

Regulatory Committee

Meeting to be held on 17 December 2014

Electoral Division affected: Lancaster Central

Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Applications for the Addition to the Definitive Map and Statement of Three
Public Footpaths across Coronation Field, Lancaster City
Application Nos. 804-541, 804-542, 804-543
(Annex 'A' refers)

Contact for further information:

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Executive Summary

Applications for the following three public footpaths in Lancaster City to be added to the Definitive Map and Statement of Public Rights of Way:

- i. 'Route 1' – Public Footpath from New Quay Road across land known locally as Coronation Field to a point on the boundary with Willow Lane Recreation Ground; Application No. 804-541.
- ii. 'Route 2' – Public Footpath from New Quay Road following the same route as Application 804-541 across land known locally as Coronation Field to the point at which it is intersected by a disused railway line and then continuing in a south westerly direction along the disused railway line to a point on Public Footpath 33 Lancaster in Freemans Wood; Application No. 804-542.
- iii. 'Route 3' – Public Footpath from junction of Public Bridleways 32 and 33 Lancaster and Public Footpaths 30 and 33 Lancaster across land known locally as Coronation Field to cross the disused railway and continue along the same route as Application 804-541 to a point on the boundary with Willow Lane Recreation Ground, Application No. 804-543.

Recommendation

1. That application 804-541 for a footpath from New Quay Road to Willow Lane Recreation Ground, Lancaster City, to be added to the Definitive Map and Statement of Public Rights of Way, be accepted
2. That application 804-542 for a footpath from New Quay Road to Public

Footpath 33 Lancaster City, be added to the Definitive Map and Statement of Public Rights of Way, be accepted

3. That application 804-453 for a footpath from the junction of Public Bridleways 32 and 33 Lancaster and Public Footpaths 30 and 33 Lancaster to Willow Lane Recreation Ground, Lancaster City to be added to the Definitive Map and Statement of Public Rights of Way, be accepted
4. That an Order or Orders be made pursuant to Section 53 (3)(b) and Section 53 (c)(i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement of Public Rights of Way the following footpaths of 2 metre width:
 - a. 'Route 1' from New Quay Road to Willow Lane Recreation Ground for a distance of approximately 550 metres and shown between points A-B-C-D on the Committee Plan.
 - b. 'Route 2' from 'Route 1' to Public Footpath 33 Lancaster City for a distance of approximately 200 metres and shown between points C-E on the Committee Plan.
 - c. 'Route 3' from the junction of Public Bridleways 32 and 33 Lancaster and Public Footpaths 30 and 33 Lancaster to the junction of 'Route 1' and 'Route 2', for a distance of approximately 390 metres and shown between points F-C on the Committee Plan.
5. That not being satisfied that the higher test for confirming the said Order(s) can be satisfied, the matter be returned to Regulatory Committee at a later date to decide what stance to take regarding confirmation of the Order

Background

Three separate applications under Schedule 14 of the Wildlife and Countryside Act 1981 have been received from the Friends of Freeman's Wood and Coronation Field for three public footpaths across land known locally as Coronation Field, Lancaster City, and shown between points A-B-C-D, A-B-C-E and F-C-D on the attached plan, to be added to the Definitive Map and Statement of Public Rights of Way.

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

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

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

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

Lancaster City Council has been consulted and no response has been received, it is assumed they have no comments to make.

Applicant/Landowners/Supporters/Objectors

The evidence submitted by the applicant/landowners/supporters/objectors and observations on those comments are included in Advice – County Secretary and Solicitor's Group Observations.

Advice

Executive Director for the Environment's Observations

Points annotated on the attached Committee plan.

Point	Grid Reference (Square SD)	Description
A	4593 4174	Junction with New Quay Road
B	4593 6154	Bend in application route
C	4611 6139	Intersection of application routes with dismantled railway
D	4619 6134	Boundary fence on edge of Willow Lane recreation field
E	4599 6123	Junction with Public Footpath 33 Lancaster in Freemans Wood
F	4573 6134	Junction with Bridleways 32 and 34 Lancaster and Footpaths 30 and 33 Lancaster

The site across which the application routes run was fenced off and access restricted in 2012. Since that time some of the fencing has been removed and it is possible to access the site.

Description of Routes:

A site inspection was carried out for all three routes in January 2014 with further visits in August and November 2014.

Route 1 - Application 804-541

Shown between points A-B-C-D on the Committee plan.

The route commences at the south west end of New Quay Road (point A on the Committee Plan) where access is prevented by a padlocked metal security gate. Beyond the gate the route crosses an area of concrete alongside buildings that form part of the Lune Industrial Estate. After approximately 30 metres, at the end of the buildings the concrete ends and a narrow (approximately 1 metre wide) trodden track continues through an area of scrub land in a generally southerly direction to point B. From the end of the concrete to point B the narrow track shows traces of stone and brick suggesting that it had previously been surfaced.

From point B a worn track leaves the route to continue in a south westerly direction and the Application route continues passing to the north east of the concrete base of the former cricket pavilion in a south easterly and then east south easterly direction across an open grassed area. The route is open and available but there is no worn track across the grass. The grassed area appears to have been cut – possibly several months ago - but is rough and crossed by numerous tracks which appear to have been formed by walkers and cyclists crossing it.

On approaching point C a worn track corresponding to the Application route can be seen entering an area of overgrown bushes and brambles. It is possible with difficulty to continue to point C through the overgrowth.

Point C is located on the intersection of Application route 1 with the dismantled railway – the remains of which cannot be seen at this point.

Beyond point C the route continues for a further 95 metres with traces of a worn track approximately 50cm wide roughly parallel to security fencing. The route is difficult to follow due to overgrowth. At point D the Application route ends where it meets a metal security fence which prevents access through onto the Willow Lane Recreation field. Close to point D, attached to the security fence and visible from the recreation field, is a red sign with white wording that reads 'Warning, Keep Out, Private Property, No Trespassing'. The sign has been defaced with the words 'Our land' written across it.

The total length of the route is approximately 550 metres.

Route 2 – Application 804-542

Shown between points A-B-C-E on the Committee plan.

The route claimed is the same as the one applied for in Application 804-541 between point A-B-C and is described above.

From point C – situated on the remains of the dismantled railway – the Application route turns to continue in a south west direction along the former track bed of the dismantled railway for a distance of approximately 200 metres to the junction with Public Footpath 33 Lancaster at point E. The route is very overgrown and difficult to access. The remains of some concrete fence posts exist along either side of the route which appear to have marked the former boundaries of the railway line.

When the route was inspected in 2014 it was not possible to walk it due to the overgrowth although a worn path did exist parallel to it along the north-west side.

Approximately 10 metres before reaching point E the Application route is blocked by metal security fencing which prevents access along it. Beyond the fence the Application route crosses rough land through trees along the line of the dismantled railway to the junction with Lancaster Public Footpath 33 at point E.

The total length of the route is approximately 660 metres.

Route 3 – Application 804-543

The Application route is shown between points F-C-D on the Committee plan.

It commences at the junction of Lancaster Public Bridleways 32 and 34 and the junction with Lancaster Public Footpath 33.

From point F access onto the Application route is prevented by mounded earth behind which there is metal security fencing.

Beyond the security fencing the Application route passes through an area of woodland for approximately 95 metres before coming out into an open area. No worn track was visible on the ground along the Application route from point F leading into the clearing.

Once in the clearing the remains of some football goal posts can be seen to the south of the Application route. The route crosses the clearing in a north easterly and then east south easterly direction to point C across a rough grassy area over which there are many tracks which appear to have been made by walkers and cyclists.


The Application route across the clearing is walkable but is not defined on the ground.

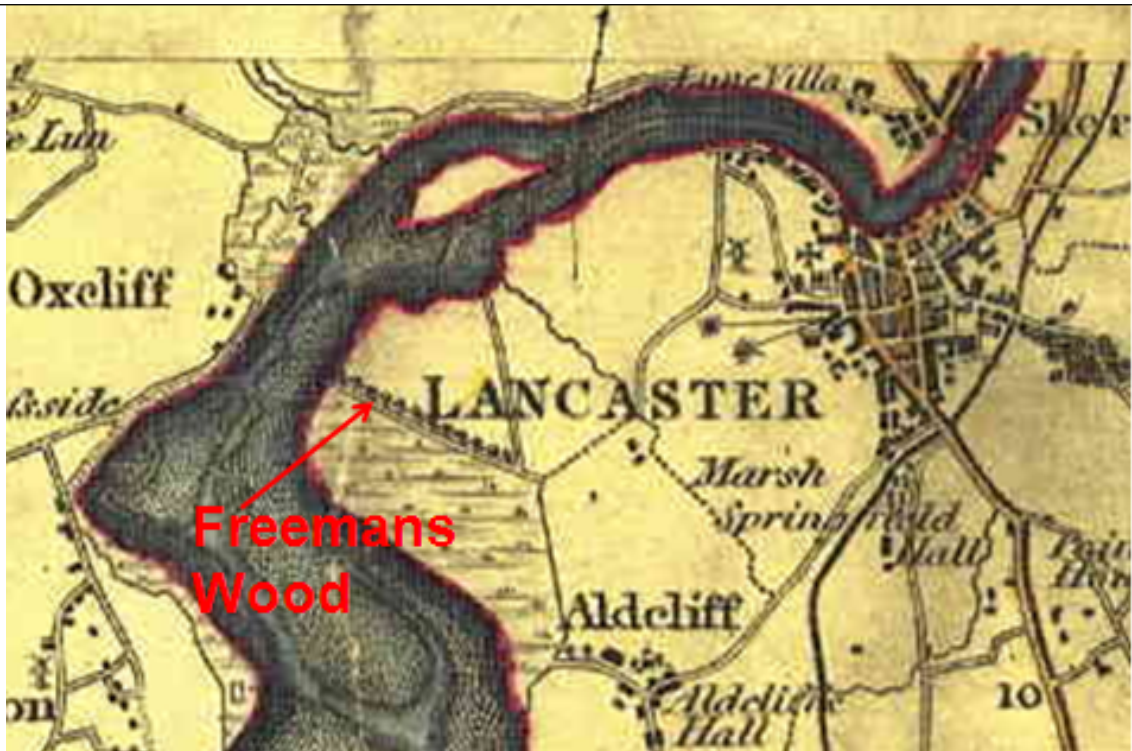
At point C the Application route crosses the dismantled railway and continues to point D. The section C-D is the same as that applied for as part of Application route 1

and is described above.

The total length of the route F-C-D is approximately 500 metres.

Map and Documentary Evidence

Document Title	Date	Brief Description of Document & Nature of Evidence
Yates' Map of Lancashire	1786	Small scale commercial map. Such maps were on sale to the public and hence to be of use to their customers the routes shown had to be available for the public to use. However, they were privately produced without a known system of consultation or checking. Limitations of scale also limited the routes that could be shown.
		
Observations		None of the three routes under investigation are shown. The Lune Mills do not appear to have been built and although a road is shown along the south side of the River Lune it goes to a race course.
Investigating Officer's Comments		The routes under investigation did not exist in 1786.
Greenwood's Map of Lancashire	1818	Small scale commercial map. In contrast to other map makers of the era Greenwood stated in the legend that this map showed private as well as public roads.



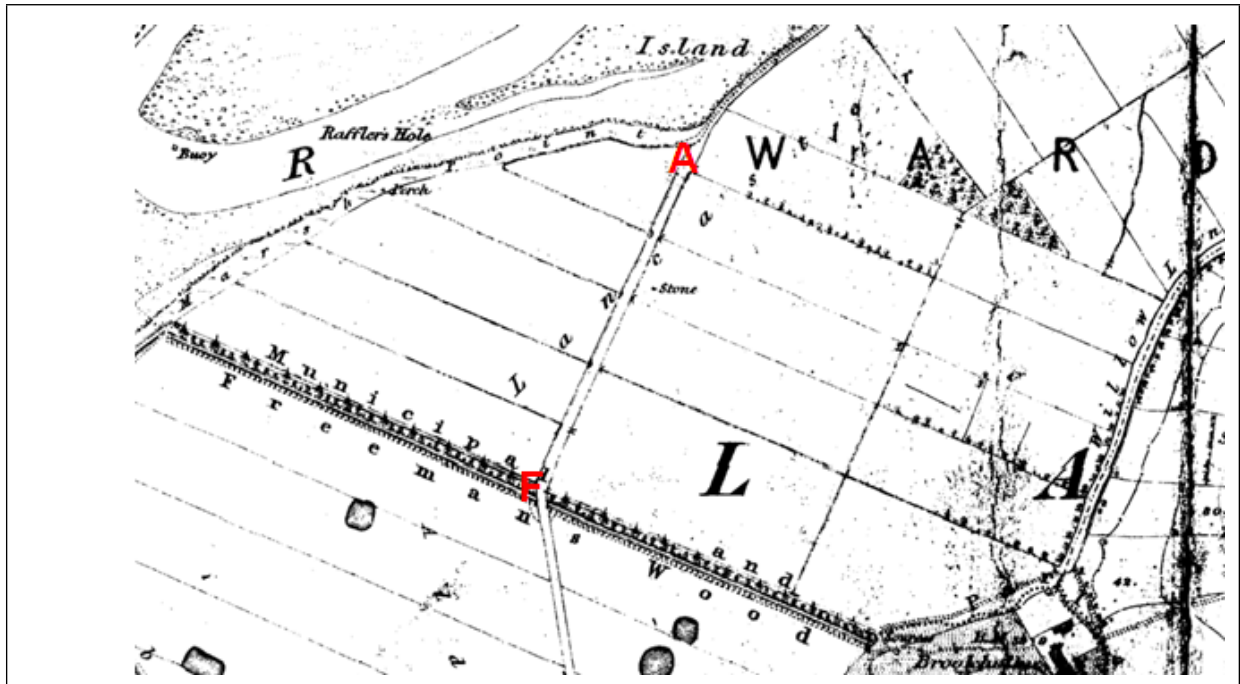
Observations		The three routes under investigation are not shown. Freemans Wood - through which Footpath 30 and 32 Lancaster are recorded are clearly shown but the Lune Mills are not.
Investigating Officer's Comments		The routes under investigation probably did not exist in 1818.
Hennet's Map of Lancashire	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 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		The three routes under investigation are not shown. New Quay is named on the map and the route now recorded as Bridleway 32 and 34 Lancaster is shown.
Investigating Officer's Comments		The routes under investigation probably did not exist in 1830.
Canal and Railway Acts	1877	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 could not 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		<p>Part of Route 2 (between points C-E) runs along the former track bed of the London and North Western Railway – Glasson Dock Branch. Railway Acts and Plans are held at the House of Lords library in London and although a search of the House of Lords records has not been made the County Records Office hold a number of records relating to this particular railway including maps and a book of reference from 1887.</p> <p>The railway opened in 1883 to transport goods and people from Glasson Dock to Lancaster. The railway closed to passengers in 1930 but</p>

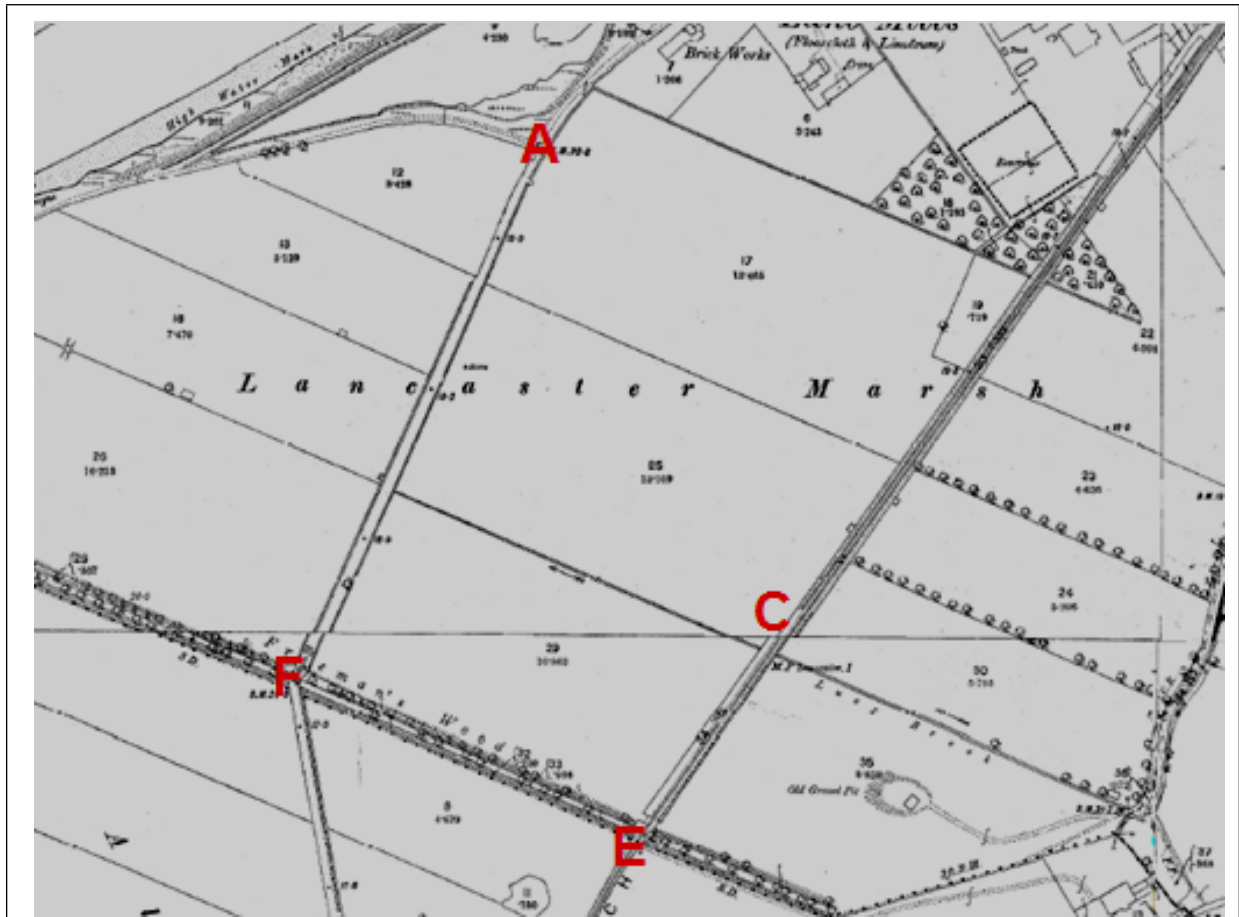
		remained in operation carrying goods until 1964. No reference was made to the existence of any of the 3 Application routes in the documents inspected in the County Records Office.
Investigating Officer's Comments		The three application routes did not appear to exist when the railway was constructed in the 1880s. That part of Application Route 2 shown between points C-E on the Committee plan cannot have existed until the railway closed in 1964.
Tithe Map and Tithe Award or Apportionment	1847	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 Maps for Lancaster, Aldcliffe and Ashton with Stoddy were inspected in the County Records Office but did not cover the relevant area.
Investigating Officer's Comments		No inference could be drawn.
Inclosure Act Award and Maps		Inclosure Awards are legal documents made under private acts of Parliament or general acts (post 1801) for reforming medieval farming practices, and also enabled new rights of way layouts in a parish to be made. They can provide conclusive evidence of status.
Observations		There is no Inclosure Award for the area concerned.
Investigating Officer's Comments		No inference can be drawn.
6 Inch Ordnance Survey (OS) Map	1848	The earliest Ordnance Survey 6 inch map for this area surveyed in 1844-5 and published in 1848. ¹

¹ The Ordnance Survey (OS) has produced topographic maps at different scales (historically one inch to one mile, six inches to one mile and 1:2500 scale which is approximately 25 inches to one mile). Ordnance Survey mapping began in Lancashire in the late 1830s with the 6-inch maps being published in the 1840s. The large

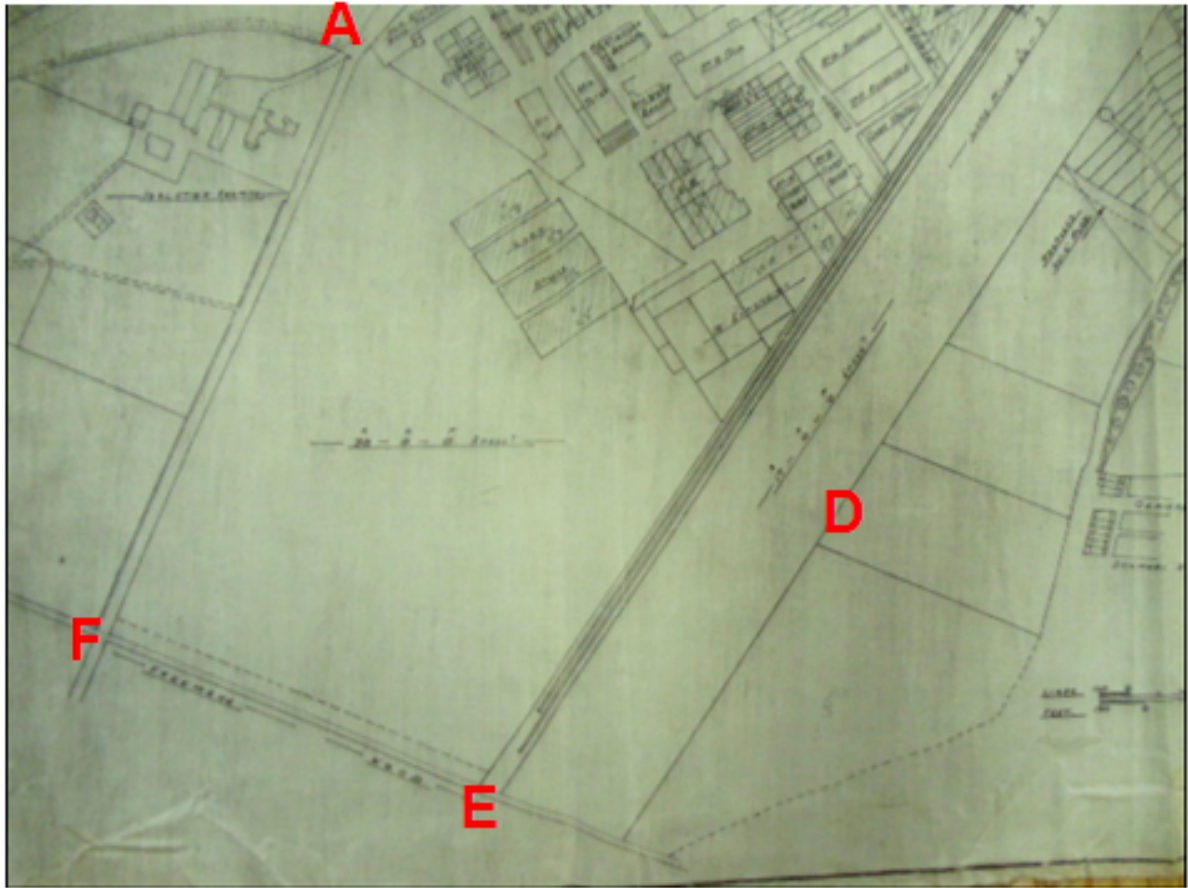


Observations		<p>The application routes are not shown.</p> <p>The land over which the application routes run is shown as farm land which appears to have been systematically drained. The route of Public Bridleways 32 and 34 Lancaster can be clearly seen and the wood through which Public Footpath 33 is recorded is shown and named as 'Municipal and Freemans Wood'.</p>
Investigating Officer's Comments		The application routes probably did not exist in 1848.
25 Inch OS Map	1890	The earliest OS map at a scale of 25 inch to the mile. Surveyed in 1890 and published in 1891.

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 routes are not shown.</p> <p>The land over which the application routes are located is named on the map as being part of Lancaster Marsh. The London and North Western Railway – Glasson Dock Branch railway is shown and that part of application route 2 between point C and point E is shown to be part of the operational railway. The Lune Mills site is shown to the north/north east of the land over which the application routes are claimed to run.</p>
<p>Investigating Officer's Comments</p>		<p>The application routes probably did not exist when the Ordnance Survey carried out their survey in 1890. The section of application route 2 between point C and point E could not have existed as it was an operational railway line.</p>
<p>Plan of Lune Mills and St Georges Works</p>	<p>Circa 1900</p>	<p>Plan deposited in the CRO as part of the extensive James Williamson and Son of Lancaster deposit, dated circa 1900.</p>

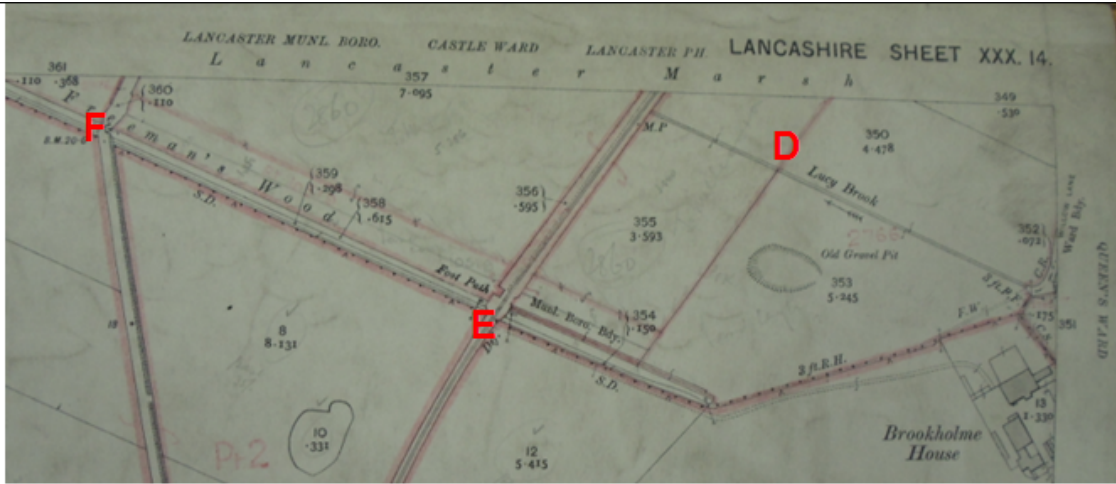


<p>Observations</p>		<p>The plan was hand drawn at a scale of 1:2500 and shows a number of buildings to the north of the application routes that had been constructed in the 10 years following the survey carried out by the Ordnance Survey in 1890.</p> <p>The application routes are not shown on the plan. Measurements are given for the land on which the application routes are located.</p>
<p>Investigating Officer's Comments</p>		<p>The purpose of the plan is unknown but it appears to have been produced in relation to the land owned by the Williamson family.</p> <p>The application routes are not shown and it appears unlikely that they existed circa 1900.</p>
<p>Finance Act 1910 Map</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</p>

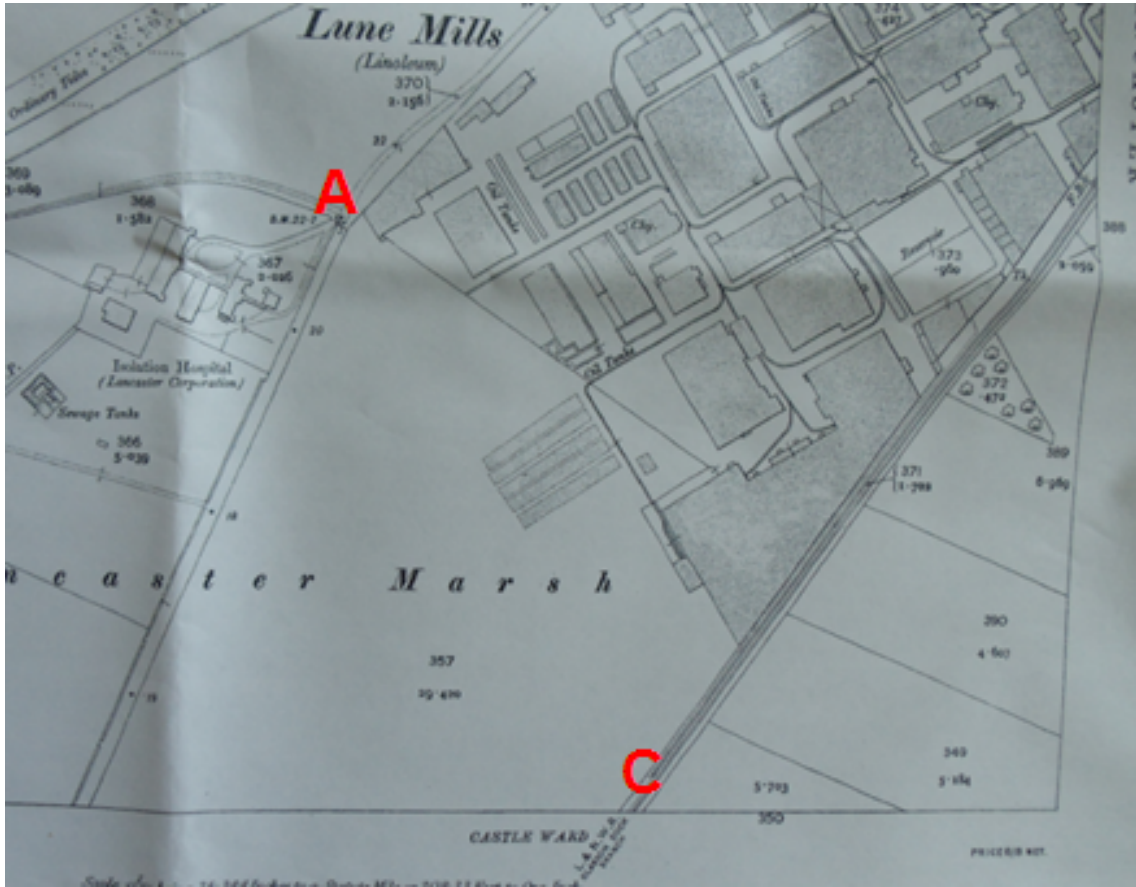
produced under the requirements of the 1910 Finance Act have been examined. The Act required all land in private ownership to be recorded so that it could be valued and the owner taxed on any incremental value if the land was subsequently sold. The maps show land divided into parcels on which tax was 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).

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





<p>Observations</p>		<p>The Finance Act 1910 records were obtained from the County Records Office.</p> <p>The application routes were not excluded from the numbered hereditaments and no deductions were claimed for public rights of way or user. Land crossed by the application routes (plot 2860) was recorded as being in the ownership of Jas Williamson & Son.</p> <p>The railway is recorded as a separate hereditament (plot 3025) and was in separate landownership (London North Western Railway Company). No deductions were claimed for rights of way or user.</p>
<p>Investigating Officer's Comments</p>		<p>The application routes probably did not exist or were not considered to be public rights of way circa 1910 or a deduction was not considered to be worth claiming.</p>
<p>25 inch OS Map</p>	<p>1913</p>	<p>Further edition of the 25 inch map re-surveyed in 1890, revised in 1910-11 and published in 1913.</p>

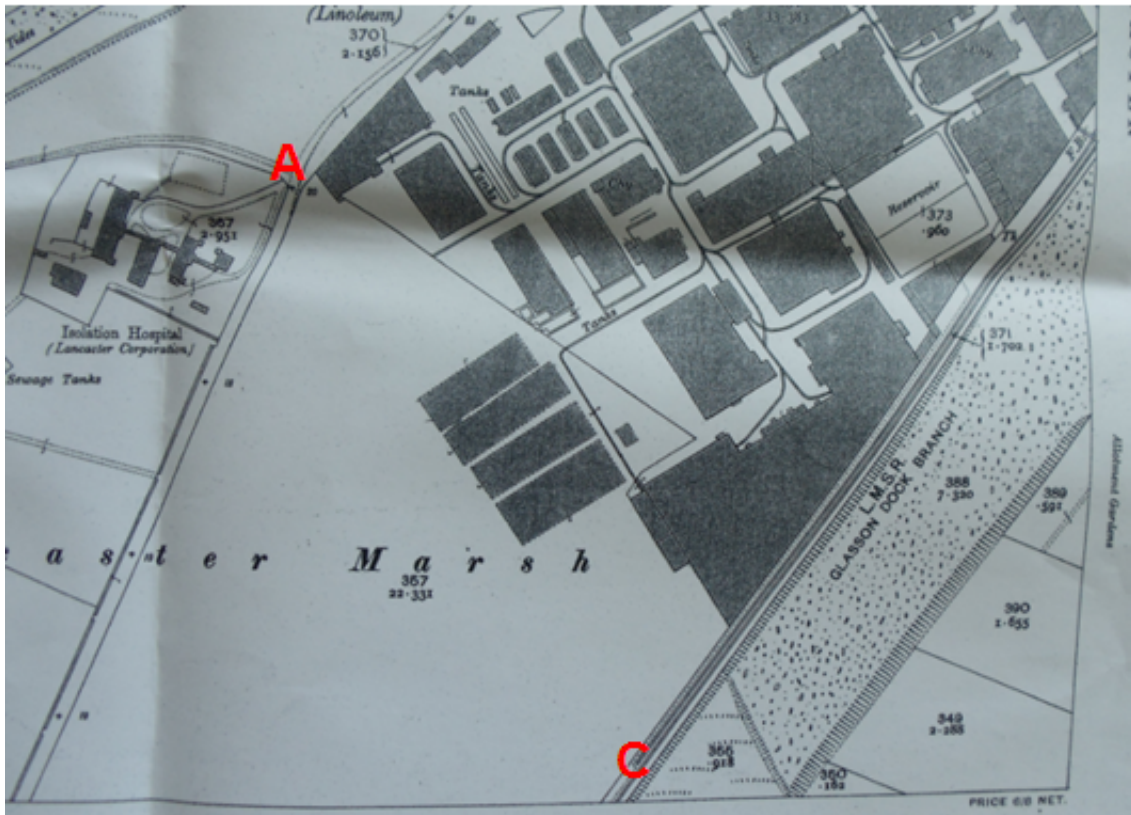


<p>Observations</p>		<p>The application routes are not shown on the map and the railway is shown to exist between point C and point E.</p> <p>The Lune Mills site has expanded considerably and a large building can be seen abutting point A. Lucy Brook is shown to continue from just south of point D to the railway.</p>
<p>Investigating Officer's Comments</p>		<p>The application routes probably did not exist in 1913.</p>

25 Inch OS Map

1933

Further edition of 25 inch map (surveyed 1890, revised in 1931 and published 1933.



Observations

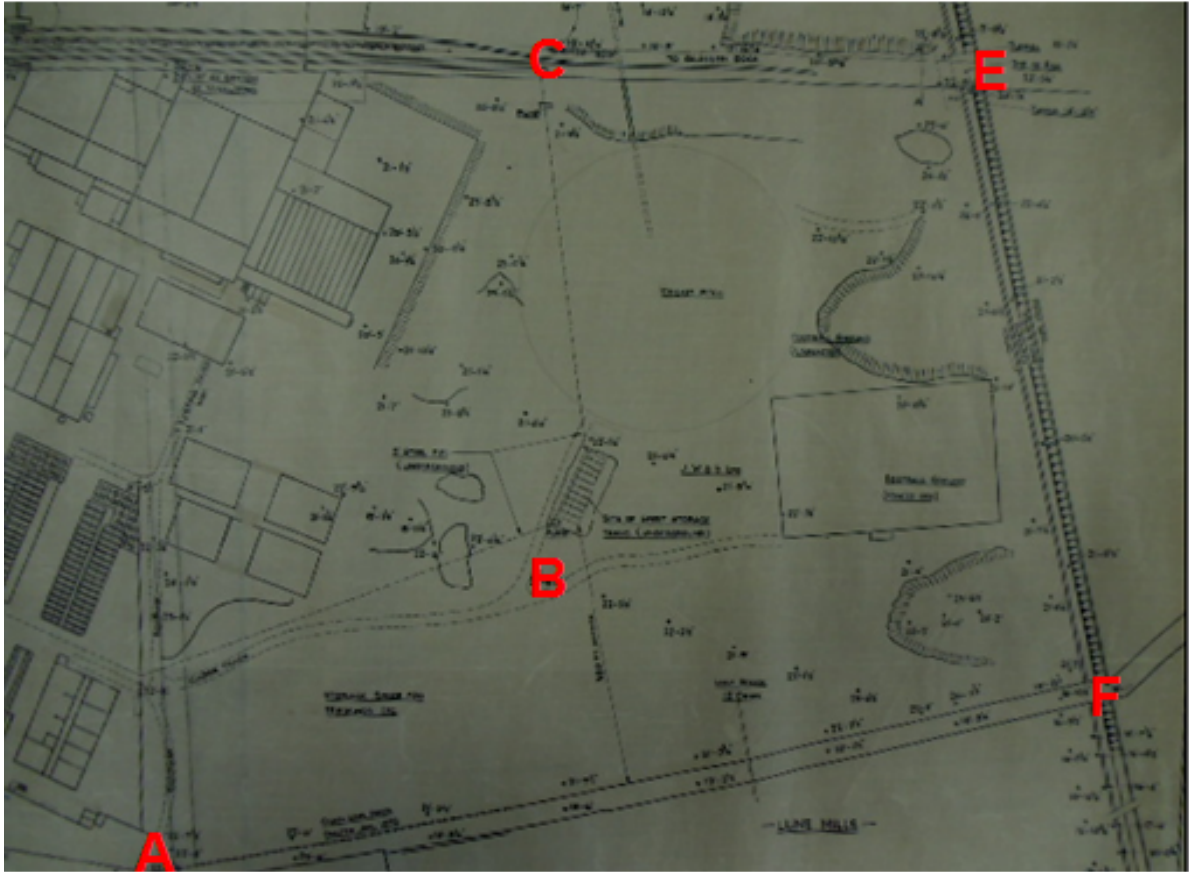
The application routes are not shown.

The Lune Mills site has continued to expand to the north of the land crossed by the application routes. Lucy Brook had been culverted from just south of point D to the railway since the earlier edition of the map

		<p>was published.</p> <p>An embankment is shown across application route 3 north east of point F.</p>
Investigating Officer's Comments		The application routes probably did not exist in 1933.
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		No aerial photograph was available to view at the County Records Office or on GIS.
Investigating Officer's Comments		No inference can be drawn.
http://www.virtual-lancaster.blogspot.co.uk	1950's	Online research carried out concerning the history of the site.
Observations		The website details the history of the land crossed by the application routes. It states that the land over which the application routes are located was originally a private landfill site for the Williamson Linoleum factory and that once the site was full it was planted with trees to stabilise the ground and that a huge project took place in the early 1950s when the site was levelled by volunteer labour. The name 'Coronation Field' was apparently given to the site after the 1953 Coronation of the Queen.
Investigating Officer's Comments		The website provided useful information regarding the ownership and use of the site in the 1950s and explained the origin of the name that it is locally known by. No reference was made to the existence of the application routes and no inference can be drawn.
James Williamson and Son Minute Books	1950-1954	Minute books deposited in the County Records Office.
Observations		Minute books from the Williamson factory were inspected from 1950 – 1954 to see whether any further information could be obtained about the levelling, naming of the site or the intended use of the site. No additional information could be found.

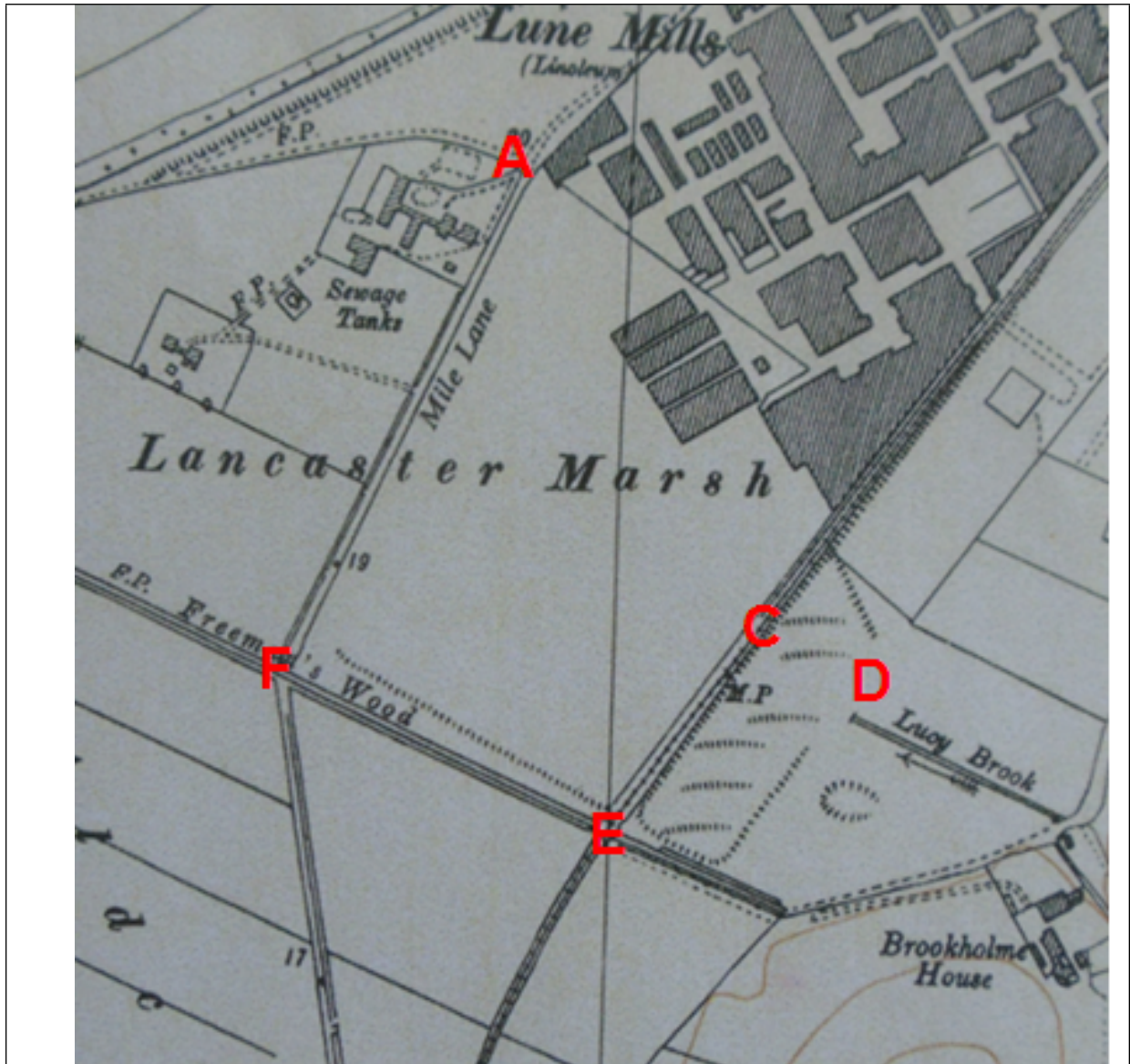
² Aerial photographs can show the existence of paths and tracks, especially across open areas, and changes to buildings and field boundaries for example. Sometimes it is not possible to enlarge the photos and retain their clarity, and there can also be problems with trees and shadows obscuring relevant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

Investigating Officer's Comments		No inference can be drawn.
James Williamson and Sons plan of Lune Mills and Field	1955-1960	Plan deposited in the CRO as part of the extensive James Williamson and Son of Lancaster deposit, dated 30 January 1955 and revised 1960.



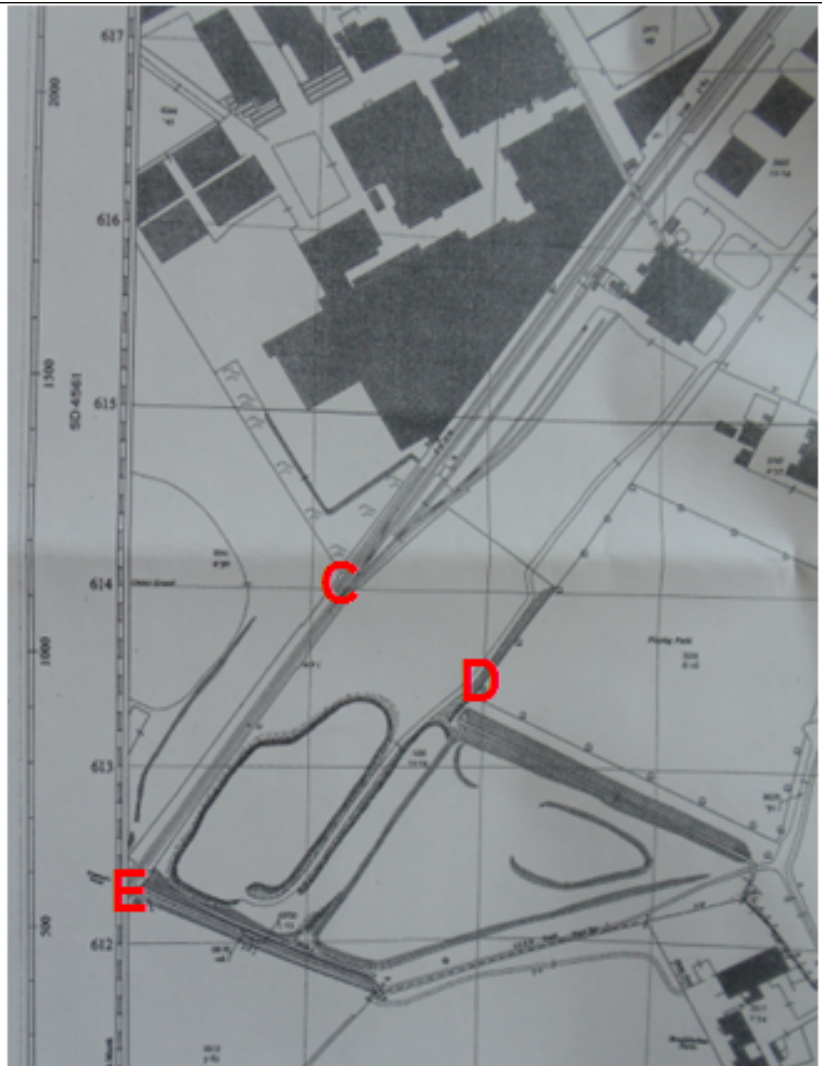
Observations		The plan shows the land owned by the Williamson family referred to collectively as 'Lune Mills and Field areas'. It shows the land over which the three application routes are located as being within their ownership and appears to have been drawn from a privately commissioned survey. A track is shown to exist from point A leading to the approximate position of point B but not following the exact alignment of application route 1 and 2. The track continues a short way towards point C along the approximate line of the application routes 1 and 2. The railway is shown and labelled 'To Glasson Dock'. A circular cricket pitch is shown marked on the map which is crossed by application routes 1 and 2 between point B and point C and also application route 3 between point F and point C. A football pitch is also marked out which is crossed by
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		application route 3 between point F and point C.
Investigating Officer's Comments		<p>The application routes probably did not exist when the plan was drawn in 1955 or when it was revised in 1960. Access onto the site appears to be available at point A and tracks visible from A via B towards C provide access to a cricket pitch and football ground suggesting that part of the site was being used for recreational purposes at that time and is consistent with the information detailed on the internet about the site having been levelled and named as 'Coronation Field'.</p> <p>If the application routes had existed between point B and point C or between point F and point C they would have crossed areas marked out for cricket and football.</p>
6 Inch OS Map	1957	The OS base map for the Definitive Map, First Review, was published in 1955 at a scale of 6 inches to 1 mile (1:10,560). This map was revised 1930-45 with major changes revised in 1950.



Observations		The application routes are not shown.
Investigating Officer's Comments		The application routes probably did not exist when the map was revised between 1930-1950.
25 inch OS Map	1957	25 inch map revised in 1957 and published in 1957.





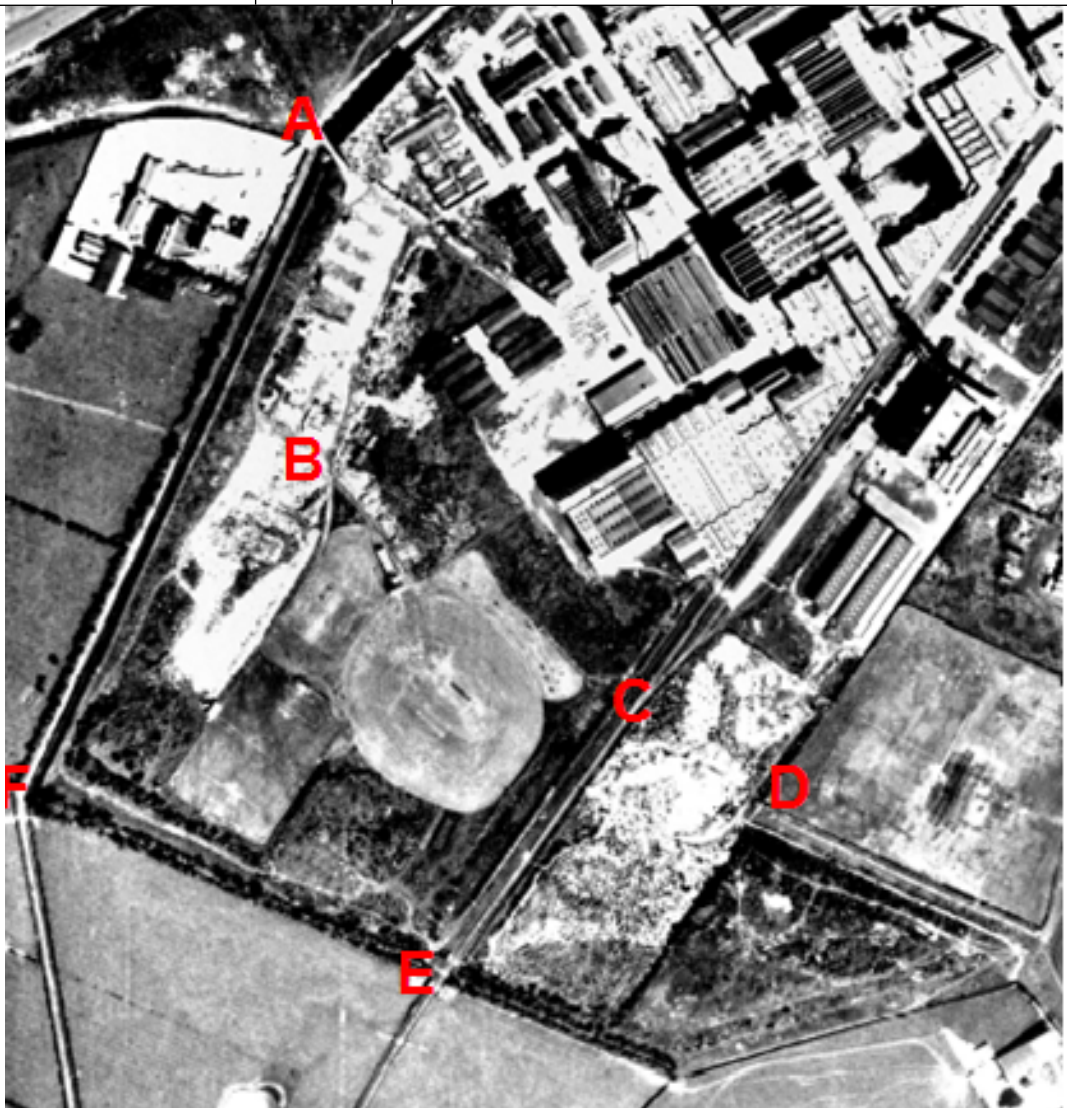
Observations

The application routes are not shown on the map although access may have been available from point A along one of two tracks marked on the map - neither of which correspond with the application routes but which both lead to point B. From point B a track that generally corresponds to application routes 1 and 2 continues in a south easterly direction for approximately 100 metres towards point C providing access to a cricket pitch. The railway is still shown to exist, cutting through the site with no obvious access across it at point C.

The railway also runs between point C and point E (the route claimed as part of application route 2).

Between point F and point C application route 3, if it did exist, crossed the end of a raised mound, the football pitch and cricket pitch.

		<p>A track extending from point B south along the edge of the football pitch to the grandstand is shown but does not correspond to the application route.</p> <p>The land to the east of point D is shown on the map as a playing field.</p>
Investigating Officer's Comments		<p>It appears unlikely that the application routes existed on the ground in 1957. The land which they cross now appears to be used for recreational purposes (cricket and football) west of the railway line with access to the site being available from point A. Tracks are shown in existence leading to the football and cricket pitches from point A but these do not correspond directly to the routes under investigation.</p>
Aerial photograph	1960s	The black and white aerial photograph taken in the 1960s and available to view on GIS.



Observations		<p>The earliest aerial photograph available to view. The photograph shows that access existed from point A along application routes 1 and 2 to point B and then from point B for a distance of approximately 100 metres towards point C along a visible track to the edge of the cricket pitch. The application route is not visible across the cricket pitch to point C or across the railway line and on to point D. Application route 3 between point F and point C is not visible and would clip the north west corner of the football pitch and cross the cricket pitch if it existed at that time.</p> <p>Various worn tracks are visible on the aerial photograph around the edge of the site with a clearly worn access point close to point E and a worn track north west of application route 2 (adjacent to the railway) between point E and point C.</p>
Investigating Officer's Comments		<p>Part of application routes 1 and 2 appears to have existed and been capable of being used in the 1960s. The rest of the routes applied for are not shown although other routes are shown to exist close to them (adjacent to point C to point E) and around the edge (but within the boundary) of the site referred to as Coronation Field.</p>
1:2500 OS Map	1964	1:2500 OS map revised in 1957 and published in 1964.
Observations		<p>Only one of the relevant map sheets was available for inspection (SD4561) and the land over which the application routes are situated is shown in the same way as it was shown on the 1957 edition of the 25 inch map.</p>
Investigating Officer's Comments		<p>No further information was provided regarding the existence or status of the application routes.</p>
Aerial Photograph	1980s	<p>Aerial photograph submitted by Lune Industrial Estate Limited and said to have been taken in the late 1980s. The Company acknowledge that the photograph shows that there was a path to the cricket pavilion from the industrial estate which they believe was used by the cricketers whilst they had use of the pavilion and cricket pitch.</p>



Observations

The photograph does not show all of the land crossed by the application routes.

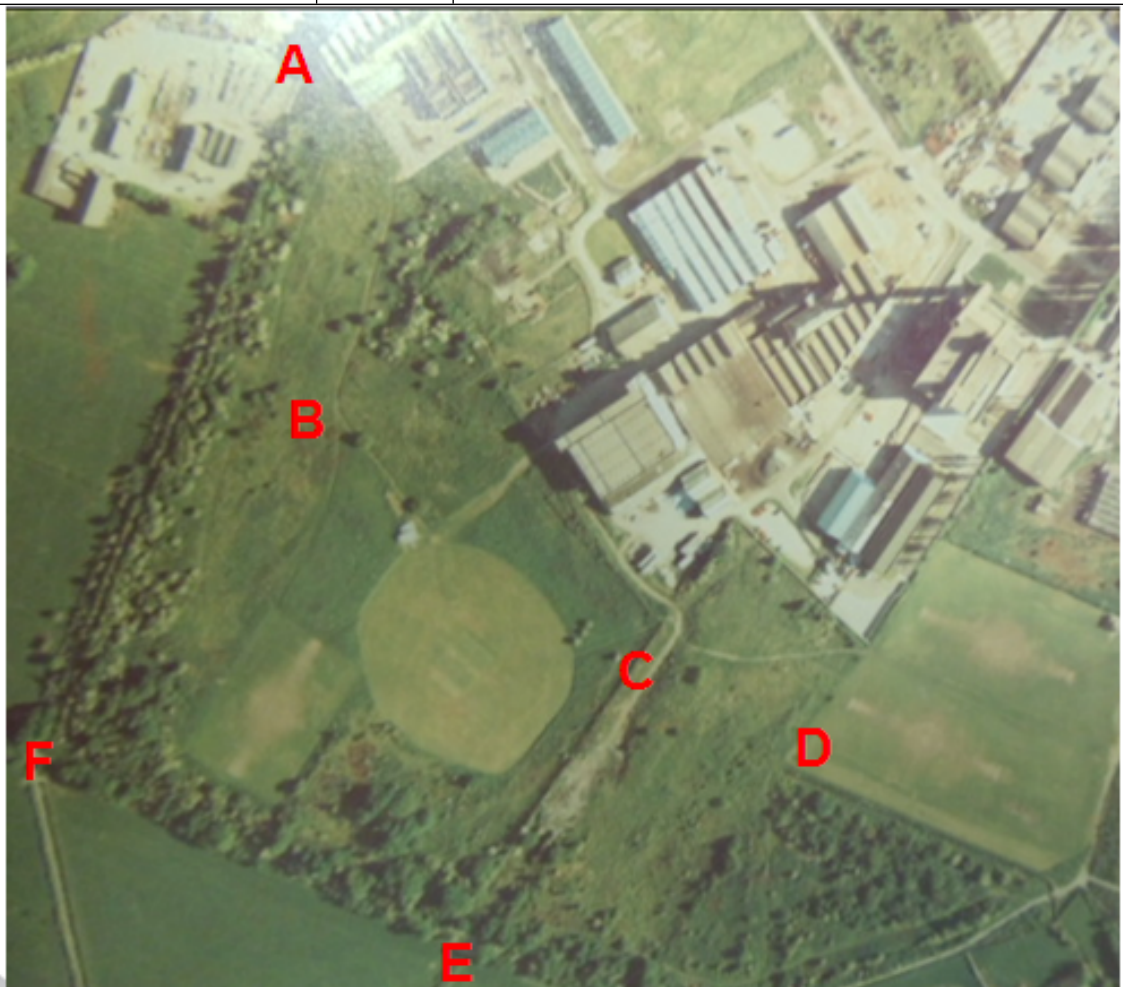
From point A it is not possible to see from the photograph whether access was available onto application routes 1 and 2 and the exact alignment of the route claimed is not visible between point A and point B. A track can be seen leading from the industrial estate as far as point B and then continues from point B to the cricket pavilion and pitch. The section of the route visible on the photograph between point B and the cricket pavilion is consistent with the route claimed as part of application route 1 and 2. From the cricket pavilion to point C it is not possible to see application route 1 and 2 as a worn track although access appears to have been open and available along this section.

Application route 1 between point C and point D is not visible as a worn track although other routes appear to exist to the north and access onto the Willow Lane recreation field appears available.

It is not possible to see the full length of application route 2 along the dismantled railway between point C and point E but parts of it can be seen on the photograph suggesting that it existed as a worn track at this time.

In respect of application route 3 the photograph does not extend far enough to show whether the route was visible at point F and although the route crossed open land – including the football and cricket pitch - no

		worn track can be seen leading from point F to point C. Various other tracks which do not form part of the application can be seen across and around the site.
Investigating Officer's Comments		The cricket and football pitches still appeared to be maintained in the 1980s with access to them from the Industrial Estate. The site appeared to be open with numerous tracks clearly visible across and around it suggesting regular use was being made of it. Part of the application routes 1 and 2 can be seen following worn tracks but the access points at A, E and F are either not shown or are unclear on the photograph so it is not possible to see whether they could be accessed from these points. Access along the application routes may or may not have been possible in the 1980s but they did not appear to be clearly defined and well used through routes.
Aerial Photograph	1988	Aerial photograph available at CRO and LCC Cuerden Offices.



Observations		<p>Part of application routes 1 and 2 can be seen on the photograph between point A and point B. Beyond point B the route can be seen extending towards point C on a track leading to the cricket pitch. The route across the cricket pitch and on to point C cannot be seen on the photograph as a worn track. Application route 1 between point C and point D is not shown on the plan but a clearly visible worn track is shown to exist further north.</p> <p>A worn track can be seen passing through point C and continuing towards point E along the line of application route 2 but it is not clear whether the full length between point C and point E existed at that time due to tree cover.</p> <p>Application route 3 between point F and point C is not visible as a worn track on the photograph.</p> <p>It is not obvious from the photograph whether access was available onto the routes at point A, point F or point E.</p>
Investigating Officer's Comments		<p>None of the three application routes are visible as worn tracks in their entirety although it may have been possible to walk them. The cricket field and football pitch are clearly visible and appear to be maintained which may have resulted in people walking round and not across them when matches were taking place.</p>
1:25,000 OS Map	1990	<p>1:25,000 OS Pathfinder Map 648 compiled from larger scale surveys dated between 1955 and 1976, Revised for selected changes 1988 and published 1990.</p>



Observations		The map shows a route that corresponds to part of Application routes 1 and 2 but does not show access onto the route at point A. A track appears to exist along the dismantled railway between point C and point E.
Investigating Officer's Comments		Parts but not all of the application routes may have existed in 1990.
Aerial Photograph	2000	Aerial photograph available to view on GIS.



Observations

The football and cricket pitches are less clearly visible suggesting that they are no longer maintained as such. A visible track exists from point A although it is not possible to see whether it is gated. Application routes 1 and 2 are visible as a worn track on the ground between point A and point B and then continuing towards point C as far as the cricket pavilion. Beyond the pavilion to point C there is no worn track on the ground although the route appears to be accessible.

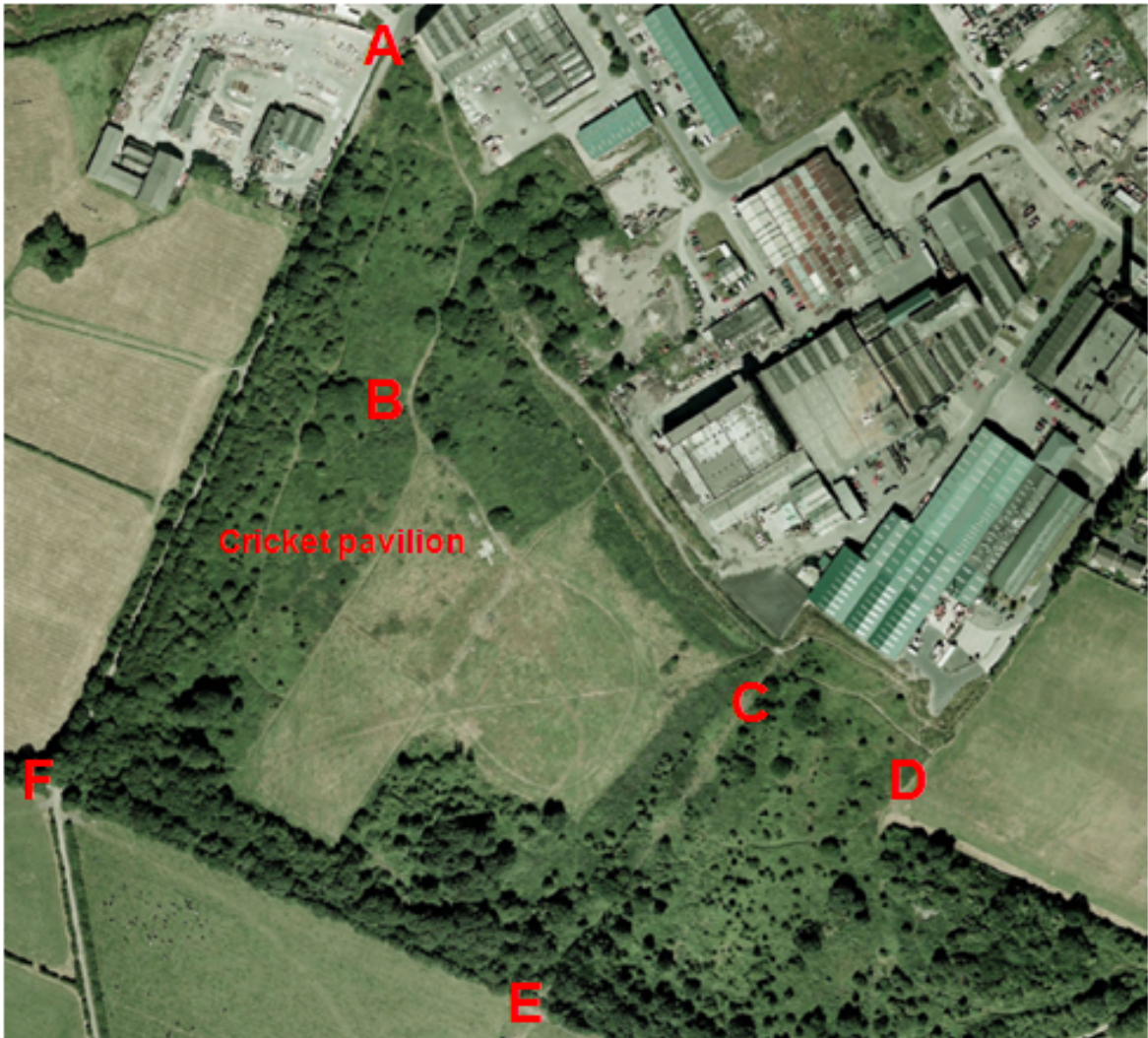
Application route 1 between point C and point D is not visible on the photograph although a worn track is clearly visible further north which appears to provide access to the Willow Lane recreation field.

A faint track is visible between point C and point E (part of application route 2).

That part of application route 3 from point F to point C is not visible as a worn track on the ground.

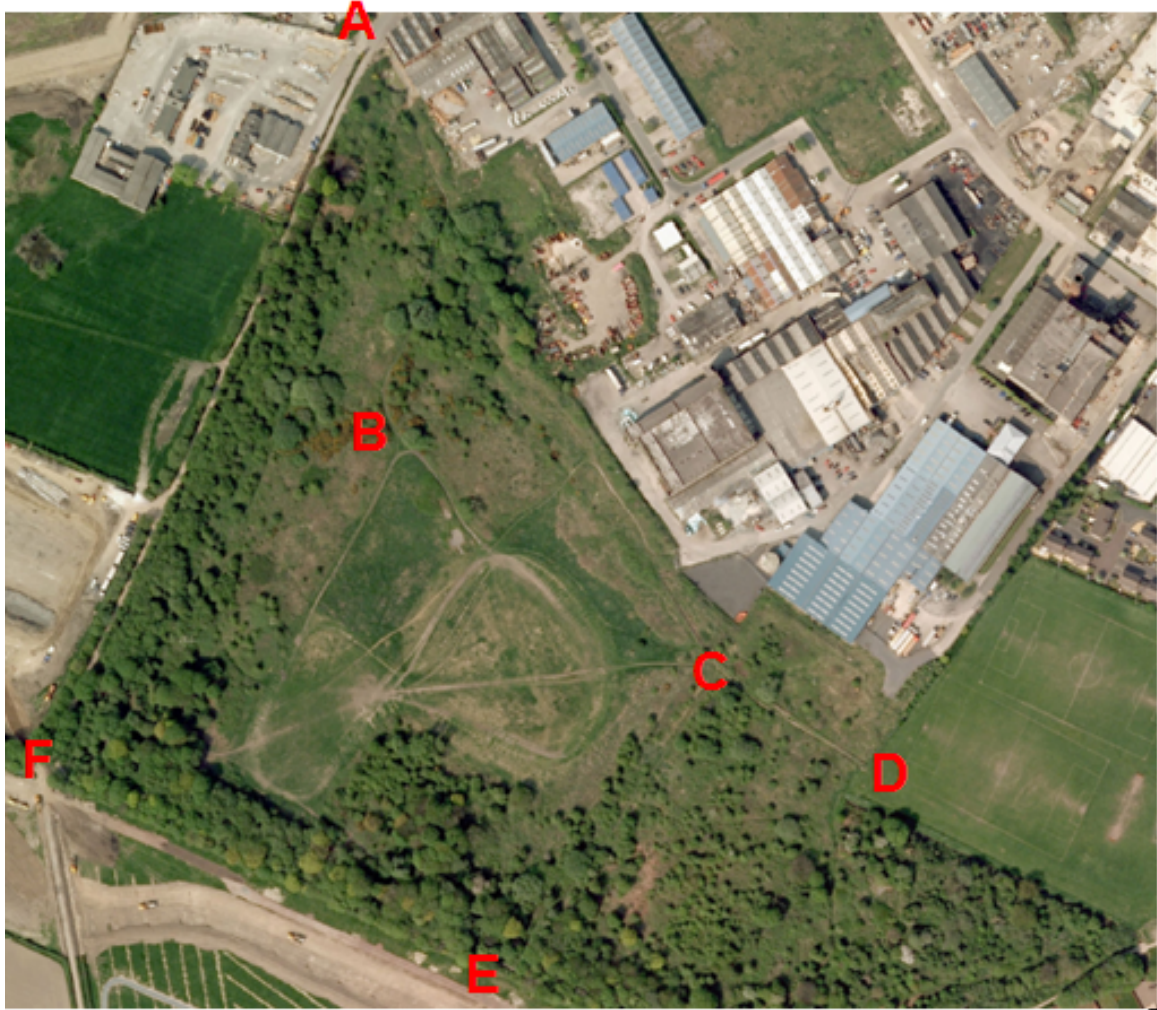
A number of worn tracks that do not coincide with the application routes appear to exist

		across the land.
Investigating Officer's Comments		Parts of the Application routes appear to have existed as worn tracks on the ground which would have been capable of being used by the public. However there is no indication that the other parts – namely the sections between the cricket pavilion and point C, point F and point C and point C and point D existed.
Aerial Photograph	2003	Aerial photograph available to view on GIS.



Observations		<p>The former cricket pitch and football field are still visible but do not appear to be in use or maintained for their original purpose.</p> <p>Application routes 1 and 2 between point A-B and continuing from point B to the cricket pavilion are clearly visible and a route close to – but not on the exact alignment of the application route continues towards point C and then across to the edge of the Willow Lane recreation field parallel but well to the north east of the application route between point C and point D.</p>
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		<p>A faint line, partially obscured by trees can be seen between point C and point E which appears to show a worn track.</p> <p>A route can be seen across the football and cricket fields south of the application route between point F and point C but this is much straighter and more direct than the route applied for.</p> <p>A number of other tracks – not forming part of the application can also be seen across the site.</p>
Investigating Officer's Comments		<p>Parts of the application routes appear to have existed as worn tracks on the ground which would have been capable of being used by the public. However other parts of the application routes are not visible as worn tracks and although the routes may have been capable of being walked across open ground there are also a significant number of other worn routes across the site that do not form part of the applications and the inference can be made that the application routes were not in use to a significant degree.</p>
Aerial Photograph	2006	Aerial photograph available to view on GIS.



Observations

Tree cover across the site appears has increased since in previous years. Access onto application routes 1 and 2 at point A is visible although it is not possible to see whether it is gated. Most of the route between point A and point B is no longer visible. Part of the route between point B and point C is visible and the route between point C and point D is visible for the first time as a worn track and looks to have replaced the worn track that was previously evident to the north east. That part of application route 2 from point C can be seen extending south west towards point E but tree cover means that it is not possible to see whether it extends as far as point E. A worn route can be seen coming out of the trees east of point F and extending as far as point C but this does not correspond to application route 3, which is not visible on the photograph.

Investigating Officer's

Only parts of the application routes appear to

Comments		<p>have existed as worn tracks on the ground and would have been capable of being used by the public. However other parts of the application routes are not visible as worn tracks and although the routes may have been capable of being walked across open ground there are also a significant number of other worn routes across the site that do not form part of the applications. The use of the site appears to have changed – with the cricket field and football pitch no longer marked out but clearly being used as there are a number of worn tracks on and around them.</p> <p>That part of application route 1 between point C and point D is visible as a worn track on the ground for the first time.</p>
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Aerial Photograph	2010	Aerial photograph available to view on GIS.
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Observations		<p>It appears that application route 1 and 2 between points A and point B still existed and can be seen as a faint line on the photograph.</p>
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		<p>From point B the route continues along a worn track partway to point C from where it is no longer visible. Application route 1 between point C and point D can be clearly seen on the photograph.</p> <p>Application route 2 between point C and point E is difficult to see due to tree cover but does appear visible as a faint line.</p> <p>Application route 3 between point F and point C is not visible on the photograph although a route along a different alignment appears to exist.</p>
Investigating Officer's Comments		<p>The aerial photographs examined show that the route between point A and point B was in existence and may have been capable of being used by the public. This route continued partway to point C as a worn track visible on the ground.</p> <p>In the four years since the last photograph application route 1 between point C and point D has remained in the same place and is clearly visible through the trees suggesting that it received regular use. The route along the disused railway line (application route 2 between point C and point E) also appeared to be in use.</p> <p>Application route 3 between point F to point C is not visible. Whilst it may have been possible to use it use was not significant enough to create a visible track on the ground.</p>
Definitive Map Records		<p>The National Parks and Access to the Countryside Act 1949 required the County Council to prepare a Definitive Map and Statement of Public Rights of Way.</p> <p>Records were searched in the Lancashire Records Office to find any correspondence concerning the preparation of the Definitive Map in the early 1950s.</p>
Parish Survey Map	1950-1952	<p>The initial survey of public rights of way was carried out by the parish council in those areas formerly comprising a rural district council areas and the maps and schedules were submitted to the County Council. In the case of urban districts and municipal boroughs the map and schedule produced was used, without alteration, as the Draft Map and Statement.</p>
Observations		<p>Lancaster was a Municipal Borough in the early 1950s and so a parish survey map was</p>

		not compiled.
Draft Map		The Draft Maps were given a “relevant date” (1 st January 1953) and notice was published that the draft map for Lancashire had been prepared. The draft map was placed on deposit for a minimum period of 4 months on 1 st 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.
Observations		The application routes were not shown on the Draft Map and no representations were made to the County Council.
Provisional Map		Once all representations relating to the publication of the draft map were resolved, the amended Draft Map became the Provisional Map which was published in 1960, and was available for 28 days for inspection. At this stage, only landowners, lessees and tenants could apply for amendments to the map, but the public could not. Objections by this stage had to be made to the Crown Court.
Observations		The application routes were not shown on the Provisional Map and no representations were made to the County Council.
The First Definitive Map and Statement		The Provisional Map, as amended, was published as the Definitive Map in 1962.
Observations		The application routes were not shown on the First Definitive Map and Statement.
Revised Definitive Map of Public Rights of Way (First Review)		Legislation required that the Definitive Map be reviewed, and legal changes such as diversion orders, extinguishment orders and creation orders be incorporated into a Definitive Map First Review. On 25 th April 1975 (except in small areas of the County) the Revised Definitive Map of Public Rights of Way (First Review) was published with a relevant date of 1 st 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.

Investigating Officer's Comments		From 1953 through to 1975 there is no indication that any of the routes under investigation were considered to be public rights of way by the Surveying Authority. there were no objections or representations made with regards to the fact that none of the routes were shown on the map when the maps were placed on deposit for inspection at any stage of the preparation of the Definitive Map.
Statutory deposit and declaration made under section 31(6) Highways Act 1980		<p>The owner of land may at any time deposit with the County Council a map and statement indicating what (if any) ways over the land he admits to having been dedicated as highways. A statutory declaration may then be made by that landowner or by his successors in title within ten years from the date of the deposit (or within ten years from the date on which any previous declaration was last lodged) affording protection to a landowner against a claim being made for a public right of way on the basis of future use (always provided that there is no other evidence of an intention to dedicate a public right of way).</p> <p>Depositing a map, statement and declaration does not take away any rights which have already been established through past use. However, depositing the documents will immediately fix a point at which any unacknowledged rights are brought into question. The onus will then be on anyone claiming that a right of way exists to demonstrate that it has already been established. Under deemed statutory dedication the 20 year period would thus be counted back from the date of the declaration (or from any earlier act that effectively brought the status of the route into question).</p>
Observations		No Highways Act 1980 Section 31(6) deposits have been lodged with the County Council for the area over which the application routes run.
Investigating Officer's Comments		There is no indication by a landowner under this provision of non-intention to dedicate public rights of way over their land.

None of the land crossed by the three application routes is designated as access land under the Countryside and Rights of Way Act 2000.

That part of the land crossed by the routes A-B-C and F-C are the subject of an application to register the land as a Town Green but the application has yet to be determined. That part of the route between points C-D and C-E does not cross land that it is sought to register as a Town Green.

All of the land affected by the proposal is within an area for which there is a Tree Preservation Order.

Landownership Information and history of the site

Landownership

Most of the land affected by the three applications is presently in land owned by the Lune Industrial Estate Ltd.

Information provided by the Company refers to it acquiring the land in 1997.

From 1986 to 1997 it was owned by Lune Condale Properties Limited and Shiregreen Property Co. Limited

The section including C-D appears from land registry information to be within land owned by Gerber Property UK Ltd

History of the site

Some information was provided by representatives of the current land owning company but has also been obtained from the County Records Office.

The land over which the routes under investigation run appears to have been owned by Lancaster Corporation in the 1800s.

In the 1840s James Williamson opened a small factory behind St Georges Quay. The factory expanded in 1855 and the 1860s and in 1870 he bought land further west – including the land over which the routes under investigation run - and started developing the site. This factory was later known as Lune Mills and was enlarged over the years.

The Railway through the site opened in 1883 and the land over which it ran – and which that part of application route 2 runs between points C-E was recorded to be in the ownership of the London North Western Railway Company in the 1910 Finance Act records.

Details of the ownership of the factory site obtained from the Lancashire Records Office explained that James Williamson died in 1879 and was succeeded by his sons with James Jnr. assuming sole control of the business by 1883.

When James Williamson Jnr. died in 1930 his daughter Ella and her husband Earl Peel formed a private limited company, James Williamson & Son Ltd and in 1947 the company became a public limited company.

In 1963 the company was merged with Michael Nairn & Co of Kirkcaldy to form Nairn Williamson Ltd.

The Nairn-Williamson group was bought by Unilever in 1975 and added to Unilever's subsidiary Commercial Plastics to form Nairn International.

In 1985 it was stated that Unilever sold its interests in Nairn International to Forbo SA, a Swiss company and that Nairn Coated Products Ltd split in 1987 into Nairn Kingfisher Ltd and Nairn Contract Fabrics Ltd. Three years later, these two became Forbo Kingfisher Ltd and Forbo Contract Fabrics Ltd. Respectively and in 1993 the former became Forbo-Lancaster Ltd.

In 2001 the information obtained from the Lancashire Records Office states that H-A Interiors (part of a German company Hindrichs-Auffermann) bought Forbo-Lancaster and at the end of that year the Lancaster factory closed altogether.

Summary

There is no map or documentary evidence to support the existence or use of any of the application routes until at least the 1960s.

It appears that as the linoleum factory expanded the land crossed by the application routes was used as a private tip which was levelled in the early 1950s and a cricket field and football pitch provided. The area became known as the Coronation Field.

The claimed footpaths all cross or use the railway line and this still crossed the site until 1964.

Aerial photographs clearly show the football and cricket pitches were well maintained during the 1960s and 1980s but this had ceased by 2000.

Application Route 1 (shown between A-B-C-D)

From 1957 through to 2010 access was available to Coronation Field at point A and a track or tracks existed to point B and continued towards point C terminating at the cricket pavilion, although the alignment appears to vary slightly in the 1950s and 1960s and is barely visible on the 2006 aerial photograph.

Beyond the location of the cricket pavilion to point C there is no evidence of a worn track existing on the ground and when the cricket pitch was maintained and in use the route would have crossed the north east side of it. However, there is no evidence that there was any physical restriction to access which would have prevented use of the application route to point C.

There is no evidence of a worn track between point C and point D until 2006 but there was a route a little further north east.

Until 1964 the route was crossed by an operational railway at point C with no evidence of a crossing point. It appears very unlikely that this route would therefore existed through point C until at least 1964.

Application Route 2 (points A-B-C-E)

The application and user evidence submitted duplicates part of Application Route 1 between points A-B-C.

With respect to the route between point C and point E this route followed the track of the former railway line which closed in 1964 and use of the route on foot cannot have commenced before then.

The 1960 aerial photograph appears to show a worn track alongside the railway line and that access to the site may have been possible at point E.

The 1988 aerial photograph shows a worn track along the application route and traces of this route are subsequently shown on the aerial photograph submitted by the landowner believed to have been taken in the late 1980s and those taken between 2000 and 2010 suggesting that it was being used during that time.

Application Route 3 (points F-C-D)

There is no map, photographic or documentary evidence supporting the existence of the application route between point F and point C and if it existed and was in use during the time that the football and cricket pitches were in use the route would have clipped the northern corner of the football pitch and would have crossed the cricket field although there is no evidence that there was any physical restriction to access which would have prevented use of the application route to reach point C.

The section of the route C-D is a duplicate of part of route 1.

County Secretary and Solicitors Group Observations

County Secretary and Solicitor's Group Observations

Information from the Applicant

As part of the application the applicant has provided information about the routes that are being applied for.

Historical Background

They explain to the west of the City of Lancaster flows the River Lune, this river is deeply significant to the people living by it, as it has provided occupation, recreation and food to the people who understood the tides and owned the means to fish or work as pilot boats guiding the larger sailing ships safely through the sand flats to deliver their cargo. This provided a sources of income for local people will into the 19th Century when Williamson's Linoleum Company moved into the area beside the Lune.

Williamson's had a dramatic effect on the area. It became a significant employer providing many jobs for local people. Williamson was a philanthropist and tried as

best as he could to create a team spirit within his staff. He donated an open space for cricket, football and picnics. The area was (and still is) known collectively as 'Freeman's Wood'.

The 3 footpaths for which the applicants are applying cross this area and in 1905 Williamson gave permission to his staff to use the area for leisure-time activities – the land itself being a topping area for the lino factory.

The people of the Marsh area created the adjacent Coronation Fields themselves, raising the finances and doing all the necessary work. In the jubilee year of 1953, Coronation Field opened for use in combination with the Freeman's Wood area that was once a lino factory's tip.

The applicant states that the whole of this area is much used and loved and with distinct footpaths created by generations of use. Local people continued to walk across the land from 1905 until it was fenced off in November 2011, the local community was outraged by the fencing off of the land, and they had built hides to watch the rich and varied wildlife and birds. This area provided a route for roe deer to move from the estuary across onto the fields to graze. The land was full of plants and trees that had grown over the tip, creating a quiet oasis and a 'green lung' in an area close to an industrial estate, a Council housing estate and a large area of terraced housing without gardens.

Tree Preservation Orders have subsequently been placed on the trees in Freeman's Wood.

The applicant then goes on to describe the 3 routes that they have applied for.

The applicant has collected a total of 81 user evidence forms which are set out below in support of these applications. The applicant states that more than half of these forms provide evidence of use of the paths dating back to more than 20 years prior to the fence going up in 2011. The applicant mentions that these statements cite a variety of starting and finishing points depending on where they were walking. The majority of the people who have provided evidence statements in support of this applicant state that they had never seen any signage or other indications that crossing the land would be trespassing, until the fence was erected in late 2011. A couple of statements suggest that some signs were displayed about 5-7 years ago, but these apparently disappeared within days of being put up.

The applicant goes on to mention that Lancaster City Council, who own Coronation Field to the east of the land that they are referring to in their applications are currently consulting to the public in their draft Land Allocations DPD for 2003-2023. This includes a proposed policy CWL5: "Land identified as Willow Lane / Coronation Field Opportunity Area on the Local Plan Policies Map is an area for recreation and open space improvement. The Council will support proposals that enhance the regenerate the quality and quantity of recreation and open space provision in this area". The applicants support this policy and believe that their applications the 3 new Public Footpaths will help to deliver the aspirations of the City Council and the local community for recreation and open space improvement in this area.

The applicant has also provided 16 colour photographs showing all 3 claimed footpaths at different points along their routes and user evidence forms as detailed below.

Route 1

The applicant has provided 30 user evidence forms in support of this application.

The users claim to have known the route in years as follows:

0-10(6) 11-20(4) 21-30(9) 31-40(6) 41-50(2) 51-60(1)
61-70(2)

All 30 users claimed to have used the way on foot, however the years in which the users used the route varies:

Since 1960's (3)	all 53 years	1973-present	1976-2012	1978-2012
1987 onwards	1980 until fenced off	last 30 years (2)	for 35 years (2)	
1990 onwards	1990-2011	1993-2011	1991-1994 & 2003-2012	
continuous use (25+years)	All 23 years	2000-2012	2000-2011	
2001/2012	2002-2012(4)	2003 onwards	2005 onwards	
2011 onwards				

The users were going to and from:

Willow Lane to Lune, Coronation Field to Riverside, Quay to Coronation Field, to Keyline and back, Keyline to Coronation Field, to Cricket Pitch, From Lune to Marsh, to river circular route, to Aldcliffe, from Marsh to Williamsons Work or Glasson Dock, to Long Mile Lane,. 5 users did not provide details of where they were going from and to.

The main purposes for using the route are as follows:

Recreation, dog walking, running, general walking, leisure, bird watching, camping, picnics, sports, cycling, wildfowling, to collect fruit, flying aeroplanes, enjoying the views.

The use of route per year varies from:

Daily, 300+, 100+, very frequently, 50+, 2-3 times per week, weekly, twice per week, 20+, most weekends, once per month, 8 times, 3 times.

When asked if the users have ever used the way on horseback, 23 users stated 'no', 1 user claims to have used the route on horseback, 3 users didn't provide a response and 3 users stated 'N/A' to this question.

23 users have never used the route by ways of motorcycle / vehicle. 1 user has used the way by means of motorcycle / vehicle, 3 users never provided a response to this question and 3 users stated N/A

When asked if they had used the route by way of other means, 9 users claim to have used the way by bicycle, 15 users have not used the way by any other means, 1 user has used the way by other means but didn't specify any details, 2 users responded 'N/A' to this question and 3 users didn't provide a response.

When asked during which years they used the route by those means, only 11 users responded, their answers vary from:

1980 once per week, 1978-2012 monthly, weekly, everyday as a child, 1990 onwards countless times, 1980-1995, all 60 years, 1970s, a lot more when younger but dependant on work hours now, regularly all years.

15 users claim to have seen other people using the route on horseback, 12 users have never seen anyone using the route on horseback and 3 users didn't provide a response. 12 users claimed to have seen others using the way on motorcycle / vehicle, 14 users haven't seen anyone using the way by motorcycle / vehicle, 3 users didn't provide a response and 1 user stated N/A.

7 users have never seen anyone else using the route by way of other means, other users have seen people walking, running, cycling, skateboarding, or bird watching, 3 users stated 'yes' to seeing others using the way but did not specify how they were using the way and 1 user did not provide a response. The years in which the users saw other people using the way by different means varies from, 2001-2011, every year, 2000, 2003 onwards, 1990-2011 very occasionally, for most of 25 years, 1993-2011, 2002-2012, to present day, since 1980, 1978-2012, continuous, frequently and regularly.

21 users agree the path has always run over the same route, 1 user states it change when the path gets over grown other paths are used, 1 user claims the route varies as they used to roam through the woods, another user states 'more or less', 2 users claim the route has changed and they have marked the changes on the plan they have provided, 1 user agrees this path has run over this route but also states There are lots of other paths, 2 users didn't provide a response and 1 user stated 'N/A'.

21 users agree there have never been any stiles / gates / fences along the claimed route, 1 user states there is a gate which they have marked on the plan, another user claims there is a stile and gate by the keyline (thought to be point A), 1 user states there is a stile at the end of the path by the river and there are old gate remnants where people crossed the old railway track, 1 user states a gate was put up about 20 years ago to keep travellers out, 1 user claims there were none until recently. 3 users didn't provide a response and one user stated 'N/A'. When asked if any of the gates were locked 1 user states 'no occasionally the gate marked on the map would be locked but usually the lock was off, there is reference to Williamsons being aware that people used the land and a decision was taken to allow people to wander', 1 user claims a gate was locked at Mile Lane for vehicles, another user states 'the gate for travellers was locked but there was a big gap at the side, prior to that there was vehicle access', all other users did not respond or stated there are not gates. None of the users were prevented access by the stiles / gates / fences but one user claimed that the tip and railway track prevented them access.

None of the users have ever worked for a landowner over the land which the route runs and none of them have ever been a tenant for any of land over which the route runs.

29 users have never been stopped or turned back when using the route, however 1 user states 'not until it was fenced off'. 29 users have never heard of anyone else being stopped or having to turn back when using the route, however 1 user states 'not until the fence went up recently'.

29 users have never been told it was not a public right of way but 1 user claims that people have been told not to trespass by the community police.

21 users have never seen any signs / notices along the claimed route, 5 users have seen notices since the new fence was put up, 1 user states "approx 5 years ago signs went up with a person holding a hand up with red circle and line across. They did not last long, they were at main entrances marked on the map", another user has seen a sign "private no public access (about 7 years ago)", another user claims there was some signs / notices but local people took exception and they disappeared and 1 user didn't provide a response.

29 users have never asked permission to use the land and 1 user didn't provide a response.

Route 2

The applicant has provided 21 user evidence forms in support of this application.

The users acknowledge the route in years as follows:

0-10(4) 11-20(4) 21-30(8) 31-40(4) 61-70(1)

20 users agree the line has always run over the same route, 1 user did not provide a response to this question.

The years which the users have used the route varies:

1949-2012 1970s-2012(2) 1981-1986 1982-2012 1987-2012 1989-
2012 1980-until fenced off 1990-2011 1990-2012 1991-1994 1992-
2012 1993-2011 2000-2012(2) 2001-2012 2002-2012(3) 2003-
2012(2) 2011-2012

The users were going to and from:

Marsh Point to Coronation Field, to Freemans Wood and back, Westbourne Road to Riverside, from Quay towards Willow Lane, circular route, Lancaster to Glasson Aldcliffe, home to Aldcliffe, R Lune to Marsh, Willow Lane to Glasson.

The main purposes for using the route are as follows:

Dog walking, blackberry picking, recreation, bird watching, cycling, leisure, walking with children, exercise, camping, picnics, sports, running and cycling

The use of the route per year varies:

Daily, 300 days, 200 days, 100+ days, weekly, every 2 weeks, 8 times, 5 times and 1-2 times.

2 of the users have used the route on horseback and motorcycle / vehicle, 1 user has used the route on horseback continuously over the years of 1987-2012, the other user did not specify which years they used the route on horseback but stated it was every weekend.

5 users (of their children) have used the route by bicycle, the users that specified used the route by a bicycle during the years of, 2000-2011, continuously since 1987, since 1980 (once per week), 1989-2012.

1 user has also used the route for running during 1980-2012, once per week, another user has used the way by way of other means but did not specify how they used the route.

5 users claim to have seen others using the route on horseback and by motorcycle / vehicle, the years in which the users saw this varies, over the last 23 years (weekly), over the last 25 years (weekends seen regularly), over the last 35 years (weekends), from 1980 (once per month), and daily.

3 users have seen others on horseback only, the years in which the users saw this varies, 2003 onwards (occasionally), 2002-2012, over the last 25 years.

4 users have seen others using the route on motorcycle/vehicle only, the years in which the users saw this varies, 1990-2011 (very occasionally), occasionally and over the last 18 years.

Users have seen other people using the route by way other means including, cycling, flying model aeroplanes and running.

11 users agree the line has always run over the same line, 1 user states 'as far as I can remember, another user states 'more or less', 1 user isn't aware of any changes, another user states 'as far as I'm aware', 1 user states the route didn't change until the fence was put up, another user states 'route on map marked now overgrown', 1 user states the route is on the same line but there are other paths, 1 user states 'no' but doesn't provide any further details, and 2 users didn't respond.

1 user claims there is a gate along the route and they have provided details on the plan, 1 user 'is not aware of any', all the other users stated 'no' or didn't respond to there being any stiles / gates/ fences along the claimed route.

The same user that claims there is a gate along the claimed route states it was originally locked but not for a long time, another user claims there is a gate marked on the map to keep travellers out, everyone else stated 'no' or didn't provide a response to any gates being locked.

None of the users have ever been prevented from using the way.

All 21 users have never worked for a landowner over which the route crosses, 18 users have also never been a tenant for any of the land over which the route crosses, the other 3 users didn't provide a response to this question.

20 users have never been stopped or turned back when using the route, 1 user didn't provide a response, all 21 users have never heard of anyone being stopped or having turned back when using the route.

All 21 users have never been told the route they were using is not a public right of way.

16 users have never seen any notices / signs along the claimed route, 2 users state they hadn't seen any until the fence appeared, 1 user has marked the notices on the map, another user thinks there was a sign / notice from 5 years ago and they have marked this on the map, another user states there are occasional signs.

All 21 users have never asked permission to use the claimed route.

Route 3

The applicant has provided 29 user forms in support of the application.

The users acknowledge the route in years as follows:

0-10(8) 11-20(6) 21-30(8) 31-40(5) 41-50(1) 61-70(1)

All 29 users have used the claimed route on foot.

The years in which they used the route varies:

1962-present 1972-2012 1975-2012 1977-2012 1978-2012 1980-2012
1987-2012(2) 1988-2012 1989-2012 1990-2011 1991-2011
1991-1994 1997-2011 1999-2012 2000-2011 2000-2012 2001-2012
2002-2012(2) 2003-2012(2) 2005-2012 2006-2012(2) 2008-2011(2) 2011-2012

The users where going to and from:

Willow Lane to the Lune, to the Quay and back, to the shore, to Aldcliffe, circular route, to Mile Lane, Marsh to Coronation Field, Coronation Field to Riverside Walk, Lune Estuary to Willow Lane, to Freemans Wood, to Glasson Dock.

The main purposes for using this route are as follows:

Recreation, walking, dog walking, cycling, running, pleasure, fitness, walking with children, bird watching, picnics, sport, camping and picking blackberries.

The use of the route per year varies:

Daily, 300+ times, 200 times, 100 times, once per week, mainly weekends, 300+ times, once per month, 20 times, 15 times, 12 times, 8 times, 5 times, twice per year.

2 users have used the route on horseback and by motorcycle / vehicle, 1 user used the route on those means between the years of 1987-2012 during most weekends, the other user used it between 1977-2012. Both users have also used the way by other means, one user specified a bicycle the other did not specify by what other means.

6 other users have also used the route on a bicycle between the years of 1997-2011, 2005-2012, weekly from 1989-2012, 1987-2012 most weekends / monthly, 1988-2000 annually, since 1980 once per week.

6 users agree that they have seen other users using the route on horseback and on motorcycle / vehicle during the years of 1980-2012 (once per week), 2003-2012 (monthly), 1987-2012 (continuously), 1977-2012, 1999-2012 (mainly in summer time), 1997-2011 .

5 other users have seen others using the route on horseback but did not specify during which years.

4 other users have seen others using the way on motorcycle / vehicle, during the years of 1989-2012 (most weekends), 1990-2011 (very occasionally), 2005-2011(in the summer), and since 2000.

The users have also seen other people using the route walking, running, cycling and on mobility scooters.

20 users agree that the claimed footpath line has always run across the same route. 1 user states 'more or less', another user states 'since the cricket and football pitches went the path has remained more or less the same with variations' marked on the map provided, another user has marked variations on the plan, 1 user says the route has run over the same line but claims there are loads of other routes, 1 user states they 'don't know' and another user states 'no' to this question.

None of the users have ever seen any gates / stiles/ fences across the way, however 1 user stated 'not until now'.

None of the users have been prevented from using the way.

No user has ever worked for a landowner over which the route runs, and they have never been a tenant for any of the land over which the route runs.

No one has ever been stopped or turned back when using the route, and 2 users have heard of someone else being stopped or turned back since the fence went up.

None of the users have ever been told that the route they were crossing is not a public right of way.

22 users have never seen any signs or notices along the claimed route, 5 users have seen signs since the fence appeared in 2012, 1 user has seen a sign / notice from 5 years ago and has marked this on the map and another user has seen signs marked on the map from 7 years ago.

None of the users have ever asked permission to walk across the claimed route.

1 user has provided a user form for all 3 of the claimed routes, their evidence is as follows:

They have known the routes for 48 years and have used the routes on foot, they have used the routes for all the 48 known years, and the main purpose for using the routes is for recreation, the user uses these routes several times per year.

The user claims to have used the routes on horseback and bicycle between all 48 years, they have also seen others on horseback, walking and cycling between those same years.

No response was provided for the routes running over the same lines, and for the questions about stiles / gates / fences, but does claim they were never prevented access.

They have never worked for a landowner over the land which the routes run, and they confirm they have never been a tenant for any of the land over which the routes run.

The user has never stopped or turned back when using any of the routes, and has never heard of anyone else having stopped or being turned back.

They have never been told that any of the routes are not public rights of way, and have never seen any signs / notices along any of the claimed routes, they have also never asked permission to access these routes.

Objections

Lune Industrial Estate Limited – Landowner

Lune Industrial Estate Limited do not believe that there is any footpath across their land and therefore object to the making of any order relating to footpaths along any of the routes shown on the plans. They understand that the area was previously zoned for industrial development but that ultimately only part of the zoned area was developed. Part of the undeveloped area was used by one of the industrial estate occupiers as a sports ground and when they ceased to have use for it the local football and cricket clubs were allowed to use the sports fields.

They have maintained signage insofar as possible indicating that the area is private property but the signs have always been ripped up or defaced along with the fencing that has been erected at various times to prevent unauthorised access.

As part of their objection they provide a copy of an affidavit sworn by Mr David Cadman who has been familiar with the site over many years. The main points he raises are as follows:

- When manufacturing ceased the area was principally used for tipping and other waste disposal and it was only when that ceased that parts became overgrown.
- He has been involved with and for the most part directly responsible for day to day management of the land since 1980, he mentions that measures have been put in place at various times over the years to stop travellers moving onto the site.
- He also mentions that part of the site was once the Sports Ground of Nairn Williamson Limited and Lancaster Cricket Club and the pavilion remained until it was demolished in November 1997 for health and safety reasons after not having been sued for many years.
- On a number of occasions fencing has been erected with signs stating that it is private property land and that public access is not permitted, on each occasion the fencing has been vandalised and signs have been destroyed. In particular he remembers arranging for damage to the fencing around the site to be repaired in April 1998 and again in January 2004.
- Signs warning that the site was private land and access only permitted with permission were erected at the same time as the fencing was repaired. Photos of the remains of some of the fencing and of the signs have been provided as part of the Affidavit.
- The site was previously zoned for industrial use and regarded as brownfield land, there has been various attempts to have the site rezoned going back to 1999 and have been refused and there were concerns that some or all of the site might be contaminated.

Lune Industrial Estate have spoken further with Mr Cadman and he confirms that there is no public footpath nor habitually used footpath across this land and that whilst it has been used by dog walked efforts have continuously been made to prevent such unauthorised use but as already mentioned fences have been erected regularly but, equally regularly vandalised and damaged as so to allow the continued

unauthorised access onto their property.

They have also provided a copy of an aerial photograph which was taken in the late 1980's which shows there was a path to the Pavilion from the industrial estate which they believe was used by the cricketers whilst they had use of the Pavilion and cricket pitch.

Satnam Investments Limited

An objection has been received from Colin Griffiths the Managing Director for Satnam Investments Limited. They hold a charge on most of the land affected by the 3 footpath claims and intend to object to the Order (if one is made) on the basis that the claimed footpaths are not valid or established.

. They understand that the area was previously zoned for industrial development but that ultimately only part of the zoned area was developed. Part of the undeveloped area was used by one of the industrial estate occupiers as a sports ground and when they ceased to have use for it the local football and cricket clubs were allowed to use the sports fields.

They understand that the owners for the land have ensured signage has been maintained indicating that the area is private property but signs have always been ripped up or defaced along with fencing which has been erected various times to prevent unauthorised access.

Satnam Investments have seen the affidavit sworn by Mr David Cadman who has been familiar with the site over many years, they state that when manufacturing ceased the area was principally used for tipping and other waste disposal and it was only when the ceased that parts became overgrown.

They also state that Mr Cadman confirms that there is no public footpath nor habitually used footpath across this land and that whilst it has been used by dog walkers efforts have been continuously made to prevent such authorised use but as mentioned, fences have been erected regularly but equally, vandalism and damage has occurred to allow the continued unauthorised access to the property.

Satnam Investments have read copies of the application forms for the claimed footpaths and note the user forms are of a standard nature with bland and repetitive claims of an unsubstantial nature. They state they have clearly been collected with a strategy in mind and many of the comments are repeated and similar. As such they do not constitute proper, independent or verifiable evidence of footpath use / creation.

Assessment of the Evidence

The Law - See Annex 'A'

In Support of Making an Order(s)

User evidence

Aerial photography

Site evidence
Photographs of site
Reference by the owners to use by dog walkers

Against Making an Order(s)
No corroboration by earlier map evidence
Sworn affidavit by someone with direct knowledge of landowner actions
Landowner actions
Earliest use of through routes is 1964 when railway closed
Aerial photographs

Conclusion

The claim is that the lines of the claimed routes are already footpaths in law.

It is suggested that this is a case based largely on the user evidence presented and without any express dedication to consider, the Committee is invited to consider the evidence to see if the provisions of S31 Highways Act are satisfied on balance or whether the use of the paths is a circumstance from which dedication by an owner could be inferred at common law.

Section 31 requires the route to have been called into question so that a twenty year period can be considered. The Application itself is a calling into question but there has been the fencing and locking of gate and signs erected which prompted the application in 2012. The owner's information swears to other actions being taken earlier than that and if any action was sufficiently brought to the attention of a reasonable number of the users that their use was being challenged, then that earlier action would call the route into question. The difficulty faced in this matter is reference to actions being taken yet the users were not prevented. Many do not recall signs or fencing and even if they did they did not seem to consider that it challenged their use. The actions on balance seem not to have been an effective calling into question until 2012 and the twenty year period to consider would be 1992-2012.

There would appear to be sufficient use as of right of all the sections of the route during this period although Committee may have concerns about whether the same line was used over that time. Wandering at will cannot establish a public right. There is reference to possible changes to the line of the route. Whether these changes could in law amount to interruption of the line or changes to the line such that the provisions of S31 could not be satisfied is difficult to decide. It should be noted that under S31 a landowner may erect notices inconsistent with dedicating the route and these can be sufficient evidence of lack of intention to dedicate but the detail of the notices, where they were put, for how long and what they said is also not clear. In this matter an evaluation of the strength of the user evidence and the effect of actions of the owner in detail is difficult. Information from both users and landowner demonstrate lack of clarity.

Case law decided however that where an applicant produces credible evidence of enjoyment as a public right of way for 20 years but there is conflicting evidence about the landowners' actions being sufficient evidence of a lack of intention to

dedicate, the Order should be made unless there is incontrovertible documentary evidence to defeat the claim.

Common law inference of dedication involves considering, in this matter, whether a period of user, not necessarily brought into question and not necessarily 20 years long, was not challenged such that the owner could be said to have intended to dedicate. There is evidence of the owners in the 1980s onwards taking action periodically but no clear detail. That at some action was taken does make it more difficult to infer at common law that that owner must have intended there being a public footpath but there is no evidence of actions taken earlier and there is some early user evidence. There is possibly evidence from which an inference can be drawn of footpaths able to be reasonably alleged to have been dedicated since 1964 even by the 1980s. There is still the need for the line of the path used to be sufficiently evidenced over a long enough period.

Taking the evidence in this matter it is suggested that the user evidence of the claimed line(s) is sufficient from which footpath rights could be reasonably alleged to have been dedicated on the claimed lines. It is therefore advised that there is sufficient evidence in this matter for an Order to be made.

Whether there is sufficient evidence to find on balance the deemed dedication or dedication by inference at common law such that the lines can be said to subsist is more difficult at the present time. It is suggested that once the Order has run its course there will be an opportunity for further information to have been submitted and for user evidence to be considered in more detail and a further report presented as to whether this higher test for confirmation could on balance be satisfied and what stance the authority should take in respect of the Order.

Alternative options to be considered - N/A

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

Paper	Date	Contact/Directorate/Tel
All documents on File Ref: 804-541,542,543]	various	Megan Brindle , 01772 535604, County Secretary and Solicitors Group

Reason for inclusion in Part II, if appropriate

N/A