

Wildlife and Countryside Act 1981

Application for a Definitive Map Modification Order

Claim for Public Footpath at Brookhouse, Parish of Laughton-en-le-Morthen

1 Purpose of this report

This report outlines the result of investigations by Officers into the above application, it sets out all the evidence discovered by Officers and makes a recommendation based on those findings.

2 Background

- 2.1 In May 2021, Rotherham Metropolitan Borough Council (the Council) received a duly made Definitive Map Modification Order application for a public footpath to be added to the Definitive Map and Statement between Bib Lane and Brookhouse Lane in the area of Brookhouse, Rotherham. The application route is shown on the attached plan at Appendix A between Points A - K. As the application route is severed by a highway the application route is referred to by location, such as the path to Bib Lane (A-D) or path to Brookhouse Lane (E-K).
- 2.2 The application is based on both user evidence and documentary evidence which is outlined in the body of the report. The application is supported by 21 user evidence forms claiming use on foot from 1942 and 2021 (79 years).
- 2.3 The Council is under a statutory duty to investigate any duly made application submitted to vary the Definitive Map and Statement and must make a decision on the application based upon a comprehensive assessment of all relevant, available evidence. In making a decision on

the application, the Council is operating quasi-judicially. The legal tests to be applied to the evidence are set out below.

- 2.4 Officers believe the Council received the application as a result of the demolition of the Cartwheel Public House (planning application RB2018/1715) and the subsequent building of new property on the site.

3 Consultations

- 3.1 Consultations have been undertaken with Laughton-en-le-Morthen Parish Council, local Councillors, all landowners registered on the land registry (Appendix B) and the owners of the new property, Olive House, Brookhouse. Local user groups such as the Ramblers were also consulted. Any relevant evidence from the consultation has been included within the report. A formal response from Laughton-en-le-Morthen Parish Council is included under Appendix C with their comments on the application. Officers received a response from Network Rail at a very late state of drafting the report and the documents that were submitted are included under Appendix JJ and Appendix KK.

4 Site Visit

- 4.1 Officers conducted a site visit on 6th July 2021 as part of their investigations, during which appropriate Covid-19 social distancing protocols were observed. Photographs were taken by Officers along the routes and these are included as Appendix D. The site visit did not include the land crossed by the route Points B-C-D; this section of the route forms part of the garden of a dwelling.

5 Legislative Context

- 5.1 The Council is the Surveying Authority for the purposes of the review and maintenance of the Definitive Map and Statement for their area. Section 53 of the Wildlife and Countryside Act

1981 places a duty upon the Surveying Authority to keep the Definitive Map and Statement under continuous review and to make such changes, (by way of Definitive Map Modification Orders) upon the discovery of evidence, that appear necessary.

- 5.2 More particularly in reference to this case, Section 53(3)(c)(i) provides that an Order should be made upon the discovery of evidence which (when considered with all other relevant evidence) 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.
- 5.3 The standard of proof for both making and confirmation of an Order under Section 53(3)(c)(i) is the same, namely that the civil test of the “balance of probability”. Where the Council considers that the evidence available shows that a right not shown in the Definitive Map and Statement can be said to be reasonably alleged to subsist, this provides for the making of an Order to allow the evidence to be tested.
- 5.4 With few exceptions, before any highway can come into being there must be an act of dedication on the part of the landowner, followed by an acceptance of the dedication by the public. The act of dedication need not be express, it may be presumed or implied as a result of the actions (or inaction) of the landowner. Public acceptance is generally demonstrated through public use of the way. Such use must be of a nature that can be defined as being “as of right”.
- 5.5 Section 31 of the Highways Act 1980 states: (1) “Where a way over land, other than a way of such 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 twenty years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.”

(2) “The period of twenty 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 notice, such as is mentioned in subsection (3) below or otherwise.”

(3) “Where the owner of the land, which any such way as aforesaid passes has erected in such manner as to be visible by persons using the way a notice inconsistent with the dedication of the way as a highway; and has maintained the notice after the first January 1934, or any later date on which it was erected, the notice, in the absence of proof of a contrary intention, is sufficient evidence to negate the intention to dedicate the way as a highway.”

5.6 Section 31(1) has two ‘limbs’ - the first provides that proof of twenty years continuous user “as of right” endorses a claim that a highway exists; the second (sometimes referred to as ‘the proviso’) provides that proof of a lack of intention to dedicate the way as a highway defeats the claim. It is for those claiming the existence of rights to first discharge the burden of proof, before an objector is obliged to provide any evidence of lack of intention to dedicate.

5.7 The establishment of highway rights under the common law is not bound by the use being for any given period (unlike presumed statutory dedication under Section 31, as set out above), with the courts having ruled that rights can, in certain circumstances, be established in a very short period of time.

5.8 With regard to common law, Halsbury¹ states – “Both dedication by the owner and user by the public must occur to create a highway otherwise than by statute. User by the public is a sufficient acceptance.” And (para 114), “An intention to dedicate land as a highway may only be inferred against a person who was at the material time in a position to make an effective dedication, that is, as a rule, a person who is absolute owner in fee simple.”

5.9 An inference of dedication may arise in three ways:

¹ Halsbury’s Laws of England volume 55 para 113.

i) First, the inference may arise from the fact that the owner has done exactly what one would expect from any owner who intended to dedicate a new highway (e.g. express dedication).

ii) Second, the inference has been drawn mainly from evidence that the way was already recognised as being a highway by the start of the period covered by living memory, coupled with the absence of anything to show that the public recognition was misplaced. In this class of case the common law approach simply recognises that the facts all point one way, and that it is immaterial that the claimant cannot identify the early owners or show the actual date when dedication was likely to have occurred.

iii) Third, a dedication may be inferred from use and enjoyment by the public as of right, known by the owner and acquiesced in by him. The owner's recognition of the fact that the public is using the way as a highway may itself be a matter for inference, rather than clearly proven fact.

5.10 In reaching a conclusion in a case where documentary evidence is under consideration the decision maker must take into account Section 32 of the Highways Act 1980, which states: "A court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place, shall take into consideration any map, plan or history of the locality or other relevant document, which is tendered in evidence, and shall give weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced."

6 Summary of Evidence

- 6.1 This report summarises all evidence the Council has located, it comprises documentary evidence (7), user evidence (8), claimant interviews (9) and landowner evidence (10). A consideration of evidence (11) concludes that section of the report.

7 Documentary Evidence

- 7.1 Documentary research has been conducted to assist in the determination of the application.

7.2 Acts of Parliament Relating to the Construction of the Railway

The presence of a railway line crossed by the application route (Points G-H-I) provides potential evidence relating to the status of the application route. Books of reference and ‘deposited plans’ which show routes of the railway and its deviations were required to be prepared as part of the process of passing legislation that authorised the construction of the railway. Any potential crossings or features may be recorded within these plans.

7.2.1 South Yorkshire Joint Railway Act 1903

On the 14th August 1903, the South Yorkshire Joint Railway Act 1903 was passed, which allowed the Great Central Railway Companies to construct or take over certain railways authorised by the Shireoaks Loughton and Maltby Railway Act 1901 and to construct other railways and works for establishing a joint committee. The Committee was described in the Act:

“The Shireoaks Loughton and Maltby Railway Act 1901 (in this Act referred to as “The Shireoaks Act”) the Shireoaks Loughton and Maltby Railway Company (in this act called “The Shireoaks Company”) were incorporated and were empowered to construct the railways in the Act described. In this act “The rights and powers of the Shireoaks Company under the Shireoaks Act were transferred to and vested in the Great Central Railway Company and the Midland

Railway and by the same Act the two companies were authorised to make and maintain a deviation of the said railways”.

7.2.2 Great Central and Midland Railway Companies Session 1902 Plans and Sections

One of the powers within the Great Central Railway Act was “to transfer to and vest in the Great Central and Midland Railway Companies of the powers of the Shireoaks Laughton and Maltby Railway Company” which included “stopping up of roads etc” with “exemption from private street works expenses”.

The railway that crosses through Brookhouse is referred to as:

“A new railway in the West Riding of the County of York commencing by a junction with the Railway No. 1 authorised by and described in Section 5 of the Act of 1901 in the parish of Laughton-en-le Morthen and at a point on the centre line of that railway deposited with the clerk of the peace for the West Riding of the county of York as foresaid 5 miles 1 furlong measured in a northerly direction along such centre line from its commencement and junction with the Great Central Railway Company’s railway near Shireoaks...”

“To authorise the crossing, stopping up, altering or diverting whether temporarily or permanently of all public carriage and other roads, highways, railways, tramways, canals, rivers, streams, drains, sewers, pipes and telegraphic, telephonic and electric lighting wires and apparatus within or adjoining to the before-mentioned parishes, areas and other places which it may be necessary or convenient to cross, stop up, alter or divert in executing the several purposes of the intended Act, and the extinguishment of all rights of way over the public carriage and other roads, highways, courts, alleys and passages or portions thereof, which are stopped up and discontinued or diverted, and in and over any of the lands to be acquired under the provisions of the intended Act”

7.2.3 Within the Great Central Railway plan and the book of reference the application route between Main Street and Brookhouse Lane is listed in the book of reference as crossing plots 28, 35 and 36. Plot 23, 28 and 35 are listed under Appendix F. Plot 28 is described as 'occupation road and footpath' which relates to a section of the application route at Main Street to Brookhouse Lane. Plot 35 is described in the book of reference as 'field and footpath' and plot 36 is described as 'field, footpath and watercourse'; plots 35 and 36 being in the ownership or reputed ownership of John Randall Hatfeild and of Laughton-en-le-Morthen Parish Council. Plot 36 is identified in Appendix G. The book of reference does not list the footpath as a public footpath but the indication that some of the land is in the ownership of the Parish Council suggests that the footpath might have been considered public.

7.2.4 The plan and book also show a section of the application route between Bib Lane and Main Street, Brookhouse crossing plots 15 and 23. Plot 15 is described in the book of reference as 'field and footpath' under Appendix E and is in ownership or reputed ownership of Bruce Sorby and Laughton-en-le-Morthen Parish Council. Plot 23 is described as a 'footpath' and identified with an arrow located in between plot 22 and 24 with Plot 22 described as 'house garden and outbuildings' being in the ownership or reputed ownership of Bruce Sorby and Plot 24 is described as 'public house known as The Travellers Rest and garden', being in the ownership or reputed ownership of Bruce Sorby. Plot 23 is described in the book of reference as 'footpath' being in the ownership or reputed ownership of Laughton-en-le-Morthen Parish Council. Plot 22, 23 and 24 are listed under Appendix F. Although the book of reference does not list the footpath as a public footpath, the indication that some of the land is in the ownership of the Parish Council suggests that the footpath might have been considered to be public.

The plan referred to is at Appendix H. Extracts from the books of reference are within Appendices E, F and G.

7.2.5 Shireoaks Loughton and Maltby Railway Plans and Sections 1901

Powers established within the Shireoaks Loughton and Maltby Railway Act 1901 were transferred under the Great Central and Midlands Railway Act 1902 and the South Yorkshire Joint Railway Act 1903 encompassed the powers of the Great Central and Midlands Railway Act 1902.

Within the Shireoaks Loughton and Maltby Railway plans and the book of reference the claimed route from Main Street, heading south, is shown crossing or adjacent to plots 37, 38 and 39 within the plan on Appendix J and the enlarged plan in Appendix K shows plots 37, 38, 39 and 42. Plot 37 is recorded as being in the ownership of Bruce Sorby, The Rotherham Rural District Council and The Loughton-en-le-Morthen Township Parish Council, and describes the plot as a 'field and public footpath'. Plots 38 and 39 are recorded as being in the ownership of John Randall Hatfeild, The Rotherham Rural District Council and The Loughton-en-le-Morthen Township Parish Council. These are described as 'field and public footpath'. The book of reference for plot 42 records the ownership of Loughton-en-le-Morthen Township Parish Council, referring to the plot as 'public footpath'. Plot 42 is marked with an arrow on the map which matches the application route from Main Street. This suggests that the application route was recognised as a public footpath owned by two Parish Councils at the time the documents were drafted.

The plan referred to is shown in Appendices I and J. Extracts from the book of reference for plots 37, 38, 39, 42 are shown in Appendix I.

7.3 The Loughton-en-le-Morthen Enclosure Award 1771

- 7.3.1 Enclosure awards are legal documents authorised by the Acts of Parliament that recorded the distribution of land holdings and their boundaries. They can include details of footpaths,

bridleways, public carriage roads and private carriage roads which can help determine whether rights of way existed after the Award was implemented.

The Enclosure Award and accompanying map indicated that public rights exist between Main Street and Brookhouse Lane where it refers to a plot of land owned by John Kent having a public footpath crossing allotments No 63 and 62. On page 42 (under Appendix L) of the Enclosure Award it states that:

“One other public footpath on way to be continued from the town of Brookhouse over the allotments No 63 and 62 in Hepwellfield hereinafter made to the said Woodifield Beckwith and John Kent respectively on the usual and ancient tract”.

On page 81 (Appendix M) it states that:

“No 62 containing eleven acres one rood and eight perches statute measure the allotment hereinbefore made to the said Woodifield Beckwith No 63 and an ancient Inclosure lying Eastwardly thereof an ancient Inclosure and the lane leading from Laughton-en-le-Morthen aforesaid to Brookhouse Westward the said allotment No 63 and several ancient inclosures northwardly and the said lane Southwardly thereof”.

- 7.3.2 There is only one land parcel in ownership of John Kent and Woodifield Beckwith with eleven acres one rood and eight perches which is indicated on the Award map. This parcel lies in the same location as the section of claimed footpath between Main Street and Brookhouse Lane. Although the alignment of a footpath is not clearly shown on the Award map, it provides evidence that there are public rights in this location because there is only one land parcel within the Enclosure Award allocated to John Kent containing eleven acres one road and eight perches. Appendix N is an extract from the Award map showing the relevant parcel of land allotted to John Kent.

7.4 Network Rail

There is publicly available information on the Network Rail website detailing all their active level crossings, see Appendix O. The Brookhouse level crossing which is part of the application route is included in this publicly available document. Network Rail described the Brookhouse crossing type as a “Public Footpath Crossing” with “signage” and “gates or stiles” and current expectation of “4 pedestrians or cyclists” which suggests Network Rail considered the crossing to have public rights when they surveyed the crossing on the assessment date of January 2021.

7.5 Tithe Map and Apportionment

7.5.1 Tithe maps and apportionments were produced under the Tithe Commutation Act 1836. A tithe was a tax that required one tenth of all agricultural produce to be paid annually to support the Church. The 1836 Act provided for a change to monetary payments (the rent-charge) and in order to calculate these, a map and apportionment (or award where there was no agreement about the payments) were produced. Tithe maps and apportionments can disclose information about rights of way that existed when the survey was conducted.

7.5.2 The map detailing the apportionment of the rent-charge in lieu of tithes in the parish of Laughton-en-le-Morthen is at Appendix P. The plan showed a dashed line on the railway side of the footpath between Main Street and Brookhouse Lane. Although the dashed line does not follow the exact route of the claim, it may indicate that there was a footpath within this location but this is not conclusive as the map does not include a key to denote what the dashed line represented.

7.6 Valuation Office Survey Records

7.6.1 The Finance Act (1909-1910) 1910 authorised the valuation of land within the United Kingdom. This, undertaken by the Valuation Office (part of the Inland Revenue), was for the purposes of taxation. These survey records include Ordnance Survey Plans, marked up by the

valuers and accompanying field books which record the information used in valuation. All land was recorded and given a holding number; information from landowners and the valuers assessment about each land holding was written into field books and the holding numbers were annotated on the 1902 Second Edition of the Ordnance Survey maps at 1:2,500 scale. The field books could include allowances for public rights of way.

- 7.6.2 Extracts from the field books in relation to the land on which the application route crosses are included in this report within Appendices S, T and U. Appendix Q shows the Ordnance Survey Sheet for Yorkshire West Riding CCXCVI.2 and Appendix R for CCXCVI.6 which show the boundaries for the holding numbers 970 and this shows the area of Brookhouse and the land over which the application route runs. Field book entry 970 shows a valuation of a footpath for £5 and includes a deduction of £2 for Public Rights of Way or User. As both sections of the application route affect parcel 970 it is difficult to determine if the deductions were for either one route or for both of these sections. However, the deductions are evidence in support of the application.

7.7 Ordnance Survey Maps at scales 1:2,500 and 1:25,000

- 7.7.1 Ordnance Survey maps have been produced from around 1801. They were originally made for military purposes to record all tracks and roads which could be used in time of war; this included both public and private routes. Since 1888 Ordnance Survey maps have included a disclaimer “the representation on this map of a road track or footpath is no evidence for a right of way” and this is presumed to apply to earlier maps. However, they are strong evidence of physical features which existed at the date of survey. From 1883 onwards footpaths were annotated 'F.P.' the object of this annotation being that the public should not mistake them for roads that could be used by horses or wheeled traffic; it did not denote that a footpath that was labelled in this way was public. From 1893, all footpaths of a permanent character

across fields were to be marked; again, with no distinction being made between public and private rights of way.

A line is depicted on or about the application route on the Ordnance Survey Yorkshire Sheet 296 (Appendix W). The Ordnance Survey 1916 map (Appendix V) has 'FP', annotated although again this is to demark a physical feature on the map and does not imply any rights. Likewise, if a dashed line is marked as a 'path' the same principle applies; it does not indicate any public rights. The same line and demarcation are shown for the application route on the 1948 Ordnance Survey Map (Appendix X) indicating that for almost a century a route has existed as a physical feature on the ground.

7.7.2 The second edition of the Ordnance Survey used by the valuers for the Inland Revenue Valuation Records from 1902 at 1:2,500 scale also included a dashed line labelled with 'FP' which followed the same route from Points A - G. This map was produced shortly after the construction of the railway line. The 1902 Ordnance Survey maps used by the valuers are shown under Appendices Q and R.

7.7.3 The latest Ordnance Survey update in April 2023 at 1:25,000 shows a dashed line along the whole application route (Appendix Y). This denotes a physical path on the ground which is supportive of the existence of well-used paths which closely correspond to the two routes.

7.7.4 "Footbridge" or "F.B" is marked opposite the Cartwheel Public House (formerly the Traveller's Rest) on the 1851 and 1916 maps as shown in Appendices W and V. This indicates that a bridge wide enough for use of pedestrians existed as early as 1851 on the application route.

7.8 Historic Definitive Map Documentation held by the Council

7.8.1 The definitive map and statement for the area SK 58 NW (Appendix Z) shows a dashed line although this is not labelled as a public right of way which indicates that it was not recorded as a public right of way when the map was drafted in 1952. The application to add the route

outlined in Appendix A onto the definitive map and statement has been received by the Authority because it is not recorded currently.

- 7.8.2 A copy of an Ordnance Survey map held with plans relating to the Definitive Map and Statement (Appendix AA) shows a dashed line starting at Bib Lane and crossing the railway line and finishing at Brookhouse Lane. The map is not labelled as being either a copy of the Draft or Provisional Definitive Maps and could be an Officer's working copy of the map. The section between Bib Lane and Main Street is labelled with an arrow and the words "Footpath claimed by Thurcroft PC 9.10.75", The section between Main Street and Brookhouse Lane is labelled on the map with an arrow and "Claimed footpath – review 9.9.74". This suggests this footpath was identified by Officers as a Right of Way and this is evidence to suggest that Thurcroft Parish Council was at the time of the view that the routes were public rights of way.

7.9 Parish Council Meeting Minutes

- 7.9.1 Meeting minutes of Thurcroft Parish Council and Laughton-en-le-Morthen Parish Council were investigated to find any relevant evidence relating to the application route. There are maintenance records of various stiles, and a bridge crossing a stream and a recollection of a footpath crossing the railway at Brookhouse. For the purpose of this report, only the relevant information was recorded, and only minutes that can be clearly shown to relate to the application route are set out. All records relating to the application route are included as appendices within the report. There were multiple references requesting maintenance work to a wooden bridge crossing the stream at Brookhouse (Point E). Some Parish Council minutes quoted costs of the works and recorded who authorised the works to be undertaken.
- 7.9.2 Minutes from a Laughton Parish Council meeting in 1907 (included as Appendix BB) referenced a footpath crossing the railway in Brookhouse. There is no other footpath in the area of Brookhouse that crosses the railway line which implies that this is the application route.

7.9.3 Minutes from a Thurcroft Parish Council meeting in 1937 (included as Appendix CC) recorded that the railway company had been asked to repair a defective footpath stile near the railway line adjoining Rose Lane. It was resolved that:

“Chairman and Clerk be asked to inspect and arrange for repairs to footpath stile on the railway line near Brookhouse.”

This indicates that the Parish Council took action with regard to the maintenance of the stile located on the application route in 1937 as no other footpaths in the area of Brookhouse cross the railway line.

7.9.4 A scan of a letter and an accompanying map (which matches the application route between Points A - D on Appendix A) addressed to Councillor Pearson in 1987 from the Director of Engineering is included under Appendix DD. The Director of Engineering stated that Thurcroft Parish Council had submitted a claim for the route from Bib Lane to be added to the definitive map and statement in 1975. The letter stated that the route has been added to the map provisionally to be taken into account of any future applications that may affect it. This indicates that the route was recognised to have public rights by Thurcroft Parish Council and potentially to have public rights by the Director of Engineering.

7.10 Other Documentary/Historic Evidence

7.10.1 Google Earth Streetview images show what existed physically on the ground. Google Earth Street view photography is updated on a regular basis and it is possible to view images from the past. All Google Earth Streetview images are listed under Appendix EE. At Bib Lane (Point A) there is a stone stile with two steps shown on the Google Earth Streetview in January 2009, June 2009 and September 2022. On Main Street, a two-step stone stile is visible at the west side of the Cartwheel Public House (Point D). The stile is shown on the Google Earth Streetview

in January 2009, May 2019 but not visible from September 2022 following the demolition of the Cartwheel Public House.

7.10.2 Google Earth Streetview shows a public footpath signpost at Main Street next to the footbridge crossing the stream (at Point E on the plan). The footbridge at Point E on the plan is shown on Google Earth Streetview in January 2009, May 2019, September 2022 and March 2023.

7.10.3 On Google Earth Street view at Brookhouse Lane (Point K on the plan) there was a public footpath signpost in September 2009. In March 2023 on Google Earth Streetview at Point K on the plan there is a wood stock metal kissing gate located which indicates that this was used by pedestrians.

7.10.4 A photograph of a painting of the wooden bridge opposite the Cartwheel Public House was provided by an individual (who had completed a user evidence form) following their interview with RMBC Officers. They explained that it belonged to their parents who believed it was painted in the 1950s. Appendix FF is a photograph of the painting with features that exist today including the houses, the bend in the road and the large tree. This indicates that there was a wooden bridge located opposite the Cartwheel Public House that existed on the application route in the 1950s.

7.10.5 The applicant also submitted photographs of the two stiles as part of their supporting evidence. Two photographs were taken of a stone stile located at Point A and a stone stile at Point D. These photos are included under Appendix GG.

7.10.6 With regard to the signposts seen on Google Earth images and mentioned in UEFs it has not been possible to identify who erected the signposts and when they were erected. They seem to have been in place for around 25 years until 2016. The signposts were removed by the Council in 2016, following a report of damage to one of the signs by a member of the public, when it was discovered that the footpath was not on the Definitive Map and Statement.

8 User Evidence

- 8.1 The application is supported by 21 User Evidence Forms (UEFs) claiming use of the route on foot over a 79-year period between 1942 and 2021.
- 8.2 Many claimants stated that their use ended in March 2020 due to the route being blocked by building works. 1 of the 21 UEFs did not specify the years and the same UEF was incomplete as respects other relevant information; this UEF has been discounted from the analysis of user evidence that follows. All users stated they have used the route throughout the period claimed without challenge.

Periods of alleged user evidence are detailed in the graph below:

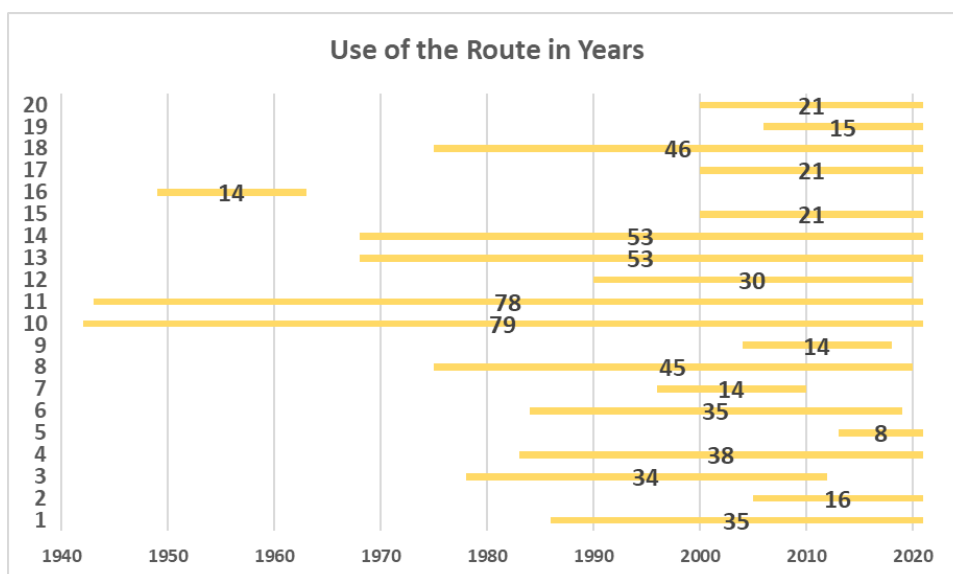


Figure 1: A graph representing when the application route was used by 20 people in years

- 8.3 The first use of the route was by three people in the 1940s. 2 users started using the route in the 1960s and 3 in the 1970s. In the 1980s, another three users started using the route, another 2 in the 1990s, 6 in the 2000s and 1 in 2010s. 14 forms recorded at least 20 years use, 6 recorded a lesser period.

- 8.4 Out of 20 users, 12 used the route weekly, 2 used the route monthly and 6 used the route less than monthly.
- 8.5 All 20 users said they had used the route on foot, two of the users had also used the claimed route on pedal cycle for a period of 20 years. Two people ticked the 'other' box as they were carried by their parents and one of those individuals explained that this was because he was carried as a baby to St Mary's Church in Laughton to be baptised.
- 8.6 All 20 users gave consistent answers saying that the route has never been diverted in the past, 1 stated that it had been diverted by the demolition of the Cartwheel Public House.
- 8.7 When asked about recalling stiles, all 20 users said that they recalled stiles on the route. All other answers below were made either by labelling a stile at the location on a map or they mentioned it on question b in the 'Further Information' section of the UEF. 18 users recalled a stone stile on Bib Lane and a stone stile on Main Street adjacent to the Cartwheel Public House. 4 people within their UEFs said there was a bridge that crossed a stream before the field where there was a wooden stile.
- 8.8 The majority of users said they witnessed at least one public footpath notice or sign. 8 they saw a public footpath notice or sign at the side of the Cartwheel Public House and 5 people said there was a public footpath sign on a metal post at the Brookhouse Lane end of the footpath.
- 8.9 There is no evidence that the use had taken place in secret. One person said they had been given permission by the owner of the section from Points A-B and another claimant stated they had recalled the owner of the section from Points A-B giving permission but did not state who permission was given to.
- 8.10 When asked whether claimants were told the route was not public, all 20 users said no or referenced the route as a public footpath.

- 8.11 1 person stated there was a recent notice at the field on Brookhouse Lane saying no trespassing.
- 8.12 A statement by the landowner owning the section from Points A-B was also provided under Form F (part of the due process where landowners are contacted by claimants) declaring she has owned the land in question for 50 years and she recalled her use of the route. In later interviews (q.v.) she has stated she regards the route as a public right of way.

9 Claimant Interviews

- 9.1 7 people were interviewed to discuss their submitted user evidence forms. This process allows Officers to question claimants individually to see if their recollections correspond. Claimants were interviewed without prior knowledge of the questions they would be asked and each interview took place apart from other claimants. As interviews took place during the Covid Pandemic, six of the interviews were held online, one was held (at the request of the claimant) face to face using social distancing measures. 6 of the interviewees were members of the public, one person was the current landowner of the section from Points A-B.
- 9.2 The owner of section from Points A-B stated that in her experience “the footpath came with the land when we bought it” 50 years ago. She was aware that the footpath was being used because she said she used the footpath to look after her pedigree cows on the land and she erected notices for the public to be mindful of cattle on her land. In her interview she said she had never stopped or challenged anybody to use the route, neither had she ever given permission for anyone to use the footpath and she said “it was part of the countryside”. She never had any problems with anyone using the route as the footpath was respected and no one had ever trespassed on the adjacent land.
- 9.3 The other 6 people were interviewed. Recollections of the application route were broadly consistent; the path crossed a grass field diagonally from Bib Lane as it was a safe way to avoid

a sharp bend on Bib Lane. The footpath went down the side of the Cartwheel Public House where it reached Main Street. Users described the route from Main Street reaching a wooden bridge which went over a stream before entering a field where the footpath crossed the railway line towards Brookhouse Lane. The frequency of use varied, depending on whether it was being used by them at that time as part of a regular circular walking route, or for dog walking or for accessing the local countryside and locations nearby such as friends or relatives.

- 9.4 Interviewees were asked whether they had ever been stopped or challenged using the route and they all responded saying “never” or no. The landowner (section from Points A-B) confirmed she had never stopped or challenged anyone using the route in question. She never had given anyone permission to use the route while she owned the land.
- 9.5 When we asked the users about stiles, there were consistent recollections of a stile with a flat top on the Bib Lane end of the footpath which was built into a stone wall with two steps on each side. 1 person said that they once recalled a wooden stile being approximately thirty yards north of Main Street at the back of The Cartwheel Public House just before entering the field going north to Bib Lane. Users recalled a flat top stone stile with two steps on either side being adjacent to the Cartwheel Public House on Main Street. On the Main Street end towards Laughton users recalled a wooden bridge which crossed a stream, then there was a wooden stile before they entered the field towards the railway line.
- 9.6 When asked to recall any notices or signs, there were references to a green public footpath sign on the Brookhouse Lane end. 3 users said there was a public footpath sign at the Bib Lane end in the past and one of these users said that she emailed an RMBC Officer in approximately 2016 asking where the sign had disappeared to, to which the Officer had replied, saying that it was not a definitive right of way. This user said there were signs at either side of the road at Main Street. 1 person did not recall any signs on the route. 2 people said that there were not any signs when they used the route while they were children, although there were not any

road signs on Bib Lane, as in the past everyone who used the routes lived locally and knew where to travel to and from. 1 person said they saw a “stop, look listen” sign at the railway crossing; this sign is understood to have been erected by the operator of the railway.

- 9.7 Reasons for using the route included: attending Church every Sunday, attending Scouts, playing out with friends while they were children, completing circular routes to visit family and friends who lived locally, going out dog walking, visiting the Cartwheel Public House and 1 person said they courted the daughter of the owners of the Cartwheel Public House. 1 person said that he undertook organised litter picks three times a year when he was a member of the village association and routes included the Bib Lane footpath. The landowner said she used the route to look after her pedigree cows for milking.

10 Landowner Evidence

- 10.1 5 landowners were registered on the land registry as owners, all were contacted using recorded delivery letters with the title ‘IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY’. Their comments were invited in relation to the path claim.
- 10.2 A previous landowner of the Cartwheel Public House submitted some photographs to the Council of when they owned the land and they said the land had not been walked in years. The photographs are included and dated in Appendix HH.
- 10.3 1 landowner, the owner of the section from Points I-J-K, responded by phone to the Council and expressed his intention to object to any order, as he felt there was ample countryside access already available nearby.
- 10.4 Another previous landowner of the Cartwheel Public House (who we are told by a third-party purchased the property on 3rd April 2014) later submitted a statement to declare that there was no access permitted over the property, there was no means of access and the route was overgrown making it impossible to pass, their statement is included as Appendix II. The Rights

of Way Officer spoke to the owner who confirmed the statement but was unable to furnish any dates.

- 10.5 The current owners of the property Olive House had been in email contact with rights of way staff. They were asked to submit any information they had relating to the proposed claim by email. They responded by stating their wholehearted opposition to the claim, stating the path does not benefit the amenity to the area and noting (as another landowner did) that the area is already well served by public access. They noted the route is undulating, uneven and unsafe for the general public and suggested that limited resources and funds would serve better purpose maintaining other public rights of way.

They also raised concerns about how the route would be implemented and who would carry out such work and the impact the path would have on their property and privacy.

- 10.6 Officers have made several attempts to contact Network Rail and received a response during a late stage of the application process which included some evidence: a 1991 letter under Appendix JJ and documentary research submitted by a Network Rail Officer under Appendix KK. Appendix JJ details a letter of correspondence between British Railways Board and Rotherham Council in 1991 which supports the view that the path over the railway crossing has been in use for a very long time and although the British Railways Board were aware of this crossing in 1991 they did not physically stop up the level crossing. Appendix KK shows a summarised document of the railway acts and the deposited records that were drafted by an Officer at Network Rail.

- 10.7 No other owners responded to the consultation.

11 Consideration of Evidence

- 11.1 General Considerations: Definitive Map Modification Orders do not extinguish or create any public rights of way, they simply seek to update the legal records to reflect the true and

existing situation. As a result, whilst landowners understandably raise issues such as security, privacy and amenity, issues such as desirability, suitability, need, property values and even public safety are not matters that can lawfully be considered as part of the decision-making process.

11.2 Taken as a whole the evidence suggest that the action that brought the right of the public to use the claimed route into question was the blocking of the route by the erection of a site cabin; 11 UEFS and 4 people give evidence of this.

11.3 For an event to constitute a “bringing into question” for the purposes of Section 31 of the Highways Act 1980 it must comprise an act which brings it home to the public that their right to use a way is being challenged, thus allowing them the opportunity to respond. Taken as a whole the evidence suggest that the action that brought the right of the public to use the claimed route into question was the blocking of the route by the erection of a site cabin in 2020; 11 UEFS and 4 people give evidence of this.

The twenty-year period is calculated back from this event/date. In this case the site cabin was erected 2020, so the relevant period is from 2000-2020.

11.4 Use by the Public and Sufficiency of Use: For user evidence to qualify for consideration it must be evidence of use by the general public, and not a closed section of the community. The user evidence submitted and the subsequent interviews gave a consistent picture of the routes used and that there was evidence of stiles on the routes, with the Brookhouse Lane end signed at one time as public footpath. The presence of a pedestrian level crossing at the railway line on the with associated warning signage directed at pedestrians, suggests an acceptance from the railway operator that the public had and continue to have a right to pass and repass across the railway. Railway operators are at pains to address health and safety issues of level crossings it would be unusual for use to go unchallenged if public rights were not accepted.

- 11.5 Whilst there is no requirement for a set minimum number of users of a route, use must be sufficient so that an on-site landowner might reasonably be expected to be aware that the use was taking place. Users have presented a variety of times and frequency of use suggesting that use was taking place across all periods of the year and all times.
- 11.6 Use that is “As of Right” and “Without Interruption”: For use to be considered to be “as of right” it must be of a nature that is “without force, without secrecy and without permission”. Such use may therefore be defined as trespassory in its nature. The majority of use appears to be without permission; although 2 people stated that they were given permission by a previous landowner to use the route.
- 11.7 It is unlikely that anyone wishing to use the Application Routes would do so in a stealth-like manner, the presence of the old Cartwheel Public House immediately adjacent to the claimed route to Bib Lane would have allowed such use been noticed, and the pedestrian level crossing and associated signage indicate an acceptance of public use.
- 11.8 Taking the above factors into account, it is reasonable to conclude that, on balance of probability, public use of the Application Route was “as of right”.
- 11.9 For the purposes of Section 31 of the Highways Act 1980 “interruption” means the actual and physical stopping of the enjoyment of the public’s use of the way. The “interruption” must also be with the intention of preventing use of the way. There would not appear to be any events which would constitute an interruption to use throughout the requisite twenty-year period. Interruption clearly took place in 2020 when building works commenced and the site cabin was erected and the relevant 20-year period being 2000 to 2020.
- 11.10 The Application is supported by 21 UEFs (with 1 incomplete UEF being discounted) claiming use of the route on foot over a 79-year period between 1942 and 2021, 15 of those individuals used the route over 20-years. The Application is further supported by 7 interviewee

statements, the answers given concerning use were relatively consistent with one another, no one indicated they had ever been challenged when using the routes.

11.11 Evidence of Lack of Intention to Dedicate: The “Presumption of Dedication” may be overturned if there is sufficient evidence of overt acts carried out by, or on behalf of, the landowner, which are directed at actual users of the ways, and which communicate the landowner’s lack of intention to dedicate public rights within the twenty-year period. This may include (but is not limited to) the closure or fencing of the routes, the erection of appropriately worded signs, and actual challenges to use. Officers have found no sufficient evidence of a lack of intention to dedicate.

11.12 There is no evidence of challenges or signage to deter public use of the claimed routes, indeed the owner of section A-B (one of the claimants for public rights) has stated that she regards the route under her ownership to be a public right of way and has never challenged use. The presence of warning signs at the level crossing would seem to suggest public use was acknowledged and known about by the owner of the railway.

11.13 Whilst it would appear that the case in favour of a presumption of dedication of public footpath rights has been made pursuant to Section 31 of the Highways Act 1980, it would still be expedient to consider the matter under the common law.

11.14 The historical evidence gives indications of a footpath, either through reference in documentation or through a record on maps of a physical route being present going back several decades. The physical representation of a route on an Ordnance Survey Map does not show that a public right exists, but the presence of such a route over so many years is indicative of a physical route on the ground. However, the historical documents that denote a public footpath within the area concerned that are evidence for public rights are as follows:

- Laughton-en-le-Morthen Enclosure Award 1771 – Page 42 and Page 81 (Appendices L and M)

- Shireoaks Loughton and Maltby Railway Session 1901 Book of Reference and accompanying plans – Appendices I, J and K
- 1910 Finance Act Field Book 970 and accompanying plans – Deductions of £5 and £2 for a public footpath. Appendices Q, R, S T and U

11.15 For dedication to arise at common law the onus rests on those alleging the public right to prove an intention to dedicate on the part of the landowner. Such an act of dedication may be express, or presumed/implied as a result of the actions or lack of action of the landowner.

11.16 The presence of safety notices advising the public to take care at the level crossing on the Brookhouse Lane section implies the landowner was aware of public access and did not challenge it. No evidence has been provided by Network Rail to suggest they have ever challenged use. The owner of the section from Points A-B has stated that she regards the claimed right of way to be public. The presence of stiles on sections of the route also lends weight to a potential presumption of dedication. No other evidence has been produced of any express acts on the part of the landowner from which dedication may be implied. However, an inference of dedication may be drawn from public use over a long period. Such use would have to be sufficient in quality and quantity to show that a reasonable landowner must have known that the use was taking place but took no actions to prevent it.

11.17 In terms of evidence refuting the paths being public footpaths, two landowners responded stating the unsuitability or undesirability of the claimed routes. Such responses are understandable, particularly in reference to the new property built on the site where the Cartwheel Public House used to be; however, such comments do not amount to evidence to show that dedication may not be inferred at common law.

12 Conclusion

- 12.1 The decision whether or not to make a Definitive Map Modification Order is “quasi-judicial” in nature. This means that whilst all interested parties must be given the opportunity to have their say, the decision must be made taking into account *all* of the available and relevant evidence. The decision-maker must make the decision based upon their own objective assessment of the relevant evidence.
- 12.2 In terms of what is considered relevant evidence, the decision maker must remember that Definitive Map Modification Orders do not extinguish or create any public rights of way, they simply seek to update the legal records to reflect the true and existing situation. As a result, issues such as desirability, suitability, need, property values and even public safety, whilst undoubtedly genuine concerns, are not matters that can lawfully be taken into account as part of the decision-making process.
- 12.3 If the Authority is satisfied, on balance of probability, that the alleged public footpath rights discussed within this report subsist, they should resolve that:
- a) Definitive Map Modification Order be made to add as a public footpath the route shown on the plan at Appendix A;
 - b) In the event of no objections being received, or if such objections are received, if they are subsequently withdrawn, the Order be confirmed;
 - c) In the event of objections being received, and not subsequently withdrawn, the Order be referred to the Secretary of State for determination where the Council would support the Order being made.
- 12.4 If the Authority is not satisfied, on balance of probability, that the alleged public footpath rights discussed within this report subsists or are reasonably alleged to subsist and therefore a Definitive Map Modification Order should not be made under reasonable allegation, they

should resolve to refuse the Application and advise the Applicant of their rights to appeal to the Secretary of State.

12.5 It is sufficient that the evidence presented within the report satisfies the two tests as identified within Norton and Bagshaw (1994) that a right of way subsists on the balance of probabilities and it is reasonable to allege that a right of way subsists. It is therefore the view of Officers that a Definitive Map Modification Order should be made to add the route between Bib Lane and Main Street (Points A – D) and Main Street to Brookhouse Lane (Points E to K) onto the Definitive Map and Statement for the Rotherham Metropolitan Council area under Section 31 of the Highways Act 1980.

12.6 It is recommended by officers that the Strategic Director for Regeneration and Environment exercises their delegated powers and:

- Requests that Legal Services make a Definitive Map Modification Order (DMMO). The claimed path is separated by a highway and would be recorded on the DMMO (and Definitive Map) as two separate numbered public footpaths with a recorded width of 1.5 metres.
- That the statutory consultation takes place for at least the required 6-week period.
- In the event of no objections being received, or if such objections are received and they are subsequently withdrawn, the Order be confirmed.
- In the event of objections being received and not subsequently withdrawn, the Order be referred to the Secretary of State for determination.

Appendices

Appendix A – Order Plan for the Brookhouse Claim

Appendix B - Land Registry Search Details

Appendix C – Comments made by Laughton-en-le-Morthen Parish Council Dated 1st June 2021

Appendix D – Photographs taken by Officers on a site visit on 6th July 2021

Appendix E – Great Central and Midland Railway Companies Session 1902 – Book of Reference –
Page 1

Appendix F - Great Central and Midland Railway Companies Session 1902 – Book of Reference – Page
2

Appendix G - Great Central and Midland Railway Companies Session 1902 – Book of Reference –
Page 3

Appendix H – Great Central and Midland Railway 1902 Plans and Sections – Map accompanying the
Book of Reference

Appendix I – Shireoaks. Laughton and Maltby Railway 1901 – Book of Reference – Page 11

Appendix J - Shireoaks. Laughton and Maltby Railway 1901 – Plan accompanying the Book of
Reference

Appendix K – Enlarged plan of No 45 on the map accompanying the Book of Reference

Appendix L – Laughton-en-le-Morthen Enclosure Award 1771 – Page 42

Appendix M – Laughton-en-le-Morthen Enclosure Award 1771 – Page 81

Appendix N – Laughton-en-le-Morthen Enclosure Award 1771 – Accompanying Map

Appendix O – Network Rail webpage detailing information of all Network Rail’s level crossings and extract from downloadable file

Appendix P – A plan of Tithable lands within Laughton-en-le-Morthen 1840

Appendix Q – 1902 Second Edition Ordnance Survey Map used by the valuers for the Inland Revenue Valuation Records – CCXCVI.2 Scale 1:2,500

Appendix R – 1902 Second Edition Ordnance Survey Map used by the valuers for the Inland Revenue Valuation Records – CCXCVI.6 Scale 1:2,500

Appendix S – 1910 Field Book for Dinnington entry 970 page 2

Appendix T – 1910 Field Book for Dinnington entry 970 page 3

Appendix U – 1910 Field Book for Dinnington entry 970 page 4

Appendix V – Ordnance Survey 1916 Map shown at scale 1:1,250. “F.B”. Retrieved from RMBC Mapper

Appendix W – Ordnance Survey Yorkshire Sheet 296 – Surveyed: 1851, Published: 1854. Scale 1:10,560. Reproduced with permission from the National Library of Scotland

Appendix X – Yorkshire Sheet CCXCVI.NW Revised: 1948, Published: 1949. Scale 1:10,560. Reproduced with permission from the National Library of Scotland

Appendix Y – Current Ordnance Survey Map of Brookhouse Scale 1:25,000

Appendix Z – Extract of Definitive Map 1952 covering SK 58 NW Scale 1:10,560

Appendix AA - Extract of Ordnance Survey Map stored by RMBC covering SK 58 NW Scale 1:10,560

Appendix BB – Laughton-en-le-Morthen Parish Council meeting minutes – Thursday 23rd May 1907

Appendix CC – Laughton-en-le-Morthen Parish Council meeting minutes – 30th June 1937

Appendix DD – A letter addressed to Councillor Pearson in 1987 regarding the route at Brookhouse and an accompanying plan

Appendix EE – Google Earth Street View Photographs from Bib Lane, Main Street and Brookhouse Lane, Brookhouse.

Appendix FF – A photograph of a painting from approximately 1950 of the wooden foot bridge opposite the site of the Cartwheel Public House

Appendix GG – Photographs of two stone stiles submitted by the applicant as supporting evidence

Appendix HH - Photographs submitted by a previous landowner of the site of the Cartwheel Public House

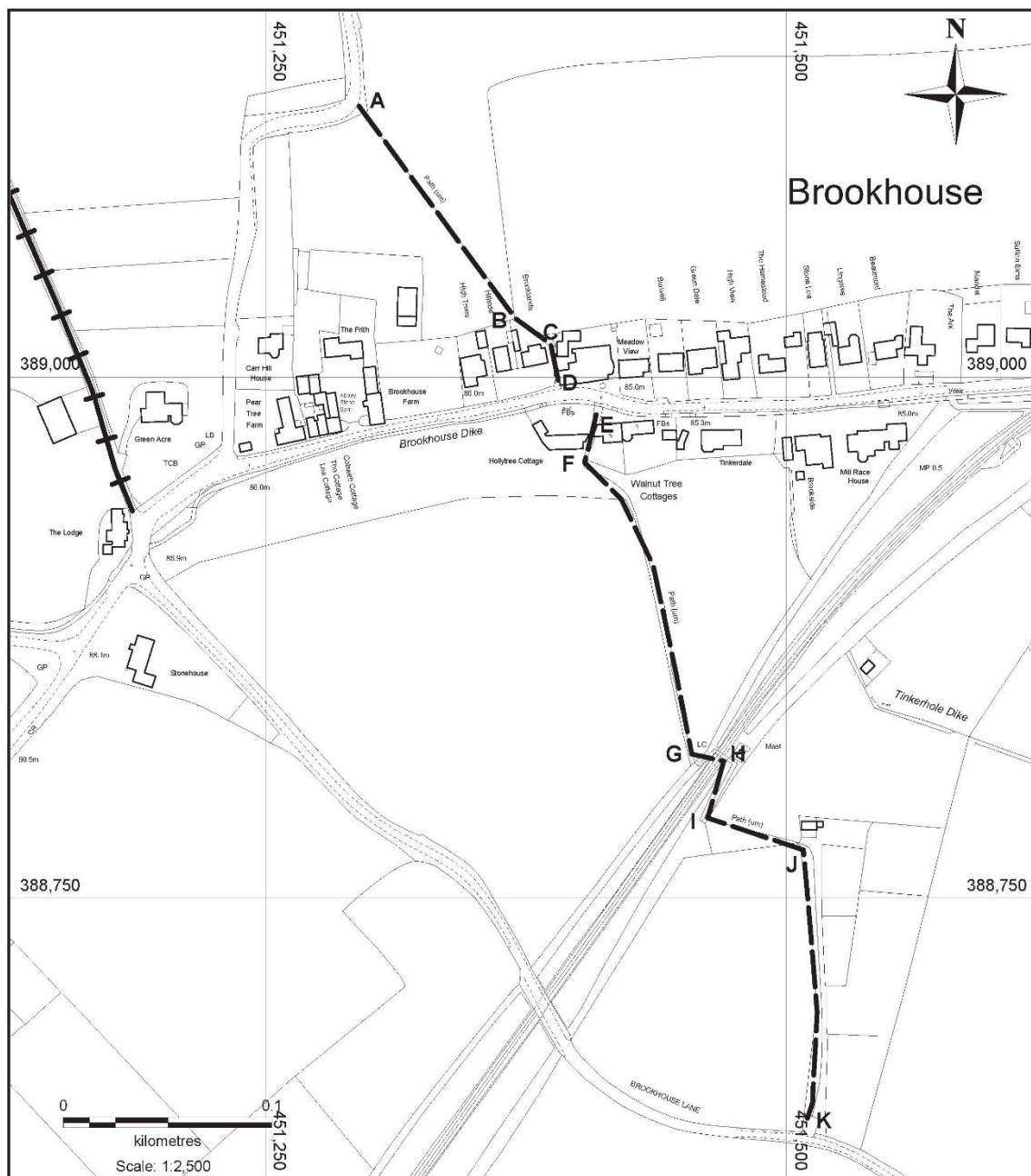
Appendix II – Statement submitted by a previous landowner of the Cartwheel Public House opposing the claim

Appendix JJ – A letter of correspondence from 1991 between British Railways Board and Rotherham Council regarding the footpath crossing at Brookhouse

Appendix KK – A document submitted by an Officer at Network Rail detailing a summary of the document evidence

Appendices – Claim for Public Footpath at Brookhouse, Parish of Thurcroft

Appendix A – Order Plan for the Brookhouse Claim



Application to add a public footpath between Bib lane and Brookhouse Lane, Brookhouse

Key

Existing Public Bridleway

Footpath to be Added

Parish/Ward: Thurcroft
Scale: 1: 2,500
Grid Ref: SK 58

Date: 17/12/2021

Rotherham Metropolitan Borough Council

Rotherham MBC
Regeneration and Environment
Riverside House
Main Street
Rotherham
S60 1AE

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Appendix B - Land Registry Search Details

Title Number	Proprietor	Address
SYK182918	[REDACTED]	[REDACTED]
SYK462324	[REDACTED]	[REDACTED]
SYK466458	[REDACTED]	[REDACTED]
SYK679232		[REDACTED]

Appendix C – Comments made by Laughton-en-le-Morthen Parish Council Dated 1st June 2021

LAUGHTON-EN-LE-MORTHEN

PARISH COUNCIL

(INCORPORATING BROOKHOUSE, CARR, SLADE HOOTON AND NEWHALL HAMLET)



**The Village Hall
Firbeck Avenue
Laughton-en-le-Morthen
SHEFFIELD
S25 1YD**

Email: clerk@laughtonparishcouncil.org.uk

Telephone : 01709 528823

Date: 1st June 2021

Christian Hayes
Rights of Way Officer
RMBC
Rotherham Metropolitan Borough Council
Riverside House
Main Street
Rotherham
S60 1AE

Dear Mr Hayes

Footpaths in Brookhouse/Laughton

The Parish Council discussed this matter again at a recent meeting, following further concerns by Councillors and Parishioners. The concerns surround the existence of the following footpaths and the fact that they do not appear on RMBC'S definitive map:

- 1 Bib Lane to Main Street, Brookhouse (which passed down the western side of the building demolished in 2020 known as - Ye Olde Cartwheel Public house) and
- 2 Main Street Brookhouse to Brookhouse Lane.

Two of our Parish Councillors have served as councillors on both Thurgroft Parish Council (TPC) and Laughton-en-le-Morthen Parish Council (LeIMPC) for over 30 years and can confirm that the two footpaths being comprised as Rights of Way for walkers and ramblers have been in existence for all that time. In the 1980's and into the early 1990's TPC published an A2 size map showing all the footpaths that existed within the boundaries of that parish council which at that time also included what is now LeIMPC. This map was accompanied by a booklet entitled "Walks in Thurgroft Parish" which provided detailed information on walks of various lengths that were available for public use. The two

www.laughtonparishcouncil.org.uk

footpaths detailed above formed part of the walking routes available to the public as detailed in the booklet and shown on the map.

30 years is but a short time in the use of these footpaths and there is little doubt that they have been in existence and used, most likely, for hundreds of years.

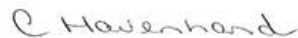
Council understood that the developers of the site of Ye Olde Cartwheel were well aware of the existence of the footpath when they purchased the site. That they have restricted access by their building works is unreasonable in Council's opinion – it would appear that they may have chosen to make it difficult to access this path as its existence could be detrimental to the sale of properties. This should not therefore go unchallenged.

Also, the path from Main Street, Brookhouse to Brookhouse Lane, towards the southern side of Laughton-en-le-Morthen featured as a walk both on the map and in the booklet.

It is the best interests of the many and not the few, that both these paths remain available to both local walkers and the wider community of ramblers in the future.

With that in mind and in view of the history of use of these paths, we believe that they should have always been a definitive Right of Way and therefore protected for future generations to use freely. Council would appreciate an update of this matter and how it can be resolved.

Yours Sincerely

A handwritten signature in cursive script, reading "C Havenhand".

Caroline Havenhand (Clerk to the Council)

Appendix D – Photographs taken by Officers on a site visit on 6th July 2021













Appendix E – Great Central and Midland Railway Companies Session 1902 Plans and Sections –
Book of Reference – Page 1

IN PARLIAMENT.—SESSION 1902.

1

GREAT CENTRAL AND MIDLAND RAILWAY COMPANIES (RAILWAYS IN SOUTH YORKSHIRE). NEW RAILWAY.

Parish of LAUGHTON-EN-LE-MORTHEN, in the West Riding of the
County of York.

No. on Plan.	Description of Property.	Owners or Reputed Owners.	Lessees or Reputed Lessees.	Occupiers.
1	Field	Thomas Watson Cadman	— —	Frank Chapman Thickett
2	Field	John Randall Hatfield	— —	Leonard Bizby
3	Field	Thomas Watson Cadman	— —	Frank Chapman Thickett
4	Field	Thomas Watson Cadman	— —	Frank Chapman Thickett
5	Field	Colonel John St. Leger	— —	Thomas Twigg
6	Field	Colonel John St. Leger	— —	Thomas Twigg
7	Field	Colonel John St. Leger	— —	Thomas Atkinson
8	Field	John Randall Hatfield	— —	Thomas Ardron
9	Field	John Randall Hatfield	— —	Thomas Ardron
10	Garden	Rebecca Heathcote	— —	In hand
11	Public road	Rotherham Rural District Council	— —	— —
12	Garden	Rebecca Heathcote	— —	In hand
13	Field	Anne Taylor Samuel Inman	— —	Thomas Ardron
14	Field	Trustees under the Will of William Chapman, viz.: Edmund Nicholson Bruce Sorby Bruce Sorby	— —	Bruce Sorby
15	Field and footpath	Bruce Sorby Laughton-en-le-Morthen Parish Council	— —	Bruce Sorby
16	Garden	Bruce Sorby	— —	Herbert Kew
17	Garden	Bruce Sorby	— —	Robert Lamb
18	Garden	Bruce Sorby	— —	John Roddis

Appendix F – Great Central and Midland Railway Companies Session 1902 Plans and Sections –
Book of Reference – Page 2

SESSION 1902.

Great Central and Midland Railway Companies (Railways in South Yorkshire).
New Railway—continued.

Parish of Loughton-en-le-Morthen—*continued.*

No. on Plan.	Description of Property.	Owners or Reputed Owners.	Lessees or Reputed Lessees.	Occupiers.
19	Watercourse	Bruce Sorby Loughton-en-le-Morthen Parish Council Rotherham Rural District Council John Randall Hatfeild Florence Wheen Maria Elizabeth Hoole Thomas Marrian	— —	— —
20	Public road	Rotherham Rural District Council	— —	— —
21	House, garden, and outbuildings	Bruce Sorby	— —	John Barker
22	House, garden, and outbuildings	Bruce Sorby	— —	William Roddis
23	Footpath	Loughton en-le-Morthen Parish Council	— —	— —
24	Public-house known as "The Travellers' Rest" and garden	Bruce Sorby	John Smith's Tadcaster Brewery Company, Limited	Joseph Dunhill
25	Yard, passage, and outbuildings	Bruce Sorby	John Smith's Tadcaster Brewery Company, Limited	Joseph Dunhill
26	House, garden, and outbuildings	John Randall Hatfeild	— —	James Turner
27	House, garden, and outbuildings	John Randall Hatfeild	— —	George Thomas Witham
28	Occupation road and footpath	John Randall Hatfeild Florence Wheen Maria Elizabeth Hoole Loughton-en-le-Morthen Parish Council	— —	— —
29	House, garden, and outbuildings	Florence Wheen Maria Elizabeth Hoole	— —	James Mills
30	House and garden	Florence Wheen Maria Elizabeth Hoole	— —	James Mills
31	Garden	Florence Wheen Maria Elizabeth Hoole	— —	James Mills
32	Field	Bruce Sorby	— —	In hand
34	Field	Thomas Marrian	— —	Thomas Ardron
35	Field and footpath	John Randall Hatfeild Loughton-en-le-Morthen Parish Council	— —	Thomas Ardron

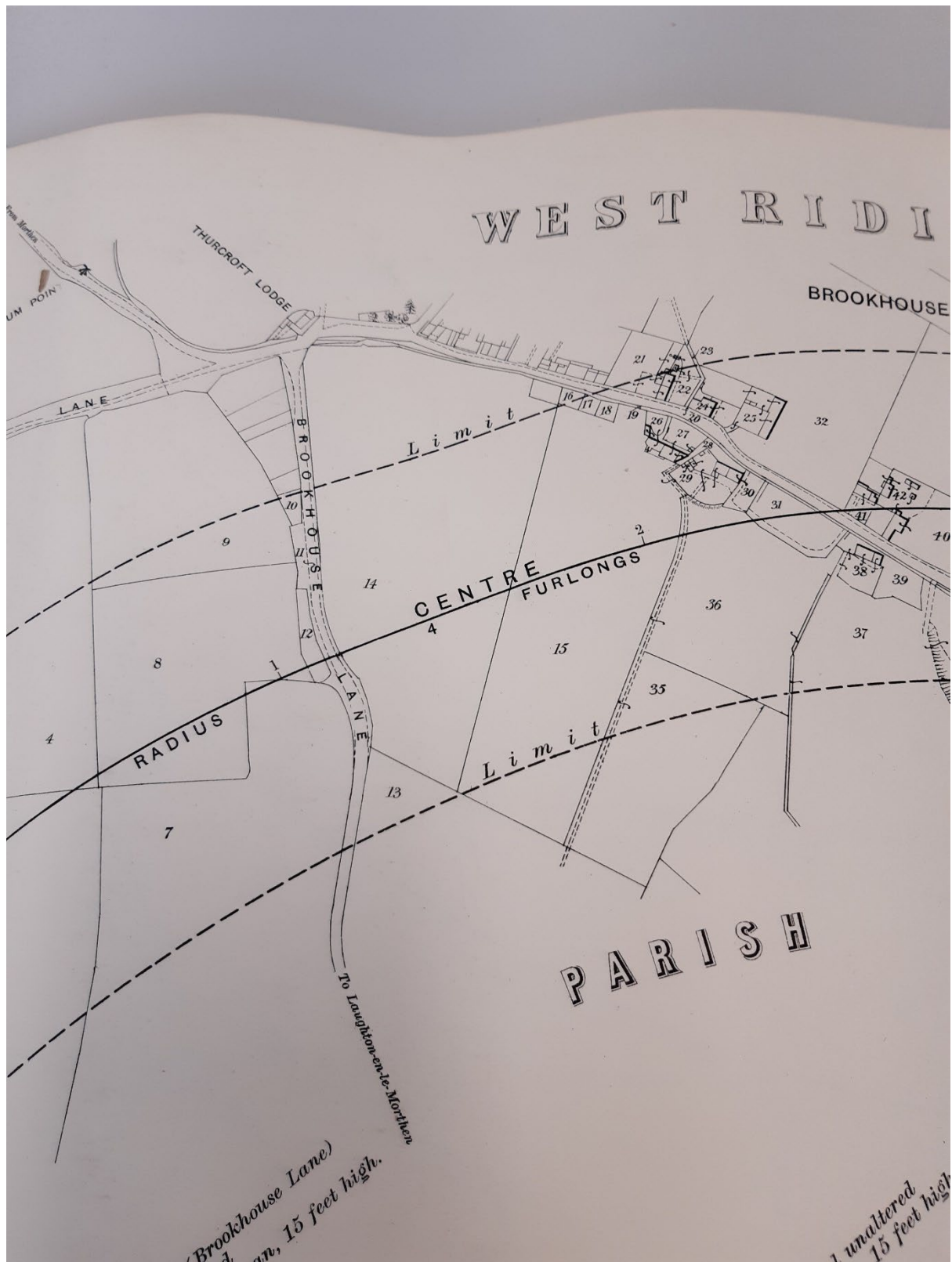
Appendix G – Great Central and Midland Railway Companies Session 1902 Plans and Sections –
Book of Reference –Page 3

SESSION 1902.
Great Central and Midland Railway Companies (Railways in South Yorkshire).
New Railway—continued.
Parish of Loughton-en-le-Morthen—continued.

3

No. on Plan.	Description of Property.	Owners or Reputed Owners.	Lessees or Reputed Lessees.	Occupiers.
36	Field, footpath, and watercourse	John Randall Hatfield Loughton-en-le-Morthen Parish Council	— —	Thomas Ardron
37	Field and watercourses	John Randall Hatfield	— —	Charles Shepard
38	Land, workshop, footpath, and well	Thomas Marrian Loughton-en-le-Morthen Parish Council	Thomas Ardron	Henry Ludlam
39	Garden	Thomas Marrian	Thomas Ardron	Thomas Ardron
40	Field and outbuildings	Thomas Marrian	— —	Thomas Ardron
41	House and garden	Thomas Marrian	— —	Thomas Ardron
42	Farm buildings, garden, and yards	Thomas Marrian	— —	Thomas Ardron
43	House, shop, garden, and outbuildings	Trustees under Will of William Chapman, viz.: Edmund Nicholson Bruce Sorby Bruce Sorby	— —	Samuel Ludlam
44	Field and rickyard	Trustees under Will of William Chapman, viz.: Edmund Nicholson Bruce Sorby Bruce Sorby	— —	Samuel Ludlam
45	Field and watercourse	John Randall Hatfield	— —	Charles Shepard
46	Field	Trustees under Will of William Chapman, viz.: Edmund Nicholson Bruce Sorby Bruce Sorby	— —	Bruce Sorby
47	Field	Trustees under Will of William Chapman, viz.: Edmund Nicholson Bruce Sorby Bruce Sorby	— —	Bruce Sorby
48	Field	Trustees under Will of William Chapman, viz.: Edmund Nicholson Bruce Sorby Bruce Sorby	— —	Bruce Sorby
49	Field	Trustees under Will of William Chapman, viz.: Edmund Nicholson Bruce Sorby Bruce Sorby	— —	Bruce Sorby

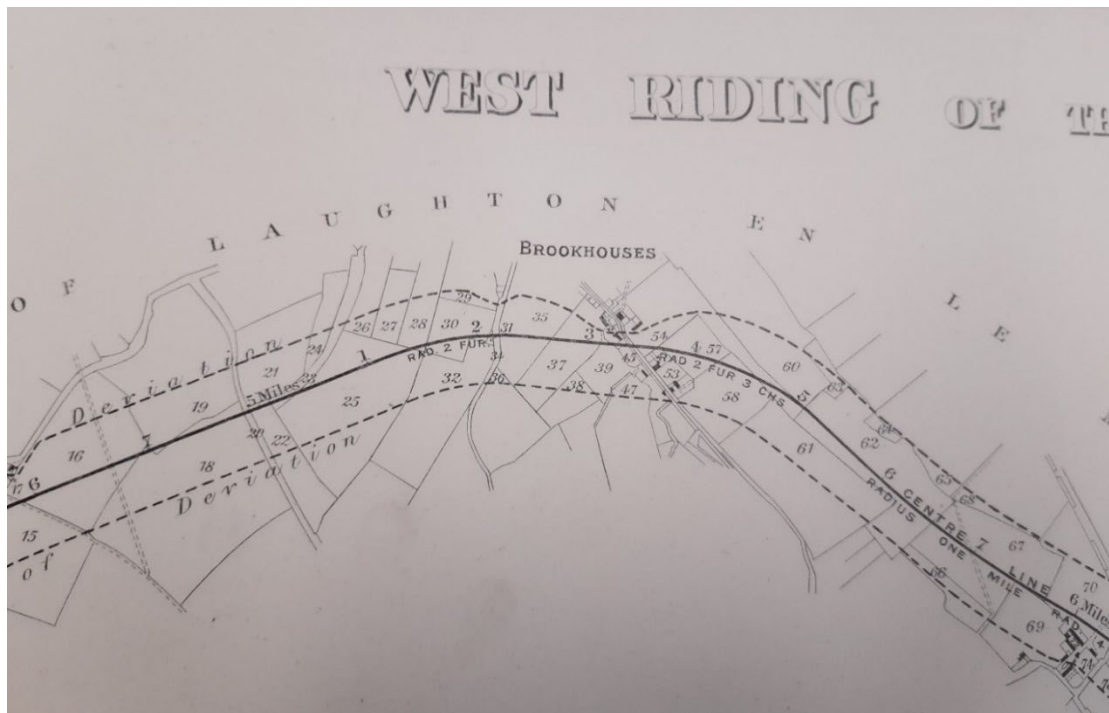
Appendix H – Great Central and Midland Railway 1902 Plans and Sections– Map accompanying the Book of Reference



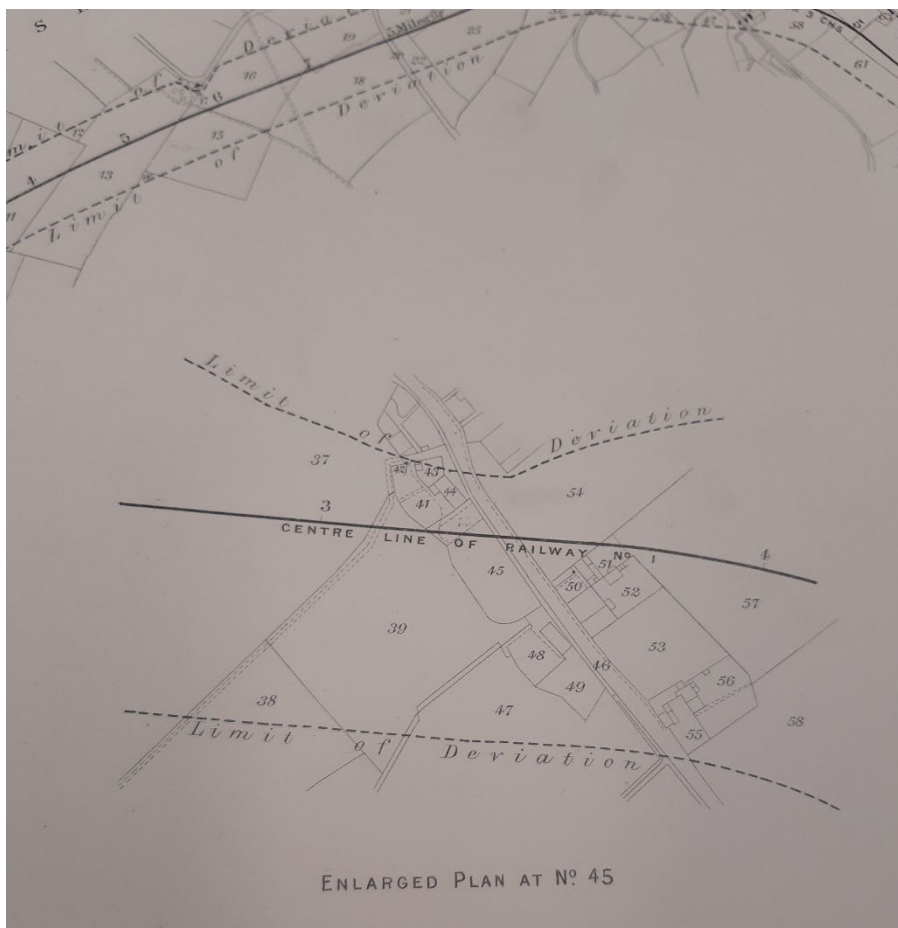
Appendix I – Shireoaks, Laughton and Maltby Railway 1901 Plans and Sections – Book of Reference
– Page 11

SHIREOAKS, LAUGHTON AND MALTBY RAILWAY. RAILWAY No. 1.—continued. PARISH OF LAUGHTON-EN-LE-MORTHEN, IN THE WEST RIDING OF THE COUNTY OF YORK.				
No. on Plan.	Description of Property.	Owners or reputed Owners.	Lessees or reputed Lessees.	Occupiers.
20	Public road	The Rotherham Rural Dis- trict Council	...	...
21	Field	John Randall Hatfield	...	John Stenton
22	Field	John Randall Hatfield	...	John Atkinson
23	Field	John Randall Hatfield	...	Leonard Bizby
24	Field	Thomas Watson Cadman...	...	Frank Thickett
25	Field	Thomas Watson Cadman...	...	Frank Thickett
26	Field	John Randall Hatfield	...	Thomas Twigg
27	Field	John Randall Hatfield	...	Thomas Twigg
28	Field	John Randall Hatfield	...	Frank Thickett
29	Field	John Randall Hatfield	...	Thomas Ardron
30	Field	John Randall Hatfield	...	Thomas Ardron
31	Garden	John Randall Hatfield William Taylor	...	Herbert Kew Rebecca Heathcote
32	Field	Colonel John St. Leger	...	Thomas Atkinson
34	Public road	The Rotherham Rural Dis- trict Council	...	...
35	Field	Bruce Sorby	...	In hand
36	Field	John Randall Hatfield	...	Thomas Ardron
37	Field and public footpath	Bruce Sorby The Rotherham Rural Dis- trict Council The Laughton-en-le-Mor- then Township Parish Council	...	In hand
38	Field and public footpath	John Randall Hatfield The Rotherham Rural Dis- trict Council The Laughton-en-le-Mor- then Township Parish Council	...	Thomas Ardron
39	Field and public footpath	John Randall Hatfield The Rotherham Rural Dis- trict Council The Laughton-en-le-Mor- then Township Parish Council	...	Thomas Ardron
41	Garden and outbuildings	Maria Elizabeth Hoole Florence Wheen	...	James Mills
42	Public footpath	The Rotherham Rural Dis- trict Council The Laughton-en-le-Mor- then Township Parish Council	...	...

Appendix J– Shireoaks Laughton and Maltby Railway 1901 Plans and Sections – Plan accompanying the Book of Reference



Appendix K – Enlarged plan of No 45 on the map accompanying the Book of Reference



hereinafter made to the said John Halford to the said Brampton Common
 One other Publick footpath or way to be continued from the
 Town of Brookhouse over the Allotments No 63 and 62 in
 Kewellfield hereinafter made to the said Woodfield Beckwith and
 John Kent respectively on the usual and ancient Tract One other
 Publick footpath or way to be continued from the said John
 Parsonsons Booth Close No 399 over the Allotment No 81 hereinafter
 made to the said Woodfield Beckwith in the said Windmill field
 to the said Woodfield Beckwiths Thistley Close No 390 on the usual
 and ancient Tract One private Carriage and dust road
 beginning at the said Furbeck Road and to be continued in a
 straight line over the Allotment No 50 hereinafter made to the
 said Anthony St Leger in the said Eastfield to the North Western
 corner of the said Margaret Loughtys Hanging Flatt Close No 253
 and which said Road we have marked in the said map and
 have staked and set out the same of the breadth of eighteen feet in
 case the said Anthony St Leger shall choose to fence out the same
 for the use of the said Margaret Loughty her heirs and assigns and
 all other the owners and occupiers of the said Hanging Flatt Close
 One other private Carriage and Dust road over the said Anthony
 St Leger's Allotments on the said Laughton-en-le-Morthen Common
 and St John's field No 8 and 42 to William Jessops Outgang Close
 No 100 and which said road we have marked in the said map
 and have staked and set out the same of the breadth of eighteen
 feet in case the said Anthony St Leger shall choose to fence out
 the same for the use of the said William Jessop his heirs and assigns
 and all other the owners and occupiers of the said Outgang Close
 One other private Carriage and Dust road from the said Brookhouse
 Road over the Allotment on the said Laughton-en-le-Morthen Common
 No 23 hereinafter made to the said John Parsonson to the said
 Anthony St Leger's Honeywell Close No 36 and which said road we
 have marked in the said Map and have staked and set out the
 same of the breadth of eighteen feet in case the said Parsonson shall
 choose to fence out the same for the use of the said Anthony St Leger
 his heirs and assigns and all other owners and occupiers of the said

Woodfield Beckwith
 and Wm Jessops
 road to Cedar
 and Broadbush
 Anthony St Leger
 road to his
 Scamling Close
 Margaret Loughty
 road to her
 Hanging Flatt
 Close

William Jessops
 Road to his
 Outgang Close
 Anthony St Leger
 road over
 John Halford
 Allotment
 the Eastfield

Anthony St Leger
 road to his
 Honeywell
 Close

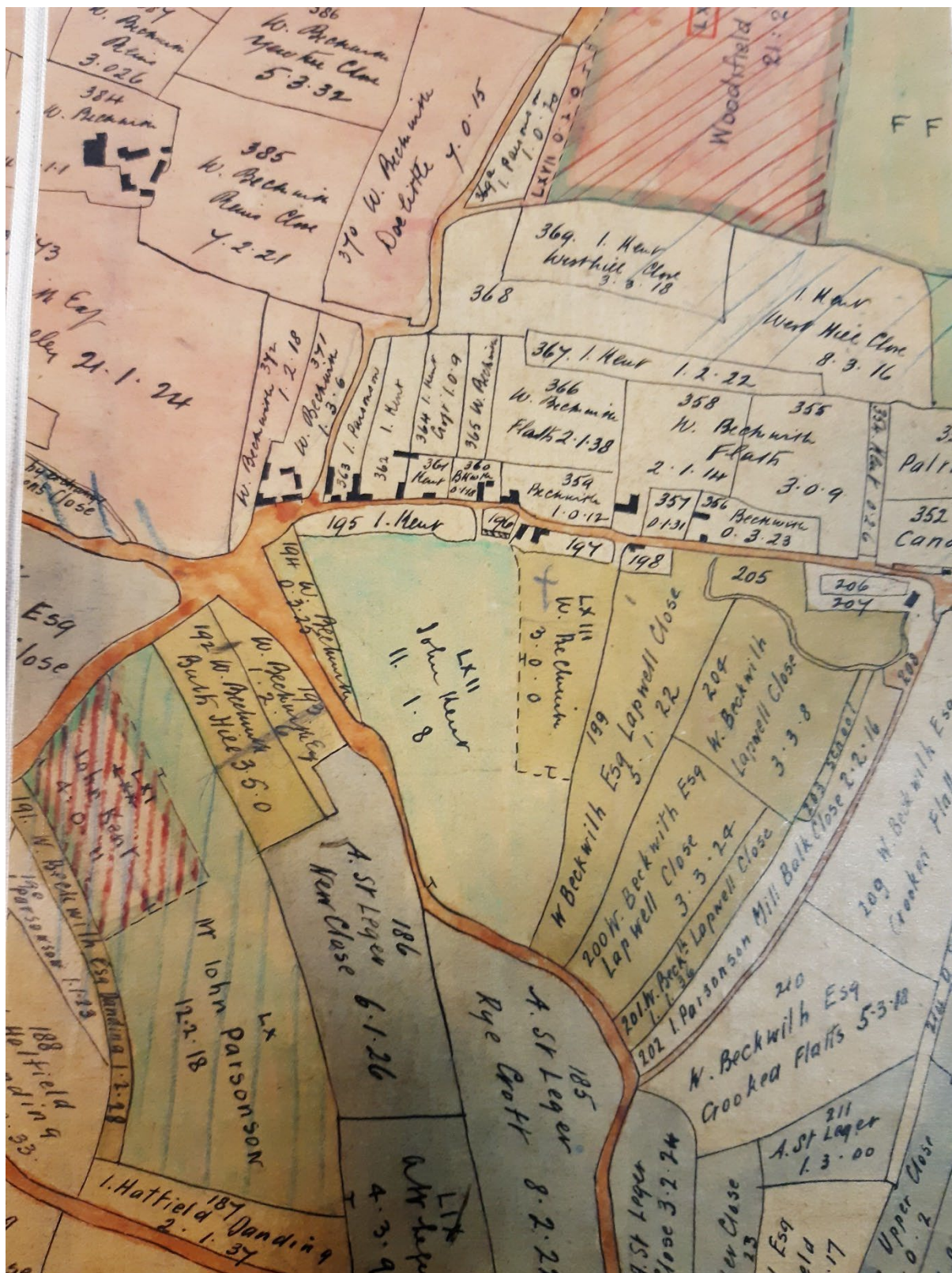
the private
 roads to
 Laughton

Northwest thereof And we do order direct and
appoint that the said John Kent his heirs and
assigns shall make and for ever maintain good and
sufficient fences and ditches on the Southeast and
Do allotment Northwest sides or Boundaries thereof Also one
in the Lepwell Field N^o. 62¹/₂ other parcel of land being part of another openfield
11. 1. 8 within Laughton en le Mothe aforesaid called the
Lepwell Field marked in the said Map herunto
annexed with the N^o. 62 containing eleven acres one rood
and eight perches statute measure the allotment
hereinbefore made to the said Woodfield Beckwith
N^o. 63 and an ancient Inclosure lying Eastwardly
thereof an ancient Inclosure and the lane leading
from Laughton en le Mothe aforesaid to Brookhouse
Westward the said allotment N^o. 63 and several
adjunct inclosures Northwardly and the said Lane
Southwardly thereof And we do order direct and
appoint that the said John Kent his heirs and
assigns shall make and for ever maintain good and
sufficient fences and ditches on the Westward and

Do allment Southward sides or boundaries thereof Also one
in Hooton other parcel of land being part of another Openfield
nearfield within Loughton en le Mothe aforesaid called Hooton
No 64 p
8. 1. 26
near field marked in the said Map herunto annexed
with the N^o 64 containing eight acres one rood
and twenty six perches Statute measure several
ancient inclosures lying East West and South thereof
and the allotment heretofore made to the said
Woodfield Beckwith N^o 65 North thereof And
we do order direct and appoint that the said John
Kent his heirs and assigns shall make and for ever
maintain a good and sufficient fence and ditch on

Be allment the North side or boundary thereof Also one
in Horton ^{field} other parcel of land being part of another Openfield
(No 77) ^a27.0 ² within Loughton en le Mothen aforesaid called

Appendix N – Laughton-en-le-Morthen Enclosure Award 1771 – Accompanying Map



Appendix: O – Network Rail webpage detailing information of all Network Rail’s level crossings and extract from downloadable file

Active level crossings - Network Rail

https://www.networkrail.co.uk/communities/safety-in-the-community/level-crossing-safety/active-level-crossings/

You have found 6180 level crossing

Location
Laughton-en-le-Morthen CP

Name
Brookhouse

Latitude, longitude
53.393729, -1.227492

Type
Public Footpath Crossing

Risk Score
E8

Trains per day
4

Line Speed
25 mph

Alternative download

Level Crossings data April 2021 785 KB

Information sourced from <https://www.networkrail.co.uk/communities/safety-in-the-community/level-crossing-safety/active-level-crossings/> on 19 June 2023

An alternative download file was downloaded on 19th June 2023 called “Level Crossing data April 2021” and the entry for the Brookhouse level crossing is included below.

1	Level crossings														
2															
3															
4	Correct to Tuesday 27 April 2021														
5	All Crossings data was refreshed														
	LAT Long	Crossing name	Crossing type	Location	Current assessment date	Next assessment due date	risk score	Key risk drivers	Types of trains	Line speed	No. of trains per day (approximately)	Census (current expectation)	Current protection arrangements	Recorded incident history	ELR- Miles.Yards
6															
472	53.393729 -1.227492	Brookhouse	Public Footpath Crossing	Laughton-en-le-Morthen CP	Jan-21	Apr-24	E8	* Infrequent Trains * Deliberate Misuse or User Error	Passenger & Freight	25 mph	4	4 Pedestrians or Cyclists	* Signage * Gates or stiles	Contact us for details using the submit suggestions link	BKS0-005.0693

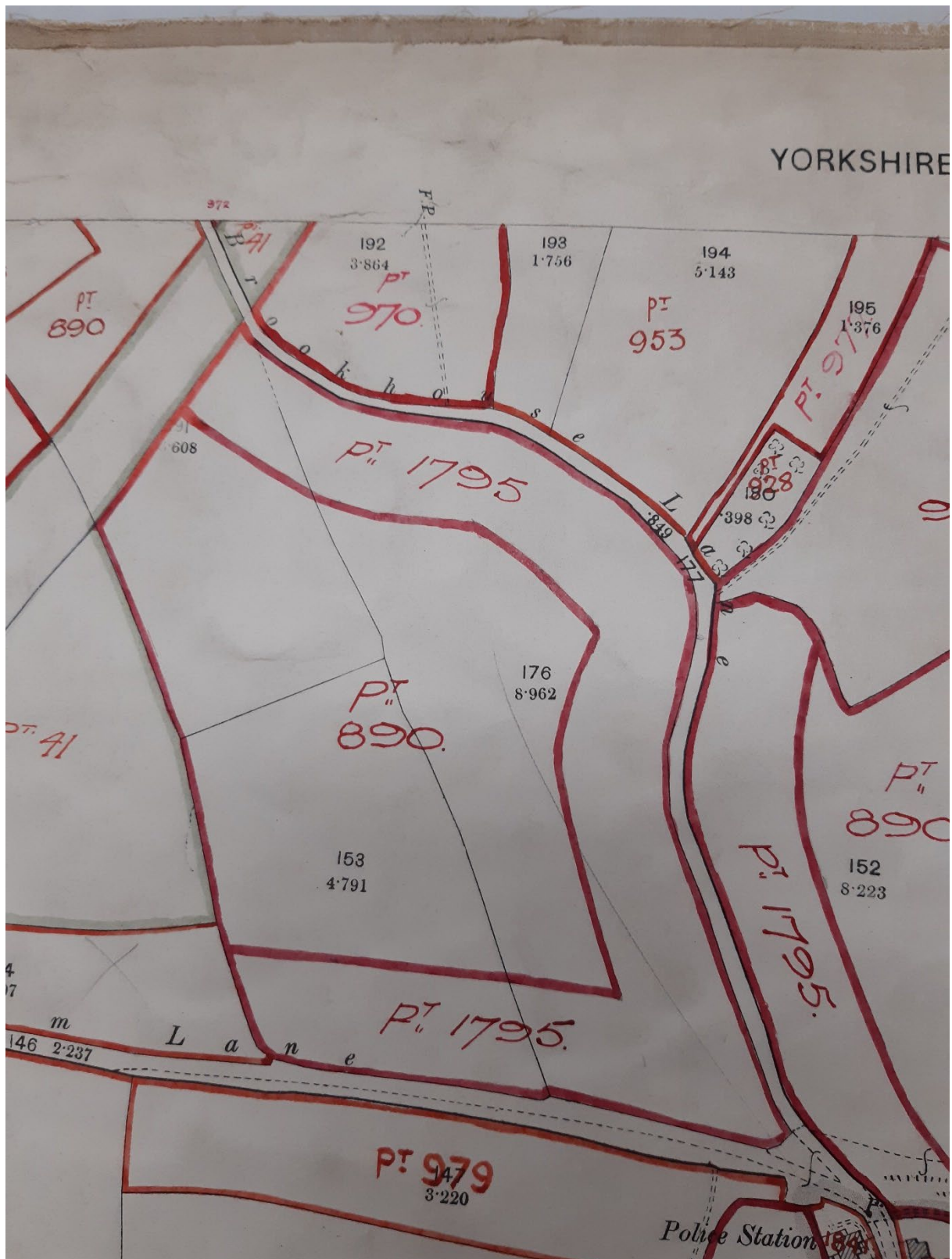
Appendix P – A plan of Tithable Lands within Laughton-en-le-Morthen 1840



Appendix Q – 1902 Second Edition Ordnance Survey Map used by the valuers for the Inland
Revenue Valuation Records – CCXCVI.2 Scale 1:2,500



Appendix R - 1902 Second Edition Ordnance Survey Map used by the valuers for the Inland Revenue Valuation Records – CCXCVI.6 Scale 1:2,500



Appendix S – 1910 Field Book for Dinnington entry 970 page 2

ap. No. ^{296.6.£} ^{296.2.0.}
house

Land £
Buildings £4

Reference No.
Particulars, description, and notes made on inspection *ap 1913*

Land in very fair order

Charges, Easements, and Restrictions affecting market value of Fee Simple

Valuation.—Market Value of Fee Simple in possession of whole property
in its present condition

Footpath £5.

£ 29 0

Deduct Market Value of Site under similar circumstances,
but if divested of structures, timber, fruit trees, and
other things growing on the land

£ 24 0

Difference Balance, being portion of market value attribut-
able to structures, timber, &c. £ 5 0

Divided as follows:—

Buildings and Structures..... £ 2 40

Machinery £

Timber £

Fruit Trees £

Other things growing on land £

Market Value of Fee Simple of Whole in its present condition
(as before) £ 29 0

Add for Additional Value represented by any of the following
for which any deduction may have been made when
arriving at Market Value:—

Copyhold enfranchisement £10

Charges (excluding Land Tax) *like* £ 38

Restrictions *Footpath* £ 2 £ 50

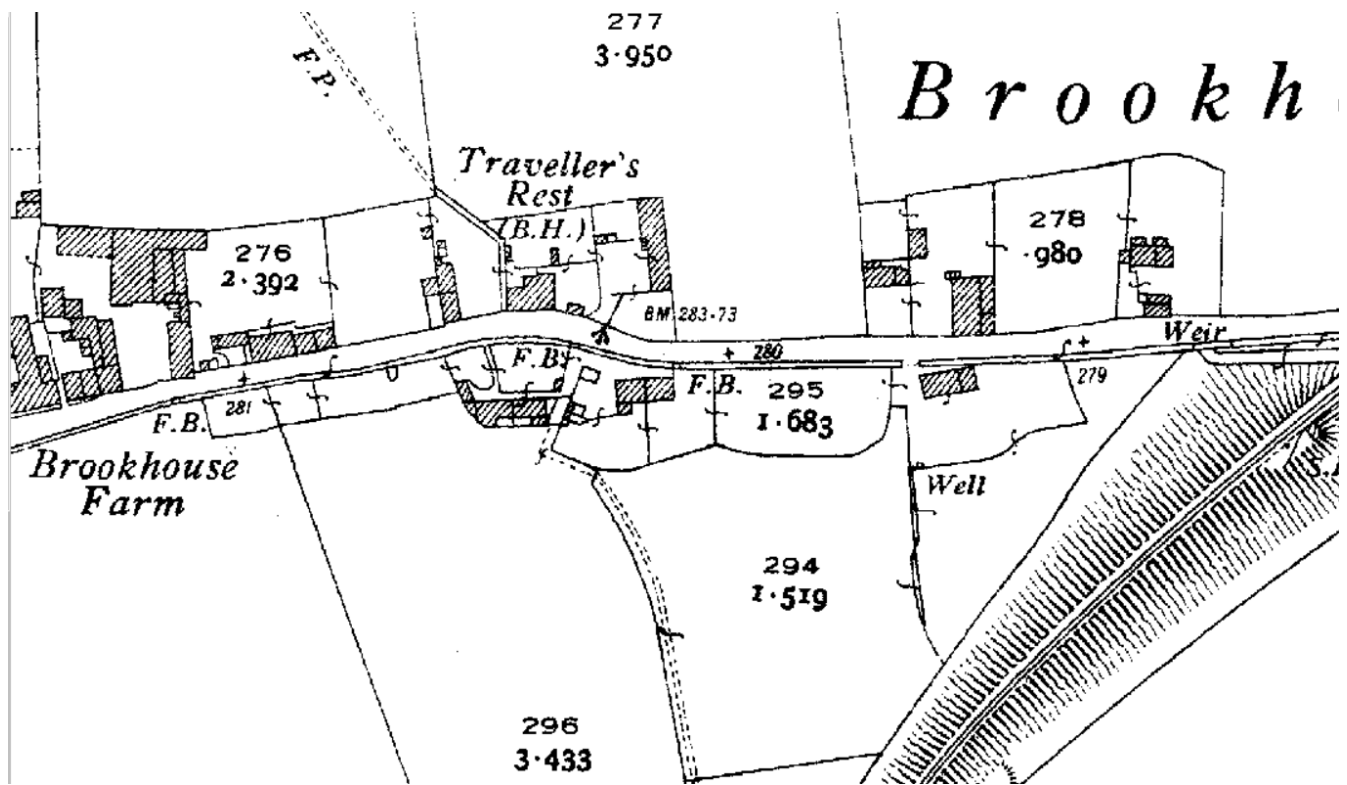
GROSS VALUE... £ 34 0

[illegible]

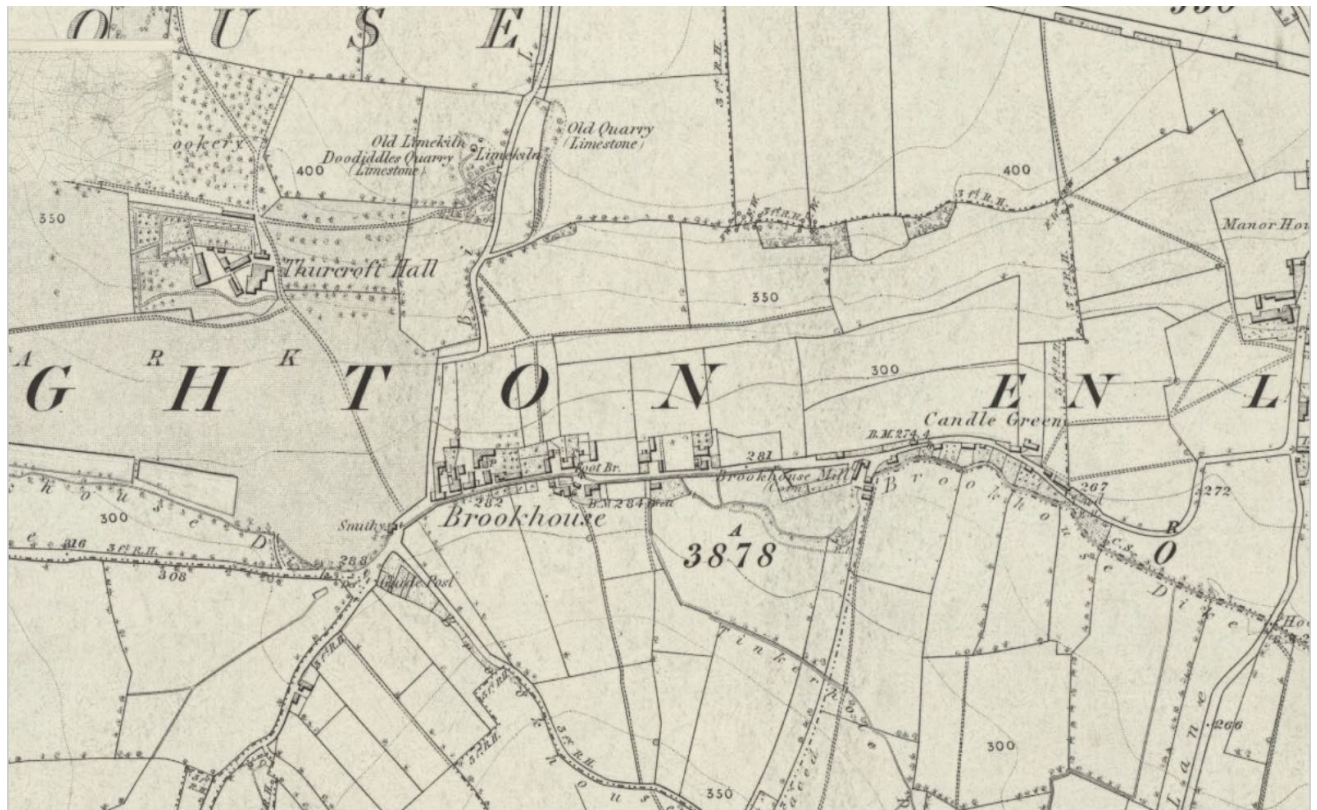
Appendix U – 1910 Field Book Entry for Dinnington Entry 970 Page 4

Remarks	Reference No. 970
	GROSS VALUE.....£ 3 4 0
Less Value attributable to Structures, timber, &c. (as before) £	5 0
	FULL SITE VALUE.....£ 2 9 0
Gross Value (as before).....£	3 4 0
Less deductions in respect of—	
Fixed Charges, including—	
Fee Farm Rent, rent seek, quit rent, chief rents, rent of Assize	£
Any other perpetual rent or Annuity.....	£
Tithe or Tithe Rent Charge	£ 3 8
Other Burden or Charge arising by operation of law or under any Act of Parliament £	
If Copyhold, Estimated Cost of Enfranchisement.....	£ 10
Public Rights of Way or User	£ 2
Rights of Common.....	£
Easements	£
Restrictions	£
	£ 5 0
	TOTAL VALUE.....£ 2 9 0
Less Value attributable to Structures, timber, &c. (as before)	£ 5 0
Value directly attributable to—	
Works executed	£
Capital Expenditure	£
Appropriation of Land.....	£
Redemption of Land Tax.....	£
Redemption of Other Charges.....	£
Enfranchisement of Copyhold, if enfranchised	£
Release of Restrictions.....	£
Goodwill or personal element.....	£
Expense of Clearing Site.....	£ 5 0
	ASSESSABLE SITE VALUE ..£ 2 4 0
If Agricultural land, the value for Agricultural purposes including	
Sporting Rights	£ 2 9 0
excluding	
Value of Sporting Rights.....	£
If Licensed Property, the annual license value.....	£
Liable to Undeveloped Land Duty as from	
For further reference as to Apportionments &c., see	

Appendix V – Ordnance Survey 1916 Map shown at scale 1:1,250. "F.B". Retrieved from RMBC Mapper



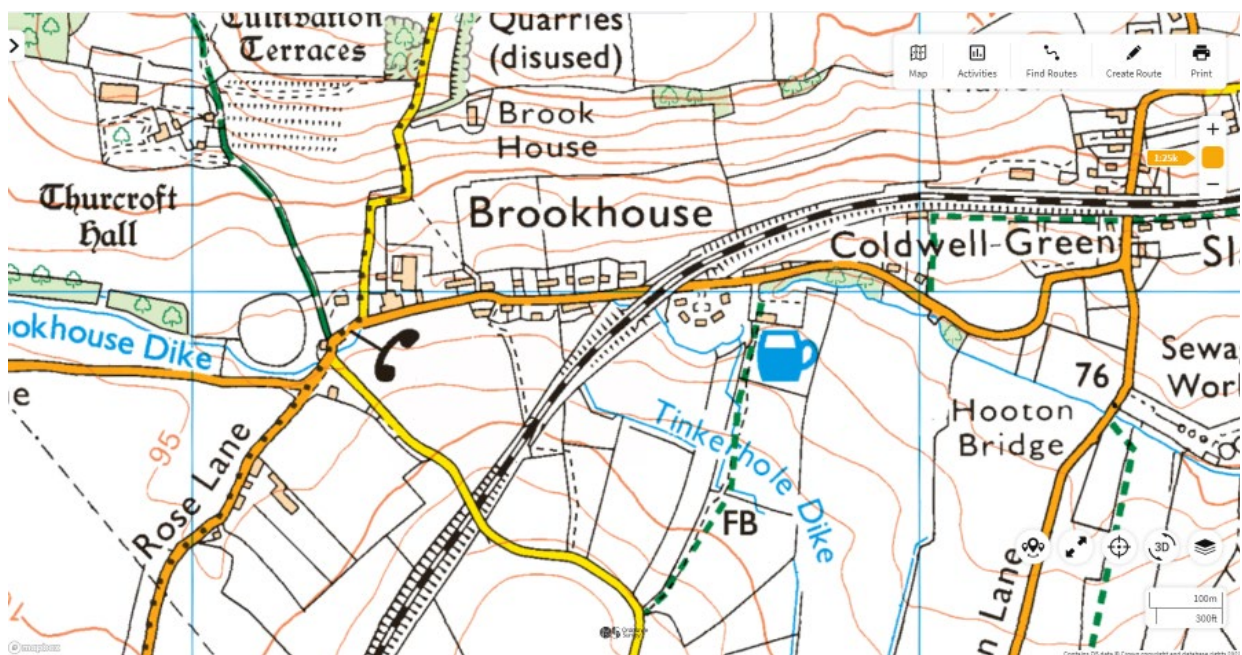
Appendix W- Ordnance Survey Yorkshire Sheet 296 - Surveyed: 1851, Published: 1854. Scale 1:10,560. Reproduced with permission from the National Library of Scotland



Appendix X – Yorkshire Sheet CCXCVI.NW Revised: 1948, Published: 1949. Scale 1:10560.
Reproduced with permission from the National Library of Scotland



Appendix Y – Current Ordnance Survey Map of Brookhouse Scale 1:25,000



Appendix Z – Extract of Definitive Map 1952 covering SK 58 NW Scale 1:10,560



57

A Meeting of the Laughton
Parish Council was held in
Schoolroom, Laughton, on Thursday
23rd May 1907.

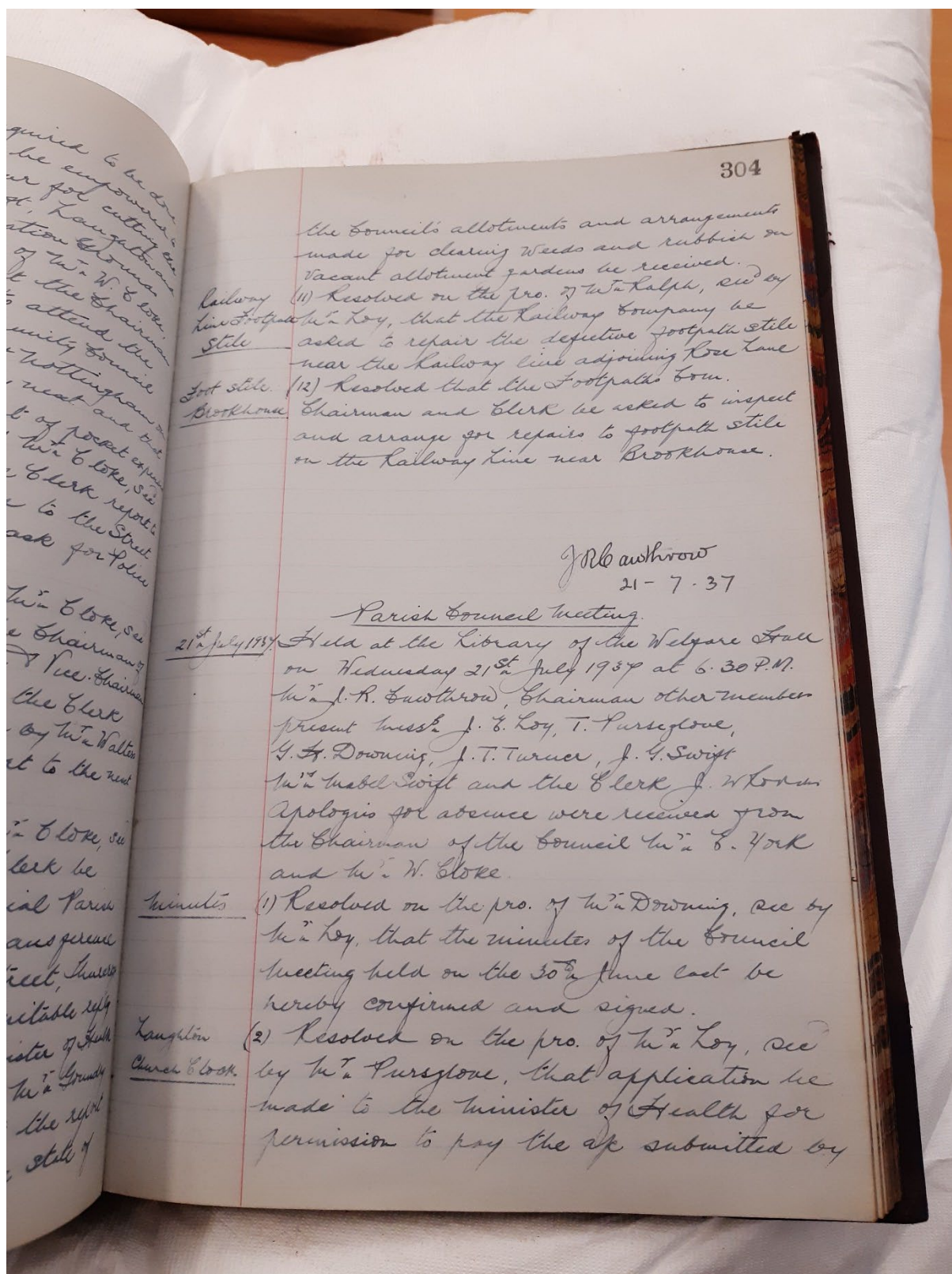
Present – Messrs P. Revitt (in the chair),
Atkinson, Beech, Law, and Morrell,
and S. Hibberd, clerk.

Minutes of last meeting read + confirmed.

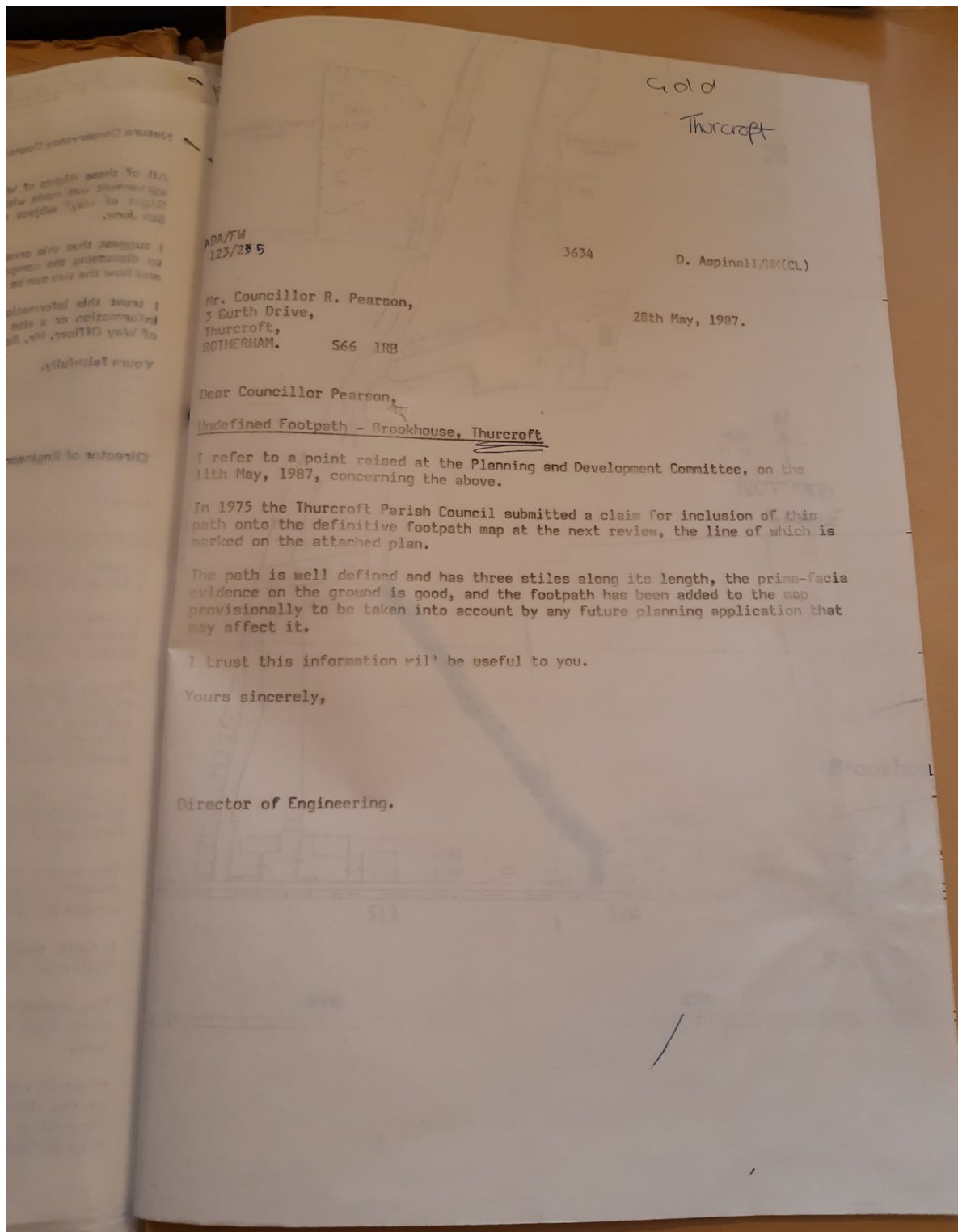
On the motion of Mr. Beech, seconded by
Mr. Law, it was unanimously agreed
That the attention of the Rural
District Council be drawn to the
diversion of the foot-path from
Brookhouse to Laughton crossing the
railway, and to the need of a
foot-bridge where the said footpath
crosses the line.

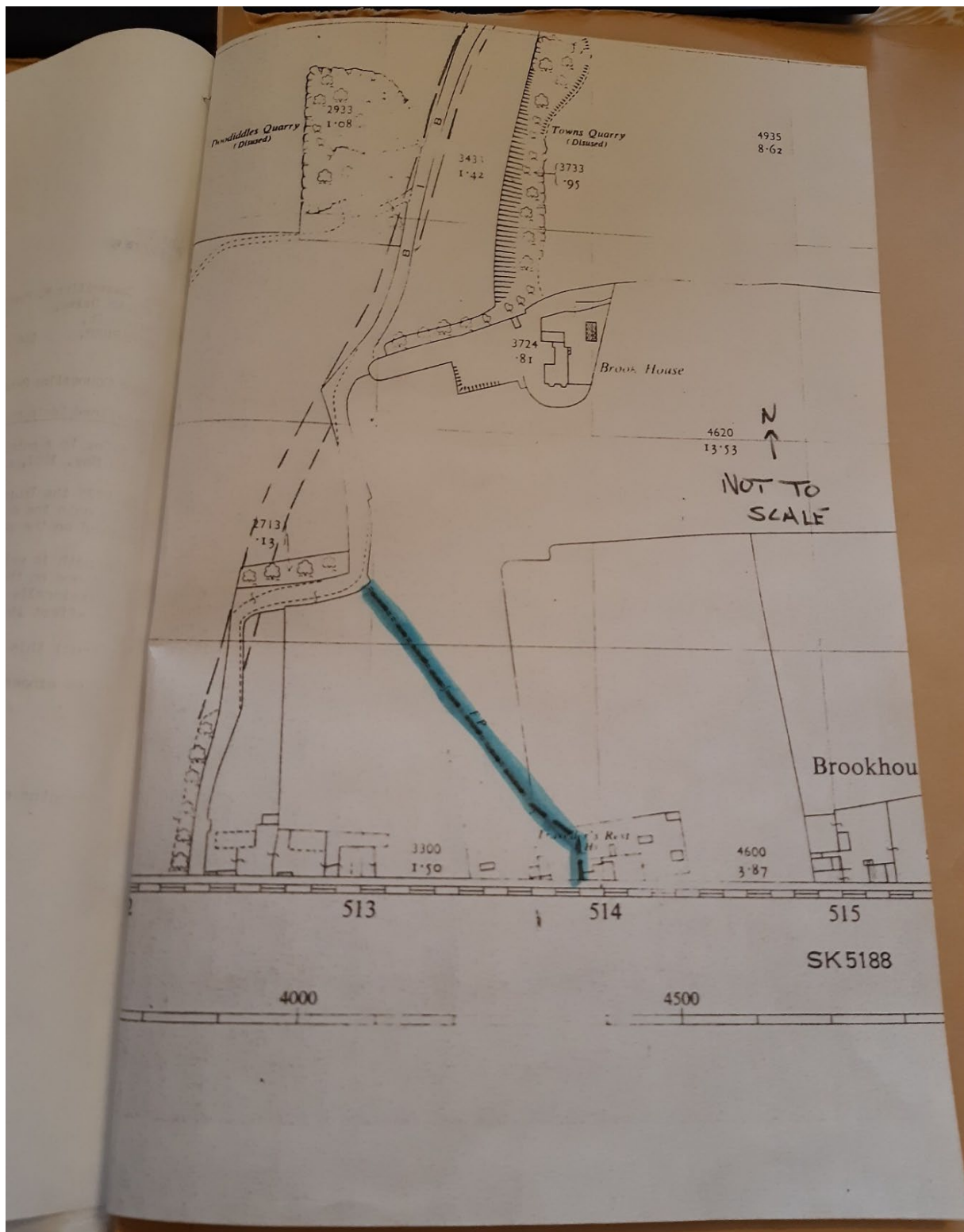
A circular letter from the Board of
Trade re the Census of Production Act
was brought before the Meeting.

Priestley Revitt
Chairman.



Appendix DD – A letter addressed to Cllr Pearson in 1987 regarding the route at Brookhouse and an accompanying plan





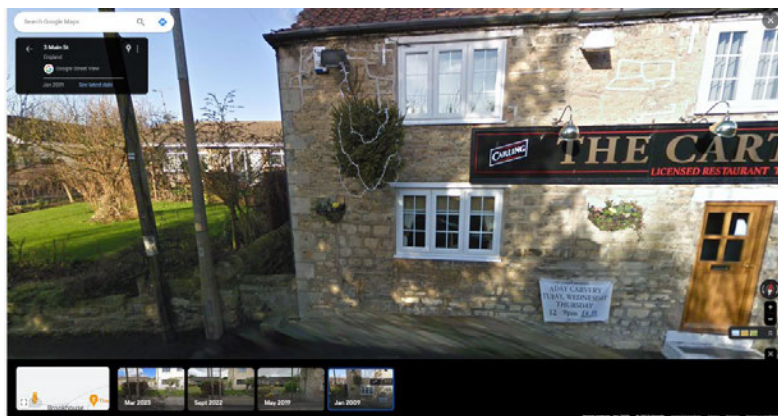
Appendix EE – Google Earth Street View Photographs from Bib Lane, Main Street and Brookhouse Lane, Brookhouse
Accessed on 13/11/2023



March 2023 Google Maps Street View



May 2019 Google Maps Street View



January 2009 Google Maps Street View



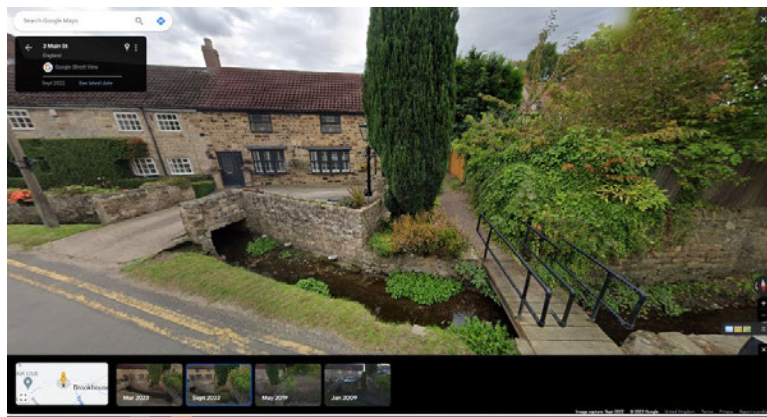
September 2022 Google Maps Street View



October 2009 Google Maps Street View



March 2023 Google Maps Street View



September 2022 Google Maps Street View



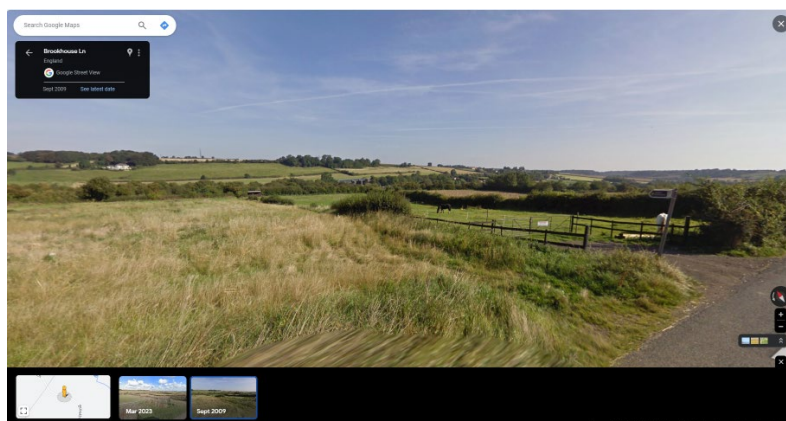
May 2019 Google Maps Street View



January 2009 Google Maps Street View



March 2023 Google Maps Street View



September 2009 Google Maps Street View

Appendix FF– A photograph of a painting from approximately 1950 of the wooden foot bridge opposite the site of the Cartwheel Public House



Appendix GG – Photographs of two stone stiles submitted by the applicant as supporting evidence



Stone stile at Bib Lane view from the road side



Stone stile at Bib Lane view from the field side



Main Street, Brookhouse stone stile adjacent to the Cartwheel Public House before it was demolished

Appendix HH - Photographs submitted by a previous landowner of the site of the Cartwheel Public House



Cartwheel site – taken 4th October 2023



Field behind Cartwheel site – taken 4th October 2023



Cartwheel Site – taken 6th August 2020



Cartwheel site – taken 6th August 2020



Cartwheel Site – taken 6th August 2020

Appendix II - Statement submitted by a previous landowner of the Cartwheel Public House opposing the claim

For the Attention of Richard Pett,

I have received your request for a witness statement and have subsequently been requested by the new tenant and developer to make a statement, which due to my age and health I am not prepared to do, the claims over the land are not my burden and I do not wish to get involved in this matter further.

What I will state, is that during my time of ownership, there was no access permitted over the property and there was no means of access, the condition of the route being overgrown would be impossible to pass.

The first I have been aware of any claim for a footpath is to make these statements and while the new owners have pressed me to support them, I do not have the energy to get involved.

I sincerely hope this will provide some detail to counter any claim.

Your Sincerely

[Redacted]

[Redacted]

Appendix JJ – A letter of correspondence from 1991 between British Railways Board and Rotherham Council regarding the footpath crossing at Brookhouse

British Rail Property Board,
North Eastern Region,
Hudson House,
Toft Green,
YORK. YO1 1HP

ESTATE SURVEYOR
& MANAGER

31st July, 1991.

02 AUG 1991

NORTH EASTERN REGION
BRITISH RAIL
PROPERTY BOARD
YORK

For the attention of Mr. B. Dagg

Dear Sir,

Public Rights of Way - Dinnington

I refer to your letter of 17th July, 1991, concerning the above.

I have returned the plan attached to your correspondence marked up with public rights of way.

You will see that there are two footpaths, one being a definitive map, path No. 26 in the Parish of Thurgroft. The other path was omitted by the Parish Council when the maps were made in 1952. However, it has been used by the public for over forty years and is maintained by the Council. It will be added to the definitive map at the next review and should be treated as a public path.

I trust this information proves useful.

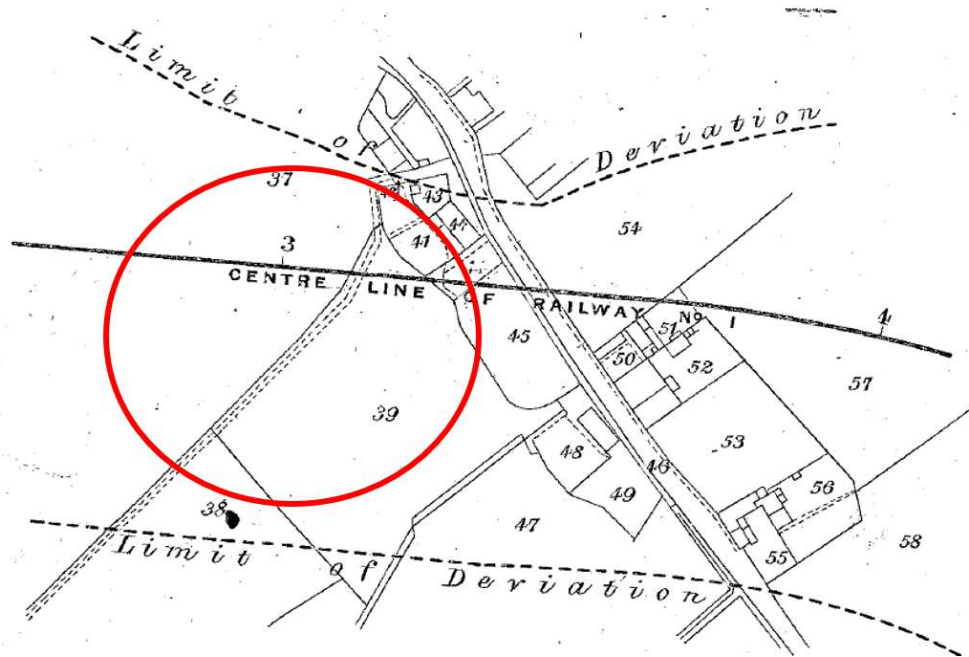
Yours faithfully,

BKS 5. 31 Brookhouse- Full Parliamentary/ Records Review

3 relevant authorising acts;

- Shireoaks, Laughton and Maltby Railway 1901
- North Eastern Railway Act 1902
- South Yorkshire Joint Railway 1903

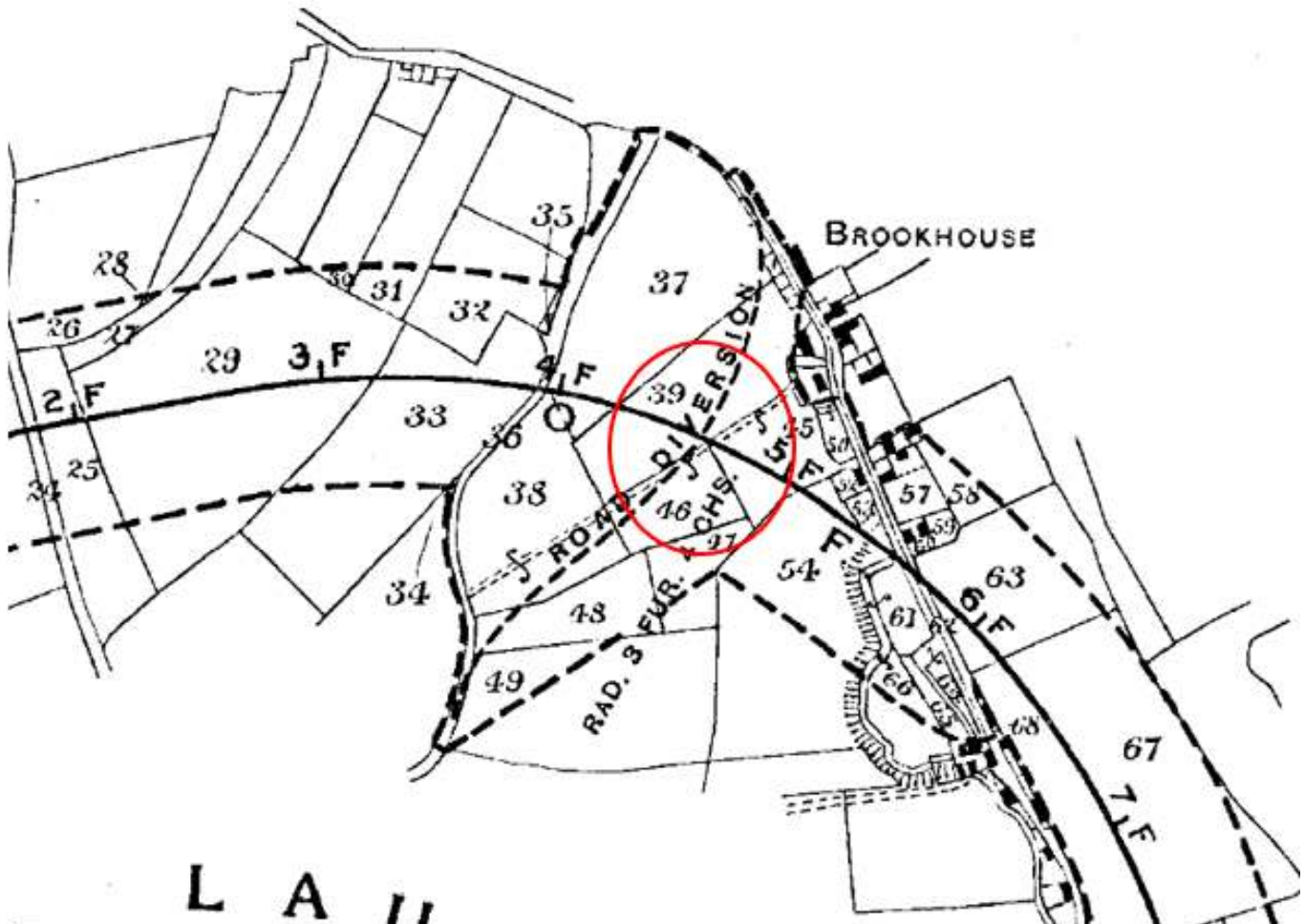
Shireoaks, Laughton and Maltby Railway 1901 (note- line abandoned and not constructed by this act)



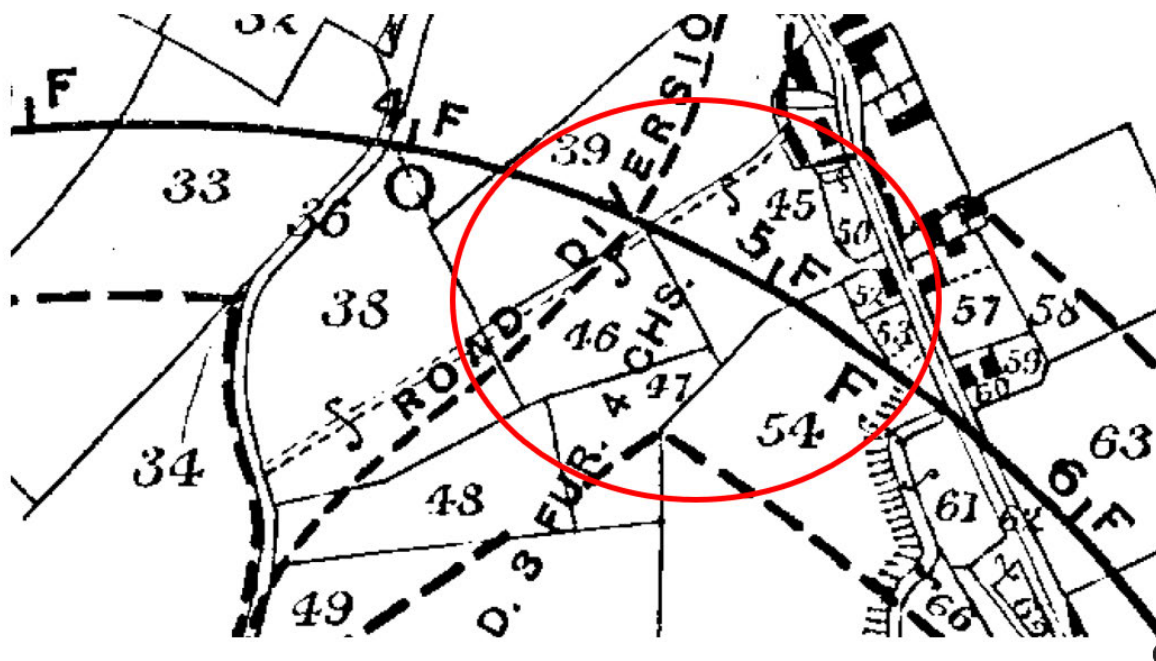
		trict Council The Laughton-en-le-Mor- then Township Parish Council				
38	Field and public footpath	John Randall Hatfield ... The Rotherham Rural Dis- trict Council The Laughton-en-le-Mor- then Township Parish Council	...	...	...	Thomas Ardron
39	Field and public footpath	John Randall Hatfield ... The Rotherham Rural Dis- trict Council The Laughton-en-le-Mor- then Township Parish Council	...	...	...	Thomas Ardron

North Eastern Railway Act 1902

D I N G U T



L A 11



45	Field and Footpath...	...	John Randall Hatfield	...	...	...	...	Thomas Ardron
46	Field and Footpath...	...	The same	...	...	...	...	The same

South Yorkshire Joint Railway 1903 - act for the amalgamation of various acts. No relevant information for this location.

[REDACTED]

[REDACTED]

March 2024