

Regulatory Committee

Meeting to be held on 9 May 2007

Part I - Item No. 6

Electoral Division affected:
Pendle East

Wildlife and Countryside Act 1981

Claimed Bridleway from the junction of Cob Lane and Cockhill Lane, Foulridge, to Castle Road, Colne, Pendle Borough.

Claim No. 804/440

(Annex 'A' refers)

Contact for further information:

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Executive Summary

The claim for

- a) a Public Bridleway from the junction of Cob Lane and Cockhill Lane, Foulridge, to Public Footpath No. 65 Foulridge, Pendle Borough, to be added to the Definitive Map and Statement of Public Rights of Way; and
- b) Public Footpaths Nos. 65(part) Foulridge and Nos. 19, 18, 16, 14, 12 and 8 Colne, Pendle Borough, to be upgraded to the status of Bridleway in the Definitive Map and Statement,

in accordance with Claim No. 804/440.

Recommendation

That the Claim for

- a) a Public Bridleway from the junction of Cob Lane and Cockhill Lane, Foulridge, to Public Footpath No. 65 Foulridge, Pendle Borough to be added to the Definitive Map and Statement of Public Rights of Way, and
- b) Public Footpaths Nos. 65(part) Foulridge and Nos. 19, 18, 16, 14, 12 and 8 Colne, Pendle Borough, to be upgraded to the status of Bridleway in the Definitive Map and Statement

in accordance with Claim No. 804/440; be accepted in part namely that Claim a) section A-U-B be accepted and Claim b) section B-J be not accepted.

That an Order be made pursuant to Section 53(2)(b) and Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement of Public Rights of Way a bridleway from the junction of Cob Lane and Cockhill Lane, Foulridge, to the western end of Public Footpath No. 65 Foulridge, Pendle Borough, for a distance of approximately 565 metres, (GR 9066 4305 to GR 9118 4308) and shown between points A-U-B on the attached plan.

Background

A claim has been received for a Bridleway extending from a point at the junction of Cob Lane and Cockhill Lane, Foulridge, Pendle Borough (GR 9066 4305), running in a general easterly direction, crossing the line of Public Footpath No. 44 Foulridge at GR 9095 4305, for a distance of 565 metres to join Public Footpath No. 65 Foulridge at GR 9118 4308, then following the line of Public Footpath No. 65 Foulridge in an general easterly direction for a distance of approximately 280 metres to its junction with Public Footpath No. 19 Colne, then following the line of Public Footpath No. 19 Colne in a general easterly, then east north-easterly direction for a distance of approximately 424 metres to GR 9188 4313, the junction with Public Footpath No. 2 Earby, then following the line of Public Footpath No. 18 Colne running to the south of Harwes Farm for a distance of 136 metres in an east south easterly direction to its junction with Public Footpath No. 20 Colne (GR 9202 4311), then following the line of Public Footpath No. 16 Colne in a general south easterly, then easterly direction for a distance of approximately 438 metres to the junction of Public Footpaths Nos. 13, 14 and 15, Colne then following the line of Public Footpath No. 14 Colne in a general north easterly direction for a distance of approximately 473 metres to its junction with Public Footpaths Nos. 6 and 7 Colne (GR 9272 4341), from where it turns to follow the line of Public Footpath No. 12 Colne in a north north easterly direction for a distance of approximately 80 metres to its junction with Public Footpath No. 11 Colne, and then follows the line of Public Footpath No. 8 Colne in a north-easterly direction for a distance of approximately 306 metres to join Castle Road, Colne, Pendle Borough, and shown between points A - J on the attached plan, to the Definitive Map and Statement of Public Rights of Way.

Consultations

Pendle Borough Council

The Borough Council offers no objection to this Claim.

Parish Council

The Parish Councils for the claimed route are Foulridge, Kelbrook & Sough, and Laneshawbridge

Foulridge Parish Council recalls a public inquiry regarding the footpaths in the area of the claim approximately 10 years ago following a review of the Definitive Map. They are insistent that the section of the route between the junction of Cob Lane and

Cockhill Lane, Foulridge, and the point where the claimed route crosses Public Footpath No. 44 is not a right of way and suggest that any upgrade to bridleway should apply to Public Footpath No. 44 Foulridge, which links up with Bridleway No. 44 Foulridge.

There has been no comment from Kelbrook & Sough or Laneshawbridge parish Councils.

Claimant/Landowners/Supporters/Objectors

The evidence submitted by the claimant/landowners/supporters/objectors and observations on those comments is included in 'Advice – County Secretary & Solicitor's Observations'.

Advice

Environment Director's Observations

Description of Claimed route

a) Claimed Bridleway from the junction between Cob Lane and Cockhill Lane, Foulridge, to the junction with Public Footpath no. 65 Foulridge, shown between points A and B on the attached plan.

The route subject to part a) of this claim is from point A at the junction of Cob Lane and Cockhill Lane, (both classified as U40347). This is directly opposite the end of the private road known as 'Teddy Carr Drive' which has no public rights of way recorded over it. This appears to be an extension of the claimed route but is not part of this claim. However to provide additional information about this area to assist in the consideration of this claim, Teddy Carr Drive is a tree lined, rough stone surfaced access track leading to the west and appearing to provide access to two farms. It is gated with notices stating its private status on the gate and also on a nearby tree. This track extends in almost a straight line, as far as Skipton Old Road, Foulridge (U20921) a total distance of approximately 1,150 metres.

Part a) of this claim, from point A, is over a tarmac surfaced access road approximately 3.5 metres wide, although the entrance from Cockhill Lane/Cob Lane is considerably wider at approximately 16 metres wide. The entrance to the lane is bounded by a dry stone wall on the southern side and a timber post and wire fence to the north. The macadam surface was in very good condition and appeared to have recently been provided. The access road continues, approximately 3.5 metres wide, within an overall width of approximately 6 metres for a distance of approximately 80 metres to the point where the end of Public Footpath No 44b Foulridge joins the claimed route. Public Footpath No 44b follows a stone surfaced access road to the south east.

The claimed route rises up a slope and the overall width between stone walls increases, and after approximately 80 metres Public Footpath No 44a Foulridge joins the claimed route from the south at an old metal gateway. The rusty gate was fixed against a timber post in a position approximately 1metre wide and there were large

loose stones and timber poles for walkers to climb over between the gate and the stone wall.

The claimed route continues to follow the surfaced access road to the top of the slope and after a distance of approximately 140 metres from Public Footpath No 44a Public Footpath No 44 Foulridge crosses the claimed route. The surfaced track is approximately 3 metres wide and the overall width varies from between 5.5 and 7.5 metres between the stone walls. The claimed route follows this access road down the slope for approximately 190 metres to point U at the end of the surfaced road where there was a wooden field gate between two stone gateposts 3 metres apart. The gate was open at the time of inspection and although there was a chain to fasten it, it appeared as if it was normally left open. To the northerly side of the gateway the stone boundary wall turns away from the lane to the north east and there is an area between this corner and the stone gate post where it appears that there had previously been a gap. This has been filled with stone up to the wall height.

The claimed route is then over a stone surfaced track which divides after approximately 15 metres with one track leading up and to the north east towards the buildings and 'Kelbrook Lodge', and the other to the east, following the stone wall for a distance of approximately 45 metres to a point where there is an open metal field gate, with a concrete post, in place, in a length of timber railing fence on both sides of the track. The railing fence on the southern side of the gateway has a notice fixed to the top rail stating 'Dogs to be kept on lead'. The claimed route continues to follow the stone track for a distance of approximately 30 metres to point B where Public Footpath No 65 Foulridge joins the access track and the end of part a) of this claim, and also the start of part b) of this claim.

b) Claimed upgrading to Bridleway of Public Footpath Nos 65 Foulridge (part); 19, 18, 16, 14, 12 and 8 Colne, Pendle Borough.

The route subject to part b) of this claim continues from point B on the plan and is over the stone surfaced access roadway, approximately 3 metres wide, with a narrow grass verge to a ditch and then a grass bank on the northern side, and a grass verge to the stone wall on the south, the overall width being approximately 7 metres, and with a second stone boundary wall approximately 7 metres further to the north.

The stone track continues and curves slightly to the north with the overall width narrowing to approximately 4.5 metres between the stone wall on the north and the timber post and wire fence to the south. The claimed route follows Public Footpath No 65 Foulridge from point B for a distance of approximately 250 metres to the curve in the track where the access track carries Public Footpath No 66. This continues to the south towards Great Edge Farm from point C. However the claimed route continues to follow Public Footpath No 65 where it crosses the grass verge of the access road to a timber stile against the stone wall with a section of railing fence that appears to be removable, to its southerly side. The stile was in a poor condition on the day of inspection but was negotiable. It had a wide piece of timber forming the cross step and was not level, and part of the supporting timbers were in need of replacement. It had way-marker arrows on one of the timber posts.

The claimed route follows Public Footpath No 65 Foulridge over the open field where there was no obvious trodden route visible through the grass. After a distance of approximately 130 metres Public Footpath No 65 ends at the boundary of Foulridge with Colne. This boundary follows the very small stream which is known as Moss Houses Beck. This stream is crossed by a timber ditch crossing. It is approximately 1 metre long and in good condition and easily used despite it not being long enough to warrant a handrail. The bridge crossing is approximately 10 metres to the west of the point where the open field narrows down to approximately 7 metres wide between stone walls. The trodden route of Public Footpath No 19 is to the south of this section and after approximately 50 metres there are trees and shrubs growing on the northerly side with the claimed route following a visible trodden path close to the southern stone wall. This section was wet on the day of inspection and appears to flood easily, with the ground soft under foot. Planks of wood had been laid on the surface to improve ease of access. After a distance of approximately 90 metres from the ditch crossing, there are two sections of railing fence, similar to those at point C, across the track between the corner of the stone wall and an old stone gatepost at point D. The part of the railings reaching the gatepost was lying on the ground at the time of inspection and as well as this allowing access, there was a timber stile to the north of the gatepost. This stile was in a reasonable condition, but slightly over-hung by branches from trees in the adjacent woodland. This stile had a large timber step also similar to the one at point C.

From point D the claimed route continues to follow the route of Public Footpath No 19 Colne which runs along the southern side of a stone wall and over a large open grass field. There appears to be no indication that there was a track formerly over this section, although, after a distance of approximately 85 metres, there is a drain running to the south which begins at a point approximately 7 metres away from the boundary wall. After approximately 190 metres from point D, the path joins an open stone surfaced access track crossing the field from the south west, which carries Public Footpath No 31 Colne. At point E, Public Footpath No 19 and 31 join Public Footpath No 18 Colne, together with Public Footpath No 2 Earby, which joins the route from the north by a ladder stile over the wall to the west of an open gateway in the stone wall along which the stone track continues.

At this point Public Footpath No 18 Colne follows a grass track for approximately 10 metres to an old metal field gate. This gate was held closed by a length of chain over a post against the stone wall on the southern side. To the north of the gate there is a length of approximately 600mm of wall where there appears to have previously been a gap between the stone wall and the gateway, but this has been filled with stone built up to the adjoining wall. Immediately beyond this section is a timber post with way-marker arrows in place. These way-markers had a notice with them indicating that they were part of the Kelbrook Moor Circular Walk.

The claimed route continues to follow Public Footpath No 18 over the grass and stone track following the stone wall on its southern side with a widening area of open land leading to farm buildings and Harwes Farm (formerly Copy House) to the north. After approximately 60 metres there was a metal field gate with a chain and hook fastener. The track continues past the gate and between the stone wall and farm

building to another metal field gate at the far end of the barn. There was a way-marker arrow on the gatepost.

The track, and Public Footpath No 18, then continues for another approximately 7 metres to a timber field gate between stone posts. This gate was held closed by a length of chain, but opened easily onto the surfaced area in front of the farmhouse. Public Footpath No 18 Colne continues for approximately 25 metres over the tarmac surfaced area, passing through two large open timber gates and then onto the macadam surfaced access road as far as point F, where Public Footpath No 18 ends at the junction with Public Footpath Nos 16, 17 and 20 Colne.

The claimed route follows Public Footpath No 16 from point F and leaves the access road at the apex of the corner and crosses a grassed verge, passing along the southern side of a stone wall. After approximately 25 metres there was a timber railing fence with a two-step timber stile in it close to the wall. This stile was in a very good condition and had way-marker arrows and 'Kelbrook Moor Circular Walk' fixed to the hand post. Approximately 7 to 10 metres to the south of the stile was a timber field gate at the end of the timber railing fence.

Beyond the point where the route is crossed by the stile/gate and fence Public Footpath No 16 continues over the large open field running along the southerly side of the stone wall. After approximately 100 metres, it passes to the northern side of a stone-built natural spring in the field, approximately 4 metres from the wall. Along this section there appears to be a level strip, 4 to 5 metres wide, which may have been a track at some time with a possible drain alongside.

After approximately 240 metres, at point V, there is a stone wall across the field boundary. Immediately before the stone wall there is a section of timber railing across the corner with a stile and way-marker arrows, and 'Kelbrook Moor Circular Walk' on it. Immediately beyond the timber stile, the wall itself has a stone step-stile built into it. To the southerly side of this stone stile there is an old stone gatepost and then a section of approximately 2.3 metres of stone wall that appears to have been built up to a second old stone gate post. The two stone gate posts were in a position where any former track would pass through the field boundary.

Public Footpath No 16 and the claimed route continue to pass through a large open grass field, rising for approximately 145 metres towards a stone boundary wall at point W. This section of the claimed route is open to the field on both sides. It passes over a very wet and muddy area on entering the field and then follows a rough grassed area that appears to be a sunken track approximately 7 metres wide. This becomes level with the field surface as it approaches the stone wall at point W. Here there is an opening in the wall with a timber stile and way-marker arrows and 'Kelbrook Moor Circular Walk' between the stone corner of the adjacent field and an old stone gate post, and then a section of wall that appears to have been built up more recently than the rest of the wall. This section is approximately 3 metres wide and has a very clearly visible line at the joint with the rest of the wall to the south. There is no gate post at this junction.

Public Footpath No 16 then continues over the next field for a distance of approximately 35 metres leading away from the stone wall following a sunken area

of the field approximately 6 metres wide, where it ends at the junction with Public Footpath Nos 13, 14, and 15 Colne. At this junction Public Footpath No 15 Colne passes through a field gateway approximately 10 metres to the north, with Public Footpath No 13 continuing in a straight line over the open area towards the east.

The claimed route follows Public Footpath No 14, and is over grassland towards the stone boundary wall which it then follows for approximately 175 metres to point X. There appears not to have been an old track on this section although there is a length close to point X that is lower than the adjoining field level which is somewhat wetter with reeds growing in it.

The section beyond the end of the wall at X follows an old track, approximately 4 metres wide and slightly raised above the field level, as it curves and passes through the rough moorland type of vegetation for approximately 160 metres to point G. At point G there is a substantial stone step-stile in the stone boundary wall, which is to the northern side of the end of a walled track that has been blocked off by the boundary wall. In this wall there are two stone gate posts, approximately 3 metres apart, and on the southern side of the stile. Between these a stone wall has been built up.

Beyond point G the claimed route continues to follow Public Footpath No 14 Colne, which is over a sloping track, overgrown by reeds. This is enclosed between stone walls, which are in a generally poor condition, particularly on the northern side. This track extends for a distance of approximately 100 metres to where the stone wall on the southern side forms a corner and then runs in a southeasterly direction. The northern wall continues over the rough moorland and is in very poor condition and barely visible. It extends for a further 40 metres approximately to the junction of Public Footpath No 14 with 6, 7 (part of the Pendle Way) and 12 Colne, at point Y.

The route then passes over areas that appear to have been portions of an old raised track approximately 2-3 metres wide at its top. It follows Public Footpath No 12 Colne for a distance of approximately 80 metres over an uneven surface across the moorland, to point H where there is a timber stile, with way-marker arrows, in the timber and wire fence at the end of the stone boundary walls.

From point H the claimed route continues over Public Footpath No 12 from the junction with Public Footpath No 11 Colne (with Public Footpath No 11 running along the northerly side of the stone wall). This route passes over moorland and after approximately 70 metres Public Footpath No 12 ends at the junction with Public Footpath No 8 and 9 Colne, with the claimed route being over Public Footpath No 8. This continues over open grassland for approximately 245 metres and meets Public Footpath No 10 Colne at a point where there are two metal field gates in the stone wall that is the boundary of Castle Road, (C681). At the gateway there is a stone surface under the grass and to the south of this is a grey metal post in the grass verge with 'Public Footpath' finger posts indicating the direction of Public Footpaths Nos 8 and 10. These gates were chained and locked together at the date of inspection and there was no stile or other means of access available through them onto the verge and Castle Road at point J at the end of the claim.

Site inspection summary

Part a) Starting from the western end of the claimed bridleway at point A, the first section A – U is an enclosed surfaced access road with a gate at U. There appears to have been a gap by the gate at point U which has been blocked up with stones. The next section, U – B, is a stone access track within a much wider area between walls. Another gate is located approximately 30 metres west of point B. A – B is in good condition and is easily accessible for pedestrians and horse riders, with no restriction for use, as well as being in regular use by vehicles. There was no visible evidence at the time of the site inspection of use of this claimed route by cycles or horses. (While cycle tracks would be difficult to see on the surface, metal hoof marks or horse droppings would have been more noticeable). The gates along this route were open at the time of inspection.

Part b) Section B – C is enclosed between stone walls. C – D has a wall on one side only, and is over rough grass with no visible track, with a width restriction at the timber ditch crossing on the Foulridge-Colne boundary at Moss House Beck. Along the length D – E there is no obvious signs of a second boundary within the field to indicate that it had formerly been enclosed, other than the drainage ditch that starts approximately 7 metres from the stone wall. The length F – V does have features that seem to indicate the former enclosure of the route, such as the position of a stone spring set back from the one remaining wall, and a noticeable, uniformly wide, strip of land along the route with a possible drain at its side. The length V - W is a clearly visible sunken strip, approximately 7 metres wide, with a rough grass surface crossing a large field. The length between W and X initially follows a sunken track into the field for a short distance and then turns to the north-east to follow the stone wall. Whilst no track could be seen in the section in the area of the shallow brow, the part closer to point X does give the appearance of a former track as the route approaches the moorland. The length X - G is also visible as a raised grassed strip, approximately 1.5 to 3 metres wide, running through the rough moorland, with no sign of boundary walls to either side. Approximately 40 metres south west of point Y are the remains of a stone wall extending from the enclosed track at point G onto the open moorland. Length Y - H is an extension of the track from point G with only a single boundary. It crosses moorland and is very uneven and generally above the surrounding level of the moor. From point H the claimed route runs across rough pasture with no apparent indication of an enclosed route.

The whole of the route claimed for upgrading from public footpath to bridleway is available for use by pedestrians, with easy access over the whole route, with the exception of the closed gate at point J on Castle Road. There was evidence of a considerable amount of use by pedestrians over the whole length despite no trodden path being visible on the ground, probably because of the width of land available. With respect to the possible use by horses or cycles, there was no visible evidence of use by these classes of user and there are several locations where access for them would be difficult or impossible at present.

There are a number of restrictions to free access as a bridleway. There is the water course across the route between points C and D with only a narrow plank at an angle across.

There are gates at U, B, E to F (5 gates) and J. All of the gates, except the locked ones at point J, were easy to open by a pedestrian, but any horse rider would need to dismount and remount to open them. There are also only stiles at points C, D, F, V, W, G and H. These at present prevent use on horseback or bicycle. The stiles at points V, W and G are at positions where the stone wall has been built up in a former gateway which, if unblocked, would have allowed access for higher rights in addition to any occupation uses at that time. C, D and F all have fences constructed across the width.

Where the claimed route is only partly enclosed, or not enclosed at all, there seems to be a general indication that it may well have formerly been a track. Some parts clearly indicate the former existence of an old track, i.e. V - W (including a length beyond W), and X - G. There is lesser indication of an old track along sections D - E, F - V, and Y - H. There is no obvious sign of an old track along section H - J.

Map and Documentary Evidence

A variety of maps, plans and other documents were examined to find out when the claimed route came into being and to try to determine what its status might be. The maps and documents supplied with the application were also examined. The descriptions of documents supplied with the application, and examined by the Environment Directorate, are detailed below in approximately chronological order.

The applicant submitted two documents from the Lancashire Court Rolls about the blocking of a highway in 1655. Further investigation at the County Record Office has revealed other documents relating to this highway. It appears that there was a 'high way' from the Foulridge area over Kelbrook Moor and on the north side of Piked Edge to a 'causey' (defined by the Oxford English Dictionary as a raised way especially across wet ground, sometimes paved) called Jepp Causey. This causeway joined the road from Colne to Skipton, now called Castle Road. This causeway was for 'all travellers and passengers horses and other cattle with carts or carriages'. In September 1655 a local farmer was brought before the Lancaster Assizes for blocking the causeway by building two walls across it. He was ordered to take them down. At the November assizes the highway overseers of the parish confirmed that the walls had been taken down. It was agreed that he could erect gates in place of the walls large enough to accommodate 'horsepacks', carts and carriages. The track was used again for a time, but then the farmer chained the gates, and walled up the gaps. Local people brought the matter before the courts again, claiming that they had to make a detour of one or two miles before they could join the Colne to Skipton road, or go further north to join the Gisburn to Skipton road. There are no records to show if the farmer was successfully prosecuted again. No reference has been found in any other documents or maps to Jepp/s Causey.

There is not sufficient information to give the location of this matter or the outcome of the court action.

As the claimed route passes near to the former county boundary with Yorkshire (before local government re-organisation in 1974), early maps and other documents of that county were also examined along with those of Lancashire. Early maps included Jeffries' map of Yorkshire of 1772, Cary's map of the West Riding 1787,

Smith's map of 1801 and Teesdale and Stocking's map of 1828. None of these maps show any part of the claimed route, although 3 of them do show and name the location of one of the two Tom's Crosses (old county boundary stones) in the area which is to the north-east of point J on Castle Road.

Of the 18th and 19th century maps of Lancashire, Moll's map of 1724 and Bowen's map of 1765 are probably of too small a scale to show the route if it existed at the time. Yates' map of 1786, a much larger map, does not show any part of the claimed route. A map produced for the Honor of Clitheroe between 1804 and 1810 shows the western end of the claimed route between points A and B approximately as a 'road', but none of the rest of the route is shown. Coloured lines shown on the map along the line of part of the claimed route are referred to in the key to the map as boundaries of divisions of land, such as each separate manor, and the 'townships of Rossendale', and do not relate to the claimed route itself.

Greenwood's map of 1818 only shows the length A to B, referred to in the key as a 'cross road'. None of the rest of the route is shown. It is not known exactly what was meant by the term 'cross road' but it does show that a track of some sort existed at the time. Hennet's map of 1830 shows the claimed route in the same way as Greenwood.

It is considered that these were maps for travellers and routes shown were likely to have some public status.

There are no inclosure maps and awards for this part of Lancashire covering the claimed route, but a short section is shown on the inclosure map for Thornton in Craven in Yorkshire, prepared in 1825. Although the inclosure map relates to land in Yorkshire, a short length of the claimed route around point B is shown and named as Moor Lane. The land to the south of Kelbrook Moor to be enclosed in Yorkshire, across which the claimed route lies, is referred to in the Inclosure Award as 'open common in the county of Lancaster'.

Two tithe maps cover the claimed bridleway – Foulridge and Colne – both compiled in 1842. The Foulridge tithe map covers the western end of the claimed route from point A to point D. From Cob Lane/Cockhill Lane to the point to the west of where Public Footpath No. 65 Foulridge joins the route (A - U) the claimed route is shown as an enclosed track with no colouring or numbering, and therefore no owner or occupier recorded in the written schedule that accompanies the map. From point U eastwards to the parish boundary at point D the claimed route enters a wider area described in the written schedule as 'lane and waste' with no owner or occupier. The claimed route then enters Colne into a triangular area of land which has no obvious number. When the claimed route enters the narrow enclosed part of Public Footpath No. 19 to the west of point D the tithe schedule refers to this length as a 'road' with no owner or occupier. The claimed route continues eastwards across 'pasture' until part-way along Public Footpath No. 16 (point E) it becomes an enclosed track again. The claimed route continues across pasture and then enters land of a different ownership at point V. The route is enclosed on both sides, and is listed as a 'road' in the schedule, with both an owner and occupier named (V – W). This enclosed track continues into land of a different ownership where it is called 'Cow Lane' between points W and G, but is used as pasture. The land across which the claimed route

runs then changes ownership again and is called a 'road', and is recorded as being uncultivated. The claimed route then continues across two open fields of pasture before ending at Castle Road at point J.

In summary, evidence from the tithe maps shows the route as an enclosed track along about half its length. The part of the claimed route in Foulridge is not shown in private ownership, and could therefore have been regarded as part of the public highway network of the parish but only part is denoted Road. In contrast, 80% of the claimed route in Colne is in private ownership. Only 33% of the route in private ownership is described as a road or lane. These sections of road or lane do not join with each other to form a through route.

The applicant has submitted a map of the township of Colne, surveyed in 1843. A copy of this map has also been examined at the County Records Office. It is very similar to the Colne tithe map of 1842, drawn with the same style, layout and lettering. The claimed route is shown in the same way as on the tithe map, with the same numbers in the fields and other plots. There is no accompanying field book to explain what the numbers refer to. This town map, unlike the tithe map, has a key. The key refers to 'turnpike roads', 'bye or cross roads', 'footpaths', and 'open roads'. 'Turnpike' and 'bye or cross roads' are shown edged with solid lines (though it is hard to see what the difference is between the lines that represent the two types of road). Footpaths are shown by a single dotted line, and open roads by parallel dotted lines. This map does not show any part of the claimed route by dotted lines, either with one row or two. As on the tithe map, some stretches of the claimed route are bounded on both sides by solid lines, and may therefore be included in the map category as a 'bye or cross road' (there are no turnpike roads in the immediate area). It is not known what is meant by this term, but it was presumably more than a footpath (as these had their own notation) and would therefore have been usable on horseback at least.

Ordnance Survey maps were examined from the first edition of the 1" map. The applicant has submitted a 1" map, dated 1840, reprinted by the publishers David and Charles. This shows the western end of the claimed route in Foulridge between points A and B, and a further length between V and G. The rest of the claimed route is not shown.

The first edition of the 6" OS map published in 1848 shows the claimed route as a partly enclosed track from Cob Lane/Cockhill Lane (point A) to point U. From point U to just east of B the route is shown by a dotted line to the north of the field boundary. A path or track is not shown again until Harwes Farm (point F). From here until point V the claimed route is shown as a double row of pecked lines alongside the field boundary. From V - Y approximately, the claimed route is shown as an enclosed track; between W and Y as a double row of pecked lines within a greater enclosed width. The final part of the route between points Y and J is shown as a single dotted line which denotes a footpath. The applicant has pointed out that there are a number of bench marks along the route (points where the Ordnance Survey calculated the height above sea level and marked a symbol on a gate-post or building). However, such marks are not found exclusively on buildings or stones along paths, tracks or roads – they can be found on isolated barns or on features in fields well away from any highway.

The applicant has submitted a photocopy of a 1" OS dated 1870/80. The copy is of poor quality, but seems to show the claimed route in the same way as the 1840 1" map.

The applicant has submitted a plan from a sales document for the Copy House (now Harwes Farm) and Shaw Head estates in 1873. The estate was offered for sale in 28 lots. Part of the claimed route is shown in Lot 14 from point E to point V. Public Footpath No. 18 Colne is shown on the sale map as an enclosed track, and is referred to in the catalogue as a 'Road'. What is now Public Footpath No.16 is shown on the map as a 'cart road' and shown across pasture. A gate is shown at points E and V. The sale document also states that there is a right of road over Lot 13 'for all purposes whatsoever' to the highway leading from Colne to Skipton. It also adds as follows 'Lots 13 and 14 are about 3 miles from the market town of Colne, the latter Lot lying contiguous to the old highway leading from that place to Skipton'. It is submitted by the applicant that this reference to an 'old highway' from Colne to Skipton refers to the claimed route.

The word "contiguous" means "very close or connected to" and would seem to indicate that the highway was near rather than across the Lot.

The applicant has also submitted a map described as the Chapelry Map of Colne. She says that is based on Greenwood's map of 1818, amended in 1875. This map only shows the western end of the claimed route from points A - U as an enclosed track but any status is not shown on any key.

The first edition of the 25" map published in 1894 shows the whole of the claimed route. Field boundaries extend across the route in ten locations, which would indicate that there was a gate or other barrier at each point. As the Ordnance Survey surveyor recorded a continuous track across the fields and between boundary walls it is likely that there was a gate or other removable closure at each location to allow passage along the continuous track. The first part of the claimed route between points A and U is shown enclosed between solid lines, which would indicate walls, fences or hedges. From point U a track delineated by parallel pecked lines is shown across rough pasture as far as the boundary between Foulridge and Colne. The next short length of route to D is shown between solid lines again, before opening out as a track across rough pasture to the approach to Copy House (now Harwes) farm at point E. The route then becomes enclosed again (between E and F) before opening out from point F with a field boundary on one side, and open to fields on the other. The claimed route crosses six fields between Copy House/Harwes farm and Castle Road, in some cases across open fields, whilst across others there is a field boundary to one side, or enclosed on both sides between boundaries. The most easterly end of the claimed route between points H and J is shown with the notation 'FP' denoting a footpath. There is no notation on any other part of the claimed route. Elsewhere on this edition of the 25" map the notation for bridleway is used ('BR'), but not on any part of the claimed route.

The 1912 edition of the 25" map shows the claimed route in much the same way as on the earlier maps. The maps have obviously been re-surveyed since the earlier edition as there are many minor changes to a variety of features across the map.

Where the claimed route crosses open pasture or fields, there are some slight changes in alignment of the track to that shown on the earlier edition. All the field boundaries shown on the earlier edition remain.

The 1914 edition of the 1" map supplied by the applicant shows the route in the same way as the 1912 25" map. The 1924 edition, also supplied, is of too poor a quality to clearly identify the route.

Most of the c1932 edition of the 25" map is not available at the County Records Office.

Aerial photographs taken around 1945 show most of the claimed route. Lengths A - C and E - F show up clearly and are probably surfaced farm tracks. The stone walls can be seen between points W and H. The eastern end of the claimed route between points H and J can be seen crossing the open field to Castle Road.

The 1958 reprint of the 2½" map shows the entire claimed route apart from a short length between point C and the Foulridge/Colne boundary. The notation 'FP' for footpath is shown in two places on this map, at points D and G.

A plan obtained from the Land Registry by the applicant, being a plan attached to a Conveyance dated 1956, shows the holding for Harwes Farm and rights of way are coloured some of which are along the claimed route. However, the written extract from the said Conveyance refers to these as private rights of way but the plan does show D - E as part of a bridlepath but this does not continue to F - V. It is suggested that a private Conveyance is not showing public rights.

The 1972 edition of the 25" map shows all of the claimed route with the exception of the length from point C - E. The rest of the route is shown, with some parts open to adjacent fields, and other sections enclosed between walls. There are nine locations along the route where there may be a gate across it, as a solid line is shown on the map across the track. At point D where no track is shown, the field boundary is continuous across the claimed route, and any former gateway may now be blocked off.

The maps prepared under the provisions of the 1910 Finance Act were examined. The Act required all land to be valued, and maps were produced showing land in private ownership. All the claimed route is shown in private ownership, apart from the western end of the claimed route in Foulridge between points A and U which is outside private ownership plots, and the length U to the Foulridge/Colne boundary which is recorded as being in the ownership of Foulridge Parish Council.

Aerial photographs of 2002 show the claimed route in much the same way as the earlier 1945 edition.

The claimed route is not shown as a bridleway on the current Definitive Map, nor on any map produced in preparation of the Definitive Map. There were no objections to the depiction of the route at any stage of preparation of the Map. Public Footpaths Nos. 44A and 44B Foulridge join the claimed route to the east of point A. As this part of the claimed route has no recorded public status, these footpaths are in effect

dead-ends. The survey map and accompanying cards that describe each path shown on it were produced by Foulridge parish council in around 1950. The descriptions of paths 44A and 44B both state that they end on a 'road'. It is not known why the parish council showed the footpaths ending in this way, but it is possible that the council believed that as the claimed route had the character of a road, it should not be included in the survey of public rights of way. No objection was made to the way these paths were shown on the subsequent Draft Map for Burnley Rural District, which was placed on deposit for 4 months in 1955. The reference to the footpaths in Foulridge joining a road has been carried through to the present Definitive Statement.

Extracts from parish histories were included with the application. Reference is made in them to 'Joseph's Place' which is described as adjoining Kelbrook Moor, near the Shooting Box at point U, and that this land, 4 acres in size, was formerly the 'town's piece of land on the moors', land which was leased to the owner of the Shooting Box. It is not known where this land is, or if the claimed route crosses it.

Reference is also made to the 'dissenters well' beside the Tom Cross. It is not known where this well is located. There was considerable animosity towards non-conformists in the 18th century, and legislation was passed which made their religious gatherings illegal within a 5 mile radius of a parish church. Meetings were therefore held in remote locations, such as on moors. This well is said to be connected with these meetings. No evidence has been produced to show that worshipers visited the well on horseback, or in carts.

An extract has been submitted from the Colne and Nelson Times dated June 1911 describing action taken by people in the Foulridge area to pull down fences and walls erected across public rights of way. A sentence in the newspaper article refers to the protest continuing onto the bridleway to Hallam Moor and Lothersdale. Lothersdale is in Yorkshire, to the north-east of the eastern end of the claimed route, and Hallam Moor is to the north-east of Foulridge village. The exact location of the bridleway referred to not exactly described.

Part of evidence submitted at a public inquiry in 2002 into a successful claim record bridleway rights along what are now Bridleways Nos. 43 and 44 Foulridge has also been included with the application. The Inquiry evidence quotes a former resident of Great Edge farm (now deceased) who referred to 'an old bridlepath running up beside Kelbrook Wood (which) used to be the old lime route to Lothersdale'. Kelbrook Wood is to the north of Public Footpath No. 65 between points B and C. The evidence statement refers to tracing this route on the Colne tithe map as 5 parcels of land referred to in the written schedule as 'roads'. This not the case with this claimed route as only 3 parcels are described as roads, and 1 as a lane. The 'old bridle path' referred to in the 2002 statement is also described as passing Earl Hall and Laycock. Earl Hall lies to the south of the claimed route on Public Footpath No. 44 Foulridge, and Laycock on the same footpath to the north of the route.

The extract of evidence presented at the Public Inquiry also refers to a route mentioned in 'A History of Barnoldswick' by J L Savage from Barnoldswick to Lothersdale. This old route was claimed to run along Bridleways nos. 43 and 44

Foulridge, then via Earl Hall to Laycocks. The route currently claimed as a bridleway does not pass through either of these properties.

Summary

Site evidence indicates that most of the claimed bridleway has the appearance of a walled track. Some walls still exist on both sides of the route, while only one remains along other lengths, and none at all in others. Where the route is not walled on both or either side there are indications on the ground that there used to be a track there, with evidence of a ditch along where a boundary may have been, or that a spring was set to one side. Old gateways on the route have been walled up in places, and stiles inserted instead to allow use by pedestrians.

Documentary and map evidence starts with the cases heard at the Lancaster Assizes in the mid 1600s. The case related to a highway for all types of traveller on the north side of Piked Edge. A farmer who had erected walls across the highway was ordered to take them down, and was taken to court again after he re-erected them after initially opening up the route as instructed.

Maps produced before the first Ordnance Survey maps were published in the mid 1800s only show the route at its western end between points A and B.

The claimed route is shown on two adjoining tithe maps both drawn in 1842. Evidence from the tithe maps show the route as an enclosed track along about half its length. Part of the claimed route in Foulridge is shown as not being in private ownership, and could therefore have been regarded as part of the public highway network of the parish especially section A - B. In contrast, 80% of the claimed route in Colne is in private ownership. Only 33% of the route in private ownership is described as a road or lane. The 1843 map of the Township of Colne shows some of the route with the status of 'bye or cross road'.

A sale document for the Copy House/Harwes Farm and Shaw Head estates dated 1873 shows length E – V as a cart road. The document also refers to the sale Lot as lying contiguous with the old highway from Skipton to Colne, but the specific route of this is not shown.

Ordnance Survey information from the 1894 25" map continues to reflect the appearance of the route evident from the 1842 tithe maps, and modern site evidence, namely that the route has existed from that time, mostly edged with one wall or with two. The 1894 map show that there were gates across the track in 10 locations.

The map prepared under the provisions of the 1910 Finance Act show that the part of the route in Foulridge was either excluded from land in private ownership, or owned by the parish council, whilst all the route in Colne was privately owned.

The length A – B has never been shown on the Definitive Map or on any maps produced in preparation of the Map. The parish council described the footpaths joining this section of the claimed route as joining a road, and it is presumed that this is why A – B was not shown on the parish survey map. There were no objections to the depiction of the claimed route at any stage of preparation of the Definitive Map.

It is not understood why the Parish Council today take the view that it is not public when their predecessors seem to have considered otherwise.

In conclusion, there appears to be evidence that the claimed route may have been the old road from Skipton to Colne in the 1600s, with remnants of this old road appearing in tithe maps and other maps produced around 1840. This was still in local memory in 1873 when one of the estates of the area was sold, and confirmed by the recollection of a local farmer at a public inquiry in 2002. No evidence has been found to show that this old route has ever been legally closed.

County Secretary & Solicitor's Observations

In support of the claim the Applicant has submitted considerable map and other documentary evidence, details of much of which appears under the heading "Environment Director's Observations".

Also submitted are the following:-

1. photographs of the claimed route, including aerial photographs, one dated 1940 and one undated.
2. extracts from Fay Oldland's book "The Story of Foulridge" giving information about a plot of land known as "Joseph's Place" and also about Dissenter's Well,
3. copy document dated 1655 ref DBB/62/15 (Lancashire Records Office), with transcription, referring to the making by James Hartley of two gates large enough to take carriages, packhorses etc at
4. copy document dated 1665 ref DDB/62/14 (Lancashire Records Office) with transcription, referring to James Hartley being fined for the blocking of a highway running from Foulridge over Kelbrook Moor and Pike Edge, via a "causey" known as Jepps Causey to meet the highway which runs between Colne and Skipton. Users of the highway so described are referred to as including "horses, and other cattle with carts or carriages".
5. extract from Colne & Nelson Times dated 9th June 1911 which refers to a right of way dispute of the time and the opening of some of the local routes by protestors.
6. extract from Statement of Carole England in which she refers to a verbal statement by Mr Robinson to part of the claimed route being "an old bridlepath" and "the old lime route to Lothersdale". She stated that Mr Robinson has since died. This Statement was made in support of a separate bridleway claim brought in 1992 but it is not clarified who Carole England is.
7. Copy letter dated July 1991 by Susan Rogers of the Countryside Commission in which she refers to an identical statement by Mr Robinson.

Information from Others

Nine owner/occupiers were consulted, of which three have replied. None of these have offered any objection to the claim.

One owner, Mr Robinson, has seen walkers on the claimed route but has not seen it used as a bridleway for many years. He requests that if the claim is accepted signs be erected where the route crosses open fields and makes the point that where the route crosses a wet and boggy area he would not expect to have to undertake works at his own expense.

Letters have been received from two local residents who live within a few hundred yards of the start of the claimed route. Both raise objections to the claim on the grounds that the claimed route passes land run by the owners of "The Shooting Lodge" as a shooting business. This business is open all day six days a week and noise from the clay pigeon shoot is loud, being audibly a mile away, and is likely to "spook" horses passing on the claimed route, with potentially fatal consequences. The Committee will, of course, be aware that while this may be of concern to potential users, and is of importance to the objectors, it can have no bearing on whether or not the path exists in law. The two objectors also make the point that the lane leading from Cob Lane as far as the Shooting Lodge is for access only.

A further local resident telephoned to express concern at any increase the number of horses using Cob Lane, which is single track only, but has not put her concerns in writing

Assessment of the Evidence

The Law - See Annex 'A'

In Support of the Claim

There is strong documentary evidence for section A - B

Against Accepting the Claim

The documentary evidence is less strong for section B - J

Conclusion

The Claim in this matter is that the long route across rural terrain is already a bridleway in status. No user evidence has been submitted and so it is a case where consideration of the historical documents and the way the route has been recorded and referred to therein can lead to a decision that on balance, it can be inferred that the owner(s) must have given the route over to public use. The Applicant has sent various documents and the Environment Director has further investigated and found others.

It appears that there is older and different historical evidence for Section A - B and it is suggested that Section A - B and B - J be considered separately.

Section A - U - B

This section is shown on the honour of Clitheroe map and significantly on both Greenwood and Hennesstys maps of early 19th century. Shown on different

independent maps is an indication of public status of at least bridleway. Information from the tithe maps can also assist and again most of this Section A-U is shown not recorded with an owner or occupier and on balance seemed to have been regarded as part of the highway network. Section A-U is also excluded from hereditaments on the 1910 Finance Act map and again this is very indicative of public status as the surveyors were to exclude "road ways". In 1950 footpaths were recorded to join this section of the route and it indicates that it was considered to carry public rights which the footpaths could lead into which were greater than footpath rights along this section of route.

Taking into account all the evidence in the Report it would indicate that this section in particular is recorded as being highway but least by the way status from many decades ago and it is suggested that Committee may consider that the claim for this section being accepted.

Section B-J

It is noted that east of B there is no evidence of it being a route at all on any of the old commercial maps. There is however physical existence of a route although some of the gateways are now blocked across and only a stile provided. A physical existence of a route however does not mean that it is public, it could equally have carried private access traffic.

The historical evidence of this long section of track carrying public rights is significantly less than Section A - B. Sections B - D appear on the tithe as a "lane or waste" with an owner occupier and other sections further east appear fragmented as sections of "road" again with owners and occupiers. Section B - J is within hereditaments in the Finance Act Map and there are other pieces of evidence which again do not amount to the standard of evidence for Section A - B.

It is suggested taking all the evidence into account there may not be sufficient evidence from which to infer that there are already public bridleway rights on this section on the line as claimed.

Whole Route

It is the case that there are references to an old highway in this area. However, it is the case that the location of the blocking of the "high way" in 1655 is not known and equally the outcome of the Court Case is not known. Similarly regarding the "old highway" contiguous to lot 14 in 1873, it is not clear where that highway lies. Bridleway 44 to the east of Point A was found to be a significant route carrying bridleways rights with an appearance of some antiquity by the Inspector following a Public Enquiry in 2002 but this route linked highways running north to south and may not have continued further east as a longer route all the way to Point J.

It may be that in the future the precise route of a dedicated public bridleway route can be shown east of Part B but until then it is suggested that there is sufficient evidence of the western end of this route to already carry a bridleway right but less evidence for the rest of the route.

The Committee, in considering all the evidence may take the view that any part of the Claim be accepted has already carrying public bridleway rights on balance, and the Claim for only Section A - B be accepted in this matter and Section B - J be not accepted.

Alternative options to be considered –

N/A

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

Paper	Date	Contact/Directorate/Ext
All documents on Claim File Ref: 5.27606(804/440)		J Blackledge, County Secretary & Solicitor's Group, 01772 533427

Reason for inclusion in Part II, if appropriate

N/A