
Report of the Principal Definitive Map Officer

Report to Definitive Map Modification Order Application Decision Meeting

Date:

Subject: Huddersfield Path 231 Status Determination

Summary of main issues

To determine a Definitive Map Modification Order Application under Section 53 (5) of the Wildlife and Countryside Act 1981 and seek authority to make a Modification Order if evidence shows that a public right of way exists or that the Definitive Map and Statement needs modifying.

Recommendations

The Members of the planning sub-committee (Huddersfield Area) are requested to consider the evidence contained within the attached reports, and the law to determine the status of the alleged public rights of way and authorise the Service Director - Legal, Governance and Monitoring either,

To make an Order in accordance with Section 53(2)(b) of the Wildlife & Countryside Act 1981 to modify the Definitive Map and Statement to correctly show the status of Huddersfield Path No. 231 and either confirm it as unopposed or, in the event of objections being received and not withdrawn after statutory notice of the Order is given, to refer it to the Secretary of State for the Environment, Food and Rural Affairs for determination,

or

Refuse authorisation for a Modification Orders to be made on the grounds that the Definitive Map and Statement does not require modifying.

And give full reasons for the decision made.

1 Purpose of this report

- 1.1 Kirklees Council is the Surveying Authority for the Huddersfield District and has a duty to keep the Definitive Map and Statement for the Area under continuous review and to make Modification Orders as necessary to take account of events requiring the map and statement to be modified.

2 Background information

- 2.1 Huddersfield Path No. 231 is shown on the West Yorkshire Metropolitan County Council Definitive Map, relevant date 30th of April 1985, with a solid black line. There are no Vs on either side which is the normal symbol for a Byway Open to All Traffic. The Statement accompanying the Definitive Map describes it as 'Byway Open to All Traffic commences in Sandy Lane at Greengate Knoll and proceeds in a north easterly direction (Path No. 233 joins from northeast at Nether Moor Farm) terminating at Nether Moor Road. The 1985 Definitive Map and Statement is shown as Background Document A.
- 2.2 A Definitive Map Modification Order Application was made in July 2009 by the landowners to downgrade Huddersfield No. 231 between Sandy Lane and Nethermoor Road to public footpath which was supported by three files of evidence. The application is shown as Background Document B.
- 2.3 A second Definitive Map Modification Order Application was made by the landowner in February 2014 to add a footpath between Sandy Lane and Nether Moor Farm to the Definitive Map and to vary the particulars in the Definitive Statement to change the status from Byway Open to All Traffic to footpath and to end the path at Nether Moor Farm instead of Nether Moor Road. Effectively this is an application to delete the section of Huddersfield Path No. 231 from the Definitive Map and Statement between Huddersfield Footpath No. 233 and Nether Moor Road. This application is shown as Background Document C.
- 2.4 The first application was withdrawn in December 2016. However, the second application remains outstanding and will need to be determined by the Council. Furthermore, the Council has a duty under Section 53 of the Wildlife and Countryside Act 1981 to make, by order, modifications to the Definitive Map and Statement as required if evidence is discovered that shows public rights of way subsist, should be shown at a different status, do not exist or that the particulars in the map and or statement require modifying. As the initial application challenged the status of Huddersfield Path No. 231 this should be considered to be the date of challenge of use of Huddersfield Path No. 231 even though it was later withdrawn. The letter withdrawing the first application is shown as Background Document D.
- 2.5 The Definitive Map Modification Order Applications were supported by various documents and evidence sheets from members of the public which the Applicant stated showed that Huddersfield Path No. 231 was not a public right of way. Additional evidence sheets were submitted by members of the public in 2015 who believed that Huddersfield Path No. 231 has public rights and who has used it on foot, horseback, bicycle and or motorised vehicle. Some of those filling in evidence sheets were interviewed to provide further information about the

disputed path and their use. The landowners were also interviewed to see if they had any information. The records at the West Yorkshire Archives Services and Kirklees Borough Council were also checked to see if there was any documentary or historical evidence concerning the claimed footpath. The evidence and its implications are considered below.

3 Main issues

- 3.1 The Wildlife & Countryside Act 1981 places statutory duty on the Council as the Surveying Authority to investigate the matters stated in an application made under Section 53(5) of the Act and to decide whether or not to make an Order to which the application relates. Under Section 53(2)(b) of the Act, Surveying Authorities are required to keep the Definitive Map and Statement under continuous review and to make such modifications to the map and statement as appear to them to be requisite.
- 3.2 Section 53(3)(b) of the Act, requires the Definitive Map and Statement to be modified by Order on the expiration of any period such that the enjoyment by the public of a way during that period raises a presumption that the way had been dedicated as a public path or restricted byway. Section 53(3)(c)(i) of the Act, requires the Definitive Map and Statement to be modified by Order if evidence is discovered which, when considered with all other relevant available evidence, shows a public right of way subsists or is reasonably alleged to subsist over land in the area to which the map relates. Section 53(3)(c)(ii) of the Act, requires the Definitive Map and Statement to be modified by Order if a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description. Section 53(3)(c)(iii) of the Act, requires the Definitive Map and Statement to be modified by Order if there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.
- 3.3 Should an Order be authorised, the Service Director - Legal, Governance and Monitoring will make and advertise the Order and either confirm it as unopposed or, in the event of objections being received and not withdrawn after statutory notice of the Order is given, to refer it to the Secretary of State for the Department of the Environment, Food and Rural Affairs for determination.
- 3.4 Section 31(1) of the Highways Act 1980 provides that a presumption of dedication is raised where a way has been enjoyed by the public as of right (without force, secrecy or permission), without interruption for a full period of twenty years. The twenty-year period ends with an act that brings into question the public's right to use the way, and is calculated retrospectively from that time (Section 31(2) of the 1980 Act).
- 3.5 The presumption is rebuttable by proof that the landowner has erected and maintained notices visible to path users inconsistent with dedication (Section 31(3) of the Act) or that he has given notice to the highway authority, where a notice erected is subsequently torn down or defaced, denying any intention to dedicate (Section 31(5)) or made statutory declarations to the highway authority

denying the dedication of a new rights of way over the land shown in map and statement deposited with the authority (Section 31(6)).

3.6 In order to have brought the public's right to have used the alleged way in question, the landowner could have taken various measures during the claimed period of use.

These measures include:

- Locking a gate across the path.
- Putting up a notice denying the existence of a public right of way.
- Physically preventing a walker from using the way.
- Indicating that the path was for use by permission only.
- Giving an instruction to an employee or tenant to prevent people walking the path.
- Giving notice to the Highway Authority denying any intention to dedicate a public right of way over the land.
- Seeking a court declaration that the way was not public or bringing an action for trespass.

3.7 The burden of proof therefore rests with the landowner to show that there is sufficient evidence to show that there is no intention to dedicate a public right of way over the claimed path during the claimed period of use.

3.8 The decision to make a Modification Order when a claim is based on user evidence should be based on the balance of probability (not beyond all reasonable doubt, as is the case in criminal law) in the light of all relevant available evidence. Consequently if, on the balance of probabilities, it is considered that it is more likely that a right of way can be shown to subsist, then a Modification Order should be authorised. For claims where documentary evidence exists (instead of or as well as user evidence), the decision to make a Modification Order when a path is not shown on the Definitive Map and Statement should be based on if it can be shown to subsist or reasonably alleged to subsist and the decision to confirm it on the balance of probability (not beyond all reasonable doubt, as is the case in criminal law) in the light of all relevant available evidence. Consequently if it is considered that a right of way can be shown to subsist or can be reasonably alleged to subsist, then a Modification Order should be authorised. The decision to make and confirm a Modification Order when a path is shown on the Definitive Map and Statement should be based on the balance of probability (not beyond all reasonable doubt, as is the case in criminal law) in the light of all relevant available evidence. Consequently if, on the balance of probabilities, it is considered that it is more likely that a right of way can be shown to subsist, then a Modification Order should be authorised. The question of suitability or desirability, safety or maintenance is not a relevant factor when determining applications.

3.9 Public Rights of Way cannot be extinguished by disuse. Once a right of way has come into existence, it continues indefinitely and can only be brought to an end by the use of statutory powers, thus the maxim "Once a highway, always a highway". This is irrespective of any changes that have occurred on the ground in the meantime.

- 3.10 Section 32 of the Highways Act 1980 states that when determining whether a way has or has not been dedicated as a highway, any map, plan or history of the locality or other relevant document, tendered as evidence shall be taken into consideration.
- 3.11 Under the provisions contained within Section 130 of the Highways Act 1980 the Council has a statutory duty to protect and assert the right of the public to the use and enjoyment of any highway and as far as possible to prevent the stopping up or obstruction of highways.
- 3.12 Under Common Law there is no specific period of user which must have passed before an inference of dedication may be shown. However, a landowner must be shown to have intended to dedicate a right of way over the land. Public use can be used as evidence to show an intention to dedicate but it must be sufficient to have come to the attention of the landowners. If other evidence exists that showed that public rights were not intended, public use will not raise an inference of dedication.

Documentary Evidence

- 3.13 Records checked at the West Yorkshire Archives Services and Kirklees Borough Council include various township maps, maps of Yorkshire, Inclosure Awards, the Definitive Map and Statements, conveyancing documents and aerial photographs and those that showed Huddersfield Path No. 231 are described below.
- 3.14 On the 'Plan and Survey of South Crosland in the Parish of Almondbury' surveyed 1804 by Jn Johnson copied in June 1810 by Rob Leave, Surveyor, Huddersfield Path No. 231 is shown coloured brown for its full length with double solid edges from Sandy lane to the first field on the south after Nether Moor Farm. It is then shown with a solid and two dashed lines to Nether Moor Road. The majority of routes shown on the map in this way are now adopted public roads or byways open to all traffic including Sandy Lane, Nether Moor Road, those in Nethererton and South Crosland and Huddersfield Byway Open to All Traffic No. 229. Huddersfield Footpath No. 233 is shown with a dashed line across several fields, although the north east end is on a different alignment along the field edge. It is labelled 'Foot Road'. This would indicate that Huddersfield Path No. 231 was considered to have public rights at this time and most likely vehicular. The 1804 South Crosland map is shown as Background Document E.
- 3.15 On the 'Plan of the Township of South Crosland in the Parish of Almondbury in the West Riding of the County of York Belonging to R H Beaumont Esq.' made in 1822 by William Rayner the first section of Huddersfield Path No. 231 from Sandy Lane to Nether Moor Farm is shown with double solid edges separated from the surrounding fields and is parcel 697 and appears to be uncoloured. From Nether Moor Farm to Nether Moor Road it is shown with double solid edges to the end of the next field on the south and then becomes part of the field to the south which is parcel number 689 and is coloured pink. It is not clear where the boundary between 697 and 689 is and there are no lines shown across Huddersfield Path No. 231. The majority of other uncoloured routes on this map are now adopted public roads or byways open to all traffic including Sandy Lane, Nether Moor Road, those in South Crosland and Nethererton and Huddersfield Byway Open to

All Traffic No. 229. Huddersfield Footpath No. 56 is also shown uncoloured. Other roads are not numbered. This could indicate that some of Huddersfield Path No. 231 was considered to have public rights at this time. The Township Map of 1822 is shown as Background Document F.

- 3.16 In 'A survey and Valuation Book of Several Estates in the Townships of Lepton, Kirkheaton, Upper Whitley and Dalton in the Parish of Kirkheaton, South Crosland, Meltham, Honley and Lockwood in the Parish of Almondbury, Mirfield, in the Parish of Mirfield, and Kirkburton in the Parish of Kirkburton all in the West Riding of the County of York and Little Mitton in the County Palatine of Lancaster belonging to R H Beaumont Esq. made in 1822 by William Rayner' the tenants of parcels 689 to 697 are Joseph Mellor & Sons. 'The premises are stone and slate buildings containing 3 law rooms and 3 chambers and cellars rebuilt by the Tenant in 1814 on the north side is a barn, mistall and stables on the east end is a lean to stables and mistall, ash house etc.' Parcel 697 is listed as 'Lane' with an area of 24 perch with no values listed and 689 is listed as 'Long Nether Moor Close' arable in 1821, with an area of 5 acres, 1 rod and 34 perch and value per acre of 24s and an annual value of 3L, 5S, 1D. The 1822 valuation book is shown as Background Document G.
- 3.17 In a 'Survey of an Estate belonging to Richard Henry Beaumont Esquire situate in the Township of South Crosland in the Parish of Almondbury in the West Riding of York July 19th 1826' parcels 689 to 697 are all listed in the occupation of Joseph Mellor and Sons. Parcel 697 is listed as 'Lane' 24 perch and 689 is listed as 'Long Nether Moor Close' 5 acres, 1 rod and 34 perch. The survey is shown as Background Document H.
- 3.18 The 'Plan of Part of South Crosland in the Parish of Almondbury and West Riding of the County of York (Part 1)' 1848 by Joseph Hall Surveyors Huddersfield states 'we the undersigned Tithe Commissioners for England and Wales do hereby certify that this and the accompanying map together for the map of plan in two parts referred to in the apportionment of the rent charge in lieu of Tithes in the township of South Crosland in the Parish of Almondbury in the the West Riding of the County of York as witness our hands signed S. W. Buller R Jones. The full length of Huddersfield Path No. 231 is shown with double solid edges, is unnumbered and coloured brown except where it runs through the yard at Nether Moor Farm. Huddersfield Footpath No. 233 is shown with a dashed line off Huddersfield Path No. 231 at the north west corner of Nether Moor Farm and running generally north east across numbered fields which are uncoloured. The majority of other routes coloured brown and unnumbered on this map are now adopted public roads including Sandy Lane, Nether Moor Road, Nopper Road and the roads through Netherton. This would indicate that Huddersfield Path No. 231 was considered to have public rights at this time, most likely vehicular. The Tithe Apportionment of 1851 shows that fields to the north of Huddersfield Path No. 231 (numbered 16 to 29) are all in the ownership of Richard Henry Beaumont and occupied by either Crispin Mellor, Walter Bates or William Sykes (of Knowl). The parcels to the south are not shown. The Tithe Map and Apportionment are shown as Background Document J.
- 3.19 On the 1854 Ordnance Survey map Huddersfield Path No. 231 is shown with double solid edges. There is a short double edged track off it near the eastern

end is then shown with double dotted lines leading to a sandstone quarry. There do not appear to be any lines across the track to indicate gates or obstructions. Huddersfield Footpath No. 233 is shown with double dashed lines. The 1854 Ordnance Survey map is shown as Background Document K.

- 3.20 On a 'Plan of an Estate in the Township of South Crosland the Property of H F Beaumont Esquire' which is undated but listed in the archive records as between 1857 and 1913 the full length of Huddersfield Path No. 231 is shown with double solid edges, is excluded from the surrounding parcels of land and is unnumbered. The farm buildings are coloured red and numbered 520. The tenants are also detailed on the plan with Emanuel Haigh leasing most of the land and Nether Moor Farm and H & E Oldfield, Jonas Brooksbank and Walter Bates tenancing the rest of the land. The majority of other routes excluded from the surrounding parcels on this map are now adopted public roads or byways open to all traffic including Sandy Lane, Nether Moor Road, Huddersfield Byway Open to All Traffic No. 229. Part of Huddersfield Footpath No. 56 is also shown uncoloured. This would indicate that Huddersfield Path No. 231 was considered to have public rights at this time, most likely vehicular. No reference book to accompany this plan has been identified. The undated estate plan is shown as Background Document L.
- 3.21 On the 1893 Ordnance Survey map Huddersfield Path No. 231 is shown with double solid edges. There is a short double edged track off it near the eastern end is then shown with double dotted lines leading through the woods. There are quarries on either side of the track. There are lines across the track at each end which could indicate gates but could also indicate that it is a separate parcel to the roads at either end. Huddersfield Footpath No. 233 is shown with double dashed lines. The 1893 Ordnance Survey map is shown as Background Document M.
- 3.22 Two plans of quarries off Huddersfield Path No. 231 show it with double solid edges. On the undated plan the quarries are shown as parcels 343 a new, 375 old and 406 old and the quarries do not affect Huddersfield Path No. 231. On the 1910 plan the quarries are more shown as parcels, 343, 373, 374, 375, 405 & 406 and they are more extensive and appear to affect Huddersfield Path No. 231. A letter from William Mallinson & Sons to G & G H Crowther dated 18th February 1907 encloses a cheque for renting the quarry. A note on the bottom states 'Nether Moor Lane to be repaired'. A letter dated 25 September 1909 states the rent period from 1906 to 1909 and identifies the undated plan quarries as 343 Lower Nether Moor Quarry, 375 Upper Caley and 406 new quarry. These papers do not indicate if any rent charged for the use Huddersfield Path No. 231 in addition to the quarry but does indicate that the track may have been known as Nether Moor Lane at this time. The quarry papers are shown as Background Document N.
- 3.23 On the 1906 Ordnance Survey map Huddersfield Path No. 231 is shown with double solid edges, but the line of the track at the eastern end is no longer straight and it curves around into a quarry to the north and then back down into the field to the south before re-joining its original line at the track into the woods. This is likely to have been to allow material to be quarried out from under the original line of the track. There are lines across the track at each end which could indicate gates but could also indicate that it is a separate parcel to the roads at either end.

Huddersfield Footpath No. 233 is shown with double dashed lines. The 1906 Ordnance Survey map is shown as Background Document O.

- 3.24 The Finance Act Map 1910 shows that the first section of Huddersfield Path No. 231 from Sandy Lane to Nether Moor Farm is shown within Parcel 4689 PT which includes the surrounding fields. The rest of Huddersfield Path No. 231 and most of Huddersfield Footpath No. 233 are shown within Parcel 4690 PT which includes the surrounding fields and quarries. The northern end of Huddersfield Path No. 231 is shown within Parcel 4698 PT. On the base map, Huddersfield Path No. 231 is shown with double solid lines with the odd section of dashed line. Unlike earlier maps including the maps within the quarry papers, the eastern end of Huddersfield Path No. 231 is no longer straight and curves around quarries. Huddersfield Footpath No. 233 is shown with a double dashed line and labelled *F.P.* The Field Books for the Finance Act 1910 shows that Parcel 4689 was owned by H R Beaumont, occupied by W Mellor and that there were no deductions for Public Right of Way or User. Parcel 4690 was owned by H R Beaumont, occupied by Robert A B Bradley and had a deduction of £35 for Public Right of Way or User. Parcel 4698 was owned by H R Beaumont, occupied by Walter Bates and had no deduction for Public Right of Way or User. The 'Duties on Land Values' records the valuations made by the Commissioners of Inland Revenue, in accordance with the provisions of Part I of the Finance Act 1910. Parcel 4689 is listed in the ownership of H R Beaumont and occupied by Wright Mellor. There is no deduction for Public Right of Way or User. Parcel 4690 is listed in the ownership of H R Beaumont and occupied by Robert A B Bradley and there is a deduction of £35 for Public Right of Way or User. There appear to be inconsistencies within the Finance Act 1910 records as deductions were not included for a public right of way or user within parcel 4698 which includes Huddersfield Footpath No. 233. Deductions were included for a public right of way or user within parcel 4690 which could be for Huddersfield Path No. 231 and/or Huddersfield Footpath No. 233 or another path within this parcel. The Finance Act 1910 Maps, Field Books and Valuation Books are shown as Background Document P.
- 3.25 On the 1916 Ordnance Survey map Huddersfield Path No. 231 is shown with double solid edges and has reverted to its original line. There is a short double edged track off it near the eastern end is then shown with double dotted lines leading to a sandstone quarry. There do not appear to be any lines across the track to indicate gates or obstructions but there is a line across the track into the woods. Huddersfield Footpath No. 233 is shown with double dashed lines. The 1916 Ordnance Survey map is shown as Background Document Q.
- 3.26 On a 1927 plan submitted to the Council for a proposed loose box shows the farm yard and a gate across the western entrance to the farm. The 1927 loose box plan is shown as Background Document R.
- 3.27 A photograph from 1930 shows three boys on a horse which are stated to be members of the Bradley family in the farmyard with cows in the background. The 1930 photograph is shown as Background Document S.
- 3.28 The 'County Borough of Huddersfield Draft Schedule of Rights of Way Alleged to Exist on the 1st of September 1952 and Shown on the Draft Map' describes

Huddersfield Path No. 231 as '460. FOOTPATH from Nether Moor Road, leading along north side of Nether Moor Farm. Connects with F.P. 461 and carries through to Sandy Lane without obstructions. (Walked by East District Ranger in August 1951)'. This provides a description of Huddersfield Path No. 231 and clearly indicates that it was believed to carry public rights of footpath status at this time and was open and available for use. The description for Huddersfield Footpath No. 233 describes the junction with Huddersfield Path No. 231 as 'Path turns S. by W. to Nether Moor Farm on left, over stepping stile into lane N.E.-S back over adjacent stile, leading to stone lane, 12'-0" wide bounded by farm buildings. Disused quarry on east side 80 yds. from farm. From farm 200 yds. along lane to Sandy Lane at Greengate Knoll.' The 1952 Draft Schedule is shown as Background Document T.

- 3.29 A copy of the notice that appeared in the Huddersfield Examiner on Friday the 14th of November 1952 shows that the correct procedures for the advertising Draft Definitive Map and Statement were undertaken. The notice is shown as Background Document U.
- 3.30 A list of objections to the Draft Definitive Map and Statement dates 3rd of June 1953 shows that there were no objections to the inclusion of Huddersfield Path No. 231 (which on the Draft Definitive Map and Statement was Huddersfield Path No. 460). There were objections to other paths from landowners, farmers, companies, path users and other interested parties which indicate that the required procedures were carried out and that landowners and the public were aware of the process for preparing Definitive Map and Statement. The list of objections is shown as Background Document V.
- 3.31 In the 'Enquiries of Local Authorities' relating to the sale of Nether Moor Farm dated 24th of June 1954 in answer to question 1A 'are the highways (including footpaths) abutting on the property maintained at public expense?' it states yes to Sandy Lane and Nether Moor Road. It also refers to 'Cart Road (from Sandy Lane to Nether Moor Road) on N.W. side of property - No. Cart Road (from Sandy Lane to Nether Moor Road) on S.E side of property - No.' A 'highway is a public right of way over a defined route'¹ but they can be publically or privately maintained. If Huddersfield Path No. 231 was not considered to carry public rights there would have been no need to identify it in answer to this question. It also states that there is 'a field path across the property from Nether Moor and Nether Moor Road. Two field paths (leading from Nether Moor Road across Dean Wood) on S.E. corner of property'. This would imply that Huddersfield Path No. 231 carries higher rights than the field footpaths as it was described as a cart road. The part two questions were optional questions but the applicant chose not to ask these questions. Question 22 asked if 'any public path or Road Used as a Public Path over the property been shown in a draft, provisional or definitive map... prepared under Part IV of the National Parks and Access to the Countryside Act 1949?' If the person undertaking the enquiry had asked this question they would have been informed of the inclusion of Huddersfield Path No. 231, Huddersfield Footpath No. 233 and other path on the Draft Definitive Map and Statement. The 1954 Enquiries of Local Authorities is shown as Background Document W.

¹ Highway Law Sauvain 1989

- 3.32 The Abstract of Title for the sale of the land from George Fredrick Beaumont and Joseph Henry Goodhart to Robert Arthur Bradley and Herbert Knight Bradley dated 14th of September 1954 includes a plan that indicates that Huddersfield Path No. 231 was not within this property as it is excluded from the parcels H1, H2 and H3 outlined in red and R and QQ1 outlined in purple and grey. Sandy Lane, Nether Moor Road and Huddersfield Byway Open to All Traffic 230 are also excluded which could indicate that H231 was considered to carry public vehicular rights. The title also indicates that Nether Moor Farm was part of a settled estate from at least 1887 until it was sold in 1954. However, it appears to indicate that Huddersfield Path No. 231 was not part of this estate from the attached map. The Abstract Title is shown as Background Document X.
- 3.33 On the title deed map for Nether Moor Farm dated June 1954 Huddersfield Path No. 231 is mostly shown with double solid edges and is included within the red line boundary of the property. Huddersfield Footpath No. 233 is shown with double dashed lines and is labelled F.P. which would indicate that it carries footpath rights and it joins Huddersfield Path No. 231 just to the west of Nether Moor Farm. The title deed map is shown as Background Document Y.
- 3.34 On an aerial photograph of Nether Moor Farm circa 1955 the track through the farmyard can clearly be seen. Where Huddersfield Footpath No. 233 leaves the track there is a wall alongside the track on which divides the track into two at this point, into the field and into the farmyard. There is a gate on this wall which could open out across the Huddersfield Path No. 231 but is open and not across the track when the photograph was taken. The aerial photograph is shown as Background Document Z.
- 3.35 On the County Borough of Huddersfield Rights of Way Map (Draft in pencil) dated 1956 Huddersfield Path No. 231 is shown with a solid purple line which the key indicates is a public footpath. It is not numbered. Huddersfield Footpath No. 233 and part of Huddersfield Byway No. 203 were shown in the same way, although the rest of Huddersfield Byway No. 203 was shown with a dashed green line indicating a Carriage Road Used as Footpath or Bridle Road. This indicates that it was believed to carry public rights of footpath status at this time. The 1956 Draft Map is shown as Background Document AA.
- 3.36 In the 'Enquiries of Local Authorities' relating to the land at Green Gate Knoll dated 26th of June 1959 in answer to question 1A 'are the highways (including footpaths) abutting on the property maintained at public expense?' it states yes to Sandy Lane. It also states 'a Public Footpath abuts on N.W. side of Plot 471. A Public Footpath abuts at S.W. corner. No'. This clearly indicates that Huddersfield Path No. 231 was considered to be a public footpath at this time but was not maintained by the council at public expense. The part two questions were optional questions but the applicant chose not to ask these questions. Question 22 asked if 'any public path or Road Used as a Public Path over the property been shown in a draft, provisional or definitive map... prepared under Part IV of the National Parks and Access to the Countryside Act 1949?' If the person undertaking the enquiry had asked this question they would have been informed of the inclusion of Huddersfield Path No. 231 and the other footpath on the Draft Definitive Map and Statement. The 1959 Enquiries of Local Authorities is shown as Background Document BB.

- 3.37 On a letter dated 11th November 1963 from Johnson Wellfield Quarries to J H Bradley & Sons it states that they would not be 'sending much muck to the tip this autumn and winter' as it was expensive, they wanted the tip to last and they did 'not want to damage the road up to the tip and and the access road to the land. The cost of repairing the road, widening the entry into the public road and levelling the tipping area, including the site to access our tip and improving that to your other tip was £250' and they did not want to face more expense. This letter is keeping Bradley & Sons informed of the works but does not provide evidence to the status of Huddersfield Path No. 231 which is presumably the tip road or access road. The letter from Johnson Wellfield is shown as Background Document CC.
- 3.38 A 'NOTE FOR TOWN CLERK' from E. V. Hartley dated 31st July 1965 concerning the Survey of Rights of Way explains that the 'a survey was made and Draft Map prepared'. Notice of doing this was published on 12th November 1952' 20 objection were receive and dealt with but then the matter was dropped. Letters have been received from the Ministry asking about progress which had been delayed by staff difficulties. After discussions it was decided that up-to-date information should be got and we agreed to ask the Civic Society for help. The Ministry had advised that they should not start again. They considered that they should not use an out-of-date map and suggested to the Ministry that they should prepare a new map and re-consider all objections received originally as though they were objections to the new map. The Ministry advised that he would get the legal side to consider it. They had discussed if they should stop the Civic Society from proceeding but regardless of if they used the original map or a new one, they would still need up-to-date information so the Civic Society would proceed. The Note for the Town Clerk is shown as Background Document DD.
- 3.39 On the 1965 Walking Plan Huddersfield Path No. 231 is shown with a green dashed line with Vs which the key indicates is a Road Used as a Public Path. It is labelled 410 and also 460 which has been crossed out. This would indicate that at this time Huddersfield Path No. 231 was believe to carry public rights and these were higher rights than footpath. The 1965 Walking Plan is shown as Background Document EE.
- 3.40 On the County Borough of Huddersfield Rights of Way Draft Map dated 1966 Huddersfield Path No. 231 is shown with a green dashed line with Vs which the key indicates is a Road Used as a Public Path. It is labelled above it 410. Huddersfield Byway No. 230 was shown in the same way. This would indicate that at this time Huddersfield Path No. 231 was believe to carry public rights and these were higher rights than footpath. The 1966 Draft Map is shown as Background Document FF.
- 3.41 The 'County Borough of Huddersfield Draft Schedule of Rights of Way Alleged to Exist on the ~~4st of September 1952~~ 20th April 1966 and Shown on the Draft Map' describes Huddersfield Path No. 231 as '460. FOOTPATH from Nether Moor Road, leading along north side of Nether Moor Farm. Connects with F.P. 461 and carries through to Sandy Lane without obstructions. (Walked by East District Ranger in August 1951)'. This provides a description of Huddersfield Path No. 231 and clearly indicates that it was believed to carry public rights of footpath status at this time and was open and available for use. The description for

Huddersfield Footpath No. 233 describes the junction with Huddersfield Path No. 231 as 'Path turns S. by W. to Nether Moor Farm on left, over stepping stile into lane N.E.-S.W. back over adjacent stile, leading to stone lane, 12'-0" wide bounded by farm buildings. Disused quarry on east side 80 yds. from farm. From farm 200 yds. along lane to Sandy Lane at Greengate Knoll.' The 1966 Draft Schedule is shown as Background Document GG.

- 3.42 The 'County Borough of Huddersfield National Parks and Access to the Countryside Act 1949 Draft Schedule of Rights of Way alleged to exist on 20th April, 1966 shown on the Draft Map' describes Huddersfield Path No. 231 as '410. FOOTPATH (CRF) Commences in Sandy Lane at N. Side of Greengate Knoll earth and stone about 10' wide with small grass verges and dry stone walls either side. (FP. 409 joins from left at Nether Moor Farm.) Continues in N.E, direction between farm buildings. Past buildings 10'-12' wide, earth road with grass verges varying from 5'-10'. grassland. Ends a Junction with Nether Moor Road. (December, 1965 by Robert E. Clayton) (6.3.1966 by J Workman)'. This provides a detailed description of Huddersfield Path No. 231 and clearly indicates that it was believed to carry public rights of at least footpath status at this time and was open and available for use and was walked on two separate occasions. A similar detailed description is provided for Huddersfield Footpath No. 233 which was listed as '409. FOOTPATH' and stated that it ended at 'Nether Moor Farm where it ends at its junction with FP.410'. The 1966 Draft Schedule is shown as Background Document HH.
- 3.43 On the County Borough of Huddersfield Rights of Way Draft Map (Provisional crossed through in pencil) dated 1966 Huddersfield Path No. 231 is shown with a green dashed line with Vs which the key indicates is a Road Used as a Public Path. It is labelled below it 410. Huddersfield Byway No. 230 was shown in the same way. This would indicate that at this time Huddersfield Path No. 231 was believe to carry public rights and these were higher rights than footpath. The 1966 Draft Map ~~Provisional~~ is shown as Background Document II.
- 3.44 On the County Borough of Huddersfield Provisional Map Huddersfield Path No. 231 is shown with a green dashed line with Vs which indicates it is a Road Used as a Public Path. It is labelled 410. Huddersfield Byway No. 230 was shown in the same way. This would indicate that at this time Huddersfield Path No. 231 was believe to carry public rights and these were higher rights than footpath. The Provisional Map is shown as Background Document JJ.
- 3.45 Photographs from 1968 show girls on horses using using Huddersfield Path No. 231. They are claimed to be members of the Bradley family. There are no visible gates shown across the track in the photographs. The 1968 photographs are shown as Background Document KK.
- 3.46 A plan dated 31st of March 1971 of a proposed toilet Huddersfield Path No. 231 is mostly shown with double solid edges and a dashed edge where the track is wider just before Nether Moor Farm. There is also a line across the track just before Nether Moor Farm which could indicate a gate. Huddersfield Footpath No. 233 is shown across the fields with double dashed lines. The 1971 toilet plan is shown as Background Document LL.

- 3.47 A 'Note for Highways and Sewage Committee' dated 11th of May 1972 states that 'All objections to public footpaths proposed to be included in the Draft Map and Statement have now been resolved and the Draft Map and Statement can therefore be regarded as concluded. The Draft Map and Statement as amended now becomes the Provisional Map and Statement and it must be advertised in the London Gazette and Huddersfield Examiner.' The committee was asked to resolve to adopt the Draft Map and Statement and advertise it. This indicates that the correct procedures for the preparation of the Definitive Map and Statement were undertaken. The note is shown as Background Document MM.
- 3.48 The 'County Borough of Huddersfield Provisional ~~Draft~~-Schedule of Rights of Way Alleged to Exist on the ~~20th April 1966~~ 31st August 1973 and Shown on the Draft Map' describes Huddersfield Path No. 231 as '410. FOOTPATH (CRF) Commences in Sandy Lane at N. Side of Greengate Knoll earth and stone about 10' wide with small grass verges and dry stone walls either side. (FP. 409 joins from left at Nether Moor Farm.) Continues in N.E, direction between farm buildings. Past buildings 10'-12' wide, earth road with grass verges varying from 5'-10'. grassland. Ends a Junction with Nether Moor Road. (December, 1965 by Robert E. Clayton) (6.3.1966 by J Workman)'. This provides a detailed description of Huddersfield Path No. 231 and clearly indicates that it was believed to carry public rights of at least footpath status at this time and was open and available for use. Huddersfield Footpath No. 233 is described as '409 FOOTPATH' and path crosses three fields diagonally before reaching Nether Moor Farm where it ends at its junction with FP 410'. The 1973 Draft Schedule is shown as Background Document NN.
- 3.49 On a memo dated 5th of June 1974 from the Executive Director of Transportation and Traffic to the Director of Administration concerning the provisional Huddersfield Map it states 'The classification of routes as between F.P., F.P.(CRF) & B.W. appear to depend purely on the physical characteristics with no regard to historical use either probable or actual.' It was stated that 'to enable an accurate assessment to be made of the likelihood of past use of each way it would be essential to walk at least 20% of the 595 paths listed and try to get much more local information'. As this was impractical, 'a reasonable assessment be made on a logical basis and then await the outcome of the deposit.' This does indicate that for some routes assumptions may have been made but it does not indicate for which routes. The 1974 memo is shown as Background Document OO.
- 3.50 A notice dated the 10th of July 1975 informed the public that a Definitive Map and Statement for Huddersfield had been prepared and provided details of questioning its validity and this notice was advertised in the London Gazette. This indicates that the correct procedures for the preparation of the Definitive Map and Statement were undertaken and the local community, including landowners, were given the opportunity to view the maps and statement. The 1975 Huddersfield notice and London Gazette advert are shown as Background Document PP.
- 3.51 On the 'West Yorkshire Metropolitan County Council Definitive Map Relevant Date 20th of April 1966' published in 1975 Huddersfield Path No. 231 is shown with a dashed black line with Vs which the key indicates is a Road Used as a Public Path and is labelled 231. Huddersfield Byway No. 230 was shown in the same

way. This would indicate that at this time Huddersfield Path No. 231 was believed to carry public rights and these were higher rights than footpath. The 1966 Definitive Map is shown as Background Document QQ.

- 3.52 In the 'West Yorkshire Metropolitan County Council Definitive Statement Relevant Date 20th April 1966' published in 1975 Huddersfield Path No. 231 is described as 'Footpath (CRF) commences in Sandy Lane at Greengate Knoll and proceeds in a north easterly direction (Path No. 233 joins from north east at Nether Moor Farm) terminates at Nether Moor Road'. This would indicate that Huddersfield Path No. 231 was believed to have carried public rights of at least footpath status at this time with the (CRF) indicating it was a Road Used as a Public Path. The 1966 Definitive Statement is shown as Background Document RR.
- 3.53 On an aerial photograph of Nether Moor Farm, believed to be from the early 1970s, the track through the farmyard can clearly be seen. Where Huddersfield Footpath No. 233 leaves the track there is a wall alongside the track on which divides the track into two at this point, into the field and into the farmyard. There do not appear to be any gates across the line of Huddersfield Path No. 231. The aerial photograph is shown as Background Document SS.
- 3.54 On the 'Survey of Huddersfield C.B Review' 231 is listed as states 'Bridlepath-amended from CRF at Definitive. Statement remains unaltered'. This would indicate that Huddersfield Path No. 231 was believed to have carried public bridleway rights at the time of the review. The Huddersfield Review list is shown as Background Document TT.
- 3.55 On the 'Review of Public Paths recorded as C.R.F. Paths by the former Huddersfield Authority' Huddersfield Path No. 231 is listed as 'Bridlepath, Connection with main highway at each end together with character and width of path make it acceptable as bridlepath.' Under remarks it states 'Bridlepath – amended from CRF at Definitive. Statement remains unaltered.' This would indicate that Huddersfield Path No. 231 was believed to have carried public bridleway rights at the time of the review. The Review of C.R.F. Paths is shown as Background Document UU.
- 3.56 On the 'West Yorkshire Special Review Draft Revision Map 1st October 1979' Huddersfield Path No. 231 is shown with a dashed line with Vs indicating a Byway Open to All Traffic. The line style would indicate that it was believed to have carried public rights which were higher than footpath status. The 1979 Special Review Map is shown as Background Document VV.
- 3.57 In the 'West Yorkshire Statement Accompanying the Special Review of Definitive Map Draft Revision Map 1st October 1979' Huddersfield Path No. 231 is described as 'Byway Open to All Traffic commences in Sandy Lane at Greengate Knoll and proceeds in a north easterly direction (Path No. 233 joins from north east at Nether Moor Farm) terminating at Nether Moor Road. The surface is 'Earth and Grass' length 0.41 miles, 659 metres width 10 feet, 3 metres. The 1979 Special Review Statement is shown as Background Document WW.
- 3.58 In the objections to the 1970s and 1980s review of the Definitive Map and Statement there are no objections to the inclusion of Huddersfield Path No. 231

which was shown as a Byway Open to All Traffic. There were objections to other paths shown in the Draft Definitive Map and Statement from user groups, local residents, councillors and Kirklees Metropolitan Council. The objections include one for Huddersfield Footpath No. 220 (numbered 383 on some of the documents) just to the north of Huddersfield Path No. 231 between Blackmoorfoot Road and Sands House Lane which was shown the draft map. Part of the original line of Huddersfield Footpath No. 220 between Thewlis Lane and Sand House Lane was stopped up in 1970 but it was also included on the Draft Map. When the Draft Revision Map was produced then the rest of the path was also removed leading to objections. The extract of the Draft Map attached to the objections for Huddersfield Footpath No. 220 shows Huddersfield Path No. 231 (numbered 410 on some of the plans) with a solid line with Vs, the correct symbol for a Byway Open to All Traffic as does the Draft Revision Map. This would indicate that the correct procedures for the preparation of the Definitive Map and Statement were undertaken and the local community were given the opportunity to view the maps and statement. It also indicates that the landowner had the opportunity to object to the showing to Huddersfield Path No. 231 on the Draft Definitive Map and Statement as a Byway Open to All Traffic but did not do so. The objection to Huddersfield Footpath No. 383 are shown as Background Document XX.

- 3.59 A notice dated the 29th of February 1980 informed the public that a review and special review of Definitive Map and Statement had been undertaken, all roads used as public paths reclassified and that a Draft Revision Map and Statement had been prepared and provided details of where it could be viewed and where representations and objections could be sent to. It was also advertised in the London Gazette on the 25th of February 1980. This indicates that the correct procedures for the preparation of the Definitive Map and Statement were undertaken and the local community were given the opportunity to view the maps and statement. The 1980 notice is shown as Background Document YY.
- 3.60 A letter dated the 1st of October 1980 about the review of the Definitive Map and Statement refers to the Roads Used as Public Paths reclassifications. It states that there were 98 routes in the former Huddersfield borough that were 'described as "Footpath (C.R.F)" – meaning "carriage road mainly used as a footpath".' Of those 98, 32 were shown on the Revised Draft Map as byways open to all traffic, 20 as bridleway and 39 as footpath. Seven were found to have a road classification so were not shown on the map. It does not identify which paths were reclassified. An undated list of byways identifies each path by number and contains 33 paths including 231. The additional path could have been added at a later date rather than being a reclassification. The letter dated 1st of October 1980 and list of byways is shown as Background Document ZZ.
- 3.61 Reports to the Traffic and Highways Committee dated the 28th of June 1982 and 28th of April 1983 explains the review and special review of the Definitive Map and public rights of way and how it was affected by the new Wildlife and Countryside Act 1981. They explained that the review could be completed, abandoned in part or totally abandoned, identify the number of objections, explain the pros and cons of each and recommended abandonment subject to non-contentious matters being dealt with due to the time it would take to undertake the review. The 1983 report referred to the reclassification of Road Used as Public Paths which the

County Council was already doing and had objections to only one the alteration, so these would be shown in the new map and the 1982 report identified Calverley Cutting as being the disputed Road Used as a Public Path. A third report went to the committee on the 28th of July 1983 and it was resolved that the Department of Environment be advised that the County Council supports the abandonment of the review subject to non-contentious matter being placed on the new base map. The reports to the Traffic and Highways Committee is shown as Background Document AAA.

- 3.62 In letters from the Department of Environment and Transport to West Yorkshire Metropolitan County Council dated the 11th June 1982, 22nd November 1983 and 27th of January 1984 the abandonment of the West Yorkshire Metropolitan County Council Review of the Definitive Footpath Map and Statement was discussed following the new Wildlife and Countryside Act 1981 legislation becoming operative. If the review was abandoned the council would be able to place uncontentious matters on a new base map and four items would also be determined by the Secretary of State. The abandonment was confirmed by a Direction to Abandon Review included with the letter dated the 27th of January 1984. The letters relating to the abandonment of the review are shown as Background Document BBB.
- 3.63 The Omnibus Modification Order 1985 (West Yorkshire Metropolitan County Footpath Definitive Map) was made on the 22 of October 1985. It contained two schedules of changes to the Definitive Map and Statement. Schedule A were modifications to the Definitive Map and Statement resulting from events which had occurred under Section 53(3)(a) of the Wildlife and Countryside Act 1981 and identifies legal orders to stop up, divert, widen or extend public right of way. It contained a list of Public Path Diversion Orders and Path Extinguishment Orders. Schedule B relates to modifications to the Definitive Map and Statement for alterations allowed under Section 55(5) of the Wildlife and Countryside Act 1981 namely to shown changes identified as part of the review that had not been objected to or where objections were withdrawn. It listed public rights of way added, changes in status and Re-Classifications of RUPPs. Huddersfield Path No. 231 was not referred to in the Modification Order. Part of Huddersfield Footpath No. 233 was upgraded from footpath to Byway Open to All Traffic. The 1985 Modification Order is shown as Background Document CCC.
- 3.64 An advert appeared in the Huddersfield Examiner and other newspapers on the 25th of October 1985 informing the public that a modified Definitive Map and Statement had been prepared for West Yorkshire dated 30th April 1985 and provided details of where it could be viewed. This indicates that the correct procedures for the preparation of the Definitive Map and Statement were undertaken and the local community were given the opportunity to view the maps and statement. The 1985 Huddersfield Examiner advert is shown as Background Document DDD.
- 3.65 On the 'West Yorkshire Metropolitan County Council Definitive Map Relevant Date 30th of April 1985' Huddersfield Path No. 231 is shown with a solid black line. This does not correspond to any of the symbols shown on the Definitive Map. The closest symbol would be that of a Byway Open to All Traffic which should be shown as a sold black line with Vs on both sides. This could be a drafting error as

it was shown as a Byway Open to All Traffic on the Special Review Draft Map (VV). This would indicate that public rights were believed to exist but the status is unclear. The 1985 Definitive Map is shown as Background Document EEE.

- 3.66 In the 'West Yorkshire Metropolitan County Council Definitive Statement Relevant Date 30th of April 1985' Huddersfield Path No. 231 is described as 'Byway Open to All Traffic commences in Sandy Lane at Greengate Knoll and proceeds in a north easterly direction (Path No. 233 joins from north east at Nether Moor Farm) terminating at Nether Moor Road.' The surface is 'Earth and Grass' length 0.41 miles and 659 metres. Width 10 feet and 3 metres. This indicates that Huddersfield Path No. 231 was believed to carry public byway rights at this time. The 1985 Definitive Statement is shown as Background Document FFF.
- 3.67 On the 1994 Ordnance Survey map Huddersfield Path No. 231 is shown with double solid edges. There is a line across the track at the eastern side of Nether Moor Farm which is likely to be a gate and there is also a line across the eastern end of the track. The 1994 Ordnance Survey map is shown as Background Document GGG.
- 3.68 A letter dated the 26th of January 1994 from Sam Watt of the Trail Riders Fellowship West Yorkshire Group states that he has enclosed 'two lists, giving full details of the lanes in the Kirklees Area, our members use and have used for many years, on fully road legal motor cycles.' They claim that these lanes have full vehicular rights. Huddersfield Path No. 231 is listed and described as 'Ref 87k from 115132 to 120135 Def. Map SE11SW Name/ Place Nether Moor Huddersfield Byway 231 - RUPP'. This clearly indicates that member of the Trail Riders Fellowship have used this route with motorised vehicles for many years. The letter from the Trail Riders Fellowship is shown as Background Document HHH.
- 3.69 A 1995 Street by Street Map shows Huddersfield Path No. 231 with double solid edges and labelled C.T. for cart track. Huddersfield Footpath No. 233 was not shown on this map but other footpaths were shown labelled F.P. Some of the other byways open to all traffic shown on this map were also labelled as C.T including Huddersfield 229. This could indicate that this route was considered to carry vehicular rights. The 1995 Street by Street Map is shown as Background Document III.
- 3.70 On the 2002 aerial photograph, Huddersfield Path No. 231 is shown as a double hedged track and there do not appear to be any obstructions or gates across the line of the path. It appears to be open and available for use to all path users. The 2002 aerial photograph is shown as Background Document JJJ.
- 3.71 On the 2003 aerial photograph, Huddersfield Path No. 231 is shown as a double hedged track and there do not appear to be any obstructions or gates across the line of the path. It appears to be open and available for use to all path users. The 2003 aerial photograph is shown as Background Document KKK.
- 3.72 On a letter dated 19th of March 2009 from Yorkshire Water to Mrs Bradley it states that 'according to our systems the road is classed as privately owned and not the responsibility of the local highway department.' Yorkshire Water's records are not

the local authorities' records so this letter provides limited evidence as to the status of Huddersfield Path No. 231. The Yorkshire Water letter is shown as Background Document LLL.

- 3.73 On the 2009 aerial photograph, Huddersfield Path No. 231 is shown as a double hedged track. There now appears to be boulders, logs or similar near the eastern end of the track, although these do not appear to obstruct the full width of the track. There also appears to be a gate across the track near the western corner of the third field from the eastern end of Huddersfield Path No. 231. There does not appear to be any other obstructions or gates across the line of the path. The 2009 aerial photograph is shown as Background Document MMM.
- 3.74 On the August 2010 Google Earth Street View image of the eastern end of Huddersfield Path No. 231 there are two boulders near the end of the track. They do not obstruct the full width of the track and there is plenty of room either side for walkers, horse riders and cyclists to pass. The location of these boulders corresponds with the position of what appear to be boulders on the 2009 and 2011 aerial photographs. There does not appear to be other obstructions on the track. The track itself is short grass with lines worn to stone along either side and the one to the north side is more worn than the one to the south side. This could be the case because the public are using this path more on the north side than south side. If the track were from vehicular use, one would expect both to be evenly worn. The 2010 Google Earth image is shown as Background Document NNN.
- 3.75 On the Highways comments for a planning application for a barn at Nether Moor Farm in 2011 reference is made to the public rights of way near to the new barn. It refers to Huddersfield Path No. 231 and Huddersfield Footpath No. 233 and the summary at the top shows both as Footpaths, although it is not clear if this is a summary of public rights of way in general with all status being referred to as footpath or if different classifications of public right of way would have a different status. Huddersfield Path No. 231 is referred to as a 'private lane off Sandy Lane at South Crosland. This is a narrow unmade land approximately 2.5 wide with narrow grassed verges to either side. A public right of way runs along this lane and through the farm building.' This clearly indicates that public rights were referred to though the buildings at this time. Specific reference is made to Huddersfield Footpath No. 233 and the effect of the development on it but not to Huddersfield Path No. 231. A footnote to say that the public footpath should not be obstructed is added. It is not clear if this footnote refers to both paths or if the status changes if the path is of a different category. The 2011 planning comments are shown as Background Document OOO.
- 3.76 The 2011 aerial photograph is less clear and only the section from Nether Moor Farm to the east is visible. Huddersfield Path No. 231 is shown as a double hedged track. There appears to be boulders, logs or similar near the eastern end of the track, although these do not appear to obstruct the full width of the track. There also appears to be a gate or similar across the track near the western corner of the third field from the eastern end of Huddersfield Path No. 231. There does not appear to be any other obstructions or gates across the line of the path. The 2011 aerial photograph is shown as Background Document PPP.

- 3.77 A Letter and map from Land Registry dated 11th November 2011 confirms that Huddersfield Path No. 231 is within title WYK900301 owned by Mr Bradley and that 'there is no entry on the register relating to any rights of way affecting the title. Had any rights of way been present in the deeds, it is normal Land Registry procedure to make an entry in the register.' There may not be any rights of way (public or private) recorded in the Land Registry title, but this would not indicate that public rights of way did not exist and it is unusual for public rights of way to be included in title deeds. There is also no record of Huddersfield Footpath No. 233 or Huddersfield Footpath No. 222 within the Land Registry Title. The Letter from Land Registry and the Title Deed and Map are shown as Background Document QQQ.
- 3.78 On the August 2012 Google Earth Street View image of the eastern end of Huddersfield Path No. 231 there are two boulders near the end of the track. They do not obstruct the full width of the track and there is plenty of room either side for walkers, horse riders and cyclists to pass. The location of these boulders corresponds with the position of what appear to be boulders on the 2009 and 2011 aerial photographs. There does not appear to be other obstructions on the track. The track itself is short grass with more central worn grass line which is likely to have been caused by pedestrian, horse or cyclist use. The 2012 Google Earth image is shown as Background Document RRR.
- 3.79 On the August 2012 Google Earth Street View images of western end of Huddersfield Path No. 231 heading along it until the farm is visible show the path as a double hedged track with no obstructions and a stone surface with some grass patches growing along the centre and grass verges and ditches on either side. The 2012 Google Earth Images are shown as Background Document SSS.
- 3.80 A Statement and Plan under Section 31(6) of the Highways Act 1980 was deposited with Kirklees Borough Council. The Statement was dated 4th of February 2013 and was signed by Robert Edward Bradley. It stated that the way shown coloured yellow on the plan, (Huddersfield Footpath No. 233 and 222) were dedicated as footpaths. It also stated that 'the way coloured orange on the said plan is recorded on the Definitive Map as a byway but I do not accept that the map and statement are correct and have applied under Section 53 of the Wildlife and Countryside Act 1981 to Kirklees Council for a Definitive Map Modification Order to amend the status of the way to a footpath'. Huddersfield Path No. 231 is shown on the map coloured orange from the eastern end to the western boundary of field number 431. The rest of the route is coloured red, presumably the edging of the extent of the land ownership. This would indicate that at the date of deposit of this Statement and Plan that the landowner accepted that this section of Huddersfield Path No. 231 was a public right of way of footpath status. An amended Statement and Plan under Section 31(6) of the Highways Act 1980 was deposited with Kirklees Borough Council. The Statement was dated 15th of May 2013 and was signed by Robert Edward Bradley. It stated that the way shown coloured yellow on the plan, (Huddersfield Footpath No. 233 and 222) were dedicated as footpaths. It also stated that 'the way coloured orange on the said plan is recorded on the Definitive Map as a byway but I do not accept that the map and statement are correct and have applied under Section 53 of the Wildlife and Countryside Act 1981 to Kirklees Council for a Definitive Map Modification

Order to amend the status of the way to a footpath'. Huddersfield Path No. 231 is shown on the map coloured orange from the eastern end to the western boundary of field number 431. The rest of the route is coloured red, presumably the edging of the extent of the land ownership. This would indicate that at the date of deposit of this Statement and Plan that the landowner accepted that this section of Huddersfield Path No. 231 was a public right of way of footpath status. A Statutory Declaration under Section 31(6) of the Highways Act 1980 dated 15th of May 2013 signed by Robert Edward Bradley states that he had deposited a Statement and Plan with Kirklees Borough Council dated the 4th of February 2013 showing ways coloured yellow which 'had been dedicated as footpaths and the way coloured orange on the said plan and on the map accompanying this Declaration is recorded on the definitive map as a byway but I do not accept that the map and statement are correct and have applied under Section 53 of the Wildlife and Countryside Act 1981 to Kirklees Council for a definitive map modification order to be made to amend the status of the way to a footpath'. Huddersfield Path No. 231 is shown on the map coloured orange from the eastern end to the western boundary of field number 431. The rest of the route is coloured red, presumably the edging of the extent of the land ownership. The law firmly believes that people do not assert things that are against their interests and if they do it is more likely to be correct. This would indicate that at the date of deposit of this Statutory Declaration that the landowner accepted that this section of Huddersfield Path No. 231 was a public right of way of footpath status. If he did not believe it carried any public rights he could have stated this on his deposits and declarations. The Deposited Statements and Plans and Statutory Declaration are shown as Background Document TTT.

- 3.81 A set of photographs show notices which were erected on the 4th of December 2013 by Mr R E Bradley. They show a notice near the Sandy Lane end of Huddersfield Path No. 231 which states 'Public Footpath Only'. Another two notices around the farm area state 'No Public Right of Way Beyond this Point'. Another notice is shown at the Nether Moor Road end but the photograph is not clear enough to show what it says. Alongside this notice there are two boulders across the centre of the path. They do not obstruct the full width of the track and there is plenty of room either side for walkers, horse riders and cyclists to pass. The notices would only challenge use and deny access along Huddersfield Path No. 231 from the date on which they were erected. They do not challenge use before this date. The photographs of the 2013 notices are shown as Background Document UUU.
- 3.82 On the 2016 aerial photograph, the boulders or similar near the eastern end of the track is no longer there but there is something similar across the track further along to the west. This appears to take up more of the width of the track than on the earlier aerial photographs. There also appears to be a gate or similar across the track near the western corner of the third field from the eastern end of Huddersfield Path No. 231. Between these two points is what appears to be a white topped caravan or truck which appears to obstruct the full width of the track preventing access. There does not appear to be any other obstructions or gates across the line of the path. The 2016 aerial photograph is shown as Background Document VVV.

- 3.83 An undated photographs show cows moving along Huddersfield Path No. 231. There are no gates across the track shown in the photographs. The photographs of the cows are shown as Background Document WWW.
- 3.84 It is clear from the historic maps and plans that Huddersfield Path No. 231 has been in existence as a track or lane since 1804 and that its line had been the same except for a short period around 1906 when its line was temporarily altered to allow quarrying to occur. Some of the records such as estate surveys, Tithe map, the 1910 Finance Act 1910 and title deeds indicate that it was in private ownership where as others such as the 1954 title and the Beaumont Estate map indicate that it was not within these parcels. The land being in private ownership is not incompatible with public rights of way, the majority of public rights of way run over land in private ownership. These documents are largely silent concerning the existence of public rights and their status with Huddersfield Path No. 231 being shown in the same way as other public roads and byways open to all traffic on some of the maps and the Finance Act 1910 map indicating that there were deductions for 'public rights of way or user' on some of the parcels through which Huddersfield Path No. 231 ran but not specifying which paths within the parcel and other parcels not showing deductions for other definitive paths not in dispute. However, the purpose of these maps was not to show the status or extent of public rights of way. Other published maps such as the earlier Ordnance Survey maps and Street by Street Maps again do not intend to show the extent or status of public rights of way with Ordnance Survey maps after around 1889 having a disclaimer which said that routes shown on is not evidence of the existence of a public right of way unless they are as shown by the symbols indicated in the key taken from Local Authority Definitive Maps.
- 3.85 The papers relating to the production of the original West Yorkshire Metropolitan County Council Definitive Map and Statement, including walking schedules, draft, provisional, objection papers and notices indicate that the correct procedures in the production of the Definitive Map and Statement were carried out. They also show that public rights were found to exist along Huddersfield Path No. 231 during this period and surveys of the route indicate that it was open and available for use in 1951, 1965 and 1966. Three documents indicate that it was considered to be a footpath, three a Footpath (CRF) and five a Road Used as a Public Path. It was recorded on the published Definitive Map as a Road Used as a Public Path and Statement as a Footpath (CRF). In *R v Secretary of State for the Environment, ex p Hood*, Lord Denning explained that when local authorities prepared their maps and statements under the National Parks and Access to the Countryside Act 1949 "they divided the last category into 'CRF' and CRB' which denoted 'cartroad footpath and cartroad bridleway, meaning respectively that there was a public footpath along a cart road or a bridleway along a cart road." It is clear that a CRF is a type of Road Used as a Public Path. Lord Denning continued "in that division the local authorities did not mean to say whether the cartroad was public or private for carts, because they did not know which it was. They only meant to say by CRF that there was a public footpath along a road: and by CRB a public bridleway along a road. That division was misleading because each of those subdivisions CRF and CRB was shown in the map as a 'Road Used as a Public Path'. That meant that it was shown as a 'highway, other than a 'public path" i.e., other than either a footway or a bridleway. Being a highway, it meant that it was a

public cartway. Thus, CRF and CRB designated a public cartway used mainly for the purposes for which footpaths and bridleways are used.” Section 32(4)(b) of the National Parks and Access to the Countryside Act 1949 included a conclusive evidence provision which stated ‘where the map shows a bridleway, or a Road Used as a Public Path, the map shall be conclusive evidence that there was at the said date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than the rights aforesaid’. Therefore, on the publication of the West Yorkshire Metropolitan County Council Definitive Map Relevant Date 20th of April 1966 on the 10th of July 1975 there was conclusive evidence of public right on a horse along Huddersfield Path No. 231. There were no objections to the inclusion within the Definitive Map and Statement during its production and the public had the opportunity to question the validity of the Definitive Map and Statement within six week of the 10th of July 1975 but the validity was not questioned. Furthermore, *R V Secretary of State for Environment ex parte Hood (1975) [1 QB 891]* Lord Denning found that ‘the Definitive Map in 1952 was based on evidence then available, including, no doubt, the evidence of the oldest inhabitants then living.’ Such evidence might have been lost or forgotten by a later date so it would be unfair to reopen everything. The *Department of the Environment Circular 18/90 Par 4-6* ‘In making an application to delete or downgrade a right of way, it will be for those who contend..... to prove that the map is in error by the discovery of evidence, which when considered with all other relevant evidence clearly shows that a mistake was made when the right of way was first recorded. The authority is required... to investigate the matter stated in the application. However, it is not for the authority to demonstrate that the map is correct.’ There is not considered to be sufficient evidence to show that the original Definitive Map and Statement contained an error.

- 3.86 The Countryside Act 1968 required the review of the Definitive Map and Statement and the reclassification of Roads Used as Public Paths. As found in *R V Secretary of State for Environment ex parte Hood (1975) [1 QB 891]* A Road Used as a Public Path could only be downgraded to a footpath if there was new evidence or evidence not previously considered that justified that decision. In all other cases Roads Used as Public Paths would need to be reclassified as a Byway Open to All Traffic if vehicular rights were shown to exist or a bridleway if not. The papers relating to the review of Definitive Map and Statement, including notices, reports, objection papers and correspondence, indicate that the correct procedures were carried out. After the publication of the Draft Revised Map, the Secretary of State for the Environment directed that the review be abandoned. However, if a review was abandoned after the draft map and statement were prepared and the period of objection or representation had ended the authority could, by Order, modify the Definitive Map and Statement to show the effect of any decision by the Secretary of State for Environment or any changes shown in the Draft Map and Statement which had no outstanding objections or representations. The two earliest review documents indicate that it was believed to be a public bridleway with two other documents indicating that it was a public Byway Open to All Traffic. However, having decided that Huddersfield Path No. 231 was a Byway Open to All Traffic on the draft map, which does not appear to

have received any objections or representations, Huddersfield Path No. 231 does not appear to have been included in the Omnibus Modification Order 1985 (West Yorkshire Metropolitan County Footpath Definitive Map) which would have been required to include it in the West Yorkshire Metropolitan County Council Definitive Map and Statement indicating that a mistake was made. Huddersfield Path No. 231 was included in the Definitive Statement as a Byway Open to All Traffic, but there appears to have been a drafting error which resulted in Huddersfield Path No. 231 being shown on the Definitive Map by a solid black line, indicating it was probably intended to show it as a Byway Open to All Traffic but the v's were omitted. The omission from the Omnibus Modification Order and the drafting error on the map reduces the evidential value of the 1985 West Yorkshire Metropolitan County Council Definitive Map and Statement. However, it is clear from the review documents that Huddersfield Path No. 231 were considered to carry public right of at least bridleway status with the draft map indicating a status of Byway Open to All Traffic.

- 3.87 The two 'Enquiries of Local Authorities' in 1954 and 1959 both referred to Huddersfield Path No. 231 in answer to question 1A 'are the highways (including footpaths) abutting on the property maintained at public expense?' This indicates that it was considered to be a public highway at this time with it being referred to as a cart road in 1954 and a footpath in 1959. A 'highway is a public right of way over a defined route' (*Sauvain's Highway Law*) but they can be publically or privately maintained. In this case Huddersfield Path No. 231 was not maintained by the council but was considered to be public highway. The optional question 22 which asked if it was shown in any draft, provisional or definitive maps under the National Parks and Access to the Countryside Act 1949 was not asked.
- 3.88 Various aerial photos, photos and planning application plans show some or all of Huddersfield Path No. 231. The aerial photos, photos and plans show that there were gates along Huddersfield Path No. 231, at either side of the farm yard and between the farm yard and Nether Moor Road. They do not indicate if these were locked or the purpose of these gates. The existence of gates and other structure do not indicate that public right of way do not exist and can be erected for the purposes of stock control or public safety. On some of the aerial photographs the gates were not across the lane indicating that at the time these photos were taken the gates were open. From 2009 boulders could be seen at the eastern end of Huddersfield Path No. 231 but these did not obstruct the full width of the path and it was passible on foot or horse. The photographs do not indicate the purpose of these boulders. From 2016 the aerial photographs indicate that there were physical obstructions across the full width of Huddersfield Path No. 231, although the photos do not indicate the purpose of these obstructions. Photographs of notices erected on the 4th of December 2013 indicate that the public's right to use Huddersfield Path No. 231 was being challenged. Other photos of cows and horse on Huddersfield Path No. 231 indicate that it was possible to use Huddersfield Path No. 231 on a horse and the presence of cows is not incompatible with public rights of way.
- 3.89 The Deposited Statements and Plans and Statutory Declarations submitted by the landowner in 2013, by their own admission, state that Huddersfield Path No. 231 is recorded on the Definitive Map and Statement but that they were challenging its

Byway Open to All Traffic status with an application to downgrade to Footpath. If they did not consider that it carried any public rights of way they could have stated that in these documents. The law firmly believes that people do not assert things that are against their interests and if they do it is more likely to be correct.

- 3.90 The early maps depicting Huddersfield Path No. 231 indicate that public rights may exist as it is shown in a similar way to other public roads and paths in the area. However, they do not provide evidence to its status or sufficient evidence to demonstrate public rights can be reasonably alleged to subsist. The documents used to produce the original West Yorkshire Metropolitan County Council Definitive Map and Statement clearly indicate that public rights were found to exist and they were recorded on the Definitive Map and Statement as a Road Used as a Public Path. This provided conclusive evidence that public rights on horse existed at this date. During the review it appears to have been concluded that vehicular rights existed but due to the omission from the Omnibus Modification Order and drafting error means that this cannot be relied on to show conclusively that vehicular rights exist. Other documents such as the local authority inquiries and the landowners statutory declaration also indicate public rights exist. In conclusion the documentary evidence would indicate that public bridleway right can be shown to subsist or can be reasonably alleged to subsist along Huddersfield Path No. 231.

User Evidence

- 3.91 Public Rights of Way Information Sheets were received from sixty one people who state they are familiar with the Huddersfield Path No. 231. Fifteen of them were submitted by the applicants with the original (now withdrawn) Definitive Map Modification Order Application and were dated 2009-2011 and forty six were submitted in 2015 by people who had used the Huddersfield Path No. 231 as a public right of way following challenges to the use of Huddersfield Path No. 231. The 2009 forms were resubmitted with the second Definitive Map Modification Order Application in 2014. Interviews were also carried out to gather further information about their knowledge of Huddersfield Path No. 231. Copies of the User Evidence Forms and interviews are shown as Background Document XXX (XXX 1-61) along with a summary sheet and graphs.
- 3.92 Of the fifteen sheets submitted by the applicant most were friends or family of the landowners and used Huddersfield Path No. 231 primarily to access Nether Moor Farm. Thirteen referred to the status of Huddersfield Path No. 231 as a bridleway including the applicant and landowner (XXX 2), although when she resubmitted the sheet in 2014 she crossed out the tick in the bridleway status box and added a tick in the 'not a public right of way of any sort' box. XXX 3, XXX 5 and 14 who are all sisters of the male landowner and grew up at the farm, also stated that the route was a bridleway. In her supporting letter XXX 14 stated that her father had 'no objections to horses travelling it and people walking though'. However, if he saw a car he would 'often stride to the end of the yard to see who it was.' She also stated that the neighbours 'didn't use it as a cut through unless they first called to see her father and asked if it was ok'. XXX 5 in her supporting letter stated that they would rarely meet vehicles when going to Sandy Lane but those they did meet were going to the farm and that the 'neighbours never travelled it by horse and cart or by vehicle and for someone to drive through without stopping to

ask permission from my father was unheard of'. She also stated that her 'farther and brother have never stopped people walking or horse riding along the track' but 'the general public or even local people have never used this track as a vehicular access to anywhere'. XXX 3 in her supporting letter stated that 'as a child growing up at the farm, I remember the occasional walker and a few horses using the lane, I rode horses on the land during my teens, we never encountered motor vehicles as this was, we were told, a bridle path, not a through road. Only vehicles belonging to family friends and business associates used the land to the farm, then only from the Sandy Lane end. If anyone travelled up from Nether Moor Road it would only be a neighbour on a tractor coming to see my father.' XXX 11, another family member, stated that the land was 'private but walkers and horse riders have used it.' The Applicant and female landowner (XXX 2) also stated in her letter that vehicles not visiting the farm were always stopped and that she had herself stopped vehicles. She also stated that 'people walk up and down the track and horse riders sometimes come up and down it' and that 'we have no objection to walkers and horse riders who want to enjoy the countryside. We would never stop those user groups enjoying our property'. It is clear from members of the landowners family that walkers and horse riders did use Huddersfield Path No. 231 with no objection or challenge from them although they did challenge vehicles if they were seen. The law firmly believes that people do not assert things that are against their interests and if they do it is more likely to be correct. The fact that the landowner and other family members are stating the the route was a bridleway, used by walkers and horse riders and that only vehicles were challenged is a clear indication that they believed that Huddersfield Path No. 231 was a public bridleway.

3.93 On the remaining two who filled in the earlier sheets one, XXX 12 stated that he did not believe that Huddersfield Path No. 231 was a public right of way of any kind and had been told by his family who owned Knowle Farm that he was not allowed to walk on the land. The other, XXX 15, believe that the section west of Nether Moor Farm was a public footpath and the section east of the farm was not a public right of way of any kind and was 'never open to the public except by permission of the land owner who allowed occasional use by local equestrian groups and other foot traffic, depending on livestock movements and conditional on gates and fences being closed again afterwards'.

3.94 Of those who submitted sheets in 2015, twenty people stated that they used Huddersfield Path No. 231 for a period of twenty years or more prior to 2009 when the Definitive Map Modification Order Application was first submitted challenging the status of Huddersfield Path No. 231. Use dated back to 1965 with the longest use by (XXX 35) for forty four years. Six people did not start using Huddersfield Path No. 231 until after 2009 and the rest used it for between two and nineteen years. Eighteen people believed that Huddersfield Path No. 231 was a public bridleway, two believed it to be a public restricted byway and twenty six believed it to be a public Byway Open to All Traffic. Two people stated that they used it daily, six people several times a week, nineteen people weekly, two people several times a month, eight people once a month, seven people several times a year and one person occasionally. Forty people have used Huddersfield Path No. 231 on horse, twenty on foot, ten with a bicycle, one with motor bikes, two with a land rover, and one with a car, one with a tractor and two with an unspecified

vehicle. This level of use indicates that the public were using it and believed it to be a public right of way. Most people used it on horse with additional use on foot and bicycle. There is some evidence of occasional vehicular use. Everyone also saw other people using it on foot, bicycle and horse with occasional vehicle use with horses seen more frequently than other types of path users. Most people also used it with friends or family. Two users (XXX25) and (XXX43) owned or worked at riding schools and took groups of up to six or eight horses along here from the riding school several times a week. Another user (XXX 57) referred to her walking group using it. This would indicate that the use was of the character of a Byway Open to All Traffic.

- 3.95 Gates were referred to by thirteen people who completed the sheets with the original Definitive Map Modification Order and thirty people who filled in the sheets in 2015. There was a general consensus that there were one or two gates or bars near the farm yard and another gate, rail or bar further along Huddersfield Path No. 231 towards Nether Moor Road. Ten people referred to the gates as being bridle gates or gates with long handles that could be opened from a horse without dismounting and eight people stated there were field gates with smaller gates to the side. Two people who filled in sheets in 2015 stated that the gates had recently been locked and two other people stated that there had been a locked field gate but there was a smaller pedestrian or bridle gate to the side that was not locked. Everyone else stated that the gates were not locked, including the landowner and other members of the landowners family. Seventeen people including the landowner and other members of the landowners family stated that the gates and rails were in place for stock control and not for any other purpose. The applicant and landowner (XXX 2) stated that the 'gates were used several times a day for cattle movements' and XXX 5, sister of the landowner, stated that they were 'used only when moving cattle'. One of the path users stated that there were gates 'at side of farmyard to stop cattle from straying down the land when being brought in for milking- reopened afterwards. We were able to open them and pass through if we were there at milking time' (XXX 31). Another path user (XXX 32) stated there were two gates and a metal bar, the first gate was 'farm gate style with separate long handle gate opening for ease of horse riders' the metal bar was there 'on occasion' 'to guide livestock?' and the other gate was 'rarely closed'. Of those that arrived at milking time many referred to Old Mr Bradley opening the gate or bar for then and occasionally having to wait for about 5 minutes if the cows were crossing. XXX 23 stated 'if he [the farmer] was milking or moving the cows across there would be a bar so that the cows couldn't wander up onto the road. He would apologise if he thought he had held you up. You may have to wait for four or five minutes for the cows to cross, there were not many of them and the farmer would then move the bar for you himself'. Most people agree that the gate or bar near the farmyard were always there but the other gates with the long handles appeared at a later date of around 2007 or 2008 being given by a several path users. Ten people who filled in sheets in 2015 also referred to a tractor being used to prevent one of the gates being opened with two people stating that this was done in 2015. It is therefore clear that the gates were not in place to challenge use by the public, but to prevent cattle straying. It is also clear that they did not prevent public use and that the gates were not locked or blocked until around 2015, after the initial date of challenge in 2009 when the first Definitive Map Modification Order Application was submitted and some of the

gates were suitable for use on horse without dismounting implying that it was accepted that the public had a right to use it on horses as a bridleway.

- 3.96 Six people filling in sheets in 2009 referred to boulders or rocks on Huddersfield Path No. 231 which were there for farm security or to prevent travellers. The landowner and applicant (XXX 2) stated that 'we use boulders of stone regularly to stop gypsies/ travellers/ machinery thieves/ livestock rustlers accessing our land. All farms in this area use this method. They are moved in and out of position as necessary'. It is clear from this statement that the boulders were not put into place to stop public use but to prevent illegal use of the path and for general security reasons. *Lewis v Thompson (1950)* established that interruption means an interruption in fact but the circumstances and intention of the barring of the way are relevant. Locking a gate to stop cattle straying did not prevent dedication of a public footpath. Of those completing sheets in 2015, thirty six refer to the boulders or rocks and seven people also refer to logs. Twenty six specifically state that they block the path. Seventeen people say that they were in place before that path was blocked but access was still possible on foot, horse and bicycle. For example one user, XXX 16, stated that 'large stone blocks have been in place for years but was passable on foot/ horse. Now there are more which totally block it for horses'. Another path user, XXX 31, stated that 'big stones at end some years ago to stop travellers entering with caravans (Johnson's quarries did this). Spaces left between to allow walkers and riders to pass. This year stones moved to completely block the route and large logs laid across.' One person said that the stone blocks were there for a few years before it was blocked, another said they were there for years, another for ten years and two people stated that they were there since 2008. Of those providing dates for the boulders completely blocking the path, five people said recently, one person said 2015 and twelve people specifically stated that they were there since May 2015. From the evidence sheets it would appear that boulders were used to prevent access to vehicles from around 2008 but that use was still possible on foot, horse and bicycle until May 2015 when the boulders were moved closer together and logs and tree or hedge cuttings added completely preventing access to Huddersfield Path No. 231. The closing off of the gaps between the boulders was a clear indication to the public who used the path that their use was being challenged although this occurred after the initial date of challenge in 2009.
- 3.97 Five people also stated that a caravan was used to block Huddersfield Path No. 231 with one saying this was done in 2014. Again this was a clear indication to the public using the path that their use was being challenged although this occurred after the initial date of challenge in 2009.
- 3.98 None of those completing the original evidence sheets refer to any notices on Huddersfield Path No. 231 except for one that said 'Nether Moor Farm'. Of those filling in evidence sheets in 2015 two people, XXX 18 and XXX 19, state that there were bridleway signs at each end of the path and one, XXX 35, stated that there were byway signs 20 plus years ago. Thirty two people saw notices that challenged use with users saying they said things like 'private road' 'private track with access to footpath 233', 'no access' and 'no public right of way' or similar. Of those providing dates of their erection, two people stated recently, four people in 2014 and eight people in 2015 with two people saying there was a notice in 2014

and another in 2015. Users do not recall seeing notices that challenged use prior to 2014 and these dates are around the time of the notices that the landowner sent photos of which he states he erected in December 2013 and the wording is similar to that described by path users. The notices clearly challenge use by the public but were first erected, by the land owners admission, in December 2013 and after the first challenge date in 2009.

3.99 Of those filling evidence sheets in 2009 six people referred to use being with permission, six with vehicles and three to visit the family. Most of these were landowners or related to the landowning family so did not consider that they needed permission. Of the forty six people filling in evidence sheets in 2015 only seven of them said that they had permission to use Huddersfield Path No. 231 and two said this was not given until 2014/ 2015 after the initial 2009 date of challenge. Five people who had said they had permission were interviewed and it was clear that they had never requested or been told that they had permission to use it. One, XXX 29, stated that 'We never asked for permission, you never had to. I always thought that everyone had it because it was a public right of way. No one ever said that we couldn't use it.' Another, XXX 16, stated 'The father used to open the gate and they would wave and say hello and had no objection to us using it. I never specifically asked for permission, it was just implied permission as they never said anything about us using it. It was probably not their track. I never said can I ride up or anything like that. I saw Mr Bradley senior and Ed lots and they never said we couldn't ride it or that we had permission or anything. It was as with the other rights of access in the area open to everyone traditionally.' Another, XXX 17, stated 'We were never refused use of this route. The father was the main person there and Ed, the boy after. When I first went through you didn't have to ask, we never asked for permission to use it. You would see them when using it and Ed never stopped us using it. It was only after whatever went wrong and they blocked it. The farmer would speak to you, not a long chat, just to pass the time of day or if you were waiting for the cows to go through. If there were no cows you just went straight through, they never complained and we never requested permission.' Another, XXX 23, stated 'I have not asked for permission, it was not needed as it is a public right of way. Mrs Bradley had emailed me in 2014 to say that she had seen us riding here and is happy to give us permission to ride through. I thought this was strange as we didn't need permission and had been riding through for twenty five years'. Several of those who did not believe that they had permission stated that permission was not needed. Users XXX 33 stated that 'I've never asked them, just walked through without question' another, XXX 28, stated 'no need to as is a right of way'. It is clear that the majority of people using Huddersfield Path No. 231 did not believe that they had or needed permission to use it and those that believe that they had permission had never specifically requested or been given permission to use it, they had just assumed that they had it because it was a right of way or because nothing was ever said. In *Beresford v City of Sunderland* (2001) [ewca Civ 1218] it was established that 'there is no reason in principle why an implied permission may not defeat a claim to use as of right', but, 'such permission may only be inferred from overt and contemporaneous acts of the landowner.' There is nothing to suggest that any overt or contemporaneous acts have occurred to demonstrate to the public that they had permission to use the track until some users were given permission by one of the landowners in around 2014/ 2015 and around 2015 when some users

say that one of the notices stated that there was permissive to use the section of Huddersfield Path No. 231 from Sandy Lane to Huddersfield Footpath No. 233 on foot.

- 3.100 One of those who filled in evidence sheets in 2009 said that he was challenged. He was told by his mother and grandparents not to use this track so had never used it. However, his relatives did not own the land so their challenges would not have been valid challenges for the purposes of preventing use as established in *Moser v Ambleside Urban District Council 1925*. Of those filling in evidence sheets in 2015 six people said they were challenged when using the path and of those giving dates said that the challenges occurred in 2015. On user, XXX 27, stated 'After the path had been blocked completely the newspaper wanted to take a photograph of someone on a horse there. Mrs Bradley's son came out and said that it was not a public right of way but his mother had already said that we could ride there' another, XXX 25, stated that 'Edward's wife told me that I was not allowed to ride there after that' and a third, XXX 57, said that 'the Wednesday group were asked not to proceed along the route so they turned back'.
- 3.101 Many of the people using Huddersfield Path No. 231 said that they saw the landowners and said that they would chat about the weather and exchange pleasantries but nothing was ever said to them to say that they should not be using Huddersfield Path No. 231 or that they had permission to be there until around 2015. The older Mr Bradley was the landowner most referred to but old Mrs Bradley, Edward Bradley and the current Mrs Bradley were also referred to. Old Mr Bradley also opened the bar by the farmyard if the cows had just been taken across for many of the path users. One person, XXX 43, stated I don't go that way now, I don't like abuse and the farmers attitude. I don't want to walk somewhere where people are nasty and I can't ride anymore. The granddad would open the gates for you when he was there. The grandson doesn't say much, just the wife mostly. She wants to know why you are coming through and where you are going. It is only recently that she has started to say it is not a public right of way. We never had permission to use it, you just walked up it and past the farm. If Old Mr Bradley was there he would talk to you and he never said anything about us using it so you knew it was alright to use it.' On person, XXX 54, stated that 'I saw the old fella from the farm, he was always in the yard and would say hello and doth his cap. I rarely saw Edward. No one ever came out and said that we shouldn't be there. ' Another person, XXX 30, stated 'Old Mr Bradley and his wife used to chat to you if you saw them when using it, just passing the time of day, talk about the weather and things. I never saw any of the others but Old Mr Bradley would always say hello. I never asked for permission, they just condoned use and never asked us not to use it. Everyone used it.' It is clear from these comments that, if the landowners had wanted to make it clear to the public that they had permission to use the path, wanted to make it clear to people that they should not be using it or challenge use there was the opportunity to do so but none of the path users completing evidence sheets in 2015 recall challenge or permission prior to 2014.
- 3.102 Two people refer to an incident with a dog. It had chased one of them (XXX 27) when she was riding through on her horse. She stated that 'I spoke to the father of the farmer who now has the farm about one of his dogs. The dog had ran out

and chased after my horse one day. He said he would chain him up. I saw him again a few weeks after and he said that had had it put to sleep because the public could come through he couldn't have it chasing people or biting a kid.' The other person (XXX 29) said that 'he would not have had to do that if it had been private'.

3.103 A letter dated 23rd of June 2009 from landowners who have farmed the adjoining farm for 3 generations states that to their knowledge, the track served the fields and milk truck and delivery vehicles only access the farm from Sandy Lane. They state it 'has never been used by the general public nor locals as a drive through as it is common knowledge that it is owned and managed by the Bradleys.' They 'recall that if someone did want to come up it from Nether Moor Road to the family they had to ask permission from Mr Arthur Bradley first' and 'they were normally put off from travelling it in a normal car as it is rough in places and was only suitable for horses and carts in the old days and tractors and machinery nowadays.' 'We do know that people now use the lane to walk and horse riders travel it and the Bradleys have never had an objection to this'. They used to use it to walk to school and their children sometimes do the same. Finally they state that 'it is not right to think that it should be used as a motorists cut through which would endanger the public on foot and those on horseback.' It is clear that although these farmers do not believe this route to be used by the public in vehicles as a Byway Open to All Traffic, they do consider it to be a bridleway used by the public on foot and horse. The letter from the adjoining farmers is shown as Background Document YYY.

3.104 It is clear from the information sheets that the public have use Huddersfield Path No. 231 as a public right of way since at least 1965 without being aware that their use was being challenged until 2014 with most challenges to use in the form of notices or obstruction until Spring 2015. Additionally the surveys undertaken in 1951, 1965 and 1966 show use at this time. Use has been predominantly on horse and foot with limited vehicular use. There is evidence that vehicular use was challenged in the late 2000's by the placing of boulders at the Nether Moor Road end but these allowed those using the route on foot, horse and bicycle to continue. There is evidence of gates or bars along Huddersfield Path No. 231, but these were not locked and did not prevent use as stated by the landowners and the public using Huddersfield Path No. 231 until around 2015. Furthermore, there is evidence from path users, the landowners and other relatives of the landowners that these gates and bars were erected for stock control purposes and were not intended to prevent public use. Many of the path users met the landowners and engaged in conversation. They were not granted permission to use it or told that they should not be using it or that it was not a public right of way until after use was challenged in around 2014 or 2015. The family of the landowners also stated that the older Mr Bradley did not have any objections to the public using it on foot or horse and had not challenged these users although they did say that vehicular users were challenged. The status of Huddersfield Path No. 231 was first challenged in 2009 by the making of the first a Definitive Map Modification Order to downgrade it to a footpath. This application was later withdrawn and a second application made in February 2014 to extinguish all public rights from the farmyard to Nether Moor Road and to downgrade the section from Sandy Lane to the farmyard to footpath although the majority of

users of Huddersfield Path No. 231 were not aware of these applications. There is clear evidence of twenty years use of Huddersfield Path No. 231 on foot and horse without challenge or interruption prior to 2009 with use continuing until Spring 2015.

- 3.105 It is considered that it can be shown, on the balance of probabilities, that a public bridleway would have been presumed to have been dedicated along Huddersfield Path No. 231 following the expiration of a twenty year period of use by the public when the first Definitive Map Modification Order Application was submitted in 2009 with unchallenged and uninterrupted use continuing until around 2014/2015. It is also considered that there is not enough evidence to show that there was no intention to dedicate a public right of way along Huddersfield Path No. 231 by the landowners.

Representations Against the Application

- 3.106 Four letters were submitted date 13th June 2012 by Mr Robert E Bradley which refer to the evidence submitted with the Definitive Map Modification Order Application. The first letter states that 'upon closer examination of these maps and statements it is clear that no heed was paid to the earliest map provided which shows no more than a footpath and to the various surveys that were undertaken over a number of year indicating in the first instant a 'footpath' notation and in a later survey a 'bridle path' notation. Based on the huge discrepancies shown in the material and in the final outcome of an alleged BOAT notation it is clear that the relevant checks and surveys and discussions with landowners at the time of the collation of the 1985 Map which makes the current map unreliable.' The second letter states that 'upon closer examination of these documents it is clear that the council which existed under different titles was in a huge state of chaos. Reviews were cancelled and objections to reviews were cancelled as a result. Roads Used as Public Paths should have undergone a special review to determine their actual use and symbols on maps were misunderstood. The main RUPPS in the Huddersfield area, 98 in number, were Footpath CRF. I have clearly shown evidence in my application that this is the case for my track. There are documents in this file that discuss the lack of staffing and finance to provide the staffing to carry out the work for the Definitive Map that needed to be done.' Mr Bradley in his first letter appears to agree that there was evidence of footpath rights in the historic records and later on bridleway rights along Huddersfield Path No. 231. Mr Bradley does not say why he believes that the relevant checks and surveys and discussions with landowners were undertaken and does not specifically state how the documentary evidence shows Huddersfield Path No. 231 was only a Footpath CRF. However, it is clear from the adverts, surveys, draft provisional and original Definitive Map published in 1975 that the correct procedures for the production of the Definitive Map and Statement were carried out as required. The original Definitive Map and Statement recorded Huddersfield Path No. 231 as a CRF (Road Used as a Public Path) which under Section 32(4)(b) of the National Parks and Access to the Countryside Act 1949 provides conclusive evidence that there was a highway as shown on the map, and that the public had a right of way on foot and a right of way on horseback or leading a horse. The adverts, surveys, draft, provisional map and Definitive Maps also show that the correct procedures were carried out

for the review of the Definitive Map and Statement to a point. However, having decided that Huddersfield Path No. 231 was a Byway Open to All Traffic on the draft map, which does not appear to have received any objections or representations, Huddersfield Path No. 231 does not appear to have been included in the Omnibus Modification Order 1985 (West Yorkshire Metropolitan County Footpath Definitive Map) which would have been required to include it in the West Yorkshire Metropolitan County Council Definitive Map and Statement indicating that a mistake was made. Huddersfield Path No. 231 was shown in the Definitive Statement as a Byway Open to All Traffic, but there appears to have been a drafting error which resulted in Huddersfield Path No. 231 being shown on the Definitive Map by a solid black line, indicating the it was probably intended to show it as a Byway Open to All Traffic but the v's were omitted. The omission from the Omnibus Modification Order and the drafting error on the map reduces the evidential value of the 1985 West Yorkshire Metropolitan County Council Definitive Map and Statement. However, it is clear from the review documents that Huddersfield Path No. 231 was considered to carry public right of at least bridleway status with the draft map indicating a status of Byway Open to All Traffic. The error in the production of the 1985 Definitive Map and Statement does not affect the production of the original Definitive Map and Statement published in 1975. The first two letters from the landowner dated the 13th of June 2012 are shown as Background Document ZZZ 1 & 2.

- 3.107 The third letter again refers to the error made in the production of the 1985 Definitive Map and Statement and the lack of an Order for Huddersfield Path No. 231 to change the status from Road Used as a Public Path to Byway Open to All Traffic. He also refers to Huddersfield Path No. 231 being shown on the Definitive Map with a solid black line which is not a line style that should have been used to show a Byways open to all traffic. These points have been addressed above. No reference is made to errors made to the original Definitive Map and Statement published in 1975. This letter is shown as Background Document ZZZ 3.
- 3.108 Mr Bradley also states that he has been on the farm since 1964 and that the farm has been farmed by his family since the late 1800s so he is familiar with the farm and the history of the area. He states that 'no one has travelled the track in a vehicle in the last 24 years until the recent events that gave rise to this application, other than members of the Bradley family and agricultural vehicles coming to the farm with permission.' He states 'I consider the Definitive Map and Statement to be unreliable and know that if the council had looked at the ownership of my track and the historical use for it they would have realised that it is a private access to Nether Moor Farm with some footpath rights along it. This track from Sandy Lane to the farm buildings has always been a private access to Nether Moor Farm and the boundary markings on the map attached to my deed of ownership clearly shows this. There is a short length of footpath Number 233 which runs from a stile on my land to Sandy Lane. The track from the farm down to Nether Moor Road was put in by Whitley Beaumont Estate who were the previous owners of this land to service the fields on either side of it and has never, in my lifetime or the lifetime of my father, grandfather and great grandfather been used by motorised vehicles other than with the permission of the Bradleys'. Although the land may be in Mr Bradleys ownership, this does not preclude the existence of public rights, indeed the majority of public rights of way run over land

in private ownership, including Huddersfield Footpath No. 233 and No. 222 which are public rights of way running over land within Mr Bradleys ownership which he is not disputing the existence of. There is also some evidence of vehicular use within the user evidence and the Trail Riders Fellowship letter (HHH) without permission of the landowners, although this is limited.

3.109 Mr Bradley then goes on to explain how the farmyard and gateways off the track are designed in such a way as to ensure good farm management and that livestock goes where it should. He explains that 'the lane is used several times a day to move cattle to and from our fields and has always been used to my knowledge for over 100 years for the purpose of driving cattle along it.' He states that 'To try to make this driving gate into a public highway because someone in the council did not know what they are doing is beyond comprehension. To allow vehicles to travel this driving gate would have completely contradicted the construction of it and to have ever allocated the term Road Used as a Public Path is absolutely ridiculous.' However the use of the track for agricultural purposes and the driving of livestock does not preclude public rights of any status. There are many public rights of way, including byways open to all traffic, which are used for agricultural purposes including the driving of livestock. The use for agricultural purposes and movement of livestock relates to issues of suitability and desirability which cannot be taken into consideration when determining Definitive Map Modification Order Applications. Only evidence relating to the existence or status of the route or its use by the public during the claimed period can be taken into consideration.

3.110 Mr Bradley then explains how in the past when his father was on the farm, the machinery was operated by horses and these horses were used either on horseback or with carts by the farm and other farms in the area as a mode of travel as well as walking. He states that his father 'always allowed horse riders and walkers to walk along the land to the farm to visit us and in later years, as a result of his love of horses he always allowed riders and horses to travel the track. This was not with the intention of creating rights or curtailing rights but because he like to see the horses and appreciated them as part of his rural life. Horses still travel this track now and I, as my father before me, have always allowed this to happen. Our neighbours never use it as a cut through in a vehicle because it is widely known in this area by the old farming families that live here that it is a private track. If one of them wanted to call at our farm to see my parents they would telephone first to see ensure that they were agreeable to them travelling along the lane to the farm. I am still offered this courtesy, as people still know that it is a private access to my farm. My family and I have a good relationship with people who regularly walk and ride through our property and the majority respect and show courtesy to use and the job we do as custodians of this land. Those who are aware of the recent discovery of this notation are both shocked and upset that they could be faced with convoys of vehicles in an area that has never been used for that purpose previously.' It is clear from this letter that the Mr Bradley and his father were aware that horse riders and walkers were using Huddersfield Path No. 231 as a bridleway and there is no reference in this letter to informing riders or walkers that they had permission to use the path. When interviewed on the 31st of July 2017 Mr Bradley did state that both he and his father had told people using the path that they had permission to use it which appears to

contradict this letter and the Public Rights of Way Information Sheets submitted by the landowner and other members of the family in 2009. In the Public Rights of Way Information Sheets filled in by members of the Bradley family, reference is made to vehicular users being challenged but not to those using it on foot or horseback whom they had no objection to. It is also clear from the Public Rights of Way Information Sheets that members of the public using the path were not told by the Bradley family that they had permission to use Huddersfield Path No. 231 and had not asked for permission to use it. Many refer to seeing Mr Bradley's father while using Huddersfield Path No. 231 but only exchanged pleasantries. There is some evidence from those who used Huddersfield Path No. 231 in vehicles that they did ask for permission each time they wanted to use it with a vehicle. In *Fairey v Southampton County Council (1956) [2 QB 439]* L J Dennings stated that "In my opinion a landowner cannot escape the effect of 20 years prescription by saying that, locked in his own mind he had no intention to dedicate" In order for there to be "sufficient evidence that there was no intention" to dedicate a way, there must be evidence of some overt acts on the part of the land owner such as to show the public at large, the public that use the path such as local residents, that he had no intention to dedicate. If a landowner merely turns back strangers on a single occasion, it would not be sufficient to make it clear to the public that they had no right to use the way. Or, as in this case, if the landowner gives permission for vehicular users but not to those using it on horse or foot, it would not be sufficient to show a lack of intention to dedicate a bridleway, only a Byway Open to All Traffic.

- 3.111 Mr Bradley also states that 'if the track is a BOAT then again the council have been negligent in their legal responsibility to maintain it.' Although the majority of public rights of way recorded on the Definitive Map and Statement will be maintainable at public expense there will be some public rights of way that are privately maintained. The Enquiries of Local Authorities undertaken when Nether Moor Farm was sold in 1954, question 1A indicates that Huddersfield Path No. 231 was considered to be a privately maintained highway (W & BB).
- 3.112 Mr Bradley then refers to Huddersfield Path No. 231 being a narrow track with a soil and shale surface with blind corners 'which allow no viewing of oncoming walkers, riders, livestock or agricultural machinery. Visitors to the farm are asked to travel at reduced speeds to ensure the safety and wellbeing of all these users'. He then refers to use of Huddersfield Path No. 231 by vehicles that are travelling in packs at high speed risking the life of his livestock and his own, as well as damage to his property and an incident where he was threatened and pinned to a gate by the occupants of a Land Rover Defender. These issues relate to issues of suitability and desirability which cannot legally be taken into consideration of a Definitive Map Modification Order Application. Only evidence relating to the existence or status of the route or its use by the public during the claimed period can be taken into consideration.
- 3.113 The final part of this letter (ZZZ3) a list of the documents provided in support of the Definitive Map Modification Order Application with a short summary of each. Most refer only to the contents of the documents which have been examined above. When referring to some of the plans and photographs, Mr Bradley refers to the existence of several gates or stiles along the route which he states were

used for stock control purposes and were closed several times a day. They were 'not locked and walkers open and close them in order to continue through'. The existence of gates does not prevent the existence of public rights of way and gates can also be authorised for stock control purposes. Gates closed across the track for stock control purposes would also not prevent the dedication of a public right of way through presumed dedication. *Attorney General v Hemingway (1916) [81 JP 112]* established that an obstruction not done for the purpose of asserting the right to obstruct the public user were not obstructions for the purpose of showing no public right of way. Furthermore, Mr Bradley acknowledges that the gates could be and were opened by walkers. The gates were only on the section of Huddersfield Path No. 231 to the east of Nether Moor Farm that the Definitive Map Modification Order Application made in 2014 states is not a public right of way of any status and should be extinguished from the Definitive Map and Statement. This would indicate that Mr Bradley knew the public were using this section of Huddersfield Path No. 231 as a public right of way of at least footpath status.

- 3.114 Mr Bradley also refers to the maps showing Huddersfield Path No. 231 in private ownership and included within tenancy agreements. However, public rights of way can run over land in private ownership, including vehicular highways and the inclusion of land in a tenancy agreement would also not prevent the existence of public rights of way. Furthermore, it would not prevent public rights coming into existence through uninterrupted public use and presumed dedication.
- 3.115 Mr Bradley refers to occasions when Huddersfield Path No. 231 was dug up by utility companies to lay services. He states that Huddersfield Path No. 231 was closed during these periods with no access to the public, but that this was not done by an official closure through the Highways Department, only by his permission. As Huddersfield Path No. 231 is recorded on the Definitive Map and Statement it should have been closed by an official Temporary Traffic Regulation Order and no copies of the notices relating to other roads closed in the area during this time have been provided to show that Huddersfield Path No. 231 was not included. However, even if a Temporary Traffic Regulation Order was not in place the closure of Huddersfield Path No. 231 for the installation of services would not act as an interruption for the purposes of the purposes of showing no public right of way as established in *Lewis v Thompson (1950)* interruption means an interruption in fact, but the circumstances and intention of the barring of the way are relevant. The interruption must be for the purposes of preventing public user as established in *Attorney General v Hemingway (1916) [81 JP 112]*.
- 3.116 The fourth letter relates to the photographs submitted with the Definitive Map Modification Order Applications. The state that the first photograph taken in the 1930s has cattle in the background which were 'free to roam in the farmyard as they wanted to. If this had been a public highway for the use of motorised vehicles this would not have been possible.' No reference is made to whether this would have been possible if it were a bridleway or footpath. It then refers to use of the track by family members to ride ponies as shown by the 1968 photograph which they were permitted to do if they did not interfere with farm work or livestock. Mr Bradley states that he 'still expect the same courtesy from anyone riding through my property. The priority is the safety of my livestock and those

who are regular visitor appreciate and accept that is part of the countryside code. With the exception of motorised vehicles who want to travel by their own rules.' Mr Bradley seems to accept that horse riders are using this track and does not appear to object to their use of it at this time as long as they respect the countryside code. Finally, it refers to Huddersfield Path No. 231 being used to move cattle several times a day and that it is imperative that they are not upset or impeded for the safety of the herdsman. He sees no reason to change this to facilitate an error on the map. This does not relate to the status of the public right of way but suitability and desirability which cannot be taken into consideration when determining Definitive Map Modification Order Applications. However, it is worth noting that in rural areas many public rights of way are used to herd cattle, including Byways Open to All Traffic and that full public carriage roads are also used to move livestock in some areas. This letter is shown as Background Document ZZZ 4.

3.117 Another letter was received from Mr Bradley dated the 4th of December 2013. It states that 'I now seek to add a public footpath to the said Definitive Maps as no right of way is currently shown thereon at this location. The route is from Point A to B, connecting to another footpath, as shown. I deny the existence of other public rights of way. I have today erected notices to this effect.' These notices are the ones shown in Background Document UUU. In his earlier letter Mr Bradley does not refer to any notices prior to this date and neither do those members of the Bradley family filling in Public Rights of Way Information Sheets. It is also around this time that member of the public using Huddersfield Path No. 231 on horse or foot first recall seeing notices denying public use. This letter is shown as Background Document ZZZ 5.

3.118 Mr Bradley also refers to *Norfolk County Council, R v Secretary of State for Food, Environment and Rural Affairs [2005] EWHC 119 (Admin)* which found that 'in the case of irreconcilable conflict between the map and statement, there is no evidential presumption that the map is correct and the statement not correct. The conflict is evidence of error in the preparation of the map and statement which displaces the *Trevelyan* presumption. Each should be accorded the weight analysis of the documents themselves and the extrinsic evidence, including the situation on the ground at the relevant date, demonstrates is appropriate.' It is clear that an error was made during the production of the 1985 West Yorkshire Metropolitan County Council Definitive Map and Statement as there is no evidence of a reclassification Order to reclassify Huddersfield Path No. 231 from Road Used as a Public Path to Byway Open to All Traffic. However, insufficient evidence has been submitted to show that an error was made during the production of the Original Definitive Map and Statement published in 1975. The documents, notices and schedules relating to the draft, provisional and definitive map all indicate that the correct procedures were followed. In *Trevelyan v Secretary of State for the Environment (2001) [1 WLR 1264 (CA)]* it was found that if a route shown on a definitive map has its existence queried the inspector 'must start with and initial presumption that it does' exist. 'In the absence of evidence to the contrary, it should be assumed that the proper procedures were followed and thus that that such evidence existed... The standard of proof required to justify a finding that no public right of way exists is no more than the balance of probabilities. But evidence of some substance must be put into the

balance, if it is to outweigh the initial presumption that a right of way exists. Proof in the negative is seldom easy, and the more time that elapses, the more difficult will be the task of adducing the positive evidence that is necessary to establish that a right of way that has been marked on the definitive map has been marked there by mistake. In *R V Secretary of State for Environment ex parte Hood (1975) [1 QB 891]* Lord Denning found that 'the Definitive Map in 1952 was based on evidence then available, including, no doubt, the evidence of the oldest inhabitants then living. Such evidence might have been lost or forgotten by 1975. So it would be unfair to reopen everything in 1975.' The *Department of the Environment Circular 18/90 Par 4-6* states that 'in making an application to delete or downgrade a right of way, it will be for those who contend..... to prove that the map is in error by the discovery of evidence, which when considered with all other relevant evidence clearly shows that a mistake was made when the right of way was first recorded. The authority is required... to investigate the matter stated in the application. However, it is not for the authority to demonstrate that the map is correct.' No evidence of sufficient substance or weight has been produced to show that there were errors in the production of the original Definitive Map and Statement published in 1975 relating to Huddersfield Path No. 231, therefore this map provides conclusive evidence that the public had a right to walk and ride horses along Huddersfield Path No. 231. The rest of this letter raises the same points as raised in the letters dated 13th of June 2012.

- 3.119 A letter dated the 20th of February 2014 relates to the second Definitive Map Modification Order Application submitted in 2014. This letter is shown as Background Document ZZZ 6. The first point is that 'the route was held in trust from at least the late 1800s until 1954. During this time there was no means of dedicating rights of way across the held land.' The Abstract of Title from 1954 (X) does indicate that Nether Moor Farm was settled estate between 1887 and 1954, but the plan with it appears to indicate that Huddersfield Path No. 231 was excluded from this parcel. Before 1926 a tenant for life could not dedicate a highway as he did not have legal estate or any statutory power to dedicate. After 1926, under Section 56 of the Settled Land Act 1925 a tenant for life under a strict settlement could dedicate a public right of way, provided it was for the benefit of the residents of the settled lane or there was a specific power in the trust instrument. In other circumstances, all the beneficiaries must agree to the dedication, either expressly or by implication. The beneficiaries' must be at full age and capacity.² The Rights of Way Act 1932 set out that where a way has 'been enjoyed by the public as of right and without interruption for a full period of twenty years, such way shall be deemed to have been dedicated unless there is sufficient evidence that there was no intention during that period to dedicate such a way, or unless during such a period of twenty years there was not at any time any person in possession of such land capable of dedicating such a way. This would have prevented land in strict settlement becoming a public right of way. However, the act also set out that 'where any such way has been enjoyed as aforesaid for a full period of forty years, such way shall be deemed conclusively to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate such way.' Therefore, if a way was used by the public as of right for forty years it would become a highway even if the

² Public Rights of Way and Access to Land 2nd ed. Angela Sydenham 2003

land was owned by someone who did not have the capacity to dedicate, for example if the land was in strict settlement. The National Parks and Access to the Countryside Act 1949 amended this so that a twenty year period was sufficient in both cases. If land was in strict settlement at this time it would be possible for public rights to be acquired through presumed dedication if the public had used it for a period of twenty years or more. Therefore, by the time the Bradley's purchased the land in 1954 there would have been a sufficient period of time for the land to have been dedicated as a public right of way through presumed dedication or dedication by the landowners. Furthermore, although the production of the original Definitive Map and Statement was first begun in the early 1950s with the first Draft Map and Schedule produced in 1952 the original Definitive Map and Statement was not published until 1975. During this period, surveys of the path were undertaken showing it was open and available for use by the public and it was shown on the draft, provisional and definitive maps as a public right of way with no objections from anyone. The surveys indicate use by the public for over twenty years before the original Definitive Map and Statement was published in 1975 recording Huddersfield Path No. 231 as a Footpath CRF Road Used as a Public Path. No evidence has been produced to show that there were any errors in the production of the original Definitive Map and Statement. Finally, documentary evidence from 1804, 1822, 1848 and 1857 indicate that public rights may have existed before Nether Moor Farm was in Strict Settlement from 1877.

- 3.120 The next point refers to the 1910 Finance Act Map showing Huddersfield Footpath No. 233 crossing the fields to the north of Nether Moor Farm and that the footpath could only have joined Sandy Lane by using the section of track between them. This would indicate that they accept that the first section of Huddersfield Path No. 231 between Sandy Lane and Huddersfield Footpath No. 233 is a public right of way of public footpath status. The user evidence as discussed above indicates that the public were using the full length of Huddersfield Path No. 231 as a public bridleway and that they were not aware of any permission, challenges or interruption until 2014 and 2015 when users were first challenged, notices appeared and finally Huddersfield Path No. 231 was completely obstructed.
- 3.121 The next point refers to the gates being consistently gated, which has been discussed above. They then state that 'the attempted inclusion of the route in the 1950s, and following processes, show the lane was considered to be a public footpath and was indeed shown as such along its whole length. No evidence has been submitted to support this assertion. Later the route and its extension became shown as a Road Used as a Public Path but was still referred to as a Footpath, albeit with (CRF) appended after. CRF is a non-statutory term and holds no legal standing' As has been discussed above the original Definitive Map and Statement published in 1975 shows Huddersfield Path No. 231 as Road Used as a Public Path. The records indicate that the correct procedures were followed in producing the original Definitive Map and Statement and there is not considered to be sufficient evidence to show that an error was made in recording Huddersfield Path No. 231 as a Road Used as a Public Path on the original Definitive Map and Statement. Therefore, this Definitive Map and Statement provides conclusive evidence of public right on horse and foot along Huddersfield Path No. 231.

- 3.122 The next point is that ‘in 1985 the Definitive Map was generally amended but the routes owners were not consulted and it was not included in any legal order. After this process, without any legal force, the map was altered to show a non-statutory marking of a single black line and the statement referred to the route as a byway open to all traffic. The Definitive Statement of 2000 continues with the same description without any legal basis. Throughout the Definitive Map process no consultation has taken place with the owners of Nether Moor Farm.’ (ZZZ6). The adverts for the production of the original and the revised Definitive Map and Statement indicate that the correct procedures for advertising the Definitive Map process were followed. It is accepted that an error was made in the line style shown on the current 1985 Definitive Map and that the change in status from Road Used as a Public Path to Byway Open to All Traffic was not included in the Omnibus Modification Order as it should have been. However, this does not cast doubt on the original Definitive Map and Statement which provides conclusive evidence of a public right on horse and foot along Huddersfield Path No. 231. There is no Definitive Statement dated 2000. Furthermore, the user evidence shows use by the public without challenge or interruption for a period over over twenty years prior to the first Definitive Map Modification Order Application in 2009.
- 3.123 The next point is that the Highway Authority has consistently agreed in searches, planning and in consultation with statutory undertakers that the route is a private track or public footpath. The 1954 Local Authority Search indicated that Huddersfield Path No. 231 was a public highway, although it was privately maintained. The cross field footpaths were identified as footpaths, as the status of Huddersfield Path No. 231 was not referred to as a footpath it would indicate higher rights than footpath. The 1959 Local Authority Search did indicate a footpath, again privately maintained. Neither search asked the optional question about paths being shown on the draft, provisional or definitive map. The documents relating to statutory undertakers relate to the contents of the utility companies’ records which are not the records of the Highway Authority. The only planning application that relates to Huddersfield Path No. 231 with comments from the Highway Authority is in 2011 (OOO) which states that it is a ‘private lane’ with ‘a public right of way’ running along it. As this does not specify the status, unlike Huddersfield Footpath No. 233, which was referred to as a footpath, this indicates that Huddersfield Path No. 231 has higher rights than footpath. This also specifies that the public right of way runs through the farm buildings, but the landowners claim that there is no public right of way of any status here. These records do not override the original Definitive Map and Statement published in 1975 which provides conclusive evidence of public rights of foot and horse along the full length of Huddersfield Path No. 231. They also do not provide any evidence relating to the user evidence which provides sufficient evidence to show that the public have used Huddersfield Path No. 231 for a period of over twenty years without interruption or challenge on foot, horse and bicycle and would therefore have acquired public bridleway rights through presumed dedication. The rest of the letter is a list of documents provided with a brief summary of what they show which have been referred to above.
- 3.124 A final letter dated the 7th of December 2016. It largely complains that they felt they were incorrectly advised to apply for a Definitive Map Modification Order

Application to downgrade the route as that was the best they would get and that they had been misinformed and disadvantaged by Kirklees Council and had also refused to accept later amendments to the original Definitive Map Modification Order Application or for it to be withdrawn so they have submitted a second application to delete it from the Definitive Map and Statement. They have since been told that they can submit additional information. They also feel the public rights of way staff were unhelpful and that too much time had been spent emailing about the process and not determining the application. These issues do not have any relevance to the determination of the evidence submitted relating to the determination of the Definitive Map Modification Order Application. This letter is shown as ZZZ 7.

- 3.125 Mr Bradley states that they have ‘discovered that Nether Moor Farm was in Strict Settlement for the benefit of the Beaumont family beneficiaries at that time (1952) and public rights of way could not be dedicated based on that fact.’ This point has been dealt with within 3.119 above.
- 3.126 It was also stated that the Kirklees Bridleway Group had given out User Evidence Forms and told their son that they were working with the council against the landowner and were persuading the public to fill in User Evidence Forms by use of the electronic Definitive Map and they ‘couldn’t use the legal Definitive Map for obvious reasons’. He does not state what these reasons were. However, the Wildlife and Countryside Act 1981 regulations do not specify the maps to be used for User Evidence Forms. The Wildlife and Countryside (Definitive Map and Statements) Regulations 1993 state that the maps accompanying the Definitive Map Modification Order Application should not be less than a scale of 1:25,000. The maps attached to the User Evidence Form conform with this and are extracts from the Definitive Map and Statement which were scanned into a computer and printed from there. Mr Bradley also claims that one of the riders was told ‘that it didn’t particularly matter if she hadn’t ridden the farm track. She was told “just fill in the form anyway”’. His son and sons friends were then asked to fill in a User Evidence Form to say that they had ridden their bikes along it. He said that ‘manipulation and coercion are words that spring to mind’. The User Evidence Forms ask specific questions about peoples use of Huddersfield Path No. 231 and ask for details of the location of gates, notices, widths, surface, obstructions etc. Those who filled in User Evidence Forms provided details of the track and location and dates of gates and obstructions that they wouldn’t have known if they had not used Huddersfield Path No. 231. The forms also require the person completing it to sign it to state that the ‘fact that I have stated are true’.
- 3.127 Mr and Mrs Bradley were interviewed on the 31st of July 2017 and their agent Mr Dunlop was also present. Mr and Mrs Bradley said that Huddersfield Path No. 231 was a private track and that they had not allowed anyone else to use it without permission and those people were mostly friends or neighbours. They said that the only vehicles that used it were those that had taken wrong turns who were always sent back or friends or relatives who always rang for permission first if they wanted to bring a vehicle all the way through. The horse riders were from stables there for friends and family. In the past you could count on one hand the number of people who rode through but numbers had multiplied. Mr Bradley said that riders would ask for permission to use it so he assumed that they knew it was

private. They were told that they could come through but that it was private. His father like to see the horses but would have given permission to everyone and would have challenged anyone who did not ask if it was ok to ride there. Mrs Bradley said that when she came to the farm for the first time 34 years ago she had asked if it was a road and was told that it was a private track. People didn't walk it then and there was only the odd horse rider along it. If they didn't know who the people were they would ask who they were and where they were going, most were known and that it was a matter of course to challenge people. However, none of the forty six people who submitted user evidence in 2015 said that they had ever asked for permission to use the track. Seven people did say on their forms that use was with permission and five of these were interviewed and it was clear that they had never requested or been told that they had permission to use it. They had seen the landowner, mostly Mr Bradley Senior, and they had assumed they had permission because he had never said anything to them about their use of the track. Twenty people specifically refer to seeing the landowners without being challenged or told that they had permission to use it. Some people did refer to being challenged when using the route but this was not until 2014/ 2015. Some users also say that around this time they were also told by the landowners that the issue was not with horse riders using Huddersfield Path No. 231 by was because of use by vehicles. This corresponds with Mr Bradley saying in his interview that they could not stop motor bikes without stopping horses. In *Beresford v City of Sunderland* (2001) [ewca Civ 1218] it was established that 'such permission may only be inferred from overt and contemporaneous acts of the landowner.' There is nothing to suggest that any overt or contemporaneous acts have occurred to demonstrate to the public that they had permission to use the track until some users were given permission by Mrs Bradley around 2014/ 2015 and other were challenged when using Huddersfield Path No. 231. Twenty two people who filled in User Evidence Forms in 2015 were using Huddersfield Path No. 231 in the early to mid-1980s when Mrs Bradley says she first came to Nether Moor Road which indicates that use by horse riders was not as infrequent in the past as Mr and Mrs Bradley suggest. The interview transcript with Mr & Mrs Bradley is shown as Background Document ZZZ 8.

- 3.128 Mr Bradley said that the gates were always there to stop the cattle wandering onto the road. When asked if they had always been locked Mrs Bradley said yes and Mr Bradley no. This was queried and Mrs Bradley was asked why she has said that they were not locked when she filled in her 2009 User Evidence Form. She admitted they were not locked at that time and Mr Bradley said the gates were locked in April 2014. Mrs Bradley also referred to a rail being across the track at the yard end and this went across every day but was replaced with a gate when it became difficult to lift. A photograph was provided of this. The gates were closed twice a day when the cows were in the yard. The newer gate was a field gate with a smaller gate to the side. The field gate was always locked but the smaller gate was only locked later. The location of the gates and rail and type of gates and when they were locked corresponds with the dates provide by those completing User Evidence Forms. Mr Dunlop said that the route was blocked with boulders in 1998. Mr Bradley said that the boulders were used to stop gypsies and that various other tracks owned by other people also had them. They were also for security to prevent cattle theft and burnt out cars. Mrs Bradley said that they

would be moved when needed as cars had been dumbered and burnt out there at times. Again this corresponds with the dates that those filling in User Evidence Forms say they first appeared and the same reason was given by users of Huddersfield Path No. 231. They also refer to them being removed from time to time with gaps being available for use by horses, cyclists and walkers until 2015 when they were moved closer together and logs added. The Google Earth images also show that there were gaps in 2010 and 2012. The photograph provided by Mrs Bradley of the rail shows a part of the track which is open and unobstructed. On the grass verge is a long white object which Mrs Bradley said was the rail. It does not appear to be wide enough to block the full width of the track and does not look as heavy as Mrs Bradley claims. However, both the Bradleys and the path users agree that there was a bar or rail across the track which was not locked and was used to prevent the movement of cattle. Therefore, this photograph does not provide evidence for or against the Definitive Map Modification Order Application. It is clear from the evidence from Mr and Mrs Bradley and path users that the gates and boulders did not prevent use by the public on foot, horse or bicycle until 2014/ 2015 and that the gates were erected to stop cattle movement and the boulders to prevent vehicular access by travellers and for dumping or theft rather than to prevent public use. By this time the public had already used Huddersfield Path No. 231 for over twenty years and would have acquired public bridleway rights through presumed dedication. *Lewis v Thompson (1950)* established that interruption means an interruption in fact but the circumstances and intention of the barring of the way are relevant. Locking a gate to stop cattle straying did not prevent dedication of a public footpath. In the same way the boulders which were erected to stop vehicles, travellers and theft and the closing of gates to stop cattle straying would not prevent dedication of a public right of way. Furthermore, the locking of the gates and closing off of the barriers occurred after the date of challenge in 2009 when the first Definitive Map Modification Order Application was made. The photograph of the rail is shown as Background Document ZZZ 8.

- 3.129 Mr Bradley said that he put up notices saying that there was not a public right of way there in December 2013. Seventeen of those filling in User Evidence Forms state that they first saw the notices in 2014 or 2015 and the letter with the photographs of the notices says that these were put up in December 2013. The notices were put up after the date of challenge in 2009.
- 3.130 Mr Dunlop claims that the User Evidence Forms were given out by Kirklees Bridleway Group and people were told to fill out the forms even if they had not used Huddersfield Path No. 231. This point was also raised in Mr Bradley's letter of the 7th of December 2017 and has been dealt with above.
- 3.131 A Farm Survey dated September 1943, a letter dated 30th September 1949 to John Radcliffe and Sons Ltd. about tipping at Nether Moor Farm and a letter dated 1st of April 1954 to Ramsden, Sykes and Ramsden about the sale of the land by the Trustees to the Bradley's were also provide during the interview. These are shown as Background Document ZZZ8.
- 3.132 The Farm survey does not provide any information about Huddersfield Path No. 231. The letter dated 30th September 1949 to Radcliffe and Sons Ltd. appears to relate to arrangements to restore the land after quarrying. The third paragraph

states 'to leave that part of the surface on Nether Moor Lane used as an Occupation Road by the tenant, in as good a state of repair as it was before you commenced tipping.' Nether Moor Lane is assumed to be Huddersfield Path No. 231. Although it is referred to as an occupation road, this would not preclude the existence of public rights existing or coming into existence at a later date. Public rights of way often run along private occupation roads.

- 3.133 The letter dated the 1st of April 1954 Ramsden, Sykes and Ramsden relates to the sale of the land to the Bradleys. It states that 'A right of access is reserved for the owner of Greengate Knoll along the occupation road coloured brown to land tenanted by him from the Estate to the east of Nether Moor Road.' The map accompanying this shows Huddersfield Path No. 231 coloured brown. Although it is referred to as an occupation road, this would not preclude the existence of public rights existing or coming into existence at a later date. Public rights of way often run along private occupation roads.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 No statutory consultations with prescribed bodies are required prior to making a Modification Order decision. Ward members and user groups were made aware of the public right of way matters at Nether Moor Farm.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Definitive Map Modification Order Applications can only be determined on the basis of the evidence available to show if a public rights of way subsists or can be reasonably alleged to subsist or not. Therefore, issues such as suitability, desirability, human rights, equality and diversity cannot legally be taken into consideration when determining Definitive Map Modification Order Applications.

4.3 Council Policies and Priorities

- 4.3.1 See Kirklees template report

4.4 Resources and Value for Money

- 4.4.1 Kirklees Council has a duty to investigate Definitive Map Modification Order Applications and make Definitive Map Modification Orders if requisite.
- 4.4.2 The cost of making any Orders, should one be authorised, would be met from the existing budgets.
- 4.4.3 If the Order is opposed, referred to the Secretary of State and is taken to Public Inquiry, then the additional costs are incurred.
- 4.4.4 A Modification Order recognises the existence or correct status of a public right of way and no new rights or liabilities will be created should an order be made. There are consequently no resource implications. Furthermore, Huddersfield Path No. 231 is currently shown in the Definitive Map and Statement.

4.4.5 There are no additional staffing implications resulting from the making of the Order.

4.5 Legal Implications, Access to Information and Call In

4.5.1 See Kirklees template report

4.6 Risk Management

4.6.1 As with all Definitive Map Modification Orders if the decision is taken to make an Order there will be an opportunity to object to the Order. However, if the evidence indicates that an Order needs to be made to modify the Definitive Map and Statement Kirklees Council has a duty to make an Order.

5 Conclusions

5.1 The original Definitive Map and Statement published in 1975 provides conclusive evidence that public rights on foot and horse subsist along Huddersfield Path No. 231 at this date. Other documents show that public rights exist along the full length of Huddersfield Path No. 231 and that a public bridleway subsists or can be reasonably alleged to subsist. The evidence submitted in the Public Rights of Way Information Sheets show that the public have used the full length of Huddersfield Path No. 231 as a public bridleway for over twenty years prior to 2009 when the first Definitive Map Modification Order Application was made challenging the inclusion of Huddersfield Path No. 231 on the Definitive Map and Statement. Use also continued until spring 2015 when use was physically and verbally challenged. There is not sufficient evidence to show that there was no intention to dedicate a public bridleway along Huddersfield Path No. 231 by the landowners. It is considered that it can be shown, on the balance of probabilities, that there has also been a presumption of dedication under Section 31 of the Highways Act 1980 of a public bridleway.

5.2 It is considered that the documentary and user evidence demonstrates, on the balance of probabilities, that particulars relating to the recorded status in the map and statement and the line style shown on the Definitive Map require modification to show Huddersfield Path No. 231 as a public bridleway. Therefore an Order to modify the Definitive Map and Statement should be made to show Huddersfield Path No. 231 as a bridleway under Section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981.

6 Recommendations

6.1 The Members of the planning sub-committee (Huddersfield Area) are requested to consider the evidence contained within the attached reports, and the law to determine the status of the alleged public rights of way and authorise the Service Director - Legal, Governance and Monitoring either,

To make an Order in accordance with Section 53(2)(b) of the Wildlife & Countryside Act 1981 to modify the Definitive Map and Statement to correctly show the status of Huddersfield Path No. 231 and either confirm it as unopposed or, in the event of objections being received and not withdrawn after statutory

notice of the Order is given, to refer it to the Secretary of State for the Environment, Food and Rural Affairs for determination,

or

Refuse authorisation for a Modification Orders to be made on the grounds that the Definitive Map and Statement does not require modifying.

and give full reasons for the decision made.

7 Background Documents

Background Document A: Definitive Map and Statement 1985

Background Document B: Definitive Map Modification Order Application July 2009

Background Document C: Definitive Map Modification Order Application February 2014

Background Document D: Withdrawal of 2009 Definitive Map Modification Order Application

Background Document E: Plan and Survey of South Crosland 1804

Background Document F: Plan of South Crosland Belonging to R H Beaumont Esq. 1822

Background Document G: R H Beaumont Esq. Estate Valuation Book 1822

Background Document H: Survey of an Estate belonging to R H Beaumont Esq. 1826

Background Document J: Plan of Part of South Crosland 1848

Background Document K: Ordnance Survey Map 1854

Background Document L: Plan of Estate in South Crosland Property of H F Beaumont Esq. 1857

Background Document M: Ordnance Survey Map 1893

Background Document N: Quarry Papers 1907-1910

Background Document O: Ordnance Survey Map 1906

Background Document P: Finance Act Maps, Field Books and Valuation Books 1910

Background Document Q: Ordnance Survey Map 1916

Background Document R: Loose Box Plan 1927

Background Document S: Photograph 1930

Background Document T: County Borough of Huddersfield Draft Schedule of Rights of Way 1st September 1952

Background Document U: Notice in Huddersfield Examiner 14th November 1952

Background Document V: Objections to the Draft Definitive Map and Statement 3rd June 1953

Background Document W: Enquiries of Local Authorities 24th June 1954

Background Document X: Abstract Title for the Sale of Nether Moor Farm 14th September 1954

Background Document Y: Title Deed Plan for Nether Moor Farm June 1954

Background Document Z: Aerial Photograph Nether Moor Farm Circa 1955

Background Document AA: County Borough of Huddersfield Rights of Way Map 1956

Background Document BB: Enquiries of Local Authorities 26th June 1959

Background Document CC: Johnson Wellfield Quarries Letter 11th November 1963

Background Document DD: Note for Town Clerk 31st July 1965

Background Document EE: Walking Plan 1965

Background Document FF: County Borough of Huddersfield Rights of Way Draft Map 1966

Background Document GG: County Borough of Huddersfield Draft Schedule of Rights of Way ~~1st of September 1952~~ 20th April 1966

Background Document HH: County Borough of Huddersfield Draft Schedule of Rights of Way 20th April 1966

Background Document II: County Borough of Huddersfield Right of Way Draft Map 1966

Background Document JJ: County Borough of Huddersfield Provisional Map

Background Document KK: Photographs 1968

Background Document LL: Plan of Proposed Toilet March 1971

Background Document MM: Note for Highways and Sewage Committee 11th May 1972

Background Document NN: County Borough of Huddersfield Provisional Schedule of Right of Way 31st August 1973

Background Document OO: Memo from the Executive Director of Transportation and Traffic 5th June 1974

Background Document PP: Notice 10th July 1975

Background Document QQ: West Yorkshire Metropolitan County Council Definitive Map Relevant Date 20th April 1966 Published 1975

Background Document RR: West Yorkshire Metropolitan County Council Definitive Statement Relevant Date 20th April 1966 Published 1975

Background Document SS: Aerial Photograph Nether Moor Farm Circa Early 1970s

Background Document TT: Survey of Huddersfield C.B. Review

Background Document UU: Review of Public Paths Recorded as C.R.F.

Background Document VV: West Yorkshire Special Review Draft Revision Map 1st October 1979

Background Document WW: West Yorkshire Statement Accompanying the Special Review of Definitive Map Draft Review 1st October 1979

Background Document XX: Objections to the 1970s and 1980s Review of the Definitive Map and Statement

Background Document YY: Notice 29th February 1980

Background Document ZZ: Letter Date 1st of October 1980

Background Document AAA: Reports to the Traffic and Highways Committee 28th June 1982 and 28th of April 1983

Background Document BBB: Letters from the Department of Environment and Transport 11th June 1982, 22nd November 1983 and 27th of January 1984

Background Document CCC: Omnibus Modification Order 1985 (West Yorkshire Metropolitan County Council Footpath Definitive Map) 22nd October 1985

Background Document DDD: Notice in Huddersfield Examiner 25th October 1985

Background Document EEE: West Yorkshire Metropolitan County Council Definitive Map Relevant Date 30th April 1985

Background Document FFF: West Yorkshire Metropolitan County Council Definitive Statement Relevant Date 30th April 1985

Background Document GGG: Ordnance Survey Map 1994

Background Document HHH: Letter from Trail Riders Fellowship 26th January 1994

Background Document III: Street By Street Map 1995

Background Document JJJ: Aerial Photograph 2002

Background Document KKK: Aerial Photograph 2003

Background Document LLL: Yorkshire Water Letter 19th March 2009

Background Document MMM: Aerial Photograph 2009

Background Document NNN: Google Earth Street View East End August 2010

Background Document OOO: Highways Planning Comments 2011

Background Document PPP: Aerial Photograph 2011

Background Document QQQ: Letter and Map from Land Registry 17th November 2011

Background Document RRR: Google Earth Street View East End August 2012

Background Document SSS: Google Earth Street View West End August 2012

Background Document TTT: Statement, Plan and Statutory Declaration Under Section 31(6) of the Highways Act 1980 4th February 2013 and 15th of May 2013

Background Document UUU: Notice Photographs 4th December 2013

Background Document VVV: Aerial Photograph 2016

Background Document WWW: Photographs of Cows

Background Document XXX (1-61): Public Rights of Way Information Sheets, Summary Sheets and Graphs

Background Document YYY: Letter from Adjoining Farm 23rd June 2009

Background Document ZZZ (1-8) Letters, Interviews and Document from the Landowner Various Dates