

Application for a Modification Order

Wildlife and Countryside Act 1981

The Definitive Map and Statement of Public Rights of Way for the County of Lancashire

To: The Director of Corporate Services, Lancashire County Council.
Of: PO Box 78, County Hall, Fishergate, Preston, Lancashire, PR1 8XJ

I: D Brooksbank, for and on behalf of The British Horse Society

Of: C/O Access and Rights of Way Department, The British Horse Society, Abbey Park, Stareton, Kenilworth, Warwickshire, CV8 2XZ

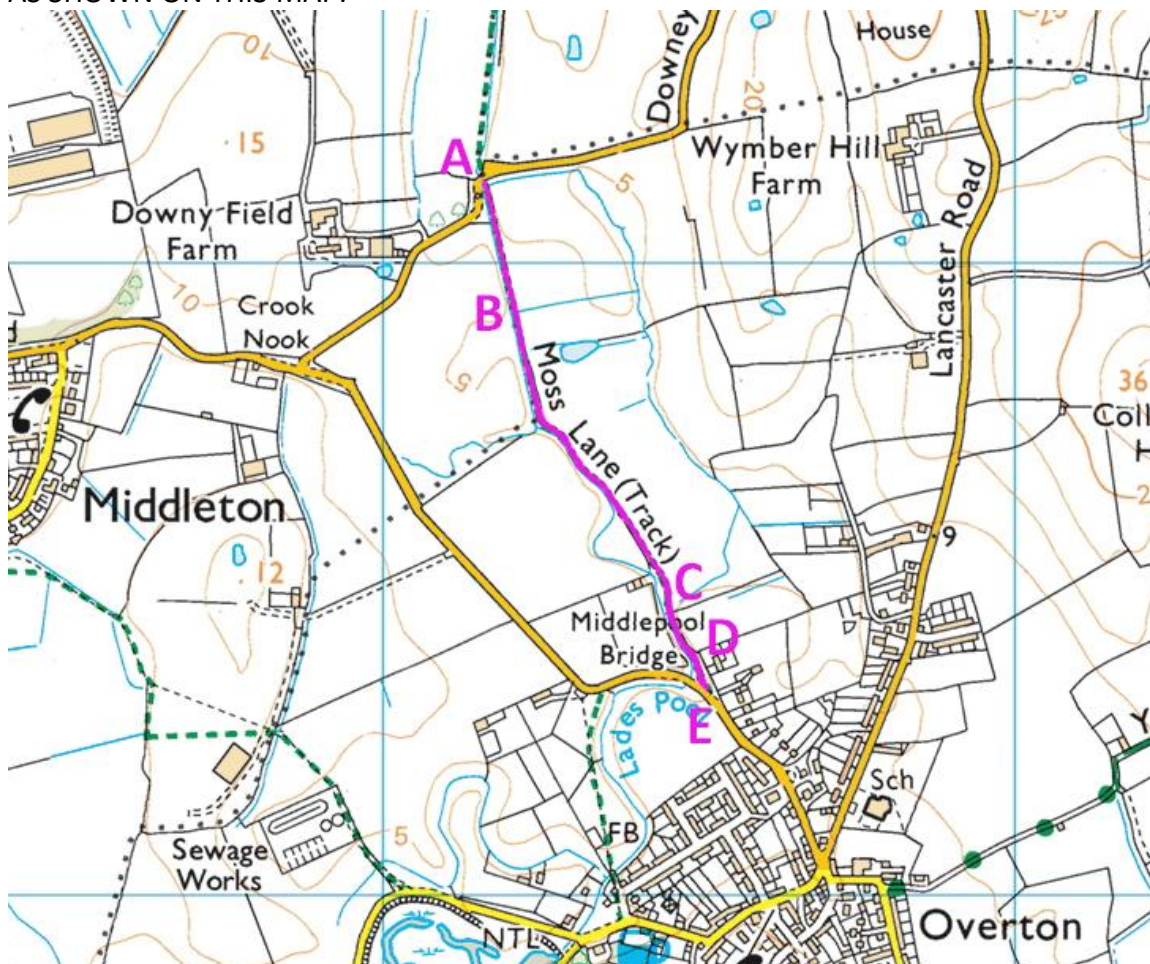
Hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and statements for the area by:

3. Upgrading to a BRIDLEWAY the footpath 1-23-FP 1 - MOSS LANE, Parish: Overton

FROM: Downeyfield Road Classified Road no. C465 Heaton with Oxcliffe, Grid Ref: SD 4315 5913

TO: Middleton Road Classified Road no. C464 Overton, Grid Ref: SD 4351 5832

AS SHOWN ON THIS MAP:



Application Route: — Identified by: A, B, C, D, E

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The map should print at 1:12,000 scale when printed on A4 paper. See Appendix D for larger scale copy of this map.

Description of Application Route:

The Application Route is approximately 900m long. It is largely unenclosed except the southern section from C to D, There are field gates at A, B, C and D plus another gate between C and D next to a small sheep handling unit.

At Point A there are double field gates which were locked and blocked by a large boulder at the time of inspection, there is a wooden stile to the west of the gates and a FP signpost. The route follows the fence which encloses Lades Pool stream. There are clear signs of a well-used track which is now incorporated into the pasture.

At Point B there is another gate with stile. The route continues in a southerly direction following the fence along the west boundary of the field to arrive at Point C. Along this section there are some signs of the old hedge-line which would have enclosed Moss Lane in the past.

From Point C to Point D the route is enclosed with a high hedge to the east and to the west, fences and the stream. At the gate in the middle of this section there is also a small sheep-handling unit tucked into the side of the lane.

Beyond Point D the route is open and some properties use the lane for access. This section has been tarmac but is in poor repair. There is a FP sign at the junction with Middleton Road (Point E).

There is evidence of vehicular use along the southern section of the route from north of Point C to the road junction at Point E. The route is mainly grass, but with evidence of a stone base. Where it is used by vehicles it was quite muddy, but this was after several days of rain.

Current Recorded Status:

The route is recorded as Footpath 1-23-FP 1 on the Definitive Map.

The route is not recorded on the List of Streets, but is shown as “Unadopted” on LCC’s Road Status Map (Road no. X3025), viewable on MARIO system. However, it was the Highways Act of 1835 which allowed for this classification and evidence points to this being a public highway from at least 1788 (see below: A1 Yates Map 1788, A2 Greenwood Map 1818 and A3 Hennet Map 1829).

Notes:

The route is walked. Horses are kept in a field between points B and C to the west of the lane and their use of the lane from C to E for access was evident.

Summary and Statement of Reasons:

This route is supported by a sufficient body of evidence to be recorded as a **BRIDLEWAY**.

Evidence dating back over 230 years, points to this being considered as, and used as a public road. Its importance may have dwindled over time, but there is no evidence these higher rights have been extinguished.

1. It is clearly shown as a road on old county maps – Yates 1788, Greenwood 1818, Hennet 1829 and Greenwood 1834. As commercial Map makers, they would aim to show only highways that their

customers (largely riders and carriage drivers) could use, so would not knowingly include footpaths or private roads.

2. It is clearly shown as a road on most historic Ordnance Survey Maps inspected – from the earliest 6 inch map of 1848 which names and shows it as an enclosed road, up to the 1:25,000 scale map of 1947. Some later maps also show it as an enclosed lane except the section from A to B as footpath. The 1898 1in map omits the route altogether, but it re-appears in later editions, albeit as a “footpath or bridleway”. All 6in and 25in maps inspected name the route. It is even named on the current OS 1:25,000 scale map.
3. On the OS 25 inch 1st Edition Map 1891, the route is named and shown as a road, with its own Plot numbers from Point B to E, separate to abutting fields. This indicates these sections are separate entities, not part of the surrounding farmland. Section A to B is shown as a cart road along the edge of the fields. The 1913 Edition depicts B to E in the same manner, but from Point A to Point B it is now labelled FP, which could be taken to show the route was falling out of use.
4. It is shown as a Public Road on the Overton Tithe Map, Plot no. 142, listed in the Apportionment as owned by the Surveyors of the Highways. Significantly Point A is a crossroad at the junction of three parishes: Overton, Middleton and Heaton with Oxcliffe. On the Overton map the route’s continuations are labelled “To Middleton”, “To Meadup” and “To Lancaster”. On both the Middleton and the Heaton with Oxcliffe maps, the Application Route is labelled “to Overton” which is a strong indication this was an important public road.
5. The southern section from Point C to E is shown as a “white road” on the IR1910 map; that is: excluded from adjoining hereditaments, which is good evidence that this part of the route was considered a public road. This section is contiguous with Classified Road C464 Middleton Road which is a public road to this day.
6. It is listed as Unadopted Road no. X3025 on Lancashire County Council Highways Road Status, although there is evidence (Yates 1788, Greenwood 1818 and Hennet 1829) the road existed before such a definition was allowed by the Highways Act 1835. It’s inclusion in the list could therefore be taken to infer that the road had been considered a public highway.
7. Land Registry records show no ownership of the route in the southern sections from C to E.
8. There are no stopping up orders found.

I attach copies of the following documentary evidence in support of this application:

A: Evidence from Maps

A1: Yates Map (1788)

clearly shown the same as all other minor roads

Source: Lancaster University Library- Old Maps <http://library.lancs.ac.uk/maps/Map5R1788.jpg>

A2: Greenwood Map (1818)

clearly shown the same as all other minor roads.

Source: Lancashire County Council Environment Directorate's Archaeology Service
<https://www3.lancashire.gov.uk/environment/oldmap/index.asp>

A3: Hennet Map (1829)

clearly shown the same as other minor roads.

Source: Lancashire County Council Environment Directorate's Archaeology Service
<https://www3.lancashire.gov.uk/environment/oldmap/index.asp>

A2: Greenwood Map (1834)

Later edition and smaller drawn scale, the route is still clearly shown the same as all other minor roads.

Source: Lakes Guides - <http://www.lakesguides.co.uk/html/maps/mapsfram.htm>

A4: Ordnance Survey Maps – 6 inch England and Wales (Drawn scale 1:10,560)

1848, 1895 – named and shown as road; **1916** – named and shown as road from B to E but A to B is now marked FP.

Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

A5: Ordnance Survey Maps - 25 inch England and Wales (Drawn scale 1:2,500)

First Edition 1891, the route is named and shown as a road, with its own Plot numbers from Point B to E, separate to abutting fields (Plot 20 from B to C; Plot 43 from C to E). This indicates these sections are separate entities, not part of the surrounding farmland. Section A to B is shown as a cart road along the edge of the fields. The 1913 Edition depicts B to E in the same manner, but from Point A to Point B it is now labelled FP, which could be taken to show the route was falling out of use.

Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

A6: Ordnance Survey Maps - One-inch England and Wales (Drawn scale 1:63,360)

1898 the route is not shown; **1918** and **1947** shown as footpath or bridleway.

Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

A7: Ordnance Survey, 1:25,000 maps of Great Britain

1947 – shown as a cartroad, mostly enclosed; **1966** - shown as a footpath or bridleway, but not specifically labelled.

Source: National Library of Scotland Online Map database <https://maps.nls.uk/>

B: Primary Evidence

B1: Tithe Records

Overton Tithe Map 1844 - shown as a Public Road, Plot no. 142, and listed in the Apportionment as owned by the Surveyors of the Highways. Significantly Point A is a crossroad at the junction of three parishes: Overton, Middleton and Heaton with Oxcliffe. On the Overton map the route's continuations are labelled "From Middleton", "To Meadup" and "To Lancaster".

Middleton Tithe Map 1844 - the northern section of the Application Route, which runs alongside the parish boundary is shown as Plot 256a and listed in the Apportionment as owned by the Surveyors of the Highways. It is labelled "from Overton" which is a strong indication this was an important public road.

Heaton with Oxcliffe Tithe Map 1841 - the Application Route is labelled "from Overton" which is a strong indication this was an important public road.

Source: *The Genealogist* – Crown copyright images reproduced courtesy of The National Archives.

B2: Inland Revenue Valuation Records - Finance (1908-10) Act 1910

Section C to E is shown as "white road" on IR1910 map, that is excluded from adjoining hereditaments, which is good evidence that this part of the route was considered a public road. It is contiguous with Classified Road C464 Middleton Road.

Source: Photographed at The National Archives IR133/3/108

C: Other Evidence:

C1: Land Ownership

The Land Registry documents show no ownership registered for the southern section of the lane from Point C to E.

Source: *The Land Registry* <https://eservices.landregistry.gov.uk/eservices/FindAProperty/view/MapEnquiryInit.do>

C2: List of Streets

Not on the List of Streets, but shown as Unadopted Road no. X3025 on Lancashire County Council Highways Road Status

Source: *Lancashire CC Maps and Related Information Online (MARIO) system*

<http://mario.lancashire.gov.uk/aqsmario/default.aspx>

C3: The Gazette - Stopping Up Orders

Stopping Up Order – search of the Gazette official public record returned no records.

Source: *The Gazette official public record* <https://www.thegazette.co.uk/all-notices/notice>

D: Map and Photographs of the Application Route:

D1: Current OS 1:25,000 map of Moss Lane

Approximate scale when printed on A4 paper – 1:10,000

Source: *Viewranger personal subscription. Map data: Ordnance Survey, Crown copyright*

D2: Recent photograph of the route at junction with Downeyfield Road (Point A)

Showing access to route via gates and stile. Footpath signpost reads “Overton ½”. The route follows the fence-line.

Source: *Applicant’s own image*

D3: Recent photograph of the route approaching Point B

Point B can be seen ahead where the hedgerow (now a row of hawthorn trees) is at right-angles to the route. There is a field gate and stile across the route.

Source: *Applicant’s own image*

D4: Recent photograph of the route heading south from Point B

The only sign of the previously enclosed road is the hedge mound ahead.

Source: *Applicant’s own image*

D5: Recent photograph of the route between Points B and C looking north

Signs of the old track are visible here with the slightly sunken lane and old hedge on western side.

Source: *Applicant’s own image*

D6: Recent photograph of the route between Points B and C looking south

The sunken lane is very evident here, as is the ancient hedgerow, now grown into trees and battling the elements.

Source: *Applicant’s own image*

D7: Recent photograph of the route approaching Point C

The old Lane is very apparent here.

Source: *Applicant’s own image*

D8: Recent photograph of the route at Point C looking north

Field gate with stile separate the pasture from the enclosed lane. The old lane can be seen following the fenceline, although the farmer clearly does not use it.

Source: Applicant's own image

D9: Recent photograph of the route between Points C and D

There is a sheep handling unit tucked into the side of the lane with a further field gate across the lane, although this was open at the time of inspection.

Source: Applicant's own image

D10: Recent photograph of the route at Point D looking north

The gate at the start of the enclosed lane was found open and there is obvious use by vehicles. Although superficially muddy after heavy rain, there is a stone base to the route.

Source: Applicant's own image

D11: Recent photograph of the route at junction with Middleton Road (Point E) looking north to Point D

The route is unenclosed on this section and some properties use the lane for access. This section has been tarmac but is in poor repair. Just visible on the left side of the photograph is a footpath signpost.

Source: Applicant's own image

DATED:

SIGNED:

THE FOLLOWING DOES NOT MAKE UP PART OF THE ABOVE FORM

Please return the completed application form to:

The County Secretary and Solicitors Group, Lancashire County Council, PO BOX 78
County Hall, Fishergate, Preston, PR1 8XJ (REF: LSG4/PROW/SK)

NOTE: Please be advised that evidence supplied will be used in accordance with the processes under the Wildlife and Countryside Act, it will not be confidential and may be disclosed to third parties. Those supplying any evidence should be informed of this.

NOTE: Lancashire County Council is obliged to put a copy of the application on a register available to the public. If you consider that the inclusion of the applicants name and address would, or would be likely to, cause substantial damage distress to the applicant or to another person and such damage would be unwarranted, please contact Lancashire County Council who can remove these details from the register and from any documents contained on the register.