

NORTH YORKSHIRE COUNTY COUNCIL

PLANNING AND REGULATORY FUNCTIONS SUB-COMMITTEE

27 APRIL 2011

**FOOTPATH NO. 10.40/46, SPRING STREET TO MANOR ROAD, EASINGWOLD,
MODIFICATION ORDER 2010**

1.0 PURPOSE OF THE REPORT

- 1.1 To advise Members of an opposed Definitive Map Modification Order, the effect of which if confirmed would be to add a footpath from Spring Street to Manor Road, Easingwold, through the yard of The Angel public house.

A location plan is attached to this report as **Plan 1**. The route referred to is shown on **Plan 2**, which is also attached to this report.

- 1.2 To inform Members that the matter will be referred to the Secretary of State for a decision on whether or not to confirm the Order and to request Members to decide what stance North Yorkshire County Council should take in making the referral.

2.0 BACKGROUND TO THE ORDER

- 2.1 On 23 August 2004 an application was made under Section 53 of the Wildlife and Countryside Act 1981 for a Definitive Map Modification Order to add a footpath from Spring Street to Manor Road, through the yard of The Angel public house, along the route shown on Plan 2. The application was originally supported by 21 evidence of use forms which indicated that the route had been used by the public "as of right" and without challenge for over 20 years. Aerial photographs were also submitted which showed the line of the claimed route. A further 40 evidence of use forms were submitted between 2006 and 2008. The supporting evidence is set out in detail in Section 3 of this report.

- 2.2 An objection to the application was received from Mr Charles Hobson, who is the owner of the land to the north of The Angel yard. After purchasing this land in November 2003, Mr Hobson was granted planning permission for two houses on the site. As a condition of the sale Mr Hobson erected a fence along the boundary between his land and that of The Angel yard, thereby blocking the route. Officers are satisfied that it was this action which called the right of the public to use the route into question and triggered the DMMO application. Consequently it is the alleged use in the 20-year period prior to this event that constitutes the relevant statutory period for considering whether or not the Order concerned should be confirmed. The two new houses have now been built on the land and are currently let to tenants. The alleged route is not obstructed by either of the two houses although it is possible that the full width of the former track is impinged upon.

- 2.3 Mr Hobson's objection was based on the grounds that:
- a. The claimed route had not been used by the public for the full 20-year period without interruption.
 - b. The user evidence does not all relate to the exact same route.
 - c. At times the route was so overgrown as to be impassable except by using force, and at other times the route was blocked by gates used to enclose large dogs.
 - d. The gate at the southern end of the route, at the entrance to The Angel car park, was regularly locked.

Objector's evidence is set out in detail in Section 4 of this report.

- 2.4 Definitive Map Officers reviewed the evidence both in support of and against the application, and presented a report to the Hambleton Area Committee on 17 November 2008, with a recommendation that an Order be made, as it was believed there was sufficient evidence to show that a right of way was "reasonably alleged" to exist. Members, however, heard the evidence and resolved to reject the application. The Applicant was formally advised of this on 5 January 2009.
- 2.5 On 28 January 2009 the Applicant lodged an appeal against this decision with the Secretary of State. The Secretary of State appointed an Inspector from the Planning Inspectorate to examine the evidence and recommend whether the Appeal should be allowed or dismissed. The Inspector concluded that the Appeal should be allowed as she believed that a public footpath was reasonably alleged to exist, consequently the Secretary of State directed North Yorkshire County Council to make a Definitive Map Modification Order.
- 2.6 A Definitive Map Modification Order was made on 30 July 2010, and was advertised from 22 September 2010 to 2 November 2010. Three formal objections were received, one from Mr Hobson (stating the same grounds as his earlier objection), and others from the tenant of one of the new houses at the northern end of the claimed route, and from the current licensee of The Angel. Both of these were on the grounds of loss of privacy and security, but gave no evidence concerning the alleged public use of the route.

3.0 EVIDENCE IN SUPPORT OF THE APPLICATION

3.1 User Evidence Forms

- 3.1.1 A total of 61 user evidence forms have been submitted between 2004 and 2008.
- 3.1.2 Of the 61 forms, 14 have been withdrawn from the supporting evidence for the following reasons:
- One form was a duplicate, submitted by someone who had already completed a form.
 - One form has been withdrawn at the signatory's request.
 - Four forms have been withdrawn because the signatories used the route for business (one person used it for delivering coal and ice cream, and three police officers used it during their patrols).
 - Three people used it with permission (one person states they had permission from the owners, the other two do not state who gave them permission).

- Three people who completed forms state that they do not believe the route to be public.
- Two users have not given full dates of when they used the route. One of these users also failed to draw the entire route they used on the plan

This leaves 47 valid user evidence forms, showing the route was used regularly by a number of people prior to it being fenced off in 2004.

- 3.1.3 One of the user evidence forms was completed by someone who did not use the route personally, but who had seen people using it from the 1950's up to when it was blocked in 2004. One witness did not give any dates of use on his evidence form, however, he later sent a letter clarifying the dates he had used the route. Both these forms have been included in the supporting evidence.
- 3.1.4 Five witnesses state that they used the route once or twice a year, two people say they used it up to 10 times a year, and 38 people say they used it more than 10 times a year (one person used it daily, four people used it on a weekly basis).
- 3.1.5 Apart from when the route was blocked in 2004 by the housing development, only two witnesses state that they have ever been challenged or prevented from using the route – one by a locked gate at Manor Road, and another by a metal gate at the entrance to The Angel car park (although this witness does not state whether it was locked or just shut). Neither witness gave a date when they found the obstructions.
- 3.1.6 Two witnesses state that there was a gate at Manor Road, but that it was “always undone”, “easy to open and never locked”. One witness states that there were two friendly boxer dogs at the pub.
- 3.1.7 Almost all witnesses (44 out of 47) state that they had seen other people using the route, mostly on foot but also on bicycles and in vehicles.
- 3.1.8 Twenty-two witnesses each have at least 20 years' use of the route which includes the period from 1984 to 2004, when the route was blocked. A further 20 people have used it for part of this 20-year period. A total of 30 people have used the route during the period 1928 to 1984, for varying amounts of time, showing that the route has been used by the public well in excess of the required 20-year period up to when public rights along the route were called into question.
- 3.1.9 Reasons given for using the route include access to shops, library, doctors' surgery, council offices, school, visiting friends and family, which are all bone fide reasons for using a public right of way. There is no suggestion that any of these people were making use of the route to gain access to the public house, which would amount to use by license.

3.2 User Interviews

- 3.2.1 Those 21 people who completed evidence of use forms originally submitted were invited to be interviewed by Definitive Map Officers in Easingwold. Nine witnesses attended and were interviewed on 27 July 2006.
- 3.2.2 One witness remembers a hand gate at the northern end of the route onto Manor Road (from wartime until the late 1960's).

- 3.2.3 One witness said that Mr Goodwin (pub landlord up until 1985) put up fences to keep his dogs in, but a gate was left for access northwards and people knew to close the gate. This witness also said that Mr Brierley (pub landlord from 1985 to 1993) put in the large gate from Manor Road, and that he later cleared the site but you could still get through.
- 3.2.4 Seven witnesses interviewed said that they never saw any signs saying they were not allowed to walk the route, and were never stopped when using it.
- 3.2.5 One witness remembers the dogs in the yard being chained up.
- 3.2.6 One witness said that on a Christmas Day there was a gate across the route, but that it was not locked and you could pass through. She does not remember any other gates at any other time.
- 3.2.7 One witness said she remembers seeing people in the kitchen of the pub as she walked the route, but that nobody ever commented about her using the route.
- 3.3 Other Supporting Evidence Submitted in Support of the Application
- 3.3.1 An aerial photo dated 13/7/1974 shows a trodden line across the field north of The Angel yard. No fences are evident between the yard and the field. Access to The Angel yard from Spring Street is open (no gate is visible in the photo).
- 3.3.2 An aerial photo dated 28/5/1978 shows access to The Angel yard from Spring Street open (no gate is visible in the photo).
- 3.3.3 Two photos dated 26/4/1982, one taken from the Spring Street end of the claimed route, the other from the Manor Road end. The Spring Street photo shows a metal gate (in the closed position) at the southern entrance to The Angel yard. This photo also shows the field as rough grass, with a red metal gate (in the closed position) separating The Angel yard and the field. The Manor Road photo shows the field where the claimed route runs, with no evidence of a fence at this end of the field, just an overgrown hedge with gaps at each end.
- 3.3.4 An aerial photo dated 23/2/1985 shows a fence between The Angel yard and the field, with a red metal gate (left partly open) to the west end of the fence. The field looks to be rough grass, with no obvious fence at the Manor Road end.
- 3.3.5 Two photos, dated 22/6/1988, show the field at this time has been converted to a beer garden, with a surfaced track along the western edge joining The Angel yard to Manor Road. A post and rail fence separates the beer garden from the track; no gates are visible in the photo.
- 3.3.6 A set of 20 modern photos taken by the applicant showing the claimed route, the gate at the Spring Street entrance to The Angel yard, and the alternative routes via the Post Office Slip and alongside of the roads.
- 3.3.7 A copy of the Tithe Award and plan, showing the area crossed by the claimed footpath as apportionments 297 (garden), 299 (Angel Inn and Yard) and 300 (garden). There is no suggestion within the document to indicate a public route.
- 3.3.8 In 2010, the Applicant told Definitive Map Officers that she has some new evidence in support of the application, concerning discussions about the planning application, but has not yet submitted this.

4.0 EVIDENCE AGAINST THE APPLICATION

- 4.1 Objector's Evidence - Mr Hobson (owner of the land to the north of The Angel yard) objected to the application, and also lodged a formal objection after the Order was made. In his objection, Mr Hobson sets the relevant 20-year period as July 1984 to July 2004. The fence separating the land purchased by Mr Hobson from The Angel yard (which had to be erected as a condition of the purchase contract) was erected in, or just prior to, July 2004. Mr Hobson's objection can be summarised as follows:
- 4.1.1 The aerial photo dating from 1974 shows the trodden line across the field on a different alignment to that claimed in the application. Later aerial photos do not show a trodden line, as the field was so overgrown as to be impassable. Much of the user evidence relates to a different route to that which is subject to the Order.
- 4.1.2 Mr Brierley (landlord of The Angel from 1985 to 1993) locked the Spring Street gate every New Year's Day, on the understanding that this would prevent a right of way being established, and thereby complying with the terms of this lease. Mr Brierley also locked the gate on other occasions (eg, market days) to prevent unauthorised parking in the pub car park.
- 4.1.3 There was a fence across the boundary of The Angel yard and field to the north, erected by Mr Goodwin (landlord prior to Mr Brierley), and used to keep in his large boxer dogs. The presence of the fence and large dogs running loose would have been a deterrent to users of the route.
- 4.1.4 Although the requirement in the lease to prevent a right of way being established was not publicly available, and therefore not sufficient to show no intention to dedicate, the actions by Mr Goodwin (fencing and keeping dogs loose in the yard) and Mr Brierley (locking the gate on New Year's Day and market days) were overt actions that the public would have noticed, thereby showing no intention to dedicate a right of way.
- 4.1.5 No objections to the proposed development were received from users of the route, even though it would mean closing off of the claimed footpath. Notices advertising the planning application were clearly displayed on site so users of the claimed path would not have missed them. Hambleton District Council also wrote to neighbouring properties to inform them of the planning application.
- 4.1.6 Users almost all state in their evidence forms that the route was wide enough for a car to pass along it. This can only apply to the route after Mr Brierley had cleared the land to create a beer garden and access track for brewery vehicles (1986/7), therefore the route as described by users can only have been in existence for 16 to 18 years before the cut-off date of July 2004, and not the required 20+ years.
- 4.2 Summary of Counsel's Opinion - Mr Hobson asked Counsel to advise on the application. This advice is summarised as follows:
- 4.2.1 The claimed route is not the same as the route that appears to have been used in the 1970's (as shown on aerial photos of that time). The trodden route shown in the aerial photo was obstructed by a fence after the Baker Store was erected (the Baker Store is shown in the aerial photo of 1977/8). The evidence of use of the trodden line cannot therefore be relied on to support the application.

- 4.2.2 There was a hedge and fence along the northern boundary with Manor Road. Users would have therefore had to climb the fence or push through the hedge, using force and therefore not using the route “as of right”.
- 4.2.3 If the public had been walking through the enclosed area securing Mr Goodwin’s dogs, opening and closing gates, this would have frustrated Mr Goodwin’s objective of securing his dogs within this area.
- 4.2.4 The Spring Street gate was present throughout the 20-year period, and was closed every night for security purposes. Any use of the route when the gate was closed would have entailed climbing over the gate, and therefore not using the route “as of right”. The gate had also been regularly locked during the 20-year period, interrupting use of the route.
- 4.2.5 The planning application for a development over part of the claimed route, submitted during the relevant 20-year period, is also evidence of no intention to dedicate.
- 4.2.6 The public did not use the route for the whole 20-year period (July 1984 to July 2004), because
- for the early part of that period large dogs were kept loose in an enclosed area of the yard where the claimed footpath runs;
 - before 1986/7 the northern part of the route, through the field, was so overgrown that people could not have walked through it; and
 - user evidence forms all claim the route was of significant width and with some form of surfacing. A wide surfaced track did not exist until 1986/7 when Mr Brierley had the land cleared and the track put in.
- 4.3 Other Objections - Objections to the making of the Order were received from the tenant of one of the new houses at the northern end of the claimed route, and from the current licensee of The Angel. Both of these were on the grounds of loss of privacy and security, but gave no evidence about the alleged public use of the route, so cannot be considered as material objections to the Order.

5.0 COMMENTS ON THE EVIDENCE

- 5.1 The Evidence of Use forms indicate that a number of people have used the route, apparently as of right and unchallenged, for a long period of time (well in excess of the required 20 years prior to the right of way being brought into question). These people have used the route believing that they had the right to do so.
- 5.2 Variation in the line of the path used – This could be due to people not being experienced in using maps, being unsure of the exact route taken if use was a long time ago, or because when the route was, in part, across an open field where people may have taken slightly different routes due to the growth of vegetation prior to the laying out of a track in approximately 1986. However, it is acknowledged that the building of the Baker Store and the laying out of the fence to the north of the store in 1977 confined where people could walk. They all used the route for the same purpose – to get from Manor Road to the Market Place/Spring Street and back again – therefore slight variations in the exact alignment of the route on the evidence forms would not invalidate the claim.

- 5.3 Width of the route – People may not have a clear memory if their use of the route was a while ago, also they may find it difficult to give a width for a route across an open field and open yard. As there had been a track present for the last 16-18 years when the route was used, most people would probably remember this and estimate that width. There is also nowhere on the form that states what to do about variations in width, and the question only asks for “approx. width of the path”.
- 5.4 Dogs – The presence of dogs cannot be seen as an interruption to use (eg, many rights of way go across farmyards where dogs are kept). Some witnesses also stated that the dogs were friendly, and that people knew to shut the gates to keep the dogs in.
- 5.5 Overgrown field – Over half of the witnesses (32 people) state they used the route prior to when it was cleared to create the beer garden and track (1986/7). Witnesses state that they used this route as it was the shortest and safest way to get to the shops, or for taking young children to school, or because the gradient was easier than the alternative routes. Aerial photos show the field to be rough grass, but certainly not impassable. The height of vegetation would probably vary during the year. No user evidence refers to overgrown vegetation preventing access at any time during the period of their alleged use.
- 5.6 Fences and gates – Some witnesses state that there were fences and gates, but that the gates were easy to open. As in paragraph 5.5, the nature of some users (eg, those taking young children to school, the elderly, people carrying shopping) means they would not choose to use a route if force or climbing fences was the only way to access the route. Many users have stated in their evidence forms that it was the easiest and quickest (as well as safest) route to the Market Place – it seems unlikely they would have taken that view if they had to climb fences and gates or battle through hedges.
- 5.7 Locking the Spring Street gate – Mr Brierley states that he locked the gate every New Year’s Day in the belief that this would stop a right of way being established. His lease for the pub stated that he must not allow a right of way to be established.
- 5.7.1 Mr Brierley believes he acted in a manner sufficient to comply with the terms of his lease and prevent a right of way being established, but if the public were not aware of this action, it may not have been enough to show no intention to dedicate.
- 5.7.2 One witness has stated that their use of the route was obstructed by a gate at the Spring Street end of the claimed path, and this was only on one occasion, and they did not state whether the gate was locked or just shut. One other person states that they found the gate shut one Christmas Day, but that it was easy to open and did not prevent them from using the route. All other 46 witnesses state that they were never stopped or prevented from using the route, until the fence was erected in 2004.
- 5.7.3 There is no evidence that Mr Brierley ever challenged people verbally when they were using the route.
- 5.7.4 In some of the sworn statements supplied by the Objector, there are references to “shutting” the gate, rather than “locking” it. It is not clear how often it was shut as opposed to locked. An unlocked shut gate would not stop people using the claimed route.

5.7.5 The Applicant has supplied photos showing that there is no obvious means of securing the gate in a locked shut position. However, this may not have always been the case in the past. Also, Mr Brierley mentions closing the gate when non-patrons parked in the yard, as he would then “give them a piece of his mind” before unlocking and opening the gate. If this was indeed the case, it indicates that it was possible for the gate to be locked.

5.8 Lack of Objections to the Planning Application

As far as Officers are aware, there were no objections to the proposed development on the land purchased by Mr Hobson to the north of The Angel yard, where the claimed footpath runs, although users did contact the County Council’s Rights of Way team once planning consent had been issued, and they realised that the claimed path would be blocked. The Applicant has stated that the details on the planning application notice were minimal, and that no reference was made in the notice to blocking up the claimed route. She further states that Mr Hobson’s intentions concerning the claimed footpath would not have been apparent to anyone viewing the planning application.

6.0 COMMENTS FROM THE HAMBLETON AREA COMMITTEE MARCH 2011

6.1 A report for information only, was presented to the meeting of Hambleton Area Committee on 7 March 2011 and that committee requested that its view be made known to the Planning and Regulatory Functions Sub-Committee. Area Committee was unhappy that the Secretary of State had directed the Council to make the Order, despite its resolution in November 2008 that there was insufficient evidence to support the making of an Order. In the light of its previous resolution the committee was disappointed that an officer recommendation is to be made to this Sub-Committee that the County Council should support the confirmation of the Order in its forthcoming submission to the Secretary of State.

7.0 CONCLUSIONS

7.1 In determining whether or not to first “make” an Order following an application that has been made to add a route to the Definitive Map, a Highway Authority has to be satisfied merely that the public right concerned is reasonably alleged to exist.

7.1.1 In this case, following appeal of the County Council’s decision not to “make” an Order, the Secretary of State’s Inspector was satisfied that the test had been met, hence her recommendation that the Order should be made.

7.1.2 However, for an Order to then be confirmed it is necessary to demonstrate that the alleged public right exists “on the balance of probabilities” given the evidence available. This requires an assessment of the evidence of opposing sides, involving careful assessment of the relative values of the individual pieces of evidence and the evidence as a whole.

- 7.2 After further consideration of the evidence Officers believe that the matter is finely balanced, and that there are still some conflicts within the evidence, but that the evidence is slightly more weighted in favour of the Applicant's case. The route has undoubtedly been used by the public since at least the 1960's, and whilst there is some variation of the exact route used at the northern end, this is minimal, and there is no clear evidence that there has been any significant interruption to the public's use of the route. The main doubt is over the issue of the locking of the Spring Street gate, and how effective this was in preventing the acquisition of public rights – Mr Brierley acted in a manner which he believed was sufficient to prevent a right of way being established, but previous cases have shown that unless the action, and the reason for the action, is clearly brought to the attention of the public, it is not enough to prevent rights from being acquired.
- 7.2.1 As there is only one witness out of 47 who states that their route was blocked by this gate (and even then it is unclear as to whether the gate was actually locked), Officers believe that Mr Brierley did not act in a way that was sufficiently overt and noticeable to the public using the route.
- 7.3 Officers believe that all the other arguments against the application do not carry enough weight to counter the claim that the footpath subsists, and therefore feel that on the balance of probabilities that the Order should be confirmed.
- 7.4 The matter must be referred to the Secretary of State as there are objections to the Order, and only the Secretary of State has the power to determine whether or not the Order should be confirmed. However, the County Council needs to decide what stance it wishes to take in its submission to the Secretary of State. The County Council may choose:
- a) not to support the confirmation of the Order if it felt that the evidence did not support the establishment of public rights;
 - b) to take a neutral stance if it felt that, whilst the evidence might have been sufficient to make the Order, there was insufficient evidence for confirmation of the order; or
 - c) to support the confirmation of the Order if it felt that on the balance of probabilities the Order should be confirmed.

8.0 RECOMMENDATION

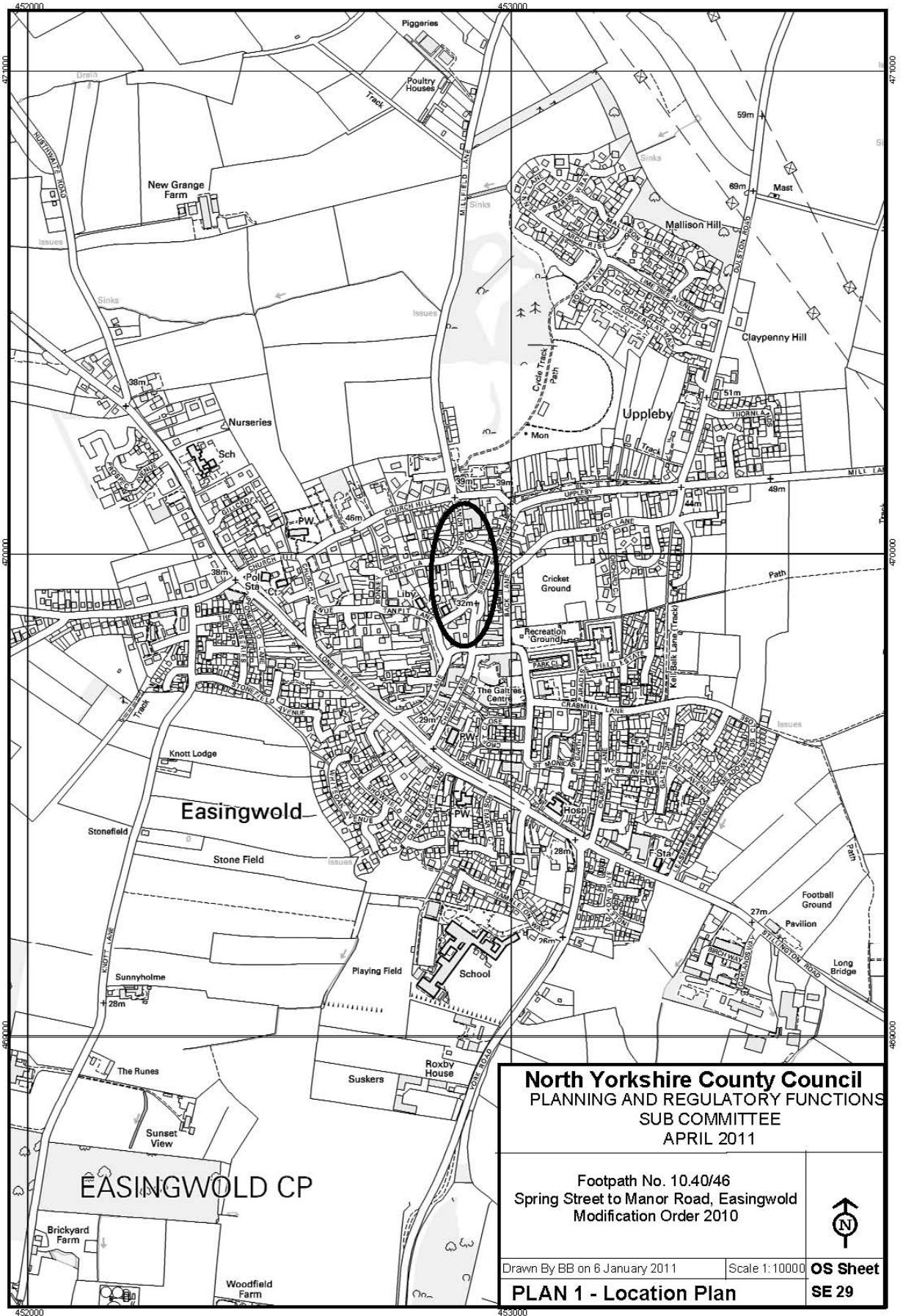
- 8.1 Given the conclusion set out at paragraph 6.3 of this report, it is recommended that the Committee support confirmation of the Order when the Order is referred to the Secretary of State for decision and at any public inquiry that the Secretary of State may hold to assist in determining the matter.

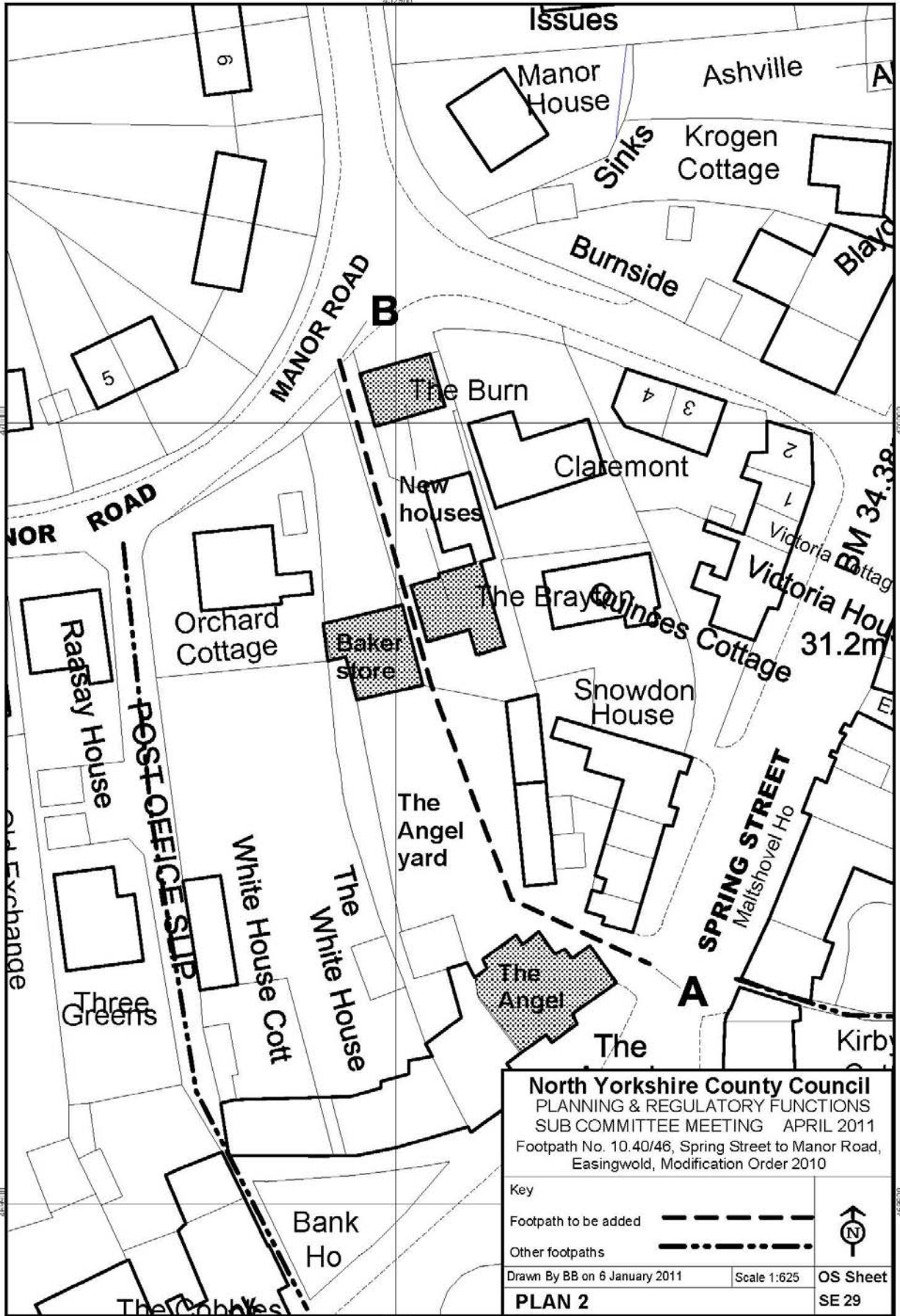
DAVID BOWE
Corporate Director, Business and Environmental Services

Background Papers:

- DMMO application dated 23 August 2004
 - Evidence submitted in support of the application
 - Objections to the application and Order, and evidence submitted against the application
- The documents are held on a file marked: County Council's Planning and Regulatory Functions Sub-Committee, April 2011, Footpath No. 10.40/46 Spring Street to Manor Road, Easingwold Modification Order 2010, which will be made available to members at the meeting.

Author of report: Beth Brown, Definitive Map Officer





Annex A



Report to the Secretary of State for Environment, Food and Rural Affairs

by Susan Doran BA Hons MIPROW

an Inspector appointed by the Secretary of State
for Environment, Food and Rural Affairs

The Planning Inspectorate
Temple Quay House
2 The Square
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Bristol BS1 6PN
☎ GTN 1371 8000

Date: 18 March 2010

WILDLIFE AND COUNTRYSIDE ACT 1981
REPORT INTO AN APPEAL BY MRS H KIRK
AGAINST THE DECISION OF
NORTH YORKSHIRE COUNTY COUNCIL
NOT TO MAKE AN ORDER UNDER SECTION 53(2)

IN RESPECT OF

CLAIMED PUBLIC FOOTPATH FROM MANOR ROAD THROUGH THE ANGEL PUBLIC
HOUSE YARD TO SPRING STREET, EASINGWOLD

File Ref: NATROW/P2745/529A/09/04 (Files 1-4)

Case Details

- This appeal is made by Mrs H Kirk under Schedule 14 Paragraph 4(1) of the Wildlife and Countryside Act 1981 against the decision of North Yorkshire County Council not to make a modification order under Section 53(2) of that Act.
- The application dated 23 August 2004 was refused by notice dated 5 January 2009.
- The appellant claims that the route from Manor Road through The Angel Public House yard to Spring Street, Easingwold be added to the Definitive Map and Statement as a footpath.

Recommendation: I recommend that the appeal is allowed.

Preliminary Matters

1. I have been appointed to report to the Secretary of State for Environment, Food and Rural Affairs on the above mentioned appeal made in accordance with Paragraph 4 of Schedule 14 to the Wildlife and Countryside Act 1981.
2. The evidence comprises user evidence and aerial photographs. I am satisfied that I can make a recommendation on the appeal without a site visit.
3. This report consists of a description of the claimed footpath, the material points made in submissions, my conclusions based on an assessment of the evidence against the relevant criteria, and a recommendation.

Description of the Route

4. The claimed route commences at the corner of Manor Road, Easingwold and passes across a residential development, formerly a grassed field, through to the hard-standing of The Angel Public House ("The Angel") yard (or car park) and on to Spring Street through the entry between The Angel and the end of Spring Street Terrace.

The Case for the Appellant

The material points are:

Background

5. In November 2003 Mr Hobson purchased a plot of land at the rear of The Angel. Planning permission was obtained to build 2 houses and in July 2004 a fence was erected between the land and that of The Angel. This prevented the long standing passage of pedestrians.
6. User evidence forms were completed by residents living near the route of the closed footpath, totalling 60 persons¹. These covered many decades of use. Some

¹ Twenty forms relate to the Claim made in 2004. Further evidence of use was sought by the Appellant following the September 2008 Meeting of the North Yorkshire County Council's Committee which first considered the Application. A number of additional forms were submitted to the Council which, it states, were referred to verbally at the November 2008 Committee Meeting. Some 8 forms were submitted on the date of the November Committee

were completed by the witness, others by the claimant on behalf of the witness². On the basis of this evidence, North Yorkshire County Council ("the Council") wrote to Mr Hobson's Agent stating "The implication of the evidence that we have received is that the route has been dedicated as a public path", and "...we have received sufficient evidence of use from a number of people that fulfils the requirement for a presumption of the creation of public rights." Mr Hobson lodged an objection to the claim³.

The Appeal

7. Officers of the Council recommended a definitive map modification order be made on the basis the claimed route subsists or is reasonably alleged to subsist, and that material contradictions in the evidence should be scrutinised by due process. Members of the Hambleton Area Committee of the Council determined "...they were satisfied that there was insufficient proof that the route had been enjoyed without interruption by the public for a period of twenty years and that the evidence demonstrated that there was no intention to create a permanent right of way and that the application should therefore be rejected." The Councillors did not conduct the balance of probability test which was before them.
8. The evidence adduced by the Objector is disputed. Some is factually incorrect, or is contradicted by photographic evidence and the user evidence forms ("the forms") supporting the application, with use claimed from 1928-2004.

Route of the claimed footpath⁴

9. In 1929, the path was some 2 metres wide over ground to the north of The Angel yard. Some forms refer to a cinder path. It is visible in photographs dated 1972 and 1974 as a linear feature passing through the grass field and past a clump of trees that screened the former blacksmith's forge. Over the hard-standing of the yard, people will have taken the shortest obvious route straight towards the entry between Spring Street Terrace and The Angel. A warehouse⁵ was built in 1977 on adjoining land and its yard fenced off, the fence being near the line of the footpath followed before and after 1977.
10. The footpath continued in use for the 20 year period 1984-2004 with users going through the grassed field passing near to the fenced off yard and through the gate into The Angel yard and into Spring Street. Between April 1985 and November 1991, the publican cleared the grass field and laid a hardcore vehicle track. It was fenced from the remaining land, the fence extending along Manor Road, but was not gated at either end. It covered the route of the footpath and continued to be used by pedestrians. The development now occupying the land includes space alongside the dwellings on the line of the footpath.

² The completed user evidence forms are contained in Appendix 6 of the Appellant's submission, a summary of their contents at Appendix 7 and a bar chart summarising individual use between 1983 and 2004 at Appendix 12 (File 1). See also Appendix 7 (File 4) which cross references the forms numbered by the Appellant and those numbered on behalf of the Objector Mr Hobson

³ The Objection bundle is contained in Appendix 8 of the Appellant's submission (File 2)

⁴ Photographs in Appendix 9 of the Appellant's submission show various features referred to (File 1)

⁵ Referred to as the Baker warehouse

Evidence in support of the claimed footpath

11. In addition to the period 1984-2004 there is evidence of use in earlier years which confirms use of the footpath which had become 'as of right', 'right of long user', and 'prescriptive right of way'.
12. Of those completing forms, 25 had used the footpath over the entire 20 year period, others for a considerable number of years, which taken together fully cover the period. Because of use from 1928, it would not have been possible to prevent the dedication of a right of way along the claimed path. The long standing use of the path is recognised in the Officer's Report of Hambleton District Council ("HDC") accompanying the planning application.
13. A summary of the information collected from the forms has been tabulated⁶. (Seven have been set aside because the users had been granted permission, or they were completed by policemen.) Nearly all those who completed forms had seen other members of the public using the route, clearly demonstrating the footpath was well used. The table shows those people who had obvious reasons for using the route, not just casual use, who lived in or who had a definite reason to visit Manor Road, Church Hill or Millfield Lane (to the north). The claimed footpath continues a straight line with Manor Road and Millfield Lane, and provides the most obvious route for pedestrians wishing to get to the Market Place (to the south). The un-named road linking Manor Road and Spring Street falls steeply and has no pedestrian footways. The claimed footpath descends gradually and avoids vehicular traffic. The nearest public footpath leading into the Market Place, 'Post Office Slip' to the west, is unsuitable for those with mobility problems, with pushchairs, or carrying bags, because of the 'squeeze' where it emerges into the Market Place.

Aerial Photographs

14. Those taken between 1974 and 1988 provide significant, incontrovertible evidence⁷. One dated 13 July 1974 shows the entrance to The Angel yard, un-gated. Beyond the yard is the grass field and trees (site of the former blacksmith's). Leading from the top of the yard along the edge of the trees the footpath can be seen leading up to Manor Road. There is no evidence of a gate or fence obstructing the path at either end.
15. A photograph of The Angel dated 28 May 1978 shows the entry to the yard un-gated. One dated 26 April 1982 shows the yard gated, probably to stop vehicles running into washing hung there, although this would not be an obstruction to pedestrian use. The photograph shows the warehouse built in 1977 and the grass field with the route of the footpath visible to Manor Road. A panel fence and gate separates the field from the yard. A photograph of the same date, taken from Manor Road, shows the grass field above The Angel yard and the gate entering the yard. The footpath can be seen, probably 0.5 metres wide, crossing the grass to a break in the hedge beside the warehouse entry from Manor Road.

⁶ Appendix 7 of the Appellant's submission (File 1)

⁷ Colour copies of the aerial photographs are contained in Appendix 9, a summary of the information they contain at Appendix 10, and annotated black and white copies at Appendix 11 of the Appellant's submission (File 1)

16. A photograph dated 23 February 1985, taken from Spring Street, shows the gate between The Angel yard and grass field propped open into the yard leaving a way into the field. There is a break in the hedge alongside Manor Road beside the warehouse access. A photograph dated 22 June 1988, taken from Spring Street, shows no gate across the entry. A new vehicle track into The Angel yard following and covering the line of the footpath has been made from Manor Road, and is bounded on both sides by fences. A photograph of the same date shows the warehouse and new road consisting two wheel-tracks and central grass strip immediately adjacent to the fence separating the former field and warehouse land. There is no gate closing the new road.

Scrutiny of the Objector's response to the Footpath claim

Comments on Counsel's opinion

17. That the line of the claimed footpath is not the same as the route used by those completing forms is refuted. The width varied over time, as supported by the aerial photographs. Depending on the date of use, each user could have followed a slightly different route but still be within the grass field above The Angel yard. By 1982, the warehouse had been built and that land fenced. After 1982 (during the 20 year period) users followed a route diverted to follow that fence. The line drawn on the map by those completing forms should be interpreted as a guide to that followed on the ground.
18. Following purchase of the land, there was a delay in fulfilling the planning condition requiring it to be fenced off from The Angel land. This had the effect of not drawing attention to Mr Hobson's intention to close the footpath whilst the planning application was being considered.
19. That the footpath was not being used when the Goodwin's dogs were in The Angel yard is refuted. The Goodwin's welcomed people walking through the yard. It was used as a car park for patrons and for deliveries, so the entry gate could only be closed for a limited time to permit the dogs (which were friendly) to be exercised. Footpath users commented that Mrs Goodwin and her daughter waved to them as they passed the window overlooking the entry from Spring Street.
20. The evidence does not support tall undergrowth in the grassed field above the yard (in 1985) that would have made the route impassable. Photographs dated 26 April 1982 and 23 February 1985 show rough grass that would not be a problem to walk through. By 22 June 1988 people would have used the new vehicle track shown in that photograph.
21. That "...as the photographs [26 April 1982] referred to above indicate, such a footpath did not then exist" is refuted. Users from 1986/7 would remember the new vehicle track alongside the beer garden. That the beer garden prevented them from proceeding along the footpath is untenable. Across the hard surface of the yard there was no defined path and users would have followed a reasonably straight line. The form does not request details of different widths at different times at different places along the route. Between 1972 and 1986 20 people started to use the path.
22. The claim the route was not used during the full 20 year period is based on 7 forms accepted as valid on behalf of the Objector of the original 20 forms, and on a small number of the aerial photographs. Analysis of the 60 forms shows the

footpath has been used consistently over a much longer period than the 20 years prior to 2004.

23. Mr and Mrs Brearley's⁸ statutory declaration says "...in 1985, a hedge and fence enclosed their acquired land along the Manor Road frontage." This is not displayed in aerial photographs of 26 April 1982 (taken from the rear) and 23 February 1985 which show hawthorn bushes and a gap adequate for footpath access adjacent to the warehouse access. The 1982 photograph shows a gap at either end of the row of bushes.
24. The claim "...the fence and gate at A-B⁹ existed at the start of the period...and they were only removed in 1986/7. That gate...was kept closed and secured by Mr Goodwin for the purpose of enclosing his dogs" is not supported in the forms. Those users mentioning it reported the gate at The Angel yard was easy to open. The 26 April 1982 photograph (taken from the front) shows the gate closed and that of 23 February 1985 shows the gate propped open allowing anyone to walk through.
25. From Mr Wade's statutory declaration it is stated, "...at the southern end of the route, a gate existed throughout the 20 year period. ...that gate hung between his own property [Spring Street Terrace] and the pub wall. ...the reason it was put in place was to prevent any public access to the rear of their properties for security purposes. Hence, he states that it was closed every night when Mr Brearley became the landlord." The gate is still in situ and shows no sign of having been closed for a long time. The clapping point is the brick corner of Spring Street Terrace. The two brick faces display no evidence of any means of securing the gate in the closed position, nor is there any indication there has ever been any means of securing it so. There is no indication of a post against the wall to which the gate could have been fastened. It is submitted the gate could be closed against the corner of Spring Street Terrace without being secured, to keep Mr Goodwin's dogs in the yard. Those familiar with the path would have known to push it open to use the path.
26. It is stated "...there is very clear independent evidence that that gate [the steel gate at the southern end of the route] has been regularly locked throughout the 20 year period, ...Throughout their occupation of The Angel between 1985 and 1993, the Brearleys specifically locked that gate every New Year's Day for the purpose of precluding a public right of way being created. There was a contractual requirement ...to prevent any such right of way arising over the land and it was their understanding that to lock the gate every New Year's Day would preclude such an occurrence." However, it has been demonstrated the gate could be closed but not secured. It is also stated, "...he [Mr Brearley] locked the gate from time to time throughout his period of occupancy between 1985 and 1993 when the car park was being used by non-customers of the pub, ...owners would

⁸ Their name is spelt 'Brierley' or 'Brearley' in submissions from the parties. For the purposes of this Report I have spelt it Brearley as this is how it appears in a letter signed by Mrs Brearley

⁹ There are two positions indicated in submissions for the line A-B which separates the yard from the former field: one correlating with the wooden fence and gate shown on the February 1982 aerial photograph between the southern wall of the warehouse and the opposite boundary, the other to the south of the warehouse between the western boundary of the yard and outbuildings on the eastern side of the yard.

then have to approach him before he would unlock the gate to allow them to leave.”

27. However, after 1986/7 Mr Brearley had created a new road without gates which gave unrestricted access to The Angel yard. Cars could come and go even if the gate across the entry at the southern end had been fastened. The right of way had been established long before and these actions would not have changed that. The closing of the gate seems to have been directed at stopping use of the car park by people who were not patrons of The Angel. This is reflected in the sign in the entry from Spring Street on the stable wall in the yard stating ‘This Car Park is For the Use of Pub Patrons ONLY’. An intention not to dedicate a right of way, stated in a legal document, is not adequate. Recent case law¹⁰ has demonstrated the public must be made aware of the landowner’s intention: it is not sufficient for the intention not to dedicate to be a wholly private matter, or one of which the users are not merely unaware, but could have no means of becoming aware. None of the users reported finding such a notice anywhere along the path. Only one of the 60 people completing user evidence forms reported finding their route obstructed by a locked gate, and on only one occasion.
28. Interruptions to the claimed route have not been demonstrated. The presumption of dedication has been established: a way over land and use for 20 years as of right and without interruption. Users have never been presented with an overt statement of the intention not to dedicate. The only visible notice (paragraph 27) did not state the land was private nor make reference to pedestrians or a footpath (see *Godmanchester*).
29. Attention is drawn to the fact no-one objected to the proposed development of the land. However, its advertisement gave the briefest of details. It was a small development. The initial application was withdrawn and the amended application has left the opportunity to re-open the footpath by removal of a fence panel. Until the fence blocked it, the intention to close the footpath was not clear. The existence of the footpath was known to HDC Officers. Their report states, “1.1 This is a detailed application for the construction of two detached dwellings on a site fronting Manor Road at the rear of The Angel Inn, in Easingwold. The land was previously owned by The Angel and a pedestrian route from Manor Road to the Market Place existed but was not a formal right of way and has now been closed. The site is within the Conservation area.”
30. That in making the planning application, Mr Hobson was making a clear and unequivocal indication that he had no intention to dedicate the route and this effectively prevented the 20 year period of public access is rejected for the reasons given above (paragraph 29); and that the single advertisement made no reference to closing the pedestrian route and neither would the notice put up in the vicinity of the site. The notice did not state to users that the owner had no intention to dedicate and cannot be taken as overt evidence of such. The forms show long-standing use and an earlier 20 year period could be considered.

¹⁰ R (oao) *Godmanchester Town Council v Secretary of State for the Environment Food and Rural Affairs* (“*Godmanchester*”)

31. The owners of The Angel imposed express terms in the leases granted to the publicans that they were not to permit the creation of any right of way over the land. However, the public were totally unaware of this.

Additional Comments on submissions made by the Objector

32. Objections on behalf of Mr Hobson June 2008

- The 2 aerial photographs (1972 and 1973) are general views of Easingwold and due to their scale are of limited value. The 1972 and 1974 photographs fall before the 20 year period, but show a footpath existed at that date. Comparison of the height of the undergrowth with the car on the 1974 photograph shows it was not particularly tall. There is no evidence in the 1982 photograph that the gate was locked or fastened. The 1985 photograph, which shows it open, was taken shortly before Mr and Mrs Brearley took over The Angel. The grass is rough, but comparing it with the warehouse fence is seen not to be very tall. The aerial photographs show the fence separating the land was erected between 1974 and 1985. Mr Goodwin was publican between 1967 and 1985.
- Claims the footpath was of significant width are confirmed by the aerial photographs. There is photographic evidence showing the route of the footpath unambiguously (July 1974, April 1984, February 1985) and of the roadway constructed in 1986/7 (June 1988). The forms do not ask witnesses how the width changed over time or along the length of the route: that most refer to the last width reflects it had been in place from about 1987.
- If the public did not find the gate (erected by Mr Goodwin) or the washing an obstruction to their passage there would be no complaint. Other than for keeping his dogs in The Angel yard when being exercised, Mr Goodwin's intentions would not have been known to path users.
- Mr Hobson's negative intentions about the way across his land were not demonstrated by his delay in erecting the fence separating the land. In view of the HDC Officer Report (paragraph 29), Mr Hobson must have known a pedestrian route existed.
- The first of Mr Hobson's planning applications was withdrawn and no advert for it placed in the newspaper. It would have eliminated the footpath. The second application leaves the opportunity to re-open the path by removing a fence panel. Mr Hobson's intentions concerning the footpath would not have been apparent to anyone studying the planning application.
- The footpath shown on the 13 July 1974 photograph was adjacent to the warehouse and continued to be used with its route close to the fence. The gate forming part of the fence A-B was no obstruction since it could be opened.
- Messrs Wade and Smith express concern about preserving the security of their premises, but this would not be achieved by fastening the Spring Street gate once a year, if left open the remainder.
- The reason for the clause by the vendor that Mr Hobson should fence off the land purchased is not clear. Mr Goodwin put up gates. Mr Brearley claimed to have locked one annually. Those using the route the rest of the year would have been unaware the landowner was attempting to show a lack of intention

to dedicate. Closing the route for one day a year does not look to be an overt way of demonstrating this. It remains unclear how the gate was locked. An unambiguous way would have been by putting up notices of contrary intent.

- Users did not report the gates or dogs kept in the yard an impediment to their use.

33. Objections on behalf of Mr Hobson August 2005

- Aerial photographs of 26 April 1982 and 23 February 1985 show no evidence of a fence on the Manor Road frontage as claimed. Nor is there a gate: the only gate present shown on the photograph of 22 June 1988 is on the warehouse yard side of the fence.
- Claimed use goes back to 1940. Any intention of Mr Brearley not to dedicate through occasional locking of the Spring Street gate must be ruled out. His concerns about burglary are not relevant to public use of the footpath.
- It is not accepted that Mr Hobson knew nothing of the footpath, HDC saying it had been discussed prior to purchase of the land. The HDC Officer has confirmed informing the landowner to be prepared to re-open the route should a footpath claim be successful.
- If the Spring Street gate was locked occasionally as Mr Brearley claims, it would have presented problems for those with rights of access through the gates and to patrons of The Angel using the car park.
- The evidence shows a wooden panel fence and gate erected by Mr Goodwin to allow him to exercise his dogs in the yard, not a timber post and wire mesh fence.

34. Objections on behalf of Mr Hobson May 2006

- It is not necessary for users to have used the route for the full 20 years, therefore all of the forms should have been considered, not just the 12 referred to.
- Although 3 gates existed, there were never more than 2 at any one time. The 13 July 1974 and the 1972 photographs show a pedestrian gate at Manor Road which was removed in 1977. There were 2 steel gates, one on the line A-B the other at Spring Street. The 26 April 1982 photograph shows a steel gate when Mr Goodwin was publican. This does not accord with Mr Wade's statutory declaration that the steel gate was given to Mr Brearley who became publican in 1985.
- Concerns about security are difficult to reconcile as Mr Brearley made a vehicle track-way that was un-gated.
- Only one user encountered a locked gate on one occasion. S Turton refers to the Spring Street gate being closed not locked. Likewise Mr Smith does not refer to locking/unlocking the gate to access the yard. Mr Brearley does not say he locked it, for how long, or that he advertised the fact it was to be locked and why. Claimed locking of the gate to deter non-customers was directed at vehicular users, and only for a few hours according to Mrs Brearley.

- The evidence does not support the recollections of Mr Reynolds in his letter of 10 April 2006.
- The 2 photographs dated 1972 and 13 July 1974 demonstrate a footpath existed at that date. The 23 February 1985 photograph shows the Manor Road frontage was not impassable and none of the forms mention it was.
- Thirty-three forms claim use of the path in the period 1985-87 when Mrs Brearley claims there was no path and she would have seen anyone use it. Her claims the Spring Street gate was locked are not supported by the evidence which indicates there was no means of doing this.

Additional Comments following the Council's Statement of Reasons for rejecting the claim¹¹

35. Attention is drawn to the Council's Definitive Map Modification Orders Policy and the differences in the wording of the Wildlife and Countryside Act 1981 and the Council's policy. In particular, Section 53(3)(c)(i) provides, subject to the discovery of evidence and meeting the test, that a right of way subsists or is reasonably alleged to subsist. The Council's policy specifies that both the former and latter test apply. In addition, the Council's policy fails to highlight the effect of the *Godmanchester* judgement. Furthermore, in assessing an application where the evidence is conflicting, but *reasonably* accepting one side and *reasonably* rejecting the other the right is shown to exist, leading to a conclusion it is *reasonable* to allege such a right, no guidance is given as to what is "reasonable".
36. Statements made by the Council in relation to the evidence are more cautious in the Committee Report of November 2008 compared to those of September 2008. Yet, even though material contradictions remain, the Officers are satisfied that a public right of way along the route is reasonably alleged to subsist.
37. With regard to the user evidence, 51 forms had been submitted to the Council by 4 November 2008. Even if those completed in the same hand (due to the age of the witnesses, or which were dictated) were not included, 40 forms remain to demonstrate the footpath was in continual and regular use prior to and during the 20 year period. Of the 51 forms, 29 have over 20 years continuous use and 25 have a complete 20 years use up to 2003/4, covering the crucial period of the early 1980s. It is in direct contradiction to the evidence that the route was impassable, as claimed in the early 1980s, with 38 people independently completing forms declaring they used the route. The aerial photographs of 1982 and 1985, which were not seen by those completing the forms, show it.
38. Committee Members accepted various statements of an intention not to dedicate at face value without examining them critically in accordance with *Godmanchester*.

¹¹ The Appellant's submission (File 4)

The Case for North Yorkshire County Council

The material points are:

39. The Application was made in August 2004 following a challenge to the alleged public right resulting from the erection of a fence across the route in approximately July 2004. It formed the boundary of a proposed planning development; 2 dwellings have been constructed and completed although they do not in themselves obstruct the route. The driveway to one has been constructed along part of the route of the claimed footpath.
40. A total of 27 forms were submitted in support of the application. They provide evidence to the effect the route has been used by the public on foot in excess of the 20 year period up to 2004, when they were completed¹².
41. Of the 25 forms¹³ the majority were sufficiently close to either the whole route¹⁴ or that across part of The Angel yard to Spring Street¹⁵ as claimed by the Applicant to identify a well used route. Reasons for using the claimed route include: walk to friends, access to Market Place (shopping), Library, bus stop, Chapel, Doctor's Surgery, Council Offices, pleasure walk, parents with children to and from School, to and from work, all of which are legitimate reasons for using a public right of way.
42. Contrary evidence is that it was not possible to pass through the land prior to 1986 – only after this date were clearance works carried out to make way for the construction of a beer garden. There was a gate across the pub car park with a sign saying 'Private Car Park – Patrons Only'. The route was also obstructed by a timber and wire mesh fence with an iron gate, used to prevent dogs escaping. In addition there are Statutory Declarations from past tenants of The Angel and from Mr Hobson.
43. The forms indicate a body of people has used the claimed route in excess of 20 years without let or hindrance until use of the route as a public right of way was called into question.
44. From Manor Road in a direct line through the yard towards the rear of The Angel¹⁶ the forms indicate people have used a route in a generally southerly direction. Whilst there is some variation in the route actually used to that of the claimed route, 22 users show a close correlation to it.
45. The objection focuses on use having been interrupted and on events and features on the route which it is claimed made it clear to users that it was not being used as of right. And, cumulatively this indicated a lack of intention to dedicate the way on the part of the landowners.

¹² The Council acknowledges the receipt of further forms which were referred to verbally at the November 2008 Committee Meeting, although no detailed analysis of their content is submitted in the Council's submissions

¹³ The Council's Committee Report, attached to the Council's Statement of Reasons (File 3), clarifies that 2 of the 27 forms analysed were discounted.

¹⁴ Marked A-B-C on Plan 2 attached to the Council's Statement of Reasons (File 3)

¹⁵ Marked B-C on Plan 2 attached to the Council's Statement of Reasons (File 3)

¹⁶ Marked A-B on Plan 2 attached to the Council's Statement of Reasons (File 3)

46. Following receipt of an objection to the Application, a Report was put before the Area County Council Committee Meeting of 17 November 2008. Officers considered that on balance the evidence was sufficient to support a reasonable allegation that the route subsists, and the recommendation sought authorisation for an order to be made.
47. Council Members reached the conclusion that the application be rejected (paragraph 7 above).
48. Detailed objections have been submitted, but there remain material contradictions between the respective representations of the Applicant and Objector.

Responses by interested parties

49. **Mr C Hobson**¹⁷ owns the northern area of land over which the claimed footpath passes. From Mr Hobson's evidence and Counsel's opinion, it is considered the Application fails Section 31 of the Highways Act both as to the continuity of use over the required 20 year period and the intention on the part of the owner from time to time not to dedicate the way, and this is supported by the Council's decision.

*Objection to the Application June 2008 (amended November 2008)*¹⁸

50. There are two essential issues to consider: the required period of use and the proviso relating to intention.

Evidence of claimed use within the relevant period

51. The relevant period for the requirements of Section 31 of the Highways Act 1980 is between July 1984 and July 2004.
52. Aerial photographs dating around 1972 to 1974 show what appears to be a walked route running from The Angel car park to Manor Road, skirting a copse of small trees and so narrow as to have only been capable of being used by people in single file, and passing through quite tall undergrowth and vegetation. The route swings sharply left as it approaches Manor Road. A later aerial photograph, probably 1977, shows the warehouse and associated fence running to Manor Road, and the fence and gate¹⁹ referred to in the statements of a number of parties. Other points to note are the warehouse fence clearly cuts across the route of the path shown on earlier photographs of 1972 and 1974; the fence (separating the land) appears to be a panel fence with 5-bar iron gate at the western end which is fully closed; the Spring Street gate is also fully closed; and there is no sign of a walked way along the claimed route and no evidence of hard core or cinders along the route as identified by claimants.
53. Mr and Mrs Brearley took over The Angel in March/April 1985 when they say the land towards Manor Road was so overgrown it could not have been used by the public, had they done, then disturbance of the undergrowth would have been

¹⁷ Representations on behalf of Mr Hobson have been made by Mr P G Torrible of The Land and Development Practice

¹⁸ The Objector's submission (File 3)

¹⁹ See footnote 9 above

such as to provide clear evidence of use. The condition and nature of the land at that time is confirmed by Mr C Pittham.

54. He cleared the land in 1986/7 to form a beer garden to the rear of The Angel car park from which time, and because of the requirements of their lease, Mr and Mrs Brearley locked the Spring Street gate every New Year's Day to prevent a right of way being established, believing this to be sufficient to satisfy the terms of the lease, and given the newly opened area of land through to Manor Road. This action is supported by the evidence of Mr Brearley, Mrs Brearley and S Turton, the barmaid. Mr Pittham and Mrs Brearley evidence a fence separating the land. The former landlord Mr L Goodwin kept his 2 boxer dogs within the fence in the car park. The aerial photographs taken in 1972 and 1974 show no fence at this location, so the fence and gate must have been erected after 1974 and before Mr Brearley took over The Angel in 1985. It is reasonable to assume Mr Goodwin erected it to keep his dogs within control. Therefore it was almost certainly erected prior to 1984 and prior to the start of the relevant period. There is no record of any complaints of the route being obstructed at that time, or of the large dogs running free on land through which it passes.
55. Mr Brearley also locked the gate at other times, mainly on market days to prevent use of the car park by people who were not patrons of The Angel. He also locked the gate knowing the cars of non-patrons were in the car park and their owners would have to request their release from him.
56. The locking of the Spring Street gate continued throughout the period Mr and Mrs Brearley occupied The Angel, ending in 1993.
57. An analysis of the 20 forms²⁰ shows that 8 claim a period of personal use prior to the commencement of the relevant period (1984) and in one case from the 1940s. All claim a footpath of significant width and with some form of surfacing. Examination of the photographs (paragraph 46) show such a footpath did not exist.
58. Seven forms report use of the footpath within the relevant period and after the clearance of the land and Manor Road frontage; the removal of the fence separating the land; and report similar widths and construction or surfacing of the claimed way after 1986/7.
59. Four further letters of representation (dated October and November 2005) do not add any substantive information to that provided on the forms.

Evidence of a lack of intention to dedicate during the relevant period

60. There was a consistent requirement on the part of the owner or lessor of The Angel (which up to 2003 included Mr Hobson's land) that the tenant should not allow a right of way to be created. It is accepted that following the *Godmanchester* case, such provisions within a lease or tenancy document are not sufficient to demonstrate a negative intention in a sufficiently overt way. In this

²⁰ Document LDP2 of the Objector's bundle comprises copies of 20 forms and LDP15 copies of a further 15 forms; LDP11 is a table analysing 43 forms and LDP16 a table analysing 15 forms received November 2008 (File 3).

case, the requirements of the lease or tenancy agreements are the cause of more overt actions on the part of the tenants in compliance.

61. The 1974 photographs show the route of a possible way (paragraph 54). It was obstructed by works on the warehouse and associated fencing some time after 1977 when it seems Mr Goodwin cleared some of the land and erected the fence and 5-bar gate separating the land. There is no record of any public complaint of obstruction at that time.
62. The post 1977 photograph shows the fence and gate, and the Spring Street gate fully closed even though The Angel door is open and cars parked in front. There is no sign attached to the gate. There is a line of washing across the estimated position of the claimed footpath within The Angel yard. There was no public complaint about obstruction of the claimed right of way.
63. That Mr Goodwin kept his dogs within the enclosure formed by the fence and Spring Street gate would be a deterrent to people entering and crossing the yard. It cannot have been his intention that the public, including strangers, should have free and uncontrolled access.
64. The post 1977 photograph was taken up to 9 years before the Brearleys took over The Angel, by which time it is evident from the statements of Mr and Mrs Brearley and Mr Pittham that the land north of the fence had again become overgrown. The fence and Manor Road frontage enclosure were still in place and not removed until 1986/7, two years into the relevant period.
65. On clearance of the land, Mr and Mrs Brearley state in order to fulfil the requirements of the lease (paragraph 54) the Spring Street gate was locked every New Year's Day. Mrs Brearley confirms it was locked. It is also confirmed by S Turton who states she had difficulty getting into The Angel because the gate was closed – if it was not locked she would have had no difficulty. This practice continued until Mr and Mrs Brearley vacated The Angel in 1993.
66. Both Mr and Mrs Brearley give evidence, supported by others, that the Spring Street gate was also closed and locked by Mr Brearley at other times to prevent unauthorised parking at the rear of the building. This continued off and on throughout the period of their occupation from 1985 to 1993, during which there was no complaint of obstruction of the claimed right of way.
67. Mr Hobson purchased the land adjacent to Manor Road in 2003. Pre-purchase discussions with the planning authority revealed the potential for development with no apparent impediment from any public right of way. The land was purchased with the intention to develop it and with no intention to dedicate a right of way. This negative intention was displayed before the end of the relevant period on the submission of two planning applications for development of the land.
68. The first application was submitted in January 2004 and included notice posted in close proximity to the site informing the public, including any users of the claimed right of way, about the proposals and where the plans could be inspected. Those plans showed the full development of the site and the erection of permanent fencing fully across the land on the southern boundary of the application site, in accordance with the purchase agreement.

69. This planning application was withdrawn. An amended planning application was submitted in late April 2004 and again advertised on site in a manner designed to be evident to the public. This again showed the full development of the land including the erection of permanent fencing fully across the land at the southern boundary of the application site.
70. No objections were received to either set of proposals notwithstanding the period during which the proposals were repeatedly advertised in the immediate locality of the land.
71. With regard to the erection of fencing across the development site at both the Manor Road frontage and the southern boundary, it is reasonable to estimate the fencing was erected in or just before July 2004. The fencing of the southern boundary was a specific requirement of the purchase contract and clearly indicates the vendor had no knowledge of the existence of the claimed right of way and was probably confident that the provisions of the lease had been complied with.
72. The requirement for public notification of a planning application is contained within The Town and Country Planning Act (General Development Procedure) Order 1995. It is also the standard practice of HDC to post notices in a prominent position within the site frontage and to write to neighbouring properties.

Summary

73. The narrow way shown on the 1974 photograph had little utility and was obstructed and removed by the works carried out post 1977 and by Mr Goodwin when he fenced the line A-B, all shown on the post 1977 photograph.
74. Mr and Mrs Brearley entered The Angel in March/April 1985 and state the land towards Manor Road was not passable and there was no evidence of a way through it. This is notwithstanding the area having been cleared some 8 years earlier.
75. The narrow way through tall undergrowth, which probably resulted from a particular requirement or purpose likely to have been associated with properties on the land, was fenced off in 1977 or thereabouts and there appears to have been no alternative access to that route further east along the Manor Road frontage.
76. Mr Brearley, employing Mr Pittham for the purpose, had the land cleared in 1986/7, and probably in 1987/8 hard-cored an access strip from Manor Road to The Angel car park along the western boundary of the land to provide access for deliveries. The way was also used by vehicles to and from the electrical contractor's store located in The Angel car park.
77. Claimants almost uniformly state the way used was wide enough for a car to pass along, some suggesting a width of 4 metres or more, and it was gravelled. This could only apply to the way created after the clearance of the land in 1986/7 and after the hard-core had been laid in 1987/8. The existence of such a way as described could only be during the last 16-18 years of the 20 year period.
78. There have been numerous overt demonstrations of a negative intention to dedicate a right of way. Prior to the 20 year period, there is the fencing off of the pathway seen on the 1974 aerial photograph. This occurred after 1977 following

the warehouse development and the fencing of the line A-B. From 1986/7 onwards, Mr and Mrs Brearley, in accordance with their tenancy agreement, took steps to prevent a right of way being created by locking the Spring Street gate each New Year's day.

79. Their action was reinforced by the views of adjoining landowners such as Councillor F Wade and Mr D Smith in their concern to preserve their security, and reinforced by the events of burglary at The Angel.
80. It is a matter of public record that from January 2004, some 6/7 months before the end of the 20 year period, Mr Hobson advertised his intention of developing and fencing off the land. The planning application statutory process was complied with not once but twice in the first half of 2004, to which no response was received by the planning authority or others.
81. Mr Hobson's fencing of the southern boundary of the land in compliance with the requirements of the vendor supports the vendor's requirements for the occupiers of The Angel to comply with the lease preventing the creation of such a right of way. This might not have been in the public domain but it is a causation of the actions of Mr and Mrs Brearley and Mr Goodwin which are in the public knowledge and overt.

Conclusion

82. The 20 year period required to satisfy the claim does not exist. The claimants' own description of the width and form of the way they claim to have used did not exist until some time after 1986/7, three years after the commencement of the relevant period.
83. Throughout the period there was a consistent requirement placed by the landowner on the tenants that such a right should not be allowed to be created. Notwithstanding the *Godmanchester* judgement, the actions of Mr and Mrs Brearley to the requirement must demonstrate negative intention.
84. The evidence indicates that Mr Goodwin, the previous landlord, had fenced off any possible route through for the purposes of keeping his dogs which demonstrates a clear lack of intention to dedicate.
85. In 1985, according to Mr and Mrs Brearley, the claimed right of way was impassable and subsequent to the clearance of the land in 1986/7 they overtly locked the Spring Street gate every New Year's Day and on other days throughout the year.
86. Subsequently and within the relevant period Mr Hobson advertised his intention to develop the land and cause complete fencing off of any possible way through it. He could not have done more to advertise his development intentions and the statutory requirements in this regard, designed by statutory regulation to inform the public, were clearly complied with not once but twice within a four month period.

Conclusions

Introduction

87. In considering the evidence and submissions, I take account of the relevant part of the Wildlife and Countryside Act 1981 ("the 1981 Act") in respect of the possibility of a right of way existing and to court judgements, the gist of which I set out below, reference being given (in square brackets) to earlier paragraphs where appropriate.
88. The application was made under Section 53(2) of the 1981 Act which requires the surveying authority to keep their Definitive Map and Statement under continuous review, and to modify them upon the occurrence of specific events cited in Section 53(3).
89. Section 53(3)(c)(i) of the 1981 Act specifies that an Order should be made following the discovery of evidence which, when considered with all other relevant evidence available to them, shows *"that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates..."*. As made clear in the High Court in the case of *R v Secretary of State for the Environment ex parte Mrs J Norton and Mr R Bagshaw* (Norton and Bagshaw) this involves two tests:
- Test A.** Does a right of way subsist on a balance of probabilities? This requires clear evidence in favour of the Appellant and no credible evidence to the contrary.
- Test B.** Is it reasonable to allege on the balance of probabilities that a right of way subsists? If there is a conflict of credible evidence, and no incontrovertible evidence that a way cannot be reasonably alleged to subsist, then the answer must be that it is reasonable to allege that one does subsist.
90. The user evidence must be considered against the requirements of Section 31(1) of the Highways Act 1980 ("the 1980 Act") which provides that *"Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it"* and Section 31(2), that *"The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice ... or otherwise"*.
91. In *Godmanchester* it was held that for there to be sufficient evidence of a lack of intention to dedicate during the 20 year period, there must be an overt act(s) on behalf of the landowner, brought to the attention of users of the path, to show that (s)he has no intention to dedicate it as a public right of way, such that a reasonable user would have understood what the landowner was intending.
92. The question of dedication must also be examined in the context of common law. At common law a right of way may be created through expressed or implied dedication and acceptance. The onus of proof is on the claimant to show that the landowner, who must have the capacity to dedicate, intended to dedicate a public

right of way; or that public use has gone on for so long that it could be inferred; or that the landowner was aware of and acquiesced in public use. Use of the claimed way by the public must be as of right (without force, stealth or permission) however, there is no fixed period of use, and depending on the facts of the case, may range from a few years to several decades. There is no particular date from which use must be calculated retrospectively.

Assessment of the evidence

93. Turning firstly to whether there is a way over the land that has been used by the public. Maps attached to the forms show the route used by those providing evidence of use, some showing variation in the alignment claimed to have been used [41]. There is evidence from aerial photographs of the existence of a trodden way visible at the date they were taken [9,14,15,32]. A comparison of these suggests some variation in alignment of the way over the years [52]. However, it seems to me that any differences in alignment relate primarily to the period prior to the development of the warehouse in 1977 [9] or construction of the access road in 1986/7 [10]. Inconsistencies in the width and surfacing of the appeal route stated in the forms are also claimed [52,57,58,77]. It is the characteristics of the access track to which many forms appear to refer, notwithstanding use being claimed for many years prior to its inception. The Appellant argues the forms do not require or provide for detailed descriptions of the route at various dates of use. In any event, there are forms which indicate a narrower width before 1985, consistent with aerial photographs [9]. Whilst these issues may have some affect on the veracity of the route claimed, I consider there is ample evidence of use broadly along the appeal route.
94. The parties agree that the right of the public to use the way was brought into question in July 2004 when the land facing Manor Road was purchased and fenced off from the remainder of the land belonging to The Angel [5,39], thus preventing access as a through route, and the 20 year period is July 1984 to July 2004 [51]. It is possible that other events may serve to establish a 20 year period, for example the claimed annual locking of a gate at Spring Street from 1986/7 [54]. One form mentions a locked gate [34], although no date or location for this is given. The submission of planning applications in January and/or April 2004 for the land facing Manor Road [67-69] may provide alternative dates, although none of the forms refer to seeing the relevant notices or newspaper advertisement.
95. Some 60 forms [6] have been submitted attesting to use of the appeal route to reach various facilities in the town, or for pleasure [13,41]. A detailed analysis does not appear to have been made by either the Council or the Objector for all of the forms, some of which were not made available until the date when the Council considered the matter. Some forms were properly rejected on the basis that claimed use was not in exercise of a public right [13]. However, I see no reason why evidence from those whose use amounted to less than a full 20 year period should be discounted. There is, in my view, ample evidence of claimed use by the public during the 20 year period prior to July 2004, and arguably for an earlier such period with use claimed overall between 1928 and 2004 [8,12,13,37,40,57,58].
96. The evidence adduced does not suggest that claimed use of the appeal route by the public was with force, in secrecy or with permission. According to the forms

(excepting those forms discounted), none of those claiming use indicated they forced their way through at any point along the appeal route; their claimed use was not secretive being in view of the kitchen window of The Angel [19]; claimed use was regular, and none sought or were given permission to use the way. On this basis I consider the claimed use is sufficient to raise a presumption the way has been dedicated.

97. Considering next whether the claimed use was without interruption I find the evidence here to be contradictory. It is claimed the Manor Road end of the route was, at times, fenced off and thus impassable [23,64,75], although this is not reflected in the forms or contemporary aerial photographs [33]. It is also claimed the way through the former grass field was overgrown and impassable prior to the construction of a beer garden and creation of a vehicular access to The Angel yard from Manor Road in 1986/7 [42,53,54,74], although aerial photographic evidence taken at several different dates indicates a trodden way through vegetation [20,32], and the forms indicate continuous use.
98. Linked with the claimed interruptions to use is whether or not there was a contrary intention by or on behalf of the landowner(s) during the relevant 20 year period. Three gates were present along the appeal route at various times [34]. Fencing and a gate separated The Angel yard and the former field, and the gate is said to have been closed on numerous occasions to contain dogs [42,54,63,84], forming both an interruption to use and a demonstration to the public there was no way being dedicated. On the other hand, the forms do not suggest the gate or dogs formed a barrier or deterrent to use [24], the dogs noted as being friendly [19]. One aerial photograph shows the gate open on the date it was taken [16].
99. The gate at Spring Street is said to have been locked annually [54,65,79] and on other occasions and the closure or locking is supported in the statements of former publicans, staff and adjacent residents. Annual locking is said to have been in connection with the requirement by the landowner for tenants of The Angel not to allow a right of way to arise over the land [26,54,56,78]. Having regard to the *Godmanchester* judgement, the clause in the tenancy document would not in itself be evidence sufficient to demonstrate a lack of intention to dedicate. Occasional locking of the gate is said to have continued [66] but appears to be in connection with unauthorised use of the car park behind The Angel [27,55] rather than in connection with pedestrian use. The Appellant maintains there is no corresponding means on the opposite wall to accommodate a lock [25], although one user encountered a locked gate on one occasion [34], but does not state where or when. Locking of a gate can demonstrate a contrary intention, and the one instance of encountering a locked gate appears to be the only evidence of an effective challenge in this respect. However, the majority of those claiming use did not encounter a locked gate. The evidence here is for the most part contradictory and it is unclear from some of the statements whether the gate was closed or actually locked, and if so, how.
100. A notice at The Angel [27,42] refers to use by vehicles rather than pedestrians and in my view would not provide sufficient evidence of a lack of intention to dedicate a right of way on foot.
101. The land facing Manor Road, the former field, was purchased in 2003 and 2 planning applications submitted for its development [39,67,80]. No objections

were received to either application [70]. The Council makes no specific comment on the effect of the applications. On the face of it I do not consider the planning applications to be fatal to the appeal. The first was withdrawn [69]. Advertising of the second it would appear coincided with the fencing of the land [71] (and thus the bringing into question in July 2004). Mr Hobson claimed to have no knowledge of the appeal route prior to the Appellant's application to add it to the definitive map [71,], although HDC were aware of the existence of a way used by the public they described as having been "closed" [29]. There was a delay between the acquisition of the land and its required fencing from The Angel land [18,68]. The Appellant asserts the development allowed for the possible reinstatement of the path [32]. In such circumstances it may have been assumed the claimed way could have been accommodated or diverted within the development.

102. There is in my view sufficient evidence to be considered under Section 31 of the 1980 Act. Use dates back to 1928 and it is possible that a claim at common law could be made out, although the variations in the line used over the earlier years, as suggested by the aerial photographs, and the clause in the tenancy agreement, may not favour the Appellant's case.

103. Having reviewed the evidence, on balance and taking into account the above, in my opinion, there is a conflict of credible evidence, and no incontrovertible evidence that a way cannot be reasonably alleged to subsist. It follows that I consider, on the balance of probabilities, Test A has not been met, but there is sufficient evidence to meet Test B, and thus a finding that a public footpath is reasonably alleged to subsist.

Overall Conclusion

104. For the reasons given above, I conclude that North Yorkshire County Council was not justified in their decision.

Recommendation

105. I recommend that the appeal should be allowed.

S M Doran

Inspector

**Footpath No. 10.40/46 Spring Street to Manor Road, Easingwold
Modification Order 2010**

NORTH YORKSHIRE COUNTY COUNCIL

WILDLIFE AND COUNTRYSIDE ACT 1981

THE HAMBLETON AREA DEFINITIVE MAP AND STATEMENT

**FOOTPATH NO 10.40/46 SPRING STREET TO MANOR ROAD, EASINGWOLD
MODIFICATION ORDER 2010**

This Order is made by North Yorkshire County Council under Section 53(2)(a) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that The Hambleton Area Definitive Map and Statement require modification in consequence of the occurrence of an event specified in Section 53(3)(c)(i) of the Act, namely, the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to Section 54A, a byway open to all traffic.

The authority have consulted with every local authority whose area includes the land to which the Order relates. North Yorkshire County Council hereby order that:-

1. For the purposes of this Order the relevant date is 16 July 2010.
2. The Hambleton Area Definitive Map and Statement shall be modified as described in Part 1 and Part 2 of the Schedule and shown on the map attached to the Order.
3. This Order shall take effect on the date it is confirmed and may be cited as "Footpath No 10.40/46 Spring Street to Manor Road, Easingwold Modification Order 2010".

SCHEDULE

PART 1

MODIFICATION OF DEFINITIVE MAP

DESCRIPTION OF PATH OR WAY TO BE ADDED

<u>Section of Footpath as shown on the attached map</u>	<u>Description</u>
Marked by a bold broken black line and shown as A – B – C – D.	Commences at Grid Reference 45293 46993 (Point A) at its junction with Spring Street, north east of the Angel Inn, and proceeds in a north westerly direction, along the access to the car park of the Angel Inn, for approximately 20 metres to Grid Reference 45291 46993 (Point B), then proceeds in a north-north-westerly direction, through the Angel Inn car park, for approximately 30 metres to Grid Reference 45290 46996 (Point C), then continues in a north-north-westerly direction, alongside the properties known as The Brayton and The Burn, for approximately 43 metres to its junction with Manor Road at Grid Reference 45289 47000 (Point D).

PART 2

MODIFICATION OF DEFINITIVE STATEMENT

PARTICULARS OF PATH OR WAY TO BE ADDED

<u>Path No</u>	<u>Grid Reference End Points</u>	<u>Description</u>	<u>Nature of Surface</u>	<u>Length (km)</u>	<u>Width (m)</u>	<u>Lawful Obstructions and Conditions</u>
10.40/46	45293 46993 (start) to 45289 47000 (end)	Commences at Grid Reference 45293 46993 at its junction with Spring Street, north east of the Angel Inn, and proceeds in a north westerly direction, along the access to the car park of the Angel Inn, for approximately 20 metres to Grid Reference 45291 46993, then proceeds in a north-north-westerly direction, through the Angel Inn car park, for approximately 30 metres to Grid Reference 45290 46996, then continues in a north-north-westerly direction, alongside the properties known as The Brayton and The Burn, for approximately 43 metres to its junction with Manor Road at Grid Reference 45289 47000.	Tarmac	0.05	1.5	Gate at entrance to Angel Inn car park (Grid Reference 45292 46993)
			Block paving	0.043		Gate at Grid Reference 45290 46996 (Point C)
				Total = 0.093		

THE COMMON SEAL of NORTH YORKSHIRE COUNTY COUNCIL)
 was hereunto affixed this 30th)
 day of July 2010 in the presence)
 of:-)

Abirana Gato
AUTHORISED SIGNATORY



NORTH YORKSHIRE COUNTY COUNCIL

WILDLIFE AND COUNTRYSIDE ACT 1981

THE HAMBLETON AREA DEFINITIVE MAP AND STATEMENT

**FOOTPATH NO 10.40/46 SPRING STREET TO MANOR ROAD, EASINGWOLD
MODIFICATION ORDER 2010**

**DAVID BOWE
CORPORATE DIRECTOR
BUSINESS AND ENVIRONMENTAL SERVICES
COUNTY HALL
NORTHALLERTON
NORTH YORKSHIRE
DL7 8AH**

Chronological List of Events

13 December 1967	Mr Goodwin takes over The Angel, and at some point has boxer dogs in the yard.
1977	New warehouse built for G F Baker Electrical Ltd (referred to in evidence as “the Baker store”).
13 February 1985	Mr Goodwin leaves The Angel.
April 1985	Mr Brierley takes over The Angel.
1986-1987	Mr Brierley has field cleared to create beer garden and access track.
November 1991	Mr Brierley leaves The Angel (date taken from List of Licences held at NY County Records Office, Northallerton, although in Mr Brierley’s sworn statement he states he was publican of The Angel from 1985-1993).
January 1992	Mr Hooper takes over The Angel (no further details of Licensees after this date were given on the List of Licences).
19 November 2003	Mr Hobson’s architects hold informal meeting with Hambleton District Council planning officer.
20 November 2003	Mr Hobson purchases the land to the north of The Angel yard at auction.
14 January 2004	Mr Hobson submits first planning application for two Houses.
1 April 2004	Mr Hobson withdraws planning application as too cramped in its use of the site.
24 April 2004	Revised planning application submitted by Mr Hobson.
12 June 2004	Revised planning application advertised in The Easingwold Advertiser.
July 2004	Mr Hobson erects fence between his land and The Angel yard, blocking the claimed footpath.
9 August 2004	Planning consent granted for revised application.
23 August 2004	Formal Definitive Map Modification Order application submitted to NYCC. Notice of Application for DMMO served on Mr Hobson by Mrs Kirk.
July 2005	NYCC contacts landowners affected by the DMMO application, asking them to forward any evidence they have relating to the claim. Mr Torrible & Mr Morris (both representing Mr Hobson) state that they will be submitting a formal objection.

3 October 2005	Letter from Mr Torrible (representing Mr Hobson) objecting to the DMMO application.
27 July 2006	NYCC Officers interview witnesses about their use of the claimed route.
18 January 2008	NYCC contacts statutory consultees about the claim. No objections received.
15 September 2008	NYCC Hambleton Area Committee defers the DMMO application to a subsequent meeting.
17 November 2008	NYCC Hambleton Area Committee decides to reject DMMO application.
5 January 2009	NYCC formally rejects the application by letter.
28 January 2009	Applicant serves notice of appeal on surveying Authority (NYCC).
21 June 2010	Secretary of State allows the appeal and directs NYCC to make a Definitive Map Modification Order.
30 July 2010	Order sealed, and advertised 22 Sept – 2 Nov 2010
22 October 2010	Representation in support of the Order received from Mrs H Kirk (Applicant).
29 October 2010	Objection received from Hague & Dixon Solicitors (acting for Mr Hobson). Objection received from Mrs J McHugh (licensee of The Angel). Objection received from Mr Anderson (tenant of The Brayton, one of the new houses).

Aerial photo – 13 July 1974



Aerial photo – 28 May 1978



Aerial photo – 26 April 1982 – Spring Street end



Aerial photo – 26 April 1982 – Manor Road end



Aerial photo – 23 February 1985



Aerial photo – 22 June 1988 – Spring Street end



Aerial photo – 22 June 1988 – Manor Road end

