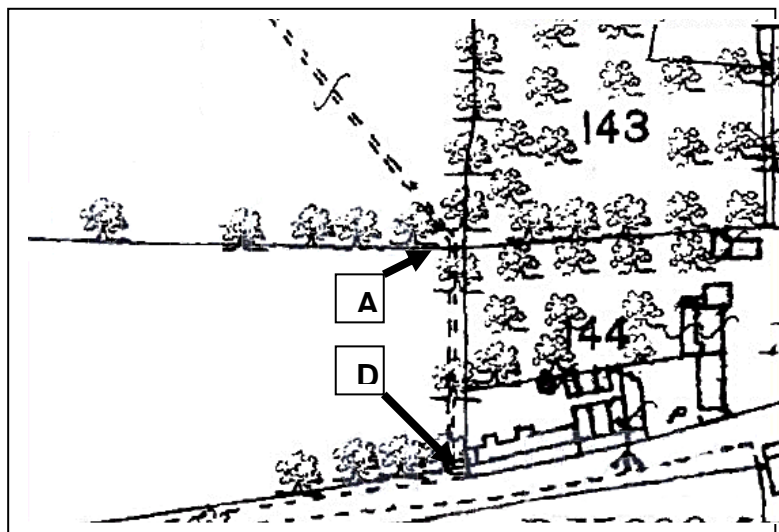


Historical Evidence: maps, photographs and aerial photographs

Historical Map Evidence

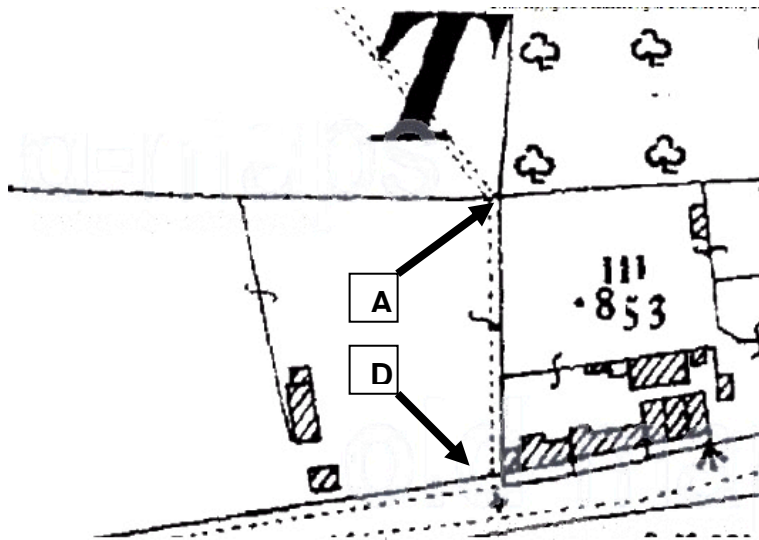
- C.1. The large scale 25":1 mile and later 1:2,500 scale Ordnance Survey maps (1888 1st Ed., 1925 Revenue Ed., and 1976 4th Ed.) and many of the smaller scale 6":1 mile (1:10,560) maps show a track along the line of Footpath No. 9. On the 1882 map the track is shown as an unbounded track, as indicated by the symbology " = = =" and is positioned approximately 1.5 metres to the west of what today would be the boundary fence of Nos. 32 and 42.



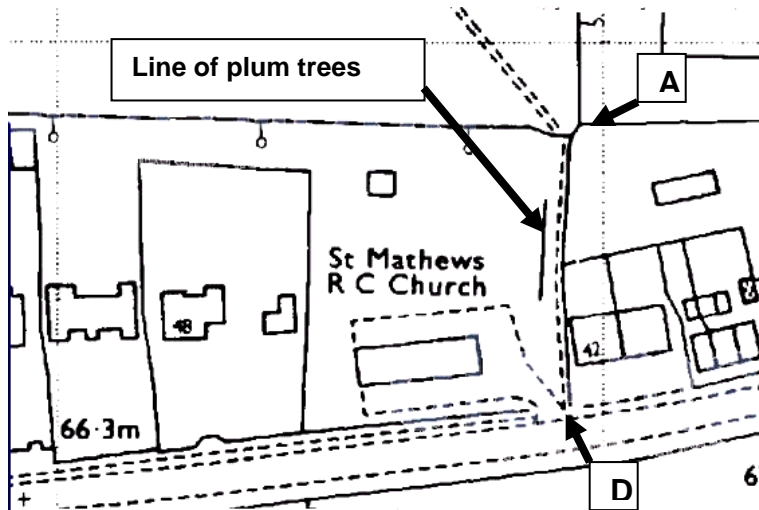
1882 Ordnance Survey (1st Edition) 25":1 mile map

- C.2. No track is recorded on the 1901 2nd edition 25":1 mile map between points A-D. However, a footpath, annotated "F.P." is depicted leading south-eastwards to and stopping at point A. On the later 1925 and 1976 maps (shown overleaf) the track is depicted abutting this boundary fence¹, as indicated by the symbology "- - -", on its western side. The 1976 map also depicts the line of plum trees as a linear feature situated approximately 3.5 – 3.75 metres from the boundary fence. Within this separated area of land the footpath is again shown as abutting the boundary fence of what is now No. 42, albeit now with a slight kink close to point C. Also visible on the 1976 map is the slight kink in the field boundary at point A. This appears to have been caused by moving the stile and field boundary southwards so that the stile was on higher ground and not in the shallow defile that drained the south-eastern corner of the field. The field boundary to the north of point A has also moved eastwards when compared to the 1882 map above.

¹ Now Mr. Rogers and Mrs. & Mrs. Vincent's fence boundary.



1925 Ordnance Survey (Revenue Edition) 25":1 mile map



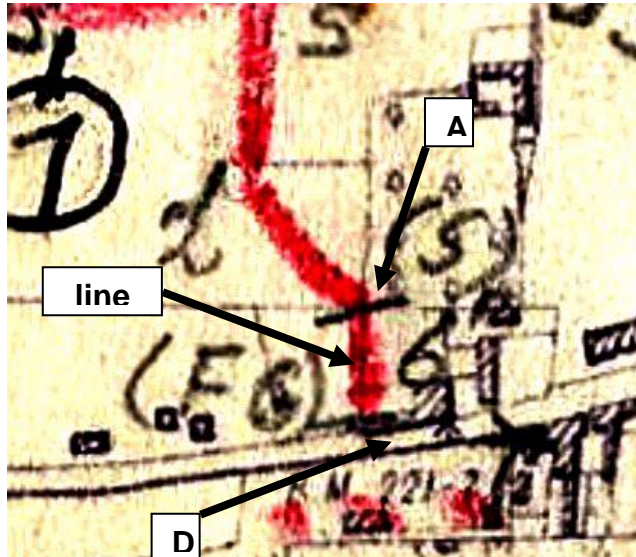
1976 Ordnance Survey (4th Edition) 1:2500 map

(maps not to original scale)

- C.3. Whilst the depiction of the route of Footpath No. 9 on the Ordnance Survey maps is indicative of the longevity of the route, the Ordnance Survey has long had disclaimers to the effect that any route shown does not convey any public right. Consequently the maps are simply indicative of the physical presence of a route since at least 1882. Similarly, it should be noted that the location of the physical route as depicted on the maps is not necessarily the same as the alignment of the public right which was initially recorded by the parish council in 1952 (see Section C.4 below).

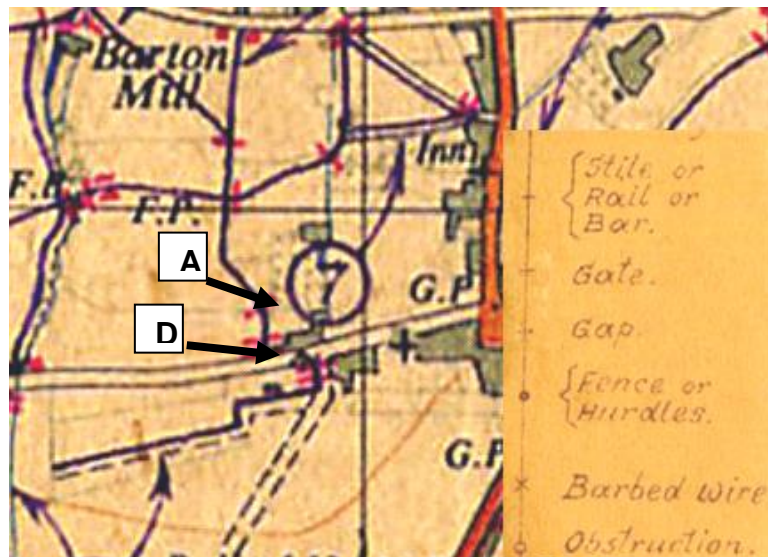
Evidence – The recording of Barton-le-Clay Footpath No. 9 on the Definitive Map

- C.4. The National Parks and Access to the Countryside Act 1949 placed a duty on the former Bedfordshire County Council to record all public rights of way in the county. As part of this process, the former County Council asked all its parish councils in c.1951-2 to survey their parishes and record all those routes they considered to be public rights of way.



Barton-le-Clay Parish Council annotated its survey map to record that Footpath No. 9 had a width of 6 feet (1.8 metres) in 1952 and had stile "(S)" at point A at the entrance into the adjoining field and a field gate "(FG)" at the roadside at point D. The use of brackets "(")" for the structures indicated that these were in disrepair when surveyed. Sharpenhoe Road is depicted as it was before it was re-aligned after 1976. The line of the fruit trees forming the western boundary of the track can just be seen under the red crayon of the surveyor (arrowed).

- C.5. The map data from parish surveys were collated and transferred onto a new map, the Draft Map of Public Rights of Way. The map below shows Barton-le-Clay Footpath No.9 along the same line as the parish survey with the same structures marked by a pink "-" and "=" for stile and gate respectively.



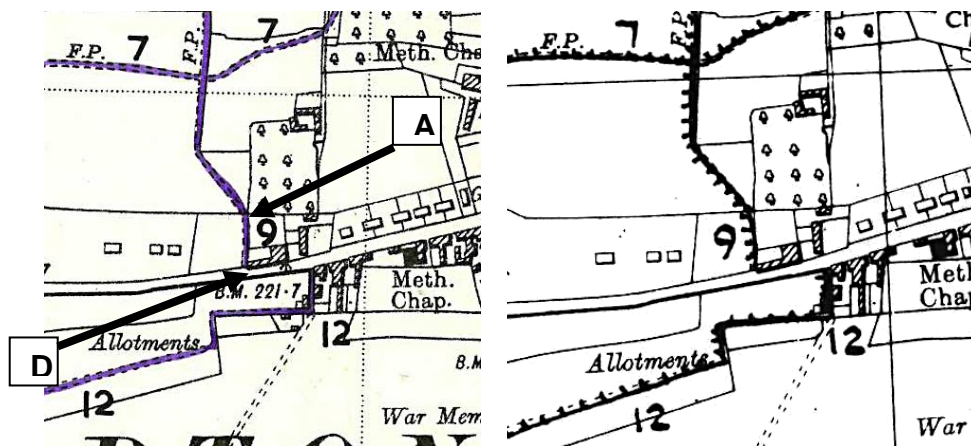
However, the accompanying descriptive statement did not record a width for the footpath, simply stating:

"...It starts at Mill lane entrance by a gap by hedge, much overgrown, to Park Meadow with a broken stile, due south into

small meadow, gap, stile in pieces, leading to paddock with good stile, then to main Sharpenhoe Road with broken stile. Except for first portion path good throughout...”

The Draft Map records that a stile was situated at point A and a roadside field gate at point D but not their condition.

- C.6. When the Draft Map was published in April 1953 it received numerous objections to errors on and omissions from the map. These were heard at a series of local public inquiries. When suitable evidence was provided, the map was modified by the publication of the Schedule of Modifications to the Draft Map in September 1963. Following further appeals against these changes, the Provisional Map was published in December 1963.

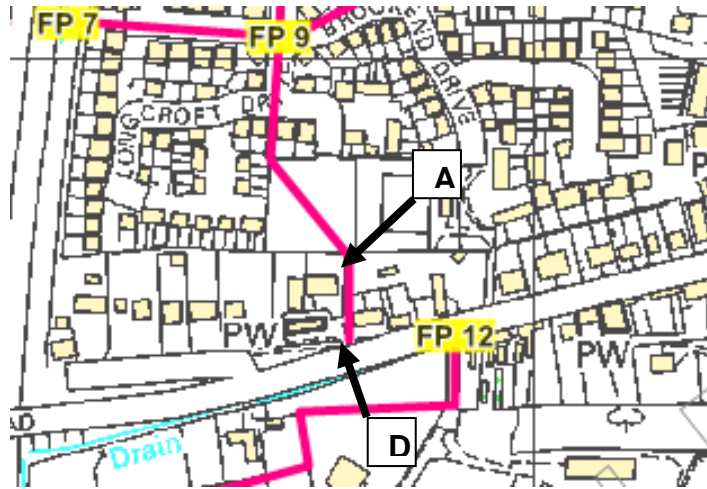


1963 Provisional Map

1964 Definitive Map (working copy)

The Provisional Map records the route of Footpath No. 9 between points B-C-D lying close to the boundary fence of what is now Nos. 32 and 42 and lying more centrally between points A-B.

- C.7. The Provisional Map was followed by the first Definitive Map for the Former Borough of Dunstable, the Borough of Luton and the Former Leighton Buzzard and Linslade Urban and Luton Rural Districts in March 1964 which covered the Barton-le-Clay area. The map depicts the alignment of the footpath in a similar manner to earlier Provisional Map.
- C.8. In 1995 the former County Council began the process of digitising the Definitive Map at a working resolution of 1:2500. The current Definitive Map, which is legally conclusive at a scale of 1:5000, records the footpath as shown below.



2013 Working copy of the Definitive Map

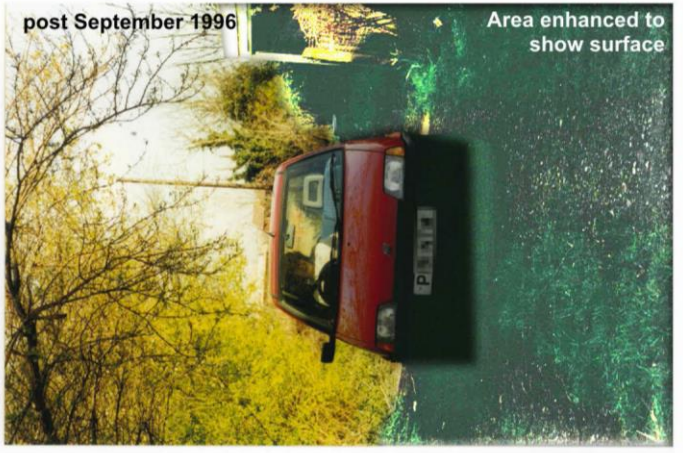
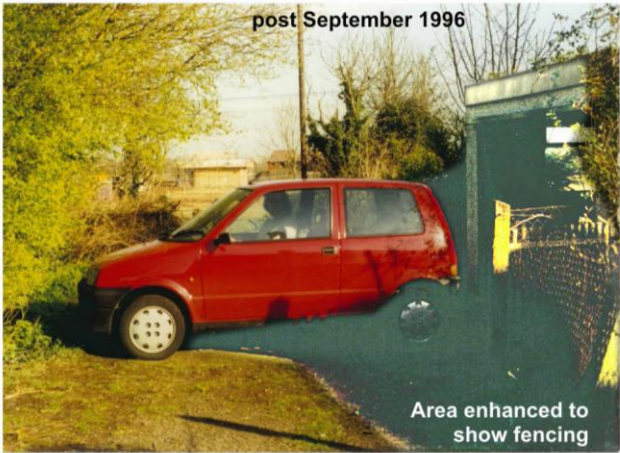
The enlargement of this plan, shown at Appendix A, shows that the legal line of the footpath runs generally within the eastern half of the track except at the northern end (point A) where it crosses to the western side.

- C.9. Throughout the lengthy process of producing the Definitive Map, Barton-le-Clay Footpath No. 9 has been consistently shown as it currently is – although no width has ever been recorded in the accompanying Definitive Statement. This appears to have been an oversight which could not have been legally corrected until the enactment of the Highways Act 1980 due to the restricted scope of the original 1949 Act.
- C.10. The scale and clarity of the parish council survey map and the Draft Map are insufficient to accurately gauge where within the limits of the track the footpath is situated. The later (non statutory) Modified Draft Map and statutory Provisional Map, although drafted more clearly, generally fill the width of the track with the drawn line except close to point D where they suggest the footpath is generally within the eastern half of the track. The current Definitive Map shows the printed line occupying the full width of the track. However, at its non-legal survey scale of 1:2500, the footpath generally runs within the eastern two-thirds of the track except at its northern end (between points A-B). The current position of the legal line of Footpath No. 9 therefore reflects the position on the previous maps.
- C.11. On 19 July 2011 the Secretary of State confirmed the Central Bedfordshire Council (Barton-le-Clay: Part of Footpath No 9) Public Path Diversion Order 2010 which diverted part of the footpath to the north of point A to allow the construction of a new housing estate. The Definitive Map and Statement has yet to be consolidated to incorporate this diversion order within it. Consequently any order made to record a width will only affect the pre-development description of Footpath No. 9 as shown in Section C.5 above. This mismatch will be corrected when the Definitive Statement for the Former Borough of Dunstable, the Borough of Luton and the Former Leighton Buzzard and Linslade Urban and Luton Rural Districts is

consolidated in the next 2 – 3 years.

Evidence - Photographs

- C.12. Mr. and Mrs. Vincent have provided the Council with coloured photographs of the track. These record how this section of Footpath No. 9 looked in the 1990s, see overleaf. Two photographs taken in May/June 1990 provide a view taken from Mr. and Mrs. Vincent's garden looking towards the footpath at point A and to the meadow beyond (now the last phase of the Grange farm Buildings housing estate). The second photograph taken from near point B shows Mr. and Mrs. Vincent's garage and car at point C. The new stone surface and width of the track can clearly be seen, along with the original fence.
- C.13. A June 1992 photograph shows Mr. and Mrs. Vincent's new car parked along the footpath at point C. Although the sides of the footpath are overgrown, there is still over a clear car's width available (calculated at 2.3 metres based on the car's width). Also noted from this photo is the predominantly stone surface of the footpath.
- C.14. The photograph taken in February 1995 from near point D shows the footpath covered in snow. All vegetation has died back and the whole track is available for use. The available width is calculated as 3.5 metres based on Volvo 340 car tyre tracks seen in the photo, indicating it was used by vehicles at this time. In the distance the remnants of some fencing and what might have been the post for the stile can be seen where the footpath enters the field beyond. The gap in the fence is placed centrally in the track.
- C.15. Two photographs have been submitted showing how the footpath looked like post September 1996. The photos show Mr. and Mrs. Vincent's compact car at point C. These indicate that a significant proportion of the width of the track available for use, although the western side is encroached upon by vegetation, including trees. In the distance the Grange Farm development is visible and a telegraph pole has been erected on the footpath. The shadowed areas of the photographs have been enhanced to show up details of the chain-link fencing and surface material and a grassed strip up the middle of the track. Two other photographs are not dated; however the one showing Mr. Rogers' hedge and the original footpath sign could be c.1992 (based upon the car featured).
- C.16. The photographs suggest that during the winter months the die-back of annual vegetation allowed the majority of the track to be used, although overgrowth of more woody vegetation and brambles did impinge upon the western side of the track. In the summer months, vegetation growing along the margins of the track reduced its usable width slightly to the central 2-3 metres of the track. A later 2009 Google Streetview[®] image (see Appendix D), taken prior to the period when the path was temporarily closed shows that at this time there was upgrowth of vegetation on the track and that the trees of No. 44 had grown over the footpath significantly.



Evidence – Aerial Photographs

- C.17. Aerial photographs from 1947, 1968, 1986, 1991, 1996 and 2002 have been studied, their findings are detailed below, and extracts can be viewed below.
- C.18. The 1947 aerial photograph shows a well established vehicular route along the eastern and northern boundaries of a large plot, now occupied by Nos. 44 and 46 Sharpenhoe Road and the old church building (now redeveloped as a private residence). The section of track along Footpath No. 9 is delineated by mature hedging to the east and possibly a shorter hedge with shrubs to the western side. The useable width of the track appears to be approximately 1.9 - 2.5 metres wide.
- C.19. By 1968 the track is less distinguishable and the shrubs/trees to the western side appear to have grown quite tall. Where visible, the track is approximately 3.0 metres wide. There is no sign of a track along the northern boundary of the plot and the old (now redeveloped) church has been built next to the road.
- C.20. Significant vegetation growth has occurred by 1986 with the fruit trees being obvious. The track is only clearly visible at its southern end with a width of approximately 2.4 - 3.3 metres and the hedge adjoining No. 42 is well established at this time but appears cut well back from the track compared to its position in later aerial photographs.
- C.21. A clearer overhead aerial photograph in 1991 shows the track still exists with a visible width of approximately 2.0 - 2.8 metres. This runs abutting the eastern boundary which appears predominantly hedged with some mature trees to the northern end.
- C.22. The aerial photographs taken in 1996 and 2002 are obscured along the central section by overhanging vegetation. Glimpses of the track appear to show it to be at least as wide as a car where visible.
- C.23. The c.2012 aerial photograph (see Appendix D) shows the worn line located centrally along the track at its southern end (between points C-D). The worn track heading from the open field to the north of point A shows that walkers headed towards the gap which had been left after the rear fence of No. 44 had been constructed.
- C.24. The aerial photographs are difficult to interpret due to their lack of resolution, differing angles and the amount of vegetation obscuring or growing within the path. Despite this, the aerial photography between 1947 and 1991 clearly shows a track passing at least as far north as Mr. and Mrs. Vincent's garage. The 1947 aerial photograph clearly shows the track continuing around the northern edge of the plot. The width of the track during this period, where visible, appears to have been generally between 2.0 and 3.0 metres wide, depending on year and point measured. It is not possible to tell from the aerial photographs whether the track is narrow because of surface vegetation, hedge growth, or overhead tree growth.

Aerial photographs of the southern section of Barton-le-Clay Footpath No. 9

