

Regulatory Committee

Meeting to be held on 27 September 2017

Electoral Division affected: Chorley South

Wildlife and Countryside Act 1981

Definitive Map Modification Order Investigation

Upgrading of Footpaths 54 and 55 Coppull to Public Bridleway from Coppull Moor Lane to Wigan Lane, Chorley Borough

File No. 804-583

(Annex 'A' refers)

Contact for further information:

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Executive Summary

Application for the upgrading of Footpaths 54 and 55 Coppull, Chorley Borough from Coppull Moor Lane to Wigan Lane, in accordance with File No. 804-583.

Recommendation

That the application for the upgrading of Footpaths Coppull 54 and 55 to bridleway, in accordance with File No. 804-583, be not accepted.

Background

An application under Schedule 14 of the Wildlife and Countryside Act 1981 has been received for the upgrading of Footpaths Coppull 54 and 55 from Coppull Hall Lane to Wigan Lane to bridleway on the Definitive Map and Statement of Public Rights of Way.

The County Council is required by law to investigate the evidence and make a decision based on that evidence as to whether a public right of way exists, and if so its status. Section 53(3)(b) and (c) of the Wildlife and Countryside Act 1981 set out the tests that need to be met when reaching a decision; also current Case Law needs to be applied.

An order for upgrading a way shown on the Definitive Map and Statement will only be made if the evidence shows that:

- "it ought to be there shown as a highway of a different description"

And that:

- “the expiration... of any period such that the enjoyment by the public...raises a presumption that the way has been dedicated as a public path or restricted byway”

When considering evidence, if it is shown that a highway existed then highway rights continue to exist (“once a highway, always a highway”), even if a route has since become disused or obstructed unless a legal order stopping up or diverting the rights has been made. Section 53 of the Wildlife and Countryside Act 1981 (as explained in Planning Inspectorate’s Advice Note No. 7) makes it clear that considerations such as suitability, the security of properties and the wishes of adjacent landowners cannot be considered. The Planning Inspectorate’s website also gives guidance about the interpretation of evidence.

The County Council’s decision will be based on the interpretation of the evidence discovered by officers and documents and other evidence supplied by the applicant, landowners, consultees and other interested parties produced to the County Council before the date of the decision. Each piece of evidence will be tested and the evidence overall weighed on the balance of probabilities. It is possible that the Council’s decision may be different from the status given in any original application. The decision may be that the routes have public rights as a footpath, bridleway, restricted byway or byway open to all traffic, or that no such right of way exists. The decision may also be that the routes to be added or deleted vary in length or location from those that were originally considered.

Consultations

Chorley Borough Council

A response was received from a Chorley Borough Councillor who wishes the route to be upgraded but there has been no response received by Chorley Council other than to confirm ownership of part of the land over which the claimed upgraded route passes.

Coppull Parish Council

No comments received.

Applicant/Landowners/Supporters/Objectors

The evidence submitted by the applicant/landowners/supporters/objectors and observations on those comments are included in Advice – Head of Service and Legal and Democratic Services Observations.

Advice

Head of Service – Planning and Environment

Points annotated on the attached Committee plan.

Point	Grid Reference (SD)	Description
A	5816 1326	Stile at junction with Coppull Moor Lane
X	5836 1332	Unmarked point on route adjacent to field boundary meeting route from the north where landownership changes
B	5844 1335	Unmarked point on route adjacent to field boundary to the south of route
C	5850 1342	Unmarked point on route
D	5866 1351	Junction of Footpaths Coppull 54, 55 and 56
Y	5869 1350	Unmarked point on route where registered landownership bounds unregistered landownership
E	5872 1347	Junction with Wigan Lane

Description of Route

A site inspection was carried out in March 2017.

The route commences on a 90 degree bend in Coppull Hall Lane at point A where it is signed (according to its current recorded status) as a public footpath.

At point A access is restricted along the route by wooden post and rail fencing erected across the start of the route into which a wooden step through stile has been inserted.

Beyond point A the route extends in a generally east north easterly direction as a clearly defined bounded track. Open ditches run along the inside of the fence/hedge line on either side of the track.

The surface of the track appears to have been laid with stone which has been compacted and partially overgrown over time. There was no evidence of cobbles or paving.

The route continues as described above for approximately 215 metres to point X where a well-worn track joins it from the north which appears to be used by motorcycles which are accessing the application route at this point.

Beyond point X the application route continues in a north north easterly direction for approximately 80 metres to point B and the surface is very wet and muddy and looks to have been churned up by motorcycles.

At point B a stream emerges from an adjacent pond to run adjacent to the application route. The route continues in a more north easterly direction bounded by steep sided woodland which has become established on the side of the former colliery spoil heap which runs adjacent to the application route. The stream flows along the application route and a deep incised gully has been eroded by the water which has been cut to a depth in excess of 3 metres in places immediately adjacent to a narrow trodden route passing through point C and continuing towards point D.

As the route approaches point D the stream is not as deeply cut into the ground but overflows in places onto the land crossed by the application route making the surface very wet.

As the route approaches point D the water flows into a pond adjacent to the route and at point D Footpath 56 is recorded as joining the application route. There is no evidence on the ground of the route of Footpath 56 which passes through a fence and continues through an overgrown area of woodland where a farm had previously existed (no trace of the remains could be seen).

Beyond point D the application route continues in a south easterly direction as a bounded route along a compacted stone surfaced track which has become quite overgrown but is passable to point E where it passes through a wooden kissing gate to exit onto Wigan Lane. The route at point E is signed as a public footpath and an additional signs warns that motorcycling is not allowed along the route.

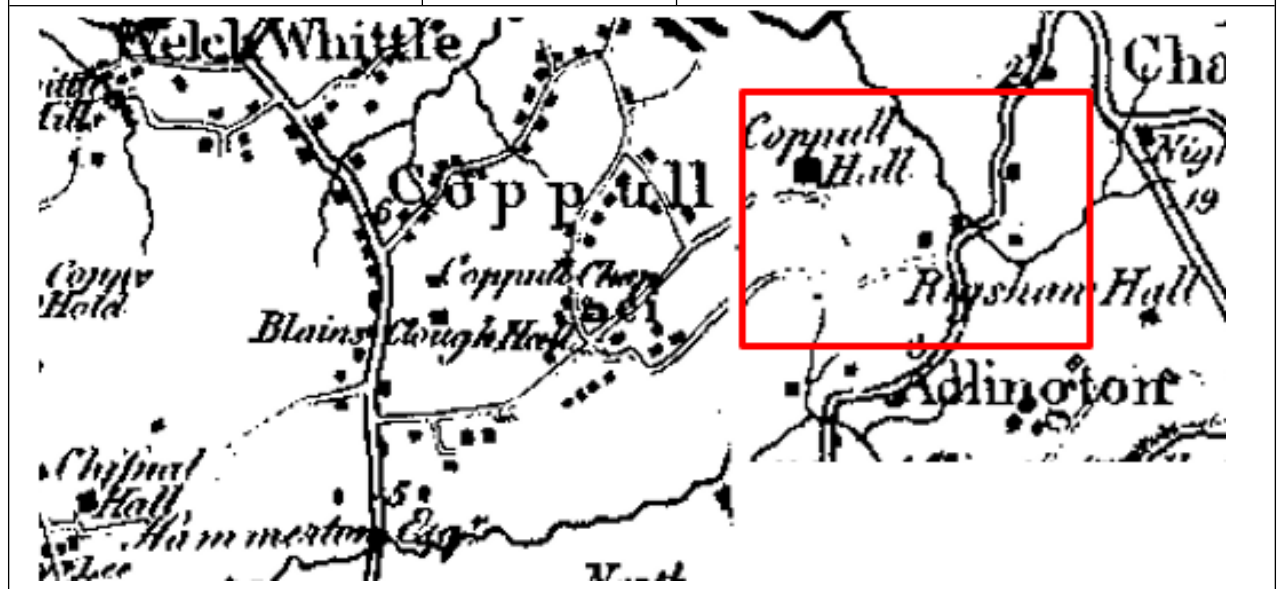
In summary, the total length of the route is 650 metres. There was no evidence of horses using the route when it was inspected in 2017 and access on horseback would have been prevented by the stile at point A and kissing gate at point E.

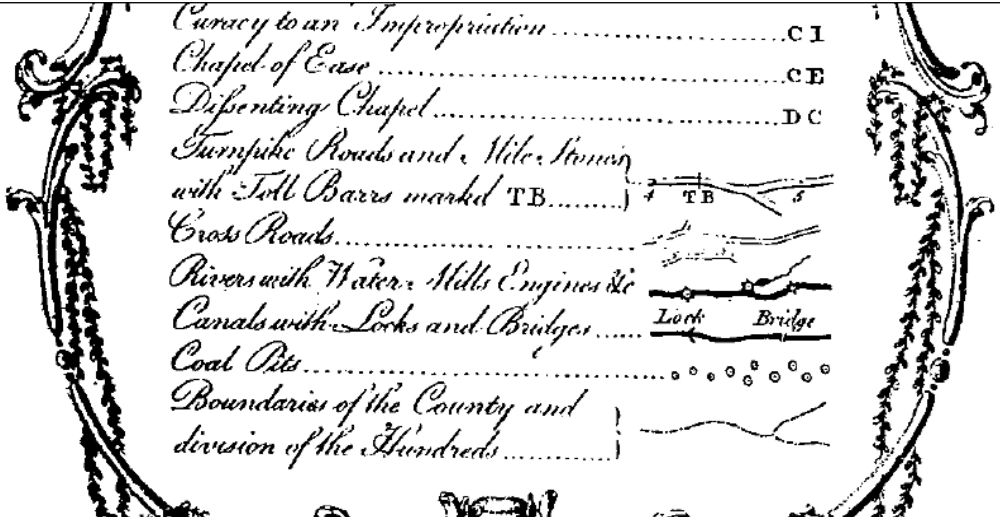
There was evidence that motorcycles were accessing the route from the former colliery site to the north and that they were riding along the route – mainly between point X and point D.

Map and Documentary Evidence

Document Title	Date	Brief Description of Document & Nature of Evidence
Duxbury Manor Estate Map	c1584	Hand drawn and variously annotated map of unknown provenance submitted by the applicant. This does not cover the area of the application route nor has wider relevance and therefore no inference can be made.
Chorley and Wigan Turnpike Act 1726	1726	The applicant makes reference to information provided in 'Turnpikes & Toll Houses of Lancashire' by Ron Freethy, published in 1986 (page 36) and to other information regarding the Turnpike Trust. No map or detailed description was found. No inference can be made. The Act may be of relevance if it established that the route was a turnpike and the route was a highway before it became a turnpike but the Act has not been found so no conclusions can be drawn.

Certificate of Repair Ormskirk Quarter Sessions	1756	Extract of document obtained from records held in Lancashire Records Office submitted by the applicant.
Observations		The document is dated July 1756 and confirms repair of a half mile stretch of Kings Highway between Coppull Mill Bridge and another un-named bridge, part of the route from Wigan to Chorley. There is no map detailing the location of the route certified.
Investigating Officer's Comments		It appears that it was part of the turnpike road now known as Wigan Lane. The Investigation Officer considered that there is insufficient detail to conclude that the application route formed part of the half mile stretch of 'Kings Highway' referred to and that no inference could be drawn.
Yates' Map of Lancashire	1786	Small scale commercial map. Such maps were on sale to the public and hence to be of use to their customers the routes shown had to be available for the public to use. However, they were privately produced without a known system of consultation or checking. Limitations of scale also limited the routes that could be shown.



		
Observations		<p>A road is shown extending from Chorley in a south south westerly direction towards Standish which is consistent with the road known as Wigan Lane and which is shown by Yates as a turnpike road. Coppull Hall is shown (which still exists today) and some dashed lines appear to exist extending south south east to connect to further dashed lines extending north north east past an unnamed property and joining Wigan Lane just above the word 'Runshaw' which appears to be consistent with the position of the application route. Jolly Tar Lane, which links to Coppull Hall Lane from Wigan Lane is not shown on the map.</p> <p>Watercourses are shown to cross the turnpike road to the north and to the south of the land crossed by the application route.</p>
Investigating Officer's Comments		<p>The application route may have existed in 1786 and may have provided access from Wigan Lane to a number of properties and possibly a link through to Coppull.</p> <p>The application route did not appear to form part of the turnpike road in 1786 and the road shown as the turnpike road is aligned consistent with the modern day alignment of Wigan Lane with no pronounced bends to suggest that the application route formed part of it at that time.</p> <p>The map was prepared 30 years after the certificate of repair was issued for</p>

		the length of 'Kings Highway' inspected by the Justice of the Peace as detailed above and there is some suggestion (detailed later in the report) that the original turnpike road was extensively improved and upgraded under parliamentary powers in the 1760s, which, if that was correct, may mean that the route shown on Yate's Map was not the original turnpike road.
Survey of the bounds of the Manor of Coppull detailed in Coppull Manorial Records	1797	Extract of Manorial Court records submitted by the applicant and available to view in the County Records Office.
Observations		<p>In a survey of the bounds of the Manor carried out in 1797 part of the boundary was 'on the East side of the same brook (<i>Ellerbrook</i>) unto the old Turnpike Road now belonging to Mr John Vause of Wigan and running from thence along the west side of the same Brook across the new Turnpike Road thro other Lands of the said John Vause.'</p> <p>In the same volume of the Manor Court books it is stated that 'John Vause hath committed an Encroachment by taking a part of the Waste Land of the said Manor lying along the north side of the said old Turnpike Road and ...setting a Cop (<i>bank or barrier</i>) across the same road whereby the Tenant of Coppull Hall ... is prevented from going from the said Hall to the Turnpike Road from Wigan to Chorley.'</p>
Investigating Officer's Comments		No map is provided but there is specific reference to an alteration to the alignment of the turnpike road in that vicinity. However it is insufficient to infer that part of the application route was part of the old turnpike route.
Extract from Local Gleamings relating to Lancashire and Cheshire edited by JP Earwaker, Reprinted from the 'Manchester Courier' revised and corrected April 1875-December 1876	1876	Newspaper article referred to by the applicant and a copy found online.

AUGUST 18th, 1876.

ORIGINAL DOCUMENTS.

[388]. A LANCASHIRE ITINERARY BY DR. KUERDEN,
c. 1695.

(Concluded from Nos. 375, 378, 381, 384.)

The series of descriptions of the old roads of Lancashire which have appeared in the last few numbers of *Local Gleanings*, taken from Dr. Kuerden's MSS, are followed by the two short notes which appear below. These supplement in some small degree the description of the roads to Preston which have already been printed, and with them this interesting Lancashire Itinerary abruptly concludes. It is possible that descriptions of other Lancashire roads exist amongst the Doctor's voluminous MSS, but no more have been copied in the transcripts from which we have taken those already printed. We shall be glad to receive any notes on these roads from any of our readers familiar with them in their present state.

EDITOR.

V. THE WAGON ROAD FROM STANDISH TO PRESTON.

Take the left hand way leaving Standish School on the left, soon after which appears Standish Hall, the

family, and passing on a Common in Wrightington you meet with the second oblong Road from Prescott to Preston, *q. vide*.

ANOTHER WAY FROM WIGAN TO PRESTON BY CHORLEY.


Having pass'd a mile from Wigan to the Bear's Head, keeping the right hand road, you pass over a little rill by Jolly Mill, about a quarter of a mile. You leave on the right a road with a Stone Bridge over Dugles Water leading from Standish to Blackrod, and shortly after on the left a road by the parsonage to the Church and Town of Standish, passing by another Mill call'd Worthington Mill, and shortly after by Worthington Hall belonging to Merchant Tho: Clayton. Half a mile further you leave a fair built Fabric also belonging to the sd. Merchant call'd Adlington Hall. Passing by a little bridge over the Forburn Brook having gone thro' the watery lane leaving Copul Hall a little on the left, & going easterly till you meet the oblique road from Manchester to Preston.

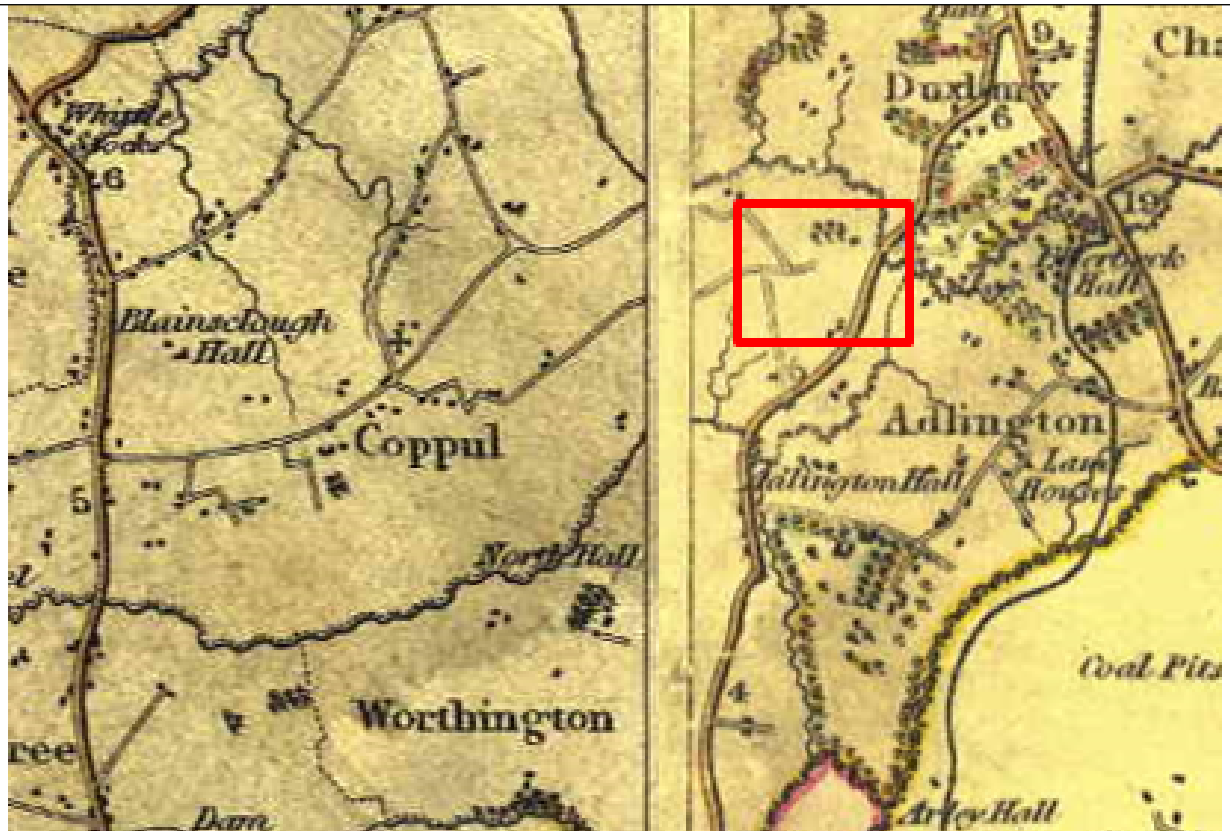


Observations

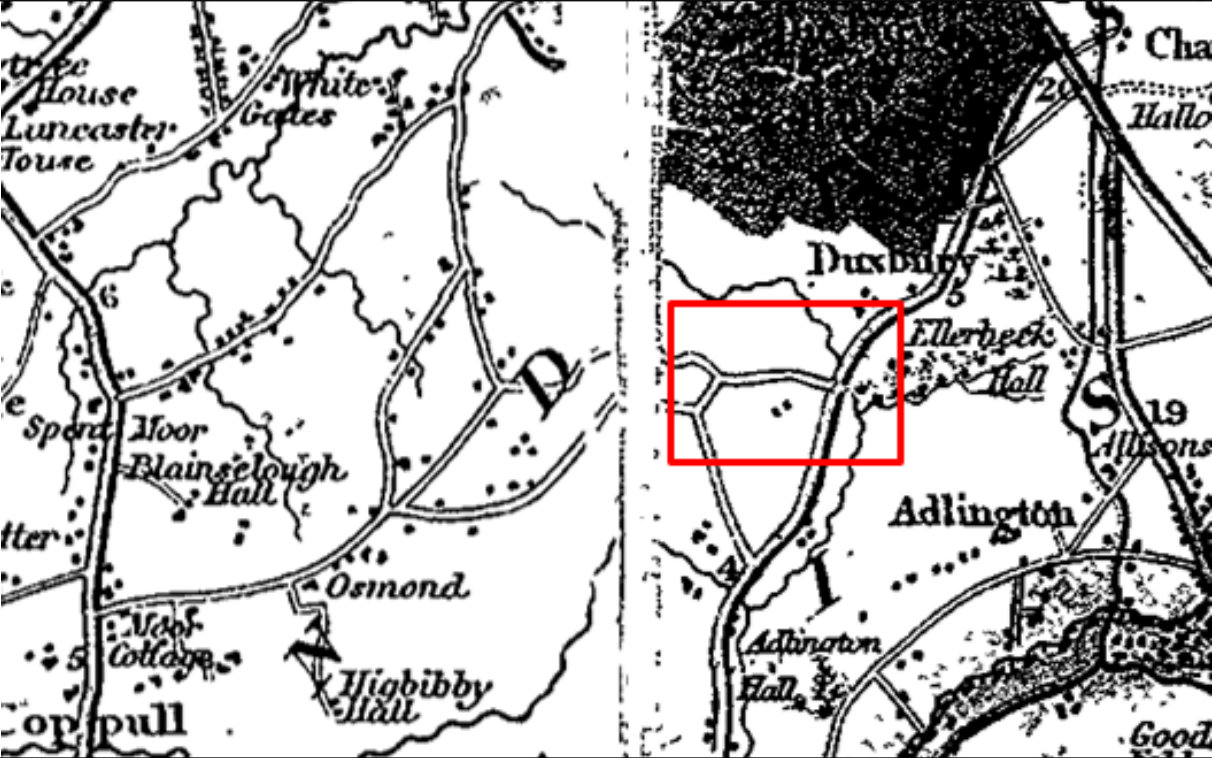
The article refers to a series of descriptions of Lancashire's roads written by Dr. Kuerden and dating back to 1695. It is not clear whether the descriptions provided in 1876 were part of Dr Kuerden's original observations

		<p>dating back to 1695 or whether they have been written at a later date to describe the routes from Standish to Preston and from Wigan to Preston via Chorley. The route via Chorley is described as starting in Wigan and clearly describes the road which still exists today passing Worthington Mill and Hall and Adlington Hall. It is then described as passing over a little bridge to cross Perburn Brook 'having gone thro' the watery lane leaving Coppull Hall a little on the left' and then easterly until you meet the oblique road from Manchester to Preston.</p>
Investigating Officer's Comments		<p>The suggestion from the applicant is that the route described followed the application route which was known as Watery Lane and that this route pre dated the current alignment of Wigan Lane to which the application route connects to at point E.</p> <p>'Perburn Brook is not named on the OS maps examined but an examination of the first edition 6 inch OS map published in 1848 further south than the application route shows the turnpike road named as Water Lane passing a property known as Watergate in close proximity to Addlington Hall. The brook clearly shown to the east of Watergate is labelled as Bucknow Brook which is crossed by the road by Coppull Mill bridge suggesting that the turnpike road south of the application route may have been known as water or watery lane in the 1700's. This evidence is consistent with the applicant's assertion but whether the application route formed part of the Turnpike Road cannot be inferred from it.</p>
Smith's Map	1804	<p>Small scale commercial map. Smith was a London engraver and map seller. A New Map of the County Palatine of Lancashire appeared in a single sheet in 1801 and between 1804 and 1846 in subsequent editions of his New England Atlas. Smith's and Cary's maps are very similar but one is not a direct copy of the other and there are</p>

		significant differences in detail.
		
Observations		A route consistent with the application route appears to be shown on the map providing a through route with access to a property part way along it.
Investigating Officer's Comments		The route existed in 1804 and is shown consistent with the way that other public roads were shown.
Greenwood's Map of Lancashire	1818	Small scale commercial map. In contrast to other map makers of the era Greenwood stated in the legend that this map showed private as well as public roads and the two were not differentiated between within the key panel.



Observations		The application route is not shown on the map except for a short section at the western end.
Investigating Officer's Comments		The route may not have existed as a through route in 1818 as Greenwood was known to have shown both public and private vehicular roads – or, at that time, it may not have been considered by the Surveyor, to be of substantial nature and was therefore not shown on the map.
Hennet's Map of Lancashire	1830	Small scale commercial map. In 1830 Henry Teesdale of London published George Hennet's Map of Lancashire surveyed in 1828-1829 at a scale of 7 1/2 inches to 1 mile. Hennet's finer hachuring was no more successful than Greenwood's in portraying Lancashire's hills and valleys but his mapping of the county's communications network was generally considered to be the clearest and most helpful that had yet been achieved.

		
Observations		A route consistent with the application route is clearly shown as a through route on Henet's Map.
Investigating Officer's Comments		The route existed in 1834 and appeared to be shown as part of the public vehicular network connecting to the turnpike road.
Canal and Railway Acts		Canals and railways were the vital infrastructure for a modernising economy and hence, like motorways and high speed rail links today, legislation enabled these to be built by compulsion where agreement couldn't be reached. It was important to get the details right by making provision for any public rights of way to avoid objections but not to provide expensive crossings unless they really were public rights of way. This information is also often available for proposed canals and railways which were never built.
Observations		The application route does not cross land affected by a canal or railway.
Investigating Officer's Comments		No inference can be drawn.
Tithe Map and Tithe Award or Apportionment	1842	Maps and other documents were produced under the Tithe Commutation Act of 1836 to record land capable of

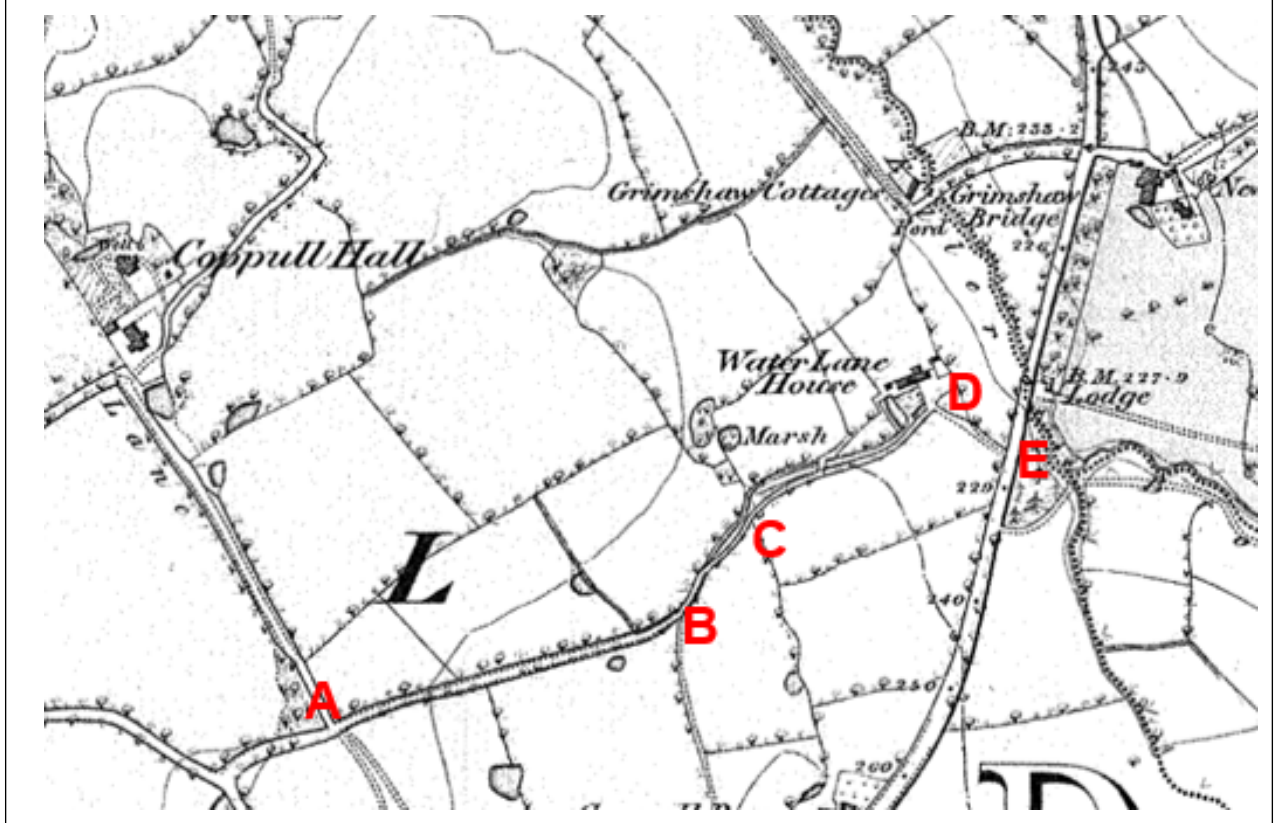
		producing a crop and what each landowner should pay in lieu of tithes to the church. The maps are usually detailed large scale maps of a parish and while they were not produced specifically to show roads or public rights of way, the maps do show roads quite accurately and can provide useful supporting evidence (in conjunction with the written tithe award) and additional information from which the status of ways may be inferred.
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Observations		<p>The application route is shown and is coloured in the same way as all other roads, tracks and footpaths shown on the map. It is numbered 692 and in the Tithe Schedule is described as 'Lane to House' and as being pasture for which a tithe of 2 shillings was payable to the Rector of Standish.</p> <p>Public and Township roads and Waste are listed at the end of the schedule and the application route is not included.</p>
Investigating Officer's		The application route was not

Comments		considered to be a public road in 1842 but did appear to exist as a through route providing access to a house.
The Law Journal Reports, Volume 12, Part 1	1843	Extract of Law Journal submitted by the applicant.
<p>108 CASES CONNECTED WITH</p> <p>c. xlv, which enabled the making of the road in question. The first was, "An act for improving and more effectually repairing the roads from the town of Bolton-in-the-Moors to Nightingales, in the township of Heath Charnock, and for making a branch road of Little Bolton aforesaid,) shall be exonerated and discharged from the repairs of such parts of the said roads respectively as lie within the said township of Little Bolton (except as aforesaid), and the same shall from thenceforth cease to belong to the said turnpike roads, or to be under the controul or management of the trustees or commissioners thereof, and shall from time to time thereafter be repaired, maintained, supported, and kept in repair by the trustees for executing this act: Provided always, that such portion of the turnpike-road leading from or near the house, called or known by the sign of the <i>Whitster's Arms</i> in Little Bolton aforesaid, to from Little Bolton to or near the Crown in Harwich; and for enabling the trustees therein named, together with the trustees north and south of Yarrow, and the trustees of the road from West Houghton to Duxbury Stocks, to make a new line of road from Hole House Brow in the said township to the town of Chorley, and a branch road from Rawlinson Bridge to Halliwell Field, in the same township, and another branch road in the township of Duxbury, all in the county palatine of Lancaster." The second act was, "An act for more effectually cleansing, paving, lighting, watching, regulating, and improving the township of Little Bolton in the county palatine of Lancaster." <i>Cur. adv. vult.</i></p>		
Observations		The extract refers to the provision of powers enabling the trustees of the turnpike road to make a new line of road from Hole House Brow and two branch roads. There is no reference to the application route.
Investigating Officer's Comments		No inference can be drawn with regards to the existence or public status of the application route.
Inclosure Act Award and Maps		Inclosure Awards are legal documents made under private acts of Parliament or general acts (post 1801) for reforming medieval farming practices, and also enabled new rights of way layouts in a parish to be made. They can provide conclusive evidence of status.
Observations		There is no Inclosure Award for the land crossed by the application route.
Investigating Officer's Comments		No inference can be drawn.
6 Inch Ordnance Survey (OS) Map	1848	The earliest Ordnance Survey 6 inch map for this area surveyed in 1845-6


and published in 1848.¹



¹ The Ordnance Survey (OS) has produced topographic maps at different scales (historically one inch to one mile, six inches to one mile and 1:2500 scale which is approximately 25 inches to one mile). Ordnance Survey mapping began in Lancashire in the late 1830s with the 6-inch maps being published in the 1840s. The large scale 25-inch maps which were first published in the 1890s provide good evidence of the position of routes at the time of survey and of the position of buildings and other structures. They generally do not provide evidence of the legal status of routes, and carry a disclaimer that the depiction of a path or track is no evidence of the existence of a public right of way.



<p>Observations</p>		<p>The full length of the application route is shown. The route is not named but is shown as a wide bounded route between point A and point B before the width decreases and the route continues – still bounded – to point D. From point D the route provides access to Water Lane House. From point D the route continues as an unbounded track to point E where it exits onto the turnpike road (Wigan Lane).</p> <p>Wigan Lane is labelled as being a Turnpike Road - Wigan and Preston South of the Yarrow Trust (Higher Road) - south of where the application route meets it at point E and as Water Lane.</p>
<p>Investigating Officer's</p>		<p>The application route existed in 1848</p>

Comments		<p>but did not appear to form part of the public vehicular network. It provided access to Water Lane House.</p> <p>The route between point A and point B appears to be quite substantial and is shown consistent with the way that Coppull Hall Lane and Jolly Tar Lane (to which it links) are shown suggesting that it may have been of a similar width to them. Beyond point B the application route appears much narrower suggesting possibly, that it was not as significant or possibly that use had declined in favour of using Jolly Tar Road.</p> <p>There is nothing on the OS map to suggest that the turnpike road (Wigan Lane) from the junction with Jolly Tar Lane (south of the application route to the point at which the application route exits onto Wigan Lane at point E had recently been constructed as a 'new' road and the map is consistent with how the route and surrounding area are shown on the Tithe Map and earlier commercial maps.</p>
6 inch OS Map	1892	OS map submitted by the applicant.
		

Observations		The application route is shown and appears largely unaltered from the date of the first OS 6 inch map. Ellerbeck colliery is shown north of the route but does not appear to be accessed from the application route. The turnpike road is now shown named as Wigan Lane.
Investigating Officer's Comments		The application route existed in 1892 and appeared wide enough to have been used on horseback.
25 Inch OS Map	1894	The earliest OS map at a scale of 25 inch to the mile. Surveyed in 1892 and published in 1894.






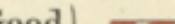

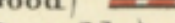



Observations		<p>The application route is shown. A gate, stile or other barrier may have existed across the route at point C and beyond point C the route is annotated as a footpath with another gate, stile or barrier possibly existing close to point D.</p> <p>Just beyond point C a track denoted by double pecked lines leaves the application route to provide access to Ellerbeck Colliery although this is one of many tracks shown accessing the colliery site and does not appear to be a main access route.</p> <p>Access to Water Lane House appears to be predominantly along the application route from E to point D.</p>
Investigating Officer's Comments		<p>The application route existed and may have been accessible although the nature of how the route is depicted suggests that use would be predominantly on foot between point C and point D.</p>
Bartholomew half inch Map	1904	<p>The publication of Bartholomew's half inch maps for England and Wales began in 1897 and continued with periodic revisions until 1975. The maps</p>

were very popular with the public and sold in their millions, due largely to their accurate road classification and the use of layer colouring to depict contours. The maps were produced primarily for the purpose of driving and cycling and the firm was in competition with the Ordnance Survey, from whose maps Bartholomew's were reduced. An unpublished Ordnance Survey report dated 1914 acknowledged that the road classification on the OS small scale map was inferior to Bartholomew at that time for the use of motorists.

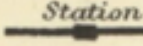
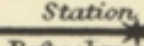



EXPLANATORY NOTE

First Class Roads   
 Secondary (Good)  
 Indifferent (Passable)  
The uncoloured roads are inferior and not to be recommended to cyclists.

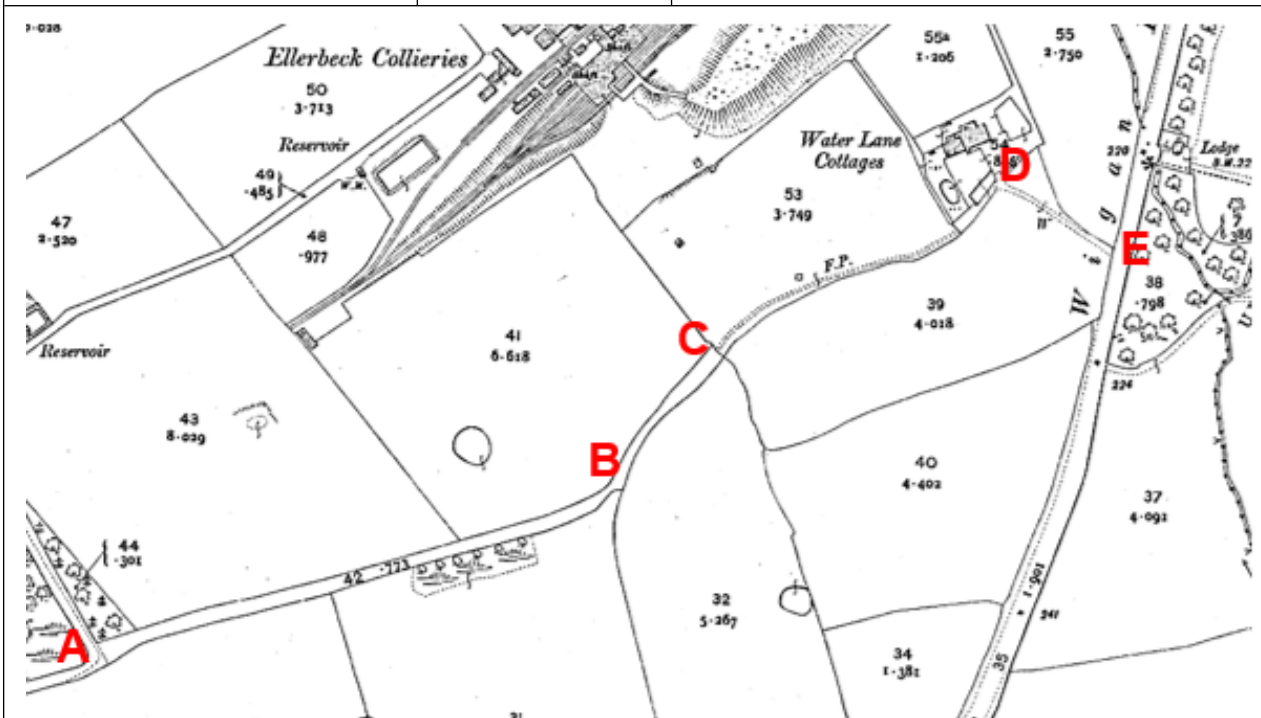
Footpaths & Bridlepaths

N.B. The representation of a road or footpath is no evidence of the existence of a right of way.


Railways  Station  Station with Refreshment Room
 Canals 
 County Boundaries -----

SCALE 1 : 126,720 = 2 MILES TO AN INCH

Observations		The full length of the application route is shown on the map as an uncoloured road.
Investigating Officer's Comments		The early 1900s saw a significant increase in the use of motorised vehicles and the classification of minor roads was constantly being revised by Bartholomew as some were improved to cope with the increasing traffic while others were virtually abandoned and fell into disrepair. Before 1920 few roads other than main roads were tarred but the travelling public had lower expectations of surface conditions than today and it would not be uncommon for an unsealed road, at the time considered adequate for horse drawn vehicles, to be shown.
25 inch OS Map	1908	Further edition of the 25 inch map re surveyed in 1892, revised in 1907 and published in 1908.



Observations		The full length of the application route is shown. The route between points A-B-C is shown as a substantial bounded track. At point C the route crosses a boundary through which access may have been restricted – possibly by the existence of a gate or stile. Beyond point C the route is shown to continue
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		as an unbounded track along a field edge notated as 'F.P.' towards point D where it appears to cross another boundary before passing Water Lane Cottages (formerly known as Water Lane House) and then continuing between point D and point E along an unbounded track which provided access to and from the cottages from Wigan Lane. An alternative access to the cottages is also shown north of point D.
Investigating Officer's Comments		The application route existed in 1908 and access may have been possible along all or part of it on foot and possibly on horseback.
6 inch OS Map	1909	Further 6 inch OS map submitted by the applicant; stated to have been published in 1909 but date of revision unknown.
		
Observations		The application route is shown in the same way as it is shown on the 25 inch OS published a year earlier. Access to Water Lane Cottages (formerly Water Lane House) now appears to be from either the application route between point D and point E or from north of the cottages via Grimeshaw Bridge.
Investigating Officer's Comments		The application route existed in 1909 and access may have been possible along all or part of it on foot and

		possibly on horseback.
Finance Act 1910 Map	1910	<p>The comprehensive survey carried out for the Finance Act 1910, later repealed, was for the purposes of land valuation not recording public rights of way but can often provide very good evidence. Making a false claim for a deduction was an offence although a deduction did not have to be claimed so although there was a financial incentive a public right of way did not have to be admitted.</p> <p>Maps, valuation books and field books produced under the requirements of the 1910 Finance Act have been examined. The Act required all land in private ownership to be recorded so that it could be valued and the owner taxed on any incremental value if the land was subsequently sold. The maps show land divided into parcels on which tax was levied, and accompanying valuation books provide details of the value of each parcel of land, along with the name of the owner and tenant (where applicable).</p> <p>An owner of land could claim a reduction in tax if his land was crossed by a public right of way and this can be found in the relevant valuation book. However, the exact route of the right of way was not recorded in the book or on the accompanying map. Where only one path was shown by the Ordnance Survey through the landholding, it is likely that the path shown is the one referred to, but we cannot be certain. In the case where many paths are shown, it is not possible to know which path or paths the valuation book entry refers to. It should also be noted that if no reduction was claimed this does not necessarily mean that no right of way existed.</p>



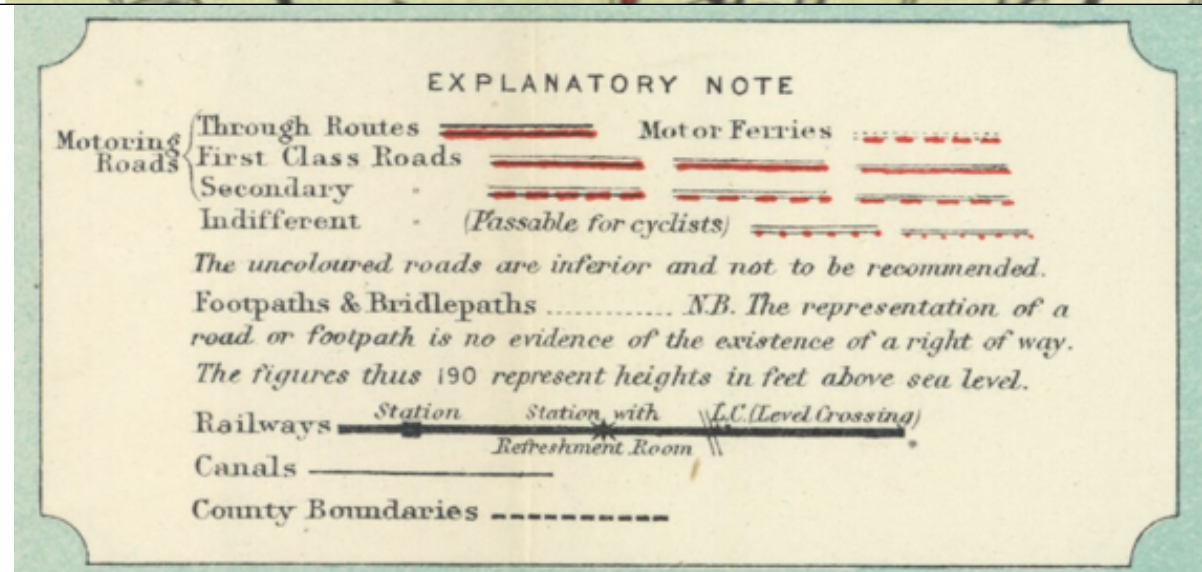
<p>Observations</p>		<p>The Finance Act Map is not available to view in the County Records Office but the applicant obtained a copy from the National Archives.</p> <p>The application route is not excluded from the numbered hereditaments. Between point A and point D it is included within hereditament 226 which is listed in the Finance Act Schedule (available to view at the County Records Office) as being owned and occupied by Ellerbeck Colliery Ltd. The land is described as railway sidings and no deductions are listed for public rights of way or user.</p> <p>Between point D and point E the route is included as part of hereditament 235, occupied by James Bond and owned by 'Dickinson and Stringfellow'. No deductions are listed for the existence of public rights of way or user.</p> <p>The Field Book entries for both hereditaments have not been examined.</p>
<p>Investigating Officer's Comments</p>		<p>It is normal to see a public vehicular highway excluded from the numbered hereditaments as part of the process of compiling the taxation records and for ways considered to be public footpaths and bridleways at that time to be</p>

		<p>included in the numbered hereditaments for which a deduction is claimed where the public rights are acknowledged.</p> <p>On balance it is therefore considered that the Finance Act information neither supports nor negates the existence of a public bridleway rights in 1910.</p>
25 Inch OS Map	1928	Further edition of 25 inch map (re surveyed 1892, revised in 1927 and published 1928.



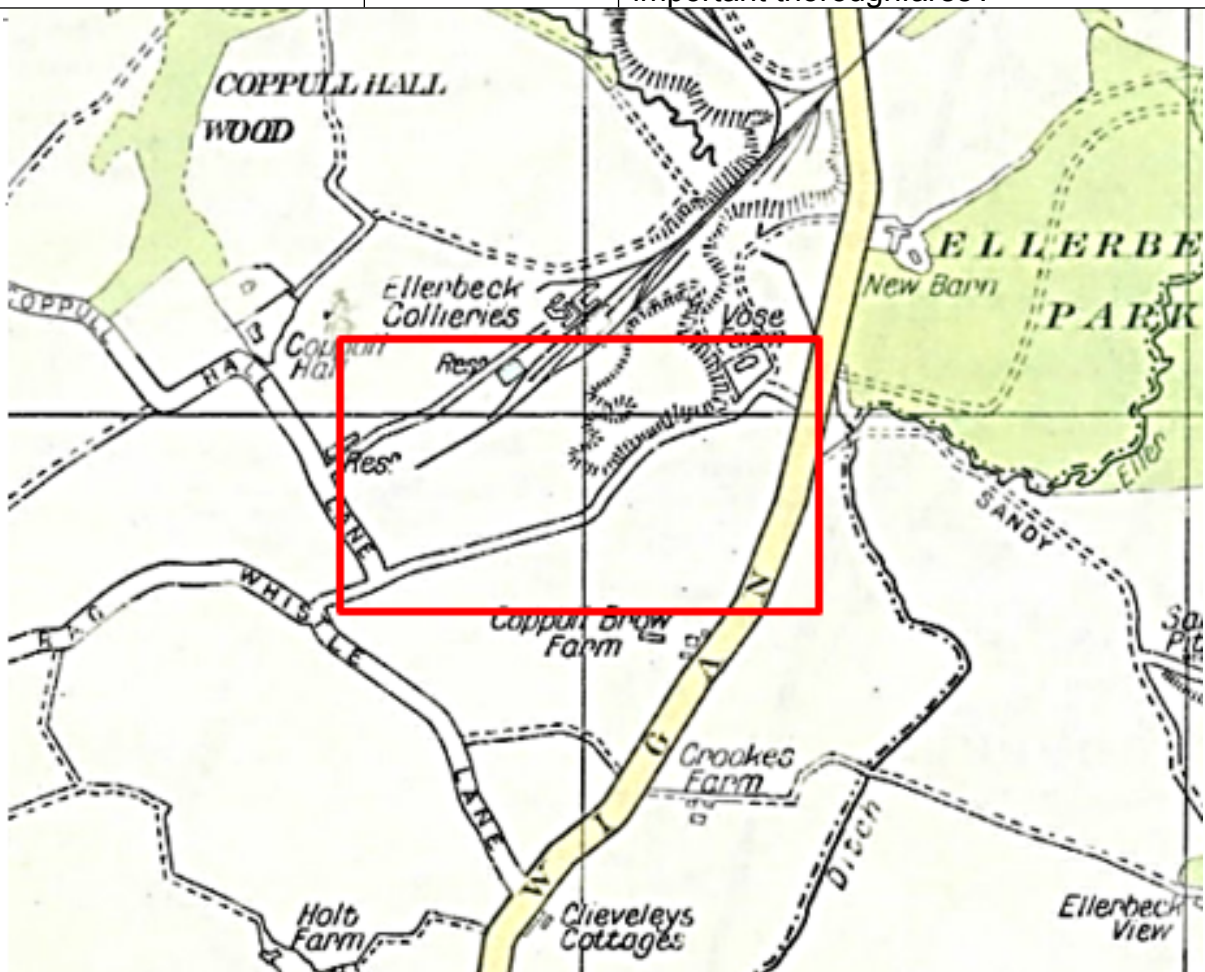
Observations		<p>The application route is shown. The mine workings north of the route have extended so that a large spoil heap runs adjacent to the route from point C to the boundary of Water Lane Cottages are now labelled as Vose Farm.</p> <p>The route between point A and point B still appears to be quite a wide bounded track but it appears narrower between point B and point C and looks to be a narrow track along the edge of the spoil heap between point C and point D.</p> <p>The main access to Vose Farm appears to be the application route between point D and point E.</p>
Investigating Officer's Comments		The application route existed in 1928 and access may have been possible on horseback along all or part of it but

		between point C and point D the route looks to be quite narrow and the annotation "F.P." suggests most access on foot. The change of name to the property from Water Lane Cottages to Vose Farm may reflect the fact that neither the application route nor Wigan Lane seem to be known as 'Water Lane' or probably it is named after former owner John Vause.
Bartholomew's half inch Map	1920	Further edition of Bartholomew's Map.



Observations		The application route is shown as an 'uncoloured road'.
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Investigating Officer's Comments		The application route is shown on the map supporting the view that it physically existed in the 1920s. However, it did not appear to be considered to be passable for motorists or cyclists at that time.
Authentic Map Directory of South Lancashire by Geographia	Circa 1934	An independently produced A-Z atlas of Central and South Lancashire published to meet the demand for such a large-scale, detailed street map in the area. The Atlas consisted of a large scale coloured street plan of South Lancashire and included a complete index to streets which includes every 'thoroughfare' named on the map. The introduction to the atlas states that the publishers gratefully acknowledge the assistance of the various municipal and district surveyors who helped incorporate all new street and trunk roads. The scale selected had enabled them to name 'all but the small, less-important thoroughfares'.



Observations		The full length of the application route is
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		shown as a substantial through route. It is not named on the map but can be seen to provide access to and past Vose Farm. The spoil heaps abutting the route are shown.
Investigating Officer's Comments		<p>The Directory was an independently produced and very detailed street map which included an index to 'all thoroughfares' on map. Public footpaths and bridleways are not normally shown unless they comprised of substantial tracks.</p> <p>The fact that the route was shown on the map is further evidence that the route physically existed in 1934 and may have been available to use but it does not necessarily provide proof of its status as a public bridleway or public vehicular road.</p>
Aerial Photograph²	1940s	The earliest set of aerial photographs available was taken just after the Second World War in the 1940s and can be viewed on GIS. The clarity is generally very variable.

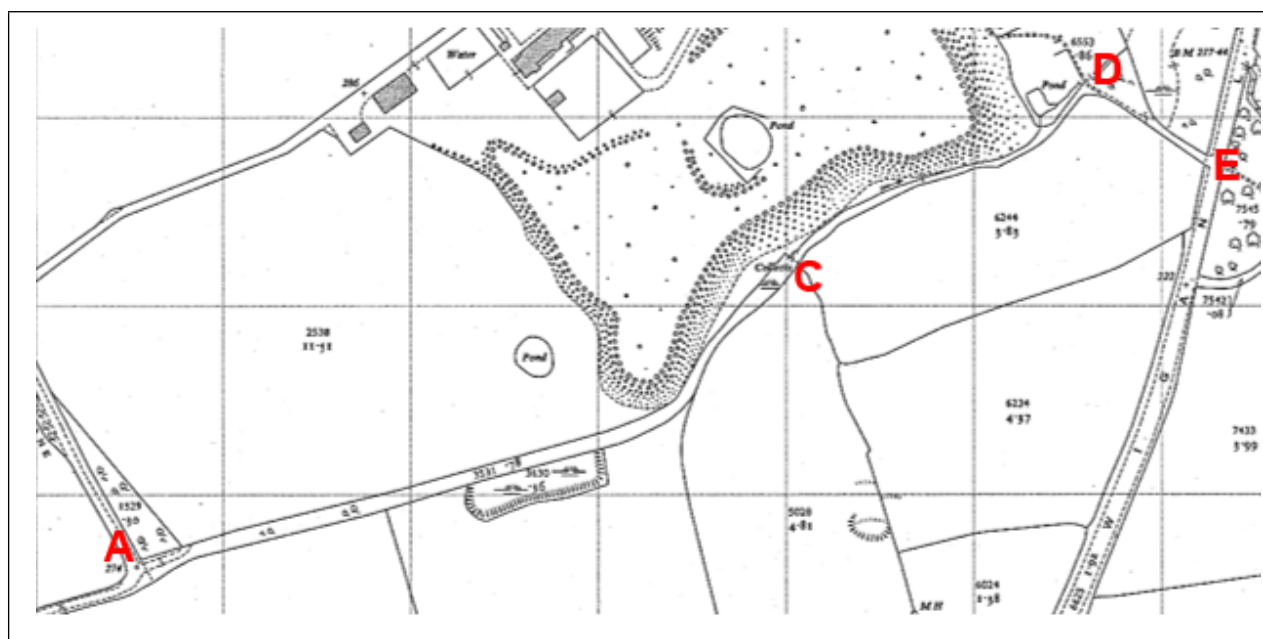
² Aerial photographs can show the existence of paths and tracks, especially across open areas, and changes to buildings and field boundaries for example. Sometimes it is not possible to enlarge the photos and retain their clarity, and there can also be problems with trees and shadows obscuring relevant features.



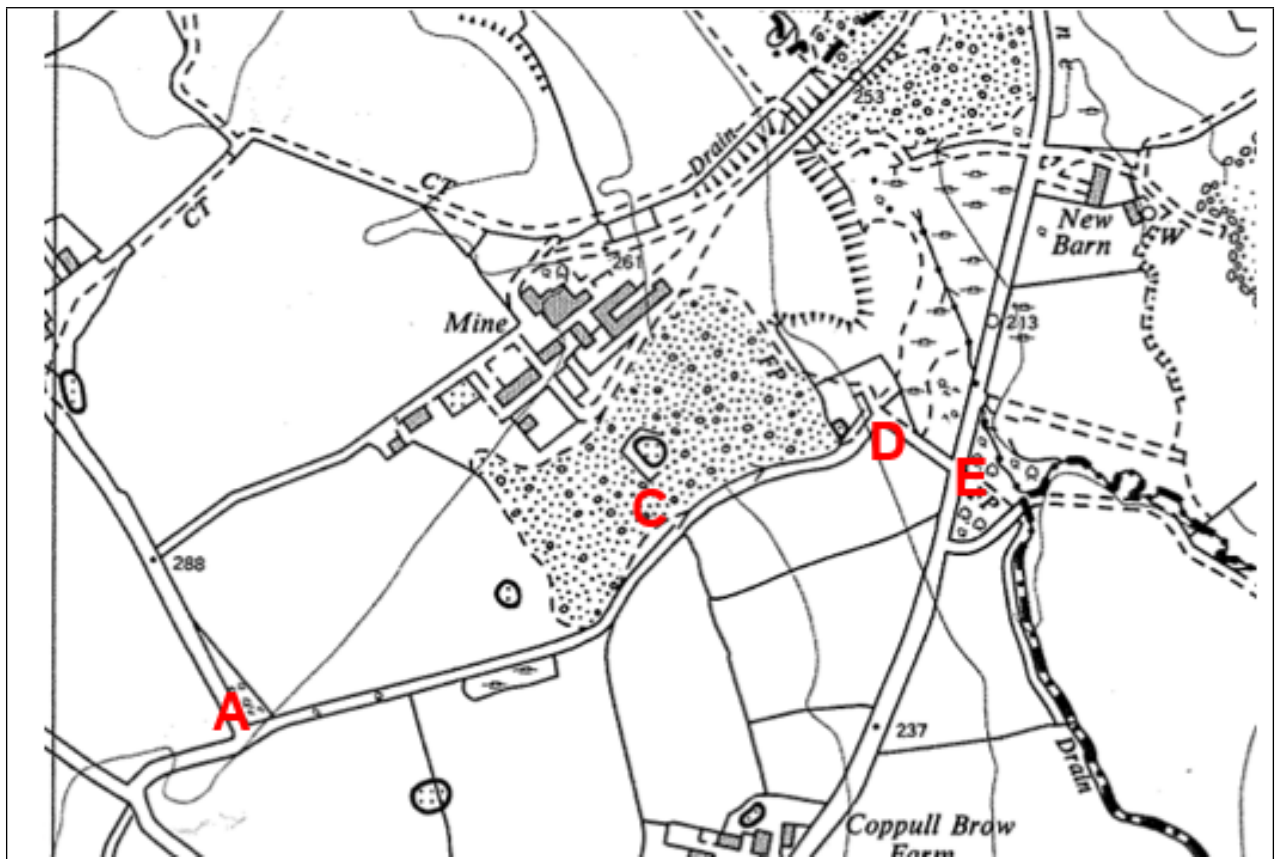
Observations		<p>The application route is visible on the aerial photograph but its appearance does not suggest that it is heavily used and between point D and point E the route shows up quite faintly consistent with pedestrian, and possibly equestrian use. Vose Farm can be seen but it appears that it may no longer be inhabited or a busy working farm/property.</p> <p>The existence of any gates, stiles or structures which may have limited or prevented use cannot be seen on an aerial photograph.</p>
Investigating Officer's Comments		<p>The application route existed in the 1940s and may or may not have been capable of being used on horseback.</p>
6 inch OS Map	1947	<p>Further edition of the 6 inch map published 1947 and submitted by the applicant. Date of revision unknown.</p>



Observations		The application route is shown as a through route and a providing access to Vose Farm. Access to the farm also appears to be available via Grimeshaw Bridge to the north. Part of the route adjacent to the spoil heaps is annotated as a footpath.
Investigating Officer's Comments		The application route existed in the 1940s and access may have been possible along all or part of it but between point C and point D the route looks to be quite narrow and more likely to provide access on foot – and possibly horseback.
1:2500 OS Map	1961	Further edition of 25 inch map reconstituted from former county series and revised in 1959 and published in 1961 as National Grid Series.



Observations		The application route is shown in a similar way to on earlier editions of the map. A watercourse is shown along the route from point C to point D and Vose Farm is not shown.
Investigating Officer's Comments		The application route existed in the 1950s but no longer provided access to a farm. The section between point C and point D may have been effected by the existence of the watercourse along it making it narrower than previously or possibly wetter underfoot.
6 Inch OS Map	1965	OS map revised in 1959 and published in 1965 at a scale of 6 inches to 1 mile (1:10,560).



Observations		The application route is shown and appears to consist of a substantial track throughout its full length. A watercourse is marked along the route between point C and point D. Vose Farm is mostly not shown on the map.
Investigating Officer's Comments		<p>The application route existed in the late 1950s. The farm which had previously existed close to point D no longer existed.</p> <p>The style of lines used on this edition of the map suggests a substantial track.</p>
Aerial photograph	1960s	The black and white aerial photograph taken in the 1960s and available to view on GIS.



Observations		A route can be seen between point E and point D continuing up to the colliery site and a short section near point A. It is difficult to see the rest of the route due to tree cover.
Investigating Officer's Comments		The application route between point D and point E and entering from point A appears to be heavily used – possibly with vehicles.
Aerial Photograph	2000	Aerial photograph available to view on GIS.



Observations		It is not possible to see the application
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		route due to tree cover.
Investigating Officer's Comments		No inference can be drawn.
Definitive Map Records		<p>The National Parks and Access to the Countryside Act 1949 required the County Council to prepare a Definitive Map and Statement of Public Rights of Way.</p> <p>Records were searched in the Lancashire Records Office to find any correspondence concerning the preparation of the Definitive Map in the early 1950s.</p>
Parish Survey Map	1950-1952	<p>The initial survey of public rights of way was carried out by the parish council in those areas formerly comprising a rural district council area and by an urban district or municipal borough council in their respective areas. Following completion of the survey the maps and schedules were submitted to the County Council. In the case of municipal boroughs and urban districts the map and schedule produced, was used, without alteration, as the Draft Map and Statement. In the case of parish council survey maps, the information contained therein was reproduced by the County Council on maps covering the whole of a rural district council area. Survey cards, often containing considerable detail exist for most parishes but not for unparished areas.</p>



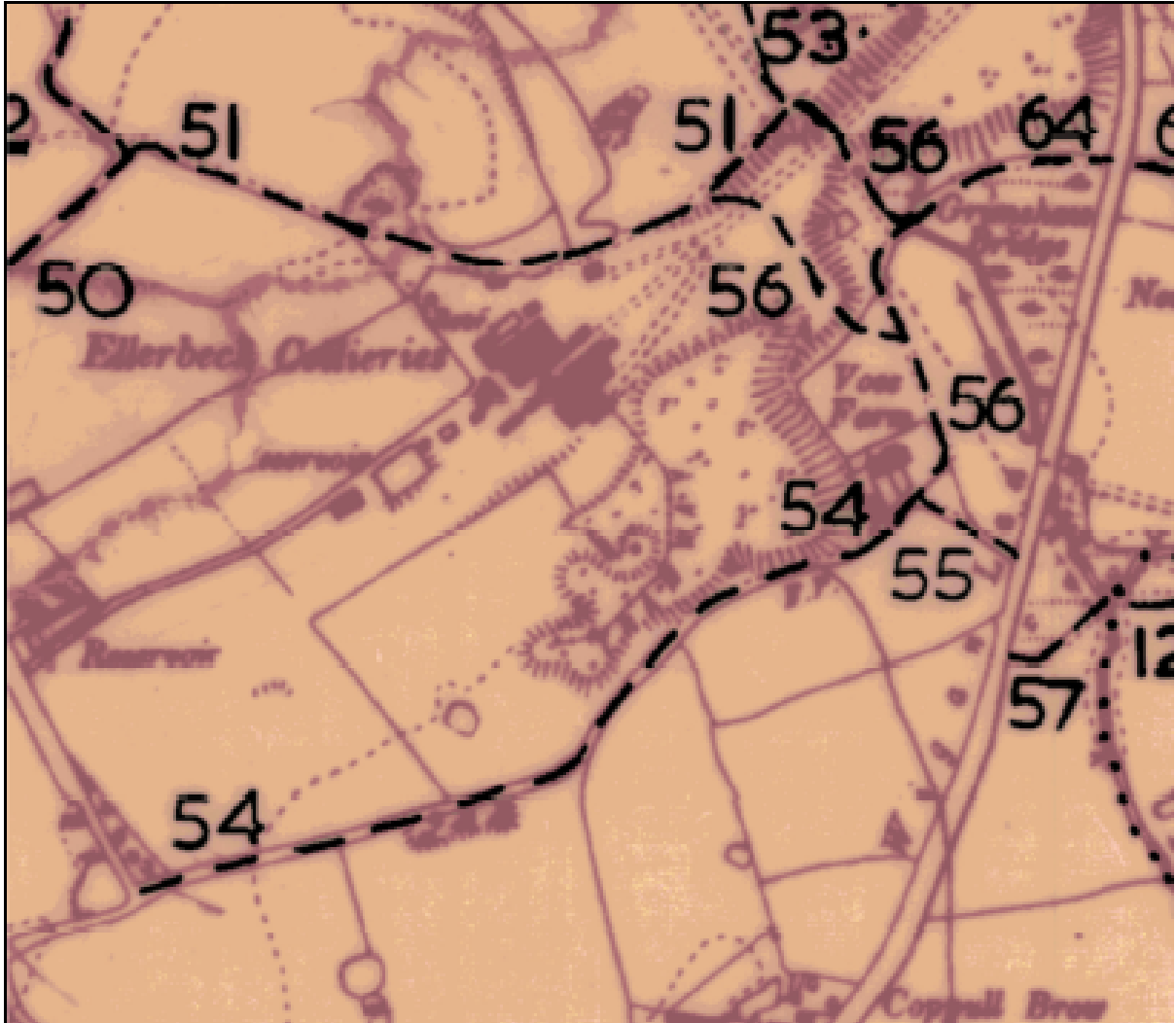
Observations

The Parish Survey map for Coppull was completed by the parish council and shows the application route between point A and point D numbered 54 and as a 'CRF'. Access onto the route at point A is recorded as being a 'Gap'. Between point B and point D a red dotted line is shown along the south side and annotated 'O' which was sometimes used to denote "overgrown" although it was outside the remit of that survey. From point D to point E the route is numbered 55 and access onto Wigan Lane is marked as a 'Gap'. The whole length of the route appears to have been drawn on the map using a red pen which has then been drawn over in blue.

The Parish Survey cards were completed in October 1950. Footpath 54 is described as cart road mainly used as footpath – consistent with the annotation 'CRF' (cart road footpath) on the map. It is noted on the survey card that the route was known as Stony Lane. The footpath was described as being from Coppull Hall Lane to Vose Farm with the first part metalled and latter part cobbled and it was noted that the section near the colliery tip was

		<p>completely obstructed, overgrown and flooded and that passage was impossible until it cleared again 20 yards in front of Vose farm.</p> <p>Footpath 55 was described as a footpath over an occupation road from Wigan Lane to Vose Farm. It was described as passing through a gap and as being a well-defined cinder carriageway to the cottages marked Vose Farm.</p>
Draft Map		<p>The parish survey map and cards for Coppull were handed to Lancashire County Council who then considered the information and prepared the Draft Map and Statement.</p> <p>The Draft Maps were given a “relevant date” (1st January 1953) and notice was published that the draft map for Lancashire had been prepared. The draft map was placed on deposit for a minimum period of 4 months on 1st January 1955 for the public, including landowners, to inspect them and report any omissions or other mistakes. Hearings were held into these objections, and recommendations made to accept or reject them on the evidence presented.</p>
Observations		<p>The route was shown in the same way on the Draft Map as on the Parish Survey and no representations were made to the County Council.</p> <p>The statements recording the position of the routes make no reference to the name 'Stony Lane' as referred to in the parish survey cards and it was noted that 'Vose farm' was spelt 'Vause Farm' in the Statements.</p>
Provisional Map		<p>Once all representations relating to the publication of the draft map were resolved, the amended Draft Map became the Provisional Map which was published in 1960, and was available for 28 days for inspection. At this stage, only landowners, lessees and tenants could apply for amendments to the map, but the public could not.</p>

		Objections by this stage had to be made to the Crown Court.
Observations		The route was shown in the same way on the Provisional Map as on the Draft Map and no representations were made to the County Council
The First Definitive Map and Statement		The Provisional Map, as amended, was published as the Definitive Map in 1962.
Observations		The route was shown in the same way on the First Definitive Map as on the Draft Map and Provisional Maps.
Revised Definitive Map of Public Rights of Way (First Review)		Legislation required that the Definitive Map be reviewed, and legal changes such as diversion orders, extinguishment orders and creation orders be incorporated into a Definitive Map First Review. On 25 th April 1975 (except in small areas of the County) the Revised Definitive Map of Public Rights of Way (First Review) was published with a relevant date of 1 st September 1966. No further reviews of the Definitive Map have been carried out. However, since the coming into operation of the Wildlife and Countryside Act 1981, the Definitive Map has been subject to a continuous review process.

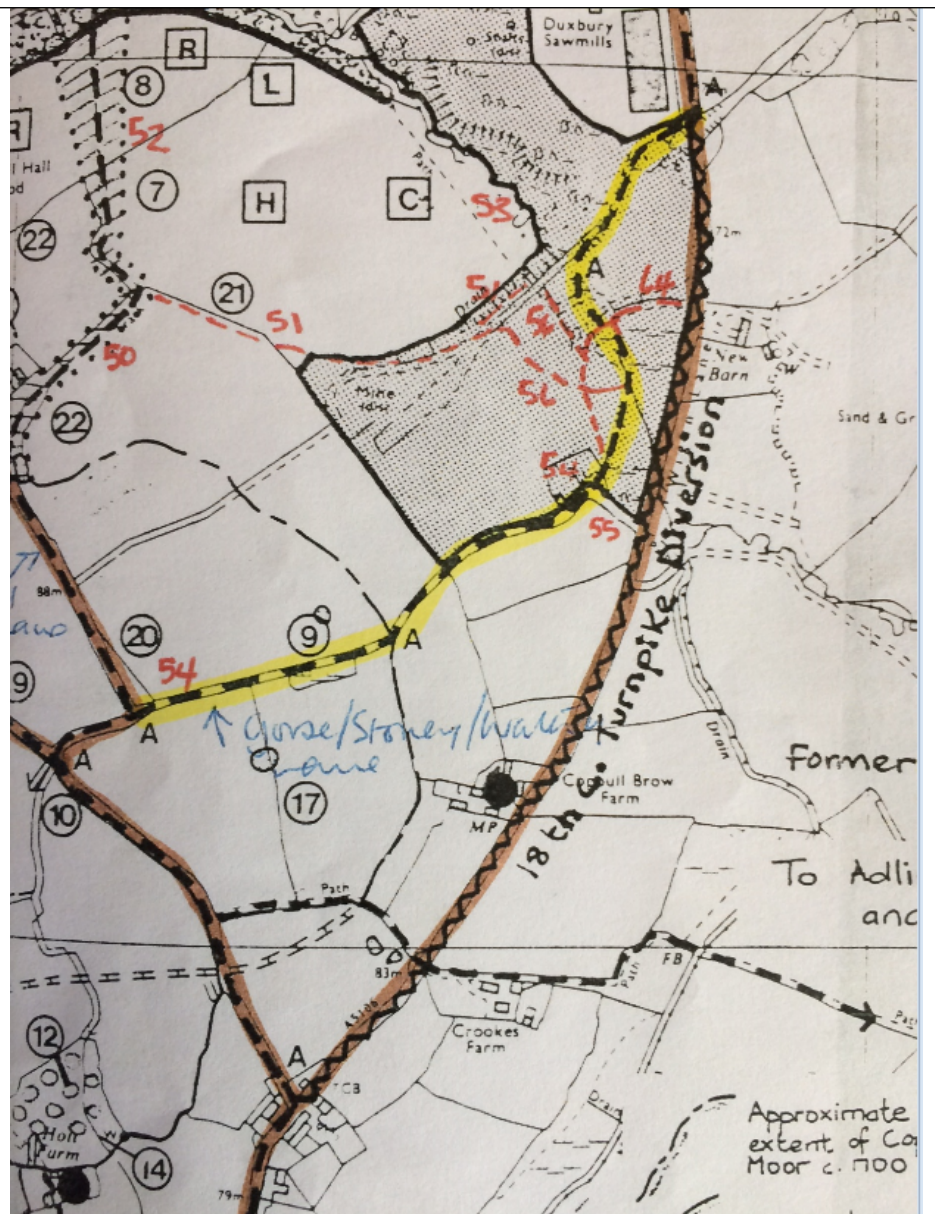


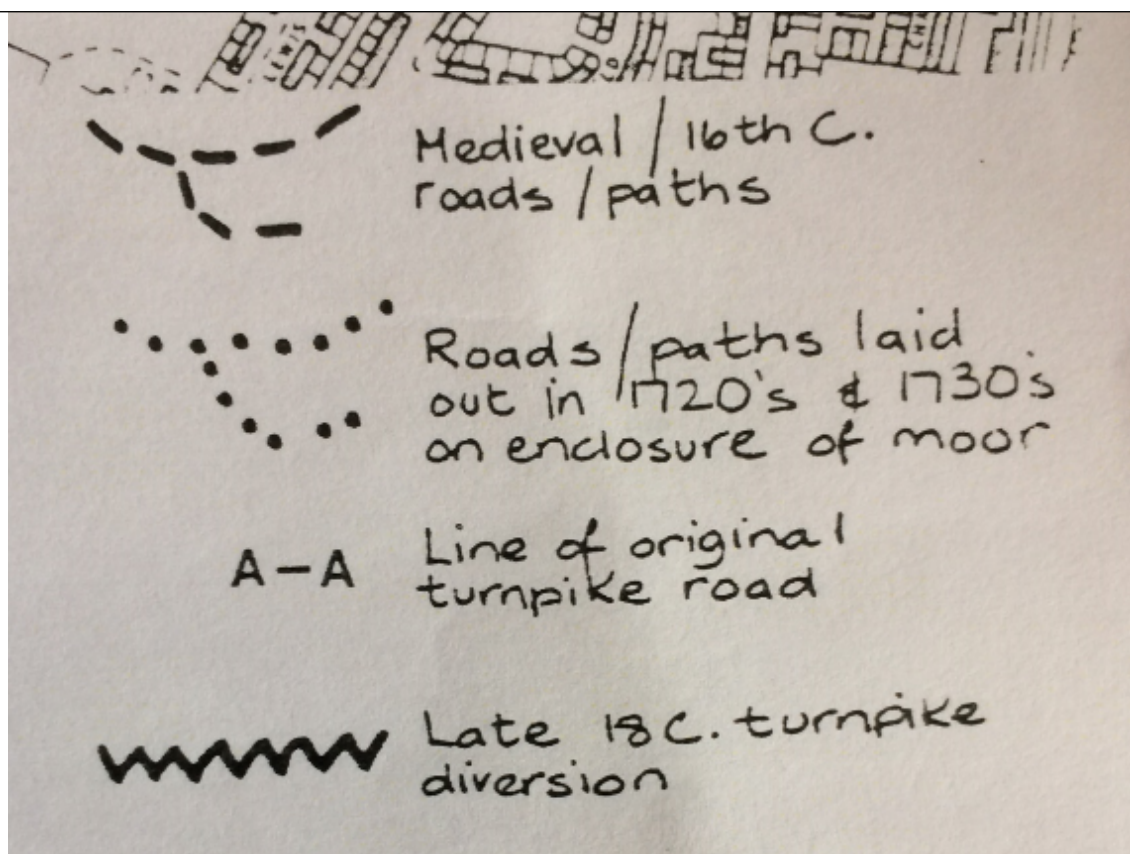
Observations		When the Map and Statement were reviewed the route was shown in the same way as it had been shown on the First Definitive Map.
Investigating Officer's Comments		<p>From 1953 through to 1975 there is no indication that the route was considered to be of any higher status than public footpath by the Surveying Authority except that part of it was described as CRF, a term which was in practice used ambiguously. There were no objections to the depiction of the status of the route from the public when the maps were placed on deposit for inspection at any stage of the preparation of the Definitive Map.</p> <p>The Statements produced during the various stages of the Definitive Maps of Public Rights of Way provide no helpful information in determining the status of</p>

		<p>the route.</p> <p>Reference to the route being known locally as 'Stony Lane' in the parish survey is not supported by any other evidence examined.</p>
Highway Adoption Records including maps derived from the '1929 Handover Maps'	1929 to present day	<p>In 1929 the responsibility for district highways passed from district and borough councils to the County Council. For the purposes of the transfer, public highway 'handover' maps were drawn up to identify all of the public highways within the county. These were based on existing Ordnance Survey maps and edited to mark those routes that were public. However, they suffered from several flaws – most particularly, if a right of way was not surfaced it was often not recorded.</p> <p>A right of way marked on the map is good evidence but many public highways that existed both before and after the handover are not marked. In addition, the handover maps did not have the benefit of any sort of public consultation or scrutiny which may have picked up mistakes or omissions.</p> <p>The County Council is now required to maintain, under section 31 of the Highways Act 1980, an up to date List of Streets showing which 'streets' are maintained at the public's expense. Whether a road is maintainable at public expense or not does not determine whether it is a highway or not.</p>
Observations		<p>The application route is not recorded as being publicly maintainable on the List of Streets by the County Council.</p>
Investigating Officer's Comments		<p>No inference can be drawn regarding public rights.</p>
Highway Stopping Up Orders	1835 - 2014	<p>Details of diversion and stopping up orders made by the Justices of the Peace and later by the Magistrates Court are held at the County Records Office from 1835 through to the 1960s. Further records held at the County Records Office contain highway orders</p>

		made by Districts and the County Council since that date.
Observations		No legal orders relating specifically to the application route have been found.
Investigating Officer's Comments		No inference can be drawn regarding public rights.
Statutory deposit and declaration made under section 31(6) Highways Act 1980		<p>The owner of land may at any time deposit with the County Council a map and statement indicating what (if any) ways over the land he admits to having been dedicated as highways. A statutory declaration may then be made by that landowner or by his successors in title within ten years from the date of the deposit (or within ten years from the date on which any previous declaration was last lodged) affording protection to a landowner against a claim being made for a public right of way on the basis of future use (always provided that there is no other evidence of an intention to dedicate a public right of way).</p> <p>Depositing a map, statement and declaration does not take away any rights which have already been established through past use. However, depositing the documents will immediately fix a point at which any unacknowledged rights are brought into question. The onus will then be on anyone claiming that a right of way exists to demonstrate that it has already been established. Under deemed statutory dedication the 20 year period would thus be counted back from the date of the declaration (or from any earlier act that effectively brought the status of the route into question).</p>
Observations		There are no Highways Act 1980 Section 31(6) deposits lodged with the County Council for the area over which the application route runs.
Investigating Officer's Comments		There is no indication by a landowner under this provision of non-intention to dedicate public rights of way over their land.

Leading the Way: A History of Lancashire's Roads edited by Alan Crosby	1998	Local history book detailing the history of Lancashire's road network written by Dr Alan Crosby, Freelance local historian and tutor at Lancaster and Liverpool Universities and available to view at Lancashire County Records Office.
Observations		The book explains the origins of Wigan Lane as a turnpike road and explains that the Wigan and Preston Turnpike Trust initially comprised of two routes, one via Euxton and the other from the Boars Head (Standish) to Chorley. The trust was later split into two divisions, north and south of the River Yarrow, and the Chorley route was called the Higher Road and the Euxton route the Lower Road (as labelled on the first edition 6 inch OS map). Dr Crosby reported that extensive changes occurred to the alignment of the Higher Road at Duxbury, to the south of the River Yarrow but did not provide specific details of the route.
Investigating Officer's Comments		No inference can be drawn regarding the assertion that the application route was a historical route forming part of the original turnpike road.
Landscape History of proposed opencast site	1989	Extract from report prepared by Dr Alan Crosby for Lancashire County Council in relation to a public inquiry into Ellerbeck West Proposed Open Cast Coal Site dated 11 December 1989.





Observations

Lancashire County Council public rights of way parish files contained a memorandum from the County Planning Officer to the County Surveyor concerning Footpath 54 Coppull (part of the application route).

The memorandum states that the historical investigations undertaken preceding the Ellerbeck West public inquiry (relating to a proposal to re-open the colliery site) raised the issue of the correct legal status of the footpath and made reference to a letter sent to the County Council by County Councillor Richard Toon asking for the route – referred to as Stoney or Gorse Lane to be cleared of vegetation.

Part of a report written by Dr Crosby was attached to the memorandum detailing the road and path network of the Ellerbeck colliery site.

The report concentrates on the significance of the road and path network within the site and explains that the pattern seen today is essentially

		<p>that of a medieval network superimposed with 18th and 19th century changes.</p> <p>Dr Crosby refers to the ancient sunken routes including one which he refers to as Stony Lane (or Gorse Lane) which is the route of Footpath 54 and 55 Coppull (the application route) and which states that it has effectively been abandoned due to the mine workings. He describes the first part of this route (between point A and point B) as a typical sunken Holloway and refers to evidence of cobbles and large flat setts.</p> <p>Dr Crosby is of the view that the application route was part of the ancient route linking Wigan to Chorley as described by Dr Richard Kuerden in 1686 and believed that Dr Keurden referred to the application route as Watery Lane.</p> <p>He states that the road – including the application route – was turnpike in 1727 but then improved and altered in the 1760s cutting out the application route and straightening the route. A plan attached to the report shows the application route between point A and point D labelled as part of the old road.</p> <p>The memorandum enclosing the report concludes by saying that if planning permission for the open cast coal site is granted British Coal will need to consider whether the route should be reinstated to bridle path standard and that if it is refused it will be necessary to consider what action is required to clear the routes of footpaths 54 and 56 as they are largely impassable due to ground conditions and the tipping of colliery spoil.</p>
Investigating Officer's Comments		<p>Dr Crosby is of the view that the application route between point A and point D formed part of the original turnpike road – which was subsequently diverted but the Investigating Officer has been unable to locate documentary evidence to support this view. It is not</p>

		known whether the old turnpike road was disturnpiked or rights remain on it.
LCC Parish Files	1991-1999	The Investigating Officer working in the Planning and Environment Team was originally employed by the County Council from 1991 as Public Rights of Way Maintenance Officer. She recalled being involved in work to open up, drain and surface the application route soon after commencing her employment and therefore undertook a search of the Lancashire County files to gather further information.
Observations		<p>Letters on file confirm that British Coal (Open Cast) owned much of the land crossed by the application route in the early 1990s and that the whole length of the route was impassable due to overgrowth and poor drainage.</p> <p>With funding from British Coal extensive work was carried out by contractors to clear out ditches, clear vegetation, cut new ditches, surface the route with stone, re channel the water flowing along the route and to provide footbridges across particularly wet areas. Work was completed in December 1991.</p> <p>Further correspondence in 1998 refers to kissing gates being erected at either end of the route due to motorcycles using it.</p>
Investigating Officer's Comments		The route appeared to be impassable prior to 1991 when extensive work was carried out to re-open it. Evidence of the remains of the stone surface and drainage works seen today are likely to date back to the work done in 1991 and may not reflect what the path had looked like historically.

The affected land is not designated as access land under the Countryside and Rights of Way Act 2000 and is not registered common land.

Landownership

The land crossed by the route between point A and point X is owned by Messrs James, Timothy, Ivan and Carl Woodcock of Yew Tree House Farm, Coppull Hall Lane, Coppull, Chorley, PR7 4LR.

The land crossed by the route between point X and point D and point Y and point E is owned by Chorley Borough Council, Town Hall, Chorley, Lancashire PR7 1DP.

The land between point D and point Y is unregistered and ownership is not known.

Summary

The applicant has asserted that the route should be recorded as a public bridleway because it formed part of the old road between Wigan and Chorley which became one of the first turnpike trusts in Lancashire in 1727 and that the road was diverted, cutting off the application route, in the 1760s. This assertion appears to have originated from a report prepared by Dr Alan Crosby in 1989 with reference to a public inquiry into the re-opening of Ellerbeck coal mine as an open cast site.

Documentary evidence found which may support this assertion is a description of the road written by Dr Richard Keurden in about 1686 which refers to a route known as Watery Lane near Coppull Hall.

No documentation or maps relating to the 1727 turnpike trust or any alterations to the route in the 1760s was found confirming the existence of the application route or the fact that it formed part of the old road.

Dr Crosby included a modern annotated map in his report on which he indicated that the application route between point A-D formed part of the old turnpike road (but not the section D-E).

The applicant and Dr Crosby both refer to the route being known as Watery Lane, Gorse Lane or Stony Lane. The Parish Survey card from the 1950s refers to it being known as Stony Road but it is not recorded as being named as any of the names listed on any of the OS maps or Commercial maps examined and is not named in the Tithe Schedule or Finance Act documentation.

The earliest commercial map examined which was Yates Map of 1786 – published about 16 years after it is suggested that the turnpike road was altered. The map shows a route consistent with the alignment of the application route but the route is faintly shown and is not depicted in such a way as to suggest that it was considered as a main throughway at that time.

A survey of the manor undertaken several years later in 1797 refers to the old turnpike road and the fact that part of it had been blocked by the landowner (John Vause). The description in the manorial records is not clear enough to be certain that the route referred to as the old turnpike road was the application route and it has not been possible to determine whether the turnpike trust had the power to legally stop up the old route as a public highway when an alternative route was created.

The route is not shown as a through route on Greenwoods Map of 1818 suggesting that it was not considered a substantial public road or a private road (as Greenwood is known to have shown public and private roads) but yet on Hennet's Map of 1830 it is clearly shown in a way which is consistent other known vehicular roads.

When the Tithe Map and Award was produced for the parish in 1842 the route was clearly shown to exist but was not listed as a public road. It was described as being a road to a house, was in private ownership and a tithe was payable for it.

From 1848 through to the current day the route is consistently shown to exist on all OS maps published and provided access to a property known originally as Water Lane house, then cottages and finally as Vose Farm. The section between point C and point D appears to have been narrower and possibly affected by the location of the colliery spoil heap in the 1900s. The route may have been wide enough to allow for the passage of horses during that time but this is not supported by other evidence examined.

The Finance Act 1910 documentation does not support nor preclude the existence of a public bridleway and the parish survey carried out in the early 1950s as part of the preparation of the Definitive Map records part of the route as CRF and public footpath in the 1950s.

The track at the west end of the route still has the appearance of a substantial old road but the Investigating Officer's memory of the route in 1991 was of a route that was virtually impassable because it was so overgrown with trees and vegetation and that a substantial amount of clearance, drainage and surfacing work was required to make it useable. Work carried out would, quite possibly have covered over any cobbles or stone sets referred to by Dr Crosby and the cobbles referred to in the parish survey and may have altered the appearance of the route.

Head of Service – Legal and Democratic Services Observations

Information from the Applicant

The applicant provided photographic, map and documentary evidence which has been considered above in support of the application comprising:

Yates Map 1786

Current photographs showing the 'pronounced' camber of the route between point A and point B

Greenwoods Map 1818

6 inch OS Map published 1848

Extract of certificate of repair obtained from County Records Office (Ref: QSD 1733/10) with transcript

Duxbury Manor Estate plan c1584

Greenwoods Map 1818

Hennets Map 1829

6 inch OS Map published 1892

6 inch OS Map published 1909

6 inch OS map published 1947

Bartholomew's Map published 1926
Coppull Tithe Map 1842
1910 Finance Act Map and extract from the relevant Valuation Book
1843 Law Journal Report, Volume 12, part 1

In addition, the applicant presented his case that the historical documentation provided showed how the application route formed part of the original road (and original Turnpike Road) between Wigan and Chorley.

Three user evidence forms were also submitted;

One of the users states that they have used the route both on foot and on bicycle for 31 years between 1985 and 2016. Use was approximately 4 times a year although it was stated that there may have been 1 or 2 years when the route was not used. The years when the route may not have been used were not specified. Use was for pleasure and always along the exact same route. The user had never asked for permission to use the route and had never been stopped or challenged. Reference was made to the existence of a stile at point A and gate at point E. Reference is also made to the fact that the route was signed as a public footpath but the user considered that the route 'had the feel of a bridleway'.

The other two users both claimed to have used the route from 2015 – 2016 (1 year). They both used the route on bicycles approximately once a month. Use was for pleasure as part of longer journeys. Neither had been given permission to use the route or had been stopped or challenged when using the route. Neither recalled any notices discouraging use and both referred to a stile at point A and gate at point E. Both confirmed that they had always used the exact same route and referred to seeing motorcycle tracks on the route.

Information from the Landowners

Carl Woodcock responded on behalf of J & B Woodcock & Sons expressing their concern about the danger of exiting onto Wigan Lane (at point E) as Wigan Lane is a busy road with a 60 mile per hour speed limit and a high accident and fatalities history.

He also states that their land borders both sides of the path and that the fields are used for duck shoots and at other times shoots protecting the crops and that the route would be totally unsuitable for horses.

Assessment of the Evidence

The Law - See Annex 'A'

In Support of Making an Order(s)

A small amount of User Evidence
Extensive research and provision of historical maps

Against Making an Order(s)

Inconclusive historical map evidence
Lack of user evidence

Conclusion

The application is made under section 53(3)(ii) of the Wildlife and Countryside Act 1981 that the route A-X-B-C-D-Y-E which is shown on the Definitive Map and Statement of Public Rights of Way as Footpaths 54 and 55 Coppull should instead be shown as a highway having a different description, that of bridleway.

The Committee should consider whether on balance, considering the evidence put before it, it concludes that the claim has been established.

Most of the evidence presented relates to the applicant's claim that this route is a historical route, likely to have been a Turnpike Road, and that therefore a status of bridleway would be appropriate.

Schedule 14 paragraph 3 (1) (a) of the Wildlife and Countryside Act 1981 states that as soon as reasonably practical after receiving a certificate as to notification of owners and occupiers 'the authority shall: (a) investigate the matters stated in the application'. Lancashire County Council interprets this as meaning investigating not only the matters stated in the application, but, also looking at records which it may hold that are in addition to those submitted by the applicant.

The applicant refers to information published in 'Turnpikes and Toll Houses of Lancashire' by Ron Freethy published in 1986 and there is a suggestion that this route was a former Turnpike road created under the Chorley and Wigan Turnpike Act 1726 which is supported by the book 'Leading the Way: A History of Lancashire's Roads' edited by Alan Crosby. Guidance issued by the Planning Inspectorate to inspectors emphasises the potential importance of Turnpike roads, but even if a route was a former turnpike it does not necessarily follow that it continues to carry those former rights, or indeed any public rights. In this case a turnpike route was created by the Chorley and Wigan Turnpike Act 1726 but a map of the route is not available, nor has it been possible upon reasonable investigation to find a copy of the Act. Case law states that turnpikes reverted to their original status once a turnpike ceased to operate, but in this case it is not possible to establish what that pre-turnpiking status was. The Survey of the bounds of the Manor of Coppull detailed in Coppull Manorial Records states that in 1797 the old Turnpike Road now belonged to Mr John Vause of Wigan and reference is made to the new turnpike road but this doesn't assist in providing a determination as to the route's status at that time which can be relied on subsequently, with no knowledge of its pre – turnpiking status. Without a copy of the Chorley and Wigan Turnpike Act 1726 the authority is unable to state whether the route had a greater status than that currently given to it.

The applicant has provided a number of maps which show the line of route to be in existence. These date from Smith's Map of 1804 through to the Finance Act 1910. The line of the route is also shown on the earliest Ordnance Survey Map of 1848 to the production of the First and Revised Definitive Map and Statement. Although the

route is shown on a number of historical maps and on maps to the present date, with the exception of the Definitive Map and Statement this is not conclusive of the rights of public user that pertain to this route.

User evidence has been submitted but it is sparse. One user has said that they used the route for over 30 years around 4 times a year and two other users say they have used the route around once a month for a one year period. The user evidence is not considered sufficient to infer a dedication at common law or for a deemed dedication under section 31 of the Highways Act 1980 to have taken place. The evidence put forward by the landowners relates to the route's alleged unsuitability for horse riders given the dangers of the exit onto Wigan Lane and the fact that shoots are held in the adjacent fields. This is of relevance to the landowner but not factors that can be taken into account in determining whether a different status should be shown for this route. No comment has been made about individuals using the route on horseback or by cycle.

The applicant states that Coppull Footpath 54 looks like an old highway and one user states that it has always felt like a bridleway, however evidence on the ground may well have changed over time and no conclusion can be drawn from its physical state now.

The historical map evidence which is the strongest part of the evidence is still not considered to be adequate to be able to say on balance that the route carries higher status than the footpath status which it has been given on the Definitive Map and Statement.

On balance, taking all the evidence into account, the Committee is recommended not to make the order in this case.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Tel
All documents on File Ref: 804-583		Jayne Elliott, 01772 537663, Environment and Planning
Reason for inclusion in Part II, if appropriate		
N/A		