

HERTFORDSHIRE COUNTY COUNCIL



Rights of Way Service

Modification Order Application Reasons for the Decision

Barclay Park

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Date: 10th July 2015

Application Details

An application has been made to add a footpath to the Definitive Map and Statement for Hertfordshire in Barclay Park, Hoddesdon. An extract of the 2010 Definitive Map is shown below. It shows where the route is, labelled Point 1 to Point 2.

This application was made by Mr A Hale on 15th September 2004.

Description of Route

The Application Route runs through part of Barclay Park, Hoddesdon in Broxbourne which lies south east of Hertford, between the A10 and the A1170.

The Application Route commences from the north of Barclay Park at Beech Walk and Hoddesdon Footpath 19 (plate 1) then continues generally south beneath the trees between the tennis courts and the cricket ground to the public toilets (plate 2), continuing generally south west then south around the public toilets and through the woodland to join a surfaced path in the park (plate 3).

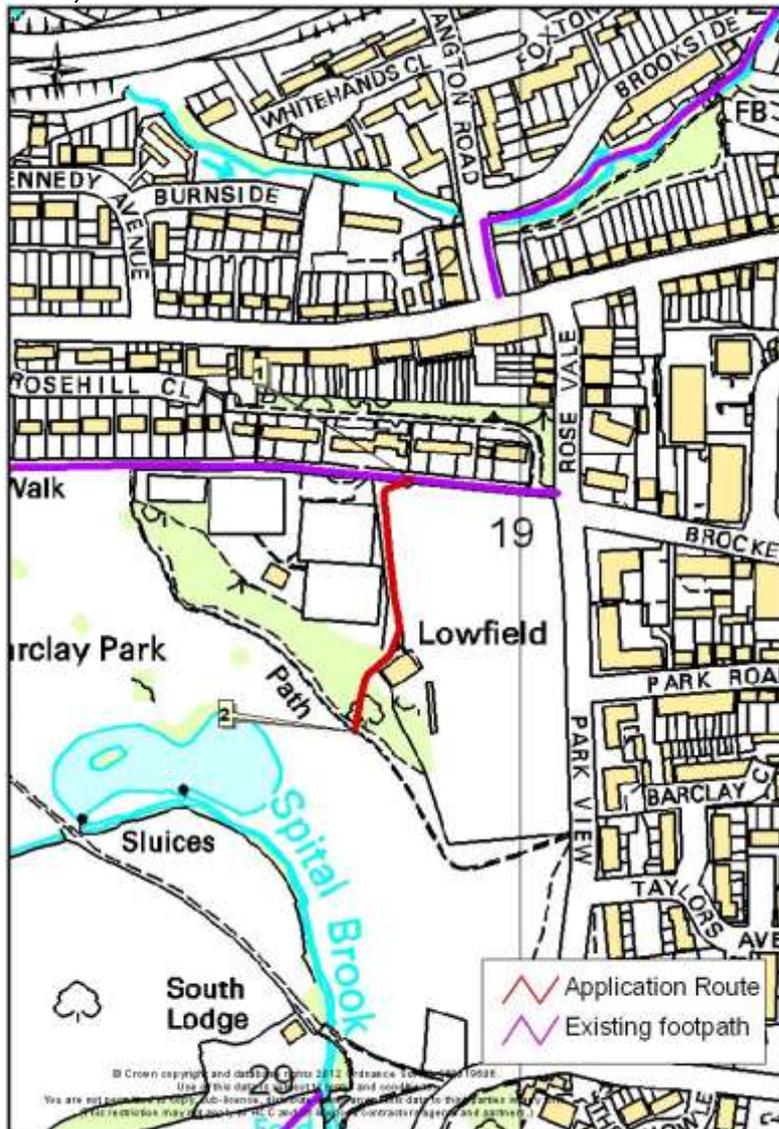




Plate. 1



Plate. 2



Plate 3.

Documentary Evidence

For each investigation, we check at least 10 primary sources of information. You can view the documents listed below at Hertfordshire Archives and Local Studies (HALS) or at the Rights of Way Service (ROW). The documents are listed below with a reference number (if it has one) and where you can find it.

For further information contact:

Hertfordshire Archive and Local Studies (HALS) -
01438 737333 (or 01923 471333 from area codes 01923 and 020)

www.hertsdirect.org/services/leisureculture/heritage1/hals/

Rights of Way Service (RoW) - 01992 555279 to make an appointment.

If you would like more information about documents and how they are important in investigating public rights of way, please go to the Planning Inspectorate's website and view their Guidance Booklet for Definitive Map Orders: Consistency Guidelines. See

<http://www.planningportal.gov.uk/planning/countryside/rightsofway/rightsofway> which also gives details about related articles and case law.

You will find each document listed with the following information:

- The Document's name, date and where it can be found (location and reference)
- Why we consider the document important when making our decision
- What is shown by the document in the area of the Application Route
- Investigating Officer's comments

Please note that where there are no records for the document listed, this will just be recorded as "No records found."

—————→ Indicates the general area of the Application Route

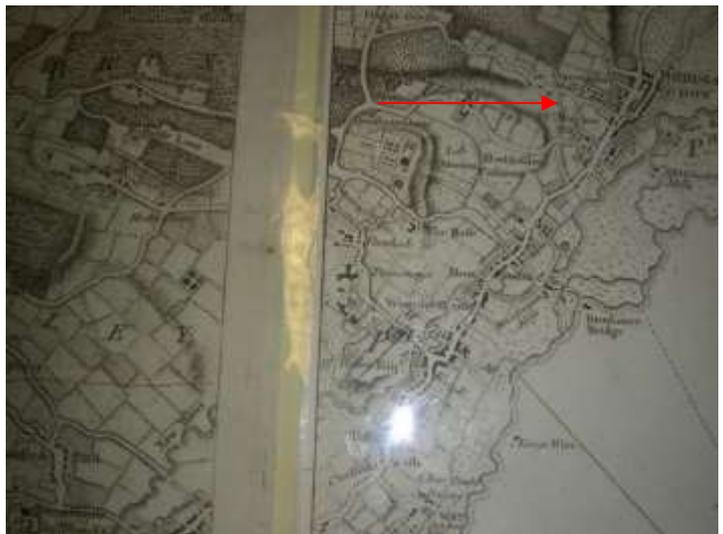
1 Dury and Andrews Map

Date: 1766

Ref: HALS - CM26

1.1 Why we consider this document important

Dury and Andrews' 1766 county map of Hertfordshire, describes itself as 'a *Topographical map of Hartford-Shire, from Actual survey; In which is Expressed all the roads, lanes, churches, noblemen and gentlemen's seats, and every Thing remarkable in the County.*'. It is a map of Hertfordshire made from an original survey, although it is a schematic map (like the London Underground map) rather than one to scale. It shows the basic layout of roads but details like field boundaries were probably decorative. The "explanation" (or legend) lists 'Roads' in 3 categories – "open", "one side enclosed by a Hedge", and "enclosed by Hedges". It does not appear to show routes which, at the time, were thought to be footpaths or bridleways. The map was produced to be sold to members of the public which mean that it is likely the routes shown were both public and publicly maintainable.



1.2 What is shown by this document in the area of the Application Route?

Broxbourne Woods, Broxbournbury, the New River and Hoddesdon High Street are shown, however it is not possible to identify the Application Route on this map.

1.3 Decision

HCC decided that the map provides no evidence that the Application Route existed or was a public highway.

2. Bryant's Map

Date: 1822

Ref: HALS - CM88

2.1 Why we consider this document important

Andrew Bryant's 1822 map of Hertfordshire was again drawn from an original survey. Its depiction is much more accurate (like an Ordnance Survey map) rather than being schematic. This may be due to survey equipment (theodolites) becoming commercially available in the 1790s. The "explanation" (or legend) lists "Turnpike and Mail Roads", "Good Cross or Driving Roads" and "Lanes & Bridleways". It is unlikely that it shows routes which, at the time, were thought to be footpaths. Like Dury and Andrews' map, Bryant's map was sold to members of the public and cost 3-4 guineas. The commercial nature of the map means that routes shown are usually public and publicly maintainable, unless there is strong contemporary evidence which shows that routes are private.



2.2 What is shown by this document in the area of the Application Route?

Hoddesdon Park Wood, Broxbourn Bury, Cock Lane, Lords Lane (now Lord Street) and the New River are shown, however it is not possible to identify the Application Route from this map.

2.3 Decision

HCC decided that the map provides no evidence that the Application Route existed or was a public highway.

3. Hoddesdon Tithe Map

Date: 1842

Ref: HALS DSA4/54/2

3.1 Why we consider these documents important

A 'tithe' was literally a 'tenth' of the produce of the land and was paid in kind to finance the Church (crops were stored in 'tithe barns'). The tithe surveys were carried out under the Tithe Commutation Act of 1836 to reform this system to an easier money payment. Maps were drawn up to show the titheable land in order to assess the amount of money to be paid.

In 1837 the Act was amended to allow maps produced to be either 1st class or 2nd class. 1st class maps are legal evidence of all matters which they portray, and were signed and sealed by the commissioners. They had to be at a scale of at least 3 chains to the inch. 2nd class maps were evidence only of those facts of direct relevance to tithe commutation, and are often at 6 chains to the inch. Unfortunately the proposed convention of signs and symbols to be used, which included Bridle Roads and Footpaths, was not strictly adhered to.

The tithe process received a high level of publicity. This ensured the documents were an accurate record of the agricultural landscape at this period of history. Therefore, although the process was not directly concerned with rights of way, inferences can be drawn from tithe

documents regarding the existence of public rights. Non-titheable land deemed to be unproductive could be excluded from the process. No tithe was therefore payable on roads and so it was in the interest of the landowners for these to be shown correctly. In some cases highways are coloured yellow or sienna to indicate public status. Footpaths and bridleways are not often shown on tithe maps as they did not generally affect the calculation of tithe rent.

3.2 What is shown by these documents in the area of the Application Route?

The High Street, Lord Street and Spital Brook are shown, however it is not possible to identify the Application Route from this map.

3.3 Decision

HCC decided that the map provides no evidence that the Application Route existed or was a public highway.

4. Highway Diversion/Extinguishment Records

No records found.

5 Hoddesdon Inclosure Records

Date: 1854

Award and Maps ref:QS/E 39

5.1 Why we consider these documents important

Enclosure was the process of physically changing the landscape to benefit the development of modern farming practices as technology improved. It was popular from the late medieval period to the 19th century and carried out on a parish-by-parish basis. As it changed the layout and size of fields it also changed the routes of roads and rights of way.

Inclosure could be carried out by agreement, but where this was not possible an Act of Parliament was needed to grant the powers to make the desired changes. Through time such Acts became more popular than agreements. Prior to 1801 these powers were granted to each parish individually by private Acts of Parliament. In 1801 the first General Act was passed which could be used by any parish. Further General Acts were passed in 1836 and 1845. However, private Acts continued to be obtained if the required powers were not granted by the General Acts. They are important evidence to show us what could and could not be done.



Inclosure was recorded through an Award and a Map. The Award is the written record of the changes that were made. It lists the lands that were given to each landowner, the roads and rights of way that were stopped up and those that were set out, or created. The Map (which was not legally required until 1845) shows pictorially the changes made.

As inclosure was a detailed legal process with powers granted by Parliament, it can give us conclusive evidence of a right of way.

5.2 What is shown by these documents in the area of the Application Route?

The map shows Beech Walk and the road which became known as Park View however it is not possible to identify the Application Route from this map.

5.3 Decision

HCC decided that the map provides no evidence that the Application Route existed or was a public highway.

6. Railway and Canal Plans

No records found.

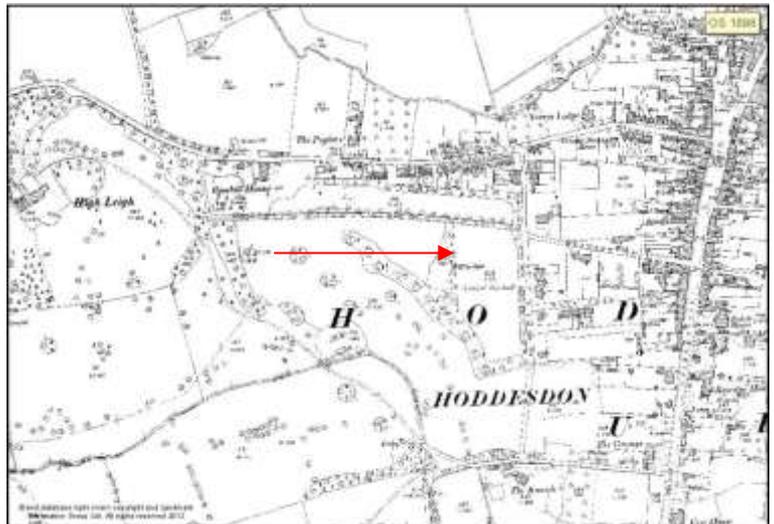
7. Ordnance Survey maps

Date: 1880 - 1974 Ref: ROW

7.1 Why we consider these documents important

The original surveys were carried out by Royal Engineers at the time of the Napoleonic wars in order to better plan the transportation of ordnance around the country. It was only in the early 20th century that the OS evolved to become a public service that sold its mapping information to the public. Since the 1960s this mapping information has included public rights of way, which are derived from each county's Definitive Map.

The Ordnance Survey has produced a series of topographic maps at different scales notably the one inch, six inch and 1:2500. The detailed, large scale 1:2500 maps from the 1870s onwards provide the best evidence of the position and width of routes and the existence of any structures on them. These maps provide good evidence of the physical existence of routes at the time the map was surveyed. When compared with earlier, less accurate maps they can help corroborate the existence of routes. Ordnance



Survey maps show features that physically exist and may label routes as footpaths and bridleways etc. However, the disclaimer which has been added to all editions since the 2nd edition maps (circa 1897/8 in Hertfordshire) states that the representation of any track or way is no evidence of a public right of way.

7.2 What is shown by these documents in the area of the Application Route?

1880 1:2500

At this time the area where the Application Route runs is a plot of land to the west of an orchard behind the houses in the High Street. Lord Street, Cock Lane, Spital Brook and the track now known as Beech Walk are shown. The Application Route is not delineated on this map.

1898 1:2500

By this time the area resembles more closely that of a park. An area by Spital Brook has been made into a small lake; trees have been planted along Beech Walk and in the park. The orchard has been replaced by housing and the area where the Application Route runs is a wooded strip alongside a cricket ground. Pecked lines are shown bounding the woodland area adjacent to the cricket ground however these do not follow the same line as the Application Route.

1974 1:2500

The area to the north of Beech Walk has now been developed; the lake south west of the Application Route is larger, the same as it is today. The public conveniences are shown on the western edge of the cricket ground. The Application Route is depicted by double pecked lines running south from Beech Walk, along the edge of the cricket ground, around the public conveniences and the pavilion, through a wooded area to join the path on the other side of the spinney, also shown by double pecked lines. The Application Route crosses solid lines at point 1 and near point 2 which may represent gates.

7.3 Decision

1880/98 – HCC decided that these maps provide no evidence that the Application Route physically existed or was a public highway.

1974 - HCC decided that this map provides evidence that the Application Route physically existed but no evidence that it was a public highway.

8. Inland Revenue Documents

Date 1910 Ref: HALS IR1 375, IR2/39/1

8.1 Why we consider these documents important

The Finance (1909-1910) Act 1910 was passed in order that a tax could be levied on any increase in the value of land when it changed hands. In order to ascertain the value of all land as at 30th April 1909, a survey was carried out assessing each piece of land. The OS 2nd Edition Plans (usually from 1898) were used as the base maps and annotated. Details were recorded in field books and valuation books. These books included a column which allowed a deduction in tax if a public right of way crossed the land. Every property was given a plot or 'hereditament' number which was then referred to in the valuation books and maps. Hereditaments were coloured on the maps to identify land holdings. Not all land was coloured.

Once a provisional valuation of a property had been reached, landowners were given the opportunity to appeal. The whole process was carried out under statutory authority by the Valuation Department of the Inland Revenue and there were criminal sanctions associated with the falsification of evidence. It would have been negligent to omit such land from the survey, including private roads, which might have had value. However, it was not a criminal offence not to deduct tax if a right of way did cross your property. Consequently, the resultant records carry a high level of evidential weight as to the routes which they show to exist, but are unlikely to be good evidence that rights of way do not exist.

Where a route is shown uncoloured on the plans and excluded from the taxable land this provides very strong evidence of it being public highway. Usually this will be of vehicular status unless there is other contemporary evidence to indicate otherwise. Where footpaths and bridleways cross privately owned land these may be recorded as a reduction to the tax.

However, where routes cross large hereditaments it can be difficult to establish which route is considered to be the right of way without additional details.

8.2 What is shown by these documents in the area of the Application Route?

The area of Barclay Park is shown coloured pink and marked as plot 1055, owned and occupied by Robert Barclay. No reduction has been allowed for public rights of way or user. The map detail is the 1898 Ordnance Survey map (see 7.2).

8.3 Decision

HCC decided that these documents provide no evidence that the Application Route existed or was a public highway.

9. Highways Maintenance Records

9.1 Why we consider these documents important

Maintenance of a route by the public is strong evidence that it is a public highway. However it is important not to confuse 'maintainable' (i.e. duty to maintain) with maintained (i.e. works done). It should also be noted that lack of maintenance of a route does not necessarily mean a route is not highway.

A "List of Streets" of the highways maintainable at public expense is required under the Highways Act 1980. This list is held by the County Council as part of the Hertfordshire Roads Gazetteer, which is itself part of the Hertfordshire Roads Management Database. There are no rules or regulations about what information is required, or how it is to be presented or amended. It is a list of what is maintainable, not necessarily what is maintained.

9.2 What is shown by these documents in the area of the Application Route?

The Application Route is not recorded in HCC's List of Streets maintainable at public expense.

9.3 Decision

HCC decided that no conclusions can be drawn from the list of streets.

10. Definitive Map Records

The National Parks and Access to the Countryside Act 1949 required the County Council to prepare a Definitive Map and Statement to show and describe the public rights of way in the county. The Map is conclusive evidence of what it shows, but is without prejudice to what is not shown.

The process resulting in today's Definitive Map and Statement consists of several stages which are dealt with below:

- a) the Parish Survey
- b) the Draft Map, Provisional Map and first Map and Statement (1953)
- c) the Special Review (following the Countryside Act 1968)

10a Definitive Map Records – Hoddesdon Parish Survey

Date:1949

Ref:ROW

10a.1 Why we consider these documents important

Under the National Parks and Access to the Countryside Act 1949 the county was required to show all public paths which were defined as “footpaths”, “bridleways” and “roads used as public paths”. This last term was never properly defined and has resulted in much confusion ever since. There was no requirement to record public vehicular highways.

In Hertfordshire each parish carried out a survey of the paths which were believed to be public. Sometimes additional surveys were carried out by the Ramblers’ Association or the Youth Hostel Association; or comments were made by them on the parish’s survey. The surveys once completed were sent to the County Council for collating and publishing as the Draft Map.

10a.2 What is shown by these documents in the area of the Application Route?

There is no mention of the Application Route in the Parish Survey.

10a.3 Decision

HCC decided that the Parish Survey provides no evidence as to whether the Application Route existed or was a public highway.

10b Definitive Map Records – Draft, Provisional and First Definitive Map

Date:1953

Ref:ROW

10b.1 Why we consider these documents important

The parish surveys were collated into the Draft Map and Statement. Notices were published advertising that the Draft Map and Statement had been produced so that the public (including landowners) could object to what was included or to what was omitted. Hearings were held to consider these objections and recommendations were made based on the evidence presented.

The Draft Map and Statement was amended following the hearings to produce the Provisional Map and Statement. As before, notice of the production of the Provisional Map and Statement was advertised but this time only landowners, lessees and tenants could apply to the crown court to amend the map – the public could not. The map and statement were then amended to reflect the court’s finding.

Please note that these records vary across the county as a full sequence of Draft Map and then Provisional Map has not always been kept.

After the amendments to the Provisional Map and Statement were made, the First Definitive Map and Statement for Hertfordshire was produced. The Map and Statement together provide conclusive evidence of the existence of those public rights of way shown at the ‘relevant date’ of 1953; i.e. the information shown was correct at that date.

10b.2 What is shown by these documents in the area of the Application Route?

The 1st Definitive Map shows Hoddesdon Footpath 19 running along Beech Walk, however the Application Route is not shown. There is no correspondence in the files requesting that the Application Route be added to the Definitive Map.

10b.3 Decision

HCC decided that the 1st Definitive Map provides no evidence as to whether the Application Route existed or was a public highway.

10c Definitive Map Records - Special Review

Date:1978 - 84

Ref:ROW

10c.1 Why we consider these documents important

The Countryside Act 1968 created the new designation right of way to be recorded - a "byway open to all traffic". This was the first time that vehicular rights were recorded on the Definitive Map. It also required county councils to carry out a Special Review to reclassify all "roads used as public paths" as either "footpaths", "bridleways" or "byways open to all traffic". In Hertfordshire the Special Review was started in 1977. This was later extended to include all the amendments to the network made by diversions since the first Definitive Map. It also showed if applications had been made to add or amend details of routes. Copies of the Special Review Draft Map showing all these changes were published, inviting objections from the public. Due to the number of objections received and not resolved, the Secretary of State ordered the abandonment of the Special Review in Hertfordshire in 1984. The Definitive Map and Statement was amended to show all changes which did not have outstanding objections, and these were shown on the Definitive Map and Statement produced in 1986.

10c.2 What is shown by these documents in the area of the Application Route?

The Application Route is not shown on the Special Review Map and there are no claims stating that it should be shown.

10c.3 Decision

HCC decided that the Special Review Map provides no evidence as to whether the Application Route existed or was a public highway.

11. Contemporary Evidence of Use and Landowner Evidence

a) Deeds

b) User Evidence

11.1 Why we consider the evidence important

Evidence is generally provided through the completion of evidence questionnaires by users and from information provided by the owner of the land. User evidence may support historic evidence of a right of way. However, where there is no historic evidence of a route it is possible for a public right of way to come into existence if it can be shown that members of the public have used it 'as of right' without interruption (usually) for a period of 20 years. In order for the public's use of a route to have been 'as of right' it must have been:

- **without force** (e.g. not breaking down a fence to access the route)
- **without secrecy** (e.g. not just using the route when landowners were away)
- **without permission** (i.e. not having the permission of the landowner).

The meaning of "as of right" is explained by Lord Neuburger in *R (on the application of Barkas) v North Yorkshire County Council and another*, Supreme Court, 21 May 2014

".....if a person uses privately owned land "of right" or "by right", the use will have been permitted by the landowner – hence the use is rightful. However, if the use of such land is

“as of right”, it is without the permission of the landowner, and therefore is not “of right” or “by right”, but is actually carried on as if it were by right – hence “as of right”.”

Unless there is historic evidence of rights as well, legislation requires there to be evidence of 20 years’ use which ends with a ‘date of challenge’ (section 31 of the Highways Act 1980). The ‘date of challenge’ is the date at which the landowner challenges the use of the route e.g. by putting up a notice. Where there is no evidence that use has been challenged, section 31(7B) of the Highways Act 1980 specifies that the date of application should be used as the end of the 20 year period.

Under common law a right of way can also come into existence in less than 20 years if it can be shown that there was dedication of the route by the landowner and acceptance of the route by the public.

Under Section 31, after a period of 20 years use, it is presumed that a right of way has come into existence. Where a landowner can produce evidence to show that they have taken steps to prevent the accrual of new public rights of way through use of a route by the public, no such right will be dedicated. Such steps must be overt and make the public aware of the landowner’s intentions. They can include placing and maintaining notices on site stating that the route is not public or that it is used with permission; by erecting and locking gates; or by telling people seen using the route that it is not public, etc.

In addition to placing notices on site, section 31(6) of the Highways Act 1980 (following on from the Rights of Way Act 1932) allows landowners to deposit a map and statement with the County Council showing the public rights of way across their land. Following this, declarations need to be made regularly to the effect that no additional ways have since been dedicated. It should be noted that making such deposits and declarations will not affect pre-existing rights.

Below is a summary of the evidence we have received, including a table showing the information provided in the user evidence forms.

11a.2 Copies of Deeds, Lease, Tenancy agreement

1924 – The Hoddesdon Sports Ground Trust Deed

A conveyance was made between Robert Leatham Barclay and the Grantors (as trustees) for the purpose of holding the hereditaments described as a sports and recreation ground for the inhabitants of the town of Hoddesdon.

This document conveys ‘all that parcel of ground on the west side of Park View of 5 acres, 2 roods and 29 perches or thereabouts’, coloured pink on the plan – the plan is missing but the land referred to in this conveyance is marked on the current title deed and does include a large part of the Application Route – subject to a private right of way for Robert Barclay and his heirs and assigns.

The land is to be used for a sport and recreation ground (and any other purpose reasonably incidental thereto) for the inhabitants of the district of Hoddesdon. The management and control of the recreation ground was to be vested in a committee who would have power to let the use of the recreation ground for amateur football and cricket or any other amateur game or sport, entertainment or meeting for the mental or physical recreation of the

inhabitants of the urban district of Hoddesdon. All money received as rent or fees was to be used in the upkeep and insurance of the recreation ground and for paying all rates and taxes.

1935 Deed – A Conveyance between Robert Leatham Barclay and the Higham and High Leigh Company Limited to the Urban District Council of Hoddesdon.

The document states that “The Council is empowered to acquire land under the Public Health Acts 1875 to 1925 and the Local Government Act 1933 or one or more of the said Acts for the purposes of public walks and pleasure grounds and the Company have agreed with the Council voluntarily and gratuitously to grant and convey unto the Council the said property hereinafter described

The deed conveys “all that piece or parcel of land and land covered by water situate at Lowfield in the parish of Hoddesdon in the County of Hertford and forming part of the High Leigh Estate.....”

1936 Deed – A Conveyance between Robert Leatham Barclay and the Higham and High Leigh Company Limited to the Urban District Council of Hoddesdon.

The document states that “The Council is empowered to acquire land under the Public Health Acts 1875 to 1925 and the Local Government Act 1933 or one or more of the said Acts for the purposes of public walks and pleasure grounds. The Company has agreed with the Council for the sale to it of the said property hereinafter described

The deed conveys two parcels of land at Lowfield in the parish of Hoddesdon forming part of the High Leigh Estate.

1937 – Tenancy Agreement of Field in Park View, Hoddesdon between the Management Committee of the Hoddesdon Sports Ground and Hoddesdon Town Football Club.

The agreement is for the seasonal tenancy between September and March until determined at the end of any season by three months’ notice in writing on either side.

The pavilion and other buildings are let for the use of the football club and shall be used only by the members of the club, their visitor, friends and others by their invitation for the purpose of playing and watching football.

The tenants shall not damage or allow to be damaged, buildings, trees, hedges, fences or gates or allow the grass to be damaged other than by proper use. The tenants shall be entitled to charge members of the club and the public for admission to the field. In the event of any breach of this agreement the landlords will be entitled to exclude the tenants, members of the club and the public from the use of the field.

1951 – Hoddesdon Sports Ground Trust Deed

Section 3 (1) of the Open Spaces Act 1906 provides that where any land is held by trustees upon trust for the purposes of public recreation the Trustees may in pursuance of a special resolution transfer the land to any local authority by a free gift absolutely or for a limited term and that if the local authority accepts the gift they shall hold the land on the trusts and subject to the conditions on and subject to which the Trustees held the same.

By special resolution duly passed and confirmed in accordance with the provisions of section 8 (1) of the Open Spaces Act 1906, the Trustees resolved that the Recreation Ground be transferred to the Council in fee simple to be held by the Council upon trusts and conditions detailed in the deed. The Council agreed to accept the Recreation Ground upon those trusts and conditions subject to the private right of way for Robert Barclay and his heirs and assigns as described above along the road on the north side of the Recreation Ground marked “footpath” on the plan.

The Recreation Ground shall be called Lowfield.

Clause (e) states that the Purchasers will forthwith where necessary erect and at all times maintain in good repair and condition substantial fences along all sides of the premises hereby conveyed and in particular will remove such fences as are now existing on the interior of the premises to the borders thereof or will on such borders erect other fences in lieu thereof.

1982 – Lease between the Council of the Borough of Broxbourne and Hoddesdon Town Football and Hoddesdon Cricket Club.

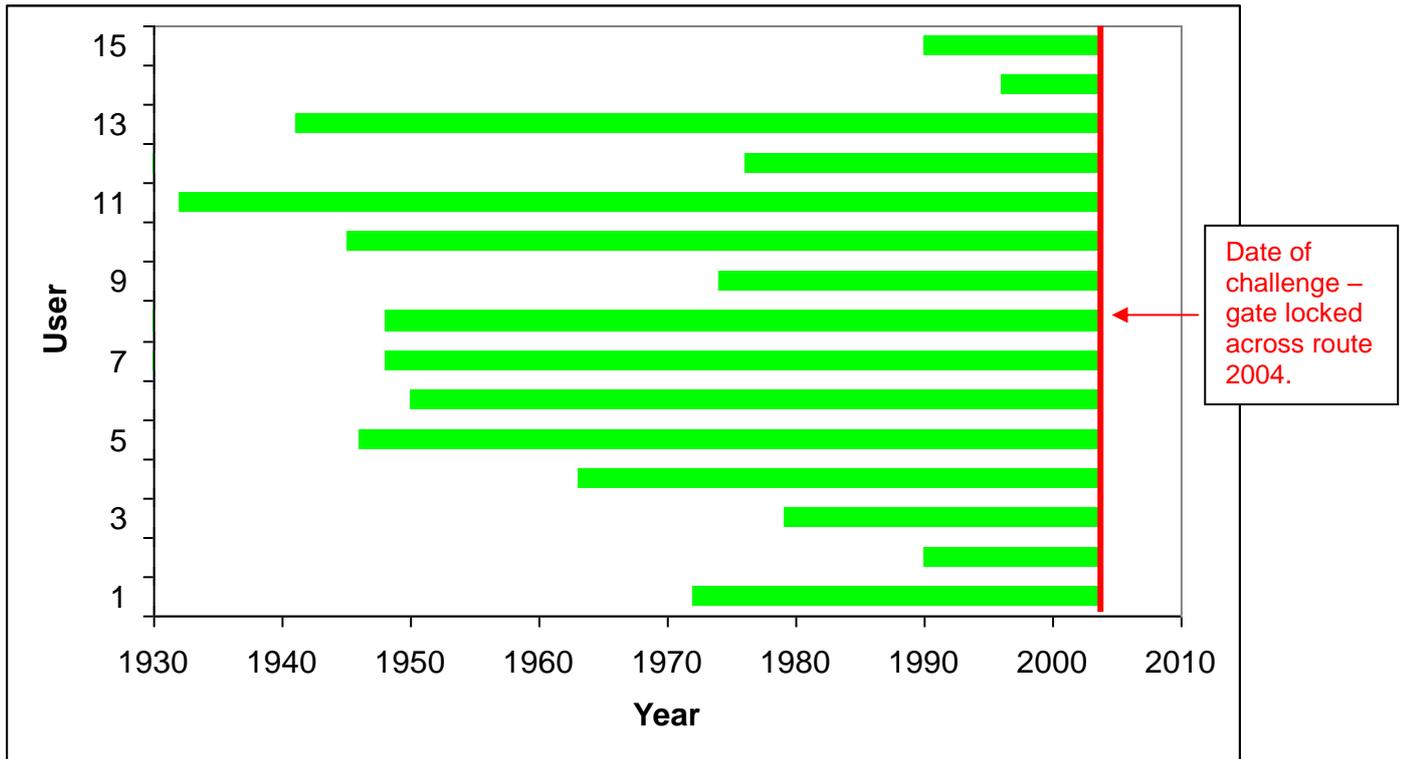
Clause 3 states: to keep all buildings erections and gates upon the demised premises always in good repair and condition and the gates always locked when the demised premises are not in actual use.

Clause 13 states: Not to allow any persons except the Landlord members and servants of the club and guests of members to use the demised premises for any purposes provided that the Trustees may invite or allow the general public to enter thereon either gratuitously or on payment for the purposes of witnessing any game match or other display or entertainment.

11a.3 Decision

The Hoddesdon Sports Ground Trust Deed 1924, the 1935 Conveyance between Robert Leatham Barclay and the Higham and High Leigh Company Limited to the Urban District Council of Hoddesdon, and the 1936 Conveyance between Robert Leatham Barclay and the Higham and High Leigh Company Limited to the Urban District Council of Hoddesdon convey land (which is crossed by the Application Route) to be used for a sport and recreation ground (and any other purpose reasonably incidental thereto) or for public walks and pleasure grounds for the inhabitants of the district of Hoddesdon. As such the land would have been made available for the use of the public under the terms of the deeds.

11b.2 User Chart and Table



Please note: for a detailed breakdown of use see table below.

User Table

User	Type of Use	Width of Route	Frequency of Use	Period of Use		Total Use Years	Comments
				From	To		
1	foot	4ft	daily/weekly	1972	2004	32	Used the route to access Barclay Park. Never saw notices, never turned back, never met the landowner. Route was never obstructed.
2	foot	8ft	daily 7x	1990	2004	14	Never saw notices, never turned back, never met the landowner. Route was never obstructed.
3	foot	2m	daily	1979	2004	25	Often saw an employee but nothing ever said. Never saw notices, never turned back. Route obstructed August 2004 by locked gate(?).
4	foot	4'6"-5'	daily	1963	2004	41	Used the route to walk the dog. Never saw notices, never turned back, never met the landowner. Route was never obstructed until closed off by fence in 2004. Always understood that the agreement between the two clubs was that the path should be left open for the public.
5	foot	1.5m	Twice daily	1946	2004	58	Did not use the route between 1951-56. Used the route to walk the dog, and children. Has used the route for whole life. Never turned back. Route was never obstructed. Path was tarmaced a few years ago.
6	foot	1.5m	daily	1950	2004	54	Never saw notices, never turned back, never met the landowner. Path used to

							have a swing gate (always openable) at the junction with Beech Walk but this fell into disrepair approx. 30 years ago. Route was never obstructed until blocked in July 2004 by security fence. Believes that pre 1924, this was the only access from the town to the pathway west of the town to the Pollards.
7	foot	1m	Several times a week	1948	2004	56	Used the route to walk from Beech Walk to the park. Never saw notices, never turned back, never met the landowner. A 3 metre high chain fence has been erected in last couple of months obstructing the entrance. Always understood that the land was common land given to the people of Hoddesdon by the Barclay family.
8	foot	4-5ft	weekly	1948	2004	56	Has seen notices saying 'no cycling' and 'public toilets' between 1996-2004. Route was never obstructed. It was a pleasant walk to the spinney and park for all.
9	foot	3ft	daily	1974	2004	30	Never saw notices, never turned back, never met the landowner. Route was never obstructed until locked gate now enforced by Broxbourne Borough Council.
10	foot	3ft	daily - weekly	1945	2004	59	Living elsewhere between 1973 to 1975. Never saw notices, never turned back, never met the landowner. Access to the path was restricted on match days. Path closed by gate during the re-working of the ground.
11	foot	4ft approx	daily	1932	2004	72	Never saw notices, never turned back, never met the landowner. Route was never obstructed. Used the route as a shortcut to the park.
12	foot	3ft	Weekly - intermittently	1976	2004	28	Used route intermittently between 1976 to 1988. Never saw notices, never turned back, never met the landowner. Route was never obstructed. When using the route, saw others using the route at least 90% of the time.
13	foot	4-5ft	daily	1941	2004	63	Never saw notices, never turned back, never met the landowner. Has seen notices saying 'no cycling' and 'public toilets'. Access was always via a gate, always open, never locked.
14	foot			1996	2004	8	Used the path to walk to the cricket ground.
15	foot		daily	1990	2004	14	Walked the path with dogs for 14 years. The sign saying public footpath fell down in 2002 and has never been replaced.
16	foot	1-2m	variable	1971	2004	33	Used the route for pleasure and exercise. Never saw notices, never turned back, never given permission, never met the landowner. No limitations on the route until gate erected in 2004.
17	foot	1-2m	variable	1969	2004	35	Used route for recreation. Never turned back, never given permission, never met the landowner. The only notices seen were pointing to the public toilets. No limitations on the route until gate erected in

							2004.
18	foot		daily	1948	2013	55	Used route for pleasure. Never given permission, never turned back.
19	foot		3-4 times a year, sometimes almost monthly	1968	1980s/90s		Used route for pleasure. Never turned back but told recently that the route was closed off some years ago. Gates and notices put up 8-10 years ago.
20	foot	Varying widths of tarmac	daily	1971	1993	22	Used route to walk the dog or walking children from park to shop. Saw notices attached to a post saying 'not public right of way' user thinks. Locked gates closed the path in the 1990's.
21	foot	2 people walking side by side	daily	1950	1994	44	Used route for pleasure. Saw notices – arrows stating 'public footpath'. Stiles were on the route originally, then open gates then locked gates. Gates locked from 1993.

Received after putting up notices requesting information at each end of the path.

11b.3 Decision

It is possible for a public right of way to come into existence if it can be shown that members of the public have used it 'as of right' without interruption (usually) for a period of 20 years.

Evidence was provided by 21 people who have used the Application Route.

In this case HCC decided that members of the public have a statutory right to use this land for recreational purposes, and therefore their use of the land was "by right" and not as trespassers, so that no question of user "as of right" can arise.

Conclusion

HCC has decided that in this case there is no historic evidence to support the Application Route, and the contemporary evidence shows that the evidence of use has been 'by right' rather than 'as of right'.

Therefore HCC decided that no public right of way has been dedicated.