

Regulatory Committee

Meeting to be held on 8 March 2023

Part I

Electoral Division affected:
Chorley Rural West

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

Contact for further information quoting file reference 804-732:

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Brief Summary

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

Recommendation

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

Background

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

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



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

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

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

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

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

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

Consultations

Chorley Borough Council

Chorley Borough Council provided no response to consultation.

Ulnes Walton Parish Council

Ulnes Walton Parish Council provided no response to consultation.

Applicant/Landowners/Supporters/Objectors

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

Advice

Head of Service – Planning and Environment

Points annotated on the attached Committee plan.



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

Description of Route

A site inspection was carried out in February 2022.

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

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

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

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

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

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

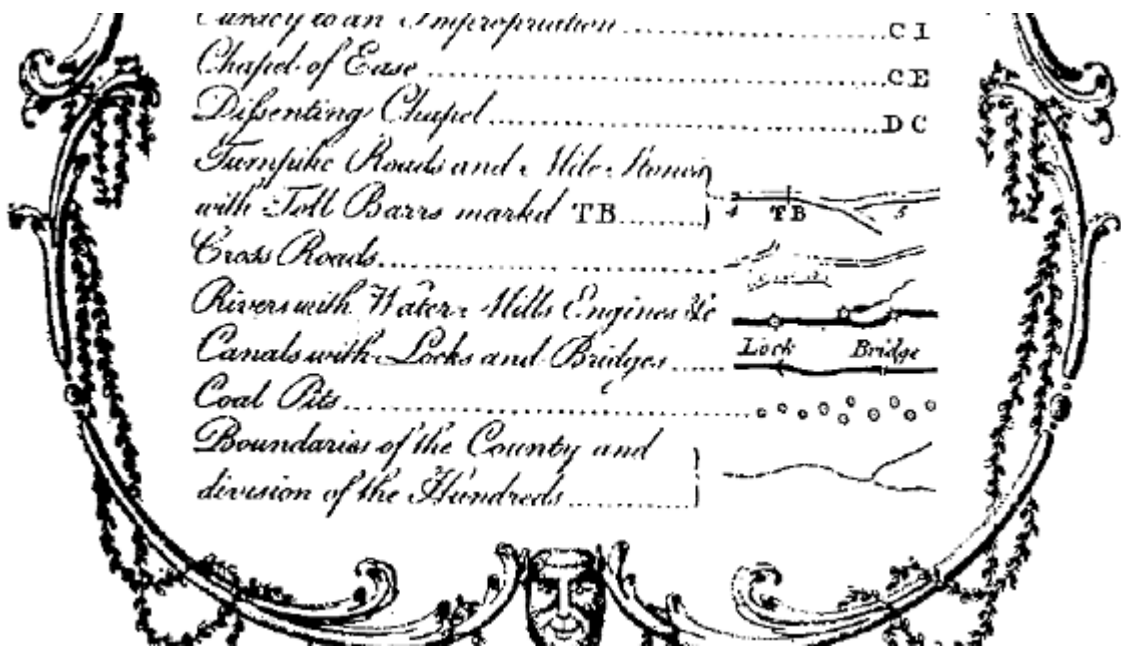


Map and Documentary Evidence

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

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





<p>Observations</p>	<p>A route consistent with Nixon Lane is shown as a cross road leading from Ulnes Walton Lane passing a building marked on the First Edition 6 inch OS map (detailed later in the report) as 'Nixons' and continuing through point A to point B where another building is shown next to Low Moss.</p> <p>The rest of the application route is</p>
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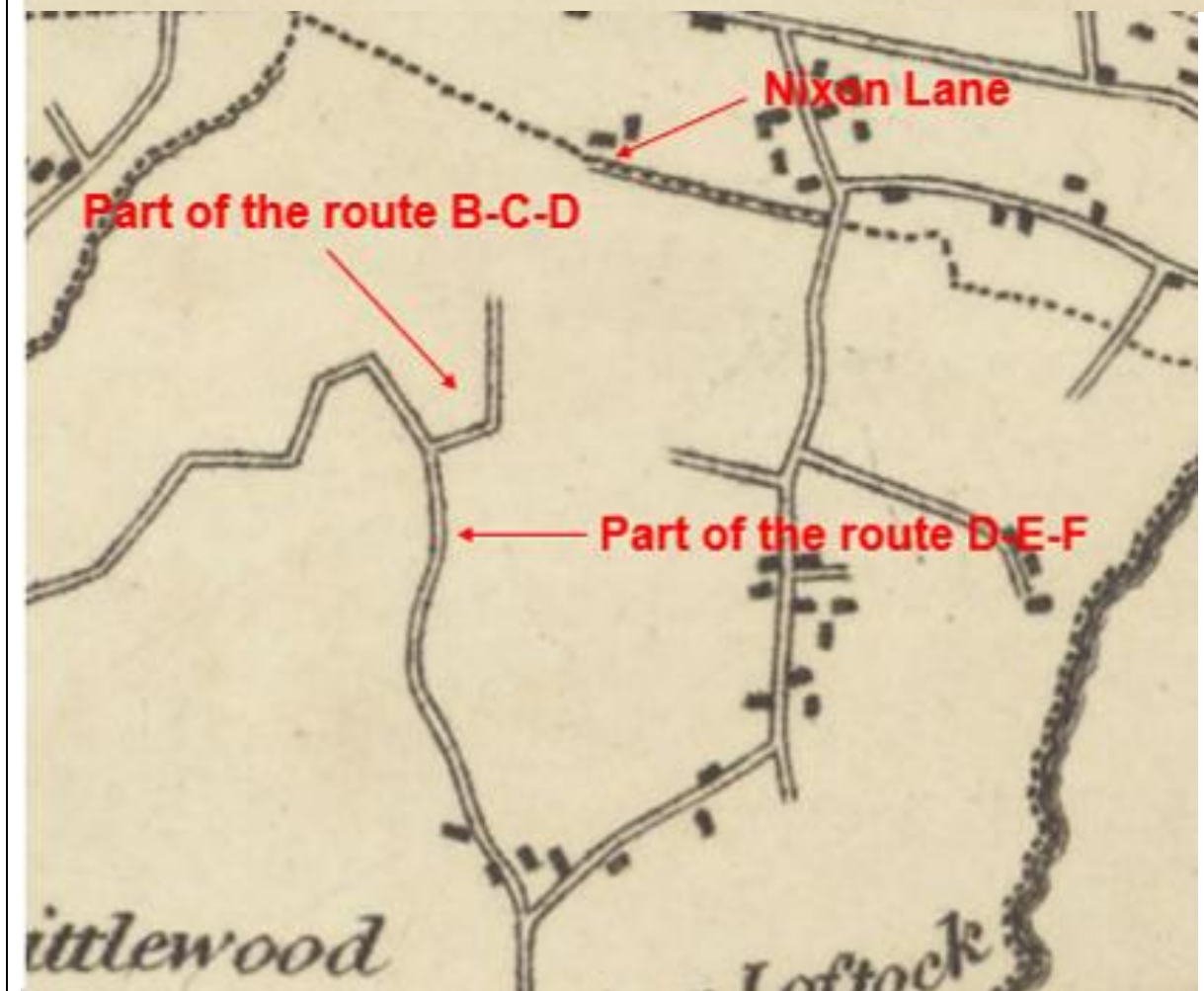
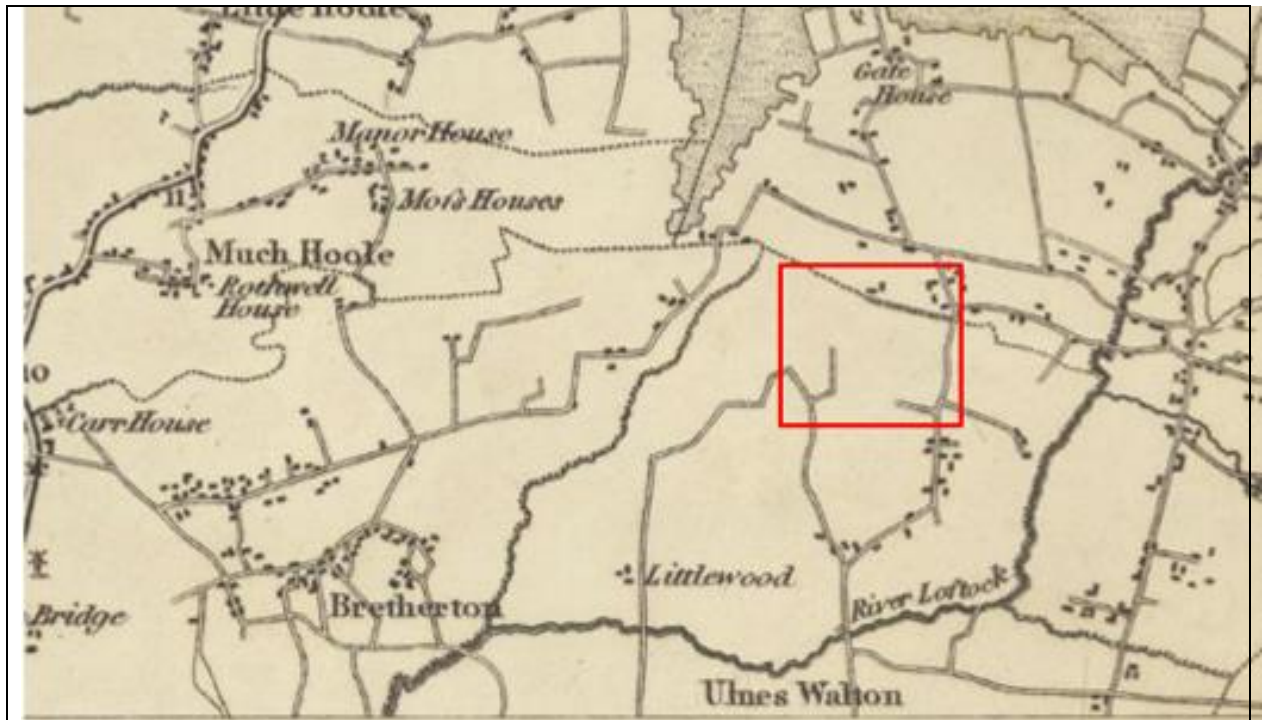
Investigating Officer's Comments		not shown. The application route between point A and point B existed in 1786 as part of a longer route extending west from Ulnes Walton Lane (a public vehicular highway) through to point B. It is not known what is meant by the term 'cross road' but the only other category of highway shown on the map is turnpike roads and the fact that the route A-B is shown on the map suggests that it would have been capable of being used at least on horseback at that time. The rest of the application route is not shown. It may be that the route beyond point B did not exist in 1786 or it may have been that Yates did not consider it to be a public highway or that the land crossed by the route was not surveyed.
Smith's Map of Lancashire	1804	Charles Smith was a London engraver and map seller. His map of Lancashire appeared as a single sheet in 1801 and then between 1804 and 1846 was published in subsequent editions of the New English Atlas. His map was similar to Cary's Map of Lancashire dated 1789 but is not a direct copy. It is thought that Smith and Cary used common sources, especially Yates' survey, and since both were aiming at the same market, the increasing number of private and commercial travellers, it is not considered surprising that they produced similar maps.

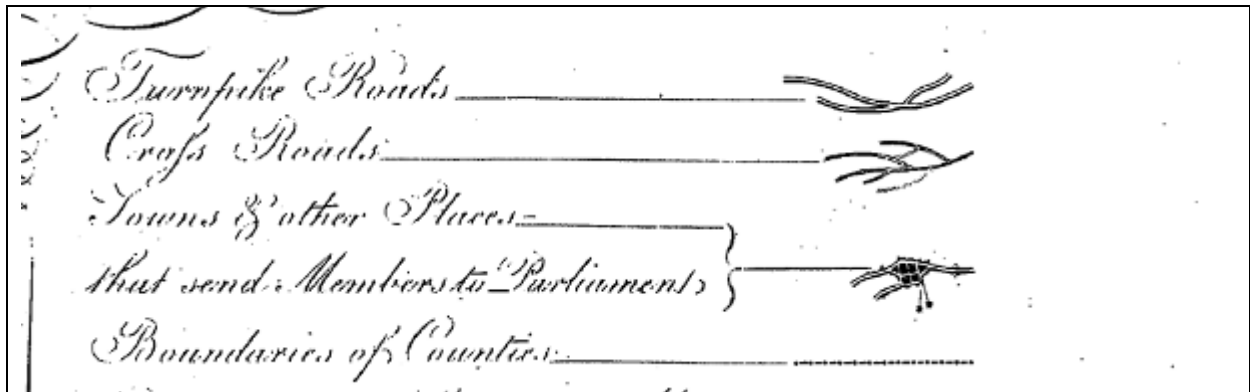




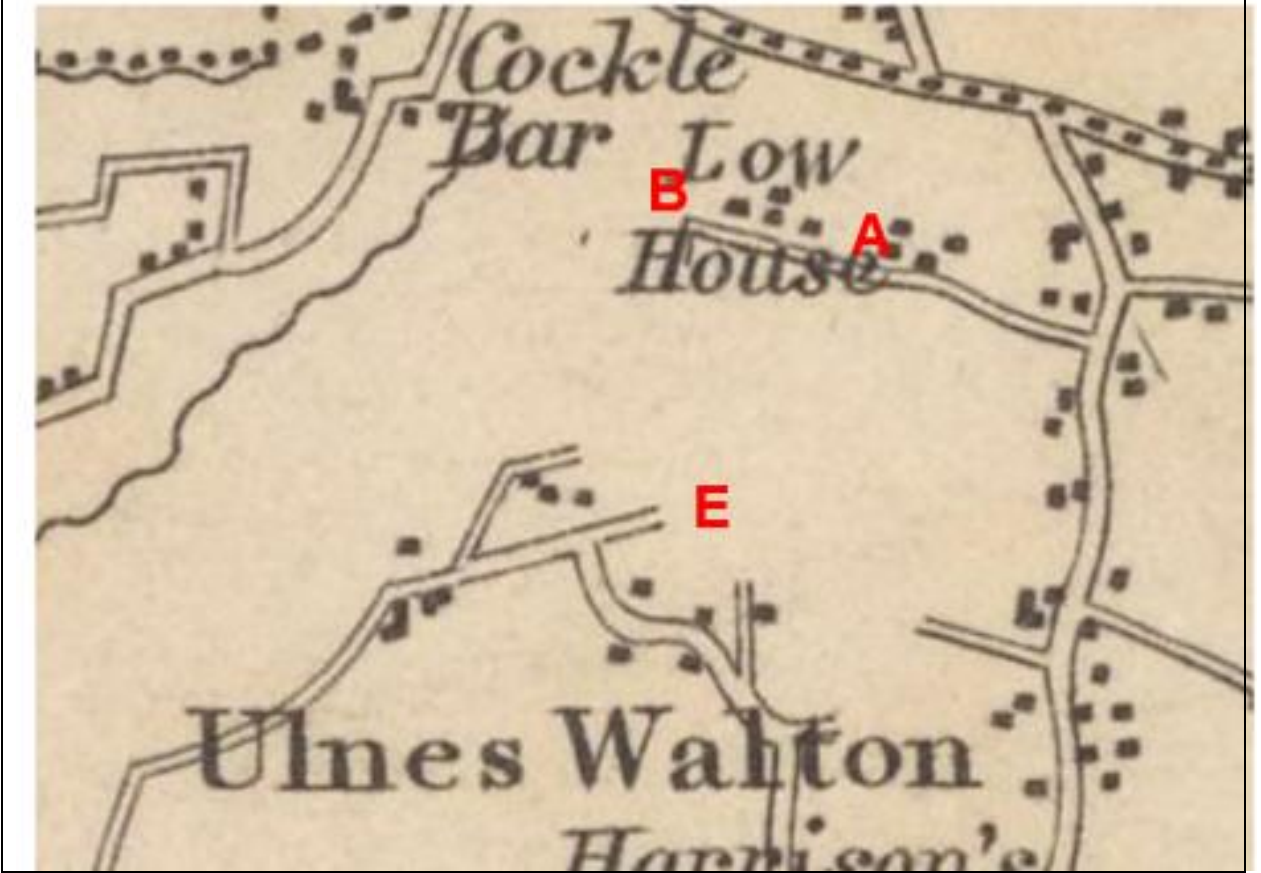
Observations		The application route is not shown although buildings are shown at the northern end in the area of Nixon Lane (A-B).
Investigating Officer's Comments		The application route may not have existed in 1804 or if it did exist was not considered to be a significant public through route by Smith.
Greenwood's Map of Lancashire	1818	Small-scale commercial map. In contrast to other map makers of the era Greenwood stated in the legend that this map showed private as well as public roads and the two were not differentiated between within the key panel.

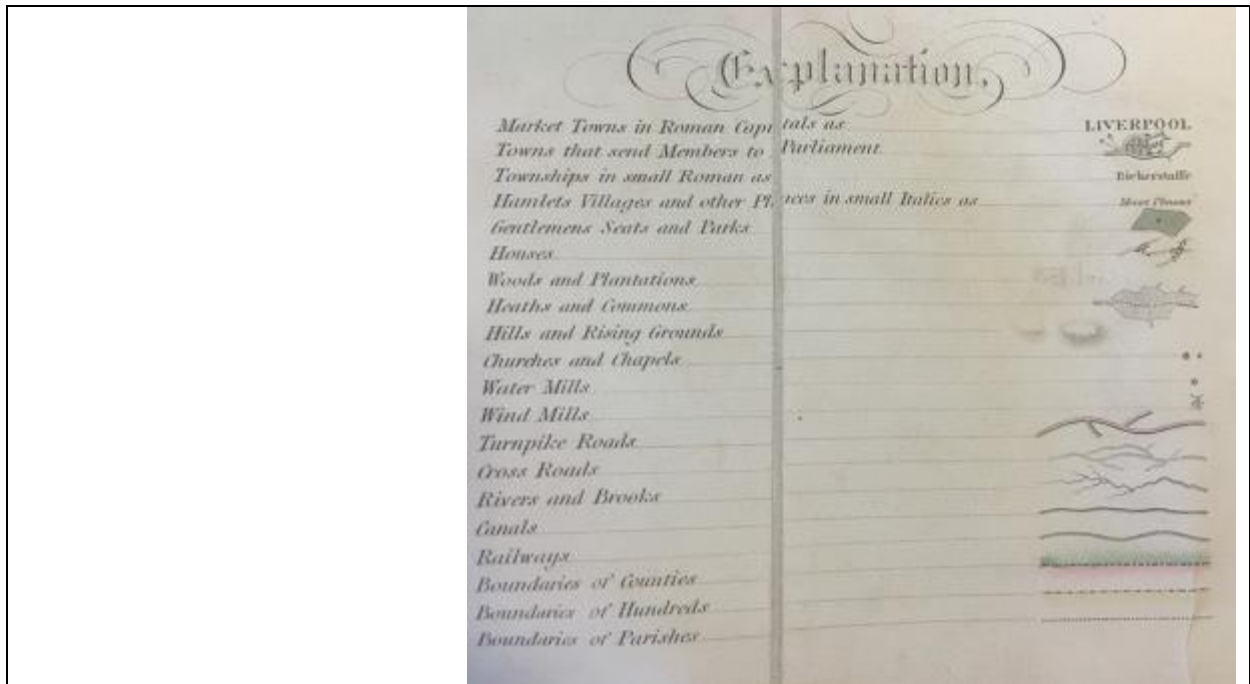






<p>Observations</p>		<p>A route consistent with Nixon Lane is shown from Ulnes Walton Lane through to point A. Further north a network of routes shown as cross roads – but which are difficult to match up accurately with the routes shown on the Tithe Map (detailed later in the report) are shown and may form part of the application route.</p> <p>The route is shown from between B and C south to the corner (C) and west to the junction (D) then south but veering further west than the application route, where part of the prison has since been built.</p>
<p>Investigating Officer's Comments</p>		<p>Parts of the application route may have existed in 1818 but the route did not appear to be considered to be a significant public vehicular through route at that time.</p>
<p>Hennet's Map of Lancashire</p>	<p>of 1830</p>	<p>Small-scale commercial map. In 1830 Henry Teesdale of London published George Hennet's Map of Lancashire surveyed in 1828-1829 at a scale of 7½ inches to 10 miles. Hennet's finer hachuring was no more successful than Greenwood's in portraying Lancashire's hills and valleys but his mapping of the county's communications network was generally considered to be the clearest and most helpful that had yet been achieved.</p>

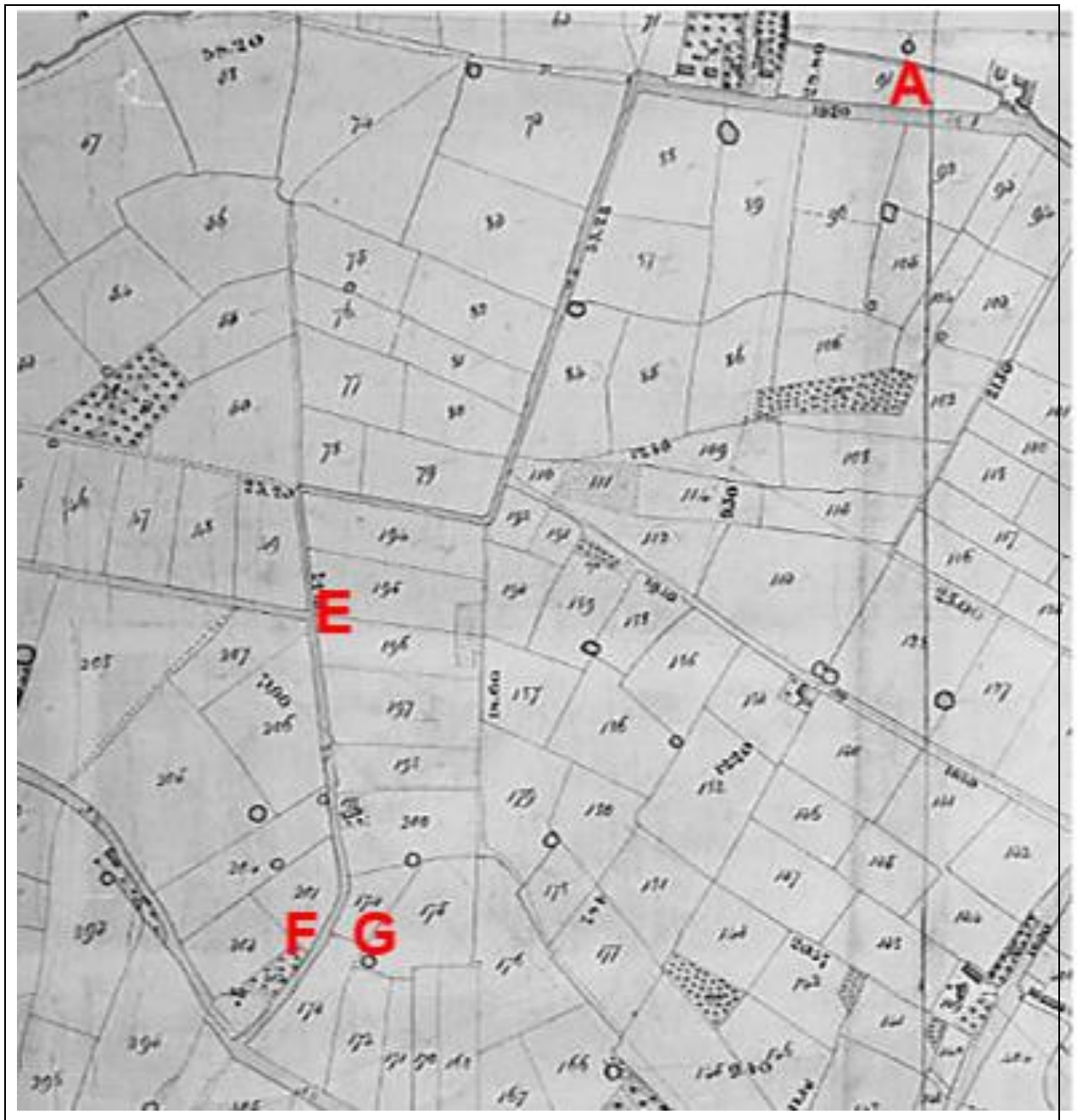


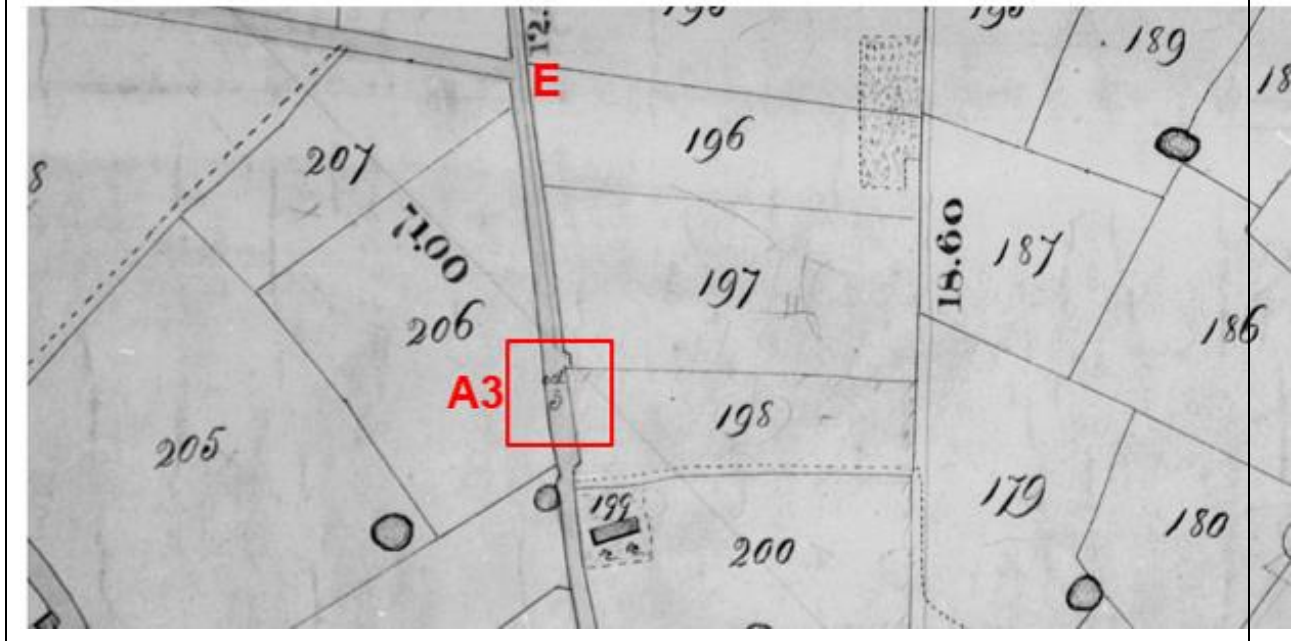


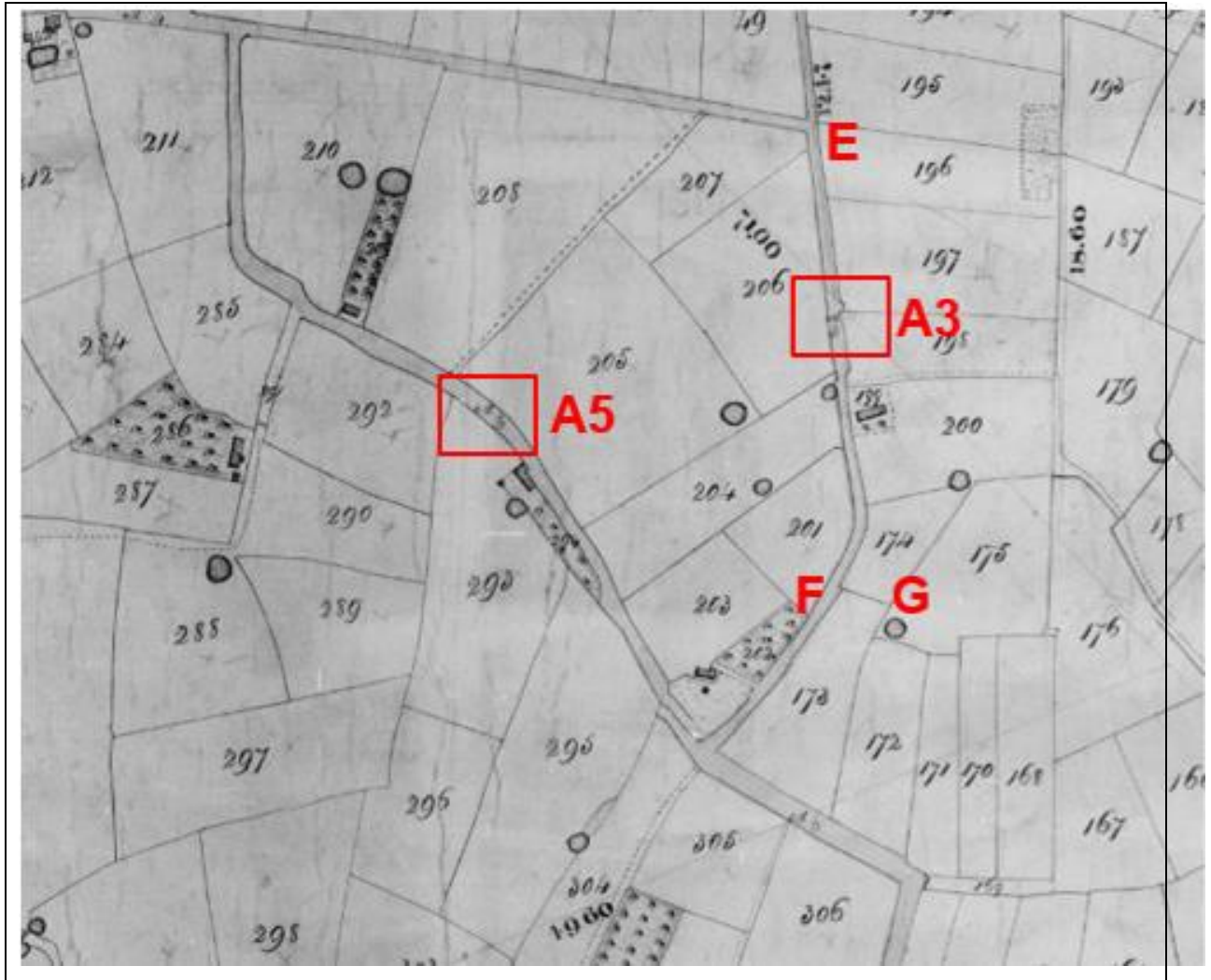
<p>Observations</p>		<p>The application route is shown as part of a longer route passing through point A and continuing to point B and appears to provide access to a number of properties including one named as Low House. The rest of the application route is not shown although routes leading to it from the west and south are shown 'open ended'.</p>
<p>Investigating Officer's Comments</p>		<p>The application route between point A and point B existed in 1830. The rest of the route may have existed in 1830 but the route did not appear to be considered to be a significant public vehicular through route at that time.</p>
<p>Canal and Railway Acts</p>		<p>Canals and railways were the vital infrastructure for a modernising economy and hence, like motorways and high-speed rail links today, legislation enabled these to be built by compulsion where agreement couldn't be reached. It was important to get the details right by making provision for any public rights of way to avoid objections but not to provide expensive crossings unless they really were public rights of way. This information is also often available for proposed canals and railways which were never built.</p>

Observations		The application route does not cross land affected by the construction of any railways or canals and there are no known proposals to construct either in the past.
Investigating Officer's Comments		No inference can be drawn with regards to the existence of public rights.
Tithe Map and Tithe Award or Apportionment	1838	Maps and other documents were produced under the Tithe Commutation Act of 1836 to record land capable of producing a crop and what each landowner should pay in lieu of tithes to the church. The maps are usually detailed large-scale maps of a parish and while they were not produced specifically to show roads or public rights of way, the maps do show roads quite accurately and can provide useful supporting evidence (in conjunction with the written tithe award) and additional information from which the status of ways may be inferred.

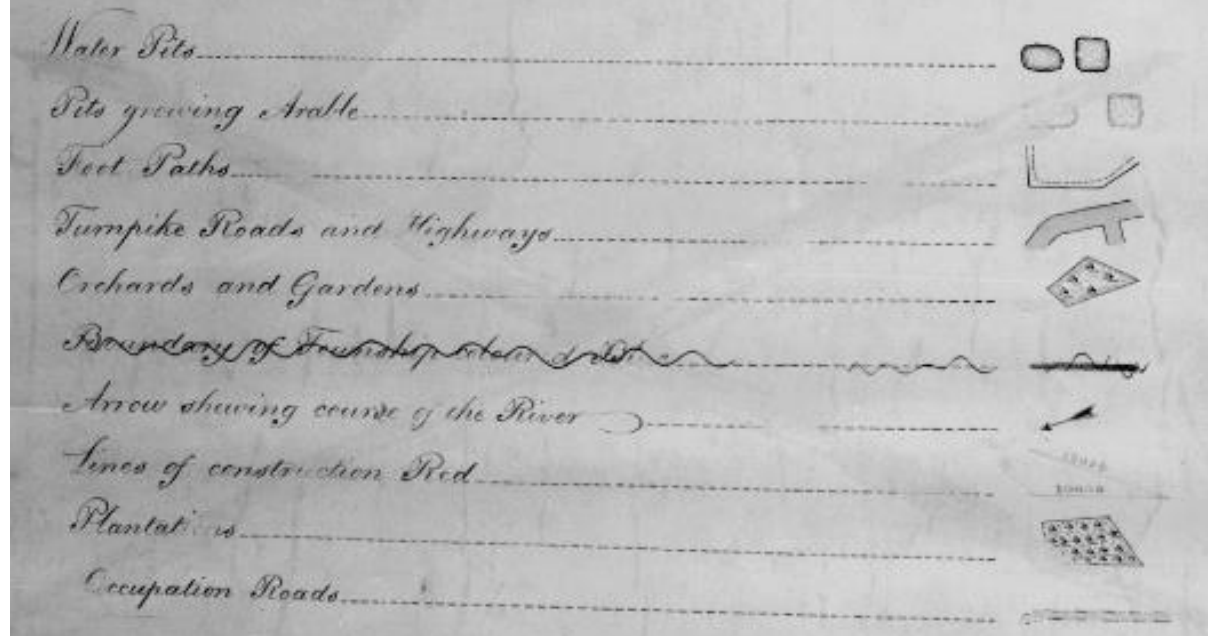








Reference



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

▲ 1	At the North end of the Township	2 1 5
▲ 2	Moss Road South of East	1 2 9
▲ 3	Do	1 1 8
▲ 4	Road leading to Littlewood	2 2 0
▲ 5	Moss Road	1 1 0
▲ 6	Do	2 3
▲ 7	Road west of N. 162	1 . 30
▲ 8	From Laxland to New Lane Road	11 . 17
▲ 9	Thurton Lane	2 3 2
▲ 10	North of Croston and Eccleston	8 1 23
▲ 11	Preston and Wrayhington Road	11 3 30
▲ 12	Flagg Lane	3 3 5
		39 2 62 ✓

Observations

The application route was shown with the exception of the section between point F and point G.

A key to the map shows routes considered to be 'Turnpikes Roads and Highways' were shown bounded by solid lines and shaded.



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



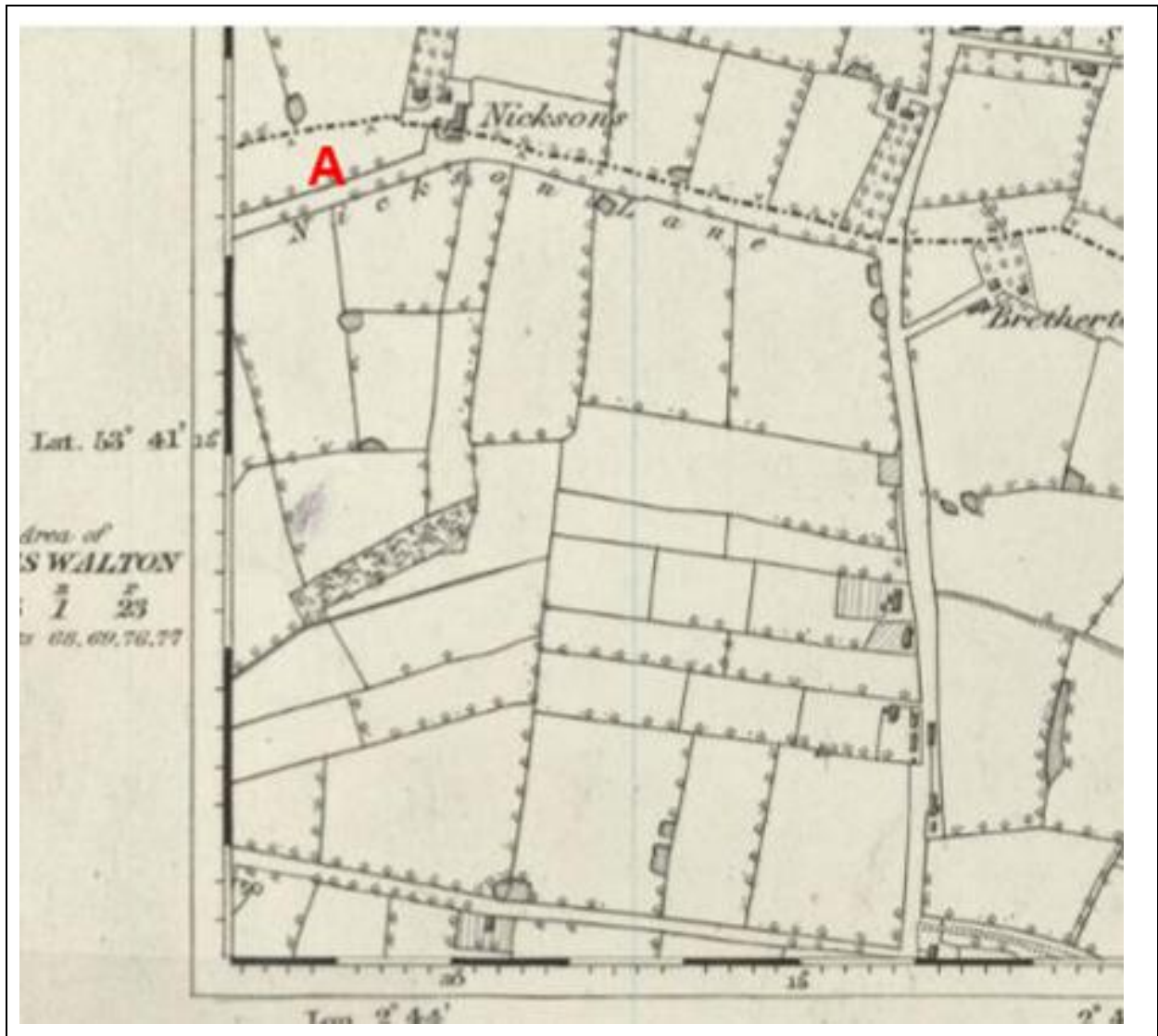
Comments		1838 between point A and point F and formed part of a network of routes described as hard routes or turnpike routes in the Tithe Award and described as Highways and Turnpike Roads on the Tithe Map legend. No Tithes were payable and no landowners or occupiers listed and it appears that those routes listed were considered to be public vehicular highways at that time.
Inclosure Act Award and Maps		Inclosure Awards are legal documents made under private acts of Parliament or general acts (post 1801) for reforming medieval farming practices, and also enabled new rights of way layouts in a parish to be made. They can provide conclusive evidence of status.
Observations		No Inclosure Award was found for the area crossed by the application route.
Investigating Officer's Comments		No inference can be drawn.
6 Inch Ordnance Survey (OS) Map	1847-1848	<p>The earliest Ordnance Survey 6 inch maps for this area.¹</p> <p>The application route crosses land shown on three separate maps:</p> <p>Sheet 69 (LXIX) surveyed 1844-46 and published 1848</p> <p>Sheet 68 (LXVIII) surveyed 1844-1845 and published 1848</p> <p>Sheet 76 (LXXVI) surveyed 1845-46 and published 1847</p> <p>The earliest 6 inch OS sheet for this area was surveyed in 1844-1846 and published in 1848.</p>

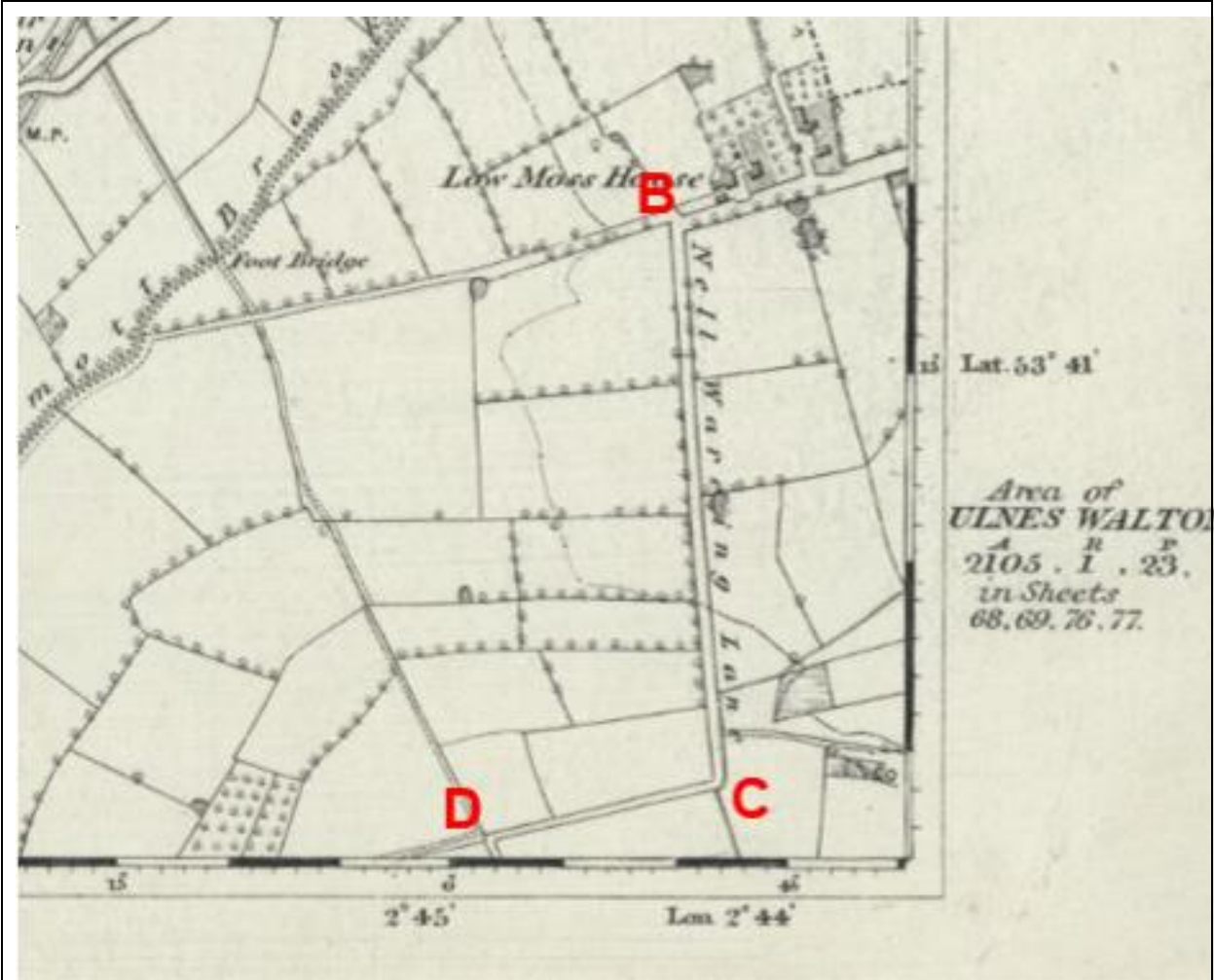
¹ The Ordnance Survey (OS) has produced topographic maps at different scales (historically one inch to one mile, six inches to one mile and 1:2500 scale which is approximately 25 inches to one mile). Ordnance Survey mapping began in Lancashire in the late 1830s with the 6-inch maps being published in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



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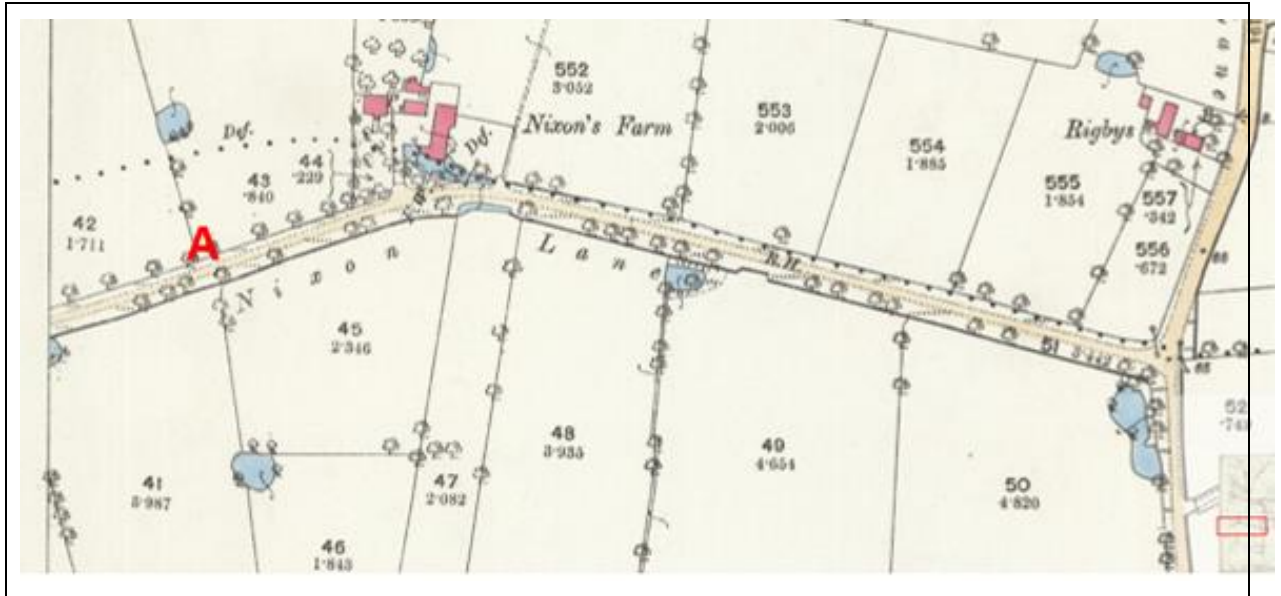


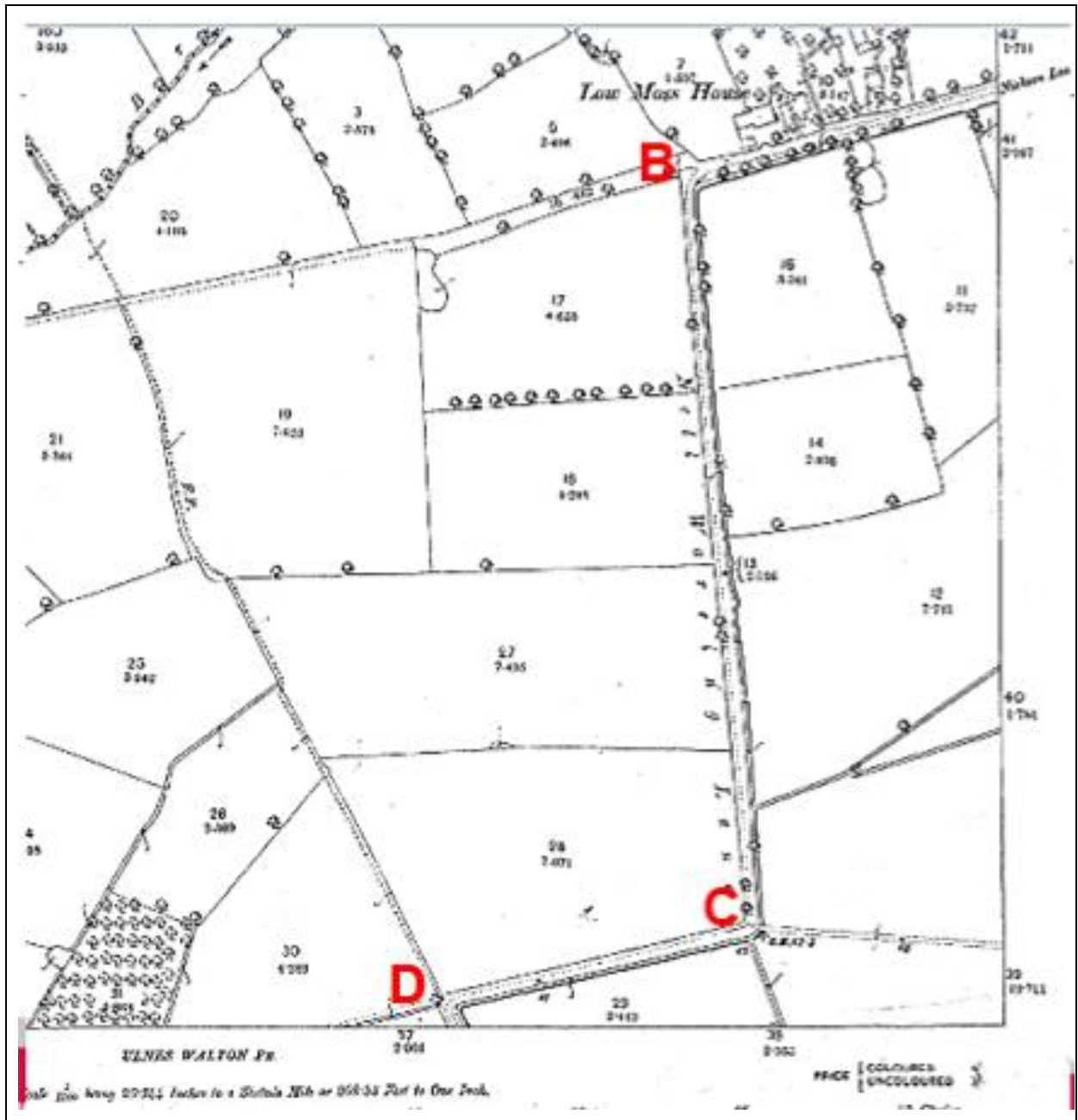
Observations	Between point A and point B the
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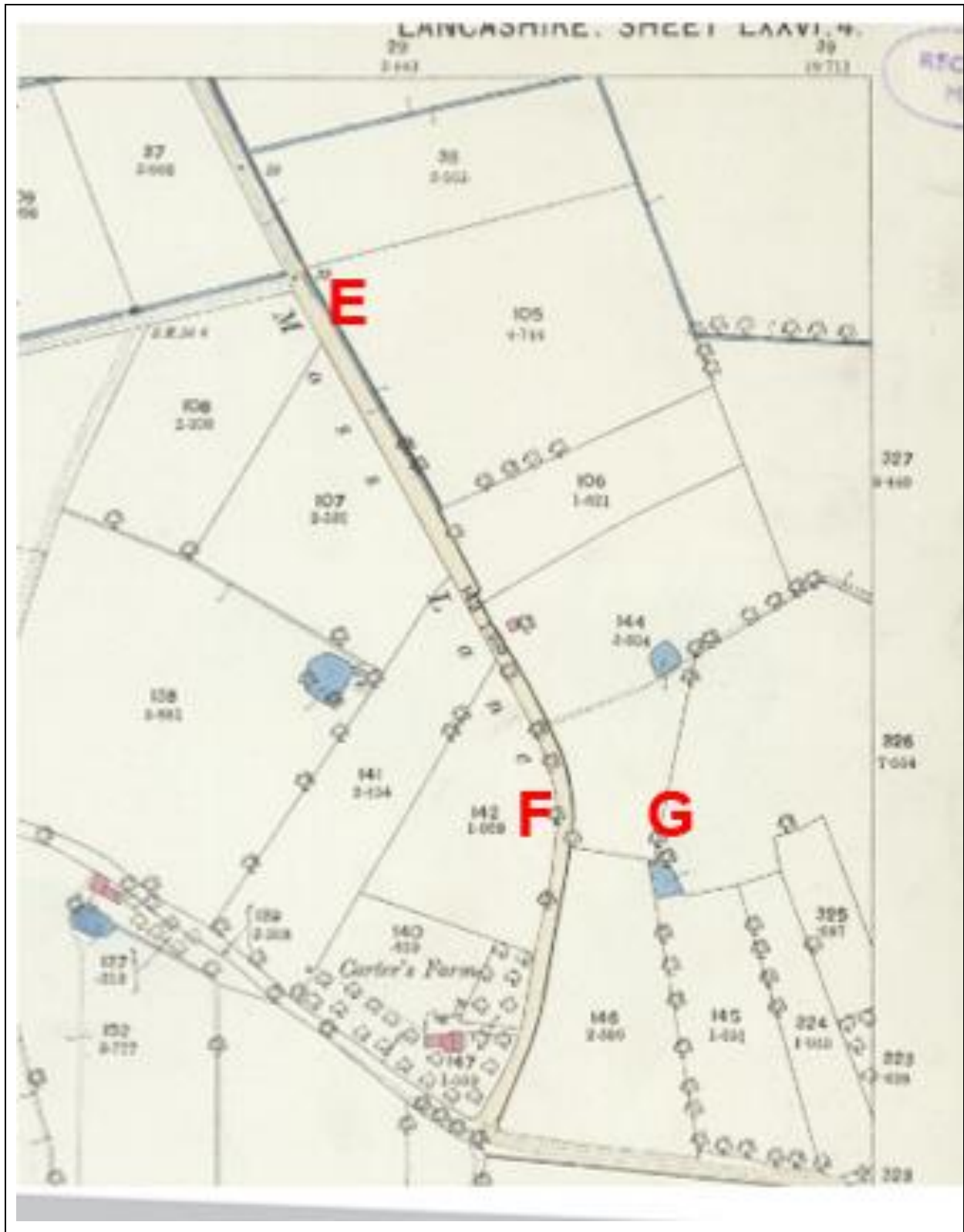


		<p>application route is shown as part of a bounded route known as Nickson Lane providing access to and past Nicksons and Low Moss House.</p> <p>From point B it continues to point C labelled as Nell Wareing Lane and then continues through to point F as an un-named bounded route consistent with how it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









Observations

The route crosses three different map sheets. Both colour and black and white copies of the maps were published and, in this instance, coloured copies of the maps showing the start and end of the route have been found.

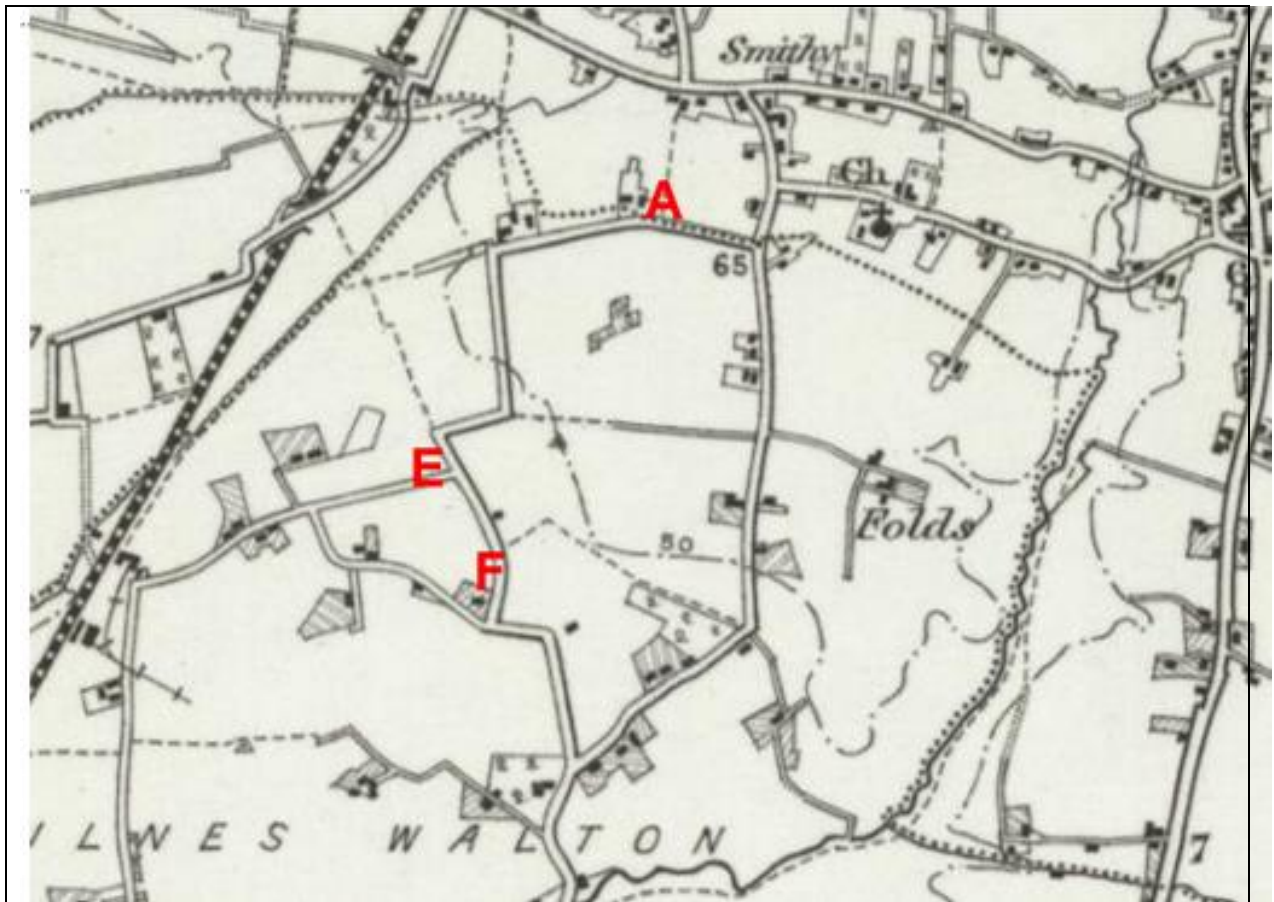


		<p>The map sheet showing the first part of the route is coloured and shows the start of the route as part of a longer route named on the map as Nixon Lane. The route is coloured and shown with a thickened line along the south side passing through point A to the edge of the map sheet.</p> <p>The continuation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



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



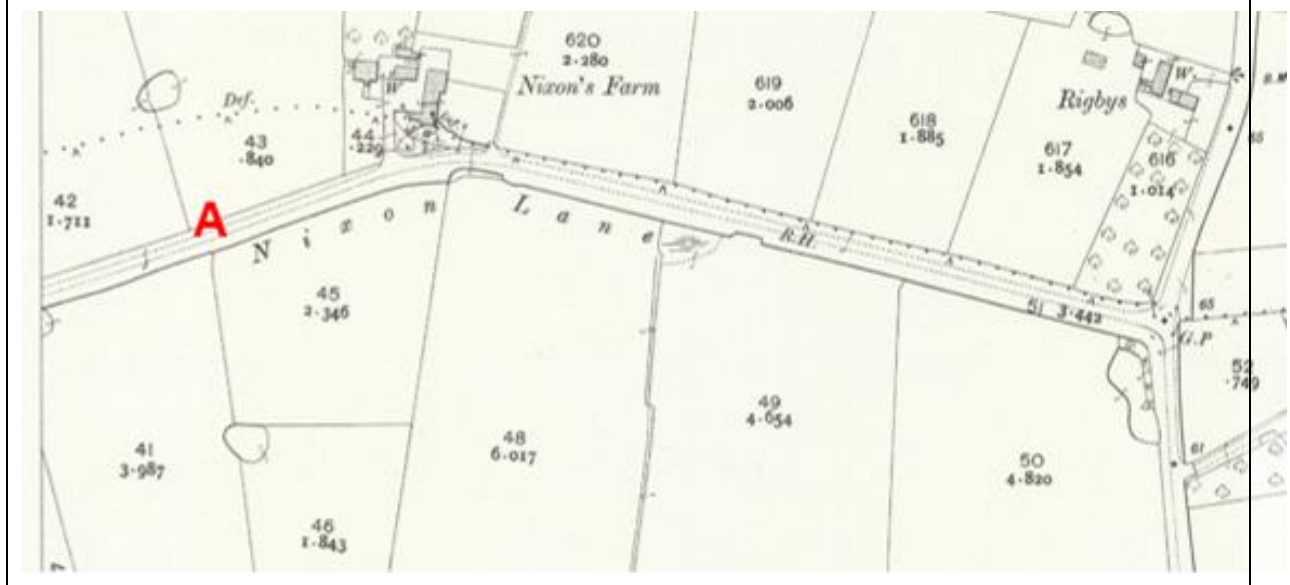


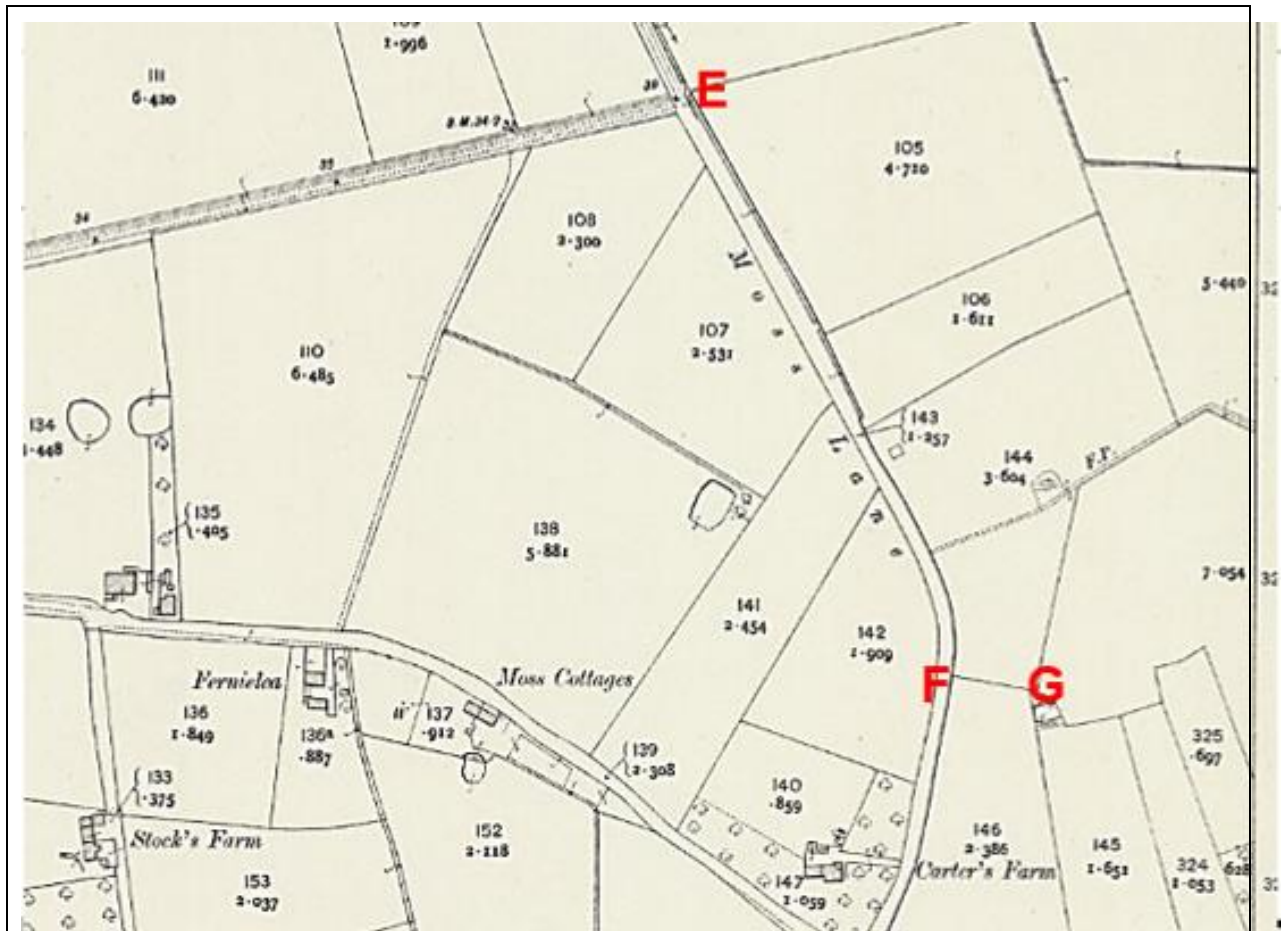
<i>Metalled Roads; First Class</i>	5 (Mile distance) Altitude 1211	Fenced	Unfenced	Chuo
" " <i>Second Class</i>				"
" " <i>Third Class</i>				"
<i>Unmetalled Roads</i>				Wind
<i>Footpaths</i>				Ligh
<i>Railways, Single Line</i>			<i>Level Crossing</i>	Bea
				Let

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



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

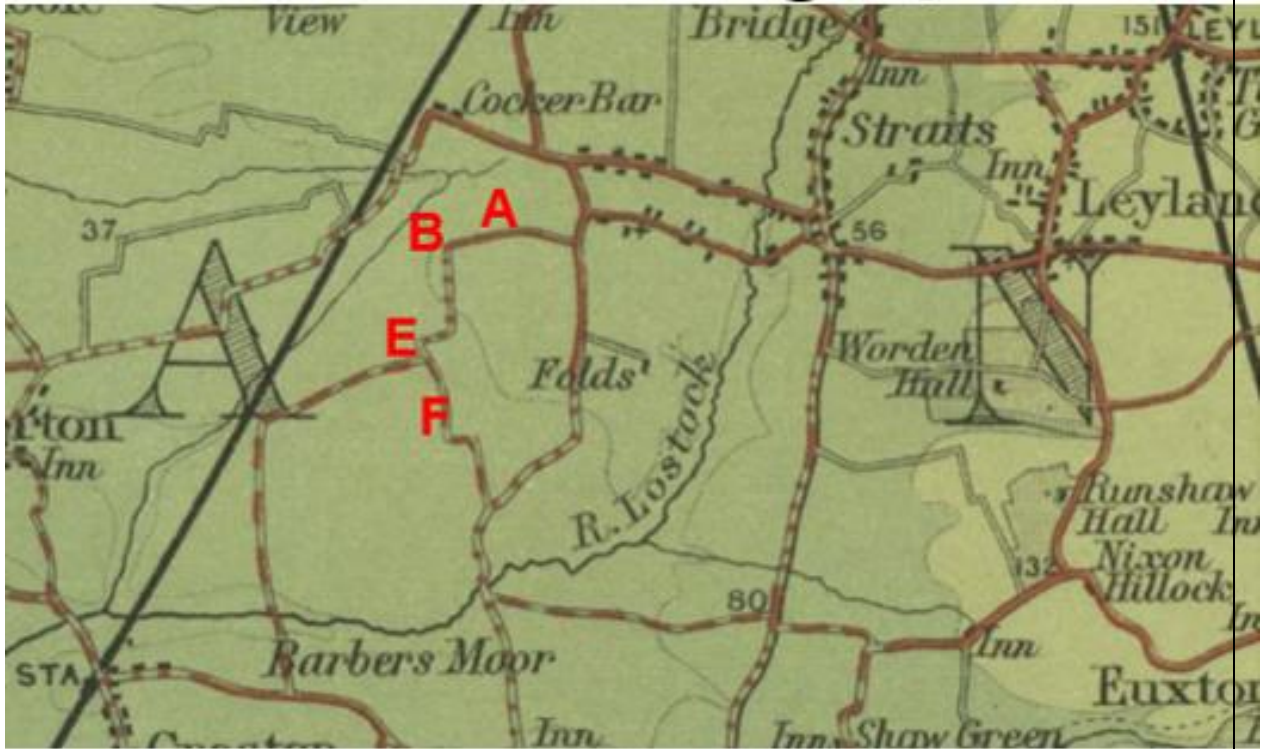




Observations		<p>The application route A-F is shown in the same way that it is shown on the earlier edition of the 25 inch OS map – as part of a substantial named route.</p> <p>The application route between point F and point G is not shown.</p>
Investigating Officer's Comments		<p>The application route A-F existed as a bounded through route in 1908-1909 which appeared to be capable of being used on horseback and by vehicles.</p> <p>The application route from point F to point G did not exist.</p>
Bartholomew Half Inch Mapping	1902-1906	<p>The publication of Bartholomew's half inch maps for England and Wales began in 1897 and continued with periodic revisions until 1975. The maps were very popular with the public and sold in their millions, due largely to their accurate road classification and the use of layer colouring to depict contours. The maps were produced primarily for</p>



the purpose of driving and cycling and the firm was in competition with the Ordnance Survey, from whose maps Bartholomew's were reduced. An unpublished Ordnance Survey report dated 1914 acknowledged that the road classification on the OS small-scale map was inferior to Bartholomew at that time for the use of motorists.



EXPLANATORY NOTE

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

Footpaths & Bridlepaths

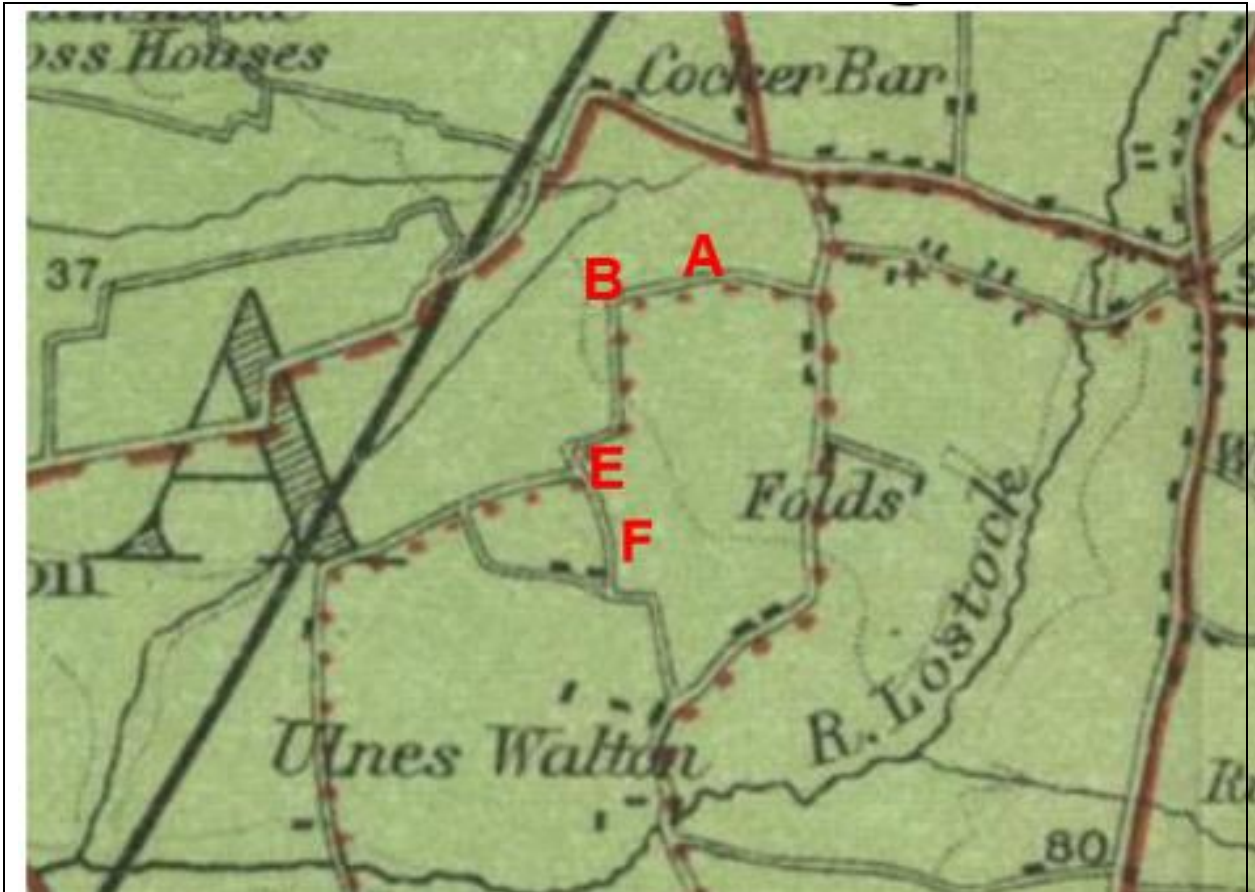
N.B. The representation of a road or footpath is no evidence of the existence of a right of way.

Railways Station Station with Refreshment Room
 Canals
 County Boundaries - - - - -

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

1904





EXPLANATORY NOTE

Motoring Roads { Through Routes Motor Ferries

 First Class Roads

 Secondary

 Indifferent (Passable for cyclists)

The uncoloured roads are inferior and not to be recommended.

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

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

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

Canals

County Boundaries

1920





1940

Observations

The application route between points A-F is shown on all three maps published between 1904 and 1941.

In 1904 it is shown as a First Class Road between point A and point B and then as indifferent (passable) between points B-E and as a secondary (good) road from point E passing through point F.

In 1920 it is shown coloured as a secondary road between points A-E and an uncoloured road (defined as inferior and not to be recommended) between points E-F.

By 1940 it is shown as part of a good secondary road along the full length A-F.

The application route between points F-G is not shown on any of the maps examined.

Investigating

Officer's

The early 1900s saw a significant



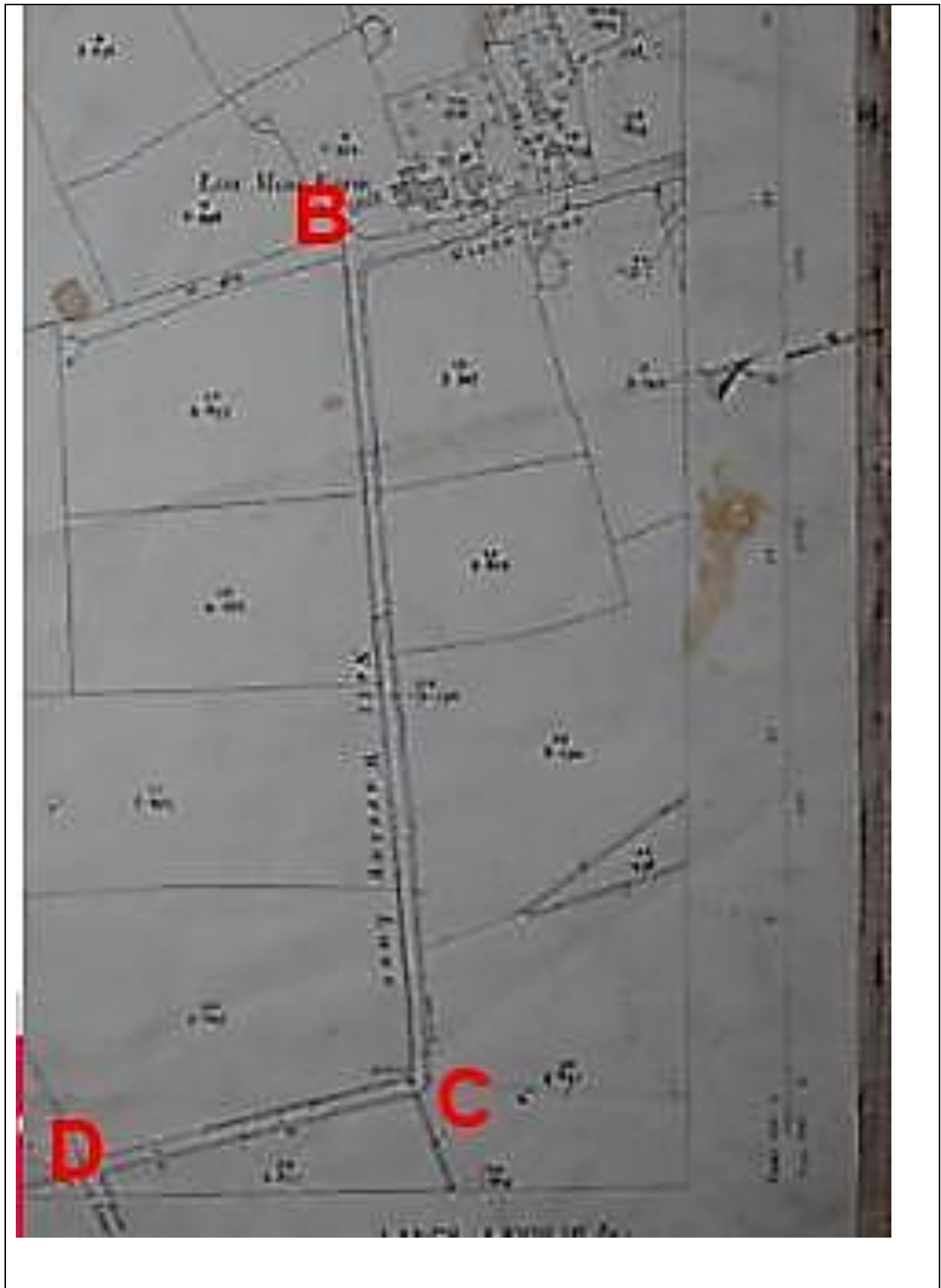
Comments		<p>increase in the use of motorised vehicles and the classification of minor roads was constantly being reviewed by Bartholomew as some routes were improved to cope with increasing traffic whilst others were virtually abandoned and fell into disrepair.</p> <p>Before 1920, few roads other than main roads were tarred but the travelling public had lower expectations of surface conditions than today and it would not be uncommon for an unsealed road, at the time considered suitable for horse drawn vehicles or early motor cars, to be shown.</p> <p>The inclusion of the application route on these maps is evidence that the route A-F existed as a substantial route which appeared to be considered as being a public vehicular route. It is not known why it was shown partly as being an indifferent road in the 1904 and partly as an uncoloured road in 1920 but by 1941 the full length was recorded as a good secondary road suggesting improvements could have been carried out to the surface. The application route F-G did not exist at this time.</p>
<p>Finance Act 1910 Map</p> <p>References for maps deposited in TNAs: 133/5/94 133/5/123 133/5/81</p>	1910	<p>The comprehensive survey carried out for the Finance Act 1910, later repealed, was for the purposes of land valuation not recording public rights of way but can often provide very good evidence. Making a false claim for a deduction was an offence although a deduction did not have to be claimed so although there was a financial incentive a public right of way did not have to be admitted.</p> <p>Maps, valuation books and field books produced under the requirements of the 1910 Finance Act have been examined. The Act required all land in private ownership to be recorded so that it could be valued and the owner taxed on any</p>



		<p>incremental value if the land was subsequently sold. The maps show land divided into parcels on which tax was levied, and accompanying valuation books provide details of the value of each parcel of land, along with the name of the owner and tenant (where applicable).</p> <p>An owner of land could claim a reduction in tax if his land was crossed by a public right of way and this can be found in the relevant valuation book. However, the exact route of the right of way was not recorded in the book or on the accompanying map. Where only one path was shown by the Ordnance Survey through the landholding, it is likely that the path shown is the one referred to, but we cannot be certain. In the case where many paths are shown, it is not possible to know which path or paths the valuation book entry refers to. It should also be noted that if no reduction was claimed this does not necessarily mean that no right of way existed.</p>
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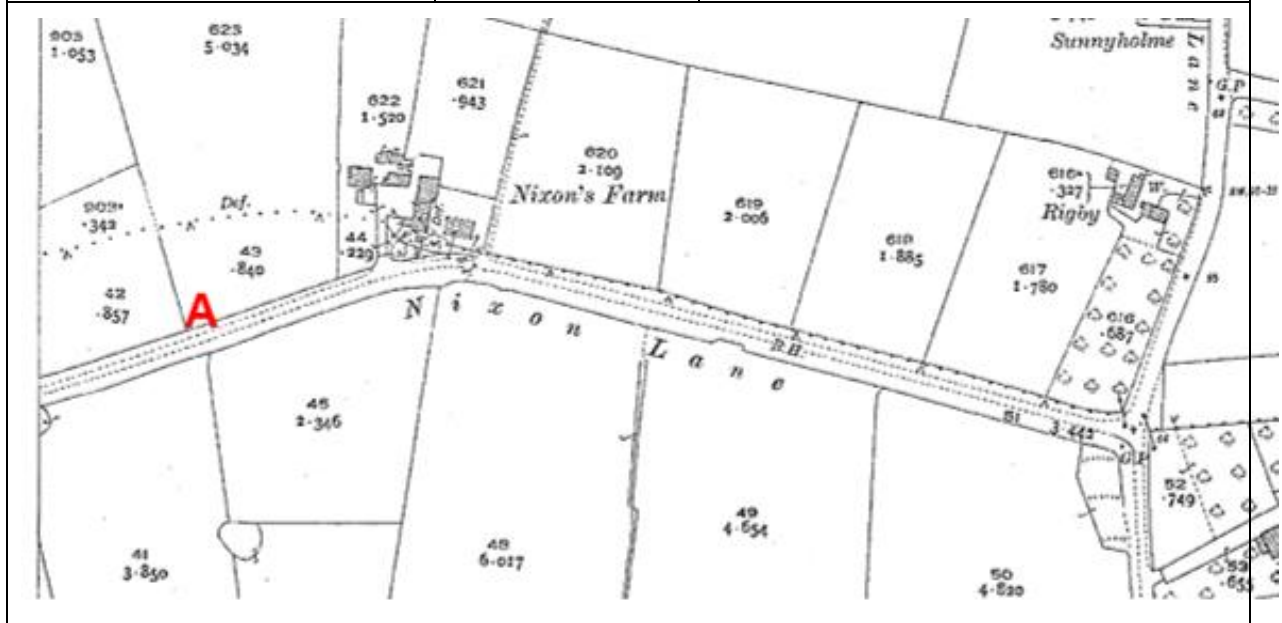


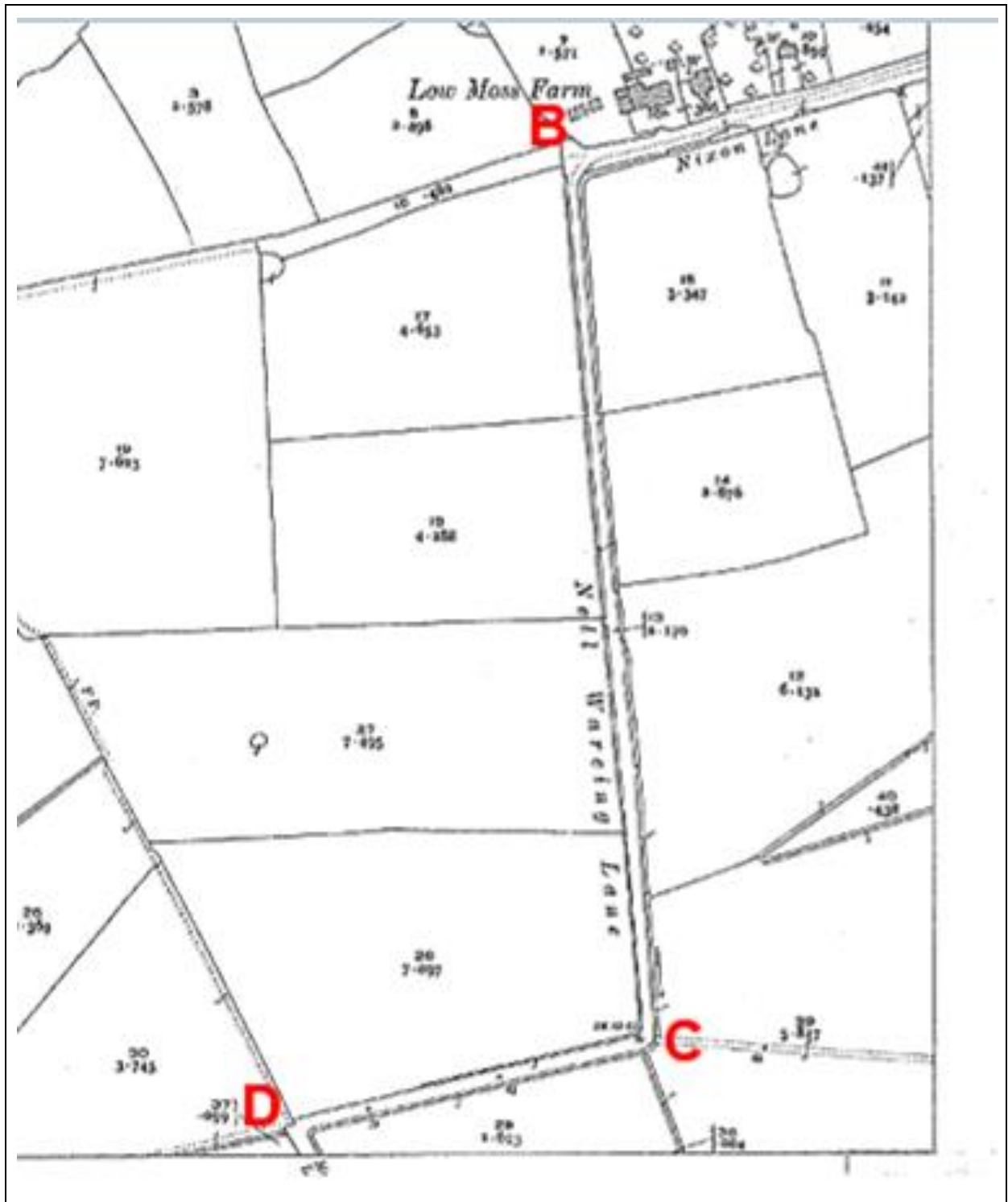


<p>Observations</p>		<p>The Finance Act maps covering the route are incomplete. The application route from point A for a short distance towards point B (to the edge of the map sheet) is shown excluded from the numbered plots as is Nixon Lane to the east of point A.</p> <p>The OS map sheet covering the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



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







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



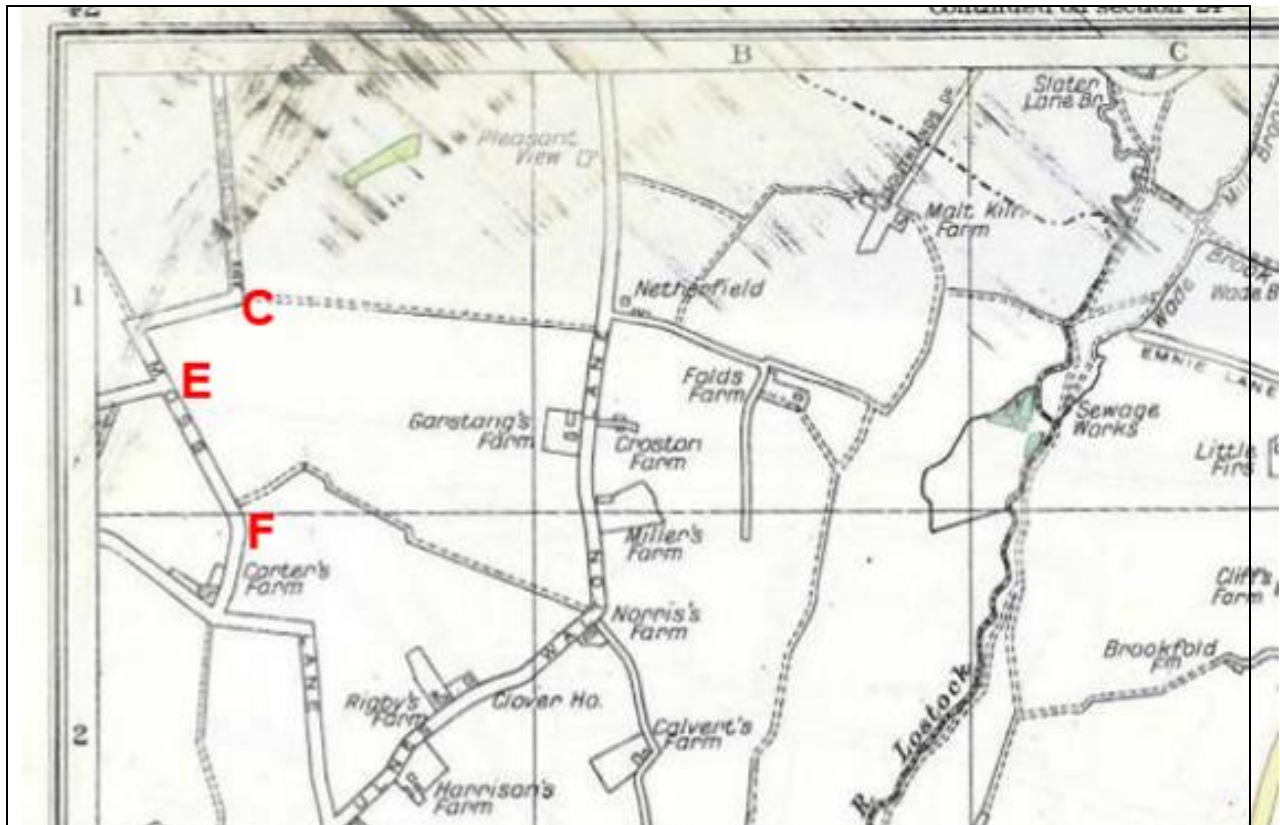
LXVIII.SE revised 1929 published 1931
LXXVI.NE revised 1927 published 1928





Observations		<p>The application route A-F is shown as a bounded route and is named on the map as part of Nixon Lane, Nell Wareing Lane and Moss Lane.</p> <p>The application route between point F-G is not shown.</p>
Investigating Officer's Comments		<p>The application route A-F existed as a bounded through-route in 1927-1928 which appeared to be capable of being used on horseback and by vehicles.</p> <p>The application route from point F to point G did not exist.</p>
Authentic Map Directory of South Lancashire by Geographia	Circa 1934	<p>An independently produced A-Z atlas of Central and South Lancashire published to meet the demand for such a large-scale, detailed street map in the area. The Atlas consisted of a large-scale coloured street plan of South Lancashire and included a complete index to streets which includes every</p>





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



derived from the '1929 Handover Maps'

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

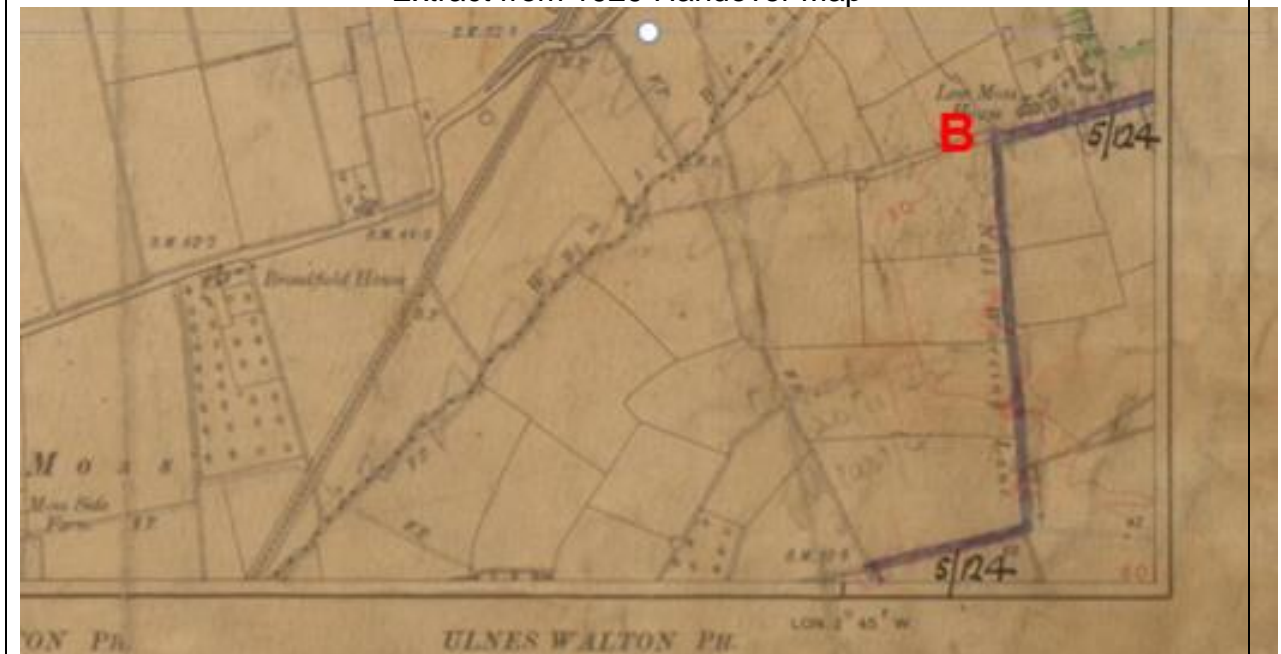
A right of way marked on the map is good evidence but many public highways that existed both before and after the handover are not marked. In addition, the handover maps did not have the benefit of any sort of public consultation or scrutiny which may have picked up mistakes or omissions.

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



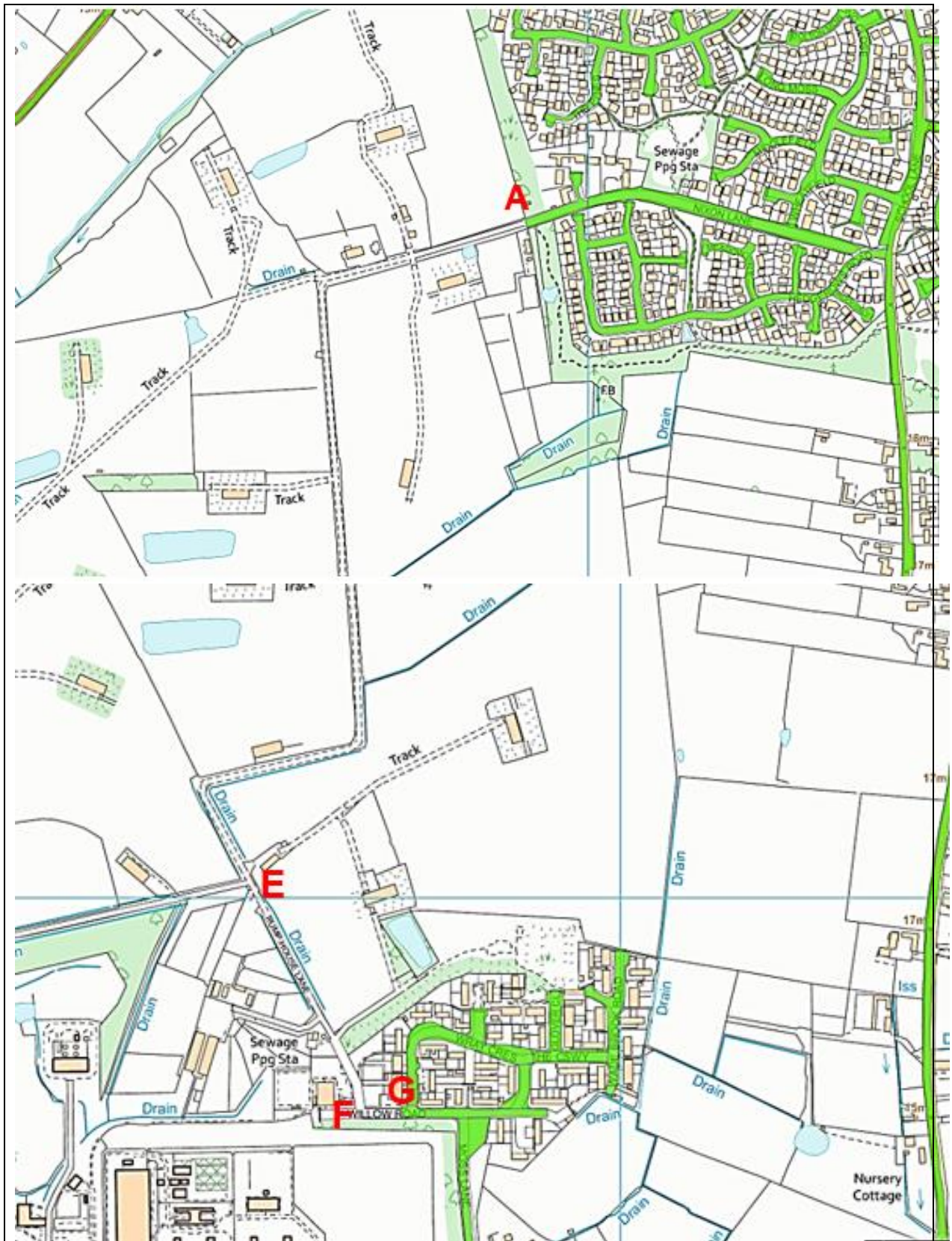


Extract from 1929 Handover Map



Extract from 1929 Handover Map





Extracts from current LCC highway maintenance records

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



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

during the Second World War.





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

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

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



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



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



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

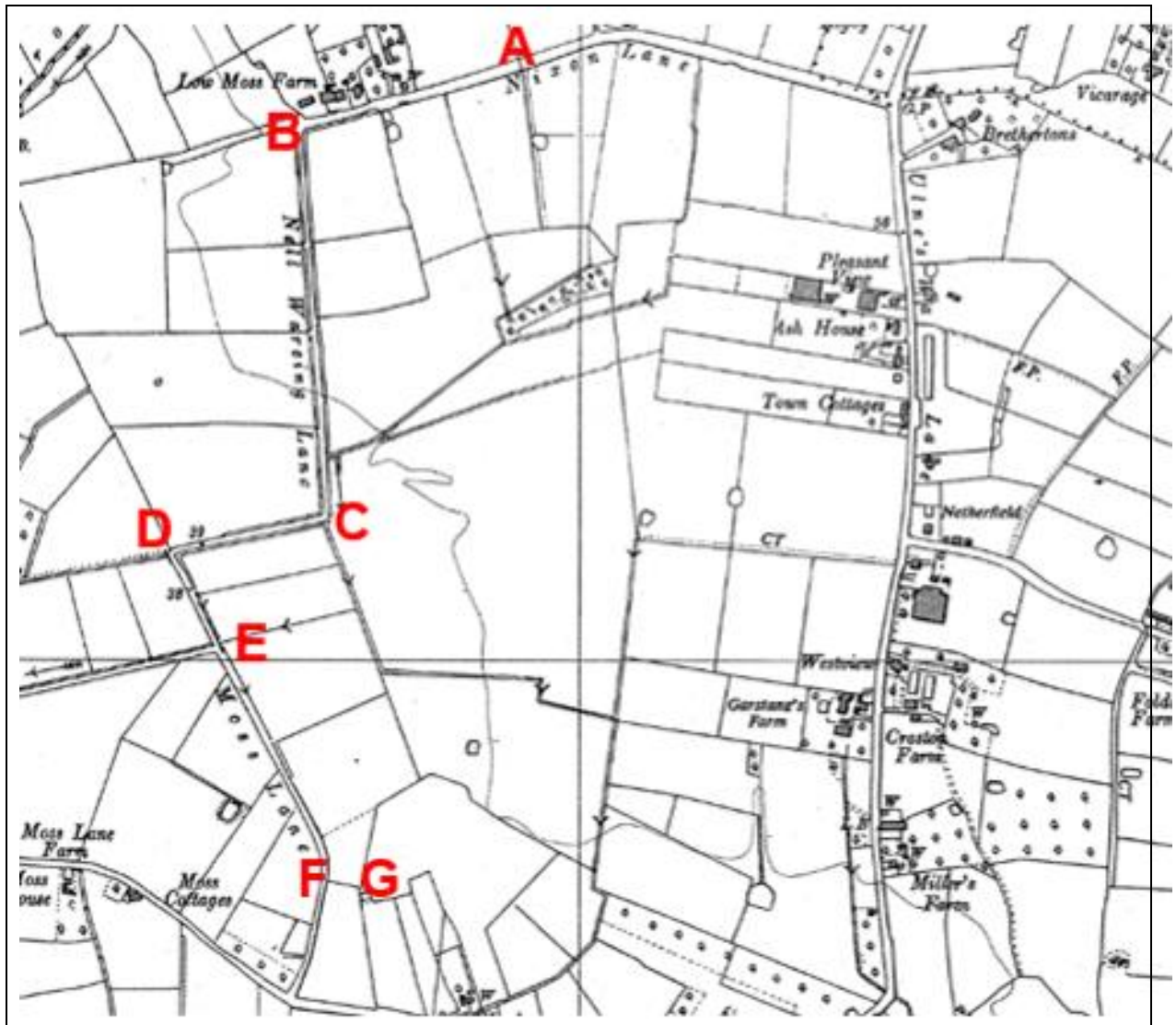


Observations		<p>The Order provides for the temporary stopping up of two 'highways' for a period of five years from when the Order came into operation. The 'highways' to be stopped up were described in the Order Schedule and were said to be coloured red on the deposited plan.</p> <p>The first of the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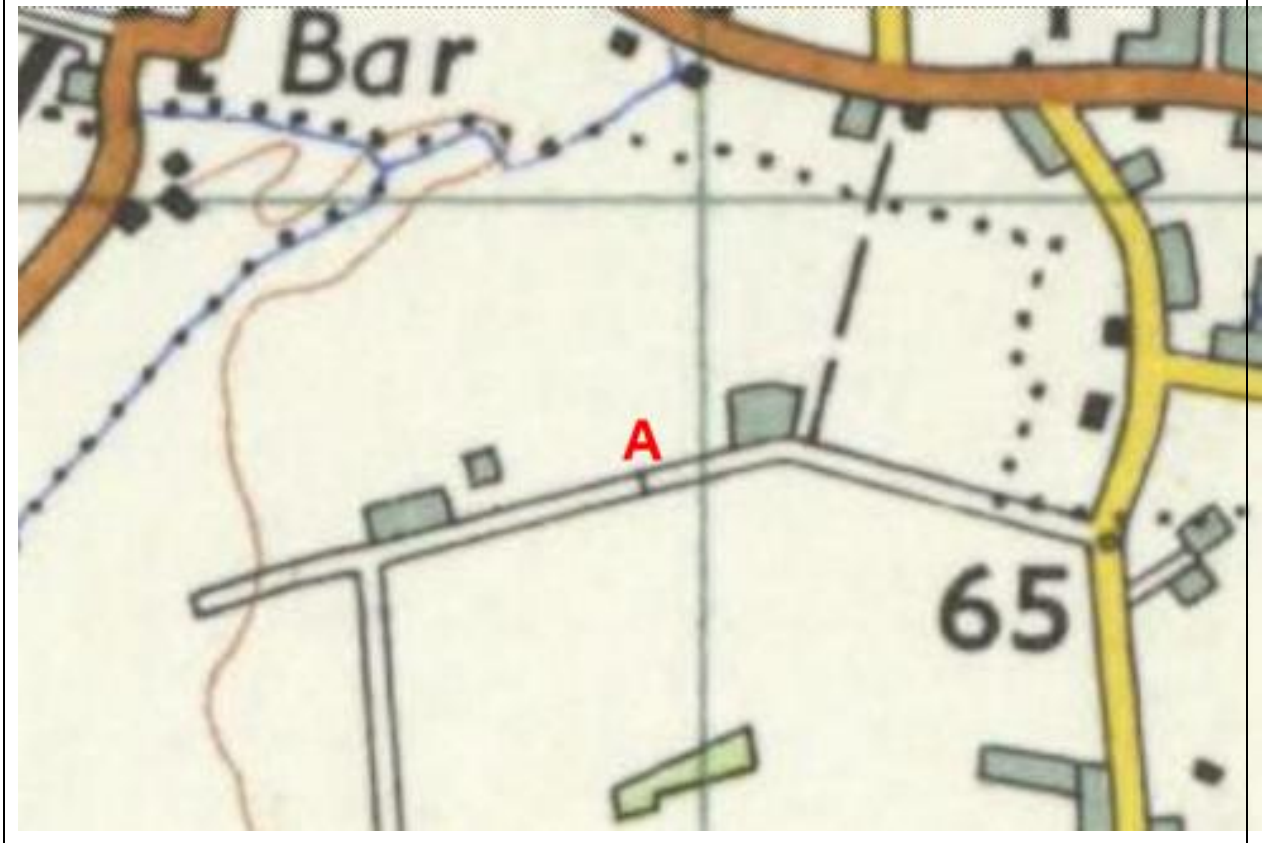
		<p>The Order specified that both routes should be reinstated at the end of the specified period and would be maintainable at public expense. No further information relating to this Order was found.</p>
Investigating Officer's Comments		<p>This Order, made in 1963, suggests that further development of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





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







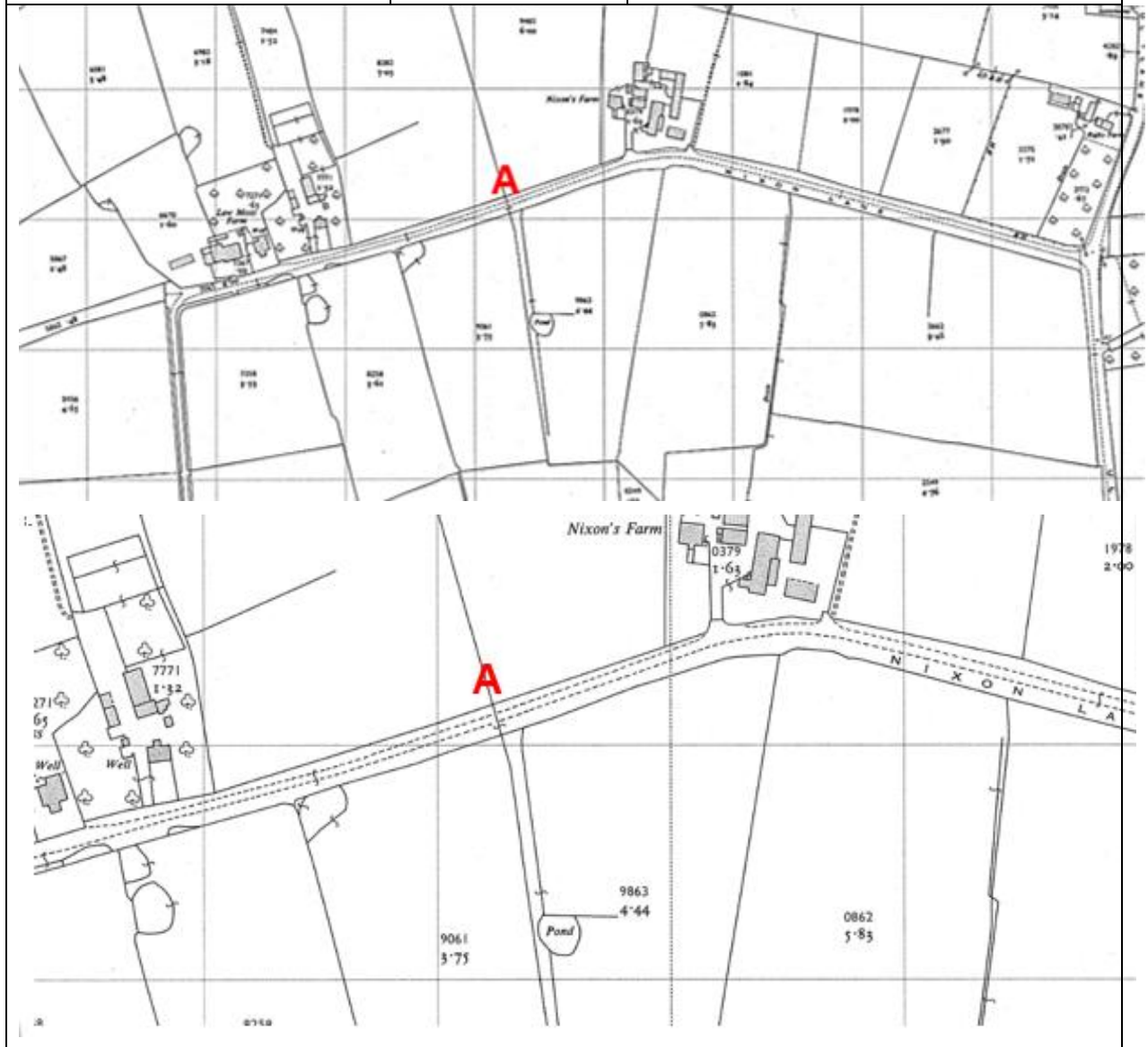
Roads	Ministry of Transport, Motorway	<u>M 1 or A 6 (M)</u>	
	" " " Trunk } Single & Dual	<u>A 6 (T)</u>	
	" " " Class 1 } Carriageway	<u>A 584</u>	Rail
	" " " " 2	<u>B 5269</u>	
	14 ft of Metalling & over (not included above)	<u>TOLL</u>	Wood
	Under 14ft of Metalling, Tarred " "	<u>Gate</u>	Orchar
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

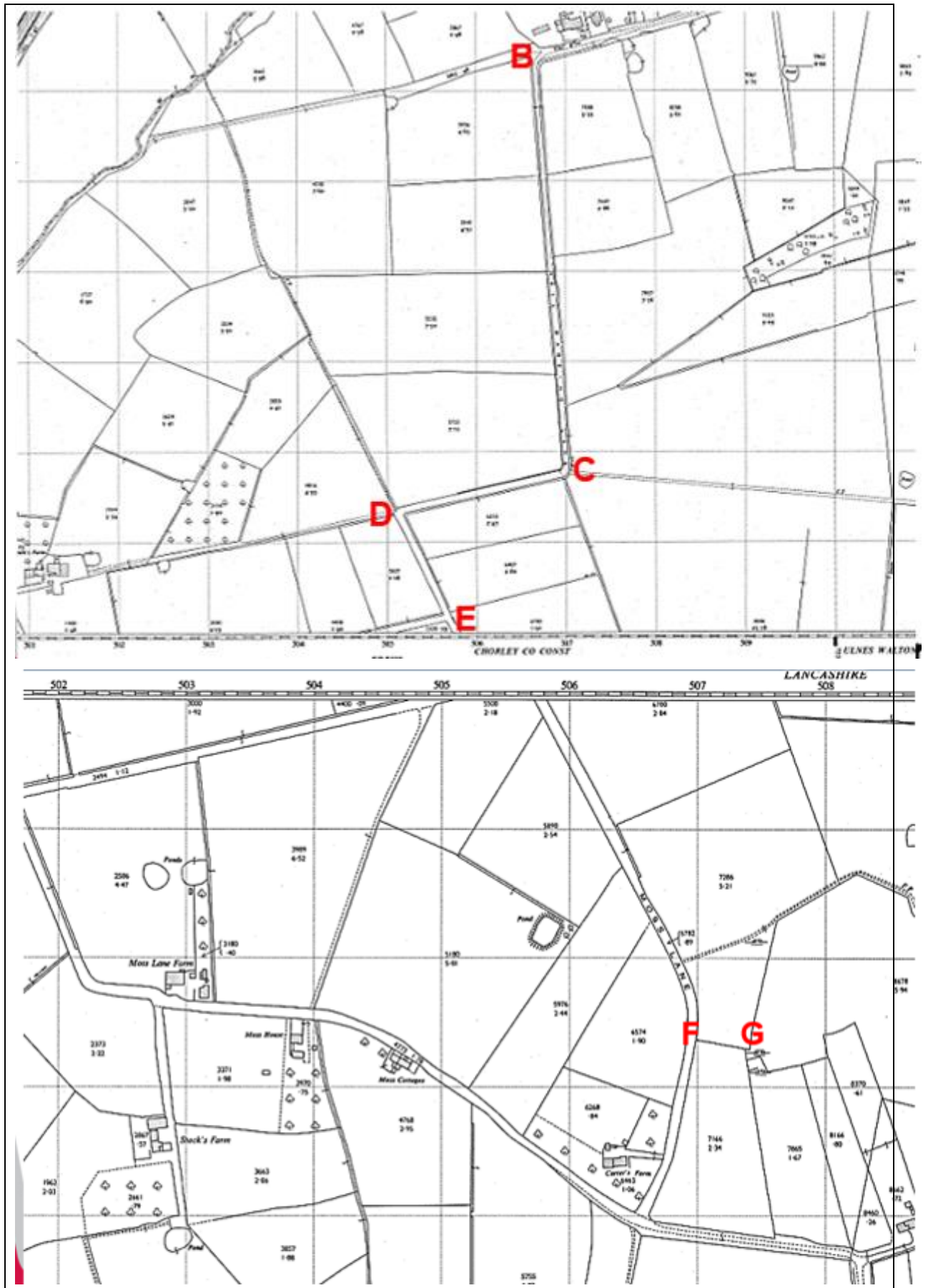
Observations		<p>The earliest map examined post-dating the closure of the route. Whilst the full length of the application route A-E is shown as an untarred or minor road, lines are shown across route at point A and also south of point F on Moss Lane. The buildings evident on the 1940s aerial photograph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





Observations

The map shows the full length of the application route (A-F) as a



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





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

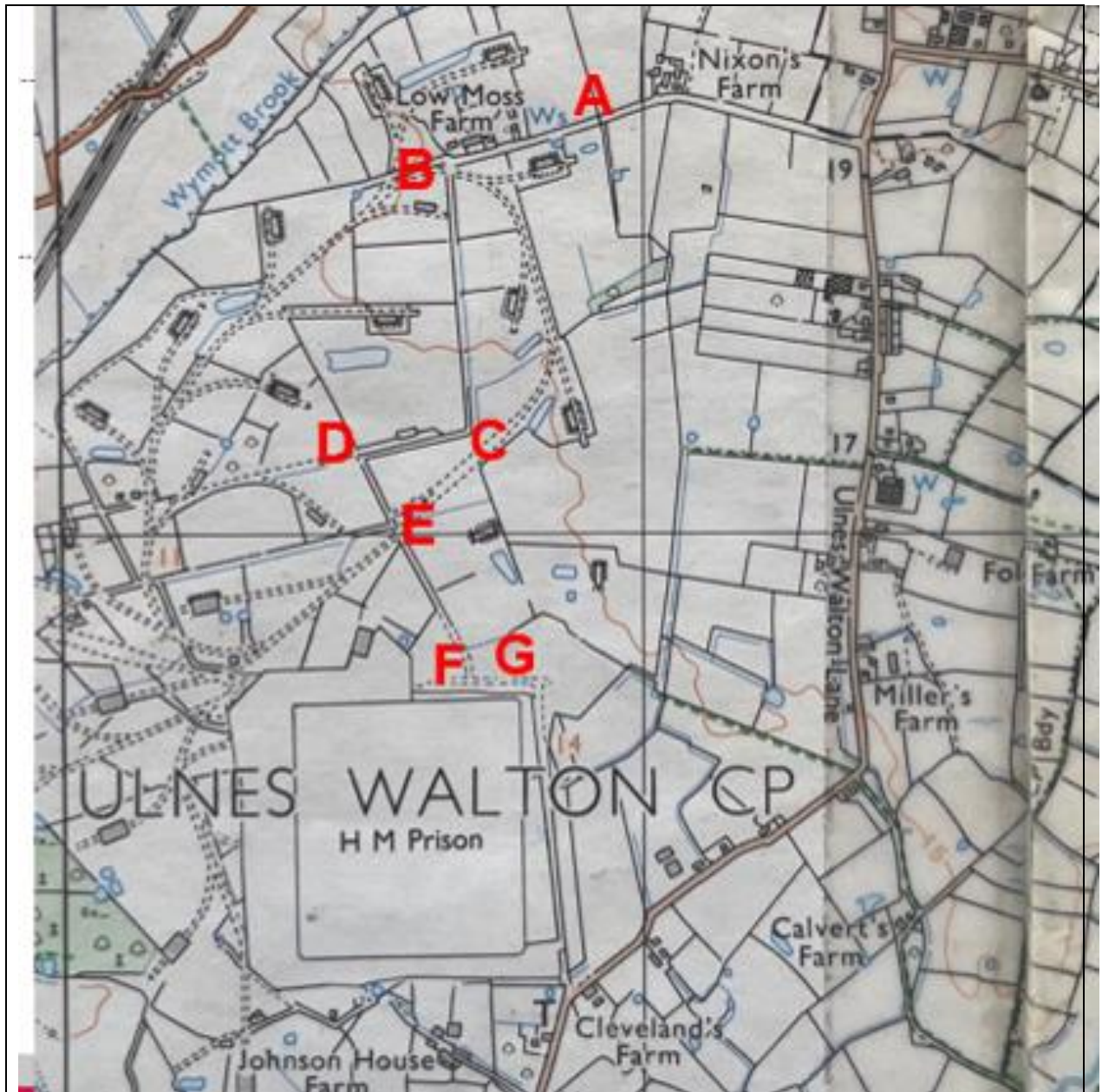


Observations		Wymott Prison was opened in 1979
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		<p>with Garth Prison opening in 1988. This is the earliest map examined that shows the prisons and which shows the full length of the application route A-F and F-G. It is also the first map examined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





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

The 1:25,000 OS map provides



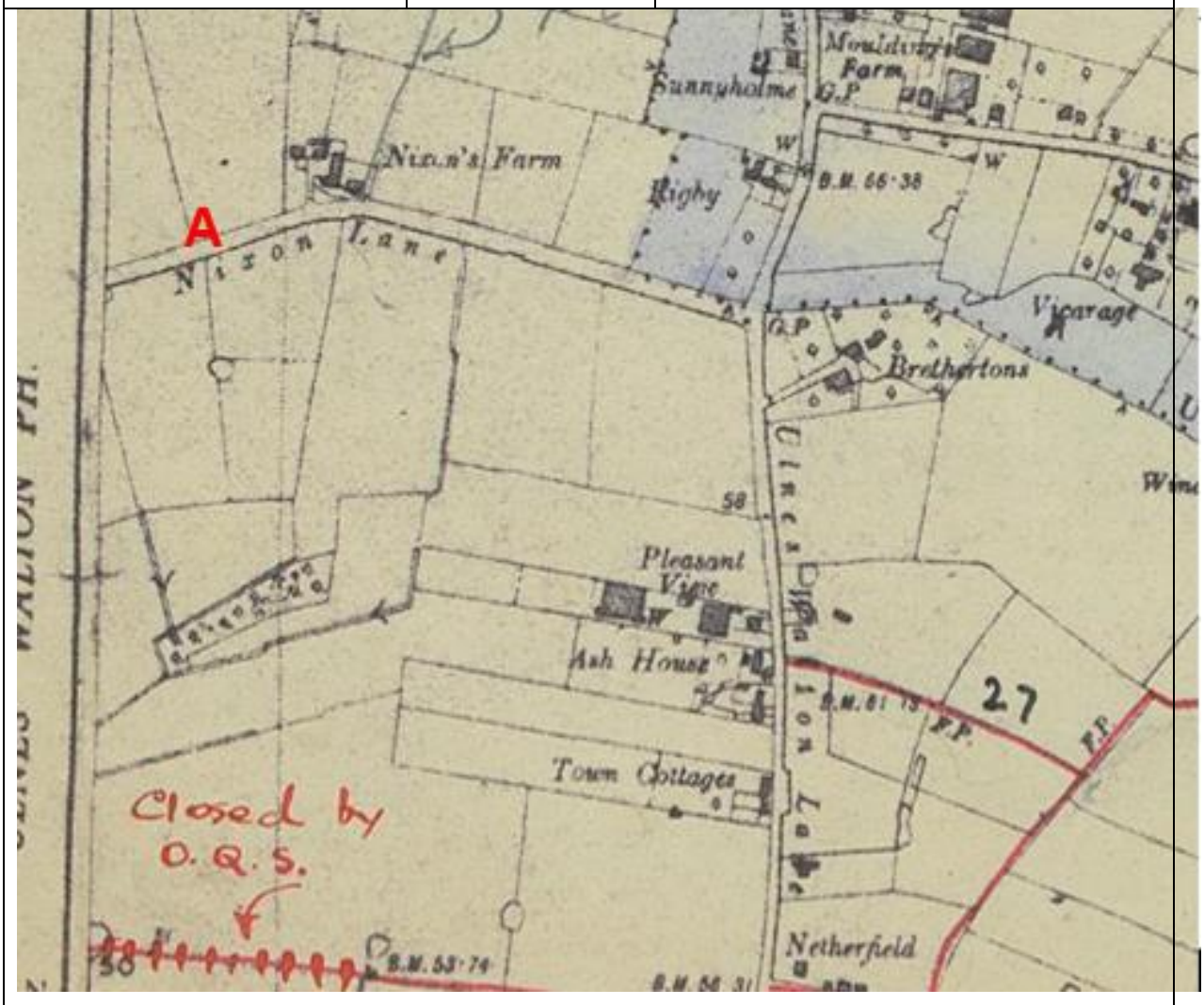
		<p>much more detail than the 1:50,000 map published the same year. It shows the full length of the application route A-F and also F-G which appears to have been constructed to provide access around the prison (which was built over part of the original route of Moss Lane).</p> <p>The map shows the existence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

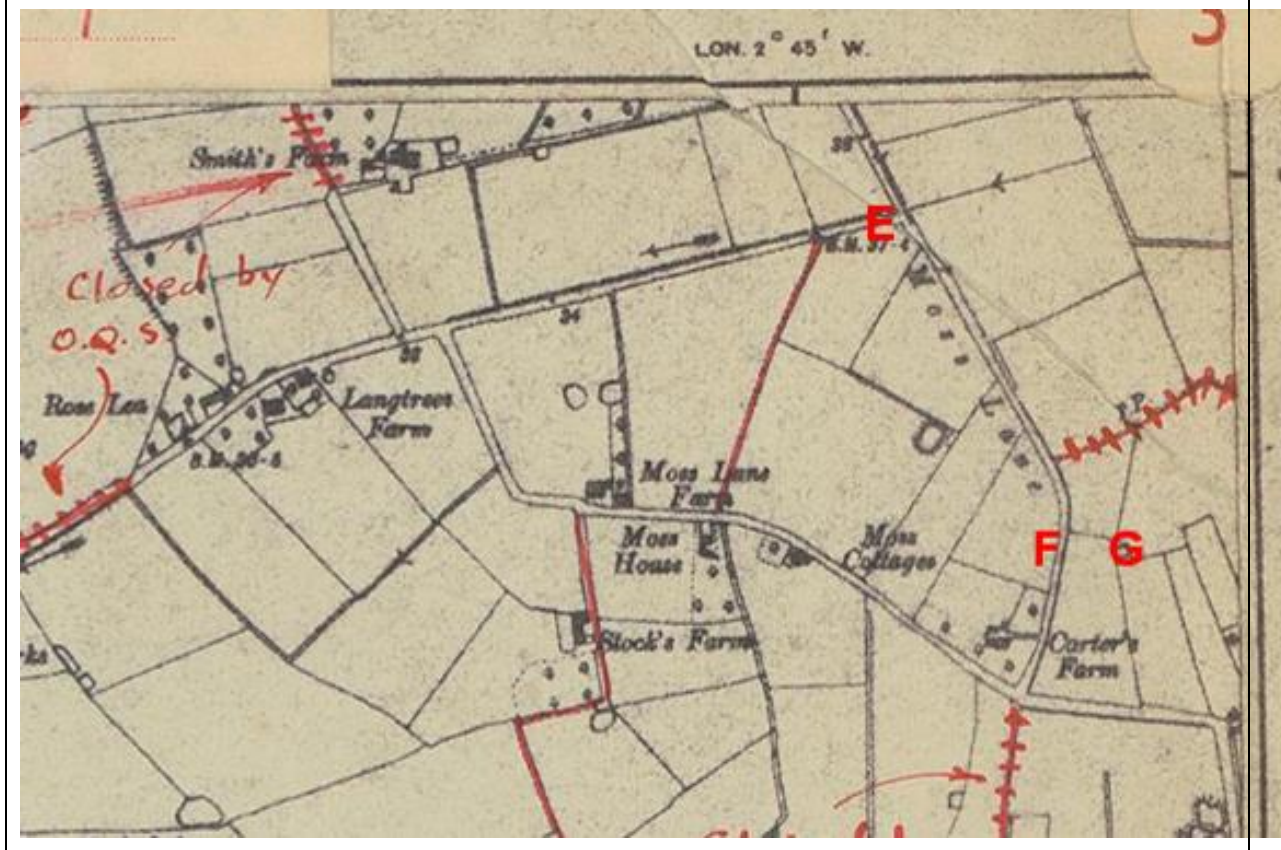
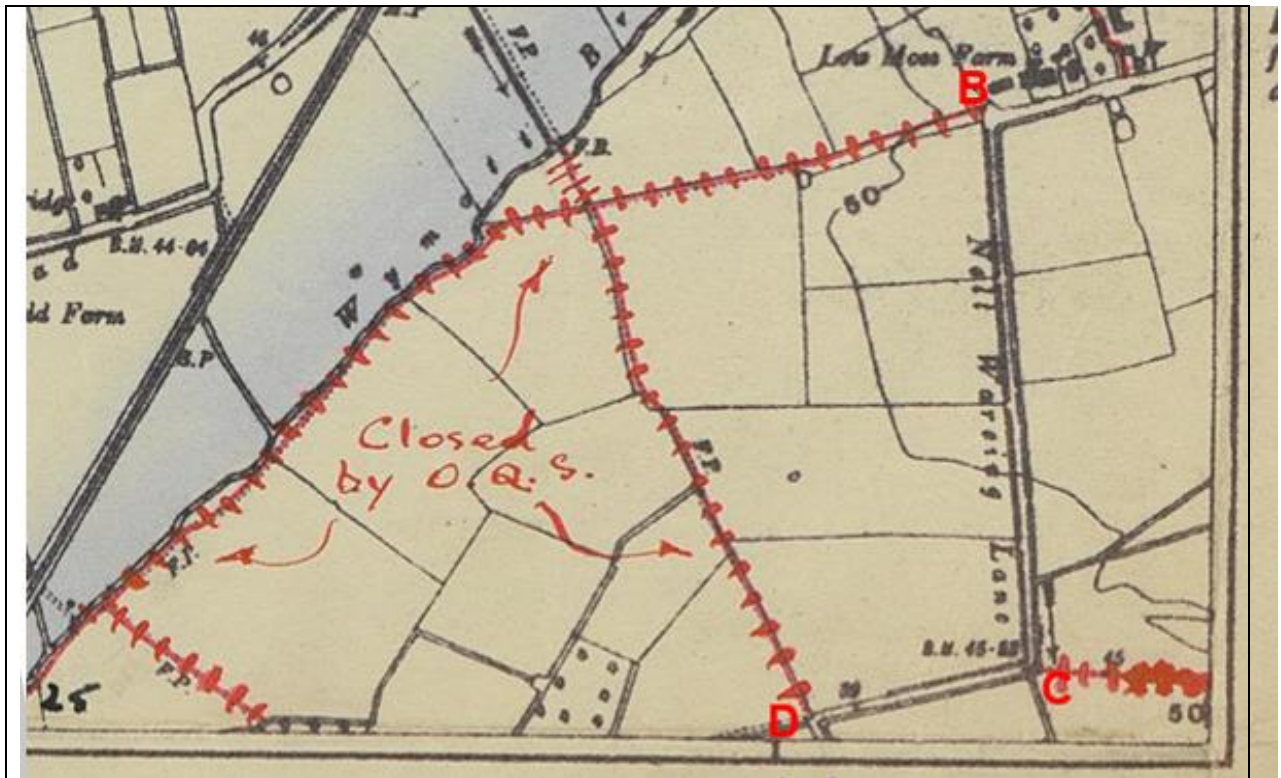


		<p>proposing concessionary agreements to try and secure multi-use rights over the portions of the route covered by existing public rights, and if possible secure new (concessionary) access, the idea being to provide an integrated pedestrian, cycle and bridleway route. The principal landowners where the Worden Estate, HM Prisons (Secretary of State) and SITA although ownership of some of the land crossed by the proposed routes was unknown.</p> <p>Negotiations started in approximately 2004 and continued through to 2012 when the proposal lapsed, and no agreements were completed.</p> <p>Plans of the proposed concessionary routes were obtained and confirm that the whole of the application route was included.</p>
Investigating Officer's Comments		<p>The fact that concessionary bridleway rights were being considered along the application route between 2004 and 2012 suggests that the landowners did not acknowledge the existence of public bridleway (or vehicular) rights at that time.</p>
Definitive Map Records		<p>The National Parks and Access to the Countryside Act 1949 required the County Council to prepare a Definitive Map and Statement of Public Rights of Way.</p> <p>Records were searched in the Lancashire Records Office to find any correspondence concerning the preparation of the Definitive Map in the early 1950s.</p>
Parish Survey Map	1950-1952	<p>The initial survey of public rights of way was carried out by the parish council in those areas formerly comprising a rural district council area and by an urban district or municipal borough council in their respective areas. Following completion of the survey the maps and schedules were submitted to the</p>



County Council. In the case of municipal boroughs and urban districts the map and schedule produced, was used, without alteration, as the Draft Map and Statement. In the case of parish council survey maps, the information contained therein was reproduced by the County Council on maps covering the whole of a rural district council area. Survey cards, often containing considerable detail exist for most parishes but not for unparished areas.





2+3

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

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

BRIEF DESCRIPTION (Field F.P. or otherwise)

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

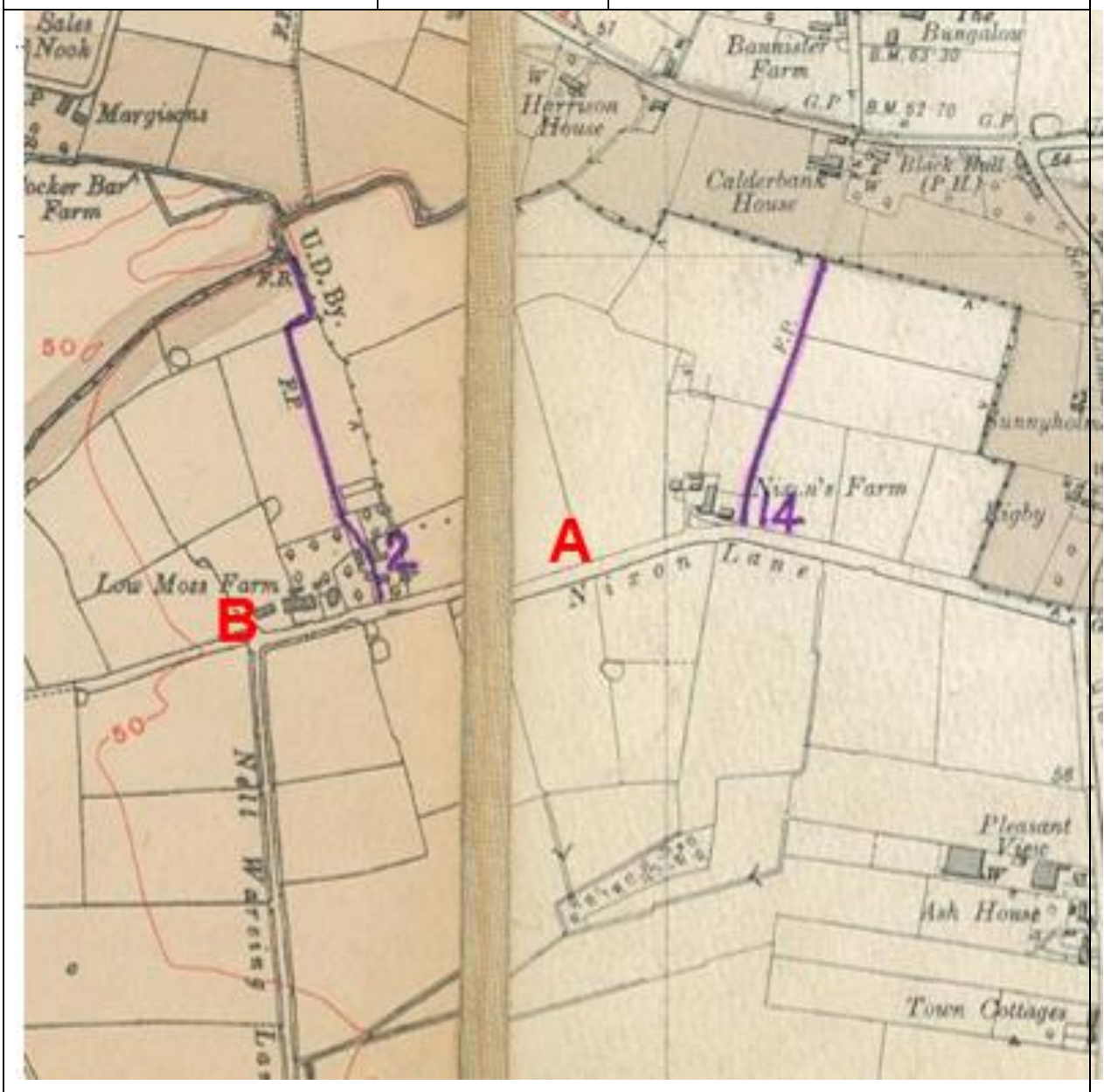
Wymott Brook Dale' Boulder Stone Farm to Nixon Lane.
Path closed from Nixon Lane to point on Wymott Brook
west of Smiths Farm by order of Q. Session. Path continues
southwards past Littlewood sidings to join Ridley Lane.

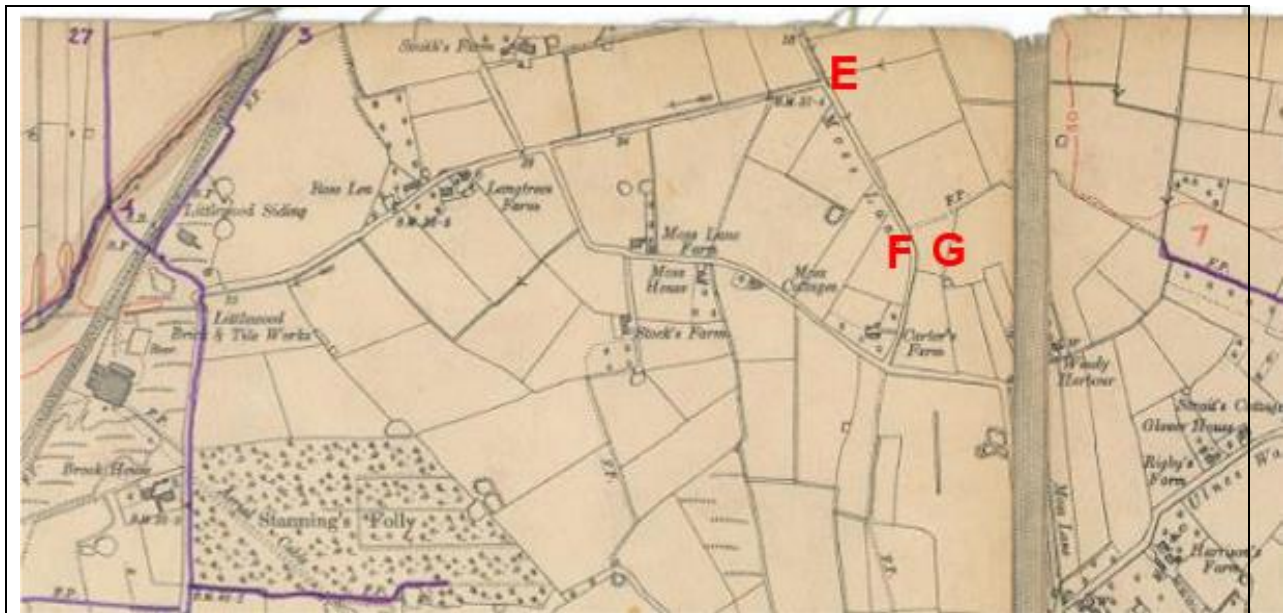
SURVEYED BY :— _____ Name

<p>Observations</p>		<p>No part of the application route was recorded on the parish survey map as a public right of way. However, it is noted that a number of paths were shown connecting to it which were subsequently crossed out with the note 'Closed by O.Q.S', understood to stand for Order of Quarter Sessions. One path, between point A and point B, was not shown crossed out although the parish survey card described it as passing through Boulder Stone Farm to Nixon Lane and having been closed by Order of Quarter Session from Nixon Lane to a point on Wymott Brook west of Smiths Farm.</p>
<p>Draft Map</p>		<p>The parish survey map and cards for Ulnes Walton were handed to Lancashire County Council who then considered the information and prepared the Draft Map and Statement.</p> <p>The Draft Maps were given a "relevant date" (1st January 1953) and notice was published that the Draft Map for Lancashire had been prepared. The Draft Map was placed on deposit for a minimum period of 4 months on 1st January 1955 for the public, including landowners, to inspect and report any omissions or other mistakes. Hearings were held</p>



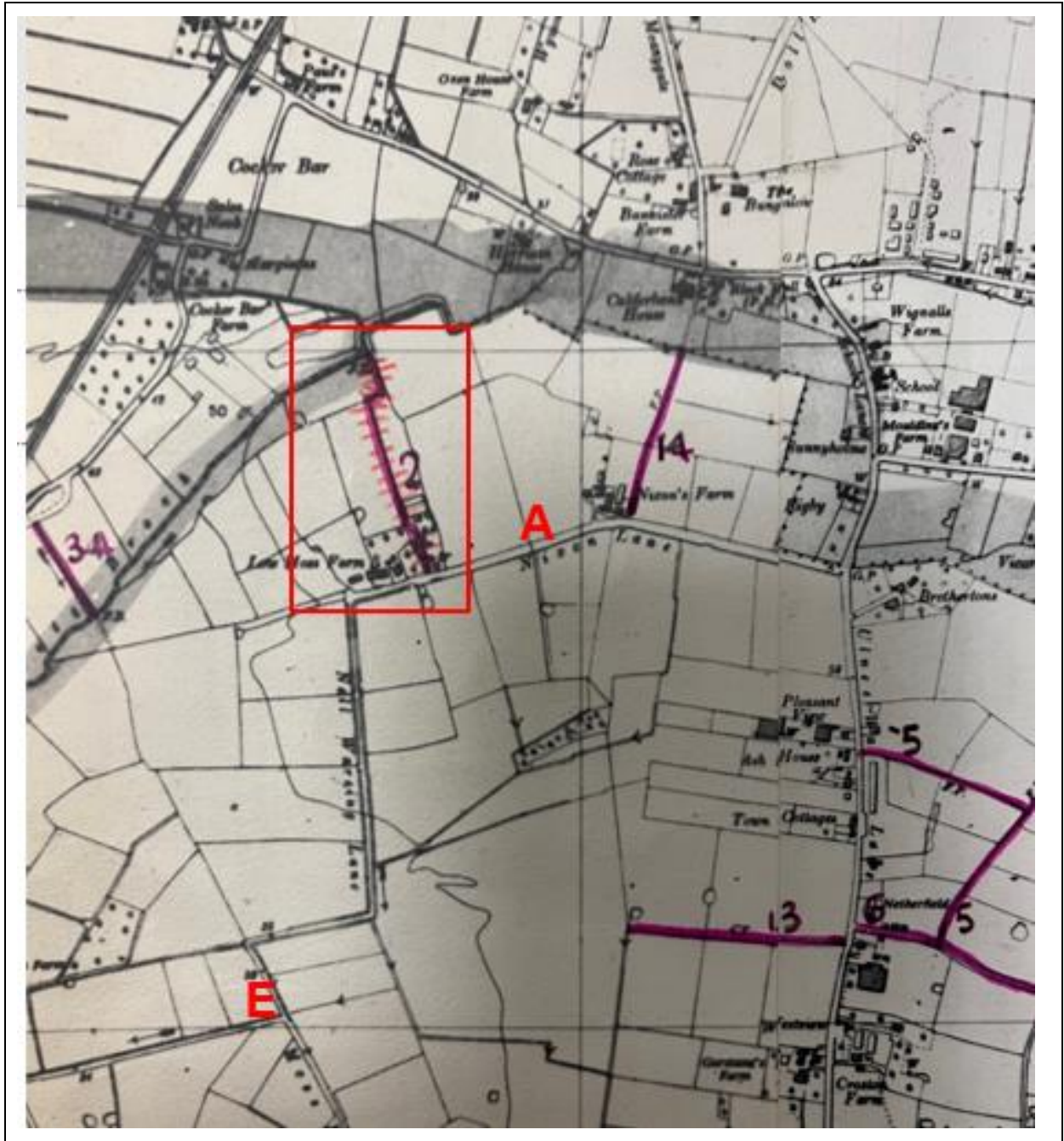
into these objections, and recommendations made to accept or reject them on the evidence presented.

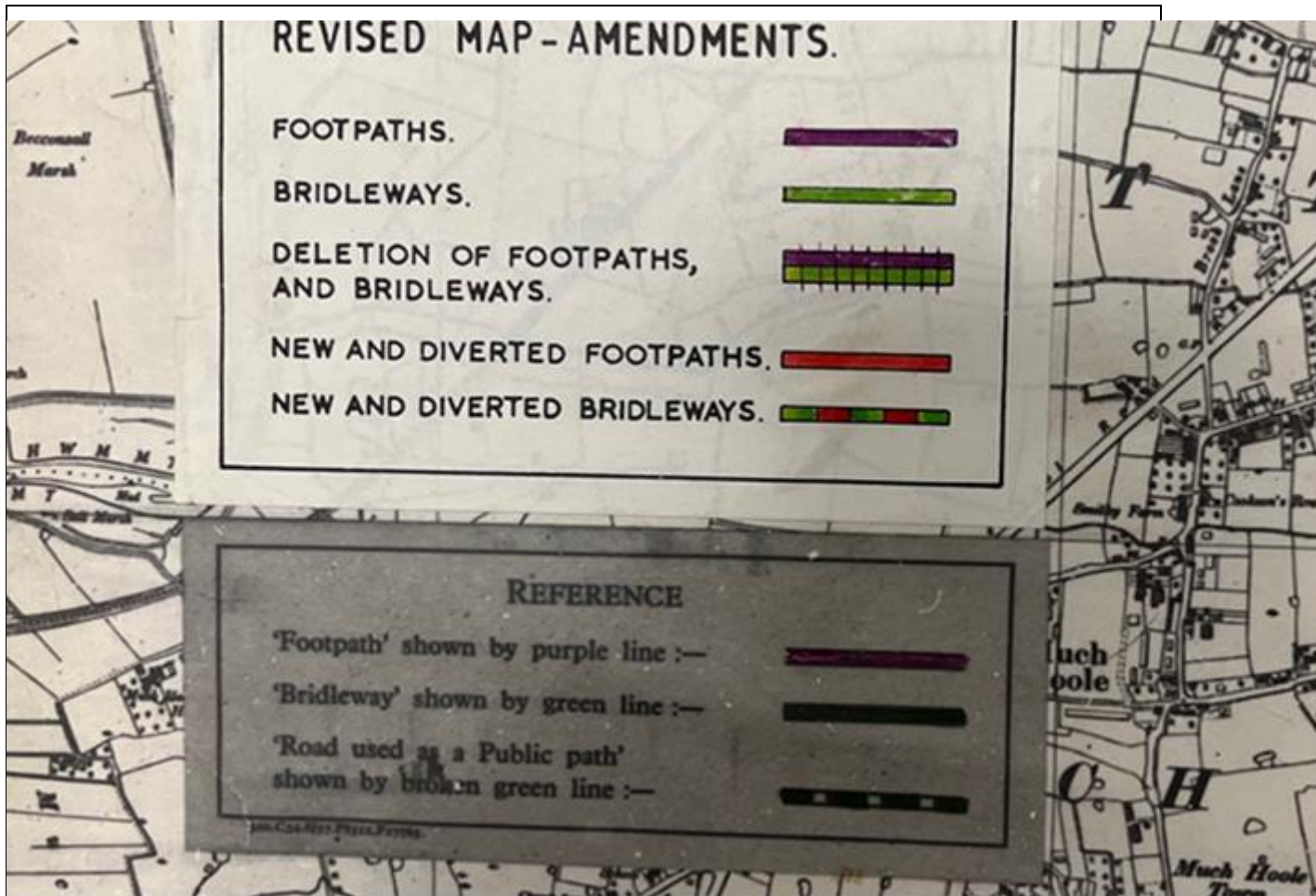




Observations		The application route is not recorded on the Draft Map and there were no objections or representations to the fact that it was not shown. A footpath (numbered Footpath 2) was shown meeting the application route between point A and point B.
Provisional Map		Once all representations relating to the publication of the Draft Map were resolved, the amended Draft Map became the Provisional Map which was published in 1960, and was available for 28 days for inspection. At this stage, only landowners, lessees and tenants could apply for amendments to the map, but the public could not. Objections at this stage had to be made to the Crown Court.
Observations		The Provisional Map sheet for the area crossed by the application route could not be found.
The First Definitive Map and Statement		The Provisional Map, as amended, was published as the Definitive Map in 1962.







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



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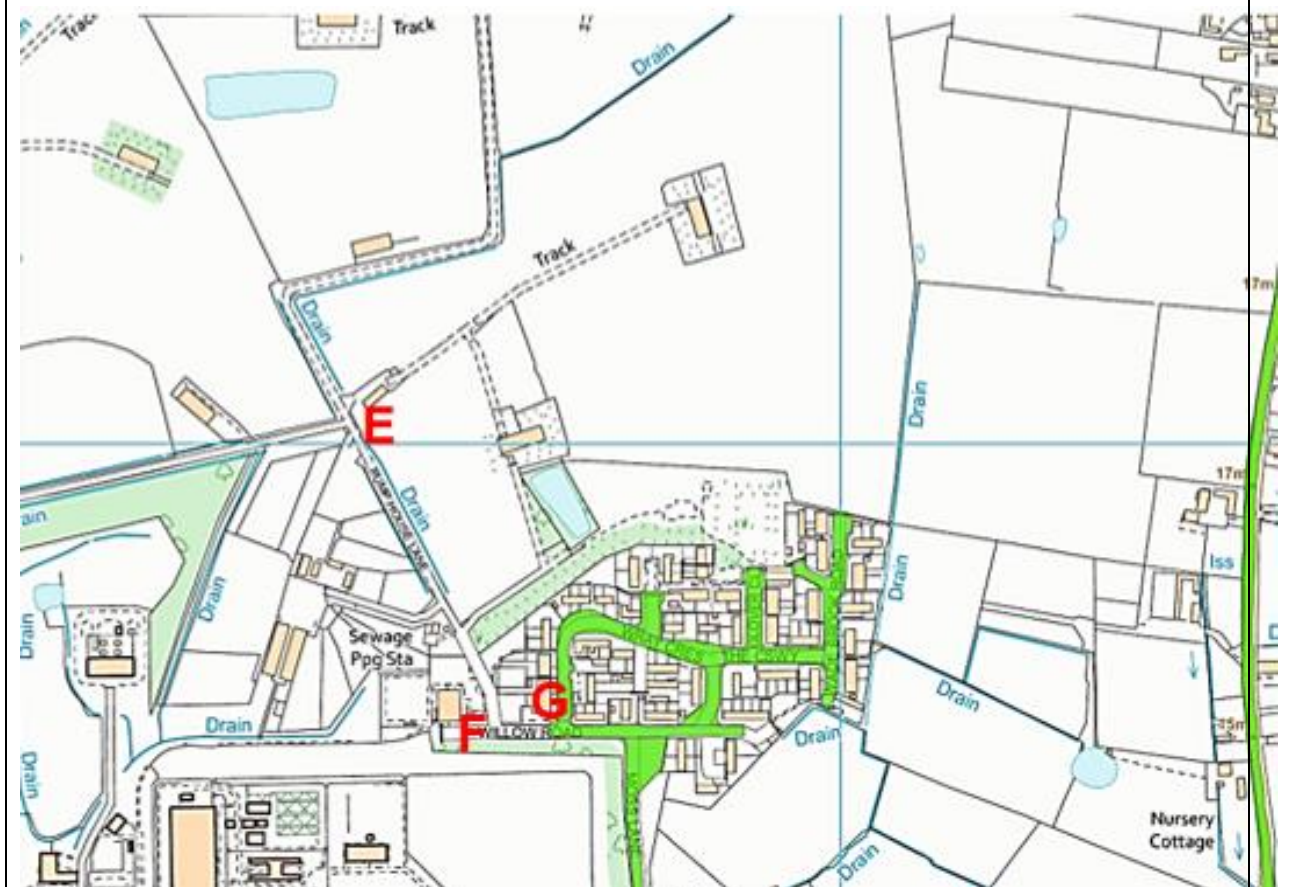


<p>Observations</p>		<p>The application route is not recorded on the Definitive Map and Statement (First Review).</p>
<p>Investigating Officer's Comments</p>		<p>The application route was not considered to be a public path which should be recorded on the Definitive Map and Statement from the 1950s through the relevant period.</p>
<p>Highway Adoption Records including maps derived from the '1929 Handover Maps'</p>	<p>1929 to present day</p>	<p>In 1929 the responsibility for district highways passed from rural district councils, and later from urban district and borough councils, to the</p>



		<p>County Council. For the purposes of the 1929 transfer, public highway 'handover' maps were drawn up to identify all of the rural district maintained highways within the county. These were based on existing Ordnance Survey maps and edited to mark those routes that were public. However, they suffered from several flaws – most particularly, if a right of way was not surfaced it was often not recorded.</p> <p>A right of way marked on the map is good evidence but many public highways that existed both before and after the handover are not marked. In addition, the handover maps did not have the benefit of any sort of public consultation or scrutiny which may have picked up mistakes or omissions.</p> <p>The County Council is now required to maintain, under section 31 of the Highways Act 1980, an up-to-date List of Streets showing which 'streets' are maintained at the public's expense. Whether a road is maintainable at public expense or not does not determine whether it is a highway or not.</p>
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Observations

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



Investigating Officer's Comments		The fact that the route is not (now) recorded as a publicly maintainable highway does not mean that it does not carry public vehicular rights of access.
Highway Stopping Up Orders	1835 - 2014	Details of diversion and stopping up orders made by the Justices of the Peace and later by the Magistrates Court are held at the County Records Office from 1835 through to the 1960s. Further records held at the County Records Office contain highway orders made by Districts and the County Council since that date.
Observations		No legal orders relating to the creation, diversion or extinguishment of public rights have been found other than those already detailed above.
Investigating Officer's Comments		Between point A and point F highway rights were stopped up temporarily in 1942-1944 under the emergency powers detailed earlier in this report and were subsequently stopped up permanently in 1947. No other legal orders relating to subsequent creation, diversion or extinguishment of any new public rights along the application route have been found.
Statutory deposit and declaration made under section 31(6) Highways Act 1980		The owner of land may at any time deposit with the County Council a map and statement indicating what (if any) ways over the land he admits to having been dedicated as highways. A statutory declaration may then be made by that landowner or by his successors in title within 20 years from the date of the deposit (or within 20 years from the date on which any previous declaration was last lodged) affording protection to a landowner against a claim being made for a public right of way on the basis of future use (always provided that there is no other evidence of an



		intention to dedicate a public right of way). Depositing a map, statement and declaration does not take away any rights which have already been established through past use. However, depositing the documents will immediately fix a point at which any unacknowledged rights are brought into question. The onus will then be on anyone claiming that a right of way exists to demonstrate that it has already been established. Under deemed statutory dedication the 20 year period would thus be counted back from the date of the declaration (or from any earlier act that effectively brought the status of the route into question).
Observations		No Highways Act 1980 Section 31(6) deposits have been lodged with the County Council for the area over which the application route runs.
Investigating Officer's Comments		There is no indication by the landowners under this provision of non-intention to dedicate public rights of way over this land.

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

Summary

The application route A-F

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

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

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



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

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

The application route F-G

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

Head of Service – Legal and Democratic Services Observations

Landownership

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

Information from the Applicant

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

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

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

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



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

Information from Others

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

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

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

Information from the Landowner

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



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1017/57

STATUTORY RULES AND ORDERS

1947 No. 2520

HIGHWAY, ENGLAND

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

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

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

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

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

8 & 9
Geo. 6.
c. 43.

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

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

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

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

52 & 53
Vict. c. 63.

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

Given under the Official Seal of the Minister of Transport this
Kentley 8/11/47 day of *November* 1947.

G. Midman
An Under Secretary of the
Ministry of Transport.

THE SCHEDULE

HIGHWAYS TO BE STOPPED UP

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

X1905.

RB



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

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

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

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

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

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

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

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

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

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C.H.

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Assessment of the Evidence

The Law - See Annex 'A'

Conclusion

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

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

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

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

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

Risk management

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

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

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

Reason for inclusion in Part II, if appropriate



N/A

