

## Regulatory Committee

Meeting to be held on 25 January 2023

### Part I

Electoral Division affected:  
Heysham

## **Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Recording Bridleway on First Terrace, Sunderland, Overton (Annex 'A' refers)**

Contact for further information quoting file reference number 804-655:  
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### **Brief Summary**

Addition of bridleway and upgrading of footpath to bridleway on the Definitive Map and Statement of Public Rights of Way along First Terrace, Sunderland, Overton.

### **Recommendation**

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

### **Detail**

An application under Schedule 14 of the Wildlife and Countryside Act 1981 has been received for the addition of a bridleway and upgrade of an existing footpath to



bridleway on the Definitive Map and Statement of Public Rights of Way along First Terrace, Sunderland.

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**

### Lancaster City Council

Lancaster City Council provided no response to consultation.

### Overton Parish Council



Overton Parish Council responded to consultation to state that they had no observations to make.

### 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	4267 5622	Southern end of Main Street (C463) on Mean High Water line as recorded on current LCC highway plans
A1	4266 5619	Southern end of Main Street on historical High Water Mark of Ordinary Tides as recorded on the 1929 Handover Map
B	4266 5618	Junction with Footpath 1-23-FP10
C	4268 5611	Start of cobbled ramp extending up from the shingle
D	4267 5598	Junction with 'The Lane' (Bridleway 1-23-BW13)

### **Description of Route**

A site inspection was carried out in June 2022.

The application route is situated on a piece of land known as Sunderland in the parish of Overton, Lancaster. Twice daily the tides cut off the public vehicular route (Main Street) from Sunderland to Overton – with the only other (non-tidal) route to and from the houses located along First and Second Terrace via 'The Lane' which is a route recorded as a public bridleway (1-23-BW11).

The application route extends from the southern end of Main Street and passes in front of properties known collectively as First Terrace to a junction with the start of a route known as The Lane – which is recorded as 1-23-BW11. The bridleway is recorded along The Lane which runs east-west across the promontory and then continues in a north north westerly direction along the salt marsh through to Carr Lane (recorded as an unclassified county road) at Middleton.

The application route between point A and point B is not recorded on the Definitive Map and Statement. From point B through to point D the route is recorded as a public footpath (1-23-FP10) and is known as 'First Terrace'.

The total length of the route is 250 metres.



Main Street crosses the salt marsh forming part of the Lune Estuary. It is a tarmac road with warning signs located at either end and part way along it providing users with information relating to the fact that it is a tidal road and advising those traveling along it to consult the relevant tide table.

The tarmac roadway ends just short of reaching the hamlet known as Sunderland (point A on the Committee plan) on the mean high water line as marked on the Committee plan. It is then possible to continue across the compacted sand/mud towards the shoreline where several cars were parked on an area which appeared to be used as an informal car parking area for visitors to the hamlet.

The line of the application route on the ground is unmarked but accessible and after approximately 40 metres the route meets the public footpath recorded as 1-23-FP10 (point B) at an unmarked point on the open salt marsh.



From its junction with 1-23-FP10 the application route continues in a southerly direction along the unmarked route of 1-23-FP10. It crosses an area of shingle and compacted sand – with evidence of use by vehicles - passing in front of the property known as 2 First Terrace and a small-holding; these are set back at a higher level than the application route on the foreshore on top of a substantial stone retaining wall. A sign located on the sand/shingle adjacent to the route states that it is a 'Private Road' with access for residents only.



Adjacent to the substantial stone wall the application route starts to gradually ascend a cobbled ramp (marked from point C on the Committee plan) which continues as a roadway past the entrance to 3a First Terrace.



The route continues along a raised roadway fronting a row of properties collectively known as 'First Terrace' through to the junction with 1-23-BW13 (point D).

The raised section between point C and point D is known as the wharf and is a Grade 2 listed 'building' described as comprising of a sandstone rubble wall with one flight of stone steps, surmounted by 15 octagonal stone posts. At the southern end (at point D) is a gate pier of rusticated sandstone, of square plan with moulded cornice and ball finial.



'Gate Pier' at point D:





The bridleway – known as 'The Lane' - runs in a west north westerly direction inland providing access to several cottages and continues across the headland.

Footpath 1-23-FP14 continues south south west from point D descending a ramp back down onto the saltmarsh to continue to Second Terrace and Old Hall.

### **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.

On visiting Sunderland Point it was immediately apparent to the Investigating Officer that there was significant historical background to the development of the area.

Sunderland Point Sunderland is a small settlement; comprising of about 30 houses in two groups – First Terrace and Second Terrace – strung along the shoreline on the east side of the Heysham Peninsula. The River Lune is to the east and Morecambe Bay and the Irish Sea to the west.

Information sourced from the Lancaster Civic Society Leaflet 9 - Glasson to Lune Estuary, Sunderland Point and Irish Sea - explains that the hamlet of Sunderland probably started around 1680 with Sunderland Hall – which is located further south than the application route - dated from 1683. Records show that a quay was licensed at Sunderland in 1680.

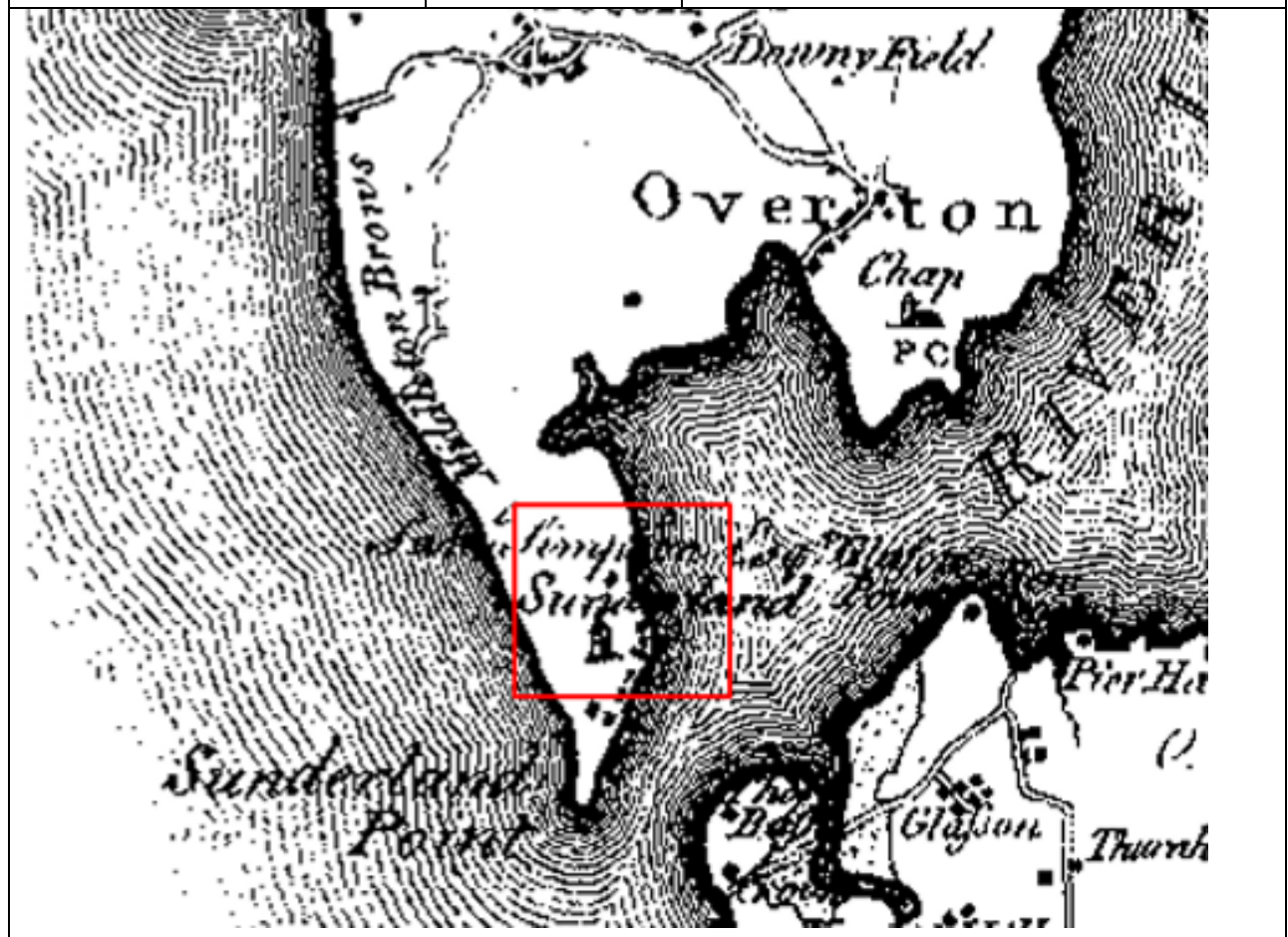
In the 18th century Sunderland was documented as being a busy port and ship building yard, with ships sailing to Africa and the West Indies trading Cotton, sugar, rum, timber and slaves.



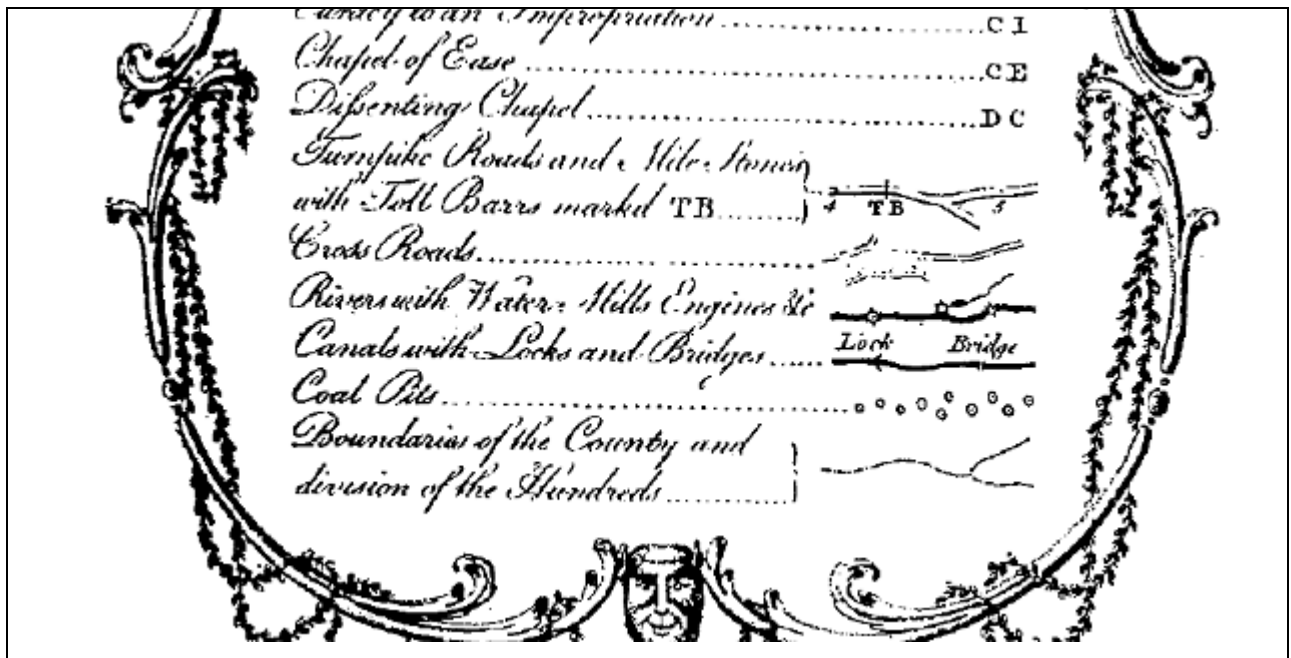
It was developed as an [outport](#) for [Lancaster](#) by Robert Lawson, a [Quaker](#), at the beginning of the 18th century and many of the houses found there were originally warehouses associated with the port and the wharf was extended in 1723 as trade expanded. Second Terrace was originally mostly warehouses while First Terrace – along the front of which the application route runs – was reported as having had a smithy, perhaps a Customs House and a public house (The Ship Inn).

When Lawson went bankrupt in 1728, it was documented that there began a steady decline in use of the quay until it was totally surpassed by [Glasson Dock](#), which opened in 1787. No early maps were located showing Sunderland prior to this time with the earliest map examined being Yates' Map of Lancashire dated 1786.

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.







Observations		Main Street crossing the salt marsh is not shown although a route shown as a cross road is shown leading from Overton to the edge of the estuary. 'Sunderland' is marked on the map and a number of buildings can be seen consistent with the location of First Terrace and Second Terrace.
Investigating Officer's Comments		The application route – or part of it - may have existed in 1786 but was not considered a significant public vehicular route by Yates. A route may have existed to the buildings at Sunderland across the estuary, but this is not shown.
<b>Greenwood's Map of Lancashire</b>	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.





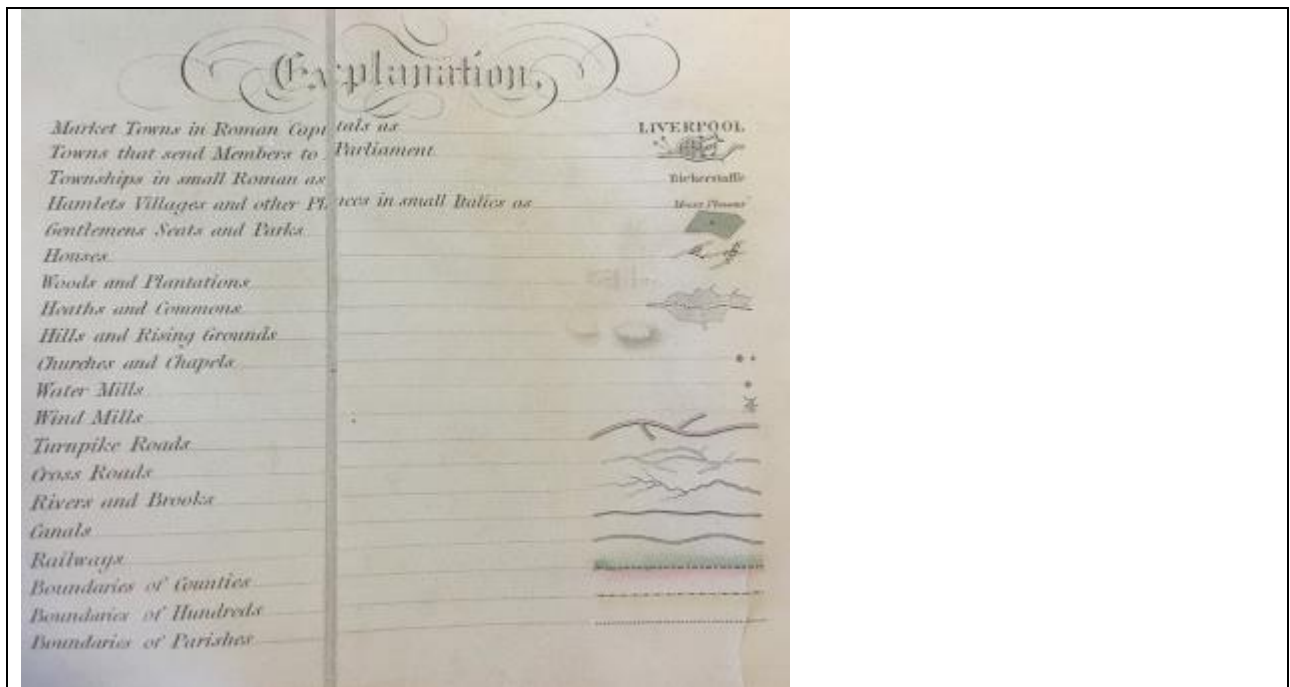
Turnpike Roads —————  
 Cross Roads —————  
 Towns & other Places —————  
 that send Members to Parliaments } —————  
 Boundaries of Counties —————

Observations		The application route is not shown. A substantial number of buildings are shown at Sunderland but the access to them is not shown.
Investigating Comments	Officer's	The application route, or part of it, may have existed in 1818 providing access to a number of buildings but was not considered a significant public vehicular



<p><b>Hennet's Map of Lancashire</b></p>	<p>1830</p>	<p>route by Greenwood.          Small scale commercial map. In 1830 Henry Teesdale of London published George Hennet's Map of Lancashire surveyed in 1828-1829 at a scale of 7½ inches to 10 miles. Hennet's finer hachuring was no more successful than Greenwood's in portraying Lancashire's hills and valleys but his mapping of the county's communications network was generally considered to be the clearest and most helpful that had yet been achieved.</p>
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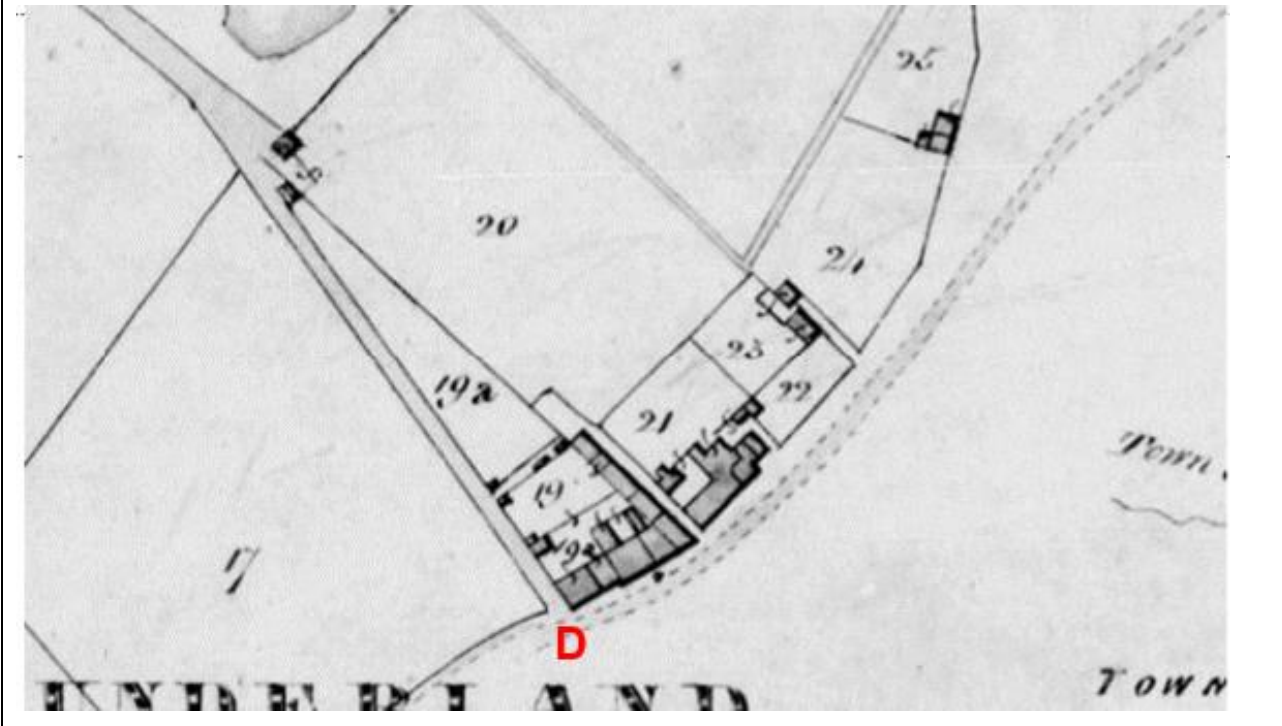


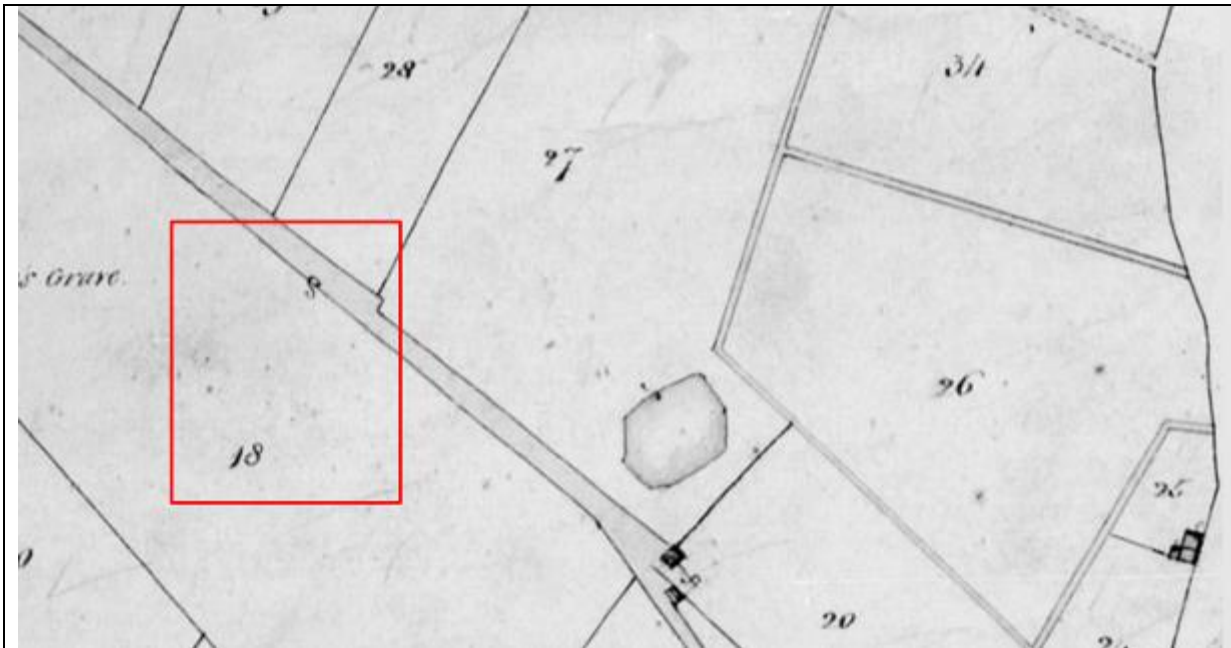
<p>Observations</p>		<p>The application route is not shown. The road across the estuary is shown extending towards the start of the application route and bridleway 1-23-BW13 is shown as a substantial route shown in the map legend as a cross road. Buildings are shown corresponding to the location of the buildings along First and Second Terrace.</p> <p>Access to Sunderland appeared to be either across the estuary from Overton or from Middleton Brows and along the saltmarsh west of Sunderland and then along 1-23-BW13 across the headland.</p>
<p>Investigating Officer's Comments</p>		<p>The application route may have existed in 1830 linking the road across the estuary to the cross road recorded as 1-23-BW13.</p> <p>It is not fully known what is meant by the term 'cross road' but as the only other category of 'road' shown on the map are turnpike roads, it is possible that a cross road was regarded as either a public minor cart road or a bridleway (as suggested by the judge in <i>Hollins v Oldham</i>).</p> <p><i>Hollins v Oldham Manchester High Court (1995) [C94/0205] Judge Howarth examined various maps from 1777-1830 including Greenwoods, Bryants and</i></p>



		<p><i>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>
<b>Canal and Railway Acts</b>		<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>
<b>Tithe Map and Tithe Award or Apportionment</b>	1845	<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>







William Jackson	300	House, stables & 1/2 acre			
Manorstead	321	House and garden			5 2 31
Surveyors of the Highways	142 and 116	Public Roads			43 2 -
Disputed Areas					
Overseer of the Poor or Lords of the Manor or Tit. Brackholts	174 and 177	Waste Highgate Lane			53 - 30 1 1 5
					34 4 35

	Robert Rogson	320	Garden					
		317	d.					18
	William Taylor	313	Cottage					3
		323	Garden					14
								2 10
John Birkett Mansingh	Ralph Gward	17	Meadow part malth and part old meadow			4	1	26
		18	Summer house field and Lane part malth part			10	3	11
			O. Meadow					
	John Birkett Mansingh	19	House and garden					12
						15	1	9
								1 9 2

Observations

The Tithe Map for Overton is dated as having been prepared in the same year (1845) as the first edition 6 inch OS map detailed below.

The Tithe Map shows a route across the salt marsh consistent with the route now recorded as a public vehicular route (Main Street) and continues across the saltmarsh along the front of a number of



		<p>properties to point D where the route now recorded as 1-23-BW13 (The Lane) is shown which ran generally west across the headland and then north north west towards Heysham. The route is not shown close to the boundaries of the properties along First Terrace and appears to be unfenced (as indicated by the dashed lines) but is broadly consistent with the application route forming part of a longer route to and through Sunderland.</p> <p>The route is coloured on the map but is not numbered.</p> <p>Looking at the Overton Tithe Map as a whole, routes considered to be part of the public road network all appear to have been coloured. Only two routes were found to be numbered with the number 142 written on the route currently recorded as 1-23-FP1 (Moss Lane) which is the subject of a Definitive Map Modification Order to record it as a Restricted Byway and Tunstall Lane, now known as Lancaster Road, which is numbered as plot 186. Both are described as public roads owned by the Surveyor of Highways but no other roads within the parish are numbered or listed separately.</p> <p>The Lane (1-23-BW13) is shown as a bounded route. It is shaded in the same way as all the roads within the parish but is braced as being part of the plot numbered 18 which is privately owned and occupied and described as a field and lane.</p>
Investigating Officer's Comments		<p>The purpose of the Tithe Map (and Award) was not specifically to show roads or public rights of way although it is generally acknowledged that they do provide additional information from which the status of ways may be inferred.</p> <p>The Surveyor showed that a substantial route consistent with the application route existed in 1845 providing access to and past several properties.</p>





		<p>A comparison with the OS First edition 6 inch OS map detailed below highlights a difference in the cartographical detail provided on the two maps. The Tithe Map shows a route running past the front of First Terrace but does not show the more finite detail shown on the OS map of the route ascending the ramp at point C and running directly along the front of Second Terrace to point D. Given the purpose for which the Tithe Map was produced this lack of detail is not unsurprising. The OS map detailed below shows one route in existence along the front of First Terrace from which the properties on First Terrace would have been accessed. It seems reasonable therefore to conclude that the route shown coloured on the Tithe Map was the application route – as was shown in more detail on the First edition 6 inch map surveyed in the same year.</p> <p>Only two routes were numbered and specifically listed as being public roads in the Tithe Award with the others shown on the Tithe Map coloured but unnumbered.</p> <p>The fact that the application route was shown coloured but not numbered suggests the existence of a substantial route which would probably be capable of being used at least on horseback - although the alignment of the route looks to have differed slightly from the one applied for (as discussed later in the report). The route now recorded as 1-23-BW13 was shown as part of the longer through route but is specifically listed as being part of plot 18 which was privately owned and occupied and did not appear to be considered to be a public road.</p> <p>The Tithe Award provides very limited information regarding routes considered to be public roads and it cannot be said with any certainty that any route shown coloured and not numbered on the map was a public vehicular highway at that time. It does however appear that a route existed which was not just part of</p>
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		the access to private properties but one that may have been used by the public as part of a longer through route.
<b>Inclosure Act Award and Maps</b>		Inclosure Awards are legal documents made under private acts of Parliament or general acts (post 1801) for reforming medieval farming practices, and also enabled new rights of way layouts in a parish to be made. They can provide conclusive evidence of status.
Observations		No inclosure award or map has been found for the land crossed by the application route.
Investigating Officer's Comments		No inference can be drawn.
<b>6 Inch Ordnance Survey (OS) Map</b> <b>Sheet 34</b>	1848	The earliest Ordnance Survey 6 inch map for this area surveyed in 1844-45 and published in 1848. <sup>1</sup>

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





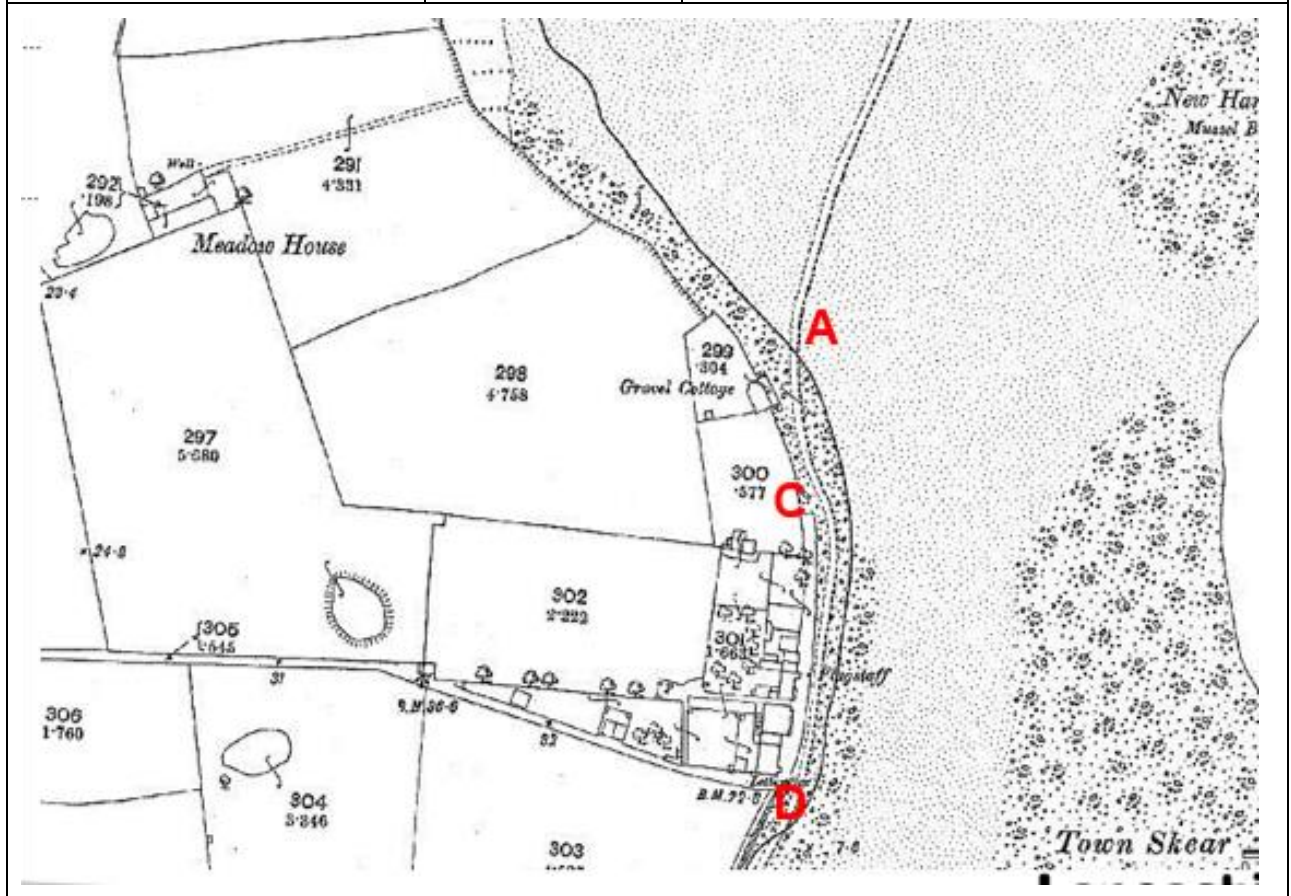
<p>Observations</p>	<p>The survey to produce the first edition 6 inch OS map was carried out around the same time that the Tithe Map was prepared.</p>
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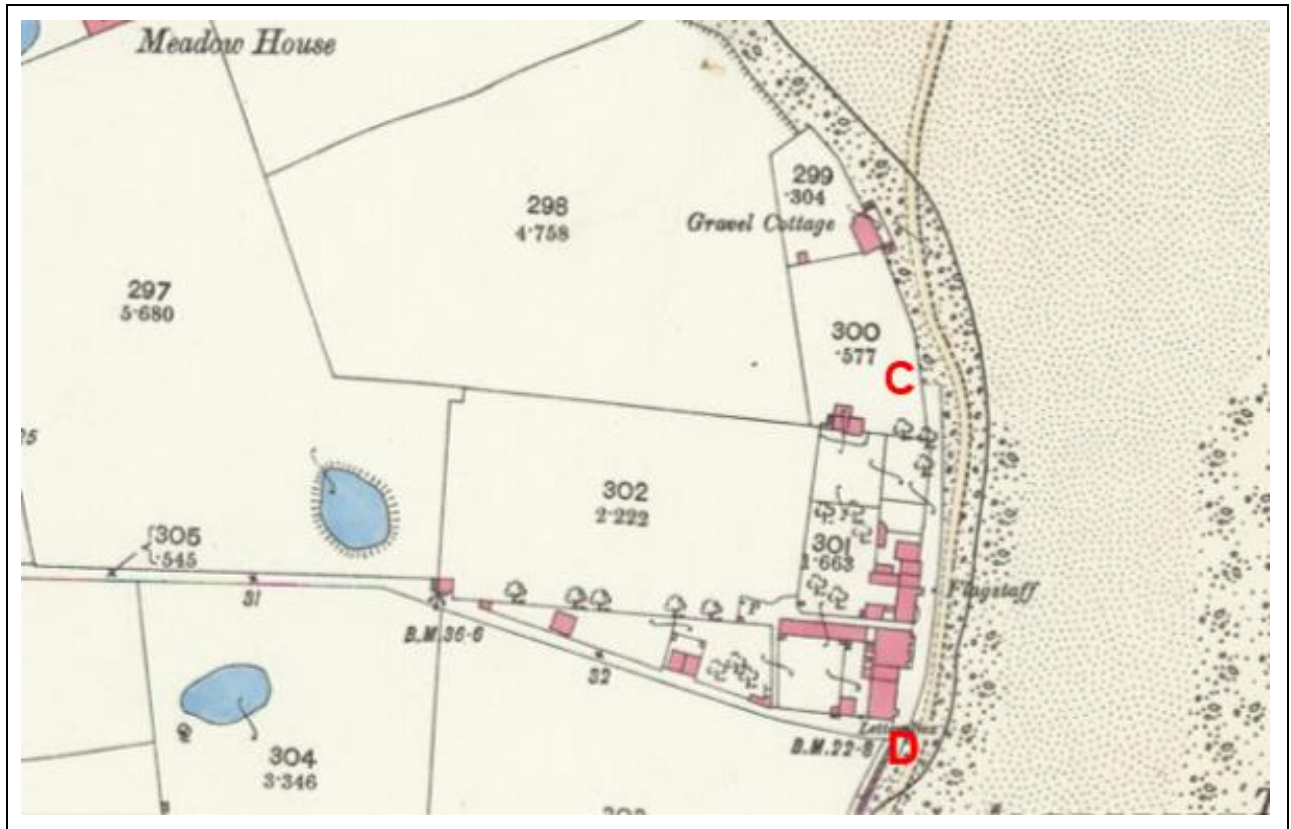


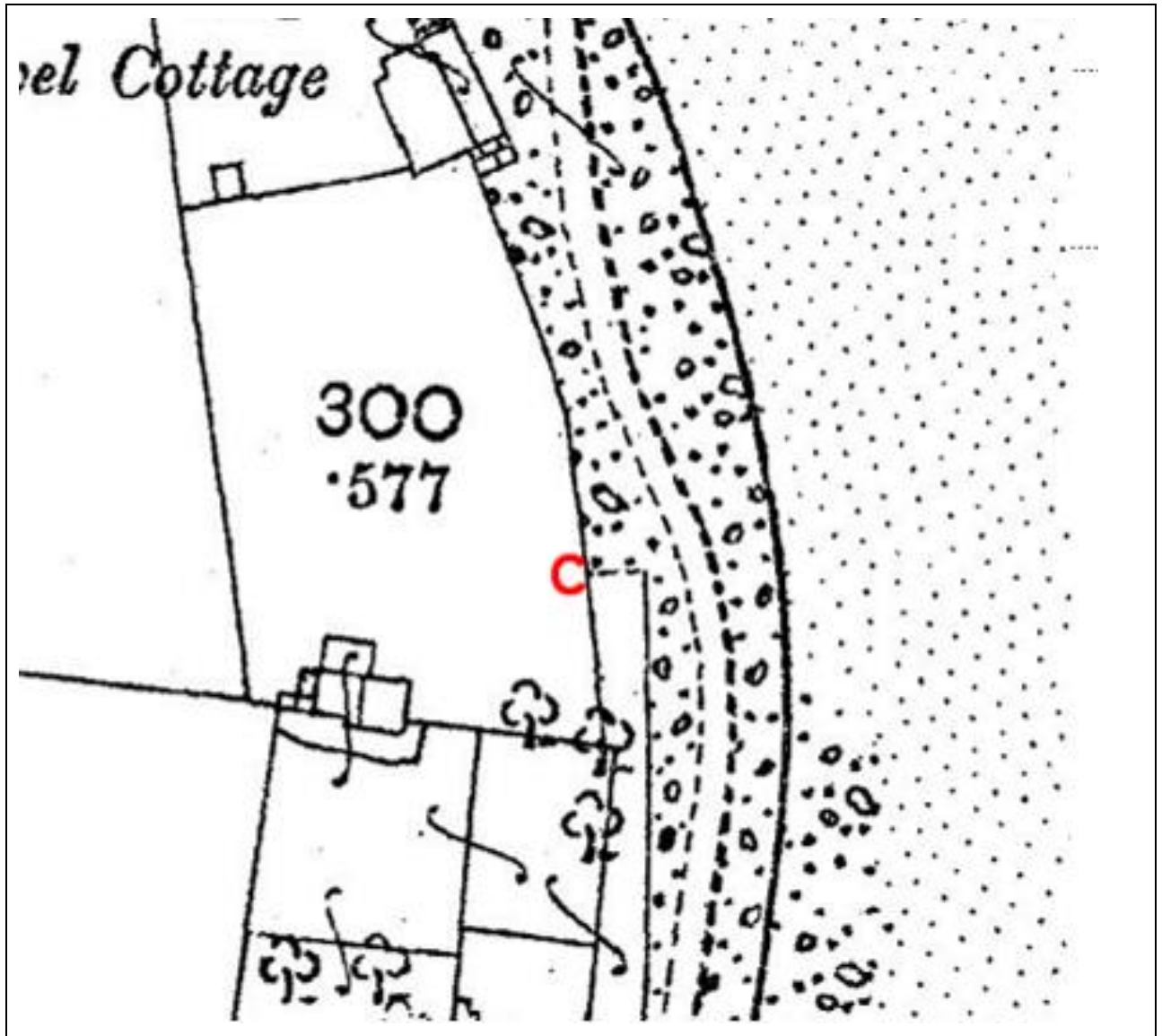
		<p>A route is shown across the saltmarsh from Overton leading directly towards an unnamed building (named as Gravel Cottage on later editions of OS maps and now known as 2 First Terrace).</p> <p>The unfenced route then continues in a south south easterly direction along the edge of the saltmarsh to a boundary line (point C). Beyond this point a bounded strip is shown running along the front (east) a number of buildings - one of which is labelled as 'Ship Inn' with a flagstaff and signal staff marked on the map.</p> <p>South of the Ship Inn the bounded route turns west at the junction with 'The Lane' (point D) from where the route now recorded as a bridleway is clearly shown continuing west to the other side of the headland and out onto the shoreline. From this junction a further narrower bounded route is shown continuing south to a row of properties and hotel collectively named as 'Sunderland' (now known collectively as Second Terrace).</p> <p>No other route is shown along the salt marsh running parallel to the application route between point C and point D.</p> <p>Marked on the map on the west side of the headland is 'Sambos Grave'.</p> <p>The high water mark shown on the map is closer to the shore than the mean high water mark shown on modern OS mapping.</p>
Investigating Officer's Comments		<p>The application route, or a route from which it derived, existed in 1844-45 as part of a longer route providing access to several properties, a public house and hotel and continuing across the headland to the west. It appeared to be capable of being used at least on horseback although access may have been restricted, presumably by a gate, at point C.</p> <p>The detail provided by the OS 6 inch mapping by 1845 was considered to be of a very high standard and accurately</p>

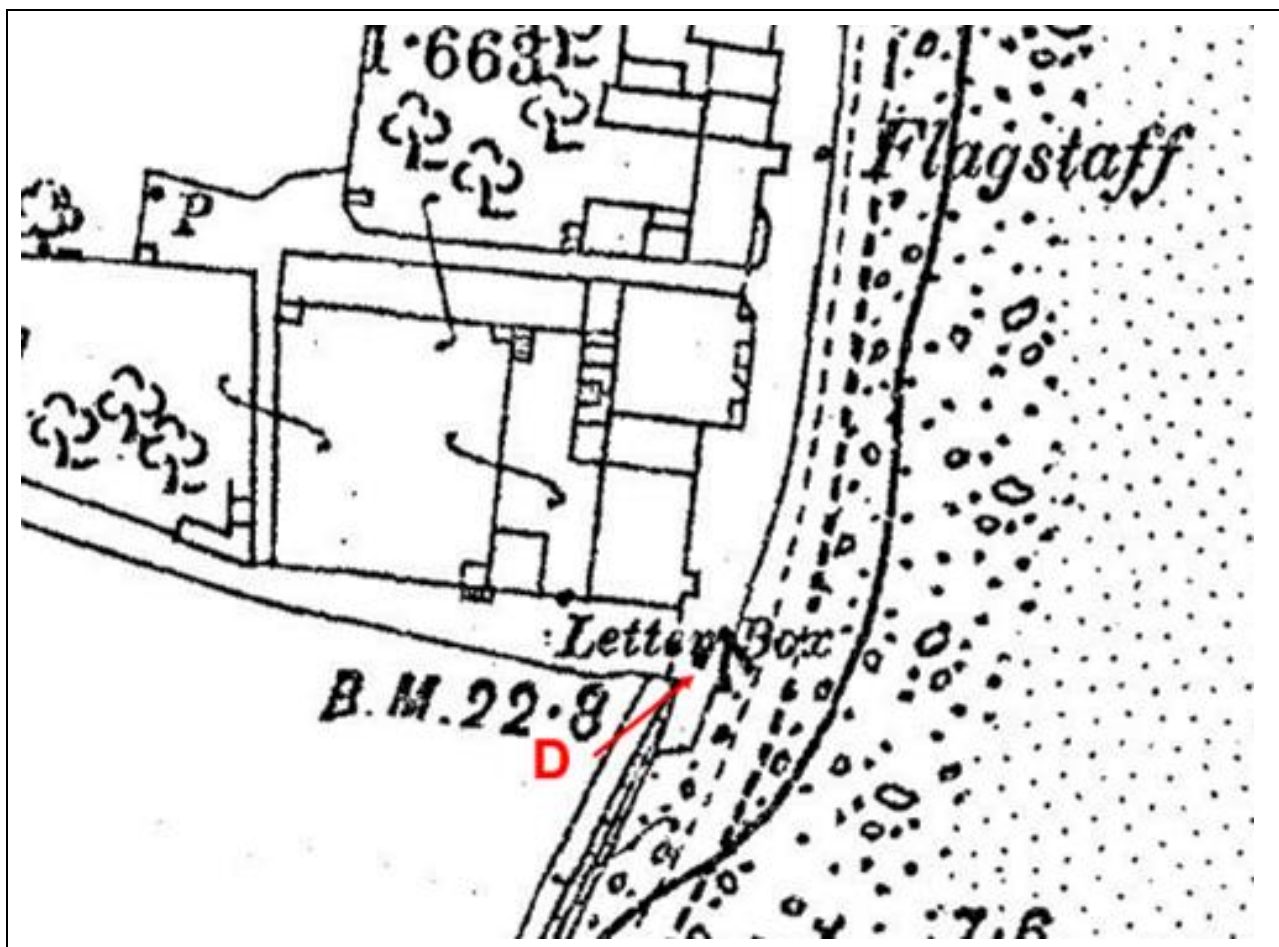


		reflected what was on the ground. The fact that only one route – the application route C-D is shown running along the front of First Terrace suggests that the route coloured on the Tithe Map was the same route.
<b>25 Inch OS Map Sheet XXXIV.9</b>	1891	The earliest OS map at a scale of 25 inch to the mile. Surveyed in 1890 and published in 1891.









Observations

The First Edition 25 inch OS map was published in colour and also in black and white. Extracts of both maps are included above.

An unbounded route (Main Street) is shown crossing the salt marsh; note that point A is approximately 30 metres north of the high-water mark (of ordinary tides) marked on this map. The route shown on the map continues south across the shingle but then departs from the application route before reaching the ramped access (point C). A dashed line is shown across the north end of the ramp suggesting a change in surface - rather than a solid line as shown on the 6 inch map detailed above).

The route shown continues south across the shingle running parallel to the application route leading to the unnamed properties now referred to as 'Second Terrace'. On the coloured copy of the OS map this route is shown





		<p>coloured with a thickened dashed line along the east side. On the black and white edition of the map it is also shown with a thickened dashed line along the east side.</p> <p>The application route is shown between point C and point D as a bounded strip fronting several properties. Access appears to be available from the road along the foreshore to the ramp at point C but no track or road is shown leading directly onto it.</p> <p>From the junction with The Lane (point D) access westwards may have been gated or restricted although it is difficult to tell because the word 'Letter Box' is written across the junction. The route is gated at the western end where it exits onto the foreshore.</p> <p>The route now recorded as 1-23-FP10 which meets the application route from the north at point B is not shown.</p>
Investigating Comments	Officer's	<p>A route across the saltmarsh from Overton existed and passed through point A leading towards point C. The route however appeared to go directly to the buildings south of First Terrace and in doing so did not pass along the application route between points C-D.</p> <p>That route was coloured on the OS map and shown with a thickened (dashed) line down the east side. It by passed the application route which runs along First Terrace suggesting that by 1890-91 an alternative route had come into being running along the salt marsh providing more direct access to Second Terrace and Sunderland Hall which were located further south than the application route.</p> <p>Shading and colouring were often used to show the administrative status of roads on 25 inch maps prepared between 1884 and 1912. The Ordnance Survey specified that all metalled public roads for wheeled traffic kept in good repair by the highway authority were to be shaded and shown with thickened lines on the south and east sides of the</p>



		<p>road. 'Good repair' meant that it should be possible to drive carriages and light carts over then at a trot so the fact that the route through point A leading along the edge of the salt marsh to the properties on Second Terrace is shown in such a way suggests that it was considered to be a public vehicular route at that time.</p> <p>The application route from point C to point D existed but is not shown as connecting to the road from Overton (Main Street) or as part of the longer route through to the properties south of the application route (Second Terrace) suggesting that while it may have been available use may have been primarily for access for the frontagers rather than as part of a through route used by the public.</p> <p>A letter box is located on the route close to point D suggesting that public access must have been available for mail to be posted and access to 'The Lane' at point D – if travelling from Overton across the tidal road would have been more direct via the application route A-D than via the alternative route along the saltmarsh suggesting both routes may have been in use at that time</p>
<p><b>6 inch OS Sheet 34</b></p>	<p>1895</p>	<p>6 inch OS map surveyed 1890 and published 1895.</p>





<p>Observations</p>		<p>Larger scale map produced from the same survey as the 25 inch OS map detailed above. This map shows the road from Overton passing through point A but running parallel to the application route between points C-D. The application route between point C and point D is shown and appears accessible and the letter box shown on the 25 inch map is also shown (on the application route). No route connecting the application route passing through point A to the ramp at point C is shown although access appears to have been unrestricted between the two.</p>
<p>Investigating Officer's Comments</p>		<p>Access along the application route may have been possible in 1890.</p>
<p><b>1 inch OS Sheet 59 - Lancaster</b></p>	<p>1898</p>	<p>1 inch OS map surveyed 1842-48, revised 1896 and published 1898.</p>





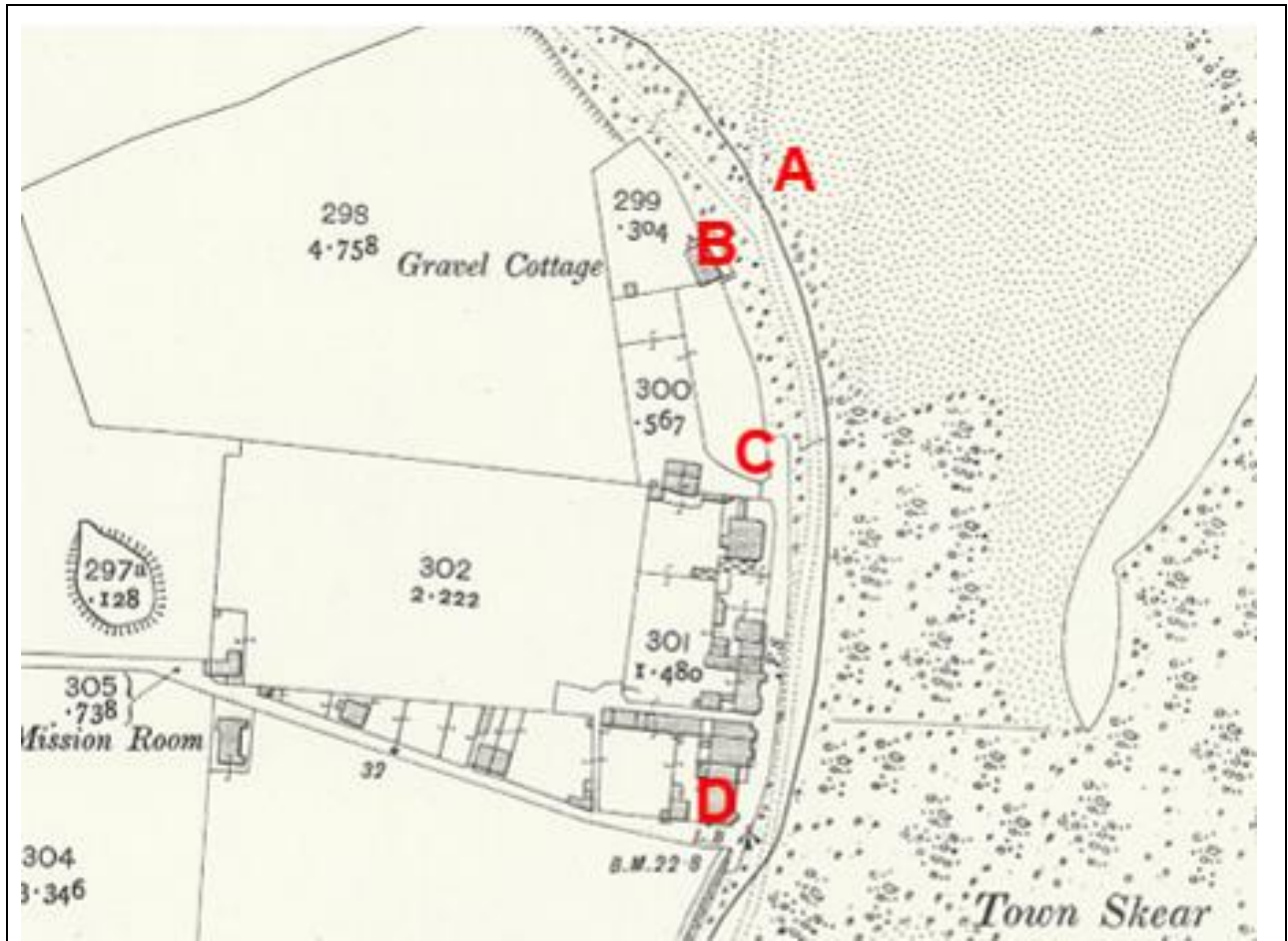
<i>Metalled Roads; First Class</i>	Fenced	5 (Mile distance) (Altitude) 211	Unfenced
" " <i>Second Class</i>			
" " <i>Third Class</i>			
<i>Unmetalled Roads</i>			
<i>Footpaths</i>			
<i>Railways, Single Line</i>			Level Crossing
" <i>Two or more Lines</i>			Cutting    Embankment    Bridge Over // Bridge Under
<i>Mineral Lines and Tramways</i>			

Observations	The scale of the map means that fine detail cannot be seen. An unenclosed route depicted as a third class road is shown crossing the salt marsh and continuing down along the front of 'The Moorings' through the junction (point D)
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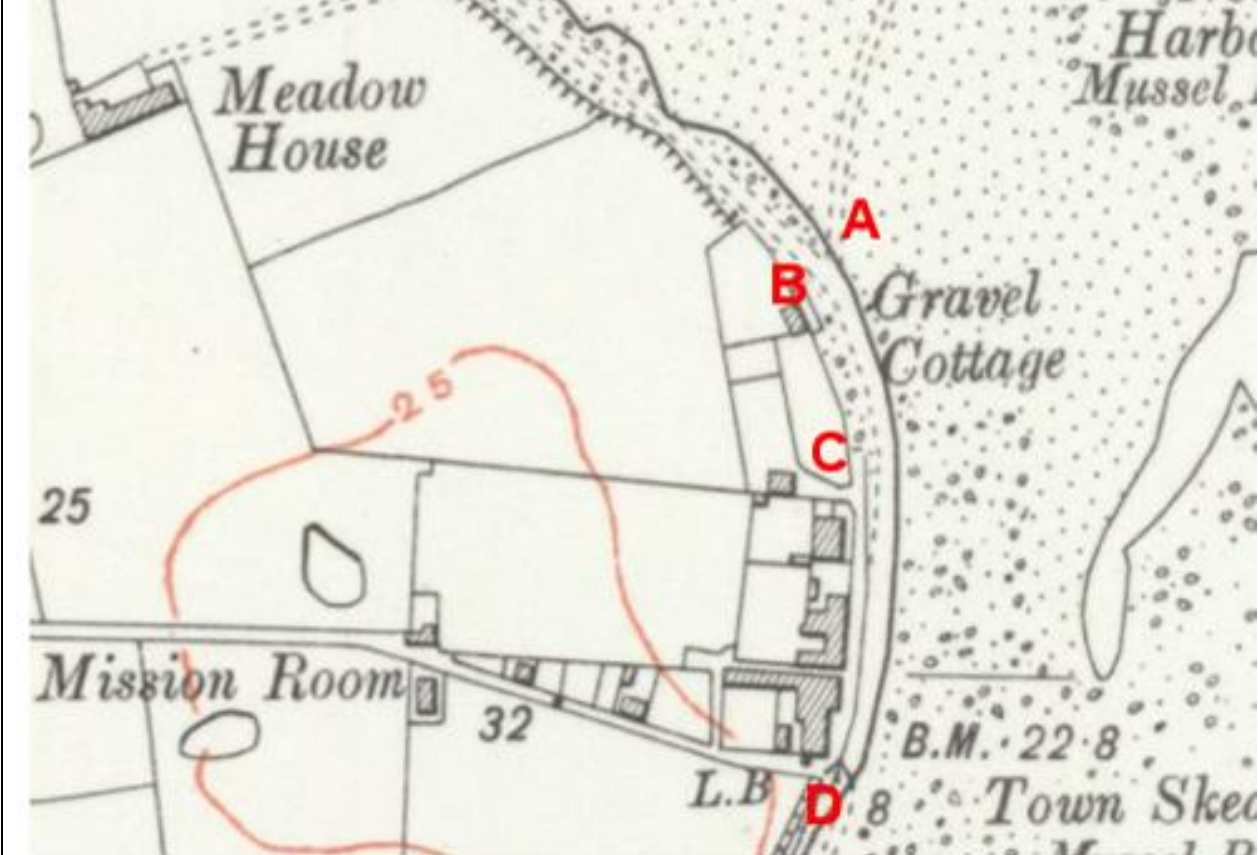
		where a letter box ('L.B.') is shown and continuing to Sunderland and Old Hall. An enclosed way is shown continuing from the application route (point D) west across the headland. The scale of the map means that it is not possible to see whether the route indicated is part of the application route or the route along the foreshore.
Investigating Comments	Officer's	The original scale of the map (1 inch to the mile) means that only the more significant routes are generally shown. The purpose of the map in the late 1800s would probably have been to assist the travelling public on horseback or vehicle suggesting that the through roads shown had public rights for those travellers. The fact that a route – which may include the application route - is shown suggests that it was a substantial route suitable for use on horseback or possibly vehicular use at that time.
<b>25 inch OS Map Sheet XXXIV.9</b>	1913	Further edition of the 25 inch map surveyed in 1890, revised in 1910 and published in 1913.





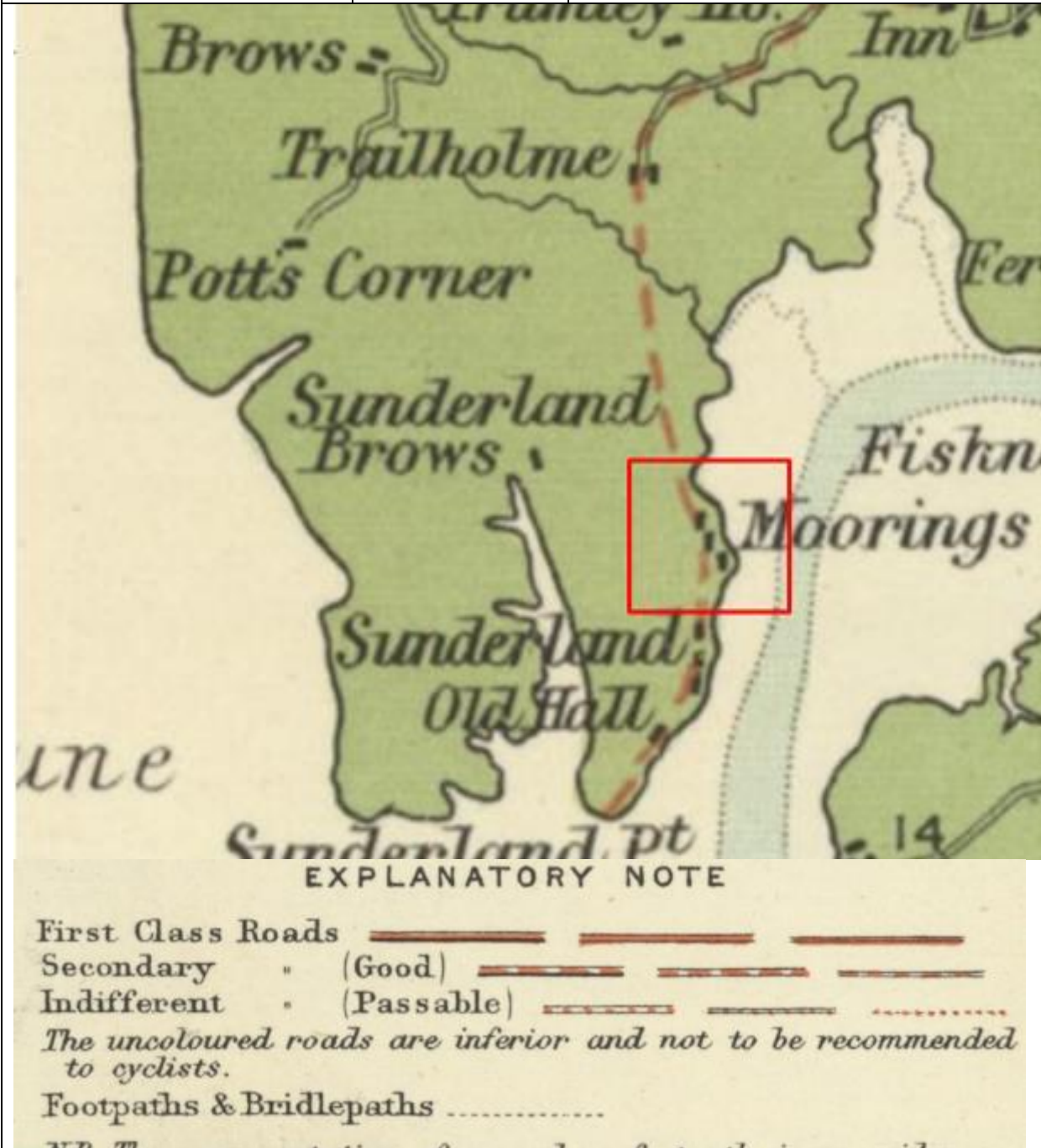
<p>Observations</p>		<p>The route along the salt marsh is shown in the same way that it is shown on the earlier addition of the 25 inch mapping. The route now recorded as 1-23-FP10 north of the application route is shown converging with the route (point B). Access along the application route is not shown but appears to be available to First Terrace (point C) and the route is shown through to the junction (point D) where it meets the lane now recorded as 1-23-BW13 along which the 'Mission Room' is located. A letter box ('L.B.') is again shown located at the junction (point D).</p>
<p>Investigating Officer's Comments</p>		<p>The application route appeared to be capable of being used – at least on horseback in 1910 linking to the route now recorded as 1-23-BW13. It was not shown as part of the principal route south to Sunderland (Second Terrace) and Old Hall suggesting that not all public or private use to and from the properties at Sunderland went via the</p>



		application route at that time.
<b>6 inch OS Sheet XXXIV.SW</b>	1919	6 inch OS map revised 1910 and published 1919.
		
Observations		6 inch OS map produced from the same survey as the second edition 25 inch map. Two parallel routes are shown with the application route providing access onto the lane to the west, now recorded as 1-23-BW13 (The Lane).
Investigating Officer's Comments		The application route appeared to be capable of being used at that time.
<b>Bartholomew half inch Mapping</b>	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



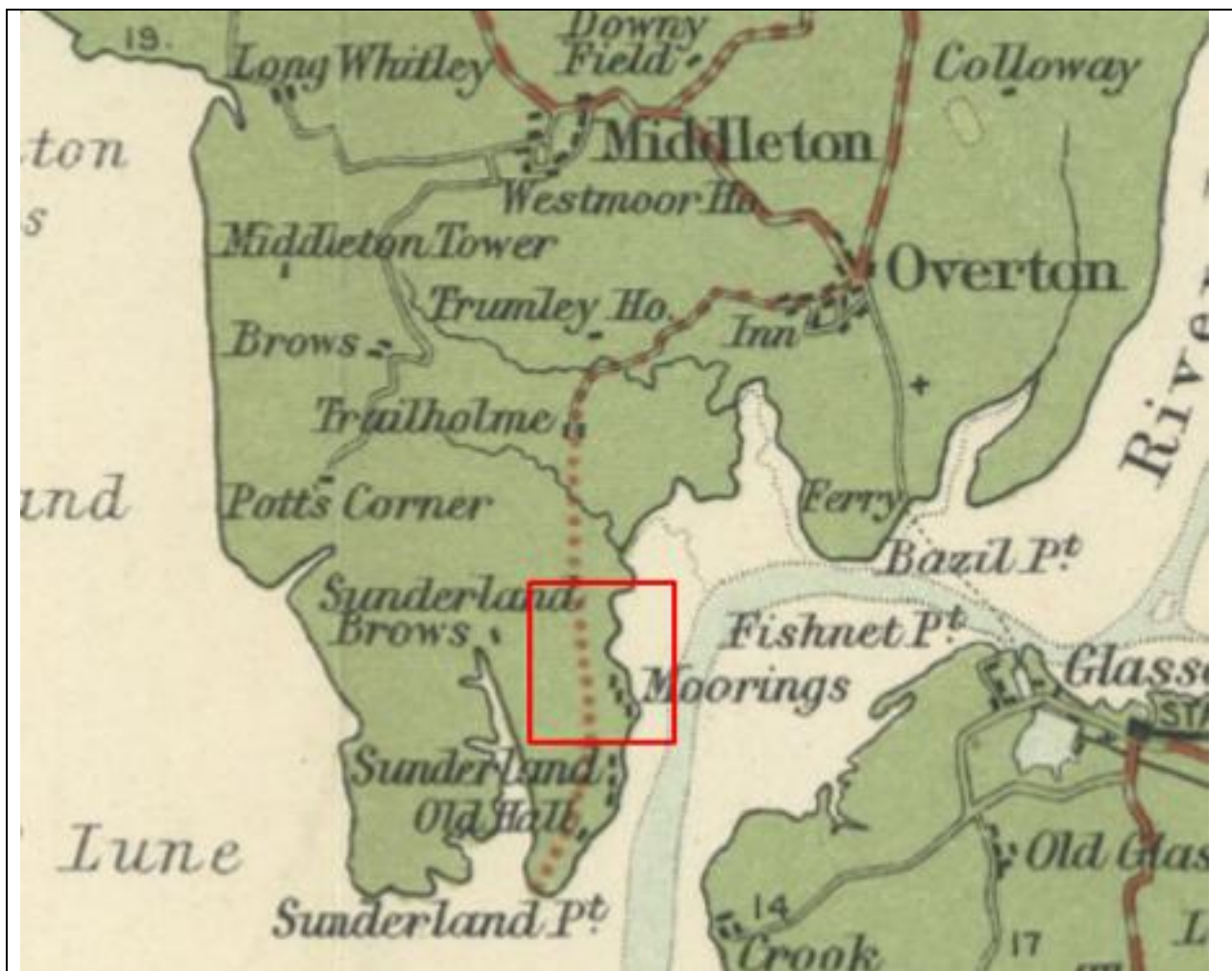
classification on the OS small scale map was inferior to Bartholomew at that time for the use of motorists.



Sheet 5 – North Lancashire and Isle of Man published 1905







EXPLANATORY NOTE

Motoring Roads {
 

- Through Routes
- First Class Roads
- Secondary
- Indifferent  (*Passable for cyclists*)

*The uncoloured roads are inferior and not to be recommended.*

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

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

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

Canals

County Boundaries

Sheet 5 – North Lancashire and Isle of Man published 1920





Sheet 31 – North Lancashire published 1941

Observations

Buildings are shown on all three map editions, but the application route is not shown. The tidal road from Overton and bridleway across the headland are not shown.

The maps published in 1905 and 1920 both show a route down to Sunderland Point from Trailholme in the north extending south as far as Sunderland Point. It is shown as an unbounded good secondary road in 1905 and as an

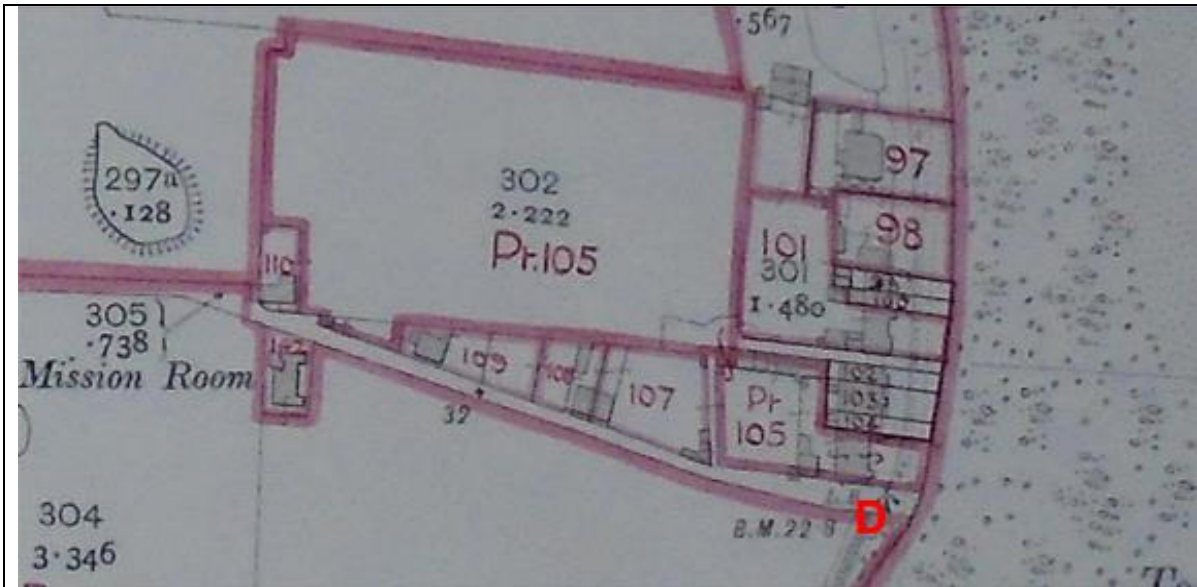


		indifferent road in 1920. This route is not shown in 1941 when buildings are shown but no roads are shown indicating how to access them.
Investigating Officer's Comments		<p>The application route is not shown and neither is the tidal road across the saltmarsh. The route shown on the 1905 and 1920 maps is loosely consistent with a route now recorded as a public footpath but not accurately so which may be why it was removed from the 1940 edition.</p> <p>The fact that the application route is not shown on the maps suggests that it was not usable as a public vehicular highway in the early 1900s. The route does not generally show routes used as footpaths or bridleways at that time. Given the apparent error in showing vehicular access to Sunderland Point along a route from Trailholme however, it could be that the area was not surveyed by Bartholomew for inclusion on these maps.</p>
<b>Finance Act 1910 Map</b> <b>TNA's Reference:</b> <b>IR133/3/116</b> <b>CRO's Reference:</b> <b>DVLA 2/1 OS Sheet</b> <b>XXXIV.9 and DVLA1/6/7</b> <b>Lancaster Rural District</b> <b>Valuation Book</b>	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</p>

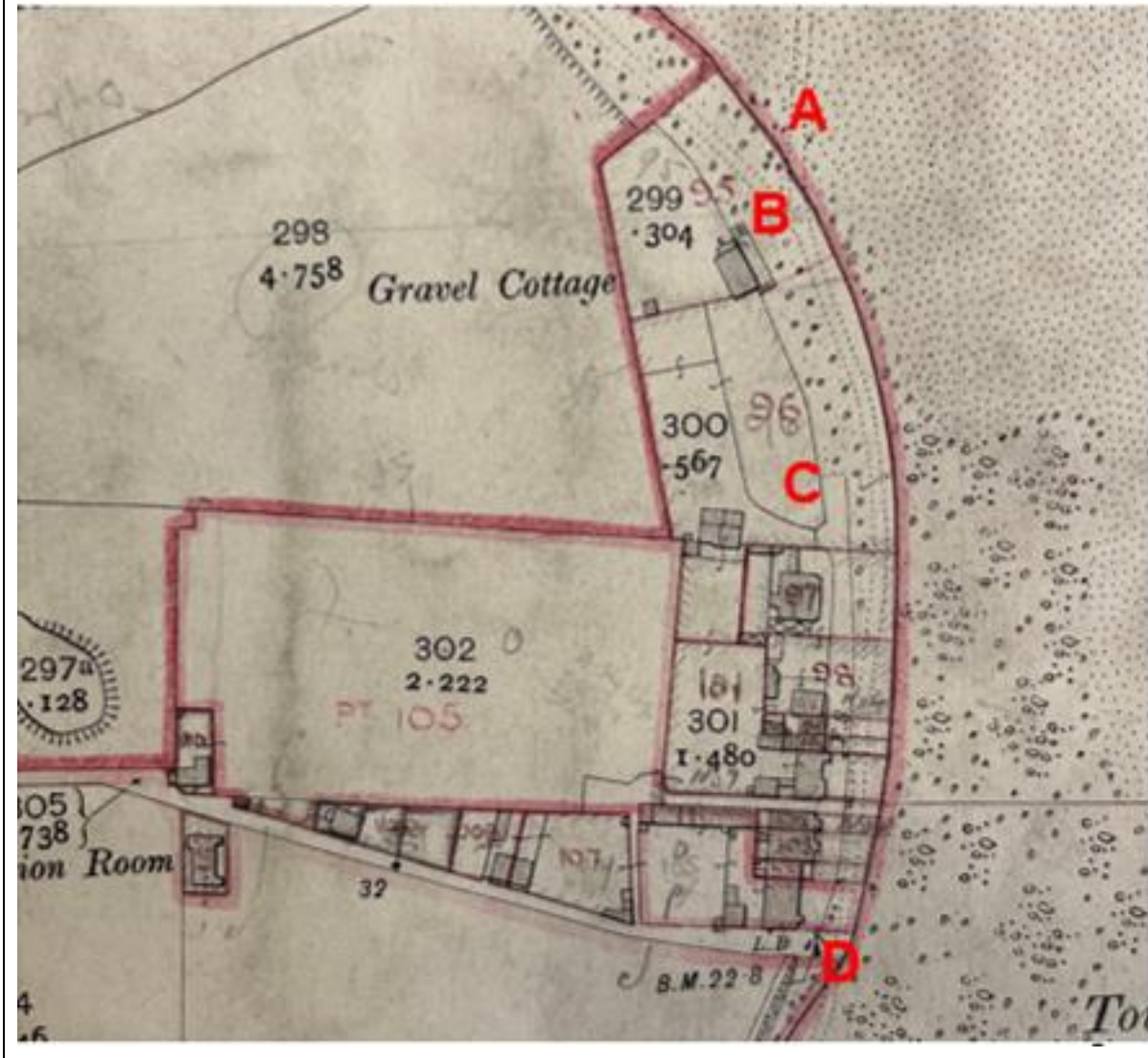


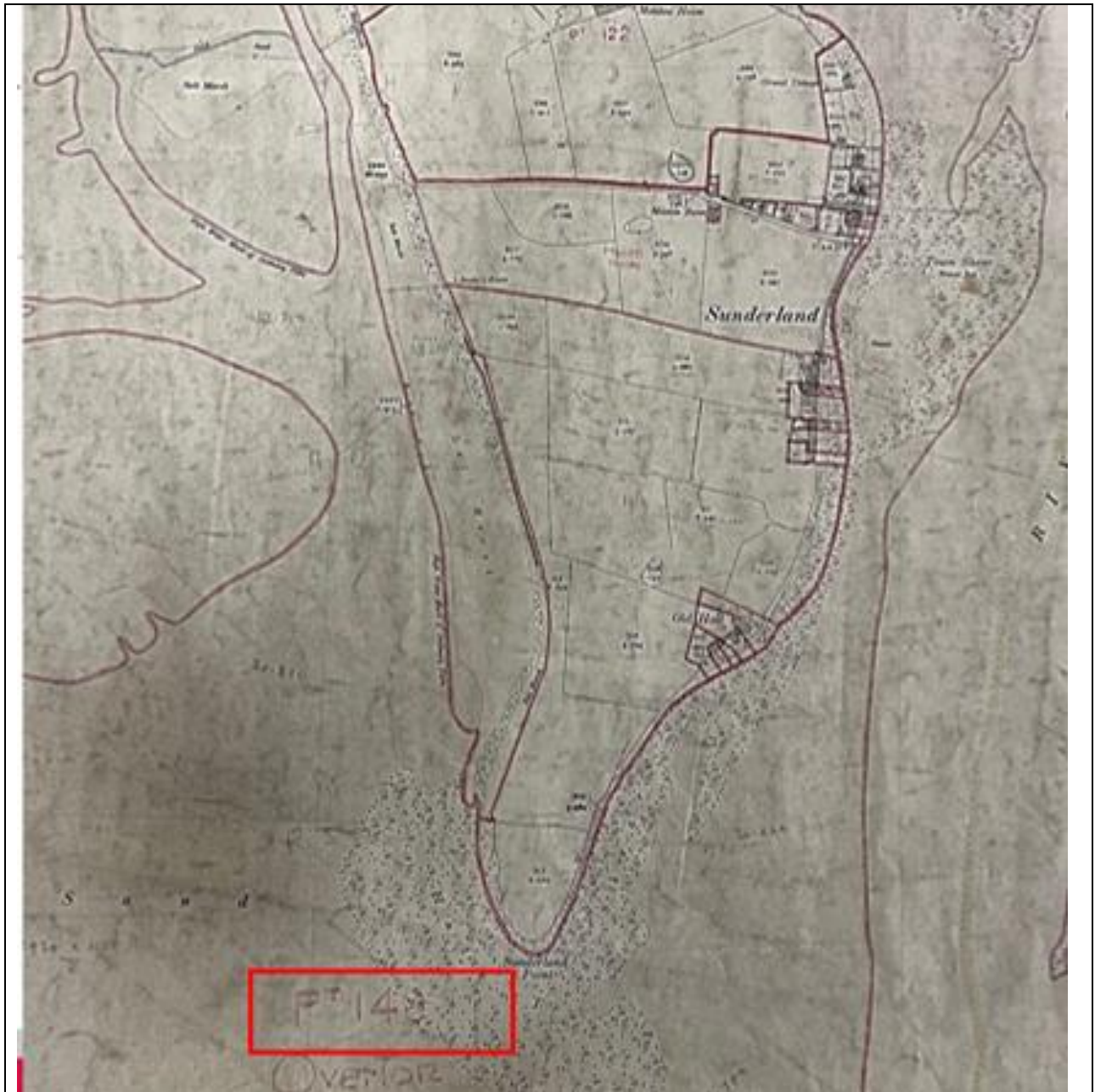
reduction in tax if his land was crossed by a public right of way and this can be found in the relevant valuation book. However, the exact route of the right of way was not recorded in the book or on the accompanying map. Where only one path was shown by the Ordnance Survey through the landholding, it is likely that the path shown is the one referred to, but we cannot be certain. In the case where many paths are shown, it is not possible to know which path or paths the valuation book entry refers to. It should also be noted that if no reduction was claimed this does not necessarily mean that no right of way existed.





Maps obtained from The National Archives





Maps obtained from the County Records Office

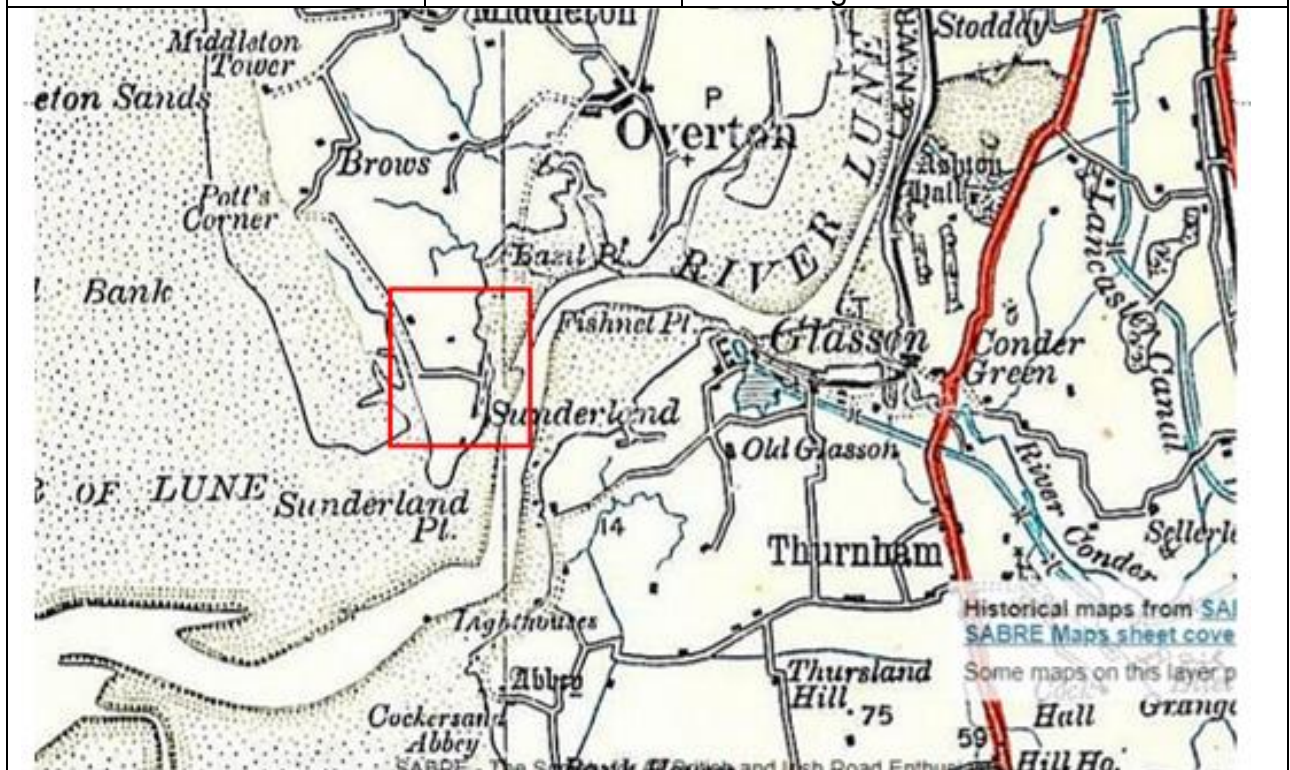
<p>Observations</p>		<p>No part of the application route is excluded from the numbered plots.</p> <p>The first 40 metres of the application route (from point A) is included in a large plot numbered as part of 148 Overton. The Valuation Book details this plot as being owned by the Dutchy of Lancaster and describes it as 'foreshore' with no deductions made for public rights of way or user.</p> <p>The rest of the application route is all included in numbered plots which</p>
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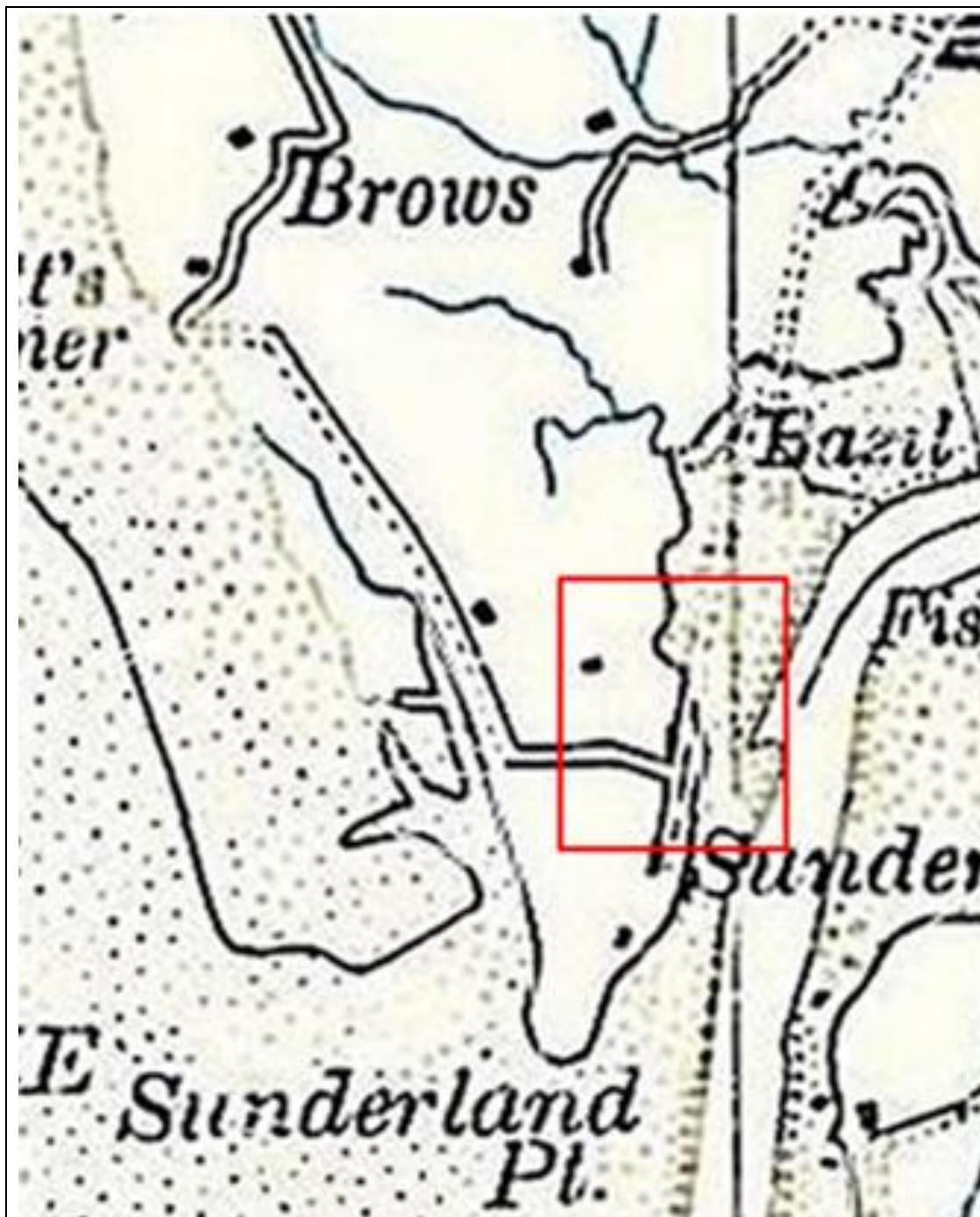
		<p>extend out to the high tide line. The route crosses the following plots which are all documented in the Valuation Book:</p> <p>95 – Owned and occupied by Margaret Jackson. Described as house and garden' with no deductions for public rights of way or user.</p> <p>96- Owned by Robert Mansergh and occupied by James Gardner. Described as land, cottages and building with no deductions for public rights of way or user.</p> <p>97 – Owned and occupied by Arthur Mansergh. Described as house and gardens with no deductions for public rights of way or user.</p> <p>98 – Owned and occupied by Richard Bagot. Described as house and garden with no deductions for public rights of way or user.</p> <p>99 – Owned by Sarah Townley and occupied by Mr Harrison. Described as cottage with no deductions for public rights of way or user.</p> <p>100 – Owned and occupied by William Townley. Described as cottage with no deduction for public rights of way or user.</p> <p>101 – Owned and occupied by John Walker. Described as house and garden with no deductions for public rights of way or user.</p> <p>102 – Owned by the Estate of E Langstretch with no occupier listed. Described as house with no deductions for public rights of way or user.</p> <p>103 – Owned and occupied by Mr Gardner – described as house with no deductions for public rights of way or user.</p> <p>104 – Owned and occupied by Fred Wilson. Described as house with no deductions for public rights of way or user.</p>
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		<p>105 – Owned by Mr Gilchrist and occupied by Mr Mason. Described as House Building and lane with no deductions for public rights of way or user.</p> <p>Plot 105 also included part of what is now 1-23-BW13 (The Lane) although it the first part – from the junction of the application route (point D) extending west as far as the Mission Room – was excluded from the numbered plots.</p>
Investigating Officer's Comments		<p>The application route was included by the surveyor in 13 separate numbered plots none of which referred to the existence of a public right of way.</p> <p>In 1910 the application route was not acknowledged to be a public right of way by the various landowners.</p>
Ministry of Transport ½ inch Road Map of Great Britain	1922-23	<p>Small-scale map submitted by the applicant. The Ministry of Transport Road Map (known as 'MoT' Maps) series were the official maps to show classified roads, following their publication by the Ministry of Transport on 1st April, 1923. As such, they are possibly the most important resource documenting the early days of road numbering in Great Britain.</p>





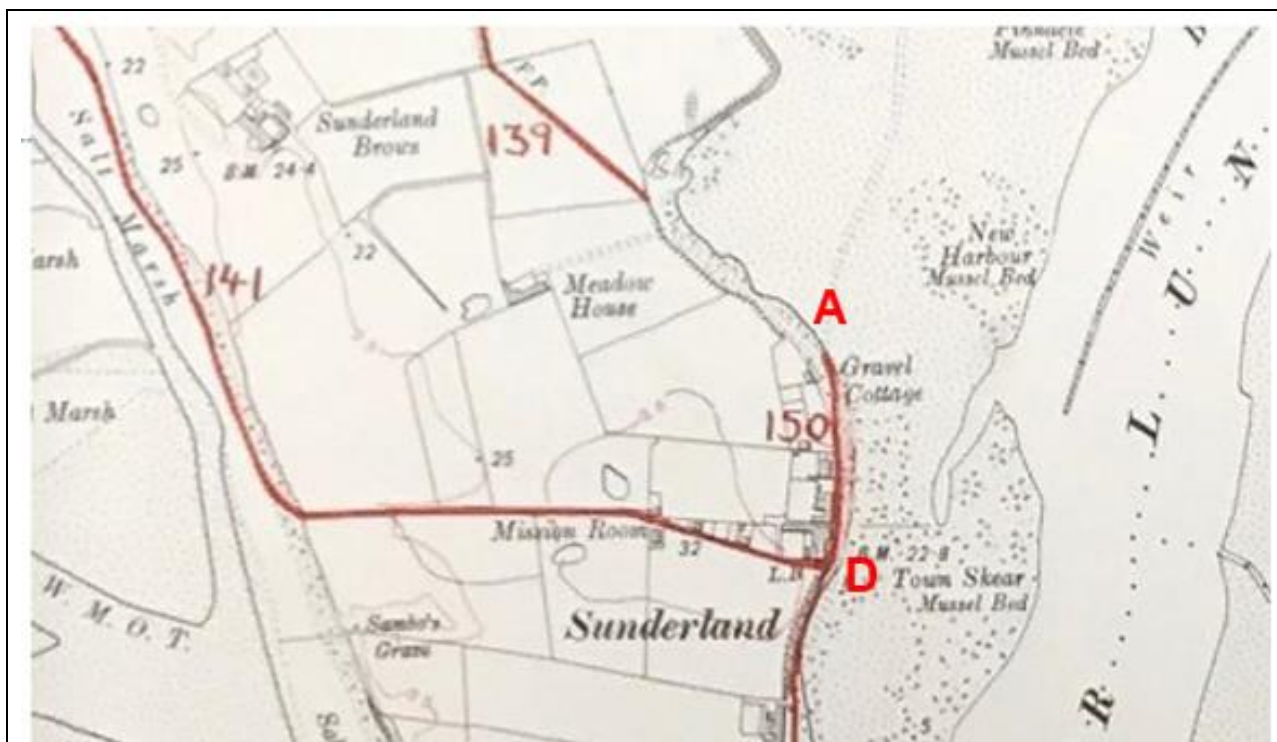


Roads; Class I.....	<b>527</b>	(Altitude) 211	
„ Class II.....	5100		
Other Roads.....			
Railways.....			
Bridges.....			
County Boundaries.....			



Observations		The route across the salt marsh (passing through point A) is shown and the junction of the application route with the lane to the west (1-23-BW13) can be clearly seen. The route appears to be shown as 'other roads' although the map key does not specify a pecked line for an unfenced route.
Investigating Officer's Comments		Although published by the Ministry of Transport the main significance of these maps was that they showed the early classification of public vehicular routes. The base map used by the Ministry of Transport was surveyed by the Ordnance Survey and shows that the route was not shown as a classified road (A or B road). The fact that a route is shown on the map consistent with the application route suggests the existence of a route capable of being used at least on horseback and one which provided access to and from several properties.
<b>1932 Rights of Way Map</b>		The Rights of Way Act 1932 set out the mechanism by which public rights of way could be established by user and under which landowners could deposit maps to show highways already in existence and to indicate that they didn't intend to dedicate further rights of way. The Commons, Open Spaces and Footpath Preservation Society (which became the Open Spaces Society) who were the prime instigators of this Act and the later 1949 Act, called for local authorities to draw up maps of the public rights of way in existence (a quasi precursor of the Definitive Map). This is set out in 'The Rights of Way Act, 1932. Its History and Meaning' by Sir Lawrence Chubb. The process for consultation and scrutiny followed in Lancashire is not recorded but some of the maps exist including maps for the following areas are available for inspection at County Hall: Lunesdale Rural District (RD), Lancaster RD, Burnley RD, Garstang RD and West Lancashire RD.





Observations		The application route from a point on the high water line south of point A is shown on the map prepared by Lancaster Rural District. The route across the headland (now recorded as 1-23-BW13 The Lane) is also shown. There is no key to the map and all the routes shown are coloured red and numbered. No list could be found detailing the individual routes shown and the maps prepared for Lancaster RDC do not distinguish between routes recorded as public footpaths or bridleways reflecting perhaps the fact that the 1932 legislation referred to 'public highways' and did not differentiate between different modes of public use.
Investigating Officer's Comments		The application route was considered to be a public footpath in the 1930s.
<b>Aerial Photograph<sup>2</sup></b>	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

<sup>2</sup> 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.



generally very variable.



Observations

The application route from point A can be seen leading towards the shoreline and along the shore is a very thick white




		line which obliterates any detail. The line looks to have been created by some sort of earth works and/or use by vehicles along a stretch of coastline – possibly suggestive of work being carried out along the coast consistent with comments made regarding the construction of a new sea embankment when the First Definitive Map was revised (see below).
Investigating Officer's Comments		No inference can be drawn with regards to the existence of public rights.
<b>1 inch OS Sheet 94 - Preston</b>	1947	1 inch OS map revised 1920 with later corrections and published 1947.



Observations		Another small-scale OS map showing a route running along the front of the properties and connecting to 'The Lane' (now 1-23-BW13) at point D.
Investigating Officer's Comments		A substantial route existed in the 1920s from the end of Main Street but the small scale makes it impossible to know



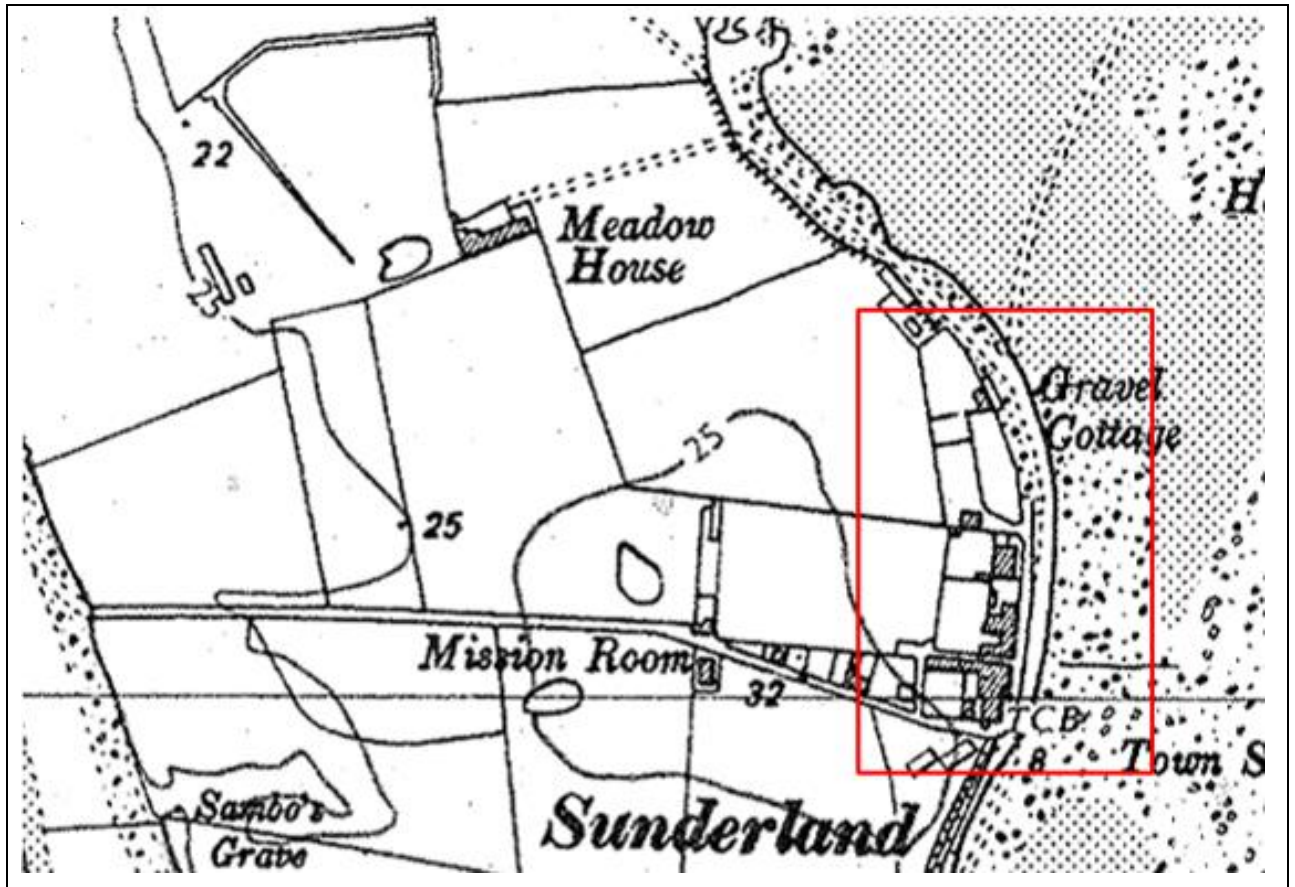
		whether or not it is the application route.
<b>1:25,000 OS map</b>	1947	OS map published 1947 but date of survey and revision not known.
		
Observations		Another small-scale OS map showing a route running from Overton to Sunderland, from the junction with the way west ('The Lane') and south from that junction. However, the dominant feature is the mean high water line so no feature is shown in front of the buildings of First Terrace.
Investigating Officer's Comments		The small scale makes it impossible to know whether or not it is the application route.
<b>1:25,000 OS map SD 45</b>	1954	OS map revised between 1910 and 1951 and published 1954.



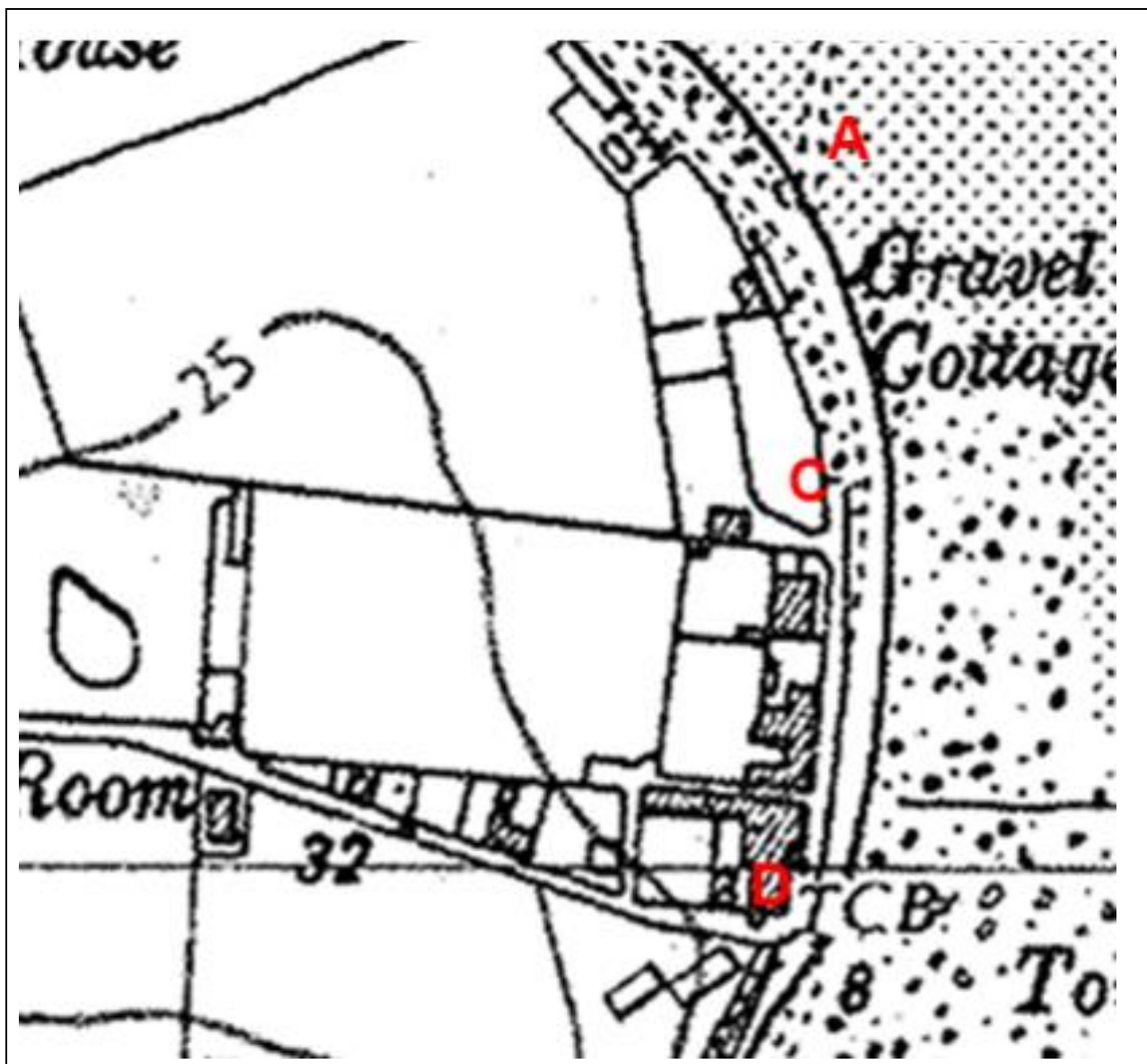


Observations		Further OS map showing the existence of a route along the front of the houses linking to the way now recorded as 1-23-BW13 where a post office (P) is shown.
Investigating Officer's Comments		A route consistent with the application route existed and appeared to be capable of being used as part of a longer route.
<b>6 Inch OS Map</b> SD 45NW	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 before 1930 and is probably based on the same survey as the 1930s 25 inch map.









Observations		Part of the application route is shown together with part of the route running parallel to it along the foreshore. A telephone call box (TCB) is marked as being located at the junction (point D). Access to the west (along what is now 1-23-BW13) is unrestricted.
Investigating Officer's Comments		The application route existed and appeared to be capable of being used. The existence of a telephone call box on the route suggests that public access – at least on foot would have been possible.
1 inch OS Sheet 94 - Preston	1961	1 inch OS map revised 1958 and published 1961.



Roads	Ministry of Transport, Motorway	<u>M 1 or A 6 (M)</u>		
	" " " Trunk	<u>A 6 (T)</u>	R	
	" " " Class 1	<u>A 584</u>		
	" " " " 2	<u>B 5269</u>		
	14 ft of Metalling & over (not included above)	<u>Yellow line</u>	W	
	Under 14ft of Metalling, Tarred	<u>TOLL</u>		
	" " " " Untarred	<u>Gate</u>	Or	
	Minor Roads in towns, Drives and Unmetalled Roads (Unfenced Roads are shown by pecked lines)	<u>Double line</u>	El	
	Under construction	<u>Pecked lines</u>	(w Pi)	
	Steep Gradient 1 in 5 or steeper	<u>Yellow arrow</u>	1 in 7 to under 1 in 5	<u>Yellow arrow</u>
Footpaths and Tracks	<u>Dashed line</u>			

Observations		The application route is shown as part of a substantial unmetalled or minor road and as part of a longer through route.
Investigating Office's Comments		The application route existed in the 1950s and appeared capable of being used – at least on horseback. However, the detail is unreliable at this scale.
Aerial photograph	1960s	The black and white aerial photograph

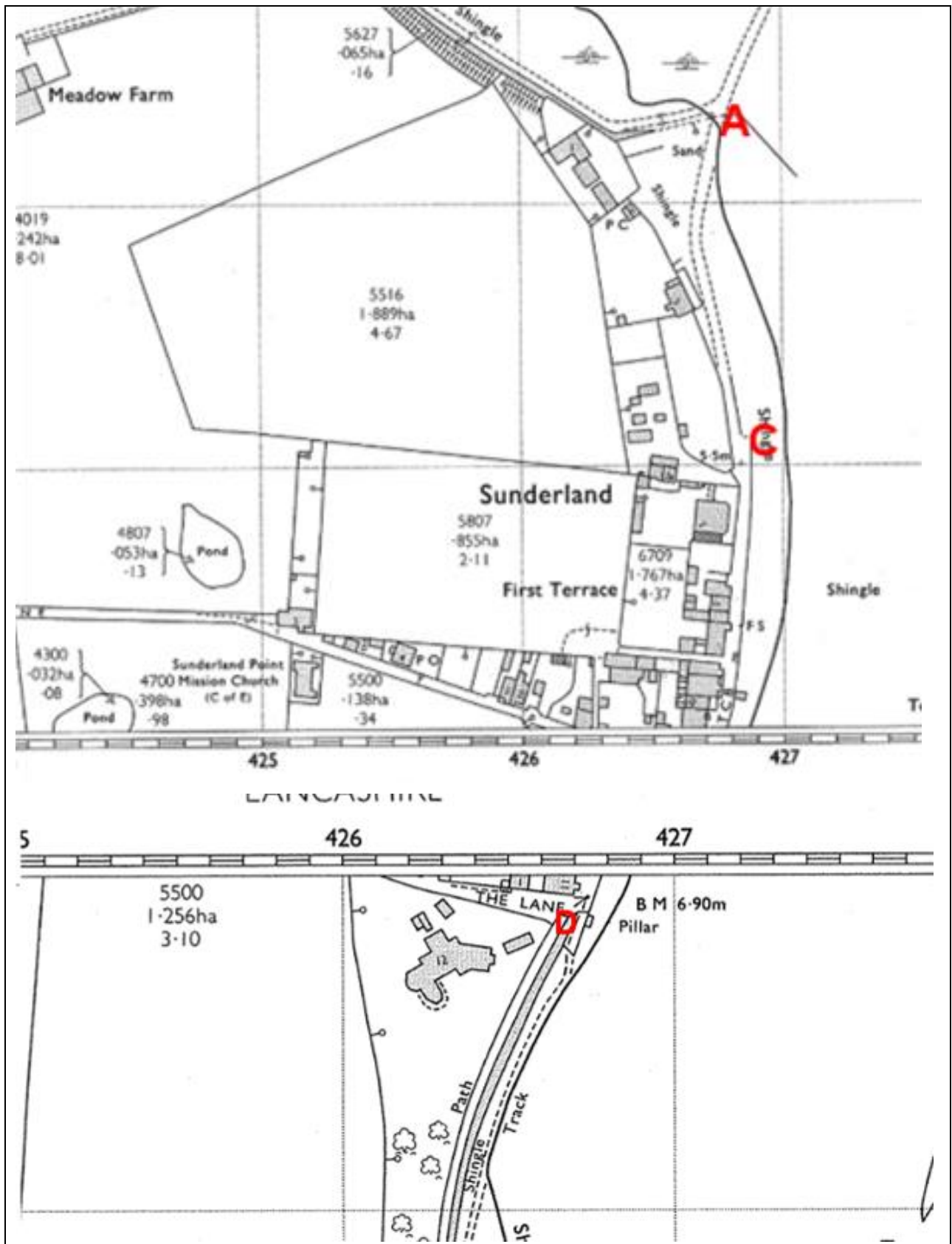


		taken in the 1960s and available to view on GIS.
Observations		No aerial photograph was available to view in the County Council's records.
Investigating Officer's Comments		No inference can be drawn.
<b>1:25, 000 OS map Sheet SD 45</b>	1966	Revised between 1910 and 1951, published 1954 and reprinted 1962.



Observations		The application route is shown as part of a longer route. The high tide line is shown crossing the route at point D.
Investigating Officer's Comments		The application route existed in the 1950s and appeared to be capable of being used – at least on horseback.
<b>1:2500 OS Map SD 42 56 and SD 42 55</b>	1971	Further edition of the 25 inch map reconstituted from former County Series and revised in 1970 and published in 1971 as National Grid Series.





Observations

The high tide line has altered from that shown on earlier maps and crosses the tidal road (Main Street) further north (point A). The application route can be



		<p>seen continuing as an unfenced roadway over the shingle towards 2 First Terrace (formerly known as Gravel Cottage) and continues directly to the ramp (point C) then along the front of the properties on First Terrace to the junction with 'The Lane' (point D).</p> <p>'The Lane' (now recorded as 1-23-BW13) is named on the map with a post office (PO) and church located part way along it.</p> <p>No alternative route is shown along the foreshore from which it would be possible to gain access to Second Terrace and Old Hall.</p>
Investigating Officer's Comments		The application route existed in 1970 as a substantial route and appeared to be capable of being used by general traffic.
<b>Definitive Map Records</b>		<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>
<b>Parish Survey Map</b>	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 *Lancaster Rural District* PARISH *Overton* No. *14*

MAP SHEET No. *2*.

LENGTH *0.47* miles  
(to two decimal places)

BRIEF DESCRIPTION (Field F.P. or otherwise)

*F.P. on shore.*

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

*Path from Gravel Cottage to Old Hall round shore at Sunderland. The path does not really exist now owing to the encroachment of the sea. The original path is now well down the shore.*

SURVEYED BY:—

Name *Henry Birkett*

Address *Ball Farm*

Date *Feb. 27<sup>th</sup> 1951*

*Sunderland Pt.*

99000/731/1/01



DISTRICT <i>Lancaster Rural District</i>	PARISH <i>Overton</i>	No. <i>13</i>
MAP SHEET No. <i>2</i>	LENGTH <i>0.31</i> miles (to two decimal places)	
BRIEF DESCRIPTION (Field F.P. or otherwise) <i>Unmetalled Lane. 14</i>		
DETAILED DESCRIPTION (giving starting point, means of passage and general condition). <i>From Temperance Hotel, Sunderland, past Mission Room to Shore - over stile and joins Sunderland to Carr Lane F.P. (No 11 on map).</i>		
SURVEYED BY:—	Name <i>Henry Birkett,</i>	
	Address <i>Hall Farm,</i>	
Date <i>Feb. 27<sup>th</sup></i>	<i>Sunderland Pt.,</i>	

Observations		<p>The application route is shown as a footpath and numbered 14. The footpath is shown starting at the high water mark (which is slightly different from where it is located today) but appears to start at the southern end of the tidal road (Main Street).</p> <p>The description of the route in the parish survey card suggests that the route followed the shoreline and does not describe it as running along the raised roadway along the front of First Terrace. It is described as a footpath on the shore and as a path from Gravel Cottage to Old Hall round shore at Sunderland. It refers to the fact that the original path was well down the shore due to encroachment by the sea.</p> <p>The route now recorded as 1-23-BW13 is described as an unmetalled lane. There is no reference to it connecting to the footpath numbered 14 (although the two are shown meeting at point D on the map). It is described as starting at the Temperance Hotel (adjacent to point D) and passing the Mission Room to the shore where it met a footpath from Sunderland to Carr Lane.</p>
Draft Map		<p>The parish survey map and cards for Overton were handed to Lancashire County Council who then considered the</p>

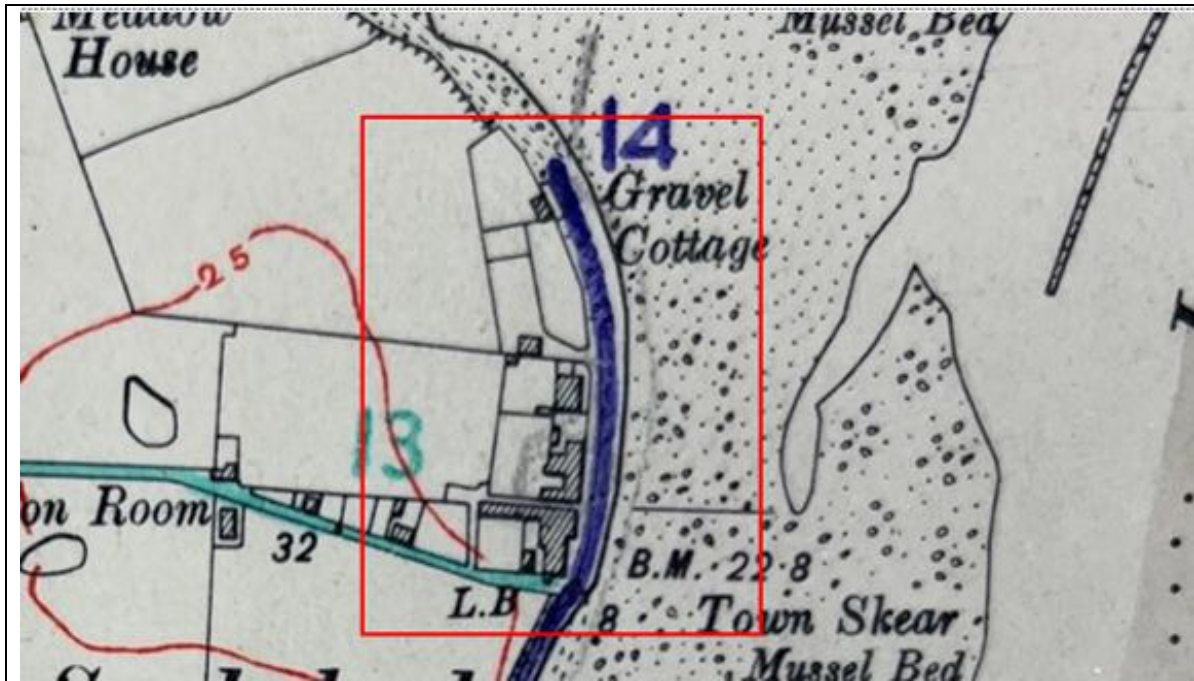


information and prepared the Draft Map and Statement.

The Draft Map was given a 'relevant date' (1<sup>st</sup> 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 1<sup>st</sup> 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.







1. No. of path	2. Kind of path	3. Position	4. Length in miles to 2 places decimals	5. Other particulars (if any)
12.	Bridleway	Yenharn Lane to Golloway Marsh	0.35	
13.	Bridleway	Temperance Hotel to junction with path No.11	0.31	
14.	Footpath	Gravel Cottage to Old Hall	0.47	

**Observations**

The Draft Map shows a route recorded as Footpath 14 and described as running from Gravel Cottage to Old Hall. The route is shown by a thick purple line on the map, and it is difficult to determine whether it was intended that the route followed the shoreline or the application route.

1-23-BW13 is shown coloured green and described in the Draft Statement as a bridleway starting at the Temperance Hotel – as opposed to starting on Footpath 14.

Main Street is marked on the map as a county road extending as far as the high water mark. The application route between point A and point B is not recorded on the Draft Map.

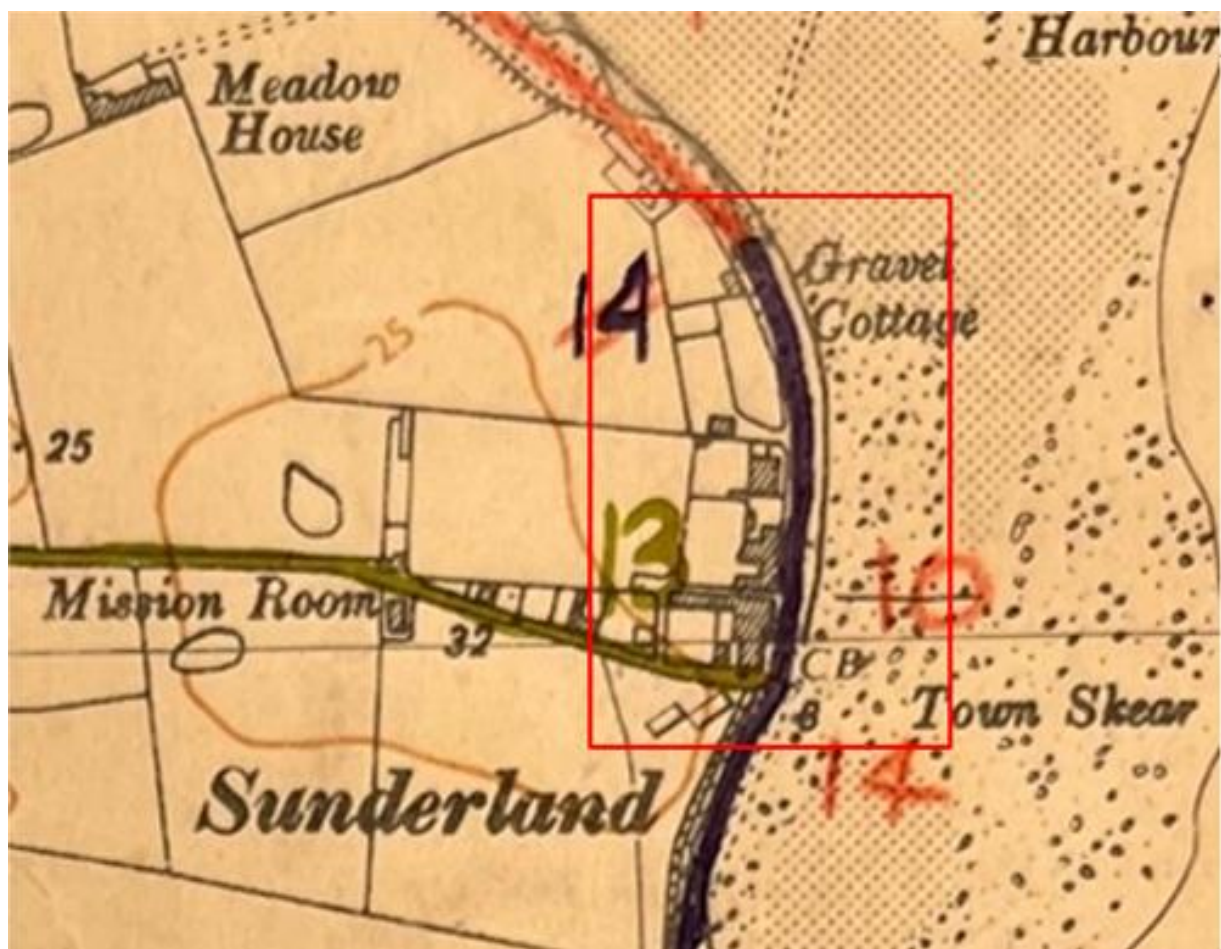
**Provisional Map**

Once all representations relating to the



publication of the Draft Map were resolved, the amended Draft Map became the Provisional Map which was published in 1960 and was available for 28 days for inspection. At this stage, only landowners, lessees and tenants could apply for amendments to the map, but the public could not. Objections at this stage had to be made to the Crown Court.





Statement annexed to the Provisional Rights of Way Map. Section 30 (1)

Rural District of LANCASTER Relevant Date, January 1st, 1953 Parish of OVERTON

1. No. of path	2. Kind of path	3. Position	4. Length in miles to 2 places decimals	5. Other particulars (if any)
1	Footpath	Downy Field Bridge to Middlepool Bridge.	0.56	
2	"	Globe Hotel to Stoop Lane.	0.24	
3	"	Trailholme-Overtown Road to Parish Boundary.	0.22	
4	"	Trailholme-Overtown Road to Parish Boundary near Trumley House.	0.17	
5	"	Sunderland-Overtown Road to junction with path No. 7.	0.59	
6	"	Junction with path No.5 to junction with path No.7 at Hall Greave.	0.16	
7	"	Overtown Village to junction with path No.8 via Basil Point.	1.12	
8	"	Basil Shore to Chapel Lane near Overtown Church.	0.31	
9	"	Churchyard to Salt Marsh on Shore.	0.12	
10	"	Parish Boundary near Trailholme to Sunderland Point.	0.66	
11	<del>Bridleway</del>	Junction with path No.13 to Parish Boundary at Potts Corner.	0.55	
12	"	Yeshan Lane to Colloway Marsh.	0.35	
13	"	Temperance Hotel to junction with path No.11.	0.31	
14	<del>Footpath</del>	Gravel Cottage to Old Hall.	0.47	

Observations

The numbering of the footpaths has been altered (red pencil) although this is not reflected in the Provisional



		<p>Statement.</p> <p>The application route is shown as part of Footpath 10 between point B and point D although it is still unclear whether the thick purple line was intended to show a route along the shoreline or along the raised terrace (application route).</p> <p>The application route between point A and point B is not recorded on the Provisional Map.</p>
<p><b>The First Definitive Map and Statement</b></p>		<p>The Provisional Map, as amended, was published as the Definitive Map in 1962.</p>



Administrative County of the County Palatine of Lancaster  
 National Parks and Access to the Countryside Act, 1949  
 Statement annexed to the Definitive Rights of Way Map Section 32 (1)  
 Relevant Date, 1st January 1953.

Rural District of **LANCASTER**

Parish of **Overton**

1. No. of path	2. Kind of path	3. Position	4. Length in miles to 2 places decimals	5. Other particulars (if any)
1	Footpath	Dowry Field Bridge to Middlepool Bridge	0.56	
2	"	Globe Hotel to Stoop Lane	0.24	
3	"	Trailholme-Overton Road to Parish Boundary	0.22	
4	"	Trailholme-Overton Road to Parish Boundary near Trasley House	0.47	
5	"	Summerland-Overton Road to junction with path No. 7	0.59	
6	"	Junction with path No. 9 to junction with path No. 7 at Hall Greave	0.16	
7	"	Overton Village to junction with path No. 8 via Basil Point	1.13	
8	"	Basil Shore to Chapel Lane near Overton Church	0.31	
9	"	Churchyard to Salt Marsh on Shore	0.12	
10 ✓	"	Parish Boundary near Trailholme to Summerland Point <i>at B.P. 13 at Temperance Hotel</i>	0.66 <i>0.90</i>	<i>Amended description - includes part of original path 14 and new length along new sea embankment included as a result of a representation by Lancaster RDC.</i>
11	Bridleway	Junction with path No. 13 to Parish Boundary at Potts Corner	0.95	
12	"	Yenham Lane to Colloway Marsh	0.35	
13	"	Temperance Hotel to junction with path No. 11	0.31	
14 ✓	Footpath	<i>at B.P. 13 at Temperance Hotel</i> Gravel Cottage to Old Hall	0.47 <i>0.32</i>	<i>Amended description - part of original path now included in path No 10.</i>

11	Bridleway	Boundary at Potts Corner
12	"	Yenham Lane to Colloway Marsh
13	"	Temperance Hotel to junction with path No. 11
14 ✓	Footpath	<i>at B.P. 13 at Temperance Hotel</i> Gravel Cottage to Old Hall

0.31		
0.12		
<i>Hotel</i> 0.66	0.90	<i>Amended description - includes part of original path 14 and new length along new sea embankment included as a result of a representation by Lancaster RDC.</i>
0.95		
0.35		
0.31		
0.47	0.32	<i>Amended description - part of original path now included in path No 10.</i>
	472	

Observations

The application route between point A and point B is not shown on the First Definitive Map.  
 Footpath 10 appears to have been extended and the description of the route altered with a pencil written note explaining that the amended description is to include part of the original path 14 and a new length along the new



		embankment which was to be included as a result of a representation made by Lancaster Rural District Council.
<b>Revised Definitive Map of Public Rights of Way (First Review)</b>		Legislation required that the Definitive Map be reviewed, and legal changes such as diversion orders, extinguishment orders and creation orders be incorporated into a Definitive Map First Review. On 25 <sup>th</sup> April 1975 (except in small areas of the County) the Revised Definitive Map of Public Rights of Way (First Review) was published with a relevant date of 1 <sup>st</sup> 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	"	Junction with path No. 5 to junction with path No. 7 at Hall Greave.	0.16
7	"	Overton Village to junction with path No. 8 via Bazil Point.	1.12
8	"	Bazil Shore to Chapel Lane near Overton Church.	0.31
9	"	Churchyard to Salt Marsh on Shore.	0.12
10	"	Parish Boundary near Trailholme to junction Bridlepath No. 13 at Temperance Hotel.	0.90
11	Bridleway	Junction with Path No. 13 to Parish Boundary at Potts Corner.	0.95
12	"	Tenham Lane to Colloway Marsh.	0.35
13	"	Temperance Hotel to junction with path No. 11.	0.31
14	Footpath	Junction Bridlepath 13 at Temperance Hotel, to Old Hall.	0.32

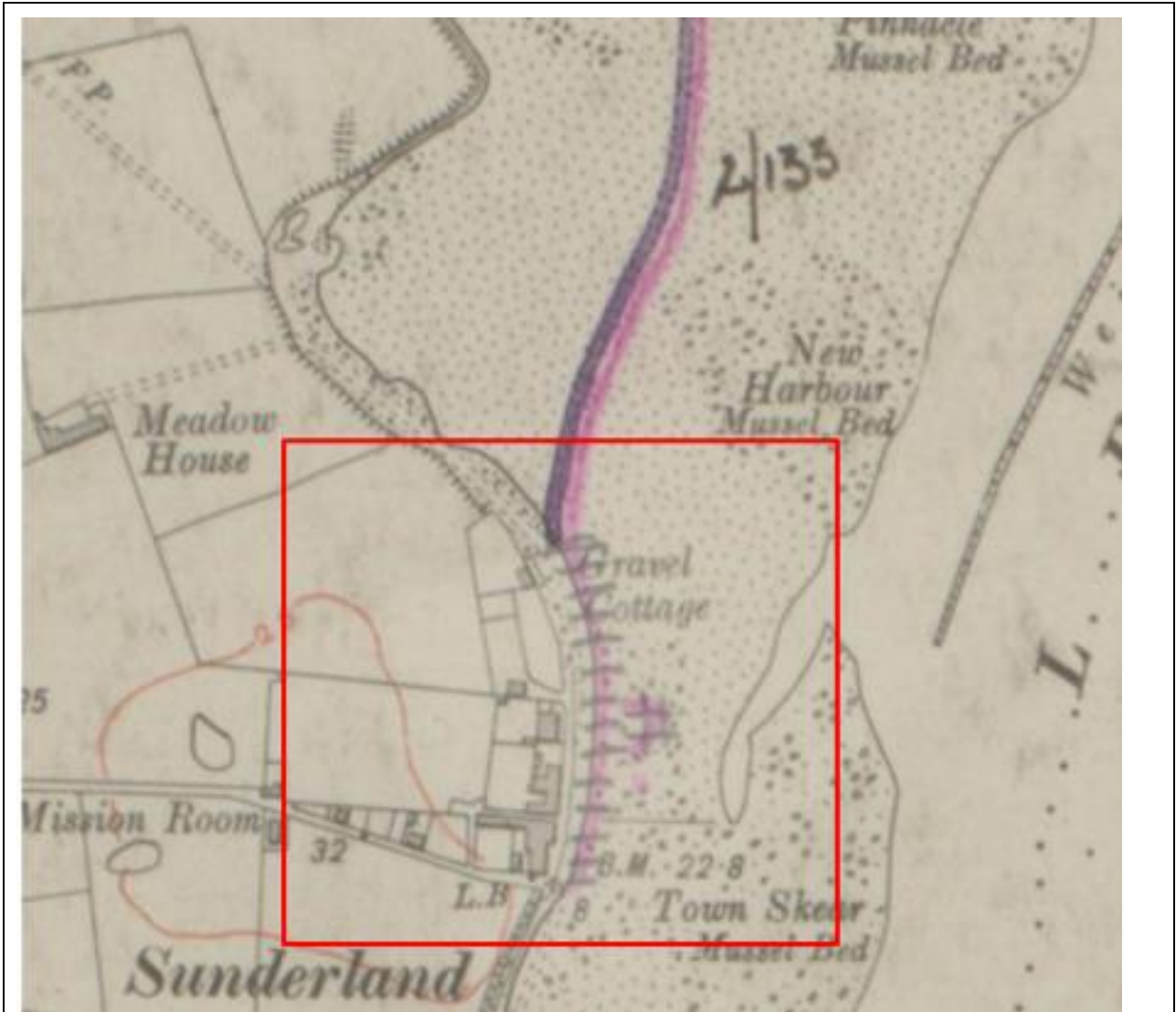
Observations		The application route between point A and point B is not recorded on the Definitive Map (First Review). The rest of the route (B-D) is recorded as a public footpath and described in the Definitive Statement as starting from the junction with Bridlepath No. 13 at the Temperance Hotel (point D).
Investigating Officer's Comments		There is no reference to the application route having been considered anything other than a public footpath when the Definitive Map was prepared in the 1950s. However, it does appear that the original footpath referred to by the parish council ran along the shoreline. The fact that the route recorded as 1-23-BW13 was recorded as a bridleway starting at the Temperance Hotel does suggest that public access – at least on horseback must already have been considered to exist up to this point – most probably along the application route – and the original footpath may have been a separate route along the shoreline. However, the Revised Definitive Map shows the footpath recorded along the application route B-D and meeting 1-23-BW23 at point D and there is no record of this having been challenged.
Highway Adoption Records including maps derived from the '1929 Handover Maps'	1929 to present day	In 1929 the responsibility for district highways passed from rural district councils to the County Council. For the purposes of the transfer, public highway 'handover' maps were drawn up to identify all of the public highways within





		<p>the county. These were based on existing Ordnance Survey maps and edited to mark those routes that were public. However, they suffered from several flaws – most particularly, if a right of way was not surfaced it was often not recorded.</p> <p>A right of way marked on the map is good evidence but many public highways that existed both before and after the handover are not marked. In addition, the handover maps did not have the benefit of any sort of public consultation or scrutiny which may have picked up mistakes or omissions.</p> <p>The County Council is now required to maintain, under section 31 of the Highways Act 1980, an up-to-date List of Streets showing which 'streets' are maintained at the public's expense. Whether a road is maintainable at public expense or not does not determine whether it is a highway or not.</p>
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Handover Map OS Sheet 34SW





LCC highway records

<p>Observations</p>		<p>The publicly maintainable road (Main Street) referenced as route 2/133 is shown ending at the mean high water mark. However, the mark is much closer to Gravel Cottage than on current mapping and the modern OS mapping used to show the extent of the adopted public highway records it as only going as far as the modern day mean high water mark – which is approximately 40 metres shorter than the route recorded in 1929.</p>
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		<p>The 1929 map also showed the adopted highway continuing towards point B along the foreshore but this is then shown as being crossed out.</p> <p>Between the points marked on the Committee plan as point A and point A1 the application route was recorded as a publicly maintained highway on the 1929 Handover Map. For this reason colleagues in the LCC Highways team have been requested to update their records to include this section as part of Main Street.</p> <p>From point A1 to point B the application route is not recorded as a publicly maintainable route and from point B to point D it is not recorded as a publicly maintainable highway in the County Council highway records other than as a public footpath.</p>
Investigating Officer's Comments		<p>The fact that the route A1-D is not recorded as a publicly maintainable highway in the County Council highway records does not mean that it does not carry public rights of access.</p>
<b>Highway Stopping Up Orders</b>	1835 - 2014	<p>Details of diversion and stopping up orders made by the Justices of the Peace and later by the Magistrates Court are held at the County Records Office from 1835 through to the 1960s. Further records held at the County Records Office contain highway orders made by Districts and the County Council since that date.</p>
Observations		<p>No records relating to the stopping up, diverting, or creating of public rights of way along the route were found.</p>
Investigating Officer's Comments		<p>If any unrecorded public rights exist along the route they do not appear to have been stopped up or diverted.</p>
<b>Statutory deposit and declaration made under section 31(6) Highways Act 1980</b>		<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</p>



		<p>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 the landowner under this provision of non-intention to dedicate public rights of way over this land.

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

### Summary

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

The application route continues from the 'end' of the publicly maintained tidal road from Overton (Main Street) to cross the foreshore and follow the original route along



the wharf at Sunderland to connect to a route first shown on commercial maps in the early 1800s and recorded today as a public bridleway.

The Wharf – which is a listed Grade II structure - originated in the 18th Century and was used to transfer goods from sea-going ships to lighter boats and horse carts for transport to Lancaster, until Lancaster built its own quay in 1750. As ships grew larger, Sunderland Wharf was again used to transfer goods to lighters for onward shipment to Lancaster until a new port was built at Glasson in 1787 which took all the trade away from Sunderland.

Although use of the Wharf as a port had declined – or possibly come largely to an end by the 19<sup>th</sup> Century the Tithe Map shows a route consistent with the application route coloured as part of a longer through route and the 1<sup>st</sup> edition 6 inch OS map shows the application route in detail as it passes along the front of First Terrace on the Wharf.

Maps from 1891 to the 1930s show a separate track below the Wharf towards Second Terrace and Old Hall but these maps don't show an obvious route through to The Lane (1-23-BW13) via the application route although the application route may still have been accessible at this time via the Wharf B-D and used as part of a longer through route – particularly as a Mission Room was located on The Lane and a post box located at the junction (point D).

All the smaller scale OS maps examined from the late 1800s through to the mid-1950s show a route from Main Street connecting to The Lane (1-23-BW13) but provide insufficient detail from which it can be inferred that public use was along the application route – or along a parallel route on the foreshore – or both.

The Finance Act Map and associated Valuation Books provide no evidence of a route that was considered to be a public route in the early 1900s and show the application route crossing through many separate plots of land for which no deductions were claimed for public rights of way or user.

More recent OS maps, most notably the large scale 1:2500 map published in 1971, show just one route (via the application route) linking Main Street to The Lane (1-23-BW13).

No modern user evidence was submitted with the application from which dedication can be inferred.

The Parish Survey records referred to the original footpath running along the foreshore but also record a right of way – initially described as an unmetalled lane – terminating at The Temperance Hotel – rather than connecting to the public footpath at point D.

The description of 1-23-BW13 terminating at the hotel remained unaltered until the First Definitive Map was revised in 1966 – at which point the public footpath 1-23-FP10 appeared to have shifted to run along the wharf between points B-D and the Revised Definitive Statement for the footpath revised to refer to the junction with 1-23-BW13.



Taking the available map and documentary evidence as a whole, given the history of the location as a significant shipping port in the 1700s, there is a suggestion that public access at least on horseback would have been available along the application route at that time. Public access along the application route may then have declined – but appears to have been possible as part of a longer through route – until more recent times – when Sunderland became more of a tourist destination.

There appears to be insufficient evidence of public vehicular rights but from the series of maps and documents examined it appears to the Investigating Officer that on balance, there is sufficient evidence from which it can be inferred that public bridleway rights exist.

## **Head of Service – Legal and Democratic Services Observations**

### **Landownership**

Some sections of the application route cross land which is unregistered. From point B to a point roughly half way between points B and D the application route crosses land in private ownership. The application route crosses two more sections of land in private ownership for 30 metres north of point D.

### **Information from the Applicant**

The applicant submitted the following maps and documents in support of the application, all of which were considered by the Investigation Officer earlier in this report:

Hennet's Map of Lancashire 1830  
6 inch OS maps published 1848, 1895 and 1919  
25 inch OS maps published in 1891 and 1913  
1 inch OS maps published in 1898, 1947 and 1961  
1:25,000 OS maps published in 1947, 1954 and 1966  
Ministry of Transport ½ inch OS map of Great Britain 1922-23  
Tithe Map and Award 1845  
Lancashire County Council List of Streets  
Photographs of a sign adjacent to the route 2009  
Handover Map  
Overton Parish Survey Cards  
The Gazette – Search for stopping up order

### **Information from Others**

The Right to Ride representative for Cycling UK responded to consultation to state that they had no objection to the application.

Cadent Gas and Atkins Telecom responded to consultation to state that they had no objection to the application.



## **Information from the Landowner**

Several landowners responded to consultation clarifying the land in their ownership, one noted that they had no objection to the application. Another stated that all owners of properties along First Terrace own the land in front of their properties, including the land crossed by the currently recorded footpath and the foreshore.

## **Assessment of the Evidence**

### **The Law - See Annex 'A'**

## **Conclusion**

The application is for the addition of bridleway and upgrade of footpath to bridleway on the Definitive Map and Statement of Public Rights of Way along First Terrace, Sunderland, Overton.

Point A-B is not currently recorded on the Definitive Map and Statement.

Point B-D is currently recorded as footpath on the Definitive Map and Statement.

The application route links to a highway at point A1 (Main Street) and a recorded bridleway at point D (The Lane 1-23-BW23).

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

The County Council is required to maintain, under section 31 of the Highways Act 1980, an up-to-date List of Streets showing which 'streets' are maintainable at the public's expense. The publicly maintained highway (Main Street) referenced as route 2/133 is currently shown ending at the mean high water mark. However, the mark is much closer to Gravel Cottage than on current mapping and the modern OS mapping used to show the extent of the adopted public highway records it as only going as far as the modern day mean high water mark – which is approximately 40 metres shorter than the route recorded in 1929.

For this reason, LCC Highways team have been requested to update their records to include this section of the application route A to A1 as part of the publicly maintained highway (Main Street).

There is no express dedication or modern public user evidence. Committee is asked to consider whether there is sufficient evidence, on balance, that a dedication and acceptance can be inferred at Common Law to have happened many many decades ago and led to how the route was recorded on the various documents.





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

Part of the application route is already recorded, and Committee must consider whether this part of the route carries higher rights than the footpath it is presently recorded as.

The evidence has been summarised and evaluated fully earlier within the report and Committee is referred to this.

Committee must consider whether, on the balance of probability, the evidence shows the application route at point A1-B has public bridleway rights and Committee must consider whether, on the balance of probability, the evidence shows that the existing public footpath point B-D ought to be shown as a public bridleway and that the Definitive Map and Statement requires modification to reflect this.

Records are being updated to show A-A1 is highway maintainable at public expense and no order is recommended in respect of this part of the application route. Committee is advised that the evidence is sufficient on balance to show that the application route from point A1-D has public bridleway rights. It is therefore recommended to make an Order as set out in the Recommendation at the beginning of the report and that it be promoted to confirmation.

### **Risk management**

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

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

Paper	Date	Contact/Directorate/Tel
All documents on File Ref: 804-655		Simon Moore, 01772 531280, County Secretary and Solicitors Group

Reason for inclusion in Part II, if appropriate

N/A

