

Lancashire County Council

Regulatory Committee

Wednesday, 8th March, 2023 at 10.30 am in Committee Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Agenda

Part I (Open to Press and Public)

No. Item

1. Apologies

2. Disclosure of Pecuniary and Non-Pecuniary Interests

Members are asked to consider any Pecuniary and Non-Pecuniary Interests they may have to disclose to the meeting in relation to matters under consideration on the Agenda.

3. Minutes of the last Meeting held on 25th January 2023 (Pages 1 - 8)

4. Guidance (Pages 9 - 34)

Guidance on the law relating to the continuous review of the Definitive Map and Statement of Public Rights of Way and certain Orders to be made under the Highways Act 1980 is presented for the information of the Committee.

5. Progress Report on Previous Committee Items (Pages 35 - 42)

6. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Addition of Bridleway from Nixon Lane to Willow Road along Pump House Lane, Ulnes Walton (Pages 43 - 134)

7. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Addition of Bridleway from Ridley Lane to Pump House Lane, Ulnes Walton (Pages 135 - 244)



8. **Wildlife and Countryside Act 1981** (Pages 245 - 312)
Definitive Map Modification Order Investigation
Upgrading to Bridleway part of Altcar Lane, Leyland
and Tithe Barn Lane, Euxton

9. **Highways Act 1980 - Section 119** (Pages 313 - 320)
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Footpath 2-21-29 at
Croftlands, Pilling

10. **Highways Act 1980 - Section 119** (Pages 321 - 330)
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Footpath 3-2-29 at
Clifton Lodge, Longridge

11. **Urgent Business**

An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Chief Executive should be given advance warning of any Member's intention to raise a matter under this heading.

12. **Date of Next Meeting**

The next scheduled meeting will be held at 10.30am on Wednesday 21st June 2023 in Committee Room 'B' - the Diamond Jubilee Room at County Hall, Preston.

L Sales
Director of Corporate Services

County Hall
Preston



Lancashire County Council

Regulatory Committee

**Minutes of the Meeting held on Wednesday, 25th January, 2023 at 10.30 am in
Committee Room 'B' - The Diamond Jubilee Room, County Hall, Preston**

Present:

County Councillor Sue Hind (Chair)

County Councillors

M Salter	A Clempson
T Aldridge	M Clifford
J Burrows	S Clarke
A Cheetham	S Whittam
D Howarth	S Barnes
J Parr	

To commemorate Robert Burns' birthday, County Councillor Clempson recited a passage from his epigram, Rough Roads.

1. Apologies

No apologies for absence were received.

Temporary replacements

County Councillor Clarke replaced County Councillor Cox.

County Councillor Barnes replaced County Councillor Oakes.

County Councillor Whittam replaced County Councillor Hosker.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

No pecuniary or non-pecuniary interests were disclosed.

3. Minutes of the last Meeting held on 16 November 2022

Resolved: That the minutes of the meeting held on 16th November 2022 be confirmed and signed by the Chair.



Matters Arising

The Chair reported that the Political Governance Working Group at their meeting on 18th January had approved that Regulatory Committee training should be mandatory and that a suitable venue was being sought. Committee Members were asked to email their preference for either a Monday or a Friday to Democratic Services as there were fewer meetings on these days.

In relation to Calderstones Cemetery, County Councillor Clempson reported that he was going to visit the site with a high-ranking serving officer to generate some publicity around the issues with accessing the cemetery.

4. Guidance

A report was presented providing guidance on the law relating to the continuous review of the Definitive Map and Statement of Public Rights of Way and the law and actions taken by the authority in respect of certain Orders to be made under the Highways Act 1980.

Resolved: That the Guidance as set out in Annexes 'A', 'B' and 'C' of the report presented, be noted, with Annex A being the one relevant to the items on this agenda.

5. Progress Report on Previous Committee Items

A report was presented providing an update on the progress made in relation to matters previously considered by Committee.

Committee noted that although the term 'applications' had been used for convenience, these were not all formal applications made under Schedule 14 of the Wildlife and Countryside Act 1981 but included some cases where sufficient evidence had been discovered or presented to the county council to indicate an investigation was appropriate.

Committee noted that the full list of Definitive Map Modification Orders was available on the county council's website and that a report detailing the progress on all applications – including public path diversions, creations and extinguishments - had been scheduled to be presented to this meeting. However, due to staff shortages, the full list would be presented at the March meeting and thereafter, at the first Committee meeting of every calendar year.

Resolved: That the report be noted.

6. Wildlife and Countryside Act 1981 Definitive Map Modification Order The Lancashire County Council Footpath from Aspen Lane to Mill Lane near West End Primary School, Oswaldtwistle, Definitive Map Modification Order 2021



A report was presented on an Order for the addition to the Definitive Map and Statement of a Footpath from Aspen Lane (also recorded as Bridleway Oswaldtwistle 300) to Mill Lane (also recorded both as Footpath Oswaldtwistle 23 and F6365) south west of West End Primary School.

An application under Schedule 14 of the Wildlife and Countryside Act 1981 had been received to record on the Definitive Map and Statement of Public Rights of Way a public footpath from Aspen Lane to Mill Lane, and a decision made by Regulatory Committee in June 2021 to make an Order in accordance with the application and subsequent investigation.

Committee had resolved that the Order be brought back before Committee, once the Notice of Making had been served and the notice period elapsed, in order to decide whether the confirmation test was able to be satisfied.

It was reported that the Order had now been made and notified, and that no adverse responses had been received to the making of the Order, by way of objections or any other representations.

Given the fact that the path was open and available and there had been a lack of objection and no further evidence of any lack of intention to dedicate, it was suggested to Committee that it may now be considered that there was sufficient evidence that a footpath existed in law, and that the confirmation test could be satisfied on balance and the Order should be confirmed. As no objections had been received, the county council as Surveying Authority was able to confirm the Order as unopposed.

Resolved: That the Order made to record a public footpath from Aspen Lane to Mill Lane be confirmed.

**7. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Upgrade to bridleway of footpath from Haunders Lane to Liverpool Road,
Much Hoole**

A report was presented on an application to upgrade part of Footpath 7-8-FP2 from Haunders Lane to Liverpool Road, Much Hoole to bridleway on the Definitive Map and Statement of Public Rights of Way.

A site inspection had been carried out in June 2020 and it became obvious that, although the application referred to an upgrade of the footpath, this footpath mostly ran alongside, not actually along the historical line of what was once known as Watery Lane.

Several maps, plans and other documents had been examined to discover when the application route and historical route came into being, and to try to determine what their status may be.

Looking at the application route, it was suggested that the evidence indicated that section A-B was part of the historical route, and that the evidence was sufficient to



infer that this section carried bridleway rights as part of the historical route (see below). The remaining part of the application route B-C-E-F followed the black dashed line on the committee plan and from points B to F was not within the old boundaries of the historical route. The evidence showed that the application route B to F as a pedestrian route was documented as such from the 1890s, and recorded as footpath on the Definitive Map and Statement. It was suggested to Committee that there was insufficient documentary evidence to support a finding of dedication of bridleway rights on B-F and insufficient evidence for an order to be made for this part of the application route.

Looking at the historical route, having found evidence of a historical route along A-B and then B-G shown marked green on the Committee plan, it was suggested that how it was documented historically on balance was sufficient evidence from which to infer that it carried at least bridleway rights from many decades ago, and that Committee may be satisfied that an Order be made that this historical route be added to the Definitive Map and Statement as a bridleway, which would also include an upgrading to bridleway of section A-B of the application route.

Due to an error in the wording of the Recommendation in the Committee report, an amended Recommendation (ii) was proposed and it was therefore:

Resolved:

- (i) That the application to upgrade part of Much Hoole Footpath 7-8-FP2 to bridleway be accepted in part on section A-B.
- (ii) That an Order(s) be made under the Wildlife and Countryside Act 1981 Section 53 to record bridleway on the Definitive Map and Statement on section A-B on the Committee plan and section B-C-D-G marked green on the Committee Plan.
- (iii) That being satisfied that the test for confirmation can be met the Order(s) be promoted to confirmation.

**8. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Bridleway from Rakes Head Lane to Hasty Brow Road, Slyne with Hest**

A report was presented on an application for the addition of a bridleway from Rakes Head Lane to Hasty Brow Road, Slyne with Hest to the Definitive Map and Statement of Public Rights of Way, as shown on the Committee plan between points A-B-C-D-E-F-G-H.

A site inspection had been carried out in October 2022.

Various maps, plans and other documents had been examined to discover when the route came into being, and to try to determine what its status may be.



Committee were informed that, whilst the route was shown on several maps where the public might gain access to the route, there were some inconsistencies between maps, with the whole route not shown on subsequent versions and, ultimately, there was an absence of 'sufficient evidence' as to public rights. This view had been reached on the evidence before the Opinion of Counsel had been received. Committee were referred to the Opinion provided by Counsel Ruth A. Stockley dated 14th December 2022 to the prospective landowner, which made entirely plausible conclusions in the circumstances and found insufficient evidence of bridleway dedication. Ms Stockley referred to case law relevant to the matter.

On balance, and given the nature of the evidence, Committee were advised that the evidence of the application route having become a public bridleway was insufficient. Respectfully, it could not be asserted that a bridleway “subsisted” or was “reasonably alleged to subsist” and the recommendation to Committee was therefore that no Order be made, based on the evidence available.

Committee were informed of a typographical error in the Recommendation of the report which should have read 'Hasty', not 'Hast'. It was therefore:

Resolved: That the application for the addition to the Definitive Map and Statement of Public Rights of Way of a bridleway from Rakes Head Lane to Hasty Brow Road, be not accepted.

**9. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Bridleway from Wanes Blades Road to Deans Lane, Lathom**

A report was presented on an application which was for the addition of a Restricted Byway (not Bridleway as referred to in the Committee papers) from Wanes Blades Road to Deans Lane, Lathom to the Definitive Map and Statement of a Bridleway, as shown on the Committee plan attached to the agenda papers between points A-B-C-D.

Committee were informed that the Committee report should have referred to the application being for 'restricted byway' rather than 'bridleway'. The Chair read out the definition of restricted byway from Annex A of the guidance. This did not affect the evidence considered in this matter.

Members were reminded that this application had been brought to the November 2022 Committee meeting but that Committee had deferred a decision on this to allow for a revised report to be presented, following the discovery of additional evidence. It was confirmed that the applicant had been informed that the application had been deferred.

A site inspection had been carried out in July 2021.

A variety of maps, plans and other documents had been examined to discover when the route came into being, and to try to determine what its status may be.



Committee were advised to consider the position balancing what the documentary evidence showed. It was of note that, in 1778-1779, the route was specifically referred to in the Inclosure Award as an intended private way or road and, thereafter, whilst the route was shown on numerous maps where the public might gain access to the route, there was an absence of 'sufficient evidence' as to public rights.

On balance and given the nature of the evidence, Committee were advised that the evidence of the application route having become a public route was insufficient and the recommendation was that no Order be made, based on the evidence available.

As the Committee report referred to bridleway and not restricted byway, an amended Recommendation was proposed and it was therefore:

Resolved: That the application for the addition of a restricted byway from Waness Blades Road to Deans Lane be not accepted.

10. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Recording Bridleway on First Terrace, Sunderland, Overton

The Chair informed Committee that a television programme 'Villages by the Sea' had been shown in August 2022, on which an archaeologist had revealed the story of Sunderland Point. The Chair would send a link out to Committee for their interest.

A report was presented on an application for the addition of bridleway and upgrading of footpath to bridleway along First Terrace, Sunderland, Overton on the Definitive Map and Statement of Public Rights of Way, as shown on the Committee plan attached to the agenda between points A-B-C-D.

A site inspection had been carried out in June 2022.

A variety of maps, plans and other documents had been examined to discover when the route came into being, and to try to determine what its status may be.

It was reported that between point A and point A1, the application route was recorded as a publicly maintainable highway on the 'Handover' Map. In 1929, the responsibility for district highways passed from rural district councils to the county council and 'Handover' maps had been drawn up to identify those highways within the county which were, immediately before the handover, maintainable by rural district councils as highway authorities.

The county council was required to maintain, under section 36 of the Highways Act 1980, an up-to-date List of Streets showing which 'streets' were maintainable at the public expense. The publicly maintainable highway (Main Street) referenced as route 2/133 was shown on the handover map ending at the mean high water mark. However, the mark was much closer to Gravel Cottage than on modern Ordnance Survey mapping which was used to show the extent of the adopted public highway records, which showed it as far as the modern day mean high water mark – which was approximately 40 metres shorter than the route recorded in 1929. For this reason, Lancashire County Council Highways team had been requested to update



their records to include this section of the application route A to A1, as part of the publicly maintainable vehicular highway (Main Street).

As previously reported, records were being updated to show that the route A-A1 was vehicular highway maintainable at public expense and no order was recommended in respect of this part of the application route.

Committee were advised to consider whether, on the balance of probability, the evidence showed that the application route at point A1-B had public bridleway rights and also whether, on the balance of probability, the evidence showed that the existing public footpath at point B-D ought to be shown as a public bridleway and that the Definitive Map and Statement required modification to reflect this.

Committee were also advised that the evidence was sufficient, on balance, to show that the application route from point A1-D had public bridleway rights. It was therefore recommended to make an Order as set out in the report's Recommendation and that it be promoted to confirmation.

Resolved:

- (i) That the application for the addition of a bridleway and upgrade of footpath to bridleway at First Terrace, Sunderland, in the Parish of Overton be accepted in part.
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(c)(i) and (ii) of the Wildlife and Countryside Act 1981 to record a bridleway on the Definitive Map and Statement of Public Rights of Way along First Terrace, Overton as shown on Committee Plan between points A1-B-C-D.
- (iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

11. Urgent Business

There were no items of Urgent Business.

12. Date of Next Meeting

Resolved: It was noted that the next meeting would be held at 10.30am on Wednesday 8th March 2023 in Committee Room B – The Diamond Jubilee Room, County Hall, Preston.

L Sales
Director of Corporate Services

County Hall
Preston



Regulatory Committee

Meeting to be held on 8th March 2023

Part I

Electoral Division affected:
(All Divisions);

Guidance for the members of the Regulatory Committee

(Annexes 'A','B' and 'C' refer)

Contact for further information: Jane Turner, 01772 32813, Office of the Chief Executive, jane.turner@lancashire.gov.uk

Brief Summary

Guidance on the law relating to the continuous review of the Definitive Map and Statement of Public Rights of Way and the law and actions taken by the authority in respect of certain Orders to be made under the Highways Act 1980 is presented for the information of the Committee.

Recommendation

The Committee is asked to note the current Guidance as set out in the attached Annexes and have reference to the relevant sections of it during consideration of any reports on the agenda.

Detail

In addition to any advice which may be given at meetings the members of the committee are also provided with Guidance on the law in relation to the various types of Order which may appear on an agenda.

A copy of the current Guidance on the law relating to the continuous review of the Definitive Map and Statement of Public Rights of Way is attached as Annex 'A'. Guidance on the law relating to certain Orders to be made under the Highways Act 1980 is attached as Annex 'B' and on the actions of the Authority on submission of Public Path Orders to the Secretary of State as Annex 'C'.

Consultations

N/A

Implications:



This item has the following implications, as indicated:

Risk management

Providing the members of the Committee with Guidance will assist them to consider the various reports which may be presented.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel
Current legislation		Jane Turner, Office of the Chief Executive 01772 32813

Reason for inclusion in Part II, if appropriate

N/A



Guidance on the law relating to the continuous review of the Definitive Map and Statement of Public Rights of Way

Definitions

The Wildlife and Countryside Act 1981 gives the following definitions of the public rights of way which are able to be recorded on the Definitive Map:-

Footpath – means a highway over which the public have a right of way on foot only, other than such a highway at the side of a public road; these rights are without prejudice to any other public rights over the way;

Bridleway – means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway; these rights are without prejudice to any other public rights over the way;

Restricted Byway – means a highway over which the public have a right of way on foot, on horseback or leading a horse and a right of way for vehicles other than mechanically propelled vehicles, with or without a right to drive animals along the highway.
(Mechanically propelled vehicles do not include vehicles in S189 Road Traffic Act 1988)

Byway open to all traffic (BOATs) – means a highway over which the public have a right of way for vehicular and all other kinds of traffic. These routes are recorded as Byways recognising their particular type of vehicular highway being routes whose character make them more likely to be used by walkers and horseriders because of them being more suitable for these types of uses;

Duty of the Surveying Authority

Section 53 of the Wildlife and Countryside Act 1981 provides that a Surveying Authority shall keep the Definitive Map and Statement under continuous review and as soon as reasonably practicable after the occurrence of any of a number of prescribed events by Order make such modifications to the Map and Statement as appear to them to be requisite in consequence of the occurrence of that event.

Orders following “evidential events”

The prescribed events include –

Sub Section (3)

- b) the expiration, in relation to any way in the area to which the Map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path or restricted byway;

- c) the discovery by the Authority of evidence which (when considered with all other relevant evidence available to them) shows –
- (i) that a right of way which is not shown in the Map and Statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, a byway open to all traffic; or
 - (ii) that a highway shown in the Map and Statement as a highway of a particular description ought to be there shown as a highway of a different description; or
 - (iii) that there is no public right of way over land shown in the Map and Statement as a highway of any description, or any other particulars contained in the Map and Statement require modification.

The modifications which may be made by an Order shall include the addition to the statement of particulars as to:-

- (a) the position and width of any public path or byway open to all traffic which is or is to be shown on the Map; and
- (b) any limitations or conditions affecting the public right of way thereover.

Orders following "legal events"

Other events include

"The coming into operation of any enactment or instrument or any other event" whereby a highway is stopped up diverted widened or extended or has ceased to be a highway of a particular description or has been created and a Modification Order can be made to amend the Definitive Map and Statement to reflect these legal events".

Since 6th April 2008 Diversion Orders, Creation Orders, Extinguishment Orders under the Highways Act 1980 (and other types of Orders) can themselves include provisions to alter the Definitive Map under the new S53A of the Wildlife and Countryside Act 1981 and be "combined orders" combining both the Order to divert and an order to alter the Map. The alteration to the Definitive Map will take place on the date the extinguishment, diversion or creation etc comes fully into effect.

Government Policy - DEFRA Circular 1/09

In considering the duty outlined above the Authority should have regard to the Department of the Environment Food and Rural Affairs' Rights of Way Circular (1/09). This replaces earlier Circulars.

This Circular sets out DEFRA's policy on public rights of way and its view of the law. It can be viewed on the DEFRA web site. There are sections in the circular on informing and liaising, managing and maintaining the rights of way network, the Orders under the

Highways Act 1980 and also sections on the Definitive Map and Modification Orders. Many aspects are considered such as -

When considering a deletion the Circular says - "4.33 The evidence needed to remove what is shown as a public right from such an authoritative record as the definitive map and statement – and this would equally apply to the downgrading of a way with “higher” rights to a way with “lower” rights, as well as complete deletion – will need to fulfil certain stringent requirements.

These are that:

- the evidence must be new – an order to remove a right of way cannot be founded simply on the re-examination of evidence known at the time the definitive map was surveyed and made.
- the evidence must be of sufficient substance to displace the presumption that the definitive map is correct;
- the evidence must be cogent.

While all three conditions must be met they will be assessed in the order listed.

Before deciding to make an order, authorities must take into consideration all other relevant evidence available to them concerning the status of the right of way and they must be satisfied that the evidence shows on the balance of probability that the map or statement should be modified."

Where a route is recorded on the List of Streets as an Unclassified County Road the Circular says – "4.42 In relation to an application under the 1981 Act to add a route to a definitive map of rights of way, the inclusion of an unclassified road on the 1980 Act list of highways maintained at public expense may provide evidence of vehicular rights.

However, this must be considered with all other relevant evidence in order to determine the nature and extent of those rights. It would be possible for a way described as an unclassified road on a list prepared under the 1980 Act, or elsewhere, to be added to a definitive map of public rights of way provided the route fulfils the criteria set out in Part III of the 1981 Act. However, authorities will need to examine the history of such routes and the rights that may exist over them on a case by case basis in order to determine their status."

Definitive Maps

The process for the preparation and revision of definitive maps was introduced by Part III of the National Parks and Access to the Countryside Act 1949.

Information about rights of way was compiled through surveys carried out by Parish Councils (or District Councils where there was no Parish Council) and transmitted to the Surveying Authority (County or County Borough Councils) in the form of Survey Maps and cards.

The Surveying Authority published a draft map and statement and there was a period for the making of representations and objections to the draft map. The Authority could

determine to modify the map, but if there was an objection to that modification the Authority was obliged to hold a hearing to determine whether or not to uphold that modification with a subsequent appeal to the Secretary of State against the decision.

After all appeals had been determined the Authority then published a Provisional Map and Statement. Owners, lessees or occupiers of land were entitled to appeal to Quarter Sessions (now the Crown Court) against the provisional map on various grounds.

Once this process had been completed the Authority published the Definitive Map and Statement. The Map and Statement was subject to five yearly reviews which followed the same stages.

The Map speaks as from a specific date (the relevant date) which is the date at which the rights of way shown on it were deemed to exist. For historic reasons different parts of the County have different Definitive Maps with different relevant dates, but for the major part of the County the Definitive Map was published in 1962, with a relevant date of the 1st January 1953 and the first review of the Definitive Map was published in 1975 with a relevant date of 1st September 1966.

Test to be applied when making an Order

The provisions of the Wildlife and Countryside Act 1981 set out the tests which must be addressed in deciding that the map should be altered.

S53 permits both upgrading and downgrading of highways and deletions from the map.

The statutory test at S53(3)(b) refers to the expiration of a period of time and use by the public such that a presumption of dedication is raised.

The statutory test at S53(3)(c)(i) comprises two separate questions, one of which must be answered in the affirmative before an Order is made under that subsection. There has to be evidence discovered. The claimed right of way has to be found on balance to subsist (Test A) or able to be reasonably alleged to subsist. (Test B).

This second test B is easier to satisfy but please note it is the higher Test A which needs to be satisfied in confirming a route.

The statutory test at S53(3)(c)(ii) again refers to the discovery of evidence that the highway on the definitive map ought to be shown as a different status.

The statutory test at S53(3)(c)(iii) again refers to evidence being discovered that there is no public right of way of any description after all or that there is evidence that particulars in the map of statement need to be modified.

The O'Keefe judgement reminds Order Making Authorities that they should make their own assessment of the evidence and not accept unquestioningly what officers place before them.

All evidence must be considered and weighed and a view taken on its relevance and effect.

An Order Making Authority should reach a conclusion on the balance of probabilities. The balance of probability test demands a comparative assessment of the evidence on opposing sides. This is a complex balancing act.

Recording a “new” route

For a route to have become a highway it must have been dedicated by the owner.

Once a route is a highway it remains a highway, even though it may fall into non use and perhaps become part of a garden.

This is the position until a legal event causing the highway to cease can be shown to have occurred, or the land on which the highway runs is destroyed, perhaps by erosion which would mean that the highway length ceases to exist.

Sometimes there is documentary evidence of actual dedication but more often a dedication can be inferred because of how the landowner appears to have treated the route and given it over to public use (dedication at Common law) or dedication can be deemed to have occurred if certain criteria laid down in Statute are fulfilled (dedication under s31 Highways Act).

Dedication able to be inferred at Common law

A common law dedication of a highway may be inferred if the evidence points clearly and unequivocally to an intention on the part of the landowner to dedicate. The burden of proof is on the Claimant to prove a dedication. Evidence of use of the route by the public and how an owner acted towards them is one of the factors which may be taken into account in deciding whether a path has been dedicated. No minimum period of use is necessary. All the circumstances must be taken into account. How a landowner viewed a route may also be indicated in documents and maps

However, a landowner may rely on a variety of evidence to indicate that he did not intend to dedicate, including signs indicating the way was private, blocking off the way or turning people off the path, or granting permission or accepting payment to use the path.

There is no need to know who a landowner was.

Use needs to be by the public. This would seem to require the users to be a number of people who together may sensibly be taken to represent the people as a whole/the local community. Use wholly or largely by local people may still be use by the public. Use of a way by trades people, postmen, estate workers or by employees of the landowner to get to work, or for the purpose of doing business with the landowner, or by agreement or licence of the landowner or on payment would not normally be sufficient. Use by friends of or persons known to the landowner would be less cogent evidence than use by other persons.

The use also needs to be “as of right” which would mean that it had to be open, not secretly or by force or with permission. Open use would arguably give the landowner the opportunity to challenge the use. Toleration by the landowner of a use is not inconsistent

with use as of right. Case law would indicate that the use has to be considered from the landowner's perspective as to whether the use, in all the circumstances, is such as to suggest to a reasonable landowner the exercise of a public right of way.

The use would have to be of a sufficient level for a landowner to have been aware of it. The use must be by such a number as might reasonably have been expected if the way had been unquestioningly a highway.

Current use (vehicular or otherwise) is not required for a route to be considered a Byway Open to All Traffic but past use by the public using vehicles will need to be sufficiently evidenced from which to infer the dedication of a vehicular route. Please note that the right to use mechanically propelled vehicles may since have been extinguished.

Dedication deemed to have taken place (Statutory test)

By virtue of Section 31 of the Highways Act 1980 dedication of a path as a highway may be presumed from use of the way by the public as of right – not secretly, not by force nor by permission without interruption for a full period of twenty years unless there is sufficient evidence that there was no intention during the twenty year period to dedicate it.

The 20 year period is computed back from the date the existence of the right of way is called into question.

A landowner may prevent a presumption of dedication arising by erecting notices indicating that the path is private. Further under Section 31(6) a landowner may deposit with the Highway Authority a map (of a scale of not less than 1:10560 (6 inches to the mile) and statement showing those ways, if any, which he or she agrees are dedicated as highways. This statement must be followed by statutory declarations. These statutory declarations used to have to be renewed at not more than 6 yearly intervals, but the interval is now 10 years. The declaration would state that no additional rights of way have been dedicated. These provisions do not preclude the other ways open to the landowner to show the way has not been dedicated.

If the criteria in section 31 are satisfied a highway can properly be deemed to have been dedicated. This deemed dedication is despite a landowner now protesting or being the one to now challenge the use as it is considered too late for him to now evidence his lack of intention when he had failed to do something to sufficiently evidence this during the previous twenty years.

The statutory presumption can arise in the absence of a known landowner. Once the correct type of user is proved on balance, the presumption arises, whether or not the landowner is known.

Guidance on the various elements of the Statutory criteria;-

- Use – see above as to sufficiency of use. The cogency, credibility and consistency of user evidence should be considered.
- By the public – see above as to users which may be considered “the public”.

- As of right - see above
- Without interruption - for a deemed dedication the use must have been without interruption. The route should not have been blocked with the intention of excluding the users.
- For a full period of twenty years - Use by different people, each for periods of less than twenty years will suffice if, taken together, they total a continuous period of twenty years or more. The period must end with the route being "called into question".
- Calling into question - there must be something done which is sufficient at least to make it likely that some of the users are made aware that the owner has challenged their right to use the way as a highway. Barriers, signage and challenges to users can all call a route into question. An application for a Modification Order is of itself sufficient to be a "calling into question" (as provided in the new statutory provisions S31 (7a and 7B) Highways Act 1980). It is not necessary that it be the landowner who brings the route into question.
- Sufficient evidence of a lack of intention to dedicate - this would not need to be evidenced for the whole of the twenty year period. It would be unlikely that lack of intention could be sufficiently evidenced in the absence of overt and contemporaneous acts on the part of the owner. The intention not to dedicate does have to be brought to the attention of the users of the route such that a reasonable user would be able to understand that the landowner was intending to disabuse him of the notion that the land was a public highway.

Documentary evidence

By virtue of Section 32 of the Highways Act 1980 in considering whether a highway has been dedicated, maps plans and histories of the locality are admissible as evidence and must be given such weight as is justified by the circumstances including the antiquity of the document, status of the persons by whom and the purpose for which the document was made or compiled and the custody from which it is produced.

In assessing whether or not a highway has been dedicated reference is commonly made to old commercial maps of the County, Ordnance Survey maps, sometimes private estate maps and other documents, other public documents such as Inclosure or Tithe Awards, plans deposited in connection with private Acts of Parliament establishing railways, canals or other public works, records compiled in connection with the valuation of land for the purposes of the assessment of increment value duty and the Finance Act 1910. Works of local history may also be relevant, as may be the records of predecessor highway authorities and the information gained in connection with the preparation and review of the Definitive Map.

It should be stressed that it is rare for a single document or piece of information to be conclusive (although some documents are of more value than others e.g. Inclosure Awards where the Commissioners were empowered to allot and set out highways). It is necessary to look at the evidence as a whole to see if it builds up a picture of the route being dedicated as a highway.

It should be noted that Ordnance Survey Maps (other than recent series which purport to show public rights of way and which derive their information from the Definitive Map) contain a disclaimer to the effect that the recording of a highway or right of way does not imply that it has any status. The maps reflect what the map makers found on the ground.

Synergy between pieces of highway status evidence – co-ordination as distinct from repetition would significantly increase the collective impact of the documents.

Recording vehicular rights

Historical evidence can indicate that a route carries vehicular rights and following the Bakewell Management case in 2004 (House of Lords) it is considered that vehicular rights could be acquired on routes by long use during years even since 1930. However, in May 2006 Part 6 of the Natural Environment and Rural Communities Act 2006 came into force. Public rights of way for mechanically propelled vehicles are now extinguished on routes shown on the definitive map as footpaths, bridleways or restricted byways unless one of eight exceptions applies. In essence mechanical vehicle rights no longer exist unless a route is recorded in a particular way on the Council's Definitive Map or List of Streets or one of the other exceptions apply. In effect the provisions of the Act curtail the future scope for applications to record a Byway Open to All Traffic to be successful.

The exceptions whereby mechanical vehicular rights are "saved" may be summarised as follows-

- 1) main lawful public use of the route 2001-2006 was use for mechanically propelled vehicles
- 2) that the route was not on the Definitive Map but was recorded on the List of Streets.
- 3) that the route was especially created to be a highway for mechanically propelled vehicles
- 4) that the route was constructed under statutory powers as a road intended for use by mechanically propelled vehicles
- 5) that the route was dedicated by use of mechanically propelled vehicles before December 1930
- 6) that a proper application was made before 20th January 2005 for a Modification Order to record the route as a Byway Open to All Traffic (BOAT)
- 7) that a Regulatory Committee had already made a decision re an application for a BOAT before 6th April 2006
- 8) that an application for a Modification Order has already been made before 6th April 2006 for a BOAT and at 6th April 2006 use of the way for mechanically propelled vehicles was reasonably necessary to enable that applicant to access land he has an interest in, even if not actually used.

It is certainly the case that any application to add a byway to the Definitive Map and Statement must still be processed and determined even though the outcome may now be that a vehicular public right of way existed before May 2006 but has been extinguished for mechanically propelled vehicles and that the route should be recorded as a restricted byway.

Downgrading a route or taking a route off the Definitive Map

In such matters it is clear that the evidence to be considered relates to whether on balance it is shown that a mistake was made when the right of way was first recorded.

In the Trevelyan case (Court of Appeal 2001) it was considered that where a right of way is marked on the Definitive Map there is an initial presumption that it exists. It should be assumed that the proper procedures were followed and thus evidence which made it reasonably arguable that it existed was available when it was put on the Map. The standard of proof required to justify a finding that no such right of way exists is on the balance of probabilities and evidence of some substance is required to outweigh the initial presumption.

Authorities will be aware of the need, as emphasised by the Court of Appeal, to maintain an authoritative Map and Statement of highest attainable accuracy. "The evidence needed to remove a public right from such an authoritative record will need to be cogent. The procedures for defining and recording public rights of way have, in successive legislation, been comprehensive and thorough. Whilst they do not preclude errors, particularly where recent research has uncovered previously unknown evidence, or where the review procedures have never been implemented, they would tend to suggest that it is unlikely that a large number of errors would have been perpetuated for up to 40 years without being questioned earlier."

Taking one route off and replacing it with an alternative

In some cases there will be no dispute that a public right of way exists between two points, but there will be one route shown on the definitive map which is claimed to be in error and an alternative route claimed to be the actual correct highway.

There is a need to consider whether, in accordance with section 53(3)(c)(i) a right of way is shown to subsist or is reasonably alleged to subsist and also, in accordance with section 53(3)(c)(iii) whether there is no public right of way on the other route.

The guidance published under the statutory provisions make it clear that the evidence to establish that a right of way should be removed from the authoritative record will need to be cogent. In the case of *R on the application of Leicestershire County Council v SSEFR* in 2003, Mr Justice Collins said that there "has to be a balance drawn between the existence of the definitive map and the route shown on it which would have to be removed and the evidence to support the placing on the map of, in effect a new right of way." "If there is doubt that there is sufficient evidence to show that the correct route is other than that shown on the map, then what is shown on the map must stay."

The court considered that if it could merely be found that it was reasonable to allege that the alternative existed, this would not be sufficient to remove what is shown on the map. It is advised that, unless in extraordinary circumstances, evidence of an alternative route which satisfied only the lower "Test B" (see page 4) would not be sufficiently cogent evidence to remove the existing recorded route from the map.

Confirming an Order

An Order is not effective until confirmed.

The County Council may confirm unopposed orders. If there are objections the Order is sent to the Secretary of State for determination. The County Council usually promotes its Orders and actively seeks confirmation by the Secretary of State.

Until recently it was thought that the test to be applied to confirm an Order was the same test as to make the order, which may have been under the lower Test B for the recording of a "new" route. However, the Honourable Mr Justice Evans-Lombe heard the matter of *Todd and Bradley v SSEFR* in May 2004 and on 22nd June 2004 decided that confirming an Order made under S53(3)(c)(i) "implies a revisiting by the authority or Secretary of State of the material upon which the original order was made with a view to subjecting it to a more stringent test at the confirmation stage." And that to confirm the Order the Secretary of State (or the authority) must be "satisfied of a case for the subsistence of the right of way in question on the balance of probabilities." i.e. that Test A is satisfied.

It is advised that there may be cases where an Order to record a new route can be made because there is sufficient evidence that a highway is reasonably alleged to subsist, but unless Committee also consider that there is enough evidence, on balance of probabilities, that the route can be said to exist, the Order may not be confirmed as an unopposed Order by the County Council. This would mean that an Order could be made, but not confirmed as unopposed, nor could confirmation actively be supported by the County Council should an opposed Order be submitted to the Secretary of State.

July 2009

Revised basic Guidance on the law relating to certain Orders to be made under the Highways Act 1980

- **Diversion Orders under s119**
- **Diversion Orders under s119A**
- **Diversion Orders under s119ZA**
- **Diversion Orders under s119B**
- **Diversion Orders under s119C**
- **Diversion Orders under s119D**
- **Extinguishment Orders under s118**
- **Extinguishment Orders under s118A**
- **Extinguishment Orders under s118ZA**
- **Extinguishment Orders under s118B**
- **Extinguishment Orders under s118C**
- **Creation Order under s26**

Committee members have received a copy of the relevant sections from the Highways Act 1980 (as amended). The following is to remind Members of the criteria for the making of the Orders and to offer some guidance.

DEFRA's Rights of Way Circular (1/09 version 2) sets out DEFRA's policy on public rights of way and its view of the law. It can be found on DEFRA's web site. Orders made under the Highways Act 1980 are considered in Section 5 where the Guidance says that "the statutory provisions for creating, diverting and extinguishing public rights of way in the Highways Act 1980 have been framed to protect both the public's rights and the interests of owners and occupiers. They also protect the interests of bodies such as statutory undertakers."

Often the legal test requires the Committee to be satisfied as to the expediency of something. It is suggested that for something to be expedient it is appropriate and suitable to the circumstances and may incline towards being of an advantage even if not particularly fair. Something which is expedient would seem to facilitate your achieving a desired end.

Whether something is as convenient or not substantially less convenient may need to be considered. It is suggested that convenient refers to being suitable and easy to use.

Under S40 of the Natural Environment and Rural Communities Act 2006, every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

Under Section 11 of the Countryside Act 1968 in the exercise of their functions relating to land under any enactment every Minister, government department and public body shall have regard to the desirability of conserving the natural beauty and amenity of the countryside.

Diversion Order s119

TO MAKE AN ORDER

To be satisfied that it is expedient in the interests of the owner, lessee or Occupier.

OR

To be satisfied that it is expedient in the interests of the public

To be satisfied that the Order will not alter a point of termination at all if it is a cul de sac route (ending at a beauty spot for example).

OR

If the route terminates at a highway to be satisfied that the termination point is only being moved to another point on the same highway or to another highway connected to it and the point is substantially as convenient to the public.

To have due regard to the needs of agriculture and forestry and the desirability of conserving flora, fauna and geological and physiographical features.

TO CONFIRM THE ORDER IF UNOPPOSED OR SEEK CONFIRMATION FROM THE SECRETARY OF STATE (AT A PUBLIC INQUIRY IF NECESSARY) IF THE ORDER IS OPPOSED

To be satisfied that it is expedient in the interests of the owner, lessee or occupier

OR

To be satisfied that it is expedient in the interests of the public

To be satisfied that the route will not be substantially less convenient to the public.

That it is expedient to confirm it having regard to the effect the diversion would have on public enjoyment of the path or way as a whole.

That it is expedient to confirm it having regard to the effect on land served by the existing right of way (compensation can be taken into account)

That it is expedient to confirm it having regard to the effect on the land over which the "new" section runs and any land held with it (compensation can be taken into account).

Also having regard to any material provision of any Rights of Way Improvement Plan.

To have due regard to the needs of agriculture and forestry and the desirability of conserving flora, fauna and geological and physiographical features.

That there is no apparatus belonging to or used by statutory undertakers under, in, upon, over, along or across the land crossed by the present definitive route unless the statutory undertakers have consented to the confirmation of the Order (consent not to be unreasonably withheld).

GUIDANCE

The point of termination being as substantially convenient is a matter of judgement subject to the test of reasonableness. Convenience would have its natural and ordinary meaning

and refer to such matters as whether the new point of termination facilitated the access of the highway network and accommodated user's normal use of the network.

That the diverted path is not substantially less convenient would mean convenience again being considered. The wording in the Statute allows the diversion to be slightly less convenient but it must not be substantially less so. The length of the diversion, difficulty of walking it, effect on users who may approach the diversion from different directions are factors to be considered.

The effect on public enjoyment of the whole route has to be considered. It would be possible that a proposed diversion may be as convenient but made the route less enjoyable (perhaps it was less scenic). Alternatively the diversion may give the route greater public enjoyment but be substantially less convenient (being less accessible or longer than the existing path).

In deciding whether it is expedient to confirm a public path diversion order in the exercise of the power conferred by section 119(6) of the 1980 Act, the decision-maker must have regard to the effect of the matters specified above (and any material provision of a rights of way improvement plan) and may have regard to any other relevant matter, including if appropriate the interests of the owner or occupier of the land over which the path currently passes, or the wider public interest. The expediency test therefore brings in having regard to various issues. This approach was confirmed as correct by the Court of Appeal this year (2021) in *The Open Spaces Society v Secretary of State for Environment, Food and Rural Affairs*.

It may be that the grounds to make an Order are satisfied but the Committee may be unhappy that the route can satisfy the confirmation test. It is suggested that in such circumstances the Order should be made but the Committee should consider deferring the decision on whether to confirm it (if there are no objections) or (if there are objections) whether to instruct officers not to even send the Order to the Secretary of State for confirmation or to instruct to submit the Order to the Secretary of State and promote the confirmation of same. The Council has a discretion whether to submit this type of Order to the Secretary of State. It is not obliged to just because it has made the Order.

Under amended provisions, the "new" section of route will "appear" on confirmation of the Order (or a set number of days thereafter) but the "old" route will remain until the new route is certified as fit for use. It would appear that the public could quickly have the use of a new section which is fit for use as soon as confirmed but if the new route is unfit for use for a long time, the old line of the Right of Way is still there for the public to use.

It is advised that when considering orders made under Section 119(6), whether the right of way will be/ will not be substantially less convenient to the public in consequence of the diversion, an equitable comparison between the existing and proposed routes can only be made by similarly disregarding any temporary circumstances preventing or diminishing the use of the existing route by the public. Therefore, in all cases where this test is to be applied, the convenience of the existing route is to be assessed as if the way were unobstructed and maintained to a standard suitable for those users who have the right to use it.

It would appear that a way created by a Diversion Order may follow an existing right of way for some but not most or all of its length.

The reference to having regard to needs of agriculture includes the breeding or keeping of horses.

Reference to having regard to the material provisions of the Rights of Way Improvement Plan refers to the RWIP prepared in June 2005. The full document is on the County Council's web site.

Diversion Orders under s119A

TO MAKE AN ORDER

To be satisfied that it is expedient in the interests of the safety of members of the public using or likely to use a footpath or bridleway which crosses a railway otherwise than by a tunnel or bridge

To be satisfied that the Order will not alter a point of termination at all if it is a cul de sac route (ending at a beauty spot for example).

OR

If the route terminates at a highway to be satisfied that the termination point is being moved to another point on the same highway or to another highway connected to it.

To have due regard to the needs of agriculture and forestry and the desirability of conserving flora, fauna and geological and physiographical features.

Whether the railway operator be required to maintain the diversion route.

Whether the rail operator enter into an agreement to defray or contribute towards compensation, expenses or barriers and signage, bringing the alternative route into fit condition.

TO CONFIRM AN ORDER IF UNOPPOSED OR SEEK CONFIRMATION FROM THE SECRETARY OF STATE (AT A PUBLIC INQUIRY IF NECESSARY) IF THE ORDER IS OPPOSED

To be satisfied that it is expedient to do so having regard to all the circumstances and in particular to –

Whether it is reasonably practicable to make the crossing safe for use by them public; and

What arrangements have been made for ensuring that any appropriate barriers and signs are erected and maintained.

A rail crossing diversion order shall not be confirmed unless statutory undertakers whose apparatus is affected have consented to the confirmation (such consent not to be unreasonably withheld).

GUIDANCE

The statutory provisions make it clear that the diversion can be onto land of another owner lessee or occupier

A change to the point of termination has to be onto a highway but the statutory provisions do not insist that the point has to be substantially as convenient (as is the requirement in S119).

The grounds for this type of diversion order refer to balancing the safety of continuing to use the level crossing and whether it could be made safe rather than divert the path. The information from the rail operator is therefore considered to be very important.

Diversion Orders under s119ZA

Diversion Orders under s119B

Diversion Orders under s119C

Diversion Orders under s119D

Guidance under these specific sections will be made available when required

Extinguishment Order under s118

TO MAKE AN ORDER

To be satisfied that it is expedient that the path be stopped up on the ground that the footpath or bridleway is not needed for public use.

To have due regard to the needs of agriculture and forestry and the desirability of conserving flora, fauna and geological and physiographical features.

TO CONFIRM THE ORDER IF UNOPPOSED OR SEEK CONFIRMATION FROM THE SECRETARY OF STATE (AT A PUBLIC INQUIRY IF NECESSARY) IF THE ORDER IS OPPOSED

To be satisfied that it is expedient to do so.

To have regard to the extent to which it appears that the path would be likely to be used by the public.

To have regard to the effect which the extinguishment would have as respects land served by the path (compensation can be taken into account).

Where the Order is linked with a Creation Order or a Diversion Order then the Authority or Inspector can have regard to the extent to which the Creation Order or Diversion Order would provide an alternative path.

That there is no apparatus belonging to or used by statutory undertakers under in, upon, over, along or across the land crossed by the present definitive route unless the statutory undertakers have consented to the confirmation of the Order (consent not to be unreasonably withheld).

GUIDANCE

Temporary circumstances preventing or diminishing the use of the path shall be disregarded. These include obstructions, which are likely to be removed. Trees and 4 feet

wide hedges have been held to be temporary and even an electricity sub station. Many obstructions seem therefore to be able to be disregarded but this does make it difficult to assess what the use of the path would be if the obstruction were not there.

To be satisfied that it is expedient to confirm means that other considerations other than use could be taken into account perhaps safety, perhaps cost.

An Order can be confirmed if it is thought that, despite the fact that it was likely to be used, it is not needed because of a convenient path nearby.

Councils are advised to take care to avoid creating a cul de sac when extinguishing only part of a way.

The reference to having regard to needs of agriculture includes the breeding or keeping of horses.

Extinguishment Orders under s118A

TO MAKE AN ORDER

An Order under this section can be made where it appears expedient to stop up a footpath or bridleway in the interests of the safety of members of the public using or likely to use a footpath or bridleway which crosses a railway, other than by tunnel or bridge.

TO CONFIRM AN ORDER IF UNOPPOSED OR SEEK CONFIRMATION FROM THE SECRETARY OF STATE (AT A PUBLIC INQUIRY IF NECESSARY) IF THE ORDER IS OPPOSED

The Order can be confirmed if satisfied that it is expedient to do so having regard to all the circumstances and in particular whether it is reasonably practicable to make the crossing safe for use by the public and what arrangements have been made for ensuring that, if the Order is confirmed, any appropriate barriers and signs are erected and maintained.

GUIDANCE

It is noted that there is not the same requirements as under S118 to consider need for the route. Instead it is safety which is the reason for the Order being made to close the right of way.

Extinguishment Orders under s118B

Section 118B enables footpaths, bridleways, restricted byways or byways open to all traffic to be extinguished permanently by two types of Special Extinguishment Order.

TO MAKE THE FIRST TYPE OF S118B ORDER

The highway concerned has to be in an area specially designated by the Secretary of State.

To be satisfied that it is expedient that the highway be extinguished for the purpose of preventing or reducing crime which would otherwise disrupt the life of the community.

To be satisfied that premises adjoining or adjacent to the highway are affected by high levels of crime and

That the existence of the highway is facilitating the persistent commission of criminal offences.

TO CONFIRM THE ORDER IF UNOPPOSED OR SEEK CONFIRMATION FROM THE SECRETARY OF STATE (AT A PUBLIC INQUIRY IF NECESSARY) IF THE ORDER IS OPPOSED

The Order can be confirmed if all the reasons for making the Order (above) are still satisfied and also

That it is expedient having regard to all circumstances

Also having regard to whether and to what extent the Order is consistent with any strategy for the reduction of crime and disorder prepared under S6 Crime and Disorder Act 1998 and

Having regard to the availability of a reasonably convenient alternative route or, if no such route is available, whether it would be reasonably practicable to divert the highway rather than stopping it up, and

Having regard to the effect the extinguishment would have as respects land served by the highway account being taken of the provisions available for compensation.

TO MAKE THE SECOND TYPE OF S118B ORDER

To be satisfied that the highway crosses land occupied for the purposes of a school.

That the extinguishment is expedient for the purpose of protecting the pupils or staff from violence or the threat of violence, harassment, alarm or distress arising from unlawful activity or any other risk to their health or safety arising from such activity.

TO CONFIRM THE ORDER IF UNOPPOSED OR SEEK CONFIRMATION FROM THE SECRETARY OF STATE (AT A PUBLIC INQUIRY IF NECESSARY) IF THE ORDER IS OPPOSED

The Order can be confirmed if all the reasons for making the Order (above) are still satisfied and also

That it is expedient having regard to all circumstances

That regard is had to any other measures that have been or could be taken for improving or maintaining the security of the school

That regard is had as to whether it is likely that the Order will result in a substantial improvement in that security

That regard is had to the availability of a reasonably convenient alternative route or, if no such route is available, whether it would be reasonably practicable to divert the highway rather than stopping it up, and

Having regard to the effect the extinguishment would have as respects land served by the highway account being taken of the provisions available for compensation.

GUIDANCE

Under S118B there are specific criteria to be satisfied before an Order can take effect and to remove a highway from the network of rights of way. It should be noted that an Order extinguishes the footpath (or other type of highway) permanently. Members of the Committee may also be aware of the power, since April 2006, of the Council to make Gating Orders whereby highway rights remain but subject to restrictions which are reviewed annually and will eventually be lifted.

Extinguishment Orders under s118ZA

Guidance under this section will be made available when required

Extinguishment Orders under s118C

Guidance under this section will be made available when required

Creation Order under s26

TO MAKE AN ORDER

To be satisfied that there is a need for the footpath or bridleway and

To be satisfied that it is expedient that the path be created

To have regard to the extent the path would add to the convenience or enjoyment of a substantial section of the public, or

To have regard to the extent the path would add to the convenience of persons resident in the area

To have regard to the effect on the rights of persons interested in the land, taking compensation provisions into account.

To have due regard to the needs of agriculture and forestry and the desirability of conserving flora, fauna and geological and physiographical features.

TO CONFIRM THE ORDER IF UNOPPOSED OR SEEK CONFIRMATION FROM THE SECRETARY OF STATE (AT A PUBLIC INQUIRY IF NECESSARY) IF THE ORDER IS OPPOSED

The same test as above.

GUIDANCE

Again there is convenience to consider.

There may also need to be some consensus as to what constitutes a substantial section of the public.

Persons interested in the land may include owners and tenants and maybe mortgagees.

The reference to having regard to needs of agriculture includes the breeding or keeping of horses.

Regulatory Committee
Meeting to be held on the 8th March 2023

Guidance on the actions to be taken following submission of a Public Path Order to the Secretary of State

Procedural step

Once an Order has been made it is advertised it may attract objections and representations. These are considered by the Authority and efforts made to get them withdrawn. If there are any objections or representations duly made and not subsequently withdrawn the Authority may -

1. Consider that information is now available or circumstances have changed such that the confirmation test would be difficult to satisfy and that the Order be not proceeded with;
2. Consider that the Order should be sent into the Secretary of State with the authority promoting the Order and submitting evidence and documentation according to which ever procedure the Secretary of State adopts to deal with the Order; or
3. Consider that the Order be sent to the Secretary of State with the authority taking a neutral stance as to confirmation

Recovery of Costs from an Applicant

The Authority may only charge a third party if it has power to do so. We can charge an applicant for a public path order but only up to a particular point in the procedure – in particular, once the Order is with the Secretary of State we cannot recharge the costs incurred promoting the Order at a public inquiry, hearing or by written representations.

The power to charge is found in the - **Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993/407**

Power to charge in respect of the making and confirmation of public path orders

(1) Where—

- (a) the owner, lessee or occupier of land or the operator of a railway requests an authority to make a public path order under section 26, 118, 118A, 119 or 119A of the 1980 Act, or
- (b) any person requests an authority to make a public path order under section 257 or 261(2) of the 1990 Act, and the authority comply with that request, they may impose on the person making the request any of the charges mentioned in paragraph (2) below.

(2) Those charges are—

(a) a charge in respect of the costs incurred in the making of the order; and

(b) a charge in respect of each of the following local advertisements, namely the local advertisements on the making, on the confirmation, and on the coming into operation or force, of the order.

Amount of charge

(1) Subject to paragraphs (2) and (3) below, the amount of a charge shall be at the authority's discretion.

(3) The amount of a charge in respect of any one of the local advertisements referred to in regulation 3(2)(b) shall not exceed the cost of placing one advertisement in one newspaper

Refund of charges

The authority shall, on application by the person who requested them to make the public path order, refund a charge where—

(a) they fail to confirm an unopposed order; or

(b) having received representations or objections which have been duly made, and have not been withdrawn, the authority fail to submit the public path order to the Secretary of State for confirmation, without the agreement of the person who requested the order; or

(c) the order requested was an order made under section 26 of the 1980 Act and proceedings preliminary to the confirmation of that order were not taken concurrently with proceedings preliminary to the confirmation of an order made under section 118 of the 1980 Act; or

(d) the public path order is not confirmed by the authority or, on submission to the Secretary of State, by him, on the ground that it was invalidly made.

Policy Guidance on these Regulations is found in Circular 11/1996. Administrative charges can be charged up to the point where the order is submitted for determination and thereafter for advertising the confirmation decision and any separate notice of the Order coming into operation or force.

Careful consideration of stance

Recently there has careful analysis of all the work officers do and the cost of these resources and how to best use the resources.

The above Regulations have been considered and it is advised that the test as to when an Order should be promoted be clarified and applied consistently.

It is advised that consideration needs to be given to whether the diversion is of such little or no real public benefit such that resources should not be allocated to promoting the Order once submitted although where there is no substantial disbenefits to the public the applicants be able to promote the Order themselves.

This is not the same as considering whether the Order can be confirmed as set out in the statute. It is consideration of what actions the Authority should take on submitting the Order. It is not an easy consideration but officers will be able to advise in each particular matter.

Regulatory Committee

Meeting to be held on 8 March 2023

Part I

Electoral Division affected:
All

Progress Report on Previous Committee Items

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Brief Summary

An update on the progress made in relation to matters previously considered by Committee.

Recommendation

The Committee is asked to note the progress report.

Background

At the Regulatory Committee meeting held on 16th September 2020, Members asked whether it would be possible to be updated on the progress made in relation to matters previously presented to them.

At Committee's meeting on 25th January 2023, a report detailing the progress on all applications – including public path diversions, creations and extinguishments - had been scheduled. However, due to staff shortages, it was noted that the full list would be presented at the March meeting and thereafter, at the first Committee meeting of every calendar year.

A summary of the current progress on all Definitive Map Modification Order applications is provided below, including an update on those matters which have progressed since the last update report. This data was extracted from the statutory register on the 13th day of February 2023. The register can be viewed at <https://dmmo.lancashire.gov.uk/>

It should be noted that although the term 'applications' has been used for convenience these are not all formal applications made under Schedule 14 of the Wildlife and Countryside Act 1981 but include some cases where sufficient evidence has been discovered or presented to the county council to indicate an investigation is appropriate.

Definitive Map Modification Order Applications Added to the Register Since Last Committee

These applications have been added to the statutory register since the last update report was presented to the Committee.

Reference	Known As	Status Applied For	Application Date
804-762	Norman Road, Oswaldtwistle	Footpath	12/12/2022
804-763	Main Street, Wray	Footpath	19/12/2022

Definitive Map Modification Order Applications Awaiting Consideration by Committee

These applications have been submitted to the council and are awaiting consideration by the Regulatory Committee.

Reference	Known As	Status to be Recorded	Application Date
804-146	Cheshire Lines	Bridleway	18/12/1986
804-332	Sainsbury Deepdale	Footpath	05/01/1998
804-360	Old Tram Bridge	Bridleway	24/08/1999
804-448	Whitworth BW	Bridleway	01/01/2001
804-404	Fishwick golf course	Footpath	20/07/2003
804-405	Bazil Point	Footpath	04/09/2003
804-419	Missing link Walton-le-Dale	Footpath	26/08/2005
804-432	Piggy Lane	Footpath	21/12/2005
804-457	Hullet Hall South	Footpath	19/10/2006
804-458	Hullet Hall North	Footpath	19/10/2006
804-456	Owlet Hall Farm	Byway Open to All Traffic	19/10/2006
804-492	Horncliffe View	Footpath	07/11/2008
804-499	Width of BW 17 Halsall	Bridleway	01/09/2009
804-553	Field House	Footpath	20/02/2014
804-573	Botton Head	Footpath	10/10/2016
804-332(B)	Sainsbury Deepdale	Footpath	10/10/2016
804-382	Cumeragh Lane	Footpath	10/10/2016
804-588	Coppull 30/31	Footpath	28/07/2017
804-594	Old Clay Lane	Footpath	14/02/2018
804-596	Burnley Road and 14-1-FP378	Footpath	12/06/2018
804-603	Weir Lodges, Bacup	Footpath	22/10/2018
804-606	Sandy Lane, Aughton	Footpath	08/03/2019
804-613	Middle Gill Footpath	Footpath	04/12/2019
804-616	Croston Close Road	Footpath	04/02/2020
804-617	Deletion at Browns Houses	Footpath	25/03/2020
804-619	Hall Lane, Longton	Bridleway	30/04/2020

804-622	Hardman Close, Rossendale.	Footpath	02/05/2020
804-621	Park Street, Brierfield	No Application Form Yet	11/05/2020
804-626	Watery Lane, Hoole	Bridleway	20/05/2020
804-629	Proctor Moss Road	Restricted Byway	22/05/2020
804-631	Little Hoole Track FP8	Bridleway	23/05/2020
804-632	Altcar Lane and Tithe Barn Lane	Bridleway	26/05/2020
804-630	Green Lane, Leck	Bridleway	26/05/2020
804-634	Green Lane, Beaumont	Restricted Byway	03/06/2020
804-636	Sandy Lane, Tatham Fells	Bridleway	08/06/2020
804-637	Shaw's Lane Pilling	Bridleway	12/06/2020
804-638	Park Side School Lane, Tatham	Bridleway	12/06/2020
804-639	Kitshaw Lane, Tatham	Bridleway	16/06/2020
804-640	Ned's Lane, Pilling	Bridleway	18/06/2020
804-646	Crook Dale Lane	Bridleway	21/06/2020
804-641	Aspen Lane, Oswaldtwistle	Footpath	23/06/2020
804-650	Wood Yard	Bridleway	02/07/2020
804-644	Far Lodge Lane, Quernmore	Bridleway	10/07/2020
804-647	Cragg Lane	Bridleway	21/07/2020
804-645	Bank Top Lane	Bridleway	23/07/2020
804-649	Braiddale Bank Lane	Bridleway	27/07/2020
804-651	Threagill Lane Warton	Bridleway	14/08/2020
804-654	Wrayton Old Road	Bridleway	24/08/2020
804-655	First Terrace, Sunderland Point	Bridleway	07/09/2020
804-656	Holleth Lane, Forton	Bridleway	16/09/2020
804-657	Sands Lane, Over Kellet	Bridleway	23/09/2020
804-659	Harris Park	Footpath	16/10/2020
804-661	Ashton Lane, Out Rawcliffe	Restricted Byway	26/10/2020
804-662	Westby Lane, Out Rawcliffe	Bridleway	26/10/2020
804-660	Broad Lane, Out Rawcliffe	Restricted Byway	26/10/2020
804-664	Skipton Road, Trawden	Footpath	11/11/2020
804-666	Hornbys Lane, Out Rawcliffe	Bridleway	30/11/2020
804-667	Alder Lane, Out Rawcliffe	Bridleway	30/11/2020
804-665	Hales Rushes Road, Out Rawcliffe	Bridleway	30/11/2020
804-679	Millhouses Road, Wray with Botton	Footpath	04/12/2020
804-680	Tatham Rectory, Tatham	Footpath	04/12/2020
804-686	Moss Lane, South Ribble	Bridleway	27/12/2020
804-684	Lodge Lane, South Ribble	Bridleway	27/12/2020
804-681	Bannister Lane, South Ribble	Bridleway	27/12/2020
804-685	Flensburg Way Track, South Ribble	Bridleway	27/12/2020
804-687	Napthal Crossing, South Ribble	Bridleway	27/12/2020
804-683	Brooks Lane, South Ribble	Bridleway	27/12/2020
804-688	Parker Lane, South Ribble	Bridleway	27/12/2020
804-682	Napthal Lane, South Ribble	Bridleway	27/12/2020
804-690	A59 Tarleton	Footpath	11/01/2021
804-692	Holt Mill Road to Lenches Road	Bridleway	14/01/2021
804-693	Harry Barn Lane	Bridleway	25/01/2021
804-694	Roman Road, Burrow Leck	Bridleway	05/02/2021
804-696	Wham's Lane, Morecambe	Bridleway	08/02/2021

804-695	Out Moss Lane Morecambe	Bridleway	10/02/2021
804-700	Calderstone Drive	Addition of Footpath	03/03/2021
804-698	Lingart Lane, Barnacre with Bonds	Bridleway	09/03/2021
804-703	Moss Gate Lane, Heysham	Bridleway	06/04/2021
804-702	Moss Lane, Heaton with Oxcliffe	Restricted Byway	06/04/2021
804-704	Clay Lane	Bridleway	07/04/2021
804-705	Sandy Lane, Mawdesley	Restricted Byway	09/04/2021
804-706	Wood Lane, Hoscar	Bridleway	10/04/2021
804-707	Dark Lane, Sills Farm	Restricted Byway	16/04/2021
804-708	Old Coal Staithes, Read	Bridleway	19/04/2021
804-709	Lady Alice's Drive	Bridleway	03/05/2021
804-710	Old Road, Chatburn	Footpath	04/05/2021
804-711	Eyes Lane, Newburgh	Bridleway	23/05/2021
804-713	Brick Kiln Ln, and Sluice Ln, Rufford	Restricted Byway	16/06/2021
804-714	New House Farm, Burscough	Bridleway	17/06/2021
804-715	Back Moss Lane, Burscough	Restricted Byway	17/06/2021
804-716	Lamorna, Red Cat Ln, Burscough	Bridleway	24/06/2021
804-717	Rose Mount	Footpath	08/07/2021
804-719	Boundary Lane (South), Rufford	Restricted Byway	03/08/2021
804-720	Boundary Lane (North), Rufford	Byway Open to All Traffic	03/08/2021
804-721	Tannersmith Lane to Wrennels Lane	Bridleway	15/08/2021
804-724	Cragg Hall, Tatham	Footpath	17/08/2021
804-722	Sollom Lane, Rufford	Bridleway	21/08/2021
804-723	Whitley Road	Byway Open to All Traffic	24/08/2021
804-726	Cotton Tree Lane	Footpath	13/09/2021
804-725	Chorley Road to 9-3-FP 7	Footpath	17/09/2021
804-729	Lenches Road, Colne	Bridleway	25/09/2021
804-730	Long Lane, Hoghton	Bridleway	22/10/2021
804-731	Ridley Lane	Bridleway	02/11/2021
804-732	Pump House Lane	Bridleway	02/11/2021
804-734	Finney Lane, Croston	Restricted Byway	05/02/2022
804-738	High Lane, Croston Moss	Restricted Byway	06/02/2022
804-736	Cottage Lane, Croston	Restricted Byway	06/02/2022
804-737	Green lane, Croston Moss	Restricted Byway	06/02/2022
804-735	Shepherd's Lane, Croston	Restricted Byway	06/02/2022
804-739	Moor Head	Bridleway	21/02/2022
804-740	Meeting House and Borwicks	Bridleway	21/02/2022
804-741	Vicarage Fold, Wiswell	Footpath	01/03/2022
804-742	Cockerham Crossing, Winmarleigh	Bridleway	07/03/2022
804-743	Sands Bottom, Nether Wyresdale	Adding Bridleway	07/03/2022
804-745	Reservoir Rd to Burns, Barnacre	Bridleway	14/03/2022
804-746	Green Lane, Morecambe	Bridleway	21/03/2022
804-747	Lock Bridge Lane	Bridleway	24/03/2022
804-748	Hemers lane, Caton	Bridleway	29/03/2022
804-749	Forge Mill Lane, Caton	Bridleway	29/03/2022
804-750	High Moor Lane, Caton	Bridleway	29/03/2022
804-755	Millennium Green	Footpath	24/06/2022
804-751	Poolfoot Lane through Grange Farm	Bridleway	02/08/2022

804-757	Heathy Lane, Downholland	Footpath	05/08/2022
804-756	Fine Jane Brook Halsall	Bridleway	05/08/2022
804-758	Gorse Lane, Downholland	Byway Open to All Traffic	05/08/2022
804-752	Plex Moss Lane	Byway Open to All Traffic	09/08/2022
804-753	Engine lane, Great Altcar	Bridleway	22/08/2022
804-754	Acres lane, Great Altcar	Bridleway	22/08/2022
804-759	Starrick Track, Priest Hutton	Footpath	23/09/2022
804-760	Douglas Bank Boatyard	Footpath	03/10/2022
804-761	Sandy Hall Lane, Barrowford	Bridleway	08/12/2022

Definitive Map Modification Order Applications Where a Decision has Been Taken to Make an Order but the Order has not yet Been Made

Committee has made a decision to make an Order for these applications and the Orders are yet to be made.

Reference	Known As	Status to be Recorded	Application Date
804-340	Broughton 6	Footpath	03/06/1988
804-558	Long Ing	Footpath	23/07/2014
804-589	Law Head	Bridleway	25/08/2017
804-633	Snape Lane	Restricted Byway	27/05/2020
804-699	Watling Street, Glencourse Drive	Footpath	02/11/2020
804-663	Hall Lane and Mill Lane, Leyland	Bridleway	09/11/2020
804-691	Farington Hall Wood	Footpath	08/01/2021

Definitive Map Modification Order Applications Where a Decision has Been Taken not to Make an Order, Notice of the Decision Needs to be Served

Committee has made a decision not to make an Order for this application, the decision notices now need to be served.

Reference	Known As	Status to be Recorded	Application Date
804-701	Hobsons Lane, Over Kellet	Footpath	04/12/2020

Definitive Map Modification Order Applications Where a Decision has Been Taken not to Make an Order, Notice of the decision has Been Served and the Window for Appeal against that decision is Now Open

Committee has made a decision not to make an Order for these applications, the decision notices have been served and the window for the applicant to appeal is now open.

Reference	Known As	Status to be Recorded	Application Date
804-701	Rakes Head Lane, Slyne with Hest	Bridleway	05/03/2021
804-712	Wanes Blades Road, Hoscar	Restricted Byway	16/01/2021

Definitive Map Modification Order Applications awaiting Confirmation

Committee has made a decision for these applications, the Orders have been made and Notices of Making served, no objection has been received and the Orders are currently awaiting confirmation.

Reference	Known As	Status to be Recorded	Application Date
804-744	Holme Lane, Rawtenstall	Bridleway	08/03/2022

Definitive Map Modification Order Submitted to the Planning Inspectorate

Committee has decided these applications, the Orders have been made and statutory objections or representations have been received. They are now with the Planning Inspectorate for determination.

Reference	Known As	Status to be Recorded	Application Date
804-505	Spendmore Lane, Coppull	Footpath	14/12/2009
804-529	Banks, Ralph's Wife's Lane	Footpath	12/07/2012

Definitive Map Modification Order Applications Awaiting Submission to the Planning Inspectorate

Committee has decided these applications, the Orders have been made and statutory objections or representations received. They are now awaiting submission to the Planning Inspectorate for determination.

Reference	Known As	Status to be Recorded	Application Date
804-379a	Ingol Golf Course 1	Footpath	11/12/2000
804-379b	Ingol Golf Course 2	Footpath	11/12/2000
804-379e	Ingol Golf Course 5	Footpath	11/12/2000
804-421	Loveclough	Footpath	15/03/2005
804-454	Kellett Lane to Ranglet Road	Footpath	04/09/2006
804-465	Salterforth Lane	Bridleway	01/05/2007
804-466	St Joe's	Footpath	25/07/2007
804-473	Melbourne social club	Footpath	26/11/2007
804-491	Newburgh	Footpath	02/10/2008
804-478	Ball House Lane	Bridleway	28/11/2008
804-494	Stoops Hill	Restricted Byway	12/01/2009
804-496	Moorside School, Barton Road	Footpath	26/05/2009
804-498	Preston Grasshoppers	Footpath	05/08/2009
804-500	Chapel Lane	Footpath	10/09/2009
804-507	Dark Lane Earby	Bridleway	02/12/2009
804-509	Nans Bucks Thurnham	Footpath	01/02/2010
804-517	Clitheroe Grammar	Footpath	08/08/2011
804-527	Banks	Footpath	12/07/2012
804-531	Banks	Footpath	12/07/2012
804-530	Banks	Footpath	12/07/2012
804-528	Banks	Footpath	12/07/2012
804-526	Banks	Footpath	12/07/2012

804-540	Buckhurst Road	Bridleway	23/11/2012
804-542	Coronation Field	Footpath	07/12/2012
804-541	Coronation Field	Footpath	07/12/2012
804-543	Coronation Field	Footpath	07/12/2012
804-544	Sandy Brook	Footpath	08/02/2013
804-546	Union Road	Footpath	28/08/2013
804-547	Sales's Lane	Bridleway	18/09/2013
804-550	Friends Meeting House	Footpath	17/01/2014
804-555	Glasson Basin	Footpath	18/02/2014
804-557	Ormerod Street - Gamble Road	Footpath	05/06/2014
804-561	Upgrade PF 21 Wrightington	Bridleway	17/12/2014
804-518	New Loveclough	Footpath	14/01/2015
804-563	Penwortham Girls School	Footpath	15/04/2015
804-566	Mount Pleasant, Bolton le Sands	Bridleway	01/06/2015
804-565	Wiswell Moor	Bridleway	10/06/2015
804-579	Guy Street	Footpath	22/04/2016
804-582	Wellbrow Drive	Footpath	26/09/2016
804-591	Lathom High School, Skelm	Restricted Byway	11/09/2017
804-592	Aldcliffe Hall Drive	Restricted Byway	03/01/2018
804-600	Ayrefield Road, Upholland	Footpath	03/07/2018
804-607	Six Acre Lane	Bridleway	14/05/2019
804-614	Stubbins Halt	Footpath	21/12/2019
804-620	Wennington Road, Wray	Footpath	30/04/2020
804-625	Haunders Lane, Much Hoole	Bridleway	20/05/2020
804-627	Liverpool Road, Much Hoole	Bridleway	21/05/2020
804-642	Lord's Lot Road	Bridleway	06/07/2020
804-653	Moss Lane, Overton	Bridleway	20/08/2020
804-658	Grane Road, Rossendale	Footpath	10/09/2020
804-727	Sod Hall Lane, New Longton	Restricted Byway	28/09/2021
804-728	Hodder Street, Accrington	Footpath	13/10/2021

**Local Government (Access to Information) Act 1985
List of Background Papers**

Paper	Date	Contact/Directorate/Tel
None		
Reason for inclusion in Part II, if appropriate		
N/A		



Regulatory Committee

Meeting to be held on 8 March 2023

Part I

Electoral Division affected:
Chorley Rural West

Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Bridleway from Nixon Lane to Willow Road along Pump House Lane, Ulnes Walton
(Annex 'A' refers)

Contact for further information quoting file reference 804-732:
Annabel Mayson, 01772 533244, Paralegal Officer, County Secretary and Solicitors Group, annabel.mayson@lancashire.gov.uk
Jayne Elliott, 01772 537663, Public Rights of Way Definitive Map Officer, Planning and Environment Group, jayne.elliott@lancashire.gov.uk

Brief Summary

Application for the addition of a Bridleway from Nixon Lane to Willow Road along Pump House Lane, Ulnes Walton to the Definitive Map and Statement of Public Rights of Way for Lancashire.

Recommendation

That the application for a bridleway along Pump House Lane to the Definitive Map and Statement of Public Rights of Way be not accepted.

Background

An application under Schedule 14 of the Wildlife and Countryside Act 1981 has been received for the addition of a bridleway from Nixon Lane to Willow Road along Pump House Lane on the Definitive Map and Statement of Public Rights of Way of Lancashire.

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 will only be made to add a public right of way to the Definitive Map and Statement if the evidence shows that:

- A right of way “subsists” or is “reasonably alleged to subsist”

An order for adding a way to or upgrading a way shown on the Definitive Map and Statement will be made if the evidence shows 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 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

Chorley Borough Council provided no response to consultation.

Ulnes Walton Parish Council

Ulnes Walton Parish Council provided no response to consultation.

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 – 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	5092 2170	Junction with Nixon Lane U5809
B	5066 2163	T junction of tracks
C	5069 2118	Ninety degree bend in route
D	5051 2113	Ninety degree bend in route
E	5056 2102	Junction with un-named road over which bridleway rights have been applied for (application 804-731)
F	5069 2074	Junction with Willow Road (unadopted)
G	5074 2074	Junction with western end of adopted section of Willow Road U47574

Description of Route

A site inspection was carried out in February 2022.

The application route starts at the western end of the publicly maintainable section of Nixon Lane where it passes through two large concrete gateposts (no gate) (point A on the Committee plan).

The route extends in a westerly direction along a compact earth and stone track approximately 4 metres wide and bounded by grass verges and hedges on either side. The bounded strip within which the track lies averages approximately 12 metres wide and the track is potholed with evidence of use by farm vehicles accessing the adjacent fields and buildings.

After approximately 265 metres the route turns through a ninety degree bend (point B) at the point where another track continues in a general westerly direction through a gateway towards some buildings. The application route itself continues in a generally southerly direction still as a compacted earth and stone track bounded by hedges from the adjacent land with gated access from the route into the fields.

After approximately 450 metres the route turns to continue west (point C) for a further 190 metres and then turns again to continue south-east (point D), still as a bounded track for 130 metres to the junction with a route which leads through to Ridley Lane (point E) and for which an application for bridleway has also been made).

From this junction the application route continues a further 295 metres south-east fenced on the western side from land forming part of Wymott prison farm through to where it meets Willow Road (point F) and turns east to continue along the tarmac roadway to the (unmarked) point approximately 50 metres along Willow Road to the point at which the adopted section of Willow Road starts just to the west of the junction with Wray Crescent.

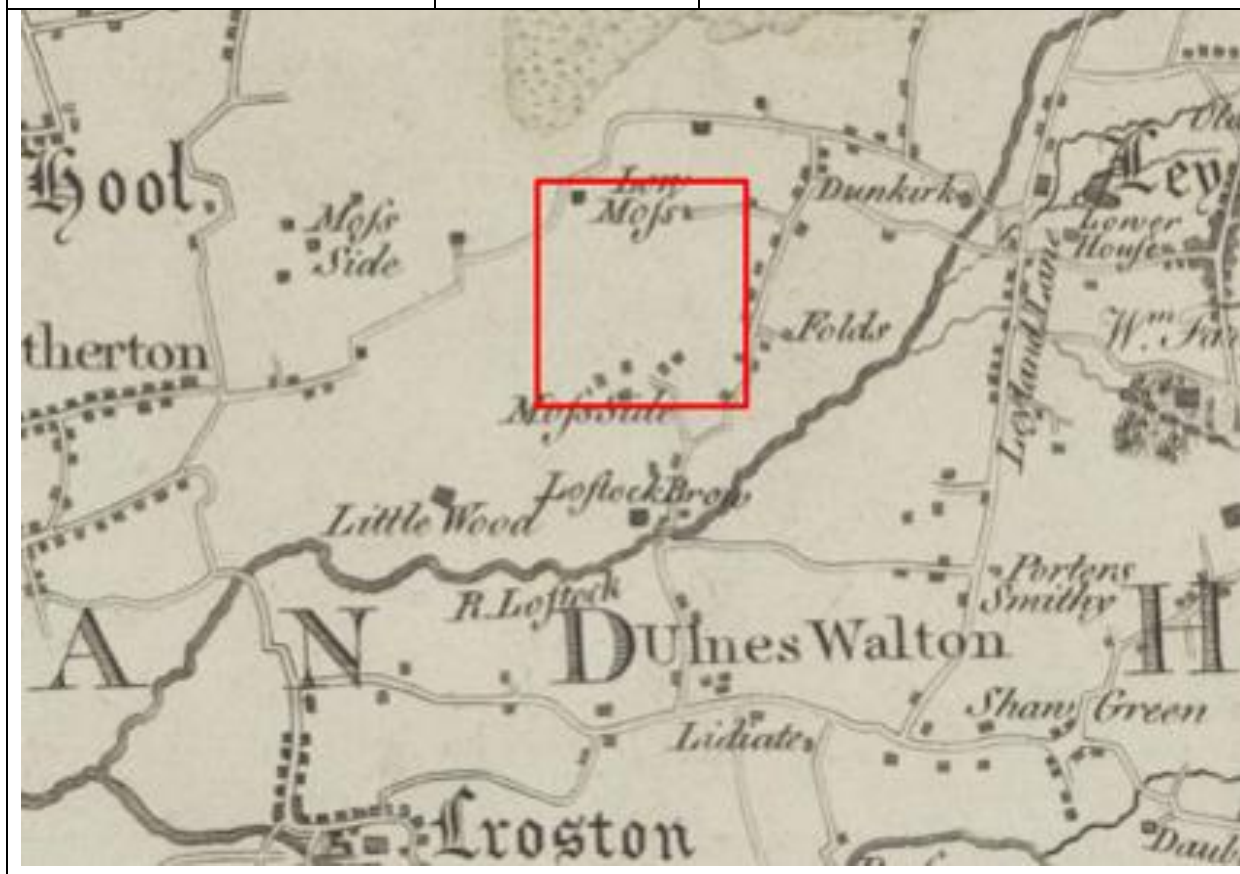
The total length of the route is 1.4 kilometres. It is open and accessible and on the day that the route was inspected people were seen walking and cycling along it. There was also evidence of recent equestrian use (hoof prints) and no signs evident suggesting that the route was considered to be public or private.

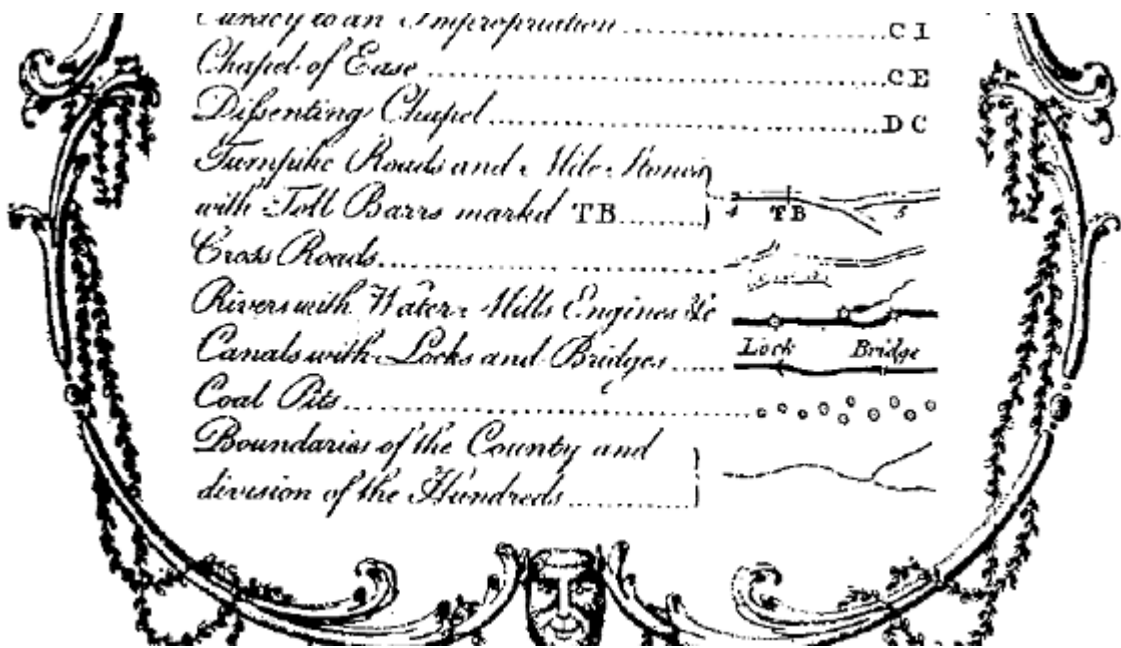


Map and Documentary Evidence

A variety of maps, plans and other documents were examined to discover when the route came into being, and to try to determine what its status may be.

Document Title	Date	Brief Description of Document & Nature of Evidence
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.





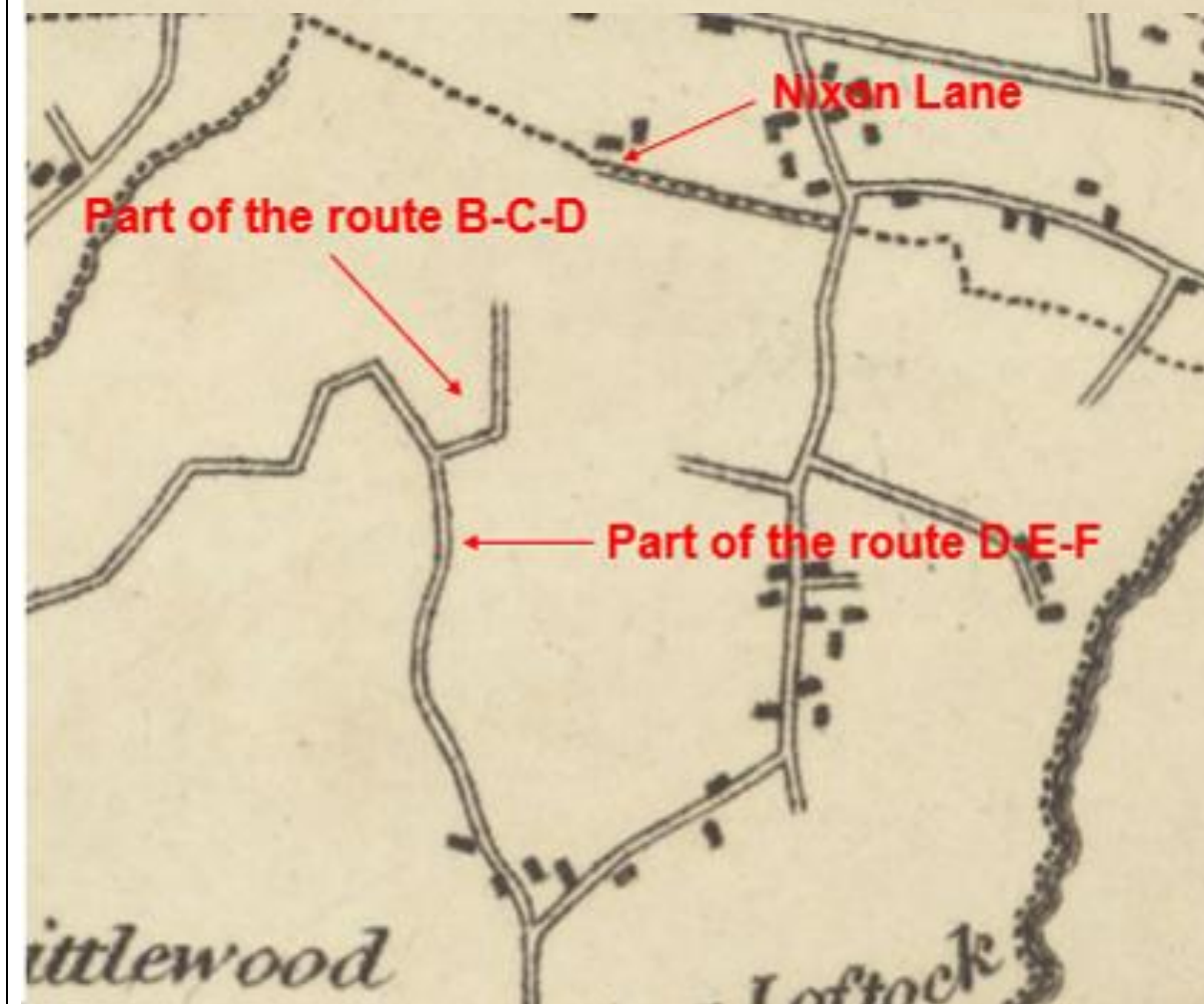
<p>Observations</p>	<p>A route consistent with Nixon Lane is shown as a cross road leading from Ulmes Walton Lane passing a building marked on the First Edition 6 inch OS map (detailed later in the report) as 'Nixons' and continuing through point A to point B where another building is shown next to Low Moss. The rest of the application route is</p>
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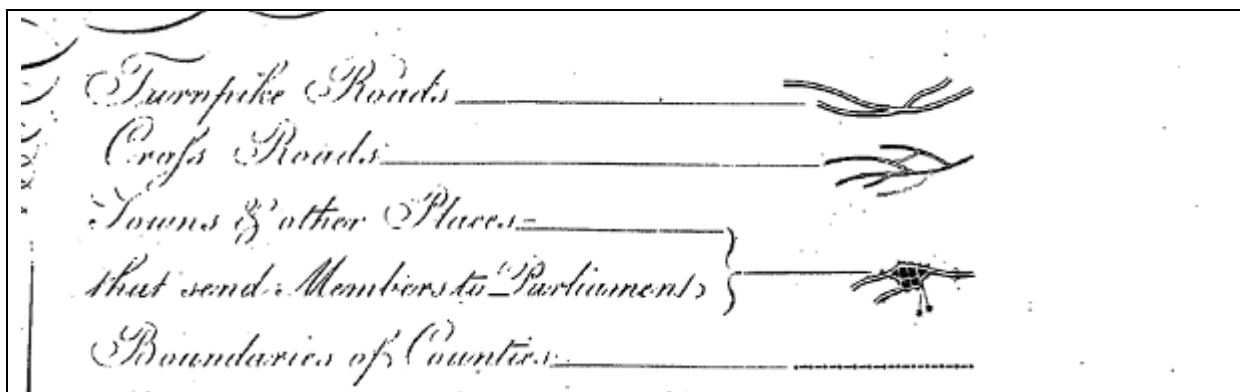


Investigating Officer's Comments		not shown. The application route between point A and point B existed in 1786 as part of a longer route extending west from Ulnes Walton Lane (a public vehicular highway) through to point B. It is not known what is meant by the term 'cross road' but the only other category of highway shown on the map is turnpike roads and the fact that the route A-B is shown on the map suggests that it would have been capable of being used at least on horseback at that time. The rest of the application route is not shown. It may be that the route beyond point B did not exist in 1786 or it may have been that Yates did not consider it to be a public highway or that the land crossed by the route was not surveyed.
Smith's Map of Lancashire	1804	Charles Smith was a London engraver and map seller. His map of Lancashire appeared as a single sheet in 1801 and then between 1804 and 1846 was published in subsequent editions of the New English Atlas. His map was similar to Cary's Map of Lancashire dated 1789 but is not a direct copy. It is thought that Smith and Cary used common sources, especially Yates' survey, and since both were aiming at the same market, the increasing number of private and commercial travellers, it is not considered surprising that they produced similar maps.

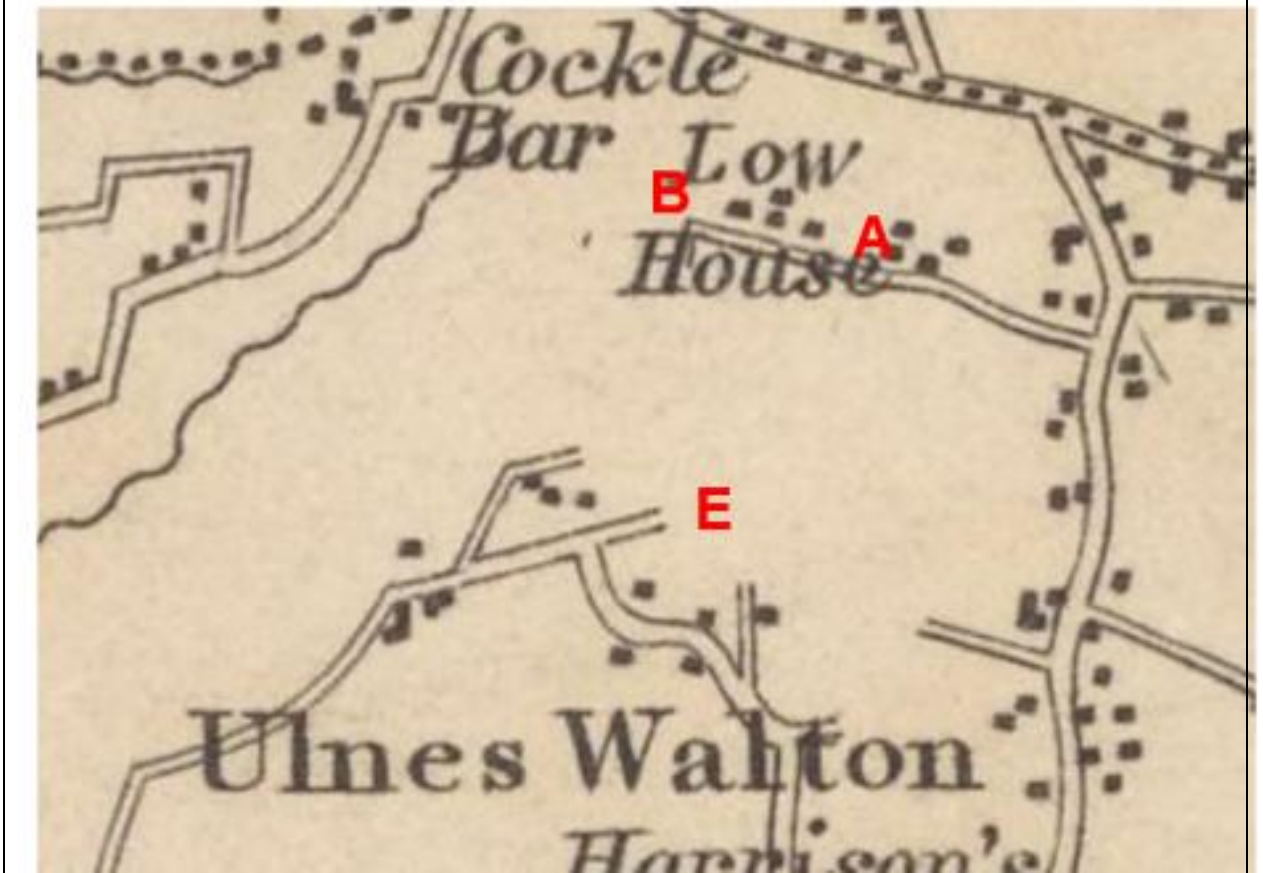


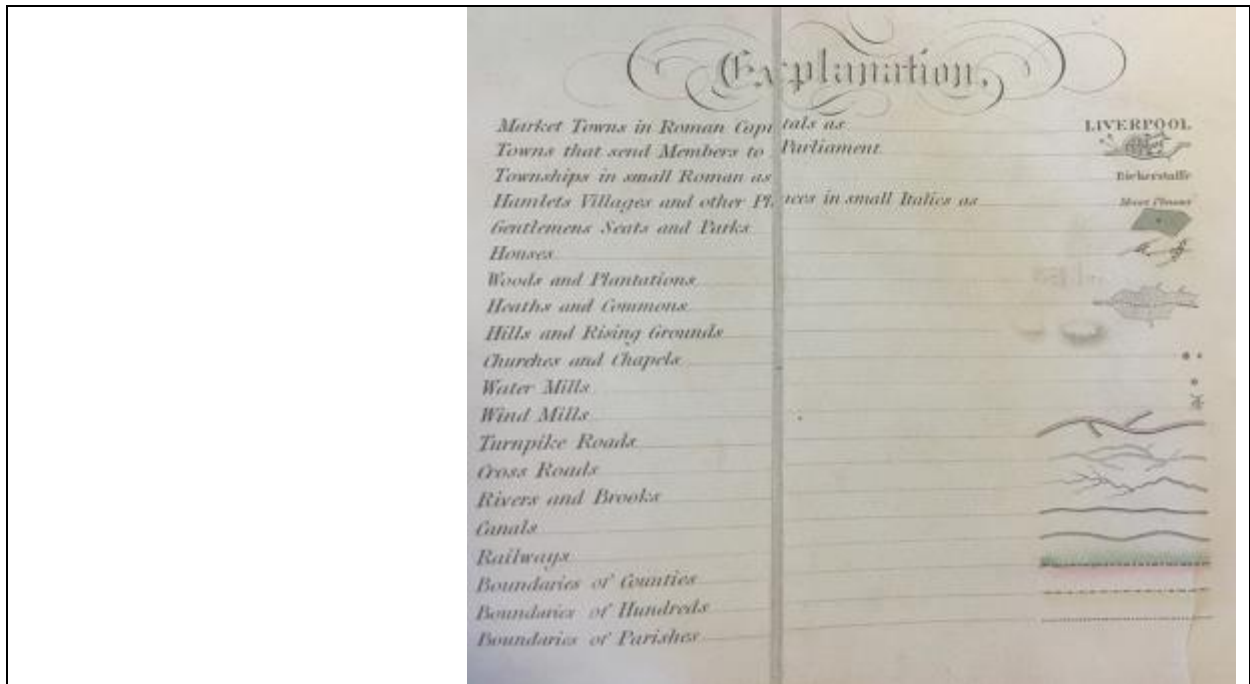
Observations		The application route is not shown although buildings are shown at the northern end in the area of Nixon Lane (A-B).
Investigating Officer's Comments		The application route may not have existed in 1804 or if it did exist was not considered to be a significant public through route by Smith.
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.





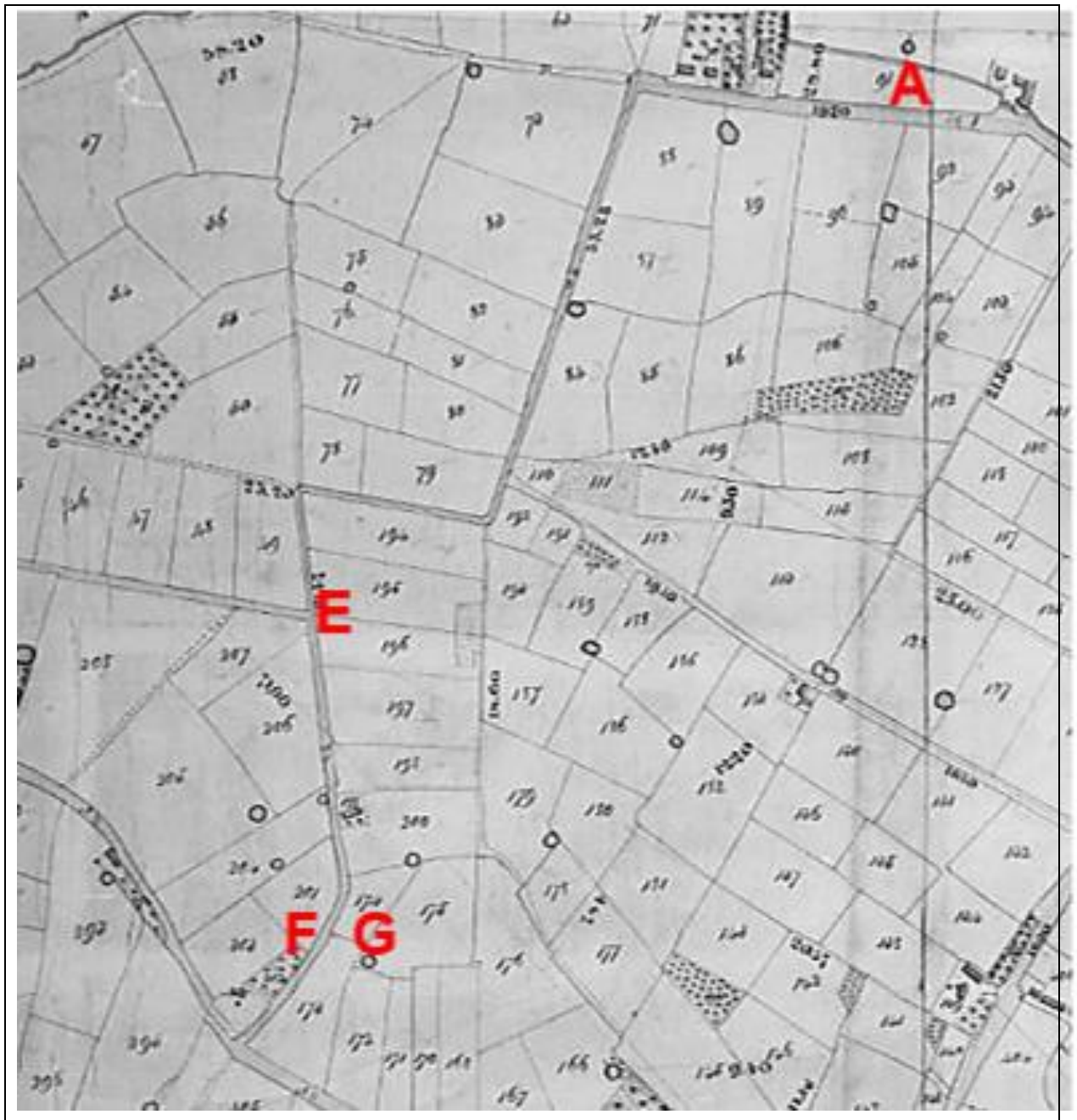
<p>Observations</p>		<p>A route consistent with Nixon Lane is shown from Ulnes Walton Lane through to point A. Further north a network of routes shown as cross roads – but which are difficult to match up accurately with the routes shown on the Tithe Map (detailed later in the report) are shown and may form part of the application route.</p> <p>The route is shown from between B and C south to the corner (C) and west to the junction (D) then south but veering further west than the application route, where part of the prison has since been built.</p>
<p>Investigating Officer's Comments</p>		<p>Parts of the application route may have existed in 1818 but the route did not appear to be considered to be a significant public vehicular through route at that time.</p>
<p>Hennet's Map of Lancashire</p>	<p>of 1830</p>	<p>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 7½ inches to 10 miles. 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.</p>

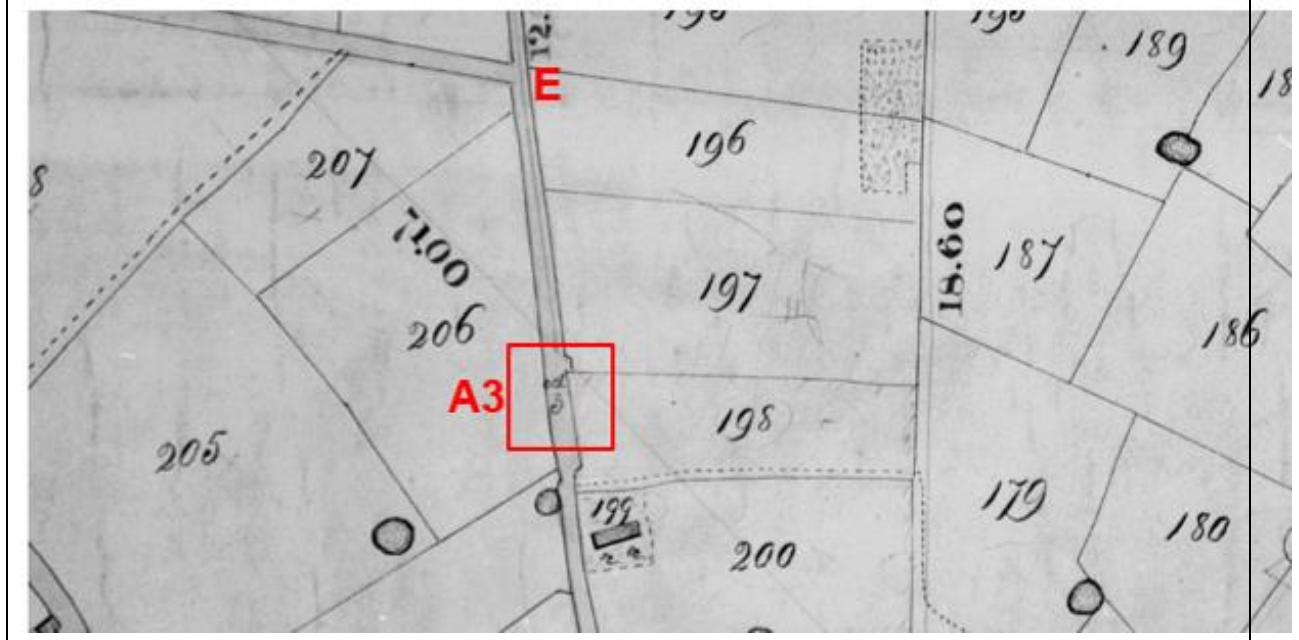


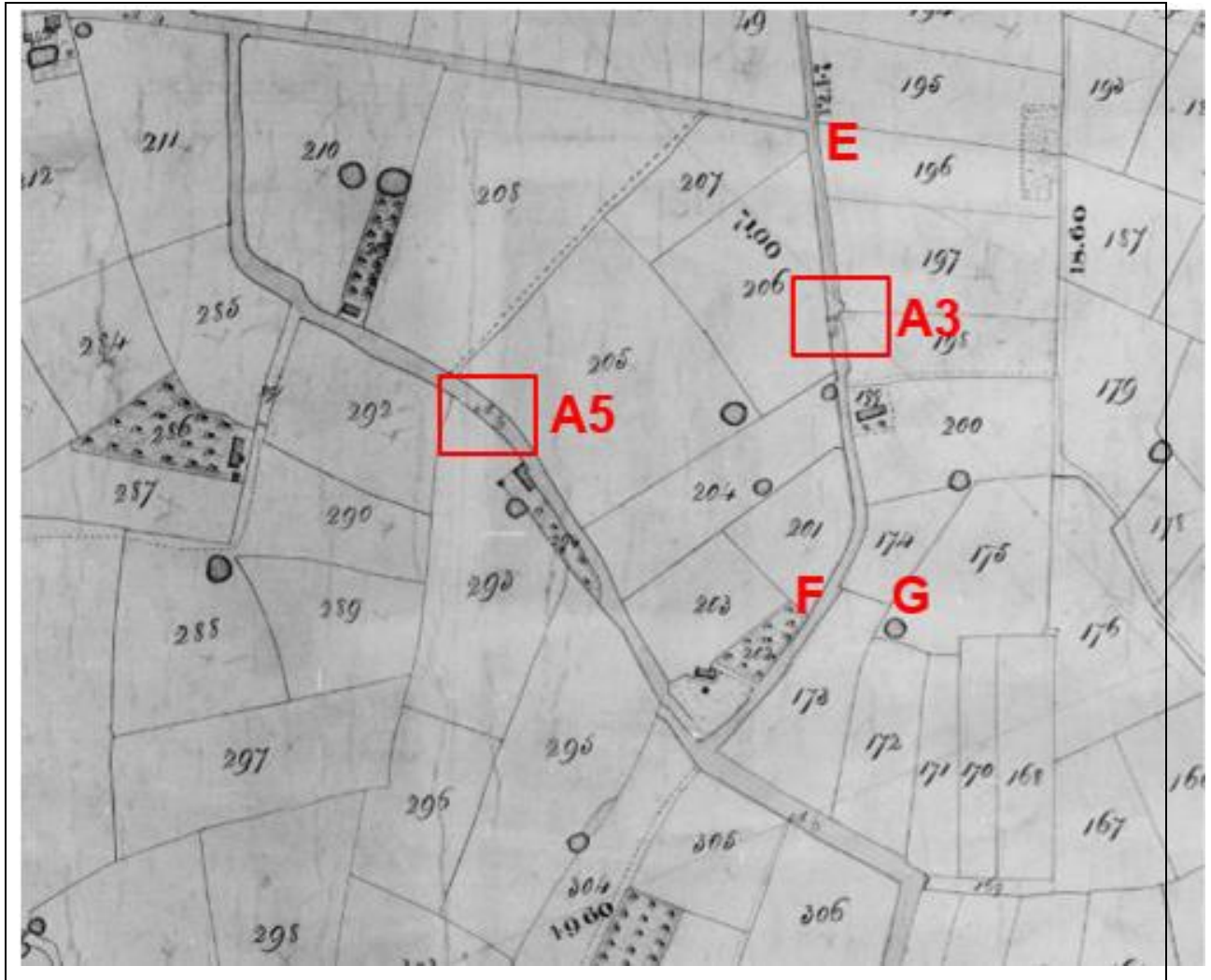


<p>Observations</p>		<p>The application route is shown as part of a longer route passing through point A and continuing to point B and appears to provide access to a number of properties including one named as Low House. The rest of the application route is not shown although routes leading to it from the west and south are shown 'open ended'.</p>
<p>Investigating Officer's Comments</p>		<p>The application route between point A and point B existed in 1830. The rest of the route may have existed in 1830 but the route did not appear to be considered to be a significant public vehicular through route at that time.</p>
<p>Canal and Railway Acts</p>		<p>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.</p>








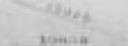


Observations		The application route does not cross land affected by the construction of any railways or canals and there are no known proposals to construct either in the past.
Investigating Officer's Comments		No inference can be drawn with regards to the existence of public rights.
Tithe Map and Tithe Award or Apportionment	1838	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.







Reference

Water Pits.....	
Pits growing Arable.....	
Foot Paths.....	
Turnpike Roads and Highways.....	
Orchards and Gardens.....	
Boundary of Township.....	
Arrow showing course of the River.....	
Lines of construction Red.....	
Plantations.....	
Occupation Roads.....	

Hard Roads and Turnpike Roads Numbered in Red Ink and Coloured on the Plan.						
▲	1	At the North end of the Township	2	1	5	
▲	2	Moss Road South of East	▲	2	9	
▲	3	Do	▲	1	8	
▲	4	Road leading to Littlewood	▲	2	0	
▲	5	Moss Road	▲	1	0	
▲	6	Do	▲		3	
▲	7	Road west of N. 162	▲	1	30	
▲	8	From Lersland to New Lane Head	▲	11	17	
▲	9	Thurker Lane	▲	3	2	
▲	10	North of Croston and Eccleston	▲	8	23	
▲	11	Preston and Wrayhington Road	▲	11	30	
▲	12	Flagg Lane	▲		35	
			▲	39	2	62

Observations		<p>The application route was shown with the exception of the section between point F and point G.</p> <p>A key to the map shows routes considered to be 'Turnpikes Roads and Highways' were shown bounded by solid lines and shaded.</p>
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		<p>Occupation roads were shown shaded but bounded by broken dashed lines intersected with dots and footpaths were shown by a single dashed line. It was noted however that no examples of routes considered to be occupation roads could be found on the map.</p> <p>Between point A and point B the application route is shown as part of a longer route extending west from Ulmes Walton Lane. It is shaded on the map and bounded by solid lines. The route is numbered as A1 which is listed in the Tithe Award in a specific list titled 'Hard Roads and Turnpike Roads numbered in Red Ink and coloured on the plan'. None of the routes listed are described as being owned or occupied and no Tithes are listed as being payable. Route A1 is not named but is described as 'at the north end of the Township'.</p> <p>From point B through to point E the application route is shown shaded and with solid lines. It is numbered as route A2 which is described in the list of roads in the Tithe Award as being the moss road 'south of last' i.e., south of the route A1 (the application route A-B).</p> <p>Between point E and point F the application route is also shown shaded with solid lines and is numbered as part of the route A3. In the Tithe Award the route is listed as a road and described as 'Moss Road south of last' i.e. application route B-E.</p> <p>At point F the application route leaves 'Moss Road' to go east to point G. This section of the route is not shown on the Tithe Map and did not exist at that time. A route does continue from point F to join Ulmes Walton Lane further south.</p>
Investigating	Officer's	The application route existed in

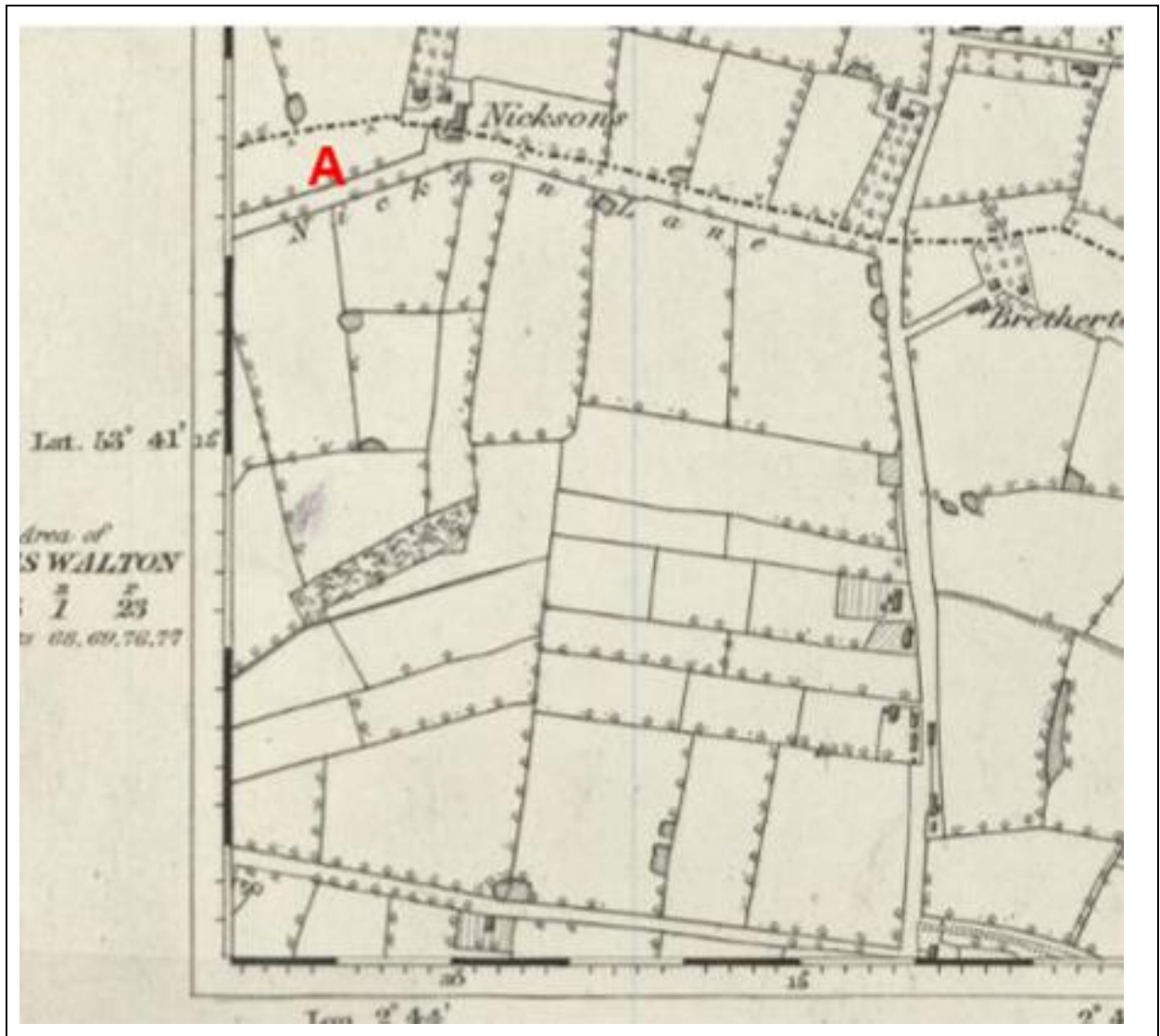


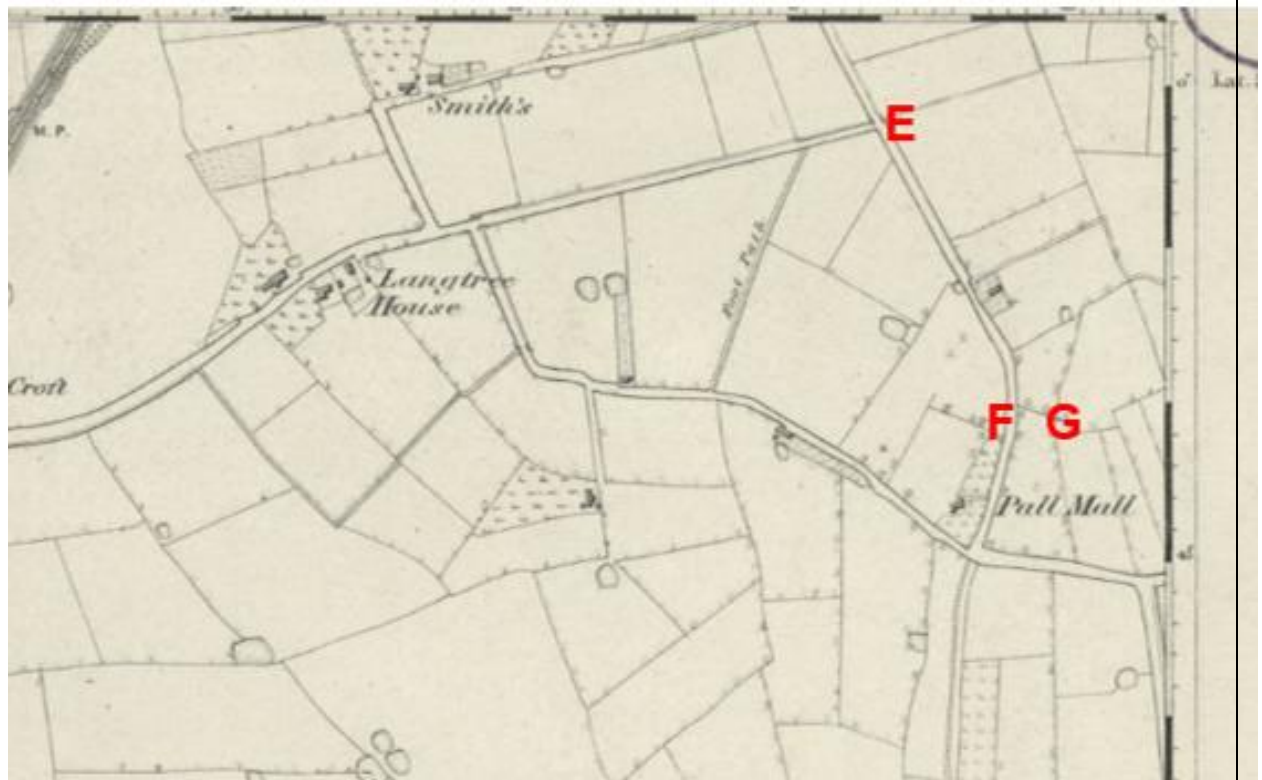
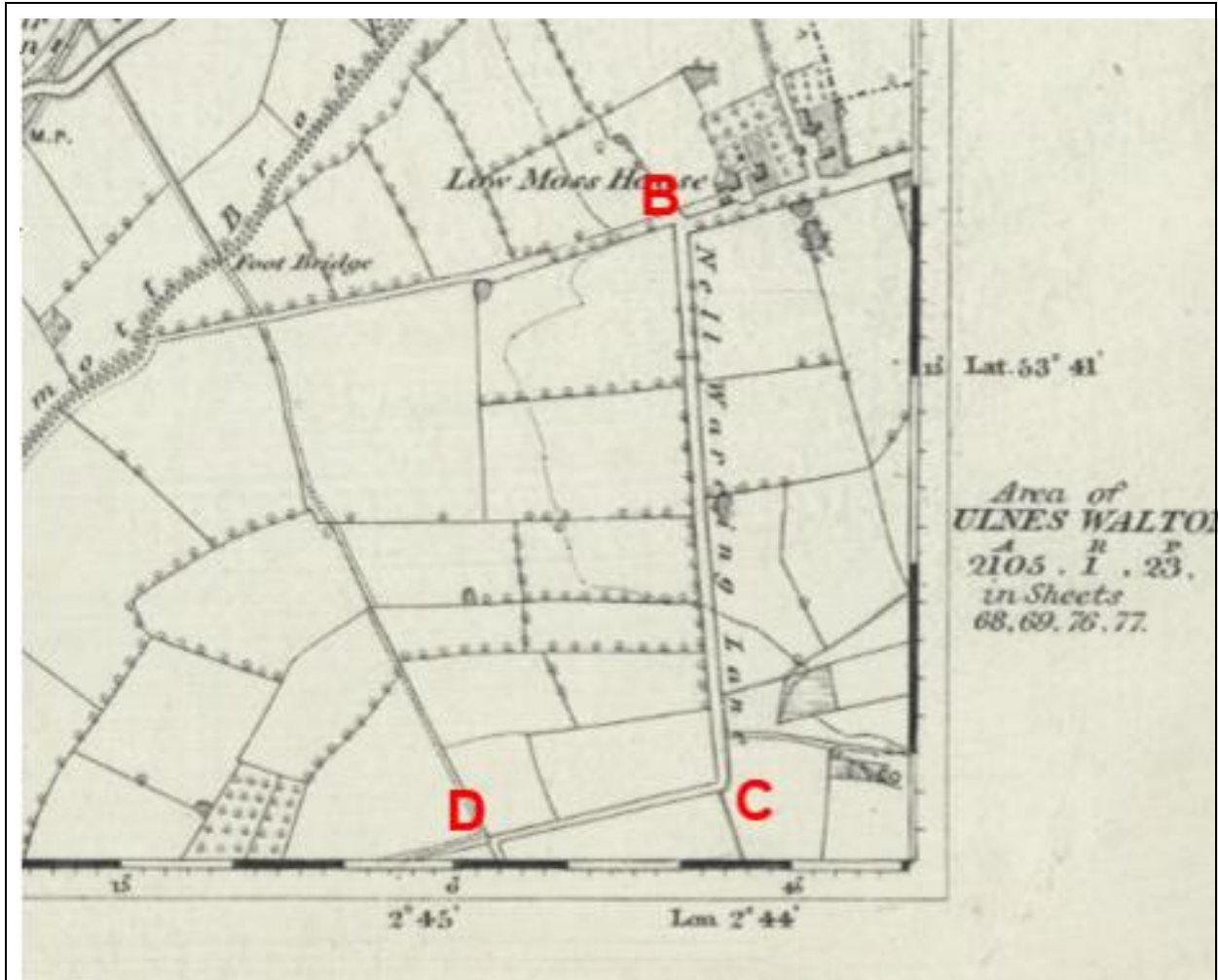
Comments		1838 between point A and point F and formed part of a network of routes described as hard routes or turnpike routes in the Tithe Award and described as Highways and Turnpike Roads on the Tithe Map legend. No Tithes were payable and no landowners or occupiers listed and it appears that those routes listed were considered to be public vehicular highways at that time.
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		No Inclosure Award was found for the area crossed by the application route.
Investigating Officer's Comments		No inference can be drawn.
6 Inch Ordnance Survey (OS) Map	1847-1848	<p>The earliest Ordnance Survey 6 inch maps for this area.¹</p> <p>The application route crosses land shown on three separate maps:</p> <p>Sheet 69 (LXIX) surveyed 1844-46 and published 1848</p> <p>Sheet 68 (LXVIII) surveyed 1844-1845 and published 1848</p> <p>Sheet 76 (LXXVI) surveyed 1845-46 and published 1847</p> <p>The earliest 6 inch OS sheet for this area was surveyed in 1844-1846 and published in 1848.</p>

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>It has recently become apparent that in many instances there was more than one 'print run' for OS First Edition 6 inch maps. Up until c.1867 the 6 inch maps were updated to show newly constructed railways (of which there were many), which explains why more than one version may be found with apparently the same publication date (the original one not showing a railway and the later one with the railway added).</p> <p>As part of the County Council's research the Investigating Officer looks at the OS 6 inch maps located within our own records and also those available on the National Library of Scotland website - https://maps.nls.uk/os/</p> <p>Copies of the maps held by the National Library of Scotland are usually 'final' printings which therefore include railways which in most instances post-dated the survey and first publication of the map.</p> <p>Where appropriate extracts of both copies of the map (if found) will be inserted into the report and clearly labelled.</p> <p>The map inserts below have all been taken from the OS 6 inch maps held by the National Library of Scotland.</p>
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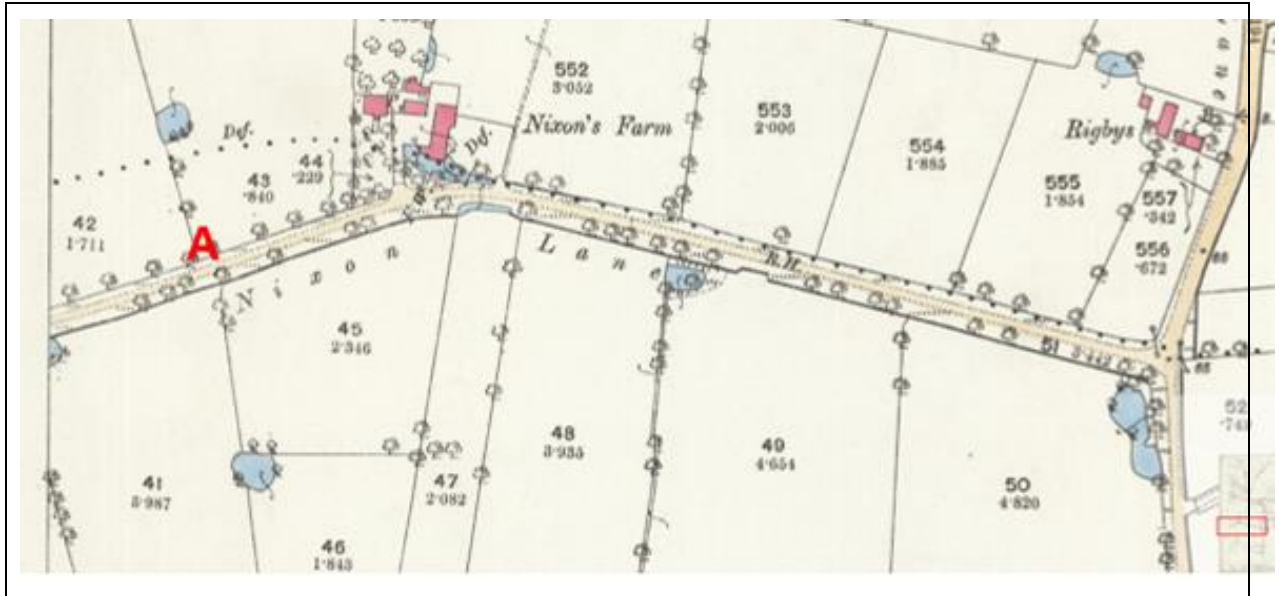


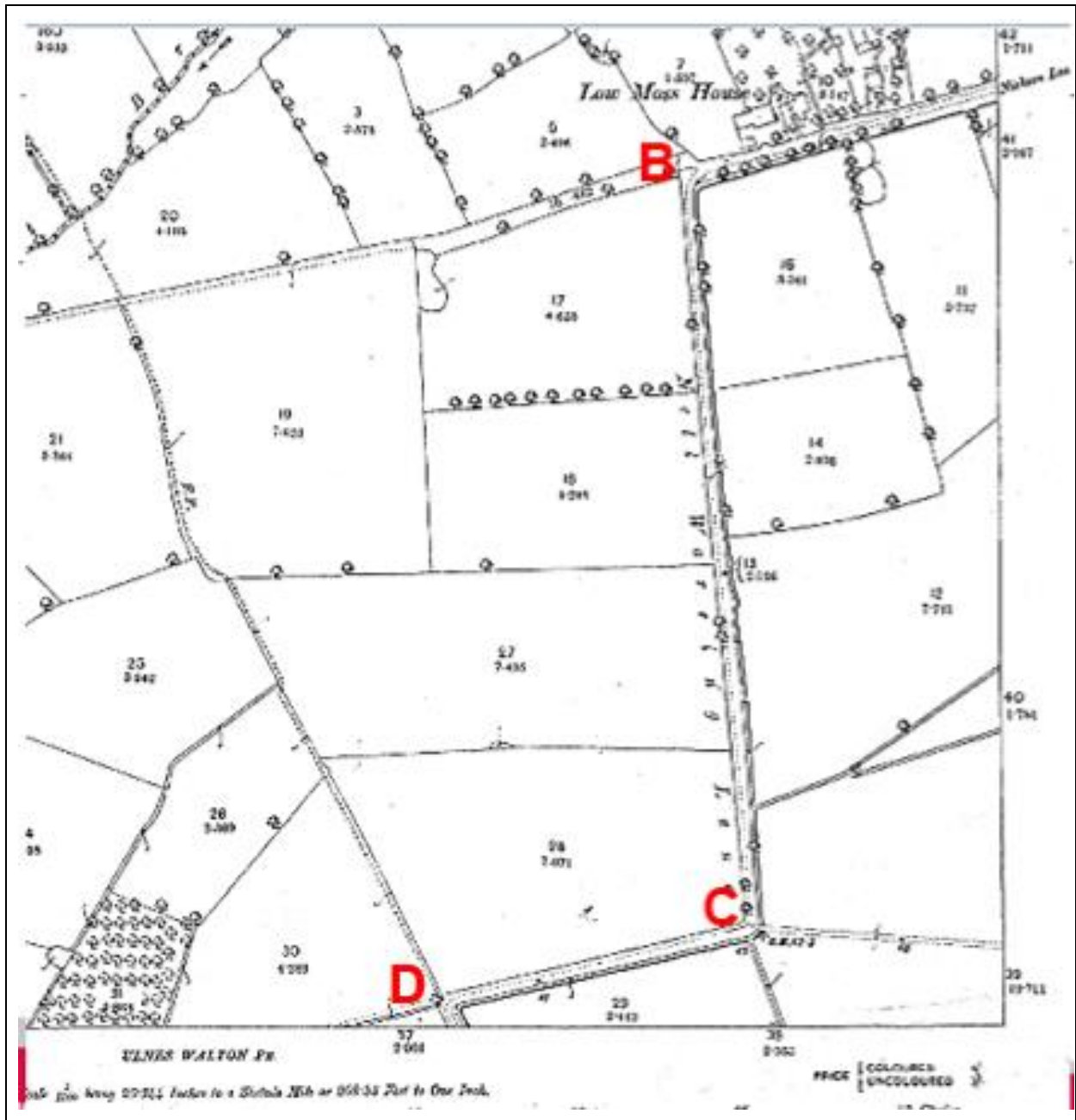
Observations

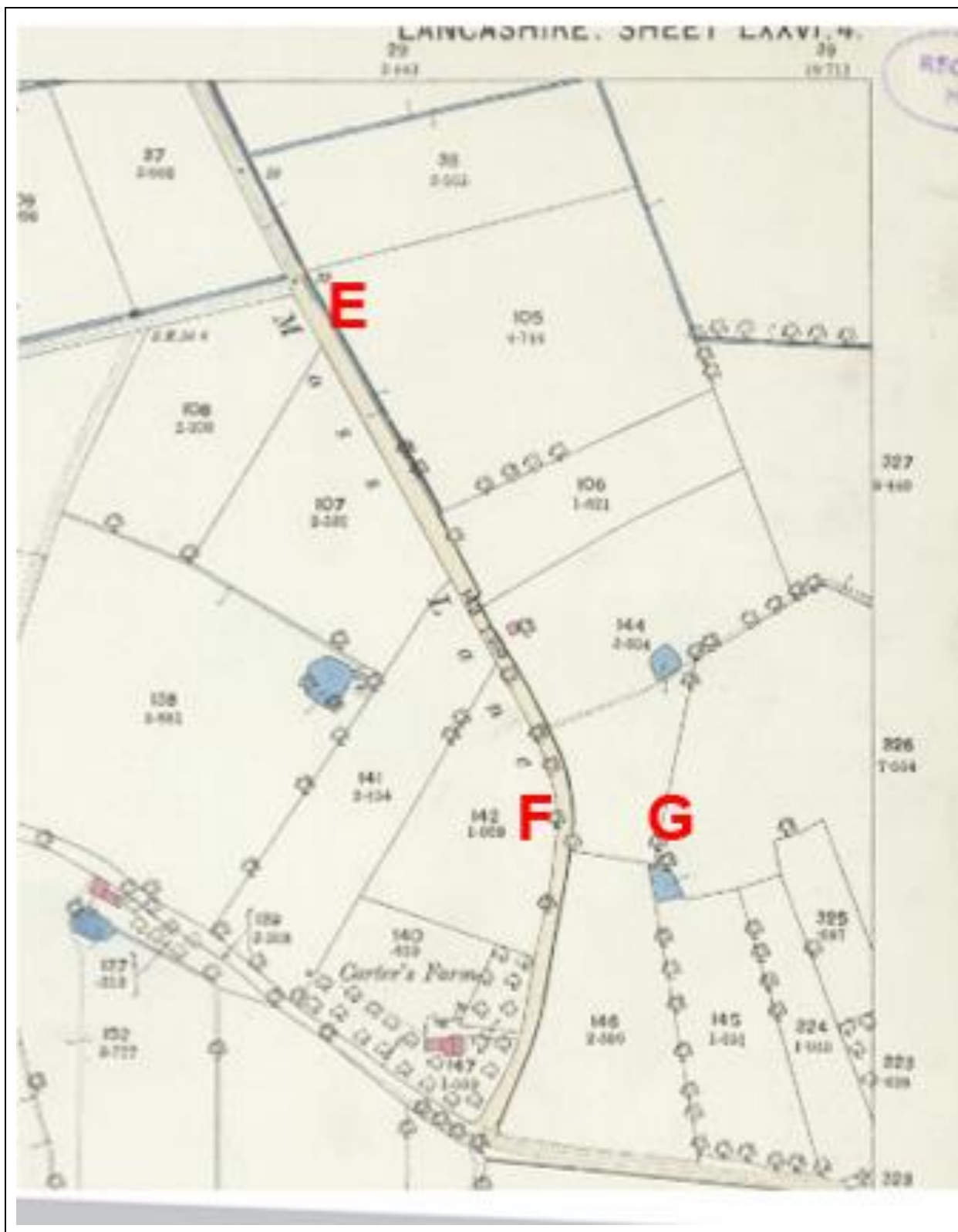
Between point A and point B the



		<p>application route is shown as part of a bounded route known as Nickson Lane providing access to and past Nicksons and Low Moss House.</p> <p>From point B it continues to point C labelled as Nell Wareing Lane and then continues through to point F as an un-named bounded route consistent with how it still looks today. From point F the application route through to point G is not shown.</p>
Investigating Officer's Comments		<p>A route existed between point A and point F as part of a longer through route in 1845 and may have been capable of being used horseback at that time. It is not possible to know from this map whether use of the would have been public or private. The application route between points F-G did not exist.</p>
25 Inch OS Map	1893-1894	<p>The earliest OS maps at a scale of 25 inch to the mile.</p> <p>Three separate map sheets cover the area crossed by the application route:</p> <p>LXIX.13 surveyed 1893, published 1894</p> <p>LXXVI.4 surveyed 1893, published 1894</p> <p>LXVIII.16 surveyed 1892, published 1893</p>





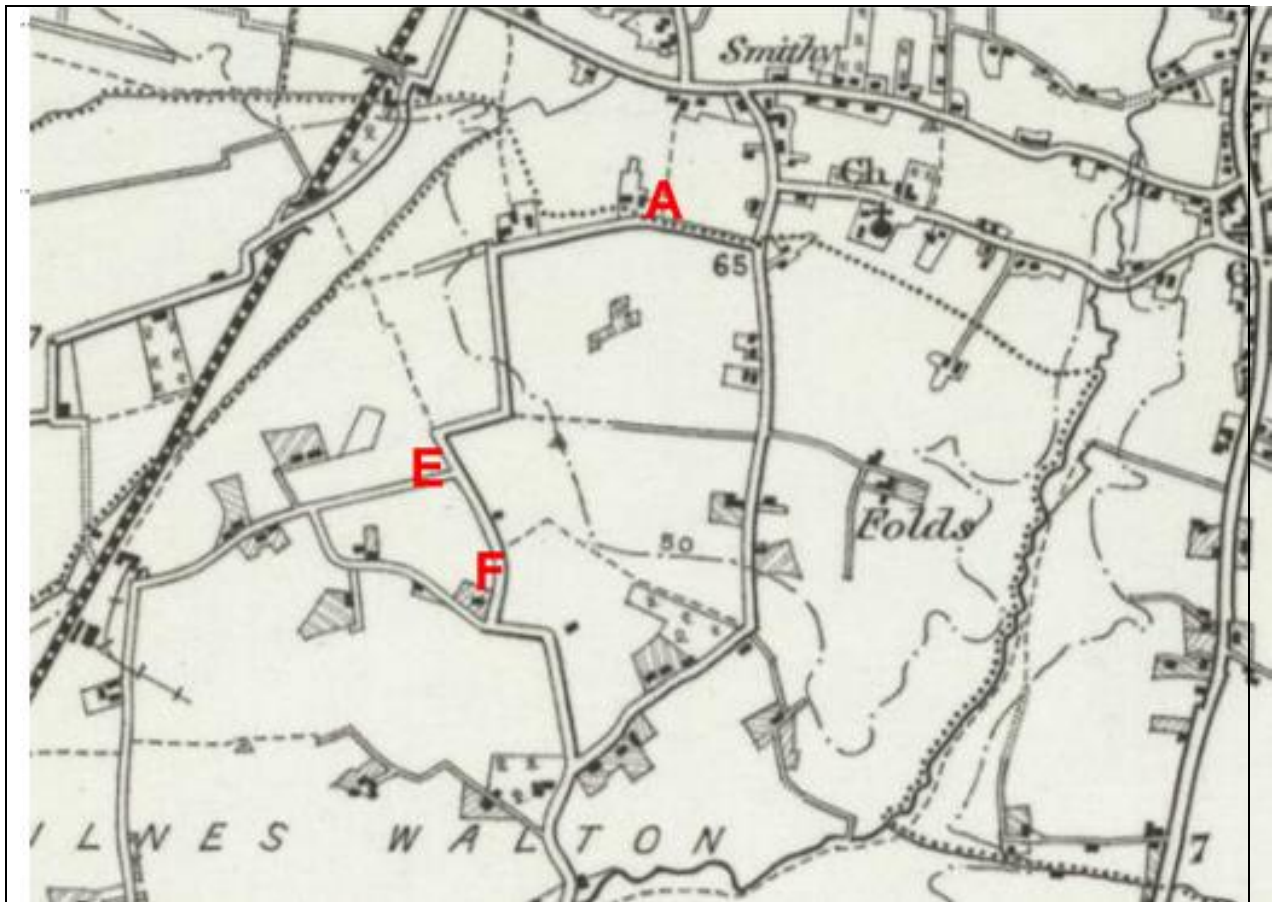


<p>Observations</p>		<p>The route crosses three different map sheets. Both colour and black and white copies of the maps were published and, in this instance, coloured copies of the maps showing the start and end of the route have been found.</p>
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		<p>The map sheet showing the first part of the route is coloured and shows the start of the route as part of a longer route named on the map as Nixon Lane. The route is coloured and shown with a thickened line along the south side passing through point A to the edge of the map sheet.</p> <p>The continuation of the route on the next map sheet (black and white) shows the continuation of the route from point A along Nixon Lane past Low Moss House to a bend in the route (point B). The route through to point B is shown with a thickened line down one side and is named as the continuation of Nixon Lane.</p> <p>From the bend at point B the route continues south to point C and is again shown with a thickened line along the east side and is named as Nell Wareing Lane. It continues as a bounded route shown with a thickened line along one side through point D and turns south from where it continues (as shown on another coloured map sheet) as a coloured bounded route with a thickened line along one side passing through point E and point F. Between point E and point F the route is named as Moss Lane – which continues south from point F. The application route from point F to point G is not shown.</p> <p>No lines are shown across the route from point A through to point F.</p>
Investigating Comments	Officer's	<p>The application route between point A and point F existed in 1892-93 as a substantial bounded route connecting to and forming part of a longer network of routes.</p> <p>The fact that it was named as part of Nixon Lane, Nell Wareing Lane and Moss Lane on the map is evidence that it was known locally by those name and is consistent with use of the route by the public at least on</p>

		<p>horseback at that time.</p> <p>The route appeared to be ungated suggesting a throughfare which was fenced off from adjacent land.</p> <p>The full length of the route A-F was shown with a thickened line along one side of the route and was coloured on the two coloured copies of the maps examined.</p> <p>The use of thickened lines and colouring were often used to show the administrative status of roads on 25 inch maps prepared between 1884 and 1912. The Ordnance Survey specified that all metalled public roads for wheeled traffic kept in good repair by the highway authority were to be kept in good repair by the highway authority were to be shown shaded (coloured) and shown with a thickened line on the south and east sides of the road. 'Good repair' meant that it should be possible to drive carriages and light carts over them at a trot so the fact that the route was shown in this way suggests that it formed part of a well maintained through route which was capable of being used by horses and horse drawn vehicles.</p> <p>The application route between points F-G did not exist at that time.</p>
<p>1 Inch OS Map Sheet 75 - Preston</p>	<p>1896</p>	<p>Small-scale 1 inch OS map published 1896.</p>

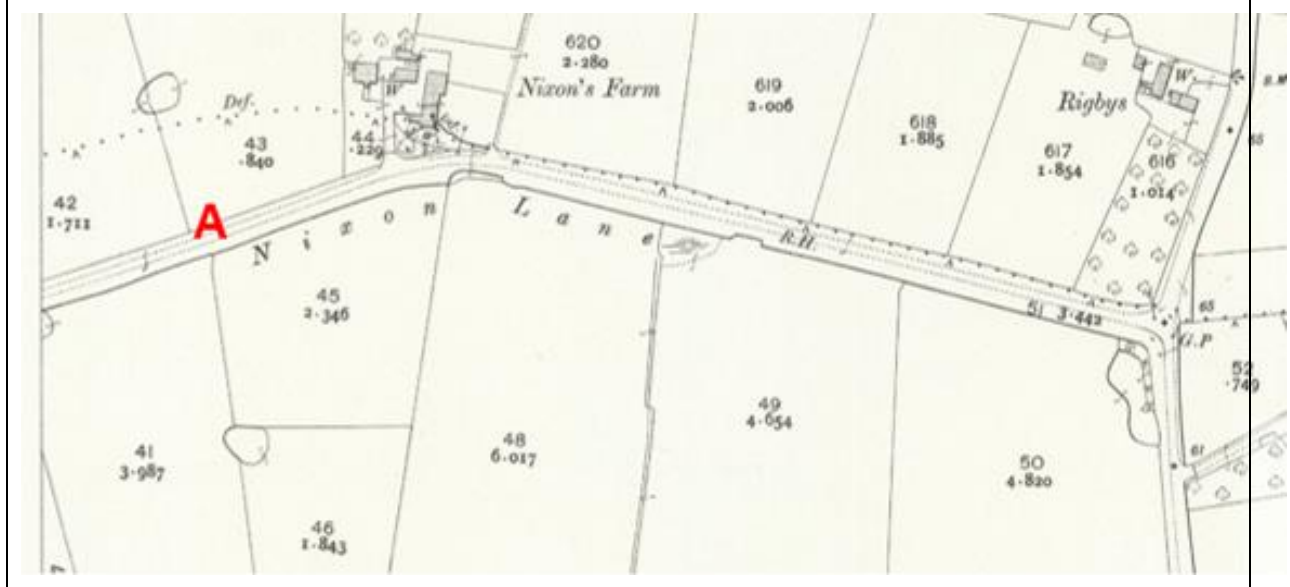


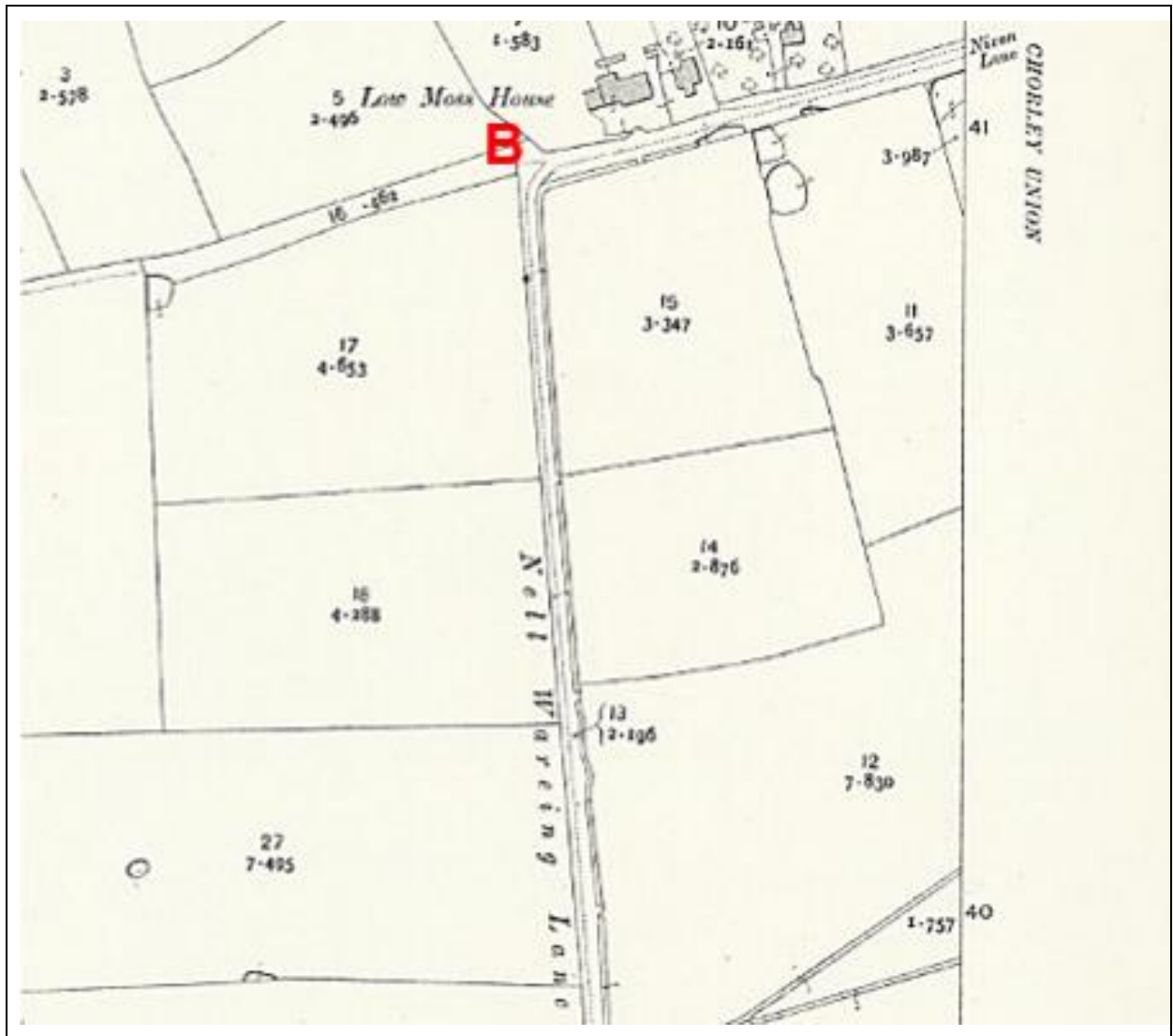
<i>Metalled Roads; First Class</i>	5 (Mile distance) Altitude 1211	Fenced	Unfenced	Chuo
" " <i>Second Class</i>				"
" " <i>Third Class</i>				"
<i>Unmetalled Roads</i>				Wind
<i>Footpaths</i>				Ligh
<i>Railways, Single Line</i>			<i>Level Crossing</i>	Bea
				Let

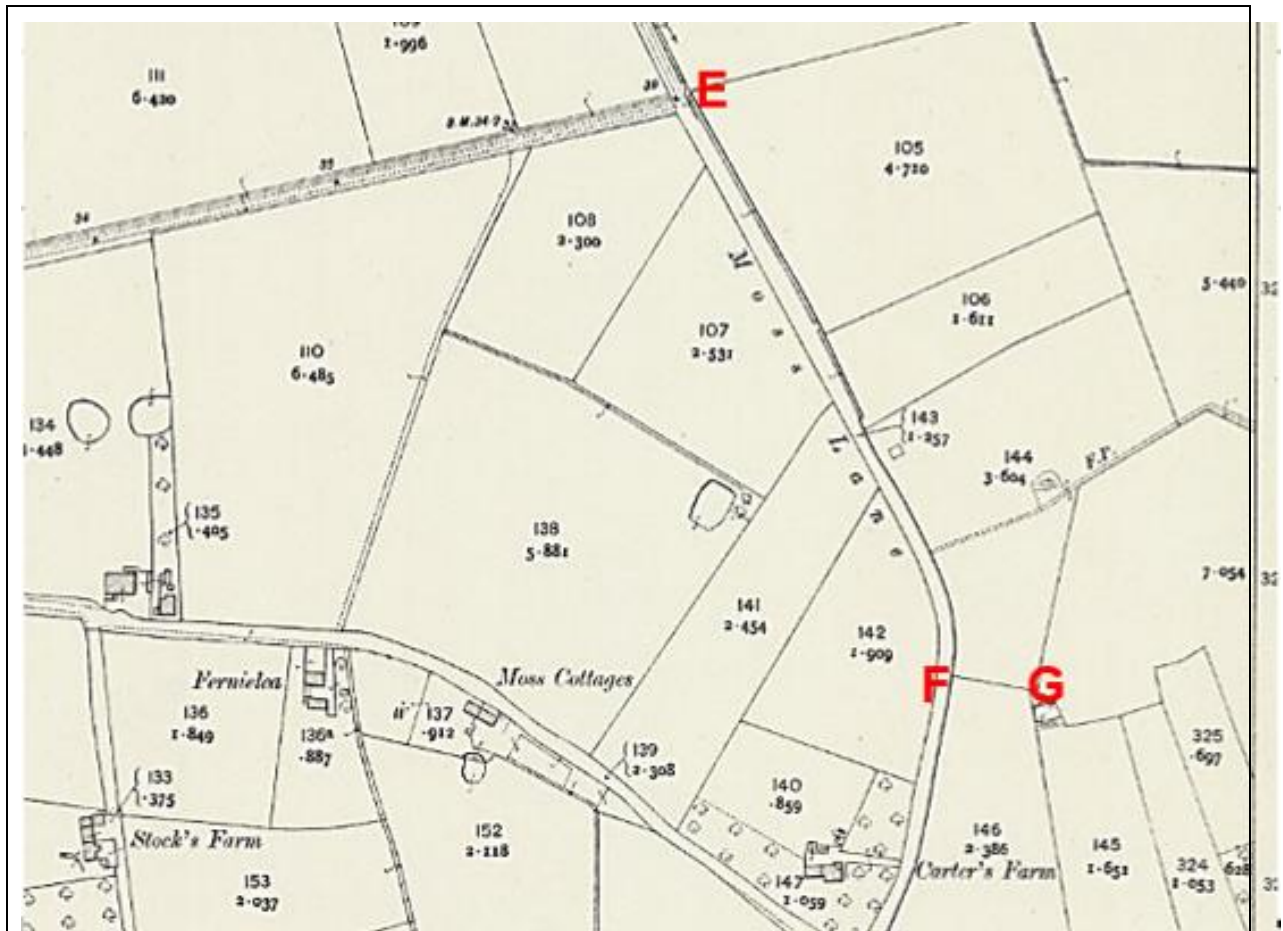
Observations		<p>The application route from point A to point F is shown as part of a longer route depicted as a Metalled Road; Second Class.</p> <p>The application route from point F to point G is not shown.</p>
Investigating Officer's Comments		<p>The application route between point A and point F existed as a substantial route in 1896 and was part of the general road network.</p> <p>The original scale of the map (1 inch to the mile) means that only the more significant routes are generally shown. The purpose of the map in</p>



		the late 1800s would probably have been to assist the travelling public on horseback or vehicle suggesting that the through roads shown, and in this case the application route A-F, had public rights for those travellers. The application route between point F and point G did not exist at that time.
25 Inch OS Map	1911	Further edition of the 25 inch maps: LXIX.13 surveyed 1893, revised 1909, published 1911 LXXVI.4 surveyed 1893, revised 1908, published 1911 LXVIII.16 surveyed 1892, revised 1909, published 1911



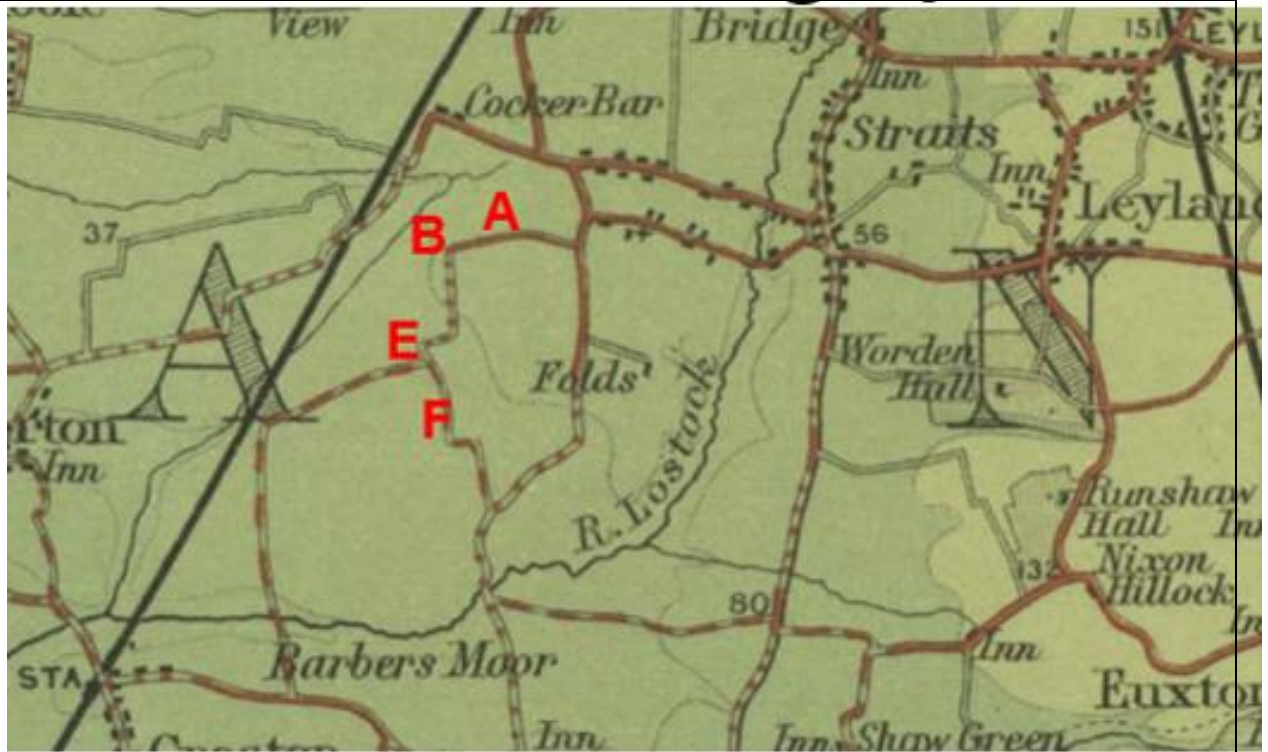




Observations		<p>The application route A-F is shown in the same way that it is shown on the earlier edition of the 25 inch OS map – as part of a substantial named route.</p> <p>The application route between point F and point G is not shown.</p>
Investigating Officer's Comments		<p>The application route A-F existed as a bounded through route in 1908-1909 which appeared to be capable of being used on horseback and by vehicles.</p> <p>The application route from point F to point G did not exist.</p>
Bartholomew Half Inch Mapping	1902-1906	<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 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</p>



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

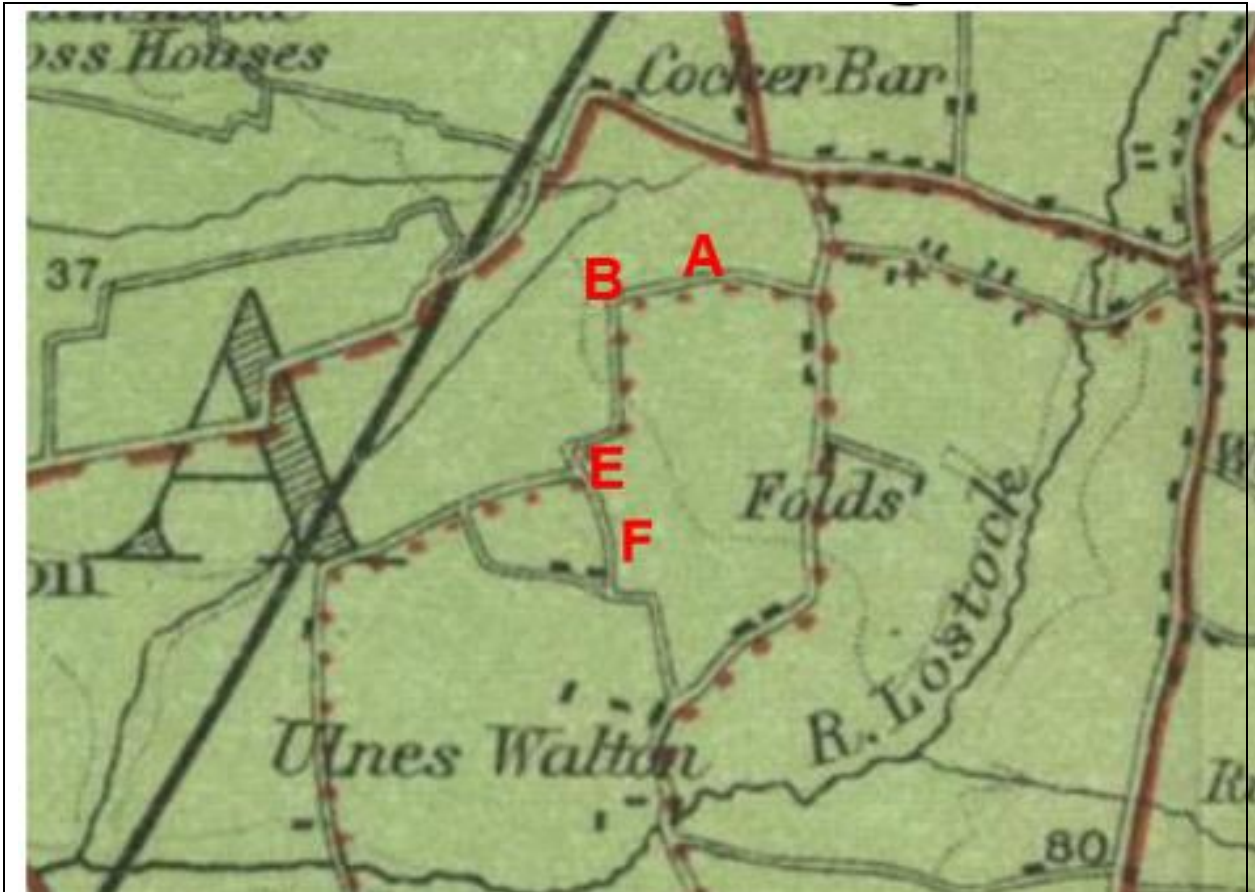
Canals

County Boundaries - - - - -

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

1904





EXPLANATORY NOTE

Motoring Roads	Through Routes		Motor Ferries	
	First Class Roads			
	Secondary			
	Indifferent		(Passable for cyclists)	

The uncoloured roads are inferior and not to be recommended.

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

The figures thus 190 represent heights in feet above sea level.

Railways		Station		Station with		L.C. (Level Crossing)
Canals				Refreshment Room		

County Boundaries - - - - -

1920





1940

Observations

The application route between points A-F is shown on all three maps published between 1904 and 1941. In 1904 it is shown as a First Class Road between point A and point B and then as indifferent (passable) between points B-E and as a secondary (good) road from point E passing through point F. In 1920 it is shown coloured as a secondary road between points A-E and an uncoloured road (defined as inferior and not to be recommended) between points E-F. By 1940 it is shown as part of a good secondary road along the full length A-F. The application route between points F-G is not shown on any of the maps examined.

Investigating

Officer's

The early 1900s saw a significant



Comments		<p>increase in the use of motorised vehicles and the classification of minor roads was constantly being reviewed by Bartholomew as some routes were improved to cope with increasing traffic whilst others were virtually abandoned and fell into disrepair.</p> <p>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 suitable for horse drawn vehicles or early motor cars, to be shown.</p> <p>The inclusion of the application route on these maps is evidence that the route A-F existed as a substantial route which appeared to be considered as being a public vehicular route. It is not known why it was shown partly as being an indifferent road in the 1904 and partly as an uncoloured road in 1920 but by 1941 the full length was recorded as a good secondary road suggesting improvements could have been carried out to the surface. The application route F-G did not exist at this time.</p>
<p>Finance Act 1910 Map</p> <p>References for maps deposited in TNAs: 133/5/94 133/5/123 133/5/81</p>	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</p>

		<p>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>
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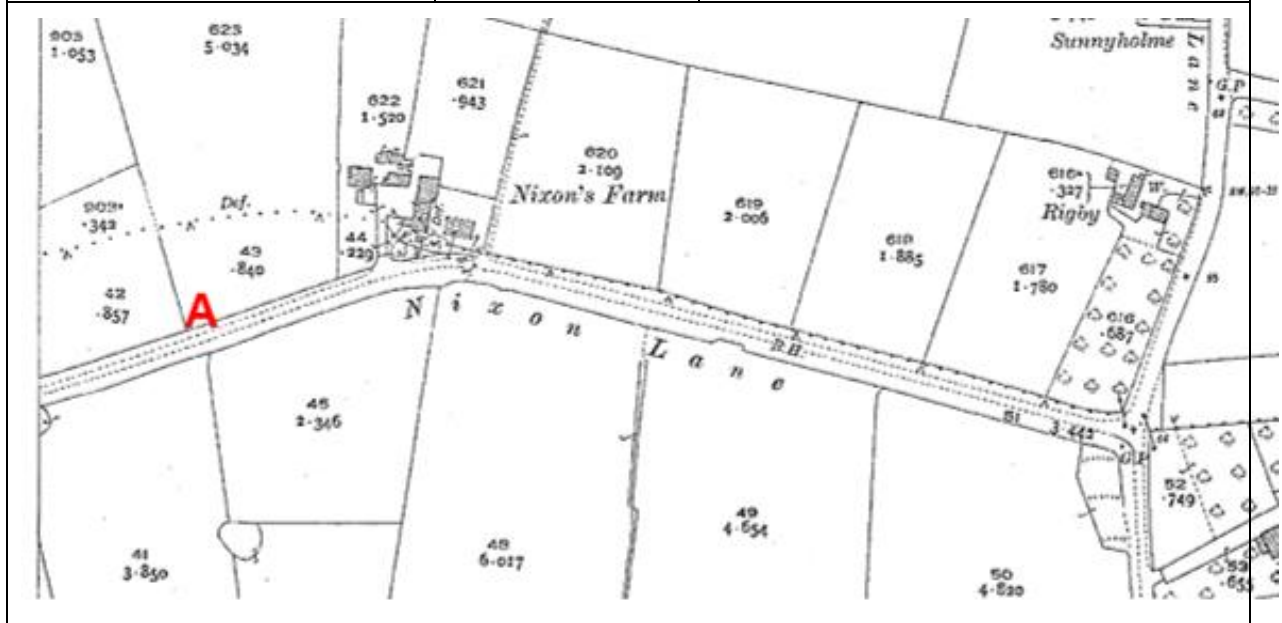


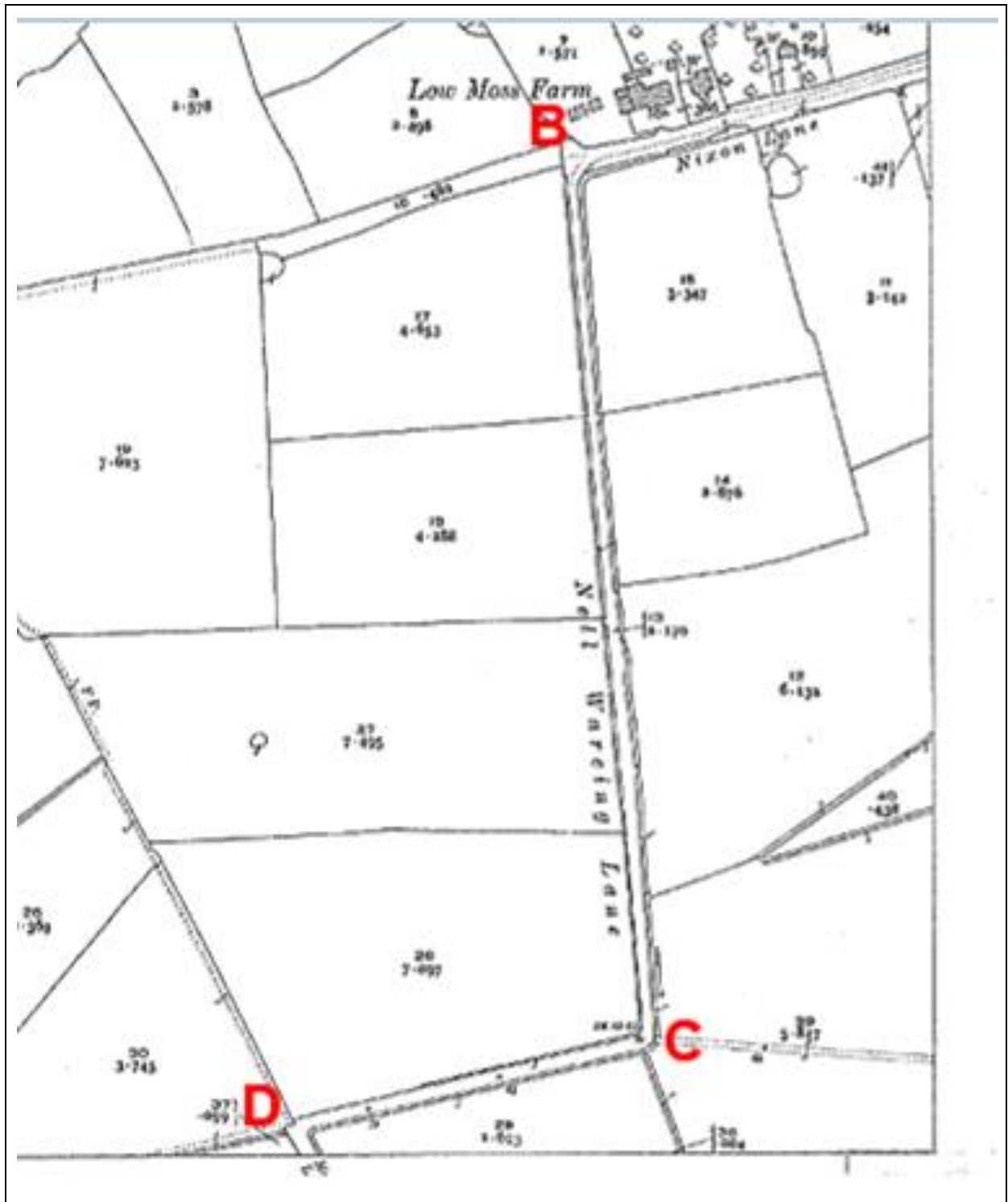


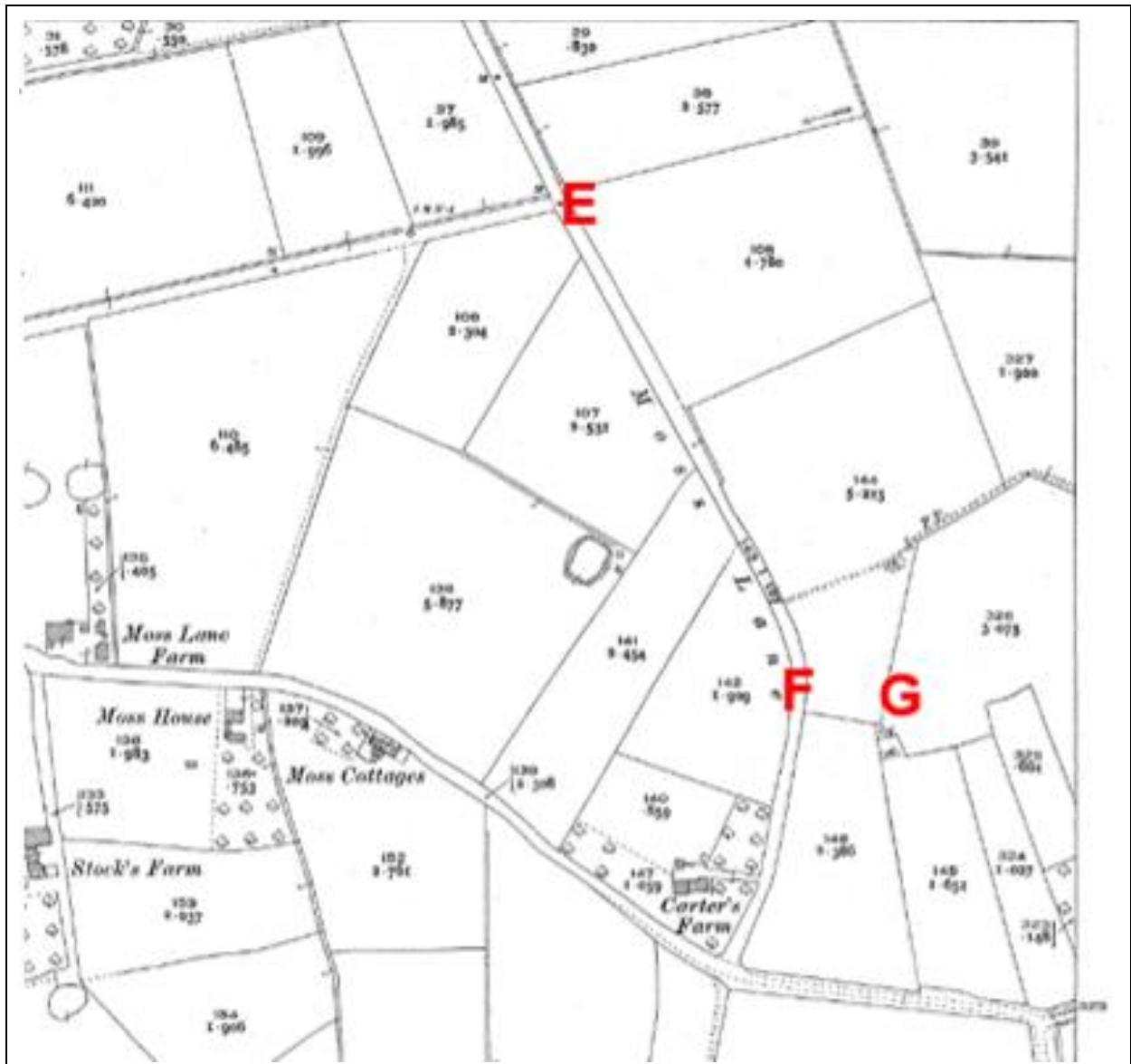
<p>Observations</p>		<p>The Finance Act maps covering the route are incomplete. The application route from point A for a short distance towards point B (to the edge of the map sheet) is shown excluded from the numbered plots as is Nixon Lane to the east of point A.</p> <p>The OS map sheet covering the route from midway between point A and point B is incomplete and the area crossed by the application route passing through points B,C and D has not been marked up, so no information is available.</p> <p>The third map sheet covering the land crossed by the application route is partially complete and shows the application route passing through points E and F excluded.</p> <p>The application route F-G was included in a numbered plot.</p>
<p>Investigating Comments</p>	<p>Officer's</p>	<p>The Finance Act records are incomplete so very little inference can be drawn from them.</p>



		However, the start of the application route from point A and the end of the application route passing through points J-K have been excluded as part of a longer route consistent with what was recorded as public road on the Tithe Map and as such supporting the view that public vehicular rights existed.
25 Inch OS Map	1928-1931	Further edition of 25 inch maps: LXIX.13 surveyed 1893, revised 1928, published 1931 LXXVI.4 surveyed 1893, revised 1927, published 1928 LXVIII.16 surveyed 1892, revised 1929, published 1931







Observations		<p>The application route A-F is shown in the same way as it is shown on the earlier editions of the OS 25 inch maps.</p> <p>The application route between point F-G is not shown.</p>
Investigating Officer's Comments		<p>The application route A-F existed as a bounded through route in 1927-1928 which appeared to be capable of being used on horseback and by vehicles.</p> <p>The application route from point F to point G did not exist.</p>
6 Inch OS Maps	1928-1921	<p>6 inch OS maps covering the application route: LXIX.SW revised 1928, published 1931</p>



LXVIII.SE revised 1929 published 1931
LXXVI.NE revised 1927 published 1928

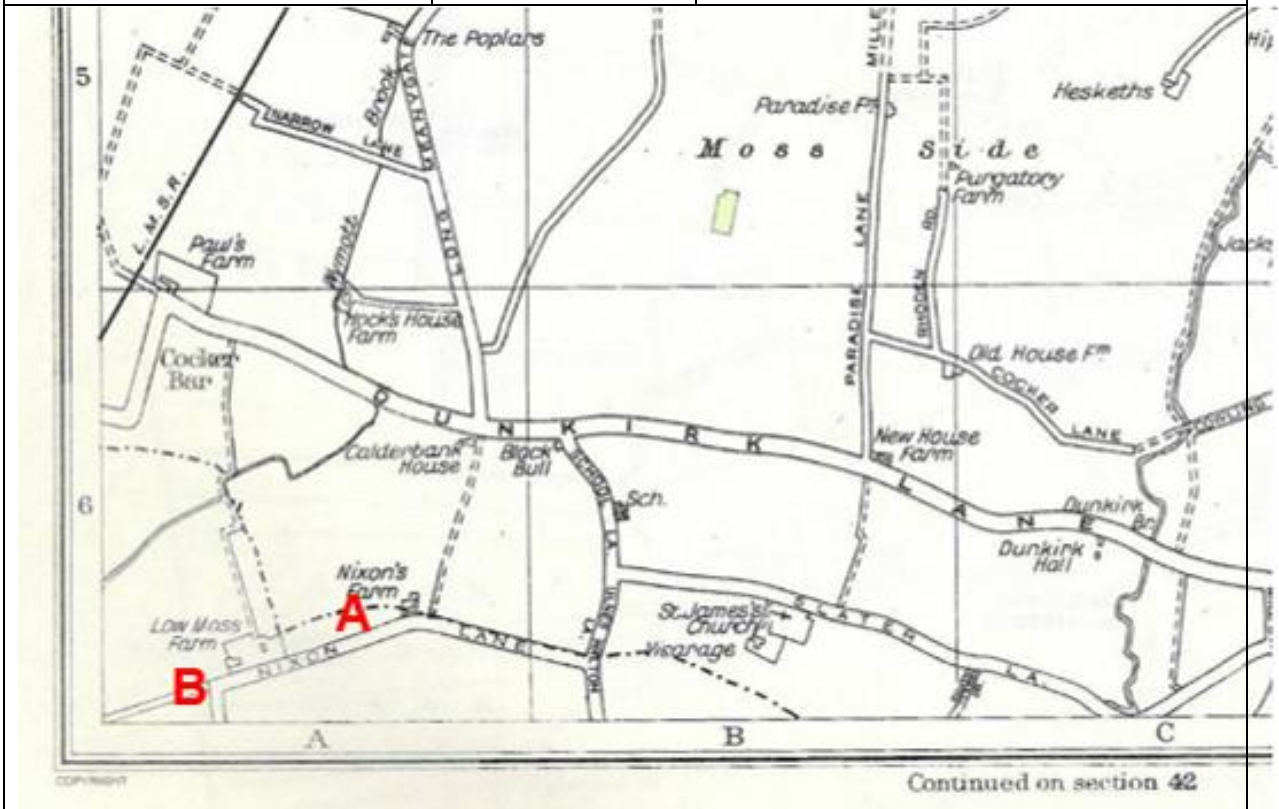


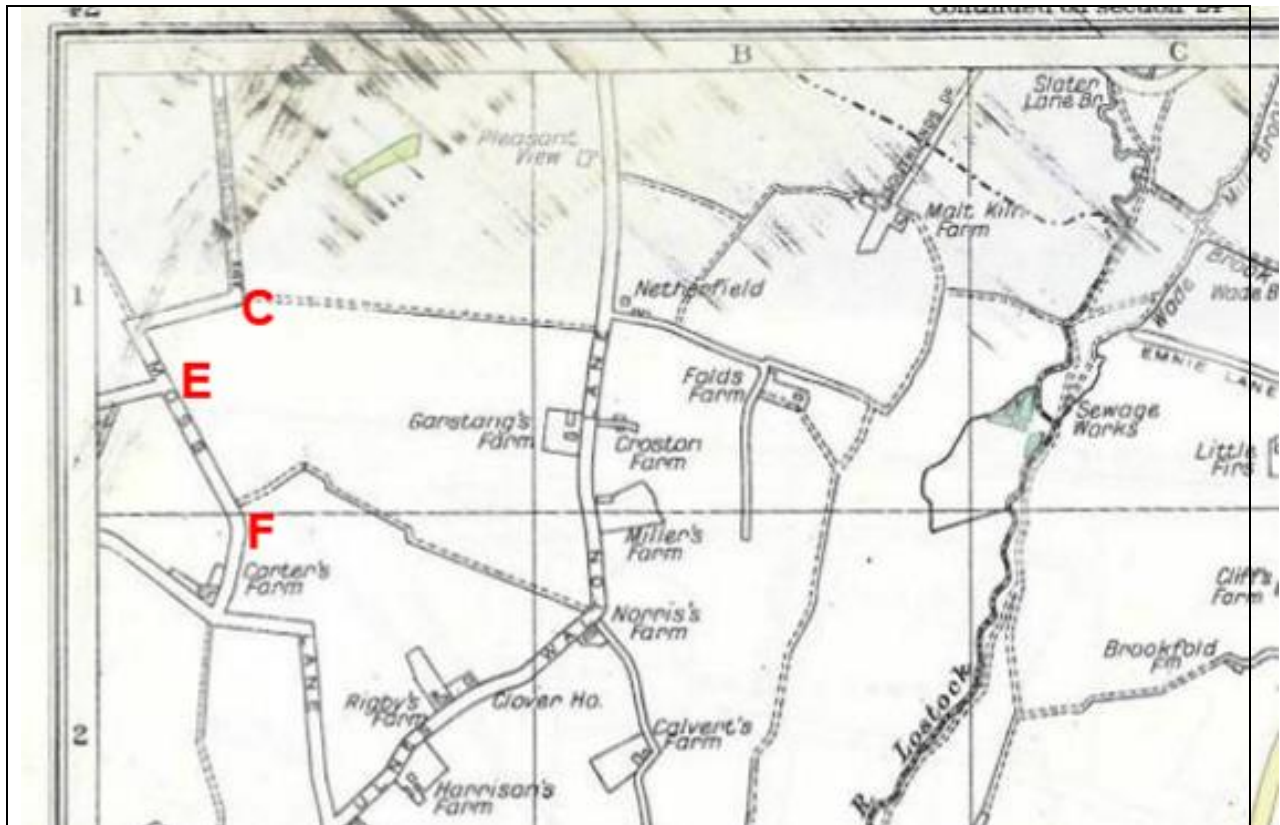


Observations		<p>The application route A-F is shown as a bounded route and is named on the map as part of Nixon Lane, Nell Wareing Lane and Moss Lane.</p> <p>The application route between point F-G is not shown.</p>
Investigating Officer's Comments		<p>The application route A-F existed as a bounded through-route in 1927-1928 which appeared to be capable of being used on horseback and by vehicles.</p> <p>The application route from point F to point G did not exist.</p>
Authentic Map Directory of South Lancashire by Geographia	Circa 1934	<p>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</p>



'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		<p>The full length of the application route A-F is shown as part of a longer route and is named on the map as part of Nixon Lane, Nell Wareing Lane and Moss Lane.</p> <p>The application route between point F and point G is not shown.</p>
Investigating Officer's Comments		<p>The application route between point A and point F is shown consistent with how other routes recorded as public vehicular routes were shown.</p> <p>This small-scale map was produced primarily to show public vehicular routes although other substantial routes were sometimes shown. It was not unusual for routes considered to be footpaths or bridleways not to be shown. The fact that the route east of point J was shown to be wider than the rest of the route does not reflect what is shown on the Ordnance Survey maps of that time suggesting perhaps that the width somehow indicated that the eastern end was a more significant route.</p>
Highway Records including maps	Adoption 1929 to present day	In 1929 the responsibility for district highways passed from rural district



derived from the '1929 Handover Maps'

councils, and later from urban district and borough councils, to the County Council. For the purposes of the 1929 transfer, public highway 'handover' maps were drawn up to identify all of the rural district maintained highways within the County. These were based on existing Ordnance Survey maps and edited to mark those routes that were publicly maintainable. However, they suffered from several flaws, most particularly, if a right of way was not surfaced it was often not recorded.

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.

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.



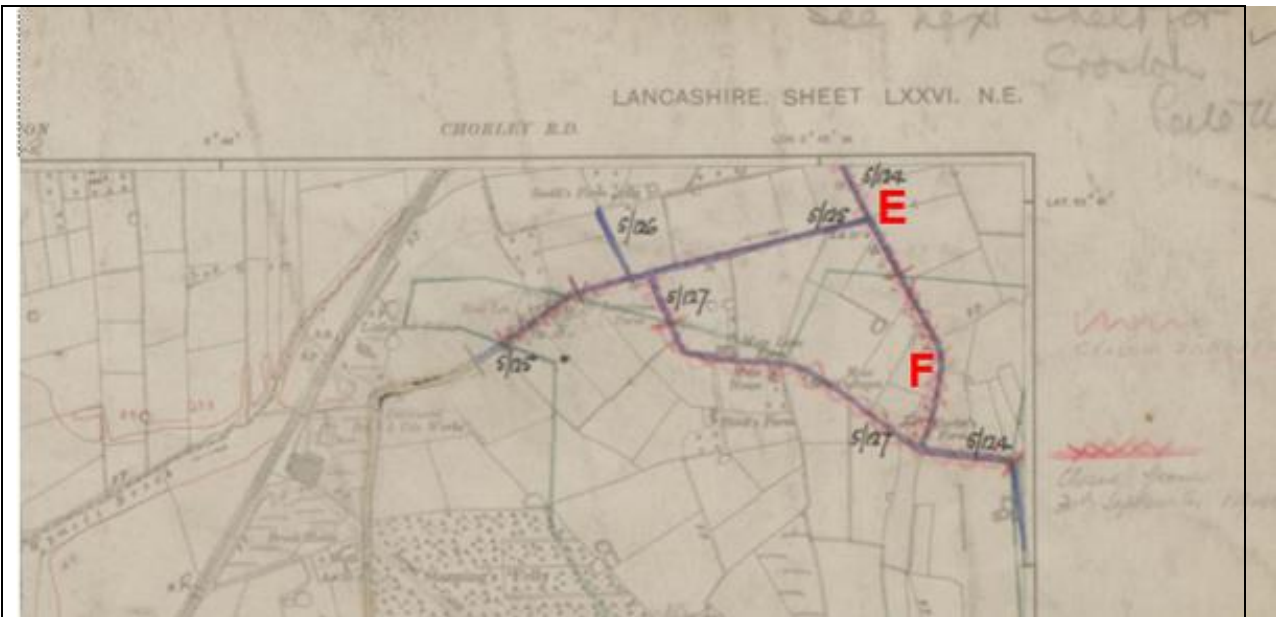


Extract from 1929 Handover Map



Extract from 1929 Handover Map



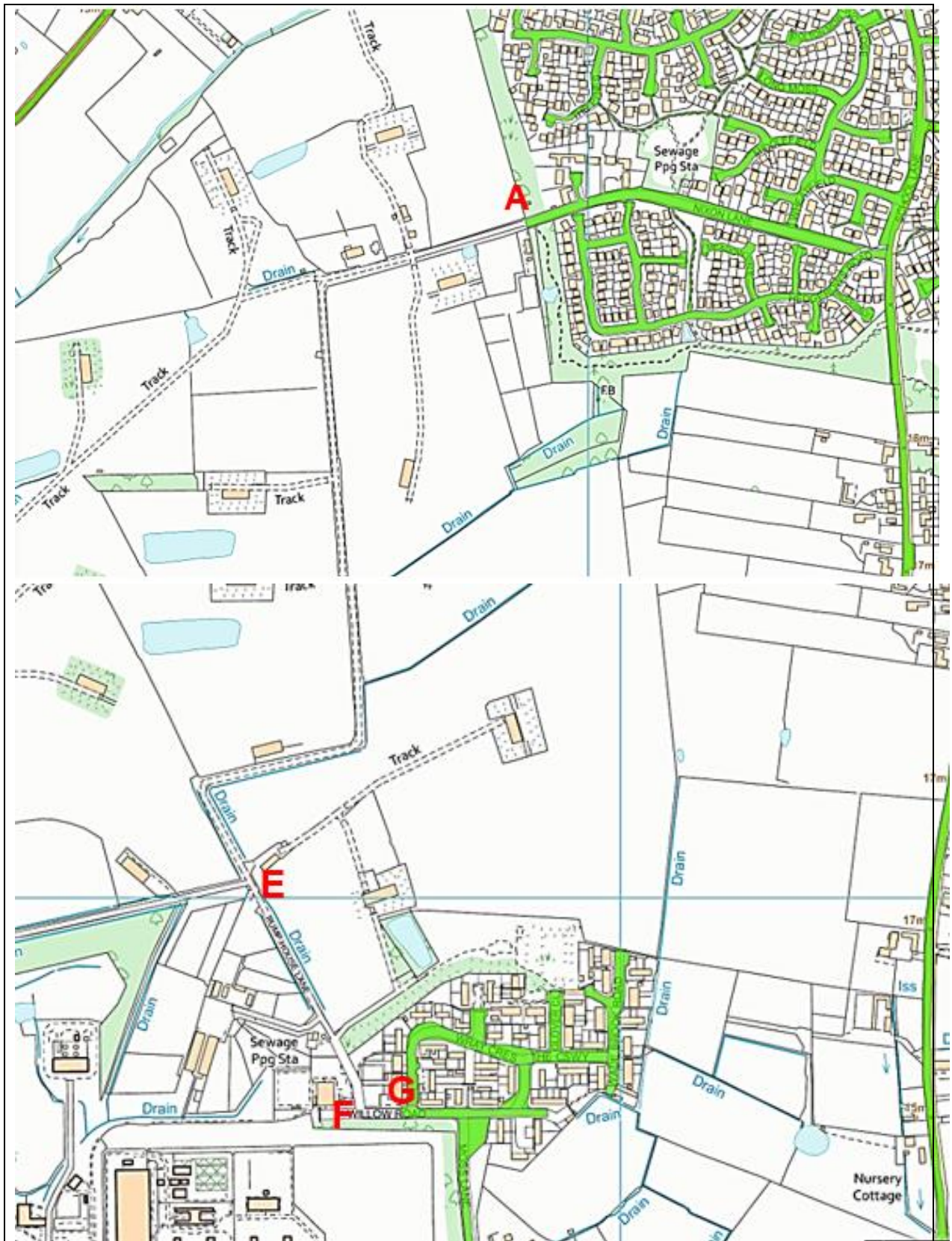


Extract from 1929 Handover Map

ROAD REF N°	DESCRIPTION OF ADOPTED LENGTH.	DATE ADOPTED	TOTAL YARDS	TOTAL MILES	IDENTIFY PLAN	
					SD	
S/120	RIDLEY LANE from Littlewood Bridge to Babers Moor	1929	523	.30		78
S/124	MOSS LANE from class III 503 on Cleveland to farm to Windy Harbours	1929	207	.22		
"	"		185			
"	MOSS LANE		813			78
"	NELL WARRING LANE		943			68
"	NIXON LANE		97			69
"	NIXON LANE from 100 West Home Farm to class III 503	1929	492	.28		69
S/125	Road from Moss Lane towards Littlewood tile works (R43)					
"	CLOSED 2/1/42 & 30/9/40 Emergency Powers (Defence) Orders (except for 40 at Woodlands)			.03		
S/126	ROAD FROM S/125 to Smith's Farm	1929	148	.08		76.4
S/127	"					
S/129	HOLKER LANE from class II 503 to B5257	1929	1m32	1m.02		77.1
S/130	FLAG LANE from B5253 to class III 517.	1929	676	.38		77.13

Extract from Schedule of Unclassified County Roads for Chorley Rural District





Extracts from current LCC highway maintenance records

<p>Observations</p>		<p>The Handover Map shows the full length of the application route between point A and point F recorded as a publicly maintainable</p>
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		<p>road numbered as 5/124. It does not show the application route F-G. However, it also shows part of the route recorded as 5/124 having been closed from 20/11/1942 including the full length of the application route A-F.</p> <p>A handwritten book in the possession of the Public Rights of Way Team – and originally given to them by a former LCC Highways Officer – is titled Schedule of Unclassified County Roads in Chorley Rural District and lists the routes shown on the Handover Map. The route numbered as 5/124 has six separate listings in the schedule as it appears to have been a long route known by 3 different names along different sections (Moss Lane, Nell Wareing Farm and Nixon Lane). The Schedule lists that part of Nixon Lane which is the application route A-B, Nell Wareing Lane and part of Moss Lane, including the application route, as being closed under Emergency Powers (Defence) Orders.</p> <p>The current records held by the County Council as the List of Streets does not record any part of the application route as being publicly maintainable.</p>
Investigating Officer's Comments		<p>The information provided by the 1929 Handover Map suggests that the application route from point A through to point F was considered to be a publicly maintained highway in the 1920s but that it was 'closed' in the 1940s.</p> <p>More recent map and site evidence (discussed below) shows that the route still physically exists today and the fact that it is no longer recorded as a publicly maintainable highway does not necessarily mean that it does not carry public rights of access today.</p>
The Emergency Powers (Defence) Act 1939 and 1940	1939-1940	Enabling Acts to provide the Government with emergency powers to enable 'the defence of the realm'

UK Public General Act 1939 c 62 (2 and 3 Geo. 6 c 62) and UK Public General Act 1940 Act 3 and 4 Geo. 6 c 20.

during the Second World War.





Overview of area crossed by the application route in the 1940s

<p>Observations</p>		<p>The Acts enabled the 'King in Council' to make Defence Regulations as appeared to him to be necessary or expedient for securing the public safety, the defence of the realm, the maintenance of public order, and the efficient prosecution of the war, and for maintaining supplies and services essential to the life of the community.</p> <p>Very little detail has been found but it is understood that the government had the power to requisition land and to close public highways across that land.</p> <p>An inspection of the 1940s aerial</p>
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		<p>photograph (inserted above) shows a large area to crossed by the application route (A-F) was covered by a large number of rectangular buildings which appeared to be connected by singular rail tracks and/or tracks during that time.</p> <p>Very little information has been found about the site or what it was used for but many of the buildings still exist and locally people talk about it having been an army ammunition store.</p> <p>It is well documented that military related sites such as ammunition stores and explosive works built for specific military purposes were not shown on Ordnance Survey maps and the land was either shown as it was prior to the installation being built or was simply left blank – which is illustrated on later OS maps detailed below.</p> <p>The aerial Photograph² - flown between June 1945 and September 1952 post-date the closure of the application route but clearly show that it still physically existed at that time.</p>
Investigating Officer's Comments		<p>Public rights appear to have been stopped up along the application route A-F although the route still physically existed.</p> <p>War Power Closures are considered in 'The Planning Inspectorate Wildlife and Countryside Act 1981 Definitive Map Orders: Consistency Guidelines' (Section 11 – Part 3) where it states that 'The Emergency Powers (Defence) Act 1939 was intended to only operate for one year, but continued in force throughout the whole of the Second World War, and until 24 February 1946. The Act provided for the</p>

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.

		<p>making of Defence (General) Regulations for a wide variety of topics, including the temporary stopping up or diversion of highways; in addition, the regulations permitted County Agricultural Executive Committees to authorise the ploughing of rights of way, subject to their eventual restoration and the provision of diversions.'</p> <p>After the war, the Requisitioned Land and War Works Act of 1945 provided for orders to be made for the permanent stopping up or diversion of highways which had been temporarily stopped up or diverted under the 1939 Regulations. The Requisitioned Land and War Works Act of 1948 extended the scope of this power to encompass highways which had in practice been temporarily closed or diverted but for which no formal order had been made under the Regulations. In both cases, the power to make such orders was intended to be available only until two years after the war period. However their provisions continued to be operative until terminated by the Land Powers Defence Act, 1958 with effect from 31st December 1958. Objections to orders made under the 1945 and 1948 Acts were heard by the War Works Commission; some records survive in both national and local archives.</p> <p>The 1958 Act included a power to vary or revoke orders made under the 1945 Act without any time limitation. However, where such a proposal was published before 31st December 1960 to vary an order made under the 1945 Act (because a condition requiring the provision or improvement of an alternative highway had not been satisfied and therefore the stopping up or</p>
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		<p>diversion had not come into operation) then the highway could remain closed pending the coming into operation of the variation order, or for a further six months if the variation was disputed and subsequently rejected by the War Works Commission.</p> <p>The Land Powers (Defence Act) 1958 also applied the provisions of the Town and Country Planning Act (1947) to situations where the land is required to be used for defence purposes. Any stopping up or diversion proposed under these provisions can be permanent or temporary but introduced the now well-established procedures for advertisement of such proposals.</p> <p>The guidance provided by the Planning Inspectorate makes it clear that unless extended by due process, any temporary closures of rights of way made under emergency powers during the First or Second World Wars would have ceased to have effect on 28 June 1920 or 31 December 1958 as appropriate. In the absence of documentary evidence to the contrary we would assume this to be the case where public rights are shown to have existed prior to the war.</p>
The Stopping up of Highways (Lancashire) (No. 7) Order, 1947	1947	Minister of Transport Stopping up of Highways Order dated 25th November 1947.
Observations		<p>A search of the War Works Commission records deposited at The National Archives was made and a copy of an Order was obtained titled The Stopping up of Highways (Lancashire) Order, 1947. The Order was made by the Minister of Transport on 25th November 1947 and specifically refers to a number of roads and footpaths in the parish of Ulnes Walton which had been previously stopped up on a</p>

		<p>temporary basis under Defence (General) Regulations by virtue of Orders made on 30th September 1940 and 20th November 1942.</p> <p>The Order specifies that the Minister of Transport was satisfied that in the interest of the public those routes previously stopped up under the earlier legislation should now be permanently stopped up.</p> <p>There was no plan attached to the Order but details of the routes to be permanently stopped up were clearly detailed in the Schedule to the Order numbered 1 to 10.</p> <p>The first of the routes described was as:</p> <p><i>'That part of the road leading from Littlewood Hall Farm to Ulnes Walton Lane which extends from a point approximately 1,066 yards north of Littlewood Hall Farm in a general north-easterly and northerly direction for a distance of approximately 2,308 yards to a point 100 yards west of Nixon Farm.'</i></p> <p>From the description and measurements given, this accords to that part of the application route E-A being part of the road to be permanently stopped up.</p> <p>The seventh route detailed within the schedule was described as:</p> <p><i>'That part of Moss Lane which extends from Windy Harbour in a westerly direction for approximately 175 yards to Carter's Farm and thence in a general north-westerly direction to its junction with the road described in paragraph 1 of this Schedule at a point approximately 567 yards east of Langtree Farm.'</i></p> <p>From the description given and with reference to the OS maps prepared prior to this time this accords to that part of the application route F-E being part of the road to be permanently stopped up.</p> <p>No reference was made to the provision of any alternative routes.</p>
Investigating	Officer's	Public rights were extinguished



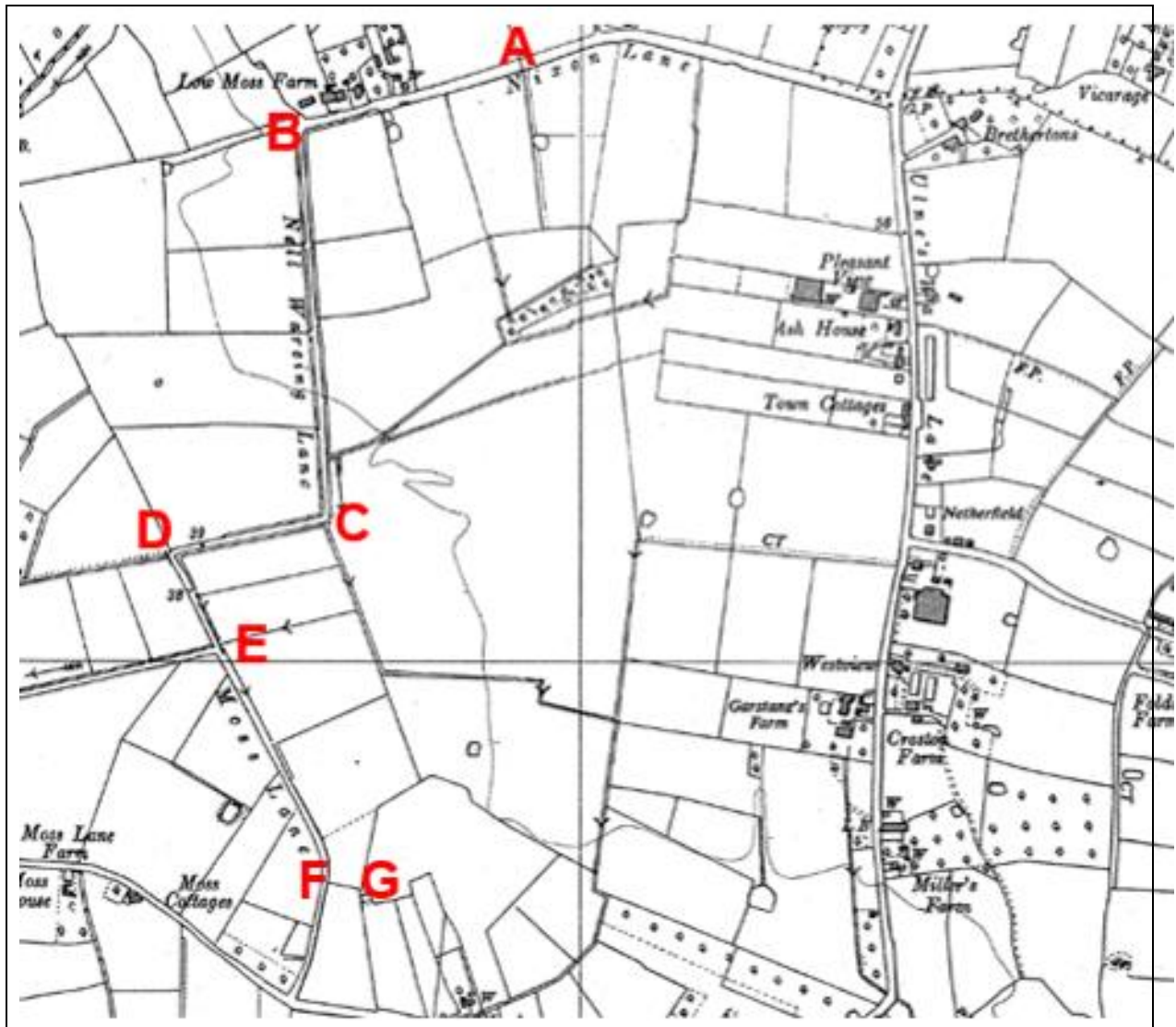
Comments		along the application route between points A and F in 1947. The application route between points F-G did not exist at that time.
The Stopping up of Highways (County of Lancaster) (No. 2) Order 1963	1963	Order made by the Minister of Transport in exercise of powers under section 49 of the Town and Country Planning Act 1947 as extended by the Land Powers (Defence) Act 1958.



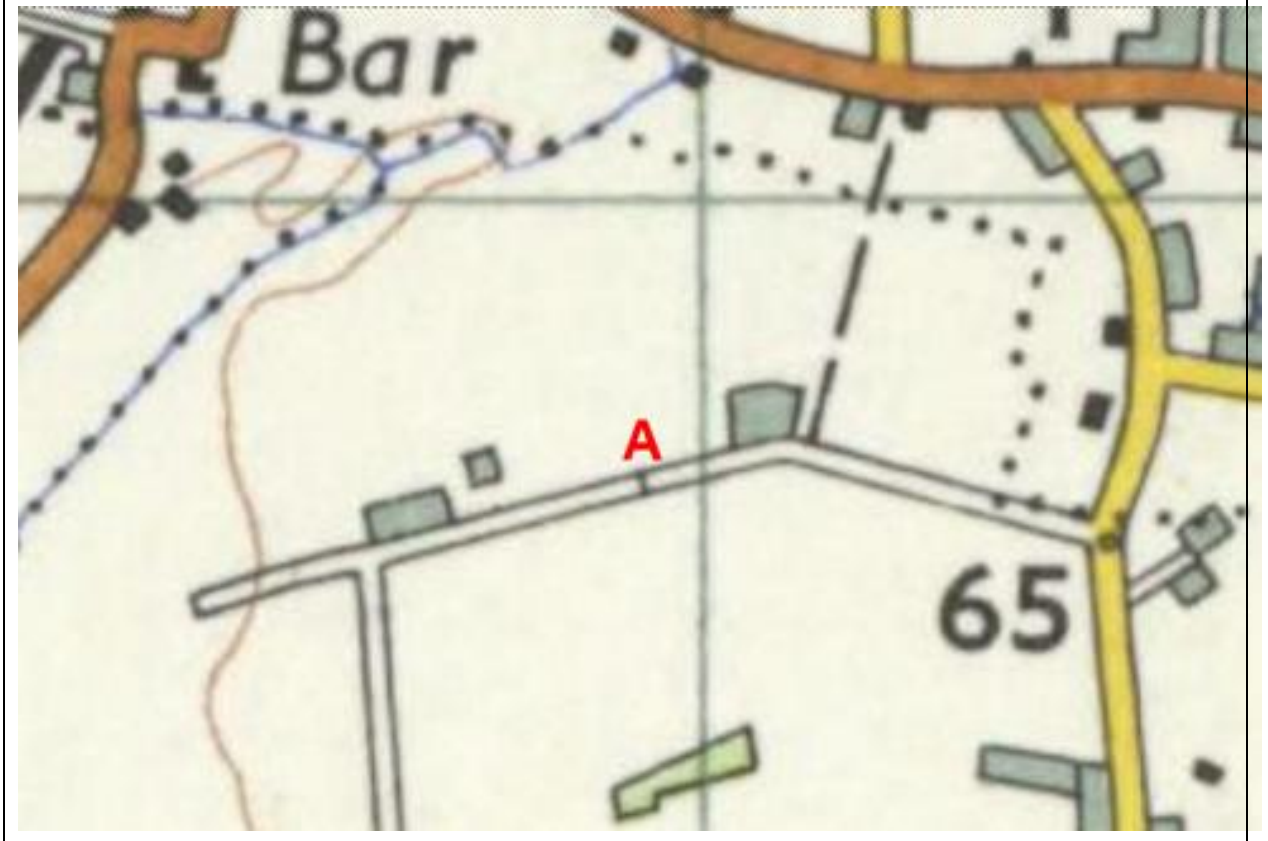
Observations		<p>The Order provides for the temporary stopping up of two 'highways' for a period of five years from when the Order came into operation. The 'highways' to be stopped up were described in the Order Schedule and were said to be coloured red on the deposited plan.</p> <p>The first of the two routes was described as a footpath leading from Dunkirk Lane to Nixon Lane extending from the footbridge over Wymott Brook generally south to a junction with Nixon Lane which was recorded on the Parish Survey Map for Ulmes Walton as FP 25 - but was not shown on any further map of the parish and is not recorded on the Revised Definitive Map (First Review).</p>
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		<p>The Order specified that both routes should be reinstated at the end of the specified period and would be maintainable at public expense. No further information relating to this Order was found.</p>
Investigating Officer's Comments		<p>This Order, made in 1963, suggests that further development of the land was taking place that necessitated additional footpath closures. Further investigations would be required to establish whether they were subsequently permanently extinguished or whether they should be recorded as public footpaths. For the purpose of this particular investigation it is the fact that a footpath terminating at the junction with the application was to be stopped up that is of relevance. The section of the route to be closed is described as a footpath to Nixon Lane. Map, photographic and site evidence all concur in that although public rights were extinguished from that part of Nixon Lane in 1947 the route still physically existed. The stopping up of this footpath in 1963 suggests that access to it may still have been available – at least on foot. However, with no further information it may also have been the case that the route was not actually available at that time due to the stopping up of public rights along Nixon Lane and/or use of the land at that time but that it was recorded as a footpath due to historical use and it had been identified that a stopping up was required to prevent danger to the public.</p>
6 Inch OS Map Sheet 52SW	1955	<p>The OS base map for the Definitive Map, First Review, was published in 1955 at a scale of 6 inches to 1 mile (1:10,560). This map was revised before 1930 and is probably based on the same survey as the 1930s 25 inch map.</p>



Observations		<p>The map shows the full length of the application route A-F as part of a substantial bounded through route.</p> <p>It does not show the application route between point F and point G.</p>
Investigating Officer's Comments		<p>Although published in 1955 the map was revised before 1930 and as such shows the route – and land it passes through – prior to any changes shown on the 1940s aerial photograph and before the application route was 'closed' under Emergency Defence Powers.</p>
1 Inch OS map Sheet 94 - Preston	1961	1 inch OS map fully revised in 1958 and published 1961.





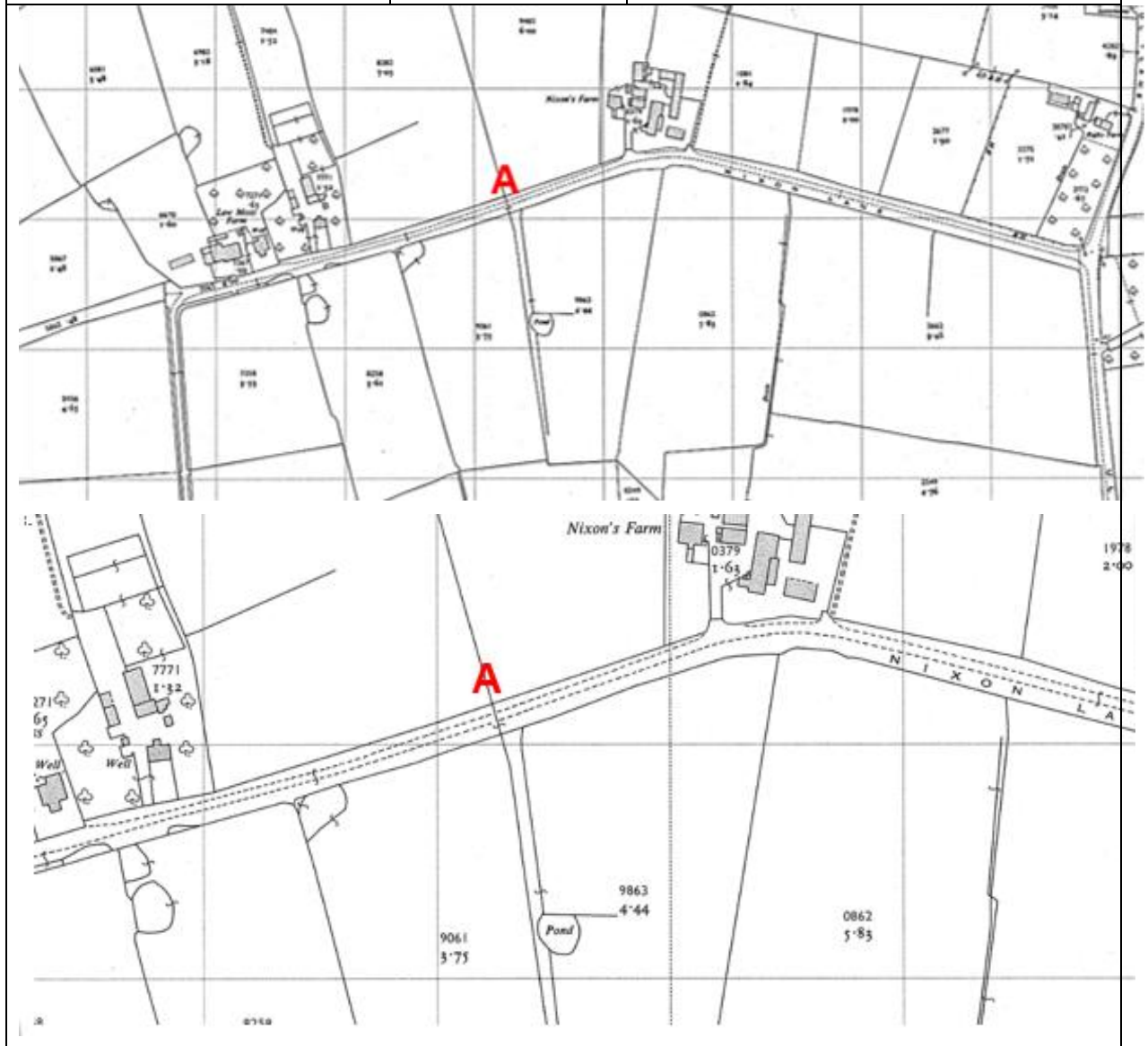
Roads	Ministry of Transport, Motorway	<u>M 1 or A 6 (M)</u>	
	" " " Trunk } Single & Dual	<u>A 6 (T)</u>	
	" " " Class 1 } Carriageway	<u>A 584</u>	Rail
	" " " " 2	<u>B 5269</u>	
	14 ft of Metalling & over (not included above)	<u>TOLL</u>	Wood
	Under 14ft of Metalling, Tarred " "	<u>Gate</u>	Orchar
	" " " " Untarred " "		Electric
	Minor Roads in towns, Drives and Unmetalled Roads (Unfenced Roads are shown by pecked lines)		(with py
	Under construction	<u>=====</u>	Pipe 1
	Steep Gradient 1 in 5 or steeper	<u>---<</u>	1 in 7 to under 1 in 5

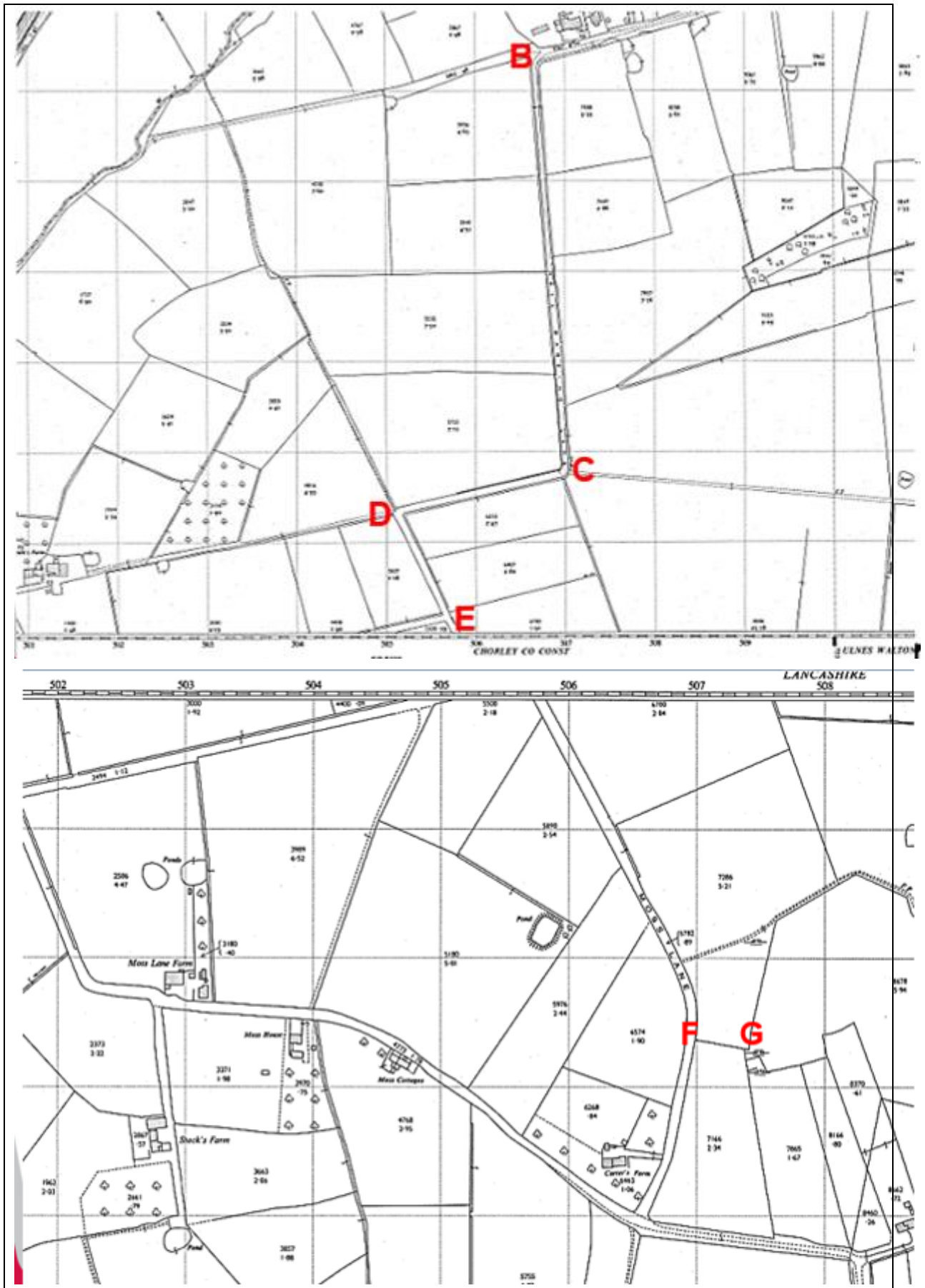
Observations		<p>The earliest map examined post-dating the closure of the route. Whilst the full length of the application route A-E is shown as an untarred or minor road, lines are shown across route at point A and also south of point F on Moss Lane. The buildings evident on the 1940s aerial photograph are not shown.</p> <p>The application route between point F and point G is not shown.</p>
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Investigating Comments	Officer's	<p>The application route A-F existed in 1958 but even on such a small-scale map lines are shown, representing</p>
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		gates or some other form of barrier, which may have restricted or prevented access along it.
1:2500 OS Map	1963-1964	Further edition of the 25 inch mapping reconstituted from former County Series and published as National Grid Series. Plan SD5020 & SD5121 revised 1962 and published 1964 Plan SD5021 & SD5021 revised 1961 and published 1963





Observations	The map shows the full length of the application route (A-F) as a
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		<p>substantial bounded route with a line (probable gate) across the route at point A.</p> <p>The application route F-G is not shown and in contrast to the aerial photograph detailed below no buildings are shown in the fields on either side of the route.</p>
Investigating Officer's Comments		<p>The application route A-F existed in 1963 – 1964 and may have been capable of being used. A probable gate at point A may have restricted or prevented access.</p> <p>The fact that the route is shown – but the buildings shown on the 1940s aerial photograph above and the 1960s aerial photograph detailed below are not shown, supports the view that the land had been requisitioned for military purposes and rather than leaving the area blank, the OS were showing what the area looked like prior to it being requisitioned.</p>
Aerial photograph	c.1963	<p>Aerial photography flown during the 1960s. The coverage is a mosaic of various flight runs on the following dates: 12-13th May 1961, 1st Jun 1963, 3-4th June 1963, 11th June 1963, 13th June 1963, 30th July 1963, 13th June 1968. The majority of images are from 1963, with the 1961 images mainly covering West Lancashire district, and the 1968 images mainly covering Ribble Valley district.</p>



<p>Observations</p>	<p>The application route A-F can be seen on the photograph. Rectangular buildings can be clearly seen in the fields on either side of the route many of which are</p>
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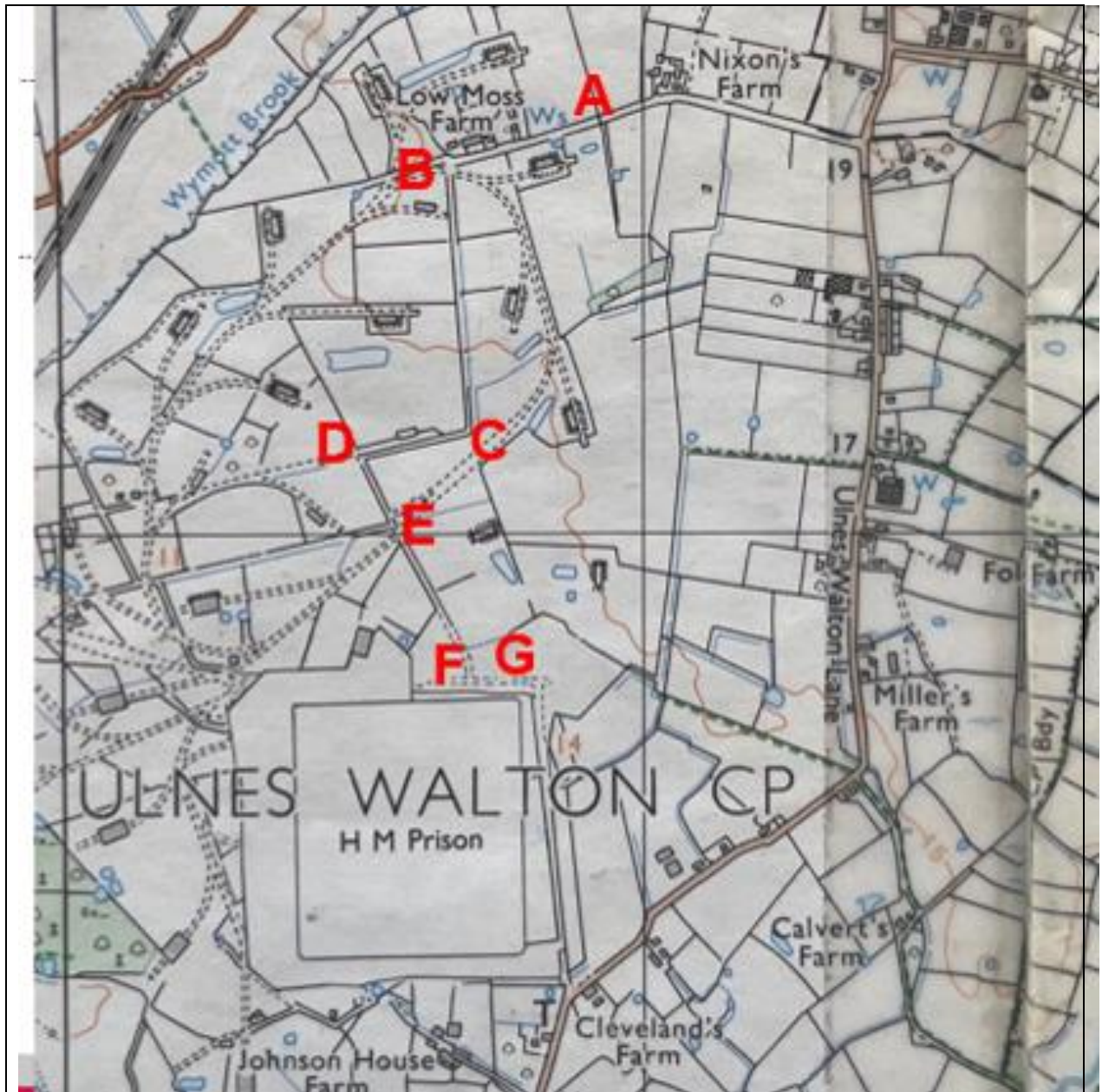
		<p>accessed from the route.</p> <p>The application route F-G is not shown.</p>
Investigating Comments	Officer's	<p>The application route A-F existed in 1963 and appeared to be capable of being used. There is evidence that much of the route was receiving substantial levels of vehicular use at that time although it is not known whether this use was predominantly public or private use.</p> <p>The photograph confirms the existence of a significant number of buildings accessed from the route which were not shown on the OS map from the same time providing further evidence that the route crossed a site used for military purposes, making it unlikely that public access was available at that time.</p>
1:50,000 OS Map Landranger Map 102 – Preston and Blackpool	1988	OS mapping published 1988. Date of survey not known.



Observations		Wymott Prison was opened in 1979
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		<p>with Garth Prison opening in 1988. This is the earliest map examined that shows the prisons and which shows the full length of the application route A-F and F-G. It is also the first map examined which shows the rectangular buildings located along the route and that makes any reference to what the area had been used for - referring to it as a disused depot.</p> <p>This map was last revised in 1979 with selected changes in 1988 and published in 1988 and shows the locations of the prisons but does not give any detail on the layout (or names).</p>
Investigating Officer's Comments		The full length of the application route existed in 1986 and appeared to be capable of being used at least on horseback.
1:25,000 OS Pathfinder Map SD42/52 Preston (South) and Leyland	1988	OS Pathfinder map published in 1988, date of revision not known.



	<p>B 3074 Secondary road</p> <p>A 35 Dual carriageway</p> <p>Road generally more than 4m wide</p> <p>Road generally less than 4m wide</p> <p>Other road, drive or track</p> <p>Unfenced roads and tracks are shown by pecked lines</p> <p>Path</p>
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Observations The 1:25,000 OS map provides

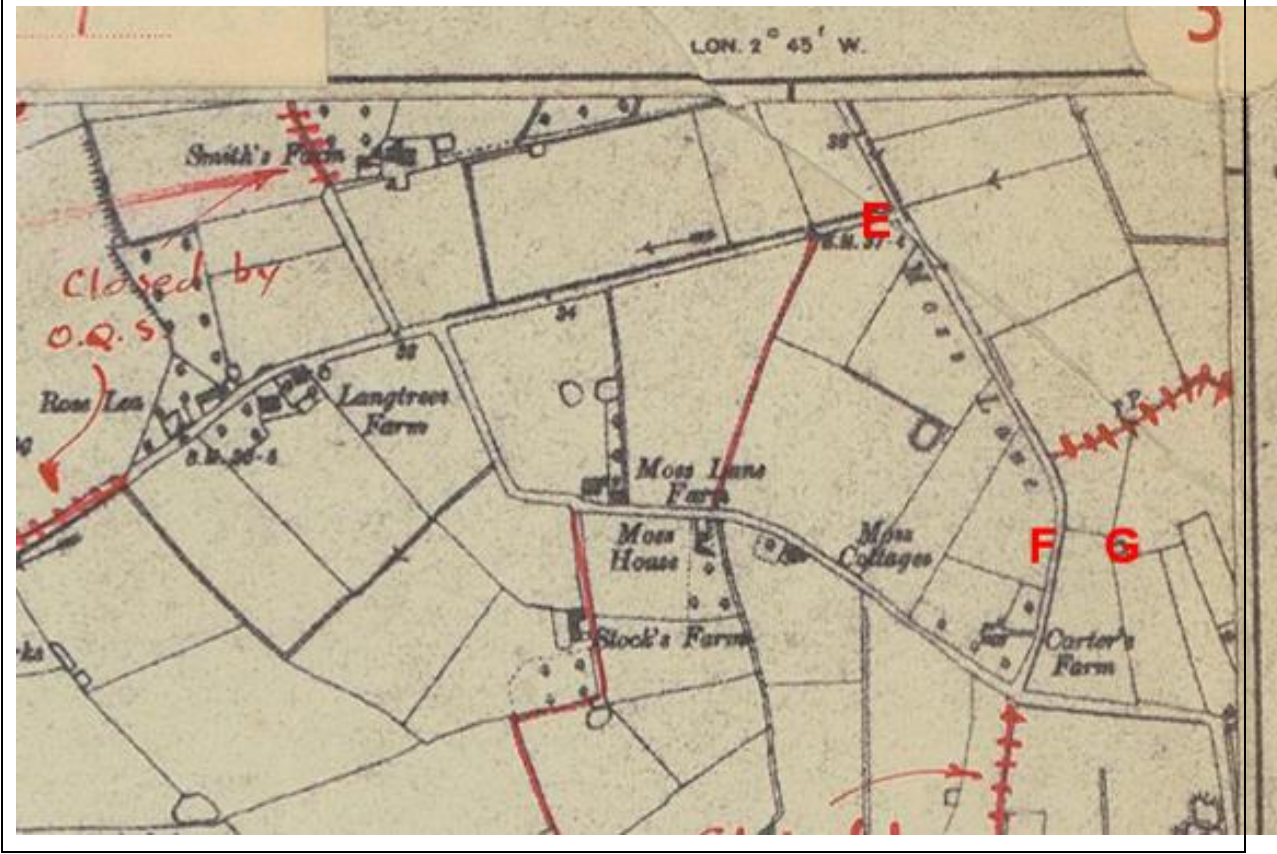
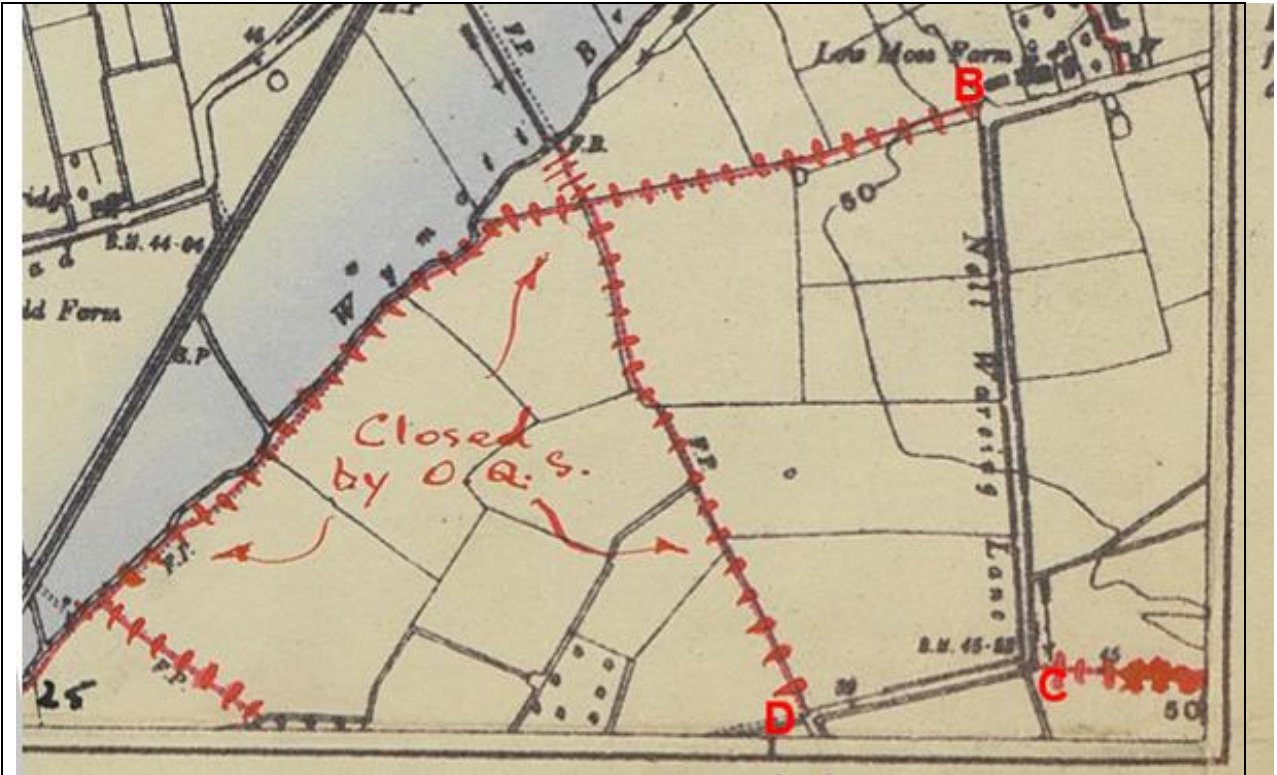


		<p>much more detail than the 1:50,000 map published the same year. It shows the full length of the application route A-F and also F-G which appears to have been constructed to provide access around the prison (which was built over part of the original route of Moss Lane).</p> <p>The map shows the existence of only one of the two prison sites although the smaller scale 1:50,000 OS map published in the same year showed both</p>
Investigating Officer's Comments		The full length of the application route existed and appeared to be capable of being used at least on horseback.
Proposed Concessionary Multi-User Path	2004-2012	Information on LCC files regarding a proposal to enter into a permissive agreement to allow horses to use the application route.
Observations		<p>Linked to the work being done by the Ulnes Walton Bridleways Association it appears that there was a proposal to allow equestrian access along the application route linking into the work being carried out to provide a network of concessionary bridleways in Ulnes Walton.</p> <p>Details have been located of a scheme led by Ulnes Walton Parish Council and a Countryside Officer employed by Lancashire County Council to apply for funding to facilitate the creation of a network of multi-use paths catering for pedestrians, cyclists & horse riders around the prison.</p> <p>The proposed routes of the new multi-use paths consisted of some routes already recorded as public footpaths and other routes with no recorded public legal status.</p> <p>LCC Estates Team were involved to provide advice and assistance to the main lead persons (see above) by contacting landowners and</p>

		<p>proposing concessionary agreements to try and secure multi-use rights over the portions of the route covered by existing public rights, and if possible secure new (concessionary) access, the idea being to provide an integrated pedestrian, cycle and bridleway route. The principal landowners where the Worden Estate, HM Prisons (Secretary of State) and SITA although ownership of some of the land crossed by the proposed routes was unknown.</p> <p>Negotiations started in approximately 2004 and continued through to 2012 when the proposal lapsed, and no agreements were completed.</p> <p>Plans of the proposed concessionary routes were obtained and confirm that the whole of the application route was included.</p>
Investigating Officer's Comments		<p>The fact that concessionary bridleway rights were being considered along the application route between 2004 and 2012 suggests that the landowners did not acknowledge the existence of public bridleway (or vehicular) rights at that time.</p>
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</p>

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.





2+3

DISTRICT Chorley R.D.C. PARISH Ulnes Walton No. 25

MAP SHEET No. _____ LENGTH 9.38 miles
(to two decimal places)

BRIEF DESCRIPTION (Field F.P. or otherwise)

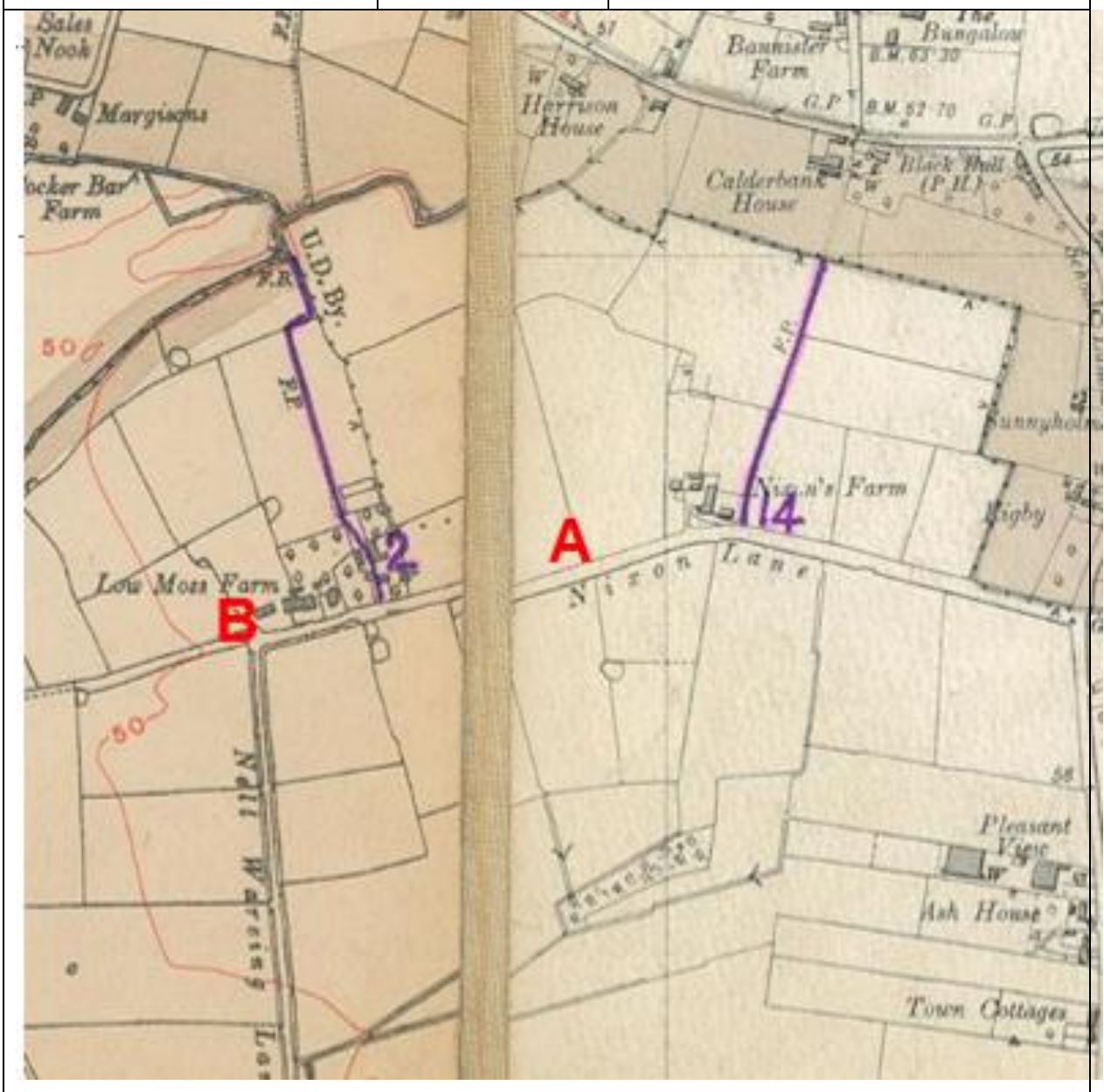
DETAILED DESCRIPTION (giving starting point, means of passage and general condition).

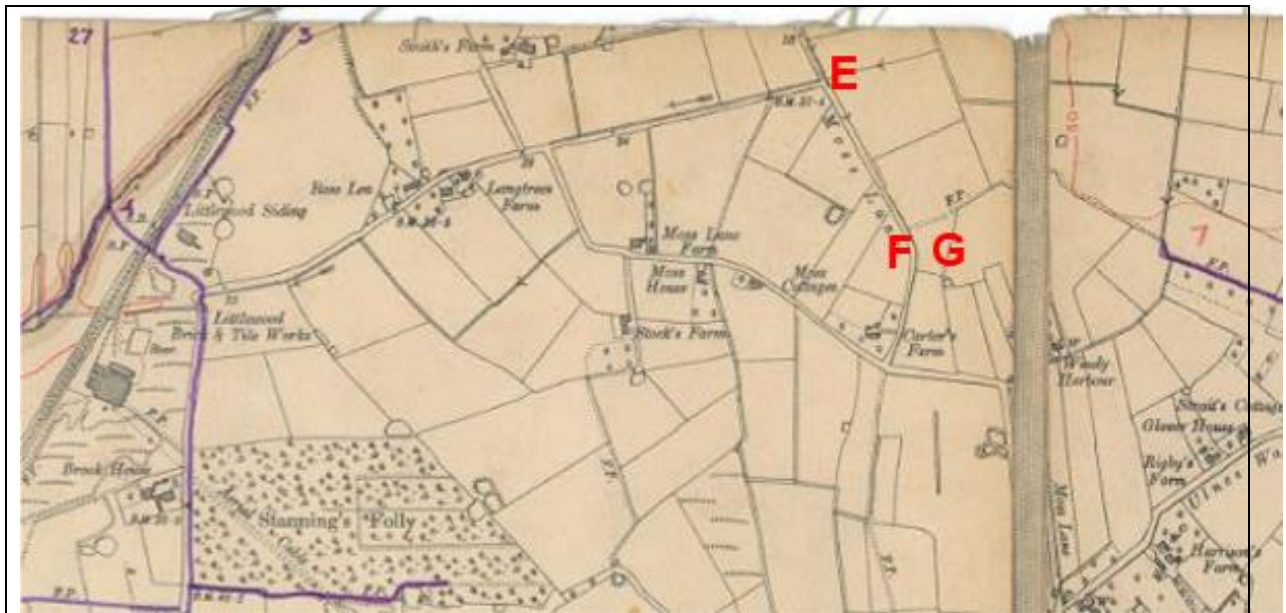
Wymott Brook Dale' Boulder Stone Farm to Nixon Lane.
Path closed from Nixon Lane to point on Wymott Brook
west of Smiths Farm by order of Q. Session. Path continues
southwards past Littlewood sidings to join Ridley Lane.

SURVEYED BY :— _____ Name

<p>Observations</p>		<p>No part of the application route was recorded on the parish survey map as a public right of way. However, it is noted that a number of paths were shown connecting to it which were subsequently crossed out with the note 'Closed by O.Q.S', understood to stand for Order of Quarter Sessions. One path, between point A and point B, was not shown crossed out although the parish survey card described it as passing through Boulder Stone Farm to Nixon Lane and having been closed by Order of Quarter Session from Nixon Lane to a point on Wymott Brook west of Smiths Farm.</p>
<p>Draft Map</p>		<p>The parish survey map and cards for Ulnes Walton 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 and report any omissions or other mistakes. Hearings were held</p>

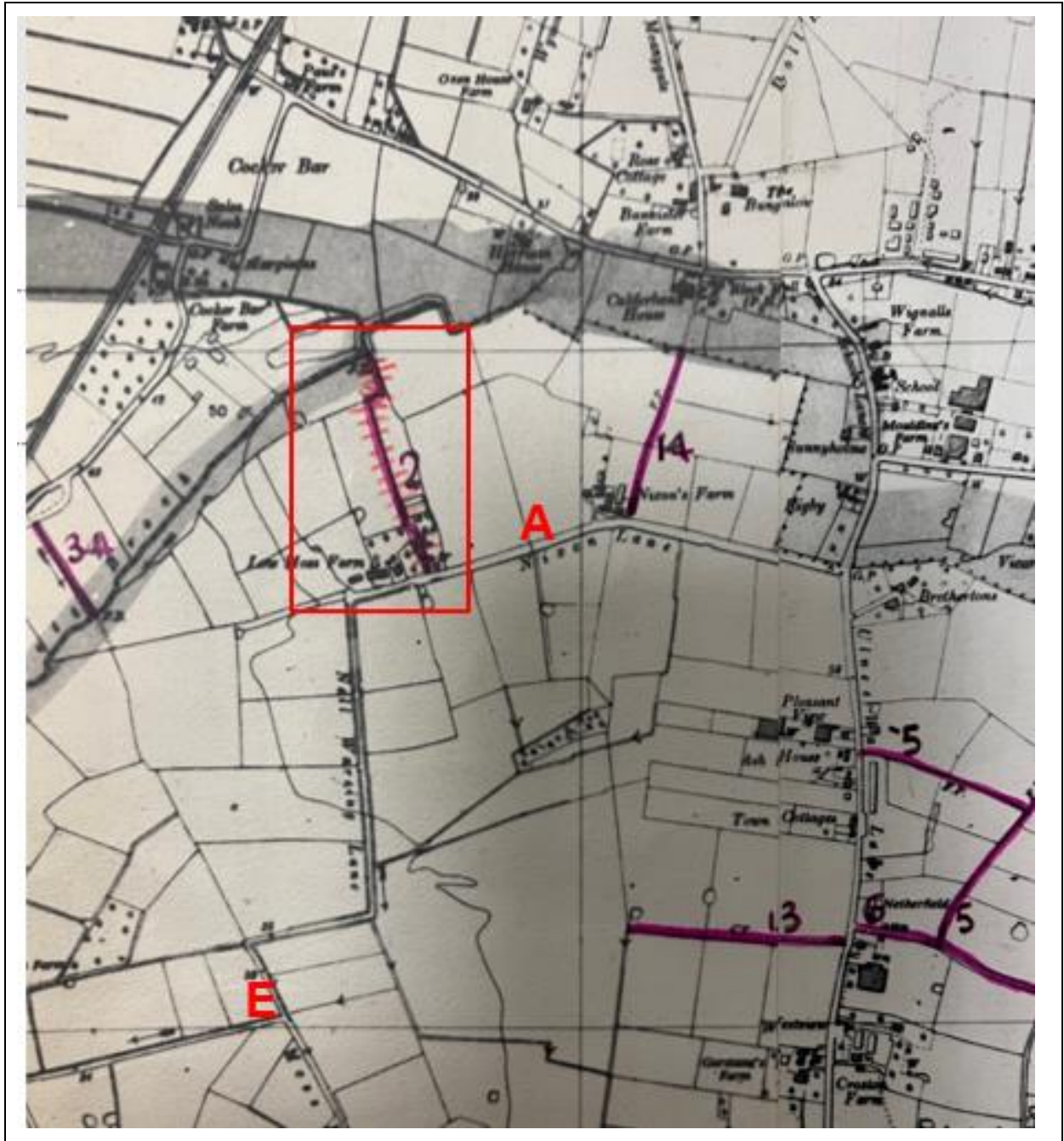
into these objections, and recommendations made to accept or reject them on the evidence presented.

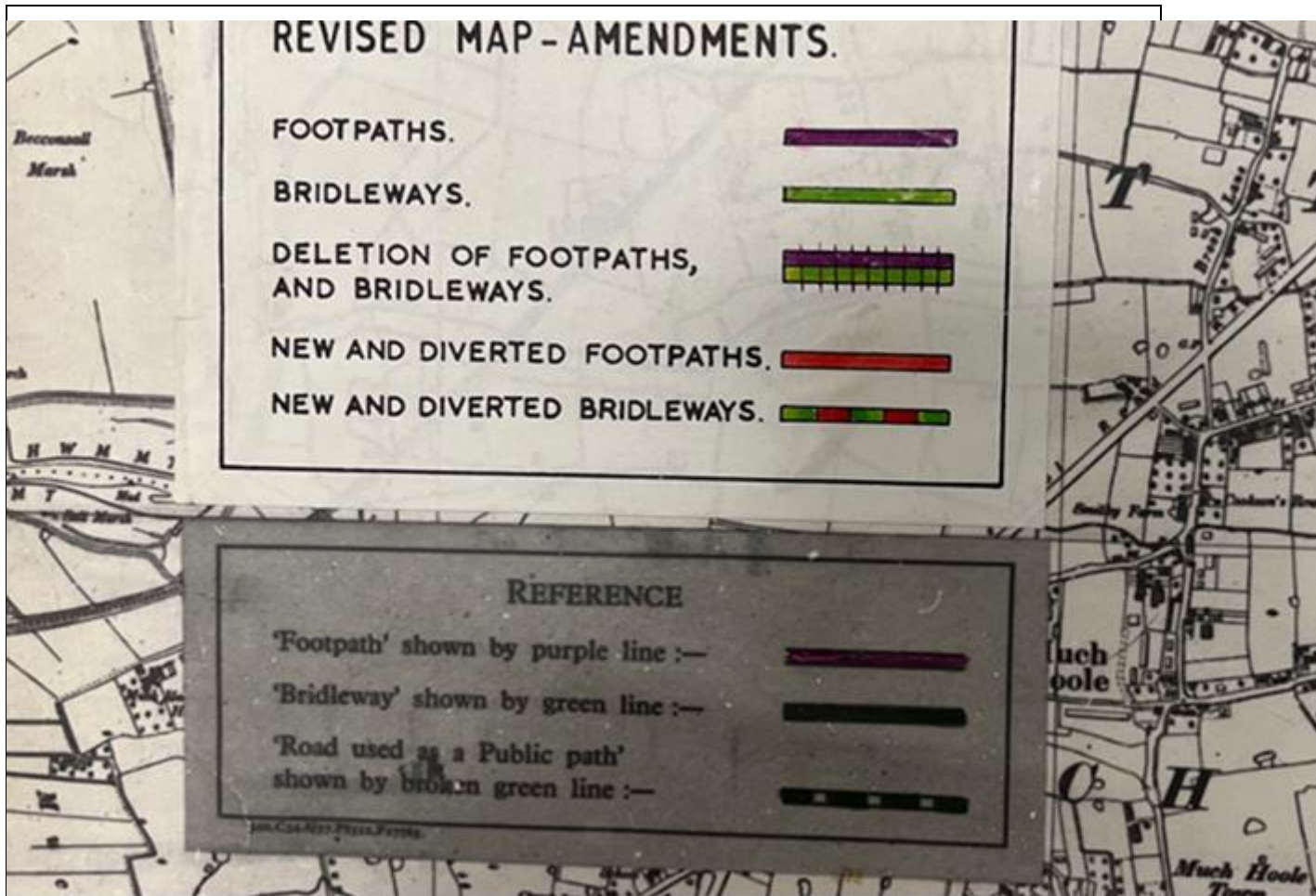




Observations		The application route is not recorded on the Draft Map and there were no objections or representations to the fact that it was not shown. A footpath (numbered Footpath 2) was shown meeting the application route between point A and point B.
Provisional Map		Once all representations relating 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. Objections at this stage had to be made to the Crown Court.
Observations		The Provisional Map sheet for the area crossed by the application route could not be found.
The First Definitive Map and Statement		The Provisional Map, as amended, was published as the Definitive Map in 1962.







<p>Observations</p>		<p>The application route is not shown on the First Definitive Map. Footpath 2 was shown on the First Definitive Map but when the Map was subsequently used to prepare the Draft Revised Map (First Review) it was noted that Footpath 2 was shown to have been deleted. Footpath 2 was subsequently found to have been temporarily stopped up under an Order made in 1963 (The Stopping up of Highways (County of Lancaster) (No. 2) Order 1963 for a period of five years to enable land to be used efficiently for a defence installation without danger to the public.</p>
<p>Revised Definitive Map of Public Rights of Way (First Review)</p>		<p>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</p>



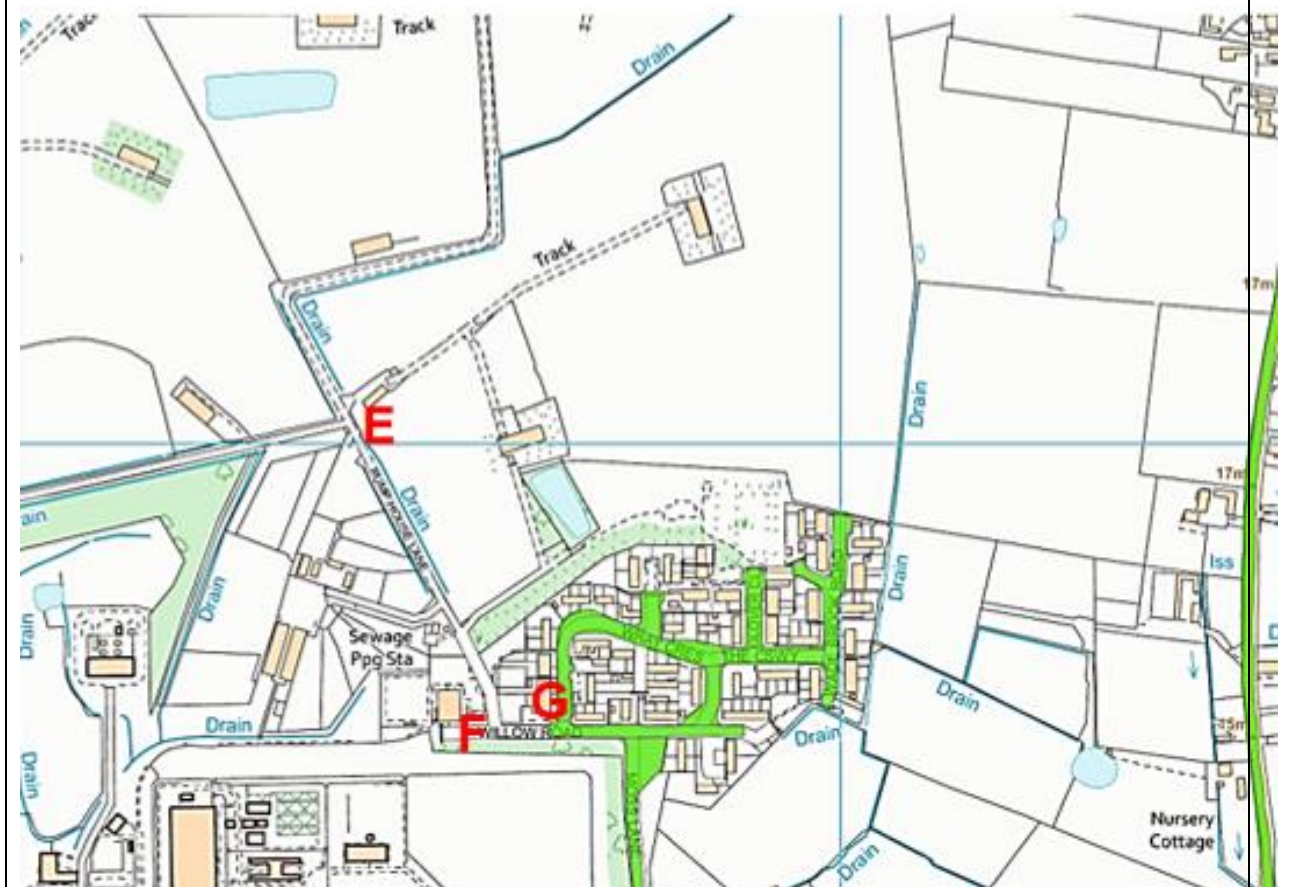
		<p>25th April 1975 (except in small areas of the County) the Revised Definitive Map of Public Rights of Way (First Review) was published with a relevant date of 1st September 1966. No further reviews of the Definitive Map have been carried out. However, since the coming into operation of the Wildlife and Countryside Act 1981, the Definitive Map has been subject to a continuous review process.</p>
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<p>Observations</p>		<p>The application route is not recorded on the Definitive Map and Statement (First Review).</p>
<p>Investigating Officer's Comments</p>		<p>The application route was not considered to be a public path which should be recorded on the Definitive Map and Statement from the 1950s through the relevant period.</p>
<p>Highway Adoption Records including maps derived from the '1929 Handover Maps'</p>	<p>1929 to present day</p>	<p>In 1929 the responsibility for district highways passed from rural district councils, and later from urban district and borough councils, to the</p>



	<p>County Council. For the purposes of the 1929 transfer, public highway 'handover' maps were drawn up to identify all of the rural district maintained 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>
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Observations

The application route is not recorded as a publicly maintainable highway on the List of Streets.



Investigating Officer's Comments		The fact that the route is not (now) recorded as a publicly maintainable highway does not mean that it does not carry public vehicular rights of access.
Highway Stopping Up Orders	1835 - 2014	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 made by Districts and the County Council since that date.
Observations		No legal orders relating to the creation, diversion or extinguishment of public rights have been found other than those already detailed above.
Investigating Officer's Comments		Between point A and point F highway rights were stopped up temporarily in 1942-1944 under the emergency powers detailed earlier in this report and were subsequently stopped up permanently in 1947. No other legal orders relating to subsequent creation, diversion or extinguishment of any new public rights along the application route have been found.
Statutory deposit and declaration made under section 31(6) Highways Act 1980		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 20 years from the date of the deposit (or within 20 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). 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).
Observations		No Highways Act 1980 Section 31(6) deposits have been lodged with the County Council for the area over which the application route runs.
Investigating Officer's Comments		There is no indication by the landowners under this provision of non-intention to dedicate public rights of way over this land.

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

Summary

The application route A-F

Early map and documentary evidence examined culminating in the 1929 Handover Maps clearly concur with the view that the application route was a public road maintained at public expense. Public rights were extinguished along the route in 1944 under special emergency powers related to the defence of the country, and a further order made in 1947 permanently extinguished those rights.

Although public vehicular rights were extinguished the route still physically existed as evidenced by aerial photographs dated from the 1940s and 1960s although due to its military use it may not have been available to the public.

Later OS maps (1980s) show the route and the fact that the prisons had been built and what was believed to be a former army ammunition storage facility was now disused.



No user evidence has been submitted in support of the application but between 2004 and 2012 discussions were held between the Ulles Walton Parish Council, County Council and relevant landowners regarding the creation of concessionary rights to use the route on foot, horseback and bicycle.

Recent site evidence shows that the route is open and available to use although no concessionary agreements were ever finalised.

The application route F-G

The application route F-G did not exist until the prison sites were constructed together with the adjacent housing estate which originally housed prison workers. The first maps located showing the route F-G are dated 1988 and no map or documentary evidence was found indicating exactly when the route came into being or that the route was dedicated as a public right of way.

Head of Service – Legal and Democratic Services Observations

Landownership

The section of the application route from A to E crosses land which is unregistered. The land crossed by the application route from E to F is in the ownership of the Secretary of State for Justice. The section of the route from F to G crosses land which is unregistered.

Information from the Applicant

The applicant provided extracts of the following map and documentary evidence in support of their application:

- First Edition 6 inch OS map published 1849
- LCC digitised map showing recorded highways layer
- Smith's Map of Lancashire
- Hennet's Map of Lancashire published 1830
- 1 inch OS map published 1896
- Bartholomew's ½ inch map published 1904
- OS 25 inch map published 1911
- OS 6 inch map published 1929
- Bartholomew's ½ inch map published 1941
- OS 1 inch map published 1961 including same map with a modern overlay
- 1910 Finance Act map
- 1938 Tithe Map and Award

All of the maps and documents submitted have been considered earlier in the report.

The applicants did not submit any user evidence. The applicant explained that the husband of a BHS volunteer, who was born in 1952, used to fish on the pits near the brick and tile works as a child and remembered accessing them via the application route as he lived on Slater Lane (it was a direct route for them). He remembered the brick works being demolished to create the landfill site.



The Ulnes Walton Bridleways Association are said to have used this route since 2004, usually twice a year, without requesting permission. The applicant also states that the local livery and many private yards use the route daily, as do walkers and cyclists.

Information from Others

An adjacent landowner responded to consultation to state they have no objection to the application.

Another adjacent landowner responded to consultation to state they have no objection to the application.

An adjacent landowner responded to consultation with a request for information, a response has been sent.

Information from the Landowner

The Secretary of State for Justice responded to consultation with a detailed report from a public rights of way consultant. Their research revealed Orders temporarily stopping up highways in the area between Ridley Lane and Pump House Lane and between Willow Road and Nixon Lane, made under the Emergency Powers (Defence) Act 1939 and that these were followed up by a permanent stopping up order. The effect of this was to close, from November 1947, parts of the routes which the DMMO applications are now claiming to be public bridleways. Copies of the Order were provided and are included below.



55

1017/57

STATUTORY RULES AND ORDERS

1947 No. 2520

HIGHWAY, ENGLAND

THE STOPPING UP OF HIGHWAYS (LANCASHIRE) (No. 7) ORDER, 1947,
DATED November 25, 1947, MADE BY THE MINISTER OF
TRANSPORT.

Whereas by virtue of Orders made on the 30th day of September, 1940, and the 20th day of November, 1942, by the Minister of Supply in exercise of the powers conferred upon him by Regulation 16 of the Defence (General) Regulations, 1939, the highways consisting of the roads and footpaths within the parish of Ulmes Walton in the County of Lancaster (hereinafter referred to as "the said highways") which are specified in the Schedule to this Order were stopped up;

And whereas the said highways have not ceased to be so stopped up;

And whereas the Minister of Transport (hereinafter referred to as "the Minister") is satisfied that in the public interest it is expedient that the said highways should be permanently stopped up;

And whereas the provisions of subsections (1) to (3) of section 17 of the Requisitioned Land and War Works Act, 1945 (which provide for the publication of orders proposed to be made under section 15 of the said Act) have been complied with;

8 & 9
Geo. 6.
c. 43.

And whereas no written objection to the draft Order so published has been received by the Minister within the time limited by the notice thereof given in accordance with the said provisions;

Now, therefore, the Minister in exercise of the powers conferred upon him by section 15 of the said Act and of all other powers him enabling hereby makes the following Order:—

1. The permanent stopping up of the said highways is hereby authorised.

2. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

52 & 53
Vict. c. 63.

3. This Order may be cited as "The Stopping up of Highways (Lancashire) (No. 7) Order, 1947".

Given under the Official Seal of the Minister of Transport this
day of November 1947.

G. Midman

An Under Secretary of the
Ministry of Transport.

THE SCHEDULE

HIGHWAYS TO BE STOPPED UP

1. That part of the road leading from Littlewood Hall Farm to Ulmes Walton Lane which extends from a point approximately 1,066 yards north of Littlewood Hall Farm in a general north easterly and northerly direction for a distance of approximately 2,308 yards to a point 100 yards west of Nixon's Farm.

X1905.

RB



2. That part of the footpath leading from a point on the road described in paragraph 1 of this Schedule approximately 372 yards east of Smith's Farm to Cocker Bar Road which extends from the above-mentioned point in a general north westerly direction to the footbridge over Wymott Brook.

3. That part of the footpath from Littlemoor Siding to Low Moss Farm which extends from a point approximately 170 yards north east of the Wymott Brook culvert under the L.M.S. Railway in a general north easterly direction to its junction with Nell Wareing Lane at Low Moss Farm.

4. The footpath extending in a north westerly direction from Smith's Farm to its junction with the footpath described in paragraph 3 of this Schedule.

5. That part of the footpath from Nell Wareing Lane to Ulmes Walton Lane which extends in an easterly direction from its junction with Nell Wareing Lane for a distance of approximately 405 yards.

6. The road extending in a general north westerly direction from Carter's Farm to its junction with the road described in paragraph 1 of this Schedule at a point approximately 130 yards east of Langtrees Farm.

7. That part of Moss Lane which extends from Windy Harbour in a westerly direction for approximately 175 yards to Carter's Farm and thence in a general north westerly direction to its junction with the road described in paragraph 1 of this Schedule at a point approximately 567 yards east of Langtrees Farm.

8. That part of the footpath from Moss Lane to Ulmes Walton Lane which extends in a general easterly direction from its junction with Moss Lane for a distance of approximately 400 yards.

9. That part of the footpath from Carter's Farm in Moss Lane to Johnson's House which extends in a general southerly direction from Carter's Farm to a point approximately 130 yards north of Johnson's House.

10. That part of the road from Ulmes Walton Lane to the Clay Pit south of Stanning's Folly which extends from a point 66 yards north west of Johnson's House in a general north westerly and south westerly direction for a distance of approximately 550 yards, more particularly delineated and coloured red on the plan numbered R.L.A. 20/1-4 marked "Highways at Ulmes Walton in the County of Lancaster" a copy of which has been deposited at the offices of the Ministry of Transport, Berkeley Square House, London, W.1, and at the offices of the Chorley Rural District Council, Council Offices, Gillibrand Street, Chorley, Lancashire.

hall
C.H.

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Assessment of the Evidence

The Law - See Annex 'A'

Conclusion

In this matter there is no express dedication and no user evidence and so Committee is asked to consider where there is on balance evidence from which to infer dedication of bridleway rights at common law.

Committee is therefore advised to consider whether evidence from the old maps and other documents of the site does on balance indicate that bridleway rights should be recorded. None of the maps prior to the OS Map Landranger Map of 1988 show evidence of an existence of the full route from A-G, although there are many references to the existence since 1818 of part of the route.

Committee is referred to the highway adoption records derived from the '1929 Handover Maps' which closed part of the route A-F under Emergency Powers (defence) Order in 1942, and The Stopping up of Highways Order 1947 which permanently stopped this part of the route and extinguished public rights.

Map evidence since 1988 does show the route in full and the fact that it is no longer recorded as a publicly maintainable highway, and that it was stopped up does not necessarily mean that it cannot become a highway again, however there has to be sufficient evidence to support a dedication.

It is submitted that since the stopping up of 1947 in considering the evidence presented Committee may consider that there is insufficient evidence for dedication to be inferred and accordingly the recommendation to Committee is to reject the application and that no Order is made.

Risk management

Consideration has been given to the risk management implications associated with this application. The Committee is advised that the decision taken must be based solely on the evidence contained within the report, guidance contained both in the report and within Annex 'A' included in the Agenda Papers, officers' presentation and discussion. Provided any decision is taken strictly in accordance with the above then there is no significant risks associated with the decision making process.

Local Government (Access to Information) Act 1985 List of Background Papers

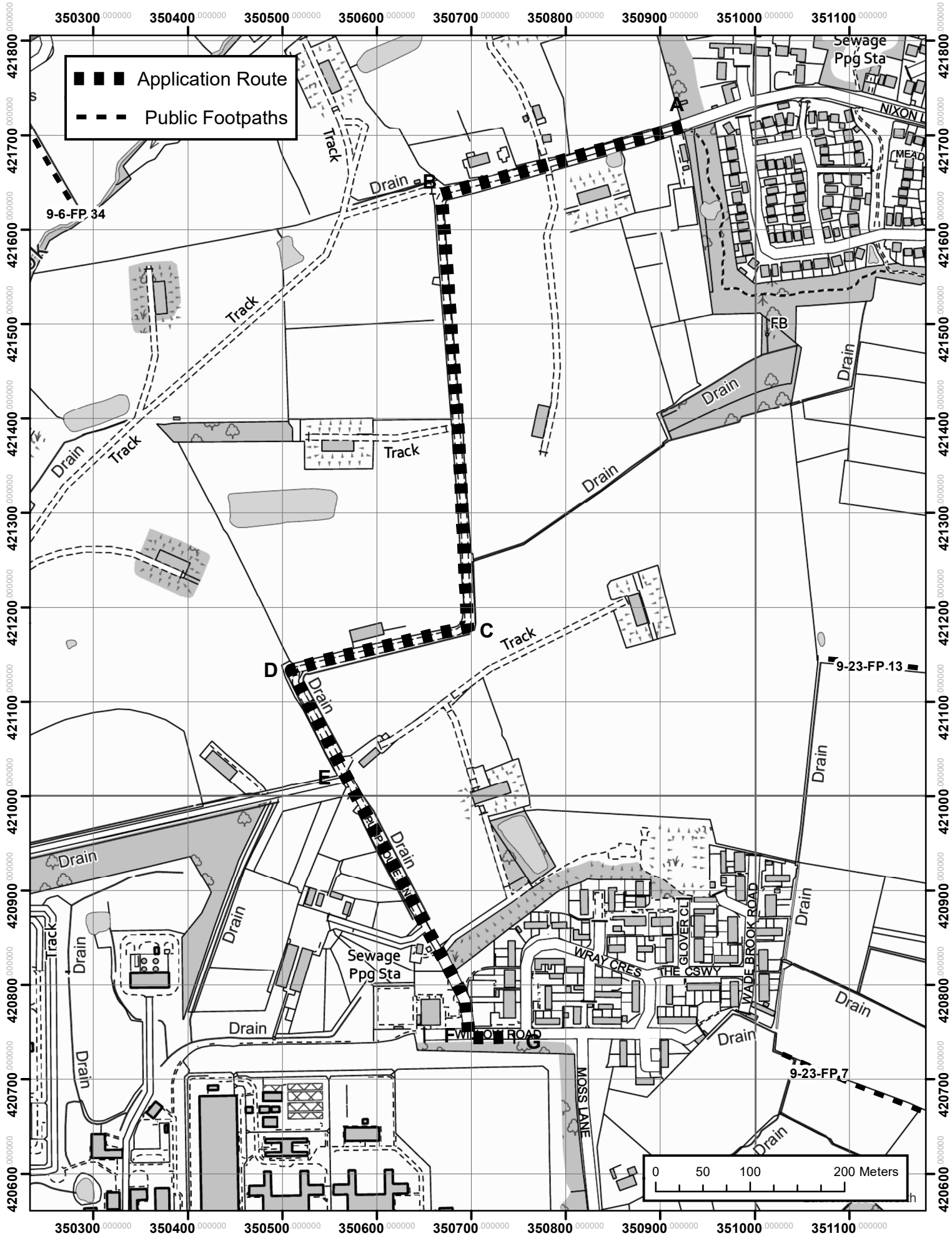
Paper	Date	Contact/Directorate/Tel
All documents on File Ref: 804-732		Annabel Mayson, 01772 533244, County Secretary and Solicitors Group

Reason for inclusion in Part II, if appropriate



N/A





Regulatory Committee

Meeting to be held on 08 March 2023

Part I

Electoral Division affected:
Chorley Rural West

Wildlife and Countryside Act 1981

Definitive Map Modification Order Investigation

Addition of Bridleway from Ridley Lane to Pump House Lane, Ulnes Walton

(Annex 'A' refers)

Contact for further information quoting file reference 804-731:

Simon Moore, 01772 531280, Paralegal Officer, County Secretary and Solicitors Group, simon.moore@lancashire.gov.uk

Jayne Elliott, 01772 537663, Public Rights of Way Definitive Map Officer, Planning and Environment Group, jayne.elliott@lancashire.gov.uk

Brief Summary

Determination of an application for the addition of and upgrade to bridleway from Ridley Lane to Pump House Lane, Ulnes Walton.

Recommendation

That the application for the addition of bridleway and upgrade of a footpath to bridleway from Ridley Lane to Pump House Lane, Ulnes Walton as shown between points A-I on the Committee plan to the Definitive Map and Statement of Public Rights of Way be not accepted.

Background

An application under Schedule 14 of the Wildlife and Countryside Act 1981 has been received for the addition to the Definitive Map and Statement of Public Rights of Way of a bridleway and the upgrading of part of 9-23-FP3 to bridleway from Ridley Lane to Pump House Lane, Ulnes Walton.

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 will only be made to add a public right of way to the Definitive Map and Statement if the evidence shows that:

- A right of way “subsists” or is “reasonably alleged to subsist”

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"

An order for adding a way to or upgrading a way shown on the Definitive Map and Statement will be made if the evidence shows 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 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 District Council

Chorley District Council provided no response to consultation.

Ulnes Walton Parish Council

Ulnes Walton Parish Council provided no response to consultation.

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 – 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	4967 1964	North end of Ridley Lane (U426) at junction with 9-23-FP3 and junction with 9-11-FP25 and 9-23-FP8 south of Littlewood Bridge
B	4965 1966	Metal barrier across full width of application route (open on day route was inspected)
C	4960 2001	Point at which 9-23-FP3 leaves application route
D	4963 2023	Point at which 9-23-FP1 crosses application route
E	4964 2028	Access from the application route onto 9-23-FP1
F	4965 2070	9-23-FP3 re-joins application route at point where the application route deviates from the historical route
G	4958 2077	Bend in route at junction with 9-23-FP4 adjacent to railway
H	4971 2094	9-23-FP3 leaves application route
I	4980 2096	Junction of application route with tarmac roadway which leads to Cocker Bar Road
J	5003 2090	Point at which the application route deviates from the historical route
K	5012 2092	Point at which the road recorded as 5/06 on the Handover Map met the application route
L	5015 2092	Point at which the route recorded as 5/127 on the Handover Map met the application route
M	5056 2102	Junction of application route with Pump House Lane

Description of Route

A site inspection was carried out in February 2022.

The application route starts at the northern end of the public vehicular section of Ridley Lane (U426) at junction with 9-23-FP3 and junction with 9-11-FP25 and 9-23-FP8 south of Littlewood Bridge (point A on the Committee plan).

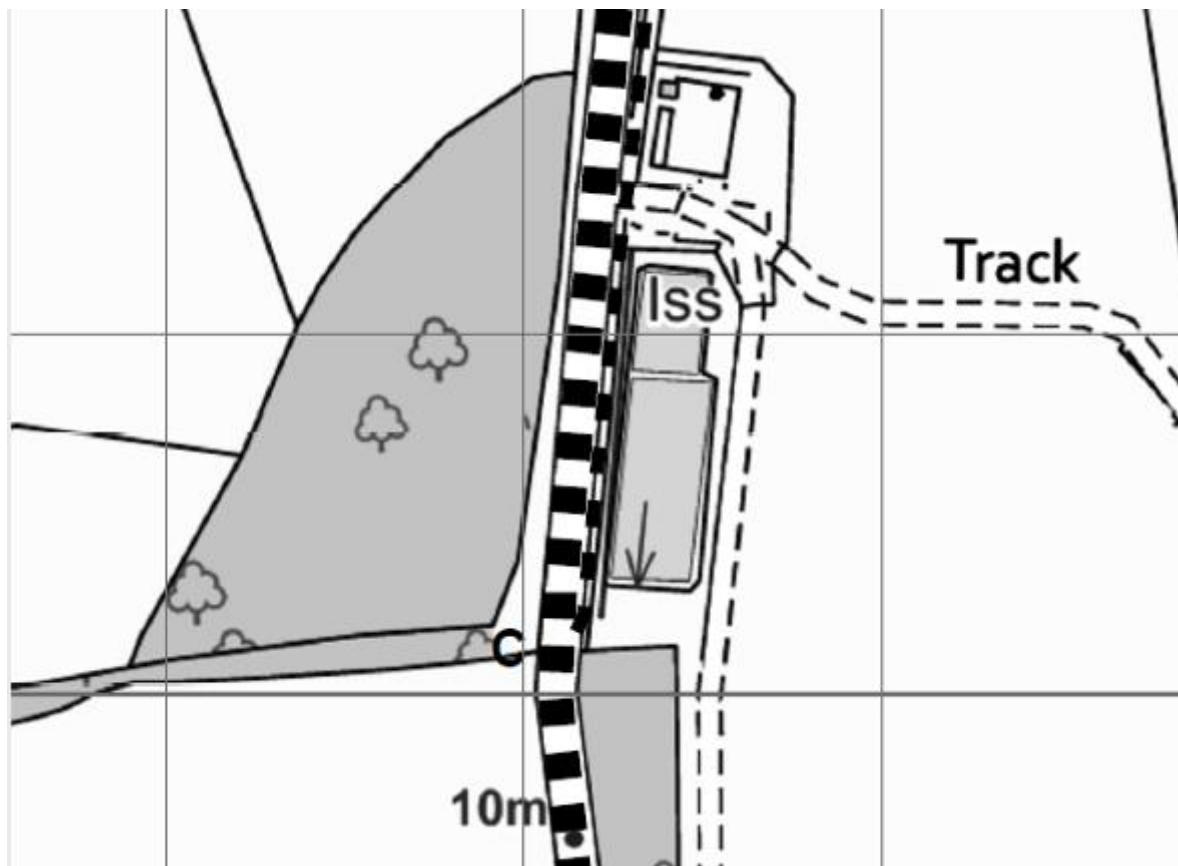
From here it extends in a northerly direction to cross a substantial stone bridge which is used to access Littlewood Hall Farm and is recorded as public footpath 9-23-FP3.

It continues along the access road for a short distance to where a metal barrier has been erected (point B) which was open when the route was inspected but which could be closed across the full width of the route preventing vehicular and restricting other types of access as it would be necessary to bend down to duck under the barrier. A padlock was present suggesting that at times the barrier may be closed and padlocked across the route.



The route continues along the access road which was tarmacked but covered with a layer of mud with evidence of regular use by farm vehicles. An access road to Littlewood Hall Farm branches off to the west of the application route and the route itself continues north along a bounded tarmacked access road approximately 3 metres wide immediately east of the farm with a further access track branching off from the application route to the rear of the farm).

Approximately 375 metres along the application route (from the start marked as point A) the 9-23-FP3 is recorded as leaving the roadway and running parallel to it along the east side. There is no physical evidence of a separate route being used on foot adjacent to the roadway (application route) and an overgrown ditch and trees and hedges prevent access along the recorded route of the footpath:



The application route continues along the roadway which is tarmacked. There is evidence of recent vehicular use leading to gateways into adjacent fields and there are some large potholes in the surface.

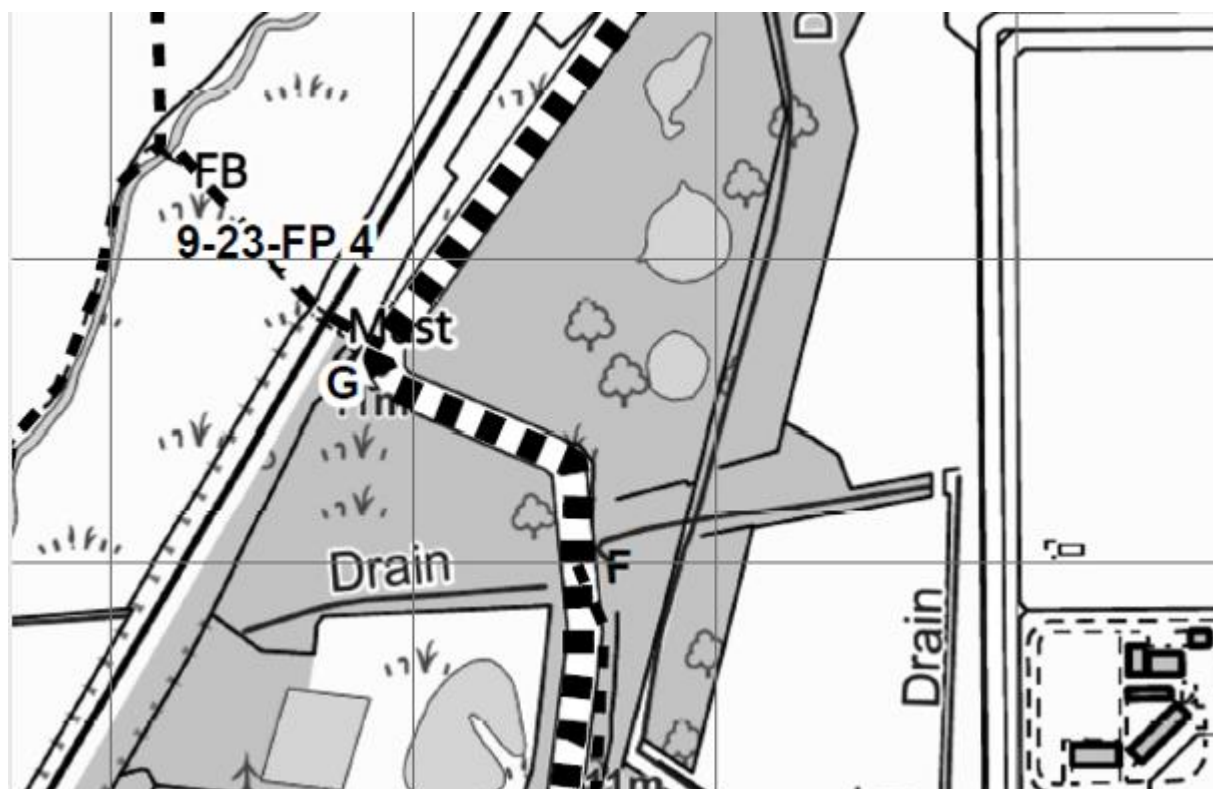
The application route is crossed by 9-23-FP1 (point D on the Committee plan) with a public footpath signpost positioned in the grass verge on the east side of the tarmac roadway pointing west across the application route and along the footpath.

Approximately 45 metres further north along the application route is a further public footpath signpost pointing east along the continuation of 9-23-FP1 which is accessed from the application route although the route of 9-23-FP3 which connects the two sections of 9-23-FP1 is still recorded running parallel to the application route along the eastern side:



From here the application route continues north along the tarmac roadway which has a number of 'speed bumps' crossing it which appear to have been signed in the past with warning signs that are now lying in the hedges to the side or are in disrepair and pointing in the wrong direction so as not to be clearly visible.

Approximately 1 kilometre from the start of the route it crosses a culverted drain at the point at which the public footpath (9-23-FP3) rejoins the tarmac roadway (point F on the Committee plan) and runs along the roadway/application route which then turns to continue in a north westerly direction to continue towards a railway line. The application route/roadway, still recorded as 9-23-FP3 at this point, turns again as it reaches the railway (point G) with footpath 9-23-FP4 leaving the application route to cross the railway and continue beyond.



From the junction with 9-23-FP4 (point G) the application route continues along the roadway which carries 9-23-FP3 in a north easterly direction running to the east of the railway line for a further 210 metres (approximately) to where 9-23-FP3 leaves the tarmac roadway/application route (point H on the Committee plan) to continue adjacent to the railway line.

From this junction (point H) the application route continues along the tarmac roadway in a more easterly direction to a junction of tarmac roadways (point I on the Committee plan) to the north of the boundary fencing around HM Prison Garth, where one tarmac roadway continues north north east to come out on Cocker Bar Road whilst the other roadway (the application route) continues east south east running to the north of Garth and Wymott prisons through to Pump House Lane.

From the junction of roadways at point I the application route continues as a tarmac roadway with the remains of a faint broken white line down the centre and double yellow lines along the northern side as far as a layby in which cars were parked and which appeared to be used by fishermen accessing fishing ponds north of the application route. Beyond the layby the surface of the application route was no longer tarmac but comprised of a stone and compacted earth track bounded from the adjacent land and 3-4 metres wide through to the point marked as point J on the Committee plan which was close to the northern boundary fence of Garth prison.

Beyond point J the application route continues in a straight line in an east north easterly direction through to the open junction with Pump House Lane (point M) for which a separate application for a Definitive Map Modification Order has also been made (Application 804-732). The surface of the application route between point J and point M was potholed with large puddles spreading across most of the width in places. There was evidence of some recent vehicular use consistent with large farm vehicles/tractors.

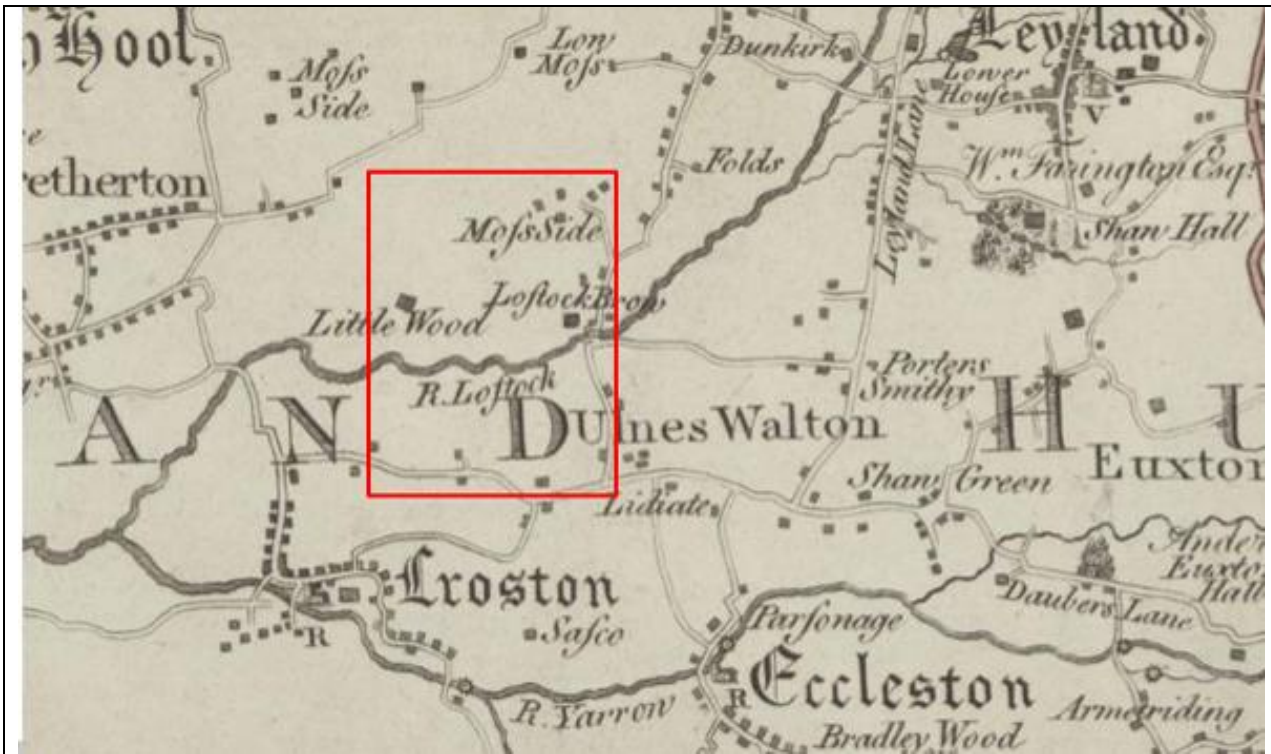
In summary, the full length of the application route was open and available to use when it was inspected in February 2022. Several walkers were seen using the route and a cyclist was also seen traveling along it.

Map and Documentary Evidence

A variety of maps, plans and other documents were examined to discover when the route came into being, and to try to determine what its status may be.

Document Title	Date	Brief Description of Document & Nature of Evidence
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.





- vicinity to an Improvements* C I
- Chapel of Ease* C E
- Disputing Chapel* D C
- Turnpike Roads and Mile Stones*
with Toll Bars marked 'TB' TB
- Cross Roads*.....
- Rivers with Water Mills Engines &c*.....
- Canals with Locks and Bridges*..... Lock Bridge
- Coal Pits*.....
- Boundaries of the County and*
division of the Hundreds.....

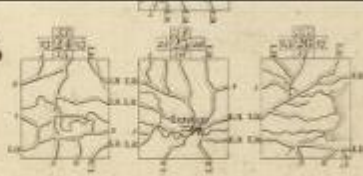
Observations		The application route is not shown. A property is marked on the map called 'Little Wood' consistent with the location of Littlewood Hall Farm but access to the property is not shown. A property is shown – but not named – on the north side of Moor Road – shown as part of a cross road running east-west south of the River Lostock and north of the village of Croston consistent with the location of the start of Ridley Lane adjacent to Robin Hood Farm with access to that property shown consistent with the start of Ridley Lane.
Investigating Officer's Comments		Access must have existed to Littlewood Hall Farm – and this could have been via Moor Road adjacent to Robin Hood Farm (not named on the



		<p>map) but this is not shown suggesting that Yates did not consider the route to be a public highway or that it was not surveyed, as surveys were expensive.</p> <p>The application route itself – which continued beyond Littlewood Hall Farm towards Moss Side (named) may not have existed in 1786 or it may have been that Yates did not consider it to be a public highway.</p>
Cary's Map of Lancashire	1787	<p>John Cary was described as 'the most representative, able and prolific of English cartographers'. He was as busy a publisher as he was a cartographer and engraver, and until his death in 1835 published a constant flow of atlases, maps, road maps, canal plans, globes and geological surveys. He set new high standards of engraving and map design and in 1787 he published a 'New and Correct English Atlas' containing 46 maps which was re-issued ten times until 1831.</p> <p>In 1794 the Postmaster General commissioned Cary to survey the main roads of Great Britain and his information on roads may be viewed with above average confidence.</p>



The middle figure denotes the number of the plate, and the figures at the top and bottom, explain its connection North and South, and those at the sides, East and West.



Turnpike Roads, thro' enclosed countries

D.^o thro' unenclosed d.^o

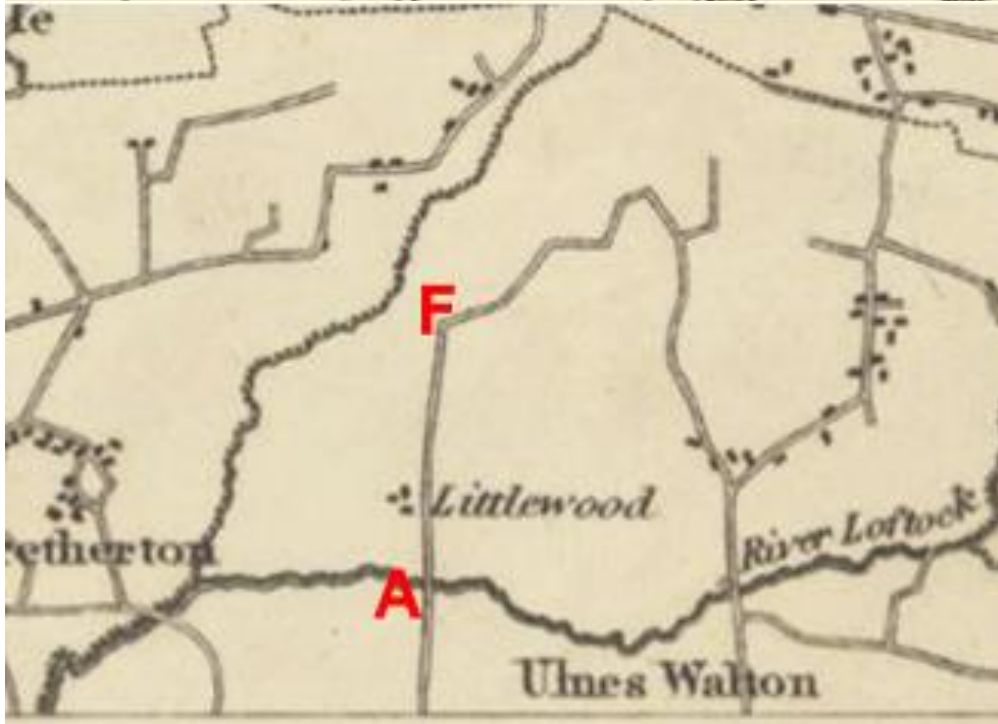
Bye Roads are marked by closer lines, as

N.B. The turnpike Roads to and from London, are distinguished by the letters L.R., which will be a sufficient guide for uniting these Roads, and the junctions of all the other turnpike Roads are shown by figures of reference.

Observations		The application route is not shown and neither are any of the properties located along it.
Investigating Officer's Comments		The application route may not have existed in 1787 or if it did exist was not considered to be a significant public through route by Cary.
Smith's Map of Lancashire	1804	Charles Smith was a London engraver and map seller. His map of Lancashire appeared as a single sheet in 1801 and then between 1804 and 1846 was published in subsequent editions of the New English atlas. His Map was similar to Cary's Map of Lancashire dated 1789 but is not a direct copy. It is thought that Smith and Cary used common sources, especially Yates' survey, and since both were aiming at the same market – the increasing number of private and commercial travellers – it is not considered surprising that they produced similar maps.



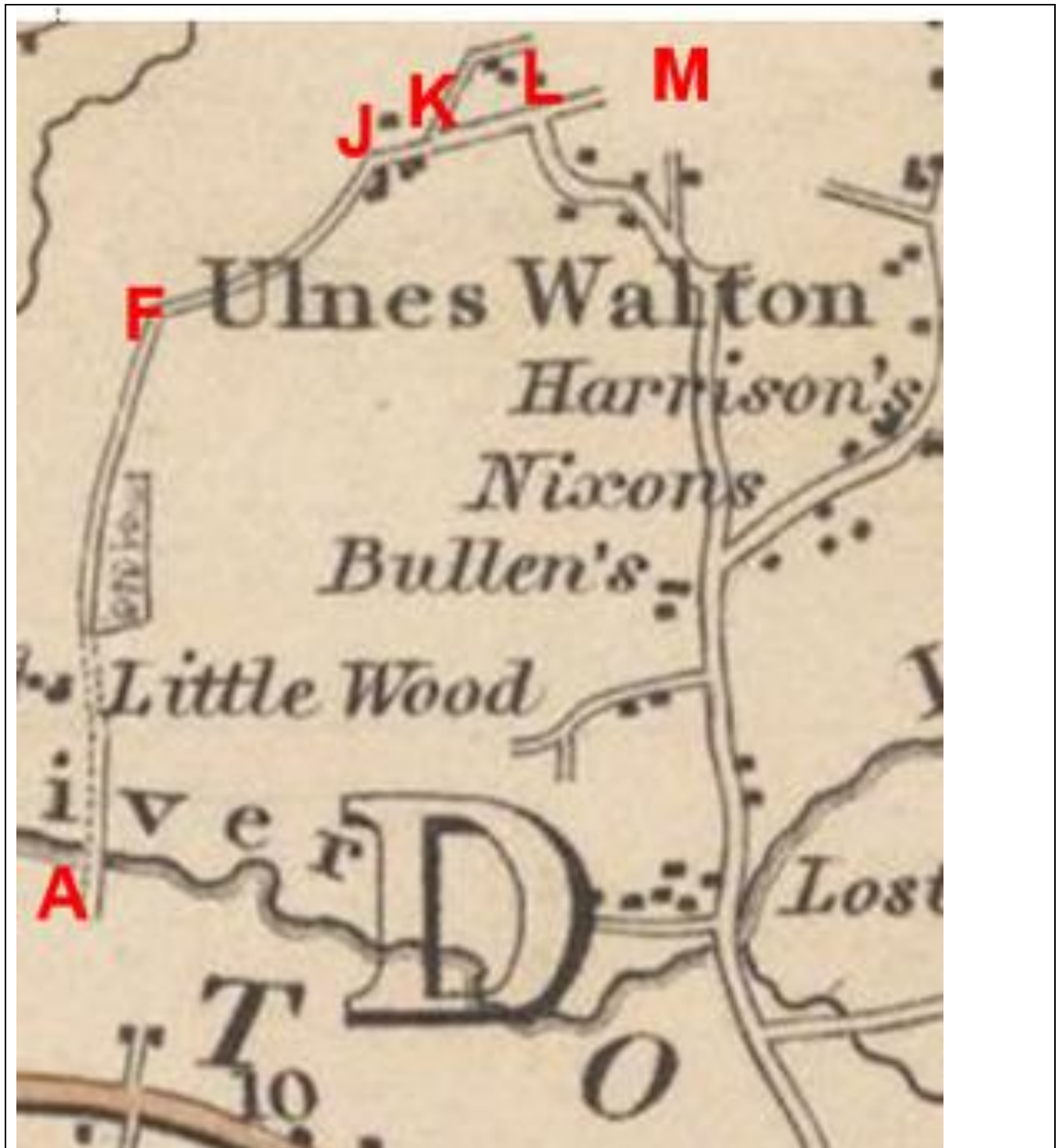
Observations		The application route is not shown and neither are any of the properties located along it.
Investigating Officer's Comments		The application route may not have existed in 1804 or if it did exist was not considered to be a significant public through route by Smith.
Greenwood's Map of Lancashire	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.

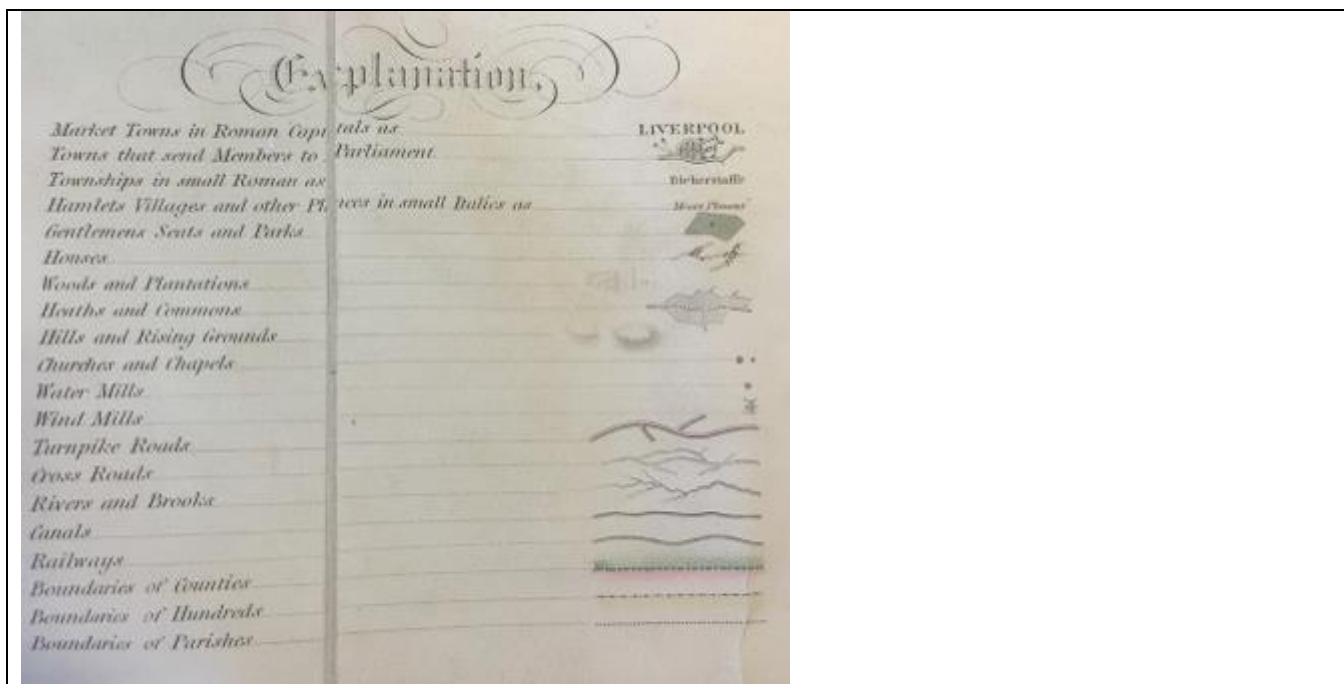


Observations		<p>A route consistent with the recorded length of Ridley Lane is shown as a cross road from Moor Road through to point A (south of the River Lostock) is clearly shown as a crossroad. This route crosses the watercourse and continues north past Littlewood consistent with the route of the application route through to the approximate location marked as point F on the Committee plan. A route is then shown continuing in a north easterly direction which differs from the alignment of the application route but which links back round to Ulnes Walton Lane (a public vehicular highway).</p>
Investigating Officer's Comments		<p>The earliest map examined that shows at least part of the route (A-F) existing as part of a longer through route considered by Greenwood to be a cross road.</p> <p>It is not known what Greenwood meant by the term 'cross road' but the only other category of highway shown on the map is turnpike roads.</p> <p>The fact that part of the route is shown as part of a longer through route is evidence that it existed in 1818 and that it was of a substantial nature capable of being used at that time. The inclusion of a route on a small scale commercially produced map of this kind is suggestive of the fact that the route is likely to have been considered to have been part of a public carriageway or at least a bridleway. It is unlikely that a map of this scale would show footpaths. The route as shown is indistinguishable from the vehicular road network of the area.</p>
Hennet's Map of Lancashire	1830	<p>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 7½ 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</p>

that had yet been achieved.

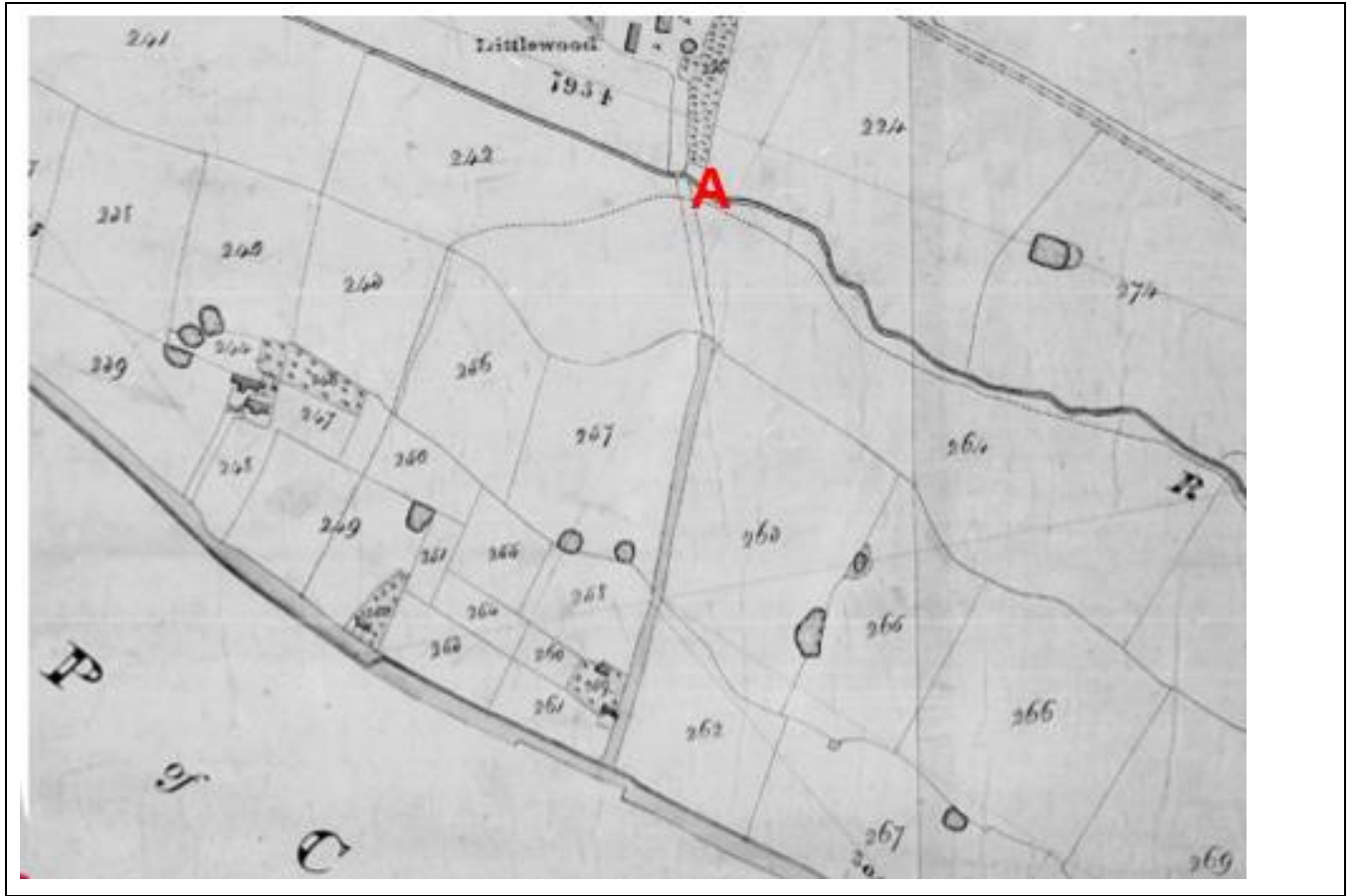






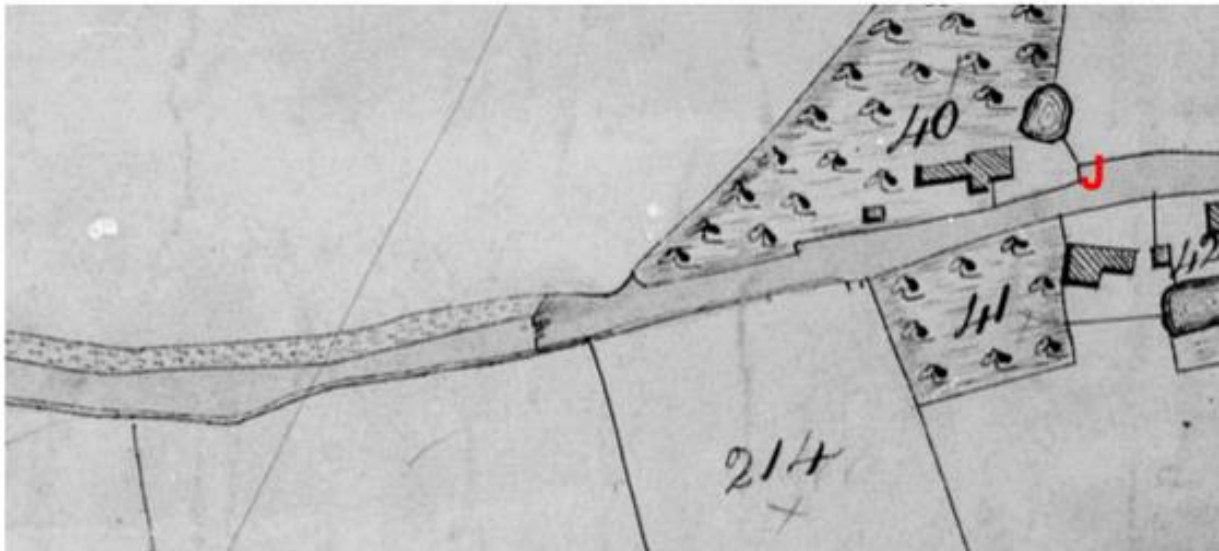
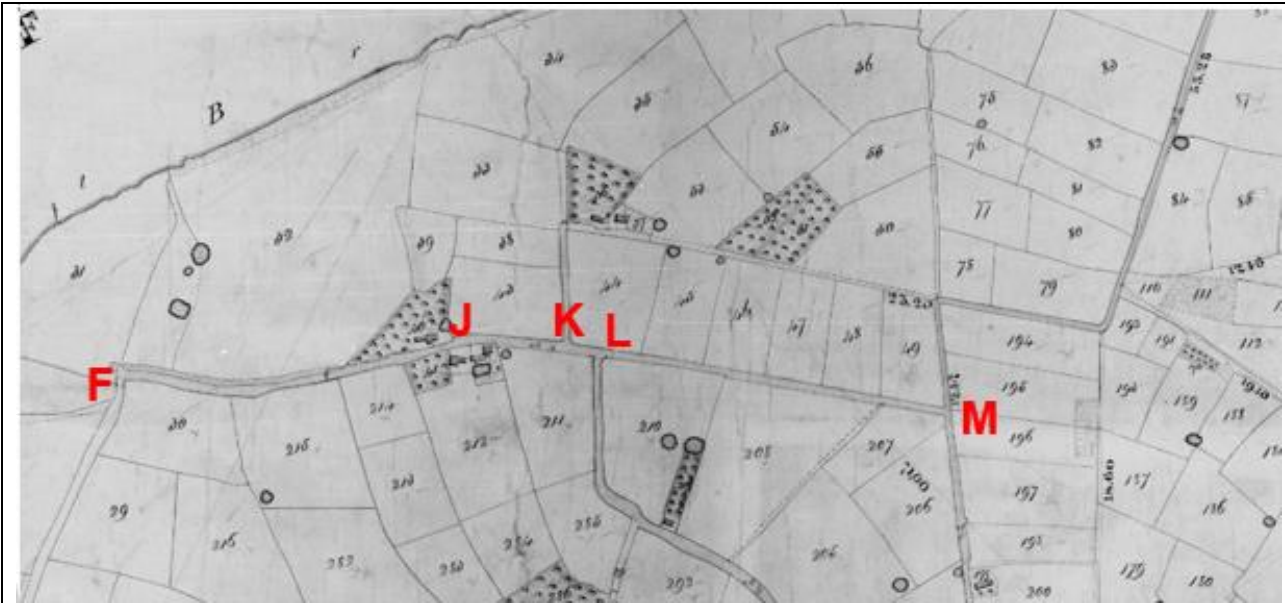
<p>Observations</p>		<p>Moor Road (shaded light brown on the map) is shown as a turnpike road but the section of Ridley Lane which extends north from Moor Road to the River Lostock is only partly shown. From point A the application route is shown as a cross road (initially fenced only on the east side then on both) crossing the river and continuing past Little Wood to point F from where it continued in a north easterly direction along a different alignment to the application route to point J. Close to point J a number of buildings are shown which appear to be accessed from the route and further routes lead off from the application route at point K and point L, both providing access to further properties. The application route is shown to continue towards point M although the junction with Pump House Lane is not shown.</p>
<p>Investigating Officer's Comments</p>		<p>Parts of the application route (A-F and J-partway to point M) existed in 1830 providing access to and past a number of properties and linking to other routes now recorded as public vehicular highways.</p> <p>It is not known why Ridley Lane south of point A is not shown but access onto Ridley Lane from the turnpike road is shown and the application route across the river from point A is shown so it may be that Ridley Lane south of point A was unenclosed or crossed common land – as later maps indicate it crossed an area known as Barber's Moor or that it was not surveyed by Hennet.</p>

		<p>The route between point A and point F and from point J towards point M is shown as part of a cross road which differed in parts from the application route but which formed a through route. It is not fully known what is meant by this term but as the only other category of 'road' shown on the map are turnpike roads, it is possible that a cross road was regarded as either a public minor cart road or a bridleway (as suggested by the judge in <i>Hollins v Oldham</i>).</p> <p><i>Hollins v Oldham Manchester High Court (1995) [C94/0205] Judge Howarth examined various maps from 1777-1830 including Greenwoods, Bryants and Burdetts. Maps of this type, which showed cross roads and turnpikes, were maps for the benefit of wealthy people and were very expensive. There was "no point showing a road to a purchaser if he did not have the right to use it."</i></p> <p>It is unlikely that a map of this scale would show footpaths.</p>
<p>Tithe Map and Tithe Award or Apportionment</p>	<p>1837</p>	<p>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.</p>







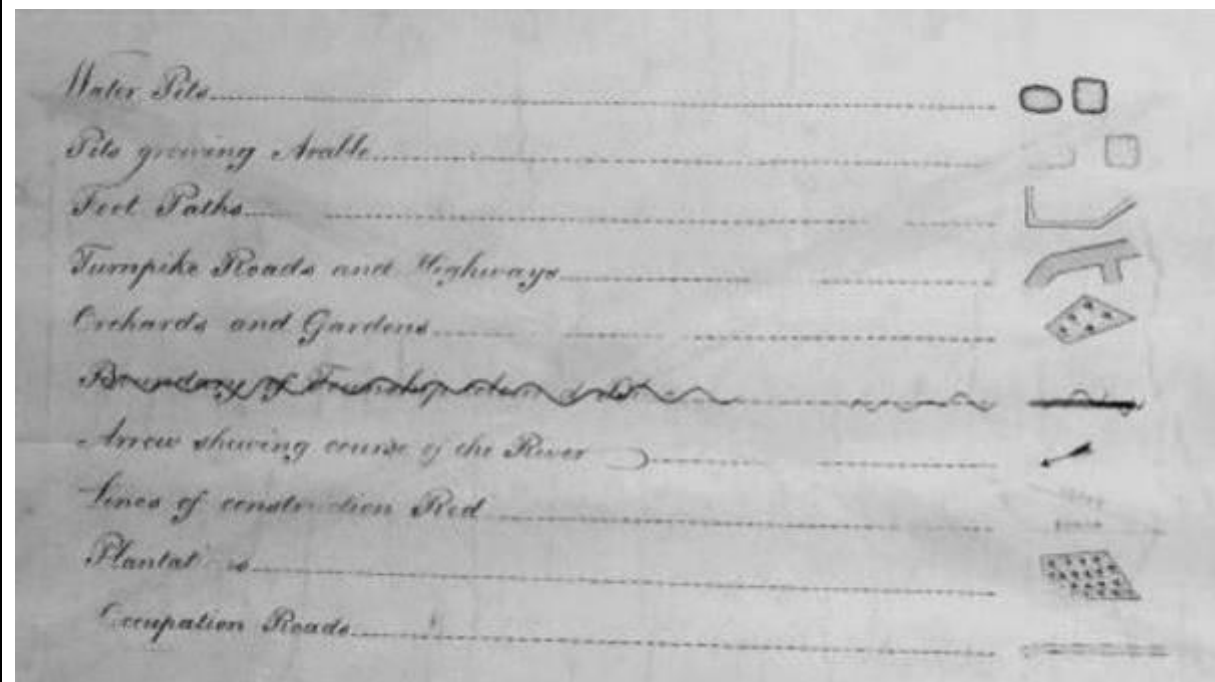


Extracts of Tithe Map all showing the application route





Example of bridge crossing east of application route on Ulnes Walton Lane



Number	Place	Number	Place	Number	Place	Number	Place
217	Two Manors, field	217	Two Manors, field	217	Two Manors, field	217	Two Manors, field
218	Manors, Hay	218	Manors, Hay	218	Manors, Hay	218	Manors, Hay
222	One Manors	222	One Manors	222	One Manors	222	One Manors
223	"	223	"	223	"	223	"
229	Carting	229	Carting	229	Carting	229	Carting
235	Manors	235	Manors	235	Manors	235	Manors
238	Water Manors	238	Water Manors	238	Water Manors	238	Water Manors
237	D. L.	237	D. L.	237	D. L.	237	D. L.
241	Leicester Manors	241	Leicester Manors	241	Leicester Manors	241	Leicester Manors
242	Paul Manors	242	Paul Manors	242	Paul Manors	242	Paul Manors
244	Colton Manors	244	Colton Manors	244	Colton Manors	244	Colton Manors
279	Hill	279	Hill	279	Hill	279	Hill
281	San Orchard	281	San Orchard	281	San Orchard	281	San Orchard
285	Lower Green High	285	Lower Green High	285	Lower Green High	285	Lower Green High
297	Widder Manors	297	Widder Manors	297	Widder Manors	297	Widder Manors
298	Manors	298	Manors	298	Manors	298	Manors
338	End of Manors	338	End of Manors	338	End of Manors	338	End of Manors
345	L.	345	L.	345	L.	345	L.
349	L.	349	L.	349	L.	349	L.

Hard Roads and Turnpike Roads Numbered in Red Ink and Coloured on the Plan. -

1	At the North end of the Township	2	15
2	Moor Road South of East	3	9
3	"	4	18
4	Road leading to Littlewood	5	20
5	Moor Road	6	10
6	"	7	3
7	Road east of W. Hill	8	30
8	From Heyland to New Lane Road	9	17
9	Hunter Lane	10	2
10	North of Croston and Eccleston	11	23
11	Fielden and Wroughington Road	12	20
12	Hagg Lane	13	35
		14	42

Observations

A key to the map shows routes considered to be 'Turnpike Roads and Highways' were shown bounded by solid lines and shaded. Occupation roads were shown shaded but bounded by broken dashed lines intersected with dots and footpaths were shown by a single dashed line. It was noted however that no examples of routes considered to be occupation roads could be found on the map.

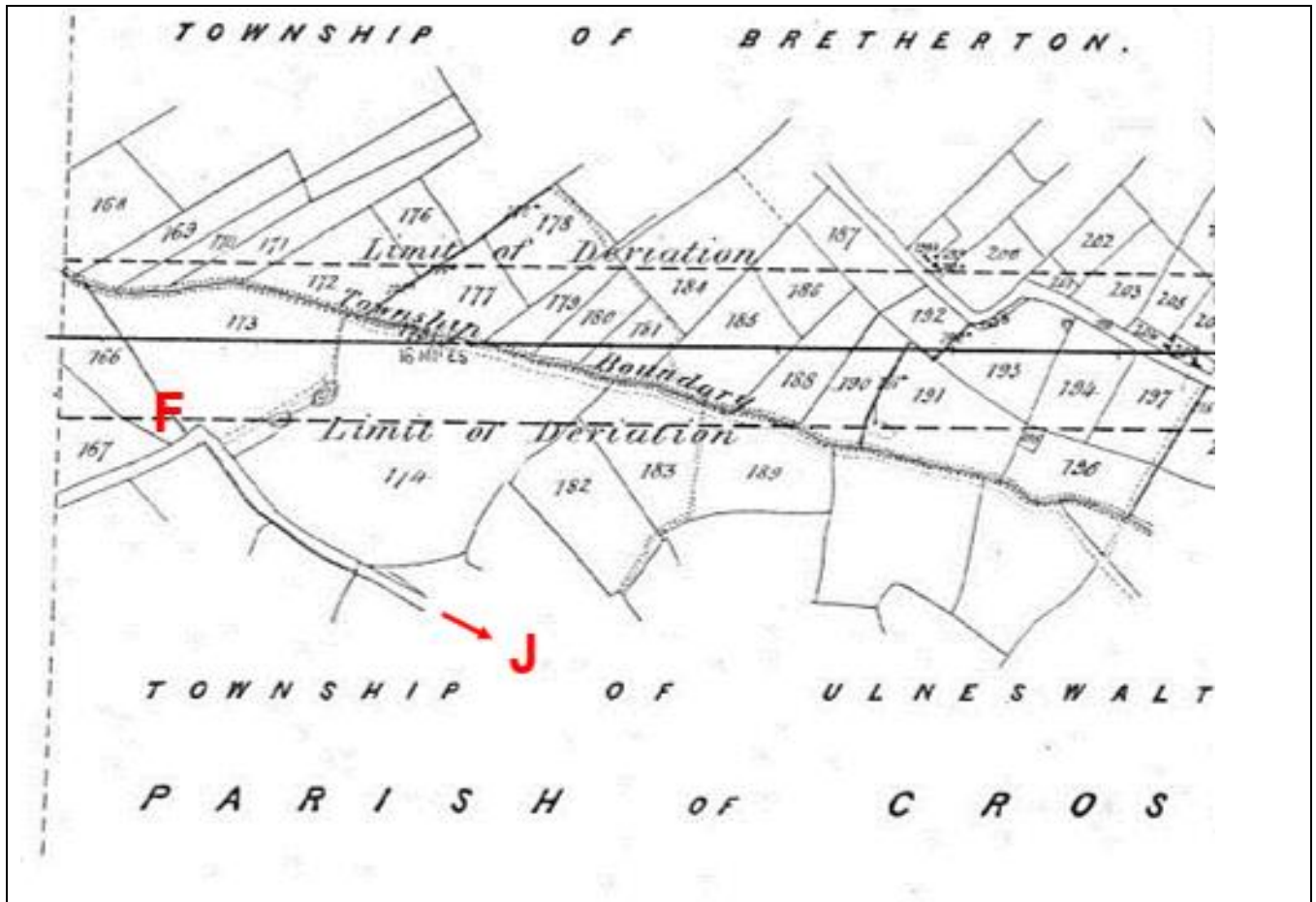
A route is shown extending from Moor Road (which is shown as a turnpike road) extending towards point A and shaded and bounded in the same way as other routes recorded as 'Turnpike Roads and Highways' were shown but is not numbered. The shading stops approximately 120 metres short of point A where a line is shown

	<p>across the route. Beyond the shaded part of Ridley Lane a route is shown continuing through to point A as being within the plot numbered 242 which is listed in the Tithe Award as being owned and occupied by James Norwell Farrington and described as 'Rail Meadow' for which tithes were payable.</p> <p>A route is shown passing along the edge of 'Rail Meadow' through point A and across the river via a bridge. Whilst the bridge is shown to be narrower than the route on either bank this is consistent with how other bridges are drawn on the map.</p> <p>Continuing north from point A the route shown leads into the grounds of Littlewood with an area of woodland extending over part of the application route. The area crossed by the application route is numbered as plot 17 described in the Tithe Award as Littlewood and more specifically as House, yard and barns which were owned and occupied by James Norwell Farrington. No tithes were payable.</p> <p>The application route is shown leading north from the property which was gated north east of the property and then continued north as a bounded but not shaded route numbered as plot 23 through to point F. Plot 23 was described in the Tithe Award as a 'Lane' which was part of 'Littlewood' and was owned and occupied by James Norwell Farrington. No tithes were payable.</p> <p>At point F the route was shown to cross a culverted ditch beyond which there was a series of dashed lines across the route before it turned to continue in a north easterly direction. From the bend a single dashed line is shown leaving the route indicating the existence of a footpath.</p> <p>The application route from point F through points G-I-J is not shown on the map. Instead, a route from point F is shown continuing in a general north easterly direction passing through what appears to be a further gate and then continuing as a shaded route past several properties through point J and then along the application route from point J to point M to meet Pump House Lane.</p> <p>Between point J and point M the route is numbered A4 which is listed in the Tithe Award</p>
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		<p>as 'Road leading to Littlewood' and included in a separate list at the end of the Tithe Award titled 'Hard Roads and Turnpike Roads'. No landowner or occupier was listed and no tithes were payable. Pump House Lane was described as a 'Moss Road' in the same list and was shaded and numbered A3 with another road leading south from the application route from point L shaded and numbered as A5 described again as a 'Moss Road'. From point K a further route extended north from the application route to some buildings. The route was shaded in the same way as the application route but not numbered.</p>
<p>Investigating Officer's Comments</p>		<p>In 1837 it appears that the application route existed as a route which connected Moor Road (the former turnpike road) to Pump House Lane. The route passed through Littlewood and significantly between point A and point F was in the same private ownership as Littlewood itself and does not appear to have been considered to be a public highway.</p> <p>Between points F-G-I-J the application route did not exist, but a more direct route F-J did exist. A line across the route (gate) is shown midway between point E and point J east of which the route is shaded and numbered as A3 passing through point J and continuing to point M suggesting that this part of the application route was considered to be part of the public highway network at that time. The fact that it appears to only have been considered to be a public highway to a gated point midway between point J and point F is not necessarily unusual or uncommon as it extended as far as a number of houses located close to point J and then continued beyond the gateway west of point J to Littlewood with the suggestion that this section west of the gateway and leading through to Littlewood was a privately owned access road.</p> <p>The width of Littlewood Bridge as depicted on the Tithe Map is interesting as it is shown to be much narrower than the roadway leading to and from it. This may have reflected the cartographic style used in preparing the map rather than the actual width of the bridge as there are other examples on the map of bridges being narrower than the routes either side of them but does suggest that the bridge crossing was possibly not as wide or significant as one found across Ulmes Walton Lane located east of the application route or</p>



		possibly that at that time a footbridge was in existence along side a vehicular ford. This bridge was shown to be wider and shaded as part of a 'Turnpike Roads and Highways'. The earliest Ordnance Survey map from which accurate width measurements could be taken was not published until 1894 which indicated a width of approximately 2.5 metres whereas the bridge on Ulnes Walton Lane was approximately 5.5 metres wide suggesting that the application route was a much less significant route at that time – although arguably still wide enough to allow for horses and small horse drawn vehicles to cross.
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		No inclosure Map or Award was found for the area crossed by the application route.
Investigating Officer's Comments		No inference can be drawn.
Canal and Railway Acts	1845	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.

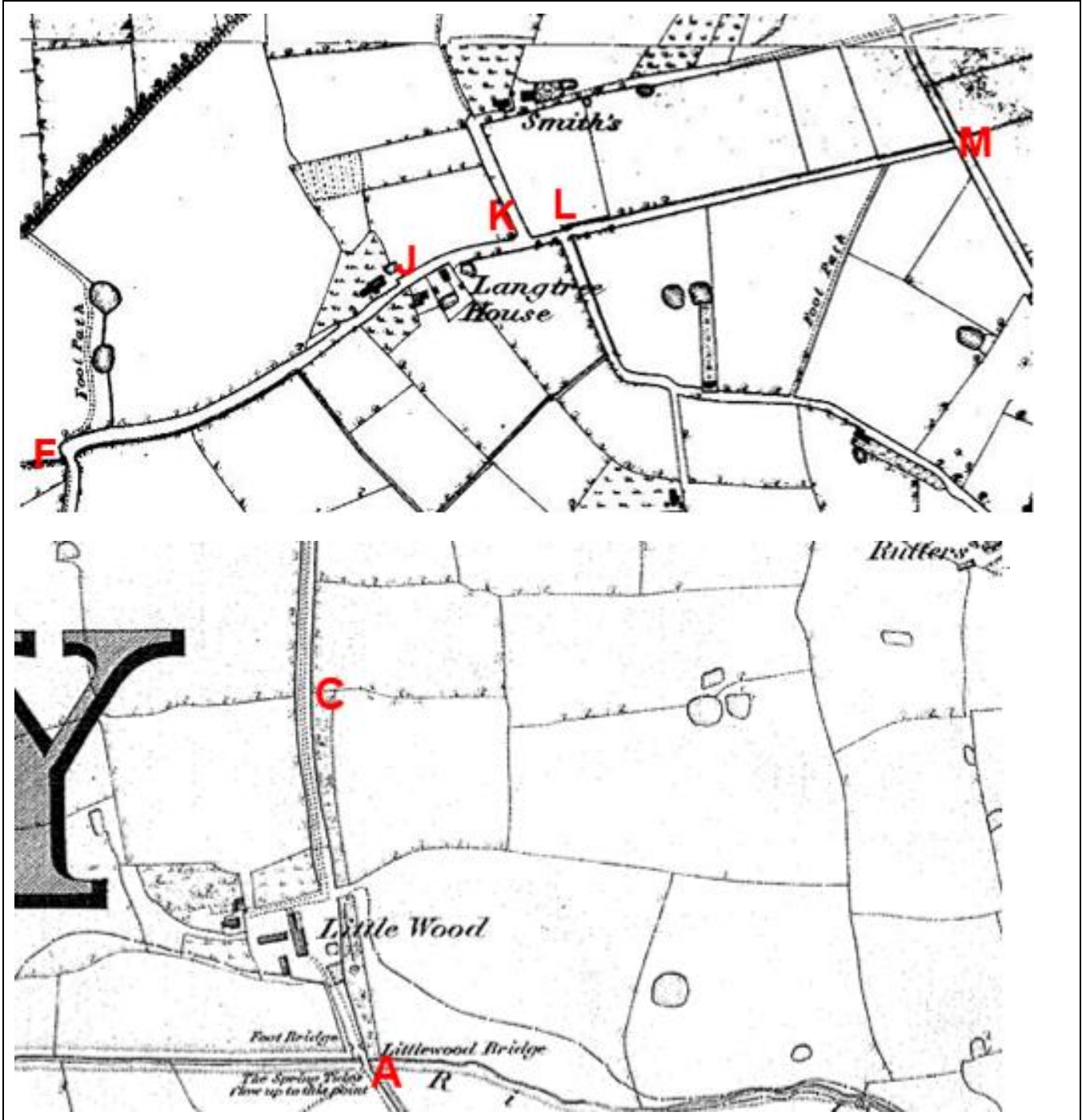


<p>Observations</p>		<p>The application route runs close to – but does not cross – the railway line between Ormskirk and Preston. This railway was originally proposed in 1845 as the Liverpool, Ormskirk and Preston Railway and the plans prepared showing the proposed railway show part of the route shown on the earlier commercial maps examined and on the Ordnance Survey first edition OS map surveyed 1845-1847 as detailed later in this report.</p> <p>The application route is shown approaching point F (from point E) and turning through ninety degrees to continue towards point J. The route is not shown as being affected by the proposed construction of the railway and is not numbered which means that further details regarding its ownership or public or private status are not recorded in the accompanying Book of Reference.</p>
<p>Investigating Officer's Comments</p>		<p>Part of the application route existed as a substantial bounded route in 1845 although it is not possible to deduce whether the alignment of the railway avoided the route purposely or not.</p>
<p>6 Inch Ordnance</p>	<p>1847</p>	<p>The earliest Ordnance Survey 6 inch map for this</p>

Survey (OS) Map

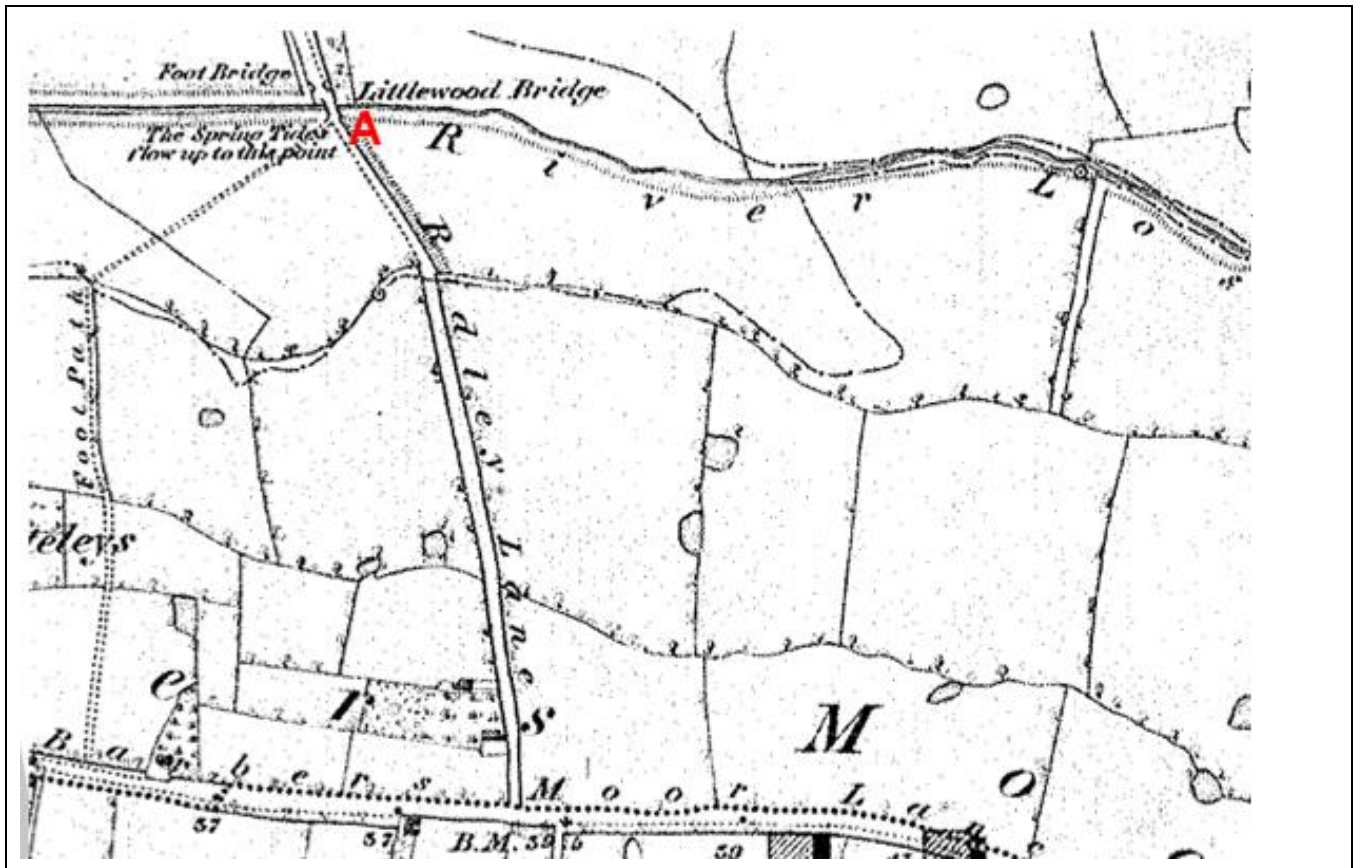
Sheet LXXVI (75)

area surveyed in 1845 to 1846 and published in 1847.¹



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.





Observations

The earliest Ordnance Survey map examined was surveyed prior to the construction of the railway.

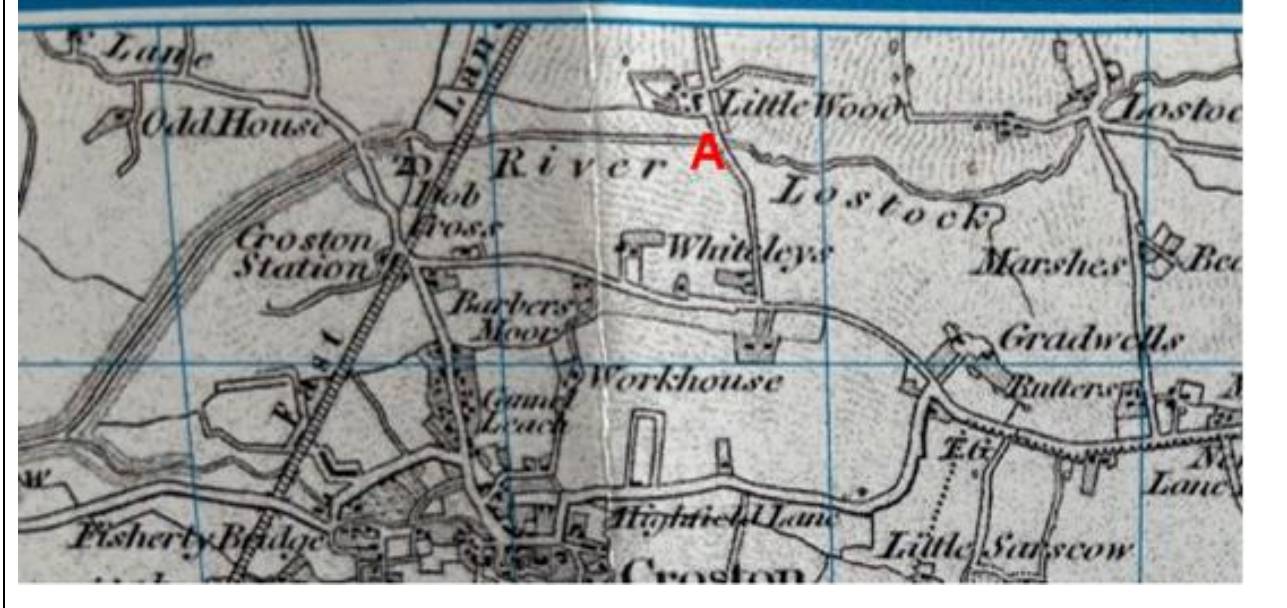
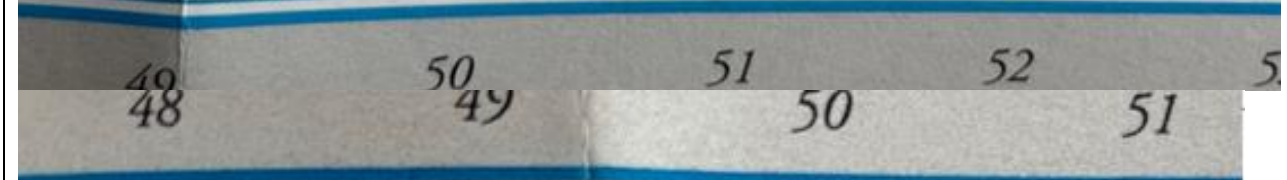
A route is shown extending north from Moor Road (named on the map as Barbers Moor Lane) in a generally northerly direction towards point A and is named on the map as Ridley Lane. This route crosses Barbers Moor which is likely to be inclosed common land but no inclosure Act or agreement has been located. The route is shown continuing along the eastern side of a field to pass through point A to cross a bridge named as 'Littlewood Bridge'. The words 'Foot Bridge' are written close to the bridge shown but it is unclear whether there were in fact two bridges in existence or whether this is a reference to Littlewood Bridge'.

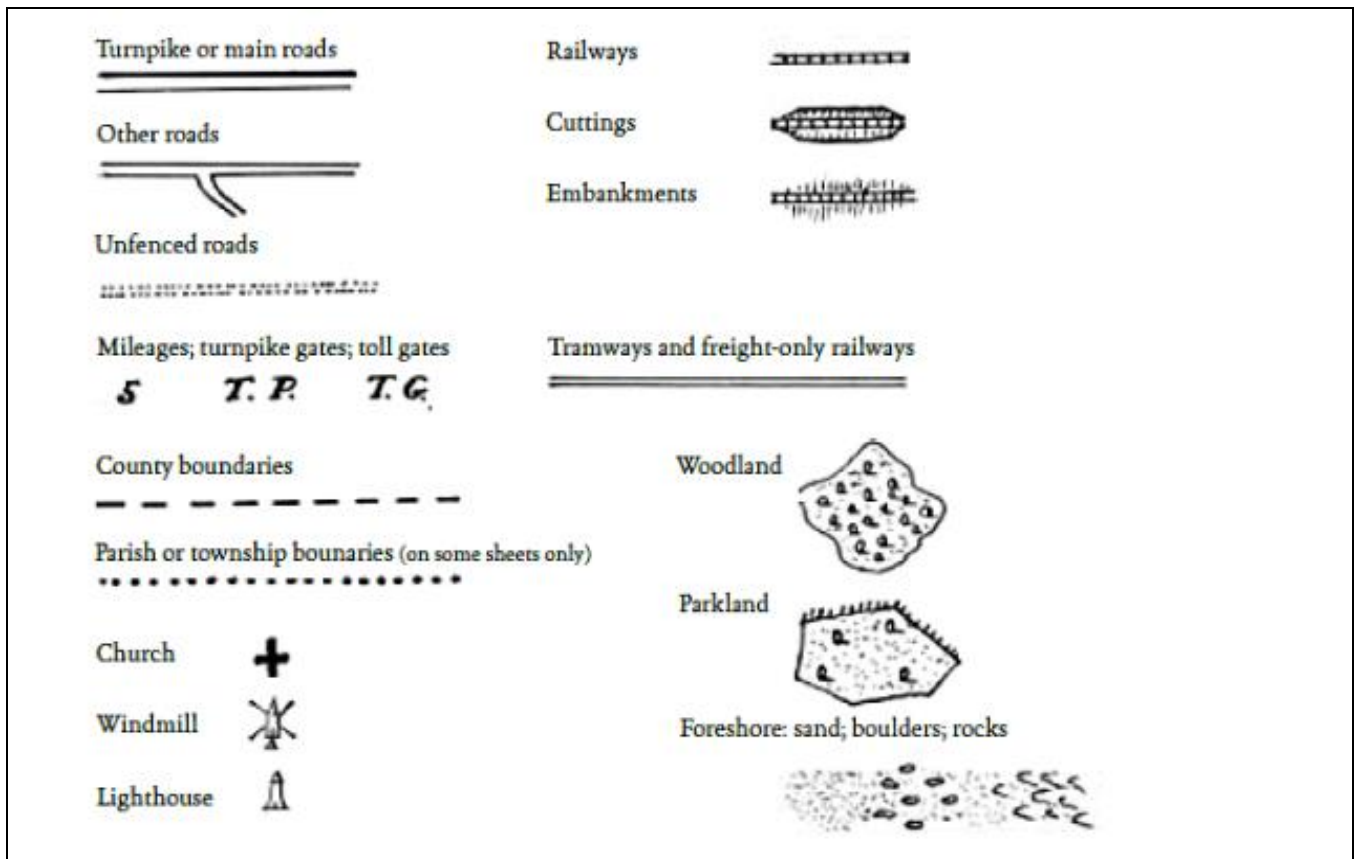
From Littlewood Bridge a roadway is shown leading directly into Littlewood consistent with the application route for approximately 70 metres beyond which there is no obviously marked route through the curtilage of Littlewood. Access appears available through to the back of the farm – albeit on a different route to the application route.

At the back (north) of Littlewood an unfenced



		<p>track within a bounded (fenced) strip is shown leading to/from the property consistent with the application route continuing through to point F and then continuing in a north easterly direction (away from the application route) through point J then past Langtree House to point M. Routes marked as 'footpaths' were shown connecting to the application route close to point F and between point L and point M and two bounded routes are shown leading from the application route at points K and L both of which provided access to properties and formed part of longer through routes.</p> <p>The application route between point F-G-H-I-J is not shown although the route shown as a footpath from close to point F is broadly consistent with the application route through to point G.</p>
Investigating Officer's Comments		<p>A route existed between point A and point M as part of a longer through route in 1845 and may have been capable of being used horseback at that time. It is not possible to know from this map whether use of the would have been public or private.</p> <p>The application route between points F-G-H-I-J did not exist at that time.</p>
Cassini Map Old Series Map 108, Liverpool and Map 102, Preston and Blackpool	1805-1874	<p>The Cassini publishing company produced maps based on Ordnance Survey mapping. These maps have been enlarged and reproduced to match the modern day 1:50, 000 OS Landranger Maps and are readily available to purchase.</p> <p>Map sheet derived from surveys carried out between 1791-1874 and published between 1805-1874.</p>

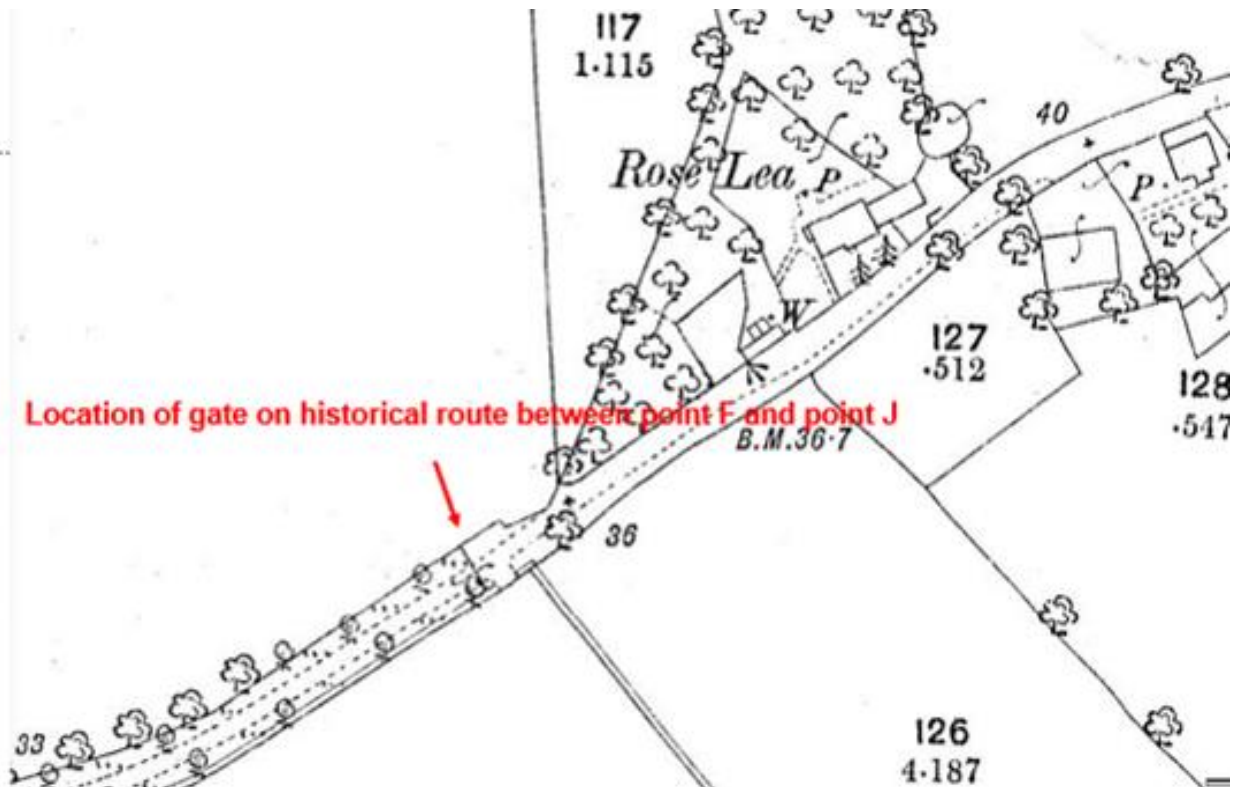


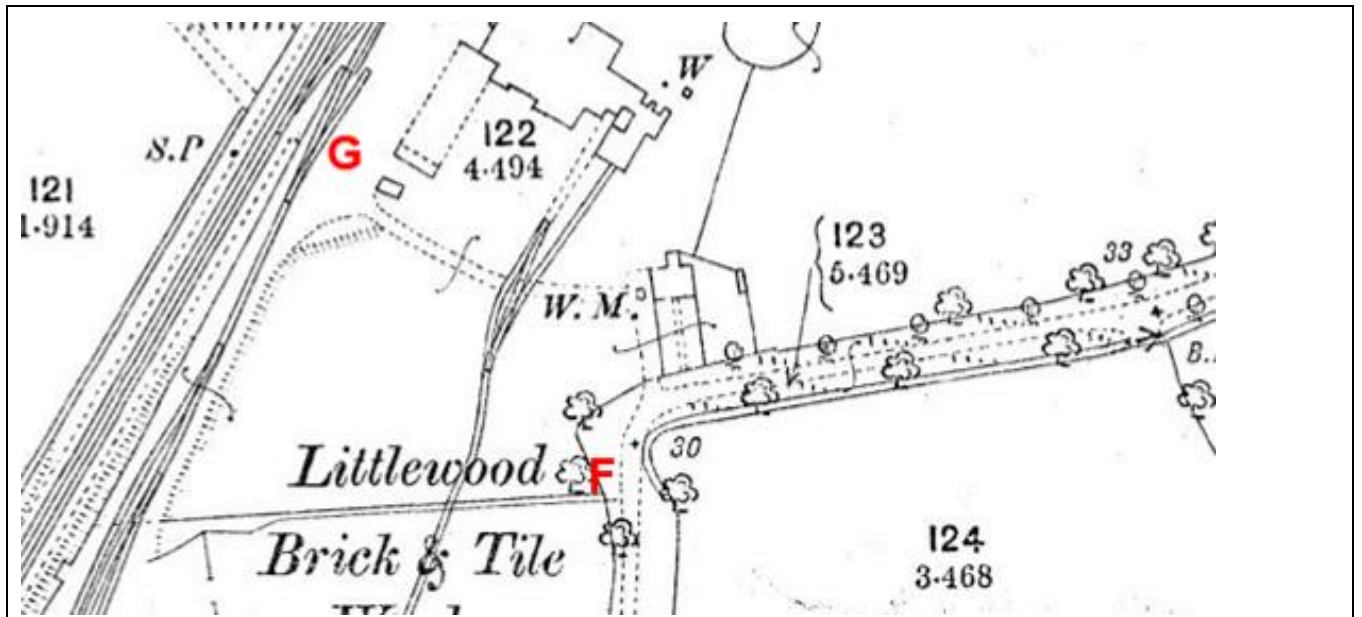


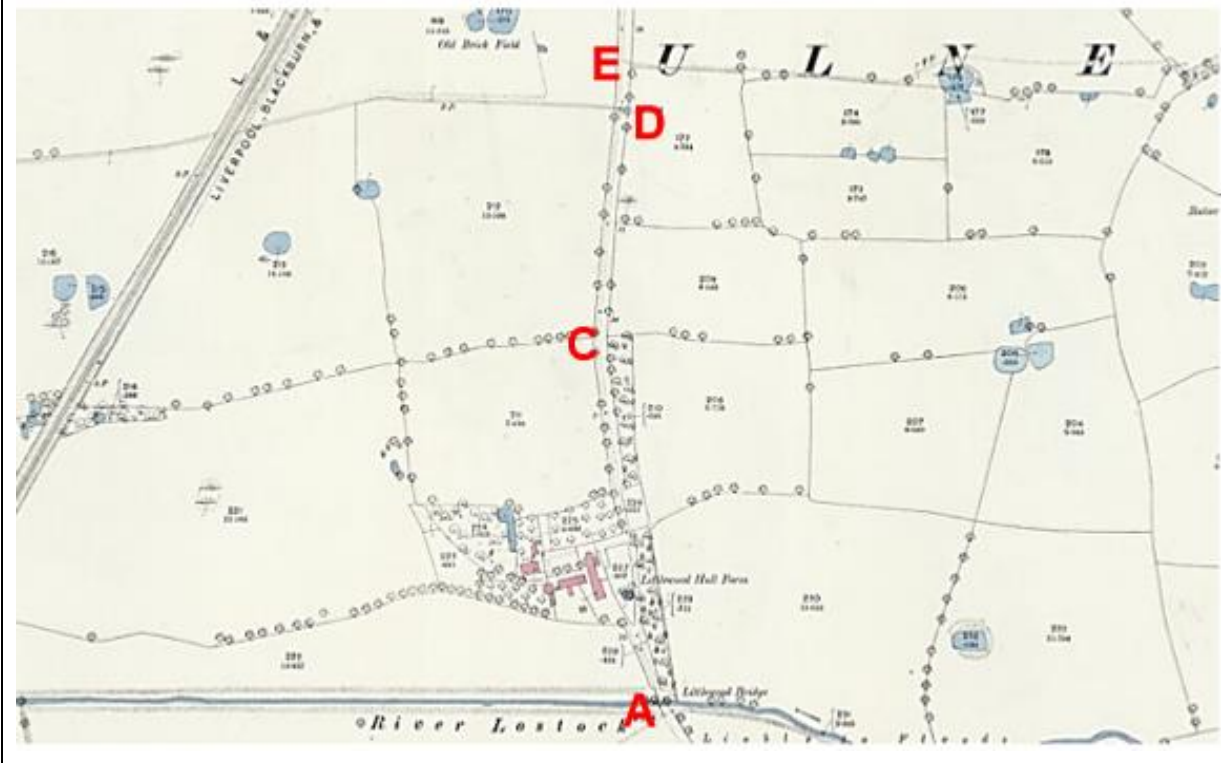
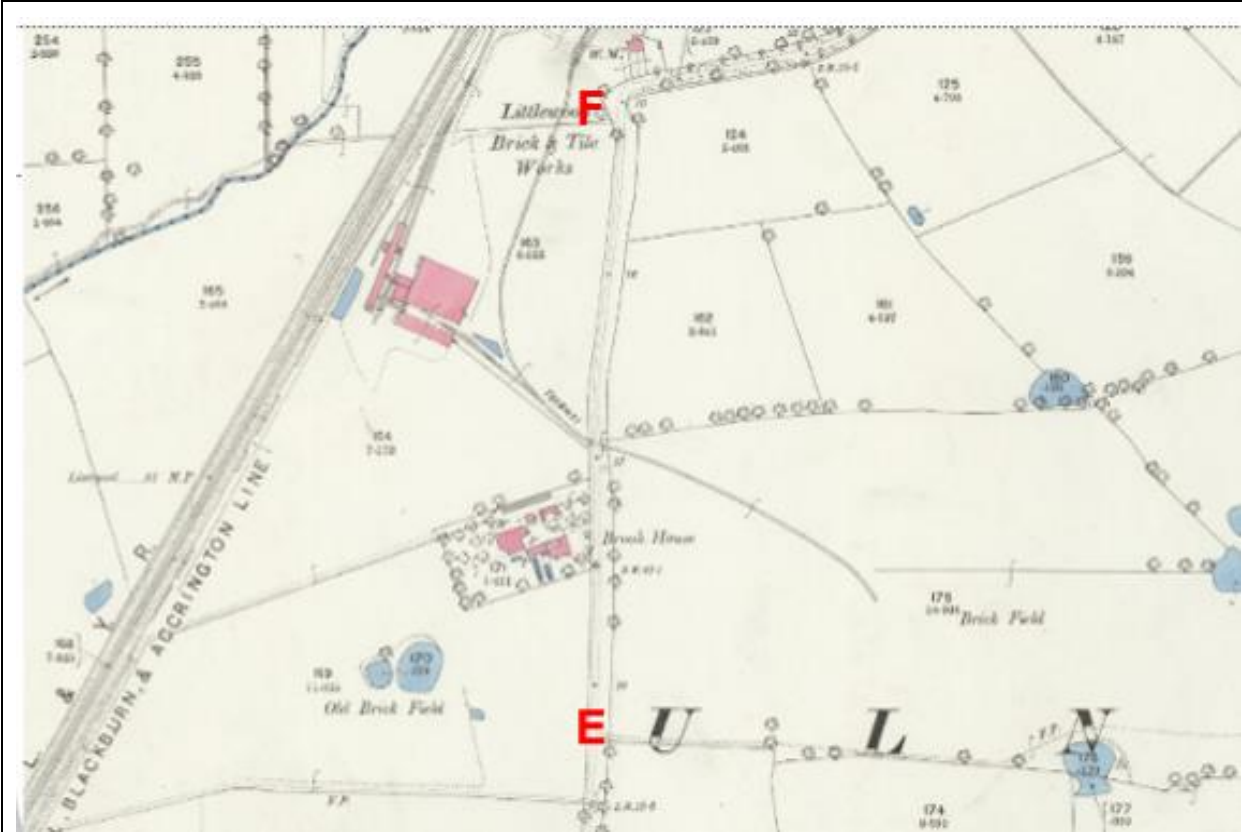
Legend source - <http://www.cassinimaps.co.uk/shop/pagelegend.asp>

Observations		Part of the application route is shown as a substantial bounded route defined in the key as 'other roads'. The route passes directly from point F to point J and the route F-G-H-I-J is not shown.
Investigating Officer's Comments		The original scale of the map (1 inch to the mile) means that only the more significant routes are generally shown. The purpose of the map in the late 1800s would probably have been to assist the travelling public on horseback or vehicle suggesting that the through roads shown had public rights for those travellers.
25 Inch OS Map LXXVI.4	1894	The earliest OS map at a scale of 25 inch to the mile. Surveyed in 1893 and published in 1894.











NOTE: Both the black and white and coloured editions of this map were inspected and the map extracts above are taken from both maps hence why some are coloured and others are not. The colouring (or lack of it) is the only difference in what is shown.

Observations

From Barber's Moor Lane (now known as Moor Lane) a bounded route named on the map as Ridley Lane is shown extending towards point A. Approximately 110 metres south east of point A a line is shown across Ridley Lane (gate) beyond which an unfenced route runs along the field edge to point A where it is crossed by a footpath (F.P).

From point A the application route is shown crossing a bridge named as Littlewood Bridge which measures approximately 2.5 metres wide and continues along a bounded track for approximately 70 metres towards Littlewood Hall Farm where the track splits with the more westerly one providing direct access into the farmyard and the more easterly route continuing north past the farm consistent with the route applied for.

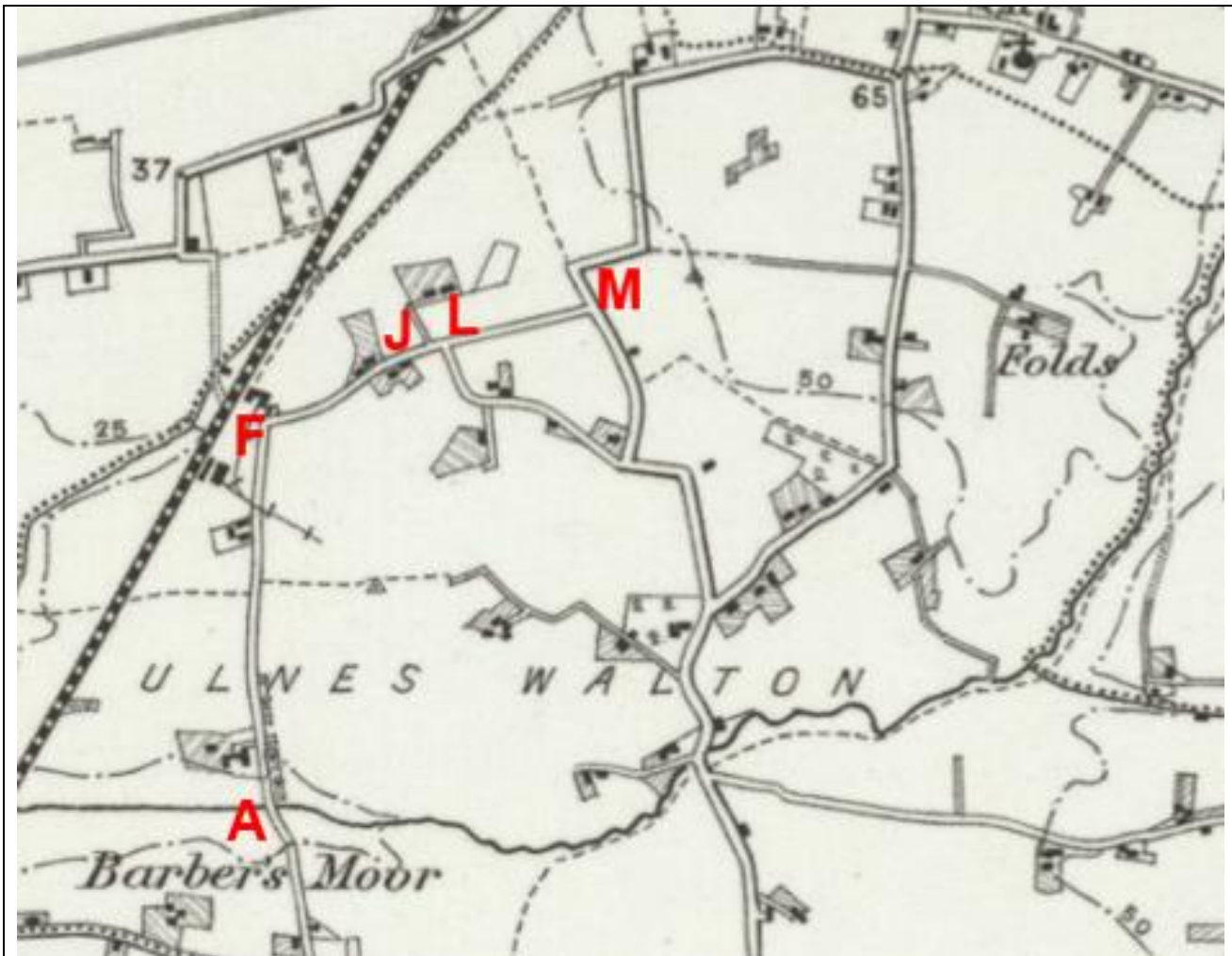
Approximately 85 metres north along the route from where it splits a track crosses the application route from the farm providing access to fields to the east of the application route. Dashed lines across the application route at this point suggest that the more prominent/well used route noted by the surveyor was the east-west route from the farm to the fields at that time.



		<p>The application route is shown continuing north as a bounded route passing through point C. It continues to point D where a route shown as a footpath (F.P) meets it and then on to point E where another route denoted as a footpath (F.P.) is shown continuing east.</p> <p>The route continues north providing access to Brook House which is shown immediately west of the route and is crossed by a tramway which is shown to lead from the Brick Fields to Littlewood Brick and Tile Works located to the west of the route.</p> <p>The route is shown to turn through nearly 90 degrees at the entrance to the Brick Works (point F on the Committee plan) to then continue in a more easterly direction to point J. The application route between point G-H-I-J is not shown but rather the bounded route continues directly to point J – crossed by a gate (line) midway between point F and point J. The route provides access to further properties named as Rose Lea and Langtree Farm with a route branching off to the north to Smiths Farm at point K and a further route branching off to the south at point L providing access to further farms and connecting through to Moss Lane (part of which is now recorded as a public vehicular route).</p> <p>From point F a route through the brick and tile works past the weighing machine (W.M.) can be seen extending as far as the railway. This route then crosses the railway to continue to Moss Side Farm and is consistent with the application route from point F to point G – but did not at that time form part of the through route to point M.</p> <p>The application route itself continued from point F through to point J and direct to point M where it joined the route named on the map as Moss Lane but which is now known as Pump House Lane.</p> <p>Benchmarks were located at regular intervals along the full length of the route described but no part of it was shown to be coloured or shaded on the map.</p> <p>The route is not named on the map with only the section south of point A named as Ridley Lane.</p>
Investigating Officer's Comments		The application route existed between point A-F and from point J-M in 1893. The application route between points F-G-H-I-J did not exist as part of



		<p>the through route but an alternative and more direct route did exist from point F to point J. The route – via F-J – appeared capable of being used – at least on horseback at that time and was probably accessible with horse drawn vehicles as it provided access to and past a number of properties and to a brick and tile works.</p> <p>Suggestive of more frequent public or private use was the fact that since the survey was undertaken for the first edition 6 inch Ordnance Survey was surveyed a route past – but no longer through - Littlewood Hall farm had been made. However, the route is not named and it is not shown coloured, shaded or with a thickened line along one side.</p> <p>Shading and colouring were often used to show the administrative status of roads on 25 inch maps prepared between 1884 and 1912. The Ordnance Survey specified that all metalled public roads for wheeled traffic kept in good repair by the highway authority were to be shown shaded and shown with thickened lines on the south and east sides of the road. 'good repair' meant that it should be possible to drive carriages and light carts over them at a trot so the fact that the route was not shown in this way suggests that it was not considered to be a well maintained public carriageway at that time. This does not mean however that it was not – or could not be used – by the public on horseback or with vehicles at that time.</p> <p>The existence of gates along a public route would not have been considered unusual in the 1800s particularly in the proximity of farms or in rural locations. Gateways, if they were found to exist, were shown by the surveyor in their closed position although this is not necessarily a true reflection of what may have been the position on the ground.</p> <p>Bench marks were located along a line of levelling, and often followed lines of communication. However, they can also be found on rocks in the middle of private fields and consequently it cannot be assumed that a bench mark is indicative of a public right of way</p>
1 inch OS Map Sheet 75 - Preston	1896	OS 1 inch map published in 1896.



<i>Metalled Roads; First Class</i>	} Penced	<u>5 (Mile distance)</u>	} Unfenced
" " <i>Second Class</i>		(Altitude) 211	
" " <i>Third Class</i>			
<i>Unmetalled Roads</i>			
<i>Footpaths</i>			




Observations		The application route between points A-F and J-M is shown as part of a route considered to be a third class road whereas Pump House Lane passing through point M is shown as second class road (with a thicker line down one side). The application route from point F-G-H-I-J is not shown.
Investigating Officer's Comments		The small scale one inch OS map was predominantly published with the main market being the travelling public so the inclusion of the route on this map as a third class road is



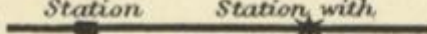

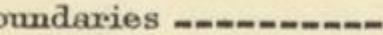
		<p>suggestive of a route that was capable of being used at least on horseback and more probably by horse and carts at that time.</p> <p>The application route from point F-G-H-I-J is not shown and did not exist at that time – the through route being via the more direct route F-J.</p>
Bartholomew half inch Mapping	1902-1906	<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 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.</p>



EXPLANATORY NOTE

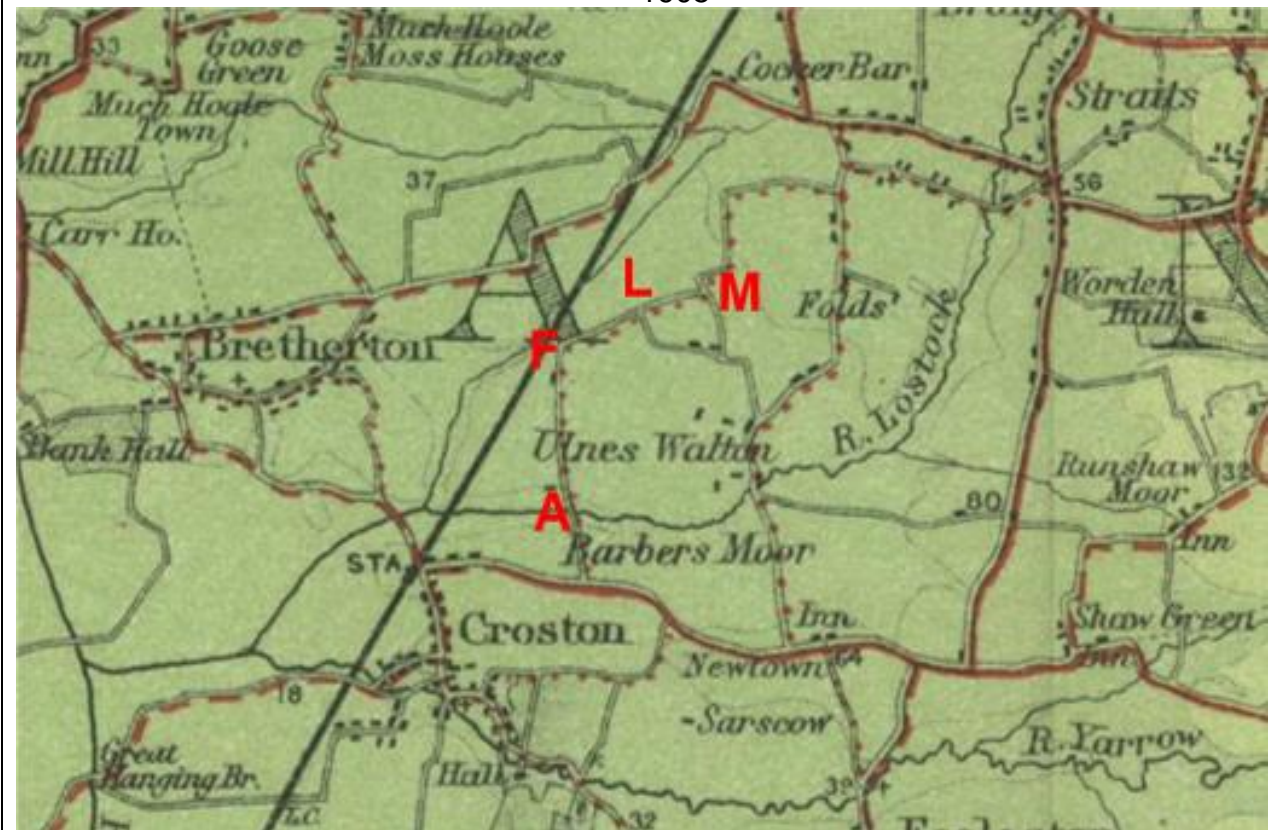
First Class Roads 
 Secondary (Good) 
 Indifferent (Passable) 
The uncoloured roads are inferior and not to be recommended to cyclists.
 Footpaths & Bridlepaths

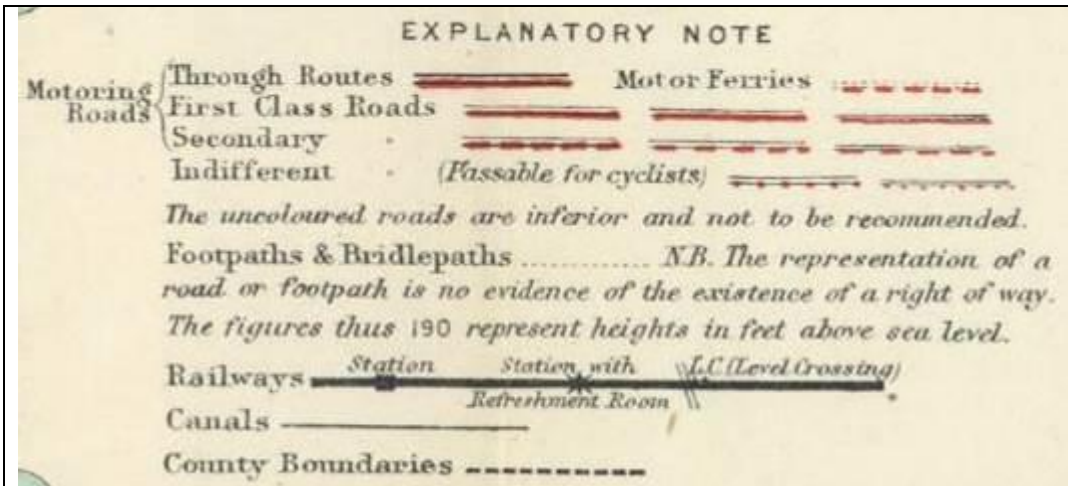
N.B. The representation of a road or footpath is no evidence of the existence of a right of way.

Railways  Station Station with Refreshment Room
 Canals 
 County Boundaries 

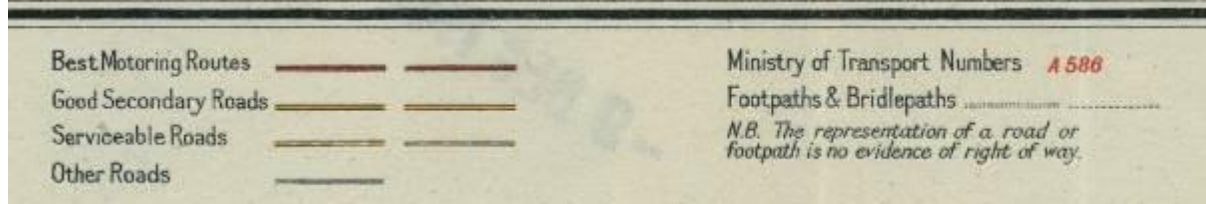
SCALE 1 : 126,720 = 2 MILES TO AN INCH

1905





1920



1941

Observations		Bartholomew's Map published in 1905 shows the application route via F-J (and not F-G-H-I-J) as a good secondary road. In 1920 it is shown as an 'indifferent' road (passable for cyclists) and in 1941 as a good secondary 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 reviewed by Bartholomew as some routes were improved to cope with increasing traffic whilst others were



		<p>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 suitable for horse drawn vehicles or early motor cars, to be shown. The inclusion of the application route via F-J on this map as a good secondary road in 1905 and again in 1941 is evidence that the route existed as a substantial route which appeared to be considered as being a public vehicular route. It is not known why it was shown as an indifferent road in the 1920s although it is still noted as being suitable for cyclists again suggesting use by the public and the suggestion that it was a public vehicular route - as cyclists did not have a public right of access along bridleways at that time.</p>
<p>Finance Act 1910 Map TNA Reference: IR133/5/123</p>	<p>1910</p>	<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</p>



		refers to. It should also be noted that if no reduction was claimed this does not necessarily mean that no right of way existed.
Observations		<p>The Finance Act Maps covering the route are incomplete. The area crossed by the application route between point A-F has not been marked up, so no information is available.</p> <p>Map and documentary evidence examined all suggests that the application route between points F-G-H-I-J did not exist at that time so the fact that part of the route which was later constructed crossed land forming part of numbered plots is not relevant.</p> <p>From the gateway midway between point F-point J through to point M it appears that the route was excluded and land either side is braced indicating that it was in the same ownership on either side of the route. However, a small section of land north of the route – including the route extending north from point L is not marked up.</p>
Investigating Officer's Comments		<p>The Finance Act records are incomplete so little inference can be drawn from them.</p> <p>However, the application route from point J to point K appears to have been excluded as part of a longer route consistent with what was recorded as public road of the Tithe Map and as such supporting the view that public vehicular rights existed.</p>
25 Inch OS Map LXXVI.4	1911	Further edition of 25 inch map (surveyed 1893, revised in 1908 and published in 1911.



<p>Observations</p>		<p>The route is shown in the same way as it was shown on the earlier edition of the 25-inch mapping with the only difference being that there was now just one gate shown across the route (at point A).</p> <p>The application route between points F-G-H-I-J is not shown and the through route is via the more direct route between F-J.</p>
<p>Investigating Officer's Comments</p>		<p>The application route existed in 1908 and appeared to be capable of being used (via the route F-J).</p> <p>The application route between F-G-H-I-J did not</p>



		exist in 1908.
25 inch OS Map LXXVI.4	1928	Further edition of 25 inch map (surveyed 1893, revised in 1927 and published in 1928.





Observations		The route remained unaltered from what was shown on earlier Ordnance Survey maps but there was a significant increase in the number of gates across the route from point A to point F from 1 in 1908 to 5 in 1927. The tramway from the brick field to the brick and tile works had been replaced by an aerial cable across the route.
Investigating Officer's Comments		The application route existed in 1927 via the route F-J and appeared to be capable of being used. The presence of 5 gates between points A-F may have restricted access more than in the past and it is not known whether they were erected with reference to the fact that an aerial cable now crossed the route or for stock control or to restrict access along the route.
6 inch OS Map Map Sheet LXXVI.NE	1929	6 inch OS map revised 1927 and published 1929.



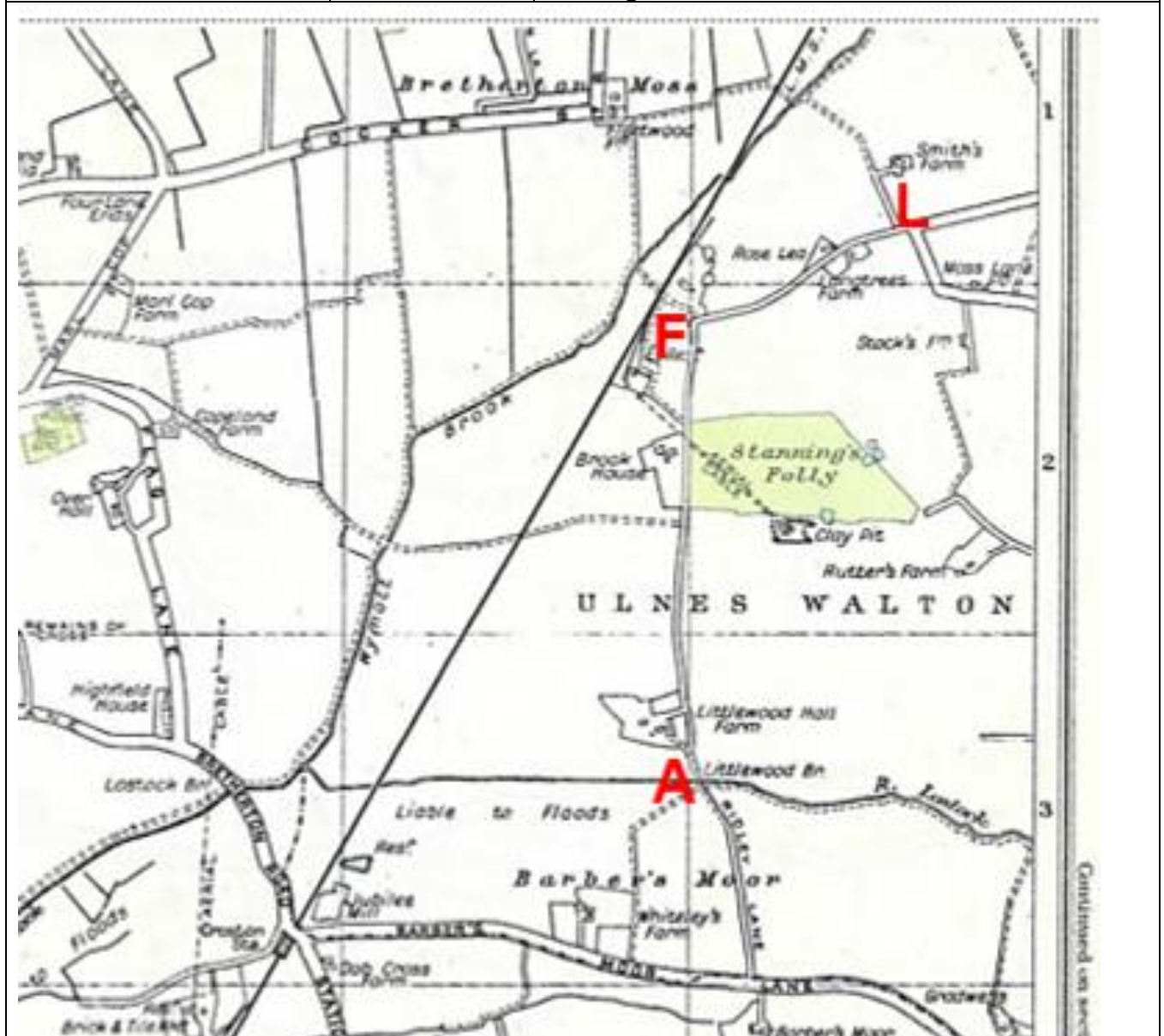


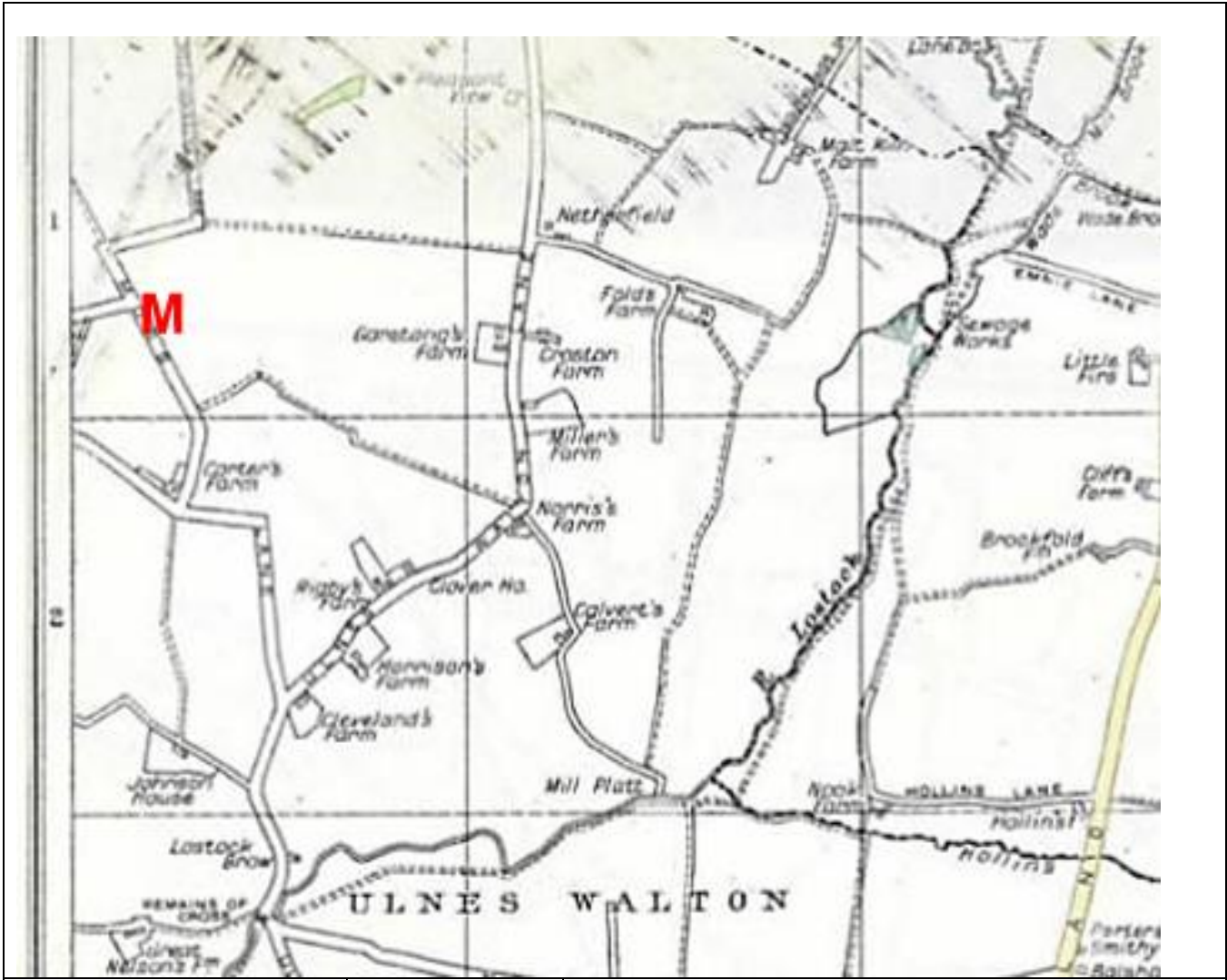
Observations

The application route (via points F-J) is shown in the same way as it is shown on the 25 inch OS



Investigating Officer's Comments		map published in 1928. The application route (via points F-J) appeared to be capable of being used – at least on horseback.
Authentic Map of South Lancashire 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'.

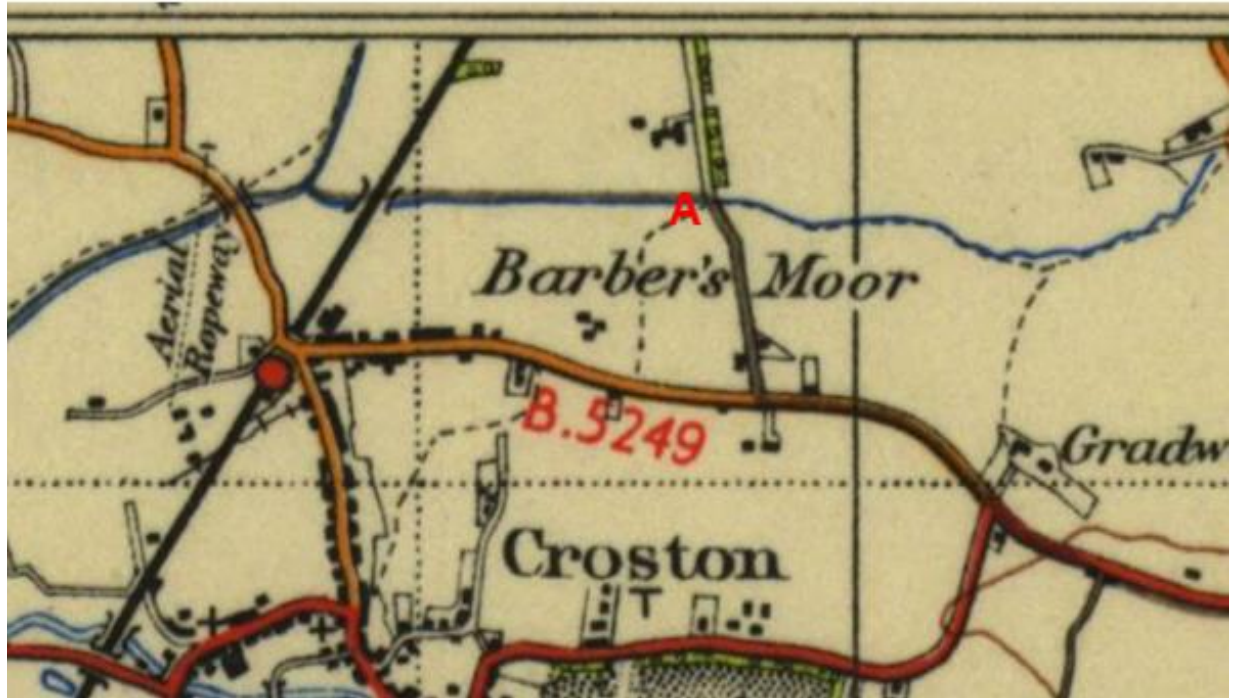
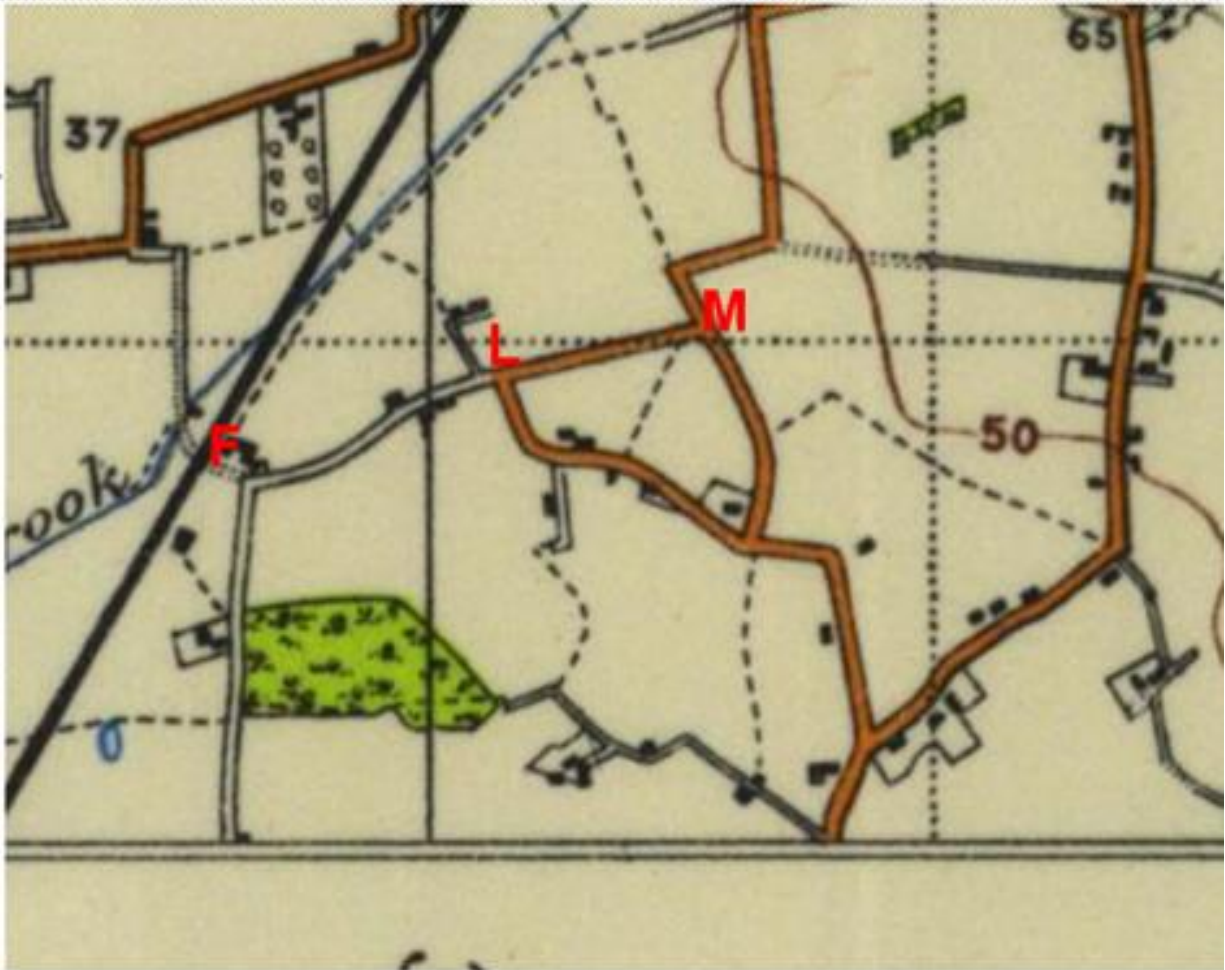


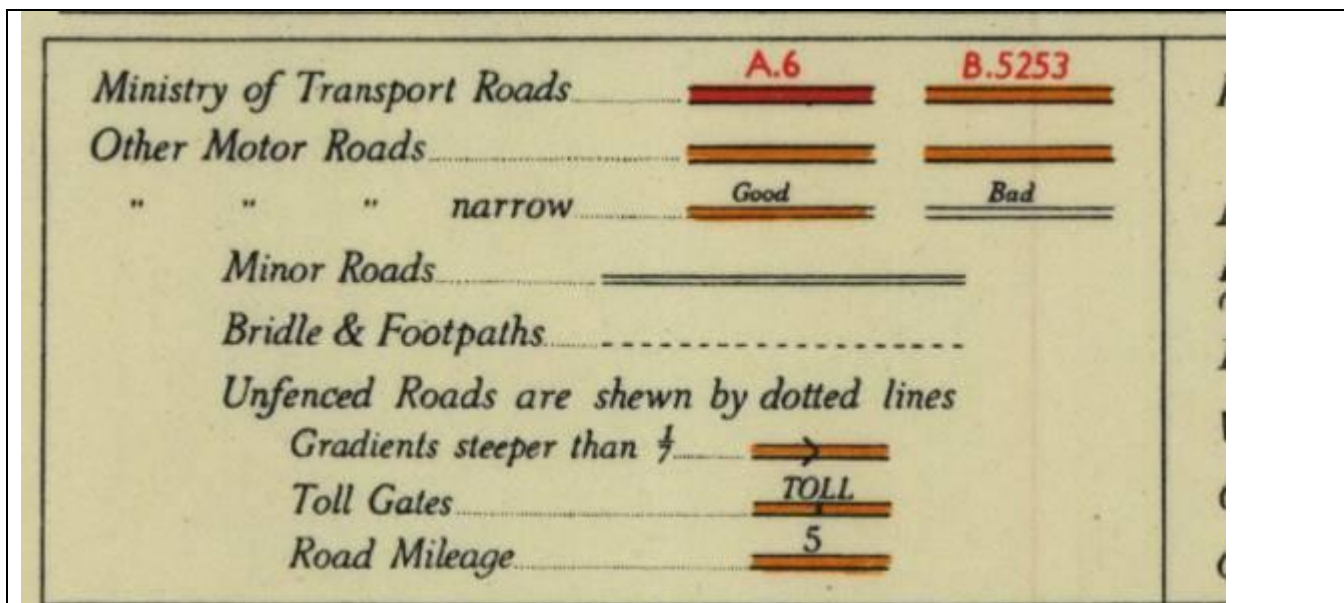


<p>Observations</p>		<p>The application route (except F-J) is shown although the north eastern end, joining Pump House Lane (labelled on this map as Moss Lane) at point M, is shown to be a wider route from just east of point J through to point M. The application route between points F-G-H-I-J is not shown.</p>
<p>Investigating Officer's Comments</p>		<p>The application route between points A-F and between points J-M is shown consistent with how other routes recorded as public vehicular routes were shown. This small-scale map was produced primarily to show public vehicular routes although other substantial routes were sometimes shown. It was not unusual for routes considered to be footpaths or bridleways not to be shown. The fact that the route east of point J was shown to be wider than the rest of the route does not reflect what is shown on the Ordnance Survey maps of that time suggesting perhaps that the width somehow indicated that the eastern end was a more</p>



		significant route.
1 inch OS Map 94 Preston and Sheet 100 Liverpool	1947	1 inch OS, New Popular Edition.





Observations		<p>The application route is mostly shown (except section F-J). From Moor Road through to point A Ridley Lane is shown coloured as a 'Motor Road'. From point A through to point F it is difficult to determine whether the route is depicted as a narrow 'Other Motor Roads' in bad condition or as a Minor Road. From point J to point L the route is shown in the same way as the application route A-F.</p> <p>From point L through to point M the route is shown as a Motor Road in good condition as is the route extending south from point L and Pump House Lane passing through point M.</p>
Investigating Officer's Comments		<p>The majority of the application route (except between points F-J) existed as a substantial route in the 1940s and appeared to be capable of being used on horseback and with vehicles. The surface of the route from point L to point M was possibly in better condition than the rest of the route.</p>
Aerial Photograph ²	1940s	<p>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.</p>

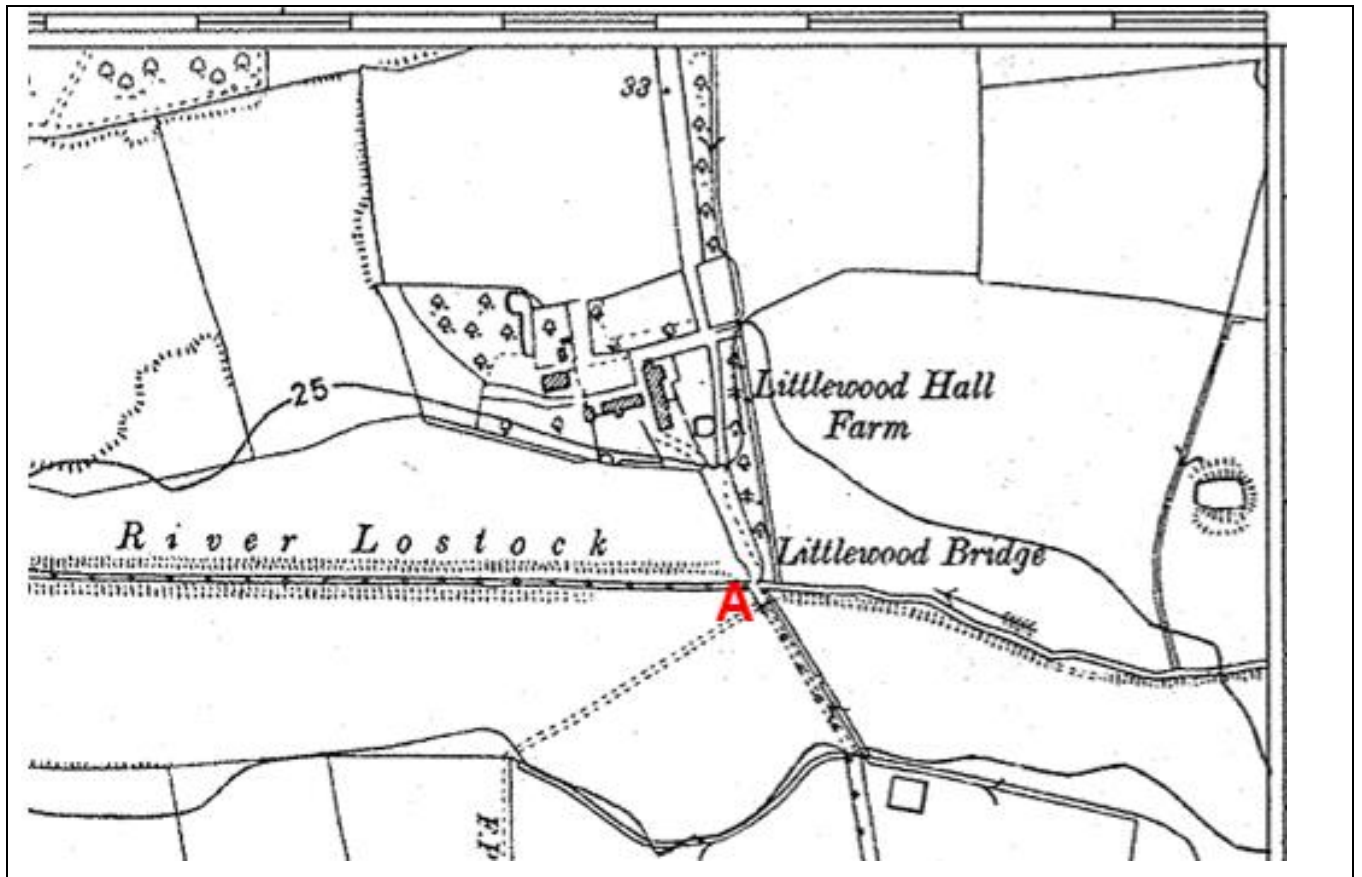
² Aerial photographs can show the existence of paths and tracks, especially across open areas, and changes to buildings and field boundaries for example. Sometimes it is not possible to enlarge the photos and retain their clarity, and there can also be problems with trees and shadows obscuring relevant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

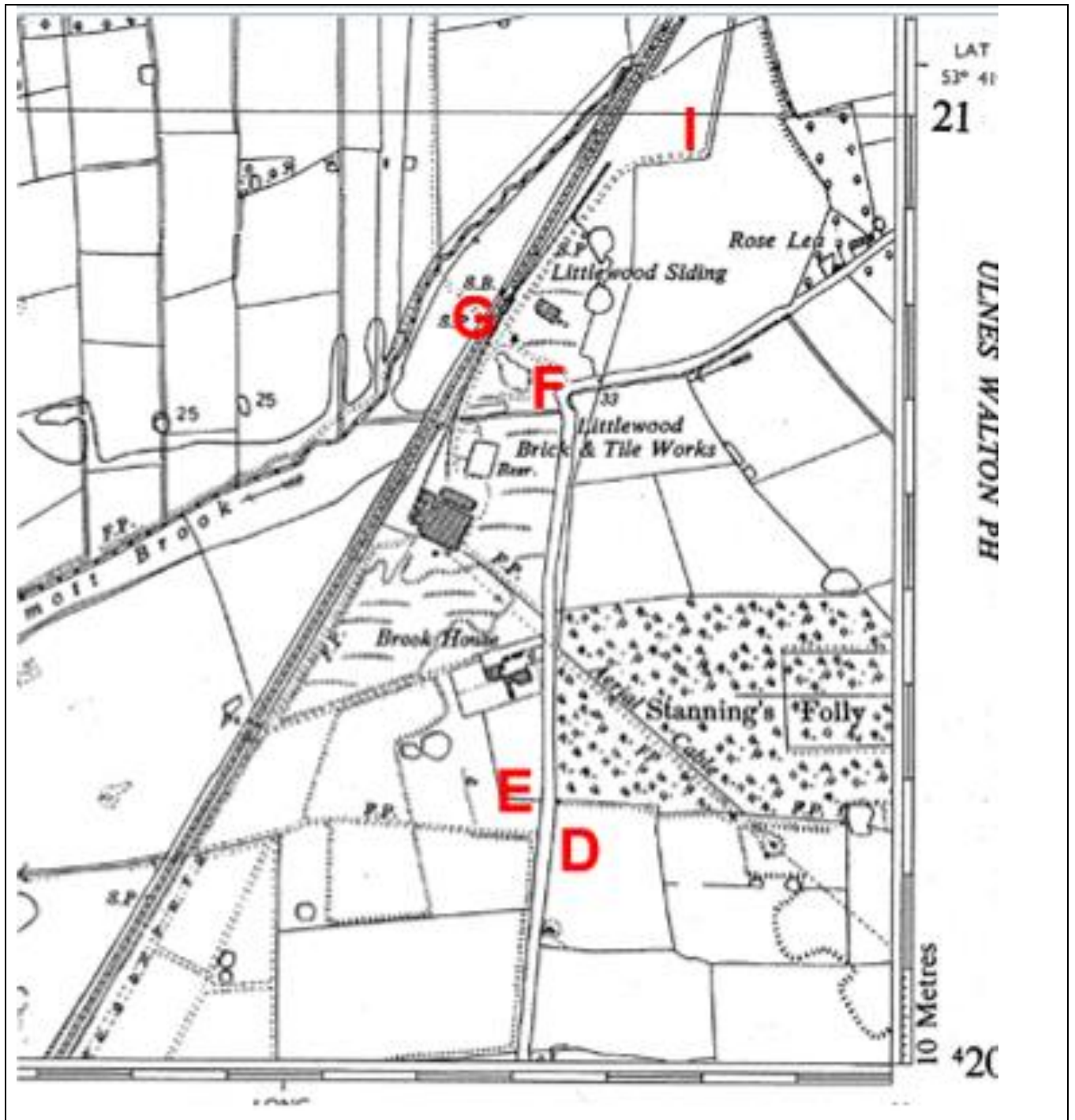


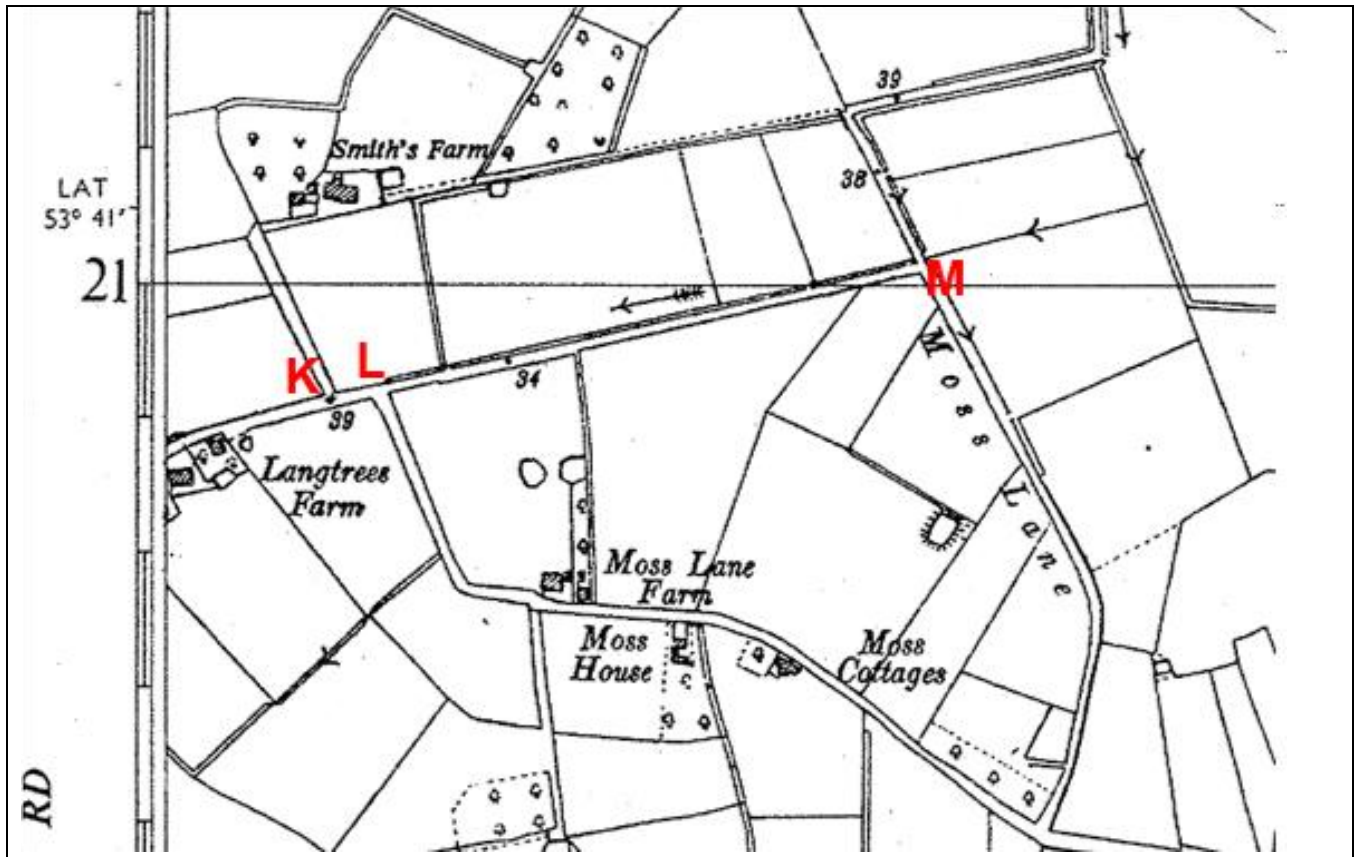
<p>Observations</p>	<p>The aerial photograph clearly shows the application route from point A crossing over Littlewood bridge and continuing north. Where the route splits providing access to Little Wood</p>
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		<p>Hall Farm the more significant looking route appears to be the one leading directly into the farmyard. However, the application route can be seen passing to the east of the farm and continuing north towards the brick works and point F. The route is visible but does not show up clearly on the photograph until it crosses the aerial cable and approaches the brick yard.</p> <p>At point F a significant change can be seen which is not evident on some of the Ordnance Survey maps examined from that time. The direct route from point F through to point J can be seen but its appearance suggests that it is no longer being used as a significant route. Rose Lea is visible but immediately south of it a dark line extends across the route and some new previously unidentified buildings are shown.</p> <p>From point F a clearly visible route can be seen passing through point G and continuing through point I and re-joining the historical route at point J, i.e consistent with the application route.</p> <p>From point J through to point M the application route is visible.</p>
Investigating Officer's Comments		<p>At some point in the 1940s (it is not known exactly when this photograph was taken) it appears that a new route was constructed between point F and point J to the north of the historical route F-J. By the time this photograph was taken this 'new' route appeared much more prominent and shows up on the aerial photograph very clearly – suggesting either that it was in regular use by vehicles accessing the brick works and Rose Lea from Cocker Bar Road via a route heading north east from point I and/or that it was a newly constructed route and showed up as a scar. Between point A and point F the application route is not clearly visible suggesting that use of the full route from point A through to point M had declined and that access from point A was primarily to Little Wood Farm and possibly access to the fields adjacent to the route leading up towards point F.</p>
6 Inch OS Map Sheet 52SW Sheet 42SE Sheet 41NE	1955	<p>The OS base map for the Definitive Map, First Review, was published in 1955 at a scale of 6 inches to 1 mile (1:10,560). These maps were revised before 1930 with parts revised between 1930 and 1945.</p>

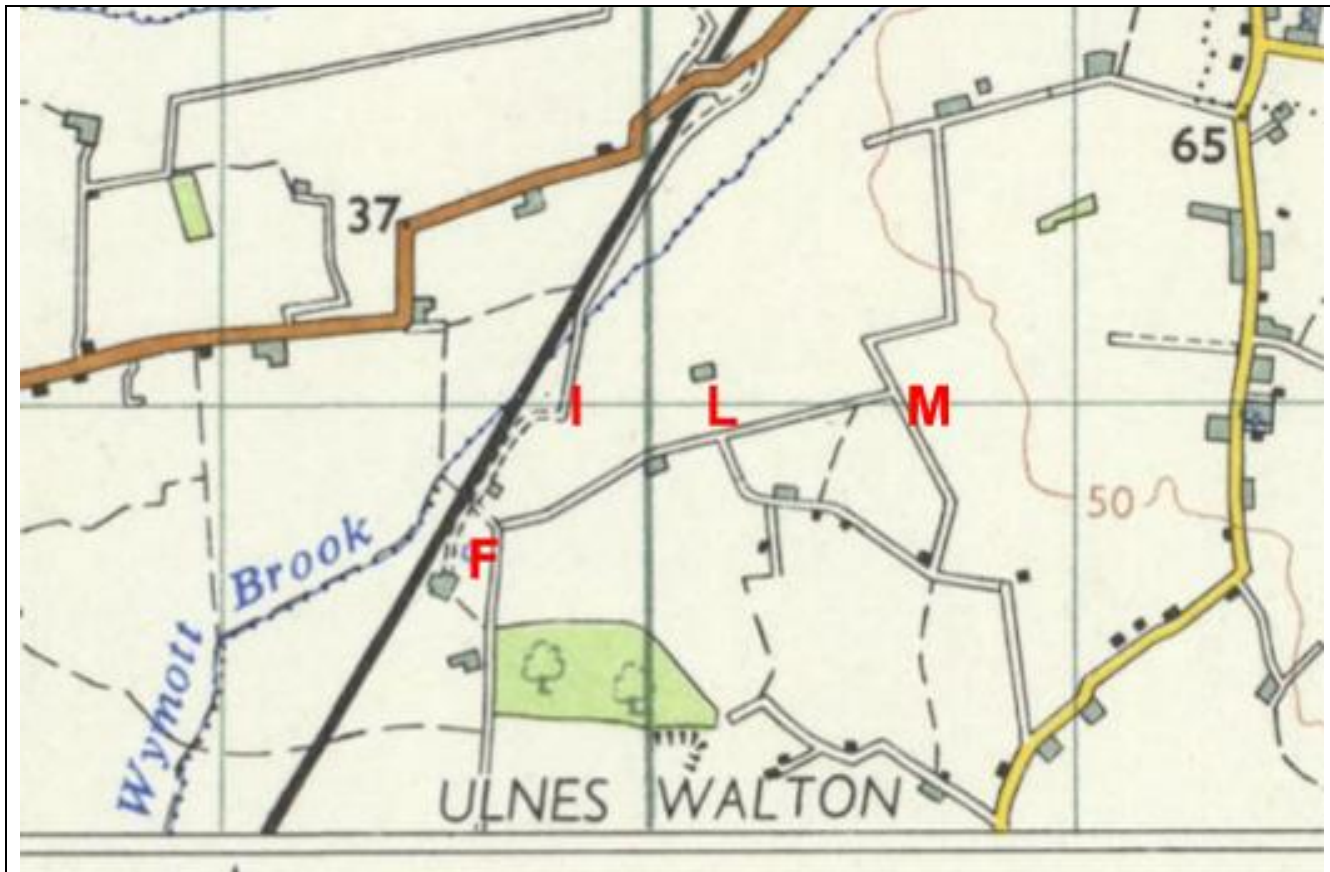






Observations		<p>The six inch OS maps published in 1955 were primarily based on revisions carried out before the 1930s but with some additional revision between 1930 and 1945.</p> <p>The application route is shown as it is shown on earlier editions of OS mapping – as a substantial through route except between points F-J and is not shown with gates across it.</p> <p>From point F a route consistent with the application route is shown passing through point G to point I and then continuing north east to Cocker Bar Road.</p>
Investigating Officer's Comments		The application route existed except section I-J and appeared to be capable of being used on horseback and with vehicles.
1 inch OS Map Sheet 94 - Preston	1961	1 inch OS map revised 1950-1958, published 1961.





Roads	Ministry of Transport, Motorway	<u>M 1 or A6(M)</u>
	" " " Trunk } Single & Dual	<u>A 6(T)</u>
	" " " Class 1 } Carriageway	<u>A 584</u>
	" " " " 2	<u>B 5269</u>
	14 ft of Metalling & over (not included above)	<u>—————</u>
	Under 14ft of Metalling, Tarred " "	<u>TOLL</u>
	" " " " Untarred " "	<u>Gate</u>
	Minor Roads in towns, Drives and Unmetalled Roads (Unfenced Roads are shown by pecked lines)	<u>—————</u>
	Under construction	<u>—————</u>
	Steep Gradient 1 in 5 or steeper	<u>←←←←</u>
1 in 7 to under 1 in 5	<u>←←</u>	
Footpaths and Tracks	<u>-----</u>	

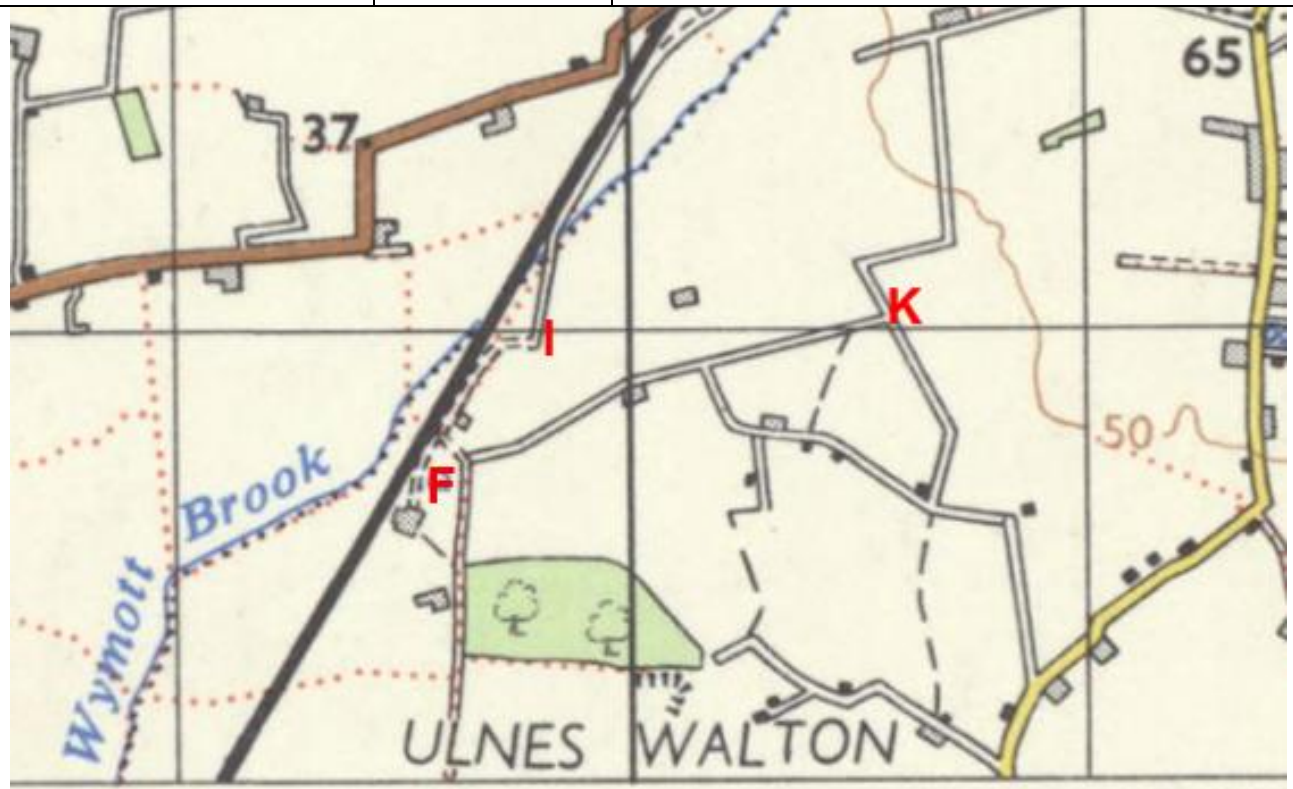
Observations

Sections of the application route A-F and J-M appear to be shown as an untarred or unmetalled road. The route from point F along the application route to point I and then north to Cocker Bar Road is also shown in the same way (with F-I shown as being unfenced).

The map was revised between 1950-1958 but does not show the application route which was clearly visible on the 1940s aerial photograph



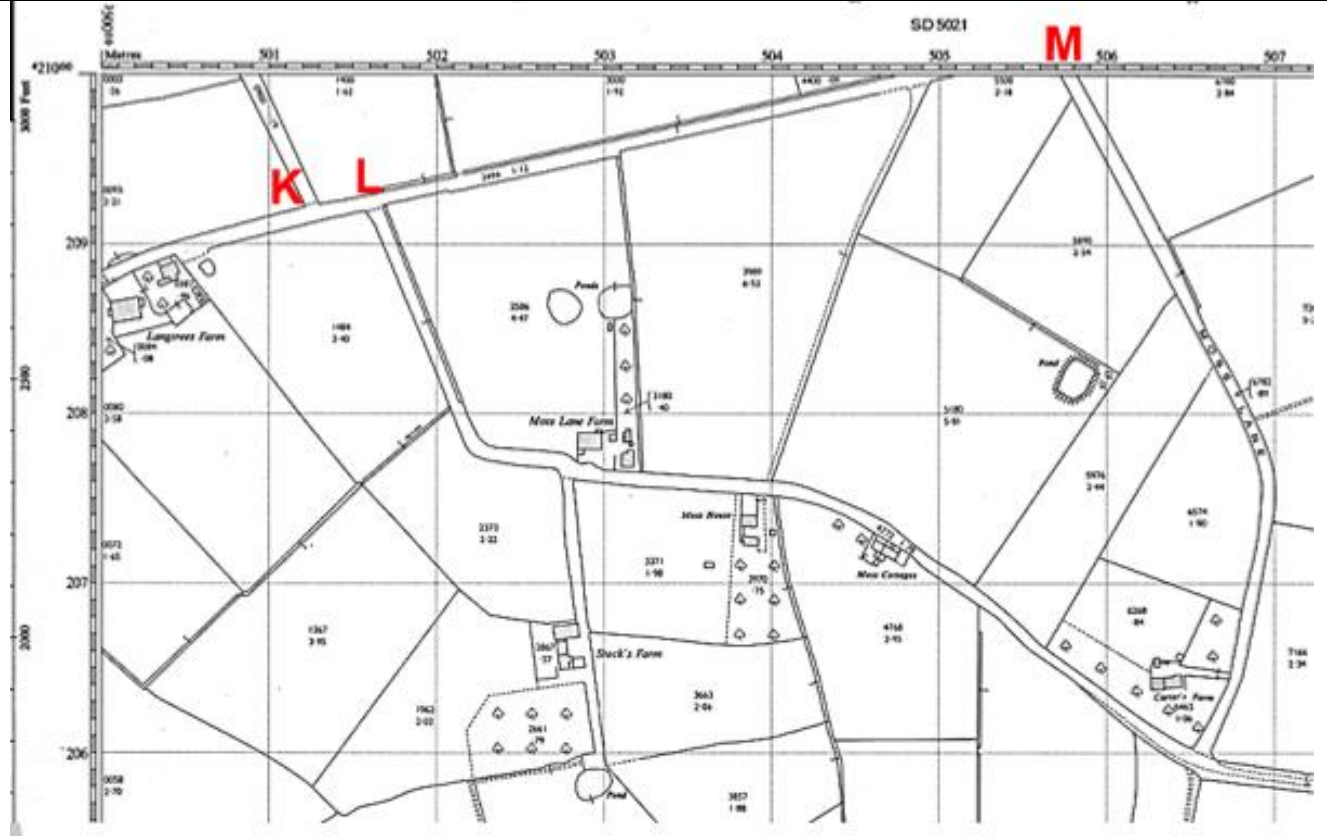
		from point I to point J and does not show some of the rectangular buildings shown on that photograph.
Investigating Officer's Comments		It appears that the application route existed along the historical route A-F-J-M in the 1950s and that part of the more modern route existed from point F-G-H-I. It is not apparent from looking at the map why there was a discrepancy between the aerial photograph taken in the 1940s and this map.
1 inch OS map Sheet 94 - Preston	1964	1 inch OS map revised 1950-1963 and published 1964



Roads	Ministry of Transport, Motorway	MI or A6(M)	
	" " " Trunk	A 6 (T)	
	" " " Class 1	A 584	Railway
	" " " " 2	B 5269	
	14 ft of Metalling & over (not included above)		Wood
	Under 14ft of Metalling, Tarred	TOLL	Gate
	" " " " Untarred		Orchard
	Minor Roads in towns, Drives and Unmetalled Roads (Unfenced Roads are shown by pecked lines)		Electricity (with pylons)
	Under construction		Pipe Lines
	Steepest Gradient 1 in 5 or steeper		
	1 in 7 to under 1 in 5		

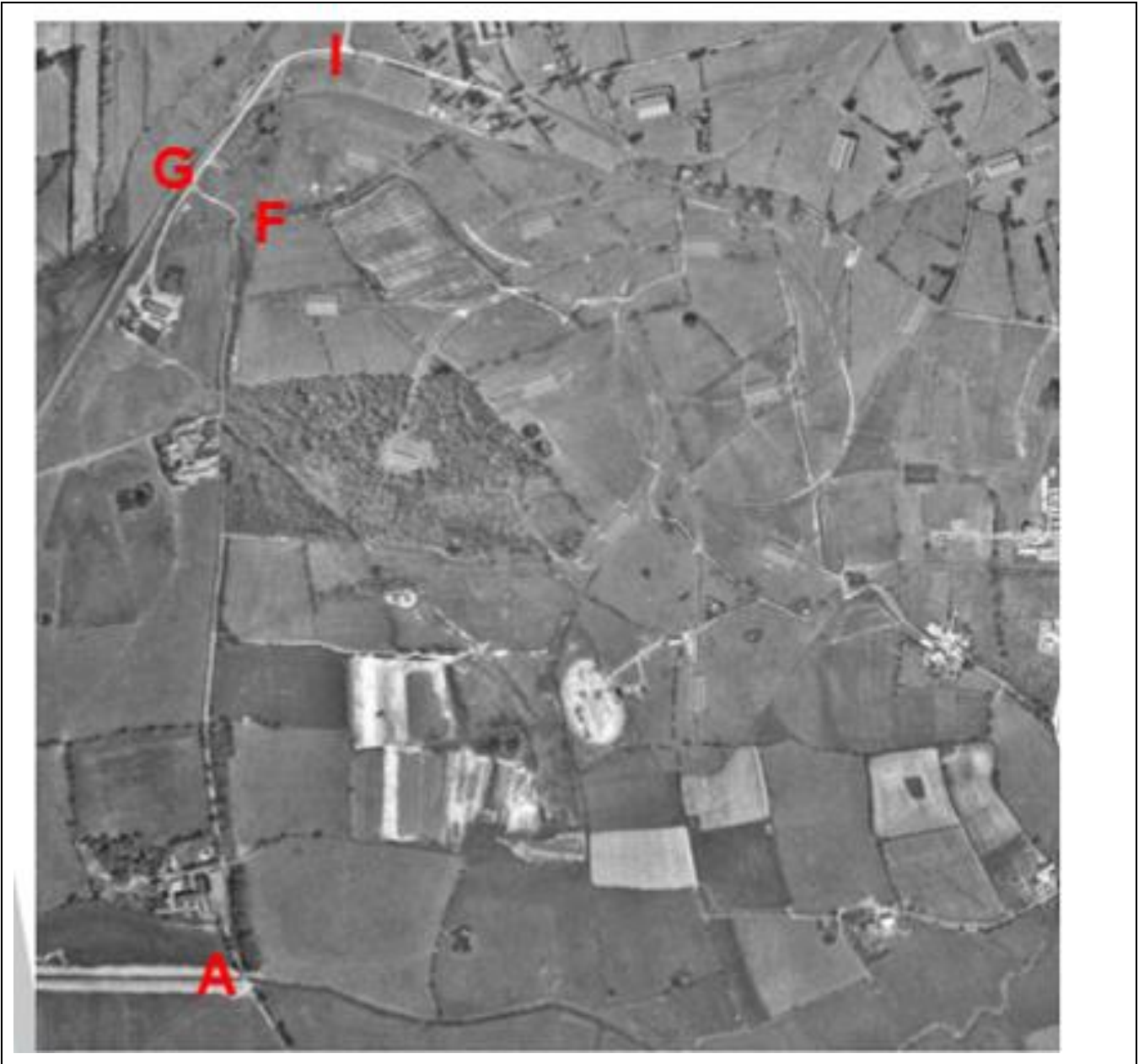
Observations		This map shows the application route in the same way as the slightly earlier OS map detailed
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		above.
Investigating Officer's Comments		The application route appeared to exist except section I-J and appeared to be capable of being used.
1:2500 OS Map Map sheets SD5120-5021	1964	Reconstituted from former county series plans and revised 1962.



Observations		Only one OS 1:2500 sheet was found from the 1960s showing part of the land crossed by the application route. It shows the section just east of point J passing Langtree Farm through to point M. Substantial fenced routes leading off the application route are shown at point K and point L and two footpaths (single dashed lines are also show extending from the application route south across the fields to Moss Lane Farm and Moss House.
Investigating officer's Comments		The application route from just past point J to point M existed in 1962 as a substantial route and appeared to be capable of being used.
Aerial photograph	1960s	Aerial photography flown during the 1960s. The coverage is a mosaic of various flight throughout the 1960s.





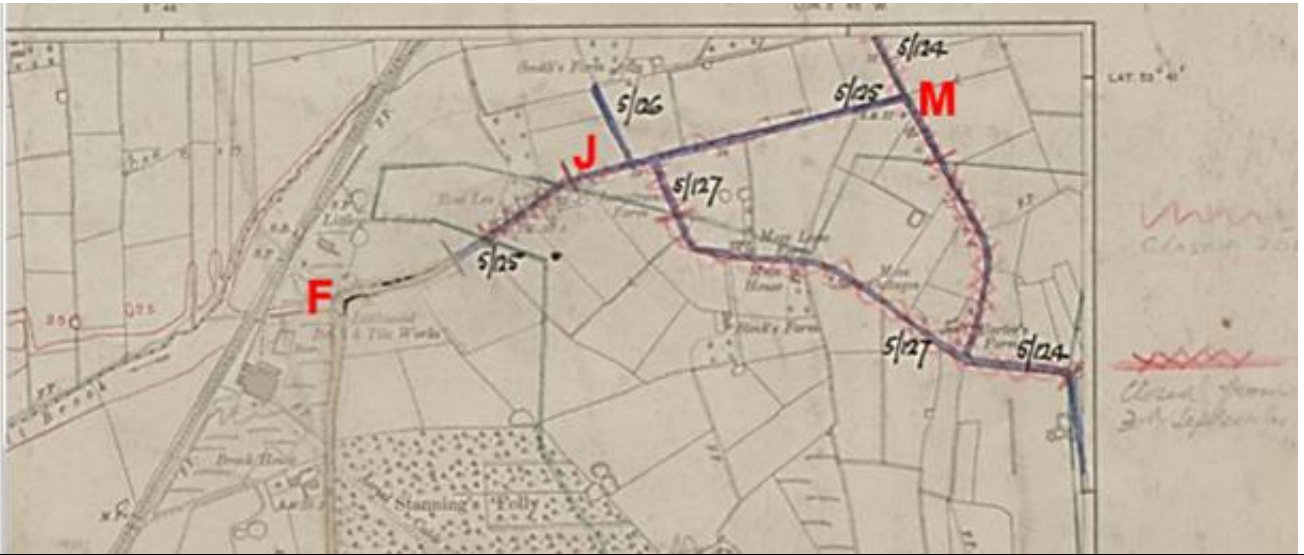
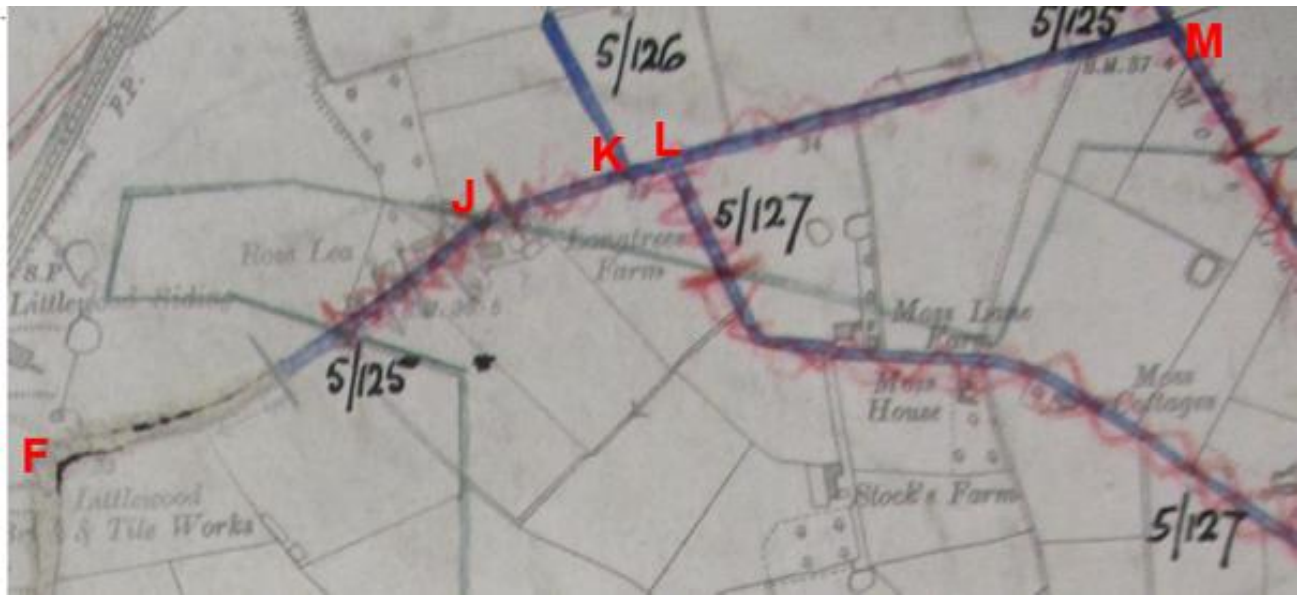


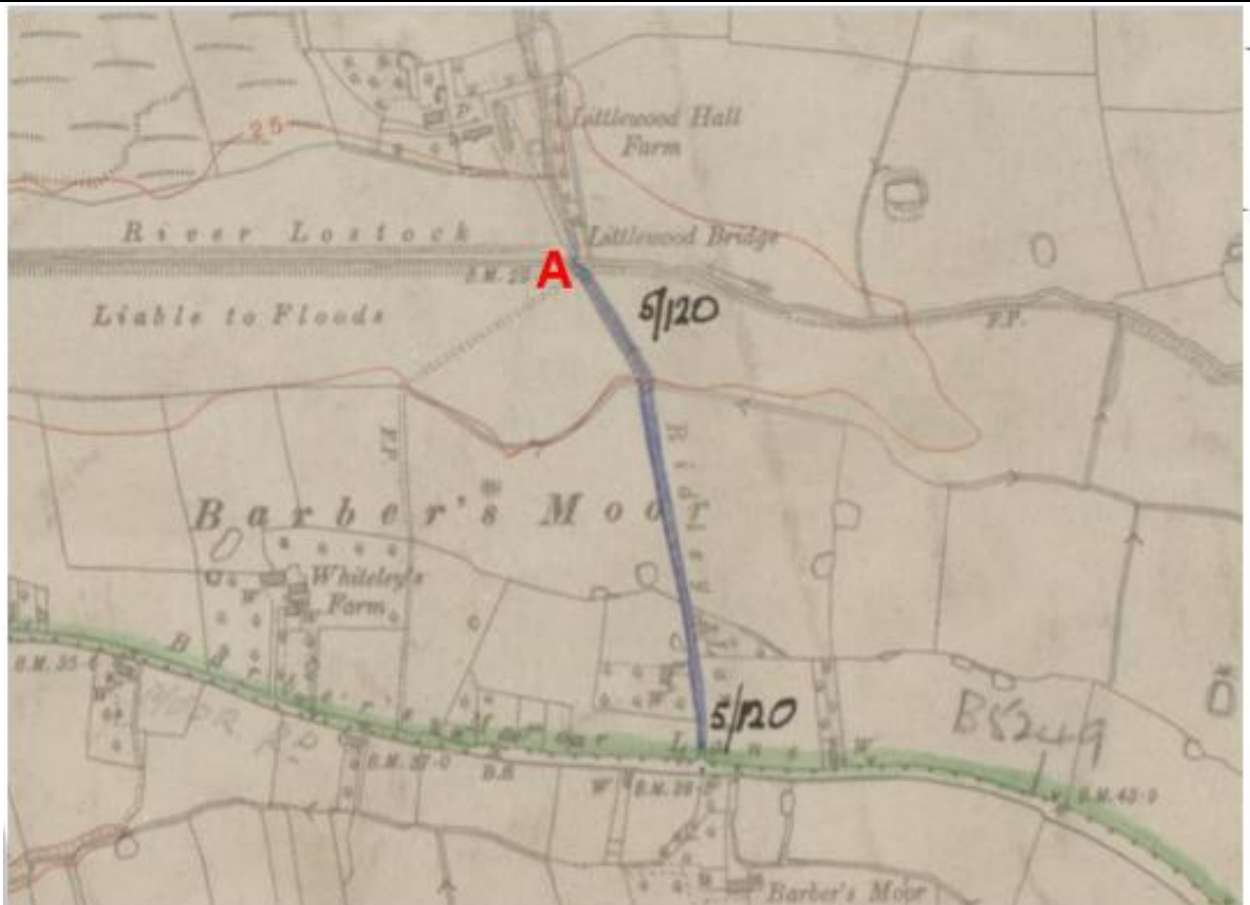
Observations

The 1960s aerial photograph clearly shows the full length of the application route as a substantial route between point A and point M consistent with how a route used by vehicles would look. Of significance is the fact that the route between point F-G-H-I-J is very clearly visible as it is the route from point I leading north east to Cocker Bar Road. From point J to point M the route is far less visible although it can still be seen.



		<p>The historical route from point F to point J can be seen predominantly as a tree lined route but there is little evidence of substantial (vehicular use).</p>
Investigating Officer's Comments		<p>The full length of the application route existed in the 1960s and appeared to be capable of being used. There is evidence that much of the route was receiving substantial levels of vehicular use at that time although it is not known whether this use was predominantly public or private use.</p> <p>The photograph is believed to have been taken in 1963 and clearly shows the application route from points F-G-H-I-J (as did the 1940s aerial photograph but it is noted that this part of the route (with the exception of points F-I) is not shown on OS maps published in the 1960s which are based on earlier surveys with partial revisions.</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 rural district councils, and later from urban district and borough councils, to the County Council. For the purposes of the 1929 transfer, public highway 'handover' maps were drawn up to identify all of the rural district maintained 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>



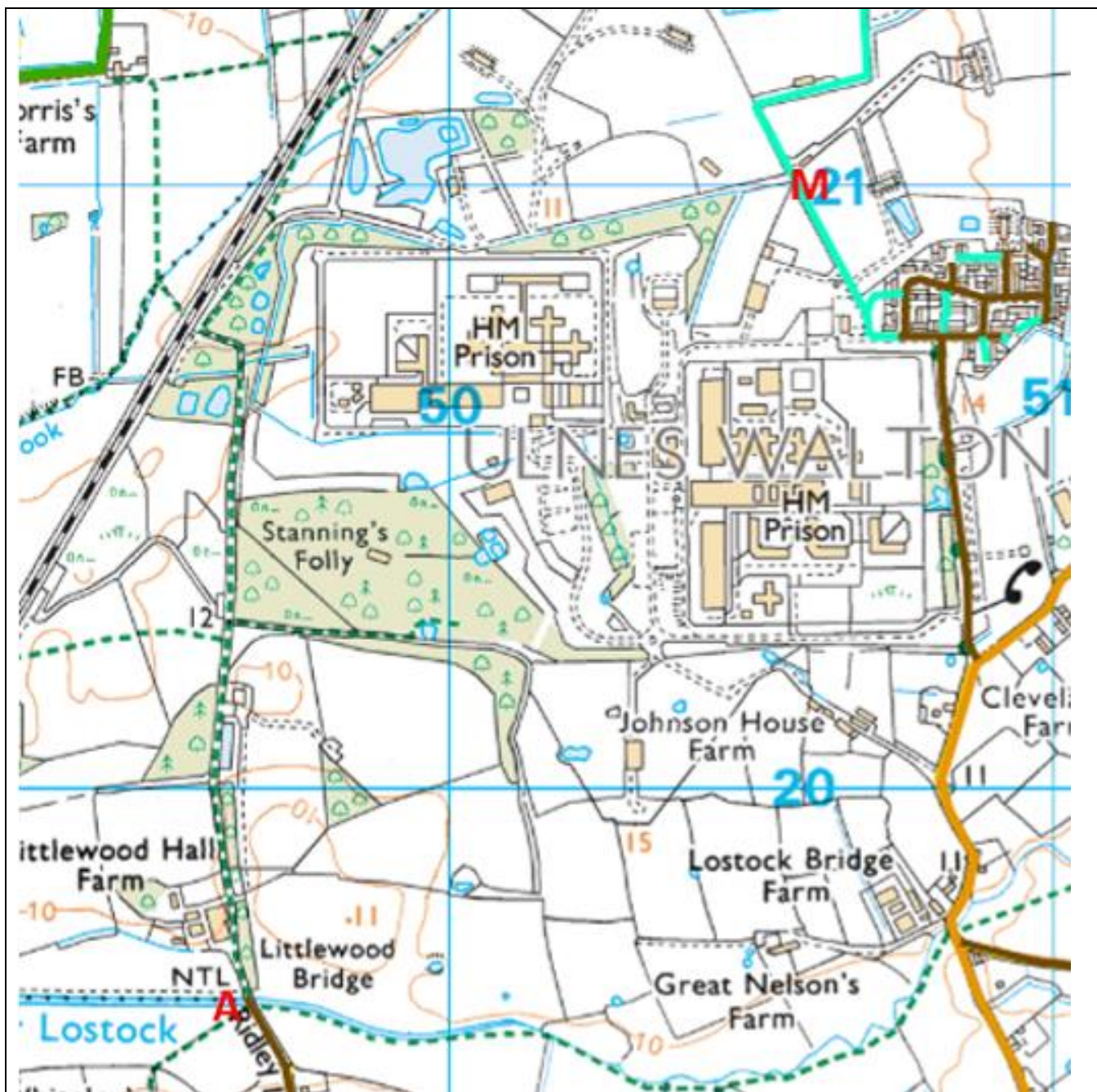


Extracts from Handover Maps for Chorley RDC – OS Sheet 76NE

5/120	RIDLEY LANE	From Littlewood Bridge to Barber's Moor	1929	523	.30
5/124	MOSS LANE	From T1503 on Cleveland Farm to Winy Harbour.	1929	207	.22
"	"	"		185	
"	MOSS LANE.	} From Winy Harbour to 100' West of Nixon's Farm CLOSED under Emergency Powers (Defence) Orders File 1031/4/2 - 20 Nov 1942.		813	
"	NE-LL WABERING LANE			943	
"	NIXON LANE			97	
"	NIXON LANE	From 100' West Nixon's Farm to class T1 503	1929	492	.28
5/125	Road from Moss Lane.	Towards Littlewoods tile works (843')			
"	CLOSED 2/11/42 & 30/9/40	Emergency Powers (Defence) Orders (except for 45')			.03
5/126	ROAD FROM 5/125	to Smith's farm	1929	148	.08
5/127	"	" - 5/124			
		CLOSED Emergency Powers (Defence) Orders		20/11/42	
				30/11/40	

Extract from undated book titled 'Schedule of Unclassified County Roads for Chorley Rural District'





LCC highway records

<p>Observations</p>		<p>The fact that there is an inconsistency between what is shown on the OS maps and aerial photographs dating from the 1940s and 1960s steered the Investigating Officer's investigations towards trying to establish why this was. The County Council current highway records show no part of the application route or historical route F-J. Neither does it record Pump House Lane (passing through point M). However, the 1929 Handover Maps appear to show the route from midway between point J and point F through to point M as an unclassified county road referenced 5/125. It also shows the</p>
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	<p>route north from point K as an unclassified county road referenced 5/126 and south from point L referenced 5/127 and the route passing through point M (now known as Pump House Lane referenced as 5/124.</p> <p>That part of the application route referenced as highway 5/125 midway between point F and point J through to point M has been crossed out (with a very short section at its western end not crossed out. Drawn onto the map there appears to be some sort of boundary. Pencil notes on the map state that the routes shown crossed out in red pencil had been closed.</p> <p>A handwritten book in the possession of the Public Rights of Way Team – and originally given to them by a former LCC Highways Officer – is titled 'Schedule of Unclassified County Roads in Chorley RD' and lists the routes shown on the Handover Map. Route 5/125 is listed as being a road from Moss Lane towards Littlewood tile works and as being closed with the dates 2/11/42 and 30/9/40 under the Emergency Powers (Defence) Orders with a note that this was except for 45 yards at the western end.</p> <p>The route extending north from point K (5/126) is not detailed in the schedule.</p> <p>The route extending south from point L (5/127) is described in the schedule as being a road from 5/125 (the application route) to the road numbered as 5/124 (Moss Lane) and is also listed as being closed under Emergency Power (Defence) Orders with the dates 20/11/42 and 30/11/40.</p> <p>The route numbered as 5/124 has six separate listings in the schedule as it appears to have been a long route known by 3 different names along different sections (Moss Lane, Nell Waring Lane and Nixon Lane).</p> <p>The section of route to which the application route joins at point M appears to have been named as part of Moss Lane at that time and is shown crossed out on the plan. An entry in the Schedule describes that part of Moss Lane from Windy Arbour to 100 yards west of Nixon Farm as being closed under Emergency Powers (Defence) Orders and includes the route connecting to the application route at point M.</p> <p>The Handover Map also shows Ridley Lane immediately south of point A as a publicly maintainable highway referenced as 5/120. The Schedule describes this route as being from</p>
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		<p>Littlewood Bridge to Barbers Moor.</p> <p>Close inspection of the Handover Map shows that the application route from point A through to point F – and then continuing north east to the junction with the route referenced 5/125 appears to have been originally included on the map but had subsequently been removed.</p> <p>The County Council List of Streets does not show any part of the application route as being a publicly maintainable vehicular highway (parts are recorded as public footpath).</p>
Investigating Officer's Comments		<p>The information provided by the 1929 Handover Map suggests that the application route from point A through to point F was not considered to be a publicly maintained highway in the 1920s – although it does look like this may have been drawn on the map and then removed – although we do not know when it was erased.</p> <p>The route from point F-G-H-I-J did not exist at that time so no inference can be drawn.</p> <p>With regards to the route from midway between point J-F through to point M it is clear that this was considered to be a public highway in the 1920s which is consistent with other maps and documents inspected, as was Moss Lane (Pump House Lane) connecting to the route at point M and routes extending from the application route at points K and L. The records suggest however, that these routes were closed (permanently or temporarily) in the 1940s including that part of the application route between point J and point M.</p> <p>It is noted however that the application route between point J and point M still physically exists today (on the same historical alignment) and the fact that it appears to have been 'closed' in the 1940s and is no longer recorded as a publicly maintainable highway does not mean that it does not carry public rights today which have been dedicated since its closure.</p>
<p>The Emergency Powers (Defence) Act 1939 and 1940</p> <p>UK Public General Act 1939 c 62 (2 and 3 Geo. 6 c 62) and UK Public General Act 1940 Act 3 and 4 Geo. 6 c 20.</p>	1939 and 1940	<p>Enabling Acts to provide the Government with emergency powers to enable 'the defence of the realm' during the Second World War.</p>



Overview of area crossed by the application route in the 1940s

<p>Observations</p>		<p>The acts enabled the 'King in Council' to make Defence Regulations as appeared to him to be necessary or expedient for securing the public safety, the defence of the realm, the maintenance of public order, and the efficient prosecution of the war, and for maintaining supplies and services essential to the life of the community.</p> <p>It is understood that the government had the power to requisition land and to close public highways across that land.</p> <p>An inspection of the 1940s and 1960s aerial photographs shows a large area to the east of the application route (A-F) and both to the north</p>
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	<p>and south of the application route F-M was covered by a large number of rectangular buildings which appeared to be connected by singular rail tracks and/or tracks during that time. Very little information has been found about it but many of the buildings still exist and locally people talk about it having been an ammunition store. It is well documented that military related sites such as ammunition stores and explosive works built for specific military purposes were not shown on Ordnance Survey maps and the land was either shown as it was prior to the installation being built or was simply left blank.</p>
<p>Investigating Officer's Comments</p>	<p>The evidence available suggests that in the early 1940s the direct route from point F through to point J may no longer have been available to be used by the public as part of a longer through route and that an alternative more circuitous route was constructed along the route applied for (F-G-H-I-J) together with a route through to Cocker Bar Road via point I. Whether the newly created route was available to the public or was purely for private purposes at that time is not known.</p> <p>Public rights appear to have been considered by the Highway Authority to have been stopped up along the application route J-M together with Moss Lane extending both ways from point M. If public rights did exist along the historical route A-F these do not appear to have been stopped up under the defence powers.</p> <p>War Power Closures are considered in 'The Planning Inspectorate Wildlife and Countryside Act 1981 Definitive Map Orders: Consistency Guidelines' (Section 11 – Part 3) where it states that 'The Emergency Powers (Defence) Act 1939 was intended to only operate for one year, but continued in force throughout the whole of the Second World War, and until 24 February 1946. The Act provided for the making of Defence (General) Regulations for a wide variety of topics, including the temporary stopping up or diversion of highways; in addition, the regulations permitted County Agricultural Executive Committees to authorise the ploughing of rights of way, subject to their eventual restoration and the provision of diversions.'</p> <p>After the war, the Requisitioned Land and War Works Act of 1945 provided for orders to be made for the permanent stopping up or diversion</p>

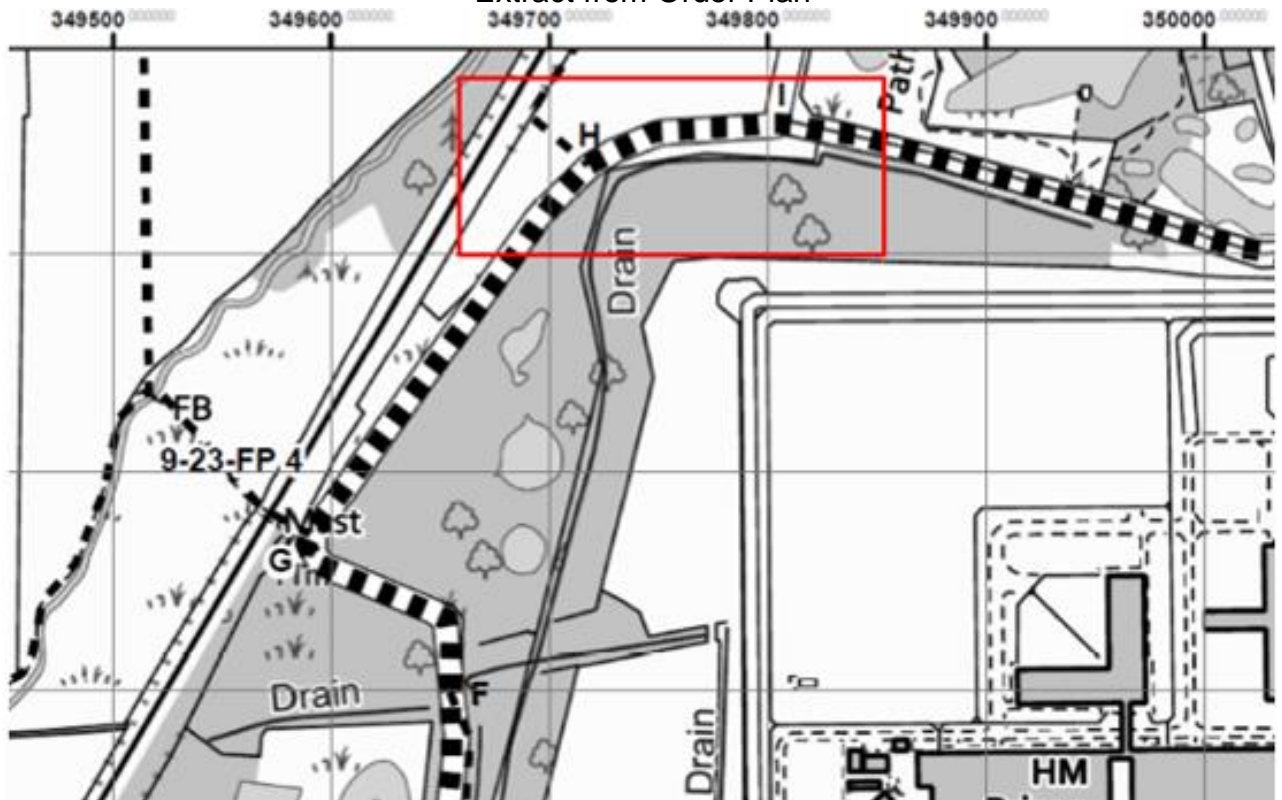
		<p>of highways which had been temporarily stopped up or diverted under the 1939 Regulations. The Requisitioned Land and War Works Act of 1948 extended the scope of this power to encompass highways which had in practice been temporarily closed or diverted but for which no formal order had been made under the Regulations. In both cases, the power to make such orders was intended to be available only until two years after the war period. However their provisions continued to be operative until terminated by the Land Powers Defence Act, 1958 with effect from 31st December 1958. Objections to orders made under the 1945 and 1948 Acts were heard by the War Works Commission; some records survive in both national and local archives.</p> <p>The 1958 Act included a power to vary or revoke orders made under the 1945 Act without any time limitation. However, where such a proposal was published before 31st December 1960 to vary an order made under the 1945 Act (because a condition requiring the provision or improvement of an alternative highway had not been satisfied and therefore the stopping up or diversion had not come into operation) then the highway could remain closed pending the coming into operation of the variation order, or for a further six months if the variation was disputed and subsequently rejected by the War Works Commission.</p> <p>The Land Powers (Defence Act) 1958 also applied the provisions of the Town and Country Planning Act (1947) to situations where the land is required to be used for defence purposes. Any stopping up or diversion proposed under these provisions can be permanent or temporary but introduced the now well-established procedures for advertisement of such proposals.</p> <p>The guidance provided to the Planning Inspectorate makes it clear that unless extended by due process, any temporary closures of rights of way made under emergency powers during the First or Second World Wars would have ceased to have effect on 28 June 1920 or 31 December 1958 as appropriate. In the absence of documentary evidence to the contrary we would assume this to be the case where public rights are shown to have existed prior to the war.</p>
The Stopping up of	1947	Minister of Transport Stopping up Order dated

Highways (Lancashire) (No. 7) Order, 1947		25th November 1947.
Observations		<p>A search of the War Works Commission records deposited at The National Archives was made and a copy of an Order was obtained titled The Stopping up of Highways (Lancashire) Order, 1947 obtained,</p> <p>The Order was made by the Minister of Transport on 25th November 1947 and specifically refers to a number of roads and footpaths in the parish of Ulnes Walton which had been previously stopped up on a temporary basis under Defence (General) Regulations by virtue of Orders made on 30th September 1940 and 20th November 1942.</p> <p>The Order specifies that the Minister of Transport was satisfied that in the interest of the public those routes previously stopped up under the earlier legislation now be permanently stopped up.</p> <p>There was no plan attached to the Order but details of the routes to be permanently stopped up were clearly detailed in the Schedule to the Order numbered 1 to 10.</p> <p>The first of the routes described was as: <i>'That part of the road leading from Littlewood Hall Farm to Ulnes Walton Lane which extends from a point approximately 1,066 yards north of Littlewood Hall Farm in a general north easterly and northerly direction for a distance of approximately 2,308 yards to a point 100 yards west of Nixon Farm.'</i></p> <p>From measurements taken this accords to that part of the historical route F-J and the application route J-M being part of the road to be permanently stopped up. It did not however include that part of the application route described as a road 'leading from Littlewood Hall Farm' to point J.</p> <p>The Order also permanently stopped up the road the application route meets at point M (Pump House Lane) and other routes no longer in existence since the construction of the prison.</p> <p>No reference was made to the provision of any alternative routes.</p>
Investigating Officer's Comments		<p>Public rights were extinguished along the application route between points F and M (and historical route F-J) in 1947. The route from Littlewood Hall Farm to point J was described as 'a road' in the Order but there is no reference to the existence of public rights along it – which ties</p>

		into evidence provided by the Tithe Award and highway adoption records.
The Stopping up of Highways (County of Lancaster) (No. 2) Order 1963	1963	Order made by the Minister of Transport in exercise of powers under section 49 of the Town and Country Planning Act 1947 as extended by the Land Powers (Defence) Act 1958.



Extract from Order Plan



Extract from the Committee plan





1960s aerial photograph

Observations

The Order provides for the temporary stopping up of two 'highways' for a period of five years from when the Order came into operation. The 'highways' to be stopped up were described in the Order Schedule and were said to be coloured red on the deposited plan.

The first of the two routes was described as a footpath leading from Dunkirk Lane to Nixon Lane extending from the footbridge over Wymott Brook generally south to a junction with Nixon Lane which was recorded on the Parish Survey Map for Ulnes Walton as FP 25 but was not shown on any further map of the parish and is not recorded on the Revised Definitive Map (First Review).

The second route to be described as being stopped up for a period of five years (from when the Order came into operation) was a length of footpath leading from Littlewood Sidings to Low Moss Farm 'extending from its junction with the private road leading to Littlewood Brick and Tile Works north-eastwards for about 90 yards'. This route appeared to form part of the original footpath numbered Footpath 25 on the Parish Survey Map and subsequently renumbered as Footpath 3. The route through to Low Moss Farm from Littlewood Sidings is not recorded on the

		<p>Revised Definitive Map but this particular Order appears to relate to 90 yards (82 metres) from the 'private road' leading to the Brick and Tile works extending north east.</p> <p>The Order plan is of poor quality but the route drawn on it appears to tie into the location of part of the application route between point H and point I.</p> <p>The Order specified that both routes should be reinstated at the end of the specified period and would be maintainable at public expense.</p> <p>No further information relating to this Order was found.</p>
Investigating Officer's Comments		<p>This Order, made in 1963, suggests that further development of the land was taking place that necessitated additional footpath closures. Further investigations would be required to establish whether they were subsequently permanently extinguished or whether they should be recorded as public footpaths.</p> <p>For the purpose of this particular investigation it is the wording of the description of the second route within the schedule that is of relevance. The section of the route to be closed is described as being from the junction with the private road leading to Littlewood Brick and tile works. If the Order plan is correct then the private road referred to appears to be the application route (part of which is recorded as Footpath 3) because although it is not shown on the OS maps published at that time, its existence as a substantial roadway is confirmed by reference to the 1960s aerial photographs.</p>
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</p>



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.





DISTRICT *Chorley R.D.C.* PARISH *Ulves Walton* No. *25*

MAP SHEET No.

LENGTH *9.35* miles
(to two decimal places)

BRIEF DESCRIPTION (Field F.P. or otherwise)

DETAILED DESCRIPTION (giving starting point, means of passage and general condition).

*Wymott Brook thro' Boulder Stone Farm to Nixon Lane.
Path closed from Nixon Lane to point on Wymott Brook
west of Smiths farm by order of Q. session. Path continues
southwards past Littlewood sidings to join Ridley Lane.*

DISTRICT *Chorley R.D.C.* PARISH *Ulves Walton* No. *14*

MAP SHEET No.

LENGTH *0.70* miles
(to two decimal places)

BRIEF DESCRIPTION (Field F.P. or otherwise)

DETAILED DESCRIPTION (giving starting point, means of passage and general condition).

*Wymott Brook eastwards over the railway to cross F.P. 25
near Stannings Colly, alongside Stannings Colly to Clay
Pit where path is closed by order of Q. session*

DISTRICT *CHORLEY RURAL* PARISH *ULVES WALTON* No. *4*

MAP SHEET No. *3*

LENGTH *0.06* miles
(to two decimal places)

BRIEF DESCRIPTION (Field F.P. or otherwise)

F. P.

DETAILED DESCRIPTION (giving starting point, means of passage and general condition).

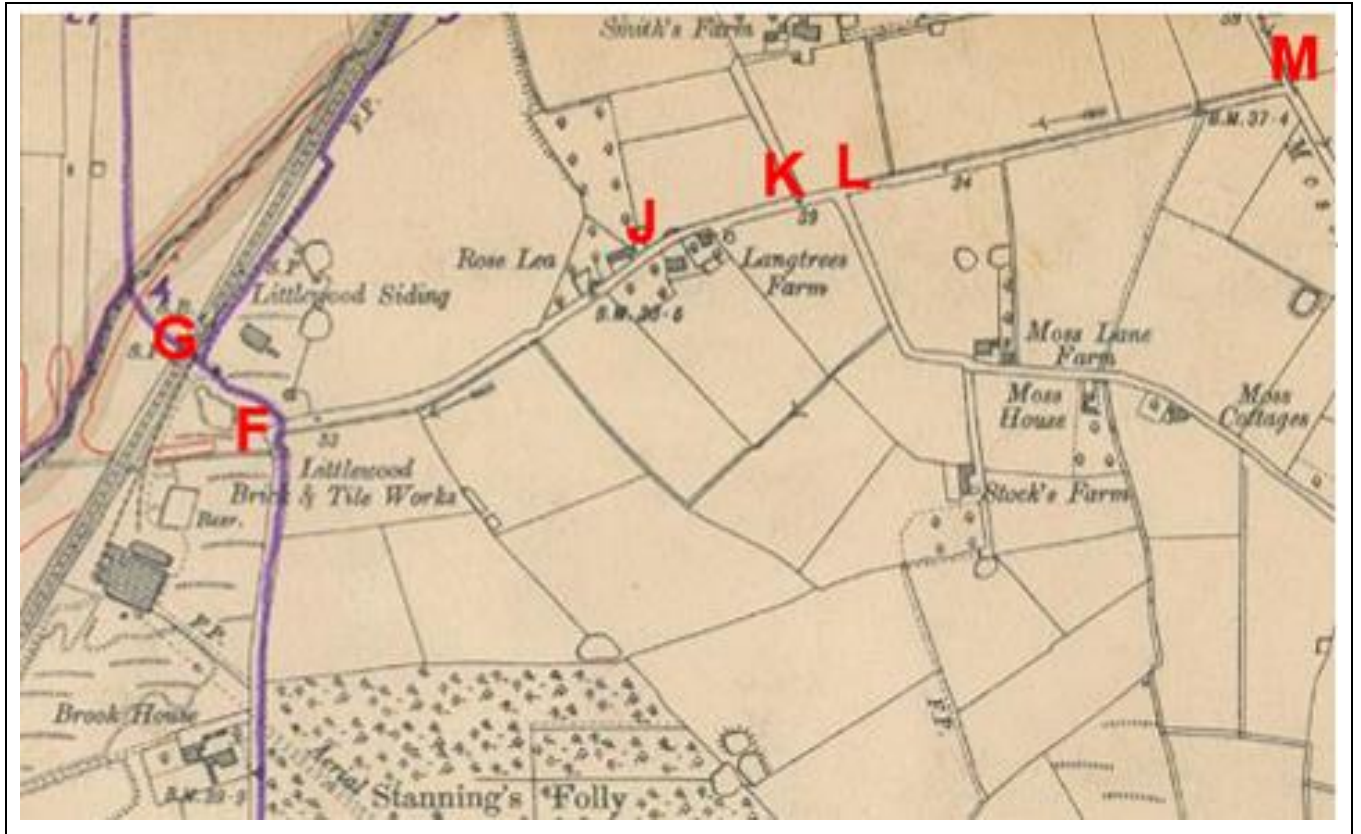
*From Parish Boundary across Railway to join footpath
No 3 (25) near Littlewood sidings*

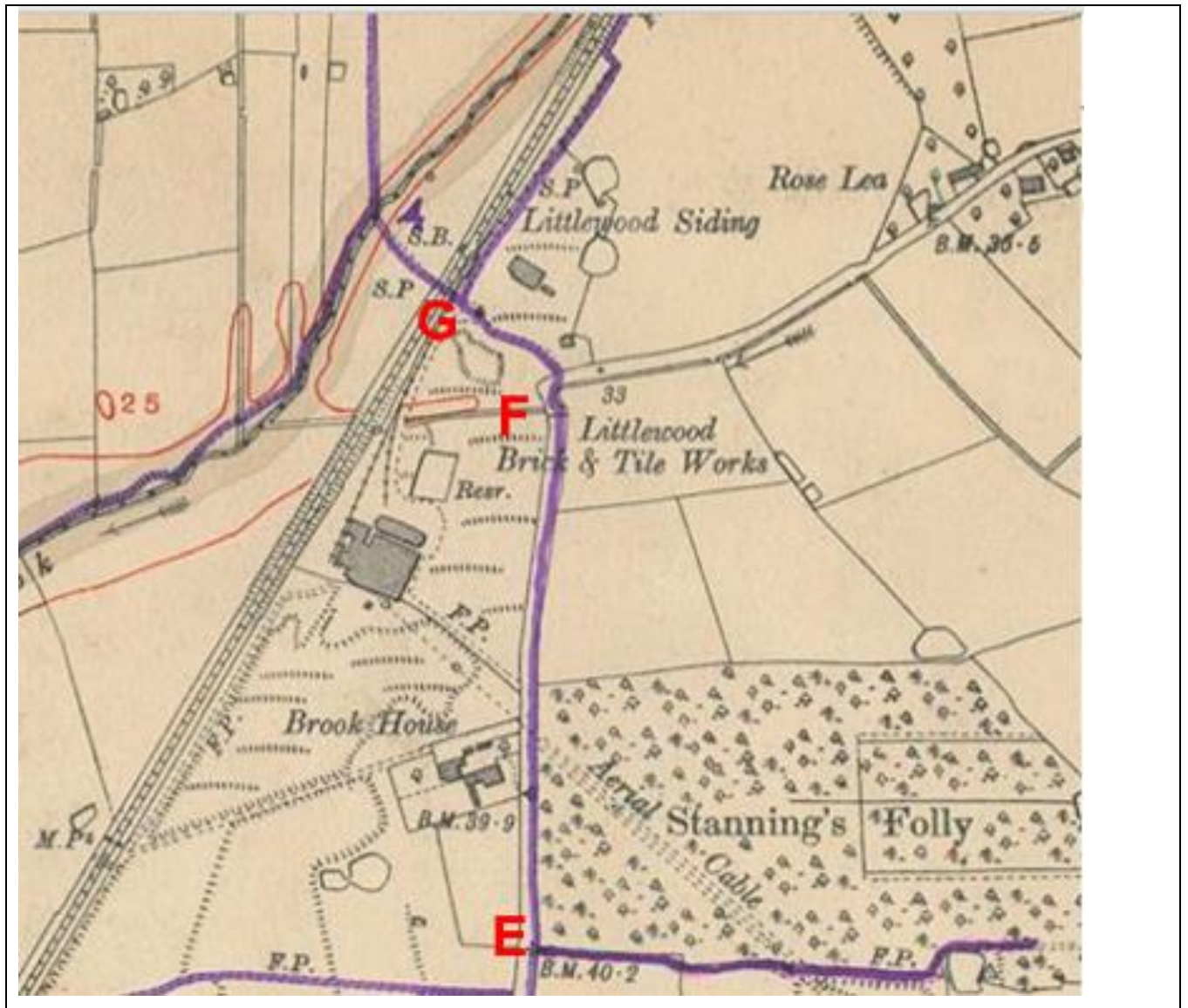
Observations

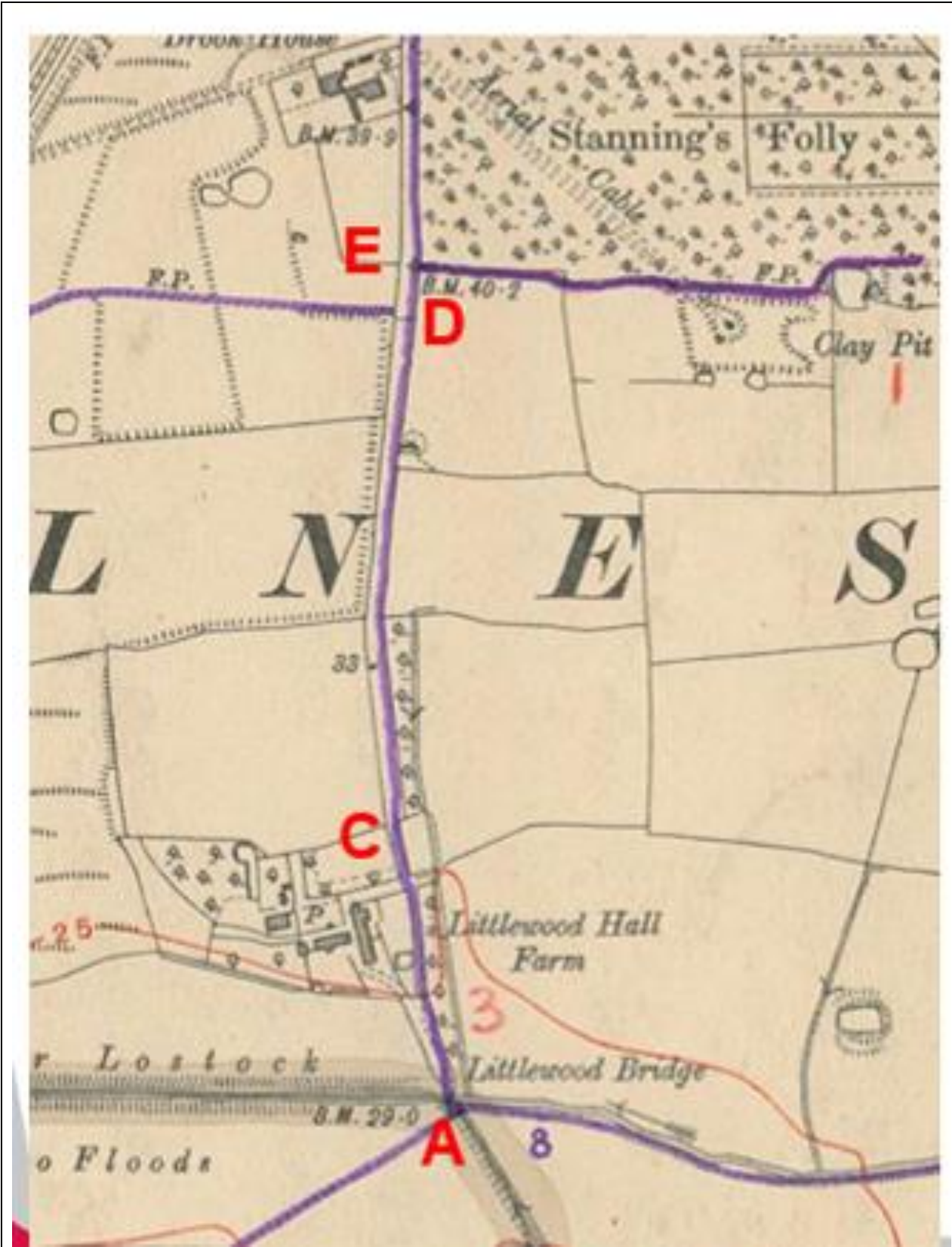
The Parish Survey maps and cards were drawn up in the early 1950s. The map shows the application route from point A through to point F recorded as a public footpath 25. It was described on the survey card as being from



	<p>Wymott Brook through Boulder Stone Farm to Nixon Lane and states that the path was closed from Nixon Lane to point on Wymott Brook west of Smith Farm by Order of Quarter Session. Beyond there it states that the path continued southwards to join Ridley Lane.</p> <p>The map also shows the historical route from point F extending north east towards point J as a footpath which would have connected to the western end of the publicly maintainable highway 5/125 which is detailed earlier in the report as having been closed under the Emergency Powers Acts. This route is crossed out on the map with the words 'Closed by O.Q.S' written alongside it.</p> <p>It was also noted that an unnumbered path was shown extending south from the application route between point L and point M but that the application route between point J and point M was not recorded as a footpath and neither was the route from point H through to point J.</p>
<p>Draft Map</p>	<p>The parish survey map and cards for Ulnes Walton 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	The Draft Map shows Footpath 3 (renumbered since the parish survey was prepared) running from Point A through to point C. From point C the line drawn on the map is drawn along the east
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		<p>side of the application route and the thickness of the pen makes it impossible to tell whether the line was intended to be along the eastern side of the bounded route – but within the width of the route or whether it was on the other side of the boundary running parallel to the application route or whether it was the whole width of the fenced route or whether it was drawn on top of the line in error. The footpath crosses the historical route at point F and then continues along an unbounded track consistent with the application route to point G and then north east through Littlewood siding. The rest of the application route is not shown.</p>
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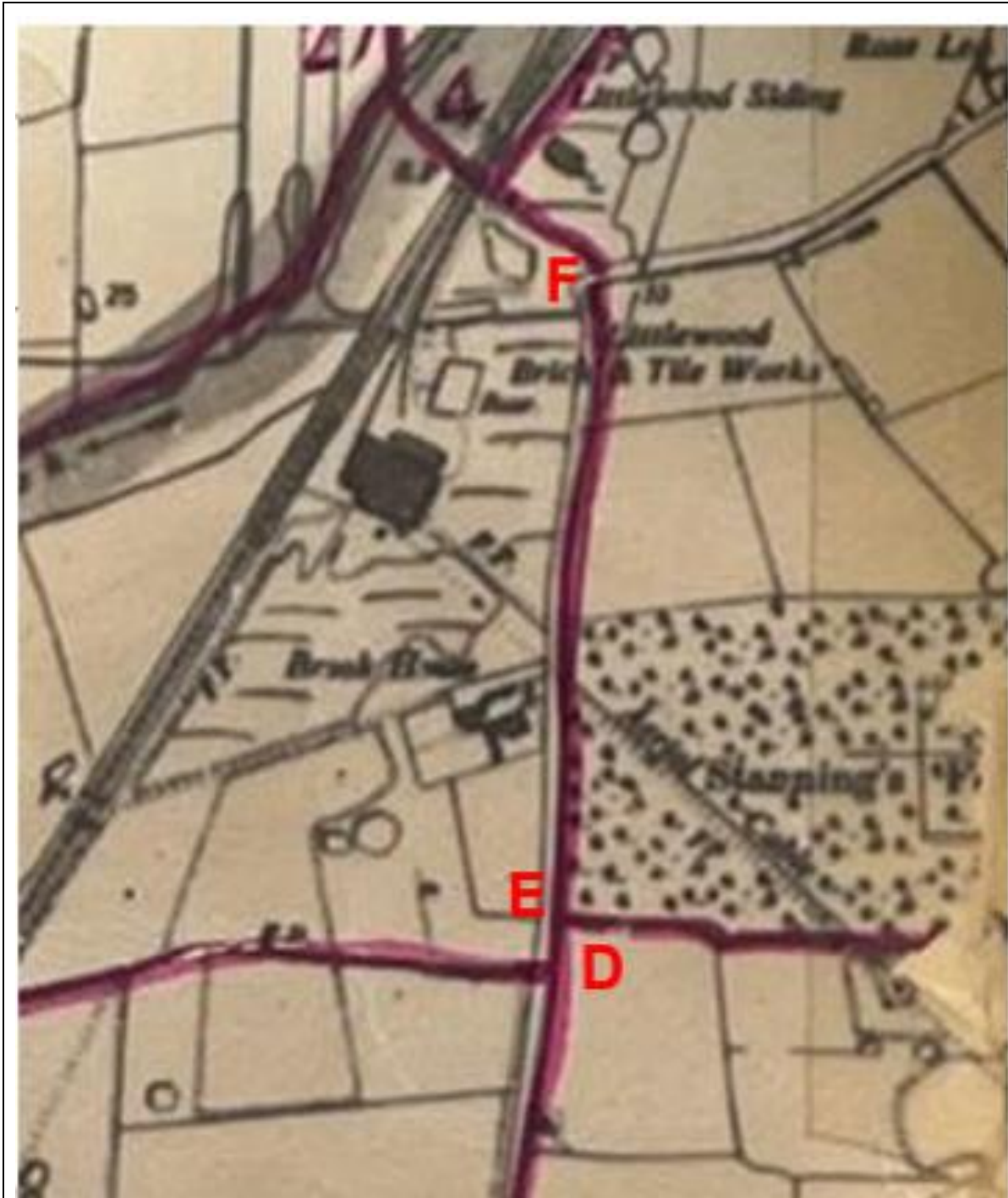
<p>Provisional Map</p>		<p>Once all representations relating to the publication of the draft map were resolved, the amended Draft Map became the Provisional Map which was published in 1960, and was available for 28 days for inspection. At this stage, only landowners, lessees and tenants could apply for amendments to the map, but the public could not. Objections by this stage had to be made to the Crown Court.</p>
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<p>Observations</p>		<p>The Provisional Map for route north of Littlewood farm could not be found. The start of the route from point A is shown as a footpath extending</p>
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		north towards point C but beyond that no inference can be drawn.
The First Definitive Map and Statement		The Provisional Map, as amended, was published as the Definitive Map in 1962.





<p>Observations</p>		<p>The application route is shown as a public footpath between point A and point C. From point C through to point F the footpath is shown to run parallel to – but not along the application route. From point F to point G and onwards to point H the application route is recorded as a public footpath. The rest of the application route is not recorded on the First Definitive Map.</p>
<p>Revised Definitive Map of Public Rights of Way (First Review)</p>		<p>Legislation required that the Definitive Map be reviewed, and legal changes such as diversion orders, extinguishment orders and creation</p>



orders be incorporated into a Definitive Map First Review. On 25th 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 1st 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.





1. No. of Path	2. Kind of Path	3. Position	4. Length in miles to 2 places decimals	DEFINITIVE Other particular
1	Footpath	Parish Boundary at Wymott Brook to cross footpath No.3 terminating near clay pit at Stanning's Folly.	0.70	
3	"	Parish Boundary North West of Smith's Farm Southwards to join Ridley Lane at Littlewood Bridge.	1.04	
4	"	Parish Boundary to join footpath No.3, near Littlewood sidings.	0.06	
5	"	Ulnes Walton Lane to Eastern Boundary of Parish and same to join footpath No.6.	0.41	
6	"	Ulnes Walton Lane at Netherfield branching at Folds Farm Eastwards and southwards to Parish Boundary and Holker Lane and North to		
Observations			The application route is recorded as part of Footpath 3 between points A-C and F-H. No other part of the route is recorded as a public right of way on the Revised Definitive Map and Statement.	
Investigating Officer's Comments			<p>Notes on the Parish Survey maps and cards reaffirm the view that land was acquired compulsorily acquired in the 1940s and all public rights of way across it extinguished. Reference is made to closure being by Order of Quarter Sessions but the Quarter Session records at the Lancashire Records Office were searched and no reference to public highway closures was found.</p> <p>The parish survey recorded the application route from A through to point F as public footpath and there is no record of any challenges or representations being made with regards to this. However, the Draft Map appeared to show the route from point C to point F as running just within the boundary of the lane, i.e. to the east of the application route rather than along it. The Provisional Map is missing and the route is shown east of the application route and east of the boundary line between point C and point F on the First Definitive and Revised Definitive Map. No record regarding the change has been found and the map evidence and modern site evidence suggests use of the application route rather than a parallel route.</p> <p>The application route from point F to point H is recorded as a public footpath throughout the process and was not challenged but the remainder of the route – from point H through to</p>	

		points I-J-K-L-M – does not appear to have been considered to be a public path which should have been recorded on the Definitive Map and Statement during the relevant period.
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1:50,000 OS Landranger Map	1988	1:50,000 OS map revised 1979 with selected changes 1988 and reprinted 1988.
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about 5 1/2 (98 mils) W of grid north in 1988

To plot the average direction of magnetic north join the point circled on the south edge of the sheet to the point on the protractor scale on the north edge at the angle estimated for the current year

COMPILATION AND REVISION

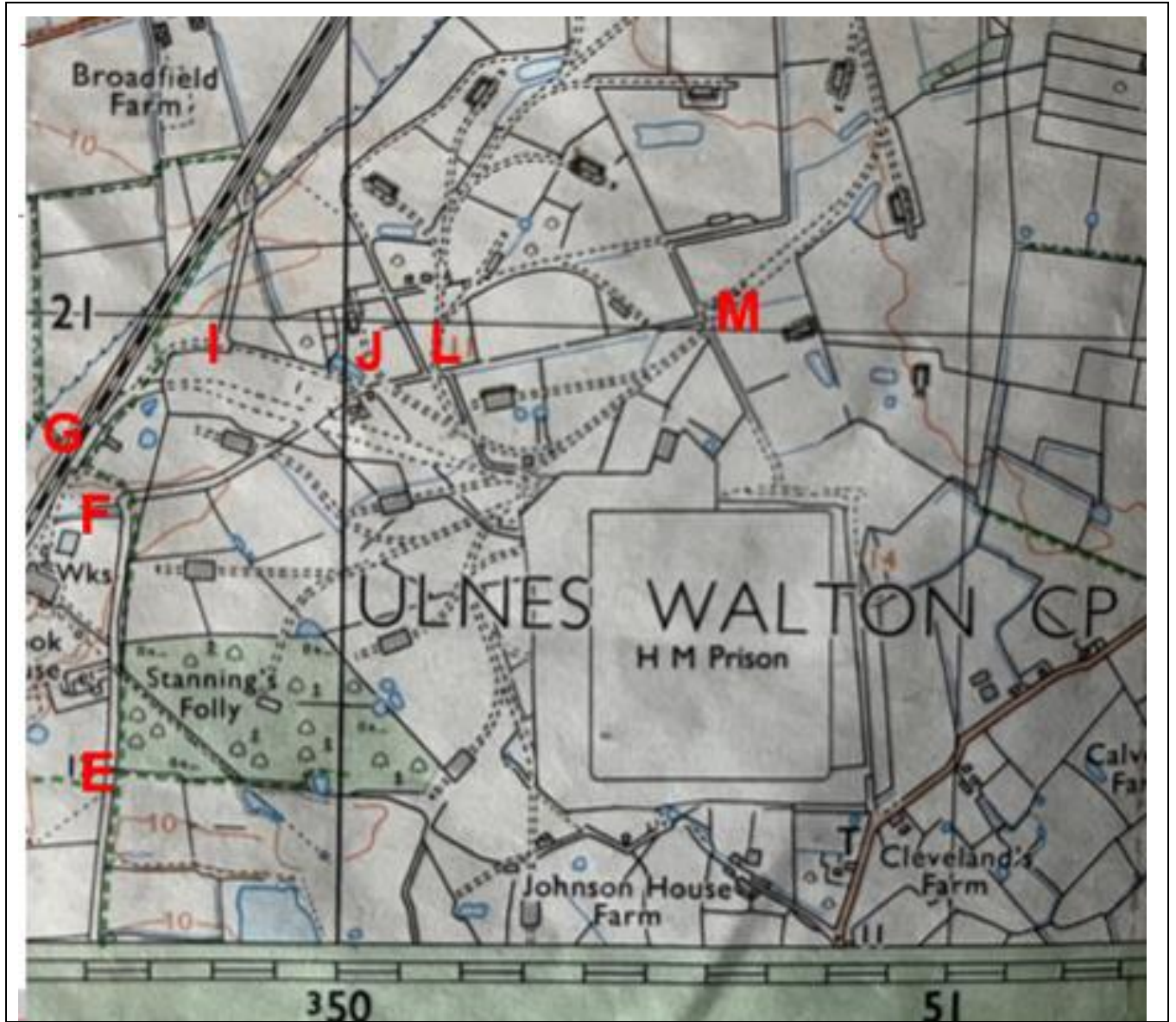
Base map constructed on Transverse Mercator Projection, Airy Spheroid, OSGB (1936) Datum
Vertical datum mean sea level (Newlyn)

Low water mark plotted from air photographs dated 1964-72
Revised 1979
Reprinted with selected changes 1983, 1985, 1988

Observations		Wymott Prison was opened in 1979 with Garth Prison opening in 1988. This is the earliest map examined that shows the prisons and which shows the full length of the application route via G-H-I-J-K and that makes any reference to the large area over which the rectangular buildings
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		<p>believed to have been an ammunition storage facility was constructed (with the map referring to it as a disused depot). This map was last revised in 1979 with selected changes in 1988 and published in 1988 and shows the locations of the prisons but does not give any detail on the layout (or names).</p> <p>It is the first map inspected that does not show the historical route from point F through to point J and does not show the former road extending south from point L. It does however show the full length of the application route and marks the route of the footpath from point A as being along the application route through to point F.</p> <p>Rose Lea and Langtree Farm are not shown.</p>
Investigating Officer's Comments		<p>The full length of the application route existed in 1986 and appeared to be capable of being used at least on horseback.</p> <p>The scale of the map may account for the fact that the public footpath is shown running along the application route between point A and point F.</p>
<p>1:25,000 OS Pathfinder Map Sheet 688 – Preston (South) and Leyland SD 42/52</p> <p>Pathfinder Map Sheet 699 – Chorley & Burscough Bridge SD 41/51</p>	1988 - 1993	<p>Sheet 688 - OS Pathfinder map compiled from large scale surveys carried out between 1956 and 1973, revised for significant changes 1977, major roads revised 1978, selected revision 1981, 1986 and published 1988.</p> <p>Sheet 699 – compiled from larger scale surveys dated between 1957 and 1990, revised and printed 1993</p>





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ROADS AND PATHS

Not necessarily rights of way

- M1 or A6(M) Motorway
- A31(T) Trunk or Main road
- B3074 Secondary road
- A35 Dual carriageway
- Road generally more than 4m wide
- Road generally less than 4m wide
- Other road, drive or track
- Unfenced roads and tracks are shown by pecked lines
- Path

PUBLIC RIGHTS OF WAY

(Not applicable to Scotland)
Public rights of way shown on this map may not be evident on the ground:

- Public paths { Footpath, Bridleway
- Byway open to all traffic
- Road used as a public path
- Information not available in uncoloured areas
- DANGER AREA — MOD ranges in the area Danger! Observe warning notices

Public rights of way indicated by these symbols have been derived from Definitive Maps as amended by later enactments or instruments held by Ordnance Survey on 1st and are shown subject to the limitations imposed by the scale of mapping. Later information may be obtained from the appropriate County or London Borough Council

The representation on this map of any other road, track or path is no evidence of the existence of a right of way

<p>Observations</p>	<p>The 1:25,000 OS map provides much more detail than the 1:50,000 map published the same year. It shows the full length of the application route.</p> <p>The map sheet showing the start of the route from point A (Pathfinder 699) shows Ridley Lane</p>
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		<p>coloured as a road generally less than 4 metres wide passing through point A and continuing north past Littlewood Hall Farm to the edge of the map sheet before reaching point C. The routes of footpaths 9-11-FP25 and 9-23-FP8 are shown but the route of 9-23-FP3 along the application route is not shown.</p> <p>Pathfinder 688 shows the rest of the route as an uncoloured road defined in the key as 'other road, drive or track' with the route of 9-23-FP3 running immediately parallel to the application route (as it is recorded on the Revised Definitive Map).</p> <p>Most of the historical route from point F to point J can be seen and still appears to be accessible with no lines across it with only one of the two prison sites shown.</p>
Investigation Officer's Comments		<p>The full length of the application route and appeared to be capable of being used at least on horseback.</p> <p>The fact that the route of 9-23-FP3 is not shown on the map sheet showing the southern section of the route appears to be an error as the OS took information about the routes of recorded public rights of way from surveying authorities and there is no record of this footpath having been extinguished or diverted.</p> <p>The map shows the existence of only one of the two prison sites although the smaller scale 1:50,000 OS map published in the same year showed both. Again, it appears that the available route in 1988 was more likely to have been from point F-G-H-I-J rather than via the more direct historical route F-J.</p>
Online Research about local area	2008-2009	<p>Information was found on the Ulnes Walton Bridleways Association Website https://www.ulneswaltonbridleways.co.uk/routes/</p> <p>The Bridleway Association is a Registered Charity, initially set up by a group of equestrian minded people, who were very concerned about the safety of riders using busy roads in their area and in particular the fact that there were no public or concessionary bridleways for them to use. The Association was set up in 2003 and since that time have managed to secure access agreements to create and to ride a number of routes in the area – particularly on land owned by</p>

		South Ribble Borough Council.
Observations		<p>The website lists some of the Association's achievements including the fact that a 'new path' was laid from Moss Lane and the prison roundabout, up through the woods at the back of the prison and out onto Ridley Lane.</p> <p>This route coexists with the route recorded as 9-23-FP1 and links to the application route at point E.</p> <p>The work to agree and to surface the route was said to have been done courtesy of Ulnes Walton Parish Council, the Prison Authority and Foresters Estates and was useful to walkers and to horse riders as it provided a circular route around the prison for walkers and horse riders also gave improved access to the SRBC paths for many horse riders from Croston, and vice versa.</p>
Investigating Officer's Comments		No user evidence submitted as part of the application but the applicant (who was the British Horse Society) does refer to the fact that the route has been used and that user evidence could be provided. The information provided on this website suggests that local use was being made of the route from 2008-2009 via a newly constructed link from Moss Lane.
Landfill Site and Proposed Concessionary Bridleway	2004-2012	Information on LCC files regarding a proposal to enter into a permissive agreement to allow horses to use the application route.
Observations		<p>Linked to the work being done by Ulnes Walton Bridleways Association it appears that there was a proposal to allow equestrian access along the application route and through to Cocker Bar Road via point I linking into the work being carried out to provide a network of concessionary bridleways in Ulnes Walton.</p> <p>Although not shown on any of the maps inspected it is understood that when the brick and tile works ceased to operate the land became a landfill site including the disposal of regulated nuclear waste. The disposal started in 1964 and continued until 1983 and the site located on either side of the application route between point C and point F is under constant monitoring. The date at which work to restore the site was completed is not known.</p>

		<p>The access road from Cocker Bar Road south to point I and then the application route from point I down to approximately point C was used as access to the site and resulted in it being tarmacked. The roadway between point C and point K is not maintained although speed humps and signs are still evident, and the remains of road markings can be seen in places. No reference to the landfill site was found in relation to the preparation of the Definitive Map but if large wagons were travelling up and down the route between point C and point F this may account for the route of the footpath being recorded adjacent, rather than along the application route.</p> <p>Following the closure of the landfill site and subsequent land reclamation scheme there was a project led by Ulnes Walton Parish Council and a Countryside Officer employed by Lancashire County Council to apply for funding to facilitate the creation of a network of multi-use paths catering for pedestrians, cyclists & horse riders around the prison.</p> <p>The proposed routes of the new multi-use paths consisted of some routes already recorded as public footpaths and other routes with no recorded public legal status.</p> <p>LCC Estates Team provided advice and assistance to the main lead persons (see above) by contacting landowners and proposing concessionary agreements to try to secure multi-use rights over the portions of the route covered by existing public rights, and if possible secure new (concessionary) rights over land between Ridley Lane connecting to the adopted highway at Moss Lane, the idea being to provide an integrated pedestrian, cycle and bridleway route. The principal landowners were the Worden Estate, HM Prisons (Secretary of State) and SITA although ownership of some of the land crossed by the proposed routes was unknown.</p> <p>Negotiations started in approximately 2004 and continued through to 2012 when the proposal lapsed and no agreements were completed.</p> <p>Plans of the proposed concessionary routes were obtained and confirm that the whole of the application route was included.</p>
Investigating Officer's Comments		It appears that use of the route by the public may have been restricted when the land on either side of the route between points A-F was being used

		<p>as a landfill site and this may have accounted for why the route of 9-23-FP3 was recorded along the eastern side of the application route (landfill access road) rather than along it.</p> <p>The fact that concessionary bridleway rights were being considered along the application route between 2004 and 2012 suggests that the landowners did not acknowledge the existence of public bridleway (or vehicular) rights at that time.</p>
Cycle Route promoted by South Ribble Borough Council	2021	Details found on South Ribble Borough Council website of a cycle route promoted by them.



[https://www.southribble.gov.uk/media/538/2020-Cycle-Routes-Seven-Stars-West/pdf/2020 Cycle Routes Seven Stars West.pdf?m=637426088687470000](https://www.southribble.gov.uk/media/538/2020-Cycle-Routes-Seven-Stars-West/pdf/2020%20Cycle%20Routes%20Seven%20Stars%20West.pdf?m=637426088687470000)

Observations		A leaflet promoting a cycle route to members of
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		the public was located on the South Ribble Borough Council website although the original date of publication is not known. The route includes use of the application route from point A through to point I but gives no indication regarding the legal status of the route or whether permission to use it has been given by the relevant landowners or whether use is considered to be as of right or whether anyone actually did use the leaflet.
Investigating Officer's Comments		No information has been found regarding permission granted for the inclusion of the route in the cycling leaflet. No inference can be drawn regarding existing rights but it was very likely to have been accessible and used by the public.
Highway Stopping Up Orders	1835 - 2014	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 made by Districts and the County Council since that date.
Observations		No other legal orders relating to the creation, diversion or extinguishment of public rights have been found, other than those detailed earlier in the report.
Investigating Officer's Comments		Between point F-J-M public rights were stopped up temporarily in 1940-1942 under the emergency powers detailed earlier in this report and then permanently in 1947. No other legal orders relating to the creation, diversion or extinguishment of public rights along the application route have been found.
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</p>

		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).
Observations		No Highways Act 1980 Section 31(6) deposits have been lodged with the county council for the area over which the application route runs.
Investigating Officer's Comments		There is no indication by the landowners under this provision of non-intention to dedicate public rights of way over this land.

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

Summary

It is rare to find one single piece of map or documentary evidence from which it is strong enough to conclude that public rights exist along a route and it is often the case that we need to examine a body of evidence, often spanning a substantial period of time, from which public rights can be inferred.

In this particular case no user evidence was submitted and although recent site inspection suggests that it can and is being used on bicycle and on horseback such use is not being considered here. Investigations have however been carried out into negotiations that appear to have taken place with regards to agreeing concessionary equestrian access along the route, although should unrecorded public bridleway rights already have existed prior to this happening then such negotiations would not be relevant to this case.

The map and documentary evidence examined shows that a through route did exist from at least 1818 extending north from Moor Road along Ridley Lane and passing through point A to continue to the east of Littlewood through to point F and then east. This route is also shown on Hennet's Map of 1830 and then in much more detail on the Tithe Map published in 1837.

The Tithe Map provides some key information about the routes that existed at that time, ownership of the land and connectivity to other routes.

At that time the application route from point A to point F was in private ownership and was not considered to be a public road. The route from point F-G-H-I did not exist but rather a more direct route from point F to point J existed. Part of that direct



route was considered to be a public road passing through point J and continuing to point M.

Maps and documents from over the following 100 years all showed the route originally shown on the Tithe Map and do not show the application route between points F-G-H-I-J.

Highway records from 1929 concur with what was recorded on the Tithe Map – in that the application route from point J to point M was part of a publicly maintained highway but no evidence was found to suggest that the rest of the route which existed at that time (A-F) was considered in the same way or that the route F-G-H-I-J physically existed at that time.

The maps and documents examined do however confirm the physical existence of a route passing through point A to point M (and beyond) via the direct route F-J which appeared to be capable of being used at least on horseback.

In the 1940s it appears that a large area of land was requisitioned by the Government under special defence powers and public rights along the application route between point J and point M extinguished – together with rights along the route now known as Pump House Lane connecting to the application route at point M. The land appears to have been used as an ammunition storage facility - details of which were not mapped by the OS until many years later.

The key evidence relating to changes on the ground at this time are the 1940s aerial photograph and annotations made to the 1929 Handover Map and notes made on the Public Rights of Way Parish Survey Map.

From the 1940s onwards it appears that the whole of the application route may have been available to use - via the route F-G-H-I-J as evidenced by the 1940s and 1960s aerial photographs. However, it is not known whether the route F-G-H-I-J was created for private use only or whether it was created for use by the public. Given that public rights had been extinguished along the route J-M as part of the requisition of land it appears more likely that this route was created as a means of private access to and from properties that appear still to have existed.

OS maps published from this time do not show the application route F-G-H-I-J but continued to show the historical route.

The Definitive Map records concur with the fact that land had been requisitioned and public rights extinguished.

The route from point A-F does not appear to have been directly affected by the land requisition and the route remained unaltered. By the 1950s it appeared that there was a belief that public footpath rights existed along the route A-F and also F-G but this is further muddled by the fact that the Draft Map shows the footpath from point C-F running parallel to the application route, the Provisional Map is missing and the First Definitive and Revised Definitive show the route adjacent but not along the application route even though current site evidence shows no real trace of this route existing.



There is recent anecdotal evidence of use of the full length of the route from the 1940s onwards suggesting that even if the route A-F came into being as a private access road, the route F-G-H-I-J did not exist until at least the 1940s and was constructed for private purposes and that public rights had been extinguished at that time over the route J-M, that public bridleway rights could have come into being along the whole route since that time if there was evidence of sufficient quality and quantity although it is noted that discussions regarding use of the route by horses and cyclists on a concessionary basis took place between 2004-2012.

However, on balance, given the evidence available, the Investigating Officer concludes that there is insufficient map and documentary evidence from which historical or more recent dedication can be inferred.

Head of Service – Legal and Democratic Services Observations

Landownership

The section of the application route from A to F crosses land which is unregistered, The land crossed by the application route from F to J is in the ownership of the Worden Estate and the land crossed by the application route from J to K is land owned by the Secretary of State for Justice. The historical route from point F to K crosses land owned by the Secretary of State for Justice.

Information from the Applicant

The applicant provided the following maps in support of their application;

- OS First edition 6 inch map published 1847
- Map described by the applicant as 'Highways Map' showing 'modern route in full' (extract from LCC Mario online mapping showing road status information)
- Extract of Smith's Map which was not located in the application bundle but has been considered by the county council earlier in this report (Smiths Map published 1804)
- Extract of Hennet's Map published 1829-1830
- OS 1 inch map published 1896
- Bartholomew ½ inch maps published in 1904 and 1941
- 25 inch OS map published in 1911
- 6 inch OS map published 1929
- 1 inch OS map published 1961 and overlay showing application route and route prior to the construction of the prison
- Finance Act Map 1910
- Tithe Map 1838 and extracts from Tithe Award

The maps and documents listed above have all been considered earlier in the report. The applicants considered that according to historical map evidence the route applied for was from Moor Road in Croston, through Littlewood Hall Farm to the Littlewood Brick and Tile Works and was a through road for traffic, meeting up with Moss Lane to the east (now known as Pump House Lane). They submitted that in the more recent past a prison was built over some of the original route, but that an



alternative route was made to ensure a continuous route and submitted the application for the alternative route to be recorded.

The applicants have not provided any user evidence other than providing the following information:

"The husband of a volunteer, born in 1952 used to fish in the pits near the brick and tile works when he was a child. He remembers accessing them via the routes being claimed as he lived on Slater Lane (it was a direct route for them). He remembers the brick works being demolished to create the landfill site. The tarmac road, which makes up some of this application, was laid to facilitate access to the landfill site from Cocker Bar Road to the north. Whilst the road is unadopted and not recorded on maps, it is line marked, has speed humps and road signage, all installed by LCC. The local bin wagons used this road for over 20 years until the landfill site was completed and grassed over."

The applicants state that the Ulnes Walton Bridleways Association has used the route for pleasure rides since 2004 (2 per year on average) and that local Livery and many private yards use these tracks daily, as do walkers and cyclists. We have asked them for user evidence but none has been forthcoming.

Information from Others

Cadent Gas and Atkins Global responded to consultation to state that they have no objection to the application

Information from the Landowner

John Forrester Limited responded to consultation as agent for Worden Estate, they advised that they would provide title plans to clarify the land in their client's ownership but these plans have yet to be sent.

The Secretary of State for Justice responded to consultation with a detailed report from a public rights of way consultant. Their research revealed Orders temporarily stopping up highways in the area between Ridley Lane and Pump House Lane and between Willow Road and Nixon Lane, made under the Emergency Powers (Defence) Act 1939 and that these were followed up by a permanent stopping up order. The effect of this was to close, from November 1947, parts of the routes which the DMMO applications are now claiming to be public bridleways. Copies of the Order were provided and are included below.

55

1017/57

STATUTORY RULES AND ORDERS

1947 No. 2520

HIGHWAY, ENGLAND

THE STOPPING UP OF HIGHWAYS (LANCASHIRE) (No. 7) ORDER, 1947,
DATED *November 25*, 1947, MADE BY THE MINISTER OF
TRANSPORT.

Whereas by virtue of Orders made on the 30th day of September, 1940, and the 20th day of November, 1942, by the Minister of Supply in exercise of the powers conferred upon him by Regulation 16 of the Defence (General) Regulations, 1930, the highways consisting of the roads and footpaths within the parish of Ulmes Walton in the County of Lancaster (hereinafter referred to as "the said highways") which are specified in the Schedule to this Order were stopped up;

And whereas the said highways have not ceased to be so stopped up,

And whereas the Minister of Transport (hereinafter referred to as "the Minister") is satisfied that in the public interest it is expedient that the said highways should be permanently stopped up;

And whereas the provisions of subsections (1) to (3) of section 17 of the Requisitioned Land and War Works Act, 1945 (which provide for the publication of orders proposed to be made under section 15 of the said Act) have been complied with;

8 & 9
Geo. 6.
c. 43.

And whereas no written objection to the draft Order so published has been received by the Minister within the time limited by the notice thereof given in accordance with the said provisions;

Now, therefore, the Minister in exercise of the powers conferred upon him by section 15 of the said Act and of all other powers him enabling hereby makes the following Order:—

1. The permanent stopping up of the said highways is hereby authorised.
2. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.
3. This Order may be cited as "The Stopping up of Highways (Lancashire) (No. 7) Order, 1947".

52 & 53
Vict. c. 63.

Given under the Official Seal of the Minister of Transport this
twenty fifth day of *November* 1947.

G. Midman

An Under Secretary of the
Ministry of Transport.

THE SCHEDULE

HIGHWAYS TO BE STOPPED UP

1. That part of the road leading from Littlewood Hall Farm to Ulmes Walton Lane which extends from a point approximately 1,066 yards north of Littlewood Hall Farm in a general north easterly and northerly direction for a distance of approximately 2,308 yards to a point 100 yards west of Nixon's Farm.

X1905.

RB



2. That part of the footpath leading from a point on the road described in paragraph 1 of this Schedule approximately 372 yards east of Smith's Farm to Cocker Bar Road which extends from the above-mentioned point in a general north westerly direction to the footbridge over Wymott Brook.

3. That part of the footpath from Littlemoor Siding to Low Moss Farm which extends from a point approximately 170 yards north east of the Wymott Brook culvert under the L.M.S. Railway in a general north easterly direction to its junction with Nell Wareing Lane at Low Moss Farm.

4. The footpath extending in a north westerly direction from Smith's Farm to its junction with the footpath described in paragraph 3 of this Schedule.

5. That part of the footpath from Nell Wareing Lane to Ulmes Walton Lane which extends in an easterly direction from its junction with Nell Wareing Lane for a distance of approximately 405 yards.

6. The road extending in a general north westerly direction from Carter's Farm to its junction with the road described in paragraph 1 of this Schedule at a point approximately 130 yards east of Langtrees Farm.

7. That part of Moss Lane which extends from Windy Harbour in a westerly direction for approximately 175 yards to Carter's Farm and thence in a general north westerly direction to its junction with the road described in paragraph 1 of this Schedule at a point approximately 567 yards east of Langtrees Farm.

8. That part of the footpath from Moss Lane to Ulmes Walton Lane which extends in a general easterly direction from its junction with Moss Lane for a distance of approximately 400 yards.

9. That part of the footpath from Carter's Farm in Moss Lane to Johnson's House which extends in a general southerly direction from Carter's Farm to a point approximately 130 yards north of Johnson's House.

10. That part of the road from Ulmes Walton Lane to the Clay Pit south of Stanning's Folly which extends from a point 66 yards north west of Johnson's House in a general north westerly and south westerly direction for a distance of approximately 550 yards, more particularly delineated and coloured red on the plan numbered R.L.A. 20/1-4 marked "Highways at Ulmes Walton in the County of Lancaster" a copy of which has been deposited at the offices of the Ministry of Transport, Berkeley Square House, London, W.1, and at the offices of the Chorley Rural District Council, Council Offices, Gillibrand Street, Chorley, Lancashire.

all

C.H.

Assessment of the Evidence

The Law - See Annex 'A'

Conclusion

The application is that the route be recorded on the Definitive Map and Statement as a bridleway. Part of the route under consideration is currently recorded as a public footpath. The application is to upgrade this footpath to a bridleway, as it is suggested the public footpath carries higher public rights.

There is no express dedication in this case. Committee is therefore advised to consider whether there is sufficient evidence from all the circumstances to infer at common law that owners of this route intended dedicating or whether there is evidence of twenty years use by sufficient users without sufficient evidence of a lack of intention to dedicate from which dedication could be deemed under S31 Highways Act 1980 (but bearing in mind S31 cannot be used re Crown Land).



No user evidence was submitted as part of the application.

The evidence to be deliberated therefore is historical documentation and whether there is sufficient evidence from which to infer, on balance, that the owner/s of this route intended the route to be a bridleway or other highway open to the public. Inference of dedication at common law is possible on land held by Government Departments

The evidence has been summarised and evaluated earlier within the report.

Part of the application route from A-F was in private ownership on the Tithe Map 1837 and was not considered to be a public highway.

Part of the application route F-G-H-I is not shown on Tithe Map 1837 or any maps and documents for next 100 years indicating it did not physically exist at this time.

Highway records from 1929 show that the application route from point J to point M was publicly maintained highway.

During World War 2 an area of land was requisitioned by the Government under special defence powers for an ammunition storage facility. Committee is referred to a temporary stopping up order in 1939 and a permanent stopping up order 1947 that extinguished in law the public rights along the application route between point J and point M

Committee is advised that the evidence points to F-G-H-I-J being constructed as a private access road to buildings in the 1940s.

It is advised that on balance the evidence of the application route having become a public bridleway is insufficient.

The recommendation is that the application be not accepted and no Order be made.

Risk management

Consideration has been given to the risk management implications associated with this application. The Committee is advised that the decision taken must be based solely on the evidence contained within the report, guidance contained both in the report and within Annex 'A' included in the Agenda Papers, officers' presentation and discussion. Provided any decision is taken strictly in accordance with the above then there is no significant risks associated with the decision making process.

Local Government (Access to Information) Act 1985 List of Background Papers



Paper

Date

Contact/Directorate/Tel

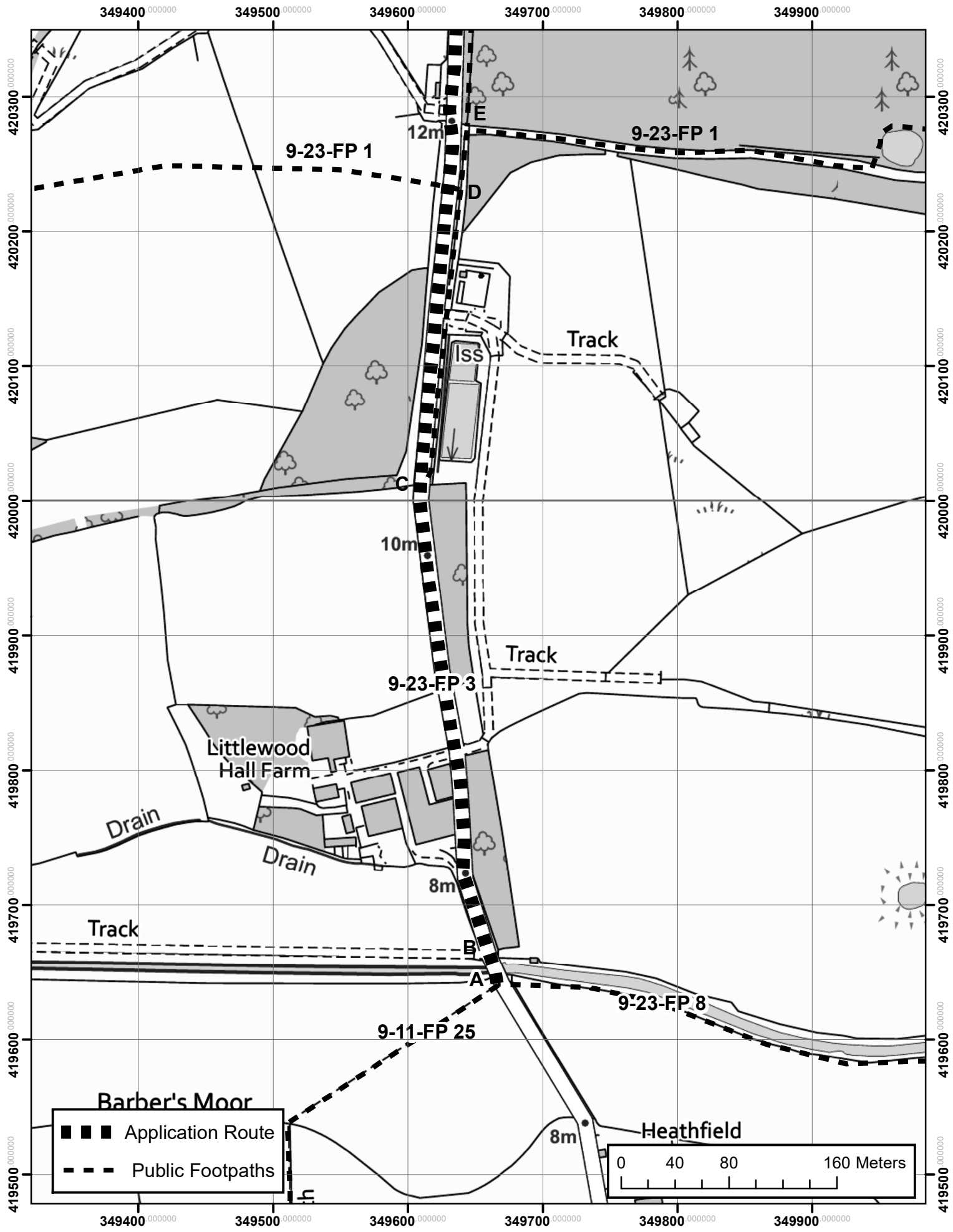
All documents on File Ref:
804-731

Simon Moore, 01772
531280, County Secretary
and Solicitors Group

Reason for inclusion in Part II, if appropriate

N/A





Public Rights of Way
 PROW@lancashire.gov.uk
 01772 530317

Wildlife and Countryside Act 1981
 Upgrade of Footpath and Addition of Bridleway on Ridley Lane, Ulmes Walton

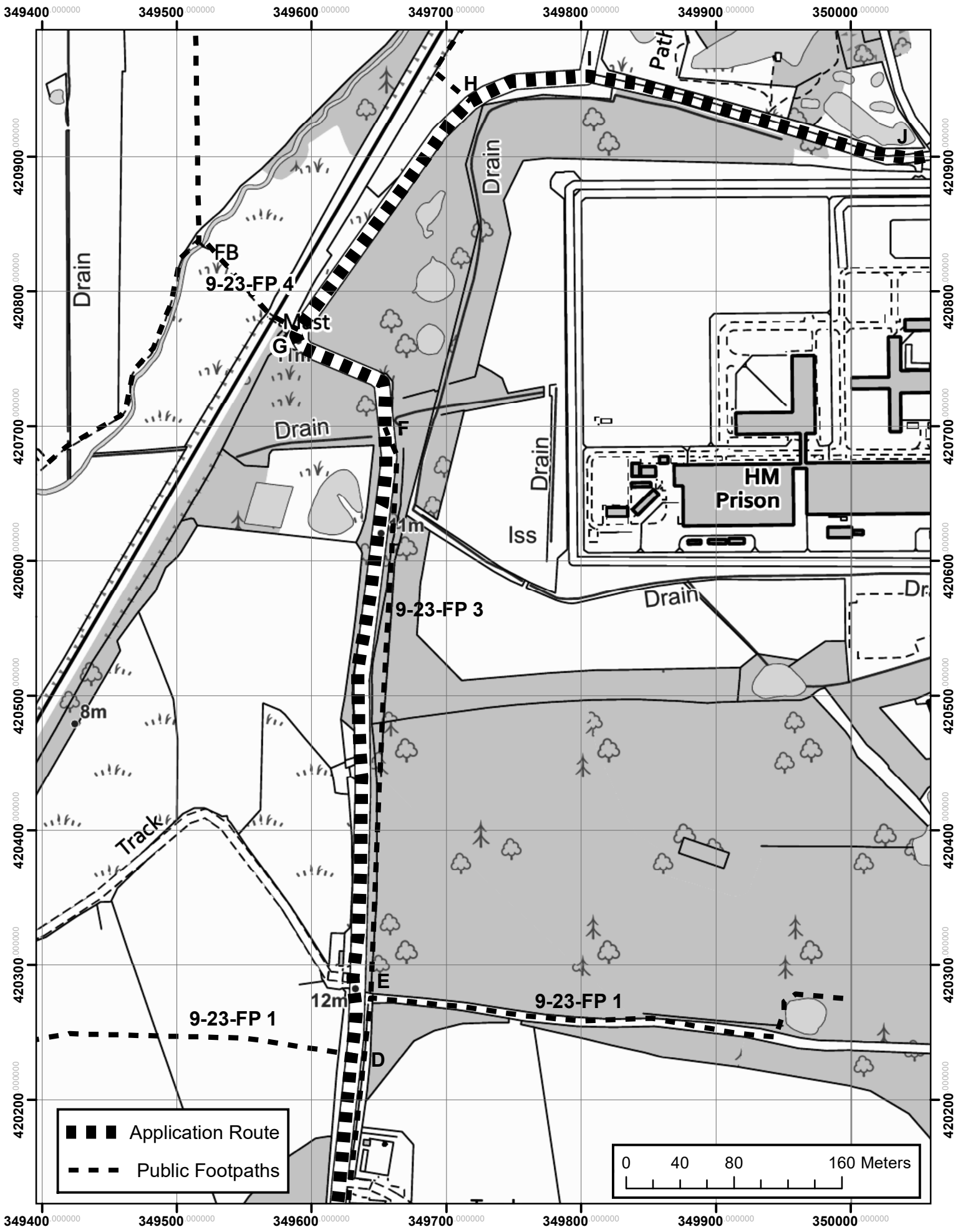
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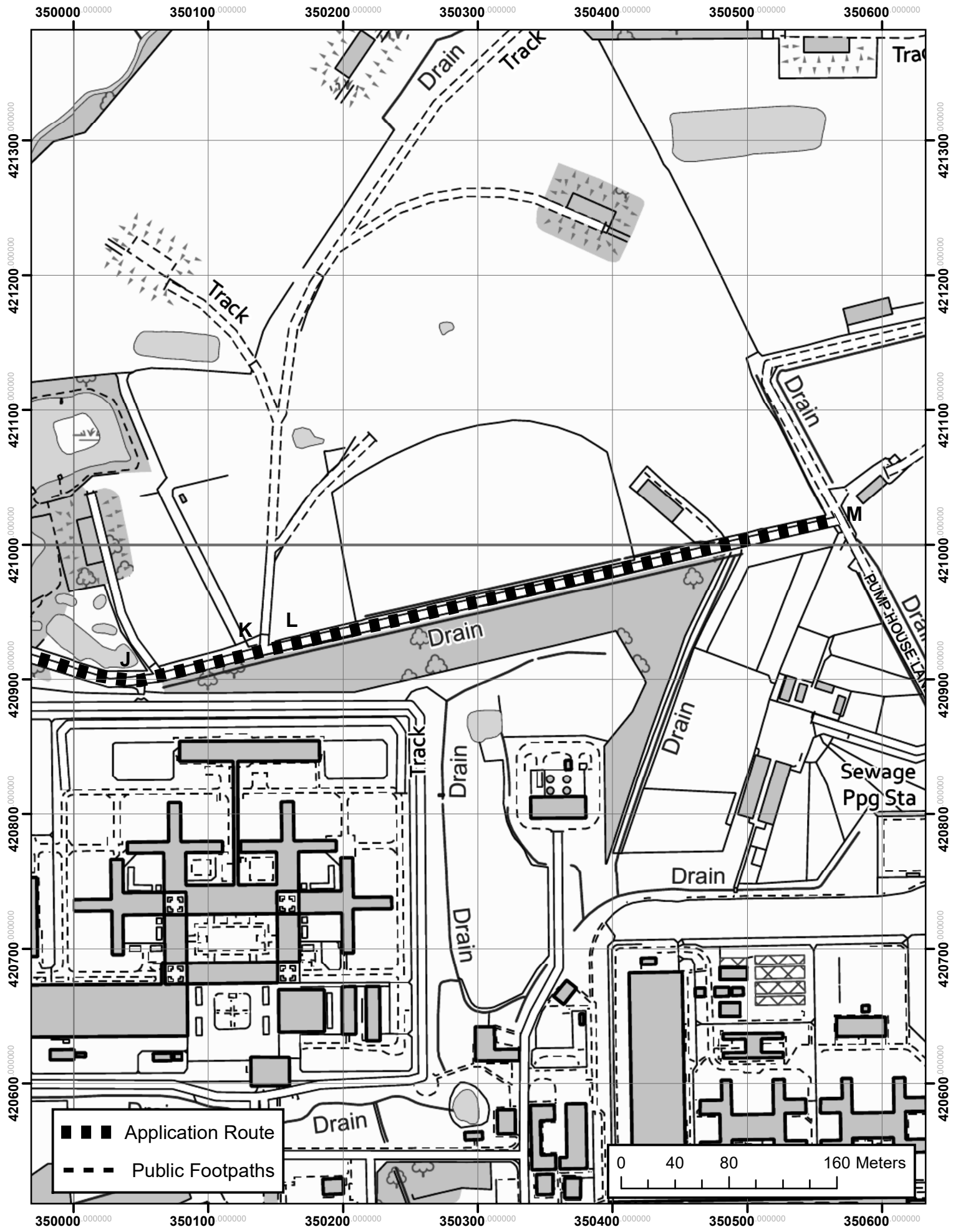


The digitised Rights of Way information should be used for guidance only as its accuracy cannot be guaranteed. Rights of Way information must be verified on the current Definitive Map before being supplied or used for any purpose.

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Plan 1





Regulatory Committee

Meeting to be held on 08 March 2023

Part I

Electoral Division affected:
Leyland South, Euxton,
Buckshaw and Astley

Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Upgrading to Bridleway part of Altcar Lane, Leyland and Tithe Barn Lane, Euxton

(Annex 'A' refers)

Contact for further information quoting reference number 804-632:
Annabel Mayson, 01772 533244, Paralegal Officer, County Secretary and Solicitors
Group, annabel.mayson@lancashire.gov.uk
Jayne Elliott, 01772 537663, Public Rights of Way Definitive Map Officer, Planning
and Environment, jayne.elliott@lancashire.gov.uk

Executive Summary

Application for 7-1-FP45 & part of 9-14-FP3 (Altcar Lane) and 9-14-FP4 (Tithe Barn Lane) to be upgraded to Bridleway.

Recommendation

That the application for 7-1-FP45 & part of 9-14-FP3 (Altcar Lane) and 9-14-FP4 (Tithe Barn Lane) to be upgraded to Bridleway be not accepted.

Background

An application under Schedule 14 of the Wildlife and Countryside Act 1981 has been received to upgrade to Bridleways on the Definitive Map and Statement of Public Rights of Way 7-1-FP45 & part of 9-14-FP3 (Altcar Lane) and 9-14-FP4 (Tithe Barn Lane) shown between points A-I on the Committee plan.

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"

An order for adding a way to or upgrading a way shown on the Definitive Map and Statement will be made if the evidence shows 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

South Ribble Borough Council

South Ribble Borough Council provided no response to consultation.

Chorley Borough Council

Chorley Borough Council provided no response to consultation.

Euxton Parish Council

Euxton Parish Council provided no response to consultation.

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 – 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	5289 2042	Junction with Altcar Lane (U5820) and 7-1-FP19
B	5294 2041	Junction with 7-1-FP20
D	5330 2046	District boundary and junction of 7-1-FP45 and 9-14-FP3
E	5345 2049	Position of line across route indicating existence of a gate on some maps examined (as detailed later in the report)
F	5353 2053	Junction of 9-14-FP3 (Altcar Lane) and 9-14-FP4 (Tithe Barn Lane) west of Altcar Farm
G	5356 2042	Position of line across route indicating existence of a gate on some maps examined (as detailed later in the report)
H	5364 2025	90 degree bend in route and position of line across route indicating existence of a gate on some OS maps examined (as detailed later in the report)
I	5367 2019	Junction with Tithe Barn Lane (U843)

Description of Route

A site inspection was carried out in June 2019 and February 2021.

The application route is currently recorded as a public footpath throughout its full length crossing the district boundary between South Ribble (Leyland) and Chorley (Euxton) at point D on the Committee plan. It forms part of a longer route which starts on Leyland Lane and extends east along that part of Altcar Lane recorded as a publicly maintainable highway (U5820) to point A on the Committee plan. It then continues east along a tarmac road to Altcar Farm via points A-B-C-D-E-F on the Committee plan. From point F it is known as Tithe Barn Lane and the application route continues in a general southerly direction from the farm along a tarmac road through to point I from where it continues as Tithe Barn Lane (U843) which is recorded as a publicly maintainable road south to the junction with Runshaw Lane.

At point A there is no discernible difference in the route of Altcar Lane between that section west of point A recorded as a publicly maintainable vehicular highway on the List of Streets and that section A-F recorded as a public footpath. The application route continues from point A as a tarmac road, reducing in width slightly at point B as

it passes Snub Snape Farm but then widening again to a tarmac roadway approximately 4 metres wide.

7-1-FP19 meets the application route at point A and 7-1-FP20 meets the route at point B.

From point B the route continues as a tarmac road bounded on either side by hedges and fencing with access to adjacent fields and passing places for vehicles. A sign located just beyond point B indicates that the route is a private road for vehicles with access to Altcar Farm and that it is also a public footpath.

The route passes through points C, D and E which are all unmarked points referred to when examining the map and documentary evidence later in the report.

At point F the route is joined by 9-14-FP3 which runs across fields north east of Altcar Farm. On site it was noted that the wooden stile providing access from the field onto the application route was located approximately 10 metres west of the correct point at which it should have been positioned.

At point F the application route turns through 90 degrees to continue south as Tithe Barn Lane along a tarmacked road alongside which large farm buildings used to house poultry have been built.

Between point F and point G access to the application route adjacent to the poultry buildings has been prevented by fencing and gates positioned across it and a fenced strip of grass verge has been made available with stiles at either end to channel walkers into using the grass verge for approximately 50 metres alongside of the tarmac section of route between these two points with two locked metal gates across the full width of the tarmac preventing access and the remains of an older metal gate and stile (no longer in use) close to point G.

Continuing along the tarmac lane away from the farm the route turns through two 90-degree bends at point H where a new entrance to Altcar Farm leaves the route. From point H the route then continues for a further 70 metres to point I – an unmarked point where Tithe Barn Lane becomes recorded as an unclassified vehicular highway on the List of Streets (U843). There is no discernible difference on site between the route recorded as footpath (the application route) and the section of U843.

The total length of the route A-I is 1060 metres.

Map and Documentary Evidence

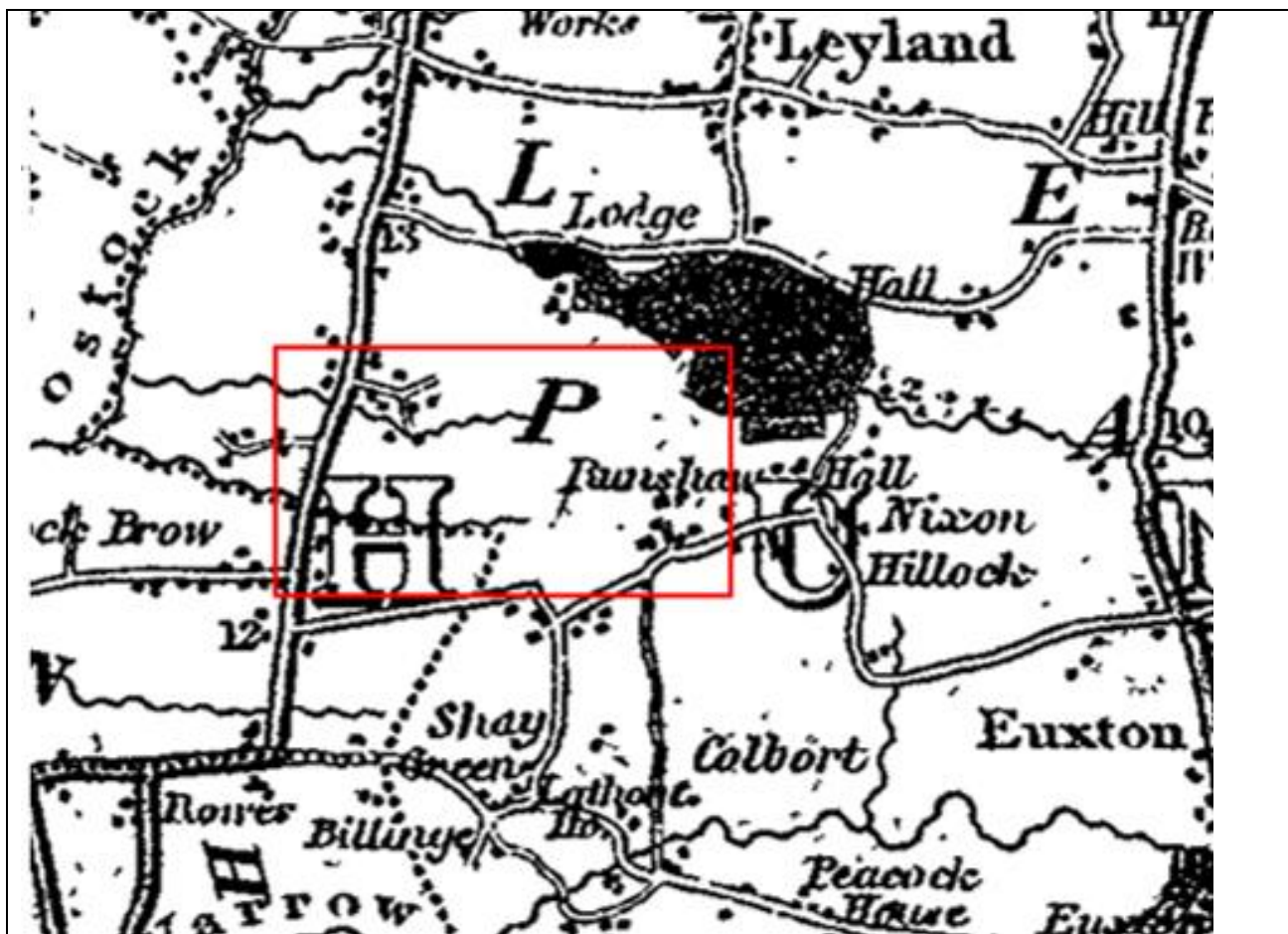
A variety of maps, plans and other documents were examined to discover when the route came into being, and to try to determine what its status may be.

Document Title	Date	Brief Description of Document & Nature of Evidence
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

		<p>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.</p>
		
<p>Observations</p>		<p>The application route is not shown. Leyland Lane is shown but Altcar lane which leads off it is not shown. Tithe Barn Lane extending north towards point I is shown but the application route itself is not shown.</p>
<p>Investigating Officer's Comments</p>		<p>The application route did not exist or if it did exist it was not considered to be a significant public vehicular route in 1786. The fact that part of Tithe Barn Lane is shown leading north towards point I is shown suggests that the route – or part of it – may have existed in 1786 but that if it did exist it may have been that Yates did not consider the route to be a public highway or that it was unenclosed or that the hedges/fences/walls were in disrepair or possibly that this section was not surveyed, as surveys were expensive.</p>
<p>Greenwood's Map of Lancashire</p>	<p>1818</p>	<p>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.</p>

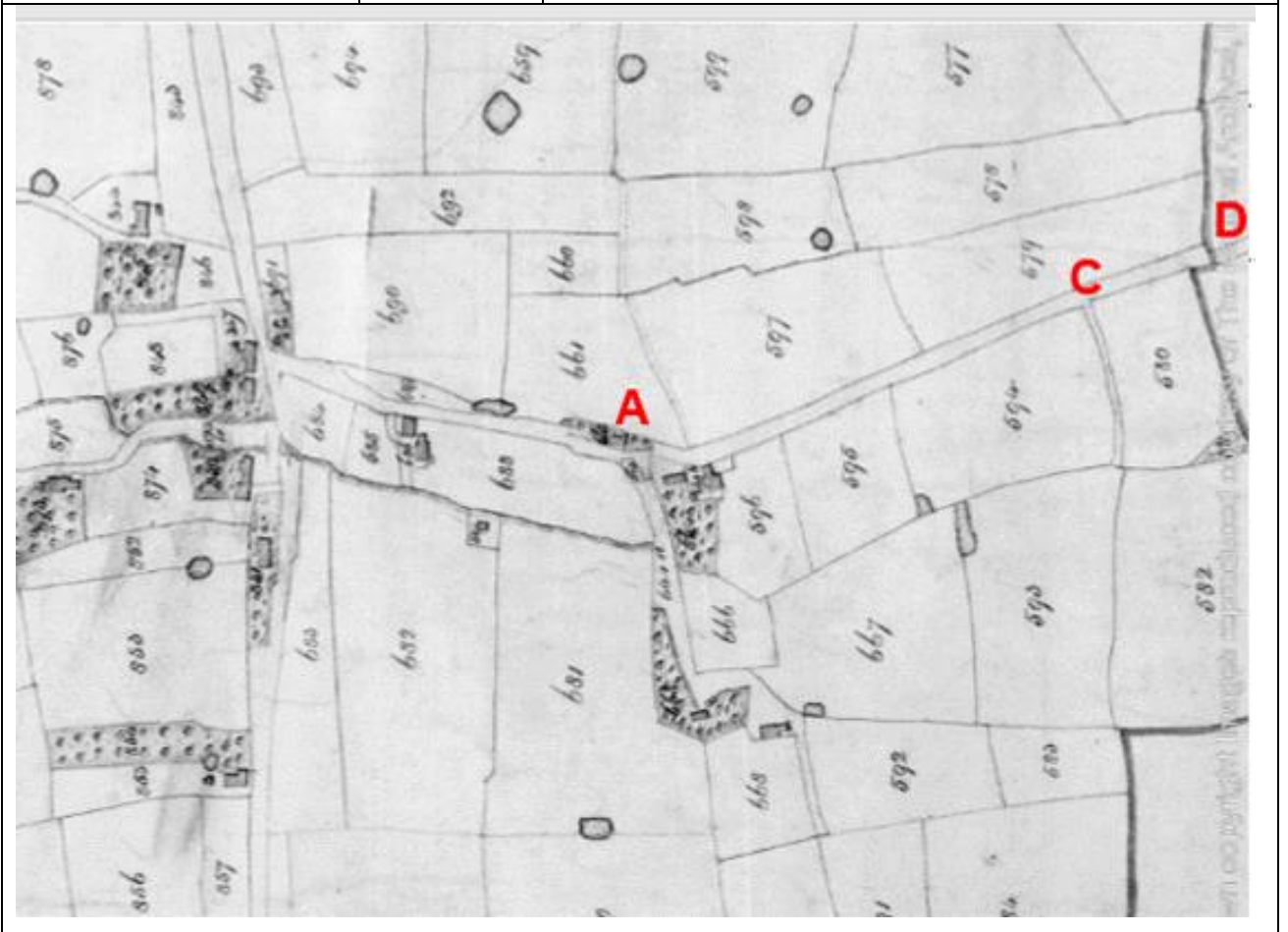


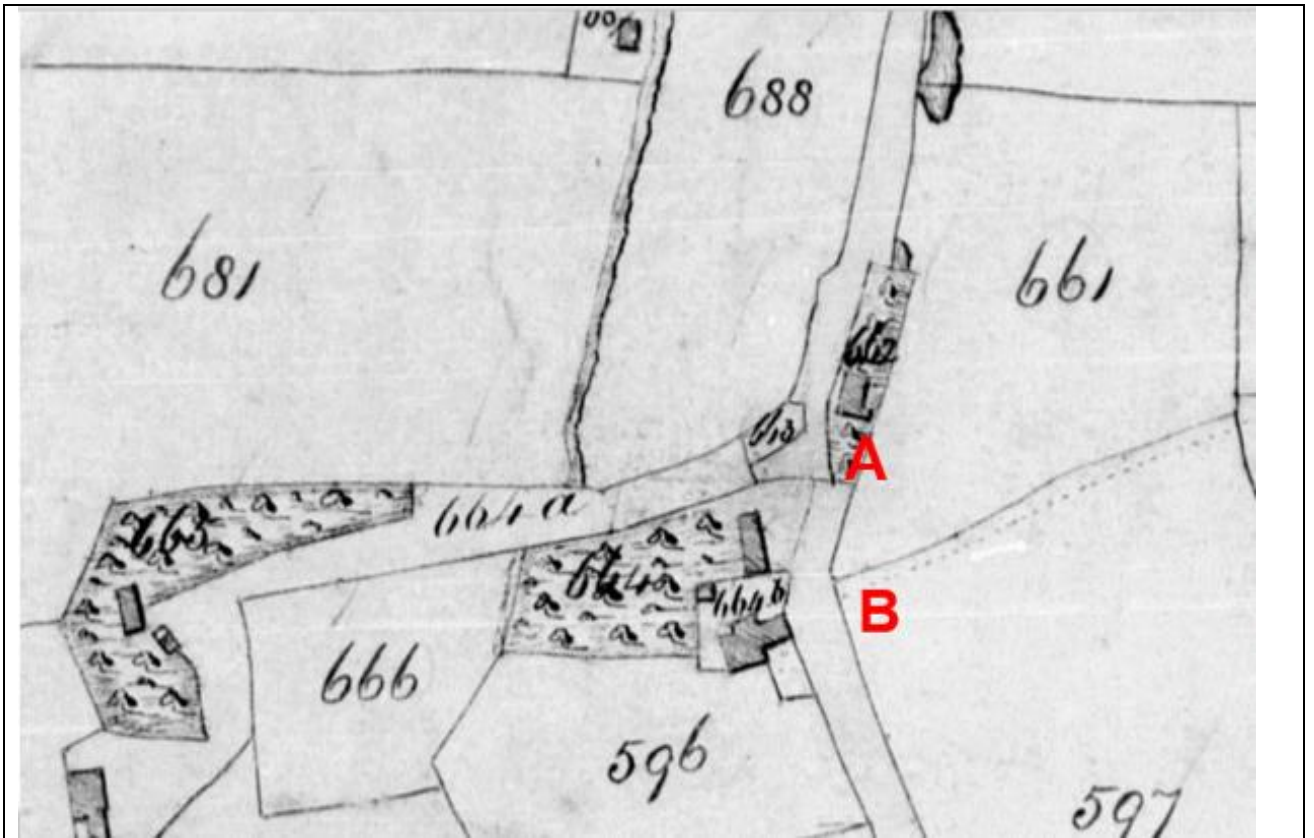
Observations		Part of Altcar Lane west of point A and Tithe Barn Lane south of point I are shown but the application route is not shown.
Investigating Officer's Comments		At least part of Altcar Lane and part of Tithe Barn Lane appear to have existed in 1818 but they were not shown as part of a through route. Its omission does not necessarily mean that it did not exist but suggests that if it did exist it did not form part of a public vehicular highway at that time.
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		Again, part of Altcar Lane west of point A and Tithe Barn Lane south of point I are shown but the application route is not shown.
Investigating Officer's Comments		At least part of Altcar Lane and Tithe Barn Lane appear to have existed in 1830 but they were not shown as part of a through route. Its omission does not necessarily mean that it did not exist but suggests that if it did exist it did not form part of a public vehicular highway at that time.
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		No existing or proposed railways or canals crossed or affected the land crossed by the application route.
Investigating Officer's		No inference can be drawn with regards to the

Comments		existence of public rights.
Tithe Map and Tithe Award for Leyland	1838	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.





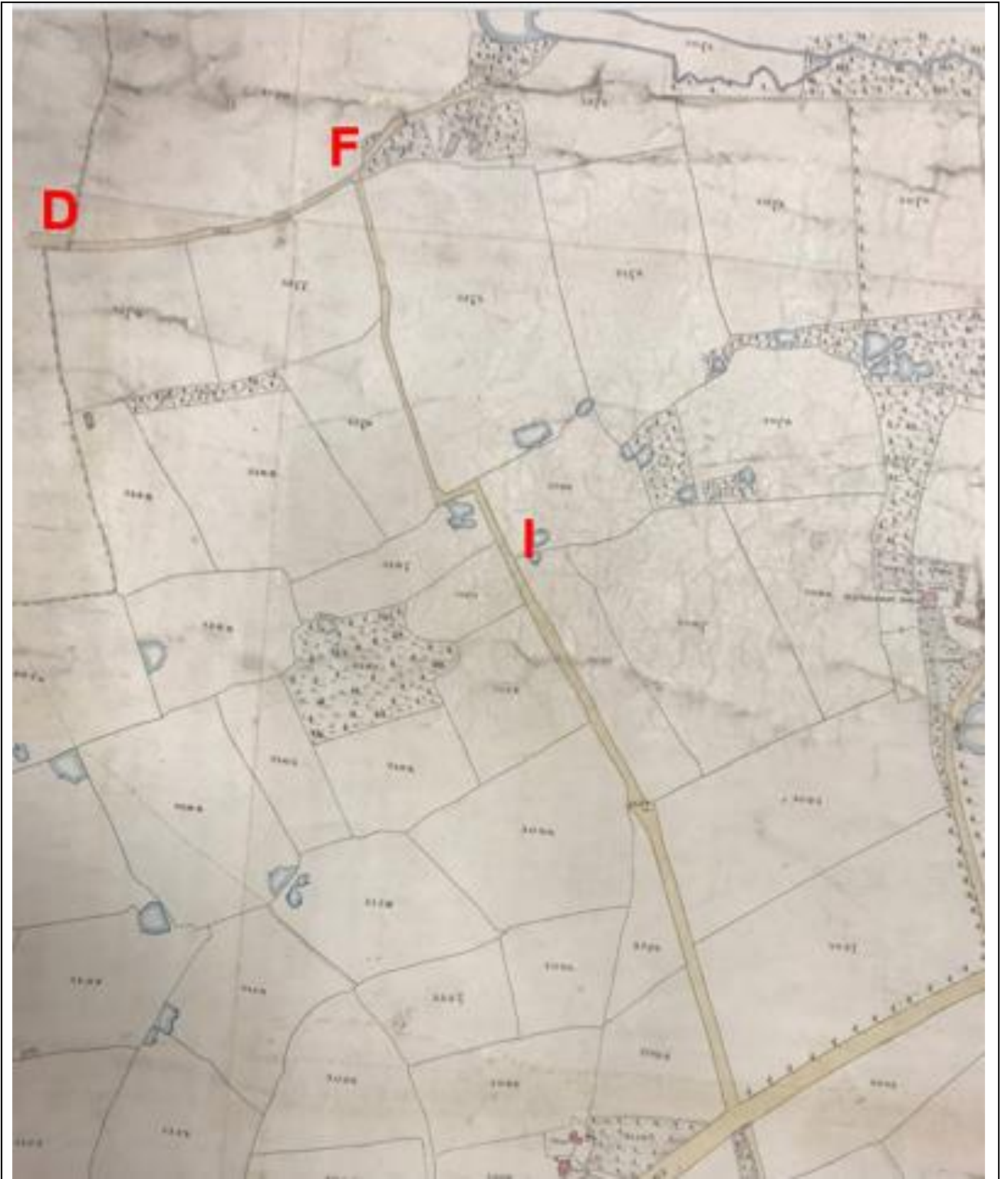
Observations

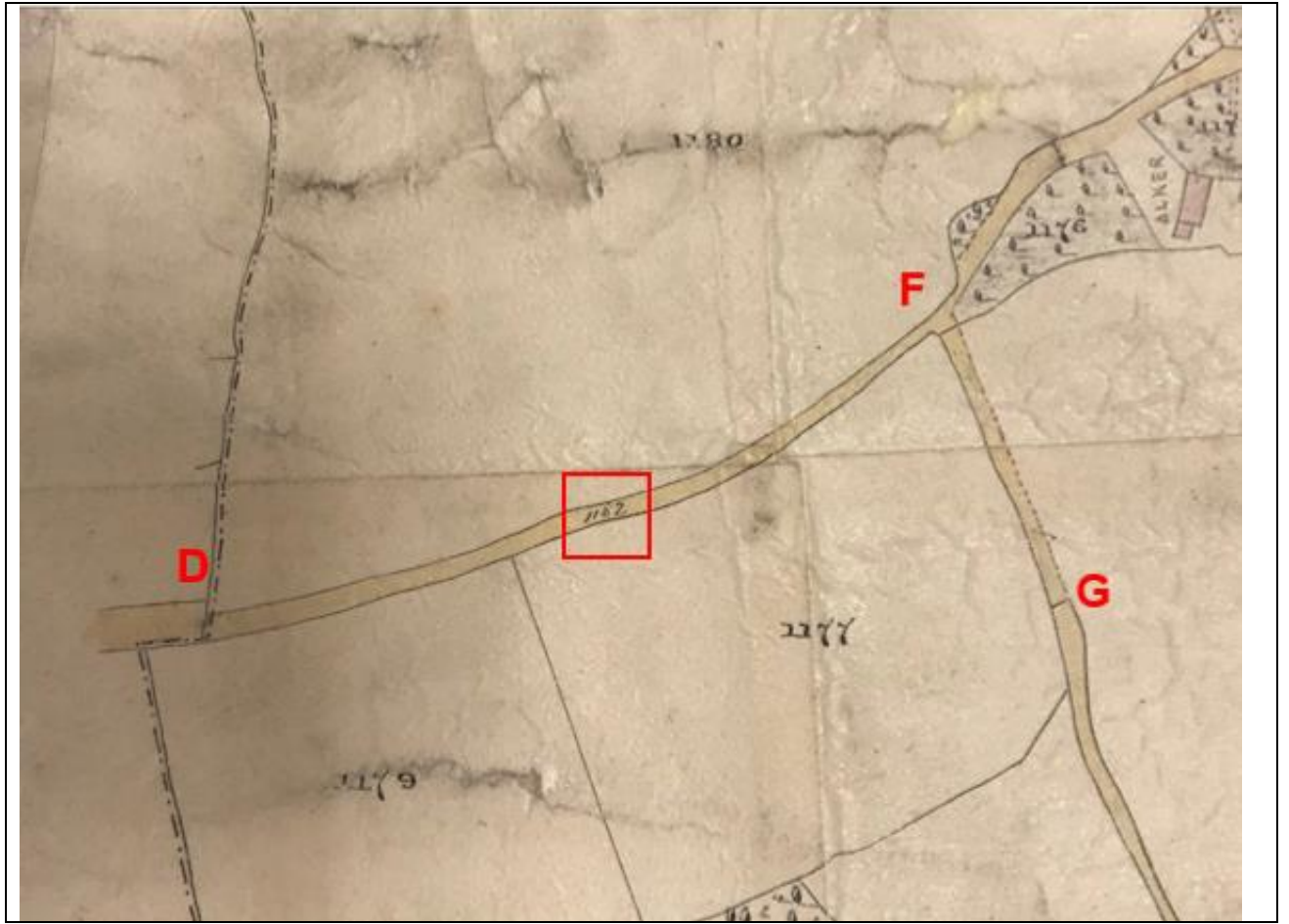
The Tithe Map and Award prepared in 1838 is deposited in The National Archives. In addition, a copy of the Map and Award are deposited in the County Records Office Ref DRB 1/125 although the map is considered to be too fragile to produce.

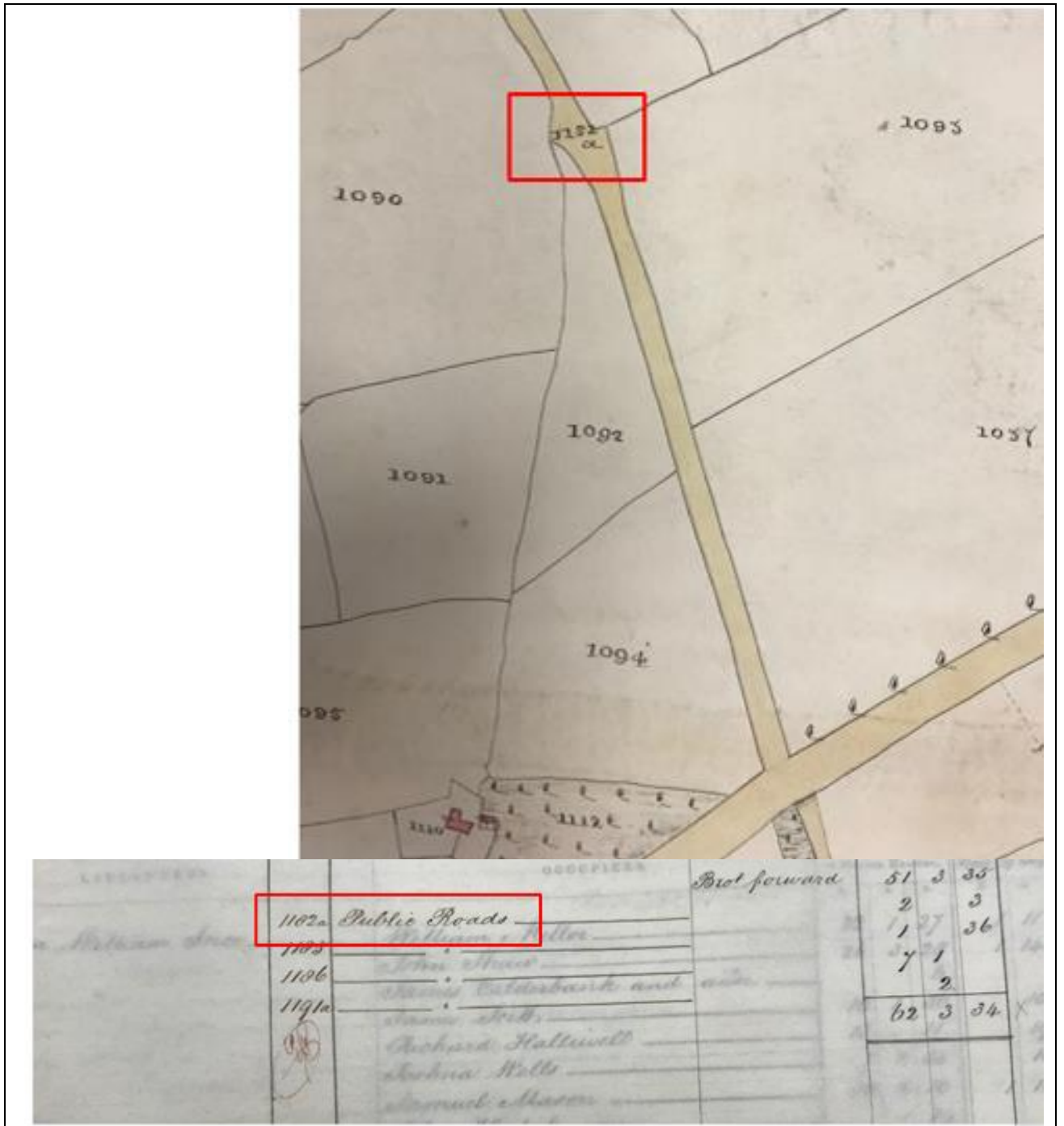
The Tithe Map shows the application route as one of two extensions of Altcar Lane leading from Leyland Lane. The other is route 664a which is listed in the Tithe Award as a 'Road' which was owned by John Silvester Esq. and occupied by Richard Sumner. Lines are shown across the route at point A which may indicate the existence of gates through which it was necessary to pass to continue onto the 'Road' numbered 664a or onto the application route. Beyond point A the application route is shown continuing to the parish boundary at point D but is not numbered and a path is shown connecting to the route at point B. A bounded track is also shown leading off the route to provide access to fields at point C. Beyond the parish boundary at point D a route is shown continuing east but the route is depicted as being considerably narrower than the application route between points A-B-C-D.

The application route is not numbered on the map and nor is the rest of Altcar Lane west of point A.

		The Tithe Award lists 37 named public highways at end of award all numbered A1, A2, A3 etc. and each route is named e.g. A1 – Dawson Lane. Neither Altcar Lane nor the application route A-D is listed in the Award as a public highway and as no number is allocated to it no other reference could be found relating to it.
Investigating Officer's Comments		The application route A-D existed in 1838 and appeared to continue beyond point D. It was not listed in the Tithe Award as a public highway suggesting that it was not considered to be a public route at that time.
Tithe Map and Tithe Award for Euxton	1847	The Map and Award deposited at the County Records Office was inspected together with an inspection of a copy of the Tithe Map deposited at The National Archives.







ADVERSESS	OCCUPIERS	Number shown on the Plan	NAME AND DESCRIPTION OF LANDS AND PREMISES	STATE OF CULTIVATION	QUANTITIES IN SQUARE MEASURES			PAYABLE TO		
					a	b	c	the Incumbent	the Proprietor	
John	John Banks	1800	Cottage and garden				5			
John & Powell	Richard Anwoough	1178	House Outbuildings and yard		1	1	6	1	2	1
		1174	Plantation		1		34			
		1170	Lower Pasture	Pasture	3	2	4	5	5	6
		1172	Low Foy	Arable	7	1	20	12	4	15
		1072	Meadow	do	7		19	11	9	15
		1070	Low Croft	do	5	3	16	0		9
		1071	Shaw Hill Bottoms	Meadow	2	1	07	2	7	3
		1069	Wood		1		30			
		1073	Wood		3		37			
		1176	Orchard		1		32	7		9
		1081	Wood		3	1	10			
		1182	Wood		10	1	35	1	3	1
		1182	Road		1		34			
		1171	Barn Field	Pasture	10	1	3	19	6	1
		1080	Meer bog, meadow	Meadow	3		36	3		4
		1089	Meer bog, pasture	Pasture	3		9	3	2	5
					68	2	5	1	4	1

Observations

The Tithe Map of Euxton was surveyed by Thomas Addison Junior and dated 1847. The copy held by the County Record Office has been signed by the Commissioners as the map or plan referred to in the apportionments of the rent charges in lieu of tithes in the township of Euxton but was not sealed so is likely to be considered a second class map.

The Tithe Map shows the application route from point D through to point I and then continuing south coloured, consistent with the sienna colouring used to show the vehicular road that it connects to (Runshaw Lane).

The application route is shown with lines across it at point D, F and G. West of point D the application route is shown to continue west towards point A but is depicted as being significantly wider than the application route leading east from point D, i.e., consistent with the relative widths shown on the Leyland Tithe Map.

Between point D and point F the application route is numbered 1182 on the map and is described in the Tithe Award as a 'road' in private ownership with no state of cultivation listed and no tithe payable.

The route between point F and point G is not bounded and numbered as part of plot 1171 (pasture referred to as Barn Field).

Tithe Barn Lane south of point G passing through point I and continuing through to Runshaw Lane is numbered as 1182a.

Plot 1182a is listed towards the end of the Tithe

		<p>Award and is included in a list of all other roads which are specifically referred to as being either a Turnpike Road or public road. One Turnpike Road is listed (parcel 1187) which is the route of the road now known as the A49 through the parish. A further 11 parcel numbers are listed as public roads all of which are recorded as public highways for which there are no landowners or occupiers listed and for which there are no tithes payable and all of those listed correspond to routes that are still recorded as public vehicular highways within the parish.</p> <p>An examination of all the parcel numbered entries in the Tithe Award showed at least 34 entries for numbered parcels that were described within the Award as 'road' or 'lane' but which were all listed as being owned and occupied. The majority of these routes were shaded in the same manner as the routes listed specifically as being public roads and on the majority of the routes tithes were not payable. When a more detailed search was made to identify how these routes are now recorded no clear, consistent picture emerged. Some of the routes recorded on the Tithe Map as roads and lanes are now recorded as public footpaths, others had no recorded public status. None were recorded as public bridleways and a number no longer existed and the land is now developed.</p> <p>One route – described as a road (hereditament 206a) now formed part of the A581 leading into Chorley and another route described as a road (hereditament 29) now coincided with part of a newly constructed public road through Buckshaw village but these were the only examples identified of routes described as 'road' or 'lane' within the Tithe Award that now carried recorded public vehicular rights with the exception of those routes listed specifically in the Tithe Award as public roads or turnpike roads.</p>
Investigating Officer's Comments		<p>Looking at the section D-I It appears that a substantial gated route existed that would probably be wide enough for vehicles in the 1840s.</p> <p>From point D through to point F it appears, on balance that, the information provided by the Tithe Map and Award does not support the view that public rights were acknowledged to have existed along the route in 1847 and although the route may have been accessible on horseback the Tithe Map and Award provide no information regarding</p>

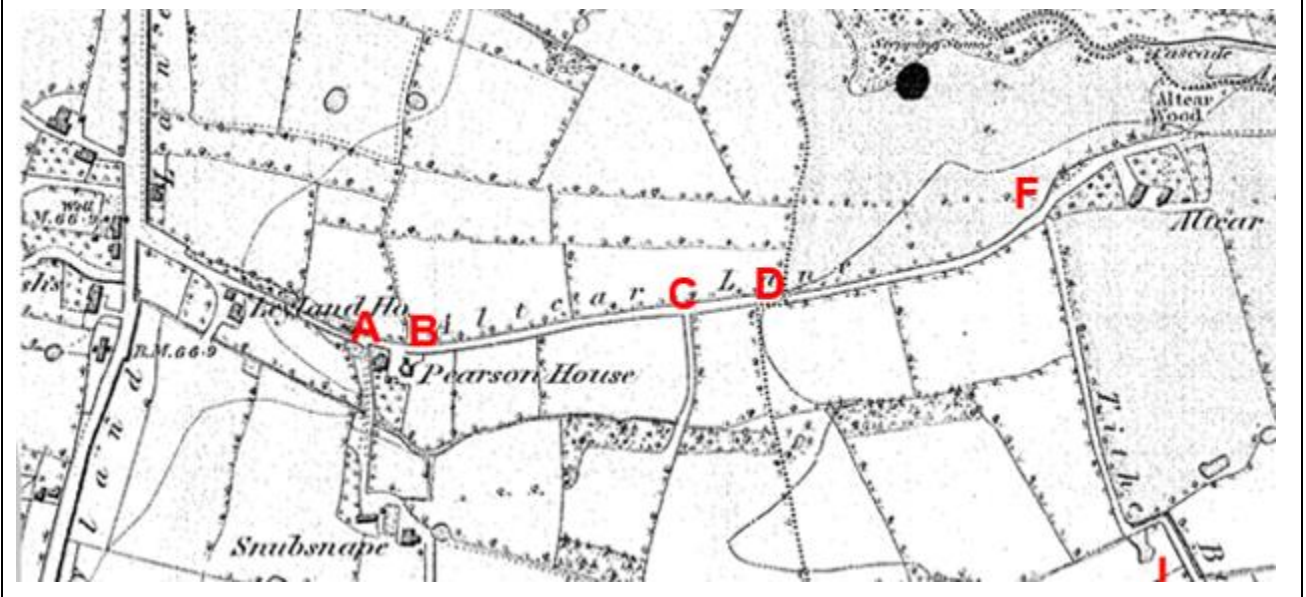
		<p>whether public bridleway rights existed at that time.</p> <p>However, it is important to appreciate that there is no common approach or consistency for the listing of public and private roads in Tithe Awards which is not surprising as this was not the primary function of the award and similarly the public status of any footpaths and bridleways marked on the map were infrequently listed.</p> <p>Altcar Lane (between point D and point F) is coloured in the same way as the major highways through the township and it is known that guidelines prescribed by Lieutenant Dawson to the Tithe Commissioners indicated that land surveyors should use sienna colouring for public roads and bridleways. However, the guidance was not compulsory and the way that all routes are shown on each individual Tithe Map needs to be considered before concluding that such guidance was adhered to. On this particular Tithe Map it appears that routes detailed in the Tithe Award as public roads and also the majority of other routes described as roads or lanes within the Award were shaded in the same manner, as was section F-G of the route where it was treated as part of 'Barn Field' (plot 1171) which was described as pasture and for which tithes were payable, so it is not considered possible to infer public vehicular rights from the fact that the route is shaded with a sienna colouring. No tithes are payable for plot 1182 (the application route D-F) but this does not necessarily mean that it was because the road was public and in this case the route between point D and point F is neither described as being 'public' or included in the separate list of public roads. It is not listed as being under any state of cultivation which is consistent with it being a hard surfaced track which was not cultivated or grazed (and therefore not tithable). It is conceivable that if the track had been grazed (i.e., classed as pasture) tithes could have been payable – even though public rights existed - and the gates erected with regards to stock control.</p> <p>With regards to the remaining section of the application route (shown between points G-I on the Committee plan) it is part of a single plot all the way to Runshaw Lane. A clearly defined list of routes considered to be public roads is grouped together and provided for in the Tithe Award. Each route is numbered separately but no landowners</p>
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		<p>or occupiers are listed. All the routes listed correspond to routes that are still recorded as public vehicular highways today and this list specifically includes the route known as Tithe Barn Lane. The existence of gates across a route does not necessarily mean that it was not available for public use as gates may have been required for stock control purposes. Looking at the Tithe Map in isolation it would be reasonable to conclude that the route shown between point G and point I was part of the longer route listed as a public road in the Tithe Award. However, this length is much longer than the stub of highway shown on Yates, Greenwoods and Hennets maps and in the future much longer than the excluded route in the 1910 Finance Act records and longer than the route recorded on the Handover Map.</p> <p>In the Tithe schedule the routes identified as either the Turnpike Road or 'public highways' and listed in the Award as being 'public' are public highways today. Importantly they are not listed as being owned and occupied thus suggesting in this case that there was not a public vehicular through route from Altcar Lane along Tithe Barn Lane through to Runshaw Lane but that only part of Tithe Barn Lane (with the possible inclusion of the application route between point G and point I) was considered to be a public route. The other public roads listed in the Tithe Award are today highway through-routes in the network. Only the route on Tithe Barn Lane and Dean Hall Lane are cul de sac routes. From the evidence available, it may be a difficulty in being confident that the length G-I shown as part of plot 1182a is the correct length as later records do not corroborate it being public.</p>
Inclosure Act Award and Maps		<p>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.</p>
Observations		<p>There is no Inclosure Award for Euxton and the Inclosure Award for Leyland does not cover the area crossed by the application route.</p>
Investigating Officer's Comments		<p>No inference can be drawn with regards to the existence of public rights.</p>

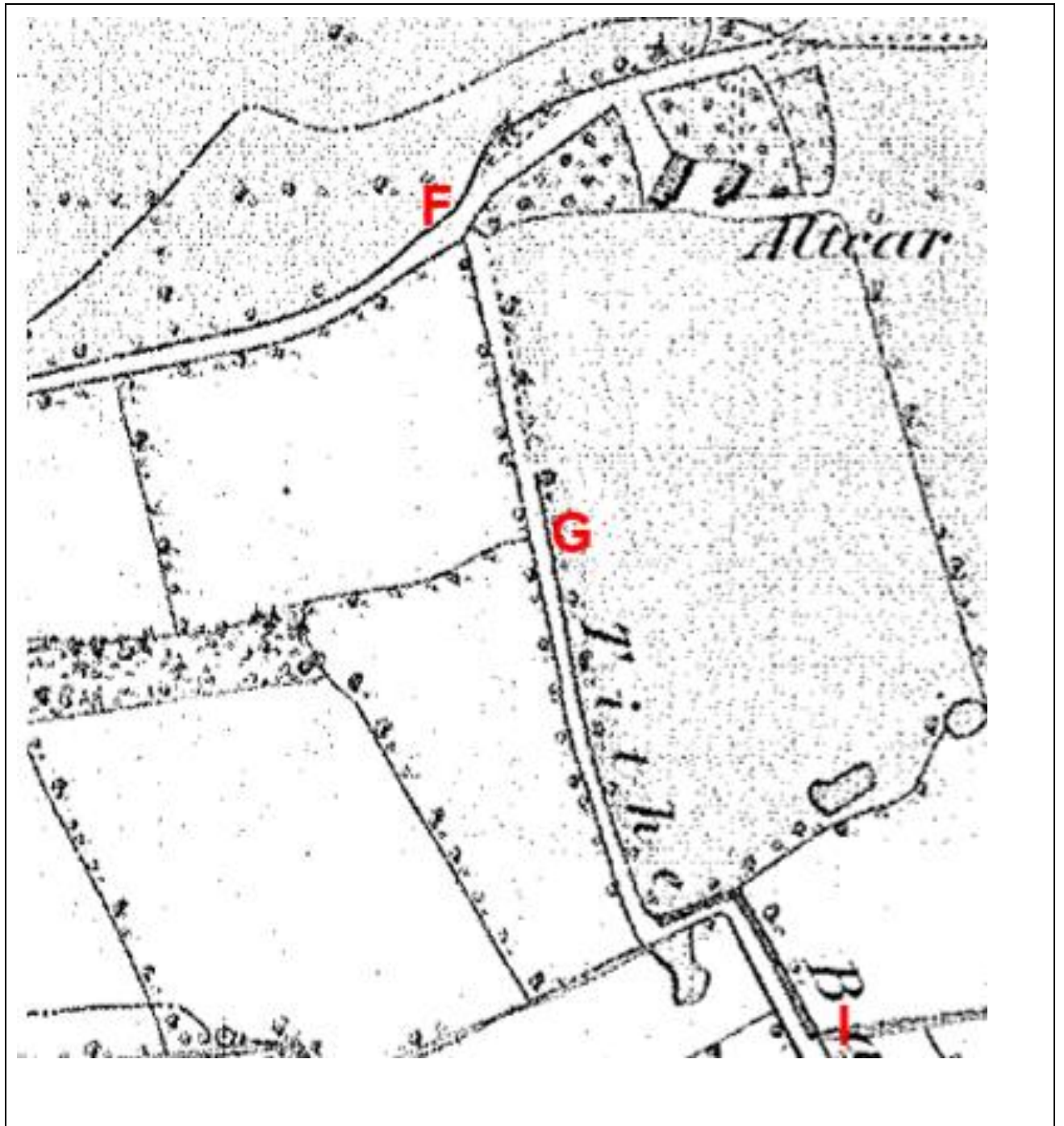
6 Inch Ordnance Survey (OS) Map Sheet 77

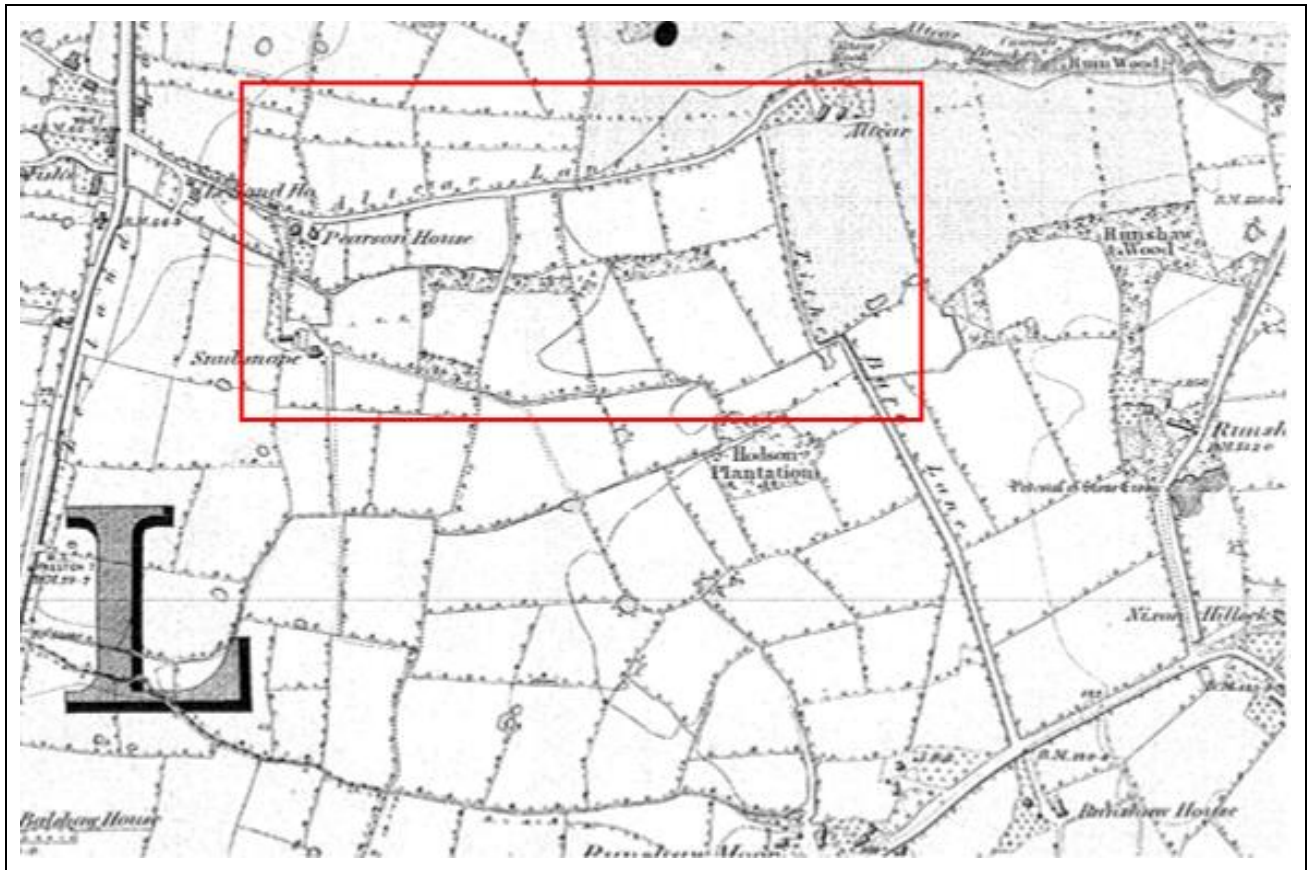
1849

The earliest Ordnance Survey 6 inch map for this area surveyed in 1844-7 and published in 1849.¹



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 application route is shown as part of a longer route bounded on both sides leading from Leyland Lane in an easterly direction passing through points A-B-C-D-E-F and continuing east to a property called Altcar. The route between point A and point F is named on the map as Altcar Lane and there are no lines across it suggesting that access was unrestricted. At point A and point B access to properties known as Snub Snape and Pearson House lead from the application route.</p> <p>From point F the continuation of the application route labelled as Tithe Barn Lane meets Altcar Lane with a line across the junction of the two named routes suggesting that access from Altcar Lane onto Tithe Barn Lane may have been gated. From point F the application route continues south along Tithe Barn Lane. Between point F and point G the application route is bounded on the western side but open to the field to the east. From point G through to point I the route is shown bounded on both sides although it is shown narrower than the continuation of the route south of point I.</p>
<p>Investigating Officer's Comments</p>		<p>The application route existed in the mid-1840s and appeared to be capable of being used - at least on horseback - as part of a longer through route and</p>

		as part of access to a number of named properties. It comprised two named routes connected at point F although access from one to the other appeared to be restricted – possibly by a gate. At this point the route was unbounded and on a field edge. The route known as Altcar Lane provided direct access to a number of properties whilst Tithe Barn Lane appeared to provide access to fields on either side and also possibly an alternative access to Altcar. It is not possible to tell whether public rights existed on this through route.
Cassini Map Old Series	1840-1843	The Cassini publishing company produced maps based on Ordnance Survey mapping. These maps have been enlarged and reproduced to match the modern day 1:50, 000 OS Landranger Maps and are readily available to purchase.
Observations		The application route was shown as part of a longer through route from Leyland Lane through to Runshaw Lane. It is shown providing access to a number of properties but also as a through route.
Investigating Officer's Comments		The original scale of the map (1 inch to the mile) means that only the more significant routes are generally shown. The purpose of the map in the late 1800s would probably have been to assist the travelling public on horseback or vehicle suggesting that the through roads shown had public rights for those travellers.
25 Inch OS Map Sheets 77-1 and 77-2	1893	The earliest OS map at a scale of 25 inch to the mile. Surveyed in 1893 and published in 1894.



<p>Observations</p>		<p>The full length of the application route is shown. The map provides more detail than the earlier 6 inch OS map examined. Lines appear to be shown across the route at point A,C,E,G and H. The route between points A-F is shown labelled as part of a longer route known as Altcar Lane whilst the route between point F and point I is shown as part of Tithe Barn Lane. The application route is shown as a bounded route with the exception of those parts between points D-E-F and F-G which are shown to run along the field edge. No part of the application route – or Altcar Lane west of point A and Tithe Barn Lane south of point I - is shown with a thickened line along the south or eastern side.</p>
<p>Investigating Officer's Comments</p>		<p>The application route existed in 1893 and may have been capable of being used on foot or horseback and possibly with vehicles. The fact that it was named as part of Altcar Lane and Tithe Barn Lane on the map is evidence that it was known locally by those names.</p> <p>The existence of gates along a public route would not have been considered unusual in the 1800s</p>

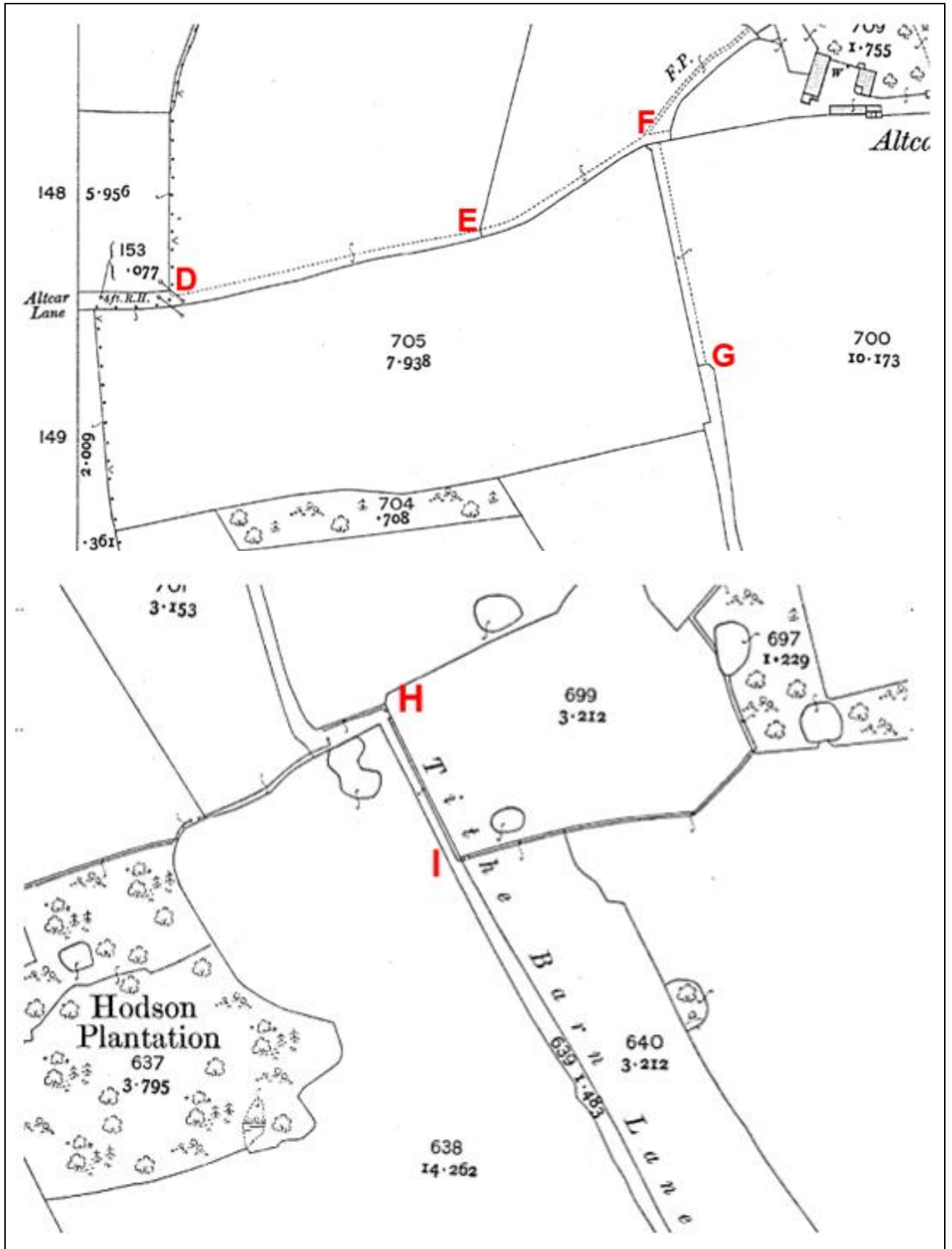
		<p>particularly in the proximity of farms or in rural locations. Gateways, if they were found to exist, were shown by the surveyor in their closed position although this is not necessarily a true reflection of what may have been the position on the ground.</p> <p>Shading was often used to show the administrative status of roads on 25 inch maps prepared – primarily between 1884 and 1912. All metalled public roads for wheeled traffic kept in good repair by the highway authority were to be shaded and shown with thickened lines on the south and east sides of the road. The application route is not shown in such a way but neither are the sections of Altcar Lane and Tithe Barn Lane which are now recorded as public vehicular highways.</p>
<p>Bacons Map of Lancashire</p>		<p>G W Bacon was a publisher of maps and in 1890 his 'Commercial and Library Map of Lancashire from the Ordnance Surveys' was published, and later reprinted. As the title states, the maps he published were derived from Ordnance Survey maps.</p>

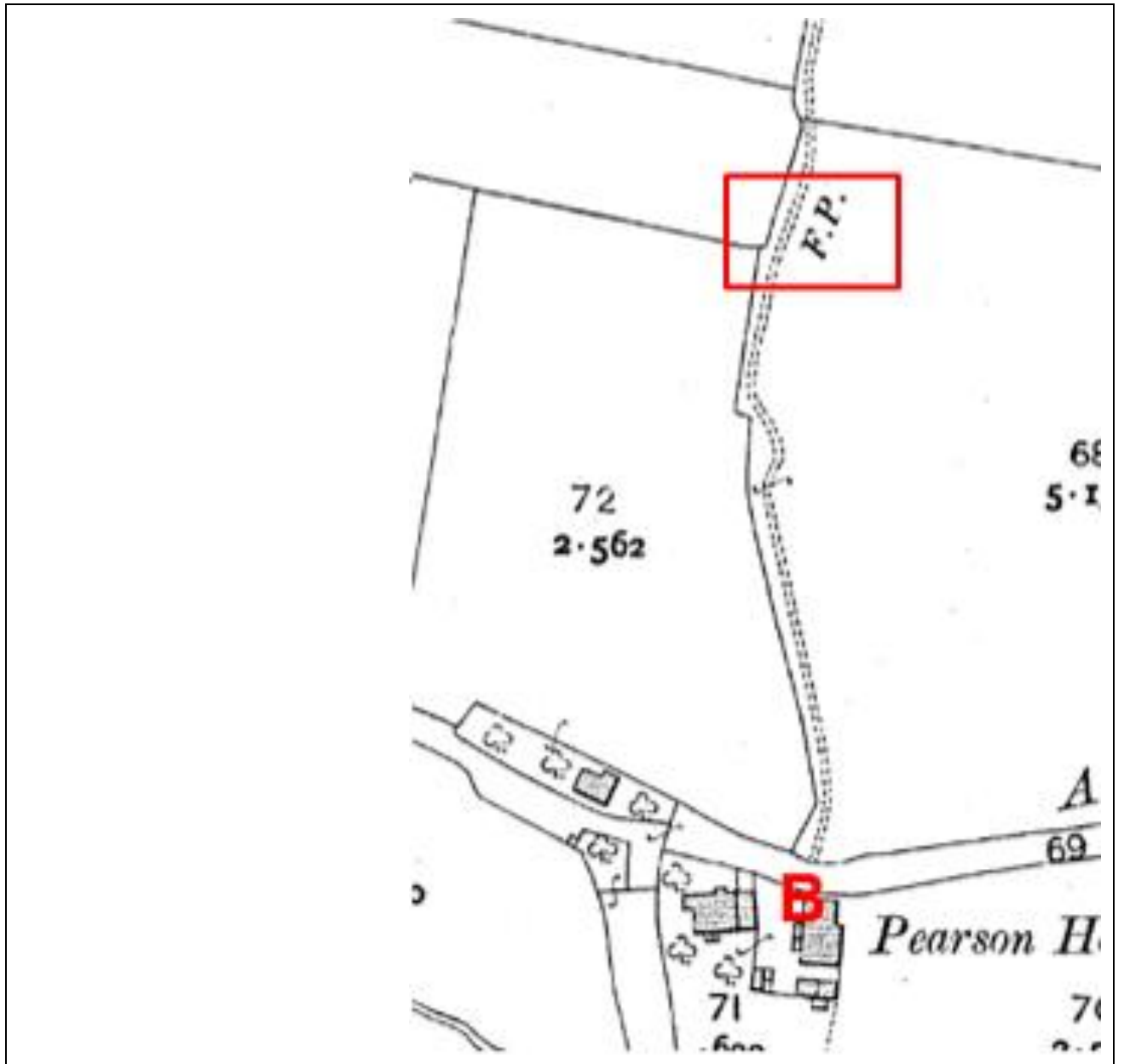


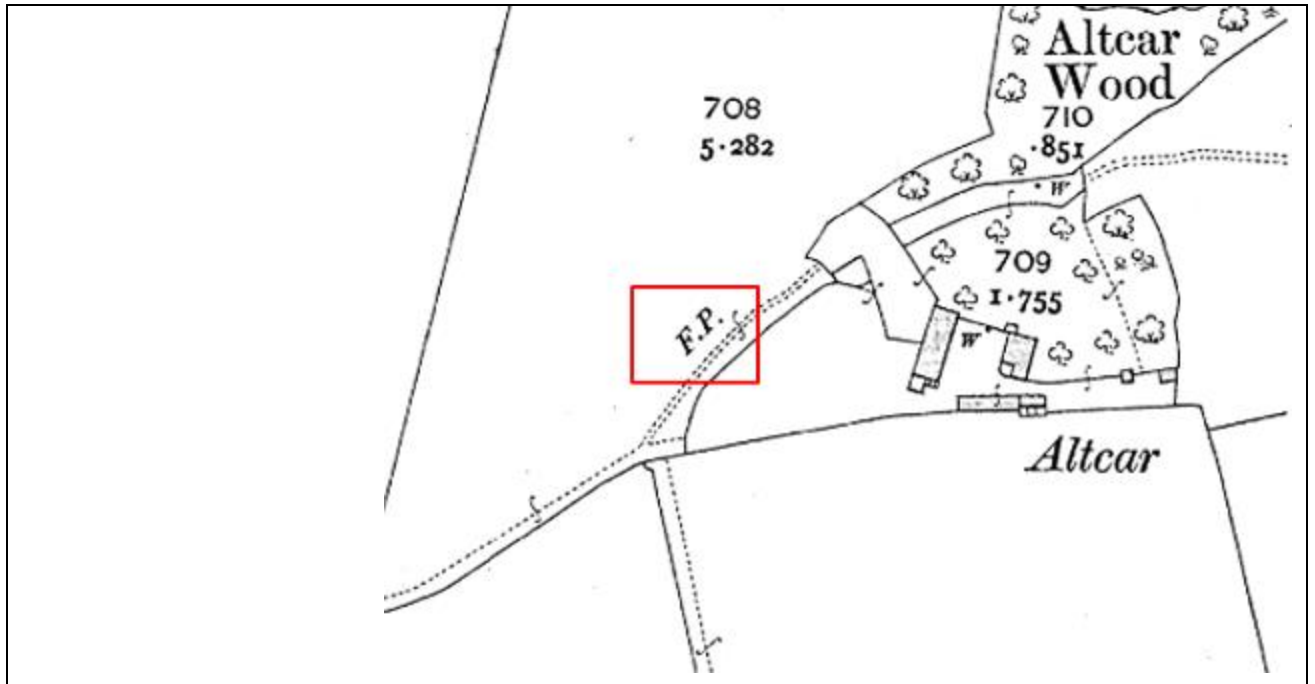
<p>Observations</p>		<p>The application route is not shown.</p>
<p>Investigating Officer's Comments</p>		<p>GW Bacon was an American entrepreneur who moved to London and was known to have been involved in numerous business ventures including the publication of world maps. The maps of the British Isles were at a small scale and as such</p>

		<p>only the more significant routes are generally shown. Commercial maps of this nature were expensive to produce and to purchase and as a result the routes shown were often considered to be public through routes.</p> <p>The application route was not shown suggesting that it was not, in the early 1900s, considered to be part of a significant or main public vehicular through route. It may, however, have existed as a footpath or bridleway at that time.</p>
<p>25 inch OS Map sheets 77-1 and 77-2</p>	<p>1911</p>	<p>Further edition of the 25 inch map surveyed in 1893, revised in 1909 and published in 1911.</p>







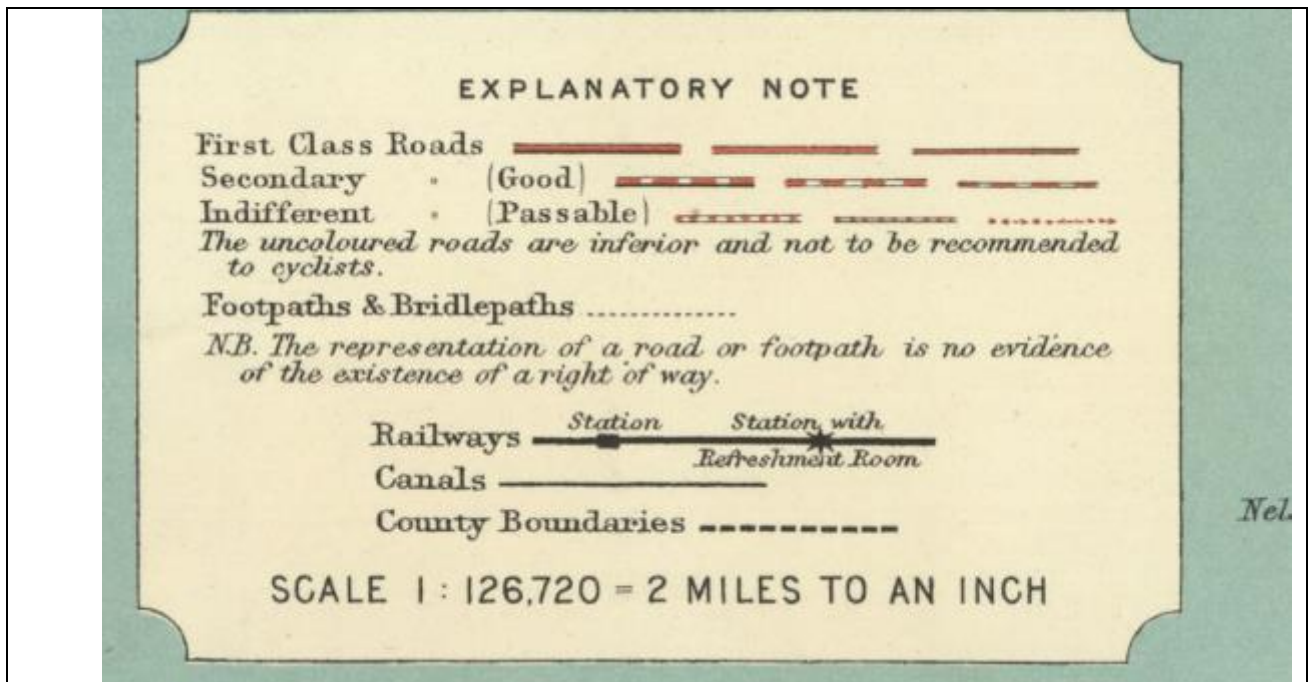


Observations		The application route is shown as part of a longer through route with lines across it at points A, C, E, F and G. It is named as part of Altcar Lane and Tithe Barn Lane and is still shown to be unenclosed between points D-E-F-G. Two routes connecting to the application route at point B and point F are labelled on the map as footpaths (F.P) but the application route is not labelled in such a way.
Investigating Officer's Comments		The application route existed in 1909 and appeared to be capable of being used at least on horseback. Its physical appearance suggested a route used as more than just a footpath.
Ordnance Survey Object Names Book TNAs Reference number OS 35/3964		When the Ordnance Survey was collecting information to put on its second series of published maps the surveyors recorded the names of anything that was to be shown on the maps. The Ordnance Survey Object Names Book for an area records these names, the description of the item named, and the local person attesting to the name. The descriptions usually state where the road started and finished, and often described them as a road, lane or drove road. The descriptions often drew a distinction between what was believed to be public and private and included information about who owned or maintained bridges.
Observations		A copy of the Object Names Book for OS 6 inch map sheet 77NW was acquired from the National Archives. The book provides a list of names as written on

		<p>the OS plan to be revised. Altcar Lane is listed on page 18 and in the column provided titled 'Various modes of Spelling the same name' is written 'Altcar Lane' and 'no change' with what appear to be some initials and the date 1907. Two names are provided as the authority for checking that the name of the lane has been spelt correctly and they are listed as being the owner/occupiers of Rose Hill, Leyland and Burscough House, Leyland.</p> <p>Under the final column descriptive remarks, or other general observations which may be of interest, are listed and in the case of Altcar Lane it has been written 'A lane extending in an easterly direction from its junction with Leyland Lane and terminating at Altcar Farm.'</p> <p>Tithe Barn Lane is also listed (on page 41) with no change to the spelling of the name being noted. The authority for the spelling of the lane is listed as being provided by 'J Harrison, Farmer, Altcar' and the descriptive remarks states: 'applies to an occupation Rd in a north easterly direction off the Preston and Wigan Road about ½ a mile, terminating at Altcar Farm.' The words 'an occupation Rd' had subsequently been crossed out in pencil and replaced by 'a 4th Class Rd'.</p>
Investigating Officer's Comments		<p>The OS Names Book provides limited evidence regarding whether the route was considered to be public or private in 1907 and the extent of those rights (i.e., whether they were on foot or vehicular).</p> <p>The purpose of the OS names book was to record the names of things to be shown on the map and to check their spelling. It was not intended to record the public or private status of a route but can provide useful information regarding how a route may have appeared to the Surveyor and how it was regarded locally. Altcar Lane was described as a lane with no indication of whether it was considered to be public or private. Tithe Barn Lane however was initially described as an occupation road and this had subsequently been crossed out. It is not known why it was described as an occupation road or why it was subsequently crossed out although reference to a '4th class road' does appear to imply an understanding that it carried public rights.</p> <p>The person confirming the spelling of the name of Tithe Barn Lane is reported to be the farmer at Altcar Farm but we do not know who made the amendment regarding the status of the route.</p>

		<p>There is no reference to the condition of either route or whether they were publicly maintainable and it appears that information regarding both routes has been obtained from local residents rather than a Surveyor from Chorley Rural District Council although it is noted that information relating to some (but not all) public vehicular routes was provided by the highway authority at that time.</p>
<p>Bartholomew half inch Mapping Sheet 8 – Liverpool & Manchester</p>	<p>1904</p>	<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 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.</p>



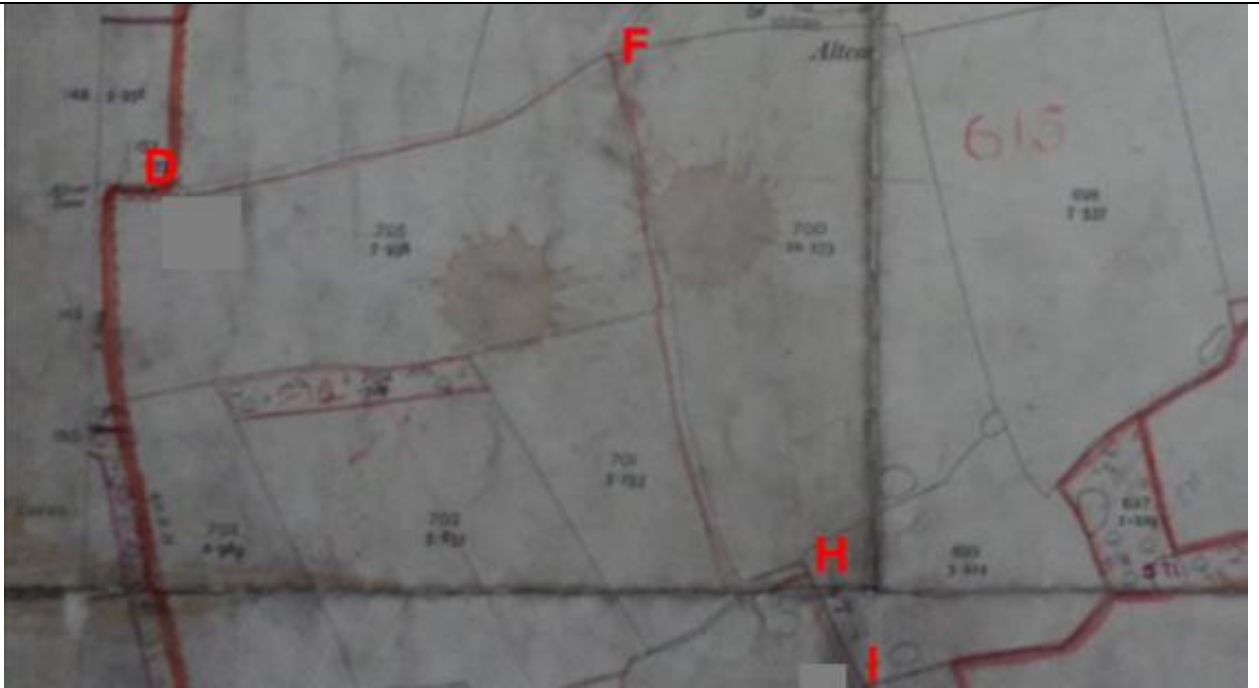


Observations		The application route is clearly shown as a through route connecting to other roads but is denoted in the key as and uncoloured road defined as being inferior and not recommended for cyclists. It should be noted that routes considered to be footpaths or bridleways were shown differently.
Investigating Officer's Comments		The application route existed as a substantial route which appeared to be considered as being more than a footpath or bridleway. It was not denoted as being a public vehicular route of a good enough standard to be recommended for cyclists but its inclusion as an uncoloured road suggested that it physically existed as a substantial route in the early 1900s which would have been capable of being used at least 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</p>

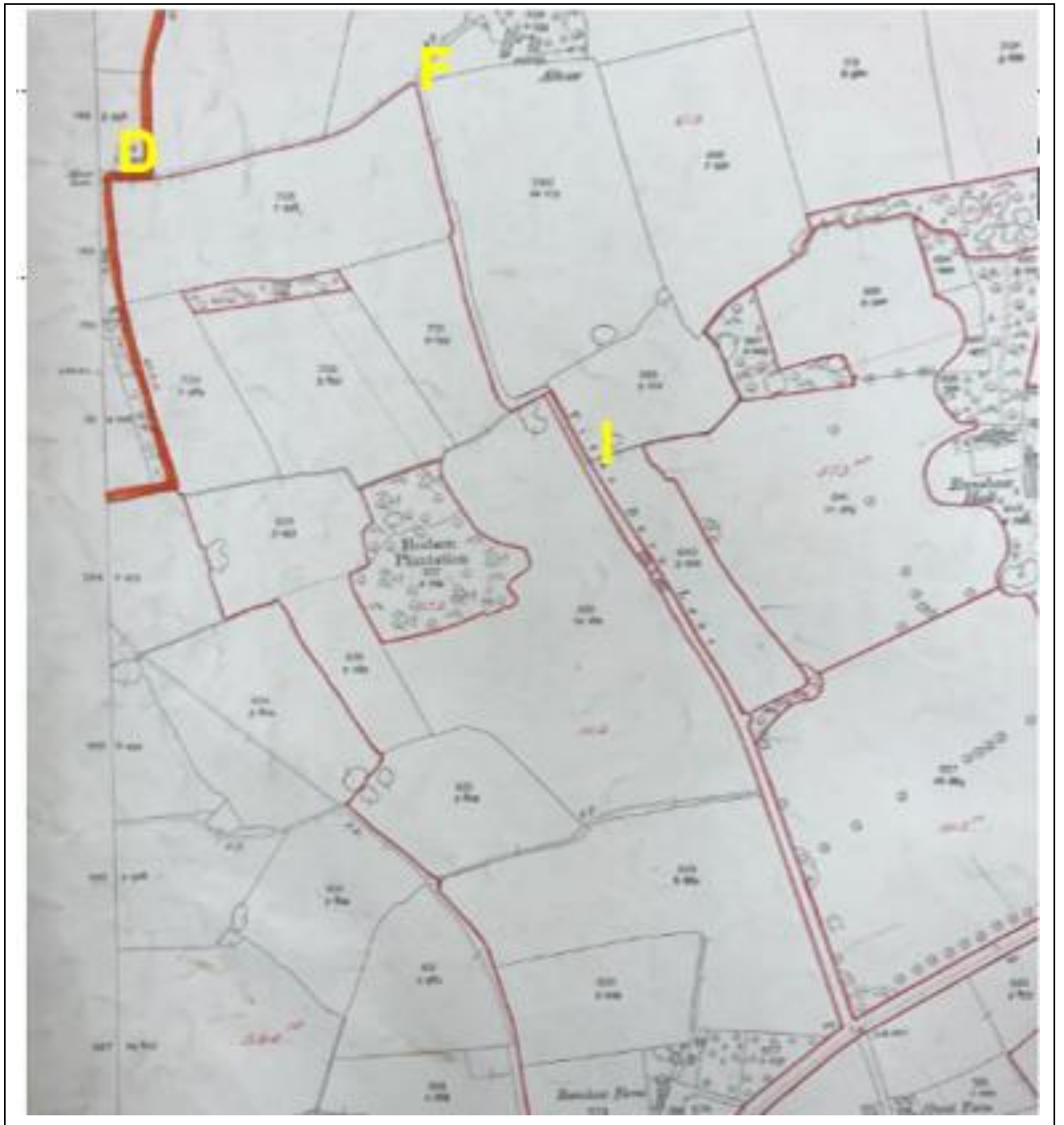
value if the land was subsequently sold. The maps show land divided into parcels on which tax was levied and accompanying valuation books provide details of the value of each parcel of land, along with the name of the owner and tenant (where applicable).

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.





Finance Act Map obtained from The National Archives





Finance Act Map available to view in the County Records Office

Observations

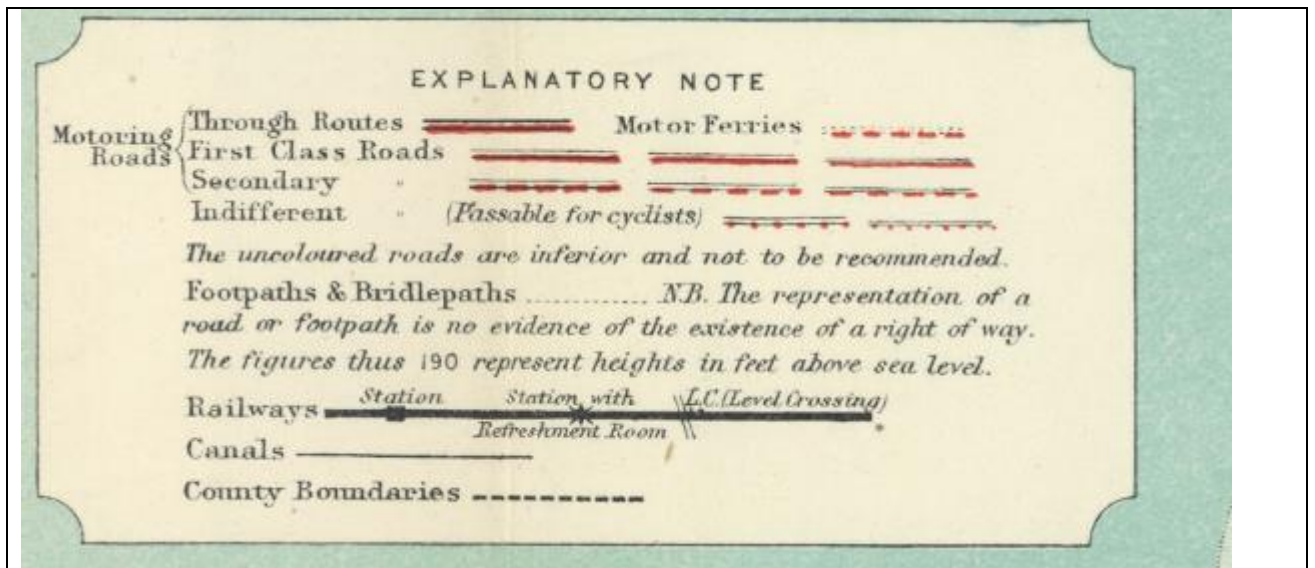
The Map sheet showing the start of the application route from point A shows the application route excluded through to the end of the route shown on that sheet. This part of the route was within the Urban District of Leyland and the district valuation office from which the survey was carried out was in Preston (Ref: DVPR) The Map sheet showing the application route from just west of point D through to point I was available to view at both the County Records Office and The National Archives.

All of the land crossed by the application route from point D through to point H was included in plot 615 which was listed as being in the ownership of Messrs. Deacon and which was described as comprising of a House, buildings and agricultural land at Altcar Farm. No deductions were listed for public rights of way or user.

Between point H and point I the route was excluded from the numbered plots as part of Tithe Barn Lane extending south from point H through to the junction with Runshaw Lane. The map showing this part of the route was prepared by the District Valuation office at Blackburn (Ref: DVBK).

Investigating Officer's Comments		<p>The application route crossed land considered by two separate taxation offices. From point A extending east to the edge of the map sheet (just short of the parish boundary at point D) the application route was excluded from the numbered plots in the same way as public vehicular highways have been excluded suggesting that it was considered to be a significant public route – possibly vehicular – at that time. The same is true of the southern end of the application route between point H and point I together with the continuation of the route south through to Runshaw Lane.</p> <p>A significant part of the route however – between point D and point I – is not excluded from the numbered plots and no deductions were claimed with regards to public rights of way or user. This indicates that in the early 1900s the owner of a substantial section of the route did not acknowledge the existence of any public rights over the land crossed by the application route at the time of the valuation.</p>
Bartholomew half inch Mapping Sheet 8 – Liverpool & Manchester	1920	Further edition of Bartholomew's half inch map.





Observations		The application route is again clearly shown as a through route connecting to other roads but is denoted in the key as being inferior and not to be recommended. It should be noted that routes considered to be footpaths or bridleways were shown differently. It should also be noted that it includes a disclaimer that roads and footpaths shown were not necessarily public.
Investigating Officer's Comments		The application route existed as a substantial route in the 1920s which appeared to be considered as being more than a footpath or bridleway.
25 Inch OS Map	1928	Further edition of 25 inch map, surveyed 1893, revised in 1927 and published in 1928.
Observations		The application route is again shown as part of a longer route named as Altcar Lane and Tithe Barn Lane with gates across the route at points C, E, F and G. Other than the apparent removal of a gate at point A the application route is shown in the same way as it is shown on earlier OS 25 inch maps.
Investigating Officer's Comments		The application route existed in 1927 and appeared to be capable of being used at least on horseback and its physical appearance suggested a route used as more than just a footpath.
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

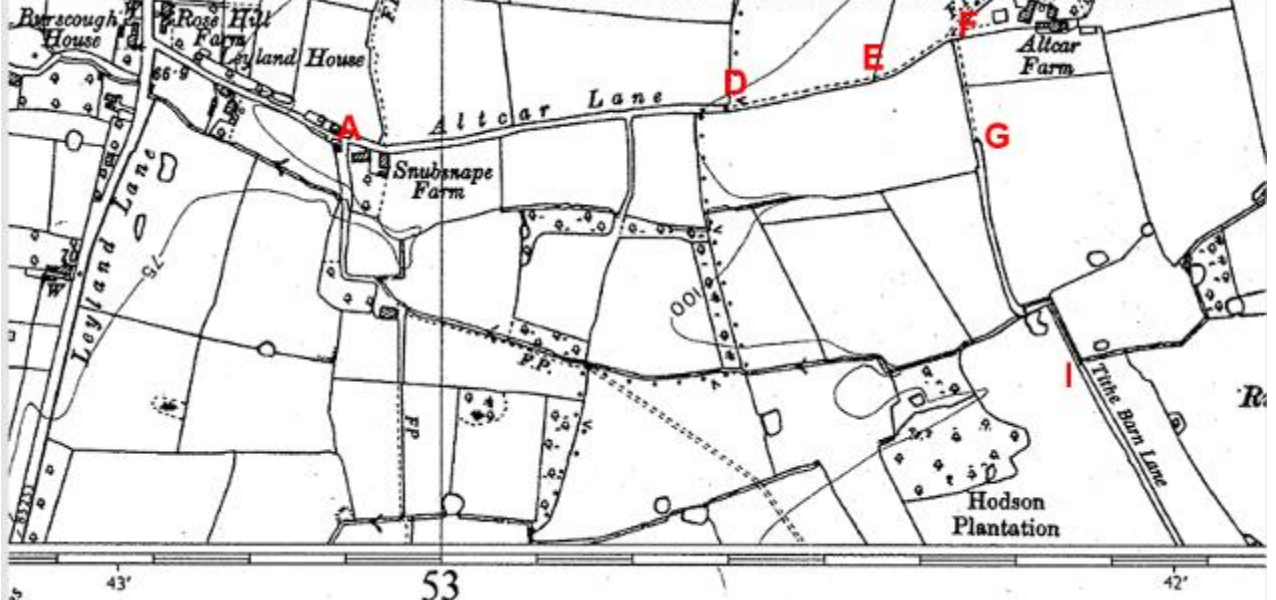
The application route is shown between point A and point F as part of a longer route continuing through point I to the north of Altcar Farm. From Leyland Lane through to the parish boundary at point D the route is labelled as Altcar Lane and is shown as a bounded route but is shown narrower than other minor public vehicular routes. Between point D and point F the route is shown as a track running along the north side of a field boundary which continues beyond point F. Between point F and point G the application route is not shown. From point G to point I the route is shown as part of a longer route which continues south east down to Runshaw Lane and is labelled as Tithe Barn Lane. From point G through to point I the application route is shown as a bounded route in the same way as the rest of Tithe Barn Lane. The width of this route is consistent with the width of Altcar Lane.

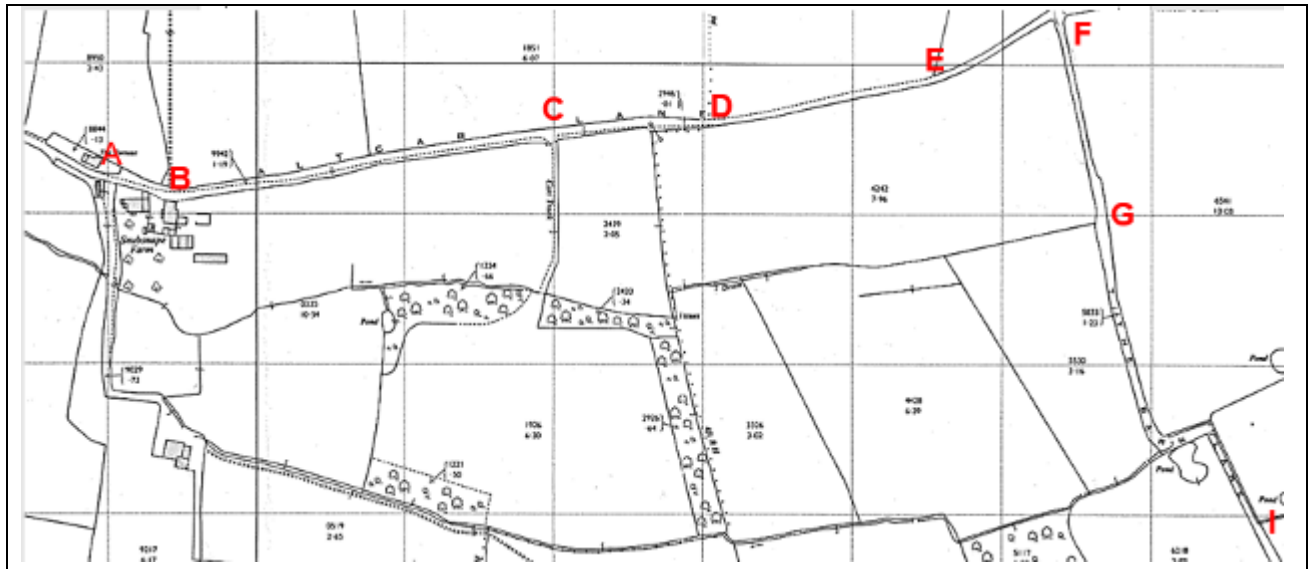
Investigating Officer's Comments

A gap is shown in the application route although OS mapping from that time suggests that a

		through route did exist. This gap does however suggest that the route was not considered to be a through route used by the public in vehicles at that time.
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.
		
Observations		Altcar Lane from Leyland Lane through to point A can be clearly seen but beyond point A to point E the line of the route can be seen by reference to the field boundaries (hedges) but the route itself can only be faintly seen. From point E through to point I parts of a track are visible but much of the route cannot be seen due to trees and hedges running the length of the route.
Investigating Officer's Comments		The application route may have been accessible but it appears to be more consistent with use on foot and possibly horseback with low levels of vehicular use to gain access to Altcar Farm consistent with private vehicular access.
6 Inch OS Map	1955	The OS base map for the Definitive Map, First

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.

52SW		Review, was published in 1955 at a scale of 6 inches to 1 mile (1:10,560). This map was revised before 1930 and is probably based on the same survey as the 1930s 25-inch map.
		
Observations		<p>The full length of the application route is shown. Between point A and point D the route is shown as a bounded route and labelled as Altcar Lane. From point D to point F the route is shown as a single dashed line adjacent to a field boundary with a line across it at point E. Access to Altcar Farm is shown at point F a double dashed line labelled as a footpath continues north east from point F around the north side of the farm. A line is shown across the application route at point F where it turns to continue south and between point F and point G the route is again shown as a single dashed line adjacent to a field boundary with a further line across it midway between the two points. From point G through to point I the application route is shown as a bounded route consistent with how it is shown south of point I. South of point I the continuation of the route is named as Tithe Barn Lane.</p>
Investigating Officer's Comments		The application route existed in the 1930s and appeared to be capable of being used at least on horseback.
1:2500 OS Map SD 5220-5320	1963	Further edition of 25 inch map reconstituted from former county series and revised in 1961-1962 and published in 1963 as national grid series.



<p>Observations</p>		<p>The full length of the application route is shown and is now shown ungated throughout its full length and is bounded on both sides with the exception of the section between point D and point E. The route is labelled as part of Altcar Lane between point A and point D and as part of Tithe Barn Lane between point G and point I.</p>
<p>Investigating Officer's Comments</p>		<p>The application route existed in the early 1960s and appeared to be capable of being used. Gates are no longer shown across any part of the route and most of it is now enclosed and separate from the adjacent fields. The removal of all gates across the routes suggests that access along the full length of the route would be easier for anyone travelling along it on horseback or in a vehicle.</p>
<p>Aerial photograph</p>	<p>1960s</p>	<p>The black and white aerial photograph taken in the 1960s and available to view on GIS.</p>




Observations		The full length of the application route can be clearly seen.
Investigating Officer's Comments		The application route appears much clearer on the aerial photograph taken in the 1960s than it did on the photograph taken 20 years earlier. The way that the route is visible indicates that a significant route now existed along the full length which appeared consistent with a route used by vehicles and which would have been capable of being used on horseback.
Aerial Photograph	2000	Aerial photograph available to view on Google Earth Pro.



Observations		The full length of the application route can be clearly seen with no distinction between it or the adopted sections of Altcar Lane and Tithe Barn Lane west of point A and south of point I.
Investigating Officer's Comments		The way that the route is visible indicates that a significant route now existed along the full length which appeared consistent with a route used by vehicles and which would have been capable of being used on horseback.
Aerial Photograph	2005	Aerial photograph available to view on Google Earth Pro.



Observations		The full length of the application route can be
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		clearly seen with no distinction between it or the adopted sections of Altcar Lane and Tithe Barn Lane west of point A and south of point I. Additional buildings can be seen adjacent to the route just south of point F.
Investigating Officer's Comments		The way that the route is visible indicates that a significant route now existed along the full length which appeared consistent with a route used by vehicles and which would have been capable of being used on horseback.
Aerial Photograph	2015	Aerial photograph available to view on Google Earth Pro.
		
Observations		The full length of the application route can be clearly seen with no distinction between it or the adopted sections of Altcar Lane and Tithe Barn Lane west of point A and south of point E.
Investigating Officer's Comments		The way that the route is visible indicates that a significant route now existed along the full length which appeared consistent with a route used by vehicles and which would have been capable of being used on horseback.
Cycle route promoted on the South Ribble Borough Council website	2020	Source: https://www.southribble.gov.uk/cycling

Seven Stars East Circular Cycle Route

MODERATE



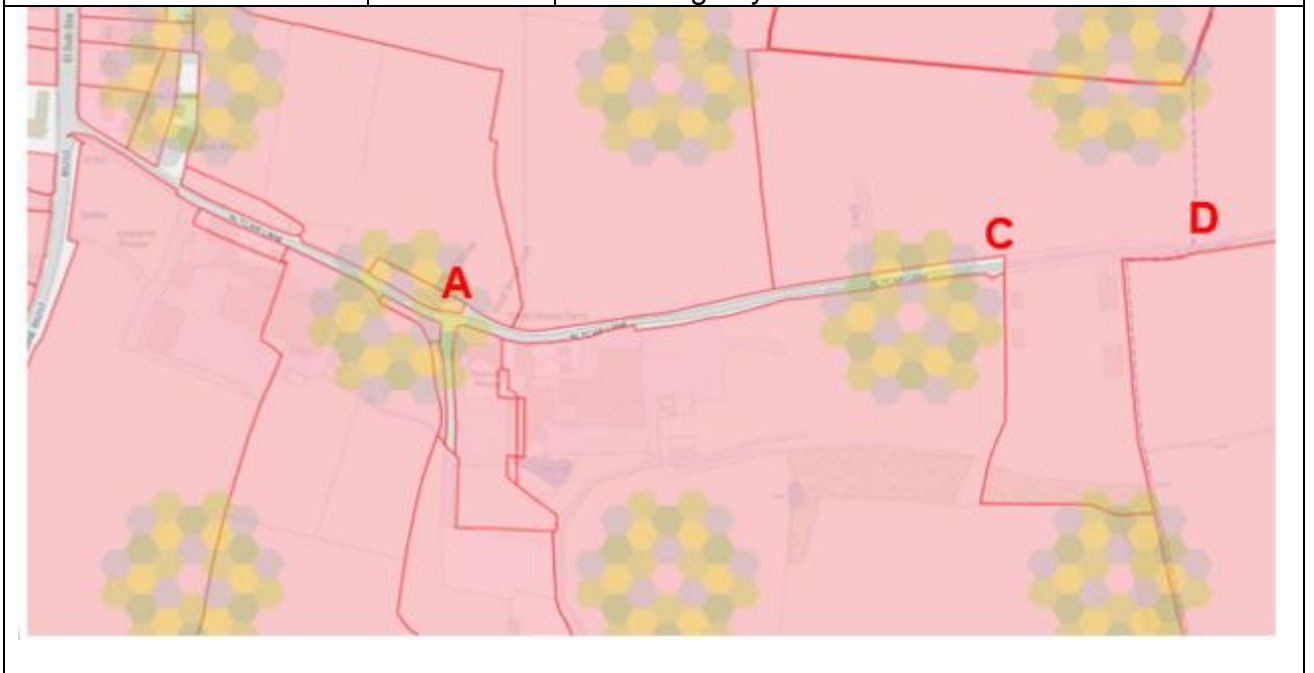
4.22 MILES

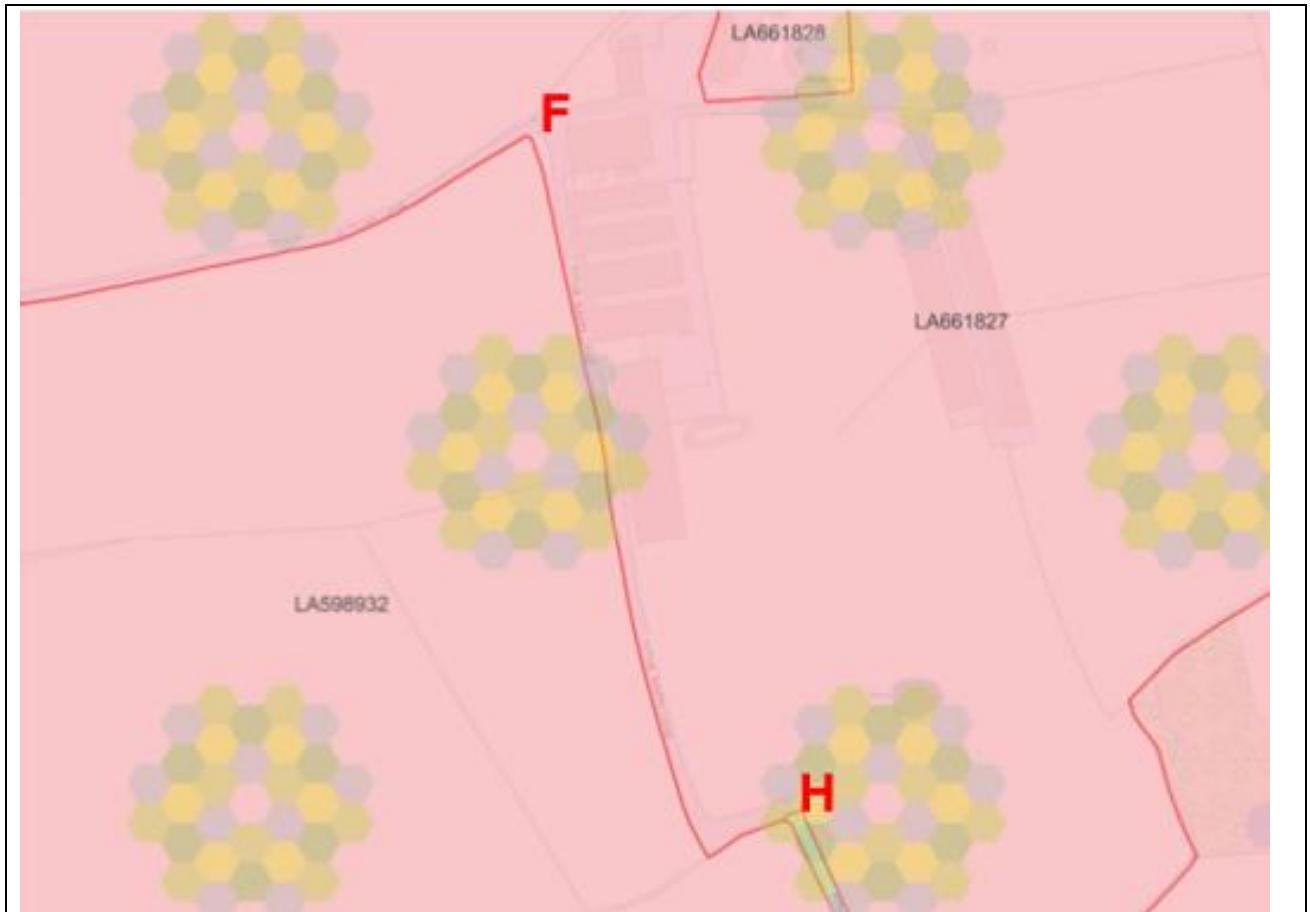
-  **Start/End:** Seven Stars pub (car park available).
-  **Amenities at start/end:** Convenience stores selling takeaway coffee, cold drinks, snacks.
-  **Along the way:** Play area, café, miniature railway and playing fields at Worden Park.
-  **About the route:** Fairly quiet roads except for short stint on B5253 (occasionally used by larger vehicles). This is a lovely flat route with lots of opportunities for other activities near the end. There is also the possibility of linking with the Seven Stars West route for a longer ride.



Observations		A leaflet promoting a cycle route to members of the public was located on the South Ribble
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		Borough Council website. The route includes use of the application route but gives no indication regarding the legal status of the route or whether access to use it has been given by the relevant landowners or whether use is considered to be as of right.
Investigating Officer's Comments		No information has been found regarding permission granted for the inclusion of the route in the cycling leaflet and it is noted by the Investigating Officer that unlawful stiles currently located adjacent to buildings at Altcar Farm would make access difficult for cyclists.
Landownership		Landownership information obtained from the Land Registry.





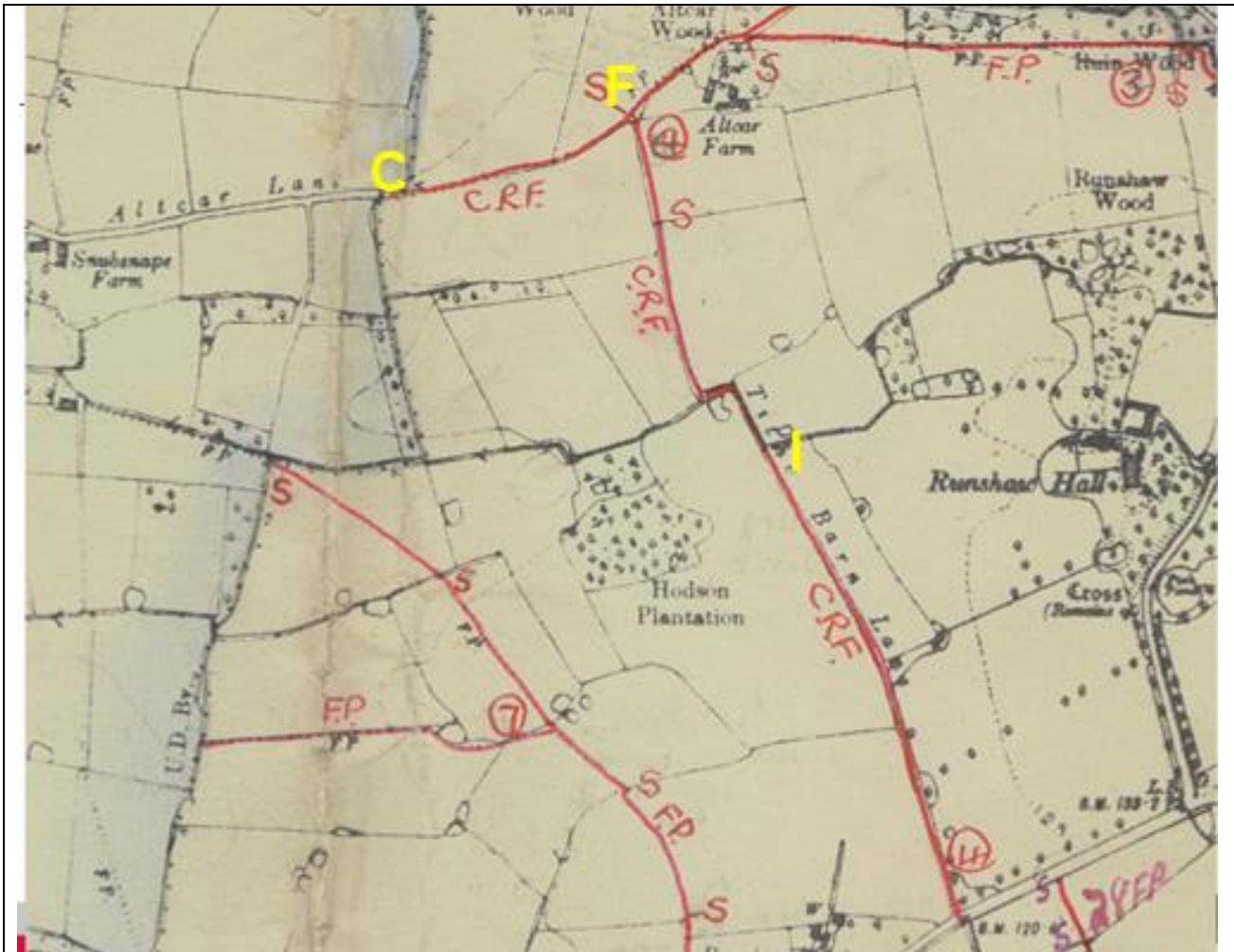
Observations

The Land registry documentation shows that much of the application route is under the registered title LA661827 although the first part of the route from point A to point B is unregistered and from point H through to point I and continuing along the rest of Tithe Barn Lane to the junction with Runshaw Lane ownership of the lane is also unregistered.

With regards to the land crossed by the application route that is recorded as being owned, it appears that the land was formerly in the ownership of Sir Henry Francis Colden until, on 16 December 1974, it was transferred to the Central Lancashire New Town Development Corporation. The land was owned by them until 1991 when it was sold to the current owner Mr John Coulthurst. The Land Registry title refers to the land being sold with a right for Mr Coulthurst to pass and repass along parts of Altcar Lane and Tithe Barn Lane to access Altcar Farm and also allowing for him to grant a right either expressly or by implication for others to pass along it with or without vehicles and animals.

A search of the online catalogue at the County Records Office was made regarding records relating to the Central Lancashire New Town

		Development Corporation but no reference to Altcar Farm or the application route was found.
Investigating Officer's Comments		The ownership of part of the route (points A-C and G-I) is largely consistent with the Finance Act documentation. However, the fact that a substantial part of the route is in private ownership is consistent with the fact that the middle section was shown gated and unenclosed until more recent times and is perhaps more suggestive of a route carrying historical footpath or bridleway rights than a public vehicular route.
Definitive Map Records		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. Records were searched in the Lancashire Records Office to find any correspondence concerning the preparation of the Definitive Map in the early 1950s.
Parish Survey Map	1950-1952	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.



Extract from the Parish Survey Map of Euxton

DISTRICT	CHORLEY CURAH	PARISH	EUXTON	No.	H.C.R.F.
MAP SHEET No.	1.	LENGTH	0.60 miles	(to two decimal places)	
BRIEF DESCRIPTION (Field F.P. or otherwise)	Occupation Road.			F.P.	
DETAILED DESCRIPTION (giving starting point, means of passage and general condition).	<p>From County Road Leaves Runshaw Mead opposite Guest's Farm & proceeds in northerly direction to join F.P. No 3 at post stile near Allcar Farm. Condition good all the way.</p>				
SURVEYED BY:—	Name	M ^r J Turner	W ^r R O'Huan		
	Address	13. St Margarets	24 Runshaw Lane		
		Euxton	Euxton		
Date					

DISTRICT CHORLEY KURAH PARISH KUXTON No. 5 F.P.
 MAP SHEET No. 1 LENGTH 0.72 miles
 (to two decimal places)
 BRIEF DESCRIPTION (Field F.P. or otherwise)
Field Footpath F.P.
 DETAILED DESCRIPTION (giving starting point, means of passage and general condition).
Entrance by gap at south end of wall over Shaw Brook in Runshaw Lane following course of stream to stile at Ruin wood. Straight forward to stile in copse at Altcar Farm. Path had well defined in latter stretch to farm. Path then curves round farm through trees over swampy + cesspool covered ground, very bad to traverse. Then follows bridlepath to parish boundary through post stile.
 SURVEYED BY :- Name Mr J Turner Mr R O'Han
 Address 13 St Mary's Gate 24 Runshaw Lane
Kuxton Kuxton
 Date 5.11.55
 90001 F.29-1-50

Parish Survey cards for Footpaths 3 and 4

some systematic and consistent basis throughout the parish.

- (i) Public paths should be distinguished on the maps (in the first instance in *ordinary pencil*) with the symbols "F.P.", "B.R.", "C.R.F.", or "C.R.B.", as explained in section 4 below, irrespective of what is printed on the Ordnance Survey.

8

SYMBOLS TO BE USED IN MARKING MAPS

(Mark the symbols in CAPITALS)

KIND OF PATH	Mark
Footpath	F.P.
Bridle Road (including Driftway for cattle)	B.R.
Public Carriage or Cart Road mainly or Green (unmetalled) Lane used as	{ (1) Footpath C.R.F. (2) Bridleway C.R.B.
MEANS OF PASSAGE	
Cartbridge	C.B.
Footbridge	F.B.
Stepping Stones	S.S.
Fieldgate	F.G.

Extracts from the Commons, Open Spaces and Footpaths Preservation Society publication 'Surveys and Maps of Public Rights of Way for the Purposes of Part IV of the National Parks and Countryside Act 1949' published in 1950

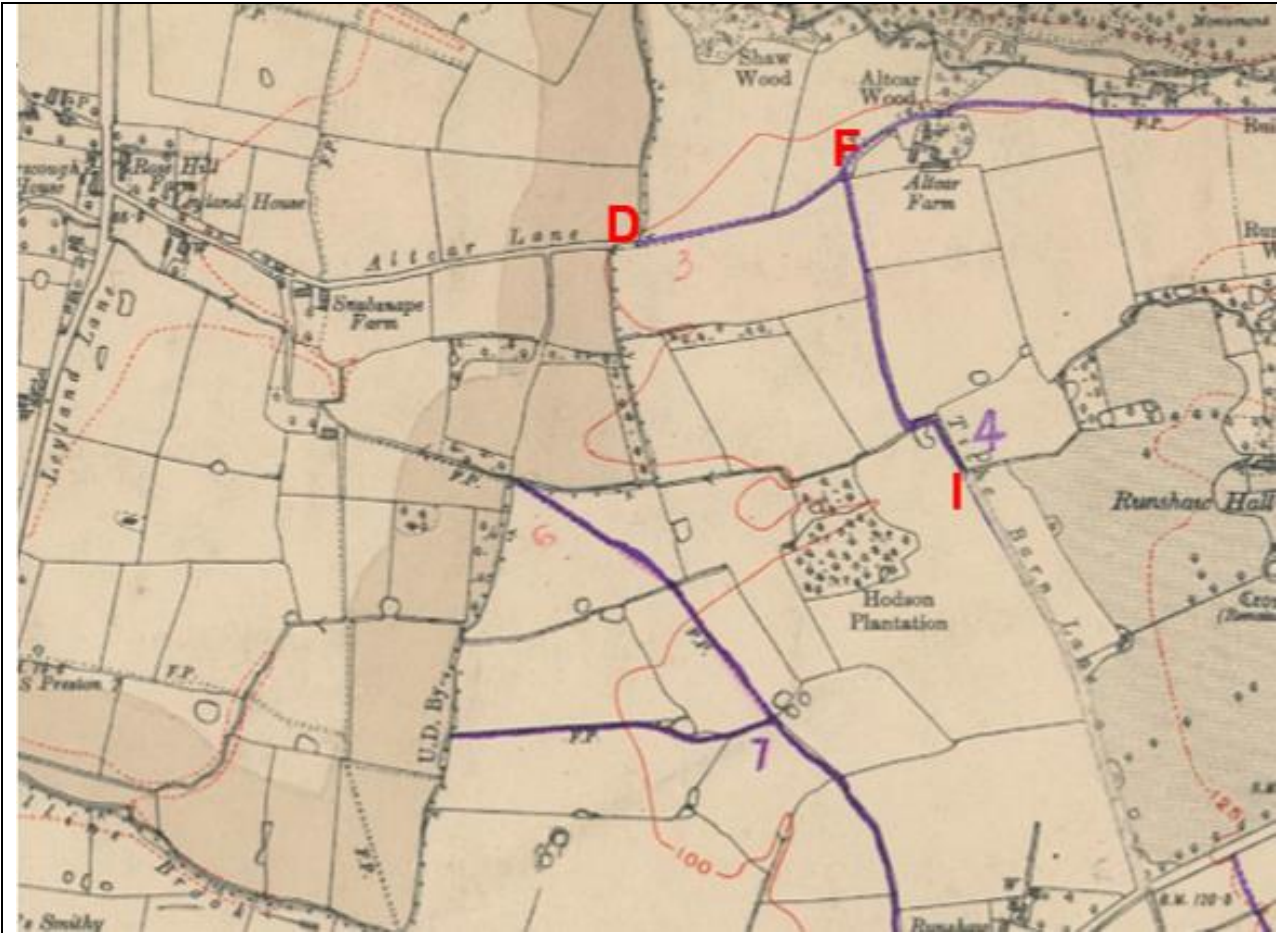
<p>Observations</p>		<p>In the 1950s, that part of the application route between point A and point D was in the former Urban District of Leyland for which no parish survey map or cards were produced.</p> <p>The remainder of the route is within the parish of Euxton which was in the Rural District of Chorley. Between point D and point F the application route was recorded as part of Footpath 3. The parish survey card described it as a field footpath running in an east to west direction around the back of Altcar Farm 'to then follow bridlepath to parish boundary'. Between point D and point F – which was described as a 'bridlepath' in the survey card, the route is also annotated on the parish survey map with the abbreviation 'C.R.F' which meant Public carriage or cart road or green (unmetalled) lane mainly used as footpath according to the instructions issued to parish councils for completing the parish survey map by the Open Spaces Society. A stile was shown on the parish survey map at point F although it was not clear whether this was on the route of FP 3 or FP 4.</p> <p>From point F through to point I the application is shown as part of footpath 4 which continued south of point I along the full length of Tithe Barn Lane to the junction with Runshaw Lane. This route was also annotated with the letters 'C.R.F' meaning public carriage or cart road or green lane (unmetalled) mainly used as footpath with a stile marked at point F and one at point G. The parish survey card described the route as an occupation road from the county road (Runshaw Lane) in a northerly direction to join FP 3 at post and stile near to Altcar Lane. It was described as being in good condition.</p>
<p>Draft Map</p>		<p>The parish survey map and cards for Euxton 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</p>

were held into these objections, and recommendations made to accept or reject them on the evidence presented.



		Balcarres Road.	0.21	None known.
45.	Footpath.	Altcar Lane from the east end of the adopted portion near Shrubnape Farm eastwards to the Leyland U.D. boundary, thence into Chorley R.D. through Altcar Farm to Holt Brow.	0.23	None known.
46.	Footpath.	From Leyland Lane north of and parallel to Altcar Lane joining footpath No. 20.	0.16	None known.

Draft Map Leyland Urban District



3	"	Runshaw Lane at Holt Brow past Altcar Farm to Parish Boundary at Altcar Lane.	0.72
4	"	From County Road to join Footpath No. 3 at Altcar Farm.	0.26

Chorley Rural District Draft Map

<p>Observations</p>	<p>The Draft Map for Leyland Urban District Council recorded the application route from point A through to point D as route 45. The Draft Statement described it as a footpath named as Altcar Lane extending from the eastern end of the adopted section of Altcar Lane to the boundary of Leyland Urban District and onwards past Altcar Farm.</p> <p>The Draft Map for Chorley Rural District Council showed the application route between point D and point F and between point F and point I as footpaths (coloured purple). The section between point D and point F is not numbered on the map. Between point F and point I the route is numbered 4.</p> <p>The Draft Statement records the application route between point D and point F as part of Footpath 3 which runs from Runshaw Lane past Altcar Lane</p>
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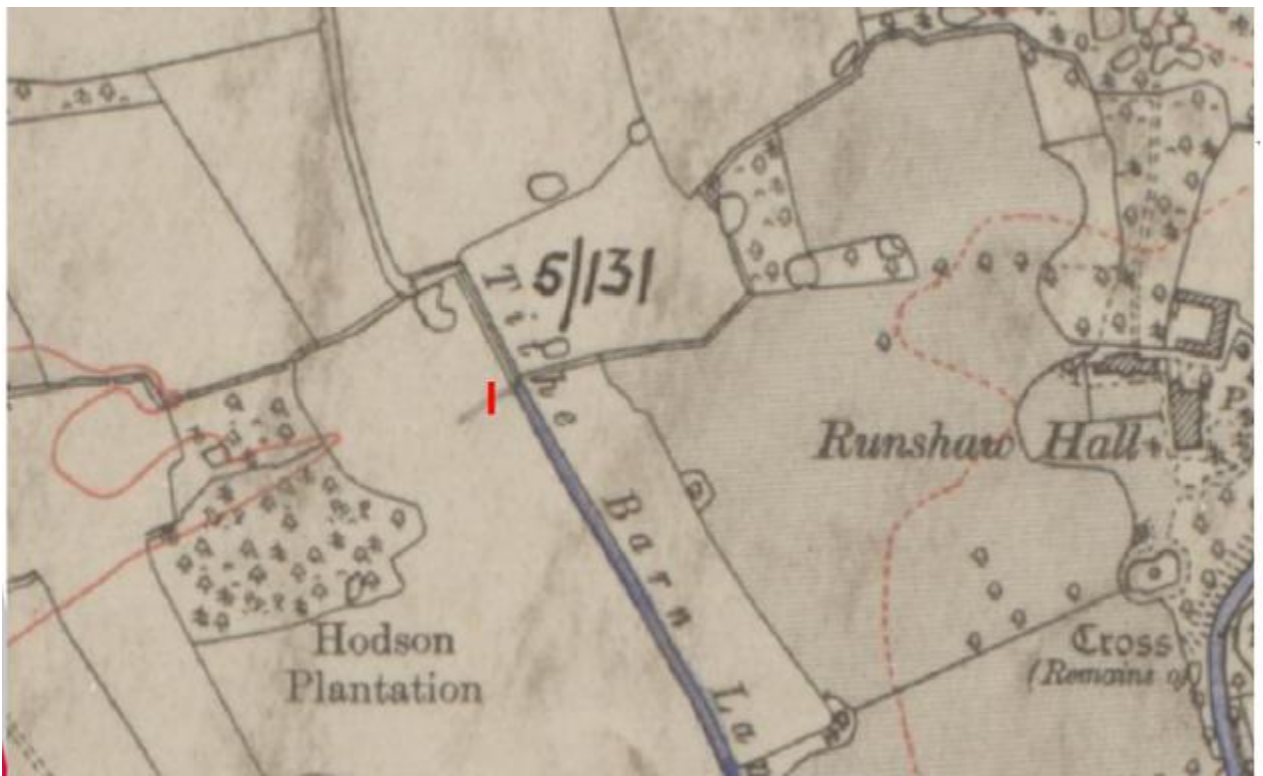
		<p>through to the parish boundary at point D.</p> <p>Footpath 4 is described in the Draft Statement as being from the County Road to join Footpath 3 at Altcar Farm.</p>
Provisional Map		<p>Once all representations relating to the publication of the draft map were resolved, the amended Draft Map became 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. Objections by this stage had to be made to the Crown Court.</p>
Observations		<p>The application route was shown in the same way on the Provisional Map as it had been shown on the earlier Draft Map and no objections or representations were made regarding its inclusion or the fact that it was shown as a footpath.</p>
The First Definitive Map and Statement		<p>The Provisional Map, as amended, was published as the Definitive Map in 1962.</p>
Observations		<p>The application route was shown on the First Definitive Map as a footpath.</p>
Revised Definitive Map of Public Rights of Way (First Review)		<p>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 25th 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 1st 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.</p>



Observations		The application route is recorded on the Revised Definitive Map and Statement as a public footpath.
Investigating Officer's Comments		<p>When the parish survey maps were completed by Euxton Parish Council in 1950 both Altcar Lane and Tith Barn Lane were marked up on the map as being public carriage or cart roads used mainly as footpaths suggesting that whilst the parish council considered that they were historical public carriage or cartways that they were used predominantly by the public on foot by the 1950s.</p> <p>When the Draft Maps were prepared and published the application route was shown as a footpath by Leyland Urban District Council and also by the County Council. Since 1953 through to 1975 there is no evidence that the application route was considered to be anything other than a footpath.</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 rural district councils to the County Council. For the purposes of the transfer, public highway 'handover' maps were drawn up to identify all of the publicly maintainable highways within the district. These were based on existing Ordnance Survey maps and edited to mark those routes that were publicly maintainable. 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</p>

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.

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 expense. Whether a road is maintainable at public expense or not does not in itself determine whether it is a highway or not.



Chorley RD Handover Map Sheet 77NW



Extracts from the county council highway records showing the two adopted sections of Altcar Lane and Tithe Barn Lane

Observations		<p>The application route is not recorded as a publicly maintainable highway on the county council's list of Streets or the Handover Maps derived from records held by Chorley RDC.</p> <p>We have no records to explain why only the first parts of Altcar Lane and Tithe Barn Lane were recorded as publicly maintainable highways on the List of Streets.</p>
Investigating Officer's Comments		<p>The fact that the route is not recorded as a publicly maintainable highway does not mean that it does not carry public rights in addition to the footpath rights already recorded but it offers no support to the assertion.</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 made by Districts and the County Council since that date.</p>
Observations		<p>A search of records held at the County Records Office and also those held by the London Gazette was made and no legal orders affecting the application route were found.</p>
Investigating Officer's Comments		<p>There is no record of any public rights that may be found to exist along the application route having been legally extinguished.</p>

<p>Statutory deposit and declaration made under section 31(6) Highways Act 1980</p>		<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>
<p>Observations</p>		<p>No Highway Act 1980 Section 31(6) deposits have been lodged with the county council for the area over which the application route runs.</p>
<p>Investigating Officer's Comments</p>		<p>There is no indication by the landowners under this provision of non-intention to dedicate public rights of way over this land.</p>

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

Summary

It is rare to find one single piece of map or documentary evidence which is strong enough to conclude that public rights exist – or in this particular case – that additional/higher public rights exist and it is often the case that we need to examine a body of evidence, often spanning a substantial period of time, from which public rights can be inferred.

The application route is not shown on any of the small scale early commercial maps examined and although it may have existed it does not appear to have been considered a substantial vehicular route at that time.

The earliest map examined to show the route (between point A and point D) was the Tithe Map of Leyland 1838 which also indicated that the route continued east beyond the parish boundary. The section between point A and point D was shown as a substantial bounded route but not listed as a public route. The rest of the route was shown on the Tithe Map for Euxton in 1847. Between point D and point F – leading to Altcar Lane – the route was recorded as being a road but significantly it was described as being in private ownership. From point F to point G the route was shown but its status was unclear as it was included in a plot described as 'Barn Field' which was privately owned and occupied and for which a tithe was payable, and south from point G the route was clearly listed as a public road.

Whilst the Tithe Maps confirm that the route existed as a gated through route at the time of the tithe surveys the way that it was depicted suggests that the route – particularly between point A and point F primarily existed as vehicular access to Altcar Farm although it does appear that a through route did exist and would have been capable of being used from point A passing through point F to point I (and beyond). The section G-I may have been part of the public section but there is no further evidence of that and it is suggested that on balance the evidence of public rights on G-I is insufficient.

With regards to its inclusion on the Ordnance Survey maps, it has generally been considered that OS maps show the physical situation at the time of the survey without regard for whether they had public rights, although there was no disclaimer prior to 1888. Despite this there is now a growing awareness by academics that by the end of the 19th Century the Ordnance Survey were selling large numbers of maps to members of the public and promoting the advantages in finding ways that they could travel in unfamiliar areas, which does have the implication that those routes depicted were likely to be public to some extent. However, it remains the case that the main inference from these maps is the existence of the route providing access to and from Altcar Farm but it does appear that a through route existed over a considerable period of time of substantial character which could have been accessible to the public – at least on horseback – since the mid 1800s.

The 1910 Finance Act documentation shows that whilst part of the route is shown to be excluded from the numbered hereditaments (A-D and H-I) - consistent with a belief at that time that the route carried public vehicular rights - the middle section from point D to point H is included in a numbered plot for which no deductions for public rights of way was listed.

The route is shown on the Bartholomew maps produced in the first half of the 1900s reaffirming that it existed as a substantial route which appeared to be considered by that time as being more than a footpath or bridleway. It was not denoted as being a public vehicular route of a good enough standard to be recommended for cyclists but its inclusion as an uncoloured road suggested that it physically existed as a substantial route in the early 1900s which would have been capable of being used at least on horseback and by the 1940s it was referred to as a bridlepath between point D and point F by the parish council when completing the parish survey map, whilst only recording public footpath rights.

Since the 1960s use of the route by vehicles accessing Altcar Farm appears to have greatly increased leading to the enclosure of the whole route separating it from adjacent fields and removal of a number of gates along the route, and also to the tarmacking of the route to provide access to and from the poultry farm.

User evidence was not submitted as part of the application although it was noted that the applicant referred to the fact that such evidence was available and that it could be obtained if necessary.

The site evidence concurs with the fact that the route could have been used by horses until more recently when part of the route was unlawfully blocked adjacent to the poultry farm and stiles erected.

In conclusion, a range of OS, commercial maps and other documents were examined which seem to suggest that the route probably came into existence to provide access to Altcar Farm and that it was consistently shown as a gated through route from the mid-1800s. It is consistently shown to exist on small scale OS maps and the Bartholomew maps examined since the mid-1800s which is suggestive of public vehicular use during that time but weighing against this is the fact that it did not appear to be considered to be a public vehicular through route when the Tithe Map was produced and that the middle section of the route was not excluded as part of the Finance Act valuation in the early 1900s.

Taking all the evidence into consideration it appears that the route probably existed since the mid 1800s to provide access primarily to and from Altcar Farm but from the evidence available it is not possible on balance to infer that public bridleway rights existed.

Head of Service – Legal and Democratic Services Observations

Landownership

The section of the application route from A to C crosses land which is unregistered. The land crossed by the application route from C to H is in private ownership. The section of the application route from H to I crosses land which is unregistered.

Information from the Applicant

Information provided by the applicant has been considered in the map and documentary evidence section of this report.

Information from Others

Homes England, an adjacent landowner of the application route, responded to consultation by stating their land would not be affected by the proposed upgrade.

Another adjacent landowner, Lovell Partnerships Limited, responded by highlighting the exact area of land which is in their ownership. They stated that their boundary only forms a very small section of the proposed bridleway.

A further adjacent landowner responded to consultation by highlighting the exact area of land they own. They also requested further information as to what implications an upgrade to a bridleway would entail, a response has been sent.

Another adjacent landowner responded to consultation by stating they object to the proposed upgrade.

Atkins Global have responded to consultation by saying they have no objection to the proposed upgrade.

A single user provided a completed user evidence form independent of the application, the details of which are summarised below.

The user has used the application route since 1960 and continues to use it to the present day. They noted that they did not use the route for an extended period of time from 1979-1989. The reason for this was that they had small children and used vehicle transport instead.

The purpose of the users' use of the application route was for pleasure. They stated that they have used the application route monthly on foot, weekly on horseback and weekly by pedal bike. Additionally, they noted that they have seen other people using the exact same route as them on foot, on horseback and on a bicycle/horse-drawn vehicle.

The user stated that the route was approximately 2 metres wide and says the surface was made up of 'hard surface lane, then earth track for about 100 metres, then hard surface lane again'.

The user says there are now stiles in place on the application route. They noted that the stiles make it hard for them to use the full route when walking and impossible to use the full route when cycling (without carrying the bike over which the user describes as 'not doable'). The user states the stiles have not always been in place on this route.

Information from the Landowner

One owner of land crossed by the application route responded to consultation to state that they will object to the proposed upgrade.

Assessment of the Evidence

The Law

Conclusion

In this matter there is an application that the route be upgraded on the Definitive Map and Statement to be recorded as a bridleway.

There is no express dedication in this case.

As such committee must examine whether there is an inferred dedication under common law or a deemed dedication by statute under section 31(1) Highways Act 1980.

Committee therefore is advised to consider whether there is sufficient evidence from all the circumstances to infer at common law that owners of this route intended dedicating or whether there is evidence of twenty years use by sufficient users without sufficient evidence of a lack of intention to dedicate from which dedication could be deemed under S31 Highways Act 1980.

Committee will appreciate the importance of the words 'sufficient evidence' with regard to their findings.

'User evidence' was not submitted as part of the application but there was a lone public right of way user statement documenting one person's use of the route on foot, horseback and pedal cycle. However, it would be considered that one account of use of any route without sufficient detail must be classed as trivial and sporadic and cannot be sufficient to satisfy the criteria under s31 Highways Act 1980 and the Committee is advised to instead consider if an inference of dedication is possible on balance of the all the evidence at common law.

The majority of the evidence to be deliberated therefore is historical documentation and whether there is sufficient evidence from which to infer on balance that the owners of this old route intended the route to be a bridleway or other highway open to the public.

The evidence has been summarised and evaluated earlier within the report. It is sometimes difficult to evaluate whether there is sufficient evidence of it being dedicated as public. There is insufficient user evidence in this case and so the evidence comes from balancing what the documentary evidence shows.

As such, on balance and given the nature of the evidence it is advised that the evidence of it having become a public bridleway is insufficient.

The recommendation is that the application be not accepted and no Order be made based on the evidence available.

Risk management

Consideration has been given to the risk management implications associated with this application. The Committee is advised that the decision taken must be based solely on the evidence contained within the report, guidance contained both in the report and within Annex 'A' included in the Agenda Papers, officers' presentation and discussion. Provided any decision is taken strictly in accordance with the above then there is no significant risks associated with the decision making process.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper

Date

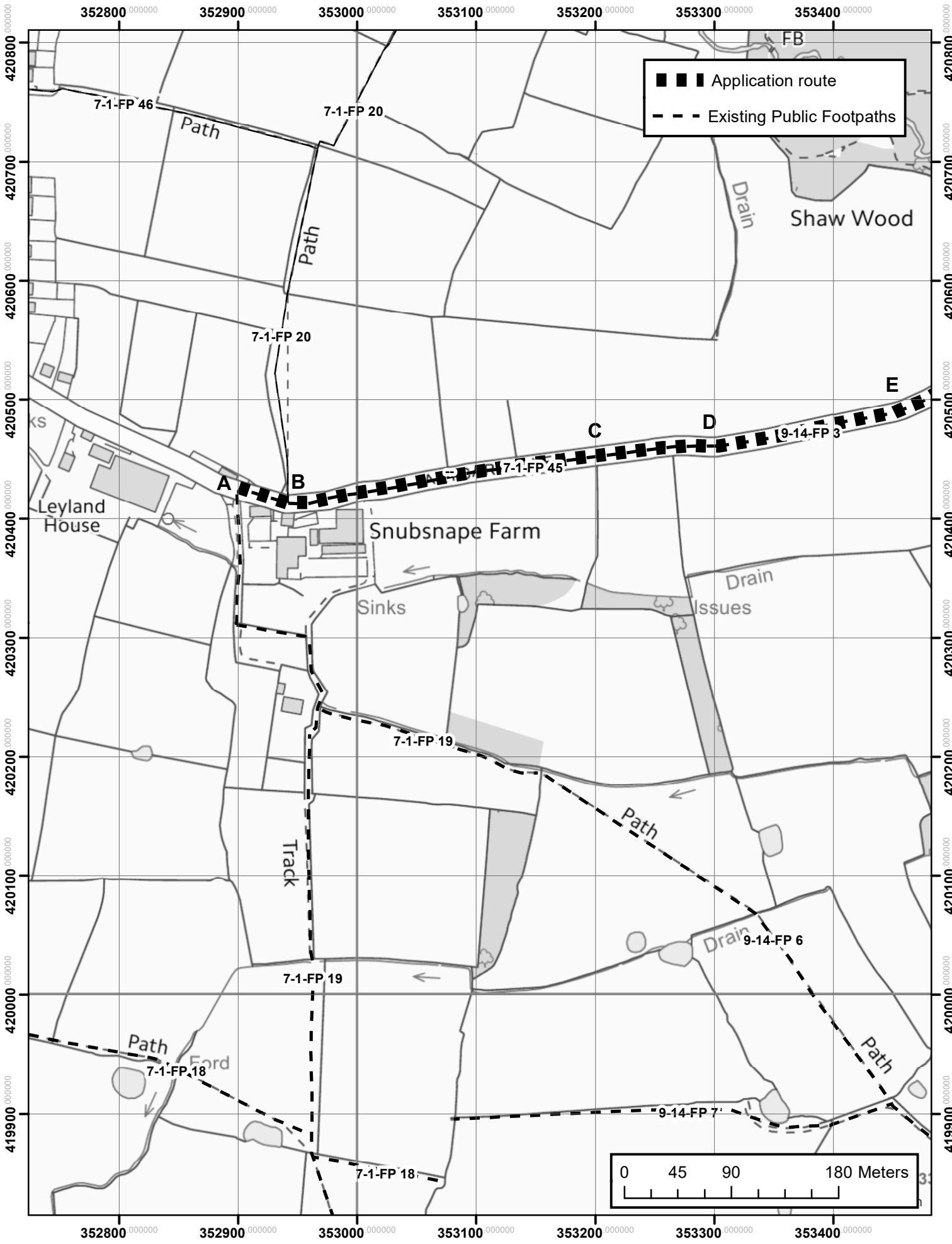
Contact/Directorate/Tel

All documents on File Ref:
804-632

Annabel Mayson, 01772
533244, County Secretary
and Solicitors Group

Reason for inclusion in Part II, if appropriate

N/A



Public Rights of Way
 PROW@lancashire.gov.uk
 01772 530317

Wildlife and Countryside Act 1981
 Upgrade of Footpath along Altcar Lane, Leyland and Tithe Barn Lane, Euxton to Bridleway
 Application 804-632

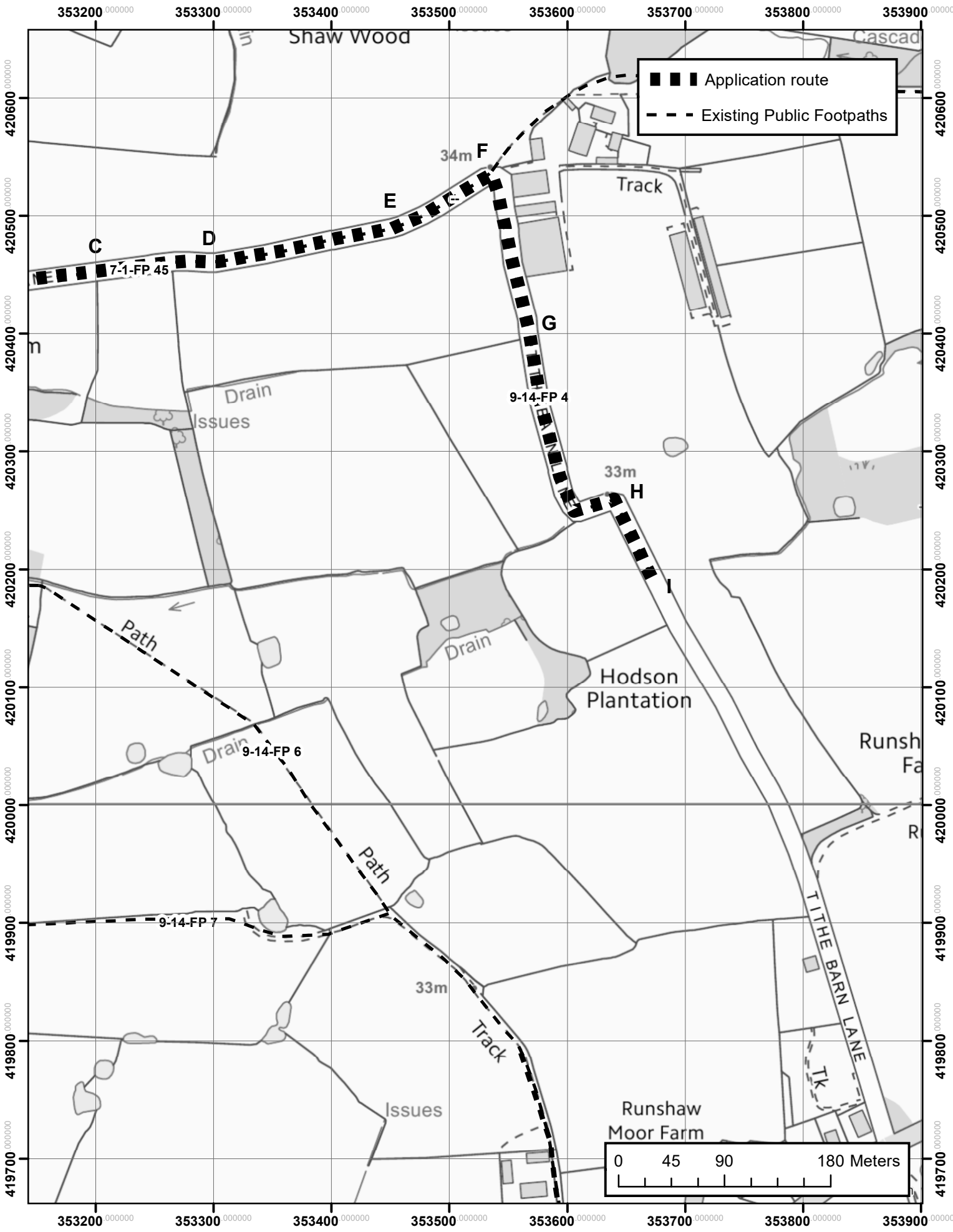
1:4,000



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Plan 1/2



Public Rights of Way
 PROW@lancashire.gov.uk
 01772 530317

Wildlife and Countryside Act 1981
 Upgrade of Footpath along Altcar Lane, Leyland and Tithe Barn Lane, Euxton to Bridleway
 Application 804-632

1:4,000



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Plan 2/2

Regulatory Committee

Meeting to be held on 08 March 2023

Part I

Electoral Division affected:
Wyre Rural Central

Highways Act 1980 – Section 119
Wildlife and Countryside Act 1981 – Section 53A
Proposed Diversion of Part of Footpath 2-21-29 at Croftlands, Pilling
(Annexes 'B' and 'C' refer)

Contact for further information:

Mr A Ibison, Planning and Environment Group
07773 135050, adrian.ibison@lancashire.gov.uk

Brief Summary

The proposed diversion of part of Footpath 2-21-29 at Croftlands, Pilling.

Recommendation

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath 2-21-29 from the route shown by a bold continuous line and marked A-B-C to the route shown by a bold broken line and marked A-D-E on the attached map.
- (ii) That in the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its confirmation.
- (iii) That provision be included in the Order such that it is also made under Section 53A of the Wildlife and Countryside Act 1981, to amend the Definitive Map and Statement of Public Rights of Way in consequence of the coming into operation of the diversion.

Background

A request has been received from the owners of the residential property of Croftlands, Moss House Lane, Pilling, for an Order to be made under Section 119 of the Highways Act 1980, to divert part of Footpath 2-21-29.

The recorded alignment of the footpath is through the residential and private garden areas of the property, then through the private gardens of a neighbouring residential property, then into an adjacent field. It is proposed that the footpath is diverted to run on the private driveway to Croftlands then a short distance into the adjacent field to where the footpath currently enters the field.

The length of existing path to be diverted is shown by a bold continuous line and marked on the attached map as A-B-C, and the proposed new route is shown by a bold broken line and marked A-D-E.

Consultations

The Local Member, Wyre Borough Council and Pilling Parish Council have been consulted and at the time of writing, there was no adverse response.

The Peak and Northern Footpaths Society and the Wyre branch of the Ramblers have been consulted and there was no adverse response.

The consultation with the statutory undertakers has been carried out and no objections or adverse comments on the proposal have been received.

Advice

Points annotating the routes on the attached map

Point	Grid Reference	Description
A	SD 4196 4796	10m east of the north-western corner of the pasture field adjacent to the access track to Croftlands.
B	SD 4187 4795	Western boundary of Croftlands adjacent to a drainage ditch.
C	SD 4189 4789	Northern boundary of Moss House Lane, between the residential properties of Well Gardens and Moss Lea.
D	SD 4195 4796	Field gate at north western corner of pasture.
E	SD 4196 4787	Open junction of access track with Moss House Lane.

Description of existing footpath to be diverted

That part of Footpath 2-21-29 as described below and shown by a bold continuous line marked A-B-C on the attached map. (All lengths and compass points given are approximate).



FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A	B	NW then WSW	105	The entire width
B	C	SSE	60	The entire width

Description of new footpath

Footpath as described below and shown by a bold broken line A-D-E on the attached map. (All lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A	D	WSW	10	2	Grass
D	E	SSE	90	3.5	compacted stone

The public footpath to be created by the proposed Order will be subject to the following limitations and conditions:

<u>Limitations and Conditions</u>	<u>Position</u>
The right of the owner of the soil to erect and maintain a kissing gate that conforms to BS 5709:2018	Grid Reference SD 4195 4796 (point D)

Variation to the particulars of the path recorded on the Definitive Statement

If this application is approved by the Regulatory Committee, the Head of Service Planning and Environment suggests that Order should also specify that the Definitive Statement for Footpath Pilling 29 be amended to read as follows:

"No. of Path:
29

Kind of Path:
Footpath

Position:
Horse Park Lane to SD 4196 4796, continuing WSW to Croftlands' access track at SD 4195 4796 then SSE along the access track to Moss House Lane at SD 4196 4787.
(All compass points given are approximate).

Length:
0.33 km



Other Particulars:

The only limitations on the section between SD 4196 4796 and SD 4196 4787 is the right of the owner of the soil to erect and maintain a kissing gate that conforms to BS 5709:2018 at SD 4195 4796.

The width between SD 4196 4796 and SD 4195 4796 is 2 metres and from SD 4195 4796 to SD 4196 4787 is 3.5 metres."

Criteria satisfied to make and confirm the Order

The proposed diversion is considered expedient in the interests of the owners of the land for reasons of privacy and security. 'Croftlands', and the adjacent house 'Well Gardens', are private, residential properties. Currently the public footpath runs through the garden of Croftlands, adjacent to the dwelling, then through the grounds of Well Gardens.

The diversion will instead continue in the adjacent pasture for an additional 10 meters, then it will continue on the Croftlands access track to join Moss House Lane, removing it entirely from the gardens of both properties. This will significantly increase the privacy and security of the residential dwellings, whilst providing a route that is safe, convenient and slightly more direct for public use.

The legislation requires that if the termination point of a footpath is proposed to be altered then the authority may only make a Diversion Order if the new termination point is on the same path or a path connected to it and is substantially as convenient to the public. The proposed diversion will alter the south western point of termination of Footpath 2-21-29 to divert it from its current termination point on Moss House Lane to another point on Moss House Lane 70 meters to the east. In some instances that could be considered to be less convenient. However, in this case, there is already the need to walk on the road and the extra length is on a straight section of road where visibility is good. It is suggested that the proposed termination point is substantially as convenient to the public.

The Committee are advised that so much of the Order as diverts part of Footpath 2-21-29 is not to come into force until the county has certified that the necessary work to the alternative route has been carried out.

There is no apparatus of which we are aware at the time of writing belonging to or used by statutory undertakers under, in, upon, over, along or across the land crossed by the present route.

It is advised that the proposed Order, if confirmed, will not have any adverse effect on the needs of agriculture and forestry and desirability of conserving flora, fauna and geological and physiographical features. It is also suggested that the proposal will not have an adverse effect on the biodiversity or natural beauty of the area.

The applicants own the land crossed by a majority of the existing route. The owners of the section B-C, and the owners of the track on the proposed route D-E have confirmed that they are in agreement with the proposal and that they would not raise any objection if a Diversion Order is made.



The applicants have agreed to bear all advertising and administrative charges incurred by the county council in the Order making procedures, and also to defray any compensation payable and any costs which are incurred in bringing the new site of the footpath into a fit condition for use for the public.

Should the Committee agree that the proposed Order be made and, subsequently, should no objections be received to the making of the Order, or should the Order be submitted to the Secretary of State for Environment, Food and Rural Affairs for confirmation, it is considered that the criteria for confirming the Order can be satisfied.

It is felt that the path or way will not be substantially less convenient to the public in consequence of the diversion because the alternative route is slightly more direct, runs over firm ground and has a similar gradient to the existing footpath.

It is suggested that, if the Order was to be confirmed, there would be no adverse effect with respect to the public enjoyment of the footpath or way as a whole. As the existing footpath connects to other parts of the public rights of way network via Moss House Lane it is suggested that many users might find a walk on the new route to be more convenient. Also, because the new footpath will utilise the access track to Croftlands, some users of the footpath may feel more comfortable and at ease when passing through the vicinity of Croftlands on the access track than when walking through the private grounds of the residential properties.

It is felt that there would be no adverse effect on the land served by the existing route or the land over which the new path is to be created, together with any land held with it. Compensation for any material loss could be claimed by a landowner or someone with rights to the land under the provisions of the Highways Act 1980 Section 28. However, such loss is not expected, affected landowners have indicated agreement and if a claim were to arise, the compensation is underwritten by the applicants.

It is also advised that the needs of the disabled have been actively considered and as such, the proposal is compatible with the duty of the county council, as a Highway Authority, under The Equality Act 2010. The alternative route will be of adequate width, firm and well drained underfoot and the gate proposed to be installed on the route will conform to the British Standard for gaps, gates and stiles BS5709:2018.

Further, it is also advised that the effect of the Order is compatible with the material provisions of the county council's 'Rights of Way Improvement Plan'.

It is considered that having regard to the above and all other relevant matters, it would be expedient generally to confirm the Order.

Stance on Submitting the Order for Confirmation (Annex C refers)

It is recommended that the county council should not necessarily promote every Order submitted to the Secretary of State at public expense where there is little or no public benefit and therefore it is suggested that in this instance the promotion of this diversion to confirmation in the event of objections, which unlike the making of an Order is not rechargeable to the applicant, is not undertaken by the county council. In the event of an Order being submitted to the Secretary of State the applicant can support or

promote it to confirmation, including participation at public inquiry or hearing. It is suggested that the authority takes a neutral stance.

Other options to be considered

To not agree that the Order be made.

To agree the Order be made but not yet be satisfied regarding the criteria for confirmation and request a further report at a later date.

To agree that the Order be made and promoted to confirmation by the county council.

To agree that the Order be made and if objections prevent confirmation of the Order by the county council that the Order be submitted to the Secretary of State to allow the applicant to promote confirmation, according to the recommendation.

Implications:

This item has the following implications, as indicated:

Risk management

Consideration has been given to the risk management implications associated with this application. The Committee is advised that the decision taken must be based solely on the evidence contained within the report, guidance contained both in the report and within Annexes 'B' and 'C' included in the Agenda Papers, officers' presentation and discussion. Provided any decision is taken strictly in accordance with the above then there is no significant risks associated with the decision making process.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Tel
None		
Reason for inclusion in Part II, if appropriate		
N/A		



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342000 000000

448000 000000

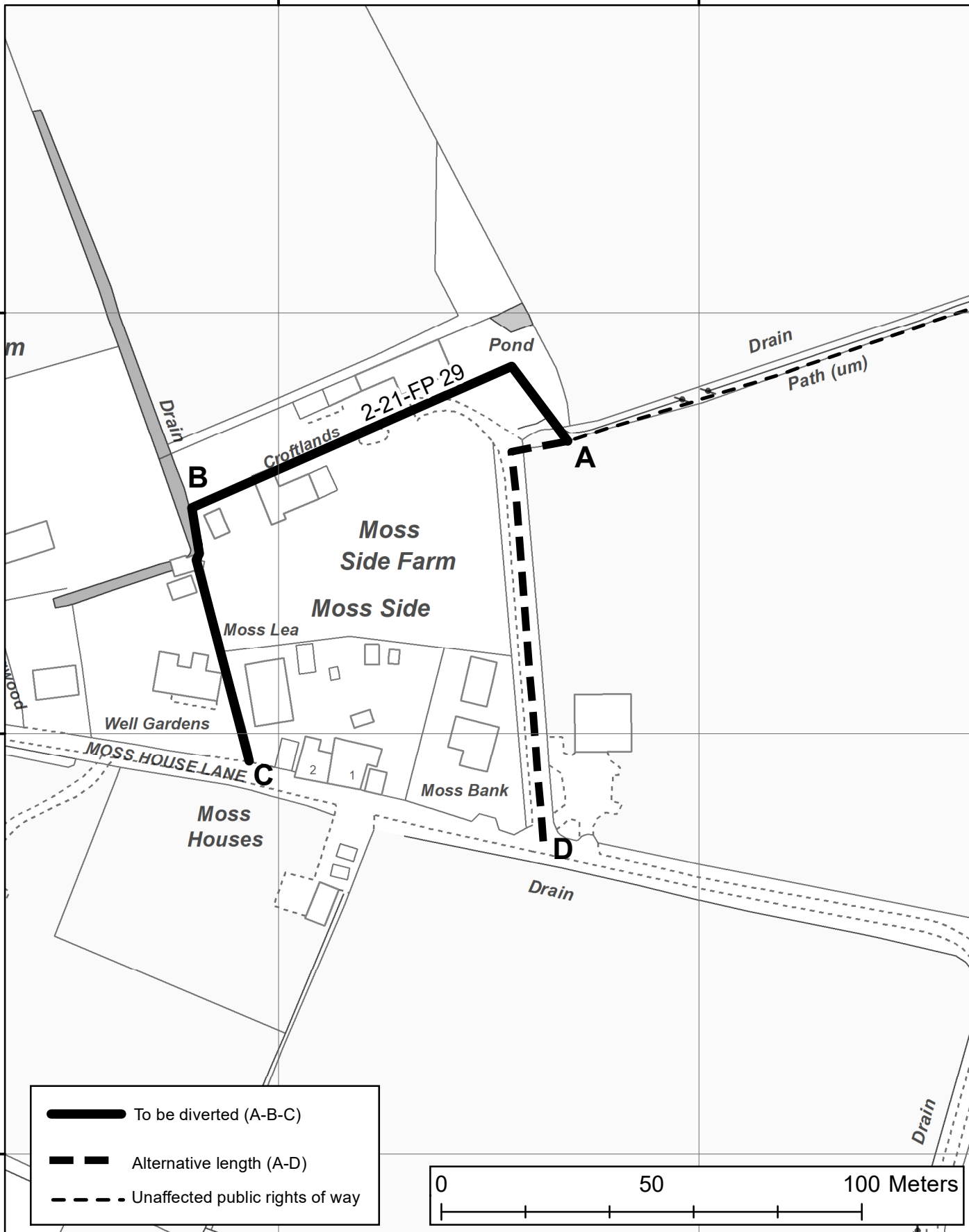
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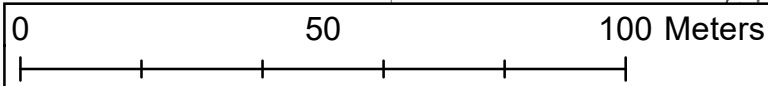
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	To be diverted (A-B-C)
	Alternative length (A-D)
	Unaffected public rights of way



Lancashire
County Council
Contact:
Public Rights of Way
powdiversions
@lancashire.gov.uk
07773 135050

Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Diversion of part of Footpath Pilling 29
at Croftlands, Pilling, Wyre.

Plan no.
211-736 v1



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Regulatory Committee

Meeting to be held on 08 March 2023

Part I

Electoral Division affected:
Longridge with Bowland

Highways Act 1980 – Section 119
Wildlife and Countryside Act 1981 – Section 53A
Proposed Diversion of Part of Footpath 3-2-29 at Clifton Lodge, Longridge
(Annexes 'B' and 'C' refer)

Contact for further information:

Mr A Ibison, Planning and Environment Group
07773 135050, adrian.ibison@lancashire.gov.uk

Brief Summary

The proposed diversion of part of Footpath 3-2-29 at Clifton Lodge, Longridge.

Recommendation

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath 3-2-29, from the route shown by a bold continuous line and marked A-B-C-F and C-D to the route shown by a bold broken line and marked A-E-F and F-G-H on the attached map.
- (ii) That in the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its confirmation.
- (iii) That provision be included in the Order such that it is also made under Section 53A of the Wildlife and Countryside Act 1981, to amend the Definitive Map and Statement of Public Rights of Way in consequence of the coming into operation of the diversion.

Background

A request has been received from the owners of the residential property of Clifton Lodge, Longridge for an Order to be made under Section 119 of the Highways Act 1980, to divert part of Footpath 3-2-29.

The recorded alignment of the footpath is through the private grounds of a neighbouring caravan park and then through the private grounds and garden areas of the residential property.

If successful, the diversion will move the footpath out of the caravan park and onto pasture, running in a broadly south westerly direction to meet Footpath 3-12-33 at the eastern proximity of the applicant's property. The diversion continues across further pasture to the south-east of the neighbouring private, residential property to join Bridleway 3-2-35.

This will increase the privacy and security of the residential property whilst providing a route that is safe and convenient for public use.

Consultations

The Local Member, Ribble Valley Borough Council and Longridge Town Council have been consulted and at the time of writing, there was no adverse response.

The Peak and Northern Footpaths Society and the Ribble Valley branch of the Ramblers have been consulted and there was no adverse response.

Consultation with the statutory undertakers has been carried out and there was no adverse response.

An adverse response has been received from the residents of the neighbouring property outlining their concerns that there will be a detrimental effect on their privacy, and a potential visual impact on their views of the surrounding countryside if a hedge were to be planted to provide screening. The issues raised have been carefully considered. The footpath currently runs both next to and closer to the neighbouring dwelling at its north western side, albeit with fewer and smaller windows. Our observations are that the dwelling is further from the route of the proposed diversion and at a higher altitude, therefore the dwelling overlooks the proposed route not vice versa. It is considered that the potential impact on the view from the property of a hedge or passing walkers well below the level of the house and on land where people could be by permission anyway does not outweigh the benefits to the applicant. Furthermore the route also provides better views for the public.

Advice

Points annotating the routes on the attached map

Point	Grid Reference	Description
A	SD 6166 3807	On existing pathway within caravan park, close to junction with Footpath 3-2-32.
B	SD 6143 3784	At bottom of former quarry face.



C	SD 6146 3781	On south western boundary of field adjacent to Clifton Lodge, at junction of footpaths 3-2-29 and 3-2-32.
D	SD 6132 3773	On Tan Yard Lane, by Clifton Lodge.
E	SD 6167 3805	Gate at northern end of field boundary, adjacent to south east boundary of caravan park.
F	SD 6148 3778	At northern corner of field boundary, adjacent to south east boundary of Clifton Lodge.
G	SD 6144 3770	On field boundary at eastern corner of Hollin Hall Lodge.
H	SD 6135 3764	On Tan Yard Lane at southern corner of Hollin Hall Lodge.

Description of existing footpath to be diverted

(All lengths and compass points given are approximate)

Those parts of Footpath 3-2-29 as described below and shown by a bold continuous line marked A-B-C-D and C-F on the attached map.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A	B	SW	320	The entire width
B	C	SE	50	The entire width
C	D	SW	165	The entire width

That part of Footpath 3-2-32 as described below and shown by a bold continuous line marked A-B-C on the attached map.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
C	F	SE	30	The entire width

Description of new footpath

Footpath as described below and shown by a bold broken line A-E-F-G-H on the attached map. (All lengths and compass points given are approximate).



FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A	E	SE	10	2	Grass
E	F	SW	335	2	Grass
F	G	SW	90	2	Grass
G	H	WSW	110	2	Grass

The public footpath to be created by the proposed Order will be subject to the following limitations and conditions:

<u>Limitations and Conditions</u>	<u>Position</u>
The right of the owner of the soil to erect and maintain a kissing gate that conforms to BS 5709:2018	Grid Reference SD 6167 3805 (point E)
The right of the owner of the soil to erect and maintain a two-way opening pedestrian gate that conforms to BS 5709:2018	Grid Reference SD 6148 3778 (point F)
The right of the owner of the soil to erect and maintain a two-way opening pedestrian gate that conforms to BS 5709:2018	Grid Reference SD 6144 3770 (point G)
The right of the owner of the soil to erect and maintain a kissing gate that conforms to BS 5709:2018	Grid Reference SD 6135 3764 (point H)

Variation to the particulars of the path recorded on the Definitive Statement

If this application is approved by the Regulatory Committee, the Head of Service Planning and Environment suggests that Order should also specify that the Definitive Statement for the affected Footpaths Longridge 29 and 33 be amended to read as follows:

"No. of Path:

29

Kind of Path:

Footpath

Position:

Nook Fold to SD 6166 3807, continuing generally SW via gate just east of Croft's Quarry (Clifton Lodge) at SD 6148 3778, and gate just outside eastern corner of Hollin Hill Lodge at SD 6144 3770, to gate onto Tan Yard Lane (Bridleway 35) at SD 6135 3764.



Length:

0.65 km

Other Particulars:

The only limitations on the section between SD 6166 3807 and SD 6135 3764 are the right of the owner of the soil to erect and maintain gates that conform to BS 5709:2018 at SD 6167 3805, at SD 6148 3778, at SD 6144 3770 and at SD 6135 3764. The width between SD 6166 3807 and SD 6135 3764 is 2 metres."

"No. of Path:

33

Kind of Path:

Footpath

Position:

From junction with Footpath 29 to the SE of the former Croft's Quarry to junction with Bridleway 35.

Length:

0.35 km

Other Particulars:

"

Criteria satisfied to make and confirm the Order

The proposed diversion is considered expedient in the interests of the owners of the land for reasons of privacy and security. 'Clifton Lodge' is a private, residential property. Currently the public footpath runs along the access drive and through the grounds of Clifton Lodge.

The alternative route will instead divert into the adjacent pasture to the SE of the caravan park, continuing broadly parallel to the boundary meeting the end of Footpath 3-2-33 and continuing across 2 pastures, to join Tan Yard Lane, removing it entirely from the drive and grounds of Clifton Lodge. This will significantly increase the privacy and security of the residential property, whilst providing a route that is safe and convenient for public use.

The legislation requires that if the termination point of a footpath is proposed to be altered then the authority may only make a Diversion Order if the new termination point is on the same path or a path connected to it and is substantially as convenient to the public. The proposed diversion will alter the south western point of termination of Footpath 3-2-29 to divert it from its junction with Bridleways 3-2-35 and 3-2-36 and place it at another point on Bridleway 3-2-35, being the same, or connected to the same highway. It is suggested that the proposed termination point is substantially as convenient to the public because this network of paths will predominantly be for recreational use therefore whilst the new point of termination is moved 95 metres to the south this is on a firm convenient surface. It will be slightly more convenient for some and slightly less convenient for others but as there are new houses closer to the proposed new termination point the balance is moved towards more convenience.

The Committee are advised that so much of the Order as diverts part of Footpath 3-2-29 is not to come into force until the county council has certified that the necessary work to the alternative route has been carried out.



There is no apparatus of which we are aware at the time of writing belonging to or used by statutory undertakers under, in, upon, over, along or across the land crossed by the present route.

It is advised that the proposed Order, if confirmed, will not have any adverse effect on the needs of agriculture and forestry and desirability of conserving flora, fauna and geological and physiographical features. It is also suggested that the proposal will not have an adverse effect on the biodiversity or natural beauty of the area.

The applicants own the land crossed by that part of the existing route B-C-D. The owners of the section A-B, and the owners of the pasture on part of the proposed route A-E-F have confirmed that they are in agreement with the proposal and that they would not raise any objection if a Diversion Order is made. The applicants own a part share in the land crossed by that part of the proposed route F-G-H.

The applicants have agreed to bear all advertising and administrative charges incurred by the county council in the order making procedure and also to defray any compensation payable and any costs which are incurred in bringing the new site of the footpath into a fit condition for use for the public.

Should the Committee agree that the proposed Order be made and, subsequently, should no objections be received to the making of the Order, or should the Order be submitted to the Secretary of State for Environment, Food and Rural Affairs for confirmation, it is considered that the criteria for confirming the Order can be satisfied.

It is felt that the path or way will not be substantially less convenient to the public in consequence of the diversion because the difference in length is very small, with little increase in gradient. Currently, the south western 55m of Footpath 3-2-29 is on an access drive and has restricted views due to the neighbouring property, the proposed diversion will have open views of the surrounding countryside to the south and east.

It is suggested that, if the Order was to be confirmed, there would be no adverse effect with respect to the public enjoyment of the footpath or way as a whole. As the existing footpath connects to other parts of the public rights of way network via Tan Yard Lane and at Nook Fold, so will the alternative route. It is suggested that many users might find a walk on the new route to be more convenient because the new footpath will utilise pasture land rather than the access drive and gardens to Clifton Lodge, thus some users of the footpath may feel more comfortable and at ease when passing by the vicinity of Clifton Lodge than when walking through the private grounds of the residential property.

It is felt that there would be no adverse effect on the land served by the existing route or the land over which the new path is to be created, together with any land held with it. Compensation for any material loss could be claimed by a landowner or someone with rights to the land under the provisions of the Highways Act 1980 Section 28. However, such loss is not expected, affected landowners have indicated agreement and if a claim were to arise, the compensation is underwritten by the applicants.

It is also advised that the needs of the disabled have been actively considered and as such, the proposal is compatible with the duty of the county council, as a Highway Authority, under The Equality Act 2010. The alternative route will be of adequate width,



firm and well drained underfoot and the gates proposed to be installed on the route will conform to the British Standard for gaps, gates and stiles BS5709:2018.

Further, it is also advised that the effect of the Order is compatible with the material provisions of the county council's 'Rights of Way Improvement Plan'.

It is considered that having regard to the above and all other relevant matters, it would be expedient generally to confirm the Order.

Stance on Submitting the Order for Confirmation (Annex C refers)

It is recommended that the county council should not necessarily promote every Order submitted to the Secretary of State at public expense where there is little or no public benefit and therefore it is suggested that in this instance the promotion of this diversion to confirmation in the event of objections, which unlike the making of an Order is not rechargeable to the applicant, is not undertaken by the county council. In the event of an Order being submitted to the Secretary of State the applicant can support or promote it to confirmation, including participation at public inquiry or hearing. It is suggested that the authority takes a neutral stance.

Options to be considered

To not agree that the Order be made.

To agree the Order be made but not yet be satisfied regarding the criteria for confirmation and request a further report at a later date.

To agree that the Order be made and promoted to confirmation by the county council.

To agree that the Order be made and if objections prevent confirmation of the Order by the county council that the Order be submitted to the Secretary of State to allow the applicant to promote confirmation, according to the recommendation.

Implications:

This item has the following implications, as indicated:

Risk management

Consideration has been given to the risk management implications associated with this application. The Committee is advised that the decision taken must be based solely on the evidence contained within the report, guidance contained both in the report and within Annexes 'B' and 'C' included in the Agenda Papers, officers' presentation and discussion. Provided any decision is taken strictly in accordance with the above then there is no significant risks associated with the decision making process.

Local Government (Access to Information) Act 1985 List of Background Papers



Paper

Date

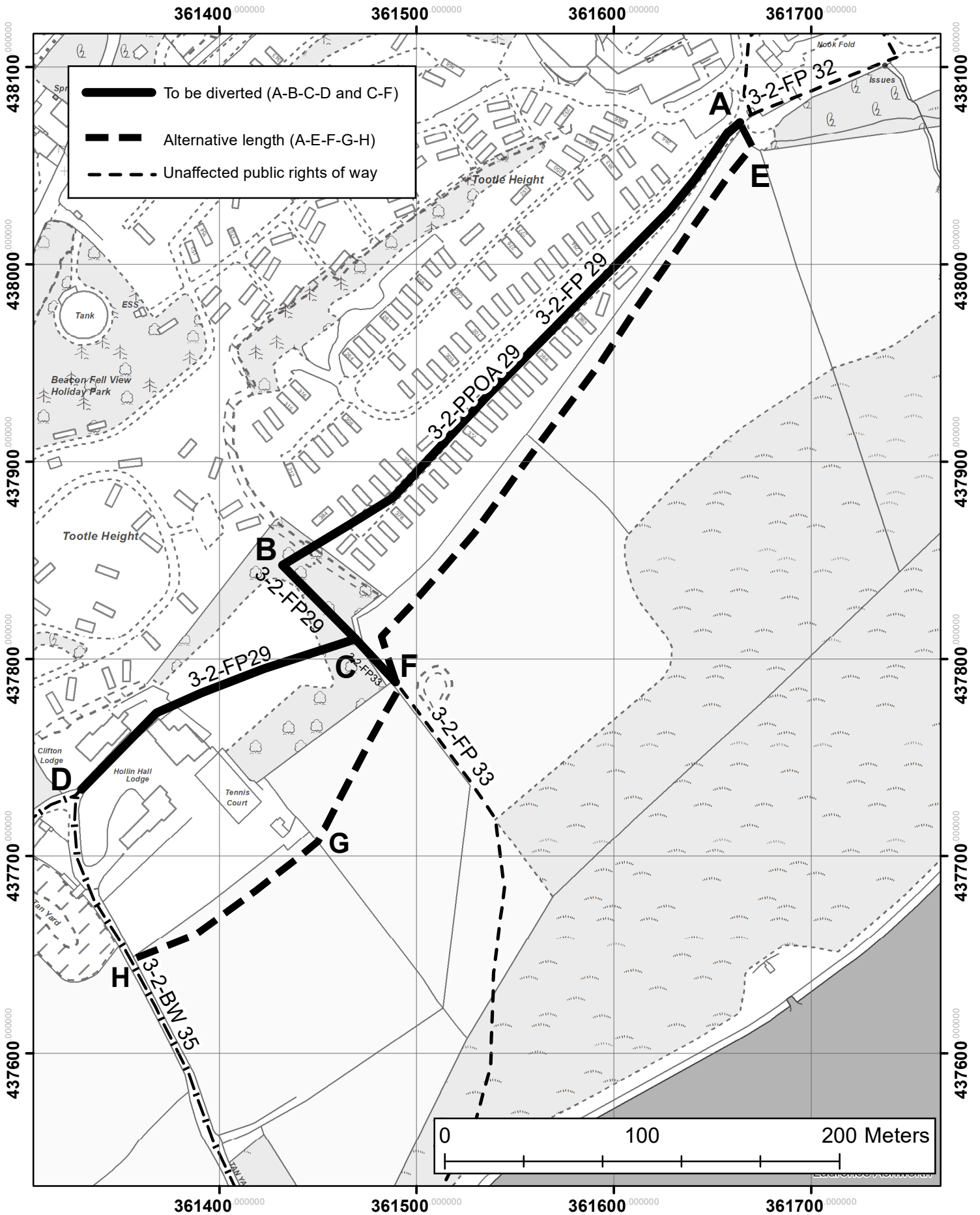
Contact/Directorate/Tel

None

Reason for inclusion in Part II, if appropriate

N/A





Lancashire
County Council
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prowdiversions
@lancashire.gov.uk
07773 135050

Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Diversion of part of Footpaths 0302029 and 0302032
at Clifton Lodge, Longridge, Ribble Valley

Plan no.
211-741 v2



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