

**DERBYSHIRE COUNTY COUNCIL
Regulatory Licencing and Appeals Committee**

**16 January 2017
Report of the Director of Legal Services**

**Wildlife and Countryside Act 1981
Claim to add a Footpath from Sheffield Road to Footpath No 4 in the
Parish of Elmtun with Cresswell.**

1. Purpose of the Report

1.1 The purpose of this report is to enable Members to determine an application to amend the Definitive Map and Statement by adding a footpath in Elmtun and Whitwell.

2. Information and Analysis

2.1 An application was received from Mr Bryan Betts on behalf of Clowne Countryside Access Group dated 08 December 2012 to add a footpath to the Definitive Map and Statement from Sheffield Road to Footpath No 4 at Markland Gripps. The application was accompanied by a plan and 12 User Evidence Forms (UEFs).

2.2 A plan showing the claimed route is attached (Appendix 1).

User Evidence

2.3 It is considered that the erection of a notice at Point A in 2012, stating that there is 'No Public Access', which prompted the application, brought the status of the route into question for the purposes of Section 31(2) of the Highways Act 1980. Only evidence and events prior to this date have been considered in assessing the claim.

2.4 Twelve user evidence forms were submitted in support of the application. The route has been marked on 3 of the plans accompanying the forms as between Sheffield Road and Hazelmere Road. Five of the forms have plans showing the route as between Sheffield Road and Point B on the plan attached to this report and four as from Sheffield Road to a short distance past Point B. When describing the route on the UEFs, three of the users describe the route in detail from Sheffield Road to Hazelmere Road; three describe it in detail from Sheffield Road to Markland Gripps; three describe it by referring to the map which shows the route from Sheffield Road to Point B; one describes it briefly from Sheffield Road to Hazelmere Road and one offers no information.

2.5 Eight of the witnesses refer to using the route on foot to approximately Point B only, one of which has also used it on a cycle, one on a horse and two on a cycle and a horse. One witness has only used the route on horse

and only as far as Point B. Three witnesses have used the route from Sheffield Road to Hazelmere Road on foot, two of which have also ridden it on a horse. All of the witnesses refer to seeing other people using the route on foot, with seven of these also referring to seeing people using it on a pedal cycle and seven on horseback. None of the witnesses claim to have used the route in a motor vehicle though one has seen other people using the route in a motor vehicle.

2.6 Ten witnesses claim to have used the route for a period of twenty years or longer; with two claiming over thirty years use, two over forty years use, and six in excess of fifty years. The two remaining users have used the route for nine and four years.

2.7 Four witnesses claim to have used the route weekly, three monthly, four less than monthly and one describes their use as, 'two or three times in the year'.

2.8 One of the witnesses (the applicant) recalls there being a gate on the route 'at present and in past years to prevent access to the A616 highway'. None of the witnesses recall any stiles although two refer to stiles in 'Markland Gripps'.

2.9 One of the witnesses refers to seeing a notice on the route by the railway bridge stating 'no pedestrians'.

2.10 None of the users state that they have had permission to use the route, recall the route being obstructed or diverted, being stopped from using the route or told the route is not a public right of way.

2.11 There is a section of the UEF which asks the users their reason for using the claimed route: either 'to visit places on the route' or 'as part of a longer journey'. Six of the users have used it for both reasons and four as part of a longer journey. Two users did not answer the question.

Consultation

2.12 A consultation exercise was carried out between 15th December 2014 and 19th January 2015. Notices were placed at either end of the route at the start of the consultation period. A consultation letter was also sent to the local elected Member, Councillor Duncan McGregor.

2.13 Three people responded in objection to the claim and one in support.

2.14 The Chair of Elmton and Cresswell Parish Council confirmed in an email sent 18 December 2014 he had no objections to the application but did 'not see any benefit in the claim' as 'there is an existing A to B road...' and he does not see what difference it would make if the route were made a footpath.

2.15 An email was received on 13th January 2015 from a landowner objecting to the application. He states that 'for many decades there has been fencing, notices and a gate at Point A that makes it clear that the farm lane is private property and the public have no right of access down to the farm buildings'.

2.16 Another landowner sent an email in objection to the claim dated 14 January 2015, which includes three photographs, stating that she lived alongside the route from 2000 to 2014 and throughout that period there was a sign at Point A stating the lane was a private road. She adds that there is a sign for 'Landmarks' (previous tenants) stating the lane is private and there is no public access. She refers to a gate just south of Point A which 'is locked on numerous occasions, especially at weekends'. She has personally locked the gates for the whole weekend and points out that there is no stile by the gate to indicate a public right of way. She states that if she has seen people on the lane north of Upper Mill Farm, she has told them it is private property and asked them to leave.

2.17 A letter dated 15 January 2015 was received by email on 18 January 2015 from an affected landowner who has lived alongside the route since 1982. Attached to the letter are photographs of four signs, a way-marker post and a plan with points marked in reference to the letter. At the time she purchased her property legal inquiries were made into the existing public footpaths and the claimed route was not one (although such enquiries would only reveal rights of way which are already on the Definitive Map). There were steel railings and a gate at Point A, to prevent public access, which are still in place today. There was no stile at Point A but there was a sign on the gate making clear to the public that there was no right of way. She states that, 'the gate has been closed and locked on many occasions for days and weeks at a time' and gives the following examples: she moves livestock along the lane and always locks the gate; after occasions of fly-tipping; following episodes of motorcyclists or drug users coming to damage the countryside; when clearing fallen or overhanging branches and when they go away, those looking after the farm will lock the gate. She advises that until 1997 there was a gate across the route at Point D on her plan (at a point just on the south side of the bridge over the railway), which was 'usually locked for farm management purposes' but nobody mentions this gate. The landowner refers to a stile in the fencing; south of the gate towards the farmyard wall which again, nobody mentions. She also points out that only one person refers to the gate at Point A and concludes that, 'they simply cannot have walked the claimed route'.

In the mid-eighties an agreement was made with the 'Nature Conservancy Council' to access an SSSI through the gate at Point A; the agreement lasted till 2008 and they erected signs stressing that there was no unauthorised access but there was an agreement with the owners. The 'Archaeological Way' was created in the early 1990's and DCC negotiated and signposted a footpath from Hazelmere Road, past the farm and then turning south back to FP4, there was no suggestion that the route continued to Sheffield Road. The charity, 'Landmarks' leased part of the farmyard in September 1995 and erected a sign at Point A 'clearly showing there was no

public access' and the gate would often be locked in the evenings, at weekends or during college holidays.

The landowner refers to the foot and mouth outbreak in 2001 and that all the lanes and footpaths were closed off to the public, which none of the witnesses refer to. She further questions the validity of the user evidence where the users have referred to stiles, picnicking, bathing in the stream, all of which must refer to places other than the route claimed.

The farm has an 'encircling high stone wall' which makes it impossible to see where people are walking all the time but those seen trespassing have been informed and asked to return to the public footpath. Various people and groups have been given permission to use the claimed route but never the general public and the lockable gate and railing at Point A have always been maintained.

2.18 An email was received on 18th January 2015 from a local resident objecting to the application. She states that she has visited the farm for 33 years and it has always been a private lane and that they have 'always been able to lock the gate on Sheffield Road for security, and moving animals etc.' She has looked after the farm on many occasions and usually locks the gate for security reasons and to prevent fly-tipping, which she has witnessed on occasions. The objector has told anyone she has seen on the lane that it is a private lane and asked has them to leave adding that she is 'greatly disappointed that Clowne Countryside Access claim that they have been able to walk that route, when there has always been a gate and signs stopping access to the public'.

2.19 An email was received on 23rd January 2015 from a member of the public stating, 'this walk from my recollection has been common knowledge for many many years'.

Documentary Evidence

2.20 Whitwell Enclosure Plan and Award 1823

The Whitwell Enclosure Plan shows a section of the claimed route from Sheffield Road to north of Upper Mill Farm as part of the road network between solid lines and coloured yellow as are other known public roads. It is named Mill Road. The way ceases to be coloured yellow at Point B on the attached plan although does continue uncoloured as far as the farm. This is different from other roads which run beyond the geographical scope of the enclosure plan and are coloured yellow all the way till the edge of the plan. It would suggest that the public carriage road only runs to Point B, i.e. Mill Road, which only leads to the Mill and not beyond.

The Whitwell Enclosure Award lists Mill Road amongst its 'Public Carriage Roads' and describes it thus, 'One other public Carriage Road called Mill Road from Cresswell Turnpike Road in a southerly and Easterly direction over Hollin Hill Common to Cresswell Upper Mill'.

2.21 Elmtton Tithe Map and Award 1850

The Elmtton Tithe Map shows the route from Hazelmere Road as part of the road network, heading north then west. The plan does not extend to include any more of the route or Upper Mill Farm and the Award does not offer any information in regard to the claimed route.

2.22 Elmtton Common Enclosure Plan and Award 1851

The Elmtton Common Enclosure Award sets out one private occupation road, one public bridle and footway and two public footways. These are shown on the Enclosure Plan together with pre-existing routes which are named and their width given. The claimed route is marked on the plan as 'Mill Road 30 feet' and is shown in the same way as other roads on the plan so it is consistent with it having public carriageway status. It is shown from the junction with Hazelmere Road (then called Whitwell Road) up to and continuing past the mill dam. Until Point C it is shown between solid lines (indicating that it was fenced); at Point C there is a line across the road which may indicate a gate. From Point C the road opens out into the mill grounds but a solid line continues along the south west side separating the road from the buildings. As the road passes the dam it is shown between two dotted lines – this may indicate that this part of the road was unfenced but as it was crossing land which was not subject to this enclosure award it is not possible to be certain. The continuation of the road in Whitwell Parish is not shown as it is not relevant to this Enclosure Award.

Each allotment is shown on the Plan together with the name of the person to whom it has been allotted. Inverted 'T' marks are used to indicate boundary responsibilities. More detail of the allotments is given in the Award itself. The parcel of land to the east of Mill Road (No 4) is allotted to William Shead. He is required to fence the western boundary against Mill Lane (no Mill Lane is marked on the map and the land clearly abuts Mill Road so it can be assumed these are one and the same route), the southern boundary against Whitwell Road and the boundary with allotment No 5. Allotment No 5 to the north of Mill Road is given to William Hadfield de Rhodes and he is required to fence the southern boundary against Mill Lane. William Hadfield Rhodes esq. is also allotted parcel No 6 to the south and west of Mill Road. He is required to fence the northern and eastern boundaries against Mill Lane and the southern boundary against Whitwell Road.

2.23 1st Edition Ordnance Survey Map 1875

A track bound by solid lines is shown following the alignment of the claimed route from Sheffield Road towards Upper Mill. There is a track leading off to the west and then a short track to the east which ends at a field boundary. From this point the NE boundary of the claimed route becomes a dashed line until it reaches the mill. From the mill however, the route is shown heading easterly between a dashed line to the south and a solid boundary line to the north before turning south between solid lines, to Hazelmere Road.

Sheffield Road is shown between solid outer lines and dashed double lines within, the southern boundary line is bolder than the northern. Where the claimed route meets Sheffield Road the bold boundary line continues across the mill road and the dashed inner lines splay into the claimed route but stop at the solid bold line. This is contrary to other roads off Sheffield Road, such as the road to the Lower Mill which is not crossed by a solid line. The significance of this would be that it is likely that the claimed route was gated at that time, as it is today. The southern junction with Hazelmere Road has a dashed line across it. There are double dashed lines to the west of Upper Mill along the line of FP4 but the path does not continue beyond the SW corner of the mill. There is no indication of a path crossing south of the mill (the definitive line of FP4).

2.24 2nd Edition Ordnance Survey Map 1898

There is little change from the 1st edition map although the junction at Sheffield Road is shown by dashed line

2.25 3rd Edition Ordnance Survey Map 1916

There is little change from the 2nd edition map.

2.26 Ordnance Survey Map 1961

There is little change from the 2nd and 3rd edition maps.

2.27 Ordnance Survey Map 1972

There is little change from the 1961 map although the dashed line of FP4 from Hazelmere Road continues NW past Upper Mill Farm and the line of FP4 from the west of the farm is shown to turn NNE when it reaches the farm and continues to the junction with the claimed route.

2.28 Elmton with Cresswell Parish Claim 1950

The parish claim records FP 4 as starting at Hazelmere Road and then to, 'Proceed along lane in N. direction... thence in N.W. alongside spinney to Upper Mill Farm buildings and then between farm and weir'. The plan shows a blue line along the lane to the SW corner of Upper Mill Farm where it turns W south of the buildings. There is also a green line drawn parallel to the blue.

Written on the plan is a note which reads, 'Mill Lane awarded as Public Carriageway, Whitwell Award 1824' with a line pointing to Point B.

2.29 Whitwell Parish Claim 1951

The Parish Claim Map marks Elmton FP 4 in blue with a note beside it also in blue which reads "[indecipherable word] in Elmton as shown in blue"

and the section of the track from Upper Mill north to the Sheffield Road has a note in blue beside it which reads "Mill Lane awarded as Public C'way 1824".

Additional Evidence

2.30 2009 Committee Report regarding an application to upgrade Footpath No.4 to bridleway.

There was an application to add a bridleway from Hollin Hill to Sheffield Road and Hazelmere Road. Part of the claimed route involved an upgrade to bridleway part of FP4 including the section from Point C to E and another section was an addition of bridleway from Point C to Point B and then along the side of the mill to join FP 4 again on Markland Grips. This application was made in 2002 and was reported to the Regulatory, Licencing and Appeals Committee on 21 September 2009 (Agenda Item No. 4, Minute No. 31/09 refers). The application which did not include the lane north of Point B was rejected on the basis that different routes were used through Markland Grips (which is of no relevance to the current claim), that the route was obstructed at various points, parts were inaccessible to horses and there was insufficient evidence of use to raise a presumption of dedication under s31 of the Highways Act 1980. Some of the people who completed evidence forms for that application recalled locked gates at Upper Mill from about 1983/4 onwards. One or two of these appear to have been on the section from Point C to Hazelmere Road and are also referred to by a landowner who objected to the application. Councillor Ken Stevenson (then local member) also mentioned a gate at Upper Mill Farm when he looked at the route in 2006.

Another landowner described a locked gate with a narrow gap to one side across the track at the farm. This gate was present until about 1995 and prevented all but pedestrian access to Hazelmere Road. The same objector also recalled a gate where the track meets Hazelmere Road. Documentary evidence was also examined (although as the route from the farm to Sheffield Road did not form part of the claim, this did not include the Whitwell Inclosure Award) and no information was found to support any rights higher than footpath south of Point B.

2.31 A site visit was undertaken on 25 April 2016.

The claimed route from Sheffield Road to Hazelmere Road is all metalled road of a uniform width. During the visit there were no closed gates although there was a gate near to Sheffield Road. There were two different signs at the Sheffield Road end of the route declaring the route a 'Private Road'. The newer of the two signs has some prohibitive signs including a 'no pedestrians' sign. Two walkers were observed using the route.

2.32 The County Council's Declaration Register has been checked and no Section 31(6) declaration has been made which covers this route.

Summary and conclusion

2.33 The test which has to be applied when considering the addition of a route to the Definitive Map and Statement under s53(3)(c)(i) is in two parts:

Test A – does a right of way subsist on a balance of probabilities? This test is satisfied by showing clear evidence in favour of the right of way and no credible evidence to the contrary.

Test B – is it reasonable to allege on a balance of probabilities that a right of way subsists? If there is a conflict of credible evidence and no incontrovertible evidence that a right of way cannot be reasonably alleged to subsist, then the answer must be that it is reasonable to allege that a right of way does subsist.

2.34 Analysis of the user evidence indicates there has been pedestrian use along the line of the claimed route over a 20 year period until 2012 (the date on which the route was first brought into question) though there is some confusion over the extent of the route that the users are claiming use of. Some have marked a route from Point A and to approximately Point B while just three have marked the route as far as Hazelmere Road. Five have described a route from Sheffield Road to Hazelmere Road and three to Markland Gripps. Ten users claim to have used the route for a 20 year period or more but the objectors state that the gate at Point A has been locked on numerous occasions. The statements of the objectors are corroborated by the statements made by the objectors for the previous claim, reported in 2009. The user evidence is therefore considered insufficient to reasonably allege that a right of way as a footpath has come into existence between Points A and C. The objectors have offered substantial evidence that they have taken action to prevent access from Sheffield Road and therefore there is insufficient evidence of use 'as of right' to add a footpath between Sheffield Road and FP 4.

2.35 The Enclosure Award for Whitwell sets out the northern part of the claimed route from Sheffield Road towards Upper Mill Farm as far as Point B on the attached plan as public carriage road and the route is shown in the same way as other carriage roads on the map. The Elmtun Tithe Plan evidence also depicts the route as part of the road network but, there is no information in the accompanying Award which offers any indication of the likely status of the road now recorded as FP 4. The depiction of the southern part of the route from the mill to Hazelmere Road on the Elmtun Common Enclosure Award and Plan in the same way as other existing public roads is consistent with the route being part of the road network as a highway of public carriage road status maintainable at public expense.

2.36 There is no evidence to indicate that the status of the route as a public carriage road has been legally extinguished except under the NERC Act as explained below under Legal Considerations. The consultation responses indicate that the route is more likely to have been used by the public on foot

than by motor vehicle. Where a way is found to have been a 'public carriage way' historically but has been predominantly used on foot, it would then be recorded as a Byway Open to All Traffic (BOAT) on the DMS. However, as none of the NERC Act exceptions apply to this route, vehicular rights will have been extinguished and it should be recorded as a Restricted Byway (RB) – such routes carry public rights for walkers, horse riders and horse drawn vehicle users but not for motorists. However, any private individual relying on such a route to access their property with a motor vehicle will continue to have that right of access.

2.37 The Council understands the concerns that people have about privacy, security, anti-social behaviour or inconvenience to individuals who live near the route. Unfortunately the WCA places the Council under a statutory duty to make an Order to amend the DMS where there is evidence that there are public rights (either based on historical or user evidence) which should be recorded on the DMS. The Council cannot, therefore, take these concerns into account.

2.38 One user refers to there being a gate on the route but does not mention it being locked. The landowners state that the gate has been locked on many occasions and for variable lengths of time each year since 1982. The documentary evidence is consistent with the presence of a gate near its junction with Sheffield Road as the junction has been consistently shown with a line across it. The first edition OS plan of 1875 showed the junction with a solid line across it which would be consistent with the presence of a gate. The evidence provided by the landowners corroborates similar evidence submitted in 2006 that there has always been a gate near Point A, to their knowledge.

2.39 The objectors state that they have stopped anyone found using the route and told them it was not a public right of way;

2.40 Under the Highways Act 1980, if a route is used by the public "as of right" and without interruption for a full period of 20 years the way is presumed to have been dedicated as a highway. The user evidence submitted with this application in conjunction with the evidence submitted by the objectors shows that the route has not been used as of right and without interruption, and therefore does not meet the requirements of the legislation.

2.41 In summary, the 1823 Enclosure Award for Whitwell records Mill Lane as '*Public Carriage Road*'. Enclosure Awards were produced following Acts of Parliament and offer the strongest possible evidence of the status carried by rights of way recorded in them. The council is therefore bound by this evidence to acknowledge the claimed route as having vehicular rights and recording it as such on the Definitive Map and Statement. As explained below, the NERC Act extinguished vehicular rights over all highways subject to certain exceptions. The claimed route is not subject to any of the exceptions and so the vehicular rights have been extinguished and the road from Sheffield Road to Hazelmere Road should be recorded on the DMS as Restricted Byway.

2.42 A finalised copy of this report has been sent to Cllr McGregor as the local members for the area prior to the Committee meeting.

3. Considerations

Legal and Human Rights Considerations

3.1 Under the Wildlife and Countryside Act 1981 the Council is obliged to make a Modification Order as soon as reasonably practicable on the occurrence of certain specified 'events'. These events include:

3.2 (1) the discovery by it of evidence which (when considered with all other relevant evidence available) shows that a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates (section 53(3)(c)(i)); and

3.3 (2) the discovery by it of evidence which (when considered with all other relevant evidence available) shows on the balance on probability that that a highway shown on the map and statement as a highway of a particular description ought to be shown as a highway of a different description, (section 53(3)(c)(ii)).

3.4 Section 67 (1) of the Natural Environment and Rural Communities Act 2006 (the 'NERC Act') has generally extinguished public rights to use mechanically propelled vehicles over highways which, immediately before commencement (2nd May 2006); a) were not shown in the definitive map and statement, or; b) were shown in the definitive map and statement only as footpath, bridleway or restricted byway.

However, this is subject to certain specified exceptions contained in subsections 67(2) and 67(3) of the Act:

Subsection 67(2)(a) – excepts ways that have been lawfully used more by motor vehicles than by other users, e.g. walkers, cyclists, horse riders and horse-drawn vehicles, in the five years preceding 2 May 2006. The intention here is to except highways that are part of the 'ordinary' roads network.

Subsection 67(2)(b) – excepts ways that are not recorded as rights of way on the definitive map but are shown on the County Council's statutory record of publicly maintainable highways (the so-called 'list of streets'), e.g. as a non-classified highway (NCH).

Subsection 67(2)(c) – excepts ways that have been expressly created or constructed for motor vehicles.

Subsection 67(2)(d) – excepts ways that have been created by the construction of a road intended to be used by motor vehicles.

Subsection 67(2)(e) – excepts from extinguishment ways that had been in long use by motor vehicles before 1930, when it first became an offence to drive ‘off-road’.

Subsection 67(3) – contains transitional arrangements which except highways that are the subject of a substantive DMMO application for BOAT status submitted to the Council before the ‘relevant date’ (20 January 2005). This provision is therefore retrospective.

3.5 Section 31(1) of the Highways Act 1980 provides that where a way over land is enjoyed by the public “as of right” and without interruption for a full period of 20 years the way is presumed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it. Enjoyment by the public “as of right” means use by the public without force, without secrecy or permission.

3.6 Section 31(2) provides that the 20 year period referred to in section 31(1) is to be calculated retrospectively from the date when the public right to use the way is brought into question.

3.7 Section 31(3) provides that a notice erected on site by an owner of land over which a way passes in a manner visible to persons using the way, and maintained by him is, in the absence of proof to a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate the way as a highway.

3.8 Section 31(6) provides that an owner may provide sufficient evidence to show of his lack of intention to dedicate by depositing with the Council a map and statement showing any ways over the land he admits to having been dedicated as highways and denying the existence of other ways over it and then lodging statutory declarations to deny the addition of any ways at intervals of not less than 10 years. This will be, in the absence of proof to a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate any additional way as a highway.

3.9 A House of Lords legal judgement in 2007 (the ‘Godmanchester’ decision) has clarified what other evidence could be evidence of “no intention to dedicate” for the purpose of section 31(1). The evidence can relate to just one point in time during the period of enjoyment, ‘during’ in the context of section 31(1) need not be throughout the whole period. ‘Intention’ in this context means what the relevant audience (the users of the way) would reasonably have understood the landowner’s intention to be. A letter from the landowner to his own solicitor or estate agent would not be enough; some element of communication to users of the way of an absence of intention by the owner to dedicate must be shown. In terms of section 31(1), an act by an owner which demonstrates ‘no intention ... to dedicate’ is likely in practice also to amount to an event which ‘brings the public right of way into question’.

3.10 In brief, unless evidence is provided of one or more specific steps having been taken by a landowner within the period to communicate overtly to the public using the route that (s)he does not intend to grant a public right of way over it, the presumption of dedication will arise under section 31(1) where there is a full period of 20 years of uninterrupted public use, calculated from the date when the public right to use the way is brought into question.

3.11 A 2015 High Court decision (*Ali v Secretary of State for Environment Food and Rural Affairs* [2015] EWHC 893) held that closing a path on Christmas Day was ineffective to make it clear to the public that there was no intention to dedicate a public right of way when that path led to shops and businesses which were closed over the Christmas period making it less likely that the public would use the path. An overt act is needed to communicate the owner's intention.

3.12 Where there is insufficient evidence to establish a presumption to dedicate under section 31(1) of the Highways Act 1981, there is sometimes sufficient evidence to establish an inference of dedication by the landowner under common law. In the case of *Nicholson v Secretary of State for the Environment* (2006), Dyson J stated: "*Prima facie the more intensive and open the user and the more compelling the evidence of knowledge and acquiescence, the shorter the period that will be necessary to raise the inference of dedication...*". No minimum period of use is required to raise such an inference, but there must be evidence which is sufficient to infer that there was an intention to dedicate a public right of way.

Other Considerations

3.13 In preparing this report the relevance of the following factors has been considered: financial, prevention of crime and disorder, equality of opportunity, human rights, personnel, environmental, health, property, and transport considerations.

3.14 None of these factors are considered to be relevant for the purpose of this report.

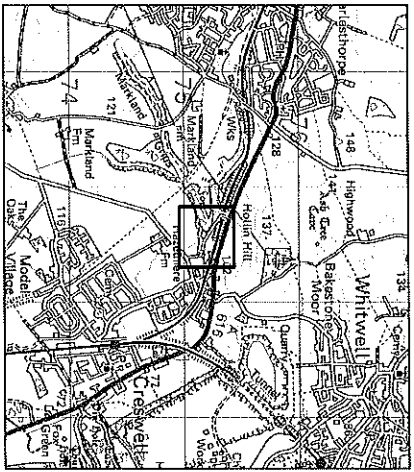
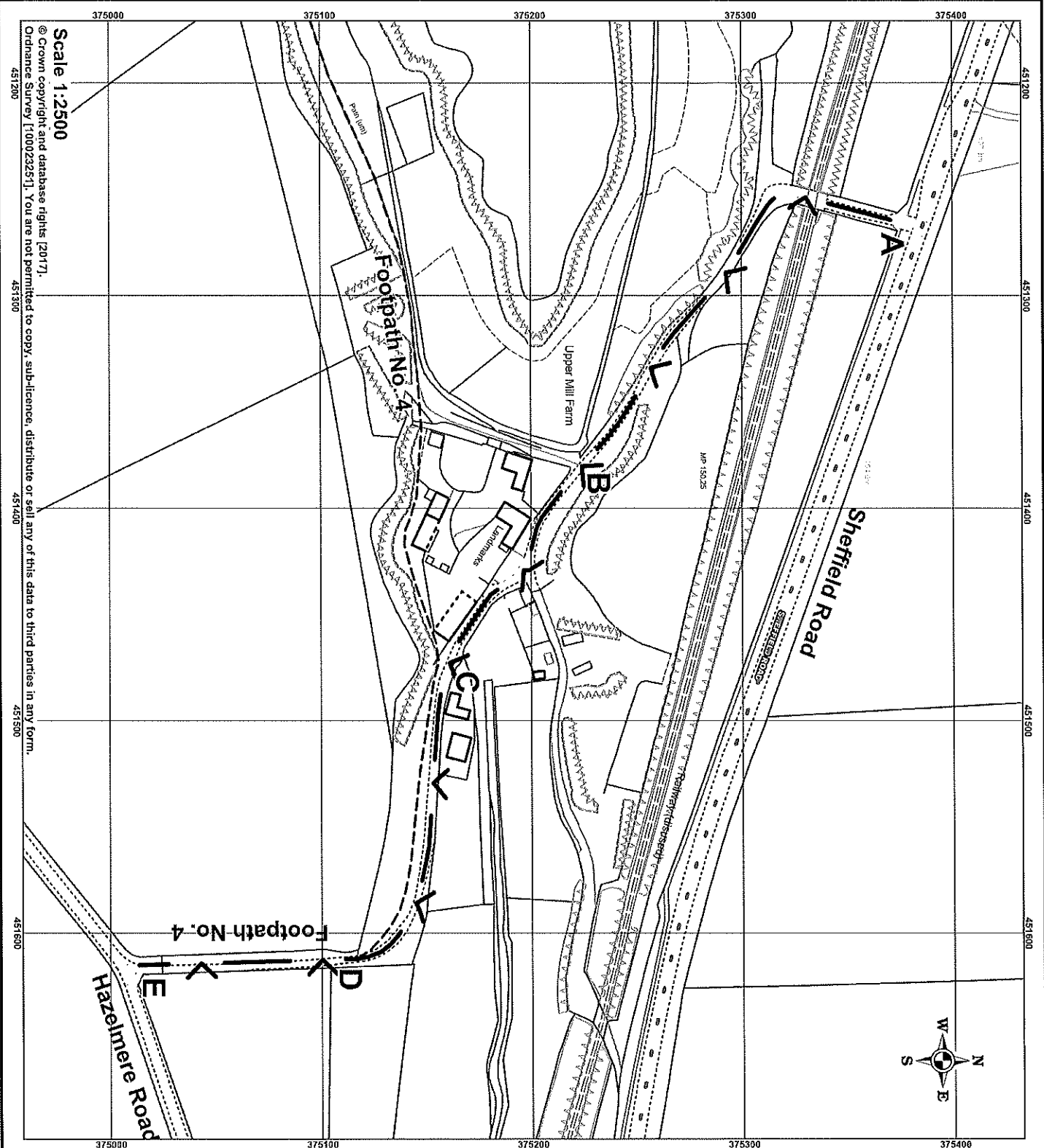
4. Background Papers

4.1 File held by Legal Services (ref. 60253).

5. OFFICER'S RECOMMENDATION

5.1 That the Committee resolves to authorise the Director of Legal Services to make an Order under Section 53 of the Wildlife and Countryside Act 1981 to amend the Definitive Map and Statement by adding a Restricted Byway and upgrading to Restricted Byway Public FP No.4 (part) in Whitwell and Elmton, as shown between Points A to D and D to E respectively, on the plan attached to this report.

Chief Officer



Wildlife and Countryside Act 1981 S. 53

**Claim to add a Footpath
from Sheffield Road to
Footpath No. 4 -
Parish of Elmlton**

KEY

Claimed
Restricted Byway ———>

Existing Footpath - - - - -

DERBYSHIRE
County Council

Improving life for local people

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