

Regulatory Committee

Meeting to be held on 08 March 2023

Part I

Electoral Division affected:
Leyland South, Euxton,
Buckshaw and Astley

Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Upgrading to Bridleway part of Altcar Lane, Leyland and Tithe Barn Lane, Euxton

(Annex 'A' refers)

Contact for further information quoting reference number 804-632:

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Executive Summary

Application for 7-1-FP45 & part of 9-14-FP3 (Altcar Lane) and 9-14-FP4 (Tithe Barn Lane) to be upgraded to Bridleway.

Recommendation

That the application for 7-1-FP45 & part of 9-14-FP3 (Altcar Lane) and 9-14-FP4 (Tithe Barn Lane) to be upgraded to Bridleway be not accepted.

Background

An application under Schedule 14 of the Wildlife and Countryside Act 1981 has been received to upgrade to Bridleways on the Definitive Map and Statement of Public Rights of Way 7-1-FP45 & part of 9-14-FP3 (Altcar Lane) and 9-14-FP4 (Tithe Barn Lane) shown between points A-I on the Committee plan.

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 for upgrading 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 (as explained in Planning Inspectorate’s Advice Note No. 7) makes it clear that considerations such as suitability, the security of properties and the wishes of adjacent landowners cannot be considered. The Planning Inspectorate’s website also gives guidance about the interpretation of evidence.

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

Consultations

South Ribble Borough Council

South Ribble Borough Council provided no response to consultation.

Chorley Borough Council

Chorley Borough Council provided no response to consultation.

Euxton Parish Council

Euxton 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	5289 2042	Junction with Altcar Lane (U5820) and 7-1-FP19
B	5294 2041	Junction with 7-1-FP20
D	5330 2046	District boundary and junction of 7-1-FP45 and 9-14-FP3
E	5345 2049	Position of line across route indicating existence of a gate on some maps examined (as detailed later in the report)
F	5353 2053	Junction of 9-14-FP3 (Altcar Lane) and 9-14-FP4 (Tithe Barn Lane) west of Altcar Farm
G	5356 2042	Position of line across route indicating existence of a gate on some maps examined (as detailed later in the report)
H	5364 2025	90 degree bend in route and position of line across route indicating existence of a gate on some OS maps examined (as detailed later in the report)
I	5367 2019	Junction with Tithe Barn Lane (U843)

Description of Route

A site inspection was carried out in June 2019 and February 2021.

The application route is currently recorded as a public footpath throughout its full length crossing the district boundary between South Ribble (Leyland) and Chorley (Euxton) at point D on the Committee plan. It forms part of a longer route which starts on Leyland Lane and extends east along that part of Altcar Lane recorded as a publicly maintainable highway (U5820) to point A on the Committee plan. It then continues east along a tarmac road to Altcar Farm via points A-B-C-D-E-F on the Committee plan. From point F it is known as Tithe Barn Lane and the application route continues in a general southerly direction from the farm along a tarmac road through to point I from where it continues as Tithe Barn Lane (U843) which is recorded as a publicly maintainable road south to the junction with Runshaw Lane.

At point A there is no discernible difference in the route of Altcar Lane between that section west of point A recorded as a publicly maintainable vehicular highway on the List of Streets and that section A-F recorded as a public footpath. The application route continues from point A as a tarmac road, reducing in width slightly at point B as

it passes Snub Snape Farm but then widening again to a tarmac roadway approximately 4 metres wide.

7-1-FP19 meets the application route at point A and 7-1-FP20 meets the route at point B.

From point B the route continues as a tarmac road bounded on either side by hedges and fencing with access to adjacent fields and passing places for vehicles. A sign located just beyond point B indicates that the route is a private road for vehicles with access to Altcar Farm and that it is also a public footpath.

The route passes through points C, D and E which are all unmarked points referred to when examining the map and documentary evidence later in the report.

At point F the route is joined by 9-14-FP3 which runs across fields north east of Altcar Farm. On site it was noted that the wooden stile providing access from the field onto the application route was located approximately 10 metres west of the correct point at which it should have been positioned.

At point F the application route turns through 90 degrees to continue south as Tithe Barn Lane along a tarmacked road alongside which large farm buildings used to house poultry have been built.

Between point F and point G access to the application route adjacent to the poultry buildings has been prevented by fencing and gates positioned across it and a fenced strip of grass verge has been made available with stiles at either end to channel walkers into using the grass verge for approximately 50 metres alongside of the tarmac section of route between these two points with two locked metal gates across the full width of the tarmac preventing access and the remains of an older metal gate and stile (no longer in use) close to point G.


Continuing along the tarmac lane away from the farm the route turns through two 90-degree bends at point H where a new entrance to Altcar Farm leaves the route. From point H the route then continues for a further 70 metres to point I – an unmarked point where Tithe Barn Lane becomes recorded as an unclassified vehicular highway on the List of Streets (U843). There is no discernible difference on site between the route recorded as footpath (the application route) and the section of U843.

The total length of the route A-I is 1060 metres.

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

		<p>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>
		
<p>Observations</p>		<p>The application route is not shown. Leyland Lane is shown but Altcar lane which leads off it is not shown. Tithe Barn Lane extending north towards point I is shown but the application route itself is not shown.</p>
<p>Investigating Officer's Comments</p>		<p>The application route did not exist or if it did exist it was not considered to be a significant public vehicular route in 1786. The fact that part of Tithe Barn Lane is shown leading north towards point I is shown suggests that the route – or part of it – may have existed in 1786 but that if it did exist it may have been that Yates did not consider the route to be a public highway or that it was unenclosed or that the hedges/fences/walls were in disrepair or possibly that this section was not surveyed, as surveys were expensive.</p>
<p>Greenwood's Map of Lancashire</p>	<p>1818</p>	<p>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>

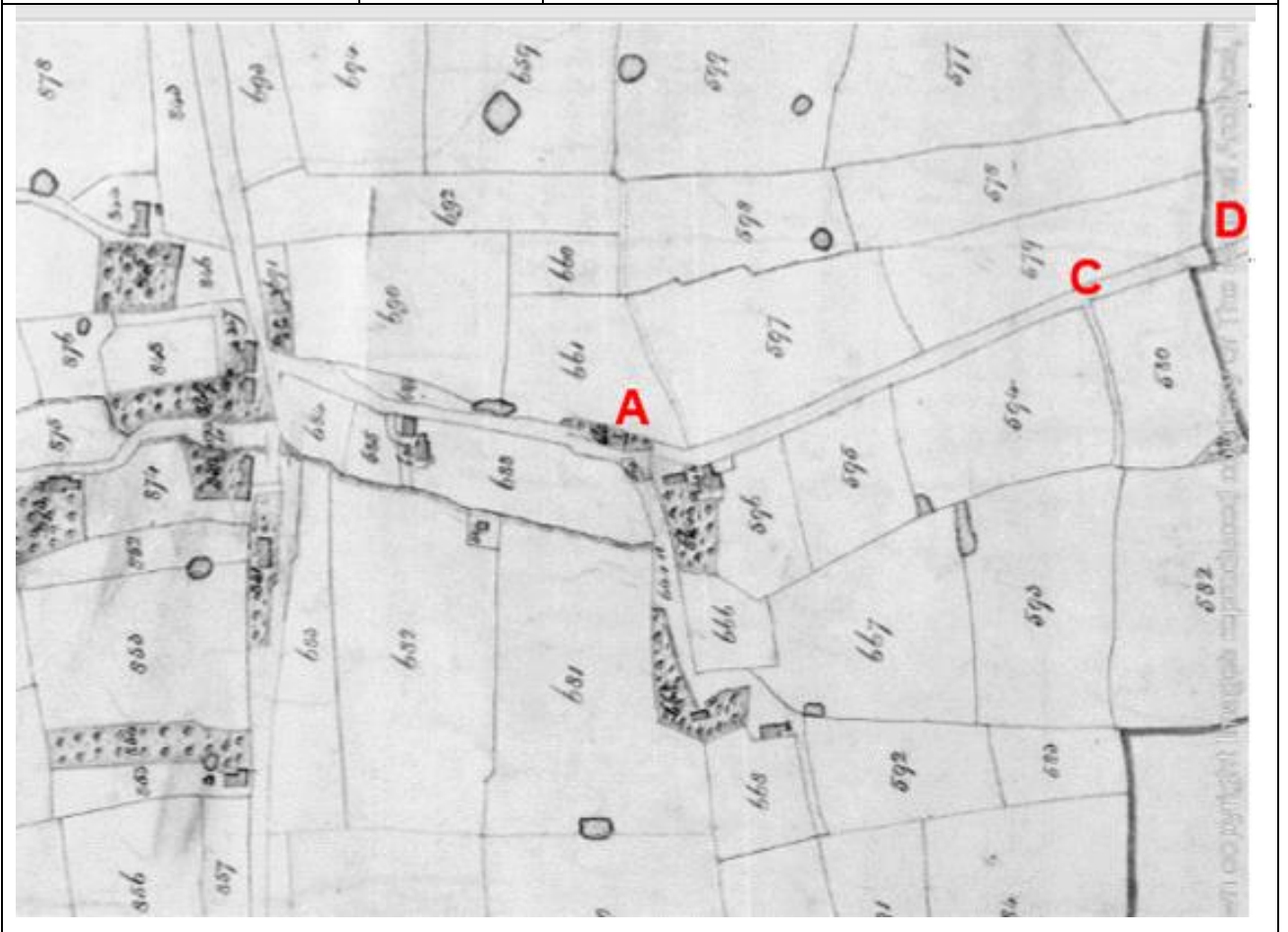


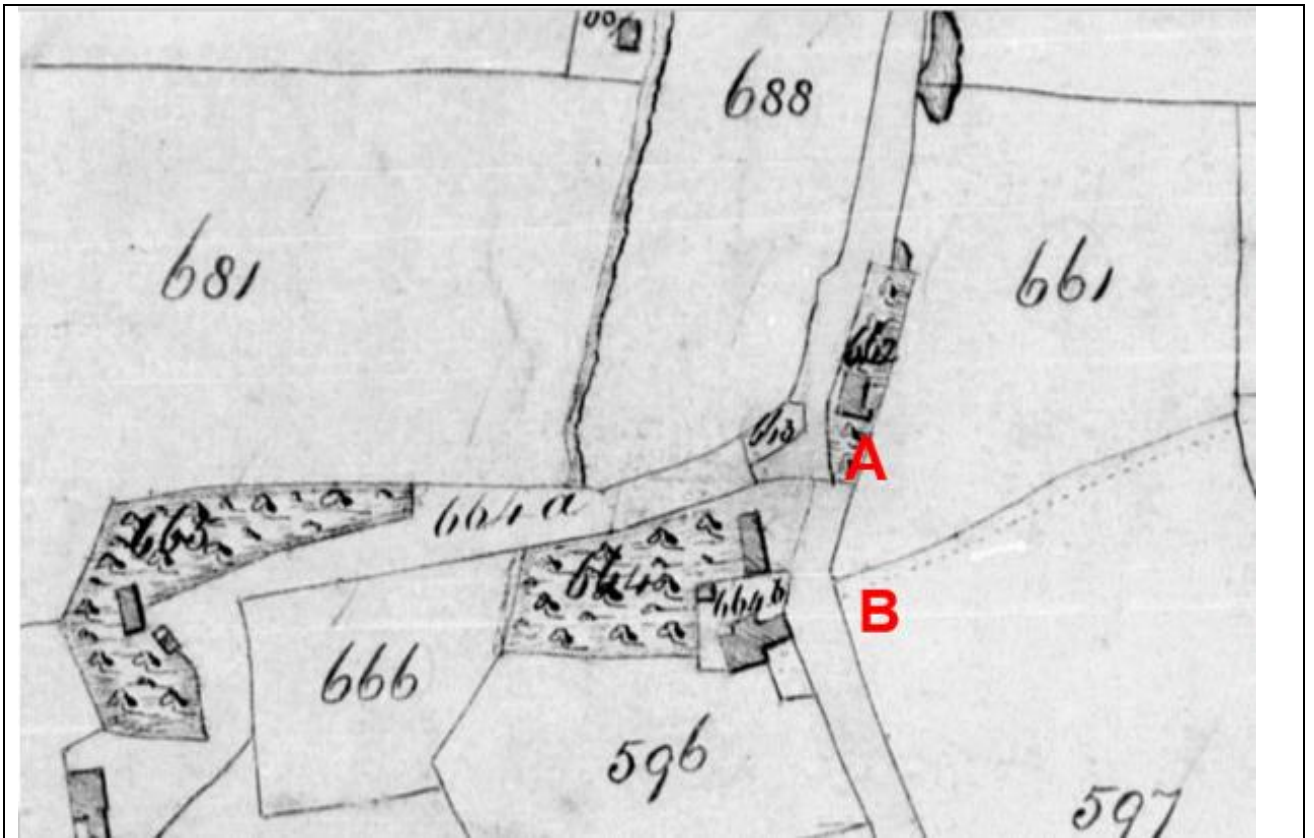
Observations		Part of Altcar Lane west of point A and Tithe Barn Lane south of point I are shown but the application route is not shown.
Investigating Officer's Comments		At least part of Altcar Lane and part of Tithe Barn Lane appear to have existed in 1818 but they were not shown as part of a through route. Its omission does not necessarily mean that it did not exist but suggests that if it did exist it did not form part of a public vehicular highway at that time.
Hennet's Map of Lancashire	1830	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 7 1/2 inches to 1 mile. Hennet's finer hachuring was no more successful than Greenwood's in portraying Lancashire's hills and valleys, but his mapping of the county's communications network was generally considered to be the clearest and most helpful that had yet been achieved.



Observations		Again, part of Altcar Lane west of point A and Tithe Barn Lane south of point I are shown but the application route is not shown.
Investigating Officer's Comments		At least part of Altcar Lane and Tithe Barn Lane appear to have existed in 1830 but they were not shown as part of a through route. Its omission does not necessarily mean that it did not exist but suggests that if it did exist it did not form part of a public vehicular highway at that time.
Canal and Railway Acts		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.
Observations		No existing or proposed railways or canals crossed or affected the land crossed by the application route.
Investigating Officer's		No inference can be drawn with regards to the

Comments		existence of public rights.
Tithe Map and Tithe Award for Leyland	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.





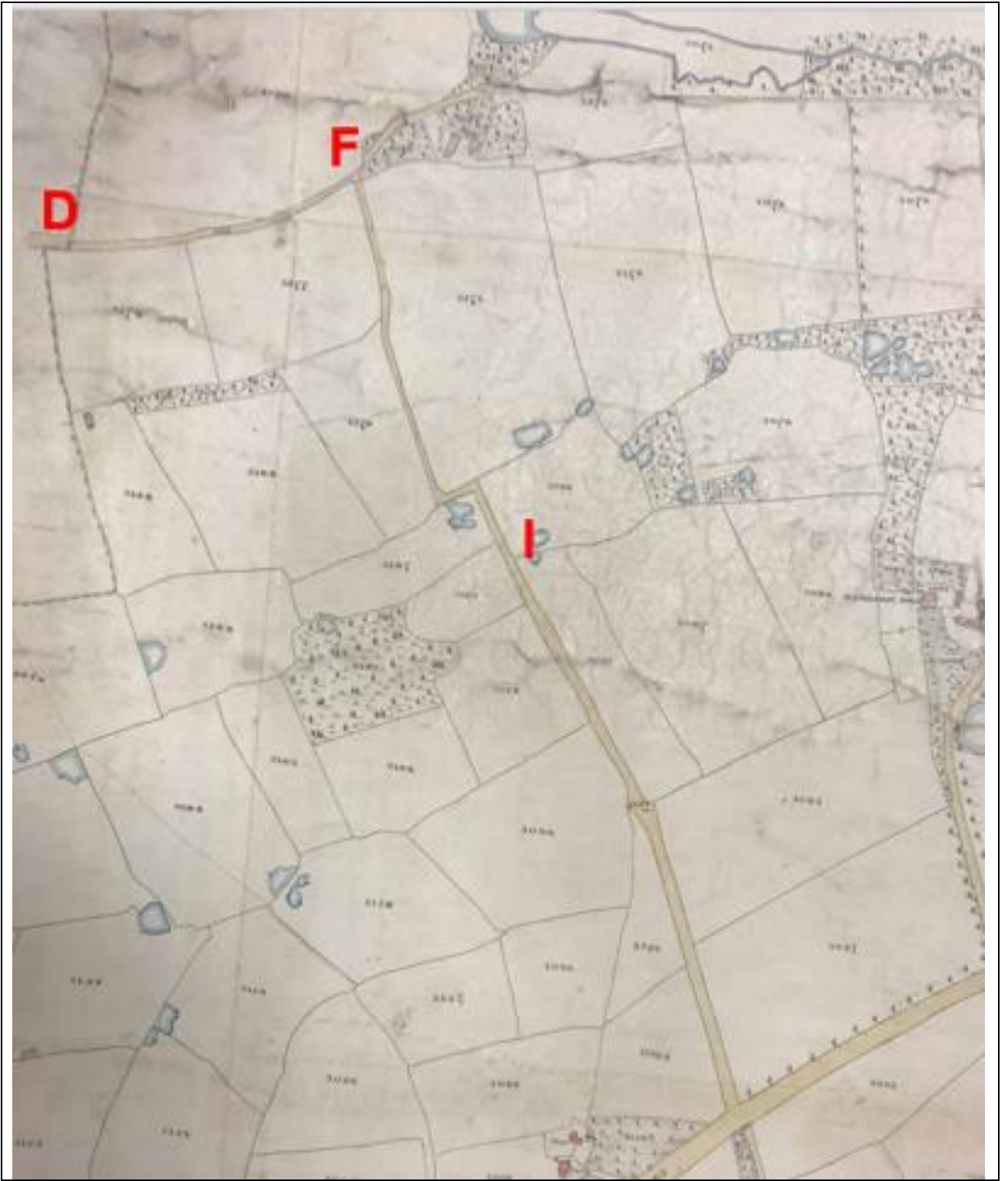
Observations

The Tithe Map and Award prepared in 1838 is deposited in The National Archives. In addition, a copy of the Map and Award are deposited in the County Records Office Ref DRB 1/125 although the map is considered to be too fragile to produce.

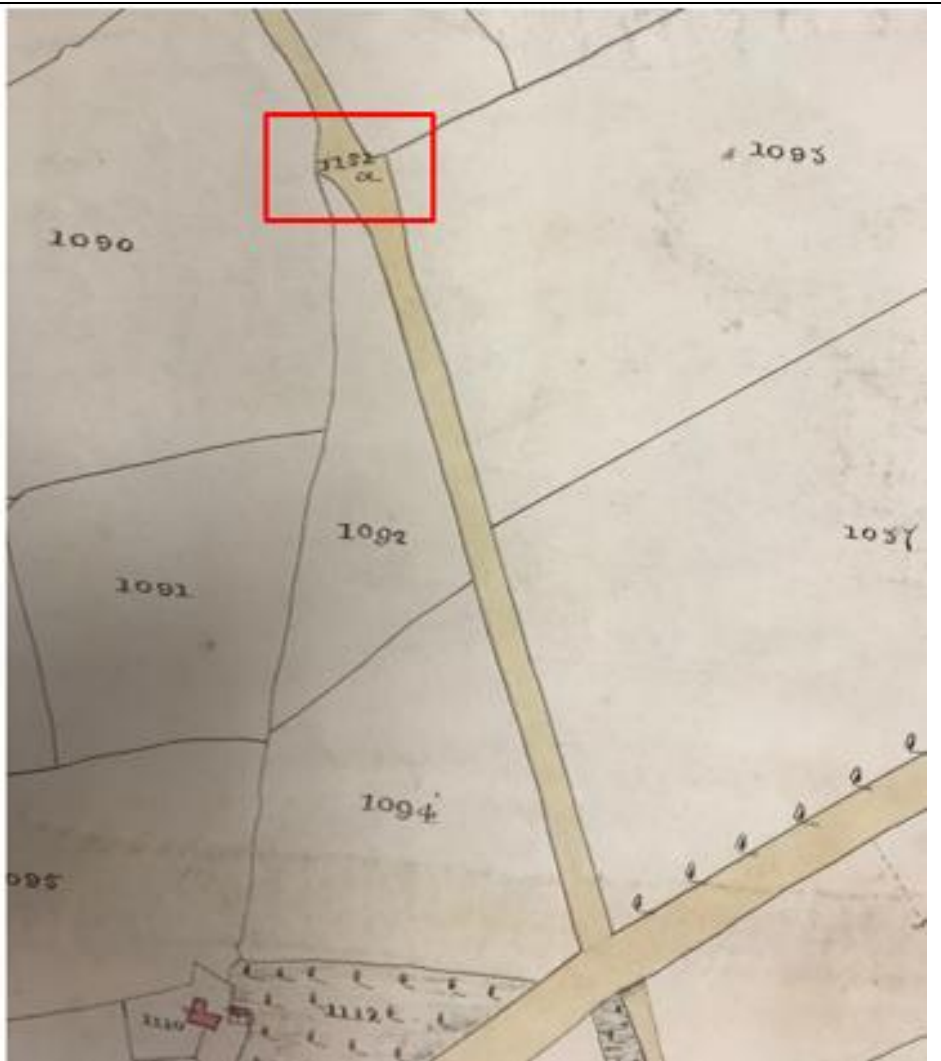
The Tithe Map shows the application route as one of two extensions of Altcar Lane leading from Leyland Lane. The other is route 664a which is listed in the Tithe Award as a 'Road' which was owned by John Silvester Esq. and occupied by Richard Sumner. Lines are shown across the route at point A which may indicate the existence of gates through which it was necessary to pass to continue onto the 'Road' numbered 664a or onto the application route. Beyond point A the application route is shown continuing to the parish boundary at point D but is not numbered and a path is shown connecting to the route at point B. A bounded track is also shown leading off the route to provide access to fields at point C. Beyond the parish boundary at point D a route is shown continuing east but the route is depicted as being considerably narrower than the application route between points A-B-C-D.

The application route is not numbered on the map and nor is the rest of Altcar Lane west of point A.

		The Tithe Award lists 37 named public highways at end of award all numbered A1, A2, A3 etc. and each route is named e.g. A1 – Dawson Lane. Neither Altcar Lane nor the application route A-D is listed in the Award as a public highway and as no number is allocated to it no other reference could be found relating to it.
Investigating Officer's Comments		The application route A-D existed in 1838 and appeared to continue beyond point D. It was not listed in the Tithe Award as a public highway suggesting that it was not considered to be a public route at that time.
Tithe Map and Tithe Award for Euxton	1847	The Map and Award deposited at the County Records Office was inspected together with an inspection of a copy of the Tithe Map deposited at The National Archives.







LIEGERS		DROEFLEES		Drot forward	
1102a	Public Roads	51	3	55	
1103	William & Peter	2		3	
1106	John Thos	1	37	36	
1191a	James Calderbank and wife	7	1		
	James Kirk		2		
	Richard Hattiswell	62	3	34	
	Abraham Wells				
	James & Mary				

ADVERSE	OCCUPIERS	Number shown on the Plan	NAME AND DESCRIPTION OF LANDS AND PREMISES	STATE OF CULTIVATION	QUANTITIES IN SQUARE MEASURES			PAYABLE TO		
					a	b	c	Owner of the Land	Appropriation	
	John Banks	1800	Cottage and garden				5			
	John & Russell	1178	House Outbuildings and yard		1	1	6		1	2
	Richard Anwoough	1174	Plantation		1		34			1
		1175	Lower Pasture	Pasture	3	2	4		5	5
		1172	Low Foy	Arable	7	1	20		12	4
		1072	Meadow	de	7		19		11	9
		1070	Low Croft	de	5	3	16		0	
		1071	Shaw Hill Bottoms	Meadow	2	1	57		2	7
		1069	Wood		1		30			
		1073	Wood		3		37			
		1176	Orchard		1		32		7	
		1081	Wood		3		10			9
		1182	Wood		10	1	35		1	3
		1183	Wood		1		34			
		1171	Barn Field	Pasture	10	1	3		19	6
		1080	Meer bog, meadow	Meadow	3		36		3	
		1089	Meer bog, pasture	Pasture	3		9		3	2
					68	2	5		1	4

Observations

The Tithe Map of Euxton was surveyed by Thomas Addison Junior and dated 1847. The copy held by the County Record Office has been signed by the Commissioners as the map or plan referred to in the apportionments of the rent charges in lieu of tithes in the township of Euxton but was not sealed so is likely to be considered a second class map.

The Tithe Map shows the application route from point D through to point I and then continuing south coloured, consistent with the sienna colouring used to show the vehicular road that it connects to (Runshaw Lane).

The application route is shown with lines across it at point D, F and G. West of point D the application route is shown to continue west towards point A but is depicted as being significantly wider than the application route leading east from point D, i.e., consistent with the relative widths shown on the Leyland Tithe Map.

Between point D and point F the application route is numbered 1182 on the map and is described in the Tithe Award as a 'road' in private ownership with no state of cultivation listed and no tithe payable.

The route between point F and point G is not bounded and numbered as part of plot 1171 (pasture referred to as Barn Field).

Tithe Barn Lane south of point G passing through point I and continuing through to Runshaw Lane is numbered as 1182a.

Plot 1182a is listed towards the end of the Tithe

		<p>Award and is included in a list of all other roads which are specifically referred to as being either a Turnpike Road or public road. One Turnpike Road is listed (parcel 1187) which is the route of the road now known as the A49 through the parish. A further 11 parcel numbers are listed as public roads all of which are recorded as public highways for which there are no landowners or occupiers listed and for which there are no tithes payable and all of those listed correspond to routes that are still recorded as public vehicular highways within the parish.</p> <p>An examination of all the parcel numbered entries in the Tithe Award showed at least 34 entries for numbered parcels that were described within the Award as 'road' or 'lane' but which were all listed as being owned and occupied. The majority of these routes were shaded in the same manner as the routes listed specifically as being public roads and on the majority of the routes tithes were not payable. When a more detailed search was made to identify how these routes are now recorded no clear, consistent picture emerged. Some of the routes recorded on the Tithe Map as roads and lanes are now recorded as public footpaths, others had no recorded public status. None were recorded as public bridleways and a number no longer existed and the land is now developed.</p> <p>One route – described as a road (hereditament 206a) now formed part of the A581 leading into Chorley and another route described as a road (hereditament 29) now coincided with part of a newly constructed public road through Buckshaw village but these were the only examples identified of routes described as 'road' or 'lane' within the Tithe Award that now carried recorded public vehicular rights with the exception of those routes listed specifically in the Tithe Award as public roads or turnpike roads.</p>
Investigating Officer's Comments		<p>Looking at the section D-I It appears that a substantial gated route existed that would probably be wide enough for vehicles in the 1840s.</p> <p>From point D through to point F it appears, on balance that, the information provided by the Tithe Map and Award does not support the view that public rights were acknowledged to have existed along the route in 1847 and although the route may have been accessible on horseback the Tithe Map and Award provide no information regarding</p>

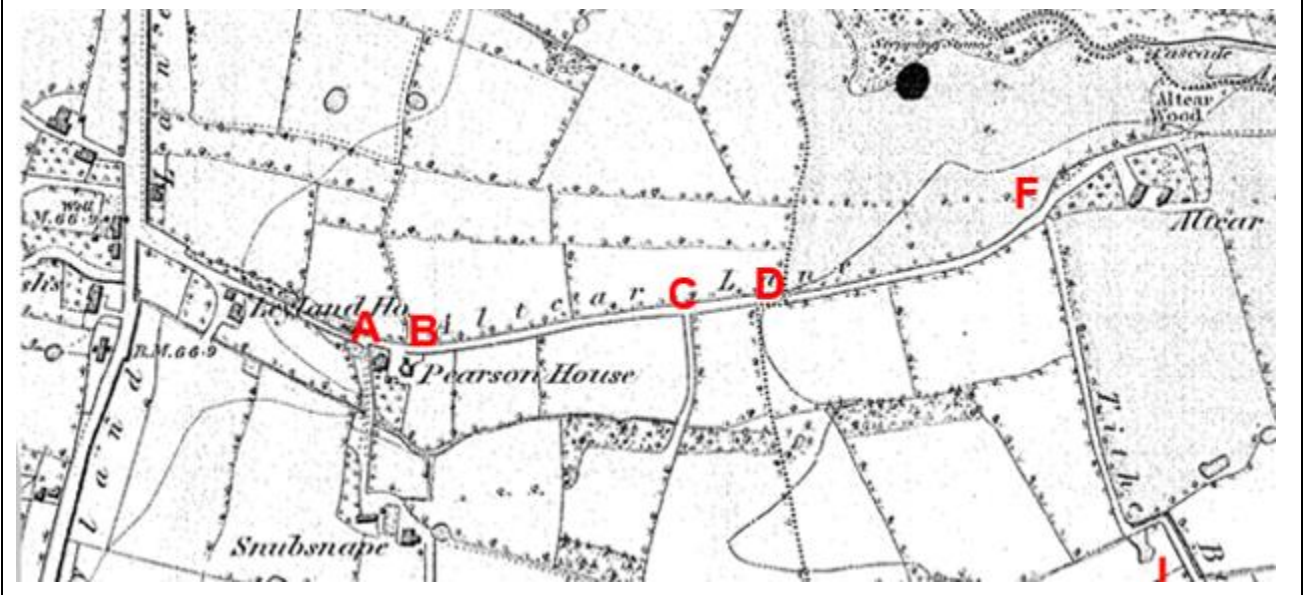
		<p>whether public bridleway rights existed at that time.</p> <p>However, it is important to appreciate that there is no common approach or consistency for the listing of public and private roads in Tithe Awards which is not surprising as this was not the primary function of the award and similarly the public status of any footpaths and bridleways marked on the map were infrequently listed.</p> <p>Altcar Lane (between point D and point F) is coloured in the same way as the major highways through the township and it is known that guidelines prescribed by Lieutenant Dawson to the Tithe Commissioners indicated that land surveyors should use sienna colouring for public roads and bridleways. However, the guidance was not compulsory and the way that all routes are shown on each individual Tithe Map needs to be considered before concluding that such guidance was adhered to. On this particular Tithe Map it appears that routes detailed in the Tithe Award as public roads and also the majority of other routes described as roads or lanes within the Award were shaded in the same manner, as was section F-G of the route where it was treated as part of 'Barn Field' (plot 1171) which was described as pasture and for which tithes were payable, so it is not considered possible to infer public vehicular rights from the fact that the route is shaded with a sienna colouring. No tithes are payable for plot 1182 (the application route D-F) but this does not necessarily mean that it was because the road was public and in this case the route between point D and point F is neither described as being 'public' or included in the separate list of public roads. It is not listed as being under any state of cultivation which is consistent with it being a hard surfaced track which was not cultivated or grazed (and therefore not tithable). It is conceivable that if the track had been grazed (i.e., classed as pasture) tithes could have been payable – even though public rights existed - and the gates erected with regards to stock control.</p> <p>With regards to the remaining section of the application route (shown between points G-I on the Committee plan) it is part of a single plot all the way to Runshaw Lane. A clearly defined list of routes considered to be public roads is grouped together and provided for in the Tithe Award. Each route is numbered separately but no landowners</p>
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		<p>or occupiers are listed. All the routes listed correspond to routes that are still recorded as public vehicular highways today and this list specifically includes the route known as Tithe Barn Lane. The existence of gates across a route does not necessarily mean that it was not available for public use as gates may have been required for stock control purposes. Looking at the Tithe Map in isolation it would be reasonable to conclude that the route shown between point G and point I was part of the longer route listed as a public road in the Tithe Award. However, this length is much longer than the stub of highway shown on Yates, Greenwoods and Hennets maps and in the future much longer than the excluded route in the 1910 Finance Act records and longer than the route recorded on the Handover Map.</p> <p>In the Tithe schedule the routes identified as either the Turnpike Road or 'public highways' and listed in the Award as being 'public' are public highways today. Importantly they are not listed as being owned and occupied thus suggesting in this case that there was not a public vehicular through route from Altcar Lane along Tithe Barn Lane through to Runshaw Lane but that only part of Tithe Barn Lane (with the possible inclusion of the application route between point G and point I) was considered to be a public route. The other public roads listed in the Tithe Award are today highway through-routes in the network. Only the route on Tithe Barn Lane and Dean Hall Lane are cul de sac routes. From the evidence available, it may be a difficulty in being confident that the length G-I shown as part of plot 1182a is the correct length as later records do not corroborate it being public.</p>
Inclosure Act Award and Maps		<p>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.</p>
Observations		<p>There is no Inclosure Award for Euxton and the Inclosure Award for Leyland does not cover the area crossed by the application route.</p>
Investigating Officer's Comments		<p>No inference can be drawn with regards to the existence of public rights.</p>

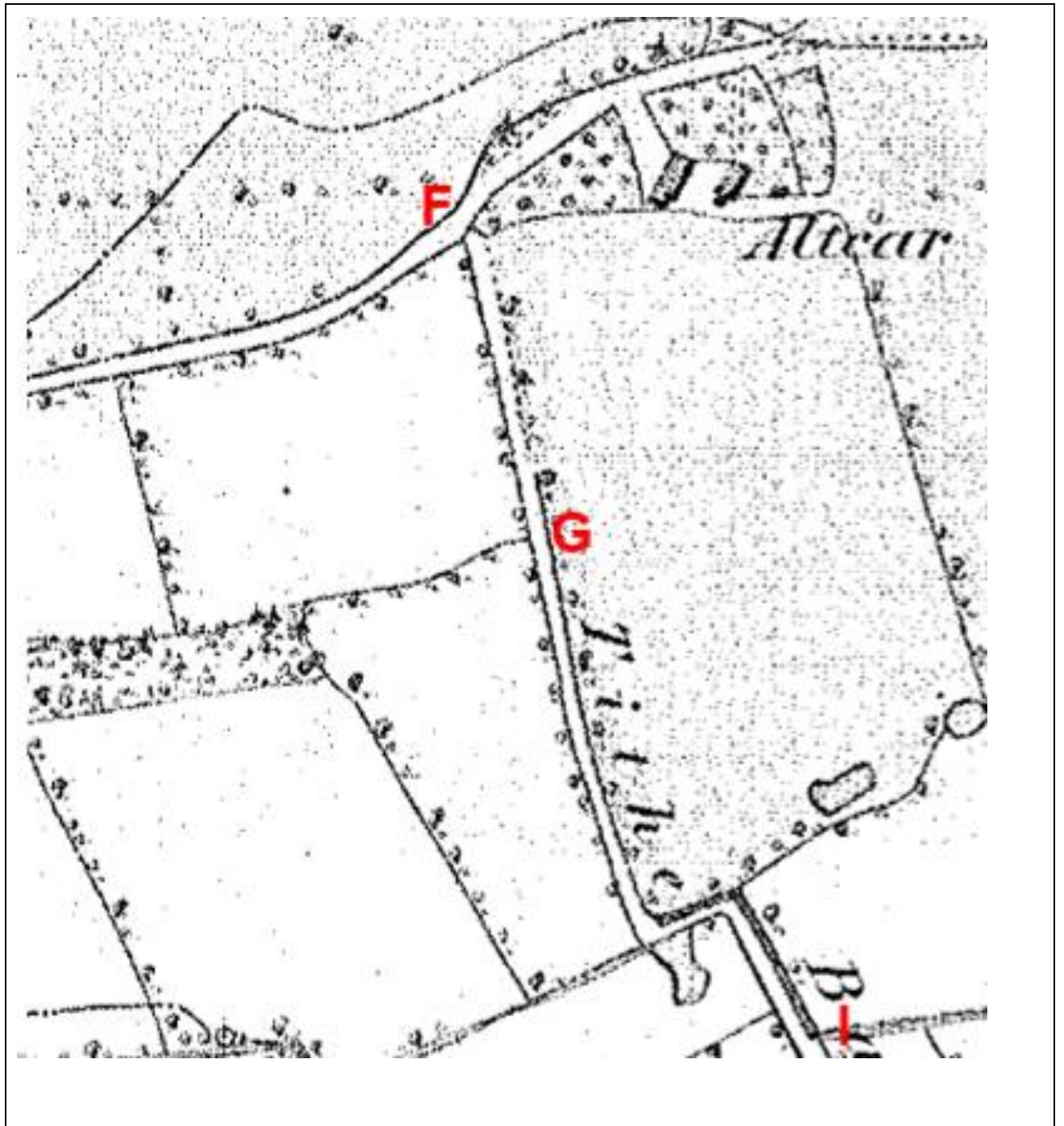
6 Inch Ordnance Survey (OS) Map Sheet 77

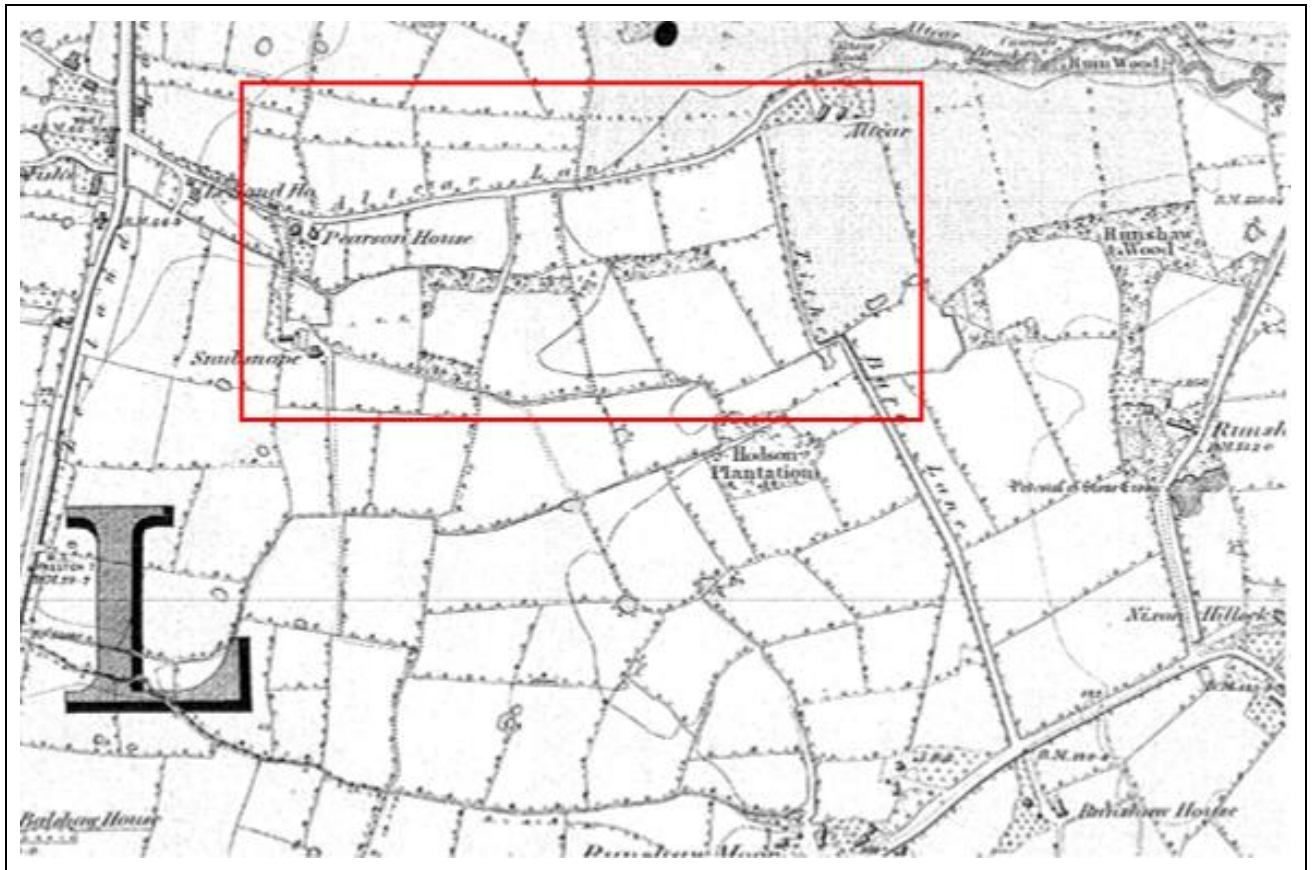
1849

The earliest Ordnance Survey 6 inch map for this area surveyed in 1844-7 and published in 1849.¹




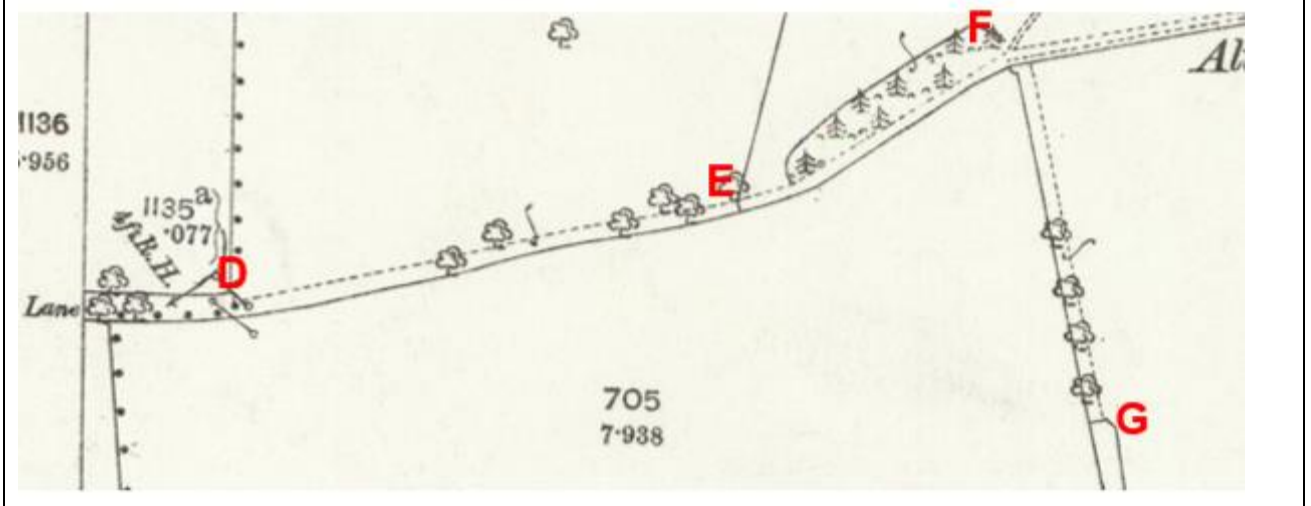
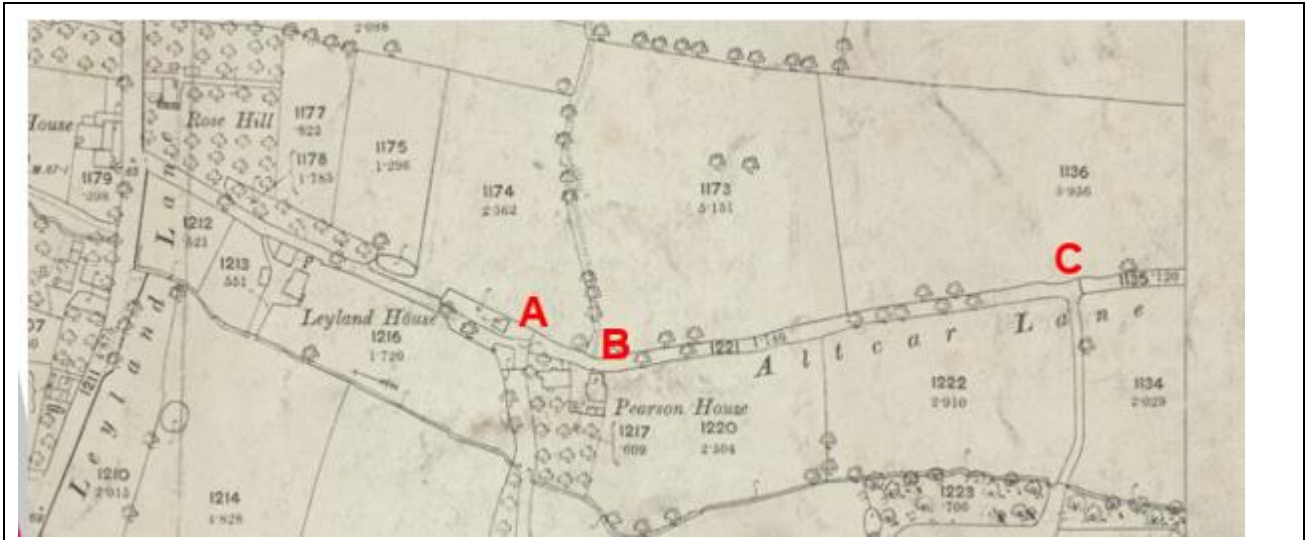
¹ The Ordnance Survey (OS) has produced topographic maps at different scales (historically one inch to one mile, six inches to one mile and 1:2500 scale which is approximately 25 inches to one mile). Ordnance Survey mapping began in Lancashire in the late 1830s with the 6-inch maps being published in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





<p>Observations</p>		<p>The application route is shown as part of a longer route bounded on both sides leading from Leyland Lane in an easterly direction passing through points A-B-C-D-E-F and continuing east to a property called Altcar. The route between point A and point F is named on the map as Altcar Lane and there are no lines across it suggesting that access was unrestricted. At point A and point B access to properties known as Snub Snape and Pearson House lead from the application route.</p> <p>From point F the continuation of the application route labelled as Tithe Barn Lane meets Altcar Lane with a line across the junction of the two named routes suggesting that access from Altcar Lane onto Tithe Barn Lane may have been gated. From point F the application route continues south along Tithe Barn Lane. Between point F and point G the application route is bounded on the western side but open to the field to the east. From point G through to point I the route is shown bounded on both sides although it is shown narrower than the continuation of the route south of point I.</p>
<p>Investigating Officer's Comments</p>		<p>The application route existed in the mid-1840s and appeared to be capable of being used - at least on horseback - as part of a longer through route and</p>

		as part of access to a number of named properties. It comprised two named routes connected at point F although access from one to the other appeared to be restricted – possibly by a gate. At this point the route was unbounded and on a field edge. The route known as Altcar Lane provided direct access to a number of properties whilst Tithe Barn Lane appeared to provide access to fields on either side and also possibly an alternative access to Altcar. It is not possible to tell whether public rights existed on this through route.
Cassini Map Old Series	1840-1843	The Cassini publishing company produced maps based on Ordnance Survey mapping. These maps have been enlarged and reproduced to match the modern day 1:50, 000 OS Landranger Maps and are readily available to purchase.
		
Observations		The application route was shown as part of a longer through route from Leyland Lane through to Runshaw Lane. It is shown providing access to a number of properties but also as a through route.
Investigating Officer's Comments		The original scale of the map (1 inch to the mile) means that only the more significant routes are generally shown. The purpose of the map in the late 1800s would probably have been to assist the travelling public on horseback or vehicle suggesting that the through roads shown had public rights for those travellers.
25 Inch OS Map Sheets 77-1 and 77-2	1893	The earliest OS map at a scale of 25 inch to the mile. Surveyed in 1893 and published in 1894.





<p>Observations</p>		<p>The full length of the application route is shown. The map provides more detail than the earlier 6 inch OS map examined. Lines appear to be shown across the route at point A,C,E,G and H. The route between points A-F is shown labelled as part of a longer route known as Altcar Lane whilst the route between point F and point I is shown as part of Tithe Barn Lane. The application route is shown as a bounded route with the exception of those parts between points D-E-F and F-G which are shown to run along the field edge. No part of the application route – or Altcar Lane west of point A and Tithe Barn Lane south of point I - is shown with a thickened line along the south or eastern side.</p>
<p>Investigating Officer's Comments</p>		<p>The application route existed in 1893 and may have been capable of being used on foot or horseback and possibly with vehicles. The fact that it was named as part of Altcar Lane and Tithe Barn Lane on the map is evidence that it was known locally by those names.</p> <p>The existence of gates along a public route would not have been considered unusual in the 1800s</p>

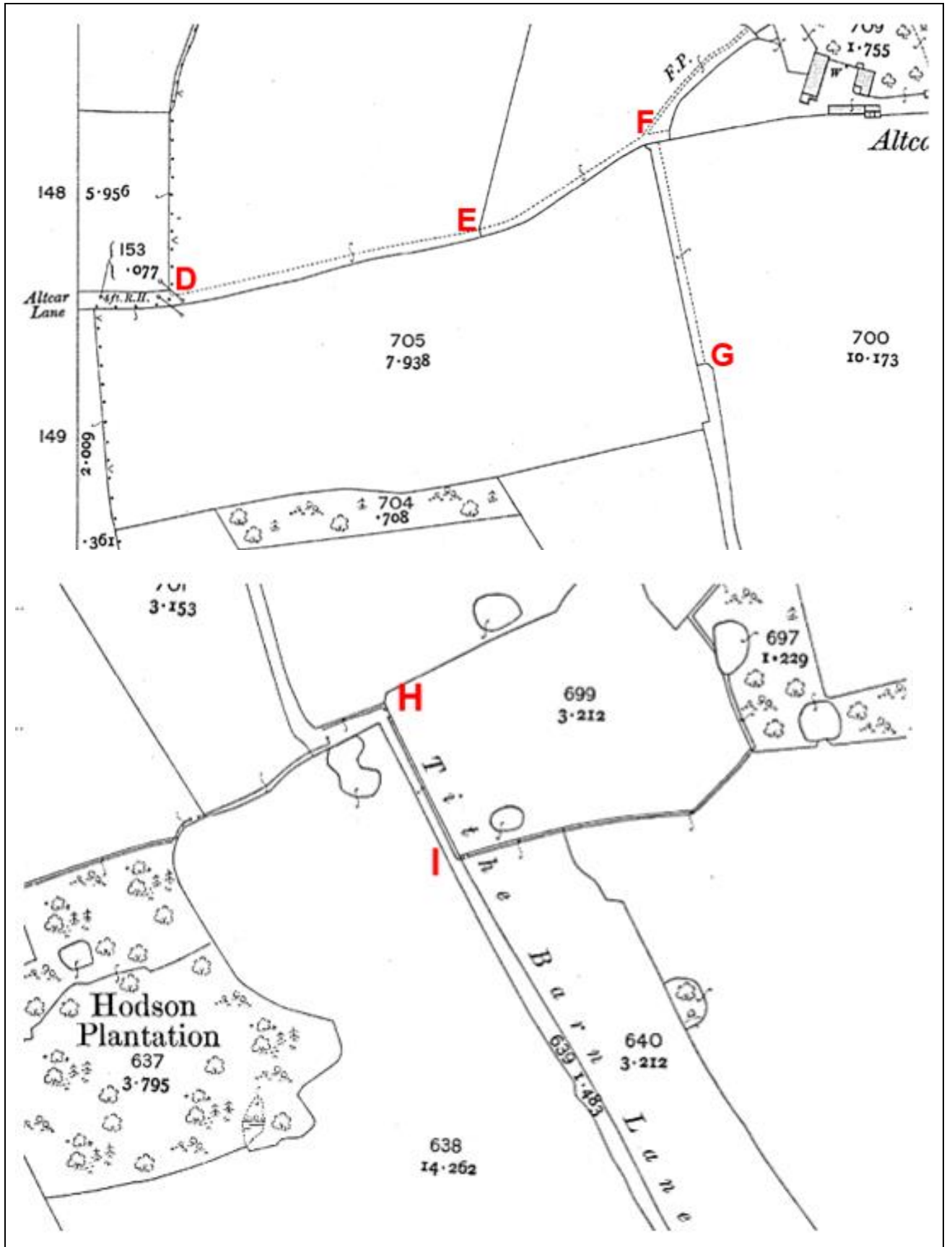
		<p>particularly in the proximity of farms or in rural locations. Gateways, if they were found to exist, were shown by the surveyor in their closed position although this is not necessarily a true reflection of what may have been the position on the ground.</p> <p>Shading was often used to show the administrative status of roads on 25 inch maps prepared – primarily between 1884 and 1912. All metalled public roads for wheeled traffic kept in good repair by the highway authority were to be shaded and shown with thickened lines on the south and east sides of the road. The application route is not shown in such a way but neither are the sections of Altcar Lane and Tithe Barn Lane which are now recorded as public vehicular highways.</p>
<p>Bacons Map of Lancashire</p>		<p>G W Bacon was a publisher of maps and in 1890 his 'Commercial and Library Map of Lancashire from the Ordnance Surveys' was published, and later reprinted. As the title states, the maps he published were derived from Ordnance Survey maps.</p>

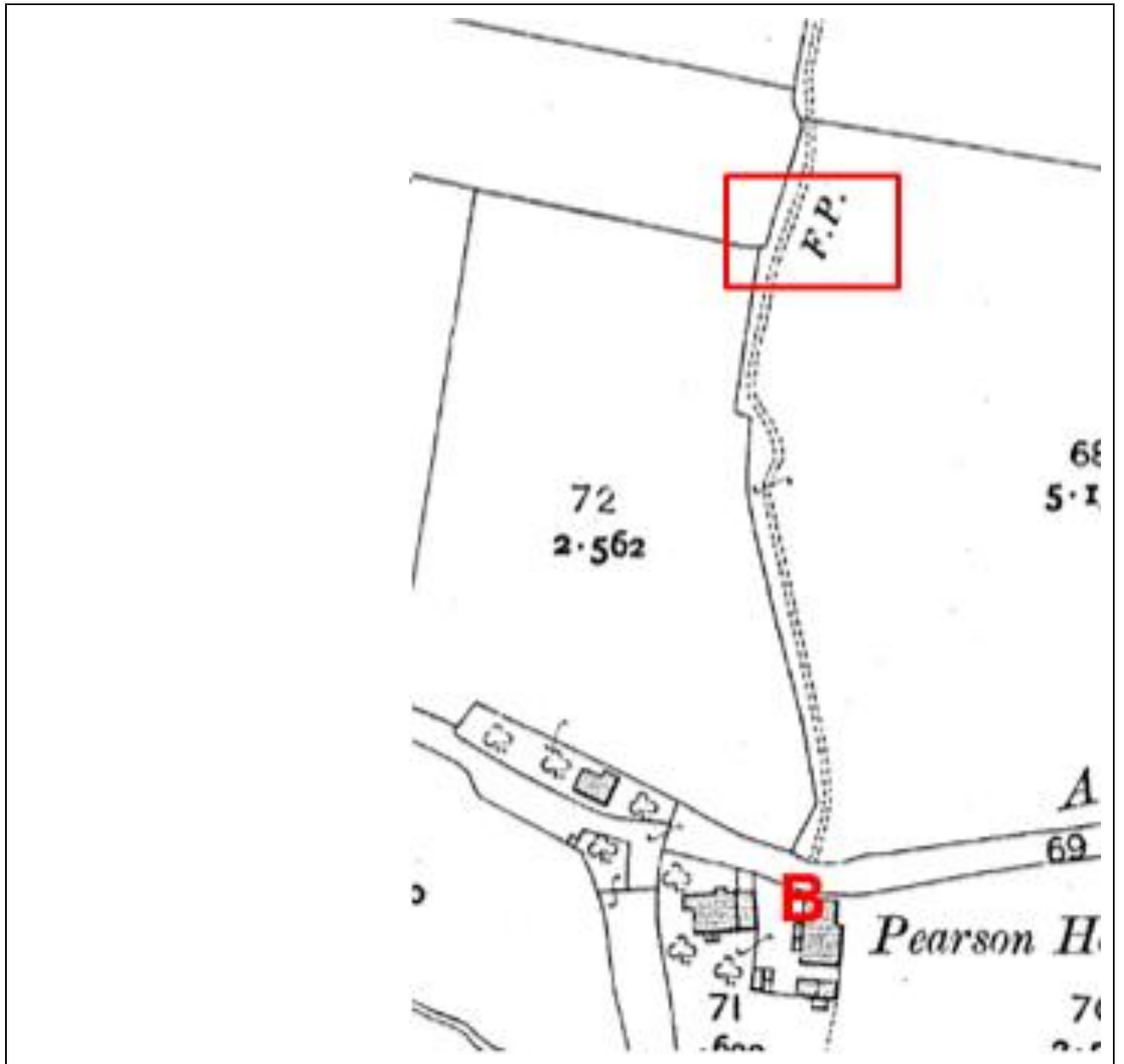


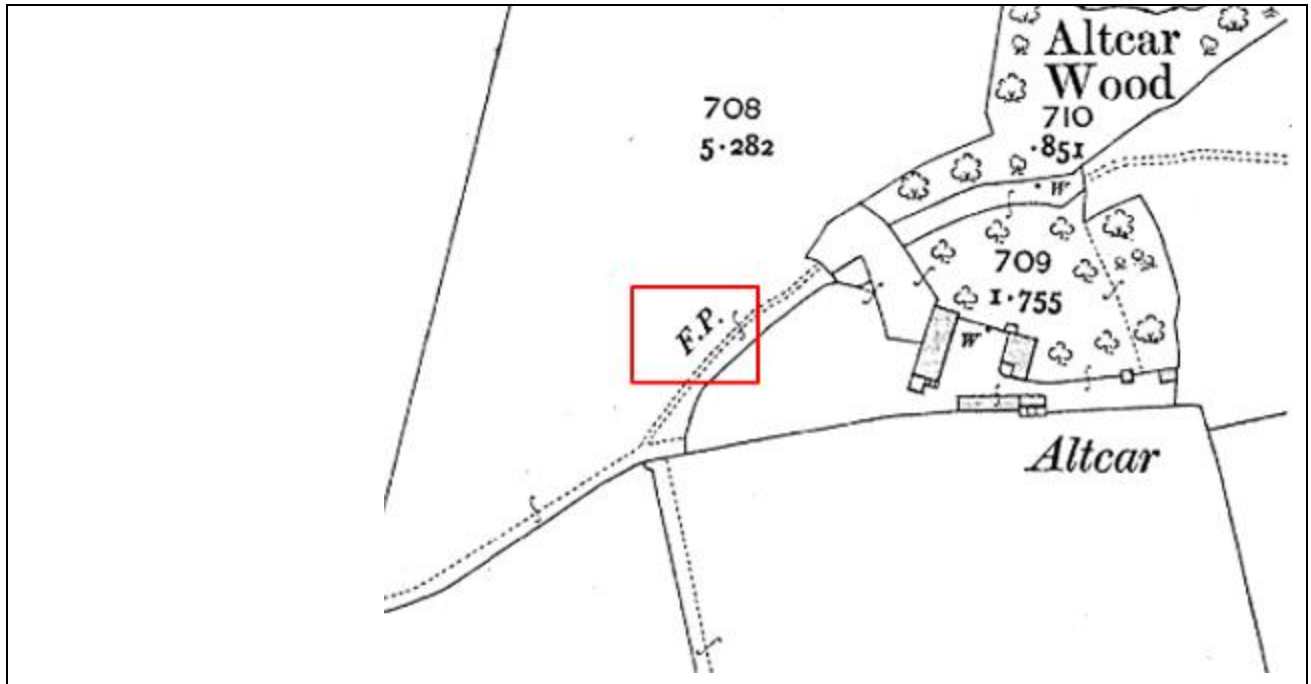
<p>Observations</p>		<p>The application route is not shown.</p>
<p>Investigating Officer's Comments</p>		<p>GW Bacon was an American entrepreneur who moved to London and was known to have been involved in numerous business ventures including the publication of world maps. The maps of the British Isles were at a small scale and as such</p>

		<p>only the more significant routes are generally shown. Commercial maps of this nature were expensive to produce and to purchase and as a result the routes shown were often considered to be public through routes.</p> <p>The application route was not shown suggesting that it was not, in the early 1900s, considered to be part of a significant or main public vehicular through route. It may, however, have existed as a footpath or bridleway at that time.</p>
<p>25 inch OS Map sheets 77-1 and 77-2</p>	<p>1911</p>	<p>Further edition of the 25 inch map surveyed in 1893, revised in 1909 and published in 1911.</p>







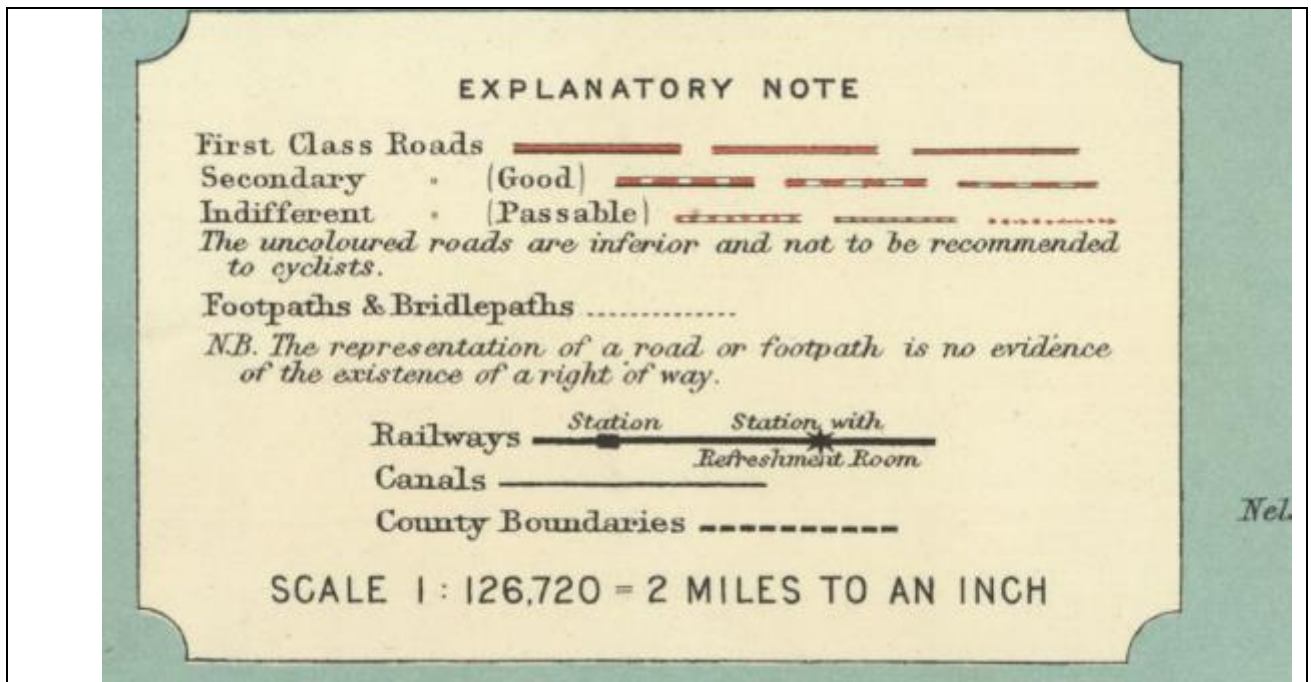


Observations		The application route is shown as part of a longer through route with lines across it at points A, C, E, F and G. It is named as part of Altcar Lane and Tithe Barn Lane and is still shown to be unenclosed between points D-E-F-G. Two routes connecting to the application route at point B and point F are labelled on the map as footpaths (F.P) but the application route is not labelled in such a way.
Investigating Officer's Comments		The application route existed in 1909 and appeared to be capable of being used at least on horseback. Its physical appearance suggested a route used as more than just a footpath.
Ordnance Survey Object Names Book TNAs Reference number OS 35/3964		When the Ordnance Survey was collecting information to put on its second series of published maps the surveyors recorded the names of anything that was to be shown on the maps. The Ordnance Survey Object Names Book for an area records these names, the description of the item named, and the local person attesting to the name. The descriptions usually state where the road started and finished, and often described them as a road, lane or drove road. The descriptions often drew a distinction between what was believed to be public and private and included information about who owned or maintained bridges.
Observations		A copy of the Object Names Book for OS 6 inch map sheet 77NW was acquired from the National Archives. The book provides a list of names as written on

		<p>the OS plan to be revised. Altcar Lane is listed on page 18 and in the column provided titled 'Various modes of Spelling the same name' is written 'Altcar Lane' and 'no change' with what appear to be some initials and the date 1907. Two names are provided as the authority for checking that the name of the lane has been spelt correctly and they are listed as being the owner/occupiers of Rose Hill, Leyland and Burscough House, Leyland.</p> <p>Under the final column descriptive remarks, or other general observations which may be of interest, are listed and in the case of Altcar Lane it has been written 'A lane extending in an easterly direction from its junction with Leyland Lane and terminating at Altcar Farm.'</p> <p>Tithe Barn Lane is also listed (on page 41) with no change to the spelling of the name being noted. The authority for the spelling of the lane is listed as being provided by 'J Harrison, Farmer, Altcar' and the descriptive remarks states: 'applies to an occupation Rd in a north easterly direction off the Preston and Wigan Road about ½ a mile, terminating at Altcar Farm.' The words 'an occupation Rd' had subsequently been crossed out in pencil and replaced by 'a 4th Class Rd'.</p>
Investigating Officer's Comments		<p>The OS Names Book provides limited evidence regarding whether the route was considered to be public or private in 1907 and the extent of those rights (i.e., whether they were on foot or vehicular).</p> <p>The purpose of the OS names book was to record the names of things to be shown on the map and to check their spelling. It was not intended to record the public or private status of a route but can provide useful information regarding how a route may have appeared to the Surveyor and how it was regarded locally. Altcar Lane was described as a lane with no indication of whether it was considered to be public or private. Tithe Barn Lane however was initially described as an occupation road and this had subsequently been crossed out. It is not known why it was described as an occupation road or why it was subsequently crossed out although reference to a '4th class road' does appear to imply an understanding that it carried public rights.</p> <p>The person confirming the spelling of the name of Tithe Barn Lane is reported to be the farmer at Altcar Farm but we do not know who made the amendment regarding the status of the route.</p>

		<p>There is no reference to the condition of either route or whether they were publicly maintainable and it appears that information regarding both routes has been obtained from local residents rather than a Surveyor from Chorley Rural District Council although it is noted that information relating to some (but not all) public vehicular routes was provided by the highway authority at that time.</p>
<p>Bartholomew half inch Mapping Sheet 8 – Liverpool & Manchester</p>	<p>1904</p>	<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 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.</p>



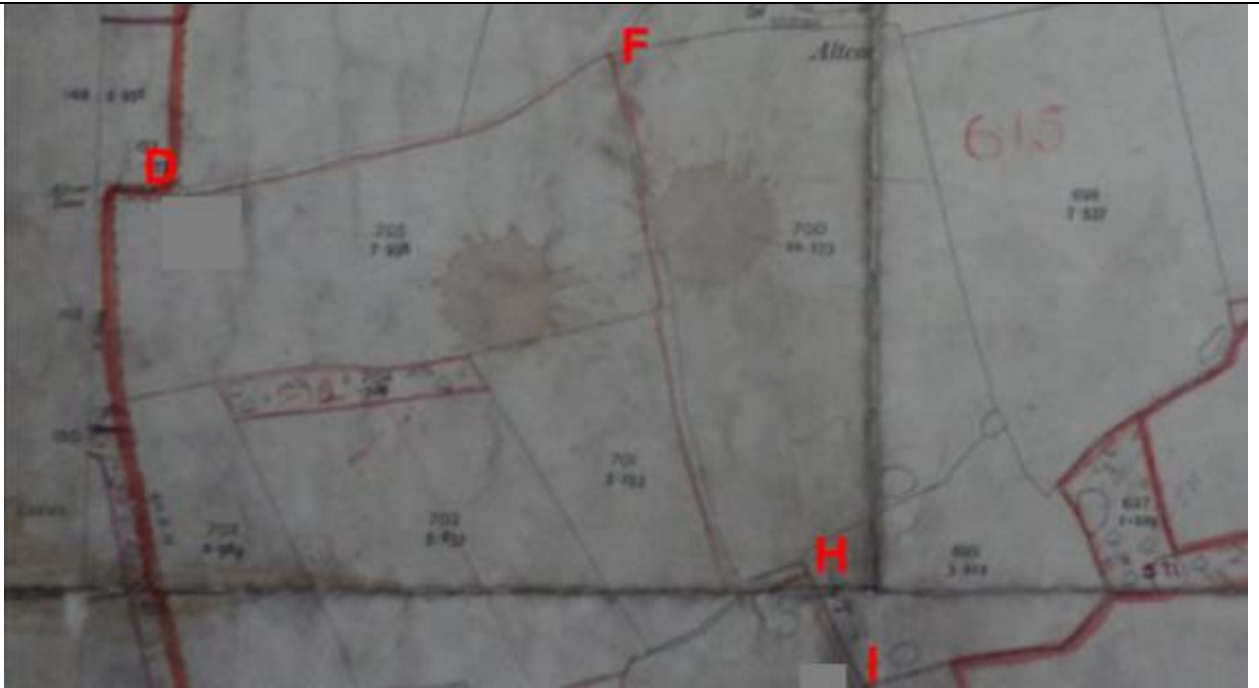


Observations		The application route is clearly shown as a through route connecting to other roads but is denoted in the key as and uncoloured road defined as being inferior and not recommended for cyclists. It should be noted that routes considered to be footpaths or bridleways were shown differently.
Investigating Officer's Comments		The application route existed as a substantial route which appeared to be considered as being more than a footpath or bridleway. It was not denoted as being a public vehicular route of a good enough standard to be recommended for cyclists but its inclusion as an uncoloured road suggested that it physically existed as a substantial route in the early 1900s which would have been capable of being used at least on horseback.
Finance Act 1910 Map	1910	<p>The comprehensive survey carried out for the Finance Act 1910, later repealed, was for the purposes of land valuation not recording public rights of way but can often provide very good evidence. Making a false claim for a deduction was an offence although a deduction did not have to be claimed so although there was a financial incentive a public right of way did not have to be admitted.</p> <p>Maps, valuation books and field books produced under the requirements of the 1910 Finance Act have been examined. The Act required all land in private ownership to be recorded so that it could be valued and the owner taxed on any incremental</p>

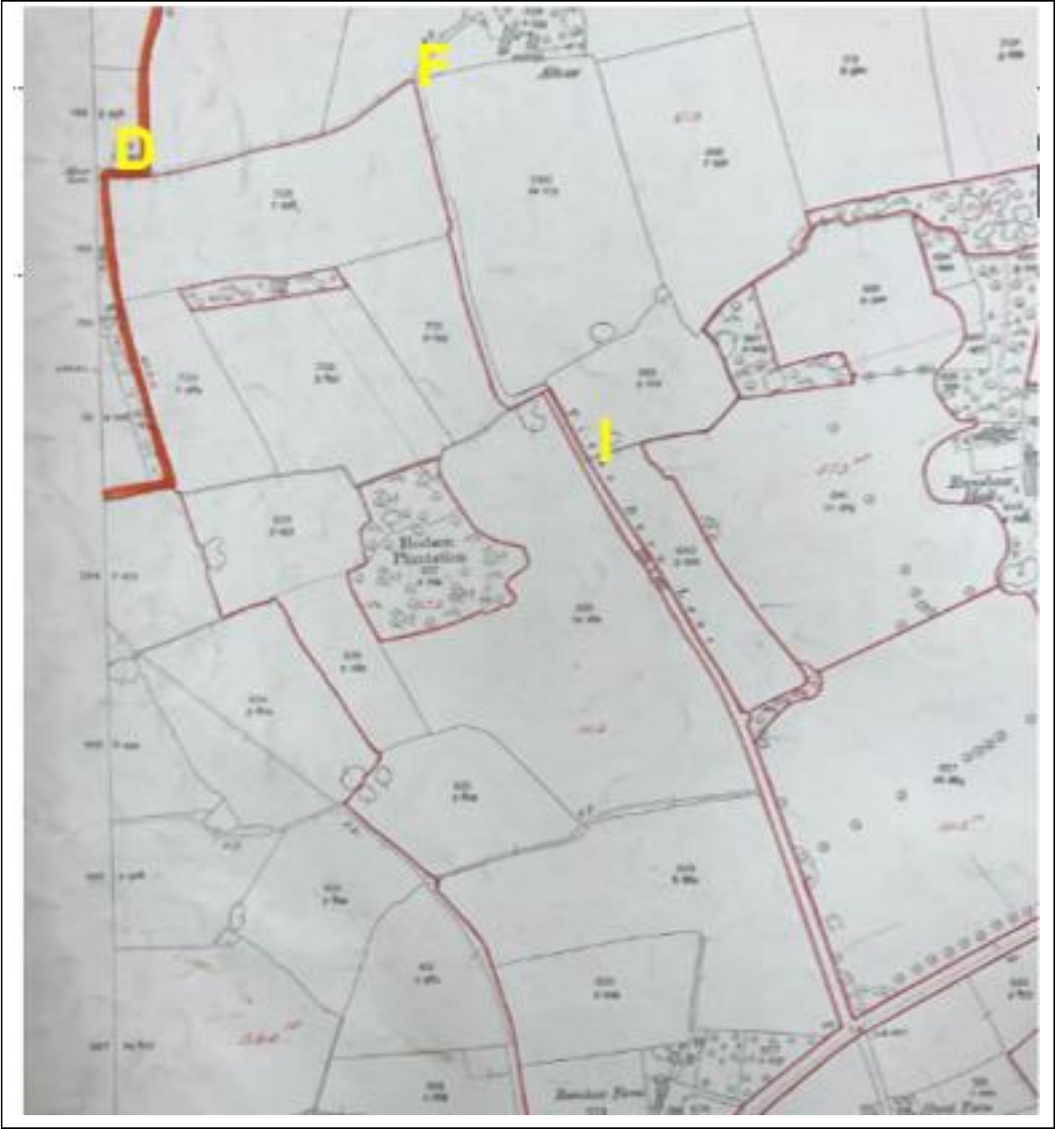
value if the land was subsequently sold. The maps show land divided into parcels on which tax was levied and accompanying valuation books provide details of the value of each parcel of land, along with the name of the owner and tenant (where applicable).

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.





Finance Act Map obtained from The National Archives





Finance Act Map available to view in the County Records Office

Observations

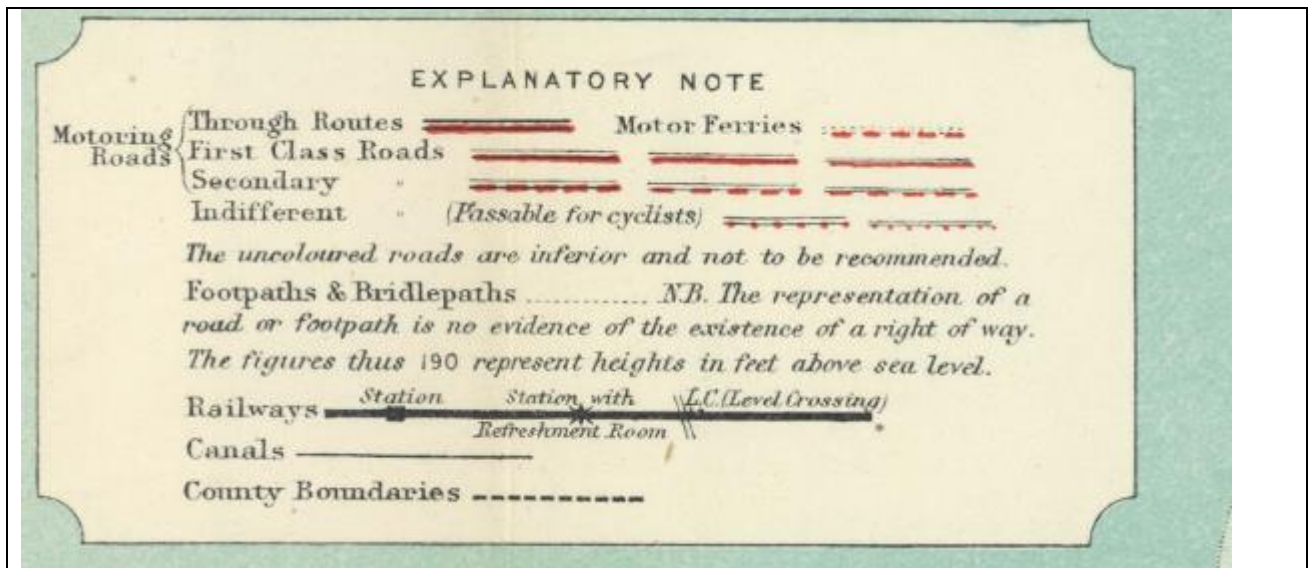
The Map sheet showing the start of the application route from point A shows the application route excluded through to the end of the route shown on that sheet. This part of the route was within the Urban District of Leyland and the district valuation office from which the survey was carried out was in Preston (Ref: DVPR) The Map sheet showing the application route from just west of point D through to point I was available to view at both the County Records Office and The National Archives.

All of the land crossed by the application route from point D through to point H was included in plot 615 which was listed as being in the ownership of Messrs. Deacon and which was described as comprising of a House, buildings and agricultural land at Altcar Farm. No deductions were listed for public rights of way or user.

Between point H and point I the route was excluded from the numbered plots as part of Tithe Barn Lane extending south from point H through to the junction with Runshaw Lane. The map showing this part of the route was prepared by the District Valuation office at Blackburn (Ref: DVBK).

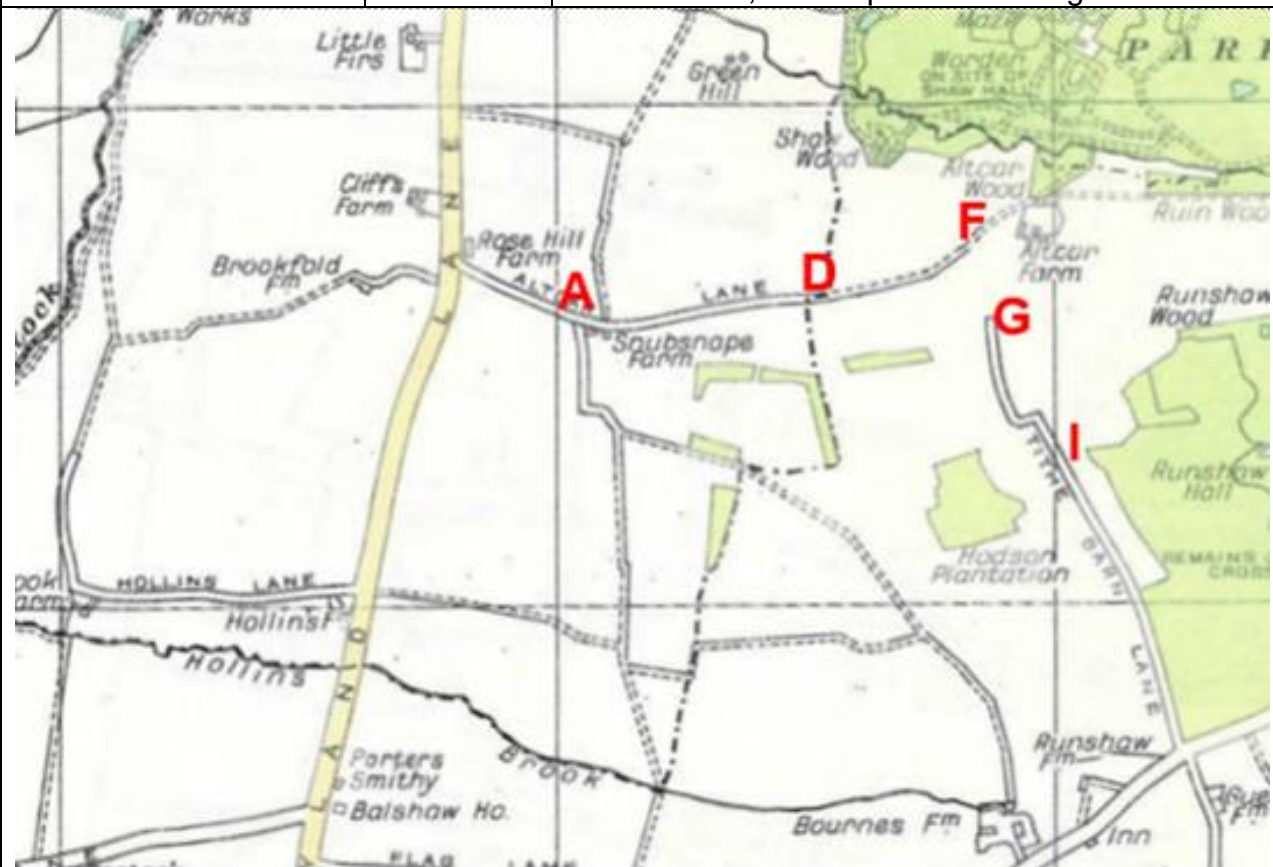
Investigating Officer's Comments		<p>The application route crossed land considered by two separate taxation offices. From point A extending east to the edge of the map sheet (just short of the parish boundary at point D) the application route was excluded from the numbered plots in the same way as public vehicular highways have been excluded suggesting that it was considered to be a significant public route – possibly vehicular – at that time. The same is true of the southern end of the application route between point H and point I together with the continuation of the route south through to Runshaw Lane.</p> <p>A significant part of the route however – between point D and point I – is not excluded from the numbered plots and no deductions were claimed with regards to public rights of way or user. This indicates that in the early 1900s the owner of a substantial section of the route did not acknowledge the existence of any public rights over the land crossed by the application route at the time of the valuation.</p>
Bartholomew half inch Mapping Sheet 8 – Liverpool & Manchester	1920	Further edition of Bartholomew's half inch map.





Observations		The application route is again clearly shown as a through route connecting to other roads but is denoted in the key as being inferior and not to be recommended. It should be noted that routes considered to be footpaths or bridleways were shown differently. It should also be noted that it includes a disclaimer that roads and footpaths shown were not necessarily public.
Investigating Officer's Comments		The application route existed as a substantial route in the 1920s which appeared to be considered as being more than a footpath or bridleway.
25 Inch OS Map	1928	Further edition of 25 inch map, surveyed 1893, revised in 1927 and published in 1928.
Observations		The application route is again shown as part of a longer route named as Altcar Lane and Tithe Barn Lane with gates across the route at points C, E, F and G. Other than the apparent removal of a gate at point A the application route is shown in the same way as it is shown on earlier OS 25 inch maps.
Investigating Officer's Comments		The application route existed in 1927 and appeared to be capable of being used at least on horseback and its physical appearance suggested a route used as more than just a footpath.
Authentic Map Directory of South Lancashire by Geographia	Circa 1934	An independently produced A-Z atlas of Central and South Lancashire published to meet the demand for such a large-scale, detailed street map in the area. The Atlas consisted of a large scale coloured street plan of South Lancashire and included a complete index to streets which includes every 'thoroughfare' named on the map. The introduction to the atlas states that the

publishers gratefully acknowledge the assistance of the various municipal and district surveyors who helped incorporate all new street and trunk roads. The scale selected had enabled them to name 'all but the small, less-important thoroughfares'.




Observations

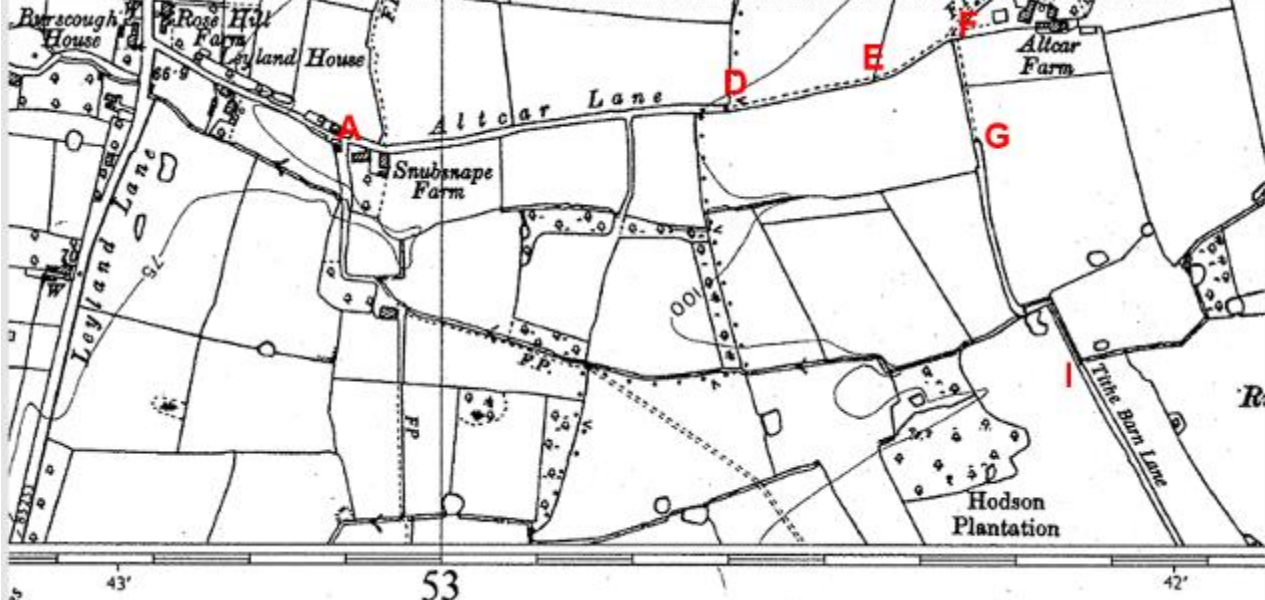
The application route is shown between point A and point F as part of a longer route continuing through point I to the north of Altcar Farm. From Leyland Lane through to the parish boundary at point D the route is labelled as Altcar Lane and is shown as a bounded route but is shown narrower than other minor public vehicular routes. Between point D and point F the route is shown as a track running along the north side of a field boundary which continues beyond point F. Between point F and point G the application route is not shown. From point G to point I the route is shown as part of a longer route which continues south east down to Runshaw Lane and is labelled as Tithe Barn Lane. From point G through to point I the application route is shown as a bounded route in the same way as the rest of Tithe Barn Lane. The width of this route is consistent with the width of Altcar Lane.

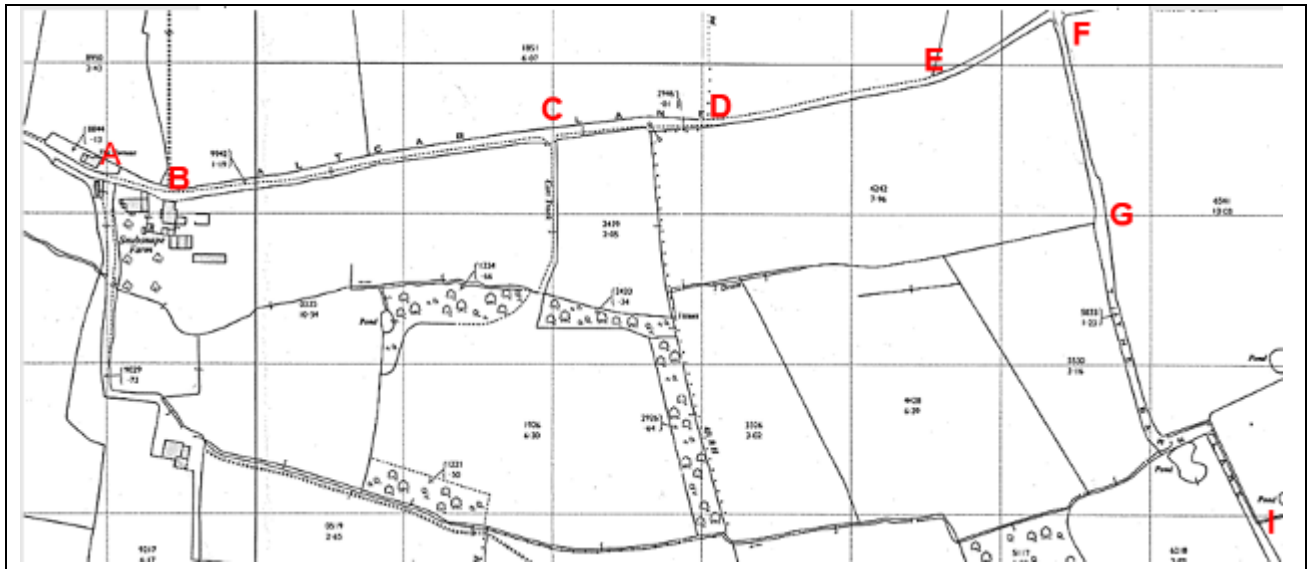
Investigating Officer's Comments

A gap is shown in the application route although OS mapping from that time suggests that a

		through route did exist. This gap does however suggest that the route was not considered to be a through route used by the public in vehicles at that time.
Aerial Photograph²	1940s	The earliest set of aerial photographs available was taken just after the Second World War in the 1940s and can be viewed on GIS. The clarity is generally very variable.
		
Observations		Altcar Lane from Leyland Lane through to point A can be clearly seen but beyond point A to point E the line of the route can be seen by reference to the field boundaries (hedges) but the route itself can only be faintly seen. From point E through to point I parts of a track are visible but much of the route cannot be seen due to trees and hedges running the length of the route.
Investigating Officer's Comments		The application route may have been accessible but it appears to be more consistent with use on foot and possibly horseback with low levels of vehicular use to gain access to Altcar Farm consistent with private vehicular access.
6 Inch OS Map	1955	The OS base map for the Definitive Map, First

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.

52SW		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		<p>The full length of the application route is shown. Between point A and point D the route is shown as a bounded route and labelled as Altcar Lane. From point D to point F the route is shown as a single dashed line adjacent to a field boundary with a line across it at point E. Access to Altcar Farm is shown at point F a double dashed line labelled as a footpath continues north east from point F around the north side of the farm. A line is shown across the application route at point F where it turns to continue south and between point F and point G the route is again shown as a single dashed line adjacent to a field boundary with a further line across it midway between the two points. From point G through to point I the application route is shown as a bounded route consistent with how it is shown south of point I. South of point I the continuation of the route is named as Tithe Barn Lane.</p>
Investigating Officer's Comments		The application route existed in the 1930s and appeared to be capable of being used at least on horseback.
1:2500 OS Map SD 5220-5320	1963	Further edition of 25 inch map reconstituted from former county series and revised in 1961-1962 and published in 1963 as national grid series.



<p>Observations</p>		<p>The full length of the application route is shown and is now shown ungated throughout its full length and is bounded on both sides with the exception of the section between point D and point E. The route is labelled as part of Altcar Lane between point A and point D and as part of Tithe Barn Lane between point G and point I.</p>
<p>Investigating Officer's Comments</p>		<p>The application route existed in the early 1960s and appeared to be capable of being used. Gates are no longer shown across any part of the route and most of it is now enclosed and separate from the adjacent fields. The removal of all gates across the routes suggests that access along the full length of the route would be easier for anyone travelling along it on horseback or in a vehicle.</p>
<p>Aerial photograph</p>	<p>1960s</p>	<p>The black and white aerial photograph taken in the 1960s and available to view on GIS.</p>




Observations		The full length of the application route can be clearly seen.
Investigating Officer's Comments		The application route appears much clearer on the aerial photograph taken in the 1960s than it did on the photograph taken 20 years earlier. The way that the route is visible indicates that a significant route now existed along the full length which appeared consistent with a route used by vehicles and which would have been capable of being used on horseback.
Aerial Photograph	2000	Aerial photograph available to view on Google Earth Pro.



Observations		The full length of the application route can be clearly seen with no distinction between it or the adopted sections of Altcar Lane and Tithe Barn Lane west of point A and south of point I.
Investigating Officer's Comments		The way that the route is visible indicates that a significant route now existed along the full length which appeared consistent with a route used by vehicles and which would have been capable of being used on horseback.
Aerial Photograph	2005	Aerial photograph available to view on Google Earth Pro.







Observations		The full length of the application route can be
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		clearly seen with no distinction between it or the adopted sections of Altcar Lane and Tithe Barn Lane west of point A and south of point I. Additional buildings can be seen adjacent to the route just south of point F.
Investigating Officer's Comments		The way that the route is visible indicates that a significant route now existed along the full length which appeared consistent with a route used by vehicles and which would have been capable of being used on horseback.
Aerial Photograph	2015	Aerial photograph available to view on Google Earth Pro.
		
Observations		The full length of the application route can be clearly seen with no distinction between it or the adopted sections of Altcar Lane and Tithe Barn Lane west of point A and south of point E.
Investigating Officer's Comments		The way that the route is visible indicates that a significant route now existed along the full length which appeared consistent with a route used by vehicles and which would have been capable of being used on horseback.
Cycle route promoted on the South Ribble Borough Council website	2020	Source: https://www.southribble.gov.uk/cycling

Seven Stars East Circular Cycle Route

MODERATE



-  **Start/End:** Seven Stars pub (car park available).
-  **Amenities at start/end:** Convenience stores selling takeaway coffee, cold drinks, snacks.
-  **Along the way:** Play area, café, miniature railway and playing fields at Worden Park.
-  **About the route:** Fairly quiet roads except for short stint on B5253 (occasionally used by larger vehicles). This is a lovely flat route with lots of opportunities for other activities near the end. There is also the possibility of linking with the Seven Stars West route for a longer ride.

4.22 MILES

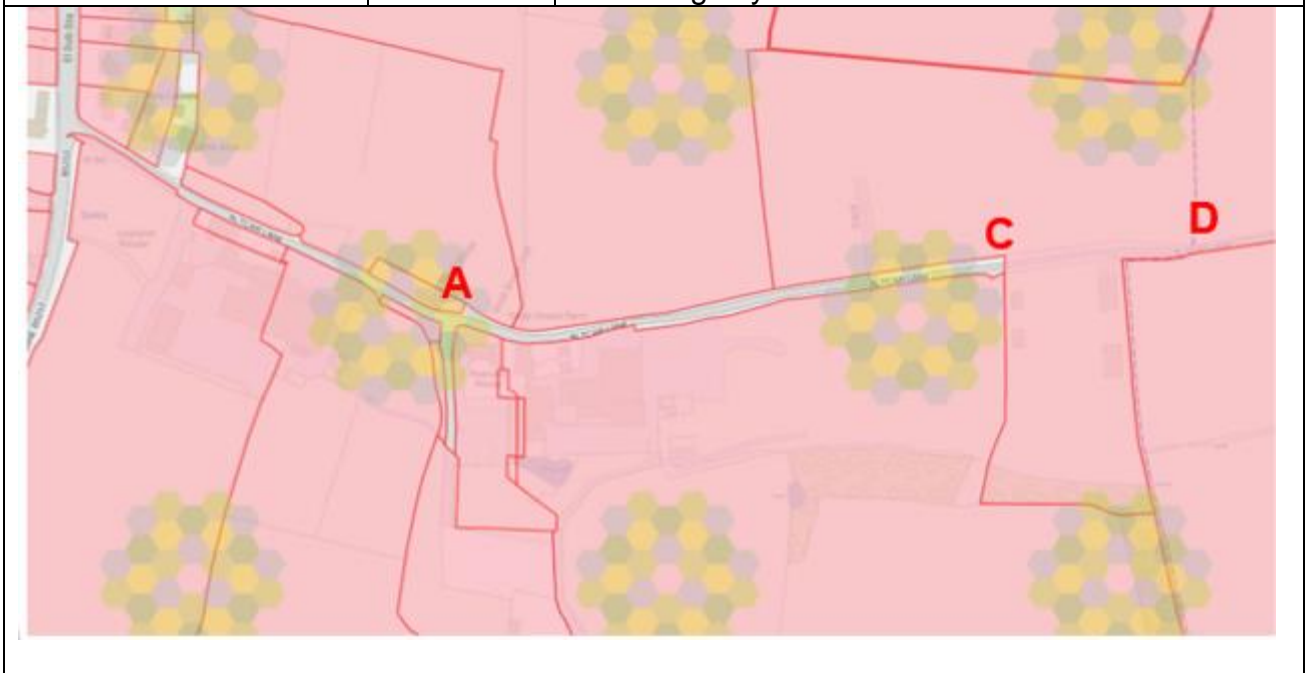


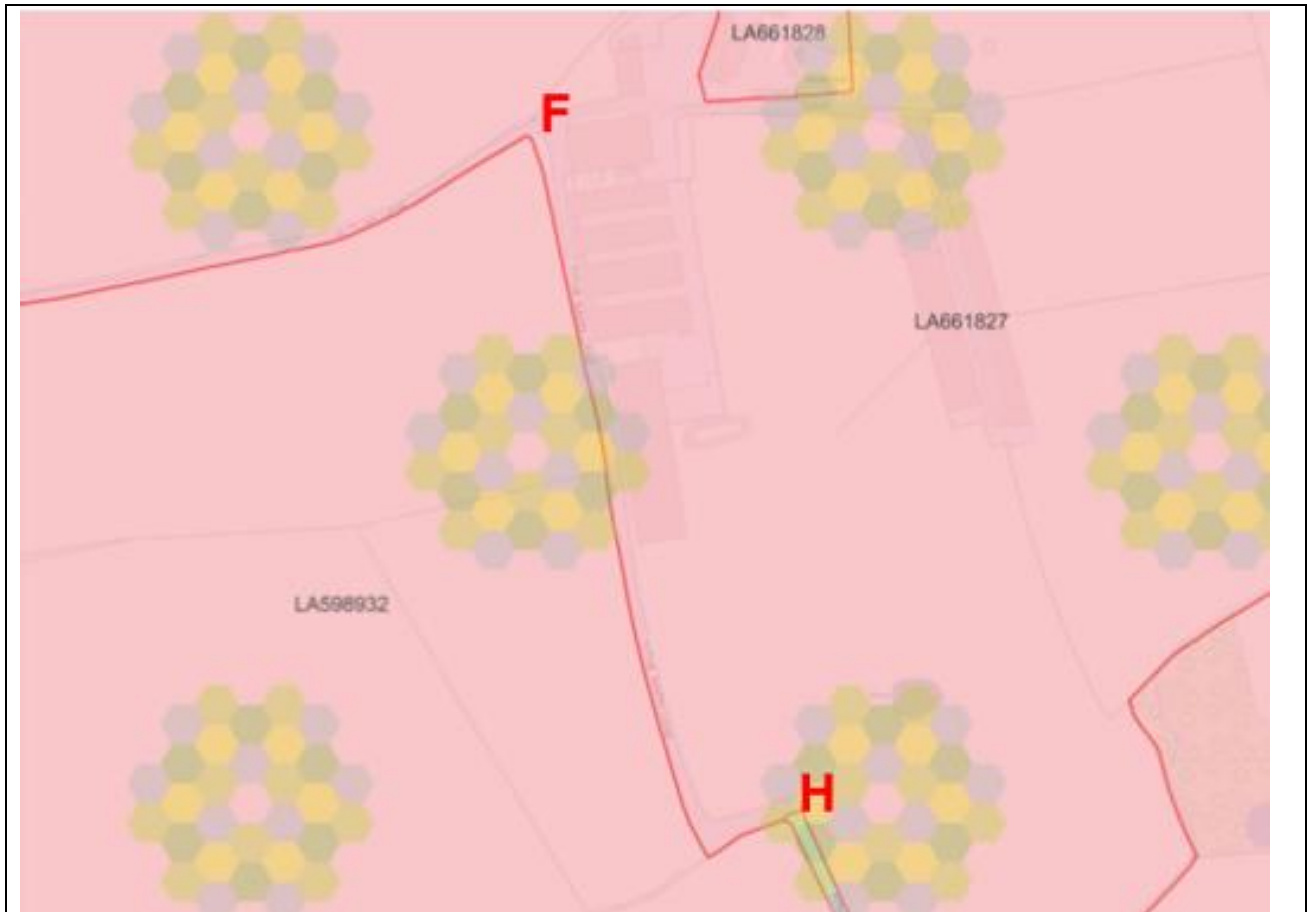
SOUTH RIBBLE
BOROUGH COUNCIL

Observations

A leaflet promoting a cycle route to members of the public was located on the South Ribble

		Borough Council website. The route includes use of the application route but gives no indication regarding the legal status of the route or whether access to use it has been given by the relevant landowners or whether use is considered to be as of right.
Investigating Officer's Comments		No information has been found regarding permission granted for the inclusion of the route in the cycling leaflet and it is noted by the Investigating Officer that unlawful stiles currently located adjacent to buildings at Altcar Farm would make access difficult for cyclists.
Landownership		Landownership information obtained from the Land Registry.





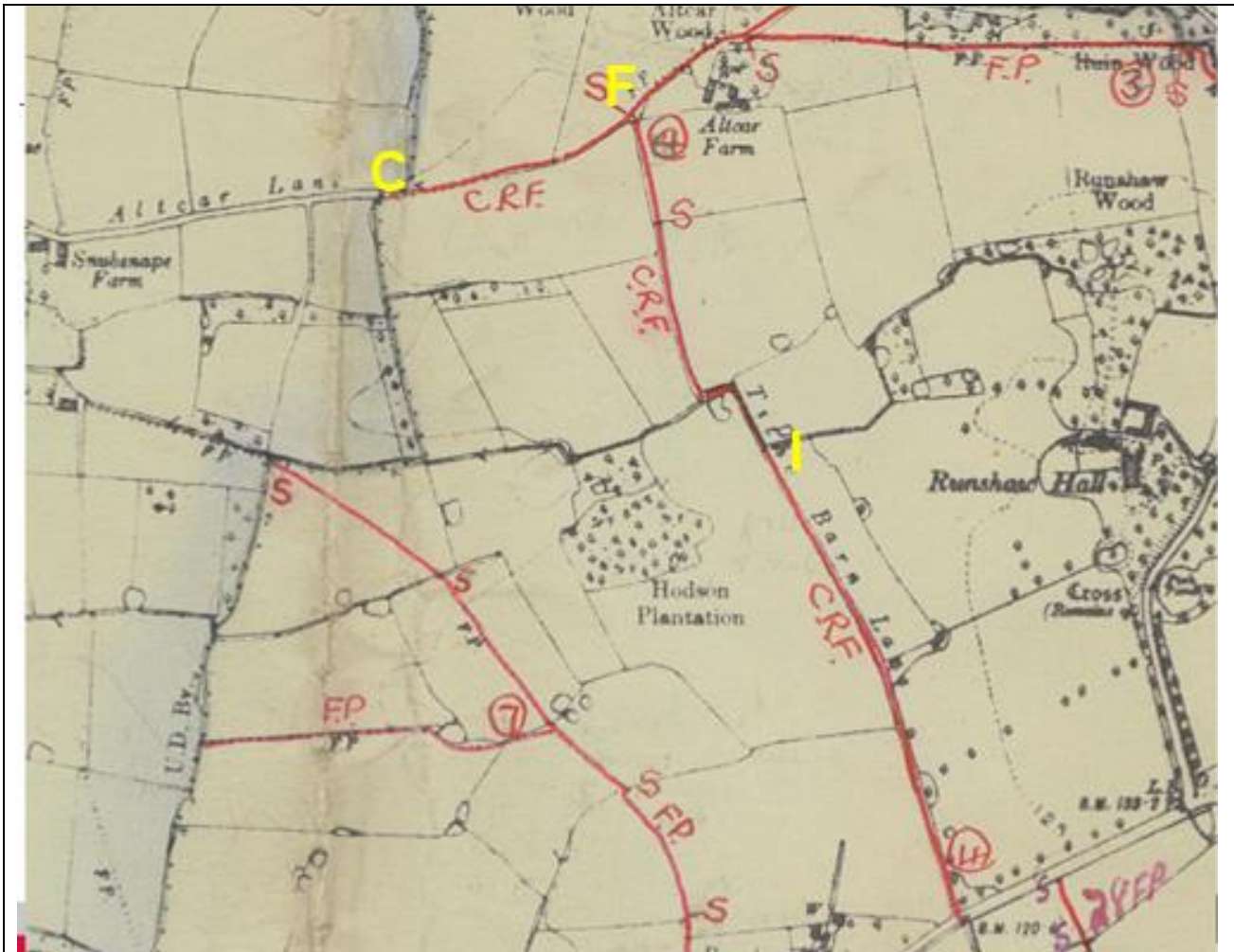
Observations

The Land registry documentation shows that much of the application route is under the registered title LA661827 although the first part of the route from point A to point B is unregistered and from point H through to point I and continuing along the rest of Tithe Barn Lane to the junction with Runshaw Lane ownership of the lane is also unregistered.

With regards to the land crossed by the application route that is recorded as being owned, it appears that the land was formerly in the ownership of Sir Henry Francis Colden until, on 16 December 1974, it was transferred to the Central Lancashire New Town Development Corporation. The land was owned by them until 1991 when it was sold to the current owner Mr John Coulthurst. The Land Registry title refers to the land being sold with a right for Mr Coulthurst to pass and repass along parts of Altcar Lane and Tithe Barn Lane to access Altcar Farm and also allowing for him to grant a right either expressly or by implication for others to pass along it with or without vehicles and animals.

A search of the online catalogue at the County Records Office was made regarding records relating to the Central Lancashire New Town

		Development Corporation but no reference to Altcar Farm or the application route was found.
Investigating Officer's Comments		The ownership of part of the route (points A-C and G-I) is largely consistent with the Finance Act documentation. However, the fact that a substantial part of the route is in private ownership is consistent with the fact that the middle section was shown gated and unenclosed until more recent times and is perhaps more suggestive of a route carrying historical footpath or bridleway rights than a public vehicular route.
Definitive Map Records		<p>The National Parks and Access to the Countryside Act 1949 required the County Council to prepare a Definitive Map and Statement of Public Rights of Way.</p> <p>Records were searched in the Lancashire Records Office to find any correspondence concerning the preparation of the Definitive Map in the early 1950s.</p>
Parish Survey Map	1950-1952	The initial survey of public rights of way was carried out by the parish council in those areas formerly comprising a rural district council area and by an urban district or municipal borough council in their respective areas. Following completion of the survey the maps and schedules were submitted to the County Council. In the case of municipal boroughs and urban districts the map and schedule produced, was used, without alteration, as the Draft Map and Statement. In the case of parish council survey maps, the information contained therein was reproduced by the County Council on maps covering the whole of a rural district council area. Survey cards, often containing considerable detail, exist for most parishes but not for unparished areas.



Extract from the Parish Survey Map of Euxton

DISTRICT	CHORLEY CURAH	PARISH	EUXTON	No.	H.C.R.F.
MAP SHEET No.	1.	LENGTH	0.60	miles (to two decimal places)	
BRIEF DESCRIPTION (Field F.P. or otherwise)	Occupation Road.			F.P.	
DETAILED DESCRIPTION (giving starting point, means of passage and general condition).					
<p>From County Road Leaves Runshaw Mead opposite Guest's Farm & proceeds in northerly direction to join F.P. N° 3 at post stile near Allcar Farm. Condition good all the way.</p>					
SURVEYED BY:—		Name	M ^r J Turner	W ^r R O'Huan	
		Address	13, St Margarets Euxton	24 Runshaw Lane Euxton	
Date					

DISTRICT CHORLEY KURAH PARISH KUXTON No. 5 F.P.

MAP SHEET No. 1. LENGTH 0.72 miles
(to two decimal places)

BRIEF DESCRIPTION (Field F.P. or otherwise)
Field Footpath F.P.

DETAILED DESCRIPTION (giving starting point, means of passage and general condition).
Entrance by gap at south end of wall over Shaw Brook in Runshaw Lane following course of stream to stile at Ruin wood. Straight forward to stile in copse at Altcar Farm. Path bad & ill defined in latter stretch to farm. Path then curves round farm through trees over swampy & cesspool covered ground, very bad to traverse. Then follows bridlepath to parish boundary through post stile.

SURVEYED BY :- Name Mr J Turner Mr R O'Han
Address 13 St Mary's Gate 24 Runshaw Lane
Kuxton Kuxton.

Date 5.11.55

XXXXX 1721-1-50

Parish Survey cards for Footpaths 3 and 4

some systematic and consistent basis throughout the parish.

- (i) Public paths should be distinguished on the maps (in the first instance in *ordinary pencil*) with the symbols "F.P.", "B.R.", "C.R.F.", or "C.R.B.", as explained in section 4 below, irrespective of what is printed on the Ordnance Survey.

8

SYMBOLS TO BE USED IN MARKING MAPS

(Mark the symbols in CAPITALS)

KIND OF PATH	Mark
Footpath	F.P.
Bridle Road (including Driftway for cattle)	B.R.
Public Carriage or Cart Road mainly or Green (unmetalled) Lane used as	{ (1) Footpath C.R.F. (2) Bridleway C.R.B.
MEANS OF PASSAGE	
Cartbridge	C.B.
Footbridge	F.B.
Stepping Stones	S.S.
Fieldgate	F.G.

Extracts from the Commons, Open Spaces and Footpaths Preservation Society publication 'Surveys and Maps of Public Rights of Way for the Purposes of Part IV of the National Parks and Countryside Act 1949' published in 1950

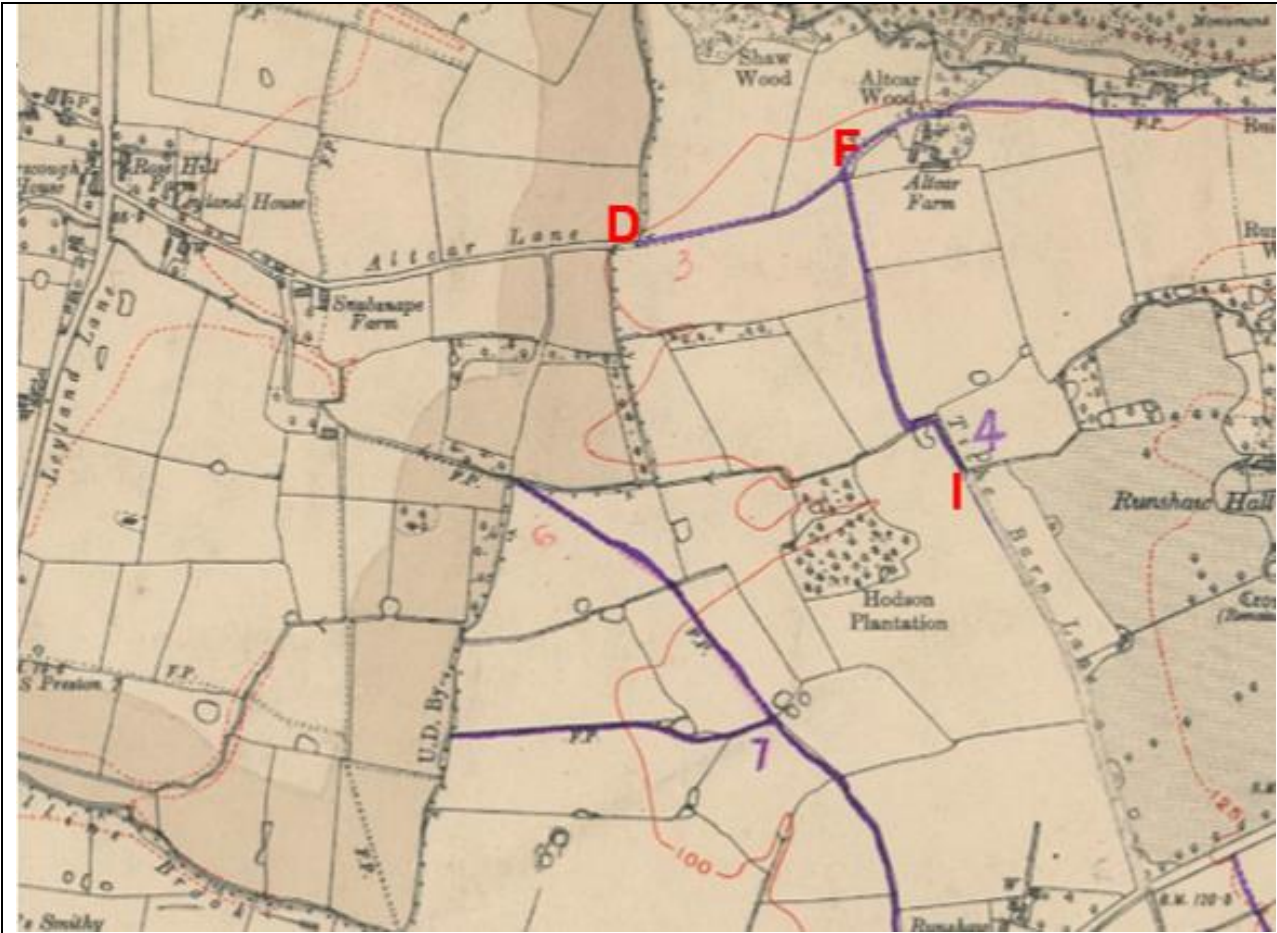
<p>Observations</p>		<p>In the 1950s, that part of the application route between point A and point D was in the former Urban District of Leyland for which no parish survey map or cards were produced.</p> <p>The remainder of the route is within the parish of Euxton which was in the Rural District of Chorley. Between point D and point F the application route was recorded as part of Footpath 3. The parish survey card described it as a field footpath running in an east to west direction around the back of Altcar Farm 'to then follow bridlepath to parish boundary'. Between point D and point F – which was described as a 'bridlepath' in the survey card, the route is also annotated on the parish survey map with the abbreviation 'C.R.F' which meant Public carriage or cart road or green (unmetalled) lane mainly used as footpath according to the instructions issued to parish councils for completing the parish survey map by the Open Spaces Society. A stile was shown on the parish survey map at point F although it was not clear whether this was on the route of FP 3 or FP 4.</p> <p>From point F through to point I the application is shown as part of footpath 4 which continued south of point I along the full length of Tithe Barn Lane to the junction with Runshaw Lane. This route was also annotated with the letters 'C.R.F' meaning public carriage or cart road or green lane (unmetalled) mainly used as footpath with a stile marked at point F and one at point G. The parish survey card described the route as an occupation road from the county road (Runshaw Lane) in a northerly direction to join FP 3 at post and stile near to Altcar Lane. It was described as being in good condition.</p>
<p>Draft Map</p>		<p>The parish survey map and cards for Euxton were handed to Lancashire County Council who then considered the information and prepared the Draft Map and Statement.</p> <p>The Draft Maps were given a “relevant date” (1st January 1953) and notice was published that the draft map for Lancashire had been prepared. The draft map was placed on deposit for a minimum period of 4 months on 1st January 1955 for the public, including landowners, to inspect them and report any omissions or other mistakes. Hearings</p>

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



		Balcarres Road.	0.21	None known.
45.	Footpath.	Altcar Lane from the east end of the adopted portion near Shubsape Farm eastwards to the Leyland U.D. boundary, thence into Chorley R.D. through Altcar Farm to Holt Brow.	0.23	None known.
46.	Footpath.	From Leyland Lane north of and parallel to Altcar Lane joining footpath No. 20.	0.16	None known.

Draft Map Leyland Urban District



3	"	Runshaw Lane at Holt Brow past Altcar Farm to Parish Boundary at Altcar Lane.	0.72
4	"	From County Road to join Footpath No. 3 at Altcar Farm.	0.26

Chorley Rural District Draft Map

Observations	<p>The Draft Map for Leyland Urban District Council recorded the application route from point A through to point D as route 45. The Draft Statement described it as a footpath named as Altcar Lane extending from the eastern end of the adopted section of Altcar Lane to the boundary of Leyland Urban District and onwards past Altcar Farm.</p> <p>The Draft Map for Chorley Rural District Council showed the application route between point D and point F and between point F and point I as footpaths (coloured purple). The section between point D and point F is not numbered on the map. Between point F and point I the route is numbered 4.</p> <p>The Draft Statement records the application route between point D and point F as part of Footpath 3 which runs from Runshaw Lane past Altcar Lane</p>
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		<p>through to the parish boundary at point D.</p> <p>Footpath 4 is described in the Draft Statement as being from the County Road to join Footpath 3 at Altcar Farm.</p>
Provisional Map		<p>Once all representations relating to the publication of the draft map were resolved, the amended Draft Map became the Provisional Map which was published in 1960 and was available for 28 days for inspection. At this stage, only landowners, lessees and tenants could apply for amendments to the map, but the public could not. Objections by this stage had to be made to the Crown Court.</p>
Observations		<p>The application route was shown in the same way on the Provisional Map as it had been shown on the earlier Draft Map and no objections or representations were made regarding its inclusion or the fact that it was shown as a footpath.</p>
The First Definitive Map and Statement		<p>The Provisional Map, as amended, was published as the Definitive Map in 1962.</p>
Observations		<p>The application route was shown on the First Definitive Map as a footpath.</p>
Revised Definitive Map of Public Rights of Way (First Review)		<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 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>



Observations		The application route is recorded on the Revised Definitive Map and Statement as a public footpath.
Investigating Officer's Comments		<p>When the parish survey maps were completed by Euxton Parish Council in 1950 both Altcar Lane and Tithe Barn Lane were marked up on the map as being public carriage or cart roads used mainly as footpaths suggesting that whilst the parish council considered that they were historical public carriage or cartways that they were used predominantly by the public on foot by the 1950s.</p> <p>When the Draft Maps were prepared and published the application route was shown as a footpath by Leyland Urban District Council and also by the County Council. Since 1953 through to 1975 there is no evidence that the application route was considered to be anything other than a footpath.</p>
Highway Adoption Records including maps derived from the '1929 Handover Maps'	1929 to present day	<p>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 publicly maintainable highways within the district. 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.</p> <p>A right of way marked on the map is good</p>

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 expense. Whether a road is maintainable at public expense or not does not in itself determine whether it is a highway or not.



Chorley RD Handover Map Sheet 77NW



Extracts from the county council highway records showing the two adopted sections of Altcar Lane and Tithe Barn Lane

Observations		<p>The application route is not recorded as a publicly maintainable highway on the county council's list of Streets or the Handover Maps derived from records held by Chorley RDC.</p> <p>We have no records to explain why only the first parts of Altcar Lane and Tithe Barn Lane were recorded as publicly maintainable highways on the List of Streets.</p>
Investigating Officer's Comments		<p>The fact that the route is not recorded as a publicly maintainable highway does not mean that it does not carry public rights in addition to the footpath rights already recorded but it offers no support to the assertion.</p>
Highway Stopping Up Orders	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>A search of records held at the County Records Office and also those held by the London Gazette was made and no legal orders affecting the application route were found.</p>
Investigating Officer's Comments		<p>There is no record of any public rights that may be found to exist along the application route having been legally extinguished.</p>

<p>Statutory deposit and declaration made under section 31(6) Highways Act 1980</p>		<p>The owner of land may at any time deposit with the County Council a map and statement indicating what (if any) ways over the land he admits to having been dedicated as highways. A statutory declaration may then be made by that landowner or by his successors in title within ten years from the date of the deposit (or within ten years from the date on which any previous declaration was last lodged) affording protection to a landowner against a claim being made for a public right of way on the basis of future use (always provided that there is no other evidence of an intention to dedicate a public right of way).</p> <p>Depositing a map, statement and declaration does not take away any rights which have already been established through past use. However, depositing the documents will immediately fix a point at which any unacknowledged rights are brought into question. The onus will then be on anyone claiming that a right of way exists to demonstrate that it has already been established. Under deemed statutory dedication the 20 year period would thus be counted back from the date of the declaration (or from any earlier act that effectively brought the status of the route into question).</p>
<p>Observations</p>		<p>No Highway Act 1980 Section 31(6) deposits have been lodged with the county council for the area over which the application route runs.</p>
<p>Investigating Officer's Comments</p>		<p>There is no indication by the landowners under this provision of non-intention to dedicate public rights of way over this land.</p>

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 – or in this particular case – that additional/higher public rights exist and it is often the case that we need to examine a body of evidence, often spanning a substantial period of time, from which public rights can be inferred.

The application route is not shown on any of the small scale early commercial maps examined and although it may have existed it does not appear to have been considered a substantial vehicular route at that time.

The earliest map examined to show the route (between point A and point D) was the Tithe Map of Leyland 1838 which also indicated that the route continued east beyond the parish boundary. The section between point A and point D was shown as a substantial bounded route but not listed as a public route. The rest of the route was shown on the Tithe Map for Euxton in 1847. Between point D and point F – leading to Altcar Lane – the route was recorded as being a road but significantly it was described as being in private ownership. From point F to point G the route was shown but its status was unclear as it was included in a plot described as 'Barn Field' which was privately owned and occupied and for which a tithe was payable, and south from point G the route was clearly listed as a public road.

Whilst the Tithe Maps confirm that the route existed as a gated through route at the time of the tithe surveys the way that it was depicted suggests that the route – particularly between point A and point F primarily existed as vehicular access to Altcar Farm although it does appear that a through route did exist and would have been capable of being used from point A passing through point F to point I (and beyond). The section G-I may have been part of the public section but there is no further evidence of that and it is suggested that on balance the evidence of public rights on G-I is insufficient.

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

The 1910 Finance Act documentation shows that whilst part of the route is shown to be excluded from the numbered hereditaments (A-D and H-I) - consistent with a belief at that time that the route carried public vehicular rights - the middle section from point D to point H is included in a numbered plot for which no deductions for public rights of way was listed.

The route is shown on the Bartholomew maps produced in the first half of the 1900s reaffirming that it existed as a substantial route which appeared to be considered by that time as being more than a footpath or bridleway. It was not denoted as being a public vehicular route of a good enough standard to be recommended for cyclists but its inclusion as an uncoloured road suggested that it physically existed as a substantial route in the early 1900s which would have been capable of being used at least on horseback and by the 1940s it was referred to as a bridlepath between point D and point F by the parish council when completing the parish survey map, whilst only recording public footpath rights.

Since the 1960s use of the route by vehicles accessing Altcar Farm appears to have greatly increased leading to the enclosure of the whole route separating it from adjacent fields and removal of a number of gates along the route, and also to the tarmacking of the route to provide access to and from the poultry farm.

User evidence was not submitted as part of the application although it was noted that the applicant referred to the fact that such evidence was available and that it could be obtained if necessary.

The site evidence concurs with the fact that the route could have been used by horses until more recently when part of the route was unlawfully blocked adjacent to the poultry farm and stiles erected.

In conclusion, a range of OS, commercial maps and other documents were examined which seem to suggest that the route probably came into existence to provide access to Altcar Farm and that it was consistently shown as a gated through route from the mid-1800s. It is consistently shown to exist on small scale OS maps and the Bartholomew maps examined since the mid-1800s which is suggestive of public vehicular use during that time but weighing against this is the fact that it did not appear to be considered to be a public vehicular through route when the Tithe Map was produced and that the middle section of the route was not excluded as part of the Finance Act valuation in the early 1900s.

Taking all the evidence into consideration it appears that the route probably existed since the mid 1800s to provide access primarily to and from Altcar Farm but from the evidence available it is not possible on balance to infer that public bridleway rights existed.

Head of Service – Legal and Democratic Services Observations

Landownership

The section of the application route from A to C crosses land which is unregistered. The land crossed by the application route from C to H is in private ownership. The section of the application route from H to I crosses land which is unregistered.

Information from the Applicant

Information provided by the applicant has been considered in the map and documentary evidence section of this report.

Information from Others

Homes England, an adjacent landowner of the application route, responded to consultation by stating their land would not be affected by the proposed upgrade.

Another adjacent landowner, Lovell Partnerships Limited, responded by highlighting the exact area of land which is in their ownership. They stated that their boundary only forms a very small section of the proposed bridleway.

A further adjacent landowner responded to consultation by highlighting the exact area of land they own. They also requested further information as to what implications an upgrade to a bridleway would entail, a response has been sent.

Another adjacent landowner responded to consultation by stating they object to the proposed upgrade.

Atkins Global have responded to consultation by saying they have no objection to the proposed upgrade.

A single user provided a completed user evidence form independent of the application, the details of which are summarised below.

The user has used the application route since 1960 and continues to use it to the present day. They noted that they did not use the route for an extended period of time from 1979-1989. The reason for this was that they had small children and used vehicle transport instead.

The purpose of the users' use of the application route was for pleasure. They stated that they have used the application route monthly on foot, weekly on horseback and weekly by pedal bike. Additionally, they noted that they have seen other people using the exact same route as them on foot, on horseback and on a bicycle/horse-drawn vehicle.

The user stated that the route was approximately 2 metres wide and says the surface was made up of 'hard surface lane, then earth track for about 100 metres, then hard surface lane again'.

The user says there are now stiles in place on the application route. They noted that the stiles make it hard for them to use the full route when walking and impossible to use the full route when cycling (without carrying the bike over which the user describes as 'not doable'). The user states the stiles have not always been in place on this route.

Information from the Landowner

One owner of land crossed by the application route responded to consultation to state that they will object to the proposed upgrade.

Assessment of the Evidence

The Law

Conclusion

In this matter there is an application that the route be upgraded on the Definitive Map and Statement to be recorded as a bridleway.

There is no express dedication in this case.

As such committee must examine whether there is an inferred dedication under common law or a deemed dedication by statute under section 31(1) Highways Act 1980.

Committee therefore is advised to consider whether there is sufficient evidence from all the circumstances to infer at common law that owners of this route intended dedicating or whether there is evidence of twenty years use by sufficient users without sufficient evidence of a lack of intention to dedicate from which dedication could be deemed under S31 Highways Act 1980.

Committee will appreciate the importance of the words 'sufficient evidence' with regard to their findings.

'User evidence' was not submitted as part of the application but there was a lone public right of way user statement documenting one person's use of the route on foot, horseback and pedal cycle. However, it would be considered that one account of use of any route without sufficient detail must be classed as trivial and sporadic and cannot be sufficient to satisfy the criteria under s31 Highways Act 1980 and the Committee is advised to instead consider if an inference of dedication is possible on balance of the all the evidence at common law.

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

The evidence has been summarised and evaluated earlier within the report. It is sometimes difficult to evaluate whether there is sufficient evidence of it being dedicated as public. There is insufficient user evidence in this case and so the evidence comes from balancing what the documentary evidence shows.

As such, on balance and given the nature of the evidence it is advised that the evidence of it having become a public bridleway is insufficient.

The recommendation is that the application be not accepted and no Order be made based on the evidence available.

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:
804-632

Annabel Mayson, 01772
533244, County Secretary
and Solicitors Group

Reason for inclusion in Part II, if appropriate

N/A