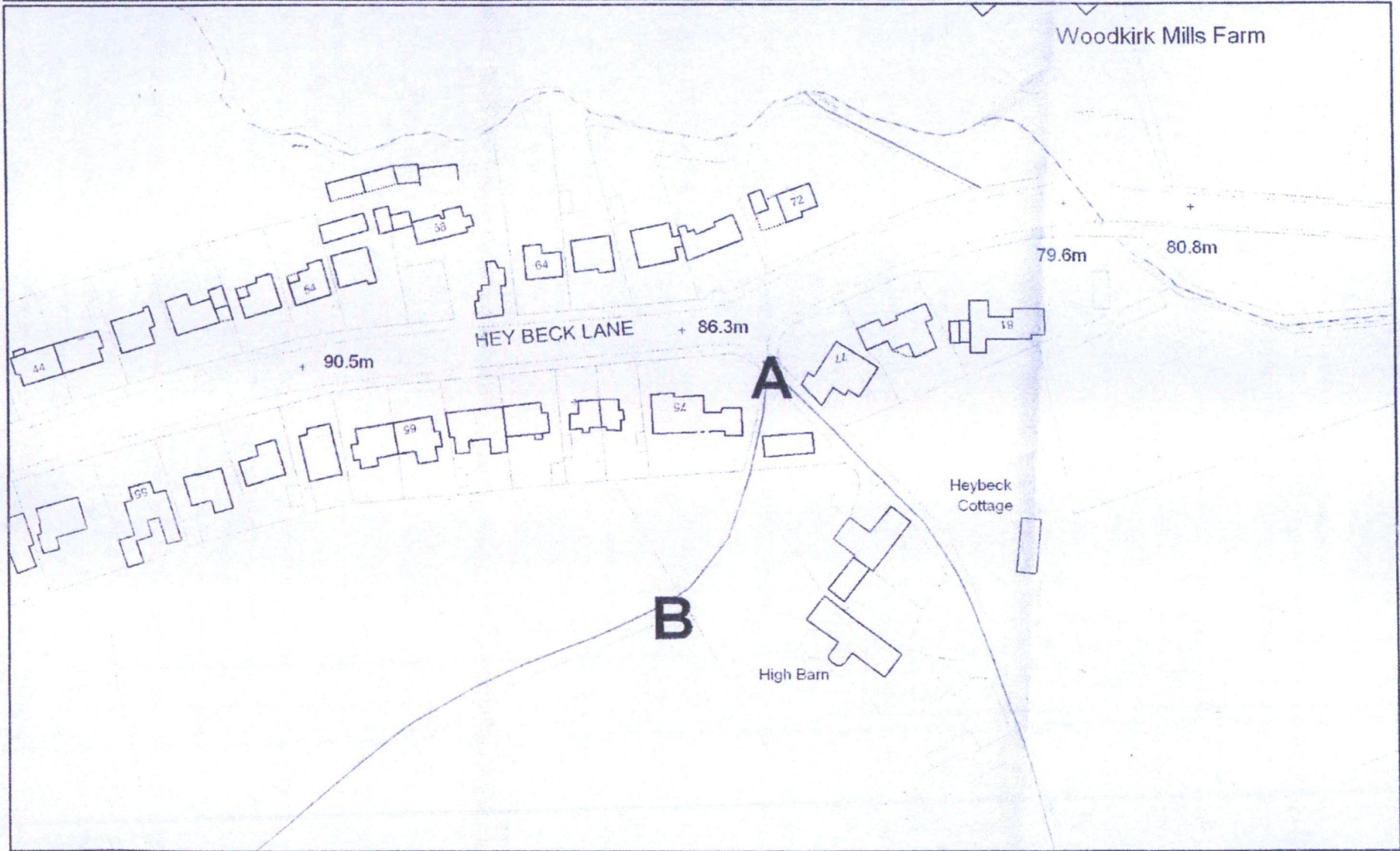
Please let me know if you would like further information or have any further questions that you may like to ask. I note your stated intention during our telephone conversation of 16 May 2013 to seek legal advice and I confirm that I would be happy to deal directly with your representative(s). A letter regarding obstruction of Batley footpath 49 has also been sent to your neighbour at High Barn. My direct telephone line is 01484 225575. Alternatively you may write to me at the address above or by email to giles.cheetham@kirklees.gov.uk

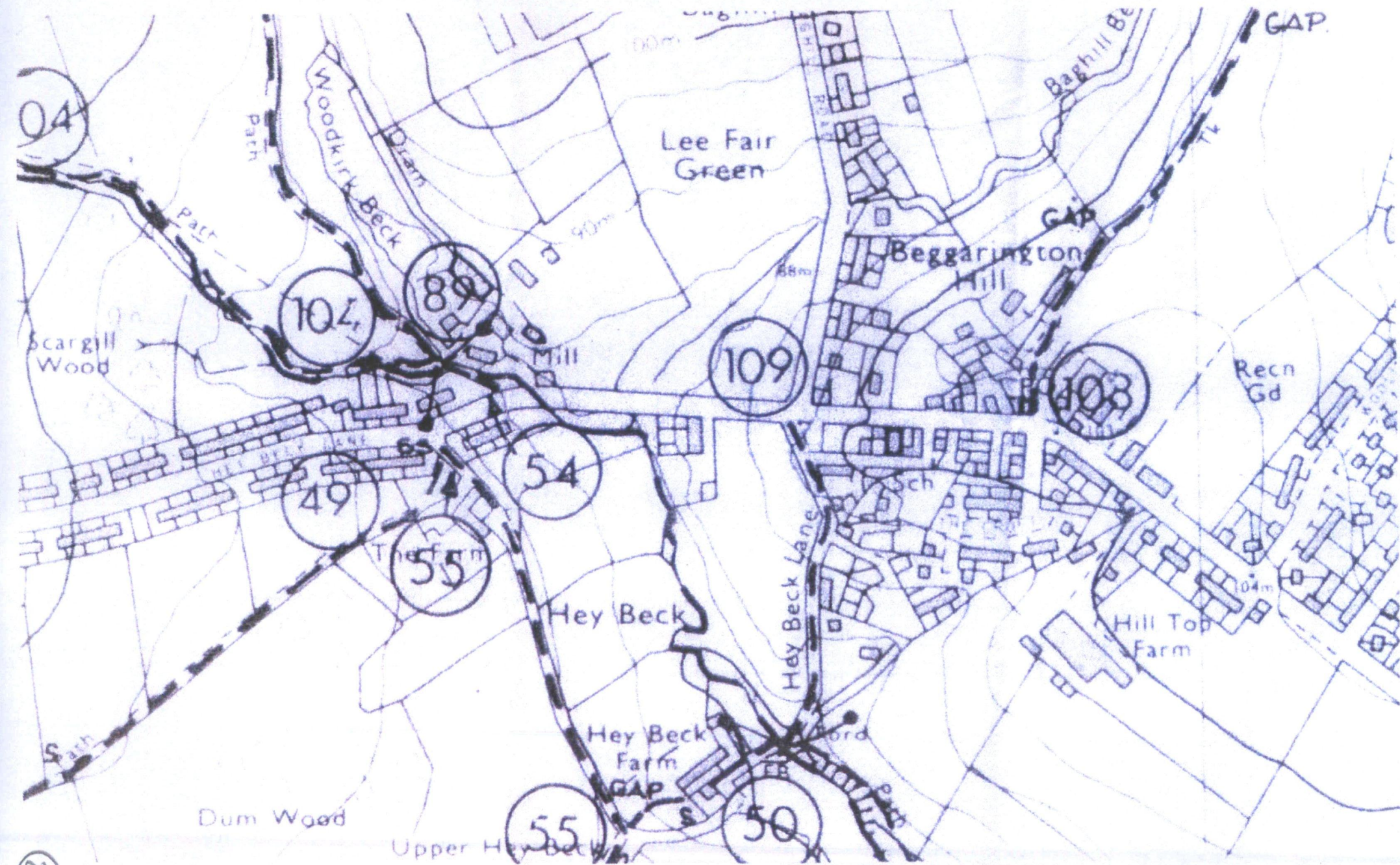
Yours sincerely



Giles Cheetham
Definitive Map Officer
Enc.

Batley 49 - A to B





Path Number	Map Reference	Description of Route	Nature Of Surface	Length (M)	Width (M)	General	
044	SE 22SE / 2523	/	Bridleway known as Sykes Lane commencing at its junction with Fort Ann Road and proceeding southeastward via Soothill Grange to the Dewsbury Boundar.	Green Lane	756	3.7	2 Field Gates
045	SE 22SE / 2624	/	Bridleway and footpath commencing at its junction with Soothill Lane (B6124) at Croft House Farm and proceeding in a southwesterly direction to its junction with High Street, Hanging Heaton at two points with a branch connection to Path No. 44.	Arable Green Lane	640 821	1.2 3	4 Field Gates 1 Gap 1 Step 6 Stiles
046	SE 22SE / 2623	/	Footpath commencing at its junction with Path No. 45 at its junction with Grange Road and proceeding in a southerly and easterly direction to the Dewsbury Boundary.	Arable	290	1.2	
047	SE 22SE / 2624	/	Footpath commencing at its junction with Soothill Lane (B6124) opposite Croft House Farm proceeding northward to the Morley Boundary.	Pasture	531	1.2	
048	SE 22SE / 2624	/	Footpath commencing at its junction with Soothill Lane (B6124) and proceeding in a northwesterly thence northeasterly direction turning in a southerly direction to join Woodkirk Gardens then recommencing off Woodkirk Gardens opposite No. 40 it proceeds in a northeasterly direction to Leeds and Dewsbury County Road (A653).	Pasture	435	1.2	1 Gap 2 Stiles
049	SE 22SE / 2624	/	Footpath commencing at its junction with the Leeds Road adjoining No. 1062 and proceeding in a southeasterly and northeasterly direction to its junction with Hey Beck Lane.	Pasture	740	1.2	2 Stiles
050	SE 22SE / 2623	/	Footpath commencing at the Dewsbury Boundary east of Lees House Farm and proceeding in a northeasterly direction to its junction with Hey Beck Lane.	Arable	1014	1.2	1 Field Gate 1 Foot Bridge 2 Gaps 2 Stiles
051	SE 22SE / 2623	/	Footpath commencing at its junction with Leeds Road at Lees House Farm and proceeding eastward thence northward to its junction with Path No. 50.	Arable	1223	1.2	5 Field Gates 1 Gap 2 Stiles
052	SE 22SE / 2723	/	Footpath commencing at its junction with Path No. 51 and proceeding in a southwesterly direction to the Dewsbury Boundary.	Arable	225	1.2	1 Gap 1 Stile
053	SE 22SE / 2823	/	Footpath commencing at the Morley Boundary at Hey Beck Footbridge and proceeding in a southeasterly direction to the Ossett Boundary with a branch proceeding westward to Dewsbury Boundary.	Pasture	1142	1.2	1 Foot Bridge 3 Stiles
054	SE 22SE / 2724	/	Footpath commencing at its junction with Hey Beck Lane and proceeding in a northwesterly direction to the Morley Boundary.	Pasture	32	1.2	2 Stiles
055	SE 22SE / 2724	/	Footpath commencing at its junction with Hey Beck Lane and proceeding southward to its junction with Path No. 50.	Pasture	354	1.2	1 Gap 1 Step
056	SE 22SW / 2324	/	Footpath known as Towngate Road commencing at the south end of Path No. 27 and proceeding south and southwest into Healey Lane, with a branch path running east and northeast into Amcliffe Road.	Earth Roughly Metalled Tarmac	64 64 32	1.8 1.8 1.8	
057	SE 22SE / 2523	/	Byway open to all traffic known as Grange Road commencing at the adopted part opposite No. 182A and proceeding in a generally easterly direction to the Dewsbury Boundary.	Roughly Metalled	805	6.1	