

Regulatory Committee

Meeting to be held on 27 September 2023

Part I

Electoral Division affected:
Hoghton with Wheelton

**Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Bridleway along Long Lane, Hoghton, Chorley
(Annex 'A' refers)**

Contact for further information quoting file reference 804-730:

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Brief Summary

Application for the recording on the Definitive Map and Statement of bridleway along Long Lane, Hoghton.

Recommendation

- (i) That the application for the addition of a bridleway and upgrading of 9-18-FP13 to bridleway on the Definitive Map and Statement of Public Rights of Way be not accepted.
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to add a footpath on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-Z.
- (iii) That being satisfied that the tests for confirmation can be met the Order be promoted to confirmation.

Detail

An application under Schedule 14 of the Wildlife and Countryside Act 1981 has been received for the addition of a bridleway and the upgrade to bridleway of Footpath 9-18-FP13 known as Long Lane, Hoghton on the Definitive Map and Statement of Public Rights of Way.

The route applied for meets the county boundary at the point marked F on the Committee plan. Beyond this point the route continues, still named as Long Lane, in the Parish of Pleasington, Blackburn with Darwen, through to the junction with Woodcock Hill Road (point X) as shown on the map extract below:



Blackburn with Darwen Council also received an application at the same time and from the same applicant to upgrade to bridleway that part of Long Lane, currently recorded as a footpath on the Definitive Map, as shown between points F and X on the map extract above.

The county council have been in contact with Public Rights of Way Officers at Blackburn with Darwen Council who supplied a copy of the application that they had received. The map and documentary evidence and user evidence submitted for both applications is the same.

Blackburn with Darwen Council (BwD) have not yet considered the application that they have received and because the route is essentially one, arbitrarily split only because of the county boundary, the investigation carried out by the county council considers the route as a whole.



Following consideration of this application by the Regulatory Committee a copy of this report and the Committee decision will be forwarded to Blackburn with Darwen Council.

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

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

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

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

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

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

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

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

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

Consultations

Chorley Borough Council

Chorley Borough Council provided no response to our consultation.

Blackburn with Darwen Borough Council



Blackburn with Darwen Borough Council provided no response to our consultation.

Hoghton Parish Council

Hoghton Parish Council provided no response to our consultation.

Advice

Head of Service – Planning and Environment

Points annotated on the attached Committee plan.

| Point | Grid Reference (SD) | Description |
|-------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A | 6270 2720 | Point on Valley Road (U9063) adjacent to gable end of 7 Valley Road |
| B | 6273 2721 | Ford crossing of the River Darwen |
| C | 6274 2723 | 9-18-FP13 at north side of ford |
| D | 6277 2720 | Pedestrian gate across part of route |
| E | 6303 2696 | Junction with Footpath 9-18-FP14 |
| F | 6311 2694 | County boundary and eastern end of Footpath 9-18-FP13 beyond which point the route continues as Footpath 18 in the parish of Pleasington, Blackburn with Darwen. |
| X | 6366 2690 | Eastern end of Footpath 18 Pleasington at the junction with Woodcock Hill Road and Long Lane. |
| Y | 6284 2714 | Line drawn across application route on Tithe and Finance Act Maps |
| Z | 6272 2723 | North east end of footbridge |

Description of Route

A site inspection was carried out in September 2022.

Application route A-F as shown on Committee Plan 1 (referred to throughout as 'application route')

The application route starts at the east end of Valley Road adjacent to the gable end of 7 Valley Road in a hamlet known as Hoghton Bottoms (point A on the Committee plan).

The route crosses a gravelled area in an easterly direction and then descends in a north easterly direction to a ford crossing of the River Darwen (point B).

The route crosses the shallow ford, which it was possible to wade through wearing wellingtons on the day of inspection, to continue north east out of the ford to meet Footpath 9-18-FP13 on the north side of the river (point C).



The application route continues along 9-18-FP13 in a south easterly direction along a strip of land immediately adjacent to the River Darwen. A narrow (approximately 1 metre wide) trod exists indicating that it is frequently walked but the wider strip of land is largely overgrown. There were no hoof prints indicating recent use on horseback.

After approximately 40 metres the application route passes through a gap and adjacent pedestrian kissing gate (point D) where there is evidence (a gate post) that a field gate had previously existed across the route alongside which a pedestrian gate had been provided. The trodden track passed through the gap and whilst the pedestrian gate was useable the grass growing over, the surface of the path suggests use of the pedestrian gate was now infrequent.

The application route continued as a trodden track close to the riverbank and at one point it was evident that the banking was beginning to collapse into the river causing the trodden path to deviate round it, although still within the wider fenced off strip along which the application route runs.

The route then continued in a south easterly direction in a straight line departing from the meandering river for a short distance until it runs close to the riverbank again as it passes properties shown on the Committee Map as 'Spring Bank'.

The site inspection revealed that these properties are no longer in existence – and don't appear to have been for some considerable time with the area in which they were contained now completely overgrown with trees and bushes containing limited evidence of the remains of the buildings.

The application route passes between the river and the former buildings to the junction with Footpath 9-18-FP14 (point E) from where it then ascends gently uphill in an easterly direction away from the river. This section of the route is bounded on either side by stone walls and although the width between the walls is within the region of 5-7 metres only a narrow-trodden track is now visible.

The application route 'ends' at the County boundary, marked as point F on the Committee plan. This point is not marked on the ground and there is no discernible change in the route as it continues within BwD beyond point F.

The total length of the route is 535 metres.

There was no evidence of recent equestrian use of the application route but it was noted that the route would have been capable of use on horseback at that time.

Continuation of the application route from the county boundary (point F) through to the junction of Long Lane and Woodcock Hill Road (point X) – As shown on Committee Plan 2

From the county boundary the route continues as Footpath 18 in the Parish of Pleasington, Blackburn with Darwen.

The route continues as a bounded track which was quite overgrown but passable with a narrow trodden track down the centre indicative of reasonably frequent use on



foot. The route turned through a ninety-degree bend to continue uphill in a more south south easterly direction towards Higher Park Farm where a gate existed across the route immediately prior to it joining the access road (also recorded as part of the footpath) which gave direct access to the farm.

The route then continued along a substantial surfaced track, bounded from the adjacent fields in a generally easterly direction towards Stonefield Cottages where a further field gate crossed the route and then continued along the front of the cottages to join Long Lane and Woodcock Hill Road (point X on the Committee plan).

The total length of the route is 650 metres.

Together, the 'two' routes form one route – split only for the purposes of this application by the fact that they cross the county boundary, linking Valley Road at Hoghton Bottoms through to Long Lane/Woodcock Hill Road in Pleasington.

In summary, the full length of the route appeared capable of being used on horseback at the time it was inspected and user evidence was submitted as part of the two applications.

Footpath across the footbridge at Hoghton Bottoms from Valley Road to continue as Footpath 9-18-FP12 to the county boundary, as shown on Committee Plan 3 (referred to throughout as 'footbridge route').

As part of the investigations carried out into this application it was apparent that there was no recorded public footpath from Valley Road at Hoghton Bottoms (point A on the Committee plan) across the footbridge over the River Darwen to continue as Footpath 9-18-FP12.

From the end of Valley Road it is possible to walk directly from the corner of the gable end of 7 Valley Road for approximately 10 metres across a rough tarmacked area direct to the substantial metal footbridge that crosses the River Darwen. The footbridge spans the river and once across it the footpath continuing beyond, towards Lower Park Farm, is recorded as part of Footpath 9-18-FP12.

The total length of the route, including the footbridge, is 28 metres.

Collectively the application route and footbridge route are referred to throughout as the 'investigation route'.

Map and Documentary Evidence

Various 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.

Map extracts reproduced in this report are not to scale.

| Document Title | Date | Brief Description of Document & Nature of Evidence |
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| Yates' Map | 1786 | Small-scale commercial map. |



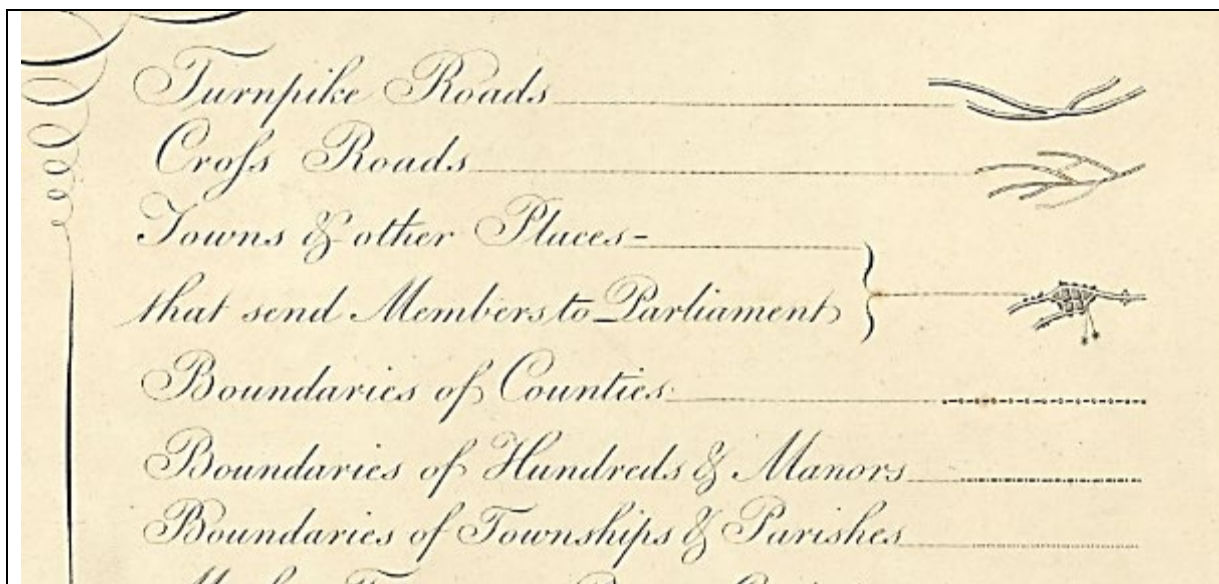
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| <p>of Lancashire</p> | | <p>Such maps were on sale to the public and hence to be of use to their customers the routes shown had to be available for the public to use. However, they were privately produced without a known system of consultation or checking. Limitations of scale also limited the routes that could be shown.</p> |
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| <p>Observations</p> | | <p>The investigation route is not shown.</p> |
| <p>Investigating Officer's Comments</p> | | <p>The investigation route did not exist in 1786 or if it did exist was not considered to be a substantial public route by Yates.</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> |



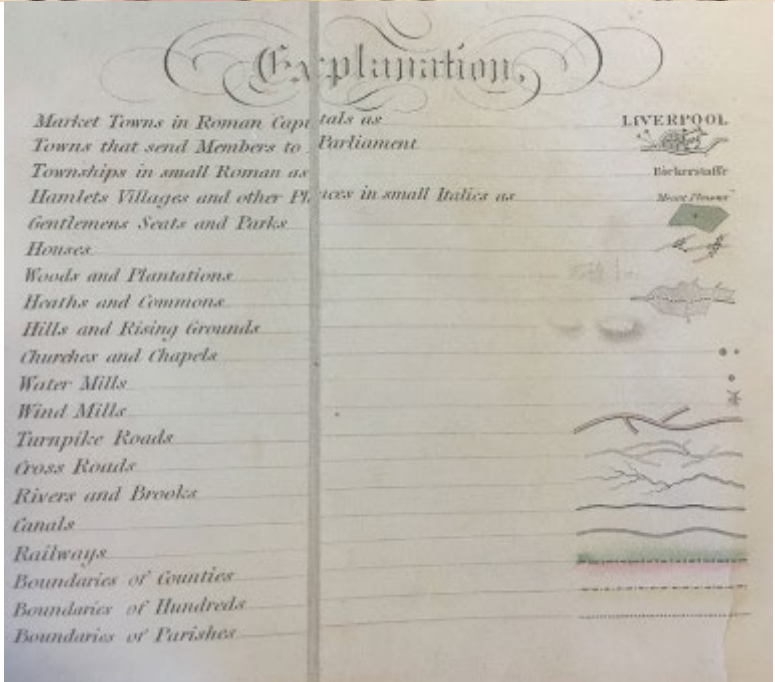




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| <p>Observations</p> | | <p>A road denoted in the map legend as a 'cross road' is shown extending from Blackburn Old Road at Hoghton east north east to the River Darwen where a cluster of buildings can be seen, one of which is labelled as Print Works. Where the cross road ends, at the River Darwen, is consistent with the start of the investigation route at point A. No bridge or ford crossing is shown and neither the application route A-F nor footbridge route A-Z is shown. A boundary - defined in the map legend as the boundary of a Hundred (- which was a subdivision of a county of Shire) or Manor is shown and a route depicted as a cross road is shown from point X passing westwards through the boundary to where it ends. This route extends further south than the BwD application route F-X but is consistent with most of its length.</p> |
| <p>Investigating Officer's Comments</p> | | <p>The investigation route did not exist in 1818 although access is shown to point A where a number of buildings existed, and a route also existed from</p> |

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| | | point X across the county boundary. Either the investigation route did not exist or was not considered to form a substantial public through route 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 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. |





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| <p>Observations</p> | <p>From point A it appears that there was access across the River Darwen, presumably via a ford, as a route depicted as a cross road is shown on the east of the river approximating to the route now recorded as 9-18-FP12.</p> <p>On the north east side of the river the application route is not shown nor is Spring Gardens. As the route approaches the hundred boundary it is shown coinciding with a substantial bounded route (cross road) which continues through point F and then through to point X although not consistent with</p> |
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| | | <p>the BwD application route F-X.</p> <p>On the Hoghton side of point F a cross road is shown crossing the river due west of F before turning north to continue to Valley Road west of point A.</p> |
| Investigating Comments | Officer's | <p>The application route A-F did not exist or was not considered by Hennessey to be a cross road at that time.</p> <p>The BwD application route F-X did exist in part providing access through to Hoghton Tower and to Valley Road but the section immediately east of point F is not shown.</p> <p>As the only other category of 'road' shown on the map are turnpike roads, it is possible that a cross road was regarded as either a public minor cart road or a bridleway (as suggested by the judge in <i>Hollins v Oldham</i>).</p> <p><i>Hollins v Oldham Manchester High Court (1995) [C94/0205]</i> <i>Judge Howarth examined various maps from 1777-1830 including Greenwoods, Bryants and Burdetts. Maps of this type, which showed cross roads and turnpikes, were maps for the benefit of wealthy people and were very expensive. There was "no point showing a road to a purchaser if he did not have the right to use it."</i></p> <p>Hoghton Tower however was coloured to indicate the existence of a 'Gentlemens Seat or Park' and it is acknowledged that private roads through and to such properties were marked on many of the early commercial maps and that most were not considered at that time to be public routes.</p> |



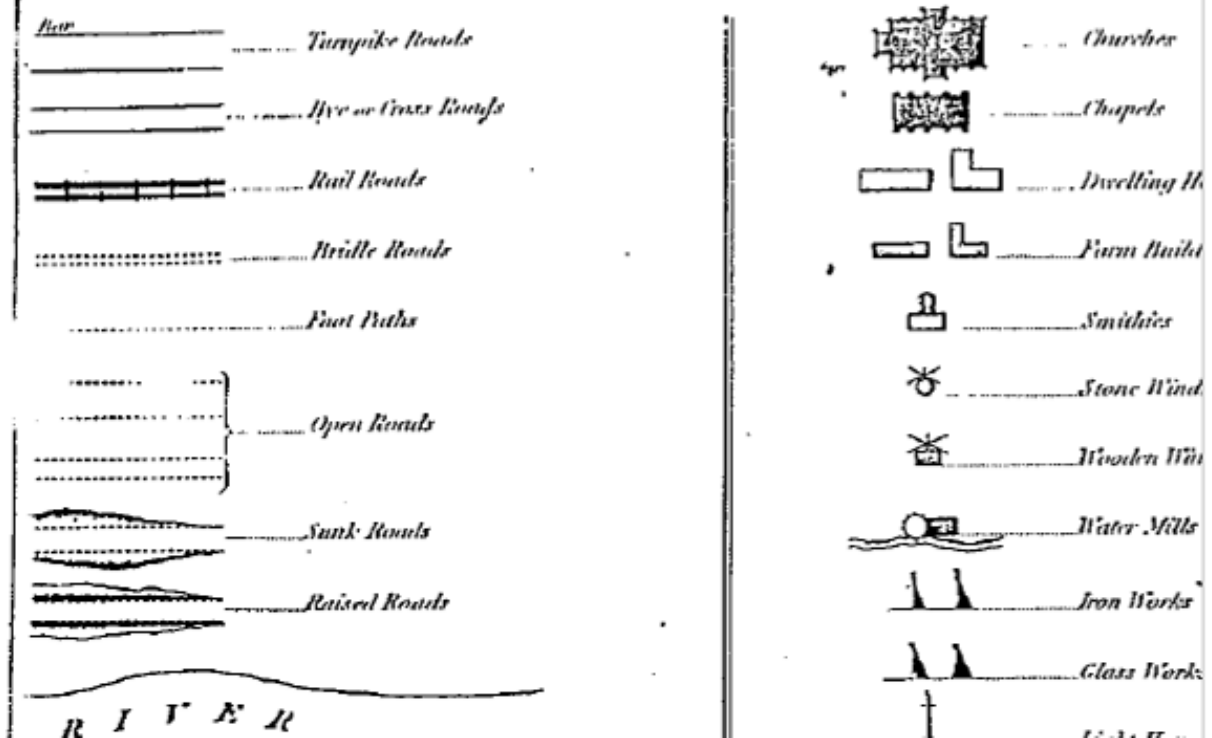
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| Canal and Railway Acts | | Canals and railways were the vital infrastructure for a modernising economy and hence, like motorways and high-speed rail links today, legislation enabled these to be built by compulsion where agreement couldn't be reached. 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 | | There are no existing, disused, or proposed railways or canals affecting the land crossed by the application route. |
| Investigating Officer's Comments | | No inference can be drawn with regards to the existence of public rights. |
| Hoghton Tithe Map and Tithe Award or Apportionment | 1841 | 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. |





PAPER 1837 XLI 405.

AND IN THE PLANS made under the ACTS
IN ENGLAND & WALES.



Extract from the British Parliamentary Paper 1837 Key of Symbols

Observations

The Tithe Map for Houghton shows a cluster of buildings and three small reservoirs at the north end of Valley Road where the application route commences.

A rectangular building consistent with the one still in existence today (now known as 7 & 8 Bridge End Cottage) is shown adjacent to point A. A line is shown across the investigation route at point A and the land to the north west



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| | | <p>of the line is included within plot 254 which is described as 'Printworks, cottages and yard' owned by Sir Henry Bold Hoghton Baronet and occupied by Cornelias Walmsley.</p> <p>East of point A the application route, which is not shown, crosses land numbered as part of plot 264 which is listed as being owned by John Crossley and occupied by Richard Ashworth and is described in the Tithe Award as a 'Croft'. Leading from plot 264 crossing the river to give access to plot 265 is a long narrow bridge which is shown in the same location as the footbridge that exists today. The ford crossing which forms part of the application route is not shown.</p> <p>Plot 265 is described as a lane although the state of cultivation is described as pasture for which a tithe was payable. It is also listed as being owned by John Crossly and occupied by Richard Ashworth.</p> <p>The application route from point C is contained within plot 265, which continues to where a line is shown across the route (point Y).</p> <p>Beyond the line the rest of the application route through to point F is numbered as plot 271a and is owned by Sir Henry Bold Hoghton Baronet, leased by John Crossley and occupied by Ralph Pearson. It is described as a 'lane' and the state of cultivation is listed as 'pasture' for which a tithe is listed as being payable. It is shown continuing beyond the</p> |
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| | | <p>parish boundary at point F.</p> <p>No Tithe Map and Award exist for the parish of Pleasington.</p> |
| <p>Investigating Officer's Comments</p> | | <p>A bridge is shown crossing the river between point A and point Z but the ford crossing is not shown and there is no indication that the route was in use by the public as a through route in 1841. Access was available across the river close to point A via a footbridge but there is no indication whether this did or did not form part of a public route.</p> <p>The land over which the application route now runs was in private ownership although not all in the same ownership. Lines are shown across the route at point A and point Y. Access may have been available through the lines but there is no way of verifying this from the Map and Award.</p> <p>The buildings and roadway leading directly to point A were listed as a print works. Access to the print works appears to have been from Valley Road (west of the route).</p> <p>Land on either side of the river (plots 264 and 265) were owned and occupied by the same people which is likely to account for the fact that there was a bridge leading from one to the other. The bridge is drawn quite narrow and it is possible that the river was fordable but it is not possible to deduce whether horses could have crossed the river at that time or not. The property north east of point B (Lower Park Farm) may have used the bridge or the</p> |



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| | | <p>application route through to point E (and beyond) for access but there is nothing to suggest that this was a public vehicular route as those parts listed as 'lane' were in private ownership and described as pasture – suggesting that they had a grass surface which may indicate low usage.</p> <p>Whilst there was no separate list of numbered roads considered to be public vehicular highways within the parish this application is for a public bridleway and not a public carriageway and as such it would not be included in such a list.</p> <p>The fact that the route is shown continuing from point F into Pleasington suggests that it continued beyond the township boundary and as a substantial bounded route looked to provide access to the properties shown close to points C and E on the map.</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>No Inclosure Awards were found for the land 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 | 1849 | <p>The earliest Ordnance Survey 6 inch map for this area</p> |



Sheet 70

surveyed in 1845-47, published 1849.¹

However 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 (with one showing a railway and one not).

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/>

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.

Where appropriate extracts of both copies of the map (if found) will be inserted into the report and clearly labelled.

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.







[above] Map extracts from National library of Scotland

Observations

Mill buildings and reservoirs are shown at the end of Valley Road (which is not named on the map). The application route between point A and point C via a ford crossing is not shown. A bridge marked on the map as 'Wooden Bridge' is shown connecting the mill buildings to the property known as Lower Park although this is not shown as being the only access to and from Lower Park.

From point C the application route is shown along the north east side of the river through to the buildings named as 'Spring Gardens' and then the route is shown continuing through point E, where a track consistent with the route of Footpath 9-18-FP14 is shown leaving the application route.

From point E through to the parish boundary at point F the application route is shown as a fenced route passing a further building close to the parish boundary.

Beyond the parish boundary



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| | | at point F the application route continues as a substantial track to Higher Park consistent with the BwD application route and then continues through to point X named on the map as 'Cabin Hillock' and then as part of 'Long Lane'. |
| Investigating Comments | Officer's | <p>The application route between point C and point F and continuing through to point X existed in 1845-47 and appeared to be capable of being used. It provided access to and past a number of properties and appeared to be capable of being used on horseback.</p> <p>The application route from point A through to point C is not shown. There is however a wooden bridge shown north west of the ford crossing point that exists today which may have been capable of being used as part of a longer route between point A and point F (and continuing through to point X).</p> |
| Cassini Map Old Series Balckburn & Burnley Sheet 103 | 1805-1874 | <p>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. Sheet 103 was compiled from map sheets surveyed between 1791-1874 and published 1805-1874.</p> |





Turnpike or main roads



Other roads



Unfenced roads



Mileages; turnpike gates; toll gates

S T.P. T.G.

County boundaries



Parish or township boundaries (on some sheets only)



Church



Windmill



Lighthouse



Railways



Cuttings



Embankments



Tramways and freight-only railways



Woodland



Parkland



Foreshore: sand; boulders; rocks



Legend source - <http://www.cassinimaps.co.uk/shop/pagelegend.asp>

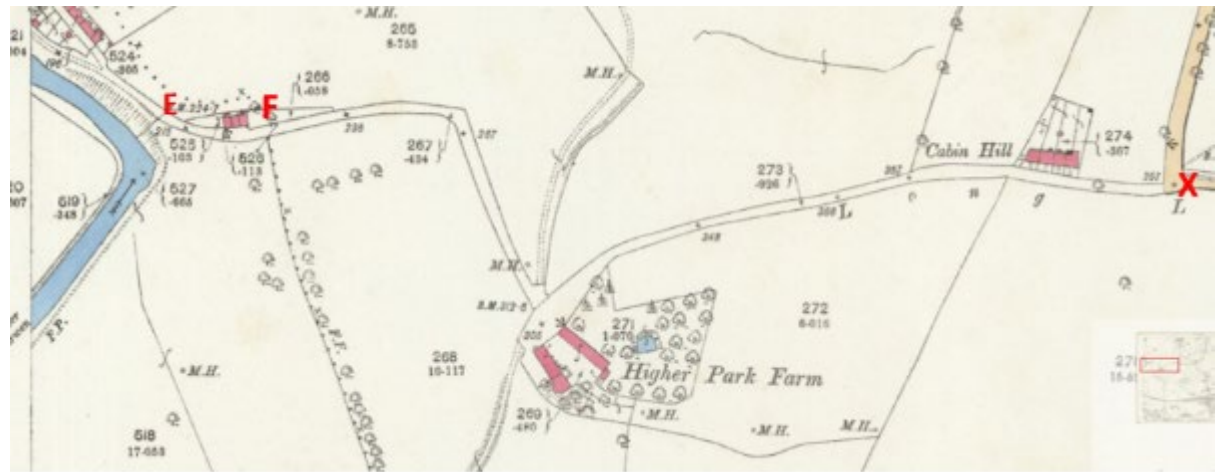
Observations

A route consistent with the investigation route is shown crossing the river from the mill



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| | | buildings and continuing past Spring Gardens and Higher Park through to the junction of Long Lane and Woodcock Hill Road. |
| Investigating Comments | Officer's | A route consistent with the investigation route is shown and which continues beyond the parish boundary as a longer through route. 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 more wealthy travelling public on horseback or vehicle suggesting that those travellers would have been able to use those roads. |
| 25 Inch OS Map Sheet LXX.1 and LXX.2 | 1893 | The earliest OS map at a scale of 25 inch to the mile. Surveyed in 1892 and published in 1893. |





Observations

Valley Road is shown coloured but is not shown with thick lines along the south or eastern side. The colouring extends as far as the river i.e. including the area crossed by the investigation route east of point A.

A bridge is shown across the River Darwen in the same location as the bridge shown on the earlier 6 inch map. Whereas the bridge was labelled as 'Wooden Bridge' on the 6 inch map prepared over 50 years earlier it is labelled as a footbridge on




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| | | <p>this map (F.B.).</p> <p>South of the footbridge, a structure protruding into the river and south of that are 2 possible locations of a ford, an area where the coloured area of Valley Road meets the river and to the south of that a double pecked line indicating a track to the edge of the river; however although there is a label 'Ford' no line of the ford is marked. The exit point on the east side of the river is the same, although the route out of the river veers more to the south than the application route.</p> <p>From the west side of the river there is access from Valley Road via the footbridge and ford to Lower Park Farm and also along the application route to Spring Gardens. Direct access from the application route is shown into and through the properties known as Spring Gardens but the application route is also shown running past Spring Gardens and continuing through to the County boundary at point F. A line is shown denoting each side of the river but no other lines are shown across the application route to indicate the existence of gates.</p> <p>Beyond point F the BwD application route continues through to point X similarly. That part of the route from east of Higher Park Farm was named as part of Long Lane although only Long Lane east of point X (i.e. that part recorded as public vehicular road) is shown with thickened lines down the south and east</p> |
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| | | <p>sides.</p> <p>The footbridge route is shown and appears accessible.</p> |
| <p>Investigating Officer's Comments</p> | | <p>With a slight variation to the entrance and exit of the ford crossing the investigation route A-F and F-X existed in 1892 and the application route appeared to be capable of being used at least on horseback.</p> <p>The application route A-F was not named on the map although it is noted that part of the route F-X was named as part of Long Lane and the fact that it was named as a road on the map is evidence that it was known locally by that name and is consistent with use of the route by the public at least on horseback at that time.</p> <p>No gates were shown along the full length of the route which was shown passing Spring Gardens as well as providing access direct to the properties suggesting that it could be used as a through route and not just as access to houses.</p> <p>The route east of the River Darwen is not shown coloured, shaded or bounded by a thickened line. Shading, colouring and the use of thickened lines were often used to show the administrative status of roads on 25 inch maps prepared between 1884 and 1912. The Ordnance Survey specified that all metalled public roads for wheeled traffic kept in good repair by the highway authority were to be shaded and shown with thickened lines on the south and east sides of the road. 'Good</p> |



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| | | <p>repair' meant that it should be possible to drive carriages and light carts over them at a trot so the fact that the application route is not shown in this way suggests that it was not a route maintained to a good standard by the highway authority but does not mean that it could not have been used by horses or horse drawn vehicles at that time.</p> <p>The application route A-F was not named on the map although it was noted that the BwD application route F-X was named as part of Long Lane between Higher Park Farm and point X. The fact that the route is named as a road on the map is evidence that it was known locally by that name and is consistent with use of the route by the public at least on horseback at that time but does not necessarily infer that it was a public road.</p> <p>The footbridge route again appears accessible.</p> |
| <p>6 Inch OS Map Sheet LXX.NW</p> | <p>1894</p> | <p>6 inch OS map surveyed 1892 and published 1894.</p> |
|  | | |
| <p>Observations</p> | | <p>The investigation route C-F is shown as part of a longer through route providing</p> |

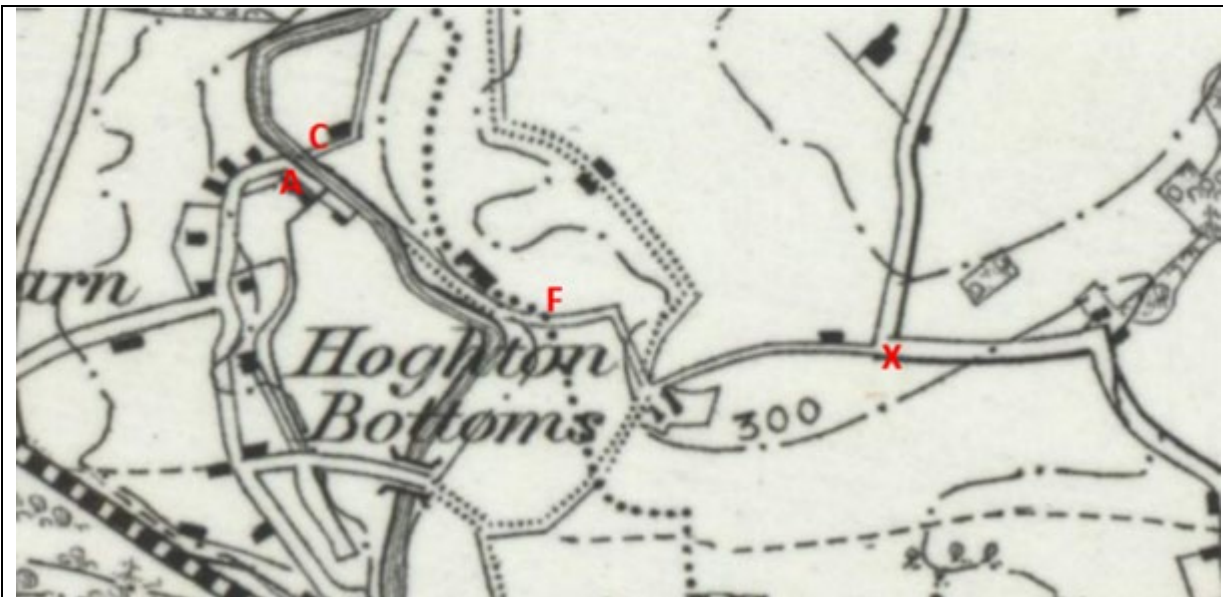


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| | | access to and past Spring Gardens, Higher Park Farm and Cabin Hill. A footbridge (F.B.) is shown in the same location as the existing footbridge between point A and point Z but the ford crossing is not shown. |
| Investigating Comments | Officer's | The investigation route existed and appeared to be capable of being used as a part of a longer through route. The ford crossing, which was shown on the 25 inch map prepared at the same time, may not have been shown due to the scale of the map rather than because it did not exist at that time as access to both sides of the river were shown at that point. |
| 1 Inch OS Map Sheet 75 - Preston | 1896 | One inch OS map revised 1894 and published 1896. |



[above] 1896 Ordnance Survey 1" Sheet 75 Preston (Hills)





[above] 1896 Ordnance Survey 1" Sheet 75 Preston (Outline)

| | | | | |
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| <i>Metalled Roads; First Class</i> | 5 (Mile distance) (Altitude) 2 11 | Fenced | Unfenced | Chuo |
| " " <i>Second Class</i> | | | | " |
| " " <i>Third Class</i> | | | | Wine |
| <i>Unmetalled Roads</i> | | | | Ligh |
| <i>Footpaths</i> | | | | Ligh |
| <i>Railways, Single Line</i> | | | | Bea |
| | | | | Let |
| | | | | Cont |

Map Key (not to scale)

Observations

Valley Road extending beyond point A and continuing to the River Darwen is shown as a fenced metalled third class road. No bridge is shown but a route depicted on the map as a fenced unmetalled road is then shown extending from the other side of the river near point C and continuing north east past Lower Park Farm (not named on the map). The application route from point C running south east adjacent to the river is not shown but then as the river diverges from the application route a road fenced on the north east side but unfenced



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| | | <p>on the south west side is shown passing unnamed buildings (Spring Gardens) and then continuing as a fenced unmetalled road through the parish boundary (point F) and then onwards to the junction of Long Lane and Woodcock Hill Road at point X.</p> |
| Investigating Officer's Comments | | <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 the late 1800s would probably have been to assist wealthy travellers on horseback or vehicle suggesting that the through roads shown had public rights for those travellers.</p> <p>In this particular case most of the route is shown as part of a longer through route recorded as an unmetalled road. The fact that routes were shown leading to and from the River Darwen suggests that access was available across the river and although no route is shown from point C immediately adjacent to the River Darwen larger scale maps prepared before and after this date suggest that the route did exist and it is not shown solely due to the limitations of scale.</p> |
| Bacon's Map of Lancashire | | <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> |

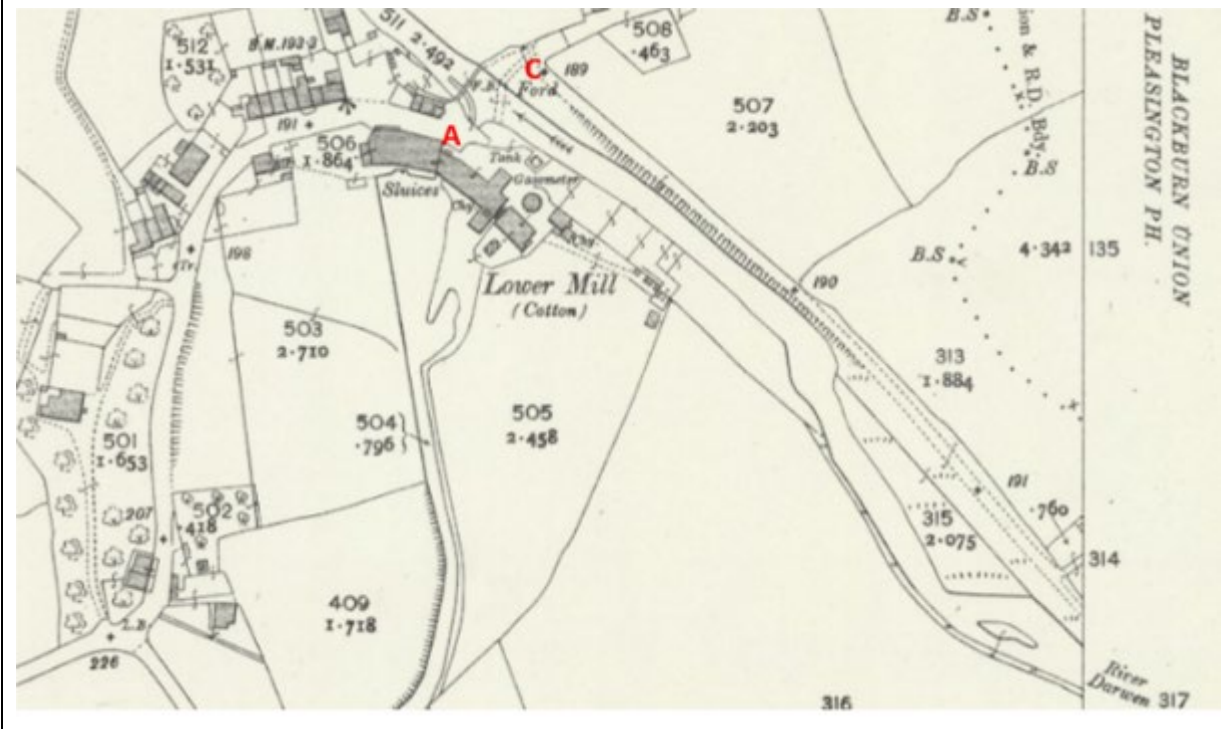


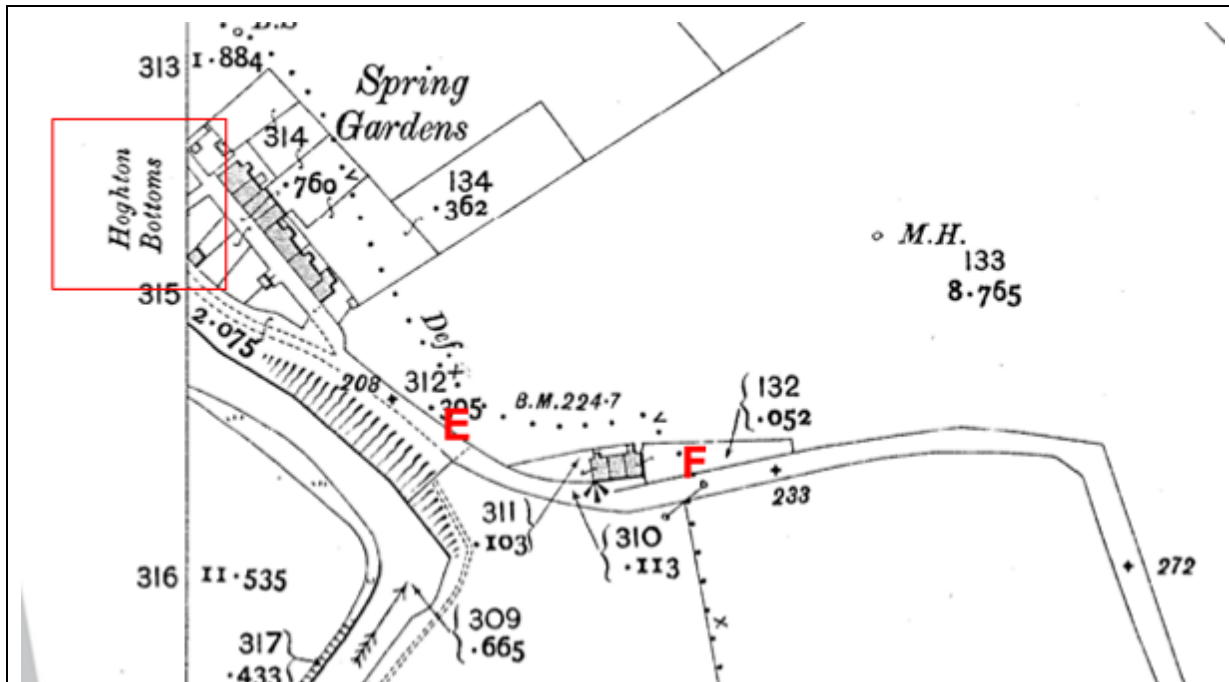


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| <p>Observations</p> | | <p>A cluster of buildings are shown at the northern end of Valley Road where the application route starts. Lower Park is named, which is located on the north east side of the river close to point C but the application route itself is not shown. That part of the BwD application route from Higher Park Farm (not named on the map) through to Woodcock Hill/Long Lane (point X) is shown.</p> |
| <p>Investigating Comments</p> | <p>Officer's</p> | <p>GW Bacon's maps of the British Isles were at a small scale and as such only the more significant routes are generally shown. The investigation route is not shown suggesting that although there is other map evidence that it existed at that time it was not considered to be a substantial public vehicular through route at that time. Footpaths or bridleways, where they did exist, would not generally be shown on a</p> |



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| | | <p>map of this scale. The route east from Higher Park Farm was shown in the same way as routes now known to carry public vehicular rights supporting the fact that the BwD application route existed as a substantial physical route at that time and that it was probably available for use by the public on horseback and possibly with vehicles.</p> |
| <p>25 Inch OS Map Sheet LXX.1 and LXX.2</p> | <p>1911</p> | <p>Further edition of the 25 inch map surveyed in 1892, revised in 1909 and published in 1911.</p> |





Observations

Both a footbridge and ford are shown providing access across/through the river between points A-Z and A-C with a track leading from the ford directly towards Lower Park Farm.

From point C the application route can be seen running adjacent to the steep banking of the River Darwen and fenced off from the fields to the north.

The route continues to, and past, Spring Gardens. A route



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| | | <p>marked as a footpath (F.P.) is shown joining the route at point E.</p> <p>From point E the application route continues as a bounded route past some unnamed building which are accessed from the route to the rural district boundary (point F). Beyond the rural district boundary the route continues in BwD as a double bounded route providing access to higher Park Farm and Cabin Hill (where a gate is shown across the route) through to point X.</p> <p>It was noted that the map sheet covering that part of the route west of Spring Gardens had the ongoing destination written in the map margin ('Hoghton Bottoms') where the application route 'met' the map margin indicating an ongoing destination.</p> |
| Investigating Comments | Officer's | <p>The application route existed and appeared to be capable of being used to provide access to a number of properties located along it but also as a part of a longer through route providing access to and from Hoghton Bottoms.</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 the purpose of driving and cycling</p> |



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



[above] 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.

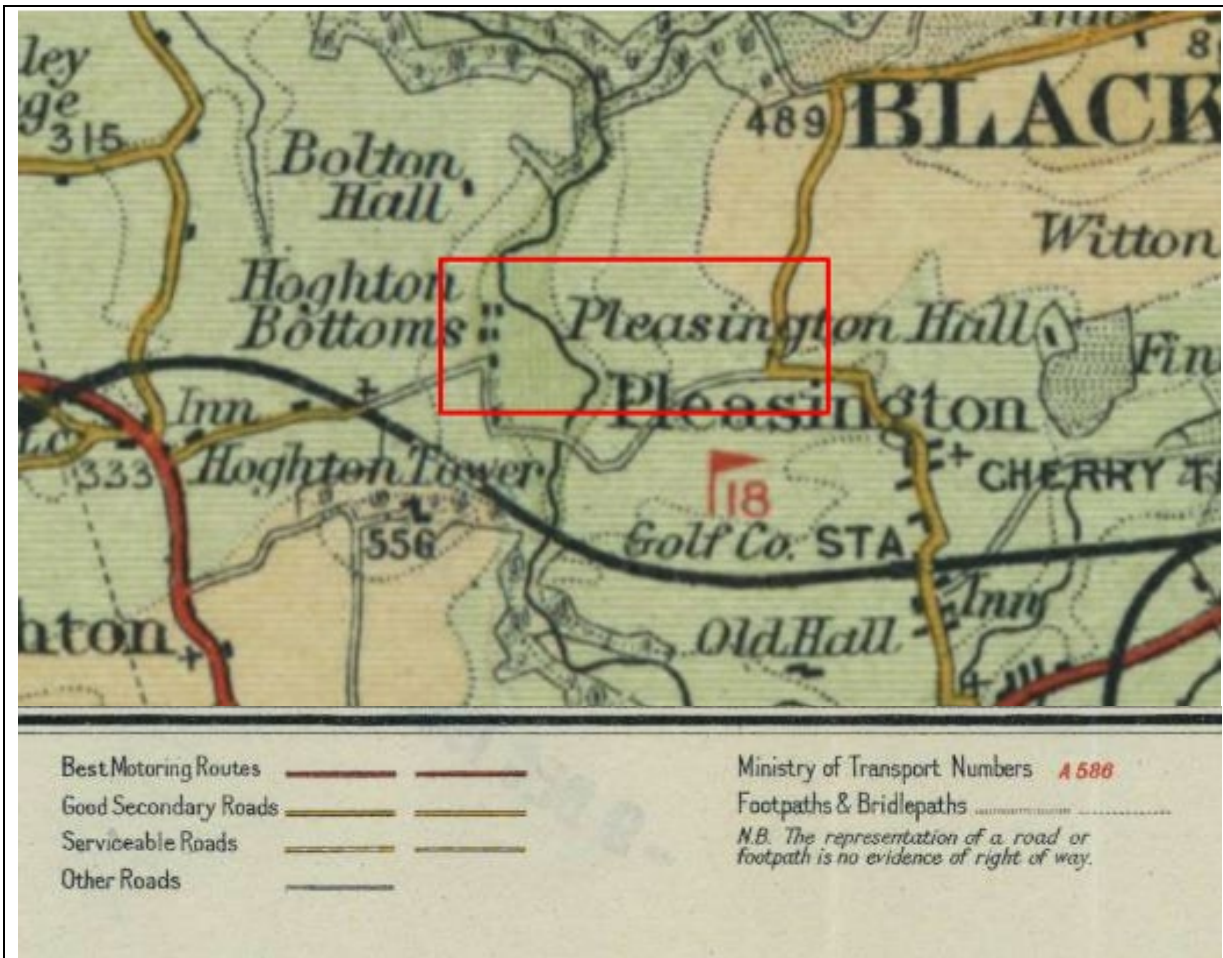
Footpaths & Bridlepaths *N.B. The representation of a road or footpath is no evidence of the existence of a right of way.*

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

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| Railways | | Station | | Station, with | | L.C. (Level Crossing) |
| Canals | | | | Refreshment Room | | |
| County Boundaries | | | | | | |

[above] 1920





[above] 1941

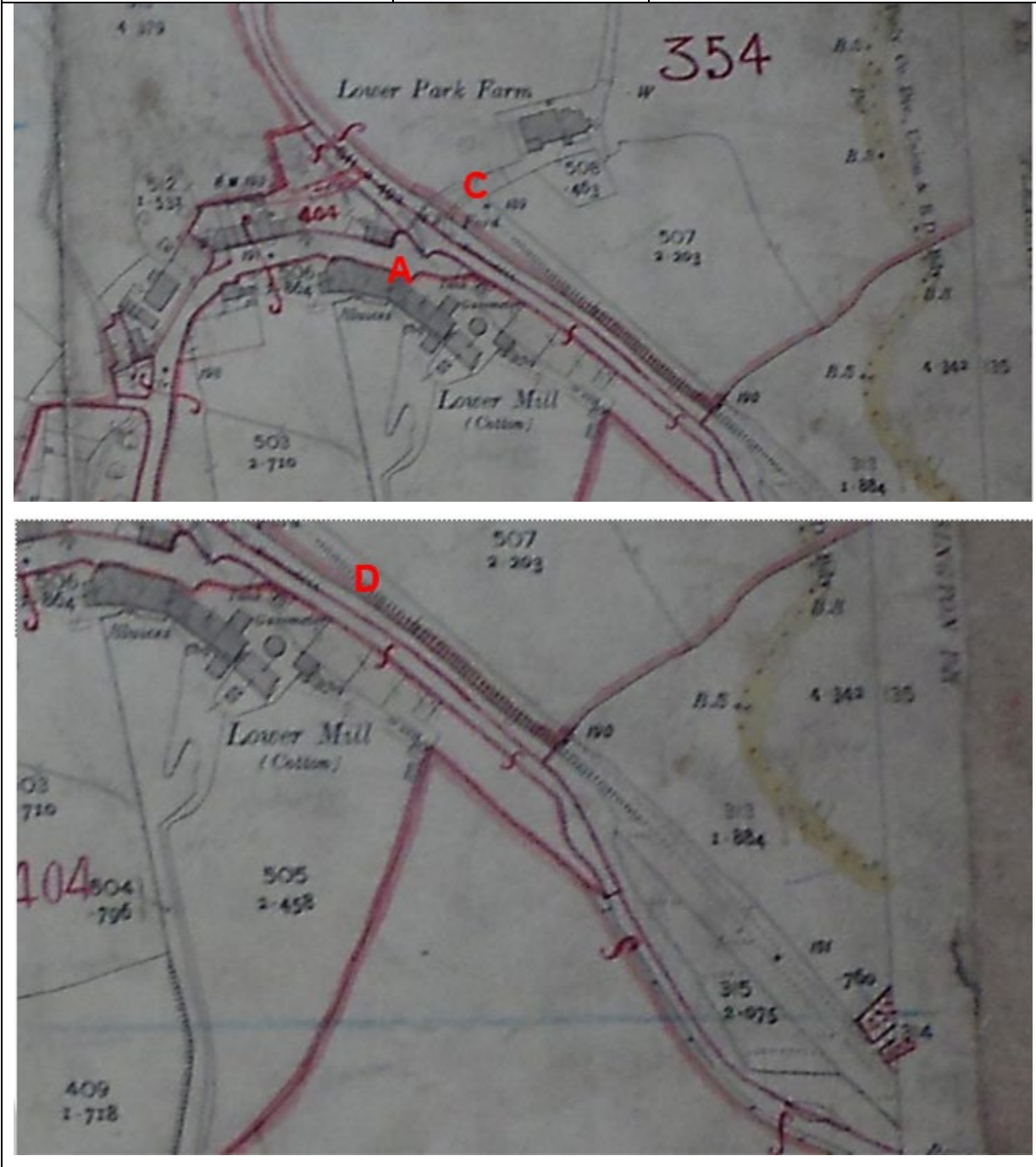
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| <p>Observations</p> | | <p>The investigation route was not shown on any of the three maps examined. It was noted however that a route was shown further south on all three maps which crossed the River Darwen firstly as a second class road in good condition and then as an indifferent or other road. This route extended east from Viaduct Road to cross the river and continue north east to Higher Park Farm from where it continued along the BwD application route through to point X at the junction of Long Lane and Woodcock Hill Road.</p> |
| <p>Investigating Comments</p> | <p>Officer's</p> | <p>The application route was not considered to be a significant public vehicular through route in the first half of the 20th century.</p> |



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| <p>Finance Act 1910 Map</p> <p>CRO references: DVBK2/1 – 25 inch OS maps LXX.1 and LXX.2</p> <p>District Valuation Books: DVBK1/3/5 – Pleasington DVBK1/4/3 – Hoghton DVBK1/4/2 - Hoghton</p> | <p>1910</p> | <p>The comprehensive survey carried out for the Finance Act 1910, later repealed, was for the purposes of land valuation not recording public rights of way but can often provide very good evidence. Making a false claim for a deduction was an offence although a deduction did not have to be claimed so although there was a financial incentive a public right of way did not have to be admitted.</p> <p>Maps, valuation books and field books produced under the requirements of the 1910 Finance Act have been examined. The Act required all land in private ownership to be recorded so that it could be valued and the owner taxed on any incremental value if the land was subsequently sold. The maps show land divided into parcels on which tax was levied, and accompanying valuation books provide details of the value of each parcel of land, along with the name of the owner and tenant (where applicable).</p> <p>An owner of land could claim a reduction in tax if his land was crossed by a public right of way and this can be found in the relevant valuation book. However, the exact route of the right of way was not recorded in the book or on the accompanying map. Where only one path was shown by 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</p> |
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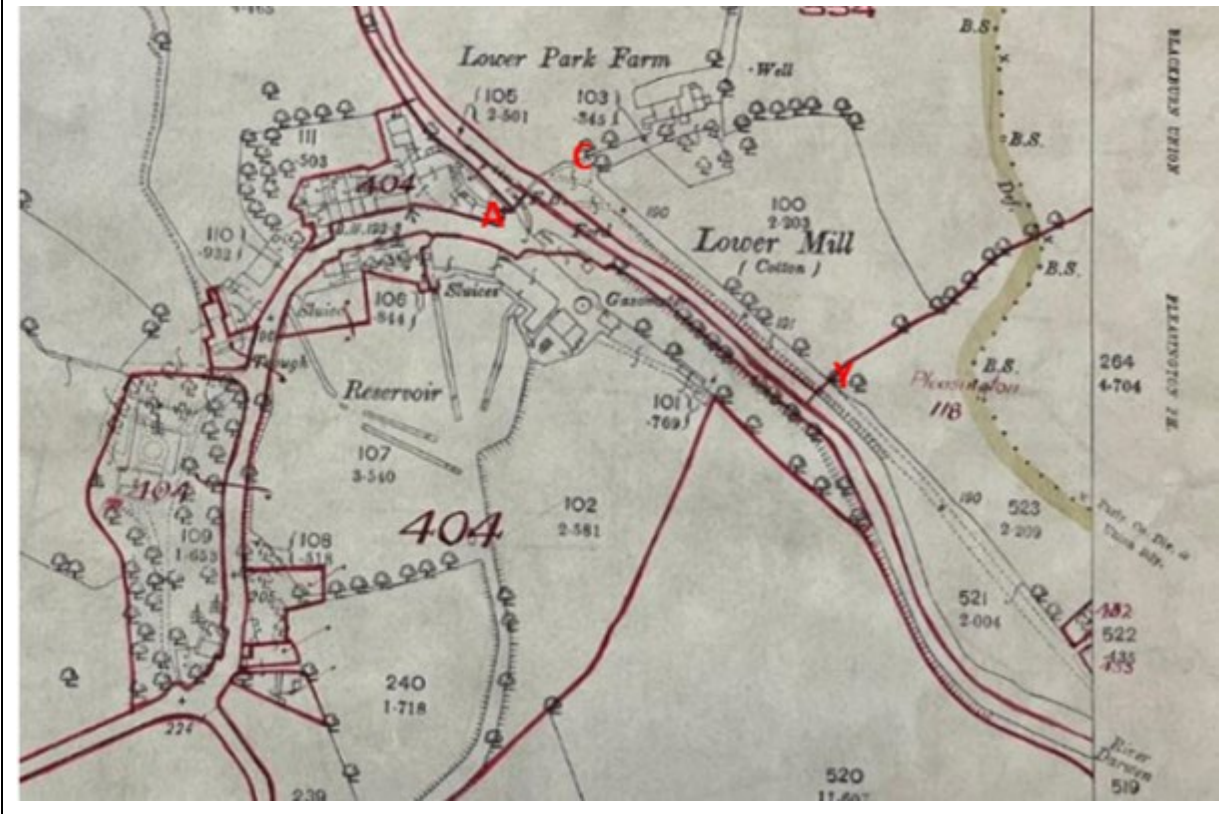


path or paths the valuation book entry refers to. It should also be noted that if no reduction was claimed this does not necessarily mean that no right of way existed.





[above] Map extracts obtained from The National Archives





[above] Maps obtained from the County Records Office

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| <p>Observations</p> | <p>The Maps and Valuation Books for the parishes of Hoghton and Pleasington were both prepared by Blackburn District Valuation Office.</p> <p>The maps show the application route from point A to the south west bank of the River Darwen excluded from the numbered plots together with Valley Road. The river is also excluded on the map sourced from the County Records Office although it is braced as part of plots 354 and 404 on The National Archives map. On the north east side of the river all of the land crossed by the investigation route is included in numbered plots. From the ford crossing and footbridge through to point Y the land crossed by the application route is numbered as plot 354. Details are listed in the Valuation Book for Hoghton with the land listed as being part of the Hoghton Estate and occupied by William Veevers. The plot is described as comprising of a house,</p> |
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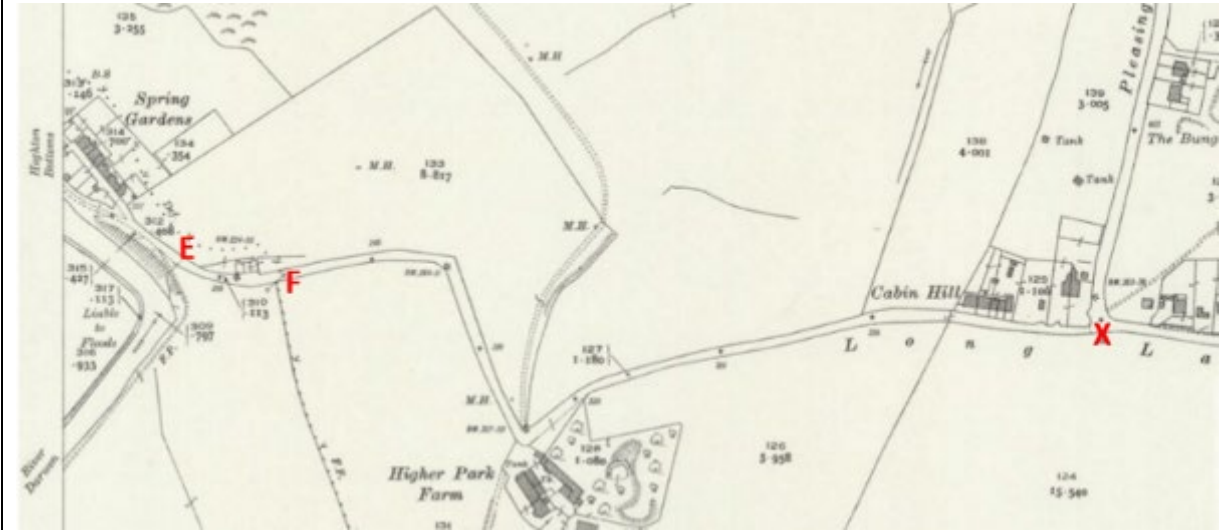
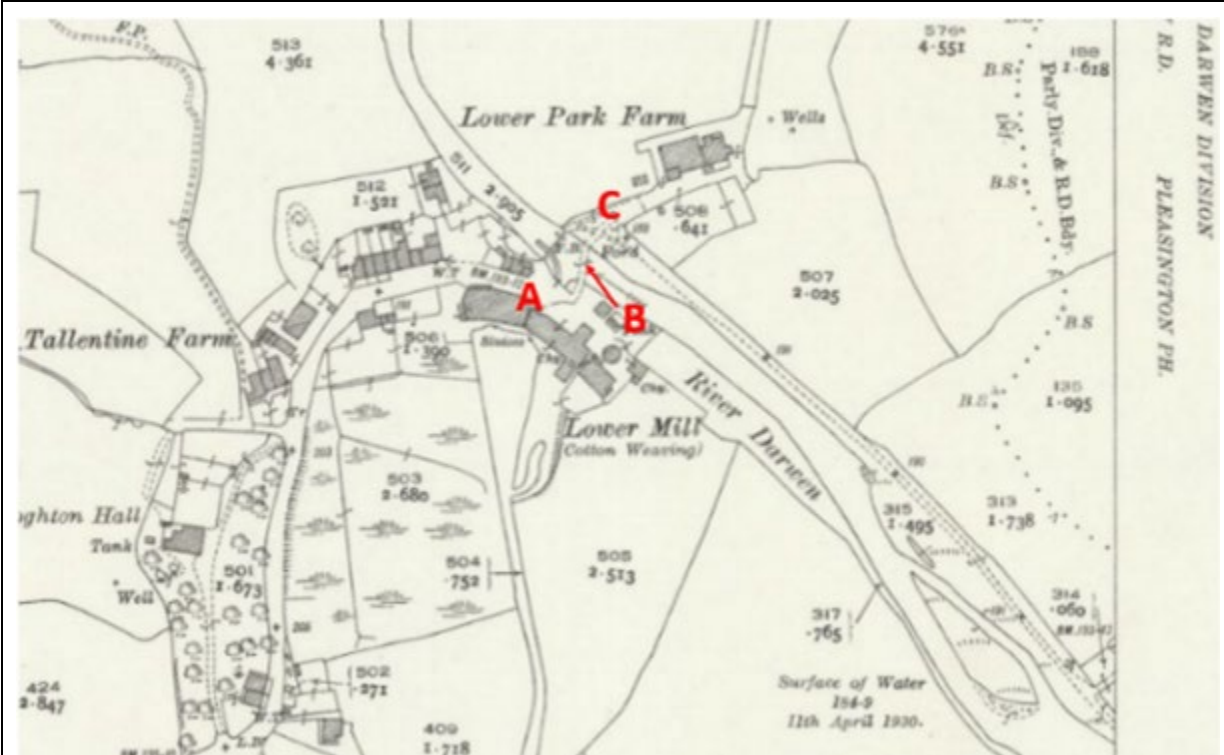


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| | | <p>buildings and land at Lower Park and no deductions were listed for public rights of way or user.</p> <p>Beyond point Y the land is listed as part of a large plot numbered as 118 Pleasington. The parish boundary has been highlighted on the OS base map used to produce the Finance Act maps and the copy obtained from The National Archives shows a large area of land numbered as plot 118 including the application route Y-F and also that part in BwD from point F through to approximately 95 metres west of point X where the route along the front of the properties at Cabin Hill is shown excluded.</p> <p>The copy obtained from the County Records Office only marks up the land within the Parish of Hoghton, but shows the application route between point Y and point F as part of plot 118 Pleasington rather than being numbered separately and listed in the District Valuation Book for Hoghton.</p> <p>Plot 118 is listed in the District Valuation Book for Pleasington as being owned as part of the Hoghton Estate and occupied by Nicholas Eddleston. It is described as land and buildings at Higher Park and a £20 deduction is listed for public rights of way or user.</p> |
| Investigating Comments | Officer's | The application route from point A to the ford crossing of the river (point B) is excluded from the numbered plots and appears to have been |



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| | | <p>included as part of the public road (Valley Road). From the opposite riverbank through to point Y the route was not excluded and no deductions were made for public rights of way. This suggests that in 1910 the landowner did not acknowledge the existence of any public rights across this plot, including along the application route. From point Y to point F the application route is not excluded but a deduction of £20 has been made for public rights of way within the plot numbered 118. This plot however is substantial and there are a number of public footpaths now acknowledged to exist which run through it. It is therefore not possible to deduce from these records what, if any, public rights were acknowledged to exist along this part of the route in 1910.</p> |
| <p>25 Inch OS Map Sheet LXX.1</p> | <p>1931</p> | <p>Further edition of 25 inch map (surveyed 1892, revised in 1929 and published in 1931).</p> |





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| Observations | | The investigation route is shown as part of a longer through route which also provides access to a number of properties located along it. The route is shown unaltered from how it was shown on the earlier OS 25 inch map. |
| Investigating Officer's Comments | | The investigation route existed and appeared to be capable of being used to provide access to a number of properties located along it but also as a part of a longer |



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| | | through route providing access to and from Hoghton Bottoms. |
| Authentic Map Directory of South Lancashire by Geographia | Circa 1934 | <p>An independently produced A to Z atlas of Central and South Lancashire published to meet the demand for such a large-scale, detailed street map in the area. The Atlas consisted of a large-scale coloured street plan of South Lancashire and included a complete index to streets which includes every 'thoroughfare' named on the map.</p> <p>The introduction to the atlas states that the publishers gratefully acknowledge the assistance of the various municipal and district surveyors who helped incorporate all new street and trunk roads. The scale selected had enabled them to name 'all but the small, less-important thoroughfares'.</p> |



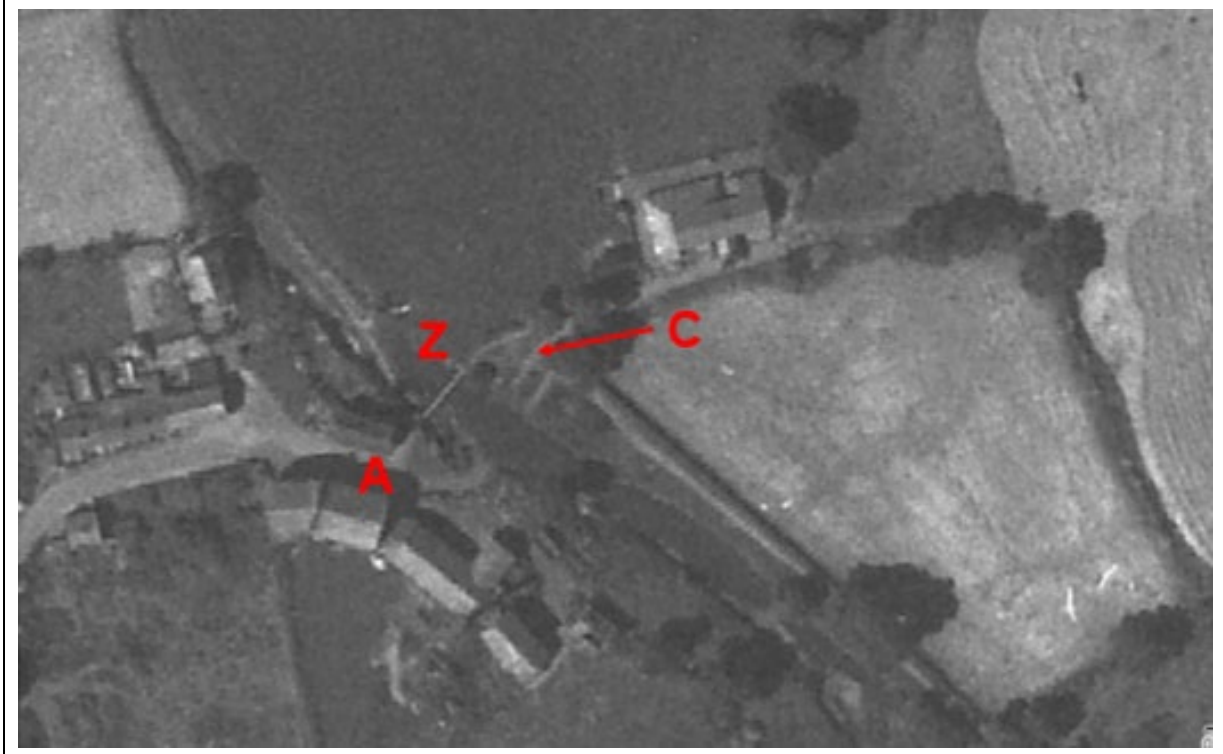
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| Observations | | The investigation route is shown with a bridge and ford crossing the river. Spring Gardens are shown and named on the map with the application route A-E running |
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| | | past the properties and continuing through to Long Lane at point X. The route A-E-X is depicted as being narrower than the public vehicular route to which it connects. (Unlike Ordnance Survey maps, the style of this map to some extent depicts roads/tracks more indicatively of significance than physical width) |
| Investigating Comments | Officer's | The fact that the application route was shown in the map directory suggests that access was available, at least on horseback, and possibly with vehicles. The footbridge route was also shown and is suggestive of public access on foot. |
| Aerial Photograph² | 1940s | The earliest set of aerial photographs available was taken just after the Second World War between June 1945 and September 1952 and can be viewed on GIS. The clarity is generally very variable. |

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





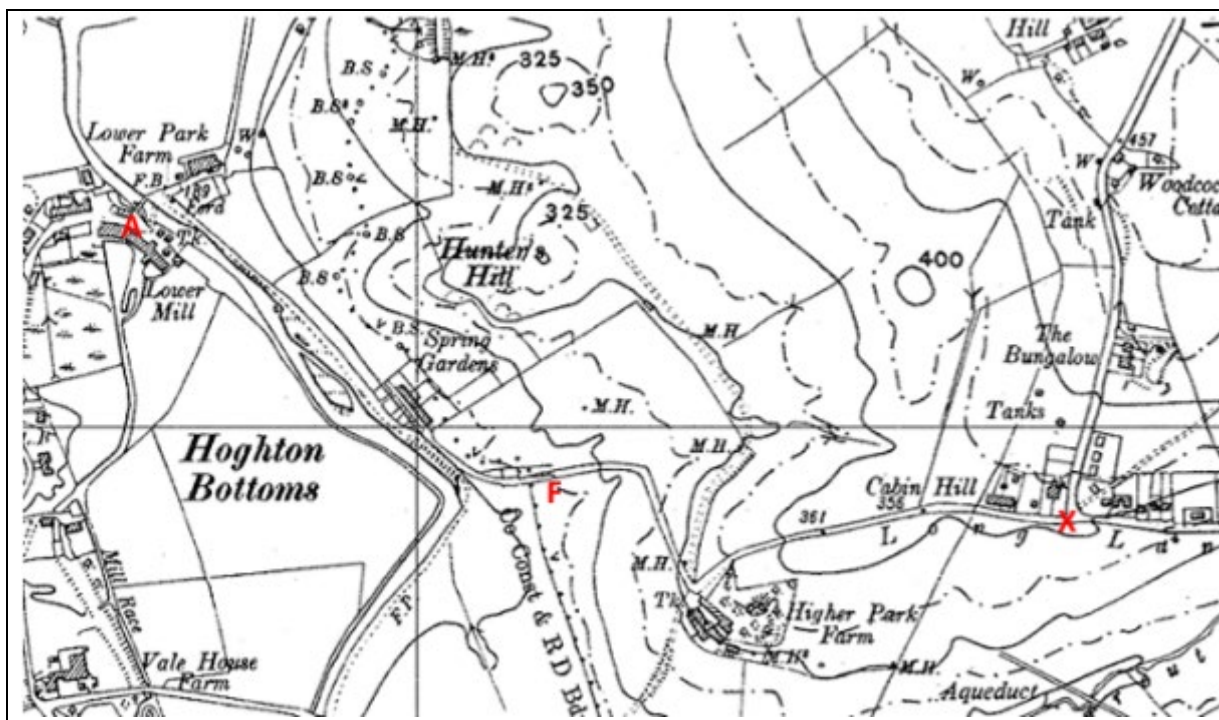


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| <p>Observations</p> | | <p>The full length of the investigation route is visible including the footbridge and ford crossing between points A-Z and A-C. The properties known as Spring Gardens are visible with the more prominent access route appearing to be the route from the east (through points E-F). The buildings near point F are no longer shown.</p> <p>Between Spring Gardens and Higher Park Farm (south east of point F) the route is much more clearly visible than it is along other parts suggesting that there were more significant levels of use between the two places.</p> <p>Whilst the route shows up on the photograph it is not as prominent as the public vehicular roads in the area.</p> |
| <p>Investigating Officer's Comments</p> | | <p>It is not possible to determine from the aerial photograph whether the full length of the route A-F and F-X was passable in the 1940s.</p> |



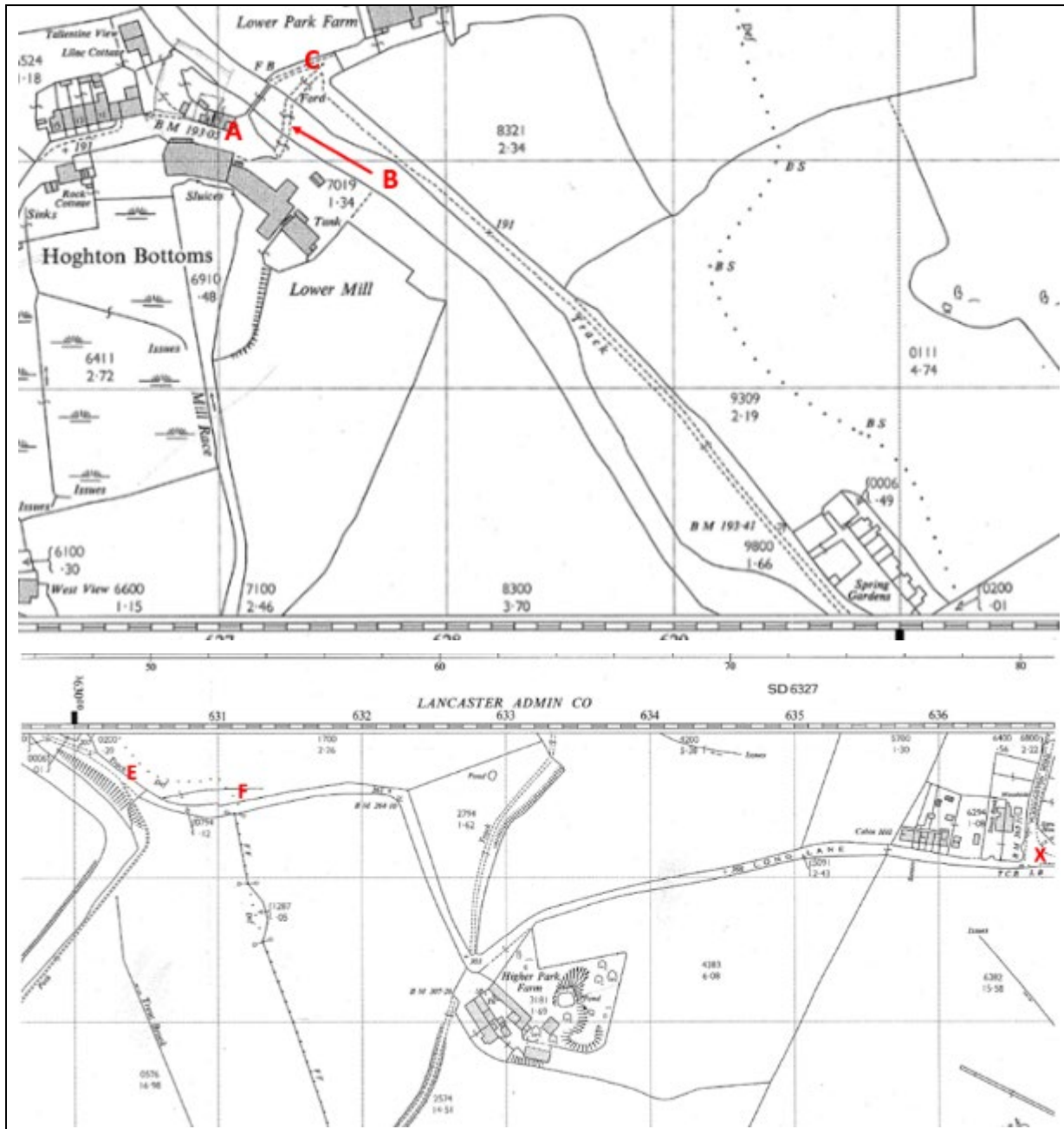
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| | | <p>However, there does appear to be evidence that a route existed suggestive of low levels of vehicular use, most probably linked to farming activities and directly accessing land and buildings. The footbridge route was visible but it is not possible to know from this photograph whether it was available to the public.</p> |
| <p>1:25,000 OS Map Sheet 34/64</p> | <p>1946</p> | <p>1:25,000 OS map published 1946; date of revision not known.</p> |
| | | |
| <p>Observations</p> | | <p>The investigation route is shown as part of a longer route.</p> |
| <p>Investigating Officer's Comments</p> | | <p>The investigation route existed and appeared to be capable of being used to provide access to a number of properties located along it but also as a part of a longer through route.</p> |
| <p>6 Inch OS Map Sheet 62NW</p> | <p>1956</p> | <p>The OS base map for the Definitive Map, First Review, was published in 1956 at a scale of 6 inches to 1 mile (1:10,560). This map was revised between 1930-1945.</p> |





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| Observations | | The investigation route is shown as part of a longer route. |
| Investigating Officer's Comments | | The investigation route existed and appeared to be capable of being used to provide access to a number of properties located along it but also as a part of a longer through route. |
| 1:2500 OS Map SD 6227 and SD 6327 | 1968 | Further edition of 25 inch map reconstituted from former County Series and revised in 1967 and published 1968 as National Grid Series. |





Observations

The investigation route is shown as part of a longer through route. Both the ford crossing and footbridge are shown and from point C through to Spring Gardens the route is labelled as a track. South east of point D a line is shown across the route (probable gate).

Investigating
Comments

Officer's

The investigation route existed and appeared to be capable of being used to provide access properties located along it but also as a



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| <p>Aerial photograph</p> | <p>1960s</p> | <p>part of a longer through route. Black and white aerial photography available to view on GIS and 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> |
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| <p>Observations</p> | | <p>The investigation route across the river both via the ford (A-B-C) and via the footbridge (A-Z) can be clearly seen providing access to Lower</p> |
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| | | <p>Park Farm.</p> <p>From point C through to point E the route is visible as a track. The buildings at Spring Gardens are visible but look to be run down and possibly used as farm buildings rather than as residential properties. The route can be seen clearly from Spring Gardens passing through point F and continuing to High Park Farm and then as a less visible track through to Cabin Hill and then point X.</p> |
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| Investigating Comments | Officer's | <p>The application route existed in the 1940s and appeared to be capable of being used at least on foot and horseback. Vehicular use may have been possible along the full length – or at least to and from the various buildings and farms but from the appearance of the route appeared to be for access rather than as a vehicular through route. The footbridge route appeared to be available for use on foot.</p> |
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| Aerial Photograph | 2000 | Aerial photograph available to view on Google Earth Pro. |
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| Observations | | The full length of the through route can be seen and it was noted that Spring Gardens was no longer visible with mature trees covering the area where the buildings had previously been located. |
| Investigating Comments | Officer's | The application route appeared to be capable of being used on horseback in 2000 – as referenced in the user evidence submitted with |



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| | | the application. |
| Aerial Photograph | 2020 | Aerial photograph available to view on Google Earth Pro. |

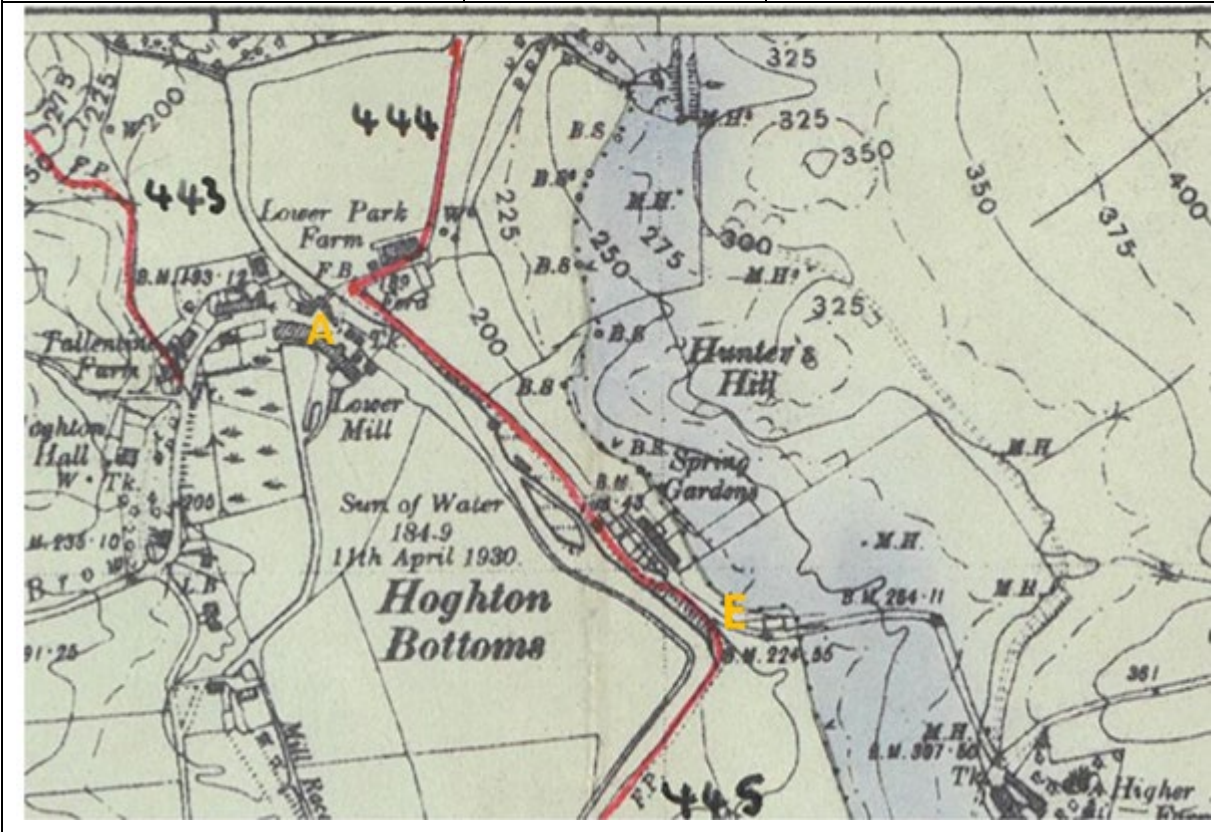


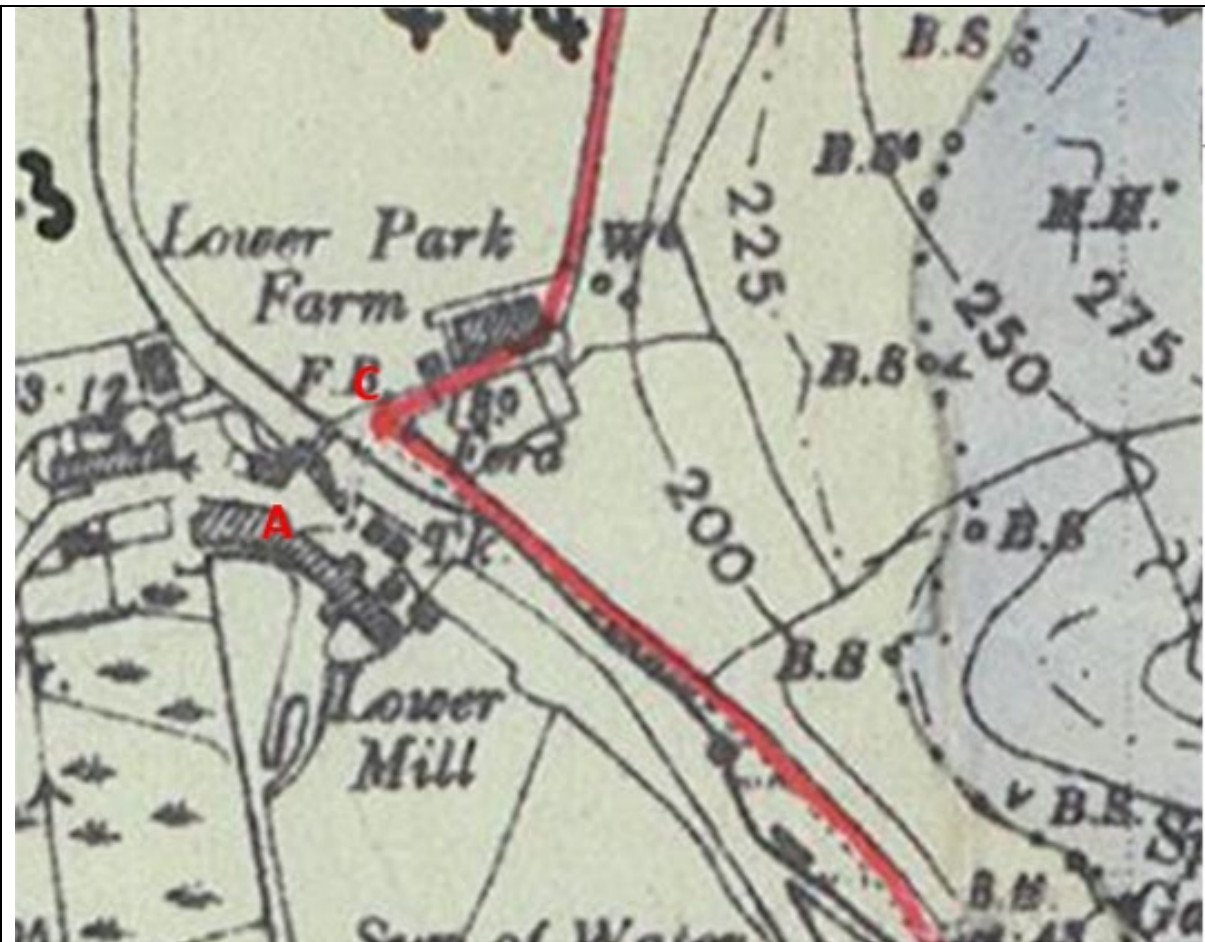


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| Observations | | The application route is visible throughout the full-length A-F-X, as is the footpath route. |
| Investigating Officer's Comments | | The application route appeared to be capable of being used on horseback in 2020, as referenced in the user evidence submitted with the application. The footbridge route also appeared to be available. |
| 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.





1/2

DISTRICT CHORLEY RURAL PARISH HOUGHTON No. xxx

MAP SHEET No. 1. 3. LENGTH 0.21 miles

BRIEF DESCRIPTION (Field F.P. or otherwise) (to two decimal places)

F.P.

F.P.

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

Start by River Garden. crossed by footbridge,
 Self made road passing through farm-yard
 at Lower Park Farm. Carl road from Farm
 about 150 yards to footpath alongside of road
 for approx 200 yards then through fields,
 passage by gates and stile to Regional boundary
 in fair condition

SURVEYED BY :- Name Harold Yates,

Address 15 Chapel Lane, Houghton

Date 21. Sept, 1950.

50000 1/250 4/50



13

DISTRICT CHORLEY RURAL PARISH HOGHTON No. 445.

MAP SHEET No. 3. LENGTH 0.144 miles
(to two decimal places)

BRIEF DESCRIPTION (Field F.P. or otherwise)
Path along Stone Road F.P.

DETAILED DESCRIPTION (giving starting point, means of passage and general condition).
start by lower Park Farm (near footbridge over River Darwen) under out Stone footpath for approx 250 yards alongside the River to footpath 446 near Spring Gardens Fair condition and on to Pleasington boundary

SURVEYED BY :- Name Harold Yates,
Address 15 Chapel Lane, Houghton

Date 21 Sept, 1951.

90000 170/4/50

Observations

The application route was not recorded on the Parish Survey Map from Valley Road across the river either via the footbridge or the ford crossing.

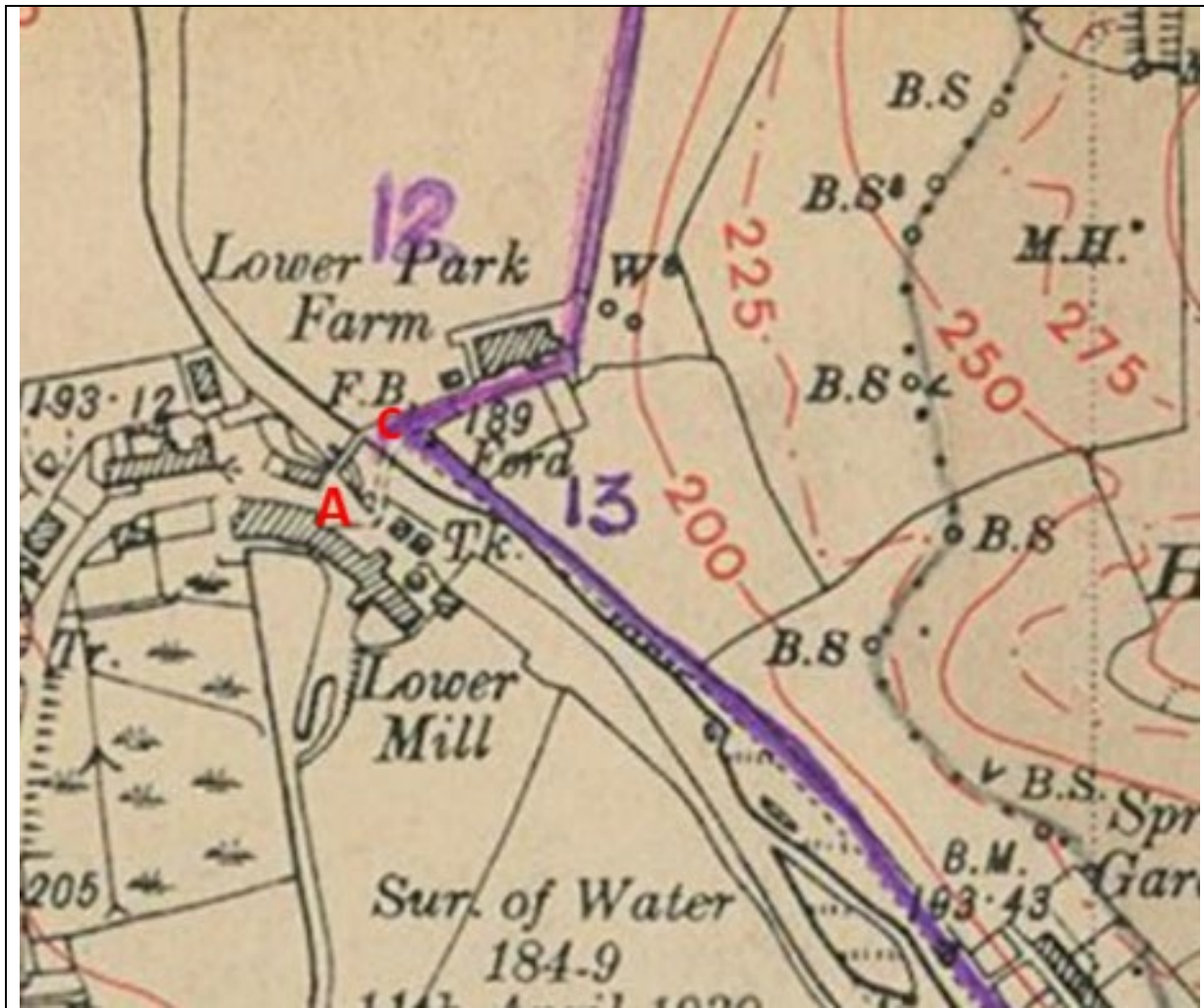
From point C the application route was recorded as a public footpath numbered on the Parish Survey Map as 445. It was described as starting by Lower Park Farm (near footbridge over River Darwen) and was described as a 'cinder and stone' footpath alongside the river to footpath 446 (at point E) and then continuing on to the Pleasington boundary.

Footpath 12 was shown on the Parish Survey Map numbered as Footpath 444 drawn as starting at the junction with Footpath 445 (the application route) at point C. It was described on the Parish Survey Card as starting by the River Darwen, crossed by the footbridge, and as a self-made road passing



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| | | through the farmyard at Lower Park Farm. |
| Draft Map | | <p>The Parish Survey Map and cards for Hoghton were handed to Lancashire County Council who then considered the information and prepared the Draft Map and Statement.</p> <p>The Draft Maps were given a “relevant date” (1st January 1953) and notice was published that the Draft Map for Lancashire had been prepared. The Draft Map was placed on deposit for a minimum period of 4 months on 1st January 1955 for the public, including landowners, to inspect them and report any omissions or other mistakes. Hearings were held into these objections, and recommendations made to accept or reject them on the evidence presented.</p> |



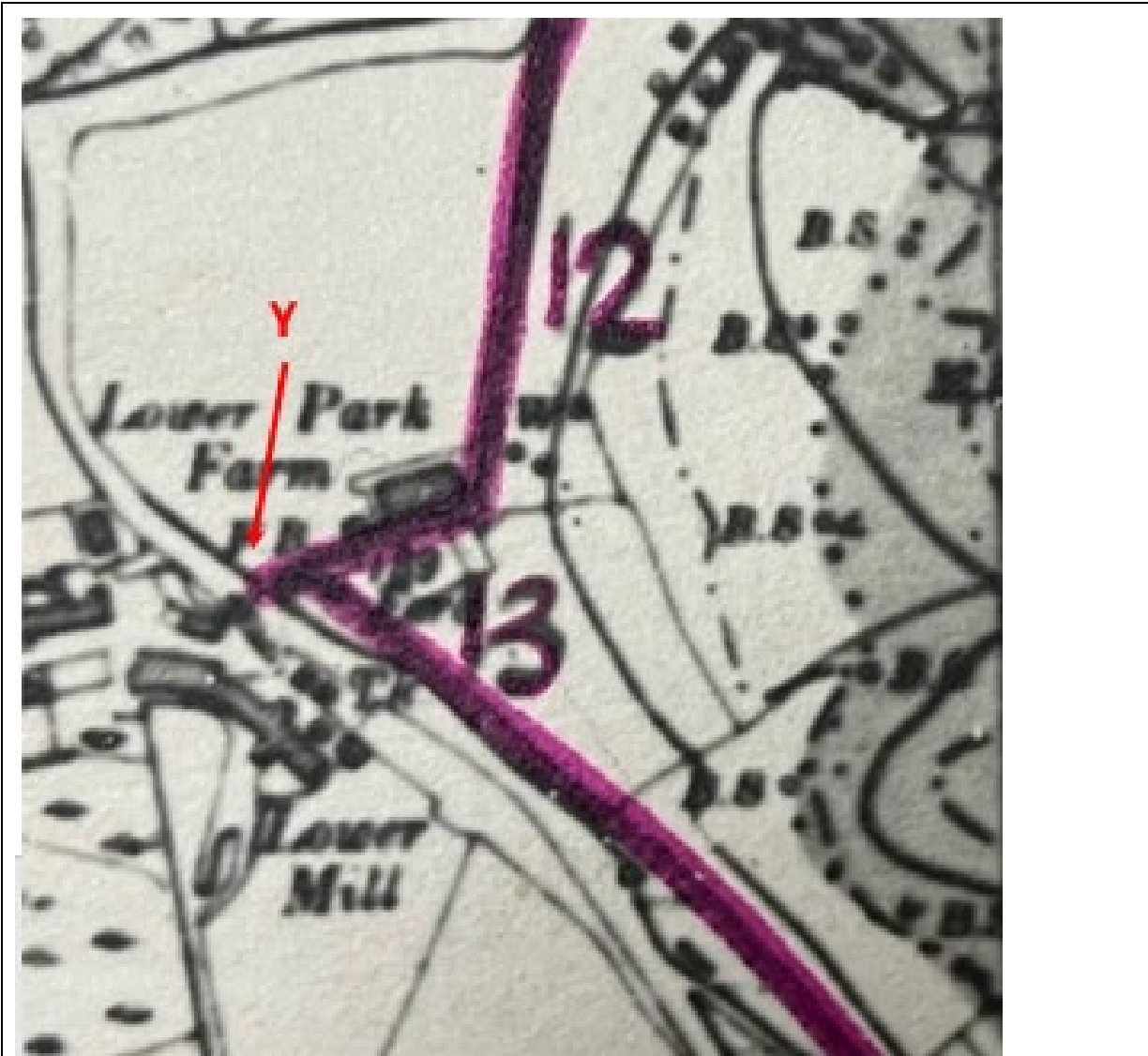


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| <p>Observations</p> | | <p>The Draft Map recorded the routes of Footpath 12 (previously numbered 445) and Footpath 13 (445) in the same way as they were shown on the Parish Survey Map.</p> <p>No representations or objections were made relating to them.</p> <p>Between point A and point C neither the footbridge or ford crossing were recorded as public rights of way.</p> |
| <p>Provisional Map</p> | | <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</p> |



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| | | 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. |
| Observations | | The Provisional Map for this part of Chorley Rural district is missing. |
| The First Definitive Map and Statement | | The Provisional Map, as amended, was published as the Definitive Map in 1962. |





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| <p>Observations</p> | | <p>From point C through to point F the route under investigation was recorded as a public footpath on the First Definitive Map. Between point A and point C neither the footbridge or ford crossing were recorded as public rights of way but the footpath was now shown extending to the footbridge at point Y.</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</p> |

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.



RURAL DISTRICT OF CHORLEY
PARISH OF HOUGHTON

| 1. No. of Path | 2. Kind of Path | 3. Position | 4. Length in miles to 2 places decimals | 5. Other particulars (if any) |
|-------------------|--------------------|------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|----------------------------------|
| 12. | Footpath | From Chapel Lane near Lower Mill over River Darwen to Parish boundary. | 0.21 | |
| 13. | " | From Footpath No. 12 near Ford along the East bank of River Darwen to Parish Boundary. | 0.44 | |
| 14. | " | From Footpath No. 13 into two branches to Parish boundary. | 0.38 | |
| 15. | Bridleway | From Chapel Lane on East side of railway to Higher Mill. | 0.44 | |
| 15a. | Footpath | From Bridleway No. 15 to Vale House Farm. | 0.21 | |
| 15b. | " | From Higher Mill to Moulden Brow (A.6061) near Sun Paper Mill. | 1.24 | |
| 16. | " | From Chapel Lane near Chapel Lane Bridge - to Hoghton Tower Estate, across carriageway to A.6061 near Royal Oak. | 1.25 | |
| 17. | " | From Chapel Lane to Footpath No. 16. | 0.15 | |
| 18. | " | From A.6061 to Bolton Road near Horrobin Farm across the road to Parish Boundary at Finnington Brook. | 0.32 | |
| 19. | " | From A.6061 near Sand Hole to footpath No.15b. on River Bank. | 0.40 | |
| 20. | " | From junction with path 16 north of Hoghton Tower Wood to junction with path 15 south-east of Long Barn. | 0.09 | |

Observations

The application route is not recorded on the Revised Definitive Map and Statement (First Review) from point A-B-C. Between points C-D-E-F it is recorded as a public footpath.

The footbridge route is not shown on the Definitive Map but is recorded in the Statement which describes Footpath Hoghton 12 as leading from 'Chapel Lane near Lower Mill over River Darwen to Parish Boundary'. (Note that the Statements for Footpaths Hoghton 9 to 12 and 15 to 17, all use the name 'Chapel Lane' to describe the road from the A675 to the River Darwen, now named in sections as Chapel Lane, Long Barn Brow and Valley Road. Historically it appears that it was named Chapel Lane and the name Long Barn Brow for the central section first appeared on maps in 1930s and Valley



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| | | Road for the eastern section first appeared in 1970s). The Statement unambiguously describes Footpath Hoghton 12 as starting from the road and the Definitive Map shows it at the north end of the footbridge, which together with the description 'over River Darwen' clearly refers to the footbridge as the route. |
| Investigating Comments | Officer's | <p>From 1953 through to 1975 there is no indication that the application route was considered to be anything other than a public footpath between point C – point F by the Surveying Authority. There were no objections or representations made with regards to how the route was shown on the map when the maps were placed on deposit for inspection at any stage of the preparation of the Definitive Map.</p> <p>The footbridge route was not included on the Map but was included on the Statement.</p> |
| Definitive Map Records for Blackburn with Darwen | | Extracts from the Definitive Map and Statement obtained from Blackburn with Darwen Council. |



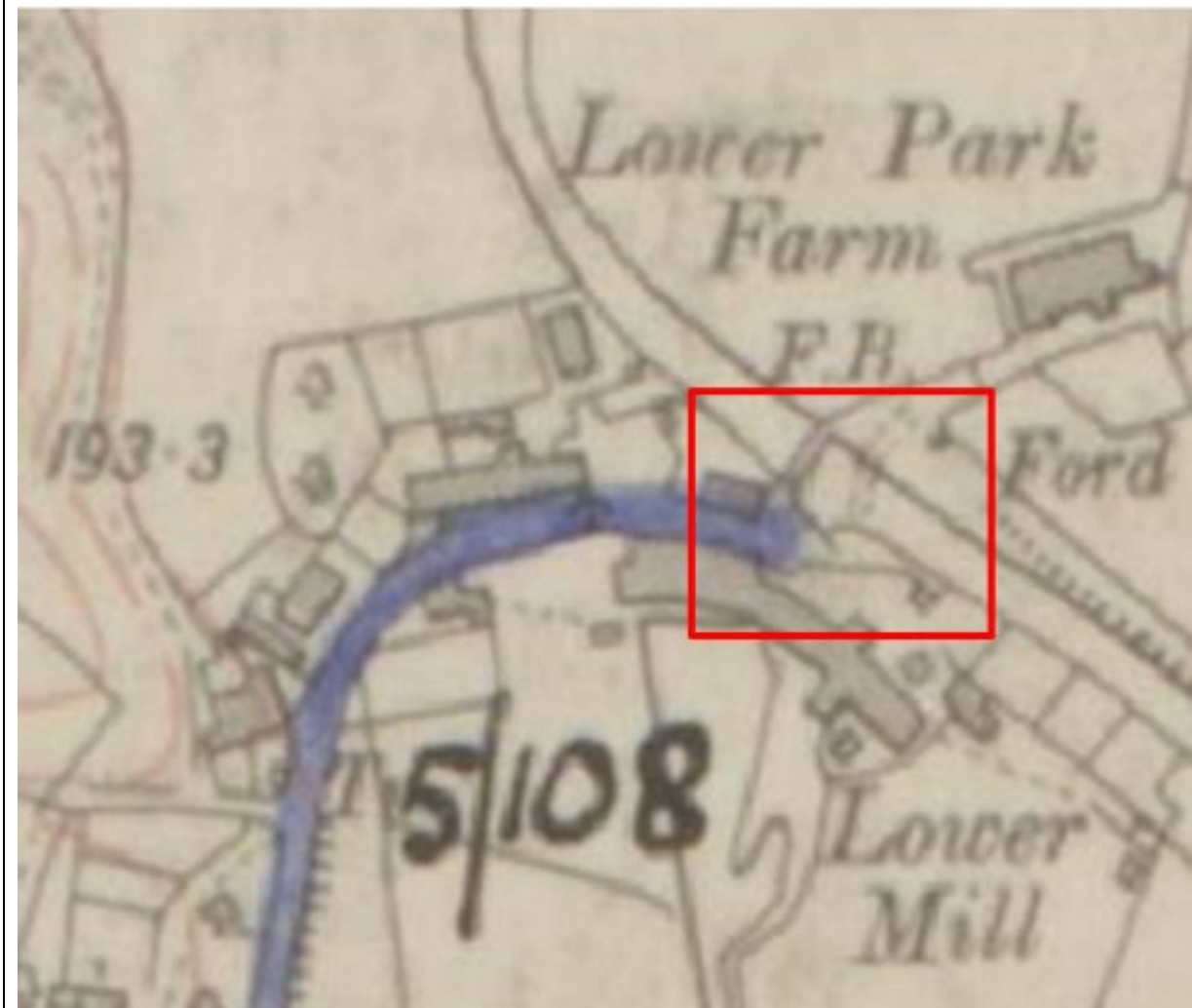


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| <p>Observations</p> | | <p>The continuation of the application route through to Long Lane (F-X) is recorded as Public Footpath 18 Pleasington and is described in the Definitive Statement as a public footpath from the County Road along Long Lane to the Parish Boundary near Spring Gardens.</p> |
| <p>Investigating Officer's comments</p> | | <p>The continuation of the route applied for is recorded as a public footpath but it should be noted that an application has also been made to Blackburn with Darwen Council to upgrade this footpath to public bridleway based on the submission of both map and documentary evidence and user evidence.</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> |



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| | | <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 coloured to mark those routes that were publicly maintainable by the rural district council. 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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| <p>Observations</p> | | <p>The application route is not recorded as a publicly maintainable highway on the county council's List of Streets.</p> <p>A slight discrepancy in the highway records is noted on the south side of the River Darwen whereby the adoption plan shows the adopted length of Valley Road extending as far as point A on the Committee plan but the 1929 Handover Map shows it extending a little further towards the ford crossing.</p> |
| <p>Investigating Comments</p> | <p>Officer's</p> | <p>The fact that the application route is not included in the Highways Service's record of publicly maintainable highway does not mean that it does not carry public rights of access so no inference can be drawn regarding public rights.</p> |
| <p>Highway Stopping Up Orders</p> | <p>1835 - 2014</p> | <p>Details of diversion and stopping up orders made by</p> |



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| | | 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 records relating to the stopping up, diverting or creation of public rights along the route were found. |
| Investigating Officer's Comments | | If any unrecorded public rights exist along the route they do not appear to have been stopped up or diverted. |
| Statutory deposit and declaration made under section 31(6) Highways Act 1980 | | <p>The owner of land may at any time deposit with the County Council a map and statement indicating what (if any) ways over the land he admits to having been dedicated as highways. A statutory declaration may then be made by that landowner or by his successors in title within ten years from the date of the deposit (or within ten years from the date on which any previous declaration was last lodged) affording protection to a landowner against a claim being made for a public right of way on the basis of future use (always provided that there is no other evidence of an intention to dedicate a public right of way).</p> <p>Depositing a map, statement and declaration does not take away any rights which have already been established through past use. However, depositing the documents will immediately fix a point at which any unacknowledged rights are brought into</p> |



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| | | 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 Comments | Officer's | There is no indication by the landowners under this provision of non-intention to dedicate public rights of way over this land. |
| Asset Register | | Whilst highways are public rights these rights can only be exercised over tangible assets such as surfaces (even if it natural), retaining walls, bridges, steps, etc. Those assets which are publicly maintainable (except those on Lancashire County Council property) are on highway. Not all highway assets are publicly maintainable; private assets do not imply a lack of highway rights. |
| Observations | | The footbridge is recorded as structure reference 9325F and named as Hoghton Bottoms footbridge |
| Investigating Comments | Officer's | The footbridge is a Lancashire County Council asset implying that there are public rights over it. At the north east end (point Z) it joins the section of Footpath Hoghton 12 shown |



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| | | on the Definitive Map. The only historically available link from the south west end is the 10 metres directly to the end of Valley Road (point A). |
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The affected land is not designated as access land under the Countryside and Rights of Way Act 2000 and is not registered common land.

Summary

This investigation has been carried out based on historical map and documentary evidence but it is also necessary to consider it in the context of the 'modern' user evidence submitted – which is considered in detail later in this report.

As with most cases investigated, there is no single piece of map or documentary evidence which stands alone to confirm the public legal status of the route and in this particular case the application was for the addition of a public bridleway from points A-B-C on the Committee plan and also for the route already recorded as a public footpath from point C-F (and F-X in BwD) to be upgraded to bridleway. It was apparent to the case officer that the route over the footbridge should also be investigated.

It is evident from the investigation carried out that a route has physically existed since at least the 1840s which may have been capable of being used by the public. There is no indication that it was considered to be a public vehicular route but there were a number of properties located along, or just off it, that could only be accessed from using the route.

The OS maps and aerial photographs examined confirm the existence of the route and the fact that it has remained unaltered over a substantial period of time. These maps and photographs do not indicate whether use was public or private, only that it appeared possible to use the route as part of a longer through route.

There is little evidence to suggest a public vehicular route, the route was not identified as a public road as part of the Tithe process, was not shown as a public vehicular route in good repair on the First Edition 25 inch map and was not shown on Bartholomew's maps in the early 1900s.

Public Rights were not acknowledged as part of the 1910 District Valuation process along that part of the route from the ford crossing at point B to point Y although from point Y through to point F (and beyond) a deduction was claimed suggesting acknowledgement of public rights at least on foot and possibly on horseback but we do not know whether the deduction was applied for in relation to the application route or elsewhere on the large plot.

The route was recorded as a public footpath in the 1950s seemingly with no suggestion made of use at that time by the public on horseback or with vehicles. Since that time there appears to have been some use by horse riders as evidenced by the user evidence forms submitted as part of this application and the



photographic, map and site evidence all support the fact that the route was capable of such use.

With specific reference to the area at the end of Valley Road (around point A and the Ford at point B) the 1929 Handover Map shows the public road extends a few yards beyond point A and the Finance Act plan suggests that the public road may have extended as far as the river; however, the adoption records show it ending at point A.

In addition, it is noted that the metal footbridge across the river is recorded as a publicly maintainable bridge and the current Definitive Statement describes Footpath Hoghton 12 as starting from the lane and crossing the river whilst the Definitive Map shows that public footpath leading from the north east end of the footbridge leading to the firm conclusion that the footbridge route is part of Footpath Hoghton 12.

Head of Service – Legal and Democratic Services Observations

Landownership

The majority of the land crossed by the application route and the route under investigation is in private ownership. A short section from A to Z and A to B crosses land which is unregistered and a section from E to F also crosses land which is unregistered.

Information from the Applicant

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

- OS One Inch map (undated)
- OS Six Inch map (undated)
- OS twenty five Inch map (undated)
- OS 1:25,000 map (undated)
- Bartholomew's Half Inch Maps
- Greenwood's Map of Lancashire
- Extracts from District Valuation Maps 1910
- Tithe Map and Award
- Handover Map 1929
- List of Streets information obtained from LCC website
- Extract of the Revised Definitive Map (First Review)
- Land ownership registered title information

The applicant concluded from the information that they provided that the map evidence showed that the route was a road so it should have a higher status than footpath. They point out that mills were shown on the route and as the 'road' continues to Pleasington it would have been the main access to the mills from there either using horse and carts or early forms of mechanical transport.

They suggest that because the route is called Long Lane this was further evidence that it was a public road.



In addition the applicant submitted seven user evidence forms which are summarised below.

Type and Duration of Use

All seven users recorded using the route on horseback, one also recorded use on foot and pedal cycle.

The user evidence forms collectively provide evidence of use going back as far as 1982 and up to 'the present' inferring use up to 2021 when the user evidence forms were completed. Specific periods of use are considered below.

- 1993 to 1995 with a gap before using the route again from 2000 to 2019.
- 2015 to 2017 and again from 2018 to 2021
- 2014 to present
- 1996 to present, but excluding 2001
- 1982 to present
- 1991 to 2021
- 2016 to 2020

Frequency of Use

The majority of the 7 users stated that they used the route on a monthly basis or every few months.

| Weekly | Monthly | Every Few Months |
|--------|---------|------------------|
| 1 | 4 | 2 |

Reasons for Use

All users noted pleasure as the reason for using the route, one also noted the route was desirable as it allowed off road riding, another noted it formed part of a circular route.

Other Users of the Route

All users of the route recorded seeing others using the route. All but one recorded seeing use of the route on foot and all but one recorded seeing others using the route on horseback. Three users recorded seeing use of the route by others riding pedal cycles and one noted use by horse drawn vehicles.

All but one of the users recorded that the users they saw were using the same route as they were. One noted that walkers used the footbridge to cross the river whilst riders used the ford.

Consistency of the Route

All seven users recorded that the way they used had always followed the same route.



Unobstructed Use of the Route

One user noted being prevented from using the route but went on to clarify that this related to issues with use of the gates along the route, one having a horse rider friendly opener which was not working, the other requiring a dismount to open and close. The other six users did not record being prevented from using the route.

All but one of the users recorded gates along the route, some noted two, others three. All those who recorded gates noted they were not locked.

No users recorded stiles, barriers, or other obstructions along the route.

Additional Information

Two users noted their historical understanding of the route. One noted historic use of the route to access the mill by horse drawn carts. The other user noted their belief that it was an old 1900s pack horse route.

Information from Others

Chorley Ramblers expressed concerns about suitability and condition of the application route as bridleway which are not pertinent to the consideration of whether public rights exist, and they supported the recording of the footbridge route as footpath but provided no evidence.

Atkins Global responded to consultation to state that they have no objection to the application.

Information from the Landowners

The agent on behalf of one of the owners of the land crossed by the route from the north side of the ford crossing point at point B through to just south east of point E responded saying that the landowner may be willing to support the upgrade of the route to public bridleway if a sensible diversion of the footpath around Lower Park Farm (north east of point C) could be agreed. However these 2 issues cannot be linked within the terms of the legislation, i.e. a requested diversion of one right of way cannot be taken into account when determining whether public rights exist on another.

One of the landowners responded to consultation to simply confirm the land in their ownership.

Assessment of the Evidence

The Law - See Annex 'A'



The application made is that the route marked A-B-C-Y-D-E-F has already become a bridleway in law and should be recorded as such on the Definitive Map and Statement of Public Rights of Way.

It is considered that the section A-Z, although not part of the application, should also be recorded.

The application is based on historic map and documentary evidence and modern user evidence.

As there is no express dedication in this matter, Committee should consider, on balance, whether there is sufficient evidence from which to infer dedication at common law from all the circumstances or for the criteria in S31 Highways Act 1980 for a deemed dedication to be satisfied based on sufficient twenty years "as of right" use.

Considering initially whether there are circumstances from which dedication could be inferred at common law; for there to be inferred dedication, the evidence must show clear intention on the part of the landowner(s) to dedicate the route as a public right of way.

It is advised that Committee has to consider whether evidence from the maps and other documentary evidence coupled with the evidence on site and user evidence indicates that it can be reasonably inferred that in the past the landowner(s) intended to dedicate the route as a public right of way.

Application route A-B-C-Y-D-E-F - Upgrade of existing footpath to bridleway and addition of bridleway

Map and documentary evidence examined by the Public Rights of Way Officer is set out in detail within this report and confirms that the application route has existed since 1840s but on balance, Committee is advised that the map and other documentary evidence is in itself not considered sufficient to conclude that the route was a historical bridleway, and it is therefore suggested to Committee that inferred dedication cannot on balance be satisfied.

However, Committee may also wish to consider whether deemed dedication under s31 Highways Act 1980 or inference at common law can be satisfied from the user of the route.

Seven users claim to have used the route on horseback and one also by foot and pedal cycle.

Committee's attention is drawn to the fact that the number of users who have provided support for the application can be viewed as a relatively low number. Guidance from the Planning Inspectorate indicates that use of the route must be by a sufficient number of people who together may sensibly be taken to represent the public at large.

Out of the seven users only two have given evidence of having used the application route for the full period of twenty years 2001 to 2021.



Committee may consider that such a low number of users of the route A-B-C-Y-D-E-F are not representative of the public at large and therefore the evidence does not raise a presumption of dedication of a bridleway and fails to satisfy the statutory test over the application route.

The advice to Committee is therefore that the application for the addition of a bridleway and upgrading of 9-18-FP13 to bridleway on the Definitive Map and Statement of Public Rights of Way be not accepted.

Addition of footpath – Route under investigation A-Z

The footbridge is recorded as a Lancashire County Council asset structure reference 9325F and named as Hoghton Bottoms footbridge. At point Z the footbridge joins Public Footpath Hoghton 12 shown on the Definitive Map.

Map and documentary evidence examined by the Public Rights of Way Officer is set out in detail within this report. There is no user evidence re the footbridge.

In conclusion, taking all the evidence into account, Committee may consider that it can reasonably be alleged that there is sufficient evidence from which to infer dedication of a public footpath at common law.

Committee is therefore advised to make an Order pursuant to Section 53 (2)(b) and Section 53 (3)(b) and Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to add a footpath on the Definitive Map and Statement of Public Rights of Way for the route under investigation as shown on Committee Plan between points A-Z and promote the Order to confirmation.

Application to Blackburn with Darwen F-X

The applicant has also submitted an application to Blackburn with Darwen Council regarding the continuation of the application route across the County border shown as F-X. Blackburn with Darwen Council have not yet considered this application.

Following consideration of this application by the Regulatory Committee, Committee is advised a copy of this report and the Committee decision will be forwarded to Blackburn with Darwen Council.

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.

Implications:

This item has the following implications, as indicated:



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.

Lancashire County Council as Surveying Authority under the Wildlife and Countryside Act 1981 is required to keep the Definitive Map and Statement of Public Rights of Way up to date by making definitive map modification orders to correct errors and omissions shown, or required to be shown, on it. It is required to process duly made applications for definitive map modification orders and also to consider whether to make orders when it discovers relevant evidence.

This decision is part of this process and Committee has a quasi-judicial role in this decision which must be taken considering all available relevant evidence.

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

| Paper | Date | Contact/Directorate/Tel |
|---------------------------------------|------|----------------------------------------------------------------|
| All documents on File Ref: 804-730 | | Simon Moore, 01772 531280, Legal and Democratic Services |

Reason for inclusion in Part II, if appropriate

N/A

