

Regulatory Committee

Meeting to be held on 22nd June 2022

Part I

Electoral Division affected:
Moss Side and Farington

Wildlife and Countryside Act 1981

Definitive Map Modification Order Investigation

Recording of a Bridleway at Mill Lane and Hall Lane, Farington

(Annex 'A' refers)

Contact for further information quoting file reference no. 804-663:

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Brief Summary

Application for the upgrade of footpath to, and addition of, bridleway on the Definitive Map and Statement of Public Rights of Way along part of Mill Lane and Hall Lane, Farington, South Ribble.

Recommendation

- (i) That the application for a Bridleway along part of Hall Lane and Mill Lane, Farington to be recorded on the Definitive Map and Statement of Public Rights of Way, be accepted.
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(c)(i) and (ii) of the Wildlife and Countryside Act 1981 to record a Bridleway along part of Mill Lane and Hall Lane, Farington on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D-E-F-G-H-I and points D-J.
- (iii) That being satisfied that the test for confirmation (which for additions is higher than the test for making the Order) can be met the Order be promoted to confirmation.

Detail

An application under Schedule 14 of the Wildlife and Countryside Act 1981 has been received to record a Bridleway along part of Hall Lane and Mill Lane, Farington on the Definitive Map and Statement of Public Rights of Way.

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

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

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

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

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

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

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

When considering evidence, if it is shown that a highway existed then highway rights continue to exist (“once a highway, always a highway”) even if a route has since become disused or obstructed unless a legal order stopping up or diverting the rights has been made. Section 53 of the Wildlife and Countryside Act 1981 makes it clear that considerations such as suitability, the security of properties and the wishes of adjacent landowners cannot be considered. The Planning Inspectorate’s website also gives guidance about the interpretation of evidence.

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

Consultations

South Ribble Borough Council

South Ribble Borough Council acknowledged receipt of the consultation letter, however did not provide an official response to the consultation.

Farington Parish Council

Farington Parish Council did not provide an official response to the consultations.

Applicant/Landowners/Supporters/Objectors

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

Advice

Head of Service – Planning and Environment

Points annotated on the attached Committee plan.

Point	Grid Reference (SD)	Description
A	5336 2338	Open junction of Footpath Farington 7 (the application route) with Mill Lane (U10695)
B	5340 2337	Open junction with Footpath Farington 20
C1	5342 2337	Western end of Footbridge across the River Lostock with bollard restricting access
C2	5343 2337	Eastern end of footbridge with gate restricting access
D	5366 2343	Junction of application routes immediately south of site of former Farington Hall
E	5370 2343	Point on application route where a line is shown across the route on historical mapping
F	5381 2347	Point at which the application route diverges from the route of Footpath Farington 7
G	5395 2351	Point on application route where a line is shown across the route on historical mapping
H	5397 2352	Fence across application route preventing access along the route
I	5425 2354	Junction with Wheelton Lane (U5635)
J	5371 2325	Junction with Hall Lane (U5460)

Description of Route

The application under consideration is based entirely on historical map and documentary evidence. With that in mind how the application route looks 'today' is not necessarily relevant when considering whether historical public rights exist.

A site inspection was however carried out in December 2020 to see what the route looked like at that time and to identify any remaining existing historical features.

The route recorded on the Definitive Map and Statement as Footpath Farrington 7 starts at the junction of Mill Lane with Croston Road. The application route does not include the first 165 metres of adopted vehicular section of Mill Lane recorded on the county council's List of Streets.

The application route therefore commences at the eastern end of the adopted section of Mill Lane just east of the junction of Brookside and Mill Lane (point A on

the Committee plan). The application route extends in an easterly direction across a roughly tarmacked area passing between 15 Mill Lane and Mill House School to a junction with Footpath Farington 20 which passes between Mill House School and Brookfield (point B).

The route continues as an enclosed route past Brookfield to cross the River Lostock via a substantial concrete footbridge which would be wide enough for horses, bikes and motorcycles to cross but was not wide enough for other vehicles. At the western end of the footbridge (point C1) a concrete post has been positioned within the surface of the route restricting access. A sign located adjacent to this point reads 'No horses No motorbikes'.

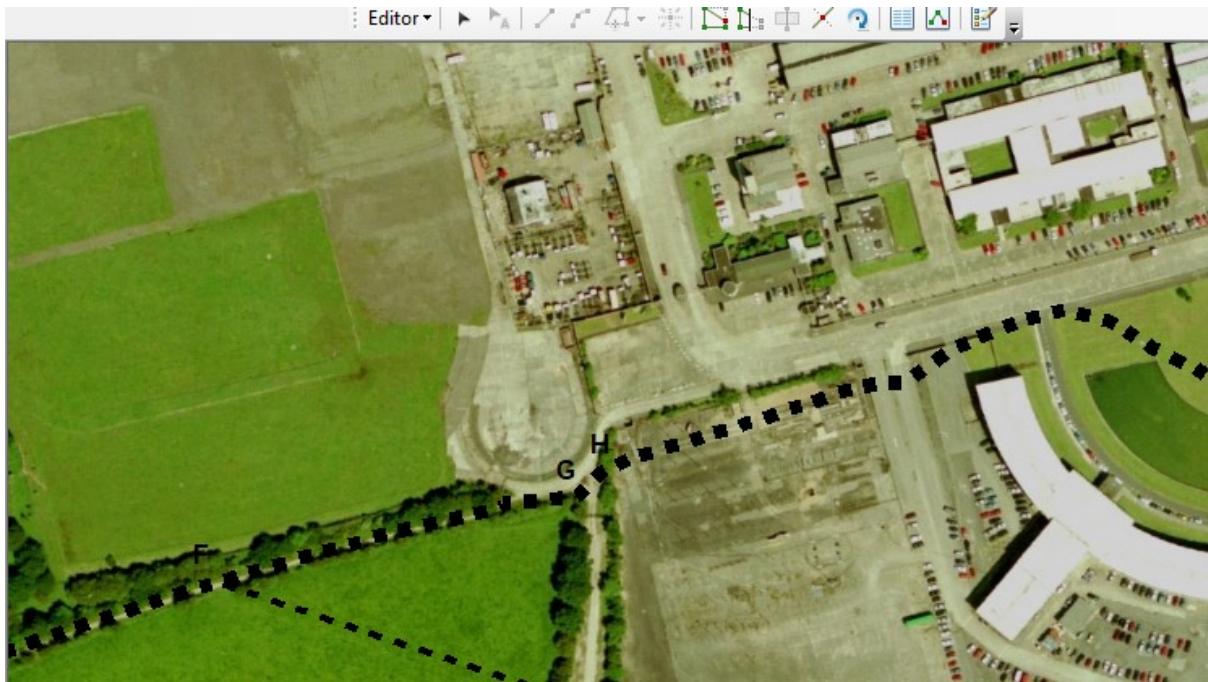
At the eastern end of the bridge (point C2) is a wooden kissing gate which further restricts access to the route.

Beyond the bridge the route continues as a stone surfaced path approximately 1-1.5 metres wide through an overgrown area of open grass and woodland. The route widens as it continues east with the remains of what appear to be tree/hedges bounding the route. The surface is largely stoned but poorly drained and boggy in places and the width between the boundary trees/hedges generally about 4-5 metres through to a junction (point D).

Point D is the cross roads of two parts of the application route both being double hedged lanes at this point (Mill Lane and Hall Lane)The way recorded as Footpath Farington 7 continues east along a substantial tree lined route. The surface is hard but covered with a thin layer of mud suggesting that it has been surfaced in the past. Evidence of tyre tracks, hoof prints and bicycle tracks suggest recent use by a variety of users. The route continues to a gap in the hedge line (point F) through which Footpath Farington 7 diverges from the application route to cross an area of rough grassland.

The application route continues along a substantial bounded track to the edge of a concrete and tarmac surfaced route around the perimeter fence of an industrial site (point G). It then continues for a short distance to where access is prevented by wire mesh fencing (point H) although it is possible to gain access onto Centurion Way from a little further north).

From the fence (point H) to its junction with Wheelton Lane (point I) the application route is not accessible with the exception of short sections which coincide with Centurion Way and cross open land forming part of Lancaster House but the historical route is no longer in existence. To understand what the site now looks like it is easier to see an aerial photograph taken since the land was developed in the 1950s (as detailed more thoroughly later in the report):



The other section of route applied for is known as Hall Lane and commences on the parish boundary between Leyland and Farington.

Hall Lane commences on Golden Hill Lane and extends north along a largely tarmac roadway also recorded as Footpath Leyland 35 to the Farington boundary (point J). This route is also recorded as a publicly maintainable highway on the county council's List of Streets and is not included as part of the application.

The application route starts at the Leyland/Farington boundary (point J) which is just north of a locked gate and adjacent kissing gate located across the northern end of Hall Lane/ Footpath Leyland 35. The route rises gradually uphill following a compact surface track with woodland and open grassland on either side. Much of the route is not bound by walls/fences or hedges although the final 65 metres before the junction (point D) is bounded on either side by mature, overgrown hedges approximately 7 metres apart.

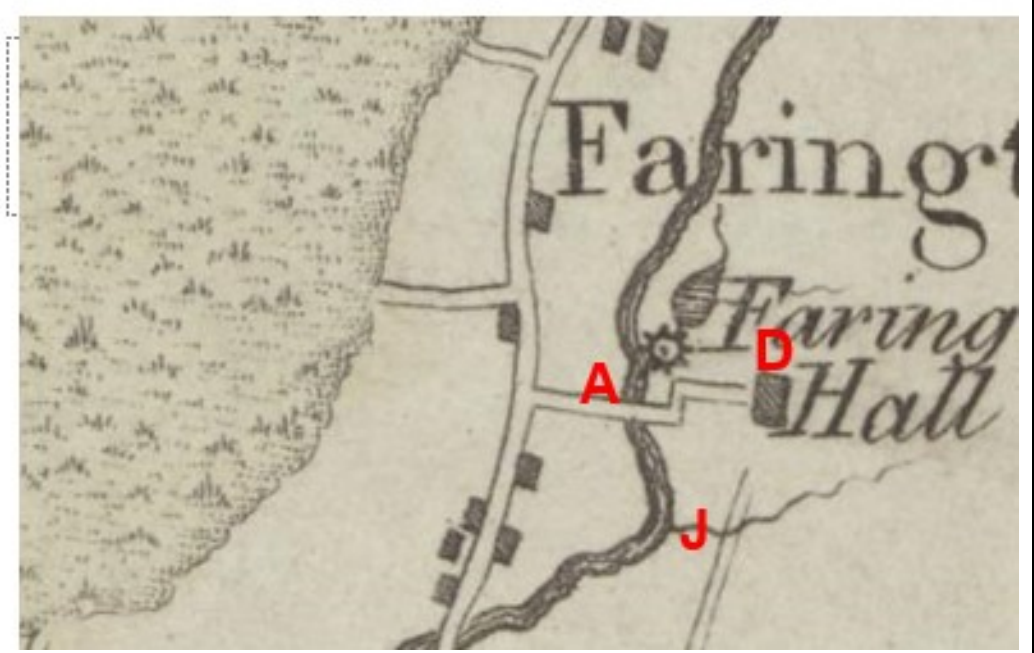
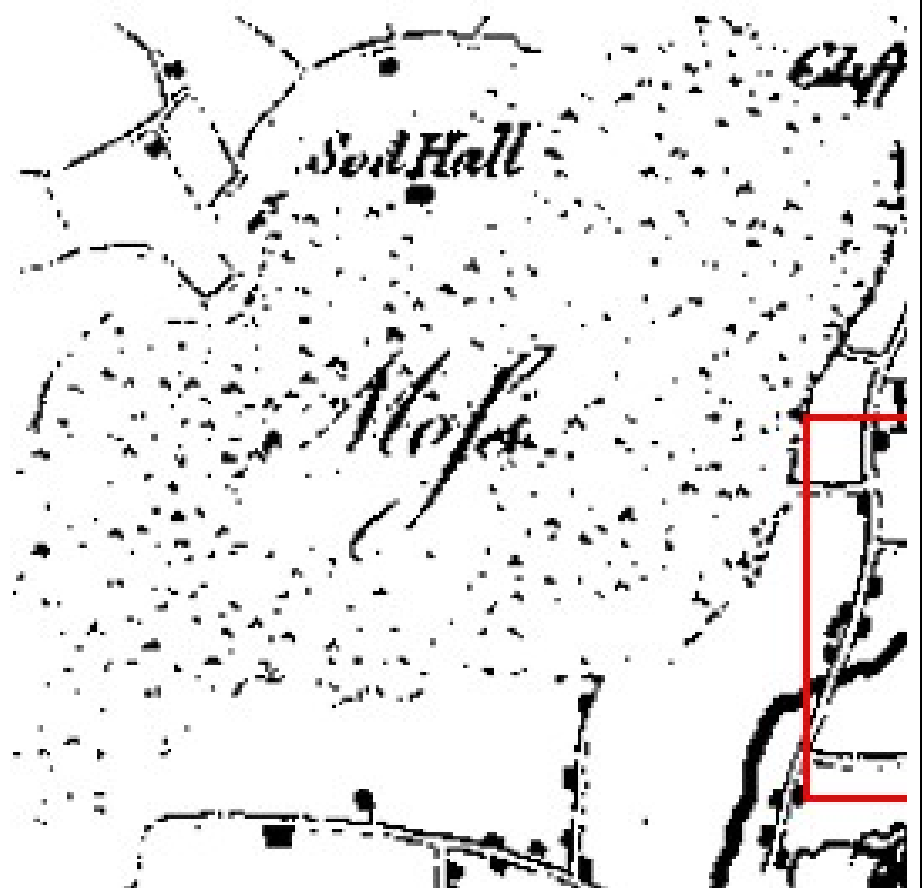
The route reaches a junction (point D) with the section of the application route which runs from west to east and looking straight ahead (northwards) is the former entrance to Lower Farington Hall (now demolished).

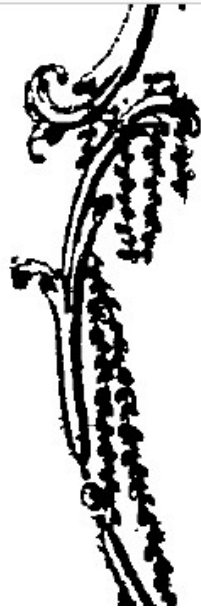
Map and Documentary Evidence

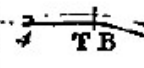
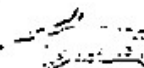
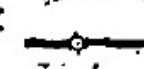
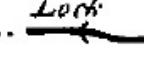
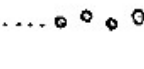
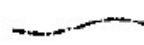
A variety of maps, plans and other documents were examined to discover when the route came into being, and to try to determine what its status may be.

Document Title	Date	Brief Description of Document & Nature of Evidence
Yates' Map of Lancashire	1786	Small scale commercial map. Such maps were on sale to the public and hence to be of use to their customers the routes shown had to be available for the public to use. However, they were privately produced without a known system of consultation or checking. Limitations of scale

also limited the routes that could be shown.



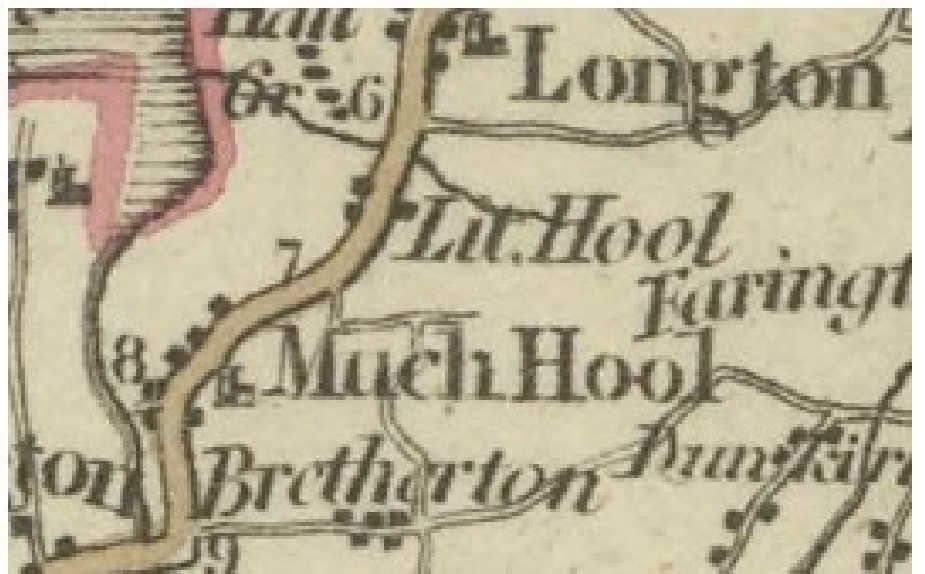


Curacy to an Impropriation
Chapel of Ease
Dissenting Chapel
Turnpike Roads and Mile Stones
with Toll Bars marked TB 
Cross Roads 
Rivers with Water Mills Engines &c 
Canals with Locks and Bridges 
Coal Pits 
Boundaries of the County and 

<p>Observations</p>		<p>A route approximating to the application route is shown extending east from Croston Road along Mill Lane and passing through point A and across the river to continue to Farington Hall. A water wheel and reservoir are shown north of the route between point A and point D and appear to be accessed from the application route.. A route is then shown continuing east to Wheelton Lane marked as point I on the map extract but with the caveat that this is an approximation of the route on a small-scale map. A further route is shown leading from Golden Hill Lane approximating to the route of Hall Lane to point J. From point J a route is shown leading towards point D and Farington Hall.</p>
<p>Investigating Officer's Comments</p>		<p>The application route from point A to point I appeared to have existed in 1786 providing access to and from Farington Hall and the water wheel (which was described as the location of a corn mill on later maps) and linking to two public vehicular routes (Croston Road and Wheelton Lane). The application route from point J to point D also appears to have existed – at least in part - providing access to Farington Hall.</p> <p>The sections of application route shown are shown as cross roads leading to the corn mill and Farington Hall and it is not clear from the map whether they all connected to one another at point D or whether they were providing access to the Hall only.</p> <p>It is not known what is meant by the term 'cross road' but as the only other category of highway shown on the map is turnpike roads it is thought that a route shown as a cross road on a small scale privately produced map of this nature would have carried at least public bridleway rights. Routes to corn mills were in use by the public bringing their corn to</p>

		be ground. Routes considered to be footpaths were unlikely to have been shown on such a small-scale map although it is also possible that they were shown because they coincided with access to a significant private property named on the map as Farington Hall.
Cary's Map of Lancashire	1787	John Cary was described as 'the most representative, able and prolific of English cartographers'. He was as busy a publisher as he was a cartographer and engraver, and until his death in 1835 published a constant flow of atlases, maps, road maps, canal plans, globes and geological surveys. He set new high standards of engraving and map design and in 1787 he published a 'New and Correct English Atlas' containing 46 maps which was re-issued ten times until 1831. In 1794 the Postmaster General commissioned Cary to survey the main roads of Great Britain and his information on roads may be viewed with above average confidence.

CA




Sheet 72. (Cary's England, Wales, and Scotland).

GEOREFERENCE T

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

Turnpike Roads, thro' enclosed countries
D.^o thro' unenclosed d.^o



Observations		No part of the application route is shown.
Investigating Officer's Comments		The application route, if it did exist, was not considered to be a significant public vehicular route by Cary.
Greenwood's Map of Lancashire	1818	Small-scale commercial map. In contrast to other map makers of the era Greenwood stated in the legend that this map showed private as well as public roads and the two were not differentiated between within the key panel.

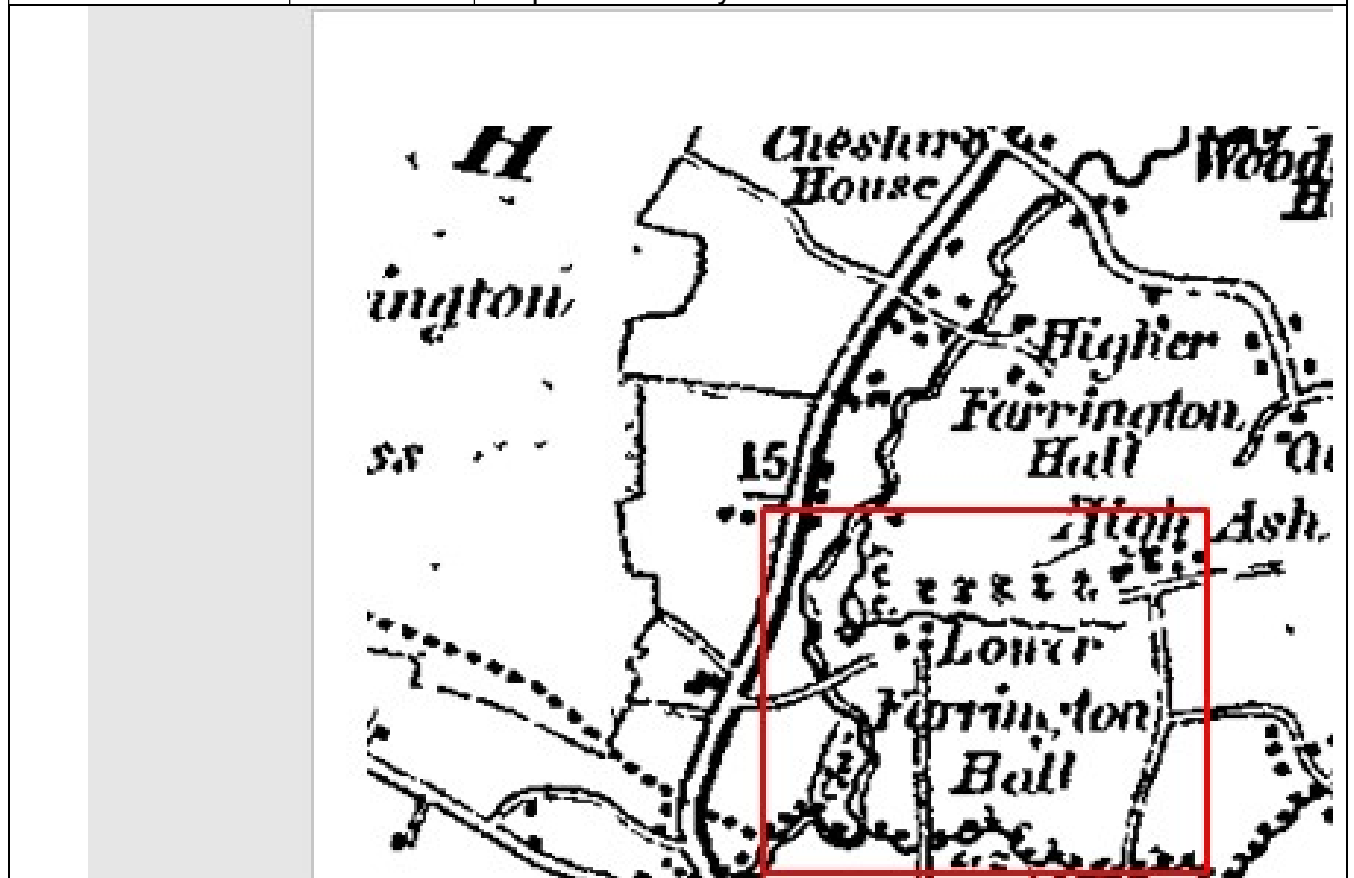


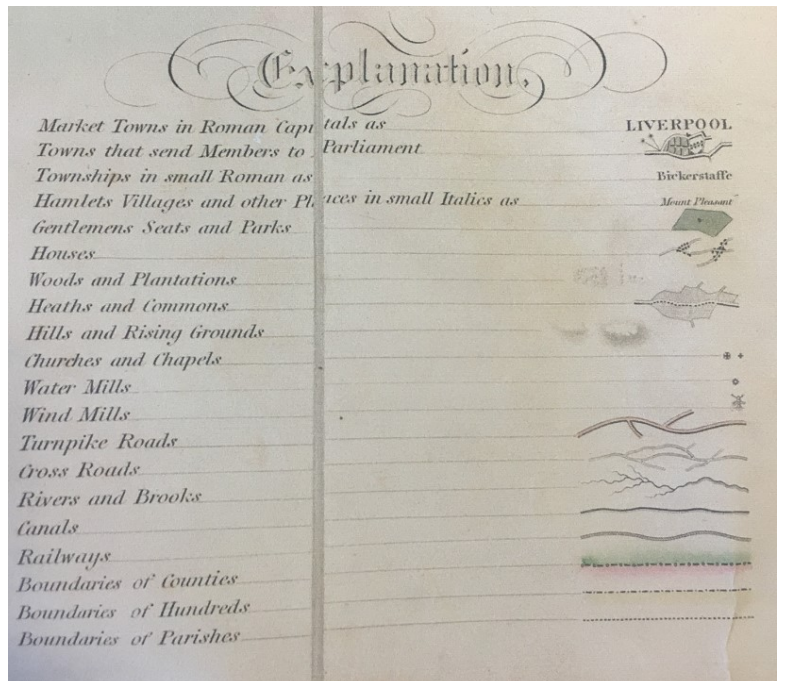


Turnpike Roads _____
 Cross Roads _____
 Towns & other Places - _____
 R. 1. M. 1. F. 1.

<p>Observations</p>		<p>Mill Lane is shown as a cross road from Croston Road extending east and passing through point A to cross the river at point C. Beyond point C the application route is not shown. The Mill is shown (as indicated by a water wheel). Farington Hall is not named on the map although buildings are shown which are accessed from Golden Hill Lane and then north along Hall Lane. The river has a different course from today. Hall lane is shown as a cross road passing through point J and continuing north to the unnamed buildings which approximate with the location of Farington Hall. The application route from point C passing through point D (not identified on the map) through to point I is not shown.</p>
<p>Investigating Officer's Comments</p>		<p>Yates' Map suggested the existence of much of the application route in the late 1700s a route to a corn mill was likely to be public although it is noted that other sections of the route may have been included on that map because it provided access to Farington Hall and not necessarily – or not only – because it was considered to be a public vehicular route. Greenwood only shows parts of the route approximating to</p>

		<p>the sections from A to point C and from point J to point D suggesting that he may not have considered the application route from point C through to point I, if it did exist, to be a public vehicular route. The route to C would have provided access to the corn mill</p> <p>Routes considered to be footpaths were not normally shown on maps of this era and scale.</p>
<p>Hennet's Map of Lancashire</p>	<p>1830</p>	<p>Small-scale commercial map. In 1830 Henry Teesdale of London published George Hennet's Map of Lancashire surveyed in 1828-1829 at a scale of 7½ inches to 1 mile. Hennet's finer hachuring was no more successful than Greenwood's in portraying Lancashire's hills and valleys but his mapping of the county's communications network was generally considered to be the clearest and most helpful that had yet been achieved.</p>





Observations		The application route from point A towards point D and from point J to point D are both shown as cross roads and appear to provide access to the corn mill and Lower Farington Hall. The application route from point D to point I is not shown although north of point I the start of a route leading west towards Lower Farington Hall is shown.
Investigating Officer's		The application route from point A towards point D and from J to point D existed as substantial routes capable of

Comments		<p>being used at least on horseback in the 1830s. It is not fully known what is meant by this term. As the only other category of 'road' shown on the map are turnpike roads, it is possible that a cross road was regarded as either a public minor cart road or a bridleway (as suggested by the judge in <i>Hollins v Oldham</i>).</p> <p><i>Hollins v Oldham Manchester High Court (1995) [C94/0205] Judge Howarth examined various maps from 1777-1830 including Greenwoods, Bryants and Burdetts. Maps of this type, which showed cross roads and turnpikes, were maps for the benefit of wealthy people and were very expensive. There was "no point showing a road to a purchaser if he did not have the right to use it."</i></p> <p>It is unlikely that a map of this scale would show footpaths.</p>
Canal and Railway Acts		<p>Canals and railways were the vital infrastructure for a modernising economy and hence, like motorways and high speed rail links today, legislation enabled these to be built by compulsion where agreement couldn't be reached. It was important to get the details right by making provision for any public rights of way to avoid objections but not to provide expensive crossings unless they really were public rights of way. This information is also often available for proposed canals and railways which were never built.</p>
Observations		<p>The land crossed by the application route was not affected by any existing or proposed canals or railways.</p>
Investigating Officer's Comments		<p>No inference can be drawn with regards to the existence of public rights.</p>
Farington Tithe Map and Tithe Award or Apportionment TNAs reference IR 29/18/122	1839	<p>Maps and other documents were produced under the Tithe Commutation Act of 1836 to record land capable of producing a crop and what each landowner should pay in lieu of tithes to the church. The maps are usually detailed large scale maps of a parish and while they were not produced specifically to show roads or public rights of way, the maps do show roads quite accurately and can provide useful supporting evidence (in conjunction with the written tithe award) and additional information from which the status of ways may be inferred.</p>



<u>Roads</u>	
47	Public road
57	Road
67	Road
✓ 79	Road
91	Public road
94	Public road
129	Public road
148	Occupation road
202	Public road
211	Road

Observations

Between point A and the watercourse shown on the Tithe Map east of point C1-C2 the application route is shown as part of a longer bounded road which starts at the junction with Croston Road where access onto the route is gated. The route is numbered as plot 756 on the map and in the Tithe Award plot 756 is listed as being owned by Robert Snell esquire and occupied by Robert Holdin. Robert Snell was owner of the Hall It is described in the Award as a lane for which no tithes were payable.

This section of the application route gives access to the corn mill (which is not numbered on the Tithe Map) and crosses three watercourses. The river has a different course from today. The route can be seen to continue to point D as a bounded route numbered as plot 79 on the map. A line is shown across the route at point D. The Tithe Award describes plot 79 as a road with no ownership or occupier listed. Details for plot 79 are contained in a specific list of roads within the Award although it is noted that whilst some are specifically described as public roads, others – including the application route - are described just as roads and others are described as occupation roads, moss roads or turnpike road. Some are labelled on the map in one way and listed differently.

Between point D and point E and point D to point J the application route is shown contained in plot 82 which is listed as being owned by Robert Snell, occupied by Thomas Webster and is described as a fold and lane for which tithes were payable.

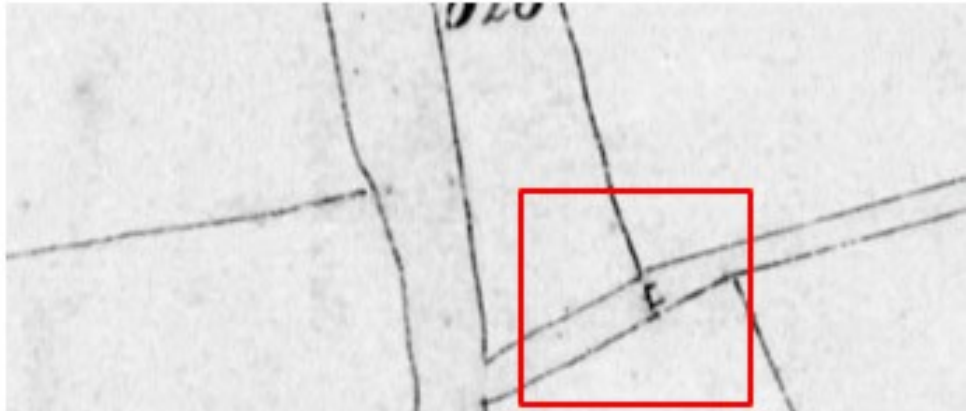
	<p>Between point E and point I the application route would cross two fields numbered as plots 16 and 88 but is not shown.</p> <p>Plot 16 is listed in the Award as being owned by Robert Snell and occupied by Thomas Webster and is described as being known as Dove Cote Park and listed as pasture land for which tithes were payable.</p> <p>Plot 88 was listed as being owned by Robert Snell and occupied by Thomas Beardwood and was described as Little Royal and as pasture for which Tithes were payable.</p>
<p>Investigating Officer's Comments</p>	<p>In 1839 it appears that the application route between point A and point D existed as a longer route starting on Croston Road which was gated at the junction with Croston Road and also at point D. It appeared to be of a substantial nature and was bounded from the adjacent farmland. The western part of the route (from A to the river crossing east of point C2) was described as a lane but was listed in the body of the Award as being in private ownership. No tithes were payable but this is not necessarily surprising if the bounded route was not cultivated or grazed at that time. It does however suggest that the route may have been accessible – at least on horseback – at that time.</p> <p>Between the river crossing east of point C2 and point D the route is described as a road for which no landownership details are provided. It is included in a list titled 'Roads' at the end of the Tithe Award. The list consists of 25 numbered routes named as either public road, road, occupation road, moss road, moss occupation road or turnpike road. No landowner or occupier details are given for any of the routes listed and none are specified as being owned by the Township or Surveyor of Highways as is sometimes stated. An analysis of the 25 routes listed confirmed that most of those routes listed as public roads still exist as public vehicular routes today although there were a couple of instances where the routes were recorded as public footpaths for which Definitive Map Modification Order applications had been made and the original routes had been altered slightly where land had been developed. Some of the routes listed as public roads were also labelled as occupation roads on the Tithe Map and this appeared to be the case particularly across Farington Moss where the layout of the road network was clearly suggestive of land that had been inclosed with routes created to provide access to the land and across the moss. The application route between C2 to D was not described as being a public road but its inclusion on the map and the fact that it is described in the Tithe Award as a 'road' with no owner is again suggestive of a route which would have been accessible at least on horseback. Four routes</p>

		<p>(including the application route C2-D) were described in the Tithe Award simply as 'roads' three of which are currently recorded as public footpaths with DMMO applications made to upgrade them and one route no longer physically exists. As the section of application route described as a road is not part of a longer through route described as a public road in the Tithe Award it is probably not a public carriageway but may have been accessible on horseback. Between point J and point D and including the route between point D and point E the land crossed by the route is all recorded in private ownership and described as a fold and lane for which tithes were payable. The way that this part of the route is recorded is suggestive at that time of a private route to the property listed within the adjacent plot 81 which was owned and occupied by the same people. The application route between point E and point I probably did not exist in 1839.</p>
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<p>Leyland Tithe Map and Award</p>	<p>1838</p>	<p>Extracts from the Tithe Map and Award for Leyland.</p>
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Click to add



Click to add t

Snell Robert Inquis (continued)	Thomas Webster	539 Great Park 540 Great Park 541 Wood field 542 Wood 542 In acre 543 In acre 544 Little Park
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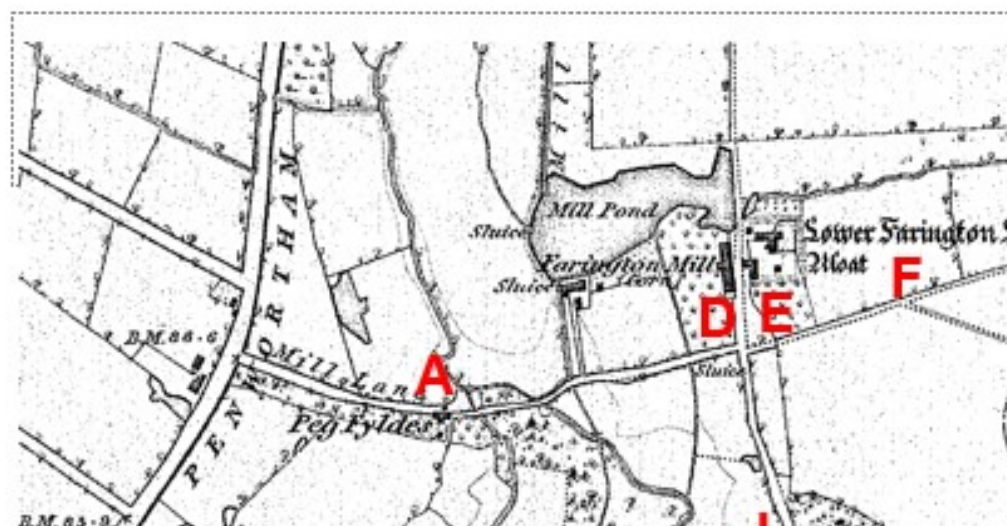
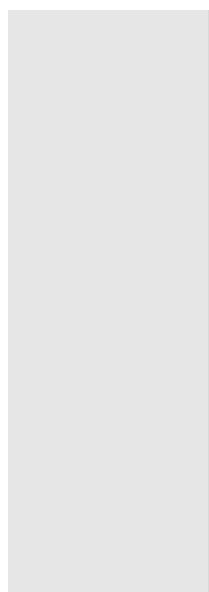
Observations

The applicant submitted extracts from the Tithe Map for Leyland as part of their supporting documentation. The application route is entirely within the parish of Farington but the route leading from point J through to point D starts on Golden Hill Lane in Leyland. The route leading to point J is shown on the Tithe Map for Leyland as a bounded route leading through to the parish boundary with Farington. From here the route is shown in such a way to indicate that it continues into Farington at point J (i.e. along the application route). It is not clear from the map whether access along the route was restricted in some way close to the junction with Golden Hill Lane. The route recorded in Leyland is numbered on the Tithe Map as plot 629a and the Tithe Award lists this plot as being owned by Robert Snell and occupied by Thomas Webster. The 'plot' is described as being Farington Hall Road for which no tithes were payable.

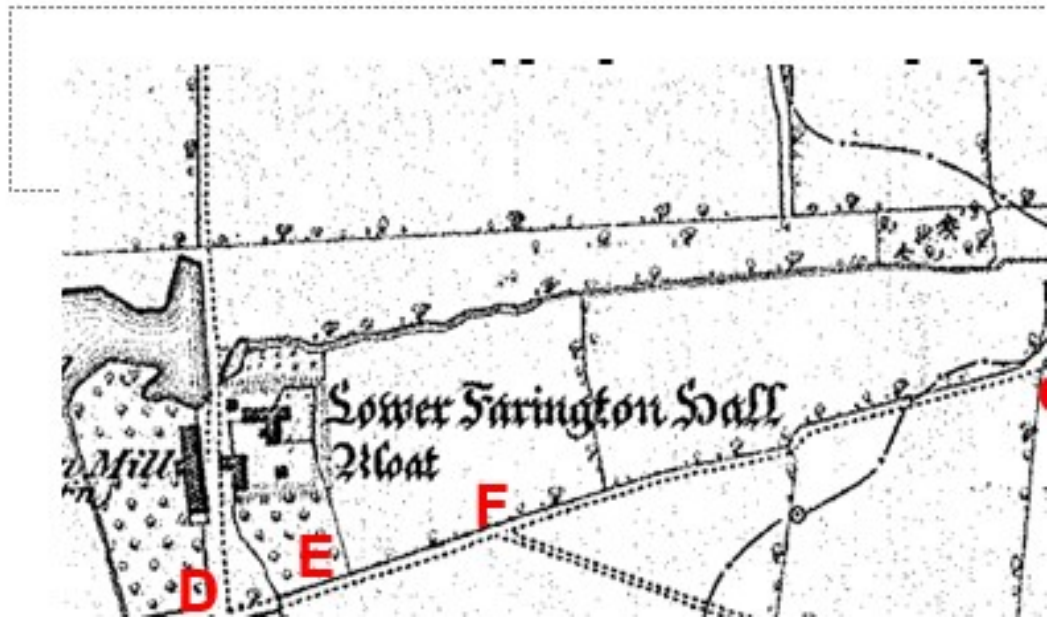
Investigating Officer's Comments

The information provided in the Leyland Tithe Award is consistent with that obtained from the Farington Tithe Award dated one year later. It appears that the full length of Hall Lane from Golden Hill Road passing through point J and point D and providing access to Lower Farington Hall was in the ownership of Robert Snell who owned the Hall itself. This suggests that the route probably originated as

		the access road to the Hall. The fact that it was in private ownership suggests that it was not considered to be a public vehicular route at this time although access may have been available along it. It is not unusual for a bounded route not to be subject to the payment of tithes particularly if it was not grazed by animals or used to grow crops.
Inclosure Act and Maps		Inclosure Awards are legal documents made under private acts of Parliament or general acts (post 1801) for reforming medieval farming practices, and also enabled new rights of way layouts in a parish to be made. They can provide conclusive evidence of status.
Observations		There is no Inclosure award available to view at the County Records Offices for the area crossed by the application route.
Investigating Officer's Comments		No inference can be drawn with regards to the existence of public rights.
6 Inch Ordnance Survey (OS) Map Sheet 69	1848	The earliest Ordnance Survey 6 inch map for this area surveyed in 1844 to 1846 and published in 1848. ¹



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

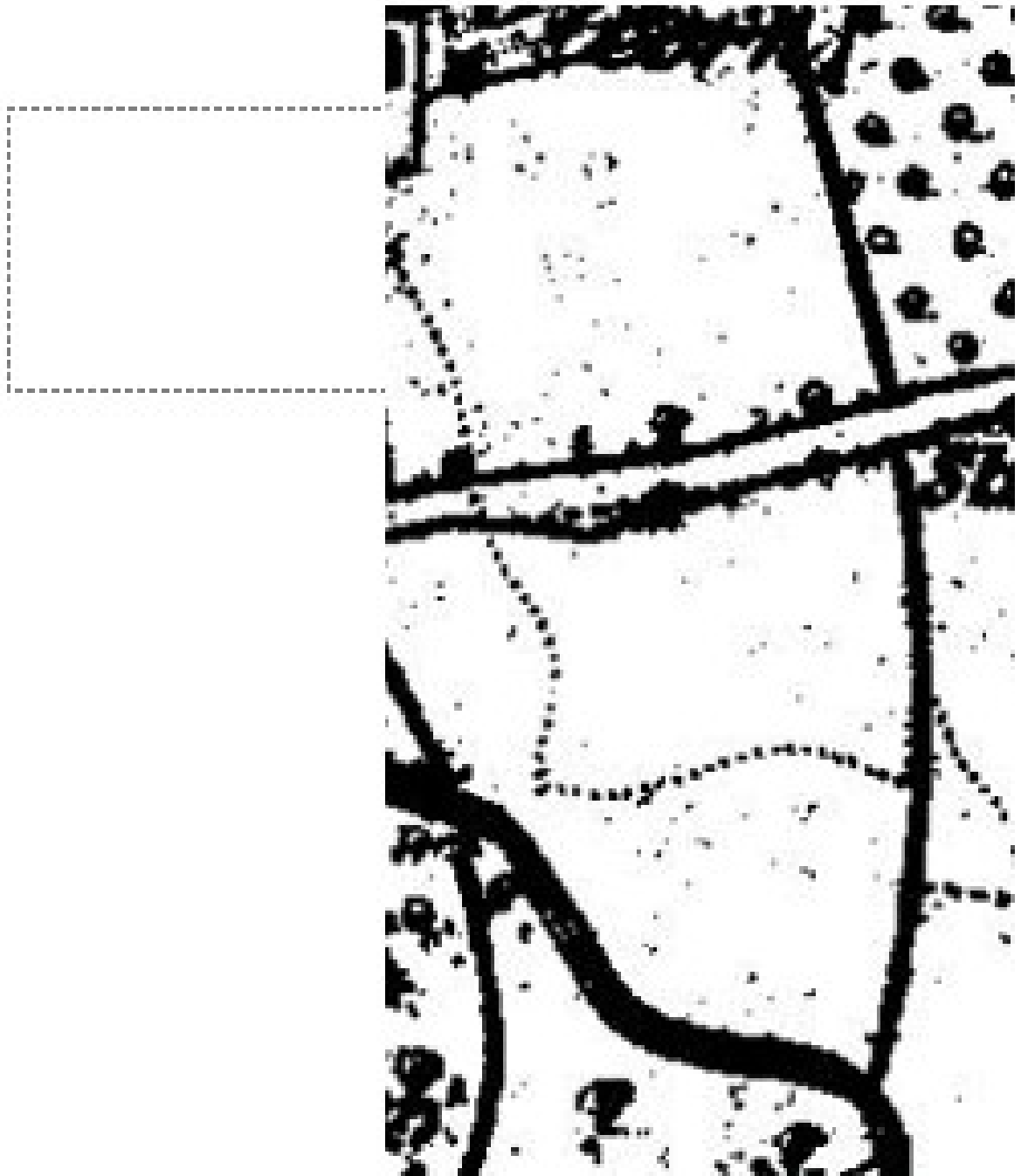








Paragraph





Observations

This is the earliest OS map available to view and it shows the full length of the application route.

Between point A and point D the route is shown as part of a longer route which starts on Croston Road and which is named as Mill Lane between the junction with Croston Road and point B.

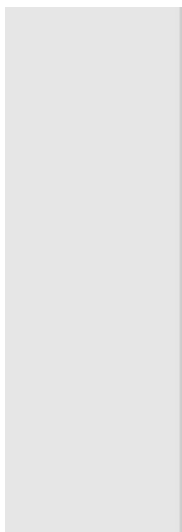
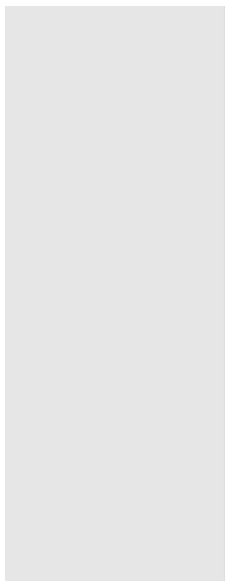
At point B there appears to be a line across the route and east of there the application route continues along a narrower bounded route providing access to Farington Corn Mill and on to point D.

From point D there is access north to Lower Farington Hall and east from point D the application route continues to point E where it is crossed by a solid line likely to indicate the existence of a gate. Beyond point E an unenclosed route depicted between a continuous line and a dashed line can be seen along the south side of a field boundary to point F where the route now recorded as Footpath Farington 7 is clearly shown extending in a generally east south easterly direction through to Wheelton Lane.

From point F the application route continues along the south side of a field boundary and passing through two field boundaries before reaching Wheelton Lane at point I. Extending north from Golden Hill Lane is Hall Lane which is shown as a narrow, bounded lane to point J. At point J the route crosses the parish boundary and it is unclear whether there is a line across the route indicating the possible existence of a gate or whether the line denotes the parish boundary. The application route extends north as a continuation of Hall Lane to the open junction of routes at point D and also providing direct access from Golden Hill Lane to Lower Farington Hall.

Investigating Officer's Comments		The whole of the application route existed in the mid-1840s and despite being gated in a number of places it may have been accessible on horseback throughout the full length and possibly with vehicles. The route between point A and point D provided access to a corn mill – which may have led to its name (Mill Lane) and the route between point J and point D provided direct access to Lower Farington Hall and appears to have formed part of the route named Hall Lane suggesting that the origins of the routes may have been as access to the mill and hall.
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25 Inch OS Map Sheet LXIX.10	1894	The earliest OS map at a scale of 25 inch to the mile. Surveyed in 1893 and published in 1894.
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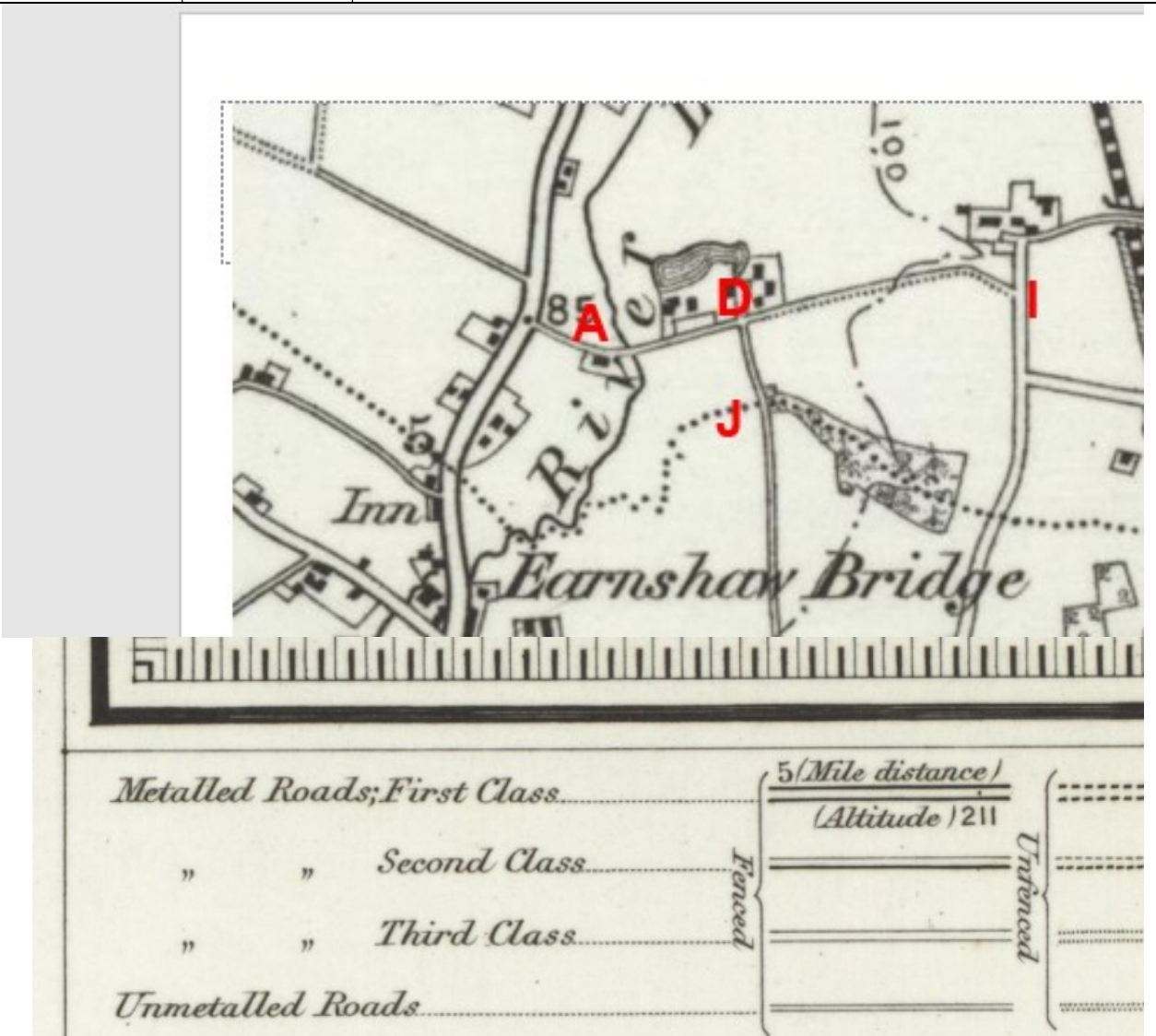


Observations		The full length of the application route is shown. Between point A and point D the route is shown as part of a longer substantial route named on the map as Mill Lane. It
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	<p>provides access to a number of properties – including Farington Corn Mill and Lower Farington Hall and is shown to cross 4 watercourses. Although bounded on both sides no part of Mill Lane from Croston Road passing through point A to point B is shown with a thickened line along the south side of the route. No lines are shown across the route, suggesting that it was not gated.</p> <p>Between point D and point J the application route is shown as part of a longer bounded route which starts on Golden Hill Road and extends directly north to the entrance to Lower Farington Hall and the junction of routes at point D. It is named on the map (south of point J) as Hall Lane and no lines are shown across it suggesting that it was ungated. It is not shown with a thickened line along the eastern side.</p> <p>From point D the application route continues east for a short distance as a bounded route to point E where it appears to be gated at the entrance to a field. A track (indicated initially by double pecked lines and then for the most part between a single pecked line and the boundary of three fields) is shown along the full length from point E through to point I. The route crosses two field boundaries between point E and point I and is also shown with a line across it at point I suggesting the existence of gates. At point F the route now recorded as Footpath Farington 7 is shown branching off from the application route and is annotated with the letters 'F.P.' (footpath).The application route is not annotated F.P.</p>
Investigating Officer's Comments	<p>The application route existed in 1893 and may have been capable of being used on foot or horseback and possibly with vehicles. The fact that it was named as part of Mill Lane and Hall Lane on the map is evidence that it was known locally by those names and is consistent with use of the route by the public at least on horseback at that time.</p> <p>The route between points A-D and D-J appear much more significant in terms of access to the properties along them but they connect at point D and are shown as being capable of being used as through routes and not just access to specific properties suggesting the at the public could have used them at this time.</p> <p>The application route from point E through to point I was shown but not named and not enclosed along the edge of a number of fields (suggesting it was less well used – landowners were more likely to fence off well used ways from their fields). It was gated in 4 places. The existence of gates along a public route would not have been considered unusual in the 1800s particularly in the proximity of farms or in rural locations. Gateways, if they were found to exist, were shown by the surveyor in their closed position</p>

although this is not necessarily a true reflection of what may have been the position on the ground.
 No part of the application route was shown denoted by thickened lines along the south and eastern side. Shading was often used to show the administrative status of roads on 25 inch maps prepared – primarily between 1884 and 1912 and all metalled public roads for wheeled traffic kept in good repair by the highway authority were to be shaded and shown with thickened lines on the south and east sides of the road. The application route is not shown in such a way.

1 inch OS Map Sheet 75 - Preston 1896 Small-scale 1 inch OS map.



Observations The application route between points A-D and points D - J is shown as part of an enclosed unmetalled road. The route between point D and point I is also shown as an unmetalled road which was unfenced along the southern side.

Investigating Officer's Comments		The original scale of the map (1 inch to the mile) means that only the more significant routes are generally shown. The purpose of the map in the late 1800s would probably have been to assist the travelling public on horseback or vehicle suggesting that the through roads shown – and in this case the application route - had public rights for those travellers.
Bacon's Map of Lancashire	Published c. 1905	G W Bacon was a publisher of maps and in 1890 his 'Commercial and Library Map of Lancashire from the Ordnance Surveys' was published, and later reprinted. As the title states, the maps he published were derived from Ordnance Survey maps.

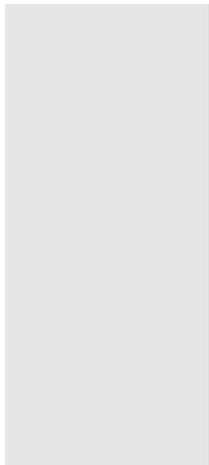
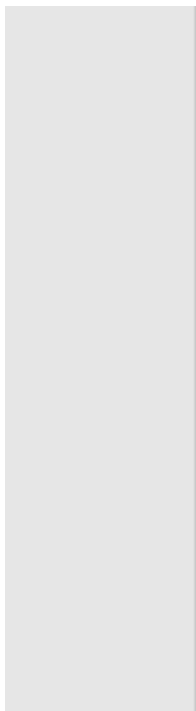
Bacon colours equate to parliament



Observations		Bacon's small-scale map also appears to show the application route as part of a longer through route between point A and point D and from point D to point J. The application route between point D and point I is not shown although it was noted that the section of map crossed by this part of the route was filled with the name of a place or property.
Investigating Officer's Comments		Bacon's maps of the British Isles were at a small scale and as such only the more significant routes are generally shown. Commercial maps of this nature were expensive to produce and to purchase and as a result routes shown were often considered to be public through routes. The application route between point A and point D and point D and point J is shown in the same way as routes now known to carry public vehicular rights supporting the fact that it

		<p>existed as a substantial physical route at that time and that it was probably available for use by the public on horseback and possibly with vehicles.</p> <p>The fact that the application route was not shown between point D and point I may just have been because it was obscured by the labelling but may also be because it was possibly seen as a lesser route, suggesting that it was not, in the early 1900s, considered to be part of a significant or main public vehicular through route. It may, however have existed as a footpath or bridleway at that time.</p>
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<p>25 inch OS Map Sheet LXIX.10</p>	<p>1910</p>	<p>Further edition of the 25 inch map surveyed in 1893, revised in 1909 and published in 1910.</p>
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<p>Observations</p>		<p>The application route is shown in the same way as it was shown on the earlier edition of 25 inch mapping published in 1894.</p>
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Investigating Officer's Comments		The application route existed in 1909 and appeared to be capable of being used at least on horseback. Its physical appearance suggested a route used as more than just a footpath.
Bartholomew half inch Mapping	1902-1906	The publication of Bartholomew's half inch maps for England and Wales began in 1897 and continued with periodic revisions until 1975. The maps were very popular with the public and sold in their millions, due largely to their accurate road classification and the use of layer colouring to depict contours. The maps were produced primarily for the purpose of driving and cycling, and the firm was in competition with the Ordnance Survey, from whose maps Bartholomew's were reduced. An unpublished Ordnance Survey report dated 1914 acknowledged that the road classification on the OS small scale map was inferior to Bartholomew at that time for the use of motorists.

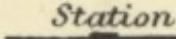
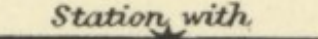
Sheet 8 Mancheste



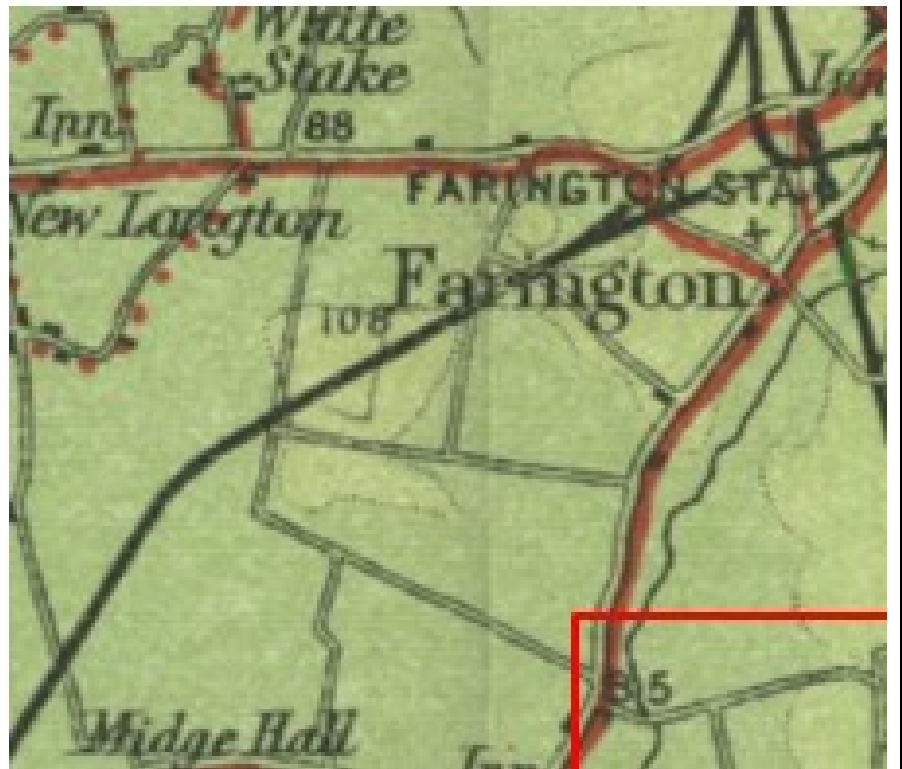
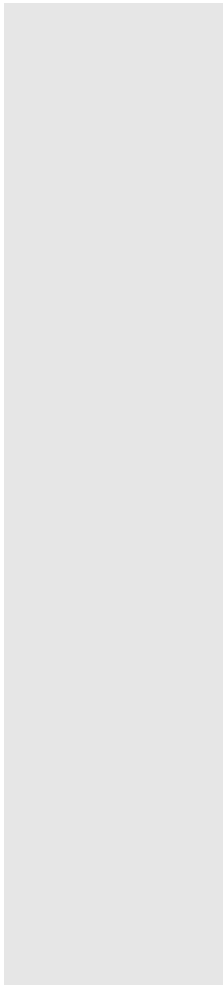
EXPLANATORY NOTE

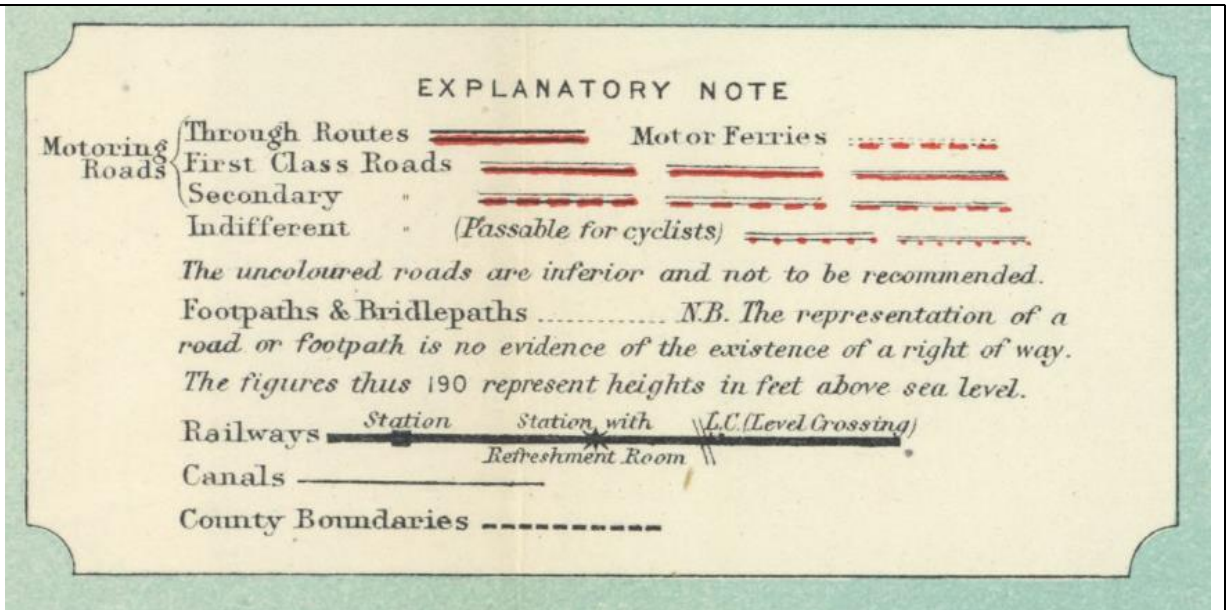
First Class Roads 
Secondary " (Good) 
Indifferent " (Passable) 
The uncoloured roads are inferior and not to be recommended to cyclists.

Footpaths & Bridlepaths
N.B. The representation of a road or footpath is not evidence of the existence of a right of way.

Railways  Station  Station with Refreshment Room

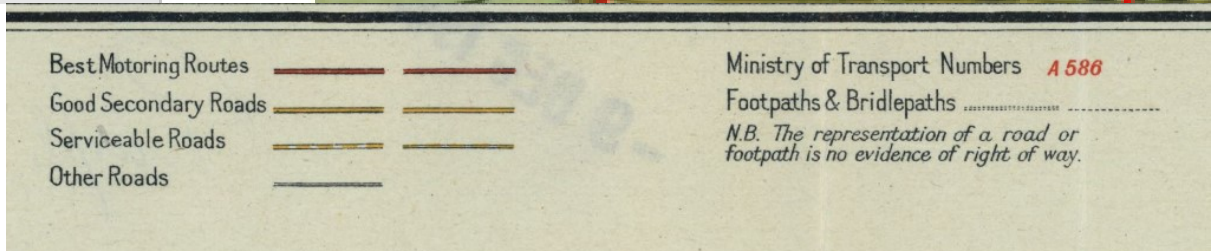
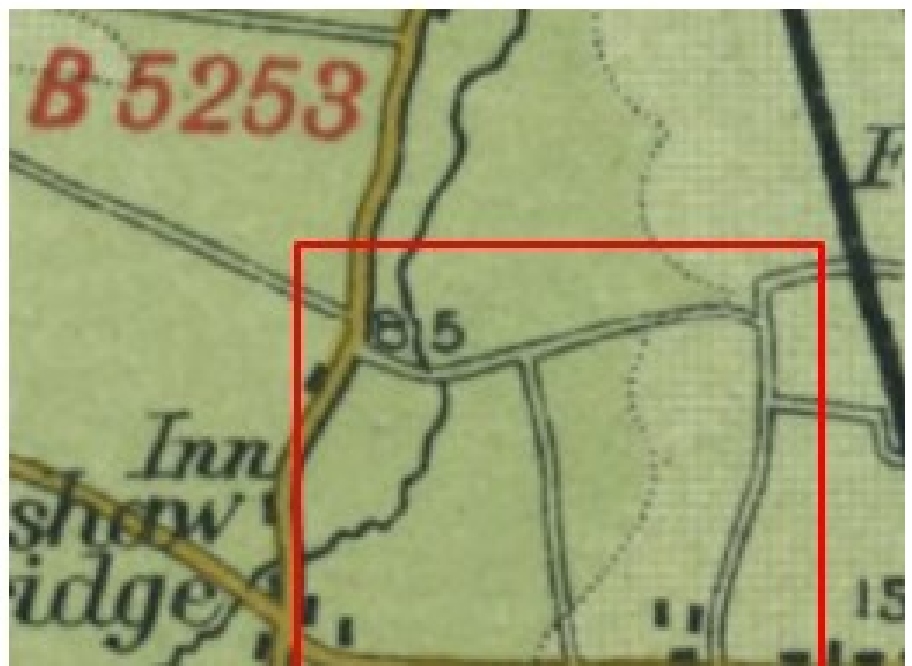
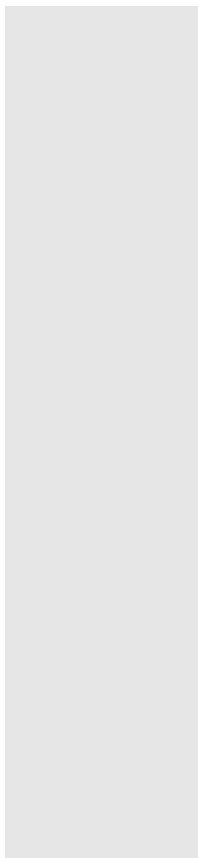
Map published in 1904





Map published in 1920

1



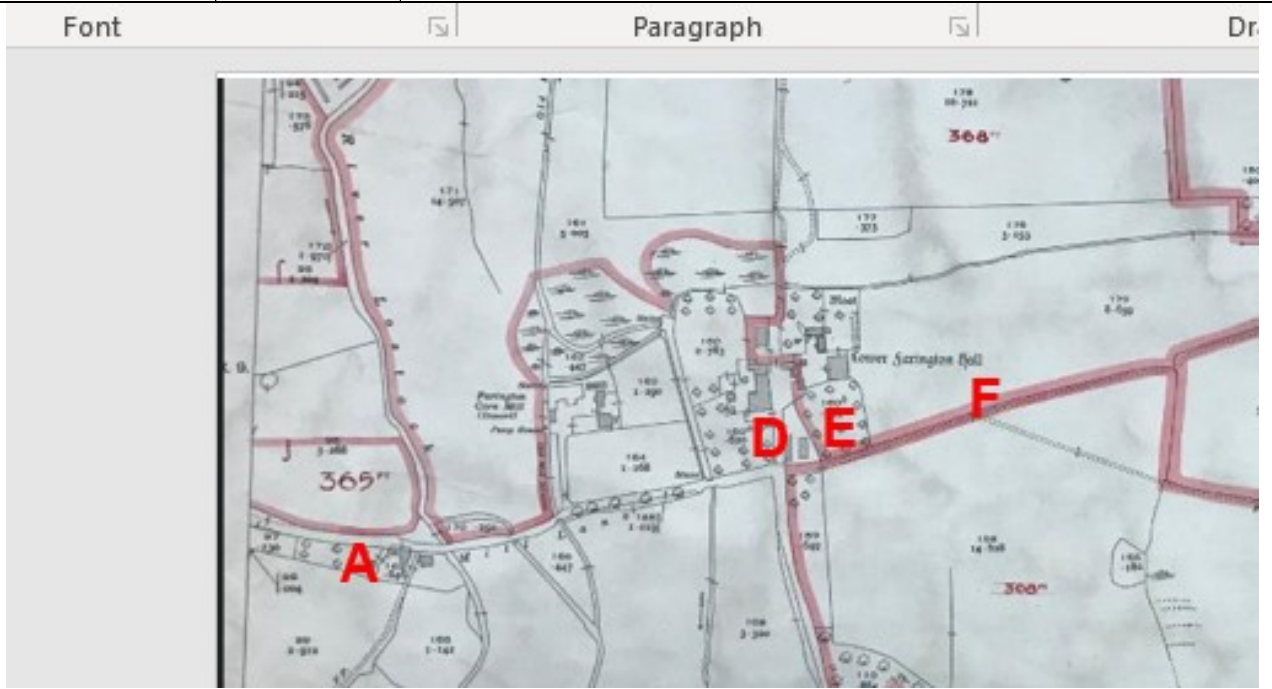
Map published in 1940

Observations

The application route is shown on all three map editions

		<p>published in 1904, 1920 and 1940. It is shown as part of a longer route with no distinction between how the later adopted and unadopted sections of Mill Lane and Hall Lane are shown. The routes are shown as uncoloured 'roads' and it is noted in the key to the 1904 and 1920 maps that they are not to be recommended for cyclists. Routes considered to be footpaths and bridleways are shown separately in the map key. The 1940 map shows them as 'other roads'.</p>
Investigating Officer's Comments		<p>The early 1900s saw a significant increase in the use of motorised vehicles and the classification of minor roads was constantly being reviewed by Bartholomew as some routes were improved to cope with increasing traffic whilst others were virtually abandoned and fell into disrepair. Before 1920, few roads other than main roads were tarred but the travelling public had lower expectations of surface conditions than today and it would not be uncommon for an unsealed road, at the time considered suitable for horse drawn vehicles or early motor cars, to be shown. The inclusion of the route on this map as an uncoloured or other road is evidence that the route existed as a substantial route which appeared to be considered as being more than a footpath or bridleway. It was not denoted as being a public vehicular route of a good enough standard to be recommended for cyclists but its inclusion as an uncoloured road suggested that it physically existed as a substantial route in the early 1900s which would have been capable of being used at least on horseback.</p>
Finance Act 1910 Map	1910	<p>The comprehensive survey carried out for the Finance Act 1910, later repealed, was for the purposes of land valuation not recording public rights of way but can often provide very good evidence. Making a false claim for a deduction was an offence although a deduction did not have to be claimed so although there was a financial incentive a public right of way did not have to be admitted.</p> <p>Maps, valuation books and field books produced under the requirements of the 1910 Finance Act have been examined. The Act required all land in private ownership to be recorded so that it could be valued and the owner taxed on any incremental value if the land was subsequently sold. The maps show land divided into parcels on which tax was levied, and accompanying valuation books provide details of the value of each parcel of land, along with the name of the owner and tenant (where applicable).</p> <p>An owner of land could claim a reduction in tax if his land was crossed by a public right of way and this can be found in the relevant valuation book. However, the exact route of the right of way was not recorded in the book or on the accompanying map. Where only one path was shown by</p>

the Ordnance Survey through the landholding, it is likely that the path shown is the one referred to, but we cannot be certain. In the case where many paths are shown, it is not possible to know which path or paths the valuation book entry refers to. It should also be noted that if no reduction was claimed this does not necessarily mean that no right of way existed.



Observations

The Finance Act maps deposited at the County Records Office and The National Archives were inspected. Unfortunately, both maps appeared to be incomplete.

The land crossed by the application route between point A and point E and from point D to point J has not been annotated on either map.

Between point E and point I the map deposited at the County Records Office shows the route passing through two numbered plots. These plots are both quite large and are numbered as plots 280 and 368. The District Valuation book for Farington is listed as being missing in the County records office so it was not possible to check to see who was listed as owning this land and whether any deductions were claimed for public rights of way.

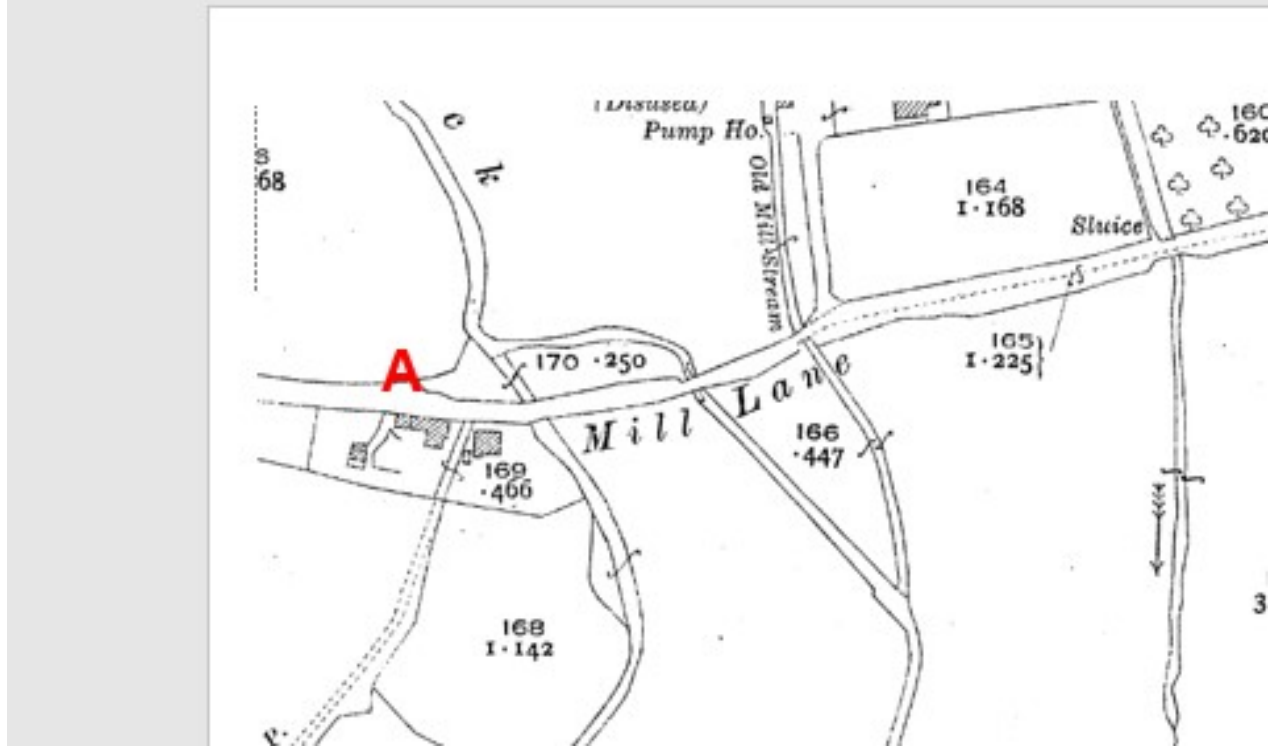
Investigating Officer's Comments

No inference can be drawn with regards to the application route between points A-D-E and D-J.

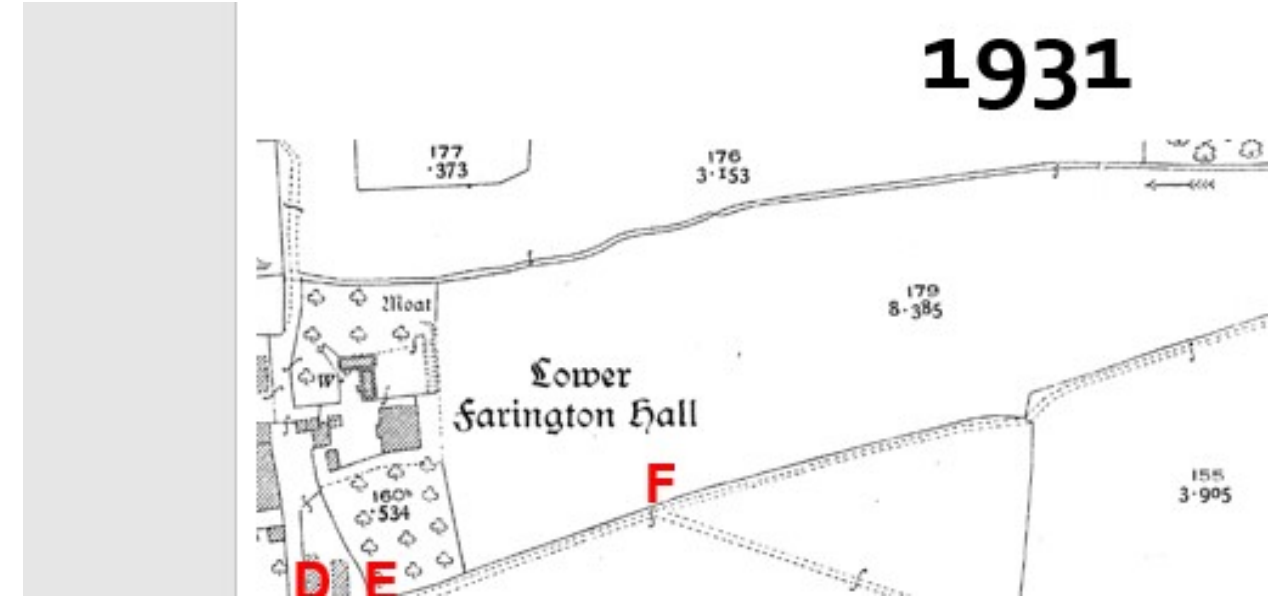
With regards to the application route between point E and point I it was not excluded from the numbered plots but it is not known whether any deductions were claimed for public rights of way. The fact that the route was not excluded from the numbered plots may however suggest that in the early 1900s the route between point E and point I was not

considered to be a public vehicular highway. This view should be treated with caution however as the maps were clearly incomplete.

25 Inch OS Map Sheet LXIX.10 1931 Further edition of 25 inch map, surveyed 1893, revised in 1928 and published in 1931.



1931

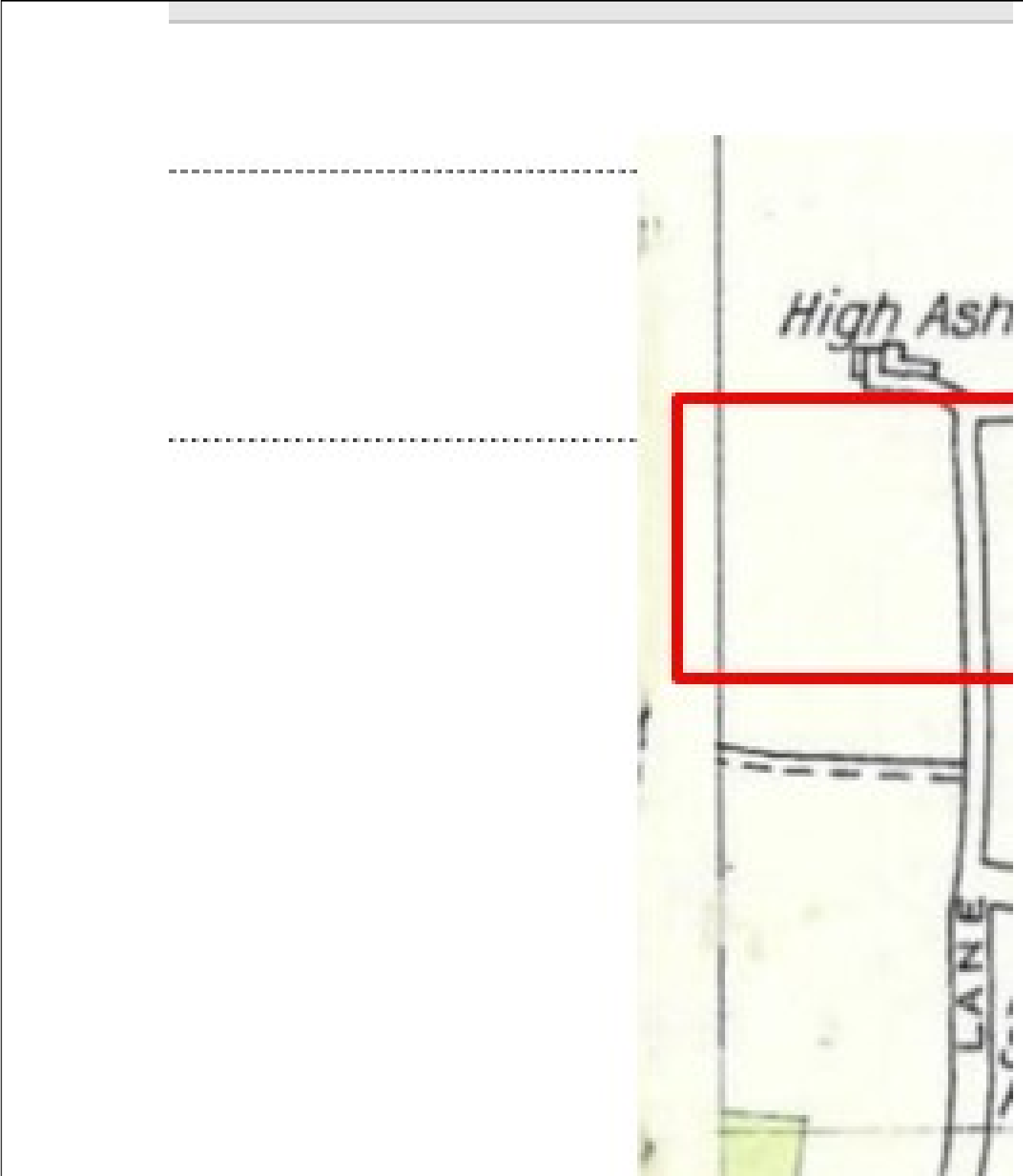


Observations The application route is shown in the same way as it is shown on earlier editions of the 25 inch OS maps.

Investigating Officer's Comments The application route existed in 1928 and appeared to be capable of being used at least on horseback. Its physical appearance suggested a route used as more than just a

Authentic Map of South Lancashire by Geographia	Circa 1934	<p>footpath.</p> <p>An independently produced A-Z atlas of Central and South Lancashire published to meet the demand for such a large-scale, detailed street map in the area. The Atlas consisted of a large-scale coloured street plan of South Lancashire and included a complete index to streets which includes every 'thoroughfare' named on the map.</p> <p>The introduction to the atlas states that the publishers gratefully acknowledge the assistance of the various municipal and district surveyors who helped incorporate all new street and trunk roads. The scale selected had enabled them to name 'all but the small, less-important thoroughfares'.</p>
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<p>Observations</p>		<p>The application route between point A and point E is shown consistent with how other routes with public vehicular rights are shown. The routes are named as Mill Lane and Hall Lane and are shown to connect at point D indicating the existence of a through route.</p> <p>A line is shown across the route at point E and then the application route is shown extending as far as point F. Beyond point F the application route is not shown and the</p>
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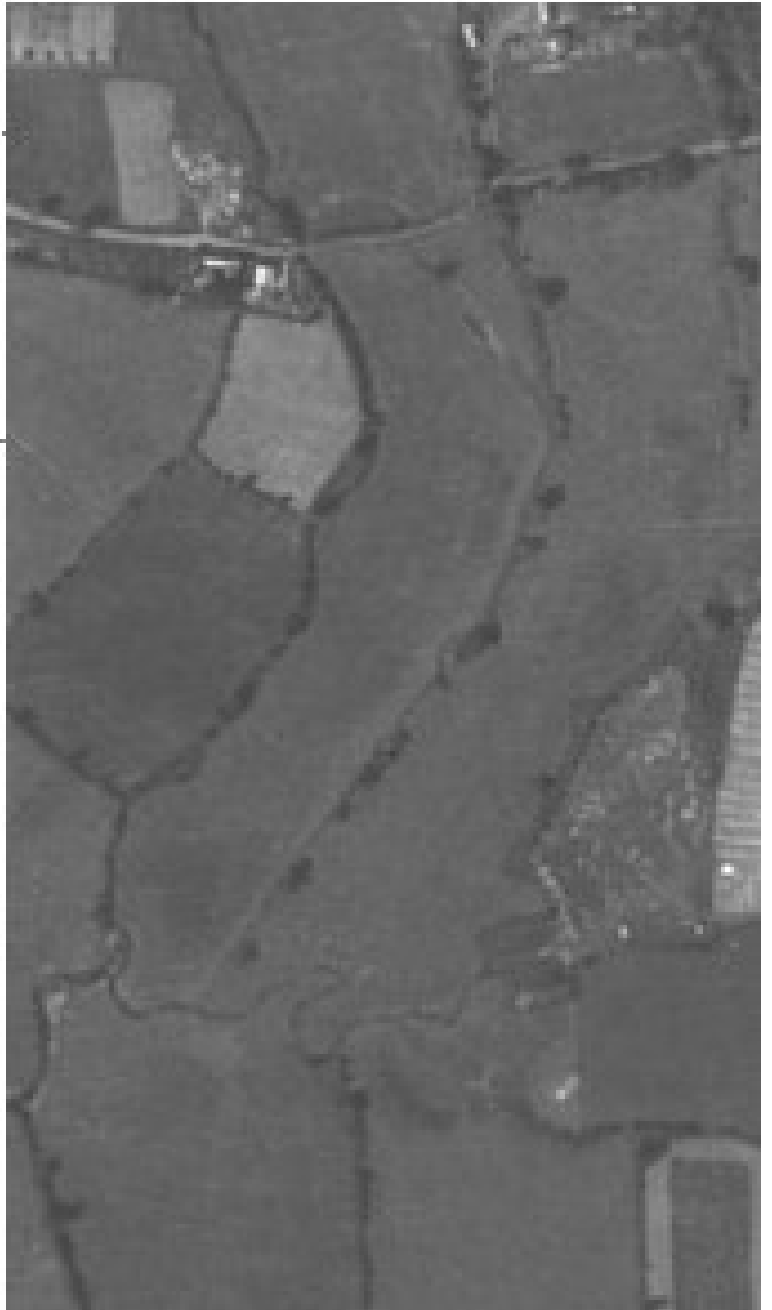
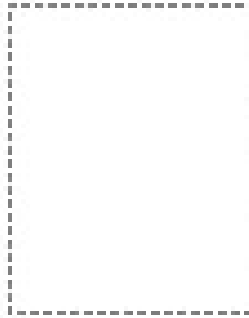
		only route shown continuing from point F is the route now recorded as Footpath Farington 7.
Investigating Officer's Comments		The application route between point A and point D and point F and point D is shown consistent with how other routes recorded as public vehicular routes were shown. This small-scale map was produced primarily to show public vehicular routes although other substantial routes were sometimes shown. It was not unusual for routes considered to be footpaths or bridleways not to be shown. The fact that the route of Footpath Farington 7 was shown suggests that it may have existed as a substantial track at that time and that the application route from point E to point I was a less significant route.
Aerial Photograph²	1940s	The earliest set of aerial photographs available was taken just after the Second World War in the 1940s and can be viewed on GIS. The clarity is generally very variable.



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



Paragraph

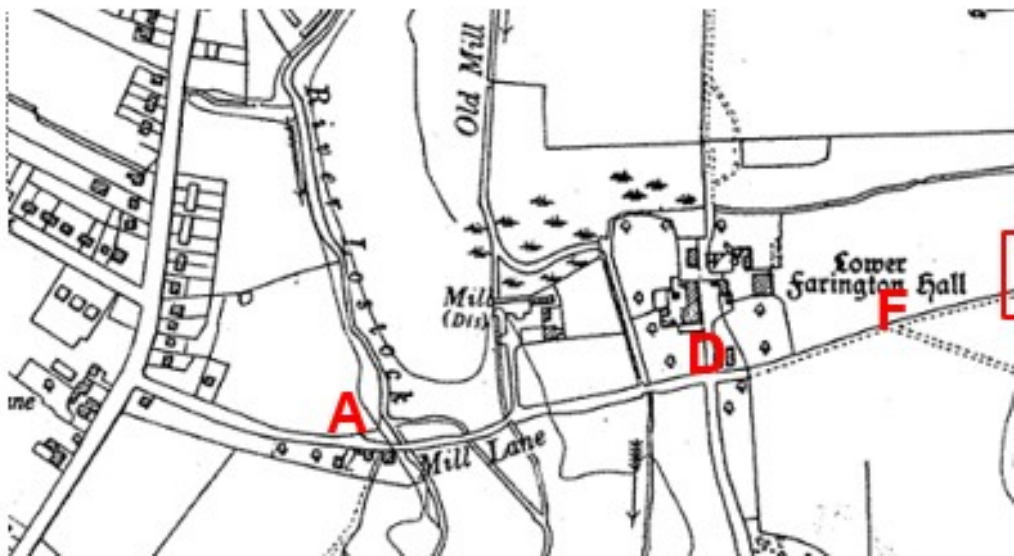
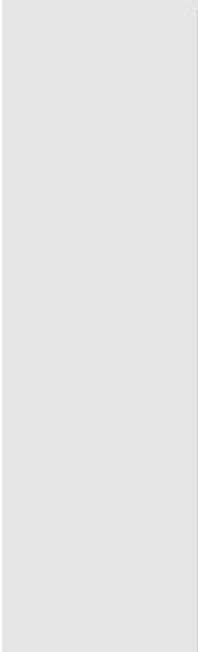


Observations

The 1940s aerial photograph covering the area crossed by the application route is of good quality.

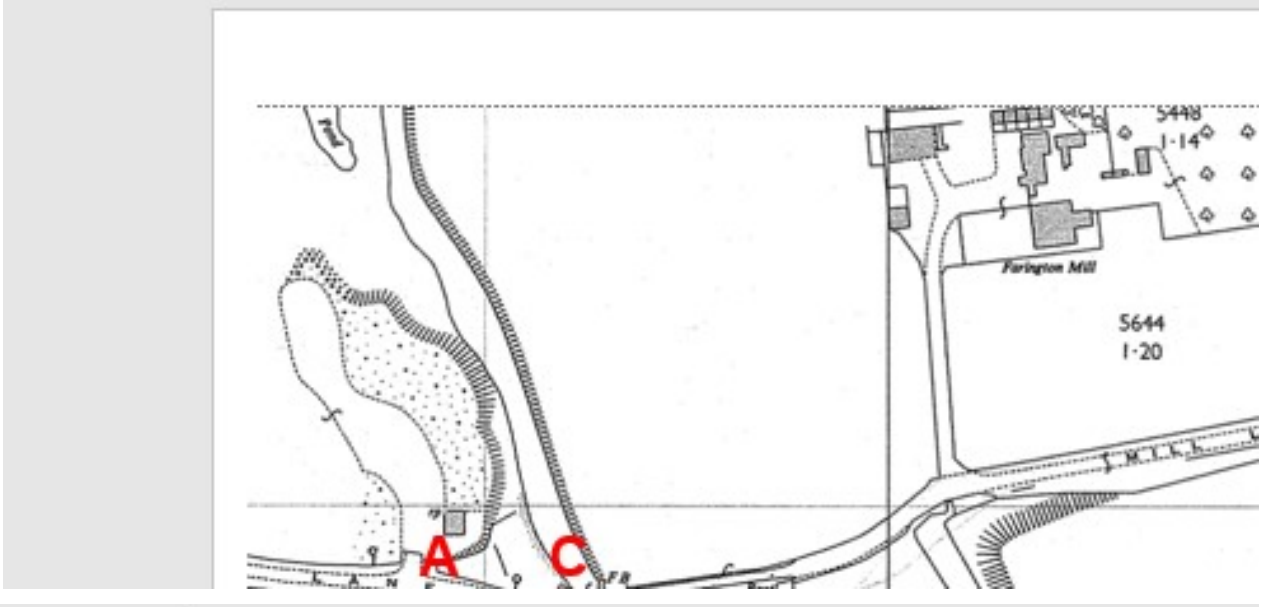
From Croston Road to point A Mill Lane can be clearly. From point A through to point D the application route can be seen as an extension of Mill Lane showing up on the photograph consistent with a route used by low levels of vehicles. From point D to point J the application route can also be seen and appears wide enough to be used by

		<p>vehicles accessing Lower Farrington Hall and Mill Lane. South of point J there have been significant developments along the east side of Hall Lane with a number of properties now shown.</p> <p>From point E the application route can be clearly seen through to point F but beyond point F the more prominent route is that of Footpath Farington 7 which shows up on the photograph consistent with a route receiving low levels of vehicular use. The application route between point F and point I can be seen but shows up as a much fainter line, more consistent with use on foot and horseback.</p>
Investigating Officer's Comments		The application route may have been accessible but it appears to be more consistent with low level vehicular use.
6 Inch OS Map Sheet 52SW	1955	The OS base map for the Definitive Map, First Review, was published in 1955 at a scale of 6 inches to 1 mile (1:10,560). This map was revised 1930 -1945.



Observations		The application route is shown in the same way as it is shown on earlier maps examined. Farington Mill is now shown as disused. The application route between point F and point I is labelled as a cart track (CT) whereas the route of Footpath Farington 7 is marked as a footpath (F.P.).
Investigating Officer's Comments		The application route existed in the 1930s and appeared to be capable of being used at least on horseback and possibly with vehicles. The route between point F and point I was specifically labelled as a cart track as opposed to a footpath indicating evidence of a route on the ground indicative of such use. The annotation used by the OS does not however indicate whether this use was public or

		private.
1:2500 OS Map	1964	Further edition of 25 inch map reconstituted from former county series and revised in 1960-61 and published in 1964 as national grid series.





<p>Observations</p>	<p>Significant changes had occurred by the 1960s. Between point A and point D the route is still labelled as Mill Lane but is shown to be narrower than on earlier OS maps and more significantly the bridge at point C is labelled as being a footbridge and two posts are marked as being located on the route suggesting that vehicular access through to point D was no longer possible.</p> <p>The route between point D and point K appears unaltered and provided access to Lower Farington Hall, Farington Hall Farm and to buildings marked on the map as being Farington Mill but also provided a through route (albeit restricted by bollards and a footbridge) linking to Mill Lane and to the eastern section of Footpath Farington 7.</p>
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		<p>From point D heading east there is no longer a line shown across the application route at point E and the application route is now bounded on both sides with the addition of a fence/hedge/wall on the south side of the route through to point G.</p> <p>From point G through to point I the application route is no longer shown on the map and the route does not appear to be accessible. A route extending north east for a short distance from point G is shown leading onto Centurion Way.</p>
Investigating Officer's Comments		<p>Access along the application route from point A through to point D now appears to be limited with no through route available to most types of vehicles due to the fact that posts are shown to exist in the route and the bridge over the River Lostock is shown to be narrower and described as a footbridge. The route may still have been accessible on horseback but is unlikely to have been used by vehicles other than for access to the Mill via point D.</p> <p>The application route between point D and point J remained unaltered and still appeared to be capable of use at least on horseback and by vehicles accessing the Farington Hall Farm and Farington Mill.</p> <p>From point D to point G an ungated bounded route is now shown which appeared to be wide enough for use on horseback and with vehicles. From point G access along the application route was no longer possible from at least the early 1960s and it was necessary to divert following the track onto the western end of Centurion Way.</p>
Aerial photograph and historical information	Unknown	<p>An undated aerial photograph of the eastern end of the application route and some information about the history of Lower Farington Hall was found on the Leyland Historical Society website.</p> <p>https://www.leylandhistoricalsociety.co.uk/photographs.html</p>

<https://www.leylandhistoricals>



Font

| 12 |


Paragraph

| 12 |



Observations

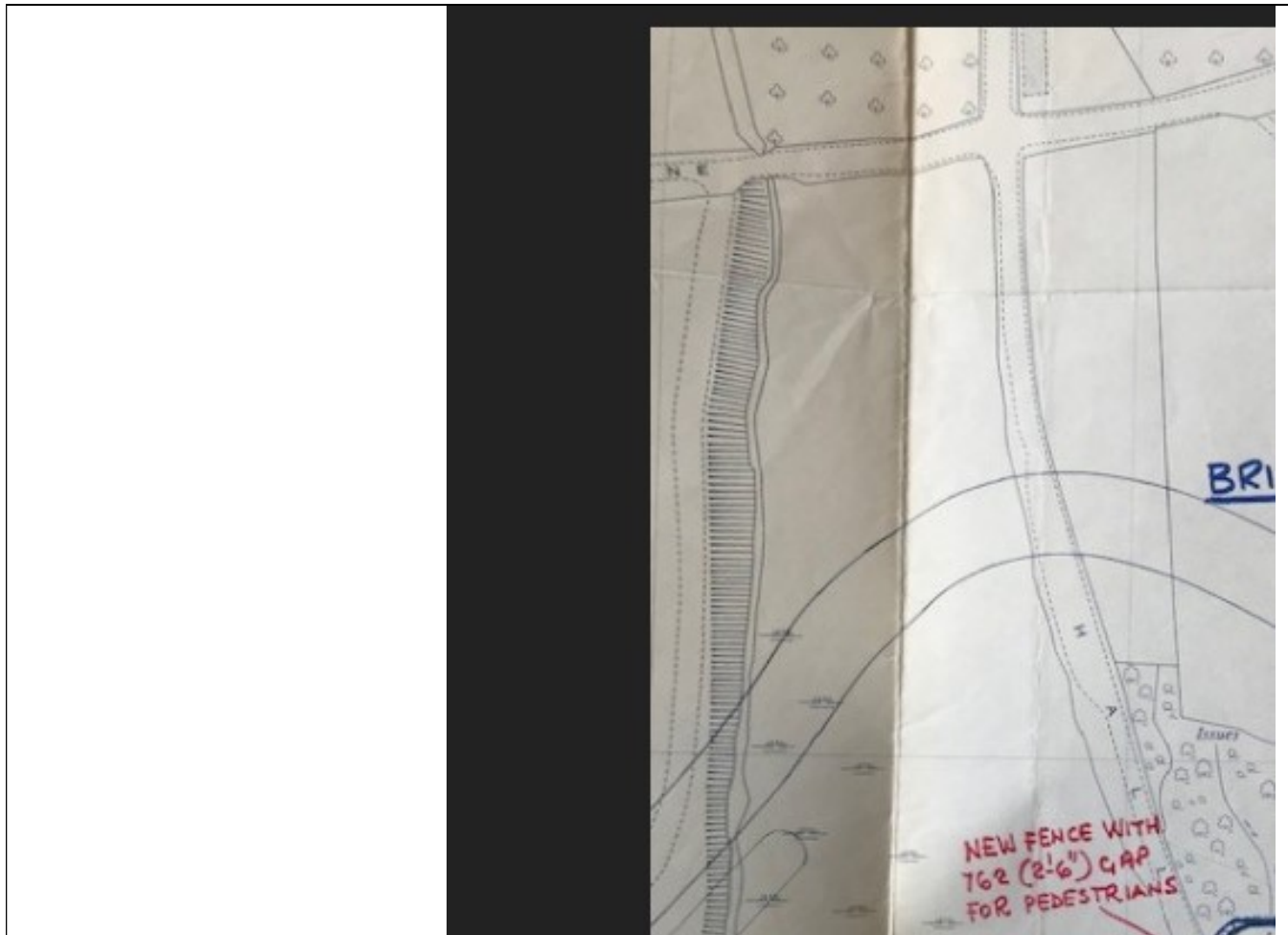
The undated aerial photograph is titled 'Leyland Motors – Spurrier Works' and shows the huge site that had been constructed including the test track used in the development and production of cars which was constructed to the north of part of the application route.
The area highlighted on the photograph shows the application route between point F and point G as a

		<p>substantial roadway which appeared capable of being used by vehicles and which connected to what is now known as Centurion Way north east from point G. The photograph also shows that at that time the application route east of point G was no longer in existence on the ground.</p> <p>The Leyland Historical Society website also contained information about Hall Lane and Lower Farington Hall stating that Hall Lane as its name suggested was the lane that led down to the hall. The hall was stated as being the first home of the Faringtons and that it remained their home for at least 370 years. It was also said that before the hall became part of the old Ministry of Supply Tank Factory (later Leyland Motors) test track site, it was used as a farmhouse for many years and that the farmhouse was last owned by a family called Forshaw, the grandfather having brought the farm from the previous owners, a family named Wright, in about 1920.</p>
Investigating Officer's Comments		<p>The photograph helps to illustrate the changes that had occurred to the eastern end of the route since the publication of the 1:2500 OS map detailed above in the early 1960s and the fact that the route between point E and point G was altered substantially at some point since the 1950s.</p> <p>The background information regarding the antiquity and history of the hall is useful in putting into context why the routes may have originally come into being but the fact that they provided access to the hall does not necessarily mean that they could not have become public rights of way at some time in the past.</p>
Aerial photograph	1960s	The black and white aerial photograph taken in the 1960s and available to view on GIS.
	<p style="text-align: right;">1960s</p> 	


1960



Observations		<p>The photograph clearly shows the application route between point A-D-G and J-D and also the fact that the route no longer existed on the ground between point G and point I.</p> <p>In contrast to earlier maps and photographs examined the route between point A and point D now appears to be narrower and less significant than the route between point D and point G which exited onto Centurion Way.</p>
Investigating Officer's Comments		<p>The application route existed between points A-D, D-J and D-G and appeared to be capable of being used at least on horseback. The application route between point G and point I no longer existed.</p>
Erection of barrier on Hall Lane	1977	<p>Correspondence found on LCC public rights of way files regarding the erection of a barrier at point J.</p>



<p>Observations</p>	<p>Correspondence between South Ribble Borough Council and Lancashire County Council in 1977 relates to a request made to the Borough Council by British Leyland Truck and Bus Company to erect a barrier at the boundary of their site at point J on Hall Lane.</p> <p>The purpose of the barrier was to prevent vehicular traffic along Hall Lane from point J due to recent problems with fly tipping on their site.</p> <p>Correspondence with the County Council related to consideration as to whether it was necessary to apply to the Magistrates Court for a stopping up order to allow for the erection of the barrier. However, it was concluded that a stopping up order was not required as the route was a public footpath with private vehicular rights and that no evidence had been presented to the contrary. It was also noted that vehicular use of Mill Lane through to Hall Lane was no longer possible due to the fact that the bridge across the river was a footbridge. In their response Lancashire County Council had suggested that consideration be given to allowing horses to use the route but it was stated that the Company were not willing to dedicate it as a public bridleway at that time.</p>
<p>Investigating Officer's</p>	<p>The owners of land crossed by the application route in the 1970s did not consider the route to be a public vehicular</p>

Comments		route or a public bridleway but accepted that public footpath rights existed.
Aerial Photograph	2000	Aerial photograph available to view on Google Earth Pro.
<div style="border: 1px solid gray; padding: 5px;"> <div style="display: flex; justify-content: space-between; font-size: small; margin-bottom: 5px;"> Font Paragraph DR </div>  </div>		
Observations		The application route (with the exception of the route between point B and point I) is still visible in 2000. The hall and corn mill no longer exist and the section leading immediately east from point A is only faintly shown suggesting use of that short section may have been predominantly on foot, bicycle or horseback.
Investigating Officer's Comments		The application route (with the exception of the route between point G and point I) existed and may have been capable of being used in 2000 although it is not possible to see whether any access controls such as gates, stiles or barriers existed at that time.
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	The initial survey of public rights of way was carried out by the parish council in those areas formerly comprising a rural district council area and by an urban district or municipal borough council in their respective areas. Following completion of the survey the maps and schedules were submitted to the County Council. In the case of municipal boroughs and urban districts the map and schedule produced, was used, without alteration, as the Draft Map and Statement. In the case of parish council survey maps, the information contained therein was reproduced by the County Council on maps covering the whole of a rural district council area. Survey cards, often

containing considerable detail exist for most parishes but not for unparished areas.



DISTRICT PRESTON RURAL

PARISH FARINGTON, NORTH WARD

No. 4.

MAP SHEET No. 2.

LENGTH miles
(to two decimal places)

BRIEF DESCRIPTION (Field F.P. or otherwise)

Grass paths etc. (CRF and F.P.)

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

Path starts on left hand side of ~~Barnwater~~ from ~~Boston~~ head, almost opposite Barnwater lane, with a notice saying "Footpath only", since the first part was previously a bye-road. The track is metalled until it reaches the River Looket, where it is crossed by a poor bridge; returns down towards a track leading to an old corn mill & farm buildings. Just beyond here a very bad bridge crosses the river (another part of the previous stream) & the track soon crosses path no: 3. Continuing until a field gate is reached, leading to a pasture. Keep to the left hand hedge until another gate is reached, when two paths go forward to ~~Wheeler~~ lane, with stile into the next field & on to the road (Wheeler lane).

SURVEYED BY:—

Name

Miss J. Craven

Address

Aberley House Lane Farlington Moss in Preston.

Date April 1951.

50000.F39/4/50

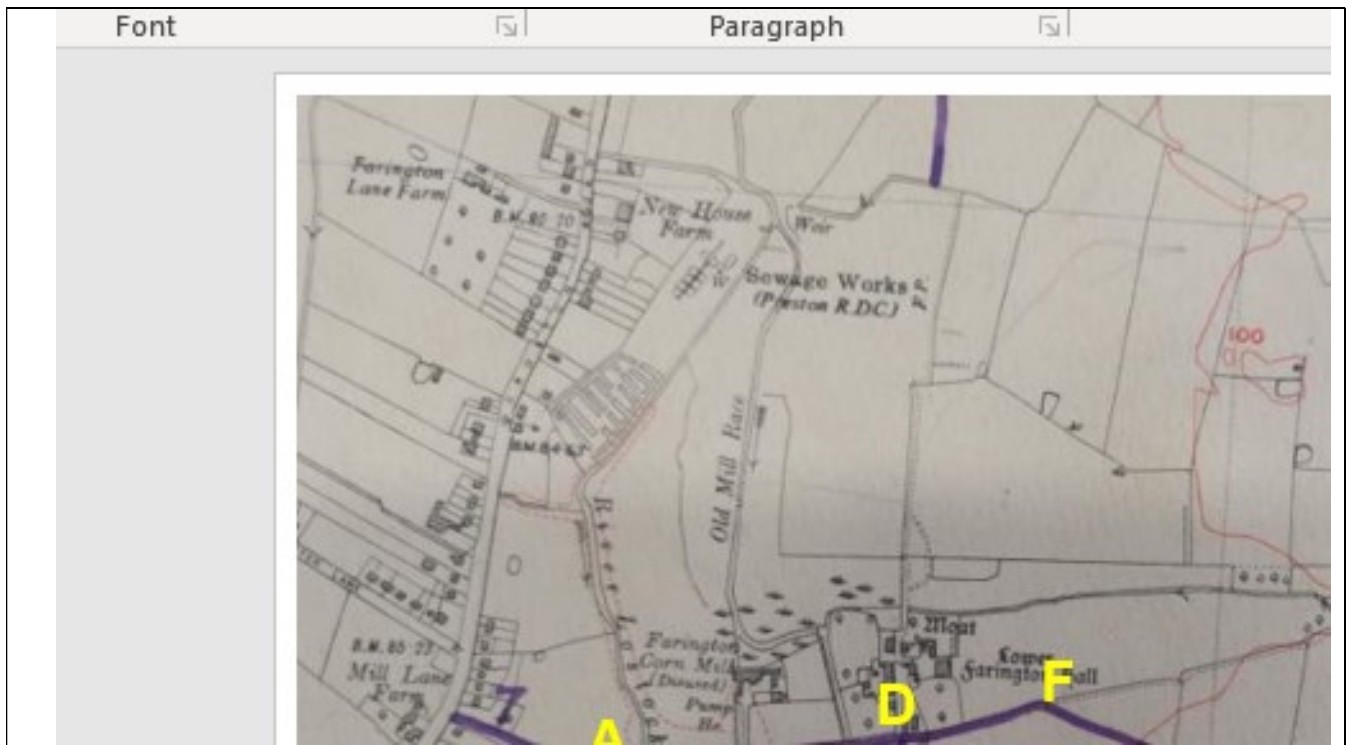
NOTE Both bridges are in a state of collapse, and very unsafe.

DISTRICT	<i>Preston Rural</i>	PARISH	<i>Farington</i>	No.	<i>24</i>
MAP SHEET No.		LENGTH		miles	
BRIEF DESCRIPTION (Field F.P. or otherwise)			<i>FP</i>		
DETAILED DESCRIPTION (giving starting point, means of passage and general condition).					
<i>junction with FP no. 7 near lower Farington Hall to parish bay.</i>					
<i>location</i>					
SURVEYED BY :-		Name			
		Address			
		Date			
50000/F39/4/50					

DISTRICT	<i>PRESTON RURAL</i>	PARISH	<i>FARINGTON, NORTH WARD.</i>	No.	<i>3.</i>
MAP SHEET No.	<i>1 and 2.</i>	LENGTH		miles	
BRIEF DESCRIPTION (Field F.P. or otherwise)			<i>Field path east track. (CRB)</i>		
DETAILED DESCRIPTION (giving starting point, means of passage and general condition).					
<i>Footpath starts on west side of border lane, just past Incliffe Nurseries, runs between high hedges to stile into pasture, continues along left hedge until another stile is reached, and then along right hand hedge to gate & stile, continuing across private road to farm, rough swing-gate, over pasture field, to stile, along right hand hedge, + across pasture to a spring, thence over a stile, where turn left, following hedge around ploughed field until a gate opening is reached, along right hand hedge through ploughed field to stile leading to farm, over a curved track + a small stream (stile here) into farm fields (Farington lower hall, + orchard), carry straight through along curved track (crossing footpath no: 4) path now becomes hedges, beyond the wood + second stream. (General condition fair + well marked)</i>					
SURVEYED BY :-		Name <i>Miss L. H. Craven</i>			
		Address <i>"Sheralley" Fowles Lane Farington Moor, Preston</i>			
		Date <i>Easter 1951</i>			
50000/F39/4/50					

Observations	<p>The application route between point A and point F was recorded as part of Footpath 7 on the parish survey map. The route between point F and point I was also shown but then crossed out. When the parish survey card was completed in 1951 it appears that the route recorded as Footpath 7 was considered to be in poor condition. It is described by the surveyor as a 'bridle path etc (CRF and FP)' which is somewhat confusing as it suggests that the surveyor considered it to be a bridlepath and also a cart road used as a footpath and a footpath – possibly reflecting</p>
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		<p>the use at that time. It is noted that in 1951 a 'footpath only' sign was in position on the route close to the junction with Croston Road and that from Croston Road through to point C1 on the application route the route was metalled. There is also a reference to it previously being a 'bye road'. Beyond point C1 the route is described as a track passing over two bridges (one at point C1-C2) which were in very poor condition and also refers to an old mill and farm. The route is described as continuing to a field gate marked on the survey map at point E and that it then continued along the edge of a pasture field to a stile and gate from where two paths 'went forward' to Wheelton Lane.</p> <p>The application route between point J and point D is shown on the parish survey map but is not numbered. A Parish Survey Card for Footpath 24 was located but this is not dated and has been completed in different handwriting from the survey card for Footpath 7. The route is described as a footpath from junction with footpath 7 near Lower Farrington Hall to the parish boundary.</p> <p>In addition, a route is shown on the parish survey map which extends south to pass through Lower Farrington Hall (farm) and is numbered as Footpath 3. The Parish Survey card for this route describes the application route from point D to point J as part of FP 3. The route as a whole is described as a field path and cart track (CRB <i>i.e. cart road bridleway</i>) described as passing through the farm on a cindered track to become Hall Lane beyond the wood and second stream.</p>
Draft Map		<p>The parish survey map and cards for Farington were handed to Lancashire County Council who then considered the information and prepared the Draft Map and Statement.</p> <p>The Draft Maps were given a "relevant date" (1st January 1953) and notice was published that the draft map for Lancashire had been prepared. The draft map was placed on deposit for a minimum period of 4 months on 1st January 1955 for the public, including landowners, to inspect them and report any omissions or other mistakes. Hearings were held into these objections, and recommendations made to accept or reject them on the evidence presented.</p>



Observations

The Draft Map for Farington shows the application route between points A-D-F and D-J as public footpath. It does not show the application route between point F and point I and does not show the route of Footpath 3 passing through Lower Farington Hall.

The Ramblers Association objected to the fact that a number of paths – including the application route between point F and point I – were not shown on the Draft Map. The grounds for objection were listed as being that a number of paths crossing the site of a new factory at Farington were stopped up by order of the Ministry of Transport under the Supplies and Services (Defence Purposes) Act 1951 in February 1952. The Ramblers Association submitted that the stopping up under the 1952 order did not permanently close the paths but merely stopped them up for the duration of the Supplies and Services (Defence Purposes) Act 1951.

The 1951 Act s2 provides for Orders to stop up Highways but the power has now ended under the Emergency Laws (Repeal) Act 1959 and the effect of existing Orders ended after a further 2 years unless made permanent under Town and Country Planning Act.

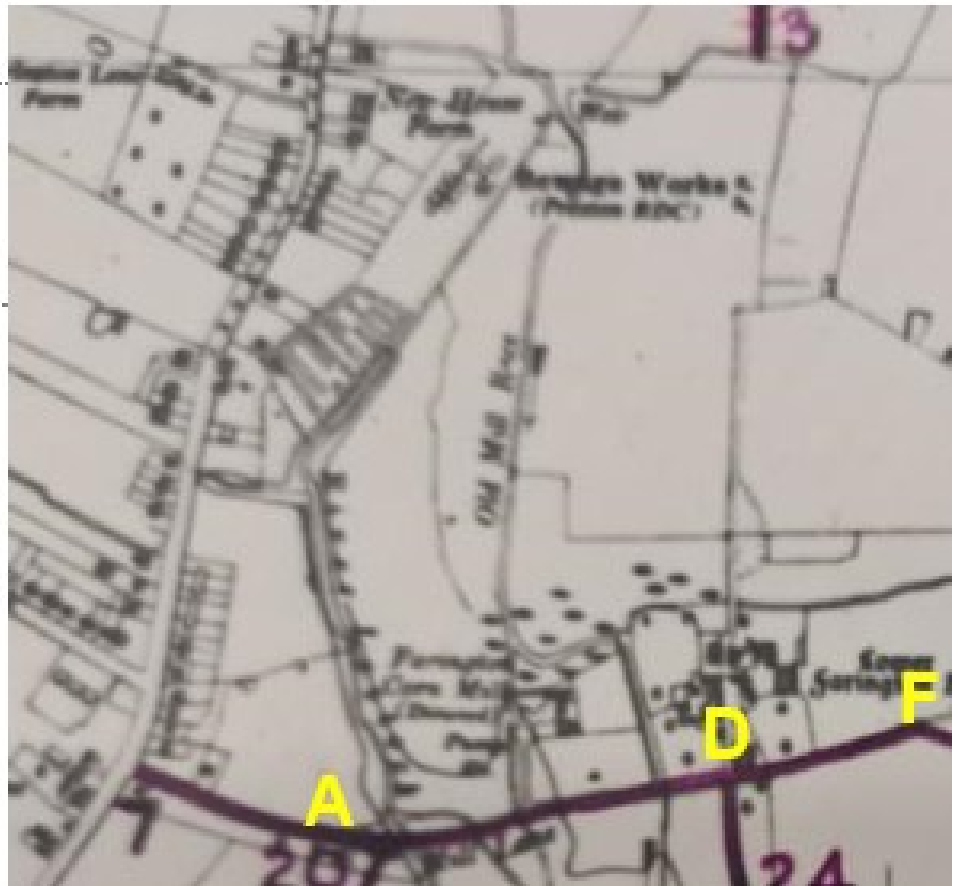
Information found on LCC files includes a letter from Preston Rural District Council (RDC) to LCC in 1957 explaining that the Ministry of Supply had negotiated with the RDC for the permanent closure of certain footpaths at Farington within the perimeter of the Tank factory site

		<p>under the Supply and Services (Defence Purposes) Act 1951.</p> <p>The following year a LCC memorandum confirmed that the Minister of Transport and Civil aviation made an order titled 'The Stopping Up of highways (County of Lancaster)(No 37) Order 1958 (S.I. 1958 N. 1994) for the permanent stopping up of a length of road and footpaths in Farington.</p> <p>The Order has not been located but its Notice in the London Gazette is available. It is likely that the section F-I was a section stopped up given the way it was "removed" from the parish map along with others further north. If the lines of these are considered against the 1960s aerial they are within the perimeter of the tank factory.</p> <p>It therefore appears that some rights on the application route section F-I were stopped up. It is suggested that the rights stopped up were footpath rights - as the continuation of the route west from point F was recorded as a footpath in the 1950s. However, it should be noted that the Order made reference to the stopping up of a length of road and footpaths but no specific details have been found. The legislative provision under which it was made ended.</p>
Provisional Map		<p>Once all representations relating to the publication of the draft map were resolved, the amended Draft Map became the Provisional Map which was published in 1960, and was available for 28 days for inspection. At this stage, only landowners, lessees and tenants could apply for amendments to the map, but the public could not. Objections by this stage had to be made to the Crown Court.</p>
Observations		<p>The application route between points A-D-F and D-J was shown on the Provisional Map as a public footpath. The application route between point F-I was not shown. No objections or representations were made in relation to what was shown.</p>
The First Definitive Map and Statement		<p>The Provisional Map, as amended, was published as the Definitive Map in 1962.</p>

Font



Paragraph



Observations

The application route between points A-D-F and D-J was recorded as a public footpath. The application route between point F and point I was not recorded.

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 25th April 1975 (except in small areas of the County) the Revised Definitive Map of Public Rights of Way (First Review) was published with a relevant date of 1st September 1966. No further reviews of the Definitive Map have been carried out. However, since the coming into operation of the Wildlife and Countryside Act 1981, the Definitive Map has been subject to a continuous review process.



6	"	Parish boundary (near Woodcock Hall) to Fowler Lane (near Railway Bridge)	0.47
7	"	Croston Road (near Mill Lane Farm) to Wheelton Lane	0.67
8	"	From U/c. County Road No. 5/70 to jct. with	
	"	boundary to continue in next parish as Footpath 52	0.13
24	"	Jct. with footpath 7 near Lower Farington Hall to Parish boundary.	0.12
25	"	Preston Road to Parish boundary	0.13

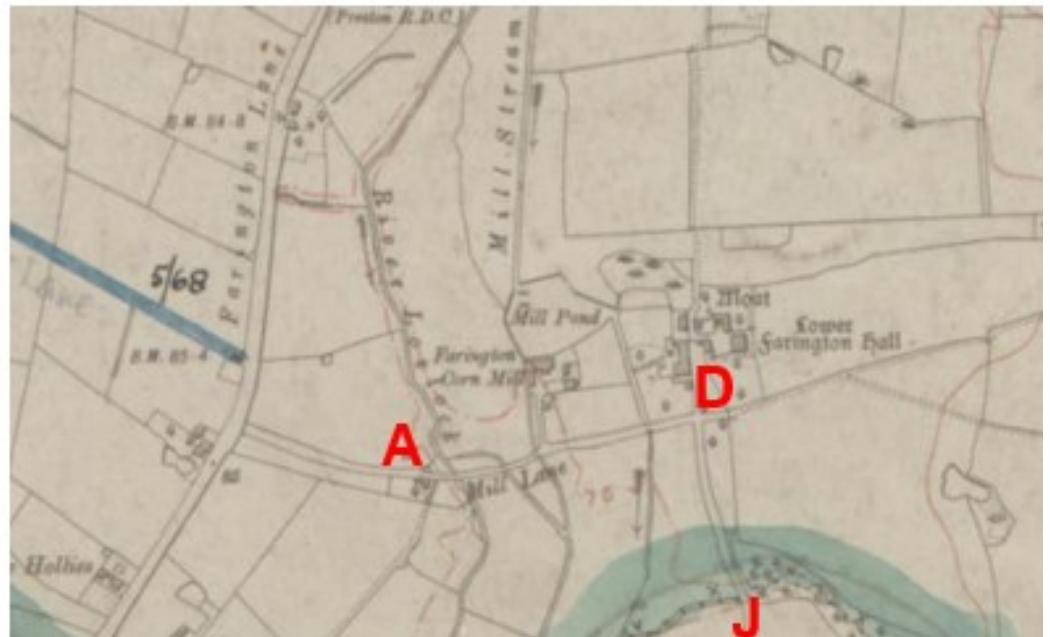
Observations		The application route is recorded on the Revised Definitive Map and Statement as a public footpath except the section from point F to point I which, having initially been identified as a footpath by the parish council, was permanently stopped up (as a footpath) by the Minister of Transport and Civil Aviation.
Investigating Officer's Comments		<p>Since 1953 through to 1975 there is no evidence that the application route A-D-F and D-J was considered to be anything other than a footpath although inconsistencies used in the terminology written on the parish survey cards do suggest a belief that the route could have been used as a bridleway in the past.</p> <p>The application route between point F and point I was considered to be a footpath in the 1950s and footpath rights were stopped up as part of a legal process. Further points regarding this will be made below.</p>
Highway Adoption Records including maps	1929 to present day	In 1929 the responsibility for district highways passed from district and borough councils to the County Council. For the purposes of the transfer, public highway 'handover' maps were drawn up to identify all of the public highways within

derived from the '1929 Handover Maps'

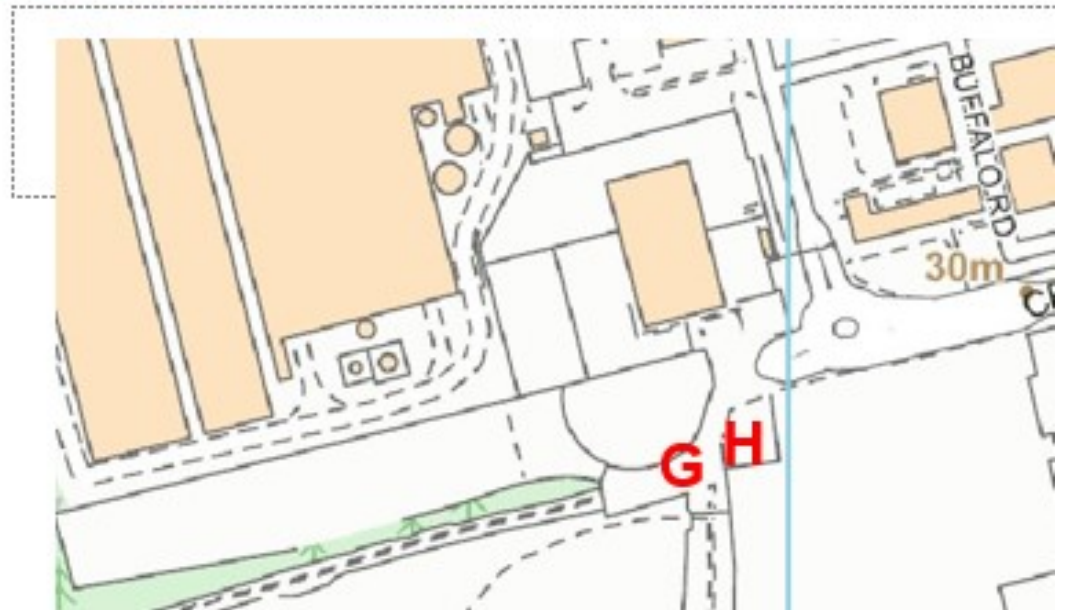
the county. These were based on existing Ordnance Survey maps and edited to mark those routes that were public. However, they suffered from several flaws – most particularly, if a right of way was not surfaced it was often not recorded.

A right of way marked on the map is good evidence but many public highways that existed both before and after the handover are not marked. In addition, the handover maps did not have the benefit of any sort of public consultation or scrutiny which may have picked up mistakes or omissions.

The County Council is now required to maintain, under section 31 of the Highways Act 1980, an up to date List of Streets showing which 'streets' are maintained at the public's expense. Whether a road is maintainable at public expense or not does not determine whether it is a highway or not.



Handover Map for Farington Sheet 69 SW



LCC 'adoption records'

Observations		The application route is not recorded as a publicly maintainable highway on the county council's List of Streets.
Investigating Officer's Comments		The fact that the route is not recorded as a publicly maintainable highway does not mean that it does not carry public rights of access so no inference can be drawn.
Highway Stopping Up	1835 - 2014	Details of diversion and stopping up orders made by the Justices of the Peace and later by the Magistrates Court

Orders		are held at the County Records Office from 1835 through to the 1960s. Further records held at the County Records Office contain highway orders made by Districts and the County Council since that date.
Observations		<p>The 1952 and 1958 orders detailed above in relation to the Draft Map of Public Rights of Way stopped up public footpath rights along the application route between point F and point I.</p> <p>An Order titled The Stopping up of Highways (County of Lancaster)(No.11) Order 1969 was also found in the county councils records. It was made on 29th July 1969 and related to the stopping up and diversion of parts of Footpath 7, 24, 3 and 9 Farington including parts of the order route A-F J-D. Although the Order was confirmed the alternative routes were never provided and the order never became operative. The Order plan indicates that F-I was not in existence as a right of way.</p>
Investigating Officer's Comments		footpath rights recorded along the application route A-F J-D do not appear to have been subsequently diverted or extinguished by this Order–
Statutory deposit and declaration made under section 31(6) Highways Act 1980		<p>The owner of land may at any time deposit with the County Council a map and statement indicating what (if any) ways over the land he admits to having been dedicated as highways. A statutory declaration may then be made by that landowner or by his successors in title within ten years from the date of the deposit (or within ten years from the date on which any previous declaration was last lodged) affording protection to a landowner against a claim being made for a public right of way on the basis of future use (always provided that there is no other evidence of an intention to dedicate a public right of way).</p> <p>Depositing a map, statement and declaration does not take away any rights which have already been established through past use. However, depositing the documents will immediately fix a point at which any unacknowledged rights are brought into question. The onus will then be on anyone claiming that a right of way exists to demonstrate that it has already been established. Under deemed statutory dedication the 20 year period would thus be counted back from the date of the declaration (or from any earlier act that effectively brought the status of the route into question).</p>
Observations		No Highways Act 1980 Section 31(6) deposits have been lodged with the county council for the area over which the application route runs.
Investigating Officer's Comments		There is no indication by any of the landowners under this provision of non-intention to dedicate public rights of way

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

Summary

There was no modern user evidence submitted as part of the application and it should be noted that since some point in the 1950s the application route between point G and point I has not been in existence on the ground.

It should also be noted that there is further significant development taking place on the land crossed by the application route and that how the route looks today is quite different to how it may have looked in the past.

When the route was inspected in 2020 it was accessible on foot between points A-D-G and D-J.

As user evidence is not being considered it is necessary to look at the map and documentary evidence available.

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

The earliest map examined which appeared to show the three sections of the application route was Yates' Map of 1786. Later commercial maps published in the early 1800s also showed the route between points A-D and D-J as part of longer routes linking to public vehicular highways and providing access to Lower Farington Hall. The inclusion of the route on these early maps suggests that it existed as a substantial route which would have been capable of being used at least on horseback in the late 1700s-early 1800s at least between points A-D and points D-J.

The Tithe Map and Award for Farington and Tithe Map and Award for Leyland - which indicated that the route continued south beyond the parish boundary - provide useful information confirming the existence of the application route between points A-D-E and points D-J in the 1830s. The Tithe Map for Farington also suggests that the route between point E and point I did not exist at that time. The sections of route which did exist were numbered with details included in the Tithe Award. Some inconsistencies are recorded – the first part of Mill Lane – which included the application route between points A-B-C and partway to point D – is listed as a lane in private ownership with no tithes payable. The remaining section of Mill Lane through to point D is listed as a 'road' with no recorded owner or occupier and no tithes payable and the section from point J to point D and point E is described as a fold and lane in private ownership for which tithes were payable.

Taken as a whole, and in context of the ownership of the hall itself, it is considered that the routes A-D and J-D-E did not appear to have been considered as public vehicular highways in the 1830s and that although they physically existed and may

have been capable of being used, they originated as access to Lower Farington Hall and Mill.

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

The First Edition 6 inch OS map surveyed between 1844-46 shows that the application route between point E and point I also existed by that time. This part of the route however was quite different in character, being a track along the edge of pasture fields which was not enclosed until significant changes occurred in the 1950s. From the 1840s through to the 1950s it appeared that this part of the route passed through a gate at point E and then passed through a further three field boundaries before exiting onto Wheelton Road. It may have been capable of being used on horseback and with vehicles but was only considered to be a footpath in the 1950s when it was included in an order to stop up public rights under the Supply and services (Defence Purposes) Act 1951.

The whole of the route is shown on the Bartholomew maps produced in the first half of the 1900s suggesting that it existed as a substantial route which appeared to be considered by that time as being more than a footpath or bridleway. Its inclusion as an uncoloured road suggested that it physically existed as a substantial route in the early 1900s which would have been capable of being used at least on horseback

Up until the mid-1950s it appears that Mill Lane from point A to point D and Hall Lane from point J to point D were capable of being used by vehicles and formed the access to and from the mill buildings and the hall which became a working farm. Since the 1950s use of the route by vehicles declined with the former bridge across the river at point C being replaced with a footbridge and barriers erected in the 1970s to prevent unauthorised vehicles from point J.

In conclusion, a range of OS, commercial maps and other documents were examined which seem to suggest that the application route between points A-D and D-J probably came into existence to provide access to Lower Farington Hall and Mill and that the eastern section of the route from point E-I came into being in the 1840s as a less substantial route providing access to a number of fields and through to Wheelton Lane. Since that time it is consistently shown to exist on small scale OS maps and the Bartholomew maps examined which is suggestive of public vehicular use during that time despite the fact that it did not appear to be considered to be a public vehicular through route when the Tithe Map was produced.

Taking all the evidence into consideration it appears that the route probably existed as a public bridleway since the mid-1800s but that the evidence available was insufficient from which to deduce that public vehicular rights existed but are on balance sufficient to consider that the route could have been used on horseback by the public.

From point F-I however it appears that public rights – at least on foot – were extinguished in the 1950s but not permanently. This point is dealt with below.

Head of Service – Legal and Democratic Services Observations

Landownership

Information from the Applicant

The Applicant provided the following information:

1. An application to modify the DMMO to add a bridleway and an upgrade to a bridleway in Hall Lane and Mill lane.
2. Map(s) extract marking existing 'paths'
3. A Map showing the route of the proposed DMMO.

Information from Others

There are no official responses to the consultation from others.

Information from the Landowner

There are 4 landowners, and 4 adjacent landowners that were consulted for this application, whereby 3 responded.

One landowner responded to our consultation through their legal representatives, who state they object to a path being laid across all land in their possession, and further stated that should there be a route going through their car park it would make their premises less secure and may increase the vulnerability to the staff's cars to theft. As in recent years whereby the landowners have had issues dealing with traveller community taking residence on their land verbally abusing staff, and furthermore burglars who stole cables causing hundreds of thousands of pounds worth of damage. Therefore, the premises has undergone some changes over the years to make it burglar/squatter proof. The landowner themselves further added they are concerned as the gates are locked at night, and that the proposed route would leave a gap in their fence. The Landowner further states a path being laid through the meadow as this would encourage members of the public to walk their dogs across company property, with dog litter being a concern to staff health and safety, especially as the landowner is looking to use the front lawn area to re-wild to encourage wildlife, and feel if it is open to the public then their staff cannot enjoy this and do not want members of the public walking their dogs or fouling there.

Another landowner (representative of the landowner) stated initially that they object to the proposal, as Lancashire Business Park is privately owned and only Wheelton

Lane is adopted, none of the roads within the Business Park are currently adopted. The landowner's representatives further state from a health & safety point of view it would not be safe to encourage horse riders to enter an area that is regularly used by HGV's, thus further adding to their objections.

The land west of Lancaster House is leased by LCDL to Amazon, who have submitted a planning application to SRBC with the intention to construct a car deck on site.

The landowner's representatives further state land further to the west, is privately owned and is being developed by Caddick.

Assessment of the Evidence

The Law - See Annex 'A'

Conclusion

This application concerns whether the sections of this route A-F and J-D carry higher rights than the footpaths they are presently recorded as and that section F-I is a route carrying bridleway rights needing to be added to the Definitive Map and Statement

There is no user evidence presented and so the evidence considered is historic documentation and whether there is sufficient evidence from which to infer on balance that the owner of these sections of route linking highways and giving access to the Hall and the corn Mill intended the route to be more than a footpath open to the public for use without permission, force or secrecy.

The evidence is detailed earlier in the report and considered and summarised above. On balance and given the nature of the evidence it is advised that the evidence of and inference of dedication at common law is on balance sufficient such that application route sections carry higher bridleway rights for the public and the Committee may consider that an Order be made to record A-F and J-D and F-I as bridleways.

Section F – I however, even though the evidence of dedication at common law as a bridleway many many decades ago is possibly on balance sufficient, footpath rights were stopped up in 1958. The Order has not been found but the Notice shows it was made under S2 of the Supplies and Services (Defence Purposes) Act 1951. Changes made under that provision were to last as long as an Act of 1945 existed. That Act ceased to exist in 1959. It would seem that in law the stopping up ceased. It is suggested that there is sufficient evidence that the public rights along that route are at least bridleway rights.

Despite the issues surrounding stopping up of rights in the 1950s it is suggested that Committee consider that there is sufficient evidence and that an Order be made.

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: 804-663		Ansar Sadiq, 01772 532435, County Secretary and Solicitors Group

Reason for inclusion in Part II, if appropriate

N/A