

APPENDIX 3

Application No. MA/5/259

Application to add two footpaths between Bexton Lane and Knutsford FP2 in the parish of Bexton and Knutsford Town

List of Documents Consulted

PROW = Public Rights of Way, Cheshire East Council

CRO = Cheshire Record Office

SML = maps online at National Library of Scotland

Primary Sources	Date	Site Shown/Mentioned	Reference Number/Source
County Maps			
Swire and Hutchings	1829/30	Route part shown	CRO PM 13/8
Bryant map	1831	Route part shown	CRO searchroom
Tithe Records			
Bexton township Tithe Map and Apportionment	1847	Route partially shown, other paths shown owners and occupiers listed	CRO EDT 45/1
Ordnance Survey Maps			
O.S. 1" to 1 mile 1 st Edition	1887	Not shown	SML-Sheet 98 -PROW/Cheshire East Council
O.S. 1 st Edition 1:25 inch	1890	Part shown	PROW/Cheshire East Council
O.S. 2 nd Edition 1:25 inch	1898	Part shown	SML/PROW/CEC
O.S. 3 rd Edition 1:25inch	1909	Part shown	SML/PROW/Cheshire East Council
DEPOSITED MAPS			
Railway plan	1859	Route A-B shown labelled "occupation road"	CRO QDP 369 Cheshire and Midland Railway
Local Authority Records			
Parish Survey Schedules and Maps	1953	Routes not recorded	PROW
Draft Map	1953	Routes not recorded	PROW
Provisional Map	1968	Routes not recorded	PROW
Definitive Map & Statement	1971 (published)	Routes not recorded	PROW
Draft Map objections	1954	Route requested not included	PROW

Additional records			
Parish Paths Leaflet	2000 (no date on leaflet)	Route A-B shown	The Cheshire County Council publications PROW-
Aerial Photographs	1970-2005		PROW
Photographs	15.4.2025	Site photos taken in April 2025 of the two routes	PROW – see photo sheet
Consistency Guidelines	27.01.2022	Planning Inspectorate	Gov.Uk

BACKGROUND EXPLANATION OF THE DOCUMENTS

County Maps of 18th and 19th century

1. These are small scale maps made by commercial map-makers, some of which are known to have been produced from original surveys and others are believed to be copies of earlier maps. All were essentially topographic maps portraying what the surveyors saw on the ground. They included features of interest, including roads and tracks. It is doubtful whether mapmakers checked the status of routes or had the same sense of status of routes that exist today. There are known errors on many map-makers' work and private estate roads and cul-de-sac paths are sometimes depicted as 'cross-roads'. The maps do not provide conclusive evidence of public status, although they may provide supporting evidence of the existence of a route
2. Burdetts map of 1794 is at a scale which does not show lesser roads and tracks. The vicinity is labelled Lord Tabley and Bexton Hall is shown by a solid icon. Swire and Hutchings 1830 map shows Bexton Lane and no indication of a track leading off the north corner. Bryant's map, 1831 shows the area before the railway line and also draws in a cul de sac track leading off the corner of Bexton Lane. None of the maps indicate a path connecting Bexton Lane to Blackhill Farm

Tithe Map and Apportionment Bexton 1847

3. Tithe Awards were prepared under the Tithe Commutation Act 1836, which commuted the payment of a tax (tithe) in kind, to a monetary payment. The purpose of the award was to record productive land on which a tax could be levied. The Tithe Map and Award were independently produced by parishes and the quality of the maps is variable. It was not the purpose of the awards to record public highways. Although depiction of both private occupation and public roads, which often formed boundaries, is incidental, they may provide good supporting evidence of the existence of a route. Non-depiction of a route is not evidence that it did not exist; merely that it did not affect the tithe

charge. Colouring of a track may or may not be significant in determining status. In the absence of a key, explanation or other corroborative evidence the colouring cannot be deemed to be conclusive of anything. In Cheshire there appears to be no tithe map which has produced a map key. Map symbols were already in use on nineteenth century maps and some common symbols appear on the maps which were mostly understood by the people using the maps. Non tithed roads and tracks are quite often separated because they do not deliver a titheable commodity (such as a crop). For this reason, it is thought that a non tithed road is indicative of treatment for tithes and not for public highway

4. The Tithe map was drawn up before the railway line was constructed. On the map, a broken black line is shown running in a north easterly direction from the junction of Bexton Lane (point A on the Plan) and a cul de sac track running alongside 2 fields. At the termination of the track (point B on the Plan) a second broken black line runs in a westerly direction towards the track where Bexton FP6 runs. The broken black line suggests a footpath and at the junction with Bexton Lane a stile icon is drawn. A solid line is drawn across the entrance to the cul de sac track suggesting it was gated. Elsewhere on this map a broken black line aligns with Bexton FP2, suggesting the broken line is depicting a footpath
5. The Apportionment describes Bexton Lane as a public road not including the track to the railway line (point A-B on the Plan). The land on the north side of Bexton Lane is listed in the ownership of Lord de Tabley. The broken line A to Blackhill Lane crosses fields 86, 74, 73, 72 and 71, in the occupation of 2 different names. The broken line from point B to Bexton FP6 runs across fields 43 and 46 in one occupancy. The public roads were listed separately and summed at the end of the Apportionment account and there is no indication that the track was included in the public road layout. It is not possible to say if the depicted paths may have been public, but maybe indicative of a reputation of a path connecting Bexton Lane in a north and westerly direction prior to the construction of the railway plan

Deposited Plans : Proposed Cheshire and Midland Railway Plans 1859

6. Railway plans had to be produced and deposited prior to a railway company obtaining an Act of Parliament authorising the construction of their intended railway. The maps covered a corridor of land defining the limits of deviation either side of the line of the intended railway, with plot numbers for the land and public and private routes, which are referred to in a book of reference. They showed the status of routes bisected by the proposed line, the accuracy of which would have been in the interest of those affected. The plans were drawn to comply with parliamentary requirements. The Bill and plans were open to consultation and debate and as such, they carry strong evidential weight. There are, however, railway proposals that were never constructed. While this in itself may not necessarily reduce the value of the evidence providing the parliamentary process was completed, many proposals failed or were rejected due to poor or inaccurate plans.

7. The plan issued for the QDP 39 proposal to construct a line through Bexton labels the public highways and the track leading off Bexton Lane as an “occupation road”. The term occupation road is usually taken to mean a non adopted highway after the enactment of the Highways Act of 1835 that required the adoption of roads that would be maintainable by the public. In effect the non adopted roads and tracks would be privately maintainable which is usually described as being private roads. The track, numbered as 18 in the book of reference for the railway line proposal, listed as owned by Lord de Tabley (and Ralph Leyster , Lords of the Manor) occupied by Thomas Hough. On the same railway plan in Plumbley public highway is listed and two footpaths.

Ordnance Survey Maps (“OS”)

8. OS mapping was originally for military purposes to record all roads and tracks that could be used in times of war; this included both public and private routes. These maps are good evidence of the physical existence of routes, but not necessarily of status. Since 1889 the Ordnance Survey has included a disclaimer on all of its maps to the effect that the depiction of a road is not evidence of the existence of a right of way. It is argued that this disclaimer was solely to avoid potential litigation. Dr Yolande Hodson has written widely on the interpretation of the OS map. Dr Hodson was formerly employed by the Military Survey and then by the Map Room of the British Museum. In publication, she has described the tension in the twentieth century within the OS to agree on what would be shown on the maps, at which scale and for which audience and what symbols should be used to depict the condition and status of roads and ways. She has indicated that the OS are good evidence of the existence of a way or path and can support any other evidence claiming public rights of way but they are limited in proof of public status

OS 25” series

9. Bexton Lane shown connecting with a track on the route, indicated by a double row of broken lines on the north side of the field boundaries. The track runs through fields numbered 54 and 37 and there are no lines across to suggest this was gated. Across the railway line the track leads into field numbered 40.

OS post war 25” revised

10. On this map, a parcel of land has been carved out of the fields next to Bexton Lane leaving the enclosed track running between solid lines (enclosed). The parish boundary runs along the west boundary line. ON the north side of the railway line there is an enclosed track running the length of 2 fields (not the full length of the claim).

Definitive Map and Statement (“DM”) process carried out under the National Parks and Countryside Act 1949

11. The Public Rights of Way team hold records that pre-existed the Definitive Map process and date from approximately 1930. This is represented by a

District map which recorded “footpaths” with a record of the maintenance issues. There is no record of a path at the location.

12. The DM is based on surveys and plans produced in the early 1950s by each parish in Cheshire, or the Town or District Council where there was no parish, of all the ways they considered to be public at that time. The surveys were used as the basis for the Draft DM. Any representations against the Draft Map were dealt with before the Provisional Map was published. Representations by landowners to the Provisional Map were made to Quarter Sessions. One all representations had been dealt with the DM was finally published. The date of publication will be different from the relevant date of the map. For Bexton in the Rural District of Bucklow, the relevant date is 1 June 1953
13. The parish boundary between Bexton and Knutsford also runs on the route of part of the path running from the railway bridge to Bexton FP6. The parish survey was carried out by the District Surveyor for Bexton parish as there was no parish council sitting. The survey records no path, for either Bexton parish or Knutsford Urban District (as it was at that time). As a consequence, no path appeared on the Draft Map
14. There was a representation made to the omission of the footpath from the Draft Map. A plan is attached to the contemporary correspondence requesting information from the Bucklow RDC Surveyor. The plan indicates a path running from Bexton FP2 crossing the railway line by a “cart bridge” and running to Bexton FP1. A “stile” is noted at the cart bridge and a “field gate” on the northern side of the bridge. The response from the Bucklow RDC set out a rebuttal: that the clerk had no evidence for a path in the location and recalls that there had been a sign saying the path was permissive “soon after the Rights of Way Act 1932 became operative”, and he also said that he had not seen any access on the north side at the junction with Bexton FP1.

Parish Paths Leaflet

15. The Cheshire County Council for some years ran a programme Paths 4 Parishes, and it is thought that this leaflet was published under this programme. The leaflet submitted with the application is undated and entitled “Explore Bexton and Toft”. The leaflet is undated but there are indications it was published in 2000. At the end of 2002, the CCC received a letter from the Peak and Northern Footpaths Society pointing out that a footpath was shown on the plan which was not a recorded footpath : “The OS maps do not appear to show this [path] as a public right of way. I do recall many years ago there being a fingerpost by the grassy lane opposite Yewtree Farm but this pointed up what is not the minor road extension of Bexton Lane from Knutsford to Bexton Hall.” The CCC acknowledged the error and wrote to say that remaining stocks of the leaflet would be withdrawn and the parish council informed. In November 2002 the clerk to the Parish Council was informed of the error and advised to take the action of withdrawing the leaflet. The leaflet itself is not evidence of a dedication but could be evidence that brought the path into question.

Photographs

16. Aerial photographs are held by the Council comprising a black and white series from 1970s and subsequent colour version series. On the 1970s there is no sign of trodden paths for the recorded paths, the path shows wear which may be construed as use by farm vehicles. On the 1983/5 photograph there are no signs as before; The 1992 series shows most clearly the hedge enclosing Knutsford FP6, it would require a gap in this hedge to connect the footpath with the claimed path. No trodden paths are particularly visible, and the photographs are not fine enough to show hedge breaks. The 2000 series shows farm vehicle tracks on the same alignment as the claimed paths except C-B. The hedge along Knutsford FP6 is still visible. The 2000/2003 series shows cloud cover which obscures part of the claim at point A. At the railway bridge there is no evidence of a gate across the tracks. Vehicle tracks are very clear, breaks in hedges are visibly possible. The 2005/6 series shows the vehicle tracks very clear again, between C-B the photograph is not clear enough to identify breaks in hedges or trodden paths.