



Estates & Management Ltd
Molteno House, 302 Regents Park Road
London N3 2JX
DX: 57286 Finchley 2

Switchboard: +44 (0)20 8371 2800
Fax: +44 (0)20 8349 9545
Website: www.e-m.uk.com

Lancashire County Council
DX 710928 Preston County Hall

17 March 2015

Our Ref: Asset/OS/46000391
Your ref: LSG4/MB3/5.53282/MB3

Dear Sirs

Wildlife and Countryside Act 1981 – Investigation into the claimed public footpath

We act on behalf of Avonbraid Limited.

Thank you for your letter dated 3rd March, the contents of which we note.

In order to assist you with your enquiry, we enclose a Land Registry title plan which clearly outlines the extent of land (edged red) included within our client's ownership.

We trust this meets your requirements.

Yours faithfully

For and on behalf of Estates & Management Ltd

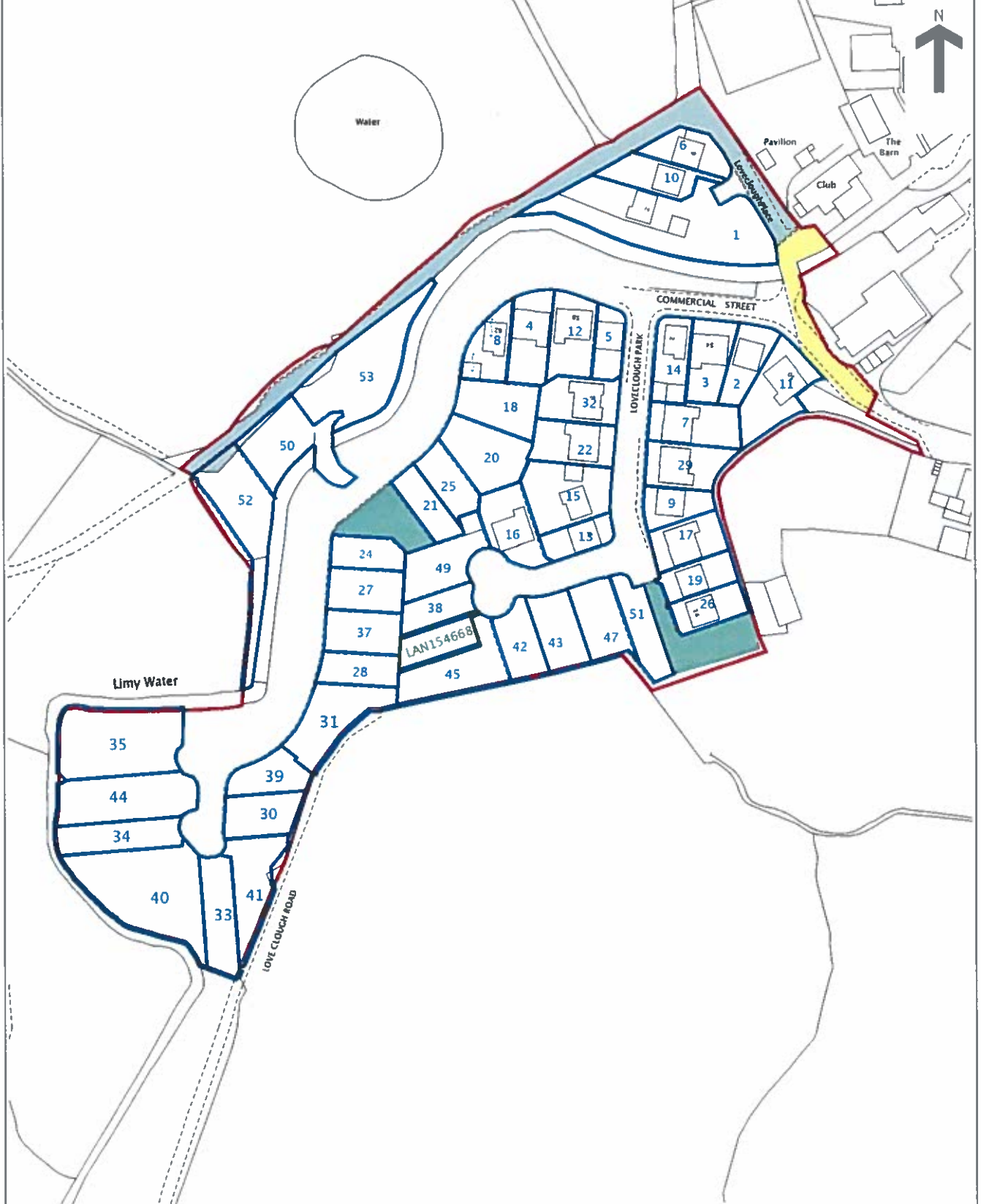
Asset Investigations
Telephone: 020 8371 2800
Email: assetinvestigations@e-m.uk.com



Registered Office: Molteno House 302 Regents Park Road London N3 2JX Company Registered in England Registration Number: 3244100



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This is a print of the view of the title plan obtained from Land Registry showing the state of the title plan on 27 October 2014 at 12:28:38. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by Land Registry, Fylde Office.

26 March 2015

Your ref.: LSG4/MB3/5.53282/MB3

Ms M Brindle
County Secretary and Solicitor's Group
P O Box 78
County Hall
Preston
PR1 8XJ

Dear Ms Brindle,

WITHOUT PREJUDICE

RE: Investigation into the Claimed Public Footpath from Public Footpath 1 to Public Footpath 9 Rawtenstall, Rossendale Borough

I have to hand you letter and enclosure of 3 March 2015.

I am replying in my role as Chairman of the Loveclough Fold Residents Association with the authority of the whole community. For the avoidance of doubt, the LFRA consists of the following: Mr D and Mrs A Ashworth*, Mrs D Ewart-Jones*, Mr S and Mrs S Felinski*, Mr R and Mrs G Maycock, Mr A and Mrs C Mitchell*, Mr J and Mrs D Tozer* and myself*. Those whose names are shown with an asterisk are directly affected by the content of your letter and attended a meeting convened to discuss it.

At that meeting held on Wednesday, 18 March 2015, residents pooled the information they have to hand. From that, six points emerged.

1. Your letter is virtually identical to one previously sent to residents on 20 April 2005 (**Annex 1**).
2. Residents complied with the terms of that letter and the matter was then concluded in favour of the residents.
3. The only other query relating to Loveclough Fold was raised in 1997 after the previous landowners had failed to comply with an Enforcement Order; at Rossendale Borough Council's Development Control Sub-Committee meeting on 7 May 1997, retrospective planning permission was given (**Annex 2**) and the relevant Enforcement Order was withdrawn (**Annex 3**).
4. Your letter does not explain why an issue which was settled almost a decade ago is now being exhumed.

5. The resurrection of a matter long since settled strikes residents as being frivolous, vexatious and calculated to cause anxiety and stress.
6. The association is reluctant to supply all the information you seek on this occasion – other than the Annexes included here, together with a map (**Annex 4**) showing land in ownership which has been checked against information flowing from the Land Registry - as the data you seek will already reside in your files.

The meeting of residents agreed that this matter was settled conclusively almost a decade ago in 2005. It further agreed that if the association does not hear from you within 14 days of this letter acknowledging that, indeed, this matter was resolved in 2005, then the LFRA reserves the right to take what action it will.

Yours sincerely,

A handwritten signature in black ink that reads "D S Hempwall". The signature is written in a cursive, slightly slanted style.

Hard copy follows by post



01772 533430



01772 533614


stephen.southworth@css.lancscc.gov.uk

D & A J Ashworth
Loveclough Fold Farm Cottage
Crawshawbooth
ROSSENDALE
BB4 8QT

Your ref

Our ref

Date:

LSG4/prow/sps/5.24575 (804/421)

20th April, 2005

DX

Number:

710928 Preston County Hall

Dear Sir/Madam

WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
CLAIM FOR DEFINITIVE MAP MODIFICATION ORDER
APPLICATION NO. 804/421

4/5/05
Spide do
Stephen Southworth
11.3.05

The County Council, as Surveying Authority, have received a Claim for a Definitive Map Modification Order. The details of the Claim are as follows and the route referred to is shown coloured red on the attached plan:-

Claimed public footpath from Public Footpath No. 1 to Public Footpath No. 9, Rawtenstall, Rossendale Borough

In accordance with paragraph 3 of Schedule 14 of the Wildlife and Countryside Act, 1981, the County Council are required to fully investigate the Claim and, after consulting with every local authority in whose area the Claim relates, to decide whether or not to make the Order applied for. The County Council are required to give Notice of their decision to every owner and occupier of any land to which the application relates.

In this connection, also enclosed with this letter is a further map of the area. I would be most obliged if you could colour in the exact extent of the land in your ownership in the vicinity of the claimed route, and return the map to me at the above address. I have enclosed a reply paid envelope for your convenience.

As I am required to contact all owners and tenants who may be affected by this application, any additional help that you can give me regarding the names and addresses of neighbouring landowners or tenants would be appreciated.

If the Council decide to make a Definitive Map Modification Order, Notice will be served on owners and occupiers, who may, at that stage, make representations or objections to it. In such case, the Order will be submitted to the Secretary of State, who will cause a local inquiry or hearing to be held, before deciding whether or not to confirm the Order.

Stephen Southworth – Senior Legal Officer
 Legal Services Group (Environment Section)
 PO Box 78, County Hall, Preston, Lancashire PR1 8XJ
 Lancashire County Council does not accept service by e-mail



Lexcel
 THE LAW SOCIETY



2003-2004
 Supporting the Rural Economy
 2004-2005
 Transforming the School Workforce

Annex 2

PART B
INDUSTRIAL AND COMMERCIAL
14/96/536 continued

There has been no response to the notices regarding the departure procedure and there has been no change in the material circumstances. I would therefore recommend that planning permission be granted subject to:-

- a) The entering into of a section 106 Agreement in respect of the maintenance of landscaping and
- b) The aforementioned conditions.

14/97/094 continuation of use of land county surveyor
for the storage of Neighbours
caravans.
Gas street, Haslingden.

Recommendation - that planning permission be granted to this application subject only to the standard time period condition.

MISCELLANEOUS

14/97/058 Erection of a 3 metre chain Neighbours
link fence and carry out
refurbishment works.
Playground at Hill street,
crawshawbooth, Rossendale.

Recommendation - that planning permission be granted to this application subject only to the standard time period condition.

RESIDENTIAL

14/97/129 Retention of existing
walls, resurface road
with tegular paving and
provision of a landscaped Environment Agency
area between the road and Neighbours
river.
Land at Loveclough Fold,
Commercial street, Loveclough.

Description

This application has been submitted in response to the service of an Enforcement Notice. The notice concerned the non compliance with conditions in respect of the original planning permission for the conversion of three barns into five dwellings. This application therefore, seeks to retain some works which are the subject of the Enforcement Notice and to form a highway surface in addition to landscaping remaining areas. Loveclough Fold is a conservation area and the works to date have been constructed in a sympathetic manner. The original consent provided for a more open character of development without the elongated gardens surrounded by stone walls. If the Enforcement Notice were to be upheld at appeal then the access would have to go back where originally planned and walls taken down.

PART B
RESIDENTIAL
14/97/129 continued

Whilst this proposal is not as originally planned, there is some merit in both the character of the development as implemented and the scheme put forward for its completion. The residents committee which has been formed as a result of the Enforcement Action will, I believe, secure substantial improvements to this area in the near future. Discussions have also taken place with the Environment Agency to improve the river and its banking as a follow on project to this.

conclusion

Whilst there is merit in the original open plan scheme resembling more closely the farm yard design, the development as implemented is not wholly unsympathetic and the proposed scheme would acceptably finish off the area and provide an impetus for continued improvement. The previous discussions with residents two years ago attempted to achieve action which has now resulted in these proposals. I therefore consider this proposal is acceptable.

Recommendation - that planning permission be granted to this application subject to the standard time period condition and the following conditions:-

2. The paved area shall only be laid with Tegular artificial cobbled paving and no other form of paving unless an alternative sample of paving is approved in writing, and only the approved paving shall be laid and thereafter retained.

Reason: Loveclough Fold

is a Conservation Area and the design of the paving is important in retaining the character of the Conservation Area.

INDUSTRIAL AND COMMERCIAL

14/97/093	Change of use of vacant land to provide additional caravan storage. Gas Street, Haslingden.	county surveyor Haslingden and District civic Trust
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Description

The application site is located to the south of Grane Road, Haslingden and accessed via Gas Street. It forms part of a commercial nursery, part of which is already given over to caravan storage. This proposal would substantially increase the area of land within the nursery boundary given over to caravan storage with a capacity for 100 caravans. The application is presently a disused part of the nursery. The proposal would involve the demolition of two large green houses. The site is bounded to the south, west and north by conifer hedges.

Consultation Replies

county Surveyor
(Highways)

Recommends refusal for the following reason:
'The proposed development would attract more vehicles to this site and Gas Street, which is narrow and unmade, is unsuited to serve any new development which would increase the traffic flows along it.

Mr B S Sheasby	Please ask for: Mr D Whittaker	Tel 01706 217777
Development Control Manager		
Stubbylee Hall	Email: davidwhittaker@rossendalebc.gov.uk	
Bacup		
Lancs OL13 ODE	My Ref: Enf. DW	Your Ref:

29 September 2005

Mrs A Ashworth
Loveclough Fold Farm
Loveclough
Rossendale

Dear Mrs Ashworth

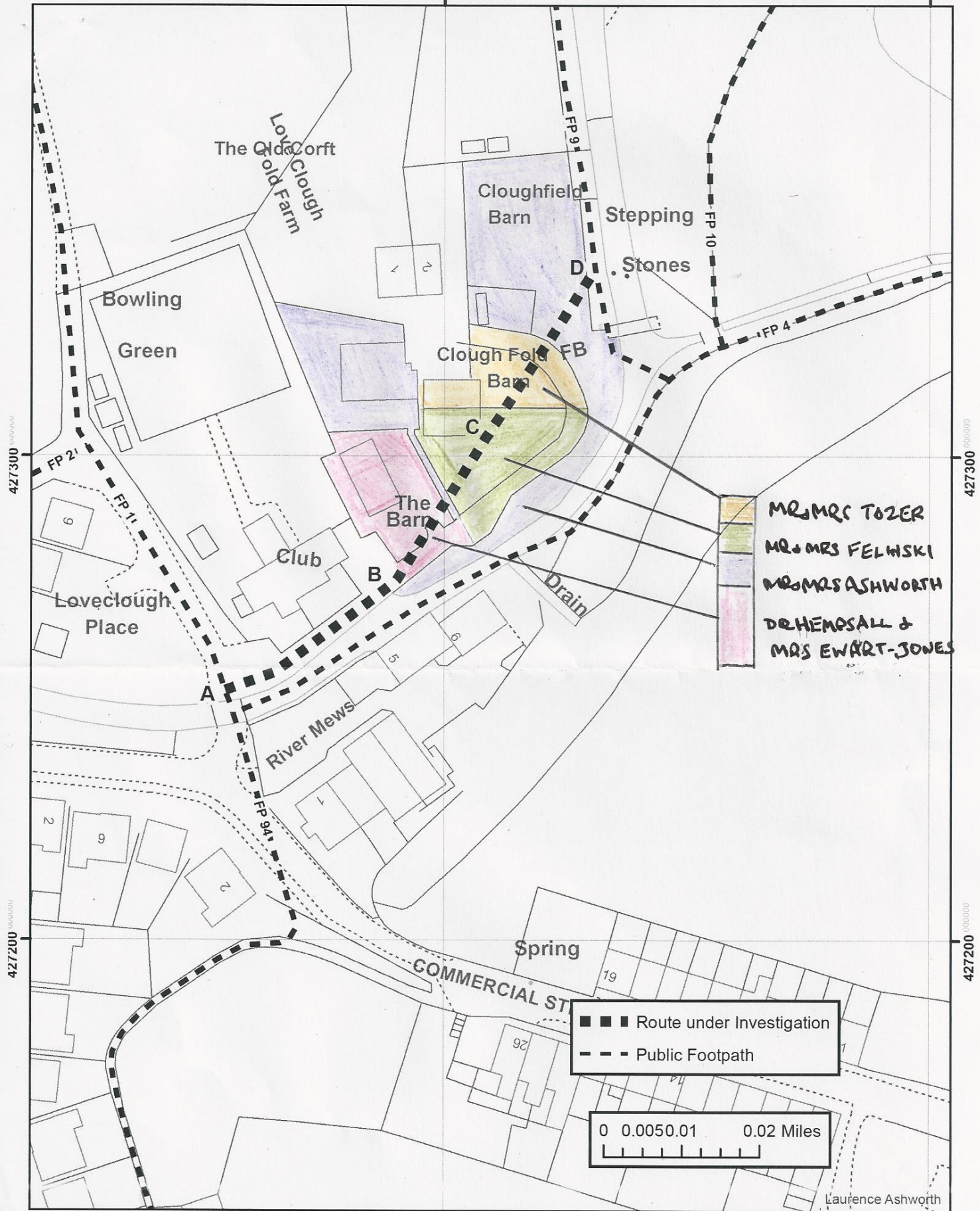
RE: ENFORCEMENT NOTICE – LAND ADJACENT LOVECLOUGH FOLD BARN

I refer to my recent visit to the above piece of land and confirm that the enforcement notice issued in 1996 has been complied with and has now been withdrawn.

Yours sincerely



David Whittaker
Planning Enforcement Officer



<p>Lancashire County Council</p>	<p>Steve Browne Interim Executive Director for the Environment</p>	<p>Wildlife and Countryside Act 1981 Investigation into the claimed public footpath from Public Footpath 1 to Public Footpath 9 Rawtenstall, Rossendale Borough</p>	<p>1:1,000</p>	
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The digitised Rights of Way information should be used for guidance only as its accuracy cannot be guaranteed. Rights of Way information must be verified on the current Definitive Map before being supplied or used for any purpose.

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Loveclough Fold Farm
Loveclough
Rossendale
Lancs
BB4 8QT

7th May 2005

Dear Sir,

In response to your letter (ref. LSG4/prow/sps/5.24575 (804/421)) we would like to make certain points clear about the property at Loveclough Fold and the application to make a definitive map modification order.

Having purchased the property in 1989 and having lived here for the past sixteen years at no time have there ever been any applications or arguments over the right of way through Loveclough Fold. This application has come about as a result of a dispute with a neighbour Joanne Hodgkinson and Mr. Jack Heys a resident of Commercial St, who while walking through Loveclough Fold was told by Mrs Hodgkinson that he was trespassing. The argument became heated and because of that Mr Heys has applied for this order.

As a result of the new housing development and the increase of people in the area, particularly dog walkers, there became a large number of people wanting to walk their dogs through Loveclough Fold. As a result of that the grass banking running along the river side and the land which it joins to, owned by us, became constantly fouled by dogs. This was mainly because firstly, they had no knowledge of the correct footpath route, which is highlighted on our drawing; this footpath has been in use for the past hundred years. Secondly, if they had been aware of the correct footpath route they would not have been able to use it as it is constantly blocked by Hurstwood Developments.

In August 2004 we spoke to Rossendale Borough Council regarding the failure to maintain the footpath, even though they were aware that an employee of Hurstwoods had deliberately blocked the access and is still blocked to this day. A representative of Rossendale Borough Council came down to see myself and other residents of Loveclough Fold regarding the matter of the footpath access (or lack of it). He viewed the site, returned to the office checked the relevant maps and confirmed that the footpath and access is on the opposite side of the river, between the buildings of Hurstwood Developments.

We also advised him that due to the continual dog fouling we had taken the decision to fit gates at the entrance to the Loveclough Fold development. He confirmed that, as this was not a public footpath or right of way he had no problem with the installation of the gates.

There are claims by Mr Heys and others that they have used this route for up to 80 years. I find it difficult to agree with this as living here for the past sixteen years, no one had ever made a claim of right of way. Further more, the right of way that Mr Heys is laying claim to has not existed for at least the last twelve to fourteen years, see enclosed footpaths. As the properties were sold individually there was some confusion

as to who owned or was responsible for the development of the road and grass verges. In Sept 1996, the residents were served with an enforcement order to install a road- Mr Whittingham served this order – Ref PAW/E1/GM/96/9/7 . Plans were submitted and passed and to a very high cost to all residents , the road was installed. This has since been maintained by residents to a high standard, the grass mowed, and road swept on a regular basis by all residents on a rota basis.

K and S Ainsworth still owned a small section of land on the site and following unsuccessful applications to build on the land they agreed to sell us the land . In November 2003, we purchased the remaining plot on the Loveclough Fold site, highlighted on the map, this land was also subject to an enforcement order to plant saplings and grass the area, and we have now almost completed this task. We are in the process of fencing this land but due to this application we have stalled this- To fence our perimeter of land as we have been instructed to do would

Mr Heys has lived and worked in Loveclough all his life and has always been opposed to changes, when we were carrying out maintenance to the road he objected to the type of stone sets we used, sets recommended by the planning dept. In the summer of 1991, we had a problem with a particular angler, who kept driving down and parking on the road, he has driving at high speed where our children played. We purchased at a cost of £45 a polite sign on the road stating No Vehicular Access, only one day after the sign was fixed to the wall of The Barn , Loveclough Fold it was smashed and thrown into the river. We were later advised Mr Heys had done this.

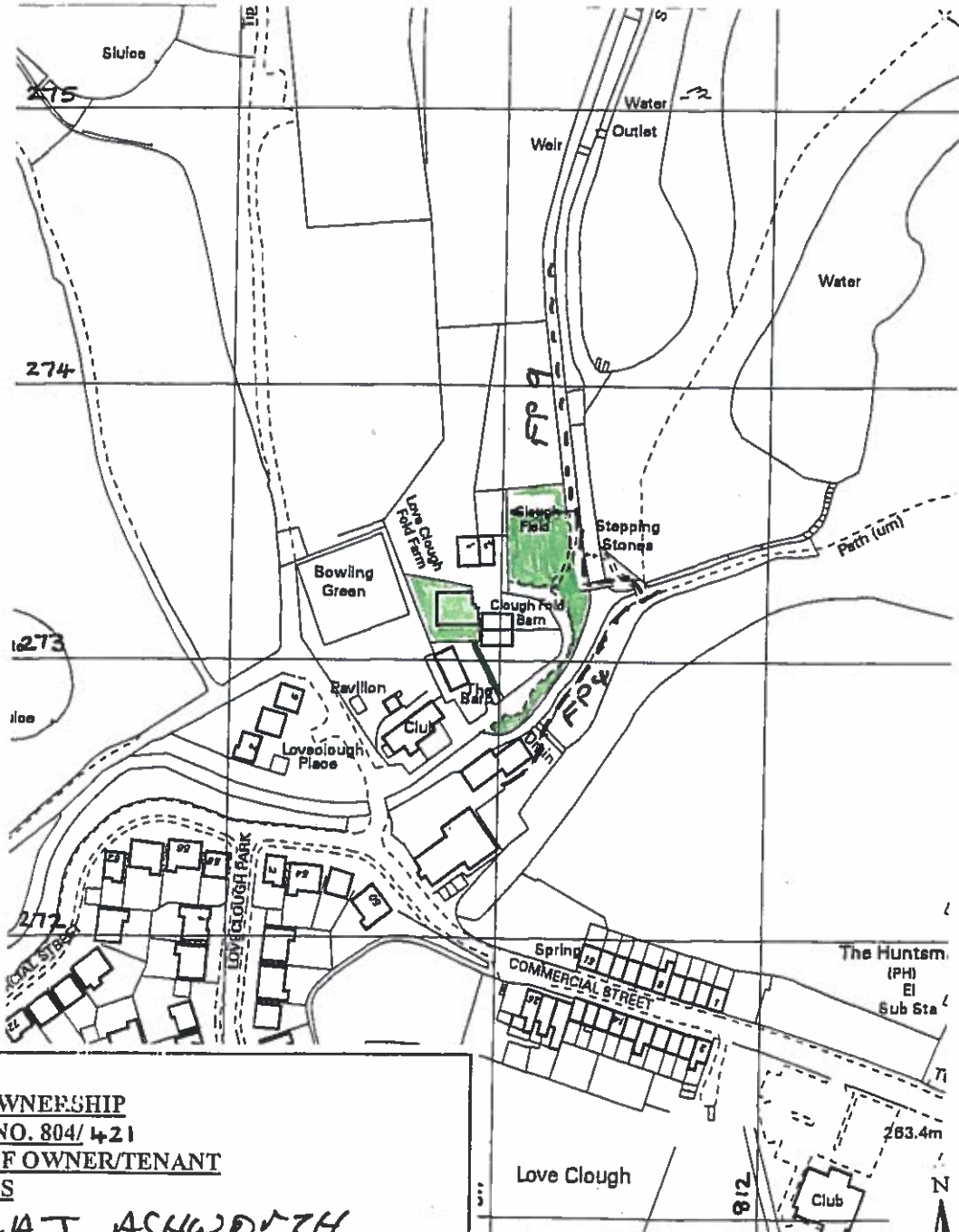
On 040505 at 11.45am I spoke to yourself re the confusion over the footpath on the map enclose and you pointed out that the footpath no. 4 actually ran through the middle of the Limey River. After consultation, I have checked this and there is photographic evidence from the early 19th century that the river was actually relatively dry and a small fort did run up the river. The development of the print works, who constructed the lodges between footpaths 4,9 and 10 to increase the water flow for the productivity of the textile industry made it impossible to walk through the river. There is actually a bridge, which to access the river would involve an 8-10foot jump from the bridge to get into the river causing, significant injury even loss of life. The bridge has been in use for at least 70 years so no one has used this path for at least 70 years. One would assume this was when the council constructed the footpath on the opposite side of the river – footpath 4 shown on your map with dotted line- not the purple line. Hence the councils construction of the stiles, bridge and signage to join footpath 4 to footpath 10. Please also note that the River Limey has been subject to severe flooding causing nearby properties to be harshly flooded at least 3 times in the last 40 years, surely an unsuitable location for a public footpath.

I feel this is totally unacceptable to change the existing footpath to the financial gain of a major development company and off load the footpath onto residents who on the purchase of their property, and with substantial changes all been done through Rossendale Borough Council Planning Department - no one has ever implied that there is or could ever be a footpath or right of way running through their gardens or driveway.

Yours

Handwritten signature

Handwritten signature



LAND OWNERSHIP
CLAIM NO. 804/421
NAME OF OWNER/TENANT
ADDRESS

D.H. & A.J. ASHWORTH
LOVE CLOUGH FOLD FARM
LOVE CLOUGH
ROSSENDALE. BB4 8QT
REF: LSG4/prow/sps/804/421



THIS PHOTO SHOWS THE ROUTE THE FOOTPATH TAKES TO THE BACK OF THE BRIDGE. (SHOWN BY THE LINE DRAWN ON PHOTO)



THIS PHOTO SHOWS OUR ACCESS ROAD / DRIVE
ALSO PART OF MY GARDEN (BANKING TO RIGHT)
AND BRIDGE FOR ACCESS FROM FOOT PATH OVER
RIVER TO RIGHT



THIS PHOTO SHOWS PART OF OUR ACCESS ROAD, AND GRASSED AREA OF OUR GARDEN TO LEFT. ALSO THE STILE ON THE OPPOSITE SIDE OF RIVER (ACCESS POINT FROM PROPERTY NOW OWNED BY HURSTWOOD DEVELOPMENTS TO FOOTPATH NO 4)



land we
have
recently
purchased

THIS PHOTO SHOWS FOOTPATH NO 4
AND BRIDGE OVER RIVER ALSO ROUTE FOOTPATH
TAKES ->



THIS PHOTO SHOWS FOOTPATH NO 4, BRIDGE
OVER RIVER AND ACCESS ROAD



THIS PHOTO SHOWS FOOT PATH NO 4
RIVER AND OUR ACCESS ROAD, ALSO PART
OF OUR GARDEN AREA (LEFT OF ROAD)



THIS PHOTO SHOWS DEVELOPMENT AND ROAD WHICH WE INSTALLED (UNDER COUNCIL INSTRUCTION) ALSO FP 4. BARN IN FOREGROUND OWNED BY ... AND MRS FELINISKI. BARN TO LEFT OWNED BY MR & MRS SMITH AND FOOTPATH TO FRONT OF OUR HOUSE (ONE WITH PORCH)

IT IS CLEAR FROM THIS PHOTO THAT - NO ONE COULD HAVE POSSIBLY WALKED THE SAME PATH FOR YEARS AS X WAS WHERE THE ORIGINAL PATH TO THE FARM WAS



Says Sept 89 on bark

THIS PHOTO SHOWS ACCESS ROAD PAST
BARN OWENED BY MR & MRS SMITH AND
MR & MRS PEZINSKI WHICH GOES TOWARD TO
FARM YARD & DAIRY



Says Sept 1989 on back

THIS PHOTO SHOWS ACCESS ROAD PAST FRONT
OF BATH OWNED BY MR & MRS FELINISKI
AND ROUNDED INTO FARM YARD / DAIRY



THIS PHOTO SHOWS ACCESS ROAD AS IT WAS!
WHICH RAN CLOSE TO GABEL END OF BATH AND
ROUND BACK OF FARM TO DAIRY + BATH + MUCK
MIDDING. (BATH OWEND BY MR & MRS FELINISRI

From: [David Hemsall](#)
To: [Brindle, Megan](#)
Subject: Loveclough Fold
Date: 16 May 2015 17:47:31
Attachments: [Loveclough aerial photo, c. 1960.jpg](#)
[Loveclough aerial photo, mid-to-late 1960s.jpg](#)

Dear Ms Brindle,

I write further to our recent exchanges by email.

First, our best advice received is that residents cannot be expected to prove a negative.

Secondly, our collective researches have unearthed the two pieces of information which I am attaching here. The first is an aerial photograph of what in the 1960s was a farm and its outbuildings: the vehicles shown allow pretty precise dating. With respect, I venture to suggest that this is superior to the bodged up panorama which you sent on a previous occasion. I am bound to point out that the present dwellings consist of either (1) the buildings shown or (2) more recent structures erected on the footprint of those farm buildings.

The second attachment is a copy of the Ordnance Survey map of 1960 which clearly shows the scene depicted in the aerial photograph. From both the attachments, it will be clear that (a) there was no path - and certainly none going towards the footbridge which simply did not exist then - and (b) the beaten track shown both in the photograph and on the map gave vehicular access to the farm and its outbuildings. Neither attachment shows any trace at all of the claimed path.

Indeed, it is the residents' contention that this evidence points to the existence of only one definitive path: that on the south east bank of the Limey Water which is a matter which, with the assistance of an independent expert, the residents are pursuing as a wholly separate matter.

Kind regards.

(Dr) David Hemsall (Chairman, Loveclough Fold Residents Association)

Hard copy follows by post.







9547
4:49

0751
12:44

1351
59

1448
1:11

1748
1:69

2046
3:12

Water
2344
1:48

2941
4:28

3853
4:12

B M
870-34

4747
:46

5139
2:88

Water
9229
:44

Bowling
Green

Love Clough
Farm

64 Pavilion

Love Clough
Fold

1032
1:34

1529
:75

Playing Field
2015
1:82

2524
3:95

3634
9:15

3542
:60

4028
2:50

4420
:54

9819
8:22

Works

1519
:47

Spring

COMMERCIAL STREET

1717
:55

Holt's Arms
Hotel

Shelter

PO

TCB

3916
2:09

3612
:42

5216
7:74

BOROUGH OF ROSSENDALE
1960

Reproduced from the Ordnance map with the permission of the

0913
2:76

2212
:82

1:2500

From: [Brindle, Megan](#)
To: ["David Hemsall"](#)
Subject: RE: RE: Loveclough Fold
Date: 19 May 2015 10:41:58

Dear Mr Hemsall,

Thank you for your e-mails. I can confirm the comments you have made will be included in the Council's report when it is presented to the Regulatory Committee in due course.

Kind regards

Megan

From: David Hemsall [mailto:davidshemsall@gmx.co.uk]
Sent: 18 May 2015 17:26
To: Brindle, Megan
Subject: Re: RE: Loveclough Fold

Dear Ms Brindle,

Many thanks!

The correct attachment of the OS map accompanies this e-mail and can be added to the aerial photograph which you already have to hand (in duplicate!).

Regards,

David Hemsall

Sent: Monday, May 18, 2015 at 8:35 AM
From: "Brindle, Megan" <Megan.Brindle@lancashire.gov.uk>
To: "'David Hemsall'" <davidshemsall@gmx.co.uk>
Subject: RE: Loveclough Fold

Dear Mr Hemsall,

Before I pass on your e-mail to our Right of Way team, please can you confirm that the attachments submitted are the ones you are referring to? The both seem to be identical aerial photos.

Thanks

Megan

From: David Hemsall [mailto:davidshemsall@gmx.co.uk]
Sent: 16 May 2015 17:47
To: Brindle, Megan
Subject: Loveclough Fold

Dear Ms Brindle,

I write further to our recent exchanges by email.

First, our best advice received is that residents cannot be expected to prove a negative.

Secondly, our collective researches have unearthed the two pieces of information which I am attaching here. The first is an aerial photograph of what in the 1960s was a farm and

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Indeed, it is the residents' contention that this evidence points to the existence of only one definitive path: that on the south east bank of the Limey Water which is a matter which, with the assistance of an independent expert, the residents are pursuing as a wholly separate matter.

Kind regards.

(Dr) David Hemsall (Chairman, Loveclough Fold Residents Association)

Hard copy follows by post.

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www.lancashire.gov.uk/volunteer

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