

## Definitive Map of Rights of Way for Leicestershire Register of Definitive Map Modification Order Applications

Short Description: <b>Add a footpath from existing Public Footpath I15 to Loughborough Road / Nottingham Road, Cotes</b>			
Application No.:	<b>M1167</b>	Legal Services Ref. No.:	
Application Status:	<b>Application Received</b>		
Geographical Location			
Path No:	<b>I15</b>	Route name (if known):	
Settlement:	<b>Cotes</b>		
Parish:	<b>Burton on the Wolds and Cotes</b>		
District/Borough:	<b>Charnwood</b>		
Nearest Town/City:	<b>Loughborough</b>		
Start Location:	<b>Existing end of Public Footpath I15</b>		
Start Grid Refs:	Landranger:	<b>SP 556 201</b>	Eastings,Northings: <b>455670,320140</b>
End Location:	<b>Loughborough Road / Nottingham Road</b>		
End Grid Refs:	Landranger:	<b>SP 554 206</b>	Eastings,Northings: <b>455470,320600</b>
Applicant's Name, Address & Postcode: <b>Mr Roy Denney – Leicestershire Local Access Forum</b>			
Date Received:	<b>28/11/2018</b>	Date Determined:*	
Application Stage(s): <ul style="list-style-type: none"> <li>Application made 28/11/18</li> </ul>			
For Further Information			
Case Officer:	<b>Samantha Ireson</b>		
Telephone:	<b>0116 305 0001</b>	Fax:	
Email:	<b>footpaths@leics.gov.uk</b>		
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\* Note the **Determination Date** is the occasion on which Leicestershire County Council formally decided whether or not to make an order in response to this application.

Form PT634

**APPLICATION FOR DEFINITIVE MAP MODIFICATION ORDER**

WILDLIFE AND COUNTRYSIDE ACT 1981  
DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF LEICESTERSHIRE

Please complete this form and return it together with Form PT636, and any evidence you wish to submit, to: Safe and Sustainable Travel Team, Environment and Transport Department , Leicestershire County Council, County Hall, Glenfield, Leicester, LE3 8RJ.

I, Roy John Denney on behalf of the Leicestershire Local Access Forum

Of : C/o Room 700, County Hall, Leicester, LE3 8RJ

hereby apply for an Order under Section 53(2) of the Wildlife and Countryside Act 1981, modifying the Definitive Map and Statement for the area by

~~\*adding a footpath/bridleway/byway open to all traffic~~

~~\*deleting a footpath/bridleway/byway open to all traffic~~

~~\*upgrading the footpath/bridleway~~

~~\*downgrading the bridleway/byway open to all traffic~~

~~\*varying the particulars in the Definitive Statement relating to the footpath/bridleway/byway open to all traffic~~

(\*delete as appropriate)

which runs from  
Public Footpath I15 in the Parish of Burton on the Wolds  
to  
Barrow Road B676 in the Parish of Prestwold just east of junction with A60

as shown on the attached plan.

I/We attach copies of the following documentary evidence (including statements of witnesses) in support of this application:

List of Documents

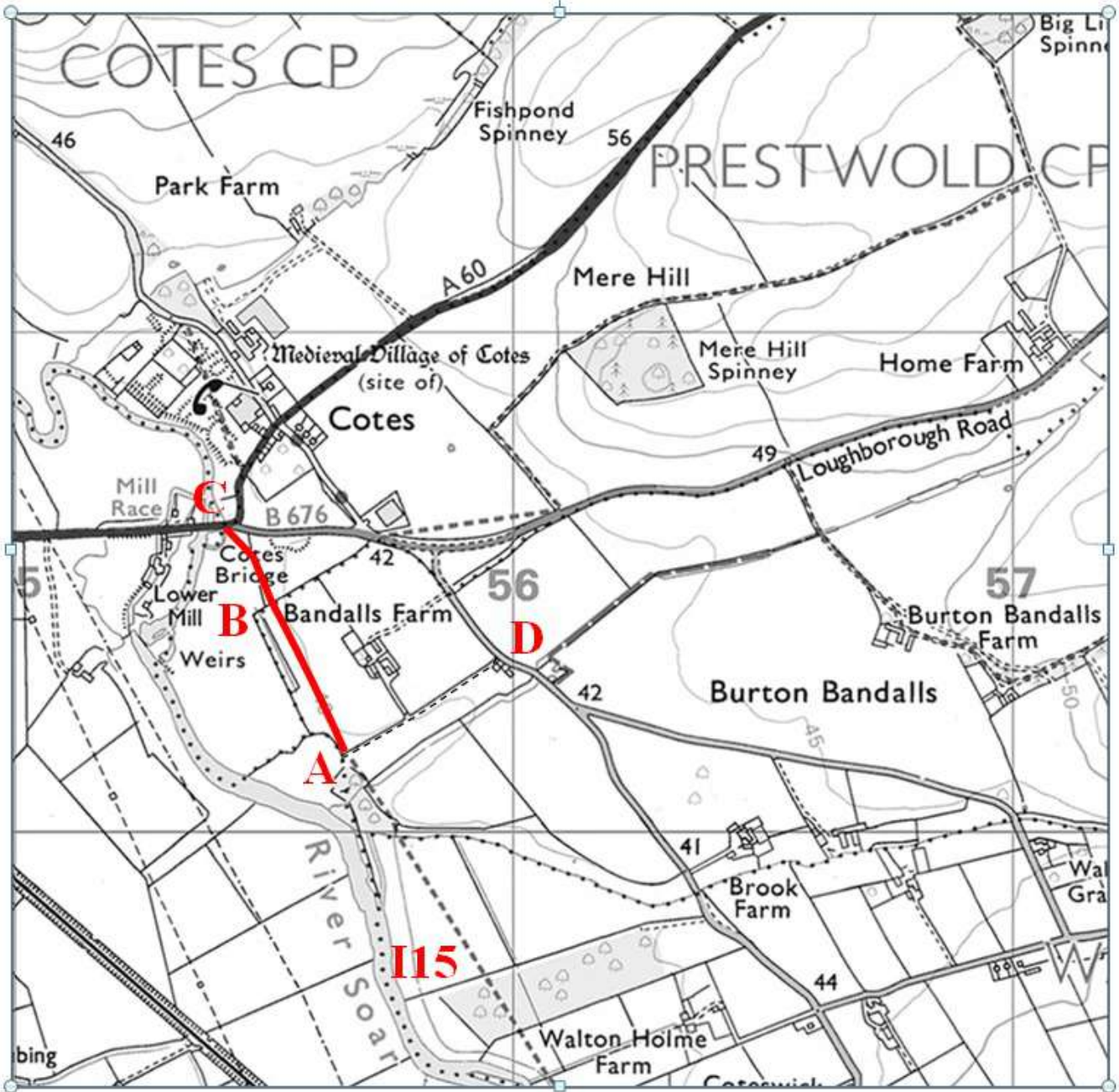
Definitive Map Modification Order Case Document  
Including appendix detailing previous Public Inquiry dated 26.1.1954  
Witness statement re usage & demand – Stan Warren  
Witness statement re usage & demand – Peter de Ville  
Witness statement re usage & demand – John Howells

Signed...

...Dated...13/3/2019

**How we use your information**

Any information you provide will be used in accordance with the Data Protection Act 1998 and other relevant legislation. The information will be used to consider your application for a Definitive Map Modification Order. A copy of your application (including your name and address) will be published online in order to meet statutory requirements. Other personal details (such as telephone numbers, email addresses and signatures) will be removed before publication.



*Fig. 1. Ordnance Survey 1:25000 scale map extract showing application route*

*Use based on Copyright, Designs and Patents Act 1988 section 46 exception on copying for a statutory inquiry*

# **Wildlife and Countryside Act 1981**

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## **Definitive Map Modification Order Application**

**For a route from  
Public Footpath I15 in the Parish of Burton on the Wolds  
to  
Barrow Road (B676) in the Parish of Prestwold  
to be shown as a Public Footpath.**

**Applicant's Reference: LLAF-RJD1**

**27<sup>th</sup> November 2018**

**Quick reference path facts  
to assist the Surveying Authority in its investigation**

**OS 25 inch County series map Leicestershire XVIII.5 and XVIII.1**

**Modern Definitive Map sheet(s) SK52SE**



1. My name is Roy John Denney. I am the applicant for the order on behalf of the Leicestershire Local Access Forum (LLAF). This application is based on evidence gathered by several researchers; most having extensive experience in volunteer roles related to public rights of way. One of the researchers was formerly a Chartered Librarian.

2. This application is made because, on the cut off day, the effect of s.53(1) and (2) of the Countryside and Rights of Way Act 2000 on a public path that existed prior to 1949; still exists on the cut-off date, and hasn't been a highway of a different description in between, but is not shown in the definitive map and statement at all, is to extinguish all rights on that route.

3. I believe this application will pass the planned Preliminary Assessment Test required by para 2 Sch 13A Wildlife and Countryside Act 1981 because:

a. This application statement includes explanations as to how the evidence applies to the application route, and

b. the application contains one or more of the following forms of supporting evidence:

(1) Legal document(s) relating specifically to the right of way that is the subject of the application (such as Railway Act, Inclosure Act and Award, Finance Act, Court Order or Main Roads Order evidence).

(2) Evidence of reputation in legal document(s), even though not written specifically about the right of way that is the subject of the application (such as Tithe Awards and Maps).

(3) Documentary evidence of expenditure that would be unlawful unless the way was a public highway, for example Highway Board records.

(4) Documentary evidence of reputation, for example an Ordnance Survey map, coupled with public scrutiny, or evidence of highway status in a landowner produced document.

(5) Maps and other documents which, over a period of time, and taken together, provide evidence of reputation that the order route is part of the public road network.

## **THE APPLICATION ROUTE**

4. The application route is shown on the following plan from point 'A' (the current terminus of Footpath I15) to point 'C' ( Barrow Road / B676).

5. The application route is not currently shown on the definitive map of rights of way for Leicestershire:

## **DOCUMENTARY EVIDENCE OF HIGHWAY STATUS**

6. In order to be able to modify the definitive map and statement, the Surveying Authority needs to have a discovery of evidence which shows that, on the balance of probabilities, highway rights exist.

The use of the 'balance of probabilities' test rather than 'beyond reasonable doubt' was confirmed by the High Court in *Todd, Bradley v SOS for EFRA* [2004] 4 All ER 497.

7. The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and Another* [2012] EWCA Civ 334, Lewison LJ said, at paragraph 22,

'In the nature of things where an inquiry goes back over many years (or, in the case of disputed highways, centuries) direct evidence will often be impossible to find. The fact finding tribunal must draw inferences from circumstantial evidence. The nature of the evidence that the fact-finding tribunal may consider in deciding whether or not to draw an inference is almost limitless. As Pollock CB famously directed the jury in *R v Exall* (1866) 4 F & F 922:

"It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in the chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like the case of a rope composed of several cords. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength."

8. While no single piece of evidence is conclusive, the applicant believes that taken as a whole the numerous pieces of evidence demonstrate highway reputation over many years, indicating that the route does indeed have public right of way status.

## **A - TEXTUAL EVIDENCE OF HIGHWAY STATUS**

9. To clarify the background to this case and the currently recorded extent of Public Footpath I15, the evidence initially follows a logical rather than a chronological order.

### **10. Survey of Rights of Way - Barrow upon Soar Parish Council**

a. Date. 1951.

b. Relevance. The National Parks and Access to the Countryside Act 1949 required definitive maps and statements to be drawn up based upon surveys by parish councils etc. The currently recorded route of Public Footpath I15 is based on the extent of route number 6 marked on the survey map compiled by the Barrow upon Soar Parish Council. The schedule accompanying the map, in the column headed 'Grounds for believing the path to be public' contains the entry 'Awarded'. In the column 'How surveyed ...' it refers to an attached letter to the Parish Council from the Leicestershire Footpath Association which quotes the enclosure award as being a route from Barrow on Soar to Cotes

(see, fig.2)

16, Westcotes Drive,  
Leicester.

23rd February 1951.

C. Hollingworth Esq.,  
Clerk to the Barrow-on-Soar Parish Council,  
Union Offices,  
Ashby Road,  
Loughborough.

Dear Sir,

National Parks and Access to the  
Countryside Act, 1949.

Survey of Rights of Way.

Thank you for your letter of  
19th February regarding the right of way  
from Barrow-on-Soar to Cotes.

The Leicestershire Footpaths Ass-  
ociation has done a considerable amount of  
footpath and rights of way surveying in  
the County, and in 1946 I assisted in this  
work in the Barrow-on-Soar district.

This particular right of way was  
one on which I spent some time, and am  
satisfied that the enclosure award  
(which I was privileged to see) proved  
the existence of a path from Barrow-on-  
Soar to Cotes, but when we tried to walk  
it, it was obvious that it had not  
been used for a considerable period, and  
for all practical purposes it had dis-  
appeared.

P.T.O.

I believe your Council would be  
justified in marking this path in on  
the map, and it would then rest with  
the farmers and people over whose  
land the path traversed to raise ob-  
jections if they thought fit, later  
on when such objections are invited.

I regret I cannot be more posi-  
tive than this, and trust you will be  
successful in getting this right of  
way recorded.

Yours sincerely,

E. Tyler

*acknowledged*

Fig 2 - Letter from Leicestershire Footpath Association to Barrow upon Soar Parish Council  
23rd February 1951

- c. Meaning. The route described by the parish council is titled by them as Barrow-upon-Soar to Walton on the Wolds and Cotes.
- d. Assessment. This suggests they agreed with the Footpath Association and believed that the route continued through to Cotes, even though the surveyed route 6 and the currently recorded extent of Public Footpath I15 both terminate around Walton Brook.
- e. Source. The original parish survey maps, schedules and accompaniments are held at County Hall, Glenfield by the Leicestershire County Council, Public Rights of Way service.

#### 11. Enclosure Award - made under the Barrow-upon-Soar Enclosure Act 1760

- a. Date. 29<sup>th</sup> July 1761
- b. Relevance. The enclosure award contains a section on highways. The first 7 clauses deal with carriage roads and public gates. The next 3 clauses cover bridle roads. The remaining 11 clauses dealing with public foot roads. Clauses 11 and 12 concern route 6.
- c. Content. The text of the award includes the following:
  - Clause 12: A route going north-westwardly from the village, roughly paralleling the east side of the River Soar, is described in terms of landholdings as far as the parish boundary.
  - Clause 11: Covers an adjacent route, but introduces Clause 12 by describing its full extent.
- d. Meaning. Clause 12 states
  - ... the foot road hereinafter mentioned to be [manuscript illegible] Barrow aforesaid to Cotes
- e. Assessment. This suggests the pre-existing route continued through to Cotes, even though the award only described and restated the route within the parish of Barrow.
- f. Source. An original is held by the Leicestershire, Leicester and Rutland Record Office (LLRRO) under reference EN/A/23/1. A transcript of the highways section is held at County Hall, Glenfield by the Leicestershire County Council, Public Rights of Way service.

#### 12. Survey of Rights of Way - Tribunal for the Barrow, Quorn & Sileby Electoral Divisions

- a. Date. 26<sup>th</sup> January 1954
- b. Relevance. Route 6 was the first agenda item considered at this public hearing. Nine persons were listed as objectors', several of whom are recorded as speaking. The main objector was an A. Wooding Esq.. References suggest he owned land crossed by the route; also he may have been a Parish Councillor. Official representatives of the Parish Council and the Leicestershire Footpath Association spoke in support of the route's inclusion.
- c. Content. The oral evidence heard by the tribunal includes the following:
  - Mr Wooding: "... This particular path certainly used to exist, but the Parish Council did not walk it at the time, in fact they could not walk it. There used to be a mill called the Upper Mill just off this map and this path, I believe, was used by the workpeople who worked at this mill. The path went all the way from Barrow to the Mill and from the mill to Cotes and people who lived at Cotes also used the path.



About 40 years ago the mill was pulled-down and the weir blown up and since the Great War this path has not been used. The Parish Council has in its possession a map and representatives of the Footpath Association tried to trace this path in the 1920s and they got a certain distance and had to give up. They pencilled on the map how far they got. ..."

"... There is another point about this path. Walton Parish Council decided that the path no longer existed and they did not include it on their map. The path suddenly stops in a field; it goes nowhere and if anyone used this path they would walk along the path until it stops dead and the only way out is to retrace their steps. The path must go somewhere and if Walton has decided it is closed and a path does not exist it is just a nuisance. ..."

Mr Wooding later added "... The root of my objection would go if the path went to Cotes Mill. As it is not proposed to show it beyond this point ..... It does not go anywhere, it just stops in a field."

During his evidence Mr Wooding also said:

"... This Act we are discussing now does not override the old rule that if a path is not used for 20 years it ceases to exist." In response the tribunal transcript adds:

Mr Mallett [a County Council officer attending]: stopped Mr Wooding for a moment whilst he outlined the law on this matter.

Mr Clarke (on behalf of the Barrow Parish Council): "It is very many years since I walked the whole path and I do know that I walked nearly to Mr Wooding's estate. I know it is used very little and the occupiers of the land make it very difficult for people to use it. I used this path in the summer and it is one of the most beautiful walks in Barrow. The last time was about four years ago."

Mr Tyler (of the Footpath Association): "I met the members of the Barrow R.D.C. a few years ago in respect of this path and we examined the Inclosure Award. It does describe a right of way going through these particular fields. There is no doubt a path because there are references in the Inclosure Award to names which are still reflected. The path described in the Inclosure Award went across this west side of the road. There is not a great deal of evidence of the path on the ground and it is possibly because there is no evidence that some editions of the O.S. map have omitted it. They normally record evidence on the ground, but the fact that it does exist is evident from the Inclosure Award and we wish to support retention of this path on the map . ..."

The transcript concludes this section by noting:

The Tribunal agreed to recommend that this objection should be rejected.

d. Meaning. None of the objectors claimed that the path had never existed, only that it was long disused. In particular Mr Wooding's main objection was the path to be recorded did not continue to the public road at Cotes. However that route lay in other parishes covered by another Electoral Division and so another Tribunal.

e. Assessment. This suggests they believed that the route continued through to Cotes, even though the surveyed route 6 and the currently recorded extent of Public Footpath 115 both only terminate around Walton Brook.

f. Source. The agendas and transcripts of the tribunals are held at County Hall, Glenfield by the Leicestershire County Council, Public Rights of Way service.

*(The tribunal agenda, transcript and report are attached as appendix 1)*

### 13. Loughborough Lower and Upper Mills - a summary of the historical context

a. Commentary. Mr Wooding's evidence above refers to two different mills: the Upper Mill and what he calls Cotes Mill. Cotes is a hamlet straddling the main road from Loughborough to Nottingham. Cotes Bridge is an ancient structure which takes the main road over the River Soar. At the west end of the bridge are buildings, currently in retail use, and now generally known as Cotes Mill. However, the earlier and more proper name of this site is the Lower Mill<sup>[i]</sup>, the label the Ordnance Survey map still uses (see Fig. 1.).

The Over or Upper Mill was located 725 metres upstream (near the current terminus of footpath I15) and as Mr Wooding states was dismantled in 1898 following demolition of the mill weir which caused the flooding of neighbouring fields. Throughout the nineteenth century local newspapers consistently refer to this as the Upper Mill or Loughborough Upper Mill<sup>[iii]</sup>. Until 1810<sup>[iv]</sup> both mills belonged to the Manor of Loughborough, which is the reason that (as Fig. 1. also shows), though on the east bank of the river, the Upper Mill site and adjacent close are still inside the boundary of the unparished area of Loughborough. The manor of Loughborough was previously owned by the Hastings family, the Earls of Huntingdon. For 88 years the family were involved in 10 law suits asserting that those living within the manor of Loughborough were obliged to use only mills belonging to the manor<sup>[v]</sup>. This was finally overruled by Leicester Assizes in 1698.

b. Meaning. In the Barrow Survey and Barrow Enclosure Award, references to a footpath from Barrow to Cotes should be read as meaning to the vicinity of the hamlet or bridge on the Loughborough - Nottingham road, rather than referring only to either of the mill sites.

c. Assessment. From the Upper Mill's location east of the river, it might be assumed that more of the mill's business would come from places to the east and the south. However, its ownership and status would have meant in practice a greater proportion of the traffic would have been to and from Loughborough, crossing the River Soar via the Cotes bridge.

d. Sources.

[i] The mills at Cotes by Joan Shaw, Wolds Historical Organisation website. Available from: <http://www.hoap.co.uk/who/cotes04.htm> Accessed 30/03/2018.

[ii] The lower Soar and the Loughborough Navigation by Brian Williams, page 188. (Master of Philosophy thesis). Available from the Loughborough University Institutional Repository: <https://dspace.lboro.ac.uk/2134/27123> Accessed 20/04/2018.

[iii] From searches of the British Newspaper Archive online source. Accessed 30/03/2018.

[iv] Sales particulars held by the Leicestershire, Leicester and Rutland, Record Office (LLRRO) under reference DE2857/121/3 or DE4686/22. The Upper Mill is Lot 136.

[v] The ancient water-mills at Loughborough by Rev WGD Fletcher, pages 204-218 in Bygone Leicestershire. Published by Frank Murray and others, 1892. Available from: <https://archive.org/details/bygoneleicesters00andriala> Accessed 30/03/2018.

### 14. Hastings Family Papers - Papers re road to Loughborough Over Mill.

a. Date. 16<sup>th</sup> May 1796.

b. Relevance. As a business undertaking there must have been an access route for carts or wagons to bring the corn and collect the milled flour. The 1810 sale particulars (see 14 [iv] above) and a 1735 plan<sup>[i]</sup> of the Hastings estates both show the land east of the mill as being in a different ownership from the mill site. In consequence the landowners of the mill would have required some form of right of way over the land nowadays named as Bandalls Farm.

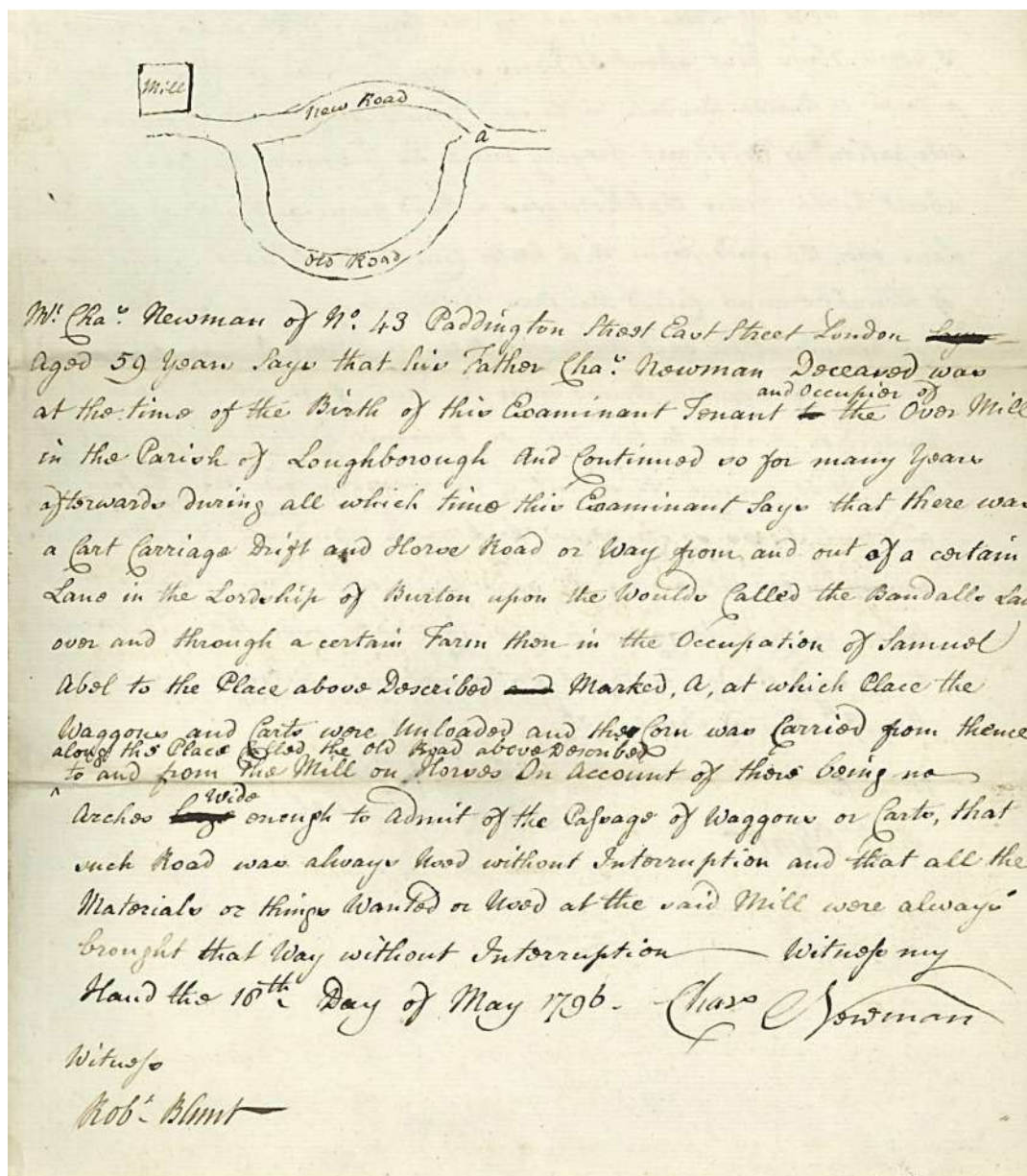
c. Meaning. This is one of two witnessed statements, presumably arising from an unknown dispute about this access. The other similar statement is from a previous tenant farmer of the Bandalls Farm. This statement, from the son of a previous miller at the Over Mill, is noteworthy as it confirms business access was from Bandalls Lane in the Lordship of Burton on the Woulds (sic), east of the mill site, and also that it states this access was a Cart, Carriage, Drift and Horse Road, though whether private or public it does not say.

d. Assessment. This means, if this route, between points A and D on fig 1, was the defined private right of way to the mill, which mill customers used 'by invitation' then the repeated, unchallenged and known use of any other route, over land in other ownerships, was unlikely to be a private right of way.

e. Sources.

[i]The original is part of the Hastings Family Papers under reference HAM box 38 (5) held by the Huntington Library, San Marino, California. An outline and pdf *finding aid* contents list are at: [https://oac.cdlib.org/findaid/ark:/13030/c8d2200p/entire\\_text/](https://oac.cdlib.org/findaid/ark:/13030/c8d2200p/entire_text/)

Fig. 3. Hastings Family Papers - Papers re road to Loughborough Over Mill. 16th May 1796



[ii] Part of the lands in the Manor and Parish of Loughborough (part of the 1735 Hastings estate survey) held by the Leicestershire, Leicester and Rutland, Record Office (LLRRO) under reference;

DG30/Ma/207/1

## **B - CARTOGRAPHIC EVIDENCE OF HIGHWAY STATUS**

### 15. Preliminary survey for the Leicester Navigation

*Fig. 4 Preliminary survey for the Leicester Navigation*



a. Date. c. 1776

b. Relevance. Companies wishing to build navigations were required to ascertain the owners of all the land new canals would pass through or land that would be used for riverside towpaths, as part of preparing for private bills to be presented before Parliament for the powers needed for the navigation's construction. Navigation proposals needed to be well-researched to avoid mistakes and the possibility of the private bill being thrown out.

a. Meaning. The Leicester Navigation Act 1791, its Book of Reference and immediately preceding surveys, all follow a route similar to the one as-built through the fields south east of Loughborough. However, this preliminary survey also includes making navigable the subsequently bypassed section of the River Soar from Bishop's Meadow to Barrow upon Soar including two short sections of canal and locks west and south of Cotes Bridge. The map shows the location of the Upper Mill and leading straight to it from Cotes are parallel broken lines. As on contemporary antique maps, this survey uses solid parallel lines for urban and turnpike roads, and parallel broken lines for minor, local bye roads. The broken line minor roads on this survey all appear on other antique maps, except for this route.

b. Assessment. Details of nearby roads or the layout Cotes hamlet were shown mainly to provide context for the alignment of the proposed navigation. However, the other details on this survey are similar in accuracy to other antique maps and Christopher Staveley subsequently acted as surveyor for other local canal schemes and was then company surveyor for the Leicester Navigation. At Cotes, the proposed section of canal was on the opposite side of the River Soar c250 metres away. However, these broken parallel lines, suggests that whilst there the surveyors observed some traffic that was noteworthy. Seen in isolation this could be viewed as a mistake, but given the context above and together with the evidence below, this suggests they believed this to be some form of public highway.

c. Source. Plan, 4 inches to mile, of River Soar from junction of Wreak to Bishop's Meadow near Loughborough and the proposed canal from Barrow Bridge to basin above the upper lock of the Loughborough Navigation; surveyed by C. Staveley junior. This is held at the National Archives under reference RAIL 849/8.

16. Grand Trunk Railway – Railway Plan.

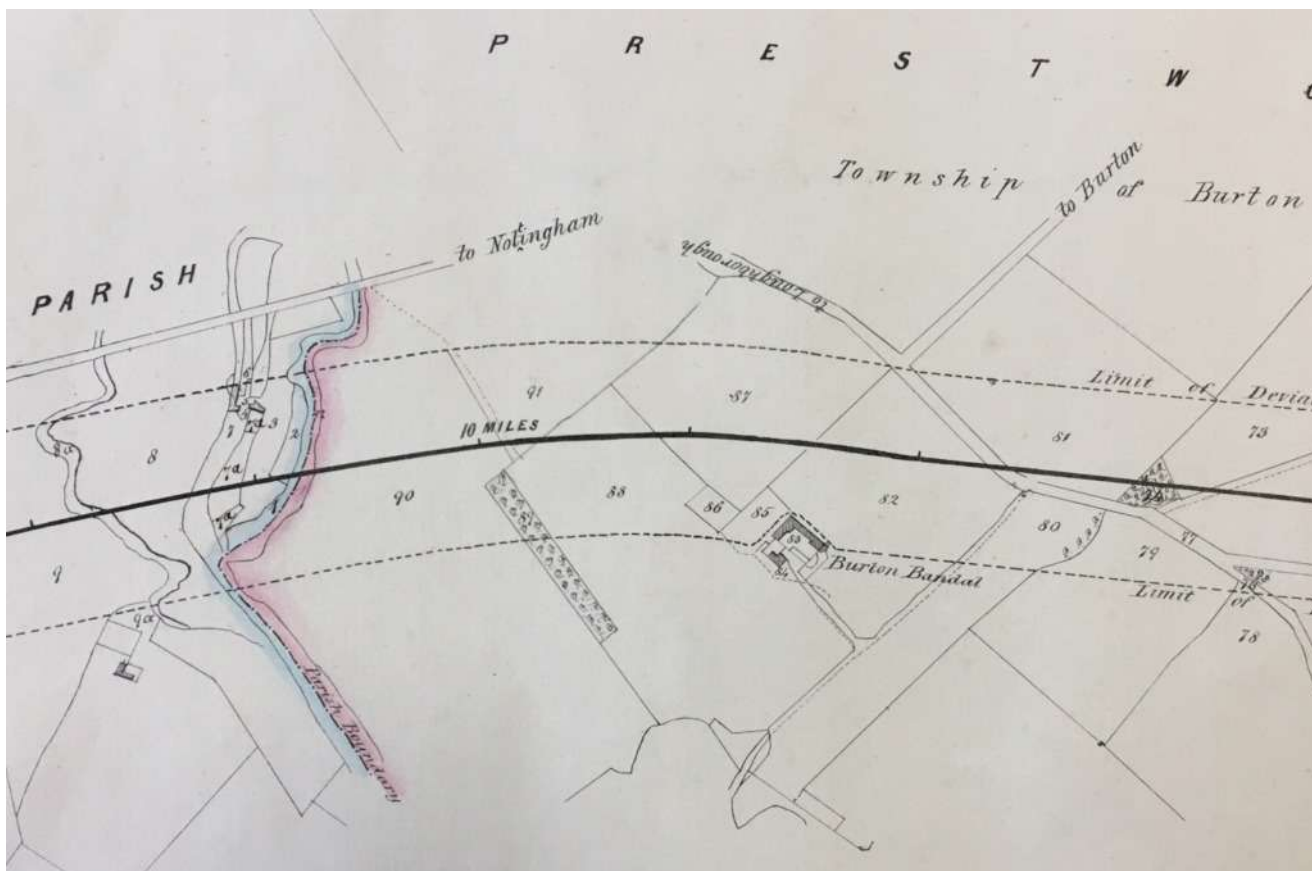


Fig. 5 Plan for the Grand Trunk Railway

a. Date. Annotation on the cover of the plans and sections shows that this copy was deposited with the Clerk of the Peace for the County of Leicester on 8 November 1845.

b. Relevance.

(1) Companies wishing to build railways were required to show the owners of all the land within a certain distance of the proposed railway, and to place this information on deposit so that it could be inspected by the public and objections made, before Parliament would give the powers needed for the railway's construction. Railway records were well researched as mistakes would have been costly, with the possibility of the private bill being thrown out and a rival railway company being given permission.

(2) The plans were put on public deposit, and landowners would have wished to ensure that matters were properly recorded so that their means of access across the railway line were constructed and that any sales to the railway company were at appropriate values.

c. Meaning.

(1) This record relates to the proposed but never built Grand Trunk Railway. The excerpt above of the deposited plan crossing the application route shows the proposed railway line from left to right as a solid line marked with distances in furlongs.

(2) A dashed line corresponding with the northern 2/5 of the application route runs from near the east end of Cotes bridge southeastwards through the land parcel numbered 91 in the Parish of Prestwold. The relevant page of associated book of reference (Fig 6 below) gives the description of the parcel only as 'Grass Land'.

(3) Continuing southeastwards the next land parcel is numbered 88 (*at that time*) in the Parish of Prestwold. The dashed line on the plan ceases. However the relevant page of associated book of reference (Fig 7 below) describes the parcel as 'Grass Land and Foot Road'.

(4) The reference 'Foot Road' does not refer to the mill access road (points 'A' to 'D' on Fig 1) as this is part of parcel number 80 described as 'Grass Land plantation and Occupation Road' (by this date the mill site and Burton Bandals have the same owner). There are two other dashed lines on the eastern edge of parcel 88. One appears to be the boundary with parcels 84 and 85. The other is a fragment which parallels the drive between the farm and the Occupation Road, but such an isolated fragment is hard to equate with being a 'Foot Road'.

(5) Elsewhere the book of reference uses 'Foot Road' for routes that are now recorded on the Definitive Map as public footpaths. For comparison, there are nearby examples between the villages of Burton on the Wolds and Walton on the Wolds which the railway was proposed to pass between. On these plans there are dashed lines which correspond with current public footpaths H97 and H98. In the book of reference, H98 is described as a 'Foot Road' and H97 is described as a 'Horse Road' (which is the same description as used for this route on a 1834 sale plan for the Burton Hall Estate).

(6) Also it must be noted that there are numerous minor detail errors on the plan and book of reference, with several annotated textual corrections and, outside the Limit of Deviation, a section of the road to Burton (on the Wolds) veers-off quite inaccurately.

d. Assessment. This railway scheme was proposed at the height of the so-called 'railway mania' and, like some other schemes at the time, this one never completed all its parliamentary stages. Particularly given the detail errors noted in (6), the dashed line (2) and description 'Foot Road' (3) could also be viewed as mistakes. However, the dashed line in parcel 91 is on a similar alignment to the surveys above and below. And as with footpath H97, and in other locations, the description 'Foot Road' equates to current public footpaths.

Once again, taken together with the evidence above and below, this suggests the railway surveyors understood there to be a public right of way on this alignment.

e. Source. The plans and book of reference are held by the Leicestershire, Leicester and Rutland Record Office (LLRRO), under reference number QS73/40.

Fig.6  
Extract 1  
from the  
Book  
of  
Reference

*The Abstract of Surveys on the Fields in the Parish of Ashford Leicestershire*

Number of Plan	Description of Property	Owner or Right Owner	Lessee or Right Lessee	Occupier
79	Carriage Road	Lord Levenham, Leicestershire	Edward Mordaunt	
80	Foot Road	Henry J. Jones	Samuel Jackson	
81	Foot Road	Lord Levenham, Leicestershire	Samuel Jackson	
82	Foot Road	Henry J. Jones	Samuel Jackson	
83	Foot Road	Lord Levenham, Leicestershire	Samuel Jackson	
84	Foot Road	Henry J. Jones	Samuel Jackson	
85	Foot Road	Lord Levenham, Leicestershire	Samuel Jackson	
86	Foot Road	Henry J. Jones	Samuel Jackson	
87	Foot Road	Lord Levenham, Leicestershire	Samuel Jackson	
88	Foot Road	Henry J. Jones	Samuel Jackson	
89	Foot Road	Lord Levenham, Leicestershire	Samuel Jackson	

*Essentials of Treatment*      *Family of Viridae*

Number of Cases	Description of History	Name of Hospital Doctor	Name of Hospital Room	Diagnosis
90	Group 100	Walter Johnson, Johns Hopkins		Epilepsy, probably more than epilepsy on one of them.
91	Group 100	David Johnson, Johns Hopkins		Epilepsy - probably more than epilepsy on one of them.
92	Group 100 Epilepsy and Huntington's	David Johnson, Johns Hopkins		

Fig. 7

Extract 2 from the  
Book of Reference



17. Ordnance Survey Boundary Remark Book

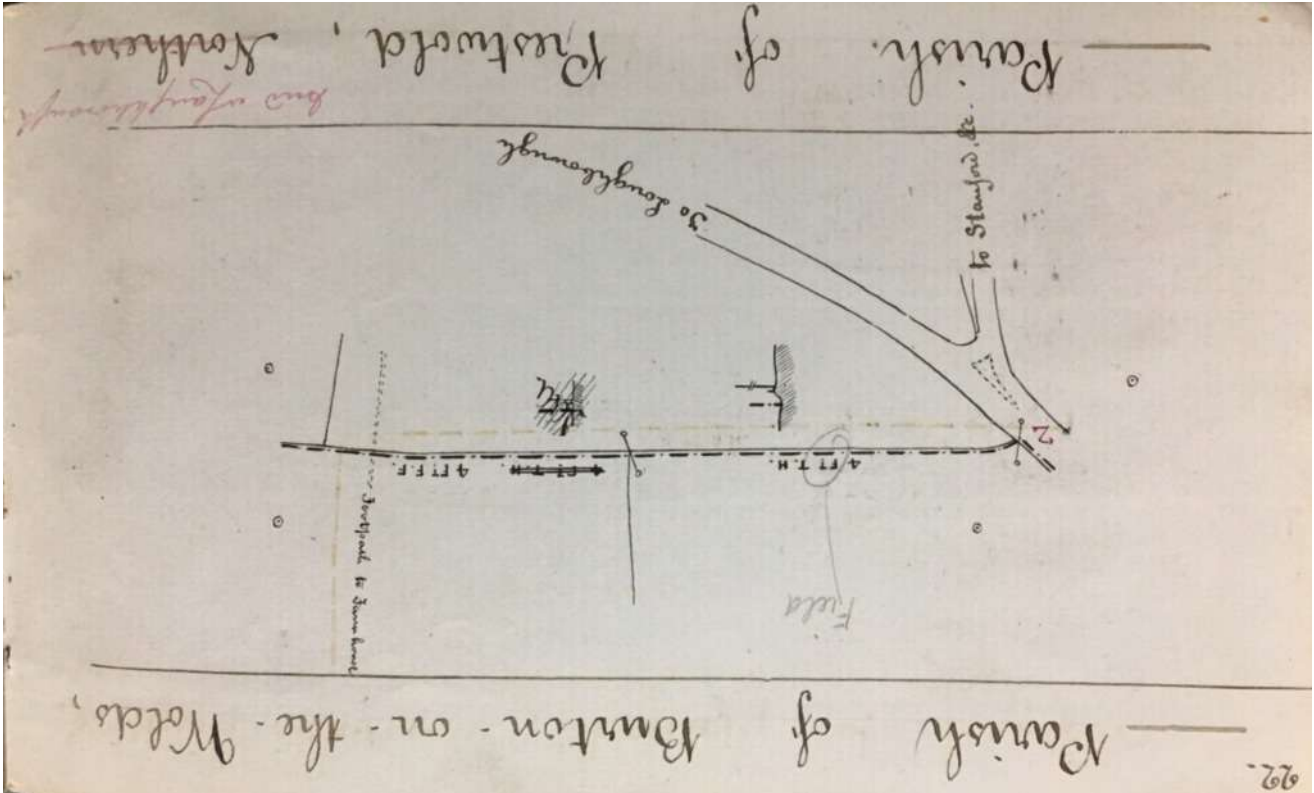


Fig. 8 Page 22 from the Boundary Book - rotated so north is at the top.

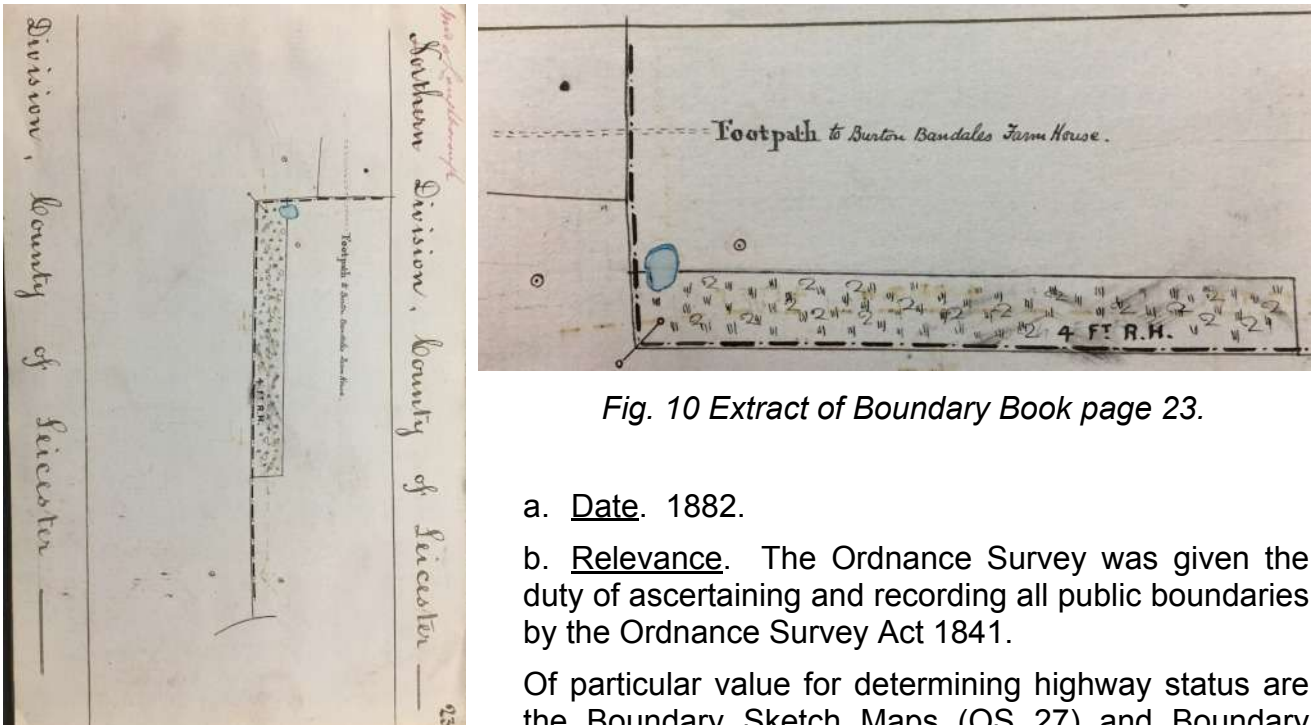


Fig. 10 Extract of Boundary Book page 23.

Fig. 9 Page 23 from the Boundary Book - rotated so north is at the top.

- a. Date. 1882.
- b. Relevance. The Ordnance Survey was given the duty of ascertaining and recording all public boundaries by the Ordnance Survey Act 1841.

Of particular value for determining highway status are the Boundary Sketch Maps (OS 27) and Boundary Remark Books (OS 26). These were produced under Parliamentary authority (the 1841 Act), with the power to summon the Clerk of the Peace and any books, maps, papers or other documents he held (s.5 of the 1841 Act) and under provisions that an offence be committed for

obstructing or hindering the surveyor appointed under the 1841 Act (s.8 of the 1841 Act). The Boundary Sketch Map was advertised for public inspection. The records have been held in official custody, firstly by the Ordnance Survey, and latterly by The National Archives.

c. Meaning. The boundary survey, which was approved by a representative from Prestwold parish, shows the application route (for a distance either side of point 'B' on Fig 1) marked by parallel dashed lines. On page 22 this is labelled Footpath to farmhouse, and on page 23 (see Fig 9) the word Footpath is emboldened for emphasis and it describes it as Footpath to Burton Bandales (sic) Farm House.

d. Assessment. On OS Boundary Remark Books it is unlikely that a purely private route would be labelled, the emboldened word Footpath particularly suggesting public status. The label suggests the route is to the farmhouse. However, the alignment is similar to the 1776 canal survey and, north of point 'B', the Footpath alignment matches that of the dashed line on the 1845 railway survey. South of point 'B', beyond the field boundary, the dashed lines do not angle towards the main farm buildings as the label suggests it should; instead the Footpath continues on the same alignment heading straight for point 'A' and the access to the mill which, by this date, was in the same ownership as the main farm buildings.

It is uncommon for footpaths to be labelled in Remarks books. In this case the local representative was Thomas Cook, the overseer and steward of the Prestwold Estate, the main landowner in that parish

e. Source. The Boundary Remark Book for Prestwold is held at The National Archives under reference OS 26/5501.

#### 18. Second Review of the Definitive Map - Barrow upon Soar Parish Council submission

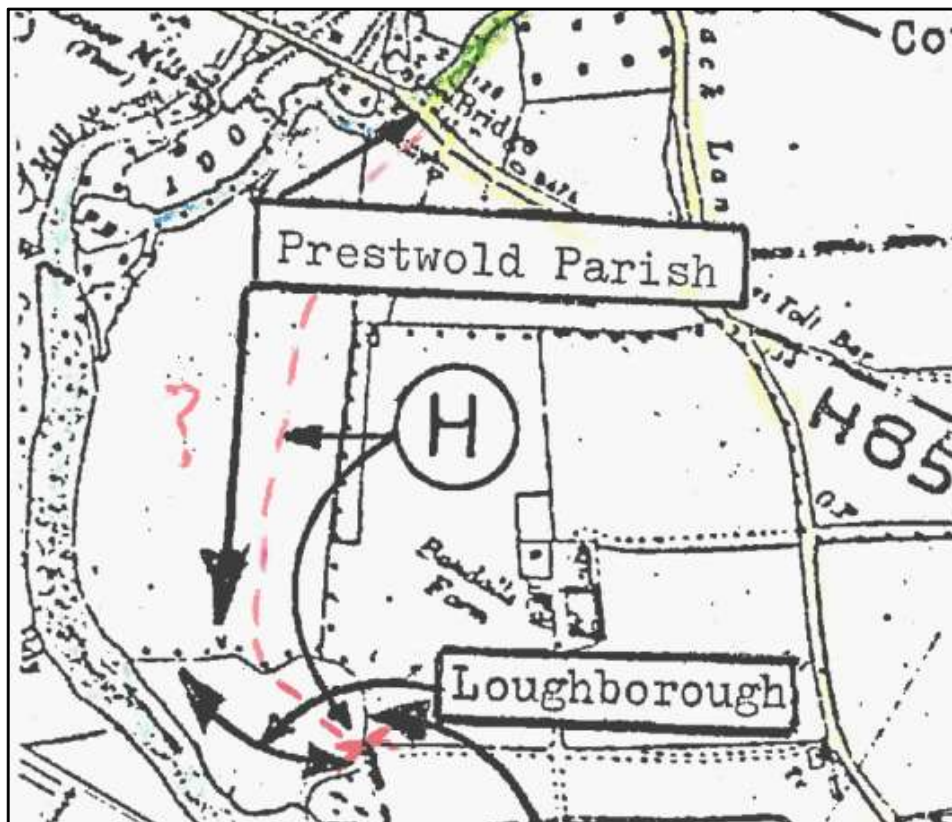


Fig. 11 Excerpt of Appendix I of Barrow upon Soar Parish Council submission

a. Date. 12<sup>th</sup> September 1978

b. Relevance.

(1) The National Parks and Access to the Countryside Act 1949 which created definitive maps also required authorities to undertake periodic reviews to bring the maps and statements up to date. Due to difficulties with this the Wildlife and Countryside Act 1981 replaced this approach with the current continuous review process.

During the 1970s Leicestershire County Council started a second and special review of the definitive map which, though abandoned after the change in legislation, collected submissions from parish councils which are still on file.

(2) The Barrow upon Soar Parish Council sent a specific letter about footpath I15 'due to the number of complaints received ... about difficulties in trying to follow this path'. Other issues concerned the route on the definitive map. The last item noted:

'H) After going through Burton parish the defined path ends at a field boundary instead of continuing into Loughborough and through Prestwold to the Loughborough to Nottingham Road near Cotes Bridges.

We think there must have been a continuation of this path to the road and two Barrow residents have stated that a through route did exist. This is well outside the Barrow Parish boundary but is felt to be of concern to Barrow residents.' ...

(3) To locate the issues raised, the letter included two strip maps as Appendix I, the northern part of which is Fig 10. The red dashes indicate the proposed route. This route is some distance west of the route shown in the evidence above, but is included because it too records a route with the reputation of a right of way between points 'A' and 'C'.

(4) The Burton on the Wolds, Cotes and Prestwold Parish Council also sent a submission for the second and special review. Their letter dated 27 September 1978 notes contact between them and Barrow Parish Council about Footpath I15, though their view is that this right of way should continue from point 'A' to point 'D' so as to form a circular route via Burton on the Wolds village.

c. Meaning. This shows that, 27 years on from the original parish survey, the Barrow Parish Council continued to believe that Public Footpath I15 continued through to Cotes.

d. Source. The submissions from Parish Councils for the Second Review are held at County Hall, Glenfield by the Leicestershire County Council, Public Rights of Way service

19. In 2001 a petition was presented to the County Council seeking the inclusion of this path on the definitive map and statement. As this followed numerous other representations to the same end the authority sought the agreement of the landowner to extend footpath I15 to the Nottingham Road.

The agreement was not forthcoming and the Authority was apparently minded to proceed with an order under section 26 of the Highways Act 1960 on the grounds that it was expedient that a path should be created



LEICESTERSHIRE  
COUNTY COUNCIL

CHIEF EXECUTIVE'S  
DEPARTMENT

ELIZABETH M. McCALLA, LL.B.  
COUNTY SOLICITOR

www.leics.gov.uk

11th December, 2001

PH/PTEPO/445/LR

DATE:  
MY REF:  
YOUR REF:  
PLEASE ASK FOR:  
DIRECT DIALLING 0116 265  
DIRECT E.MAIL

Mrs. P. Hoyes  
6019

Dear Madam,

**PROPOSED EXTENSION TO PUBLIC FOOTPATH 115,  
BARROW UPON SOAR TO COTES  
SECTION 26 OF THE HIGHWAYS ACT 1980**

Following numerous representations and receipt of a petition, the Director of Planning and Transportation has been investigating the possibility of creating an extension to public footpath 115.

The current footpath comes to a dead end just short of Bandalls Farm at the site of an old mill. The path is well used for most of its length and forms a very pleasant walk from the village of Barrow.

The proposed extension would extend the footpath to create a link to the route at Cotes Bridge. The Director of Planning and Transportation is of the opinion that this short link would be a valuable addition to the County's Footpath Network.

The following works would be required on the proposed new route as shown on attached plan No. 1734:-

1. A new stile and way-mark post at point B on the plan.
2. A new stile and way-mark post at the one fence along the route, as marked on the plan.
3. A new stile at point A on the plan.

The new footpath would have a minimum width of 1.8 metres. The above works would be carried out by the Planning and Transportation Department before the footpath became operational.

continued ...

Mrs. A. Pyper,  
The British Horse Society,  
Bulldyke Farm,  
Medbourne Road,  
Hallaton, Market Harborough,  
Leics., LE16 8UH.

2.

The Council has been unable to obtain the agreement of the land owner and so it is envisaged that the Order would proceed under Section 26 of the Highways Act 1980 on the grounds that it is expedient that a path should be created.

I would be grateful to receive your observations on this proposal by the 28th February, 2002

Yours faithfully,

Pauline Hoyes,  
Administrative Assistant

Fig 12

Letter from  
Leicestershire  
County  
Council to the  
British Horse  
Society about  
the most  
recent  
proposals for  
a right of way  
between  
points A and C  
on fig. 1

# Proposed Creation of a Public Footpath Extension of Footpath 15, Loughborough and Cotes

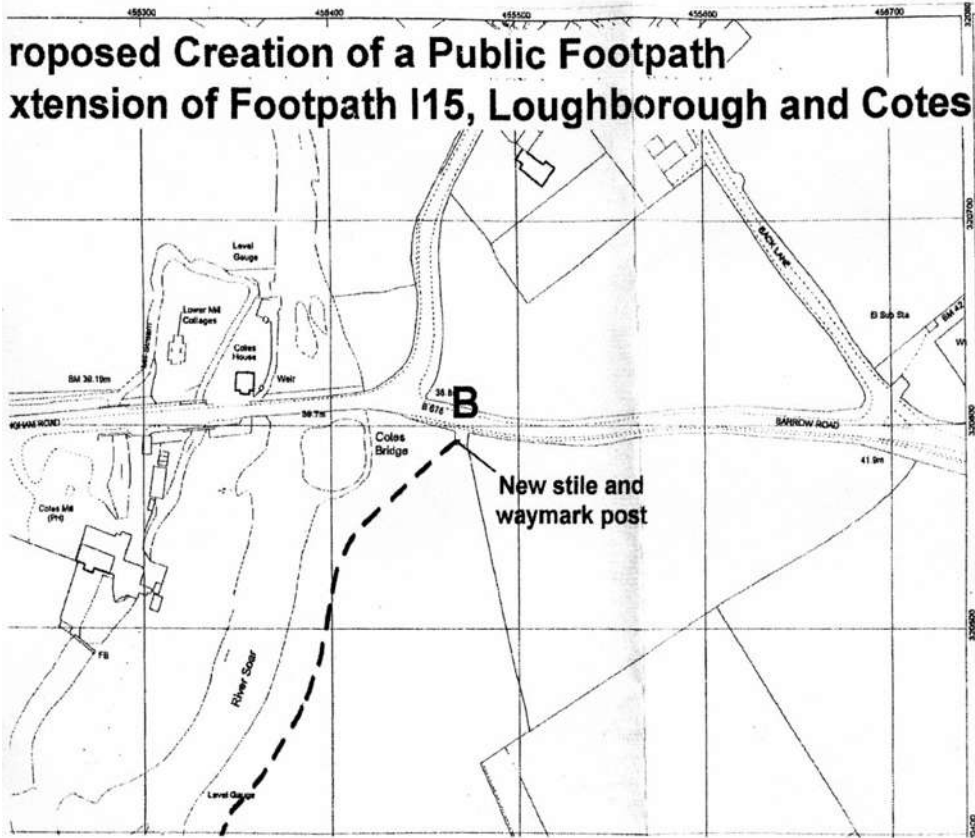
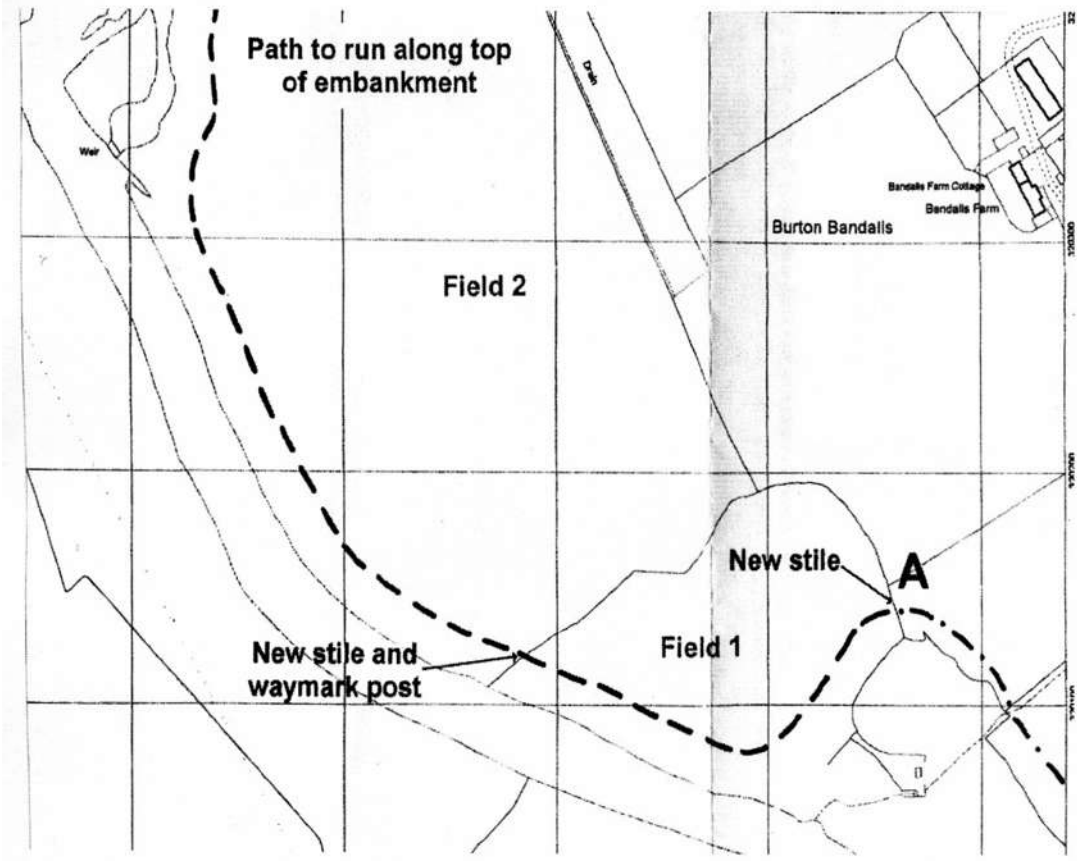


Fig.13

## Consultation Plan



## **OTHER USER EVIDENCE**

20. I travel fairly regularly on a bus from Loughborough to Nottingham which crosses Cotes Bridge. During the period we have been researching this route I have twice from the bus seen walkers crossing the area in question.

One man was walking through the fields towards Cotes and was apparently a leisure walker in that he had a map case suspended from his neck and the other was approaching the field gate to exit onto the road.

21. Stanley Warren, a member of the LLAFF, has confirmed in public meetings that in recent years he has walked the route on more than one occasion

22. John Howells, Chairman of the LLAFF, confirms that he has also walked the route in the past

## **SCIENTIFIC EVIDENCE**

23 Light detection and ranging technology (LIDAR) creates a digital surface model which shows terrain features, buildings, and vegetation etc. and provides a topographic model of the earth's surface. This can be used to create 3D fly-throughs, support location-based systems and augmented simulated environments. In effect it can see features not evident on the surface to the naked eye.

The air photograph (*Fig. 14*) of the suggested line of this ancient path shows nothing whereas the LIDAR scan (*Fig. 15*) clearly shows evidence that there was something there.



*Fig. 14 The air photo.*



*Fig. 15 The LIDAR scan*

a) Relevance

This irrefutable scientific evidence shows that there is some landform as would be the case if over a period of time a line was walked compressing and sinking the surface.

b) Meaning

In the absence of any realistic alternate suggestion it is difficult not to conclude that there was a path there whether public or otherwise. Further the strong indication suggests an original line, well used over a considerable length of time.

There is a lesser line suggesting a divergence more recently from that original line possibly when the mill was constructed and subsequently demolished as the watercourse does appear to have been altered to accommodate this and possibly also when the present road bridge was constructed

## **CONCLUSIONS**

24. The LLAF is an independent statutory body, set up as a result of the Countryside and Rights of Way Act (CRoW) 2000, and exists to represent the interests of everyone concerned with access to the countryside and the public rights of way network including footpaths, bridleways and byways, cycleways and areas of open access. We consider the interests of both users of paths and the land owners / managers. We would not therefore request any addition to the definitive map and statement unless there was a demonstrable public benefit

In this case this was a popular walking route through attractive countryside until it became difficult to do so due to obstructions deliberate or otherwise and it would be again if properly sign posted and freed of obstructions.

Back in 2001 the Authority accepted that there was a public benefit and need, but were to go down the route of creating a path more closely following the river than what we contend is the probably historic route. Speaking to people involved at the time it seems the project was dropped due to safety concerns in respect of the exit onto a busy road.

This is a legitimate concern but could be addressed by the provision of a proper footway along that road or a subsequent diversion of the path to a safer exit point, but this is all irrelevant to our application for the addition of the historic route.

25 Each piece of evidence presented is either evidence of reputation of a pedestrian public right of way, or consistent with there being a pedestrian public right of way, or indicates that public authorities and local residents thought that there were pedestrian rights in this location.

26. While each document could possibly be explained away by another reason, there is no other reason that explains what all of the documents show. It is therefore more likely than not that the explanation for the evidence as a whole is that public pedestrian right of way existed at the times that the various documents were compiled.

27. In examining the evidence as a whole, it will usually be found that the simplest explanation is the best. Suppose that there are three documents capable of being read as providing some evidence of public right of way status. Each of these documents might be able to be explained away by other reasons.

The enclosure award, by recording a route to Cotes, might have meant a route only as far as the Loughborough Upper Mill, the canal survey may have been mistaken or recorded a private lane to the mill, the railway survey referring to a 'Foot Road' may have meant a route around the Burton Bandai (sic) farm building, the boundary remarks book may have meant a private right of way from Cotes bridge to the farm buildings, the LIDAR readings might be tracing an old ditch system.



However, it is unlikely that all of these alternative explanations to a public right of way status will be true for the same path. In such circumstances, the explanation of what the evidence shows is much more likely to be that the route from 'A' to 'C' was a public right of way.

In the absence of positive evidence that these diverse explanations are actually true (as opposed to mere possibilities), the single simple explanation of the facts that a public right of way existed is compelling.

28. There seems little doubt that a path existed although there is limited evidence of the exact route, but the balance of probabilities suggests that it was the direct route indicated on fig 4 in particular.

This was once a popular and well walked public path and if it has never been formally extinguished it remains a public right of way

30. The applicant therefore requests the surveying authority to add the route to the definitive map and statement as a footpath.

Roy J Denney

Vice Chairman, Leicestershire Local Access Forum

C/o Room 700, County Hall, Leicester, LE3 8RJ

([www.leics.gov.uk/laf](http://www.leics.gov.uk/laf))

## **APPENDIX I**

# COUNTY OF LEICESTER

JOHN A. CHATTERTON  
CLERK OF THE PEACE AND  
CLERK OF THE COUNTY COUNCIL



GREY FRIARS  
LEICESTER  
TELEPHONE 20451 (13 LINES)

11th January, 1954.

Dear Sir/Madam,

## Survey of Rights of Way.

BARROW, QUORN AND SILEBY ELECTORAL DIVISIONS  
(Comprising the Parishes of Barrow, Mountsorrel, Quorn,  
Woodhouse, Swithland, Sileby, Seagrave and Thrussington.)  
-----

The County Council is now in a position to hear the objections and representations made concerning the draft Survey of Rights of Way and has arranged for an inquiry to be held at the offices of the Barrow-upon-Soar Rural District Council, 31 Fowke Street, Rothley, at 10.30 a.m. on Tuesday, the 26th January, 1954.

The Inquiry will be held by the Tribunal, appointed by the County Council, composed of the Chairman and Vice-Chairman of the Highways Committee and the County Councillors for the Electoral Divisions concerned.

Each objector will be given an opportunity of appearing before the Tribunal personally or, if he prefers it, he may employ a solicitor or other agent to speak on his behalf. He may also call any witnesses he feels will support his objection. If he does not wish to attend the hearing, or if it is impossible for him to do so, he may put his views before the Tribunal in the form of a letter.

After an objector has stated his case, the Parish Council and the District Council will be given the opportunity of commenting upon it. The Tribunal has no power to make a decision, but will in due course make a recommendation to the County Council whose decision will subsequently be communicated to the objector, who then has certain further rights to make representations or objections, or, in certain circumstances, to appeal to the Minister of Housing and Local Government.

I shall be glad to know whether you intend to be present at the Inquiry.

The objections will be heard in the following order:-

1. Objection by:-
  - E.W. Gregory, Esq. )
  - J. Jamieson, Esq. )
  - W.J. Lorrimer, Esq. )
  - G.T.W. Powell, Esq. )
  - A. Wooding, Esq. )
  - V. Woods, Esq. )
  - J.E. Harvey, Esq. )
  - T.G. Wilkinson, Esq. )
  - and
  - E.C. Turner, Esq.
2. Objections by
  - A. Burrows, Esq.
  - (a) Alleging that the way running north-north-westwards from Anstey is a footpath and not a bridle way.
  - (b) Alleging that the line of the footpath from Anstey to Cropston is incorrectly shown on the Draft Map.

3. Objections by Messrs. John German & Son.
- (a) Alleging that the way running south-eastwards from Swithland to the Cropston/Rothley Road is not public.
- (b) Alleging that the way running southwards from the Cropston/Rothley Road to the Thurcaston/Swithland Road is not public.
4. Representation by J.A.F. Divine, Esq.
- Alleging that a footpath from Hangingstone Lodge, Woodhouse Eaves, north-eastwards across the Golf Course has been omitted.
5. Objection by the Woodhouse Eaves Parish Council, J.B. Thomas, Esq. and E. Reynolds, Esq.
- Alleging that the way from Beacon Road to Maplewell Road, Woodhouse Eaves is not public.
6. Representation by E.C. Turner, Esq.
- Alleging that a footpath from Shepshed Road to Beacon Hill has been omitted.
7. Representations and Objections by the Leicestershire Footpath Association, the Loughborough and District C.H.A. Rambling Club, the Loughborough and District Footpath Users Committee, and the Ramblers' Association.
- (a) Alleging that a path from the Barrow/Sileby Road north-eastwards along Heyhill Lane has been omitted. (270)
- (b) Alleging that a footpath from Betty Henser's Lane, Mountsorrel, north-eastwards to the path to the River Soar has been omitted. (271)
- (c) Alleging that a footpath from the Barrow/Prestwold Road north-westwards to the Parish boundary has been omitted. (275)
- (d) Alleging that a path leading out of the Swithland/Cropston Road from a point 400 yards north east of Exning Spinney and proceeding south-westwards has been omitted. (23)
- (e) Alleging that a path from a point opposite the Leicester City Water Works northwards to the Swithland Road has been omitted. (25)
- (f) Alleging that a footpath eastwards from Garat's Hay, Woodhouse, has been omitted. (61)
- (g) Alleging that a footpath running eastwards from a point 173 yards north of St. Mary's Church, Woodhouse, has been omitted. (62)
- (h) Alleging that a path from Rushyfields Lane, Swithland, near the railway bridge, running northwards has been omitted. (186)
- (i) Alleging that a branch of the footpath from Sileby to Mountsorrel running south-westwards to Mountsorrel Lane has been omitted. (34)
- (j) Alleging that a footpath from the Public House to Church Lane, Thrussington, has been omitted. (281)

- (Similar representation made by R.W. Grigson, Esq.)
- (k) Alleging that a footpath from Church Lane to Back Lane, Thrussington, has been omitted. (282)
- (Similar representation made by the Ramblers' Association and by R.W. Grigson, Esq.)
- (1) Alleging that a footpath along the towpath of the River Soar from Sileby Mill to the Mountsorrel/Sileby footpath has been omitted. (20)
8. Representations by R.W. Grigson, Esq.
- (1) Alleging that a footpath from Swan Street to King Street, Seagrave, has been omitted.
- (2) Alleging that a footpath from Little Church Lane to Mountsorrel Lane, Sileby, has been omitted.
- (3) Alleging that a footpath from The Hollow to Seagrave Road, Thrussington, has been omitted.
- (4) Alleging that a footpath on the east side of Victoria Road, Woodhouse Eaves, has been omitted.
- (5) Alleging that a footpath from Castledene Avenue to Barrow Road, Quorn, has been omitted.

-----

Yours faithfully,

JOHN A. CHATTERTON,

Clerk of the County Council.

SURVEY OF RIGHTS OF WAY.

Barrow, Quern and Sibley Electoral Divisions.

Hearing - 26th January, 1954.

Present:-

Mr. J.J. Sparrow	}	Representing the County Council.	
Mr. W.E. Warner			
Mr. H.R.S. Clifford			
Mr. S. Dimmeck			
Mr. A. Wooding	}	Objectors in the first case.	
Mr. G.H. Sanders			
Mr. J.E. Harvey			
Mr. E.C. Turner			
Mr. A. Burrows			
Mr. H.R. Stewart		Representing Messrs. John German & Son.	
Mr. H. Dix		" the Woodhouse Parish Council.	
Mr. E. Reynolds			
Mr. S.J. Pick	}	Representing the Leicestershire Footpath Association.	
Mr. E. Tyler			
Mr. E.W. Parkinson	}	Representing the Sibley Parish Council.	
Mr. P.C. Church			
Mr. A. Smith			" the Mountsorrel Parish Council.
Mr. L.G. Clarke			" the Barrow Parish Council.
Mr. L.R. Dolman		" the Barrow-upon-Soar R.D.C.	

. F.A. Mallett, Mr. T.D. Newman and Mr. L. Black.

The objections were heard in the order shown on the attached list.

Objection No.1.

Mr. Wooding: "When the Barrow-on-Soar Parish Council supplied these paths they decided to include everything that was on the Parish Award whether it was known or not. One or two were interested in certain paths, but we did not think it right to use our position on the Council to disagree. It was for people to make objections later. This particular path ~~had~~ certainly used to exist, but the Parish Council did not walk it at the time, in fact they could not walk it. There used to be a mill called the Upper Mill just off this map and this path, I believe, was used by the workpeople who worked at this mill. The path went all the way from Barrow to the Mill and from the mill to Cotes and people who lived at Cotes also used the path.

"About 40 years ago the mill was pulled down and the weir blown up and since the Great War this path has not been used. The Parish Council has in its possession a map and representatives of the Footpath Association tried to trace this path in the 1920s and they got a certain distance and had to give up. They pencilled on the map how far they got. This Act we are discussing now does not override the old rule that if a path is not used for 20 years it ceases to exist."

Mr. Mallett stopped Mr. Wooding for a moment whilst he <sup>outlined</sup> ~~referred to~~ the law on the matter.

Mr. Wooding: "Another point which is not clear is that it is not shown on which side of the hedge the path goes. We claim that there is no path."

Mr. Sparrow: "Are you trying to say that non-use has made it no longer a path?"

Mr. Wooding: "If we trace the path from the Cotes Road it goes across the Grammar School new playing field; then there is a hedge, in the hedge there is a stile and a plank across the stream; then the path goes down diagonally across Mr. Lorrimer's field to the railway. People do use the path, but they cannot get anywhere and have to go back the same way. Beyond Mr. Lorrimer's field there are 17 hedges, 2 major streams and many ditches. None of the stiles or streams are impassable, you can jump the ditches. There is no plank or stile for the whole length of the path except this one between the playing field and the railway. Mr. Lorrimer and Mr. Powell have both lived there for 12 years.

"There is another point about this path. Walton Parish Council decided that the path no longer existed and they did not include it on their map. The path suddenly stops in a field; it goes nowhere and if anyone used this path they would walk along the path until it stops dead and the only way out is to retrace their steps. The path must go somewhere and if Walton has decided that it is closed and that a path does not exist it is just a nuisance."

Mr. Mallett: "How long have you known this path?"

Mr. Wooding: "I bought my house in 1929 and there was no sign of the path then. I have actually lived there since 1935."

"I also state that the bit across Mr. Lorrimer's field went to a ford before the canal was built and people used the ford to cross the river and walk to Loughborough and that is possibly why only one bit of the path is still shown."

~~Mr. Saunders.~~ Mr. Sanders: "I have been living at this farm for 30 years and have never known anyone to use this path - only people with dogs and ferrets."

Letters from Mr. Gregory and Mr. Woods (also objectors to this path) were then read to the Tribunal.

Mr. Turner: "I would like to support Mr. Wooding in his contention that the path serves no useful purpose; that there would be no exit from the northern end, which is merely a point in a field. There is no benefit to the public in using the path which ends up nowhere. There are two further points, one is that there is no footpath or right of way shown on the 1921 edition of the 25" O.S. Map, at any rate as far as the northern side of the path is concerned. There is a dotted line shown across the Grammar School grounds. There is no indication of any footpath. I am speaking in particular about land owned by the County Council which is at the southern end of the footpath covering about six fields.

"One further point. There is in the railway boundary close to the village of Barrow at the southern end of the path a kissing gate; that seems to indicate that the path goes across the railway. The line of the path which is shown is all the way on the north-east side of the railway and not as if it crosses it. There is no evidence of any footpath, ditch crossing or stile from Mr. Lorrimer's land northwards. Passage is extremely difficult. I think Mr. Wooding's account of the history of no passage across these fields is correct

that path was used to gain access to the Mill. The Mill has now been demolished and there is nothing there except rushes and reeds. The footpath, if any, ends in a bog and it is impossible to get on at all."

letter had been received from Mr. G.H. Green of the Loughborough and District C.H.A. Rambling Club concerning several of the objections on the list and the paragraph relating to this particular objection was read to the Tribunal.

Mr. Harvey: "I have lived in Barrow since 1913 and have been a tenant of a farm for 25 years and I have never know anyone to use the footpath in my time. It is impassable and there has never been any sign of footbridges or anything. I have no knowledge of its being used as a footpath. I heard one old resident talk about it when I was a boy. I have never seen anyone use it myself, there is no sign of a footpath across the land.

Mr. Clarke (on behalf of the Barrow Parish Council); read his statement, a copy of which is on the file and continued: "It is many years ago since I walked the whole path and I do know that I walked nearly to Mr. Wooding's estate. I know it is used very little and the occupiers of the land make it very difficult for people to use it. I used this path in the summer and it is one of the most beautiful walks in Barrow. The last time was about four years ago."

Mr. Sanders: "I have never shifted the plank, it has been there ever since I have been there, I have never shifted it and then put it back."

The District Council had no comments to make upon this objection.

Mr. Dimmock: "The District Council was concerned that the County Council should put the entrance to the footpath on the map. There is no evidence of the path across the newly constructed playing field. There was no plank across the dyke at that time, which was about 6 or 8 months ago. There was a stile, but no plank. I do not know the path well."

Mr. Sanders: "They must have got to the wrong stile because the plank has never been moved."

Mr. Wooding: "The root of my objection would go if the path went to Cotes Mill. As it is not proposed to show it beyond this point ..... It does not go anywhere, it just stops in a field."

Mr. Tyler (of the Footpath Association); "I met the members of the Barrow R.D.C. a few years ago in respect of this path and we examined the Inclosure Award. It does describe a right of way going through these particular fields. There is no doubt ~~that~~ a path because there are references in the Inclosure Award to names which are still reflected. The path described in the Inclosure Award went across this west side of the road. There is not a great deal of evidence of the path on the ground and it is possibly because there is no evidence that some editions of the O.S. map have omitted it. They normally record evidence on the ground, but the fact that it does exist is evident from the Inclosure Award and we wish to support the retention of this path on the map.



" In my opinion the path which goes to the railway is a diversion from the path which we are now considering. The footpath is not strictly the one we are considering."

The Tribunal agreed to recommend that this objection should be rejected.

Objection No.6.

Mr. Dix: "This path has been established since our Survey was sent in."

Mr. Turner: "It is a road from the Shepshed Road to the Woodhouse boundary of the Beacon which is open to the public and the footpath has quite recently been created by the County Council, as owners of the land, with the object of giving access to the Beacon. There is no reflection upon the Parish Council for having left it off. The path is open, but a portion of it has been planted with trees and, in order to keep the rabbits out, the trees have been enclosed with wire netting. It is passable, but only in single file at the moment."

The Tribunal agreed to recommend that this path should be shown on the Map.

Objection No.2, parts (a) and (b) were withdrawn.

Objection No.3(a) was withdrawn.

Objection No.3(b).

Mr. Stewart: "The path is built up over this piece. There was no objection to any footpath at the time planning permission was granted. Old and young inhabitants say it was there many many years ago. All the rest of the path has gone. There are two barbed wire fences. Our objection to this is that at the northern end of the alleged footpath an area has been built up facing Station Road, Cropston, and to follow the path as far as one can see, one would have to pass through somebody's house or through the garden. There is no evidence of any track whatsoever. There are two barbed wire fences and there is no evidence of any provision for getting through the barbed wire. I have questioned a number of local inhabitants both old and young. When it was all open ground people did stroll across, but, as you will see, the distance by road is very little more than by the path. Where the track would run would be about 400 yards and perhaps it would be 600 yards by the road. There is no reason for any path to have been there."

Mr. Sparrow: "Does anyone wish to speak about this?"

Mr. Tyler: "I have used that path many years ago. At the northern end at one time there was a perfectly good stile in the corner which has now been overgrown. At one time provision was made for crossing the barbed wire, but that provision has gradually gone with the stile. I do not think there is any doubt but that it has been a public right of way for many years and is now obstructed."

There were no comments from either the Parish Council or the District Council.

The Tribunal agreed to recommend that this objection be rejected.

Objection No.4.

The letters received from Mr. Divine were read to the Tribunal.

The Footpath Association stated that they had no evidence that there is a footpath.

The relevant portion of the letter from Mr. Green was read to the Tribunal.

Mr. Dix: "We think it is a beauty spot, but we are concerned with facts and those facts are that the ground used to belong to the Herrick Estate. People were given passes to allow them on the beauty spot. When I was given the job of carrying out this survey we could find no evidence whatsoever of any path at all across the golf course. Although paths exist and by courtesy of the Golf Club we are allowed to use them there are notices of privacy at every entrance to these paths. They have never refused entry, but it would be wrong to say that there are footpaths through this particular area. At our meeting members of the Parish had a minute recorded which states:-

That whereas the Hangingstone Rocks are open to the public, no footpath could be established across this area and this was agreed by the meeting.

The Tribunal agreed to recommend that this objection should be rejected.

Objection No.5.

Mr. Reynolds: "I have known this area for 40 years and when it belonged to the Beaumanor Estate the gates were always locked and tenants used to be told that if anybody came they were to ask them to stop and they were not allowed to go further and if anyone has come they have always been asked if I minded them going and I do not think for one moment that there is a path and I have asked old people and they do not know the path. It was just to accommodate workmen going from one farm to another."

Mr. Dix: "I feel that this path was shown on our draft map by accident. We wrote a number of letters in which we pointed out to the County Council that the path was wrong. They passed the matter to the Barrow-upon-Soar Council and these letters recorded the matter. I have them here if you want to read them. I most definitely support Mr. Reynolds' objection. In regard to the Survey it had become a doubtful path. There is a cart track between the farms and it would look as if people might have gone along the cart track and by that means it has been accepted that it was a way of getting somewhere else. The residents of the village turned it down."

Objection No. 7.

Mr. Pick: "We find that (a), (b) and (c) are unclassified roads, but if they are not put on any maps as rights of way, who is to know? Can they be shown on the maps as a broken line? In one of these cases I was walking over this unclassified road and it went through a farmyard."

Mr. Mallett: "Are they capable of taking cars and lorries?"

Mr. Pick: "No, it would be quite impossible to get a car along and it would be very difficult for a horse to get along because in the condition it was in when I was there two weeks ago the mud was a foot deep."

Mr. Smith: "The reason (b) is not marked on the map is because I was informed it was part of the Highway Authority's job. This is a properly made footpath at the side of the carriageway. It has been repaired by the District Council, who made it higher than the carriageway. The County Council at various times have placed slabs on it. It is very frequently used at all times of the year."

The Tribunal agreed to recommend that this way should be deleted from the Map.

The Tribunal agreed to recommend that (a), (b) and (c) should be shown on the map as roads used as public paths.

Objections (d), (e), (f) and (g) were withdrawn.

The Tribunal agreed to recommend that Hickens Lane, Quorn, should be shown on the map as a road used as a public path.

Objection 7(h)

The Tribunal agreed to recommend that this continuation should be shown on the map.

Objection 7(i)

Mr. Church: "This path is through a field where there are some stones called 'The Devil Stones'. I have walked it many many times."

Mr. Parkinson: "I think if you follow the line of that footpath from the Barrow Road to Sibley, you will find that it continues in a very straight line. I think that little portion was used, but I do not think it was ever officially acknowledged to be a footpath. My forebears really owned the field and it was not really acknowledged as a footpath and I think in the old days they did persistently lock up the gate."

Mr. Smith: "I support it."

The Tribunal agreed to recommend that this path and those referred to in objections (j), (k), and (l) should be shown on the map.

Objection No.8.

The Tribunal agreed to recommend that these footpaths should be shown on the map.

COUNTY OF LEICESTER

JOHN A. CHATTERTON  
CLERK OF THE PEACE AND  
CLERK OF THE COUNTY COUNCIL



11th February, 1954.

Dear Grigson,

Survey of Rights of Way.  
Barrow-upon-Soar Rural District.

I enclose a copy of the report which I propose to submit to the next meeting of the Highways Committee. You have already had a copy of the schedule attached thereto and I understand that you are pressing on with the preparation of the two copies of the modification map. It is, of course, essential that these should be ready for the Highways Committee to see if they so desire and they must necessarily ~~be~~ <sup>be</sup> approved. <sup>them</sup> If you can make it convenient for me to do so, I should very much like to have an opportunity of examining the maps myself a day or two before the meeting.

I do not know what legend you are proposing to use, but apart from an appropriate heading, I think it would be desirable for the maps to bear some wording to show what the colours red, green, purple and broken green mean.

Yours sincerely,

Clerk of the County Council.

R. W. Grigson, Esq.,  
County Surveyor.

NATIONAL PARKS AND ACCESS TO THE  
COUNTRYSIDE ACT, 1949.

Survey of Rights of Way - Barrow-upon-Soar Rural District.  
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REPORT OF TRIBUNAL.

1. The Chairman and Vice-Chairman of the Highways Committee (with two substitute members), having been appointed as a Panel from which a Tribunal should be constituted to hear representations and objections with regard to the draft Rights of Way Map and Statement, report that the hearing of the objections and representations with regard to the draft Map and Statement for the Rural District of Barrow-upon-Soar has now been completed.
2. A Tribunal has sat at Rothley or Loughborough on five occasions and the County Councillor for each Electoral Division comprised in the Rural District has been invited to sit with the Tribunal as an observer when the rights of way from his own Electoral Division were under consideration.
3. An opportunity was given to each person making an objection or representation to state his case either in person or through an accredited representative or, if he preferred, to make his objection or representation in writing. The appropriate Parish Council (or the Chairman of the Parish Meeting) and the Rural District Council have also been given the opportunity of commenting upon the objections or representations.
4. Having heard the objections and representations so made, the Tribunal recommends:-
  - (a) that the draft Rights of Way Map and Statement, insofar as it relates to the Rural District of Barrow-upon-Soar, be modified in the manner set out in the first Schedule hereto and that the Modification Map No.1 produced at the meeting of the Committee be approved.
  - (b) that the Clerk be instructed to give notice of such modifications to the respective makers of objections and representations and in the London Gazette and local newspapers and to take all other steps which may be necessary in order to comply with the provisions of the National Parks and Access to the Countryside Act, 1949.
  - (c) that the objections and representations set out in the Second Schedule hereto be not accepted.
5. In addition to the matters set out in the Schedule hereto, thirty objections or representations which had been duly made were withdrawn during the hearing thereof by the Tribunal.

J.T. Forsell,

CHAIRMAN.

2nd February, 1954.

FIRST SCHEDULE  
Representations and Objections Accepted.

Ref.No. on  
Modification Map.

Determination

In the Parish of Anstey.

- |                     |    |     |   |
|---------------------|----|-----|---|
|                     | 1. | (6) | Add section of footpath from Groby to Anstey.                                   |
| <i>County Road.</i> | 2. | (7) | Add footpath from Anstey/Thurcaston Road southwards to Leicester City boundary. |

In the Parish of Barkby.

- |                    |    |      |   |
|--------------------|----|------|---|
|                    | 3. | (21) | Delete footpath from Beeby Road northwards to old sheepwash.              |
|                    | 4. | (22) | Add footpath from Barkby Thorpe/Thurmaston Road to foot bridge at Barkby. |
| <i>County Road</i> | 5. | (23) | Add section of bridleway from Ridgemere Lane towards Barkby Holt Farm.    |
|                    | 6. | (24) | Add footpath from Main Street to Jack's Bridge.                           |
|                    | 7. | (25) | Add footpath from Vicarage Lane to east end of village.                   |

In the Parishes of Barkby & South Croxton.

- |                     |    |      |   |
|---------------------|----|------|---|
| <i>County Road,</i> | 8. | (26) | Add road used as a public path from Barkby to South Croxton/Beeby Road. |
|---------------------|----|------|---|

In the Parish of Barkby Thorpe.

- |                    |     |      |   |
|--------------------|-----|------|---|
| <i>County Road</i> | 9.  | (27) | Add road used as a public path from Barkby Thorpe/Thurmaston Road to Leicester City boundary. |
|                    | 10. | (28) | Re-align north-western end of footpath from Barkby Thorpe to Hamilton Road.                   |
|                    | 11. | (29) | Delete footpath from Barkby to Barkby Thorpe.   |

In the Parish of Barrow-upon-Soar.

- |                    |     |      |   |
|--------------------|-----|------|---|
| <i>County Road</i> | 12. | (44) | Add road used as a public path from the Barrow/Prestwold Road north-eastwards to the parish boundary. |
| <i>County Road</i> | 13. | (45) | Add road used as a public path from the Barrow/Sileby Road north-eastwards along Heyhill Lane.        |

In the Parishes of Barrow-upon-Soar and Walton-on-the-Wolds.

- |                    |     |      |  |
|--------------------|-----|------|--|
| <i>County Road</i> | 14. | (46) | Add road used as a public path from Walton-on-the-Wolds to Barrow-upon-Soar. |
|--------------------|-----|------|--|

In the Parish of Birstall.

- |  |     |      |   |
|--|-----|------|---|
|  | 15. | (16) | Add footpath from Thurmaston Lock westwards to join footpath crossing the same field from south-west to north-east. |
|--|-----|------|---|

In the Parish of Burton-on-the-Wolds.

16. (65) Add footpath from the Barrow/Prestwold Road eastwards to Burton Road.

In the Parishes of Burton-on-the-Wolds and Prestwold.

17. (60) Delete footpath leading westwards from the Barrow/Prestwold Road.

In the Parish of Cossington.

18. (31) Re-align northern end of footpath from Ratcliffe College towards Fadge Hall and add continuation north-eastwards to Park Hill Lane.

In the Parishes of Cossington and Rothley.

19. (30) Add footpath on north side of river from Cossington Mill to Syston Mill.

In the Parishes of Cossington, Seagrave and Sibleby.

20. (33) Delete footpath with two branches north-eastwards from Ratcliffe College to Park Hill Lane.

21. (32) (51) Add footpath on east side of river from Cossington Mill north-wards to Mountsorrel/Sibleby footpath.  
*with the*

In the Parishes of Cotes and Hoton.

22. (61) Add footpath from Hart's Farm, Hoton, to Cotes.

In the Parish of Hoton.

23. (62) Alter description of way from Hoton to the old quarry from footpath to bridleway.

24. (63) Re-align footpath from Nottingham Road to Back Lane.

In the Parishes of Hoton and Wymeswold.

25. (64) Add footpath running south of and parallel to the Wymeswold/Hoton Road.

In the Parish of Mountsorrel.

- County Road* 26. (46) Add road used as a public path from the Leicester/Loughborough Road north-eastwards along Betty Henser's Lane.

In the Parish of Newtown Linford.

27. (8) Delete footpath from Anstey/Shepshed Road to junction with first bridleway to Swithland Quarry.

28. (9) Delete bridleway from Anstey/Shepshed Road to Swithland Wood Farm.

29. (11) Add footpath from Waterworks north-westward to join footpath from Hallgate Farm.

In the Parishes of Newtown Linford and Swithland.

(10)

Add footpath from east of Hallgate Farm northwards to join bridleway from Swithland to Swithland Wood.

In the Parishes of Newtown Linford and Ulverscroft.

31.

(12)

Delete western loop of path from Leicester/Coalville Road towards Chitterman Hills.

In the Parish of Prestwold.

(66)

Add footpath from Prestwold south-eastwards to the junction of the Prestwold/Barrow and Prestwold/Burton Roads.

(67)

Add footpath running westwards from Burton-on-the-Wolds across Prestwold Park.

In the Parish of Queniborough.

County Road 34.

(34)

Add road used as a public path from Ridgemere Lane to the Queniborough/South Croxton Road.

In the Parishes of Queniborough and Rearsby.

35.

(35)

Delete footpath across site of Ordnance factory.

In the Parish of Quorn.

36.

(47)

Add road used as a public path from Mansfield Street to Barrow Road along Castledine Avenue.

In the Parish of

37.

(6)

Delete bridleway from Rearsby/Gaddesby Road to Beeson's Barn.

(37)

Add Broom Avenue as a road used as a public path.

39.

(38)

Add footpath from Rearsby Church north-eastwards to parish boundary.

In the Parish of Rothley.

40.

(4)

Re-align Rothley end of footpath from Rothley to main Leicester/Loughborough Road.

(5)

Re-align footpath from main Leicester/Loughborough Road to Sibley Mill.

In the Parish of Seagrave.

42.

(44)

Add footpath from Swan Street to King Street.

In the Parish of Sibley.

43.

(50)

Add branch of footpath from Sibley to Mountsorrel running south-westwards to Mountsorrel Lane.

44.

(52)

Add footpath from Little Church Lane to Mountsorrel Lane.



In the Parish of South Croxton.

- County Rd. 45. (39) Add road used as a public path from Ridgemere Lane to Beeby/South Croxton Road.
- County Rd 46. (40) Add bridleway from Beeby/South Croxton Road to parish boundary near Waterloo Lodge.
- County Rd. 47. (41) Add road used as a public path from the South Croxton/Beeby Road south-eastwards along parish boundary.
- 48. (42) Add section of footpath leading south-eastwards from the South Croxton/Ashby Folville Road.
- (43) Add footpath from Main Street to School Lane.

In the Parishes of Syston and Thurmaston.

- 50. (18) Add footpath on east side of canal from Johnson's Bridge to Hope and Anchor.

In the Parish of Thrussington.

- (53) Add footpath from the Public House to Church Lane.
- 52. (54) Add footpath from Church Lane to Back Lane.
- 53. (55) Add footpath from The Hollow to Seagrave Road.

In the Parish of Thurcaston.

- PT. County Road } 54. (1) Re-align each end of the way from Cropston Road, Cropston, to Leicester City boundary and alter description from footpath to bridleway.
- PT. County Road } See deposited map. 55. (2) Add footpath from Bradgate Arms, Cropston, to bridleway numbered 54 and from bridleway numbered 54 to Anstey Lane, Thurcaston, with branch to Thurcaston Church.
- County Road. 56. (3) Add bridleway from Anstey Lane to Leicester City boundary.

In the Parish of Thurmaston.

- 57. (19) Add footpath from Checkland Road to Hollycroft Close.
- 58. (20) Add footpath from Colby Drive eastwards to Barkby Thorpe Road, save where it is within the City of Leicester.

In the Parish of Ulverscroft.

- 59. (13) Add footpath from Ulverscroft Lodge north-westwards to Copt Oak/Woodhouse Eaves Road.
- 60. (14) Add footpath from Ulverscroft Mill westwards to John's Lee Wood.
- 61. (15) Add section of footpath from Copt Oak Farm to Ulverscroft Priory via Ulverscroft Pond

In the Parish of Walton-on-the-Wolds.

- County Road (69) Add road used as a public path from the County boundary near Six Hill westwards towards Walton-on-the-Wolds.
- 63. (70) Re-align footpath southwards from the Cotes/Walton-on-the-Wolds Road to pass west of Walton-on-the-Wolds Church.
- 64. (71) Add section of footpath running south-eastwards from the junction of the Prestwold/Burton-on-the-Wolds Road.
- 65. (72) Add section of footpath running east-north-eastwards from Walton-on-the-Wolds.

In the Parish of Wanlip.

- 66. (17) Re-align footpath from Birstall to Wanlip at its junction with Wanlip Lane.

In the Parish of Woodhouse.

- 67. (56) Delete footpath from Beacon Road to Maplewell Road.
- 68. (57) Add footpath from Shepshed Road to Beacon Hill.
- 69. (58) Add section of footpath from Rushyfields Lane northwards.
- (59) Add road used as a public path along Victoria Road, Woodhouse Eaves.
- 71. (48) Add road used as a public path along Hickens Lane.

In the Parish of Wymeswold.

- 72. (73) Delete footpath running northwards from Narrow Lane.
- 73. (74) Delete fork to the windmill from footpath leading northwards from the Wymeswold/Willoughby-on-the-Wolds Road.
- ~~74.~~ (75) Alter description of way leading northwards from Wymeswold/Rempstone Road from bridleway to road used as a public path.
- ~~75.~~ (76) Add road used as a public path along section of Mushill Lane.
- ~~76.~~ (77) Add road used as a public path running southwards from Narrow Lane, Wymeswold, to join path from Narrow Lane to the parish boundary.

SECOND SCHEDULE.

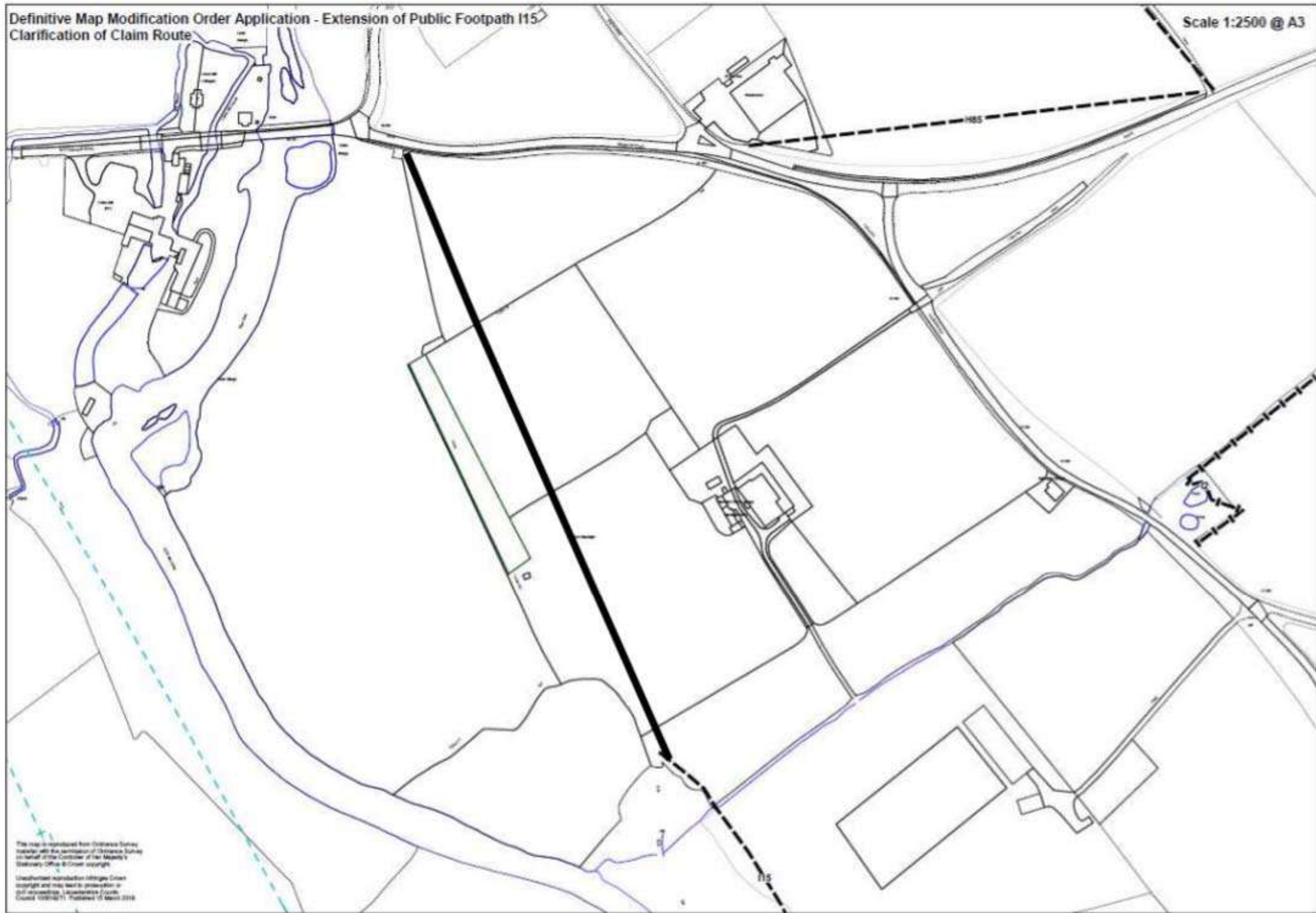
Representations and Objections Rejected.

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1. That there is a footpath from Thurmaston Locks northwards along the River Soar to the weir.
2. That the footpath running south-westwards from Barkby to the Thurmaston parish boundary should be re-aligned.
3. That the footpath from Cotes Road, Barrow-upon-Soar, to a point north of Walton Holme in the Parish of Walton-on-the-Wolds no longer exists.
4. That the way running southwards from the Cropston/Rothley Road to the Thurcaston/Swithland Road is not public.
5. That there is a footpath from Hangingstone Lodge, Woodhouse Eaves, north-eastwards across the golfcourse.

Definitive Map Modification Order Application - Extension of Public Footpath I15  
Clarification of Claim Route

Scale 1:2500 @ A3



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