

Regulatory Committee

Meeting to be held on 11 March 2020

Part I

Electoral Division affected:
Preston West

Wildlife and Countryside Act 1981

Definitive Map Modification Order Investigation

- i) Addition of public footpaths from Walker Lane to Tanterton Hall Road, Preston
- ii) Addition of a public footpath from Walker Lane to Lightfoot Lane, Preston

File No. 804-379b

(Annex 'A' refers)

Contact for further information:

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Executive Summary

Application for footpaths to be added to the Definitive Map and Statement of Public Rights of Way from:

- i. Walker Lane to Tanterton Hall Road, Preston
- ii. Walker Lane to Lightfoot Lane, Preston

in accordance with file 804-379b.

Recommendation

- (i) That the application to add to the Definitive Map and Statement footpath lengths from Walker Lane to Tanterton Hall Road, Preston, in accordance with file 804-379b, be accepted.
- (ii) That the application to add to the Definitive Map and Statement footpath lengths from Walker Lane to Lightfoot Lane, Preston, in accordance with file 804-379b, be accepted.
- (iii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and/or Section 53 (c)(i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement of Public Rights of Way two footpaths from Walker Lane to Tanterton Hall Road, Preston as shown on Committee Plan between A-B-C-D-E-F-G and H-I-J-K-L-E.

(iv) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and/or Section 53 (c)(i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement of Public Rights of Way a footpath from Walker Lane to Lightfoot Lane at Ingol Golf Course, Preston as shown on Committee Plan between V-W-X-Y.

(v) That being satisfied that the higher test for confirmation can be met the Orders be promoted to confirmation.

Background

In 2000, an application under Schedule 14 of the Wildlife and Countryside Act 1981 was received for the addition of a number of public footpaths which were described by the applicant as being situated on land forming part of Ingol Golf Course and as having been provided by the former Central Lancashire Development Corporation.

Five separate sets of routes were listed and numbered 1 to 5 and evidence in support of each route was provided.

The application was originally submitted by the Area Secretary of the Ramblers Association (Mid Lancashire Area) but sadly, since submission, the applicant has died.

Soon after the application was submitted, research was carried out by two former members of the county councils Public Rights of Way team and initial consultations carried out but reports were never prepared or presented to the Regulatory Committee and the officers originally involved in the investigation have subsequently retired. Various development proposals were thought likely to accommodate the routes but this has not been achieved. Further work has now been done to get the reports finalised.

The original application made by the Ramblers Association was split down into five separate ones. The bulk of the evidence provided by the Applicant in support of the application consisted of completed user evidence forms and on a review of the application bundle it has been decided to consider each route separately.

This report considers the routes referred to by the applicant as 'Route 2' and because of its lengths and the fact that it is split by Walker Lane it has been split down further into routes 2A and 2B for the purpose of this report as described below:

Route 2A - Two footpaths from Walker Lane to Tanterton Hall Road shown on Committee Plan 1 by a thick dashed line between points A-B-C-D-E-F-G and H-I-J-K-L-E.

Route 2B - A footpath from Walker Lane to Lightfoot Lane shown on Committee Plan 2 by a thick dashed line between points V-W-X-Y.

When an application is made, 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 (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

Preston City Council

The City Council were consulted and commented that it was their recollection that the Council had dealt with a query from a member of the public in 2000 regarding part of the length of path from Tanterton Hall Road to Durham House. They state that at that time they had sight of a copy of the Public Path Extinguishment Order made by the Commission for the New Towns and that the Order extinguished a number of public rights of way in that area.

They also state that further queries were raised by a resident regarding the status of other paths on the golf course and that a copy of the transfer/lease of the land to the golf club was seen by the Council which indicated that the ‘new’ paths were

'permissive paths', created as a condition of the transfer/lease. The Council referred the matter to English Partnerships but were not aware whether they had then pursued it with the golf club.

Comments from Preston City Council Highways department were that 'the paths most certainly exist' in terms of them being physically constructed and that they had been created by the Central New Towns Commission but that despite receiving numerous enquiries regarding the condition of the paths over the years the Council had no power to act with respect to such 'permissive paths'.

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 plans.

Route 2A (Committee plan 1)

Point	Grid Reference (SD)	Description
A	5147 3320	Open junction with Walker Lane (U10628)
B	5139 3314	South side of field boundary
C	5139 3310	Boundary of golf course adjacent to rear boundary of 47 The Avenue, Ingol
D	5132 3281	Boundary of golf course adjacent to rear boundary fence of 7 The Avenue, Ingol
E	5131 3275	Unmarked point in field
F	5130 3273	Watercourse on boundary between Fulwood and Lea
G	5128 3272	Open junction with Tanterton Hall Road (U10657)
H	5155 3309	Open junction with Walker Lane (U10628) adjacent to Parr Lodge
I	5151 3304	Track adjacent to rear boundary of Parr Lodge
J	5147 3297	Track enters area of woodland
K	5140 3287	Unmarked point in field
L	5138 3282	Trodden path (with no recorded public status)

Route 2B (Committee plan 2)

Point	Grid Reference (SD)	Description
V	5140 3330	Timber two step stile in boundary fence at junction

		with Walker Lane (U10628)
W	5145 3332	Edge of woodland
X	5154 3337	Timber two step stile and site of adjacent wicket gate
Y	5157 3341	Open junction with Lightfoot Lane (B6241) directly opposite properties known as Sunnybank and The Oaks

Description of Routes

The application was submitted in 2000 but a site inspection was not carried out by the county council until 2006.

Because the application relates largely to user evidence pre-dating 2000 details of the 2006 site inspection are included in this report. This provides a better indication of what existed on the ground closer to the time that the routes were said to have been used.

Further site inspections were carried out in 2016 and 2017 to see what changes may have occurred since the 2006 inspection.

Route 2A

The route commences from point A on Walker Lane where, in 2006, it was reported that there was a mound of earth on the grass verge and signs of considerable pedestrian use over and around the mound. At point A it was noted that there was a break in the hedge-line and a circular grey metal post was located on the north westerly side of the opening. The officer carrying out the inspection was of the view that the post appeared to be a footpath direction sign although the finger was missing. No reference was made to permission.

In 2017 there was no evidence of the metal post or mound of earth but a gap in the hedge existed at point A providing access from Walker Lane onto the golf course. The gap appeared to be used by golfers crossing Walker Lane from one part of the course to another.

Beyond point A in 2006 it was noted that there was an area of grass with a stone pathway running parallel to Walker Lane forming part of the Golf Course. The claimed route ran diagonally over the stone path to follow the southern side of a ditch and a line of trees in a south westerly direction.

After approximately 90 metres at point B, the application route turns to run over rougher grass in a more southerly direction to the easterly side of the housing development of "The Avenue" (C). In 2006 it was noted that there was no trodden path visible over this length and in 2017 there was still no visible path and a post and wire fence had been erected across the route midway between point B and point C.

The application route then follows the rear of the garden boundaries and passes between the fence line and a pond to the rear of 39 and 40 The Avenue. In 2006 it was noted that it was not possible to walk between the pond and the boundary fence and in 2017 this section was impassable due to overgrowth.

The route then continues to the rear of the garden boundaries over rough grass forming part of the golf course and is shown on the Committee plan to pass between a further pond and the garden fences to the rear of 25 and 26 The Avenue. In 2006, it was noted that the pond extended up to the slope that was the base of the fencing and that it was not possible to walk on this section because of the steepness of the slope.

When the route was inspected in 2017 it was noted that it was still not possible to walk this part of the route claimed.

Beyond the pond the claimed route is shown as continuing alongside the garden fences to point D and it was noted in 2006 that the route was difficult to follow through the overgrown wooded area and that there were also sections where garden refuse and conifer cuttings had been placed onto the route making access very difficult.

From point D the route diverges from following a line along the boundary of the golf course adjacent to the rear of 7 The Avenue and in 2006 was reported as continuing through brambles and nettles and then over rough grassland at the side of the golf course to point E where it was described as joining the overgrown line of an old track leading from the north east.

The application route was then described as continuing along the line of a track for approximately 20 metres through rough grass and brambles, to point F where there was a high, metal security fence placed at what appeared to have been a gap in a mature boundary hedge.

On the far side of the security fence there was a deep drainage ditch with no apparent sign of there being a footbridge crossing although the officer carrying out the 2006 site inspection noted that the Ordnance Survey map indicated that there had been a bridge at the time of their survey. The ditch was noted as being heavily overgrown and difficult to see but it appeared that it may have been culverted.

From point F the claimed route was described as curving to the west and crossing a wide grass verge to join the footway adjacent to Tanterton Hall Road.

In 2006 it was noted that the route from point D to point E was overgrown with rough grass and brambles and that there was no evidence of a worn track.

In 2017 the land crossed by the route from point E-F and F-G was so overgrown with thick dense brambles (even in January) that it was not possible to gain access to see whether the metal fence still existed at point F and neither route was accessible.

The Ramblers Association also included a further section of path within their application described as the 'original route of FP 50 through Durham House'. It commences on Walker Lane at point H on the Committee plan adjacent to Parr Lodge.

From point H the application route follows a bounded track in a south westerly direction to point I and then continues as an open track across the golf course to point J where it passes through the former site of a building marked as “Durham House” on Ordnance Survey maps. This area was noted in 2006 as having been used recently as a materials storage compound.

The route continues along the track in a south westerly direction through the remains of the former house and grounds and continues as a worn track across the golf course to point K. From point K the track bends to continue in a more south south westerly direction to the junction with a surfaced path (with no recorded public status) at point L on the Committee plan.

From point L the route continues in a south westerly direction through an area of rough grass and brambles. In 2006 this area was noted as being overgrown and in 2017 it was completely overgrown and not possible to walk between point L and point E along the route claimed.

The whole of the length of the track described above from point H to point L, was described in 2006 as being extremely well used, with signs of pedestrian and cycle use and use particularly by vehicles. The surface was described as stone although this had been covered by mud and leaf debris and the vehicular use of the track was noted by the officer carrying out the inspection as appearing to be in connection with the golf course.

When the route was inspected in 2017 there still appeared to be a significant level of pedestrian use along the route H-IJ-K-L.

In summary, there appeared to be no current use of the application route between points A-B-C-B-E-F-G or L-E in 2006 or 2017. There was evidence that access was available at point A but beyond that the route was not evident as a trodden route. Both in 2006 and 2017 it was noted that although the application route was overgrown and difficult to follow there was evidence of use of trodden routes across land roughly parallel to the application route and in 2006 the officer carrying out the inspection considered that those routes had possibly been created by people deviating around overgrown sections of the application route or to link to other paths across the land.

The application route between point H-I-J-K-L was accessible in 2006 and still appeared to be in use in 2016.

Route 2B

The route commences at a point on Walker Lane where it leaves the highway verge at a timber two step stile in a boundary fence (point V). In 2006 it was noted that adjacent to the stile there was a circular grey metal post which was thought to be the remains of a footpath direction sign with the finger missing. When inspected in 2016 the post was no longer there. No reference was made to permission.

The stile referred to in 2006 was still in position in 2016 although the wood was becoming quite worn. A gap in the fencing south east side of the stile was noted in

2006 and was still there in 2016. The ground was worn suggesting regular pedestrian use of the gap.

Beyond the stile the route extends in an east north easterly direction across the corner of Ingol Golf Course for approximately 60 metres before entering an area of woodland at point W. It passes along a strip of land bounded by a fence to the north and woodland to the south. In 2006 it was reported that this section consisted of a 3.5 metre wide grass track. It was noted that trees had fallen across the track but that it was still useable. In 2016 it was not possible to walk along this enclosed section due to overgrowth, the growth of some small self-seeded trees and some more mature fallen trees.

The overgrown section of the route extends from point W for approximately 100 metres to a wooden stile at point X.

In 2016 a worn track – consistent with pedestrian use was visible from point V continuing towards and avoiding the overgrown section of the route between point W and point X to re-join the route at point X.

In 2006 the route was described as crossing a timber two step stile with a wicket gate to the south east side at point X. The stile and gate were noted to be in good condition and the wicket gate was described as being padlocked.

In 2016 the stile still existed but was in poor condition and the gate and field boundary fence through which it passed were no longer evident.

From point X the route passes through the wooded area curving northwards in an arc to exit onto Lightfoot Lane at point Y.

In 2006 it was noted that a trodden track was visible on the ground but that the wooded area was poorly maintained and the surface of the path was covered with broken branches and twigs.

At point X the route was described as opening directly onto the footway on Lightfoot Lane where there was a circular grey metal post located to the rear of the footway, which it was considered could have originally been a direction signpost.

In 2016 it was still possible to follow a worn track through the woodland to exit at point Y. The track did not, however, follow the precise route shown on the committee plan but 'wiggled' through the trees avoiding fallen trees and obstacles.

The total length of the route is 220 metres. It was considered to be useable – although overgrown and poorly maintained in 2006. When inspected in 2016 it was possible to pass from point V to point Y but necessary to deviate from the application route, particularly between point W and point Y, due to overgrowth and fallen trees. There was evidence of pedestrian use of parts of the route.

Map and Documentary Evidence

A variety of maps, plans and other documents were examined to discover when the routes came into being, and to try to determine what its status they may be. The routes are not shown on any of the early commercial maps, the Tithe Map of Broughton dated 1839 or OS maps published in 1849, 1893, 1912, 1932, 1938, 1961 or 1978. Neither is it shown on the aerial photographs taken in the 1940s or 1960s.

The routes cross land which is within an area which was designated as the Central Lancashire Development Corporation. A Development Corporation was a body set up across parts of England and Wales and charged with the urban development of an area. It operated under the New Towns Act of 1965, outside the usual Town and Country Planning legislation.

The Central Lancashire New Town (Designation) Order was approved on 14 April 1970 and the Development Corporation formerly constituted on 17 February 1971. The Commission was in existence for 16 years until it was formally dissolved on 31 March 1986 and during that time the area to the north of Preston – referred to as Ingol East – underwent significant development.

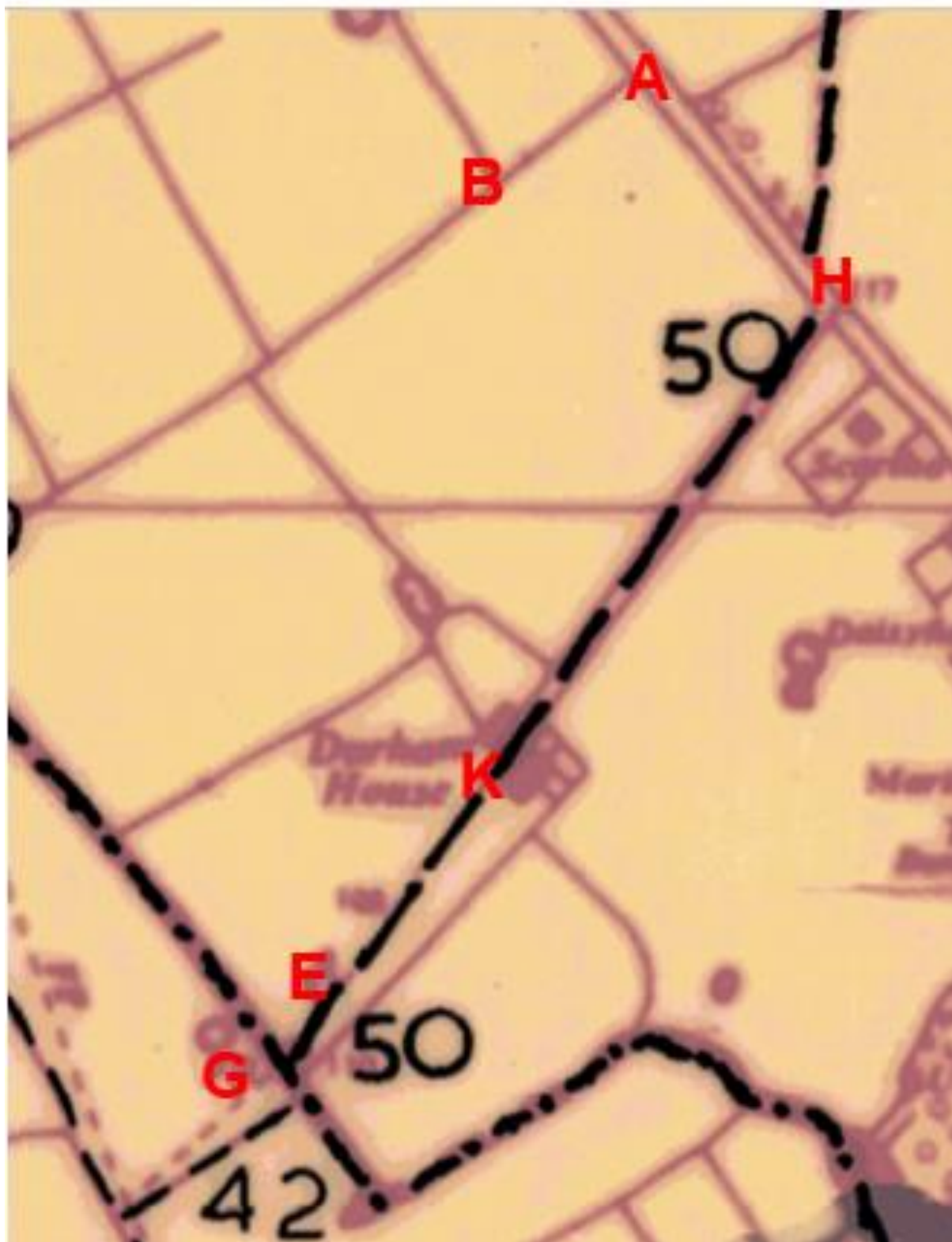
The application route came into existence as part of the development of Ingol East – with particular reference to an Extinguishment Order under The New Towns Act 1965, which was made on 29th June 1978 by the Secretary of State for the Environment. The New Towns Act gave the power to extinguish existing public rights of way to allow for development, and alternative paths were often shown on plans accompanying extinguishment orders. The New Town Commission could create new highways like any other owner.

The routes claimed were described in the application as having been provided by the former Central Lancashire Development Corporation as a replacement for Fulwood Footpath 49 and Lea Footpath 43 which were extinguished by the 1978 Order and further details of the order and evidence post-dating the designation of the area as part of the Central Lancashire New Town are detailed below and assessment made of the relevant map and documentary evidence discovered:

Document Title	Date	Brief Description of Document & Nature of Evidence
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</p>

		<p>municipal borough council in their respective areas. Following completion of the survey the maps and schedules were submitted to the county council. In the case of municipal boroughs and urban districts the map and schedule produced, was used, without alteration, as the Draft Map and Statement. In the case of parish council survey maps, the information contained therein was reproduced by the county council on maps covering the whole of a rural district council area. Survey cards, often containing considerable detail exist for most parishes but not for unparished areas.</p>
Observations		<p>Fulwood was an Urban District Council for which no parish survey was carried out. Lea Parish Survey Map does not show the route claimed.</p>
Draft Map		<p>The Draft Maps were given a "relevant date" (1st January 1953) and notice was published that the draft map for Lancashire had been prepared. The draft map was placed on deposit for a minimum period of 4 months on 1st January 1955 for the public, including landowners, to inspect them and report any omissions or other mistakes. Hearings were held into these objections, and recommendations made to accept or reject them on the evidence presented.</p>
Observations		<p>The routes under investigation were not shown on the Draft Map of Public Rights of Way for Fulwood or Lea (with the exception of the route between points H-K and E-F which formed part of the original route of Footpath Fulwood 50) and there were no representations made to the county council in relation to them.</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		The routes were not shown on the Provisional Map of Public Rights of Way for Fulwood or Lea (with the exception of the route between points H-K and E-F which formed part of the original route of Footpath Fulwood 50) and there were no representations made to the county council in relation to them.
The First Definitive Map and Statement		The Provisional Map, as amended, was published as the Definitive Map in 1962.
Observations		The routes were not shown on the First Definitive Map and Statement with the exception of the route between points H-K and E-F which formed part of the original route of Footpath Fulwood 50.
Revised Definitive Map of Public Rights of Way (First Review)		Legislation required that the Definitive Map be reviewed, and legal changes such as diversion orders, extinguishment orders and creation orders be incorporated into a Definitive Map First Review. On 25 th April 1975 (except in small areas of the County) the Revised Definitive Map of Public Rights of Way (First Review) was published with a relevant date of 1 st September 1966. No further reviews of the Definitive Map have been carried out. However, since the coming into operation of the Wildlife and Countryside Act 1981, the Definitive Map has been subject to a continuous review process. By 1975 Central Lancashire Development Corporation had been in existence only four years and had just achieved its planning consent and extinguishment of footpaths 49 and 43 had not yet happened.
<u>Route 2A</u>		



Route 2B



Observations		The routes were not shown on the Revised Definitive Map of Public Rights of Way (First Review) with the exception of the route between points H-K and E-F which formed part of the original route of Footpath Fulwood 50.
Investigating Officer's Comments		<p>From 1953 through to 1975 there is no indication (with the exception of Fulwood 50) that the routes were considered to be public right of way by the Surveying Authority. There were no objections to the fact that the routes were not shown from the public when the maps were placed on deposit for inspection at any stage of the preparation of the Definitive Map.</p> <p>An Order was made by Secretary of State on 29th June 1978 to extinguish parts of various public footpaths crossing land owned by the Central New Towns Commission – including Fulwood 50 and details of this order are provided later in the report.</p>
Aerial photograph	1960s	The black and white aerial photograph taken

1978 OS

Map showing land parcels, roads, and a pond. The map is overlaid with a grid. Key features include a pond in the upper left, a road running diagonally from the top right to the bottom right, and several land parcels with their respective areas and coordinates. Red letters A, B, and H are marked on the map. A scale bar at the bottom indicates distances in meters.

Grid coordinates (X-axis): 512, 513, 514, 515, 516

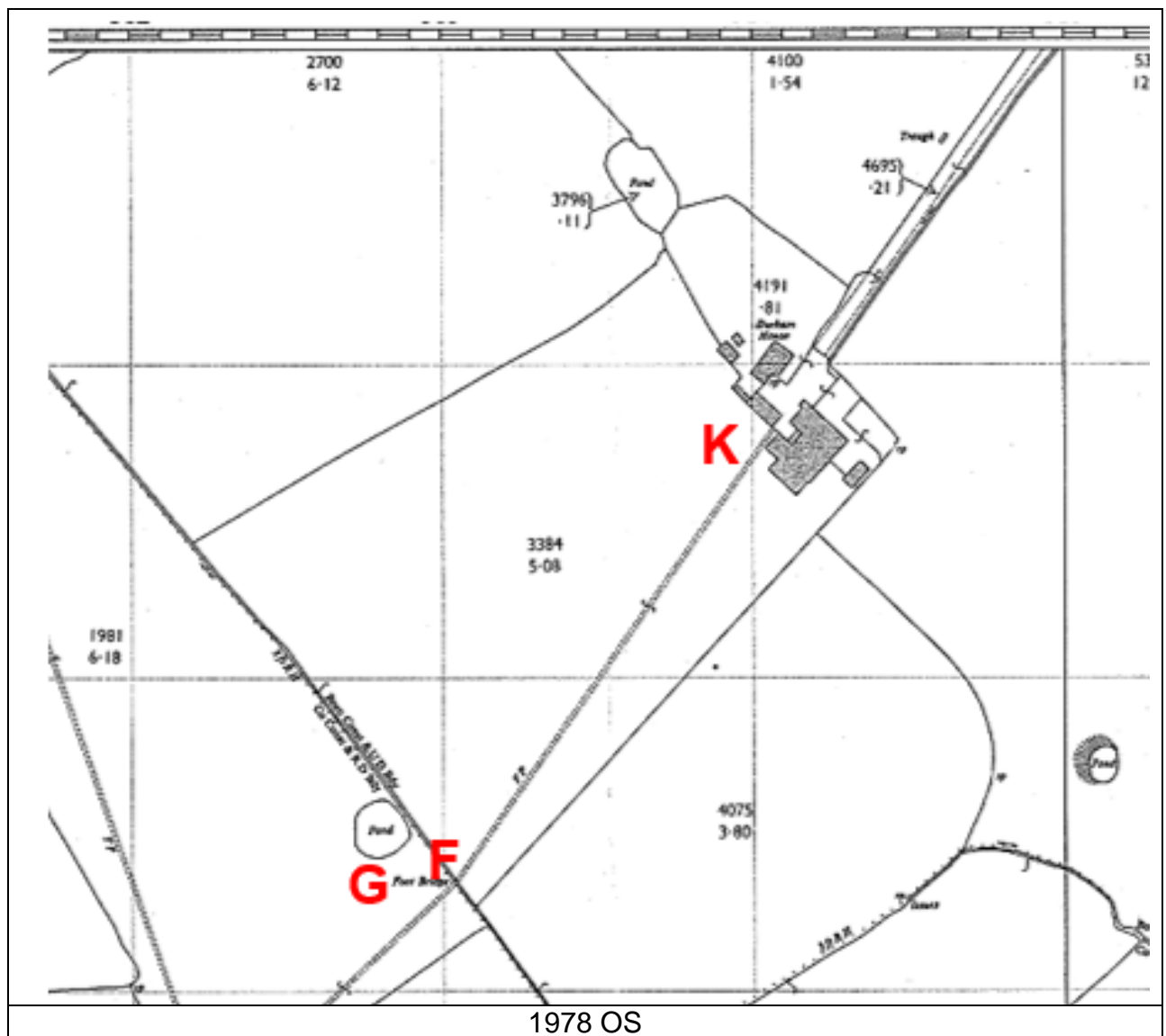
Grid coordinates (Y-axis): 2-46, 2-30, 1-08, 1-13, 8-17, 8-74, 1-34, 1-31

Land parcels and their details:

- Parcel 1: 996ha, 2-46
- Parcel 2: 2923, 3-349ha, 8-28
- Parcel 3: 4123, 931ha, 2-30
- Parcel 4: 2111, 1-752ha, 4-33
- Parcel 5: 500, 74ha, -90
- Parcel 6: 2700, -457ha, 1-13
- Parcel 7: 4100, 3-306ha, 8-17
- Parcel 8: 5305, 693ha, -23
- Parcel 9: 5300, -299ha, -74
- Parcel 10: 5600, -210ha, -52
- Parcel 11: 530, -134, -31

Other features:

- Pond
- Road (A, B, H)
- Scale bar (0 to 100m)





Observations		The routes did not exist on the ground when the maps were revised in 1960 and 1976 with the exception of the route of Fulwood 50 through Durham House which was recognised as a public footpath prior to being legally extinguished.
Investigating Officer's Comments		The application routes did not exist on the ground prior to the development of the golf course. The original route of Fulwood 50 existed and appeared useable in 1960 (prior to its extinguishment).
Central Lancashire Development Corporation Planning Statement	1974	Copy of Central Lancashire Development Corporation Ingol East, Residential and Associated Development Planning Statement prepared with reference to Section 6(1) New Towns Act 1965

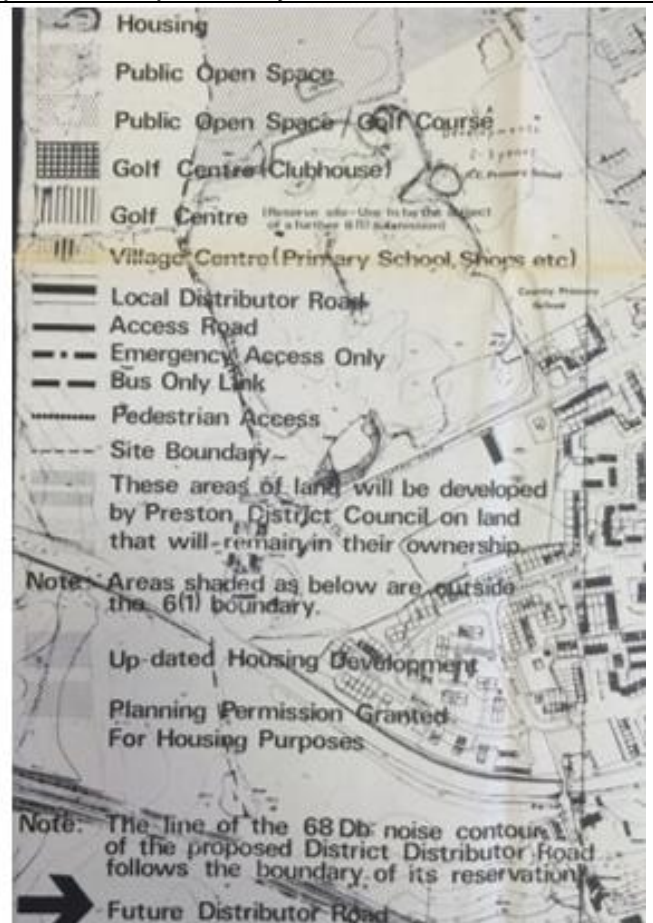
loops with bus-only links and this system should be capable of development from the existing services in the area. Discussions have taken place with the public transport undertakings operating in the area.

5.7.5

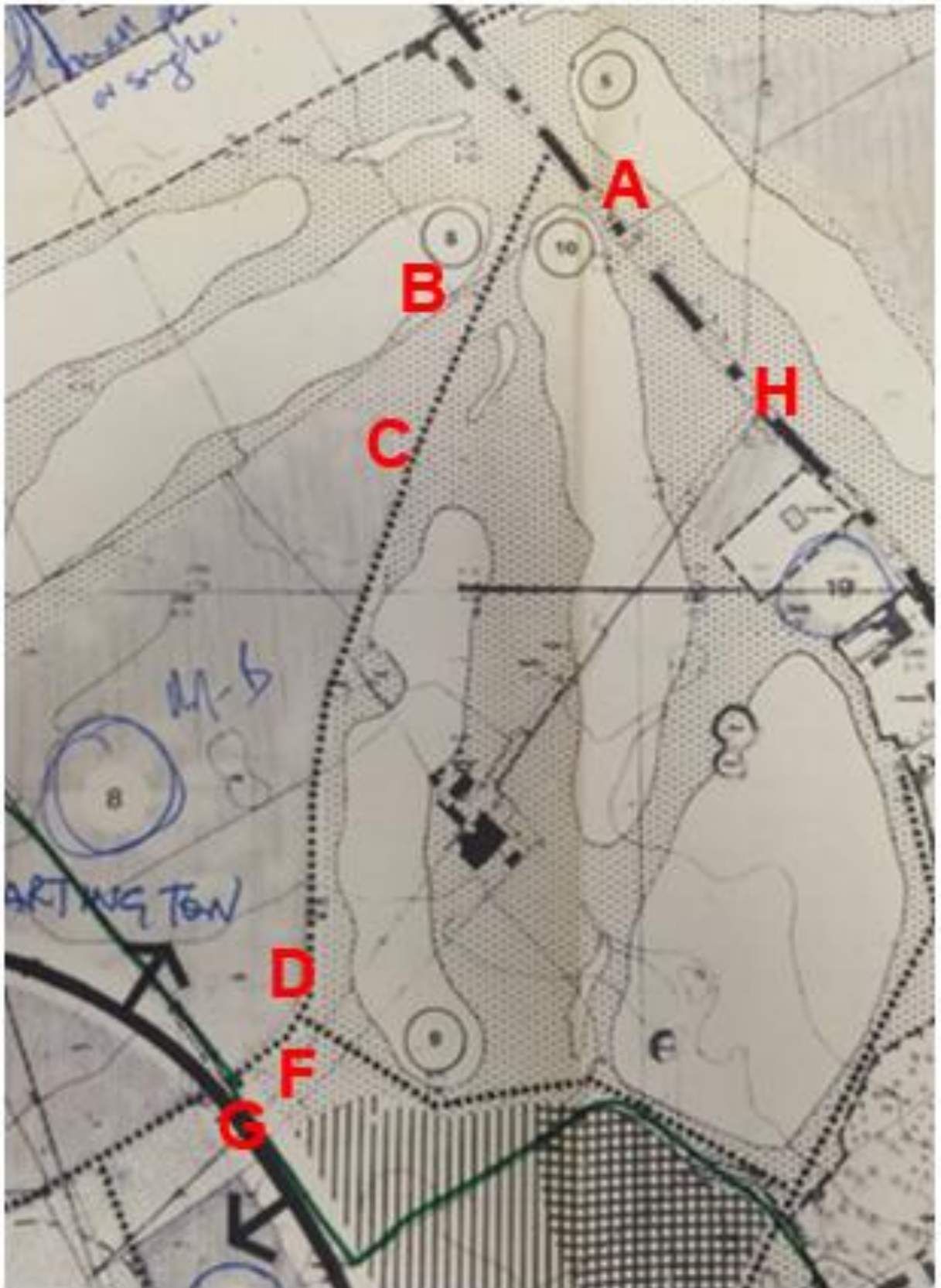
The site is crossed by a network of public footpaths, the extent of which will be retained although diversions may be necessary to take account of development. New footpaths will be constructed so that the whole will form a pedestrian framework associated with the golf course and open space system. Wherever possible, major footpaths will be aligned to incorporate existing natural features such as trees and hedgerows and they will be designed to link housing areas, facilities and amenities conveniently and without major conflict with the road network. The design of the footpaths will allow for their use also as cycleways. Care will be taken to ensure that the footpaths within the site are linked in a logical manner with those immediately outside the boundaries of the site.

Observations		<p>A copy of the Planning Statement prepared in relation to the development of the area crossed by the application route was obtained from the submissions made in relation to a request for planning permission in 2010 (Ref 06/2010/0626).</p> <p>The Planning Statement was prepared in 1974 by the Development Corporation seeking approval to develop the Ingol site under the New Town legislation. It explains that the site – consisting of 430 acres – was in 22 ownerships all of which were being purchased by the Commission under compulsory purchase orders with the exception of the land owned by Preston Borough Council which was being transferred by agreement. The Statement lists the development proposals including housing, schools and other facilities, the golf course, public open spaces and communications.</p> <p>Under the heading titled 'Communications' is a paragraph 5.7.5 relating to public rights of way which explains that the existing extent of public rights of way will be retained – or diverted where necessary to allow for development - and that a new network of footpaths would be constructed to link housing areas, facilities and amenities the design of which would also allow for use as cycleways.</p>
Investigating Officer's Comments		<p>Whilst not specifically referring to the creation of 'public' footpaths the inference is that the land to be developed – which would all be within the ownership of the Central New Town Commission – would be</p>

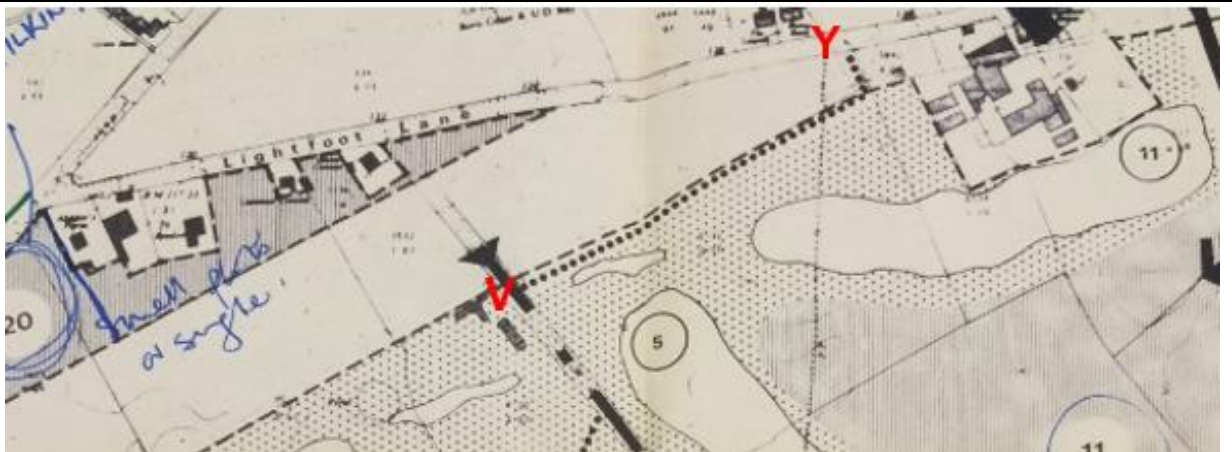
		developed in such a way as to include a network of existing and additional footpaths to be used by the public on foot and also capable of being used on bicycle.
Central Lancashire Development Corporation plan 'Ingol East'	1977	Plan deposited in the County Records Office dated 1977 at a scale of 1:2500 and referenced as Drawing No. 6/34/17c (CRO reference NTC5/2/53). Originally titled as 'Support Drawing' which is crossed out in pen and replaced by 'Local Plan'.



Route 2A

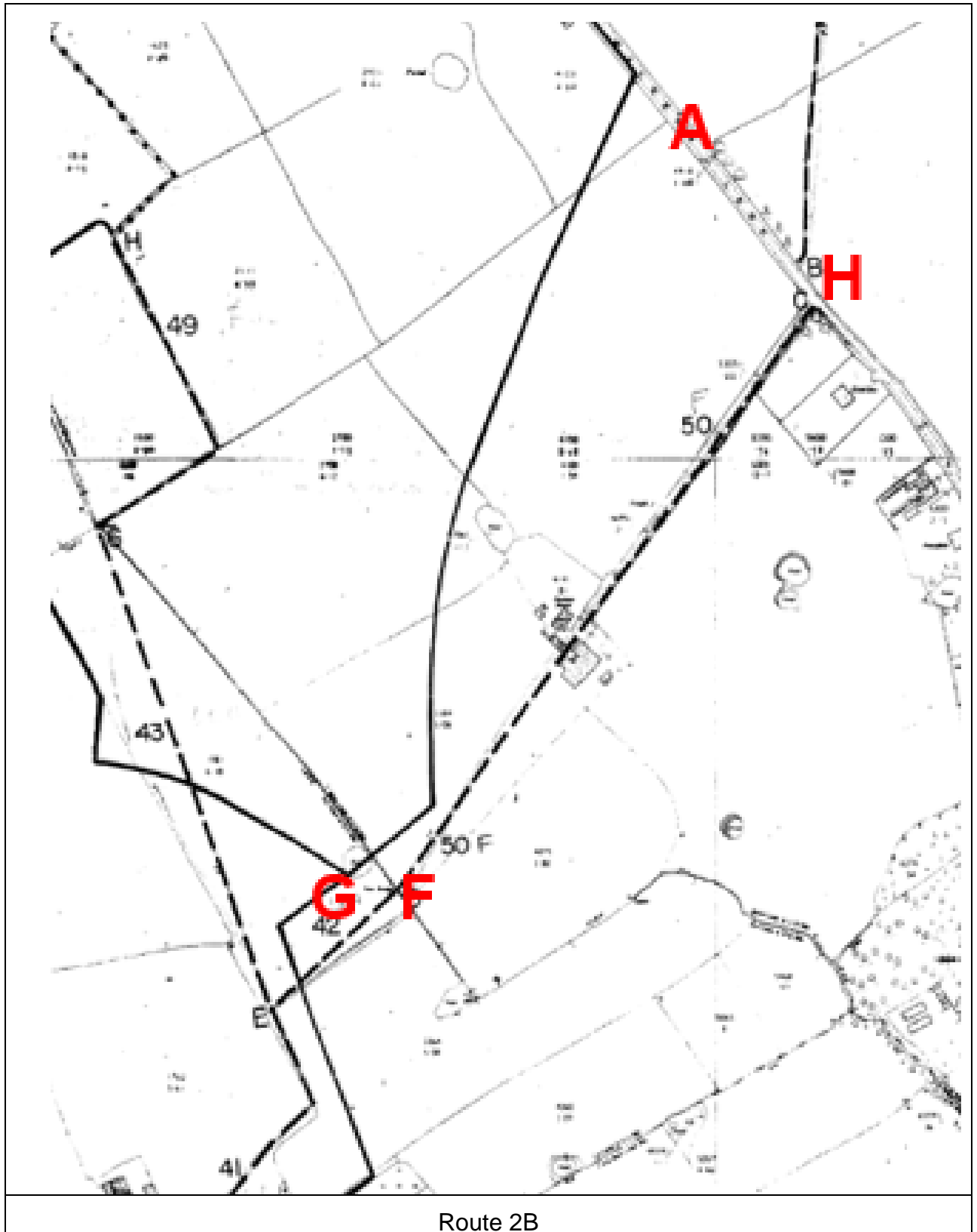


Route 2B

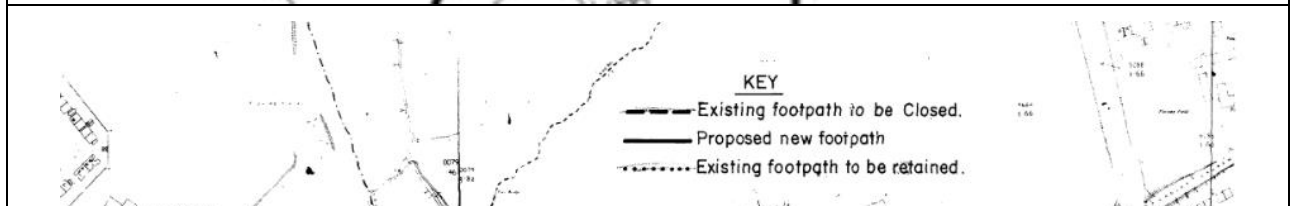
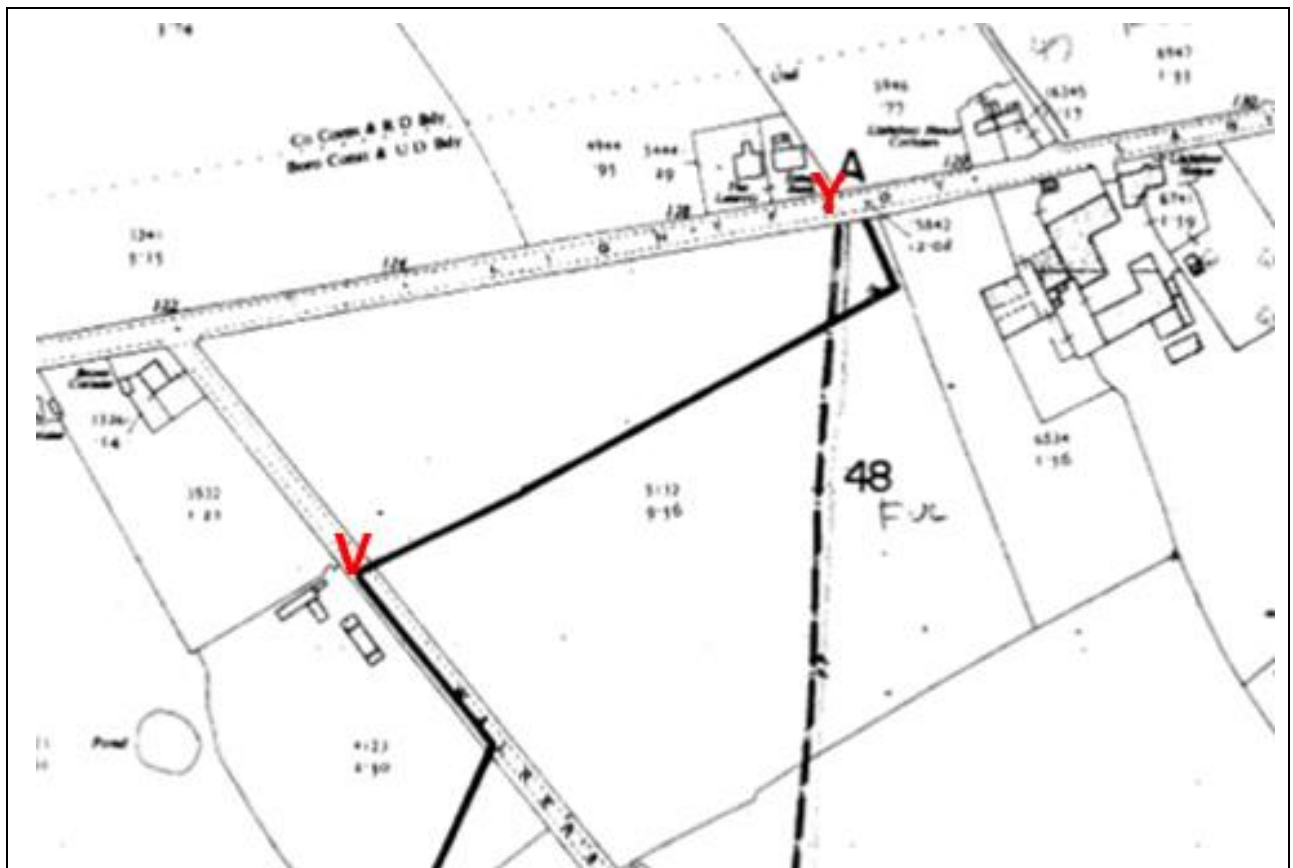


Observations		<p><u>Route 2A</u></p> <p>The plan shows routes across the golf course described as 'pedestrian access' in the key. A route similar, but not entirely along the same alignment as route 2A is shown commencing on Walker Lane north west of point A and then passing between golf holes numbered 8 and 10 to then follow along the edge of the golf course along the claimed route between points C-D. It then continues along the edge of the residential housing to exit onto Tanterton Hall Road north west of point G. The former route of Footpath Fulwood 50, or the application route between points H-I-J-K-L-E-F-G is not shown as a pedestrian access route.</p> <p><u>Route 2B</u></p> <p>The route is shown from point V passing through point W and point X but exiting onto Lightfoot Lane slightly further east than point Y.</p>
Investigating Officer's Comments		<p>This is the earliest plan inspected to show routes crossing land to be developed as part of the golf course. The routes are described as 'pedestrian access' but there is no indication on the plan whether pedestrian access was for public or private use or whether the routes shown were proposed access routes or whether access had already been provided along those lines.</p>
Final Draft Agreement for lease relating to development of golf course and housing	1978	<p>A copy of a draft agreement was found in the County Records Office annotated as being the 'final draft agreement' between Central New Towns Development Corporation and Miller Buckley Golf Services (Ingol) Limited dated 13 March 1978 for the lease relating to the development of the golf course and housing.</p>

Observations		<p>The agreement contains information regarding the provision of footpaths across the land. Within Schedule 3 it states that within the golf course parcel the corporation will provide certain footpaths shown on a drawing referenced 6/34/308A and that the general line of these footpaths may be subject to variation by agreement between the corporation and the company. It also stated that any closure of an existing footpath will require an order which is within the discretion of the Secretary of State.</p> <p>The agreement also stated that footpaths must be kept open and useable on foot at all times although private footpaths could be temporarily closed by the lessee if necessary for the proper management of the golf course and that the corporation would not unreasonably withhold permission to divert public or private footpaths at a future date if it was necessary for the implementation of the scheme.</p>
Investigating Officer's Comments		<p>A copy of the plan referred to in the agreement could not be found in the County Records Office so it is not possible to confirm whether the routes under investigation were the ones shown. However, the draft agreement does refer specifically to the provision of public access along footpaths across the site although it appears that there were to be both public and private routes created and in fairness some confusion over terminology and the changes possible to them once constructed.</p>
New Towns Act 1965 Order for the Extinguishment of Public Rights of Way Central Lancashire Development corporation Borough of Preston	1978	<p>Order made by Secretary of State on 29th June 1978 to extinguish parts of Footpaths 41, 43, 49, 48, 50, 42 and 5 as shown on the Order plan and described in the Order Schedule.</p>
<u>Route 2A</u>		

















Route 2B



		<p>The Order came into effect on the day that it was made. There was no reference to the creation of alternative or 'new' public rights of way in the wording of the Order but the key to the Order plan showed proposed new footpaths with a solid black line, existing footpaths to be closed with a long dashed line and existing footpaths to be retained by short dashed lines.</p> <p>Route 2A</p> <p>The Order plan shows a proposed alternative footpath from Walker Lane but commencing at a point north east of point A which then extends in a general southerly direction in an arc towards the route of Fulwood 50 (to be extinguished) and then in a more south westerly direction passing through a pond located north west of the application route between points F and G.</p>
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		<p>Route 2B</p> <p>The route under investigation between points V-W-X is shown as a proposed path on the Order plan but is shown to exit onto Lightfoot Lane to the east of point Y.</p>
Observations		<p>The Order plan showed a number of routes described as "proposed new footpaths" – including routes which were similar but not entirely consistent with the application routes.</p> <p>The Order does not specify that the route was to be created as a public right of way by the Order, Central Lancashire Development Corporation could create highways as owner but it appears reasonable to infer that the intention was to create alternative public rights of access along the routes shown as proposed new routes. As the order plan was drawn using an Ordnance Survey base map which pre-dated the development of the golf course and associated housing it appears that whilst the existing routes to be extinguished were correctly shown on their legally recorded alignment the proposed alternatives routes were possibly approximations of the routes to be provided once the development took place.</p>
Ingol Golf Villages - Leaflet published and produced by Central Lancashire Development Corporation	1980	<p>Copy of leaflet produced providing details of the proposed development of a golf course and housing in Ingol and contact details for the various housing developers and Central Lancs New Towns Development Corporation. The leaflet included a map of the 18 hole golf course and the key to the map details, amongst other things, routes shown as public footpaths, existing and new roads and roads to be made into footpaths.</p>



	<p>Key to map</p> <ul style="list-style-type: none">  New housing areas  Existing development  Village centres  Golf centre and clubhouse  Golf course fairways and greens  Golf course 'roughs'  Direction of play on golf course 13 Green numbers  Public open space  Tree belts  New roads  Existing roads  Existing road made into a footpath  Public footpaths  Emergency exit road
<p>Observations</p>	<p>The plan included in the leaflet is a large scale drawing showing routes described as public footpaths which correspond to the routes shown as proposed footpath in the 1978 extinguishment order detailed above.</p> <p>A route is shown from Walker Lane to Tanterton Hall Road which appears to include that part of the claimed route between point C and point D but which differs from the route claimed between point A and point C and point D and point G. the former route of FP 50 claimed between point H-I-J-K and the route K-L-E are not shown on the plan.</p> <p>A route consistent with Route 2B is shown as a public Footpath from point V to point X but</p>

		beyond point X the route is shown to take a different route and to exit onto Lightfoot Lane east of point Y.
Investigating Officer's Comments		<p>The leaflet was distributed to the public showing details of the proposed development and clearly indicates the intention that a number of routes shown on the 1978 extinguishment order were to be provided as public footpaths reiterating the intention to provide alternative routes for those paths extinguished by the 1978 order detailed above.</p> <p>Routes consistent with – but not on the exact alignment of Route 2A between points A-B-C-D-E-F-G and 2B between points V-W-X-Y are shown as public footpaths. The former route of Fulwood 50 is not shown indicating that there was no intention to retain it as a route to which the public had a right of access.</p>
Aerial Photograph	1988	Aerial photograph taken May 1988 and available to view in the County Records Office
<u>Route 2A</u>		





Route 2B



Observations

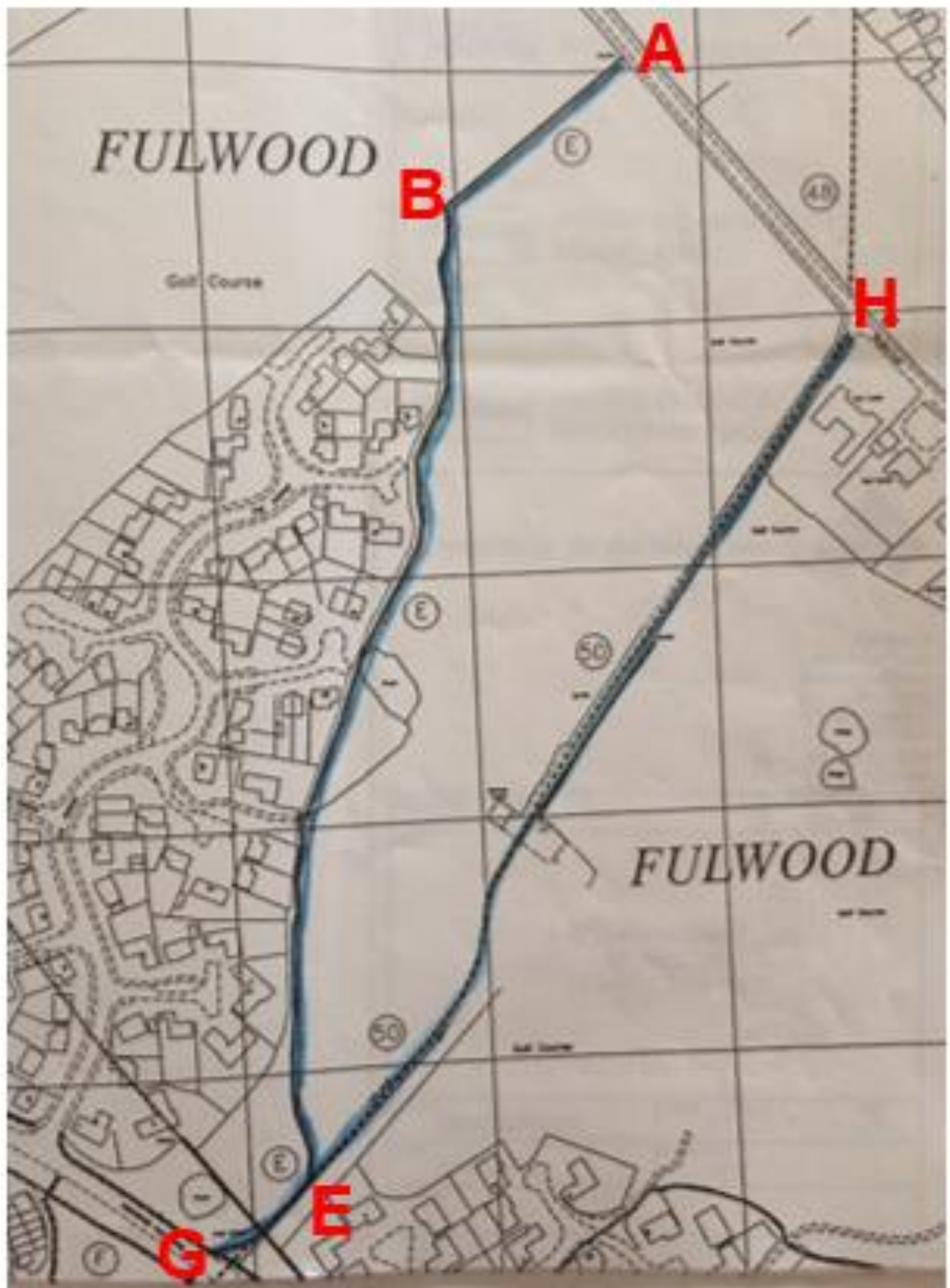
Route 2A

It is not possible to see whether access was available from Walker Lane at point A. Access along the route appears to be available between point A-B-C although there is no visible track. From point C it appears possible to walk the application route along the boundary of the golf course to point D but it is not possible to see whether there was access between the houses and ponds due to tree cover. Again, there is no visible worn track along this section. From point D-E the route crosses rough grass and there is no worn track visible.

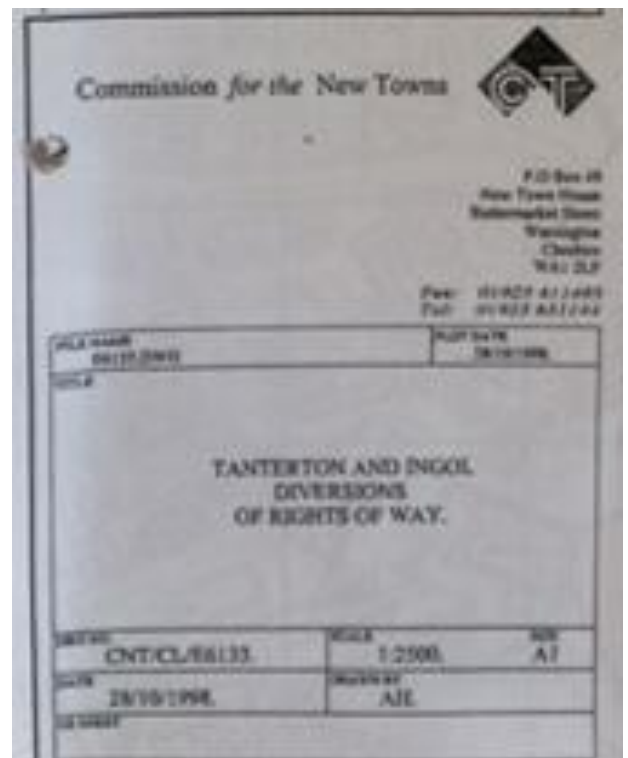
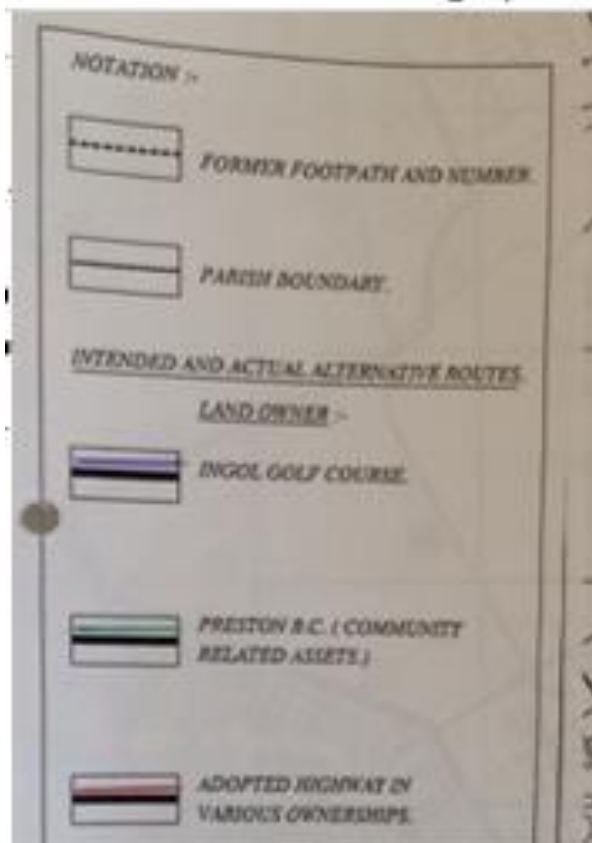
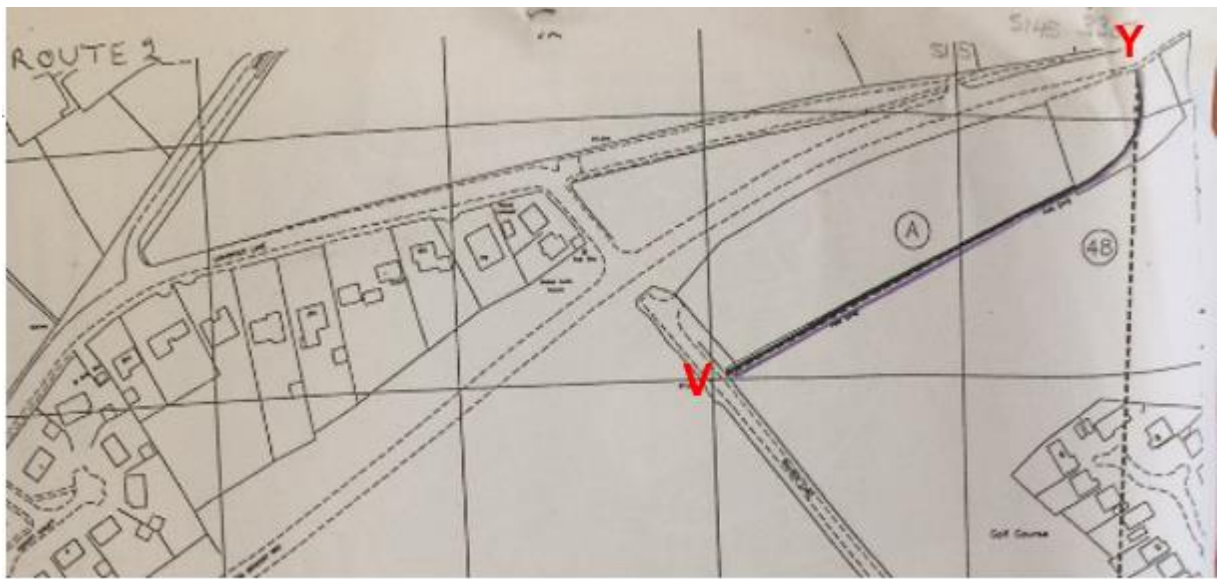
At point F a clearly visible route can be seen across the watercourse and access appears available from point F to point G.

The former route of Fulwood 50 from point H-I-J can be seen and appears accessible. The farm and outbuildings can be seen on the photograph and it appears that there could have been a route through to point K.

		<p>Between point K and point L the route crosses open ground and may have been available. At point L the route is crossed by another visible path and from point L along the application route to point F a path is visible which appears consistent with pedestrian use.</p> <p>Route 2B</p> <p>The route is not visible as a track on the ground between point V-W-X although there does not appear to be anything across the route which would prevent access. From point X to point Y a worn track is visible which is consistent with the claimed route.</p>
Investigating Officer's Comments		<p>The route between point H-I-J-K-L-E-F-G existed and appeared capable of being used in 1988. The route between point A-B-C-D-E may have been available to use but the aerial photograph does not show up a route consistent with regular and consistent use (i.e. a visible worn track).</p> <p>The route between point V-W-X-Y probably existed in 1988.</p>
Plan used as part of application to show route claimed	1998	<p>Plan provided by Commission for New Towns (North) to the applicant together with a letter in response to the applicant querying the status of the application route with them prior to submitting the application.</p>
<u>Route 2A</u>		



Route 2B



Observations

This plan was provided to the applicant by Mr R Robson, Commission for New Towns (CNT) North, in a letter dated 06 November 1998, CNT was the successor to Central Lancashire Development Corporation. The drawing – referenced CNT/CL/E6133, is stated to be based on the latest OS plan of the Ingol and Tanberton area (at that time) and is described as being marked up with the routes of the former footpaths and the

		<p>approximate routes of the various alternative footpaths provided in respect of the various footpath closures.</p> <p>The plan was marked up with details of the various landowners and annotated with letters of the alphabet.</p> <p>The letter accompanying the plan also explains that Central Lancashire Development Corporation sold the golf course to Hemm Inns limited in 1985 and put provisions in the transfer to ensure that the footpaths indicated in the original layout approved in 1978 were not obstructed or interfered with. The lines of the routes across the golf course are indicated in blue but CNT make reference to the routes now in use deviating from the routes marked in blue in several places.</p> <p>With regards to 'Route 2' the following comments were made in the letter by Mr Robson:</p> <p>Route 2A – The route deviates from the intended line or is unclear and that the original route of Fulwood 50 was still in use even though there was an official footpath sign on the west side of Walker Lane marking the 'blue route'</p> <p>Route 2B – the route follows the line intended in the golf course layout.</p>
Investigating Officer's Comments		<p>The letter and plan provide further evidence regarding the construction of the application route as an alternative to those routes extinguished to allow for the development of the site and evidence of intention to dedicate by the owner.</p> <p>The letter appears to suggest that the routes were provided on the routes shown on the plan. The plan was subsequently used as the plan submitted By the Ramblers Association to show the routes applied for. It was suggested however that in respect of the route shown on the Committee plan between points A-B-C-D-E-F-G that the public had subsequently deviated from the intended route in a number of unspecified locations.</p>
Land Registry Title		The land covered by this title includes the

Number LA512320 and LAN183407		application route
<p>A Transfer which included the land in this title dated 1 April 1985 made between (1) Central Lancashire New Town Development Corporation (Transferor) and (2) Hemm-Inns Limited (Transferee) contains the following covenants:-</p> <p>"THE Transferee for itself and its successors in title for the benefit of the Transferor's retained land at Ingol adjacent to the property hereby transferred hereby covenants that the Transferee will not obstruct or interfere with any footpaths or footpath routes now crossing the property whether presently adopted or included in the Definitive Map maintained by Lancashire County Council under the terms of the National Parks and Access to and the Countryside act 1949 or any subsequent legislation or are shown on the drawings referred to in the planning approval for the development of the Gold Course on the property given under Section 6 (2) of the New Towns Act 1965 on the twenty second day of August one thousand nine hundred and seventy eight."</p>		
Observations		<p>The transfer of land from the Central Lancashire New Town Development Corporation to Hemm-Inns Limited included a covenant regarding footpaths or footpath routes which were either currently recorded on the Definitive Map, were adopted, or which were shown on drawings referred to in the planning approval for the development of the golf course on 2nd August 1978. The covenant specified that those routes should not be obstructed or interfered with. The land has subsequently been sold to Cleator Manor Limited (freehold) in 2006 and part was sold (leasehold) in 2016 to Ingol Golf Club Limited with the same covenant remaining.</p>
Investigating Officer's Comments		<p>There appears to be a clear intention by the Central New Towns Development Corporation that all existing public footpaths and proposed public footpaths across the land sold should be recognised and protected against future obstruction or interference.</p>
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</p>

		<p>landowner against a claim being made for a public right of way on the basis of future use (always provided that there is no other evidence of an intention to dedicate a public right of way).</p> <p>Depositing a map, statement and declaration does not take away any rights which have already been established through past use. However, depositing the documents will immediately fix a point at which any unacknowledged rights are brought into question. The onus will then be on anyone claiming that a right of way exists to demonstrate that it has already been established. Under deemed statutory dedication the 20 year period would thus be counted back from the date of the declaration (or from any earlier act that effectively brought the status of the route into question).</p>
Observations		No Highways Section 31(6) deposits have been lodged with the County Council for the area over which the route runs.
Investigating Officer's Comments		There is no intention by a landowner under this provision of non-intention to dedicate public rights of way over their land.
Aerial Photograph	2000	Aerial photograph available to view on GIS.
<u>Route 2A</u>		



Route 2B



Observations		<p>Route 2A</p> <p>No visible worn track can be seen along the route A-B-C-D-E-F-G and it is not possible to see whether access was available along the route.</p> <p>The route between point H-I-J-K appears to exist as a substantial track although it is partially obscured by trees. Beyond point K the route may have been available but is not visible as a worn track.</p> <p>Route 2B</p> <p>No visible worn track can be seen although the route may have been available on the ground.</p>
Investigating Officer's Comments		<p>The photograph was taken the same year that the application was submitted. The sections of route crossing open ground are not visible as worn tracks suggesting that if the routes were available on the ground they were not receiving a significant level of use sufficient to create a visible trodden route on the ground.</p>
Highway Adoption Records including	1929 to present day	<p>In 1929 the responsibility for district highways passed from rural district councils</p>

maps derived from the '1929 Handover Maps'		<p>to the county council. For the purposes of the transfer, public highway 'handover' maps were drawn up to identify all of the public highways within the county. These were based on existing Ordnance Survey maps and edited to mark those routes that were public. However, they suffered from several flaws – most particularly, if a right of way was not surfaced it was often not recorded.</p> <p>A right of way marked on the map is good evidence but many public highways that existed both before and after the handover are not marked. In addition, the handover maps did not have the benefit of any sort of public consultation or scrutiny which may have picked up mistakes or omissions.</p> <p>The County Council is now required to maintain, under section 36 of the Highways Act 1980, an up to date List of Streets showing which 'streets' are maintained at the public's expense. If a road is not on this record it may still be an existing highway. Alongside the List is a coloured up plan of the extent of the highways on the List. Footpaths and Bridleways are often not shown on these plans.</p>
Observations		Neither route is recorded on the List of Streets as being publicly maintainable.
Investigating Officer's Comments		The routes were not recorded as being publicly maintainable but no inference can be drawn regarding public rights.

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

Since the applications to record public footpaths across the former golf course were submitted the golf course has ceased to operate and a number of planning applications have been submitted to Preston Borough Council for the land to be redeveloped. Two substantial applications were made in 2010 and 2014 (Planning References 06/2010/0626 and 06/2014/572). Information submitted as part of the applications was viewed and it is noted that on various plans prepared existing public footpaths are shown together with the routes applied for – which are shown separately as being routes subject to Definitive Map Modification applications.

No further information relevant to the applications was found.

Landownership

Route 2A

The land crossed by the route under investigation shown on Plan 1 is registered in the ownership of Cleator Manor Limited.

Route 2B

The land crossed by the route under investigation shown on Plan 2 is registered in the ownership of Cleator Manor Limited.

Summary

There is no map or documentary evidence supporting the existence of the application route prior to the development of the area by the Central Lancashire Development Corporation in the mid to late 1970's and it is clear that the routes (with the exception of the route of Fulwood 50) only came into being as a result of the development of the site as a golf course and residential area.

Fulwood 50 existed as a public footpath recorded on the Definitive Map and Statement until it was legally extinguished in 1978.

Since 1978 the map and documentary evidence examined suggest that the route of the former footpath from point H-I-J-K remained in existence as a track which was capable of being used even after the demolition of the house and out buildings (Durham House) sometime between 1988 and 2000 and the claimed route between K-L-E-F-G appeared to be available and in use in 1988 (aerial photograph) supporting the user evidence with reference to this particular part of the route.

The first plan found as part of this investigation which showed routes similar to, but not exactly the same as the claimed routes between points A-B-C-D-E-F-G and V-W-X-Y-Z is dated 1977 and shows the routes as 'pedestrian access'. A year later, in 1978, an extinguishment order was made to extinguish public footpaths across the site to enable development to take place. The Order included a plan and written schedule which detailed the route between points A-B-C-D-E-F-G and V-W-X-Y 'proposed new footpath(s)'.

It appears from the 1987 extinguishment order and from further maps, plans, agreements, land transfer documentation and publicity information provided in the early 1980s that the Development Corporation intended to provide a pedestrian route to the public and from the Development Corporation records searched, together with the site evidence and information provided by the applicant it appears that routes were provided.

It is difficult to conclude from the map and documentary evidence alone however, whether the exact routes claimed were made available and whether they were the ones used (in their entirety) by the public.

Despite an extensive search of the County Records Office and further inquiries being made with the Borough Council it has not been possible to locate a copy of the plan referred to in the land registry title deeds as forming part of the grant of planning permission for the golf course in 1978 although as this plan would have been produced around the same time as the footpath extinguishment order plan referred to above it seems reasonable to conclude that the two plans would have shown the proposed footpaths in a similar manner.

Head of Service – Legal and Democratic Services Observations

Information from the Applicant

The applicant submitted 79 user evidence forms together with a copy of a letter that she had sent to members of the Ramblers Association in August 2000 explaining that staff at Ingol Golf Club had been preventing walkers using the paths across the golf course and that she was putting together an application to record the routes on the Definitive Map and asking people to complete user evidence forms if they had used the routes.

The user evidence forms all included a map provided by the applicant showing the two application routes which were referred to as 'alternative to be provided by the former Central Lancashire Development Corporation for Fulwood nos. 48 and 50 marked A and E on the attached map, and the original Footpath no. 50 through Durham House still in use.'

10 of the user evidence forms refer to use of the routes by more than one family member but individual forms were not completed. A further 12 people are therefore noted as having used the routes in addition to the 79 who completed the forms.

All of those users completing the forms have indicated that they regarded the routes as public, and that their friends and family regarded them as public.

Only one user who completed the form specified use of only one of the routes (Route 2B) and all others indicated use of both routes.

5 users recount use from between 1940-1955 onwards and explains that they used the path across the fields prior to development. A further 7 users refer to use of the routes in excess of 20 years – including use pre 1980.

The majority of use refers to the period between 1980 and 2000 with ten users specifying exactly 20 years use between those dates and a further 46 users having used the routes for between 10 and 19 years during that period. A further 10 people specifying use of the routes for less than 10 years during the 20 year period.

Some users did not specify accurately the period of use so have not been included in the above figures relating to years of use given above.

Five users refer to the presence public footpath signs (exact locations not specified) and one user stated that signs had been in place for 20 years until golf club staff

removed them in 1998/99 – although stated that the original posts were still evident. One of the users also refers to the removal of a 'footbridge.'

One user refers to using paths until being threatened with being sued for trespass (in 2000) by golf club staff and another recounted being told to 'keep off' in 2000. A third user refers to the erection of private signs erected by the golf club.

Use of the paths was predominantly for pleasure purposes with a high percentage of frequent users (at least daily) referring to walking their dogs. Other specific references to type of use included to get to work, to catch the bus, as a route to school and to visit friends.

One user stated that 'these public footpaths are an invaluable amenity to the people of Ingol' and three users explained that the location of the footpaths were a significant factor when deciding to buy their properties.

One user referred to the route of Fulwood 50 being marked on maps and that she had always considered it to be a right of way and another user also referred to the route of Fulwood 50 being on old (pre 20th century) maps. There is no mention of permission being given.

Information from the Landowner

Following receipt of the application consultations were carried out with the owners of Ingol Golf Course at that time (Tee Jay Leisure Limited, Sagar House, Eccleston, Chorley). They instructed Kevills Solicitors who requested a meeting with the County Council in 2006 in the hope that a 'pragmatic solution' could be found.

No meeting was arranged and a further Land Registry search has identified that the land crossed by the application routes was subsequently sold to Cleator Manor Limited C/o Whittle Jones Limited, Lynton House, Ackhurst Park, Chorley PR7 1NY in 2006 and that a further sale of part of the land affected by the proposal was completed in 2016 to Ingol Golf Club Limited, 45 Plunginton Road, Preston PR1 7EP.

Information from others

English Partnerships (successor to CNT consulted in 2005)

With regards to Route 2A between points A-B-C-D-E-F-G on Committee plan 1 they believed the land to be owned by Ingol Golf Club and understood that the golf club had tried to obstruct the route in recent years.

The route between H-I-J-K-E ON THE Committee plan was believed by English Partnerships to be on land in the ownership of Ingol Golf Club and English Partnerships understood the route to have been closed by the Central Development Corporation and that the route A-B-C-D-E-F-G was the intended alternative route but that the former route of FP 50 effectively remained in use until 2000 as the preferred less constrained route.

With regards to Route 2B they commented that they believed that the land crossed by the route was in the ownership of Ingol Golf Course and that English Partnerships had no knowledge about how long the route may have been in use.

Assessment of the Evidence

The Law - See Annex 'A'

In Support of Making an Order

User evidence

Evidence of Central Lancashire Development Corporation's intention.

Against Making an Order

Actual Central Lancashire Development Corporation planning consent drawings not available.

Conclusion

As there is no express dedication it is advised that Committee consider whether there is sufficient evidence on balance for a deemed dedication from use under S31 Highways Act 1980 and/or an inferred dedication at common law from all the circumstances pointing to an intention to dedicate by the owner.

It would seem to be the case that the routes did not exist prior to the ownership by Central Lancashire Development Corporation established by the Minister under the New Towns Act 1965. The land for the golf club had been taken by the Corporation by compulsory purchase powers or in the shadow thereof and planning consent obtained by the Corporation by submitting proposals and the Minister making a Development Order. The Development Order and its drawings has not been located but it is suggested that other documents are of assistance.

At common law to infer a dedication from all the circumstances can involve consideration of both user evidence and documents. The Planning Statement referred to earlier in the report clearly shows that the Central Lancashire Development Corporation had an intention to create footpaths and to retain the extent of the existing network. The New Towns Act says that a Development Corporation had the power to do anything necessary or expedient for the purposes incidental to its main objectives. Central Lancashire Development Corporation is obviously unusual as it was developing huge areas of land.

Committee must consider whether there is sufficient evidence of the intention to create the actual route being considered in this report.

Route 2A A-G

It is suggested that there is sufficient evidence to indicate that this claimed route – save for A-B appears on the "Local Plan" appearing as an alternative to footpath 50.

A-B is on a slightly different line and the route is to a large extent on the Order plan itself re the extinguishment of FP50 and on the leaflet produced by the owners. A-B is shown on a slightly different alignment.

The difficulty accessing the route in the woodland in 2016 does not mean that it was not available when created and up to 2000 when the application arrived.

The user evidence is significant and collected and submitted by the Ramblers Association.

The user adds force to the evidence of Central Lancashire Development Corporation's intention to dedicate this route and accepts the route on the part of the public with A-B being the line used.

It is suggested that Committee may find sufficient evidence from which to infer an actual dedication by Central Lancashire Development Corporation and acceptance by the public can reasonably allege to have occurred or found to have occurred on this claimed route. The slight difference of the line A-B means Committee needs to consider whether there is sufficient evidence for this section. It is suggested that the evidence of a route on a similar alignment being intended remains and the actual route dedicated and user not challenged by Central Lancashire Development Corporation became the line as claimed.

The user evidence also enables Committee to consider whether as of right use has been for the twenty years without interruption and without indication of a lack of intention to dedicate such that dedication may be deemed to have occurred under S31 Highways Act 1980. Again the user evidence is supported by plans completed by the users and collected by the Ramblers Association. There is reference to use by the Association for guided walks. It is suggested that the calling into question was the submission of the application or possibly just before then when the challenges by the Golf Club are referred to. There is reference to paths being permissive.

Taking the evidence into account it is suggested that the Committee may decide that an Order can be made for this route to be added to the Definitive Map and Statement and be promoted to confirmation.

Route 2A eastern arm D-H

This claimed route does not appear on the "Local Plan" or on the Order plan itself re the extinguishment of footpath 50 and not on the leaflet produced by the owners. It does not have the same documentary evidence as others to indicate Central Lancashire Development Corporation's intention. It is advised that Committee concentrate on the user evidence re this route. The user evidence would indicate that FP50 was extinguished but was used again. It is suggested that given Central Lancashire Development Corporation extinguished FP50 by Order it would be difficult to infer an intention to dedicate again.

However the user evidence enables Committee to consider whether as of right use has been for the twenty years without interruption and without indication of a lack of intention to dedicate such that dedication may be deemed to have occurred under

S31 Highways Act 1980. Again the user evidence is supported by plans completed by the users and collected by the Ramblers Association. It is suggested that the calling into question was the submission of the application or possibly just before then when the challenges by the Golf Club are referred to. The user evidence is supported by the early site information.

Taking the evidence into account it is suggested that the Committee may decide that an Order can be made for this route to be added to the Definitive Map and Statement and be promoted to confirmation.

Route 2B V-Y

It is suggested that there is sufficient evidence to indicate that this claimed route – save for X-Y (the eastern end) appears on the "Local Plan". X-Y is there but on a slightly different line. The route is to a large extent on the Order plan itself re the extinguishment of footpath 48 and on the leaflet produced by the owners. X-Y is again shown on a slightly different alignment.

The difficulty accessing the route in the woodland in 2016 does not mean that it was not available when created and up to 2000 when the application arrived.

The user evidence is significant and collected and submitted by the Ramblers Association.

The user adds force to the evidence of Central Lancashire Development Corporation's intention to dedicate this route and accepts the route on the part of the public with X-Y being the line used.

It is suggested that Committee may find sufficient evidence from which to infer an actual dedication by Central Lancashire Development Corporation and acceptance by the public can reasonably allege to have occurred or found to have occurred on this claimed route. The slight difference of the line X-Y means Committee needs to consider whether there is sufficient evidence for this section. It is suggested that the evidence of a route on a similar alignment being intended remains and the actual route dedicated and user not challenged by Central Lancashire Development Corporation became the line as claimed.

The user evidence also enables Committee to consider whether as of right use has been for the twenty years without interruption and without indication of a lack of intention to dedicate such that dedication may be deemed to have occurred under S31 Highways Act 1980. Again the user evidence is supported by plans completed by the users and collected by the Ramblers Association. There is reference to use by the Association for guided walks. It is suggested that the calling into question was the submission of the application or possibly just before then when the challenges by the Golf Club are referred to.

Taking the evidence into account it is suggested that the Committee may decide that an Order can be made for this route to be added to the Definitive Map and Statement and be promoted to confirmation.

Risk management

Consideration has been given to the risk management implications associated with this claim. The Committee is advised that the decision taken must be based solely on the evidence contained within the report, and on the guidance contained both in the report and within Annex 'A' included in the Agenda Papers. 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: 804-379b		Simon Moore, 01772 531280, County Secretary and Solicitors Group

Reason for inclusion in Part II, if appropriate

N/A