

public, as of right<sup>1</sup> and without interruption, for a period of twenty years prior to its status being brought into question and, if so, whether there is evidence that any landowner demonstrated a lack of intention during this period to dedicate a public right of way.

5. An implication of dedication can also arise at common law if there is evidence from which it may be inferred that a landowner has dedicated a right of way and that the public has accepted the dedication.

#### Reasons

##### Statutory Dedication

###### *When the status of the claimed route was brought into question*

6. The Council does not explicitly state what it considers brought the status of the claimed route into question. User evidence forms ("UEFs") have been submitted at various times but no formal application was made to add the route to the definitive map. A large proportion of the forms were submitted in 2013 and a petition, stated to have been signed by 394 people, was tendered in April 2013 requesting that the route is recorded as a public right of way. I note that some of the people who have completed a UEF refer to the erection of the present gates during this period. It is not clear what prompted the submission of the earlier UEFs.
7. It seems to me most likely that the status of the route was brought into question in 2013 when the petition and a large proportion of the UEFs were tendered. It is also apparent that more substantial gates were erected around this time. Therefore, the relevant twenty year period to be considered for the purpose of statutory dedication is 1993-2013 ("the relevant period").

###### *Evidence of use by the public*

8. Approximately 58 UEFs<sup>2</sup> were submitted in support of use of the claimed route. A number of the copies of the maps and photographs accompanying the UEFs, which were supplied by the Council, are of a poor quality. However, from looking at the remainder of the information in the forms, it is apparent that the specified use generally relates to the claimed route. This evidence of use dates back over a number of years prior to the commencement of the relevant period. The use documented in the forms largely occurred on a regular basis.
9. There is evidence of the existence of structures at times near to point A on the Order Map. However, the user evidence is not supportive of the use being interrupted during the relevant period. Whilst the present gates were open at the time of my visit, a gap exists at the side which could facilitate access for pedestrians when the gates are closed. The fact that people were not given permission to use the route would be supportive of the user being as of right.
10. Having regard to the above, I find that the user evidence is sufficient to raise a presumption of the dedication of a public footpath. Therefore, the first part of the statutory test is satisfied.

<sup>1</sup> Without force, secrecy or permission

<sup>2</sup> This figure takes into account those people who have completed more than one form