

Report of Public Rights of Way Manager

Report to Definitive Map Modification Order Application Decision Meeting

Date: 20th March 2016

Subject: Various Claimed Footpaths Across Rawdon Billing

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Guiseley & Rawdon, Horsforth	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number: JJ, KK, LL, MM & NN	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Summary of main issues

1. To determine a Definitive Map Modification Order Application under Section 53 (5) of the Wildlife and Countryside Act 1981 and seek authority to make a Modification Order if evidence shows that a public right of way exists or that the Definitive Map and Statement needs modifying.

Recommendations

2. The Natural Environment Manager is requested to consider the evidence and the law to determine the status of the claimed public rights of way (as shown in Background Document A) and authorise the City Solicitor either,

To make an Order in accordance with Section 53(2)(b) of the Wildlife & Countryside Act 1981 to modify the Definitive Map and Statement by adding the routes that are considered to be public rights of way and either confirm it as unopposed or, in the event of objections being received and not withdrawn after statutory notice of the Order is given, to refer it to the Secretary of State for the Environment, Food and Rural Affairs for determination,

or

Refuse authorisation for a Modification Orders to be made on the grounds that the existence of public rights of way cannot be reasonably alleged.

and give full reasons for the decision made.

1 Purpose of this report

1.1 Leeds City Council is the Surveying Authority for the Leeds Metropolitan District and has a duty to keep the Definitive Map and Statement for the Area under continuous review and to make Modification Orders as necessary to take account of events requiring the map and statement to be modified.

2 Background information

2.1 A Definitive Map Modification Order Application was submitted in February 2003 for various claimed footpaths over Rawdon Billing. The claimed paths were primarily around Larkfield Dam and the footpath field and up to Billing Hill. The application was accompanied by User Evidence Forms. Some earlier User Evidence Forms are also on file from 1989 for footpaths around Rawdon Lido. Background Document A shows all the footpaths that have been claimed with the paths lettered so that individual sections can easily be identified. The Definitive Map Modification Order Application is shown as Background Document B.

2.2 In approximately 1988 Rawdon Lido which was previously run by Bradford No. 1 AA as a coarse fishery changed hands and was turned into a trout fishery which was opened on the 7th of April 1990. In approximately October 1989 fences were installed that prevented access around Rawdon Lido resulting in the submission of the User Evidence Forms for a footpath around the south and east side of the dam.

2.3 In 1998 and 2000 inquiries were received about the claimed footpaths around the Larkfield Dam, across to the football pitch, to the north side of Rawdon Lido and between Public Footpaths No. 81 and 83. Some of these arose following a complaint about maintenance of public footpaths which were not recorded on the Definitive Map and Statement. There was also a complaint about the erection of some fencing and a gate possibly by the Model Boat Club. Notices were also placed by the Model Boat Club in 2002 indicating that they intended to fence off some of the land which led to the Definitive Map Modification Order Application.

3 Main issues

3.1 The Definitive Map Modification Order Application was supported by ninety one User Evidence Forms, some completed in 1998 and some 2002/3. Thirty four User Evidence Forms were submitted in 1989 for the Rawdon Lido path. Some path users were interviewed about their use of the claimed footpaths. The landowners were contacted to see if they had any information or evidence that would affect the use of the claimed footpath. The records held at West Yorkshire Archives Service and Leeds City Council were also checked to see if there was any documentary or historical evidence concerning the claimed footpath. The evidence and its implications are considered below.

Documentary Evidence

3.2 The records checked at the West Yorkshire Archives Service and Leeds City Council includes historic Ordnance Survey maps, aerial photos, railway plans, building plans and planning records.

- 3.3 On a map of Rawdon dated late 18th to early 19th century none of the claimed footpaths are shown. Definitive Footpath No. 91 is shown running south to north with double solid line and labelled 'lane 0a, 1r, 2 p' and then west to east with a solid and dashed line. Definitive Footpath 81 with shown with a solid and dashed line. There is also a track shown with double solid lines running from Town Street to Footpath No. 91 through Intake Farm. Definitive Footpath 88 is shown with a single dashed line. Rawdon Lido is not shown. The late 18th to early 19th century plan is shown as Background Document C.
- 3.4 On an 1821 Estate Plan of Rawdon none of the claimed footpaths are shown. The north-south section of Definitive Footpath No. 91 is shown with double solid lines and uncoloured. A track is also shown in the same way from Town Street to Footpath No. 91. The start of Definitive Footpath No. 83 is shown with a solid and dashed line. Neither Rawdon Lido or Larkfield Dam are shown. The 1821 Estate Plan of Rawdon is shown as Background Document D.
- 3.5 On the 1838 Tithe Map for Rawdon none of the claimed footpaths are shown. Definitive Footpath Nos. 81, 83 and 88 are shown running through named fields with dashed and solid and dashed lines. Definitive Footpath No. 91 is shown with double solid lines as parcels 414 and 439a, both 'occupation road' and with a solid and dashed line along the south edge of field 438, 'top o' t' Hill, pasture'. A track is also shown in the same way from Town Street to Footpath No. 91 as parcel 443 and 439a, 'occupation road' and 40a, 'house, garden and outbuildings'. There is a track shown on the south east side of Lakefield Dam which corresponds with part of claimed footpath G-J and this continues on a slightly different line to Aireborough Definitive Footpath No. 88. It is parcel number 30 and is described as 'Plantation and Occupation Road'. Rawdon Lido is not in existence at this time. Intake Lane is not labelled but is shown with double solid edges to Intake Farm and continues out of the farmyard to Definitive Footpath No. 91. It is parcel 443 which is described as an Occupation Road as is Definitive Footpath No. 91. An extract of the Tithe Map is shown as Background Document E.
- 3.6 On 1840 and 1849 Ordnance Survey map the Definitive Footpath, with the exception of No. 89 are all shown. Part of claimed footpath G-J is shown as a double edged track along the south eastern edge of Larkfield Dam and this continues on a slightly different line to Aireborough Definitive Footpath No. 88. The claimed footpath T-U is shown with double dashed edges. Intake Lane is not labelled but is shown with double solid edges to Intake Farm and continues out of the farmyard to Definitive Footpath No. 91. None of the other claimed footpaths are shown and Rawdon Lido does not exist. The 1840 and 1849 Ordnance Survey maps are shown as Background Document F.
- 3.7 On the 1888 Ordnance Survey map the Definitive Footpath, with the exception of No. 89 are all shown. Part of claimed footpath G to J is shown as a double edged track along the south eastern edge of Larkfield Dam and this continues on a slightly different line to Aireborough Definitive Footpath No. 88. The claimed footpath T-U is shown with double dashed edges. The first part of claimed footpath A to B is shown with a solid and dashed line which continues to what appears to be a small building. Rawdon Lido has now been built. A reservoir which is drawn to look like a shaft exists on the line of claimed footpath Y-Z.

Intake Lane is not labelled but is shown with double solid edges to Intake Farm and continues out of the farmyard to Definitive Footpath No. 91. None of the other claimed footpaths are shown. The 1888 Ordnance Survey map is shown as Background Document G.

- 3.8 On the 1900 Larkfield Mill Estate and Large Reservoir Sale Plan the very start of claimed footpath T-U is shown with double dashed lines and part of G-J is shown as a narrow field alongside Larkfield Dam. None of the other claimed footpaths are shown. Definitive Footpaths 88 and 90 are shown with double dashed, solid and dashed or double solid lines. On the wider key plan the start of Definitive Footpath No. 91, 2, part of Footpath No. 88 and both the tracks through Intake Farm from Town Street to Footpath No. 91 are all shown with double solid edges and coloured brown as are the public roads. The rest of Footpath No. 88 is shown with double dashed lines. A strip of land on part of the line of G-J alongside Larkfield Dam is shown coloured brown and it continues to Aireborough Footpath No. 88. The extracts of the Larkfield Mill Estates and Large Reservoir Sale Plan are shown as Background Document H.
- 3.9 On the 1907 and 1908 Ordnance Survey maps the Definitive Footpath, with the exception of No. 89 are all shown. Part of the claimed footpath G-J is shown as a narrow field alongside Larkfield Dam. The claimed footpath T-U is shown with double dashed edges. The eastern end of claimed footpath Q to G is shown as a track with double solid edges. A reservoir which is drawn to look like a shaft exists on the line of claimed footpath Y-Z. Intake Lane is not labelled but is shown with double solid edges to Intake Farm. None of the other claimed footpaths are shown. The 1907 and 1908 Ordnance Survey map is shown as Background Document I.
- 3.10 On the 1933 and 1953 Ordnance Survey maps the Definitive Footpath, with the exception of No. 89 are all shown. Part of the claimed footpath G-J is shown as a narrow field alongside Larkfield Dam and there are gaps between buildings at the western end. From the south western corner of the dam there is a gap behind a building and the edge of the land to Footpath No. 88 and a double solid edged track alongside the western edge of the dam to the east of Mount Vernon Road and then a track to Mount Vernon Road with a solid and dashed edge. The claimed footpath T to U is shown with a solid and dashed edge. The eastern end of claimed footpath Q to G is shown as a track with double solid edges. A reservoir which is drawn to look like a shaft exists on the line of claimed footpath Y to Z. Intake Lane is not labelled but is shown to Intake Farm, but the northern end is half the width of the southern end. None of the other claimed footpaths are shown. The 1933 and 1953 Ordnance Survey maps are shown as Background Document J.
- 3.11 A photograph taken from Billing Dam in the 1950s shows that the hedge on the line of claimed footpaths V-Y and V-X was unbroken. The reservoir on the line of claimed footpath Y-Z appears to have a solid wall around it. There may be a gap in the wall around the top of Billing Hill near point Z. The 1950s photograph is shown as Background Document K.
- 3.12 On the Draft Definitive Map and Statement claimed footpaths T-S and T-U were claimed as part of Aireborough Footpath No. 91 (originally numbered 45). The

Walking Schedule dated 2nd August 1951 claimed them as 'Road Used as Footpath' starting from 'Rawdon Town Street, Adjacent to Emmott Arms' and ending at 'Billing House, Billing Hill, Rawdon'. The footpath was described as 'The road is at first confined by stone walls. Beyond Intake Farm it passes close to the reservoir. It then climbs steeply up Billing Hill and is bordered by hedges.' The width is '9'0" at lower end. 6'6" wide between hedges'. It is claimed on the basis of 'Uninterrupted User'. An objection was received from Mr Barrett to the inclusion of section T-U between field 195 and 195a dated the 8th of April 1957 on the grounds that it ran along the southern edge of the field to Footpath 81 not diagonally across it. It was accompanied by declarations of use 'by 13 local residents that public F.P. has never existed between fields 195 & 195A on O.S. 1934 edn, but has always been understood to be south side of field 195'. A report form to determine the objection dated 14th April 1957 state that on the 1851 Ordnance Survey 6" edition 'shown diagonally across field immediately SW farm bldg.' 'Shown on modern OS as Billing Hall, also circular ??? round hill but no other outlet than at Hall'. On the 1894 Ordnance Survey 6" edition it is described as 'shown diagonally across field immediately SW from Billing Hall but no ??? round Billing Hill. No connection only to bldg'. Under other evidence and information it states that 'this path has been subject of scrutiny at U.D. Council meetings for years. T.CK states his CI is approaching adj est. owners & endeavouring to arrange an agreement between them. Mr. Barrett (who is owner/occupier of Billing Hall) and Urban District Council to walk paths round Billing Hall on regular footing 15-4-57' A letter to the Clerk of the County Council dated the 16th of April 1957 clarified that there was doubt about its public status and it would be investigated. No formal written decision has been found but the Modification map show that claimed footpaths S-T and T-U were to be deleted and replaced with a footpath on the southern side of field 195 and this path appeared on the final Definitive Map. The Definitive Map and Statement were subsequently amended. The documents relating to this are shown as Background Document L.

3.13 On the 1956 Ordnance Survey map the Definitive Footpath, with the exception of No. 89 are all shown. Part of the claimed footpath G-J is shown with double solid lines alongside Larkfield Dam but there are buildings over the western end. If this route were used at this time the alignment of the western end would be to the north or south of the current line. From the south western corner of the dam there is a track between the buildings down to Footpath No. 88 and also between the lake and the building to Mount Vernon Road and then a track to Mount Vernon Road between buildings. The claimed footpath T-U is shown with a solid and dashed edge. The eastern end of claimed footpath G-Q is shown as a track with double solid edges. The start of claimed footpath A-B is shown as a track with double solid edges. Claimed Footpath T to S is shown as a track with double solid edges off Definitive Footpath No. 91. A reservoir which is drawn to look like a shaft exists on the line of claimed footpath Y-Z but is no longer labelled reservoir. The football ground now exists. Intake Lane is shown with double solid edges to Intake Farm. None of the other claimed footpaths are shown. The 1956 Ordnance Survey maps are shown as Background Document M.

3.14 The Minutes for the Aireborough Urban District Council Highways and Lighting Committee on the 17th of April 1957 state 'that there was considerable doubt as to the existence of a public footpath between Fields 195 and 195a (T-U) on the

Ordnance Survey Map passing Billing House and leading to Billing Hill. The owners of the land in question, the Trustees of the Green Emmott Estates, and the tenants of the land maintained that there was no public footpath there and a communication was placed before the committee signed by thirteen residents in the area stating that according to their knowledge no public footpath or right of way existed. Moreover, the County Council has stated that on an Ordnance Survey Map of 1894 a path was shown which ended at Billing House and did not continue on to Billing Hill. In order to resolve the doubts in the matter and to provide a public footpath which it was felt would in all respects be as advantageous to the public as the path in dispute, the Trustees of the Green Emmott Estates had offered to dedicate legally a right of way up the western side of Field 195A (S-T), joining into the existing footpath around Billing Hill. Recommended:- That the offer of the Trustees of the Green Emmott Estates to dedicate a new footpath, as indicated above, be accepted with thanks.' On the 8th of May 1957 Aireborough Urban District Council wrote to the Clerk of the County Council stating that Green Emmott Estate Co. had consented to dedicate this route and they were requesting that the County Council agreed to this dedication. Some consultation was carried out and the County Engineer and Surveyor confirmed on the 11th May 1957 that 'providing the necessary means of passing through fence wall are formed and the new path is made equally suitable for use as the superseded path and makes a satisfactory connection to the public footpaths at each end, I see no objection to the path.' The County Planning Officer also confirmed that there were no objections. The Clerk of the County Council was to confirm this to Aireborough Urban District Council. In the Minutes for the Aireborough Urban District Council Highways and Lighting Committee meeting dated the 20th November 1957 it states 'The Committee were informed that in connection with the suggested diversion of the footpath near Rawdon Billing it would be necessary to provide a stile over a wall at each end of the new footpath. Resolved:- That two step-over stiles be provided at a low cost as possible. The Minutes of the Aireborough Urban District Council Highways and Lighting Committee and the letters to the County Council are shown as Background Document N.

3.15 Documents relating to the sale of Billing Hill by the Public Trustee (The Trustees of the Green Emmott Estates) to Aireborough Urban District Council include an agreement and a conveyance. The agreement dated 15th October 1958 shows the land edged red and includes a 'footpath 9 feet wide between the points marked with the letters "A" and "B" on the said plan leading to the said plot of land or plantation and coloured yellow on the said plan and together also with full and free rights or way for the purchaser at all times and for all purposes along the highway known as Intake Lane, Rawdon aforesaid so far as the vendor can lawfully grant the same. It also states that 'the purchaser shall forthwith fence off the said footpath from the adjoining land on the west side thereof with a substantial fence 4 feet high from ground level and shall also trim and repair the existing hedge on the east side of the said footpath and shall forever maintain both the said fences in such a condition as may be necessary to turn cattle.' Specific details for the construction of the fence were also stated. Furthermore, 'the purchaser shall provide and maintain a wicket gate at the south end of the said footpath at the point marked with the letter "A" on the said plan'. The conveyance dated the 31st of November 1958 shows the land edge red on the

plan and includes 'a footpath nine feet wide between points "A" and "B" on the said plan leading to the said plot of land or plantation and coloured yellow on the said plan' and also 'so far as the vendor may lawfully grant the same, full and free rights of way for the council and the general public at all times and for all purposes along the highway known as Intake Lane, Rawdon'. In the schedule it states 'The Council shall forthwith upon execution hereof fence off the said footpath from the adjoining land of the vendor on the west side of the footpath with a substantial fence... and shall also trim and repair the existing hedge on the east side of the footpath and shall forever maintain both the said fences in such condition as may be necessary to turn cattle. It also states that 'the council shall provide and maintain a wicket gate at the south end of the said footpath at the point marked with a letter "A" on the said plan. Both plans showed claimed footpath S-T as the route marked "A" to "B" and coloured yellow. On the Agreement plan the eastern edge was solid and the western edge was dashed and it was labelled *footpath*. On the Conveyance plan both edges were solid. On the Agreement plan "A" is at the south end of the footpath and "B" at the northern end but they are the other way around on the Conveyance plan. Aireborough Footpath No. 91 is labelled INTAKE LANE on the Agreement plan. On the Agreement plan claimed footpath T-U is shown with double dashed edges and ends at the buildings below the hill. Claimed footpath Y-Z has a reservoir on both plans on the line of the footpath. The Agreement and Conveyance are shown as Background Document O.

3.16 On a 1962 aerial photograph of Rawdon a clear wear line can be seen along the eastern edge of Larkfield Dam at the southern end claimed footpath F-G. There appears to be wooden decking around Larkfield Dam. The section of claimed footpath G-J alongside Larkfield Dam is obscured by trees but there appears to be a wear line heading into that section of path at G and track beside the western edge of the lake. There are factory buildings on the western end of the claimed footpath where the houses are now. From the south western corner of the dam there appears to be a track between the lake and the buildings, another to Mount Vernon Road between buildings on a similar line to the rest of the claimed footpath and another track roughly in line with Lakeside Walk indicating that this route could have been available when the factories existed. A wear line can also be seen on a similar line to G-K and there is a field boundary on this line near K. The start of H-R can also be seen as a wear line. There are vehicular tracks on the western end of G to Q. The 1962 aerial photograph is shown as Background Document P.

3.17 On the 1968 aerial photograph the first section of claimed footpath A-B is visible as a track between hedges. A wear line exists on the north eastern edge of Larkfield Dam on the line of claimed footpath B-E-F-H. There are factory buildings on the western end of the claimed footpath G-J where the houses are now but there is a track alongside the western boundary of the lake with access to the road at the south western corner of the lake and roughly in line with Lakeside Walk but the track to Mount Vernon Road on the 1962 aerial photograph now has a building over it. From H a very clear wear line continues across the field to the end of the track between hedges which forms the eastern end of claimed footpath G-Q. The western end of H-R is visible as a wear line across the field and through a clear gap in the boundary between the fields. Claimed footpath T-S is a clear track between hedges between Footpath 91 and 90. Claimed footpath T-U is visible as

a clear wear line alongside a hedge until the buildings below Billing Hill. There are clear wear lines around Rawdon Billing and there is no boundary to the northern side and gaps in the boundary at points W and V. There appears to be a slight wear line on a similar line to claimed footpath AA-BB and near the south western end of CC-DD. There is a clear gap in the hedge at P. There is a shaft on the line of claimed footpath Y-Z and an unbroken boundary across the line of claimed footpath G-K near the north western end of the football pitch and between N-Q. There is also an unbroken boundary on the line of claimed footpath V-Y. There are buildings on the western end of claimed footpath J-G. Intake Lane is shown as an estate road alongside houses and then a narrower double hedged track to and Intake Farm and then continues through the farmyard and out the other side to Definitive Footpath No. 91. There do not appear to be any gates across it. The 1968 aerial photograph can be seen as Background Document Q.

3.18 On the aerial photograph dated 19th July 1971 the first section of claimed footpath A-B is visible as a track between hedges. It then continues as a wear line alongside the hedge. There is a gap in the hedge slightly further north east of the claimed footpath with a wear line from it to B and then along the line of claimed footpath B-E-F-H. There are factory buildings on the western end of the claimed footpath G-J where the houses are now but there is a track alongside the western boundary of the lake with access to the road at the south western corner of the lake and roughly in line with Lakeside Walk but the track to Mount Vernon Road on the 1962 aerial photograph now has a building over it. From H a very clear wear line continues across the field to the end of the track between hedges which forms the eastern end of claimed footpath G-Q. There is a slight wear line on the western end of H-R and there is a clear gap in the boundary between the fields. Claimed footpath T-S is a clear track between hedges between Footpath 91 and 90. Claimed footpath T-U is visible as a clear wear line alongside a hedge until the buildings below Billing Hill. There is a clear wear line on the southern end of claimed footpath K-L from Footpath 88 to the goal posts. There are several clear wear lines around Rawdon Lido gap in the boundary at point V and a gate at point W. There is also an unbroken boundary on the line of claimed footpath V-Y and V-X. There is now a boundary along half of the northern boundary to Rawdon Lido and some buildings in the north western corner. There appears to be a slight wear line on a similar line to claimed footpath AA-BB but these are on the northern side of the fence. There is a slight wear line at the southern end of CC-DD and near the trig point and a gap in the hedge near the trig point. There is a clear gap in the hedge at P. There is a shaft on the line of claimed footpath Y-Z and an unbroken boundary across the line of claimed footpath G-K near the north western end of the football pitch and between N-Q. There are buildings on the western end of claimed footpath J-G. There appears to be some sort of platform or boarding all around the lake over the water. Intake Lane is shown as an estate road alongside houses and then a narrower double hedged track to and Intake Farm and then continues through the farmyard and out the other side to Definitive Footpath No. 91. There do not appear to be any gates across it. The 19th of July 1971 aerial photograph is shown as Background Document R.

3.19 On the aerial photograph dated 11th November 1971 the first section of claimed footpath A-B is visible as a track between hedges. It then continues as a wear line alongside the hedge and though it to point B-E-F-H. There is also a gap in

the hedge slightly further north east of the claimed footpath but the wear line to B is no longer visible. There are factory buildings on the western end of the claimed footpath G-J where the houses are now but there is a track alongside the western boundary of the lake with access to the road at the south western corner of the lake and roughly in line with Lakeside Walk but the track to Mount Vernon Road on the 1962 aerial photograph now has a building over it. From H a wear line continues across the field to the end of the track between hedges which forms the eastern end of claimed footpath G-Q. There is a slight wear line on the western end of H-R and there is a clear gap in the boundary between the fields, from the gap in the hedge to R the wear line is clearer. Claimed footpath T-S is a clear track between hedges between Footpath 91 and 90. Claimed footpath T-U is visible as a clear wear line alongside a hedge until the buildings below Billing Hill. There is a wear line on the southern end of claimed footpath K to L from Footpath 88 to the goal posts. There are clear wear lines around Rawdon Lido, a gap in the boundary at point V and a gate at point W. There is also an unbroken boundary on the line of claimed footpath V-Y and V-X. There is a boundary along half of the northern boundary to Rawdon Lido and some buildings in the north western corner. There appears to be a slight wear line on a similar line to claimed footpath AA-BB but these are on the northern side of the fence. There is a slight wear line at the southern end of CC-DD and a gap in the hedge near the trig point. There may be gap in the hedge at P but the shadows make it difficult to see. There is a shaft on the line of claimed footpath Y-Z and an unbroken boundary across the line of claimed footpath G-K near the north western end of the football pitch and between N-Q. There are buildings on the western end of claimed footpath J-G. There appears to be some sort of platform or boarding all around the lake over the water. Intake Lane is shown as an estate road alongside houses and then a narrower double hedged track to and Intake Farm and then continues through the farmyard and out the other side to Definitive Footpath No. 91. There do not appear to be any gates across it. The 11th November 1971 aerial photograph is shown as Background Document S.

3.20 In April and June 1975 the owner of Intake Farm wrote to Leeds City Council to draw their 'attention to the fact that the fencing going up to the "Billing" has been pulled down' and requested its repair. By telephone the landowner informed the council that the land had been dedicated or conveyed as a public footpath fifteen to twenty years before. An extract of a conveyance for the sale of Billing Top to Aireborough Urban District Council was discovered that indicated that the footpath, claimed route S-T had been dedicated and the council was responsible for fencing. There was some debate as to if Leeds City Council or West Yorkshire Metropolitan County Council should maintain the fence. The minutes from the 17th of April 1957 were referred to and it was concluded by Leeds City Council in a letter dated 25 June 1975 that 'I do not think there is any doubt that it is a public footpath' and believed it to be shown on the Definitive Map as footpath No. 91. The Area Engineer for West Yorkshire Metropolitan County Council also stated in a minute sheet dated 30 June 1975 that 'it appears to me that there is some oversight and that the line... should appear on the Definitive Map. The letters relating to the broken fencing and its maintenance are shown as Background Document T.

- 3.21 In March 1978 a request for the diversion of a footpath at Billing View (Intake Farm) to allow development to be carried out. Consultation was carried out and the footpath was eventually diverted and is now recorded on the Definitive Map and Statement as Aireborough Footpath No. 2. One of the responses stated 'The path referred to is not on the Definitive Map but is regularly used as a public way. My representative, who has family connections in the area, has known it as a public path for more than thirty years. I would not raise objections to the proposal. However, the part from Intake Lane to Point "B" on the plan runs between walls approximately 6 feet apart and I would hope that the new footpath would be at least six feet wide.' A map of the proposed development shows the footpaths to be stopped up in brown and the proposed new route in yellow between Intake Lane and Definitive Footpath No. 91. The only way to reach the diverted footpath from the adopted highway is along the unadopted section Intake Lane. The plan also shows a 'temp diversion of existing track' (the start of Definitive Footpath No. 91) which goes from the end of junction of Billing View and Definitive Footpath No. 88, through the field to the east of the football ground and back onto track at P. The plan shows a gap in the hedge at this point. Presumably this temporary diversion was to provide a safe route during construction to avoid heavy construction traffic. The 1978 consultation and proposed development map are shown as Background Document U.
- 3.22 A photograph taken in March 1980 shows that there is no gap in the wall on the line of claimed footpath N-Q. A track between a hedge and fence can clearly be seen on the line of claimed footpath S-T extending from Definitive Footpath No. 91 and it appears to be clear of vegetation or other obstructions. There is also what could be a wear line on the line of claimed footpath H-R despite the field having recently been sown with crops. There is a field gate across the line of claimed footpath G-Q at the start of the track near Q but it is not possible to tell if the gate is locked. The hedge on the line of claimed Footpath V-Y is unbroken. The line of claimed footpath V-X is not visible. The area around the reservoir on the line of claimed footpath Y-Z is not that clear but the wall still appears to be in place. There also appears to be a wall across the line of the path near point Z around the top of Billing Hill. The 1980 photograph is shown as Background Document V.
- 3.23 An undated photograph, but after the farm was demolished in the early 1980s, shows the line of claimed footpath S to T as a track between a hedge and a fence and it appears to be free from vegetation or obstructions. There also appears to be a wear line on the line of claimed footpath H-R. The undated photograph is shown as Background Document W.
- 3.24 On the 1989 Ordnance Survey map the Definitive Footpaths, with the exception of No. 89 are all shown. Part of the claimed footpath G-J is shown with double solid lines alongside Larkfield Dam but there are buildings over the western end. If this route were used at this time the alignment of the western end would be to the north or south of the current line. From the south western corner of the dam there is a track between the buildings down to Footpath No. 88 and also between the lake and the building to Mount Vernon Road and then a track to Mount Vernon Road between buildings. The claimed footpath T-U is shown with a solid and dashed edge. The eastern end of claimed footpath G-Q is shown as with double solid edges but there are arrows on the lines indicating that it may be between two

watercourses. The start of claimed footpath A-B is shown as a track with double solid edges. Claimed Footpath T to S is shown as a track with double solid edges off Definitive Footpath No. 91. A reservoir, which is drawn to look like a shaft, exists on the line of claimed footpath Y-Z but is no longer labelled reservoir. The football ground now exists. Intake Lane is shown with double solid edges to the southern edge of the sheltered housing complex. None of the other claimed footpaths are shown. The 1989 Ordnance Survey maps are shown as Background Document X.

3.25 A site visit was carried out on the 17th of April 1989 and photographs were taken of some of the claimed footpaths. Claimed footpath R-S shows a well-defined path between a hedge and fence with a clear wear line and a stile or gate at the southern end. The claimed path is not overgrown at this time. The photograph of a footpath parallel to V-X on the edge of Rawdon Lido shows a wood board gate in a wall with a wood and chicken wire fence behind it and at least two wooden fences with barbed wire on them on the line of the claimed footpath. The fences look like they had been in existence for some time. There are no stiles in the fences and there does not appear to be any wear lines. At point V there is a wooden field gate at the start and there is no wall on its line but there is a wall on the line of claimed footpath V-Y. Another photograph show a stile and gap in the wall at point Y and judging from the pile of stones behind the wall this has recently been constructed. There does not appear to be a wear line on the north side of the wall and there appears to be a wall across the line of the claimed footpath further up the hill. The April 1989 site photographs are shown as Background Document Y.

3.26 Another site visit was carried out on the 3rd of August 1989. The photographs of claimed footpath AA to BB show a clear wear line there are gaps in the low stone walls on the line of the claimed footpath. At one point there is a wooden fence across the line of the claimed footpath. However, one part of this does not have barbed wire on the top of it and has stones positioned under it to allow it to be climbed over. The August 1989 site photographs are shown as Background Document Z.

3.27 A site visit was carried out on the 2nd of November 1989 after the fence around Rawdon Lido was completed. A gap was left between the new fence and the rear of the properties on Billing Court and the school and between the new fencing and the old fencing alongside Aireborough Footpath No. 81 on the line of claimed footpath W-X. No stile was put in the fence at just south of point X to allow you to head south and there appears to be a barbed wire fence at the south east corner of the dam although there is a stile in the fence slightly further north. There is a clear wear line inside the fencing around the dam with stiles near point X and near the south east corner of the dam but the new fence obstructs these routes. There is also a wooden and barbed wire fence with no stile in it on the north side of the dam which again obstructs the route around the dam. Near point V a padlocked gate and pigeon loft with wooden fence around and the new fence would obstruct any footpath that came in from here. There is no wall on the line of Claimed Footpath V-X but there is on the line of claimed footpath V-Y. Claimed footpath R-S shows a well-defined path between a hedge and fence with a clear wear line and a stile or gate at the southern end. Claimed footpath BB-CC can be seen in

the background on as a very clear green line to the Trig Point on one of the photographs taken at the south western corner of the Rawdon Lido. The claimed path is not overgrown at this time. The November 1989 site photographs are shown as Background Document AA.

3.28 A site visits were carried out on the 20th May and 15th of June 1992. The gap between the new fence and the rear of the properties on Billing Court and the school and between the new fencing and the old fencing alongside Aireborough Footpath No. 81 on the line of claimed footpath W-X is still there with a clear wear line. A stile is now present just south of point X and signs saying 'PUBLIC FOOTPATH' with an arrow pointing at the path are attached to the chain link fencing at points W and X. The photographs of claimed footpath AA to BB show a clear wear line there are gaps in the low stone walls on the line of the claimed footpath. At one point there is a wooden fence across the line of the claimed footpath but there are no photos close enough to see if there is a stile in it and there appears to be a gap to the side. The 1992 site photographs are shown as Background Document BB.

3.29 On the 1993 aerial photograph the first section of claimed footpath A-B is visible as a track between hedges. It then continues as a clear wear line alongside the hedge and along the northern edge of Lakeside Dam between B-E-F-G. There is a faint wear line of the line of claimed footpath B-C and on the line of E-C in the field by the lake but not on the rest of the route. The Larkfield Estate has almost been completed, but the southern end is still under construction. The flats through which claimed footpath G-J passes have been built. There is a wear line in the same field as claimed footpath H-I which within the field and not alongside the hedge. There is a clear wear line on the line H-R and there is a clear gap in the hedge at H. There appears to be a slight wear line in the football field on the line of K-M. G-Q is visible as a track between two hedges but not the rest of the route. There are wear lines on the lines of V-X and V-Y. There is a clear wear line on the line of T-U and there appears to be a fence and hedge on either side of T-S. The buildings just below Billing Hill are no longer there. There is something that appears to be a walled off area near Y around the area where the reservoir was. There is a wear line on the line of CC-DD and some signs of wear on AA-CC. Intake Lane is shown as an estate road alongside houses and then a narrower double hedged track to the sheltered housing complex and from there complex paths and roads can be used to reach Definitive Footpath No. 91. There do not appear to be any gates across it. The 1993 aerial photograph is shown as Background Document CC.

3.30 On the 1999 aerial photograph the first section of claimed footpath A-B is visible as a track between hedges. It then continues as a clear wear line alongside the hedge and along the northern edge of Lakeside Dam. The grass in the field alongside Lakeside Dam has been cut but in some places between B-E-F-G there do appear to be wear lines. The very eastern end of claimed path B-C from the hedge to claimed footpath E-D is visible as a wear line but the rest of the path cannot be seen. C-D is also visible as a wear line. The eastern end of H-R is clearly visible as a wear line but the grass in the field at the western end has recently been cut so it is not visible here. There are clear wear lines and gaps though the hedges on this path. A slight wear line is visible on G-K despite the

grass in the field having been cut, but it is not visible in the football field. G-Q is visible as a wear line between the hedged section, but the rest of the path is not visible. There also appear to be some buildings and vehicles in the middle of the line of this claimed footpath. Claimed footpaths O-M-N-Q and M-P are visible as clear wear lines and there is a clear gap in the hedge at P and N. The hedges on either side of T-S appear to have been removed but there is a slight wear line and another in the field to the east. T-U is clearly visible as a wear line as is V-Y-Z. There no longer appears to be a shaft on this line but there is a clear gap in the hedge. There is a slight wear line at the eastern end of V-X and there are clear gaps in the hedges along this claimed footpath. The boundary that was on the northern side of V-X on the 1970s aerial photos has been removed. A wear line is visible around Rawdon Lido but a fence has been placed around it with a gap left on the south side between the Dam and the hedge to the houses on Billing View. It would allow people to walk between W and Definitive Footpath No. 81 but outside the Dam area. There is a wear line on the line of DD-CC with clear gaps in the hedges. There is a slight wear line on AA-BB which appears to have gaps in the hedges, this wear line also continues west to Footpath 89/90. Intake Lane is shown as an estate road alongside houses and then a narrower double hedged track to the sheltered housing complex and from there complex paths and roads can be used to reach Definitive Footpath No. 91. The 1999 aerial photograph is shown as Background Document DD.

3.31 Three photographs were taken on a site visit on the 27th of January 2000 of claimed footpath W to X. A gap exists between the fence of Rawdon Lido and the stone wall of the sheltered accommodation, school and the new and old fencing. There is vegetation on the line of the footpath which in some places looks impassable. A squeeze stile appears to be in place at the south east corner of the Lido but has barbed wire across it. There does not appear to be a stile in the fence at point X and the path is overgrown. The site photos from 2000 are shown as Background Document EE.

3.32 On the 2002 aerial photograph the first section of claimed footpath A-B is visible as a track between hedges and there appears to be some gates by the Model Boat Club. The track has been extended to the north east than shown on earlier maps and aerial photographs. There is a wide gap in the hedge into a car parking area and from there a wear line can be seen around the northern and eastern edge of Lakeside Dam on the route B-E-F-G and on the line F-H. A clear wear line is also visible on the line B-C-D. There is a wear line in the same field as claimed footpath H-I which within the field and not alongside the hedge. Claimed footpath H-R is visible as a clear wear line even though the grass appears to have been cut in one of the fields and there are clear gaps in the field boundaries. There are clear wear lines visible on claimed footpaths G-K-M-P, K-N and O-M-N-Q. There are clear gaps in the hedge at point P and N but there does appear to be an unbroken boundary near point K on the line of G-K. G-Q is visible as a wear line between the hedged section, but the rest of the path is not visible. There also appear to be some buildings in the middle of the line of this claimed footpath. The hedges on either side of T-S appear to have been removed but there is a slight wear line and another in the field to the east. T-U is clearly visible as a wear line as is V-Y-Z. There no longer appears to be a shaft on this line but there is a clear gap in the hedge. There is a slight wear line at the eastern end of V-X and there

are clear gaps in the hedges along this claimed footpath. A wear line is visible around Rawdon Lido but a fence has been placed around it with a gap left on the south side between the Dam and the hedge to the houses on Billing View. It would allow people to walk between W and Definitive Footpath No. 81 but outside the Dam area. There is a wear line on the line of DD-CC with clear gaps in the hedges. There is a slight wear line on AA-BB which appears to have gaps in the hedges, this wear line also continues west to Footpath 89/90. Intake Lane is shown as an estate road alongside houses and then a narrower double hedged track to the sheltered housing complex and from there complex paths and roads can be used to reach Definitive Footpath No. 91. The 2002 aerial photograph is shown as Background Document FF.

3.33 On the 2006 aerial photograph the first section of claimed footpath A-B is visible as a track between hedges which also continues in a north easterly direction and there appears to be some gates by the Model Boat Club. There is a wide gap in the hedge into the car parking area and from there a very clear wear line can be seen on the northern and eastern edge of Lakeside Dam on the route B-E-F-G and on the line F-H. At point B there is a fence or gate over the line of the claimed footpath but you can see that people have walked through it from the wear lines. A clear wear line is visible on the line B-C-D. There is a wear line on the southern end of claimed footpath K to L from Footpath 88 to the goal posts but from there it goes into the adjoining field. There is a wear line to the north side of the hedge running parallel to claimed footpath H-I but there are no similar wear lines in the field to the south of the hedge. This does not pass through the hedge to Billing Hill but heads northwards to point C. Claimed footpath H-R is visible as a clear wear line and there is a clear gap in the eastern boundary, although the western one is hidden from view by a tree. There are a clear wear line on the lines of G-J, G-K-M-P, K-N and O-M-N-Q. There are clear gaps in the hedge at point P and N but there does appear to be an unbroken boundary near point K on the line of G-K. G-Q is visible as a wear line between the hedged section, but the rest of the path is not visible. There also appear to be some buildings in the middle of the line of this claimed footpath. T-S is not visible but there appears to be wide clear ware line in the field to the east on a parallel line. T-U is visible as a very clear wear line as is V-Y and there is a slight wear line from Y-Z. There no longer appears to be a shaft on this line but there is a clear gap in the hedge. There is a wear line on claimed footpath V-X and there are clear gaps in the hedges. A wear line is visible around Rawdon Lido but a fence has been placed around it with a gap left on the south side between the Dam and the hedge to the houses on Billing View. It would allow people to walk between W and Definitive Footpath No. 81 but outside the Dam area. There is a clear wear line on the line of DD-CC with clear gaps in the hedges. There is a clear wear line on AA-BB which appears to have gaps in the hedges, this wear line also continues west to Footpath 89/90. Intake Lane is shown as an estate road alongside houses and then a narrower double hedged track to the sheltered housing complex and from there complex paths and roads can be used to reach Definitive Footpath No. 91. The 2002 aerial photograph is shown as Background Document GG.

3.34 On the 2009 aerial photograph the first section of claimed footpath A-B is visible as a track between hedges which also continues in a north easterly direction and there appears to be some gates by the Model Boat Club. There is a wide gap in the

hedge into the car parking area and from there a very clear wear line can be seen on the northern and eastern edge of Lakeside Dam on the route B-E-F-G and on the line F-H. At point B there is a fence or gate over the line of the claimed footpath but you can see that people have walked through it from the wear lines. Claimed footpath B-C is not visible across the field which appears to have recently been ploughed but the very south eastern end is visible as a wear line. A clear wear line is visible on the line E-C-D. There is a wear line on the southern end of claimed footpath K to L from Footpath 88 to the goal posts but from there it goes into the adjoining field. There is a wear line to the north side of the hedge running parallel to claimed footpath H-I but this does not pass through the hedge to Billing Hill but heads northwards to point C. There is another wear line in the field to the south of the hedge near the eastern hedge line of this field which is on a different line to the one on the 1993 and 2003 aerial photographs. It does not go through the hedge to Billing Hill but appears to join the wear line on the north side of the hedge near the north eastern corner of the field. Claimed footpath H-R is visible as a clear wear line and there is a clear gap in the eastern boundary, although the western one is hidden from view by a tree. There are a clear wear line on the lines of G-J, G-K-M-P, K-N and O-M-N-Q. There are clear gaps in the hedge at point P and N but there does appear to be an unbroken boundary near point K on the line of G-K. G-Q is visible as a wear line between the hedged section, but the rest of the path is not visible. There also appear to be some buildings in the middle of the line of this claimed footpath. T-S is not visible but there appears to be wide clear wear line in the field to the east on a parallel line. T-U is also visible but is not as clear as on earlier aerial photographs. V-Y-Z is visible as a very clear wear line. There no longer appears to be a shaft on this line but there is a clear gap in the hedge. There is a wear line on claimed footpath V-X and there are clear gaps in the hedges. A wear line is visible around Rawdon Lido but a fence has been placed around it with a gap left on the south side between the Dam and the hedge to the houses on Billing View. It would allow people to walk between W and Definitive Footpath No. 81 but outside the Dam area. There is a clear wear line on the line of DD-CC with clear gaps in the hedges. There is a clear wear line on AA-BB which appears to have gaps in the hedges, this wear line also continues west to Footpath 89/90. Intake Lane is shown as an estate road alongside houses and then a narrower double hedged track to the sheltered housing complex and from there complex paths and roads can be used to reach Definitive Footpath No. 91. The 2002 aerial photograph is shown as Background Document HH.

3.35 A site visit was carried out on the 14th of August 2014. Claimed footpath A-B begins as a stone track between hedges. There is a gate with a small gap and fence beside it part way along the track. It has a notice on stating 'Private Car Park Rawdon Model Boat Club Members Only' and a clean up after your dog disc. The footpath continues through the car park and then through a gap in a fence where a clear wear line can be seen. It continues from B- E-F-G as a clear wear line running parallel with the lake. There was no sign of claimed footpath B-C across the field. Claimed footpath E-C-D was visible as a clear wear line with a passing through a hedge near the southern end and there is a stile on the boundary to Billing Hill between C-D. J-G is visible as a clear wear line which in some places may have had some stone laid on it. A field gate is in place on the boundary between the dam and the flats on Lakeside Chase. Through the gate it runs on a

tarmac surface to the side of the block of flats. It says, 'Private Lake No Fishing'. There is also a faded sign which says 'Parking Only' and it is assumed that this is a private parking only sign for the car park for the block of flats. There is also a notice of the palisade fence to the lake which says 'Private Land Authorised Access Only The Land Beyond this Fence is the Private Property of Tay Homes (Northern) Ltd.' G-H is also visible as a wear line. There is no sign of H-I and there are fences across the line of the footpath at two points. G to K is visible as a very clear wear line with a low stone wall that can easily be stepped over near K. K to L is overgrown and there is not sign of it. K-M and K-N are both visible as wear lines. O-M-N-Q and M-P are visible as wear lines with tall vegetation on either side. There is a section of wall missing at P but there is a post and chain fence on the edge of Footpath 91 and an entrance to the field between N-Q. G-Q is not visible across the field but the track is clear with low vegetation and some signs of use. There are the remains of buildings at the end of the track across the claimed footpath. Members of the public were seen using some of the claimed footpaths. Two teenage boys were using claimed footpath AA-BB, three family groups were seen using claimed footpath CC-DD to reach the Trig Point and several dog walkers were seen using claimed footpaths V-X, V-Y and A-B-E-F-G-I-R. The 2014 photographs are shown as Background Document II.

3.36 A notice under Section 31(6) of the Highways Act 1980 has not been deposited with Leeds City Council stating that no public rights of way have been dedicated over this land.

User Evidence

3.37 User Evidence Forms were completed by 125 people in support of the various paths over the Rawdon Billing area. Interviews were also carried out with some of those completing User Evidence Forms. Copies of the User Evidence Forms, Interview Transcripts and Summary Sheets are shown as Background Document JJ.

3.38 Not all of the claimed footpaths were used by everyone who completed the User Evidence Forms and different paths were used for different periods of time. A breakdown of the number of people using each of the claimed routes and length of use is shown as Background Document V. Most people used the claimed footpaths for pleasure but use was also for dog walking, going to work, shops, Yeadon or relatives.

3.39 A route around the northern and eastern side of Larkfield Dam on the line A-B-E-F-G is the most used section of claimed footpath over the Billing. Between eighty five and ninety one people used each section. Longest use was for sixty seven years and fifty one to fifty three people used each section for over twenty years prior to 1998. Some of the claimants refer to stiles on the line of the claimed footpath, one on the track, one at the northern end of the track. Another claimant (JJ63) who worked for the farmer at Cold Harbour Farm stated that there was a gap at the north side of Larkfield Dam and he put a post in the gap to stop the livestock getting out. One claimant (JJ36) also recalls seeing a footpath sign at the roadside at the entrance to the Model Boat Club. In December 2001 a telephone call was received from one of the footpath users complaining about the development of a car park, the removal of stiles and a possible diversion of the footpath following work by the Model Boat Club. A letter was received from

Councillor Fox in October 2002 about resident were concerned that access may be lost following the erection of a notice by the Model Boat Club saying that they intended to fence off the area. The applicant for the Definitive Map Modification Order also emailed about this notice on the 4th of October 2002 and provided the wording. The notices stated 'NOTICE OF INTENT Larkfield Tarn is now under private ownership. It is intended, within the next few months, to install fencing to our perimeter, resulting in access to the Billing via a stile. The erection of the fencing is mainly for the purpose of keeping cows in the farm area, as we have been informed that a new herd is to be grazed next year. Dated 1st October 2002'. Four of the claimants reported seeing this notice. Five claimants also report being challenged on this path in 2002 by members of the Model Boat Club, one person said they were made to feel uncomfortable by them and another stopped using it so that they would not be challenged. Six claimants refer to gates and fencing erected by the Model Boat Club and eight to obstructions with two saying that they were removed. One person gave a date for these as 1998 and the rest around 2001 or 2002. Two people refer to the re-routing of the footpath because of the car park works. Four people refer to the removal of gates and stiles by the Model Boat Club. It would appear that after the Model Boat Club purchased Larkfield Dam (believed to be around 2000) works were carried out to form a car park and improve access and notices erected about the works. Although the notice raised concerns amongst path users it is clear from its wording that the fencing was to prevent livestock straying and that public access along the claimed footpath would be maintained by way of a stile. The photos from the site visit show that a gap was left in the new fence for public access on the line of the claimed footpath. One of the claimants (JJ36) believed that this may have been put in because the council went out and had a word. The stiles which were removed following the provision of a car park were substituted with gaps and gates and it would appear that the intention was to provide vehicular access rather than to prevent use of the claimed footpath. The letters and emails about the notices are shown as Background Document KK.

- 3.40 Claimed footpath B-C had been used by fifty eight people with twenty eight claiming to have used it for twenty years or more. C-D has been used by sixty two people with thirty one claiming to have used it for twenty years or more. Use dates back to 1931 with longest use being for sixty seven years. None of the path users have ever been challenged or seen obstructions on this section of claimed footpath. Many of the path users have marked a stile between C-D just after the point C. Several people believed that this was erected and maintained by the farmer with others believing it was erected by Leeds City Council.
- 3.41 Claimed footpath E-C has been used on the south side of the hedge by eight people with three using it for twenty years or more. Use dates back to 1973 with longest use being for 23 years. A similar path has been used on the north side of the hedge by six people, three for twenty years or more. Used dates back to 1934 with longest use for sixty four years. None of the path users have ever been challenged or seen obstructions on this section of claimed footpath on either side of the hedge.
- 3.42 Only nine people have used claimed footpath F-H and only three of them for twenty years or more. Use dates back to 1952 with longest use being for forty two years.

None of the path users have ever been challenged or seen obstructions on this section of claimed footpath on either side of the hedge.

- 3.43 Claimed footpath G-J has been used by sixty one people with thirty five people claim to have used it for twenty years or more. Use dates back to 1934 with longest use being for thirty four years. None of the path users have ever been challenged or seen obstruction on this section of claimed footpath. One of the claimants did say that he was challenged near the end of the lake but this was not on the path but on a boarded over section of the dam over the water. The farmer told him he should not be there. This was in the 1970s. Some of the users refer to a gate near the western end of the path at the back of the flats on Lakeside Chase. Many of the path users refer to a stile near the south eastern corner of the lake which appears to be on the line of this footpath but could also be into the adjoining field on the line of claimed footpath G-K. None of the path users have ever been challenged or seen obstructions on this section of claimed footpath on either side of the hedge. One of the claimants (JJ36) when interviewed stated that the same line was used through the factory area prior to the flats being built but another (JJ89) said Tay Homes diverted the footpath. Tay Homes did divert the existing Definitive Footpath so he may have been referring to this and not the claimed footpath. If Tay Homes did realign the footpath they clearly accepted its existence and made provision for it.
- 3.44 Claimed footpath G-H has been used by seventy four people, forty six for over twenty years and H-R by thirty nine people, eighteen for over twenty years. Longest use for both sections of this footpath is for sixty four years. Many of the path users refer to stiles on this footpath at the eastern end and in the middle boundary which they believe were erected by the farmer. None of the path users have ever been challenged or seen obstructions on the line of this claimed footpath.
- 3.45 Claimed footpath H-I has been used by sixty seven people, forty two for over twenty years. Longest use is for sixty seven years. None of the path users have ever been challenged or seen obstructions on the line of this claimed footpath. Thirty six people refer to a stile on this footpath mostly in the fence line between the two fields but a few just before Billing Hill by Definitive Footpath No. 90. The alignment of the route shown varies considerably between users, some show it alongside the south side of the hedge, some to the north side and others directly across the field on the south side. Some also show two forks between the fence line and Definitive Footpath No. 90.
- 3.46 Claimed footpath K-L has only been used by eleven members of the public. Longest use was for thirty nine years with four people using it for twenty years or more and use dating back to 1959. None of the path users have ever been challenged or seen obstructions on the line of this claimed footpath.
- 3.47 Thirty three people claim to have used G-K with twenty people claiming to have used for twenty years or more with use dating back to 1931. From there it forks into two routes, K-N-Q and K-M-P. Twenty one people claim to have used K-N with fourteen people claiming to have used it for twenty years or more with use dating back to 1931. Twenty seven people claim to have used N-Q with fourteen people claiming to have used it for twenty years or more with use dating back to 1931. Fourteen people claim to have used K-M with four people claiming to have used it

for twenty years or more and use dating back to 1962. Only two people claimed to have used M-P with longest use being for six years. Another route linked these two paths and down to Billing View on the line O-M-N with eleven people claiming use, three or four for twenty years or more and use dating back to 1960 or 1962. None of the path users refer to any challenges or obstructions on the line of the claimed footpath. However, none of the path users refer to the low wall on the line G-K near point K or the wall between N-Q which is shown in the photograph dated March 1980.

- 3.48 Twenty five people claimed to have used claimed footpath G-Q with eleven claiming to have used it for twenty years or more with use dating back to 1945. None of the path users refer to any challenges or obstructions on the line of the claimed footpath. None of the path users refer to the gate that is at the eastern end of the claimed footpath or the buildings at the western end of the track. There were also variations between the lines used with some people claiming to have gone through them, some to the north and some to the south and some of the claimants only marking half the claimed footpath or saying then went on the outside of the track from the buildings.
- 3.49 Claimed footpath S-T has been used by forty nine people with twenty five people claiming to have used it for twenty years or more with use dating back to 1937. None of the path users refer to any challenges or obstructions on the line of the claimed footpath. Three users (JJ36, 60 & 74) stated in their 2014 interview that this path is now overgrown so people use a parallel path in the field to the east. One states that it became overgrown in about 2004 (JJ74). Two path users (JJ36 & 60) also refer to three steps off Footpath 91.
- 3.50 Claimed footpath T-U has been used by twenty two people with thirteen people using it for twenty years or more with use dating back to 1952. None of the path users refer to any challenges or obstructions on the line of the claimed footpath. Four users (JJ30, 60, 74 & 112) refer to this path as a track in their interviews, with one (JJ60) saying it was used to bring stone down from the quarry and had a cobbled centre for the horses and flat stone for the cart wheels.
- 3.51 A route was used around Rawdon Lido/ Booth Mill Dam was used until it was challenged in 1989 when new owners fenced it off for private fishing. Enquiries were made about claiming a footpath all the way around the dam and thirty five User Evidence Forms were received. None of the forms had maps on so it is difficult to identify where the claimed footpath ran. Four of the forms did not describe the path in sufficient detail to identify if it was around the lido, along claimed footpath AA-BB which was also on many of the forms or along other paths on the Billing. Use dated back to 1911 with all but four users claiming use for twenty years or more. A map submitted with a letter dated 5th of April 1989 requesting its inclusion on the Definitive Map and Statement indicated it was around to the edge of the lido as do two other file maps. Stiles were also indicated at two points. These maps are shown as Background Document LL. Several letters were also received about this claimed footpath, six from people who did not complete User Evidence Forms and these are also shown as Background Document LL. The fencing work was completed by the time the fishery opened on the 7th of April 1990.

- 3.52 Only 3 people claim to have used the line W-X, for only nine years between 1989 and the 2003 when the application was submitted. A further six people used part of it from W to Footpath 81 at the south eastern corner of the dam. Complaints were received in 1990, 1992, 1993, 1999 and 2000 indicating that the route of one of these paths, W-X was overgrown and little used and three of these letters indicate that V-X and W-X were only provided for use after the fencing off of Rawdon Lido. The complaints about the new line of footpath W-X are shown as Background Document MM.
- 3.53 Twenty seven people claimed to have used footpath V-X and thirty six footpath V-Y. Use is claimed to date back to 1952 and 1934 respectively with longest use being for 42 and 64 years. Twelve and seventeen people respectively claim use for twenty years or more. Several users refer to the stile as point V but no other stiles are referred to on these paths. None of the path users refer to any challenges or obstructions on the line of the claimed footpath.
- 3.54 Thirty people claim to have used claimed footpath Y-Z, fourteen for twenty years or more. Use dates back to 1934 with the longest use being for sixty four years. Those interviewed were asked about the shaft or well that can be seen on the aerial photographs and older maps. One person described it as a cistern of water or a spring (JJ60), another as a reservoir (JJ112), a third as an old well shaft for a house that was there (JJ63) and a fourth as a shaft (JJ62). One person (JJ112) said it 'was dangerous and fenced off. You wouldn't get out if you got in'. Another said 'it was always dangerous; you had to keep dogs away from it. I think it was taken out in the 1990s. You could use the path here before it came out but you had to be a bit adventurous' (JJ62).
- 3.55 Forty eight people claimed to have used claimed footpath AA-BB, thirty six for twenty years or more. Use dates back to 1930 with the longest use being for fifty nine years. Ten people refer to a stile on the line of the footpath and one user refers to making repairs to it as part of a Rambler Working Party (JJ55A). None of the users refer to any challenges or obstructions on the line of the claimed footpath.
- 3.56 Eight people have used claimed footpath CC-DD with four people using it for twenty years or more. None of the users refer to any challenges or obstructions on the line of the claimed footpath.
- 3.57 Most of the claimed footpaths were not challenged by any verbal challenges, notices, obstructions or other actual challenge, therefore the challenge date for these footpaths is either 1998 when some of the User Evidence Forms were submitted following an enquiry from a member of the public about unrecorded paths over the Billing or the submission of the Definitive Map Modification Order Application in 2003. These routes also continued to be used after the submission of the Definitive Map Modification Order Application and most are still currently being used. From the 2014 site visit only routes B-C, H-I, K-L, G-Q, M-P did not appear to be being used and route Y-Z appeared to be little used.

Representations Against the Application

- 3.58 The solicitors acting for the owners of Rawdon Lido in November 1989 stated that there were no public rights of way around the dam but that there were 'several

public footpaths adjacent to their clients property which our clients have recently improved in accordance with recommendations of the Planning Officer. Our clients have not in any way restricted access over these footpaths.' This letter indicates that although they do not accept any footpath around the dam, they consider that there are public footpaths adjacent to the property which they have improved. The letter from the solicitors is shown as Background Document NN.

3.59 A letter was received from 11 Lakeside Chase in February 2015 following a consultation letter to the management company. They strongly object to the land being claimed as a public right of way and request that the original route be reinstated. They state that they 'have made numerous attempts to restrict access to our private car park by informing members of the public that they are on private property and a sign indicating it is private property and residents only car parking was erected several years ago.' They state that they are renewing the signs and looking to extend the boundary wall and fence to block temporary access. They say that members of the public cross their private property at all times of the day and at night and 'people use our car park as if it is a free public car park and can at times be quite abusive when it is pointed out to them that they are in fact on private property. We are constantly picking up rubbish thrown or merely dropped out of the car window. As well as families walking their pets we also have professional dog walkers who park their vans in our car park and let several dogs loose at any given time... Dogs foul our car park and it is the residents who have to clear this up. The temporary gate (erected by Tay Homes whilst they completed the site and had the original right of way blocked off) is constantly left open, as well as children swinging on it resulting in the gate rocking back and forth onto our wall and fencing. They also say that the car park gets icy in winter and they don't want to be liable for accidents. They request that the footpath be re-routed back to its original line. A further letter was received in April 2015 following a request for more information on certain points. They complain that they were not consulted when the application was submitted in 2003 and it would appear that notice should have been served on them at this time. They feel that they are now penalised for not having objected earlier and now there will be twenty years or more without challenge or interruption. However, the twenty year period under consideration is between 1983 and 2003. Even if objections were received in 2003, if they took no action to prevent or challenge use it would still be possible for an additional twenty year period to be considered after the challenge date. They state that there is no footpath or claimed footpath as it is 'quite clearly a driveway access from Lakeside Chase onto a private property carpark'. Although there is access to the car park there, public rights of way normally run over private land and often run along shared access and we have many examples within Leeds where public rights of way run along driveways. This does not prevent public rights of way existing or coming into existence over them. They note that the claim is based on user evidence showing use for twenty years without challenge. They state that 'if people are claiming not to have been challenged by residents, in my opinion, they are not being entirely truthful... I can assure you that I, and other residents, challenge anyone crossing or parking in our carpark'. The claimed period of twenty years is based on evidence of use for twenty years prior to 2003 and the Larkfield Estate appears to have been built around 1993, therefore, for half of the relevant period the residents of the flats would not have been there to challenge use. Specific challenge to ambulances blocking the

carpark while attending a fall on the Billing, adverts posted for a sliming club, an accident with a dog, a waste van blocking access and one of the crew urinating in the carpark, an abandoned car and laminated notices placed on cars. No dates were given for these but those relating to vehicles would not be challenges relating to the use of the claimed footpath on foot. They are considering clamping and access control barriers. They refer to the 'no parking/ private property only', notice that was faded and state that this has been replaced with a sign saying 'Private Parking, Residents Only' and another sign saying 'Private Property Residents Parking Only. However, this is a challenge to unauthorised car parking and not use of the claimed footpath and were erected many years after the end of the twenty year period of use. They also refer to another notice saying 'Private Property' at the entrance to the garden, but this is not on the line of the claimed footpath. They state that they were unaware that they could erect a sign specifically related to walkers that there was no public right of way via the property or that they could have removed the gate and extended the wall, and if they had been they would have done so. This could imply that they believed that walkers had a right to be there, and clearly indicates that they did not take any action to indicate to walkers that there was a public right of way or that they were challenging use. They do not know who wrote on the gate 'Private Lake, no Fishing' but state that it replaced an earlier sign which was removed. Finally they refer to an original right of way and the temporary use of their land while the estate was finished. They enclose a map showing these routes and an original site plan. These routes include Aireborough Footpath No. 88, the estate road and claimed footpath L-K. The letters from 11 Lakeside Chase are shown as Background Document MM.

3.60 Letters were also sent to the farmers at Cold Harbour Farm and West Brooke Farm, The Rawdon Trust and Redrow Homes. No responses were received from any of the landowners or farmers. The tenant at Cold Harbour Farm contacted the Public Rights of Way Section in 2015 regarding way marking at the farm and a site meeting was held in June 2015. A second consultation letter was hand delivered. He stated that he had received the first letter and had handed it to the Agent for the Rawdon Trust who had said he would respond. The farmer complained that people were wondering all over the land treating it as if it were public land, that some people got abusive when he challenged them and people often left gates open, trampled crops, cut wire fences or let their dogs foul. He challenged people who were walking around or across some of the fields but not on all of the claimed footpaths. He stated that he did not object to people walking alongside the lake on claimed footpath A-G or using E-C-D alongside the hedge to Billing Hill. He also did not object to them using H-R or S-T. He did object to them using B-C across the field and H-I and walking from Q through the field on a parallel route to S-T and Public Footpath No. 91. He said that people had previously walked B-C but now walked E-C which he did not mind as it was alongside a hedge and did not affect crops. People had cut down wire fences on route H-I to reach Billing Hill and near S on another path they were using in the fields to the west of route S-T. He did not farm the rest of the land so had no comment to these paths.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 No statutory consultations with prescribed bodies are required prior to making a Modification Order. However, in line with Department of the Environment Circular 1/09, consultation with the main user groups has occurred.

4.1.2 Ward Members, the City Solicitor and Parks and Countryside have been consulted. Landowners, applicants and other interested parties have also been consulted. Their comments are in Section 3 above.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 As the decision is a Significant Operational Decision an EDCI impact assessment is not required.

4.2.2 Definitive Map Modification Order Applications can only be determined on the basis of the evidence available to show if a public rights of way subsists or can be reasonably alleged to subsist. Therefore, issues such as suitability, desirability, human rights, equality and diversity cannot legally be taken into consideration when determining Definitive Map Modification Order Applications. If an Order is made and confirmed an EDCI Impact Assessment will be carried out to ensure that any works required to open the paths will consider equality and diversity issues.

4.3 Council Policies and City Priorities

4.3.1 The determination of this application is dealt with in accordance with the 'Leeds City Council Wildlife and Countryside Act 1981 Modification of the Definitive Map and Statement of Priorities' which lists priorities for keeping the Definitive Map and Statement up to date.

4.3.2 Statement of Action DM1 in the Rights of Way Improvement Plan states that 'we will continue to review the Definitive Map and Statement'.

4.3.3 Statement of Action DM2 in the Rights of Way Improvement Plan states that 'we will take a proactive approach to dealing with Definitive Map Modification Order Applications'.

4.3.4 Statement of Action DM6 in the Rights of Way Improvement Plan states that 'we will endeavour to meet the 2026 cut of date for recording historical public rights of way as set out in the Countryside and Rights of Way Act 2000'

4.3.5 Statement of Action DM7 in the Rights of Way Improvement Plan states that 'we will continue to identify and record all Definitive Map anomalies, missing links and unrecorded paths'.

4.3.6 The Parks and Green Space Strategy proposal 19 states that 'we will promote and develop green corridors for recreation, conservation and transport.' Proposal 22 states that 'we will contribute to the West Yorkshire Local Transport Plan by providing sustainable transport routes in parks and green spaces.'

4.4 Resources and Value for Money

- 4.4.1 Leeds City Council has a duty to investigate Definitive Map Modification Order Applications and make Definitive Map Modification Orders if necessary.
- 4.4.2 The cost of making any Orders, should one be authorised, would be met from the existing public rights of way budget.
- 4.4.3 If the Order is opposed, referred to the Secretary of State and is taken to Public Inquiry, then the additional costs are incurred. Public Inquiry will cost approximately between £3000 and £7000.
- 4.4.4 A Modification Order recognises the existence or correct status of a public right of way and no new rights or liabilities will be created should an order be made. There are consequently no resource implications.
- 4.4.5 There are no additional staffing implications resulting from the making of the Order.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The Director of Environment and Housing has authority to take decisions relating to the determination of Definitive Map Modification Order Application under Section 53 of the Wildlife and Countryside Act 1981 as set out in the Constitution under Part 3, Section 3E, Officer Delegation Scheme (Council (Executive) functions), Director of Environment and Housing (2I).
- 4.5.2 The Wildlife & Countryside Act 1981 places statutory duty on the City Council as the Surveying Authority to investigate the matters stated in an application made under Section 53(5) of the Act and to decide whether or not to make an Order to which the application relates. Under Section 53(2)(b) of the Act, Surveying Authorities are required to keep the Definitive Map and Statement under continuous review and to make such modifications to the map and statement as appear to them to be requisite.
- 4.5.3 Section 53(3)(b) of the Act, requires the Definitive Map and Statement to be modified by Order on the expiration of any period such that the enjoyment by the public of a way during that period raises a presumption that the way had been dedicated as a public path or restricted byway. Section 53(3)(c)(i) of the Act, requires the Definitive Map and Statement to be modified by Order if evidence is discovered which, when considered with all other relevant available evidence, subsists or is reasonably alleged to subsist over land in the area to which the map relates. Section 53(3)(c)(ii) of the Act, requires the Definitive Map and Statement to be modified by Order if a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description. Section 53(3)(c)(iii) of the Act, requires the Definitive Map and Statement to be modified by Order if there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.
- 4.5.4 Should an Order be authorised, the City Solicitor will make and advertise the Order and either confirm it as unopposed or, in the event of objections being received and not withdrawn after statutory notice of the Order is given, to refer it to the

Secretary of State for the Department of the Environment, Food and Rural Affairs for determination.

4.5.5 Section 31(1) of the Highways Act 1980 provides that a presumption of dedication is raised where a way has been enjoyed by the public as of right (without force, secrecy or permission), without interruption for a full period of twenty years. The twenty-year period ends with an act that brings into question the public's right to use the way, and is calculated retrospectively from that time (Section 31(2) of the 1980 Act).

4.5.6 The presumption is rebuttable by proof that the landowner has erected and maintained notices visible to path users inconsistent with dedication (Section 31(3) of the Act) or that he has given notice to the highway authority, where a notice erected is subsequently torn down or defaced, denying any intention to dedicate (Section 31(5)) or made statutory declarations to the highway authority denying the dedication of a new right of way over the land shown in map and statement deposited with the authority (Section 31(6)).

4.5.7 In order to have brought the public's right to have used the alleged way in question, the landowner could have taken various measures during the claimed period of use.

These measures include:

- Locking a gate across the path.
- Putting up a notice denying the existence of a public right of way.
- Physically preventing a walker from using the way.
- Indicating that the path was for use by permission only.
- Giving an instruction to an employee or tenant to prevent people walking the path.
- Giving notice to the Highway Authority denying any intention to dedicate a public right of way over the land.
- Seeking a court declaration that the way was not public or bringing an action for trespass.

4.5.8 The burden of proof therefore rests with the landowner to show that there is sufficient evidence to show that there is no intention to dedicate a public right of way over the claimed path during the claimed period of use.

4.5.9 The decision to make a Modification Order when a claim is based on user evidence should be based on the on the balance of probability (not beyond all reasonable doubt, as is the case in criminal law) in the light of all relevant available evidence. Consequently if, on the balance of probabilities, it is considered that it is more likely that a right of way can be shown to subsist, then a Modification Order should be authorised. For claims where documentary evidence exists (instead of or as well as user evidence), the decision to make a Modification Order when a path is not shown on the Definitive Map and Statement should be based on if it can be shown to subsist or reasonably alleged to subsist and the decision to confirm it on the balance of probability (not beyond all reasonable doubt, as is the case in criminal law) in the light of all relevant available evidence. Consequently if it is considered that a right of way can be shown to subsist or can be reasonably

alleged to subsist, then a Modification Order should be authorised. The decision to make and confirm a Modification Order when a path is shown on the Definitive Map and Statement should be based on the on the balance of probability (not beyond all reasonable doubt, as is the case in criminal law) in the light of all relevant available evidence. Consequently if, on the balance of probabilities, it is considered that it is more likely that a right of way can be shown to subsist, then a Modification Order should be authorised. The question of suitability or desirability, safety or maintenance is not a relevant factor when determining applications.

- 4.5.10 Public Rights of Way cannot be extinguished by disuse. Once a right of way has come into existence, it continues indefinitely and can only be brought to an end by the use of statutory powers, thus the maxim "Once a highway, always a highway". This is irrespective of any changes that have occurred on the ground in the meantime.
- 4.5.11 Section 32 of the Highways Act 1980 states that when determining whether a way has or has not been dedicated as a highway, any map, plan or history of the locality or other relevant document, tendered as evidence shall be taken into consideration.
- 4.5.12 Under the provisions contained within Section 130 of the Highways Act 1980 the City Council has a statutory duty to protect and assert the right of the public to the use and enjoyment of any highway and as far as possible to prevent the stopping up or obstruction of highways.
- 4.5.13 Under Common Law there is no specific period of user which must have passed before an inference of dedication may be shown. However, a landowner must be shown to have intended to dedicate a right of way over the land. Public use can be used as evidence to show an intention to dedicate but it must be sufficient to have come to the attention of the landowners. If other evidence exists that showed that public rights were not intended, public use will not raise an inference of dedication.
- 4.5.14 The personal information in Background Documents JJ, KK, LL, MM & NN of this report has been identified as being exempt under Access in Information Procedures Rule Number 10.4 (1 & 2) because it contains personal information about a member of the public. This information is exempt if and for so long as in all the circumstances of the case, the public's interest in maintaining the exemption outweighs the public interest in disclosing this information. The comments relating to the modification made in the exempt documents are considered in Sections 2, 3 and 4.9 therefore the public's interests in relation to the diversion have not been affected.
- 4.5.15 The recommendations in this report do not relate to a key decision, therefore prior notification in the Forward Plan is not necessary.

4.6 Risk Management

- 4.6.1 As with all Definitive Map Modification Orders if the decision is taken to make an Order there will be an opportunity to object to the Order with the associated costs.

However, if the evidence indicates that an Order needs to be made to modify the Definitive Map and Statement Leeds City Council have a duty to make an Order.

5 Conclusions

5.1 The user evidence indicates that claimed footpath A-B-E-F-G has been well used by the public since 1931 with over fifty people using it for twenty years or more. No challenges or interruptions were reported until after the Model Boat Club took over the land in around 2000, although one claimant indicates that the first challenge by the Model Boat Club may have occurred in 1998. The Model Boat Club made provision for the claimed footpath by leaving a gap on the line of the claimed footpath and indicating in a notice that they would erect a stile. The tenant farmer of the adjoining land accepted this gap, but did get an employee to put a post in it to prevent his livestock escaping. He has also stated that he does not object to people using this footpath. This claimed footpath also appears as a double hedged track for part of its length and is visible as a wear line for the rest of its length on all of the available aerial photographs. Therefore, it is considered that it can be shown, on the balance of probabilities, that a public footpath has been presumed to be dedicated along the claimed footpath following the expiration of a twenty year period of use by the public. It is also considered that there is not enough evidence to show that there was no intention to dedicate a public right of way. Therefore, an order to modify the Definitive Map and Statement should be made for this claimed footpath.

5.2 The user evidence indicates that claimed footpath B-C-D has been well used by the public since 1931 with at least twenty seven people using it for twenty years or more. No challenges or interruptions have been reported on this path by users. There is also a stile on the line of the claimed footpath which users believe was erected by the farmer or Leeds City Council who own the top of Billing Hill. This would indicate that the landowners accepted the existence of the footpath between C-D. The aerial photographs from 2002 and 2006 clearly show wear line on this line and the eastern end is also visible on the 1999 and 2009 aerial photograph. Therefore, it is considered that it can be shown, on the balance of probabilities, that a public footpath has been presumed to be dedicated along the claimed footpath following the expiration of a twenty year period of use by the public. Although one of the farmers objects to the use of this footpath and has challenged some users over his land it is considered that there is not enough evidence to show that there was no intention to dedicate a public right of way on this line as users do not recall being challenged and use existed before the current tenant farmer. Therefore, an order to modify the Definitive Map and Statement should be made for this claimed footpath.

5.3 There is limited use of claimed footpath E-C on either side of the hedge with only three or four people using these routes for twenty years or more. The aerial photographs do not show wear lines until 2009 and only then on the south side of the hedge. This is after the challenge date when the Model Boat Club began activities which called into question use of the claimed footpaths over The Billing and after the Definitive Map Modification Order Application was submitted. Due to the limited amount of use and the variation in lines used it is considered that there is insufficient evidence to show twenty years use of this claimed footpath. There is no additional evidence that shows that the claimed footpath subsists or can be

reasonably alleged to subsist. Although the farmer would prefer this footpath to B-C, an order to modify the Definitive Map and Statement should not be made for this claimed footpath as there is insufficient evidence of twenty years use.

5.4 Claimed footpath F-H has very limited use with only three people using it for twenty years or more. The aerial photographs from 1968 onwards do appear to show a wear line, but on those from the 1960s and 1970s this appears to have been made by a vehicle rather than people. There is no sign of it on the 1999 aerial photo and on the 2002 aerial photograph the wear line is more likely to have been made by a vehicle. The 2006 and 2009 do show a narrower single wear line that is likely to have been made by pedestrian use but these are after the date of challenge. Due to the limited amount of use it is considered that there is insufficient evidence to show twenty years use of this claimed footpath and there is no additional evidence to show that the claimed footpath subsists or can be reasonably alleged to subsist. Therefore, an order to modify the Definitive Map and Statement should not be made for this claimed footpath.

5.5 Claimed footpath G-J has been well used for many years with thirty four people claiming to use it for twenty years or more. Users indicate that there is a gate on the line of the claimed footpath and there was previously a stile at the south eastern corner of Larkfield Dam indicating that the landowners or occupiers made provision for the footpath. Writing on the gate indicates that the lake is private with no fishing but there is no mention of no public rights of way. Tay Homes erected a sign referring to private land but this was not on the line of the claimed footpath and is on a fence adjacent to the claimed footpath and the notice specified that it referred to the land beyond the fence. There is no evidence of challenge or interruption. One user did refer to being challenged in this area but this was not on the footpath but on some boards over the lake. These boards can be seen on the 1960s and 1970s aerial photograph all around the lake. However, the aerial photographs from the 1960s and 1970s show there were buildings over the western end of the claimed footpath and these are still shown on the 1989 Ordnance Survey map. Parallel lines could have been used but it is not clear if the developers of Larkfield Chase intended for the flats carpark access to be used as an alternative footpath to these lines. No Diversion Order was carried out for this path, although the definitive footpath was diverted. It is considered that it cannot be shown that the public have used a footpath on the full length for a period of twenty years and there is no additional evidence to show that a footpath subsists or can be reasonably alleged to subsist. Therefore, an order to modify the Definitive Map and Statement should not be made for this claimed footpath.

5.6 Claimed footpath G-H-R has been well used for many years. There are two stiles of the line of this route indicating that the landowner or occupier accepts that it exists and has made provision for it. Site and aerial photographs show a wear line on the line of the claimed footpath since 1968. There is no evidence of interruption or challenge and the tenant farmer stated that he did not object to people using this footpath. Therefore, it is considered that it can be shown, on the balance of probabilities, that a public footpath has been presumed to be dedicated along the claimed footpath following the expiration for a twenty year period of use by the public. It is also considered that there is not enough evidence to show that there

was no intention to dedicate a public right of way. Therefore, an order to modify the Definitive Map and Statement should be made for this claimed footpath.

5.7 Claimed footpath H-I has been used by sixty seven people, however the line shown varies considerably on different peoples user evidence forms and is shown on three different lines on the aerial photographs. The most evident line on the aerial photographs is the line least used on the User Evidence Forms. It would appear that the line varied from year to year and may have been affected by crops in the field or the easiest line through the natural vegetation. As there does not appear to have been a consistently used line it is considered that there is insufficient evidence to show twenty years use of this claimed footpath. There is no additional evidence that shows that the claimed footpath subsists or can be reasonably alleged to subsist. Therefore, an order to modify the Definitive Map and Statement should not be made for this claimed footpath.

5.8 There is limited use of a claimed footpath on the line K-L and only four people claim to have used it for twenty years or more. The aerial photographs from 1971, 2006 and 2009 show a wear line on the southern half of the claimed footpath but it goes into an adjoining field. It would appear that only part of the footpath was being used on the line claimed. Therefore, it is considered that there is insufficient evidence to show twenty years use of this claimed footpath. There is no additional evidence that shows that the claimed footpath subsists or can be reasonably alleged to subsist. Therefore, an order to modify the Definitive Map and Statement should not be made for this claimed footpath.

5.9 Claimed footpaths G-K-N-Q and K-M have both been used by the public for other twenty years with different sections being used by between four and nineteen people for over twenty years. None of the path users refer to interruptions, challenges or obstructions. However, there is a low stone wall across claimed footpath G-K near point K which is also visible on all the aerial photographs from 1962. This wall is easy to step over so users may not consider it to be a challenge but it does obstruct the line of this section of claimed footpath. It is also not clear why the wall was erected, it is too low to have been for stock control so may just be to indicate the boundary between parcels of land. A photograph from March 1980 also shows a wall over the line of the claimed footpath N-Q. This wall would have required users to climb over it and would have challenged use of the claimed footpath. These walls existed within the relevant twenty year period of 1978 to 1998. The User Evidence Forms also do not make it clear which of the claimed footpaths were being used for which period, therefore it is likely that the claimed footpath N-Q only began to be used after the wall was removed. There is very limited use of the sections claimed footpaths O-M-N and M-P with a maximum of four people using these paths for twenty years or more and none using M-P for more than twenty years. Because of the existence of walls on the line of the claimed footpaths one of which obstructed them and the limited use of other parts of these claimed footpath linking them to other highways it is not considered that there is sufficient evidence to show uninterrupted use of the claimed footpaths G-K-N-Q, K-M-P or O-M-N for a relevant period of twenty years. There is no additional evidence that shows that the claimed footpath subsists or can be reasonably alleged to subsist. Therefore, an order to modify the Definitive Map and Statement should not be made for these claimed footpaths.

5.10 There is evidence of use of claimed footpath G-Q by twenty four people with eleven using for twenty years or more. However, there are some discrepancies on the line of the claimed footpath use and no mention of structures on the line of the claimed footpath. There is a track shown on a slightly different line on the 1960s and 1970s aerial photographs prior to the buildings being erected. It is possible that this was being used at this time and then when the field boundaries changed the line of the footpath used also changed. The boundary changes probably occurred in the early 1990s when some of the land was sold for development as the new fencing coincides with the developers land as shown on the 1999 aerial photograph. Some of the path claimants also did not indicate the path along the track with some marking a line to the south of the track. This could be the line they were using or it could be that they were assuming that they would carry on along the track or that they were using the route G-K-N-Q instead of G-Q. As there is some discrepancies with the evidence for claimed G-Q it is considered that a single line cannot be shown to have been used without interruption by the public for a period of twenty years or more. A route may have been used from point H to the track for a period of twenty years with later use on an alternative line after 1999 but there is no user evidence to indicate this. There is no additional evidence that shows that the claimed footpath subsists or can be reasonably alleged to subsist. Therefore, an order to modify the Definitive Map and Statement should not be made for this claimed footpath.

5.11 Claimed footpath S-T has been well used by the public for many years. It was included on the draft Definitive Map and Statement based on evidence of 'uninterrupted user' but the landowner objected to claimed footpath T-U claiming it ran along the south side of the field instead. This was accepted and both S-T and T-U were not included on the Definitive Map and Statement. However, the landowner agreed to the dedication of a footpath between S-T in the mid 1950s and the sale agreement and conveyance of Billing Hill to Aireborough Urban District Council included the dedication of a 9 feet wide public footpath with a wicket gate at the southern end along this line in 1958. Site and aerial photographs from the 1960s to the 1980s show it as being open and available for use with causeway stones down one side. It is also shown as a double hedged track on the 1956 Ordnance Survey map. There is no evidence of challenges to use or obstructions although it became overgrown in the early 2000s by vegetation. As this is natural growth it is not considered to be evidence of an interruption for the purposes of preventing public use or indicating that the landowner had no intention of dedicating public rights and there is clear documentary evidence to say that the landowner dedicated a footpath for public use in 1958. There is also evidence of use by forty four people prior to the claimed footpath becoming overgrown and after it was removed from the draft Definitive Map and Statement in 1957 clearly demonstrating that the dedicated path was accepted by the public and the user evidence on its own would also be sufficient to show presumed dedication through twenty years use. Therefore, it is considered that the Sale Agreement and Conveyance and other available evidence shows that a public footpath subsists along the claimed footpath. Therefore, an order to modify the Definitive Map and Statement should be made for this claimed footpath.

5.12 Claimed footpath T-U has been used by twenty two people with thirteen using it for twenty years or more. Several users describe it as a track. It was included on the draft Definitive Map and Statement based on evidence of 'uninterrupted user' but the landowner objected and claimed it ran along the south side of the field instead. This was accepted and the claimed footpath not included on the Definitive Map and Statement. It is shown as a track on all the Ordnance Survey maps from 1840 with either double dashed or a solid and dashed edge. It is visible as a clear wear line on all the aerial photographs from 1968 until 2009 but on the 1968-1971 aerial photographs it ends at the farm. There is no evidence of challenge or interruption after 1957. There is evidence of user for a period of twenty years after it was removed from the draft Definitive Map and Statement in 1957. The house is known to have been demolished in the early 1980s so even if it's owners or occupiers had challenged people during their occupancy, there would still have been twenty years use from the early 1980s to the early 2000s when the Definitive Map Modification Order Application was submitted. Therefore, it is considered that it can be shown, on the balance of probabilities, that a public footpath has been presumed to be dedicated along the claimed footpath following the expiration of a twenty year period of use by the public. It is also considered that there is not enough evidence to show that there was no intention to dedicate a public right of way after 1957. Therefore, an order to modify the Definitive Map and Statement should be made for this claimed footpath.

5.13 Although there appears to have been use of a footpath around Rawdon Lido for many years the lack of maps with the User Evidence Forms make it difficult to identify a line that would be sufficient to make a Definitive Map Modification Order. Photographs taken in 1989 show fences with no stiles which appear to have been in place for many years across the originally claimed line around the lake and the public did not indicate fence or stiles in these locations either. The alternative route along the line W-X only came into existence after 1989 when the landowner fenced off the dam but provided a path around the outside which included stiles and PUBLIC FOOTPATH sign. However, this line was only used by only nine people for less than twenty years, and was not widely accepted by the public leading to complaints about it being impassable by 1993. Therefore, it is considered that there is insufficient evidence to show twenty years use of this claimed footpath or on the originally claimed footpaths around Rawdon Lido. Although the landowner provided a route on the line W-X, it was not accepted by the public and quickly became overgrown, therefore a claim under Common Law would also fail. There is no additional evidence that shows that the claimed footpath subsists or can be reasonably alleged to subsist. Therefore, an order to modify the Definitive Map and Statement should not be made for these claimed footpaths.

5.14 The 1968 and 1971 show a field entrance at point V but the field boundary on the line of these two footpaths was unbroken at this time. A stile was provided at point V in 1989 by the adjoining landowner and the landowner or his tenants do not appear to have objected to this or removed it. Site photographs from 1989 show that there was no wall across claimed footpath V- X but there was a wall across the line of V-Y. By 1993 there were clear wear lines along both routes. There is slightly more use of claimed footpath V-Y than V-X but both well used with use

indicated for more than twenty years. However, there User Evidence Forms do not make it clear which of the claimed footpaths were being used for which period so it is very likely that the V-X only started to be used after the wall shown on the 1971 aerial photographs was removed, possibly as late as 1989 when the site photograph shows the wall no longer existed. V-Y could only have been used after the hedge came down on this line. Furthermore, the hedge on the line of V-Y may have been damaged by members of the public using it, therefore use of this footpath would not be considered to be use by the public without force. The Definitive Map Modification Order Application was submitted in 2003, therefore there is insufficient evidence to show twenty years use of these claimed footpaths to enable a public footpath to be dedicated through presumed dedication under Section 31(1) of the Highways Act 1980. However, the stile at point V was provided by the adjoining landowner to allow use of claimed footpath V-X and the landowner did not object to this or remove the stile. This route was accepted by the public and is still being used as a public footpath. Therefore, there is considered sufficient evidence to show that the landowner accepted the dedication of a public footpath over his land at common law and it was accepted by the public so a Definitive Map Modification Order should be made for claimed footpath V-X. No stile was provided in the wall which existed on the line of claimed footpath V-Y in 1989 and the wall appears to have fallen down or been forcibly removed over time, therefore it is not considered that a footpath can be shown to exist on this line under Common Law. There is no other evidence to show that a public footpath subsists or can be reasonably alleged to subsist over this claimed footpath, therefore an Order should not be made for V-Y.

5.15 Although there is use of claimed footpath Y-Z by thirty people, historically a well or shaft was on its line which was still visible on the aerial photographs in 1971. Some claimants recall this being fence off or dangerous and was there until the 1990s. Therefore, it is considered it is not possible to show twenty years use of this claimed footpath. There is no additional evidence that shows that the claimed footpath subsists or can be reasonably alleged to subsist. Therefore, an order to modify the Definitive Map and Statement should not be made for this claimed footpath.

5.16 Claimed footpath AA-BB has been used by forty eight people, thirty six for twenty years or more, with use dating back to 1930. It is shown as a clear wear line on most of the aerial photographs and on site visit photographs from 1989. There have been no challenges to use of the footpath and a stile is provided on the line of the path which is still present today. Therefore, it is considered that it can be shown, on the balance of probabilities, that a public footpath has been presumed to be dedicated along the claimed footpath following the expiration of a twenty year period of use by the public. It is also considered that there is not enough evidence to show that there was no intention to dedicate a public right of way after 1957. Therefore, an order to modify the Definitive Map and Statement should be made for this claimed footpath.

5.17 Claimed footpath CC-DD has only been used by eight people and only four for twenty years or more prior to the challenge date. There is no evidence of challenge or interruption. There are slight wear lines on the 1971 aerial photographs and clear wear lines on the 1999 onwards aerial photographs. During a 2014 site visit

several groups of people were observed using this section of footpath. Although there are limited User Evidence Forms showing use of this footpath, there is clear use of it on site to the present time and there have been no challenges or objections to use. Therefore, it is believed that it can be reasonably alleged to subsist as a public right of way and a Definitive Map Modification Order should be made for this claimed footpath.

6 Recommendations

6.1 The Natural Environment Manager is requested to consider the evidence contained within the attached reports, and the law to determine the status of the alleged public rights of way and authorise the City Solicitor either,

To make Orders in accordance with Section 53(2)(b) of the Wildlife & Countryside Act 1981 to modify the Definitive Map and Statement by adding the routes that are considered to be public rights of way and either confirm them as unopposed or, in the event of objections being received and not withdrawn after statutory notice of the Order is given, to refer it to the Secretary of State for the Environment, Food and Rural Affairs for determination,

or

Refuse authorisation for a Modification Orders to be made on the grounds that the existence of a public rights of way cannot be reasonably alleged.

and give full reasons for the decision made.

7 Background Documents¹

Background Document A: Claimed Footpath

Background Document B: Definitive Map Modification Order Application

Background Document C: Map of Rawdon late 18th to early 19th Century

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Background Document D: Rawdon Estate Plan 1821

Background Document E: Rawdon Tithe Map 1838

Background Document F: Ordnance Survey Maps 1840 & 1849

Background Document G: Ordnance Survey Map 1888

Background Document H: Larkfield Mill Estate and Large Reservoir Sale Plan 1900

Background Document I: Ordnance Survey Maps 1907 & 1908

Background Document J: 1933 & 1953 Ordnance Survey Maps

Background Document K: 1950s Photograph of Rawdon Billing from Rawdon Lido

Background Document L: Draft Definitive Map and Statement Documents

Background Document M: 1956 Ordnance Survey Map

Background Document N: Aireborough Urban District Council Minutes & Letter Regarding the Dedication of a Footpath 1957

Background Document O: Sale of Billing Hill Agreement & Conveyance 1958

Background Document P: 1962 Aerial Photograph

Background Document Q: 1968 Aerial Photograph

Background Document R: July 1971 Aerial Photograph

Background Document S: November 1971 Aerial Photograph

Background Document T: 1975 Letters Regarding Claimed Footpath S-T

Background Document U: 1978 Diversion Consultation & Proposed Development

Background Document V: March 1980 Photograph of Rawdon Billing

Background Document W: Undated Photograph of Rawdon Billing (1980s)

Background Document X: 1989 Ordnance Survey Map

Background Document Y: 17th of April 1989 Site Visit Photographs

Background Document Z: 3rd of August 1989 Site Visit Photographs

Background Document AA: 2nd of November 1989 Site Visit Photographs

Background Document BB: 15th of June 1992 Site Visit Photographs

Background Document CC: 1993 Aerial Photograph

Background Document DD: 1999 Aerial Photograph

Background Document EE: 27th of January 2000 Site Visit Photographs

Background Document FF: 2002 Aerial Photograph

Background Document GG: 2006 Aerial Photograph

Background Document HH: 2009 Aerial Photograph

Background Document II 14th of August 2014 Site Visit Photographs

Background Document JJ: User Evidence Forms and Summary Sheets

Background Document KK: Letters About Notices at Larkfield Dam

Background Document LL: 1989 Letters & Map About Billing Lido Footpath

Background Document MM: Complaints about Vegetation on W-X

Background Document NN: Letter from Clapham, Edwards & Turnbull

Background Document MM: Letters from 11 Lakeside Chase