

APPENDIX D

User Evidence

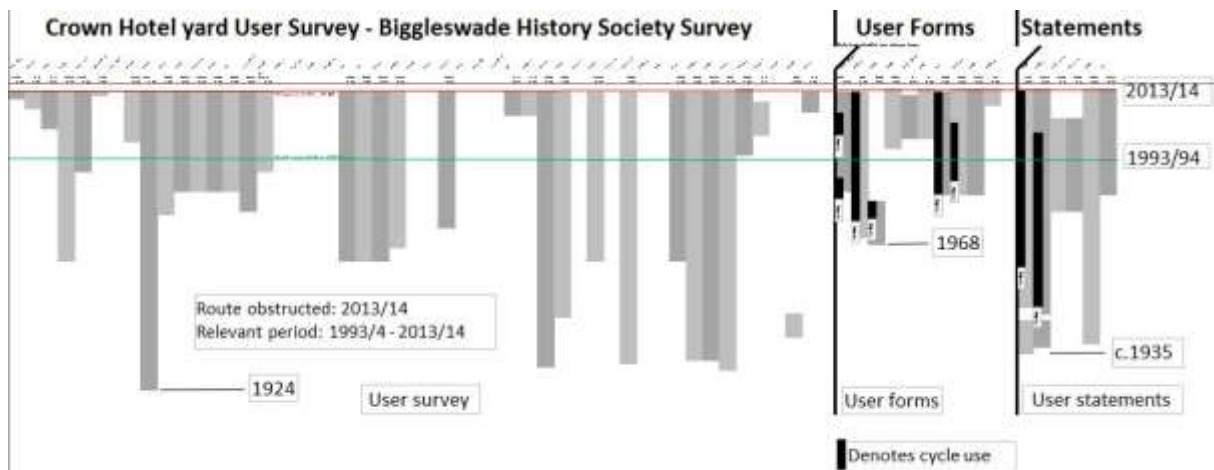
- D.1. In late October 2014 Mrs. Jane Croot, the editor for the Biggleswade History Society, canvassed 51 generally elderly residents living close to the Crown Hotel as well as people collecting their children from St. Andrew's Lower School. Thirty three of those surveyed indicated that they had used the Crown Hotel yard route between 1992 and 2013. This is the "*relevant period*" for deemed dedication under Section 31 of the Highways Act 1980 (see Appendix B). Furthermore, the results, whilst lacking in detail (and in some cases legibility) give a picture of public use of the Crown Hotel yard as a public thoroughfare from at least as early as the 1930s.
- D.2. The applicant has supplied ten user evidence forms which detail public use of the route through the Crown Hotel's yard. Additionally the Council has received a number of statements from local residents. These are all summarised in the table and chart below.

Name	Start	End	Duration	Remarks	Inter-viewed
User Evidence forms and interviews					
Mr. D. Woodward	1980	2013	33 years	Used on foot (1980 – 1987 monthly then occasional to 1995 then monthly between 2001-2007 and more recently as part of a dog-walking route and Used by bicycle monthly (for period: 1982-87 and occasionally between 2001-2007)	Yes
Mr. K. Emmerson	1970	2013	43 years	Used weekly-fortnightly on foot (1970-2013) Used by bicycle monthly (during period 1975-2013)	Yes
Mr. M. Brawn	1968	1980	12 years	Used weekly on foot until 1975 and then monthly thereafter until c.1980 Cycled occasionally between 1975-80	Yes
Mr. M. Griffiths	1997	2014	17 years	Used daily on foot	No
Mrs. C. Woodward	2000	2012	12 years	Used monthly on foot	No
Mrs. C. Amos	2000	2014	14 years	Used daily on foot	No
Mr. J. Norris	1983	2013	30 years	Used weekly both on foot and by bicycle	No
Mr. A. Mapletoft	1983	2013	30 years	Used weekly on foot and used weekly by bicycle during period 1987-2004	No
Mr. C. Day	1987	2014	27 years	Used intermittently/weekly from c.1987 on foot	Yes
Mrs D. Temple	2010	2014	>4 years	Used daily on foot Used weekly on bicycle	No

Statements from users and interviews and e-mails

Mr. D. Ball	1930	2014	84	Regular use on foot and weekly by bicycle (1994-2014)	Yes
Mr. K. Page	1933	2014	81	Regular use on foot and Regular use by bicycle (up until 2001)	Yes
Mrs. J. Day	1983	2014	31 years	Used daily on foot with children until c.1987 then weekly on foot	Yes
Cllr. D & J Lawrence	1978	2005	27 years	On foot	No
Mr. P. Rutt	?	?	?	Walked through from childhood	No
Mr. T. Smith	1944	2014	70 years	Style of use not stated	No
Mr. R. Chadwick	?	?	?	Walked through many times	No
Mr. S. Clemo	?	?	?	Used to walk through to shops	No

D.3. The chart below summarises the breadth of public use - as evidenced by the user survey, user evidence forms and additional statements of use. The relevant period for deemed dedication of the claimed bridleway is between 1993 and 2013. As can be seen, there is a significant amount of public use during this period.



D.4. The use of the claimed route on foot by all ten people who submitted user evidence forms bolsters the public use within the relevant 20 year period as evidenced by the Biggleswade History Society’s survey and by those who have submitted statements. More importantly it provides the necessary detail relating to user “as of right”. None of the ten users who submitted statements nor those additionally interviewed reported either being challenged or seeing prohibitive signs on the route. None were interrupted in their use prior to the security fencing being erected. Unfortunately none of the users have given a precise date for the erection of this fencing – believed to be in late November or early December 2013.

D.5. Six cyclists have stated that they have used the route during the 20 year period prior to the route being obstructed at the end of 2013. Three for the full 20 years and three for periods of between eight and ten years. The rural case of *Whitworth v Secretary of State for Environment, Food and*

Rural Affairs 2010] EWHC QBD 738 (Admin) concerned limited levels of public user. The stated use would appear to provide a qualifying degree of public user by bicycle. However, Inspector's decisions and Counsel's Opinion both take the view that in an urban setting this level of use is insufficient to be able to reasonably allege that public cycling rights subsist (See Appendix B).

- D.6. Letters received from Mr. D. Ball state that the Biggleswade Urban District Council ("*the BUDC*") carried out publicly funded repairs to the route sometime in the late 1940s or 1950s and that the route was considered a public route by that council at that time. Mr. Ball recalls that the owners at the time, the Wells and Winch Ltd. brewery, disputed this status though, claiming it to be private. The BUDC records show that Mr. Ball was employed by the BUDC during this period but no independent corroborating documentary evidence has yet been found in the BUDC minutes for the work that Mr. Ball describes being carried out or of the alleged dispute as to the route's status. However a former employee of the brewery, Mr. Page, recalls that the brewery was happy for the BUDC to repair the route. Another later employee of the Crown Hotel, Mrs. Temple has stated that she was informed by the landlord that the route through was a public right of way.
- D.7. During a telephone interview with Mr. Ball, he recalled that there was a school on Church Street (previously Brewery Lane) next to the old Fire Station. The school is shown on the 1926 3rd Edition of the Ordnance Survey 25":1 mile map. People used to access the school by cutting through the Crown Hotel yard from the High Street. Additionally there were quite a few small shops on Church Street (cobblers etc.) which people accessed from the High Street via the Crown Hotel yard.
- D.8. Before the second World War Cowfair Lands was one of the centres of population in Biggleswade. Mr. Ball stated that many people walked from there southwards along Chapel Fields to the town centre and accessed the High Street and Market Square via the Crown Hotel's yard. At this time the current Abbot's Walk was the gated yard of Franklin's Corn Merchants and was never a through-route until much later. Mr. Ball recalls that the Crown Hotel was also used by many coaches and horses before the war (as was the New Inn's yard opposite).
- D.9. In a follow-up interview Mr. Ball stated that he used to walk to school via the Crown yard. The route was also used by the firemen when they were based at the old fire station in Church Street. From 1960 Mr. Ball used to walk and cycle regularly through the Crown yard to the Fairfield sports grounds. Mr. Ball recalls that as an employee of the BUDC he was involved in the repairing of the route through Crown yard when poor drainage caused it to flood. The route was repaired at the public's expense as the Council considered it a public right of way. There were also a number of small shops within the yard (barber and dentist) which the local townsfolk would walk to through the yard. Mr. Ball stated that he still used the Crown yard as a shortcut between 1994 and 2014 – mainly by bicycle

but also occasionally on foot.

- D.10. Mr. Ken Page, life president of the Biggleswade History Society, submitted a statutory declaration to Biggleswade Town Council in January 2015 in which he described his extensive knowledge of the Crown Hotel and recollections of his use of the route. In it he recalls that he and his friends regularly used the Crown Hotel's yard route in the 1930s as a pedestrian route to get to and from the junior school in Church Street. The claimed route was also used by brewery workers going to and from the brewery in Church Street (previously called Brewery Lane). Mr. Page states that he has no knowledge of the route ever being closed or public use challenged in his lifetime until the erection of the security fencing in early 2014.
- D.11. Mr. Page states that some of his ancestors were dairymen and he was told that long ago drovers herded cattle south from Biggleswade Common along Sun Street and then into Chapel Fields and through the Crown yard into the Market Square. Another cattle trail came northwards from Topley's Hill (Langford), via Holme Green and Palace Street to the Market Square. These probably existed until the railway came to the town in 1850. Mr. Page states that the Crown Hotel's yard provided access to the cattle markets. This historic evidence, however, is outside the relevant 20 year period and so cannot count towards deemed dedication of the claimed route.
- D.12. In a follow-up interview Mr. Page stated that he used to walk the route through the Crown yard from 1933 until it was closed off with the exception of two years when he was in Germany. He worked for the Brewery— initially Wells & Winch and then renamed Greene King in 1963, between 1942 and 1991 and dealt with their property records. His offices were based in what is now Abbott's Walk. He recalls that the brewery were happy for the BUDC to repair the Crown yard in the 1950s. Mr. Page owned a bicycle up until mid-2001 and used to cycle through the Crown yard which he considers to be a public bridleway.
- D.13. Mr. Philip Rutt e-mailed the Council in February 2015 to state that *"...I am an 81 year old Biggleswade resident and have lived in Biggleswade all my life. Throughout my life I have known the right to go through the Crown yard. I distinctly remember walking through it regularly as a child. In my strongly held view it should not be closed. It should have legal protection as a public right of way..."*.
- D.14. Mr. Terry Smith e-mailed the Council in February 2015 to state that he had lived in Biggleswade for 70 years prior to moving away in 2014. He stated that *"...the route through the Crown yard between the High Street and Church Street has now been gated and closed to the general public for somewhere in the region of two years without any obvious inconvenience. The route via Abbot's Walk - although as I understand it this isn't a protected right of way - is now the favoured route between the two thoroughfares, linking as it does the Asda supermarket and the town centre, via two appropriately sited crossings. It seems to me that even to consider*

reopening the route through the Crown yard would be a wasted exercise as it is clearly no longer needed...".

- D.15. Mr. Roy Chadwick e-mailed the Council in October 2014 to state that "*...I have not seen horses walking through the alleyway, nor is there likely to be any. Clearly once it was, years ago, used for coaches & horses but things move on... ...I did walk through there many times, but there is still a way through just a few yards along so there is no loss ...*".
- D.16. Mr. Stuart Clemo e-mailed the Council in January 2015 to state that "*...I remember being able to walk through to the shops on Church Street, but this would not be possible any more if they block the right of way forever...*".